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A Risk-based Approach to Legal Mobilisation: A Case Study of Communities Experiencing Climate-Related (Im)mobility in Colombia

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Abstract

My research project investigates whether communities in Colombia experiencing mobilities or immobility linked to climate-related stresses use legal mobilisation (LM) and why. Based on a framing analysis, this study explores the role that place-attachment and violence play in triggering (or constraining) the use of legal mechanisms. This exploration reveals that there are external and self-sustained factors that might hinder the use of LM, such as personal safety and social risks of taking legal action. While legal mobilisation theory has focused on aspects that facilitate LM such as opportunities and resources, there has been little attention paid to those risks that might shape legal mobilisation in certain ways, even when opportunities and resources are present. This Thesis shows that risks to legal mobilisation do not necessarily define the type of strategy, but they do define frames and claims used in that strategy. Drawing on this, I argue that in chronic risk contexts, turning to the law is mediated by an assessment of risks, which demonstrates the explanatory potential of a risks-based approach to legal mobilisation. This PhD research thus aims to contribute towards developing a more integrated legal mobilisation theory, which not only considers opportunities and resources (or limitations in relation to the lack of them), but also independent constraints such as risks.

Declaration

I confirm that this is my own work and the use of all material from other sources has been properly and fully acknowledged.

Juliana Vélez-Echeverri

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Chapter 1. Introduction

> "*I prefer to clear up my home every week or two weeks once it is washed away by flooding rather than putting all my belongings on my shoulders without having any place to go*" Interview 5. Community leader of El Pacífico neighbourhood, Medellín.

> "*The people who were born in Providencia want to die in Providencia (…) I am loyal to my territory, the members of the Veeduría Cívica Old Providence, and the rest of the Raizal people. I know no one wants to leave this island*" Interview 8. Community leader of the Raizal people, Island of Providencia.

This PhD Thesis investigates the use of legal mobilisation by communities experiencing climate-related (im)mobilities. Building on an empirical research I conducted in Colombia, I use framing analysis to explore how communities impacted by climate disasters give meaning to climate change, and the way it is reflected in the use of the law. I discuss the role that place attachment and violence play in triggering (or constraining) legal mobilisation and how they integrate with traditional variables of analysis such as political opportunities, legal opportunities, and resources. This introduction chapter starts by explaining the academic relevance of this case-study based research and the socio-political context in which it takes place. The main purpose of discussion of this latter context is to show how climate change has the potential of exacerbating already existing social, place and environmental conflicts, which is central to comprehending the case studies analysed. This is followed by a summary of the main theoretical studies on legal mobilisation and climate (im)mobilities and a condensed discussion on the gaps in the literature, which is then expanded in my literature review chapter (Chapter 2). In parallel, I explain the academic contributions of my Thesis and how those may help to fill the gaps identified in the theory. Finally in this chapter, I state my research questions, and methodology and provide an initial summary of my research findings. In the last section, I lay out the structure of my Thesis.

1.1. Climate change impacts from a place approach

Climate change is the most pressing global crisis that humanity faces today as its impacts pose increasingly existential threats to human wellbeing and the nature (IPCC, 2022). Humanity has witnessed how the most vulnerable people and systems have been disproportionately affected by the impacts of climate change — some have been already pushed beyond their ability to adapt (IPCC 2022). While climate change clearly has global dimensions, it has local implications in the places where its most pervasive impacts are occurring. An expected consequence of the destruction of natural and human developed areas by climate disasters is forced human displacement.[1] However, this is not the only outcome, as human mobilities linked to climate disasters are mediated by several causes that determine the way in which those mobilities materialise. In fact, it could happen that communities have little ability to move, or simply decide not to in the face of a disaster. Undertanding how people give meaning to the different types of mobilities, and immobility related to climate disasters is central to reflect on what people need and what opportunities and limitations the law may offer.

While there is abundant and alarming media content on the supposed evolving catastrophe of mass migration due to climate change (BBC, 2022; CNN, 2020; Guardian, 2020; Mongabay, 2022), migration studies (which normally reach a smaller portion of the population) have denied that claim (see references in section 1.3). To some extent, legal studies on climate (im)mobilities have leaned towards embracing the crisis narrative of mass international migration linked to climate change (Berchin et al., 2017; Biermann & Boas, 2008; Ramlogan, 1996). This may have influenced the dominant discussion on legal frameworks to address international migration as a result of climate change, which in a way disregards legal debates on the impacts of climate change in place dynamics and the way that communities give meaning to climate change when turning to the law. This PhD research helps to fill that gap by using a place attachment approach to explain legal mobilisation undertaken by people experiencing climate-related (im)mobilities. It also permits us to assess how people experience climate-related disasters, avoiding the assumption of 'everyone facing a disaster ends up fleeing internationally' and are willing to

[1] While climate change has an impact on wildlife migration patterns, this PhD Thesis focuses on human (im)mobilities linked to climate change.

be identified as climate refugees (which is quite common in the current legal literature). Looking at the impacts of climate change in the place dynamics of two urban neighbourhoods and a Caribbean Island in Colombia allow one a comprehensive analysis of climate change as one of several risks that communities face, which need to be considered in order to understand community mobilisation strategies.

Introducing a 'bottom-up' approach, this research aims to understand people's concerns and demands when climate change causes considerable change to the places where they are settled, particularly to their homes. As Sterett (2021) suggests, studying the 'endotic' (in opposition to exotic) or what is nearby in climate displacements is important in order to "prevent climate change and losing home being treated as something that only happens to a few people who live far away" as "[f]or most people, the place people can fight for is not the globe, but something closer and more tangible" (Sterett, 2021, p. 6). Along these lines, my research touches on people's fight for their home through legal avenues when their habitat has been undermined by climate disasters.

1.2. A big picture on climate vulnerability and displacement in my case studies in Colombia

In this section, I provide context-based information of my case studies aiming at highlighting the correspondence between the existence of social vulnerability conditions faced by the communities' subject of study and vulnerability to climate change. I highlight contextual factors such as hosing deficit, lack of access to public utilities, human displacement trends in Colombia (linked to the armed conflict) and urban violence, which are relevant to address place attachment and violence as variables able to explain legal mobilisation.

According to the Notre Dame Adaptation (ND-GAIN) climate vulnerability index, Colombia is the country 98th most vulnerable to climate change and the 108th most ready country as many adaptation challenges still exist (ND-GAIN, 2023). Medellín and Providencia are the two municipalities in which my case studies are located. They are respectively the capital city of Antioquia, and a Caribbean Island that is part of the department of San Andrés y Providencia (in what follows San Andrés). Antioquia and San Andrés are among the 20 Colombian departments at most risk to climate change, with the latter heading the list (IDEAM et al., 2017). Figures on disaster displacement in Colombia and the American

continent are concerning. Between 2008 and 2021, weather related disasters caused the internal displacement of around 32 million persons (IDPs) in the Americas, in comparison to over 6 million of IDPs linked to conflict and violence in the same period (IDMC, 2023). Eleven percent of total internal displacements linked to weather related disasters in the Americas took place in Colombia with 3.5 million IDPs (IDMC, 2023).

While Colombia is classified as an upper middle-income country by the World Bank (WBG, 2023), it maintains many characteristics of a low-income country such as its high poverty rate (39,3% by 2021) (DANE, 2022) and deep income inequality. Following global trends, Colombia's inequality has increased over the last 40 years placing the country as the second-most unequal country in Latin-America (after Honduras) with a Gini Index of 0.53 (UNAL, 2013). This is reflected in its high housing deficit of 31% (DANE, 2022a).[2] While San Andrés reaches an appalling figure of 90.9% housing deficit, Antioquia is close to 24% (DANE 2022a). In Medellín — the capital city of Antioquia — 31% of the residents live in informal settlements[3] (URBAM & HDS, 2012), above the national average which makes for around 25% of the Colombian urban population (Gómez & Monteagudo, 2019).

Providencia is a small island (17 km2) with a population of 4,545 (DANE, 2020), mostly Raizal people. The Raizal people are African descendants and natives of the department of San Andrés, who distinguish themselves from other black communities in Colombia. The Raizal population have their own culture, language (creole), religious beliefs (Baptist church)[4] and similarities with the historical past of Antillean people (UARIV, 2023). Among the major deprivations faced by the Raizal people are the inadequate sewerage system which impacts

[2] This figure includes quantitative and qualitative housing deficit. Quantitative housing deficit refers to families who live in houses with irreparable faulty structures and reduced spaces which makes necessary add new housing to the total stock of houses in the country. Qualitative housing deficit regards to houses with non-structural deficiencies which could be fixed in order to reach adequate housing conditions (DANE 2022a).
[3] Informal settlements are poor residential neighbourhoods that meet three main criteria (i) inhabitants have no security of tenure; (ii) the neighbourhoods usually lack, or cut off from, basic services or utilities and city infrastructure and (iii) the housing may not comply with current planning and building regulations. Those are often located in geographical and environmental hazardous areas and may lack of municipal permit (UN-HABITAT, 2015). Informal settlements are a global urban phenomenon caused by — among other factors — lack of affordable housing for the urban poor, weak governance, discrimination, marginalisation, and displacement linked to armed conflict, disasters, and climate change (UN-HABITAT, 2015). Although informal settlements are often described as slums, slum dwellers or shanty towns, it has been noted that those terms have negative connotations and might be regarded as dehumanising (OXFAM, 2023). Additionally, the term of informal settlements is preferred in this Thesis because the communities subject of study refer themselves as inhabitants of informal settlements.
[4] Colombia is predominantly a Spanish-speaking and Catholic country.

71,7% of the total population of San Andrés, and the lack of access to potable water which affects over a half of its residents (DANE, 2020). Ancestral land dispossession by the tourism industry and military have been a big concern for the Raizal people (Interview 8). The defence of their ancestral land has been a long-standing struggle which became more difficult following the destruction of 98% of the island as a result of Hurricane Iota in December 2020 (Interview 8).

For a while, the Colombian armed conflict was the world's longest running active civil war, which started in 1964 and officially ended in 2016 with the signature of a peace agreement between the Colombian government and the largest guerrilla group FARC (the Revolutionary Armed Forces of Colombia) (JFC, 2023). Forced displacement of thousands of people has been a war strategy by different armed actors in the country (HRW, 2005). As of 2022, Colombia accounts for over 9 million Internally Displaced Persons (IDPs) — 17% of its current population — since the start of the armed conflict. A singular characteristic of Colombian cities is the growth of centres linked to the phenomenon of forced displacement from rural to urban areas as a result of the armed conflict (IDMC, 2021). The National System of Internal Displacement (SIPOD) reported that between 1996 and 2011, 76% IDPs (linked to the armed conflict) fled from rural to urban areas usually to informal settlements (Albuja & Ceballos, 2010) where people are particularly exposed to the risks of climate disasters (IDMC, 2021). According to the National Unity for Risk and Disaster Management, floods and landslides are the most recurrent and deadly climate-related events in Colombia (UNGRD, 2018). In 2021, the International Displacement Monitoring Centre reported that people who previously fled the armed conflict have been displaced again by disasters in Colombia (IDMC, 2021).

In the early 1990s, Medellín, the second largest city of Colombia, was known as the world's most dangerous city.[5] Although Medellín's violence rates have decreased considerably[6] thirty years later, patterns of violence are still present and difficult to break down (Medellín Cómo Vamos, 2019). The structure of criminal power[7] is distributed among various non-state armed groups or criminal gangs well-coordinated to control illegal economies (narco-

[5] 395,47 killings per 100.000 inhabitants in 1991 (SISC, 2019).
[6] 25 killings per 100.000 inhabitants in 2018 (SISC, 2019).
[7] 'Local power, defined as the ability of an armed actor to coerce or co-opt people to abide by a set of rules in a specific urban area, is a relational concept profoundly influenced by the urban space' (Sampaio, 2019).

trafficking, extorsion, illegal sale of land, etc.) and impose their rule, in the form of regulating people's behaviour, and punishing crimes or transgressions against their territorial control (Medellín Cómo Vamos, 2019). Although there is a tendency to assimilate violent urban areas with informal settlements, criminal structures also operate in the planned spaces of the city. What differs are the challenges that informal settlements present in relation to the application of the rule of law, and the capacity of the authorities to govern effectively.

Non-state armed actors take advantage of informal urban areas to develop their activities and expand their coercive force, in the same territories where communities experience high exposure to climate risks with consequent lower adaptive capacity. Communities organise to "manage urban spaces for themselves beyond the control of the state" (Purcell, 2014). In this way, 'parallel institutions of governance' (Samper, 2017) in these areas are created to self-provide public services that have been neglected by the State. The scarce state presence in informal settlements does not just enable community self-governance to fill that gap, but also favours territorial control of those areas by criminal gangs. Although some scholars have considered that urban populations face lower levels of risk — linked to the concentration of resources and infrastructure — in comparison to rural populations, vulnerabilities simply differ (Pelling, 1999). Unlike rural populations, urban societies face risks as a result of the commoditisation of purchasing for food, shelter and services, inadequate access to environmental services, poor quality housing, and settlement on marginal or degraded land (Moser et al., 1994).

The context described above shows the interconnectedness among social, place and environmental factors faced by the communities most at risk of the impacts of climate change. In this sense, climate change cannot be approached as an isolated factor impacting people's lives, as one could end up undertaking segregated analysis unable to make comprehensive explanations. Based on my three case studies, I argue that place attachment defines the use of legal mobilisation (explained further in Chapter 6). However, people's bonds to a place are embedded in a context of housing deficit, basic needs unmet, informal housing tenure, and violence. These contextual factors are relevant to this project because those allow to comprehend how people give meaning to their experiences and the way those shape frames and claims in legal mobilisation strategies. Looking at the context also helps to hypothesise whether the law is a viable mechanism for communities facing not only climate risks, but also personal safety and social risks. In other words, undertaking legal

venues in places where the rule of law is in a way missing — such as informal settlements — needs to consider not only the opportunities, but also the personal safety and social risks of turning to the law in those contexts.

Notably, the study of communities highly vulnerable to climate change living in two informal settlements in Medellín (La Playita and El Pacífico) shows the predominant role that violence —in the form of the territorial control of criminal gangs — play in defining human (im)mobilities post-disaster. In addition, considering social risks (such as poverty and unaffordability of formal housing) imply approaching climate change as one of many other risks that communities face, which in turn, defines people's responses in the form of self-risk management or deciding to undertake mobilisation strategies (when risk management goes beyond their ability to cope).

The case of the Raizal people in the Caribbean Island of Providencia, Colombia demonstrates the exacerbation of already existing social vulnerability factors by the impacts of climate change. Most importantly for this PhD project, it shows how the way that people give meaning to their context (described above) is reflected in frames and claims when turning to the law. In this case, understanding what the Raizal people have faced historically allows one to comprehend their claims to protect their ancestral land from the impacts of climate change.

1.3. What is already known on climate (im)mobilities and legal mobilisation

This section will touch on the relevant academic literature and how my PhD project is using it. However, a more detailed consideration of that literature will follow in Chapter 2. My literature review there is compounded by inter-disciplinary academic studies on legal mobilisation (including climate litigation studies), climate-related (im)mobilities and place attachment. The relevance of looking at place attachment is that this approach allows the examination of place dynamics in the context of climate-related disasters (this is a central focus on my research as mentioned earlier). It is also a variable which may explain the use of legal mobilisation by communities facing climate (im)mobilities (see Chapter 6). Below, I summarise research trends in each of the three set of studies and follow this by a discussion on the gaps in research and the academic contribution of my PhD research.

Building on sociological and political science studies, legal scholars have developed a theory of legal mobilisation aimed at explaining why social movements turn to Courts and how. This theory accounts for the opportunities of legal mobilisation, which includes looking at Political Opportunities (PO) – referring to the openness of the political system to be challenged – and Legal Opportunities (LO) in the form of rules of access to justice and judicial receptivity that favour turning to the courts (Evans Case & Givens, 2010; Hilson, 2002; Wilson & Rodríguez Cordero, 2006). In addition, legal mobilisation scholars have developed an extensive analysis of Resource Mobilisation (RM) regarding how the availability and development of resources determine the use of legal mobilisation (Börzel, 2006; Epp, 1998; Vanhala, 2016; Wilson & Rodríguez Cordero, 2006). Separating from the opportunities approach to legal mobilisation, some scholars have turned their attention to an analysis of interpretative frames. According to them, frames are useful to explain motivations to mobilise as it unveils internal social movements dynamics shaping strategy choice (Snow & Benford, 1988). More recently, neo-corporatist approaches to legal mobilisation have examined how the relationship between social groups and public authorities affect the likelihood of the former to take legal action (Morag-Levine, 2003; Soennecken, 2008; Vanhala, 2016). The study of Lemaitre and Sandvik (2015) on the use of legal mobilisation in contexts of violence is also relevant to my PhD work. In their research, the authors argue that legal mobilisation is shaped by violent contexts as mobilisation frames are constantly shifting, resources tend to vanish, and political opportunities could be dangerous (Lemaitre & Sandvik, 2015).

Meanwhile, climate litigation studies have generally focused attention on the analysis of climate change mitigation cases, while climate adaptation cases are typically less examined in legal deliberations about climate change (Osofsky, 2020). Additionally, while climate litigation studies have mostly been interested in explaining cases in which climate change is a central matter or a motivation (Setzer & Higham, 2022), there has been a growing trend of studies that have critically discussed the definition of climate litigation, in order to address the limitations of non-mitigation climate cases not being counted (Bouwer, 2018; Hilson, 2010; Markell & Ruhl, 2012; Ohdedar, 2022; Peel & Lin, 2019; Peel & Osofsky, 2015b). Those cases include the ones taking place in the Global South where climate change mitigation tends to be a peripheral issue, and where human rights around adaptation are at core of the claims (Ohdedar, 2022; Rodríguez-Garavito, 2020; Setzer & Byrnes, 2020). There has been

also a significant literature on climate change and framing in legal studies (Franta, 2017; Hilson, 2017; Ohdedar, 2022; Peel & Osofsky, 2018; Setzer & Vanhala, 2019).

Climate-related (im)mobilities have been studied by several disciplines including disaster studies, political ecology, development, environmental, migration and legal studies. Although this PhD work involves interdisciplinary research which takes into account all those areas, it is primarily directed to making academic contributions to legal studies on climate-related (im)mobilities. In this sense, non-legal studies on climate (im)mobilities are considered in order to enrich legal debates on the matter. In legal studies, there has been substantial legal scholarship on the legal definition of the different types of human mobilities,[8] and legal protection guidelines for people impacted by climate change (with a particular focus on people fleeing internationally) (Biermann & Boas, 2008, 2010; Myers & Kent, 1995; Ramlogan, 1996). The climate refugee debate has dominated the attention of legal scholars, which has also embraced alarmist approaches of international and uncontrolled mass migration as a result of climate change influenced by early environmental studies (Jacobson, 1988; Myers, 1993; Myers & Kent, 1995; O'Lear, 1997; Ramlogan, 1996).

In recent years, there has been increasing criticism of the excessive focus on international migration related to climate change in legal studies. Building on political ecology, development and migration studies, some scholars have argued that the dominant attention to international migration disregards social vulnerability factors as determinants of climate (im)mobilities, and the migration trends which are predominantly internal (Baldwin & Fornalé, 2017; Bettini, 2017; Black, 2001; Black et al., 2011; Silja Klepp & Chavez-Rodriguez, 2018; Mayer, 2013). This criticism gave room to a more complex and multi-causal undertanding of climate (im)mobilities (Bettini, 2017; Silja Klepp, 2017). The discussion was expanded to terms such as migration as an adaptative mobility (Bates, 2002; Biermann & Boas, 2010; Brown, 2007; Foresight, 2011; Leal-Arcas, 2012), forced displacement when climate change forces people to move (Ferris, 2015; Jayawardhan, 2017; Zetter, 2011), and resettlement or planned relocation as a measure of adaptation to climate change and last resort measure when adaptative strategies fail (Ferris, 2015; J. McAdam, 2010; Zetter, 2011). At the time of writing this introduction, there appeared to be only one study on claims-

[8] Such as forced displacement, voluntary migration, relocation, and resettlement.

making processes by communities displaced by climate change which, using a 'bottom-up' analysis, discusses their demands and claims for justice (Arnall et al., 2019).

The place attachment literature considered in this PhD focuses on studies explaining the human bonds developed to places with a special focus on places at environmental and climate risk (Barnett & O'Neill, 2012; Billig, 2006; Druzhinina & Palma-Oliveira, 2004; Johnson et al., 2021; Lewicka, 2011; O'Neill & Graham, 2016). In addition, it has examined place attachment research, looking at how place attachment can be related to active participation in community organising (Lewika, 2011); resistance to the introduction of changes in places (Bonaiuto et al., 2002; Lewicka, 2011; Vorkinn & Riese, 2001), and responses to climate adaptation (Adger, 2016; Butts & Adams, 2020; S. Moser & Boykoff, 2013). Meanwhile, urban planning and environmental psychology literature has explained the link between place attachment and toleration, underestimation and mitigation of risks using the concept of chronic risks contexts[9] (see section 2.3.2 in Chapter 2). This concept allows reflection on why people tolerate living in areas at climate risk, acknowledging the presence of other substantial social risks, which are more difficult to manage (Carvalho & Cornejo, 2018; Chamlee-Wright & Storr, 2009; Johnson et al., 2021; Sterett, 2021).

1.4. Place attachment and violence. A gap in the legal mobilisation literature

In the previous section, I summarised research trends in legal mobilisation, climate litigation and climate (im)mobilities, mentioning that my PhD Thesis is designed to contribute to these research fields. Below I recap the gaps in legal mobilisation theory. Then I discuss how my PhD research will help to fill in those gaps.

As mentioned above, legal mobilisation studies have predominantly used opportunities, resource mobilisation, neo-corporatist, and framing approaches to explain why social movements turn to the law as a mobilisation strategy. The fact that these studies have

[9] The chronic risk contexts concept refers to the many contexts of adversity that communities face, which builds on the understanding that disaster risk exposure is the result of — among other factors — poverty, lack of choice and exclusion. In other words, disaster risk is interrelated to other contexts of adversity such as poverty, unemployment, violence, etc., which increase vulnerability to physical hazards and reduce resilience (Johnson et al., 2021).

mostly been focused on the analysis of social movements in Europe and the US — drawing on the specific contexts in which those arise — may have generated a gap in the theory to explain other variables that could be more relevant for social movements turning to the law in the Global South. Building on my empirical research conducted in Colombia, I argue that the variables of place attachment and violence (in the form of personal safety and social risks) help to explain the use of legal mobilisation by communities impacted by climate disasters. However, these two are un/under-explored variables (respectively) in the dominant legal mobilisation theory. Not having considered other contexts to identify variables with legal mobilisation explanatory potential, has resulted in the little attention that legal scholars have paid to the personal safety and social risks of undertaking litigation. In addition, there is little in the way of existing theoretical discussion on whether and how place attachment triggers legal mobilisation. As I explain below, belonging to a place may help to develop rights consciousness, which therefore may trigger legal mobilisation. However, turning to Courts is often mediated by an assessment of risks (while there could be several risks associated with litigation, this Thesis focuses on the analysis of personal safety and social risks).

While social movement theory (which is broadly used by legal mobilisation scholars) has studied the risks of non-legal mobilisation strategies such as direct action or protests, there is scant discussion of the fact that challenging those in power through legal mobilisation could entail a number of risks for the claimants. Some legal studies have addressed the risks of backlash (Cummings & NeJaime, 2010; Klarman, 1994; Gerald Rosenberg, 2006) and the use of the law in authoritarian settings (Chua, 2015), but a systematic risk analysis applied to bringing litigation remains to be explored. Social movement and legal mobilisation theories have not yet explained how a different range of risks may materialise in litigation and the way that may shape decisions on legal mobilisation strategies. Those studies have paid little attention to whether the sense of belonging to a place may trigger legal mobilisation, considering the risks for claimants that fighting for a place may entail. In other words, legal mobilisation theory has failed to account for the role that place attachment play in shaping legal mobilisation. In addition, there is limited theoretical debate on independent factors that may constrain legal mobilisation even when opportunities and resources are available. In this sense, there is a need to introduce variables of analysis that allow a more

comprehensive understanding of legal mobilisation, which takes into account not only opportunities but also limitations in the form of personal safety and social risks.

While climate litigation studies have paid predominant attention to climate mitigation cases, there has been a growing trend in advocating for the need to include more analysis of climate adaptation cases in climate litigation studies (Ohdedar, 2022; Osofsky, 2020; Peel & Lin, 2019). As mentioned briefly above, the cases that typically end up excluded from the core academic debate are the ones taking place in the Global South, which often focus on human rights issues as a central concern and their link with climate adaptation (Rodríguez-Garavito, 2020; Setzer & Benjamin, 2020b). The fact that the climate litigation literature has been mainly developed in the Global North has led to that geography largely defining the concept and approaches to climate litigation, as well as the types of cases included in the category and topics of concern. The analysis of climate cases in the Global South (like the ones discussed in this PhD) exposes the limitations of the current climate litigation definition in which climate change is required to be at the core of the legal claims to be considered as a relevant case to be debated in climate litigation studies (Peel & Lin 2019). Although there are existing efforts to explain climate litigation in the Global South from scholars in the Global North (Peel & Lin, 2019; Setzer & Benjamin, 2019, 2020a) Global South cases seem to be related as exceptional cases — as climate case definition builds on explaining litigation dynamics in the Global North. The scarce number of adaptation cases addressed in climate litigation studies (O'Donnell, 2020; Ohdedar, 2022; Setzer & Benjamin, 2019, 2020b) is reflected in the little research there is on the use of legal mechanisms by communities experiencing climate-related (im)mobilities. It is not surprising then that climate disaster litigation motivated by climate adaptation goals is under-explored in climate litigation studies.

Meanwhile, legal studies on climate-related (im)mobilities tend to address the topic from a 'top-down' perspective, in which most of the attention has been paid to regulatory or legal frameworks to protect people experiencing mobilities linked to climate change and the legal definition of climate displaced persons, climate migrants or climate refugees. This shows a gap in research addressed to comprehending people's experience of climate-related (im)mobilities from a place attachment and violence approach, and whether they use the

law to respond to it.[10] Therefore, exploring novel perspectives than those traditionally used in legal studies on climate (im)mobilities are important to expand the climate (im)mobilities debate beyond the above legal protection frameworks. Furthermore, the above-mentioned approach puts the attention on how climate-related (im)mobilities are experienced by people and whether and how it can be conducive to the use of legal mechanisms. While exploring this may contribute to informing how legal protection frameworks may be fit for purpose (as it unveils people's concerns and claims), it also contributes to debates on climate litigation, considering not only opportunities but also the personal safety and social risks of turning to the law.

My cases studies raise questions on how internal factors such as framing processes interrelate with external and self-sustained factors such as personal safety and social risks in defining mobilisation strategy choice. My empirical research also explores how people experience place in order to analyse whether belonging to a place (place attachment) may trigger legal mobilisation. Looking at communities experiencing chronic risks contexts unveils variables of analysis useful to explain legal mobilisation — such as place attachment and violence — hardly noticeable for civil organisations or NGOs in the Global North. As there has been little attention to self-sustained constraints — such as the previously mentioned risks — to legal mobilisation and place attachment, legal mobilisation scholars need to reach an understanding on whether risks to legal mobilisation and place attachment define the use of the law or not, or whether those help shape other types of mobilisation strategies. Questions on whether personal safety and social risks and place attachment affect strategy choice, and shape frames and claims —and if so, how — remain to be explored.

The focus of my research on chronic risk contexts also shows the relevance of a place attachment approach to legal mobilisation. While it allows us to identify how social risks faced by people settled in certain places influence turning to the law and how, it also allows us to address how belonging to a place helps to shape the community course of action. The fact that communities are often able to manage environmental or climate risks (through community risk management) as opposed to social risks such as unaffordability of housing in

[10] Although the climate refugee debate could have touched on how climate change re-defines international migration patterns of people fleeing the war, it has tended to approach climate change as a single determinant of international migration. It has not considered the role that violence plays in shaping climate-related mobilities.

the planned city (as opposed to the non-officially planned or informal areas of the city), may explain how places at risk become meaningful and deserving of care and protection. From this basis, one wonders whether belonging to a place may help the development of rights consciousness, and therefore trigger the use of legal mobilisation. However, is rights consciousness itself enough to make it likely that people will turn to the courts? What if rights consciousness exists but risks to claimants are too high to bear?

Addressing the above questions in my PhD research allows me to add to the existing strand of research on framing in legal mobilisation. The framing analysis developed in this PhD work integrates an examination on whether place attachment and violence play a significant role in triggering participation in legal avenues and how. As mentioned previously, these two variables of analysis are selected on the basis that communities highly exposed to extreme weather events (associated with climate change) live in areas such as small islands and urban informal settlements (Revi et al., 2014) — in which the order of the urban territory is disputed among organised communities, armed groups and the State. In disputed territories (either informal settlements: disputed among urban communities, criminal gangs and the State; or small islands: among ethnic communities, industry and the State), place attachment and violence might influence the way that people respond to climate-related (im)mobilities. In this research, I analyse whether those factors influence the use of the law as a response to human (im)mobilities associated with climate change. In sum, place attachment and violence are variables that apply to the legal culture in the Global South (which could also apply in the Global North but may be less relevant or visible and therefore less explored) which could help to develop theories and concepts that can describe its reality more fully.

In relation to climate litigation studies, there is existing socio-legal research aimed at discussing the development of climate frames by social movements and explaining the deliberate use or exclusion of climate frames in 'cases in the context of climate change' (Bouwer, 2018).[11] There are questions to be resolved in relation to how communities give meaning to climate change and how it is reflected in legal strategies. This approach excludes

[11] As a response to the current climate change litigation trend of prioritising the analysis of high-profile cases in which climate change is a central matter of concern, Bouwer (2018) suggests referring to 'cases in the context of climate change'. This expression expands the scope of analysis to smaller cases across different scales, which according to her, are equally important to shape climate change policy.

assuming that climate change, as a central issue in legal cases, is what make those relevant to count and be deserving of analysis and discussion in climate litigation studies. In this sense, my PhD research also aims to contribute to 'bottom-up' climate litigation studies in order to expand the current comprehension of people's concerns, frames and claims when turning to the Courts in climate-related cases. Looking at the development of climate consciousness and frames (see Chapter 8) allows one to comprehend how climate change is given meaning in chronic risk contexts and the way it is put forward in legal venues. In climate disaster cases, climate change may be a peripheral or incidental issue, or even dismissed depending on the calculated strategy choice made by social movements. This argument builds on the basis that climate frames could posit potential opportunities in litigation, but also limitations. I anticipate that my work will contribute to current debates on climate (im)mobilities litigation, bringing analytical approaches that recognise climate change as a transversal issue with the potential to worsen social vulnerability conditions (as has been explained by political ecology studies such as (Farbotko et al., 2016; Silja Klepp, 2017; Silja Klepp & Chavez-Rodriguez, 2018; Silja Klepp & Herbeck, 2016)). In other words, my aim is that legal studies embrace the complexities of the impacts of climate change in people's lives, and therefore considers and analyses cases in which climate change is portrayed as a transversal — instead of central — concern in legal cases.

In sum, this investigation aims to contribute to legal mobilisation theory by introducing novel and scarcely addressed variables — place attachment and violence — to explain why people turn to the law as a mobilisation strategy. Using framing analysis, this research seeks to identify and analyse the concerns of communities facing climate-disasters and how those concerns are framed in legal mobilisation strategies, considering not only opportunities and resources, but also the risks to undertaking legal mobilisation. In addition, it intends to add to the little empirical research on climate-related (im)mobilities 'from below' from a Global South perspective. This research fits in with what has been classed by Arnall (2015) as a 'third wave' of studies "which aims to engage with people's everyday experiences, perceptions and understandings of environmental change and mobility" (p. 2). This investigation aims to bring additional insights into how climate change impacts are understood *on the ground*, and how that interrelates with the social and political context in which those impacts occur. It will enable an understanding of how climate-related

(im)mobilities are given meaning by people experiencing climate disasters and the way this is reflected in the use of the law.

1.5. Research questions and methodology

My main research question is whether communities experiencing mobilities or immobility in Colombia linked to climate-related stresses use legal mobilisation and why. This Thesis also addresses the following sub-questions:

i. What is the role that place-attachment and violence play in triggering the use of legal mobilisation in the context of (im)mobilities linked to climate-related stresses?
ii. How do people experiencing (im)mobilities influenced by climate-related stresses in Colombia articulate claims?
iii. What are the non-legal and legal discourses and frames among people experiencing (im)mobilities influenced by climate-related stresses in Colombia?
iv. How do framing processes impact the use of legal mobilisation in the context of (im)mobilities linked to climate-related stresses?

My research question allows me to assess whether communities facing climate-related (im)mobilities use legal mobilisation or not and to identify the internal and external factors (traditional legal mobilisation variables, and also place attachment and violence) that define legal mobilisation, with a particular focus on framing. Additionally, my research sub-questions seek to address legal and non-legal discourses, frames and claims in legal and non-legal strategies, and to contrast how those are using either legal or non-legal venues.

To address the previous research questions, my research uses a qualitative research approach — which will be further discussed in Chapter 3. This is sustained by my aim of understanding how people give meaning to their climate-related (im)mobility experience and whether the law is used and how. Additionally, this PhD, which includes three case studies in Colombia, seeks to explain the phenomenon in specific contexts. This work considers the differentiated climate-related impacts of urban communities inhabiting informal settlements in Medellín, and the Raizal ethnic minority settled in Providencia Island.

I explore the role that place attachment, violence, legal opportunities (LO), political opportunities (PO) and resource mobilisation (RM) (independent variables) play in motivating the use of legal mechanisms (the dependent variable). As undertaking legal action is a human action determined by several interrelated factors, the independent variables here are not considered as *determinist causes* but as *conjectures* — "variables that come together to influence an outcome" (Ritchie & Lewis, 2003, p. 215). Using frame analysis, I explore how people give meaning and interpret their climate (im)mobility experiences when turning to the law.[12] This data analysis choice builds on my interest in comprehending how those meanings and interpretations are used strategically for mobilising support. My research involved stages of deductive as well as inductive analysis. For the latter, I used the grounded theory strategy and applied inductive coding which allowed me to develop concepts arising from my empirical data (Marvasti, 2004; Mattoni, 2014). As the amount of data collected in this research was manageable manually, the use of analysis software was not considered necessary.

Case selection was limited to the geographical area of Colombia. Then, it was scaled down to communities experiencing climate-related (im)mobilities post-disaster who used legal mobilisation strategies as a response. The case selection criteria were: (i) communities highly vulnerable to the impacts of climate change; (ii) the existence of the community organisation and leadership around climate, environmental, urban or related topics; (iii) communities which have undertaken legal mobilisation strategies around the previously referred issues. The outbreak of the Covid-19 pandemic delimited even more my case selection criteria given the limitations of undertaking fieldwork in Colombia. I decided to choose two cases in my home city Medellín (El Pacífico and La Playita) where I knew community organisations and colleagues working on the issues I was interested in and did not have to deal with mobility restrictions — apart from the temporary lockdowns. The litigation case of Providencia was initiated in December 2020 — when I was about to start my fieldwork in Colombia.[13] As Covid-19 restrictions were eased at that time and this was the first legal case in Colombia to address climate displacement in a *tutela action*, I decided

[12] For practical research purposes, I use a narrow approach to legal mobilisation approach limited to utilising formal and institutional mechanisms (see methodology chapter, Chapter 3, for an explanation on this).
[13] *Huffington v Presidencia de la República y otros* (2020) 88001310400220200004200 (Tribunal Superior de San Andrés).

to include the study of the mobilisation strategies by the Raizal people in Providencia in my research project.

I undertook semi-structured interviews with community leaders, members of grassroot organisations and lawyers of NGOs or legal clinics. This data was complemented with data from public statements, press releases, webpages, flyers, field notes, posts in social media and videos of the community organisation, social movement or legal organisation for each case-study community. In addition, I brought 'research into practice' through providing legal support to the communities I was looking at in my case studies. This was motivated by my interest to offer something back to the community that I had learned from and to build trust and confidence in relation to my methods. Research into practice gave me the chance to immerse myself in community discussions and participate in their mobilisation strategies. I played a dual role of observer and participant which allowed me to observe community practices in a more systematic and comprehensive way (see Chapter 4 for a detailed explanation on why and how I applied 'research into practice' in my PhD Thesis).

1.6. General findings

In relation to climate-related (im)mobilities perceptions, I found that climate disasters were understood by community organisations as human-driven disasters, spotlighting problems related to the place where communities are settled. The materialisation of disasters was seen by the community as the manifestation of socio-spatial exclusion that put certain places at higher levels of climate vulnerability in comparison to others. As a response to this, communities in all of my case studies advocated for place-based solutions that allow people to stay or return safely to their homes. The communities' call for action was framed as a *defence of the territory*, which is associated with the right to housing in dignity from an individual and collective dimension[14] in the city, and the right to ancestral land rights by the Raizal people in the island of Providencia. In this way, claims to address climate risks were associated with addressing other social risks faced by communities in chronic risk contexts.

[14] I refer to the individual dimension as the individual right to own a household. The collective dimension involves the right to a safe neighbourhood in which environmental and climate risks are managed, as well as protecting community networks.

Regarding the use of legal mobilisation in chronic risk contexts, my research accords with previous research establishing that social movements are more likely to undertake litigation when their identity and framing processes define the relevant membership as rights holders and courts are seen as appropriate avenues to advance their agendas (Vanhala, 2010a). However, it adds two caveats: (i) the definition of rights holder could be associated with place attachment (instead of identity). This means that where place attachment allows the development of rights consciousness, court action is more likely; (ii) however, such a rights definition does not lead straightforwardly to legal mobilisation, as strategy choice is mediated by an assessment of external factors such as personal safety and social risks. In other words, community risk assessments may shape litigation. This research reveals that personal safety and social risks do not necessarily stop organisations from turning to courts, but it does help to shape framing and claiming in legal mobilisation.

The analysis of the different stages of framing activity in this research showed that the identification of the problem (in terms of how communities perceive climate disasters) and the subjects accountable are not necessarily the ones that are put forward publicly in frames and claims. While the community identified several actors as being accountable, not all of them were considered worthwhile to raise a claim against. Social and personal safety risks in chronic contexts played a role in defining which frames and claims were put forward. Frame resonance is a critical task in chronic risks contexts in which, for example, frames should not sound like a potential attempt to intervene in criminal groups' territorial control in informal settlements. As we shall see, the use of the law may be limited to directing the accountability of the state and demanding technical solutions, instead of climate adaptation claims based on urban land conflict solutions. In this sense, I argue that personal safety and social risks are interpreted by social movements in framing activity.

My research shows that legal mobilisation is a versatile mechanism for organised communities. It may be used as a principal or subsidiary mechanism depending on political and legal opportunities and resources (this has been already analysed by the legal mobilisation literature). However, this research reveals that legal mobilisation could be used to create political opportunities when there are good legal opportunities (LO) in the form of easy access to courts and judicial receptivity. Legal mobilisation as well as political and educational methods could also be used by communities to overcome their disadvantaged position in society and facilitate their access to decision makers. It also explains the role of

lawyers as organisers. This combined role goes beyond giving legal advice for legal strategies. Lawyers play a crucial role in defining non-legal mobilisation strategies with their legal knowledge and ability to assess risks — a necessary task in deciding strategy choice.

Based on the above, I propose what I call a *risk-based approach to legal mobilisation*. A risk assessment in strategy choice allows the identification of potential constraints to legal action such as personal safety and social risks, but also considers how those limitations define the way in which opportunities and resources are used or developed. This proposal aims to integrate the analysis of constraints to legal mobilisation in the current legal mobilisation debates on whether and why social movements use the law.

Theoretically, this PhD calls for a more comprehensive analysis of legal mobilisation – one that includes not only opportunities and resources, but also self-sustained constraints to legal mobilisation. This study should also help to bring a broader understanding to the climate change litigation concept. It proposes to expand it from the understanding of climate litigation as litigation in which climate change is a central part of, or motivation for it (Hilson, 2010; Markell & Ruhl, 2012; Peel & Osofsky, 2015a) to cases occurring 'in the context of climate change' (Bouwer, 2018). That is to say that there are cases in which climate events could determine somehow injurious experiences and not necessarily be a central part of the litigation, which does not mean that the case is not relevant for comprehending climate change litigation trends.

Empirically, this work will add to the scarce research on legal mobilisation case studies on climate-related (im)mobility from a 'bottom-up perspective' and from a Global South perspective. This approach enables an understanding of how people facing forced climate-related (im)mobility in the Colombian context experience the law – whether they use it or resist it, what are their perceptions of injustice and the way that they build grievances and how those views trigger or do not trigger mobilisation strategies (legal mobilisation or others). Additionally, this research will bring an understanding of the outcomes and failures of legal mobilisation strategies, spotting issues in the Colombian legal system that hinder or facilitate the use of legal mechanisms.

The Thesis structure is as follows. In *Chapter 2. Literature Review*, I analyse legal mobilisation studies, exploring the different theories that have explained legal mobilisation and I justify the use of place attachment and violence as variables relevant to explain the use of legal

mechanisms in the Colombian context. This is followed by an assessment of a set of interdisciplinary studies on climate-related (im)mobilities which explore the different approaches to the issue and the relevance of using a place attachment lens to comprehend how those (im)mobilities are experienced by communities. This analysis is complemented by a review of place attachment studies looking at attachment to areas at environmental and climate risk and the way this relates to the right to housing. And finally, I address the current state of climate litigation studies and the need to expand the definition of climate litigation with a view to extending the types of cases that the mainstream definition has covered. In *Chapter 3. Methodology*, I explain my qualitative methodology approach, framing analysis as my data analysis tool, coding technique, methods and ethics in research. This chapter is complemented by *Chapter 4. Research into practice* in which I self-reflect on what doing practical work to support communities' organising and mobilisation strategies meant for my PhD Thesis. This chapter is followed by three analysis chapters divided into the following topics: *Chapter 5. A risk-based approach to legal mobilisation; Chapter 6. Complex risk assessment in legal mobilisation. Analysis of the variables of place attachment (PA) and violence; Chapter 7. Opportunity structure, and organisational level attributes in legal mobilisation*; and *Chapter 8. The development of climate frames and its use in climate litigation.* In the first of these, Chapter 5, I present my research findings and data, and discuss the need to integrate a risk assessment approach to legal mobilisation in order to understand whether and why communities turn to the law. In Chapter 6 I then discuss whether place attachment defines communities as *right holders,* analysing place attachment in relation to areas highly vulnerable to climate risks in order to explain communities' perceptions of those risks as socio-spatial exclusion. Additionally, I examine two hypotheses related to ideological control by criminal gangs and the role of those groups in defining place dynamics or conflicts in informal settlements, in order to explore whether violence influences claims-making processes. Chapter 7 aims to develop an integrated analysis of strategy choice, considering: Political Opportunity (PO) and Legal Opportunity (LO); organisational level attributes, specifically Resources (financial and legal resources) per case; and a neo-corporatist approach to legal mobilisation in the Pacífico case.[15] Of the above

[15] I used a neo-corporatist approach to analyse the Pacífico case because during my fieldwork I realised that the community organisation of El Pacífico had fairly easy access to decision makers, which was not the case for the other two cases. I hypothesised whether community of El Pacífico could be considered as an *insider* or not, discussing how they used means to *gain* a privileged position to be heard by decision makers.

listed chapters, Chapter 8 finally discusses the relevance of paying attention to peripheral and incidental climate litigation to study climate disaster cases. The focus on this aspect allows an exploration of communities' development of climate consciousness and the deliberative use of climate frames in legal and non-legal mobilisation strategies. This chapter is followed by the conclusion chapter (Chapter 9).

Chapter 2. Literature Review

This Thesis examines whether communities experiencing mobilities or (im)mobility in Colombia linked to climate-related disasters use legal mobilisation and why. To address this question, I analyse place attachment and violence, as well as variables that have traditionally explained legal mobilisation such as political and legal opportunities, and resources. Additionally, I look at claims-making processes in order to identify legal and non-legal discourses and frames, and their strategic use in different mobilisation strategies. I work on the basis that understanding the way that people give meaning to climate-related (im)mobilities is key to comprehending their perception of opportunities and limitations that the law may offer — which therefore helps to explain their use (or not) of legal mobilisation. This empirical research is integrated by three cases of communities who have faced climate-related disasters: two cases of urban communities living in the informal settlements of the city of Medellín (Case 1. El Pacífico; Case 2. La Playita), and one case of an ethnic minority community settled in the Caribbean Island of Providencia, known as the Razail people of San Andrés y Providencia (Case 3. Providencia) (See section 3.4, Chapter 3 for an explanation of my case studies selection criteria).[16] This research considers *chronic risk contexts*, which means the diverse range of social risks that converge with climate risks to put people at high levels of vulnerability to climate change, such as impoverishment, socio-spatial exclusion, lack of access to potable water and energy, informal employment, etc. Putting the light on how people give meaning to the chronic risk contexts they experience — when facing (im)mobilities linked to climate disasters — permits us to reflect on how that understanding is reflected in claims-making processes. It also unveils the opportunities and limitations of the law as a social mobilisation tool.

In this chapter, I cover interdisciplinary research that touches on the research questions summarised above with the purpose of identifying the gaps in legal studies focused on legal mobilisation, climate litigation and climate (im)mobilities. On this basis, I discuss a diverse range of literature pertaining to three main topics: legal mobilisation, climate-related (im)mobilities and place attachment. First, I examine legal mobilisation (LM) studies looking

[16] The archipelago of San Andrés y Providencia is a department (region) of Colombia, which consists of two island groups and several banks and reefs. One of its largest islands is Providencia, with a land area of 17 km^2.

at Political Opportunities (PO), Legal Opportunities (LO) and Resource Mobilisation (RM) as variables to explain legal mobilisation. In contrast, I analyse the sociological theory of institutions as a theoretical frame that has been developed to explain the use of legal mechanisms, while distancing itself from the opportunity approaches previously mentioned. Secondly, I address legal and non-legal literature (disaster, political ecology, environmental and migration studies) on climate-related (im)mobilities, and critically analyse the need to integrate insights from the latter to the former, in order to gain a broader understanding of whether and why legal mechanisms are used by communities facing climate-related (im)mobilities. Thirdly, I examine place-attachment literature focused on experiences and responses of communities settled in areas at environmental or climate risk. Finally, I discuss climate litigation literature and expose the limitations of current approaches in encompassing climate-related (im)mobilities cases.

2.1. Legal mobilisation studies

Among the key concerns of the LM literature is the question of what does the ability to mobilise the law depend on? Inspired in principle by sociological and political science studies looking at social movements, scholars have developed a legal mobilisation theory that accounts not solely for the opportunities posed by political and legal systems, but also for the practicalities of resources available and the beliefs and values that define social movement mobilisation strategy choices. Historically, most of the social movement literature available (in English) has focused on the analysis of social movements in Europe and the US. Although, I recognise the important contributions of these studies to the theory, it is relevant to note that those analyses draw on the particular contexts of these places, in which unjust situations and perceptions might differ among themselves and other countries in the world. In theory, any variable to explain legal mobilisation could be applied universally. However, the variables relevance and application results may vary depending on the context. In other words, this indicates that in certain contexts, specific variables could be valued as more or less relevant in explaining legal mobilisation. Although this could appear as a limitation of the legal mobilisation theory, it is an opportunity to assess whether those variables could apply to different contexts from which the theories were built on and to identify other possible variables that could be relevant to other social contexts. This is the reason why I look at the traditional variables that explain legal mobilisation, as well as the variables of place

attachment and violence that were identified as relevant for legal mobilisation in Colombia. In what follows, I navigate the academic debates that have influenced the development of the legal mobilisation theory. Subsequently, I refer to the way in which those discussions relate to studies on legal mobilisation in Colombia.

By the 1970s, the most influential social movement approaches in the United States (Gurr, 1970; Smelser, 1963; Turner & Killian, 1972) agreed on the assumption that shared grievances and beliefs about its causes were essential for the emergence of social movements (McCarthy & Zald, 1977). This approach, which placed the causes of collective action in ideational factors, was subsequently criticised by those who believed that material circumstances were more influential in social mobilisation. In this way, classic sociological literature developed the Resource Mobilisation (RM) theory which states that the availability of organisational resources used for collective action purposes is an important determinant for groups to mobilise (Cummings, 2017). In other words, the support base of different social movement organisations (SMOs) might share the same grievances, but mobilisation is only likely to occur for those with access to resources such as money, facilities, and professional labour (Byrne, 1997; Epp, 1998; McCarthy & Zald, 1977).

In contrast, political scientists such as Piven and Cloward (1977) disapproved of the RM approach, arguing that organisers' dominant focus on formalising and sustaining their organisations over time curbs the disruptive force that lower-class people are able to mobilise. In their words, "organization-building activities tended to draw people away from the streets and into the meeting rooms" (Piven & Cloward, 1977, p. xxii). Critics around the risks of movement co-optation by the elite and professionalisation of social movement — supported by the RM theory — favoured the analysis of optimal political conditions to advance political change (Cummings, 2017).[17] For political process theory "(r)esources and grievances were important, but political opportunity […] was decisive" (Cummings, 2017, p. 247). In turn, opposing to dominant theories' concordance on the explanatory irrelevance of

[17] This also contributed to the distinction between organising and mobilising according to Block (2003) who describes Piven and Cloward' *Poor People's Movement* book as a 'cautionary tale for reformers and radicals who aspire to "organize" the poor' (733). This argument draws on the assumption of the unsuitability of organisations to sustain and increase the poor's capacity to exercise political power and the organisations' discouragement of the poor from engaging in disruptive active – 'their most powerful political weapon' (Block 2003, p. 733).

grievances, Simmons (2014) argues that interpreting the meaning embedded in grievances could unveil ideas that explain political resistance motivations. According to the author, using a meaning lens for grievances "can better explain why political opportunities are understood as such, why mobilizing structures are available to particular movements in particular moments, and why some frames, but not others, can bring large groups to the streets" (Simmons 2014, p. 514).

While RM and Political Opportunities (PO) approaches were built on the study of working-class social movements seeking economic redistribution in the US; the New Social Movements (NSM) paradigm in Europe focused on the role that culture played in collective action orientations (Koopmans, 1995) in which identity politics were at the core of social movements claims (Cohen, 1985; Hetherington, 1998; Pichardo, 1997). In Latin-America, those debates took place too. While some advocated that NSM theories were better placed to explain social movements' collective identity formations as well as their cultural struggle from the 1980s onwards in the continent (Escobar & Alvárez, 1993) others have claimed that this approach does not account for the diversity of Latin-American social movements. According to Almeida et al. (2017), several social movements in Latin-America articulate identity as well as class motivations in their struggle. For example, indigenous movements are not limited to the formation of an indigenous identity. Instead, their main goal is to achieve the recognition of their right to the territory, which puts political and material conditions at the core of their demands (Almeida et al., 2017). Additionally, drawing on the Marxist tradition, critical Latin-American studies on social movements place class struggles in the centre and highlight the "popular" (grassroot) character of the Latin-American social movements which are called *popular movements* instead of *social movements* (Goirand, 2013; Seoane et al., 2009).[18]

In the 1980s, as a response to the inadequacy of the above-mentioned theories to explain the complexity of social movements' motivations to mobilise, scholars turned their attention to the analysis of interpretative frames of social movements, integrated with organisational

[18] The 'movimiento popular' concept refers to those occupying the lowest position in society, which includes the working class but also impoverished inhabitants of deprived neighbourhoods, peasants, and everyone organising around dignified life, public services and social rights (Goirand, 2012).

and structural processes (Cummings, 2017, p. 250). Framing scholars regarded social movements as signifying agents who produce meaning and ideas – framed in a way that resonates with the targets of mobilisation (Snow & Benford, 1988). In this way, framing literature puts at the forefront of social movements debates the often less visible side of negotiations and disputes over framing efforts (Snow & Benford, 1988), thereby contributing to the understanding of why people turn to social movements. According to Fry (2020), frame analysis approaches have not considerably influenced Latin-American studies on social movements given that most of the landmark works has not been translated to Spanish.

Although the role that law played in social mobilisation was considered trivial for political process and social movement theories, the emergence of the law and social movements field in the early 1990s built on those research branches (Cummings, 2017, p. 250). Gerard Rosenberg (1993) landmark work *The Hollow Hope – Can Courts Bring About Social Change* was key for that evolution.[19] Drawing on the court impact tradition, Rosenberg affirmed that social movements were unlikely to achieve social change through litigation. As a response, in *Rights at Work*, McCann (1994) advanced a conception of legal mobilisation focused on the role of the lawyers – instead of just the courts — that valued the positive indirect effects of litigation, i.e. in movement building, policy reform and reshaping legal consciousness. McCann galvanised an interest in bottom-up studies in which law was interpreted as a *resource* to produce social change, not as an *end* (Cummings, 2017).

Drawing on previous social science research, empirical legal research on the role played by social movements in legal and social change evolved in the new millennium (Cummins, 2017). These studies regard social movements and communities as being as important as lawyers and courts in shaping the discourses of law (Guinier & Torres, 2014). These studies decentred the role of the courts and integrate lawyers as 'fellow advocates' instead of 'leaders' to explore the "interaction between law-making and popular, purposive mobilizations that seek significant, sustainable social, economic, and/or political change" (Guinier & Torres, 2014, p. 2749).

[19] Galanter and Krishnan's (1974) work '*Do the Haves Come Out Ahead?*' was also important to explain the turn to litigation from a resource mobilisation perspective. As this cannot be categorised as a social movement study, it is not included in this literature review.

Some scholars theorised legal opportunities (LO) as a variable that could explain how rules of access to justice and judicial receptivity favour turning to courts (Hilson, 2002; Wilson & Rodríguez Cordero, 2006; Evans Case and Givens, 2010). Based on a case study of social movements in the UK, Hilson (2002) integrated the idea of legal opportunity to the analysis of social movements' strategic choice, which according to the author, could be influenced by political opportunities (PO), legal opportunities (LO), as well as resources, identity, ideas and values. On similar lines, RM theories highlight how organisational and resource capacities of social movements are able to provide a better use of LO (Börzel, 2006; Epp 1998). However, empirical research has showed that resources might not be that relevant for pursuing legal avenues. Wilson and Rodriguez Cordero (2006) present the Costa Rican case in which resource availability is not a defining trigger to pursue legal avenues, considering the low access costs for filing cases and easy access rules. In turn, Vanhala (2016) research showed that wealthiest French environmental NGOs used legal mobilisation the least in comparison to non-wealthy organisations, as legal consciousness within the organisation and availability of legal staff are also driving forces that lead to legal mobilisation.

Although opportunities approaches have dominated the legal mobilisation theory, these do not encompass analysis in relation to the internal social movements dynamics that influence strategy choices by the group (Vanhala, 2010a). In practical terms, availability of LO does not mean recognition of and capitalising on opportunities. Instead, legal action depends on perception of those opportunities and the capacity to make use of them (Vanhala, 2010a). Based on the sociological theory of institutions, Lisa Vanhala argues that there is a *dialectical process of change* in which institutions shape individuals' behaviour, and concurrently those have the ability to model institutions (Albiston, 2005; Vanhala, 2010a). This process creates a *logic of appropriateness* in strategic decisions that are reflected in meaning frames, which can explain participation in legal venues (Vanhala, 2010a, 2018). Vanhala (2010a) indicates that adopting a litigation strategy is likely when "identity and framing processes define the membership primarily as rights holders and the courts as an appropriate venue within which to pursue policy goals and advance other social movement agendas" (p. 32). This analysis is used in this investigation to explain the role that place attachment plays in triggering legal mobilisation (this is further explained in Chapter 6).

Meanwhile, neo-corporatist approaches to legal mobilisation argue that relationships between society groups and public authorities might define the likelihood of the former undertaking legal action (Vanhala ,2016). In this framework, while 'insider' groups might be more reluctant to turn to judicial venues that could jeopardize their well-established relationships with public authorities, "outsider" groups might feel keener to use legal mechanisms, as they have little or no access to decision makers (Morag-Levine, 2003; Soennecken, 2008). However, there is research that contradicts this. Vanhala (2016) found that French environmental NGOs that developed a closer relationship with the government (insiders) tended to turn to the Court more frequently than the outsiders. In the legal mobilisation chapter, I analyse whether the community groups in Medellín could be regarded as *insiders* or *outsiders* or not, in order to help explain legal mobilisation.

The prior discussion suggests that there is substantial legal mobilisation literature that accounts for the analysis of concepts such as PO, LO and RM in order to explain why and how people use the law (a number of these studies have been referenced above). These studies have been predominantly developed in the Global North and therefore theories of the relationship between law and social movements tend to be based on legal cultures and institutions of industrialised liberal democracies that differ from those in the Global South (Lemaitre & Sandvik, 2015). This does not suggest that those concepts will not apply to this analysis of legal mobilisation in Colombia, but it does imply that they may fall short in fully explaining communities' uses of the law and thus the need for categories of analysis that have a closer regard for the context in which legal mobilisation takes place.

In the Global South, comparative studies on the relationship between the law and social movements have analysed how counter-hegemonic global movements for social justice have simultaneously pursued institutionalised mobilisation strategies such as litigation, lobbying as well as disruptive direct action (De Sousa Santos & Rodríguez-Garavito, 2005) Latin-American legal mobilisation studies have paid particular attention to public interest or strategic litigation, described as the initiatives to seek judicial protection to the excluded and powerless groups in society (Galanter & Krishnan, 2005). In Colombia, legal mobilisation studies are predominantly focused on judicial activism of the Constitutional Court and the

way in which an open legal opportunity structure has triggered the use of constitutional mechanisms by disadvantaged groups (Albarracín-Caballero, 2011; Herrera & Mayka, 2020; Rodríguez-Garavito & Rodríguez-Franco, 2010, 2015; Taylor, 2018; Uprimny & García-Villegas, 2004).

In contrast, Lemaitre (2009) uses a 'bottom-up' approach to explain legal mobilisation in Colombia. Lemaitre (2009) argues that the law is a mechanism used by social movements to re-signify injustices in contexts of violence.[20] In other words, the use of the law is not determined by its results (as the law tends to favour the oppressor in practice), but instead to the cultural and political meaning invoked by the law. According to the author, the law contests social meanings imposed by the violence and creates new ones (Lemaitre, 2009). [21] Lemaitre and Sandvik (2015) argue that in violent contexts – such as the Colombian one associated with the internal armed conflict – where law coexists with violence, the latter should be a variable to be taken into account in order to understand legal mobilisation. This is argued on the basis that states are unable to guarantee security to advance legal mobilisation strategies. However, this does not necessarily eliminate legal mobilisation, but presents certain challenges such as instability of laws and normative references, vanishing of resources for Legal Mobilisation and dangerous political opportunities (Lemaitre & Sandvik, 2015). [22] According to the authors, social movements respond to normative instability with shifting legal frames to adapt accordingly. This situation may also cause the loss of access to human and material resources if adapting efforts fail (e.g., international funding). In addition, armed actors can destroy physical assets and threaten social movement networks. Violence may impact perception of political opportunities as political action could put people

[20] Lemaitre (2009) explains the use of the law by social movements in contexts of violence, using Colombia as a case study. At the time of writing her book in 2009, Colombia was enduring the longest armed conflict in the Latin-American continent, which ended in 2016. The author drew on the premise that any social movement — regardless their struggle — was impacted by the implications of the internal war. While the Colombian government was fighting guerrilla groups, paramilitary groups with the support of the Colombian state undertake a plan to erase the 'communist ideology' in the country. This ended up in the systematic killing of political opponents, activists, community leaders, indigenous people and whoever spoke up against injustice. From the lack of personal safety guarantees to mobilise to a weak rule of law, social movements found in the law a tool to give meaning to their struggle.

[21] In this work, Julieta Lemaitre argues that violence in Colombia creates and destroys social realities and meanings. The law is a flag used by social movements 'to materialise the promise of equality and dignity within liberal law which is denied permanently in reality' (Lemaitre, 2009, p. 30).

[22] Political action could involve a risk assessment in relation to physical safety (Lemaitre and Sandvik, 2015). In relation to legal mobilisation of displaced women movements in Colombia, the authors argue that legal venues were seen as appropriate and safe setting to advance their political agenda (Lemaitre and Sandvik, 2015).

at risk of being physically attacked. In this work, which draws on a case study of women displaced by the armed conflict in Colombia, the authors found that legal venues were seen as an appropriate and safe setting to advance the displaced women's movement's political agenda. Litigation was seeing as apolitical by armed groups, and it allowed women to use traditional gender roles such as mothers as a form of protection from physical attacks (Lemaitre & Sandvik, 2015).

This section has explored different approaches to legal mobilisation relevant to this research which will be used for my case studies analysis. In what follows, I refer to legal and non-legal studies on climate-related (im)mobilities in order to justify the relevance of empirical research looking at communities using legal mobilisation when experiencing disasters associated with climate change.

2.2. Studies on climate-related (im)mobilities

Legal studies on climate-related (im)mobilities have predominantly focused on the legal definition of different types of human mobilities (forced displacement, voluntary migration, resettlement) and the relevance of a particular legal protection guidelines for people impacted by climate change. Some authors criticise the weakness of this literature for its excessive focus on international migration — disregarding predominant internal migration patterns — (Mayer 2013) and the conceptualisation of the phenomenon as a single relevant matter for addressing protection regimes (Klepp, 2017). Apart from Arnall et al's (2020) work on claims-making processes by communities displaced by climate change, this scholarship strand has barely developed 'bottom-up' analysis of how communities experiencing climate-related (im)mobilities use the law in an effort to identify and address their demands and claims for justice. Social vulnerability[23] issues are rarely approached — therefore those barely inform legal discussions on the matter. In this section, drawing on migration, geography, political ecology, and environmental literature looking at climate-related (im)mobilities, I argue that there is a need to switch the perspective from those that have traditionally been addressed in legal studies of climate (im)mobilities. Therefore, I opt to use

[23] According to Neil Adger (1999), poverty, resource dependency and inequality are major indicators of social vulnerability, proposing an expansion of the understanding of vulnerability to climate change, to a to a social dimension.

place attachment as a means of understanding how climate-related (im)mobilities are experienced and whether and how it can lead to the use of legal mechanisms in the Colombian context. My research analyses climate-related (im)mobilities in relation to the right to housing and the right to the territory (the main frames held by the communities interviewed). I discuss the way that place attachment expands the content of the right to housing to a collective and social dimension and the way that those demands are framed.

Although the climate refugee discussion appears less relevant for this research, which looks at internal climate-related (im)mobilities in Colombia, it is fair to suggest that it opened the academic debate around climate-related (im)mobilities in different disciplines. The critics to the early studies on climate refugees (analysed below) gave terrain to explorations around the need to gain a contextualised understanding of climate-related (im)mobilities, and how those are experienced by people. The climate refugee debate lacks an analysis of the underlying social vulnerability conditions and people's relationship with place that shape (im)mobility in a context of climate-related disaster. It says little about whether migration in a context of a climate-related disaster occurs in way that negatively affects individuals — and how — (Foresight, 2011), as the discourse seems to assume the act of migrating as problematic.

Most of the legal studies on climate-related (im)mobility have disregarded empirical literature on migration that accounts for the social realm of (im)mobility influenced by climate-related stresses. Instead, much of the normative literature has adopted environmental scholars' 'alarmist' approaches in which climate change is considered as the only trigger of migration, causing millions of refugees (Mayer, 2013). This approach has been influenced by early research on environmental refugees focusing its attention on numerical estimations in an attempt to predict the 'unfolding tragedy' of the imminent flows of refugees as a result of environmental disruptions (Jacobson, 1988; Myers, 1993; Myers and Kent, 1995; O'Lear, 1997; Ramlogan, 1996). Some scholars have suggested that those flows of environmental refugees[24] are likely to trigger violent conflicts in the receiving areas (Reuveny, 2007; Smith, 2007; Stern, 2007). There are several criticisms to this tendency. According to some scholars, those studies wrongly assume climate change or environmental

[24] This concept was originally proposed by El-Hinnawi in (1985) to describe the phenomenon of human mobilities linked to environmental disasters.

disruptions as the only trigger of human mobilities (Bettini, 2017; Black et al, 2011; Foresight, 2010), explained under their flawed estimations of growing migration patterns linked to population pressure (Castles, 2002; Hartmann, 2010).

Along similar lines, the use of the concept *climate refugees* to describe those moving in a context of climate-related disasters has also been the subject of criticism by geographers, migration and development scholars. The framing of *environmental or climate refugee* obscures the role institutional responses play in triggering permanent migration, which depends on 'who is most vulnerable … [and] what kind of aid/relief is provided and who receives it' (Blaikie et al., 1994). The construction of the imaginary threat around the shocking flows of climate refugees accompanied by persuading society of the veracity of that narrative by actors in power (Elliot, 2010) is dangerous in terms of replacing objective findings for unfounded predictions. Including well-intentioned migrant crisis narratives by NGOs or international entities calling for climate action could end up doing little for the protection of those who are forced to flee their homes as a result of climate breakdown. There are examples of communities, who have been labelled by the media as 'climate refugees', refusing the term. The Fairbourne's residents in North Wales who have been portrayed as the 'UK's first climate refugees' advert the negative connotations of the 'climate refugee' framing. According to them, the framing already implies that people need to move from their place, even if they want to stay (Arnall & Hilson, 2023). In another case study conducted on the Pacific Islands McNamara and Gibson (2009) point out that people resist the term 'climate refugees' because they don't want to leave their land. It could also — inadvertently — feed violent narratives such as 'build the wall' or 'stop the boats'.

The narratives above are problematic because they disregard studies establishing that: (i) climate-related (im)mobilities are multi-causal as political and socio-economic factors play a role in triggering it (Baldwin & Fornalé, 2017; Black, 2001; Black et al 2011); (ii) climate change intensifies patterns of migration and does not necessarily create new ones (Barnett & Webber, 2010; Foresight, 2011); (iii) climate-related mobilities are more likely to be internal (within states' borders) and temporary (Castles, 2002; Hulme, 2008; Tacoli, 2009) ; and(iv) climate-related *im*mobility also exists and is faced by those unable to move and being forced to face the impacts of a climate-related disaster (Foresight, 2011).

Despite the above, legal work on climate-related (im)mobilities has predominantly focused on the climate refugee debate. Scholars like Ramlogan (1996) and Bierman and Boas (2008, 2010) — following Myers (1993)' alarming refugee predictions — have argued that the use of the *environmental/climate refugee* concept is an effective political discourse to raise awareness on the need of legal protection to this group of people. This debate has fluctuated between those that defend the application of the 1951 Refugee Convention to protect climate refugees (Myers & Kent, 1995) and those who propose a separate protocol for climate refugees under the United Nations Framework Convention on Climate Change (Bierman & Boas, 2008).

In any case, the above-mentioned legal protection proposals for 'climate refugees' deserve scrutiny as those draw on the idea of uncontrolled flows of refugees as a result of climate change, disregarding the fact that human (im)mobility is mediated by social, economic, cultural, environmental and political factors (Foresight, 2010; Hulme, 2002). Furthermore, from a strictly legal analysis, environmental or climate displaced persons do not fit in the definition of refugees stipulated in the 1951 Refugee Convention, as they do not necessarily cross borders (some do, but relatively fewer) and the environment is not a *persecutor agent* (Berchin et al., 2017; Yelfaanibe & Zetter, 2018; Zetter, 2011). From a practical approach, some scholars point out that re-negotiating the refugee definition of the Convention or even creating a parallel international instrument — as proposed by Bierman and Boas (2008) — could introduce major difficulties to the current Refugee Status Determination processes, which means diminishing protection standards for refugees (Hartman, 2010; Yelfaanibe & Zetter, 2018).

The discussion on the delimitation of the refugee definition and the legal regime applicable to those forced to migrate outside borders is crucial; however, this barely contemplates the most likely patterns of migration (which is internal) and its complexities. It also fails to integrate reflections on the way that people give meaning to climate-related (im)mobilities. This debate says little about what their pressing needs, concerns and claims are, which is needed to understand how climate-related (im)mobility is experienced and whether undertaking legal or non-legal venues as a mobilisation strategy is used. It suggests that the climate refugee frame might not converge with the framings of those who are facing different forms of mobility or immobility influenced by climate-stresses. This is exemplified by political ecology research in Tuvalu and Kiribati, which shows that islanders reject falling

into the category of climate refugees, and instead call for solutions based on solidarity and climate justice, such as facilitate migration with dignity (Farbotko et al., 2018; Silja Klepp & Herbeck, 2016). Moreover, some communities themselves may refuse the 'climate refugee' framing as it implies leaving their land, even if they don't want to (as mentioned above). Approaches — building on climate and migrant justice — which do not assume human mobilities as a threat are therefore needed, as well as focusing on the relationship between people and place could help to understand people's concerns and claims, and the channels they use to address them.

2.1.1. Multi-dimensional approaches to climate-related (im)mobilities

Above, I indicated how the climate-related mobilities debate has typically been reduced to the refugee terrain, paying scant attention to social vulnerability conditions and to people's relationship with the place they inhabit as factors that shape mobilities and immobility when those occur internally and locally. That first wave of environmental-induced mobilities studies was followed by the Foresight (2011) report *Migration and Global Environmental Change* which was key in embracing a multi-causal and complex understanding of migration in the relevant academic studies that followed (Bettini, 2017; Klepp 2017). This second wave distanced itself from the climate refugee debate and recognised other types of mobilities such as migration as adaptation, displacement, relocation, and immobility linked to concerns within disaster risk reduction, resilience and development (Bettini, 2017).

In the literature, the term *migration* has been used by some scholars to describe voluntary and adaptative mobilities, when it involves people's capacity to control the migration decision (Bates, 2002; Biermann & Boas, 2012; Brown, 2007; Leal-Arcas, 2012; Foresight 2011). Instead, when there are external factors that force migration and disrupt people's control over their migration decisions, it has been described with the concept of *displacement* (Ferris, 2015; Jayawardhan, 2017; Yelfaanibe & Zetter, 2018). Meanwhile, resettlement or planned relocation has been classified as a measure of adaptation to climate change (Yelfaanibe & Zetter, 2018; Ferris, 2015; McAdam, 2010) that has often been ineffective in achieving positive outcomes for affected communities (Barnett, 2010). Other

scholars have defined it as a last resort measure when other adaptative strategies fail (Bronen & Chapin, 2013; de Sherbinin et al., 2011; Warner et al., 2013).

This new direction gave room to a more contextualised understanding of climate-related mobilities which was overlooked by the environmental determinism intrinsic to the climate refugee concept (Bettini, 2014). While it placed the discussion on the development spectrum, it also brought to life the idea of migration as an adaptation strategy (Bettini, 2014). Contrary to the negative narrative of migration within the refugee debate, migration is represented as a positive response to the impacts of climate change in which the vulnerable are not only victims, but also 'agents of adaptation' (Bettini, 2017, p. 35). In this framework, planned migration and urbanisation is a prerequisite of development which contributes to economic growth, as well as overcoming poverty and vulnerability to global environmental change (Foresight, 2011, p. 181).

Without disregarding the contributions brought by the orientation described above, it scarcely addresses situations in which planned migration is implemented in a forced manner, and therefore ends up increasing levels of vulnerability. Several studies have documented supposed voluntary migration as adaptation plans, which in reality has served the forces of gentrification that forcedly push impoverished communities out from their resilient neighbourhoods (Anguelovski et al., 2016; Byskov et al., 2021; Johnson et al., 2021; Keenan et al., 2018; Pearsall, 2010; Pearsall & Pierce, 2010). Although the migration as adaptation approach advances an understanding of climate-related mobilities and immobility in a multi-dimensional perspective, the focus on the individual responsibility of becoming resilient obscures the political and socio-economic factors that put people at climate risk (Dietz, 2013; Klepp & Chavez-Rodriguez, 2018). In the context of climate-related (im)mobility, it means overlooking the different levels of social vulnerability that force people to move or stay in a context of a climate-related disaster. Therefore, analysis of people's perceptions of risks and place attachment linked to those social vulnerability conditions they face is rare.

As I explain below, dwelling in areas highly vulnerable to the impacts of climate change is mediated by complex risk assessments that go beyond climate and environmental risks. Social vulnerability conditions play a role in defining people's decisions on where to live and

the type and levels of risk tolerance. Understanding the way that people give meaning to their setting when impacted by climate-related disasters might lead us to better comprehend their responses to it, and whether using legal mobilisation is among those responses and why.

2.3. Place attachment

In this section, I look at interdisciplinary studies on place attachment. I focus on debates in relation to how people experience place and pay special attention to attachment to places at environmental or climate risk. I consider that place attachment is a variable that brings a richer understanding of why and how communities facing substantial impacts of climate change use the law. Place attachment understood as the person-place bond (Low & Altman, 1992) will always be present — regardless the type of mobilities. This concept is useful because it allows us to analyse people's meaning, identities, and emotions in relation to a specific setting (O'Neil & Graham 2016). For people experiencing risks posed by climate change, place attachment and identity define how those risks are assessed, framed and managed, as well as perceptions of fairness and legitimacy of government responses (Quinn et al., 2015). In other words, the decision of moving or staying — independent of the levels of freedom in making this decision — is also determined by people's perceptions of social vulnerability conditions and the way those are experienced in specific contexts.

2.3.1. Place attachment: a meaningful dimension for people's lives

Place attachment means the human bonds that people develop with places (Lewicka, 2011), often associated with positive perceptions towards a specific setting (Vorkinn & Riese, 2001). This later aspect has been called by geographers as *sense of place* or *rootedness* and refers to the way in which sense of belonging becomes meaningful to people's lives (a characteristic of place identity) (Vorkinn & Riese, 2001). Unlike a sense of belonging to certain places, place identity is conceptualised as the systems of references developed by individuals in the form of values, ideas, meanings, memories, etc. that defines individuals' identity (Vorkinn & Riese, 2001; Hernández et al, 2007). Scholars studying place attachment have paid particular attention to the factors that foster attachment and lead to certain behaviour (Lewicka, 2011). Those predictors of place-attachment are tightly associated with

categorised in socio-demographic, social, and physical-environmental factors, including variables such as length of residence, home ownership, community' ties, sense of security, among others (Lewicka, 2011). Although, place attachment might be associated with positive emotions and social consequences such as active participation in community organising (Perkins et al., 1996), it could also involve tolerating physical risks, such as a rejection of moving in the face of environmental risks (Druzhinina & Palma-Oliveira, 2004). The correlation between place attachment and taking action on behalf of people's meaningful place have been advocated by some scholars — however, there are not consistent conclusions on this (Lewicka, 2011). Several studies have observed that place attachment could be related to the resistance to introduce changes in places which are considered as threats. Vorkinn and Riese (2001) argue that place attachment plays a role in the opposition to development projects causing environmental degradation among the communities of the local areas impacted. In another study, Bonaiuto et al. (2002) found that action on behalf of the place attached to is determined by a perception of place identity being destroyed if changes in place are introduced. Other studies focusing on the processes of attachment have concluded that place attachment plays a role in reinforcing self-continuity, which is a dimension of identity (Lewicka, 2011). In addition, this topic has been particularly relevant in the study of involuntary urban relocation and resettlement in relation to people's difficulties in adapting to a new place (Lewicka, 2011).

In climate adaptation studies, Butts and Adams (2019) found that for communities living in areas with difficult and variable weather, the weather has a cultural and political connotation. The authors explain how place attachment provokes positive reactions to weather changes brought by climate change. The study concludes that fears and concerns in relation to climate change are not related to uncertain weather patterns but, rather, the lack of control over adaptation processes (Butts and Adams, 2019). Place attachment and place identity defines people's responses to climate-related threats and adaptation options set in place (Adger 2016; O'Neil & Graham, 2016), manifested in community led solutions such as community risk management groups and political lobbying (S. Moser & Boykoff, 2013). Climate change-induced floods could negatively impact the *person-process engagement dimension of place attachment,* which refers to the non-material impacts of floods in the sense of belonging — from family connections to places washed away and the sense of community related to the enjoyment of collective activities in places frequently flooded

(O'Neil & Graham, 2016). In the case of islands highly exposed to the impacts of climate change, research has found that islanders' strong attachment to their place means that being forced to move would be considered as the destruction of the very basis of their identity and culture (Barnett & O'Neill 2012).

2.3.2. Place attachment, perceptions of risks and human (im)mobilities

Urban planning and environmental psychology literature has studied place attachment in relation to areas at environmental, urban, or conflict risk. According to this set of studies, the experience of moving or dwelling is not only mediated by a range of positive/negative emotions (Vorkinn & Riese, 2001), and economic and legal reasons (Sterett, 2021), but also personal risk assessments. This partly draws on the dual dimension of human mobility in which "[m]obility may signify freedom, opportunity, and new experiences but also uprootedness and loss" (Billig, 2006).

Billig's (2006) research on place attachment to dangerous environments — associated with hostilities — shows that subjective perception of risks in these contexts is determined (in part) by what people value — including their sense of place, their lifestyle and cultural background. The author concludes that a stronger attachment to place tends to relate to lower levels of risk perception and a greater likelihood of staying (Billig, 2006). For people living in areas at environmental or climate risks, there might be higher levels of risk perception in relation to geographical hazards, but those are accepted and tolerated in the face of many other difficulties that communities experience. Johnson et al. (2021) explain:

> Disaster risk as suffered by exposed hazard populations is the result in great part of poverty, lack of choice and exclusion (…). Therefore, such disaster risk is only one of many contexts of adversity that communities face. However, all these contexts are in one way or another related. *Chronic risk contexts such as poverty, unemployment, bad health, drug addiction, and social and family violence increase vulnerability to physical hazards or their effects and after-effects and reduce resilience.* At the same time disaster, whether recurrent small- scale or singular large- scale, adds to the chronic risk context. In times of non- manifest disaster risk and disaster itself, populations survive and exist by eking a living out of the local resources available and the opportunities that exist (emphasis added).

Furthermore, place attachment might explain why people tolerate and underestimate certain risks, but also their ability to mitigate them (Johnson et al., 2021). Social risks such as poverty, unaffordable utilities, unemployment, and informality could outweigh living in areas at risk of flooding. In a way, people's ability to cope with disaster risks correlates with people's risk priorities and tolerance, which usually differs from institutional risk understanding (Johnson et al., 2021). In other words, while communities' risk perceptions are mostly determined by their daily lived risk experience — which goes beyond risk disaster — governments tend to draw on specialised technical information on disaster risk management (Johnson et al., 2021).

Carvalho and Cornejo (2018) discuss various case studies to demonstrate the ambivalence of place attachment to risky areas. They argue that place attachment is associated with communities' decision to return and rebuild places destroyed by disasters. In their empirical research on place attachment of returning communities to New Orleans after the passing of Hurricane Katrina, Chamlee-Wright et al (2009) found that a strong sense of place suggests more likelihood to return, as long as those who return can play a role in "restoring what have been lost", or in other words "recreating the sense of place that the disaster destroys" (630-1). Furthermore, Sterett (2021) considers that explaining *why people do not move as places become less inhabitable* because of climate change in terms of place attachment allows one to unveil histories of dispossession, home ownership, homelessness, etc. embedded in people's desires. In her view, legal and regulatory structures[25] play a relevant role in decisions on where to live in response to climate-related events, which could be found in people's experiences and decisions. This is also relevant for comprehending people's responses to planned relocation processes aimed at protecting people from climate-related disasters as discussed below.

[25] Sterett (2021) indicates that regulatory and legal structures are tax and immigration laws, housing policies, disaster aid, insurance, etc., as definers of people's decisions on where to live. These structures are different from my references to the law — in this research — which are associated with litigation.

2.3.3. Planned relocation: relocation and resettlement[26]

Planned relocations are usually state-led processes implemented to stop forced displacement before or after a disaster occurs. They could also be used to protect those who are likely to be trapped in a disaster as a result of their inability to move. These processes are relatively new in the climate change literature and have mainly been studies in disaster risk-induced resettlement (Johnson et al., 2021) and development-induced displacement (Wilmsen & Webber, 2015). In general, academics argue that the outcomes of resettlement are widely negative. This is because in many cases resettlement leads to landlessness, joblessness, homelessness, marginalisation, morbidity, food insecurity, loss of access to common property and social disarticulation that altogether produce or aggravate impoverishment and vulnerability (Cernea, 1997). In relation to resettlement associated with climate-related disasters, various scholars consider that those processes have often not achieved an improvement in welfare and cannot be considered an effective measure of adaptation to climate change or an effective rights protection measure (Barnet & Webber, 2010; Ferris, 2012; McAdam, 2010; Yelfaanibe & Zetter, 2018).

Along these lines, although planned relocation processes' ultimate goal (hypothetically) is to move communities from risky to safer areas and guarantee adequate housing, it also entails uprooting. Authors looking at the impacts of planned relocation agree that given that resettlement often worsens social and economic conditions, it must be considered as a last resort option – once "on-site mitigation or upgrading have been exhausted" (Johnson et al., 2021, p. 94). This is why some authors consider that the best option to reduce forced displacement in climate-related disasters is making areas safer and implementing resettlement once risk mitigation has been proven worthless (Johnson et al., 2021; Ferris 2015). This is also a practical solution, as it is factually impossible to relocate away everyone currently settled in risky areas (Johnson et al., 2021).

[26] According to Johnson et al (2021) planned relocation could be used a general term that encompass relocation and resettlement. Relocation is defined as population movement that maintains *livelihood schemes*, such as access to services and social cohesion from the previous location. Meanwhile, resettlement refers to population movement that disrupts considerably those livelihood options and requires to develop a new habitat and social relations.

Resettling successfully goes beyond accessing safe housing. Instead, it involves the "the construction of habitat, a built environment that provides shelter, services and options for communication and movement" (Johnson et al., 2021, p. 24). In other words, it means recreating livelihood conditions of original places in order to give life to the construction of social meaning and a sense of place. Planned relocation is an acceptable option for communities at risk when it reduces chronic risk factors as well as when connections with the original location are maintained or recreated (Johnson et al., 2021). It tends to be tolerated by communities when place attachment is valued, and actions are taken in order not to disrupt it overly (Johnson et al., 2021).

Later studies on relocation and resettlement have recognised the scarce empirical research on the impacts of climate change on the security of human settlements, beyond the increase of risk conditions that lead to a disaster (Johnson et al., 2021). Following this tendency and as discussed above, legal studies on climate (im)mobilities have a limited understanding of the impact of climate change in forced displacement or immobility in the context of a climate-related disaster, and planned relocation processes. There is scant discussion on the protection of the right to adequate housing and the right to the territory of those forced to leave their homes as result of climate-related disasters.

This section has analysed place-attachment in areas at climate and environmental risk, including reflections on risk perceptions that define people's decisions on where to live or move before and after a disaster. I then discussed planned relocation processes in relation to climate-related disasters, as those have an impact in people's experiences of their settings. In the section below, I assess the state of the knowledge of climate litigation and the way it relates to cases that involve climate-related (im)mobilities. I argue that the previously mentioned discussions are barely addressed in climate litigation studies, as the latter literature does not generally involve empirical research focusing on the way that people experience climate change and how that translates into the use of legal mechanisms.

2.4. Climate change litigation

In the current context of climate crisis and the heated debate around how to prevent the disastrous consequences of climate change, climate litigation — as an increasingly common

practice for taking climate action — has attracted heightened research interest. Discussions around what climate litigation encompasses are ongoing and will be analysed in this section. In any event, for this research it is important to explore to what extent legal cases on climate-related (im)mobilities have been investigated and the state of the knowledge on the matter. Climate litigation has been dominated by climate change mitigation cases (Osofsky, 2020), which clearly has an effect on the type of discourses, concerns and claims brought in legal deliberations about climate change. Climate change adaptation cases have raised less attention in legal disputes and climate litigation analysis (Osofsky, 2020).[27] Moreover, climate disaster cases as an independent category of analysis for climate litigation trends is little discussed. In this sense, comprehending the limitations of climate frames and whether and why those are put forward or excluded in climate disaster cases remains to be explored (see Chapter 5 on a risk-based approach to litigation and Chapter 8 on the development of climate frames in litigation). However, when adaptation or disaster cases are acknowledged, 'top-down' doctrinal research approaches monopolise most of the analysis in relation to it. In this context, the understanding of the use of legal mobilisation (LM) by communities experiencing climate-related (im)mobilities (either as an adaptation or disaster case) is barely addressed in climate litigation or social movements research.

Psychological and sociological research have indicated that climate change, with its "diffuse nature and invisibility of its causes, its long-term and dispersed consequences, and a perceived lack of a strong connection between its impacts and the identities and everyday problems of communities", may make it difficult to encourage changes in people's beliefs and to mobilise collective action (Jodoin et al., 2020, p. 193). Some authors have labelled climate change as a 'super wicked' problem given its enormous interdependencies, uncertainties, but mostly its exacerbating features if proper measures to tackle the problem are not taken on time (Lazarus, 2009; Levin et al., 2012). Moreover, climate change as a physical phenomenon is a discursive concept across different levels of governance (Arnall et al., 2014). In this sense, legal scholars are compelled to acknowledge the diverse ways in which

[27] For studies analysing climate adaptation cases in the Global South, see Peel and Lin (2019); Setzer and Benjamin (2019); Ohdedar (2022). Some references can be also found in the Grantham Research Institute on Climate Change and the LSE Environment and Centre for Climate Change Economics and Policy annual reports on global trends in climate change litigation (2019-2022).

communities give meaning and name the phenomenon and its impacts, as well as understand how it is reflected in the use of legal mobilisation mechanisms.

This research recognises the difficulties of developing a concept of climate change litigation that encompass all the relevant matters. Hilson (2010) points out that climate change is the result of significant human, industrial and commercial actions, and so to that extent virtually any legal case could be potentially considered as an example of climate change litigation. However, the risks of the mainstream criterion of considering climate change as a central and explicit part of, or motivation for litigation (Peel & Lin, 2019) to define what climate litigation covers (Markell & Ruhl, 2012; Hilson, 2010; Peel & Osofsky 2015a) are that very few cases of forced climate-related mobilities or immobility would be acknowledged as a matter of interest for climate litigation scholars. This is because climate change may not always be visible or at the core of a legal dispute, nor be a motivation for it. This is key in terms of reflecting on how policies, laws and judicial rulings should recognise climate change as a factor that exacerbates other social problems and address it: if so, then it should not be considered by politicians, judges and scholars solely when it is explicitly embedded in the climate change discourse. On this point, Bouwer (2018) calls for looking "beyond actions that are overtly about climate change, and to pay attention to the multiple ways in which climate change issues might be present but invisible" (502), as well as recognising that climate change is tackled at different jurisdictional levels. Accordingly, she proposes an expansion of the climate change litigation definition to 'cases in the context of climate change' (Bouwer, 2018).

My empirical research in Colombia illustrates a need for a broader understanding of what has been defined as climate change litigation in most of the academic literature in the Global North. As Peel and Lin (2019) have pointed out, what has been counted as climate change litigation has been mainly influenced by the major attention that scholars have paid to court actions in developed countries of the Global North (GN), in comparison to the limited analysis of climate change litigation in the Global South (GS). Relevant for this work is the fact that the current mainstream definition of climate litigation does not generally encompass litigation dynamics in the Global South (Peel & Lin, 2019). Contrary to the climate-centred approach of the climate change cases in the GN literature, climate change

issues in the GS are usually at the periphery of the argument in legal cases (Peel & Lin, 2019). Although there is some, albeit little, specialised climate change legislation that could provide a climate change framing in litigation in the GS, a Southern route to climate litigation is more likely to be rooted in the tradition of law practice, research and judicial activism on constitutional rights, and in particular socio-economic rights (SERs) (Rodríguez-Garavito, 2020; Setzer & Benjamin, 2020b). Climate change litigation in the GS is also characterised by seeking to enforce existing State mitigation and adaptation duties through domestic courts, instead of trying to secure better or new climate laws (Peel & Lin, 2019). Furthermore, climate issues are normally framed in ways that resonate with local policy priorities (Peel & Lin, 2019).

In a 2020 snapshot of the global trends of climate change litigation, it was found that in almost 60% of the cases outside the US, climate change was treated as a peripheral issue (Setzer & Byrnes, 2020). That is, climate change was explicitly referred to in the legal cases, but implications for climate-related action were nested within other areas such as air pollution, protection of forests, and risks to coastal developments (Setzer & Byrnes, 2020). There are also some other cases where there is no reference to climate change, but which have implications for climate mitigation or adaptation action which are rarely reported by climate change litigation databases 'incidental climate change litigation' (Setzer & Byrnes, 2020). Although there is no reference in Setzer and Byrne's 2020 LSE Grantham report to cases related to (im)mobility as a result of climate-related flooding or landslides, it does consider the *Teitiota v New Zealand*[28] case before the UN Human Rights Committee related to a climate refugee seeking asylum in New Zealand (Setzer & Byrnes, 2020). Although, I do not look at climate refugees' cases in this Thesis for the considerations explained above, the inclusion of the Teitiota case may suggest that climate (im)mobilities cases which have made it to the climate litigation discussions are the ones on climate refugees.

In the LSE Grantham 2021 snapshot, it was recognised that climate litigation cases in the Global South countries are growing, typically involving human rights arguments, and with most of them brought against governments (Setzer & Higham, 2021). By that time there

[28] *Ioane Teitiota v New Zealand* CCPR/C/127/D/2728/2016 UNHRC.
Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication," 2016)

were 58 cases in 18 Global South jurisdictions, most of them in Latin America. Although adaptation cases are less common in comparison to mitigation, Setzer and Highman (2021) reported 180 cases — most of them in the US and Australia. One case of climate displacement was included in this report. The relevant complaint was submitted to the UN Special Procedures by the Alaska Institute for Justice on behalf of five Tribes in Alaska and Louisiana against the US and was counted in the Report as a climate adaptation case.[29] This is because it alleges the violation of human rights resulting from the US government's failure to include the Tribes in official climate adaptation plans, that impede them from inhabiting their ancestral territory (Setzer & Higham, 2021).

There was a considerable increase of Global South cases reported in 2022 by the LSE Grantham report. There was identified 88 climate cases in the GS — more than a half took place in Latin-America and the Caribbean (Setzer & Higham, 2022, p. 47). In this report, the authors affirmed that the debate on what counts as climate litigation considering climate change as a central, peripheral or incidental matter (referred above) was decreasing in relevance, as most cases identified by their database posit climate change as a central issue (Setzer & Higham, 2022). Although, climate adaptation cases are growing, the problem with this new approach is the potential risk of continuing the tendency of dismissing climate (im)mobility cases (as argued above) in which climate change may not be a central matter. This risks missing consideration of the multi-causality of climate (im)mobilities and the several social vulnerability conditions that people most vulnerable to climate change face.

Interpreting climate-related impacts in the framework of socio-economic rights suggests that the impacts of climate change are approached from a context-specific perspective that takes into account the social, cultural and economic conditions in which climate-related stresses take place. Relatedly, addressing the role that factors such as place attachment and violence play in the use of legal and non-legal mobilisation strategies of communities facing (im)mobility linked to climate events will bring a broader understanding on how climate change intersects with social development problems and the need for legal studies on climate change to address that complexity. This is relevant for the use of framing analysis in climate change litigation in terms of comprehending whether, when people face climate-

[29] *Five Tribes in Alaska and Louisiana v USA* (2020) Mandates of Special Rapporteurs to the U.S Government AL USA 16/2020.

related (im)mobilities, they employ climate change frames or not in litigation, how and why. This is not least because the climate is not the only trigger of (im)mobilities (as explained in section 2.1.1) and that may be reflected in the use of frames. Therefore, climate change framing could be used depending on people's understanding of their situation, as well as the opportunities that using that discourse may create or halt. This may also unveil how place attachment-related frames such the defence of the right to the territory and housing in dignity by those experiencing climate disasters are used in climate litigation.

How then should one delineate what is considered climate change litigation for this work? Bouwer (2018) argues that climate change litigation scholarship has underexplored mundane cases where climate change can happen inadvertently. Following these lines, she proposes to "think about litigation 'in the context of' climate change, as well as litigation 'about' climate change, in order to render the invisible visible" (Bouwer, 2018, p. 484). Addressing climate change litigation in this way would help one to encompass the complexity of the multi-causality of climate-related mobilities and immobility. In the case of Colombia, García (2014) has argued that the key element in categorising someone as a climate-displaced person should not rely on the climate as the primary cause of the displacement; instead it is important to evaluate whether people are fleeing in the context of a climate event and if it puts them at risk of exercising their rights to a healthy environment and habitat. This reasoning calls for a broader understanding of climate change litigation that covers legal mobilisation *in the context of* disasters and climate change. Finally, the value of looking at legal mobilisation in the context of climate-related disasters will bring to the forefront matters that have been marginal in the climate litigation debate thus far.

This literature review has explored theoretical frameworks relevant to addressing the question of whether and why communities experiencing climate-related (im)mobilities use legal mobilisation. I started discussing the current state of the knowledge on legal mobilisation (LM) theory to define the variables that may help to explain the use of LM by communities experiencing climate-related (im)mobilities in Colombia. That section was followed by an exploration on legal and non-legal literature on climate-related (im)mobilities to justify the relevance of bottom-up socio-legal research that addresses people's concerns and claims to comprehend whether the law is used and how. Subsequently, I discussed

studies on place attachment to places at climate or environmental risk, paying special attention to people's perceptions of risks and social vulnerability conditions, given that those might influence their response to climate-related (im)mobilities and whether the law is relevant in those situations. Finally, in inquiring whether and how climate litigation has addressed climate-related (im)mobility cases, I looked at dominant approaches towards climate litigation, and criticised their limited discussion of climate (im)mobility, adaptation and climate disaster cases. These latter types of cases remain important because they still involve people's claims and concerns brought to legal venues resulting from being affected by the impacts of climate change, even if their claims are not explicitly framed in the language of climate.

In the following chapter, I explain my methodology approach (Chapter 3), which is complemented by a discussion on the application of research into practice along my PhD journey (Chapter 4). This literature review and the methodology chapters constitute the theoretical and methodological frames needed to develop my case study research analysis between Chapters 5 to 8.

Chapter 3. Methodology

The research approach identified as best fit to address my research question of whether and why communities experiencing climate related (im)mobilities in Colombia use legal mechanisms, is qualitative. Two reasons sustain this affirmation. First, this empirical research aims to understand how people give meaning to their experience of climate-related (im)mobility in order to inquire whether the law is used and how. Understanding the way in which people makes sense of their social reality through the study of the meaning they attach to it is a defining characteristic of qualitative research (Ritchie & Lewis, 2003). Secondly, this research focuses on three cases studies in Colombia with a view to developing a contextualised understanding of the use of legal mechanisms by communities impacted by climate-related disasters. As in this research, it is a central feature of qualitative research addressing questions aimed at explaining phenomena in specific contexts (Ritchie & Lewis, 2003).

This research seeks to provide explanations on the underlying causes that trigger the use of legal mechanisms by communities impacted by climate disasters in the form of human (im)mobilities. The independent variables of place attachment, violence, legal opportunities (LO), political opportunities (PO) and resource mobilisation (RM) are selected on the basis of their potential to explain the use of legal mechanisms (dependent variable). Although there is a debate on whether qualitative research is a suitable approach to make causal explanations using independent and dependent variables, different epistemological approaches recognise its important role in generating explanatory hypotheses (Ritchie & Lewis, 2003). Some researchers recognise the limitations of using qualitative research set within a deterministic, narrow notion of causality (Ritchie & Lewis, 2003) — a characteristic associated with positivist studies. Instead, some prefer to understand causes as *conjectures,* which in practical terms means *"*[…] rather than specifying isolated variables which are mechanically linked, in qualitative analysis the analyst tries to build an explanation based on the way in which different meanings and understandings within a situation come together to influence the outcome" (Ritchie & Lewis, 2003, p. 215). For this case, it would be groundless to consider a single and deterministic cause that define the use of legal mechanisms. Overall, pursuing legal venues is a human action determined by a range of interrelated factors, which in turn are defined by people's perceptions of their social reality. This reasoning might justify

using an interpretivist approach (explained further below) in this research. However, there is a great value in examining how a positivist approach applied to this research differs from and interconnects with an interpretivist one. This comparison is a useful exercise for deciding where I stand in relation to my research questions, legal mobilisation approaches, goals, and outputs of my research (all detailed in **Table 1** below).

3.1. Methodological approaches: differences between positivism and interpretivism

Positivism and interpretivism are rooted in two different assumptions. While positivism maintains that an event can be objectively explained through causal explanation, interpretivist approaches argue that there are 'patterns of subjective understanding' that shape the way in which an event is perceived (Roth & Mehta, 2002). Drawing on the natural science model, a key element of the positivist research is the aim to generalise findings beyond individual cases. This means, hypotheses are generated and validated through replicable and testable analysis (Roth & Mehta, 2002). In contrast, interpretive explanation is addressed to make "thick descriptions possible not to generalize across cases but to generalize within them", unveiling the meaning of social action (Geertz, 1973). These general comparisons represent a very reduced snapshot of a long and unsettled debate of the use of these methodologies in different disciplines. Nonetheless, the discussion on the limitations and opportunities of these two methodologies has raised an enlightening analysis on the applicability of each approach in socio-legal research. Particularly relevant here is the discussion between Michael McCann and Gerald Rosenberg on the utility of using the courts as venues to achieve social change in legal mobilisation studies using interpretivist (McCann, 1996) and positivist approaches (Rosenberg, 1996).

In his thorough criticism of positivism, Michael McCann (1996) stated that two major drawbacks of the positivist approach are: (i) causal explanations do not capture the complexity of "processes of judgment, choice, and reasoned intentionality of people in action"; and (ii) the view of contextual factors as isolated variables that can be explained through causal models ignores the intricate human interaction that defines social context. McCann (1996) concluded that causal analysis is likely to be reductionist given that it avoids considering the reasons, goals and motives of political action and analytically limited

because the “indeterminate, variable, contingent aspects of human interaction” escapes this approach. In response, in his comprehensive analysis of McCann’s (1994) research *Rights at Work*, Gerlad Rosenberg (1996) argues that the inability of making casual statements, the lack of hypothesis testing, and the impossibility of generalising findings (particularism) are the greater weaknesses of the interpretivist methodology. Although the author recognises the value of incorporating elements of the positivist method in interpretivist research, he concludes that McCann’s *Rights at Work* cannot be supported from a positivist theory perspective (Rosenberg, 1996).

A major drawback pointed out by Rosenberg (1996) is McCann’s case selection. Although McCann incorporated a diversity of cases in his research design, the case selection did not allow him to make separated conclusions regarding the role of law and the role of organisation and participation in social movements (Rosenberg, 1996). According to the author, from a positivist perspective it is important to understand how relevant the role law was in shaping social movements. He argues that there was selection bias in McCann’s work as he solely focused on cases where there was legal mobilisation and therefore, was unable to see fully what variables may have played a part in explaining when Legal Mobilisation takes place *or not.* Rosenberg (1996) concluded that a broader case selection would have allowed McCann to support properly the casual claims he made in his work.

This debate is relevant for this research not solely because it relates to same matter of study which is legal mobilisation. Navigating this discussion is also useful in terms of deciding on the appropriate types of research questions and the research purposes in answering them. Is it about making causal claims in relation to conditions under which people experiencing climate-linked (im)mobilities use legal mechanisms? Or is the focus on understanding people’s interpretations of human (im)mobilities and how those relate to the use of legal mechanisms? If so, which legal mobilisation approach would be best suited as a guide along that route? What types of conclusions would my case selection inform? These questions are addressed in **Table 1** below. Overall, the Table is created with the aim of having a clear idea of the differences between positivism and interpretivism in terms of approaches and goals of my research. Subsequently, I explain and justify my research methodology choices.

3.1.1. Table 1. Positivism and interpretivism applied to my research

Issues to consider	**Positivism**	**Interpretivism**
Research Question	Do people experiencing (im)mobility influenced by climate-related stresses in urban Colombia use legal mobilisation strategies and why?	How do people experiencing (im)mobility influenced by climate-related disasters articulate claims in order to seek justice?
Legal Mobilisation Approach	**Narrow:** turning to Court. *"Use of law in an explicit, self-conscious way through the invocation of a formal institutional mechanisms." (Lehoucq & Taylor, 2019, p. 3).*	**Broad:** mobilising the law means not only turning to the Court but also, using legal/rights frames when deploying non-legal strategies such as protests, campaigning or lobbying. "(…) "Any type of process by which individual or collective actors invoke legal norms, discourse, or symbols to influence policy or behaviour" (Vanhala & Kinghan, 2018, p. 5).

Goal of my research	Making causal claims of under which conditions, people facing (im)mobility turn to the law, understood as the use of institutional mechanisms.	Understanding how people interpret forced (im)mobility in terms of the way that they articulate claims, which could be legally framed or not.
Focus of my research	Explaining the causes of people using legal mobilisation mechanisms through variables (independent and dependent). Variables used in my research: **Independent variables:** • Place Attachment • Violence • Legal Opportunities (LO) • Political Opportunities (PO) • Resource Mobilisation (RM) **Dependent variable:** Use of legal mechanisms	Interpreting people's representations of the law and interactions with social reality. This means examining the concept of Legal Consciousness (LC) in the context of (im)mobility linked to climate-related stresses: • How social vulnerability conditions in the context of climate-related (im)mobility shape LC (people's beliefs, worldview and decisions). How the law interacts with these factors? • Understanding how LC is built collectively considering that the impacts of climate-stresses affect collective interests (L. J. Chua & Engel, 2019).

Dimensions of the law	**Instrumental** Under which conditions people use formal institutional mechanisms in the context of climate-related mobilities.	**Constitutive** How the law is experienced/used by people experiencing (im)mobility in the context of climate-related events. How the law contributes to a social movement's struggles (legal and non-legal scenarios) in the context of climate-related mobilities (law as a practice). How is the law shaped by people?
What should I expect?	Understanding of the factors and actors involved in facilitating or halting forced (im)mobility influenced by climate-related stresses and the way that is reflected in the use of legal mechanisms. Understanding how relevant unexplored variables such as place attachment and violence in legal mobilisation could be. Understanding of framing articulation processes by communities experiencing climate-related (im)mobilities.	Understanding of how people interpret forced climate-related (im)mobility, either in legal terms or not. Understanding of people's discourses and frames when using legal or non-legal mobilisation mechanisms – interactions between legal consciousness and climate change discourses.

In **Table 1** above, I have set out detailed questions and purposes of my research that could be regarded to either positivism or interpretivism. Notwithstanding this, I recognise that these are not strict differentiations, and therefore my methodological approach should draw on its suitability to my research, considering opportunities and limitations. As mentioned earlier, this is a qualitative research project aiming to explain the use of legal mechanisms by communities experiencing climate-related (im)mobilities. It starts with questioning whether those communities use legal mechanisms and if so, why. In order to answer the research questions, various independent variables were selected on the basis of their explanatory potential to comprehend the use of the law in the relevant context.[30] The variables are not treated as deterministic causes of the use of legal mechanisms. Instead, it will be assessed how the variables are understood in the cases of study and the way those influence the use of legal mechanisms. I aim to comprehend how people build claims-making processes — looking at people's perceptions of climate-related (im)mobilities and the way they react to them. This involves an analysis on how people interpret grievances and construct ideas that could influence the use of legal mobilisation mechanisms. To this end, I use frame analysis (explored further below) as a tool to unveil people's meanings and interpretations when mobilising the law as a result of experiencing climate-related (im)mobilities (see data analysis section). This analysis will help to answer the question of whether and why people turn to the law in a way that considers how people's understanding of their reality influence that decision. But what does *turning to the law* for this research involve? This raises the question of what exactly is meant by legal mobilisation.

There is no real agreement on what should properly be regarded as legal mobilisation in the academic literature. While some scholars advocate for a *narrow approach* in which the use of legal mechanisms is limited to utilising legal venues (Lehoucq & Taylor, 2019), other authors describe this approach as reductive, as it ignores the many ways in which legal expertise shapes non-legal mobilisation strategies (Abbot & Lee, 2021). For this research, I use a narrow legal mobilisation approach in which the concept is limited to the use of formal and institutional mechanisms (Lehoucq & Taylor, 2019). Although I recognise that the law plays an important role outside the litigation world including via legal framing (broad approach), my decision to limit the understanding to the use of legal venues is a practical

[30] This is analysed deeply in Chapters 6 and 7.

choice. First, it allows one to differentiate legal mobilisation from the concepts of legal consciousness and legal framing (Lehoucq & Taylor, 2019). Secondly and related to the prior point, this approach does not necessarily ignore the role of the law in non-litigation settings, but instead conceptualises it more clearly — as *legal consciousness* when it refers to a non-articulated and implicit way of using the law or *legal framing* as an articulated and explicit way of using the law in legal and non-legal strategies (Lehoucq & Taylor, 2019).

In sum, this research aims to make valid and credible explanations in relation to the influences that trigger the use of legal mechanisms by communities experiencing climate-related (im)mobilities, using frame analysis. In the data analysis section that follows, I develop a step-by-step logic construction aimed at showing the process to achieve the findings of this research and how frame analysis is suitable for that purpose.

3.2. Data analysis

This research aims to explain why certain topics, grievances and claims are put at the forefront of mobilisation strategies by communities experiencing climate-related (im)mobilities. To achieve this goal, I use the analytical tool of framing. Framing analysis is a discourse-sensitive methodological approach that categorises movement actors as "signifying agents" who build grievances and define goals in order to mobilise support (Lindekilde, 2014; Snow & Benford, 1988). Like discourse analysis, frame analysis looks at "the discursive battles over meaning and definition of reality" in the public sphere (Lindekilde, 2014, p. 2). However, while discourse analysis focus on how certain discourses maintain or transform power relations, framing analysis is more interested in comprehending how ideology works in practice — that is to say, the way that ideologies are strategically and deliberately framed (Lindekilde, 2014).

Discourse analysis would have been suitable for this research if focus were placed on how certain discourses held by communities experiencing climate-related (im)mobility were established in the social realm and filled with a particular meaning. This would have involved looking at power relations shaping people's understanding of their reality. However, that is not what this research is aiming to explain. Instead of focusing on the process of meaning construction in specific contexts, this research aims to understand how those meanings are

used deliberately and strategically for mobilising support. I intend to identify and analyse the way in which communities facing climate-related (im)mobilities frame their experiences when undertaking legal or non-legal strategies. Besides analysing the strategic and deliberate framing choices, I explore whether communities undertake what I characterise as *mobilisation risk assessment* which might define the types of frames used in one or another mobilisation setting (See Chapter 5). This draws on the reasoning that legal mobilisation strategies could posit risks, such as physical attacks in contexts of repression against social mobilisation – like the Colombian one – or the likelihood of a judicial decision that could entail uprooting or dispossession of communities highly exposed to the impacts of climate change (see Chapter 6, Complex risk assessment in legal mobilisation for a detailed analysis on this aspect). As explained in Chapters 5 and 6, mobilisation risk assessments might not deter the use of legal mechanisms, but they could shape legal framing and claiming.

For this research, I apply Snow and Benford's (1988) framing analysis approach which focuses on social movements. *Framing* conceptualises social movements work of assigning meaning and interpreting reality with the aim of mobilising support or deterring antagonists (Snow & Benford, 1988). This is done through *framing articulation*, a process that involves attending three tasks: (i) diagnostic framing; (ii) prognostic framing; and (iii) motivational framing (Snow & Benford, 1988).

Diagnostic framing refers to the identification of a problem and the attribution of blame. Although there is frequently a consensus on the identification of the problem within a social movement, general agreement on blame attribution is more complicated to realise (Snow & Benford, 1988). For this empirical research, I assess how communities understand climate-related (im)mobilities and the different causality attributions in light of the multicausality of human (im)mobility in the context of climate-related disasters. In relation to blaming, this research considers the causes blamed and the subjects labelled as accountable.

Prognostic framing is related to proposing solutions to the problem, particularly identifying strategies, tactics[31] and targets (Snow & Benford, 1988). In this stage, I aim to identify the

[31] Ganz (2000) defines strategy as 'the conceptual link we make between the places, the times, and ways we mobilize and deploy our resources, and the goals we hope to achieve. Strategy is how we turn what we have

different types of tactics and targets of the mobilisation strategy developed by the community organisations. It will involve looking at legal and non-legal strategies and the way that communities respond to the assessments of risks of violence or the exacerbation of current social vulnerability conditions. This will specifically focus on the way that those risks shape frames in order to reduce the realisation of the former risks.

Motivational framing is about motives for action aimed at convincing potential participants (Snow & Benford, 1988). A necessary condition for participation involves the idea that individual interests are congruent and complementary with a social movement's ideology and goals, which is what Snow et al (1986) call *frame alignment.* Consequently, successful framing processes depend on their degree of resonance among potential adherents (Snow et al., 1986) and the ability to provoke a response to the content of the message (Lindekilde, 2014). In this research, this task is addressed in relation to the frames used to motivate a positive decision from the judge or public servant with decision power in legal venues. This will involve an analysis of frame alignment and resonance, considering the existing political and legal frameworks, as well as whether motivational frames are shaped by the context of violence.

For this research, deconstructing the tasks of framing articulation is useful as it resembles the different stages of claims-making processes (Felstiner et al., 1980). The sub-variables in *diagnostic framing* will inform the stages of *naming* (whether climate-related (im)mobilities are identified as an unjust situation) and *blaming* (whether the unjust situation becomes a grievance attributed to certain factors or actors). The *prognostic frames* might bring out the *claims* (solutions or remedy request and venues); and *motivational frames* will give insights on the rationale that shaped the *framing* stage.

into what we need – by translating our resources into the power to achieve purpose.' (p. 1010). While strategies are planning orientated to achieve certain goals, tactics are actions that reflect social movements shared identity, beliefs and experience; and are aimed at persuading, coercing or encouraging responses from opponents and third parties (Smithey, 2009).

3.3. Coding technique: how to analyse and present data

Although this is research is situated in the inductive paradigm, it also involves stages of deductive analysis. In a first instance, I build on the hypothesis of individuals or communities being defined as *rights holders* making the use of legal mechanisms more likely. I argue that place attachment may play a role in defining rights consciousness of communities experiencing climate-related (im)mobilities. This means a consciousness raising that places grievances in a social model in which someone should be accountable for the impacts suffered (see Chapters 5 and 6). In addition, I test whether political and legal opportunities, and resources (independent variables) influence the use of legal mechanisms in my case studies. In a second instance, based on the data collected, I identify *sensitising concepts*[32] that guide the path towards identifying other variables that could impact the use of legal mechanisms. In this stage, I apply an inductive coding strategy, using the 'grounded theory' strategy as a basis. I aim to comprehend how communities' ideas and rationales — in the form of frames — inform academic debates on the variables that trigger the use of legal mobilisation. Grounded theory is a research strategy that facilitates the development of concepts that arise from empirical data through a comparative coding process (Mattoni, 2014). In this sense, besides having a pre-constituted hypothesis that guides the research, it consists of using ***sensitising concepts*** as a starting point for the analysis (Ritchie & Lewis, 2003). The stages of coding followed are:

i. **Open coding:** this stage involves scrutinising the data in order to identify categories or codes that emerge from the empirical data, which is guided by the question *what does the text communicate?* (Marvasti, 2004).
ii. **Axial coding:** In this stage, the focus of the analysis shifts from looking at the portions of data to the relationship between codes identified in the opening coding stage (Mattoni, 2014). The combination of codes will produce specific conceptual categories, i.e., diagnostic, prognostic and motivational framings strategies, mobilisation risk assessment, etc.
iii. **Focused coding:** this is related to the selection of core categories that seem more relevant in terms of frequency and centrality and with a level of abstraction able to

[32] These are "directions along which to look", not strict "prescriptions of what to see" (Blumer, 1954).

evoke more general themes than open coding (Mattoni, 2014). In this stage, I will identify *patterns of association within the data* in order to build explanations (Ritchie & Lewis, 2003) related to the way in which the independent variables influence the use of legal mechanisms in the cases analysed in this research.

Although this analysis could be supported by data analysis software in order to make the frame identification more systematic (Koenig, 2004), the amount of data collected for this research is manually manageable. Therefore, the use of an analysis software was considered unnecessary. Some of the data is organised in a display format, and quotes and anecdotes are pulled out when relevant.

3.4. Case study: case selection

This empirical research is limited to the geographical area of Colombia. Although in principle, this PhD research was inspired by previous experience working with communities displaced by floods in the second largest city of Colombia — Medellín — the country faces a high risk of disaster displacement (IDMC, 2021). Every year around 10,000 people are displaced by sudden-onset events, the majority of which are floods, landslides, and earthquakes (IDMC, 2021). The year 2010 witnessed particularly extreme weather events, inducing the displacement of 3 million people in the country (IDMC, 2021). The latest data shows that, in 2020, around 64,000 disaster displacements were recorded (IDMC, 2021). In this specific context, there is value in gaining a detailed and comprehensive understanding on whether using legal mechanisms is considered as a way to respond to these disaster events or not and, if so, how they are used. Not least, there is little in the way of research 'from below' that addresses climate-related (im)mobilities from the understanding of communities' concerns and claims in contexts of disaster (see Arnall et al., 2019).

My empirical research focuses on three cases of *community organisations* using the law. I refer to communities as a group of people who inhabit a specific setting (either an urban neighbourhood or an island). Community organisations are social movements made up by community members who have similar interests and a mobilisation agenda related to the place they live. As community organisations could be regarded as a type of social movement organisation, I sometimes allude to social movements as a synonym of community

organisations.[33] I use the term *grassroot movements* to make reference to organisations seeking collective action which are focused on specific topics, i.e., environmental justice, socio-spatial inclusion, etc. They are different to community organisations as their members are not connected by the fact of living in the same area.

For this research, three cases were selected on the basis of their relevance in explaining the use of legal mechanisms by communities experiencing climate-related (im)mobilities after a disaster. In the beginning, focusing on legal cases brought as a response to the occurrence of a disaster was mainly determined by my work legally advising people displaced by floods (as I mentioned above). I was particularly interested in the way that urban communities responded to climate-related disasters. In addition, most of the academic literature on climate-related (im)mobilities is focused on rural communities, whose vulnerabilities, and deprivations — and therefore perceptions of reality — differ from urban areas. That was the reason why in principle I decided to limit my cases to urban communities impacted by climate-related events — albeit a focus that changed, as I explain below.

My previous experience as a lawyer and activist facilitated mapping potential cases. I had informal conversations with colleagues about cases they were aware of in which communities have organised around climate (im)mobilities or issues related to climate-related disasters. I initially identified 5 potential cases in the cities of Medellín (3), Cali (1) and Bogotá (1), relying on the following case selection criteria: (i) communities highly exposed to the impacts of climate-related events in Colombia; (ii) areas in which there was a minimum of community organising and leadership from members of the community undertaking mobilisation strategies around climate-related (im)mobilities or linked issues; and (iii) mobilisation strategies occurring between 2019 (the start of my PhD) and June 2021 (the end of my fieldwork). In this aspect, it is important to highlight that the research considered communities who used legal mobilisation as well as those that prioritised non-legal mobilisation strategies. It was thought that exploring cases in which legal mobilisation did not occur or was not at the forefront of the community' mobilisation strategies would bring a broader understanding of the role that the law played in each of the cases.

[33] Barragán (2004) defines social movements as 'permanent, collective social actions, aimed at addressing conditions of inequality, exclusion, or injustice, that tend to arise in certain spatiotemporal contexts' (p.74).

A sudden and unanticipated aspect to consider in the selection criteria related to the limitations posed by the Covid-19 pandemic at the time of my fieldwork. Mobility restrictions during lockdowns in Colombia and the difficulties in reaching communities and organisations for the first time while gatherings with strangers were discouraged by the Colombian Health Ministry were decisive factors in defining my overall case study. I decided to settle in Medellín during my fieldwork because I knew most of the organisations involved with the cases identified in this city. I was fairly confident that I would be able to undertake most of my interviews there — as I did in the end (the challenges faced during my fieldwork are discussed further in the following chapter).

I tried to contact community and legal organisations in Cali and Bogotá by email and telephone, but never received a reply from them. I considered travelling to these two cities, but there were several risks in place that made me abandon that initial plan: (i) returning to Medellín once I left the city was uncertain because of last-minute Covid-19 mobility restrictions. Medellín was my best bet to undertake my fieldwork successfully, so better not to leave unless I knew I could return on time for doing my field research there; (ii) it would have involved high physical risks to visit certain areas of the country without having contacted local organisations in advance. Communities highly exposed to climate-related impacts are usually settled in deprived areas of cities with high levels of violence; (iii) there was a very low probability to reach the people I was planning to meet. I was able to find the addresses of legal organisations in Cali and Bogotá, but there was a chance those were closed down by the lockdowns, with people advised to work from home if they could. The fact that my phone calls were not returned suggested that that could be the case. Ultimately, I decided to focus on the two cases in Medellín which I denominate as **Case 1. El Pacífico** and **Case 2. La Playita,** as those two cases followed the selection criteria and access to data was feasible despite of Covid restrictions in Colombia.

While I was doing my fieldwork (in November 2020), Hurricane Iota passed through and seriously impacted the Colombian island of Providencia in the Caribbean Sea. As a result, the islanders with the support of a legal organisation in Bogotá — DeJusticia — brought a tutela

action[34] against the Colombian government to demand the reconstruction of the island. This was the first legal action globally that claimed the protection of people displaced by a climate change disaster and demanded the legal recognition of the phenomenon. Although this was not an urban case of communities displaced by climate-related events — which in the very beginning was my focus of study — this was an unprecedented use of legal mechanisms to demand justice for those facing climate (im)mobilities in the country (Colombia) that needed to be included in this research **(Case 3. Providencia)**.

I considered that analysing mobilisation strategies in two different settings (an urban area and an island) would bring a broad understanding of how communities relate to the law and use it (if they do). Ultimately the setting was not a predominant criterion to select the cases, but was, rather, driven by the existence of both legal and non-legal mobilisation strategies. Regardless of whether they used legal mobilisation as their main strategy (Case 2 and 3) or not (Case 1), those three cases are exceptional examples of communities using the law in Colombia that allow for a rich analysis and discussion on the use of legal mechanisms by those heavily impacted by the effects of climate change.

3.4.1. Case 1. El Pacífico

The Medellín's valley north-eastern slopes — where El Pacífico neighbourhood is located — are particularly vulnerable to landslides due to their unique geological composition and the trend of non-formal land occupation linked to high levels of economic poverty (Claghorn et al., 2015). El Pacífico is an informal settlement of which official land classification is divided into three areas: (i) a high risk zone related to flooding and landslides as it is located on a hilly area on the creek bed of the *quebrada La Rafita;* (ii) a rural zone corresponding to an environmental protection area of the hill Pan de Azúcar; and (iii) a Watershed Forest Reserve *Nare* (Rivera Flórez et al., 2020).

[34] The tutela action is a very rapid and accessible legal mechanism to demand the protection of fundamental rights established in the art 86 of the Colombian Political Constitution of 1991. More on this case was reported by an iNews media article in which I was cited (See Appendix 1).

Since the 1990s, this area of the city has been informally occupied by people migrating from the rural areas of the country to the cities, mostly victims of forced displacement linked to the Colombian armed conflict from that decade until now (Rivera Flórez et al., 2020). Utilities companies have refused to fully provide access to potable water, sewage, energy, and internet given the geographical and environmental risks El Pacífico is exposed to. By 2016, 76% of the households had access to potable water (22% provided themselves with non-potable water through a community aqueduct), 86% were connected to the sewage system, 98% had electricity, and 16% had access to internet services (Rivera Flórez et al, 2020).

The community of El Pacífico has been organising for several years to demand risk management works, access to dignified housing, potable water and public utilities. In September 2020, the river La Rafita flooded and destroyed 25% of the neighbourhood area. Around 50 families lost their homes and property, but thankfully there were no fatalities. As a response to this, the Community Action Board[35] invited different entities of the municipality of Medellín to integrate a decision-making board for the Attention and Recovery of the barrio El Pacífico called *Mesa de Atención y Recuperación — Barrio el Pacífico MAR* (initials in Spanish). The MAR was expected to be a participatory space aimed at making collective decisions in relation to the reconstruction and development of the neighbourhood. In 2021, considering the lack of housing solutions achieved in the decision-making board some members of the community brough a tutela action against the municipality of Medellín to demand the protection to the right to housing. The claims were partially upheld by the judge. The judicial decision was appealed and confirmed by the second instance court.

3.4.2. Case 2. La Playita

La Playita is a neighbourhood located in the zone of influence of the river La Picacha. The characteristics of the River La Picacha makes it one of the riskiest rivers in the city for human habitation (AMVA, 2008). La Playita is an unplanned neighbourhood occupied mostly by people forcedly displaced by the Colombian armed conflict. Since 2004 until today, there

[35] Community Action Boards are civic or community organisations with legal status made by the inhabitants of a neighbourhood, rural district or territory who come together to promote an integral and sustainable development of the community as well as the protection of human rights and the environment (Law 2166 of 2021, art 5).

have been several disaster events associated with floods that have led to the loss of lives, houses, property, neighbourhood infrastructure and so on. In 2013, the community, with the support of the Legal Clinic of Environmental Law of the University of Medellín, brought a popular action[36] aimed at demanding the execution of the river risk management works delayed by various local administrations. After a testimony hearing in which experts expressed their opinions in relation to the risks posed by the river to the neighbourhoods nearby, the judge decided to order a provisional measure which consisted of the resettlement of the neighbourhood La Playita. [37] The resettlement process is still ongoing: some people were offered temporary rent subsidies in other parts of the city; others are still settled in La Playita. The lack of housing solutions over these years has been responded to with tutela actions, protests, political lobbying and a thematic audience before the Interamerican Commission of Human Rights (Antioquia-Minnesota, 2015).

3.4.3. Case 3. Providencia

Providencia is a Colombian island in the Caribbean Sea. This insular area is inhabited by the Raizal ethnic group. The Raizal people are Colombian citizens of African descent who speak a mix of Creole, English and Spanish and who have endured a historical struggle against tourism development in the island, which has been a major trigger of land dispossession (Morón Castañeda, 2019). In 2020, the passing of Hurricane Iota destroyed 98% of Providencia. As a response, the community, with the support of legal organisations, brought a tutela action to demand the reconstruction of the island and claim the legal recognition of the category of climate displaced people.[38] Their claims were dismissed in the first and

[36] Popular actions are a constitutional mechanism aimed at protecting collective rights, such as the right to a healthy environment. It is an accessible legal mechanism as anyone is permitted to bring it without the need of a lawyer (Political Constitution of Colombia of 1991, art 88). Although judges have a duty to prioritise this type of actions, decisions are not as expedite as the ones resulting from tutela action. Tutela actions are aimed at protecting fundamental rights, such as the right life and dignity (Political Constitution of Colombia of 1991, art 86) Citizens decide which mechanism use on the grounds of which rights are violated (either fundamental or collective rights). The Colombian constitutional framework permits to claim the protection of collective rights using tutela action, but only if there is a connection between the collective interests and the protection of fundamental rights. For further explanation on these two mechanisms and communities' decisions in bringing forward one or another, see Chapter 7, Opportunity structure, and organisational level attributes in legal mobilisation.

[37] *Félix Antonio García y otros v Municipio de Medellín y otros* (2013) 05 001 23 31 000 2013 01310 (Tribunal Administrativo de Antioquia).

[38] *Huffington v Presidencia de la República y otros* (2020) 88001310400220200004200 (Tribunal Superior de San Andrés).

second instance. However, the Colombian Constitutional Court decided to review the case as they considered that this was a relevant constitutional case in which there might be violations of the fundamental rights of the Raizal people.[39]

3.5. Methods

Semi-structured interviews were undertaken. The participants were: (i) community leaders; (ii) organisers or members of grassroot movements (if relevant for the cases); and (iii) lawyers of NGOs or legal clinics providing legal advice to communities. Seventeen participants were recruited in total (see **Table 2**). At least 3 community leaders, 1 member of an NGO or legal clinic and 1 member of a grassroot movement (if relevant) were interviewed per case. The participants were members of the three above mentioned groups that had played a key role in community organising or campaigning strategy. It was considered that 3 community leaders might bring a broad understanding of the 'collective dynamics' settings in which this study is taking place. Members of NGOs/legal clinics and social movements are more likely to share similar ideas on campaign strategies and choices. That is why interviewing one member of each group was considered sufficient. The data collected from the interviews is complemented with data from public statements, press releases, webpages, flyers, field notes, posts in social media and videos of the relevant community organisation, social movement or legal organisation for each case study. As community organising in the three case studies is ongoing, the document data time frame was delimited between 2019 and June 2021.

3.5.1. Table 2. Interviews

Case	Interviews	Person characteristics	Organisation
1. El Pacífico	1	Lawyer	Legal NGO
	2	Organiser	Grassroot Movement
	3	Community leader	Community organisation

[39] *Huffington v Presidencia de la República y otros* (2022) Sentencia T-333/22 (Corte Constitucional de Colombia).

	4	Community leader	Community organisation
	5	Community leader	Community organisation
	13	Community leader	Community organisation
	6	Organiser	Grassroot Movement
1. La Playita	7	Community leader	Community organisation
	14	Community leader	Community organisation
	9	Community leader	Community organisation
	10	Lawyer	Legal Clinic
	11	Former community leader	Community organisation
	12	Former community leader	Community organisation
3. Providencia	16	Lawyer	Legal NGO
	15	Raizal and activist	Community organisation
	8	Raizal community leader	Community organisation
	8.1	Raizal community leader	Community organisation

3.5.2. Participant selection. Challenges in negotiating access to participants and data

The selection process of participants in the interviews was purposive. Respondents were intentionally selected based on their ability to elucidate the mobilisation strategies held by the communities experiencing climate-related (im)mobility. My initial sampling consisted of

leaders of community organisations, members of social movements, and lawyers involved in the cases that I knew through my previous experience of working with communities impacted by floods in Colombia. My participation in community's meetings during my fieldwork allowed me to identify other community leaders and members of social movements who played a key role in defining mobilisation strategies. Based on snowball techniques (Goodman, 1961), I broadened the sample to include social movements supporting community organisations. Other individuals were identified in public statements, press releases and social media.

Inviting individuals to participate in research can be done in a number of ways and involves a multiplicity of challenges determined by the context that can impact the success of a study (Ritchie & Lewis, 2003). Those challenges are usually related to the ease of access to information in relation to the purposes and results of the research, but further discussion is needed in relation to the contextual and power dynamics that obstruct the chances of contacting someone in the first place. This should include considerations on participants' fatigue with contemporary research dynamics that return little in relation to what they take. Yes, being crystal clear about our research intentions is crucial, but this will not happen unless a relatively trusting relationship is previously put in place. As in Ritchie and Lewis (2003), research accessibility is seen in terms of *co-operation*, in which those involved are happy to participate if they consider research objectives relevant and valuable. Lewis (2003) also refers to reciprocity in the form of cash payments or information on support organisations as a way to return for the time and assistance by participants. However, the current context of over-studied and fatigued communities needs to be addressed as it posits further challenges to undertake fieldwork. One of the biggest tensions that I encountered as a PhD researcher doing empirical work was negotiating access to the participants I was planning to interview. In the section below, I explain how I dealt with this hurdle considering the particularities of each case.

Case 2. La Playita

Between 2014 and 2015 (i.e., before my current Thesis research), I legally advised the community of La Playita when I was working for the Legal Clinic of Public Interest and Environmental Law at the University of Medellín. Between 2015 and today, I have advised the Legal Clinic on matters related to the case, but I do not work directly with the community

anymore. My close relationship with the Legal Clinic has facilitated accessing the data and contacting participants for my interviews. There has been a level of relative trust between the community leaders and myself (built on my previous legal work) that had a good impact in the process of undertaking my interviews. In the first instance, they were keen on being interviewed which facilitated a fluent and rich conversation about the case, especially when talking about sensitive issues such as violence in their neighbourhoods. Although I worked as a legal advisor for their communities, they do not recognise me as their lawyer anymore, which diluted any power tensions that such a situation might have brought about. This community has also worked very closely with academics doing social impact research such as the one undertaken by the Legal Clinic of the University of Medellín. It has been almost 10 years in which the Legal Clinic has supported this community with strategies that go beyond undertaking legal action, and include political lobbying, media strategies and direct action. The community values the work the legal clinic has done for them, which is why levels of research fatigue were not predominant in this community.

Case 1. El Pacífico

Among the social movements in Medellín, the community of El Pacífico is well known as a very organised community enduring struggles in defence of the right to the territory (in the urban areas of Medellín) and against urban exclusion. Serna (2020) explains that for the community movements of the Comuna 8 (the borough in which El Pacífico neighbourhood is located), the defence of the right to the territory is not limited to having access to a piece of urban land. According to her, the community organisations of the Comuna 8 expand the concept of 'territory' to the practices of developing community networks among neighbours (Serna, 2020). The territory becomes a place of socialising and communication where relationships built on solidarity and the exchange of knowledges and resources happen (Serna, 2020). This coincides with Halvorsen (2018) who argues that contemporary social movements in Latin America have given a different meaning to the 'territory' (in contrast to the Anglophone definition which centres the territoriality of the state). 'Territory' refers to "the appropriation of space in pursuit of political projects" (Halvorsen, 2019, p. 794). In this sense, the right to the territory could be defined as the right to (re)appropriate and (re)define the territory with alternative ideas and practices, which opposes to the political and economic systems that have made life more precarious in urban areas (Harvey, 2013).

Before starting this research, I knew a couple of the Pacífico community leaders, but was not that familiar with their collective action. In December 2019, I had an informal conversation with one of them who told me about their work focused on demanding — the local government — investment on disaster risk management in El Pacífico. Their campaign was seeking the guarantee to the right to housing in dignity[40] and the right to the territory. He mentioned that they had created a 'risk management popular school' for the community aimed at learning about how the risk of landslides and floods impacted their territory, and their daily lives. After that, I decided to learn more about this case which seemed suitable to my research purposes. This community leader put me in touch with a lawyer working for the Corporación Jurídica Libertad, a legal organisation that has supported El Pacífico community work over the last 5 years. He also mentioned that they led a discussion space called 'Study Circle' (Círculo de Estudio in Spanish) in which they talked about urban issues happening in the informal settlements of Medellín. I contacted the lawyer and said that I was keen to be part of the 'Study Circle' and mentioned that I could share my experience working with the community of La Playita, who face similar concerns to other communities in informal neighbourhoods in Medellín. They accepted my offer and since June 2020, I have been an active member of the 'Study Circle' (as this experience had an impact on my research approaches and findings, more on this work is developed in the following chapter).

This was a very useful space to learn about different community organisations working on urban and risk issues in Medellín, especially the Pacífico one. The group intentions were limited to discussing the urban and environmental law applicable to those neighbourhoods that are informally built. This was a good way to keep me up to date with whatever was happening in El Pacífico while I was settled in the UK. In the beginning, I included this case because I considered that the community approaches to urban risk from the protection of the right to housing — impacted by floods and landslides many times in the past — were very revealing for my research on climate-related (im)mobilities and the use of legal mechanisms. This was an example of communities that initially prioritised non-legal mobilisation strategies instead of legal ones. However, this changed as result of the disaster event that occurred in September 2020 that was responded to, among other strategies, with a legal action.

[40] This is a social right recognised by the art 51 of the Political Constitution of Colombia.

As a response to the flashflood in El Pacífico, the community called on a decision-making board with the municipality of Medellín.[41] Since then, the 'Study Circle' decided to support this initiative in any way it could. We have been giving legal support to the communities on issues related to risk management and resettlement processes. Whatever is negotiated in the decision-making between the communities and the municipality of Medellín is discussed within the 'Study Circle'. We advised the community on the legal implications of their positions and decisions in this board and sometimes they consult us on aspects before making demands to the municipal government. The point of contact between the 'Study Circle' and the community is the Corporación Jurídica Libertad (CJL) which they recognise and value.

Although I have been involved with the CJL for the last 2 years, most of the community leaders did not know me or recognise me as someone legally advising them. I knew from informal conversations with colleagues and activists in Medellín that the community of El Pacífico has been reluctant to open their doors to researchers who did not involve themselves in their community processes. They had previous experiences with academics that took lots of their time, but never returned it in any single way. They decided to prioritise working with organisations that were aligned with their goals and plans. This situation made me consider finding a way to get involved with the community and support their work. Beyond having an interest in interviewing people and having access to data, I realised that my learning from this research is very useful for the community in many ways, as well as my experience as a lawyer. That was why being part of the 'Study Circle' became an important part of this research. Not least, it facilitated contacting participants and having fluent conversations about sensitive issues such as violence in Medellín (more on this work is developed in the following chapter).

Case 3. Providencia

Reaching the Raizal people was very challenging. I was aware about their legal case because a legal clinic in Bogotá working in the case contacted me and asked if I was keen on supporting the case with an amicus curiae. I accepted and since then I worked in a collaborative litigation strategy with two legal clinics (The Environment and Public Health

[41] See Chapter 7, Opportunity structure, and organisational level attributes in legal mobilisation for further explanation on the nature of this decision-making board.

Legal Clinic of the Universidad de los Andes and the Public Interest and Environmental Law Legal Clinic of the Universidad de Medellín) and a legal NGO (DeJusticia) in Bogotá. This work allowed me to meet some lawyers who were close to the Raizal community and have access to data. I tried to contact the Raizal community through them, but it was very difficult. The community's research fatigue was combined with the frustration of the little progress in the reconstruction of the island. I was planning to interview one of the heads of the Raizal people, but she said to the lawyer who was helping me to secure the interview that she was tired of talking to academics and journalists. She expressed a huge frustration of having participated in several interviews, TV shows, radio, etc., without a guarantee of real solutions for the housing and health crisis they were facing post-disaster. When the lawyer mentioned that I was supporting the legal case, she agreed to participate, but only if it was a face-to-face interview. She did not want to talk to me by phone and asked me to travel to Providencia, which I did — although at that stage I had not been given the required government permit to enter the island. I travelled to San Andrés (closest city to Providencia) where I had to submit a permission to enter to Providencia and take a flight or a ship to get there. I dealt with the municipal government bureaucracy for days, but finally I was given an email to make a request for my entry permission. I immediately went to my hotel and submitted the request (27.04.2021), but at the time of writing I have yet to receive a reply from them.

Considering the impossibility of travelling to Providencia and convincing the leader to be interviewed by phone, I decided to commission a local lawyer or researcher who could undertake the interviews on my behalf. I hired a lawyer recommended by colleagues in Bogotá. I had a meeting with him in which I explained the purposes of my research and the ethics process I am obliged to abide to, which in this case applied to him too. In his contract, I included a confidence clause and obligations in relation to data protection. I paid fees of around £300, which the lawyer decided to donate to the Raizal community. It was pleasing that this financial resource ended up in supporting the community in a way that I did not initially expect. The interviews were delivered a month after they were commissioned.

I learnt from my fieldwork the relevance of understanding a community's ideas and concerns in relation to the academy. Assessing communities' fatigue should be a central aspect when preparing fieldwork. Paying for transport and refreshments as a return for a community's time is not enough, and sometimes is seen with mistrust. Some of these communities have

endured very long and hard struggles in a very unsettling context. They welcome support and people who want to engage, but it seemed to me that some have had enough of researchers that do not contribute in any way to their community processes. It seemed like an unnecessary burden for them. In any case, I consider that this should say something about the way we undertake empirical research. It did to me and that is why I planned and undertook my fieldwork in the way I did.

Conclusion

In this methodology chapter I have discussed my qualitative methodological approach, drawing on a reflection of the opportunities and limitations of positivist and interpretivist research. I also stated that during this research, I use a narrow approach to legal mobilisation which is limited to utilising legal venues. On this aspect, I explained that this was a practical decision as the narrow definition permitted me to differentiate legal mobilisation from related concepts such as legal consciousness and legal framing, as well as to conceptualise the role of the law for social movements more clearly. This was followed by the data analysis section in which I examined why I chose framing analysis — instead of discourse analysis — highlighting my research purposes and expected findings. I also examined each of the stages of framing articulation and mentioned how those applied to my research and then pointed out my coding technique using grounded theory strategy. This was followed by a section on case study selection, which included a discussion on how the Covid-19 pandemic redefined my selection criteria. Finally, I described my research methods and reflected on the challenges I faced in negotiating access to participants and data. This latter aspect is developed in greater depth in the chapter that follows. Dealing with community's fatigue and rejection to work with researchers involved responses from my side that considerably shaped my research approaches and findings. It also involved parallel work of providing legal advice to the communities I look at in this PhD Thesis, while undertaking my research. On this basis, the following chapter is a reflection of what research into practice meant to me personally and my PhD research.

Chapter 4. Research into practice through knowledge exchange

Researchers can engage in activism either by using action research methodologies which can simultaneously seek to pursue social change and academic knowledge, or by producing knowledge that can inform activist or campaign work (Downs & Manion, 2004; Flood et al., 2013; Zerai, 2002).[42] For me, making my PhD work as something useful for those who are the centre of my research interest has been a matter of integrity in research. Furthermore, along my PhD journey, I have realised that 'research into practice' has been a way to gain a comprehensive understanding of various topics I have been studying in this research. Among disciplines, health literature has produced a large number of studies on research into practice, which refers to the implementation of research in clinical practice (Boaz et al, 2011). It is not surprising then that legal clinic research (for example) took its foundation from experiences in medical schools (Romano, 2016). Between 1920 and 1940, promoters of legal realism such as Jerome Frank and John Broadway defended clinical legal education as a way to approach legal practice, which was based on the clinical experiences from medical schools (Romano, 2016). Although legal clinic research did not spread until the 1960s, the rise of access to justice movements gave room to an academic interest on the application of legal research and knowledge into practice with the purpose of seeking social justice (Bloch & Noone, 2010). While my research is not necessarily aimed at discussing legal practices as an application of research, research into practice was used as a tool to respond to several hurdles I faced during my empirical work, which also contributed to ethical integrity purposes as mentioned above. In this chapter, I refer to research into practice as the application of the knowledge gained during my PhD research to legally support the community organisations of my case studies.

Research into practice was important for my PhD research because it allowed me to gain knowledge that would have been difficult to grasp solely through interviews or focus groups. It also helped me to integrate critical thinking in my PhD research, identify the under-

[42] There are other ways in which academia can support activism, e.g., through introducing progressive alternatives of teaching and learning, and challenging power relations within universities and in relation to their bureaucratic agendas and subordination to corporate or military agendas (Flood et al 2013).

explored variables of place attachment and violence, as well as to comprehend the role that resources, opportunities and risks play in mobilisation strategies through observing them in action. In my methodology chapter, I explained my qualitative methodological approach and how I used the analytical tool of framing. In addition, I touched on the tensions that I encountered negotiating access to participants for the case studies. This chapter can be seen, in part, as an extended discussion of those tensions. The difference is that here I discuss how I dealt with those drawbacks from a self-reflection of what doing practical work with communities meant for my PhD Thesis, beyond securing interviews and access to data. In other words, this chapter is aimed at self-reflecting on my research into practice based on my experience supporting communities impacted by climate disasters. I start by explaining why I took that path, which is followed by a discussion of my practical work considering both its opportunities and limitations. Finally, I reflect on how this shaped my PhD Thesis and learning process.

4.1. Why research into practice

If, during the first years of my PhD, I had been asked why I decided to apply research into practice to my Thesis, I would simply have responded: 'because I am an activist doing academic work'. However, I do not think that answer adequately speaks to my motivation anymore. While I worked with communities during my PhD, research into practice ceased to be determined by my 'activist identity' and it became a source of academic curiosity which I was keen to explore during my research. I cannot deny that my activist background shaped my research interests and choices. Nonetheless, bringing research into practice to my PhD Thesis was mostly guided by my decision of conducting research that allowed community organisations to have confidence and trust in my methods, and as a matter of care and respect, to return something for what I learnt from them. This endeavour also allowed me to contrast communities' practices in mobilisation strategies with the theory, which shed light on gaps in the knowledge and led me to reflect on non-traditional variables of analysis to explain communities in action.

Although I believe that research is able to contribute to social change, I found it fairly presumptuous to expect that from my research work. While the production of academic knowledge may be used for social justice purposes, the former is generally not developed to

be essentially functional to social justice targets. In this sense, contributing to social change through research would need social change to be aligned with the research design or methodology (which is not the case with my Thesis, as evidenced in my methodology chapter). A consequence of the former is that although I provided legal support to community organisations studied here, there is no way I can measure how much I contributed to improve the current unjust conditions faced by them through my research — therefore, it would be dubious to claim it. The previous affirmation does not disregard research that has proven to be crucial for social change. However, I do not think that it can be claimed for my research given its design, and the impossibility of assessing its practical outputs beyond recounting what I did and how (as I discuss below).

Early during my PhD journey, I considered undertaking action research as a methodology that would allow me to contribute to social change through my academic work. Action research refers to 'practice-based research' which "implies a process of people interacting together and learning with and from one another in order to understand their practices and situations, and to take purposeful action to improve them" (McNiff, 2013, p. 24). However, I found several space, time and budget limitations that made me dismiss that idea. As a researcher settled in the UK and studying cases in Colombia, those limitations became greater. While availability of sophisticated online techniques to undertake action research online is increasing, I did not find them very useful for my research. First, because I was keen to work with community leaders who may not be that familiar with technology. Second, if I had tried to overcome this technology barrier either through finding accessible participatory tools online or getting support from researchers in Colombia, that would have involved a considerable amount of time, planning, and money that exceeded my capacity as a PhD student. While all that felt overwhelming, especially during the Covid-19 crisis, I came to the conclusion that it was not sufficiently worthwhile for the reasons I explain below.

As a person who had previously worked with community organisations, I was clear that researchers could become a burden to those organisations. Leading by their research purposes without considering communities' ways of lives and circumstances, researchers could end up being overly demanding with the time and energy of community members. Some authors have used the term 'community fetishism' to describe the tendency of academics to unconsciously benefit from collaborators through exploitative relationships (Leal et al., 2021). Well intentioned participatory research workshops could be a perfect

example of it. Getting people involved in projects for a long time and encouraging them to participate and engage with the production of knowledge may be something that people with the ability to take time off from work or delegate caring responsibilities could do. However, this is not the case for many community leaders who may also not find in producing knowledge a priority for their community interests. Taking advantage of academic privileged positions to impose research agendas over community needs and interests could happen easily if community-researchers' relationship and tensions are not reflected upon from the beginning of the research. Instead, researchers should consider how to reconcile research and community work through relationships in which knowledge can be exchanged and both parties are equally giving and returning.

Without any intention of making general statements, I simply want to throw light on the fact that availability to collaborate in research projects by community members depends on their circumstances and personal context, which the researcher should be aware of. In relation to my case studies, two of my interviewees mentioned that there was a general distrust towards researchers requesting communities to participate in research. Both recalled previous experiences of researchers taking time and knowledge from the communities without providing anything in return (Interviews 1 and 8). For the sake of clarity, this does not mean that community organisations exclude any possibility of working with academia. As I explain in parts of the Thesis, legal clinics belonging to universities have worked with community organisations for several years in contributing to their mobilisation strategies. What I mean is that while community organisations value the work of academia, researchers must build trust and demonstrate that they can undertake research while contributing to community work — as opposed to undertaking research which sacrifices the community organisation's agenda.

Navigating the previous community and researcher tensions raised a number of questions related to my positionality as a researcher.[43] What type of observer would I be? What type of observer would I want to be? How would I separate my research work from my activist background? Would I be able to? How would my activist side respond to the previous

[43] Positionality in research refers to the researcher's stance in relation to the social and political context of the study and relate to the research participants. In this sense, a researcher may be referenced as an insider (a researcher who works for or is a member of the participant community) or an outsider (a researcher who is seen as a non-member) (Bolade-Ogunfodun et al; Coghlan & Brydon-Miller, 2014; Massoud, 2022).

tensions? As this is a researcher concern, should I ignore what my activist background shows me is the right thing to do? Would it be enough to describe myself as an activist academic? … In the end, all those questions converged in one — *how would I avoid becoming a burden to the community organisations I was keen to work with?* The answer was simple: "I won't be a burden if I become a resource". And that is what I sought to do.

4.1.2. How I did it

As a qualified lawyer with experience in research and activism including legal work, I sensed that I could be of some use for the community organisations I wanted to work with. I was able to offer support on legal matters, and networking with other community and legal organisations. A year before starting my fieldwork in Colombia, I developed a plan aimed at contacting community organisations that I identified as useful for my case studies. During a family visit to Colombia in 2020, I resumed contact with the community of La Playita with whom I had worked five years previously, and I started conversations with friends and colleagues close to the community of El Pacífico. I was lucky to find out that, at that time, both communities were connected with a group of lawyers who had been providing legal support for many years. It was a great opportunity for me.[44] First, because I was able to join a group of lawyers who had already built trust with the community. In those terms, for me to be accepted as a legal support and researcher by the community was facilitated if I was seen as part of the lawyers' groups. Second, it allowed me to join their legal work, which meant that I learnt of whatever they were working on and served as support, instead of bringing purely my own agenda. At the beginning, I listened and worked. Then I felt more confident to propose topics and strategies which were sometimes well received.

Overall, becoming a resource involved providing legal support to the community mobilisation strategies I have studied in this research work. Specifically, this role involved taking part in community decision-making meetings, gatherings with external actors (e.g., the local government), drafting, and co-writing and editing press releases, litigation and lobbying documents. I became a legal resource for their local campaigns, which added to their already established lawyers' support as mentioned above. This practical work was done

[44] I knew one lawyer supporting the Playita case, and I was put in touch with the Pacífico lawyers by a friend.

between mid-2020 —a year before undertaking my interviews — and mid-2022 when I was focusing on the writing of my Thesis.

The support I was able to provide to community organisations was delimited by their campaign plans taking place between mid-2020 and mid-2022 and their already established joint work with legal clinics. During that time, I found, in the community of El Pacífico, a vibrant organisation developing a number of mobilisation strategies demanding socio-spatial justice in the city of Medellín. This work was supported by grassroot movements such as Tejearaña (a collective working on community's risk management and urban inclusion) and La Moradía (a collective of architects working on eco-design and bio-architecture), as well as the human rights and legal organisation Corporación Jurídica Libertad (CJL). Meanwhile, the community leaders of La Playita seemed less motivated. At the time of writing this chapter, they were still demanding protective intervention for the river La Picacha aimed at reducing the vulnerability of their neighbourhood and waiting for the compliance of a judicial order of resettlement. However, the strong focus of their campaign took place around 6 years ago when they mobilised in response to a flooding-related disaster in 2014 that triggered the resettlement judicial order. I found out that there were just three community leaders who were following the legal case (popular action and judicial resettlement order – see Chapter 7) with the support of the legal clinic of the University of Medellín. During the time I was in contact with them, few legal strategies led by the legal clinic took place as a response to the failure of the local administration to comply with the resettlement order.

In contrast, reaching the community leaders of the Colombian Caribbean Island of Providencia was a very hard task to achieve. To this day, I have in fact never managed to meet or speak to them directly. As I was not given official permission to travel to Providencia, I commissioned a lawyer who was already known by the Raizal people's leaders to undertake the interviews on my behalf. That was all that proved possible during the Covid pandemic. They accepted being interviewed once they were aware about my support towards their legal case. In February 2021, I learnt about a tutela action on climate displacement brought by the Raizal people with the support of the legal organisation DeJusticia. I considered this a very relevant case for my research as it was the first climate displacement case in Colombia.[45] In parallel, I was contacted by a friend leading the legal

[45] I mean the first legal case in which climate displacement is at the centre of the claims.

clinic of the Universidad de los Andes, who proposed that we work together on an amicus curiae to the Raizal legal case, which I accepted without hesitation. This matched my plans of offering my legal skills to the interests of the community I was keen to work with. I tried to contact the community leaders of Providencia through social media and emails but failed. I decided to contact them through the lawyers who worked on the tutela action, and I was surprised by the comment of one of them who said that she had been working for ten years with the community leader I wanted to interview, but she had never met in person. Their contact was always mediated by someone chosen by the community leader. I thought I therefore did not have many chances of getting an interview in those circumstances, so I asked the lawyer to put me in contact with the intermediary. With luck, I managed to get an interview with the community leader through the intermediary, who made sure she knew about my work in the legal case. At that time, the intermediary also mentioned that the community leader had refused to be interviewed for several months, as she was tired of researchers and journalists requesting interviews but doing nothing for the people of Providencia.

As described in the next section, I ended up being involved in each of the community's work in different ways. I was able to get more involved with the community of El Pacífico, in comparison to the community of La Playita and Providencia. I consider this was due to the vibrant and consolidated organisation of the community of El Pacífico, in comparison to La Playita. Additionally, as I had previously worked with communities facing urban and environmental problems in the city, it was easier for me to challenge the perception of an outsider UK researcher with urban organisations in Medellín, than with the Raizal people in Providencia. This is reflected by the fact that the Pacífico and Playita community organisations were open to receive my offer of legal support while I was backed by the academic and legal organisations they had worked with for years. I understood that I was perceived by the Raizal community of Providencia as an outsider, and I appreciated that I had little chance of becoming involved with them for reasons I explained above. Engaging with their support group — lawyers and mediator — was a way to overcome that limitation and being able to undertake my interviews while I contributed to their legal case. In what follows, I describe the external activities I developed in each community's case. Then, I discuss the way in which my practical work contributed to my PhD research.

4.1.3. What I did

Case 1. El Pacífico

I participated in planning and decision-making spaces, and contributed to mobilisation strategies:

i. **Meetings and sessions of the decision-making board Mesa de Atención y Recuperación del barrio el Pacífico (MAR).** As part of the 'Study Circle',[46] I attended 26 meetings between 2020 and 2022. During that time, our work was focused on:
    - Designing and implementing mobilisation strategies to address issues related to access to housing and disaster risk management.
    - Discussing the impacts of resettlement processes in the community organising and human rights of the families settled in El Pacífico. Discussions were addressed to identify and interpret legal mechanisms available and useful to demand: (i) permanency in their neighbourhood as a priority; (ii) relocation in situ as a last resort measure; (iii) a community census which included an intersectional approach; (iv) temporary housing subsidy until definitive housing solutions were offered.
    - Networking with academia and seeking opportunities of collaborative work with the legal clinic of the University of Medellín (which has supported the Playita case).
    - Following up the MAR discussions and making proposals in relation to demands and strategies. This was under the umbrella of the CJL motto "a good litigation strategy is one that does not take place" (Interview 1). The basis of our mobilisation strategy was to avoid legal action given the social risks faced by the community of El Pacífico.

[46] The 'Study Circle' was an interdisciplinary group of lawyers, engineers and sociologists who came together to discuss urban conflicts in the city of Medellín, and support mobilisation strategies of urban community organisations. I joined the 'Study Circle' as part of my case selection plan previous my fieldwork. For more info on this, see Chapter 3, section 3.5.2.

- Attending MAR preparation meetings and sessions. I attended 6 gatherings in which I played a role of external observer, while contributing with my legal knowledge when considered necessary.

ii. Lobbying

As part of the 'Study Circle', we co-wrote a speech, which was presented on November 4th, 2020, during a public debate session in the Council of Medellín. It addressed the violation of human rights faced by people living in informal settlements linked to their high vulnerability to the impacts of climate change and proposed legal and administrative solutions available to the local authorities. For the Pacífico case, we demanded the protection of the right to due process in which forced eviction of families settled in high-risk zones was banned as a response to informal land occupation.

iii. Freedom of information request (FOI) to clarify the legal situation of the families in relation to the access to housing subsidies. This involved:

- Drafting a freedom of information request aimed at collecting data on the due process undertaken by the local housing authority which led to the exclusion of 39 families from the housing subsidy, which was supposed to support people who had lost their homes in the flood disaster of September 2020.
- Quantitative and qualitative analysis of the local municipality response and classification of the data.
- Performing the role of a lawyer of the Pacífico community, a CJL lawyer and I met with the local housing institution to discuss measures to facilitate access to the housing subsidy for the families excluded (based on the data collected through the FOR). (Meeting with Isvimed, **18 May 2021**)
- During a community assembly, I shared conclusions from the previous meeting and the information collected from the FOI. I explained to the assembly what the law says in relation to their housing rights and the legal mechanisms available for demanding them (JAC meeting **22 May 2021**)

iv. Tutela action

In July 2021, the 'Study Circle' brought a tutela action to claim housing emergency subsidies and the fulfilment of humanitarian duties by the local administration. This involved designing and planning a legal brigade to collect personal information from the claimants. This was a coordinated strategy with the decision-making board (MAR), in which it was agreed that the MAR will address issues that have a collective impact in the community (such as disaster management works and relocation as a last resort measure), and the tutela action would address individual issues and concerns for the families who needed a refuge urgently.

v. Talk at the Corporación Jurídica Libertad (CJL) – 4 April 2022

I was invited to the legal organisation CJL to talk about ways to integrate climate change in their human rights work. I addressed the opportunities of introducing climate discourses in the organisation work from a human rights approach. Following this, the CJL hired one of the members of the 'Study Circle' who is in charge of integrating climate change as a transversal issue in their defence of the territory campaign.

Case 2. La Playita

Tutela action draft. In October 2021, I collaborated with the Legal Clinic of the University of Medellín in drafting a legal action claiming the protection of the right to housing in dignity, as the local authority — ISVIMED — breached the resettlement process agreements with the community of La Playita. The local authority decided unilaterally to exclude the community from the resettlement project they had participated in for several years, but with an optional payment for the right to be included again. This was in contradiction with the resettlement judicial order issued in the popular action (see Chapter 7, section 7.3.2). In May 2021, while I was doing my fieldwork in Colombia, I participated in a legal workshop led by the Legal Clinic aimed at collecting data and proofs for the tutela action. From 2014 until now, I have followed the popular action case and provided support when I can. I first became involved with the case as a student of the legal clinic of the University of Medellín, then as a legal support and activist and, finally as a researcher.

Case 3. Providencia

Amicus curiae, request before the Constitutional Court and third-party intervention in tutela action process. In February 2021, along with the Legal Clinics of the Universities of Los Andes and Medellín, I co-drafted an amicus curiae to the tutela action brought by the Raizal people with the support of DeJusticia. The amicus curiae alleged that the breach of climate adaptation duties by the Colombian authorities caused the destruction of the island of Providencia (following the pass of the hurricane Iota) and provoked the forced displacement of the Raizal people which violated their rights to housing in dignity and ancestral land.[47] In August 2021, as a member of the Reading Centre for Climate and Justice, I along with the previously mentioned legal clinics, requested the Constitutional Court of Colombia to review the tutela action brought by the Raizal people as their claims were dismissed in the first and second instances. The request argued that there was a need for the development of constitutional jurisprudence in relation to climate displacement, in order to address the violation of the rights to housing and ancestral land by the impacts of climate change.[48] Following the Constitutional Court acceptance to review the case, in December 2021, I presented a third-party intervention before the Constitutional Court to expose the violation of constitutional rights faced by those forcedly displaced as result of climate-related disasters, aggravated by the lack of legal regulation on the matter.[49] This legal case was covered by several media outlets in Colombia and reached iNews in the UK, for whom I provided an interview along with my supervisor (Director of the Reading Centre for Climate and Justice).[50] This media exposure also helped to raise the profile of the legal case, which the leader of the Raizal community were very happy about (as a member of their support group let me know in a WhatsApp message).

[47] *Huffington v Presidencia de la República y otros* (2021) Coadyudancia 88001310400220200004200 (Tribunal Superior de San Andrés).
[48] *Huffington v Presidencia de la República y otros* (2021) Solicitud de revisión T-8298253 (Corte Constitucional de Colombia).
[49] *Huffington v Presidencia de la República y otros* (2021a) Intervención Ciudadana T-8298253 (Corte Constitucional de Colombia).
[50] See appendixes 1 and 2.

4.2. How research into practice contributed to my PhD work and learning process

To navigate the question on how research into practice contributed to my PhD and learning process, I start reflecting on the ways in which research into practice shaped my research approach. The first word that comes to my mind when thinking on the first question is *immersion*. Research into practice allowed me to play a dual role of observer and participant in which I had the chance to observe in a more systematic and comprehensive way how community practices take place. Being immersed in mobilisation strategies allowed me to make more sense of the data collected in my interviews as it gave me context. Communities' discourses and frames identified in interviews reflected the way that communities gave meaning to their experiences, which I was able to comprehend once observing how the ways they organise and make decisions in relation to mobilisation strategies and frames work in practice. My practical work illuminated the opportunities and tensions among different mobilisation strategies, and how those shaped preferences of legal or non-legal strategies (see section 5.3.2 on Chapter 5 on principal and subsidiary mobilisation strategies). This is how I ended up realising that personal safety and social risks may play a preponderant role in defining one or another mobilisation strategy, including frames and claims.

Research into practice is a useful tool for 'framing analysis' research. While I tried to comprehend the way that communities gave meaning to their experiences in mobilisation strategies through framing for my research, an understanding of frames was also needed in order to properly include those in the legal documents I drafted. Playing the role of lawyer whose duty is securing justice for what communities want to claim in legal scenarios gave me hints on how communities see in the law opportunities but also risks that could be managed through strategic framing. This work also showed me how rights are interconnected in ways that I never paid much attention to before. The link between the rights to housing, a healthy environment and risk management in contexts of climate disasters is central to communities facing these experiences, although it is little addressed by the existing legal literature on human (im)mobilities linked to climate change. While legal studies on the matter are mostly concerned with the legal definition of people pushed to

move because of climate change, this practical work showed me that communities do not even identify with the climate migrant or displaced person classification, and instead *place* and *home* occupy their most pressing concerns.

Getting involved with the campaigns allowed me to observe interactions between the community and lawyers, social movements as well as contradictory forces such as the local administration. This was useful in two ways. First, I could appreciate power dynamics among actors defining mobilisation strategies. I could see how in one case the organised community was the defining actor in shaping the mobilisation strategies, in comparison to the other two in which lawyers played a more dominant role in choosing and defining frames in legal strategies. This brought reflections on how lawyers' roles could either be embedded in the community organisation or, alternatively could involve them behaving as external advisers who are mostly focused on legal issues (see Chapter 5, section 5.3.3). Second, I could observe the outcomes of developing resources in action. In Chapter 7, section 7.1 I explain how the community of El Pacífico undertake popular education (including a rights-based component) as an empowering tool that reduces power imbalances between them and the local authorities (). This resource allowed them to be regarded as equals in topics such as risk management by the risk management authorities, which has been very positive for their campaigns. The community was able to call for a decision-making board for the post-disaster recovery of the neighbourhood El Pacífico (the MAR), and they were consulted in the following official plans. The fact that the lawyers are seen as part of the community allowed the latter to be seen by the local authority as a community that knows their rights, so the authority cannot take advantage of a preconceived idea of vulnerability of impoverished communities living in informal settlements. In sum, research into practice allows an ongoing contrast between the theory and the practice. This interchange dynamizes the production of knowledge and it helps to identify gaps in the theory and bring to light a diverse set of interpretations. It also brings honesty to the research project.

While I found in research into practice a useful tool to return what I was given from the community — and while it contributed to my PhD research in a very positive way — it is only really a realistic option for researchers who have fairly easy access to the communities they want to work with. I imagine that this would not be a viable option for those who barely know the community they are interested in. It can, however, be one if proper time and resources are invested in developing relationships based on trust and reciprocity. I accept

that even for me, this involved a considerable amount of planning and executing which could become overwhelming while trying to research and write a PhD Thesis.

Finally, I think that without my practice experience, I could have risked ending up underestimating the agency of organised communities in creating and defining mobilisation strategies. I would probably have been unable to do justice to explaining what they do. If I had restricted my data collection to undertaking interviews or focus groups, I would have had a more limited understanding of the use of mobilisation strategies by those facing climate disasters. Without being immersed in the community work, I doubt I would have ended up discovering and reflecting on the issues discussed above.

Personally, I found in research into practice a source of inspiration, mostly during the most difficult moments of my PhD research (and with the ever-present background context of the Covid pandemic). Staying in close contact with communities and lawyers, maintaining ongoing conversations about opportunities and tensions in mobilisation strategies, experiencing the emotions of winning and losing when outputs of the mobilisation strategies came up has made this PhD journey something more than just producing academic knowledge. One of my greatest take aways is learning by experience that communities produce knowledge, a type of knowledge that arises from the context where they thrive. They offered me their knowledge while in exchange, I offered my academic expertise which was inspired in what I learnt from them. At the end, it was about exchanging instead of returning — a co-production of knowledge[51] — which I think is the most important part of integrity in research.

In this chapter, I have self-reflected on what it meant for my PhD work to undertake research into practice. I explained that at the beginning of my PhD journey, doing practical work was motivated by my activist background. Then, it became something bigger and more meaningful. It allowed me to exchange knowledge with the various case study communities,

[51] Co-production of knowledge theorises the ways in which scientific knowledge and social processes shape each other (Jasanoff, 2004), recognising the "unequal matrix of knowledge and power relations" sustained in the human and life sciences (Rodriguez-Medina et al, 2019, p. 565). Co-production has been used in the analysis of a range of disciplines, research topics and spheres of practice (Rodriguez-Medina et al, 2019). In legal studies, Lee et al (2018) use the co-production of knowledge framework to discuss how law "contributes to the shaping of knowledge, which in turn shapes law". In this Thesis, I refer to co-production in a research methods sense, focused on the collaboration between the community organisations and myself (as a researcher) to exchange knowledge reciprocally.

in which their understanding of the world helped me to interpret the theory with different lenses. This allowed me to identify novel variables of study and identify gaps in the theory. Overall, research into practice helped me to have a more systematic and comprehensive understanding of the use of mobilisation strategies by communities facing climate disasters. In the chapter I described the practical work that I did for each of the community organisations I worked with and discussed the opportunities and limitations that I encountered. Finally, I mentioned that research into practice was a source of inspiration for me in my long PHD journey, in which I was able to recognise that communities' production of knowledge enriches academic discussions in the same way that the latter can (and ideally should) contribute to communities' organising. In the following chapter, I analyse the opportunities and risks that trigger and constrain the use of legal mobilisation and explain what I call a 'risk approach to legal mobilisation' using framing analysis.

Chapter 5. A risk-based approach to legal mobilisation

In the previous chapter, I discussed how bringing research into practice shaped my PhD thesis. One of my main reflections was that my practical work of providing legal support to community organisations led me to specific research findings that would have hardly come up with conducting interviews or focus groups only. After having explained the path that helped lead me to my PhD findings, in this chapter I present those findings and discuss the contribution of my research to legal mobilisation theory. To recall, this case studies-based Thesis aims to explore whether communities experiencing mobilities or immobility in Colombia linked to climate-related disasters use legal mobilisation and why. I am particularly interested in the role that place-attachment and violence play in triggering (or constraining) the use of legal mobilisation. In order to navigate this, I explore how people experiencing climate-related (im)mobility in Colombia articulate claims through analysing the framing process in legal mobilisation strategies.

My intention is to illuminate internal factors that show what matters for people (i.e., ideas and values) as well as external factors that facilitate or constrain legal mobilisation. In relation to this later aspect, while most of the legal mobilisation literature has focused on the *opportunities* that trigger legal mobilisation and resources, little research has developed an analysis of independent factors that might constrain the use of legal mobilisation when opportunities and resources are a given. Certainly, the concept of *opportunities* refers not only to possibilities, but also to constraints and threats outside the mobilising group that influence mobilisation (Vanhala, 2010a). The same is true in relation to resources — a lack of resources may constitute a constraint. However, constraints and threats seem to be regarded as *limitations in relation to opportunities*, instead of self-sustained factors able to explain legal mobilisation. The opportunities approach is useful but insufficient to explain legal mobilisation, as there are constraint factors or risks at play influencing it, even when opportunities or chances to develop them exist. Like opportunities, risks are not objective structural features — those become constraints (or not) to legal mobilisation, once those are

identified and perceived as such by social movements.[52] On these lines, social movements assess potential personal safety and social risks in order to decide whether legal and political opportunities, and resources, are worth exploiting or not. My empirical research conducted in Colombia reveals that personal safety and social risks may shape strategy choice and claims-making processes.

In the light of the current hostile environment against social movements worldwide (Capstick et al, 2022), which in some countries translates in serious threats to the life and integrity of activists and social leaders, assessing the risks of legal mobilisation should be a matter of concern for legal mobilisation scholars. While threats and killings against land and environmental defenders (LED) continue increasing — In 2020 Global Witness reported 227 LED killed, in comparison to 185 killings reported in 2015 — (GW, 2015, 2020), legal mobilisation scholars have paid little attention to whether those violent practices against social movements have an impact on mobilising the law or not. This is a critical topic for climate litigation scholars. First, because climate action involves calling out those in power — governments, companies, and financial institutions — which undeniably gives rise to a number of risks. Secondly, because there is a growing global trend of social movements using litigation as a tool to advance effective action on climate change (Setzer & Higham, 2022). While previous work on legal mobilisation has mentioned the risks of backlash (Rosenberg, 2006; Cummings & NeJaime, 2010; Klarman, 1994), it has not systematically addressed the potential personal and social risks of undertaking legal mobilisation that might shape strategy choice. Little research has considered how risks of violence might impact the ability to take advantage of political or legal opportunities or the use and development of resources (Lemaitre & Sandvick, 2017; Chua, 2015). In addition to the limited analysis on personal safety risks, insufficient attention has been paid to the risk of materialising social risks through litigation. With *materialising social risks*, I specifically refer to the drawbacks of potential judicial orders that might exacerbate social vulnerability conditions. For example, claiming the implementation of climate adaptation plans could entail a judicial eviction order of entire neighbourhoods located in flood-prone areas. No one is keen to bring a legal case that would entail the sacrifice of their own home —for climate adaptation purposes — if home somewhere else is not assured. The identification of

[52] See Andersen (2005) for a discussion on perception of legal opportunities triggering legal mobilisation.

this risk by claimants and lawyers leads them to define frames and claims carefully. This means that the materialisation of social risks does not necessarily stop community organisations from claiming adaptation measures but does nevertheless shape the strategic development of frames and claims in legal venues. In simpler words, there could be judicial orders in which the cure could be (perceived as) worse than the disease.

My study is designed to remedy that weakness by discussing how personal safety and social risks shape legal mobilisation and exploring the implications for the LM theory – drawing on case studies of communities experiencing climate-related (im)mobilities in Colombia. I employ the theoretical framework developed by Vanhala in *Making Rights a Reality* (2010a) and use a sociological theory of institutions to account for whether and why communities use legal mobilisation. I focus specifically on the social movement organisational agency, and external risks shaping legal mobilisation. This is a useful approach able to uncover the way that internal factors shaping strategy choice (including framing processes) interrelate with external factors such as personal and social risks of undertaking legal mobilisation. Through this integrated analysis, I suggest that analysing potential risks of using legal venues is as relevant as opportunities and resources to explain whether and why legal mobilisation occurs. Empirically, this work also highlights the impacts of climate change on people from a place attachment perspective. It reveals how the intersection of climate change with pre-existing social vulnerability conditions are perceived and strategically framed in legal mobilisation. This is an approach that has been barely explored in legal literature looking at protection frameworks for people experiencing climate-related (im)mobilities. The current chapter begins with presenting findings and data before discussing how these are relevant to legal mobilisation theory. Then, drawing on a sociological institutionalist approach and framing analysis, I analyse internal and external factors shaping mobilisation. Finally, I discuss the need for integrating what I term *risk assessment of legal mobilisation* in order to understand whether and why social movements use the law.

5.1. General findings

My findings are similar to Vanhala's (2010a) in which she established that "groups are more likely to adopt a litigation strategy when their identity and framing processes define the membership primarily as rights holders and the courts as an appropriate venue within which

to pursue policy goals and advance other social movement agendas" (p. 32). Nevertheless, my empirical research differs to her work in two main aspects: (i) *rights holders definition* in framing processes is associated with a *sense of place* or *place attachment* — instead of identity — which makes likely the use of legal mobilisation;[53] (ii) strategy choice on whether groups turn to courts or not is mediated by an assessment of external factors such as personal safety and social risks, even when social movements ideational frames conceptualise themselves as *rights holders* who can in theory make legitimate claims to the State and other actors. This also chimes with the findings of Lemaitre and Sandvick (2017) who demonstrated that violent contexts do not necessarily exclude the use of legal mobilisation, but it has implications in terms of frames, resources, and perception of political opportunities. Unlike this work, I expand the scope of *violent contexts* to *chronic risk contexts*,[54] in which people face a number of social and environmental risks such as violence, poverty, and high vulnerability to climate related disasters. My findings show that highly vulnerable communities such as those living in urban informality and facing chronic risk contexts might see the outputs of legal mobilisation as a potential source of grievances (for example, an order of eviction which entails the loss of homes and community network). Therefore, assessing chances and risks may be important when deciding whether to employ a legal strategy or not.

Before explaining the contributions of my data to legal mobilisation theory, in the section below I present the main findings using framing analysis as a tool to discover people's perceptions of opportunities, resources and risks of undertaking legal mobilisation. The term 'frame' has been defined by Goffman as a "schemata in interpretation…[which] allows its user to locate, perceive, identify, and label a seemingly infinite number of concrete occurrences defined in its terms" (Goffman, 1974, p.21) . By giving meaning to occurrences and events, "frames function to organise experience and guide action, whether individual or collective" (Snow et al., 1986, p. 464). On this basis, I set out the different stages of framing articulation as the organising principle for presenting findings. I start describing the

[53] As I explain below, I use a place attachment approach instead of identity because I put the focus on the physical features that define human bond to places. I look at how human bond to places helps to develop logic of appropriateness and define rights holders, in order to explain legal mobilisation. Conversely, the emphasis on identity aspects to places refers to the way in which self-identities are expressed in given physical settings.
[54] The concept of chronic risk contexts refers to the multifaceted context such as poverty, unemployment and social violence that increase vulnerability to physical hazards or their effects and reduce resilience (Johnson et al., 2021, p. 31).

identification of the problem and attribution of blame in my three case studies (diagnostic framing). This is followed by presenting the identified solutions, strategies, and targets (prognostic frame). Finally, I outline the motivational frames that function as prods to motivate the community organisations to take action in my three case studies (motivational framing). In the following section, I analyse framing activity in order to explain the role that place attachment and violence play in triggering or shaping legal mobilisation.

i. Diagnostic framing: identification of the problem and attribution of blame

Identification of the problem refers to how participants perceived climate-related disasters[55] and whether someone is considered accountable for its impacts. In this empirical research made up of three case studies, 14 out of 16 participants articulated *climate-related disasters* as a combination of natural threats (extreme weather events) with *human-driven causes* (detailed in **Table 3** below) that pushed them to displace or resettle.[56] Perceptions of human-driven causes were accompanied by identifying various accountable actors. Although those can be classified in four groups (the Colombian State, criminal gangs, companies, and members of the community), none of them were considered *worthwhile* to raise a claim against (see analysis on *frame resonance* in the motivational frame section below).

Extreme rain and hurricanes were considered as *unprecedented* natural threats which required adaptation in place (Interviews 2, 6, 8, 10). In contrast, settlements in areas at risk, unequal development in cities, illegal land sale, pollution and failed adaptative responses to climate change by the State were perceived as dominant factors contributing to the disaster (See **Table 3**). Overall, all human-driven causes identified by the participants spotlight *problems related to place*, which means that *problems were understood on a place dimension*. When articulating how these factors played a role in the disaster, various participants accompanied their descriptions with perceptions of unfairness experienced by people living in areas highly vulnerable to climate risks. Some examples are:

- "**Discrimination** is what forces people to live in areas at risk" (Interview 9).

[55] The three cases analysed in this Thesis are related to communities using mobilisation strategies post-disaster.
[56] Although climate-related disasters could trigger different types of human (im)mobilities, displacement and resettlement were a matter of concern of the communities' subject of study.

- "People end up living in areas at risk because there is **little freedom** in choosing a safer place to settle in the city" (Interview 11).
- "It's unfair to being labelled as an **illegal settler** for inhabiting areas at risk" (Interview 3).
- "It feels like being an **immigrant in my own city** for inhabiting areas at risk" (Interview 4).

While there is a slightly different focus to blame in relation to the factors mentioned above, it could be argued that the materialisation of disasters is mainly seen as the manifestation of socio-spatial exclusion that makes certain places more vulnerable to climate-related disasters than others. One could argue that this dimension builds on a climate justice frame, which articulates climate risks in socio-economic considerations. Furthermore, it is important to stress that most salient factors to blame and actors are not necessarily voiced publicly by community organisations. Beyond the difficulties of reaching consensus on the primary cause of the problem (Snow & Benford, 1986; Vanhala, 2010a), there are personal safety and social risks to be considered in chronic risk contexts in order to decide which frames and claims are put forward (a detailed analysis will follow in the motivational framing section below).

5.1.1. Table 3. Human drivers of climate-related disasters

Human driven cause	**Subject to blame**
Being settled in areas at risk (Interviews 2, 3, 6, 11, 12, 14)	Community and new inhabitants who built houses in an area at risk.
	The Colombian State because of: • Lack of an integrated risk management and housing plan for informal settlements. • City development approach that increases inequality and spatial exclusion.

	• Lack of protection to internally displaced people linked to the war, in relation to access to housing.
Illegal land business in the top of the hill causing damage to vegetation. (Interviews 2, 3, 4, 11, 13)	New inhabitants buying land in areas at risk from criminal gangs.
	The Colombian state unable to stop new commers and criminal gang land illegal business.
	Non-state armed actors controlling the illegal land business in the area.
River pollution and waste disposal by people and mining companies (Interviews 7, 9, 11)	Community throwing waste into the river.
	The Colombian state failure to implement risk management works.
	Companies and criminal gangs involved in the mining business.
Failure to respond to the weather authorities warning about hurricane (Interviews 8 and 8a)	The Colombian state, specifically the national government whose plans for Providencia has historically dispossessed communities of their lands.
Climate change (Interviews 8 and 8a)	The Colombian state is obliged to implement adaptation plans in insular areas.

ii. Prognostic framing: identified solutions, strategies, and targets.

In my case studies, community organisations advocated for *place-based solutions* as they diagnose vulnerability to climate-related disasters as a manifestation of socio-spatial exclusion. Although the types of solutions and strategies differed in each of the cases, all coincide in one main target — demanding measures that allow people to stay or return

safely to their settlements (See Chapter 7). While, relocation was accepted as a last resort measure once risk mitigation was proven unfeasible by urban communities, it was totally rejected by the Raizal people in Providencia. In addition, whilst groups identified various actors accountable for the destruction of their homes and settlements post-disaster (see Table 3 above); a diverse set of political, educational and legal strategies were mainly directed to the fulfilment of the Colombian State duties in relation to urban planning, risk management and climate adaptation.

In Case 1, it was proposed to call for a decision-making board aimed at developing a post-disaster plan that would allow people to stay safely in their neighbourhood. The measures were focused on access to housing in dignity through risk management in-situ and socio-economic development. In Case 2, groups proposed the implementation of risk management works on the river La Picacha in order to guarantee the right to a healthy environment and access to housing in dignity of the community living next to the river. In Case 3, the Raizal community demanded a recovery plan for Providencia which included climate adaptation and the protection of the ancestral Raizal land (See Chapter 7 for more detail on mobilisation strategies). All mobilisation strategies were approached with a view to developing safe places affected by the disaster and avoiding risks of dispossession or uprooting. In my case studies, diagnostic and prognostic framing corresponds, as solutions are related to tackling the primary cause of the problem, which is socio-spatial exclusion in cities and insular areas of the country.

iii. Motivational framing: frame alignment and resonance

Frames are developed by social movements with the purposes of mobilising support and deterring antagonists (Snow & Benford, 1988). There is *frame alignment* which refers to the extent in which communities' interests, values and beliefs are congruent with communities' activities, goals, and ideology (Snow et al, 1986) and *frame resonance*, which is associated with the task of seeking to resonate among targets of mobilisation (Benford & Snow, 2000). While frame alignment reveals the core values of the community organisations, frame resonance is about selecting frames that might work instrumentally, as I explain below.

In my case studies, frame alignment is reflected in the use of the defence of the 'right to the territory' frame which most generally means a *right to a place to live in security and dignity*.

A shared characteristic among the three cases analysed is that calls to action to defend communities' collective and individual interests are rooted in the communities' interpretations of the human-driven threats to the places they inhabit. This call for action is framed in a way that represents communities' ideology and values, which relates to their understanding of the world, and therefore what is perceived as problems and the potential solutions. The *defence of the right to the territory* is an umbrella frame that is filled with meaning by the communities who use it. Each community used the right to the territory as a frame that allows them to bring together communities and allies for mobilisation purposes, but with different connotations. In the urban Cases (1 and 2), the right to territory is articulated as the right to housing in cities understood from an individual and collective dimension: the individual right to own a household, and the collective right to a safe neighbourhood in which environmental and climate risks are managed. This collective dimension also refers to the way in which maintaining community networks is perceived as a characteristic of a place to live in dignity. In the Providencia Case (3), the Raizal community perceives the right to the territory as their collective and ancestral land rights to the island of Providencia. As an ethnic minority, the human-driven threats to the island — including climate change — compromise the survival of the Raizal people. In sum, the right to the territory becomes a motivational frame that prompts communities to mobilise in its defence.

In contrast, frame resonance seems to be a more critical task. My case studies reveal that framing dilemmas go beyond the contestation and challenge of frames in interorganisational dynamics (Vanhala, 2010a). In the face of chronic risk contexts, resonance involves a compound task of convincing adherents and avoiding unwanted responses by accountable actors. For communities living in urban informal settlements in which governance is shared by non-armed state actors, frames are shaped in a way that those *do not sound* as an attempt to intervene with criminal gangs' territorial control (See Chapter 6). This is in order to avoid personal safety risks. As a response, communities and supporting groups have made use of *technical frames* which allow them to refer to the impacts of criminal gangs' territorial control on increasing disaster risks without causing confrontation from these groups. In Case 1, instead of referring to the illegal sale of land in areas at environmental risk by criminal gangs that contributed the flood disaster of September 2020, the community deliberately decided to frame it as a problem of 'damage to vegetation' at the top of the mountain. In

Case 2, the role of criminal gangs in the mining business was deliberately avoided and the focus was instead on the environmental authorities' duties in controlling pollution levels at the river La Picacha.

Technical frames fulfil two purposes here: (i) avoid pointing to an accountable subject who might respond with threats and intimidation against community members, in both cases criminal gangs; and (ii) direct the accountability to the state resulting from its scarce presence in the area. Given that technical frames lack an emotional or ideological content to convince adherents and deterrents, rights frames were used to fill that gap. Rights frames seem to be perceived as acceptable by non-state armed actors and resonate among other social actors (Chapter 6). In this sense, the right to the territory umbrella frame is filled with content of legally recognised rights such as the rights to housing, healthy environment, risk management and ancestral land. The language of legally recognised rights is useful to hold actors accountable, especially to demand the fulfilment of state duties. But how does the conceptualisation of rights holders occur? And therefore, how do rights frames evolve? Does the use of rights frames make the use of legal mechanisms more likely? These questions are addressed below.

5.2. An agency approach to explain legal mobilisation

Building on sociological-institutionalist theory, I analyse how external forces such as personal and social risks are interpreted by social movements in their framing activity in order to explain mobilisation strategy choice. This analysis reveals that place attachment plays a role in shaping the *definition* of *rights holders*, and therefore makes likely the use of legal mobilisation. However, strategy choice is mediated by an assessment of risks in legal mobilisation.

The sociological theory of institutions has traditionally looked at the influence that institutions have in their members' behaviour. According to this approach, individuals tend to accept and make their actions conform to the dominant collective values as members of a group (March & Olsen, 1984). Although this might sound like a one-off deal, the relationship between individuals and their groups is dynamic and interrelated. Applying this theory to comprehend individual's agency to shape social movements, Vanhala argues that while 'logic

of appropriateness' has been used to describe the way that institutions shape individual behaviour, the notion should be combined with an "understanding of the power of meaning frames within organizations" (Vanhala 2010a, p. 30). This means recognising an individual's likelihood of accepting, but also their agency to transform, the values of institutions. The author highlights the relevance of looking at external forces such as the multiorganizational field – or social movement networks – which, according to her, influence strategy choice (Vanhala, 2010a).

In an illustrative analogy with populations of biological organisms, Vanhala (2010a) explains the impact of the environment in the interaction and survival of organisms, which relates in a similar way to how social movements cooperate and compete among themselves. Applying this analogy to my case studies, you could argue that interaction can occur among the same type of organisms, but also with organisms of different species. In fact, survival could be threatened by the presence and influence of the latter. Social movements emerge and make decisions in a context in which other organisations exist, other social movements with which they can cooperate or compete, and the potential presence of adversaries. In a way, the environment in which adversaries' practices take place – either enabling subordination of social movement actions or the contrary, providing advantages to social movements to thrive – is a key definer of social movement strategy choice. Looking at the risks that adversaries' practices pose to social movements, as well as guarantees provided by governments to enable social movement activity is necessary to understand strategy choice. To address this in detail, in the next section I explain framing activity in chronic risk contexts.

5.2.1. Framing analysis in chronic risk contexts.

As mentioned above, chronic risk contexts refer to contexts in which communities face a number of adversities, such as disaster risk, poverty, violence, unemployment and so on that increase social vulnerability, and therefore reduce resilience (Johnson et al., 2021). These multi-faceted contexts, that will often seem irrelevant for studies on social movements in the Global North, are fundamental for comprehending how social movements take action in the face of several co-existing vulnerability conditions. While chronic risk contexts may be predominant in Global South countries, it does not disregard the fact that some of these adversities are also faced by some social movements in the Global North. Chronic risk

contexts have implications in the development of frames and the deliberated decision on which frames are worth advancing and being voiced. For example, for social movements operating in violent contexts, assessing the potential negative impact of taking action and voicing certain frames on the interests of non-state armed actors seems like a sensible thing to do (e.g., criminal gangs' accountability in increasing climate vulnerability of communities in informal settlements). Furthermore, for local communities facing high levels of poverty, assessing potential risks of worsening their current situation through mobilisation is a must.

But how are chronic risk contexts perceived and reflected in the framing activity of social movements? The previous section on main findings revealed that climate-related disasters are understood in a social dimension, which means communities associated the disaster with human-driven causes. Those triggers were specifically related to place issues. This perception is intrinsically linked to the human bonds to place, which becomes a meaningful setting from which human emotions and identities arise. In addition, it has to do with how people give meaning to the way in which human activity defines the characteristics of a place.

The previous ideas give hints on the different conceptualisation of place, depending on where the focus is put. While place identity refers to individuals' expression of their self-identities in the form of organisation or use in a given physical setting, place attachment's "emphasis is on the physical features that play a role in the formation of those bonds" (Devlin, 2018, p. 10). My empirical research uses place attachment as a lens to understand legal mobilisation instead of place identity. The social dimension of the climate-related disasters arises not from the aspects of the individuals in a setting, but instead in the features of the place (defined by human activity). Chronic risk contexts derived from living in an informal settlement or an island shape the way that people give meaning to their experiences. The fact that physical and political aspects of certain places put people at a higher risk of harm in comparison to others may define people's perceptions of justice.[57]

Linked to the above, place attachment has explanatory power to bring forward the reasoning behind risk toleration, underestimation and mitigation by people facing chronic risk contexts (Johnson et al., 2021). In places where several risks combine, people tolerate

[57] Quinn et al (2015) develops this aspect in relation to place attachment and the perception of climate change as an imposed harm.

the more manageable of all the various risks. Risk management by local communities helps to develop human bonds to places at high climate risk. There is community work and organisation addressed to provide themselves with a safe place to live in order to tackle the impacts of socio-spatial exclusion, for example through Convites[58] and popular education. This is a collective work that allows communities to develop a bond to places at risk, in which those places become meaningful and deserving of care and protection. In this sense, there is not necessarily a logic of appropriateness related to the identity of the members of the community. Instead, it is associated with belonging to a place. A community is formed by those who belong to a place and from this basis, community values are developed, challenged, and transformed in order to determine the relevant community course of action.

Collective organising aimed at educating communities on the physical, social, political and legal features of the place they inhabit, accompanied with the frequent work of lawyers is a response to socio-spatial exclusion that have helped to develop community rights consciousness. Legally recognised rights which are broadly known and used by communities become referenced to develop meaning frames that encompass the way that they construct their experience.[59] The disadvantaged position in society is articulated as socio-spatial exclusion, which is re-understood in meaning frames that express place inclusion from a rights dimension. The right to the territory is an umbrella frame that encompasses community values and collective and individual legally recognised rights (which are given a collective dimension such as the right to housing). This also involves a shared vision of community autonomy to be able to make decisions on the destiny of the place they inhabit — the basis of place inclusion.

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[58] Convites is a concept used by community organisations in Colombia to describe 'a gathering of community members to achieve a single goal. This can be a public project, like a road paving, or the construction of a sewer line. Or it could be a private goal like building a roof for a family house (Samper, 2017). Popular education refers to autonomous and self-education projects designed and directed by community organisations aimed at learning about any aspect of community's interests, for example, community risk management, human rights and legal mechanisms, food sovereignty, etc. Popular education sessions may involve conferences with members of the community or external partners or workshops. These are called 'Popular Schools'.

[59] See Taylor (2020) for a study on Colombians' high levels of use of the legal system (through the tutela action) despite there being profound scepticism of the ability of the judiciary to provide justice. The author explains that legal consciousness leads citizens to be sceptical about the positive outcomes of tutela actions, while it also conduces them to perceive other options as less favourable.

Now, does the use of rights frames implicitly align with the use of strategic litigation, as the courts are the primary concerned institutions with the enforcement of rights? In principle, yes. In this case is clear that the social model understanding of disasters — in opposition to the natural model in which disasters are considered natural events — gives rise to emergent rights such as the right to the territory interpreted through legally recognised rights. In this sense, ideational frames conceptualise communities as rights holders (Vanhala, 2010a). However, my research work shows that rights definition does not lead straightforwardly to legal mobilisation, as there are also risks which need to be assessed in strategy choice.

The presence and dominance of risks in legal mobilisation can be identified looking at the difference between rights consciousness and rights framing in the case studies. In principle, place attachment has implications in developing rights consciousness as an implicit understanding of the world through a rights lens. It also shapes the way that framing alignment is developed, as rights frames are developed in relation to the defence of the human bonds to place — the right to the territory, which refers to various legally recognised rights. In this line of thinking, you could argue that rights frames define a logic of appropriateness that might suggest legal mobilisation as a viable method to seek social change. Nonetheless, framing resonance in chronic risk contexts is a critical task that might change the direction of action, or shape frames and claims differently in legal mobilisation.[60] As mentioned previously, framing resonance entails not only convincing adherents and sceptics, but also avoiding personal safety and social risks that could materialise if certain frames are voiced. In this sense, frames are deliberately created to fulfil the purposes of convincing the community and the public beyond it,[61] as well as avoiding the materialisation of those risks. Place attachment could lead to the use of legal mobilisation as it influences rights consciousness and frame alignment, but this needs to be mediated by an assessment of risks when deciding which frames and claims are put forward publicly.

[60] I refer here to legal mobilisation in a 'narrow sense', which means turning to Court in an explicit and self-conscious way (Lehoucq and Taylor, 2019). See Chapter 3, section 3.1 for an explanation on legal mobilisation from a narrow and broad sense, and the legal mobilisation approach I used in this Thesis.
[61] The first one for motivational reasons and the other more for achieving social change.

5.3. Risk assessment to legal mobilisation

This empirical research brings to light the fact that seeking social change through legal mobilisation could entail risks. Individuals and institutions may be reluctant to take advantage of opportunities and resources available to them, if the risks of doing it are too high to bear. Social movements[62] can face a different range of risks associated with several factors. The environment in which social movements develop and act determines which risks are more present and dominant. Therefore, identifying risks and their influence on social movements' decisions is necessary to understand strategy choice. As mentioned before, although a risk approach to mobilisation might seem more relevant to the analysis of social movements in chronic risk contexts, social movements in industrialised liberal democracies face risks too – for example the rise of digital repression of social movements in countries like the United States and the United Kingdom (Earl et al., 2022). Some legal studies have also looked at the risks of backlash in litigation (Rosenberg, 2006; Cummings, 2010; Klarman, 1994; Vanhala, 2010a) and the use of legal mobilisation in authoritarian regimes (Chua, 2015). In order to explore further the discussion on risks of undertaking litigation, my PhD Thesis identifies two dominant risks that define strategy choice for social movements: personal safety risks, and social risks. Those risks are associated with three determinant factors: (i) adversaries' practices; (ii) the application of the law as a potential source of grievances; and (iii) political and legal guarantees to social movement activity.

Adversary practices refers to potential responses to social movement activity by opponents. Seeking social change necessarily triggers opposition from those who benefit from maintaining the status quo. In most cases, these are groups or institutions in powerful social positions able to deter social movement activity. This counterinfluence could occur in many ways, while remaining rather complicated to predict the specifics of adversaries' responses to social movements action. Nonetheless, considering adversaries' practices in the environment in which social movements are embedded, gives hints on the legality (or not) of their potential responses. Based on how adversaries operate, social movements could expect civilised responses addressed to deal peacefully with differences and conflicts. Or, on the contrary, violent responses might be anticipated if there is a previous record of

[62] As stated in my methodology chapter (Chapter 3), the term social movements and community/community organisations are used interchangeably throughout this Thesis.

intimidation, threats or punishment against a social movement's activity, for example when social movements operate in environments controlled by non-state armed actors.

In contrast, responses to legal mobilisation within legal boundaries do not necessarily mean that those are legitimate. For the case of governments with a track record of human rights violations for example, enforcement of the law could be used to deter social movement action. For people facing chronic risk contexts, enforcement of the law is not always desirable. The application of the law could help to address some social problems, while concurrently increasing social vulnerability conditions of those in a disadvantaged position in society. In this sense, turning to the courts requires the assessment of social risks, as judicial orders could become a source of grievances. Calling for climate adaptation by communities living in informal settlements could trigger an order of forced eviction for families located in areas at high climate risks, which is a burden no one wants to bear. This does not mean that people in this situation are less likely to call for climate action. Instead, it reflects the fact that potential legal but illegitimate responses by governments to people's claims needs to be addressed when deciding strategy choice in order to manage or avoid those responses. This is necessarily linked to guarantees to social movement activity, as I explain in what follows.

While guarantees to social movement activity might look at the assurance that certain social and political conditions are in place to allow such activity, political and legal opportunities (PO and LO) focus on the structural and contingent features that make political and legal systems open or closed to collective action. Whilst PO refers to the openness of the political system in terms of access to administration, and receptivity of political elites, LO includes features related to access to justice and judicial receptivity (Hilson, 2002). The current focus on the structural and contingent features of the political and legal system seems implicitly to presume the existence of measures in place assuring social movements' activity will be free from harm or intimidation, which is not the case in many Global South contexts. In simpler words, it seems that the PO and LO approaches are drawn on the basis of *given* guarantees to legal mobilisation. This presumption could be misleading as it might lead one to dismiss the difference between availability and potential access to opportunities and resources, with the actual ability to take advantage of those opportunities and resources. My empirical research shows that this difference is fundamental as it brings to light other factors that might define strategy choice such as risks. As explained above, risks are interpreted as self-

sustained negative constraints to legal mobilisation, instead of constraints emerging from the absence of positive factors, such as opportunities and resources. Based on this I argue that risk assessment in strategy choice shapes the way in which opportunities and resources are used. Below, I build on three relevant findings of this PhD Thesis to unfold this argument.

5.3.1. The role of social movements in creating political opportunities

This work shows how social movements use educational, political, and legal mobilisation methods to overcome their disadvantaged position in society, and therefore facilitate their access to administration. In this sense, social movements may play a role in making the political system more flexible to collective action and finding ways to become valid counterparts to decision-makers — including through legal mobilisation. Bringing this analysis to chronic risk contexts reveals that facing several social risks does not necessarily have implications in social movements' ability to transform the political system in which they are embedded. In contrast, chronic risk contexts might bring limitations that shape the scope of social movement activity, which is reflected in their frames and claims. The presence of criminal gangs does not necessarily define whether social movements are allowed to organise or not, but rather the areas or topics they are *allowed* to fight for. In this sense, communities may use political opportunities while they deliberately exclude any frames or claims that could impact criminal gangs' operations. This is a cautious task in which challenging the boundaries of shared governance among communities, criminal gangs and the government is generally avoided in mobilisation strategies. These place disputes which might need place solutions are strategically framed and claims are addressed to transform and adapt the physical features of the place, instead of challenging power disputes taking place there. Based on this, one could argue that in this case chronic risk contexts do not necessarily define the type of strategy (i.e., legal mobilisation, political lobby, protests, etc.) as either of them could come about, but they define frames used within legal mobilisation strategies.

5.3.2. Legal mobilisation: a versatile mechanism

This empirical research chimes with legal opportunity studies arguing that the use of legal mobilisation is likely when there are LOs available. It establishes that litigation could be used

as a principal or subsidiary strategy depending on whether political strategies — which are typically considered less confrontational and resource-draining — are more promising than legal strategies. When political strategies fail, litigation may be used as a subsidiary mechanism to pursue community demands. Nonetheless, legal mobilisation can also be used to create political opportunities. In the Picacha case, bringing a lawsuit against the municipality of Medellín raised the attention of the latter and allowed the community to become a more valid counterpart in political settings (See Chapter 7). Although there is a confrontational element in litigation, this still could be used as a strategy to get closer to people in power. The pressure of putting the final decision on a dispute in the hands of a judge might lead to the reaching of an agreement out of court, allowing social movements to be heard by state political institutions. Needless to say, legal mobilisation could be regarded as a versatile mechanism when there are good LOs in the form of easy access to courts and judicial receptivity.

Although legal mobilisation is a useful mechanism for social movement activity, taking advantage of the availability and accessibility of LO involves assessing the potential risks of legal mobilisation. As explained above, the case of communities living in chronic risk contexts brings forward how the difference between what is legal and what is 'just' becomes a matter of concern for communities turning to the law. In these complex contexts in which the legal systems might be unable to provide justice to the people, judicial orders might become a source of grievances. This empirical research shows that realising the potential negative outcomes of litigation does not necessarily imply rejecting it as a viable mobilisation mechanism, but rather it shapes legal frames.

A clear example of this is provided by the informal property rights of communities living in informal settlements and on the island of Providencia. In a legal system in which you are entitled to a home and a piece of land if you hold a property right, informal occupants and communities whose property rights rely on non-written ancestral titles, fighting for their place in the legal system may, in theory, seem less attractive. However, judicial 'stock' (Evans Case & Givens, 2010) on the recognition of the collective and ancestral property of islanders' communities by the Colombian Constitutional Court made litigation a more viable mechanisms to dispute the right to the territory post-disaster, in comparison to urban communities in informal settlements. On this basis, it is unlikely that there would be a

judicial decision ordering the relocation of the Raizal community out the island of Providencia in order to protect them from the impacts of climate change.

In contrast, for urban communities who occupied informally urban areas at high risk of climate- related impacts, a judicial decision ordering eviction to protect communities from the impacts of climate change is very likely. In chronic risk contexts, the impacts of climate change are just one of several risks that people face. Access to housing and public utilities is often a more pressing concern. In this sense, strategy choice needs to consider the implications of legal mobilisation for those living in informality in order to decide whether this mechanism may end up becoming a source of grievance or regret. My urban case studies revealed that communities used legal mobilisation with an understanding of its limitations, which were reflected in their frames and claims. In this sense, legal mobilisation was used to address certain topics, while excluding others. Litigation claims touching on communities settled in areas highly prone to floods were avoided in order to prevent a judicial order of eviction. There were fears that the judge would not protect communities' claims to stay in flood prone areas located in an informal settlement. That fight seemed more promising in political scenarios. Instead, litigation was focused on relief measures post-disaster such as housing benefit subsidies in temporary accommodation —building on the right to housing in dignity in disasters— while addressing issues in relation to long-term risk management strategies, climate adaptation of areas at risk and the right to stay through political rather than legal channels. There was also a deliberate exclusion of criminal gangs' responsibility in the flood disaster in order to avoid judicial interference in criminal gangs' business. In El Pacífico case, criminal gangs' control illegal land business in the neighbourhood. This business has given place to several massive constructions at the top of the hill — some are located by the river La Rafita— which has increased communities' risk vulnerability. In La Playita case, criminal gangs' mining business involves regular discharges of sand and rocks in the river La Picacha. In both cases, criminal gangs' practices clearly contributed to the occurrence of the disaster. Any type of interference in their business could entail personal safety risks for community leaders. In sum, strategy construction is determined by perception of personal and social risks that could be materialised through litigation.

5.3.3. Lawyers as organisers

My PhD Thesis shows that while lawyers and resources contributed to the decision of turning to the Courts, lawyers' work seems to be embedded in the community organising activity. Instead of being limited to an external source who provides legal services, the role of lawyers goes beyond legal support in specific litigation strategies and contributes to strengthening community organisations' activity through legal education. This also facilitates people's understanding of the world through legal lenses, which therefore has implications in the high levels of rights consciousness by organised community groups. In this scenario, lawyers play a role as organisers who are also experts in legal issues. Having this dual role as lawyers and organisers is useful for strategy choice decisions. The use of legal expertise in non-legal strategies such as lobbying, or protests is a key definer of how those strategies are developed. In addition, lawyers are fundamental to assess personal safety and social risks posited by litigation. Understanding the law in chronic risk contexts allows the use of litigation in a way that risks are managed and avoided when possible. The fact that lawyers are very familiar with processes of community organising allows them to have complex understanding on the application of law, and how to do so appropriately when using litigation as a strategy.

This data analysis chapter shows that a risk approach to mobilisation strategies has explanatory potential to comprehend why and how legal mobilisation occurs. Drawing on the sociological theory of institutions, I explained how framing processes interrelate with external factors such as personal safety and the social risks of turning to the law. Using a framing analysis approach in this work allowed me to identify place attachment and violence as useful additional variables to explain legal mobilisation. This analysis method permitted the unveiling of what matters for people in mobilisation strategies, as well as the discovery of new ways to analyse traditional variables explaining Legal Mobilisation. Social movements may make choices within the limits of the risks they are able to bear. In this sense, interpretative frames are challenged or renegotiated in response to chronic risk contexts. As traditionally argued, meaning frames are determined by values and organisation norms; however, those frames are not necessarily the ones voiced or used in the end. Frames are carefully developed to mitigate risks in chronic risk contexts (e.g., seeking climate adaptation using hazards frames that do not touch on illegal land business controlled by criminal gangs).

A risk assessment approach to legal mobilisation unveils the relevance of differentiating between frame alignment and frame resonance in chronic risk contexts. Frames reflect the core values of the community organisations in the form of the 'defence to the right to the territory' (frame alignment) and how those work instrumentally with the purposes of convincing adherents as well as avoiding violent responses by accountable actors (frame resonance). Focusing on place attachment helps one to comprehend the development of rights consciousness, and therefore the likelihood of using legal mobilisation. In other words, place attachment defined organised communities as rights holders which makes likely the use of legal mobilisation. As explained in the section 5.2.1, the community work and organisation aimed at developing a safe place to live through community risk management have facilitated the formation of a bond to places at risk. Those places become meaningful and deserving protection. The community organisations find their foundation on tackling socio-spatial exclusion. Through popular education processes which involve, among others, learning about community risk management and rights, communities have developed rights consciousness in relation to the place they belong. However, strategy choice is mediated by an assessment of personal safety and social risks. Those risks are associated with adversaries' practices, enforcement of the law as a potential source of grievance and regret and guarantees to social movement activity which refers to political and social conditions that enable social movement activity free from harm and intimidation.

In certain circumstances, the risks of legal mobilisation are too high to bear, and these deter or shape legal mobilisation, even when opportunities and resources are a given. This marks the difference between availability of opportunities and resources, and the actual decision of taking advantage of them. Being aware of this distinction allows one to bring to light the role that risk assessment plays in exploiting opportunities and resources, and therefore in legal mobilisation. While risks to legal mobilisation could be perceived as a deterrent, it is a factor that explains not only whether legal mobilisation is a viable strategy or not, but also how frames and claims are developed and voiced. This work unearths an unexplored topic in legal mobilisation, which is judicial orders as potential source of grievances. Finally, this works reveals that legal mobilisation is a versatile mechanism. Although litigation seems to be regarded as a confrontational mechanism, it could also be used to create political opportunities and get closer to decision makers. In addition, lawyers can play a role that goes beyond litigation matters and see them become community organisers. This dual role is

key for undertaking risk assessment tasks, as the application of the law could become a source of grievances.

Although this empirical research focuses on the context of communities experiencing climate-related (im)mobilities in Colombia – a country in the Global South – the findings could be applied to many other contexts. In principle, this work shows the relevance of chronic risk contexts in explaining legal mobilisation and challenges the widespread belief that personal safety risks for members of social movements are merely associated with disruptive protests (Carey, 2006; Davenport et al., 2005; Opp & Roehl, 1990). However, it is clear that even social movements in liberal societies in the Global North, which are typically in a more privileged social position, are not necessarily themselves free from risks such as surveillance, online repression, public shaming, etc. The legal mobilisation theory has focused on the aspects that facilitate LM such as opportunities and resources or constraints in the form of the lack of opportunities or resources. However, there has been little attention to self-sustained constraints such as personal safety and social risks that might stop legal mobilisation or shape it in certain ways, whether opportunities and resources are present or not.

The findings of this work on the relevance of looking at risk assessment in legal mobilisation studies trigger further questions that need to be resolved by legal mobilisation scholars. Is the confrontational nature of legal mobilisation a factor that could trigger physical threats against those using it in certain circumstances? Is legal mobilisation seen as a 'non-disruptive' mobilisation strategy, therefore more tolerated than for example, direct action? Does analysing risks have explanatory potential to unveil legal mobilisation trends? These are some of several questions on the risks of undertaking legal mobilisation that legal scholars are yet to analyse in a comprehensive and systematic way. This a must for climate litigation scholars, as climate cases can easily touch on the accountability of the most powerful and influential companies and governments in the world, but also territorial conflicts with non-state armed actors as shown in this Thesis. This situation may entail a number of risks for social movements undertaking litigation that should no longer be ignored by climate litigation scholars. In the next chapter, I develop a detailed analysis on how place attachment and violence shape legal mobilisation in my three case studies. This discussion is complemented by the following chapter which brings an integrated analysis of

the traditional variables that have explained legal mobilisation, including a risk-based approach.

Chapter 6. Complex risk assessment in legal mobilisation. Analysis of the variables of place attachment (PA) and violence

In the previous chapter, I presented and analysed my research findings, and explained what I call a 'risk-based approach' to legal mobilisation. This new approach to analyse legal mobilisation builds on the analysis of the risks faced by communities highly vulnerable to the impacts of climate change, which are also reflected when using the law as a mobilisation strategy. I argued that while legal mobilisation studies have developed a rich literature on the opportunities and resources that trigger legal mobilisation, previous work has not specifically addressed the assessment of personal safety and social risks that social movements face when deciding mobilisation strategy choice.

Furthermore, while there is plentiful interdisciplinary discussion on the link between justice and place (Agrawal, 2022), most legal studies on climate-related (im)mobilities disregard an understanding of place, and instead tend to focus on international migration linked to climate change. Human mobilities and place dynamics are re-shaped by climate change, but little legal research has been done on this latter aspect. Shifting the approach to a localised comprehension of place dynamics in contexts of climate-related disasters brings insights on people's undertanding of their experiences, and whether the law is used to give meaning to them. This also draws on the importance of re-signifying *place* as opposed to the dominant interest of academics on *migration.* In the words of the scholar Arturo Escobar:

> (…) scholarship in the last two decades in many fields (geography, anthropology, political economy, communications, and so on) has tended to deemphasize place and to highlight, on the contrary, movement, displacement, travelling, diaspora, migration, and so forth. Thus, there is a need for corrective theory that neutralizes this erasure of place, the asymmetry that arises from giving far too much importance to "the global" and far too little value to "place" (Escobar, 2008, p. 7)

While western social movement theory has explained social action drawing on identity struggles in Europe (Koopmans, 1995), or class struggles in the U.S (McCarthy & Zald, 1977), Latin-American social movements are deeply determined by the place/territory to which they belong (Torres, 2016). Classified as 'socio-territorial movements',[63] territorial struggles are not limited to the indigenous, black or peasant land conflicts, and include the demands for the 'Right to the Territory' in cities by urban communities.[64] This aspect — which is analysed in this latter work — is scarcely addressed in western social movements and climate litigation literature.

As discussed in the literature review chapter, Political Opportunities (PO), Legal Opportunities (LO) and Resource Mobilisation (RM) are relevant and necessary but not sufficient to comprehend why groups or social movements turn to legal mobilisation.[65] The opportunities approach and RM debates are clear in differentiating between the existence of mobilisation opportunities and resources (whether in legal or non-legal scenarios) and their actual use by social movements (Vanhala, 2010a). For instance, ideology and values might be defining factors for turning to the law or not (Hilson, 2002), no matter the opportunities and resources available. This discussion raises important questions in relation to how social movements respond to the mobilisation possibilities available to them in their context. As the inquiry in the previous chapter put it, even though undertaking mobilisation is defined by opportunities and resources, what about *risks*? Are there any risks associated with taking legal action? If so, which are those risks? Would a risk approach, like the opportunities

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[63] Socio-territorial movements are rooted in communities' autonomy values in which the fight for the right to territory rests on controlling and deciding the use of the territory they inhabit (Torres, 2016).

[64] As the Right to the Territory and the Right to the City were used interchangeably by participants, in this work those two are used as synonyms. The Right to the City refers to the *demand* to 'create an alternative urban life that is less alienated, more meaningful and playful (…)' (Harvey, 2013). The right to the city discourse has been enriched by urban social movements struggles which have reshaped the qualities of the daily urban life, while resisting neoliberal capitalism (Harvey, 2013). For this research, this concept is understood as a counter-discourse that encompasses alternative approaches to the city in opposition to the political and economic systems that have made life more precarious in urban areas (Harvey, 2013). It is not considered as a legal discourse as it has not been recognised by the Colombian legal system.

[65] As explained in the methodology chapter, the use of legal mechanisms or legal mobilisation in this work refers to the invocation of formal mechanisms. Formal mechanisms encompass any legal mechanism – either of judicial or non-judicial nature – stipulated in the Colombian law or the international law adopted by the country. In this sense, I adopt a *narrow approach to Legal Mobilisatio*n in which law is understood as an external factor that is used in an explicit and self-conscious way (Lehoucq & Taylor, 2019). This narrow perspective allows one to differentiate the concepts of legal consciousness, legal framing and legal mobilisation and therefore be better placed to make causal explanations of whether and why people invoke formal institutional mechanisms (Lehoucq & Taylor, 2019).

approach, have explanatory potential to help us to comprehend the use of legal mobilisation? To continue addressing these questions, below I use the variables of place attachment (PA) and violence. These two variables allow one to address social and personal safety risks, which were pivotal in mobilisation strategy choice by the community organisations analysed in this empirical research.

This chapter is divided into two main sections. In the PA section, I examine whether place attachment defines communities as *right holders* and how. I specifically look at the way in which PA relates to the understanding of the 'right to housing with dignity' in contexts of settlement informality. I start by analysing place attachment in relation to areas highly exposed to climate risks and seek to explain the understanding of those risks as socio-spatial exclusion by the local communities. I argue that comprehending exposure to climate risks in a social dimension helps to define communities as right holders. Nevertheless, for communities impacted by climate-related disasters, it might lead to legal mobilisation only if social risks of undertaking legal action are more bearable than climate risks. Needed to say that risk assessment is not only relevant when deciding whether to undertake litigation or not. If litigation is chosen as a viable mechanism to take collective action, there is an assessment of risks in relation to the frames put forward.

In the section on violence, I use two hypotheses to address whether personal safety risks define legal mobilisation or not. Hypothesis 1 analyses whether ideology control by criminal gangs through violent threats exists and, if so, whether it defines mobilisation strategies. Hypothesis 2 relates to the way in which criminal gangs shape place dynamics and human (im)mobility in informal settlements, and whether violence influences claims-making processes (including frames) and how. I conclude with an analysis on the relevance of looking at *complex risk assessment in legal mobilisation*, which addresses the constraints social movements face, in contrast to opportunities and resources. In the following chapter (Chapter 7), I analyse the role that Political Opportunities (PO), Legal Opportunities (LO) and Resource Mobilisation (RM) (independent variables) play in triggering LM (the dependent variable). I then dedicate a further chapter to discussing the opportunities and limitations of climate frames in the framework of climate litigation studies.

6.1. Place attachment (PA) in legal mobilisation

As explained in my literature review chapter, place attachment is a useful lens for analysing people's meanings and emotions in relation to a specific setting (O'Neil & Graham, 2016). For this research work, it means that PA allows me to understand how people facing climate-related (im)mobilities give meaning to their experience. In this chapter, I argue that place attachment could help to define people as 'right holders' because it expands the content of the right to housing to a collective dimension.[66] But how does it happen?

According to Carvalho and Cornejo (2018), place attachment is embedded in each of the elements that compound the right to an adequate housing established in the UN Committee on Economic, Social and Cultural Rights (CESCR).[67] The interrelation between place attachment and the right to an adequate housing implies the comprehension of housing from the subjective processes of dwelling — regardless of the technical risks and insufficient infrastructure of the inhabited places (Carvalho & Cornejo, 2018). Along similar lines, Miloon (1997) advocates for a holistic approach to adequate housing which goes beyond the four walls and roof and integrates the *right to a place to live*. This means a *right to live in security and dignity,* currently under threat by the housing and land crisis across the world (Kothari et al., 2006; Miloon, 1997). In relation to deciding or being forced to move, place attachment does not necessarily stop people from moving — as many other determinants define that decision (Sterett, 2021) — but it could define demands on the replicability of communities' ways of life in the destination place (i.e., habitability and cultural adequacy) in order to guarantee the right to housing in dignity elsewhere.

However, categorising someone as a 'right holder' is not necessarily conclusive as to them undertaking litigation; that decision is also mediated, inter alia, by an assessment of personal safety and social risks — along with opportunities and resources. In a context of informal land tenancy in areas at risk of climate-related impacts, technical risks of floods (for example) are just one among many other difficulties that communities face. The lack of

[66] Beyond the property rights over a household, a collective dimension refers to the right to a safe neighbourhood in which environmental and climate risks are managed, as well as nurturing community networks.

[67] Those are: Legal security of tenure, including legal protection against forced evictions; Availability of services, materials, facilities and infrastructure; Affordability; Habitability; Accessibility for disadvantaged groups; Location and Cultural Adequacy (UN-ESCR, 1991).

recognised property rights over their land linked to poor housing affordability are assessed when deciding about undertaking legal mobilisation. In this situation, there are considerable chances of judicial or administrative decisions that end up worsening current social vulnerability conditions. For example, a judicial order of forced evacuation may be justified on the lack of property rights and the 'illegal' occupation of areas at risk of disaster.

Place attachment helps to understand people's risk perceptions and decisions in relation to moving or staying in the face of climate-related disasters. I also mentioned that place attachment allows the understanding of the right to housing from the subjective process of dwelling (which disregards the geographical or climate risks of certain areas). In this scenario, the concept of *chronic risk contexts* is useful to describe the different social risks that communities in areas exposed to climate risks face, such as poverty, informality, discrimination, etc.

I argue that place attachment might trigger the use of legal mechanisms because it shapes rights framing while expanding the concept of the right to housing to a collective dimension. However, the gap between legal framing and legal mobilisation in chronic risk contexts is necessarily mediated by an assessment of social and environmental risks, and communities' ability to manage them. In that sense, I start examining whether place attachment might help to define communities as *right holders*, which may involve a certain logic of appropriateness in terms of using formal institutions to advance rights claims (Vanhala, 2010a).

In chapter 2, I also argued that place attachment is a relevant variable because the community organisations in this empirical research could be categorised as socio-territorial movements in which the territory/the place where they belong is central to their practices, struggles and demands (Fry, 2020; Rivera Flórez et al., 2020). I draw on the basis that the way in which communities experience *place* shapes their understanding of climate-related disasters and (im)mobilities in a *social dimension*. Comprehending vulnerability to climate and environmental risks in a *social model*,[68] —in opposition to a *natural model* in which disasters are associated with a natural event — helps to explain the process of developing

[68] This draws on Vanhala's (2010a) work in which she affirms that the process of rights consciousness of disability activists can be explained as the *evolution of the paradigm of disability,* which shifted from the *medical model* to the *social model*. This means a shift from focusing on curing or treating impairments to a shared experience of exclusion which was articulated as *discrimination* (Vanhala, 2010b).

rights consciousness. In other words, I argue that the articulation of vulnerability to climate change as *socio-spatial exclusion* by those inhabiting highly vulnerable places to climate change means that there is a consciousness raising process that places grievances in a *social model,* in which someone should be accountable for the sources of the grievance.

In my case-based Thesis, the socio-spatial exclusion experience is articulated in a rights dimension, which encompass legally recognised rights such as the Right to Housing in Dignity, and emergent rights for urban settlers such as the Right to the Territory.[69] In what follows, I explain the way in which communities give meaning to the place they live, and the link with the *rights framing* used in community organising and collective action. I then discuss whether the use of rights frames makes the use of legal venues more likely. I analyse this aspect by considering risks that turning to the law might pose for communities living in informality.

Climate-related events could cause grievances in relation to: (i) forced displacement for those unwilling to move; (ii) 'trapped populations'[70] at heightened risk of being harmed; (iii) 'resisting communities' who decide not to move, no matter how high the level of climate risks;[71] and (iv) communities choosing to migrate but without a guarantee of collective resettlement. In all these situations, grievances could arise via an understanding of the disaster triggering (im)mobilities as a 'human-driven disaster' as opposed to a 'natural event'. In any case, regardless of the type of human mobility or immobility, there is typically a human bond to the place where people dwell. In this sense, place attachment is a factor that defines how the (im)mobilities linked to climate change are given meaning, and whether and how rights frames are used or not.

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[69] In Colombia, the Right to Territory is a constitutionally recognised right exclusively in relation to ethnic groups. See *Alvaro de Jesús Torres Forero v Autoridades Tradicionales de la Comunidad Indígena Arhuaca* SU-510/98 (Corte Constitucional de Colombia).

[70] There are several factors that influence migration decisions; international migration for instance, requires 'substantial social, economic and human capital' (Foresight, 2011). Given that migration relies principally on economic status, those who cannot afford it are likely to be trapped in locations at risk of environmental disruptions (Foresight, 2011).

[71] This refers to the communities who refuse to migrate, even if they have the resources to do it. This situation encompasses the decision of remaining in their territories as a result of: (i) the lack of promising housing solutions or resettlement processes by the government; (ii) the lack of trust in the State's resettlement processes or housing solutions; (iii) the sense of belonging to their spaces becomes a moral obligation to stay, no matter what resources or solutions are offered by the government.

6.1.1. Urban case studies: El Pacífico and La Picacha

In my urban case studies, it was consistently found that for those experiencing climate-related (im)mobilities, vulnerability to environmental and climate risks is articulated as a shared experience of socio-spatial exclusion. The quotes below are taken from interviews with community leaders of neighbourhoods impacted by flood-related disasters:

> We didn't want to live next to the river, we live there because the [Colombian] state, the [Antioquia] department and the municipality [of Medellín] have ignored the situation of forced displacement due to the war in the country. We haven't been supported by any authority (Interview 11, Case2).

> We know that we're located in a high-risk zone. We know that! But we also know that we live there because we don't have another option (Interview Case 5, Case 1)

> I've said this many times … this zone has been discriminated … discriminated against by the State. I guess that once we leave this place, the local authorities will finally show up to build a retaining wall, an ecological park, and beautiful flats … They would do that once we've left because we're not upper-class, because we're poor, because we're nothing to them … If this is all about being located in a high-risk zone, tell me … where is the shopping centre Los Molinos located? Where is the shopping centre Éxito Niquía located? Go and have a look and check whether those are located in the zone of influence of a river! (Interview 9, Case 2)

> There is natural phenomenon able to put us in a threatening situation, but what threatens us the most is the city development model, which is completely disconnected from nature … This development model and political decisions expose us to risks. This is important to take into account when reflecting on climate change issues. (Interview 6, Case 1)

> I've talked to many people who built their homes next to the river who said "I don't have a home; I have to build my home with wood pieces … What else can I do? ... I was living under a bridge" And I said to myself "How am I going to tell them not to build their homes there… I can't". (Interview 12, Case 2)

From the prior quotes, you could draw the conclusion that being settled on a floodplain of an urban area is a constrained decision in the face of the limited options to access safe housing elsewhere. In cities, people are highly exposed to climate risks because of socio-

spatial exclusion dynamics. As a response, communities organise and undertake community risk management actions through Convites[72] in order to make their neighbourhood more resilient to the impacts of climate change (see Chapter 7). There is also a collective construction of the neighbourhood aimed at providing themselves with the public services that the government have failed to guarantee, such as aqueduct and sewerage infrastructure, and access to electricity. As explained in the literature review chapter, people are attached to places at disaster risks because of people's ability to cope with those risks, in comparison to other social risks such as unaffordability of housing or utilities in the planned areas of the city (Johnson et al, 2021). This context gives initial insights on why people settle in and develop a *sense of place* to areas at environmental or climate risk.

This means that place attachment defines — in a way — how risks are assessed and framed. In an example, the interviewees quoted below refer to the fact that *being at risk or living in a risk zone* has been an excuse for the Government to deny access to housing and utilities:

> Without risk management, there is no access to utilities, neither housing nor guarantees to remain in our territories … I mean the excuse to deny housing improvement is because it's located in a risk zone; the excuse to deny access to public utilities is because homes are located in risk zones; the excuse to deny land ownership titles is because homes are located in risk zones. This is why this is a crucial topic to address for us. (Interview 3, Case 1)

> El Pacífico is monothematic. El Pacífico demands access to housing. That's it! Why are they interested in risk management? Because being located in risk zones has been an excuse to disregard their housing demands. People in El Pacífico don't give a shit about anything related to risk management, environmental determinants for land planning, or similar. They care about their homes and the self-construction of their neighbourhood. In this way, addressing risks is important in relation to access to housing. (Interview 2, Case 1)

> This neighbourhood was built and developed by the community. The municipality did not intervene, because they said that we're in a risk zone. (Interview 11, Case 2)

[72] See an explanation of Convites in the section below on communities' responses to disasters.

> We refuse to lose our homes. In my case, I prefer to clear up my flooded home every week or every 2 weeks, instead of leaving my home with my belongings without knowing where I'm going to unload them. (Interview 5, Case 1)

These interview extracts also show that although disaster risks are a central concern for communities living in informal settlements, risk management disaster is relevant mainly for its impact in facilitating or impeding access to socio-economic rights, principally the right to housing in dignity. The habitability aspect of the right to adequate housing in relation to disaster risk management is an important element to address as it might ensure access to housing — an increasingly relevant issue in the current climate crisis.

Therefore, it is fair to suggest that communities *re-understand their disadvantaged position in society on a rights dimension* (Vanhala, 2010a, p. 52), as their experience of exclusion is articulated into rights framing. In my urban case studies, the shared experience of spatial exclusion in cities is articulated as the Right to the Territory, in which the right to housing (legal frame) is at the core of collective movement demands. The *Right to the Territory* frame encompasses community's demands for a *Right to a Safe Space to Live* in which risk management is central to tackling socio-spatial exclusion. Along these lines, the Right to Housing, and Disaster Risk Management, become the central values that inspire community organising for the *Defence of the Territory*:

> Our motto is the right to live with dignity in our territories … The defence of our territories and the integral improvement of our neighbourhoods is the umbrella, and the two main topics are the defence to the right to housing in dignity, and the right to public utilities. Everything is framed by the integral improvement of our neighbourhoods. (Interview 3)

> [The organised community have two main claims]. The individual claim of access to housing, and the collective claim of the guarantee of a safe neighbourhood though risk management. (Interview 6)

For those living in informal settlements, the experience of spatial exclusion is mediated by the dominant view of *illegal settlers* in the city. As people are not legally allowed to settle in areas at environmental risk, the government response to the gradual informal land occupation of those areas is usually eviction. Those who ended up living in high-risk urban areas because of forced displacement due to the previous, wider Colombian armed conflict

or looking for better opportunities in the city have no other option, but neither any right to settle there. In this context, communities rarely benefit from access to affordable housing in non-risky zones or development of safe spaces to live. This situation creates deep territorial inequalities in the city and explains why *neighbourhood legalisation* becomes a central claim by the communities living in informal settlements. [73] For community leaders, neighbourhood legalisation means access to public expenditure to develop their neighbourhoods and therefore, access to the city benefits and related rights such as adequate housing and utilities. As one of the community leaders puts it:

> The municipality does not recognise us as a barrio (official neighbourhood). So, what do we fight for? We fight for neighbourhood recognition and legalisation. We fight for the rights that any citizen is entitled to. (Interview 13)

Neighbourhood legalisation means *social inclusion.* Another community leader compares it as "being rewarded with the US Visa". (Interview 4)

These case studies show that attachment to places at climate risk implies collective efforts to adapt it to climate change with an aim of transforming a risky area to a safe place where people can live in dignity. In other words, the self-construction of neighbourhoods in the face of state absence shapes the way in which communities are attached to the places where they live and the way they give meaning to it. The defence of the territory is a frame to demand social inclusion and an umbrella that encompasses a claim to guarantee constitutionally recognised socio-economic rights, such as the right to housing in dignity, potable water, and electricity. On this basis, place attachment defines communities as right holders. The interviews quoted showed that there is a rights consciousness in relation to grievances faced as result of climate-related disasters. In addition, the interviews allowed for the identification of rights frames used in community organising and mobilisation strategies.

6.1.2. Island case study: Providencia

[73] For communities who informally occupied land and managed to develop — more or less — consolidated settlements, neighbourhood legalisation means achieving an official declaration of the formality and legality of their neighbourhoods. Under this declaration, they are entitled to public utilities, risk management, green spaces, construction of roads, etc.

For the Raizal people living in the island of Providencia, territorial inequality and social exclusion are represented in the historical dispossession of their ancestral land. In a way, the lack of preventive action to protect Providencia despite the alert raised about the potential impacts of the hurricane IOTA in 2020, was seen as an intentional omission to consolidate land dispossession on the island:

> Duque [the Colombian president] knew that the impacts of the Iota hurricane would be devastating. The TV meteorologist warned him "Mr. President, if I were you, I would evacuate Providencia because a monster is coming". The mayor of Providencia told me that Duque did not warn him. If we had known in advance, many homes would not have been lost. There is a Raizal technique to respond to hurricanes which consists in using high-quality ropes to secure our houses from the floor to the ceiling. No one did that because everyone thought the coming hurricane was insignificant.
>
> We know that the Colombian government does not like the Raizal people. They don't agree with the Raizal ancestral ownership of their lands. They only care about finding new ways to systematically dispossess the Raizal territory (…) we feel unsafe, and we know our land is being sold. People who came from Colombia to settle and buy land here are consolidating the dispossession of the Raizal people territory — this is what they wanted to do long ago. (Interview 8)

This interview was undertaken a few weeks before the start of the 2021 hurricane season, and most of the Raizal people remained in tents post-disaster. At that time, people had to decide whether to face the risk of staying on a destroyed island and face the consequences of a coming hurricane in greater levels of vulnerability or move away. However, moving away would involve the risk of losing their land with no guarantees of returning. There were several reported cases of non-Raizal people taking advantage of the disaster and buying ancestral and collective land for a pittance:

> People fear foreigners grabbing their land. We responded by submitting several freedom of information requests to clarify land property issues. (…) Many people in Providencia do not have a land property title. (Interview 15)

The government also resumed development projects previously suspended due to the lack of agreements in prior consultancy processes. While the hospital, school and most of the destroyed houses had not been rebuilt by the time of the interviews, the government

managed to build a military coastguard base in just 120 days, a project suspended since 2015 (Interview 8). The Raizal leaders call it a 'dispossession plan':

> They have a strategy! They have a plan to dispossess our land. Miss (xxx) calls it a 'land grabbing plan', which begins with the construction of the coastguard station. This is a new attempt to take illegal possession of our lands, which will be followed by several other projects. (Interview 8)

In this case, place attachment is easily identified (in comparison to urban communities) as the Raizal people are a long-standing ethnic group with deep ancestral roots on the island of Providencia:

> Each person here has an attachment to the land they occupy, and there are people who refuse to leave Providencia, even if another hurricane comes. I'm one of them! (…) The people who were born in Providencia want to die in Providencia. Although I don't know where I'm going to die, I'm loyal to my land, my family and many people who are members of the Veeduría (citizen watchdog Old Providence). I know no one is going to leave. Everyone will try to find a home here (…) I truly believe that the 4000 people who remained in Providencia after the hurricane will stay, because the government was trying to move people away the island for free. (Interview 8)

> I understand place attachment as an identity issue. (…) The term *raizalidad* is a response to the colonisation project experienced by islanders in Providencia. The *raizalidad* arises to protect the community settled in the island, protect them from the construction of the port, the policies aimed at destroying the creole language, the Raizal culture and identity. Place attachment is related to our history. The Raizal is a community who have faced systematic dispossession. (…) People say, 'I won't leave Providencia'. It's not only about attachment to their piece of land, but also attachment to their people. Many people have refused to leave. They refuse to believe that they will be displaced by climate change. (Interview 15)

In other words, the Raizal people are who they are because of the place where they are settled. Beyond the physicality of the island, this is a place where their history and culture belong – an ancestral land that has been defended for hundreds of years from the Colombian people (as they see it in terms of their relationship with those who have colonised them). The long struggle for their land makes it difficult to leave, even considering their high awareness of the vulnerability of the island of Providencia to climate change. This correlates with the Raizal people's understanding of the omission to prevent the hurricane-

related disaster in 2020 as a way of consolidating land dispossession on the island (noted above). Therefore, in this case vulnerability to climate-related disasters is understood as a human driven situation too, in opposition to a natural explanation of the events. There is also an awareness of climate change as a human driven crisis, in which the Raizal people are facing the worst consequences (Interview 8). Specifically, vulnerability to climate risks is articulated as an experience of socio-spatial exclusion, related to the inequalities in peripheral areas of the country where ethnic minorities are settled, in which socio-economic rights are scarcely guaranteed. Colombian black communities call it *structural racism*, in which the state is almost exclusively present in the form of the military. Although socio-spatial exclusion is experienced differently in comparison to urban communities, it is still articulated in a rights dimension:

> In 1994, they were planning to build a coastguard and a mega tourist project. We opposed that, calling for a public hearing and sending a letter to the Colombian president Samper. He came by and understood that we stood in the defence of the right to our territory. He stopped the project (Interview 8).

It is important to note that the Right to the Territory of ethnic minorities is constitutionally protected in Colombia. The Political Constitution of 1991 values and recognises the relationship between ethnic groups and their ancestral territory. In this case, the right to the territory relates to the recognition of the Raizal people's ancestral land in response to the colonisation project (De Albuquerque & Stinner, 1977).

> Colombians colonised us! They came here to destroy our roots, our ancestry, our mother tongue, our culture. We have fought for more than 40 years against the systematic dispossession of our territory. We won't allow Colombians to do in Providencia what they did to San Andrés. This fight has involved several battles against the Colombian state and their foolish pretentions. We have brought lawsuits, lawsuits, and more lawsuits until we reached the Constitutional Court, and achieved the constitutional recognition of the Raizal collective and ancestral territory of the department of San Andrés, Providencia y Santa Catalina Islas. (Interview 8).

In this sense, grievances resulting from the Iota disaster are understood in a social model in which someone should be accountable for the impacts of the hurricane. It is articulated in a

rights frame, which cannot be detached from the historical defence of their land. This might be the reason why people generally refuse to be called a climate displaced person, although they did use that frame in the legal strategy (see Chapter 7). In the forthcoming chapter, I explain that Raizal people's refusal to be labelled as climate displaced persons draws on their desire to stay in their land, which has been their historical struggle. However, using the climate displacement frame in litigation was perceived by the lawyers as an opportunity to escalate the case for the review by the Constitutional Court. In the legal case, claims were addressed to the implementation of climate adaptation measures aimed at protecting Raizal's ancestral territory and the protection of the right to return in safety. Like the urban case, attachment to place has been framed as the Right to the Territory. For the urban communities this is an emerging human right, in comparison to the islanders whose right to the territory has already been legally recognised by the Constitutional Court (as mentioned earlier). Nevertheless, this case study shows that place attachment is articulated in a rights dimension, as an entitlement to the place where people belong.

6.2. Ability to cope with disaster risks and legal mobilisation.

In this section I start explaining communities' ability to cope with disaster risks as opposed to other social risks they face, which determine their responses to climate related disasters. This is in order to explore whether the use of legal mechanisms is among their responses and is considered as a viable option or not. Consequently, I analyse the way in which outcomes of legal strategies could involve exacerbating already existing social vulnerability conditions. In Chapter 5, I describe the role that risk assessment played in strategy choice, and in defining the framing and claiming stages of the legal actions undertaken.

In the literature review, I refer to urban planning and psychology studies explaining place attachment to dangerous environments on the basis that people tolerate disaster risks in the face of many other difficulties they experience. What is called *chronic risk assessment contexts* by urban studies refers to the social vulnerability conditions that increase vulnerability hazards, which is a useful concept to comprehend how people respond and assess disaster risks (Johnson et al., 2021). It allows one to comprehend that living in areas exposed to disaster risks is a deliberate decision in which these risks could be more bearable and manageable than social risks, such as unaffordability of housing elsewhere.

The urban case studies analysed here are an example of a community's ability to cope with disaster risks in the face of state absence. Community risk management plans and works have been part of the self-construction of neighbourhoods in informal settlements, which could not occur without *collective action* (Samper, 2017). This community work has been possible thanks to the *Convites*. *Convites* is a community autonomy practice consisting of gatherings of members of the community in an informally occupied area for the provision of utilities, infrastructure and housing that have been neglected by the State (Velásquez et al., 2019). Through *Convites*, communities clean the rivers, undertake risk management works and build retaining walls, sewer lines and aqueducts if needed,[74] as an interviewee explains:

> Between 10 and 20 people gather and visit the impacted area. Last Sunday (when the disaster occurred), we did a *Convite* to clean the river after the disaster just in case it rains again. So, the water can flow freely, and in this way, we prevent the occurrence of another disaster. (Interview 5)

Convites, as a type of community organising is the result of communities self-managing urban spaces (Purcell, 2014) in which they become a 'parallel institution of governance' to respond to the scarce State presence (Samper, 2017). Coping with climate risks involves collective efforts to develop a safe and habitable territory in the face of a lack of official risk management works. This develops a sense of community autonomy which is their best resource to meet their collective needs and manage climate-related disaster risk:

> We know the State has duties in relation to the community, although they won't respond as we expect. (…) This is why we created the Popular Autonomy School. We believe that community autonomy and collective support is the only way to respond effectively to risks in our community context. (Interview 2)

Community autonomy arises from a conflictual relationship with the State, whose presence is not always desirable:

> Several social organisations say it loudly: '*with the State, without the State and against the State*'. We mobilise in those three scenarios. We don't trust the State, but if we have to work with them, we will. For example, the MAR [the decision-making board created post-disaster] is a community exercise developed *with the State (…).* We understand we don't have financial

[74] References to this in Interviews 4, 5, 9, 12.

> muscle to deal with certain things, but we also understand that 70% of this city has been built like this [informally] (…) The history has shown us that working without the state is more efficient (…) It's nonsense to trust in an absent state, or a state that gets in the way. State absence is better if state presence means taxes, military presence and several situations that do not help to overcome health, housing problems and similar. (Interview 2)
>
> We defend community self-management and autonomy as the basis for talking to the State. (Interview 6)

As Samper (2017) puts it, 'informal communities depend in their self-governance structures more than on state institutions'. Communities have self-built their neighbourhoods and develop a place to live with dignity, which has been systematically denied by the state. The story of collectively developing their territory helps to explain communities' attachment to these places in which climate risks are more manageable than social risks. This is expressed by the fact that, regardless of having faced disasters that considerably destroyed their neighbourhood, community organisations refuse to move elsewhere. In their mobilisation strategies they demand permanency, and the implementation of risk management works that allow them to stay.[75] Resettlement was considered as a last resort measure, only for those located in non-mitigable risks areas of the neighbourhood. Leaving their home is seen as self-destroying something valuable they have worked for over many years. An interviewee, referring to the risk management authority plan to demolish his home because it is located in the floodplain said:

> For me, demolishing my home means being defeated. If they force me to demolish my home, I will come back and assume the consequences. I can't, I cannot demolish my personal wealth. (Interview 5)
>
> People want to stay, obviously! Leaving their home is chaotic. It means losing their social and organising networks, their neighbours, being close to the centre of the city … because resettlement processes usually take place even further in the periphery of the city. Ninety-nine percent of the people want to stay. (Interview 3)

[75] Resettlement was considered as a last resort measure in the urban cases. In Providencia, there was an absolute refusal to be resettled.

6.3. Analysis on complex risk assessment and social risks

As noted above, informal settlements are occupied by people who do not have a right to settle in areas at risk or conservation zones, as those are located in floodplains. The State's response to people informally occupying those areas is usually eviction, as this is what planning, risk management and police laws establish. In this context, assessing chances to remain in their neighbourhood thorough legal mobilisation strategies involves looking at what the law protects and values. For those living in informality with no property rights over their occupied land, using legal mobilisation strategies could entail the risk of a judicial decision ordering the complete evacuation of all the families in the neighbourhood, even forcibly. Although judges should avoid taking any orders that could worsen a claimant's situation, in this case, an abrupt evacuation order justified under the protection of the right to life in the face of high climate risks could worsen already existing social vulnerability conditions.

On the one hand, an order of eviction is against everything the communities have fought for, which is the right to the territory and the right to housing in dignity (Interviews 1, 2, 3, 6). In both urban cases, there was a lack of trust on the local government resettlement processes which has historically been executed forcibly in the city (Antioquia-Minnesota, 2015), and the community refused to be exposed to the risk of being evacuated from their homes, with little chance of buying or building another house somewhere else. This differs from the Providencia case, in which potential social risks of using legal mechanisms are not that relevant. This rests on the fact that the collective land ownership of the Raizal community is recognised constitutionally as is their autonomy as an ethnic group. Judicial stock in the form of recognition of the Raizal ancestral land ownership make it less likely for them to receive a judicial decision that could materialise social risks.

Therefore, using legal mobilisation might be seen as a high risk to bear when there are not enough guarantees in the legal system. Legal venues might not be a promising scenario for collective struggles, such as seeking community energy autonomy or community risk management to ensure staying in a neighbourhood located in a risk zone. The collective decision of living in an area at risk or connecting electricity illegally — justified under the

unaffordability of public utilities is a decision that might not be well perceived by the judge.[76] However, giving meaning to their struggles in legal frames is important for community organising. The law could also serve those collective aims in which the State is considered as a needed actor in a post-disaster scenario and where urgent attention is needed. This explains organised communities' pragmatic approach to the state, articulated as "with the state, without the state, and against the state" (Interview 2).

The situation described above brings the question on whether rights articulation develops "an implicit consensus on the use of strategic litigation" (Vanhala 2010a, p. 53). The Pacífico case shows that rights framing might lead to litigation, but only once risks of undertaking legal mobilisation are assessed. Assessing risks does not necessarily lead to avoiding using legal mechanisms, but it instead shapes frames and claims that are made. In Chapter 7, I explain the legal mechanisms used in the cases analysed and the way the organisations deliberately excluded certain topics and strategically used certain frames (and not others) to avoid social risks.

6.4. Violence

In this section I argue that evaluating personal safety risks in contexts of violence shapes the use of legal mechanisms. Risks of physical attacks do not necessarily lead to ruling out a turn to legal mobilisation, but it shapes the way in which communities use it; namely the issues raised in legal venues, and the way that legal frames and claims are defined. This argument draws on two different hypotheses. *Hypothesis 1* draws on the broader context of high rates of killings and threats against community leaders, activist and environmentalists in Colombia. *Hypotheses 2* refers to the way in which the presence of criminal gangs shapes place dynamics and human mobility in informal settlements. Consequently, I discuss the way in which both scenarios shape the use of legal mobilisation in my case studies.

As violence is expressed in many ways by different actors, I specifically focus on situations in which there is a presence of non-state armed actors that partially control geographical areas

[76] Given the difficulties of keeping illegal electricity connections and the aim of achieving communities' autonomy, in the barrio El Pacífico, the organised community with the support of Movimiento Laderas have been working in a project called "Energetic Autonomy for the El barrio El Pacífico". This project was aimed to use the water flows of the river La Rafita to produce electricity for the neighbourhood. The project was suspended after the flooding occurred in September 2020 that destroyed 25% of the neighbourhood.

and might impact the way in which communities mobilise and influence strategy choice. In this sense, my analysis is limited to the personal safety risks that contexts of violence pose to communities in informal settlements. The Providencia case is not analysed in this section as threats of land dispossession are not related to the territorial control of criminal gangs, but instead come from foreigners seeking to appropriate Raizal collective land in irregular ways.

6.4.1. Violence in the informal settlements of Medellín

Although some scholars have demonstrated that there is not a direct correlation between living in informality with violence (Muggah, 2012; Samper, 2017), there is a tendency to assimilate violent urban areas with informal settlements in academic research (Angarita et al., 2018; Arias, 2019; Aricapa, 2005; Blake, 2013). Samper (2017) explains that this a biased assumption as criminal activity can as easily operate in the planned spaces of the city as in informal settlements. However, the difference lies in the challenges that informal settlements present in relation to the application of the rule of law, and the capacity of the authorities to govern effectively (Samper, 2017). In this scenario, it is easier for non-state armed actors to take advantage of informal urban areas to develop their activities and expand their coercive force. These are the same territories where communities experience high exposure to climate risks with lower adaptive capacity.

In the city of Medellín, criminal power structures[77] are distributed among various non-state armed groups or criminal gangs well-coordinated to control illegal economies (narco-trafficking, extorsion, illegal sale of land, etc) and in certain cases, regulate people's behaviour, or punish transgressions against their rules (MCV, 2019). The presence of non-state armed actors helps shape place dynamics — defining borders within the neighbourhood, appropriating land and community spaces illegally, and accepting or refusing new inhabitants in the area. In a number of my interviews, it was mentioned that families awarded with a temporary rent subsidy post-disaster were victims of threats or were refused

[77] This could be defined as 'the ability of an armed actor to coerce or co-opt people to abide by a set of rules in a specific urban area, is a relational concept profoundly influenced by the urban space' (Sampaio, 2019).

admission in the destination area by non-state armed actors (Interviews 1, 5, 6, 10). As one of the interviewees put it:

> In relation to the non-state armed actors, it is important to consider that moving is mediated by them. They are the ones who allow or refuse your entrance to a neighbourhood. They've refused people in the destination areas. This is relevant to take into account as it's not very visible. (Interview 6)

Another interviewee revealed that criminal gangs did not allow him and his family to unload their possessions in a subsidised rented home granted by the Municipality of Medellín. They were sent back to their home (the one located in the floodplain and under evacuation order) and warned about *consequences* if they decided to stay in the destination area:

> Leaving your neighbourhood, the place where you live and move to another neighbourhood where you know nothing is very difficult. When I benefited from the rent subsidy in a neighbourhood nearby, I arrived there with all my belongings, and they said I wasn't allowed to live there.
>
> *Interviewer: Who are they?*
>
> The *boys*[78]. They said, "We don't know this home landowner well, so you have to leave. If you stay, we won't be responsible for what happens to you. Go away now, or we will turn you over[79]". (Interview 5)

In the La Playita case, once a resettlement process was decided on as a housing alternative for the community of La Playita,[80] community leaders assessed whether the criminal gangs from La Playita were in confrontation with armed groups in the destination area (Interviews 10 and 14). Concerns were raised by community leaders as members of criminal gangs are also inhabitants of the Playita neighbourhood. Based on analysis of my interviews, it is fair to suggest that communities and criminal gangs develop forms of *tacit agreement* to define territorial boundaries and communal living. As a community leader interviewed puts it, "In the neighbourhoods you inevitably coexist with the *boys*" (Interview 14). In case criminal

[78] This is how people refer to criminal gangs.
[79] An expression which refers to killing someone.
[80] This process is explained in detail in the Chapter 7.

gangs breach the agreement and appropriate land *out of their range*, community leaders must accept it without refusal to avoid any threats against their personal safety. A community leader said:

> Although we have agreed land boundaries, if they want to grab a piece of land in our neighbourhood, I just say to them: go ahead! I try not to show my anger, otherwise I would be another dead or displaced person in this city (Interview 4).

These *tacit agreements,* which are explained as *eroded resilience* (Samper et al, 2017), take place in areas in which the rule of law is in many ways missing. One of the lawyers interviewed describe it as follows:

> The policing law is missing there, the criminal law is missing too (…). Co-living conflicts are resolved by the criminal gangs. (…) In some neighbourhoods their rule is more dominant in comparison to others. In El Pacífico, criminal gangs are there, and we're here! In a way, they respect the community work. (Interview 1)

In a context in which people's mobilities are influenced by non-state armed actors' territorial control, it is fair to suggest that for those considering taking action as a response to climate-related (im)mobilities, assessing personal safety risks is a must. But why turn to the law in a context in which the rule of law seems to be inoperable? (Taylor, 2018). To explain this, I draw on two hypotheses: Hypothesis 1. Criminal gangs could be more tolerant towards legal mobilisation when it does not involve discourses linked to left-wing politics. Hypothesis 2. The rule of criminal gangs could prevent people from using legal mobilisation mechanisms for fear of physical danger if claims touch on criminal gangs' territorial control.

6.4.2. Hypothesis 1. Criminal gangs could be more tolerant towards legal mobilisation when it does not involve discourses linked to left-wing politics

This hypothesis draws on a broader context of violence in which Colombia has been classified as very dangerous country for social leaders, organisers, and activists. The Inter-American Commission on Human Rights has labelled the killings of social leaders as systematic and called for urgent action (CIDH, 2019). Social movements in Colombia have usually been associated with the ideology of left-wing opposition parties (Velasco et al.,

2017). In some cases, they are stigmatised as guerrilla members (CIDH, 2019). This type of violence adds to the story of extermination of people associated with left-wing ideas in Colombian politics, which has been at the core of the Colombian armed conflict.[81]

In a case study related to the use of legal mobilisation by internally displaced women due to the Colombian armed conflict, Lemaitre and Sandvik (2015) found that the Colombian violent context, in which the State is unable to guarantee security to advance legal mobilisation strategies, does not necessarily eliminate legal mobilisation. Instead, it presented challenges such as *dangerous political opportunities*, which refers to physical safety risk assessments in relation to political action (Lemaitre & Sandvik, 2015). Women's organisations learned how to be perceived as apolitical and independent of the ideological struggles linked to the armed conflict in order to be less vulnerable to violence. Legal venues were perceived as an appropriate and safe setting to advance their political agenda, as they provided an opportunity to use their status as mothers (instead of partisans) to claim rights and keep a low profile (Lemaitre & Sandvik, 2015). Based on this case, one could argue that legal campaigns are more acceptable when they do not include discourses that could be associated with left-wing political ideology.

Unlike my empirical research, Lemaitre and Sandvik approach the context of violence from people's perceptions of *political opportunities*. I consider that using violence as an independent and separate variable (i.e., not as part of political or legal opportunities) is helpful in terms of analysing this factor beyond the openness of the system to be challenged. Instead, it allows one to assess the way in which violence shapes the different stages of the claims-making process, which is pivotal to understanding whether and why people turn to legal mobilisation. Furthermore, in their case study, what matters for non-state armed actors is maintaining ideological control through violent practices. However, as I explained in the

[81] The armed conflict in Colombia was characterised by the systematic killing of actors on the left by paramilitary groups and state forces. Between 1985 – 2010, around 3.000 ex-guerrilla members who conformed the communist political party Unión Patriótica (UP) were killed by groups paramilitary allied for that purpose (Verdad-Abierta 2016). The extermination of the party was referred as the *political genocide* of the UP. Although the armed conflict officially ended in 2016 with a peace agreement between the government and the largest guerrilla group 'FARC – Fuerzas Armadas Revolucionarias de Colombia', persecution against leftists and social leaders continues. Paramilitary groups and drug gangs are the largest criminal organisations in the informal settlements of Medellín (Samper, 2017).

section above on violence in the informal settlements of Medellín, ideology control is not necessarily the case in this research. Therefore, I considered hypothesis 2:

6.4.3. Hypothesis 2. The rule of criminal gangs could prevent people from using legal mobilisation mechanisms for fear of physical danger if claims touch on criminal gangs' territorial control.

In the urban cases analysed in this research, I found that personal safety concerns arise when territorial boundaries are breached by the communities, instead of holding or defending ideas that could be associated with the ideological struggles of the armed conflict. To clarify, territorial boundaries refer to the *tacit agreements* defined between communities and armed groups previously explained. Those boundaries relate to the delimited geographical areas of control or governance, and the legality of activities in which one or another exercise power. In the words of one of the interviewees:

> Their slogan [criminal gangs] is basically 'all illegal business is ours; legal issues are yours'. In this way, community organisations work on issues related to demanding state accountability, except illegal land sale and rent, extortion or related activities. They say to us don't intervene on those issues, otherwise we'll kill you. (Interview 3)

As a matter of personal security, community organisations' scope cannot extend to issues that touch on non-state armed actors' illegal business, such as illegal land business or mining. Community action addressed to claim climate adaptation or risk management is limited to the geographical areas in which the communities exercise governance, not in the areas fully controlled by criminal gangs. In theory, effective climate adaptation needs to address land use and planning, but in contexts of eroded governance with complex land conflicts, this is challenging. Furthermore, the occurrence of a disaster could favour the expansion of criminal gangs' land control — empty residences, loss of neighbourhood infrastructure, people displaced or relocated in nearby areas, etc., added to the scarce state presence.

On those grounds one could argue that contexts of violence impact whether and how legal mobilisation is considered and used by communities. In both case studies, community leaders were aware about the presence of criminal gangs in their neighbourhoods and their

constraints in relation to taking collective action. However, criminal gangs' presence did not necessarily define the type of mobilisation strategy, as they did not consider that those armed groups were more tolerant towards one strategy over another. However, it defined the way in which frames were used strategically in order to avoid physical safety risks for the community leaders and lawyers, as I explain below.

In the El Pacífico case, the organised community impacted by a flood disaster opted for the creation of a decision-making board called Mesa de Atención y Recuperación del barrio El Pacífico (MAR), with the official authorities to decide the steps forward to recover and develop the neighbourhood post-disaster. This was subsequently supported with legal strategies undertaken by the community and the Corporación Jurídica Libertad. Meanwhile, in the La Playita case, the community responded to the flood-related disaster with legal mobilisation, which subsequently created political opportunities (see Chapter 7). Despite the differing strategy choices and priorities, in both cases, communities were aware of the role that the illegal land business and mining played in contributing to the flood and consequent disaster. However, this was not brought in at any stage of their legal mobilisation strategy.

In a MAR gathering, an official councillor intervened to denounce illegal construction of eco-hotels by criminal gangs on the top side of the hill and suggested that it contributed to the disaster of November 2019. This raised serious security concerns to the community leaders and lawyers as it looked like the community was breaching 'agreements' with criminal gangs and interfering with their illegal business. According to one of the lawyers, this reckless intervention led to the activation of a security protocol for those attending the MAR gatherings (Interview 1). In addition, as it would pose personal risks to the community leaders, in subsequent MAR gatherings, instead of referring to the illegal land grabbing business, the community decided to re-frame it as a problem of "damage to vegetation" at the top of the mountain. One of the lawyers told me:

> When deciding to create the MAR, we didn't discuss the issue of the criminal gangs. This is an issue that comes up with the situation in Altos de la Mora. Those groups have been building an eco-hotel and massive concrete houses there. We saw a photo of some of the members of the gang with members of the 'Oficina de Envigado' [a criminal organisation], so we decided not to refer to the issues happening in Altos de la Mora, and instead talk about

> ‘damage to vegetation’. We knew that damage to vegetation provoked by that massive construction caused the disaster. (Interview 1)

In the Playita case, one of the lawyers mentioned that the presence of criminal gangs was an issue discussed with the community leaders as part of their legal mobilisation strategy. In fact, although there was an agreement to exclude any mention of the criminal gangs’ role in mining exploitation that contributed to the disaster of 2011, the latter to some extent *supported the legal action*. In her words:

> We assessed the violent situation with the community leaders at that time and the idea was not to bother them. We decided not to refer to them [criminal groups] in the facts of the popular action. The community leaders let the members of the group know about the action, and they supported them. (WhatsApp chat – follow up Interview 10).

“We don’t talk about it” or “I better not refer to this as the walls have ears” were some of the expressions that community leaders used when asked about the role that criminal gangs played in the disaster they experienced (Interviews 4,5,13). Community leaders, who are the ones on the frontline, took precautions when talking about the presence of criminal gangs in the neighbourhood during interviews. Meanwhile, lawyers and grassroots organisations spoke more freely about the issue.

From both urban case studies, it could be argued that it is unlikely that taking action would put claimants at risk, as long as they kept their frames and demands under the territorial and legal/illegal boundaries defined between the community and the criminal groups. In this sense, the framing stage is shaped by violent contexts, in order to avoid any threats or physical attacks. More on this will be explained in Chapter 8, but for now it is important to highlight the usefulness of *hazard or technical frames* in order to avoid talking about the direct relationship of armed actors in the disaster, i.e., focusing on the environmental impacts of mining and “damage to vegetation” without claiming land dispute solutions. This does not stop communities demanding climate, social or spatial justice in which the Right to the Territory is claimed as a right to be recognised. Hypothetically, claiming a *safe place to live* in which the rule of criminal gangs is eliminated — as they place further limitations on effective adaptation measures — could be encompassed by that frame. However, there are

ways to avoid mentioning criminal gangs as actors to blame, and reframed in more technical nature terms, for example. In this way, communities use those discourses within certain boundaries as ideological control seems less relevant than the Colombian internally displaced women case studied by Lemaitre and Sandvik (2015). In my case studies, criminal gangs are not interested in ideological control; they are interested in territorial control that enables their business to operate and thrive. In other words, violent contexts shape the way in which issues are framed strategically in order to avoid those very same violent contexts.

From this chapter, I conclude that evaluating personal safety and social risks is important in determining the use of legal mechanisms. Risks of physical attacks or the chances of a judicial decision that could worsen social vulnerability conditions do not necessarily lead to excluding the use of the law, but they define the way that community use the law – namely the issues raised in legal venues, or the way that legal frames and claims are defined. I consider that there is a limited scope for achieving effective and just climate adaptation measures through legal mobilisation in contexts of informality. This is because in places where the rule of law is missing, the legal systems are already failing to effectively protect people living in places at higher risks of facing climate change impacts. In the following chapter, I apply the variables that have traditionally explained legal mobilisation to my three case studies. While doing that, I bring an integrated analysis of all variables at play in order to have a more comprehensive analysis on whether and why communities experiencing (im)mobilities turn to the law or not.

Chapter 7. Opportunity structure, and organisational level attributes in legal mobilisation

In the previous chapter, I analysed the role that place attachment and violence played in triggering or constraining legal mobilisation. This chapter complements the previous one by discussing the traditional variables that have been used by legal mobilisation theory to explain whether and why social movements turn to the law. As referred in my literature review chapter, the latest legal mobilisation studies agree upon the impossibility of explaining legal mobilisation by drawing on a single factor, and point to the need for an integrated analysis in which external and internal factors are considered and contrasted (Abbot & Lee, 2021; Hilson, 2002; Vanhala, 2010a; Wilson & Rodríguez Cordero, 2006). In this section, I examine opportunity structure approaches, including Political Opportunity (PO) and Legal Opportunity (LO); organisational level attributes, specifically Resources (Financial and Legal Resources); and neo-corporatist approaches to legal mobilisation. In order to do this, I divide this chapter into four main sections:

i. A neo-corporatist analysis of the El Pacífico case
ii. Legal and political opportunities. The La Playita and Providencia cases
iii. Resources
iv. An integrated analysis of strategy choice

7.1. A neo-corporatist analysis of the El Pacífico case

The neo-corporatist approach establishes that a closer relationship with actors in power could make using *insider* strategies more likely. On this basis, litigation could be regarded as a last resort measure, because it could damage the relationship. Nonetheless, strategy choice is not only determined by the relationship with actors in power. Identity, ideas and values could also explain why social movements opt for one or another strategy (Hilson 2002; Vanhala, 2010a). Organisational culture and identity approaches have shown that

mobilisation strategies are expressive of their collective identity — the way in which movements appropriate meanings ideas, values and traditions (Doherty & Hayes, 2018).

The El Pacífico urban case study shows that community organisations with a strong campaigning background are more likely to be heard by decisionmakers. This is reflected in their ability to call for consultation spaces that are usually attended by the local government. In contrast, when community organisation leverage is not as strong as to allow the groups to gain political terrain with the government in power, litigation could be used as an action to create an opportunity to gain access, to be listened to or to be considered as a valid spokesperson. This is also mediated by PO and LO when deciding strategy choice as I explain below. However, first I lay out community organisation campaigning background in order to discuss the organisation's *insider* and *outsider* status, which is a relevant to this case study.

7.1.1. Background of the community organisation of El Pacífico, Medellín

Although the El Pacífico neighbourhood has a Community Action Board[82] that reached legal status in 2008, this is an informal settlement lacking recognition as an official neighbourhood in the city land use planning (Montanoa et al., 2019). As a response, communities have found a way to self-build their *barrio* (framed as *social construction of their territories*), and to meet basic needs such as housing, and access to utilities (Rivera Flórez et al., 2020). This lack of legal recognition —articulated as spatial discrimination (Interviews 4, 9 and 13)[83] — combined with high levels of economic poverty makes it challenging to influence those in power (Rivera Flórez et al., 2020), in comparison to peak NGOs whose status, professionalism and resources make it easier to be considered as a valid counterpart. However, organised communities have found a way to mobilise collectively with scarce resources and support from legal and academic organisations, which have allowed them to gain recognition and respect from decisionmakers in Medellín.

[82] A Community Action Board is a community organisation with legal status formed by inhabitants of a neighbourhood, usually community leaders whose duties are initiating and developing programs in line with the community and territorial development plans, ensure access to public utilities, among others (Law 743 of 2002, art 8).

[83] For an analysis on an environmental and spatial justice approach to risk in the informal settlements of Medellín, see (Rivera Flórez et al., 2020).

According to a community leader interviewed, in 2004 El Pacífico was a sort of refugee camp for those fleeing the Colombian armed conflict (Interview 3). Four years later in 2008, the community of El Pacífico organised to demand an aqueduct and sewerage system. It took eight years to finally get access to potable water (Interviews 3, 4) although even now coverage is not yet fully guaranteed for everyone. In 2011, the *Mesa de Vivienda of the Comuna 8*[84] (Community Housing Board) was created, in which the community of El Pacífico has taken an active part. Since then, the organised community of El Pacífico has participated in several social mobilisation strategies led by grassroot and legal organisations defending the Right to the Territory in the city. [85] These are a combination of political and legal strategies aimed at influencing policy makers, which have been shaped by popular education processes, building on the idea of community autonomy.

i. Popular consultations in 2014 and 2016

Popular consultations (consultas populares) are a Constitutional mechanism for citizen participation[86] used broadly by community organisations in Colombia[87] — and Latin America,[88] — as an emancipatory tool (Sierra-Camargo, 2022). This form of direct democracy allows citizens to vote on issues that impact their community, including the "faith and uses of their territory" (Sierra-Camargo, 2022, p. 2). Inspired by the popular consultations carried out in other parts of the country, in 2014, organised communities of the Comuna 8 initiated a *symbolic popular consultation* aimed at putting forward community development proposals for consideration by their inhabitants. For the first time, the organised communities of the Comuna 8 had developed a community development proposal framed

[84] Comuna is an administrative division of urban areas in Colombia. El Pacífico is located in the Comuna 8.
[85] This network is called Movimiento Laderas (The Social Movement of the Hills) and is integrated by the grassroot organisation Tejearaña, the legal organisation Corporación Jurídica Libertad and La Moradía (a collective of architects working on eco-design and bio-architecture).
[86] This is one of the seven participation mechanisms for the people to exercise their sovereignty established in the art 103 of the 1991 Political Constitution of Colombia, which are: the vote, the plebiscite, the referendum, the popular consultation, the open cabildo (assembly), the legislative initiative, and the revocation of office. Popular consultations are regulated by the Law 134 of 1994 which states 'popular consultations is the institution through which a general question on a matter of national, departmental, municipal, district or local significance is submitted by the President of the Republic, the governor or the mayor, as the case may be, to consideration of the people so that they can formally pronounce on the matter. In all cases, the people's decision is binding'.
[87] Since 2013, more than 30 municipalities have initiated popular consultations to decide on development projects (Sierra-Camargo, 2022).
[88] Relevant cases in Peru, Argentina, Guatemala and Mexico (Rodríguez-Franco, 2014).

as “Integral Neighbourhood Improvement for the Comuna 8”. “[B]efore that [2014], we had a kind of shopping list of our demands’ said one of the community leaders” (Interview 3).

Although framing this popular consultation as *symbolic* might give the idea that this did not bring any practical changes, it did help to build a path to consolidate the community organisations of the Comuna 8 as valid representatives before the public authority decisionmakers. This popular consultation was not legally binding as it did not follow the formalities regulated by the law. It was not submitted by the local mayor as the art 8 of the Law 134 of 1994 requires in those cases, and for what follows it was not possible to meet legal requirements needed to be a valid participation mechanism. Despite this, organised communities considered that a self-convened popular consultation was a good strategy to influence the process of revision and adjustment of the Municipality Land Use Plan (POT) which was adopted at the end of that year (Velásquez, 2016).[89] With 2.190 votes (98.6% of voters), the *Comuna 8 Popular Consultation for the Right to Live with Dignity in our Territories* was approved. This collectively developed proposal was framed as a *practice of community autonomy* (Velásquez, 2016, p. 81), and included the following topics:

- **Guarantees of permanency of the inhabitants in their territories.** This was the central axis of their proposal.
- **Re-classification of risk zones, and development of a risk management and risk mitigation plan.** Communities demanded the realisation of risk, hydraulic and hydrological studies to inform collective debates and alternatives in relation the land occupation in the Comuna 8, considering inhabitants socio-economic needs.
- **Integral Improvement of Neighbourhoods.** This included consolidation and legalisation of informal settlements, relocation in the local area, when necessary, access to public spaces, and culture.
- **Housing with dignity.** This was framed as the main need of the community and the basis of the community organising.

[89] The art 4 of the Law 388 of 1997 that regulates the Municipality Land Use Plan oblige municipalities to undertake consultation processes with citizens in which they can express their needs and aspirations in relation to the land use order. However, in the face of the lack of guarantees to effectively participate in the 2014 revision and adjustment of the Municipality Land Use Plan (POT), the organised communities decided to self-convene a popular consultation (Velásquez, 2016).

- **Land titling and housing legalisation.** This demand was aimed at gaining legal recognition as owners of their land and houses.
- **Public utilities.** Access to the right to potable water, sewer system, electricity.
- **Access roads and footpaths**
- **Inclusion of the informal settlements in the urban area of the city border**
- **Food safety and development of allotments** (Velásquez, 2016).[90]

In 2016, another self-convened popular consultation was carried out. This time, the goal was to present a proposal to debate the Municipal Development Plan in Medellín (2016-2019), which establishes the plans and budget for development projects for 4 years (Velásquez, 2016). In this popular consultation, the community of the Comuna 8 voted for a more consolidated proposal in comparison to 2014, as it integrated a 'Community Outline for a Public Policy on Integral Neighbourhood Improvement'. This proposal re-defined the topics presented in the 2014 popular consultation in four fields: Housing, Environment and Popular Habitat, and Socio-Economic Development. Again, 98% of the voters (1766 out of 1795) approved the proposal (OSHM, 2016).

ii. Open Assembly (Cabildo) on neighbourhood legalisation and risk mitigation in 2017 and 2021

In 2017 and 2021, the communities of the Comuna 8 convened an Open Assembly on neighbourhood legalisation and risk mitigation. The Open Assembly (Cabildos) is also a Constitutional citizen participation mechanism (1991 Political Constitution of Colombia, art 103,) in which citizens discuss issues of community concern in participation spaces initiated by local legislative organs and Local Administrative Boards[91] (Law 134 of 1996, art 9). The aim of these assemblies is to create a report with recommendations for decisionmakers. In both

[90] The art 4 of the Law 388 of 1997 on the Municipality Land Use Plan oblige municipalities to undertake concertation processes with citizens in which they can express their needs and aspirations in relation to the land use order. However, in the face of the lack of guarantees to effectively participate in the 2014 revision and adjustment of the Municipality Land Use Plan (POT), the organised communities decided to self-convene a popular consultation (Velásquez, 2016).

[91] Local Administrative Boards (JAL) are public corporations elected by the inhabitants of a Comuna. JAL are part of the executive branch at a local level whose duties are among others, taking active part in the elaboration of the municipal development plans and programs, and celebrate at least two open assemblies per period to discuss issues of concern by the communities they represent. See Law 134 of 1996, art 109 and 131.

assemblies, the community demanded an Integral Improvement Neighbourhood, which included risk mitigation to guarantee inhabitants permanency in their territories, and consultation spaces in which communities have a voice in the development plans decided by the local authorities (CJL, 2017; Kavilando, 2021). Representatives of risk management, planning and housing departments from the local authorities attended. The 2021 Open Assembly concluded with a request to the local government to help with the collective elaboration of an Integral Plan for Risk Management and Climate Adaptation in the Comuna 8 (Kavilando, 2021).

iii. Popular education on risk management and related rights

During my interviews, I found out that community education in El Pacífico or as they call it "educación popular" has been a key component of the communities' campaigning. This aspect of their organising has been possible thanks to the permanent support of the legal organisation Corporación Jurídica Libertad, academic entities and NGOs. The development of the proposal voted for in 2014 involved undertaking a number of educational sessions to learn about their territory, in the dimensions of housing, risk mitigation and public utilities, which has extended up until now. Since 2019, this educational aspect has been consolidated in the program Escuela Popular de Autonomías (School for Community Autonomy). In 2018, they created the School of Risk Management in which they developed the Community Risk Management Plan with the support of grassroots and community organisations (Interviews 2, 3). The principal aim of this plan is to reduce risk in the El Pacífico neighbourhood and adapt to climate change (Montanoa et al, 2019). By 2022, the Schools were divided in three branches: (i) School of food autonomy; (ii) School of hydric autonomy; and (iii) School of energy autonomy electricity. This latter School was working on the energy transition for the neighbourhood of El Pacífico — the communities started a pilot project to generate electricity for their Community Action Board building, with the flow of the stream "La Rafita". This project was suspended as a result of the flood-related disaster of November 2020. This popular educational initiative is described by their participants as "a practice to defend the right to the city" aimed at "generating knowledge for the guarantee of rights" (Movimiento Laderas de Medellín, 2020).

7.2. Post-disaster mobilisation strategy from a neo-corporatist approach

As a response to the disaster in September 2020 that destroyed 25% of the neighbourhood of El Pacífico, the community called on different official entities to integrate a Decision Board of Attention and Recovery of the barrio El Pacífico called Mesa de Atención y Recuperación — Barrio el Pacífico MAR (initials in Spanish). The idea was to create a decision-making space in which communities and the local government discuss and decide the stages of post-disaster attention, recovery and development of the El Pacífico neighbourhood. Considering the community mobilisation background previously explained, it makes sense that the organised communities opted for a strategy in which they can be considered as a valid spokesperson. During discussions on the mobilisation strategy post-disaster, one of the interviewees told me that for the community it was important to "put themselves on the same level as the official risk management authorities" (Interview 6). According to her, the MAR was beyond a technical or a decision-making board – it was a space for deciding and undertaking the different stages of risk management that they have worked on for years, which included socio-economic development for their neighbourhood. They knew their own limitations to achieving this and they needed the support of the local government. However, they were clear on their ability to make proposals integrating community claims from ever since the neighbourhood was built (Interview 6). In many ways, they were already well prepared to respond to this disaster scenario; as another interviewee said, "once the flash flooding occurred, we applied everything we developed in the Community Risk Management Plan" (Interview 2).

Although the community counted on professional resources (lawyers of the Corporación Jurídica Libertad), and access to courts in Colombia is reasonably easy and cheap (an analysis on these two aspects will come in the following sections), legal strategies were a last resort option. The MAR was seen as more appropriate and effective strategy. For a strong, organised community, inviting the local government to a decision-making space —in which they could be regarded as 'equals' — could be seen as a more promising strategy to negotiate community demands post-disaster. El Pacífico is the only neighbourhood in Medellin with a risk management plan designed by the community with the support of academics and legal organisations. This organising background reduced power imbalances

between them and the local government. Additionally, legal avenues were seen as confrontational. As one of the community leaders put it:

> If we had undertaken legal mobilisation, we would have clashed with the local government. Instead, proposing to talk and make collective decisions is easier for us (…) considering the recognition and legitimacy of our work (…). They are very receptive to our calls, (…) they know that we have very concrete proposals on how to resolve our problems… We basically guide the municipality on the way to do things, based on the official planning tools they count with of course (Interview 3).

Would a neo-corporatist approach help explain strategy choice in the El Pacífico case?

The *insider* and *outsider* theory from legal mobilisation studies draws on the basis of "access to decision makers in political arenas" and a "good relationship with policy makers" (Morag-Levine, 2003; Vanhala, 2016). Although, the essence of community and grassroot organisations involved differs from top Western civil society organisations (as those studied by Vanhala (2016) and Abbot & Lee (2021)), this approach is helpful to explain mobilisation strategies in this case. The 'insiders' or 'outsider' status is given according to the level of access to the powerful — *insiders* are those with considerable influence on powerholders and more heavily consulted (Abbot & Lee, 2021). In principle, you could argue that the government would be keener to listen to top NGOs, instead of community organisations which are not located in a privileged position in society. As Hilson argues "political lobbying is therefore likely to be a realistic strategy only for those with a professional background: policymakers are less likely to listen to those from unconventional backgrounds who lack the relevant expertise or who are not used to speaking their language" (Hilson, 2002, p. 240). This case shows that communities who do not have a professional background — as NGOs — could also gain recognition and legitimation through other means.

The MAR is a non-precedent political mobilisation strategy in the city; it is not regulated by the law and constitutes an informal space to engage in dialogue with the local government as *peers* on the post-disaster recovery and development plan for El Pacífico. Organising around gaining technical knowledge on risk and climate adaptation allowed the community to reach legitimacy in the eyes of, and recognition by, the local government, and therefore to be considered as a valid spokesperson. As Grant puts it, "most groups would adopt, wherever possible, insider strategies due to their greater likelihood of success" (Grant 2000,

p. 20). In this El Pacífico case, that statement applies, although it is important to point out that a privileged position is not only given by the political or the legal system. Organisations, such as the ones in this case, campaign to gain a privileged position through popular education, which integrates community and technical knowledge. This also allows communities to use mobilisation mechanisms as a tool to position them in a legitimate position to talk to those in power, i.e., calling for informal popular consultations to back their proposals on Integral Neighbourhood Improvement, before putting them to the local government for consideration. In other words, communities — which may otherwise be in an unprivileged position in society — use different means to gain leverage to influence decision-makers.

While agency is important, that is not to underplay the role that state structure and decentralisation generally have on a community's ability to influence those who make decisions. Abbot and Lee (2021), referring to Bouwen and McCown's (2007) work, argue that the receptivity of government branches and groups' preferences will encourage interest groups to target one or another branch of the government. Although the fact that the state is not a monolith could become an advantage in terms of having diversified target options, it could also be a disadvantage when state branches are poorly coordinated, and decentralisation becomes an excuse to respond insufficiently to community demands. The El Pacífico case is an example in which the risk (DAGRED) and housing (ISVIMED) authorities work in an isolated manner. In this way, in the face of community demands to manage risks to guarantee the right to housing with dignity, those entities show little capacity to respond as an institution. I attended some of the MAR meetings and realised that official entities tend to blame each other for their inability to do their jobs.

Finally, insider status does not necessarily mean that *insider* strategies are put in place, as strategy choice is also influenced by ideology and values — much the same as one finds in relation to the openness of political and legal opportunities (Hilson, 2002). For el Movimiento Laderas (the movement that connects different organised communities including El Pacífico), community self-management and autonomy is the basis for interacting with the state (Interview 6). Their mobilising moto is, as we have seen, "with the state, without the state, and against the state" (Interview 2). The MAR is an example of work with the state, in the face of a lack of resources to deal with the impacts of the disaster that

occurred in September 2020. However, working without the state or against it comes forward when state intervention compromises community autonomy (Interview 2).

7.3. Legal and political opportunities. Case La Playita and Providencia

Political opportunities refer to the ***formal institutional structures of the political system*** that facilitate (or not) formal access to interest groups (social movements, NGOs, community organisations) (Abbot & Lee, 2021; McAdam, 1982; Tarrow, 1998). PO looks at the contextual factors that influence the use of mobilisation (McCammon & McGrath, 2015), in contrast to the internal resources of social movements discussed further below. Drawing on this definition, some scholars have argued that the openness or closedness of the political system helps to define strategy choice in the form of political lobbying, protest, or litigation (Abbot and Lee, 2021; Hilson, 2002). As PO falls short of explaining legal mobilisation, scholars have found that there are dimensions of the legal system that increase the likelihood of turning to litigation (Lehoucq, 2020). Typified as Legal Opportunities (LO), those dimensions consist of the structural and contingent features of access to justice, justiciable rights and judicial receptivity (Andersen, 2005; De Fazio, 2012; Hilson, 2002). Some scholars have, in addition, pointed out that low procedural barriers could facilitate legal mobilisation, even when resources are scarce (Wilson, 2009; Wilson & Rodríguez Cordero, 2006).[92]

<u>The La Playita case</u>

La Playita is an informal settlement in La Comuna 16 of Medellín inhabited and built by people fleeing the Colombian armed conflict. This neighbourhood is described as an "island surrounded by the river La Picacha" (Interview 9) — one of the riskiest rivers in the city according to the local environmental authorities (PIOM, 2008). Since 1999, the community has organised to build their homes, undertake risk management works at the river La Picacha, and build collective spaces such as the football court and the nursery (Interview 9). Additionally, in order to gain legitimacy for community organising, they decided to create a Community Action Board (JAC La Playita). This idea also arose when they started to notice

[92] As mentioned before, there is a widespread use of the tutela action in Colombia given that this is the cheapest, quickest and easiest legal mechanism available in the country (See, Taylor 2018).

the risks that the river La Picacha posed to their lives, and the need to seek support from the local government (Interview 9).

The JAC La Playita has worked in connection with neighbouring Community Action Boards (JAC Las Mercedes and Las Violetas), both representing neighbourhoods crossed by the river La Picacha, and the Legal Clinic of Public Interest and Environmental Law at the University of Medellín. This work began in 2011, following a flood-related disaster classified as an "extreme event" by the environmental authorities, which resulted in 200 families losing their homes and belongings.[93] Unlike the JAC El Pacífico, the JAC La Playita started to mobilise around issues related to the risks posed by La Picacha only after the 2011 disaster occurred.[94] In other words, they responded to the disaster with post-disaster organising, while in the Pacífico case, when the community was hit by the disaster in 2019, they were in a way prepared as they had already developed their own community risk management plan prior to the disaster. Having (or not) an organising background on community risk management issues helped to shape the main mobilisation strategy undertaken by each community.

For the JAC La Playita, whose prior organising background was not as solid as the JAC El Pacífico when the disaster occurred, calling for a decision-making board like the MAR was unlikely. Some of the interviewees described a feeling of helplessness, exacerbated by the presence of the risk management and housing authorities, who turned up to inform the community that they all had to leave (Interviews 11 and 14). The JAC La Playita did not have access to decision makers and there was uncertainty about their future as a community that had put considerable effort to self-build their place. They did not want to leave their homes without guarantees of a definite housing solution elsewhere (Interview 11). As a response, community leaders decided to contact the Legal Clinic of the University of Medellín and seek legal advice. The University of Medellín is the closest academic institution to the La Playita neighbourhood, and they were known for legally supporting the communities nearby since

[93] *Félix Antonio García y otros v Municipio de Medellín y otros* (2013) 05 001 23 31 000 2013 01310 (Tribunal Administrativo de Antioquia)

[94] In 2004 and 2008, as a result of the floods-related disasters in the zones of influence of the river La Picacha two people died, and several economic losses were reported. See *Félix Antonio García y otros v Municipio de Medellín y otros* (2013) 05 001 23 31 000 2013 01310 (Tribunal Administrativo de Antioquia).

2004 (Interview 10). The positive response from the Legal Clinic contributed notably to defining the shape of the mobilisation strategy, as I explain in what follows.

According to the director of the Legal Clinic, when they started to work with the communities nearby the La Picacha river, they found that "the community leaders were aware about the problem, but they weren't properly organised (…), and the JACs were poorly articulated" (Interview 10). As a response, they decided to work on two fronts: strengthening community organisation and exploring legal mobilisation as an alternative. The Legal Clinic hired a sociologist, who educated the community leaders on the different organisation forms available to the community, beyond the JACs. This resulted in the creation of a citizen watchdog called "Veeduría la quebrada La Picacha", that allowed community leaders to work as a coherent group and to develop a common understanding on the risks posed by the river La Picacha (Interview 10). This was key for the work on the second front, in which the Legal Clinic explored the legal issues around the risks of the river La Picacha. Community leaders, law students and professors/members of the Legal Clinic were active participants in these discussions. While there was a range of concerns by the communities near La Picacha, including access to safe and definitive housing solutions and fears of a forced eviction, the focus of the Legal Clinic was on the environmental risks posed by the river. This was shaped to some extent by the legal expertise of the members of the Legal Clinic on environmental law, and legal opportunities.

7.3.1. Legal Opportunities (LO): access to justice, justiciable rights and judicial receptivity

In 2013, the community leaders, with the support of the Legal Clinic, brought a *popular action* to demand the protection of the collective rights to a healthy environment and disaster prevention.[95] The use of this legal mechanism was the basis of the mobilisation strategy in this case; it subsequently triggered political opportunities and built capacity to reach international human rights bodies.

A popular action (acción popular) is a legal action created by the Constitution of 1991 aimed at protecting collective constitutional rights. This mechanism is regulated by the Law 472 of

[95] *Félix Antonio García y otros v Municipio de Medellín y otros* (2013) 05 001 23 31 000 2013 01310 (Tribunal Administrativo de Antioquia).

1998, and establishes a non-exhaustive list of collective rights, including the right to a healthy environment and the right to disaster prevention that could be protected through this legal action (Law 472 of 1998, art 4,). Standing rules in relation to the popular action make access to Courts easy, quick, and cheap. Any individual or legal entity can legally take popular actions without legal representation (Law 472 of 1998, art 12). Furthermore, the law has designated a preferential procedure for judicial decisions. In this sense, the judge should prioritise popular actions above any other matters, except if those are tutela actions,[96] Habeas Corpus, or enforcement actions (Law 472 of 1998, art 6). Finally, the Law 472 of 1998 establishes a mechanism called *poverty relief*, for those who cannot afford financial costs resulting from the legal case (e.g., experts' reports). If guaranteed, any cost is charged to the Public Fund for the Defence of the Collective Rights and Interests (art 19).

The fact that the rights to a healthy environment and disaster prevention are justiciable rights creates legal opportunities too. There is a solid judicial precedent (including Constitutional precedent) looking at cases in which the lack of risk and disaster management result in the violation of those rights.[97] Furthermore, the river La Picacha has been classified as one of the riskiest rivers of the city, which led to the development of the official river management plan La Picacha in 2008 by the local authorities (PIOM La Picacha, 2008). The existence of this plan makes a positive judicial decision in relation to protection of the collective rights more likely, through the enforcement of an official document that contains related authorities' duties.

Beyond the justiciability of the collective rights to a healthy environment and disaster prevention, environmental cases are usually very technical, and therefore success is unlikely if such cases lack scientific experts' advice. In this case, the understanding of the risks posed by the river La Picacha, and therefore the framing of the problems in the lawsuit, required more than legal expertise on environmental law. Expertise on risk management and disaster, planning, civil engineering was also key to understanding the case for the plaintiffs. Although in this case legal representation was not mandatory, the role of lawyers was necessary. As part of the legal strategy, the Legal Clinic developed networks with the engineering faculty at

[96] Further explanation of the distinction between popular and tutela actions is founded in the section 7.3.3.
[97] *Félix Antonio García y otros v Municipio de Medellín y otros* (2013) 05 001 23 31 000 2013 01310 (Tribunal Administrativo de Antioquia).

the University of Medellín and other universities[98] — experts working on planning and risk management issues who contributed with the technical knowledge brought in the popular action. Furthermore, in Colombia there is not a specialist environmental court jurisdiction. This means that judges who decide on a different range of cases (from taxes to civil accountability) are rarely experts on environmental law. In this sense, any lawsuit related to environmental issues needs to be solid enough to guide the judge in the right direction.

From the Legal Clinic perspective, providing legal advice to the community neighbouring La Picacha, such as La Playita one, was an educational project to teach law students cause lawyering. The Legal Clinic at the University of Medellín is a learning space to teach students about strategic litigation and social justice (Interview 10). This is relevant to highlight as this element helped to lead the mobilisation strategy towards undertaking legal mobilisation. Although the decision on undertaking a popular action was discussed with community leaders — who became the plaintiffs – one could argue that legal organisation agendas have the potential to shape mobilisation strategies and could play a dominant role in defining them.

7.3.2. Combined analysis of Legal Opportunities (LO) and Political Opportunities (PO)

The Picacha popular action[99] was part of an advocacy strategy, which included media and political strategies. In principle, the Legal Clinic decided not to bring forward legally regulated participation mechanisms (i.e., public hearings, open assemblies, etc) because there was a lack of trust in the local government and the humanitarian situation was quite serious post-disaster (Interview 10). In order to reach out to the local government, they first had to raise their attention. Bringing a popular action against the Municipality of Medellín and the environmental local authorities seemed like a good way to achieve this goal. And they were right. The popular action gave visibility to the Picacha case, and "brought decision-makers on board" although not in relation to their legal claims (Interview 10). Once, the judge realised the high risk of floods and landslides and the vulnerability and exposure of the community of

[98] Universidad Pontifica Bolivariana, Universidad Autónoma Latinoamericana, Universidad de La Salle, and Universidad de Sabaneta

[99] I refer to the Picacha legal case because this popular action was seeking the intervention of the river La Picacha, as a measure to protect the nearby neighbourhoods — among others, La Playita neighbourhood. I refer to La Playita case as the neighbourhood in which my research took place.

La Playita, she ordered a preventive measure consisting of the *immediate resettlement* of the communities located in the zone of influence of the river La Picacha.[100] This order compelled the lawyers and community leaders to shift their legal strategy. When discussing bringing resettlement claims into the popular action, community leaders were clear on their position to exclude any claim related to resettlement (Interview 10). The community of La Playita did not want to leave their neighbourhood. While they were hopeful of a judicial decision that would allow them to stay once risk management works were undertaken, there was also a risk of achieving undesired outcomes through legal mobilisation, such as an order of forced eviction. Once the preventive judicial order was issued, the materialisation of that risk seemed very plausible. In the face of the inevitability of the resettlement, they decided to focus on the resettlement process and introduce a human rights approach to the case that prevented the authorities from evicting people forcibly. This led the subsequent steps in the mobilisation strategy.

This judicial order gave community leaders and lawyers closer access to decision-makers. It triggered the creation of informal consultation boards between the community leaders, the Legal Clinic, and the local housing authority (ISVIMED), in which they discussed the steps to follow in the resettlement process for the households located in non-mitigable, high-risk areas (Interview 10). This also opened political opportunities in the form of lobbying before the city council. A judicial decision ordering a resettlement process while deciding on the risk management duties of the municipality of Medellín was a matter of concern for the city council, whose duties are, among others, demanding local authorities' accountability and guaranteeing political scrutiny.[101] This was seen as an opportunity for the Legal Clinic. They reached out to local councillors close to the executive branch of the University of Medellín,

[100] *Félix Antonio García y otros v Municipio de Medellín y otros* (2013) 05 001 23 31 000 2013 01310 (Tribunal Administrativo de Antioquia).

[101] This is different from the UK political system, in that the local councils in Colombia are a separate branch from the local authorities. While the local council belongs to the state legislative branch, the local authorities belong to the executive one. Building on the principle of separation of powers, which is central to representative democracies like the Colombian one, the council has vigilant powers which allow them to supervise local authorities' fulfilment of their duties and demand its compliance when those are considered breached.

who responded positively with the creation of an Interim Committee[102] of La Picacha, and a call for a plenary debate in the Council of Medellín in 2014 (Interview 10).

Previously, I raised the reflection on the way in which a legal organisation's agenda could shape approaches to mobilisation strategies. However, the development and outcomes of the legal strategy also re-defined the legal organisation's agenda. The lawyer told me that once they learnt about the preventive measure, they had to gain learning on legal frameworks related to housing and resettlement and adapt their strategy to this urgent matter (Interview 10). There were big concerns of a forced eviction, as this is the way that local authorities usually respond to these types of cases. They had to be prepared. Two years passed and the municipality of Medellín had not complied with the preventive judicial order (they have not complied to the day of writing this chapter), and the MAR decision-making board and interim commissions did not work, so the Legal Clinic decided to give a push to the legal case. In 2015, the Legal Clinic started a human rights partnership with other universities in Antioquia and the University of Minnesota, USA. It was aimed at teaching human rights to law students using the clinic methodology. The case of La Picacha was seen like a productive collaborative and learning opportunity for the students. In addition, it was an interesting case to bring before the Interamerican Commission of Human Rights as they had never before pronounced on the violation of human rights in resettlement processes linked to climate change impacts.

In 2015, as a pre-PhD law student, I was sent to Minnesota to coordinate the work between the Legal Clinic of the University of Medellín and the Human Rights Clinic of the University of Minnesota. The role of the latter was key to introduce a novel analysis to the case on the impacts of climate change in the displacement of the communities near La Picacha, and associated resettlement processes. This collaborative work triggered a research project aimed at identifying the legal gaps in addressing climate-related resettlement through the analysis of different cases in Colombia (Interview 10). The outcomes of this research were presented in a thematic hearing before the ICHR, which had two purposes. One was to put pressure on the local authorities who had not complied with the preventive judicial order, and the other

[102] An interim Committee is a participatory space within the local Council which constitutes a form political control in which representatives of local authorities provide a report to the Council on the fulfilment of their duties regarding specific topics of interest.

one was to introduce the discussion of climate-related resettlement in the regional human rights system.

In sum, the popular action brought political opportunities to this case and also facilitated having access to decision makers through consultation boards. In addition, the fact that this advocacy strategy was accompanied by an educative interest by the legal clinic allowed this case to reach international arenas. The supportive structure in this case in the form of rights-advocacy lawyers and experts on the Latin-American Human Rights system defined the use of this mobilisation strategy. It also brought the climate change discourse, which was not originally used by the organised community, but it facilitated access to the regional human rights system through the use of a novel topic which had barely been analysed from a human rights lens.

7.3.3. Urban cases and the use of the tutela action as a last resort measure

In this section, I explain the use of tutela action in my three case studies. In both urban cases it was used as a subsidiary mobilisation mechanism, when the main mobilisation strategies failed, but in the Providencia case, this was the central mobilisation strategy determined by the legal opportunities. Unlike the popular action, which is addressed to protect *collective rights*, the tutela action is a constitutional mechanism aimed at protecting *fundamental (individual) rights*. However, these two procedures are not mutually exclusive. The tutela action is the quickest, easiest, and cheapest legal mechanism in Colombia. Any individual can submit a tutela written or verbally, without legal representation. Judges should make a decision within 10 days (Decree 2591 of 1991). The tutela action can be used to protect *socio-economic rights,* such as the right to housing with dignity (1991 Political Constitution of Colombia, art 51) or *collective rights*, like the right to a healthy environment (1991 Political Constitution of Colombia, art 79), only if the judge considers that there is a strict connection between the violation of the any of those rights and *fundamental rights*.

Taylor's (2018) work on the use of the tutela action in Colombia shows that despite people's general lack of belief in the effectiveness of Colombian law, "hundreds of thousands of Colombians make constitutional rights claims through the [tutela action] procedure each

year" (p. 337). She explains the ambivalence in people's belief on the *tutela action*[103] as being 'the only mechanism through which citizens can access their rights. Although Taylor's (2018) conclusions are not strictly applicable to social movements' use of the tutela action, as her work is focused on individual use of the mechanisms, it shows that Colombians rely considerably on the tutela action. In the cases previously discussed, organised communities used different mobilisation mechanisms before turning to the tutela action. A similarity shared between the El Pacífico and La Playita cases is the failure of their mobilisation strategies in reaching agreements or compliance of local authorities in providing definitive housing solutions (in place of or as part of a resettlement process) to the communities located in high-risk zones.

Case 1. El Pacífico

The organised community of El Pacífico was seen as a valid spokesperson for issues related to risk management as they had mobilised and been educated in that sense for many years. This allowed the building of a good relationship with risk management authorities. However, the experience with the housing authority ISVIMED was completely different. One of the interviewees pointed out that:

> When the DAGRED [the risk management authority] realised that the people [organised community] is a peer in this process [the MAR], they were on board (…) and say, "let's do this together because we're at the same level of knowledge". However, this has not happened with the ISVIMED [housing authority]. If you look at their behaviour during the MAR gatherings, you realise that the only organisation seen as a valid counterpart is the [legal organisation] Corporación Jurídica Libertad. They dismiss the rest of us, even the architects.

From this, I interpret that closeness to decision-makers may also be limited to certain topics on which they agree to negotiate. Easy access to decision-makers might also rest on the participatory principle that establishes risk management authorities' duties to promote and facilitate the participation of communities in risk management processes (Law 1523 of 2013,

[103] The tutela action is a legal procedure that allows citizens to demand the protection of their fundamental rights before the judges. Lawyers are not needed, so any individual can submit a tutela, either written or verbally. The tutela is an easy, quick and cheap mechanism — judges must respond to claims within 10 days (Taylor, 2018).

art 2). Those processes also recognise organised communities as an integral part of the National Risk Management System (Law 1523 of 2013, art 8), which is not the case in relation to the housing legal framework. In post-disaster scenarios, housing authorities' duties are limited to offering a temporary or definitive housing subsidy without giving the opportunity to communities to be part of decision-making processes on how to provide housing with dignity. In cases in which communities have self-built their neighbourhoods and homes, there are various social, cultural and economic aspects that need to be addressed in order to make post-disaster situations less harmful. While people understand the need to address risk management to allow access to housing in dignity, the risk management and housing authorities seem unable to respond in a joined-up way.

During the MAR, issues around mitigating flood risks are the ones on which most agreements have been reached and complied with by the risk management authority. The community achieved the installation of various rain meters, cameras to check the flow of the river and risk studies aimed to define the necessary works to mitigate flood risks (MAR minutes). This study demonstrated that the number of definitive evacuations could be reduced if those works were executed. It also served the community's demands in relation to officially reducing the number of definitive evacuations from 52 to 10 families, and therefore assured that most of the families impacted by the flood could stay in the neighbourhood. Although the local government accepted the shifting of their legal classification — from definitive to temporary evacuation — it has failed to provide emergency housing subsidies to most of those who have a temporary evacuation (while the works are done) or a definitive evacuation. Out of 52 families, only 10 have had access to the temporary rent subsidy. The other 42 have returned to their half- or completely destroyed houses located in the flood prone area. Another flood event occurred in May 2021, and some of the families were displaced again.

Considering the risks of staying in a flood prone area and the commitment of the local government to facilitate the return of people to their houses once the risk mitigation works were done, some families decided to bring forward a *tutela action* to demand temporary housing subsidies for everyone impacted by the flood, which were denied by the local government in the decision-making board (MAR). But how to frame it? In this scenario, complex risk assessment was also undertaken when deciding the issues to bring forward in

the tutela action. A judicial decision ordering the complete evacuation of all the families in the neighbourhood, even forcibly seemed likely, as they are located in a legally declared conservation zone that should not be urbanised. In this scenario, the tutela action was used as a *relief mechanism for those who lost their homes,* while they discussed the permanency in the territory with the risk management and planning authorities in the MAR. In this way, they decided to bring forward a tutela action which was framed as the state's duty of emergency attention to families as a result of a disaster and therefore, remedies should be temporary such as the temporary rent subsidy until risk mitigation works were done. There was a deliberate decision to exclude any mention of the high flood and landslide risks some households were exposed to, as they tried to avoid a judicial decision ordering eviction on the basis of those arguments (Notes from meetings with the 'Study Circle'). Although undertaking a legal strategy was the last option, it was finally considered as long as legal framing did not bring about issues that could be conducive to the materialisation of social risks (such as the ones explained in the previous chapter).

Case 2. La Playita

At the time of writing, the housing authority has still not complied with the 2013 preventive judicial order of resettlement. In June 2015, the community leaders, with the support of the Legal Clinic, brought an action for contempt of court, arguing a breach of preventive judicial order by the municipality of Medellín. In August 2016, the judge decided to fine the mayor of Medellín and order him to provide information on the progress made to comply with the resettlement process. In August 2017, the judge decided the popular action and ordered the protection of the collective rights to a healthy environment and risk management of the community near the river La Picacha, and the provision of definitive housing solutions. The decision was appealed by the housing authority, and in 2021 — 4 years later — the 2nd instance Court received the appeal request.

In the face of the failure of the popular action, decision-making boards and lobbying to achieve definitive housing solutions and due to fears of evacuation, community members with the support of the legal clinic brought forward two tutela actions, one in 2018 and another in 2021. The 2018 tutela action was aimed at stopping an eviction order on 44 households in La Playita neighbourhood issued by the Police, and the 2021 action was brought by members of

the communities looking for compliance regarding the resettlement process, and therefore the protection of their right to housing in dignity. This later tutela action showed the division within the community in relation to the resettlement process. While the community is aware of the climate-related flood risks of living in La Playita, they do not believe that the local government is going to provide them with a housing solution elsewhere. That makes sense when considering that they have been waiting for around 8 years to be resettled.

In both cases, although the tutela action is an accessible legal mechanism, communities assessed its limitations in relation to the risks of a judicial decision against their interests. As explained in Chapter 6, living in informality could involve social risks that property owners in planned areas of the city do not face if they are going through resettlement processes. This was also a last resort mechanism once other legal and political strategies were undertaken. In any case, it seems that in the face of the inability of judges to enforce their decisions, communities found in the tutela action a relief mechanism to address urgent matters when their fundamental rights were compromised.

7.3.4. Case of Providencia. The tutela action as the main mobilisation mechanism

Hurricane Iota caused damage to 98% of the island of Providencia in November 2020. The impacts of Iota devastated several houses, schools, and public amenities. As a response, the Colombian Government declared a state of public calamity and emergency, ordering the National Unit for Risk Management and Disasters (UNGRD) to create a contingency plan for the reconstruction of the island within a period of 100 days. The Government did not execute the contingency plan, exacerbating the structural social problems faced in Providencia. Therefore, in December 2020 a Raizal leader with the support of the legal organisation DeJusticia brought forward a tutela action to demand the protection of various fundamental rights, and the legal recognition of the category of climate displacement. Like the other two case studies, legal opportunities in the form of standing rules and accessibility to the courts were available, but legal stock and judicial receptivity in this case played a significant role in defining legal mobilisation.

An obvious reason to bring forward a tutela action was that the urgency of attention post-disaster (Interview 15). In addition, Raizal people were very familiar with the tutela action and freedom of information requests. According to one of the lawyers:

> It was the community who proposed the tutela action (…) the communities have embraced this mechanism because it's useful to them and formalities to use it are minimal. The fact that they can bring a tutela action without the need of legal representation strengthens the legitimacy of their discourses in the legal process (Interview 15).

Therefore, the Raizal people contacted the director of DeJusticia who had published an article about the disaster in Providencia. DeJusticia agreed to support the tutela action as they saw in this case an interesting strategic litigation opportunity. They knew that the Constitutional Court had not yet decided a case related to the impacts of the hurricanes in the Colombian islands, and it connected with their research and litigation work on environmental and climate legal issues.

In various judicial decisions, the Constitutional Court of Colombia has declared the Raizal people as an ethnic minority subject to special constitutional protection, considering among other factors, their connection between the Raizal cultural identity and the territory of the archipelago of San Andrés, Providencia and Santa Catalina.[104] Being declared as a subject of special constitutional protection makes it easier to convince the judge that fundamental rights are at risk, when socio-economic or collective rights are violated. Unlike urban communities whose right to the territory is not constitutionally or legally recognised and lacks any constitutional special protection, judges will be more receptive to territorial issues if they concern an ethnic minority community. This could also explain the limitations that urban communities face in relation to the use of the tutela action, and the risks of a judicial decision that could worsen their social vulnerability conditions.

[104] *Archibold v MINCIT v otros* (2014) Sentencia T-800/14 (Corte Constitucional de Colombia); *German Moreno García (Demanda de Inconstitucionalidad)* C-053/99 (Corte Constitucional de Colombia); *Newball v MINCULTURA y otros* SU-097/17(Corte Constitucional de Colombia).

Like the urban cases, the Raizal leaders are very aware about their rights, the laws, and legal mechanisms available to them (See Interview 9). As one of the Raizal leaders puts it:

> [The Raizal struggle] has involved huge battles against the Colombian state and its pretensions. We've had to bring lawsuits, lawsuits, and more lawsuits until we reached the Constitutional Court. We have achieved judicial decisions in which the Court has declared that the territory of the department of San Andrés, Providencia y Santa Catalina Islas, nearby cays and sea waters is collectively owned by the Raizal people. (Interview 9)

Although there are lawyers within the community (Interview 15), they have counted on the legal support of legal clinics and legal organisations (Interview 9). In this case, the judicial receptivity to Raizal issues by the Constitutional Court was seen by DeJusticia as an opportunity to introduce the legal category of climate displacement in the legal system (Interview 16) and provoke a Constitutional decision on the impacts of climate change on the Raizal cultural identity and collective territory. A positive decision in the first or second instance was desirable but, and somewhat ironically, losing the case in both instances brought a better litigation panorama. That is because the Colombian system establishes that the Constitutional Court must review tutela actions in which claims are denied at second instance, if they consider it as a novel case needing judicial interpretation or where fundamental rights are at high risk of being violated (Accord 02 de 2015, art 52). In this case, as a response to the dismissal of the claims by the courts of first and second instance, more than 90 Raizal families signed a letter aimed at requesting the Colombian Constitutional Court to review their case. This call was supported by legal organisations and academia, including the University of Reading Centre for Climate and Justice. This joint effort resulted in the selection of the case by the Constitutional Court in August 2021 and final decision was expected by the end of 2022 (DeJusticia et al., 2021).

In a context in which Legal Opportunities provide easy access to the Courts, litigation may be used as an end in itself (Providencia case), but also as a medium to give a push to other mobilisation strategies that could help to achieve more accessibility to power decision spaces (La Playita case), or as a relief measure when other mobilisations strategies have failed (El Pacífico case). In the Pacífico case, the scarce legal stock in relation to collective demands by the communities in relation to the Right to the Territory, and their proximity to

decision makers made non-legal/political strategies more promising. Also, using legal mobilisation could entail social risks, such as eviction, that could be better sorted through political lobbying.

7.4. Resources: Lawyers as internal or external advisers to the group

Resource mobilisation theories establish that legal mobilisation depends — to some extent — on the availability of legal expertise (Abbot & Lee, 2021). While in the discussion above, it was clear that legal mobilisation was mediated by the support of legal organisations and clinics, those bodies also played a role in consolidating community organising and advocacy. In this section I explore the relationship between the organised communities and those organisations. Legal mobilisation strategies rely not just upon political and legal opportunities, but also on the *support structure* which refers to rights-advocacy lawyers, legal organisations and sources of financing (Epp, 1998), as well as grassroots support (McCarthy & Zald, 1977). Although the *support structure model* has focused on the influence of social movements in securing legal change (i.e. focusing on outputs) – instead of whether they engage in legal mobilisation in the first place, it could be argued that more resources imply more chances of participating in available legal venues (Lehoucq, 2020). However, according to Vanhala (2010a), resources do not necessarily determine strategy choice. It could equally be the case that the mobilisation strategy influences the resources that social movements might develop. In other words, the causal arrow could point in the other direction.

An important finding of this research is the role that lawyers played in the cases analysed, which is separated from the traditional understanding of external advisors on litigation. In my case studies, legal expertise is recognised as a pivotal tool not just for undertaking legal strategies, political advocacy or lobbying, but also for contributing to community organising in the form of legal education. For communities living in informality who may face social risks from judicial outcomes in the legal system, the understanding of the laws that apply to them is crucial to their strategy choices. For the Raizal community, legal change is important. Therefore, the law is seen as a tool to transform regulation applicable to them, which does not solely involve litigation, as I explain below.

While my Thesis focuses on the use of legal mobilisation strategies post flood-related disasters linked to the impacts of climate change, lawyers were already present in the picture. Legal organisations and clinics had been working with organised communities long before the disaster occurred. The Public Interest and Environmental Legal Clinic of the University of Medellín had been working with the community nearby the river La Picacha for around 16 years (Interview 10). Meanwhile, the community of the Comuna 8 had been developing a collaborative articulated work with the legal and human rights organisation Corporación Jurídica Libertad (CJL) for almost 10 years (Interview 3). In the Providencia case, although the DeJusticia came in to support the community with the tutela action explained in the section above, the Raizal community had been supported by the work of the Legal Clinic Group of Public Actions of the University of El Rosario for several years too.

In order to understand this long relationship between lawyers and organised communities in this Thesis, I analyse mobilisation approaches by the lawyers interviewed. Those are consequently contrasted with the community leaders and members of social movements. To start with, it is important to highlight that the three legal organisations and clinics are dedicated to promoting social change through advocacy and litigation. Beyond litigation and advocacy, the Legal Clinic and DeJusticia develop research for the promotion of human rights in Colombia (DeJusticia, 2023), while the CJL is focused on campaigning (CJL, 2023).

In the previous section, I mentioned that legal organisation agendas could play a role in shaping legal mobilisation strategies. This could be interpreted as arguing that their agendas dominated strategy choice, but there are some caveats to consider. First, legal organisations decided to support a case because it coincided with their interests and expertise. In the three cases, each of the legal organisations counted on a branch working on relevant topics (the CJL in its *Defence of the Territory* strategic litigation branch (CJL, 2023), and the Legal Clinic and DeJusticia with a litigation, advocacy and research branch on environmental justice (DeJusticia, 2023). Secondly, legal organisations' work could be delimited by a geographical scope. The work of the Legal Clinic is limited to the environmental problems faced by the community nearby the University of Medellín (Interview 10). This is also determined by the clinic methodology which is aimed to teach cause lawyering to law students through case studies, in which they address environmental problems they could be familiar with. While the work of the CJL is limited to the departments of Antioquia and Chocó, DeJusticia, which is the biggest legal NGO in Colombia, is committed to presenting

legal cases before the high courts of Colombia and other countries — from Brazil and Peru to Kenya and India (DeJusticia, 2023).

These caveats are significant because they suggest that lawyers' work is not limited to providing legal advice in particular cases and undertaking litigation, but also includes being able to provide support to communities through a variety of legal work for an extended period of time. When asked about their approach to litigation as a human rights organisation, the CJL lawyer said:

> If our mission is directed to strengthening the organisational processes of the communities and supporting them in becoming qualified and empowered political subjects able to demand their rights, then we should go beyond the legal action,[105] and develop a range of educational, communicative and awareness activities. (…) Legal action on its own leads us to nowhere. (…) The legal action needs to be supported by community organising processes. In this country where there are systematic violations of human rights, we need to go beyond individual actions, and think about high impact collective actions that could impact a considerable number of people and become a legal precedent in the city (Interview 1).

A similar approach was shared by the Legal Clinic lawyer:

> [When you analyse a legal case], you can see a range of opposed interests in which as lawyers, we have to decide the role we play (…) you cannot impose your views on the community; you should be a mediator who knows the limitations of the law and how complex it is. This [the law] is a political, social and economic issue, and we [lawyers] are just one of many other actors who are connecting, mediating, and exploring alternatives in which people could find solutions to their problems (Interview 10).

The prior point is reflected in the support that communities receive from these organisations in non-litigation activities like political scenarios, legal educational spaces, protests, etc (See references in Interviews 1, 3, 5, 6, 10, 14). Relevant to this discussion is the way in which both legal groups have supported community organising as part of their mobilisation strategy, although it has been done in two different ways. The Legal Clinic used its resources

[105] She referred to legal action as utilising legal venues, such as Courts.

(hiring a sociologist) in order to teach communities how to create community organisations with a legal status. From my point of view, this explains why the community of La Playita relied on the most in legally regulated ways of community organising such as JACs and citizen watchdogs. This gave community leaders strength and confidence to approach the local government and make demands, while they could also count on the support of the Legal Clinic. Although it would be unfair to say that the Legal Clinic decided the mobilisation strategy, they played a pivotal role in advancing strategies (popular action) as well as the frames used (environmental problems posed by the river La Picacha), and the claims (the enforcement of the Picacha micro-basin plan). There were several meetings between the community leaders and the members of the legal clinic in which the community heard the proposals of the legal experts, gave feedback and decided steps forward. In a way, the community leaders were the ones who accepted or not whatever was proposed by the lawyers in terms of the mobilisation strategy.

Meanwhile, the role played by the CJL seems more embedded in the community organising, in which lawyers are legal experts but most importantly, organisers. During the MAR meetings I attended I noticed how lawyers were not differentiated from the rest of the organised community. It was obvious that there was a legal expert who mainly referred to legal issues in her interventions, but it did not look like an external lawyer who came over to back the community in a meeting. During the MAR, the organised community acted as a block integrated by members of the community and experts on legal, risk management and planning issues. These are lawyers, engineers, architects, sociologists who are part of NGOs, academia or grassroot organisations and have worked for years with the people of the Comuna 8. The networking is part of their idea to claim their auto-management capacity and community autonomy, and their refusal to be considered as vulnerable communities (Interview 6).

Unlike the Playita case, the community of El Pacífico has used a different range of organising forms. The members of the JAC are usually members of community boards which are groups created to discuss relevant community issues. They have created community boards to address electricity disconnection in informal settlements,[106] housing with dignity, and access

[106] Community board on Neighbourhood legalisation.

to public utilities[107] (Interview 3). In addition, as explained in the previous section they have developed Popular Autonomy Schools, and created an articulated group that encompass community members, academia and grassroots organisation called Movimiento Laderas. This has also reflected in the creative way they have used legally regulated participation mechanisms to legitimise their organisation and claims before the government.

From the community point of view, legal knowledge is valued as an important resource for organising and political influence. According to a grassroots organiser interviewed, "the community and grassroots organisations know the laws that apply to us, but we do not understand the law as a system as the lawyers do. The CJL lawyers know how to use the law in political scenarios" (Interview 6). A community leader also mentioned that the local authorities respect the community organisation of El Pacífico because they always have legal support. In his words "without the lawyers' support, they [the authorities] would have treated us as poor devils easy to trick" (Interview 5). Another leader from La Playita community said to me that their mobilisation strategy success was possible thanks to the support of the Legal Clinic (Interview 12). From my interviews, I noticed that legal expertise and the role that the lawyers play in their organisation and mobilisation is much appreciated by the organised communities. This is also reflected in the way that they understand legal expertise, beyond litigation terms. When asked about legal expertise and the role of the lawyers, community leaders and grassroot organisations instantly mentioned several examples in which lawyers have supported them, going from litigation, protests to economic support with the Popular Autonomy Schools (Interviews 3, 5), etc. In this sense, the law is an essential lens from which communities understand their experiences, and it is also a way to gain credibility and authority (Abbot & Lee, 2021).

On that basis, lawyers guide communities on the opportunities they have within the legal system to reach their demands and risks, whether through legal or non-legal venues. They play an educational role in which they contribute to defining mobilisation objectives, either playing a more supportive role (legal clinic) or as part of the community organisation (CJL). In a context of informality in which the application of the law could involve the realisation of social risks, the understanding of the political, cultural, and socio-economic context of informal settlements is central to reduce the chances of harm with legal activities. In this

[107] Community board on housing and public utilities.

sense, resources have an influence in strategy choice, but what is a crucial determinant is the way in the community organising process develop resources able to meet their objectives – mainly through networking with academia, legal and grassroots organisations.

7.5. Strategy choice integrated analysis

In **Table 4** below, I compare and summarise the main findings in relation to strategy choice in each of the cases. Although in all cases organised communities used legal mobilisation, there were different approaches to the strategy that define whether it was used as a principal or subsidiary mobilisation strategy. It becomes apparent that this is shaped by the combined effect of factors such as closeness to decision-makers, resources, legal and political opportunities, as well as complex risk assessment.

7.5.1. Table 4. Summary of main finding per case developed in Chapters 6 and 7

Topics	Case 1. El Pacífico	Case 2. La Picacha	Case 3. Providencia
Community approach to climate-related (im)mobilities post-disaster	People refuse to leave their neighbourhood.	People refuse to leave their neighbourhood.	People refuse to leave their island.
Mobilisation strategy (Response post-disaster)	**Use of non-legal venues.** The creation of a collective board for the recovery and development of the neighbourhood MAR.	**Use of legal venues.** Bring a popular action (Constitutional mechanism).	**Use of legal venues.** Bring a tutela action (Constitutional mechanism).

Legal mobilisation prioritisation	**Subsidiary strategy.** Used when political strategies (principal) failed.	**Principal strategy.** Used to open create political opportunities.	**Principal strategy.** Used to take advantage of legal opportunities
Reasoning on LM prioritisation	LM is confrontational. Organised community able to influence decision- makers in informal political scenarios. Legal resources available.	LM will put the case in the local political agenda. Legal resources available.	LM will bring changes in the legal system once the Constitutional Court reviews the case.
Community organising form	Institutional and non-institutional forms of organising: JAC (community organisation recognised by the law), community boards in different topics (housing, utilities) and Popular Autonomy Schools.	Limited to institutional forms of community organising: JAC and citizen oversight.	Institutional form of organising: citizen oversight* *There were limitations to interact with Raizal communities and understand better their ways of organising.
Resources	Academics in different disciplines, lawyers and grassroot organisations support.	Academics in different disciplines and lawyers.	Academics in different disciplines and lawyers.

Lawyers as resources	Lawyers are considered organisers.	Lawyers are considered external advisors.	Lawyers are considered external advisors.
Resources influencing strategy choice	Lawyers played a less dominant role in defining mobilisation strategies.	Lawyers played a more dominant role in defining mobilisation strategies.	Lawyers played a less dominant role in defining mobilisation strategies.
Legal resources	Lawyers support goes beyond legal issues.	Lawyers support goes beyond legal issues.	Lawyers support is limited to legal issues.
Complex risk assessment	Social and personal safety risks assessed once deciding and while developing mobilisation strategies.	Social and personal safety risks assessed once deciding and while developing mobilisation strategies.	Social or personal safety risks were not assessed in mobilisation strategies, although Raizal leaders have been victims of death threats as a result of taking action against military post-disaster plans in the island (DeJusticia, 2021).

Frames in relation to complex risk assessment	Deliberate exclusion of any mention to 'people settle at protection areas of risk' to avoid social risks. Deliberate use of technical frames to avoid referring to illegal land use by criminal gangs in political strategies to avoid personal safety risks.	Deliberate exclusion of any mention to resettlement processes to avoid social risks. Deliberate exclusion of any mention to illegal mining business by criminal gangs in the legal mobilisation strategy.	N/A
Rights frames (legally and non-legally recognised)	Right to housing linked to a life with human dignity, right to public utilities, right to potable water. Right to the city, right to the territory, the right to participate make decisions in relation to that territory, right to remain.	Right to healthy environment, right to housing in dignity, right to life, right to health, right to participate, right to associate, right to undertake social mobilisation.	Right to life and human dignity, the right to health, the right to housing, the right to ancestral property, and the right to prior consultation

In this chapter, I have developed an integrated analysis on the variables at play in mobilisation strategies of three cases of communities experiencing climate-related (im)mobilities. I used a corporatist approach to explain how community organisations — who are not in a privileged position in society — are able to gain recognition and legitimation through other means, such as popular education and informal popular consultations democratically voted. These mechanisms allowed the community of El Pacífico

(for example) to be in a more equal relationship with decision-makers in which the community organisation is able to call for decision-making boards aimed at making collective decisions on the post-disaster and development measures for their neighbourhood.

Then, I analysed the interplay between political and legal opportunities in the cases of La Playita and Providencia which led me to the conclusion that legal mobilisation is a versatile mechanism that could be used to get closer to decision-makers and create political opportunities. I explained strategy choice in terms of prioritisation of specific legal mobilisation strategies in comparison to others. I showed how the tutela action could be used: as a main mobilisation strategy (an end in itself); as a medium to push other mobilisation strategies more promising on getting easy access to decision-makers; or as a relief mechanism when other mobilisation strategies failed. I also discussed the different roles that lawyers play in my three case studies and their ability to influence mobilisation decisions. While in one case the lawyers' role was embedded in the community organisation and they could be regarded as community organisers, in the other two cases, lawyers were seen as external legal advisors. In all cases, lawyers provided legal advice on legal mobilisation strategies but also non-litigation scenarios such as lobbying or protest.

This Chapter and the Chapter 6 constitute an integrated analysis of all variables that triggered or constrain legal mobilisation in my three case studies. These chapters are the basis of my Chapter 5 in which I make sense of my findings in the legal mobilisation theory and led me to conclude that assessing risks of undertaking mobilisation strategies is as important as evaluating political and legal opportunities, and resources available. In the following chapter, I analyse the development of climate frames in each of the cases — using a risk approach to legal mobilisation — and discuss contributions of the Thesis to climate litigation studies.

Chapter 8. The development of climate frames and their use in climate litigation

This research work uses framing analysis to discuss the use of legal mobilisation by communities experiencing (im)mobilities in Colombia linked to climate-related stresses. In Chapter 5, I explain that legal mobilisation in chronic risk contexts is mediated by an assessment on whether the use of the law plays a role in aggravating personal safety risks and social risks. I argue that while this assessment could prevent the use of legal mobilisation, it principally shapes frames and claims in legal mobilisation. This is followed by two chapters aimed at explaining the under-explored variables of place attachment and violence in triggering or constraining legal mobilisation (Chapter 6), as well as the traditional variables studied by opportunity approaches and resources theory (Chapter 7).

While Chapter 5 explain the different stages of framing analysis, including a risk assessment approach to framing choices, Chapters 6 and 7 examine the way in which frames were used in each case. Albeit rights frames were salient in all my case studies and climate frames seemed less prominent for urban communities mobilising the law as a response to climate disasters, there is theoretical value in comprehending why climate change was a peripheral or incidental matter. This fits with previous research which has described as a unique characteristic of climate litigation in the Global South the fact that "litigants connect the "peripheral" nature of climate issues to a need to embed concerns about climate change in wider disputes over constitutional rights, environmental protection, land-use, disaster management and natural resource conservation" (Setzer & Vanhala 2019, p. 4).

Using a broad definition of climate litigation referred to 'cases in the context of climate change' (Bouwer, 2018), in this chapter I analyse framing in climate disaster legal cases. I pay particular attention to whether climate consciousness is developed by communities facing climate-related disasters and discuss whether climate frames are used (or not) in climate litigation and why. Comparing with the use of climate frames in non-legal scenarios, I argue that climate frames are strategically chosen in litigation as those are defined by opportunities and risks. Although I use a narrow approach to legal mobilisation limited to utilising legal venues (Lehoucq & Taylor 2019), this by no means precludes the explanatory

potential of the analysis of framing in non-legal scenarios. On the contrary, comparing the use of climate frames in non-legal venues is methodologically valuable as it can shed considerable light on whether those frames may be used in legal venues or not, how, and why. I focus on whether and how communities give meaning to climate change and use it deliberately in non-legal and legal mobilisation strategies.

This chapter is divided into three sections. First, I discuss the significance of analysing peripheral and incidental climate litigation[108] to study climate disaster legal cases. This is followed by a discussion on the development of climate consciousness by communities impacted by climate-related disasters. Finally, I discuss the use of climate frames in legal and non-legal mobilisation strategies to conclude with an analysis of the use and dismissal of climate frames when turning to the law.

8.1. Climate litigation: recognising climate-disaster legal cases

This research work adopts the broad climate litigation definition proposed by Bouwer (2018) of legal cases occurring 'in the context of climate change'. This conceptualisation fits the analysis of my case studies on rapid-onset climate-related disasters cases, in which climate language is not necessarily deployed in an explicit way. There are methodological limitations of using climate language as a defining feature of climate litigation cases, as most climate litigation studies do. Considering climate language *as default* in climate cases dismisses the processes in which climate frames are developed. It also omits the rich knowledge emerging from examining how people give meaning to climate change and its strategic use by framing it in explicit ways (or not) in legal mobilisation strategies.

In my literature review chapter, I discuss the dominant focus of most existing climate litigation studies on *mitigation* cases taking place in the Global North (GN). Climate accountability seems to spark the move towards this type of case, which makes sense when acknowledging the reduction and stabilisation of greenhouse emissions needed to solve the climate crisis. In addition, the historical responsibility for climate change by countries in the Global North makes them a primary target to be challenged in the courts. This prevailing

[108] This refers to climate cases in which climate change is not a central matter. Instead, it is referred as a peripheral issue or completely avoided. In either way, those cases may have implications in climate mitigation and adaptation (Setzer & Benjamin, 2020b).

attention on climate mitigation cases reveals something that seems obvious, which is the fact that climate change as a physical phenomenon has been given meaning by people and is reflected in what is targeted and claimed in legal cases. This means that putting forward a legal case in which climate change is a central issue needs at least a basic understanding of climate change as a human-driven problem, in which there are duty-bearers obliged to fix it and to stop contributing to the climate breakdown. In other words, climate discourses, narratives and frames may be developed by communities facing climate-related disasters and put forward in legal cases. In contrast, the rise in climate consciousness does not mean that climate frames are unavoidably put forward in legal cases — as frames are deliberately and strategically shaped for mobilisation purposes. This is why I argue that it is important to go beyond the use of climate language in litigation and inquire whether and how the use or dismissal of climate frames is a calculated choice.

While the use of climate language in legal cases has evolved from the diverse ways in which climate change is given social meaning, there is scarce climate litigation literature on why and how climate discourses and frames are dismissed in the litigation of cases[109] related to climate impacts, such as climate disaster cases. As mentioned before, the focus on the use of climate language is a tendency in the literature, which is also found in the reports of the climate litigation database — that of The Grantham Institute. In their 2022 report, Grantham authors affirmed that their previous debate (see 2020 report) on what counts as climate legal cases on the basis of presenting climate change as a central, peripheral or incidental[110] issue was decreasing in relevance, as most of the cases filed or identified during the study period are increasingly positing climate change as a central issue or address climate-relevant laws, policies or actions in a meaningful way (Setzer & Higham, 2022). [111] Certainly,

[109] Among relevant studies on framing and climate litigation are Hilson (2012) on hard and soft framing; Franta (2017) on framing in the fossil fuel divestment movement; Peel and Osofsky (2017) on courts' receptivity to human rights frames; Hilson (2017) in framing time in climate litigation; and Setzer and Vanhala (2019) on framing of time and the use of human rights frames in climate lawsuits.

[110] In the 2020 report, it was recognised that despite of excluding cases that make no reference to climate change, those are relevant to study when having implications for climate mitigation and adaptation. This type of cases was referred as 'incidental climate litigation' (p. 6). Climate litigation cases included in the database were classified on the basis of whether climate change is a central or peripheral issue.

[111] The authors make it clear that 'While the databases formerly included more cases where climate change was a peripheral issue, as the overall number of cases filed has increased fewer such cases have been captured and, in some instances, older cases have been removed' (Setzer & Higham, 2022, p. 15).

adaptation and rights-based climate cases are identified by the database but considered relevant only if aligned with climate goals.

But do cases in which climate change is a peripheral or incidental issue lack relevance in the current discussions on climate action? Are these cases worthy of being counted? If it is assumed that the climate crisis would be potentially resolved with merely cutting greenhouse emissions — regardless of how — one could lean towards considering the triviality of analysing cases in which climate change is not a central matter. On these lines, mitigation cases become more relevant than adaptation cases, but even so, adaptation cases count (for database purposes) mostly when those use a hazards approach that draws on the biophysical risk of climate change, which can be easily framed in climate language (Ohdedar, 2022). In contrast, if one stands on the basis that climate solutions need social, political and economic transformations in which we relate differently with the nature and people, then analysing how climate change is given meaning by people — even when it is regarded as a non-central concern — becomes more important.

The first assumption seems to overlook the role that climate solutions could play in exacerbating social vulnerability conditions of those who have borne the brunt of the carbon-based capitalist world economy. In the 2022 Grantham Institute report, 'just transition' cases in which communities opposed to climate solutions due to human rights concerns (for example, water insecurity as result of lithium production) are classified as 'non-aligned climate action cases', along with cases delaying climate action. While the authors recognise that just transition cases may have an impact in better outcomes on climate action in the long-term, this classification is justified under the consideration that this type of cases may not advance climate outcomes in the short-term (Setzer & Higham, 2022). Although this might be true, the transition nature of these cases by no means diminishes their potential to advance climate measures and therefore they do not deserve the ill-suited classification of *non-aligned climate action cases*. From a climate justice perspective, effective climate change action is considered as such if it tackles the political and economic structures that put people at greater levels of climate vulnerability, and transition to a fairer and more equitable world. In other words, climate solutions build on the need to stop replicating the same pattern of human rights violations and injustices of the economic and political system that created the current climate crisis in the first place. As Tigre et al. (2023) point out "Just transition cases are not necessarily pro- or anti-climate

action. Instead, they demand that climate action is undertaken in a just and inclusive manner with attention to those in vulnerable situations" (p. 13).

My case studies are connected to the discussion above in two ways. First, the climate disaster cases analysed here show how climate change is a transversal issue that aggravates already existing social vulnerability conditions. Second, vulnerability to climate disasters is understood by the communities impacted in a socio-spatial justice dimension. If it is considered that legal cases in which climate change is not a central matter are not sufficiently relevant to count — even when those relate to the impacts of climate change — then climate litigation studies end up overlooking climate change as a phenomenon that exacerbates social vulnerability conditions and fails to integrate a holistic view on the social implications of climate change to legal debates. Furthermore, it leads to the ignoring of the complex and structural political, economic, and social changes to meet climate goals that may be linked with 'in the context of climate change' cases (Bouwer, 2018).

While there is not an independent category of climate disaster litigation in climate litigation studies, the cases analysed in this work could be regarded as climate adaptation cases, as their outcomes have implications for adaptation goals in the locations those are taking place. Although recent studies have recognised the importance of litigation on climate change adaptation, research has shown that adaptation policies and actions have generally been approached in an apolitical manner that reinforces "existing power structures and do[es] not pay attention to the socio-political nature of how climate change materializes on the ground" (Ohdedar, 2022). This could be said for climate law scholarship, which has omitted the current rich volume of non-legal academic research on social vulnerability and adaptation and has focused mostly on cases that reflect a hazards approach to vulnerability (Ohdedar, 2022). The later would be the case of adaptation jurisprudence focused on claiming protection of coastlines or infrastructure to prevent floods, for example – in contrast to cases seeking to address unequal property rights over resources such as water in order to adapt to climate change.[112]

In order to identify less visible adaptation cases in climate litigation studies, Ohdedar (2022) proposes an analytical framework aimed at differentiating between two framings of

[112] See Ohdedar (2022) for a discussion on cases using a social vulnerability approach in India.

vulnerability: (i) a hazards framing; and (ii) a social vulnerability framing. According to the author, while a hazards framing tends to lead to managerial or technical policy fixes, a social vulnerability framing reveals the socio-political factors that put people at higher levels of climate risk. The latter can also draw attention to lower-profile cases that are often invisible to climate litigation scholarship (Ohdedar, 2022). Integrating this analytical framework into my case studies brings to light that communities in chronic risk contexts, who are aware of the social structures that put them at higher climate risks, could use a social vulnerability or hazards approach when turning to legal venues in strategic ways. In his work, Ohdedar (2022) explains that environmental and development concerns are not articulated in climate language in India, as it has historically been seen as a matter of foreign policy. According to the author, climate change tends to be a peripheral issue or completely avoided in litigation in the Global South, which does not necessarily mean that those cases do not intervene in shaping climate vulnerability and rights issues (Ohdedar, 2022). My case studies in Colombia could be assimilated to this tendency of considering climate change as a non-central matter in litigation but might be determined for different reasons, such as opportunities and risks. In what follows, I discuss the use or dismissal of climate frames from the basis of strategic framing choices, starting from examining how communities impacted by climate-related disasters have given meaning to climate change.

8.2. Climate consciousness. Is climate change recognised as such by communities facing climate-related disasters?

As I mentioned above, I am interested in the strategic use of climate frames in climate disaster litigation. This involves wondering whether and why climate change is used as well as dismissed in legal mobilisation. However, before navigating this question it is important to examine how climate change is given meaning by communities experiencing climate disasters. This examination has no intention of advocating for the relevance of cases in which climate consciousness is developed and climate frames are put forward in litigation. Following the analysis in the section above, considering cases ‘in the context of climate change’ in order to make visible climate disaster cases means that the analytical relevance is given by the occurrence of the climate-related disaster that trigger the use of the law. In other words, the analysis is focused on how communities give meaning to climate change, in

which there could be climate awareness or not and the way it is interpreted when turning to the law as a response to a climate-induced disaster.

I explained in my methodology chapter that my case studies were chosen on the basis of communities facing (im)mobilities linked to climate-related disasters who responded with mobilisation strategies. I knew the cases of El Pacífico and La Playita before I started my PhD as I was involved with those communities as a legal support or activist. I was aware that although members of both communities were displaced by floods following more extreme and frequent rainy events in Medellín, they rarely made any references to climate change, neither to the issue of displacement in their organising and mobilisation strategies. At the beginning of my case study selection, I considered this lack of references to climate change and displacement as a barrier as they seemed 'irrelevant' to be discussed in climate litigation studies. However, I also realise that the fact that climate change and displacement was not named as such, does not mean that climate change did not play a role, or that displacement did not happen. I wondered whether beyond a physical phenomenon that seem obvious for those who dedicate our lives to the study of its implications, it might not be that visible, urgent, and important for those most affected by climate impacts; or on the contrary, climate consciousness existed but there was a deliberate decision to exclude climate frames. In order to navigate these questions, two hypotheses were raised. **Hypothesis 1.** The communities I was looking at were little familiar with climate change (lack of climate consciousness) which could explain the lack of references to climate frames. **Hypothesis 2.** Communities were aware about climate change but deliberately decided to exclude climate frames in litigation (examined in the subsequent section).

Hypothesis 1. The communities I was looking at were little familiar with climate change (lack of climate consciousness) which could explain the lack of climate frames.

This hypothesis arises from considering that climate risks are one of many other risks that communities face in chronic risk contexts (see Chapter 6), which means that communities may or may not perceive climate risks as such. Furthermore, the diffuse nature of climate change and its long-term dispersed consequences (Jodoin et al., 2020) might make it difficult for communities to associate climate change with its local impacts. At the time I undertook my interviews, I found that among community leaders there were different levels of climate awareness. Some community leaders were articulate in explaining why climate change was a

concern or not for the community — and worth voicing or not in mobilisation strategies (Interviews 2, 3, 6). In contrast, others simply recognised the importance of addressing climate change (mostly following a question in which I introduced the topic), but little associated it with their community struggles (Interviews 4, 5, 14). It needs to be said that a common factor in all community leaders' interviews was their sophisticated knowledge on disaster risk management of flood-prone zones located in informal settlements. An example is the community of El Pacífico, who as part of the Popular School of Community Risk Management of the Comuna 8, developed their own Community Risk Management Plan (Montanoa et al, 2019).

In May 2021, a community leader of El Pacífico told me that his community knew little about the implications of climate change in their daily lives (Interview 3). He also emphasised that in the same way the community has educated themselves on how geological, environmental, and social risks put them in a vulnerable condition to disasters, they could learn about climate change (Interview 3). During that interview, he suggested that while certain topics are not properly grasped by the community, they tend to avoid them in mobilisation strategies. Although this seems like an obvious move, it might indicate that strategic framing could be — in certain cases — downplayed by community values. In this case, the use of climate frames seems mediated by the previous appropriation of those frames by the community (which is representative of the value of community autonomy). The development of climate consciousness through popular education by the community of the Pacífico case is illustrative of this argument. In what follows, I explain how climate change is given meaning by the community of El Pacífico in order to introduce an analysis of climate frames in non-legal strategies. This is followed by an examination of the strategic use (or dismissal) of those climate frames in litigation considering opportunities and risks.

8.2.1. El Pacífico. The rise of climate consciousness

While, based on my interviews undertaken in 2021, I could argue that climate change was an irrelevant topic for the community of El Pacífico, that is not the current state of things. As I explain below, this switch may be associated with the perception of discourse opportunities brought by the Colombian media and the new government in office. It might also be influenced by the work of the 'Study Circle', a group of legal support working on the

intersection between climate change and human rights. These circumstances triggered an interest of the community on educating themselves on the implications of climate change in their neighbourhoods, but also exploring opportunities in mobilisation strategies (an analysis on legal strategies in the section below). This learning process allowed the raise of climate consciousness, and the development of climate frames by the community.

In July 2022, the community of El Pacífico with the support of the Movimiento Laderas launched an online media campaign calling for the declaration of a climate emergency in Medellín by the local authority. Their proposals for the declarations were: (i) the development of adaptation strategies for the neighbourhoods most vulnerable to climate change in Medellín; (ii) investment in risk management and climate adaptation; (iii) strengthening of climate governance through collaborative work between the local authority and the communities; and (iv) the implementation of the Public Policy for Dwellers (Alcaldía de Medellín, 2019) aimed at the development of 'territories with dignity'. This was in order to guarantee communities the right to stay in their neighbourhood, considering resettlement as a last resort measure, and to stop new settlements in areas at high risk (Movimiento Laderas de Medellín, 2022).

The following month, the community of El Pacífico launched the Popular School of Autonomies for Climate Action and the Inter-neighbourhood Panel of Climate Change (IPCC) of the Comuna 8. This learning and organising space have two aligned purposes: (i) to train the community on the effects of climate change in their neighbourhood; and (ii) to lobby the local government to seek the declaration of a climate emergency in the city. As a response to a flashflood that displaced around 25% of the families settled in El Pacífico in September 2020, the community of El Pacífico launched the MAR, a decision-making board for the reconstruction and development of the neighbourhood El Pacífico (see Chapter 6). During the period in which this decision-making board had been taking place, the community was impacted by several floods as a result of the rainiest season Colombia had seen in recent years (El-Colombiano, 2022).

In November 2022, the Colombian government declared a national climate emergency (El-País, 2022), based on the unprecedented number of climate-related disasters associated with floods. This was reported by several media outlets in Colombia, and from conversations with family members, friends, and colleagues it seemed to reflect a general concern about

the unstoppable rain in the country. Parallel to this, in August 2022, Colombia's first ever left-wing government took office. The current president, Gustavo Petro, is a former guerrilla member and established politician defending social justice issues, while the vice-president, Francia Márquez Mina, is a black woman who had dedicated her life to the defence of the nature and afro communities in Colombia. Climate justice was a priority topic during their campaign. It was reaffirmed during the first presidential speech by Gustavo Petro, and by the appointment of ministers who have previously worked on climate justice issues, such as the Minister of Environment and Sustainable Development, María Susana Muhamad González, and the Minister of Mines and Energy, Irene Vélez Torres. This context might have raised the attention of community organisations to climate change as a relevant concern for their organising approaches, in addition to the ongoing discussions in relation to the impacts of climate change between the Movimiento Laderas and the 'Study Circle'.

Concurrently, as part of my PhD research I became a member of the 'Study Circle', a group integrated mostly by lawyers, who provided legal advice aimed at supporting the mobilisation strategies of the Movimiento Laderas (See Chapter 3). During the 'Study Circle' debates we discussed the link between climate change and human rights, and the opportunities and risks of using climate frames in legal and non-legal scenarios. These discussions went beyond the 'Study Circle' debates and were part of broader discussions with members of the Movimiento Laderas, who in turn integrated the whole community of the Comuna 8 through the creation of the Popular School for Climate Action. In the *First session of the Popular School for Climate Action,* the community of El Pacífico learnt what global warming is and its effects in the climate. They illustrated the increase of the planet temperature as a result of greenhouse gas emissions, by covering a person with various layers of clothing and blankets (See Photo 2). The result of the session was an infographic on what climate change is and ways to provide support within the community during the current climate emergency (see Photo 1).

Photo 1 **Photo 2**

Photos 1 and 2. *First session of the Popular School for Climate Action* (Movimiento de Laderas de Medellín, 2022).

In Session 3, the community discussed the links between human rights, environmental justice and social justice, and the rights of nature. In the resulting infographic (Photo 3), they related these topics to issues such as inequality, state neglect, and the differentiated impact of the development model to people (framed as VICTIMA$).

Photo 3. Infographic on environmental justice (Movimiento de Laderas de Medellín, 2022a).

The case of El Pacífico shows the process in which climate change becomes a central concern for communities impacted by climate disasters. This organising and educating process around climate change brought to life the development of climate consciousness, in which the community has been recognising climate change as a climate risk with the potential to negatively impact their lives. While in 2021, a community leader put forward the view in an interview that climate change could 'contaminate' their organising as it may divert the

attention to the urgent matters, such as access to potable water and housing (Interview 2), they have now found in climate frames an opportunity to fight for their most pressing concerns as I explain in the following section.

Hypothesis 1 was raised — in principle — on the basis of exploring climate consciousness as a precondition to evaluate the use of climate frames. However, beyond the affirmative or negative answer — which is not of my interest — it allows one to appreciate the development of climate consciousness by communities facing climate-related disasters. The analysis of El Pacífico case shows how climate consciousness is developed in an intentional way in order to integrate it into mobilisation strategies (as I explain in detail below). In what follows I explain that climate change there motivated the reframing of communities' discourses and claims. It was integrated with spatial justice struggles and used strategically in legal and non-legal scenarios. While climate change discourse was seen as an opportunity by the community of El Pacífico, and therefore it was integrated in the organising process, this does not guarantee its use in litigation. In contrast, there could be the case of the use of climate frames in litigation without integrating it in the community organising process. This is illustrated by the case of La Playita in which climate frames were introduced by lawyers in legal mobilisation as it was seen as a strategic choice. Although this is discussed in detail in the following section, I highlight the fact that climate consciousness is important to understand the way that climate change is given meaning by those impacted by climate disasters. The analysis of climate consciousness as a development process in community organising allows one to identify whether and why climate change is an important concern by communities in order to inquire how and why climate frames are brought or not in litigation. As explained below, climate frames are used or dismissed based on assessed decisions made by actors involved (either communities or lawyers), contemplating opportunities and risks.

8.3. Climate change frames in non-legal mobilisation strategies

Following various educative sessions, in October 2022 the Popular School of Climate Action called for a public hearing before the council of Medellín to demand the official declaration of a climate emergency. This was a step forward from the organising process of educating

the community on climate issues to using a political mobilisation strategy, in which climate change was central to community discourses and frames. The purpose of this non-legal mobilisation strategy was to demand the development of a joint plan to take measures aimed at protecting people in the peripheries of the city from the impacts of climate change (Movimiento de Laderas de Medellín, 2022b). Some of the community members' speeches and posters presented in the public hearing included statements such as:

- "People of the hilly areas of the city are prepared to adapt to climate change."
- "The climate adaptation measures should include access to potable water to people living in the periphery of the city."
- "We demand climate justice that includes a gender perspective."
- "We don't want to be climate-displaced people."
- "We continue demanding integral improvement of our neighbourhoods. #Climate Emergency."
- "We demand disaster risk management as a climate adaptation measure. #ClimateEmergency."
- "Implementation of the public policy for dwellers aimed at guaranteeing our rights and effective adaptation to climate change."
- "For a life with dignity and food security, we demand the declaration of the climate emergency."
- "Comuna 8 in Climate Action!"
- "An inclusive climate action involves nature-based climate solutions and community-based climate solutions."

This public hearing was supported by a social media campaign led by the Movimiento Laderas. Some of their statements are found in **Box. 1** below.

Box 1. Tweets of Movimiento Laderas between September and November 2022 calling for the declaration of the climate emergency

"We continue developing knowledge and community proposals to solve the climate crisis, so we are not anymore the most disadvantaged and invisible people in society. We demand the development of joint strategies to build the Declaration of a Climate Emergency (Movimiento Laderas de Medellín, 2022c).

"(…) We continue learning about climate mitigation and adaptation with the purpose of developing action seeking permanency in the territory (Movimiento Laderas de Medellín, 2022d).

"The measures to tackle the climate crisis should include changes in the structural social conditions that put the low-income sectors of the city in a vulnerable situation" (Movimiento Laderas de Medellín, 2022e).

From the above, one could interpret that climate frames draw on a climate and spatial justice approach. Climate change also seems to be integrated to the community demands on access to housing in dignity, which has been a historical claim by the community of El Pacífico. Adapting to climate change is portrayed as a measure able to tackle socio-spatial exclusion, as it is presented by the posters calling for the implementation of the public policy for dwellers, guaranteeing access to potable water, and the development of a safe territory. These frames also reveal that communities seek to be seen as resilient and able to adapt to climate change. On that basis, they call on the local government to declare a climate emergency and work with the communities as equals. The community knowledge and developed capacities are put forward as important sources of climate-related solutions, along with the technical knowledge and resources from the local government.

It also shows how concerns in relation to access to a housing in dignity and, the guarantee of the right to the city, are understood in a climate change dimension. The Popular School for Climate Action helped people to re-frame their demands in a way in which the impacts of climate change are considered. In a way, one could argue that climate change started to be regarded as a transversal issue on which the guarantee of human rights depends. This could be concluded from the frames in which the declaration of the climate emergency is demanded, on the basis of protecting the rights to food, potable water, housing, and gender equality.

Following the integration of climate change into community organising, climate frames were used by the community in political mobilisation strategies. The relevance of looking at this non-legal scenario is to comprehend the way in which climate change is given meaning and voiced. In the following section, I discuss the opportunities and risks of using the climate

frames referred to above in litigation. Comparing non-legal and legal scenarios in which climate frames are put forward allows one to identify the limitations of litigation in bringing forward climate frames considering its potential undesirable outcomes.

8.4. Climate frames in litigation. Between opportunities and risks.

A risk approach to legal mobilisation allows the discussion of the implications of using climate frames in explicit ways in legal scenarios. Following the personal safety and social risks discussion in Chapter 6, the context of violence does not necessarily rule out the use of legal mobilisation, but it shapes frames and claims. On these lines, climate frames — if used — need to consider those risks in order to make strategic choices.

As explained in the section above, climate vulnerability is perceived from a socio-spatial justice dimension by the community of El Pacífico. This approach which could be classified as social vulnerability framing (Ohdedar, 2022) may or may be not included in litigation as a result of a deliberated inclusion or exclusion attending to opportunities and risks. However, one could argue that communities in chronic risks contexts face further difficulties in developing frames and bringing forward claims that could aggravate already existing social vulnerability conditions.

Using a social vulnerability approach in litigation that brings forward the socio-political factors that put people at climate risks could be seen as an opportunity for the communities impacted by climate-related disasters. In a way, this approach integrates access to human rights and spatial justice which are historic demands by the communities most excluded in the peripheries of the city. In addition, raising attention of social causes of climate vulnerability helps to shift the approach of 'illegal dwellers' to 'victims of exclusion' in informal settlements. This approach may contribute to diminish the materialisation of social risks that communities face. However, climate justice approaches in litigation need to assess the personal safety risks that disrupting those socio-political factors pose for claimants. Communities living in violent contexts in which there is a shared governance among the state and criminal gangs (Samper, 2017) need to assess the implications of their frames and claims for the latter. For example, if climate adaptation is claimed through the formalisation and development of informal settlements, it needs to be assessed what the potential

impacts of this on the criminal gangs' territorial control might be. The communities are exposed to a situation in which they must assess what to claim and how in order to avoid violent responses from non-state armed actors. As communities do not expect the judge to know about the personal safety implications of progressive climate adaptation measures (for example), the onus is on the community and the lawyers to strategically frame and claim in litigation in order to avoid those risks. While this assessment is necessary, it could also discourage communities from using litigation as a first mobilisation choice. Political lobbying in which solutions come from public authority decision makers instead of a judge attending to community leaders' claims may lessen the exposure of those leaders to personal safety risks.

In contrast, a hazard adaptation approach could be also used strategically to avoid those personal safety risks. As this approach is usually limited to technical solutions such as flood risk management works, these might not be perceived as a threat by non-state armed actors. These types of climate solutions could even be well perceived by them as inhabitants of the neighbourhood who would benefit from infrastructure development. As hazard frames in litigation do not touch on the socio-political problems that put people at higher levels of risk such as urban exclusion, violence and lack of property rights, it is unlikely that those frames would trigger a violent reaction from these actors. In other words, hazard frames could help not to upset the status quo with non-threatening, short-term climate solutions and thereby diminish personal safety risks faced by communities in violent contexts.

Nevertheless, hazard frames lacking a justice approach could justify the eviction of hundreds of families living in high risks zones, without addressing the issue of socio-spatial exclusion that prevents people from accessing affordable and habitable housing. Legal venues might not be a promising scenario if judges do not take into account why people end up living in informality or illegality (illegal land occupation). Judges — with certain exceptions — tend to apply the law regardless of how unfair it might be in reality. It is very likely that judges would prioritise technical information on climate hazard exposure and laws on disaster risk management than chronic social risks experienced by the community. Judges might not be bothered to address people's claims to remain in their neighbourhood if proper adaptation is put in place, in a conservation zone at risk of floods and landslides (as El Pacífico neighbourhood is) that is informally occupied. In sum, while this approach could help to

diminish personal safety risks, it could potentialize social risks. Again, this is an assessment that needs to be undertaken by lawyers and communities deciding mobilisation strategies. The analysis above shows that either social vulnerability or hazard approaches may be used strategically in litigation by those facing chronic risk contexts who make decisions on which risks are more bearable in comparison to others. This also shows that peripheral or incidental litigation may be determined by the perception and assessment of risks of undertaking litigation. Comprehending the context-related risks in which litigation takes places as well as opportunities provided by legal frameworks allows communities to navigate whether climate change is a frame worth voicing in litigation or not.

Climate frames could be also introduced by lawyers in litigation, even if communities facing climate disasters lack climate consciousness. While the case of El Pacífico allowed an analysis of the development of community climate consciousness and the strategic climate framing choices in litigation, the case of La Playita shows how climate frames could become a central or peripheral matter in litigation as those are introduced solely by the lawyers leading the case. In Chapter 7, I explained that as a response to a climate-related disaster, the communities of El Pacífico and La Playita used legal mechanisms. El Pacífico brought a *tutela action* to demand temporary housing solutions drawing on the state's duties of emergency attention to those affected by a disaster, while La Playita filed a popular action seeking the mitigation of flood risks and the restoration of the river La Picacha (hazards approach), which was supported by an *amicus curiae* by the University of Minnesota regarding the protection of human rights in resettlement processes of communities living in high-risk zones.

Like the community of El Pacífico, the community of La Playita faces social and personal safety risks as they are also living in an informal settlement partly controlled by non-state armed actors. However, those risks were perceived and managed differently in legal mobilisation strategies. Before bringing forward the popular action, the community leaders of La Playita communicated their intentions to the criminal groups (Interview 10). In a way, the community was requesting permission and support which was provided by the non-state armed groups present in the neighbourhood. The popular action claimed the implementation of the Picacha river basin plan, which involved the construction of flood management works as a way to protect the right to a healthy environment. These claims,

which could be regarded as a hazards approach, were not seen as a threat to the criminal gangs' territorial control or illegal businesses.

Although the community of La Playita and their lawyers were aware of the social risks that communities face and the risk of a resettlement process that could aggravate social vulnerability conditions, they decided to avoid those topics in litigation and focus on the guarantee of the right to a healthy environment through the development of flood preventive infrastructure (Interview 10). The community leaders did not like the idea of the community being resettled, so they decided to exclude that claim in the popular action. They were aware of a potential judicial decision of resettlement as judges have wide discretionary powers in popular actions. Nevertheless, excluding resettlement as part of the popular action demands prevented the community leaders from being accountable before their community if an undesired resettlement order takes place.

As the resettlement order was issued by the judge, the focus of the legal strategy had to changed. In a way, the development of flood preventive works was overshadowed by the fears of forced evictions which could leave people homeless. The response of the legal clinic of the University of Medellín was to bring about a human rights approach to the case with the support of the legal clinic of the University of Minnesota. This move involved adding an amicus curiae to the popular action by the latter and a joint work in requesting a public hearing before the Inter-American Commission of Human Rights (ICHR) which also incorporated changes in frames (as will be seen below).

The thematic hearing was focused on the human rights violations faced by the communities most vulnerable to climate change and subject to resettlement processes. Climate change was perceived as a sound frame in this international scenario, in which the ICHR would be interested to address if the case shows the impacts of climate change on the guarantee of the rights to a healthy environment and housing. This mobilisation strategy gave room to political lobbying before the Council of Medellín in which climate change was integrated in public debates on risk management and housing, and also in the interventions and hearings in the popular action process (following ICHR acceptance to hold the hearing). It would be fair to suggest that climate discourse did not touch on the community organisation goals as at the time of my interviews (around 7 years after the legal case took place). While the community recognised climate change as a concern for humanity, it was not associated with

the flood-related disasters they had faced (Interviews 7, 12, 14). One could argue that climate consciousness was not developed at an organising level, and climate discourse was thus put forward and developed only by the lawyers themselves strategically in the legal case.

Following these events, climate frames were used in this legal case for the first time. Climate frames using a human rights approach were seen as useful to deal with the potential negative impacts of resettlement judicial orders and facilitate access to the regional system of human rights. This case also shows the strategic characteristics of frames when those need to be adapted to how the legal case turns out, and how climate frames could be used purposely as a response to the potential materialisation of social risks.

Comparing these two cases allows one to conclude that climate frames could not be a central matter in litigation attending to opportunities and risks. Drawing on the agency of organised communities to develop the frames and claims put forward in mobilisation strategies one could argue that using climate frames as a central matter of concern in legal cases (or not) is a deliberated decision. We could appreciate that the rise of climate consciousness does not necessarily lead to the use of climate frames in litigation. In contrast, those communities who are little familiar with the localised impacts of climate change could be involved in cases in which climate change is a relevant matter once it is introduced by lawyers supporting the case. The following question is whether there is any analytical relevance in differentiating on who brought and developed climate frames in litigation or decided to exclude them. I think it is relevant for social movement and climate litigation studies. First, comparing community discourse and values with strategic framing decisions allows one to comprehend how and why frames are deliberately shaped. It allows us to discuss why certain frames were chosen or dismissed. Second, putting attention on the actor's role shows who leads the path of the mobilisation strategy that could expose power conflicts, and the agency of organised communities in deciding the tools they use to fight for justice. Third, there are different understandings of the impacts of climate change from those directly affected by a disaster in comparison to those who support the case. This understanding might define the way in which frames are shaped and what is put forward and how.

8.5. Climate displacement and place dimension of climate debates. The case of Providencia

Among the three cases analysed, the case of Providencia is what fashionable legal mobilisation literature would call a successful and relevant case to examine. As we have seen, in December 2020, the Raizal people of Providencia filed a *tutela action*, which was dismissed by the courts of first and second instance. As a response, 90 Raizal families signed a letter requesting that the Colombian Constitutional Court review their case, with the support of various legal and academic institutions, including the University of Reading Centre for Climate and Justice. In August 2021, the Constitutional Court accepted the review request as it was considered a relevant constitutional case. This case became the first post-disaster case of climate displacement in the world, reviewed by a high national court. The Raizal community litigated on the grounds of government inaction in response to a rapid-onset climate-related disaster and sough in situ adaptation to make their island liveable again.

The litigant's claim uses a social vulnerability approach, focused on the violation of territorial rights, which have been historically threatened by the military and by the tourism industry. In particular, the tutela claims emphasised the need to address the impacts of 'climate displacement' and the resulting violations to fundamental rights stipulated in the 1991 Political Constitution of Colombia of 1991, such as the right to life and human dignity (art 11), the right to health (art 49), the right to housing (art 51), the right to ancestral property (art 20 and 74), and the right to prior consultation (art 93), among others. It claimed for the "declaration of a situation of climate displacement in Providencia, and the application of the internal displacement legislation addressed to victims of the armed conflict related to the protection of private and collective property and humanitarian assistance".[113]

In Chapter 6, I argued that Raizal people articulated climate risks as an experience of socio-spatial exclusion, in which socio-economic rights are scarcely guaranteed in the peripheral areas of the country like their island. Rights frames were used by the interviewees to describe the historical defence of their land and the related impacts of climate change. This

[113] Huffington v Presidencia de la República y otros (2020) 88001310400220200004200 (Tribunal Superior de San Andrés).

is helped by the fact that the Constitutional Court has issued various judicial decisions recognising the Raizal people as an ethnic minority subject to special constitutional protection, considering among other factors, the connection between their Raizal cultural identity and the territory of the archipelago of San Andrés, Providencia and Santa Catalina.[114] In this case, open legal opportunities in the form of this pre-existing legal stock made it easier, for lawyers, to justify the connection between the violation of territorial rights with the lack of climate adaptation in place. For urban communities whose connection with the land is not legally recognised, legal mobilisation might not be a promising main strategy (it was not in the urban case studies analysed here) given the potential social risks of turning to the law, as discussed above. As a result, one could argue that, for the Raizal people, using climate frames in legal venues might not entail the potential social risks that urban communities face as the judge would naturally avoid any order that entails depriving the enjoyment of the ancestral land by an ethnic minority.

On that basis, climate change became a central issue in the tutela action, mostly in relation to the impacts on the displacement of the Raizal people. As mentioned above, one of the legal claims was the recognition of a situation of climate displacement to protect those who had to leave their land in order to seek protection elsewhere and wanted to return. While the Raizal people were unfamiliar with the concept of 'climate-displaced people', it was a term put forward by the legal NGO supporting the case (Interview 15). According to one of the lawyers interviewed, "this case was seen as an opportunity to introduce the concept of climate displacement into the Colombian legal framework for the first time" (Interview 16). She also emphasised that climate displacement was not part of the Raizal peoples' identity but, according to her, it could be a category with the potential to be developed in strategic ways (Interview 16).

Although the Raizal people had concerns in relation to the displacement of their communities, they approached it from a place attachment perspective. It meant that the island of Providencia as the place where they thrive was claimed to be protected through

[114] *Archibold v MINCIT v otros* (2014) Sentencia T-800/14 (Corte Constitucional de Colombia); *German Moreno García (Demanda de Inconstitucionalidad)* C-053/99 (Corte Constitucional de Colombia); *Newball v MINCULTURA y otros* SU-097/17(Corte Constitucional de Colombia).

climate adaptation, so the Raizal people could stay in their land. In the words of a Raizal community leader

> The Raizal people who live in Providencia want to die in Providencia. Although, I don't know where I will die, I am loyal to my territory, my family and all the members of the Veeduría Old Providence. I know no one wants to leave this island. (Interview 8)

One lawyer who is also part of the Movement Old Providence told me that "people refused to be called climate-displaced people" (Interview 15). It seems that they might consider themselves as 'temporary evacuees' demanding the implementation of recovery and development measures post-disaster in place by the Colombian government. The differences among frames used by communities and lawyers show that the climate displacement frame could mean little to or be resisted by the communities impacted, but nevertheless be useful to introduce legal changes as it is currently a novel and impactful international concept. From my advocacy work in this case, I can attest that lawyers who had direct contact with the community used the category of climate displacement as a strategy to demand equal treatment with those displaced by the armed conflict. This was justified under the application of analogue human rights protections constitutionally recognised for the latter, while claiming for measures focused on the protection of the Raizal ancestral land. This discussion reveals the importance of expanding the current dominant attention on the phenomenon of displacement or migration, to consider place attachment as an approach that can explain people's understanding of climate change and how and why it is framed in legal venues.

The above also applies for the analysis of the urban cases. As explained in Chapter 6, place attachment is a variable able to explain rights holders' definition and the use of legal mobilisation, including a risk approach to it. Following the calls of Escobar (2008) for the need of theory that neutralises "the asymmetry that arises from giving far too much importance to "the global" and far too little value to "place""; the understanding of local experiences in climate litigation needs approaches that correspond with the place where those social dynamics are occurring. Furthermore, recognising the complexity of climate-related (im)mobilities shows the limitations of looking solely at cases in which climate frames are voiced in legal cases. As explained in this chapter, the use or not of climate

frames in legal strategies could result from opportunities but also from risks. Focusing on climate language in legal cases disregards an understanding of the potential limitations of climate frames and whether and why those are put forward or not in legal cases. Finally, this analysis showed that climate change could be engaged with notions of place attachment, belonging, the social meaning of land and home[115] – a discussion rarely addressed in climate litigation framing debates.

This chapter analyses climate frames in litigation from the basis of framing as a strategic choice. This meant looking at legal cases 'in the context of' climate change in which climate frames were used or dismissed. The analysis of the use of climate frames in litigation is easier in comparison to its dismissal. If climate frames are omitted, you may risk ending up looking at cases with little relevance to climate litigation studies. In order to avoid that, I decided to choose cases in which climate frames were peripheral or incidental but related to climate disasters. This provided an initial plausible link with climate change, which is subsequently strengthened by discussing whether climate consciousness exists, and thereafter whether climate frames are brought forward in litigation or not. This also led to an understanding of how climate change is given meaning by communities and then to compare that with its strategic use in litigation by lawyers.

This chapter was structured in a sequence. First, I inquired whether climate consciousness exists and how it is developed. Second, I discussed how climate frames are developed in non-legal strategies which allowed me to identify the way in which climate change is related to place attachment and rights claims. Third, I analysed whether climate frames were brought in litigation and why. This sequence puts at the centre the role of the community in deciding and developing climate frames, recognising the role that lawyers could play as well in introducing climate frames. Finally, the discussion on the Providencia case allowed me to analyse climate displacement frames from the community and lawyers' approach. It unveiled the reasons behind framing as a strategic choice among lawyers and the Raizal community, and the role that place attachment plays in defining rights holders and approaches to the issue of climate displacement. In sum, these three cases bring insights on the tensions, opportunities and risks that shape strategic climate framing in litigation considering the role that communities and lawyers play. The focus on climate framing

[115] See Klepp (2017) for an analysis on how this engagement helps to re-frame climate adaptation debates.

allowed also me to discuss the need to adopt a broad definition of climate litigation, as there are important analytical contributions of cases in which climate change is a peripheral or incidental matter.

With this chapter, I close a series of analysis chapters (Chapters 5 to 8) aimed at explaining whether and why communities experiencing climate-related (im)mobilities use the law and why. Building on the analysis of how people give meaning to climate change and the way they bring it forward (or not) in legal mobilisation mechanisms, I addressed traditional variables explaining the turn to the law (LO, PO and Resources) as well as violence and place attachment. In this chapter, I focused on the strategic use of climate frames in litigation by communities in chronic risk contexts in order to contribute to climate litigation studies. In the following chapter, I present the conclusions of my Thesis and reflect on the hurdles I faced along my PhD journey.

Chapter 9. Conclusion

This research work has been aimed at explaining whether communities experiencing climate-related (im)mobilities in Colombia use legal mobilisation and why. To address this research question, I explored how communities articulate frames and claims in legal mobilisation. I examined traditional variables from the existing academic literature to explain legal mobilisation such as political and legal opportunities, resources, and organisational level attributes, as well as the unexplored variable of place attachment and the underexplored variable of violence. I used a place attachment approach to examine climate-related (im)mobilities in order to identify communities' concerns and grievances, which are discussed in the framework of climate litigation studies.

In order to navigate the above in terms of structure, this PhD Thesis began with an interdisciplinary literature review on climate (im)mobilities, place attachment and legal mobilisation. This was followed by a methodology chapter aimed at justifying my qualitative methodology approach, the use of framing analysis, and research methods, which is complemented by a self-reflection on research into practice. The three following analysis chapters were focused on explaining what I call a risk-based approach to legal mobilisation —based on my research findings — and developing an integrated analysis to legal mobilisation evaluating the variables of place attachment, violence, political opportunities, legal opportunities, and resources. Additionally, I discussed the strategic use and dismissal of climate frames in climate litigation. This conclusion chapter starts by formulating the answer to my research questions based on my findings. Then, I set out the hurdles that I faced during my PhD research and reflect on how I overcome them. Finally, I highlight the academic contributions of my Thesis and make recommendations on how research on climate (im)mobilities, legal mobilisation and climate litigation could be continued.

9.1. Do communities experiencing climate-related (im)mobilities use legal mobilisation and why?

Communities facing climate-related (im)mobilities use legal mobilisation, as the variables that facilitate and constraint the use of the law, make legal mobilisation a versatile and handy mechanism. Litigation may be used as a principal mobilisation strategy aimed at

influencing social change but can also be used as subsidiary tool to push for more promising non-legal strategies with similar goals, by creating political opportunities or facilitating access to decision-makers. This *pragmatic use of the law* is in a way determined by the chronic risk contexts experienced by the communities most vulnerable to the impacts of climate change. In these contexts, using the law may entail the materialisation of personal safety or social risks, which despite the presence of good legal opportunities and the availability of resources, nevertheless results in a cautious strategy choice. The existence of risks does not necessarily stop communities from turning to litigation, but it involves a risk assessment by them that is reflected in the frames and claims which they use.

Based on framing analysis, this PhD Thesis shows that beyond opportunities and resources, risks may help to define legal mobilisation strategies[116]. Building on this finding, I propose what I call *a risk-based approach to legal mobilisation* which addresses the constraints to legal mobilisation in order to explain strategy choice. As explained during this Thesis, risk assessment is a necessary step followed by communities in chronic risk contexts to decide whether turning to litigation is a promising mobilisation strategy. Particularly, this empirical research reveals that evaluating risks helps to define how legal mobilisation is used strategically. This research also explains the role that lawyers play in assessing the risks that using the law may pose. In this sense, lawyers are key shapers of legal as well as non-legal mobilisation strategies, and the development of frames and claims that are put forward publicly.

I also found that place attachment and violence are legal mobilisation variables with explanatory potential. While this finding expands the set of variables that have traditionally been used to explain legal mobilisation, it also demonstrates that context-based analysis is important to unveil novel factors that trigger the use of the law. Although this work agrees with previous research on the likelihood of turning to the law when communities define themselves as rights holders, it shows that the definition of a rights holder could be associated with place attachment, as that sense of place and people's stake in it is itself conducive to the development of rights consciousness and rights frames (the right to the territory for example). Furthermore, my empirical research concludes that rights definition does not lead straightaway to legal mobilisation, as strategy choice decisions are also shaped

[116] In this Thesis, I use a narrow approach to legal mobilisation.

by an assessment of personal safety and social risks (e.g., personal safety risks for claimants that may be involved in litigating climate adaptation cases where territorial control of criminal gangs could be disrupted). In sum, along with ideas, values, opportunities and resources, risks play a dominant role in defining frames and claims as those are developed deliberately in order to avoid or manage personal safety and social risks.

The conclusions above emerged from my empirical research integrated by three cases of communities using mobilisation mechanisms as a response to climate-related disasters. Two cases took place in neighbourhoods located in the informal settlements of Medellín (El Pacífico and La Playita), and the third one on the Caribbean Island of Providencia, Colombia. I extended my scope of analysis to explain comprehensively whether those communities turned to the law or not and why. Along with the use of the law, I examined the use of non-legal mobilisation strategies, such as political lobbying, including informal political decision-making processes designed by community organisations. This approach allowed me to contrast when and how legal mobilisation was used in comparison to other mobilisation mechanisms. It also permitted an expanded analysis of communities' mobilisation strategy choice and avoided approaching legal mobilisation as an isolated strategy merely determined by legal opportunities or resources. The integrated analysis on the traditional variables that explain legal mobilisation (legal and political opportunities, resources and organisational structure) and the un/under-explored variables of place attachment and violence (respectively) reveals that communities find in legal mobilisation a versatile mechanism, which may be used as a tool to create political opportunities and facilitate access to decision makers, as mentioned above.

As described in my methodology chapters, understanding whether and how place attachment and violence shaped legal mobilisation was possible thanks to undertaking research into practice (the application of the knowledge gained during my PhD research to legally support the community organisations of my case studies on matters related to their mobilisation strategies) and semi-structured interviews. Playing a dual role of observer and participant allowed me to identify place attachment and violence as variables with explanatory potential for legal mobilisation. These two variables were integrated into my analysis by interpreting communities' claims-making process.

Evaluating the different claims-framing stages revealed that personal safety and social risks (associated with communities living in chronic risk contexts) may define differences between frame alignment and frame resonance rooted in the presence of personal safety and social risks. While frame alignment refers to the core values of the community organisations — in this case-based study research in the form of the *defence to the right to the territory*, frame resonance is a more critical task that involves selecting frames that might work instrumentally with a wider public, decision-makers and potential opponents. On these lines, I argue that frame resonance is not only about convincing adherents, but also about avoiding violent responses by accountable actors, i.e., voicing publicly frames that *do not sound* like an attempt to intervene with criminal gangs' territorial control. There are certain frames and claims that might best be avoided in order to prevent the materialisation of personal safety or social risks (for example, climate and socio-spatial justice frames on the defence of the right to territory pointing to the impacts of criminal gangs' territorial control in increasing disaster risk vulnerability for communities in informal settlements). The strategic nature of framing in legal mobilisation is revealed by noticing that communities have an organising background rooted in spatial justice struggles, which are not always reflected in their legal strategies. The urban communities interviewed were highly aware of the obstacles posed by criminal gangs' territorial control in developing safe and climate-adapted neighbourhoods. The difference rests on decisions related to the legal or non-legal scenarios in which that awareness and related spatial or climate justice frames were convenient or not to be voiced. In legal venues, they decided to use hazards and rights frames such as 'damage to vegetation in hilly areas of the neighbourhood impacts the enjoyment of a right to a healthy environment'. The technical frames serve to the purposes of avoiding to pointing out a dangerous accountable actor (criminal gangs), and the rights frames serves to convince decision-makers, the public and judges. Building on this, I argue that framing is not only determined by social movement values and opportunities, but also by risks that using litigation might entail for claimants.

This PhD research also shows the importance of looking at climate (im)mobilities from a place attachment approach. The analysis of the legal and non-legal discourses and frames used by those experiencing (im)mobilities associated with climate change acknowledges the way that people give meaning climate (im)mobilities and their more pressing concerns. Separating from several research works focusing on the legal frameworks to protect people

on the move, this PhD work pays attention to place dynamics and how people interpret and voice those in mobilisation strategies — legal mobilisation and otherwise. I built on the basis that understanding people's experiences of places (when those have been considerably affected by climate change) is necessary to address legal frameworks accordingly. I found that climate-related disasters were interpreted by communities as human-driven disasters. The communities studied in this empirical research tend to associate disasters with the socio-spatial exclusion they face. In this sense, climate vulnerability was perceived in a place dimension, in which those most vulnerable to climate change are seen as the ones most excluded at the city level (Cases 1 and 2, El Pacífico and La Playita), and the country level (Case 3, Providencia). This was reflected in communities' call for action drawing on the *defence of the right to the territory* frame. While there were different understandings of the defence of the territory by urban and islander communities, both coincide with the idea that effective climate change adaptation needs to deal with factors that prevent people from the enjoyment of their right to housing in dignity and the right to the territory in which they live.

This research work also leads one to the conclusion that studying the use of the law by those affected by the impacts of climate change needs a broader definition of what amounts to climate litigation. Approaching climate change as one of several risks (i.e., social risks that increase people vulnerability to climate change such as poverty) that communities face, in legal studies, permits a more comprehensive understanding of climate litigation trends – one that is not only determined by litigation practices in the Global North, but also by social movements who organise and mobilise in different ways and contexts (such as those in the Global South). For the study of climate disaster cases, broadening the current widely used climate litigation definition to cases *in the context of climate change* is important as it expands the scope of climate litigation analysis. It may bring further attention to adaptation and climate-related disaster cases which are not necessarily framed in terms of climate change. Therefore, those cases might play a more prevalent role in defining the focus of climate litigation scholarship's study of analysis and trends (along with climate mitigation cases).

The above expansion of the concept will also favour the analysis of the strategic use or dismissal of frames directly expressed as climate change in climate adaptation or disaster legal cases. Looking at cases 'in the context of' climate change permits the identification of cases in which climate change may not be formally used as a legal frame in litigation. This

type of case may be seen as irrelevant as it does not include any interpretation of climate change in the legal case; but exploring the reasons behind this omission may better explain the deliberate use of climate frames in litigation. This approach may be more comprehensive as it is not limited by the assumption that voicing climate frames is always desirable in climate-related legal mobilisation. This empirical research shows that for communities experiencing climate disasters, climate frames could be seen as an opportunity or equally, as a limitation by claimants, depending on the implications of frames and claims in the materialisation of the risks they face. Hazards and social vulnerability approaches to climate litigation are used strategically following an assessment of the personal safety and social risks that legal mobilisation may pose. This case-based research also showed how rights lenses were used to interpret either approach. As explained above, rights frames were used to fill hazard frames with emotional and ideological content as those seem to be well perceived by non-state armed actors (in comparison to social vulnerability approaches) and resonate among the community and other social actors.

9.2. Obstacles to my PhD research. A critical self-reflection

In this section, I reflect on the hurdles that I found during my PhD journey. This summarises some aspects already discussed in my methodology chapters, but with a view to reflecting on what I learnt as a researcher. My PhD project started with an academic interest in finding a deeper understanding of the opportunities and limitations that legal frameworks pose to communities experiencing climate disasters. To a certain extent, this inquiry stemmed from my personal experience as an activist and lawyer working with communities impacted by floods in Colombia for around 10 years. My PhD research became an extension of that previous work —with a different approach clearly. It was designed to provide theoretical explanations on whether communities experiencing climate-related (im)mobilities use legal mobilisation, why and how. My background also defined my case study approach as it was motivated by my extensive work with the community of La Playita (since 2014). I was clear on the need to integrate more case studies which allowed me to contrast the different uses of the law by the communities most vulnerable to the impacts of climate change. Among all the obstacles I faced during my PhD research, case selection and undertaking fieldwork in Colombia were among the most challenging ones. Below, I reflect on them, using my PhD timeline as a guide.

My 3.5-year PhD journey can be divided into three main periods: (i) theoretical exploration; (ii) fieldwork; and (iii) consolidation of my PhD Thesis. The **theoretical exploration period** lasted 15 months (Sep 2019 – Dec 2020) and was focused on developing my literature review along with my methodology chapter. Additionally, in June 2020 I started the identification of potential case studies when I joined the 'Study Circle' with the Corporación Jurídica Libertad. It could be said that I started to write up my Thesis from month one. During this period, my main supervisor reviewed and provided feedback on short documents with reflections of my readings every month or so, which became my chapter drafts and consolidated my Thesis in the third period. The regular supervision I received from Prof. Chris Hilson facilitated my academic writing learning process and guided me out when I ended up stuck in rabbit holes. It also prepared me for my fieldwork as I had already analysed most relevant literature on legal mobilisation and climate (im)mobilities.

The identification of potential cases was a difficult task given my location, the limited fieldwork timeframe, and the Covid-19 pandemic. As a researcher settled in the UK for the last 5 years, it was challenging to identify potential cases in Colombia. In 2020, I developed a 6-month plan aimed at contacting community organisations via email and securing interviews for when my fieldwork would take place (January and June 2021). The first issue to deal with was defining which communities or grassroot organisations would be relevant for my case studies. The easiest path seemed to be selecting communities who brought climate displacement legal cases in Colombia. However, at that time there was not a single legal case addressing climate displacement, at least directly.[117] This fact almost led me to bury my plan of doing empirical research as it seemed that there were not legal cases to look at all. Subsequently, I realised that although there were not legal cases explicitly framed as climate displacement, it did not mean that climate displacement was not happening and that litigation on climate displacement was not taking place, and therefore it should somehow not be a matter of concern for legal scholars. This realisation led me to set up a case selection criteria in broader terms which permitted analysing why climate factors were not linked to human mobilities in the frames of climate disaster legal cases. In this sense, instead of looking for communities who used the law to bring climate displacement concerns

[117] The first one was the case of Providencia which took place in late 2020 when I was about to start my fieldwork.

before the Court, I decided to focus on communities impacted by climate-related disasters who, as a response, used mobilisation mechanisms to seek protection for those facing human (im)mobilities (regardless of the inclusion of climate change in legal cases).

As a starting point, I searched communities impacted by climate-related disasters in media outlets, human rights and legal organisation websites and social networks. I identified 6 potential cases in the three biggest Colombian cities: Bogotá, Medellín and Cali. All communities involved had little organisational capacity, which posed further obstacles to reaching out to them via email. While I did not receive any reply to my emails from the community organisations in Bogotá and Cali, I decided to reach out to them while doing my fieldwork in Colombia. However, those plans were frustrated by travelling restrictions in Colombia linked to the Covid-19 outbreak at the time of my fieldwork. As I was settled in Medellín during this time, I was able to contact community organisations through the 'Study Circle' for whom I started volunteering since mid-2020, as mentioned above.

The **fieldwork period** started in November 2020 when I applied for the University of Reading's Research Ethics Review, and ended in June 2021 when I finished my fieldwork. The ethics review decision took longer than I expected. The Law School decision committee decided to escalate my case to the University level, as they had security concerns in relation to the political and social landscape in Colombia and the potential risks to me as a researcher from conducting interviews in informal settlements subject to periodic gang violence. I submitted my Ethics Application to the University Research Ethics Committee (UREC) in mid-December. I was informed that the review of my application would take place in their next meeting on the 6th of January 2021. This fitted my initial plan which was to start fieldwork by mid-January when Colombian Christmas holydays end. However, the UREC delayed the review until February 2021. The UREC review was followed by a meeting in which me and my supervisor Chris Hilson clarified risk mitigation aspects in relation to my fieldwork. I finally received a favourable ethical opinion on 5th March 2021. Although it was two months after I arrived in Colombia, I took time to visit relatives and prepare interview-related logistics while I waited for the clearance.

This unexpected delay — which reduced my fieldwork timeframe — and the uncertainty of the Covid-19 mobility restrictions in place at that time in Colombia (which impeded me from travelling to Bogotá and Cali) made me focus on the case studies in Medellín. Although there

were restricted lockdowns in Medellín, those were limited to the weekends. Ironically, human interaction and mobility was allowed within the city during the week, but it was completely restricted on Saturday and Sunday. Attending to this, I undertook my interviews during the week, taking the required health and safety measures to reduce the potential spread of the virus. The contradictory Covid-19 restrictions also permitted me to attend internal meetings within the community organisations, external meetings with the authorities, and decision-making spaces during my fieldwork. Furthermore, my research into practice plan discussed in Chapter 4 facilitated access to those spaces. Getting involved with the communities as a participant in their mobilisation strategies — through joining their established lawyers support group — also eased the limitations to securing my interviews face-to-face and online. This helped me to head off communities' rejection of working with academics associated with previous research exhaustion. But most importantly, having the opportunity to work with the communities expanded the scope of my variables of analysis, and the integration of a community agency approach in my Thesis which permitted explaining mobilisation strategies based on the examination of communities' strategy choice at first hand. It also allowed me to identify and value community knowledge, a type of knowledge that emerges from the context in which they thrive, which helped me to see my PhD research through different lenses. I learnt that recognising community production of knowledge can enrich academic discussions, in the same way that academic research can (and ideally should) contribute to communities' organising.

My plan of focusing on case studies in Medellín changed in December 2020 when the Raizal community brought a tutela action on climate displacement (further discussed in Chapter 7).[118] As this was the first case in the country addressing climate displacement directly, I thought I must include it in my empirical research. As a response, I expanded my analysis focus from the urban communities in Medellín, to include the Raizal people in the Caribbean Island of Providencia, an ethnic group in Colombia. My experience contacting the Raizal people in Providencia was a compound of several obstacles that demanded a huge amount of time and resources to overcome. While I tried to contact Raizal leaders for interviews, I joined their lawyers' group and worked on an amicus curiae to the tutela action on climate

[118] *Huffington v Presidencia de la República y otros* (2020) 88001310400220200004200 (Tribunal Superior de San Andrés).

displacement, a request to review before the Constitutional Court (once the tutela action was dismissed in both instances) and a third-party intervention before the Constitutional Court (following the Court's acceptance to review the case). As the Raizal leaders knew about my work on the case, they accepted being interviewed by me if I travelled to Providencia.

Although my plan was to undertake interviews on the Island of Providencia as the Raizal leaders requested, the closest I got was the city of San Andrés, the capital of the department of San Andrés y Providencia and the nearest mainland coastal city located 94 km from Providencia. At that time, the Raizal people in Providencia were still facing the devastating consequences of Hurricane Iota and Covid-19. There was an official humanitarian emergency declared by the national government which, among other mandates, restricted the entrance for non-residents to the island, with certain exceptions. Humanitarian personnel were clearly allowed, but journalists and researchers were required to have an entrance permission. I was informed about this following several unsuccessful visits to the authority controlling residence and human movement (OCCRE) in Providencia, located in San Andrés. Before visiting the OCCRE office, I spent around two hours walking in circles among different municipality institutions, who provided little information on travel requirements to Providencia. Finally, someone suggested to me that I should go to the OCCRE office, which I visited three times.

On my first visit to the OCCRE office, I was relieved at having been pointed to the right place after having walked for long hours in the heat of 40C at noon in San Andrés. However, my relief disappeared when the security guard stopped me at the door because people wearing shorts —as I was not allowed in their facilities. I came back an hour later with my only pair of, black, long trousers, but after checking my ID, the security guard said I was not allowed in because my ID number ended in a 5. According to the Covid-19 restrictions in San Andrés, citizens whose ID numbers ended in 2,3, and 4 were allowed to attend their office that Friday. My turn was on the following week, but I was running out of time as my flight back to Medellín was early that week. Under those circumstances, my only option was to beg the security guard to let me in with the promise of leaving their facilities in 10 minutes, which I did. I was excited to be finally in, face-to-face with a public servant who knew the information I needed. He kindly informed me that for travelling to Providencia, I had to email OCCRE with a permission request, which included the reasons for my visit and timing.

He mentioned that if I was lucky, I would receive a reply before my flight back on Wednesday. I rushed to the hotel I was staying and sent the email. But to this day I have not yet received a reply. I clearly could not travel to Providencia.

Feeling deeply frustrated before leaving San Andrés, I called my close contact to the Raizal leaders and ask whether there would be any chance to undertake my interview online or by phone as I was not given permission to travel to Providencia while I was in San Andrés. In the evening, I was informed that the Raizal leader said that the only way I was able to get an interview from her was travelling to Providencia. I thought that was it — and that I would have to exclude that case from my case studies. However, fortunately, that turned out not to be the case. While I was reliving all my frustrations during a chat with my partner, we came up with the idea that I could hire my legally qualified close contact (who was settled in Providencia) and ask him to do the interviews on my behalf, if my supervisor approved using my Research and Development Allowance for that purpose. His contractual obligations were undertaking interviews following data protection rules, informing interviewees about the purposes of my research, recording the interviews and get signed informed consent forms before starting any interview. All went as planned and I finally got interviews from two Raizal leaders. Few months later his job was finished, I was told that he donated part of the payment to the Raizal organisation, Veeduría Old Providence.

This experience which shows the hurdles that researchers doing fieldwork can face became very meaningful for me in November 2022. The person who undertook the interviews on my behalf messaged me “we have been thinking on you and would like to propose a video conference with [the two Raizal leaders interviewed] to discuss the case and thank the University [University of Reading] for your support in the legal case” (WhatsApp 2022). We did not ultimately find the time to do it, but it was uplifting to know that after all the difficulties I faced and the community leader initial rejection to being interviewed, they found my work meaningful for their cause and were keen to have a video call with me.

Narrating this long story as part of my PhD Thesis is important beyond the personal learnings that I took from it. It permits reflections on the non-academic skills that researchers should develop as part of their learning process. Dealing effectively with hurdles, ranging from being restricted from places for what one wears, through to community leaders’ exhaustion with researchers, needs more than critical thinking, reasoning, and problem solving. Paying

attention to your intuition may be sometimes the wisest and most creative advisor when issues like the ones describe above come up. This also makes me reflect on the maturity and sensible persistence that researchers should develop when communities or organisations reject working with you. One could end up taking rejection as something personal, which could mean the end of promising research plans. I learnt that undertaking research with communities involves investing time in creating trust and spaces to exchange knowledges. It also involves cultivating patience and curiosity when obstacles come up. In the end, it is mostly about using the tools that the context offers you.

The period of my **Thesis consolidation** started in July 2021 and ended in April 2023. I started by undertaking data analysis and making sense of what I learnt during my fieldwork. Then, I wrote the consolidated versions of my chapters which became this PhD Thesis. This period was the hardest for me personally. The excitement of my fieldwork was over, and I felt overwhelmed by the amount of work that was involved in writing up my PhD Thesis. This was also a lonely period in which I had to limit my social life and dedicate myself almost completely to my Thesis, while everyone else was enjoying time out as Covid-19 lockdown restrictions were removed. It was also the hottest summer we had in England which did not help with keeping my writing focus and increased my climate anxiety. During that time, I was dealing with my UK Indefinite Leave to Remain application which was mentally and emotionally draining. As I noticed that my levels of anxiety were increasing and started to affect my sleep, I decided to seek help, and prioritise my mental and physical health. I did therapy for few months, reduced my working hours and I joined dancing and yoga classes, and started a meditation and walking routine. Maintaining a more balanced life until today has made my work more productive and enjoyable than when I worked for ten hours or more a day. Needless to say, that all this was possible thanks to the full award studentship I received from the University of Reading which allowed me to focus completely on keeping myself healthy while I worked on my PhD.

In this section, I aimed at reflecting on the diverse range of obstacles that I faced during my PhD journey, from personal issues to fieldwork hurdles. Although some were more easily manageable than others, all were equally important to overcome in order to make this research project possible. The major impact of these hurdles was delaying my Thesis submission date, which was initially planned for September 2022. It was hard to face it personally as not fulfilling with deadlines is usually wrongly associated with bad progress or

inability to perform as a good researcher. I think until the worst part of the Covid19 pandemic passed, I did not properly realise its impact in missing my initial Thesis submission deadline. I started my PhD six months before the Covid-19 pandemic was declared — most of my PhD has been delivered during this global health emergency. It was a very stressful time which affected my ability to concentrate, read and write due to concerns about my Colombian family's wellbeing. My fieldwork was slowed down by long stopovers resulted from travel restrictions between the UK and Colombia as well as lockdowns in Colombia which demanded constant changes in my interview plans. Finally, when lockdown measures were released worldwide, I had little chance to enjoy time outside as I was fully dedicated to writing up my Thesis. In a way, I felt like Covid-19 lockdown did not end for me, which made my writing stage more difficult than I expected. All these hurdles taught me that my research abilities are not necessarily good or bad in relation to meeting deadlines (which sometimes are not under my control), but with doing what I could do with the tools that were available to me.

9.3. Academic contributions and future recommendations

Despite the hurdles, this PhD Thesis was completed. In a way, the obstacles faced shaped my research approaches and my personal decision to undertake practical legal support to community organisations along with working on my thesis. Without those hurdles, this PhD Thesis would end up being considerably different. On this basis, in this section I emphasise the academic contributions of my PhD Thesis, which again, were possible thanks to the opportunities and limitations I faced during my PhD journey. I also make recommendations on how to continue legal research on climate (im)mobilities, legal mobilisation and climate litigation in the future.

As discussed during this PhD Thesis, the legal mobilisation literature has paid little attention to constraints on legal mobilisation, in comparison to opportunities and resources. This results in a limited understanding of how personal safety and social risks to legal mobilisation shape strategy choice. While this research proposes what I call a *risk-based approach to legal mobilisation*, addressed to explain how personal safety and social risks help to define frames and claims, a systematic analysis of all different range of risks posed by legal mobilisation remains to be developed. In this research work, I argue that risks, which

are constraints to legal mobilisation do not necessarily prevent social movements from turning to legal mobilisation, but rather they shape how the legal frames and claims are developed and voiced publicly. In this sense, there is a need for further theoretical explanations of the role that constraints play in decisions on use of the law in a narrow sense. There might be cases in which risks to legal mobilisation prevent social movements from using it and instead favour turning to non-legal mobilisation strategies. Also, risks might appear if certain legal or climate frames are used in litigation. In this research, I identify two types of risks, personal safety and social risks (such as living in non-mitigable risk zones with no ability to afford housing elsewhere). However, every context is likely to pose different types of risks which might shape decisions on whether to litigate, i.e., backlash, reputation damage, surveillance, etc. Some of these have been addressed in the existing literature (e.g., backlash); some much less so or not at all. The confrontational nature of litigation may trigger responses from those challenged in court that may place claimants' lives or interests at risk. In this sense, there is research needed on assessing whether litigation poses risks to claimants, how and why.

My research draws on social movements' agency in evaluating risks in order to make deliberative decisions on strategy choice. In real life, social movements normally assess opportunities but also risks of undertaking one or another mobilisation strategy. While the legal mobilisation literature has paid a dominant attention to the former, it has almost completely ignored the latter (except from the risk of backlash which has been discussed by various legal scholars). This approach also allows the identification of the role of lawyers in social movements beyond the traditional idea of external advisor mostly concerned with legal issues. Lawyers may play an important role as organisers and activists. Being embedded in community organising for example has an impact on the legal knowledge and use of rights/legal frames by the communities they work with. In addition, lawyers who are deeply engaged with community organising are able to identify risks of undertaking litigation. Assessing risks by lawyers may involve prioritising legal over non-legal strategies or vice-versa (depending on the case), or shape frames in litigation in a way that risks are adequately managed. As external lawyers, they may limit their role to advice on legal matters and may also overlook the potential risks of litigation or the use of certain frames. Being organisers with legal expertise may extend their role as legal educators, who also interpret the law in favour of non-legal mobilisation strategies, such as political lobby or

decision-making boards (especially when those may entail less personal safety or social risks for community organisations).

The analysis of the variables of place attachment and violence also contributes to expand the list of variables that have traditionally explained legal mobilisation. Further academic discussion on the role that these un/underexplored variables play in turning to the law is necessary. This is particularly important for the study of climate disaster cases. Using place attachment and violence to comprehend those cases permits the integration of social vulnerability factors in the analysis of this type of climate litigation and helps to understand the strategic use or dismissal of climate frames.

As discussed extensively in this PhD work, climate litigation studies have tended to focus on mitigation cases and pay less attention to adaptation and disaster cases (in which climate change can be a peripheral or incidental issue). The further investigation of these types of cases can only enrich the current climate litigation literature. Furthermore, using a place attachment approach to climate-related (im)mobilities contributes to the existing sparse legal discussion on how those mobilities are experienced on the ground and the way in which they are reflected in the law. It revealed discourses and frames scarcely analysed by climate (im)mobilities in legal literature such as the defence of *the right the territory* and *the right to a place to live,* from the understanding of climate vulnerability as result of socio-spatial exclusion. It shows that more comprehensive research which explores how people give meaning to different type of mobilities is needed in order to develop legal frameworks adequately.

Finally, I would like to stress the need for further legal mobilisation research that contributes positively to social movements' organising. Communities and grassroots movements are crucial to the understanding of legal mobilisation trends. From my experience, it can also expand the research scope and bring novel variables of analysis. In contrast, academic knowledge also has an incredible potential to contribute positively to communities' mobilisation strategies, which will also favour the development of more equal relationships between academia and social movements. A relationship in which community organisations' knowledge production is valued and integrated in academic discussions provides a means to have a more comprehensive understanding of whether and why the law may (or not) be a useful tool for seeking and securing social justice.

Appendix

1. INews article on the case of Providencia: https://inews.co.uk/news/cop26-trigger-new-global-tidal-wave-climate-change-court-action-1275361
2. Joint press release 'Working alongside Colombian organisations, the Reading Centre for Climate and Justice has submitted a third-party review request before the Colombian Constitutional Court in a case of climate displacement': https://research.reading.ac.uk/centre-for-climate-and-justice/2021/09/08/working-alongside-colombian-organisations-the-reading-centre-for-climate-and-justice-has-submitted-a-third-party-review-request-before-the-colombian-constitutional-court-in-a-case-of-climate-displace/

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