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Before the Law: Why Creative Methodologies Matter for Legal History Today

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Before the Law: Why Creative Methodologies Matter for Legal History Today

Five years ago, during the COVID-19 pandemic, I began what I assumed would be a short-lived experiment. The project – titled *Transmedia History-Telling* – set out to explore whether digital, audiovisual, and collaborative formats could sustain historical communication during a period of enforced isolation. It soon became apparent, however, that the experiment raised questions that exceeded the problem of dissemination. Certain dimensions of legal-historical inquiry appeared resistant to conventional textual exposition, while becoming more legible in dialogical and multimedia settings.

The issue was not technological innovation as such. Rather, it concerned the evidentiary habits of the discipline. Legal history has long relied on textual archives and doctrinal analysis; yet many processes through which legal concepts emerge occur prior to formal codification and often leave fragmentary written traces. Creative and collaborative formats do not replace archival research, but they may render perceptible forms of collective reflection in which normative categories are articulated before they acquire institutional recognition.

These considerations took on greater precision during a 2021 interview with María Teresa Findji for the first *Transmedia HistoryTelling Live* session.[1] In the 1970s, Findji and her husband, Víctor Daniel Bonilla, participated in *los solidarios*, networks composed of students, workers, campesinos, artists, public officials, and social researchers who supported emerging Indigenous movements in Colombia. Among their collaborative practices was the production of *Mapas Parlantes*, large hand-painted rubber murals co-created with Indigenous communities in the Cauca region.

The *Mapas Parlantes* assembled oral histories, political analysis, cosmological references, and spatial memory within a single visual surface. Temporal and territorial registers were not separated: past events, contemporary conflicts, and everyday practices appeared simultaneously. Participants did not merely observe these compositions; they actively intervened in them. Through iterative discussion, personal recollections were incorporated into shared representations, generating interpretive frameworks adequate to ongoing political struggles.

Luis Guillermo Vasco, another well-known *solidario* who took part in the process, later recalled that the maps were introduced as evidence in specific land disputes, where the historical narratives they conveyed were acknowledged by public authorities. In this respect, the *Mapas* exceeded pedagogical or organizational functions and entered juridical arenas as claims about territory grounded in collective memory. Vasco also noted that the process contributed to redefining the boundaries of community itself. For some participants, »their land« initially referred only to the individual plot or, at most, to the hacienda; for others – often movement leaders – it evoked the broader space of the historical *resguardos*. Archival research, intergenerational dialogue, and the collaborative production of the maps gradually reoriented these understandings.[2] What emerged was the consolidation of a political community articulated through a reworked conception of *Territorio*.

Territorio emerged as a category integrating land, temporality, and collective life. Subsequent articulations of *Derecho Mayor* among the Misak in the 1980s, and broader claims concerning *derecho propio*, developed within similar processes of reflection. Archival recordings from *los solidarios* workshops indicate that legal critique and normative experimentation preceded formal constitutional recognition of Indigenous rights in 1991 by more than a decade.

The Colombian case forms part of a wider pattern. During the 1960s and 1970s, participatory

1 Marí Teresa Findji, Interview by Karla L. Escobar H., Transmedia HistoryTelling Live, 2021, https://www.youtube.com/live/q7n9n_impVA?si=hA mKXiaAHO6Dvy4x.

2 Luis Guillermo Vasco, El Mapeo participativo y los derechos territoriales de los pueblos indígenas. Foro internacional: Historias emergentes: Tensiones espaciales y movimientos sociales, Universidad del Rosario – Conicet, Rosario 2012.

and collaborative modes of inquiry proliferated across Latin America, Africa, and Asia within the context of decolonization. The 1972 publication *Causa Popular, Ciencia Popular*,[3] authored by Víctor Daniel Bonilla, Gonzalo Castillo, Orlando Fals Borda, and Augusto Libreros, articulated dissatisfaction with hierarchical research models premised on a rigid separation between observer and observed. Illustrated pamphlets, comics, and audiocassettes functioned as methodological instruments intended to facilitate collective analysis rather than as ancillary means of communication.

Interviews preserved in the *Transmedia HistoryTelling* Live archive – among them conversations with Joanne Rappaport[4] on the origins of Participatory Action Research and with Víctor Negrete[5] of the Fundación del Sinú – underscore both the ambitions and the constraints of these initiatives. Contemporary projects involving community archives, collaborative museums, critical cartographies, and audiovisual collectives extend this trajectory.[6] What is now described as »Creative Methodologies« thus has a longer genealogy, rooted in politically situated efforts to reconfigure the conditions of knowledge production.

For legal history, these materials complicate the delimitation of the field's object. If legal norms take shape within collective practices before entering formal institutions, then exclusive attention to legislation, judicial decisions, and doctrinal texts offers only a partial account of their formation. The spaces in which categories are debated and redefined – workshops, assemblies, visual projects, oral exchanges – may not present themselves as juridical arenas, yet they contribute to the emergence of normative vocabularies later codified in law.

Methodological engagement with such spaces also alters the historian's position. Collaborative research situates scholars within ongoing social processes and exposes them to asymmetries of power, resource constraints, and the risk of extractive practices. These conditions do not disappear through reflexive intent; they structure the possibilities and limits of participation. Failures and unfinished processes are common features rather than anomalies.

A reflexive legal history must therefore incorporate analysis of these methodological conditions into its account of normative development. Recognizing that law has been produced across multiple media and collective practices does not entail abandoning textual scholarship. It does, however, require acknowledging that the discipline has often privileged those traces most readily assimilated to its own conventions.

To acknowledge that law has been shaped across multiple media and collective practices is to recognize that the discipline has long operated with a selective archive. Expanding that archive and research practices entails methodological complications and interpretive risk, yet it clarifies how legal categories acquire durability over time. Legal history, viewed from this vantage point, becomes less a chronicle of institutional outcomes than an inquiry into the dispersed processes through which normative orders are rendered intelligible and authoritative.

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3 Víctor D. Bonilla, Gonzalo Castillo, Orlando Fals Borda, Augusto Libreros, Causa Popular, Ciencia Popular. Una metodología del conocimiento científico a través de la acción (Serie: Por ahí es la cosa, No. 2), Bogotá 1972.

4 Joanne Rappaport, Interview by Karla L. Escobar H., Transmedia HistoryTelling Live, 2022, https://www.youtube.com/live/-DTPxW9SXHw?si=GBfsoeg1MACDHCem.

5 Víctor Negrete, Interview by Karla L. Escobar H., Transmedia HistoryTelling Live, 2025, https://www.youtube.com/live/9FdSQ3uVEcM?si=d4X7XhdTJOBzEPCw.

6 See Transmedia HistoryTelling Live Playlist, https://youtube.com/playlist?list=PLn8S7INh8NfSyqQ8f8w8bHjQV-ESlILnN&si=Jd_z7v8TTdEWNeFa.