Subaltern Cosmopolitan Legalities and the Challenges of Engaged Ethnography[1]

Rachel Sieder[2]

Centro de Investigaciones y Estudios Superiores en Antropología Social (CIESAS), México[3]

rachel.sieder@ciesas.edu.mx

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[2] Bsc Economics (London School of Economics), MA Latin American Studies, Institute of Latin American Studies, University of London; PhD Politics, Queen Mary & Westfield College, University of London.

[3] Senior Research Professor, at the Centro de Investigaciones y Estudios Superiores en Antropología Social (CIESAS) in Mexico City. Senior researcher at the Chr. Michelsen Institute in Bergen, Norway and an associate fellow at the Institute for the Study of the Americas, University of London.

Rachel Sieder - Centro de Investigaciones y Estudios Superiores en Antropología Social (CIESAS), México

Legalidades subalternas cosmopolitas y los retos de etnografía comprometida

Resumen:

Este artículo considera los retos de la investigación etnográfica comprometida con los movimientos sociales de los pueblos indígenas dentro de los campos cambiantes de interlegalidad y soberanías fragmentadas marcadas por múltiples desigualdades, racismo, impunidad y violencia. Partiendo de la experiencia de un proyecto de investigación colaborativo sobre el pluralismo legal y el acceso de las mujeres indígenas a la justicia y la seguridad, que tiene como objetivo fortalecer la legalidad cosmopolita subalterna (Rodríguez-Garavito y Santos, 2005), se analiza una serie de cuestiones, entre ellas: el privilegio académico, la autoridad etnográfica, los testimonios, sus valores, usos y abusos, interpretación y redacción de las desigualdades, así como las tensiones dentro de las comunidades y organizaciones con las que trabajamos.

Palabras clave: Etnografía comprometida, Pueblos indígenas, Género, Legalidad subalterna cosmopolita, Soberanías fragmentadas.

Palabras clave descriptores: Etnología, Comunidades indígenas, Violación de la soberanía, Género, Internacionalismo.

Subaltern Cosmopolitan Legalities and the Challenges of Engaged Ethnography

Abstract:

This article considers the challenges of engaged ethnographic research with indigenous people's social movements within shifting fields of interlegality and fragmented sovereignties marked by multiple inequalities, racism, impunity and violence. Drawing on the experience of a collaborative research project on legal pluralism and indigenous women's access to justice and security, that aims to strengthen *subaltern cosmopolitan legalities* (Rodríguez-Garavito and Santos, 2005), it discusses a number of issues including: scholarly privilege and ethnographic authority; testimonies, their value, uses and abuses, and; interpreting and writing about inequalities and tensions within the communities and organizations we work with.

Keywords: Engaged ethnography, Indigenous Peoples, Gender, Subaltern cosmopolitan legalities, Fragmented sovereignties.

Key words plus: Etnology, Indigenous peoples, Violation of suvereignity, Gender, Internationalism

Legalidades cosmopolitas subalternas e os desafios da etnografia engajada

Resumo

Este artigo considera os desafios da pesquisa etnográfica engajada com movimentos sociais indígenas dentro de campos indefinidos de interlegalidade e soberanias fragmentadas marcadas por múltiplas iniquidades, o racismo, impunidade e violências. A partir da experiência de uma pesquisa colaborativa sobre pluralismos legais e acesso da mulher indígena à justiça e segurança, que visa reforçar as legalidades cosmopolitas subalternas (Rodríguez-Garavito e Santos, 2005), discute-se uma série de questões incluindo: privilégio acadêmico e autoridade etnográfica, testemunhos, o seu valor, usos e abusos, e interpretação e escrita sobre as iniquidades e tensões no seio das comunidades e organizações com quem trabalhamos.

Palavras-chave: Etnografia engajada, Povos indígenas, Gênero, Legalidades cosmopolitas subalternas, Soberanias fragmentadas.

Palavras-chave descritores: Etnologia, Comunidades indígenas, Violação da soberania, gênero, Internacionalismo.

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Introduction

Ethnography is "a particular mode of attentiveness that entails, but is not defined by, spatial proximity to the object of study" (Harvey, 2005, p. 130). It is a ground-level method of immersion involving extended participant observation, but also a theoretical, methodological, and political approach: "ethnography is a sensibility that goes beyond face-to-face contact. It is an approach that cares –with the possible emotional engagement this implies– to glean the meanings that the people under study attribute to their social and political reality" (Schatz, 2009, p. 5). At its best, ethnography is a way of narrating everyday lived experience, of trying to understand people's perceptions and practices and the connections they make between them. It is also a means of witnessing and accompanying, with all the obvious opportunities and dangers that this entails both for researchers and their informants. In recent years interpellations of anthropological research from many different quarters have asked what kinds of knowledge are produced by ethnography and to what ends or purposes.

In this article I refer to collaborative ethnographic research with indigenous people's social movements in Latin America, which specifically aim at documenting and amplifying existing and emergent forms of counter hegemonic political and legal agency. This also aims to explore subjectivities and processes that underpin such agency. As I will emphasize here, work of this kind involves an explicitly engaged stance by a group of researchers, who situate their individual projects within the demands of indigenous people's movements and within a broader collective endeavor that aims to generate knowledge in order to transform social realities. In this respect, the collaborative engagements that researchers develop with organizations and communities involve the coming together of their shared political concerns.

Engaged ethnography combines careful, fine-grained qualitative empirical participant-observation, critical social theory and other, more self-evidently collaborative research methods and outputs such as workshops and the production of videos and popular education materials. Such activist scholarship (Hale, 2008; Stephen, 2007) aims to provide insights into the ways in which the workings of power, history and transnational forces affect indigenous people's lives and shape different processes of resistance and adaptation. Like all good ethnography, engaged ethnography aims to put the actors and their understandings of the world at the centre of analysis. However, it also

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privileges support of their collective aims and objectives, dialogue and the co-production of knowledge (Hernández, forthcoming).

At best, this kind of research can contribute to validating alternative epistemologies or ways of being in the world, understanding these as situated ways of theorizing social reality. It can also directly contribute to efforts to defend indigenous people's individual and collective rights and interests. Much legal anthropology produced in Latin America in recent years has explicitly adopted a politically aligned or engaged stance in support of the collective rights of indigenous peoples, including their autonomous exercise of authority and justice systems, and also to advance the claims of marginalized groups such as women within indigenous collectivities (Chenaut, et al., 2011; Sierra, 2004; Terven, 2009; Martínez, 2004; 2012; García, 2002; Halkyer, 2004; Sánchez, 2010).

Legal anthropologists, such as those organized in the research and action network Red Latinoamericana de Antropología Jurídica, RELAJU, have championed the concept of legal pluralism, documenting the justice systems of indigenous peoples, paying particular attention to indigenous epistemologies and the demands of indigenous people's organizations. Their work also involves analyzing and promoting processes of national reform to ensure that legal pluralism and indigenous autonomy rights are guaranteed in national constitutions, in laws, and in practice[4]. As Richard Wilson has observed, according to contemporary perspectives "legal pluralism addresses questions of how social actors (including both individuals and collectivities) contest the direction of rapid social change in the area of justice, and what the effects of this are for the legitimization of new forms of nation-state authority" (Wilson, 2007, p. 349).

Such research in Latin America is produced under a variety of conditions; sometimes by tenured academics with access to independent research funding; other times by graduate students, NGOs and consultants, or by movement activists themselves (the line between these categories is far from clear and collective research teams can and often do include all of them). It is also framed by a wide variety of research questions, approaches and methodologies, including archival research, participatory action research, participant observation,

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[4] The Red Latinoamericana de Antropología Jurídica, RELAJU, is a scholar-activist network that promotes and encourages such "committed" research (*investigación comprometida*). For details of the most recent congress of RELAJU held in Sucre, Bolivia, in October 2012 see http://www. relaju.org.bo/index.php (last consulted 5 November 2012).

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and in-depth interviews. Sustained face-to-face engagement and dialogue with indigenous peoples who are the focus of research is a common denominator of such explicitly aligned work.

This article considers the challenges of engaged ethnographic research with indigenous people's social movements in the "grey zones" generated by fragmented and disputed forms of sovereignty. It draws on an on-going collaborative, collective research project based at CIESAS in Mexico City on legal pluralism and indigenous women's access to justice and security (described below,) that specifically aims to analyze and support what César Rodríguez-Garavito and Boaventura De Sousa Santos have termed *subaltern cosmopolitan legalities* (Rodríguez-Garavito and Santos, 2005). It is important to emphasize that this project builds on several previous collective research endeavors[5] and many years of collaboration between the different members of our team at CIESAS[6]. I also refer briefly to my own ethnographic work on indigenous law and social movements in Santa Cruz del Quiché, Guatemala (Sieder and Flores, 2011, 2012).

In what follows I reflect on the shifting interplays between different forms and scales of legality and illegality and their implications for the ethnographic endeavor in and from "the global south". I am particularly interested in how the line between what is considered "legal" and "illegal" is constructed and by whom. Specifically, what is the role of the ethnographer in these processes of negotiation and construction of legal and political imaginaries? Where do we focus our "ethnographic gaze" and to what ends? And what methods and tools can we use? In the penultimate section, I address the ethical and political challenges posed by collaborative research in shifting fields of interlegality and fragmented sovereignties marked by multiple inequalities, racism, violence, and impunity. What is the relationship between ethnography and social and political action in such contexts? What challenges do researchers face in mediating academic work and political engagement?

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[5] The results of these collective research projects have been published in Hernández et al. (2004), Sierra (2004), Sieder and McNeish (2012), Sierra et al. (2013).

[6] The kind of engaged anthropology discussed here tends to be produced by scholars who have long established collaborative relationships with different indigenous organizations (see for example Hale, 2008; Rappaport, 2005; Stephen, 2007). Our research team includes senior scholars, graduate students and researchers working outside formal academic settings.

"Subaltern Cosmopolitan Legalities": Gender, Justice and Security

Boaventura de Sousa Santos and César Rodríguez-Garavito have highlighted the ways in which marginalized communities and social movements across the world have mobilized to change and democratize national and transnational legal frameworks, and emphasize the importance of law and legal ideas more generally in counter hegemonic globalization. Their work has focused our attention on the "growing grassroots contestation of the spread of neoliberal institutions and the formulation of alternative legal frameworks by [transnational action networks] and the populations most harmed by hegemonic globalization" (Santos and Rodríguez-Garavito, 2005, pp. 2-3).

What Santos and Rodríguez-Garavito term "subaltern cosmopolitan legalities" essentially refer to these "bottom-up" or locally grounded forms of resistance and legal innovation by those most excluded and marginalized within the new global order. Santos and Rodríguez-Garavito also emphasize the importance of comprehending and giving due analytical and political weight to non-hegemonic or non-Western constructions of rights and human dignity. They argue that subaltern cosmopolitan legality "seeks to expand the legal canon beyond individual rights and focuses on the importance of political mobilization for the success of rights-centred strategies" (Santos and Rodriguez-Garavito, 2005, p. 15).

Indigenous people's social movements in the Americas have been at the forefront of the counter-hegemonic use of law and legal discourses in processes of resistance and mobilization against the effects of the "accumulation by dispossession" of contemporary global capitalism (Harvey, 2003). Santos and Rodríguez-Garavito invariably ground their critiques in an analysis of colonialism, racism and historical violence against indigenous peoples, emphasizing how much racism structures the forms of poverty and exclusion that exist today.

In our collective research project on indigenous women's access to justice and security in Latin America we are particularly concerned to locate the struggle for individual human rights –and gender rights– on behalf of indigenous people within the broader struggle for collective rights as indigenous *peoples* (Sieder and Sierra, 2010; Speed et al., 2006). As the indigenous organizations we work with continuously emphasize, the former cannot be achieved without the guarantee of the latter. Abstract philosophical debates often tend to assume that group rights are bad for women (Okin, 1999), yet such discussions

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tend to be devoid of concrete empirical evidence: trade-offs are simplified and complex issues portrayed in absolute or a-historical terms. Ethnography, by contrast, reveals the mess and compromises involved in everyday lived experience and the pursuit of a better life. It also underlines the importance of history and context and the ways in which these shape people's perceptions, epistemological frames and options.

Our research experience suggests that the individual rights of indigenous women are advanced within the collective defense of indigenous people's collective rights, but that such processes inevitably involve tensions and conflict. These pose complex questions for engaged ethnographic research with indigenous peoples and social movements which aims to advance gender justice, some of which I will explore in the final section of this article.

The concept of intersectionality of violence (Crenshaw, 1991) provided us with a key conceptual starting point for exploring the connections between structural violence such as racism, colonialism, poverty, or development, and interpersonal forms of violence, which, as Sally Merry and others have observed (2007, p. 43), are intimately connected. The contexts we work in are ones where "everyday" gender violence, economic and political violence, and the fight against so-called organized crime intersect. Inspired by this perspective and continuing to build on the research trajectories of the members of our team, our current project prioritizes engaged, collaborative forms of research and focuses on ordinary men and women's understandings of law, justice and security and the trans-local processes of which they are a part. We are not concerned only with state law, but also with the alternative legal orders generated by subaltern actors. We are particularly interested in constructions and practices of what is generically referred to as "indigenous law", or *derecho propio*, and in our project specifically in the shifting gender relations and ideologies reflected within these alternative legal norms and practices.

As Chenaut et. al. noted in a recent publication, "globalization from below is promoting the defense of [indigenous peoples] own forms of regulation, understood not as *usos y costumbres*, but rather as their own justice systems in dialogue and interaction with national and international law"[7] (2011, p.18). Subaltern legal orders are shaped by transnational human rights but also by other normative orders, such as religion and spiritual belief systems, and reflect the moral and legal

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[7] All translations are my own.

imaginations of different groups and individuals within different indigenous communities, organizations and networks.

Fine-grained ethnographic work can reveal the culturally and historically situated perceptions and meanings of violence, security, insecurity, justice and injustice, documenting the ways these change over time. It can also explore the connections between intimate and structural forms of violence from the perspectives of the actors themselves. At the same time, through our collaborative research engagements we are constantly in dialogue with the indigenous men and women we work with and thus we contribute directly to the elaboration of different shared understandings.

One of our concerns in the project is to comprehend the ways that different transnational legal orders shape people's lives. In this sense we adopt what Marcus and others have referred to as multi-sited ethnography (1995), using qualitative research methods to analyze how different legal orders –ranging from human rights and multicultural state reforms to national and transnational investment regimes– affect norms, practices, events and outcomes in specific locales. Methods include "tracking" up and down, following chains of causality, linkages and processes which traverse different sites or fields (Starr and Goodale, 2002; Merry 2005; Goodale and Merry, 2007). For example, where do indigenous women who are victims of domestic violence seek justice? Responses may involve a variety of state and non-state forums, different legal, social, political and organizational processes, and different and even contradictory outcomes. The ethnographer's job is to register these processes, forums, and the interactions between them in an open-ended enquiry which highlights actors' understandings.

Within the project we are interested in registering and exploring ordinary people's perceptions not just of justice but also of security as we understand the two to be intimately linked. As Thomas Hylland Eriksen observed in a recent volume, "asking for the ways in which people under different circumstances strive for security, and conversely identifying the factors that render them insecure, may offer a promising framework for future anthropological research" (Hylland, 2010, p. 2). We explore what indigenous men and women perceive as necessary in order to achieve a measure of security or wellbeing in their lives, as well as documenting how they experience the kind of hyper-militarized state security policies, which have become common in many Latin American countries. State security policies that emphasize the use of military force and which place an ideological emphasis

on criminalized "others" have led to increases in human rights violations in many of the regions we work in.

In this article and within our project, we question the dominant logic of debates on security, which tend to be highly policy oriented and focused on institutional responses to so-called "organized crime" or "terrorism". Through ethnographic engagement, we aim to explore "how various dimensions of human security, including political, economic, environmental and existential, interact" in specific contexts (Hylland, 2010, p. 5). We believe that ethnographic approaches can reveal different understandings and ontologies of "security" and "justice", and consider our role as one of carefully documenting the voices of those engaged in counter-hegemonic political struggles against increasingly repressive and exclusive forms of neoliberal globalization with its accompanying emphasis on "securitization". Our approach was inspired in part by Santos's notion of the "sociology of emergence", which "seeks to expose and underscore the signals, clues or traces of future possibilities embedded in nascent or marginalized legal practices or knowledge" (Santos and Rodríguez-Garavito, 2005, p. 17).

The cases we examine ethnographically in the project –five from Mexico and five from other parts of Latin America– are diverse in nature. In Mexico, Aida Hernández Castillo analyses the legal and political struggles of the Organización del Pueblo Indígena Me'phaa, OPIM, in Guerrero, focusing particularly on her own role as special anthropological witness in a case heard before the Interamerican Court of Human Rights in 2010. The court found the Mexican government guilty of violating the individual rights of Inés Fernández, a me'phaa woman raped by Mexican soldiers in the context of the growing militarization of the region, but also –in a landmark judgement– condemned the rape as a violation of the collective rights of the me'phaa people. Also in Guerrero, María Teresa Sierra is working together with me'phaa and na savi women justice promoters to strengthen women's access to justice and security within the supra-communal autonomous regional coordination of community authorities, CRAC, or *policía comunitaria* in the *costa-montaña* region of the state. In particular, her work involves documenting women's organizing together with the justice practices of the *policía comunitaria* and the changing gender ideologies that they reveal.

Mariana Mora's ethnography focuses on the work of human rights defenders in the state of Guerrero monitoring human rights violations by the police and armed forces. She analyses the ways in which

human rights NGOs produce legal knowledge in cases where the human rights of indigenous people have been violated in the context of state security policies and considers the effects of such processes.

In the state of Oaxaca, Natalia De Marinis has accompanied indigenous triqui women from San Juan Copala in their struggle to achieve a measure of security and justice following their forced displacement in 2010 when a short-lived autonomy experiment was terminated by sustained paramilitary violence (De Marinis 2011). She is particularly interested in documenting the gendered dimensions of violence and political control in the triqui region, and grassroots responses.

In Cuetzalan, in the state of Puebla, Adriana Terven continues to work with nahua women of the Centro de la Mujer Indígena (CAMI), an indigenous organization which has played a key role in promoting indigenous women's rights. Terven's ethnographic work analyses the different constructions of justice and security at play within the CAMI and the dense network of organizations working to promote indigenous women's rights in Cuetzalan.

In Guatemala my own work in Chichicastenango, Quiché, focuses on the on-going efforts of the grassroots community leaders of the municipal women's council to strengthen k'iche' women's access to justice, security and protection from violence. Chichicastenango is the first municipality where grassroots organizers and civil society organizations have developed a gender agenda. My ethnography tracks and supports efforts to translate the promises of this agenda into practice. Also in Guatemala, Morna Macleod has accompanied maya-mam women activists in San Miguel Ixtahuacán, San Marcos, in their efforts to resist one of the largest open-pit gold mines in Latin America (Movimiento de Mujeres Indígenas Tz'ununija, 2013). Her research focuses particularly on their perceptions of (in)security and (in)justice and indigenous epistemologies, and on the environmental and social impacts of gendered, structural violence.

In Colombia Leonor Lozano's collaboration with the Indigenous Intercultural University, UAIIN, and the Consejo Regional Indígena del Cauca, CRIC, details one of the most established experiences of indigenous autonomy in Latin America even within a context of on-going armed conflict. Her research details the new forms of knowledge generated by systematization and reflection about gender relations, indigenous identity and justice within the UAIIN's diploma on family, participation and gender equity. In Oruro, Bolivia, Ana Cecilia Arteaga Böhrt's ethnography focuses on the relationship between national

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processes of legal reform (specifically the 2009 constitution and the 2010 law of coordination between state law and indigenous law, or *ley de deslinde*) and the elaboration of a local autonomy statute in the Marka of San Pedro de Totora. Her research documents the discourses, practices and strategies pursued by aymara women to further culturally rooted forms of gender justice.

Lastly in Chimborazo, Ecuador, anthropologist Emma Cervone and quichua rights activist Cristina Cucurí are analyzing the nature and effects of the mobilization by quichua women in Chimborazo to secure the inclusion of women's rights to protection from violence within autonomy provisions in the 2008 constitution. Their work seeks to document the ways in which women's mobilization for gender justice in the constitutional reform has affected perceptions of justice and practices on the ground.

In short, our combined collaborative ethnographic engagements explore *subaltern cosmopolitan legalities* with a particular emphasis on gender dynamics. How do indigenous women (and men) perceive "justice" or "security"? What role do discourses, understandings and imaginaries of "rights", and mobilizations that demand their guarantee, play in these perceptions? What social and political practices do they pursue to try and secure these visions of justice and security?

Our methodological and epistemological stance is to privilege their worldviews and constructivist, inter-subjective and historically situated understandings of abstract concepts such as rights, justice and security. In this we follow anthropological theorizing about human rights which began in the 1990s, and sought to explore how certain global discourses are understood, taken up, appropriated, rejected and refashioned in local contexts, and mobilized for specific ends (Wilson, 1997; Merry 2005; Cowan et al., 2001; Goodale and Merry, 2007). We also specifically aim to contribute to the work of the organizations and collectivities that we accompany and to generate knowledge in dialogue that can support political and social transformation (Hernández forthcoming).

Fragmented Sovereignties and Grey Zones: Discerning the "Legal" and the "Illegal" in Ethnographic Practice

Contemporary neoliberal state forms in Latin America are increasingly characterized by fragmented sovereignties, involving complex hybrids

of legal and illegal pluralism and decentralized violence (Hansen and Stepputat, 2005; Arias et al., 2010; Sieder, 2011). The legal ambiguities and supposedly "non-state" types of repression intrinsic to such state forms have particularly negative impacts for indigenous peoples who typically find themselves living in contexts of acute insecurity somewhere "between threat and guarantee", as Deborah Poole has astutely observed (Poole, 2004).

The intensification of extractive forms of global capitalism across the region, involving the accelerated exploitation of oil, mineral, forest and water resources, has had particularly negative impacts for indigenous peoples and their territories. Whilst the collective rights of indigenous peoples have been recognized in international law and to a significant degree within the constitutions and laws of Latin American nation states, their protests against the effects of the dominant model of economic development are increasingly criminalized and repressed, sometimes by paramilitary forces or other actors not readily identifiable as the agents of the state.

Resistance to economic depredation and military or paramilitary power is invariably met with violence, including sexual violence directed particularly against indigenous women. Indigenous people's organizations' defense of their rights to political and legal autonomy occurs within the context of legal ambiguity, violence and fragmentation typical of neoliberal state formations. While concepts such as legal pluralism and interlegality proposed by Santos (2002); (see also Sierra, 2004) signal the importance of the mutual constitution of different levels of legality, they perhaps do not adequately capture these violent realities and the challenges they pose for a counter-hegemonic politics.

In this respect a number of key theoretical and political concerns have emerged from our ongoing collective research: what are the connections between the fluid, multi-layered, contradictory and transnational forms of legal ordering signaled by the concepts of interlegality and legal pluralism, and the violence and dispossession so central to the current neoliberal model? In particular, what are the consequences of plural legal formations for indigenous peoples, who have been subjects of the "fetishization of rights" in recent years? Under what conditions are contemporary interlegalities a factor in producing racial and gendered forms of exclusion? And under what conditions do they constitute a resource for women – and men - to challenge their marginalization?

Jean and John Comaroff have emphasized the need for an analytical shift within legal anthropology from concern with legal pluralism per se, to a consideration of the combined problematic of law and governance in the contemporary world, and specifically the new relationships between law and governance in the age of neoliberalism (Comaroff and Comaroff, 2009, p. 32; 39). While we are only beginning to address this in our own work, such an approach has the potential to enable a broader consideration of the relationship between plural legal forms, violence and illegalities, and shifting, historically configured configurations of governance in different contexts.

Within this research project we have inevitably found ourselves engaged not just in ethnographies of local and transnational legal constructions and connections, but also, at least indirectly, in the ethnography of the state, its material and symbolic effects. As Penny Harvey has argued "[b]y approaching the state through the study of particular concrete material effects, ethnographic methods can generate a critical position by standing outside the state's own version of itself." (Harvey, 2005, p. 127). Theories of legal pluralism have long challenged the state's version of itself as a unitary, hegemonic legal order. However, the neoliberal state in Latin America is increasingly characterized by fragmented and often extremely violent sovereignties, which are now transnational in nature.

Hansen and Steputtat describe sovereignty as "an aspiration that seeks to create itself in the face of internally fragmented, unevenly distributed, and unpredictable configurations of political authority that exercise more or less legitimate violence in a territory" (2005, 3). Much of our ethnographic research with indigenous people takes place in contexts where the line between the state and the illegal activities of so-called criminal groups is often far from clear, and where multicultural legislation providing legal guarantees of autonomy for indigenous collectivities and their forms of law exist on paper but are routinely violated in practice. In his work on collective violence and party politics in Buenos Aires, Auyero points to the clandestine relationships that exist between episodes of collective violence, the legal institutions of the state and political parties as the "grey zone" of politics or "zone of ambiguity" (Auyero, 2007, p. 51).

Our ethnographic work points towards a grey zone of law or interlegality, where the line between the legal and the illegal is constantly shifting and deliberately opaque. Indigenous people's organizations negotiate legal rights and guarantees within the formal institutions

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of the state and have made significant gains in this respect. Yet their everyday experiences suggest that even such legal advances tend in practice to reproduce the effects of the coloniality of power and knowledge that are implicit in vertical forms of legal ordering. In addition, observation of politics at a micro-scale reveals forms of sovereignty involving territorial control by hybrids of legally constituted powers and illegal groups who use fear and violence as a means to facilitate economic accumulation.

Hugely profitable narco-trafficking operations are protected and facilitated by agents of the state across Mexico, Guatemala and Colombia. Paramilitary violence against indigenous people claiming autonomy or resisting resource extraction in their territory is invariably linked to powerful actors located within the formal apparatus of government or the legal economy. As in Primo Levi's original discussion of the "grey zone" (Levi, 1988), the line between victims and perpetrators is far from clear: the victims of structural violence may be directly involved in perpetrating violence against others, in part because of the racial and gendered nature of state formations. For example, Natalia De Marinis has analyzed intra-ethnic paramilitary violence amongst the triqui in Oaxaca as part of the government's historical strategies of control (De Marinis, 2011).

Multiple forms of violence against indigenous people are of course far from new. Yet we are only beginning to analyze the connections between contemporary forms of economic accumulation and the fragmentation of centralized forms of sovereignty in neoliberal states, and the implications of these connections for indigenous people's struggles for justice and security. Although our reflections remain provisional, we hope that our ethnographic observation on the ground can contribute, albeit modestly, to critical legal theory as well as to political praxis.

Heightened insecurity combined with a systemic lack of access to justice is generating transformations in ordinary people's perceptions of the state in many of the contexts we work in. Undoubtedly the state remains an object of local politics - for financial resources, political legitimation and recognition, and sometimes physical security and protection. However, the ambiguities and violence of state practices have led indigenous people in many specific sites in Latin America to organize and demand higher degrees of autonomy. This revolves around attempts to strengthen their own forms of law and security and communal and supra-communal forms of governance.

Clear examples within our collective research project of this pattern are the organization of the *policía comunitaria* in Guerrero, which includes me'phaa, na savi and mestizos who for nearly two decades have claimed the right to provide security and exercise jurisdictional autonomy within an extensive territory in the mountain region. Also the Consejo Regional Indígena del Cauca, CRIC which, even though facing paramilitary and military violence, defends the autonomy rights of indigenous *resguardos* or territories in the Cauca region, including their exercise of their own forms of law, or *derecho propio*.

Indigenous territorial rights were formally recognized in the Colombian constitution of 1991, yet nasa, guambiano, yanacona and kokonuco communities in the Cauca region have been fighting for land and autonomy rights for over forty years. These indigenous autonomy projects increasingly involve attempts to keep the state –or at least the predatory state– at a distance through the assertion of specific non-state sovereign forms which are justified in terms of indigenous people's international rights to collective self-determination. While the state is always seen as a mixture of violent and benevolent, in these contexts it appears it is less the object of desire and ever more something indecipherable to be feared and challenged.

As central state technologies of governing (such as the ideology and practice of *indigenismo* in Mexico) have given way to direct and indirect repression, the "state idea" (Mitchell, 1999) has been undermined. In response, in some specific contexts, we are documenting increasingly politicized efforts by indigenous communities and their organizations to fashion themselves as communities of citizens claiming rights to self-government (Hansen and Stepputat, 2001).

Of course anthropologists are directly implicated in these alternative sovereignty claims. Working in collaboration with indigenous movements and organizations, we are often explicitly called on to validate these alternative or non-state forms of sovereignty and legality. Through our ethnographic research we undoubtedly play a role in systematizing, translating and communicating "indigenous law" or *derecho propio* to a wider audience beyond the communities or organizations where we do our research. And while we are directly engaged in the co-elaboration of our research findings with our counterparts in the field, the circulation of our research –and its validation within the field of power that is academic knowledge– also influences outsiders' perceptions of indigenous law. While academic validation of alternative justice systems may be a key objective of our indigenous

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collaborators, our published research –and its reception in the world– in turn feeds back into the reflections and constructions of indigenous organizations, albeit in diffuse or indirect ways.

However, while the political context of such legal ethnography may be new, many of the methods we employ are fairly traditional. For example, following the work of legal anthropologists such as Laura Nader, Jane Collier and June Starr, we analyze disputes as social processes (Nader 1990, 2002; Starr and Collier, 1989) . This involves documenting what discourses of rights, entitlement and justice are invoked, when, how and by whom. It also involves analysis of the ways in which gender ideologies are reflected and challenged within conflicts and disputes. To what extent are decisions perceived as legitimate by the actors involved? What changing forms of legal imagination or consciousness can we identify and how can we explain them?

The seminal volume edited by June Starr and Jane Collier (1989) pointed to the need to historicize law, both dominant and non-hegemonic forms, and to understand the way in which law is determined by changing power relations. Ethnographic methods such as participant observation, interviews and life histories help to reveal the ways in which legal processes and reasoning are embedded in broader social processes. The Starr and Collier volume contributed importantly to a dynamic view of legal pluralism, one which was later further developed by Santos's concept of interlegality (Santos 2002; Sierra 2004). As Starr and Goodale (2002), Santos (2002) and others have emphasized, legal ethnographies must take into account and map the shifting articulations between local, regional and global phenomena, always with a view to the hegemonic and counter-hegemonic tensions in play. Yet they should always stay true to the subjective voices that are so central to the ethnographic method.

When these voices conflict, as they invariably do, ethnographers are faced with a complex set of dilemmas. The legacies of colonialism and its gendered and racial forms of rule are inevitably reflected in indigenous legal practices, even if they are not typically expressed in oral or written norms. This may mean that some groups, such as women or young people, are systematically discriminated against within subaltern constructions of law, as they are within hegemonic forms of law. Our collective project aims to contribute to the strengthening of locally determined forms of gender justice. This has raised an on-going set of ethical, political and methodological challenges to which I now turn.

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The Ethical and Political Challenges of
Engaged Collaborative Ethnography

As is now generally accepted at least within the discipline of anthropology, there is no objective or neutral position that is somehow "outside": all knowledge production is politically and ethically situated (Haraway, 1988). In recent years indigenous organizations and communities have increasingly demanded that anthropologists and other researchers clearly position themselves and work in particular ways to defend their rights and advance their political struggles and agendas. *Ethnographic refusal* has also become more explicit and politicized in many contexts.

As researchers we endorse the proposition clearly enunciated by Hale, that "research that is predicated on alignment with a group of people organized in struggle, and on collaborative relations of knowledge production with members of that group, has the potential to yield privileged insight, analysis, and theoretical innovation that otherwise would be impossible to achieve" (2008; p. 20). Yet while we try to meet the imperative that Philipe Bourgois reminds us of, to "write against inequality" (2006), and stay committed to the broad aims of the indigenous organizations we work with, by itself, this does not resolve the multiple challenges of collaborative ethnographic engagement. These include three broad and overlapping areas that I identify here: first, scholarly privilege and ethnographic authority; second, testimonies, their value, uses and abuses, and; third, how to interpret and write about inequalities and tensions within the communities and organizations we work with. In discussing these three themes, I describe some of the methodological tools and approaches we have used in our collective project, their advantages and disadvantages.

Scholarly Privilege and Ethnographic Authority

Even while ethnographers aligned with certain groups are committed "to listen closely to them, to assign special importance to their agency and standpoint" (Hale, 2008, p. 4) this does not remove the inherently unequal power dynamics when it comes to who writes about whom and how. Although we try to listen closely and sympathetically, and to constantly question our own preconceptions and readings, the theoretical frameworks we draw on to interpret our ethnographic data may be very far from ordinary people's understanding of their own realities. How can we ensure that we do not end up speaking for others,

or speaking about others in ways they would not recognize or find acceptable, thereby reproducing colonial forms of power?

There are no easy ways to resolve these issues. One approach we have tried to follow is to let our research agenda and data collection be defined to a significant extent by the organizations and collectives we engage with. For example, data collection instruments such as interview guides or workshop programs are devised and discussed together with members of the groups and organizations we work with, as are the political implications of the research questions we come up with. This makes for a much more fluid, open-ended form of research, but invariably a much more revealing and creative one. It can also often be quite unpredictable, particularly when internal tensions within organizations or communities may mean access is restricted for certain periods or that particular topics are "off bounds". But it underlines that research needs to be responsive to the analysis the actors themselves have of their own lives and the challenges, opportunities and threats they perceive at particular moments in time: indeed it is these analyses in dialogue with our own that generate new forms of knowledge.

Some organizations have a long track record of negotiating with non-indigenous collaborators and clearly enunciated guidelines – for example, the CRIC in Colombia (Rappaport, 2005) or the Zapatistas in Chiapas (Mora, 2011); however, other groups have less experience or even interest in setting out the parameters for research engagements, particularly when its utility may not be immediately apparent to them. It has been vitally important for us to discuss and debate our research findings at different stages with our counterparts in a variety of different forums for dialogue and exchange. This provides opportunities for validation, reinterpretation and challenges to our interpretations that themselves become part of our understanding and analysis.

Such on-going, *in situ* validation is of course one of the basic tenets of all ethnographic research, but presenting preliminary findings in more collective settings –such as workshops– can encourage participation and exchange and allows the researcher to take a less prominent role. Ideally such collective reflection also plays a role in strengthening local organizational processes. However, in practice, it is also true that research findings may be discussed with some but not all local actors; the intellectual enterprise of debating and engaging with research outcomes may not be as interesting or worthwhile for everyone involved. This may also reflect power differences within organizations, differences we should be critically aware of at all times.

The stakes of our writing about subaltern cosmopolitan legalities are often significant. On one occasion when I was participating in a forum on indigenous law in Guatemala City with my co-author Carlos Flores, a well-known mayan rights activist took issue with our depiction of indigenous law in Quiché (Sieder and Flores, 2011; see also Sieder and Flores, 2012). In his view, by presenting an ethnographic record of a particular moment in time, we were effectively privileging the existing practice over more abstract norms and indigenous epistemologies which, in his view, were the correct focus of analysis for discussing and legitimizing "mayan law".

The exchange in the workshop succinctly revealed the very different agendas, priorities and approaches involved in efforts to revitalize and strengthen indigenous law in Guatemala, and the contradictions and tensions that these can involve. For many mayan rights activists (including our critic), work to revitalize and value mayan norms is more important –and politically strategic– than the kind of ethnographic record that anthropologists are trained to produce. Although the texts in question had been elaborated in a long-term collaborative endeavor with indigenous authorities in Santa Cruz del Quiché who had validated the results at every stage of production, it is important to recognize that not all agendas may be compatible, no matter how "engaged" their methodologies may be.

The criticism that most resonated was that by writing things down and publishing academic texts (and in the case of my co-author Carlos Flores, by also producing ethnographic films) we were determining what many people understood "indigenous law" to be. However much research emerges from collaborative relationships, this criticism is inescapable: the authority of the text is something beyond the power of the individual researcher to control. Experimentation with different forms of textual (re)presentation is important in this respect, but does not always overcome this fundamental tension. As Lynn Stephen reminds us, we must pay attention to the "politics of location" and

> acknowledge the differences between ourselves as researchers and those we may collaborate with, (…) situate what we are doing in the transnational political economy and take responsibility for the ways that difference is coded in national and transnational structures of capital, power and culture." (Stephen. 2007, p. 322)

Testimonies, their value, uses and abuses

Much has been written about the use of testimony in anthropology and in social science more generally and I will not rehearse those debates here. However, within our collective project we continuously reflect on the ethical and methodological challenges that gathering and using people's testimonies entail. This is particularly acute when we are dealing with indigenous men and women's testimonies about violence. A testimonial account is inevitably an inter-subjective construction and we try to reflect on the influence we have on our interviewees and the expectations they may have of us. Often the line between an ethnographic interview and a therapeutic intervention becomes blurred, something which raises obvious ethical concerns and challenges.

The security –psychological and physical– of interviewees is a primordial consideration, as are the risks associated with re-victimization, both at an inter-subjective as well as at a representational level. Within the project, we have not sought to gather testimonies about violence in the absence of organizational processes that can support victims. Some of us have recorded testimonies directly; others have worked with indigenous grassroots activists (such as the *promotoras de justicia* in the *policía comunitaria* in Guerrero) and it is they who have registered different testimonies as part of the process of collaborative research.

At one point in the project we sought the advice of a Colombian psychologist with considerable experience working with victims of human rights violations. Our group session with her was invaluable for exploring our own reactions to the impotence we often felt in the face of testimonies of extreme violence. It also helped us to reinforce particular techniques, such as the validation of people's experiences and of their own responses to violence. As Victoria Sanford has observed, "the accretion of marginalized voices transforms experience into collective memory" (2006, p. 13).

Taking our cue from organizational processes within social movements that seek to validate individual and collective experience and use these as a basis for social transformation, we understand our anthropological work of witnessing and recording as a means to facilitate such collective reflection and transformation through the validation of stories of struggle and suffering that are often unheard, ignored or forgotten. However, the ethnographer must always be self-reflexive about the political uses of testimony. In addition, we insist on locating testimonies

of violence and exclusion within their broader historical and structural contexts. At the same time, we have experimented with different, collaborative forms of engagement and solidarity, such as the use of *talleres de sanación*. This involves us all –researchers and research subjects– in the challenges of how to deal with social suffering at a micro level in ways that transform individual and collective agency.

Approaching Internal Tensions and Diversity

The indigenous communities and organizations we work with are internally diverse and marked by inequalities of power. As engaged ethnographers, we constantly face the challenges of how to deal with the diversity, tensions and political divisions or micro-politics of social movements. Such issues present challenges for carrying out research, even more when analyzing and presenting results. All ethnographic work –collaborative or otherwise– has to deal with such things, yet engaged research with indigenous movements needs to register inequalities, diversity and conflict without jeopardizing longer-term processes of social transformation and without asserting academic privilege, with all its colonial associations.

As stated above, we started from the premise that it made no sense to conceptualize indigenous women's access to justice and security outside of the collective security of the indigenous communities and peoples of which the women are a part. We also maintain that understanding challenges to women's –and men's– security and their ability to achieve what they perceive as "justice" depends critically on national and global forces beyond the circumscribed community or organizational sphere within which we carry out our participant observation.

This epistemological standpoint provides few clear guidelines about exactly how to navigate the inevitable tensions that arise between the exercise of male authority and privilege and women's desire for greater participation and voice, both at an individual or family level as well as within the organizations themselves. While our ethnographies seek to uncover the workings of power and the cultural, political and economic dynamics that reproduce inequality, how to present and work with the results of our research poses a different set of analytical and political challenges. Mindful of the fact that we are in effect part-time participants, observers and chroniclers, we seek to work in ways that facilitate change and challenge inequalities; but above all, that try to be sensitive to the rhythms, priorities and processes of the

communities and people we work with. It is sometimes impossible not to align oneself with particular groups or factions: we are inevitably "placed" by our counterparts in the field and we often represent a kind of political or social capital for our close collaborators.

Becoming personally involved in local conflicts and tensions is unavoidable. The gendered dimensions of our research collaborations have often been particularly challenging in this respect as our indigenous research collaborators are also often our friends and confidants. Yet good ethnography must resist the temptation to divide social actors into heroes and villains, and should instead seek to situate, historicize and explain interpersonal conflicts within their wider structural context, without of course glossing over, or ignoring the contradictions and abuses of power that occur within social movements.

In this project we have been concerned to consider the multiple ambiguities and tensions generated by shifting fields of legal ambiguity and violence, and the ways in which these shape individual and collective decisions. We may often take decisions not to make public certain things we observe in the field, however revealing whatever the ethnographic detail might be. This brings us back to the question of whom ethnography is being produced for and to what ends. In short, we must always critically assess the consequences of our ethnographic production, and indeed of our very engagements, connections and interventions in the field.

Working together as a team has provided us with critical spaces for collective reflection, advice and mutual support. This has been vital, particularly as the issues that arise in fieldwork are often painful and difficult. Team work has also facilitated networking between the different indigenous organizations and activists themselves. Indeed our research aims to include a number of aspects that may be seen as less "academic", including fostering change in communities and facilitating network and information exchange between organizations.

All of the above requires the creation of spaces for less conventional forms of ethnographic engagement and data collection and analysis. For example, one of the first workshops of the project took place in Cuetzalan, Puebla, where Adriana Terven has worked in collaboration with the Centro de la Mujer Indígena (CAMI) for a number of years. The workshop drew together researchers and indigenous women activists from the triqui region of Oaxaca, the costa-montaña region and Ayutla de los Libres in the state of Guerrero, and the departments of San Marcos and Quiché in Guatemala. In addition to a more conventional

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format to discuss our research advances, we also designed a program including visits to the CAMI, the refuge for women and children run by CAMI and the indigenous court (*juzgado indígena*) in Cuetzalan to talk with nahua activists and learn about their work. In addition, spaces for the indigenous women activists to exchange experiences without the presence of the academic researchers were established as well as the use of the *temazcal* in a session led by a local nahua healer.

Another significant aspect of our ethnographic fieldwork has been the organization of workshops to analyze rights, gender and indigenous law (*derecho propio*), or to develop individual and collective legal and political defense strategies. These workshops represent both tools for social change and a forum for interactive generation of ethnographic data. As Susan F. Hirsch observed in an essay on feminist methodologies in legal anthropological research, such activist anthropology involves "studying the process of how legal consciousness is shaped by and in relation to discourses and practices in which [we] are acknowledged participant[s]" (Hirsch, 2002, p. 15), such as those related to gender rights, human rights or the collective rights of indigenous peoples.

Researchers often take a secondary role in the workshops, which may be led by local activists or *facilitadoras*. We are careful to avoid positioning ourselves as authoritative voices. The spirit is one of mutual exchange and learning, validation of the experience and different forms of knowledge of the participants, and sometimes specifically, of more therapeutic forms of intervention by local specialists, such as spiritual healers in the case of my own work with women victims of violence in Chichicastenango.

A number of the researchers in our team have produced videos and popular education texts in collaboration with the organizations or communities they work with. For example, María Teresa Sierra has supported the *promotoras* from the *policía comunitaria* to produce a popular publication containing the testimonies of women who have played a key role in the history of the organization and, more recently, the production of a video which aims to provide a tool for the promotion of women's participation within the *policía comunitaria*. Ana Cecilia Arteaga Böhrt has also facilitated the production of a video, which documents the process of the elaboration of the autonomy statute in San Pedro de Totora.

Within the project, Natalia De Marinis has worked with triqui women and men in Oaxaca to document triqui myths or foundational

stories in video format, something which has been a key contribution to reconfirming and reconstructing community identity in the wake of violent armed conflict and displacement. Aida Hernández's collaboration with OPIM began when she was called on to provide special anthropological witness testimony before the Interamerican court, and the elaboration and delivery of her report (co-authored with Héctor Ortiz Elizondo), has proved central in her ethnography[8]. Indeed every member of the team has collaborated in the production of diverse materials including analyses (*diagnósticos*), systematizations (*sistematizaciones*), and other formats determined by our counterparts in the field.

As researchers working with indigenous social movements we also are called on to help seek funding for projects or legal advice and to provide other forms of support. The goals and agendas of organizations and movements go far beyond those of a single research proposal. They often exceed the ability of any individual researcher to meet them, even those working as part of a larger team. On numerous occasions we have found ourselves pulled in different directions by the demands of participating in specific political conjunctures or legal cases, or securing funding for non-research activities from different sources, and the requirements of rigorous data analysis, reading and writing. Again, there are no easy answers to how to deal with these multiple challenges, but indigenous movements rightly demand sustained commitment from those researchers who work with them and this invariably goes beyond the traditional parameters of academic research.

Conclusions

In this article I have pointed to the dialectical relationship that exists between engaged collaborative ethnographic research and critical social theory in research carried out with indigenous social movements. I have suggested that rigorous ethnographic work plays a vital role in documenting, accompanying, systematizing and validating what Rodriguez-Garavito and Santos have termed *subaltern cosmopolitan legalities* (2005) within contemporary contexts of interlegality or legal pluralism and the grey zones that they entail.

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8   R. A. Hernández Castillo and H. Ortiz Elizondo Caso Inés Fernández vs. Estados Unidos Mexicanos: Informe Pericial Antropológico. Unpublished document on file with the author.

In the research project on indigenous women's access to justice and security referred to in this article, a group of researchers sharing a set of analytical and political concerns has sought to use traditional and less traditional ethnographic methods in order to challenge the structural violence and marginalization of indigenous women and men. A sustained focus on what they understand *justice* and *security* to mean is fundamental to this endeavor. Central to our work as a team is a shared commitment to the co-production of knowledge and self-reflexivity about the profound ethical and political challenges it entails. Also central to our research methodologies are different kinds of collaboration, both between academic researchers and between them and their ethnographic subjects.

Our debates as a team, in workshops, meetings and other collective exchanges, are leading us to generate new forms of knowledge in dialogue with the indigenous men and women we work with. This constantly challenges us to refine our analyses and methods, something that in turn enriches our ethnographic and political engagements.

I have also suggested here that by paying sustained attention to the perspectives and voices of our ethnographic subjects we can contribute to theorizing processes of state formation, revealing new configurations of governance by tracing the effects of different political and economic phenomena in specific contexts. Our collective ethnographic work as a team invites us to continue theorizing interlegality, legal pluralism, illegality and governance. While the concepts of legal pluralism and interlegality continue to be central to our analysis, I have suggested that these alone may be insufficient to understand the role that shifting, fragmented sovereignties, legal ambiguities and violence play in securing governance in indigenous regions in Latin America today.

Fragmented sovereignties imply new forms of segregation and power. At the same time, perceived threats to state sovereignty generate re-territorializing discourses of state violence (Kapferer and Bertelsen, 2009), exemplified in current paradigms of securitization and the criminalization of indigenous protest movements. Careful ethnographic work can reveal the workings of these grey zones and the microphysics of power contained therein. As engaged researchers, we face the challenge of how to best carry out collaborative and transformative research within such contexts. It is also incumbent on us to develop our theoretical explanations of social phenomena without losing the meanings of engagement and real life experience for the people we work with. This challenges us to find new, or at the very

least multiple ways of communicating our research and of realizing its transformative potential.

Acknowledgements

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