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**Beyond Legal Truths:
Impunity, Memory, and Maya Autonomous Justice
After the Acteal Massacre**

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**Beyond Legal Truths:
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After the Acteal Massacre**

by

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Dissertation

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December 2016**

Para Dulce, Alfonso y Laura. En memoria de Alfonso Guillermo
y de todas las víctimas de la violencia de estado.
Porque el pasado está en el presente y “el olvido está lleno de memoria”.

Beyond Legal Truths:
Impunity, Memory, and Maya Autonomous Justice
After the Acteal Massacre

Claudia Chávez Argüelles, Ph.D.
The University of Texas at Austin, 2016

Supervisor: Shannon Speed

This dissertation analyzes the production of impunity in Mexico and its long-term, transgenerational effects for the victims of state violence. I focus on the case of the Acteal massacre (Chiapas, Mexico, 1997) and study the creation and circulation of top-down narratives about this critical event, juxtaposing them with the marginalized trajectories of survivors' testimonies toward embodied practices of memory. Departing from the analysis of prosecutors' legal construction of the massacre I examine the role of racism in the distortions, manipulations, and mediations of survivors' testimonies. By tracing the routes of this and other representations of the massacre and its actors in the judiciary, media, academia, and across advocacy networks, this research historicizes the process through which the "legal truth" about the Acteal case has been constructed and theorizes the erasure mechanisms of this process through the concept of "*judicial limpiezas*." I argue that various actors within these realms of knowledge/truth production have paradoxically laid the foundations for the operation of impunity while simultaneously attempting to protect indigenous rights. This paradox, I suggest, finds its

origins in the insidious continuities between settler colonialism and the politics of humanitarianism.

My research proposes to understand impunity, not as an absence or inaction, but as productivity that reinscribes colonial difference through the lines of race, class, and gender, and the silences that impunity actively creates, as embodied, racializing discourses. For this purpose, I explore the multilayered encounter of the Supreme Court of Justice (SCJ) ministers' positivist ideas about truth and justice with those of Maya survivors, and of their mestizx human rights lawyers. By analyzing the Acteal case's itinerary through the SCJ as a process of judicialization of politics, my dissertation theorizes the ways the state has found in the judiciary an undemocratic but legitimized space to constrict—and sometimes erase—the rights of dissident indigenous peoples precisely at the moment when they are trying to invoke these very rights in the courts. I contend that this process has both actualized a new authoritarian dimension of neoliberal multiculturalism—in which humanitarian solidarity is complicit—and produced innovative, radical responses from Maya survivors struggling to devise an autonomous kind of justice based on memory.

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Acronyms

A.C.	Asociación Civil
CDHFBC	Centro de Derechos Humanos Fray Bartolomé de las Casas or “Frayba.”
CDI	Comisión Nacional para el Desarrollo de los Pueblos Indígenas
CDMCH	Centro de Derechos de la Mujer de Chiapas
CERESO	Centro de Readaptación Social
CIAM	Centro de Investigación y Acción para la Mujer Latinoamericana
CIDE	Centro de Investigación y Docencia Económica
CIESAS	Centro de Investigaciones y Estudios Superiores en Antropología Social
CISEN	Centro de Investigación y Seguridad Nacional
CNDH	Comisión Nacional de Derechos Humanos
COLEM	Colectivo de Mujeres de San Cristóbal de las Casas
DFS	Dirección Federal de Seguridad
ENAH	Escuela Nacional de Antropología e Historia
EZLN	Ejército Zapatista de Liberación Nacional
FOCA	Formación y Capacitación, A.C.
Frayba	Centro de Derechos Humanos Fray Bartolomé de las Casas
GIEI	Interdisciplinary Group of Independent Experts for the Ayotzinapa case.
IACHR	Inter-American Commission on Human Rights
IEI-UNACH	Instituto de Estudios Indígenas, Universidad Autónoma de Chiapas
IFE	Instituto Federal Electoral
INEGI	Instituto Nacional de Estadística y Geografía
MP	Ministerio Público [Office of the Public Prosecutor]
NAFTA	North American Free Trade Agreement
PAN	Partido Acción Nacional
PFCRN	Partido del Frente Cardenista de Reconstrucción Nacional
PGR	Procuraduría General de la República [Attorney General’s Office]

PPT	Permanent Peoples' Tribunal
PRI	Partido Revolucionario Institucional
PRD	Partido Revolucionario Institucional
PST	Partido Socialista de los Trabajadores
SCJ	Suprema Corte de Justicia de la Nación [Supreme Court of Justice]
SEAPI	Secretaría Estatal de Atención a los Pueblos Indígenas
SEDENA	Secretaría de la Defensa Nacional
SEDESOL	Secretaría de Desarrollo Social
SEMEFO	Servicio Médico Forense

María Pérez Oyalte, 43 years old • Martha Capote Pérez, 12 • Rosa Vázquez Luna, 24 •
Marcela Capote Ruiz, 29 • Marcela Pucuj Luna, 67 • Loida Ruiz Gómez, 6 • Catalina
Luna Pérez, 21 • Manuela Pérez Moreno, 50 • Manuel Santiz Culebra, 57 • Margarita
Méndez Paciencia, 23 • Marcela Luna Ruiz, 35 • Micaela Vázquez Pérez, 9 • Josefa
Vázquez Pérez, 5 • Daniel Gómez Pérez, 24 • Sebastián Gómez Pérez, 9 • Juana Pérez
Pérez, 33 • María Gómez Ruiz, 23 • Victorio Vázquez Gómez, 2 • Verónica Vázquez
Luna, 22 • Paulina Hernández Vázquez, 22 • Juana Pérez Luna, 9 • Roselina Gómez
Hernández (?) • Lucía Méndez Capote, 7 • Graciela Gómez Hernández, 3 • Marcela
Capote Vázquez, 15 • Miguel Pérez Jiménez, 40 • Susana Jiménez Luna, 17 • Rosa
Pérez Pérez, 33 • Ignacio Pucuj Luna, 62 • María Luna Méndez, 44 • Alonso Vázquez
Gómez, 46 • Lorenzo Gómez Pérez, 46 • María Capote Pérez, 16 • Antonio Vázquez
Luna, 17 • Antonia Vázquez Pérez, 21 • Marcela Vázquez Pérez, 30 • Silvia Pérez
Luna, 6 • Vicente Méndez Capote, 5 • Guadalupe Gómez Hernandez, 2 • Micaela
Vázquez Luna, 3 • Juana Vázquez Luna, 1 • Alejandro Pérez Luna, 15 • Juana Luna
Vázquez, 45 • Juana Gómez Pérez, 51 • Juan Carlos Luna Pérez, 2 • • • • •

Aquí
hemos llegado. Aquí
se alza la pregunta.

Este es el lugar de los hechos,
un lugar del que las aves huyen,
vuelan lejos, lejos del frío más frío.
Lamentación de hermanos, de viudas
y de huérfanos. Lamentación
del pueblo. No, no era necesario
mirar este diciembre. La Navidad
más triste de nuestras vidas.

(A nadie se le puede ocurrir
cómo gritar, o de qué manera
va a llorar, dijeron.
Y es cierto. A nadie).

Es de noche en el corazón,
es de noche en pleno día,
los músicos guardan silencio.
*Algo sucedió en este lugar,
algo que no podemos decir.*

Amanece. Comienza un día
enorme.

Llegaré al fondo más oscuro del bosque
donde los niños juegan
ocultos de todo. Llegaré
a un lugar donde el sueño es difícil
y las casas se han incendiado. Preguntaré
por la luz de un gota
de lluvia en la hierba. *Escucharé
lo que dices
para regresar a mi casa.*

—Javier Molina, “*la luz se rebela*”¹

¹ Molina (2002), a poet and journalist from San Cristóbal de las Casas, Chiapas, dedicated this poem, titled *the light rebels* to José Ángel Rodríguez’s photographic work, *lok’tavanej / cazador de imágenes [Image Hunter]* (2002). In this book, Rodríguez documented episodes of different indigenous peoples’ everyday lives. One of them was the collective funeral of the forty-five Tzotziles massacred in Acteal in 1997, three days before Christmas. This fragment of Molina’s poem is dedicated to these images. The black and white photos are sad and overwhelming. The message: state violence is part of indigenous peoples’ everyday life.

Introduction:

Approaching that “Something” that Cannot Be Said

Mexico’s chronic state of impunity is radically reshaping the ways people conceptualize justice. The Acteal massacre, in which paramilitary forces killed forty-five pacifist Maya Tzotzil peoples, is one of the starkest representations of this impunity that has left an indelible mark on the country’s collective memory. Every time a new episode of state violence interrupts the trance of everyday life, Acteal comes back to mind, in the middle of a growing list of other bloody geographies: Tlatelolco, Agua Fría, Aguas Blancas, Campo Algodonero, San Salvador Atenco, San Fernando, Tlatlaya, Ayotzinapa and Colula... More than place markers, many of these toponyms symbolize moments when the authoritarian state has revealed itself behind the mask of democracy, killing the same citizens it is responsible for protecting. Many of the names of these “places-events” and their dates have become synonyms of state violence, while this state violence has been shown to be the other side of the coin of impunity. *Tlatelolco*, in the Náhuatl language “the place of the sand mounds,” also signifies the unpunished state-sponsored massacre of hundreds of protesting students that occurred at this place—iconic of colonialism and of the voracity of *mestizaje*—on October 2, 1968. This date is used as synonym of *Tlatelolco*,² in the sense of a “place-event.” The chant “*¡Dos de octubre no*

² Tlatelolco was one of the most important pre-Hispanic commercial centers in Mexico, where the last battle against the Mexica imperium took place, bringing it to an end in 1521. The Tlatelolco massacre (1968) took place in Tlatelolco’s “*Plaza de las Tres Culturas*,” which receives its name from the coexistence of three cultures—and architectural styles—in a single esplanade. Visually, this place illustrates the imposition of a colonial church and convent over an Aztec ceremonial center. The former is built with the elements of the later (in a similar way the colonial caste of the *mestizo* was constructed as the product of Spanish and Indian miscegenation). Surrounding these ceremonial temples is a conglomerate of multifamily apartment buildings built during the 1960s. Being the second-largest apartment complex in North America, the “Tlatelolco-Nonoalco Complex” was modern Mexico’s response to its past and an iconic symbol of this country’s progress to modernity, on the eve of the 1968 Olympic Games to be hosted in Mexico. Next to this modern complex is what was the Foreign Ministry Tower, from which President Gustavo Díaz Ordaz’s Presidential Guard snipers began shooting in 1968. More than three hundred people (mainly students) were killed during that massacre. In a tragic irony, hundreds of people would

se olvida!” [“October second will never be forgotten!”], as it is shouted from the lungs of today’s youth, reveals that the temporality of state violence—and its impunity—outlives the temporality of the human lives it touches, but not the temporality of their memory.

State violence is not contained to bloody “place-events.” It invades the lives of those who were not even born by the time when these “place-events” took place. State violence reaffirms itself in the lives of the next generations through its permeation in the day-to-day of social relations, subjectivities, institutions, practices, and of course, *through its repetition*. Impunity is the formula that assures state violence’s continuity and cyclical repetition. Defined as the “exemption of punishment or freedom from the injurious consequences of an action,”³ impunity is to state officials in a “multicriminal state” [*estado multicriminal*] (Speed 2016) what human rights guarantees are to citizens under the rule of law [*estado de derecho*, in Spanish].

Since the *estado de derecho* does not exist as a pure and all-encompassing reality (evidence suggests that not all citizens are subject to the law), but is instead an exceptional manifestation within the *estado multicriminal* “where violence is ever-expanding and illegality permeates every facet of society” (Speed 2016, 295), then it is critical to question what is the practical meaning of human rights when they exist side by side with impunity. The question brings me back to those activists marching and chanting for justice, memory, and for the right to know the truth every October 2. They are interpolated both by the violence of the past—a violence that they did not experience directly, but whose nefarious effects are already in their bodies—and by the violence of the day-to-day—that which they have inevitably witnessed and embodied in the process of living within a necropolitical state that distributes death to those who oppose its

die from the collapse of one of the modern apartment buildings during the 1985 earthquake; also, in in 2009, a group of archeologists would find an Aztec mass grave below the Plaza de las Tres Culturas. The 180 skeletons discovered by 2014 most probably corresponded to Aztec warriors killed during the Conquest, according to Salvador Guilliem, the archaeologist in charge of the zone (INAH 2009). New discoveries show that the coexisting cultures in this plaza might not be three, but four, since below the Aztec temple there is another temple preceding the Mexicas. To each architectural structure in Tlatelolco corresponds a distinct massacre, all of them driven by imperialist rationales.

³ According to the online Oxford Dictionary.

interests. As Veena Das and Deborah Poole (2004) assert, in the margins of the state—those sites of practice in which the state does not have the monopoly of violence and law is not hegemonic—“sovereignty, as the right over life and death, is experienced in the mode of potentiality—thus creating affects of panic and a sense of danger even if ‘nothing happens’” (19). It is not an exaggeration to affirm that demanding truth and the respect of human rights from the Mexican State has become one of the riskiest endeavors: the deadly exercise of a democratic right.

Like state violence, memory reaffirms itself in the lives of the next generations through its permeation in the day-to-day of social relations, subjectivities, institutions, practices, and also through its repetition. Activists come together and recite the list of bloody places-events in every act of protest against state repression. They repeat the list as a kind of obligatory litany, with the knowledge that in the next protest, there will probably be new places-events to add to the list: “¡Tlatelolco, Aguas Blancas, Acteal, Campo Algodonero, Atenco, San Fernando, Tlatlaya, Ayotzinapa, Colula, *Nochixtlán*, *San Juan Chamula!*” The obligation held is not only with those killed, but also with activists themselves, since those who died live within those who remember and name them. This situation shows how the historical memory of political violence is a collective, public matter and simultaneously a subjectifying embodied experience. As I will discuss in this dissertation, publicly and collectively remembering what happened to those killed helps—or more accurately, *aids*—those who remember to stay alive.

This dissertation is an ethnographic study of the production of impunity in Mexico and its commonly disregarded long-term, transgenerational effects for the victims of state violence. My main objective is to outline the form of governance that has emerged through the imposition of legal truths over the collective memory of survivors of state violence, and the way this contested collective memory is creating a platform for transforming indigenous survivors’ understandings and practices of justice. I focus on the case of the Acteal massacre and on Maya survivors’ peculiar struggle for justice. The Acteal massacre constitutes an unprecedented display of paramilitary violence in Mexico, which left forty-five unarmed Maya Tzotzil people killed and twenty-five injured on

December 22, 1997, in the hamlet of Acteal in the municipality of (, Chiapas.⁴ The victims were mostly women (twenty-one) and children (fifteen); four more were not yet born. Two of the nine men killed were elders. All were members of a pacifist, Catholic organization called “Las Abejas” (The Bees), which emerged in 1992 under the auspices of the Diocese of San Cristóbal de las Casas and its Bishop, Don Samuel Ruiz, a liberation theologian whose “option for the poor” has been key in propelling social transformations in Chiapas and in supporting indigenous struggles (Aubry 2001; Kovic 2003; Speed 2008). The massacre’s victims came from different hamlets in the municipality of Chenalhó (mainly Quextic and Tzajalucúm). They were fleeing from the paramilitary violence deployed in their communities, where they were being coerced to join vigilante groups, called “paramilitaries,” in the annihilation of Zapatistas. Zapatismo, with its demands for indigenous rights, land, equality, and autonomy, represented a dangerous menace to caciques’ entrenched political and economic interests at the local and national level. Members of Las Abejas, as pacifists who supported Zapatismo’s goal for indigenous autonomy, but not the armed path to attain it, fled from their communities and congregated in the hamlet of Acteal, which hosted one of the several displacement

⁴ Chenalhó (or Ch’enalvo’ in Tzotzil) means “water well” (Jiménez Pérez 2010b). It is one of the 122 municipalities of the state of Chiapas, which is located in the southeast of Mexico, bordering Guatemala. The municipality of Chenalhó belongs to the sociocultural, geographic, and administrative region called *Los Altos* (The Highlands), mainly populated by Mayas Tzotziles and Tzeltales. The city of San Cristóbal de las Casas (or Jobel, as Tzotziles call it) is the economic and political center of the region. It is connected with Chenalhó’s municipal center—San Pedro Chenalhó (also called Chenalhó Centro)—through three roads. The shortest road (opened in 2013) crosses the Sierra Madre following a winding, paved route. The main form of transportation between these two points are the “collective taxis,” cars that do not leave their base until they collect *at least* four passengers, charging 45 pesos for each. The taxis take about 45 minutes to go from San Cristóbal to Chenalhó Centro, and about 20 minutes to go from Chenalhó Centro to the hamlet of Acteal. From Chenalhó Centro to Acteal, the main forms of transportation are pickup trucks (*estaquitas*) that carry standing passengers through a very winding road that has been encroached upon at various points by several abysses. The 2010 census registered 36,111 inhabitants in Chenalhó, 29,670 of whom said they were speakers of indigenous languages (mainly Tzotzil). Chenalhó has been classified as a municipality of high marginalization. It covers an area of 115 square kilometers and is divided into 123 localities. Acteal is one of the smallest, with 155 inhabitants, and is located in one of the highest points of these mountains, at 1,470 meters above sea level.

camps existing in the municipality of Chenalhó in the context of a low-intensity warfare that acquired visibility in 1994.

After the Zapatista uprising on January 1, 1994, (the same day the North American Free Trade Agreement—NAFTA—went into effect) and the twelve days of battle with the Mexican Army that followed, both parties agreed to a cease-fire. By February 1994, Ruiz brokered the negotiations between the federal government—headed by President Carlos Salinas de Gortari in his last year in office (1988-1994)—and the Zapatista National Liberation Army (EZLN). These dialogues, in which the president was never physically present, initially took place inside San Cristobal’s cathedral. It was a year of federal elections, which, in Mexican political system based on one-party rule, meant that the next president would most probably be from the PRI (the “official party”).⁵ Election year also meant that the national political machinery was running at its highest intensity level before Salinas revealed the “*destapado*” [“unveiled one”], that is, the PRI’s presidential candidate and probable next president of Mexico. That year, the *destapado* was Luis Donaldo Colosio. The country’s political turmoil peaked when Colosio was assassinated in March, which left the stage open for Ernesto Zedillo’s candidacy (also from the PRI party). Zedillo won national elections in August 1994 and the bloodshed within the national political elite continued. In September, José Francisco Ruiz Massieu, the secretary-general of the PRI—and Salinas’ former brother-in-law—was also assassinated. Zedillo’s government accused and convicted Salinas’ brother Raúl

⁵ The *Partido Revolucionario Institucional* [Institutional Revolutionary Party], or PRI, is the largest political party in Mexico, which ruled the country for seventy-one years, until 2000, when Vicente Fox, from the opposition *Partido Acción Nacional* [National Action Party], or PAN, became president, followed by Felipe Calderón (2006-12), also from PAN. The PRI returned to power in 2012 through the election of Enrique Peña Nieto (2012-18). The third main political party in Mexico is the *Partido de la Revolución Democrática* [Party of the Democratic Revolution] or PRD. In concordance with the characteristic Mexican bipolarity between what the law says that reality *should* be and what the reality *is* (this is, the distinction between *the ought to be—el deber ser—*and the *praxis*), it is alleged that the PRD won the 1988 presidential elections and that, through fraudulent means, the victory was handed to PRI’s candidate, Carlos Salinas. Even though each party’s political positions constantly “fluctuate” according to changing political environments, the PRI is usually characterized as center to center-left; the PAN as center-right to right-wing; and the PRD as center-left to left-wing.

in the murder.⁶ The enmity between Salinas and Zedillo began to become public—in the way of a public secret (Taussig 1999)—and would have consequences beyond their families and allies’ circles.

Meanwhile, in the southern state of Chiapas, the negotiations between the government and the EZLN stagnated for a number of months, until October 1995, when a second round of negotiations began, this time with the participation of hundreds of advisors invited by both sides in the conflict. On the one hand, the government signed The San Andrés Accords on Indigenous Culture and Rights of February 16, 1996, (the product of this second round of negotiations), and with the other hand, deployed a low-intensity warfare against Zapatistas and their supporters (CDHFBC 1997; Womack 1999; Rus, Mattiace, and Hernández 2003). Even when the San Andrés Accords set the prohibition of military action to repress Zapatistas, The “*Plan Chiapas 94 Campaign*” was the government’s realpolitik response to the EZLN: “a post-Vietnam strategy for controlling populations while reducing the visibility—and political costs—of direct government repression” (Stahler-Sholk 1998, 12).

The *Plan Chiapas 94* was designed by General José Rubén Rivas Peña, a Mexican graduate from the U.S. Army School of the Americas (SOA),⁷ and was made public by journalist Carlos Marín (1998) in a contribution for *Proceso* magazine. The *Plan* articulated a counterinsurgent strategy based on the formation and support of “self-defense forces and other paramilitary organizations . . . with the end of *eliminating* transgressors’ tactical forces and their support bases.”⁸ Its objective was to “break the relation of support existing between the population and the law transgressors” (read, Zapatistas). The (para)military offensive and psychological operations were also aimed at promoting forced displacements so “the concentration of these support bases to other areas would leave Zapatistas without those essential elements and would lower the

⁶ His conviction was overturned in 2005.

⁷ In 2002, the SOA changed its name to the “Western Hemisphere Institute for Security Cooperation,” in which “cooperation” is a euphemism for “coercion.”

⁸ I have taken these quotes of the *Plan Chiapas 94* from Carlos Marín’s article (1998). Emphasis mine.

morale of the subversives by moving them away from their families” (Marín 1998; CDHFBC 1998; 2009).

At the end of 1997, around 325 members of Las Abejas were crowded together in the displacement camp in Acteal, called Los Naranjos. They had been there for several months, surviving amid inclement weather and dire living conditions. Paramilitaries’ threats against their lives did not cease during that time. Las Abejas reached out to the Fray Bartolomé de las Casas Human Rights Center (CDHFBC, or better known as Frayba)—founded and directed by Bishop Ruiz—which in turn reached out to government officials and mainstream media so the local and federal government would prevent more killings. Journalist Ricardo Rocha covered the story for Televisa.⁹ Visibly shocked, he interviewed several of the forcibly displaced families crammed under improvised plastic and banana-leaf roofs during a cold rainy day in Acteal. Las Abejas appeared in national TV news on Sunday, December 7, 1997. The camera pointed at their bare feet covered in mud and to children shuddering under the rain. Male members of Las Abejas who spoke Spanish¹⁰ denounced the violence and the threats to their lives they kept receiving from *Priistas* (members of the Revolutionary Institutional Party, or PRI, the official political party to which President Zedillo belonged). After being faced with this “chronicle of a massacre foretold,”¹¹ the government “shined for its absence”¹² in regard to the conflict in Chenalhó. Rocha narrates that immediately after the transmission of the story, he received a call from Televisa’s highest executives: “They told me that people in Los Pinos and Bucareli¹³ were furious. . . . I learned that Zedillo . . . told them

⁹ One of the mass media consortiums that holds the duopoly of telecommunications in Mexico.

¹⁰ Most of Las Abejas’ members are Maya Tzotziles and speak Tzotzil language.

¹¹ As activists call it, making reference to Gabriel García Márquez’s novel, “Chronicle of a Death Foretold.”

¹² “*Brilló por su ausencia*” is a popular Mexican saying that highlights the productivity of absence, a matter that I will discuss below under the notion of “the labor of the negative.”

¹³ Los Pinos is the official residence and office of the President of Mexico. Bucareli is the street where the Interior Ministry’s offices are located. During that time, Emilio Chuayffet headed this ministry. After the massacre, he declared that the Federal Government had no responsibility in the events in Acteal, “not even by omission.” During a performance transmitted on TV on January 3, 1998, Chuayffet presented his resignation to Zedillo. In the act, Zedillo appointed Francisco

that I was once again destabilizing the country and that he would never agree to having me as the main host of an important news program” (Rocha 2009). Rocha was asked to leave the country, and he presented his resignation a few weeks later.

The threats, rumors, and speculations about the possibility of a massacre became true in the day announced. The massacre began in the morning, around 11 a.m., when Las Abejas were fasting and praying for protection and peace inside Acteal’s chapel. The slaughter lasted for more than seven hours. “*Las balas se veían como agua*” [the bullets seemed like water/rain], narrated Catalina Jiménez, the day after the massacre:

Más abajito hay un lugar para esconderse. Ahí fuimos pero se veían cómo los tiros pasaban, levantaban la tierra donde pegaba[n]. Los niños hacían mucho ruido. Todos estaban llorando. Fue cuando nos escucharon y los agresores fueron donde estábamos. Todos dijeron “eso[,] sí”. Fue cuando nos empezaron a disparar por parejo [a] todos los que estábamos ahí. *Nos mataron a todos.*

Yo me salvé porque me escondí en un barranco con mi hermanito. Todos los muertos se nos vino encima.¹⁴

[Below there is a place to hide. We went there and we could see how the shots passed by, lifting soil wherever they hit. Children were making a lot of noise. They were all crying. Then is when they heard us and the attackers went where we were. All of them said “that’s right[,] yes.” It was then when they began to shoot all of us who were there. *They killed us all.*

I survived because I hid in a ravine with my little brother. All the dead ones fall upon us.]¹⁵

Labastida in substitution of Chuayffet. All of them exchanged handshakes and hugs at the end to demonstrate the public opinion that they were all “in good terms.” The act was performed with the national flag in the background, which gave a strange sense of legitimacy to this unusual ritual of “*cambio de mando*” (change of command). Acteal did not affect Chuayffet’s political career as much as anyone could have expected. During President Peña Nieto’s government, Chuayffet was appointed as head of the Education Ministry. In the PRI, “(*casi todo queda en familia*)” [(almost) everything stays in the family]. Political ties allow the persistence of blatant impunity.

¹⁴ Testimony of Catalina Jiménez Luna, CDHFBC, December 23, 1997. *Blue Dossier of Testimonies (Engargolado Azul de Testimonios)*, p. 3. To facilitate the reading of this oral testimony, I fixed the spelling and punctuation in the CDHFBC’s original transcription. I left the form of the language untouched, only adding words or letters in brackets when necessary. Italics mine.

¹⁵ Unless specified, all translations Spanish to English are mine. Since a lot of details are lost in translation, I have decided to include in this dissertation the original Spanish versions.

The fact that Catalina survived and testified “they killed us all” is profoundly revealing. Her words attest to how the massacre was collectivized since the beginning, having survivors, slain victims, and their families and comrades share a common death. Literally and figuratively, the dead Abejas fell over the living ones. Since that December 22, something died within the survivors. Some of them lost (permanently, in several cases) the possibility of walking, of speaking, of seeing, of hearing, and almost generally, the desire of sleeping and eating. For several months, the survivors subsisted as the living dead [*muertos en vida*]. Parts of their bodies and of their humanity were missing. In several cases, the survivors’ health was permanently damaged. Most of the survivors lost their homes, their fields, their belongings, and with these material things, they also lost the ties to their communities of origin, the possibility of cultivating their own food, and their sense of self-sufficiency. Young survivors lost their families and with them, their childhoods. Dozens of women lost the hope of motherhood, of having a husband, and the possibility of living a dignified life as women within their communities. All members of Las Abejas lost their sense of security and trust to a great extent.

Around noon on the day of the massacre, the director of the *Policía Auxiliar* [Auxiliary Police], retired General Julio César Santiago Díaz, received a radio communication that informed him of “disturbances in the region.” Santiago and First Officer Roberto Martín Méndez went to Acteal accompanied by several policemen. As Santiago declared during the judicial proceedings,¹⁶ they heard several shots but did not intervene. They stayed on the side of the road until 6:30 p.m., when the shots finally stopped. Then, Méndez and the policemen under his command went to the center of Acteal to find out what had happened. When the group returned, Méndez reported that “*no había encontrado ninguna novedad*” [that it was all quiet].¹⁷ The concealment of the crime was already underway.

¹⁶ Testimony of Julio César Santiago Díaz, January 2, 1998. Criminal Case 361/99, pp. 777-78.

¹⁷ In January 2000, Santiago and Méndez were condemned to eight years in prison, but absolved of the payment for damages (*reparación del daño*). Frayba contested this ruling via *amparo* (proceedings pertaining to constitutional guarantees) and the Collegiate Tribunal invalidated the

After the massacre, Las Abejas survivors' struggle for justice initially took place within state institutions. Survivors and other members of Las Abejas strongly cooperated with the prosecutors during the investigation of the crime and the identification of some of the attackers. Survivors were constantly summoned to render their testimonies, first in San Cristóbal de las Casas (the main city of the region of Los Altos), then in Tuxtla Gutiérrez (the capital of the state of Chiapas). Later, survivors were summoned other several times to ratify their previous testimonies. On top of the trauma and grief they were experiencing, survivors had to leave their families on numerous occasions and travel for several hours to attend to the judicial authorities' requests. Once in the judiciary's offices, the survivors were introduced into intimidating governmental environments where their Tzotzil language was not heard and where they would find themselves re-victimized by officers' lacerating indifference, patronizing questionings, and pervasive racism throughout the proceedings. This situation lasted for years and so did the criminal proceedings. The government did not facilitate or cover survivors' travel expenses, making each time more difficult for Las Abejas' lawyers to convince survivors to attend judges' summons. The war of attrition against organized indigenous peoples was also being waged in the courts.

In a second instance, Las Abejas' struggle became a means to devise a form of justice that transcended the limitations, exclusions, and the discrimination in the state's justice system and its operators. The turning point took place when the indigenous paramilitaries originally found guilty of the massacre were released from jail after an *eleven-year-long* prosecution process. Survivors had directly identified many of them through their testimonies. Those indicted were serving terms of between 25 and 40 years when, in 2009, the Mexican Supreme Court of Justice (SCJ) issued the first of several controversial rulings overturning their convictions and releasing them from jail. Mainstream media reported that justice had finally been served to the indigenous peoples

ruling. However, the lower court returned the same ruling. Frayba decided not to contest the ruling this time, considering the legal resources available to be ineffective for political reasons. This attitude has led Frayba to focus more on denouncing human rights violations than on defending the victims through legal means. This is reflected in the current composition of Frayba; the legal area has very few members in comparison to the rest of the areas.

unjustly incarcerated for the massacre. What this “justice” has entailed and for whom are crucial details that are widely unknown.

Nearly twenty years have passed since the massacre and regardless of the evidence that demonstrates that the state armed, trained, and funded the paramilitary group that perpetrated the attack, both the intellectual and material authors of the massacre are still enjoying impunity. Not all the perpetrators were detained and put in jail back in 1998, and those who were did not finish serving their time before the Supreme Court ordered their release. Through its rulings, the SCJ invalidated survivors’ testimonies from legal records, arguing that the public prosecutor had fabricated them and that they were, therefore, illegal inadmissible evidence. By doing this, the survivors’ versions of the massacre have been *legally* condemned to ignominy. So has been the Supreme Court’s use of legal technicalities to produce the official, “legal truth” about Acteal. Media coverage—with some exceptions, such as that of *La Jornada*—focused on the result of the SCJ’s rulings (that is, that those who were serving prison terms were not really guilty), instead of placing emphasis on the process’ procedural formalities (that is, on how the SCJ’s ministers arrived at the conclusion that the defendants were “not really guilty”). These simplified optics made the acquitted people appear simply as victims of the public prosecutor and the judiciary. The fact that more information about the rulings’ content¹⁸ has been circulated than information on the rulings’ procedural technicalities is quite paradoxical. Especially considering that it was the case’s procedural technicalities—and not its content—that the SCJ ruled on after revising the case.¹⁹ Because the SCJ is a constitutional court, it could not rule whether the defendants were guilty or not per se: that is, the SCJ was not authorized to decide on the content of the case; it could only rule on whether the case’s procedures had followed the “guidelines established in the constitution” and to check whether the defendants’ constitutional rights had been violated. And that is what the SCJ did. However, the result of this process was

¹⁸ That is, about the “*fondo del asunto*”: if the defendants “are guilty or not.”

¹⁹ As I will discuss in Chapter 3, the Supreme Court is a constitutional court, and therefore, its main function is to verify that the Constitution has been respected in every act of authority, including judges’ rulings.

to establish that there was no evidence in the files to determine that the defendants were guilty. Even when the SCJ declared that this was not equivalent to finding the defendants not guilty, in the real world the SCJ's rulings had the effect of freeing the defendants from prison, as if they were innocent.

The media, besides committing these “oversights,” has published little about the continued effects of the massacre and of the impunity surrounding it. The formerly convicted paramilitaries returned to Acteal and to other adjacent communities in the municipality of Chenalhó. The government and mainstream media have ignored new attacks against Las Abejas members and repeated forced displacements of dozens of Las Abejas families in the last few years. This kind of “omission” in national news as well as the erasures and concealments in the state's fabrication of official “historical truths” have become key mechanisms of governance in Mexico.

Impunity, Truth and the Labor of the Negative

My research analyzes these patterns of governance effected through “productive” omissions, intentional oversights, and active concealments: this is, through the operation of impunity. Researching impunity means dealing, in principle, with what Hegel (1972)—taken up by Taussig (1999)—called “the labor of the negative” (6); in this case, the lack of punishment, harm, or loss for the paramilitaries and the intellectual authors of the massacre. But impunity is not empty space; neither is the product of spontaneous generation. I propose to think of impunity not as something intangible, a mere absence or inaction, but in terms of productivity. Impunity produces and is produced by actors' *omissions, oversights, erasures, and concealments*. The absence or negative space that these nouns convey hides the vigorous actions that take place “behind the curtains” to make them happen. It also masks the authors of these actions and the material means through which they operate: Secret reports, communiqués, rulings, pictures, money, ammunition shells, bodies, cadavers. That is the magic of impunity: to produce effects out of an apparent vacuum. And the way this magic operates is by maintaining hidden, not only the actors, actions, and material means that create the appearance of a vacuum,

but also the links between causes and effects. It is no surprise, then, to realize that impunity's series of omissions, oversights, erasures, distortions, and concealments remain dissociated from the sociopolitical effects they have produced through the passage of time, in a similar way that the affects linked to violence continue to be considered external to the judicial realm and to many political analyses.

If we think about the notion of "truth" through these logics, seeing networks of actors and assemblages of activities existing *behind* impunity, then we leave the relativistic space commonly assigned to this concept. "Truth" becomes what is behind the smoke screen of impunity; that "public secret" which—in Taussig's words—"we all 'knew' . . . and they 'knew' we 'knew,' but there was no way it could be easily articulated, certainly not on the ground, face-to-face" (1999, 6).

Following Walter Benjamin's proposed path for thinking of truth "not as a matter of exposure which destroys the secret, but a revelation that does justice to it" (1977, 31), in this dissertation I analyze key mechanisms of impunity production and its effects among the survivors of the Acteal massacre, with the aim of revealing the links between structural racism, corruption, counterinsurgency, historical revisionism, and the judicialization of politics in Mexico. A way of "doing justice" to a secret, according to Taussig (1999), is by revealing what is behind it to demystify it and "re-enchant" it. The re-enchantment comes from the revelation of another way of seeing as well as from what is newly seen. In the process of *knowing truth*, pieces come together to form the world that is unveiled before our eyes. Reassembling this world and its disparate entities, their networks, their sometimes-coinciding rhythms and multitude of registers operating behind the smoke screen of impunity, is a way of doing justice to the secret. As Kathleen Stewart (2010a; 2010b) would put it, "worlding" impunity, that is "approach[ing] ways of collective living through or sensing out"²⁰ impunity, is the task that I aim to undertake in this dissertation.

Michel Foucault (1984) offers a different, but complementary way of approaching the concept of truth than Benjamin and Taussig. "There is a battle 'for truth,' or at least

²⁰ From Katie Stewart's profile at the University of Texas at Austin.

‘around truth’” (74), Foucault affirms. However, this battle is not one waged “‘on behalf’ of the truth, but a battle about the status of truth and the economic and political role it plays” (idem). In this sense, Foucault argues that truth should not be understood as

. . . “[T]he ensemble of truths which are to be discovered and accepted,” but rather [as] “the ensemble of rules according to which the true and the false are separated and specific effects of power attached to the true.” (Foucault 1984, 74)

Incorporating this perspective into my previous argument, when one aims to see what is behind a smoke screen, one should not expect to see an ordered picture of reality, but an X-ray of the rules, logics, and connections that make that reality possible. The task for the intellectual is not about showing the world what is behind the smoke screen, but about demonstrating that there is another form of seeing what is behind it: “the possibility of constituting a new politics of truth” (idem). And the way of doing this is not by attempting to eliminate the relation between truth and power; neither by pretending that this relation does not exist, as judges usually do by following the prescriptions of Hans Kelsen’s *Pure Theory of Law* (1978); or as scientists do by proudly distinguishing facts from fetishes, without realizing that facts are also man-made and that—as in the case of fetishes—the power of facts does not reside within them, but within those who believe in them (Latour 2010). The path Foucault proposes to follow in order to constitute a new politics of truth is “detaching the power of truth from the forms of hegemony, social, economic, and cultural, within which it operates at the present time” (1984, 75).

This shift is precisely the one that members of Las Abejas are trying to make—with their own words and following their own paths—by constituting an *Otra Justicia* in the face of impunity. This is a kind of justice in which truth doesn’t need state authorities’ sanction; doesn’t have to adjust to state’s legal procedures in order to be valid; and doesn’t have to be written to exist, because this truth already exists and resists within survivors’ bodies. By virtue of this shift, survivors have made of their bodies their last resort in their battle for the truth. This is a battle that has been defined—since the beginning of colonialism—by *cognitive injustice* and the *epistemicide* of indigenous knowledges (Santos 2010). In denying survivors’ truth, the settler-colonial state has been

denying survivors' bodies, their existence; through this denial, the state has also worn down the material existence of those bodies. It has made them sick, has let them die. By letting survivors die (as they await for justice), the state has revealed the contradiction at the core of its multicultural project: on the one hand, recognizing the pluricultural composition of the nation (Article 2 of Mexican Constitution); on the other, physically and epistemologically effacing pieces of this plurality, through actions as much as through omissions. Against this contradiction, by stating that truth exists within them, survivors are putting forward a new politics of indigeneity that does not depend on recognition, but on self-collective-assertion, and on the affirmation of life in the face of state's necropolitics (Mbembe 2003b).

“The Dead Don’t Stay Still”: Tracing the Trajectories of the Massacre

One of the most outstanding mechanisms of impunity of our times takes place where impunity is supposed to find its end: the courts. The forms of historic revisionisms that are crafted during legal proceedings—which are the product of processes of what I call *judicial limpiezas* (or *judicial cleansings*)—are, at the same time, impunity producers and one of the truth-effects of prolonged impunity. I approach this mechanism of impunity by tracing the production and circulation of top-down narratives about the Acteal massacre, juxtaposing them with the marginalized trajectories of its survivors' testimonies toward embodied practices of memory. Through a multi-sited ethnography, I follow the routes of different representations of the Acteal massacre and its actors in the judiciary, media, academia, and across advocacy networks, and demonstrate that these realms of knowledge production have paradoxically cemented the foundations for the operation of impunity while simultaneously attempting to advance a Western notion of indigenous rights.

The crossings of top-down narratives and survivors' testimonies of the massacre describe the main trajectories that I follow in this dissertation. If they could be graphically represented in a map, these crossings would trace juxtaposed directions through the Mexican pyramid of a class- and race-based social stratification (represented

by the triangle in Fig. 1). Top-down narratives about Acteal have vertical trajectories ruled by the law of gravity and sometimes by the logics of authoritarian imposition. Survivors’ testimonies mainly follow horizontal, cyclical trajectories²¹—like those Las Abejas authorities follow when they march at the beginning of every ceremony of commemoration of the massacre. These cyclical trajectories go from West to East and from East to West (from death to life and from life to death), each time spiraling closer to *the Left*, outside the map, towards Las Abejas’ “heterotopia” (Foucault 1986): that counter-site where contested inversions of the world can take place.

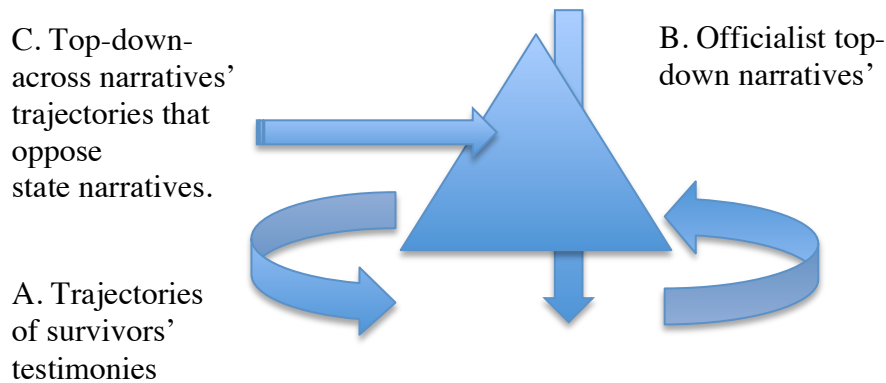


Figure 1. The juxtaposed trajectories of the Acteal massacre’s accounts.

Other top-down-across narratives that have their origins in academia or in activist networks have opposed and contradicted the state’s “officialist” version of the massacre,

²¹ I say “mainly” because several survivors have decided to leave Las Abejas and the struggle for justice, while others have decided to create new trajectories of struggle, which involve negotiating with the state (something that Las Abejas have categorically refused to do after the massacre). On September 10, 2011, for example, an anonymous group of ten survivors interposed a civil suit in a federal court in Connecticut against former President Ernesto Zedillo. They demanded 50 million pesos in reparations for the massacre. Las Abejas denied that these people were members of their organization, since Las Abejas have held a firm policy of “*no lucrar con la sangre de sus muertos*” [not profiting from the blood of their dead]. Survivors who have not agreed with this policy have abandoned Las Abejas’ struggle and used their testimonies to seek support from the state.

also creating a juxtaposed encounter with it. The trajectories of these top-down-across narratives are different from those of Las Abejas' testimonies, even when inspired by them. Top-down narratives have been produced in regimes of truth that have different forms of validation than the regimes of truth in which survivors and their testimonies operate. According to Foucault:

Each society has its regime of truth, its "general politics" of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true. (Foucault 1984, 72-73)

Speaking of regimes of truth is speaking about systems of power that produce and sustain truth, and at the same time deny the power of truth to those statements—and subjects—that do not conform to these systems' procedures for the production, circulation and operation of truth. The Acteal case is a paradigmatic example of how actors operating under different—and generally accruing—regimes of truth (i.e. the judiciary, the academia, the media, the Catholic church) strive to determine the truthful version of an event where powerful interests are at stake. This multiplicity of actors and regimes is certainly complex and multidimensional, escaping the boundaries of a map. Nevertheless, in Chiapas I learned that the graphic mapping of trajectories is a very useful tool of communication across languages and cultures. I was required to use them in order to better explain my positioning and my research objectives to Las Abejas, while members of Las Abejas also used them to show me the trajectories of their lives and their organization. Mapping trajectories is a form of signaling accountability by revealing where one comes from, where one attempts to go, with whom one is walking, and through which paths. In this dissertation, the mapping of trajectories is an attempt to visually illustrate the opposed forces between top-down narratives of the massacre and the testimonies of those who witnessed it and survived it.

It is through ethnographic, archival, and historical analyses that I aim to explain *how* the most powerful regimes of truth around the Acteal case operate, preventing

survivors' testimonies from prevailing, spreading, and being widely trusted as a truthful version of the massacre. Since those testimonies do not exist in independence from their authors, my research also aims to “track” survivors' affects in the process of enunciating their truth, especially after judges, historians, and lawyers have branded survivors' testimonies as fabrications, regardless of their being—along with killers' testimonies—the only direct testimonies of the massacre.

Survivors have used their testimonies to speak their truth to power, but mechanisms of *judicial cleansing* have maintained these testimonies at the ground level. By the time the massacre took place, Las Abejas was a thriving organization that struggled for peace and justice in the region of Los Altos de Chiapas (where Chenalhó is located). The mourning that the massacre provoked was not only individually experienced, but was also collectivized by the whole organization. At certain point of Las Abejas' struggle, it has also been Las Abejas' decision to maintain survivors' testimonies at those ground level coordinates, which in Zapatista cartography are defined as “*abajo y a la izquierda*” [down and to the Left].

“*Abajo* [at the ground level of the social scale] *y a la izquierda* [to the Left, in terms of political orientation]” is a well-known Zapatista motto. It describes the political space in which Zapatistas exist. In this sense, the West-East-West circular trajectory of survivors' testimonies might be better represented as a spiral on the Southwest sector of a coordinates map. The idea is that, with the passage of time, these testimonies have been moving further to *the Left*, getting away from state institutions, and even outside of coordinates map, until becoming the heterotopia that Las Abejas' project of *La Otra Justicia* aims to be. The spiral represents indigenous non-linear forms of understanding history, in which “the past-future is contained in the present” and “the repetition or overcoming of the past is at play in each conjuncture,” as Silvia Rivera Cusicanqui (2012, 96) explains.

By maintaining their testimonies—and their struggle—“*abajo y a la izquierda*,” Las Abejas are attempting to create their own parameters of truth and validation through *La Otra Justicia*, as an autonomous form of justice based on oral and embodied memory.

Whether *La Otra Justicia* operates as a new regime of truth or/and as the constitution of a new politics of truth altogether is a relevant question that is worth discussing, not in order to evaluate “how alternative is the alternative,” but to understand the forms of subjectification that have emerged through the praxis of *La Otra Justicia* within Las Abejas (survivors, non-victims, authorities, women, men, children, elders) and in their relations with outsiders (supporters, priests, human rights advocates, researchers). For example, in the cases of dissent existing within Las Abejas, is *La Otra Justicia* a new regime of truth that coexists and interacts with other regimes of truth (within and outside Las Abejas) or one that attempts to supplant them? Can the theorizations on legal pluralism (Merry 1988; Sánchez Botero 2009) and *interlegality* (Santos 1987; Garza Caligaris 2002; Sierra 2004; Chávez Argüelles 2008; J. C. Martínez 2011) shed light on the operations of different regimes of truth? That is, can the interactions between *La Otra Justicia* and other regimes of truth (such as other indigenous normative systems or the Mexican State’s legal system) be described as a kind of legal pluralism?

For now, let’s go back to the trajectories of survivors’ testimonies and the top-down versions of the massacre. My analysis of these trajectories departs from the initial legal construction of the Acteal case, as prosecutors collected survivors’ testimonies the days after the massacre and the Procuraduría General de la República (PGR)—Office of the Public Prosecutor—rendered its initial reports to public opinion in 1998. I examine the PGR’s concluding report, the *Libro Blanco sobre Acteal* (1998) [White Book on Acteal], and follow the trajectories of this “*oficialista*”²² version of the massacre as some activists, scholars, and journalists began contesting it during the following years. I focus on some of the scholarly and journalistic works that exposed unknown aspects of the massacre that the authors drew from survivors’ or defendants’ testimonies: “*La Otra Palabra: Mujeres y violencia en Chiapas antes y después de Acteal*” (1998), a collection of essays edited by anthropologist Rosalva Aída Hernández; several articles published in the newspaper *La Jornada* by Las Abejas sympathizers, and a series of articles in *Nexos* magazine, written by the defendants’ lawyers, leaders, and sympathizers—including

²² Supported and favored by the government.

Manuel Anzaldo's "*La historia reciente de Chenalhó*" (2007), and historian/journalist/novelist Héctor Aguilar Camín's three-piece article "*Regreso a Acteal*" (2007a; 2007b; 2007c). By "giving voice" to survivors' and defendants' testimonies, some authors assumed the role of representing the voices of "the voiceless" during a time when it was crucial to bring public attention to the Acteal case. Throughout my dissertation I argue that the forces that allowed these mediations and representations to come about can be traced from the continuities between the politics of humanitarianism and the logics of settler colonialism. But before getting there, let's go back to Acteal, ten years after the massacre, to understand this relationship.

Justice is Not Blind: Judicialization of Politics and *La Otra Justicia*

The eve of the tenth anniversary of the Acteal massacre in 2007 provided a moment of encounter between the two crossing protagonists of this dissertation. While survivors were calling on civil society to join them in the commemoration of their forty-five "martyrs" at what they have called "The Sacred Land of Acteal" in order to protest against the impunity surrounding the slaughter, a group of renowned scholars/journalists/advocates revived the discussion about what really happened during the Acteal massacre. They reaffirmed and augmented the PGR's already dusty and forgotten version contained in the *Libro Blanco* (1998). Through an analysis of the political engagements that fostered this controversy and the ways in which the interests of those promoting it were served, I explain how the Acteal case traveled to the Supreme Court for its review.

The clash between survivors' testimonies and top-down versions of the massacre took place when the Supreme Court issued the rulings (2009-14) that invalidated survivors' testimonies in the legal record and overturned the defendants' convictions. I frame the itinerary of the Acteal case through the SCJ as a process of *judicialization of politics*. Rachel Sieder, Line Schojolden, and Alan Angell (2005) define the judicialization of politics as "the increased presence of judicial processes and court rulings in political and social life, and the increasing resolution of political, social, or state-society conflicts in the courts" (3). As an analytical framework, the judicialization

of politics sheds light on the complex interlocks of powerful interests where the separation of powers is a principle far away from its praxis. It does not matter much if law presents a meticulous institutional design of checks and balances when it lacks teeth, or if those who are supposed to apply the law do not have the willingness *to make the law bite* the hands of those who commit crimes, even when they are the same ones who create the law, sanction it, and execute it. In those types of cultures of illegality, such as the Mexican one, where a big gap between law and praxis exists and where the state apparatus was not designed to operate as a system of checks and balances, but as a corporatist system to serve the power elites, the concentration of power is unavoidable and the independence of public officers is under permanent potential compromise.

While it is not always possible to discern whose pressures the judiciary responds to through its resolutions (pressures from higher courts, politicians, the executive, businesspeople), sometimes it is more productive to identify which interests are being served, as well as the effects these resolutions have for the parties involved. If in Mexico the power to create, apply, and interpret the law—and to make it bend in its favor—is concentrated in a racially/class privileged minority, and if its power depends on maintaining its distinction and privileges by all means, there is no space left to imagine how justice can take place for those who do not belong to this minority or who do not have any kind of leverage on it. In order to exist, the political and business elites' privileges require the majority of the population's subjugation, some more than others. The difference is established through the *colonial matrix of power* (Quijano 2000) that racially subjugates black and indigenous peoples at the bottom of a socioeconomic hierarchy, in which social class and whiteness go together. Las Abejas know this well, as a *poisonous knowledge* (Das 2006) that exists in their hearts and in their flesh.

Parallel to the process of judicialization of politics in the Acteal case, I document the emergence of an autonomous form of justice that Maya survivors are deploying in the absence of a true transition to democracy with an accompanying process of transitional justice. This "*Otra Justicia*" [Other Justice], as Las Abejas call it, constitutes an alternative political and legal landscape, initially aimed at asserting survivors' memories

of the massacre and countering the distortions and erasures of their testimonies from official records. With the support of the progressive arm of the Catholic Church and its vision of human rights, Las Abejas are creating spaces to share their traumatic stories with distant audiences and foment collective practices of oral memory as ways of healing their bodies and their organization's social fabric. I argue that *Otra Justicia* has become a flourishing interface between Maya survivors and the international solidarity movement, not only because it collectively addresses the deeply disregarded emotional dimension of impunity, but also because it responds to neocolonial expectations of victimhood.

Apparatus and Research Objectives: Worlds and Not Just Words

By looking into the Acteal case, this research aims to theorize the linkage between (in)justice and racism and to expand the analysis of counterinsurgency into the work of the judiciary. Framing the itinerary of the Acteal case through the SCJ as a process of judicialization of politics brings visibility to the role of racism in the ways the judiciary constructs “legal truths” when adjudicating crimes against indigenous peoples in which the state is involved. I analyze the legal reasoning behind the SCJ's rulings, what they produced (socially, historically, materially, and in terms of legal precedents) and how. As I explain throughout this dissertation, one of the socio-historical products of these rulings was a sanctioned version of the massacre that excluded survivors' voices and reinscribed racist notions of indigeneity, assuming that indigenous peoples are inherently violent and easily manipulated, *inferior* subjects. By avoiding any possibility of clarifying the truth, the SCJ curtailed the possibility of social healing. Considering this, my research asks: How is impunity shaping victims' livelihoods, notions of justice, and ways of articulating their existence/resistance? How are indigenous survivors of mass violence dealing in their everyday lives with legal frameworks' exclusions and what do these exclusions reveal about the politics of truth and justice in Mexico?

Based on these questions, the objective of my research is threefold and centered in three interrelated *apparatus*, understood here as those formations that are a product of heterogeneous ensembles of “discourses, institutions, architectural forms, regulatory

decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions—in short, the said as much as the unsaid,” and which respond to “*an urgent need*,” and therefore have a “dominant strategic function”²³ (Foucault 1980, 194). Those three apparatus are:

(1) *Survivors’ testimonies* as a (de)generative source of truth and knowledge. Generative because through them, Las Abejas have asserted their truth and fostered alliances with other social movements; degenerative because for these alliances to take place, survivors have had to keep the memory and suffering of the massacre alive, with corroding consequences to their livelihoods. But testimonies are also (de)generative for what mestizx authors and authorities have created and destroyed with them—in this sense, the analysis of testimonies allows for a holistic perspective of impunity.

(2) *Court rulings* as a form of governing indigenous dissidence, and creating new, racializing subjectifications among indigenous peoples—a top-down perspective of impunity.

(3) *La Otra Justicia* as a form of existence/resistance—a grassroots perspective of impunity.

“To which *urgent needs* are survivors’ testimonies, court rulings, and *La Otra Justicia* responding?” is a central question I want to answer throughout this research. Nonetheless, I consider it important to downplay the strategic aspect of the *apparatus* concept and to disrupt the rational link between causes and effects it presupposes. I suggest this can be done by analyzing the social life of these *apparatus*, placing emphasis not only on what is visible, but also on the absences, silences, and erasures. Considering this, the research objectives I developed around each of the said *apparatus* are the following:

²³ According to Foucault’s (1980) definition of apparatus (*dispositif*), “The apparatus itself is the system of relations that can be established between these elements. . . . I understand the term “apparatus” as a sort of—shall we say—formation which has its major function at a given historical moment that of responding to an *urgent need*. The apparatus thus has a dominant strategic function” (Foucault 1980, 194). Italics mine.

1. To analyze the different uses that actors in the judiciary, the media, and the academia have given to Achteal survivor's testimonies: What competing interests and epistemologies constitute the politics of *testimonio* within Mexican culture of corruption, racism, and impunity? How do these politics inform historical and legal mechanisms of truth production about cases of state violence? In this dissertation, I follow the routes of Las Abejas' testimonies through different realms of knowledge production to reveal the distortions, manipulations, and/or mediations they have been subjected to by different actors: prosecutors, judges, historians, anthropologists, journalists, and activists. Through this mapping, I attempt to demonstrate two inconspicuous relations: the link between the state's concealment of survivors' testimonies and the 2008-16 national-scale judicial reform; and the connection between activists' strategic litigation and neoliberal logics of capital.

2. To examine the political and legal project that the Mexican State is building for indigenous peoples through the decisions of the SCJ. This dissertation explores the shifts in the traditional model of division of power that have turned the SCJ into a central political actor in the creation of public policy. It also tracks the transformations in the forms of governance that the Mexican State is deploying towards indigenous peoples after times of neoliberal multiculturalism (Hale 2002; 2005; 2006) and during the war against crime (as a cover of the drug war) with its criminalization of social protest: What uses of the discourse of indigenous rights does this judicialization of politics "from above" enable and what does it preclude? I argue that the SCJ is governing indigeneity through its rulings by effecting a discursive and ideological "cleansing" of indigenous rights and producing the impunity that is needed to cover up the state's violence. The result of these mechanisms of erasure constitutes what I call *judicial limpiezas*.

3. To explore *La Otra Justicia's* horizons of politics and justice, and the ways Las Abejas negotiate their contours in the face of continued political violence and in a globalized context of legal imperialism (Gardner 1980; Mattei & Nader 2010): How did Las Abejas' experiences before the courts (as victims and witnesses) impact their sense of security, their collective identity, and their legal consciousness? In what senses has

impunity affected Las Abejas' notions of justice? How should we characterize the normative landscape in which Las Abejas are constructing *La Otra Justicia* and to what extent is it creating new and alternative forms of legalities, outside the realm of state power?

My research suggests that the Mexican State has reconfigured its form of governing indigenous peoples, finding in the judiciary a legitimized, undemocratic space in which to dictate which indigenous identities deserve recognition of rights and which do not. I argue that the SCJ's rulings in the Acteal case are the result of this broader project of governance, practiced through legal technologies of truth-making and knowledge-production, complexly linked to the interests of the global market economy, the war on terror, and the logics of coloniality. Sectors of academia and human rights organizations collaborating with Las Abejas are unintendedly playing a role in advancing some of those interests, thus complicating the full realization of *La Otra Justicia*. However, through *La Otra Justicia* Las Abejas are extending their alliances with other social movements and slowly cementing a distinct kind of indigenous autonomy: one that is developed around a refashioned concept of justice, related to their embodied experiences as "legally silenced" witnesses and survivors of state violence. By making their bodies their last resort in their struggle for justice, Las Abejas are revealing the moral contours of the state's politics of recognition, and exhibiting the high human costs that it takes for indigenous peoples' memories to subsist.

The "Law of Silence" and the Politics of Forgetfulness

Erasures, distortions, and concealments as mechanisms of governance are obviously not new to Mexican politicians or to the civil society. Throughout history, it has mostly been the case that the truth about cases of political violence circulates as a "public secret," as that which, according to Michael Taussig (1999), "is generally known, but cannot be articulated" (5). There are several reasons why something that is known cannot be articulated. Things that are known through the body (torture, for example), escape the possibility of being put into words (Scarry 1985). (And under an authoritarian

regime, the motivations to not put torture into words are plentiful.) Similarly, there are social phenomena that take place, but we cannot begin to explain how they take place. Think of a massacre... think of impunity. Fear and the lack of “solid evidence” or *dato duro* around cases of political violence make a deadly combination. *Deadly* because this combination has the power to maintain the silence and, as Cherríe Moraga (2016) wisely says, “silence is starvation.”

The public secret, following Taussig (1999), operates under “the law of silence,” that which makes people repress the knowledge they know they shouldn’t have, even when giving voice to that knowledge could theoretically represent the end of their repression. Silence can be the source of death for ones in the measure it is—sometimes, potentially—the source of salvation for others. But also within silence itself coincide the “death drive” and the “life drive” that Freud (1989) thought complementary in every human action: By keeping the secret, the line between self-preservation and self-destruction becomes blurry. Silence, as the product of the survival instinct, paradoxically turns into the cause of one’s life consumption (Berlant 2011; Povinelli 2011). The public secret’s secrecy is witness of its power, even to the point that Elias Canetti (1984) has affirmed that secrecy is *the* core of power (Taussig 1999).

Through the passage of time, cases of violence that circulate as “public secrets” lose their exceptional and scandalous character. They become naturalized by being publicly known and, therefore, by becoming part of communities’ social construction of reality. Even when they are not completely understood, public secrets’ constant presence in everyday life allows them to become facts that are taken for granted, as if they constituted the normal order of things. This is the way in which, as Michael Rogin (1990) explains, “Racism and countersubversion . . . are concealed from contemporary eyes by being at plain sight” (103). People forget what they constantly see and “[i]n this motivated forgetting, that which is insistently represented becomes, by being normalized to invisibility, absent and disappeared” (Rogin 1990, 103). Using Rogin’s explanation as a departure point, it then becomes clear that concealments and erasures, as mechanisms

of governance, not only take place through actions that mask and delete. Concealments and erasures can also take place through overexposures—photographers know this well.

However, even through overexposure, the law of silence under which the public secret operates is rarely total and fully comprehensive. In this sense, Timothy Mitchell reminds us:

A violence that erased every sign of itself would be remarkably inefficient. The death, the disappearance, the physical abuse or the act of torture must remain present in people's memory. To acquire its usefulness in the play of domination, violence must be whispered about, recalled by its victims, and hinted at in future threats. The disappearance or the hidden act of terror gains its force as an absence that is continually made present. (Mitchell 2002, 153)

The public secret is that absence that, through its circulation, is continually made present. Its power resides not only in its secrecy, as Taussig argued, but also in its repetition and incessant presence. But if violence has to be recalled to fulfill its objective, then how does the law of silence operate through the public secret and through which means is the compliance of this law guaranteed? In this dissertation I will argue that the meanings and logics behind the notion of “solid evidence,” those that mark the difference between speculation and fact, are mechanisms for silencing violence. Departing from the Acteal case, I will explain how positivist notions of what constitutes a fact within legal proceedings produce mechanisms of erasure and historic revisionism in the judicial arenas, which I call “judicial *limpiezas*.” I argue that the so-called “legal truths” that emerge from legal proceedings are judicial *limpiezas*' products.

The Question of Truth, Power, and Epistemology

Following Foucault (1984), the differences between fact and speculation vary depending on the regime of truth/knowledge that rules the construction and reconstruction of reality. What can be known *a priori* is that those who wield power within each truth regime are the ones who define the markers of the difference between fact and speculation: between truth, falsehood, and all their in-betweens. The way in

which regimes of truth operate explains *why* survivors' version of the massacre has mainly circulated beyond Acteal (and only within certain activist networks) as a "public secret": that is, as a version that many sympathizers consider truthful, but don't have the elements to put their hands in the fire for it, knowing that every version has its blind spots, and that highly politicized cases exist within a cacophony of voices and opinions that complicates making sense of causes, effects, and the relationship among them. For all of those who share this kind of uncertainties about the violences of the past, Mitchell offers a frustrating consolation: "[A]ny attempt to write about the everyday use of violence against the powerless faces the problem of evidence" (2002, 153). As analysts of political violence, we are not alone in this sense. Coinciding with Taussig, Mitchell affirms, "Violence directed against people within a small community often relies on the power to impose silence," (idem) and as if he was referring specifically to the case of the Acteal massacre, Mitchell explains:

Victims can disappear, survivors may fear to speak, investigations, if they occur, produce only accusations and hearsay, or are recognized to serve larger political purposes. The original act of violence is therefore easily lost, and writing about it becomes an almost impossible effort to reconstruct events out of fragments and recover the voices of the missing. (Mitchell 2002, 153)

This reflection deeply resounds with the difficulties I have faced while writing this dissertation. For Mitchell, the solution to what is missing can be found in memories and rumors that circulate about the original act of violence. In this research I follow a similar methodology. However, the question "Is this really what was going on?" haunts me constantly, driving me to look for more information that could support the claims that have been disputed. I identify myself as allied to Las Abejas' struggle and write from that position, with the conviction that their truth has not been heard, not only because powerful interests are at stake, but also because, as Gayatri Chakravorty Spivak (2010) asserts, subalterns' words cannot be fully acknowledged due to the lack of any institutional validation, whether through the legal system, Western epistemology, the Spanish language, colonial racial hierarchies, or white/mestizo patriarchy.

Certain parts of my research have been conducted collaboratively with Las Abejas and their human rights lawyers. The limits that those collaborations have imposed on me, in terms of a controlled access to certain pieces of information, have given me space to maintain a critical attitude in the research and writing process. Those limits have also helped me identify “what knowledges not to know” *or to share*. And I hope I have identified well. The “law of silence” applies not only to the subjects of violence, but also to those who become enmeshed in the logics of violence by studying them. It is important to acknowledge this explicitly to stay congruent with the positioned objectivity I attempt to hold in this research; this is one that also honors my experience as a woman and as a citizen of the same country of those who perpetrate and those who survive the violences I study. Faced with large amounts of information on certain aspects of the Acteal case, numerous contradicting versions, and an absence of records on key details, I have had to rethink the aims of my study on several occasions—reminding myself that I am not a prosecutor or a private investigator—and to recalibrate my approach to the idea of truth. Affirming that people with different subject positions have different perspectives is a platitude from which I have tried to go beyond. Methodology is theory, so even while I discuss my methods in a separate section, this discussion is spread throughout the dissertation. What I have decided to write in this dissertation, and how I write it, form part of what I deem as my theoretical contributions.

Following Foucault’s methodological propositions for analyzing truth have helped me escape a relativistic stance in relation to the copious and contradictory versions of Acteal: “‘Truth’ is to be understood as a system of ordered procedures for the production, regulation, distribution, circulation and operation of statements” (Foucault 1984, 74). Foucault explains that by revealing this system through our analyses, our aim as intellectuals should be “that of ascertaining the possibility of constituting a new politics of truth” (*idem*). And this can only occur by “detaching the power of truth from the forms of hegemony, social, economic, and cultural, within which it operates at the present time” (Foucault 1984, 75). By taking this methodological approach, I have also tried to deal with the issues of accuracy in the representation of the past. However, I see two problems

with Foucault's program of action for the intellectual: one is related with Foucault's understanding of power relations, and the other with the issue of representation.

In his approach to the analysis of truth, Foucault seems to suggest that a new politics of truth will not just coexist with the hegemonic regime of truth, but will try to supplant it, instead, in order to become hegemonic itself. This is the same old problem of the cyclical nature of revolution and its institutionalization, understood as a never-ending procession of hegemony and counter-hegemony. In his essay "The Subject and Power," Foucault expands on his masculinist view of power relations as a never-ending binary opposition:

Every strategy of confrontation dreams of becoming a relationship of power and every relationship of power leans toward the idea that, if it follows its own line of development and comes up against direct confrontation, it may become the winning strategy.

In effect, between a relationship of power and a strategy of struggle there is a reciprocal appeal, a perpetual linking and a perpetual reversal. (Foucault 1982, 795)

Other non-Occidental ways of knowing, including those which Boaventura de Sousa Santos (2010) refers to as "*epistemologías del Sur*,"²⁴ reveal how Foucault's form of understanding power relations as a zero-sum game is based on a Eurocentric way of knowing that has a universalizing pretension. Zapatista principles such as "*mandar obedeciendo*" [to govern by obeying] (EZLN 1994), for example, convey ideas of equilibrium, communality, and horizontality, instead of individualism and verticality. The seven principles of "*mandar obedeciendo*" that rule Zapatistas' actions are the following:

1. To serve and not to self-serve.
2. To represent and not to supplant.
3. To construct and not to destroy.
4. To obey and not to command.
5. To propose and

²⁴ Santos defines *epistemologías del Sur* [epistemologies of the South] as "new processes of production and assessment [valoración] of valid knowledges, scientific and non-scientific ones, and of the new relations between different types of knowledges, departing from the practices of those classes and social groups that have systematically suffered the unfair inequalities and the discriminations caused by capitalism and colonialism" (Santos 2010, 33). Translation mine.

not to impose. 6. To convince and not to conquer. 7. To work from below and not to seek to rise. (EZLN 2014b)²⁵

These principles convey Zapatismo's epistemological shift in the understanding of politics and power; this is a shift that is expressed through the idea of "changing the world without taking power," as John Holloway (2002) has put it. Raquel Gutiérrez Aguilar (2008) has taken Holloway's thesis one step forward, and rooting her thought in Aymara knowledge, argues that "*la toma del poder no es condición ni necesaria ni suficiente para cambiar el mundo*" [taking power is neither a necessary nor sufficient condition to change the world] (50). Gutiérrez Aguilar bases her assertion in the Aymara concept of "*Pachakuti*," which means "a turn or inversion of time and space" (2008, 152). According to Gutiérrez Aguilar, *Pachakuti* implies a transformation from the inside out, one that

[D]oes not consist in producing an inversion based in a "rotation" from the top down and vice versa—a symmetrical transformation—but in "flipping," for example, a glove, that before was used in the left hand and now could be used in the right hand, and vice versa.²⁶ (Gutiérrez Aguilar 2008, 153)

Zapatismo as well as Las Abejas' politics follow a similar logic to that of *Pachakuti*. The idea is not to go up and take power, but to work locally and horizontally to create, as Zapatistas say, "a world in which many worlds can exist." The stakes are placed in *pluriversality* instead of *universality*. According to Walter Mignolo (2007), "Zapatismo's theoretical revolution" is not based on romanticized forms of indigenous knowledge, but is rooted in a "double process of translation in which Occidental (Marxist) epistemology is appropriated by Amerindian epistemology to be subsequently transformed and sent back"²⁷ (21). Silvia Rivera Cusicanqui (2012) has criticized

²⁵ Translation is mine.

²⁶ Translation is mine: "no consiste en producir una inversión basada en una 'rotación' de lo de arriba hacia abajo y viceversa—transformación simétrica—, sino en 'darle vuelta', por ejemplo, a un guante, que si antes servía para la mano izquierda ahora servirá para la mano derecha y viceversa" (Gutiérrez Aguilar 2008, 153).

²⁷ Translation is mine.

Mignolo for the lack of congruency between his theoretical discourses and his practices, tending to essentialize indigenous knowledge. Even when Mignolo's proposition also follows a dichotomic, masculinist, vertical, and colonizing form of thinking power (in comparison with the flipping, *horizontalizing* notions of *Pachakuti* and "*mandar obedeciendo*"), it is true that this kind of vertical thinking organizes many practices of indigenous politics among the suboppressors, even where those politics are enunciated through decolonial discourses (aimed at disengaging from Western hegemonic epistemologies). As the Mexican anthropologist Mercedes Olivera wrote in 2004, *mandar obedeciendo* has represented small changes for shifting indigenous women's subordinated position:

Until now, *mandar obedeciendo* is one of the symbols of the Zapatista struggle, one of the ideological axes of their resistance, a difficult process rather than a completed reality. . . .
. . . [*M*]andar obedeciendo as a Zapatista project, or as one that is personally assumed, is impossible to be completely performed in the middle of a counterinsurgent war and a voracious neoliberal capitalism. . . . (Olivera 2004, 381–82)

With this reflection, Olivera reminds us that an analysis of epistemologies cannot be complete without a study of the practices that put knowledges in action, their contexts, and an examination of the effects of those practices, especially among the most oppressed of the oppressed.

Using Foucault's proposition for approaching the concept and analysis of "truth," while pairing it with indigenous other ways of knowing—as a kind of new politics of truth—can be a solution to some of the colonial invisibilizations that Foucault's theory of power has produced, and which began with the invisibilization of the intellectual's privileges. In her critique of the European subject of knowledge production, Spivak (1988) argues that neither Deleuze nor Foucault acknowledges their works' mediations and representations and the impact they have in helping consolidate the international division of labor and colonial relations of oppression. By arguing that the oppressed can speak for themselves, Deleuze and Foucault deny the possibility of any space for the

intellectual to represent (speak for) the oppressed: “The banality of leftist intellectuals’ lists of self-knowing, politically canny subalterns stands revealed; representing them, the intellectuals represent themselves as transparent” (Spivak 1988, 70). Through this apparent transparency, following Spivak’s line of thought, these intellectuals attempt to present themselves as disinterested, even when their structural privileges and institutional responsibilities make their interests impossible to deny and to dissociate from their theorizations.

Spivak’s critique coincides with that of Silvia Rivera Cusicanqui (2012) in regard to the academic production on decoloniality developed by scholars located in the Global North, including Mignolo. “There can be no discourse of decolonization, no theory of decolonization without a decolonizing practice,” Rivera (2012, 100) argues, and one of the ways in which such practice can take place is by analyzing “the economic strategies and material mechanisms that operate behind discourses” (102). Rivera reveals how an epistemological colonialism is taking place within the economy of ideas: Scholars of the North²⁸ appropriate indigenous notions to develop theories that are distant from the contexts that gave origin to those concepts. The intellectual discussion is displaced from the South to the North, recognizing indigenous theoretical productions, but only to subordinate indigenous intellectuals. For Rivera, the challenge in the face of this epistemological plunder and ventriloquism is in

. . . [C]onstructing South-South links that will allow us to break the baseless pyramids of the politics and academies of the North and that will enable us to make our own science, in a dialogue among ourselves and with the sciences from our neighboring countries. (Rivera Cusicanqui 2012, 107)

In common with Rivera Cusicanqui, Spivak also privileges dialogue as a decolonizing practice: “seeking to learn to speak to (rather than listen to or speak for) the historically muted subject of the subaltern woman” (1988, 91). Spivak’s critique pushes

²⁸ The North is not only a geographical concept, but a social metaphor. There are many Norths in the South: “the local elites that benefit from the production and reproduction of capitalism and colonialism” as Santos (2010, 33) says. In the same logic, “the South also exists in the global North” (idem).

for self-reflexivity and for the further development of the critique of postcolonial discourses. And a way to develop this critique is by noting “how the staging of the world in representation—its scene of writing . . .—dissimulates the choice of and need for ‘heroes,’ paternal proxies, agents of power” (74). In these choices, the Western human-scientific, masculinist, “radical” and “benevolent” intellectual who recognizes the Third World through assimilation can be revealed. “The intellectual is complicit in the persistent constitution of Other as the Self’s shadow,” Spivak (1988, 75) argues, and that Other is silenced by maintaining him/her unspecified in terms of race, gender, and sexuality. As Joy James (1996) argues, “in this construction of the unspecified body, Foucault is able to sanitize repression as he argues that manifestations of power or spectacles of violence have been extinguished” (28). Through these invisibilizations, not only racialized state violence is erased, but also the resistance of the subaltern, which is unreadable for Foucault, or for anyone who exclusively observes through the lens of hegemonic epistemologies.

In the case of anthropologists, fieldwork helps us to unlearn in order to see; however, there are whole worlds that escape our gaze while we keep *analysis* as our main (and colonizing) approach to the other. Indigenous (and some mestiza) feminist intellectuals in Mexico are theorizing about the need to privilege love in our approach, not only to other humans, but also to other living and non-living beings. Departing from indigenous perspectives, Georgina Méndez Torres, Juan López Intzin, Sylvia Marcos, and Carmen Osorio (2013) propose the idea of “*corazonar*” as a way of linking reason with feeling in order to decolonize knowledges. *Corazonar* means something akin “to think together with the heart,” or to “*sentipensar*” (feel-think) (López Intzin 2013). *Corazonar* is a concept that transforms the noun “heart” (*corazón*) into a verb: to heart. *Corazonar* is also a word that cleverly contains the prefix “co” (together; with) and the word “*razonar*” (to reason): *co-razonar* (in English, *co-reason*, which loses the allusion to the heart that the concept has in Spanish). As Mária Millán (2011) explains, to think with the heart is an experience that Zapatista women have been systematizing for decades. *Corazonar* is crucial to decolonize processes of intercultural translation and in

the formulation of methodologies that are accountable to multiple and coexisting forms of knowledge; this is thought as a “rainbow of knowledges,” as Xuno López Intzin (2013) suggests. *Corazonar* creates space for learning from other worlds through dialogue and, as Georgina Méndez (2013) argues, this methodology is a constant practice within The Group of Maya Women KAQLA in Guatemala, the group *Fortaleza de la Mujer Maya* (FOMMA) in Chiapas, and the *Escuela Nacional de Formación de Mujeres Líderes Dolores Cacuango* in Ecuador. *Las Abejas’ Otra Justicia* could be described as a form of *corazonamiento*, even though they do not use this term.

The So-Called “Historical Truths”

As I mentioned before, the manufacture of “historical truths” is a crucial form of governance in Mexico. While the use of the term “historical truths” (to mean state-fabricated truth versions) has just recently become popular in Mexico since the 2014 forced disappearance and killing of students in Ayotzinapa, Guerrero (Goldman 2016), the form of governance it represents is not new but has gone through a process of reconfiguration during the last decade. What has changed is not mainstream media’s economic-driven willingness (or economic coercion, in certain cases) to submit to the government elite’s mandates, but the increasing cases of independent journalists that have been censored (through life, judicial, or economic threats, by being fired or by being killed), revealing the precariousness of the right of free speech in Mexico. This revelation has taken place at the same time that the two main telecommunications consortiums in Mexico—Grupo Televisa and TV Azteca—have worked to reinforce their power, promoting laws to secure their duopoly. Together, these two companies hold 95% of Mexican television frequencies. Their consolidation as *the* fourth power has occurred through the strategic support of Congress members who are simultaneously actionists, (ex)employees, advisors, or sometimes family members of key figures within these or other related telecommunications companies (K. Sánchez 2014).

Around 2012, in the context of reform in telecommunications’ law (2013)—popularly called the “Ley Televisa”—these Congress members became commonly

known as the *telebancada* [TV caucus]. The cynical conflict of interest through which these legislators openly operate is not much cruder than the cynicism with which the Mexican citizenry jokes about these legislators, as a way of resisting while naturalizing the symbiosis of governmental-entrepreneurial interests. This is a symbiosis that not only takes place in the legislative branch, but is also present within the executive. This fusion between governmental and business endeavors and interests (or at least, its increased visibility) is probably one of the most important changes affecting the manufacture of “historical truths” as a form of governance. In this sense, the fraternal relationship between government and Televisa is as real as the blood ties between Arely Gómez, a former member of the *telebancada* and today’s attorney general,²⁹ and her brother, vice president of Televisa News. The *affinity* relationship between government and Televisa is as tangible as the marriage of President Enrique Peña Nieto and one of Televisa’s main actresses, Angélica Rivera, better known through the nickname of one of her *telenovela*³⁰ protagonists, “*La Gaviota*.”³¹ The instrumental, pre-electoral wedding helped portray the presidential candidate as a *telenovela* hero, and politics as a world in which the love between white, “good-looking” mestizxs, always wins. The presidential couple provides a caricaturesque (or sinister?) portrayal of the couple knowledge-power, where *knowledge* is provided by Televisa, which feeds the population with numbing state-manufactured truths, and *power* is deployed by the PRI, “*corregido y aumentado*” [corrected and augmented] in its most authoritarian and corrupt of its forms, after twelve years of operating “from the bench” during the supposed “democratic transition” (when the executive was held by the National Action Party, or PAN).

The mass media’s enhanced ways of deceiving also represent a shift in the production of “historical truths” in Mexico. The media’s use of the science discourse mixed with a high dose of affectivity, sensationalism, and *telenovelesque*³² drama allows

²⁹ Since February 2015.

³⁰ Soap opera.

³¹ “The Seagull.”

³² Soap opera-like.

a news story to be effectively and affectively conveyed, making a coarse appeal to the audiences' emotions without seeming biased. As Didier Fassin (2012) affirms, "in the contemporary world, the discourse of affects and values offers a high political return" (3). TV and radio news shows hosting scholars who present and debate their expert views have become increasingly popular among middle-class populations; the drama that characterizes these discussions and the strategic order in which news is presented produce a discourse of political reality that distorts the parts that compose it.

Another of the changes in the manufacture of "historical truths" as a form of governance also has to do with an increased blurring of boundaries, in this case between politics and justice. During the last sixteen years, we have witnessed in Mexico a growing number of political issues being disputed in judicial arenas and a concomitant concentration of power in the judicial branch (Domingo 2005; Ansolabehere 2007a; 2007b). What before was usually resolved by the legislature and the executive branches of government through political dialogues and negotiations, today is often resolved through judicial proceedings. This situation represents a risk to democracy, since important political decisions are left to non-representative institutions such as the courts. A judicial resolution has the advantage of being endowed with a certain aura of legitimacy, a product of the magical (or hypothetical) belief in the state's administration of impartial justice. What this mystification hides is that the judicial realm is not free of the political.

Each of the branches of government has political functions regulated in the Constitution. In the case of the judiciary, the SCJ is in charge of resolving controversies between political actors from the three levels of government³³ (federal, state, municipal) and to establish equilibrium between the legislative and the executive branches by maintaining the Constitution's supremacy over any law or act of authority. However, the kinds of ties between politics and justice that the concept *judicialization of politics* refers to goes beyond these regulated political functions. The possibility of judicially challenging electoral processes is not the paradigmatic example of *judicialization of*

³³ Also known as administrative division levels.

politics either. The appointment and removal of the Supreme Court of Justice's eleven ministers depends on the president (with the ratification of the Senate). This decision is clearly political, but does not capture (at least completely) what is at stake in the concept of judicialization of politics. As Karina Ansolabehere (2007b) explains, at the core of judicialization of politics in Mexico is the paradoxical empowerment of the judiciary through a judicial reform (that of 1994, created by the legislative and sanctioned by the executive) that tried to guarantee the independence of the judiciary from the other two branches of government, without creating internal checks and balances within the judiciary in order to allow for democratic decision-making.

Processes of *judicialization of politics* have radically changed the way in which official history is produced in Mexico. The Acteal massacre as well as the most recent (and known) cases of state violence in Mexico—such as Ayotzinapa or Nochixtlán—are good examples of how the state has imposed its “historical truth” on the civil society and of how these truths are being fabricated, initially during prosecutors’ investigations (dependent on the executive branch) and then, through judicial proceedings, which are based on the facts that the prosecutors fabricated. “Historical truths” are then the product of mediation over mediation, distortion after distortion.

In the case of the forced disappearance of forty-three indigenous students, and the killings of at least six others, from the Ayotzinapa Normal School in Guerrero, in 2014 (who were organizing their way to join the Tlatelolco “Dos de octubre” protests in Mexico City), the Office of the Public Prosecutor has imposed a politically convenient and staged “historical truth” of this case, on the truth that a group of international independent experts, appointed by the Inter-American Commission on Human Rights, have deduced from the findings of their independent investigations. In January 2015, then-Attorney General Jesús Murillo Karam announced that the forty-three missing students had been the victims of the *Guerreros Unidos* drug cartel, whose members supposedly incinerated the students’ bodies in a trash dump in Colula, where several burnt and unrecognizable bodies were found inside black garbage bags.

Aside from criminalizing the students' social protest by linking them with a drug cartel, this version allowed the PGR to conclude the search for the students, to declare inapplicable the classification of the crimes as forced disappearances, and to remove blame from the army and the local and federal police by assigning it exclusively to the drug cartel. In a press conference, Murillo Karam declared this version as the "historical truth" of Ayotzinapa. He argued that the PGR drew its conclusions from the confessions of detained police elements and cartel members. But as journalist Anabel Hernández explains, the truth extracted from confessions shouldn't be assigned such a high level of trust in a country where it has been demonstrated that torture is a common practice of criminal investigation.³⁴

In the case of the police killing of at least eight people in Nochixtlán, Oaxaca, who were protesting the neoliberal education reform in July 2016, the state initially declared that the police were unarmed and that the killings were perpetrated by an armed group within the protestors. The videos and pictures that the protestors took with their cellphones revealed that it was the police who were armed and shooting. A similar situation occurred during the massacre of San Juan Chamula (one of Chenalhó's neighboring municipalities), Chiapas, also in July 2016, which left dozens of indigenous peoples killed, and not only five (four officials and one inhabitant), as the government and mainstream media reported. This time, the state did not disappear the bodies. Were the relatives of those killed who picked them up. In a total lack of trust in state authorities, Chamula families did not wait for the prosecutors to arrive, signaling the exceptionality of power and politics that characterize San Juan Chamula. The videos that civilians recorded—also with their cellphones—were spread throughout social media in a question of hours, revealing the moment when the mayor of Chamula ordered the population that was protesting outside the town hall to be fired on. This is a fact that the government of Chiapas is still trying to conceal.

³⁴ Private conversation. Amnesty International (2014) reports that from 2003-2013, the number of reports [*denuncias*] of torture cases increased 600%. Between 2010-2014, the National Commission for Human Rights received 7,741 reports of torture cases. In a period of 23 years, only seven guilty verdicts [*sentencias condenatorias*] in torture cases have been handed down.

Humanitarianism and the Logics of Settler Colonialism

Didier Fassin (2012) explains that “humanitarianism has become a language that inextricably links values and affects, and serves both to define and to justify discourses and practices of the government of human beings” (2). He makes an interesting correlation between two dimensions existing within the concept of “humanitarian.” On the one hand, the connotation of a human character in the sense of *mankind*; on the other, the affect that draws humans towards each other. “The first dimension,” Fassin affirms, “forms the basis for a demand for rights and an expectation of universality; the second creates the obligation to provide assistance and attention to others” (2012, 4). The latter is based on a condition of inequality; the former, on one of equality. In this way, two contradictory conditions of the human experience coexist within the concept of humanitarianism. The dialectic relationship between the two makes humanitarianism possible. Humanitarianism requires a condition of inequality and the aspiration of equality to exist. The politics of compassion, which are the basis of humanitarianism, are therefore a politics of inequality (Fassin 2012, 3).

Erica Caple James (2010) arrives at a similar conclusion in relation to humanitarian aid. James observes the emergence of a “political economy of trauma” in Haiti, which she analyzes as an unintended consequence of national and international humanitarian and development aid’s efforts to address the human rights violations perpetrated during the 1991-1994 coup period. In an “economy of compassion,” suffering is the main commodity. “Portfolios of trauma” formed by the records of victims’ experiences (photos, affidavits, medical records, etc.) circulate as currencies for several consumers, including scholars. One of these consumers was the Haitian government, attempting to demonstrate to international funding agencies its performance in remedying previous human rights violations. Another consumer was nongovernmental organizations (NGOs), which, while demanding that the state remedy those situations, also sought to demonstrate the NGOs’ efficacy to their donors (since the existence and operation of most NGOs depends on international donations and grants). However, this “economy of

compassion” intersects with the terror economy that gives origin to violence in the first place. In this sense, James concludes:

As the governmental and nongovernmental aid apparatus promotes nation-building, capacity building, the rule of law, democracy, and human rights in so-called transitional societies, an unintended consequence may be the reinforcement of existing social inequalities, and the creation of new ones, through the process of selective recognition that these practices engender. (James 2010, 112)

Chiapas is a place where an “economy of trauma” is paradigmatic. Just in the city of San Cristóbal de las Casas there are around forty nongovernmental organizations, mainly focused on the defense of indigenous peoples’ rights and on development projects in indigenous communities. Nonetheless, in comparison with Haiti, Mexico has not gone through a process of transitional justice. The authoritarian regime in power is still in denial of its past and continued crimes. When denial is at work, “On the one hand . . . the repression is justified, and on the other, those who have suffered at its hands are accused of being liars,” as Ariel Dorfman (1991, 141) explains.

The state’s denial of state violence generates a distinct process of political subjectification—“the advent of subjects and subjectivities onto a political scene” (Fassin 2008, 533)—one that is not the direct product of an economy of trauma, as James describes for the case of Haiti. In the case of Mexico, I argue, the relationships among actors in the local economy of trauma are the product of a sustained *colonial matrix of power* or *patrón colonial del poder* (Quijano 2000; Lugones 2008) that operates through four interrelated domains: “control of the economy, of authority, of gender and sexuality, and of knowledge and subjectivity” (Mignolo 2011, 8). *Coloniality*, in this sense, can be understood as “the underlying logic of the foundation and unfolding of Western civilization from the Renaissance to today” (Mignolo 2011, 2). The *coloniality of power* (Quijano 2000) implies, then, the reproduction and imposition of hierarchies and relations of domination: colonizers over colonized, mestizxs over indigenous and black people, humanitarian advocates over racialized victims.

Aníbal Quijano proposes that the pattern of domination between colonizers and the “others” has been organized and implemented around the idea of race since the

beginning of the Colonial era. Quijano argues that the colonizers' idea of race might have formed during the Reconquest wars in the Iberian Peninsula, where the phenotypical differences between Christian, Muslim, and Jewish populations provided the basis for ethnic cleansing. However, Quijano also argues that the idea of race was concurrently developed with the invention of America, subordinated to colonial capitalism; with the production of Europe as *the* center of the new colonial world; and with the creation of the myth of modernity. In his concept of race, Quijano conflates biological traits and cultural characteristics. He argues that these traits and characteristics provided the difference necessary to justify a whole system of social classification in America, actualized within relations of superiority/inferiority between colonizers and colonized. This colonial system of classification just needed to be normalized in order to become the basis of different forms of exploitation, such as control of labor and of gender relations, which have been adapted to the changing needs of different historical circumstances and of new elites in power.

Both *coloniality* and *settler colonialism* are deemed as constitutive of modernity. To think *coloniality* along with the concept of *settler colonialism* allows us to understand the continuity and development of the colonial matrix through the passage of time and to hold mestizxs accountable for the perpetuation of indigenous and black peoples' subjugation in Latin America. According to the historian Patrick Wolfe,

. . . [S]ettler colonialism is an inclusive, land-centred project that coordinates a comprehensive range of agencies, from the metropolitan centre to the frontier encampment, with a view to eliminating Indigenous societies. (Wolfe 2006, 393)

Since territoriality is the central element of settler colonialism, those who obstruct settler colonizers' access to land become the target of the settler colonizers' elimination logic. The creation of restrictive racial classifications has been a way for settler colonizers to further the elimination of the original owners of the land. As Wolfe affirms, "race is not a given. It is made in the targeting" (388), and in this sense, settlers racialized black people as slaves, and indigenous peoples, not as the original owners of the land, but as Indians. "[T]o get into the way of settler colonization, all the native has to do is to stay

at home,” Wolfe (2006, 388) argues. This shows how settler colonizers’ invasion is not reduced to a single event or to a period of history (say, the Conquest or Colonization). According to Wolfe, settler colonizers’ invasion is a structure through which they aim to destroy native society in order to replace it. However, this replacement is not meant to be total: “[T]he process of replacement maintains the refractory imprint of the native counter-claim,” as can be seen in the concept of *mestizaje* in Mexico.

Popularly conceived as the unifying process of miscegenation between Indians and Spaniards, *mestizaje* was the state-promoted form of citizenship in the post-revolutionary era: a racial project of state formation, which continues to define Mexican national identity in the present. The ideology of *mestizaje* contradictorily reappropriated a “foundationally disavowed” indigenism in order to establish the “authenticity” and distinctive character of the Mexican nation. *Mestizxs* were conceived as having *evolved* from an “indigenous past” to become the embodiment of modern Mexicans, members of what the minister of education, José Vasconcelos (1970 [1925]), would call the “Cosmic Race”: the race of the future. If *mestizaje* was based on the idea of progress, it was because it conceived indigenous identities as backwards. Progress meant the dilution of indigenous blood and a process of whitening through assimilation. Afrodescendants were simply erased from the ideological *mestizo* mixture. Whitening (*blanqueamiento*) is what the concept of *mestizo* silently continues to exalt, celebrate, and promote in the present day. However, the ideology of *mestizaje* denies racism, even when it is constituted by racial hierarchies that privilege whiteness and punish blackness through its marginalization. In this sense, Mónica Moreno and Emiko Saldívar (2015) have identified that “*mestizaje* solidifies into a form of nationalist denial in moments when racism is openly contested or brought up” (1).

If we aim to identify the continuities between humanitarianism and settler colonialism as they morph through the passage of time, it is necessary to cultivate a *longue durée* perspective on the racializing politics of representation around indigeneity and state violence. Acteal, besides being all that it is—a *critical event* (Das 1996), a place-event, a case of exemplary punishment for indigenous dissidence, a symbol of

impunity, a Sacred Land, a memorial, a community—also constitutes a pivotal window to observe the changes in the discourses and practices on indigenous rights and state violence in Mexico during the last two decades. To render these changes visible, I follow Foucault’s proposal for an archaeological analysis aimed at unearthing “the bases [and] the continuities in behavior, in conditioning, in power relations or in the conditions of existence” (2005, 180)³⁵ around indigenous rights and state violence. The function of this archaeological analysis, according to Foucault, is:

. . . [F]irst, discovering the dark continuities that we have embodied and, second, departing from the study of their formation, to prove the utility they have had and continue to have today; this is, how do they act in the current economy of our conditions of existence. (Foucault 2005, 181)³⁶

What is crucial in this formulation for the sake of my argument is the interplay of embodiment and self-conditions-of-existence in regard to a form of governmentality. Thinking of the embodiment of “dark continuities”—such as racism—not only affectively, but also in the sense of *habitus*, in Bourdieu’s sense, the question would be: What role does our *habitus* play in our conditions of existence within a settler-colonial “multicriminal state” (Speed 2016) that kills indigenous dissidents? This is a question that the ethnographer (and the readers of this ethnography) simply can’t elide. Las Abejas, some mestizxs in solidarity with Las Abejas, and a couple of Frayba’s members made sure to keep reminding me this question (formulated with other words) during my fieldwork. As researchers, we have to keep in mind that our investigations can be used by the government or think tanks to discredit and repress the people we work with. Making violence visible is a double edge sword. That is why I have taken several precautions when writing this dissertation, including the use of pseudonyms for the witnesses whose testimonies have not been made public. With the aim of not resting evidential value to

³⁵ “[L]as bases, las continuidades en el comportamiento, en el condicionamiento, en las relaciones de poder o en la condiciones de existencia.” Translation is mine.

³⁶ “[E]n primer lugar, descubrir estas continuidades oscuras que hemos incorporado y, en segundo lugar, partiendo del estudio de su formación, comprobar la utilidad que han tenido y que aún hoy siguen teniendo; es decir, cómo actúan en la actual economía de nuestras condiciones de existencia.” Translation is mine.

those testimonies, I have identified the cases where I use pseudonyms with an asterisk. In order not to add more distortions to survivors' testimonies, the reader will also find the Spanish version of these testimonies, followed with my own English translation.

How This Dissertation Is Integrated

In the first four chapters of my dissertation, I trace the interplay of complex assemblages of people, places, and knowledges in the production of top-down narratives about the Acteal massacre. In Chapter 1, I situate the paradoxes between testimony and truth in a theoretical discussion and explain the different types of testimonies that are the basis of this dissertation. In order to show what was at stake in the establishment of the truth about Acteal, in a second moment I provide a historical, political, and social context of the massacre and its antecedents, departing from the testimonies of survivors and perpetrators. In Chapter 2, I revisit the edited volume *La Otra Palabra: Mujeres y violencia en Chiapas, antes y después de Acteal* (Hernández Castillo 1998) [*The Other Word: Women and Violence in Chiapas, Before and After Acteal*] from the local Left/activist/feminist academia. Building on the contributions of its authors, I provide more documental and interpretative evidence to demonstrate that Acteal was also a femicide. I examine the official autopsies of those killed during the massacre, and compare them with other official documents that describe the forty-five cadavers, in order to visibilize the process through which the state has concealed gender and sexual violence in the Acteal case.

Chapter 3 deals with the *Libro Blanco Sobre Acteal* [White Book on Acteal] (1998), an official report issued by the Office of the Attorney General [Procuraduría General de la República—PGR], directly dependent on the federal executive. This report interpreted the massacre as the product of an “inter-communitarian conflict” between Zapatistas and “self-defense groups,” erasing the context of the state’s low-intensity war against Zapatismo and the participation of paramilitary forces. I analyze the circulation, reappropriation and repetition of the *Libro Blanco*’s main narrative through the works of politicians, scholars, and journalists, like the Cardenista leader Manuel Anzaldo and his

article “Historia Reciente de Chenalhó” [Chenalhó’s Recent History] (2007); like the scholars/politicians Alejandro Posadas and Hugo Eric Flores and their article “Acteal: la otra injusticia” [Acteal: the Other Injustice] (2006); and like the center-right historian, novelist, and journalist Héctor Aguilar Camín and his three-piece article, “Regreso a Acteal” [Return to Acteal] (2007a; 2007b; 2007c). In order to reveal the racial politics of truth and representation around indigenous testimony, I analyze the roles that mestizx authors and authorities give to Maya survivors’ testimonies in their accounts. My aim is to offer a new way of viewing the Acteal case by privileging survivors’ testimonies, and to demonstrate how the story of the massacre would be radically different if these testimonies had been taken into account.

In Chapter 4, I investigate the political and legal project that the Mexican State is building for indigenous peoples through the decisions of the SCJ. For this purpose, I explore the shifts in the traditional model of division of power that have turned the court into a central political actor in the creation of public policy. I also track the transformations in the forms of governance of indigenous populations that the Mexican State is deploying after times of multicultural neoliberalism and during the “war against crime” with its accompanying criminalization of social protest. I argue that the judicialization of politics has opened a space for states to restrict and sometimes erase previously recognized indigenous rights at the moment when indigenous peoples are trying to invoke these rights in the courts. I theorize this erasure of indigenous rights through the concept of *judicial limpieza*, which implies wiping out of the judicial records, the views and testimonies of those indigenous peoples the state considers disposable.

Chapter 5 is focused on Las Abejas’ strategies of remembrance and on *La Otra Justicia*. Departing from survivors’ own narrations and historical periodizations, I explore Las Abejas’ trajectory of struggle. Based on a collaborative research with Las Abejas members and their human rights lawyers, and drawing from testimonies collected since 1992, I document the intricate means by which the low-intensity war operates in the everyday lives of organized Maya communities. I also analyze *La Otra Justicia* and draw from participant observation, interviews, focus groups, and workshops with Las Abejas

members to illustrate their emerging imaginaries of justice in the context of their everyday experience of impunity. I delve into the values, beliefs, and emotions at the core of their practices of *La Otra Justicia* to analyze the decolonial forms of politics they engender. I explore the ways Las Abejas are negotiating these practices with mestizx and international solidarity networks in the face of legal imperialistic pressures.

Finally, I analyze the politics of international solidarity and the problematic relationship between human rights advocacy and indigenous struggles. I contrast two different approaches in the defense of human and indigenous rights in Mexico: that of Las Abejas' human rights lawyers and the methods of the burgeoning *strategic litigation movement*. I illustrate the affects that these cases evoke within solidarity networks and the difficulties they impose on the victims of human rights violations in their efforts to meet their supporters' expectations. Building from literature on critical race theory, collaborative research methodologies, and settler colonialism studies, I conclude by demonstrating the urgency for a different form of engagement with the subjects of human and indigenous rights violations: One that unsettles ingrained structures of mestizo domination and that privileges peoples' physical and emotional well-being over the strategic showcasing of their suffering to advance human rights agendas.

Overall, in this dissertation I contend that survivors' silenced testimonies and affective memories of the massacre not only constitute windows into Maya ontologies, but are also sources of insight both for understanding the emerging role of the judiciary in the governance of indigenous peoples and their rights, and for revealing the competing interests and epistemologies that define the politics of memory within a culture of impunity. In broader terms, my dissertation sheds light on the commonly overlooked consequences of *racialized impunity* and on the processes through which indigenous survivors, in the face of renewed forms of genocidal violence, are creating novel languages of contention and redrawing the boundaries between justice, memory, and the imperium of the law.

Notes on Activist Research:

“Pursuing Collaboration” or “From Where I Speak and *Corazono*”

It is after 2 p.m. in Mexico City’s paralyzed traffic. Boys are jumping on the hoods of cars to make some pesos washing windshields; walking vendors are making their day selling bottled water and peanuts to those immobilized inside their cars, under the high temperatures increased with the volume of traffic. Now in this *crucero* [intersection] it is the turn of the *tragafuegos* [fire eater] who takes sips of gasoline to expel blasts of fire from his mouth. On the radio, the newscaster is commenting on the Supreme Court’s historic intervention regarding the case of the Acteal massacre. I can’t stop thinking how Mexico is a three-ring-circus [*circo de tres pistas*]. My ex-professor José Ramón Cossío, once director of the Law department at ITAM, was the minister of the Supreme Court who drafted the project of the ruling that was glorifying Mexico’s highest court that day. The unanswered question “why were they killed?” is what probably drove me to try to understand what exactly happened. That 2009, mainstream radio media transmission was referring to the Acteal case as one which gave visibility to the Office of the Public Prosecutor’s unchecked arbitrary power. Also, as a case that was setting legal precedents on indigenous peoples’ right to access to justice. Soon, I learned that what was being celebrated was the SCJ’s liberation of the indigenous people who were “unfairly” serving prison terms for being originally found guilty for the massacre. Later, I would also discover that a classmate from law school was one of the lawyers of these defendants.

The Mexican anthropologist, Aída Hernández, who had been my professor during my M.A. in Social Anthropology at CIESAS Mexico City, edited one of the most famous publications on the Acteal massacre in 1998. This edited volume, titled *La Otra Palabra: Mujeres y violencia en Chiapas, antes y después de Acteal*, became one of my first approaches in the study of the Acteal case, as it was for many people within academic circles. Journal articles on Acteal were infinite, especially in *La Jornada* newspaper, with

its two special envoys in San Cristóbal: Hermann Bellinghausen and Elio Henríquez. Bellinghausen, in particular, has contacts among Zapatistas and other communities in resistance, as well as a direct communication channel with the Fray Bartolomé de las Casas Human Rights' Center (or Frayba), who are Las Abejas' lawyers. Bellinghausen had published a book based on the multiple journal articles he had written on the case over the course of eleven years. The title was explicit of his position: *Acteal: Crimen de Estado* (2008).

But why were those indigenous people killed? When the Supreme Court of Justice issued its first rulings on the Acteal case (2009), the unresolved question reappeared in the lives of a minority, but not in the political life of my country. It was as if the public opinion had already come to terms with this loss, which was a loss of indigenous peoples' lives and of the possibility of knowing the truth—something that every member of a democratic society should be concerned about. However, the Acteal case was once again making evident that not everybody's lives are worth the same and that being indigenous and poor marks the difference. Those days, in 2009, the news offered a reason to be optimistic about the Acteal case: Those who were “unfairly imprisoned” for the Acteal case were finally free.

The question that brought me to Acteal has continued morphing and opening the space to new inquiries: Which circumstances allowed the Supreme Court to issue a ruling that advanced human rights at the expense of the human rights of a group of indigenous survivors of state violence? In which ways are the Supreme Court's new interpretations on human rights dependent on the historical revisionism of the Acteal case? In this sense, what roles have played the judiciary, the academy, and some key journalists in this historical revisionism? What do the survivors have to say about these external representations of their tragedy? With all these top-down epistemological and practical interventions on the Acteal case, who has ended up benefitting from this tragedy? Or phrased in a different way: How does the Acteal case fit into the neoliberal/humanitarian economy? In which ways has the impunity around the Acteal case affected survivors' emancipatory politics? How do survivors conceptualize justice and memory in the

present and how does this conceptualization coincide and differ from that held by their human rights lawyers?

This obsession for finding meaning to the massacre has commonly been deemed as an attempt to rationalize the irrational. During the course of my research, I came across all kinds of formulations similar to this, as if the Acteal case was a lost cause. While there are different motivations behind these formulations (in some occasions, affect for the ethnographer; in others, a deep distrust) at the bottom of these formulations is the message: “Stop *digging*.” Many scholars have argued for leaving survivors’ past wounds alone for the sake of putting an end to their cycles of mourning and victimization. While I think victimization is a real issue in the Acteal case, it is also clear that there is no necessary link between memory and victimization. As I will argue in this dissertation, we have to be very careful in analyzing the circumstances that push survivors towards victimizing positions and discourses. Otherwise, the argument against probing survivors’ suffering can end up serving as a silencing mechanism of those circumstances.

Part of this dissertation is propelled by a drive to find meaning in loss, and a political sense to violent death. At the end, I agree with Alphonse Dupront when he argues, “the historical search for ‘meaning,’ is not but just the search for the Other.”³⁷ Las Abejas are a high-profile indigenous organization known worldwide for its pacifist resistance. Las Abejas’ strong ties to a branch of the Catholic Church, rooted in liberation theology, withheld them from responding to the massacre through vengeance. They are internationally used as an example of pacifist resistance and resiliency. However, the SCJ’s rulings on the Acteal case (2009-2014) marked a turning point for Las Abejas. To the observers close to Las Abejas, the rulings revealed the internal fissures and contradictions within the organization. Pessimism, frustration, anger and a feeling of having their hands tied, revealed the limits of resistance to the point that many of Las Abejas’ leaders left the struggle and formed another organization, parallel to Las Abejas and with the same name, which allowed them to receive economic support and development programs from the government. Nonetheless, to the faraway observers,

³⁷ Alphonse Dupront, “Language and History” in De Certeau (1993).

readers of Las Abejas' *communiqués*, Las Abejas seemed to be affronting the SCJ's rulings with suffering, but also with a deep stoicism. Soon the alternative media (occupying an in-between zone among the close observers and faraway audiences) began to spread Las Abejas' aim to build an *Otra Justicia* (Other Justice) in the face of legal injustice.

La Otra Justicia was a sign of Las Abejas' renewed resiliency. In a world in which violence is not the exception, but the rule, it seemed important to me to learn from their pacific resistance and to understand on what terms they were imagining an alternative form of justice. *La Otra Justicia* appeared in that historical moment as a hope in the face of despair: a new example of Las Abejas' resilient capacity in response to trauma and re-victimization.

After six months in the field I had been following several lines of research since I still did not know if Las Abejas were going to accept my proposal for engaging in collaborative research. My political convictions led me to follow and support the movement for the liberation of the Tzotzil professor and then political prisoner, Alberto Patishtán. I visited him in prison and did "observant participation" within the outstandingly extended solidarity network formed around this cause. I took part in the various mobilizations demanding Patishtán's freedom and in some of the organizing meetings to plan the next steps in the movement. While I awaited Las Abejas' decision, I also interviewed the priests related with Las Abejas and most of the mestizx activists and scholars involved in the Acteal case in Chenalhó, San Cristóbal, Tuxtla Gutiérrez, and Mexico City.

I was surprised to see that most of these people had not talked about their participation in the Acteal case for years. Our conversations brought repressed memories and emotions back to the surface. Those who accepted to give me interviews³⁸ were very

³⁸ There were only a couple of activist lawyers who did not respond to my persistent invitation. There was one powerful activist who did, but unknowingly brought me to a table in a cafe where he was sitting with other people, which impeded me from conducting the interview. At the end of the "meeting" he told me: "So you don't go saying that I don't want to talk with you." The patriarchal violence of the left is so entrenched, that you either enter into their logics (which

willing to speak and share with me the burdens they had been carrying with regard to Acteal. Their openness allowed me to know more about the past and about how Acteal changed these people's lives. A common ground between these activists was a sense of guilt for not having been able to bring justice to the survivors. Pursuing justice for the Acteal case has always been like struggling with Goliath. Additionally, some of the people who worked in Frayba and who served as lawyers for Las Abejas were very young and had little experience by the time of the massacre. Many of them had to learn while practicing, as most lawyers do, with the difference that this was an extremely delicate case—legally and politically—that left no margin for error. Acteal was unique for all its characteristics (the number of victims, the fact that they were pacifist and indigenous, the low-intensity war context, the feminicidal violence deployed, the blatant impunity that preceded it...). In reality there were not many lawyers in Mexico who had the experience of litigating massacre cases. Frayba human rights center was founded eight years before the massacre, in 1989. The activists and lawyers working there had participated in several legal processes of other cases of human rights violations in Chiapas: assassinations, forced displacements, forced disappearances, and yes, some massacres... but none of them with the magnitude of Acteal.

Through these interviews with Las Abejas' present and past collaborators, I crossed paths with feminist scholar, Mercedes Olivera, and the *compañeras* that work at the Center of Women's Rights in Chiapas (CDMCH), which Olivera directs since its foundation in 2004. These *compañeras* invited me to join the organization of a "Campaign against Gender Violence and Femicide in Chiapas," which articulated a multitude of actors and organizations in San Cristóbal (as I will discuss in Chapter 2). Numerous organizations, including Frayba, concurred both in the campaign and in the movement around Patishtán's freedom. In fact, Frayba had been Patishtán's main attorney until he and a group of *solidarios* decided to hire Leonel Rivero, a successful lawyer with experience in strategic litigation. The idea was to take Patishtán's defense

means uncritically accepting the hierarchical superiority as men in positions of power, and my subjugation as a woman), or you simply cannot enter into their circles, movement, or even into the realm of existence in their eyes.

through a different path: one that combined a great amount of lobbying and politics, with a rigorous but creative legal praxis. This path led to Patishtán's awaited liberation, after thirteen years of imprisonment, in October 2013. Engaging in collaborative work with these organizations during such crucial times allowed me to become familiar with their members and their organizational dynamics. Working together also gave me the opportunity to cultivate close friendships with feminist activists within these organizations. In fact, that familiarity and my knowledge about the Acteal case and its actors (I had been doing archival and bibliographic research on the Acteal case since 2009), allowed me to participate in the elaboration of the Psychosocial Expert Testimony (or *peritaje*) on the Acteal Massacre, organized in 2014 by Frayba and directed by Carlos Martín Beristain. Beristain is a recognized Spanish physician and Ph.D. in Social Psychology, Professor at the Universidad de Deusto. He has served as an advisor for the truth commissions held in Paraguay, Colombia, Ecuador, and Peru. In addition to having been advisor for the International Criminal Court for work with victims from different African countries, he has prepared various expert testimonies before the Inter-American Commission on Human Rights (IACHR). The *peritaje* represented an outstanding opportunity to establish an intercultural collaboration with Las Abejas and to collectively create a *corazonamiento* (Méndez Torres 2013; López Intzin 2013) whose product has the potential of becoming an important tool for Las Abejas in their struggle for justice within and outside international legal arenas.

The *peritaje* engendered collaboration between Las Abejas, human rights activists, key actors in Chiapas' politics on the ground, renowned specialists on the topic of state violence, psychologists, and anthropologists. The expert testimony was based on participant observation in Acteal's ceremonies of commemoration, fifty six extended interviews, both with Las Abejas' survivors, past and present authorities, and with mestizxs who have been close to this case; five workshops and six focus groups with Las Abejas' survivors, authorities, and representatives, all intended to understand the impacts of the massacre in terms of the life projects of their members, their sense of being a collective, their physical and emotional health, their customs and beliefs, their sense of

security, their understandings of justice, and their forms of resistance and pathways of struggle. The expert opinion was also based on an exhaustive archival work aimed at compiling and systematizing survivors' testimonies given during the last seventeen years of their struggle for justice. The final product of this endeavor, drafted by Beristain, has been published under the title *Acteal: Resistencia, memoria y verdad. Estudio psicosocial de los antecedentes, factores asociados al hecho y manejo de la emergencia, consecuencias psicosociales e impacto colectivo de la Masacre de Acteal* (2016), through the support of the Missionszentrale der Franziskaner in Germany and the European Union. This study was presented to the Inter-American Commission on Human Rights (IACHR) on October 2015 and we are all still waiting for the IACHR's final word in the process.

My engagement with Las Abejas was, however, more complex than what this description depicts. The low-intensity war had sowed the seeds of suspicion among the people who are part of the struggle in Chiapas, indigenous and non-indigenous peoples. One of the most salient consequences of impunity among the Acteal massacre's Maya survivors has been a heightened sense of distrust. Distrust against the state and its mestizx authorities and institutions for not listening to survivors' voices, for delegitimizing their testimonies, and for acquitting the perpetrators of the massacre. Distrust against the mass media for distorting the truth of what really happened during the massacre and for confusing public opinion. Distrust against non-indigenous people who visit Acteal with the intention of conducting research, because some of these scholars have contributed to the proliferation of different versions of the massacre and, therefore, increased the public opinion's confusion around who are the victims and who are the perpetrators. Following Zapatistas' policies, Las Abejas have also banned research within their organization. This has occurred after several internal ruptures within Las Abejas in 2008 and after the 2009 return of the acquitted perpetrators of the massacre to Acteal, which has marked a new wave of violence against Las Abejas. The war on attrition that has existed in Chiapas has set the stage for a Manichean political context that only

recognizes two possible positions: the one of the *compa* (in alliance with Las Abejas and Zapatismo) and that of the enemy.

In addition to this conflictive political context, I was an outsider, a Chilanga (a derogatory term for those who come from Mexico City), studying in a *Gringo* university, who knew some of the actors that Las Abejas consider enemies. Asking too many questions and knowing too much—but clearly, not enough—about politically delicate cases easily raises suspicion. As victims of state violence, Las Abejas had been previously deceived by supposed collaborators, and had experienced political and economical betrayals even by some of their members. At the same time, Las Abejas had been the subjects of researches whose final products were never returned to them. Las Abejas are convinced that the authors are making money and becoming famous with the knowledge they extracted from their organization. There is certainly a perplexing and cruel contradiction between Las Abejas’ attempts to stay outside the system (by “not profiting from the blood of their martyrs;” by rejecting any kind of support from the government; by trying to stay away from logics of capitalism and individual enrichment; by trying to live in a self-sustainable manner) and researchers—like me—who unintentionally end up bringing Las Abejas’ experiences back to the system, just by making these experiences available for consumption. Of course, I would argue that I am contributing to Las Abejas’ objective of spreading their word. However, Las Abejas are entering into a phase in their struggle where they are discussing that they want to be in charge of how information about their struggle is managed, circulated and represented. And in this situation lies the paradox I have been facing in writing this dissertation. In my second encounter with the Directive Board in 2011, José Alfredo Jiménez Pérez (then member of the Board) told me that they did not need of anyone to tell their story, because they are already doing that through their communiqués, through the documentaries he has produced with Las Abejas’ Communication Area (Jiménez Pérez 2010a; Jiménez Pérez 2012), through Las Abejas’ blog, and through their monthly commemorations and other forms of protest. In several conversations, José Alfredo shared with me how his efforts

were directed at decolonizing Las Abejas' thought and the forms of knowledge they produce as a collective.

This is one of the reasons I have felt so reticent about writing about Las Abejas and opted instead to focus this dissertation, not on Las Abejas' internal dynamics, but on how power networks have operated to silence Las Abejas' version of the massacre, and to reduce the survivors to "wondering subjects;" that is, to what Mbembe (2003a) describes as "*extreme forms of human life, death-worlds*, forms of social existence in which vast populations are subjected to conditions of life that confer upon them the status of living dead (ghosts)" (1). Mbembe explains that these social formations are product of war and terror. In the Americas, the logic of elimination against indigenous peoples has lasted for more than 500 years and is intrinsic to the formation and perpetuation of a settler-colonial state, whose existence highly depends on the coloniality of power as it is exercised through hegemonic realms of knowledge/truth production, like the courts. This is the main reason my research has focused in the legal establishment's whitewashing and erasure strategies of indigenous testimonies.

Since Las Abejas change their authorities every year on New Years Eve, my previous attempts to pact collaboration before beginning the main portion of my fieldwork did not come to fruition, but at least I was hopeful of having planted the seed. As soon as I arrived to Chiapas in December 2012, the leaving Directive Board of Las Abejas instructed me that I would have to introduce myself to the new Directive Board in January 2013, and renegotiate with them the collaborative project. Members of the 2013 Directive Board told me that I had to have Frayba's approval to work with Las Abejas. Frayba had told me before that it was Las Abejas' approval what I needed. I was suspended in this back and forth for several months between Las Abejas and Frayba, and at that time I did not know that this frustrating situation would bring to light productive contradictions.

The process of negotiating a collaborative research with Las Abejas and of receiving ambiguous responses that avoided giving me a direct "no," allowed the organization to renew the discussions for defining the boundaries of their struggle for

self-representation. Since there were a couple of other male anthropologists finishing their research with Las Abejas, it was clear that Las Abejas' politics regarding academic research was not as categorical as that of Zapatistas, who had already decided to completely ban it from their communities. In the case of Zapatistas, once they achieved certain consolidation of their movement, the last thing they needed was an exposure of their inner discussions, logics, and contradictions. Banning academic research within their communities was both a safety measure and a step forward in their struggle for self-representation and self-determination.

Las Abejas' 2013 Directive Board was very close to mestizxs working for the Diocese and who had been collaborating with Las Abejas for several years. One of them played the role of the public intellectual and was deeply involved in Las Abejas' autonomous education project. "*La problema es que el pastel ya está repartido*" (The problem is that the pie had already been divided), one of the founders of Las Abejas had told me, which meant that there was no space left for me. He thought this was not right, because some mestizxs were trying to increase their power within the organization and be the only mestizxs involved with Las Abejas. Those mestizxs collaborating with Las Abejas shared a similar perspective with regard to the "already divided pie." One of them explained to me that there were so many people wanting to work with Las Abejas that there were roles that were even duplicated. "We are going to have a meeting to fix this situation, so I'll give you a heads-up" ("*te paso el tip*"), which was a way for this mestiza to tell me "stop insisting."

Unfortunately, I would learn later that one of the duplicated roles were the healing workshops that a psychologist had been regularly developing with the survivors during the preceding months. This engagement was one of the very few forms of psychological attention that the survivors had received since the massacre. However, these mestizxs and the Directive Board considered that several groups from the church were already doing this healing work with the survivors. The problem seemed to be based on a series of non-indigenous actors wanting to collaborate with Las Abejas and a difficulty for the Directive Board to coordinate all those collaborations due to their work overload, and of

course, due to difficulty of creating effective and decolonized inter-cultural discussions. “*Ponerse de acuerdo*,” being able to be on the same page, is extremely time consuming when dealing with people with different languages, worldviews, internalized racism and unchecked mestizo/white privilege. For a Directive Board that exercises authority for only one year, time is a scant resource. This situation has led few non-indigenous collaborators to end up working in Las Abejas following their own independent agendas. Even while guided by their best intentions, non-indigenous collaborators have unknowingly perpetuated a colonial way of doing and of engaging with Las Abejas. In this sense, José Alfredo and some mestizx brokers have justified reasons to fear the entrance of more collaborators into the organization. However, the paradox of this situation, as one of these mestizxs put it, is: “How is it possible that Las Abejas, with so many expert supporters around the world, have not been able to put together a legal defense team in order to do what the CIDE did, but in benefit to the survivors?” There are many professors, students, and experienced activists in solidarity with Las Abejas. However, the issue of trust is hindering Las Abejas’ alliances beyond the objective of spreading their version of the massacre. The limited possibility of raising critiques within the organization and of questioning central issues, like the marginalization of women from positions of power, is prohibiting Las Abejas from being an organization that gives all their members the same opportunity to engage and thrive in the struggle. But as I said before, the risks of giving access and then not being able to control the circulation of information about the organization are considerable.

Las Abejas have dozens of past authorities, all males, and many of them have wanted to perpetuate their power after the end of their year in service. Las Abejas’ founding members are among them. Past authorities have a special status in indigenous communities. They embody the figure of the elders’ council. With external pressures of the government to succumb to its coopting development programs, members of Las Abejas argue that some of their main past authorities “have changed their hearts” and have abandoned the struggle, creating deep internal fractures in the organization. Extreme conditions of poverty and the corrupting nature of hierarchical power, makes resistance

unsustainable for many. Some other past authorities, which are still in the struggle, have learned to serve their own interests at the expense of the organization. Members of Las Abejas are aware of this situation. In one of those cases, instead of alienating an actor who was known for having diverted economic support (*desviar fondos*) for the organization, Las Abejas made him president of the Directive Board to maintain him under the vigilance of the other members of the Board and to make him more accountable to the organization.

Some of those experienced past authorities are the most amicable with outsiders. After I was introduced to one of them, we had several conversations in which we discussed the collaborative project I had in mind. This past authority showed great interest in the project. He invited me to stay at his house with his family, and even told me I could work as his secretary. However, alliances can always become tricky, especially when one does not have a profound knowledge of who is who in the field and when one is a woman. A woman anthropologist showing too much interest in the perspectives of a man in the struggle can be dangerously interpreted as a romantic desire, as I have discussed with a group of feminist colleagues in a collective piece (Berry, Chávez, Cordis, Ihmoud, and Velázquez, n.d.). There is still much more to say about how gender violence tends to mediate collaborative endeavors in the case of female anthropologists. The logical solution of working only with women within the organization was not an option for me, since the patriarchal authorities were the ones who administered and surveilled my engagements and alliances with Abeja women. Pursuing collaboration in the context of a settler-colonial low-intensity war, in which women's bodies are turned into a battlefield, leaves no woman unmarked by this deeply patriarchal violence.

Chapter 1:

“Can the *Survivor* Speak?”

The Politics of Indigenous Testimony in a Racist Culture of Impunity

Perhaps a *good start* is to follow in the footsteps of those who supported Amaru and Katari. To reconstruct the chopped-up bodies in order to start again, there where the fight was halted. It is a mystical moment: seeing the horror face to face, dealing with the pain and fear, moving forward hand in hand, so that our tears do not blur our vision of the path ahead.

—Raúl Zibeche, 2014³⁹

In the midst of the terrifying events in Ayotzinapa, Guerrero, when forty-three students disappeared after a violent attack committed by the local police under the orders of the mayor, we see bubbling to the surface of social reality a brutal truth: massacres are also a form of domination. Through this idea, Raúl Zibeche (2014) rephrases the obvious, but in such a blunt manner that he brings our feet to the ground after we had been floating in the confusion of the moment—a moment whose starting point we can no longer identify. “This is a war,” claimed one of the fathers of the forty-three disappeared. This is a *colonial* war against the peoples, Zibeche adds, not only because of what is at stake—the appropriation of communal resources and the expansion of capital—but also for the brutal ways in which death has been racially administered to those who resist these

³⁹ “Tal vez un buen comienzo sea continuar los pasos de los seguidores de Amaru y Katari. Reconstruir los cuerpos despedazados para reiniciar el camino, allí donde el combate fue interrumpido. Es un momento místico: mirar el horror de frente, trabajar el dolor y el miedo, avanzar tomados de las manos, para que los llantos no nos nublen el camino.” (Zibeche, 2014). The translation is mine.

appropriations, including the dismemberment of bodies and communities. He refers to Túpac Amaru in Cuzco (and in the different towns where his limbs were exhibited as a form of exemplary punishment and historical warning for what was about to come), the 3,600 miners on strike that were massacred in Santa María de Iquique, Chile, in 1907, and also the 498 mainly black young men killed by the police in Sao Paulo in May of 2006: “The massacre is the genealogy that differentiates our history from that of Europe,” Zibeche affirms. Even the current expressions of violence we are experiencing in the Americas cannot be simply deemed as the consequence of police brutality or drug cartels: We are in the face of “a model of domination that makes the massacre a way of terrifying the popular classes so they keep following the script written by those above, and which they call democracy.” If massacres have been the *normal* way of eliminating the rebellious ones and of disciplining the ones left behind, we cannot simply turn our eyes somewhere else just because our bodies are still complete, if not untouched by this violence. Those of us with the privilege of expressing ourselves freely, without being tortured, have a big responsibility on our shoulders, Zibeche warns us:

If we really want the world to change, and not to use the resistance of those below [*de los de abajo*] in order to climb up [*treparnos arriba*], as the *criollos* did in the republics, we cannot settle for simply putting some makeup over what is there. This is about taking *otros rumbos* [other directions]. (Zibeche, 2014)

These *otros rumbos* speak to the need of developing other ways of doing, where—quoting Subcomandante Marcos—“The means are the ends,” in the sense that “there are no ends beyond an ethic of doing good or good governance” (Zibeche 2012, 329). These other ways of doing, which Zibeche thinks are “more feminine than masculine, more subtle than confrontational” (2012: 170), refer to another form of sociality characterized by *horizontalism* and by a constant search to reestablish equilibrium. In academia, *otros rumbos* are related to the need of practicing a positioned, engaged, feminist, and decolonized kind of scholarship that is conscious of not reproducing the coloniality of power and its Eurocentric ways of knowing. From my perspective, these *otros rumbos* that Zibeche calls for, depart from deeply questioning the

unearned and self-assumed privilege of speaking for non-Western others. *Otros rumbos* require subverting this privilege even in the way we think of ourselves as collaborators in their struggle. Questioning this privilege involves our reflecting on the ways those of us who are writing about experiences of violence are unknowingly being complicit in the erasures, distortions, and representations that engender renewed colonial forms of violence and oppression against indigenous peoples.

Using Zibechi's proposal of a good start, this dissertation is my attempt to face the horrors of genocidal violence and its epistemic forms of annihilation by beginning to reconstruct, not the bodies, but the testimonies of those whose bodies were not dismembered in the Acteal massacre and who survived it. Nearly twenty years have passed since the massacre and the truth about this event remains unclear, while the perpetrators are still enjoying impunity. The several versions about the Acteal massacre that have emerged through the years have acted as a smoke screen that has silenced survivors' direct testimonies. The most well known versions of the Acteal massacre have paradoxically been authored by mestizx women and men who did not witness this event (and some of who have never been in Acteal or talked with one of the survivors). I trace the connections between these "privileged" versions of the massacre and those of Maya survivors. My aim is to analyze the roles that mestizx authors of these versions give to Maya survivors' testimonies in their accounts in order to reveal the racial politics of truth and representation around indigenous testimony. If survivors are the only living, direct witnesses of the Acteal massacre, how has it become possible to replace their testimonies with those of lawyers, historians, anthropologists, judges, or even "expert witnesses"? What do these erasures and replacements reveal about the racializing politics of indigeneity in Mexico, especially within the contexts in the judiciary and the academia where these new versions of the massacre have been produced?

To answer these questions, in Chapters 2, 3, and 4, I deconstruct five representative works on the Acteal case from different realms of knowledge production. In Chapter 2, I revisit the edited volume *La Otra Palabra: Mujeres y violencia en Chiapas, antes y después de Acteal* (1998) from the local Left/activist/feminist academia

and analyze its politics of representation. I also examine the official autopsies of those killed during the massacre, and compare them with other official documents that describe the forty-five cadavers, in order to trace the concealment of Acteal as a feminicide. Chapter 3 deals with the *Libro Blanco Sobre Acteal* (1998), an official report issued by the Office of the Attorney General (Procuraduría General de la República—PGR), directly dependent on the federal executive. I analyze the circulation, reappropriation and repetition of the *Libro Blanco*'s main narrative through the works of politicians, scholars, and journalists, like the Cardenista leader Manuel Anzaldo and his unpublished article “Historia Reciente de Chenalhó;” like scholars/politicians Alejandro Posadas and Hugo Eric Flores and their article “Acteal: la otra injusticia” (2006); and like the center-right historian, novelist, and journalist Héctor Aguilar Camín and his three-piece article, “Regreso a Acteal” (2008).

But before tracing these versions of the truth about the Acteal massacre, in the present chapter I will explore the roots of these versions and the role that testimony has played in them. For this purpose, I will first situate the paradoxes between testimony and truth in a theoretical discussion and explain the different types of testimonies that are the core of this dissertation. In order to show what was at stake in the establishment of the truth about Acteal, in a second moment I will provide a brief historical, political, and social context of the massacre and its antecedents, departing from the testimonies of survivors and perpetrators. With this analysis I will begin to explain how the survivors have tried *to speak* but have not succeeded in being heard. The question in the title of this chapter echoes Gayatri Chakravoty Spivak's famous article “Can the Subaltern Speak?” With it, Spivak was posing a rhetorical question, and as she has explained in a later work, “The point that I was trying to make was that if there was no valid institutional background for resistance, it could not be recognized” (Spivak 2010, 228). The point, as Spivak explains “was not to say that they [the subalterns] couldn't speak, but that, when someone did try to do something different, it could not be acknowledged because there was no institutional validation” (ibid.). The institutional validation she refers to is usually provided by the hegemonic truth regimes in each case. Spivak's logic regarding the

subaltern and her invisibilized speech applies to Acteal's survivors as indigenous peoples. In Mexico, as a racist settler-colonial state, indigenous peoples' testimonies lack institutional validation because the worlds that their languages convey, their epistemologies, forms of organization, customs, their forms of narrating events and asserting their truth are not recognized as valid ones.

Thinking of research as a form of ceremony (Wilson 2009), in the first part of this dissertation I will try to pull survivors' words out of the contexts where some authors/authorities have placed them, in order to honor the memory of those killed and the dignity of those who survived and who keep resisting oblivion. As a kind of *offering* [*ofrenda*] that could help us "move forward hand in hand, so that our weeping does not blur our vision of where we are going"—as Zibechi (2014) envisioned—I will analyze the distortions and erasures survivors' testimonies have faced. The project, as Kamala Visweswaran (2011) argues, is "not just expose the lie but to find other ways of telling the truth" (78). Guided by these "horizons of epistemic struggle," my goal is to reveal how the history of the massacre could be radically different if survivors' testimonies had been heard and taken seriously.

Acknowledging Embodied Truths

Following Foucault, there is no absolute truth and neither a supernatural one:

Truth is a thing of this world: it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power. Each society has its regime of truth, its "general politics" of truth. (Foucault 1984, 72–73)

The Acteal case is a paradigmatic example of how different regimes of truth can converge and collapse; it demonstrates how regimes of truth are historically contingent and remain in constant flux and negotiation. While I agree with Foucault that truth is a social construction and an expression of power, I reject a relativist stance that denies the possibility of articulating truthful assertions throughout different regimes of truth. There are certain questions that are undeniable in regard to the Acteal case: A massacre

occurred in a displacement camp in Acteal and forty-five unarmed indigenous people were killed, mostly women and children. Evidence exists to demonstrate that the perpetrators were affiliated with the PRI party and were members of one of the paramilitary groups that provoked mass forced displacements throughout Chenalhó in 1997. These *facts* are not relative and there are hundreds of bodies that can prove this. Relativistic notions of truth favor those who hold power. They obscure the workings of power by subordinating the credibility of subalterns' accounts to the parameters of a hegemonic regime of truth that doubts even its own premises. Arguing, "all truth is relative" is a well-known strategy for maintaining the *status quo*.

It is important not to confuse what can be called a situation of "truth pluralism" with one of truth relativism. Inspired in Las Abejas' form of asserting their truth, what I am arguing for is an understanding of truth that has the body and the senses as its ultimate parameters. Thinking of truth as *embodied* allows for the possibility of concurrent truths. This plurality implies leaving behind the binary true/false and accessing a plane where experienced and embodied circumstances—and not constructed facts external to the body—are the means to truth with all its nuances. This means that truth resides in our bodies and that, to access somebody else's truth, we have to be in the position of being able to affectively understand the circumstances of its existence. As the reader must sense, this idea is not new. Even when its written description might sound a bit strident, as humans we practice this understanding of truth every time we communicate with others to comprehend their perspectives and to see where are they coming from. We do this kind of "*corazonamiento*" [co-reasoning with the heart] (Méndez Torres et al. 2013) when we aim to coexist with other(s). Distinctions between true or false have divided communities, obstructing the possibility of dialogue and reconciliation, and Acteal is a clear example of this. Embodied truths offer a more nuanced access to reality and provide more threads for weaving understandings.

The coloniality of power (Quijano 2000; Lugones 2008; Mignolo 2011) has shaped our thinking in the form of polarities: innocent/guilty, victim/victimizer. It is a challenge to tell a story without recurring to the predetermined slots of the good and the

bad. It is extremely difficult to write about the widely handled [*manoseado*] case of Acteal without falling into these easy categories (and it will probably require several revisions of this dissertation to totally shift a dualistic perspective into a more nuanced one, attuned with the reality of the bodies involved in the case). Western epistemologies conceive truth as external to the subject; as originating from factual means and, usually, from a third deciding party—a judge, for example—or from an authoritative figure, instead of acknowledging that truth exists in an embodied way, within each person, and that truth can also exist outside the body through understanding dialogues or *corazonamientos*. *Corazonar*, as a form of feeling-thinking [*senti-pensar*] (Marcos 2013) is contained in the Maya method known as *tijwanej*, which according to Xóchitl Leyva (2002) means that “everyone has knowledge, not only the elders, and that is why everyone should express their thinking and their word” (403). In this sense, we have a lot to learn from Zapatistas’ and Las Abejas’ ability to subvert the parameters of truth and to reclaim truth back to their communities and to their bodies.

Far from trying to seek an absolute truth about the Acteal case and to contribute to the production of new versions about it, what I aim to do is to challenge power by “detaching the power of truth from the forms of hegemony, social, economic, and cultural, within which it operates at the present time” (Foucault 1984, 75) and to approximate the reader to silenced perspectives that come from the margins of the Acteal case. My goal is to offer alternative routes for exploring the Acteal case and to propose an informed and critical *way of seeing* this case through the historical perspective provided by a wide range of survivors’ testimonies, collected since 1997 to the present by non-governmental organizations and state institutions. I will demonstrate how the state’s official version of the Acteal massacre has been produced, first through the disfiguration of survivors’ testimonies, and then through their delegitimation. I will also show how the work of academic revisionist accounts of history have been key players in detracting legitimacy to survivors’ testimonies. By giving support to the state’s version, these revisionist accounts have fulfilled the role of *the “good” history*: to serve as “guardian[s] of the past for the state’s well-being” (Rabasa 2010, 15).

Revisiting the Massacre

For the last eighteen years, every 22nd day of each month the members of the pacifist Tzotzil Mayan organization *Las Abejas* [The Bees] have gathered in the auditorium they built over the tombs of their slain relatives in the community of Acteal, municipality of Chenalhó. Between songs and prayers, they publicly mourn the death of these people Las Abejas recognize as their “martyrs.” The 1997 massacre of forty-five of their unarmed relatives, all Abejas, shocked the nation and world. In recent years, the Acteal massacre has returned to public attention and has generated a national debate over the question of who is responsible for the events of that day. Las Abejas contend that they were the target of a paramilitary group, also of Tzotzil origin, as part of then-President Ernesto Zedillo’s counterinsurgency strategy against the insurgent Zapatista National Liberation Army (EZLN) and its sympathizers (including Las Abejas). Despite Las Abejas’ testimonies, no state agent beyond the municipal level has been held responsible for the massacre. With the support of the Fray Bartolomé de las Casas Human Rights Center (or “Frayba,” as it is popularly known), Las Abejas pushed for accountability through the state’s legal system, resulting in the 1998 arrest and conviction of eighty-seven accused paramilitaries. Nonetheless, the unconstitutional conditions under which state agents made these arrests paved the way for this case’s trajectory of impunity through the coming years.

In several rulings between 2009 and 2014, and after those accused in the case had spent more than ten years of imprisonment, the Supreme Court overturned the convictions of almost all of these individuals, arguing that there had been violations to due process. The Supreme Court invalidated the evidence against these people, including testimonies by survivors who identified several of the murderers. As a result, some of the murderers have returned to their communities of origin, including Acteal, and have terrorized Las Abejas in revenge for having testified against them. Many of the perpetrators were neighbors or even relatives of Las Abejas members. When judicial officers interrogated survivors in the days after the massacre, the latter identified many of

the perpetrators because they knew them well. These testimonies led those people who were identified to end up in prison; however, there were several others who were not identified by the survivors and who were also convicted.

The lack of evidence against some of those who were imprisoned for the massacre was one of the reasons why the Supreme Court decided to overturn the convictions of most. In Mexico, it is not uncommon that public prosecutors charge innocent people with unresolved crimes. With the international human rights observers' eyes posed on the Mexican government and in order to appease the turmoil that the massacre unleashed, it was critical for the Office of the Public Prosecutor (PGR) to act promptly and instill confidence in its effectiveness. Some members of Las Abejas admit the possibility that the PGR might have used several of the eighty-seven people imprisoned as scapegoats as a way of dealing with the acute national and international pressures to find the murderers. However, Las Abejas still insist in the culpability of those whom they identified during the judicial proceedings. Las Abejas argue that these people, who are now free and still operating in impunity, are just some of those who participated in the massacre. The lack of an exhaustive and professional investigation of the massacre has left many of the murderers, as well as the intellectual authors of the massacre, unprosecuted.

The presence of paramilitary ex-prisoners in Acteal is making Las Abejas relive the traumas of the past and fear that the events of 1997 could take place again at any given moment. Since these paramilitaries returned to Acteal, they have provoked new forced displacements of Las Abejas members, including seventeen families from Ejido Puebla in 2013 and in 2016. At the same time, most national legal avenues available to address injustices surrounding the massacre have been closed. Driven by a sense of complete distrust in state institutions, Las Abejas members have denied the legitimacy of the state and have decided to stay clear of any development or state's assistentialist program, which means not accepting scholarships, construction materials, or any kind of monetary support offered by the government. Las Abejas are instead directing their efforts towards building *La Otra Justicia* [The Other Justice] as a new kind of autonomous justice constructed from below. As I will discuss in Chapter 5, refuting some

of the top-down versions of the massacre and strengthening Las Abejas' oral memory are key elements of *La Otra Justicia*.

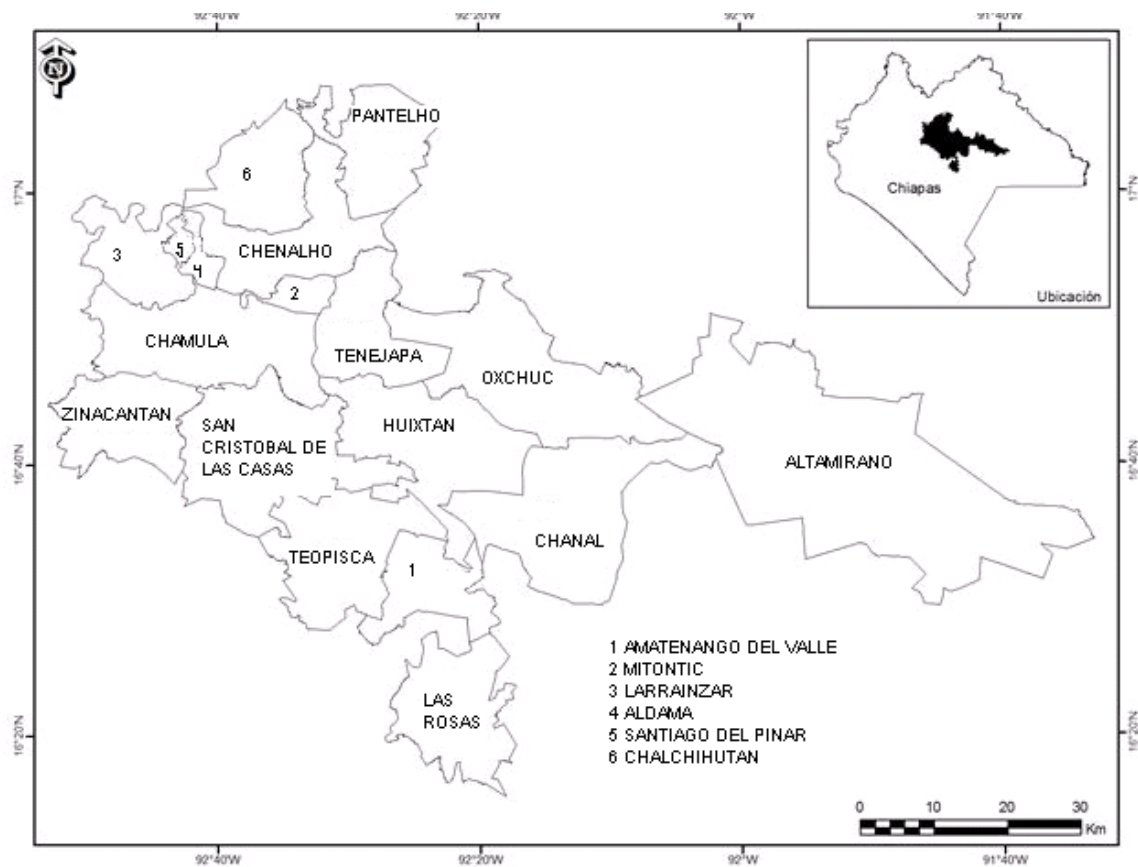


Figure 2. Map of the Region of Los Altos, Chiapas. Laboratorio de Análisis de Información Geográfica y Estadística (LAIGE), Colegio de la Frontera Sur (ECOSUR).

Testimony, the Politics of Representation, and Objectivity

Testimonies that give accounts of violence constitute efforts to reclaim the subjective truth that was robbed from the witnesses and erased from the official narrations of historic events. In the process of giving testimony, individuals and communities recreate themselves by developing different ways of revisiting and fashioning the past (Caruth 1996, Eng and Kazanjian 2003, Fassin 2009). As Das and

Kleinman (2000) have explained, these new understandings of the past are fundamental strategies for dealing with the violence of memories in the present.

The act of collecting testimonies adds another layer of mediation between the past and its accounts. Those who collect testimonies (lawyers, human rights advocates, public prosecutors, journalists, anthropologists) usually adapt them for their target audiences, which are distant from the realities from which these testimonies originate. The collector performs the task of an editor. Some passages of a testimony are emphasized, while others are left out of the final product. Even a simple transcription of a testimony is mediated by the transcriber's understanding of what she is listening to. Things get even more complicated when the testimony is delivered in an indigenous language and is simultaneously translated to Spanish, as it has been the case of many of the testimonies involving the Acteal massacre.

Analyses of testimonial literature have largely discussed the issue of mediation and authority. Testimonial literature emerged in Latin America as a consequence of the global reordering of power in the 1960s, which also impacted the conventional distinction between subject and object in the sciences and in literature. Ethnography's traditional subjects-objects-of-inquiry began asserting their *subjecthood* by "writing back" as a form of reclaiming their voices, and through them, their power to speak for themselves (Gugelberger 1996). Because of its intrinsic revolutionary character, George Yúdice has defined testimonial literature as

[A]n authentic narrative, told by a witness who is moved to narrate by the urgency of a situation (e.g., war, oppression, revolution, etc.). Emphasizing popular oral discourse, the witness portrays his or her own experience as an agent (rather than a representative) of a collective memory and identity. Truth is summoned in the cause of denouncing a present situation of exploitation and oppression or exorcising and setting aright official history. (Yúdice 1996, 44)

This is one of the most cited and probably criticized definitions of *testimonio*. Giving *testimonio* the character of "*authentic*" seemed to immediately place the truth on the side of an essentialized witness and to make her/his accounts unquestionable. Most scholars agree that *testimonio* is mainly characterized by being "produced by subaltern

peoples on the periphery or the margin of the colonial situation . . . as an attempt to correct the Western canon and its versions of ‘truth’” (Gugelberger and Kearney 1991, 4). However, through the large debate around the definition of *testimonio*, as Gugelberger (1996) notes, mainly Western scholars have attempted to institutionalize the defining characteristics of this genre. Through these attempts, we have learned more about the politics of academia, postcolonialism, and postmodernism, and about Latin American studies. I would add that we have also learned about epistemic imperialism and the practices of *internal colonialism* (González Casanova 1969) in Latin American countries. Yúdice (1992) recognizes that *testimonio* is a notion that refers to several kinds of discourse: “from oral and popular history (people’s history) that tries to give voice to those ‘voiceless’ to the literary texts like testimonio-novels . . . the chronicles of conquest and colonization, [and] the accounts linked to social and military struggles” (211).

The declarations (testimonies) that the survivors’ rendered to the state authorities and to human rights organizations are not *testimonios*, strictly speaking, but share several of *testimonios*’ characteristics. Therefore, I think that testimonial literature’s discussion on the politics of representation offers a good starting point for analyzing the *exappropriation* (Derrida 1995) of survivors’ testimonies. As I will explain in Chapter 2, *exappropriation* could be explained as the expropriation of the proper that takes place when one aims to appropriate what is inappropriable. In Derrida’s words, *exappropriation* “implies the irreducibility of the relation to the other” (1995, 270); the impossibility of appropriating the other and the other’s suffering. Testimonial literature has shown the possibility of a different kind of relationship between the editor and the testifier or witness, one that is not free of contradictions. Most examples of testimonial literature tend to downplay and conceal the role of the editor (commonly not a subaltern) in the production of *testimonios*. While one of the merits of this literature has been to “erode[s] the centrality of the author and also thereby the standard assumptions about the ‘authority’ of texts” (Gugelberger and Kearney 1991, 10), this has also implied that the relationship between editor and witness has remained ambiguous. When the editor—commonly an anthropologist—puts the *testimonio* in a written form, s/he is usually

deemed as an author. But authorship, in terms of ownership of the words, ideas, and experiences, corresponds to the witness. In this sense, Gugelberger and Kearny (1991, 10) suggest that the role of the editor is one of a midwife: to help witnesses deliver their truth in a written text. But when the “midwife” is in reality an editor or a collaborator who does not share the nationality, culture, gender identity, or language of the witness, we are unable to distinguish what exactly the editor or collaborator adds to the witness’s *testimonio*—unless the editor/collaborator and the witness express it thusly.⁴⁰

The historian José Rabasa, while revisiting the Acteal case and analyzing several documentaries about it, notes that “all forms of collecting testimony, are by definition forms of engaged dissemination of truth” (2010, 234) and, therefore, should not be evaluated under positivistic understandings of objectivity. For these reasons, Rabasa argues that the analyses of testimonies require a “redefinition of the epistemological terms that would no longer call forth factuality as the ultimate criterion” (236). While Rabasa does not explicitly make the connection, the “redefinition of epistemological terms” he is calling for seems to be related to the idea of a *positioned objectivity*. Inspired in Donna Haraway’s argument for *situated knowledges* (1988) calling for more accountable, grounded and insightful knowledges, anthropologist Charles R. Hale (2001; 2008) argues that activist scholarship does not need to renounce the hegemonic positivist concept of objectivity, but rather redefine it. Utilizing Gideon Sjoberg’s idea that “a greater objectivity could be achieved by a deepened awareness of the ethical-political context of research” (Hale 2008, 11) and Max Weber’s definition of objective social science as one that is culturally and historically particular, Hale proposes that a *positioned objectivity* is a better standard for knowledge production that provides more nuanced, deeper, and multifaceted understanding of the topics researched (2008, 20).

In his treatise, *The Idea of Justice*, the economist and philosopher Amartya Sen (2009) argues for a *positional objectivity*, very different from a *positioned objectivity*. Sen defines the former as a “person-invariant but position-relative” (157) kind of objectivity.

⁴⁰ In Chapter 2, I will provide an example of this approach through the opening “literary essay” of *La Otra Palabra* (Hernández Castillo 1998).

According to Sen, the place a person occupies when observing determines the outcome of the observation. That means that if a second person occupied the same observing position as another person, the observation should be the same. In Sen's perspective, the possibility of replicability is what makes *positional objectivity* objective. For Hale, on the other hand, it is the critical, explicit consideration of the researcher's subjectivity that makes *positioned objectivity* a better standard of objectivity. The geographical place where the researcher stands is not what defines the researcher's perspective. *Positioned objectivity* requires an awareness of how intersectionality (Collins 1991; Crenshaw 1991) shapes one's way of seeing. This auto-reflexivity implies having to analyze "not just where you stand, but where you come from; not just how you think about yourself, but how you are viewed and positioned in the social context of your work" (Hale 2008; S. Martínez 2008).

If recollections of testimonies are "forms of engaged dissemination of truth," as Rabasa suggests, then the figure of the prosecutor, as a collector of witnesses' affidavits or testimonies, is not subtracted from the truth battlefield, even when the prosecutor describes himself as "objective" in his reports. When analyzing the role of the prosecutor while s/he collects survivors' testimonies, it becomes obvious that objectivity, in a positivistic sense, is not the name of the game. The prosecutor, as a subordinate of the executive branch, has entrenched loyalties with the political party that has the upper hand on the truth battlefield. In fact, from the moment when the battle for truth takes place in the courts, truth becomes immediately subjected to the parameters of the state as a truth regime.

The idea of recollections of testimonies as "forms of engaged dissemination of truth" (Rabasa 2010, 234) has been used as an argument by those who think that survivors' testimonies should not be the main source for the reconstruction of traumatic events because of their "subjective nature," their lack of an "objective distance" to the events, and because the possibility that post-traumatic stress distorts survivors' appreciation of reality. However, thinking of recollections of testimonies as "forms of engaged dissemination of truth" could also serve those who argue for culturally situated

understandings of truth (myself included). In this sense, trauma, cultural misunderstandings, language differences, and the experience of racism can be analyzed as elements of the positioned objectivity of survivors' testimonies instead of being considered as obstacles for knowing the truth and as good-enough reasons to discredit these testimonies. As Das and Kleinman (2000) have affirmed, "the question of memory and representation is not only a question of the authenticity of memories, [...] but the struggle to author one's stories in relation to representations that seek to impose a different kind of truth on them" (13). From this point of view, testimonies are not only forms of positioned objectivity, but could also be analyzed as strategies of epistemic resistance that carry within the potential for new understandings of truth and justice.

Testimonies as a Point of Departure

As an initial agenda for decolonizing the records of the Acteal case, we have to go back to survivors' testimonies as the basis on which the Acteal massacre's top-down narrations should have been based. But what exactly am I talking about when I refer to survivors' testimonies? Survivors' testimonies exist in different formats, times, spaces, and dimensions. In relation to the Acteal case, I identify ten different kinds of survivors' testimonies: 1) The oral testimonies collected immediately after the massacre by Frayba; 2) those collected by the public prosecutors; 3) the translated and transcribed versions of the testimonies collected by Frayba; 4) the translated and transcribed versions of those collected by the prosecutors; 5) the oral testimonies rendered several years after the massacre during the judicial proceedings; 6) their translated and transcribed version; 7) the oral testimonies that survivors have given throughout the years, especially in their monthly commemoration ceremonies, press conferences, and other public events; 8) survivors' *embodied* testimonies; 9) the oral testimonies collected in 2014 for the *expert*

testimony (what an irony!) on the massacre's psychosocial impacts;⁴¹ and 10) the translated and written version of these testimonies.⁴²

Survivors of the massacre have heavily relied on orality to communicate the criminal events they witnessed, even knowing that the horrors they experienced cannot be adequately conveyed through words. The oral testimonies they gave to the prosecutors and to Frayba immediately after the massacre had an ephemeral quality. Survivors' words and meanings were changed in the process of being subdued to a written form. When these testimonies were delivered in Tzotzil, the prosecutors and Frayba mostly relied on other members of Las Abejas who were bilingual in order to simultaneously translate and interpret the testimonies into Spanish. The public prosecutor also changed these immediate testimonies to make them fit into Western notions of time and into the legal formalities that regulate judicial declarations (I will explain this in detail in Chapter 3). There are no audio recordings that document these testimonies while survivors gave them before the public prosecutor or during the judicial proceedings. If Frayba or other human

⁴¹ Expert testimonies or expert opinions (*peritajes* in Spanish) are forms of evidence used during legal proceedings when a controversy deals with specific issues that a judge is not obliged to know. Some common types of expert testimonies are those in handwriting (to determine the authenticity of a signature, for example), in ballistics, and in forensic medicine. In order to provide the judge all the elements needed to issue a ruling, any of the parties in a trial or/and the judge can hire an expert to conduct a study aimed to answer specific questions. In order to demonstrate to the Inter-American Commission on Human Rights (IACHR) the psychosocial effects of the Acteal massacre and its collective impact, Frayba asked Carlos Martín Beristain to conduct a study on these matters in 2014. I had the chance to collaborate in the preparation of the expert testimony, which was presented to the IACHR on October 2015 and published in 2016. Beristain is a well-known medical doctor and Ph.D. in social psychology from Bilbao. He is Professor at the Universidad de Deusto, Basque Country, and has been advisor and participant of truth commissions in Paraguay, Ecuador, Colombia, and Perú. Beristain coordinated the report *Guatemala: Nunca Más* (REMHI 1998) and has prepared several expert testimonies in cases of massacres and genocides around the world that have been key to advance the victims' legal struggles. He also participated in the Interdisciplinary Group of Independent Experts (GIEI, by its initials in Spanish), created through an agreement between the IACHR, the Mexican State, and representatives of the disappeared students in Ayotzinapa. The irony I refer to is that mestizo courts do not consider survivors' testimonies as sufficient evidence of the massacre's impact. An expert (in this case, male and foreigner) has to be called to validate their truths and suffering, a paradox that I will discuss on Chapter 2.

⁴² Some of these testimonies were given in Spanish when the witnesses were bilingual and felt comfortable communicating in this language.

rights advocates recorded the testimonies they collected during the days after the massacre, those recordings are certainly not available to the public. Therefore, the immediate, untranslated versions of these testimonies are practically lost.

Throughout the years, the survivors and other members of Las Abejas have reiterated their initial oral testimonies during the public events they monthly hold in Acteal in commemoration of those killed during the massacre. Survivors' bodies have given materiality to the immaterial quality of their oral narrations. Especially in recent years, after the Supreme Court silenced survivors' mediated/translated/written judicial testimonies via legal invalidation, the survivors have recurred to their own bodies to demonstrate the truthfulness of their versions. These *embodied testimonies* are sometimes more eloquent than the thickest of the descriptions of massacre. The impossibility of walking or speaking, the lost limbs, and the scars in survivors' flesh and memories give testimony to the continued effects of the massacre. The volatility of affects that talking about the massacre raises among survivors also reveals the persistence of its psychological impacts. Distrust, terror, and a feeling of internalized oppression—of knowing that their words and bodies do not matter to the state and to most part of the mestizo population—are just some of the imprints left by the state's constant erasure of survivors' testimonies.

Survivors and defendants are not the only ones who have given testimony of the massacre. Those who were killed also told the story through their bodies. Another way to access the truth of what happened during the massacre are the autopsies practiced to the corpses. In the legal files of the massacre there are three different descriptions of the injuries:

- A. The *Fe ministerial del lugar de los hechos, de cadáver, descripción y levantamiento de los mismos* (a document written by the public prosecutor in which he describes the crime scene and the corpses, as well as the process of picking up the corpses to take them to the forensic scientists who will perform the autopsies) done by Horacio Martínez de los Reyes, public prosecutor, in Acteal, on December 23, 1997 between 3:30 a.m. and 6 a.m.

- B. The forty-five *Necropsias de Ley* [autopsies ordered by the law], practiced also on December 23, 1997, in Tuxtla Gutiérrez by several forensic scientists,⁴³ including Dr. Norma Guerrero Tzongua (who also went to the crime scene).
- C. The forty-five *Actas de Defunción* [death certificates].

Autopsies are a paradigmatic example of what Western science considers as factual evidence. In the following chapter I will explain how the corpses' descriptions vary in each of these official documents, and will demonstrate how these constructed facts fail us as reliable sources of truth.

Chenalhó's Complex Political Spectrum

As Begoña Aretxaga (2000) argues, violence tends to disrupt systems of interpretation leading to a proliferation of discourses. In the Acteal case, the state's official story about who perpetrated the Acteal massacre and why it occurred remains deeply contested. By the end of 1997, a wide scope of national and transnational organizations endorsed Las Abejas' account that the state-armed, state-trained, and state-protected paramilitary forces, whose members were local supporters of the *Partido Revolucionario Institucional* (PRI)—the so-called “official party”—and who were the perpetrators of the massacre. Las Abejas argued that, through paramilitary counterinsurgency, the state aimed to create deadly fragmentations in communities sympathizing with Zapatismo and to exemplify the punishment that would be brought on to those peoples who were organized and who refused to succumb to the *caciquil* interests of the dominant political party.

Several months before the massacre, Las Abejas (also known as Las Abejas Civil Society)⁴⁴ began to denounce the increasing threats against the lives of its members for

⁴³ Forensic scientists: Fausto Madariaga Pérez, Jorge Selvas Velasco, Febronio López Tovilla, Oscar Malpica Ramos, Jorge Cerón Orozco, José Luis Díaz Selvas, and José Armando Cuadapi Trejo.

⁴⁴ “Sociedad Civil” [Civil Society] was a popular term on the radio during that time. It was used to refer to the organized actions of the population in the exercise of their rights and in the

not wanting to “cooperate” with the paramilitaries. Since the beginning of 1997, more than 325 of them had been subsisting in a refugee camp in the hamlet of Acteal as a consequence of the low-intensity war in Chiapas and the operation of paramilitary groups terrorizing supporters of Zapatismo (CDHFBC 1998; Womack 1999). These refugees came from neighboring communities within the municipality of Chenalhó and were fleeing from Priístas’ (PRI affiliates)⁴⁵ constant threats and attacks, such as the burning of their homes and crops, plundering, kidnappings and even assassinations.

Priístas attempted to force politically undefined families in their communities to abandon their “neutral” position in the face of Zapatismo. Zapatismo represented an expanding threat to Priístas’ economic interests and entrenched political power. In addition, Zapatistas were armed and, while state representatives were negotiating with Zapatistas over the San Andrés Accords, the government was not in a position to plan an army attack on Zapatistas. The government opted instead to clandestinely arm PRI supporters within indigenous communities (Aubry and Inda 2003; Pérez Ruiz 2005). This episode is known as “Zedillo’s treason”: negotiating with the one hand and arming and training paramilitaries with the other.

Most communities in Chenalhó are religious and politically heterogeneous. The majority of the population is Maya Tzotzil with a minority of Maya Tzeltales and a smaller number of mestizxs who live in San Pedro Chenalhó, the center of the municipality. Even though Catholicism is the main religion in Chiapas, in comparison with the rest of the country, Chiapas has the lowest percentage of Catholic population, 62%,⁴⁶ with an annual growth rate of 1.4% during the last decade, contrasting with a

assertion of their citizenship. Las Abejas, like several other indigenous organizations in Chiapas, decided to adopt this term, almost as an equivalent of “social movement.”

⁴⁵ As explained in the introduction, Priístas are the supporters of the *Partido Revolucionario Institucional*—PRI (Institutional Revolutionary Party), commonly known as the “official party.” See footnote no. 5.

⁴⁶ It is also important to consider that the census does not contemplate the religious grouping of the traditionalist Catholics or “*costumbristas*.” As Juan Pedro Viqueira (2002) explains, this grouping continued to practice ceremonies and rituals created in the 19th century, when the presence of the Catholic Church was weak (233). Many of them probably identified themselves

3.9% growth rate of the population professing non-Catholic religions. The Presbyterian Church has made a strong incursion into the Highlands of Chiapas since the 1950s, expanding to such an extent that Chenalhó has become the municipality with the smallest percentage of Catholics in Chiapas (16.8%).

The proliferation of Protestantism in Chiapas has been partly the product of the post-revolutionary government's policies of *indigenismo* aimed at assimilating indigenous peoples into the national mestizo identity. Beginning in the 1940s, state actors invited to Chiapas protestant missionaries associated with the Summer Linguistic Institute in order to contribute to the logics of *indigenismo* by acculturating indigenous peoples. As Neil Harvey (2002) explains, this acculturation meant undermining the *costumbre*, that cosmivision that emerged during colonial times alongside popular Spanish Catholicism. This also meant propagating individualistic ideologies (as opposed to the *costumbre*) and the conversion, not only to a new religion, but also to new crops (Harvey 2002, 471). With the emergence and propagation of liberation theology in the highlands of Chiapas, government's support of Protestantism increased as a way of neutralizing the imminent risks that indigenous liberation could mean for the local power arrangements.

Liberation theology, propelled by Don Samuel Ruiz, the San Cristóbal Diocese's bishop at the time, attempted to face this situation. Ruiz's philosophy bridged classic principles of liberation theology, such as the "preferential option for the poor," with a Marxist class analysis, dependency theory, and a "critical reevaluation of cultures," meant to find liberating knowledge in indigenous cultures (Stephen 2002). Ruiz was appointed bishop in 1960. He took the gospel to the furthest communities in the highlands, supporting the ordination of dozens of indigenous deacons and the formation of hundreds of indigenous catechists. These new actors in the structure of the Catholic Church had the ability to organize their communities around the beliefs and ideals of an indigenous theology, which preached the word of God [*la Palabra de Dios*] in indigenous languages and adapted it to the beliefs, traditions, and historical processes of indigenous

as Catholics. Therefore, the number of Catholics is smaller than that indicated in the census. Vid. INEGI (2005).

communities. Catechists and deacons brought families and neighbors together with the aim of analyzing and discussing the communities' most pressing issues under the light of the Bible's teachings. The method of the *nopteswanej* ("to make another understand") as a teacher-centered method, was replaced with *tijwanej* which means "to bring out what's in another's heart" (Harvey 1998, 73). According to Harvey,

Communities began to reflect in a more systematic fashion on the low wages paid on plantations, the lack of security in their land titles, the corruption of government agencies, and the abuses of merchants and landowners. This method also helped revive indigenous practices of decision-making. Reflection and discussion continued until an agreement was made that would be binding to the whole community. These *acuerdos* were therefore the result of dialogue rather than preestablished doctrines and were interpreted by the diocese as theological statements, not simply as a list of complaints or demands. (Harvey 1988, 73)

Catechists shared these *acuerdos* with Don Samuel and other members of the Diocese, and in the exchange, the priests signaled those passages of the Bible that resembled the problems occurring in the communities, orienting and refining catechists' political interpretations and religious perspectives. These gatherings, both at the community level and at the San Cristóbal Diocese, fostered important processes of consciousness and the development of an acute sense of social injustice among its participants, significantly contributing to the emergence of indigenous movements and civil organizations, such as the Zapatistas and Las Abejas (Kovic 2003). As Harvey asserts: "the effect was to create a network of community leaders who went beyond religious activity to inspire new forms of political and economic organization that would eventually be absorbed by the EZLN" (Harvey 1998, 74).

The emergence of Zapatismo in Chiapas widened even further indigenous communities' political spectrum. After the Zapatista National Liberation Army (EZLN) uprising against the Mexican State in 1994, the municipality of Chenalhó underwent a geopolitical reconfiguration. By 1996, local supporters of the EZLN had proclaimed a Zapatista Autonomous Municipality within the confines of the constitutional municipality of Chenalhó, which was officially governed by the PRI political party.

Named “San Pedro Polhó,” the new Autonomous Municipality was located ten kilometers away from San Pedro Chenalhó, the constitutional municipality center, and just five kilometers away from Acteal (See Fig. 3). Polhó and Acteal are both situated on the side of the highway that connects San Pedro Chenalhó with the center of Pantelhó, the neighboring municipality. Interestingly enough, both municipality centers (San Pedro Chenalhó and Pantelhó) are bastions of PRI supporters, as well as of supporters of the Cardenista Front for National Reconstruction (Frente Cardenista de Reconstrucción Nacional—FCRN). The FCRN was a political party that succeeded the Socialist Workers’ Party—PTS—and which lost its national registry in 1997, but whose supporters maintained entrenched loyalties with members of the PRI. Meanwhile, the Autonomous Municipality of Polhó was the Zapatistas’ stronghold in Chenalhó. Acteal, a hamlet close to Polhó (between Polhó and Pantelhó), housed four different political groups: 1) Zapatistas, in Acteal Bajo; 2) members of organizations that were usually called “civil society” (such as Las Abejas), in Acteal Centro; 3) sympathizers of the PRD (left-wing party), also in Acteal Centro; and 4) some members of the PRI (right-wing dominant party), in Acteal Alto (Tavanti 2003, 15). Back then, before Las Abejas developed a strong position against political parties, there was some overlap among groups 2 and 3: There were members of Las Abejas who identified as PRD sympathizers.

The testimonies rendered to the prosecutor during the judicial proceedings of the Acteal case constitute privileged sources that document the political imaginaries among the members of the different political/religious factions existing by the time of the massacre. In these testimonies, *Priístas* were commonly described as devotees of evangelism, while Las Abejas and Zapatistas, because of their formation within liberation theology, were broadly identified as Catholics. Consider, for example, the following explanation of religious adscription of a member of Las Abejas while rendering his testimony before the prosecutor: “The people who belong to the PRI are evangelists, and we, who are Catholics, are from the Sociedad Civil Las Abejas.”⁴⁷

⁴⁷ Testimony of Fernando Uyalte Luna*, of Acteal. Criminal Case 224/97, Volume I, p. 102 (derived from Averiguación Previa 596/II/97).

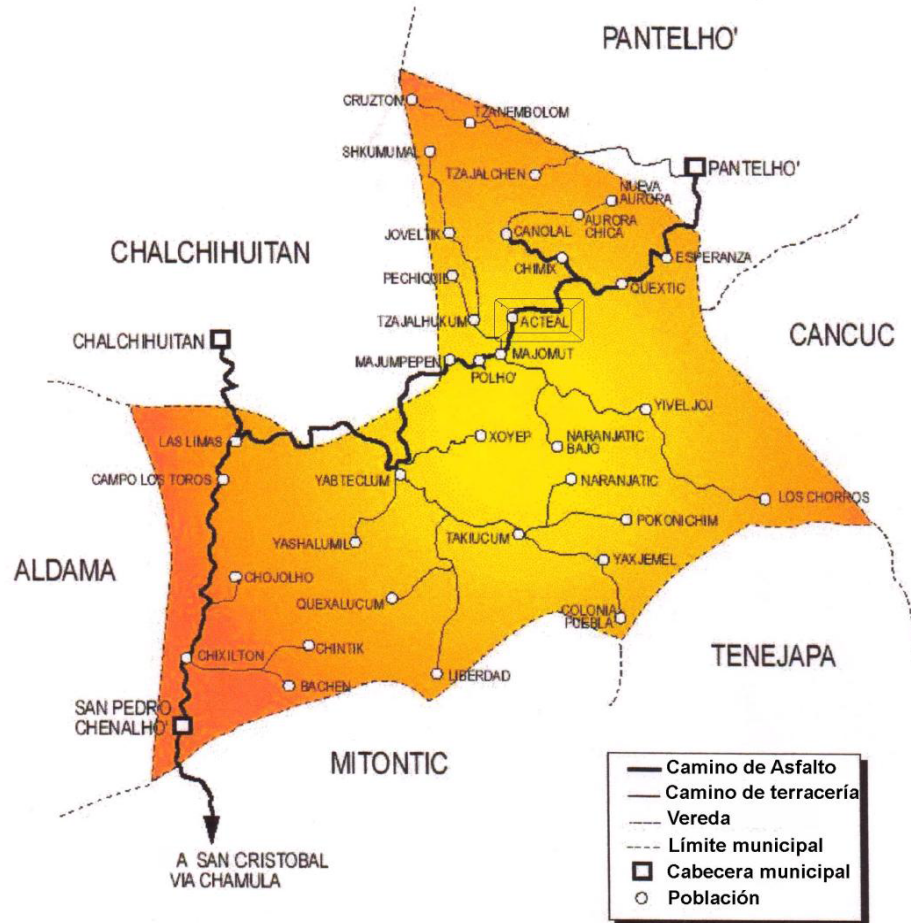


Figure 3. Map of the Municipality of Chenalhó, Chiapas. Prepared by Marco Tavanti with data from the National Institute of Statistics, Geography and Informatics (INEGI).

During the judicial proceedings, survivors, members of Las Abejas, declared that they could identify *Priistas* through several strategies: “Those affiliated with the PRI dress in the same way as those from Public Security [police]: in blue. They also mark

their houses with the PRI logo,” Eulalio Ruiz explained.⁴⁸ Camila Pérez also clarified to the prosecutor that Las Abejas is a *perredista*⁴⁹ organization and that “those who have an IFE credential [voter registration card] are *Priístas*; those who don’t, are not.”⁵⁰ IFE is the acronym for the Federal Electoral Institute, the authority that issues the credential required to vote in state-organized elections. Since Zapatistas had urged its support bases and sympathizers not to participate in state elections, holding an IFE credential was a clear marker of who was with the government and who was against it.

In his testimony, Eulalio Ruiz Pérez expressed that “he knows that the responsible ones [for the Acteal massacre] are from the PRI because they had invited him to belong to this party.”⁵¹ In this testimony, Ruiz was explaining that he knew that the perpetrators were *Priístas* because he met them before, when they invited him to join the PRI. Through those “invitations,” backed with the coercive power of the arms, *Priístas* were trying to draw the line between allies and enemies. If the “invitees” rejected the option of joining the PRI, *Priístas* interpreted this as a sign that those people were supporters of Zapatismo and therefore took violent actions against them. These “invitations” to join the PRI also involved collecting “fees” (an euphemism for “war taxes”) from the “invitees” to buy arms and bullets. Many *Priístas* did not want to contribute to this aim or simply did not have the means to do it. The belligerent paramilitary *Priístas* treated them as enemies. As I will illustrate later with a couple of testimonies, completing the monetary transaction was understood as the ultimate confirmation of a family’s political adscription to the PRI. Ironically, those who paid “fees” for buying arms and bullets were exchanging money for their right to live, so those arms and bullets were not used against them.

⁴⁸ Testimony of Eulalio Ruiz Pérez*, 18 years old, of Quextic. Criminal Case 224/97, Volume I, p. 147b (derived from Averiguación Previa 596/II/97).

⁴⁹ Supporter of the PRD party (Partido de la Revolución Democrática).

⁵⁰ Testimony of Camila Pérez*, *Ibid.*, p. 165.

⁵¹ Eulalio Ruiz Pérez*, Criminal Case 224/97, Volume I, p. 101 (derived from Averiguación Previa 596/II/97).

During the judicial proceedings, those who were being investigated for their probable criminal responsibility in the massacre provided different explanations about the configuration of the local political spectrum. One of those investigated explained to the prosecutor his political adscription in the following terms: “*Que él no sabe qué es ser zapatista y que él, por el contrario, es partidario del PRI y que lo hace porque así es la costumbre*” [“That he doesn’t know what it is to be a Zapatista and that he, on the contrary, is supporter of the PRI and that he does so because that is the custom.”]⁵²

Communities’ religious and political plurality gave rise to a complex political imaginary at the ground level that has escaped most historical, anthropological, and governmental representations. In an attempt to discipline this reality into distinct manageable categories, most authors/authorities see Chenalhó’s political field as a polarized one, in which Zapatistas and Priístas appear as the main protagonists. Even when this oversimplification facilitates the understanding of local political alignments, it also glosses over the complexity, leading to false interpretations of the facts. As I will demonstrate, this oversimplification was one of the main problems in the judiciary’s analysis of the Acteal case.

Through several declarations or testimonies given to the prosecutors after the massacre, it has been possible to reconstruct the support that Jacinto Arias Cruz—then mayor of Chenalhó for the PRI party—gave to Priísta paramilitary leaders in various communities within the municipality. Consider the testimony of Daniel Pérez Arias*, a 25-year-old member of Las Abejas from the hamlet of Chimix:

Sabe que las armas que tienen las personas antes enunciadas [los paramilitares], las adquieren por medio del *presidente municipal de Chenalhó y se llama Jacinto Arias Cruz, éste se las envía por medio de camiones que llevan alimento para los niños, y que en los camiones esconden las armas*, repartiéndolas posteriormente a todas las comunidades priístas y que sabe y le consta lo anteriormente dicho, porque él ha visto cómo esconden las armas, siendo éstas: UZI, cuernos de chivo, pistolas calibre .45, calibre .38, rifles M-1, y que sabe que cuando llegan los soldados a revisar a las comunidades, esconden las armas, y que sólo las sacan

⁵² Testimony of Vicente López Jiménez*, of Natividad, Criminal Case 224/97, Volume I, p. 492 (derived from Averiguación Previa 596/II/97).

cuando van a agredir a otras comunidades, normalmente *el armamento lo esconden enterrándolo en el campo* y que también es su deseo manifestar que una vez que los soldados se retiran de las comunidades antes enunciadas, los dirigentes de las comunidades, sacan las armas, para posteriormente robar a las comunidades aledañas, robando café, aparatos eléctricos, zapatos o diversos objetos, dinero, y posteriormente queman las casas, siendo [é]stas de personas que son perredistas o no son simpatizantes del PRI.⁵³

[He knows that the arms that the aforementioned people [the paramilitaries] have, are acquired through *the municipal president of Chenalhó, whose name is Jacinto Arias Cruz, he is the one who sends the arms to these people through trucks that carry food for children*, and that the arms are hidden in these trucks, and then distributed to all the Priísta communities, and he knows what he is talking about because he has seen how the arms have been hidden. These arms are: Uzis, *cuernos de chivo* [AK-47], .45 caliber pistols, .38 caliber ones, M-1 rifles, and that he knows that when the soldiers arrive in the communities to do inspections, Priístas hide the arms, and they only take them out when they are going to attack other communities; usually *they hide the arms by burying them in the fields*, and that he also wants to say that once that the soldiers leave the mentioned communities, the leaders of those communities take out the arms to rob the neighboring communities, stealing coffee, appliances, shoes and other objects and money, and that afterwards, they burn the houses, as these belong to PRD members or people who do not sympathize with the PRI.]

The first-person perspective in Daniel Pérez's testimony is not the only aspect that was erased during its transcription. As I will discuss in Chapter 3, the prosecutor transcribes witnesses' testimonies in the third person and erases his questions from the witness affidavit [*Acta de Declaración de Testigo*]. During every rendition of a testimony, the prosecutor guides witnesses' accounts through questions. While the third person gives a sense of distance and objectivity, the erasure of prosecutor's questions provides the perception that the testimony has a free narrative and allows the prosecutor to erase him/herself from the legal records. For this reason, it is important to analyze survivors' testimonies under the light of the prosecutor's aims and lines of inquiry during the investigation. The indigenous survivor, under the judicial truth regime, is only allowed to speak in response to authorities' questions.

⁵³ Testimony of Daniel Pérez Arias*. December 25, 1997. Criminal Case 224/97. Italics mine.

Other survivors' testimonies give accounts of how local Priísta authorities asked the hamlet's population for obligatory contributions for buying arms. The ones who did not want to contribute were humiliated, beaten, and illegally arrested until they "changed their minds." Not wanting to contribute with these "fines" [*multas*] was interpreted as a way of supporting the adversary:

Entonces los que llegaron a Chimix [miembros de Las Abejas] también ahí dieron multa otra vez de \$5,500 pesos cada uno. Son seis personas que fueron a sacar sus compañeros [de Chimix], pero ahí [les] obligaron a quedarse en el PRI también: "Ya no van a seguir en su organización. Las Abejas están obligados a quedar en el PRI, pero, no solamente obligado, sino que tiene que dar multa también." Ahí levantaron un acta que ya todos van a quedar en el PRI.⁵⁴

[The people [members of Las Abejas] who arrived in Chimix had to pay a fine, one more time, of 5,500 pesos each. They are six people that went there to help their comrades leave [Chimix], but there they were obligated to be in the PRI as well: "You are not going to continue in your organization. Las Abejas are obligated to be in the PRI, but not only obligated, Las Abejas also have to pay fines." Then they issued an act declaring that all of them would be in the PRI.]

In a similar fashion, Priístas locked several non-Priísta families inside local churches as a way of forcing them to reflect on what was best for them and their families: collaborating with them or with the enemy. The only way to get out was to agree to become Priístas. Valerio Pérez's* testimony, delivered to the Fray Bartolomé de las Casas Human Rights Center (Frayba) three days before the massacre, provides a clear example of how paramilitaries from the hamlet of Los Chorros, Chenalhó, threatened Las Abejas to leave their organization:

—El día 19 de noviembre [de 1997] a las 2 de la tarde llegaron, tronaron balazo, pero nosotros estamos en nuestros trabajos.

—[¿]Quiénes atacaron?

—Sus nombre no lo sé. Son de los Chorros. Entonces llegó en Pechequil a las dos de la tarde. Nosotros estamos trabajando en nuestros cafetales. Ahí sí que balaceando y quemando la casa en Pechiquil, pero más tarde llegó a las 7 de la noche en la comunidad de Tzajalucúm y dando muchos balazos y quebrando las

⁵⁴ Testimony of Lucio Méndez Paciencia*, of Quextic. December 22, 1997. *Blue Dossier of Testimonies*, p. 5. CDHFBC's archives.

puertas todos lo[s] que estaban haciendo y quemaron un carro camioneta y echaron balazo y [a] otro camioneta echaron balazo en las llantas. A las 7 PM, las 8, 9 hasta las 12 sigue tronando balazo. Ahí llegó en la iglesia en donde estamos nosotros. Somos Sociedad Civil Las Abejas. Aquí estamos orando a Dios que tengamos fuerza, que no tengamos miedo, que tengamos buena fe y no hacer estas cosas.

En media noche llegaron de Los Chorros dos jóvenes: “Sí pero por favor lo van a dejar sus organización. Ya no vamos a querer sociedad civil, vamos a entrar junto con los priístas. . . . Por favor dejen su organización. Mañana vamos a trabajar y lo agarran tu arma. Lo vamos a trabajar mañana. A las 5 voy a pasar acá.”

Entonces ahí quedamos nosotros, pero bien balazos, amenaza y nosotros teníamos miedo, las mujeres tenían miedo, ahí estaban llorando las mujeres. “Mejor dejamos la organización [Las Abejas] y entramos en PRI, si no aquí nos vamos a morir”, dicen las mujeres y otros. A las 5 AM llegó otra persona nativos de la comunidad de Tzajalucúm. Dice: “y cómo piensan ustedes?” Nada [el narrador posiblemente se refiere a que se hizo un silencio]. “Por favor mejor dejan sus organizaciones y vamos a entrar con *priístas*, como somos amigos, somos conocidos y hermanos, y somos familias, mejor dejar sus organizaciones para no morir.”

[—They [PRI attackers] arrived on November 19 [1997], firing shots, but we were working.

—Who were the attackers? [The interviewer asks]

—I don’t know their names. They are from Los Chorros. They arrived at Pechequil at 2 p.m. We were working in our coffee field. They were shooting and burning houses in Pechequil. But later, they arrived at 7 p.m. at the community of Tzajalucúm, and they were firing shots and breaking doors. They also burned a truck and shot up the tires of another truck. At 7 p.m., at 8, at 9 and until 12 there were still shootings. They arrived at the church where we were. We are the Las Abejas Civil Society. There, we were praying to God so that we could have strength, so that we wouldn’t be afraid, so that we would have good faith, and not do these things.

At midnight, two young men from Los Chorros arrived: “Please, leave your organization [Las Abejas]. We don’t want any civil society here; we are all going to be *Priístas*. Please leave your organization. Tomorrow we are going to work and you are going to take arms. We are going to work on it tomorrow. I am going to come back tomorrow at 5.”

Then, we stayed there, very threatened. We were afraid. The women were afraid; they were crying. “It is better that we leave the organization [Las Abejas] and join the PRI; otherwise, we are going to die here,” the women and others said. At 5 a.m., another person from the community of Tzajalucúm arrived. He said: “So what do you think?” Nothing [the narrator may mean that the question was followed by silence]. “Please, it is better that you leave your organizations and

that we all become *Priístas*, since we are friends, we know each other, we are brothers and families, it is better that you leave your organizations so you don't die.”⁵⁵

As paramilitaries deployed their apparently “amicable” discourse to “convince” Las Abejas to leave their organization, their words were backed with the arms they carried and with the indirect menace of killing Las Abejas if they did not “cooperate.” To become *Priístas* usually meant that the new converts would have to work as part of the *Priístas*' plundering force during their attacks on Zapatista and Las Abejas settlements. The new PRI converts were forced to loot Zapatistas' and Las Abejas' houses, animals, and crops to give proof of their allegiance. Many *Priístas* and new PRI converts did this just to save their lives from *Priísta* paramilitaries. This type of plunder was also planned for the day of the massacre, as Eduardo González Ruiz explains in his testimony. Eduardo, from Quextic, was one of the men that paramilitaries took as prisoners in order to commit this plunder:

Javier Luna Pérez de Acteal dijo [“]vamos a llevar mecapales y en cuanto se mueran las personas de Acteal, vamos a sacar todo lo que tienen[”]. Q]ue llevaron a la gente de Quextic a un lado de la carretera [a la altura de Acteal] y les dijeron que esperaran para sacar las cosas de las casas de Acteal, y como a las tres de la tarde llegó Victorio Oyalté Paciencia diciendo que no sacarían las cosas porque ya habían llegado los de Seguridad Pública.⁵⁶

[Javier Luna Pérez of Acteal said [“]we are going to take *mecapales*⁵⁷ and as soon as the people of Acteal die, we will take everything they have[.” T]hat they took the people of Quextic to one side of the road [close to Acteal] and told them to wait to get things out of the houses of Acteal, and that around three in the afternoon came Victorio Oyalté Paciencia saying that they will not get the things because the Public Security [Police] had already arrived.]

During the Psychosocial Expert Testimony on the Acteal massacre (Beristain 2015) Alejandro López also narrated that he was obligated to work as a guard for the

⁵⁵ Testimony of Valerio Pérez Ruiz* of Tzajalucúm, December 19, 1997. *Blue Dossier of Testimonies*, p. 10. CDHFBC's archives.

⁵⁶ Judicial Testimony of Eduardo González Ruiz*, Criminal File 402/99 local, p. 922.

⁵⁷ Devices used to carry things on one's back.

paramilitaries in the hamlet of Los Chorros. This work was seen as a service to the community. In hamlets like Los Chorros, controlled by paramilitaries, the traditional cargo system got enmeshed with (para)military structures. This work allowed Alejandro to witness the meetings in which paramilitaries planned the massacre:

El 15 y 16 de septiembre [de 1997] se organizaron los paramilitares. Antonio X X es el líder. . . El 21 de diciembre llegaron los priístas de Acteal Alto⁵⁸ a Los Chorros para pedir gente que mate a compañeros zapatistas que están en Acteal. Los de Acteal Alto informaron en Los Chorros que los zapatistas estaban disparando. Los de Acteal Alto usaron esto de pretexto para solicitar gente que mate en Acteal. Yo escuché esto directamente en una mesa de trabajo reunida en Los Chorros. Yo estaba atrás de las autoridades. Estaba como policía auxiliar. Es un servicio. Por eso escuché y vi yo mismo que llegó gente de Acteal Alto priísta a informar y a decir que necesitaban gente para hacer guardias porque los zapatistas están disparando. Los de Los Chorros preguntaron si sabían que eran zapatistas y dijeron que sí. Dieciséis personas salieron de Los Chorros. Este líder mandó traer las armas y las puso en la mesa. Pedro X X es el que se encargaba de guardar todas las balas; las tenía en una caja que cargaba. La mandó traer. A cada paramilitar le dio entre 100 y 150 cartuchos. Todos estos paramilitares son entrenados por el ejército.

. . . Yo me pude salir [no ir a Acteal a participar en la masacre] porque tenía cargo y no estaba entrenado. Cuando [los paramilitares de Los Chorros] salían a entrenamientos, yo hacía la comida, como si fuera el trabajo de una mujer. Muchas veces se salían a robar casas, pollos, café, quemaban casas, levantaban techos de casas.⁵⁹

[On September 15 and 16 [1997], paramilitaries got organized. Antonio X X is the leader. . . . On December 21, Priístas of Acteal Alto arrived to Los Chorros to recruit people for killing Zapatista comrades who are in Acteal. Priístas from Acteal Alto reported in Los Chorros that the Zapatistas were firing. Those from Acteal Alto used this as a pretext to request people to kill in Acteal. I heard this directly on a worktable meeting in Los Chorros. I was behind the authorities. I

⁵⁸ As I mentioned before, Acteal housed Priístas, Zapatistas, and members of civil society. Acteal was socially and geographically divided in three sections: Acteal Alto, which housed Priísta-Presbyterians. On the other side of the highway that connects Chenalhó Centro and the municipality center of Pantelhó was Acteal Bajo, which housed Zapatista support bases. Next to it was Acteal Centro, which housed Las Abejas (Catholic). See Marco Tavanti (2003), pp. 14-16. The subdivision subsists in Acteal; however most Zapatista support bases have moved to the Zapatista autonomous municipality of Polhó, just five kilometers away.

⁵⁹ Interview with Alejandro López Fernández*, of Los Chorros. San Cristóbal de las Casas, May 30, 2014. Psychosocial Expert Testimony, CDHFBC.

was as an auxiliary police. It is a service. So I heard and saw myself that people from Priísta Acteal Alto arrived to report and to say they needed people to be on guard duty because Zapatistas were shooting. The people from Los Chorros asked if they were sure those shooting were Zapatistas, and they said yes. Sixteen people left Los Chorros. This leader sent them for weapons and put them on the table. Pedro X X is the one who was responsible for keeping all the bullets; had them in a box he was carrying. He sent for it. He gave each paramilitary between 100 to 150 cartridges. All these paramilitaries are trained by the army.

. . . I managed to get out [of going to Acteal to participate in the massacre] because I had a job [as a traditional authority] and I was not trained. When they [the paramilitaries of Los Chorros] went out to train, I prepared food, as if my job was the job of a woman. Many times they went out to steal houses, chicken, coffee, they burned houses, they stole the houses' roofs.]

Alejandro, who is fluent in Spanish, is today a member of Las Abejas. He shared with me the deep shame that he has had to carry throughout his life for having criminally collaborated with Priístas:

El 27 de diciembre llegaron grandes cantidades de carros de la PGR a Los Chorros. Ahí conocían a Pablo Romo [padre de la Diócesis de San Cristóbal], que llegó ese día a los Chorros. *Me preguntó de qué parte estaba. Yo le dije que de parte de la Iglesia* y entonces Romo me dijo: “toma tus cosas y vámonos de aquí”. Tomé mis cosas, 4 o 5 costales de café. Los metí en el carro. Me fui con mi familia y mis cosas y solté mi caballo donde vendí mi café y nos fuimos a desplazar a Polhó.

En X'oyep nos acusaban como paramilitares y de haber asesinado a la gente de Acteal. El representante de Las Abejas y el de los zapatistas discutieron de si éramos paramilitares. Los zapatistas querían saber si éramos paramilitares. El representante de Las Abejas en los Chorros dijo que [mi cargo de guardia] era un servicio, pero no estaban de acuerdo con lo que hicimos. El representante de los zapatistas me dijo que si estaba dispuesto a hacer mi declaración [ante las autoridades] y dije que sí, aunque implicara mi muerte, porque no estaba de acuerdo con lo que hicieron los paramilitares.⁶⁰

[On December 27 came to Los Chorros a large numbers of cars of the PGR. Pablo Romo [priest of the San Cristobal Diocese], who was well known there, arrived that day to Chorros. *He asked me on which side I was. I told him that on the side of the Church* and then Romo told me: “Grab your things and let's get out of here.” I took my stuff, 4 or 5 bags of coffee. I got them into the car, I left with my

⁶⁰ Interview with Alejandro López Hernández*, of Los Chorros. San Cristóbal de las Casas, May 30, 2014. Psychosocial Expert Testimony, CDHFBC.

family and my stuff and I let my horse free where I sold my coffee. We went to displace to Polhó.

In X'oyep we were accused of being paramilitaries and of having killed people in Acteal. Las Abejas' and Zapatistas' representatives discussed whether we were paramilitaries. Zapatistas wanted to know if we were paramilitaries. The representative of Las Abejas in Los Chorros said that [my job as a guard] was a service, but they disagreed with what we did. The representative of the Zapatistas asked me if I was ready to give my declaration [to the authorities] and I said yes, even if it meant my death, because I did not agree with what the paramilitaries did.]

Collaborating with Priístas allowed Alejandro and his family to remain alive; confessing his coerced collaboration to the state authorities saved him from prison, but not from social stigma. His lack of choices is representative of the experience of many *Pedranos* (inhabitants of San Pedro Chenalhó), who are still trying to mend the social fabric they were once forced to tear. Answering to the priest that he was “on the side of the Church,” demonstrates that there were more than two sides in the conflict. As if he was trying to redeem what he considers his worst sins, he is stoically facing the social consequences of his past and attributes his physical pains and diseases to what happened in Chenalhó in 1997:

Tengo sinusitis. . . Muchos mareos y dolores de cabeza. Tuvo mucho qué ver el desplazamiento en esta enfermedad. Tenía odio con los de la colonia Los Chorros pues ahí no me querían. Sentí que me tenían resentimiento. También por la preocupación, no podía dormir. Me levantaba como a la 1 a.m. con la constante preocupación de de qué voy a vivir o cómo van a comer mis hijos si no hay tierra.⁶¹

[I have sinusitis. . . A lot of dizziness and headaches. This disease had a lot to do with the displacement. I had hate for the people of the hamlet of Los Chorros since they did not want me there. I felt like they resented me. Also because of the preoccupations, I could not sleep. I rose around 1 a.m. with the constant worry of how I am going to live or how I am going to feed my children if there is no land.]

As mentioned before, in 1997 Las Abejas were particularly pressured to abandon their pacifist stance on the conflict and to join instead some Priísta's efforts to fight

⁶¹ Interview with Alejandro López Hernández*, of Los Chorros. San Cristóbal de las Casas, May 30, 2014. Psychosocial Expert Testimony, CDHFBC.

Zapatismo. In the following testimony, Julio Pérez Cruz*, a member of Las Abejas, from the community of Quextic, shares his interpretation of this harassment:

Bueno, este, porque nos obligan a que estemos con ellos, los priístas, pero como nosotros no queremos, entonces es el coraje que tienen, porque no queremos agarrar las armas, porque sabemos que el PRI está quemado y que todo [al]rededor está quemado, entonces es el coraje que tienen. Eso no es justo, y eso empezó en el '94 cuando hubo problemas con el gobierno. Hasta ese momento formamos como grupo Abejas.⁶²

[Well, because they forced us to be with them, the Priístas, but since we don't want that, they get angry, because we do not want to take the arms, because we know that the PRI is done for and that everything around it is done for, and that is why they are angry. This is not fair, and this began in '94 when there were problems with the government. That was when we formed the group Las Abejas.]

In Chenalhó's unstable political context, Las Abejas were known for playing a key role in the defense of indigenous rights and for pushing for a pacifist solution to the low-intensity war in Chiapas. The formation of this organization is closely related to the pastoral work of the San Cristóbal de las Casas Catholic Diocese, which was also a crucial interlocutor with Zapatistas. Las Abejas members had alliances with Zapatismo and supported Zapatista ideals, including indigenous political autonomy; however, they were not members of the EZLN and rejected taking up arms to attain their shared goals. In Miguel Pérez Cura's words: "Abejas y Zapatistas tienen un mismo camino, pero los del EZ[LN] ocupaban tierra baldía o trataban de recuperar tierras. Las Abejas no. Son pacifistas." ["Abejas and Zapatistas have the same path, but those of the EZ[LN] occupied badlands or were trying to recuperate land. Abejas did not do this. Abejas are pacifists."]⁶³ Precisely for this reason, the international solidarity movement interpreted the killing of forty-five unarmed Abejas in December 1997 as a cruel punishment to serve as an example to anyone who sympathized with Zapatismo in Chiapas (Pérez Ruiz 2005).

⁶² Testimony of Julio Pérez Cruz*, collected by Frayba on December 23, 1997. *Blue Dossier of Testimonies*, p. 88. CDHFBC's private archives. It is important to clarify that, even when the organization Las Abejas gained more members after 1994, it was originally formed since 1992.

⁶³ Interview with Miguel Pérez Cura, member of Las Abejas. Acteal, July 25, 2014. Psychosocial Expert Testimony, CDHFBC.

Tracking the Origins of the Massacre’s Top-Down Versions

On January 23, 1998, one month after the massacre, the Procuraduría General de la República—PGR (Office of the Attorney General)—published Bulletin 023/98, titled “Preliminary report on the investigation of the crimes that took place in the municipality of Chenalhó, state of Chiapas.” After describing the actions that the PGR had carried out since the day after the massacre, this bulletin detailed that a total of sixty individuals had been detained for their probable responsibility in the massacre, fifty of whom were incarcerated in the *Cerro Hueco* prison in Tuxtla Gutiérrez, Chiapas’ capital. Forty-eight of these people were being processed for the crimes of aggravated homicide, aggravated injuries, criminal association, and for carrying firearms exclusively permitted for military use. One person was being processed for instigating the aforementioned crimes, and another for committing violations to the Federal Law on Firearms and Explosives. In the bulletin, the PGR also acknowledged that there were several material authors that had not yet been identified and detained, and that there were other 35 possible perpetrators that the PGR was trying to locate.

According to this report, the PGR received a total of 328 declarations (testimonies). These testimonies presented accusations against a total of 267 people, incriminating them as direct participants in the massacre. In relation to these testimonies, the PGR asserted in its Bulletin 023/98:

Muchos de estos testimonios han sido vertidos por indígenas simpatizantes del autodenominado “Consejo Municipal Autónomo de Polhó”, quienes han llegado aleccionados y con listas de supuestos responsables de la matanza y con la pretensión de que por este hecho la PGR proceda a su detención. *Este es un hecho grave que se considera oportuno hacer público.* La PGR no ha procedido en contra de nadie ante declaraciones aisladas, inverosímiles y amañadas.

El Consejo Municipal Autónomo de Polhó es una instancia creada por el EZLN y que actúa al margen de la Constitución Política de los Estados Unidos Mexicanos. . . .

Debe señalarse que por lo menos en un caso se ha buscado sorprender al Ministerio Público de la Federación con la presentación de testigos falsos; esta circunstancia obedece sin duda al afán de venganza que prevalece entre los grupos

en conflicto y que pretenden utilizar a la Procuraduría General de la República para estos fines. (PGR 1998; emphasis added)⁶⁴

[Many of these testimonies have been given by indigenous supporters of the self-proclaimed “Autonomous Municipal Council of Polhó” who have come lectured and *with lists of alleged perpetrators* of the massacre and expecting that the PGR proceeds to their arrest. *This is a serious matter that is considered appropriate to make public.* The PGR has not proceeded against anyone on the basis of isolated, improbable and rigged statements.

The Polhó Autonomous Municipal Council is a body created by the EZLN, which operates outside the Constitution of the United Mexican States. . . .

It should be noted that at least in one case people have tried to deceive the Office of the Public Prosecutor with the presentation of false witnesses; this circumstance is no doubt due to the vindictiveness that prevails among conflicting groups and which intend to use the Office of the Attorney General for these purposes.]

With these assertions, the PGR was setting the stage for the Zapatistas to appear as criminals. It seems remarkably strange that the PGR placed so much emphasis on letting the public opinion know that there were several testimonies accompanied by lists of alleged culprits. It is as if the PGR were raising a red flag and preparing the ground for what would occur eleven years after: In 2009, the Supreme Court of Justice (SCJ) would begin invalidating key survivors’ testimonies that included a list of possible perpetrators of the massacre, considering them to be illegal evidence that violated the defendants’ right to due process. Since these testimonies were the main evidence to prove the criminal responsibility of those imprisoned, their invalidation also invalidated the whole judicial procedures that were based on them. With this, the whole judicial procedures against those imprisoned fell down and the SCJ ended up ordering the defendants’ immediate release. The SCJ’s rulings (2009-2014) exhibited the Office of the Public Prosecutor’s incompetence for giving validity to testimonies that the SCJ would consider induced, and therefore illegal.

Because of the magnitude of the massacre and the presence of federal crimes, the Office of the General Attorney attracted the case from the local to the federal level a day

⁶⁴ PGR Bulletin 023/98 can be consulted in Álvarez Fabela (2000, 324).

after the massacre and integrated all the *averiguaciones previas* (previous investigations) under the number 593/II/97. The Office of the Public Prosecutor depends directly on the PGR. Therefore, it is quite ironic that since the beginning of the criminal investigations in 1997, the PGR was giving public opinion a heads-up on the fact that lists of alleged culprits accompanied many testimonies. This is something that would discredit the Office of the Public Prosecutor eleven years after. Even more: In this bulletin, the PGR was making public the possibility that the previous investigations might have been vitiated since its origins. Despite this information, the PGR used the lists of culprits as evidence of the crimes, and the local judges based their rulings on them. It was until 2006, when some law professors at the Center for Research and Teaching in Economics (CIDE) in Mexico City took over the case of those imprisoned and used the same arguments the PGR had made public back in 1998 in its Bulletin 023/98. CIDE's scholars argued that the lists of culprits that the witnesses provided did not prove the culpability of the accused ones because they were illegal evidence. CIDE's scholars questioned the possibility that a single witness could identify more than a dozen of the perpetrators and remember their names and their communities of origin. Arguing that giving probative value to these lists constituted a violation of due process was the basis of their successful defense.

But before we get to this part, which is at the core of Chapter 4, let us go back to the days after the massacre. Frayba collected the first (non-judicial) survivors' testimonies with the collaboration of local and international NGOs. At the same time, the PGR's mestizx public prosecutors (*Ministerios Públicos*) were also collecting the preliminary testimonies that would become the basis of the criminal investigation into the massacre. Even when Frayba and public prosecutors were trying to understand what happened that day, the work of each constituted a distinct line of inquiry. While Frayba and its national and international volunteers were focused on collecting as many testimonies as possible in order to document the state's responsibility in the massacre and its links with pro-ruling party paramilitaries, the agents of the Office of the Public Prosecutor operated under the assumption that Zapatistas were to blame for the killings.

In the aforementioned Bulletin 023/98, the PGR said the massacre was preceded by several family conflicts of a political, religious, and economic character that supposedly commenced in January 1994 “when the EZLN irrupted.” These problems were said to have grown in April 1996 with the installation of Polhó’s Autonomous Council within the municipality of Chenalhó. In this preliminary report, issued just one month after the massacre, the PGR hastened to outline one of its main hypotheses about the motives behind the massacre:

Un hecho de importancia en el desarrollo de los acontecimientos fue la llamada “expropiación” del banco de arena de Majomut por parte del autodenominado Consejo Autónomo de Polhó, y que antes había sido administrado por una sociedad de solidaridad social encabezada por quienes se dicen militantes del “Partido Cardenista”. Esta apropiación, que tuvo lugar en agosto de 1996, generó diversos hechos violentos. El llamado Consejo Autónomo de Polhó había establecido que todo aquél que no cumpliera con su resolución de apropiación del banco de arena sería arrestado. (PGR 1998)⁶⁵

[A relevant fact in the development of events was the “expropriation” of the Majomut sandbank by the self-proclaimed Autonomous Council of Polhó, and which had previously been managed by a society of social solidarity led by those who call themselves militants of the “Cardenista Party.” This appropriation, which took place in August 1996, gave rise to various violent acts. The so-called Polhó Autonomous Council had determined that anyone who failed to comply with its resolution of appropriation of the sandbank would be arrested. (PGR 1998)]

While the factors that propitiated the massacre against non-Zapatistas go well beyond the conflict over the Majomut sandbank, it was a well-known fact—even for the PGR—that both Zapatistas and Priístas were armed and that there had been casualties on both sides of the conflict that began several months before the massacre. Aside from this, in Chiapas several rumors circulated that affirmed that Zapatistas were extremely violent, some kind of “sadistic monsters that ate human flesh.”⁶⁶ Rumors and gossip have great power in indigenous communities in Chiapas. John B. Haviland (1977) wrote a whole

⁶⁵ This bulletin’s whole text can be consulted in Álvarez Fabela 2000, 326.

⁶⁶ Interview with feminist lawyer and social activist Martha Figueroa, San Cristóbal de las Casas, March 23, 2013.

treatise about this topic in the municipality of Zinacantán, also in the region of Los Altos. Elaborating on Max Gluckman's (1968) notion of gossip as a mechanism of social control, Haviland affirmed that "A man gossips to control others and accordingly fears gossip as it threatens to control him" (1977, 9). Departing from F.G. Baily's (1971) argument that "An event or an action is public not only to those who see it, but also to those who hear about it. Indeed it is speech which defines the nature of that event" (1971, 284), Haviland explained that gossip allows the manipulation of norms to serve particular purposes. In Zinacantán, for example, well-spoken people are "recruited to support one side or another in a dispute. Various individuals bend the man's ear with accounts of their enemies' wrongdoings" (1977, 8). In the judicial records of the Acteal case there is evidence that shows how rumors worked in shaping Priísta animosity against Zapatistas. Consider, for example, this defendant's testimony:

No sabe quién pudo matar a la gente de Acteal, sólo sabe que los que murieron [durante la masacre de Acteal] eran zapatistas y que además sabe que a éstos no los quieren los miembros de otras comunidades porque buscan muchos problemas, porque ellos primero asesinan, no constándole ésto, pero que lo sabe porque *la gente comenta que los zapatistas desaparecen y asesinan a los priístas.*

[He does not know who could have killed the people in Acteal. That he only knows that those who died [during the Acteal massacre] were Zapatistas and he also knows that members of other communities do not like Zapatistas because they are always looking for trouble, because they kill first. He does not know this for a fact, but he knows this because people comment that *Zapatistas disappear and murder Priístas.*]⁶⁷

Because of this kind of rumors, the PGR's bias against Zapatistas during the criminal investigations was not evident to misinformed audiences in Chiapas and elsewhere. On the contrary; thinking that Zapatistas were responsible for the massacre made sense to all of those people who had been uncritically exposed to the government's media campaign to discredit Zapatismo since its public appearance. However, according to Inés Castro Apreza's study on the Acteal massacre,

⁶⁷ Declaration of Vicente López Jiménez*, sentenced to thirty-six years in prison for the crimes committed during the Acteal massacre. Criminal Case 224/97, Vol. I, pp. 492–493; italics mine.

Strictly speaking, *neither* Zapatistas nor Perredistas ever attacked Priísta groups as a bloc; therefore, the feelings of threat and imminent danger were based on rumors, vague perceptions that were collectively shared, and/or on distorted information that had a concrete basis in the killings perpetrated by both parties in different communities. (Castro Apreza 2004, 334)⁶⁸

In the long run, the case of Acteal is a paradigmatic example of how what people sometimes think and say about an event has more weight than the event itself. The government elites know this well. The preeminence of social constructions over evidence-based facts is a matter of circulation: how much a version has spread and traveled. It is apparently also a question of majorities, of how many people take that version for the truth. But in reality, this preeminence is a question of power: of having the possibility of manipulating the perceptions of public opinion through the media, which in Mexico is an easy task for the government in control of the main TV networks.

From the portrayal of Zapatistas as cruel assassins and the interpretation of the Acteal massacre as a product of an inter-communitarian battle between barbarous indigenous peoples, to the representation of the paramilitary defendants as independent “self-defense groups” or as the Office of the Public Prosecutor’s scapegoats, the Priísta government has shown its expertise in illusionism. The situation of terror in which a great part of the Mexican population lives is what gives these portrayals and representations a realistic appearance. A fear for the possibility of these rumors being true opens the door to the benefit of the doubt. And once the doubt is in by means of fear, truth seems to be something not even relative, but simply unattainable. In the battlefield for the truth of the Acteal case, indigenous bodies have been racialized as sites where the truth cannot exist. As Spivak (1988; 2010) argued for the case of the subaltern, indigenous peoples’ words cannot be fully acknowledged due to the lack of any effective institutional validation, whether through the legal system, Western epistemology, the Spanish language, settler-colonial racial hierarchies, or white/mestizo patriarchy.

⁶⁸ The translation is mine.

Chapter 2

Necrofacts Fetishism and the Erasure of the Femicide

Si escribe unas letras, acuértese de nosotras, muchas, no sabemos decir nuestra palabra en papel; pero sí sentimos y sufrimos mucho.

—Words of an anonymous indigenous woman to one of *La Otra Palabra's* authors (2001, 145)⁶⁹

To quote is to name, and naming . . . brings truth to light.

—Hannah Arendt, 1968

The Acteal massacre provoked protests in more than one hundred countries around the world, and some would say that this was the biggest global manifestation ever seen (Bellinghausen 2008, 12). These protests not only took place in the streets, but at the core of centers of knowledge production. In the city of San Cristóbal de las Casas, a group of feminist mestizas with different affiliations—but with shared experiences doing organizing work with indigenous women and mestizas—got together to plan a form of protest in the realm of their professional practices. This collective was formed by feminists from local organizations, such as the Group of Women of San Cristóbal A.C. (COLEM), the Center for Research and Action for Women (CIAM), and Training and Development (FOCA), as well as by professor-researchers from the Center for Research and Graduate Studies in Social Anthropology (CIESAS-Sureste) in San Cristóbal de las Casas and the Autonomous University of Chiapas (UNACH). The collective was commonly known as “*las mismas*” [“the same ones”] for practically being the same

⁶⁹ “If you are writing some words, remember that many of us do not know how to write our words on paper; but we do feel and suffer a lot.”

women that always showed up to protest and to organize collective actions in defense of women's rights in San Cristóbal and beyond.

Today, "*las mismas*," are still out there, coming up with new strategies of struggle. They are definitively not *las mismas* (the same ones), even when conservative groups in San Cristóbal insist in freezing them in time and space. Some have left San Cristóbal, some others have left for good (and forever from this world); new *mismas* have arrived and left. Some have stayed. Entire lives dedicated to the struggle impede *las mismas* to be *the same ones* of seventeen years ago. A passion for what they do have allowed them to not get consumed in the process of fighting the constant threat against women's lives: femicidal violence. Mercedes Olivera and Martha Figueroa are among the ones who have permanently stayed in San Cristóbal and who in 2013 were actively organizing a new extensive campaign against gender violence and femicide in Chiapas. Besides aiming to give publicity to cases of femicidal violence, demand justice for the victims, and promote a culture of prevention, this time the campaign intended to request the federal government the declaration of an *Alerta de Violencia de Género para el estado de Chiapas* (Gender Violence Alert for the state of Chiapas). The *Alerta* constituted a new legal mechanism that could obligate the state to assign substantial resources and implement emergency measures to better guarantee women's rights in the face of an increasing number of cases of femicidal violence. I volunteered in the organization of this campaign with a younger generation of feminists from local organizations, including Melel Xolobal and Frayba. In the bimonthly and sometimes weekly meetings of the campaign, I realized how Olivera and Figueroa have learned to choose their battles and to do it with grace... and even with humor, as a strategy to release tension while at the same time trying to cope with authorities' misogynous attitudes that blame women for their own deaths.⁷⁰

⁷⁰ For the revision of this chapter, I plan to include quotes of *La Otra Palabra's* authors regarding the process behind this book. For the moment, my analysis is focused on the information that the book conveyed for wider audiences in order to understand how the representation of this information was read and critiqued.

Back in 1998 and in the midst of a battle for truth about the Acteal massacre, members of “*las mismas*” decided to prepare a collection of short articles aimed at contextualizing the massacre in local historical and political processes. Drawing from their political work with indigenous women of the region, the authors tried to better inform public opinion about the ongoing low-intensity war in Chiapas and its effects on indigenous women. Making use of historical, legal, and anthropological approaches, as well a photography and poetry, they explained the social and political conditions that generated paramilitary groups in Chenalhó. The product of this endeavor was the book *La Otra Palabra: Mujeres y violencia en Chiapas antes y después de Acteal* [*The Other Word: Women and Violence in Chiapas Before and After Acteal*], published just five months after the massacre (in May 1998) by CIESAS, COLEM, and CIAM, in CIESAS’s Urgent Texts collection. The Mexican anthropologist Rosalva Aída Hernández Castillo, who was then director of CIESAS-Sureste, edited the book. Most of the women who made contributions to this book are anthropologists and researchers (Christine Eber, Graciela Freyermuth Enciso, Anna María Garza Caligaris, Rosalva Aída Hernández Castillo, and Mercedes Olivera Bustamante); one is a lawyer (Martha Figueroa Mier); one a social worker and popular educator (Diana Damián Palencia); and one a poet (Concepción Suárez Aguilar).

This collection of essays is required reading on the Acteal case. It has had a wide distribution among academic circles in Mexico and abroad, since the International Work Group for Indigenous Affairs (IWGIA) published it in English in 2001, becoming one of the few early sources that brought to light a story of the massacre that contested the government’s official version spread through mainstream media. It was through these feminists’ intervention that a gendered interpretation of Acteal entered into the public debate. In the first part of this chapter I analyze this feminist narrative of the massacre and discuss the way some of the authors dealt with the anonymous testimonies of indigenous women. My aim is to begin to trace the story of humanitarian and academic interventions in the Acteal case and to understand these feminists/activists/researchers’ methodological approaches to the survivors and their oral histories during an unceasing

context of state violence. It would be until a future version of this chapter that I would include the authors' perspectives regarding the process behind *La Otra Palabra*. For the moment, my analysis is focused on the information that the book conveyed for wider audiences (who did not know what was behind it) in order to understand how the representation of this information was read and critiqued.

By highlighting unquoted pieces of survivors' testimonies that detailed horrifying practices of paramilitaries' femicidal violence during the massacre, this feminist version was able to capture the attention of public opinion. As I discuss in this chapter, the exposition of unimaginable forms of violence was so politically disruptive that it generated a fierce controversy over the truth of the event that ended questioning the gendered character of the massacre and the ethical integrity of *La Otra Palabra's* authors. The social life of *La Otra Palabra* and its circulation history conveys a series of lessons that new generations of human rights activists and researchers need take into account for future interventions in cases of femicidal violence. Through the privileged perspective provided by the passage of time, my goal is to identify the drawbacks of this version of the massacre during the political context in which it was produced and to provide new interpretations and documental evidence that strengthens the affirmation that Acteal was also a femicide.

To do so, in the second part of this chapter I present a cultural and feminist analysis of the autopsies [*necropsias*] of the women killed during the massacre, cross-referencing this information with judicial and non-judicial survivors' testimonies collected during the days after the massacre and several years after. As I will demonstrate, the state's positivist readings of corpses' autopsies were informed, not by survivors' direct words, but by the *written* version of their testimonies, mediated by prosecutors, lawyers, and scholars. Since what was under judicial scrutiny after the massacre were not survivors' testimonies, but the versions that mestizx professionals had produced with them, survivors' words and their cultural meanings were relegated to spaces outside the judicial records. I will demonstrate that through a fetishization of what I call "*necrofacts*"—this is, by privileging state experts' descriptions of dead bodies, their

narratives on the causes of death, and the patriarchal methodologies behind them—and by giving these *necrofacts* the character of unquestionable scientific facts, the state officials created forms of evidence that concealed state violence and its racial and gendered connotations.

The Other Word and the Other's Word on the Battlefield of Truth

Two days after the massacre, the Office of the Public Prosecutor issued a press release declaring that Acteal was the product of a political and religious “inter-communitarian battle” (PGR 1998). Such an interpretation suggested that indigenous peoples traditionally use barbarous means, including murder, to resolve their conflicts. With this interpretation, the government began to manufacture an official version of the event that soon would require academic, legal, and media support to give it credibility. *La Otra Palabra* [The Other Word] was in part a response to the state’s immediately attempting to blame indigenous peoples for their own tragedy; it was also a reaction to the possibility that the state could end up using the cultural argument as an explanation for the massacre of indigenous peoples. The book can also be interpreted as an attempt to create a counter-discourse; a form of protest against the authorities’ silencing of women’s experiences under paramilitaries’ rule of terror, initially implemented in the Zona Norte of Chiapas, and afterwards in Los Altos, where Chenalhó is located.

In the prologue to *La Otra Palabra*’s second edition (2007), Hernández narrates that just a few weeks after the massacre, a local representative of the Human Rights Commission of Chiapas (a “decentralized” governmental entity) requested that CIESAS-Sureste scholars produce a study explaining “the ways in which the cultural practices of Tzotziles in San Pedro Chenalhó allow us to understand the war rituals used during the Acteal Massacre” (Hernández Castillo, 2007, iii). The CIESAS’s scholars rejected the request. This attempt can be read as part of an ideological counterinsurgency strategy that attempted to use the anthropological knowledge produced within a state-sponsored academic center as a means to legitimize a *raison d’état*. This *raison d’état* was the reproduction of mortal racism itself, through the idea that Tzotzil culture was the

explanation for the type of violence employed during the massacre. A racializing ideology, through which Indians are deemed to kill each other out of their “violent customs,” was enough evidence for the Office of the Public Prosecutor to not even consider paramilitaries’ existence during the investigation of the crime. In fact, the reproduction of this racist ideology would leave a precedent for the government to discard the participation of paramilitaries in future crimes against indigenous peoples in Chiapas.

Worried that the government would erase paramilitaries’ responsibility in the massacre, Hernández and her coauthors decided to prepare a collection of short articles aimed at contextualizing this event in local, historical, and political processes. They put forward the version that the massacre was perpetrated by paramilitaries through horrific practices similar to those of the *Kaibiles* in Guatemala, described with detail in Ricardo Falla’s (1992) book *Masacres en la selva* (Hernández Castillo 2007; viii) and also in Victoria Sanford’s *Buried Secrets* (2003). As Graciela Freyermuth affirms in her chapter, the treatment the paramilitaries gave to the corpses of pregnant women during the Acteal massacre by “opening their bellies and ripping out their fetus” is a “symbolic violence [that] synthesizes the policy of extermination towards these groups—marginalized and excluded from national progress—which has been sustained silently, unnoticed by many” (Freyermuth 2001, 57). Since Zapatista women had challenged patriarchal dynamics and occupied new roles of authority in their communities, the authors advanced the idea that the massacre was targeted against women because they were a symbol of Zapatista resistance. Killing women was a way of diminishing the support for Zapatismo and also a way of forcing women’s subordination through terror. The other main argument of the book was that the massacre should have been classified as a genocide and not as an aggravated homicide. As Figueroa (1998) argued, the events in Acteal fit into the definition of genocide enunciated in the Convention on the Prevention and Punishment of the Crime of Genocide’s second article. By classifying the slaughter as an aggravated homicide, the authorities erased once again the continuities of the settler-colonial project of ethnocide.

La Otra Palabra opens with Concepción Suárez's poem, "Femenina" ["Feminine"], inspired by the events of the massacre and dedicated "to the murdered, the raped, the beaten/ To the pursued." Setting the tone for the rest of the book, her poem says:

[...]

Estás herida compañera
retumba en tu selva
el helicóptero (sic) y la metralla
despliegan en tus cerros
verde olivo y militar

Te ofertan mutilada
y nos mutilan
nos destierran

Les da coraje vernos
tan bravías y femeninas
expuestas a sus armas

Dentro y fuera del cerco
hablamos con la luna
recorremos calles y brechas
sin poder olvidar
esos vientres abiertos al sol

[...]

[...]

You are wounded, friend
resounding in your jungle
helicopter and shrapnel
fanning out across your hills
olive and military green

They offer you mutilated
and they mutilate us
they banish us

It enrages them to see us
so brave and feminine
exposed to their weapons

Inside and outside of the fence
we speak with the moon
we wander over streets and gaps
without being able to forget
those wombs split open to the sun

[...]

In her poem, Concepción Suárez presents indigenous women's bodies as the geography where the low-intensity war is waged. There is a *you*, an *us*, a *they*: the indigenous woman, *the* women in general, and the (para)militaries. The poem seems to evoke Pedro Valtierra's famous image "Women pushing soldiers," which appeared on *La Jornada's* front page on January 4, 1998. The image depicted indigenous women fiercely resisting, with their tiny bodies, the incursion of heavily armed soldiers into their

displacement camp in X'oyep, Chenalhó. Through this image, which traveled all around the world—not reaching the woman photographed, supposedly until the scholar Marco Tavanti (2003) shared the photograph with her—the observer affectively connects with the resisting indigenous women in a similar fashion as in Suarez's poem. *We* become the witnesses who make indigenous women's mutilations ours, without spilling a single drop of blood in the act. And suddenly, in the progression of the poem, the difference between the *you* and the *us* is erased. We all are brave, and because of that, we are also exposed. Exposed, like the “open to the sun” wombs of those women killed in Acteal. The perturbing image is planted in the reader's head beginning with the first pages of the book, foreshadowing what would become one of its main focuses.

A “photographic testimony” by anonymous photographers is found at the end of the book. This visual testimony of fourteen images illustrates in rich glossy paper the precarious conditions in which women and children survived in the displacement camps in X'oyep and San Cristóbal in November 1997, and in Polhó just a few days after the massacre. We see a barefoot little girl wearing a traditional *huipil* and a sweater that she uses in the form of an improvised skirt. Her hand blocks the view of her face as she holds a stick. But she is not the only one who remains in anonymity. Most of the women photographed are covering their faces or turning their heads away from the camera. In relation to a black and white photograph of three women, identified as “Displaced in Xoyep. November 30, 1997,” José Rabasa (2010) reveals the name of the photographer in his analysis of the piece: Jutta Meier-Weidenbach. Rabasa reflects on the interaction between an indigenous woman looking at the camera and the female photographer behind it. While the other two women in the photograph decide to ignore the photographer, the oldest of them addresses Meier-Weidenbach with a very eloquent gesture on her face:

The old woman of the photograph knows that her image will be consumed and exappropriated in spaces out of her control. These could include a human rights discourse that would pity her condition without recognizing the force of her pacifist convictions or, by the same token, the theoretical dismissal of the testimonial power of her image on the grounds that human rights discourses undermine the agency of Las Abejas by emphasizing their victimization. (Rabasa 2010)

Through Derrida's (1995) concept of "exappropriation," Rabasa reflects on the incomplete and two-way process of appropriation that takes place in the moment of capturing—appropriating—an image with a camera or through writing (a testimony, for example). Following Rabasa, *property* and *propriety* inflect each other in the concept of *exappropriation* (2010, 168). *Exappropriation* could be explained as the expropriation of the proper that takes place when one aims to appropriate what is inappropriable. This deconstructive move highlights the limits of appropriation and its dialogical character. The prefix *ex-* (meaning "out of" or "without") implies withdrawing from the appropriation, as well as placing the appropriation under erasure, but a kind of erasure that is not complete and which leaves traces of itself—as in Heidegger's *sous-rature*, through which he crossed out a word in a text to nullify it, in such a way that the word could remain legible (Edelglass 2011). In Derrida's words, *exappropriation* "implies the irreducibility of the relation to the other" (1995, 270); the impossibility of appropriating the other and the other's suffering. In relation to the appropriation of the old woman by taking her picture, and the old woman's appropriation of the event, Rabasa argues: "In facing the photographer, in looking back at us . . . she seems to ask us to acknowledge her awareness of how her image will inevitably be exappropriated" (Rabasa 2010, 168).

Frayba provided the photographs for the book *La Otra Palabra*. In them, some women are inopportunistly—and for some, inappropriately—captured during the funeral in Acteal on December 25, 1997, as they were trying to maintain some privacy by crying behind their veils. One of these women is standing in between the coffins while carrying a baby in her shawl. She is hunching up her back towards the baby in her chest as she covers her face with her shawl. Her stillness in the middle of the dead contrasts with the moving legs of the people in the back, surrounding the coffins. Giving the spectator the opportunity to contemplate this intimate moment, even against this woman's apparent desire of not wanting to be seen, reaffirms the spectator's privileged position. Did she just recognize the body inside the coffin next to her?

After being taken to the capital of the state for the autopsies on December 23, 1997, the bodies of those slain were returned to Acteal two days later. They were

transported in an unrefrigerated truck for several hours on a very sunny winter day. The truck used to transport the bodies was, ironically, the same one Chenalhó's mayor, Jacinto Arias, had used to transport and distribute armament to his PRI allies throughout the municipality. The coffins arrived unmarked, without the names of the deceased. Babies' bodies were randomly placed in coffins with other adults' bodies. Family members were eager to see their loved ones one last time. The bodies' decomposition made their recognition a devastating and in some cases, impossible task. Painful smell remains as one of the most salient memories of those days. Mestizxs who were present the day of the funeral or the days (and even years!) that followed said in interviews that the first thing they remember was the smell:

La primera vez que llegué [a Acteal], un par de días después del primer aniversario de la masacre. Tengo una memoria del dolor de Acteal y en este momento no sabía cómo, pero yo respiraba dolor. Había mucha gente de los sobrevivientes y solidarios, y se sentía que nadie tenía que decir absolutamente nada. Era un dolor muy profundo que no puedo describir. Olía. Era un olor en Acteal.⁷¹

[The first time I went [to Acteal], a couple of days after the first anniversary of the slaughter. I have a memory of the pain in Acteal and in that moment I did not know how, but I was breathing pain. There were many people, survivors and *solidarios*, and felt that nobody had to say anything. It was a very deep pain that I cannot describe. It smelled. It was a smell in Acteal.]

Itzel's words reflect the accuracy of embodied memories. There is a smell in Acteal because suffering invades all the senses. Just think about this: María Vázquez, a woman depicted in another picture in the book, had to identify not one, but several bodies after the massacre.⁷² As the caption above her photo states: "María lost nine family members." She was the sister of Alonso Vázquez Gómez—the catechist, *jefe de zona* (chief of the zone), and leader of the displaced people in Acteal—who was guiding the

⁷¹ Interview with lawyer Itzel Silva, a former member of Frayba, who was then in charge of the Acteal case. San Cristóbal de las Casas, March 16, 2014, Psychosocial Expert Testimony, CDHFBC.

⁷² *Diligencias de reconocimiento de cadáveres*, Criminal Case 402/99 local, p. 21 and the following.

prayers before the massacre began. Killed along with him were his wife, María Luna Méndez, and five of their daughters: Rosa, Verónica, Antonia, Margarita, and Juana. María Vázquez's immense tragedy has turned into a morbid loss of her anonymity. María is still today the face of the victims and the one who has recounted the story of the massacre probably more times than any survivor. In *La Otra Palabra's* photographic testimony, she is the only person identified by name. The sadness of her expression, one partially covered with her hand, makes the bright, rainbow colors of her *huipil* seem almost gloomy.

None of the photos in the book were sorted according to the dates or places where they were shot. After witnessing scenes from the funeral, we are taken back to the displacement camp in X'oyep and it is again November of 1997. We observe a scene in which a woman is preparing food for a group of children, women, and men who are surrounding the cooking fire with a sense of expectancy. They are trying to find refuge from the rain and cold weather under a precarious shelter with banana leaves for roof. These pictures make the viewer wonder what life in the displacement camp in Acteal looked like before the massacre. Why does the photographic testimony not give an account of the displacement camp in Acteal? Does this lack of images reflect the absence of *solidarios*⁷³ in Acteal before the massacre?

It is through the first essay of *La Otra Palabra* that we get a better sense of what was happening in Acteal's displacement camp during the months before the massacre. Titled "Before and After Acteal: Voices, remembrances and experiences from the women of San Pedro Chenalhó," this collective piece chronicles the escalation of violence in Chenalhó during 1997 and its human dimensions. The chronicle is recounted from the perspective of an omniscient narrator, who tells the stories of three indigenous women. The authors were careful to clarify in an endnote, "This account is a literary essay that

⁷³ Since the Zapatista uprising, Chiapas began attracting people in solidarity with the EZLN and other indigenous organizations. They are popularly called "*solidarios*." Many of them served as human rights observers and reported to the world what the media was not saying. Dozens of them still arrive every month to Frayba through the Civil Observation Brigades for Peace and Human Rights (BriCO) program in order to serve, as volunteers, the communities where Frayba has a presence and where conflict (or its potential) exists.

does not attempt to reproduce the testimonies of the women of Acteal word-for-word. All the events described below, however, are true” (Hernández Castillo 2001, 37).⁷⁴ According to this endnote, the testimonies on which this chronicle was based were collected from the survivors and their neighbors from various communities by authors Anna María Garza, Juana María Ruiz, R. Aída Hernández, Martha Figueroa, and Mercedes Olivera. The chronicle of the massacre was based, as the text asserts, on the testimonies that Frayba collected.

The first woman who appears in this piece is Verónica, a dear friend of one of the women killed during the Acteal massacre. Through her experiences and memories, Verónica gives testimony of the terror that paramilitary forces caused in various Chenalhó communities and the population’s efforts to survive. The second woman in this trilogy is María, a refugee in Acteal, who was a victim of the public health system’s racist negligence a few days before the massacre. As the narrator recounts, if María had received the medical attention she needed in the public hospital in the city of San Cristóbal, she would not have gone back to Acteal the day of the massacre. María was supposed to stay in the hospital and get surgery for her prolapsing uterus. In her case, mestizx doctors’ racism, as well as paramilitaries’ murderous hate (also racist) were both the cause of her death.

The last part of the literary essay is based on Micaela’s traumatic experience of the massacre. She is an eleven-year-old girl who saved her life by remaining hidden below the dead bodies of her mother and siblings. One of the most cited passages of this book comes from Micaela’s story. It includes probably the most frightening and disturbing narration that has circulated about the massacre:

When the men left, Micaela went to hide on the bank of the stream. From there, she saw how they came back with machetes in their hands; the same ones and others with them; they were whooping and laughing and talking among themselves, “we have to get rid of the seed,” they were saying. They stripped the dead women and cut off their breasts. They put a stick between the legs of one

⁷⁴ The translations correspond to the English version of *La Otra Palabra*, published by IWGIA in 2001. The quoted text appears as a footnote in the Spanish version (2007, 15).

woman and opened the bellies of the pregnant women and took out their babies and played ball with them tossing them from machete to machete. After that they left. (Hernández Castillo 2001, 33)

Even by departing from unpublished survivors' testimonies that were not directly cited or quoted in the text, the authors were able to add a new twist to the meanings already assigned to the massacre. It was not only a massacre against a pacifist group of indigenous people in situation of forced displacement, sympathizers of Zapatismo, who were close to the San Cristobal Diocese and who were praying for peace at the moment the attack began. It was a massacre that was principally targeted against women and children, through atrocious forms of sexual violence, with the intention of "*acabar con la semilla*" ["getting rid of the seed"]. It was precisely this phrase, "*acabar con la semilla*," which became the epitome of the genocidal character the authors attributed to the massacre, before the concept of *femicide*—understood as lethal misogyny: a hate crime against women for being women (Radford and Russell 1992; Lagarde 2006; Monárrez 2009)—became a widespread concept.⁷⁵

The manner in which the facts were presented and interpreted in this essay makes it impossible for the reader to distinguish the collective voice of the authors from the voices of the indigenous women whom the authors wrote about. By claiming to be inspired by true events but making explicit in an endnote that the authors took the liberty to change the words of indigenous women's accounts—and probably the senses of their

⁷⁵ Mexican feminist and ex-congress woman, Marcela Lagarde (2011), has been one of the first authors to distinguish the concept *femicide* (the murder of women) from *feminicide* "to emphasize three circumstances: the assassination of women for the fact of being women, the impunity [around these assassinations], and state's failure to serve as guarantor of women's lives, security, and dignity" (Castañeda Salgado, Ravelo Blancas, and Pérez Vázquez 2013, 15). Because of this last circumstance, Lagarde (2006) considers that feminicides constitute state crimes. Lagarde's theorizations have been included in the fifth article of the *Ley General de Acceso de las Mujeres a una Vida Libre de Violencia* (General Law for Women's Access to a Life Free of Violence), a law Lagarde propelled in 2007 during her service in the Congress as *diputada*.

Diana E. H. Russell was one of the first scholars to popularize the term *femicide*. She defined feminicide "as the murder of women by man for the fact of being women". Nevertheless, as she explains, the concept of feminicide has been circulating since more two hundred years ago, appearing for the first time in the book *A Satirical View of London* (1801). It was also defined in the 1848 Wharton Law Lexicon as "the murder of a woman" (Russell 2006, 75–76).

lived experiences as well—this creative writing exercise occupies an undefined, fluid space between the genres of ethnography, *denuncia*, and creative writing. It is impossible to discern how much of what the main characters are said to think and express is a representation of their own testimonies, a reflection of other men’s and women’s testimonies, and/or the mixture of several testimonies with the authors’ opinions and perceptions of the events. Leaving this situation in ambiguity allowed some readers—supporters of the official version of the massacre—to interpret that the phrase “we have to get rid of the seed” was the product of a creative writing endeavor and not the exact words of the paramilitaries.

Such ambiguity left the authors and the feminicidal version of the massacre vulnerable to harsh questionings and critiques, especially considering that one of the authors’ aims was to disseminate what in that moment was a silenced and widely unknown version of the massacre and, therefore, to convince public opinion of its veracity. A literary essay that prioritized poetics and affectivity over a detailed quotation and citation of the anonymous sources was probably not the best genre to accomplish such an objective, especially in the midst of state’s ministerial investigations that fetishized *necrofacts* and other positivist approaches. However, a critical reader should also consider what is not said in a text, what is implied and what is silenced in the face of terror and political turmoil.

Mexican anthropology was already familiar with the novelistic ethnographic style of the novela-testimonio/ethnography, notably through the famous book *Juan Pérez Jolote: Biografía de un Tzotzil* by Ricardo Pozas (1952). This work, which is based on ethnographic data, is commonly not considered an ethnography, but a novel, part of the *indigenista* tradition. In it, Pozas uses the voice of his main character to tell the story of an indigenous man, deemed as “representative” of his community in San Juan Chamula, Chiapas (also in the region of Los Altos). In his article “On Ethnographic Authority,” James Clifford refers to these kinds of characters who appear as representatives of their culture as “realist types” (1988, 44). Following Clifford’s critique, the suppression of indigenous peoples’ coauthorship and quotations of their voices, as well as the omission

of the particularities of the dialogic process through which indigenous peoples and the ethnographer construct meaning, tend to make these *realist types* into “authoritative representation[s] of the other” (idem).

In the case of the United States, Kamala Visweswaran criticizes how paradoxical it is that the *experimental* ethnography movement (to which Clifford belonged) “has been strangely reluctant to embrace other forms of writing, such as the novel, short story, diary or autobiography” (1994, 33). She argues that novels by Zora Neale Hurston or Ella Deloria “would never be considered anthropology in the old canon,” and critiques how they were not included as part of the new canon (experimental ethnography) since, for the exponents of this movement, accepting “native” authority is “to give up the game” (Visweswaran 1994, 32). The two cases I discuss here, “Juan Pérez Jolote” and “Before and After Acteal,” were written by mestizx authors (with the exception of coauthor Christine Eber, who is a white North American anthropologist). Novelistic-style ethnographies can be a problematic genre when authored by non-“natives” who write in the first person and who adopt the body and voice of an indigenous person. Today, this kind of representations would be unacceptable for Zapatistas and for Las Abejas, constantly striving for their right to self-representation. Experimental ethnographies like the ones discussed, can paradoxically have a legitimizing but also misleading effect on the perspectives and affects that are represented. Authors’ decision not to allow indigenous testimonies to tell the story reveal the political constraints that impede the subaltern’s speech in each situation, which at the same time is revealing of the political limitations under which authors operate in contexts of violence.

The essay “Before and After Acteal” could be appreciated as a form of experimental ethnography that challenges positivism’s hegemonic parameters and which, regardless of the extreme time constraints that the authors were dealing with, delivers a realistic sense of indigenous women’s lives and of the stress and suffering they were experiencing. The social life of this essay illustrates the clash between different—and sometimes intersecting—regimes of truth (feminisms, academias, activisms, and the state) and the resulting imposition of state’s hegemonic regime of truth through its

judiciary. During the months following the massacre, powerful actors began to fight a battle on several fronts (in the legal, political, and media realms) for establishing the truth of this event. The battlefield was governed, at least in appearance, by positivist norms for truth-telling and knowledge-production. In “Before and After Acteal,” the reader does not have the certainty whether the main characters of the essay really existed or whether they were a literary creation that the authors used for telling other people’s truthful stories about the massacre, or—in Hernández’s (2006) words—for “rescuing the pain and the subjectivity of those who experience violence in their lives” (150). This ambiguity would become one of the ostensible reasons that would fuel Héctor Aguilar Camín’s critiques to *La Otra Palabra* in his revisionist version of Acteal (2007a; 2007b; 2007c). At the same time, his denial of the feminicidal character of the massacre ignited a heated controversy between him and *La Otra Palabra*’s editor, Rosalva Aída Hernández in 2008, ten years after this book’s first edition, and in the context of the eleventh anniversary of the massacre. Their letters were published in *La Jornada*, in the section titled *El Correo Ilustrado*, on February 22, 24, and 28 and in March 4, 2008. As I discuss at the end of this chapter and in Chapter 3, Aguilar Camín used positivistic critiques based on a narrow reading of the autopsies to assert that there was no evidence to prove that women’s bodies were defiled in the violent ways described in *La Otra Palabra*. Just as the ideology of mestizaje works as a form of denial precisely in those moments when racism is contested (Moreno and Saldívar 2015), the ideology of positivism also works as a form of denial when the truth about politically controversial issues is being questioned. And the year 2008 was clearly one of those occasions, as the Acteal case was under the Supreme Court’s review.

In another work, Hernández provided some contextual information that was missing in *La Otra Palabra*:

Micaela is a pseudonym I have used to write about the story of one of the survivors of Acteal. Her experience was reconstructed based on statements she made to the Centro de Derechos Humanos Fray Bartolomé de las Casas. After the media told about the cruelty toward the pregnant women in the massacre, a rumor spread saying that it was an exaggeration made up by the human rights

organizations and the media. When speaking to reporters, some local Red Cross employees denied that the bodies had been mutilated. Even in academic circles, the rumor spread saying that the facts were exaggerated. The magazine *Proceso* took on these arguments and denied the existence of corporal mutilations. (Hernández Castillo 2006, 162)

Since it was Frayba that had shared survivors' testimonies with *La Otra Palabra's* authors, I can think of many reasons why these testimonies were not reproduced as part of the text (even by conserving the anonymity of the witnesses), especially taking into account the political moment in which the book came out. In this sense, the chosen genre conveys not only what was possible to say during that time, but also, by omission, the restrained political conditions of enunciability. The absence of survivors' quoted testimonies in the text marks the "space of death" (Taussig 1984), product of the effects of terror in the already racialized politics of enunciation and representation.

"Collaboration for Whom?"

Shifting the basis of James Clifford's argument on the crisis of representation (1994), Visweswaran has argued:

If we have learned anything about anthropology's encounter with colonialism, the question is not really whether anthropologists can represent people better, but whether we can be accountable to people's own struggles for self-representation and self-determination. (Visweswaran 1994, 32)

Visweswaran's observation is key, since it allows the debate to move beyond the paralyzing critique on the "crisis of representation." In contrast with the rest of the works I analyze in this dissertation, *La Otra Palabra's* authors are deeply invested in indigenous struggles for self-determination. Nonetheless, the way they expressed their solidarity in "Before and After Acteal" did not provide the same support to indigenous authorship. It was probably not the space or the occasion. This kind of paradox haunts all of us who attempt to engage in collaborative research: How can we avoid reproducing epistemic forms of oppression through our collaborative/academic attempts to advance the struggles

we sympathize with, especially in contexts of state violence? In the case of mestizxs or non-indigenous people, are our academic attempts doomed to be an expression of the colonality of power regardless of our “good” intentions, when we aim to act as “bridges” between indigenous movements and the larger civil society? Several people in Acteal think so. As Xun Gutiérrez—a 19-years-old member of Las Abejas—told me while discussing the ends of collaborative research, “Collaboration for whom? Collaboration is something like the fair trade [*intercambio justo*]: both claim to give you more, but in exchange of new forms of exploitation.”⁷⁶

These days, Las Abejas are following the Zapatistas’ policy of not allowing research with their organization and its members.⁷⁷ Las Abejas have made it very clear that they don’t need outsiders to tell their story to the rest of the world. In this context, is directly quoting indigenous testimonies a good-enough strategy to stay away from the colonial vortex? It certainly is not, and that is why at some point of my research I deeply believed that being in solidarity with Las Abejas’ struggle meant not writing about it. However, silence was not an alternative; it did not honor Las Abejas’ struggle or my own embodied experience with the case. As Agamben (2002) argues, “To say that . . . [something] is ‘unsayable’ or ‘incomprehensible’ is equivalent . . . to adoring silence, as one does with a god. Regardless of one’s intentions, this contributes to its glory” (32–33). The glorification of silence has to come to an end to give space for productive critique through dialogue. Spivak (1988), Tuhiwai Smith (2005), Leyva Solano & Speed (2008), Kovach (2009), Santos (2010), Mora (2011); Rivera Cusicanqui (2012), and López Intzin (2013), are just some among the growing list of intellectuals who have argued for the need of cultivating dialogue as a decolonizing practice: one capable of unsettling hierarchies and research agendas. In Spivak’s words, the alternative is not only in “seeking to learn to speak to (rather than listen to or speak for) the historically muted subject of the subaltern woman” (1988, 91) but also in developing sharp critiques of those endeavors that are self-characterized as “decolonizing” ones. As long as non-

⁷⁶ Tzajalchén, January 28, 2013.

⁷⁷ I will discuss this situation in more extent in Chapter 5.

indigenous people do not learn to speak with indigenous people on their own terms, at their own times, and in their languages, the possibilities for decolonizing dialogues and accurate “intercultural translations” (Santos 2010, 35) would continue to be very limited.

While the genre of the first piece in *La Otra Palabra* (“Before and After Acteal”) was the literary essay, the rest of the contributions in the book were written in the format of traditional academic essays in which the voices of the authors were distinguished from the voices of indigenous women through the literal quotation of their words. In their article, Garza and Hernández reconstructed the political history of Chenalhó that preceded the Acteal massacre and explained the emergence of *cacicazgos* [chiefdoms] and their relation with the proliferation of paramilitary groups in the region and the increase of state-sponsored violence. Freyermuth linked this massacre to other forms of *silenced genocide* in Chenalhó, such as maternal death and forced sterilizations within the public health system. Eber and Hernández analyzed women’s political participation in local indigenous movements as well as the changes, hopes, and challenges they have faced in Chenalhó, in the case of Eber, and in the entire state, in the case of Hernández. Figueroa discussed the concept of genocide as it applied to the Acteal case. Olivera analyzed the effects of the low-intensity war in indigenous communities as well as the meanings of the massacre and its gendered violence. These essays offer a variety of points of entry to the analysis of state violence as it is waged on women’s bodies. The political interpretations that the authors conveyed in the book seem to be mostly articulated from an *etic* perspective. It is in the book’s epilogue that the reader gets a sense of what the authors’ positionality might look like.

The title of the book, *La Otra Palabra* [*The Other Word*], seems to refer to indigenous women’s voices. The picture displayed in the cover of the Spanish-language edition shows the photograph of an indigenous woman kneeling and praying in front of candles and a Mexican flag. However, the subtitle “Women and Violence in Chiapas Before and After Acteal” may suggest that the “Other Word” is that of *women* without distinction of race or ethnicity, as a conglomerating category. This is confirmed in the last chapter of the book, which serves as an epilogue. Written by Diana Damián, this essay

gives an overview of how mestizas based in the city of San Cristóbal (including the contributing authors) experienced the low-intensity war. “*Al lastimar a una mujer nos han lastimado a todas*” [by injuring one woman, they have injured all of us] (2001, 137), Damián asserts. Through its conglomerating quality, this mobilizing phrase resumes the *raison d’etre* of the book, giving grounds for the authors’ intervention in the name of the indigenous women killed.

The quotation of an anonymous indigenous woman’s words, in dialogue with Damián, seems to be deemed as a justification for this intervention. Damián was sharing with this woman the idea of writing this article to express her mestiza comrades’ anguish and suffering resulting from the state’s attacks on dissident indigenous populations. According to Damián, the indigenous woman responded: “*Si escribes unas letras, acuérdate de nosotras, muchas, no sabemos decir nuestra palabra en papel; pero sí sentimos y sufrimos mucho*” [If you are writing some words, remember that many of us do not know how to write our words on paper, but we do feel and suffer a lot.] (2001, 137). The phrase is extremely powerful. It reflects this indigenous woman’s realization that, for the rest of the world, materiality defines the parameters of existence. Feelings and suffering become real to mestizx *others* when they are materialized in words printed on paper. This woman knows how to say *her* word. This woman knows “how to speak” (Newdick 2012) in order to convey her ideas and feelings.⁷⁸ Not knowing how to write these ideas/feelings down does not mean that she does not “*senti-piensa*” (feel-think) them. Damián, on the contrary, can put her feelings/thinking into writing. “*Y me pongo más triste porque no luchamos por tener más, sino porque no tenemos nada*” [I get even sadder not because we are struggling to have more, but because we have nothing], the

⁷⁸ In her dissertation, Vivian Newdick (2012) explores Tzeltal women’s process of learning “how to speak,” that is, to raise their voices to make *denuncias*, which, according to Newdick, differ from the testimonial genre. As Ana González (a victim of rape by military personnel) explains: “When they attacked me I didn’t know how to speak, I could only cry. But now they can’t come and tell me what’s happened to me. The truth is I just won’t put up with it anymore, I’ve grown up. I’m not afraid anymore if they want to try to do something to me. Who knows what measures I’ll take. I just feel bigger now” (Newdick 2012, 82). González’s words convey the importance of knowing how to speak to not remain silent and reflect how this knowledge is gradually acquired and developed through the *caminar* experience, that of being in the struggle.

anonymous indigenous woman continues, making the differences between her and her interlocutor more salient. And probably in the face of these abysmal differences, this anonymous woman ends up saying: “*Y me pregunto ¿cómo hacerle para llegar a más mujeres y hombres y nos unamos más para ser una sola lucha? ¿Usted no ha pensado cómo?*” [And I ask myself: how are we going to get more men and women to join us so that we are all in one struggle? Have you not thought about that?] (2001, 137). Perhaps in this indigenous woman’s words are the guidelines for how to do a uniting, intercultural, collaborative work, especially if we consider that her words were a response to Damián’s idea of writing this epilogue. It is not only about women’s struggle. It also is not about indigenous peoples’ struggles *only*, as this anonymous indigenous woman knows well.

Damián’s answer and realization in her text is that “*la palabra es nuestra única arma*” [“the word is our only weapon”] (idem) and when she says “our,” she refers to all women, indigenous or not. Men or queer people are not considered part of this struggle, very much in the style of second-wave feminism. Gestures towards a third-wave feminism are also present in this text, in the form of a diffuse assertion of the authors’ positionality. In fact, Damián’s essay is the space in the book where the authors anonymously position themselves in the face of state violence: “*Nuestra intención es hablar por nosotras mismas, y compartir lo que esta guerra nos ha provocado... unirnos más*” [“Our intention is to speak for ourselves, and about what this war has provoked us to do ... to unite ourselves even more”] (2001, 135). This time, *ourselves* refers only to this group of mestizas. These mestizas assert that they can speak for themselves and do not need intermediaries. Where does this assertion leave the indigenous women depicted in the book? To what extent does our speaking diminish the possibility that other voices be heard?

This last essay has the longest quotations in the book, and they correspond to the testimonies of anonymous mestizas. These women are the ones who led the January 12, 1998, demonstration in San Cristóbal in protest of the massacre. It is only implied that the authors of the book are also among these women, giving testimony for this article. One of the testimonies narrates how, regardless of the differences and conflicts between

women's organizations in San Cristóbal, it was the common indignation that the Acteal massacre caused that brought them closer together. While organizing the protests, new conflicts arose between these organizations, reproducing certain logics of the war that these feminists were trying to contest:

Nosotras nos peleamos para encabezar las marchas, le entramos a la misma lógica, lo que vivimos es una guerra y no la hemos asumido. Me lleno de coraje, yo creo que por eso sigo y por eso me aviento hacia adelante. De pensar en los niños muertos, me pongo a pensar en que pudieron ser mis hijos y que pueden serlo, y que no se va a evitar aunque me salga yo de esto. (2007, 147)

[We fight to head the marches. We enter into the same mentality. What we are living is a war, and we have not recognized it. I fill myself with rage. I believe that is why I continue and why I push myself forward. Thinking about the dead children, I start to think that they could have been and could be my children, and that cannot be avoided even if I drop out of this. (2001, 138)]

The affect that drives this anonymous mestiza to the struggle is the possibility of projecting herself on the victims of the massacre. To feel compassion for others' suffering not so much because of their suffering itself, but because of the likelihood that my loved ones or I could experience it, speaks of a particular form of engagement with the *other* during times of war: humanitarianism. As Didier Fassin (2012) asserts, "the politics of compassion is a politics of inequality" (2012, 3). "*Pudieron ser mis hijos*" [They could have been my children] falsely implies that paramilitary killings did not differentiate between mestizxs and *indígenas*, or between city-based Zapatistas' supporters from those based in indigenous communities. Terror creates the sense of a common denominator among those living under its reign. Even while knowing that not everyone is equally exposed to the same dangers, a shared experience of terror creates strong affective bonds between people who do not know each other. The possibility of these bonds with all their problems and contradictions is probably one of the most important lessons conveyed in this book.

In the preface of *La Otra Palabra's* second edition, published nine years after the first one, Hernández explained that "the objective of the book was not only to denounce the effects of paramilitary violence, but also to *recuperate* from a gender perspective the

voices and experiences of indigenous women, before and after Acteal” (2007, iv). But from whose standpoint is the gender perspective of this book articulated? “*Recuperar*” [recuperate] is a recurrent term in Mexican activist scholarship; it is used to describe the process of bringing to the center that which has been excluded, marginalized to the peripheries, or even lost. The inclusive action of recuperating the voices of indigenous women is articulated from the center, as it is the standpoint that theorizes gender. Or can a gender perspective be something different than the authors’ perspectives on gender issues if it is not dialogically conveyed? How to solve this conundrum?

The privileged standpoint that the passage of time provides allows us to see the practical contradictions of these brave and committed academic engagements with activism in the midst of violent historical junctures. *La Otra Palabra* was one of my first approaches to the Acteal case and my analysis builds on the work of its authors. In most cases, it is easier to act according to the knowledge of the past than on the uncertainty of the future. After almost twenty years of survivors’ struggle for justice, in this historical moment I see the possibility of another way of thinking and approaching the Acteal case, one that is certainly not free of contradictions. It is not about bringing fragments of the voices of the victims to the center; it is about collectively listening to them and dialoguing with them within the context of a large corpus of oral, embodied, and documented past and present testimonies, and as part of survivors’ collective endeavor to attain justice. Spivak’s proposal of “seeking to *learn to speak to* (rather than listen to or speak for) the historically muted subject of the subaltern woman” (1988, 91) cannot be completely fulfilled if non-native researchers do not privilege indigenous peoples’ rights for self-representation in the dialogic process of knowledge-production. This is a complaint [*reclamo*] that Zapatistas and Abejas constantly express against mestizx anthropologists and which poses probably the greatest challenge to the discipline in the process of becoming undisciplined and decolonized.

The cry “we have to get rid of the seed” (Hernández Castillo 1998; 2001; 2006) and the images of babies being extracted from their mothers’ open bellies have been extensively referenced in mainstream and alternative newspapers, in several academic

works, in hundreds of activist blogs, and in innumerable political discourses. These words and images have come to constitute a part of the social imaginary of the Left and have inspired the rage of activists, journalists, and writers, some of which deem them as truthful, and others as strategic hyperboles. After interviewing feminist lawyer and *La Otra Palabra's* coauthor Martha Figueroa in my fieldwork, I understood that María (the second character in *La Otra Palabra's* opening essay) was a real person and that Figueroa's organization (Grupo de Mujeres) was involved in accompanying her to get the surgery she needed and that the mestizx doctors in San Cristóbal negligently denied her. Figueroa directly took her to the hospital, but since the doctors were delaying the surgery, this woman left the hospital the next day in the early morning and went back to Acteal. She was one of the women who were killed during the massacre. On the other hand, the cry "*hay que acabar con la semilla*" ("we have to get rid of the seed," as is translated in the English version) also appeared in a communiqué that the EZLN released on December 23, 1997, as a response to the Acteal massacre. In this communiqué, the EZLN exposed the origins and operations of paramilitary groups that led to the massacre:

Quinto: De esta manera unieron sus fuerzas los gobiernos federal y estatal, el Partido Revolucionario Institucional y el Ejército federal. Su objetivo está sintetizado por el "grito de guerra" de los paramilitares llamados "máscara roja": "*Vamos a acabar con la semilla zapatista*", es decir, "vamos a acabar con las comunidades indígenas". (EZLN 1997)⁷⁹

[Fifth: In this way, the federal and state governments, the Institutional Revolutionary Party, and the federal army joined forces. Their aim is synthesized in the "war cry" of the paramilitaries called "Red Mask": "*Let's get rid of the Zapatista seed,*" that is, "we will wipe out indigenous communities."]⁸⁰

It is possible to think that quoting survivors' and Zapatistas' words and using other verification methods was not enough to prevent Aguilar Camín's denial of the femicide or his defamations of *La Otra Palabra's* version of the massacre, since his intervention seemed to obey interests different from those linked with academic rigor. If

⁷⁹ Italics mine.

⁸⁰ Translation is mine.

Aguilar Camín fetishized *necrofacts* and used the autopsies (*necropsias* in Spanish) of those killed as the ultimate evidence to deny the deployment of sexual violence during the massacre, then it was *and still is* important to produce a response that shows how those documented *factishes*—a combination of facts and fetishes (Latour 2010)—are far from being self-evident and objective sources of truth. For that reason, the next part of this chapter attempts to contribute to the struggle to insist in the feminicidal character of the massacre and in the need that the consequences of the massacre be addressed from an intersectional perspective.

Allowing the spectacular gendered character of the massacre's violence to circulate without identifiable elements of verification gave force to Aguilar Camín's version of the massacre. By characterizing *La Otra Palabra's* facts as simple rumors, with rumors he created a smokescreen that undermined the trustworthiness of survivors' testimonies. However, we should not ignore the great power of rumors, both in mestizo and in indigenous communities (Guiteras Holmes 1965; Collier 1973; Haviland 1977). Shannon Speed (2006) explains that few days after the Acteal massacre, an indigenous woman from the municipality of Nicolás Ruiz (at the *Zona Centro*—Center region of Chiapas) was talking about the actions taken by her and other women to prevent the entrance of security forces into their community. At a certain point in her narration, this woman lowered her voice and said:

And you know that they massacred women and little children? They say that all you could hear were the cries and screams of women and little children as they died. We won't let that happen here. Now we are angry. (Quoted in Speed 2006, 177)

After listening to these words, Speed had a crucial realization: The anger that the Acteal massacre's atrocious violence provoked had pushed these indigenous women to take an active role in defending their community from the enemy (the security police/paramilitaries). In Speed's words:

. . . [S]ometimes strategies of terror, which the Acteal massacre clearly was part of, can have an effect contrary to their purpose. Such strategies, designed to

generate fear that is paralyzing to rebellious populations, in this case engendered resistance. (Speed 2006, 178)

By giving more importance to the dead bodies of the massacre than to the living ones, fetishism of *necrofacts* made survivors' testimonies appear as lies. But indigenous peoples, by listening to survivors' testimonies, were able to strengthen their resistance, and in many cases, to survive. The autopsies in the Acteal case constitute *necrofacts* produced by the state's experts in forensic medicine and supported by government's intellectuals. While the government fetishized truth and placed its source in these *necrofacts* instead of listening directly to the victims, displaced people in Chenalhó put their trust in the experiences of their surviving comrades. *Necrofacts* produced silence. Victims' testimonies, resistance.

The Archive and Its Register of Femicidal Violence

Collaboration with Las Abejas and their lawyers at Frayba in the elaboration of an expert testimony [*peritaje*] on the psychosocial effects of the massacre in 2014 took me close to the survivors, their experiences, and testimonies. After exhausting the national legal avenues to achieve justice, Las Abejas and Frayba took the case of the massacre to the Inter-American Commission of Human Rights (IACHR) in 2005. The IACHR admitted their petition in November 1, 2010, and in 2014 the IACHR was still waiting for the Mexican State to submit its response. *Peritajes*, expert opinions or expert testimonies, are popular tools that lawyers have used in the national and international legal arenas to advance indigenous rights (Lachenal 2008; Sánchez Botero 2010). In several cases, *peritajes antropológicos* had been the key type of evidences that allowed indigenous peoples to win their legal struggles. In Mexico, *peritajes* are a very common form of legal evidence used in most court cases. There are *peritajes* in handwriting (to determine the authenticity of a signature), in ballistics, in construction, in finance and accounting ... practically in every specialized topic.

Peritos [expert witnesses] are specialists in a realm of knowledge that a judge is not obliged to know. In this sense, *peritos'* opinions help judges to make their decisions

by providing specialized knowledge on certain themes that are crucial for resolving a court case. After the 2001 constitutional reform on indigenous issues in Mexico, which gave a limited first-time recognition to indigenous normative systems, the *peritajes antropológicos* [expert opinions in anthropology] began to acquire relevance (Fabre 2011; Ramírez 2012; Valladares 2012). They are mainly used to provide cultural translations of indigenous law or indigenous worldviews; for example, to prove that an indigenous person was following his/her “*costumbre*” when committing an act prohibited by the state’s law. Therefore, higher judges and indigenous organizations in Mexico were beginning to become interested in the possibilities that these *peritajes antropológicos* could bring to making the recognition of indigenous law a reality.

In this context, Frayba decided that it was necessary to prepare a *peritaje* before the IACHR which documented and analyzed the massacre’s psychosocial impacts on the survivors and their organization. Frayba wanted to give more substantial evidence of the damage (moral, emotional, physical, economical) caused by the state’s negligence in preventing and investigating the massacre, punishing those responsible, repairing damage to the victims, preventing further episodes of violence, and in providing the victims with medical and psychological treatment through the years, especially considering that twenty-five people were severely injured during the massacre and dozens are still marked by trauma. Part of my collaboration in this *peritaje* consisted in working at Frayba’s private archives to locate and systematize survivors’ testimonies that could be used as evidence in the expert opinion. This work granted me a controlled access to the archive where Frayba jealously keeps the legal and testimonial documentation of the cases to which Frayba gives *acompañamiento legal* [legal accompaniment]. Only Frayba’s personnel have access to these archives. In fact, only some of them have a key to this room, filled with stories of human rights violations.

Jorge, one of the two male members of Frayba’s team in charge of the “international area,” and therefore, responsible of coordinating the expert opinion, assumed the extra duty of giving me access to the archive and supervising which legal file or box of documents I would be working with each day. I was not allowed to stay in

the archive by myself. I had to take the documents I wanted to work with to another office in Frayba. The first time I consulted the archive, Jorge instructed me to use the desk of one of Frayba's lawyers, who was out of the office that day, so I could work there with the archive's material. Over her desk were several legal documents, family pictures, and other personal belongings. It felt as if I was invading her private space and wondered if Jorge was not worried that I could mess around with her things. Issues of trust and notions of space worked in a very particular way in this NGO. Even when I constantly felt suspicion and distrust from some members of Frayba's team, the distrust was not in terms of what I could do inside their offices, but in terms of what I could do with the information I collected. Such distrust was understandable, given the delicate cases Frayba attends and the political pressures Frayba's lawyers are constantly subjected to. I was trusted with the files and allowed to be by myself with them, as long as it was inside Frayba's offices. At the end of the day, I had to return the files to the archive with the company of the "archive's gatekeeper." Soon, Jorge got tired of the routine of going down the stairs with me to pick up or to leave the files in the archive, so he decided that I should just leave them in his office.

Having been given access to the files of the Acteal case has represented an enormous responsibility.⁸¹ After the first time I consulted the archive, I was instructed to work with the archive's materials in the library at Frayba, where bibliographic, hemerographic and video materials are kept. The library was the only room in Frayba that was not shared with anyone else. This placed me in a weird space, simultaneously inside and outside of the organization. Through the library's open door I could witness all the turmoil and sense of emergency that is permanently experienced in Frayba: team members frantically going up and down the stairs; groups of people from the surrounding indigenous communities going in and out of the offices, or talking in the open central patio as they waited to be received by one of the lawyers. The central patio was a space of confluence where indigenous languages mixed with the German, French, English, and

⁸¹ For this purpose and in order to maintain survivors' and witnesses' privacy and safety, I have used pseudonyms in the case of those testimonies that Frayba or Las Abejas have not made public. As I mentioned in the introduction, I have marked those testimonies with an asterisk.

Italian languages of Frayba's numerous and rotating volunteers, as well as with the screams of members of the team who went out to the patio to communicate directly with the other members on the top floor. Other days, the central patio was the stage of press conferences, forums, report presentations, and wider team meetings. Spending so many days at Frayba allowed me to take part in these events and in the ones that took place in indigenous communities. Navigating the thousands of pages of the files and all their horrors had a severe toll on my physical and emotional health, so the forums and events that Frayba organized provided me with hope and perspective. The past was (is) still in the present; yet, waves of violence have encountered waves of awareness, contributing to the expansion of the victims' wisdom and resilience.

The first time I visited Frayba's archive, Jorge showed me where the Acteal documents were located. Frayba's archive is a small, dark room full of piled-up cardboard and plastic boxes with no apparent order. Metallic bookshelves store thick judicial files, one on top of the other, and a couple of file cabinets are repository of Frayba's documentation of cases, including testimonies, letters, communiqués, photographs, newspapers, pamphlets, and other memorabilia. The person in charge of the archive was a hard-working Italian man with very kind eyes who had devoted the last eight years of his life to Frayba. He was the first one to arrive at the office in the early morning and the last one to leave; he hardly ever left the office to have lunch. One time I found him just waking up after spending the night sleeping on one of the office's desks. He had a deep affective relationship with the archives. He spent his time analyzing and systematizing information on human rights violations that the lawyers at Frayba collected in various communities. His unsurpassed dedication meant that he was probably the only one in the whole office who understood the archive's ostensible chaos. By the time I began working with the archive, he moved to Guatemala. This created a very difficult situation for Frayba.

The archive room has railed windows and is on the first floor, adjacent to the central open-air patio. The Acteal case's thick judicial files occupied the two highest tiers of a bookshelf. Dossiers with testimonies and several other loose documents related to

Acteal were archived in a cabinet drawer and in several plastic boxes. I was looking for the first testimonies collected immediately after the massacre. During the process of the *peritaje*, the members of the team discussed how important it was not be probing into the event of the massacre when we interviewed the survivors and collected their testimonies. The interdisciplinary and intercultural research team was formed by Ollinca Villanueva (daughter of a well-know local feminist activist, Julieta Hernández, one of “*las mismas*”), her colleague Laura Sanvicente—both mestiza psychologists and anthropologists; Elena Gómez and Martina Díaz—Tzotzil bilingual activists, skilled translators and interpreters;⁸² and me—mestiza lawyer and anthropologist. Mónica Cruz and other national and international volunteers at Frayba did the transcriptions both of the interviews and of some of the workshops. Rubén Moreno and Jorge Luis Hernández were Frayba’s coordinators of the *peritaje*. Carlos Martín Beristain (a physician and Ph.D. in social psychology from Bilbao) was the director of the project and who elaborated the final version of the *peritaje*.

Carlos, an experienced expert witness for several relevant cases of state violence worldwide, (including the Ayotzinapa case), trained us on how to conduct the interviews and workshops with the survivors, trying to focus on survivors’ resiliency. We were conscious that in conducting a *peritaje* of this nature, there was the possibility of continuing to “pick the injury” and contribute to the re-victimization of the survivors. For that reason, if we needed more specific information about the details of the massacre itself, we could always resort, instead, to the existing testimonies in the archive. These original testimonies could also be used to illustrate the deep impact that the massacre had

⁸² Martina is from the municipality of San Andrés Larráinzar or, as she says, San Andrés Sakam Ch’en de los Pobres (its new Zapatista name since 1994). Martina coordinates a project of women’s empowerment, locally called “Cajas de Ahorro” (a kind of micro-credit union) within the Group of Women of Las Abejas. For each peso that these women save, the NGO Peace and Diversity Australia (PDA) provides another peso. (See <http://www.peaceanddiversity.org.au/projects/womens-empowerment/>). The way this project operates has been explained in the documentary *Antsetik tsa’ik Lekil Kuxlejal/Women Constructing Good Life* (Jiménez Pérez 2012) produced by Las Abejas’ Communication Area, and directed by the ex-President of Las Abejas and documentarist, José Alfredo Jiménez Pérez. Martina’s committed work with Las Abejas and her familiarity with several survivors was crucial for carrying out the *peritaje*.

in the survivors during the days after it took place. However, when we—the members of the research team—met with the survivors, we were surprised to find out that they invariably wanted to talk about the day of the massacre and about the physical and emotional aspects of its violence. More than a desire, this reaction seemed to us in the moment like a well-learned, embodied knowledge of what survivors’ lawyers considered “valuable information,” and an anticipation of what these lawyers (and us, by extension) expected to hear from them to incorporate into the *peritaje*. Martina, who knew the survivors well, agreed with this interpretation. I had already experienced this situation when being in Acteal before the *peritaje*. Survivors’ way of establishing a connection with non-indigenous outsiders was commonly based on the experience of the massacre. At the end, the massacre is what brings outsiders and survivors together during the monthly ceremonies in Acteal, where the act of sharing a traumatic past is meant to have a therapeutic effect and to be a source of solidarity. Nonetheless, during the *peritaje* it became clear that survivors’ constant sharing has in many cases gone beyond their need of venting, of communicating their truth, and of cultivating empathy (Beristain 2016).

As part of the *peritaje*, we (the research team and coordinators) tried to locate those who had given testimony of the gendered violence that Frayba and the authors of *La Otra Palabra* described in an attempt to provide more evidence of it. We had no luck, in part because Las Abejas’ Directive Board was who decided with which survivors we should talk for the *peritaje*, and also because several survivors had already split from Las Abejas since the 2008 internal fractures (See Chapter 1). The interview guide was the product of a collaborative endeavor between some members of Las Abejas, the members of the research team, Carlos, and Frayba’s lawyers. None of the survivors that the team interviewed were direct witnesses of paramilitaries’ obliteration of women’s bodies. However, several survivors mentioned that they heard those narratives during the days after the massacre. This information, which survivors take at face value, still invades their nightmares and is cause of their continued terror and sickness, as community elder and survivor Josefa Pérez’s expressed:

Yo tengo duda de las mujeres embarazadas. Muchos dicen que les sacaron a los bebés y que se los aventaron a comer a los perros, y yo pienso si no se los comieron los asesinos. Ahora me quedó el vómito, la fiebre, la diarrea, y me sigue doliendo la cabeza y tengo tos.⁸³

[I have a doubt regarding the pregnant women. Many say that their babies were ripped out of them and then thrown to feed the dogs, and I think if it was not the murderers who ate them. Now I am still with vomit, fever, diarrhea, and I still have a headache and cough.]

Similarly, during an interview with Diego Pérez Jiménez, a survivor of the massacre, it was he who brought up the brutality perpetrated against women who were killed that day. We asked him what he thought those brutal acts meant, and he answered:

La verdad, tanto he pensado pues, bueno no he podido tener un resultado bien pues de qué significa eso que lo sacaron así, que destriparon las mujeres. . . . De verdad pues me sentí muy mal, más tristes todavía... Entonces, ¿pero por qué le hacen así [a] la pobre mujer? ¿Qué culpa tiene el pobre niño que está adentro de su mamá . . . y lo sacan de cuchillazos? No, dije yo, pero de verdad pues... una lástima más me dio todavía que le hicieron así a la pobre mujer. No sólo lo balacearon sino que le echaron cuchillo todavía, entonces de verdad pues más tristeza me dio todavía, pues no dejo de pensar, de recordar eso que le hicieron a las pobres mujeres.⁸⁴

[To tell the truth, I have thought so much, and I don't have a conclusion of what does it mean that that they just ripped them out like that, that they disembowelled women. . . . I sincerely felt so bad, sadder than what I already was... So, why did they do this to the poor woman? What fault does the poor child who is inside his mom have . . . who is taken out through stabbings? No, I said, but really... I felt more pity for what they did to the poor woman. Not only did they shoot her, but they casted knife on her. It really made me sadder, because I cannot stop thinking, remembering what they did to the poor women.]

⁸³ Testimony of Josefa Pérez* (around age 70), Psychosocial Expert Testimony, CDHFBC, Acteal, July 24, 2014.

⁸⁴ Testimony of Diego Pérez Jiménez, delivered in Spanish. Psychosocial Expert Testimony, CDHFBC, May 9, 2014.

Expressing these thoughts was tremendously difficult for Josefa and for Diego. The anomia that the massacre left and which these testimonies clearly convey, implied a loss of the ordinary way of sensing and of making sense of the world. Not being able to understand the “space of death” after so many years is still terrifying for the survivors. Besides survivors’ memories of that day, there was still the chance to go back to survivors’ original testimonies after the massacre. While exploring Frayba’s archive, I encountered five testimonies that recounted the feminicidal violence that the paramilitaries perpetrated during the massacre. The first and most revealing testimony is dated January 27, 1998, and is from Alberto Ruiz Pérez, an 18-years-old survivor who gave account of the events of December 22, 1997. As the section transcribed below shows, his voice seems to be mediated by the voice of the translator:

A las 9 de la mañana fueron a la Iglesia porque tenían ayuno. Eran como 300 unos en la iglesia y otros en el campamento frente a la iglesia. Llegaron los asesinos como a las 11:20. Cuando vinieron hicieron un círculo, rodearon la iglesia. Entonces dijo el jefe de zona Alonso Vázquez Gómez “mejor no vamos a salir mejor vamos a quedar aquí en el campamento”. Algunos quedaron amontonados en una piedra grande, otros corrieron hacia el río. Cuando llegaron los asesinos tiraron bala en la iglesia, todavía no habían muertos. Como a la 13:00 hrs ya habían muertos. Legaron en la Iglesia están los de Las Abejas amontonados en una piedra atrás de la iglesia, lloró un niño y los asesinos lo escucharon y bajaron al verlos que están amontonados les hechó (sic) la bala, ahí quedó mucho muerto. *Cuando murieron las mujeres un hombre les quitó su nagua, su ropa y lo echaron palo en su nalga a las mujeres.* El que hizo eso fue [nombre del atacante] de Quextic. *Había una mujer embarazada María Gómez Ruiz de Quextic y ya muerta lo cortó su estómago, tenía un cuchillo, lo abrió la panza y murió el niño ahí dentro de la panza de la mujer.* Alberto [la persona dando este testimonio] estaba escondido atrás de un árbol con Antonio Pérez Kuín, (de Quextic, refugiado en Nueva Primavera), Alonso Gómez Ruiz (de Quextic, refugiado en Don Bosco), María Ruiz Pérez (mamá de Alberto) y Manuel Gómez Ruiz y vio cuando lo hizo así el [nombre del mismo atacante], originario de Quextic a María Caponte (sic) Pérez, también a Marcela Capote Ruiz, María Méndez Paciencia de Quextic y a Susana Jiménez Pérez de Acteal. Cuando vieron muchos muertos empezaron a reírse los asesinos y gritaban “¡nosotros ya los ganamos!” Cuando lo escuchó que había mucho muerto empezaron a correr hasta llegar al Barrio Cactealtik como a las 6 de la tarde, después de caminar 4 horas despacio porque seguía tronando la bala. Dilataron 2 horas ahí. Los encontraron los compañeros de ahí y les dieron

comida. Regresaron al centro de Acteal donde está la escuela como a las 9 de la noche y se fueron a las 13:00 de la mañana (sic) para Polhó.⁸⁵

[At nine in the morning they [members of Las Abejas] went to the church because they were fasting. There were around three hundred people, some in the church and others in the [refugee] camp in front of the church. Around 11:20, the assassins arrived. When they came, they made a circle and surrounded the church. Then, the leader of the zone, [Las Abejas' leader and catechist] Alonso Vazquez Gómez, said: "It is better that we don't leave; it's better to stay here in the camp." Some people stayed gathered on top of a large rock; others ran to the river. When the assassins arrived, they opened fire into the church. There were no dead people yet. Around one o'clock there were dead people. They [the assassins] entered the church while those from Las Abejas were gathered on a rock behind the church. A boy cried and the assassins heard him and saw those who were gathered and opened fire on them. A lot of people died there. *When women died, a man took off their nahuas [skirts], their clothes, and they put a stick in the women's buttocks.* The one who did that is [name of the male assailant] from Quextic. *There was a pregnant woman, María Gómez Ruiz, from Quextic. When she was dead, he cut her stomach. He [the assailant from Quextic] had a knife. He opened her belly and the unborn baby inside the woman's belly died.* Alberto [the person giving this testimony] was hiding behind a tree with Antonio, from Quextic; Alonso Gómez Ruiz, also from Quextic; María Ruiz Pérez, Alberto's mother; and Manuel Gómez Ruiz. Alberto saw when [name of the same male assailant], from Quextic, did this to María Capote, and also to Marcela Capote Ruiz, María Méndez Paciencia, from Quextic, and to Susana Jiménez Pérez, from Acteal. When they [the assassins] saw several people dead, the assassins began to laugh and shouted, "We have won!" When he [Alberto, the person giving his testimony] heard that there were a lot of people dead, they [the survivors] began to run until arriving at Barrio Cactealtik around six in the evening, after walking slowly for four hours, since bullets were still being fired. They stayed there two hours. The *compañeros* found them and gave them food. They returned to the center of Acteal, at the school, around 9 p.m. and then went to Polhó at one in the morning.]

Since 2007, Frayba has quoted sections of this testimony (the ones I italicized above) and reproduced them in its reports to prove the brutality of paramilitaries'

⁸⁵ Testimony of Alberto Ruiz Pérez, from Quextic, Chenalhó, collected on January 27, 1998. CDHFBC's archive. (White box Acteal 2/2, manila folder "Pruebas para observación del Estado"). Italics mine.

violence against women (CDHFBC 2007, 18; 2009, 13).⁸⁶ However, Alberto's whole testimony is important to strengthen its evidential value, since it provides circumstances of time and space in which he and others observed the paramilitaries' actions. Alberto's testimony coincides with the judicial testimony of Eduardo González* of Quextic, who was one of the men that paramilitaries took as prisoners and who were forced to collaborate with them and to plunder the houses in Acteal the day of the massacre. When the prosecutor showed Eduardo an album with pictures of the suspects, he recognized the same assailant mentioned in Alberto's testimony as the person "*que fue quien mató [a] su tía . . . y [a] dos primas suyas [. Q]ue a su tía le levantó la falta y le metió un palo en sus partes genitales.*"⁸⁷ [who killed her aunt . . . and two of his cousins [. T]hat he pulled up her aunt's skirt and shoved a stick in her genitals].

Other two testimonies (third and fourth) that recounted femicidal violence during the massacre were collected by international activists volunteering in Frayba's Civil Observation Brigades for Peace and Human Rights (BriCO) in February 1998 in the community of Tzajalchén, Chenalhó. The people interviewed were forcibly displaced from the communities of Canolal and Tzajalucúm. As in the previous testimonies, it is probable that the people testifying were speaking Tzotzil and that what was transcribed was the simultaneous translation of their words. That might be the reason why the testimonies are narrated in the third person. The third testimony is from a thirteen-year-old boy from Canolal:

Cuando pasó dos o tres días de la matanza de allá en Acteal, entonces ahí contó su papá y dice que está viendo qué está pasando, "yo le eché cuchillo y machete a las que estaban embarazadas", dijo.⁸⁸

⁸⁶ Hernández also quoted the italicized section of this testimony in her letter published in *La Jornada* (February 22, 2008), in the midst of the crude epistolary exchange between her and Aguilar Camín.

⁸⁷ Judicial Testimony of Eduardo González*, Criminal File 402/99 local, p. 922.

⁸⁸ Testimony of Luis Alberto Ruiz*, February 9, 1998. *Red Dossier*, CDHFBC's archive. Italics mine.

[Two or three days after the massacre in Acteal was when his father said what he saw what happened: “I put knife and machete to those women who were pregnant,” he said.]

In this testimony, Luis Alberto Ruiz* recounted that his parents were members of Las Abejas and abandoned this organization around August or September 1997 to become Priístas. He also said that his father used to “train” in Canolal, in the paddock of a former community officer. This information could be critically interpreted in the light of the other testimonies discussed in Chapter 1, in which survivors narrate how Priísta community leaders pressured members of Las Abejas to leave their organization and forced them to become Priístas and paramilitaries. In several instances, such testimonies document how the new converts had to prove their loyalty to the paramilitaries by committing the most treacherous acts against their previous organization, such as identifying the members of Las Abejas and their houses for the paramilitaries. Once identified, the new converts would be the ones who would plunder these houses and carry sacks of coffee, animals, radios, pots, pans, and all the things of value that the paramilitaries looted. Afterwards, the paramilitaries would destroy and burn the houses, sometimes taking with them the tin roofs or the walls’ wood boards. According to Andrés Aubry and Angélica Inda (2003, 93), paramilitaries sold everything they plundered in order to buy more arms and bullets.

The fourth testimony on feminecidal violence during the massacre is from Eulalio Ruiz Pérez*, an 18-year-old man from Chimix, who was displaced in Acteal by the time of the massacre and who witnessed and survived the paramilitaries’ attack on December 22:

Al estar escondido, vio cómo a las mujeres las desnudaron, a las que estaban heridas y otras que estaban muertas. Y a algunas les metieron un palo de madera por la vagina cuando estaban boca arriba y otras boca abajo. Después de ver esto, fue que los asesinos se dirigieron hacia ellos porque un niño lloró y fue cuando dispararon, pero no perdió el conocimiento al instante, sino que fue unos momentos después. Así que todavía alcanzó a ver a los asesinos alejarse.

[While being hidden, he saw how they [the assailants] undressed the women, those who were wounded and others who were dead. To some of them [the

women], they placed a wood stick into their vaginas when they [the women] were facing up and others facing down. After having seen this, the assassins headed toward them [Ruiz and apparently others] because a boy cried, and then was when they [the assailants] fired. But he did not lose consciousness at once, but shortly afterwards, so he could still see the murderers departing.]⁸⁹

This testimony confirms Alberto Ruiz Pérez's⁹⁰ and Eduardo González Ruiz's testimonies, and both of them coincide with the testimony of José González Capote*, a man who was also forced to work for the paramilitaries. José González witnessed the meeting that took place a day before the massacre in Quextic, Chenalhó, (on Saturday, December 21, 1997), in which the paramilitaries planned the attack on Acteal. González declared before the prosecutor that:

Que como a eso de las 17 hrs a 17:30 horas [del 22 de diciembre de 1997], regresaron todas las personas que se encontraban armadas a Quextic, quienes dijeron que habían logrado matar a los hombres, mujeres y niños, además de que a las mujeres las desnudaron y se encontraban algunas embarazadas.⁹¹

[That around 17 hours or 17:30 hours [of 22 December 1997], all the people who were armed returned to Quextic. They said that they had managed to kill men, women and children, and that they stripped the women naked, and some of them were pregnant.]

This and Eduardo González Ruiz's testimony are the only testimonies on feminicidal violence that I was able to find in the legal files of the Acteal case and I wonder why Frayba did not offer Alberto's and Eulalio Ruiz Pérez's testimonies (first and fourth testimonies on feminicidal violence) to the prosecutor. In a moment of chaos, terror, and forced displacement, it was probably very difficult to track the witnesses and to convince them to declare before the authorities. However, the judicial character of

⁸⁹ Testimony of Eulalio Ruiz Pérez*, February 1997, *Red Dossier*, CDHFBC's archive. At the end of his testimony, Eulalio requested the reimbursement for the damages and that all PRI members who are still free in his community be imprisoned.

⁹⁰ It is not possible to affirm with certainty that Alberto and Eulalio Ruiz Pérez* are relatives just because they share the same last names. In this region, having the same name and last names is very common, without necessarily meaning that the people are from the same family.

⁹¹ Judicial testimony of José González Capote*, Criminal file 402/99 local, San Cristóbal de las Casas, December 31, 1997, p. 61.

their testimonies would have given more elements to include rape between the crimes that were being investigated. Even while Frayba has dedicated a section on gender violence in its public reports on the Acteal case, Frayba has never interpreted the slaughter as a feminicide, targeted to “get rid of the seed.” In fact, there has been a rupture between local feminists (some of “*las mismas*”) and Frayba on how to interpret Acteal. Feminist lawyer Martha Figueroa (co-author of *La Otra Palabra*) collaborated with Frayba immediately after the massacre. Figueroa (1998) originally interpreted Acteal as a genocide, while Frayba, in its report “*Acteal: Entre el Duelo y la Lucha*” (CDHFBC 1998), concluded that the crime of genocide “according to its national and international legal definition, is not 100% substantiated in the specific case of the Acteal massacre” (99).⁹² Frayba’s reasoning was that:

While “Las Abejas” are a group of people, their reason for being is the collective defense of freedom and human rights. Besides, they are Tzotzil indigenous peoples, that is, they are a group of ethnic character as well as religious character (Catholic). The reason for their existence as a group is not because they are Tzotziles, or possibly because they are Catholics, but basically one of a political character. (CDHFBC 1998, 99)

Legal definitions are constricted social constructs. Lawyers’ task is to know how to break the code of those definitions and make reality fit into them. Reality is hardly ever going to fit automatically into legal definitions because they are based on an abstract, narrow, and ideal perspective of reality. Legal definitions are loaded in political, cultural, racial, and gendered terms, especially those around indigeneity. For example, the second article of the Convention on the Prevention and Punishment of the Crime of Genocide (1948) states:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or

⁹² It is important to note that I am using the printed version of Frayba’s reports, and that the digital versions have different page numbers. This quote from “*Acteal: entre el Duelo y la Lucha*” (CDHFBC 1998), corresponds to page 51 in the digital version, available in Frayba’s webpage www.frayba.org.mx.

mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.

This definition of genocide does not contemplate the intention to destroy, partially or in its totality, a *political* group. Through a very constricting view of ethnicity and race, Las Abejas are commonly considered only as members of the Tzotzil Maya peoples, and not as a distinct ethnical, racial or religious group in itself, which has led to the inapplication of the concept of genocide to characterize the Acteal massacre. As María Concepción Obregón explains in her monograph of the Tzotzil peoples (part of the government-sponsored series, *Pueblos Indígenas del México Contemporáneo*),

The Tzotziles do not consider themselves part of a unit made up of all those who speak their language, which makes it very difficult to define them as a group. Each one of them defines him/herself or conceives him/herself as part of a particular collectivity that corresponds to the municipality where s/he resides, considered different from those of others. (Obregón 2003, 15)

Obregón continues explaining that, at the municipal level, Tzotziles' self-identification is constantly negotiated through different markers. Taking this into consideration, Frayba could have made an argument about the intersection of race, ethnicity, religiosity, and politics within Las Abejas, which is certainly part of an ethnic group—Tzotzil people. A disregard to the logics of race and its effects on identity politics did not allow Frayba to *legally* argue during that time that the intention to eliminate indigenous people was at the core of the massacre.⁹³

Years later, when the concept of femicide emerged and became included in the criminal code in 2007, Frayba refrained from using it to characterize the massacre. This situation has contributed to ignore the differential effects of the massacre among Las Abejas' women, who recognize themselves in the majority of the victims killed during the massacre, who were women. On the other hand, not recognizing the gendered dimensions of violence has contributed to the perpetuation of patriarchal notions of

⁹³ For another analysis of Acteal as a genocide, see Natividad Gutiérrez Chong (2004).

violence and genocide. In other chances that Frayba has had to analyze Acteal as a manifestation of gender violence, this NGO has abstained to do so, entering in tensions with local feminist organizations. A clear example of this was during the sessions of the Permanent Peoples' Tribunal, Chapter Mexico, during 2012 and 2014. Frayba registered the Acteal case into the axis on "Dirty war as violence, impunity, and lack of access to justice" and not into the axis (*eje*) on "Femicide and gender violence," even when every case could be analyzed in more than one axis. As Kimberlé Crenshaw (1991) has demonstrated in cases of gender violence in the U.S., the adoption of an intersectional perspective that accounts for the gendered, racial, and class dimensions of violence allows for more effective intervention strategies. Therefore, instead of resting legitimacy to Frayba's legal arguments, an intersectional perspective could have strengthened Frayba's strategy to frame Acteal as a crime against humanity.

Corpses, Autopsies, and Testimonies: The Discordant Register of Gendered Violence

After the members of the research team and coordinators of the *peritaje* were unable to locate the direct witnesses of the massacre's feminicidal violence to interview them, we still had the chance to consult the embodied testimonies that the corpses *gave* to the forensic scientists during the practice of the autopsies. Unfortunately, the autopsies were not as eloquent as the corpses they analyzed. The forensic scientists [*médicos legistas*], who are government employees, could not see what was in front them. Once again, indigenous bodies, as victims of violence, lacked the institutional validation that was needed so that their lesions "could speak." The descriptions of these bodies and their wounds were incomplete, inaccurate, and worded from a positivistic, patriarchal perspective that concealed gendered violence. An interdisciplinary, intercultural, and exhaustive expert testimony on the autopsies, one that analyzed the texts of these autopsies in the light of the testimonies presented in this chapter and from a perspective that took gender and a lack of information concerning the descriptions of the bodies into account, could have been crucial in changing the history of the massacre and its legal

investigations. As part of the expert testimony on the psychosocial effects of the Acteal massacre (Beristain 2015), Dr. Francisco Etxeberria Gabilondo, a renown forensic anthropologist, professor of legal and forensic medicine at the University of the Basque Country, provided such analysis. It took seventeen years for this to occur.

The autopsies were not the only legal documents from which we could draw descriptions of the cadavers. There were three kinds of documents that recorded *necrofacts*. In historical order, they are:

- 1) The *Fe ministerial del lugar de los hechos, de cadáver[es], descripción y levantamiento de los mismos* [Prosecutor's affidavit of the place of the events, of the cadaver[s], their description and removal from the place of the events.], dated December 23, 1997.
- 2) The forty-five *Necropsias de Ley* [autopsies ordered by the law], also dated December 23, 1997.
- 3) The forty-five *Actas de Defunción* [death certificates].

In his expert testimony, Etxeberria (2014), compares the wounds described in the *Fe ministerial de levantamiento de cadáver* and those described in the autopsies, showing incongruences between these two documents. While some lesions were mentioned in the first document, they are ignored in the autopsies. In his opinion, the autopsies provide insufficient and inexact descriptions of the cadavers and, therefore, inaccurate interpretations of the causes of death. Departing from the original documents, I will highlight the descriptions that the forensic scientists and prosecutors should have further investigated to visibilize the feminecidal character of the massacre.

1) *Prosecutor's affidavit of the place of the events, of the cadaver[s], their description and removal from the place of the events.*

This is a kind of document authored by the public prosecutor, in which s/he describes the crime scene and the corpses, as well as the process of picking up the bodies to take them to the SEMEFO (Medical Forensic Services), where the autopsies were done. In the Acteal case, the prosecutor who wrote the *Fe Ministerial* was Horacio Martínez de los Reyes. A forensic doctor, Dr. Norma Guerrero Tzongua, accompanied him. This legal

process [*diligencia*] took place in Acteal on December 23, 1997, between 3:30 a.m. and 6 a.m. As the prosecutor stated in this document, he and the forensic doctor were accompanied by 150 police elements and by a forensic technical expert. They found forty-three bodies, “*un cuerpo sobre otros*” [bodies piled on each other]. Two other bodies were found 20 meters away. One body corresponded to a man with a “white short, apparently of cotton broad cloth”⁹⁴ and “a white soutane.” I think this was probably the body of Alonso Vázquez, “*jefe de zona*,” one of the leaders of Las Abejas and main catechist of the displacement camp. The last body found was that of a woman, approximately 50 years old, but the prosecutor did not provide a description of it or of the other 43 bodies, arguing that “because the conditions of the place, time, and insecurity do not allow the practice of the *fe ministerial* [prosecutors’ affidavit] to each of the bodies, it is ordered that the bodies be picked up and taken to the central offices of the Office of the Public Prosecutor of the state for the practice of the corresponding necropsy.”⁹⁵ It was said that the scene of the crime had already been altered by the time the prosecutor arrived. It is possible to speculate that the 43 bodies had been piled up with the intention to burn them—and *efface* them—but that whoever did this ran out of time.⁹⁶

Once in the SEMEFO in Tuxtla Gutiérrez (about four hours from Acteal), the prosecutor finally did the written description of the bodies on that same December 23, 2017. A photo of the bloodied and destroyed female bodies spread over SEMEFO’s floor, some of them naked, all deprived of their dignity, was leaked and published in *Proceso* magazine. That photo illustrates my reading of the prosecutor’s cold description of the bodies, and taints my view of the “curated” and undetailed pictures that the prosecutor provided for the legal files. According to prosecutor’s description, female bodies identified as 3, 4, and 8 (of approximately 17, 25, and 35 years of age) were found naked at the crime scene. Regardless of PGR’s denial, female bodies identified as 2, 28, and 43

⁹⁴ “*Un short blanco, al parecer de tela de manta.*” The prosecutor had no idea that this piece of clothing was not a “short,” but a *calzón*, part of Tzotzil peoples’ traditional attire.

⁹⁵ Criminal File 402/99 local, p. 4.

⁹⁶ This interpretation derives from the testimony of a survivor, Carolina Méndez Paciencia*, which I present in Chapter 5.

were described as having wounds in their breasts. In two cases those wounds were described as having a “*cortante*” [cutting/stabbing] nature:

- Body 2: “*Herida cortante* en la región mamaria derecha.” [*Stab wounds* in the right mammary region.]⁹⁷
- Body 4, about 25 years of age: “Herida aproximadamente de 15 cm de radio en el pecho del lado izquierdo con exposición de músculos.” [Wound of about 15 cm radius in the left side of the chest with exposure of muscles.]
- Body 28, about 25 years of age: “Una herida con pérdida de tejido a la altura del seno izquierdo.” [A wound with loss of tissue at the height of the left breast.]
- Body 43, about 15 years of age: “Herida en la región de la mamaria izquierda con desprendimiento de la piel, así como *herida cortante* en la región mamaria derecha.” [Wound in the region of the left breast with skin peeling, and *cutting wound* on the right breast.] (Emphasis added)

Two other female bodies were described as presenting open wounds in their abdomens:

- Body 16, about 20 years of age: “Herida de aproximadamente 6 cm de diámetro con expulsión de víceras (sic) en región intercostal izquierda.” [Wound of approximately 6 cm in diameter with expulsion of entrails in the left intercostal region.]
- Body 22, about 6 years of age: “Herida abierta de 13 cm de largo por 7 de ancho en la región abdominal con exposición de intestinos, provocada al parecer por proyectil de arma de fuego.” [Open wound of 13 cm long by 7 cm wide in the abdominal region with exposed intestines, apparently caused by gunfire.]

The female body identified as body 4 was described with repeated deep cuts with a sharp bladed weapon throughout her body and the amputation of her index finger... And this is what was officially revealed. These women were tortured and the forensic scientists ignored what these women’s opened bodies were screaming with blood and missing members. There were no investigations conducted to determine if women had

⁹⁷Translations are mine.

been tortured or raped during the massacre, even when there were clear signs that this kind of violence had taken place.

2) *Autopsies ordered by the law*

The official autopsies were practiced on December 23, 1997, in the city of Tuxtla Gutiérrez by SEMEFO's forensic scientists,⁹⁸ including Dr. Norma Guerrero Tzongua, who was present at the crime scene. The description of one of the female bodies has been especially controversial: while Frayba and feminist anthropologist Rosalva Aída Hernández (1998; 2008) have used it as evidence to argue that babies were cut out of the wombs of their mothers during the massacre, the PGR (1998), historian Aguilar Camín (2007; 2008), and the lawyers at CIDE (2008) have argued that this autopsy does not prove what Frayba and Hernández contend, since—according to them—they are doing a wrong reading of the description. The autopsy of cadaver 16 (that now we know was Juana Pérez Pérez's body), feminine sex, 32 years of age, has the following description:

...útero crecido a espensas (sic) de embarazo[. A]l corte del mismo se extrae producto de la concepción de aprox 28 semanas. . .

[...]

Conclusiones: Falleció a consecuencia de perforación de vícera intratorascica (sic) por proyectil de arma de fuego penetrante a esta cavidad y *exposición de vícera abdominal al medio ambiente[,]* a través de herida corto contundente[,] *penetrante a cavidad abdominal.*⁹⁹

[...uterus grown at the expense of pregnancy[. A]fter the cut of it, the product of conception of about 28 weeks, is extracted. . .

[...]

Conclusions: She died as a result of the perforation of intrathoracic entrails by a firearm projectile penetrating into this abdominal cavity, *and*

⁹⁸ Forensic scientists: Fausto Madariaga Pérez, Jorge Selvas Velasco, Febronio López Tovilla, Oscar Malpica Ramos, Jorge Cerón Orozco, José Luis Díaz Selvas, and José Armando Cuadapi Trejo.

⁹⁹ Forensic doctor Jorge H. Selvas Velasco did the autopsy. Criminal File 402/99 local, p. 52.

exposure of abdominal entrails to the environment[,] through an incised blunt¹⁰⁰ wound[,] penetrating into the abdominal cavity.

This is one of those cases in which correct punctuation can make a big difference. While it is possible to interpret that it was the forensic doctor who did the cut of the abdomen to extract the fetus (and not the paramilitaries), it is also clear that this woman's abdomen was also cut during the massacre with a sharp blade weapon (possibly a machete) and that her pregnancy must have been obvious for the attacker. Then, what is important to highlight is what is absent in the autopsies: what is not said. The cuts in the breasts, the ecchymosis (subcutaneous effusion of blood caused by pressure or a blow) in the legs of female bodies 34 and 36, the nakedness of other three bodies, and the open abdomens of at least other two, were *facts* left without any interpretation and further investigation. As Etxeberria argues, these circumstances “debería[n] de haber exigido una consideración médico forense ante la posibilidad de que existiera agresión, particularmente de tipo sexual, previa a la muerte” (2014, 138) [demanded a medical forensic consideration due to the possibility of an aggression, particularly of a sexual kind, previous to death]. Why did no one provide this analysis at the time, when it was most needed? Investigating sexual violence against women simply was not part of state actors' and defenders' patriarchal agendas.

The state has refused to see what is evident. In the midst of the rumors of femicidal violence, the PGR hastened to affirm in its report *Libro Blanco sobre Acteal* that in relation to the four female cadavers with pregnancies between 10 weeks and 5 months “ninguno presentaba lesiones cortantes de origen traumático en la región del abdomen ni de genitales” (PGR 1998, 84) [none had cutting injuries of traumatic origin in the abdominal region or in their genitals].

Regardless of its falsehood, this version was reproduced even ten years later. Through the debate between Aguilar Camín and Hernández (*La Jornada*, February 22, 24 and 28 and March 4, 2008), the former accused the latter of inventing “unspeakable

¹⁰⁰ These types of wounds are produced by instruments with sharp blades, and which have a considerable weight, so that the cutting effect can only be produced through the use of a great “living” force. For example, the wound produced with a machete.

vexations” in the bodies of the women killed in the massacre. With these affirmations, Aguilar Camín demonstrated he was already reproducing CIDE’s lawyers readings about the massacre in his revisionist articles “Regreso a Acteal” (2007a; 2007b; 2007c) and that their analyses were contributing to reaffirm PGR’s official version by arguing: “En ninguna de las dos autopsias consta que alguna mujer haya llegado al forense con el vientre abierto por machetazos, los pechos cortados o los genitales lastimados por un palo” (Aguilar Camín 2008) [In neither of the two autopsies exists evidence that shows that any women had arrived to the medical forensic service with the belly open by machete blows, with their breasts cut or with their genitals hurt with a stick]. Frayba responded by sending copies of the autopsies to *La Jornada* and by posting them in its website. However, *autopsies are not self-evident facts*. Given the nature of the event, they required a rigorous, systematic, and public interpretation under the light of previous testimonies. Moreover, these autopsies should have been checked against the prosecutor’s affidavit of the place of the event [*fe ministerial del lugar de los hechos . . .*] to reveal the existing inconsistencies and proceed to denounce them during the judicial procedures.

To the erasures of the forensic scientists were added the erasures of the prosecutors and of this historian defending the “good” history, “guardian of the past for the state’s well-being” (Rabasa 2010, 15). During the judicial proceedings, state’s experts in forensic medicine even interpreted some deaths as the consequence of subjects falling down and hitting their head with sharp objects, such as rocks. However, Etxeberria argues,

En ningún caso pueden atribuirse este tipo de heridas [heridas por arma blanca] a la caída al suelo de forma accidental ya que en general se describen como cortocondudentes con mucha profundidad e incluso fracturas y amputaciones. (2014, 154)

[These [stab] wounds in no case can be attributed to accidentally falling down because in general they are described as “incised-blunt” with a lot of depth and even with fractures and amputations.]

On the other hand, the fact that the executions were realized at two different times—probably first with a sharp-bladed weapon (possibly a machete), and afterwards

with a firearm to guarantee death (Etxeberria 2014, 155)—should have been considered by the authorities when investigating and analyzing the crimes and assigning criminal responsibilities.

If the PGR gave so much credibility to the autopsies at the same time it contradicted what these *necrofacts* really attest, then how could it be expected for the PGR to see the sexual character of the massacre in the incomplete descriptions of bodies' wounds? The survivors were not the only ones who could not speak. The corpses of their dead ones also could not testify the violences effected on them because there was no authority that could validate what living and dead indigenous bodies had to say. The male-centered voices of mestizo official experts counted more than the voices of mestizas experts in anthropology or in law; and what these two groups of actors had to say became, at some point, more important for the public opinion than the bodies and voices of indigenous victims. Ironically, Frayba saw it to be necessary for Etxeberria, a white man from Spain, expert in forensic medicine, to come validate what indigenous voices and bodies had been screaming for years without being heard, and what feminist activists and scholars have been affirming since 1998. Time would tell if the white foreign man is able to establish a conversation vis-à-vis the state or if the state would also find his voice unauthorized and illegible; in his case, for being a foreigner. There are always patriarchal, racist, and xenophobic excuses for not listening to politically uncomfortable truths.

When Dead Bodies “Cannot Speak”

It is impossible to know what would have happened if a great part of the discussion around the massacre hadn't focused on the specifics of the femicidal violence against pregnant women and their babies. However, an analysis of what actually happened reveals to us the dangers of discussing spectacular forms of violence on women's bodies without using the positivist language of the hegemonic regime of truth and its forms of verification (like quotes and citations of survivors' testimonies, even by using pseudonyms). Discussing atrocious forms of gender violence without systematically analyzing and deconstructing the already existing evidence of this violence

contained in the *necrofacts*, impeded these forms of violence to exist as legal truths. In order to make the “terrifying, unsayable and unimaginable banality of evil” (Arendt 1992) believable under the eyes of the law (and of the public opinion, by extension), it was crucial to create other authorized forms of evidence, like those provided by expert testimonies, paired with specialized academic analyses. The Acteal case gave us a lesson of how feminists have to make extra efforts to prove their claims of gender violence on a battlefield of truth that is assumed to be gender- and race-neutral: How to show patriarchal eyes what they are reticent to see? Even today it is extremely difficult to convince public prosecutors and judges that some women are killed just because they are female and indigenous, and that these killings are the continuation of the settler-colonial state’s logic of elimination and its culture of *machismo*, misogyny, and racism.

On the other hand, it is cruel from the hegemonic regimes of truth to expect survivors to point out the wounds of their dead to prove the truth in their testimonies. Experts were supposed to do these analyses when the dead bodies were still speaking through their materiality. But on the contrary, what we have are extremely short descriptions of wounds and wrong speculations of causes of death that tend to conceal the viciousness and sexual component of the slaughter. Ironically, CIDE’s lawyers and some judges have “worshipped” these autopsies during the judicial proceedings, considering them “*dato duro*,” the ultimate reservoir of truth. These actors’ *necrofacts* fetishism is based on what is absent in them. As I have tried to demonstrate in this chapter, *necrofacts* are in great part social constructions that lack the scientific rigor that is supposed to characterize them as facts. When they are ordered and interpreted by the same state actors whom the survivors suspect to be the intellectual authors of the crime, *necrofacts* are simple platitudes. Nonetheless, victims’ advocates can always rely on deconstructive analyses of *necrofacts* to advance survivors’ struggle for justice. At the end, academic analyses are not as useless as many activists might think.

In the Acteal case, feminists’ claims of gender violence were easily subordinated to a “more inclusive” gender-neutral perspective of the massacre, since this perspective was more in line with Frayba’s human rights political agenda, especially as Frayba was

(and still is) trying to prove the state's counterinsurgent violence against Zapatismo and its supporters in a larger context that exceeded the particularities of the Acteal case. I am not trying to suggest that Frayba and Las Abejas are the ones responsible for silencing the feminicidal character of the massacre. I am arguing that this feminicidal character has been subordinated to what these patriarchal institutions of the political left have prioritized in the context of a low-intensity war: the affronts against the collective, revolutionary struggle of those indigenous communities in resistance. Unlike the case of the Zapatistas, the revolutionary struggle of Las Abejas does not include women in its leadership. Women members of Las Abejas have a deeper embodied experience of terror for being able to recognize themselves in the bodies of the 34 women killed during the massacre. Nonetheless, women's experience of terror has been subordinated in favor of the common struggle these women share (also in subordination) with their male comrades.

Going back to the argument of Acteal as genocide, in one of the conclusions to his expert testimony, Etxeberria argued: "La reiteración de las heridas hasta lograr la muerte muestra una acción orientada a la intencionalidad de acabar con el grupo" (2014, 186) [The reiteration of wounds to achieve death shows an action oriented to the intent of ending with the group]. Affirmations like this show how strategic litigation, combined with the use of expert testimonies, can open the possibility of causing the voice of the subaltern to be heard. Racism makes judges more willing to listen to non-indigenous experts than to indigenous direct witnesses. Experts' analyses of the autopsies that revealed its racial, gendered, and sexual connotations could have been an effective way of creating a counter-discourse to the state's version of the massacre. However, another step needs to be taken in the translation process in order to subvert the colonial matrix of power, instead of just reaffirming it through the old tactics of brokering and representation. Top-down mestizx's (or foreigner's) counter-discourses are not enough anymore (if they ever were).

Chapter 3

From the *Libro Blanco* to the *Return to Acteal*:

The Concealment of Paramilitary Violence

The “inter-communitarian battle” story remained the state’s official explanation of the massacre once the preliminary investigations of the crime concluded. Released one month before the first anniversary of the Acteal massacre, the *Libro Blanco Sobre Acteal* (November 19, 1998), presented the conclusions of the investigations that the Attorney General’s Office (Procuraduría General de la República, or PGR)¹⁰¹ carried out during the eleven months after the massacre. Even though it was targeted at public opinion as an expected form of basic accountability, this 123-page report was not distributed beyond certain governmental agencies and academic spaces. Regardless of its limited physical circulation, the *Libro Blanco* has become the main source for several publications on the massacre, including Gustavo Hiraes’s book *Camino a la Masacre* (1998), Alejandro Posadas and Hugo Eric Flores’s “Acteal: la otra injusticia” (2006), and Aguilar Camín’s three-piece article, “Regreso a Acteal” (2007). In fact, it has been through Aguilar Camín’s articles that the general public has come to know about the content of the *Libro Blanco*. In this chapter I will track the life of the PGR’s version of the massacre as it traveled through different regimes of truth. I will argue that the legitimation of this version by renowned scholars was the prerequisite for this case to reach the Supreme Court for its review and for the consummation of impunity.

As expressed in its prologue, the *Libro Blanco*

¹⁰¹ The *Procuraduría General de la República* (Attorney General’s Office), or PGR, is an organ of the Executive Branch, whose main function is to investigate and prosecute federal crimes. Its head is the *Procurador General de la República* (Attorney General), who presides over the *Ministerio Público* (The Office of the Prosecutor) and its collaborators: the investigative police and the *peritos* (expert witnesses on forensics, ballistics, criminology, etc.).

[S]eeks to explain the causes and circumstances that with more incidence had repercussions in the realization of the punitive acts of December 22, 1997, and to describe the grade of participation that, in these acts, the people that the Office of the Public Prosecutor has brought criminal action against had, and also to present the state of the corresponding investigations and judicial proceedings. (PGR 1998, 12)¹⁰²

This judicial report contains a brief overview of the physical, social, cultural, and political contexts of Chenalhó, following the format of an academic thesis and quoting the works of well-known scholars such as the French ethno-sociologist Henri Favre (1973) and the Mexican historian Juan [Pedro] Viqueira (2002 [1995]). References to the CIESAS Sureste-based anthropologist Araceli Burguete and her article on remunicipalization in Chiapas (1998) are used to introduce the chapter on “inter-communitarian conflicts” and to explain how some communities in Chenalhó have “arbitrarily” formed an autonomous municipality, supposedly violating the Constitution and breaking relations with constitutional municipal government. By *exappropriating* Burguete’s explanations, the PGR begins to build the report’s main argument: these *de facto* Zapatista autonomous entities (38 of them in the state of Chiapas by 1996) are the origin of the armed conflict in Chenalhó.

Through a short-spanned and oversimplified explanation of the context that led to the massacre, PGR identified two main actors: on one side, the so-called “groups of armed civilians,” and on the opposite side, Zapatistas, who were considered one of the most salient enemies of the state. The report provides little information about the “groups of armed civilians”; it does not say who armed and trained them, nor does it reveal the chain of command they were subjected to. As Frayba has pointed out, “the PGR assured in its report what it did not see” (CDHFBC 2009, 13), saying that the “groups of armed civilians” *were not* linked with the army, and that therefore *there were no grounds* to claim they were paramilitaries. The *Libro Blanco Sobre Acteal* stated it thusly:

The Attorney General’s Office has documented the existence of groups of armed civilians in the municipality of Chenalhó, neither organized, created, trained, nor

¹⁰² Translation is mine.

financed by the Mexican Army nor by any other government entity, but whose management and organization respond to an internal logic determined by the confrontation, between and within the communities, with the Zapatista bases of support. (PGR 1998, 43)

The government's denial of the *Plan Chiapas 94* was already underway. The strategy was to normalize the existence of groups of armed civilians as an explanation of how things work in that part of the country, and at the same time to justify further military intervention. As I will show in this chapter, normalization has worked as a rhetorical device to leave illegal power arrangements untouched. Official denials of massacres are huge governmental endeavors; they “are initiated, structured and sustained by massive resources of the modern state” (Cohen 2001, 10). According to Stanley Cohen, these kinds of denials come from the complete rewriting of history and the imposition of the “law of silence” (Taussig 1999), to more subtle forms such as “putting gloss on the truth, setting the public agenda, spin-doctoring, tendentious leaks to the media, selective concern about suitable victims, interpretive denials regarding foreign policy” (Cohen 2001, 10). Each of these strategies has been used in the production of the official truth about the Acteal case. In this chapter I aim to analyze these techniques of concealment that precede the phase of *judicial limpieza* that has taken place in the courts, and which will be the focus of the next chapter.

Tracking “money routes” is probably the most convincing way of revealing the ensemble of actors, interests, unstated rules, and logics that make impunity possible. Here, I will not track money, but rather the circulation of a critical event's “official” version that has an enormous symbolic value for those who were “covered” and unnamed by it (that magical space of *the absence* reveals its worth once again!). By mapping the circulation of the PGR's version, I will continue the endeavor I began in Chapters 1 and 2 and analyze the practices of knowledge production that take place, this time, within the PGR and certain state-affiliated sectors of the media and academia, which I consider as distinct but converging regimes of truth. Documents provide a privileged point of entry into the cultures of the institutions that produce them; they allow us, for example, to understand how state institutions process and represent cases of state violence in which

the state is involved. The mechanisms these institutions use to deal with the contradictions of being judge and interested party at the same time reveal the epistemologies that are at the base of the contemporary disciplinary project of governance through “legal truths.” At the same time, documents are also windows from which we can observe the kind of racializing subjectifications this project of governance produces.

A historical and political contextualization of state documents allows us to examine what was at stake for individual actors behind the production of the state’s public discourse. Analyses of state judicial documents are of great importance in countries such as Mexico with a written legal tradition, based on the Romano-Germanic system (or civil law), in which trials are not oral (or at least were not before the 2008 judicial reform). In Mexico, a judge traditionally has been obliged to decide only on the written evidence and arguments contained within the legal files of a case. The contours of a legal case are defined by the confines of its documentation.

According to Annelise Riles (2006), “Documents are artifacts of modern knowledge practices, and, in particular, knowledge practices that define ethnography itself” (7). An ethnography of documentary practices responds to the need to reinvent anthropology in order to decolonize it. As Laura Nader has been saying since 1969, “our findings have often served to help manipulate rather than aid those we study” (1969, 294); anthropologists’ “alienation from their own culture ... relates to their lack of intense commitment to social reform” (303). What Nader proposes is to “study up” and conduct ethnographies of those institutions whose decisions have a broad public impact on people’s lives and deaths, *including the life and death of the anthropologist*. She argues that this shift in the anthropological gaze requires the adoption of methodologically eclectic approaches that might not necessarily be centered in participant observation.

In this chapter, I take the challenge to “study up” by linking ethnographic vignettes on some of the effects of impunity, with a rhetorical and legal analysis of the state’s documents and decisions that produced it, and a historical reconstruction of the political context that made impunity possible. For this historical reconstruction of the

recent past I have heavily relied on newspaper and journal articles and collated them with survivors' testimonies and information I gathered through interviews with key actors. The articulations that bind the different pieces of this bricolage together are provided by the perspectives and experiences that I gained by engaging in ethnographic research with Las Abejas and their support network (or as Nader would put it, by studying down and sideways). The challenge here—as one of Las Abejas' supporters told me at the beginning of my fieldwork, and as Charles R. Hale (2001; 2006; 2008) has theorized—is not to produce more information for government consumption about people struggling on the ground but to provide those struggling a comprehensive analysis of sources that can explain how powerful elites and institutions operate in the praxis.

The “Photographic Negative Rhetoric”: When Your Own Defense Strategy Can Be Used Against You

Context is crucial for portraying actors and describing their actions. The PGR placed the history of Las Abejas' founding in the *Libro Blanco*'s section titled “Inter-communitarian conflicts.” Following the PGR's version, it was an agrarian conflict that left one man dead, two wounded, and their wives raped¹⁰³ on December 9, 1992, “which marked the origin of Las Abejas” (1998, 18). Five people—who are still members of Las Abejas—were detained for these crimes. The PGR remarks that Frayba assumed the defense of these people. Frayba's founder and president, Bishop Samuel Ruiz, offered a public mass for the detainees, where he denounced: “indigenous peoples suffer from the fabrication of crimes” (PGR 1998, 15). The *Libro Blanco* explains that people who belonged to the Catholic group *Pueblos Creyentes*¹⁰⁴—linked to the San Cristóbal Diocese—formed the

¹⁰³ In pages 14-15, the PGR narrates the events of December 9, 1992, mentioning the rape of three women, wives of the three men shot, without relating this event with the origins of Las Abejas. It is not until page 18, under the subtitle “Las Abejas,” that the PGR recounts the same event, this time without mentioning the rapes.

¹⁰⁴ The correct name of the organization is singular: *Pueblo Creyente*. It articulates multiple organizations with distinct political orientations that share a Catholic creed and training in liberation theology. Pueblo Creyente's masses, rallies, marches, which are massively attended, are not called “*marchas*” but “*peregrinaciones*” (pilgrimages), a form of insisting in the mutual implications between the religious and the political and the sacredness of peoples' resistance.

organization Las Abejas in order to carry out several peregrinations and demonstrations in support of the detainees. These public acts of protest, held in front of the prison in San Cristóbal de las Casas, led to the absolution of the detainees on January 7, 1993, a month after their detention (PGR 1998, 18).

In the context in which the *Libro Blanco* was produced, the PGR's selection of Bishop Ruiz's quote is both very interesting and paradoxical. PGR's selection of it seems quite ironic under the light of recent events, since those who went to prison in 1998 for perpetrating the Acteal massacre have deployed exactly the same argument ("indigenous peoples suffer from the fabrication of crimes"). The families of those prisoners also organized several demonstrations proclaiming the innocence of their loved ones. Their release did not occur after one month, as in the case of Las Abejas' founders, but after several years and it was certainly not a direct consequence of their sympathizers' demonstrations. However, the logic that set them free was the same: The evidence provided to prove their guilt was considered "fabricated," leading to—using PGR's words—a "*desvanecimiento de pruebas*" [fading of evidence] (1998, 15).

This is one of the earliest examples of a situation that I repeatedly found around Las Abejas' history of struggle: The people whom the SCJ acquitted have constantly used Las Abejas' claims, but in a contrary sense. Through a kind of rhetoric that resembles photographic negatives, they have claimed that they are the pacifist ones, and that Las Abejas are really the armed ones.¹⁰⁵ In 2008, relatives and supporters of those imprisoned formed the "Committee of the Relatives and Friends of the Innocent Prisoners in the Acteal Case" and found the means to publish the document they presented to the Supreme Court before it issued the rulings on the Acteal case. The book is titled *Deslindes para pensar Acteal* (2012) [Clarifications for Understanding Acteal]. In it, the members of the committee critique Las Abejas by arguing that

¹⁰⁵ Gresham Sykes and David Matza (1957) call these type of accounts invoked by delinquents as the "condemnation of the condemners" through which "delinquents try to deflect attention from their own offence to the motives and characters of their critics who are presented as hypocrites or disguised deviants" (Cohen 2001, 61).

[P]acifism and acceptance of Zapatista purposes is a contradiction that has no concrete expression in our municipality; such a pacifist organization has not existed. The group that claims to be pacifist [Las Abejas] has been accused by the municipality and even by Zapatistas of promoting violence. We say this because we live side by side with them; the journalists who promote [EZLN's Subcomandante] Marcos' ideologies lie. (2012, 51)¹⁰⁶

Another recent example of the *photographic negative rhetoric* has been behind the 2013 forced displacements of Las Abejas members from the hamlet Ejido Puebla,¹⁰⁷ also in the municipality of Chenalhó. These forced displacements were the consequence of the repetition of events similar to those preceding the Acteal massacre, such as the burning of houses, attacks, and constant death threats against Las Abejas members. The perpetrators and the victims were also the same. In fact, as soon as the acquitted leaders of the paramilitary group that perpetrated the massacre (including former Chenalhó Mayor Jacinto Arias) returned to Ejido Puebla, the harassment against members of Las Abejas living in this hamlet reoccurred. The same group of Abejas from Ejido Puebla that was displaced in Acteal in 1997 had to secretly flee again from their town in the early morning of August 23, 2013, this time with the help of mestizx and foreign “*compas*.”¹⁰⁸ In 1997, Las Abejas from Ejido Puebla had to walk for more than six hours in the rain to reach the displacement camp in Acteal. Sixteen years later, the *compas* facilitated the use of cars to transport Las Abejas to Acteal, where they set again a displacement camp. This situation illustrated the expansion of Las Abejas' networks and attested that the displaced ones were not alone. While local mainstream media ignored the conflict, international

¹⁰⁶ The editors [*redactores*] of the book are César Roberto Avendaño and Manuel Alfonso Meneses, political actors who have been crucial in advancing a version that contradicts Las Abejas' version, as I will discuss later in this chapter. In this case, the voice of the editors and that of the members of the “Committee of the Relatives and Friends of the Innocent Prisoners in the Acteal Case” is not differentiated.

¹⁰⁷ Also known as “Colonia Puebla.”

¹⁰⁸ “*Compa*” is an abbreviation for “*compañero*,” (similar to *comrade*). *Compas* are those who participate in or support the wider struggle of Zapatismo and its sympathizing organizations. *Compas* are those who accompany each other in the “*caminar de los pueblos*” (indigenous peoples' struggle) and are, by definition, *anti-gobiernistas* (anti-government), anti-systemic, and pro-indigenous autonomy.

human rights organizations were spreading the word outside Mexico. Las Abejas had already learned that the presence of foreigners made a difference for their voices to be heard.

Around 95 people from Ejido Puebla remained displaced for about a year in the center of Acteal, creating a humanitarian crisis for the organization that coincided with the time of my fieldwork. Those formerly convicted for the Acteal massacre and neighbors from Ejido Puebla, under the leadership of Jacinto Arias and the pastor Agustín Cruz Gómez (president of the *Ejidal* Commissariat), all evangelicals, argued that the conflict was of a religious nature. However, among the families displaced, fifteen were Catholic and two Baptist. Religion was just one of the components of a clearly political conflict that had the taint of vengeance on the part of those who had been indicted for the massacre. In response to Las Abejas' displacement, people from Ejido Puebla who had once been convicted in the Acteal case went to Mexico City to protest, contending that they were the real victims of the violence that Las Abejas were supposedly reigniting in Chenalhó:

We come here to seek protection from the Congress, the Presidency of the Republic, the Interior Ministry and the Supreme Court against the menace that is again present in Chenalhó, affecting all Chiapas and all Mexico, because it makes it appear that we are living a great war, when in reality it is just a small group [Las Abejas] that does not represent anyone else but themselves, one that attacks, menaces, and kills with impunity with the support of the San Cristóbal Diocese and of some NGOs..., most prominently Frayba and some media like *La Jornada*.

[Las Abejas'] youth have an education in violence, training, and a military structure. They are *milicianos* [members of a militia]. They are also accompanied by foreigners who monitor our town. (2013)¹⁰⁹

These twisted portrayals of reality have sown doubt about Las Abejas' innocence. The *photographic negative* rhetoric has made Las Abejas' words seem as mere hearsay, making more people become skeptical about what really happened during and after the massacre. This effect is at the same time a consequence of impunity (Cohen 2001), a characteristic of the discourse of the oppressed (Sandoval 2000), and a main strategy in

¹⁰⁹ Taken from the press bulletin read during the protest.

the war of attrition against indigenous organizations: a war that is heavily fought on the front of representation.

Las Abejas members have told the story of their organization's founding in several acts of protest, communiqués, and in their blog.¹¹⁰ Their story differs drastically from that told by the PGR. Las Abejas trace their origins to the 1992 advocacy for indigenous women's right to inherit land, within a context where indigenous customs did not allow it. After the death of their father, siblings Agustín, Catarina, and María Hernández inherited 120 hectares in the community of Tzajalchén, Chenalhó. Agustín tried to claim the entire property for himself, but several community members interceded in favor of the two sisters. In their blog, Las Abejas argue that Agustín shot three of these community members and, in order to mislead the authorities, he later accused five people for these killings before a municipal judge—another early example of the use of the *photographic negative rhetoric*. The local authorities, despite a lack of evidence of the five people's supposed responsibility in the killings, unfairly detained the five whom Agustín accused.

From there, Las Abejas' version of their organization's origin follows a similar trajectory to the one the PGR presented in the *Libro Blanco*. The PGR placed great emphasis on how Las Abejas' public demonstrations were crucial in obtaining the release of those detained. In the *Libro Blanco*, the PGR made the interpretation that, even when Las Abejas defined themselves as “a group of peace,” they had an “undefined position” in Chenalhó's conflict, which allowed them to maintain a close relationship with Zapatistas at Polhó's Autonomous Municipal Council and with the Frayba human rights center:

Las Abejas never gave evidence of disassociating from this Council or from its actions. That is why the sympathizers of Chenalhó's Municipal Council and of the Cardenista Party think that Las Abejas are Zapatistas” (PGR 1998, 19).

¹¹⁰ See Las Abejas' webpage: <http://acteal.blogspot.mx/p/historia-de-las-abejas.html>

A simplistic, polarized interpretation of the political field led the PGR to gloss over Las Abejas' pacifist stance, and to implicitly make them responsible for becoming a vulnerable target.

In the *Libro Blanco's* third chapter, titled "Armed Conflicts," the PGR recounts the killings perpetrated during 1997 against three distinct groups of actors: "the sympathizers of Chenalhó's municipal council," the EZLN's sympathizers, and Las Abejas. While the PGR is meticulous in describing at least 17 assassinations supposedly committed by Zapatistas and Abejas against the "sympathizers of Chenalhó's municipal council," in the case of the assassinations committed against Zapatistas, the PGR only reports 5 Zapatistas dead, and even mentions the possibility that Zapatistas themselves killed 2 of them, who were women. The report includes several examples that illustrate the cruelty of Zapatistas' attacks, documenting that Zapatistas used to perform killings in front of the families of the victims; that they had no boundaries in regard to killing women and children; and that they used sharp weapons during these attacks. These details were also the main characteristics of the Acteal massacre (where 90% of the wounds were caused with sharp blade weapons), and the fact that the PGR was documenting Zapatistas' use of these types of violent acts in the past suggested that Zapatistas could not be ruled out as perpetrators of the massacre.

Actas de Declaración de Testigos:
When the Public Prosecutor Voices the Witnesses' Testimonies

The information about the attacks that the PGR described in the *Libro Blanco* was obtained from the preliminary investigations (*averiguaciones previas*) carried out by the Office of the Public Prosecutor, especially from the declarations of the witnesses (this is, their testimonies). Most of these criminal investigations were still ongoing by the time the *Libro Blanco* was released, so there was no firm judicial decision about the legal responsibility of any of the perpetrators. It is unknown how the PGR decided which cases to present in this report. The files of the preliminary investigations contain various testimonies of Las Abejas members that were not even mentioned in the *Libro Blanco*.

Instead, the unknown people who authored this report for the Attorney General chose to transcribe the testimonies that depicted a negative perspective on Zapatistas' practices, such as the following testimony of a nineteen-year-old ex-Zapatista who narrates why he could not stand living more than nine months in the Zapatista community of Poconichim, Chenalhó:

Que no le gustó el estilo de vida que se lleva en esa comunidad zapatista, ya que son muy violentos, es decir, todas las actividades que se hacen deben ser en conjunto, como las siembras, construcción de casas, o cualquier trabajo, de tal manera que quien no participa en esas labores o no acata esa disposición se le castiga atándolos de un árbol, en la cancha de basquetbol o en una casa oscura durante uno o dos días, ya que no cuentan con cárcel preventiva; que [é]sto fue lo que no le pareció al declarante. (PGR 1998, 29)

[That he did not like the lifestyle of this Zapatista community since they are very violent, in other words, all the activities have to be done as a collectivity, like sowing, the construction of houses or any work, in such a way that whoever does not participate in these tasks or does not obey, is punished and tied to a tree, [held] on the basketball court or in a dark house during one or two days, since they do not have a jail; that this is what the declarant did not agree with. (PGR 1998, 29)]

For the declarant (witness), as well as for those who decided to present this piece of testimony in the *Libro Blanco*, collective work is linked to a lack of freedom and repression. If the *Libro Blanco* had included a cultural perspective in its analysis, collective work could have been deemed as a common practice within Maya communities, crucial for their reproduction and survival, and not as a negative and exclusive characteristic of Zapatistas. The aforementioned piece of testimony is important to my argument since it is an example of the form of the *declarations* that the prosecutors gathered in the days and months after the massacre to integrate the *averiguaciones previas* [preliminary investigations]. As I will show below, the legal formalities that determine the way in which the testimonies are collected and transcribed completely decontextualize witnesses' words and meanings.

Public prosecutors are obliged by the law to follow several formalities during the performance of their duties, such as informing witnesses of their rights and warning them

of the sanctions in case of giving false testimony. Wherever the prosecutor's duties take place (sometimes in the Office of the Public Prosecutor or in the place of the events that are being investigated), the prosecutor transcribes these formalities in the *Actas de Declaración de Testigo* (a kind of witness's affidavit), and includes personal information about the witnesses before taking their testimony. I had the opportunity to read these *Actas* while collaborating with Frayba and Las Abejas in the elaboration of an expert testimony on the Acteal massacre's psychosocial impacts. In some cases, the prosecutor asked the witness his/her age, while in other occasions s/he also asked about political party affiliation and monthly income. Only in rare cases did the prosecutor leave a record of the witness's native language. On even fewer occasions, the prosecutor registered whether the witnesses were provided with an official interpreter of their indigenous language. Working with an official interpreter was already a legal requirement by that time, even when almost no state agency had interpreters in their offices. There were cases in which the assigned official translator spoke a different indigenous language than the witness; this shows how the Office of the Public Prosecutor was not really concerned with preserving the fidelity of witnesses' words, but only in fulfilling—even if uncritically—some of the legal formalities. The following statement of one of the defendants during the judicial proceedings illustrates this situation:

[N]o entendí nada de lo que [los del ministerio público] me decían y hablaban y leían. . . . [A]l final de esa diligencia solo me hicieron señas de que pusiera mi huella del dedo gordo. . . . Que no deseo contestar a ninguna pregunta que me quieran hacer tanto el agente del MP, como el defensor, por la razón de que luego hay malos entendidos entre lo que uno dice, lo que entiende el traductor y lo que se asienta en los papeles.¹¹¹

[I did not understand anything of what they [the public prosecutors] told me, said to me or read to me. . . . [A]t the end of that proceeding, they only made signs for me to put my thumbprint on the document. . . . I do not have any desire to answer any question that the public prosecutor or the public defender wants to ask, because then there are misunderstandings between what one says, what the translator understands, and what is written in the papers.]

¹¹¹ April 22, 1998. Criminal File 402/99, p. 896.

The lack of formal consistency among the *Actas de Declaración de Testigos* in the court records of the Acteal massacre highlights the most elemental form of violation to the right of due process. As I discuss later, this would become one of the reasons why the Supreme Court invalidated these testimonies in 2009. But even when the *Actas de Declaración de Testigos* in the Acteal case are not formally homogeneous, they share the characteristic of having an absent narrator (the public prosecutor), whose presence only appears in the text when s/he needs to demonstrate her/his authority. The reader learns about the witnesses' accounts through the voice of the narrator, easily falling into the belief that the one who mediates and tells the story is a neutral actor in the investigation. The legal formalities and customary forms of writing of the *Acta de Declaración de Testigos* help give this impression by allowing the concealed presence of the public prosecutor in the text.

Nonetheless, the illusion of an objective perspective is broken when the prosecutor reveals her/his real coercive power by giving orders, enunciating the laws that authorize him/her to give those orders, and admonishing witnesses by telling them about the penalties that they might incur in case they do not comply. The public prosecutor only reveals to the reader her/his true powerful self on those occasions, making the reader wonder whether the public prosecutor, by mediating witnesses' testimonies, isn't playing judge and interested party at the same time [*siendo juez y parte*]. One could object that the prosecutor does not have the jurisdictional powers of a judge. However, both public officials are part of the Mexican State's structure, the same state that armed and trained the perpetrators of the Acteal massacre, as the *Plan Chiapas 94* demonstrated. The Enlightenment doctrine of the separation of powers relies on the fiction that the judiciary can judge the actions and omissions of the executive branch with independence and autonomy. When this theory is contrasted with reality, prolonged impunity proves that the judiciary does not operate with neutrality and that public officials tend to protect their interests, which are intertwined with the interests of their superiors.

Before, I mentioned that the customary practices of writing an *Acta de Declaración de Testigo* tend to conceal the presence of the public prosecutor from the

text, and this is important to consider when analyzing witnesses' testimonies. The public prosecutor always transcribes the declarations of a witness in the third person, changing the witness' language and expressions in order to subdue them to a certain kind of standardization. Indigenous narrative styles, figures of speech, temporalities, and the sense of events are lost in prosecutor's attempt to Westernize testimonies for the mestizx-integrated judiciary. The prosecutor re-narrates in his/her own ontological framework what the witnesses narrate. By writing their testimonies in the third person, the prosecutor creates a sense of distance and objectivity that pushes the reader to take the testimonies at face value. Nonetheless, such objectivity is a fallacy since the subjects involved, and the style, content, and extent of the declaration are in a great way determined by the prosecutor and her/his perspective.

By paying attention to this circumstance, in the Acteal case it is possible to notice how the prosecutors were directing witnesses' testimonies to imply that the massacre had been an inter-communitarian battle between people with conflicting political affiliations—Zapatistas/PRD affiliates versus PRI affiliates. As I have mentioned before, Chiapas' political spectrum is not only composed of political parties, but also by organizations (commonly called *sociedad civil*—such as *Sociedad Civil Las Abejas*), the EZLN, and those communities that support it, called *bases de apoyo* [support bases]. However, as if politics could only be explained through affiliations with political parties, the prosecutor constantly identifies Zapatistas (who are not part of any political party) as supporters of the PRD, and writes the word *Zapatistas* between quote marks.

As I read through the dozens of witnesses' declarations, it began to seem evident to me that the Office of the Public Prosecutor was following a line of investigation aimed at incriminating Zapatistas for the massacre. This is a bias that permeated the PGR's report, the *Libro Blanco*. A good example of this bias occurred precisely when Bishop Samuel Ruiz gave his declaration before the Office of the Public Prosecutor on June 18, 1998. On this occasion, the public prosecutor did transcribe in the *Acta de Declaración de Testigo* the questions he formulated to the witness. This probably occurred because Ruiz was a mestizo, a prominent figure in religious and political arenas, and because he

was accompanied by his lawyer, who could exert some pressure on the public prosecutor to stick to the legal formalities of the procedure. The prosecutor's questions, which are always omitted in the rest of the witnesses' declarations, and which are formulated in the form of a command, reveal how the prosecutor was framing the investigation:

Question 10: That the witness state whether he had knowledge about the confrontation the members of the Zapatista National Liberation Army had *against* members of the Institutional Revolutionary Party [PRI] and the Cardenista Front of National Reconstruction Party from [the community] Colonia Miguel Utrilla "Los Chorros" on September 22, 1997, in Majomut's sandbank, where Joaquín Vazquez Perez and Mariano Vazquez Ruiz died.

[Ruiz's] Response: Perhaps. What I want to specify is that, in relation to the framing of the question, this should state ["the confrontation that members of the PRI had against EZLN's members.[]"]¹¹²

In a legal system in which testimonies and evidence are evaluated in their written versions, these small details have a great impact in the creation of a broader narrative of the case and on informing judges' convictions.

Mimicking Subjects: Victims and Perpetrators Who Are Also Victims

The paramilitaries *did not make it* to the PGR's "casting" of actors for its version of the massacre contained in the *Libro Blanco*. Instead of characterizing some of the armed "sympathizers of Chenalhó municipal council" as *paramilitaries*—the term used in Las Abejas' early testimonies to refer to those who were armed and trained by the army—the PGR chose to call them "self-defense groups." Through this term, the PGR subtly suggested that Zapatistas were the initial attackers, and their adversaries ("the self-defense groups") were those who *just* responded the attacks, as the PGR asserted in this passage:

¹¹² Don Samuel Ruiz García's declaration, June 18, 2008. Subprocuraduría de Averiguaciones Previas Centrales. Fiscalía Central de Investigación para Homicidios, Agencia C. Averiguación Previa número FCIH/C/T3/017/08-06 (FECACH/002/2007).

On several occasions, the “self-defense” groups overdid [*extremaron*] their decisions and actions, probably with the idea of defending themselves from “the Zapatistas” and “recuperating” their belongings. (PGR 1998, 48)

For the PGR, Chenalhó’s combat field was not leveled; there were perpetrators (Zapatistas) and there were victims (the “self-defense” groups), and at some point the latter replicated the actions of the former, but with the intention of protecting the members of their group. What is crucial about this situation is that by choosing to define the latter as “self-defense groups,” the PGR was at the same time justifying the state’s military intervention in the region with the aim of not having these groups take justice into their own hands. Civilians exerting violence in their self-defense highlighted the fact that coercion was no longer monopolized by the state, and this excuse paved the way for President Zedillo (as supreme chief of the Armed Forces) to order the presence of 5,000 more troops in Chiapas just after the Acteal massacre. Two thousand of these troops were sent to Chenalhó, converting this municipality into the region with the greatest military presence in the country, after Mexico City (CDHFBC 2009). With the 2,000 troops already deployed in Chiapas before 1997, a total of 7,000 troops provided a ratio of one soldier per fifty inhabitants. In the conflict zones, this ratio increased to one soldier per three inhabitants (CIEPAC 1998; CDHFBC 1998).

Jorge Madrazo Cuéllar, from the PRI party, then headed the PGR. Dependent on the PRI-controlled executive branch, the PGR avoided referring to the “self-defense groups” or “sympathizers of Chenalhó’s municipal council” as Priístas throughout the *Libro Blanco*, even though the survivors identified them as Priístas in their testimonies.¹¹³ The PGR instead affirmed that these “self-defense groups” belonged to the Partido Cardenista, a fading political party that had lost strength on the national scene in 1990s and was identified locally as a branch of the PRI. By not saying the obvious (that the “self-defense groups” were mainly Priístas), the PGR eliminated a constant reference to

¹¹³ Even today to identify as a Priísta in Chenalhó, is usually equated with being pro-government and against indigenous autonomy.

the connection between the violence in Chenalhó and the highest spheres of federal power: a connection based on commonality with the official party, characterized by its ability to co-opt and mobilize “the bases” [*las bases*] in favor of the interests of those in power.

This omission is not minor. Through the *Libro Blanco*, the PGR chose, named, and defined the actors; characterized the events; and set the language that would become the basis of the courts’ work in the adjudication of the Acteal massacre. As the first investigative report on the massacre, one coming from primary sources and which was supposedly informed by those agents who first arrived at the crime scene, who saw the bodies and transported them to the morgue, and who heard the survivors’ testimonies without any intermediary, the *Libro Blanco* was meant to become the source of sources on the topic: the gatekeeper of the actors, facts, and circumstances that would count as *valid* elements in any narration of the massacre in the news, the courts, or the academy.

For the *Libro Blanco*’s third chapter on Chenalhó’s armed conflicts, the PGR used as sources the investigations [*averiguaciones previas*] carried out by the Office of the Public Prosecutor, as well as *licenciatura* [bachelor’s degree] and master’s theses written by students from the National School of Anthropology and History (ENAH), from the Chapingo Autonomous University, and from the Chiapas Autonomous University. The combination of prosecutors’ legalistic style along with the academic language of students’ theses seems to attempt to arrive at a legitimizing result. While the prosecutor’s office has the imprint of the state’s authority, students’ theses have legitimizing academic credentials. By citing these theses, the mestizx authors of the *Libro Blanco* seem to be legitimizing their knowledge on a topic far away from home.

Only four pages of the *Libro Blanco* are dedicated to the description of the complicity of public officials, not in support of paramilitary groups, but “in the possession and transportation of arms *in benefit* of the sympathizers of the municipal council of Chenalhó” (pp. 59-60) and their responsibility in matters of administration of justice (pp. 61-62). The careful use of words to describe public officials’ crimes is another example of the PGR’s manipulation of facts with a clear political aim: to break

the chain of command that linked the accused officials of minor and medium rank with the higher spheres of Mexican government. Regardless of the *Libro Blanco*'s inequity in terms of space and detail in the analysis of public officials' crimes, the anonymous, omniscient author behind the PGR claims in the *Libro Blanco*'s introduction: "This document does not contain subjective or political evaluations. Objectivity is an indispensable position in the PGR's daily work" (p. 4). As Donna Haraway argues,

Only those occupying the positions of the dominators are self-identical, unmarked, disembodied, unmediated. . . . The only position from which objectivity could not possibly be practiced and honored is the standpoint of the master, the Man, the One God, whose Eye produces, appropriates, and orders all difference" (Haraway 1988, 586-87).

In the *Libro Blanco*, the PGR plays "god tricks" by claiming to present an impartial, totalizing, omniscient view of the Acteal case. Based on what is brutally concealed behind this claim, Hermann Bellinghausen (2008), the Chiapas-based journalist and author of the book *Acteal: Crimen de Estado* has characterized this report as "the shield for those liable."

Following the Trajectories of the *Libro Blanco*

Acteal's Injustice from the Defendants' Perspective: First Act of Historical Revisionism

In an article published in *La Jornada* on October 9, 2007, journalist Luis Hernández Navarro traced two powerful moves that were staged to change the public opinion's perception of the Acteal massacre. His analysis involves then-President Felipe Calderón; Hugo Eric Flores (the national leader of a newly formed political grouping, *Encuentro Social*, integrated by evangelical members); the scholar Alejandro Posadas, based at CIDE; two *former guerrilleros* "turned into policemen and agents of Chiapanecan counterinsurgency" (Hernández Navarro, 2007); the

novelist/journalist/historian Héctor Aguilar Camín; the Supreme Court of Justice; and a group of defendants in the case of the Acteal massacre.

The first move toward historical revisionism Hernández Navarro refers to occurred in 2006, in the midst of the presidential elections that gave a razor-thin victory to Felipe Calderón, the PAN candidate, by a margin of just 0.56% over the PRD candidate, Andrés Manuel López Obrador. This move was orchestrated by a group of evangelical leaders, who in 2002 formed the political grouping *Encuentro Social* [Social Encounter], which later became a political party. A singular characteristic of this national political organization was that many of its members belonged to Protestant churches. In the context of the 2006 presidential elections, *Encuentro Social* negotiated a political alliance with the PAN to support Calderón's presidential candidacy in exchange for thirteen national positions under the auspices of the PAN in the Congress. In their "Participation Agreement" (published in the *Diario Oficial* on April 11, 2006) both political parties agreed that one of the topics that would be on the Congress's agenda was: "To promote a culture of full religious tolerance and to review the procedural status of the Acteal massacre case records."¹¹⁴

This pact benefited PAN with the important vote of non-Catholic Christians, a sector that had distanced itself from the PAN following Vicente Fox's successful run for president in 2000. When Fox (PAN) took up the standard of the Virgin of Guadalupe at the beginning of his campaign in 1999, the PAN lost many Protestants' sympathy. "That's why the PAN paid a high price for linking up with Encuentro Social," journalist Miguel Ángel Granados Chapa (2009) argued. For Encuentro Social, the benefits of this pact began with the appointment of this party's national leader, Hugo Eric Flores Aguilar, in substitution for Senator María Teresa Ortuño (PAN). Then, when Calderón became

¹¹⁴ Cláusula Décimo Primera, inciso G: "Promover la cultura de plena tolerancia religiosa y revisar el estado procesal de los expedientes formados con motivo de la masacre de Acteal" in "Resolución del Consejo General del Instituto Federal Electoral, por el que se registra el Acuerdo de Participación para el Proceso Electoral Federal correspondiente al año 2006, que suscriben el Partido Acción Nacional y la Agrupación Política Nacional Encuentro Social". *Diario Oficial*, April 11, 2006, http://dof.gob.mx/nota_detalle.php?codigo=2122891&fecha=11/04/2006.

president, on December 1, 2006, Flores was appointed as *official mayor* at the Ministry of Environment and National Resources (SEMARNAT). However, he was fired months later and disqualified (*inhabilitado*) to hold a post in the federal administration for twenty-two years on the basis of allegedly having been involved in acts of corruption (Rodríguez García 2011).

Besides being a politician who changed political parties as it suited his interests, Hugo Eric Flores was a pastor of a Baptist church known for its adhesion to the “prosperity theology.” Flores was particularly interested in the defense of those imprisoned after the massacre, probably since some of them were evangelicals. After passing through the hands of several lawyers, these prisoners’ legal representation was assumed by the National Fraternity of Evangelical Christian Churches (Cofraternice) between January 1999 and 2003. Cofraternice’s lawyer, Arturo Farela, said that in 1999, Flores expressed interest in those prisoners in a conversation (Hernández Navarro 2012, 108). That year, Flores worked as advisor for President Zedillo (of the PRI). Flores asked Farela to prepare a summary of the case, including the series of due process violations Farela had detected, so that Flores could take this report to his boss, Zedillo. Farela had hopes that Zedillo could intervene for the prisoners.¹¹⁵ And perhaps he did. Las Abejas blamed Zedillo for being at the top of the chain of command behind the massacre; therefore, his position in the case could not be deemed as neutral. The information on the legal procedures that Farela provided Flores was later used by Flores to write the book “*El otro Acteal*” [*The Other Acteal*]. Public funds that corresponded to Encuentro Social were wrongfully used to support the writing process of this book, which never reached the publication stage. In fact, the Federal Electoral Institute (IFE) rejected Encuentro Social’s justification of expenses for the elaboration of this book in 2004 (Hernández Navarro 2012, 108).

By 2006, a presidential-election year, Flores held the post of associate professor-researcher at the Center for Research and Teaching in Economics (CIDE), a higher

¹¹⁵ Farela declared this on the radio program “Relieves” in *Radio Educación*, conducted by Lénica Ávila, on August 24, 2009. See Hernández Navarro (2012, 108).

education center specialized in the social sciences and one of Mexico's top think tanks. CIDE has also been characterized as an emblematic education institution of the Mexican right. Flores worked under the direction of Alejandro Posadas Urtusuástegui, who received a doctorate in law from Yale University and who was director of the *División de Estudios Jurídicos* (Division of Law Studies) at CIDE. Two months after the mentioned alliance between Encuentro Social and the PAN (April 11, 2006), Flores tried once again to push forward the case of those imprisoned for the Acteal massacre. In coauthorship with Posadas, he published an article in the magazine *Nexos*, titled "*Acteal: la otra injusticia*" (2006). This article represented Flores' first consummated maneuver aimed at changing the history of the Acteal case.

According to Posadas and Flores (2006), the PGR originally accused 124 people in the massacre (113 were civilians and 11 members of the local police). Of those 113 people, 83 were criminally processed. All were indigenous people. By 2006, 6 of them had been exonerated, one had died in prison, and 24 were sentenced to 36 years of imprisonment. The rest of the accused were still awaiting their final judgments.¹¹⁶ In this context, Posadas and Flores's main argument was that the evidence the PGR used to show the 113 defendants' participation in the massacre was legally and logically insufficient. The authors questioned why the PGR did not follow the lead of the five defendants who confessed their participation in the massacre. In their judicial testimonies, these confessed murderers declared that only a total of nine people were responsible for perpetrating the massacre, and not 84, as the PGR had argued during the criminal investigations. These five confessed murderers' testimonies claimed the massacre was the "consequence of a confrontation with a Zapatista column in Acteal"

¹¹⁶ Frayba's numbers differ from those presented by Posadas and Flores (2006). According to Frayba (2009), the number of civilian indigenous peoples processed was 87, while the number of former public officers processed was 15. In most cases, the public officers were sentenced to from two to eight years in prison. In the cases of seven policemen, their sentences were reduced to community service work. Jacinto Arias Cruz, then Chenalhó's mayor, was the only public officer sentenced to more than eight years in prison. He was sentenced to 36 years in prison, but the Supreme Court acquitted him in 2013.

(Posadas and Flores 2006) and not a paramilitary attack directly targeted against members of Las Abejas, as the survivors maintained.

In their article, Posadas and Flores were putting forward a similar argument to the one I make in this dissertation. In a way, they were asking, “Why were the testimonies not taken into account?” However, their question only refers to the testimonies of the confessed murderers and excludes the majority of the collected testimonies. Posadas and Flores’s lack of concern about the dismissal of the survivors’ testimonies during the judicial proceedings reveals that the authors were not really concerned about the truth of the case or about indigenous peoples’ right to access justice. The authors’ assumption is that five confessed murderers’ testimonies should have had a heavier weigh than the more than one hundred testimonies of prosecution witnesses (survivors were prosecution witnesses), since, for the authors, the latter do not constitute sufficient evidence to prove the defendants’ guilt when analyzed in conjunction with the rest of the evidence. The authors’ argument is enmeshed with questions on how the *presumption of innocence principle* (one is considered innocent until proven guilty) operates in practice. More particularly, their argument questions how the PGR and the judiciary dealt with what is called *the burden of proof*, that is, “the duty placed upon a party to prove or disprove a disputed fact.”¹¹⁷ Since in a criminal case “the burden of proof is placed on the prosecution, who must demonstrate that the defendant is guilty before a jury may convict him or her,”¹¹⁸ the authors argue:

Acteal parece ser un típico caso en el que los acusados habrían de probar su inocencia, más allá de toda duda razonable, y no a la inversa. Gran parte del problema tiene que ver con la escasa jurisprudencia existente por parte de la Suprema Corte en materia de “debido proceso”, de los estándares probatorios y de los principios de inocencia y de juicio justo. (Posadas & Flores 2006)

[Acteal seems to be a typical case in which the defendants would have to prove their innocence beyond a reasonable doubt, and not vice versa. Much of the problem has to do with the limited existing legal precedents by the Supreme Court

¹¹⁷ “Burden of Proof.” West’s Encyclopedia of American Law, 2nd edition, 2008.

¹¹⁸ Ibid.

on "due process" standards of evidence and the principles of innocence and of fair trial.] (Posadas & Flores 2006)

“*Acteal: la otra injusticia*” (Posadas & Flores 2006) could be read as an exposition of the reasons why CIDE’s Public Interest Clinic would assume the legal representation of the defendants six months after this article’s publication, exactly a day before the ninth anniversary of the Acteal massacre (in December 2006). Even while the authors did not reveal this situation in their article, they clearly laid out CIDE’s political agenda in relation to the Supreme Court and its jurisprudence on fundamental rights:

Es momento que la Suprema Corte limite el peso que se le otorga al Ministerio Público sobre la presunción de actuar de “buena fe” (gozar de fe pública) y le otorgue verdadera voz al ciudadano en la plenitud de sus garantías constitucionales, tanto en su calidad de víctima como también en la eventualidad de ser acusado. Esta es una parte importante de la relación del ciudadano con sus jueces y de la agenda pendiente para la Suprema Corte a la que se refieren Ricardo Raphael (pp. 31-34), Ana Laura Magaloni y Arturo Zaldívar (pp. 35-38) en sus ensayos respectivos en este mismo número de *Nexos*. (Posadas & Flores 2006)

[It is time that the Supreme Court limits the weight that is given to the Public Prosecutor in regard to the presumption of acting in "good faith" (to have public faith) and give real voice to the citizen in the fullness of his constitutional guarantees, both in its as well as a victim in the event of being charged. This is an important part of the relationship between citizens and their judges and of the pending agenda for the Supreme Court that Ricardo Raphael (pp. 31-34), Ana Laura Magaloni and Arturo Zaldívar (pp. 35-38) refer to in their respective essays in this issue of *Nexos*.] (Posadas & Flores 2006)

As the quote mentions, Posadas and Flores were not the only scholars trying to set the Supreme Court’s pending agenda in regard to fundamental rights. Raphael (2006), Magaloni & Zaldívar (2006), as well as José Antonio Caballero & Sergio López Ayllón (2006), also published their corresponding articles in the same issue of *Nexos* magazine (2006 No. 342), arguing that the Supreme Court should take a more active role in the democratization of Mexican society by defining and protecting fundamental rights. They said the Supreme Court had focused for several decades on being just another appeals court instead of being what it is supposed to be: a constitutional court in charge of the

interpretation of the Constitution. From these authors' perspective, the Supreme Court, as a constitutional court, should be reviewing cases that allow this maximum tribunal to interpret and further develop fundamental rights through *jurisprudencia* (legal precedents), since the existing *jurisprudencia* on fundamental rights is obsolete and lacking substance.

The cases that would allow the Supreme Court to issue this *jurisprudencia*—the authors argue—are the most numerous kind of cases that reach the court, the *juicios de amparo* [proceedings pertaining to constitutional guarantees]. However, the Supreme Court usually sends the *juicios de amparo* to lower tribunals (the *Tribunales Colegiados de Circuito*) for resolution in order to alleviate the Supreme Court's workload. The *juicios de amparo* are those cases in which common citizens look for the protection of their constitutional rights. By sending them to the *Tribunales Colegiados de Circuito*, the Supreme Court was abdicating its role as the interpreter of fundamental rights and leaving this role to lower tribunals. The interpretation of fundamental rights establishes precedents that are binding [*vinculantes*] on the rest of the judiciary. Therefore, the authors argued that the Supreme Court, as the maximum tribunal of the country, should be the one exercising this power.

The authors' agenda is concerned with a particular kind of fundamental rights. Magaloni and Zaldívar (2006), for example, emphasize the need for the Supreme Court's jurisprudential construction of the constitutional rights of the detainee and of the defendant in criminal cases:

Para decirlo breve y claro: la Corte y los tribunales federales otorgaron un "cheque en blanco" para que las procuradurías, federales y estatales, pudiesen llevar a cabo su tarea de investigar los delitos utilizando cualquier método, incluyendo la incomunicación del detenido y la brutalidad policiaca. Si bien es cierto que muchas de estas prácticas hoy en día han cambiado, también lo es que los derechos constitucionales del detenido por la policía y del acusado en un juicio penal continúan estando vacíos de contenido. (Magaloni & Zaldívar 2006)

[To put it briefly and clear: the Court and the federal tribunals conferred a "blank check" to federal and state prosecutors' offices, so they could carry out their task of investigating crimes using any method, including incommunicado detention

and police brutality. While it is true that many of these practices have presently changed, so it is that the constitutional rights of that who is detained by the police and accused in a criminal trial are still empty of content.]

This argument, in conjunction to the one that Flores & Posadas (2006) make in their article (that is, that the defendants' fundamental rights in the Acteal case suffered several violations), helped frame the Acteal case as a paradigmatic example that proved the need for the Supreme Court's active role in regard to the interpretation and development of the fundamental rights to due process. It is no coincidence that all these authors (Raphael, Magaloni, Caballero, López Ayllón, Posadas, and Flores) had something else in common other than their arguments: all of them (with the exception of Zaldívar) worked as professors at CIDE. Zaldívar would become one of the eleven ministers of the Supreme Court in 2009, by nomination of President Felipe Calderón (whose political party—the PAN—negotiated with the Encuentro Social political aggrupation a review of the Acteal case's legal files). It is no coincidence, either, that the magazine that published these articles was *Nexos*, where Héctor Aguilar Camín served as editor, and where he would publish the continuation of this process of historical revisionism a year later, in 2007, through his three-piece article “*Regreso a Acteal*.”¹¹⁹

The joint effort of scholars Raphael, Magaloni, Caballero, López Ayllón, Flores, and Posadas (as authors) and of Aguilar Camín (as editor) was successful in giving publicity to the historical role that the Supreme Court could assume if the court decided to produce legal precedents [*jurisprudencias*] about fundamental rights. These authors and editor were also successful in attracting public attention to the due process violations in the Acteal case. But most importantly, these articles also laid out the ground to legitimate CIDE's intervention in the Acteal case, as a leading practitioner of “strategic litigation” in Mexico. However, as a popular Mexican saying goes, “*Nadie sabe para quien trabaja*” [roughly “Nobody knows whom they work for”]. The Acteal case was being used as a paradigmatic example that would push a whole process of judicial reform that began in 2008 and finally entered into force on June 11, 2016. The reform was based

¹¹⁹ Aguilar Camín and Raphael also coincided in being leaders of an association called *Alternativa Ciudadana 21*.

on strengthening the rights of the detainee and the defendant in criminal cases. The links between Acteal and the 2008 judicial reform have not received much attention in Mexico. Those links and the lack of attention to them are a painful remainder of how indigenous peoples can be used as causes for advancing neoliberal reforms that give more legal certainty to the free flow of capital.

In order to outline the importance of the Acteal case as a paradigmatic example of the Public Prosecutor's routine violations of due process, Flores and Posadas (2006) analyzed one of the rulings issued by a federal judge condemning some of the defendants. The authors deemed this ruling to be unjust, arguing that the judge gave preferential treatment to the survivors' prosecution testimonies over the testimonies offered by the defendants. Even when the prosecution testimonies are not consistent and contradict each other—the authors argue—the judge gave them full evidential value. The authors explained that while the judge had no problem with prosecution witnesses' identifying *defendant 1* by name until the declaration extension (and not in their original declaration), when this defendant presented witnesses during the preparatory declaration extension, the judge disallowed their evidential value, considering them "fabricated." Following this reasoning, the authors argued that the judge treated the parties unequally, giving more privileges to the prosecution witnesses. The authors conclude saying:

[The Acteal case] Also proves that [the judicial branch] continues being an instrument that legitimizes or tolerates the abuse of authority in the accusatory role, under formalist and legalist artifices, especially when the defendant lacks economic resources for his/her defense. A tragedy such as Acteal should not have been resolved through another injustice. (Posadas & Flores 2006)

The authors' conclusion is irrefutable; however, their argument applies not only to the defendants, but also to the victims. It is important to note the bias of the authors who call themselves "objective." By arguing for the defendants' procedural rights, they are doing so in detriment of survivors' rights as victims. In this paradox lies one of the biggest misfortunes of the Acteal case: A re-victimization of the victims in their process of seeking justice.

Aguilar Camín's "Return to Acteal" Without Going to Acteal: Second Act of Historical Revisionism

By 2007, *Nexos* magazine was already the preferred publication space for the defendants' lawyers. A day before the massacre's anniversary in 2006, these lawyers made official the awaited announcement: CIDE's Public Interest Clinic had assumed the defense of 75 defendants. The timing was not coincidental. The following year was the massacre's tenth anniversary, and a big commemoration/*denuncia* event was expected to take place in Acteal, while similar events were to take place in several parts of the world. By that time, Frayba and Las Abejas had already taken the Acteal case to the Inter-American Commission on Human Rights (IACHR) to accuse the Mexican State of holding responsibility in the massacre; around those dates, they were expecting the IACHR's pronouncement in regard to acceptance of the case.

Through the three articles published in October, November, and December 2007 in *Nexos* magazine, where he serves as editor, the journalist, novelist, and historian Héctor Aguilar Camín embarked on "The return to Acteal." Using the *Libro Blanco's* (PGR 1998) data and language, he supported and expanded the PGR's official version of the Acteal massacre, asserting that the massacre was not the consequence of a paramilitary attack but instead was committed during *a battle* between "civil self-defense groups" and Zapatistas, where the former *were avenging the assassination of a relative by Zapatistas* (2007). After supposedly analyzing parts of the legal files of the Acteal case, which include the testimonies that both survivors and defendants rendered to several judicial authorities, Aguilar Camín revived the *Libro Blanco's* main thesis of the inter-communitarian battle and gave it new hues, nine years after its publication and during a very strategic timing for those who were imprisoned for this massacre. Through his intervention, Aguilar Camín argued that most of the people serving prison terms in the Acteal case were innocent. He based his claim on the findings of scholars at CIDE in Mexico City, whose law school clinic (*Clínica de Interés Público*) had assumed the defense of the convicted paramilitaries in 2006, and would push their case to the SCJ for its review in 2008.

Self-defined as “a historian by accident and a novelist by vocation and decision” (I. Sánchez 2009), Aguilar Camín is a very interesting actor in the Acteal case, who represents the emblematic role of the capitalist public intellectual who has cunningly navigated the circles of the elite in power. Born in 1946 in Chetumal, Quintana Roo, he and his mother moved to Mexico City when he was nine years old. He followed the same trajectory as a number of the men who integrate Mexico City’s middle-high class: He attended the Jesuit school *Instituto Patria* and then enrolled in the elite Ibero-American University, where he studied communications. Later, he obtained his Ph.D. in history at the renowned *Colegio de México*. He has been a recipient of the National Prize of Cultural Journalism (1986) and a collaborator in several Mexican newspapers with conflicting political tendencies: *La Jornada* (where he served as sub-director from 1984-87), *Unomásuno*, and *Milenio*. He was editor of the magazine *Nexos* from 1983-1995 and has been serving in the same post from 2008 to the present (2016). In 1988, first year of Carlos Salinas’s presidential term, Aguilar Camín also became an entrepreneur and founded the publishing house *Cal y Arena*. His face is well-known by Mexican audiences as he hosted a weekly show on national television for seven years titled “Zona Abierta” and also participated in one of Televisa’s highest-rated shows of political analysis, “Tercer Grado.” During his prolific and diversified career, he also worked as researcher at the National Institute of Anthropology and History (INAH) and as a member of the National Commission on Human Rights’ Council (1990-1999) in Mexico.

Of all of Aguilar Camín’s endeavors, his novels are the ones that brought him fame. In them he writes about Mexico’s political life, making use of historical and journalistic references to construct fictional narratives. In his novels, Aguilar Camín tends to “reveal” secrets from the lives of political figures that provide fictive explanations for real political events.¹²⁰ It has been said that his first novel, *Morir en el Golfo* (1985), was written at the behest of the powerful, since it exposes the Mexican oil union’s abuses, and these abuses were a political resource that Carlos Salinas would

¹²⁰ His main political works are *La frontera nómada: Sonora y la Revolución Mexicana* (1977); *Después del milagro* (1988); *Historias conversadas, cuentos* (1992). His novels: *Morir en el golfo* (1985); *La guerra de Galio* (1990); and *El error de la luna* (1995).

exploit during his presidential term (1988-1994). Aguilar Camín's shady connections with Salinas have been the source of several controversies. In 1992, Enrique Krauze—another well-known, high-class, Mexican historian-entrepreneur, whose work Alan Knight has described as a “revival of the old *historia de bronce*” (2005, 4)—publicly exposed that 70% of *Nexos* magazine's advertising sales were made to government agencies, something that reflected the preferential treatment Salinas gave this magazine when it was under the direction of Aguilar Camín (Ochoa 1992).

“La Fractura” (“The Fracture”) is Aguilar Camín's first article in the series “Return to Acteal.” He opens this series not with the event of the massacre, but with another bloody episode that will define his version's bias: the assassination of Priísta Agustín Vázquez Secum, supposedly at the hands of two Zapatistas, “in the fresh morning of December 17, 1997” (2007a). Agustín Vázquez Secúm was a Priísta leader of the hamlet of Quextic, Chenalhó. According to Aguilar Camín, affiliation with the PRI “en aquellos tiempos y aquellos lugares *sólo* quería decir que eran contrarios a la expansión sobre sus pueblos de las armas y el influjo del Ejército Zapatista de Liberación Nacional” [“in those times and places *only* meant that they were opposing the spread of weapons and influence over their pueblos by the Zapatista Army of National Liberation”].¹²¹ Behind his adorned writing style, Aguilar Camín hides that being Priísta in those times and places could also mean having connections with paramilitary forces and that those forces were key in arming the Los Altos region, not just to “oppose,” but to annihilate Zapatistas and their supporters.

By confusing the trade of the historian with that of a novelist, Aguilar Camín presents us with a narrative that racially exoticizes indigenous actors and tries to find mystical coincidences between events, their dates, and their corresponding saints, according to the Vatican's calendar. In this way, the day of the slaying of Agustín Vázquez Secúm constitutes a tunnel to the past, which allows the author to connect this killing with the day (exactly three years before) in which an armed group linked with Zapatismo forced San Pedro Chenalhó's mayor to surrender city hall. The order in which

¹²¹ Italics mine.

the novelist/historian presents the data reveals part of his hidden agenda. According to Aguilar Camín's narrative, it was the irruption of Zapatismo in Chenalhó that initiated the violence that led to the massacre. He illustrates such violence with the slaying of Vázquez Secúm, and assumes that this event was the straw that broke the camel's back and led to the massacre. Aguilar Camín insists on the versions of the five confessed murderers, and argues that "on December 22, 1997, there was not only a slaughter in the Los Naranjos camp, there was also a battle: a skirmish (*escaramuza*) of intermittent shootings between Zapatista commandos who were defending the place and the anti-Zapatistas who were attacking it" (2007c). If that had been the case, how is it possible that all the people killed were Abejas, all unarmed?¹²² How is it possible that none of the victims were paramilitaries or Zapatistas? Aguilar Camín feeds the reader with an aestheticized version of the *Libro Blanco's* thesis, enhanced with the twist added by CIDE's scholars (who are also the lawyers of the defendants and, therefore, argue for their innocence), recounted in a novelistic style.

Survivors' judicial testimonies provide us with the point of view of those had to flee from Quextic the day after the killing of Agustín Vázquez Secúm. As the testimony of Jaime Gómez* explained, they fled because Antonio Vázquez Secúm, father of the dead man, was blaming Las Abejas:

Su papá [del testigo, Jaime Gómez] se quedó en Quextic porque es priísta y su mamá y él son de Las Abejas y por eso el día 22 estaban en Acteal. Llegaron el 18 de diciembre a Acteal. Salieron de Quextic como 280 personas cuando murió Agustín Vázquez Secum porque los priístas dijeron que lo habían matado Las Abejas. Se quedaron 20 personas que salieron al otro día también a refugiarse a Acteal. Él (Jaime) dice que el mismo PRI lo mató.

[His father [of the witness, Jaime Gómez] stayed in Quextic because he is Priísta, while he and his mom are from Las Abejas. That is why they were in Acteal on the 22nd [of December]. They arrived at Acteal on December 18. They left Quextic with about other 280 people when Agustín Vázquez Secúm died, because Priístas said that Las Abejas killed him. Twenty other people stayed in Quextic but went

¹²² On December 23, 1997, the forensic scientists performed the sodium rhodizonate test on the 45 bodies, which demonstrated that none of them had fired a gun. Criminal Case 402/99 local, p. 28.

to find refuge in Acteal the next day. He (Jaime) says that the same PRI killed him [he refers to Agustín Vázquez Secúm].¹²³

In his testimony, Jaime provided a list of “those who use weapons,” including his own father. He identified by name three men as the ones who provided training in Quextic:

los vio apuntando a un árbol para tener puntería, en un planada que está abajo del cafetal de Agustín Vázquez Secum. El árbol es un roble, los tiros los practican como a las 10 de la mañana y once o doce de la noche, realizan movimientos tirados en la tierra, realizan brincos con un alambre van brincando y echando balas, realizan guardias en Quextic de día y de noche, quienes realizan los entrenamientos paramilitares son jóvenes todos. Desde hace más de 9 meses que se están entrenando, cuando empezaron a atacar a los compañeros de Puebla. A ellos tres los entrenan gente de Los Chorros. Llegan a Quextic 10 hombres para dar entrenamiento una vez cada dos semanas, llegan en un camión rojo de tres toneladas, de redilas sin recordar la marca. Los que llegaban a Quextic a entrenar tenían aspecto de militares con ropa de color azul, con zapatos como de policía, largo como bota con agujetas. Una vez cada dos semanas van los aprox. 10 de Quextic a Los Chorros a recibir entrenamiento, se van en el carro de Antonio X X de Canolal (marca Chevrolet color amarillo).

[He saw them shooting at a tree to practice their aim in a plain below Agustín Vazquez Secum’s coffee plantation. The tree is an oak. They practice their shooting around 10 in the morning and 11 or 12 at night. They make movements while lying on the ground; they leap over a wire, jumping and firing bullets; they are on guard day and night in Quextic. Those who take the paramilitary training are all young. They had been training for more than nine months when they began attacking the *compañeros* from [Ejido] Puebla. Those three receive training from people from Los Chorros. Ten men arrive in Quextic to give training every two weeks. They arrive in a red, three-ton livestock truck, but he cannot remember the brand of the truck. Those who arrived in Quextic to provide training looked like soldiers, with blue clothes, shoes like those worn by the police, tall with laces. Once every two weeks, approximately ten people from Quextic go to Los Chorros to receive training. They go in a vehicle (a yellow Chevrolet) belonging to Antonio X X from Canolal.)¹²⁴

¹²³ Testimony of Jaime Gómez* from Quextic. January 27, 1998. CDHFBC’s archive.

¹²⁴ Idem.

This testimony, analyzed in the context of other testimonies, proves that Acteal was not a “skirmish,” as Aguilar Camín described it, but the consequence of a counterinsurgent strategy that allowed paramilitaries to use the existent militarized structure to eliminate their enemies. When Aguilar Camín’s article “Return to Acteal: La Fractura,” was published in October 2007, it did not take long for critical responses to arrive. “Maybe there are new checks, now from Zedillo to Aguilar Camín, who once was at the service of Salinismo, with the order to find the intellectual authors of the crime among the same indigenous peoples,” argued journalist Álvaro Cepeda (2008) in the magazine *Contralínea*. Aguilar Camín’s company, Nexos-Sociedad y Cultura A.C., was seen as serving as a think tank of sorts for the PRI and he was one of the intellectuals closest to President Salinas.

Evidence of the privileged treatment Salinas gave to Aguilar Camín appeared in 2001 when the newspaper *El Universal* revealed the receipts for several checks for millions of pesos that Aguilar Camín received between 1989 and 1994 from Salinas in payment for “studies” Aguilar Camín and his company, Nexos-Sociedad y Cultura A.C., did for the executive branch (Badillo 2001). The money for the payment came from the “*partida secreta*,” part of the executive branch’s budget that has the privilege of secrecy. It is publicly known that the “*partida secreta*” is a window for corruption and nepotism. However, as Michael Taussig (1999) would argue, this knowledge is a *public secret*, in the sense that it is endowed with the power of secrecy as well as with the power to silence dissent. The leaking of the checks’ receipts has been attributed to Salinas himself at a moment in which he was being investigated for embezzlement of public funds during his government and his allies (including Aguilar Camín) turned against him. The leak of the receipts was meant to work as an exemplary punishment for those who might attempt to betray Salinas, by exposing information that could inculcate him. As the editorial of *Proceso* magazine put it, Salinas’s logic was: “‘You critique me and I will out you.’ ‘If you join the public crusade against me, I will make public the check I sent you, as I did with Héctor Aguilar Camín.’ ‘If you question my reputation, I will destroy yours’” (2009).

In response to Aguilar Camín's "Regreso a Acteal," Las Abejas issued a communiqué during their monthly ceremony of remembrance in Acteal, on October 22, 2007. In their communiqué, Las Abejas interpret Aguilar Camín's article as an attempt to

. . . [T]ratar de desviar la verdad y hacer creer que el Estado no tuvo nada que ver en esa masacre, pero le decimos que lo que pasó en Acteal fue producto de un conflicto político diseñado desde arriba en los gobiernos [federal] de [Ernesto] Zedillo y [estatal de Julio César] Ruiz Ferro. . . .

Es muy evidente que él [Aguilar Camín] trata de tergiversar la información, que en lugar de decir paramilitares usa el término grupos de autodefensa, pero nosotros le decimos que antes de la masacre esa gente que le llama grupos de autodefensa pasaban en las comunidades en camionetas con sus armas e iban acompañados con camiones de la Policía de Seguridad Pública del Estado." (Las Abejas, 2007)¹²⁵

[. . .] [D]ivert the truth and make believe that the state had nothing to do with the slaughter, but we tell him that what happened in Acteal was the result of a political conflict designed from above in the [federal] government of [Ernesto] Zedillo and [state government of Julio César] Ruiz Ferro. . . .

It is very evident that he [Aguilar Camín] is trying to distort the information; that instead of saying "paramilitaries," he uses the term "self-defense groups," but we tell him that before the slaughter, those people who he calls "self-defense groups" passed through the communities on trucks carrying their arms and that they were accompanied by trucks of the Public Security State Police. (Las Abejas, 2007)]

Even after Aguilar Camín's involvement in the Acteal case raised speculation about his probable commitments with President Zedillo, his version of the massacre remains one of the most read and circulated. In writing his articles, Aguilar Camín did not engage with the survivors or their version of the massacre. He only knew about survivors' testimonies through the mediation of the PGR's *Libro Blanco*, through the perspectives of CIDE scholars, and through an unpublished chronicle written by the local leader of the Partido Cardenista, Manuel Anzaldo, whom Las Abejas' members have identified as one of the main leaders of the paramilitaries in Chenalhó.

¹²⁵ Cited in Elio Henríquez, "Aguilar Camín trata de desviar la verdad sobre Acteal: Las Abejas," *La Jornada*, October 23, 2007.

Manuel Anzaldo, Cardenismo, and Ex-Guerillas: Third Act of Historical Revisionism

As he recognizes in the footnotes of his article, “Regreso a Acteal” (2007), Aguilar Camín based parts of his narrative on a chronicle titled *La historia reciente de Chenalhó* [*Chenalhó’s recent history*], written by Manuel Alfonso Anzaldo Meneses, a local leader of the Partido Cardenista and spokesperson for the “Committee of the Relatives and Friends of the Innocent Prisoners in the Acteal Case.” As I explained in Chapter 1, the Partido Cardenista was deemed to be an ally of PRI, and armed Priístas were considered paramilitaries. Anzaldo has been accused of helping ten perpetrators of the massacre escape from Los Chorros the day after the massacre, and according to journalist Jesús Ramírez Cuevas (2007), the prosecutor accused Anzaldo of offering alibis to several of those charged with the crime. During the judicial proceedings in the Acteal case, members of Las Abejas identified Anzaldo as one of the main leaders of the paramilitaries in Chenalhó. A massacre survivor, in a declaration before the public prosecutor, blamed Jacinto Arias (then mayor of Chenalhó) and Manuel Anzaldo, “who have been arming our adversaries.”¹²⁶ Whatever their links, the destinies of Arias and Anzaldo followed far different paths. While the ex-mayor Arias spent fifteen years in prison, Anzaldo was never investigated or found guilty in the massacre.

As is to be expected, there has been much speculation surrounding Anzaldo’s apparent impunity. Journalist Luis Hernández Navarro (*La Jornada’s* opinion editor) identifies Anzaldo as a collaborator of the government and a traitor to the *Liga 23 de Septiembre*, a Marxist-Leninist urban guerilla movement that emerged in the 1970s in which Anzaldo participated from 1972 to 1975.¹²⁷ The league was the product of an alliance of various clandestine groups that questioned the traditional Left and who believed in armed struggle as the means to achieve a socialist revolution. Journalist Jesús

¹²⁶ In his declaration before the prosecutor, a survivor of the massacre asserted that “he blames Jacinto Arias [then mayor of the constitutional municipality of Chenalhó] and Manuel Anzaldo, who have been arming their adversaries.” Criminal File 224/97, December 24, 1997, p. 99.

¹²⁷ According to Ramírez Cuevas (2005), Anzaldo was not a member of the league, but was trying to become one.

Ramírez Cuevas (2005) explains that during that time, the agents of the Federal Security Directorate (DFS)—predecessor of the Center for Investigation and National Security (CISEN)—used torture as a common practice to obtain information about the guerrilla movement. Through torture, the DFS got the name of Anzaldo, who, according to this source, was terribly tortured, as were his wife and their recently born baby (Ramírez Cuevas, 2005). Anzaldo was put in jail and later received amnesty, which has been interpreted as his prize for collaborating with the government in identifying members of the guerrilla movement. Beginning in 1974, Anzaldo participated in the Central Campesina Cardenista's indigenous struggles, sometimes identifying himself as an indigenous person and sometimes as a mestizo.

Anzaldo has been involved in several local political scandals. In 2001, he organized a national congress for former members of the *Liga 23 de Septiembre*. He told the press that this congress had the objective “to call on armed groups still operating in the country, to get reintegrated into civilian life and embrace a process of amnesty”¹²⁸ (Mariscal 2001). As Ángeles Mariscal reflects in her newspaper article, most of the former guerrillas of this league presently work as public servants or have a post in a political party, such as in the case of Anzaldo. Anzaldo's government-oriented position coincides with his animosity against Zapatismo, which should be taken into account when reading his chronicle of the Acteal massacre.

Anzaldo has been linked to the 1980 Wolonchán massacre in Sitalá, Chiapas. On that occasion, then-Governor Juan Sabines Gutiérrez (1979-1982) ordered the violent removal of 1,000 indigenous people invading the properties of the cacique Gustavo Flores. The number of casualties is unknown. Sabines Gutiérrez was a Priísta “*de hueso colorado*” (“to the bone”), son of a major who fought in the Mexican Revolution, and brother of the internationally celebrated poet Jaime Sabines. Sabines Gutiérrez was known for having strengthened the PRI's corporatist structure in Chiapas by favoring the Central Campesina Cardenista, of which Anzaldo was a member. There is a lack of

¹²⁸ “hacer un llamado a los grupos armados que aún operan en el país, para que se reincorporen a la vida civil y se acojan a un proceso de amnistía” (Mariscal 2001).

precise information about what happened in the Wolonchán massacre mainly because of the government's rigid censorship of the media and witnesses' testimonies. When a *Proceso* editorial accused Anzaldo of being linked to the Wolonchán massacre, Anzaldo responded: "Eran otras condiciones. En aquella época se obró por las necesidades del momento. Nos querían sacar de nuestra tierra, a ello se debe que las comunidades se acabaran matando." [The conditions were different. At that time, the needs of the moment defined the actions taken. They wanted to push us out of our land. That is why the communities ended up killing each other.] (Proceso 1997). As previously mentioned, Anzaldo made this declaration a month before the Acteal massacre.

The resemblance between Wolonchán and Acteal, and Anzaldo's relationship with each massacre, is not random. After the Acteal massacre, Anzaldo became an advocate for those imprisoned. First, he wrote a chronicle of the massacre, refashioning the events to the benefit of the defendants. This chronicle's unpublished manuscript was one of the main sources of Aguilar Camín's articles. Second, Anzaldo was in charge of speaking to the media in the name of the defendants in attempt to manufacture of a second level of historical revisionism, this time targeted at a wider audience. Aguilar Camín says Anzaldo's complete reconstruction of the massacre was first available on a website called *Sistema de Información Campesino* (sic), which no longer exists; only a few parts of Anzaldo's chronicle have been available to the public through *Nexos* magazine's website (2007).¹²⁹

The Majomut Sandbank on the Road to Acteal

In an interview published in *Proceso* magazine on November 15, 1997, a month before the massacre, Anzaldo publicly declared that he was in disagreement with the Zapatistas because they

¹²⁹ Vid. "Situación política en Chenalhó," published on November 1, 2007 on the *Nexos* website: www.nexos.com.mx, which presented "materials that proceed from the Sistema de Información Campesino website." The materials are not attributed to any author.

. . . no representan el conjunto de las necesidades de las comunidades indígenas y son excluyentes, pues no toman en cuenta las diferentes alternativas que se están planteando en Chiapas desde mucho antes que ellos existieran. (*Proceso*, November 1997)

[. . . do not represent all the needs of indigenous communities and they are exclusive, since they do not take into account the different alternatives that are being considered in Chiapas since long before they [Zapatistas] existed. (*Proceso*, November 1997)]

As the local leader of the Cardenista Party, Anzaldo is thinking about Cardenismo when he refers to “different alternatives.” According to Anzaldo, Cardenismo¹³⁰ preceded Zapatismo in Chiapas. He traces Cardenismo’s appearance in this state to 1974, the year in which Anzaldo began his involvement with indigenous struggles.

This interview (*Proceso*, November 1997) is key for understanding the logics behind the Acteal massacre, as well as the perspective of the person on whose version Aguilar Camín based his “Return to Acteal.” In this interview, Anzaldo reported on the confrontation that took place at the beginning of October 1997 in the hamlet Ejido Miguel Utrilla, better known as “Los Chorros” (in the municipality of Chenalhó), which is well known in the region as “the paramilitaries’ cradle.” According to Anzaldo, the

¹³⁰ “Cardenismo” refers to the Cardenista Party, whose complete name is the *Partido del Frente Cardenista de Reconstrucción Nacional* (PFCRN—Cardenista Front for National Reconstruction Party). The PFCRN’s predecessor is the *Partido Socialista de los Trabajadores* (PST—Socialist Workers Party), formed in 1973. One of the PST’s main postulates was that it was possible to achieve socialism through institutional means. It saw in the 1917 Constitution a revolutionary force that could change the equilibrium of power in the country. The PST took up the ideology of a revolutionary nationalism, inspired in the presidential government of Lázaro Cárdenas (1934–1940), a general of the Mexican Revolution. Cárdenas implemented some of the promises of the Mexican Revolution, such as agrarian reform, through the creation of the *ejido*, which gave peasants collective access to land. Because of its institutional tendencies, the PST distanced itself from the Marxist ideology of the Communist Party. The PST was transformed into the PFCRN in 1987 in order to support the presidential candidacy of Cuauhtémoc Cárdenas (son of Lázaro Cárdenas) in the 1988 elections. The Central Campesina Cardenista (CCC—Cardenista Peasants Federation) emerged in 1988, and was organized by parties supporting the left-wing candidacy of Cuauhtémoc Cárdenas for president. It represented an alternative for those peasants and indigenous peoples who did not see their interests represented in the PRI (the official party), and who broke away from the PRI’s corporatist structure.

confrontation was between Zapatistas and Cardenistas “and not with Priístas, as the newspapers published.” And he continued:

en las zonas llamadas de control zapatista nos quitan la mitad de la producción y eso nos parece injusto; además que [los zapatistas] impiden los proyectos de desarrollo y sociales que se consiguen por otras instancias que nada tienen que ver con el PRI. . . . Por si fuera poco, es imposible hablar con ellos, no se ha podido establecer una mesa de negociación ahí donde hay problemas con los municipios rebeldes autónomos de los zapatistas. . . . Desafortunadamente nosotros no podemos ponernos en el plan de llamar a la Seguridad Pública o al ejército, porque por otro lado, los zapatistas están balaceando a la gente. Esto ya está llegando a niveles muy peligrosos y dramáticos, ya que es un enfrentamiento entre campesinos en el que nada tienen que ver los caciques. *Hay luchas que han durado de 20 a 40 para ganar la tierra y los del EZLN las quieren borrar de un plumazo porque dicen: “Saben qué, se salen de la tierra” ¡Pero cómo, si nosotros la ganamos y se la quitamos a los terratenientes!* (Proceso, November 1997) ¹³¹

[in the areas called of “Zapatista control,” they [Zapatistas] take away half of the production and that seems unfair to us; besides, they also impede social and development projects that we get through other instances that have nothing to do with the PRI. . . . As if that were not enough, it is impossible to talk to them. It has not been possible to establish a negotiation where there are problems with the autonomous rebel Zapatista municipalities. . . . Unfortunately, we cannot put ourselves in the position of calling the Public Security or the army, because on the other hand, the Zapatistas are shooting people. This is already reaching very dangerous and dramatic levels, since it is a clash between peasants that has nothing to do with chieftains. *There are struggles that have lasted 20 to 40 years in order to win the land, and the EZLN wants to wipe out these struggles because they say, “You know what, get out of the land” But how come, if we won the land and we took it away from the landowners!* (Proceso, November 1997)]

Anzaldo’s words reflect that his hostility against Zapatismo had a history behind it. As a leader of the Partido Cardenista, he represented the interests of the Cardenistas and their long struggle for land. Los Chorros was a Cardenista and Priísta stronghold; the new Zapatista autonomous municipality of Polhó, close to Los Chorros, was an important

¹³¹ Italics mine.

threat to their interests. The Majomut sandbank that Cardenistas had seized in 1994 from the hands of cacique landowners, in 1997 was seized by Polhó's Zapatistas from Cardenista hands. During those days, the price of sand was especially high because the government was constructing several roads in Chenalhó. After the Zapatista uprising, these roads were indispensable for the government to have easier access and control over faraway indigenous communities. Besides having the economic value of the sandbank, the hamlet of Majomut had a key strategic location, in the middle of Polhó (Zapatista) and Los Chorros (Cardenista/Priísta), and next to the road that connects the seats of the municipal governments of Chenalhó and Pantelhó (both Priísta strongholds). This same road was also a strategic means of communication between Polhó and the northern region of *La Selva*, the original stronghold of the EZLN.

Majomut is just five kilometers from Acteal. Majomut not only housed the sandbank, but also one of the most important coffee mills in the region. This mill was used by the Majomut Coffee Cooperative, integrated by peasants of all political affiliations and creeds (Priístas, Cardenistas, Zapatistas, Abejas; Catholics, traditionalists, and evangelicals). In the context of the paramilitary violence against all of those who supported Zapatismo or who did not support it but who just did not want to collaborate with Priístas annihilating Zapatistas, several families took refuge in Polhó and in the adjacent hamlet of Majomut after being forcibly displaced from their communities.

Los Chorros's Cardenistas planned to invade Majomut on September 21, 1997, in an attempt to recuperate this territory from the hands of Zapatistas and of all the *neutral* families who had taken refuge there. Anzaldo and his wife, Juana Palomares, were key actors in this plan. According to journalist Hermann Bellinghausen (2007), this couple asked for the police's intervention that September 21. Chiapas's Government Secretary (Secretario de Gobierno) Homero Tovilla Cristiani made a written commitment with Anzaldo and Palomares to send to Majomut a police task force (*destacamento de Seguridad Pública*) that day. This task force would support an armed group of Cardenistas from Los Chorros in their attempt to retake the land that Zapatistas had seized from them. However, the police task force never showed up and the Zapatistas

responded to the Cardenistas' attack, leaving several people hurt and four people dead: two Zapatistas and two Cardenistas. The PGR (1998) only counted the latter. As in each of their confrontations against Zapatistas, the Cardenistas have the same version: The Cardenistas argued that they were acting in self-defense to protect their lands. This is precisely the version that the PGR and Aguilar Camín would use in their accounts. In a testimony rendered during the judicial proceedings, one defendant explains that the origins of the conflict that led to the Acteal massacre can be found in the conflict over the Majomut sandbank:

. . . [E]mpezando el problema [que condujo a la masacre] por la grava y el banco de arena que se encuentra en Majomut[. T]enían problemas por dicho material los pobladores de Polhó y los Chorros[,] y Polhó quiere adueñarse de ese banco de arena pero los Chorros cuentan con escrituras, siendo los primeros partidarios del PRD y los segundos, del PRI, solucionando el problema el Comisariado de esa comunidad de Los Chorros, llegando a decir [los zapatistas] que nos quitarán el banco de arena pues son los dueños legítimos, que no tiene armas y que los perredistas le tienen envidia.¹³²

[. . . The problem [which led to the slaughter] began because of the gravel and the sandbank located in Majomut. The residents of Polhó and Los Chorros had problems for such materials. Polhó wants to take over the sandbank but Los Chorros have property papers, being the formers supporters of the PRD and the latter, of the PRI, solving the problem the Commissariat of the community of Los Chorros. Zapatistas even said they will take the sandbank away from us because they are the legitimate owners. [The witness also declares] that he has no weapons and that Perredistas are jealous of him.]

Nonetheless, anthropologists Andrés Aubry and Angélica Inda (2003) argue that both Zapatistas and Cardenistas had official documents, issued by the *Secretaría para la Atención de Pueblos Indígenas* (Secretariat for the Support of Indigenous Peoples) (SEAPI), that made them think that they had rights over the sandbank. This kind of authorities' induction of conflicts between Zapatistas and their adversaries was one of the signs of the arrival of paramilitarism to Chenalhó. Other signs were the armed forces' occupation of hamlets and forced displacements. People already knew these strategies

¹³² Judicial testimony of defendant Tomás Pérez Méndez, from Los Chorros. Tuxtla Gutiérrez. December 25, 1997. Criminal File 224/97, Volume I (Derivado de Av. Previa 596/II/97), p. 189.

since paramilitary activity had existed in the Zona Norte of Chiapas since 1995. Commonly called the “paramilitary laboratory,” the Zona Norte—Maya Chol Zone—saw the emergence of the paramilitary group ironically called “*Paz y Justicia*” (Peace and Justice). As Aubry and Inda argue, semantic confusions of this kind—as well as the creation of paramilitaries to confuse and divide communities—are common in the history of Chiapas. From the Zona Norte, the paramilitary phenomenon spread to the Tzeltal Zone with a grouping called the “*Chinchulines*,” and then to the Tzotzil Zone, including Chenalhó, with the group called “*Máscara Roja*” originally housed in the hamlet Los Chorros. By December 1997, Aubry and Inda had documented a paramilitary presence in 28 of the 61 hamlets [*parajes*] existing in Chenalhó (2003, 88). Zapatistas had allies in 38 hamlets (p. 116) and Las Abejas, in 24 (p. 119).

Hernández Navarro (2012) agrees with Aubry & Inda (2003) in affirming that the SEAPI had a crucial role in the development of paramilitaries in Chenalhó. SEAPI was a dependency of the government of Chiapas in charge of policies towards indigenous peoples. In 1997, the head of the SEAPI was the Tzotzil *pedrano*¹³³ anthropologist Jacinto Arias (who had the same name as Chenalhó’s mayor and was related to him) until September 14, when he was removed in order to appoint the teacher Antonio Pérez Hernández. His arrival at this institution coincided with the escalation of violence in Chenalhó (Hernández Navarro 2012, 99). Originally from Polhó, Pérez had been a federal Congress member for the PRI in 1994 and a rural teacher in Los Chorros. At the SEAPI, he would be in charge of the introduction of Municipal Councils of Public Security, an inter-institutional agency that linked the police, the army, the Interior Ministry, the Social Development Ministry (SEDESOC), and the PRI. The creation of these councils was one of the steps in the implementation of the Ministry of National Defense’s *Manual de la Guerra Irregular* (SEDENA, 1995), a short adaptation of the Field Manual of Psychological Operations (Washington, D.C., 1987), aimed at combating insurgency through civil militarized personnel, under the orders of the military (Aubry & Inda 2003, 102).

¹³³ From San Pedro Chenalhó.

The Municipal Councils of Public Security had representatives in every hamlet. These councils displaced traditional authorities while the Public Security Police recruited young *Priístas* in each hamlet. They trained them with the military's support, with the mission of "eradicating violence," where violence was "understood as the work and achievements of independent organizations, catechists or PRD militants" (Aubry & Inda 2003, 128). These young men are the ones who became the paramilitaries. Paramilitarism offered options and prestige to those indigenous men who did not have land to work and therefore, the opportunity to participate in the decisions of the *ejido* (communal land), and who had not found jobs in the cities (Aubry & Inda 2003, 89). As paramilitaries, they charged war taxes to maintain themselves and to buy armaments, and became owners of the spoils of war obtained from those who did not want "to cooperate" with war taxes or who supported the Zapatistas. Arms provided them with the status and respect they coveted, even if it was through the imposition of fear among their neighbors and relatives. This was a fear that tore communities' social fabric and hindered their material and cultural reproduction, contributing to counterinsurgency's goals, which met with settler-colonialism's logic of elimination of the native. As the experiences of Héctor Aguilar Camín and Hugo Eric Flores attest, this elimination became profitable for those mestizxs who engaged in in the endeavor of covering it up.

Entitlements and Disavowals

"Violence is essentially polysemic; it speaks with and through myriad and often contradictory voices, even if many of these are constituted through silences made meaningful and spaces made relevant," Caroline Nordstrom (1997, 45) argues. In the battlefield of truth about the battlefield of war, actors struggle to make their voices prevail. What is at stake for each one of them reveals the power dynamics and the racial connotations of the battle. While for some actors asserting their truth is a means of survival, for others it is a means of enrichment. For many other actors, asserting their truth is a way of conserving their freedom while for others it is a form of preserving their power and legitimacy. Those whose survival and freedom are at stake in the battle for

truth are the ones who exist in a subordinated position in a racially-based structural inequality, against whom the project of counterinsurgency, meeting with settler-colonialisms's logic, are targeted at.

From the *Libro Blanco* and its trajectories we learned that some testimonies are given more relevance than others, not because they provide credibility elements of time and space, but because the subject position of the witness. Truth does not have the same weight if it is articulated and demonstrated by an indigenous person or by a mestizx, nor if the one who speaks is a woman or a man. For the judiciary, legal truths are gender, class, and race blind. However, just as “all forms of collecting testimony ... are by definition forms of engaged dissemination of truth” (Rabasa 2010), testimonies are, by definition, the voicing of specific standpoints. Those engaged in historical revisionism have criticized the subjective and contradictory nature of testimonies in order to invalidate them; at the same time, they have left their own privileges unchecked and their own bias and the bias of their sources, unacknowledged. The fact that Aguilar Camín's armchair version of the massacre has been able to make the public question the veracity of the massacre (and the word of indigenous survivors) demonstrates the power of hegemonic regimes of truth and speaks about the role of race when deciding on whom to pose one's trust.

When survivors collaborated with the public prosecutor, giving their testimonies of the massacre, they expected that the public prosecutor would use them to provide justice for those killed. Justice for the dead could be a means for survivors to stay safe from further violence and live. Instead, their experiences were objectified in the form of texts, and their voices were separated from the suffering of their bodies. Their judicial testimonies would circulate without survivors' control. They would be reproduced out of the context in which they emerged and would be used to try to prove, once again in Mexican history, how indigenous peoples are easily manipulable, lying, unreliable subjects who do not understand what is going on and who need mestizxs to make sense of their situation. The last thing survivors expected by providing their testimony to the prosecutor was that they would become the ones responsible of providing evidence to

prove the killers' premeditation, treachery, and viciousness [*premeditación, alevosía y ventaja*]. With a public prosecutor who operated on the basis of racism, negligence, and partiality, the victims were left with the burden of the proof during the judicial procedures. As a consequence of legal positivism, judges do not take into account the contexts in which the events take place. The cultural, social, and historical circumstances of events are simply outside judges' scope. Judges' sight is reduced to what is argued and provided as evidence in the documents that form the legal files. However, as one of the lawyers who worked for Frayba at the time of the massacre asserts: "To understand Acteal you have to see beyond Acteal and analyze it under the pattern of paramilitarization that began in the Zona Norte."¹³⁴ While judges lacked vision in the analysis of the Acteal case, the lawyers at Frayba probably lacked focus on the particularities of Acteal (for example, its feminicidal character) and the specificities of its legal construction.

It was the prosecutors' job to gather as much information as possible from the context and the criminals. The composition of the "picture" of the massacre they provided was formed by 45 autopsies, more than 200 witnesses' testimonies; expert testimonies on chemistry, such as the sodium rhodizonate test to identify gunshot residues on the hands of the victims; the Walker test on the clothes of the victims to determine the distance of the shots; an expert testimony on dactiloscopia; another one on ballistics to determine the caliber of shell casings and to identify the firearms used; medical opinions on those injured; an ocular inspection of Acteal; a criminal observation to identify the number of shot impacts in Acteal; corpses' pictures; an opinion on forensic medicine and criminology. Culture and history were not considered as part of the picture of the massacre. The feminicidal violence of the attack, similar to the one exhibited by *kaibiles* in Guatemala (Falla 1992), was never investigated or argued during the judicial proceedings, and was denied in the media (*Nexos* and *Proceso*). The lack of a cultural, historical, and gender perspective on the case allowed the PGR to conceal the existence of paramilitaries, erase the feminicide, and disavow indigenous epistemologies in the

¹³⁴ Interview with Michael Chamberlin, San Cristóbal de las Casas, April 16, 2016.

narration of the massacre. And it was not the case that indigenous survivors were expected to share the same worldviews as urban mestizx authorities. It was the case that indigenous survivors' difference was not considered relevant or worthy of being understood during the judicial proceedings. For mestizx authors and authorities, the truth about Acteal could be accessed without the mediation of indigenous survivors' testimonies.

Chapter 4

Making Historical Revisionism Official: Acteal Before the Supreme Court of Justice

While the mediatic historic revisionism endeavor began in 2006 with CIDE scholars' critiques on the Acteal case's legal proceedings, it was not until after Aguilar Camín's revival of the case in 2007 that Acteal became—once again—a central controversy in national politics, involving various sectors of the Mexican population and dividing public opinion. This controversy captivated the media's attention and reached its peak after the Inter-American Commission on Human Rights (IACH) began to consider accepting Las Abejas' and Frayba's petition claiming the Mexican State had committed crimes against humanity.¹³⁵ Meanwhile, in Mexico, the Acteal case reached the Supreme Court of Justice (SCJ) in 2008 for its review, through the efforts of the CIDE law school's Public Interest Clinic. Following several rulings issued since 2009, the SCJ released eighty-one of the eighty-seven convicted defendants.¹³⁶ The Supreme Court argued that their procedural rights were violated mainly because the defendants were subjected to unconstitutional detentions and were not provided public defenders and translators speaking their indigenous language. CIDE's scholars also argued that the Office of the Public Prosecutor had fabricated evidence used to prove defendants' guilt (including Las Abejas' testimonies); this would be the argument that would convince the SCJ ministers to order the release of the defendants. Under the framework of legal positivism (*ius positivism*), the SCJ ministers did not rule on the innocence of the accused; they narrowly decided merely that there was no *valid* evidence in the legal files

¹³⁵ The petition was presented to the IACH on March 2, 2005, but the IACH did not accept it until November 1, 2010. The response times of the IACH are slow. As of late 2016, the IACH had not yet issued its conclusions on the Acteal case.

¹³⁶ Frayba lawyers who were interviewed said the number and names of the defendants who have been set free in the Acteal case are not consistent with those contained in the SCJ's rulings. These lawyers say there were even cases where the SCJ ordered the release of defendants whom Las Abejas' members had already seen free in Acteal months before the SCJ's decision.

to prove their guilt. This argument, which has freed dozens of people who had been convicted for the massacre, has captivated me. In this legal argument I find an iconic example of legal practitioners' mechanical application of law, self-imposed blindness to non-Western cultural meanings, practices and contextual circumstances, as well as a disregard for the social consequences of their resolutions. In the aforementioned legal argument I find the paradigm of what it means to be "modern"—which, as Bruno Latour (1993) has well pointed out, means *to never have been modern*.

In this chapter I analyze the logics behind the SCJ's controversial rulings on the Acteal case. I explore how the SCJ has *selectively* recognized experts' versions of the massacre while erasing indigenous survivors' versions, through the same judicial process that was meant to bring justice to the survivors. I will argue that this situation has been possible due to a process of judicialization of politics that has given the SCJ the power to conduct historical revisionisms through its rulings, and that this process is intimately articulated with the logics of settler-colonialism. In previous chapters I have followed the routes of Las Abejas' testimonies through different regimes of truth and of knowledge production to reveal the distortions, manipulations, and/or mediations these testimonies have been subjected to by different actors: prosecutors, scholars, journalists, and activists. In this chapter we arrive at the culmination of a process of historical revisionism through the SCJ ministers' encounter with survivors' testimonies. I call this final phase of erasure "judicial *limpieza*." Through this mapping, I attempt to demonstrate two inconspicuous relations: the link between the state's concealment of survivors' testimonies and the 2008-2016 national-scale judicial reform; and the connection between activists' strategic litigation and neoliberal logics of capital.

"Legal truths" are the rule of law's paramount tools of governance. They are the result of judicial procedures in which judges are supplanting the labor of historians in producing the "historical truth."¹³⁷ Through a process of judicial *limpieza*, the "historical

¹³⁷ As I will explain below, the term "historical truth" has become increasingly popular since Murillo Karam, as attorney general, used it in the Ayotzinapa case to impose the state's official version of the truth. This phrase has been popularly used in the media using quotations and by civil society in the form of sarcasm.

truth” has been equated to the “legal truth.” The latter consists in judges’ construction of facts, derived from their subjective interpretation of what they consider is legally sanctioned evidence in a case. As Latour (2010) has brilliantly argued, there are no facts separable from their fabrication. By mapping the social life of *testimonios* and of “legal truths” in this last phase of historic revisionism through a network analysis, this chapter explores how power moves through the SCJ’s regime of truth and representation. Through this cartography of networks I also aim to show how the Supreme Court has strategically mobilized both racist representations of indigeneity—linked with a version of the truth that is innocuous to powerful political interests—and legal positivism’s notion of objectivity (Kelsen 1978) in order to manufacture the racializing “legal truth” of the Acteal case.

Powerful (Dis)encounters

One, two, three, four ... I am counting my steps as I begin to get closer to Santiago’s house. My anxious heels resound in the wide streets of Lomas de Chapultepec, probably the most exclusive and decadently rich neighborhood in Mexico City. This particular street has tiny sidewalks; these streets are not meant to be *walked*, but *driven*, usually with luxury cars. My steps struggle with my inner resistance. I am still trying to convince myself that attending this dinner party was the *right* thing to do. The dinner was offered in honor of the man who was once our professor and who had been recently appointed minister of the SCJ. Two weeks before, Santiago sent me an email inviting me to the exclusive gathering. “I am sorry there is not enough space at the table for you to bring a companion,” he added. I had been selected as part of this *petit comité* dinner to celebrate Dr. José Ramón Cossío’s appointment, and Santiago made the announcement just as if I had been given the great opportunity of having dinner with a celebrity. In that moment it was difficult to conceive of Cossío’s sudden transformation into one of the most powerful men in the country, and of course, one who would become much more unreachable than a celebrity. When he was the director of ITAM’s law

department, he was already too busy anyway. If I couldn't attend the dinner party, I should let Santiago know "ASAP" so someone else could attend instead.

I made it to the table, regardless of my inside battle and social anxieties. There, I could not stop thinking about how I hardly even *knew* the other seven colleagues sitting next to me at the round table, even though I *knew* them from law school several years before. Even Santiago. I haven't heard from him for a couple of years. Each arranged place at the table was intended to be a showcase to be taken advantage of. With the pretended maturity and aloofness of twenty-somethings, we were discussing the hot legal-political topics in the news. "Claudia, you look so ... *professional*," Santiago says. "It's the glasses," his wife replies. I notice how that constricting shirt is suffocating me. This ordinary performance was a reminder of how the lawyers' straitjacket-like attire (and attitudes and affects) had been restricting me for years. Performing the role of lawyer is something that I never felt comfortable about. The essential lie in such a performance is too incongruous to be ignored.

The wine I brought to the dinner was left aside and unopened. The hosts had previously chosen the perfect wine to pair with the salmon. Every detail had been carefully taken care of—except for the fish's pungent smell, whose ordinariness contrasted (or complemented with its "*fishiness*"?) with the Pentagon-like topics we were discussing. Many of the people who occupy strategic positions in the government and in the entrepreneurial and academic worlds in Mexico are ITAM graduates. In ITAM we had been trained to develop a technocratic rationality to tackle (at least discursively) the most pressing issues of the country, with the promise that one day we would be the ones occupying those leading positions. For the moment, we were at least occupying the exclusive seats at this table, and the real show was just about to start. The seven of us: the performers of the night. "And you Julio, what are you doing these days?" Cossío began to ask each one of us about the "state of our business," following a precise counterclockwise order around the table. The pressure to "market" ourselves in more sophisticated ways grew as the performers, one after the other, talked about the wonderful cases they were litigating or the politicians for whom they had been working lately.

“What are you doing here?” my body complained at that moment.

“What was I expected to represent and to bring to the table that day?” I wonder today.

In exchange for the curious entertainment he was receiving that night, Cossío offered to help Sergio contact such-and-such congressman; he asked Patricia if she wanted to be recommended to such-and-such prestigious law firm; he praised Santiago for being one of the few Mexicans admitted to one of the most prestigious J.D. programs in the U.S.; in my case, he promised me time to give me some advice on my thesis on the constitutional reform on indigenous rights. After completing this peculiar kind of Kula ring, it was clear to me that we were there that night to symbolically ask Cossío to keep us in mind while he occupied a privileged seat at the Supreme Court.

Once the rendezvous ended, Cossío excused himself and said he had to leave earlier than expected. After his departure, the hosts finally caught their breath and relaxed their tight postures:

“How was it, guys?” “Do you think he had a good time?” “Was the food OK?” the hosts asked.

“Everything went perfectly smooth,” the choir replied. Several expressions of gratitude followed, thanking the hosts for *the opportunity*.

* * *

About ten years have passed since that night and I have not met again with any of the colleagues/commensals. However, in August 2009, another event virtually congregated some of us in radically different ways. Minister Cossío drafted the resolution through which the SCJ ordered the release of 27 Tzotzil defendants previously accused of perpetrating the Acteal massacre after their ten-year-long imprisonment. The Acteal case was popularly conceived as a closed and filed episode of Mexican history until the SCJ decided to consider it for its review in the middle of 2008, after Aguilar Camín had propelled the case from his trench within the magazine *Nexos*. The SCJ finally brought

the case to its jurisdiction under the argument that it involved “superlative interest, reflected in the possible affectation or alteration of social or political values, or of the values of *convivencia* (coexisting) and well-being, in general.” This decision took place mainly—but not only—because of the impulse given to this case by the scholars and students at the Centro de Investigación y Docencia Económica (CIDE)—where Santiago works as a professor—and its *Clínica de Interés Público* (Public Interest Clinic), which Santiago advised.¹³⁸

Inspired by the way in which law is taught in some U.S. universities, such as Stanford and Yale, CIDE’s public interest clinic was an innovative pedagogical space—the first of its kind in Mexico—where law students were (and still are) introduced to the study of law through its practice. The clinic operates by assuming the defense of people who lack the resources to pay for a lawyer. However, the cases the clinic chooses are not ones that affect the majority of the population. As José Antonio Caballero, then director of the Legal Studies Division at CIDE, explained:

It is not just any dispute [*litigio*], but necessarily one that is drawn to create a legal precedent. The clinic operates from a study of cases. We ask: What is the potential of a case for the public interest? And once we decide to take a case, we stay with it until the end. We always seek to secure [*procuramos*] the ethical values of the profession and our *primary loyalty* is to the person we represent. (Contreras 2009, 20; emphasis added)

According to Caballero’s statement, the Acteal case was one that had potential “public interest” and therefore could lead to the establishment of legal precedents. Was this potential public interest only based on what the case exhibited in terms of violations to the Constitution? Was its potential based on the controversial defense of those people whom the survivors identified as paramilitaries? Or was this potential based on all the vested interests that were at stake? Clearly, CIDE chose the case for all these reasons, but

¹³⁸ Originally, the directors of the clinic were Javier Cruz Angulo, a young ambitious lawyer graduated from UNAM, and Guadalupe Barrena. Cruz was more active in the case and was constantly in the spotlight when dealing with the media. Other scholars at CIDE’s law division—including Santiago, José Antonio Caballero, and Ana Laura Magaloni—worked as advisors to the clinic.

only the first one was made explicit. CIDE's scholars argued that they took the case because it presented violations to a multitude of rights: a) the right to prompt justice; b) the right to have an interpreter; c) the right to be presumed innocent until proven guilty; and d) the right to due process. "The longest criminal case in Mexico is Acteal," asserted the lawyer Javier Angulo, director of CIDE's Clinic (Contreras 2009, 20). He was about to put an end to this legal uncertainty at the price of impunity for the perpetrators.

The Circularity of Legal Positivism and the Sovereign Right to Kill: A Brief Introduction to the Construction of "Legal Truths"

In his ethnography on France's *Conseil d'Etat* (one of France's Supreme Courts, specialized in administrative law), Latour (2002) introduces this institution to the reader as the "*Laboratory Life ... for the construction of legal arguments*" (ix). I would argue that Mexico's SCJ, besides being that, is also the laboratory for the construction of "legal-historical truths." There is something fascinating about legal arguments and the ways lawyers construct facts through them. The analysis of legal arguments is a window into a kind of culture that thinks of itself as extra-cultural and which has a deep faith in the validity of its premises. Latour puts it this way:

The immense advantage of law—talk to a lawyer or a legist for five minutes and you will understand what I mean—is that they never have any doubt (a) that their way of arguing is entirely specific; (b) that there is a clear distinction, inside this way of arguing, between what is true and what is false . . . ; and (c) that this difference between true and false is totally different from what might be taken to be scientifically true or false. (Latour 2002, ix)

The fact that lawyers are cognizant that what is true under the law might be different from what most people consider true (or even different from what science considers true), makes their thinking a fascinating object of study for its esotericism. Lawyers are without doubt a unique species, mainly characterized by their fervent defense of a way of thinking that distinguishes them from everyone else. Through the maintenance of this distinction, lawyers place themselves in a privileged—and fictive—space above reality, where they play god-tricks. Law is the representation (and space of

perpetuation) of all the “achievements” of liberalism and individualism. To see as a lawyer means to put the world upside down and to forget about links of causality (between cause and effect) and to substitute them for links of imputability: under the law, a criminal act (A) and its sanction (B) are connected through a relationship of “imputation” (*imputación*). This means that is not nature, but the law what establishes this connection through the following structure: If (A), then *ought to be* (B).¹³⁹ As Ulises Schmill (president of the SCJ during Carlos Salinas’s government and a professor at ITAM) taught us during his introductory course to the study of law: “to become a lawyer, you have to forget all that you already know and relearn it through a different logic.” This logic is *ius positivism*. According to it, there are no “deviated” conducts *per se* (*mala in se*), unless there is a positive norm that characterizes these conducts as such; it is law that gives conduct its criminal character by prohibiting it (*mala prohibita*).

The main exponent of legal positivism is the Austrian jurist Hans Kelsen (1881-1973). According to his *General Theory of Law and the State* (1945), it is imperative to free the “juridical science” from any moral, political, and religious ideology as well as from all vestiges of sociology, with the aim of studying what law *is* and not what it *ought to be* (*debe ser*). For Kelsen, “justice is an irrational ideal. ... Regarded from the point of view of rational cognition, there are only interests, and hence conflicts of interest” (1945, 13). Positive law (in opposition to natural law) is what orients the possibility that one interest prevails over the other, or that both interests achieve a compromise. However, according to Kelsen, it is impossible to say that any of those solutions is just *per se*. Law is what determines their “just” character. For Kelsen, justice is nothing else but legality: “Justice in the sense of legality, is a quality which relates not to the content of a positive order, but to its application” (1945, 14). In these formulations we begin to identify the logic that the SCJ ministers followed in the resolutions on the Acteal case. Schmill was a great admirer and follower of Kelsen, with whom he maintained an intellectual correspondence relationship before Kelsen’s death. Schmill was the principal importer of

¹³⁹ The structure of a relation of causality is: If (A), then (B). In a relation of imputation, the *ought to be* makes the difference.

Kelsen's *ius positivism* to Mexico through his work at the Supreme Court and through his full-time professor position at ITAM, where he mentored a new generation of lawyers and SCJ ministers, including Cossío.

According to Kelsen, the value of norms does not reside in their content, but in the fact of their being *positive* (in the sense that they are created and imposed by human actions and not by nature). What determines a juridical norm's validity is the fact of having been created according to the processes and by the authorities defined in a superior norm. Under the positivistic paradigm, the Constitution is the ultimate and highest norm from which a juridical order derives its validity. It is the "founding basic norm," (also called "fundamental hypothetical norm") and, according to Kelsen, this norm is sovereign within each country. This leads Kelsen to argue that "Law" is equivalent to "State." The interesting part of this is that almost every Constitution is a product of an act that is illegal: a revolution or a *coup d'état*. Therefore, we can interpret that legal systems are products of illegality in the sense that the revolution that created them was prohibited by the legal system that was valid by the time the revolution took place. In this sense, it is possible to argue (and this is me speaking, not Kelsen) that illegality is not only the theoretical opposite of legality, but is also what gives origin to legality: what is behind it. If we add to this reasoning the fact that legality and illegality coexist in an entanglement in practice, we realize that the multicriminal (Speed 2016) and necropolitical (Mbembe 2003b) qualities of the state are at the basis of the state's theoretical and practical foundation.

During the last stage of his life, Kelsen argued: "It is necessary to root out the concept of sovereignty. This is the great cultural change that we need."¹⁴⁰ And he was probably right. With this shift he was leaving the territory of *ius positivism* and entering into the realm of legal criticism. The sovereign, by definition, is the one who cannot be bound to the law. The sovereign is the one who justifies holding the monopoly of the legitimate use of violence by producing laws that declare this monopoly. Through the production of law, the sovereign self-legitimizes his lack of authorization to constitute

¹⁴⁰ Quoted in Eligio Restá (1995, 2). Translation is mine.

himself as *the only* source of power and legitimate coercion (Correas 2006). The sovereign's existence within and outside (above) the law is illustrated with the legal figure of the state of exception, which allows for the suspension of constitutional rights during times of emergency (war is the archetypical case). This suspension of rights means that the sovereign self-authorizes to operate outside the law, within the personal and territorial realms of validity of its laws.¹⁴¹ But what does it mean to operate *outside* the law and *within* its personal realm of validity? It means that the sovereign exercises his unpunishable power over life and death.

The person who can be killed without the killer being accused of homicide is what Agamben (1998) calls the *homo sacer*. In a legally declared state of exception, humans exist as *bare life* (Agamben 1998), divested of political and legal status. When the constitutional guarantees are not officially suspended and the killing of humans is not followed by punishment for the killers, as in Acteal, an undeclared state of exception takes place in the praxis. Ironically, law has much to do with this *de facto* suspension of guarantees. As Foucault (1997), Agamben (1998), Mbembe (2003), and Das & Poole (2004) have argued, law produces bodies that are killable. In Mexico, the “gray zones”—as Guillermo O’Donnell (1993) called those regions where the rule of law has no reach—or “the margins of the state within the state,” as Das and Poole (2003) refer to them, are racially defined. By creating distinct categories of citizens, such as indigenous peoples, and by recognizing them rights that are non-justiciable, the law shapes indigenous bodies as disposable. The courts, when they produce impunity through their “legal truths,” confirm the bare quality of indigenous peoples lives. By leaving criminal acts unpunished, the courts also produce bodies that are authorized to kill. However, in the case of Acteal, some of these bodies with authorization to kill are indigenous, which means that the courts have produced new forms of racialization of indigenous subjects.

¹⁴¹ Laws have different realms of validity (*ámbitos de validez*): territorial, material (criminal, civil, administrative, etc.), personal, and temporal. The personal realm of validity makes reference to the groups of people that a law applies to. The state of exception applies to all people existing within the territory of the state, be they Mexican or not; citizens or non-citizens; corporations, civil and political associations, etc.

Those indigenous people who cooperate with the settler-colonial state and its logic of elimination of the native are compensated with the recognition of their rights. In contrast, those indigenous people who resist and combat the settler-colonial state are left without this recognition. The state rewards the former's assimilation to the mestizo society by recognizing them their rights. Indigenous rights are, therefore, the reward to those indigenous subjects that cooperate in the elimination of the native.

The sovereign world, according to Bataille, “is the world in which the limit of death is done away with. Death is present in it . . . always there only to be negated.” Foucault follows a similar vein of thought and argues that the mechanisms of biopower (the power to make live) and the sovereign's right to kill are intrinsic to modern states' configuration and functioning (Foucault 1997). Race is the technology used to distinguish between who is disposable and who is not, or in Mbembe's words: “In the economy of biopower, the function of racism is to regulate the distribution of death and to make possible the murderous functions of the state” (Mbembe 2003b, 17). Mbembe builds from these ideas to propose the concept of *necropower*, a terror formation that strategically subjugates life to the power of death. According to Mbembe, the colonies are spaces par excellence where “the sovereign right to kill is not subject to any rule” (25); that is, where the legal figure of the state of exception is the rule (Agamben 1998). If under the logics of legal positivism “justice” means the maintenance of a positive order by the systematic application of it without external considerations, then “justice” can be filled with any content, even if it is *explicitly* murderous or racist. The fact that in Mexico the state kills without being punished sheds light over the *implicit* and undeclared state of exception that indigenous peoples experience in their everyday life. This ordinary state of exception—facilitated through laws' creation of disposable bodies and courts' confirmation of these bodies' *bare life*—exists to safeguard the interests of the settler-colonial elite wielding power.

False Dilemmas: The Primacy of the Constitution (over the Constitution)

José Ramón Cossío was the minister responsible for preparing the draft of the first SCJ ruling (*proyecto de sentencia*) on the Acteal case.¹⁴² While I was doing fieldwork in Chiapas, a *compa* close to Las Abejas' struggle shared with me a document with Cossío's explanation of his reasoning behind his ruling draft. The four-page document, titled "*Nota introductoria sobre impunidad*," ["An introductory note about impunity"] is a jewel in terms of argumentation; however, I have not been able to trace the document's original source. Its value in this case resides on how the SCJ's reasoning was read, interpreted, and circulated on the ground level. Frayba's lawyers say that it was very difficult for them to get a copy of the SCJ's resolutions, despite their being the legal representatives of the victims. Each ruling is about 500 pages long, impeding their easy circulation. Most people are unaware of the possibility of accessing the SCJ's resolutions through its website. In any case, the ruling argumentations are so obscure and long that their inaccessibility to a layperson is guaranteed.

The conciseness of the "*Nota introductoria sobre impunidad*" (2009) and the fact that its arguments coincided with what the media explained about the SCJ's rulings favored its circulation over the circulation of the actual rulings. In the "*Nota*" (which contains some of the rulings' arguments), Cossío initiates his argument by framing the legal controversy concerning Acteal as one in which there were two possible solutions: 1) the respect of fundamental rights, and more specifically, the proceedings' essential formalities; or 2) "the desire that no act remains in impunity."¹⁴³ Cossío explains that these situations, which are usually conceived as mutually exclusive, are in reality a false dilemma: "the Constitution orders the primacy of the first interest" (the respect to

¹⁴² In Mexico, there is only one Supreme Court: The *Suprema Corte de Justicia de la Nación*. This is the highest court in the Mexican Federal Judicial system and the head of the Judicial Branch. The eleven judges who integrate the SCJ are called *ministros*; therefore, I have translated this word as "ministers." One of them is responsible of preparing the *proyecto de sentencia* (the draft of the ruling), which is later voted on by the rest of the ministers.

¹⁴³ "Estamos así ante un problema en el que es necesario decidir qué es lo que constitucionalmente tiene primacía: el respeto a los derechos fundamentales—en este caso, las formalidades esenciales del procedimiento—o bien, la pretensión de que ningún caso quede impune."

fundamental rights); therefore, by privileging the respect of fundamental rights, the consequence cannot be impunity, “but the strengthening of the rule of law.”

As I analyzed in Chapter 3, the bias begins with the framing. “A desire that no act remains in impunity”—note the negative phrasing—was not what was at stake in the Acteal case. Las Abejas and their supporters were asking the court to exercise its faculty of investigation so that criminal responsibilities could be assigned in accordance with the Constitution. Cossío neglects to consider that “leaving certain criminal acts in impunity” is also a violation of the Constitution. His solution involving the supposed dilemma between (1) and (2), that is, the primacy of fundamental rights, applied both to the defendants—by guaranteeing their constitutional right to due process—and to the victims (and to the whole society in general)—by guaranteeing that the criminal acts that led to the massacre are punished. However, Cossío explained:

Las reglas del debido proceso tienen la vocación de acotar la actuación de las autoridades al límite de lo racional y lo razonable, de tal forma que la conformación de la verdad sea fruto sólo de la técnica jurídica y no de las intuiciones personales o subjetivas del juzgador sobre los hechos acontecidos.

...

Para la Sala,¹⁴⁴ las razones jurídicas son las únicas que cuentan; esto es, la verdad que es fruto del proceso es la única a la cual puede atender un tribunal. ¿Por qué? Porque si el proceso para acreditar la verdad de una imputación penal no estuviera regulada, se abriría camino a la arbitrariedad. Esto es, si para emitir una sentencia penal pudieran contar razones no jurídicas, entonces contaría cualquier regla; por ejemplo, la del más fuerte.

[The rules of due process have the aim of limiting the actions of the authorities to the limits of the rational and reasonable, so that the formation of the truth is the product only of legal technique and not of the personal or subjective intuitions of the judge on the events that took place.

...

For the Chamber, the legal reasons are the only ones that count; that is, the truth that is the result of the process is the only one that a tribunal can address. Why? Because if the process to prove the truth of a criminal charge was unregulated,

¹⁴⁴ The SCJ operates in Pleno (formed by the eleven ministers of the SCJ) or in Salas (two of them, each formed by five ministers). The *Primera Sala* (First Chamber) resolves civil and criminal cases; the *Segunda Sala* (Second Chamber) resolves administrative and labour cases.

this would open the door to arbitrariness. That is, if non-legal reasons could be used to issue a verdict in a criminal case, then any rule could count: for example, the rule of the strongest.]

Here, Cossío overlooks that law, by definition, is the rule of the strongest, and invisibilizes the enormous power that the ministers wield when interpreting the law. Ministers are not neutral actors in the battlefield of truth. Cossío ignores that he had already taken into account non-legal reasons when drafting this resolution; his prejudice against the way indigenous survivors gave their testimonies and the names of the perpetrators was informed by his unacknowledged cultural and racial biases. These naturalized biases are certainly non-legal, unexplicited reasons that led him to propose the invalidation of survivors' testimonies. By explaining, "Society wins more by absolving the people whose guilt was not legally accredited, from what it could win by ignoring the violations that obviously occurred during the legal proceedings,"¹⁴⁵ he is again falsely framing the controversy as a dilemma and practicing the social and cultural blindness he was arguing for in the previous paragraphs.

The controversy in the Acteal case was not a question of choosing between two possible solutions. Ignoring due process violations *was never an option*. By phrasing the opposition's point of view in this way, he makes the opposition (Las Abejas and all of those who argued against impunity) seem unreasonable and holding no respect for the Constitution. His conclusion, summerized in the argument "The pretension of not leaving certain criminal acts in impunity must cede before the need of giving prevalence to the constitutional order's postulates," reveals the fallacy of the disjunctive. Giving prevalence to the constitutional order's postulates means not leaving criminal acts in impunity. Impunity is contrary to the Constitution's postulates. The ministers should not have considered impunity as a possible option. This required from them not to wash their hands of the Acteal case, but to make an extra effort using all the faculties they were

¹⁴⁵ "La sociedad gana más absolviendo ahora a personas cuya culpabilidad no fue jurídicamente acreditada, de lo que podría ganar haciendo caso omiso de las violaciones que evidentemente ocurrieron en el trámite de este proceso."

authorized to use, such as the faculty of investigation, as well as coordinating with other authorities to avoid a situation of impunity.

Indigenous Testimonies under Ministers' Eyes: Between Racist Race-Blindness and Misrecognition

The history of the legal proceedings in the Acteal case is narrated at the beginning of Cossío's ruling.¹⁴⁶ After the massacre, the public prosecutor initiated several investigations [*averiguaciones previas*]. They gave origin to various criminal trials [*causas penales*], which became integrated and accumulated under the cognizance of a Second District judge [*Juez Segundo de Distrito*] in Chiapas. The defendants appealed various decisions issued by this judge. The First Unitary Tribunal of the Twentieth Circuit invalidated those decisions and ordered the judge to reconsider matters. After the judge did so and issued final rulings, the defendants appealed again. However, the First Unitary Tribunal then decreed the criminal responsibility of the defendants. The defendants (represented by CIDE's scholars and students) promoted various *juicios de amparo* [proceedings pertaining to constitutional guarantees]; these went to the First and Second Collegiate Tribunals of the Twentieth Circuit. The collegiate tribunals then asked the SCJ to consider taking these cases, since they met the requisites of being of "interest and transcendence" (Article 107, section V of the Constitution). In November 2008, the SCJ's First Chamber [*Primera Sala*] voted unanimously to take these cases. Minister Olga Sánchez Cordero was appointed as *ministra ponente* for the legal file [*expediente*] 8/2008; Minister José Ramón Cossío for legal files 9/2008 and 16/2008; Minister José de Jesús Guidiño Pelayo for file 10/2008; and Minister Sergio A. Valls Hernández for file 33/2008. The five members of the First Chamber discussed these cases during the session of August 12, 2009.

Cossío proposed to interpret public prosecutors' violations made during the previous investigation [*averiguación previa*] as procedural violations according to Article

¹⁴⁶ Juicio de amparo directo penal 9/2008. Relacionado con la facultad de atracción 13/2008-PS, August 12, 2009.

160 of the *Ley de Amparo* (law on proceedings pertaining to constitutional violations). Through this legal technicality, the prosecutors' violations would not lead to the *reposición del procedimiento* (that is, to order the prosecutor to repeat the parts of the investigation that violated defendants' constitutional guarantees); *but to the complete invalidation of such proceedings*. With this decision, the SCJ was "killing two birds with one stone." On the one hand, the SCJ was extending the scope of the constitutional guarantees previously reserved for the jurisdictional phase (the one that takes place before the judge) to also cover the phase that takes place before the prosecutors (that is, the phase of the previous investigation—*averiguación previa*). On the other hand, through this decision the ministers were avoiding the problem of ordering the prosecutors to repeat parts of the investigations twelve years after the massacre (this time without violating defendants' constitutional rights). This decision led to establishment of a *jurisprudencia*¹⁴⁷ [legal precedent], a binding interpretation on the content and extent of the said Article 160.¹⁴⁸

According to Cossío, the main violation of the Acteal defendants' due process during the *averiguación previa* was the fabrication of illicit evidence [*prueba ilícita*]. In those cases when evidence is not collected according to the rules established in the Constitution, their efficacy must be nullified. The same should occur with evidence derived from illicit evidence, as he pointed out. These criteria also led to the establishment of two other legal precedents,¹⁴⁹ which have ironically represented an important advance

¹⁴⁷ The *jurisprudencias* (legal precedents) established by the SCJ are binding for the rest of the tribunals and courts of the Mexican justice system. For an interpretation to become a *jurisprudencia*, it has to be reiterated in five different rulings, uninterrupted by a ruling in a contrary sense. The rulings have to be approved by the majority of the ministers.

¹⁴⁸ Tesis 1a./J. 138/2011 (9a.). Décima Época, Primera Sala, "Averiguación previa. Las transgresiones cometidas durante esta fase constituyen violaciones procesales en términos del artículo 160 de la Ley de Amparo," *Semanario Judicial de la Federación y su Gaceta*, Diciembre de 2011, tomo 3, p. 2056.

¹⁴⁹ Tesis 1a./J. 139/2011 (9a.). Décima Época. Primera Sala, "Prueba ilícita. El derecho a un debido proceso comprende el derecho a no ser juzgado a partir de pruebas obtenidas al margen de las exigencias constitucionales y legales." *Semanario Judicial de la Federación y su Gaceta*, Diciembre de 2011, tomo 3, p. 2057.

in the protection of human rights in Mexico and which have been used in the defense of other indigenous peoples' cases, such as that of Alberto Patishtán, a Tzotzil teacher who had been a political prisoner.

In this specific case, Cossío made the interpretation that that the testimonial evidences (*pruebas testimoniales*—or simply “testimonies”) collected in the *averiguación previa* of the Acteal case were not free and spontaneous because the public prosecutor had shown the witnesses an album of pictures of the suspects, which, in his view, induced witnesses' testimonies. According to the ruling, this minister considered that the witnesses had not communicated that they had been able to recognize the suspects and neither explained why they were in a position to identify them. Three other ministers agreed with his interpretation.

A paradigmatic example of the supposed fabrication of testimonial evidence was the case of the witness Adalberto Suárez*, a survivor of the massacre. Two days after the massacre, on December 24, 1997, Adalberto Suárez gave his testimony to the public prosecutor, who made note of the time of his declaration: “3:20 hrs.” The prosecutor appointed Suárez a translator (not an expert one, but a bilingual speaker who was around) “since he does not speak or understand sufficiently Castilian [Spanish].”¹⁵⁰ Twelve hours later, at “15:10 hrs,” Suárez went again to the public prosecutor, who later again appointed Suárez a translator. Suárez ratified his declaration given previously that day, at “3 a.m. in the Regional Hospital of San Cristóbal,” and, according to the prosecutor's affidavit, Suárez declared:

y que en este acto hago entrega de una relación de los nombres de las personas que participaron en la agresión de que fuera víctima su prima hermana y acecinados (sic) mas de cuarenta personas y otros heridos y que estas personas pertenecen a distintas comunidades, que los puedo identificar porque los conozco y son las siguientes personas: [Enlista a 18 personas pertenecientes a Los Chorros, Quextic y La Esperanza], y que hace entrega de la relación de siete fojas útiles

Tesis 1a./J. 140/2011 (9a). Décima Época. Primera Sala, “Pruebas en el procedimiento penal. Supuestos en que debe nulificarse su eficacia,” *Semanario Judicial de la Federación y su Gaceta*, Diciembre de 2011, tomo 3, p. 2058.

¹⁵⁰ Criminal file 223/97 Volume I, p. 104.

con las comunidades a que pertenecen y señaló que podrán ser citados a comparecer los CC Vicente Ruiz Pérez, Ramiro Pérez Capote, Manuel Pérez Pérez y José Pérez Méndez, que son personas que tienen más conocimiento de quienes participaron en estos hechos y que tienen su domicilio bien conocido en la comunidad de Quechtic [sic].

[in this act I am providing a list of names of people who participated in the aggression where my first cousin was a victim and more than forty people were killed and others wounded and that these people belong to different communities; I can identify them because I know them and they are the following: [he gives the names of 18 people from Los Chorros, Quextic, and La Esperanza], and he presents this relationship on seven pages listing the communities to which they belong and noted that the citizens Vicente Ruiz Pérez, Ramiro Pérez Capote, Manuel Pérez Pérez and Jose Pérez Méndez can be summoned since they are people who have more knowledge of those involved in these events and have a well-known address in the community of Quechtic [sic].]¹⁵¹

Suárez was summoned to extend his testimony in the city of Tuxtla Gutiérrez on August 13, 1998. On that occasion, the defense attorney interrogated Suárez with disdain. The defense attorney's contentious questions were written down in an affidavit:

PRIMERA PREGUNTA.- Que diga el testigo quién elaboró la relación en donde enlista a los hoy inculpados y que exhibió al rendir su declaración ministerial.

RESPUESTA [de Adalberto Suárez*].- Que no sabe quien lo hizo.

...

QUINTA PREGUNTA.- Que diga el testigo cómo pudo identificar a los hoy inculpados [da los nombres de once hombres], si en este momento no puede describirlos físicamente. RESPUESTA.- Que los conoce porque al momento de los hechos los vio, y que ya no desea contestar más (sic) preguntas ya que lo que quieren es que hable de más (sic) para que vean que no es cierto lo que esta (sic) diciendo, pero el (sic) los conoce.

[FIRST QUESTION.- That the witness say who elaborated the relation that enlists the accused ones, which he exhibited while rendering his ministerial declaration.

ANSWER [of Adalberto Suárez*].- That he does not know who did it.

...

FIFTH QUESTION.- That the witness say how he could identify the accused ones [he mentions the name of eleven men], if at this time he cannot describe them physically. ANSWER.- That he knows them because he saw them in the moment of the event, and that he no longer wants to answer more questions because what

¹⁵¹ Ibid, p. 105.

they want is to make him talk too much to see that is not true what he is saying, but that he does know them.]¹⁵²

Suárez was summoned again, on April 23, 2004 (six years afterwards), this time to appear before the Second District Court in Chiapas, where he had to answer the harassing questions of the “Indigenous Social Defence Attorney” (*Defensor Social Indígena*), Felipe Moreno Jiménez, while facing the four accused ones in the act. The terror Suárez must have experienced in that moment must have been overwhelming. That day, Suárez declared

que sí conoce a los procesados (da sus nombres) y que está molesto por lo que hicieron. ... Que no desea agregar nada más ya que todo lo que ha manifestado en las diversas veces que ha venido a declarar ante este órgano de justicia son la verdad de los hechos.

[that he does know the accused [he gives their names] and that he is angry about what they did. ... That he does not desire to add anything else since everything that he has said during the different occasions in which he has come to give declarations before this organ of justice is the truth about what happened.]

After this statement, Aria’s desire was not respected and, according to the rules, he was obligated to answer the defense attorney’s questions, written down in an affidavit:

A LA PRIMERA PREGUNTA.- Que diga el testigo si recuerda quien le proporcionó los nombres y apellidos de las personas que relacionó en la lista que entregó ante el agente del Ministerio Público Federal el 24 de diciembre de 1997. RESPUESTA.- *La relación me la dieron los judiciales*, en la comunidad de los Chorros, en los cuales yo anoté algunos de los que conocía, ya que la mayoría estaba en la lista. A LA SEGUNDA PREGUNTA.- Que diga el testigo si durante el mes de diciembre de 1997, los vio en algún lugar a (da los nombres de los cuatro indiciados). RESPUESTA.- Que los vio en la comunidad de Acteal, el 22 de diciembre, cuando el estado (sic) escondido en el monte, únicamente de cara ya que no sabe cómo se llaman y también los reconoció en fotografía al momento de rendir su declaración.

[FIRST QUESTION.- That the witness say if he remembers who gave him the first and last names of the people he connected [to Acteal] in the list he submitted

¹⁵² Ibid, p. 406.

to the agent of the Federal Public Prosecutor Federal on December 24, 1997. ANSWER.- The *judiciales* (members of the judicial police?) gave me the connection, in the community of Los Chorros, in it I wrote down some of the names of those I knew, since most of them were already on the list. THE SECOND QUESTION.- That the witness say if he saw (gives the names of the four accused) somewhere during the month of December 1997. ANSWER.- That he saw them in the community of Acteal, on December 22, when he was hiding in the bush, he saw their faces because he does not know their names and also recognized them in photos when he gave his statement.]

This affidavit had the power to trash the credibility of survivors' testimonies and to demolish twelve years of judicial proceedings in the Acteal case. I cannot help but think of lawyers' fetishization of this document as opportunistic, since it was very convenient for powerful interests. Suárez was right. He knew he was being cornered so he would contradict himself. Suárez knew the defense and the judicial authorities were taking advantage of him as an indigenous person who did not totally understand and speak Spanish. Was Suárez accompanied by his lawyer? I don't think he was, because a lawyer could have objected to the questions and the transcriptions of Suárez' answers into the affidavit. The court did not take this issue into consideration. Suárez had explicitly declared not having a full command of Spanish. Was he answering in Spanish? Did a translator and interpreter assisted him to fully understand and answer the questions? Or were the judicial authorities filling in the gaps in Suárez's non-standard Spanish?

Just consider these two situations: 1. How did CIDE's lawyers and the ministers conclude that "la relación" (the connection) was a list with names of the accused and not just the *connection* between their names and their places of origin? 2. When answering the first question, Suárez supposedly said "yo anoté algunos de los que conocía, ya que la mayoría estaba en la lista" [in it I wrote down some of the names of those who I knew, since most of them were already on the list]. CIDE's lawyers and the SCJ have found in this statement a fundamental contradiction: Suárez did not know how to write. However, did Suárez originally say "*anoté*" (which in Spanish can mean (a) "I wrote down," or (b) "I noted") or did he say "*puse*" (I placed)? Did the lawyers consider the linguistic particularities of Tzotzil in establishing the difference? When evaluating this affidavit,

mestizx lawyers completely ignored that Suárez was an indigenous person and, therefore, that he had a series of rights. Judicial authorities were obligated to take into account the particularities of his indigenous language, forms of organization, and culture. Authorities did not take into account how his language and culture conveyed a distinct form of narrating and establishing the truth, and instead did an automatic and literal interpretation of the affidavit.

After the massacre, indigenous survivors were doing their best to cooperate with the judicial authorities in the investigation of the crime. Survivors were in shock, but they were also collectively trying to make sense of what just happened to them and to their loved ones. Decisions in indigenous communities are taken collectively. We cannot forget that survivors were members of a structured organization (Las Abejas) with defined representatives. A person did not necessarily need to know how to write in order to be trusted by the other members of the organization to speak on their behalf. Suárez was not giving testimony as an individual, but as a representative of his organization. Is it so hard to understand that the list with the names of the suspects and of their communities of origin was most probably made collectively with other survivors, in accordance with their customs? Is it so farfetched to interpret that if Suárez knew some of the perpetrators, he probably asked someone else to write down their names on his behalf? In that sense, yes. Suárez *puso* (placed) some names on the list. This should not have discredited his testimony. If the court was going to give all the weight of proof to this document (to invalidate survivors' testimonies), then the court should have behaved professionally while handling its contents. And since there were indigenous peoples involved, and since the members of the Court are not experts in indigenous cultures or in the interpretation of their speech, the ministers should have recognized their limitations and consulted with experts in order to get to the truth behind the document's assertions. It is curious how the state

“*Me la dieron los judiciales*” can be an inaccurate translation of what Suárez was trying to say. Survivors could have given the “judiciales” the list, and they could have given the list to Suárez so he delivered it to the prosecutors. There are many possibilities

in the interpretation of this assertion, especially since it is not clear who “the judiciales” are, or if Suárez could establish the difference between all the authorities and non-authorities collecting testimonies during those days. Frayba has provided evidence that infiltrated members of the military posing as prosecutors were also collecting testimonies among the survivors. The testimonies they collected never reached the judicial realm. So how could survivors distinguish with whom to collaborate the days after the massacre? CIDE has harshly criticized how witnesses had “a prodigious memory” and could provide lists with dozens of names of suspects. One has to be too ethnocentric (or interest driven ...) to not consider that the lists were collectively done. CIDE lawyers and the SCJ forget that there was a huge risk for those testifying, since the perpetrators were not in custody. In fact, the day after the massacre, when Suárez went to give his declaration to the public prosecutor while he was in the hospital collecting testimonies, one of the perpetrators was in the same hospital. Such a level of cynicism on the part of the perpetrators and the knowledge they could operate in impunity justifies many survivors’ reticence to give their testimonies. Why do the ministers think that most survivors’ testimonies were provided by men? It was not because only men survived and most women were killed. It was because of Tzotzil cultural dynamics that assigned to men the role of speaking with outsiders—including the authorities (or which obliged women to trust in their male representatives to speak on their behalf). Here we are faced once again with the problem of not performing a cultural interpretation of testimonies within the socio-political circumstances in which they were embedded.

Contrary to what could be thought, Cossío was very interested in the constitutional development of indigenous rights and was one of the first jurists in Mexico who included the study of the rights of indigenous peoples in his courses, back in 2001. In the *Acteal* ruling, he argued that the legal proceedings violated the indigenous rights contained in Article 2 of the Constitution, among which is the right that judicial authorities take into account indigenous peoples’ customs and cultural specificities when they are part of a trial, and the right to count on interpreters, translators, and defenders with knowledge of their language and culture. The problem is that these rights were only

considered violated in the case of the defendants, not in the case of the victims, who are also indigenous. In his ruling, *advocating for the indigenous rights of the defendants operated in detriment of the indigenous rights of the victims*. This situation can be clearly perceived when analyzing ministers' interpretation of the evidence that led them to invalidate survivors' testimonies. In first place, ministers did not confer survivors' witnesses the character of survivors. By denying the victims the character of survivors, the legitimacy of their testimonies as direct witnesses was immediately obscured; it became their responsibility to demonstrate that they were witnesses and could have been killed in the massacre. Second, the ministers did not recognize the indigenous character of the witnesses and, therefore, did not make space to apply all the rights they are entitled to in the justice system.

Even though indigenous peoples have the right of having their customs and cultural specificities taken into account in the trials they participate in, Cossío was imposing on the witnesses a Western form of giving testimony and subduing their indigenous' cultural practices and ontologies to it. The suppression of indigenous epistemologies during indigenous peoples' encounter with the state begins in the moment the communication is established in Spanish. As María Lugones explains:

We and you do not talk the same language. When we talk to you we use your language. But since your language and your theories are inadequate in expressing our experiences, we only succeed in communicating our experience of exclusion.” (Lugones and Spelman 1983, 575)

Testimonial literature has theorized about how when indigenous people give testimony, they usually do this as members of a collectivity (Yúdice 1992; Gugelberger 1996; Sommer 1996). The imposition of an individualistic subjectivity on indigenous people, which takes place in the encounter with the state, creates a situation of anomia for indigenous people giving their testimonies. This anomia is part of their testimonies. Since these testimonies exist in the written form within the legal files, CIDE lawyers, whose mother tongue is Spanish, were experts in finding holes and discordances in survivors'

testimonies. And through their rulings, white-urban-mestizx ministers validated CIDE's findings. As Samera Esmeir observes,

Memory, in order to pass the requirements of law, should be a kind of photographic film. When witnesses are invited to remember, they are expected to describe accurately what happened. Their testimony is accompanied by a counterattempt to reveal the staining of the facts. (Esmeir 2003, 34)

With this reflection, Esmeir reveals the paradoxical nature of testimonial evidence when it is submitted to law's expectations. If we add to Esmeir's observation the fact that the judicial authorities processing the Acteal case did not share witnesses' culture and language, and also that these witnesses are part of a population racialized as inferior, we realize that survivors' testimonies were destined to not be trusted in the courts. When entering into the analysis of survivors' testimonies, the court used various argumentations to invalidate them. In some cases, the court argued that the witness identified the defendant with one name, when in reality the defendant's name was a different one. In indigenous communities a person can have a Spanish name—Juan, for example—and be called Xun, which is the Tzotzil form for Juan. This situation was completely disregarded (or unknown) by the ministers and it should not have been a cause for invalidating survivors' identification of the defendants. In other occasions, the ministers completely misunderstood witnesses' narrations. When a witness declared that *“según lo comentaron los que se reunieron, que mañana iban a seguir trabajando en Acteal, queriendo decir con esto que iban a matar gente en Acteal,”*¹⁵³ the ministers interpreted that the witness heard this information from a third person, disqualifying the testimony as mere hearsay. However, the witness was narrating the reunion he personally witnessed, in which the paramilitaries were planning the Acteal massacre! Nobody told him this information. He heard it with his own ears because the paramilitaries were holding him as a prisoner working for them, under the threat of killing him if he did not “cooperate.” As occurs with any text, testimonies cannot be interpreted outside their

¹⁵³ “[A]s those who were gathered commented, they were going to keep working in Acteal the next day, meaning that they were going to kill people in Acteal.”

context. Decontextualizing survivors' voices is a form of epistemic violence, a key piece of judicial *limpieza*, whose end is epistemicide.

As a result of the existence of some hearsay testimonies in the legal files, the rest of survivors' testimonies paid the price: All were invalidated without distinction. Who should have *paid* the price was not the survivors through the obliteration of their credibility, but the authorities who gave full credit to hearsay testimonies, placing them at the same level of direct testimonies.

Mestizx ministers are not equipped nor prepared to understand the logics, temporalities, subjectivities, notions of space and of *the other* in indigenous testimonies. Without having a cultural and historical context of survivors' narrations, the ministers were impeded in their understanding of how survivors conceived the local political spectrum, or how they made sense of the traumatic events they had experienced. In the *Actas de Declaración de Testigos* [witness affidavits] it is possible to appreciate that the witnesses who spoke Spanish—or their translators—had a nonstandard Spanish. With an ethnocentric hubris, the ministers did not even doubt their capacity to successfully interpret indigenous testimonies. Ministers proceeded to analyze these narrations, subjecting them to the standards of urban mestizo Spanish and to the peculiar colonial perspective it conveys. Without a culturally situated interpretation of the constituting elements of indigenous worldviews, survivors' testimonies were misread and misrecognized. *This situation evidences that there is an essential incongruence between the right of indigenous peoples to have their languages, customs, and cultural practices taken into account during judicial proceedings and the pretension of the ministers to produce truth only through legal technique [técnica jurídica], without the consideration of non-legal circumstances—including cultural ones.* In the face of this incongruence, the ministers privileged legal positivism over indigenous rights, demonstrating that the discourse of indigenous rights is only mobilized when it contributes advancing the arguments and interests of judicial authorities.

It was not the case that the ministers did not know the importance of interpreters when dealing with indigenous peoples' cases. One of the reasons for overturning the

conviction of the defendants was the fact that they lacked translators and interpreters in their indigenous language. However, the ministers recognized this right of the defendants at the same time they did not consider that an analysis of survivors' testimonies also required a specialized interpreter. Why was the court withholding the indigenous rights of those who the victims identified as perpetrators and at the same time stamping on survivors' indigenous rights?

When discussing the rulings with the other four ministers of the First Chamber on August 12, 2009, Cossío made the following disclaimer:

las consecuencias que se derivaran de la resolución que se adoptara en ese momento, no podían ser imputables a la Suprema Corte de Justicia de la Nación, sino en todo caso a las autoridades, toda vez que éstas se encuentran obligadas a velar por el respeto y por la paz social en el país. (SCJN 2008, 6)

[the consequences that could derive from the resolution that was going to be adopted in that moment, could not be imputed to the Supreme Court of Justice of the Nation, but in any case to the authorities, since they are obliged to respect and ensure social peace in the country. (SCJN 2008, 6)]

This argument constitutes a window into the thought of this minister. If he had not anticipated the possibility that the rulings could produce negative social effects, he would not have felt the need to make this assertion. The possibility of unchaining a new wave of violence in Chenalhó through these rulings was always present, but the ministers decided to overlook this situation.

Minister Cossío's ruling draft (*proyecto de sentencia*) was approved, receiving four votes in favor and one against. The dissenting vote was from Minister Sergio Valls, originally from Chiapas and whose relatives occupied high-ranking positions in Chiapas' government. Valls argued that the evidence in this case was "not abundant, but enough to demonstrate the existence of the crimes analyzed, as well as the criminal responsibility of the defendants" (Méndez 2009). His particular vote, included at the end of the ruling, focuses on the analysis of Adalberto Suárez's* testimonies. Valls considered that these testimonies should not had been considered illicit evidence, since the witness provided the information of time, mode, and place from which he could identify the suspects. He

considered that not speaking Spanish “sufficiently” was not an impediment for knowing how to write names in Spanish, especially considering that Suárez’s own name is a Spanish one. With regard to the assertion that the “*judiciales*” gave Suárez the list, Valls said that it was not a credible statement, since there was no evidence that the police beat Suárez or intimidated him to falsely declare that he knew the suspects. So in Valls’s argument, the witness was still considered not trustworthy. Finally, Valls also said Suárez’ first declarations (and not his last one, *six years after the massacre*) should have been given more credit for their immediacy to the events.¹⁵⁴

How should we interpret the fact that one of four ministers determined that those convicted in the Acteal case should not be freed? Such a situation underlines the fine line between being *legally* innocent or guilty and reveals the importance of each minister’s subjectivities in making the distinction. For that reason, it is crucial to study what was politically at stake behind the judicial rulings. This perspective contributes to shattering the illusion of legal positivism’s objectivity while creating an awareness of the political costs, ideologies, creeds, and racial prejudices influencing judicial decisions made in the name of “justice.”

When Omissions Speak: The Supreme Court’s Investigative Faculty

What was at stake in the processing of the Acteal case through the SCJN was the possibility of bringing to light the chain of command that made federal and state officials responsible for the actions and omissions that led to the Acteal massacre. This included Zedillo as president of the republic, Emilio Chuayffet as head of the Interior Ministry [*secretario de gobernación*], and the interim governor of Chiapas, Julio César Ruiz Ferro,

¹⁵⁴ In his particular vote, Valls also made an interesting argument about the photographic album shown to the witnesses during their declarations. He argued that it should not have been considered a violation of due process and that it is important to distinguish how the authority becomes cognizant of an illicit act from how the authority *proves the truthfulness* of the act. In my book manuscript I will analyze his arguments as well as the rest of the arguments that CIDE put forward as violations to due process. Here I just focused on the main evidence under which the ministers decided to concede the *amparo* and to nullify the testimonial evidence against the suspects.

all Priístas. Before the constitutional reform of 2011 and during the time the Acteal case was under the analysis of the SCJ, the constitution granted the SCJ the “faculty of investigation” [*facultad de investigación*].¹⁵⁵ This faculty meant that the SCJ was entitled to carry out an investigation of those events [*hechos*] that represented serious violations of the individual guarantees established in the Constitution. In the Acteal case, after invalidating the evidence that existed in the legal records because of its supposed “unconstitutional” character, the SCJ could have done something more, especially after leaving the massacre in total impunity. Under this faculty, the court could have initiated a new investigation of the serious violations committed by authorities from the three levels of government (federal, state, municipal) in relation to the Acteal massacre. However, the court decided to not exercise this faculty, and this decision can only be understood in political terms.

The court’s faculty of investigation was first instituted in the 1917 Constitution, the Constitution that is still in force after hundreds of amendments. In previous Constitutions, the Supreme Court was established as an institution that could supervise the executive branch, and its president could even substitute for the president of the republic in his absence, as occurred during President Benito Juárez’s term. The 1917 Constitution tried to separate the Supreme Court from any political function. However, it endowed the court with the faculty of investigation as a mechanism of defense of the constitutional guarantees: This is a faculty that goes beyond the court’s jurisdictional powers. This faculty was established in the second and third paragraphs of Article 97 of the federal Constitution:

Article 97, paragraph II:

The Supreme Court of Justice of the Nation may name one or more of its members, or a District Judge or Circuit Magistrate, or designate one or several special commissions, when it judges convenient or the Federal Executive or one of the Chambers of the Congress of the Union, or the governor of a state has sought it, solely to investigate the conduct of a federal judge or magistrate, or an act or acts that constitute a serious violation of an individual guarantee. Also it

¹⁵⁵ “Faculty” in this case is understood as a legal empowerment for taking certain actions.

may ask the Council of the Federal Judiciary to investigate the conduct of a federal judge or magistrate.

Besides the SCJ, which can initiate an investigation on its own (*de oficio*), the only authorities with the legitimacy to request the SCJ's faculty of investigation were: 1. The president of the republic; 2. One of the two chambers of the national Congress; 3. A governor of a state or the Federal District's chief of government (*jefe de gobierno del Distrito Federal*). No other individual could request the SCJ the exercise of this faculty. Causes that can provoke the investigative action of the court are acts performed only by authorities of any of the three levels of government. Acts attributed to the general population cannot be investigated through this faculty. The acts of authority to be investigated had to constitute a violation to the individual guarantees (*garantías individuales*) protected by the Constitution.¹⁵⁶ The violation had to have the character of a serious one (*violación grave*), and the court was entitled to determine this character discretionally, since neither the Constitution nor any law defined the parameters to distinguish serious violations from non-serious ones. Through its experience in the exercise of this faculty and while reviewing the case of the Aguas Blancas massacre, the court defined "serious violations" as:

... hechos generalizados, consecuentes a un estado de cosas acaecidos en una entidad o región determinados y su averiguación tiene lugar cuando ocurren acontecimientos que debiendo ser afrontados o resueltos por las autoridades constituidas con estricto apego al principio de legalidad, esos acontecimientos no se logran controlar por la actitud de la propia autoridad, produciéndose en consecuencia, violaciones graves a los derechos fundamentales de los individuos, por ende, la grave violación de garantías individuales se actualiza cuando la sociedad no se encuentra en seguridad material, social, política o jurídica ... (SCJN, 1996)¹⁵⁷

¹⁵⁶ The individual guarantees could be understood as the human rights that are recognized in the text of the Constitution, mainly in Articles 1 to 29. It is important to distinguish human rights from individual guarantees, since all of the former are not fully recognized in the Constitution. The term "guarantee" [*garantía*] refers to the mechanisms established in the Constitution to ensure the enjoyment of fundamental rights.

¹⁵⁷ SCJN cited in Comité de Liberación 25 de Septiembre, A.C. and Asociación Nacional de Abogados Democráticos (2009, 9).

[... generalized events, consequential to a state of things occurring in a defined entity or region, and its investigation takes place when events that must be addressed or resolved by the constituted authorities in strict compliance with the principle of legality are not managed due to the approach of the authority itself, consequently producing serious violations against individuals' fundamental rights; thus, the serious violation of individual guarantees takes place when society does not have material, social, political or legal security ...]

Therefore, the seriousness of the violations is measured in terms of their impact on the society as a whole, as would clearly be the case of the Acteal massacre since its state of impunity affects the preservation of the rule of law. Some jurists made the interpretation that when a request to initiate an investigation fulfilled the aforementioned rules, then the SCJ was *obliged* to carry out the investigation of the violation(s) (Morales Ramírez 2008). However, the SCJ interpreted that this faculty was not obligatory, but discretionary, and that the court does not even have to make public all the reasons used when the SCJ considers it to not be “convenient” to exercise this faculty.¹⁵⁸ Transparency was therefore not a priority in the exercise of the court’s investigative faculty. As we will see, the history behind the exercise of this faculty proves how the SCJ strategically reduced its scope in benefit of powerful interests.

There were no rules on how the SCJ should perform the investigation; however, the court had established some parameters in the process of exercising this faculty in the past. The investigations that the SCJ carried out, paradoxically, did not have a judicial character. Those who were investigated by the court were not expected to offer evidence to prove their innocence. However, they were obliged to provide all the information that the court requested. In case of refusal, there were no measures that the court could implement to enforce its requests. The product of the investigation was a report in which the court clarified the facts, determined if the case analyzed implied a serious violation to the individual guarantees, and in such case, the court also indicated which authorities

¹⁵⁸ Tesis P. XL VII/99: “Facultad de investigación prevista en el artículo 97, segundo párrafo de la Constitución Federal. La Suprema Corte de Justicia de la Nación, no está obligada a exponer las razones que la llevaron a determinar su no ejercicio.”

were responsible for those violations. The conclusions of the investigation did not constitute a ruling nor had a binding character. Therefore, the court could not establish sanctions to those authorities found guilty of serious violations to the constitutional guarantees. However, the competent authorities could establish those sanctions. The court interpreted that the concluding report did not have a public nature and that only the “competent authorities” should be notified of it. However, according to Article 117 of the Federal Code of Criminal Procedures, *the ministers of the Court (as any other authority) have always been obliged to denounce criminal acts before the public prosecutor:*

Artículo 117,

Toda persona que en ejercicio de funciones públicas tenga conocimiento de la probable existencia de un delito que deba perseguirse de oficio, está obligada a participarlo inmediatamente al Ministerio Público, transmitiéndole todos los datos que tuviere, poniendo a su disposición, desde luego, a los inculpados si hubieren sido detenidos.

[Article 117,

Any person who while exercising public functions becomes aware of the probable existence of a crime to be prosecuted *ex officio* is obliged to immediately communicate this to the Public Prosecutor, providing all the data available, placing under its disposition, of course, any suspects who had been arrested.]

If the court—after exercising its faculty of investigation—decided not to notify the public prosecutor, as occurred in the case of the Aguas Blancas massacre,¹⁵⁹ then the Court was violating a federal law. By doing this, the court reduced its faculty of investigation to a simple juridical opinion that could or could not have effects on those

¹⁵⁹ The Aguas Blancas massacre, (Guerrero, June 28, 1995) was another massacre of organized dissident peasants that took place during Zedillo’s government. Members of the state police ambushed a group of 40 peasants, members of the *Organización Campesina de la Sierra del Sur*, while they were on their way to join a protest of their organization, in which they were going to demand the government to present alive an illegally detained member of their organization. During the massacre, the police killed 17 peasants and left 23 gravely wounded, all unarmed. The massacre was video recorded and presented by journalist Ricardo Rocha (the same journalist that visited Acteal before the massacre). Twenty-eight policemen and fifteen public officials of medium level were prosecuted. The intellectual authors of the massacre were never investigated, even though survivors attributed the massacre to governor Rubén Figueroa and his counterinsurgent policies. The prosecutor did not collect survivors’ testimonies.

authorities found guilty of serious violations to the individual guarantees. Expecting this uncertainty as an outcome of the court's final report was illogical, especially considering that the court is the "maximum guarantor of the Constitution." Therefore, the court should be the first institution concerned with the preservation of individual guarantees. As I mentioned before, the only reason for not wanting to report the result of its investigations to the public prosecutor was one of political character. The court is an interested political actor that has no incentives for creating enmity with any other powerful authorities of high rank. If the court were an independent actor, as it would be expected, in a democratic regime, that such enmity would not be an impediment to act judicially against another member of the regime.

Some jurists interpreted the SCJ's faculty of investigation as a form of constitutionality control without a jurisdictional character. Others still think it was not a form of constitutionality control, since the resulting report did not have a binding character. There was a big debate about the nature of this faculty: If its character was not jurisdictional, then, was it political? I think it certainly was, even when the ministers reiteratively denied it. The faculty of investigation was one of the last remedies that the court could exercise in those cases where (a) other authorities did not act in accordance to their obligations in the face of a serious violation to fundamental rights; or (b) when the corresponding authorities did not conduct an exhaustive and diligent investigation on cases of serious violations of individual guarantees, *precisely because of a conflict of interests*. Consider, for example, the case where the governor of Chiapas coordinated an investigation of the state of Chiapas government's implication in the Acteal massacre.

There are six cases where the court has exercised this faculty: León, the Aguas Blancas massacre, the Oaxaca case, the Atenco case, the Lydia Cacho case, and the Guardería ABC case.¹⁶⁰ The court discussed the nature of its faculty of investigation while revising the case of the fire in the public day-care center called ABC (Guardería

¹⁶⁰ I plan to explain each of these cases and compare them with the Acteal case in my book manuscript.

ABC in Hermosillo, Sonora, on June 5, 2009), where 49 children died and 106 were wounded. Minister Zaldívar interpreted the court's faculty of investigation as

an additional instrument that the SCJ has (different from the instruments of jurisdictional constitutional control) and which operated only in those cases where there was an extraordinarily serious situation in which the ordinary legal instruments were not enough to offer justice, because of the seriousness of the case or because of the political actors at stake. (SCJN 2009, 6)

The ministers of the court discussed the nature of the investigative faculty in several public sessions on June 14, 15, and 16, 2010, a year before this faculty was eliminated from Article 97 of the Constitution after the court petitioned for its abolition. During the sessions, minister Zaldívar argued that the court should clearly determine in its final report which authorities were responsible for the constitutional violations; otherwise, he said, the objective of the faculty of investigation as it was established in the Constitution would not be fulfilled (SCJN 2009, 6). Most ministers agreed that through this faculty, they could not become moral or political judges of the authorities involved in the criminal actions investigated (yes... a very confusing argument). Minister Cossío argued that the court's faculty of investigation was not based on a moral authority, since this kind of authority is not one that should be self-assigned; he indicated that it is society's role to determine whether the court has a moral authority. Cossío also argued that through this faculty, the court "neither has the last word nor the only one, but its function is to contribute to the reparation of the serious state of things, so the key was to make this faculty part of a structural logic, so the final report could have a reparative dimension" (SCJN 2009, 8).

Why did the Court decide to exercise this faculty on some cases and not in others that also fulfilled the Constitution's requirements? If the SCJ's final report could have the reparative dimension that Cossío explained, why not to exercise this faculty in the Acteal case, where it was greatly needed? Only a political circumstance can explain this decision. If the court had done an investigation with true independence, the heads of Zedillo and other powerful actors would have fallen. This possibility placed the court in a

serious political dilemma, which was probably a good reason for the court's wanting to renounce to this faculty.

It is important to note that on January 16, 1998, several human rights organizations asked the SCJ to exercise its faculty of investigation on the Acteal case. However, on February 3, 1998, the Court decided that it was not convenient to do so, since the National Commission for Human Rights (CNDH) had already investigated the case and issued its recommendation 1/98. The argument that the court gave to decline this faculty was that it did not want to produce conclusions contradictory to the ones issued by the CNDH. Michael Chamberlin, a former lawyer for Las Abejas, explains Las Abejas' feelings about the matter this way: "Part of Las Abejas' anger is: 'When we were asking for justice, they ignored us and now, they are acting in favor of those who killed us!'"¹⁶¹

The first SCJ ruling issued on August 12, 2009, freed 20 of the 87 convicted men, previously accused as material authors of the massacre. Nine other men were freed on November 4, 2009; 15 more on October 14, 2010. Immediately after the paramilitary defendants were released, the then-governor of Chiapas, Juan Sabines, made a "non-aggression pact" with them, providing each with a house and land to cultivate in communities far away from Acteal, in exchange for their promise to never go back to Chenalhó (Bellinghausen 2009). Nonetheless, Las Abejas have protested that several of these people are back, living in communities close to Acteal, and intimidating those who testified against them. In recent years these paramilitaries have built cinderblock houses considerably bigger than other homes in the communities of Chenalhó, which are usually made of wood and have sheets of corrugated tin for roofs. They have equipped their new homes with refrigerators, microwave ovens, TVs, and cable antennas, and even many of them are now car owners. Members of Las Abejas think that the paramilitaries' new economic status reflects a continuing government reward for perpetrating the massacre and an official protection under the mantle of impunity. Because most of the arms used in

¹⁶¹ Interview with Michael Chamberlin, San Cristóbal de las Casas, April 16, 2013.

the massacre have never been confiscated, Las Abejas live in outraged fear that another massacre may be undertaken in revenge.

Juana Pérez Arias*, an elder of approximately 70 years who survived the massacre, is always present in every monthly commemoration of the massacre in Acteal. She sits on a tiny chair in front of the altar, where she maintains the copal incense burning during the entire religious ceremony. Her husband was killed during the massacre; since then, she has been in charge of the incense during the commemorations. As she says, “here [in Acteal] I am stuck with my husband who fell here.”¹⁶² His death has brought terrible consequences to her life. When asked what she felt when the accused in the massacre were released, she said:

Ellos están disfrutando de sus tierras, de sus esposas; mientras, yo sufriendo, viendo cómo entran las goteras de lluvia en mi casa, cómo entran los perros y cómo me critican. Yo pedí ayuda para que me regalaran tablas para componer mi casa. Ellos [los paramilitares] siguen disfrutando carros y casas bonitas, vienen con cosas para sus hijos y esposa, tranquilos como si no hubiera pasado nada.

Dicen que los que regresan vienen a rematar a los que quedaron [vivos]. A veces, los hijos de los asesinos se emborrachan y les reclaman [a los que quedaron vivos], y dicen “que vengan” [los que quedaron vivos], que ellos están listos con las balas. Ellos no se arrepienten.¹⁶³

[They are enjoying their lands, their wives; meanwhile, I am suffering, watching the rain leaking into my house, watching how the dogs come inside, and how I am criticized. I asked for help so someone could give me some boards to fix my house. They [the paramilitaries] are still enjoying cars and nice houses, they come with things for their children and wives, carefree as if nothing had happened.

They say that the returnees come to finish those left [alive]. Sometimes, the sons of the murderers get drunk and complain to those left alive, they tell them "come," that they are ready with bullets. They do not repent.]

The combination of the SCJ’s indifference towards the victims, the paramilitaries’ impunity and lack of remorse, and the desire for revenge of paramilitaries’ families has

¹⁶² Testimony of Juana Pérez Arias* for the Psychosocial Expert Testimony on the Acteal Massacre, CDHFBC, Acteal, July 25, 2014.

¹⁶³ Idem.

affected the way Las Abejas conceptualize the state and the notion of justice, as I will discuss in the next chapter.

The Other Information that the Supreme Court Did Not Take into Account

On August 20, 2009, eight days after the SCJ released the first ruling on the Acteal case, the U.S.-based NGO “National Security Archive” (2009) disclosed two newly declassified cables from the U.S. Defense Intelligence Agency (DIA) that describe the Mexican Army’s role in backing paramilitary groups in Chiapas at the time of the Acteal massacre. The cables were sent by the U.S. Defense Attaché Office in Mexico. According to Kate Doyle, who prepared the briefing for National Security Archive, the main task of the DIA’s representatives in Mexico is “to gather intelligence on the Mexican armed forces and send it to headquarters in Washington for analysis. The analysis is then used by the [U.S.] government to assist in crafting national security policy in Mexico” (Doyle 2009).

The first cable, a secret intelligence information report with the subject “Mexican Military Presence Increase Following the Massacre in Chiapas,” dated December 31, 1997, indicates that:

1. The Secretariat of National Defense [SDN] has placed the Mexican military on maximum alert following the killing of forty five Tzotzil Indians by paramilitary supporters of the Institutional Revolutionary Party (Partido Revolucionario Institucional – PRI). . . .

. . . In recent months, the paramilitary group known as the “Anti-Zapatista Revolutionary Indigenous Movement” (Movimiento Indígena Revolucionario Antizapatista – MIRA), has destroyed property, assaulted and murdered several Tzotzil Indian supporters and sympathizers of Zapatista National Liberation Army (Ejército Zapatista de Liberación Nacional – EZLN). . . .

3. Open sources also reported that two thousand soldiers of the five thousand troops deployed to Chiapas were assigned to the town of Chenalho. By order of President Ernesto ((Zedillo)), SDN’s [Secretariat of National Defense] mission is to provide law and order in the regions, as well as to enforce the fire arm law in the conflict zone. Furthermore, SDN has been instructed to render assistance in

the form of social labor to the indigenous communities in the Chenalho area, in particular to the families evicted from their homes by the MIRA group.

Surprisingly, the report characterizes the victims as “oppressed Tzotzil Indians” and attests to the existence of “paramilitary groups in Chiapas,” referring to them as such, instead of using the Mexican government’s jargon of “civil self-defense groups.” However, since this report cites open and secret sources without clearly establishing which one is which, it is difficult to determine if the selection of the terms used corresponds to those used by the newspapers *Reforma* and *La Jornada* that are mentioned in the report. The second cable, dated May 4, 1999, lacks of this ambivalence and, as its title attests, provides secret information about “Military Involvement with Chiapas Paramilitary Groups”:

1. By mid-1994 the Mexican Army had Presidential approval to institute military teams in charge of promoting armed groups in the conflictive areas of Chiapas. The intent was to assist local indigenous personnel in resisting the Zapatista National Liberation Army (EZLN). Moreover, during the December 1997 Acteal Massacre, army intelligence officers were involved in overseeing armed groups in the Highlands of Los Altos, in Chiapas.

2. That as early as summer 1994 the army created specialized human intelligence (HUMINT) teams responsible for gathering intelligence from Indian communities primarily in Los Altos and Las Canadas (sic), but with the intent of having other similar units operating in areas surrounding the Zapatista communities in Chiapas. These groups were composed primarily of young officers in the rank of second and first captain, as well as select sergeants who spoke the regional dialects. The HUMINT teams were composed of three to four people, who were assigned to cover select communities for a period of three months. After three months the teams? (sic) officer members were rotated to a different community in Chiapas. Concern over the teams? (sic) safety and security were paramount reasons for the rotations every three months. In order to gain the support of the local communities and collect intelligence information, *the army HUMINT teams assisted armed groups with training and protection from arrests by law enforcement agencies and military units patrolling the region.*

3. Press reports of the Acteal Massacre raised the public?s (sic) attention of the army?s (sic) support to the armed groups, but as of yet no one from the army has been found directly guilty, nor has the existence of the HUMINT teams been revealed. Additionally, while the practice of direct support to the armed groups

has been reduced, *army HUMINT teams continue to operate in the conflictive areas of Chiapas. The teams also continue to rely on the support of armed groups to provide the military with information on EZLN sympathizers.*¹⁶⁴

This information not only contradicts President Zedillo's official version of the massacre, but also provides details about the role of the army in the operation of paramilitary groups. The cable's description of HUMNIT teams' forms of operating coincide with the strategies of the *Plan Chiapas 94* (as revealed by journalist Carlos Marín in 1998) and of the Ministry of National Defense's *Manual de Guerra Irregular* (SEDENA 1995) discussed in Chapter 3. Nonetheless, the new evidence that these cables provided in no way altered the outcome of the SCJ's decisions, but revealed the social costs that these rulings would bring by contributing to the preservation of a culture of impunity.

Strategic Litigation and the Judicialization of Politics

Regardless of appearances, the SCJ's rulings have been widely acclaimed by several governmental and non-governmental bodies in Mexico. I have witnessed a number of events in which the legal guild has celebrated the implications of these rulings because they set new precedents that can be used to widen the right to due process in Mexico. The defense attorneys at CIDE have exploited the indigenous identity of their clients, making it seem incompatible with the possibility of also being paramilitaries. Glossing over controversial circumstances and highlighting well-known facts, these attorneys presented the defendants as unfortunate victims of the negligence of the Office of the Public Prosecutor and of the unfairness of a justice system that discriminates against indigenous peoples. Confused audiences, receptors of the hegemonic versions of the case, firmly believe that, in the Acteal case, justice has been served for a group of indigenous peoples who had been scapegoated by the Office of the Public Prosecutor. What CIDE's attorneys are not saying is that the indigenous survivors of Las Abejas recognize many of the defendants as the perpetrators of the massacre. As several

¹⁶⁴ A copy of these cables can be accessed at www.narchive.gwu.edu. The emphasis is mine.

members of Las Abejas have declared in their testimonies, they know them well because most of these people were their neighbors or even their relatives.

By defending the paramilitaries responsible for the massacre, CIDE has paradoxically activated a “rights-enhancing judicialization,” helping bring about the SCJ’s production of precedents that expanded the scope of human rights. This is why CIDE has interpreted that the rulings it “won” constitute a victory for indigenous peoples, as if indigenous peoples formed a unitary block. However, CIDE’s legal practitioners have been extremely careful not to mention that their work invalidated the testimonies of Las Abejas’ survivors during the judicial proceedings. CIDE’s scholars have used the Acteal case to criticize the Mexican judicial system and the federal Office of the Attorney General, contending that these institutions are “a factory that fabricates guilty people” (Santos 2009). In criticizing the Office of the Public Prosecutor, CIDE has been a key actor supporting the 2008 judicial reform that created the “New Criminal Justice System” in Mexico. This reform, whose implementation was supposedly completed last June 18, 2016, implied the transition from a mixed inquisitorial model of criminal justice (product of Roman and Napoleonic influences), where the public prosecutor had unrestricted power, to an *adversarial model* (like the one existing in the U.S. and in most common law systems), where the defense and the public prosecutor have the same weight during the criminal proceedings (Shirk 2012). CIDE’s attorneys have explained that they chose to litigate the Acteal case in order to provoke the expansion of constitutional rights through the SCJ’s precedents. But with so many cases from which to choose in order to achieve that purpose, why did CIDE’s scholars pick one in which the innocence of the defendants was so highly contested by the victims?

CIDE is part of a new wave of strategic litigation in Mexico that has contributed to the centralization of power in the SCJ by taking controversial cases to its jurisdiction. This wave of strategic litigation is closely linked to the ongoing judicialization of politics in Mexico—a phenomenon characterized by the increased presence of judicial processes and court rulings in political and social life (Shapiro & Stone 2002, Domingo 2004,

Sieder et al. 2005). As Guillermo O'Donnell has pointed out, the judicialization of social relations

is probably an expression of the increasing *juridification* of social relations: the mounting degree to which social relations, formerly left to autonomous and/or informal regulation, are being textured by formal legal rules. (O'Donnell 2005, 293)

When driven “from below” (e.g., by indigenous peoples), the judicialization of politics has been interpreted as the consequence of litigants’ finding a better way to advance their struggles by taking their claims to the courts instead of attempting to resolve their conflicts in political arenas (Epp 1998, Domingo 2005, Tate & Vallinder 1995). In the case of those processes of “judicialization from below,” courts represent a site for political resistance and contention. However, since the members of the judiciary do not constitute a representative corpus elected by the citizenry and, therefore, are not accountable to an electorate, judicial policymaking has been fairly criticized as undemocratic (Dahl 1957; Ansolabehere 2007, 2010). On the other hand, when propelled by powerful actors “from above and abroad,” judicialization has been ideologically linked to the aim of delivering the promises of the rule of law (Couso *et al.* 2010). This linkage has been used by several states in Latin America to legitimize their regimes after nontransparent elections, during transitions from authoritarian regimes, or when other branches of government have been perceived as discredited (Magaloni 2008; Pereira 2008; Shapiro 2008).

Rights represent constraints to state power, and courts are one of the main *loci* for exercising and appealing to these rights. Therefore, strengthening the courts and facilitating citizens’ access gives the appearance of democratic governance. But when judicial power lacks effective internal checks and balances—as is the case in Mexico (Ansolabehere 2007b)—it can lead to a *juristocracy* (Hirschl 2004). Within the Mexican context of state violence, such centralization of ideally separated powers has set the stage for the criminalization of social protest and the repression of political dissidence through the courts themselves. As the Acteal case exemplifies, the judicialization of politics in

Mexico is linked to the problematic relationship between the state and indigenous peoples. The paradigms through which states govern ethnic and racial difference not only have the power of life and death over racialized populations, but also determine (and are determined by) the success of the economy, the price and ownership of land, the nature of national identity, the form of civil society, the configuration of the legal system, and the sovereign status of the state itself. On the other hand, these paradigms of governance also shed light on the value of the racialized civilian's human life under modern state regimes. As Foucault argued, racism is “the break between what must live and what must die” (Foucault 1997, 254); it is, therefore, the parameter for exercising *necropower* to define “who is disposable and who is not” (Mbembe 2003, 27). For these reasons, Acteal can be understood as a “zone of exception” (Agamben 1998)—where the controls and guarantees of judicial order can be suspended—defined by racism.

Recognitions and Erasures: Legal Globalization and Judicial *Limpieza*

Initiatives by governments to bring indigenous peoples' struggles into the judicial arena are among the outcomes of multicultural recognition in Latin America. In this arena, indigenous peoples' bodies and their versions of events are subordinated to the racist logics and capricious rhythms of the state. During the judicial proceedings, complex societal processes are boiled down into individual “facts” and placed in formalist frameworks that delimit the matter and the terms of the dispute from the beginning, usually leaving the possibility of state responsibility out of the judicial analysis. Formalist frameworks tend to legitimize some voices over others and to authorize judges to determine which values and whose human rights should prevail. In Mexico, this “controlling process” (Nader 1997), in conjunction with the phenomenon of the judicialization of politics, is shedding light on new facets of the paradigm of multicultural neoliberalism (Hale 2002; 2006) after approximately two decades of multicultural recognition.

The “repugnancy principle” has been the racist parameter that the modern states have continued to use in the processes of constitutional and legal recognition of

indigenous peoples' rights and their normative systems. Through this principle, the Mexican State has not only outlawed any indigenous legal and cultural practice that is contradictory to the legal system (*orden jurídico mexicano*); the state has also left outside of the realm of recognition those indigenous demands that represent a threat or an ontological inconsistency with the settler-colonial state project and the powerful economic interests that define it. Hale (2002, 2006) has called this paradigm *multicultural neoliberalism*, whereby "proponents of the neoliberal doctrine pro-actively endorse a substantive, if limited, version of indigenous cultural rights, as a means to resolve their own problems and advance their own political agendas" (2002: 487). The identities recognized and simultaneously constructed through the act of recognition are those representing what Rivera Cusicanqui and Hale have called the *indio permitido* ("permitted Indian"), a sociopolitical category that signals the contentious indigenous person as disposable (Hale 2004).

Throughout Latin America, courts have acquired a predominant role in making public policy and interpreting rights not effectively defined by the legislatures. Under the paradigm of multicultural neoliberalism, indigenous rights left in the hands of the appointed (as opposed to democratically elected) members of the judiciary have tended to build cages within the already constricted spaces defined by legal recognition. Furthermore, in the context of state violence and wars on terror, judiciaries have become places where state crimes can be erased and history can be rewritten through the promulgation of *legal truths*. In the Acteal case, the invalidation of the testimonies of witnesses who are victims of state violence left no evidence to prosecute state crimes. In that sense, these invalidations *cleansed* the legal process from the voices that exposed the state's responsibility in this mass murder. This sanitizing labor, performed by way of racializing legal technicalities, echoes the logics behind ethnic cleansings and can be interpreted as the final stage of a counterinsurgency strategy aimed to eliminate dissidence. Through these *judicial cleansings*, the machineries of terror are primed to continue their endeavor. Paramilitaries can exist outside the rule of law while their illegal

practices can become *legal* through the crushing ambivalence of impunity. In this sense, the rule of law operates as an imperial ideology that tends to perpetuate colonialism.

Within the tendency of judicialization of politics it is possible to recognize the role of the legal establishment in what I suggest is a judicialized form of governmentality (Foucault 1991) for indigenous populations. I propose that this paradigm for governing indigenous dissidents through the work of state courts can be better understood as a *judicial limpieza* (judicial cleansing). I borrow the concept of *limpieza* (which literally translates as “cleansing”) from Michael Taussig’s analysis of paramilitaries’ imposition of law through selective assassinations in Colombia (2003). As Taussig explains, *limpieza* means in Spanish “to wipe out and kill defenseless people, much the same as a ‘purge’ of the unclean” (2003, xiii). By bringing this concept to the judicial arena, *judicial limpieza* implies a “sanitizing” of the judicial records of the views and testimonies of indigenous peoples, who are considered disposable by the state because they oppose its neoliberal regime. In this sense, it is possible to observe that the state has found in the judiciary a legitimized, less democratic space to dictate which indigenous identities deserve the recognition of rights and which can be disposed of through processes of *judicial limpieza*. Therefore, the settler-colonial state perpetuates its logic of elimination of the native through processes of judicial *limpieza*.

The continuities between the judiciary’s practices of erasure and those of (para)militarization projects are notable. *Judicial limpieza* forms part of what Grandin (2011) calls a “supranational counterinsurgent infrastructure,” fusing military, intelligence, and judicial systems to create a “security corridor” from North to South America as a strategy of the U.S. war against terror. In the context of Chiapas, the Mexican politologist, Paulina Fernández Christlieb (2014) has explained how the low intensity war is one which combines

[M]ilitary, political, economic, judicial, and psychological elements, at the same time it promotes the action of counterrevolutionary groups and exerts enough control over information, so that the official version of what occurs in

autonomous territory can prevail in the public opinion. (Fernández Christlieb 2014, 297–98)¹⁶⁵

The judicial element that Grandin and Fernández Christlieb highlight in the states' wars against dissidence is what bridges counterinsurgency with the public opinion, through processes of *judicial limpieza*. In order to produce the impunity that is needed to cover up state violence against dissident citizens, *judicial limpieza* operates through six key mechanisms: 1) the relocation of political contention around indigenous rights from elected branches (the legislature) to judicial arenas; 2) the subjugation and stigmatization of dissident indigenous views in the name of positivism and objectivity; 3) the removal of events from political and historical contexts; 4) the manufacture of the legal-official truth through judicial revisionist versions of history, which enjoy the sanctioned character of legal facts and, thus, an appearance of neutrality; 5) the strategic use of indigenous rights discourse to create the appearance that the right of indigenous peoples' access to justice has been guaranteed, while simultaneously legitimizing the state's sociopolitical orthodoxy; and 6) the reaffirmation of the state's support for those indigenous people who collaborate in its paramilitary endeavors, by selectively recognizing their rights, while denying the rights of those indigenous peoples who openly resist the neoliberal, settler-colonial state.

While there are considerable sectors in Mexican society that have celebrated the SCJ's rulings,¹⁶⁶ there are others who think that such rulings constitute the last step of a long operation of counterinsurgency. Intellectuals and activists such as Rafael Landerreche (2010), Magdalena Gómez (2011), and other supporters of Las Abejas have stressed that CIDE has a clear political motive for taking this case: to erase the responsibility of former President Zedillo's administration by mounting a theater in the courts to emphasize the "innocence" of the paramilitaries. For them, the events at Acteal constitute a state crime, and the rulings of the Supreme Court are a legitimation of state

¹⁶⁵ Translation is mine.

¹⁶⁶ For example, the Mexican magazine *Foro Jurídico* titled its article "Clínica del CIDE gana caso Acteal" [CIDE's Clinic Wins the Acteal Case] (Contreras 2009).

violence with this message implied: indigenous people can be killed without repercussions for the assassins. From this perspective, Las Abejas' subordinated version of the massacre did not become *legally* truthful because it did not concur with the hegemonic version of the event. For the SCJ, Las Abejas' word could not stand on its own, and this is one of the characteristics of the *discourse of the oppressed* (Sandoval 2000).

The Space Between Legal Innocence and *De Facto* Innocence

Through its rulings, the SCJ set important legal precedents that widened indigenous peoples' right to access justice. However, in the specific case of Acteal, these rulings paradoxically violated Las Abejas' rights to justice and due process by failing to adequately investigate, prosecute, and punish the intellectual and material authors of the massacre. The ministers of the SCJ explained to the media that, under the framework of legal positivism, they had not ruled on whether those people were innocent or not. They argued they had narrowly decided, instead, that there was no *valid* evidence to prove their guilt. In words of Minister José Ramón Cossío:

No puede entenderse que este tribunal está absolviendo culpables. La sala únicamente está negando valor a actuaciones contrarias al orden constitucional, pues de las constancias que obran en la causa penal no es posible afirmar que jurídicamente haya culpables. . . . Aquí sólo se está determinando que a los quejosos no se les siguió un debido proceso, lo cual no equivale en absoluto a un pronunciamiento sobre si, *de facto*, son o no inocentes. (Méndez 2009)¹⁶⁷

[This court should not be seen as acquitting guilty parties. The court is only denying the value of legal proceedings contrary to the constitutional order, because, based on the court records, it is not legally possible to say that there are guilty parties. . . . Here it is only being determined that the defendants were not given due process, which in no way amounts to a *de facto* ruling of whether they are innocent or not. (Méndez 2009)]

¹⁶⁷ Exactly this same assertion was included in the document “*Nota introductoria sobre impunidad*” (2009).

The distinction between a *de facto* truth and the *legal* truth is based on the argument that the legal realm is neutral and objective, since political and social circumstances are supposedly beyond the norms that rule the parameters of official justice. This positivistic logic obscures the fact that there are always political and subjective motivations that configure what is “legally true” in each case. Regardless of their procedural dogmatization by judicial means, these “legal truths” usually break down in the field of *praxis*. On the basis of a legal principle, the people released from prison would never be prosecuted and judged again for the same charges: Doesn’t this also mean to free them of those charges? Isn’t this the meaning of innocence, at the end of the day?

Several other questions arose from the SCJ’s decisions and its underlying logic. How, precisely at that moment, after some of the accused had been imprisoned for twelve years, could legal evidence become “constitutional violations”? After these rulings, would it become possible for every person whose rights had been violated to receive constitutional protection (and therefore, freedom) just by arguing that due process had not been observed? What message did the SCJ send when it freed identified perpetrators of the massacre without performing a new investigation of the case? How would this new legal truth impact Las Abejas’ forms of remembrance?

Regardless of their positivist approach, the ministers’ perspectives on the case were not only informed by the legal files. It would be completely absurd to think that the ministers could isolate their thinking from the interpretations and perspectives provided in the news by political analysts; from Aguilar Camín’s highly publicized reconstruction of the massacre and its previous events; and, of course, from the political pressures the ministers were receiving in the process of deciding a case with such political importance. As I have demonstrated in this chapter, ministers’ legal positivism represents an intrinsic contradiction with the protection of indigenous rights. Legal positivism is simply incompatible with the full justiciability of indigenous rights. To respect survivors’ indigenous rights, the court must have had incorporated a cultural perspective in the analysis of survivors’ testimonies. Since the ministers are not experts in the interpretation of indigenous speech and culture, they should have consulted those who are, in order to

fully guarantee victims' indigenous rights. Nonetheless, legal positivism denies judges the possibility of considering non-legal circumstances (such as culture) when analyzing legal files, contradicting with this the logic behind indigenous rights' recognition.

The judicialization of indigenous politics in Latin America has opened a space for states to constrict previously recognized indigenous rights precisely at the moment when indigenous peoples are trying to invoke these rights in the courts. In the Acteal case, this constriction of rights has selectively affected indigenous peoples in open resistance to the neoliberal settler-colonial state, while at the same time endorsing those indigenous people who participated in the state's project of counterinsurgency and elimination of the native. As the Acteal case shows, judicial revision has allowed the full realization of politicized processes of historic revisionism. Through them, the legal truth has been equated with the historical truth in the mind of disinformed audiences. Defendants' rights have been guaranteed in detriment of victims' rights. In this process, the work of the state's think tanks and the political elite's social networks has been crucial in legitimating a version of the massacre that erases survivors' testimonies and leaves the state's responsibility outside the scope of justice. In this sense, the concept of *judicial limpieza* aims to explain the articulations between the judiciary's practices of neoliberal justice and historic revisionism alongside the (para)military's project of ethnic cleansing.

Chapter 5

Remembering the Massacre, Embodying the *Otra Justicia*

[...]
el norte es el que ordena

pero aquí abajo abajo
cerca de las raíces
es donde la memoria
ningún recuerdo omite
y hay quienes se desmueren
y hay quienes se desviven
y así entre todos logran
lo que era un imposible
que todo el mundo sepa
que el Sur también existe

—Mario Benedetti, 1986

Months before each anniversary of the Acteal massacre, Las Abejas release an invitation to the general public. In 2013, this invitation read:

In order to commemorate the Anniversary of the massacre of forty-five of our siblings and four babies that were not yet born in that sad December 22nd of 1997, in this community of Acteal, Chiapas, we invite you to accompany us in our activities where all of us: elders, men, women, boys and girls, members of the organization Las Abejas, will gather to share the mission and commitment we have with our Tzotzil people and all the indigenous peoples from different parts of the world. In particular, we want to share the experiences of the non-violent struggle we initiated twenty-one years ago. *The survivors of the massacre will also share with us their sorrow and the sadness they experienced at the moment of the massacre.*¹⁶⁸

In this chapter, I will discuss how the impunity surrounding the Acteal massacre has driven Las Abejas members toward new forms to struggle for justice through

¹⁶⁸ Las Abejas of Acteal's website: <http://acteal.blogspot.com>. Translation is mine.

embodied practices of memory. I argue that these practices reveal the emergence of a conceptualization of justice that goes beyond seeking punishment for the perpetrators of these acts, and constitute a way in which Las Abejas are trying to obtain the acknowledgment, validation, and veritable transmission of their collective traumatic memories to local younger generations and foreign visitors. To illustrate this, I analyze the events held in Acteal during the 16th Annual Commemoration of the Massacre in 2013 in light of Las Abejas' testimonies and explanations of different aspects of their organization.

The year 2013 was heavily marked by the re-articulation of paramilitary forces in Chenalhó, after the Supreme Court of Justice ordered the immediate release of some of the leaders of the paramilitaries during the time of the massacre. Once again, Las Abejas' families were targets of attacks, actualizing survivors' deepest fears that impunity would allow violence to be reignited at any given moment. Las Abejas identify themselves as pacifists. Their "weapons" are their words, their bodies, and their spirituality. With their bodies, they fast, they march for hours, and hold meetings in front of state institutions, such as the military headquarters in Majomut, the local prison, or the courts. During those meetings, they pray, celebrate masses, and make public *denuncias* [denunciations] that the media disseminates. In their pacific forms of protest, they use Catholic symbols such as crosses (one for each person killed in Acteal) and banners with images of the Virgin of Guadalupe and the saints. For an outside observer, it is difficult to discern whether Las Abejas are performing a religious procession or are protesting; in fact, they are doing both. In a country where Catholicism is the main religion, this mixture of symbols tends to confuse and paralyze the police. Besides, since the massacre, Las Abejas have become somehow publicly untouchable by state authorities during their acts of protest.

In 2013, I saw Las Abejas joining the protests for the liberation of Alberto Patishtán—a Tzotzil professor and political prisoner from the municipality of El Bosque—and of his comrades from the organization *La Voz del Amate*.¹⁶⁹ At least a

¹⁶⁹ The history of the *profe* Patishtán is very interesting in this sense. During his thirteen-year imprisonment, Patishtán became a political and religious leader with dozens of followers. His

couple of those protests took place in front of the CERESO 5,¹⁷⁰ where Padre Marcelo Pérez, then the parish priest of Chenalhó, celebrated masses for Patishtán and the political prisoners inside that prison in San Cristóbal de las Casas. The sound system made it possible for the prisoners to listen to the mass. After the mass, all the people gathered (members of the Pueblo Creyente, of the local teachers' organization, people from the municipality of El Bosque, members of Las Abejas, people forming part of a national and international solidarity, in addition to a group of alternative media) marched around the prison. We did not stop chanting slogans through the loudspeakers as we marched, with the aim of cheering the prisoners. The police did not intervene.

During the year of 2013, Las Abejas participated in more than 12 marches. In some cases, just a commission of Abejas traveled to join other movements' marches, such as those that took place in the municipality of Simojovel against the increase of violence. Even though Las Abejas had several aspects in common with other local movements, the peculiar characteristics of Las Abejas make them unique in the whole political spectrum of Chiapas. As Antonio Vázquez, one of the founders of Las Abejas, explains:

La diferencia es que somos pacifistas y trabajamos en organizaciones de la no violencia, hacemos denuncia. Trabajamos en el rescate de nuestra cultura porque nuestra raíz es maya. Buscamos cómo sobrevivir ante esta grave situación económica. Y también buscamos organizarnos en colectivo. La iglesia nos permitió abrir y fortalecer nuestra organización al no poder encontrar justicia. Las abejas tienen armas de no violencia, que ha venido desde la fundación.

Antes (del 94) somos priistas, pero en el 94 se da el levantamiento zapatista y hay otras organizaciones. Nosotros simpatizamos con sus demandas,

outstanding charisma, eloquence, and humor and his ability to quickly establish emotional connection with many of his interlocutors the attention of many *solidarios* from several parts of the world. In jail, he taught Spanish to other indigenous prisoners so they could better defend themselves. He converted several prisoners to Catholicism, gave them support and encouragement to continue struggling for their freedom, and organized hunger strikes to protest and visibilize the abuses they were submitted to while imprisoned. To organize these protests, Patishtán and other political prisoners formed the organization La Voz del Amate [The voice of The Amate], named after the prison in which they were held in Cintalapa, Chiapas.

¹⁷⁰ CERESO, or Centro de Readaptación Social [Center for Social Readaptation] is a euphemism for “prison.”

pero decidimos ser independientes para defender la tierra, los derechos humanos y trabajar al rescate de la cultura porque somos indígenas nativos de la nación, porque nuestras raíces tienen que promover trabajo colectivo para defendernos de las situaciones económicas. Son tres ejes en los que trabajamos: Cultura, económico y político. La religión entra en todo, en los tres ejes.

[The difference is that we are pacifists and we work in organizations of non-violence, we make denunciations. We work in the rescue of our culture because our root is Mayan. We seek ways of surviving this serious economic situation. And we also seek to organize ourselves collectively. The church allowed us to open and strengthen our organization because we could not find justice. Las Abejas have weapons of non-violence, which have existed since this organization's the foundation.

Before (1994) we were PRI members, but in 1994 there is the Zapatista uprising and there are other organizations. We sympathize with their demands, but we decide to be independent to defend the land, human rights, and work to rescue our culture because we are indigenous natives of the nation, because our roots call for us to promote collective work to defend us from [poor] economic situations. There are three axes in which we work: Culture, economics and the political. Religion enters into everything in the three axes.]

One of the ways in which Las Abejas have faced the horror, devastation, and the loss of their collective life after the massacre has been through the transformation and resignification of the space where the massacre took place. Since the funeral, when Las Abejas decided to bury all the victims together in Acteal, and years later, when they built a large open sanctuary over the collective grave site in order to host monthly and annual commemorations of the massacre, Las Abejas have constantly strived to give violence and death a renewed communitarian significance. Las Abejas believe that the blood that their relatives spilled transformed Acteal into a sacred land, and made their slain relatives, into martyrs. As witnesses of what happened that day, survivors have assumed the duty of keeping their martyrs' memory alive. This duty weighs differently on men than for women. While many survivors have devoted their lives to the project of disseminating their collective experiences of the massacre, men have done so by participating in the leadership of their organization, and women have participated with the role of sharing their testimonies, becoming the faces and *living bodies* of the massacre.

Carolina Méndez* was seventeen years old when the massacre occurred. She survived by faking her death for several hours, lying still under her comrades' bodies. Below a bodily pile of death, she could feel blood running on her face; since she could not move, she was unable to verify whether it was her own blood. She thought she was bleeding to death.¹⁷¹ Carolina was shot four times before falling to the ground; while none of those shots took her life, they left her with crippling wounds in her legs that have severely confined her movements. After the paramilitaries left the scene of the massacre, she remembers hearing a very strange noise. She thought it was the paramilitaries trying to burn the piles of bodies. However, that did not occur. Today she thinks that noise was the *pucuj* (the devil) or the noise of the souls of those killed. After a long silence, those who survived began yelling to see if there were more survivors among the piles of bodies spread on the ground. Carolina explains she was unable to answer: Because of the shock, she could not tell if she was dead or alive.

Carolina's wounds took several years to heal. She went under surgery three times. Since Las Abejas decided to stop receiving support from the government in 2008, that meant that the ones who were wounded during the massacre would also stop receiving the little support they got from the government for their medical treatment. For that reason, she has had to rely on a network of doctors from Mexico City who have been in solidarity with Las Abejas since 1997. They were the ones who began paying for Carolina's transportation costs and medical expenses. However, they recently told her they couldn't keep covering those expenses. Carolina needs physical therapy and has been waiting for eight months for Las Abejas' Directive Board to find money to cover its cost. The last thing she heard is that Frayba was going to ask for that money through the IACHR.

This detail is really important in order to understand Las Abejas' rupture with the government. Las Abejas are not willing to accept any support from the government given in the form of charity. They want the government to assume its complete responsibility

¹⁷¹ Testimony of Carolina Méndez Paciencia*, Psychosocial Expert Testimony, CDHFBC, Acteal, July 24, 2014.

for the massacre, and therefore, its obligation for fully covering survivors' medical expenses. Through their *caminar* in *La Otra Justicia*, Las Abejas are trying to restore the dignity that the government has taken away from them in the process of seeking justice after the massacre. Therefore, as part of an emergent conceptualization of justice, survivors want the government to recognize them as full-fledged subjects, *entitled* to preserve their lives and to receive medical treatment, instead of being treated as objects of a humanitarian aid they have to beg for, and which is based on being racialized as inferior subjects, never complete, never fully human. The point is that the money for medical support, for development projects, and their rights belong to them and should not depend on the government's recognition. As Shannon Speed explains for the case of Zapatistas, their

. . . [E]ngagement with state structures thrives on the knowledge that such [indigenous] rights and their protection arise as a result of a struggle of social forces in which they must engage, and not because of the will of the sovereign. (Speed 2008, 154)

Carolina says she cannot stand not being able to walk and to work in the *cafetal* (coffee plantation) as she did before the massacre. She could not accept what had been done to her body. She despised herself and wanted to kill some of the paramilitaries who were never imprisoned and who lived close to her house. Besides, Carolina felt a tremendous guilt for being alive while most of her relatives were killed that day, including her mother. She told me that one day her mother appeared in her dreams asking Carolina not let her anger grow because she was going to get sicker. Her mother asked her to forgive so that she could get well. Seeing her mother again gave her strength and propelled her "to enter into the Word of God," which at the same time led her to take a more active role in Las Abejas' struggle. In the past, Las Abejas authorities had asked her to share her story with the people who visited Acteal, but the memories were so painful that she felt unable to speak. After she got more involved in the struggle, she finally decided to share her experience during one of the monthly commemorations. She thinks that this decision allowed her to find a new meaning to her survival:

Yo pienso que Dios lo pensó así: “como tú salvaste tu vida, tú vas a difundir la palabra sobre lo que sucedió en la masacre. Tú tienes la palabra.” Entonces cada veintidós, cuando el presidente de Las Abejas pide la palabra de uno de los sobrevivientes, yo me pongo de pie, confío en Dios, y doy mi palabra sobre la masacre.¹⁷²

[I think God thought of it this way: “Since your life was saved, you are going to spread the word of what occurred during the massacre. You have the word.” And so, every 22nd of each month, when the president of Las Abejas asks for the word of one of the survivors, I stand up, trust in God, and share my word about the massacre.]

Carolina’s experience with the act of giving testimony coincides with the experience of most of the survivors. Months after the massacre, survivors did not want to talk about the horrors they witnessed. Human rights activists narrate how the massacre brought an unbearable dense silence to Acteal. However, these activists, as well as the prosecutors, brought to Acteal the urgency to collect as many survivors’ testimonies as possible to document human rights violations and other intricacies of the case. As Blanca Isabel Martínez, former director of Frayba, expressed, Las Abejas were very willing to collaborate with the PGR’s investigations, regardless of the state’s omissions in the prevention of the massacre and in the preservation of the crime scene. Las Abejas believed in the state as an administrator of justice.¹⁷³ In the words of the psychologist and activist Cecilia Santiago, who worked with the victims for several years after the massacre:

Un sector social de la región afectada, porque afectados fueron todos, pero una parte estuvo en el inmediato de decir sí, vamos a denunciar y vamos a tener justicia aquí, justicia del estado mexicano. Pero otro sector dijo no: los zapatistas. Y a mí me tocó ir como con Frayba al municipio autónomo de Polhó, decirles “miren de posibilidad, si ustedes quieren demandar, se necesita que den sus

¹⁷² Testimony of Carolina Méndez Paciencia*, Psychosocial Expert Testimony, CDHFBC, Acteal, July 24, 2014.

¹⁷³ Interview with Blanca Isabel Martínez Bustos, Psychosocial Expert Testimony, CDHFBC, San Cristóbal de las Casas, March 16, 2014.

testimonios”. “No, sálganse de aquí, porque nosotros no esperamos justicia”. ... *Digamos, Las Abejas “confiaron,” a diferencia de otros sectores, en la justicia. Que deberían denunciar y que sea un camino. Sí, y eso les separó. Esos dos caminos, les separó. Les separó de las comunidades más zapatistas y otras.*¹⁷⁴

[A social sector of the affected region—all were affected—one part immediately said yes, we will make our accusations and we will have justice here, justice of the Mexican State. But another sector, the Zapatistas, said no. And I went with Frayba to the autonomous municipality of Polhó to tell them “Look, if you want prosecutions to occur, you need to give your testimonies.” “No, get out of here, because we do not expect justice.” ... *In other words, Las Abejas “trusted” in justice, unlike other sectors. They thought they should make legal complaints to the state and that this should be the path. Yes, and that separated them. Those two paths split Las Abejas from communities that had more Zapatista leanings and from other communities.*]

The fact that Las Abejas began seeking an *Otra Justicia*, a concept that Zapatistas use to refer to their autonomous justice (EZLN 2014a; 2014b; Fernández Christlieb 2014; Mora 2015), can also be interpreted as Las Abejas’ attempt to follow the steps of Zapatismo and to bridge the paths that separated them once. Padre Marcelo Pérez, a former parish priest of Chenalhó¹⁷⁵ and one of the few priests who has access to the Autonomous Municipality of Polhó, has had a crucial role on bringing Las Abejas’ struggle closer to Zapatismo. As he says, “the voice of the Zapatistas is strong in Acteal.”¹⁷⁶ In the monthly communiqués that Las Abejas read during each

¹⁷⁴ Interview with Cecilia Santiago, Psychosocial Expert Testimony, CDHFBC, San Cristóbal de las Casas, March 15, 2014. Emphasis mine.

¹⁷⁵ Father Marcelo is also one of the few Tzotzil priests in the Catholic Church. He began working in Acteal in 2001 as a deacon with the mestizo parish priest Pedro Arriaga. Bishop Felipe Arizmendi, who succeeded Samuel Ruiz, named Marcelo the parish priest of Chenalhó in 2007. He is a known activist of liberation theology and has organized several protests with Las Abejas and the Pueblo Creyente. This made him target of several attacks that put his life at risk. In what has been interpreted a political decision, Arizmendi removed Father Marcelo from Chenalhó in 2013 and sent him to the municipality of Simojovel, about seven hours away from San Cristóbal. This was not an impediment for Padre Marcelo to continue his struggle against corrupt governments. In Simojovel, he has mobilized the town to protest against the mayor’s alleged corruption and an increase of violence, which he attributes to the existing problem of alcoholism and the spread of *cantinas*. Father Marcelo has received new threats, but he insists that the powerful are not going to shut him up.

¹⁷⁶ Interview with Marcelo Pérez. Psychosocial Expert Testimony, CDHFBC, April 14, 2014.

commemoration of the massacre, Las Abejas constantly echo Zapatistas' communiqués, their language and grammar of struggle. The government is constantly referred to as "*el mal gobierno*" ("the bad government") and "*resistencia*" (resistance) is used to define the path of not falling into the temptation of accepting resources from the government. As Padre Marcelo explains: "El EZ[LN] opta por la resistencia pues se da cuenta que con nuestros derechos [indígenas], el gobierno nos tapa la boca"¹⁷⁷ (The EZLN opts for resistance because it realizes that the government uses our [indigenous] rights to quiet us).

According to Padre Marcelo, 1994 is the turning point when the government initiated an economic war against the peoples and began bringing development projects to dissident communities in Chiapas. The government gives these projects in exchange for people's not speaking about justice. In this sense, the government is using its obligation of providing development projects to indigenous communities as a way of extorting people to not exercise their rights. As I will explain below, Las Abejas refer to this logic as "the sugar bullets." In a similar way in which the government uses rights discourse to dominate and further racialize indigenous peoples, the government is also *exappropriating* notions of *Otra Justicia* and *Lekil Kuxlejal* (the good life) to advance its own agenda. *Buen vivir* (good living) has been a motto that the government uses to describe what its development projects are aimed at. The government also says *la Otra Justicia* not only has to be in the legal realm, but linked to *buen vivir*, and therefore, with the development projects that the government uses to coopt the population.

During a workshop with Las Abejas, two women, Antonia Pérez (57 years old) coordinator of the parish, and Roselia López (33 years old) from the Acteal chorus added two important points to the discussion of what it means to be Abeja. Their words revealed some difficult aspects of their political identity that male authorities avoided mentioning:

Ser Abeja también significa no recibir apoyo del gobierno. Que, aunque nos traten de intimidar con apoyo, no lo aceptamos aunque nos estemos muriendo de hambre. (Antonia Pérez, 2014)

¹⁷⁷ Idem.

[Being Abeja also means not receiving support from the government. That, even when they try to intimidate us with support, we do not accept it even if we are starving. (Antonia Pérez, 2014)]

Abeja también significa vivir en la resistencia, porque no aceptamos los apoyos del gobierno, no vamos a la escuela del gobierno, *vivimos en la resistencia*. Porque aunque yo no estaba en la fundación de Las Abejas desde el inicio, sabemos cuál es el caminar de Las Abejas. (Roselia López, 2014)

[To be Abeja also means living in resistance, because we do not accept government support, we do not go to government's school, *we live in resistance*. Because although I was not there for the founding of Las Abejas from the beginning, we know what is Las Abejas' *caminar*. (Roselia López, 2014)]

Las Abejas' *caminar*, that is, participating in the day-to-day of the struggle, is a praxis headed towards autonomy. "No one can serve two masters," is a passage of the Bible that Las Abejas quote constantly to explain how they understand their path. The complete passage says, "Either you will hate the one and love the other, or you will be devoted to the one and despise the other. You cannot serve both God and money." (Matthew 6:24). In Las Abejas' perspective, the neoliberal state epitomizes *money*. You serve God, or you serve the state. During an interview, the elder Josefa Pérez eloquently explained this situation:

El gobierno convence a la gente de la comunidad de irse con partidos y dejar esta organización de cualquier forma. Ahora estamos rodeados de priistas. El hijo del dueño de la tierra de la ermita es priista, y cuando se construyó nos dijo que no se aprovechaba el terreno al hacer una ermita ahí; a fin de cuentas se terminó de construir con conflictos y todo. El hijo del dueño del terreno vino a sacar todo el cableado y todo, pero aun así se hizo. Los priistas tratan de convencernos de que cambiemos. A mí me vienen a preguntar "¿Qué vas a comer hoy?" Y yo les digo que a mí no me estén diciendo cosas del gobierno. Si yo tengo que morir de hambre, así que pase. Yo sólo tengo un dios. Aunque sea voy a chupar pepa de durazno, o cuando un perro esté con su hueso se lo voy a quitar, pero no me voy a ir con un partido.¹⁷⁸

¹⁷⁸ Testimony of Josefa Pérez*, Psychosocial Expert Testimony, Acteal, July 24, 2014.

[The government convinces the people of the community to join the political parties and to leave this organization. Now we are surrounded by Priistas. The son of the owner of the land of the chapel is Priista, and when it was built he told us that it was a waste to put a chapel there. At the end of the day, the chapel was constructed with conflicts and everything. The son of the landowner came to take all the wiring and everything, but the chapel was built anyway. Priistas try to convince us to change. They come to ask me, “What are you going to eat today?” And I tell them not to come to me telling me things about the government. If I have to starve, so be it. *I only have one God*. Even if I have to suck a peach pit, or if I have to take a bone away from a dog, I’m not going with a political party.]

Outside Chenalhó, in the neighboring municipalities of Simojovel and Pantelhó, are two Abeja communities that used to be Zapatistas. It was only a few years ago when they decided to become Abejas, because the struggle as Zapatistas became too taxing for them. Las Abejas also call themselves “autonomous.” But their autonomy is very different from Zapatista’s autonomy. It is not territorially based, or at least not mainly. Las Abejas’ center is Acteal Centro, over which Las Abejas practice a territorial autonomy. Acteal Centro has several wood houses with tin roofs and one house of block and cement, provided by one of the government’s development programs. This situation attests how in Acteal there are people who have abandoned the struggle and are receiving resources of the state. The majority of Las Abejas live outside Acteal in other communities in Chenalhó, where they coexist with Priistas and with members of other organizations. Therefore, Las Abejas’ autonomy is understood in terms of a personal realm and not in terms of the territory over which Las Abejas have a jurisdiction: “Hay autoridad, por eso se habla de autonomía: Tenemos nuestras propias autoridades,” [There is authority in Acteal. That is why we speak about autonomy: We have our own authorities], argues Antonio Vázquez.

If an act of injustice gave origins to Las Abejas in 1992, the massacre became what La Capra (2014) calls “the founding trauma” for a new phase in Las Abejas’ organization. Acteal turned into the symbol of state violence and impunity for those struggling against the state’s neoliberal project, within Chiapas and beyond. Their new salience within the political spectrum immersed Las Abejas in demanding organizational dynamics. As Diego Pérez recounts:

[D]ecidimos empezar a trabajar, a trabajar pero ya no tan igual como antes, ya no era lo mismo. Como que si ya se piensan muchas cosas y además ya hay muchas reuniones; muchas reuniones que se hacen. Bueno, por ejemplo, unos hermanos solidarios que les van a entrevistar, o viene Frayba para que nos dé información sobre cómo va el proceso y bueno hay muchas, muchas reuniones.¹⁷⁹

[W]e decided to begin to work, but work was not the same as before. Now we had a lot of things to think about, and besides, there were several gatherings all the time. Several. For example, with some partners in solidarity who come to interview us, or Frayba [human rights lawyers] comes to give us information about the judicial proceedings. And well, there were many, many meetings]

Las Abejas began receiving legal and organizational advice from various organizations worldwide, and decided to form a Board of Directors in order to better address the new needs of the organization. At the same time, the Mexican government began fabricating a cover story that countered Las Abejas survivors' testimonies and denied the state's responsibility in the massacre. As noted in previous chapters, this officially sanctioned version of the massacre attributed the slaughter to local indigenous peoples' customary violence as a means of resolving conflict. With the invisibilization of survivors' testimonies, Las Abejas' collective grief acquired a new meaning. The constant recounting of the events of the massacre became, for Las Abejas, a way of asserting their presence before a settler-colonial state that was reticent to recognize their voices and their rights to justice. After a few years, Las Abejas learned that recounting their memories of the massacre was also a way of attracting solidarity support from outsiders. This support not only allowed the social reproduction and growth of the organization, but also provided legitimacy to Las Abejas' version of the massacre and helped Las Abejas spread it throughout activist and NGO networks all around the world.

Las Abejas' public acts of memory acquired an increased sense of frustration and desperation in 2009, when the Mexican Supreme Court of Justice began to overturn the convictions of the 86 people previously imprisoned for the massacre, arguing that their right to due process had been violated. Little by little, ruling after ruling, the Supreme

¹⁷⁹ Testimony of Diego Pérez Jiménez. Psychosocial Expert Testimony, CDHFBC, May 9, 2014.

Court acquitted almost all of those who the survivors identified as the perpetrators of the massacre. Piecemeal administration of impunity for the paramilitaries has become a key strategy in the state's war of attrition against organized indigenous peoples struggling for political autonomy. After twelve years in prison, those who were acquitted went back to their homes in Acteal, carrying with them a desire for retaliation. The paramilitaries' return represented a rupture in Las Abejas' sense of life's continuity. Seeing the paramilitaries again reconnected the survivors with the experiences of the past that resided in their bodies.

Juan Vázquez is the oldest son of Alonso Vázquez, the catechist and leader of the displaced Abejas, killed with his wife and daughters during the massacre. Juan was just fourteen years old when the massacre happened. From one day to the next, he became an orphan and the one responsible for his younger siblings. He and his siblings grew up in an environment of loss and trauma. Juan's life is the embodiment of the consequences of impunity, and these days he has also to deal with the return of the paramilitaries in Acteal:

Sí, yo siempre yo cuando yo iba a comprar cositas ahí en Pantelhó, siempre yo encuentro a los paramilitares, o sea, a mis primos. Pero si cada vez que yo veo, veo su cara, me siento muy enojado con ellos, entonces mejor no hablo, tampoco ellos me hablan porque me conocen y también uno de mi tío que vive ahí cerca de Acteal. ... [C]asi son, todos son mis familias y mataron a sus propios familias, entonces no tiene razón de que "ah, entonces platicamos, ahora vamos a ir a comer." No, yo no hago caso con ellos, mejor camino solo. . . .

Bueno, yo quería yo decirle me siento mucho miedo de que los paramilitares vuelven a repetir otra vez lo que hicieron en el '97 porque los paramilitares ahí andan en las comunidades, cuando fue liberados dijo el gobernador que ya no van a volver en la comunidad pero no fue así, fue una mentira y ahí están viviendo en la comunidad y gozando con su familia, trabajando libremente en sus cafetales y nosotros como víctimas, como huérfanos teníamos miedo de que vuelvan a repetir otra vez y además los paramilitares cuando liberaron fueron premiados con una cantidad de dinero, como cinco mil pesos de dinero y aparte el terreno y sus casas y ahorita andan con vehículos,

entonces así fue, entonces siempre lo sentimos mucho lo que fue, lo que está pasando hasta el momento.¹⁸⁰

[Yes, every time I go to buy things there in Pantelhó, I always come across the paramilitaries there—that is, my cousins. Every time I see, I see their faces, I feel very angry with them. It is better that I don't speak with them and they don't speak to me because they know me and this also happens with [a cousin, the son] of one of my uncles who lives near Acteal. ... Almost all are part of my [extended] family and they killed their own family. That's why there is no point in saying, "Oh, let's talk, let's go get something to eat." No, I disregard them, it is better to go my own way. . . .

Well, I wanted to tell you that I am very afraid that the paramilitaries will repeat again what they did in 97 because the paramilitaries there are in the communities, when they were liberated the governor said that they would not return to the community but that is not what happened, that was a lie and there they are, living in the community enjoying their family, working freely in their coffee fields and us, victims, like orphans scared that they would return to repeat again and besides, when the paramilitaries were set free they were given a certain quantity of money, like five thousand pesos, land and houses and now they go around in vehicles, and so it was like that, and so we always feel deeply what happened, what is happening right now.]

For Las Abejas, the fact that paramilitaries were freed and are receiving land, houses, and money from the government is confirmation that the government made a pact with them, assuring them impunity since the beginning, in the logic of "Kill the dissident ones and we will manage to get you out of jail and pay you later."

On April 2013, Las Abejas' indignation increased as much as their fear when the court acquitted Jacinto Arias, former mayor of Chenalhó during the time of the massacre, whom Las Abejas identified as one of the leaders of the paramilitaries. His return to Chenalhó unleashed a new cycle of violence, provoking the forced displacement of seventeen Abejas families from the neighboring hamlet of Ejido Puebla, Chenalhó, in June 2013. As if history was repeating itself, these families sought refuge in Acteal. With a refugee camp at the center of Acteal, the Annual Commemoration of the Massacre in 2013 was tainted with a mood of fear. While the extreme conditions of poverty of the

¹⁸⁰ Interview with Juan Vázquez Luna of Acteal. Psychosocial Expert Testimony, CDHFBC, May 29, 2014.

displaced families were not new to Las Abejas, they were significantly different from those experienced before the massacre. By 2013, sixteen years had passed after the massacre and Acteal presented several traces of the growth of the organization and the hand of national and international humanitarian aid. Acteal was now equipped with cement stairs that easily lead visitors to the center of the community without having to walk over the slippery mud that covers the steep slope where Acteal is located. The community has electricity and water services. A couple of structures that house public latrine toilets and a shower give testimony of international solidarity's presence. The same goes for the new medical clinic with its project of autonomous medicine driven by Las Abejas' health promoters; the media center equipped with a couple of computers, video cameras, and voice recorders; the visitors' kitchen;¹⁸¹ the handicraft shop; and of course, the three Catholic chapels built just few steps away from each other. The chapel from the time of the massacre is made with boards; there is a block and concrete one that was constructed years later; and an open-air sanctuary/auditorium where the commemorations take place these days.

The changes that have taken place in Acteal have in a great part occurred due to commemorations of the massacre that Las Abejas have observed monthly without interruption since January 1998. Through these commemorations, Acteal became a pilgrimage site and a popular destination of political tourism in support of Zapatismo—the so-called “*zapatourism*.” For Las Abejas, these monthly commemorations constitute an opportunity to construct new alliances with other social movements and to raise funds to support their struggle. As Juan Vázquez says:

¹⁸¹ Acteal has two communal kitchens with dining tables. By the time I was doing fieldwork, Las Abejas had to build a third kitchen for the seventeen forcibly displaced families from Ejido Puebla. One communal kitchen is used during the monthly ceremonies of remembrance, when Las Abejas invite all the Abejas and outsiders who attend the commemoration for “*frijolito*” (beans). The other kitchen is the one that the members of the Board of Directors and their wives use. Members of the board spend Monday to Friday working in Acteal and return to their homes for the weekend (unless their homes are close to Acteal).

Yo pienso en cada conmemoración del 22 de cada mes es donde nos difundimos. O sea, es donde se da a conocer que no dejamos en el olvido lo que pasó en el 97 y lo que está pasando, lo que está sucediendo con el gobierno. Entonces [cada conmemoración] es un espacio también donde podemos dar nuestra palabra como víctimas, como sociedad de Las Abejas.

Cada conmemoración en cada 22 de diciembre en cada año . . . también es muy importante porque llegan muchos compañeros, hermanos solidarios y muchas organizaciones. Cuando llegan entonces como que no estamos solos o no están solos los víctimas, están acompañados por muchas organizaciones. [Este acompañamiento] es una fuerza donde se ve bien claro que cuando fue la masacre fue encabezada por el gobierno.¹⁸²

[I think that each commemoration on the 22nd of each month is where we spread the message of our struggle. We let everyone know that we haven't forgotten what happened in 1997 and we denounce what the government is doing in the present. [Each commemoration] is a space where we can give our words as victims, as Las Abejas [Civil] Society.

Annual commemorations on December 22 ... are also very important because we receive a lot of comrades, partners in solidarity, and several organizations. When they arrive, we feel like we are not alone, that the victims are embraced by several organizations. [This accompaniment] is like a strength that leaves very clear that it was the government that headed the massacre.]

On December 22, 2013, as has occurred every year since 1998, hundreds of people from different nationalities and ages gathered in front of the military base of Majomut, between the Zapatista Autonomous Municipality of Polhó and Acteal. They protested against paramilitary impunity, showing the army that Las Abejas are not alone, and that the protesters are not one group, but a multiplicity of them. Afterward, they embarked on a one-hour procession in the direction of Acteal. Following the images of their saints and the banner of the Virgin of Guadalupe, the survivors marched carrying wood crosses with the names of their slain relatives. A traditional music band formed with homemade instruments such as a harp, a violin, a guitar, a flute, and a drum, accompanied the procession. Las Abejas marched in two different lines. In the one on the right marched women and children; men marched in the left line, next to the highway's lane going the opposite direction. Behind them marched all the visitors, including

¹⁸² Interview with Juan Vázquez Luna of Acteal. Psychosocial Expert Testimony, CDHFBC, May 29, 2014.

Frayba's human rights advocates, members of local and international NGOs, as well as indigenous people from various social movements. As happens every year, the visitors used the opportunity to catch up on the latest news, to discuss politics, and to renew alliances as they marched towards Acteal. For other visitors who were in Chenalhó for first time, this procession or pilgrimage was an opportunity to learn how indigenous peoples live in one of the most marginalized municipalities in Mexico and to hear directly from the voices of the survivors the stories of what happened in that place.

The peregrination followed the path of the highway that connects San Pedro Chenalhó with the municipality of Pantelhó, which shows foreigners several views of the everyday lives of the people from Chenalhó. Congregating in front of Majomut's military headquarters is a symbolic act that shows the army that Las Abejas are not alone.. The procession passes next to the sand bank, which was also a source for the disputes that resulted in the massacre. The garbage dump close to the entrance to Acteal shows the government's neglect; the continued physical growth of the pile of trash symbolically marks the abandonment of the state over the passage of time.

The Construction of the Good Living Through the People's *Caminar*

Organizations and communities close to liberation theology, as Las Abejas are, make constant references to "*el caminar del pueblo.*" *Caminar* (to walk) is a verb, but in this phrase, *caminar* is used as a gerund (walking). According to Vivian Newdick, "'walking' is the Tsotsil and Tseltal-Maya metaphor for activism" (2012, 4). "*El caminar del pueblo*" refers to the peoples' struggle, understood as everyday resistance, everyday survival: as the peoples' own ways of doing and inhabiting the world, which allow for indigenous peoples' continued existence.

This *caminar* is an everyday journey. Indigenous peoples who are struggling for autonomy in Chiapas (Zapatistas or non-Zapatistas, such as Las Abejas) know that the change they are struggling for is not going to arrive in the short term. They know they probably won't live long enough to experience such change. However, the hope they have for this change is immense. This hope propels indigenous peoples to seek for other

ways of “*caminar*,” for other forms of sociality, where the *lekil kuxlejal* (“the good life”) can take place. The way this “*caminar*” takes during one’s life is crucial. The *lekil kuxlejal* (as well as autonomy) is not an end in itself. It is a process. The peregrinations to Acteal are an embodied representation of this knowledge. *Lekil kuxlejal* is seen as a path in which indigenous peoples “walk.” This is a kind of path that confuses itself with the act of walking, because the path is blazed through the everyday praxis, through the daily walking. *Lekil kuxlejal* refers to how those paths are walked and inhabited. In this sense, the “good life” is a praxis and a horizon of struggle. Therefore, respect is a crucial element of the *caminar*.

In his research into the meaning of *lekil kuxlejal*¹⁸³ among Tzotziles, Jaime Schittler had several conversations with elders, including Antonio Vázquez, who has been member of the Board of Directors on several occasions. From Vázquez’s explanations, Schittler deduces that someone can have a “*lek kuxlej*,” this is a “correct attitude in an ethical and moral sense.” However, to have a “*lekil kuxlejal*,” also means to have a “good life or a good existence”: to have the conditions to develop respectful relations with other people, with nature and with life in general (Schittler 2012, 41). For some elders, the *lekil kuxlejal* is the way in which the ancestors lived, following the traditions. In the exploration of this concept, the words the elder Apolonia Pérez are very revealing:

La vida de antes era muy bonita, era Lekil Kuxlejal. Ahora ya no muy existe eso, porque la iglesia no quiere que recemos en los lugares sagrados y quemar velas. Pero, si esa gente que sigue respetando la vida como antes, está muy bien, porque piden que haya vida, comida y por ejemplo si llegaba una enfermedad, hacían rezos y en la comunidad se juntaban cooperaban para pedirle a los ancianos para que recen para evitar la enfermedad. También cuando escuchaban que venía alguien, un extraño como el gobierno a despojarnos, los ancianos celebraban asamblea y organizan rezos para que no entraran esos intrusos. (Schittler 2012, 45)

¹⁸³ Schittler (2012, 41–42) explains that the word *lekil* comes from the base *lek*, that means good. The base *kux* in *kuxlejal*, is a verb that means “to revive, to become sober” or “to rest;” from the base *kux*, derives the noun *kuxul*, that means being living or alive. From it derives *kujlex*, a noun that means something like experience, life, and the process of being alive. The suffix *al* in *kuxlejal* adds an abstract meaning of totality to this noun. Therefore, the translation of *lekil kuxlejal* makes reference to the good life in a way that emphasizes life as a process.

[Life before was very beautiful, it was Lekil Kuxlejal. Now this does not really exist anymore because the church does not want us to burn candles or to pray in sacred places. But, if these people that continue respecting life as before, its very good because they ask that there be life, food; and, for example, if an illness would come they would make prayers and in the community they would come together to cooperate and to ask the elders to pray to avoid the illness. Also, when they would hear that someone would come, some outsider like the government, to move us from our lands, the elders would enact an assembly and organize prayers so that these intruders would not enter into our community.]

According to Apolonia's perspective, the fact that members of Las Abejas were fasting and praying at the moment when the massacre began, in order to prevent the attack, Las Abejas were following a praxis of *lekil kuxlejal*, which is a very important thing to take into account when discussing survivors' own interpretation of the massacre.

Celebrating the “Founding Trauma”

Las Abejas' Board of Directors spends a good amount of time and resources planning the annual commemoration, which is the most important event during their one-year service as authorities. They get prepared to receive visitors, to provide them roof, food, and the testimonies of those survivors who have assumed the duty of being “living memory.” Everybody is invited to the commemorations, except state officials, who are forbidden to enter the sacred land, as a sign at the entrance of the community asserts. The recently acquitted paramilitaries haven't dared to appear at these commemorations. However, Xun, a young member of the organization, pointed out to me a group of people suspiciously observing the event from far away, removed from the rest of the crowd. “They are paramilitaries' spies,” he said.

When the procession arrived at Acteal, Las Abejas marched in a clockwise direction, circling three times the “*Columna de la Infamia*” (The Pillar of Shame), a tall bronze sculpture at the entrance of Acteal that depicts dozens of suffering and dead bodies piled over each other. The column was placed there in 1999 as an initiative from the National Indigenous Congress (Moksnes 2012, 233). The sculpture, donated by the

Danish artist Jens Galschiot, has the following inscription in Spanish: “This sculpture has been erected to denounce the encroachments of the Mexican State on the indigenous population. May the victims be remembered and honored forever; and may the perpetrators be brought to justice and tried for their crimes against humanity.” Las Abejas embrace the statue—as they embrace their situation of victims—and have made it part of their logo. As Dominick LaCapra explains

Trauma may be transfigured into the sublime or the sacred, and the traumatized may be seen as martyrs or saints, notably in the case of victims of extreme violence or genocide. ... Moreover, in victims themselves, trauma, instead of calling for processes of working-over and working-through, may be valorized as a limit experience or as stigmata demanding endless melancholy or grieving, whose mitigation or rendering in narrative is perceived as objectionably consoling or even as sacrilegious. (LaCapra 2014: xiv–xv)

This situation is hard to understand for an outside observer. I used to talk with the visitors in Acteal and some of them said they were surprised at how Las Abejas had been able to base their organization in traumatic memories. A group of people from the Basque Country mentioned that they felt Las Abejas needed to step onto a different platform, one that pushed their autonomy further, because traumatic memory was only keeping them in survival mode. This is a position I agree with and is a discussion that the members of the diocese are having with Las Abejas. As the former parish priest of Chenalhó Pedro Arriaga explains, Las Abejas became “más papistas que el Papa” (more papist than the pope himself). They have taken the teachings of the Bible in a very literary sense and have given the massacre a redemptive meaning, to the point of calling those killed “martyrs.” Diego Pérez’s explanation is very illustrative of this situation:

Si no se hubieran muerto, *si no hubieran dado su vida* esos 45 hermanos nuestros, pues tal vez no sé cómo estuviéramos. Tal vez siguiéramos igual o se hubiera muerto más y más gente, pero de verdad murieron, murió don Alonso, y como que hasta ahí se tranquilizó un poco, pues hasta la fecha no ha habido un muerto todavía, no habían matado a alguien (de Las Abejas).¹⁸⁴

¹⁸⁴ Testimony of Diego Pérez Jiménez. Psychosocial Expert Testimony, CDHFBC, May 9, 2014.

[If they wouldn't have died, if they wouldn't have given their lives those 45 brothers of ours, well maybe, I wouldn't know how we would be. Perhaps, we would continue as before, or there would have been more and more death, but in really they really died, Don Alonso died and then things became a bit calmer, and well to this date there has not yet been one death, they have not killed anybody (of Las Abejas).]

I heard similar interpretations from other Abejas: that the blood of their martyrs calmed evil's fury. That their blood watered the seed of resistance among Las Abejas, and that their death was necessary to give birth to a stronger organization. They even say that Alonso Vázquez at some point thought that it was not a good idea to flee regardless of the rumors of a possible massacre. Since Las Abejas "had no sin," he thought that they had nothing to worry about and that the only thing they could do is to pray for God's protection. Heidi Moksnes, in her analysis of Las Abejas' politics, saw victimization as a "politics of embarrassment" (Niezen 2000, 128) that Las Abejas were mobilizing to force the state "to at least pretend to acknowledge and respond to some of their claims" (Moksnes 2012, 252). The difference I saw in 2013-2014 is that Las Abejas were transitioning to a phase where they were not expecting anything from the state and where they had lost their previous faith in the rule of law. Their public display of victimhood was an expression of their religious beliefs and a way to have communion with an international solidarity that shared those beliefs.

When the procession arrived at Acteal after walking for about an hour, we were received with music from the Acteal Chorus, which was playing for the first time its recently acquired drum stand and electric guitar. For those of us who knew the previous sound of the chorus, this shift seemed kind of revolutionary. The days of the single guitar's sound as played by Victorio, the chorus director, were in the past. Now, two young male members of the chorus were also active in using the instruments. The concrete banks in the open-air sanctuary got totally full and visitors had to find a seat in the surrounding green areas. Some of the inhabitants of Acteal climbed above the ceiling of the small church next to the sanctuary to have a better view of the event. Members of the Board of Directors, all men, sat on the right side of the altar. An entourage of priests

from the Catholic Church sat at the center, behind the altar. On the left side was the Acteal Chorus, formed by young women and men. The wives of members of the Board of Directors members sat in the first row on the left side of the sanctuary. The rest of Las Abejas' women sat behind them. Las Abejas' men sat on the right side of the sanctuary; people from outside sat wherever they found a space, but they usually are on the right side. Most of Las Abejas' men do not use the traditional attire of the region. Women do, and perhaps their attire marks a difference that visitors respect when deciding where to sit.

During the commemorations, the authorities use their traditional attire, characterized by hats with hanging colorful ribbons and a thick black *chuj* (a kind of poncho) made of sheepskin. The president of Las Abejas, Rosendo Gómez, welcomed all the visitors "to this celebration of those who fall while defending their rights." He listed all the countries, cities, areas, and organizations represented in the audience: Colombia, El Salvador, Basque Country, Germany, France, Denmark, Spain, Italy, China, United States, Barcelona, Valencia, Argentina, Netherlands, San Cristóbal, Yajalón, Pantelhó, Organización Dexpierte, Koman Iel [*Mirada Colectiva*], Frayba, Otros Mundos, Movimiento por la Paz, ITESO, Permanent Peoples' Tribunal, Alberto Patishtán... This is a practice of Las Abejas' authorities at every monthly commemoration in order to remind members of Las Abejas of the relevance of their struggle. The fact that so many people from around the world still go to visit Acteal is for Las Abejas a proof of the strength of their pacifist movement. The monthly commemorations has a much smaller attendance than the annual ones and this gives the chance to the master of ceremonies to invite all the visitors to the front of the sanctuary to introduce themselves and say a few words of support to Las Abejas sitting in the audience.

Las Abejas' Area of Communication always video records these ceremonies, creating an important archive for future generations. Paper archives do not have a long life in the humid weather of Chenalhó.¹⁸⁵ Electronic archives and electronic alternative

¹⁸⁵ One of the founders of Las Abejas had in his house a big collection of documents of this organization, but rats destroyed his archive.

media have changed the way information circulates, allowing the younger members of Las Abejas to share information via Facebook and to expand their networks. On December 22, their cameras are not the only ones making a register of the ceremony. Cameras from Televisa, TV Azteca, and other local mainstream media struggle to get the best spot from which to capture some images of the ceremony. They never stay to the end of the ceremony.

After talking about the recent liberation of former political prisoner Alberto Patishtán, who was in the audience, and about Las Abejas' role in his liberation, the president ceded the microphone to Antonio Vázquez, survivor and member of the Board of Directors, who shared his testimony of the massacre. Antonio has a deep knowledge of the *Popol Vuh* (the Quiché Maya sacred book) and the Bible. He constantly cites passages of these books that he has memorized, in order to shed light on what Las Abejas' should do when facing situations similar to those contained in these books. After him, José Alfredo Jiménez, a talented documentarist from Las Abejas' Communications Area, explained to the audience how the Supreme Court granted impunity to the paramilitaries. Besides being a past authority and a documentarist, and member of the intercultural alternative media collective "Koman Illel," José Alfredo has engaged with local scholars in academic discussions on decolonization (Jiménez Pérez 2010b) and has collaborated with at least a couple of anthropologists during their masters' and doctoral fieldwork research (Schittler 2012; Moksnes 2012). José Alfredo's acute sense of politics permeated the whole event, where he served as the master of ceremonies. By this time he had already been asked to serve as president of the organization the following year, a commitment burdened with responsibilities, and which for him would mean leaving aside his work and continued training as a communicator.

As in every commemoration of the massacre, Las Abejas released a communiqué written in Spanish. The survivor chosen to read it this time was Juan Vázquez, the son of Alonso. Las Abejas' communiqués are addressed to "the social and political organization, to the human rights defenders; to the alternative media; to the national and international press; to the national and international society; and to the adherents of the [Zapatista]

Sixth Declaration of the Lacandon Jungle.” This time, Las Abejas explained in their communiqué that “the violence that took the lives of forty-five people in Acteal has spread to the rest of the country like bad weed” and that the supposed war against organized crime is in reality a war against organized peoples. Las Abejas recognized that in Mexico there is also a violence that doesn’t kill immediately, but little by little: “the sugar bullets” that the government throws to people in order to keep them quiet. These are the assistentialist programs that the government uses to numb the consciousness of the poor.

In their communiqué, Las Abejas made constant references to the *Popol Vuh*, comparing the Mexican government with the lords of the underworld, and explaining how the politicians are using the law to plunder the country:

Lo que molestaba a los señores de Xibalbá en el Popol Vuh era el ruido que hacían los gemelos cuando jugaban a la pelota. Querían callarlos. Y para eso los invitaron a jugar con ellos, pero a jugar con sus reglas de ellos que estaban llenas de trampas. Así es ahora en México: todos tienen que jugar el juego del gobierno con las reglas que el mismo gobierno pone. La contrainsurgencia que ahora es para todos, no nada más para los indígenas de Chiapas, tiene dos partes: el engaño y la represión. Como dicen algunos, la zanahoria o el garrote. O, como hemos dicho las Abejas en otras ocasiones, las balas de azúcar y las balas de plomo. (Las Abejas 2013)

[What bothered the men of Xibalbá in the Popol Vuh was the noise that the twins made when they played the ball game. They wanted to quiet them. And for that they invited them to play with the others, but to play with their rules, that were full of tricks. That is how it is in Mexico now: everybody has to play the government’s game but with the same rules made by the government. The counterinsurgency that is now for everyone, not just for the indigenous people of Chiapas, has two parts: the deception and the repression. As some say, it’s the carrot and the stick. Or, as we have said, las Abejas, in other occasions, the sugared bullets or the lead ones.]

The use of day-to-day examples analyzed under the light of the *Popol Vuh* and the Bible enhances the pedagogical and consciousness-raising objectives of Las Abejas’ discourse. Through clear words, Las Abejas’ communiqués are able to capture what is at stake in each political moment and to provide the audience with a decolonizing analysis

that directs the path to follow. When discussing the forced displacement issue they were experiencing, for example, Las Abejas denounced how, once again, the state preferred to find an “amicable solution” and to provide assistentialist programs, both to victims and perpetrators, instead of applying the law against the attackers:

We remember that when we went to denounce the violent events previous to Acteal, the authorities did not take into account our declarations, and now they say that if we stay quiet the [displacement] problem will be resolved? (Las Abejas 2013)

This type of encounter with the state has pushed Las Abejas to rethink how they envision justice.

La Otra Justicia: Embodied Memory and the Legacy of Settler-Colonialism

The Other Justice, or *La Otra Justicia*, as Las Abejas call it, is the alternative project that Las Abejas are constructing in the face of impunity. It constitutes an alternative political landscape, an orientation for struggle, and a different way of thinking and doing. The commemorations of the massacre are part of this Other Justice through which Las Abejas are aiming to promote a new kind of sociality by raising people’s political consciousness through oral and embodied practices of memory. One of the initial objectives of *La Otra Justicia* is to counter the state’s official version of the massacre and the distortions and erasures of survivors’ testimonies from the judicial records. But this only constitutes a part of what the Other Justice is about. *La Otra Justicia* is a decolonizing episteme that reasserts the invisibilized presence of indigenous peoples, validates their experiences, memories, and forms of knowing; at the same time, it articulates Las Abejas’ ongoing construction of political autonomy.

The *Otra Justicia* that Las Abejas are theorizing is an articulation of Zapatista discourses and practices, Catholic principles, liberation theology teachings, elder knowledge, and the wisdom of the *Popol Vuh*. This alternative kind of justice has emerged from alliances between Las Abejas and other social movements struggling

against state violence in its different forms. In this sense, *La Otra Justicia* implies an alternative form of politics aimed at creating social spaces to articulate the traumatic memories that the state has tried to silence. At the core of *La Otra Justicia* lies a conceptualization of justice that goes beyond seeking punishment for the perpetrators of the massacre, and is instead aimed at reaching the acknowledgment, validation, and transmission of their collective traumatic memories. As Las Abejas explained in their communiqué during the 2013 annual commemoration of the massacre:

No esperamos que los y las jueces, ministros lleven a juicio a los autores intelectuales de la masacre de Acteal, porque son parte del sistema corrupto.

La justicia no va a venir de allá arriba. Si el pueblo quiere justicia, el pueblo tiene que construir la justicia. Los pueblos ya estamos caminando en la construcción de la otra justicia, uno de los caminos es con el Tribunal Permanente de los Pueblos (TPP) y tenemos que juntarnos más. Porque no nada más queremos justicia por Acteal, sino, por otras masacres y casos de violaciones a los derechos humanos en todo México. (Las Abejas 2013)

[We do not expect that the judges and the ministers judge the Acteal Massacre's intellectual authors, because they are part of the same corrupt system.

Justice is not going to come from above. If the people want justice, people have to construct this justice. We as indigenous peoples are walking in the construction of an Other Justice, and one of its paths is with the Permanent People's Tribunal. But we have to be more. Because we want justice not only for Acteal, but for other massacres and cases of human rights violations in Mexico. (Las Abejas 2013)]

After the continual invalidation of their testimonies, Acteal survivors' have converted their bodies into tangible repositories of their memories of state violence. The emotional burden of injustice weighs heavily on their bodies, as does their anger towards the government. If survivors' testimonies have been invalidated and buried in the judiciary, these testimonies have found life in the survivors' bodies. Thus, Las Abejas resiliently claim in their banners and communiqués: “*¡Somos memoria viva!*” [“We are living memory!”]. The expression is not an exaggeration. During their monthly ceremonies and acts of protest, Las Abejas perform various forms of embodiment of their testimonies. The Acteal choir sings songs that recount Las Abejas' version of the

massacre and the Acteal theater group performs reenactments of it. By embodying their testimonies, already inscribed in the scars of their bodies, Las Abejas have turned their bodies into the latest evidence that the massacre actually happened and continues to have consequences, despite all government's efforts to erase it from official history. Through *La Otra Justicia*, Las Abejas have sought to create social spaces where their embodied memories may also exist beyond themselves, through the experience of collective sharing with different audiences. In this way, *La Otra Justicia* has become a flourishing interface between Maya survivors and the international solidarity movement, and I argue that this not only occurs because *La Otra Justicia* collectively addresses the deeply disregarded emotional dimension of impunity, but also because it responds to neocolonial expectations of victimhood.

Las Abejas share their traumatic memories with distant audiences as a way of raising social awareness and solidary support. In the social spaces where they practice *La Otra Justicia*, like the monthly commemorations, protests, peregrinations, workshops, or encounters with other social movements, Las Abejas foment practices of oral memory as a way of keeping testimonies linked to the bodies of those who experienced them. These practices of oral memory are thought to allow survivors to heal their bodies and their organization's social fabric. Documental practices, centered on Western epistemologies, have *exappropriated* survivors' testimonies, separating them from the indigenous bodies that experienced them. This separation has facilitated testimonies' distortions and decontextualizations. Though their written form, survivors' testimonies have been whitewashed and "immunized against alterity" (De Certeau 1993, 216), allowing the possibility for judges and historians to manipulate the truth contained within them.

Besides relying on their bodies to communicate their suffering and to foster compassion from wider audiences, Las Abejas have also used the language of human and indigenous rights to enunciate their *Otra Justicia*. Even when they reject any support that comes from the government, including "assistentialist" programs, *Las Abejas* and their mestizx lawyers are aware of the need to preserve certain continuities with the state's legal language in order to maintain the visibility of their struggle at national and

international levels. While legal language represents several epistemological limitations for Las Abejas' struggle for autonomy, the visibility it provides them is crucial for expanding the solidarity network necessary to sustain their project of autonomy.

Las Abejas have practiced *La Otra Justicia* within the Permanent Peoples' Tribunal. This opinion tribunal identifies and publicizes cases of systematic human rights and indigenous rights violations. It operates like a truth commission, with one great difference: this tribunal is independent from state authorities and intervenes in cases where national and international legal arenas have failed to provide justice. The Permanent Peoples' Tribunal has examined several genocides around the world. Its hearings usually take place in the communities where the victims reside. During these hearings, victims share their testimonies of fundamental rights violations. A collective identification of state violence's patterns emerges through these exercises of oral history.

Las Abejas and their mestizx lawyers at Frayba have found similarities between the aims of this tribunal and the spirit of *La Otra Justicia*. Both pursue a kind of justice that is not limited by the principle of legality, but open to more holistic and complex understandings of the events. In the Acteal case, the Permanent Peoples' Tribunal has helped to strengthen and spread Las Abejas' historical memory of the massacre as a way of asserting their truth, fighting oblivion, and reclaiming their dignity.

In a context where Las Abejas do not recognize the state's authority and reject any kind of state resource, *La Otra Justicia* represents a new language of struggle against neoliberal impunity. After almost nineteen years of epistemic violence, Las Abejas have developed a poignant sense of injustice. Impunity has broken Las Abejas' social fabric, creating mistrust between its members and causing deep fragmentations within their organization. At the same time, impunity has continued to ignite, among several members of Las Abejas, a deep desire to fight for their truth and dignity. That is why *La Otra Justicia* is a language of struggle that cannot be understood except in relation to the particular subjectivity of Las Abejas as witnesses and survivors recognized internationally, who continue to be silenced through the state's legal means. Even when the full realization of *La Otra Justicia* remains an ideal to reach, its discursive

formulation and oral and performative character is pushing the re-imagining of the boundaries between the rule of law and Las Abejas' struggle for autonomy. This step of political creativity, even with all its contradictions, should not be overlooked, especially given the renewed forms of colonialism that the government is implementing through its courts in the name of law.

International NGO's, like Peace and Diversity Australia, provide funding to the different areas of Las Abejas that participate in the commemorations, including the Acteal Choir and the Theater Group. The young members of the Acteal Choir like to sing popular *cumbias* and *corridos*; however, they know well that what gets them funding are the songs that tell the story of their organization. A similar situation occurs with the Theater Group of Acteal, which every year, since 1998, performs a reenactment of the massacre during the annual commemoration. The last scene of the performance takes place several years after the massacre. In it, the paramilitaries realize how miserable their lives became after killing so many innocent people. Then, they decide to publicly recognize their sins and to apologize to Las Abejas. In the performance, this recognition reestablishes the order back in the community and provides the peace and sense of justice that Las Abejas have struggled for. The performance's wishful solution places the audience in touch with *La Otra Justicia's* alternative forms of doing and thinking about justice.

At the end of the commemoration all the attendants descend to the collective tomb below the sanctuary: *El Mukinal* (the cemetery). In this closed space, Las Abejas kneel and bow deeply towards the earth in a gesture that brings them closer to their dead ones. Each one of them begins to pray aloud, in their own words and in their Tzotzil language. Visitors are allowed to witness this intimate moment where the survivors and the relatives of the victims speak with the ones who have departed to the other world. The atmosphere is shrouded in an overwhelming sadness. The cacophony of cries and laments becomes louder and louder as the minutes pass, and it does not stop until no one has anything left to say. Silence is collectively created and feels emotionally loaded until it is suddenly broken with the cry: “¡Vivan los mártires de Acteal! ¡Vivan!”

Solidarity's Politics of Affect

The torrent of collective emotions that are expressed during the monthly and annual commemorations, allows for an embodied transmission of Las Abejas' traumatic memories both to the next generations and to the visitors. By embodying these emotions and experiencing the space, the visitors in Acteal become active witnesses of what occurred in that same place, and take with them the commitment to share these stories with their relatives and communities. Las Abejas' constant recounting of the massacre constitute efforts to reclaim their subjective truth, which was erased from the official narrations of the massacre. In the process of giving testimony during their commemorations, Las Abejas recreate themselves by developing different ways of revisiting and fashioning the past. As Das and Kleinman (2000) argue, these new understandings of the past constitute fundamental strategies for dealing with the violence of memories in the present.

While for many witnesses the monthly and annual commemorations can be seen as a paralyzing form of memory that keeps Las Abejas tied to a traumatic past, for the survivors and leaders of the organization, these events have the crucial role of keeping alive a memory that the state has denied. That memory is precisely what gives meaning to their struggle, and the economic and human means to support it. At the same time, the repeated acts of remembrance have led several Abejas to exhaustion and to abandon the organization. But the leaders know that if they stop celebrating these commemorations, Las Abejas would lose a platform that gives them identity and provides them with an outlet for their suffering. It is clear that if the state and the paramilitaries do not recognize their responsibility, the victims will not have a psychological closure and will continue attached to a memory that is grounded in suffering. Nonetheless, it is not foreseeable that the state will engage in any project of truth and reconciliation involving the Acteal Massacre.

After witnessing these commemorations, some international visitors take with them responsibility of doing whatever is within their means to pressure the government to put an end to Las Abejas' martyrdom. This situation fosters a double form of attachment

for Las Abejas in regards to their traumatic memories. On the one hand, this attachment creates for Las Abejas the feeling that they cannot stop celebrating their commemorations because they are the reaffirmation of their experience and their truth, and the source of international support; on the other hand, the constant acts of remembrance do not allow Las Abejas to overcome the impacts of the massacre. This is where *La Otra Justicia* is crucial: through it, Las Abejas are trying to find new ways for communicating and preserving their traumatic experiences. Their main challenge is to create more fluid forms of memory that can also exist outside the bodies of the survivors instead of being petrified within them, as an expression of their duty to their organization in the face of impunity.

Concluding Remarks:

Impunity as the Perpetuation of the Settler-Colonial

State's Death Scheme

Acteal, that place where something happened, and Acteal, the event “that cannot be said,” changed the course of Mexican history in the aftermaths of the EZLN uprising and continues to shape social protests’ ethos throughout the country. Silence and the apparent passivity of impunity have been the forces that keep the reverberations of the massacre reproducing to the present days. In silence remains the connection between the Acteal Massacre, nepotism networks, and the 2008-16 judicial reform in Mexico. The manufacturers of the historical revisionism of the Acteal case have kept Acteal disconnected from the changes it has produced; in the same vein, their so-called “historical truths” have alienated survivors of the massacre from their own experiences, through the silencing of their testimonies. There is a duty to listen and to engage in conversation with the survivors.

Manuelito died on November 10, 2012 when he was twenty-six years old. I met him in Acteal a year before. As soon as he spotted me exploring the old church where people were praying the day of the massacre, he came to me and asked if I wanted him to tell me a joke, a riddle or to sing me a song. Stricken by an Acteal completely different to the one I’ve seen in documentaries and pictures—one that this time was equipped with concrete stairs, public bathrooms and showers for visitors, and a large open sanctuary/auditory—I felt Manuelito’s insistence was attuned with the touristic vibe that emanated from this place, already converted into a pilgrimage site: “The Sacred Land of Acteal’s Martyrs,” a member of the International Coalition of Sites of Conscience.¹⁸⁶

¹⁸⁶ In Mexico, there are only two members of this Coalition: Las Abejas and the National Center for Historical Memory (CONMEMORA) in Mexico City. See: <http://www.sitesofconscience.org/members/>

Manuelito had difficulty producing clear speech. “*Quedó mal desde la masacre,*”¹⁸⁷ the person next to me whispered into my ear.

Manuelito Vázquez Luna was son of the main catechist of the zone, leader of Las Abejas displaced in Acteal, Alonso Vázquez, who was killed next to his wife, five of their daughters, and a total of forty-five people on December 22nd, 1997, while he was conducting the prayers meant to prevent the paramilitary attack. Manuelito also lost his grandmother and uncle that day. “*Se murieron ayunando para pedir justicia y paz; para pedir que no haya mucha muerte,*”¹⁸⁸ Manuelito explains in an interview uploaded in *Youtube*.¹⁸⁹ At eleven-years of age, he witnessed the moment in which his parents and sisters were killed. While he was hiding during the massacre, the bodies of three people fall down over him after being shot. By hiding immobile below these cadavers for several hours, Manuelito was able to survive. Since then, Manuelito lived in a world otherwise. Telling stories and jokes to visitors was his form bridging this being in-between two worlds (life and death, sanity and insanity, *Batsil c’op*¹⁹⁰ and *Castilla*¹⁹¹). Manuelito was aware he was living among the living dead; he hated remembering what happened in Acteal because this memory made him cry for days. In his own words, he liked to tell jokes “para que no me mate la ‘chillona’.”¹⁹²

Manuelito had a tumor in his head and by 2012 his health began to decay. He lived in Acteal with her aunt, María Vázquez. But according to Juan, Manuelito’s older brother, he had to constantly go to the colonial city of San Cristóbal de las Casas to look for work. Before the massacre, he ate the food that his father cultivated. After the massacre and the forced displacements, he had to buy his food. In the 2012 October commemoration of the massacre, Manuelito showed up sick and with fever. Juan, his brother, took him to the closest hospital, which was almost two hours away from Acteal,

¹⁸⁷ “He is not well since the massacre.”

¹⁸⁸ “They died fasting, to plead for justice and peace; to plead that there were not so much death.”

¹⁸⁹ Martínez, Mario (2011). *El guardián de la memoria*. Youtube.com. Last visit: July 14, 2016.

¹⁹⁰ True tongue [lengua verdadera] in Tzotzil; this is, Tzotzil language.

¹⁹¹ The way Spanish language is called in several indigenous communities in Chiapas.

¹⁹² “So the crying/sadness/pain doesn’t kill me.”

in San Cristóbal. When arriving to the “Hospital de las Culturas”—a name that ambiguously made reference to the indigenous peoples that inhabit the region of Los Altos de Chiapas (mainly Maya Tzotziles and Tzeltals)—Manuelito was denied medical attention during three days, since he was not affiliated to the “Seguro Popular,” a public health insurance sponsored by the government. As a member of the organization Las Abejas, Manuelito had the prohibition to accept any program or resource from the government. No food, no metal sheets for his house, not even health benefits. Las Abejas resistance against the government and its neoliberal, assistentialist policies was the product of several years of struggling for justice while the government maintained the intellectual authors and perpetrators of the massacre in impunity. During this struggle, Las Abejas realized that that the government has several strategies to exterminate organized peoples:

[P]rimero con las balas de plomo y después . . . con balas de dulce: promesas de grandes apoyos y entrega de despensas, pollitos, láminas, para dividirnos y distraernos de nuestra demanda central que es la justicia. (Las Abejas 2010)

[[F]irst, with lead bullets and later . . . with sugar bullets: promises of grand support and the giving of food, chicks, laminated metal, to divide us and distract us of our central demand, which is justice. (Las Abejas 2010)]

Without the government’s health insurance, Manuelito was finally admitted in the hospital after three days of waiting, but it was too late. The origin of his sickness had been a bite in his hand from a brown recluse spider, which in his case became mortal due to medical negligence. *Was Manuelito killed?* Juan Vázquez, Manuelito’s brother, affirms that “su vida de mi hermano se enfermó por la causa de la masacre de Acteal porque mi hermano lo vio [sic] todos los cuarenta y cinco cómo murieron.”¹⁹³

Manuelito’s death shows that one of the particularities of state violence’s impunity is its exponential character. In a *laissez-faire* fashion, impunity allows state

¹⁹³ “The life of my brother got sick because of the Acteal massacre, since my bother saw how all the forty-five died.” Interview with Juan Vázquez Luna, Psychosocial Expert Testimony, CDHFBC, May 29, 2014.

violence to keep reproducing itself through the passage of time. In each reproduction cycle, unpunished (para)military violence has the ability to continue killing. Without necessarily having to invest in more bullets, this violence slowly corrodes and consumes survivors' lives in the process of struggling and waiting for justice. The times and rhythms of the state and its courts are completely out of phase with the temporality of human life, which is put on hold while the state stages never-ending prosecutions. Through them, the state has tried to seek those responsible for the massacre among the victims, fueling new cycles of criminalization of social protest. The law seems to reach only those authorities in the lowest levels of the chain of command, who are put in prison for few years to appease the social discontent, while the intellectual authors of the crimes continue operating in impunity. The state's stakes are placed on the pass of time: As years accumulate, societies are unable to keep track of the cases in which justice has been put on hold. Those who do keep track of those cases, realize that justice in Mexico is a permanent farce that works in favor of the privileged ones.

Unpunished (para)military violence also keeps reproducing itself because fictitious justice does not provide non-repetition guarantees. Unpunished perpetrators know that they are protected by the mantle of impunity and that they can easily terrorize their enemy at the first provocation. Impunity not only allows the possibility that violence erupts in any given moment; perpetrators' impunity *guarantees* the latency or terror and the repetition of past violent events. In this way, *impunity is the perpetuation of a settler-colonial death scheme through the passage of time*. Impunity is a form of state killing, central to the functioning of a settler-colonial state and to its permanent logic of elimination of the native.

Impunity has deeply impacted Las Abejas' social fabric, the ways they represent themselves and reorganize their resistance. After the massacre, Las Abejas dealt with the dilemma of placing high stakes on state mechanisms to attain justice while struggling to achieve their political autonomy. As part of their pacifist resistance, based on keeping the social memory of the massacre alive, they reorganized themselves into a community of victims, inhabiting what they call "the Sacred Land of Acteal's Martyrs" (Kovic 2003;

Tavanti 2003). Their monthly and annual religious and political ceremonies of remembrance, attended by national and international visitors, became a key strategy to discursively and symbolically link their identity as victims of state violence to their project of autonomy. With the release of the paramilitaries, *official justice* has represented the suppression of Las Abejas' testimonies through legal technicalities, despite their being witnesses and victims. As a consequence, Las Abejas are questioning the legitimacy of state justice and the practical reach of indigenous rights, as long as it is the state that bestows and applies these rights. To forward their own power and as part of a new phase in their struggle for autonomy, Las Abejas began to talk about the need for an autonomous justice, built from the ground up, one "which instead of harming would restore" (Las Abejas 2010): "La Otra Justicia" (*The Other Justice*).

To the SCJ's practices of neoliberal justice, Las Abejas responded with *La Otra Justicia*: an oral and embodied language of struggle that is reshaping the normative landscape of Las Abejas' struggle for autonomy. While this struggle is framed in the imperial language of indigenous and human rights, it also advances decolonized ways of understanding justice through embodied practices of memory. This situation of *dissident legal pluralism* illustrates the constricted framework in which Las Abejas have attempted to create alternatives to the legality of the state, even within a context of sustained counterinsurgency.

The Acteal case is a paradigmatic example of how the courts are using procedural rights to repress indigenous dissidence, at the same time that indigenous people use the language of human and indigenous rights to make their dissident politics visible. This paradox reveals how the rule of law functions as an imperialist ideology (Mattei & Nader 2008), that on the one hand legitimizes illegality and impunity precisely through the judicial review of other illegalities (in the Acteal case, the violations to defendants' right to due process), and on the other, compels indigenous people to frame their struggles within the state's legal language, as a precarious but key strategy to legitimize, protect, and advance their struggle.

Untying justice from the state institutions that officially administer it has provided Las Abejas a sense of liberation that is paradoxically burdened with other kind of oppressions. Through *La Otra Justicia*, Las Abejas are aiming to counter the distortions and erasures of their testimonies from official records. By creating social spaces to share their traumatic memories, Las Abejas have woven affective links with distant audiences, who are attracted to Las Abejas through a feeling of compassion, fostered by the inequality of the human condition. The indigenous poor, occupying the position of the victim, reproduces the whole narrative of colonialism and fulfills Western expectations and fantasies about whites' and mestizxs' role regarding indigenous populations. Since the state denies the truth of survivors' testimonies, embodied memory is also a racialized form in which indigenous peoples are allowed to remember.

The divergence between the survivors who decide to walk in the path of *La Otra Justicia*, outside the field of state power, and the separatist survivors who insist on the need to also continue the struggle through legal avenues, reveals the existence of opposed forms of understanding "justice," and therefore, different expectations regarding the state's role in providing reparations for the massacre. These opposing views, which have caused divisions in the organization to which the survivors belong, are based on different ways of understanding resistance: For the first group (those who choose *La Otra Justicia*), "resistance" means autonomy in the Zapatista sense, which implies not receiving any kind of resources coming from the state. For the second group (those who insist using legal means), "resistance" means strengthening the resilience of the organization through the resources that the state *owes them* for the concept of reparations for the damage caused by the massacre.

State violence has the capacity of affecting the lives of those who were not even born by the time when the massacre took place. This violence has reaffirmed itself in the lives of Las Abejas' new generation through its permeating the everyday of social relations, subjectivities, institutions, and practices. Impunity is what has *guaranteed* state violence's continuity and cyclical repetition. By guaranteeing the freedom from punishment and the freedom from the injurious consequences of planning and/or

perpetrating the massacre, impunity has become to state officials what human rights' guarantees are to citizens within the Mexican "multicriminal state" (Speed 2016). What I call the *photographic negative rhetoric* has made Las Abejas' testimonies seem as mere hearsay, making more people become skeptical about what really happened during and after the massacre. This effect is simultaneously a consequence of impunity, a characteristic of the discourse of the oppressed, and a main strategy in the war of attrition against indigenous organizations: a war that is heavily fought in the front of representation in order to "leave the fish without water"—as the Manual for Irregular War (SEDENA 1995) recommends—and remove civil society's support to dissident movements.

After survivors' voices have been silenced and erased by legal mechanisms, survivors have made their bodies speak. Faced with the appealing humanness of survivors' body language, civil society has begun to listen. And not because of Acteal itself, but because of the familiarity of the same death scheme repeated over and over again in various parts of the country, closer to home each time. Every now and then, a new massacre, a new assassination, or forced disappearance takes the place of the previous one: Tlatelolco, Aguas Blancas, Acteal, Campo Algodonero, Atenco, San Fernando, Tlatlaya, Ayotzinapa, Colula, Nochixtlán, San Juan Chamula... Memory is short to keep track of each tragedy, especially after the coordinated efforts of the military, judiciary, media, and sectors of academia aimed to erase state violence from official history. If Acteal continues to exist in the public consciousness, it is not only due to the "obstinacy" of Las Abejas' memories or their strategic alliances with emerging social movements formed around today's tragedies. Acteal is still alive because it keeps repeating itself in the state crimes of the present.

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