

R. AÍDA HERNÁNDEZ CASTILLO



INDIGENOUS WOMEN, LAW, AND POLITICAL STRUGGLE IN LATIN AMERICA

M U L T I P L E
I N J U S T I C E S

MULTIPLE INJUSTICES

CRITICAL ISSUES IN INDIGENOUS STUDIES

Jeffrey P. Shepherd and Myla Vicenti Carpio

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R. AÍDA HERNÁNDEZ CASTILLO

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*Indigenous Women, Law, and Political
Struggle in Latin America*



THE UNIVERSITY OF
ARIZONA PRESS
TUCSON

The University of Arizona Press
www.uapress.arizona.edu

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Printed in the United States of America

21 20 19 18 17 16 6 5 4 3 2 1

ISBN-13: 978-0-8165-3249-0 (cloth)

Cover design by Leigh McDonald

Cover illustration produced in Pilar Hinojosa's Sumi-e workshop in the Feminine Prison of Atlacholoya, Morelos.

Publication of this book is made possible in part by the proceeds of a permanent endowment created with the assistance of a Challenge Grant from the National Endowment for the Humanities, a federal agency.

Library of Congress Cataloging-in-Publication Data
[to come]

♻️ This paper meets the requirements of ANSI/NISO Z39.48-1992 (Permanence of Paper).

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ACKNOWLEDGMENTS

THIS BOOK CLOSSES A CYCLE OF TWENTY-FIVE YEARS of activist research with indigenous women throughout which I have had the privilege of establishing academic and political dialogues with distinct “wise women” collectives (*colectivos de mujeres sabias*). To thank all who have accompanied me on this journey during these years is not an easy task; please forgive me for omissions. I want to use this space to acknowledge the generosity of those who, from their academic work, political struggles, or friendship, have made this book possible.

At an international level, I received the support of the Center of Research and Advanced Studies in Social Anthropology (CIESAS), my work center for twenty-five years. I also received specific financial support for different projects from the National Council of Science and Technology in Mexico (CONACYT) and the NORGLOBAL Program of the Norwegian Research Council.

My gratitude to Jeffrey P. Shepherd and Myla Vicenti Carpio, editors of the *Critical Issues in Indigenous Studies* book series, and to Allyson K. Carter, Editor-in-Chief of University of Arizona Press, for inviting me to participate in this most interesting editorial project. My thanks also to the anonymous readers for their valuable commentaries that helped me to substantially improve my book.

In the academic world, increasingly influenced by neoliberal, competitive, and individualistic values, it is a true privilege to have a working space characterized

by solidarity and social commitment. With my research and teaching team in CIESAS Mexico, I have enjoyed the stimulating presence of a new generation of researchers and the pleasure of our collective work. María Teresa Sierra, Rachel Sieder, Mariana Mora, María Bertely, and more recently, Lola Figueroa, Carolina Robledo and Genner Llanes have been not only colleagues but indelible friends.

The members of Decolonial Feminisms Network (*Red de Feminismos Descoloniales*): Sylvia Marcos, Margara Millán, Guiomar Rovira, Raquel Gutiérrez, Meztli Yoalli Rodríguez, Mariana Favela, Mariana Mora, Verónica Gutiérrez Nájera, Oscar González and, for a time, Aura Cumes, have been fundamental interlocutors in my political and academic life.

Thank you to all the members of the Continental Network of Indigenous Women (*Enlace Continental de Mujeres Indígenas—ECMIE*) whose struggles and theorizations I have learned from during these last twenty years. To the Zapatista women whom have been an inspiration for a generation of Latin-American feminists who believe in the possibility of the construction of a “more just world in which many worlds fit.”

The Sisters in the Shadows Editorial Collective of Women in Prison (*Colectiva Editorial de Mujeres en Prisión Hermanas en la Sombra*) have been, during the last seven years, a space of collective reflection and sorority that has helped me reflect critically not only on the Mexican penal justice system but has also helped me to rethink my conceptions of captivity and liberty. To Marisol Hernández del Aguila, Rosa Salazar, Susuki Lee Camacho, Leo Zavaleta, Martha Elena Hernández Bermúdez, Maria Elena Basave, Rocío Solache, Alejandra Reynosa Alarcón, Galia Tonella, Honoraria Morelos (R.I.P.), Máxima Pacheco, Carolina Corral and, to my feminist poets, Elena de Hoyos and Marina Ruíz: my deepest gratitude. My acknowledgment to Pilar Hinojosa, also a member of our collective, for giving me permission to use a painting of her Sumi-e artistic workshop at the female prison of Atlacholoaya, as a cover of this book. To Inés Fernández Ortega and Valentina Rosendo Cantú, to all the women of the Indigenous Organization of the Me’phaa People (*Organización del Pueblo Indígena Me’phaa—OPIM*), to Abel Barreda and all the members of the Center of Human Rights of the Mountains of Guerrero Tlachinollan, to my colleague and dear friend Héctor Ortiz Elizondo, my gratitude for all the lessons received during the litigation before the Inter-American Court of Human Rights. Their courage and commitment with the people of Guerrero have been an inspiration for me.

To Ixkic Duarte Bastian, Lina Rosa Berrio Palomo, Morna Macleod, Susana Mejía, Shannon Speed, Lynn Stephen, Maylei Blackwell, Irma Alicia Velásquez Nimatuj, Margo Tamez, Juan Herrera, Odilia Romero, Violeta Zylberberg, Patricia Artía Rodríguez, Beatriz Canabal, Adriana Terven, Claudia Chávez, Alejandro Cerda, Juan Carlos Martínez, Manuel Buenrostro, Elisa Cruz, Liliana Vianey Vargas, Emma Cervone, Cristina Cucuri, Leonor Lozano, Ana Cecilia Arteaga and Natalia de Marinis, students and researchers who have participated in distinct collective projects in which this book is based: my acknowledgement of sharing their knowledge with me. Their way of living and understanding of academia fills me with optimism and allows me to think about the emancipatory possibilities of committed social sciences.

To Chandra Mohanty, Mercedes Olivera, Emma Chirix, Veronica Schild, and Jane Collier: critical feminists whose academic work have inspired some of my theoretical and methodological searches. To my *brujitas* (little witches), Liliana Suárez-Navaz and Francisca-James Hernández, who taught me the meaning of a “lifelong friendship.”

To my professors, dear friends and male allies who have supported my projects in the different stages of my academic career: Andrés Fábregas, George Collier, Renato Rosaldo, Rodolfo Stavenhagen, and Boaventura de Sousa Santos. To a whole team of translators, professional or amateurs, who have supported me translating or reviewing different chapters of this book, among them are my dear nephews and nieces Mark Quintero, Adriana Pou, Ana Christina Gaeta, and Efrén Hernández, and the professionals Jana Schroeder and Alejandro Reyes. To Mercedes Pisoni, my assistant and dear friend, who patiently helped me to review and correct the final manuscript.

My gratitude to the Center of Latin American Studies (CLAS) at the University of Cambridge and to its directors Charles Jones (2011–2014) and Joanna Page (2014–present); to the master of Christ College, Frank Kelly who, during my sabbatical year within the framework of the Simon Bolivar Chair, gave me the hospitality and the space to finish this book. A special and grateful acknowledgement to my colleague and friend Sarah Radcliffe with whom I had the possibility of discussing several of the chapters of this text, enriching it with her observations. To the *gran anfitrión* (main host) of CLAS, Julie Coimbra, whose heartfelt support toward my family and me was key to making our time at Cambridge an unforgettable experience.

To the memory of my dear friends who died when I was writing this book: my *compadre* Otto Maduro; my political “adviser” and friend, the Judge Cesar

Barrientos Pellecer, and my colleague Marianella Miano. All of them brilliant scholars who worked for social justice.

To my sisters and brothers Alma, Mario, Evelia, Efrén, Angélica, and Alina, who have been my primordial community where I learned from childhood the importance of collective work and solidarity. Without their support and affection, since I decided to leave Ensenada at seventeen years old to study in Mexico City, I would not have been able to pursue my academic career. To the memory of my beloved parents Don Efrén and Doña Chava, examples of generosity and strength.

Finally, to my son Rodrigo Alvarez and to my life partner Richard Cisneros López, two supportive, patient, optimistic, and affectionate men who have been by my side, helping me with the writing, and surrounding me with joy during the hard British winter in which this book was finished. *Gracias por ser una parte fundamental de mi vida.*

Ocoatepec, Morelos, September 2015

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MULTIPLE INJUSTICES

INTRODUCTION

THE LAST TWO DECADES have been witness to two political and discursive transformations that have deeply affected the lives of the original peoples of Latin America. On the one hand, there is the emergence of a discourse in relation to indigeneity that has linked local struggles across the continent with a transnational movement that places racism and political and cultural rights at the center of its demands. At the same time, a series of constitutional reforms recognize the multicultural character of Latin American countries that have led to a de jure recognition of legal pluralism.

Now, it is common to write and talk about the struggles and rights of the indigenous peoples without exploring the historical roots of the concept of *indigenous*.¹ What we see in the last decades is the transformation of a legal and analytical term into a concept of self-ascription. The creation of new collective imaginary and transnational spaces has allowed a sharing of experiences, thinking of common strategies, and establishing of links between groups so diverse as the Maori of New Zealand, Adivaci in India, and Mayans from Guatemala. Discourse about “the indigenous” has traveled on the rural roads of five continents, arriving at the most isolated villages through workshops, marches and meetings. In these collective spaces, community leaders, members of NGOs, and the followers of liberation theology have made popular the concept of “indigenous” as referring to “original peoples” and of denouncing the effects of

colonialism in their lives and territories. The local terms of self-ascription, such as Zapotecs, Mixes, Aymaras, Navajos, and Evankies, create a new identity: to be indigenous, which came into being through construction of an imaginary community with the other oppressed peoples around the world. Several analysts mention that the movement for indigenous rights was transnational at its birth (Brysk 2000; Tilley 2002), in that its origins went far beyond local struggles and self-ascriptions.

In the first moment of legislative reforms on the recognition of indigenous rights, denominated by some scholars as the new “multicultural constitutionalism” (see Van Cott 2000), the new legislations were considered as the Latin American states’ response to the demands of the continental indigenous movements and, thus, as a political achievement of their struggles; later analysis problematized these perspectives. In Latin America, the Ecuadorian lawyer and anthropologist Diego Iturralde was one of the first to mention that the logics of collective and autonomous rights of indigenous peoples were compatible with the neoliberal reformist logics of the Latin American states (Iturralde 2000). Sometime later, this critical line was popularized with the concept of “neoliberal multiculturalism” offered by Charles Hale to indicate that the neoliberal agenda required a more participatory civil society and decentralization process compatible with the demands of the indigenous peoples for greater participation and autonomy (Hale 2002). At the judicial level, the limited recognition of indigenous law and the spaces of community justice in the majority of Latin American states have not included political rights or territorial autonomy, resulting in an additive justice that contributes to decentralization as demanded by international financial organizations (Sieder 2002).

Other critical voices have gone beyond questioning the limitations of multicultural reforms by problematizing the construction of indigenous identity itself as a political space, revealing the effects of the power of legal activism (Engle 2010). One important critique claims that legal activism around indigenous rights derives from an identity definition with historical links to “millenary cultures,” “original peoples,” and an alterity clearly defined from differentiated cultural logics. Thus, these critical perspectives question the conception of indigeneity that emphasizes “alternative epistemologies” and “holistic cosmovisions,” because it excludes human collectives that, although they share the experience of racism and colonialism, have been marked by territorial mobility and cultural hybridity.

Analysts of Afro-descendant (see Hooker 2005, N'gweno 2007; Wade 2006) and Mestizo identities formulated and reclaimed from “below” (de la Cadena 2000, 2005; French 2004) have shown that the struggles for indigenous rights have reified essentialist definitions of culture that replace the struggle against racism with that of cultural recognition. Karen Engle speaks of “the dark sides of virtue” in order to refer to the reification of indigenous cultures (Engle 2010). Critiquing the multicultural framework, she writes: “As the right to culture has developed over the years, I contend that it has largely displaced or deferred the very issues that initially motivated much of the advocacy: issues of economic rights, dependency, structural discrimination, and lack of indigenous autonomy” (Engle 2010, 2).

These criticisms seem to echo a broader debate that has developed, especially in the United States, around what has been termed “identity politics.” Questions about the ways in which cultural and ethnic identities politicized spaces of mobilization against various types of oppression come from different positions along the political spectrum. From a feminist perspective, Micaela di Leonardo has questioned the new forms of exclusion created by identity politics and the difficulties it engenders when building political alliances (di Leonardo 1997). She comments that “identity politics is always doomed to failure both because it denies the need to organize nonmembers for particular political goals and because of its essentialism, its falsification, oversimplification of the workings of identity even in the present” (di Leonardo 1997, 67).

From a Marxist perspective, several Anglophone scholars have warned of the dangers that identity politics entail in terms of the fragmentation of anti-capitalist struggles (see Aronowitz 1994; Hobsbawm 1996; Gitlin 1993; Smith 1994). Some of these authors have painted oversimplified portraits of the political agendas of anti-racist, feminist, or sexual diversity social movements, stating that “identity politics is a reflection of the notion that the working class can be the agent for social change . . . Rather than representing an advance, [it] represents a major step backward in the fight against oppression” (Smith 1994, 4).

While this book does not intend to respond to these criticisms, which would first entail clarifying how these authors understand identity politics, what I will do is confront the homogenizing portrayals of social movements whose political demands are not limited to an anti-capitalist struggle (although they do not exclude it). The indigenous women’s struggles analyzed in this book evidence how colonialism, racism, and patriarchal violence have been fundamental

elements for the reproduction of capitalism. To represent indigenous movements in the Americas as identity movements that focus their struggles on cultural rights is to simplify the many dimensions of their strategies of struggle. Recognizing the historical and political heterogeneity underlying indigenous women's movements that demand rights and the use of laws as tools for struggle is a first step toward the construction of political alliances.

I consider that these critiques of identity politics point to challenges that could arise when claiming cultural rights and mobilizing politically from an identitary space. However, there are other forms of constructing a more inclusive indigenous identity. Through case studies in Mexico, Guatemala and Colombia, I illustrate the ways in which indigenous communities and organizations question essentialist discourses.

In this book, I deliver an account of the tensions between the productive capacity of law and discourses of rights as forms of governmentality (which construct a certain type of indigenous identity that responds to the requirements of neoliberal citizenship), and the counterhegemonic answers to these discourses from organized indigenous women. In dialogue with critical perspectives on legal activism, I recognize the political uses of cultural differences by the nation-states. However, I am interested in analyzing the answers that social actors, defined as "indigenous," are giving to these politics of representation.

The construction of indigeneity is not a process that occurs only in one direction; the hegemony of governmental definitions is fragmented by discourses and representations constructed from daily life and the political practices of social movements that these politics claim to regulate.

I conducted fieldwork mainly in indigenous regions of the Mexican states of Chiapas, Guerrero, and Morelos, but I have also included an analysis of organizational experiences of indigenous women and their appropriation of rights discourses in Guatemala and Colombia. I participated in two collective research projects that included these two countries. They represent two national contexts in which multicultural reforms have been very different and their impact in the spheres of justice dissimilar. Creating a dialogue between the experiences of indigenous women of various regions of Mexico and those of Guatemala and Colombia enables observation of how various national contexts and political genealogies influence the appropriation or rejection of discourses on women's rights.

Regarding multicultural reforms, Colombia was the first country in the continent to promote a constitutional reform that, since 1991, recognizes the collective

rights of indigenous peoples and indigenous jurisdictions in semiautonomous regions known as *resguardos*.² Although only 3.4 percent of the population defines itself as indigenous (1,378,884 people in 2014, according to the National Institute for Statistics and Censuses), the strength of the national indigenous movement is evident in the consolidation of political and cultural projects. The establishment of the Intercultural Autonomous Indigenous University (*Universidad Autónoma Indígena Intercultural*—UAIIN) and the fortification of their spaces of justice thanks to the Indigenous Law School (*Escuela de Derecho Propio*), promoted by the Regional Indigenous Council of Cauca (*Consejo Regional Indígena del Cauca*—CRIC), are closely linked to these constitutional and multicultural reforms. As we shall see in chapters 2 and 3, these organizational experiences have led Colombian indigenous women to prioritize discourses on indigenous rights over gender discourses.

Paradoxically, although 41 percent of Guatemala's population defines itself as indigenous (4,710,440 people in 2015, according to the National Statistical Institute), there has been no constitutional reform in that country that recognizes indigenous rights or spaces of indigenous justice. In this context, indigenous organizations have resorted to international legislation, such as the International Labor Organization's "Convention 169," as a legal recourse to claim their rights. As a result, indigenous women have established multiple dialogues with international cooperation, the continental indigenous women's movement, and the Mayan movement, which vindicates the right to Mayan *cosmovision* and law.³ These various dialogues have given rise to very heterogeneous indigenous women's organizations, which appropriate discourses on indigenous and human rights or lay claim to a communal feminism from the perspective of their own cosmovisions.

The productive capacity of law and the appropriation of discourses on rights have been very different in each of these contexts. While it is possible to speak of "neoliberal multiculturalisms" in Mexico, Guatemala, and Colombia, the effectiveness of their forms of *governmentality*⁴ has been highly dependent on the political and organizational genealogies of each region.

If we consider the hegemony of the state as an unfinished process, we can understand that the neoliberal multiculturalist agenda is not completely successful. Its need to strengthen civil society and promote decentralization opens new opportunities for indigenous peoples to increase spaces of autonomy and self-determination. It is a contradictory process, and I will analyze the counterhegemonic answers to the multicultural reform by indigenous women.

The productive capacity of the law, which creates the identities it purports to represent, as theorized by Michel Foucault (1977) and documented by feminist legal anthropologists (see Alonso 1995; Collier, Maurer, and Suárez-Navaz 1995; Engle Merry 1995), not only produces sub-alternized identities, as many of these critics have emphasized. There are also new indigenous identities that emerge in the framework of the new multicultural reforms, that are confronting the hegemonic definitions of culture and indigeneity. This book demonstrates that legal pluralism in Latin America has been the result of contradictory processes of hegemony and counter-hegemony in which the social actors have appropriated and vernacularized discourses on rights, confronting (and often transforming) hegemonic perspectives of liberal justice.

Several authors have documented “the use of the law from below,” demonstrating how, through litigation in national or international spaces of justice, or through the political use of discourses on rights, social movements are diversifying their strategies of struggle and challenging the limited meanings of liberal law (Rajagopal 2003; de Sousa Santos and Rodríguez-Garavito 2005). Indigenous women, whose political struggles I analyze in this book, have taken action at different levels of justice, challenging the narrow meanings of culture, identity, and rights, which are often shared by administrators of justice in their communities, in public prosecutors’ offices (*ministerios públicos*), and in international tribunals.

In this introductory chapter, I will present theoretical reflections that emerged from the research projects that provide the empirical basis to this book. Some reflections relate to the impact of the indigenous women’s movements on hegemonic practices and discourses, as well as their appropriation of the discourses on rights. Others refer to legal pluralism and the cultural construction of discourses on law and custom in the framework of postcolonial relationships. I finish with a reflection on state violence as a patriarchal semantic answered by the new discourses on indigenous women’s rights.

Organized indigenous women are developing diverse forms of cultural politics from within organizations where women’s rights are central to their political agenda, and also from those where local demands are the priority. The political agenda of organized indigenous women decenters not only the discourses of power about law and custom but also hegemonic discourses on indigeneity, gender, modernity, and tradition. In a wider sense, they are redefining what they understand to be justice and rights from their collective struggle and daily practice. This introduction is focused on these destabilizing elements.

CONFRONTING ETHNOCENTRIC PERSPECTIVES ON SOCIAL MOVEMENTS

One of the first challenges of working with indigenous women's movements is the construction of a conceptual framework that permits us to understand their organizational processes and does not reproduce the analytic ethnocentrism that has been dominant in the study of social movements. There is a tendency in the literature on social movements to establish typologies that implicitly create hierarchies, ordering movements, for instance, according to level of emancipatory potential, or reifying the dichotomy between material and cultural demands as mutually exclusive. Many of these dichotomies underlie the critiques of identity politics made from the perspective of some Marxists. First, they construct a limited representation of the political agendas of the social movements in question (in this case, rural and indigenous women's movements), and then they disqualify their emancipatory potential.

The organizational experiences that I analyze in this book reveal the limitations of the perspectives on social movements in which the analysts project their values and utopian horizons as universal parameters in order to measure the transformative capacities of social actors. From these perspectives, as the political agenda of the organization comes closer to that of the analyst, the emancipatory potential is seen as greater, and the analysis takes on very ethnocentric representations of social movements in Latin America. During the turmoil of peasant movements in the continent in the 1980s, Alain Touraine claimed that Latin American social movements did not exist since their collective mobilizations (related to economic needs) lacked a sense of the "historicity" that would allow them to be a part of a wider political project (Touraine 1987).

Feminist analysis has also been marked by "political evolutionism" in the typification of women's movements in Latin America. The clearest example is the work of Sheila Rowbotham who differentiates between "women in movement" (to refer to those women who act together to achieve common objectives) and the concept of "women's movement" (to describe those who create gender demands of a feminist character) (see Rowbotham 1992).

These dichotomist typifications have been widely questioned by feminists of the Global South (see Álvarez 1990; Hernández Castillo 2008; Kabeer 1998; Wieringa 1992). They argue that these perspectives underestimate the central contributions of poor organized women to the destabilization of the current

social order when they ignore how these women negotiate with power and reconstruct their collective identities within their strategies of survival.

What this type of analysis ignores is the cultural dimension of the mobilizations for material needs. In the case of the women of marginal neighborhoods in Ecuador, Amy Conger Lind has shown how poor women not only struggle for their basic necessities but they also modify the preexisting conceptions of gender and development when resisting collectively the forms of power present in patriarchal institutions (see Conger Lind 1992, 11).

From within their productive and economic organizations, indigenous women have responded to hegemonic definitions of tradition and culture on the part of official *indigenism*⁵ and national indigenous organizations, proposing the need to change those elements of “custom” which exclude and marginalize women. They have confronted the hegemonic definitions of development by rejecting mega-projects such as Puebla Panama Plan⁶ and monocultural visions of citizenship, while participating actively in political struggles for constitutional reforms that recognize collective rights of their peoples.

In many of these mobilizations, organized indigenous women have appropriated discourses on rights to promote their material demands for land or services, their cultural rights for an intercultural education, and their own justice in terms of indigenous rights. In other cases, they have confronted state violence against them and their peoples, or violence by their spouses, appropriating women’s rights or human rights discourses. As I will show in the various chapters of this book, these processes have implied not only an imposition of the discourses of NGOs and the international bodies that finance them, but also a re-appropriation (what some authors call a “vernacularization”) of rights discourses (Levitt and Engle Merry 2009) or an alternative human rights ontology (Speed 2007, 2008).

Several women’s organizations analyzed in this book have, as a central piece of their political agenda, demands on cultural rights that are based on a wider concept of culture that includes the agrarian and territorial demands of their peoples. Again, the dichotomy between the material and cultural demands does not recognize the existence of social movements for which the politics of recognition is linked to the politics of redistribution.

In this context, the concept of cultural politics (see Álvarez, Dagnino, and Escobar 1998) can be useful in describing the destabilizing potential of mobilizations by indigenous women, be they in relation to agrarian demands, the collective rights of their peoples, or their own gender rights. While using alternative

conceptions of social peace, nature, economy, development, and/or citizenship in their mobilizations for the demilitarization of their regions, or for the recognition of indigenous autonomy, organized indigenous women destabilize culturally dominant meanings. Through these cultural politics, we are reminded of the cultural dimension of their material struggles and the material dimension of their cultural struggles.

Within political science, sociology, and cultural studies there exists a tendency to group indigenous organizations and women organizations together with ecological and other organizations born of “new” postindustrial movements due to an emphasis on identity as a mobilization space and the cultural character of their demands. However, many women’s organizations with whom we work combine longstanding demands for land, agrarian credit, and the financing of productive projects with new demands of autonomy and the recognition of the collective rights of their peoples or specific gender rights. Although they are organizing around the central theme of culture, historical demands for land and sustainable development are integral parts of their autonomic demands.

This consideration allows us to question the abrupt division between classist movements of the past and the identity movements of the present. These are divisions that some analysts of the “new” social movements take for granted. For many organized indigenous women, their political genealogies reveal previous experiences of militancy within peasant organizations centered on agrarian and labor demands. Their survival as a community required the consideration of land and labor as critical to indigenous peoples; in this sense, their “class politics” were also politics of identity. The cultural politics developed by indigenous women through local, national, and international organizations have implied a decentering of hegemonic discourses and a confrontation with relationships of domination occurring at diverse levels of power. Some have had to pay a high cost for their actions by suffering political violence on the part of army and paramilitary groups (see chapter 5), and even by suffering the domestic violence of their own partners (see Hernández Castillo 2001a). Many others have had to confront subtler forms of symbolic violence; for instance, some have experienced communitarian rejection that manifests through the isolation and gossip on the part of those that consider them a “bad example” for other women to follow (see Artía Rodríguez 2001; Hernández Castillo and Zylberberg 2004; Zylberberg 2008).

A closer inspection of the ways in which the cultural politics of these organized women destabilize the dominant cultural meanings about tradition,

justice, and rights could help us to understand the violent response on the part of powerful sectors inside and outside of their communities.

DECENTERING FEMINISM AND RECONCEPTUALIZING GENDER FROM INDIGENOUS PERSPECTIVES

Some feminist discourses in Latin America have reproduced ethnocentric perspectives on popular women's movements when analyzing the emergence of indigenous women's organizations. This has resulted in the exclusion of indigenous women's organizations by feminist movements for what they see as the limitations of a political agenda that does not place gender rights at its center.

In the best of cases there is a condescending recognition of the importance of getting closer to these new spaces in order to "raise consciousness" that will bring organized indigenous women closer to "true feminist awareness." While self-appointing the right to define "true feminism," they have disqualified those indigenous women who have opted to work together with men in mixed organizations that combine demands of recognition with demands of redistribution.

In chapter 2, I reconstruct the distinct genealogies and experiences of the indigenous women's movement in Mexico, Guatemala, and Colombia in order to understand the manner in which they have or have not appropriated the discourses of rights as well as the tools and critiques of Latin American feminisms.

Some sectors of the indigenous women's movement have developed a discourse and practice on "indigenous feminisms," such as some members of the Kaqla group in Guatemala and the Coordinating Committee of Indigenous Women in Mexico (*Coordinadora Nacional de Mujeres Indígenas en México*—CNMI). The centrality of women's rights in their struggle have brought them closer and more attuned to the agenda of feminist organizations. This opens the possibilities of diverse political alliances.

Some members of the indigenous women's movement, especially in Mexico and Guatemala, have begun to speak of the existence of an indigenous feminism and a communitarian feminism, prioritizing thought and practices that transform gender, class, and racial inequalities. This emerging indigenous feminism has questioned both patriarchal violence in their communities and the racism and ethnocentrism of mestizo urban feminisms (see Álvarez 2005; Cabnal 2010). These critiques point to the intersection of multiple forms of oppression; some

authors, such as Lorena Cabnal (2011), a Maya-Xinca indigenous woman from Guatemala, have termed this a “patriarchal crossroads.” She says in this respect:

As a communal feminist I want to contribute with my thoughts to the paths of shrewdness where women are contributing from various places. I do it from this ethnic identity as an indigenous woman, because from this essentialist place I can be critical based on what I know and live. However, I also do it from my political identity as a communal feminist. This allows me not only to be critical of the ethnic essentialism that is in me, but also to approach the analysis of my reality as an indigenous woman with a communal, anti-patriarchal focus that continuously weaves its own concepts and categories. It names with authority my oppressions, but also my acts of rebellion, as well as my transgressions and creations. (Cabnal 2010, 11)⁷

This search for a language of their own to articulate the multiple forms of oppression suffered and to analyze the exclusions exercised by urban feminisms is reminiscent of similar positions developed by Chicano and Black feminists in the United States in recent decades. The similarity of the experiences of internal colonialism, racism, and patriarchal violence has perhaps prompted some organized indigenous women in Latin America to resort to some of the theorizations made by “women of color.” This is the case with the concept of “intersectionality,” popularized by the work of African American feminist Kimberlé Crenshaw, which refers to how different systems of domination, such as racism, sexism, and homophobia, mutually constitute each other, creating systems of oppression that reflect the “intersection” of multiple exclusions (Crenshaw 1989).⁸ The intersectional perspective points to how, in specific historic contexts, different social categories such as gender, race, and class intersect to produce social hierarchies. This perspective was revisited by the International Indigenous Women’s Forum when it proposed that violence against indigenous women should be understood not only as a product of gender inequality, but also as the intersection of colonialism, racism, poverty, and social exclusion (FIMI 2006). Recognizing these intersections entails seeking more complex strategies of struggle that go beyond liberal feminism’s claim to “women’s rights.”

Importantly, the organizational experiences analyzed in this book are not limited to those which claim an indigenous, and/or communal feminism, but also those which reject the term feminism altogether (and even discourses on women’s rights), and instead, seek ethical referents in their own epistemologies to confront violence and to build a life with dignity.

These sectors have rejected the concept of feminism and opted to claim indigenous cosmovision as a space from which to rethink the power relations between men and women. This explicit disassociation with feminism, based on a stereotype of feminists as separatists who are not concerned with political alliances, informs many of the perspectives shared by popular women's movements, and which, unfortunately, many feminists reinforce. The reluctance to understand the genesis of these political proposals and non-Western epistemologies, as well as the imposition of a feminist agenda that is insensitive to cultural diversity in Latin America, justifies many indigenous women's rejection of the concept of feminism.⁹

Similar processes have arisen in other parts of Latin America. Patricia Richards documented how Mapuche women in Chile rejected not only feminism but also the concept of gender. They relate it to separatist standpoints that are in conflict with their own worldviews: "Whereas feminist movements in some nations have advanced women's rights by challenging gender norms and relations, many Mapuche women find the concept of *gender* objectionable; this term implies for them an adherence to the Western ideas imposed on them. The language of rights better represents their multiple concerns, particularly when they contextualize it within the Mapuche worldview" (Richards 2005, 210). In spite of hegemonic feminisms¹⁰ resistance to and rejection of these culturally situated perspectives, their proposals begin to occupy an important place within the continental indigenous women's movement.

Indigenous women are developing their own theorizations through their organic intellectuals who have participated in continental events in the past decade. These theorizations inform the resolutions of the First Summit of Indigenous Women, where the declarations of the concepts of complementarity and duality were the central focus of the debates in the panel on education, spirituality, and culture. In contrast to the stark individualism promoted by globalized capitalism, indigenous women reclaim the value of "*community*: understanding this term as a life where people are intimately linked with their surroundings, under conditions of respect and equality, where nobody is superior to anybody." In contrast to a predatory neoliberal model of development, they declare "*equilibrium*: which means to watch over the life and permanence of all beings in space and nature. The destruction of some species affects the rest of the beings. The rational use of material resources leads us toward balance and rectitude in our lives." In contrast to violence and domination of the strong over the weak, upon which is premised the liberal conception of survival of the fittest, they

propose “*respect*: which is based on the indigenous concept of the elders being those who are most respected, an attitude that extends to all other beings in nature. The Earth is a woman, mother and teacher who is the sustenance of all beings. It is equal treatment amongst beings, under the same conditions.” In contrast to the superiority of the masculine over the feminine, which is claimed by patriarchal ideologies, they propose “*duality or dualism*: in which the feminine and the masculine in the same deity are two energy forces found in one, which permit the balance of vision and action. They represent the integration of everything that guides us towards complementarity. By considering the Supreme as dual, father and mother, one can act with gender equity. This attitude is fundamental for the eradication of machismo.” In contrast to the fragmentation of the productive process, promoted by maquiladora development, the segregation of the labor force, the fragmentation of collective imaginaries, and the rejection of a systemic analysis which allow us to locate the links between different forms of struggle, they propose “*la cuatriedad*: this concept signifies the totality, a cosmic balance, that which is complete as represented by the four cardinal points, unity and the totality of the universe. By seeing ahead and behind as well as to the sides, it is possible to struggle for unity. It is a force capable of transforming the inequalities that our people suffer due to neoliberal and globalized politics” (Cumbre de Mujeres Indígenas de las Américas 2003, 132).

Taking as a point of departure the conception of cosmovision and spirituality, some Mayan women proposed a gender concept that implies:

A respectful, sincere, equal, and balanced relationship, that in the West would be considered equity of respect and harmony, in which both the man and woman have opportunities, without it presupposing additional responsibilities for the woman. Only then can one be spiritually healthy with humankind, the earth, the sky and those elements of nature that provide us with oxygen . . . For that reason, when we talk of a gendered perspective, we are talking about the concept of duality based on an indigenous cosmovision in which all of the universe is ruled in terms of duality. This sky and earth, happiness and sadness, night and day, they complement each other, one cannot exist without the other. If we had ten days with only sun, we would die; we would not be able to stand it. Everything is ruled in terms of duality as, undoubtedly, are men and women. (Estela, an indigenous woman from the *Asociación Política de Mujeres Mayas, Moloj, Mayib' Ixoquib'* [Political Association of Mayan Moloj, and Mayib' Ixoquib' Women, Guatemala]; Gabriel Xiquín 2004, 45)

From these perspectives, it is evident that the concept of complementarity does not serve as an excuse to avoid speaking about power and violence as part of gendered relations, but rather, on the contrary, it becomes a tool to analyze the colonizing attitudes of indigenous men, and it proposes the need to rethink culture from the perspective of gender equity.

This claim in favor of an indigenous cosmovision and spirituality being capable of laying the foundation for a greater equilibrium between men and women seems to resonate with the writings and political proposals of some Native American feminists in the United States. Like Paula Gunn Allen analyzes with respect to English colonialism, a sector of Mayan women argues that it was the Christianity brought by the Spanish colonizers that imposed the patriarchal structures currently existing in indigenous societies, and that, by contrast, Mayan spirituality and cosmovision are based on a balance between the male and the female (Gunn Allen 2002 [1986]). Although in both cases the historic accuracy of these representations has been questioned, what interests me in the analysis of the processes of vernacularization is to what extent these discourses regarding cosmovision and spirituality have allowed indigenous women to confront contemporary practices of exclusion and violence that attempt to find legitimacy in “tradition and culture.”

Morna Macleod has analyzed the link between gender and cosmovision in the practices and political discourses of the Mayan movement and has shown us the emancipatory significance that cosmovision is having for an important part of the Guatemalan indigenous women sector (Macleod 2011). Recognizing indigenous women’s theorizations, and learning from their emancipatory potential, does not imply an idealization of contemporary indigenous cultures. The proposals of these indigenous women engender an indigenous epistemology based on important values that they want to recuperate as well as activate, and which in no way suggest that they represent the cultural expression already shaping their daily lives. To disqualify these proposals because they do not share urban feminist perspectives of equality, or because they are not based on concerns for sexual and reproductive rights (at least not in the same way in which urban feminists understand these rights in urban and *mestizo* regions), means reproducing the patriarchal mechanisms that silence and exclude those political movements.

There are those indigenous women who claim, from their cosmovision, the need to construct an indigenous feminism that derives from their own culture. Alma López, a Maya-K’iche’ activist and ex-council from the Department of Quetzaltenango, comments:

The feminist movement that comes from the academy has little to do with us. That is why we do not appreciate something that has nothing to do neither with our reality nor with our culture. I think it is necessary to reconstruct the feminism of indigenous women. All of us have to construct this without separating ourselves from the historical and theoretical arguments. The philosophic principles that I would recuperate from my culture are equity, the complementarity between men and women, between women and women, and between men and men. Today this famous complementarity of the Mayan culture does not exist, and to affirm the contrary is an aggression. It only remains in history; now there is only total inequality. However, the complementarity and equity can be constructed. I would recover the double approach, the idea of *cabarwil*, the person that can at the same time look ahead and look back, can look to one side and another, see black and white. Recuperate with all the sadness that can be my reality as a woman and reconstruct myself with all the good that I have. Recognize that there are women different from myself, that there are mestizas and indigenous, that there are blacks, that there are urban and peasants.¹¹

Alma and other indigenous women in different parts of Latin America are constructing their own epistemological and political projects about which we have much more to learn. A questioning of our own ethnocentrism and racism is a necessary first step in establishing intercultural dialogues on conceptualizations of women's rights, and for constructing political alliances based on what we have in common, while at the same time recognizing our different visions of the world. The chapters of this book are part of an effort to establish constructive dialogues and political alliances derived from what we share but recognizing our internal differences and distinct visions of the world.

DECENTERING THE DICHOTOMY BETWEEN LAW AND CUSTOM

The analysis of the experiences of indigenous women in different contexts of justice in Latin America has been inserted into a broader political debate between the defenders of legal monism and those who advocate for judicial recognition of the legal pluralism that exists *de facto* in all Latin American societies. In this political context, different discursive constructions have arisen regarding law and custom that seem to give continuity to the old anthropological discussions about the normative systems of colonized peoples. In other works, I have

analyzed the legal anthropological debates in relation to law and custom and the manner in which this academic production contributes to the construction of this dichotomy (see Hernández Castillo 2002a). The discourses used by colonial governments to control the colonized population claimed that indigenous peoples have their own normative systems (Malinowski 1982 [1926]), and that, confronted with similar problems, they find the same solutions as a European judge (Gluckman 1955). Other discourses argued that law is characteristic of societies with centralized governments and so the existence of law was a sign of a superior level of development (Radcliff-Brown 1952). If the “aboriginal” peoples had laws, these were part of the “indirect rule” that was used by the local colonial administrative authorities and their institutions to control the colonized population. If, on the other hand, colonial governments accepted that indigenous customs could not be considered laws, then it was necessary to impose upon them the normative systems of the colonizing countries. Neither the recognition nor the rejection of their indigenous law implied real access to justice because of the context of colonial domination in which it occurred.

In the case of Latin America, the context of the continuity of internal colonialism and the coloniality of power and knowledge have been powerful influences (see Quijano 2000). Both the representations of the indigenous “uses and customs” (*usos y costumbres*) as a colonial legacy and the claim to “indigenous law” as an ancestral product of their own epistemologies are being used as powerful discourses that limit and control indigenous autonomy.

The analysis of the colonial and neocolonial contexts in Latin American shows us that discourses in relation to equality, as well as to cultural difference, have been used as forms of domination and control of indigenous peoples. An emphasis on equality can lead to an ethnocentrism that imposes the vision of the world emerging from the West as an optic through which to see the social processes, institutions, and judicial practices of other societies. At the same time, to emphasize cultural difference can be an instrument to *Orientalize*² non-Western societies and construct them as “Other” to the discursive construction of a “Western subject” characterized by discourses of rationality and progress.

With respect to the defenders or the detractors of legal pluralism in Latin America, there are, on one hand, the defenders of legal monism derived from the liberal perspective on law, who tend to represent the so-called uses and customs as pre-political residuals that are to be discarded. In many cases, the critiques of the recognition of indigenous legal systems have shown the racism that continues to exist in Latin American societies (see Escalante Betancourt

2015). In the Mexican context, the renowned jurist Ignacio Burgoa Orihuela, an important opponent of indigenous autonomy in the late 1990s, warned of the danger of indigenous peoples returning to “human sacrifice” if the right to their normative systems was recognized (Avilés 1997). Even anthropologists such as Roger Bartra have participated in this debate pointing out the colonial origin of present-day indigenous cultures, warning about the “seeds of violence and anti-democracy” that would bring forth the recognition of these “uses and customs” (Bartra 1997).

Within these political debates, women’s rights have been utilized as arguments against the recognition of indigenous normative systems and local autonomy. Analysts and academics who have never written a line in favor of gender justice began to write on the manner in which recognition of indigenous legal systems could affect women’s rights.

At the same time, there has been limited recognition of indigenous jurisdictions that do not respond to the indigenous peoples’ autonomic demands for political and territorial redistribution. On one hand, institutionalizing the spaces of indigenous justice has created the mechanisms of vigilance to limit its jurisdiction and, in many cases, has created new spaces under state control, as is the case of the denominated Indigenous Courts (see Buenrostro 2013; Martínez 2013). In this context of legal pluralism, indigenous law has come to play a role similar to alternative dispute resolution (ADR) or restorative justice in the United States, approaches that offer civic spaces for the resolution of conflicts and contribute to the decentralization of the legal state apparatus. In many countries of Latin America, state recognition of indigenous legal systems and spaces has occurred primarily because of the inability of some states to impose their law in all of the national territory (and not because of a formal recognition of indigenous autonomy). Often, indigenous legal systems are tolerated only until the power of the state is affected. This type of decentralization, although it is a positive characteristic of democratic federalism, has little to do with the autonomic demands of the indigenous peoples for whom the recognition of their legal systems should accompany the recognition of their political and territorial rights.

In a parallel manner, in response to the racism that has prevailed in the representations of the mistakenly called “uses and customs,” (*usos y costumbres*) some sectors of the indigenous movement have idealized their legal systems, representing them as an ancestral law that reflects harmonic and conciliatory cosmovisions (see Ticona Colque 2009; Zapeta 2009). With respect to Mayan

Law (Derecho Maya), the Maya-Cakchiquel anthropologist Aura Cumes has questioned idealized representations that do not allow seeing its historical development and its internal dynamic (Cumes 2009). These ahistorical and essentialist visions of Mayan Law do not recognize or confront those exclusions that occur in spaces of community justice. In relation to the justification of the exclusion of women Cumes states: “The political discourse about Mayan Law proposes that women are the counselors of men in private space. In other cases, it is mentioned that women are not being excluded from the legal spaces because they accompany their husbands in cases that require their presence. . . . The political claims of Mayan Law usually do not problematize women’s exclusion. To have fostered a purist idea of Mayan Law also has had its costs” (Cumes 2009, 47).

As we will see in chapter 3 of this book, several legal anthropologists reproduce representations of indigenous law as ancestral laws founded upon their cosmivision, and as completely isolated from the state’s positive law. These reproductions have contributed to the construction of an essentialist political imaginary in relation to indigenous peoples that once again colonize them by erasing the dynamism of their own cultures. Some advocates of inter-legality and legal pluralism in Latin America have emphasized the essentialist and functionalist viewpoints on indigenous law that represent it as an autonomous legal space. They have pointed out the existence of a multiplicity of legal practices in the same sociopolitical space that often constitute each other, and that interact by means of conflicts or consensuses (see Collier 1998, de Sousa Santos 1998b; Sierra 2004a; Sieder and MacNeish 2013; Wolkmer 2001).

Both racist and idealized views of indigenous law are ahistorical perspectives that negate the complexity of indigenous legal spaces of justice. In this formulation, it seems that there are only two possible representations: the nineteenth century one that views indigenous cultures and their “uses and customs” as primitive and backward (thus, to be dispensed with), and the essentialist ones that represent indigenous law as millenary, conciliatory, and democratic. However, the voices and practices of organized indigenous women in different parts of Latin America have come to challenge both representations by questioning those “uses and customs” that exclude them, and by pointing out the dynamic and changing nature of their indigenous law. In different regions of Latin America, indigenous women are struggling, from within their customary law, to include their demands for a dignified life without violence.

As we shall see in different chapters of this book, these are polyphonic voices, from different political genealogies, that are demanding from the state their

collective and territorial rights. They are doing so before their communities and indigenous organizations as they emphasize their right to change cultural forms that cause violence and exclusion toward them. The voices of indigenous women challenged the liberal representations of their traditions that have been used to dismiss indigenous “practices and customs,” saying instead that indigenous communities’ normative systems are being reconstituted, and that indigenous women are playing a fundamental role in that process. In the framework of struggle for indigenous autonomy and a legislative reform that recognizes the collective rights of the indigenous peoples, Zapatista Commander Esther focused on enumerating the inequalities and exclusions permitted by the current legislation. She argued that the constitutional reform demanded by Zapatista women would serve to “allow us to be recognized and respected, as women and as indigenous persons—our rights as women are included in that law, since now no one can impede our participation or our dignity and integrity in any endeavor, the same as men.” In this historic intervention before the Mexican legislative congress, the Zapatista leader proposed: “What I can say is that indigenous people recognize now that there are customs that we must combat and others that we must promote and this is noted in the more active participation of women in the decisions of our community. Now women participate more in the decisions of the assembly, now we are elected to positions of authority and in general we participate more in communal life.” (Commander Esther 2001, 9).

In chapters 2 and 3, I describe the manner in which the indigenous women of Mexico, Guatemala, and Colombia are determining the reconstruction of their own legal systems and confronting the liberal perspectives of indigenous law that negate indigenous autonomy. At the same time, they are rejecting the use of “tradition and custom” as arguments to justify their exclusion from community life.

CONFRONTING STATE VIOLENCE AND PATRIARCHAL SEMANTICS¹³

Although my analysis of the organizational experiences in Mexico, Guatemala, and Colombia emphasizes the political creativity of indigenous women and their capacity to resist and confront the discourses of power that tend to define them as subordinated victims of their own cultures, I cannot omit the context of structural violence in which these political processes occur. The testimonies

of indigenous women who are victims of military violence that will analyzed in this book reveal the use of sexual torture by governmental agents as part of a patriarchal semantics of violence and impunity developing in distinct regions of Latin America within a process of accumulation by dispossession (see Harvey 2003).

From a feminist perspective it is important to analyze the links between occupation through violating the bodies of indigenous women and the occupation of their territories and expropriation of their natural resources. These simultaneous processes correspond to the logics of neoliberal capitalism embedded as it is with gender and racial inequalities.

Taking into consideration the political economic analysis of late capitalism as developed by David Harvey I recognize that the stage of capitalist development in which we now live is very similar in its violence and expansion to the stage of original accumulation in which the colonial forces were strengthened by dispossession, privatization of land, forced expulsion of subjugated peasant farmers, dispossession of their natural resources, and mercantilization of the alternative forms of production and consumption of colonial populations (Harvey 2003). These processes appear to repeat themselves in the current stage of globalization.

The liberation of markets did not bring the “harmony” predicted by liberals and neoliberals; rather, it deepened inequalities within capitalist countries and brought forth a crisis of over-accumulation when they produce more than can be consumed. The exploited workers receive less of what they produce, for which there is a sub-consumption that obliges capitalists to increase their territories of reinvestment and consumption. The logic of capital requires always an “exterior activities fund” to overcome the over-accumulation; therefore, there was immense pressure to sign the North American Free Trade Agreement (NAFTA), opening the borders to products and capital and allowing the process of accumulation to continue through the dispossession and privatization of natural resources (such as water, land, and forests). This dispossession has never been a peaceful process (not now, or in the process of original accumulation). The resistance of those peoples whose territories and resources are mercantilized has been confronted with colonial violence in the past, and now, they are with the violence of the neoliberal states (violence that is legitimized through the law).

We are before a new onslaught of capital that appropriates the territories and resources of native peoples through neocolonial strategies that criminalize social movements and use sexual violence as a repressive strategy in the processes

of dispossession. As repression in Latin America has a long history that begins before the current moment of dispossession, the phenomenon to which we are witnesses in the last decade is the legitimization of the criminalization of dissidents through judicial reforms that pretend to combat delinquency while creating a legal framework to incarcerate and attack social movements. Examples of this are the penal reforms of 2008 in Mexico that criminalize social protest, and the recent anti-terrorist law in Chile that has incarcerated thousands of Mapuche activists who struggle for control of their territories. The strategy utilized by these governments involves lodging federal charges such as “the obstruction of means of communication,” “destruction of federal property,” or “kidnapping” so that, in the judicial files, they do not appear as charges of political dissidence. Thus, filing these other criminal charges, instead, enables the state to label and treat them as criminals, and then to subject them to violence under this framework (see Hernández Castillo 2010a).

These processes of dispossession and violence have been configured by the racial and gender hierarchies that continue to prevail in our societies. Indigenous peoples and peasants have resisted the privatization and mercantilization of their resources, drawing from epistemologies and visions of the world that actively challenge the utilitarian and individualistic perspective of capital; it is for this resistance that they have been constructed in hegemonic discourses as “retrograde and anti-progress” or, in the worst case, as “violent terrorists.” At the same time, indigenous territories are being violated by transnational mining, energy megaprojects, and the War on Drugs—all often producing displacements of populations that leave their lands “free” for capital to acquire.

In this assault of violence and dispossession, the bodies of women have been converted into territories to be invaded and violated. The rapes of women participants in resistance movements are not only punishment for transgressing gender roles, but they are also a message in the semantics of patriarchal violence. Paraphrasing Rita Laura Segato, the language of sexual violence toward women employs the signifier of the female body to indicate the possession of what can be sacrificed for the sake of territorial control (Segato 2008). Controlling women’s bodies through sexual violence is a way to demonstrate control over the territory of the colonized Native American authors, such as Andrea Smith, show us how the construction of indigenous women’s bodies has been a part of the linguistic etymology of colonization since its inception (Smith 2005a, 2005b). This is a message that repeats itself in this new stage of accumulation by dispossession.

In the Mexican case, women's participation in social movements of resistance (most evident in the Zapatista movement and in peasant and teachers' movements like those of Atenco, Guerrero, and Oaxaca) has disrupted gender roles in indigenous communities. It is not a coincidence that, in the face of the "destabilizing danger" that these women represent for the local and national powers, they become targets of male violence. Zapatista women and the members of the Indigenous Organization of the Me'phaa People (*Organización Indígena del Pueblo Me'phaa*—OPIM) have raised their voices to denounce the impacts of neoliberal economic policies and so-called security policies on their peoples (and specifically on the lives of women). Their voices have reached international tribunals, constructing new self-representations that destabilize patriarchal semantics. Chapter 4 analyzes the experience of Inés Fernández Ortega and Valentina Rosendo Cantú who were raped by members of the Mexican army in 2002 and were members of OPIM. After eight years of impunity, they opted to take their case before the international justice system at the lack of answers to their demands on the part of the Mexican judicial apparatus. Both women placed representatives of the Mexican state on the bench of the accused before the Inter-American Court of Human Rights, achieving a guilty sentence for "military institutional violence."

The testimonies before international justice, as well as the memoirs, resolutions, and internal documents that emerge from national and international congresses of indigenous women, are a source of theorization that speaks of other ways of understanding women's rights and their links with the collective rights of indigenous peoples. Theorizations emerging from these voices give an account of the utopian horizons that organized indigenous women are constructing upon the recuperation of the historical memory of their peoples.

The existence of organized women in some communities or regions has become a synonym of political radicalism. Organized women have transformed themselves into a symbol of resistance and subversion, placing them at the center of political violence in the three countries addressed in this book. The army, police forces, and paramilitary groups have turned women's bodies into their battlefield. Counterinsurgency strategies against political-military movements or, in the case of the War on Drugs, the combat against narcotics trafficking are used as an excuse to militarize or paramilitarize the indigenous regions of Mexico, Guatemala, and Colombia. Sexual violence, more than a simple repressive act, is a message in the patriarchal semantics in order to promote demobilization and eventually displacement and dispossession.

In the Mexican state of Guerrero, where Inés Fernández Ortega and Valentina Rosendo Cantú were raped, there have been important mobilizations against mining concessions in indigenous territories. According to government reports, there are forty-two mining areas ready for exploitation in that state. However, these mining sites coincide with 200,000 hectares of territories inhabited by members of the Nahua, Me'phaa, and Na Savi indigenous communities. These peoples of the mountain and Costa Chica regions of the state experienced the granting of mining concessions located in their territories without previous consultation. The same events are happening in the Guatemalan departments of Huehuetenango and San Marcos, where Mam women have led the resistance movements against mining companies (see Macleod and Pérez Bámaca 2013).

We observe a territorial coincidence when locating on a single map the regions with granted mining concessions and mobilizations of resistance against these disposessions, and the regions where the War on Drugs has left thousands of victims, missing people, and displaced communities. This overlap should oblige us to establish analytical links between both phenomena. In this onslaught of violence and dispossession, women's bodies have also become territories to be invaded, destroyed, disappeared, and violated.

Simultaneously, in collusion with drug trafficking, these security forces that discard racialized bodies also use sexual violence as a tool for political repression. Amnesty International's reports document sixty sexual aggressions against indigenous and peasant women by members of the armed forces within the last five years, especially concentrated in the states of Guerrero, Chiapas, and Oaxaca (precisely the states where there is great organizational activity and significant movements in resistance against dispossession and militarization).

From a patriarchal ideology that continues to consider women as sexual objects and as depositories of the family's honor, actions like rape, sexual torture, and bodily mutilations of indigenous women are seen as an assault on men of the enemy group; they are a form of colonizing their territories and resources. However, it is important to remember that this semantic of violence pervades not only the dominant groups but also society as a whole.

Organized indigenous and peasant women have responded to this counterinsurgency strategy by denouncing it in national and international forums. Their voices have come to destabilize the patriarchal semantics that attempt to utilize sexual violence on their bodies as a form of colonization. The leaders of OPIM, Inés Fernández Ortega and Valentina Rosendo Cantú, have opted to take their cases before international justice because of the lack of response

to their demands on the part of the Mexican judicial apparatus. The Inter-American Court of Human Rights has not only been a space for pursuing justice, but also, through the process of lawsuits, new political alliances have been formed and new women's leaderships have been consolidated.

In the cases of Inés Fernández Ortega and Valentina Rosendo Cantú, their cultural identities and their peoples' history have marked the specific manner in which these women lived through their rapes and their consequent search for justice. Both women have begun to organize around their rights and those of their people. Their rapes interpreted and lived by them and their families from the standpoint of historical memory relate the presence of the army and security forces to the violence and impunity experienced in their regions. The rapes and torture experienced in the framework of recent history form part of a "continuum of violence" that has marked the relationship of the indigenous peoples of the region with the Mexican army. As I analyze in chapter 4, this culturally-situated interpretation of their rapes as part of a series of community grievances has resulted in demands for collective compensations that include the demilitarization of the mountain region of Guerrero, where the Me'phaa communities are located.

Contrary to the demobilization effect often caused by repressive violence, these women's response has been a greater organization and strengthening of leadership. They have appropriated human rights discourses whereby their specific rights as women directly relate to the collective rights of their peoples.

While Inés and Valentina have utilized human and women's rights discourses in spaces of international justice, they have destabilized the liberal rights discourses that view rape only as an individual's problem. In this sense, their legal performances have contributed to the construction of subjectivities that reject the liberal conceptions of personhood. Their experiences contrast with the construction of subjectivities described by Sally Engle Merry in the cases of women who decide to denounce domestic violence in Hawaii, where the state's law constructs them as "free and autonomous subjects" who elect the rational option of using legality instead of maintaining family ties and preserving the "honor" of the family (Engle Merry 1995).

Among the compensations claims before the Mexican state is the construction of the Me'phaa Women and Men's Rights Center. It will have as its principal objective the creation of spaces for collective reflection in order to analyze the different levels of violence that exist in the region and promote indigenous and gender rights.

The lesson these experiences have taught us is that, in order to undo the neocolonial strategies of violence toward indigenous and peasant women, it is not enough to denounce the complicity between transnational capital and the processes of accumulation by dispossession. It is also necessary to change the set of shared meanings that conceive of women's bodies as a disputed and controllable territory, the epicenter of masculine power. The patriarchal complicities between neoliberal power and social movements must be deconstructed in order to break the chain of signifiers that allows the rape of women to be messages in patriarchal semantics. In many of the organized spaces analyzed in this book, indigenous women are reflecting on the use of sexual violence as a tool for counterinsurgency. New gender discourses are destabilizing the patriarchal meanings of the female body in indigenous movements. To name sexual torture, and to link it to distinct forms of state violence (as well as other strategies of dispossession and accumulation), is one way of breaking with the patriarchal meanings that have been constructed upon the violation and occupation of organized women's bodies.

THE CONTENT OF THE BOOK

The chapters that form this book systematize my experiences of twenty-five years of research and activism with indigenous women's organizations. During these years, I have learned to widen my concept of gender justice and to question many of my liberal premises on rights and emancipation. These intercultural dialogues have taught me important lessons about how to decolonize my own feminism and have led me to question the manner in which I understand resistance to patriarchal powers in contexts of neoliberal globalization.

This book is a product of a long academic trajectory during which I have participated in various individual and collective projects whose common denominator was a concern with access to justice for indigenous women and their appropriation of rights discourses. The various chapters reflect my own theoretical, political, and methodological search, from my perspective of "awareness raising" through feminist activism in the late 1980s to my recent work in dialogic, collaborative research with incarcerated indigenous women. Despite the differences in time and space among the various chapters, three theoretical axes traverse the book: the vernacularization of rights discourses, the hegemonic and counterhegemonic uses of legality by the state and indigenous women in

contexts of legal pluralism, and the limits of resistance in the context of neoliberal governance strategies and state violence.

Since the late 1980s, I have participated in different legal activist processes from a dual position as a feminist and as a critical anthropologist who recognizes the limitations of liberal discourses on rights. In the 1980s and 1990s, as member of a feminist organization that runs a center for women and children who are victims of violence, I participated in the legal and educational services delivered by this organization. Through this experience, I learned from our practice the possibilities and limitations of the justice system in relation to violence against women.¹⁴ At the same time, my dialogues with indigenous women's organizations in different regions of Latin America have led me to question the ethnocentric perspectives of urban Latin American feminisms and to search within decolonial theories for some epistemological guidance to rethink my own feminism.

The collaborative research projects "Indigenous Women Between Positivist Law and Community Justice in the Highlands of Chiapas" (1998–2000) and "Old and New Spaces of Power: Indigenous Women, Collective Organization and Resistance in Guatemala, Mexico and Colombia" (2002–2005)¹⁵ were formulated in these periods of my feminist activism and contribute to chapters 1, 2, and 3. The objective is to analyze indigenous women's appropriation of discourses on rights, the development of their own conceptualizations in relation to a dignified life, and how spaces are used within state and community justice in their struggle against violence.

Thus, I began to develop the theme of collaborative or activist research from a project on state law and communitarian justice in the highlands of Chiapas, and it has been my methodological approach in later projects, documented in chapter 1 of this book. Similar concerns led me to work with María Teresa Sierra on the project "Globalization, Indigenous Rights and Justice from a Gender and Power Perspective: A Comparative Proposal" (2006–2010). In this project, we addressed "the transformation of the relationship the state has with the rights of indigenous peoples from the privileged view on the dispute over rights and justice in times of intense changes marked by neoliberal globalization, multicultural politics and the processes of political transition which affect the nature of the state and society in Mexico and Guatemala" (Sierra, Hernández, and Sieder 2013, 13). At the beginning of this project, our concern centered on the impact of multicultural reforms in the area of indigenous justice.

However, in the course of our research, fundamental changes came about in the relationship between the Mexican state and the indigenous peoples, displacing the multicultural discourse for discourses on development, national security, and the war against drug trafficking (changes that impact indigenous women and men in a differentiated manner). The 2008 penal reforms in Mexico criminalized social protest and specifically impacted the organized indigenous population; these new state reforms forced me to return to an analytical focus on the state's justice. This analytic focus, in turn, led me to propose that we were witnessing a transition from a "multicultural state" to a "penal state" (Hernández Castillo 2013, 299–335), necessitating a case study that explores the relationship of indigenous women to the penal justice system.

In this context, I found a new space of feminist activism by participating in a literary workshop for incarcerated women and by contributing to the formation of their Sisters in the Shadows Editorial Collective of Women in Prison (*Colectiva Editorial de Mujeres en Prisión Hermanas en la Sombra*). In chapter 1, I give an account of the methodological strategies developed in this new collaborative project. The life histories of indigenous women written by the incarcerated women themselves (see appendices 2, 3, and 4), and the creation of spaces for collective reflection focused on the experiences of exclusion, were the basis of the intercultural dialogues that inform chapter 5.

My path of legal activism led me to participate in the elaboration of an expert witness report at the petition of the Inter-American Commission on Human Rights (IACHR) and the Center of Human Rights of the Mountains of Guerrero Tlachinollan. The case was *Inés Fernández Ortega v. México*, presented in April 2010 before the Inter-American Court of Human Rights. The experience of this lawsuit gave me the opportunity to analyze a third space of justice, which until now was outside of my study of penal and community justice in indigenous regions: the space of international justice.

The project "Women and Rights in Latin America: Justice, Security, and Legal Pluralism," coordinated by my colleague Rachel Sieder, allowed me to document and analyze this experience in the framework of a collective project that included case studies from Bolivia, Guatemala, Ecuador, Colombia, and Mexico. Chapter 4 is the product of this project and enriched by the theoretical debates we had in the permanent seminar, "Gender and Legal Pluralism," that we organized at the Center for Research and Advanced Studies in Social Anthropology (CIESAS) from 2010 to 2013. The analyses of indigenous justice

done by Sieder in Guatemala and Leonor Lozano in Colombia contributed in a fundamental manner to chapter 3 on indigenous justices (Lozano forthcoming; Sieder forthcoming).

The context of legal pluralism in which the indigenous women of Mexico, Guatemala, and Colombia develop their struggles for justice, and appropriate or negotiate the discourses of rights, reveals the political creativity with which women are responding to the discourses of power of the state and to hegemonic discourses within their own communities and organizations. These polyphonic discourses come from distinct political genealogies and reveal contradictory consciousness that in many ways reproduce hegemonic perspectives on the “socially appropriate feminine activities,” while at the same time allowing for the construction of new meanings on culture, justice, and rights. In this sense, to recognize the construction of new subjectivities by discourses of power does not imply rejecting the possibility of constructing, from this contradictory consciousness, political projects that point toward social justice.

In chapter 1, entitled “Activist Research on Justice and Indigenous Women’s Rights,” I discuss the importance of activist research not only as a methodological tool but as a new epistemological path for the collective construction of knowledge in alliance with indigenous and women’s movements. I also refer to the challenges of legal activism in the framework of neoliberal multicultural states in Latin America. This chapter discusses my process of learning and the challenges I have encountered in almost thirty years of collaborative research and legal activism in the area of gender justice, as well as describing the methodological bases that orient this book’s chapters.

In chapter 2, “Multiple Dialogues and Struggles for Justice: Political Genealogies of Indigenous Women in Mexico, Guatemala, and Colombia,” I reconstruct the history of the processes of organization that have created new political identities and new discourses and practices in relation to indigenous and women’s rights in Mexico, Guatemala, and Colombia. From bibliographic and hemerographic research that has included internal documents elaborated by the indigenous women’s movements, the use of oral history,¹⁶ and the ethnographic register of several organizational spaces, I reconstruct the dialogues of power that have constituted these new forms of being indigenous and the struggle for social justice through the appropriation of the discourses on rights.

In chapter 3, “Indigenous Justices: New Spaces of Struggle for Women,” I analyze the possibilities and limitations of communitarian justice spaces for indigenous women. The acknowledgement of the so-called indigenous com-

munity law (what is known as Tribal Law in the United States) by the majority of the Latin American constitutions has meant changes in the spaces of communitarian justice in indigenous regions. Based on ethnographic research, I will examine the appropriation of community justice spheres by organized indigenous women in Mexico, Guatemala, and Colombia and their reinvention of indigenous law from a gendered perspective in the context of the new multicultural reforms.

In chapter 4, “From Victims to Human Rights Defenders: International Litigation and the Struggle for Justice of Indigenous Women,” I reflect on the possibilities and limitations that come with international lawsuits to understand how indigenous women appropriate discourses of rights in international spheres of legal activism. After having approached the challenges faced by women in spaces of communal indigenous justice, I am interested in including another level of inter-legality that arises in the scope of international justice. Based on the analysis of the cases of Inés Fernández Ortega and Valentina Rosenda Cantú, before the Inter-American Court of Human Rights, my aim is to approach the way in which violence, racism, and gender inequalities affect the lives of indigenous women and determine their lack of access to justice.

In chapter 5, “Penal Justice: Incarcerated Indigenous Women and the Criminalization of Poverty,” I analyze the other side of the multicultural reforms: the effects of the penal reforms on access to justice for indigenous women. Centering my analysis on the Mexican context, I examine the experience of indigenous women in the sphere of criminal justice. I explain the recent changes in the relationship between indigenous peoples and the Mexican state in what I call a transition from a “multicultural state” to a “penal state.” I analyze the way in which the official discourse has abandoned multicultural rhetoric and adopted one of development and national security, with matching legislative reform that criminalizes poverty and social protest. I then offer a national perspective on indigenous women and federal penal justice to focus on the experiences of imprisoned women at two correctional institutions—called Female Social Correctional Centers (*Centro de Readaptación Social*—CERESO) in Mexico: one in San Miguel, in the state of Puebla, and another one in Atlacholaya, in the state of Morelos.

The book ends with a “Final Thoughts” chapter, which I intentionally chose not to call “Conclusions” because, rather than the conclusions of a positivist research study, what I put forth are some reflections on the contributions that indigenous women’s struggles are making to Latin American feminisms and

gender justice in the Americas. Their theoretical and political lessons have been fundamental to rethinking Latin American feminist anthropology from new, decolonizing perspectives.

Getting closer to the discourses and practices of indigenous women in their struggles for justice has not been for me only an academic curiosity or a compliance with a research objective. Rather, I consider that the intercultural dialogues in which I participated through the frameworks of these different projects are a fundamental step to constructing political alliances based on the recognition of difference. To speak of feminisms and women in plural, and to recognize the differences among us should not imply an impossibility of seeing our similarities. Our diverse struggles develop in the same global context of economic domination that influences local powers and resistances.

1

ACTIVIST RESEARCH ON JUSTICE AND INDIGENOUS WOMEN'S RIGHTS

IN THIS CHAPTER, I would like to reflect on the methodological routes that are the basis for this book, with emphasis on the epistemological possibilities of activist research.

In my experience as an academic and an activist, working for almost three decades advocating for women's rights in contexts of cultural diversity, I have had to confront both disparaging remarks from the positivist academy and skepticism from anti-academic activists. The reflections I am presenting here are in response to these two positions. Specifically, I defend the epistemological wealth resulting from conducting research in alliance or collaboration with social movements, and I propose that social research can contribute to developing critical thought and destabilize the discourses of power in struggles waged by movements working for social justice.

As a legal anthropologist, I have confronted the epistemological and political tension resulting from consistently maintaining a critical perspective in relation to positive law, as a practice and as discourse, and in relation to human rights as universalized, globalized discourses. I have also been involved in initiatives supporting political struggles for recognition of the rights of indigenous peoples at both national and international levels.

Some authors have proposed that these are two conflicting approaches: either you engage in critical analysis of law and the *juridization*¹ of political struggles, or you elect to reify the hegemonic perspectives of law and rights and support

legal activism. From these perspectives, struggles for recognition of cultural rights tend to reify hegemonic definitions of culture and indigenous peoples, and end up limiting political imaginaries around justice (Brown and Halley 2002).

In opposition to these perspectives, I have attempted throughout my academic career to always maintain a posture of critical reflection in relation to law and rights, while at the same time participating in initiatives that support the struggles to achieve justice for indigenous peoples and organizations, appropriating and re-signifying national and international legislation.

The perspectives that discredit legal activism end up silencing subaltern groups, once again, by disregarding the legal counterhegemonic discourses and practices developed in the Global South. Many of the indigenous women with whom I have walked side by side during the last decades share my critical perspective on law and my skepticism about state justice. However, in various political contexts, I have opted to make use of legal discourses, defending the constitutional rights of these women, and have elected to take their struggles to arenas of state and international justice. The scope and the limitations of these decisions have depended greatly on the organizational and political contexts in which these legal struggles have taken place. Law and rights are not ends in and of themselves for these indigenous women, but rather another language into which their demands for justice and a dignified life are translated. The chapters in this book are focused on these translations and these polyphonic appropriations.

FROM COLLABORATIVE RESEARCH TO EPISTEMIC DIALOGUES IN LATIN AMERICA

In the last decade, “activist anthropology” in North America (see Naples 2003; Hale 2008; Speed 2006, 2008) and the “modernity-coloniality group” (Castro-Gómez 1998, 2000; Castro-Gómez and Mendieta 1998) have issued a new call to decolonize the social sciences. They question “extractive methodologies” and confront positivist perspectives that, in the name of “scientific neutrality,” end up reifying the status quo.

The questioning by these authors is vital at a time in which structural reforms are imposing new neoliberal logics on the spaces where research is taking place, discrediting anything produced in academic settings that does not respond to the needs of capital and the state by labeling it as “ideological.” As such, it is

important to historicize these theoretical perspectives and to remember that criticism of “extractive research” and the call to recover local knowledge through more collaborative methodologies have been key to the development of Latin American social sciences for decades. Critical anthropologists, dependence theorists, promoters of co-participative research and participatory action research, and rural feminists dedicated much of their writing during the 1960s and 1970s to reflecting on the need to decolonize the social sciences and understand how knowledge might be used to achieve social justice.

In 1971, some of these intellectuals signed what was referred to as the Declaration of Barbados in which they made a public commitment both to the liberation struggles waged by the continent’s indigenous peoples and to the decolonization of the social sciences.² Over four decades later, we continue to battle against the phantoms of positivist and apolitical social science that simultaneously discredit any attempt to connect academic reflection with activism as “social work” and conceal their own political commitments to the status quo (see Gross and Plattner 2002).

In response to these efforts to discredit—that, unsurprisingly, frequently occur in places where assistance and financing for research are determined—it is necessary, once again, to demonstrate that critical thinking is not contrary to academic rigor. Building a research agenda in dialogue with the social actors with whom we work actually strengthens anthropological knowledge, as opposed to deviating from it, and makes it possible to transcend the limited academic world.

Although these debates seem to repeat themselves in the social sciences in a cyclical manner, the theoretical and political arguments made are not the same, even though they may appear to be. Changes in conceptualizations of power and the existence of the historic truth define significant differences between Marxist anthropologists who promoted action research in the 1960s and those of us who continue to declare the need for collaborative research today. The latter research based on “dialogues of knowledges” (*diálogos de saberes*) recognizes the partial nature of our perspective, the multiplicity of the subject positions characterizing the identities of social actors (including their relations of subordination), and the limitations of our situated knowledges.

Following Donna Haraway, I believe it is necessary to lend a new meaning to the concept of objectivity, acknowledging the historic and political context from which we construct our knowledge (Haraway 1991). In her feminist analysis of patriarchal science, she speaks to us about “situated knowledge,” a concept that acknowledges the historic and social context from which reality is

being perceived. At the same time, she does not give up the possibility of knowing, nor does she relativize the ethical and explanatory value of any knowledge. From Haraway's perspective, the alternative to relativism

is partial, locatable, critical knowledges, sustaining the possibility of webs of connections, called solidarity in politics and shared conversation in epistemology . . . Relativism is the perfect twin mirror of totalization in the ideologies of objectivity: both deny the stakes in location, embodiment and partial perspective; both make it impossible to see well. Relativism and totalization are both "God tricks" promising vision from everywhere and nowhere, equally and fully, common myths in rhetoric surrounding Science. But it is precisely in the politics and epistemology of partial perspectives that the possibility of sustained, rational, objective inquiry rests. (Haraway 1991, 329)

Based on a concept of "positioned objectivity," some authors have more recently vindicated epistemological contributions from activist anthropology (see Naples 2003; Hale 2008; Speed 2008; Leyva et al. 2013). They define the latter as that which is carried out in alignment or in connection with a group of people organized in their struggle, and in collaborative relations with this group in producing knowledge. They argue that this provides a privileged perspective from within and a certain theoretical innovation that cannot be achieved if one is positioned as an external, distant observer.

The main rupture I find between our positioning in relation to socially committed or activist anthropology based on epistemic dialogues, and the positioning of our professors in the 1960s and 1970s, is that we no longer assume that we have a "historic truth" to share or that it is our responsibility to "increase the awareness" of popular sectors. Acknowledging these differences does not imply denying the path taken up to now. It is important to learn about and recover the experiences from past decades and not to pretend that we have reinvented the wheel when we once again speak about participatory research and the decolonization of theory.

Since the 1960s, the pedagogical and political proposals made by Brazilian Paulo Freire inspired an entire generation of social scientists who developed a series of methodological strategies for recovering the knowledge of popular sectors, promoting processes of political awareness-raising, and, through these processes, achieving social transformation. In the case of Mexico, these ideas led to

a series of research projects linked to indigenous and peasant organizations in an attempt to build a bridge between the academic interests of researchers and the concrete needs of these sectors. What evolved as action or co-participatory research became popular during the 1970s and is considered by many to be one of Latin America's main contributions to the world's social sciences.³ The Participatory Research Network, created by Orlando Fals Borda, Francisco Vio Grossi and Carlos Rodríguez Brandao, proposed "the integration of people with researchers, to learn about and transform their reality, and in this way achieve their liberation" (Hall 1983, 19).

The political effervescence generated by these new methodologies coincided with the emergence of an indigenous and peasant continental movement questioning Latin American national projects that not only excluded these sectors economically and politically but also denied them the right to their cultural identities. These new voices created new challenges in the relationship between anthropologists and the "objects" of their study. At a number of continental indigenous conferences, the use of anthropology for the domination and control of indigenous peoples was denounced (see Bonfil 1981).

The voices of these new social actors played a part in the politicization of many Latin American social scientists who were in contact with this changing reality. Some decided to renounce academic work and become involved as participants or advisors to indigenous, peasant, and popular organizations. Others opted to create independent spaces for research in order to engage in a different type of social science practice, with a greater commitment to dialogue with social actors. Some examples in Mexico were: the Mayan Institute of Anthropological Advice in the Mayan Region (*Instituto de Asesoría Antropológica para la Región Maya*—INAREMAC), directed by Andrés Aubry; Circo Maya, coordinated by Armando Bartra; and the Center of Activist Research for Women (*Centro de Investigación-Acción para la Mujer*—CIAM), founded by Mercedes Olivera.

In Chiapas, where I lived and worked for fifteen years, co-participatory research was popularized by some independent researchers linked to nongovernmental organizations and the Catholic Church, whose pastoral work in this region was guided by liberation theology. Action research consisted of "recovering" the knowledge of popular sectors with regard to their social reality, assisting in its systematization and promoting "conscientization." Although this research model proposed the transformation of hierarchical relations between the researcher and the researched, the theoretical premise (inherited from Marxism,

that intellectuals can awaken the conscience of the “oppressed”) was based on a paternalist perspective of popular sectors and popular knowledge considered to be “distorted” by a “false consciousness.”

This was part of the inheritance reproduced and eventually confronted by those of us who, from our feminist perspective, have opted for more collaborative research in recent years. Many feminist anthropologists, including myself, working in academic institutions or independent organizations, decided to take up the idea of supporting processes of the empowerment and conscientization of women from popular sectors through our research. Nevertheless, critical reflection has led some of us to acknowledge that we were reproducing some of the ethnocentric perspectives of Marxism. Now, the “infallible method” is not historical materialism, but rather, gender analysis that has emerged from a Western intellectual tradition and that is generally quite insensitive to cultural differences.

The epistemic dialogues presented in this book arose from a self-critique of my own trajectory as a feminist working in an indigenous region characterized by racism and racial hierarchies. The voices of organized indigenous women, together with critical reflections on the colonialism in the discourse of academic feminisms, led me to question the methodologies used by the feminist organization to which I belonged during the late 1980s. The organization was located in San Cristóbal de las Casas, a city of ladinos surrounded by marginalized neighborhoods of indigenous Tsotsil and the administrative hub of a mostly indigenous region.

However, it was not only academic feminist readings that made me question the colonizing practices of some hegemonic urban feminisms. Living for long periods of time in Mayan communities in the highlands and border regions of Chiapas brought me closer to other forms of knowledge and to the political and organizational experiences of indigenous peoples. I reformulated many of my Marxist and feminist perspectives on resistance and social struggle, incorporating a critique of racism and internal colonialism as a fundamental focus in political struggle.

During those years, I found myself experiencing state repression and the criminalization of social movements at a personal level, as a number of my friends suffered repression and sexual violence carried out by government forces. These experiences led me to participate in forming a broad movement of women against state violence, and against sexual and domestic violence in particular. This movement became the Collective Spaces for Woman (*Colectivo de Espacios*

para Mujeres—COLEM) feminist organization, to which I belonged for ten years. My experience in COLEM, questioning and fighting patriarchal violence, and my work as an anthropologist in the Center for Research and Advanced Studies in Social Anthropology (*Centro de Investigaciones y Estudios Superiores en Antropología Social*—CIESAS), reflecting on the racism and internal colonialism affecting indigenous peoples, led me to think about political alliances and the need to construct a policy of solidarity among diverse social actors.

In 1994, the Zapatista movement connected struggles against neoliberalism, racism, and patriarchy, becoming the first political-military movement in Latin America that vindicated women's rights as a fundamental part of its political agenda. Its influence has been highly important (both theoretically and politically) for an entire generation of feminists, myself included, who have taken on the task of decolonization as a basic condition for reformulating our feminist agenda.

My double identity as an academic and a member, for ten years, of a feminist organization that worked against sexual and domestic violence through a center for assisting women and youth—especially indigenous women—led me to confront discourses that idealized indigenous cultures. This idealization occurred, from a significant sector of Mexican anthropology, alongside the ethnocentrism of a significant sector of liberal feminism. In a polarized context where women's rights have been presented as contrary to the collective rights of peoples, it has been difficult to vindicate more nuanced perspectives on indigenous cultures. In particular, it is hard to find perspectives that acknowledge the dialogues of power of which they are constituted and, at the same time, demand the rights of indigenous peoples to their own culture and to self-determination.

At this political crossroads, indigenous women have been the ones who have given me clues about how to rethink indigenous demands from a nonessentialist perspective. Their theorizations in relation to culture, tradition, and gender equity (as expressed in political documents, final reports from events, and public discourses, but also systematized in the writings of their intellectuals) are fundamental perspectives for the epistemic dialogue needed for the decolonization of feminism.

The proposal that we have been working on, together with other academic colleagues and activists participating in the Decolonial Feminisms Network (*Red de Feminismos Descoloniales*), arises from questioning the homogenizing, generalizing perspectives of patriarchy and “women's interests” that have characterized a significant sector of Anglo-Saxon and European feminism (see

Millán et al. 2014). When the idea of a pre-existing collective subject, in this case “women,” is rejected, and when any collectivity is considered to be a product of alliances among diverse actors, we are presented with the challenge of constructing a political agenda on the basis of dialogue and negotiation. In this task, research has a great deal to offer in learning about and recognizing other knowledges and other ways of being in the world.

The epistemic dialogues that we propose from the perspective of activist research—unlike co-participatory research—do not intend to transform reality because of a method or theory considered to be infallible. Rather, the intention is that, together with the social actors with whom we are working, we reflect upon and deconstruct the issues in a shared social reality. Then, based on these dialogues, we jointly develop a research agenda that will make our knowledge relevant for the movements or social actors with whom we are collaborating. In co-participatory research, the commitment of social scientists with the objects-subjects of their study was an easy decision: it was a matter of simply taking sides with those who were marginalized, as opposed to those who were responsible for exploitation. However, to the extent that our analyses of power become increasingly complex, we find ourselves obliged to reject the homogenizing, harmonic representations of subalterns, by acknowledging the different levels of inequality experienced by social collectives. Some committed social scientists are confronting new ethical and methodological dilemmas. If we recognize that our representations and analyses—of indigenous peoples, migrants, women, and religious minorities, to mention a few—may have political implications for these groups, it is important to acknowledge the shades of gray that exist between the blacks and whites emphasized in past analyses.

When we renounce the certainties offered by Marxism in the co-participatory research of the 1970s and 1980s, we face new challenges in conducting socially-committed research. The social actors, with whom we work (in our case, women), often seek, through the collaborative relationship, “infallible answers” to the problems they are facing, more than a critical questioning of shared reality. In addition, we have lost the apparent clarity derived from conceiving of the differences between “the dominant” and “the dominated” as emerging from a single axis of subordination: class. When we consider the plurality of relations based on subordination, any perspective of homogenous collectives is destroyed, and the task of recognizing a collective interest that should be supported by the researcher becomes more complicated. Nevertheless, recognizing these challenges should lead us to something more than political demobilization. Instead, we must search for

creative ways to generate dialogues of knowledges that will allow us to propose strategies for struggle that are more congruent with the complex realities we are facing.

From the perspective of feminist anthropology, the link between the production of knowledge and political commitments to social transformation has been, since its origins, an axis around which its theoretical and methodological proposals revolve (see Moore 1996). For this very reason, feminists have made important contributions to a critique of the networks of power that legitimize and reproduce scientific positivism—contributions that have not always been recognized by contemporary critical anthropologists or postmodern theorists.⁴

In the case of Latin American feminist anthropology, these critical perspectives have not arisen exclusively in the theoretical, academic setting. These critiques accompanied political and methodological practices that have taken these debates to the spaces where political struggles are taking place, to popular education workshops, and to spaces of collective organizing in which many feminist academics, myself included, are participating.

This has been my experience as a feminist academic linked to a public center for research and graduate studies (CIESAS), while at the same time collaborating and/or being part of various collective efforts focused on building a more just life for women. The topics of my critical analysis of Mexico's national project, spaces of justice, and development policies—to mention some that I have addressed in my work—have been problems not only for academic research, but also concerns that I have been able to share with other women with whom I have participated in organizations and/or established epistemic and political dialogues.

In the sections that follow, I will introduce four different experiences in collaborative research with indigenous women that serve as the bases for this book.

The four action research experiences that give sustenance to the chapters of this book are, first of all, my work as companion and ally, for over twenty-five years, to a continental indigenous women's movement that has experienced different local organizational processes in Mexico, Guatemala, and Colombia. These activist research experiences allowed me to systematize the various political genealogies of indigenous women in these regions through their oral histories and official documents (Hernández Castillo 2006a, 2006b, 2008), and to support the publication of their own theorizations and critical reflections (see Hernández Castillo 2006b; Martínez and Florentino 2012; Méndez et al. 2013; Painemal 2005; Rivera Zea 2005; Romay 2012; Sánchez Néstor 2005; Villa 2012;

Vargas Vásquez 2011). Second, I worked for ten years (1988–1998) as a member of the legal and educational areas of the Center for Women and Minors Victims of Domestic Violence (CAMM) in San Cristóbal de Las Casas, Chiapas, where my research on communal justice and legal pluralism contributed to rethinking our legal defense strategies for indigenous women (see Hernández Castillo 2002a, 2005; Hernández Castillo and Garza Caligaris 1995). Third, I participated in the elaboration of anthropological expert witness reports and their presentation at the Inter-American Court of Human Rights in cases of military violence against indigenous women (see appendix 1). Finally, I currently participate as a member of the Sisters in the Shadows Editorial Collective of Women in Prison (2008–2016), where I performed anthropological research on indigenous women’s experiences with penal justice (see Hernández Castillo 2013).⁵

In these experiences, the dialogical construction of knowledge was one of the main objectives and challenges for those of us participating in these projects as women researchers/activists and activists/researchers.

CHRONICLER AND ALLY OF INDIGENOUS WOMEN’S ORGANIZATIONS

In the 1980s, when I participated as a member of a broad women’s movement in Chiapas, one of the main challenges we faced, as a feminist organization with a project of struggle against domestic and state violence, was the construction of political alliances with indigenous women’s organizations in the region. During those years, the issue of racism was taboo in feminist organizations and the unwillingness to talk about racism reproduced the universalizing discourses of the feminisms of the Global North, speaking of women’s rights as shared rights and excluding class, ethnicity, and sexual preference from the discussions.

In this context, there was little recognition of the ethnic and class hierarchies that marked the women’s movement in Chiapas. The struggle against state violence and the militarization of indigenous regions, both of which increased after the Zapatista uprising in 1994, was the central axis of many of our struggles (see Hernández Castillo 2001a, 2002b).

In October 1995, in the context of the peace talks between the Zapatist Army of National Liberation (*Ejército Zapatista de Liberación Nacional*—EZLN) and the federal government, a round table, called “Indigenous Rights and Culture,” was established to discuss the EZLN’s demands, with participation by the Zapatista general command, representatives of civil society allied with the

Zapatistas, and government representatives. The dialogue was organized in seven workgroups, one of which was "Situation, Rights, and Culture of Indigenous Women;" as a women's organization, we were invited by the Zapatista general command to be part of their group of advisers. My participation in this space allowed me to recognize, once again, how internalized racism expressed itself, even among female mestizo activists who claimed to be sympathizers with the Zapatistas. Both the Zapatistas and the government's representatives invited indigenous and mestizo women to participate in the adviser groups and, for five days (October 18–22, 1995), discussed the women's specific demands, many of them included in the Women's Revolutionary Law elaborated by Zapatista women.⁶ To the surprise of many of us, the ideological and political differences between indigenous Zapatista women and the indigenous women invited by the government (many of whom were members of the official Institutional Revolutionary Party (*Partido Revolucionario Institucional*—PRI), took a secondary role when a mestizo feminist treated an indigenous woman of the government commission with arrogance and disrespect. The Zapatista women stopped the "feminist in solidarity" in her tracks for reproducing, in this political space, the racist and condescending ways in which many urban women often treat indigenous women.

After this experience, many of the indigenous women's organizations supporting the Zapatista struggle started to create their own spaces for organization and political discussion, spaces to which only a few non-indigenous feminists were invited as allies and observers (without the right to speak or vote).

It was in this context that, in 1997, the National Encounter of Indigenous Women's "Building our History" was held and attended by over 700 indigenous women from various regions of Mexico, with the participation of Commander Ramona, one of the main political figures of *Zapatismo*.⁷ This meeting gave birth to the Coordinating Committee of Indigenous Women in Mexico (*Coordinadora Nacional de Mujeres Indígenas*—CONAMI), in which non-indigenous women could participate only as observers, and only by invitation. Many feminist activists who had worked from within their organizations against violence toward indigenous women felt offended by this decision, interpreting it as "treason," as expressed in this first encounter by the well-known feminist lawyer Martha Figueroa. Learning to listen and to put aside our tendency to take an excessively large role in the public encounters was an indispensable requirement in order to collaborate with them.

In this new political context, collaborative research is no longer just an ethical and political decision made by researchers, but also a demand of the indigenous



FIGURE 1. The author with participants in the Congress of the Continental Network of Indigenous Women in Guatemala, 2015. Photograph from R. Aída Hernández Archives.

organizations themselves. These organizations do not allow anyone to appropriate their knowledges, to “ethnograph” their spaces, or to assign themselves the right to representation, without first clarifying the purpose of the research. Throughout the last twenty years I have had the privilege of being invited as an ally to several of these women’s organizational spaces, including CONAMI and the Continental Network of Indigenous Women (*Enlace Continental de Mujeres Indígenas*—ECMIA) created in Quito, Ecuador in 1995. I have oftentimes contributed behind the scenes with logistical tasks, with the elaboration of reports, press documents, or popular education manuals, and, a few times, with facilitating or moderating in workshops on women’s rights. This access to their program documents, interviews with their leaders, and the knowledge of the internal dynamics of their organizational spaces allowed me to reconstruct the political genealogies presented in chapter 2.

I consider myself an unofficial chronicler of indigenous women’s movements. Many times it was my task to elaborate audiovisual materials used in the workshops on violence against women, such as the videos *Enough! Seven Stories of Domestic Violence*, *Rights of Women in Our Customs and Traditions*, and *Under the Shadow of the Guamuchil: Life Stories of Incarcerated Peasant and Indigenous*

Women (Ya Basta! Siete Historias de Violencia Doméstica, Los Derechos de las Mujeres en Nuestras Costumbres y Tradiciones, and Bajo la Sombra del Guamüchil: Historias de Vida de Mujeres Indígenas y Campesinas en Reclusión). Other times I have taken on the task of denouncing, through the written press, radio series, or other journalistic publications, the violence and repression suffered by their movements.⁸

Recognizing myself as an ally does not imply erasing or ignoring the structural inequalities that distance me from many of the indigenous women with whom I work. Class differences, my position as a tenured university professor in a society characterized by economic inequalities (where job insecurity in the academy is the norm rather than the exception), my place as a mestizo woman in a racialized society where mestizos are constructed by the national discourse as “the national norm,” and my situation as a heterosexual woman in a profoundly homophobic society mean that I produce my knowledge from a highly privileged space of enunciation. Recognizing these sites of privilege is important, not in order to deny the possibilities of intercultural dialogues and alliances, but to construct them based on a critical reflection of their structural context of inequality.

This recognition is not always easy, nor are dialogues always supportive and constructive, but recognizing our internalized racisms and working on them from within academic and political spaces is a fundamental step toward building alliances. My collaborative research with indigenous women's organizations has also involved the task of building bridges with urban feminist organizations, taking the issues of racism and feminist exclusions to political and academic spaces. Publishing this book in English and translating their testimonies and reflections into that language is yet another attempt to contribute to build bridges with different women.

EXPERIENCES FROM WORKSHOPS ON GENDER VIOLENCE AND INDIGENOUS JUSTICE

One of my first experiences in building bridges between my legal anthropological research and political activism took place during the 1990s in the Mexican state of Chiapas, where I was a member of a feminist organization working to end all forms of violence against women (see Hernández Castillo 2002a). Drawing on my education in anthropology, I wanted to contribute to the outreach and

organizational work promoted by COLEM and so I proposed to my colleagues that we conduct collaborative research aimed at exploring the possibilities and limitations of national law and indigenous normative systems in addressing sexual and domestic violence.

A team of activists (including myself) who worked in CAMM, and who represented three different disciplines (law, pedagogy and anthropology), held a series of workshops with a group of bilingual indigenous women. We shared basic knowledge regarding the way in which positive law confronts sexual and domestic violence, and they shared with us their experiences and knowledge regarding spaces of indigenous justice.

Using tools from popular education, we planned the workshops to serve not as traditional spaces for training “popular defenders,” but as spaces for discussion in which both the indigenous participants and CAMM members shared knowledge for seeking together the best tools for legal defense work. Based on the methodological action research proposals developed under the influence of Paulo Freire’s pedagogical work, we intended for the workshops to fulfill the double function of contributing to both the research and training of popular defenders who would be able to move fluidly between entities imparting justice in their communities and such entities at the state and national levels.

Participants in the workshops were all women from organizations or community leaders who had previous contact with CAMM and who had expressed an interest in reflecting on, and receiving training about, their rights. The group consisted of twelve women: six of them were bilingual teachers from the municipalities of Chilón, Jitotol, Simojovel, and Tila, and they spoke Tsotsil, Tzeltal, and Chol; the other six were members of crafts cooperatives, two from the Zinacantán municipality, two from Amatenango del Valle, and two who had migrated to the city of San Cristóbal de las Casas from Tenejapa and Chamula. We never viewed the experiences of these women as representative of the feelings and thoughts of “indigenous women.” These participants were all young women who had, in one way or another, confronted the prevailing gender roles in their communities. Through their work as teachers or craftswomen, they had contact with other organized women, both indigenous and mestizo women, and their perceptions and discourses were influenced by the ways in which they were constantly crossing cultural borders. All of them participated in broader indigenous organizations with cultural and political demands. These included the Union of Teachers for New Education for Mexico (*Unión de Maestros por la Nueva Educación para México*—UNEM) and the Plural National Indigenous Assembly for Autonomy (*Asamblea Nacional Indígena Plural por la Autonomía*—ANIPA), and

two participants were originally from communities that were part of the new autonomous regions created because of the Zapatista uprising.⁹ If their experiences were representative of something, it was that these women were from a minority sector of women who played very active roles in indigenous organizations and who were reformulating the way in which gender roles are understood.

The challenges we faced in conducting the workshops were greater than we had imagined when we initially proposed a space for exchanging knowledge. For those of us who were CAMM members, our professional training and work experiences had a profound impact on our perceptions of what would be involved in this type of exchange, and on our own perceptions of state law and customary law. The lawyers on our team, despite their critical perspective on law (resulting from their feminist activism), continued to view state legality as a fundamental tool for constructing a more just life for indigenous and mestizo women. Their perceptions of “customs and traditions” determined their understandings of a normative system, learned during their university studies. For the pedagogue on our team, the priority was to assist participants in reflecting upon inequalities between men and women and, to whatever degree possible, to contribute to building a gender consciousness. Recognizing the cultural specificity of the indigenous women was only a first step toward finding the similarities that could unite all the women in a common front.

As an anthropologist, I debated between my cultural relativism and global feminist activism. I attempted to break with generalizing discourses on “women” and to understand the cultural logics that impacted their gender relations and normative systems. At the same time, I recognized the similarities and complicities between indigenous and non-indigenous patriarchal institutions. The main challenge was both reconciling the different levels of emphasis we placed on law, gender, and culture, and attempting to critically analyze our own conceptualizations. The second challenge was to do away with the idea of the existence of a “false consciousness” (which sometimes underlies the conception of popular education as a “conscientizing” tool), and to learn to listen and understand the experiences and perceptions of the women participating in the workshop.

The indigenous women, for their part, had to face practical difficulties involved in attending the workshops, such as the insecurity on the roads to and from their communities, many of them militarized or under the control of paramilitary groups, as in the case of *Paz y Justicia* in the Chol municipality of Tila.¹⁰ Those who came from zones of Zapatista influence had to suspend their participation in some of the workshops due to the various “red alerts” declared by the EZLN.¹¹ Still another challenge for the indigenous women participants

was assuming the commitment involved in defending other women in their communities, where “getting involved in someone else’s problems” was viewed negatively, almost as bad as “gossiping,” and akin to creating conflict. Their parents questioned some of them when they attempted to explain their interest in learning more about the law, “due to the dangers they would be exposed to if they got involved in problems with the government.”¹²

Despite all of these limitations, we were able to work together for a year’s time, with monthly meetings lasting two or three days, until, for various reasons associated with political problems in the region, it was no longer possible for the women to travel to San Cristóbal. We decided to suspend the final workshops, replacing them with visits we made to the areas where they worked. This research presented us with the challenge of deconstructing and analyzing the premises underlying positive law and indigenous law as social practices and discourses that reflect the inequalities between genders. With their limitations and historical specificities acknowledged, we could explore the real possibilities they offered for constructing a better life for women.

Already at that time, a number of us on the team had begun to feel uncomfortable with the “didactic” style of feminist workshops. We pointed to the need for transforming such workshops into spaces for dialogues of knowledges (*diálogos de saberes*) in which both the indigenous women and CAMM members could critically reflect upon community justice and state justice, and in which we could dare to question our certainties. Resistance to bringing definitive solutions to the issues we discussed was at times discouraging for the women participating.

Our idea was not to present national law as simply a tool for state control and domination or to vindicate it as the panacea against ethnic and generic oppression. Nor was it our intention to demonize indigenous law or to idealize it as a space for cultural resistance. Instead, our proposal was to explore the possibilities and limitations of both, in relation to the specific problems of indigenous women, with the aim of seeking alternatives more congruent with the cultural and social context in which our organization carried out its work against sexual and domestic violence.

It was, of course, not easy to come to these collective spaces for constructing knowledge with doubts in our minds. It would be much more comfortable to assume that we had truths to “share,” and to take on the role of “trainers” and/or those who “awaken consciousness.” The latter would offer a certain legitimacy and power in collective spaces that was not easy to acquire from a position of uncertainty. Nevertheless, this experience, and others that followed, taught us

that being open to decentering and destabilizing our visions of the world and strategies for struggle can be more productive for constructing a common project. Such lessons can allow us to find paths that we had not been able to imagine when we believed we had all the epistemological cartographies for an emancipatory agenda readily available.

For example, what indigenous women revealed about networks of power at various levels of justice, paired with their proposals for reinventing traditions under new terms, can provide clues for redefining the debate between cultural relativism and universalism. Through the testimonies shared at the workshops, and in the interviews conducted within the framework of this research (as well as in the documents from congresses, conferences and forums), a concept of dynamic, changing culture becomes evident. Unlike the liberal critics of multiculturalism, the indigenous women from Chiapas do not reject their culture in the name of equality, but rather, demand the right to their own culture, while fighting for the construction of equitable relations within their own families, communities, and organizations.

In later collaborative research projects with organizations of indigenous women from various regions of Latin America, we found similar perspectives in which, based on their political reflections, these new voices have come to question the dichotomous perspectives between feminist universalism and "Indianist" cultural relativism. Indigenous women from Mexico, Guatemala, and Colombia, whose experiences we will analyze in the next chapter, have simultaneously demanded from the state the right to cultural difference, and demanded from their communities the right to change the customs and traditions they consider to be unfair. In various documents generated in these new spaces for discussion, indigenous women have demanded their rights as national citizens and have taken up the demand made by the continental indigenous movement to maintain and recover their traditions. However, they have done so from a discourse that proposes the possibility of "always changing while staying the same, and always remaining the same while changing."

CULTURAL AFFIDAVITS AND ACCESS TO JUSTICE

Another way in which anthropologists are beginning to engage in legal activism is through expert witness reports or anthropological affidavits for litigation cases at national or international levels. The multicultural reforms of the last decade

have brought changes in codes for criminal proceedings that permit the use of expert evidence of a cultural nature. These anthropological affidavits are reports prepared by specialists who acknowledge the cultural context of the accused or the plaintiff, whichever the case. The fundamental objective of the affidavits is to provide information to the court regarding the importance of cultural differences in understanding a specific case. For many anthropologists who promote the use of cultural affidavits, this means that indigenous peoples will have a better possibility for access to justice. Laura Valladares, a member of the board at *Colegio de Etnólogos y Antropólogos de México* (CEAS), one of the professional associations that certifies experts, states the following:

Cultural affidavits have a relevant role in contributing to the construction of processes for procuring justice in conditions of greater equity for indigenous peoples and their members, and also contribute to creating scenarios of legal pluralism. It is a tool that makes it possible to initiate a dialogical relation between positive law and indigenous normative systems, as well as engage in the construction of a society that respects cultural diversity. (Valladares 2012, 11–13)

In the case of Mexico, the August 2001 revision of Article 2 of the Constitution, known as the “Law of Indigenous Rights and Culture,” specified modifications in the Federal Codes for Criminal Proceedings, recognizing the right to a translator when the plaintiff or defendant does not speak Spanish fluently. This modification offers the possibility of expert opinions on cultural factors involved in the action being prosecuted.¹³ Prior to these reforms, lawyers who represented indigenous defendants, some of them pro bono defense attorneys with the National Indigenist Institute (*Instituto Nacional Indigenista*—INI),¹⁴ attempted to diminish a sentence or secure the release of an indigenous inmate by appealing to the already-repealed Article 49a of the Federal Code of Criminal Proceedings. The repealed article considered a reduced sentence for those who were in conditions of “extreme cultural backwardness.” In other words, they appealed to an article that reproduced racism in Mexican society. Despite the multicultural reforms that have been implemented, this argument continues to be used by many lawyers and cultural expert witnesses. Thus, despite their “good intentions,” they are reifying and reproducing racist perspectives on indigenous peoples (see Gitlitz 2015; Escalante Betancourt 2015; Verona 2015).

While the use of cultural affidavits may represent progress in achieving access to justice in comparison to racist perspectives that appealed to “cultural backwardness,” these affidavits comprise a legal tool that raises new ethical and

epistemological dilemmas for anthropologists (like myself) who defend legal activism.¹⁵ On the one hand, this tool reproduces hierarchies in relation to knowledge, legitimizing the cultural knowledge of anthropologists over and above the knowledge of indigenous peoples themselves. As anthropologists, in this formulation, we are the ones who have legitimate cultural knowledge that can be acknowledged by the operators of justice. In this sense, then, we have the last word in terms of what is a “genuine indigenous cultural practice” or “genuine indigenous law.” Yuri Escalante Betancourt, one of Mexico’s most renowned cultural experts, describes this dilemma in self-critical terms:

Who is the most competent expert for clarifying the cultural differences sought by judges, or in other words, who can be the best expert to present the truth before justice in matters of cultural analysis? An anthropologist trained under Western theories or someone from the community where the legal controversy arose? Does the anthropologist’s authority not turn into authoritarianism by attempting to know what a native person already knew? (Escalante Betancourt 2012, 41)

The anthropologist’s role as a “cultural translator” for the operators of state justice becomes even more complicated by the need to accept the rules of legal discourse where the complex, contextual perspectives of anthropological analysis often have no place (see Carrasco 2015). In Australia, where anthropologists have a long history of preparing cultural affidavits in support of the struggle for the recognition of the territorial rights of aboriginal peoples, David Trigger describes the contradictions faced when they accept the “rules of the game” in state justice (Trigger 2004). He writes that there is “a tension here between the necessity for a researcher to fit investigations into this legal context, yet maintain professional independence such that one’s own disciplinary standards and practices are not swamped by the force of the legal process” (Trigger 2004, 31–32).

For example, the legal process requires “positive truths” with regard to the culture of indigenous peoples that often involve reproducing essentialist representations of their cultures. The diversity within communities and the different perspectives in relation to culture and traditions between genders and generations remain invisible in these homogenizing cultural descriptions. It is because of these power games in which anthropologists participate in spaces of justice that authors like Karen Engle warn about “the dark sides of virtue” in reference to the reification of indigenous cultures often involved in legal activism associated with their rights (Engle 2010).

What is the solution to these dilemmas? Shall we maintain ourselves at the margin of legal spaces and allow the “truth technologies” used in legal systems to continue to speak of “cultural backwardness”? Is it possible to critically analyze these knowledge-power systems and their productive capacity, while at the same time attempting to use discourses on rights and legal spaces as emancipatory tools?

Because of my anti-essentialist perspectives on indigenous cultures and my criticism of the way in which anthropologists in countries like Colombia were becoming “purist guardians of indigenous culture” through cultural affidavits (see chapter 3), I previously rejected any invitation to participate as an expert witness in legal processes. However, my reticence to prepare anthropological affidavits or participate as an expert in litigation processes fell apart when two indigenous women leaders of the Me’phaa people who were raped by members of the Mexican army decided to take their case to an international court and asked me to accompany them in this process.

In March 2009, I was invited by the Center of Human Rights of the Mountains of Guerrero Tlachinollan (*Centro de Derechos Humanos de la Montaña de Guerrero*) and the Center for Justice and International Law (*Centro por la Justicia y el Derecho Internacional*—CEJIL) to prepare an anthropological affidavit to be presented to the Inter-American Court of Human Rights in the cases denounced by Valentina Rosendo Cantú and Inés Fernández Ortega. These two women, members of the OPIM, were raped by soldiers in February and March 2002, respectively. Since then, they have fought at the national and international levels both for justice to be served and in order to denounce the effect of the country’s militarization on the lives of indigenous women and their peoples. This was a case that deserved an affidavit characterized by sensitivity to the intersections of gender, class, and ethnicity, and to the way in which these multiple exclusions had impacted the victims’ vulnerability, their experience of violence, and the lack of punishment for the crimes. The request from their legal representatives was to prepare an affidavit that I would later present orally to the Inter-American Court and that would explain the impact on the communities of the sexual violence experienced by the two women.

This invitation was the beginning of an intercultural dialogue with both of these women, and with other women in their organizations. Through this dialogue, I have learned from their courage in confronting and denouncing state violence, and from their profound analysis in which they conceive of their experiences of violence not as individual but as part of a collective history that

has been characterized by a *continuum* of violence against indigenous peoples. This analytical perspective has been evident in their denouncements and their demands for compensations to their communities, including the region's demilitarization as a central element. The way in which they have formulated their denouncements, testimonies, and discourses throughout these ten years of struggle (as well as the demand for compensations before the Inter-American Court) reveals the cultural construction of a sense of personhood that is constituted mutually by the individual and the collective. An act as seemingly individualized as rape was experienced and analyzed as part of the historic violence against these women and their peoples.

Because of the political clarity with which both Inés and Valentina analyzed and denounced the sexual aggressions against them, I doubted for a moment, given my ethnocentric prejudices, if their testimonies had been faithfully translated from Me'phaa into Spanish in the documents I was reading. When I was invited, together with my colleague Héctor Ortiz Elizondo, to participate as experts in their denouncement before the Inter-American Court, I had not yet met them personally, and I was concerned that their organization and the human rights entities representing them were prioritizing their own political interests above those of the two women. Indeed, I worried that the denouncement might actually be a process of re-victimization.

While it is true that these paradigmatic cases tend to be evaluated in a positive manner by feminist organizations, judging by the impact they have had on gender jurisprudence and public policies, we know very little about the real life consequences. The accusation process has brought new experiences upon the women who dared to confront the state's power by taking their complaints beyond national borders. It was this concern that led me to hesitate when I was invited to participate as an expert witness before the Inter-American Court in the cases of Inés Fernández Ortega and Valentina Rosendo Cantú. Were these two women truly those wanting to take this complaint before the international tribunal? Or were human rights organizations pressuring them to carry out this "strategic litigation?"

With these questions in mind, I made my first visit in March 2009 to Baranca Tecuani, a Me'phaa community of some 500 people in the municipality of Ayutla de los Libres in Guerrero. This is where I met Inés Fernández Ortega, a small woman with a penetrating gaze and inner strength. Any doubts I had dissipated when she told me: "It is I who wants to accuse, so that justice is done, so that the *guachos* (soldiers) know they cannot get away with it, so my daughters

and other children in the community do not go through what I went through, so that all the women in the region can roam through the mountains without fear.”¹⁶ Her conviction that the complaint was necessary, not only for herself but for all Me’phaa women, made it clear to me that this was a community leadership very different from others I had known.

One of the key objectives of the expert witness report was to demonstrate that the sexual violence suffered by Inés had an impact not only on her and her family, but also on the women of her community and organization (see the entire Expert Witness Report in the appendix 1). This process brought me close to Inés and the women from the OPIM, and I learned not only of their courage, but also of their sense of collective solidarity and communitarian cohesion.

Now I understand that the need for a report of this kind came not just from the legal representatives, but from Inés herself, who since the beginning of this process insisted that her rape was part of a series of aggressions against her people and her organization. It is for this reason that it cannot be treated as an isolated event. Her conviction forced her lawyers to justify before the Inter-American Court the demand of communitarian compensation for a case of an individual sexual violation, a legal strategy that had not been used before at this entity of international justice. It was because of Inés Fernandez Ortega’s firm decision to use the Inter-American Court as a forum for an accusation of a chain of violent events (in which her rape was only one link), that it was necessary to elaborate this anthropological report, giving me the privilege of meeting these women from whom I continue to learn every day.

While the details of this case will be analyzed in chapter 4, I would like to emphasize in terms of methodology that OPIM members and other members of the women’s families carried out the entire process of collectively preparing the affidavit. At Inés’s request, the discussion around collective compensation demands took place at a workshop coordinated by Héctor Ortíz Elizondo and a psychologist, Clemencia Correa, who also participated as an expert before the Inter-American Court. In this workshop, as in others held later, Inés insisted on expanding the discussions beyond her experience of violence in order to reflect on how militarization was affecting all the men and women in the region. She pointed out that her case was not unique, and that many women were remaining silent out of fear of reprisals. This type of work allowed us to transcend the essentialist perspectives of culture by incorporating history and an analysis of political context into our affidavits.

It is important to acknowledge that our participation as experts in the Inter-American Court reproduced, to some degree, a hierarchization of knowledge,



FIGURE 2. The author with the members of the legal team that represented Inés Fernández Ortega in the Inter-American Court in Lima, Peru. Photograph from R. Aída Hernández Archives.

by turning ourselves into the “voice of their culture” in the eyes of international law. However, the collaborative nature of the research on which the affidavit was based allowed us to incorporate their voices, analyses, and perspectives into the expert report presented. This dynamic continued after the case was won, in the subsequent stage of implementing the sentence. At that time, we were invited, together with Héctor Ortiz, to facilitate a workshop to discuss the sentence and the mechanisms for implementing the collective compensations. The Mexican state’s conviction for “institutional military violence” became a tool for collective reflection on the part of Inés and the women in her organization.

The “technologies of truth” implemented in the Inter-American Court, constructed a type of victimized identity that denied Inés’s and Valentina’s social agency. They became only victims of the repressive state (see Merry and Bibler Coutin 2014). But both women destabilized these identity constructions when they used the sentence of the Court as a tool for fighting against the state’s militarization and violence, assuming an identity as human rights defenders.

I do not wish to overestimate the impact of these cases in the Inter-American Court of Human Rights, but I would like to point out that they were paradigmatic sentences in which, for the first time, the Court demanded collective

compensations for a case of individual grievances. This speaks of the way in which liberal dichotomous conceptions around gender rights and collective rights are beginning to be destabilized in arenas of international justice.

Some critical perspectives on the Inter-American Court suggest that despite the importance this Court has acquired in Latin America, it is a very limited space for international justice when it comes to gender justice:

We are beginning to see the decisions of the Court invoked before domestic courts as supranational precedents, and this can also be found in the drafting history of legislative reform bills and the justification of public policy papers. Most importantly, unlike other international dispute resolution mechanisms in the field of human rights that are open to receiving complaints from the region, the Court offers victims of human rights abuses the possibility of a legally binding decision. For this reason, it tends to be favored among Latin American victims. Against this backdrop, it can be said that the Court's case law is a tremendously useful tool for human rights practitioners, NGOs and academics in the Americas. This being the case, it is certainly a matter of concern that in 18 years of decisions on individual petitions, there are only six cases that can be said to refer in a significant way to women's rights. Four of those decisions failed to adequately identify and manage the gender sensitive issues that arose from the facts. (Palacios Zuolaga 2008, 10)

Since Patricia Palacios Zuolaga wrote this text criticizing the Inter-American Human Rights Court's lack of gender policy, there have been some changes that speak to the potential impact of discourses and practices of resistance on these supranational spaces of justice. The cases of Inés and Valentina were preceded by the *María da Penha v. Brazil* case, involving domestic violence. The Brazilian state was found responsible for violating María da Penha's right to legal guarantees and protection, due to an unjustifiable delay and the negligent handling of domestic violence in Brazil. Because of the compensations demanded by the Court, Brazil issued one of the most advanced laws against domestic violence in all of Latin America, known as the María da Penha Law. In 2009, the case of *Gonzalez & Co. v. Mexico*, also known as the "Campo Algodonero" case, was presented to the Inter-American Court. In this case, the mothers of eight women murdered in Ciudad Juárez, whose bodies were found in *un campo algodonero* (a cotton field), filed a complaint against the Mexican state for negligence and impunity in its handling of the denouncement. This case was paradigmatic because

the compensations demanded by the Court included a recognition of structural conditions that facilitate femicide in the region.

Obviously, the sentences handed down by an international court cannot, on their own, change the structural conditions that make violence against women possible. They are only tools for a broader struggle. Their implementation brings new contradictions and, in some cases, new vulnerabilities for the women demanding justice, as we will see in chapter 4. Nevertheless, my experience accompanying the denouncements by Inés Fernández Ortega and Valentina Rosendo Cantú has led me to reconsider my critical position on cultural affidavits, and to think that perhaps, as anthropologists, we have something to offer to legal activism.

PENITENTIARY WORKSHOPS: ORAL HISTORIES AS A TOOL FOR DISARTICULATING MULTIPLE OPPRESSIONS

Another one of the important methodological experiences contributing to this book derives from my work in penitentiary writing workshops with indigenous and peasant women imprisoned at a social readaptation center (*Centro de Readaptación Social*—CERESO) in the Mexican state of Morelos. I arrived at the Women's Atlacoloaya CERESO in 2008, with the idea that my anthropological research on Mexico's justice system had something to offer in improving women's access to justice, without imagining the way in which the reflections and experiences of these women would change my life.

Through this experience, I have been able to verify the importance of oral history as a tool for feminist reflection and as a strategy for destabilizing racist and sexist colonial discourses. While feminist theorists have written a great deal on the importance of recovering the history of daily life and telling the stories of women's experiences through oral history (see Wolf 1996; Reinhartz 1992; Fonow and Cook 1991), I had not imagined how the collective reconstruction of individual histories could serve to build sisterhood among diverse women and facilitate the writing of a counter-history that would reveal the way in which the coloniality of power defines the lack of access to justice for indigenous and peasant women.

Oral history, in this context, has ceased to be a "methodological tool for researchers," instead becoming a means of collective reflection that exposes how



FIGURE 3. Participants in the penitentiary writing workshops at a “social readaptation center” (*Centro de Readaptación Social*—CERESO) in Atlacholaya, in the Mexican state of Morelos. Photograph from R. Aída Hernández Archives.

ethnic and class hierarchies impacted the trajectories of exclusion and lack of access to justice experienced by the incarcerated women. Contrasting the experiences of diverse women exposed the hierarchies that define the Mexican justice system. As indigenous and non-indigenous women, peasant, factory workers, and professionals, homosexual and heterosexual women shared their life histories and reflected on the multiple exclusions of the Mexican society.

Expecting to have an ethnographic approach to this penitentiary environment, I planned to undertake field research by recording the life stories of indigenous women in the women’s CERESO in Morelos. This particular CERESO was established in 2000 to replace the old penal complex at Atlacomulco in the state of Morelos, as a response to criticism over the dreadful living conditions for its inmates. As a modern correctional facility, the new detention center includes a section designed exclusively for women, unlike most penal complexes that have been built with men in mind, and later adapted to fit female inmates (Azaola and Yacamán 1996).

The women's section of the CERESO in Morelos has the highest number of female prisoners in the state: it houses 205 inmates, 34 percent of whom are under preventive detention and 65 percent are sentenced inmates; additionally, the prison houses fifteen minors.¹⁷ The penitentiary's installed capacity is for only 120 interns in spite of the fact that it is considered to be a model penitentiary due to its modern infrastructure and the inclusion of sports and educational facilities (Velázquez Domínguez 2004).

In accordance with the methodological design of our collective project, I was interested in using collaborative methodologies inside the penitentiary environment. This entailed new challenges for me, since it was not the same as working with organized women fighting for social justice. An alternative would have been to approach a human rights or women's organization that would like to sponsor our research team's project. At any rate, collaboration came through a different channel.

An obstacle to carrying out the research was the resistance of prison authorities to granting research permits for correctional centers anywhere in the country. Nevertheless, most of the inmate programs for "reentering society" (*re-adaptación social*) are of a cultural and educational nature. Many universities, like Mexico City's Autonomous University (*Universidad Autónoma de la Ciudad de México*—UACM) and the National Autonomous University of Mexico (*Universidad Nacional Autónoma de México*—UNAM), and special government institutions such as the Social Rehabilitation Patronage or the Morelos State Social Reentry, are involved in these endeavors. It was through one of these cultural programs that I enter to the female prison of Atlacholoaya, for first time.

Through a personal contact, I managed to enter as a guest in a workshop that was taking place at Atlacholoaya Women's Center. Elena de Hoyos, a feminist poet, was conducting a workshop entitled "Woman: Writing can change your life." It had been going on for a year, involving between ten and twelve inmates—none of them indigenous—with educational levels ranging from the completion of elementary school to technical education. When I introduced myself and explained my interest in writing life stories of incarcerated indigenous women, they offered to do the interviews themselves with their fellow inmates if I provided the proper methodological training.

This was the beginning of a space for dialogue and collective construction of knowledge that has brought new challenges for me as an academic and activist. What began as a writing workshop has become the Sisters in the Shadows Editorial Collective of Women in Prison which has already published seven books, as well as various articles for cultural and penitentiary magazines. The

stories and denouncements in these publications have played a part in the review of prosecution files and the release of a number of women who were unfairly imprisoned.¹⁸

The formal goal of the “Life Histories” workshop, in which ten writers were involved (all of them inmates at the Atlacholoaya CERESO), was to “train participants in the technical elements of elaborating life histories, as a literary and reflective asset for gender inequality.” The workshop has been taking place since October 2008, and the women involved have undertaken their own projects, each elaborating the life history of one of their indigenous fellow inmates. Once a month, the indigenous women whose histories are being summarized take part in the workshop to listen to progress made, and to comment on and question the ways in which their lives are being represented by the workshop members.

This collective process has allowed us to create new bonds between indigenous and non-indigenous women, and has opened up a reflective sphere on racism and exclusions in Mexican society, reproduced within the penal environment.

Through these dialogues, we confront ethnocentric perspectives on defining a dignified life, while questioning perspectives on “backwardness and progress” that tend to delineate the contrast between the lives of indigenous women and urban mestizo women. When we compare their histories, we realize that, in most cases, the “national system of justice” does not represent “progress” in relation to community forms of justice:

Since detention, most of us have suffered beatings, mistreatment, insults from the servants of the law, and in some cases, certain extortions that aren't subject to proceedings. Like magic, the medical reports and testimonies of these aggressions disappear in the trajectory from the prosecutor's office to the prison. And some little lines appear saying that the accused, now the alleged person responsible, appeared of her own free will to give her statement. The *costalazos*¹⁹ don't leave any signs, but they have damaged my inner flesh. (Colectiva Editorial de Mujeres en Prisión Hermanas en la Sombra 2012, 32)

As participants shared their life histories, they came to realize that sexual and domestic violence takes different forms, and while it is more private in urban settings, it is still there. By contrasting their histories, reflecting on them, and writing them down in a collective text, the women were able to both denounce the racism, sexism, and classism in the penitentiary system, and construct new subjectivities by denaturalizing violence. In the spaces of collective reflection

created for the reading of their life histories, participants expressed the need to strengthen themselves from within to confront violence, and especially, to teach their daughters outside of the prison how to avoid reproducing the types of relationships they had experienced. In an exercise completed within the framework of the workshop, participants wrote letters to women who have been mistreated psychologically and physically:

Break the chains of subjugation caused by the lack of high esteem. Find yourselves again and look around you. Life shouldn't be like it was for our mothers. We need to construct our own way of thinking and communicating with our spouses, instead of repeating the ways of life from our families. To have our own way of living, to know how to express our own feelings and to teach our children to express their own feelings both with the people around them and with their romantic partners. To know how to say 'no' to violence.²⁰

Woman, if you dare to break the silence, you may be able to put an end to the pattern of violence that surrounds you and that you may actually be reproducing. It's understandable that if we live in a violent home, sooner or later we will reproduce the violence . . . but today, I encourage you to reveal yourself to fight against what humiliates you, what tramples on your dignity. Listen, you are invaluable. Don't remain silent. Shout, and fight for your rights, because after all, you're a woman.²¹

My experience has been by no means unique. Literary workshops have been a point of entry for many academics into the penitentiary realm, and a number of analysts have pointed out the complicities that occur between instructors and authorities in penal institutions, since workshops act as means to feed the penal system's control and domestication needs (Bruchac 1987; Olguín 2009). The way in which the contents of the literary workshops respond to the cultural context of inmates and allow or hamper critical reflection shapes the hegemonic or counterhegemonic role these vehicles may have.²²

With this in mind, my intention for the "Life Histories" workshop has been to encourage intercultural exchange between indigenous and non-indigenous women and to promote critical reflection on the chain of ethnic, gender, and class inequalities that gave rise to their reclusion. The participants have begun to elaborate their own theorizations and reflections that they incorporate into their biographical narratives, thus rendering hybrid and novel forms that go beyond mere life histories.

With the intention of socializing this knowledge, participants have begun to write a column in the monthly journal *¿Y Ahora que sigue?* (Colectiva Editorial Hermanas en la Sombra 2009a) published inside the penitentiary. In the article that introduced the workshop, one of the inmates described the importance of this effort to build connections between diverse women within the penal system:

The Life Histories Workshop is important to me because it opens a door to an unknown world that must be considered in order to eliminate the inequalities we experience in our country. It is also a way to sensitize our hearts in order to create a sisterhood among women of different social classes. In my small space in the female prison area, where different minds, customs and certainties of women inhabit, it is interesting to join our voices and outline life histories, liberating them from this place and causing the outside world to know and think about the reality we live in here. This workshop will help achieve women's unity in a shared common goal. It is a way towards mutual support as spokespersons of real stories. Personally, it has allowed me to live a new experience in the world of writing, and feel proud for supporting those who have been silent for too long. My writing will serve those who wish to tell their story. For illiterate women, this workshop has been a means to liberate their story, to unburden themselves on a receptive ear, and to recover the courage to be a woman that society took away from them. (Colectiva Editorial Hermanas en la Sombra 2009b, 3)

Thus, intercultural dialogue takes place not only between the researcher and the inmates, but among the inmates themselves, all of whom have had different life paths and contrasting ways of experiencing gender inequalities and state justice. Discussing similarities and differences has been a central part of the workshops:

Personally, I feel this workshop helps me to get to know my companions better, learn about their ideas, and express ourselves better. I hope it also helps us become closer. I believe it is helping me to be a better person, to express my feelings and thoughts, and be more sensitive to my companions. For illiterate indigenous women, our work has been a way of making their lives known, and along with theirs, our own, as a form of mutual help. (Colectiva Editorial Hermanas en la Sombra 2009b, 3)

In the seven years since this collective process began (spanning 2008 to 2016), four of the participating indigenous women have learned to read. They are now

writing poems and short stories, and are co-authors of the book entitled *Mareas Cautivas* (Colectiva Editorial de Hermanas en la Sombra 2012):

<p>From different places with different languages but the most beautiful all of us spiritually free even though society calls us jailed women, forgotten women, scum, despicable women we are creative women, warrior women, roses in captivity doused by our own tears fertilized with our own pain prisoners with great hope captives loved by the Lord, phantasm women, women victims of circumstances warrior women women who struggle</p>	<p>De diferentes lugares de diferentes idiomas pero lo más hermoso todas libres espiritualmente aunque la sociedad nos diga las presas, las olvidadas, la escoria, las malas somos mujeres creativas, mujeres guerreras, rosas en cautiverio regadas con nuestras propias lágrimas abonadas con nuestro propio dolor presas con mucha esperanza cautivas amadas por el Señor, mujeres fantasmas, mujeres víctimas de las circunstancias mujeres guerreras mujeres que luchan</p>
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De Diferentes Lugares (From Different Places) by Leo Zavaleta, Me'phaa/Tlapanec woman who learned to write while imprisoned, in *Mareas Cautivas*. (Colectiva Editorial Hermanas en la Sombra 2012)

Seven women have been released from prison after their prosecution files were reviewed, and two of them continue to participate and write in a literary workshop coordinated by writer Elena de Hoyos outside the penitentiary. Those who continue to be imprisoned have been constructing a group identity as the Sisters in the Shadows Editorial Collective of Women in Prison becoming a reference point for all female inmates, by proposing new ways of interacting with each other, as a sisterhood, and by questioning racism and sexism in the penitentiary through their writings.

Inside the prison, within the limits of what Michel Foucault called a “total institution that constructs subordinated identities,” the women of Atlacholoya

have been able to destabilize the discourses of power and denaturalize inequalities through their own writings and the public readings of these writings (Foucault 1977). These have taken place in both the classroom designated for the writing workshop and in the *tertulias literarias* (literary gatherings) organized in the prison's collective spaces.²³

The creative ways used by these women to theorize gender violence, penitentiary racism, and solidarity among diverse women—through their poetry, essays, and short stories—have led me to rethink the way feminist theorizations and to expand my teaching curriculum to include these dissident voices in the courses I teach on gender theory. Breaking through the limiting borders of academic settings, and studying the theorizations emerging from experiences of (and resistance to) multiple oppressions, is a fundamental step toward the decolonization of our feminisms.

As a researcher, I have been able to contribute to these dialogues by providing specific information on the technicalities of state justice mechanics. I share specific data on the rights violations I observe from their testimonies or judicial records (if I have access to the files). I direct them to proper pro bono legal counseling and try to follow the process. I also share with them the stories of indigenous women who are fighting for their rights in different parts of Latin America. Together with their theorizing, this has been fundamental to fostering our reflection circle.

I must point out the limitations of this type of activist research: this type of academic and cultural work does not destabilize the penal system, nor does it greatly modify the institutional control over the minds and bodies of incarcerated women. I recognize these limitations, and it is in the framework of these limitations that I try to contribute to denouncing a corrupt, sexist, and racist justice system that is not only impacting the lives of incarcerated women, but also threatens my own and other women's lives who are still on the outside.

Ruth Wilson Gilmore, one of the most thoughtful critics of the United States penal system, questions the brand of activism that struggles to ameliorate the living conditions inside penitentiaries or that tries to free men and women unfairly imprisoned, stating that this kind of activism does not address the root of the problem (Gilmore 2009). Similarly, Ben Olguín has stated the need for direct action against prisons through an abolitionist movement, based on his work with Latino prisoners in correctional facilities in California (Olguín 2009).

Thus, given prevailing prison conditions, the only feasible activism, according to Gilmore and Olguín, is to strive toward getting rid of prisons altogether.

In my view, this abolitionist initiative lacks historical perspective and is hardly realistic for modern-day Mexico. Their critical perspectives on “reformism” can have a demobilizing effect in circumstances where there is no cultural or political climate for promoting the abolition of prisons. There are some small-scale, yet significant, activities that can be achieved within prisons: specifically, accompanying the critical reflection and organization of inmate women; and denouncing the correctional system’s injustices, racism, and sexism. These activities can help to improve the living conditions of thousands of women whose minds and bodies are being subjected to neoliberal state control.

In addition to these micro-level efforts, we can conduct a critical analysis at a systemic level that may assist us in finding and denouncing the control and incarceration of indigenous men and women within the broader scope of neoliberal policies that impoverish broader sectors of Latin American peoples, and criminalize social dissidence and poverty. We analyze this in chapter 5 of this book.

FINAL REFLECTIONS

In this chapter, I have attempted to demonstrate that critical reflection on the discourses on rights and state justice does not exclude possibilities for appropriating and re-signifying these discourses on the basis of legal strategies that recognize legal pluralism. Establishing intercultural dialogues on rights and justice confronts the state’s regulatory discourses and it is an opportunity for destabilizing our certainties and expanding our emancipatory horizons.

As a feminist, collaborative research with indigenous women has contributed to a process of reformulating my own conceptions of gender rights, and has led me to criticize my own complicities in the processes of “erasing” other perspectives and expectations in relation to justice for women.

The voices of organized indigenous women in Continental Network of Indigenous Women, the experiences of Inés and Valentina, and the women who participated in the workshops on “Gender Violence and Indigenous Justices” (*Talleres sobre Violencia de Género y Justicias Indígenas*) and the penitentiary workshops on “Life Histories” (*Talleres Penitenciarios de Historias de Vida*), are a source of theorizations that speak to us of other forms of understanding women’s rights and their connections to the collective rights of peoples. The theorizations arising from these and other spaces being created in different regions of

Latin America point to new utopic horizons that organized indigenous women are constructing as they recover the historic memory of their peoples. My intention in this book is to reflect on the effects of resistance and the process of decentering hegemonic discourses in the rhetoric and practice of indigenous women who are defending other ways of understanding justice and rights.

In the research studies that are the basis for this book, we have attempted to establish epistemic dialogues on the basis of research and organizational work. In these dialogues we have discussed and analyzed different conceptions and experiences of subordination and resistance. These methodological and political searches reflect what Boaventura de Sousa Santos has called an “ecology of knowledges,” which does not imply a rejection of Western scientific knowledge, but rather an opening to other forms of knowledge for constructing better strategies for transformation and social coexistence in a collective manner (de Sousa Santos 2009).

In our case, an “ecology of feminist knowledges” does not discard the knowledges accumulated by Western feminism, but instead attempts to change its hierarchical relationship to the emancipatory knowledges of indigenous and peasant women in different regions of the world in the construction “of another possible world, or in other words, of a more democratic society, and a more balanced society in its relation with nature” (de Sousa Santos 2009, 116). Vital to this ecology of feminist knowledges are the contributions of indigenous intellectuals who—from their academic settings or from their political activism—are developing their own theorizations in relation to the collective rights of their peoples and the rights of women. In many cases, these theorizations are presented in the form of final reports from conferences, political manifestos, and autobiographies, or, in other cases, they are systematized by appropriating or reformulating theoretical discourses. However, in both cases, these are perspectives that have opened up new spaces of reflection for the feminist academy. I hope this book will contribute, if even minimally, to the emergence of this ecology of feminist knowledges so urgently needed in the construction of a more just world.

NOTES

INTRODUCTION

1. In a previous publication I have a detailed analysis of the etymology of the concept of *indigenous* and the manner in which it has become a field of power in the struggles for meaning (see Hernández Castillo 2010c). In this work, I state that, according to authors who have reconstructed the history of the concept, the word indigenous appears in some colonial documents from the fourteenth century, and is defined as “people bred upon that very soyle [*sic*],” to distinguish the inhabitants of the Americas from those brought over as slaves by the Spanish and Portuguese (see de la Cadena and Starn 2007). Nevertheless, before the 1950s the concept of indigenous was used primarily in botanical works to refer to the native origin of plants. The term appeared for the first time in an international document in 1957 in Convention 107 of the International Labor Organization (ILO), in reference to the “Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries” (see Niezen 2003).
2. The *resguardo* is a system of communal landholdings. Under this system, indigenous peoples were allowed to use the land but could not sell it. Similar in some respects to the Native American reservation system of the United States, the *resguardos* have lasted (with some changes) even to the present and have been an enduring link between the government and the remaining highland groups.

3. *Cosmovision* (*cosmovisión*) is the term used by indigenous intellectuals in Mayan and Andean regions to refer to their “worldview” or their own epistemology. In the framework of the International Rights of Nature Tribunal held in Lima, Peru, in December 2014, the participating organizations defined indigenous cosmovision in the following terms: “According to their cosmovision, indigenous peoples experience nature in a holistic way imbued with a sacred quality. Nature is revered as the primary source of life; it nourishes, supports, and teaches humanity; nature is the center of the universe. All life is regulated by a single and totalizing ‘set of rules of conduct’” (see <http://therightsofnature.org/framework-for-tribunal/>). Some authors relate the meaning of cosmovision to the original German term *weltanschauung*, as an image or general view of existence, reality, or the “world” that a person, society, or culture develops in a given time period.
4. I use the concept of *governmentality* developed by Michel Foucault to refer to the forms of social control in disciplinary institutions (schools, hospitals, psychiatric institutions, etc.) and to refer to forms of knowledge (Foucault 1991). Power can manifest itself positively by producing knowledge and certain discourses that get internalized by individuals and guide the behavior of populations. This leads to more efficient forms of social control, as knowledge enables individuals to govern themselves.
5. In Latin America the term *indigenismo* is used to describe the ways that nation-states have formulated their vision of indigenous social inclusion and the state policies that they have developed towards indigenous peoples.
6. The Puebla Panama Plan is a multibillion dollar development plan formally initiated in 2001, intended to promote the regional integration and development of the nine southern states of Mexico, all of Central America, Colombia, and the Dominican Republic.
7. Unless otherwise noted, all translations from texts written originally in Spanish are my own.
8. Although Kimberlé Crenshaw’s work is the most frequently cited when referring to the concept of intersectionality, Chicana feminists had proposed this idea almost a decade earlier in their critiques of white feminism. *Chicana Voices: Intersections of Class, Race, and Gender*, an anthology of Chicana scholarship, articulated the theory and its basic elements, stating that, “for Chicanas, as for other women of color, the discussion that we offer is one that combines analyses of class, race, and gender. We cannot separate any of the three from our experience. It is the combination that makes our experience

- unique” (Córdova et al. 1984, 3). I thank my colleague and friend Francisca James-Hernández for sharing this information with me.
9. An analysis of the racism that continues to permeate an important sector of Latin American urban feminism, and that has contributed to many indigenous women’s rejection of the concept of feminism, can be found in Blackwell (2012).
 10. I use the term hegemonic feminism to refer to the feminism that has emerged from urban centers and has been theorized from the academy, wherein the struggle against abortion and reproductive rights has been central.
 11. Interview with Alma López by Ixkic Duarte (2002).
 12. I use the concept “to Orientalize” in reference to the process described by Edward Said in *Orientalism* (1978) as a general patronizing Western attitude towards Middle Eastern, Asian, and North African societies. According to Said’s analysis, the West essentializes these societies as static and undeveloped, thereby fabricating a view of “Oriental culture” that can be studied, depicted, and reproduced. Implicit in this fabrication, writes Said, is the idea that Western society is developed, rational, flexible, and superior (Said 1978).
 13. This section is part of a longer chapter published in an edited volume in which I developed the link between the colonization of indigenous women’s bodies and the colonization of indigenous territories (see Hernández Castillo 2014).
 14. I was member and co-founder of the *Grupo de Mujeres de San Cristóbal Las Casas*, a women’s organization that ran a shelter: the Center for Women and Minors who are Victims of Domestic Violence (CAMM).
 15. Both projects were supported by a grant by the National Council for Science and Technology (*Consejo Nacional de Ciencia y Tecnología*—CONACYT).
 16. As part of the collective project on which this chapter is based, we conducted interviews with members of indigenous organizations from the three countries and created an anthology of life histories of indigenous leaders from Mexico, Guatemala, and Colombia (see Hernández Castillo 2006b).

CHAPTER 1

1. Juridization is the growing recourse to legal intervention: growing litigiousness.
2. The Declaration of Barbados can be found at <http://servindi.org/pdf/Dec_Barbados_1.pdf>.
3. The concept of “action research” was developed by German-US psychologist Kurt Lewin in 1944 in order to define a research methodology based on

democratic, participatory processes with local populations. Attention was given, once again, to these formulations at the end of the 1960s in Latin American social sciences, from various perspectives committed to social justice. Contributions made by Brazilian pedagogue Paulo Freire were vital in this process. For an analysis of action research and collaborative research processes, see Mora Bayo (2008).

4. For an analysis of action research by feminist academics, see Lykes and Coquillon (2007).
5. To consult the publications made by imprisoned women in the context of this project, see <<http://rosalvaaida.wix.com/rahc#!hermanasenlasombra/cin54>>.
6. For an English translation of the Women's Revolutionary Law and other Zapatista documents related to gender demands see Speed, Hernandez Castillo, and Stephen (2006).
7. *Zapatismo* is the noun used to refer to the Zapatista Army of National Liberation (*Ejército Zapatista de Liberación Nacional*—EZLN).
8. My journalistic work on these issues can be downloaded from my blog <<http://rosalvaaida.wix.com/rahc#!articulos-periodisticos-/chbr>>, and the radio series *Cantos desde el Guamúchil* can be heard at <<https://soundcloud.com/radio-encuentros/sets/cantos-desde-el-guamuchil>>.
9. The *Unión por la Nueva Educación para México* is an independent organization founded in 1994 with education promoters in the zone of Zapatista influence who took the place of the official teachers from the Secretary of Public Education (*Secretaría de Educación Pública*—SEP). The teachers from SEP were thrown out of the communities for failing to appear and to comply with community commitments. The *Asamblea Nacional Indígena por la Autonomía Plural* is a national, independent organization that was originally founded in Chiapas in the 1980s. The latter was the first Mexican indigenous organization that made autonomy a central axis of their struggle. A description of the Zapatista autonomous regions in Chiapas and how they operate can be found in Cerda García (2011) and Mora Bayo (2008).
10. For an analysis of the impact of militarization and para-militarization on the daily lives of indigenous women in Chiapas, see Hernández Castillo (2002b).
11. A “red alert” is a military term used by the EZLN to declare a state of emergency at times of military tension or mobilization of federal army troops.
12. *Memorias de Talleres Legislativos*, Taller No. 8 Evaluación, San Cristóbal de las Casas, Chiapas, January 2001 (manuscript).

13. In Mexico City these modifications to the Criminal Proceedings Code, recognizing the rights to an interpreter and to cultural affidavits, were made in January 1991, representing pioneering legislation for cultural reforms in the area of justice.
14. In Latin America the term Indigenism (*Indigenismo*) is used to describe the ways that nation-states have formulated their vision of Indigenous social inclusion and the state policies towards indigenous peoples that they have developed.
15. An excellent analysis of the various epistemological and political dilemmas posed by cultural expert witness reports and the various positions regarding their usefulness, their objectivity, and the essentialisms they can reproduce can be found in the collective book edited by Armando Guevara Gil, Aaron Verona, and Roxana Vergara (2015), which includes works by several anthropologists with significant experience in developing cultural expert reports in Mexico, Argentina, Peru, and Colombia. For an ethnography of the agreements and disagreements between the legal and the anthropological fields based on an analysis of cultural expert witness reports presented in title claims in Australia can be found, see Burke (2011).
16. Interview with Inés Fernández Ortega, translated by Andrea Eugenio, Baranca Tecuani, March 13, 2009.
17. The children are allowed to live with their mothers in the prison until they are six years old, at which time they are given to their non-incarcerated relatives or they are kept under state custody.
18. The *Colectivo Editorial* has published: with support from IWGIA and CIESAS, a book/video entitled *Bajo la Sombra del Guamuchil. Historias de Vida de Mujeres Indígenas y Campesinas Presas* (2010); with support from the Instituto de Cultura de Morelos, the handmade books entitled *Fragmentos de Mujer* (2011) and *Mareas Cautivas: Navegando las Letras de las Mujeres en Prisión* (Colectiva Editorial Hermanas en la Sombra 2012); and with a scholarship from the Instituto Nacional de Bellas Artes, a three-book collection entitled *Revelaciones Intramuros*. For an English version of one of the life stories, see appendix 2. For the creative writing work, see appendices 3 and 4.
19. *Costalazos* are a form of torture in which a person's body is wrapped in gunny sacks before being beaten (to avoid leaving marks).
20. Exercise by Guadalupe Salgado, in the "Life Histories" workshop at the Atlacholoaya Women's CERESO, May 17, 2009.

21. Exercise by Susuki Lee, in the “Life Histories” workshop at the Atlacholoaya Women’s CERESO, May 17, 2009.
22. In this regard, Ben Olguín (2009) contrasts the experience of Jean Trounstine (2001) with the work of James B. Waldram (1997). Trounstine ran a literary workshop project known as “Shakespeare Behind Bars,” in which the writer taught English theater from the sixteenth century to female prisoners, most of them women of color, while disregarding the prisoners’ own writing (Trounstine 2001). Waldram, by contrast, used Paulo Freire’s pedagogy in his workshops to recover the spirituality and traditional knowledge of Canada’s imprisoned native population (Waldram 1997). Sara Makowski, for her part, asserts that the literary workshop held in the Mexico City women’s prison known as the *Reclusorio Preventivo Femenil Oriente*, where she conducted her research, was a space of counter-power: “In the Literature Workshop things that cannot be even mentioned in any other corner of the women’s prison are spoken about and discussed. There, anxieties are shared, and the group increases its awareness of ways to transform complaints and pain into critical judgment” (Makowski 1994, 180).
23. During the last four years, three literary gatherings have been organized, with workshop participants reading their work to the prison population at the Morelos CERESO. Writers and musicians from outside the prison have been invited to hear their work. We have also organized a number of presentations of the book entitled *Bajo la Sombra del Guamuchil*, with participation by the authors who have been released from the prison.

CHAPTER 2

1. A *huipil* is a handmade traditional blouse with embroidery.
2. Zapotec is one of the sixty-three indigenous languages spoken in Mexico, mainly in the state of Oaxaca.
3. PROGRESA (*Programa de Educación, Salud, y Alimentación*) and Solidaridad were part of a larger poverty alleviation strategy developed in 1997 by the Salinas de Gortari administration. The programs offered conditional cash transfers to the rural poor in exchange for sending their children to school, and in exchange for regular attendance at state health and education workshops. For a critical perspective on the counterinsurgency use of those programs, see Mora Bayo (2008).

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