



# In the Balance

Indigeneity, Performance, Globalization

edited by  
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## Ethical Tribunals: Maya Incursions into Symbolic Social Justice

Morna Macleod

*Jun no'j, keb no'j, oxib' no'j, kajib' no'j, job no'j ... oxlajuj no'j*, count the Maya *ajq'ijab'* (spiritual guides or day-keepers), one coin-like piece of fragrant resin for each *nawal* or essence of the twenty-day sacred calendar.<sup>1</sup> After citationally invoking each *nawal*, they throw the resins into the fire. A circle marked out on the ground and filled with flowers and petals, sugar, honey, resins, chocolate and candles makes up the fire. At different moments, more resin, sesame seeds, alcohol and small, thin candles are cast into the blaze by the day-keepers and ceremony participants. The four cardinal points frame the fire. Red flowers and candles adorn the east where the sun rises; black in the west, marking sunset, death, a place of rest. White designates the north, the wisdom of the elders, and yellow, the south, harvest and abundance. In the centre of the circle are blue and green: *ukax kaj, ukux ulew*, heart of the sky, heart of the earth. The day-keepers, heads covered in brightly woven cloths, name and give thanks to mountains, sacred sites and ancestors, enumerate the days of the Maya calendar, and petition for a positive response to their request for justice for indigenous Guatemalans. Around the fire are hundreds of Maya women and men, young and old, a few children, some *mestizos* and foreigners, all intent on the fire, occasionally adding their offerings. Behind the circle of fire looms Guatemala's National Congress. The ceremony takes place on the steps of the legislative building, on the pavement and in the street, surrounded by downtown Guatemala City's dilapidated buildings, amid the noise of cars and bus horns, street-vendor shouts and city buzz. But all this is blocked out, as everyone's attention is intently fixed on the fire. The ceremony begins in the late afternoon, lasting all night when the energies are strongest. There is but one (shared) aspiration on this particular occasion: that on the following day, 5 June 1996 – or No'j in the

Maya calendar, happily representing wisdom and intellect – Congress will ratify the United Nations International Labour Organization Convention No. 169, the legally binding international instrument that protects the rights of indigenous peoples.

The brief ethnography above highlights the use of political, cultural and spiritual performance by Maya peoples in Guatemala to position their claims and, in this case, press their government to comply with international legal frameworks. Performance here takes on a form of ‘public pedagogy’ (Denzin 2003, 9), breaking through what Dwight Conquergood calls ‘sedimented meanings and normative traditions’ (qtd in Denzin 2003, 4) and exposing passers-by to ancestral Maya practices unknown to city-dwellers. The relocation of Maya ceremonies from intimate contact with nature – on hills and sacred sites and sometimes in caves – to Guatemala’s brick-and-concrete capital illuminates the symbolic force of the performative to advocate for indigenous rights in front of the country’s foremost site for formal decision-making. The staging of Maya ceremonies in public spaces is an intentional, recent strategy to create awareness of cultural and political indigeneity and embodied presence in a context of historical exclusion and structural racism. At the same time, the ceremony on the steps of Congress is illustrative of the Maya peoples’ strategy to ‘make culture, affect power, and reinvent their ways of being in the world’ (Madison and Hamera 2006, xii). Performance here is cultural and social, as presented through ceremony, Mayan languages and women’s bright and beautifully woven garments. The aesthetic of the ceremony is pleasing to the eye, but also challenges the country’s decision-makers to recognize the culture and customs of indigenous peoples. Thus, what Madison and Hamera identify as the citational force of performance comes into play here: Maya ceremonies, drawing on millenary, ancestral practices through repetition, acquire a radically different meaning in this late twentieth-century urban scenario, articulating a politics of hope (Denzin 2000, 404).

This essay explores Maya use of ethical tribunals to highlight grievances and put forward claims. In the face of military and government impunity in Guatemala, ethical tribunals create a space to denounce human rights abuses and enact social justice. While Maya women and men have participated in a range of ethical tribunals in Guatemala over the last decade, my particular focus is on the 2012 Health Tribunal, which scrutinized the impacts of a Canadian mining company on local inhabitants and ecosystems. The ensuing discussion reflects on Maya use of global forms of performance to elicit recognition of harm and seek symbolic redress.

### Maya Peoples in War-torn Guatemala

Maya intellectuals and leaders refer to ‘five hundred years’ of suffering since the Spanish ‘invasion’ in 1524. This suffering has entailed loss of land, loss of traditions following the imposition of Catholicism and the Spanish language, and cultural discrimination. Maya, treated as a minority in their own country, make up more than half of the Guatemalan population, and have tended to occupy the lowest rungs in society as farm labourers and servants (Cumes 2014). Cleavages run deep in Guatemala in terms of ethnicity, class and gender, due to a long history of skewed land tenure (2 per cent of the population own 60 per cent of the arable land), dire working conditions for indigenous *campesinos* in large coffee, sugar and cotton export plantations, scant state services in education and health, and grinding poverty. These conditions gave rise to a 36-year internal armed conflict (1960–96), which began in the eastern part of the country shortly after the US CIA-backed military coup overthrew president Jacobo Arbenz and the ‘democratic revolution’. In the 1970s, after Guatemala’s military dictators brutally suppressed resistance to their regime in the east, the conflict shifted to the mainly indigenous western highlands. There, it involved a mass incorporation of indigenous people into the rebel forces as insurgency organizations recognized the revolutionary potential of impoverished rural indigenous communities. The army resorted to unprecedented levels of terror: after decimating urban social organizations, it turned with a vengeance to the countryside, implementing scorched-earth strategies and perpetrating massacres, forced disappearances and selective and indiscriminate killings, accompanied by torture, mutilation and rape. Guatemala has the worst human rights record in Latin America: the 1999 UN Truth Commission documented 626 massacres and more than 440 villages that were destroyed as part of a military strategy to ‘remove the water from the fish’ (isolate the rebels). More than 200,000 people were killed and widespread rape, mainly of indigenous women, went largely unreported. Maya were the victims in 83 per cent of all human rights violations documented by the UN Truth Commission.

Maya cultural revival in Guatemala began in the 1970s, was curtailed within a decade amid widespread state repression, and wondrously re-emerged and flowered in the late 1980s. Breaking away from traditional class-based struggles and drawing on indigeneity as a cultural and political resource, the Maya movement emerged as a loose coming together of intellectuals, non-government organizations and social justice movements. It ‘imagined’ a collective identity through indigenous theorizing around world-views, rights and grievances. As the Council of Maya Organizations in Guatemala (COMG) puts it in a book title, the Maya movement is

*Building a Future for Our Past* (1995). In this context, indigeneity is not static or inevitable, nor is it simply invented (Hernández 2010, 379). Rather, like the Zapatista revolutionary movement in Chiapas (southern Mexico), Maya indigeneity involves ‘changing while remaining’ by preserving symbolic and cultural repertoires as well as struggling for recognition. Pan-Maya mobilizing, which has strengthened cultural and political links among Maya in Mexico, Belize and Honduras, brings together recognition of modern individual and collective rights and indigenous world-views and practices.

In Guatemala, the Maya movement adopts United Nations terminology to legitimate demands, frame grievances and gain leverage (Tarrow 1998). Since the 1996 peace accords, survivors and human rights organizations have attempted to bring military perpetrators to trial for massacres and genocide. These efforts have produced some results – as well as threats, harassment and killing of key witnesses – but prosecutions proceed only with great perseverance, time, energy and expense. Five commandos responsible for the Dos Erres massacre (1982) were imprisoned in 2011–12, and on 10 May 2013, General Ríos Montt – seen by many as the most brutal of the military dictators – was sentenced to prison for genocide and crimes against humanity. His 80-year prison term was overturned just ten days later, however, and the Guatemalan Congress subsequently passed a decree ruling that genocide did not occur in Guatemala. Given the almost insurmountable difficulties in achieving justice through established legal channels, many people and organizations, in particular Maya women, have looked to ethical tribunals as an important alternative public process for making their voices heard and their grievances acknowledged.

### Ethical Tribunals as Performance

Ethical tribunals are symbolic courts that serve to break the silence surrounding human rights abuses, bring to light the nature and extent of the crimes committed, and expose state impunity. These tribunals are non-governmental quasi-legal initiatives, a ‘weapon of the weak’, or a strategy of the subaltern in the face of immense power imbalances, injustice and scant space for the representation of those whose rights are violated. The post-Second World War Nuremberg Trials were clearly a source of inspiration, although these were government-led and resulted in war criminals being incarcerated, whereas ethical tribunals are merely able to promote moral condemnation. Such staged performances by public intellectuals create spaces of recognition for victims, publicize emblematic cases and point to what justice *could* look like and what courts and governments *should* do (Corporación Humanas 2011). In that sense,



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they go well beyond court mandates in democratic countries with robust legal systems, as they address structural issues and government policies as well as specific human rights abuses.<sup>2</sup> An obvious limitation of ethical tribunals, however, is that they lack juridical ‘teeth’ since their resolutions are not legally binding; this is also the case in many (though not all) government and UN-sponsored truth commissions.

The 1967 path-breaking International War Crimes Tribunal launched by Bertrand Russell and other public intellectuals, including Jean-Paul Sartre and the Argentine novelist Julio Cortázar, investigated and evaluated US foreign policy and military intervention in Vietnam. The Italian jurist and Senator Lelio Basso subsequently emulated the process in 1979, creating the Permanent People’s Tribunal (PPT) to examine and pass judgment on human rights violations. To date, the PPT has organized 42 tribunals on human rights violations in different parts of the world. The tenth tribunal, held in Madrid in 1983, drew international attention to, and condemnation of, human rights atrocities in Guatemala. Another early ethical tribunal was the first International Tribunal on Crimes Against Women, in Brussels in 1976, which brought together over 2,000 women from 40 countries. The event publicly condemned a wide range of oppressive practices, including forced motherhood, persecution of non-virgins and unmarried mothers, compulsory heterosexuality and violence against women (Russell and Van de Ven 1990). Echoing this symbolic court of justice a quarter of a century later, the Violence Against Women’s Network in Asia launched the ‘Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery’ (Matsui 2000) to make visible and reprehend the widespread sexual enslavement of Asian women to ‘comfort’ Japanese soldiers before and during the Second World War.

Ethical tribunals constitute symbolic political action, using quasi-legal theatrics to enact justice through the presentation of testimony and expert reports, while judges listen, deliberate and make statements, condemnations and recommendations. Through these public enactments, the tribunals constitute ‘a performative, pedagogical politics of hope [that] imagines a radically free democratic society’ (Denzin 2003, 5). Following legal-like procedures, victims become empowered through giving testimony. This process has the potential to challenge social and political hierarchies, as Baz Kershaw’s analysis of radicalism in drama and theatre suggests: ‘the mechanisms of discipline, which in fact generally hinge on an act of performance – in legal systems the law court is paradigmatic of this – can sometimes be turned back on themselves to produce resistant and transcendent empowerment’ (1998, 80). As they rely on social capital, ethical tribunals can have considerable impact if they use the media (mainstream and alternative) strategically and effectively. They also

transcend national borders, particularly through the Internet, mustering solidarity and the support of international organizations and movements.

While ethical tribunals are a recent development in Guatemala, Mayas have a longer history of giving testimony in international forums. During the 1980s, Maya leaders such as Rigoberta Menchú (awarded the Nobel Peace Prize in 1992) spoke at UN conventions in New York and Geneva, denouncing the massacre of indigenous communities and other gross human rights violations taking place in Guatemala. Solidarity campaigners in Europe, the USA and Canada frequently invited Maya leaders and survivors as keynote speakers at international meetings and press conferences. Mayas also often gave testimony to the UN Special Rapporteur as well as international delegations, both in Guatemala and from exile in Mexico. Some Maya women participated in the 1983 Permanent People's Tribunal in Madrid and the 1985 World Conference in Nairobi, which reviewed and appraised the achievements of the UN Decade for Women. Maya activists drew on these international experiences when organizing the first ethical tribunal on racism in Guatemala in 2002.

In his thought-provoking analysis of protest dramaturgies, Kershaw intriguingly suggests that 'the political *in* theatre', as in Brecht's or Fo's work, has given way to the 'performative *in* the political' (1997, 256) through the spectacle of protest. The 'synecdochic nature of protest events may produce enormous political potency', he argues, 'for they double society back on itself ... [and] present a reflexive critique of the foundations of authority' (1997, 257). Ethical tribunals also double society back on itself through the performance of what courts should do but do not do. Kershaw considers the performative *in* the political to be particularly relevant to regions such as western Europe or North America:

Late-capitalist multi-party democracies produce societies in which performance is central to all socio-political processes, producing a 'performative society'. In such a society, the performative becomes a powerful weapon of political conflict, and therefore the aesthetics of performance are relevant to the analysis of political – especially politically conflictual – events. (Kershaw 1997, 257)

While this is clearly the case, I would argue that the performative *in* the political also acquires a special salience in 'low-intensity' democracies such as Guatemala's. Here the performative provides a strategy for social and cultural justice, whether through Maya ceremonies, ethical tribunals or street occupations by Maya protesters. Performance in this context enhances 'strategies of meaningful social, political, and cultural positioning' (Carlson 2004, 7) and provides an enabling environment 'to

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gain political and social visibility' (Carlson 2004, 167). How visible performances can be beyond the local arenas depends in part on efficient use of mainstream and alternative media, and particularly of the Internet, where coverage can be cumulative over time and travel globally.

In the 2002 'Tribunal of Conscience against Racism', Maya men and particularly women testified to discrimination in educational institutions, government bodies and workplaces, and detailed the lack of respect shown to Maya spiritual sites and practices. The tribunal took place in Guatemala City's prestigious Miguel Angel Asturias Cultural Centre and judges concluded that ingrained racism and discrimination are a serious problem in Guatemala, fostering genocide, ethnocide and ecocide. They condemned the racism prevalent in the general population, the army, courts of law, public ministries, the police force, schools and private enterprise in open violation of international conventions signed by the government, and urged the state to take legal action to put an end to racism. The tribunal helped to precipitate the Presidential Commission on Racism and Discrimination against Indigenous Peoples in Guatemala, set up in October 2002.

The rape of women during the armed conflict was the theme of another ethical tribunal in Guatemala City in March 2010.<sup>3</sup> Women travelled across continents to act as 'judges' for this event, organized by an alliance of mainly women's organizations. To ensure the safety of those giving testimony, witnesses, almost all Maya women, were dressed in white and sat behind screens, projecting only their silhouettes. The following testimony illustrates the tone set in the tribunal, through the rhetorical delivery and repetition of words that convey the victim's grief:

The pain I carry in my soul is what I suffer from now. So much grief, so much sadness resulting from suffering, I feel this hurts me deeply. [The army] threw me down a ravine, the rocks hurt me ... the army also raped me. Despite my long-term suffering as a woman, I know I have my rights. I am here to appeal on behalf of the women who stayed behind, demanding that we, as women, have rights. God knows why I was left alive. That is why I am present here: for the women. I thank you for being here and listening to me. This was my voice. (Testimonio 3, qtd in Alvarado et al. 2012, 40; my translation)

This moving testimony also displays resilience and a concern for the well-being of other women. The tribunal testimonies were dramatic as they named and denounced the hitherto unspeakable issue of rape as a weapon of war. Shock and indignation rippled through the audience, but also admiration for the Maya women's agency and refusal to be passive victims.

### The People's International Health Tribunal

Unlike the urban events discussed above, the People's International Health Tribunal took place in a remote municipality, San Miguel Ixtahuacán, in San Marcos, neighbouring the south of Mexico. Nestled among hills and mountains scantily covered with pine trees, the municipality's population is almost 98 per cent Maya-Mam. Although many of these people have lost external markers of their indigenous identity, such as dress, Mam thrives as a language, perpetuating a cosmology rich in close relations between human beings and nature. This local cultural wealth is juxtaposed with material poverty, compelling the region's inhabitants to migrate at harvest-time to work on the large coffee plantations on the southern coast of Guatemala or in neighbouring Chiapas, in Mexico. Women from San Miguel also find employment in cities as domestics. In 2005, the Nevada-based company Glamis, later taken over by Goldcorp, and its Guatemalan subsidiary, Montana Explorada, began open-pit gold mining in San Miguel and neighbouring Sipacapa. Although the mine has brought money into the area in the short term, it has disrupted community life and caused irreparable ecological and social damage.

While conducting fieldwork on Maya women's resistance to the gold mine in San Miguel in 2012, I received an invitation to take part in the People's International Health Tribunal.<sup>4</sup> The tribunal provided an opportunity to channel the indignation I confess to having felt upon seeing how a Canadian corporation had assaulted the environment and profoundly disrupted the social fibre of community and indeed family life. In another essay, I have explored the way governments and transnational corporations have doomed local communities in similar circumstances to silence by dictating the terms for mediating conflict (see Macleod 2017). Disputes pass through expensive court cases based on highly specialized technical reports concerning specific issues, such as the levels of heavy metals and toxic substances in the water, or the causes of cracks in houses. These processes literally leave local inhabitants speechless. At one point, I foolishly repeated to a Maya woman from San Miguel what others had told me: given that there is no baseline data, it is extremely difficult to establish the exact damage the open-pit gold mine is causing to local people's health. Her answer shamed me: before the mine, she noted, ailments such as skin diseases were simply unknown to the community. I realized that I too was contributing to what Boaventura de Sousa Santos terms the 'active production of non-existence' (2007, 45), whereby local people's lived experience and knowledge, deemed inferior to technical and scientific expertise, is effectively erased. At the same time, responses readily available to local communities, such as marches, roadblocks and

other forms of direct action, are often violently suppressed. The health tribunal was a rare opportunity for local women and men to speak out and have their words and feelings put on record.

Among the tribunal participants were four Maya-Mam – three women and a man – whose experiences constitute particularly striking examples of intimidation by and resistance against the mining corporation. Doña<sup>5</sup> Crisanta Pérez Bámaca, a feisty, born leader from Agel, a village besieged by the mine, had defiantly pulled up the ‘anchors’ of a high-tension electricity post in her garden. The mining company claimed her consent to the pole’s planting after making her sign a blank piece of paper. Seven women supported Doña Crisanta in her act of rebellion; all received arrest warrants (see Macleod and Pérez 2013). Doña Crisanta’s own brother handed her over to the police. They put her in the back of a pick-up truck and were taking her to prison when villagers, hearing of her arrest, stormed the truck and secured her release. Doña Crisanta was forced into hiding for several months. Tz’ununija’, a national indigenous women’s movement, provided her and the other seven women with legal support and developed a political strategy that led to the charges eventually being dropped. Another villager, the elderly, widowed Doña Diodora Antonia Hernández Cinto, steadfastly refused to sell her land, although the mine had engulfed her house and plot. Her flat refusal to give up her property made her many enemies. In 2010, she was shot in the eye and left for dead. Later, to escalate the pressure on her to sell up, the mining company summoned her to court. She exclaimed in broken Spanish when I visited her, ‘There is no law for me’ (interview July 2012).<sup>6</sup> The third of the four witnesses of note was Sister Maudilia López Cardona, who initially headed FREDEMI, the Miguelense Anti-Mining Front, a local coalition against the open-pit gold mine. Maudilia is unusual as a Catholic sister, given her deep involvement in Maya spirituality, and she transgresses assigned gender roles by playing the marimba. Last was Don Matías Modesto López, a music teacher who plays and teaches the marimba in church services. Don Matías was attacked in reprisal for his opposition to the mine.

The idea of holding a health tribunal arose from community discussions with a doctoral student keen to reciprocate support she had received during her fieldwork. The initiative, which grew to include communities affected by three Goldcorp mines (located respectively in Guatemala, Honduras and Guerrero, Mexico), received the backing of six Guatemalan organizations and 36 international social movements, collectives and community radio stations. This alliance coordinated national and international aspects of the tribunal, selecting judges from across the Americas as well as health, legal and human rights practitioners to provide expert



Fig. 1 Rosa Elbira Coc Ich lights a candle during spiritual invocations at People's International Health Tribunal, 2012.

Photo: James Rodríguez/mimundo.org.

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reports. Maya-Mam women and men from San Miguel took care of local arrangements, commandeering the Catholic Calvary Church hall in San Miguel as the venue. When the two-day tribunal began on 15 July 2012, the 'judges' – doctors, ecologists and academics from Canada, the US, Mexico, El Salvador, Guatemala and Chile – were ushered into a hall bursting with hundreds of people, young and old. There were rows and rows of local Maya men and women, with children and babes-in-arms; delegations of Mayas from other parts of Guatemala, who stood out by their regional dress; international visitors from El Salvador, Honduras and Mexico; and Europeans and Canadians, many of them involved in community and alternative media.

Centre stage, pine needles and reddish purple flowers marked the ceremonial circle, while coloured earth, fruit, candles and woven cloths marked the four cardinal points. Only a discreet cross on one wall revealed the venue as a church hall. Around the circle, local Maya hosted the event, played the marimba and gave testimony, joined by men and women from Mexico, Guatemala and Honduras. The thirteen judges sat at tables covered with Maya weavings facing the ceremonial circle. Behind them sat most of the audience. The witnesses and those invited to give expert reports on health issues and human rights arranged themselves on the other side of the ceremonial circle. Around the microphones, to one corner, dozens of alternative media huddled, filming, recording sound and taking photos to transmit the event live on local radio and the Internet.<sup>7</sup> The hall was so crowded that people spilled out through the door on to the terrace. There was constant movement in the hall, comings and goings, children running around, babies crying, people talking in hushed voices in Mam, a few dogs shooed from entering, and the sound of roosters in the distance.

The tribunal started with a Maya invocation. While this may have been uncomfortable for some outsiders and Maya-Mam Christians, the effect of honouring the four cardinal points was to bring about a sense of coming together. Sister Maudilia then set the tone in her opening speech, framing the proceedings in terms of long-lasting historical grievances:

This activity seeks to express our sentiments, to express everything that hurts us as indigenous peoples, as women, who have suffered, everything that has happened to us historically ... It's [a long history] of total injustice. We lament our governments' posture throughout history; none have had the will to defend us as peoples and as persons, as human beings that we are. They only want to get rich, to see to their own interests, but they forget about us.



Fig. 2. Sister Maudilia and Don Matías playing the marimba,  
People's International Health Tribunal, 2012.

Photo: Manuela Arancibia Macleod/Hijos de la Tierra.



Fig. 3 Children showing their drawings around the ceremonial circle,  
People's International Health Tribunal, 2012.

Photo: Manuela Arancibia Macleod/Hijos de la Tierra.



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The experience of being treated as ‘less-than-human’ echoed throughout the tribunal. Maudilia’s rhetorical speech patterns, common in everyday exchanges in Mayan languages, here addressed a wider public, the repetition serving to emphasize suffering. Witnesses were then called to give testimony. In her theorization of such performative acts, Caroline Wake distinguishes between the *scene* and the *account* of the witnessed event, the former apprehended through the senses and potentially involving multiple perspectives, the latter related to public (oral) testimony delivered for the record (2009, n.p.). Attestation in the health tribunal provided accounts for the record and even, at times, new events. Those giving testimony assembled their own narratives, deciding what to present and what to leave out. Inevitably, such stories involve ‘slippages between different kinds of truths’, as Ronald Niezen has argued in relation to testimony at Canada’s Truth and Reconciliation Commission on the impact of enforced residential schooling on indigenous children. ‘What witnesses convey in their narratives’, he notes, ‘is commonly understood to be unadulterated, veridical reports of lived experience rather than instrumentally limited reports that are subject to selectivity and omissions of memory and that are “rhetorically organized”’ (Niezen 2013, 84).

Live performance, with its instant audience feedback loop, played a powerful role in the rhetorical organization of witnesses’ stories as the health tribunal unfolded. Testimony after moving testimony by women and men from Valle de Siria, Carrizalillo, San Miguel and Sipacapa shook the audience, creating a sense of collective outrage and indignation that increased as the floor was opened up to delegations reporting environmental conflicts in other parts of Guatemala. People gasped as a Honduran ex-Goldcorp worker simply took off his shirt and showed his back covered with lesions from working in the mine. Here the boundaries blur between witness to the event and witness to the account (Wake 2009), as the damaged body of the worker becomes a testimonial spectacle. Visual meaning-making marks this quasi-legal performance. As Niezen observes, ‘there is an eloquence and excess of meaning in [such] images’: ‘the poignant dignity of a victim wrongfully harmed, the implicit malice of one who has perpetrated ... an act of violence’ (2013, 14).

When Doña Crisanta’s turn came to speak, her loquacity meshed together her grievances against Goldcorp, her cry for respect for Mother Nature and her demand that individual and collective rights be upheld:

I want to present my denunciation against the mining company operating in my community. This corporation has caused me many problems while defending my personal rights and rights as a people. Not only this, but also for defending water, Mother Earth and natural resources ... I have given my life to defend all that nourishes us.

Suffering is countered here by the vernacularization of rights (Merry 2006), whereby Doña Crisanta has appropriated rights discourses and translated them to her local reality. Doña Diodora's performance was more restrained but none the less critical of the mining venture. She delivered a particularly heart-rending testimony in Mam, translated into Spanish. Standing perfectly still in a red bandana and bright green blouse, hands folded in front, she described how she had been shot in the eye and left for dead. 'I am guilty of no crime', she kept repeating. Other testimonies conjured the invasive sensory effects of the open-pit mines on the villagers: toxic dust in the air they breathe, foul smells and the loud clanging and thudding of machinery breaking rocks, so different from the usual fresh air and rural sounds of birds and community life.

Don Matías López captivated the audience with his oratorical style, suffused with biblical references, his voice rising for emphasis and then dropping to a mere whisper. He told how, after being attacked and robbed because of his opposition to the mine, he went to talk to the local authorities, who said that they knew nothing: 'the town is calm', they said, 'we are neutral'. 'Neutral', he repeated indignantly, 'I don't understand. Is this life? Is it death? Is it heaven? Or is it hell?' While the logic of his narrative was lost on many of us, the Maya-Mam in the audience were riveted. 'It's death', they shouted back. Don Matías continued passionately: 'Today we in FREDEMI tell the mining company to leave us in saintly peace. We tell them to leave us in peace and to go home to their lands, to their country'; his voice dropped as he murmured under his breath, 'may God forgive them'. Then his voice reached another crescendo: 'But before they leave, they must pay for the mortal damage they've caused to Mother Nature's creation.' Applause broke out, whistles and comments of 'how true' coming from the audience as Don Matías finished his speech defiantly. 'Our struggle will continue, because our struggle is to defend the life of humanity, to defend our rights and to defend our territory.' More applause erupted as he left the microphone to take his seat. These dramatic techniques – the modulation of his voice, the call and response – created a vivid and memorable performance that captivated the audience.

Expert reports, questions from the judges and deliberation followed. Then came the theatrical moment when the judges stood to face the audience while their spokesperson read the verdict, categorically condemning Goldcorp. The company's mining operations were judged to be 'highly damaging to health and to quality of life, [affecting] the environment [and] the right to free determination of indigenous and *campesino* communities'. The judges also found the Canadian, Guatemalan, Honduran and Mexican governments guilty of complicity and irresponsibility. Witnesses felt recognized, thus fulfilling the goal of testimonial

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performance, as Niezen puts it: ‘to be listened to and ideally to have what they say preserved, not just in the memories of their listeners but noted, recorded, and archived’ (2013, 87). The health tribunal verdict has been one of the few ways of creating justice, albeit symbolic, for the affected communities. As a way of articulating Denzin’s ‘politics of hope’ through the agency of Maya women and men, the tribunal also portrayed, figuratively and rhetorically, how justice could occur.

The testimonies clearly touched the audience and jury members, creating a collective feeling of indignation and sympathy. This response to the embodied performance and *mise-en-scène* of public narratives of deep suffering has the potential to form what Myriam Jimeno (2011) terms ‘emotional communities’. The basis of such communities ‘is not simply momentary compassion’, she explains, ‘but rather a political bond ... that can contribute to protest action to demand justice, truth, or punishment or establish what has happened, promoting the integral reparation of victims’ (Jimeno 2014, n.p.). The momentum of collective emotion is in itself a form of reparation, particularly in contexts of extreme impunity. The explicitly emotional quality of the tribunals disrupts prevalent hegemonic notions that courts and the administration of justice belong to the realms of impartiality and rationality. In this sense, the health tribunal gave a human face to abstract stories of victimization while also pointing accusatory fingers, reminiscent of Zola’s *Jaccuse* (Felman 2001), at Goldcorp – and to a lesser degree at local authorities and governments for allowing abuses to take place. In turn, the judges’ acknowledgement of local people’s grievances and the pain they have faced with the onslaught of predatory extractive practices by transnational corporations achieved some sense of public shaming of corporate greed as well as increased recognition of its damaging effects.

### Final Reflections

The ethical tribunals I have discussed not only denounce impunity and the complicity of state justice systems in contravening human rights in Guatemala, but also evoke an alternative paradigm of justice, based on collective civil action and raising public awareness. At the level of embodied politics, these events both enact and explicitly model participatory processes through which citizens can contribute to social memory without having their stories and experiences silenced or censored by state institutions. The Maya who have promoted and participated in these tribunals transcend victimhood, gaining some control and autonomy in their lives, and agency in their collective well-being. More broadly, ethical tribunals constitute an innovative and highly visible performative strategy

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to bring to light social injustice and human rights violations that have been naturalized or erased in official histories. Such 'courts' are strategically employed by subaltern groups with little access to formal justice mechanisms, to judge and morally condemn the powerful: governments, armies, transnational corporations, rapists and dictators. At the same time, the tribunals provide a space for victims to be heard and to be recognized, to exercise agency, and indeed to rehearse *for* agency in international forums such as solidarity events and meetings with UN bodies.

In this context, the use of Maya ceremonies and cultural traditions in ethical tribunals plays a significant part in actualizing the kind of reflexive protests that Kershaw sees as crucial to democracy in an era of increasing globalization. In so far as they involve 'opening up new views of difference and otherness [and] enhancing pluralism', the tribunal performances 'have the potential to disrupt hegemonies, and to stimulate new kinds of civil desire' (Kershaw 1997, 274). Mayas have both appropriated and vernacularized international rights discourses, making them relevant to their specific contexts of disenfranchisement. Giving testimony in ethical tribunals and international forums, forging strategic alliances with organizations and actors in other countries, and using the Internet and other popular media have launched Maya activism into the global arena. Drawing both on Maya epistemologies and globalized codes of individual human and collective indigenous rights, Maya position performance *in* the political to further their demands and visions of social justice. These strategies have the effect of 'disrupting the spectacle of hegemony and ... opening up new forms of ideological exchange between civil society and the state, new social movements and institutional power' (Kershaw 1997, 274). They also bring a global and multicultural lens to civil society and social activism.

## Notes

1 The twenty *nawales* of the *cholq'ij* or sacred calendar are arranged on a cycle of one to thirteen. In ceremonies, day-counters invoke each *nawal*, counting through the numbers.

2 I thank Arifani Moyo for this observation during the conference 'In the Balance: Indigeneity, Performance, Globalization', 24–27 October 2013, London.

3 The Commission for Historical Clarification registered 1,465 reports of rape, and was only able to verify 285 cases, though many thousands more are suspected. Women and girls comprised 99 per cent of the cases and the vast majority (80 per cent) were indigenous. According to the UN Truth Commission, rape was by far the most under-reported human rights violation (Alvarado et al. 2012).

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4 As Dwight Conquergood states: 'When working with minority peoples and disenfranchised subcultures ... one is frequently propelled into the role of advocate' (1985, 2).

5 'Doña' and 'Don' are courteous honorifics in Spanish to refer to elder and/or respected women and men.

6 This and other translations of testimony from Spanish are by the author.

7 Given the large media presence, surprisingly few accounts of the event subsequently appeared on the Internet: a radio programme, photographs and only snippets of videos. See <https://www.youtube.com/watch?v=aAJdmMfaoHk> and <https://archive.org/details/ProgramaEspecialSobreElTribunalPopularInternacionalDeSaludContraLa> (both accessed 8 August 2017).

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