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In Latin America

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Anthropological Expert Witness And The Judicialization Of Indigenous Rights In Mexican Electoral Politics

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ABSTRACT: In this text we analyze the role of anthropological expert witnesses in an electoral trial concerning indigenous peoples' right to elect municipal authorities through customs and traditions (*usos y costumbres*)¹ instead of conventional party politics. This process regards an indigenous municipality in the state of Guerrero, México. We highlight the transformative role of the law in the judicialization of the indigenous claims, the tensions involved in the political-electoral field, and what this trial reveals about the racial hierarchies that structure the aforementioned field. We also discuss both the implications of resorting to anthropological expert reports to "authenticate" the permanence of indigenous normative

systems and the claims to cultural validity for indigenous political representation in the municipal political arena. By doing so we want to contribute to the debates on the role of anthropological reports in the advancement of indigenous rights.

Introduction

The recognition of indigenous peoples' political rights has generated new challenges in the Mexican electoral field. The deployment of this prerogative at the municipal level requires electoral authorities to acknowledge a change from a highly entrenched political party system to one that is based on customs and traditions; that is, to elect the local authorities in accordance with their traditional norms and procedures. Although juridical reforms in the state of Oaxaca have recognized this right since 1996 (and this has been enacted by a high percentage of indigenous municipalities during electoral periods), these electoral alternatives have been very recent in other states across Mexico. The novelty of these processes is the judicialization of the political rights of indigenous peoples, all of which involve the use of anthropological reports (AR) to verify their condition as ethnic subjects and other related matters. Nevertheless, this perspective enters into contradiction with positive definitions of law and reveals the grey zones and ambiguity of state political representation in plural legal settings.

In this article, we analyze the case of the municipality of San Luis Acatlán (SLA, located in the State of Guerrero in the southwest of Mexico) in a bid to exercise self-determination and elect their municipal authorities using traditional procedures instead of political parties methods. This is the second case² where the right to elect authorities via *usos y costumbres* was processed in a federal electoral trial in Mexico. Our objective is both to analyze the tensions involved in the judicialization of indigenous political rights and to highlight the role that the

anthropological expert witness report plays in this process. The case is significant as it underlines the power relations that structure the local political field, as well as the racism of local elites that consider indigenous normative systems a setback to their positions of privilege. Our expert witness report was in turn central to the legitimization of the indigenous claim to a consultation regarding their right to elect municipal authorities through *usos y costumbres*. This had three main effects: (1) it revealed structural tensions within the local electoral field, (2) it weighed heavily in the decisions of the magistrates of the Electoral Tribunal of the Federal Judiciary (TEPJF, Tribunal Electoral del Poder Judicial de la Federación), and (3) it has been an instrument for indigenous actors to substantiate their claim to elect officials based on *usos y costumbres*. The underlying dispute denotes historical traces of exclusion and subordination in a context of “internal colonialism” (González 1965) that involve spatial power networks historically controlled by the “mestizo” elites which are deeply embedded in political parties. In consequence, the political fight to which the route of *usos y costumbres* is committed is over the municipal government, including its economic funds, which are largely controlled by mestizos who continue to exert their racialized privilege in relation to the majority of the indigenous population.

Our intervention as expert witnesses in this trial was situated in the contentious terrain that shaped the judicial process. This instrument played an important role in validating the right to consultation of the “indigenous community” of SLA. This procedure is the result of the multicultural legislation established in Mexico since the reform of Article 2 of the national Constitution (2001), which recognizes indigenous peoples’ right to self-determination and autonomy as well as the right to elect their authorities at the local level, based on their own customs and traditions. This last right implies the pluralization of the electoral field regarding indigenous communities. For political party representatives (usually associated

with the local mestizo elites), this option is viewed as a direct challenge to their economic and political power; the possibility of losing municipal control of local elections represents a step backward for them. For this reason, the expert witness report was in itself a menace that challenged their power. This explains the moments of tension we experienced, both during the fieldwork for this study and after its publication. It also reveals the political and ethical dilemmas we faced as we had to defend our results within a highly complex and contradictory terrain.

In sum, in this text we argue that the expert witness report contributes to the validation of indigenous practices and knowledges in the electoral field, and thus to question hegemonic notions of party political representation that disqualify and reject them as pre-modern. It also reveals the way colonial notions of customs and traditions coming from different cultural rationalities enter in a contested field of power. The institutionalization of these “traditional” categories bring with them new challenges due to the fact that they are subjected to a continuous scrutiny by local actors and the state, remaining in an ambiguous realm. At the same time this ambiguity or illegibility (Poole 2006) permits the language of *usos y costumbres* to benefit from new semantics via legal pluralism. In this case, the expert witness report has been fundamental in the legitimization of indigenous people’s rights to elect their municipal authorities based on their own normative systems; that is, their political right to self-determination. Although improvements were made in the judicial fight, such as the right to Consultation regarding the alternative way to elect municipal authorities based on customs and traditions, the result of the Consultation of the people of San Luis Acahualtán “did” not favor indigenous peoples on this occasion.

This article is divided into four sections. In the first section we present the framework for analyzing the anthropological expert interventions in judicial processes via reports; particularly, in terms of their contribution to the transformative possibilities

of the law and to the conformation of ethno-cultural categories. The next two sections refer to the context of the analysis: First, we outline the political-electoral field in which the anthropological report took place. Second, we reconstruct the trajectory of the judicial case regarding the demand to change the method for electing municipal authorities. The fourth section is the core of our analysis on the basis of two aspects: on the one hand, we reveal the instrumental use of the anthropological expert witness report and the political strategies at play; on the other hand, we critically reconstruct the multifaceted meanings attributed to concepts such as *usos y costumbres* and “indigenous community” in the juridical field and the productive effect of the anthropological report on them. In all, this process of ambiguity and power are the structural attributes of law in plural legal settings.

I. Debates Over Anthropological Expert Witness Reports in Judicial Processes

The anthropological reports (AR) in judicial processes that involve indigenous peoples has garnered interest not only because it reflects on the strategies to document cultural difference and make it comprehensible for judges, but also because of the reports’ conditions of production and their effects in the advancement of indigenous rights. Due to the social incidence the AR invokes, it becomes fundamental to critically analyze both the effects of the anthropological reports and the ethical and political dilemmas involved in their display. They run the risk of reproducing the coloniality of power that they seek to question, as could be the case of imposing a dichotomous representation of law and customs. Towards this end we highlight two main lines of reflection: (1) the impact of the anthropological report on the regulative or transformative possibilities of the

law in judicial processes, and (2) the effects of anthropological interventions on ethnic and cultural categories of identity.

Regarding the first line of reflection, the following questions come up: What are the scope and limits of the ARs in processes where the collective rights of indigenous peoples are judicialized? Do they help to settle their claims while maintaining a transformative view or do they represent a knowledge that legitimizes the existing power structures within states? These dilemmas are recurrent while elaborating anthropological expert reports in relation to the defense of indigenous rights. Latin America has had an important tradition in the field of legal anthropology where expert witness reports have contributed decisively to emblematic court rulings regarding indigenous jurisdictions (Sánchez 2010), or the indigenous peoples' right to land (Stavenhagen 2002; Hale 2006), among many other studies. Favorable court rulings have been key to the judicialization of indigenous rights, and they have been central to the advancement of counter-hegemonic perspectives of law with important effects in national and international jurisprudences. However, the anthropological reports did not always achieve these accomplishments nor was their scope so emancipatory. As Juan Carlos Martínez (n.d.) mentions, sometimes the reports are not even taken into account in some rulings or can be used to justify interventions that legitimize the state and are unfavorable to the collective rights of indigenous peoples. For this, the more relevant the disputed aspect in the judicial arena is, the more evident it becomes the strategic use of the law made by the actors in the juridical field. However, the regulatory or emancipatory effect of the judicial processes can only be valued once all of their stages have elapsed. Therefore, the positioning towards any particular direction depends on the legal process, but mainly on the social mobilization that supports the claim. To reach a conclusion about the effectiveness of the AR in order to orient the legal process one way or the other is a complicated task that needs to be

analyzed in each context, as it is bound to many other aspects. The experience regarding the exercise of indigenous peoples' political rights that we analyze in this article did not involve a case of great legal impact; however, the intervention of the anthropological report did have consequences in the judicial process. Furthermore, the case generated pressure in the local political arena by questioning the political parties' electoral route. Our expert report contributed to fundament a ruling by the Federal Electoral Tribunal (TPEJF, Tribunal Federal Electoral) that favors the right to elect municipal authorities via the route of *usos and costumbres* instead of political parties in the municipality of San Luis Acatlán. This drew a pattern for later electoral trials in the state of Guerrero that have garnered important achievements, as it happened with the case of Ayutla de los Libres, an indigenous municipality that won the right to elect their authorities through *usos y costumbres* (see below).

From the stance of cultural critique, we seek, first, to contribute to the literature that problematizes anthropological interventions, and second, to analyze both the semantics that are produced in and by the anthropological expert reports and their possible essentializing effects. The following questions emerge: To what extent do ARs ends up reinstating hegemonic dynamics by becoming the authority that authenticates the culture under survey? A classical debate on the ethnographic authority in anthropological reports (Clifford 1988) warns about the risk of imposing the voice of experts over indigenous voices, and thus building culturalist visions of their identities. Authors such as Martínez (n.d.), Escalante (2018), and Kirsch (2018) call attention on the risks of the essentialization of culture and the role that reports have in the reproduction of categories that fix cultural meanings when they are constructed outside their context. Likewise, Loperena, Hernández, and Mora (2018) emphasize on the epistemic and moral consequences of experts' interventions in trials that involve indigenous peoples. In a similar vein, Hale (2006) underscores, from the perspective

of a critical and collaborative anthropology, both the power relations of experts' knowledge and the political consequences of academic involvement. Paraphrasing Hale (2006: 11), we ask, for instance: How can we represent indigenous claims in legal languages that do not reinforce internal rigidities (in the indigenous collectives) and may, at the same time, be useful to other subaltern fights? We faced similar problems by having to structure the anthropological expert report along essentializing categories that were defined by the judicial authority, such as: *usos y costumbres* and the "indigenous community." We were forced to develop a critical analysis of those concepts by having to consider the social and demographic conditions of the "indigenous communities of San Luis Acatlán" in order to broaden their meaning. Our report revealed structural tensions that were reflected in the judicial process, as we will later see, but also our study has a productive consequence in the discussion of the inadequacy of fixed legal concepts to analyze local organizing of indigenous people in urban settings. The AR could also expand the concept of "indigenous community" to subaltern sectors that were not necessarily considered indigenous but share their culture and social organization. In fact, to translate local categories into legal terms and vice versa reveals the effect of ambiguity/illegibility in the political field. It is in this direction that Poole (2006) refers that ambiguity becomes inherent to state recognition of customary law.

Furthermore, we did a careful handling of the data and its documentation since the report was inserted in a political field of power fragmented by local and state elites which saw their privileges under threat. The fact that the anthropological report was requested by an official body, the State Electoral Institute (Instituto Estatal Electoral), to an academic institution (CIESAS³) forced us in particular to keep an epistemological alertness in the report's documentation, using well-founded qualitative data in order to obtain a larger analytical effect.

II. The Anthropological Expert Report and Its Impact in The Political Electoral Arena

The decision to carry out an expert witness report (Sierra Camacho and López López n.d.) in a region where we had done field work for more than a decade represented a unique opportunity. By doing so we would support a claim that had been defended by different indigenous organizations, as well as contribute to the implementation of indigenous people's right to a free, previous, and informed consultation. Our participation took place in a scenario of increased tensions and challenges that had transformed the socio-political arena in Guerrero. Even though both of us had carried out long-term research in the municipality of SLA and therefore had extensive knowledge of the local context, we decided to conduct an intensive on-site visit specifically for the purpose of this report for three main reasons: the current local tensions, the questions demanded by the court ruling, and the effects of this report in the local political arena. Thus, we decided to visit six out of ten of the biggest indigenous communities of the municipality. This selection was made based on the following criteria: population, agrarian status (*ejidal* or communal),⁴ ethnicity, and the demographic density of the communities and their annexes.⁵ As it will be noted further on, given the influence that indigenous migration has in the municipal seat, which is mostly made up of a mestizo population, the study was also expanded to cover it. Once fieldwork was completed, the final drafting of the paper was done in two months. This timing was stipulated by the State Electoral Institute of Guerrero (IEEG), the institution that requested the report.

The state of Guerrero has the highest homicide rate in Mexico and is recognized both by an exponential increase in drug-related violence and by an exacerbated human rights crisis (Institute for Economics and Peace 2017). The state is also known for its high index of marginality (59.82%), which

particularly affects indigenous communities, the majority of which live in conditions of extreme poverty (CONAPO 2010). Furthermore, Guerrero is a multi-ethnic state. It is the seventh largest state in the country with the highest concentration of indigenous peoples (19.3%), constituted by Nahua, Me'phaa, Na Savii and the Nn'anncue peoples.⁶

The state of Guerrero is also known by its variegated political configuration traversed by multiple violences and racialized hierarchies imbricated in a *cacique* structure of sociopolitical control. The *caciques* are the protagonists of a form of political regional structure typical of rural areas, characterized by the mediation of different types of capital (political, economic, social) exercised personally. Although the *caciques* exercise power in informal ways, this does not prevent them from taking over the formal structures of authority (v. Bartra 2000). Although the Mexican Revolution and the various struggles in the state (the guerrillas included) have tried to dismantle the *caciquismo*, the truth is that this phenomenon is still ordering the political, economic, and social life of the entity.

At the same time, the state of Guerrero is known for a strong trajectory of social resistance and its indigenous organizations that have fought and coexisted with a strong and recurrent state political violence. At various times throughout the history of the state, state and federal authorities have responded in a repressive manner to the social demands of democratization called for by peasant, union and indigenous organizations. This led to the emergence of two guerrilla movements of great influence in Guerrero and in the country in the 1960s. These were fought by a national strategy of counterinsurgency during the decade known as The Dirty War of the 1970s (Cedillo 2008; FEMOSPP 2006).

This long organising and fighting tradition fostered the expansion of the Community Police of Guerrero, known as the CRAC-PC (Sierra Camacho 2010, 2013; López López 2015),⁷ in order to confront the rise of insecurity and violence due to the

federal war on drugs and the increased presence of organized crime, particularly in the last decade (Tlachinollan 2016).

Our expert report was developed in the framework of an institutional agreement between the Electoral Institute of Guerrero (IEEG) and CIESAS.⁸ This report was part of a federal trial that required the local electoral institute (the IEEG, the State Electoral Institute of Guerrero) “to do everything within its powers to determine the extent to which customs and traditions continue to exist in the indigenous communities of SLA.”⁹

The setting is crucial to understand why our expert witness report touched on sensitive nerves in the local political field and provoked a reaction from the elite groups that were associated with the political parties and felt that their interests were threatened. The municipality of SLA is conformed by 47 indigenous communities and an urban center mostly of mestizo people. Its population is 42,360 inhabitants, of which 47.45% are of indigenous origin.¹⁰

Given the local migration of indigenous people to the city of SLA, as well as the high percentage of non-indigenous population in the city (almost the 50%), we opted to incorporate into our study the perspective of different interest groups (including mestizos and indigenous people living in the city of SLA), and not just the indigenous communities scattered through the municipal political-administrative boundaries. One of the greatest challenges we faced involved documenting the complexity of the indigenous normative systems (Sierra Camacho and López López 2013). In the expert witness report, we demonstrated that behind the concept of the “Indigenous Community of San Luis Acatlán” (the expression used by Ruling SUP-JDC-1740/2012) there are distinct sets of communities that, despite variations in their cultural practices, share a common structure based on the collective decision-making model of assembly and participatory democracy. We also documented the continued permanence of the indigenous normative systems in the different neighborhoods of SLA, where migrants

coming from indigenous communities decided to establish themselves. In addition, we investigated the influence of the indigenous normative systems on mestizo popular traditions, and, to our surprise, found the permeability of community cultural practices in mestizo spaces. In sum, the study revealed an intricate network of community relations that co-exist in stark tension with those mestizo *cacique* and kinship ties that reproduce socio-economic hierarchies at the local level.

The research for this expert report was developed within a highly contentious terrain due to the fact that local political elites saw it as a threat to their racialized economic and political privileges. At the same time, between 2012 and 2013, conflicts escalated in the region that further polarized social dynamics and negatively impacted the local field of power of indigenous organizations. These tensions affected our fieldwork and increased the challenge to gather important data. At the end, the expert report figured prominently in the judicial decision of the Federal Electoral Tribunal (TEPJF), and set, in turn, a precedent for new legal processes in other municipalities in Guerrero, as is the case in Ayutla de los Libres whose population has won the right to elect municipal authorities through *usos y costumbres*, as mentioned before, a process that finally ended with the election of a “Concejo Municipal de Autoridades Comunitarias” (July 15th, 2018).

III . The Electoral Route to *Usos y Costumbres*: The Judicial Process

In early 2012, members of the indigenous organizations of SLA mobilized in order to explore the possibility of accessing municipal power by way of elections through *usos y costumbres*. This claim reflected a deep-rooted critique of the municipal government and the exclusive, racist, and corporatist role of the political parties. The political elites felt the menace of losing

their power. For them being governed by indigenous authorities elected via assembly represented a step backward in terms of modern expressions of social progress. Despite the critiques of mestizo elite, the claim of *usos y costumbres* was actively supported by a variety of social institutions and popular and indigenous organizations such as the UPOEG and CRAC-PC,¹¹ CAMI,¹² the Coffee Production Association “ARIC-Unión de Uniones” and the Coffee Cooperative “Luz de la Montaña,” all having their main offices in the political administrative center of the municipality of SLA. This mobilization was greatly inspired by the legal victory of the indigenous Purépecha municipality of Cherán, in the state of Michoacán. In October 2011, after a judicial process before the Federal Electoral Tribunal (TEPJF), Cherán was able to elect their municipal authorities based on *usos y costumbres*, thus favoring the development of a self-government led by the Council of the Keris, the traditional Purépecha authorities (Aragón 2013). This case set the precedent for the Supreme Chamber of the TEPJF to evaluate similar cases and subsequently resulted in the creation of a legal framework to alter the established municipal electoral route based on party politics to one that can include indigenous *usos y costumbres*. The legal process in Cherán also defined a guideline for the use of anthropological expert reports as a necessary phase to design a free and informed consultation with indigenous communities. In this way, anthropological studies entered into the Mexican political electoral arena to verify the historical continuation of indigenous normative systems as a culturally established route to legitimize the right to elect authorities by way of *usos y costumbres*.

The judicial process of SLA began on June 4th, 2012, when the leader of the UPOEG, along with other representatives of the indigenous and popular organizations in SLA, filed suit for the protection of political electoral rights of citizens before the Electoral Institute of the State of Guerrero, in order to carry forth municipal elections through *usos y costumbres*. It involved

three accumulated trials, all of which were won by the plaintiffs, and finally resulted in the Consultation held from February 1st to the 15th of 2015. Nevertheless, despite the significant popular effort made to carry out assemblies and forums to disseminate the proposal across the municipality, the results of the Consultation did not favor the initial claim. Finally, on March 25th, 2015, the TEPJF declared the Consultation valid and closed the case, which essentially rejected the option for municipal authorities to be elected by *usos y costumbres* in SLA, at least for a time.

It is not our objective to present the different phases of the judicial process, but rather to analyze the disputed terrain in which the expert witness report and the electoral trial unfolded. In what follows, we emphasize the positioning of the different actors involved as well as our efforts to navigate between legally defined concepts which appeal to legal pluralism, and a critical anthropological analysis of the cultural logics and power relations that give them meaning.

IV. Actors and Strategies in The Legal Terrain: The Heterogeneity of The Legal Field

Moving forward in our analysis in what follows, we describe the legal field that structures the positions of the three main actors in this litigation: the magistrates of the Electoral Court; the staff members of the State Electoral Institute; and the indigenous actor(s) that activate the judicial lawsuit. Furthermore, we reconstruct the strategies and rights they appealed to in order to move forward in the dispute. We therefore emphasize various aspects: on the one hand, the heterogeneity of the state's legal field and the power hierarchies that cross public officials' positions; and, on the other hand, the strategic uses of the law of indigenous actors appealing to their political

rights as indigenous peoples, and particularly to the national and international legal standards.

The juridical field (Bourdieu 2000) in which this legal process unfolded reveals strong tensions among the social actors who were located in polarized positions of power. These actors resort to the law in order to dispute the mechanisms required to access the municipal government. The juridical terrain is a social force field in which actors involved develop diverse strategies in order to strengthen their positions and reach their objectives; however, their success does not necessarily depend on legal reasoning.

The analysis of the judicial process, as part of this social force field, shows three major positions: (1) The one defended by the plaintiff (the leader of the UPOEG, Bruno Plácido) as the representative of indigenous organizations; (2) the position of the General Council of the IEEG, a supposed neutral electoral body, which, in practice, acted as a representative of the political parties; and (3) finally, the Supreme Chamber of the Federal Electoral Tribunal (TEPJF), whose role includes verifying the constitutionality of the procedure considering indigenous rights.

Of note is the convergence between the point of view of local indigenous leaders and the magistrates of the TEPJF. Although each upheld different structural positions, both defended the right of self-determination for indigenous communities in electing municipal authorities.

In what follows we analyze the legal strategies and rights that the intervening actors appealed to in order to understand how they mobilized the law for their own political interests. We base our analysis on the results of the expert witness report.

We called the first one, *the strategy of confrontation*. The indigenous organization's lawsuit, that laid out its claim to access the municipal power through the mechanism of a direct and participatory democracy, not only represented a claim to exercise a right, but countered the political parties' monopoly

of political representation. It questioned the political power of the mestizo elites (the *caciques*) and their economic network. That is, the plaintiff's suit mobilized a direct collective grievance against the racist and exclusionary practices of political parties that were largely under mestizo elite control, and which impeded the political representation of indigenous communities as well as their access to public economic resources. As expressed by Genaro Vázquez (GVR, a former municipal president of SLA and son of the legendary guerrilla fighter¹³ of the same name), what we see is the "accumulation of grievances" of the indigenous communities *vis à vis* mestizo *cacique* power in SLA, given that: "(...) The government and representation structures have been eroded; a rigidity of the political electoral structures does not allow for a majority representation of the Mixteca (Na'savi) and the Tlapaneca (Me'phaa) communities" (Interview with GVR, July 5th 2013, SLA.) With these words, Genaro Vázquez explains the structural grievances expressed in the claim to elect municipal authorities through *usos y costumbres*.

Indeed, the expert witness report documents the topicality of these grievances: the categorization of *usos and costumbres* as traditions sometimes referred to the use of certain objects. That was the case, for example, when a former municipal president of indigenous origin, in an interview, identified *usos and costumbres* with the use of the *temazcal*¹⁴ or with ritual peregrinations to San Marcos, the holy mountain where people ask for the rain. With this narrative, he folklorizes these practices, and is thus incapable of making valuable contributions to modern political representation.

Our expert report provided evidence that questions the idea of atemporality regarding *usos y costumbres* and supports the fact that indigenous normative systems have changed, have adapted, and are part of the social life of the city of San Luis Acatlán. They have infiltrated the dynamics of the mestizo community, which has even benefitted by structures that are based on *usos and costumbres*, such as in the case of the communitarian

system of justice and security of CRAC-PC. For a long time, the municipality of SLA has had the lowest index of insecurity and social crime in Guerrero due to this indigenous institution. This offered arguments that were strategically employed by the actors in favor of *usos y costumbres*. The expert report provided additional justification of their claim referring to complex and innovative normative systems: *usos and costumbres* did not resemble in any way the discrediting remarks based on racist conceptions that inferiorizes them.

The second strategy, *the simulation strategy*, was the political party defense, developed by the State Electoral Institute (the IEEG, the Instituto Estatal Electoral), the official authority in charge of carrying out elections in Guerrero. Although the IEEG should function as an impartial referee, it actually represented the interests of the political parties in this judicial process. The IEEG developed a counterpoint strategy to prevent the possibility of electing municipal authorities through *usos y costumbres*, as they considered them a setback with respect to the liberal democratic electoral model. The IEEG continuously hindered community electoral initiatives in its attempt to block the consultation process.¹⁵ But it resorted to more than mere strategies. The electoral body even made political use of the Expert Witness Report by misrepresenting its content and using it to disqualify the electoral route through “customs and traditions.” They used the local press to publish statements that went against what was actually posited in the expert witness report, such as: “In the municipality of San Luis Acatlán, authorities are not elected through *usos y costumbres*, it is done by way of the political party system (...) says Expert Witness Report of the CIESAS” (Hernández 2014a). This action provoked a personal response in the local press, an exercise of our right to publicly respond to such a defamation. Although this response resulted in new accusations that revealed the intimidating power of political parties in Guerrero, they luckily did not proceed. The federal magistrates (TEPJF) argued against the decisions of the

IEEG, considering that the Anthropological Report demonstrated the validity of the indigenous normative system and the practices of *usos y costumbres* to elect local authorities. In consequence, the Tribunal ordered compliance with the ruling.

In short, the IEEG developed a counterpoint strategy, which supposedly respected the law, but was finally aimed at defending the political party electoral system; it was in fact a simulation strategy. Nevertheless, they were obliged to proceed with the Consultation to decide the method of election for municipal authorities.

The third strategy, a *rights-based strategy*, appeals to the justiciability of indigenous rights invoking the International High Standards of Human Rights. The Supreme Chamber of the Federal Electoral Tribunal (TEPJF) developed a legally impeccable argument in favor of protecting indigenous peoples' political rights. These authorities maintained a coherent position throughout the judicial process and followed appropriate procedures to assert that the indigenous communities of SLA have the rights to exert their right of self-determination by carrying out a Prior and Informed Consultation in which they could decide if they wanted to elect municipal authorities by *usos y costumbres*. The Expert Witness Report played a decisive role in the TEPJF ruling, as is reflected in the following lines: "It is clear that all the reviewed documents (anthropological expert report and others) coincide in establishing historical evidence of an internal normative system in the indigenous community of San Luis Acatlán" (Electoral Tribunal of the Federal Judicial Branch 2012).

In this way, the Federal Electoral Tribunal implemented a contention and surveillance strategy over the IEEG, which was, in turn, obliged to comply with the different phases of the ruling and the Consultation. This signified an important victory for indigenous communities of SLA. Nevertheless, due to a strong local campaign by political parties against *usos y costumbres*, including the threat to prevent the implementation

of social poverty programs in the region, an significant percentage of indigenous people decided not to vote. Ultimately, due to an extremely low turnout (only 10% of the population), the Consultation favored the political party system.

As we previously explained, the three parties involved in the judicial process made a strategic use of the law according to their own interests and positions. Even though all of them had a bearing on the trial, their impacts differed. Impact not only depended on the acumen of the legal argumentation, but also on extra-legal aspects that resonated in the judicial process. What is noticeable here is that all of the parties involved took up our report (in favor or against) in order to underpin their positions both inside and outside the trial. This undeniably shows the impact that the AR had in this case.

Finally, the Federal Electoral Tribunal based in our expert witness report demanded the local electoral institution to implement a Previous and Informed Consultation to ask the population of SLA if they accepted the change of the political party route to elect municipal authorities for a route based on *usos y costumbres*.

V. Judicialization of Indigenous Law and the Exercise of Self-Determination: Tensions and Limits

In the following section we change the focus of analysis to emphasize the political imaginaries at play and the way in which indigenous law and legal pluralism (as central concepts regarding self determination) are referred in the judicial process. Instead of unequivocal definitions, we are interested in reconstructing the meanings that political actors inject into these concepts, as well as how these were both mobilized and altered during the electoral trial. Likewise, we highlight the effects that the anthropological report had in the arguments developed throughout the judicial process. Particularly, it contributed to

expand the semantics of key concepts such as *usos y costumbres* and “indigenous community.” Furthermore, through this expansion the AR also contributed to the de-essentialization of such concepts while considering the ethnographic/sociological realities that sustain them. Through this analysis we discuss the critical uses of the expert witness report including both the potential and limitations it has to support the political rights to self-determination of indigenous peoples.

A. Coloniality and *Usos y Costumbres*

A central concept that figures prominently in the debates on indigenous law is that of *usos y costumbres*. Despite its colonial undertones, it has been uncritically included into judicial processes and legal arguments in cases involving indigenous rights. The term has also been popularized in the everyday language of the social actors, including that of indigenous peoples. The trajectory of this concept in contemporary legal anthropology debates illustrates that the term “customary law” was used by the colonial administration (in its different versions [English, Spanish, French, etc.], for social control of the colonized peoples [cf. Fitzpatrick 1990; Starr and Collier 1989]). For instance, this is what occurred with the original inhabitants under the jurisdiction of the Spanish Crown in Latin America. Later, under the liberal post-independence era, the constitutions of the newly formed nation-states, such as Mexico, excluded any legal recognition of indigenous institutions and practices. Customary law remained outside of the state; when it was referred to in penal processes, it was to emphasize an uncivilized condition and sometimes the incapability of indigenous individuals to face the law (Gómez 2002; Escalante 2018).

The concept *usos y costumbres* paradoxically resurfaced within the framework of the recognition of indigenous rights and has been explicitly recovered in legal fights, despite its limitations and the fact it has been widely criticized by indige-

nous intellectuals as a colonial concept (Bartolomé 2006; López López 2007, 2011). The ongoing popularity of the concept is still noteworthy. International frameworks for indigenous rights, including the right to self-determination and autonomy, have been insufficient in decreasing its use by indigenous organizations. Such terms are clearly linked to a coloniality of power (Quijano 2001) that both reproduces racialized hierarchies and minimizes indigenous law. Thus, there is a dispute for the meaning of these concepts in the juridical field: on the one hand the concept of *usos y costumbres* questions the Eurocentric structuring of state law, and on the other it incentivizes the making of legal pluralism comprehensible. This is the field of force that traverses the judicialization of indigenous law in the Mexican electoral field. In the present case study, although the Federal Electoral Tribunal (TEPJF) presented arguments that recognize the internal indigenous normative systems, these are far from being fully recognized as indigenous law (López 2007).

In order to illustrate how the different actors use the concept *usos y costumbres*, in what follows we present three modalities that were made visible in the judicial process, revealing the illegibility of customary law in legal terms.

(1) *Usos y Costumbres as remains of the past*. From the perspective of the local electoral institute / IEEG, *usos y costumbres* represent a “return to the past,” in opposition to modern election practices based on the political party system. A similar opinion is shared by the mestizo elites of SLA, and even by some indigenous politicians, as we were able to document during our fieldwork. In a meeting with neighbors of SLA, they manifested that accepting *usos y costumbres* would mean a step backward in social progress (that is to say, a return to elections controlled by local *caciques*). As mentioned by a mestizo teacher: *usos y costumbres ceased to work at the municipality of SLA when political parties entered into it*” (Fieldwork, July 2, 2013). The double meaning that mestizos of SLA inject into customs stands out: On the one hand, they consider *usos y costumbres* as an affront

to modern democracy and a risk of “returning to the past” when the “tradition” of the *cacique* was to impose candidates; they translate an authoritarian tradition used by political party caciques as an inherent part of indigenous communities. On the other hand, they share the view that customs are good for *them* (i.e., indigenous people) but not for the election of the municipal town hall authorities. As mentioned by the same teacher: “They (the electoral authorities) are going to say that we mestizos [of SLA] are attached to the federal mandate, and ethnic groups, those governed by *usos y costumbres*” (JHS Interview, SLA., July 4, 2013). This point of view reproduces a dichotomous view of electoral processes, where the defense of modern democracy excludes the possibility for indigenous people to appeal to *usos y costumbres*. That is, in their communities they can elect their authorities the way they want, but for the municipal town hall, the electoral process must be by political party system. There emerge racist stereotypes surrounding indigenous people, considered “*huanacos*,”¹⁶ whose customs have nothing to teach the mestizos living in urban centers.

(2) *Usos y Costumbres related to self-determination*. This meaning is found in the rulings of the Superior Chamber of the TEPJF. Self-determination is a right recognized in Article 2 of the Mexican Constitution, which includes international standards of collective human rights. Nevertheless, the language of *usos y costumbres* minimizes the force of indigenous law and does not highlight its normative character as a juridical system. However, it informs the significant variation of local electoral practices documented by the anthropological witness report and recovered in the ruling of the TEPJF. These practices reveal the wealth and sense of alterity through which communities affirm their indigenous identities. That is, for example, the case of the Me’phaa community of Pueblo Hidalgo, in the Mountains of Guerrero, where, prior to the elections, community members sweep the public areas as a way of “clearing the path”:

The first Monday of September, the authority in turn, who is the “Comisario municipal” (main communal authority) calls all the residents to clean the important areas. For example, in this case, the cemetery, the church, the yard around the precinct, around the school yards, the land of the clinic (cf. Sierra Camacho and López López n.d.: 57).

With these practices Me’phaa principals (elders who previously held positions of authority) put into evidence their worldviews regarding ritual practices to ensure a good electoral process. Sweeping the path is a symbolic compromise to prepare the change of the *Comisario* (local communal authority) involving a collective task. *Usos y costumbres* crystallizes a set of knowledge and practices that connects the indigenous cosmopolitan vision of order and respect to annual local elections (Dehouve 2011). This practice of “cleaning the path” in Pueblo Hidalgo is not the same in other communities. It defines a collective identity that enters into the language of *usos y costumbres* showing its complexity and cultural variations.

(3) *Usos y costumbres in the exercise of indigenous law and a participatory democracy*. This conceptualization is defended by indigenous leaders who seek to change the electoral regime by demanding the placement of participatory democratic mechanisms at the center of electoral processes.

It is noteworthy that indigenous intellectuals and local authorities themselves have appropriated the concept of *usos y costumbres* as a central component of indigenous law. The results of the anthropological report confirm that indigenous actors are not conflicted by this concept; rather the term has opened up a spectrum of possibilities to describe local practices. More than *usos y costumbres*, it has been “Custom” (*El Costumbre*), the concept traditionally used by indigenous people, to refer specifically to the ritual involved in local traditions. Using this largely ritual meaning to describe electoral practices allows them to develop an integrated view of them as a constituent part of the communal social matrix.

For indigenous peoples to refer to *usos y costumbres* as part of the mechanisms to elect authorities places the collective dimension of communal practices of self-government at the center of the discussion, specifically through the community assembly. This is confirmed in the descriptions provided by the principals of Pueblo Hidalgo, referenced before, during a collective meeting:

The people propose him, the “comisario” [community authority], in assembly and the same people remove him if he fails. The custom of the people is to gather all the principals and then call the attention of the authority if he is not working...when things are going well the people back them, they give support to move forward (Collective Interview with Principals, Pueblo Hidalgo, Field Work, June 30, 2013).

The Assembly is the electoral model of most indigenous and peasant communities in the country, as is the case in the state of Guerrero. It is in fact the base of the indigenous normative system. As a structural model, in the region of SLA, it has surpassed the community limits, potentiating its efficacy for social regulation in larger jurisdictions, including indigenous and mestizo populations, as it happens with the Community Police (CRAC-PC), with headquarters in the municipal town of SLA, Guerrero.

In sum, the different meanings that were ascribed to the concept *usos y costumbres* reveal different hierarchies and representations in relation to indigeneity. Furthermore, these hierarchies and representations are connected to diverse semantic referents interfering within the judicial and political fight.

B. The Legal Construction of the “Indigenous Community”

A fundamental tension involving the concept of Indigenous community crystallizes the ambiguity of the legal rec-

ognition of indigenous rights; particularly what it means to define abstract concepts in contrast to its sociological definition. During the trial, it was noteworthy the difficulty of defining the “indigenous community of San Luis Acatlán”: either it was conceived of as a homogeneous construct or as one that was a historical, dynamic and heterogeneous entity. In legal terms, indigenous identity is based on self-membership adscription, as it is stated in Article 2 of the Mexican Constitution. During the trial, the federal magistrates assumed the definition of indigenous community as a compact unit. This imagined construction of the “Indigenous Community” became noteworthy for its implications in the judicial process. Nevertheless, during the last phase of the trial, the Federal Tribunal was forced to take into account more dynamic and heterogeneous conceptions of the so-called indigenous community of SLA. Such tensions were in fact highlighted throughout the Expert Witness Report. Along those lines we reconstruct the variegated meaning of the concept “Indigenous community of San Luis Acatlán” as it was revealed during the trial.

(1) *For the magistrates of the Electoral Federal Court, the plaintiff implicated in the judicial process was “the Indigenous Community of San Luis Acatlán.”* That is, it was constructed as a homogenous entity. The Federal Court appeared to be unaware of the empirical reality of the community in question; they never in fact set foot in the regions. The municipality of SLA is pluri-ethnic, made up of of Na’Savi, Mee’Pha, and Nahuatl peoples, as well as mestizos living in communities surrounding the center and in the neighborhoods. The legal action largely excluded an important element: in the municipality of SLA, 45.46% of the population identifies itself as mestizo. For the magistrates, the fact that indigenous representatives recognized their affiliation to indigenous communities in SLA was enough to accept their claim. In legal terms, this percentage is sufficient to grant the character of indigenous community to this municipality. Based on this, the federal magistrates took for granted the concept of

“indigenous community of San Luis Acatlán” considering it as a whole. However, our anthropological expert report offered the court a diverse demography of the indigenous population living in this municipality. It also questioned the official percentage of indigenous communities presented by the INEGI’s¹⁷ census (2000), since many of the communities recognised as *mestizas* were actually organized through a community-based regulation. That is, even though they no longer speak an indigenous language, they recognize their indigenous identity. This documentation had consequences in the judicial process: Who would be included in the Consultation process regarding the possibility of carrying out political elections based on *usos y costumbres*? It became a political necessity to open the Consultation to the consideration of the entire population within the municipality of SLA, including those at the urban center, as it finally happened.

(2) *For the plaintiff, the representatives of the UPOEG, the legal concept of indigenous community had become an important tool to dispute collective rights.* From the start, the petition made clear the multiethnic reality of the municipalities. Once the judicial process began, those promoting it did not question the conceptualization of the Court of Justice regarding a homogeneous indigenous community. Instead they based the foundations of their claim on it. However, during the Consultation phase, the “Indigenous Community of San Luis Acatlán” (considered as a compact and separate unit) became an obstacle for the purposes of the plaintiff, given that it restricted the vote to indigenous members living in communities and did not considered their diversity. This represented an important hindrance, banning not only the participation of those indigenous inhabitants who had migrated to the city of SLA, but also of some mestizo population who agreed with the idea of electing municipal authorities via customs and traditions. Finally, it is important to highlight how political parties could have used this evidence to contest the Consultation, since an important sector of the population

would not have participated had they not been considered in the decision of electing their municipal authorities. It was in fact a new dilemma highlighted by the anthropological expert witness report.

(3) *The IEEG and the political parties represented in the State Electoral Body did not question the concept of "Indigenous Community of SLA."* They did, however, direct their critiques toward the "authenticity" of traditional practices, emphasizing the fact that the model of political party elections was already being used in the communities. They were seeking to disregard the legitimacy of indigenous *usos y costumbres* and, more particularly, the fact of being 'traditional' indigenous communities. Although it was clear that the State Electoral Council of the IEEG defended the position of the political parties, they did not use the empirical fact of the significant presence of mestizos in the municipality to appeal the judicial process. However, mestizo local elites were actively positioning themselves in the public arena against *usos y costumbres*, as we were able to verify during fieldwork. The Expert Witness Report recuperated their voices, revealing the polarized inter-ethnic tensions that structure the political and social fields in the municipality of San Luis Acatlán. It was clear that our study had an impact on the interests of political parties, and, for this, we were noticeably observed and directly criticized by local elites (mestizo and even indigenous ones) who saw the possibility of a Consultation as a menace to their positions of privilege.

In this way, the Expert Witness Report constituted an important tool that provided valuable ethnographic information and historical evidence that helped to understand the contentious and racialized context that structures the municipality of San Luis Acatlán. In fact, the report contributed with anthropological and sociological evidence to the ruling in favor of indigenous rights. It also revealed the tensions that were produced by the use of juridical categories that distance themselves from the empirical reality. Moreover, it highlighted

the leeway under which the indigenous actors were able to expand the meaning of said categories in order to achieve their own goals. The support of the Federal Electoral Tribunal was paramount at this point in always trying to secure the collective rights of indigenous peoples.

Conclusions

The indigenous peoples' struggle to access the municipal power through an electoral route is transforming the monopoly of the party-centered system over political representation by introducing an electoral method based on the participatory democracy of *usos y costumbres*. This constitutes a significant alternative for the indigenous peoples in Mexico to advance in their exercise of self-determination and autonomy. Of note, the judicialization of these struggles and the tension between a transformative or regulative direction of the law in the context of a plural legal framework compels the Mexican State to recognize indigenous rights.

The indigenous judicial struggle for political representation has placed anthropological witness reports at the center of attention. As they work as warranties issued by experts to establish the validity of the indigenous claim, they involve several dilemmas. On the one hand, the reports are tools that, within a trial, help to substantiate cultural diversity in favor of the advancement of the collective rights. But, on the other hand, the reports could also turn into statehood benchmarks that reproduce the coloniality of power that they seek to counteract. For this reason, the anthropological expert reports take on a new relevance, and it becomes extremely important to make both a critical analysis of its epistemic and political effects (Loperena, Hernández y Mora 2018) and to reconstruct the judicial processes in which they take part.

In this conclusion we would like to highlight the implications of resorting to anthropological expert reports in electoral trials, their contribution to social transformative fights, and the revealing of the tensions involved in their implementation. This could help to broaden our reflections in order to address new experiences currently undertaken in Mexico as they have achieved important goals for the exercise of indigenous municipal governments via legal and political mobilizations.

The anthropological contribution to the judicial process and the heterogeneity of the state. Within the judicial process, the role of the anthropological expert report was decisive. Our witness report contributed to substantiate a determination by the Federal Electoral Tribunal that favored the right to elect municipal authorities in San Luis Acatlán through the route of *usos y costumbres* rather than through political parties. In this scenario the heterogeneity of the state reveals its force: in light of the failed attempt of the local electoral body (IEEG) to misrepresent its content so as to avoid a Consultation, the Federal Electoral Court (TEPJF) ordered the IEEG to reconsider the proof offered by the anthropological report which categorically confirms the validity of the normative systems. For said tribunal, the study was crucial as it provided the empirical elements that supported the claim in question. The IEEG could not dismiss this evidence, so instead they struggled to minimize its content. Even though the transformative role of the law supported the requirement of a Consultation in this case, it did not influence the final decision to change the electoral route as the political party model prevailed. However, the legal fight in SLA became a benchmark for other similar fights in Guerrero, such as the case of Ayutla de los Libres, which had recently managed to change to the route of *usos y costumbres* in their municipal elections, as mentioned previously. This process culminated with the election of the Municipal Council of Communitarian Authorities on July 15th 2018.¹⁸

De-essentializing the judicial categories and its effects. As expert witnesses in the trial of SLA, we confronted the challenge of not essentializing the categories that were paramount to the legitimacy of the indigenous claim but that did not correspond to the sociological reality of the communities. Thus, in order to avoid constructs that reify alterity, we decided to explore the influence of *usos y costumbres* beyond indigenous communities. This meant not only reinforcing the counterbalance regarding the fixed use of legal concepts that harden culturalist assumptions about authenticity, but also the possibility of expanding their meaning, showing the influence of customs and traditional practices at the very heart of mestizo neighborhoods in San Luis Acatlán. Simultaneously, we demonstrated how urban indigenous communities reproduced their normative systems in a renewed form. Finally, the arguments set forth in the expert witness report helped to expand the Consultation to other indigenous and subaltern groups outside their communities and to the mestizo population of SLA. In the case under analysis, it is to highlight the flexibility of the magistrates of the Federal Electoral Tribunal to consider the contexts of the indigenous communities in pluri-ethnic settings, such as the city of San Luis Acatlán, with a large indigenous population.

Judicial and political field in local electoral disputes. The case under study is an example of the difficulties in transforming political relations of power in municipal contexts traversed by structural racism and social inequality. The political parties anchored in their privilege exerted a strong opposition to the possibility of changing the methods of election and thus losing their power. However, the most important obstacle to political change in the case under analysis regarding indigenous self-determination was the fragmentation of the most representative indigenous institution of the region (the CRAC-PC, the Community Police of Guerrero) that prevented a strong opposition to the political party system. These events clouded the environment and generated an atmosphere of distrust in

the region. All of this had a profoundly negative effect on the local electoral process. In this way, the enormous energies made to dispute the electoral field in legal terms did not produce by itself a transformative social action. All of this confirms that the achievements in the judicial field are not enough if they are not accompanied by an overwhelming support in the social and political arenas.

Anthropological expert witness reports contribute to the construction of a plural electoral judicial field. The difficulty in navigating between the right to self-determination and liberal rights to citizenship frame the alternatives expressed in federal electoral trials. Expert cultural knowledge is confronted by the challenge of documenting the complexity and changing conditions of customs and traditions within the framework of the law. For this reason, anthropologists are forced to maintain epistemological vigilance, so as not to dilute the richness of social life in legal terms. Of particular relevance for an expert witness report regarding indigenous political rights is the need to deconstruct universal visions of law and rights, and to counter the hardening of colonial social imaginaries when referring to *usos y costumbres*. This is a significant challenge due to the fact that concepts coming from different rationalities confront set notions of law and thus are forced into fixed definitions; customs and traditions are located in the domain of illegibility from the state point of view, as Poole posits, and are thus forced into a semantic dispute with legal and political consequences. This opens new venues of discussion regarding the role of law and cultural diversity in contexts of legal pluralism.

Finally, the expert witness report had unexpected effects. The central findings were not reduced exclusively to the realm of "expert knowledge." Arguing against the racist conceptions that refused to accept traditional forms of electing authorities in indigenous communities, the expert report highlighted the important contributions of indigenous people to electoral democracy in plural legal settings. In this sense, the expert

witness report illustrated the performative force of the law, as it was inserted into a disputed terrain, thus transforming the social reality that we were asked to only describe as experts.

The recent events in the indigenous municipality of Ayutla de los Libres in Guerrero and the Tzeltal municipality of Oxhuc in Chiapas, which recently won the right to elect their municipal authorities without the use of political parties, bring new elements to the judicialization of indigenous rights and the discussion of anthropological witness reports as judicial evidence.

NOTES

- 1 In this paper, we use *usos y costumbres* and “customs and traditions” as equivalent terms.
- 2 The municipality of Cherán in the state of Michoacán was the first indigenous community to win a federal trial regarding the right to elect municipal authorities through *usos y costumbres* (see later on).
- 3 Center for Advanced Research and Studies in Social Anthropology (CIESAS).
- 4 In Mexico, collective agrarian property can have two modalities: communal or *ejidal* (from the word *ejido*). These are the two forms of social property (property that is owned by collectives) that land has for peasant and indigenous communities across the country.
- 5 Some “ejidos” are made up of a main population center, but also incorporate Annexes: smaller populations that depend politically and administratively on those centers.
- 6 Guerrero also has the highest rate (6.5%) of Afro-descendant population in the country (CONAPO 2015).
- 7 The Regional Coordinator of Community Authorities of the Community Police (CRAC-PC) is an indigenous organization known for successfully bringing security and justice to an extended jurisdiction in the Coastal–Mountains of Guerrero, since 1995.
- 8 The Guerrero State Electoral Institute (IEEG), and The Center for Advance Research and Studies in Social Anthropology (CIESAS), through Sierra Camacho established an agreement on August 28th, 2013 to elaborate the Anthropological Expert Witness Report.

- 9 Expression used by Ruling SUP-JDC-1740/2012 that ordered the report, issued by the Electoral Tribunal of the Federal Judicial Branch (TEPJF).
- 10 According to the National Institute of Indigenous Peoples (Instituto Nacional de los Pueblos Indígenas, INPI), a municipality with more than 40% indigenous population is recognized as an indigenous municipality (INPI 2010; Serrano 2006).
- 11 UPOEG (*Unión de Pueblos y Organizaciones del Estado de Guerrero*: Union of Peoples and Organizations of the State of Guerrero) has become one of the principal organizations involved in a popular defense against organized crime in a huge territory of the Coast of Guerrero (See Warnholtz 2016). CRAC-PC (*Coordinadora Regional de Autoridades Comunitarias-Policía Comunitaria*: Regional Coordinator of Community Authorities-Community Police).
- 12 CAMI, an Indigenous Women's House – Nellys Palomo is part of a network of indigenous women's organizations engaged with maternal health and women's rights.
- 13 Genaro Vázquez, Normal School Teacher and leader of the ACNR, led one of the two most influential Guerrero guerrillas in the country, which was active between 1968 and 1972.
- 14 "Temazcal" is the traditional steam bath of indigenous communities in Mesoamerica.
- 15 The President of the IEEG directed a letter to the head office of the Sierra Camacho Institution requesting that a penalty be imposed on the person responsible for the study for breach of contract (for the alleged fact of making the expert opinion public before the ruling), which in fact was a fallacy (Hernández 2014b).
- 16 This is a derogatory term used in the region to identify indigenous mountain people, which links ethnicity to attributes of poverty and inherent "backwardness."
- 17 Translator's Note: National Institute of Statistics and Geography.
- 18 See: Newspaper *El Sur* July 16th, 2018; <https://suracapulco.mx/impreso/1/representantes-eligen-en-ayutla-a-las-primeras-autoridades-por-usos-y-costumbres-indigenas/> (accessed September 18th, 2018).

REFERENCES CITED

- Aragón, Orlando (2013). El derecho en insurrección. El uso contra-hegemónico del derecho en el movimiento purépecha de Cherán. *Revista de Estudios e Pesquisas sobre as Americas* 7(2): 35-69.

- Bourdieu, Pierre (2000). Elementos para una sociología del campo jurídico. **IN** *La fuerza del derecho*, Pierre Bourdieu and Gunter Teubner (eds.) (Carlos Morales de Setién trad. and preliminary study). Bogotá: Facultad de Derecho de la Universidad de los Andes-Pontificia Universidad Javeriana-Siglo del Hombre Editores, pp. 155-220.
- Bartolomé, Miguel Alberto (2006). *Gente de costumbre y Gente de Razón. Las identidades étnicas en México*. México: Siglo XXI.
- Bartra, Armando (2000). *Guerrero bronco. Campesinos, ciudadanos y guerrilleros en la Costa Grande*. México: ERA.
- Clifford, James (1988). *The Predicament of Culture*. London: Harvard University Press.
- Cedillo, Adela (2008). *El fuego y el silencio. Historia de las FPL*. México: Comité 68 Pro Libertades Democráticas, A.C.
- CONAPO (Consejo Nacional de Población) (2010). Índice de marginación por localidad. Cuadro B.12.1. Guerrero: Localidades y población residente por grado de marginación. http://www.conapo.gob.mx/es/CONAPO/Indice_de_Marginacion_por_Localidad_2010 (accessed August 24, 2017).
- CONAPO (2015). "Infografía Población Afrodescendiente." https://www.gob.mx/cms/uploads/attachment/file/122501/Infografia_poblacion_afrodescendiente_CONAPO.pdf (accessed 12 July, 2019).
- Political Constitution of United Mexican States.
- Dehouve, Danièle (2011). Cuando el voto no es suficiente para legitimar el poder. **IN** *Formas de voto, prácticas de asamblea y toma de decisiones*, Victor Franco Pelletier, Danièle Dehouve y Aline Hémond (eds.). Un acercamiento comparativo. México: CIESAS, pp. 343-355.
- Electoral Tribunal of the Federal Judicial Branch (TEPJF) (2012). Juicio para la Protección de los Derechos Políticos del Ciudadano SUP JDC-1740/2012. <http://portal.te.gob.mx/colecciones/sentencias/html/SUP/2012/JDC/SUP-JDC-01740-2012.htm> (accessed August 24, 2017).
- Escalante, Yuri (2018). "Usos y costumbres del peritaje antropológico." *Desacatos* (57): 72-81. <http://desacatos.ciesas.edu.mx/index.php/Desacatos/article/view/1951/1420> (accessed August 25, 2018).
- Fitzpatrick, Peter (1990). Custom as Imperialism. **IN** *Law, Society and National Identity in Africa*, Jamil M Abun-Nasr, Ulrich Spellenberg and Ulrike Wanitzek (eds.). Hamburg: Helmut Buske Verlag, pp. 15-30.
- FEMOSPP (2006). "Borrador del informe del Fiscal Especial, Capítulo 6. La Guerra Sucia en Guerrero," febrero de 2006 en http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB180/060_Guerra%20Sucia.pdf (accessed July 12, 2019).

- Gómez, Magdalena (2002). Derecho indígena y constitucionalidad. IN *Antropología jurídica: perspectivas socioculturales en el estudio del derecho*, edited by Esteban Krotz. México City: Anthropos-UAM-Iztapalapa, pp. 235-279.
- González, Pablo (1965). *La democracia en México*. México: Era.
- Hale, Charles (2006). Activist Research v. Cultural Critique: Indigenous Land Rights and the Contradictions of Politically Engaged Anthropology. *Cultural Anthropology* 21 (1): 96-120.
- Hernández, Fernando (2014a). No se eligen en San Luis Acatlán las autoridades municipales por costumbres, concluye el CIESAS. *El Sur de Acapulco*, March 24th. <http://suracapulco.mx/1/no-se-eligen-en-san-luis-acatlan-las-autoridades-municipales-por-costumbres-concluye-el-ciesas/> (accessed August 24, 2017).
- Hernández, Fernando (2014b). El IIEG pide a CIESAS sancionar a la investigadora que hizo el estudio en San Luis Acatlán. *El Sur de Acapulco*. April 26th. <https://es.calameo.com/read/003058254f56f59eb0829> (accessed April 26, 2017).
- Institute for Economics and Peace (2017). Índice de Paz Global México 2017. http://visionofhumanity.org/app/uploads/2017/03/MPI17_Spanish_WEB_v2_27.03.pdf (accessed August 24, 2017).
- Instituto Nacional de Estadística y Geografía (INEGI) (2000). La población indígena en México. http://www.inegi.org.mx/inegi/contenidos/espanol/eventos/vigenero/dia29/panel4_mesas/poblacion_indigena/p_indigena-en-mexico.pdf (accessed August 24, 2017).
- Instituto Nacional de los Pueblos Indígenas (INPI) (2010) Localidades indígenas. Catálogo de Localidades Indígenas 2010. <http://www.cdi.gob.mx/localidades2010-gobmx/index.html> (accessed July 14, 2019).
- Kirsch, Stuart (2018). Dilemas del perito experto: derechos indígenas a la tierra en Surinam y Guyana. *Desacatos* (57): 36-55. <http://desacatos.ciesas.edu.mx/index.php/Desacatos/article/view/1949/1418> (accessed August 25, 2018).
- Loperena, Christopher, Aída Hernández, and Mariana Mora (2018). Los retos del peritaje cultural. El antropólogo como perito en la defensa de los derechos indígenas. *Desacatos* (57): 8-19. <http://desacatos.ciesas.edu.mx/index.php/Desacatos/article/view/1947/1416> (accessed August 25, 2018).
- López López, Erika Liliana (2011). La demanda indígena de los Acuerdos de San Andrés. Los retos para el derecho y la pertinencia del Pluralismo jurídico. San Luis Potosí: Universidad Autónoma de San Luis Potosí-Centro de Estudios Jurídicos y Sociales Mispat-Educación para las Ciencias en Chiapas, A.C.

- López López, Erika Liliana (2015). Las potencialidades emancipatorias del derecho no-estatal. El caso del Sistema Comunitario de Seguridad Justicia y Reeducción (Policía Comunitaria) de la Costa Chica y Montaña de Guerrero México, PhD in Sociology, México: UNAM.
- López, Francisco (2007). Ensayo sobre la ceguera jurídica. Las teorías jurídicas y el derecho entre los ñuu savi. IN *Pluralismo Jurídico. Otros horizontes*, coordinated by Correas, Oscar. México: CIICH-UNAM-CONACYT-Ediciones Coyoacán, pp. 67-120.
- Martínez, Juan Carlos (n.d.). Anthropological Expert Work in Today's Legal Field -Between Legitimizing the System and Seeking Justice for Indigenous Peoples (forthcoming).
- Poole, Deborah (2006). Los usos de la costumbre. Hacia una antropología jurídica del Estado neoliberal. *Revista Alteridades* 16 (31): 9-21
- Quijano, Aníbal (2001). Colonialidad del Poder: Cultura y Conocimiento en América Latina. IN *Capitalismo y geopolítica del conocimiento. El eurocentrismo y la filosofía de la liberación en el debate intelectual contemporáneo*, Walter D. Mignolo (ed.). Buenos Aires: Ediciones del Signo XXI- Duke University, pp. 117-131.
- Sánchez, Esther (2010). El peritaje antropológico. Justicia en clave cultural. Bogotá: GTZ.
- Sierra Camacho, María Teresa (2010). Indigenous Justice faces the State. The community Police Force of Guerrero Mexico. *NACLA Report on the Americas* (43) 5: 34-38. <https://www.tandfonline.com/doi/abs/10.1080/10714839.2010.11725516> (accessed June 30, 2018).
- Sierra Camacho, María Teresa (2013). Desafíos al Estado desde los márgenes: justicia y seguridad en la experiencia de la policía comunitaria de Guerrero. IN *Justicias indígenas y Estado: Violencias contemporáneas*, María Teresa Sierra, Rosalva Aída Hernández y Rachel Sieder (eds.). Ciudad de México: FLACSO-CIESAS, pp. 159-193.
- Sierra Camacho, María Teresa, and Erika Liliana López López (n.d.). Dictamen pericial antropológico y los sistemas normativos indígenas en el Municipio de San Luis Acatlán, Guerrero. Ms.
- Serrano, Enrique (coord.) (2006). *Regiones Indígenas de México*. Ciudad de México: Comisión Nacional para el Desarrollo de los Pueblos Indígenas de México (CDI)- Programa de Naciones Unidas para el Desarrollo (PNUD). <https://www.gob.mx/cms/uploads/attachment/file/35735/cdi-regiones-indigenas-mexico.pdf> (accessed July 24, 2019).
- Starr, June, and Jane Collier (ed.) (1989). *History and Power in the Study of Law. New Directions in Legal Anthropology*. London: Cornell University Press.

- Stavenhagen, Rodolfo (2002). *Los pueblos indios y sus derechos*. México: UNESCO.
- Tlachinollan, Centro de Derechos Humanos de la Montaña, A.C. (2016). XXII – Informe Julio 2015 -2016. Pueblo Indignado. Resistir con el corazón por delante. México. http://www.tlachinollan.org/wp-content/uploads/2016/08/informe22_web.pdf (accessed September 20, 2016).
- Warnholtz, Margarita (2016). *Recuperar la Dignidad: Historia de la Unión de Pueblos y Organizaciones del Estado de Guerrero*. Movimiento por el Desarrollo y la Paz Social. Ciudad de México: UNAM.

