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Space, Gender, Rights & Identity

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Arij Ouweneel (Ed.)

C U A D E R N O S D E L C E D L A

Andeans and Their Use of Cultural Resources

Space, Gender, Rights & Identity

25



ANDEANS AND THEIR USE OF CULTURAL RESOURCES

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ANDEANS AND THEIR USE
OF CULTURAL RESOURCES
SPACE, GENDER, RIGHTS & IDENTITY

ARIJ OUWENEEL (ED.)

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NOTES ON THE CONTRIBUTORS

Christien Klaufus joined CEDLA in April 2008 as Assistant Professor of Human Geography. She graduated in Architecture and Urbanism at Eindhoven University of Technology in 1993 and in Cultural Anthropology (*cum laude*) at the University of Amsterdam in 1999. In 2006 she received her PhD in Anthropology at Utrecht University. From 1999 to 2001 and from 2006 to 2008 she worked as a researcher for the OTB Research Institute at Delft University of Technology, where she examined to what extent self-provided housing contributes to a sense of community. Her research project “Changing social landscapes in medium-sized cities” covers two topics: 1) dwelling, housing, and the social meanings of architecture and material culture in areas with high rates of transnational migration; 2) urbanization processes and urban change in medium-sized cities. This project derives from her PhD thesis, where she asserts that a new middle class instrumentalizes certain architectural forms as symbols and catalysts of social mobility. Elaborating on those findings, Dr. Klaufus investigates the role of architectural preferences in social relations in areas with high rates of transnational migration. Parts of the study have been conducted in Guatemala, El Salvador, Peru, and Ecuador. For her second research topic she explores geographically how both planned urban growth and what is known as urbanization-from-below contribute to the development of medium-sized cities.

Mijke de Waardt pursued her MSc degree in Educational Sciences in 2003 and obtained an MA degree in Latin America Studies at CEDLA. In a collaborative project between the VU University Amsterdam and CEDLA, she started her PhD research in July 2008. Because of the violent civil war in Peru in the 1980s and 90s and the transition process that started at the beginning of this decade, hundreds of different associations of victims of violence arose. Her research focuses on construction, representation, and negotiation of victimhood by organized Peruvian victims of political violence in Peru and (non) governmental development organizations. Grassroots victim activism is an important topic that is connected to recent debates about the bottom-up perspective on transitional justice. The primary objective of this dissertation is to broaden this micro-level understanding of post-conflict societies. Analysis is based on extensive ethnographic research conducted at multiple sites.

Arij Ouweneel has been Associate Professor of History at CEDLA since 1985, and was Special Professor of Historical Anthropology of the Amerindian Peoples at the Universiteit Utrecht (1999-2004). He graduated *cum laude* in Social-Economic History at the Universiteit Leiden in 1983 and received his PhD *cum laude* in Social-Economic History at the same university in 1989. Working with moving images—film, television, Internet—the object of his re-

search is to identify and classify cultural schemas depicted in the vast corpus of the Latin American moving image and, at the same time, to contribute to the theory of Latin American encoding processes. Looking at moving image narratives in selected Latin American countries, the most useful crossover between cultural analysis, semiotics, and social science research on belonging occurs through the ecological schema theory. In this theory, cinema and television broadcasts are studied as the major source of contemporary historical microanalysis to understand the ideas encoded in the scripts and films, as well as possible perceptions of the viewers and audience in decoding them.

Marc Simon Thomas is a PhD candidate at CEDLA and Utrecht University and an instructor at the Department of Cultural Anthropology of Utrecht University. He holds a law degree from the University of Leiden. After a decade of professional experience in the insurance industry and as an executive recruiter, he resumed his academic career at Utrecht in the field of Cultural Anthropology, graduating *cum laude* and subsequently obtaining a degree in Latin America Studies at CEDLA. His master's thesis was on legal pluralism and interlegality in Ecuador. In his current legal anthropological research about legal pluralism in practice in Ecuador, he focuses on how ordinary Indians living in the Andean highlands apply both indigenous and national law to resolve internal conflicts.

Annelou Ypeij has been an Assistant Professor of Anthropology at CEDLA since January 2003. She gradu-

ated *cum laude* in anthropology from Utrecht University in 1990. Five years later she defended her PhD dissertation about the informal economy of Lima at the same university. From 1997 to 2002 at Erasmus University Rotterdam, she conducted post-doctoral research on poverty within the Dutch welfare state in Amsterdam. Broadly formulated, her research interests encompass poverty, gender, and livelihood strategies. She has done extensive fieldwork in Mexico, Peru, and the Netherlands. In Lima, Peru, she has analyzed why female micro-entrepreneurs in the informal economy earn less than their male counterparts do. She is currently working on two research projects. The first is on gender and tourism in the Cusco-Machu Picchu Region and the impact of tourism on local communities. She focuses on the livelihood strategies and ethnicity of women and men active in the lowest echelons of the labor market. The second research project is a new study on gender, family relations, and urban poverty. Dr. Ypeij is formulating research questions on how the urban poor are involved in global flows of ideas, money, people and goods, and how this involvement corresponds with changing gender and family relations and in turn impacts the social fabric of Latin American cities. This research will bring her back to Lima.

INTRODUCTION

ARIJ OUWENEEL, ANNELOU YPEIJ AND CHRISTIEN KLAUFUS

Imagine a young adult girl in Chosica, one of the recent suburbs of Lima. Her parents are of Andean origin, but she was born here. As a young adult, she hopes to start a family. In her community are several routes that lead to family-formation. The first is the traditional and very ancient Andean custom of marriages arranged by parents. For social scientists, marriage is an institution of society, in this case an explicit and formal one. Second, the girl could choose a young man on her own and marry him—another example of the explicit and formal institution. Third, she could start cohabiting with the young man of her choice without getting married. Living with one's chosen partner, while not a formal institution, is obviously explicit. Fourth, she might become pregnant without being willing or able to live with the father of her child at all. As a single mother, her family will be an informal one, but explicit nonetheless. All institutions can become cultural resources; the analytical task is to understand when, how and why this is the case. The palette of cultural resources for family formation can thus be understood analytically as being explicit and either formal or informal. This makes us interested in why and how a certain cultural resource is used: What is the decision-making process behind the cultural resource use?

Now, imagine a similar kind of young girl, somewhere in a city in one of the Andean countries, visited by a student of the CEDLA Master Program interested in ethnicity. Our student wants to know about this girl's identity. Identity is a theory of oneself. How does she theorize herself? What categories would she like to use, and how does she present herself? She could choose a formal-explicit category, institutionalized by the State: Peruvian, Ecuadorian, Bolivian, Chilean, et cetera; or Limeña, or any other reference to an urban settlement or official regional entity. Some regional categories are explicit but informal, like *andino* (from the Andes), *serrano* (from the Sierra, the Andes), or *huanca* (the Andes around Huancayo). Several ethnic categories may also be explicit, even formal, if they are officially recog-

nized by the State. The term *indígena* (indigenous) is recognized in some countries as an official civil category (i.e., as an explicit and formal institution), whereas in other countries it is not (i.e., an implicit institution). Most ethnic categories should be understood as an implicit institution (e.g., Amerindian, Cholo, or mestizo). In her talk with our student, the girl in the Andean city has a basically implicit palette of cultural resources for her identity formation.

In addition to natural resources, cultural resource use is a major theme defining the role of the continent in an emerging global economy. Philosophers, psychologists, sociologists, and anthropologists agree today that human development, including the brain and its neural architecture, takes place “within very particular and variable *sociocultural environments*.”¹ Resources may be found “out there,” in the world, ready to use. In this *Cuaderno* we regard “cultural resources” as any set of cultural elements within a specific sociocultural setting and conducive to the quest for enhanced self-esteem, status improvement, economic advancement, or a liberated identity; in short: the pursuit of happiness. Cultural elements that are converted into resources furthering progress for some people may simultaneously turn out to inhibit progress for others. Cultural resources can therefore not be studied as “separate entities” with an intrinsic value, as they may be valued only as “resources” or as “limitations” within the particular context of study. As anthropologist Bradd Shore writes:

Cross-cultural psychologists have demonstrated that even basic aspects of perception are influenced by the way that experience is “modeled” by a particular sociocultural environment. [...] So an important part of the evolutionary heritage of the sapient hominid is a nervous system that has evolved under the sway of culture (in general) and which develops in each individual under the sway of a culture (in particular). The human nervous system appears to be dependent on external models or programs for normal operation, and this notion of models has significant importance for anthropologists and psychologists alike.²

This is an incentive to study these “external models or programs for normal operation.”

As the attempt above suggests, one of the words in use for this practice is “institutions.” Institutions are the explicit or implicit rules of the game.³ They are inter-subjective, because all members of society are aware that they exist and have a sense of how they operate. In addition, institutions operate externally with respect to the individual. Their compelling and imperative (wielding moral authority) impact may make them very difficult to avoid, ignore, or decline. Institutions may be viewed as cultural resources, because they are “chosen,”

¹ Shore, *Culture* (1996), p. 4.

² Shore, *Culture* (1996), p. 4 (italic in original).

³ North, *New* (1993), p. 5.

“mined,” or “exploited” by society, whether explicitly (consciously) or implicitly (unconsciously). Explicit institutions are easily recognized by members of society. They may be articulated as human-made physical units, for example as monumental government buildings in cities. But institutions can also be immaterial: consider formal and informal organizations, law, political administration, education, and public service. De Waardt, for example, describes how female victims of political violence in Peru use Andean organizational forms in their pursuit of recognition. Implicit institutions are the customs, values, norms, and patterns that rule social behavior. These are the conventions taken for granted; they count as “self-imposed codes of conduct.”⁴ In Chapter 4, Simon Thomas discusses the complexities of combining formal legal systems (explicit institutions) with implicit judicial customs (implicit institutions) in rural Ecuador. Notions and boundaries regarding gender constructions are another important example and are described by Ypeij in Chapter 2. Social networks, families, and languages figure among the implicit institutions as well. Klaufus explores the codes of conduct with regard to urban public space use in Chapter 1, while Ouweneel deciphers the implicit cultural conventions in his analysis of urban narratives in Chapter 5.

The approach highlights the context to understand the significance of a cultural resource. Cultural memory evolves through the elaboration of complex *artifacts of remembering*, associated with historically new forms of artifact-mediated experience. According to recent insights, artifacts are not just material objects but are simultaneously material and ideal or conceptual. The corpus of artifacts comprises physical traces of humans, such as any materials manufactured or modified by people, as well as narratives, life histories, communication structures; such objects, concepts, and stories have meaning for people in historical and contemporary communities. Generally, these artifacts remain from past communities. Manufactured cultural resources include tools, images, individual buildings, groups of buildings, concentrations of structures, and other forms of manipulated landscapes. In short, as material and non-material artifacts, cultural resources reflect historical and contemporary patterns of behavior, practices, traditions, beliefs, and thought. The context is the relationship of artifacts to each other and the surrounding environment in which cultural resources are maintained and put to use. The different ways of drawing behavior models and designing patterns of social life from the well of local customs, national traditions, and the emerging global practices will be the focus of the coming chapters.

To approach cultural resources dynamically, researchers of cultural resources should rely on semiotics. Artifacts are signs, and se-

⁴ North, *New* (1993), p. 6.

miotics is the interpretation of signs, of what is signified (or the concepts behind a sign that are culturally constructed every time a sign is read and would therefore change over time), and of the signifiers (or the forms of the sign). Describing signs as human-made ideals *and* as material cultural resources designed to mediate goal-oriented behavior, Marx W. Wartofsky and Michael Cole teach us to examine artifacts at three levels. For example, words, music scores, and tools are primary artifacts; as are dwellings, buildings, and plazas, cultural rituals and material traces of the past,⁵ social networks, organizations, and family relationships. Some share at least certain material components, such as ink on paper and sound waves through the air, or are entirely material. Instruction books, sheet music, fictional stories, guides, life histories, treatises, and the like are secondary artifacts because they contain instructions about what to do with primary artifacts or how to read and experience them. Tertiary artifacts work at a more abstract and still more implicit level and include statues and works of plastic art, as well as visions of ideal worlds, rules, law, and political goals. Interpreting artifacts as signifiers connects people to the signified world—in general: the explicit and implicit institutions that formed them. By looking at explicit and implicit institutions as primary or secondary artifacts, research on the use of cultural resources will eventually concentrate on seemingly imaginary worlds or tertiary artifacts. These imagined entities have been “created in the course of aesthetic and theoretical knowing,” which was needed to form “embodied representations” to “color and change our perception of the ‘actual’ world.”⁶ Hence, by looking at their primary or secondary form, the contributors analyze the artifacts in their tertiary form. In the next chapters, the analysis of urban spaces and buildings; of gendered work relations; of Andean grass-roots organizations; of mixed formal and informal legal systems; and of stories of discrimination will illustrate how such artifacts connect people to their life worlds.

A Multi-Disciplinary Approach

When we examine the contemporary development of societies in Latin America “under the sway of culture (in general)” and “under the sway of *a* culture (in particular),” we need to take into account that Latin America has rapidly urbanized in recent decades: more than three quarters of the population now live in urban areas. Scholars are

⁵ On traces in sociology: Gray and Gómez-Barris (eds.), *Toward* (2010); in history: Ginzburg, *Clues* (1989).

⁶ Wartofsky, *Models* (1979), pp. 200-209. Cole, *Cultural* (1996), pp. 118-121, 122. At the end of this paragraph, quotes from Wells, *Dialogic* (1999), p. 69.

therefore interested mainly in urban life and the modernization of rural areas. Considering the urban lifestyle from a cultural resource perspective enables scholars to juxtapose urban traditions against rural traditions (of newly immigrated urban residents) and emerging global influences. “Thinking is for doing,” explain psychologists. They focus on what people do. At a certain time and place, culture is the product of the people present, produced with the resources in their surroundings, the old material world and the new world they create: information from next of kin, community members, migrants, and the media. Gone are the days when the physical form of the Latin American city was thought to determine its social order. Today, cities are addressed by exploring the identity of resistance, as a new face of this New World. To do so, city dwellers have to draw on a series of cultural resources, from ancient traditions to contemporary global features.

Mirroring the gradually increasing weight of the industrial sectors during most of the twentieth century, the urban landscape of the continent boasts some of the world’s most populous metropolises. By creating new employment opportunities, fuelling growth in retail, services, and the public sector, the urban economy gave impoverished rural dwellers the idea that by migrating to the cities, they might improve their livelihoods. But although growth in metropolises comprising millions of inhabitants continued to accelerate in the 1980s and 90s, Latin American urbanization has changed since then. Current urban studies mention that a considerable number of small and medium-sized cities in Latin America have high growth rates, and that further urbanization on this continent is expected to take place not in large metropolitan areas but in the smaller cities. Currently, the largest share of the population—37 percent—lives in urban areas with fewer than 500,000 inhabitants.⁷ Urban life, however, is both global and local. The urban setting encompasses the city and, as may be expected, its direct hinterland. Thanks to emerging trans-local networks, this sphere has expanded globally. Today, the scale of analysis focuses not only on individuals, groups and local communities in Latin America but also on members of trans-local networks on other continents. It necessarily covers activities by the individual through families into transnational networks. In the daily lives of our research subjects, micro and macro are intertwined: residents in cities are connected to people in the hinterlands, as well as to their migrant relatives abroad and vice versa.

In the city, rural migrants encountered a culture that was very different from their traditional homelands. Urban life involves local manifestations of global development, which appear in terms of inequality, lifestyles, cultures and identity formation, problems of social

⁷ Satterthwaite, *Outside* (2006), p. 3.

cohesion and social conflict, economic opportunity, and survival strategies. The daily struggle to improve livelihoods, fight poverty, or adopt an urban lifestyle engendered new meanings for social interaction. True, cities are thoroughly modern places, including fixed daily work schedules and agendas, opportunities for women to work outside the house and for children to attend school and better access to health care. Cities also include office buildings, shopping malls, cell phone technology, satellite television, computers, Internet shops and video camcorders. But the urban poor live in circumstances of social exclusion, performing full-time or part-time semi-skilled, unskilled or domestic labor. They engage in petty trading or work as artisans, remaining unemployed or succumbing to lure of criminal activities. Their housing is poor and usually requires sharing bedrooms with family members. Nevertheless, they do not merely submit to their fates. Their activities constitute a local agency of social groups, categories, and institutions that actively pursue their culturally constituted “projects” rather than reacting passively, simply to survive or improve their social, political, and economic circumstances.

As agents of daily life, the new urban dwellers embody a kind of relative autonomy that forces social science research to extend the focus beyond explicit institutionalization. While critical research used to seek out the organizers and directors of the opposition, assuming that resistance to globalization, exclusion, poverty, and capitalism needed to be explicitly institutionalized to have any effect (and had difficulty finding them), it now concentrates on implicit institutionalization, such as on networks and groups of people and their strategies to survive, develop, or improve in other ways their standard of living, politically, economically, culturally, or socially. Sometimes these networks and groups may be identified as examples of collective action aiming to achieve greater individual, group, network, or community control over daily life, perhaps even influencing political agendas. Research on the activities that control daily life is even imperative to understand the fate of this struggle in terms of its own “logic” instead of by pre-ordained political or theoretical matrices.

One particular development merits special consideration. Daily life in cities may have become so complex that people are trying to find better conditions elsewhere. This raises the question of how local spatial transformations are influenced by broader processes, such as transnational migration. Contact with the world in general is conducive to repositioning actors, whether as individuals or in groups, families, or networks. The influence of migration is crucial. At the turn of the century neoliberal reforms put pressure on national and local labor markets and on the costs of basic needs. Although formal employment opportunities have diminished, cost of living has increased, coinciding with a rise in poverty rates. Diminished opportu-

nities to earn a living at home have resulted in large flows of labor migration to the United States and Europe.

The outflow of people has coincided with the inflow of remittances. In many Latin American countries labor remittances have become the primary source of income. Overall, Latin America has turned into the top remittance-receiving region in the world. In 2011, remittances on the continent amounted US\$ 61 billion, a sum larger than the value of international development aid.⁸ Sending a family member abroad has become a new coping strategy for individual households. The increase of divided and recomposed families has of course been accompanied by emotional and social challenges, as well as by labor shortages in specific branches such as in the construction industry. On the other hand, remittance spending has boosted local consumption, which has benefited the retail and real estate markets. Although macroeconomic figures are now clear, the social reality of migrant and non-migrant families tends to be overlooked.

Three questions arise. How do Latin Americans, especially but not exclusively the urban middle classes and the poor, construct their daily lives—considering the significant transformations in the Latin American context? Which solutions do they find to manage their cultural resource use within the urban context? What does this all mean to them? In this *Cuaderno*, through a few case studies, everyday cultural resource use will be explored, both to acknowledge the importance of ordinary practices and to theorize about the relationship between personal and the socio-cultural aspects. One important goal is thus to demonstrate that a multidisciplinary perspective on everyday cultural resource use is viable as a key theoretical and empirical theme for investigating the autonomous Latin American manifestations of global development. The essays in this *Cuaderno* are therefore necessarily a programmatic rather than a thematic collection, with this introduction serving as a programmatic discussion of our shared approach, not as a summary of the themes and contexts of specific case-studies.⁹

⁸ MIF, *Regaining* (2011), p. 24.

⁹ A thematic approach presumes a series of essays that elaborate on one specific theme. The theme is discussed from different angles in the various contributions. The theme gives the chapters coherence. The introduction discusses the overall theme and picks up the several varieties offered by the contributions. A programmatic introduction draws up some guidelines on how to read the collection, based on shared analytical or methodological viewpoints. The selection of chapters follows logically from that programmatic discussion. However, the introduction can also be read as an autonomous text. The approach gives the chapters coherence; thematically, the collection may include widely differing chapters. One case of a programmatic collection that is exemplary to us is Greenblatt's *Cultural Mobility* (2010), with essays ranging from mobility in Portuguese colonial India and tourism in China to the reading of American slavery narratives by Germans and world literature beyond Goethe, preceded by a "manifesto" on cultural mobility.

The theoretical framework encompasses, first, a historical perspective, which reveals processes of interactions between actors and motivations underlying their behavior in the recent past. The historical context is important for understanding the dynamics of the studied solutions over time. Second, a perspective that connects the implicit and explicit institutions to the actors involved is used to explore the geographical, cultural, and gender components in the case studies. Third, recent research has established that the “everyday” (e.g., daily cultural resource use) consists of a relatively autonomous agency, basically motivated by the pursuit of happiness; this includes self-esteem, status improvement, economic advancement, and a liberated identity. Moreover, although the “everyday” is characterized by the singular, it is to be understood mainly as an overarching structure common to larger groups of people. This means: the general in the particular, the structure in agency, the power of—possible—resistance, the experience and feelings involved in institutions and discourse and the macro in micro-analysis. To understand aspects of the general macro world of institutions, discourses, power, and structure in Latin America as described above, the researcher might go micro and investigate resistance, agency, experiences, feelings, and other qualities of the Latin American particular. Considering the theoretical interpretation of the global/local nexus, this means that the agency of individuals, groups, and networks simultaneously incorporates and transforms global processes.

One basic initiative is to fill in the human detail that is missing from abstract representations of human beings and their societies. In this *Cuaderno*, we wish to emphasize the intimate, local experience of ordinary life. At the same time, the questions raised are: what counts as “ordinary”, and whom do these definitions of the “ordinary” serve? In short, addressing how actors position themselves in a local, everyday context allows for interpretation of their subjectivities and spatialization of social difference. By focusing on actors as incorporating and redirecting the structures of global development, research on daily life may lead directly to the development of a theory grounded in intimate knowledge of the specimen cases but oriented toward placing them in the largest possible context, generating a micro-macro theory. Our multidisciplinary approach becomes clear in the discipline-specific interpretations of cultural resources. As a human geographer, Klafus studies how the constructed space is imbued with meaning and can be used to exert power. Anthropologist Ypeij, social scientist De Waardt and legal anthropologist Simon Thomas study how the poor and marginalized use cultural resources to improve their lives and the importance of choice in this context. Ouweneel borrows from cognitive sciences the idea of cultural schemas or mental models to demonstrate how meaning is an

chored in narratives and discusses why the use of cultural resources is restricted to certain spaces and specific places.

The Demonstration Effect

The first chapter in this *Cuaderno* takes us to Ecuador. Riobamba is the capital city of a rural province with a large Amerindian population. Although the urban landscape has always been characterized by social and ethnic diversity, socio-spatial politics were dominated by a white-mestizo middle class. Over the last two decades, Amerindians and rural migrants have been asserting themselves more visibly in urban space. In 2003, a group of professional architects organized an event to discuss the future of the city. While the objective officially stated was to explore creating a multicultural landscape, the themes that emerged proved rather exclusionary. In fact, social and ethnic differences received the most attention. Power struggles between local architects hampered any consensus. Klafus interprets the discussion about the multicultural city as an attempt by professionals to reclaim control over the spatial order. The analysis centers on the conflicting appreciations of local cultural resources that became apparent during the event.

In an urban built environment, humans experience a socially constructed space consisting of buildings, objects and public places, to which they attribute meanings. This space and those buildings and places can be used as cultural resources by citizens and authorities to exert power and control over the urban territory. The built environment stratifies and represents a society; buildings and urban spaces are both the means and the outcome of existing social relations, which implies that they influence people's experiences (ideas) and behavior (actions). How the built environment may be seen analytically as a *model of social life* has received extensive consideration in North-American culturist and French structuralist literature. How buildings and spaces may be regarded as *models for (ideal) behavior* has been addressed in functionalist literature.¹⁰ In daily life, however, the built environment is never the rectilinear outcome of people's behavior, nor can human behavior in daily life be steered directly by built forms. Relations between forms, meanings, and human behavior are always complex and multiple.¹¹ Because the built environment

¹⁰ For North-American culturist and French structuralist literature, see: Csikszentmihalyi and Rochberg-Halton, *Meaning* (1981); Chambers and Low (eds.), *Housing* (1989); Fernandez, "Mission" (1974), and, "Arquitectonic" (1992); Carsten and Hugh-Jones (eds.), *About* (1995). For functionalist literature, see: Jacobs, *Death* (1961).

¹¹ Parker Pearson and Richards (eds.), *Architecture* (1994); Duncan (ed.), *Housing* (1981).

structures and represents a stratified society, theoretical notions such as “architecture,” “public space,” and “cultural heritage” have stratified connotations. Architecture can, for example, refer to an academic discipline specialized in innovative building techniques and historical knowledge about aesthetics.¹² Yet it may also refer more broadly to culturally embedded building traditions, regardless of whether the designers are architects.¹³ The dichotomy between high-brow and popular architecture that is implicitly used in most societies is based not on the distinction between planned and unplanned buildings or between formal and informal construction processes but on that between academic and non-academic design traditions.¹⁴ This difference is important, because it influences the social impact of spatial designs when used as a cultural resource. In our overall framework, stratification of society may be regarded as an institution, as it steers social interactions. Within that social setting, architecture and building traditions may serve as cultural resources. The material and immaterial artifacts mobilizing those cultural resources are the specific design styles and formats and the meanings attributed to them.

To understand how a social effect of spatial designs—as cultural resources—is generated, we use the notion “demonstration effect.” This multidisciplinary concept is applied in economic, political, and tourism studies. In economics the term is attributed to Ragnar Nurkse, who stated in the late 1950s that exposure of the poor to “modern” products would lead to imitation behavior. He based his assumptions on Veblen’s late nineteenth-century theory of “conspicuous consumption.”¹⁵ In political science, the “demonstration effect” refers to the changes in one place caused by political movements in another place (e.g., the 2011 Arab Spring). Political mobilizations can have a catalyst effect across boundaries. In tourism studies it describes an acculturation process taking place as a consequence of contacts between tourists and resident populations. In housing studies the term denotes the effect on social stratification of cross-cultural imitation in house designs.¹⁶ This meaning of the term is used in this volume. In the Latin American urban context, people from lower

¹² Frampton, *Labour* (2002); Norberg-Schulz, *Meaning* (1971).

¹³ Oliver (ed.), *Shelter* (1975); Oliver, *Dwellings* (1987), and, *Dwellings* (2003); Rapoport, *House* (1969), and, “Spontaneous” (1988).

¹⁴ Klaufus, *Urban* (2012); Glassie, *Vernacular* (2000).

¹⁵ James, “Positional” (1987); Nurkse, *Problems* (1957); Thorstein Veblen, *The Theory of The Leisure Class: An Economic Study of Institutions*, 1899, re-issued by Forgotten Books (2008), at <http://www.forgottenbooks.org>.

¹⁶ Horowitz, *Ethnic* (1985), p. 279; Fisher, “Demonstration” (2004); Holston, “Auto-construction” (1991); Georges, *Making* (1979), p. 209; Klaufus, *Urban* (2012); Emily Walmsley, “Transformando los pueblos: La migración internacional y el impacto social al nivel comunitario,” *Ecuador Debate* 54 (2001), at <http://www.dlh.lahora.com.ec/paginas/debate/paginas/debate356.htm> (accessed February 2, 2003).

social strata imitate house designs and consumption patterns (cultural resources) of people with more social prestige to achieve social mobility.¹⁷ John Turner, who described self-help housing in Lima in the 1970s, already stated that house designs are important cultural resources through which residents try to elevate their social status. In Europe, we are perhaps more familiar with the notion of the “housing ladder”: a stratification of dwelling types within a society.¹⁸ People who hope to advance socially try to increase their residential prestige on this housing ladder by buying or building a fancier house. In Latin America, “demonstration” in house-building means a process of “informed quotation and combination.”¹⁹ The subsequent stages of imitation and adaptation resemble that of the housing ladder. If many people use their power over self-representation in house designs, the “demonstration effect” of prestigious construction may change in the social stratification of a society at large.²⁰

The act of “demonstration” consists of several stages: individuals observe the behavior of a more prestigious individual, weighing this information against their own current situation, deciding whether copying such behavior would be useful and feasible, and ultimately acting upon that decision.²¹ Things worth copying have in common that they are: (1) highly *visible* to others; (2) to a certain extent *superfluous*;²² and (3) constantly adapted to show *progress*.²³ Three possible “demonstration” outcomes are described in the literature. The first one is the *exact replication* of an appreciated building. In house designs in informal settlements and rural areas this is usually not an option, because residents are expected to add a personal touch to their design.²⁴ The second scenario is an *inexact imitation*, being either a deliberate or accidental inexactness. Fashionable colors are often copied in deliberately imprecise ways, for example by reversing foreground and background colors. This way, residents show individuality while at the same time demonstrating knowledge of local tastes. Accidental inexact imitations occur when exact products or techniques are not available or affordable. Once, a social worker in Ecuador explained that a transnational migrant had sent home a picture of the Sydney Opera House requesting his wife to copy the design for their new house. The architectural design was copied and

¹⁷ Bourdieu, *Distinction* (1984).

¹⁸ Turner, “Housing” (1968); Hannerz, *Transnational* (1996); Howard Husock “Repairing the Ladder: Toward a New Housing Policy Paradigm,” *Reason Foundation*, at <http://reason.org/news/show/repairing-the-ladder> (accessed March 5, 2011).

¹⁹ Holston, “Autoconstruction” (1991), p. 460.

²⁰ Barriendos Rodríguez, “Arte” (2007).

²¹ Fisher, “Demonstration” (2004).

²² Veblen, *Theory*, 1899 (2008), at <http://www.forgottenbooks.org>, p. 59.

²³ James, “Positional” (1987); Pezo, “Arquitectura” (2009).

²⁴ Klafus, *Urban* (2012); Holston, “Autoconstruction” (1991).

adapted for local living. It never became an exact copy of the original, but then that was never the aim. The third scenario, known as “social learning,”²⁵ occurs when imitation is financially or technically impossible. In that case, people try to achieve the same result through other means. In Ecuador, families of transnational migrants gain social prestige by demonstrating cosmopolitan lifestyles. Families without members abroad often encourage their children to use social media to demonstrate alternative transnational connections.

Once people begin to imitate and adapt spatial forms to their own situation, a process is set in motion. One person copies the other, each neighbor commenting upon the results of the latest remodeling activity by others. When specific architectural designs become popular, others will copy elements of these successes to integrate them in their own house designs. The individual act of demonstration recurs, and a chain effect spreads across territories, gradually transforming socio-spatial environments on a larger scale. Analytically, this shows the interconnectedness of individual uses of cultural resources and changing social structures in or across geographic territories.

Livelihood, Choices and Liabilities

Ever since the study of poverty discarded the one-dimensional focus on its material aspects, such as levels of income and disposable income, interest has increased in its cultural dimensions. With the introduction of the livelihood strategies concept and the capital/capability approach, poverty is conceptualized as having insufficient access to material *and* cultural resources. The poor and marginalized are increasingly perceived as agents (or actors) who—under the right circumstances—are capable of making choices as social and cultural beings.²⁶ Lacking the freedom to take decisions, having little control over one’s own life and body, suffering humiliation, and being deprived of a decent life according to one’s own cultural standards aggravate a state of poverty. The daily life of the poor and the marginalized then becomes a struggle not only for material resources but also for freedom of choice, control and respect.²⁷

The cultural dimensions of poverty are obvious when considered with respect to household gender relations.²⁸ Scholars using quantitative methodologies long regarded households as a unit or—as it is

²⁵ Fisher, “Demonstration” (2004).

²⁶ For strategies: Gonzalez de la Rocha, *Resources* (1994); Roberts, *Households* (1991); Ypeij, *Poverty* (2000a), *Producing* (2000b); for capabilities: Sen, *Development* (1999). See also Long, “Paradigm.”

²⁷ Ypeij, *Single* (2009).

²⁸ Benería and Roldán, *Crossroads* (1987); Gonzalez de la Rocha, *Resources* (1994); Stack, *Kin* (1974).

often called—an “individual with another name.” From the 1970s onwards, feminist scholars looked inside households. They analyzed gender inequalities, showed that men and women might have rather divergent life goals and proved that within the same household women might be poorer than their menfolk.²⁹ As Ypeij argues in the third chapter of this *Cuaderno*, the concepts of gender and the sexual division of labor are important instruments for operationalizing these gender inequalities. Gender may be defined as a network of beliefs, personality traits, attitudes, feelings, values, behaviors, and activities differentiating men and women through a process of social constructs, ranking traits, and activities in such a way that those associated with men are ordinarily attributed greater value. Ranking and the consequent formation of hierarchies in most Latin American societies is an intrinsic component of gender constructions and results in women having less access to resources than men.³⁰ The notion of male authority and domination is widespread, as is the related expectation that women should submit to this situation. *Machismo* values give men greater freedom than women to leave the house whenever they like. Men standing about in the street drinking with their friends or being sexually active and engaged in extra-marital affairs are often perceived as very manly.³¹ The street is associated with masculinity, while the home is considered to be a feminine space: *La calle es del hombre y la casa de la mujer* (the street belongs to the man and the house to the woman) or alternatives to this saying are popular expressions in many Latin American societies of specific cultural boundaries and liberties.³² Taking care of the house and being a good housewife can give women some informal power, as it may cultivate respect from others.

The house as a cultural resource, however, has little value in a state of dire poverty that forces women to seek income-generating activities outside. Cultural notions that may benefit men in performing their income-generating activities and may be of use as a cultural resource may simultaneously present a cultural liability for women. The association between the street and masculinity offers men freedom of movement and opportunities to cover vast distances in search of an income. The home-femininity association, however, means that women who want or need to be away from home have to overcome cultural barriers. The *casa-calle* (*house-street*) notions are also related to a gendered division of labor, in which men ideally earn a decent

²⁹ Benería and Feldman, *Unequal Burden* (1992); Chant and Craske, *Gender* (2003); Folbre, *Who Pays* (1994).

³⁰ Based on Benería and Roldán, *Crossroads* (1987), pp. 11-12.

³¹ In Mexico the notion of the *casa chica* (little house) indicates the second household a man has set up with a new wife while also maintaining relations with his first, i.e., the Latin American version of polygamy.

³² Steenbeck, *Drempel* (1995).

income, while women stay at home to do household chores. During the previous decades, in which globalization has resulted in the restructuring of Latin American economies, men have increasing difficulties fulfilling these breadwinning responsibilities, and some scholars relate this to what they call the crisis of manhood.³³ Rarely, however, do men compensate for their reduced breadwinning success by helping their wives with household chores, as this might call into question their masculinity. Real men do not do household chores. Women, on the other hand, increasingly generate an income *and* do all the household chores. This severely limits their mobility and the time they can invest in paid work. Even today, the gendered division of labor may result in greater freedom of movement and increased chances of economic success for men, while curtailing those of women.

This does not mean that women are submissive. On the contrary, the case of Lima has taught us that people at the grassroots level are highly capable at social networking and forming organizations that help them confront their poverty.³⁴ Nowadays, women's soup kitchens and female leadership may be regarded as new cultural resources available to women. When the first grassroots organizations of women appeared in the 1980s, however, women had to negotiate and at times literally struggle for more freedom at different levels: with their husband for permission to leave the house; with other grassroots organizations to grant them autonomy; and with local governmental and non-governmental organizations to take them seriously and allocate funding. These grassroots organizations have helped women confront the poverty they experienced in their daily lives by reducing household spending and cooking together. Over time, these organizations acquired additional significance as social female space. Working in these organizations enhanced women's self-respect. They learned that what they had at first perceived as personal problems were in fact related to their gender position and shared by other women. This awareness has been important in their daily struggle, not only against poverty but also to achieve gender equality. While the *casa-calle* notions may still be a cultural liability for women, their organizations form an important compensating cultural resource.

The capability of women as social networkers is demonstrated in the third chapter of this *Cuaderno*. De Waardt discusses associations of victims of the 1980s violent conflict in Peru, which she relates to the Peruvian cultural tradition of grassroots organizations. She conveys the substantial existence of victim-survivor associations, the social support its members find amongst each other, and the degree of collective survival strategies people develop. Nevertheless, implemen-

³³ Chant, *Crisis* (2000).

³⁴ Ypeij, *Producing* (2000b).

tation of policies addressing victim status and participation by these associations in political decisions on victim-related issues is not taken for granted. De Waardt analyzes how the context in which victimhood is presented determines the socio-political emergence and acceptance of such associations. In the fourth chapter, legal anthropologist Simon Thomas stresses the different legal channels available to indigenous people living in the rural Ecuadorian highlands. They use both customary law and national law in cases of internal conflicts. During the past thirty years, the literature on legal pluralism suggests that customary law is often preferable to national law because of an ongoing counter-hegemonic strategy aimed at preserving and enhancing autonomy. While this may hold true for indigenous authorities and the indigenous movement, the empirical data show that statements and actions by individuals are more qualified. In this chapter, the author argues that the concept of forum shopping is more useful in analyzing ordinary indigenous people's legal decision-making processes in daily practice.

Triggering Schemas

Discussing another specific case, in the final chapter of this *Cuaderno*, Ouweneel underscores the relevance of research on the use of cultural resources for contemporary Latin America, articulating them as a kind of laboratory situation: the life of Andeans in an alien environment in Spain. The cities of the former colonizer provide not only work and income but are also venues of danger and violence. Even here, thousands of kilometers from home, Ecuadorians and Peruvians use their traditional cultural resources, combined with new ones. From the cognitive sciences, we could learn that this is because even in their new Spanish worlds, they activate their Andean mental schemas. In this view, culture consists of shared cognitive representations of above all status, socialization, and relationship in the minds of individuals. Humans are actors and any role on a stage is scripted—such scripts form parts of schemas. A schema is a shared cognitive representation (whether real or imagined knowledge) of a class of people, objects, events, situations, or behavioral codes. It is used to act and behave in situations on stage.³⁵ This includes a concept or a type of stimulus—like its attributes, attitudes and social location of those attributes—or of past experiences. Sche-

³⁵ Markus, "Self-Schemata" (1977); Mandler, *Stories* (1984); Cole, *Cultural* (1996), p. 58; Atkinson, *et al.*, *Hilgard's* (1996), pp. 289-290; Sumbadze, *Social* (1999); Nishida, "Cognitive" (1999), p. 755; Sharon Alayne Widmayer, "Schema Theory: An Introduction," at <http://metablog.bornthothink.com/wp-content/uploads/2011/07/1932-Bartlett-Schema-Theory.pdf> (accessed October 9, 2012).

matic encoding and decoding occur rapidly, automatically and unconsciously.

Schema theory originates from Frederick C. Bartlett's book *Remembering* (1932). Assuming that cultures are organized collectivities with shared customs, institutions and values, of which members form "strong sentiments" around valued, institutionalized activities, Bartlett was among the first to take up the question of culture and memory. These values and their expression through culture shape psychological tendencies to select certain kinds of information for remembering. The cultures have assimilated knowledge through their operation and then constituted schemas upon which the universal process of reconstructive remembering operates. Perceiving and thinking in terms of schemas enables people as individuals and as groups to process large amounts of information swiftly and economically. Instead of having to perceive and remember all the details of each new person, object, or situation someone encounters, they are recognized as an already encoded schema, so that combining the encoding of this likeliness with their most distinctive features is sufficient. Driven simultaneously by structure and meaning and represented propositionally, schemas are actively constructed neuronal networks.³⁶

Although the number of schemas is infinite, some may be easily foregrounded.³⁷ For example, where we speak of "me" and "I" the active schema in our brains is called a self-schema. Schemas about "what ought to be" are referred to as attitudes. The stereotype is a schema to classify people in general. An important procedural schema is called an event schema or script, which contains encoded sequences of events in particular situations, places or between groups of people—believed likely to occur and used to guide our behavior in familiar situations. Even the experience of illness may be conceptualized as schematic. Hawai'ian psychologists Jeanne Edman and Velma Kameoka have shown how event schemas exist that provide information pertaining to illness events. Illness schemas, they write, "can be viewed as mental representations of the illness concept."³⁸ Illness is the interpretation of disease and a person's illness schema is the "conceptualized link" between disease and illness. And so is cure.

³⁶ The price to be paid of course is distortion, if the schema used to encode it does not fit well. Research over the past decades has confirmed Bartlett's suggestion. In her college note, Widmayer, "Schema," at <http://metablog.borntothink.com/wp-content/uploads/2011/07/1932-Bartlett-Schema-Theory.pdf> (accessed October 9, 2012), mentions interesting examples and some links that can easily be followed.

³⁷ Fiske, "Thinking" (1992); Hogg and Vaughan, *Social* (1995), p. 49; Atkinson, *et al.*, *Hilgard's* (1996), pp. 598-600; Hilton and von Hippel, "Stereotypes" (1996), pp. 240, 248-251; Kunda and Thagard, "Forming" (1996); Spears, *et al.* (eds.), *Social* (1997); Nishida, "Cognitive" (1999).

³⁸ Edman and Kameoka, "Cultural" (1997), p. 252.

Because schemas are interrelated, forming a network of schemas to generate interactive behavior, a change in one schema causes changes in all the others and finally in the entire system. Nevertheless, specific changes, for example in the self-schemas, are made only after continued experience of severe failure in particular situations. Once formed, people tend to keep their schemas intact and to protect them as long as sustainable, by uncritically relying on their own previous judgments. Schemas tend to become increasingly resistant to inconsistent or contradictory information, although, Hazel Markus notes, “they are never totally invulnerable to it.”³⁹ Schemadisonfirming information is in general disregarded or reinterpreted. While individuals build schemas unique to their personal experience, their schemas are confined to the forces of culture and language. When people communicate, they depend on shared schemas.

The cultural psychologist Michael Cole stresses that a story schema is at hand in the “narratives-people-tell-themselves.” The story schema is another mental structure, this one consisting of sets of expectations about how stories progress. It refers to any kind of stories, from telling the flight of a bird from one tree to another or the graph representing economic decline, to the fairy tale of Red Riding Hood or the novel *One Hundred Years of Solitude*. With the aid of artifacts, narratives are transferred through learning to the next generation. Each narrative survives generation after generation, until “something better” is found. As more instances are encountered, story schemas become more abstract and less tied to concrete instances. They also become richer and more complex, as more data need be processed—“modernized.” We may recognize complexes of local schemas as the culture people inherit and may describe these as “living” at a certain spot in space and time. Cueing is culturally dependent—limited to space and time, to its “residence.” Certain cueing of schema activation is, so to speak, a feature of certain groups of people who share language, religion, ideologies, and norms and values. They share the same cultural memory. The artifacts are the instruments people use to assist the process. Cole advises his readers to understand artifacts as both material objects manufactured by humans and as something produced by material culture. This definition includes texts. The artifact is material *and* ideal, conceptual. Triggered by artifacts, in Latin America schemas also tell Latin Americans how stories should develop, and hence how developments may advance.⁴⁰

The researcher tends to look at the encoding and decoding going on between individuals, family members, and other groups of people at a certain stage during a specific period in time. The features

³⁹ Markus, “Self-Schemata” (1977), p. 64.

⁴⁰ Cole, *Cultural* (1996), pp. 119-120, 125; Tice, “Self-Concept” (1992); Hogg and Vaughan, *Social* (1995), pp. 56-60; D’Andrade, *Development* (1995).

thought to be encoded or decoded reveal something about the cultural schemas triggered between these people, at that stage and that moment. Continually switching between empirical observations and theoretical interpretations, hypotheses are formulated and perhaps even tested about the characteristics of the cultural schemas. The ultimate objective of this analysis is to explain behavior—by these people, on that stage, at that time—to schematize future behavior in similar circumstances.

Concluding Remarks

Let us return to our master's student, conducting research in the Lima suburb of Chosica. He or she has witnessed the wedding of a young girl. The girl—or the couple or the family—has not opted for the explicit and informal alternative of cohabitation but has chosen the explicit formal institution of marriage. To analyze this case, the master's student may trace the process of decisions and limitations that resulted in this marriage. It has been based on a set of possibilities found in the cultural community of which the girl, the couple, and her family are members, possibly influenced by magazines, Internet, the cinema, and other media. They have, as it were, “mined the available cultural resources.” Such resources are institutions—formal or informal, explicit or implicit—and may be found “out in the world.” Our master's student has found more such resources, for example while interviewing everybody at the wedding and asking them to identify themselves. The interviewees filled out a questionnaire with questions about the terminology in use to identify themselves—some of the categories are formal-explicit such as Peruvian and Limeña; others are informal-explicit, such as *andino*, *Serrano*, or *huanca* or informal-implicit, such as *indígena*, *cholo*, or mestizo. Walking around Chosica and observing, our student encounters a series of other traces of decisions reached by the population to survive poverty, to improve their lives or even to advance socially. Although most of these traces can be read semiotically as implicit institutions, others may be explicit and even formal, such as participation in social organizations.

Below, a series of cultural resources chosen by Andeans will be presented. Interpreting signs like the built environment, networks, and grassroots organizations or judicial institutions, people make decisions that are dynamic and ecologically confined—e.g., in interaction with their direct physical surroundings and with each other. These decisions are made in specific places and on the spot. Although most of this research is at the grassroots level of relatively or absolutely poor individuals, groups, networks, and organizations, the approach offered in the coming pages also includes middle-class

groups, scholars, and architects. Time and again, the question arises as to which cultural resources are in use, and how and why the people involved chose them. Another fundamental question is whether the outcome of this decision process is favorable, and whether the cultural resource is an asset to “*superar la vida*” (social climbing) or a liability.

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EXCLUSIVE VISIONS OF AN INCLUSIVE CITY

THE MEDIATION OF MULTICULTURAL URBAN SPACE IN RIOBAMBA, ECUADOR¹

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Representation of diverse social groups in urban space has figured prominently in urban ethnographic studies since the accounts of the Chicago School. Studies on urban socio-spatial representations often concentrate on large metropolitan areas. In Ecuador, several intermediate cities transform more rapidly (in size and landscape) than the metropolises Quito and Guayaquil. Local governments, architects, and urban planners are confronted with demographic and spatial changes that have to be incorporated in planning policies. In smaller cities, however, local planning departments are ill-equipped to respond adequately to social and spatial transformations. Besides, in the highlands of Ecuador the planning elite has come to take a privileged position for granted.² To understand socio-spatial dynamics in rapidly transforming urban centers, competing ideologies about urban space and the value of local cultural resources need to be analyzed.

Riobamba is one of Ecuador's intermediate highland cities facing rapid socio-spatial changes, in part due to urban growth along the periphery. It is the capital city of Chimborazo, a province with a large

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² See Klaufus, "Globalization" (2006).

indigenous population. In the 1990s, when the power of the national Indian movement gathered momentum, Indians from all over the province held massive political demonstrations in the streets of Riobamba. Their infamous blockades often paralyzed urban life for several days in a row. Between 1950 and 2010 the urban population increased from 30,000 to 157,000 inhabitants.³ Many of the rural Quichua Indians who used to commute daily between the rural villages and the urban marketplaces have now settled in the city. At strategic points such as market areas and arterial roads, Indian merchants have acquired houses and storage facilities for their commercial activities and have converted those buildings into multifunctional sites. This transformation, in which peripheral urban growth was accompanied by new uses of inner-city public space and a more permanent presence of Indians, encouraged planners and authorities to face the challenge of including different social and ethnic groups in urban space.

In this chapter, I address architects' views on the multicultural city. The focus is on a public event controversially named "Memorial Well of the Offences," organized by a group of architects and urban planners in 2003-2004. This event was set up to criticize the lack of spatial planning and consisted of expert meetings, public forum discussions, journal articles, and a series of broadcasts by the Erpe radio station.⁴ Although the stated purpose of the event was to discuss possibilities for an inclusive, multi-ethnic urban landscape, I argue that it demonstrated that professionals worried about declining control over the spatial order. I consider their use of specific cultural resources to restore spatial control, as well as alternative uses of local cultural resources. "Cultural resources" are understood as material and immaterial qualities of the urban built environment (e.g., architectural styles, monumental values, public space furniture) that are selectively presented and promoted by different social groups to claim authority over urban space.

As stated in the Introduction, "institutions" are the explicit or implicit rules of the game. They are the codes of conduct that rule social behavior and are considered to be everyday conventions that make social interactions possible. Spatial planning is such an institution. In Latin American cities, spatial planning can appear as formal (designed) or informal (taken for granted) rules of the game that guide urban social behavior. Because this chapter specifically addresses urban public space, it is important to understand that formal and informal codes of conduct with regard to urban public space often col-

³ INEC, "Resultados" (2011).

⁴ Local radio station Escuelas Radiofónicas Populares del Ecuador (ERPE) caters primarily to the lower-class Amerindian and mestizo population in and around Riobamba.

lide and give rise to conflicts about the appropriate spatial uses and aesthetics. As different groups of people attribute different meanings to space, the artifacts of remembering can be as diverse as monumental or nostalgic values associated with Republican buildings, conventions of public space use handed over in indigenous communities, and rational ideas about construction technologies. The material artifacts in urban space, the immaterial signs of coexistence in the city, and the imaginary places and ideologies of various groups of citizens will be addressed in this chapter through an in-depth analysis of the actual urban places and the event denominated the “Memorial Well of the Offences.” These primary, secondary, and tertiary artifacts together form a repertoire of cultural resources, from which different social groups have selected their “ammunition” in the symbolic and social struggles over Riobamba’s urban space.

The urban built environment is often a source of conflict, because values attributed to spaces and aesthetics vary across social groups: “people actively give meaning to the physical environment and they act upon those meanings.”⁵ Conflicts over the cultural values attached to the built environment manifest through people’s verbal responses and through their everyday behavior. Talking about forms, aesthetics and objects is one way that people mediate social aspirations. Although the meanings of many objects are taken for granted and are difficult to explain in words, the verbal rationalization of choice signifies cultural competence.⁶ Verbal assessment of the urban built environment occurs through local gossip and myth-making but also through political discourses and cultural narratives. Behavioral mediations of urban space occur when people imitate or adapt the (architectural) presentations of others. Such material expressions give rise to a chain of actions by others, for example when successful presentations are copied over and over again, while unsuccessful presentations are ignored. This way, the power of popular taste constructs becomes apparent.⁷ The most successful presentations spread across urban space and demonstrate the presence of the groups enacting them.⁸

In the Riobamban case study, two groups were involved in the struggle over cultural resources: the cultural elite and the working-class rural migrants (Indians and mestizos). The elite considered the inner city and its colonial architectural heritage to be the most prominent cultural resource at stake. By contrast, indigenous traders who occupied public spaces exhibited different aesthetic preferences that referred to other versions of local history. The case may therefore be

⁵ Parker Pearson and Richards, “Ordering” (1994), p. 5.

⁶ Cohen, *Politics* (1981).

⁷ See Hennion, “Those” (2007).

⁸ See the section on the demonstration effect in the “Introduction,” above.

understood as a struggle between *two or more* sets of cultural codes and resources played out in *one* spatial territory and resulting in *one* social hierarchy. I conclude that the event did not result in ideas or solutions for a multicultural urban space. On the contrary, it showed how dominant and marginalized social groups mediated their claims to urban space, which led to a fragmented urban landscape. The data were collected during fieldwork in 1999, 2002, and 2003 and complemented by analysis of journal articles published by the local branch of the College of Ecuadorian Architects and recorded radio broadcasts in 2004.⁹

The Memorial Well of the Offences

Riobamba's local planning elite consists of approximately 200 architects, urban designers and city planners who graduated from one of Ecuador's accredited faculties of architecture and urban planning. They are allowed to use the prestigious title *arquitecto*, yet their salaries are generally low. Only a few of them work principally as designers. Most architects and urban planners combine architectural assignments with commercial trade in building materials or with functions in the public sector and local politics. Practicing architects are often involved in urban politics, and municipal urban planners are always addressed as *arquitectos*. Distinguishing between their tasks and functions is therefore difficult. I use the more general term "professionals" when referring to the whole group of architects and planners. There are three main organizations concerned with building and planning in Riobamba: the planning department of the Municipality of Riobamba, the local branch of the College of Ecuadorian Architects (CAE), and the Construction Chamber, which is part of the Chamber of Commerce. The planning department is responsible for urban design, implementation of urban planning policies, issue of building permits, and supervision of construction operations. The CAE is a national professional guild, organized in local branches, which all practicing architects were required to join at the time. Its official task was to facilitate and safeguard good architectural practice. The Construction Chamber represents the interests of contractors, developers, and construction companies.

The pretext for the event to be analyzed here dates back to the 1990s, when the professionals acknowledged that spatial policies needed to be improved to control urban growth and spatial transformations. In 1990 Mayor José Mancero initiated an urban development plan for the city called *Plan de Desarrollo Urbano de Riobamba* (PDUR). In 1992 Mancero's successor, architect and Mayor Carlos

⁹ See also Klaufus, *Urban* (2012).

Castro, commissioned a study that laid the basis for the plan. The aim was to demarcate the contours of the urban areas to be included in the land registry and to identify suburban areas eligible for future inclusion in the city. When Castro's successor Abraham Romero legalized the PDUR in 1997, the PDUR was nominally the foundation for territorial planning policies. In the policy applied in daily practice, however, regulations were ignored, and none of the recommendations for improving urban design and planning strategies were adopted. In 1999, for example, Mayor Romero initiated a pilot project to bring informal suburban settlements under municipal control. Following the successful example of Quito, where informal settlements had been registered and legalized, the Municipality of Riobamba started mapping out the plots and houses in several informal suburban settlements. That pilot project could have marked the start of an interactive planning process, as advocated by the Ecuadorian Association of Municipalities.¹⁰ A year later, however, the project ceased abruptly, when the municipal council's term of office ended. The collected cadastral data were dumped in a depot, thwarting the prospect of neighborhood legalization and law enforcement. Uncontrolled urban growth continued unabated.

In 2003, a group of prominent professionals not directly involved in policymaking but active in the local branch of the CAE stressed the need to reactivate the PDUR. Dissatisfied with malfunctioning spatial policies, they organized a public event to raise awareness about the disorderly situation and to pressure the municipal planning department. The CAE professionals controversially named the event *El Pozo Memorial de los Agravios* (The Memorial Well of the Offences). It was a proverbial memorial for all the offences committed against professional architects and against urban space in general. According to the CAE professionals, local authorities did not take spatial policies seriously, because they ignored professional expertise. This denigrating attitude towards the architecture profession was believed to be driving uncontrolled construction processes and inappropriate designs by lay builders. One of them stated: "There is contempt [for architects], because provincial planning is being carried out by unqualified people. [There is] contempt from the politicians because they do everything contrary to what we as professionals say."¹¹ In response, city councilor Pablo Monge proclaimed that the authorities acted in accordance with the existing regulations and blamed the professionals for circumventing the laws.¹² The name and proposed topics indicated that the event was meant to incite participants but to be socially

¹⁰ Darquea, García Bustamante and Gallegos Rodríguez, *Planificación* (1994).

¹¹ Cárdenas, "Pozo" (N.D.), p. 5.

¹² *Los Andes*, "Concejal no comparte algunos planteamientos de URBIS Visión," December 31, 2004.

constructive as well. However, political motives dominated the way events were staged. I will return to this later.

The Memorial Well of the Offences was structured around four themes: the need to update and implement the PDUR, the need to protect the historic inner city, problems associated with the Indian population, and problematic urban traffic flows. All themes were related to the perceived chaotic appearance of the city and guided by the notion that contemporary Riobamba lacked a local identity, both physically and culturally. The event began with a series of weekly expert meetings. Architects, social scientists, and other specialists gathered to discuss a specific topic related to the problem of unplanned urban growth. The discussion took place in the CAE building, concealed from the public. The outcomes were published in the first issue of a newly founded journal *Urbis Visión*, which was distributed among CAE members.¹³ Next, the CAE organized four public forums about the same themes, where white-mestizo professional elite faced off against representatives of grassroots organizations. Although civic representatives presented their views, these were never included in *Urbis Visión*, if only as evidence supporting the professional diagnosis about a chaotic urban image.

The municipal planning department refused to participate in the event. Its architects attempted to update the PDUR themselves. In fact, the planning department regarded the entire initiative as an attack on its ability. They feared that the event would frustrate their efforts, for example plans to remodel urban marketplaces frequented by Indians and rural mestizos. They also proposed a regeneration plan for the historic inner city, a traffic regulation plan, and a new land register. Hence, CAE architects and municipal planners competed against each other. The event never became the open dialogue that the CAE claimed it was. Instead of discussions between the various groups of professionals and between professionals and citizens, the forums became primarily a stage for CAE professionals to expound their visions. Understanding the competition between the groups of professionals requires taking into account the historical development of the city.

Once a “Noble” City

The original city of Riobamba was founded in 1575 on a pre-Hispanic settlement named Liribamba, which was the urban core of the Puruhá people. After a disastrous earthquake in 1797, the city was rebuilt on the current site. Up to the mid-nineteenth century Riobamba remained a relatively small and tranquil town surrounded by

¹³ Due to the administrative changes, the journal ceased publication after two issues.

agricultural estates, governed by a powerful landed elite and frequented by rural traders and vendors. The regional social hierarchy was based on differences in social class and ethnicity, which corresponded with a geographical divide between urban and rural areas. The landed elite consisted of families often referred to as “nobility,” who allegedly traced their lineage back to the Spaniards.¹⁴ Many owned haciendas in the rural areas, yet they spent most of their time in the city. The urban working class consisted of Quichua Indians and mestizos. Rural peasants, vendors and workers, especially Quichua Indians, were at the bottom of the regional social hierarchy.¹⁵

In the first decades of the twentieth century a railway was constructed between the port city of Guayaquil and the national capital city Quito, which turned Riobamba into a commercial hub. Increased commercial trade between the highlands and the coast led a banking system to be set up. Of the approximately twenty banks founded in Ecuador, two were situated in Riobamba. This attracted more investments, resulting in a period of economic prosperity. The ideas about commercial success and modernization that the white-mestizo merchants cherished were visualized in European architectural styles. European architects were commissioned to design several prestigious buildings as flagships of prosperity. One of the projects was a European-looking neighborhood named Bellavista, which was to be equipped with “modern” facilities. In 1925 the newspaper *El Telegrafo* from Guayaquil reported: “Bellavista is the hope of Ecuador: it reminds us of the most beautiful European cities. The chalets are a delight to anyone who sees them. Very pretty, surrounded by gardens; very comfortable and sanitary, with all necessary services. Only a few have been built so far, but you can already imagine the poetic value of this neighborhood.”¹⁶ Based upon social, ethnic, and geographical distinctions between city and countryside and between a “respectable” urban white-mestizo middle class and “dirty” Indians,¹⁷ architecture and housing represented a moral order in which personal hygiene was considered an integral part of modern city life.

The headquarters of the principle bank in town, constructed in an eclectic neoclassical style, similarly reflected elite ideas about sophisticated culture. During the 1920s and 30s, several other European-looking architectural showpieces followed. Riobamba established a national reputation as an economic and cultural hub. Meanwhile, in the rural surroundings, the population—especially the Indians—

¹⁴ The 2001 census of the Instituto Nacional de Estadísticas y Censos de Ecuador (INEC) used ethnic self-identification and language as indicators. See also Hirschkind, “Conforming” (1981).

¹⁵ De la Cadena, *Indigenous* (2000).

¹⁶ C. Ortiz “Riobamba: urbanismo,” (N.D.) Unpublished document, p. 20.

¹⁷ See Colloredo-Mansfeld, “Dirty Indians” (1998).

lived in poverty. While the city experienced a period of prosperity and national renown, the rural population protested fiercely against the deplorable living conditions.¹⁸ The economic boom that drove urban development did not last long. Uncontrolled loans, inflation, and speculation drove the banks into bankruptcy. Investors left town, cultural projects ground to a halt, and a large part of the old elite moved to Quito. By the 1950s, Riobamba had reverted to being an insignificant city with a weak dominant class that faced economic downfall. Although a cement industry generated new employment in the 1950s, the region remained predominantly agricultural. The depletion of the urban elite left a power vacuum, which was filled by alternating factions and coalitions. This power fragmentation paved the way for the lack of authoritative coherence some fifty years later.

From Dual to Fragmented City

When rural poverty increased in the 1970s, Indians and rural mestizos settled in the urban areas to escape the encroaching misery. National land reforms implemented in the 1970s to grant more rights to former sharecroppers and expropriate hacienda lands left the structure of landholding virtually intact and merely aggravated poverty on the countryside. Riobamba grew steadily but randomly. According to the national census of 2001, self-proclaimed Indians accounted for five percent of the central urban population. On the urban periphery over 60 percent proclaimed to be Indian. In daily life, different social and ethnic groups lived segregated lives. White-mestizo professionals visited the rural migrant settlements for which they drafted plans only sporadically. An architect who was a city council member told me that a settlement study I had conducted had actually induced him to visit that settlement, for which he had already drafted plans. He said that most professionals were not interested in viewing the spaces they planned *in situ*; they preferred to stick to the drawing board. Professional views were disconnected from the daily lives of lower-class citizens.

Mestizo rural migrants in urban peripheral settlements, on the other hand, interacted just as little with their Indian neighbors. Most rural migrants settled in the areas close to their hometown forming ethnically concentrated neighborhoods. Indian residents settled on the southern side of town, while mestizos went elsewhere. Different cultural or ethnic groups encountered each other in inner-city public space, especially on the local markets, but relationships were known

¹⁸ Prieto, *Liberalismo* (2004), pp. 69, 112.

to be asymmetric and often referred to as “internal colonialism.”¹⁹ Thanks to the strength of the Indian movement in the 1990s, Quichua Indians developed greater self-confidence.²⁰ They presented themselves as descendants of the ancient and fierce Puruhá that once populated this region. Based on their—real or imagined—cultural heritage, they claimed political participation and the right to use urban space for commercial and political activities. The Indian protests against the national and local governments and their neo-liberal politics drew hundreds of Indians from the villages to Riobamba’s streets, symbolically expressing Indian presence in urban public space. At the turn of the century, Riobamba had become a kaleidoscope of different social groups trying to occupy parts of the urban territory. Indian protests combined with increasingly visible neighborhoods of rural migrants sharpened professionals’ awareness about the urban image. It also rekindled the planning elite’s nostalgic memories of the twentieth-century glory, when the “nobility” had expressed economic success in a relatively coherent urban image. The nostalgia concerned a time when the built environment reflected a geographic, social, and ethnic contrast between the “elegant” and “cultured” city of a white-mestizo middle class and a “backward” rural hinterland inhabited by Indian and mestizo farmers.

Imagining Riobamba as Multicultural Society (or Not)

In the eyes of professionals, chaotic urban sprawl was primarily associated with a so-called “ruralization” of urban space. Ethnicity, economic activity, class, lifestyle, and legal status were used to label rural migrants as principle instigators of a chaotic urban landscape. They were interchangeably referred to as Indians, market vendors, or informal-settlement residents, depending on the problem discussed. Carlos Velasco, a distinguished retired architect and former dean of the Faculty of Architecture at the Universidad Central in Quito, was the first to mention the rising tide of Indians and other rural groups flowing into urban space. He stressed the need to discuss this process in cultural and geographic terms rather than solely in economic ones; he talked about Indians instead of market vendors. In expert meetings, in an article in *Urbis Visión* and on the radio, Velasco highlighted the transformation of Riobamba, which he attributed to those migrants. His position in the debate was ambivalent because, as a highly respected intellectual, he alone dared to discuss the “mul-

¹⁹ Burgos, *Relaciones* (1997). In the 1960s, the concept of “Internal colonialism” was invented by Mexican sociologists Pablo González Casanova and Rodolfo Stavenhagen to describe the political incorporation of Amerindian groups by the core. See González Casanova, “Internal” (1965); Stavenhagen, “Classes” (1965).

²⁰ Lucas, *We Will* (2000); Lyons, “Religion” (2001).

ticultural problem.” Yet, as part of a white-mestizo professional elite, he availed himself of the dominant narrative and its denigrating label “*indio*.”

The first transformation that Velasco mentioned was the increased use of public space by ambulant vendors. That floating population of rural vendors and their clients was said to be causing sanitary problems and other inconveniences. Municipal planners had independently reached the same conclusion and developed a market remodeling program, in which open-air markets were transformed into closed commercial centers equipped with modern sanitary facilities. In the public CAE forum the professionals and the general public concluded that remodeling markets was an acceptable albeit partial solution for the visual and sanitary disarray caused by vendors. In daily life the situation was more complicated. Commercial centers charged higher rates for market stalls than open-air markets, so poor traders were displaced to other parts of town. Because the debate was dominated by ideas about hygiene and visual order, the implications of those displacements were barely addressed. In the effort to make the city attractive, an implicit moral order linked to middle-class visions of a decent and clean city was projected onto space.

The second transformation Velasco mentioned similarly concerned sanitary inconveniences, this time caused by a permanent population of Indian owner-occupants, who had bought houses near the central markets. Indian property owners converted residential buildings into multifunctional dwelling spaces, guesthouses, food stalls, and storage rooms. The intensively used guestrooms and storerooms were said to be causing health risks. The professionals regarded multi-purpose use of space as a rural and unsanitary practice and hence as inappropriate for a downtown location. Again, this was seen as downgrading the urban image. The recent rise in real estate prices in the inner city was also attributed to Indian ownership. Indian buyers often co-financed a building, thereby collectively outbidding others: “[I]ndigenous people who desire to live in the city, pool their capital and buy a house at an *elevated price* in order to live close to an appropriate commercial sector to install their business.”²¹ According to the CAE professionals, pooling capital led to speculation and outbidding, which destabilized the real estate market and excluded other urban middle-class citizens.

A related subject of debate was the perceived “bad taste” of Indian real estate owners, who had a penchant for eye-catching architecture: “Another preoccupation that stems from the Indian population is their effort to outshine others in urban space. This leads them to build value-loaded and transient architecture, which appears in buildings that belong to Indians. This architectural practice damages the

²¹ Berrones and Ruiz, “Alto” (N.D.), p. 26, italics in original.

visual structure of the city. The practice, though inappropriate, is a necessary part of their self-confirmation.”²² Professionals regarded the colorful building designs of Indian owners as a sign of the “ruralization” of the city. Bourgeois architecture designed by professionals was outdone by lay architecture. Though the whole discussion was meant to underline the importance of trained professionals, the narrative stressed the polarity between high and low culture and between “decent” white-mestizo urbanites and “dirty” Indians. Radio host Antonio Fierro described a striking paradox: on the one hand the urban middle class appropriated the Indian cultural heritage; on the other hand Indians were stigmatized in daily life.

We [white-mestizo citizens of Riobamba] are so contradictory! When they inform us that there will be a parade, we all dress up as Indians. We rent Indian costumes for ourselves and for our children. As soon as the parade has ended, we pull off our costumes and start hating the Indians again, even though [Indian culture] forms our main cultural expression. For more than a hundred years, every year on 21 April, we organize the same parades and dress up as the people we detest. What kind of people are we then?²³

“What kind of people are we? What is our identity?” was one of the main questions that professionals posed. They recognized the need to discuss a multicultural future, but they also feared a rural Indian advance on the city.

Carlos Velasco stated that the inflow of Indian real estate owners in urban market areas was paralleled by an outflow of middle-class white-mestizo residents, who found the transformations unacceptable. He portrayed the problem as follows: “The majority of the white-mestizo population of Riobamba considers the occupation to be arbitrary and negative. [They claim] that the Indians have their own territory in the countryside, that their economic space is in agriculture, [and] that the invasion mutilates the city.”²⁴ He thought that the inconveniences in urban space had generated anti-Indian sentiments among the urban population, jeopardizing social stability and the urban image.²⁵ In radio broadcasts devoted to the subject, the host compared the events in Riobamba with what had happened in the nearby town of Guamote:

[T]he mestizo population that used to live in Guamote came from Guamote to Riobamba to escape the occupation of the central village by the indigenous population. Now they are here in Riobamba but oh what a

²² Velasco, “Indios” (N.D.), p. 34.

²³ Antonio Fierro, *Senderos y Baches*, ERPE, June 1, 2004. Every year on April 21, Riobamba celebrates local Independence Day with a parade in which local dances are performed.

²⁴ Velasco, “Indios” (N.D.), p. 34.

²⁵ Velasco, “Indios” (N.D.), p. 32.

surprise! In Riobamba the same thing has happened.... This is a problem that you [Carlos Velasco] have brought to the fore and made a point of discussion, so that we can solve this together, [and] so that our collective identity can be constructed.²⁶

In order to plan Riobamba's future, Indian groups had to be granted both socio-cultural and spatial recognition. Otherwise, ethnic or class-based territorial conflicts would cause still greater chaos. However, some inconsistencies in the debates became apparent. Whereas the discussion of a problematic "ruralization" of the city was meant to warn local authorities against neglecting the role of architects, it reproduced persistent visions of ethnic and class divides and a rural-urban dichotomy. In that sense, the result of the event undermined the initial aim of devising policy instruments for the creation of an inclusive city. Different cultural values and resources were regarded as incompatible. Spatial practices of specific Indian groups were explained, not as a matter of choice but as unfamiliarity with modern urban lifestyles. In the end, the differences between ethnic groups drew more attention than anticipated.

Urban Nostalgia

The other side of the "ruralization" narrative was the discussion about heritage conservation. Hundreds of nineteenth and twentieth-century buildings are officially acknowledged as national monuments, but most have deteriorated due to political apathy and preferential treatment of owners and builders. In Velasco's words: "In Riobamba people are not interested in rescuing their cultural, artistic, religious, and musical values or anything else. The great tension that this embodies in turn circumscribes the *problem of the city's identity*."²⁷ In the eyes of the professionals, monumental buildings had to be conserved, not just because national laws required such measures, but because the cultural heritage was necessary to construct a much-needed local identity. Reminiscent of a time when Riobamba was one of Ecuador's most prominent urban centers, the monuments represented the "most valued" character of the place. The CAE professionals referred to Quito and Cuenca as cities that successfully used their cultural heritage to promote their "identity as a colonial city."²⁸ Thanks to their designation as UNESCO World Heritage sites, those cities have become international tourist destinations.

The appeal to restore monuments was an attempt to revive the city's early twentieth-century moral order, which had been uprooted

²⁶ Antonio Fierro, *Senderos y Baches*, ERPE, May 20, 2004. ²⁶

²⁷ Carlos Velasco, *Senderos y Baches*, ERPE, May 20, 2006, my italics.

²⁸ Ruiz, "Irrespeto" (N.D.), p. 19.

when Riobamba passed its peak. Already in 1950s, a local aristocrat lamented: “Why has an avalanche of plebeian and vulgar people occupied the places that were left empty by the old nobles and prominent inhabitants of yesteryear?”²⁹ In 2004, a member of the elite similarly stated that the mid-twentieth century urban image differed remarkably from the one nowadays: “This [difference] is due to the large number of migrants that the city has suffered from. Until 1950, San Pedro de Riobamba was a city with culture, with exquisite and courteous people.”³⁰ In the eyes of the elite, the city had lost its noble and refined aura. The CAE professionals were not the only ones who wanted to restore some of Riobamba’s old splendor; many policy makers and authorities shared this view. The municipal urban planners designed projects to make Riobamba look more “authentic”. Instead of heritage conservation, they focused on new objects and buildings that would give the historic inner city a well-ordered look and strengthen the city’s competitiveness as a venue for international events. Urban regeneration projects focused primarily on the beautification of streets. Brand-new neoclassical-style street lamps were installed, facades were repainted, and street vendors were removed from the streets. In line with this new aesthetic order, the municipal tourist department used nostalgic images to revive the memory of the prosperous decades from the last century. An educational program was set up to raise children’s awareness of Riobamba’s glamorous episode, when the city was still the “Beverly Hills of Ecuador.”³¹ A parade was organized with children wearing historical costumes and walking past the houses of the formerly rich and famous to teach them about the historical value of architectural elements such as balconies. The municipality proclaimed: “The Sultan of the Andes [Riobamba’s nickname] is back and will again become the center of the nation’s history and development.”³² Anxious to promote this new image, authorities prioritized aesthetic remedies and nostalgic memories over law enforcement and long-term planning strategies for a multicultural society.

Elitist readings of the local past and visual representations (cultural resources) of that past impeded drafting a participatory plan to incorporate divergent cultural meanings. The beautification policies of the planning department and the heritage restoration appeals thus contravened the desire to make the city more inclusive. The focus on heritage conservation in fact perpetuated the exclusivist projection of Riobamba as a formerly “noble” city. No questions arose about

²⁹ Ortiz “Riobamba” (N.D.) Unpublished document, p. 36.

³⁰ *La Prensa*, “Una diferencia asombrosa con los años ‘50,’” April 15, 2004.

³¹ *El Comercio*, “Los personajes de la historia cobraron vida en Riobamba,” May 31, 2005.

³² Municipalidad de Riobamba, “Ciudades para Vivir,” at <http://www.municipiode riobamba.gov.ec/> (December 11, 2005).

whether Indians identified with the “noble” architecture, constructed at a time when Indian groups fiercely protested exploitation. Nor were any suggestions made on how to incorporate the customs and values of Indian and rural migrants in a local architectural style.

Alternative Claims

Notwithstanding this elitist ideology, socially excluded groups found room to maneuver in urban space. Indians had bought houses near plazas and crossroads. Other rural migrants had also gained access to local housing and real estate markets, expressing their presence in brightly colored dwellings. Only when the city began to look disordered did professionals take notice. In the meantime, the strong national Indian movement occupied public plazas and streets to demonstrate political power. Blatant activities in public space showed that new groups of citizens were making their presence felt. Alternative narratives underscored the new citizens’ claims to the urban territory. This became apparent in the public forum on the “Indian problem.” Indian community representatives who participated in the forum responded to the allegation that there was an “Indian problem” by claiming legal territorial rights as descendants of the ancient Puruhá population. The Indian representative reconstructed their version of local history by referring to Liribamba as the urban center of the Puruhá population: “We indigenous people used to be urbanites. We built and lived in cities like Macchu Picchu. The brutal conquest forced us to flee. We fled like rabbits to the wilderness. We regrouped in Liribamba to form a kind of capital city of the Puruguay. The catastrophe of 1797 forced us to disperse again. Now we have taken on the task of reconquering our city.”³³ In *Urbis Visión* this quote is used as evidence of the Indian advance on the city feared by the professionals and the elite. Instead of bridging cultural differences, the forum gave rise to different territorial claims.

Seen in the context of a nationally strong Indian movement, the rhetoric of re-conquest is not confined to Riobamba. Similar discourses have arisen in other cities with a large Indian population, notably Otavalo.³⁴ Scholars have stated that in most cities Indian groups were marginalized but never systematically expelled. A similar picture emerges in the case of Riobamba. Registers from the old city dating from before the earthquake state that 174 of approximately 375 houses were owned by Indians.³⁵ Presumably, therefore, the Spaniards did not attempt to remove Indians. In the new Riobamba 124 of

³³ Velasco, “Foros” (2004), p. 10. “Puruguay” is another way of spelling “Puruhá.”

³⁴ Windmeijer, *Vallei* (2001).

³⁵ Terán Najas *et al.*, *Antigua* (2000).

the 368 building plots were allocated to Indians,³⁶ indicating that one third of the population was Indian. More recently, in the mid-twentieth century, researchers reported that members of the elite lamented the increase in popular and Indian influences in the city.³⁷ These accounts suggest that despite political or social marginalization, Indian groups have always lived in Riobamba. Thus, the presence of Indian groups in urban space cannot be regarded as a territorial re-conquest in a literal sense, although the rhetoric did have symbolic force. Both overt and implicit statements turned the public debate about the future spatial configuration of Riobamba into a symbolic struggle.

Mediators and Politics

The Memorial Well of the Offences discussed the spatial order and disturbing factors. The professionals, however, did not actively contribute to controlled urban development either. Zoning plans, building laws, and regulations were largely flouted, not only by rural migrants—as professionals and authorities often emphasized—but also by members of the planning elite. Professionals admitted that they were also to blame for the degradation of the built environment. Besides, enforcement of laws and regulations proved complicated. The head of the planning department, explained why:

Here, everybody is used to doing as he pleases, without observing the rules or respecting the laws. Everybody does as he pleases. Changing the general mindset and enforcing compliance will be difficult, because at a certain level even we have difficulties with the authorities. Worst of all, professionals circumvent the law and fail to respect regulations as well. The professionals cause most of the damage because they say “we’ll just build it without a permit, without blueprints.” They don’t care. They set a bad example. They are the first to evade [the rules].³⁸

As long as the professionals were unwilling to comply with the law and authorities unwilling to take unpopular measures, the urban control department could not function properly. This disrespect for the law was nurtured by a political culture of power struggles and clientelism. As mentioned before, CAE professionals felt that local authorities undermined their professional status by allocating projects to lay builders. This ambience of rivalry dominated all aspects of professional practice. When I asked the head of the planning department why the municipal professionals declined to participate in the discussions organized by the CAE, he answered: “Political interests

³⁶ Ortiz “Riobamba” (N.D.) Unpublished document.

³⁷ Ortiz “Riobamba” (N.D.) Unpublished document; Burgos, *Relaciones* (1997).

³⁸ Interview José Vaca, December 5, 2003.

prevail here. People care that technical propositions further political interests. You won't make a proposal that affects the [political] campaign. What you want is to get into power. So if you support a certain political party, you avoid contributing to the other. Instead of joining forces, people destroy what others do for the city. [Hence, what prevails] are political interests and not professionalism."³⁹ Like the municipal professionals, the CAE professionals were guided by politics. At stake was, first of all, the leadership of the local CAE and the upcoming elections in January 2004. Some municipal professionals had told me emphatically that they wanted their faction to take over the CAE presidency. The initiators of the Memorial Well of the Offences timed the public discussions and media exposure to promote their own candidacy, although this strategy proved ineffective. In 2005, a former CAE employee wrote me that the head of the planning department had been elected the new president of the CAE. Meanwhile, politically active CAE professionals were preparing to participate in the 2004 elections for municipal office. Architect and former Mayor Carlos Castro aspired to a new term as mayor. Anticipating his candidacy, he stated at the event that he wanted to reactivate "his" PDUR. Another participating architect also aspired to candidacy; he presented the themes he had formerly worked on as a city council member. Combining professional and political motives they zealously revived old projects.

The rivalry between representatives of the CAE and the planning department even permeated leisure activities. One architect told me that 90 members were to be invited to the 2003 CAE Christmas celebration. I asked him why less than half of the 200 registered architects was invited, if the dues were compulsory for all members. He answered that the others did not belong to "their" faction, stressing that all professional activities were politically motivated, and that competitors could not be welcomed. Professional life in Riobamba had become highly politicized. Clientelism prevailed over professionalism. Embedded forces were hard to battle and in any case did not justify placing one's career at risk. For that reason, professionals at the planning department left law enforcement and long-term urban planning as it was: virtually non-existent. Instead, they dedicated their efforts to beautification of the city. CAE professionals, on the other hand, tried to gain political power. Their media exposure was not just part of a professional debate but also a tactic in an ongoing power struggle. The politics of clientelism and favoritism frustrated the quest for a multicultural city. All participants stuck to their own models of spatial order, blaming "others" for causing chaos. In the course of the event, the ideal of the inclusive city was replaced by exclusive and fragmented visions of an urban future. The Memorial

³⁹ Interview José Vaca, December 5, 2003.

Well of the Offences demonstrated, above all, how fragmented the urban society and its planning elite were.

Conclusion

The events in 2003-2004 in Riobamba reflected growing awareness about the need to construct a multicultural city. Class-based preconceptions about an ideal socio-spatial order, however, persisted. Professionals of the CAE hoped to counteract growing influence of rural migrants and non-professional builders in urban space, as their efforts were said to degrade the urban image and to undermine the professional status of the CAE. The professionals were loath to forfeit control over urban space, even though they were partially responsible for circumventing the rules. An updated PDUR was seen as an instrument to restore order. At the same time, there was a nostalgic longing for the architectural and spatial order of the prosperous decades of the twentieth century. Overarching cultural resources that might make the population of Riobamba more cohesive were not part of the discussions.

Initial aspirations to create an inclusive city were thwarted by professional narratives about social differences. Though both the CAE and the municipal planning department noted the same “sources of the trouble” (i.e., Indians and other rural migrants, presumed to be causing the “ruralization” of the city), power struggles divided them. As it turned out, the event was without consequences. The CAE professionals paid lip service to post-modern views of multiculturalism, but none of the local professionals were willing to translate the notion of an inclusive city into participatory planning strategies. On the other hand, rumors about a presumed *reconquista* of urban space had an equally divisive effect on the local community. Exclusive projections by professionals who envisioned a multicultural society in a white-mestizo architectural setting were countered by equally exclusive visions of an Indian Puruhá city. Cultural differences thus became the most prominent characteristic of the city.

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WOMEN AND THE INFORMAL ECONOMY

CULTURAL BOUNDARIES AND RESOURCES IN LIMA, PERU¹

ANNELOU YPEIJ

In the public areas of Lima, a crowd of people is at work. In the daily search for an income, many inhabitants from the poor neighborhoods of the Peruvian capital go out and seek customers. They sell a wide range of products at the bus stops and in the streets, *plazas*, and other public spaces. Some are producers selling their end products; others limit their activities to street vending and buy their merchandise from wholesalers and producers. Clothes, furniture, soft drinks, toilet paper, and all kinds of foods are just some of the products for sale. In the early 1990s the ample presence of the small-scale economy impressed many visitors to the capital and was confirmed by statistics. In 1993, more than half of the economically active population worked in the so-called informal sector of the economy. In 2001 this share increased to almost 60 percent, after which it decreased and stabilized at around 55 percent during the 2010s. Nowadays the sec-

¹ In 2002, a former version of this article was published as: "Earning More or Less: Income, Micro-production and Women's Status in Lima's Poor Neighborhoods," in: I.S.A. Baud and J. Post (eds.), *Realigning Actors in an Urbanizing World. Governance and Institutions from a Development Perspective*, Ashgate: Aldershot, pp. 101-118. The study was subsidized by WOTRO Science for Global Development, The Hague.

tor is less visible in the streets of Lima's center, as ambulant vending is no longer allowed there.²

Examining the gender distribution of the economically active population reveals that more women than men are involved in small-scale and micro-economic activities, while men more commonly perform larger scale activities.³ The explanation for the greater presence of women in the small-scale economy is highly complex. Compared to men, women from poor neighborhoods have limited employment opportunities and are less educated. In addition, they have difficulties arranging childcare. Responsible for purchasing food for their families, they become keenly aware that the wages of their husbands are often inadequate, and their domestic and care tasks are very time-consuming and demanding. Understanding women's work in the small-scale economy also requires understanding gender inequalities, cultural resources, and divisions such as that of household chores between men and women.

Although they work in *larger* numbers than men in the small-scale sector, very few women may be defined as micro-entrepreneurs offering work to laborers. Statistics show that men own the overwhelming majority of small-scale and micro-enterprises. In 1991, of the total number of employers (owners of an enterprise with hired laborers) in the informal sector, 84 percent were men and only 16 percent women.⁴ In 2009, this imbalance was somewhat less: 64 percent were men and 36 percent women,⁵ but these numbers still indicate that far fewer women than men own a micro-enterprise and are unable to accumulate sufficient capital to hire laborers; instead, they work as hired laborers, domestic help, or casual laborers.⁶ Women in Lima are no exception in this respect. Generally, women all over the world are far more heavily concentrated in lower quality, irregular, and informal employment than men.⁷

In this chapter I aim to examine why relatively few women own a business. Why do women, compared to men, accumulate less capital and, as a consequence, earn less? I focus on micro-production activi-

² Gárate and Ferrer, *En qué* (1994), Table III.2a.; Zuin, *Business* (2004), pp. 1; Linares, *Informal* (2010), p. 6.

³ In 1991, 50 percent of all economically active women worked in the informal sector of the economy, 39 percent in the "formal" sector, and 11 percent in domestic service. The corresponding rates for men were 44 percent, 55 percent, and less than 1 percent; based on Gárate and Ferrer, *En qué* (1994), Table III.2a. In 2008, more than sixty percent of the economically active women worked in the informal sector, compared with more than fifty percent of men; see Aliaga Linares, *Informal* (2010), p. 6.

⁴ Based on Gárate and Ferrer, *En Qué* (1994), Tables III.5.b and III.6.

⁵ Based on Webb and Fernández Baca, *Perú* (2010), Table 28.1.

⁶ Other studies on Latin America and the Caribbean show that Peruvian women are no exception; Menjivar and Pérez Sainz (eds.), *Ni Héroe*s (1993), pp. 79 and 84; Espinal and Grasmuck, "Gender" (1994), p. 7.

⁷ Chant and Pedwell, *Informal* (2008), p. 1; see also Chen "Informal" (2010).

ties and compare male and female micro-producers. The analysis is based on anthropological fieldwork, carried out in the early 1990s and more recently in 2011 and 2012.⁸ I will argue that because of the manifestation of gender hierarchies, for example within the household, women as entrepreneurs encounter more obstacles than men in their efforts to accumulate capital. Many economic activities performed by women therefore never expand beyond those of an individual producer. In the following sections, I comment on the gender hierarchy within poor households in Lima and then explore discrepancies between the access of female and male micro-producers to production means, capital, family labor, markets, and credit. In subsequent sections, I discuss the differences in capital accumulation between male and female micro-producers and then assess the alternatives for female micro-producers. The analysis shows that because of the intertwinement of social relations of production with gender inequalities women's status as producers is related to their subordinate status within the household. Women's activities as producers even seem to replicate gender inequalities at the household level. If this is the case, does the income they generate through their production activities impact their status within the household?⁹

To place the analysis in a broader theoretical framework, in the last section of this chapter I review the long-standing debate on women's economic dependence versus independence and power inequalities between women and men at the household level. This study of micro-production in Lima is set within the context of the Peruvian economy, which experienced a prolonged recession and growing poverty in the 1980s and 90s. In the 1980-1993 period, urban minimum wages decreased by almost 90 percent in real terms.¹⁰ During my fieldwork in 1991, 44 percent of Lima's inhabitants qualified as poor.¹¹ In recent years, the Peruvian economy has been recovering, and sections of the poor have benefited from this. Nevertheless, in the *pueblos jóvenes* (neighborhoods originating from lands occupied at the outskirts of the city), daily life remains a struggle for survival, especially in case the *pueblo joven* is recent.¹²

Gender Hierarchies within Poor Households

Households in poor neighborhoods in Lima have an obvious internal hierarchy, with men in the position of authority. This hierarchy is manifested in both the sexual division of labor between men and

⁸ Ypeij, *Producing* (2000), or, *Produciendo* (2006).

⁹ Kabeer, "Women" (1997).

¹⁰ Webb and Fernandez, *Perú* (1994), Tables 15.3.

¹¹ Cuánto, *Perú* (1991), p. 65.

¹² Hordijk, *Of Dreams* (2000), p. 102.

women and the control of intra-household cash flow. Providing sufficient income is considered the primary responsibility of the man, and he is given complete freedom of movement in this pursuit. Childcare and household chores are considered to be the primary responsibility of the woman. Her possible income-generating activities are regarded as secondary to her domestic duties, thereby considerably limiting her freedom of movement and the time she has available for this activity. The poverty of most households in poor neighborhoods aggravates domestic work substantially, because it affects the material conditions in which this work is performed.¹³

Especially in the newly established *pueblos jóvenes*, daily life can be difficult, as was very clear in the neighborhood Año Nuevo (Comas, Cono Norte), where I conducted my recent research. The lower parts of the neighborhood have existed for over forty years. The houses there are built of bricks and concrete. Most streets are paved. Running water, electricity, and a sewage system are widely available. A functional market, many shops and services, and public transport are all within walking distance. The far more recent neighborhoods, which have been on the hillside and over the hill, consist mainly of newlyweds and couples with young children. The fact that these are newly formed families living on recently invaded plots of lands exacerbates their poverty. Many houses are temporary structures and lack running water and/or a sewage connection. The streets are unpaved and have dust blowing everywhere. Cleaning the house, doing the laundry, cooking meals, and taking care of the children are time-consuming tasks. Many cannot afford to buy appliances to facilitate household chores. Women keep livestock (e.g., chickens) and shop around for the lowest food prices to save money. Malnutrition and unsanitary conditions affect children's health. At the same time, poverty forces many women to generate an income in one way or another. As the study of the poor neighborhood El Agustino by Grandón makes clear,¹⁴ the need to earn money does not release women from their responsibility for household chores. Seventy percent of women who generate an income perform more than 50 percent of household chores, and 30 percent carry out these chores completely on their own.

The second manifestation of male dominance in the household is the husband's control over the intra-household cash flow. Based on Benería and Roldán,¹⁵ a husband may exercise this control as follows. He may withhold or share information on the actual amount of his earnings or decide what portion of his earnings he will retain for personal expenses or pocket money. He may choose how his wife re-

¹³ Grandón, *Discriminación* (1990), pp. 53-54.

¹⁴ Grandón, *Discriminación* (1990), Table 12.

¹⁵ Benería and Roldán, *Crossroads* (1987), pp. 113-123.

ceives the household allowance or contribution: as a lump sum or in installments. The husband may continue to exercise control after delivering his share to his wife. He may “borrow” from money meant for household expenses for his personal use.¹⁶

Different Points of Departure

Many inhabitants of Lima generate work for themselves by setting up production activities. However, men launch their production activities along a different work trajectory than women do.¹⁷ Labor histories of many male producers show that before they decided to produce independently, they worked as traders or laborers in the larger-scale or small-scale industry, often in the same line of business in which they subsequently launched their own production activities.¹⁸ The experience, knowledge, and contacts they have acquired in the process help them in their quest for more profitable purchasing and sales markets. My interviews show that male producers consider production on their own account and possibly running an enterprise as improvements in their social status. They value the freedom of being self-employed, despite all the sacrifices and hard work involved.

Women initiate production activities as well. Compared with male producers, however, they often start with various disadvantages. Many married women are motivated not by a desire to improve their social status but by the failure of their husband’s contribution to the household to meet daily needs. Their primary motive is therefore to generate additional income. Many women start to produce garments, because they learned how to sew while preparing for and in the process of their household duties. In addition, many women already have a sewing machine for domestic use. Their sole experience is often operating such a simple machine. Precisely because they start producing out of economic necessity, they have very little production capital or none at all. They may obtain such capital with great difficulty by reducing household spending.

Many starting female and male producers integrate the organization of production activities in the organization of the household.¹⁹ Production is located in the home. Unpaid family labor is used, and the cash flow of the production activities is not separated from household spending. The owners of the production means are also the producers. The production rhythm is in many cases continuously interrupted by the commercialization of products and an irregular

¹⁶ Kabeer, “Women” (1997); Roldán, “Renegotiating” (1988).

¹⁷ Menjívar and Pérez Sáinz, *Ni Héroe*s (1993), p. 79.

¹⁸ Grompone, *Talleristas* (1986), pp. 112-113.

¹⁹ Wilson, *Casa* (1990).

income. Multi-income strategies, including the production activities, are commonplace. Other characteristics of household-based production organization are simple technology, inferior quality, and little product variety.

Differential Access to Capital

As argued above, male producers tend to start their production activities with more capital than female producers do. The discrepancies in access to capital on the part of female and male producers become even clearer from considering control of intra-household cash flow. Even though many male producers I interviewed were willing and able to mention how much working capital they had, and how high their profits were, withholding this information from their wives is an accepted practice. These producers generally provide their wives with daily small amounts of money (known as a housekeeping allowance or *diario*) toward purchasing food and possibly clothes. The men determine the amount of the *diario* and usually pay utilities such as water and electricity directly. Male control of the cash flow can be an advantage in their production activities. The following case exemplifies a household with a multi-income strategy. Eliana is married to Manuel,²⁰ who produces wooden furniture in their home. Every day, Manuel used to provide Eliana with money for the household, but according to her it was never enough. When she asked for more, he always told her that he could not give her more. With support from Manuel, Eliana decided to open a shop in their home selling soft drinks and beer. Manuel used his working capital to buy Eliana a few crates of beverages. By maintaining longer opening hours than most of the competition, this small business is reasonably successful. Eliana's income from the store is used toward the household expenses, of which 40 percent is covered by her work. For Manuel, who does not discuss the financial aspects of his production activities with Eliana, her contribution to household necessities enables him to spend less on them and to reinvest more in his production.

Because they control the intra-household cash flow, the financial margins of male producers are flexible. They use money intended for household expenses, as well as income from other members of the household, for production purposes. At times they value their production activities over household maintenance, reducing or even completely withdrawing their contribution to the household economy.²¹ Their financial flexibility and leverage are expressed in the continuous transfer of working capital and capital meant for household

²⁰ For reasons of privacy, I have changed the names of individuals.

²¹ See: Nelson, "How" (1979), pp. 297-298.

maintenance and their appropriation of income generated by other members of the household. Unlike men, many female producers are not in a position to benefit from the intra-household cash flow. Their financial margins are limited to the housekeeping money and their working capital and transfers from one to the other. In addition, as the study of Espinal and Grasmuck concerning the Dominican Republic shows,²² female micro-entrepreneurs tend to contribute a larger share of their income to the household than men. These scholars state that this pattern may explain in part why women's firms accumulate lower levels of capital investment.²³

Differential Access to Unpaid Family Labor

Locating production in the home makes it easier for male producers to claim their wife's labor. Women helping their husbands with their production activities is considered completely normal and is even condoned. In doing so, they fulfill the image of the perfect wife. Wives perform many different production tasks, but ordinarily they do those feasible within the household production site. Although some wives with adolescent children leave the house to purchase materials and sell products, this is less common. Access to unpaid family labor offers male producers two advantages: they are able to reduce their production costs by cutting labor costs, and the production rhythm is experienced fewer interruptions, and the income is more regular. By claiming the labor of their wives and controlling the intra-household cash flow, male producers prevent their wives from assuming more responsibility for production activities.

Even though, in legal terms, many production activities initially belong to both wife and husband, many husbands interviewed were inclined to belittle the labor input from their wives, qualifying it as family labor and denying them equal participation in responsibilities, despite their hard work.²⁴ The married couple Carmen and Luís produces and sells wooden chairs and tables. Luís, together with their adolescent sons, makes the furniture; Carmen purchases the wood and looks for clients. By performing this task, she assumes what is considered a very unusual role. Women simply do not purchase wood, and at times her neighbors call her "husband," expressing the idea that Carmen must have a lot of control, more than is considered normal or even appropriate for a wife. Although her participation in the production is crucial and the working capital constantly passing

²² Espinal and Grasmuck, "Gender" (1994), p. 8.

²³ See D'Amico, "Way Out" (1993), p. 80.

²⁴ Many production activities are not registered, and most marriages are contracted in community of property.

through her hands, however, Carmen has little control over production. She does not accept an order without consulting Luís, and every time they need wood, Luís gives her the exact amount of money required. Money from a sale she hands over completely to Luís. In turn, he gives her the *diario*.

Compared to male producers, female producers have far more limited access to unpaid family labor. Married female producers are unlikely to have a husband willing to do free work for them. Froehle in her study on Venezuela states that 90 percent of the wives who work in their husband's business are unpaid.²⁵ However, all husbands who work in their wife's business *are* paid, and almost 90 percent co-own the business. At best, female producers have access to the unpaid labor of their adolescent children. Lacking family members to work for them, many female producers find that commercialization of products interrupts the production rhythm. For this reason, their income is irregular.

Differential Access to Markets

Every producer has to purchase materials and sell a product. Many women find that their mobility and available time are restricted because of their domestic duties, and female producers are no exception.²⁶ Female producers are therefore limited in their quest for purchasing and sales markets. Male producers, on the other hand, have more opportunities to reach more favorable markets located further away from the poor neighborhoods. Because purchasing close to the production area is often impossible, female producers are obliged to spend a considerable amount of time buying materials. They compensate by seeking nearby sales markets, mostly in their own neighborhoods.

Comparing two producers—Manuel and Cecilia—both of whom produce wooden furniture and have more or less the same amount of capital at their disposal, reveals that Manuel leaves this neighborhood several times a week to go to the center of Lima to visit shops that place orders with him. By contrast, Cecilia—a single mother with three children under ten, who obtained her machinery after receiving a gift—has difficulty leaving her neighborhood, because she combines her production activities with childcare. She sells her furniture by having it in stock and exhibiting it for sale outside her workshop. Her clientele consists mainly of the residents of Pamplona Alta, the poor neighborhood where her workshop is located.

²⁵ Froehle, *Women* (1994), p. 25.

²⁶ See also Alter Chen, "Women" (2001).

For the female producer, selling in her own neighborhood has two consequences. First, her profit margins are lower, because the potential clientele has very little purchasing power. To sell her products, she must price them according to the income levels of the neighborhood. She is often forced to lower her prices, because her relationship with her potential customer is not completely market-oriented. Her customers are also her friends, family members, or neighbors. The second consequence is therefore that selling in the neighborhood means selling via social networks. Many authors have noted the importance of the relationships women and men maintain at neighborhood level.²⁷ These networks form the basis of emotional and material support, and in the context of Lima, with its severe poverty, maintaining these networks may be characterized as a survival strategy.

The social networks of women consist mainly of other women, and because of the importance of networks for daily survival, support is exchanged only in the context of longstanding relationships and deep mutual confidence. The giving party has to be sure that a future request on her part will be honored. Women will confide in each other only if they view each other as good friends or neighbors. The latter depends on behavior. Bohman writes:

Women who are not deemed to behave in a decent way may not be accepted into any group of intensive interaction in the neighborhood. The female group keeps a close watch over the behavior of its respective members, judging each woman's way of coping with problems, especially those related to notions of decency, and exerts pressure towards conformity with the values and norms upheld in the group [...].²⁸

My case material confirms Bohman's point of view. Female producers who depend on neighborhood networks for their sales markets make great efforts to behave as "good" women. For them, their reputation as a "good" mother and wife is an essential part of customer relations.

To return to the case of Cecilia, as a single mother producing furniture, her situation is exceptional. In the past, her neighbors derided her, doubted the quality of her products, and were highly distrustful of her. Gradually, their distrust made way for confidence, and nowadays the neighbors refer to her as *la señora carpintera* (madam carpenter). Cecilia confirms that in addition to her high-quality products, her reputation as a "good" woman has contributed. "They wondered 'what kind of a woman is she, if her husband left her?' But now they respect me, because I did not remarry."²⁹ I have to dress

²⁷ See Lomnitz, *Cómo* (1991[1975]); Bohman, *Women* (1984), among others.

²⁸ Bohman, *Women* (1984), pp. 286-287.

²⁹ Single mothers who establish a new relationship with a man meet with disapproval, because of the danger that the stepfather might abuse the children.

more discreetly. I have to command respect.” Several times she emphasized that she is always in the company of her children, and how much effort it takes to combine the washing and mending of their clothes with production (“so they’ll look neat”). In fact, Cecilia is constantly obliged to prove to her potential customers that despite her “deviant activities,” she is a “good” mother and a decent woman.

Male producers are subject to behavioral codes as well. For example, the noise of a carpenter’s machinery may seriously annoy his neighbors. Because most production activities are performed without official authorization, there is always the danger that a neighbor will inform the authorities. Like female producers, males have to compensate for any nuisance by ensuring that their behavior is “good.” The behavior margins within which male producers operate are less narrow than the ones for women, however, because of so-called *machismo*. Adultery by a man, for example, may elicit with disapproval but will never instigate doubts about his masculinity or his qualities as a producer. On the contrary, he proves toward the male community that he is a “real” man. In addition, male producers are away more often and therefore less subject to neighborhood scrutiny.

Differential Access to Credit

Because most micro and small-scale production activities are judged to be of insufficient solvency and profitability for banks, micro-producers of both sexes have problems obtaining formal credit.³⁰ However, women approaching a bank encounter even greater obstacles than men, such as their lack of knowledge of how such banks function, the higher illiteracy rate among women, and time-consuming banking procedures.³¹ Both male and female producers interviewed in Lima tended to approach informal credit/savings systems based on the neighborhood networks, as exemplified by the so-called *junta*. Several participants periodically deposit a fixed sum there. For a certain period, one of the participants receives the total amount of money as a loan and pays interest to the others. Both women and men participate in these *juntas*. Because no formal sanctions for defaulting on payments exist, the *juntas* are based on high levels of mutual confidence. Segregation by gender is an important feature: Most *juntas* are composed exclusively of women or of men. This segregation is attributable to the relative distrust between women and men. Women, for example, do not want male participants because they fear that men will dominate the organization. Mixed *jun-*

³⁰ Meanwhile, Peru has several programs aimed at lending small amounts to micro-entrepreneurs.

³¹ Lynn Reichmann, “Dos” (1988), p. 192.

tas are moreover difficult to form, because men and women have different goals, and women generally have less disposable income than men. Many women organize *juntas* on behalf of the household as a supplement to the housekeeping money. Men tend to organize *juntas* on behalf of their income-generating activities.

Miriam and Hernán, a married couple engaged in shoe production, provide a good example of women's participation in *juntas* with a lower capital potential. Both Miriam and Hernán regularly participate in *juntas*. Miriam's contributions total US\$ 125 over ten weeks. The participants are women who have only their housekeeping money or limited profits from a small trading venture at their disposal. Hernán's contributions to his *junta*, however, total US\$ 500 over twenty weeks. The participants are men who have their own enterprises and use the money as working capital.

Capital Accumulation by Female and Male Producers

The preceding remarks should not be taken as generalizations about female producers. Depending on the stage in the lifecycle of the household and its composition, the potential of female producers to accumulate capital varies considerably. Those with older children have more freedom of movement and can deploy their children as unpaid family laborers or assign some domestic duties to them. Married women usually receive a daily allowance from their husband. The financial margins within which they operate are therefore usually somewhat broader than those of unmarried mothers with young children.

My research shows, however, that compared with male producers, female producers are at a competitive disadvantage from the outset and have greater difficulty accumulating capital. More often than in the case of male producers, the activities of female producers do not evolve beyond those of an individual producer. Because their working capital is limited or non-existent, many women are obliged to seek orders from micro-scale or larger-scale producers and thus become outworkers. Male producers have better access to working capital and markets. Their knowledge and contacts are more extensive. Their dominant position in the household allows them to control the intra-household cash flow, claim the unpaid labor of their wife, and avoid childcare and household tasks. All of these may be perceived as cultural resources that enable men to produce on a larger scale from the very beginning, and, as a consequence, they are more inclined to hire laborers. The activities of male producers therefore more often reflect the characteristics of a micro-enterprise than those of female producers. The same conditions that give male producers a better starting position help them continue the process of capital accumulation. Of

course, during the economic recession of the 1990s, men encountered difficulties in trying to accumulate capital as well. However, female producers experience far greater difficulty participating in this process because of their limited time and mobility, which are the main cultural boundaries that women face.

Alternatives for Female Producers

Although female producers have fewer opportunities to accumulate capital, and married women have difficulty participating as equals in the production activities of their husband, they do not take that situation for granted. They are very active in seeking solutions to the limitations and boundaries they encounter. Some wives start independent production activities. In the following example, a wife gains control over her own working capital. Hernán has been producing shoes for over twenty years. From the beginning, his wife Miriam has also been producing shoes and now has the knack of it. Nevertheless, Hernán impeded her efforts to share equally in responsibilities. He thought of himself as the leader and defined her as a family worker. One day, Miriam came home with some single orders, but Hernán refused to fill them, because he preferred to produce in quantity. After this had happened a few times, Miriam decided to fill her orders independently. She asked her clients to provide her with an advance to purchase materials, and she subcontracted the assembly of the shoes to a micro-producer she had befriended. Now, both members of the couple produce separately, and each controls their respective working capital. Another solution used by female producers involves mobilizing their neighborhood networks and organizing independent production activities. Since the 1970s, Lima (and the surrounding rural areas) has had a strong tradition of grassroots organizations engaging in communal cooking to reduce the cost of living.³² Often, women involved in these organizations try to start income-generating activities.

One such case is “The Holy Wood” communal kitchen, which is located in Independencia, a poor neighborhood. Sixteen women from this organization obtained a loan, bought treadle sewing machines and set up a garment workshop. Their commissions, thanks to help from a female intermediary, include several orders for a hospital. Although the women who participate in the workshop are obliged to work for the communal kitchen, they are flexible about this. Sometimes a producer pays another member of the kitchen to take her turn to cook; sometimes, cooking turns are exchanged. Female producers obviously benefit from this type of production organization.

³² See: Hordijk, *Of Dreams* (2000).

The women train each other in the required skills. Cash flow from production is completely separated from the various households and therefore outside the control of the husbands. The women take turns purchasing materials and seeking sales markets. This makes for more efficient use of their scarce time and partly solves the problem of their limited mobility. They are able to organize production more flexibly than they would by producing individually, because the organization provides easy access to a large quantity of potential seamstresses.

However positive this alternative form of production organization may appear, it also has drawbacks for the micro-producers. Many communal workshops lack the contacts to sell in favorable markets and accept assignments from large industries. Some export companies specialize in production of mechanically and hand-knitted garments made of the internationally appreciated alpaca wool. These companies export jumpers, skirts, scarves, and caps to Europe, Japan, the United States, and other markets. A crucial element in the production organization of such companies is subcontracting the hand-knitting to the communal workshops located in the poor neighborhoods. Such subcontracting offers the company many advantages. Investments in production remain limited, and few permanent laborers are required. Managers save time and avoid problems by maintaining contacts only with the women in charge of the workshops. Training costs are reduced, because only the leaders are trained, and these leaders pass their knowledge on to the other members of the workshop. Subcontracting increases the flexibility of production, because fluctuations in demand directly impact the number and size of the assignments given to the women. The production rhythm of the workshop is subsequently dictated by the export company. In 1991, the average payment to the women for a sweater that took roughly forty hours to knit was US\$ 15; in other words, they made only US\$ 0.38 an hour. By working on assignments, women lose control of the production process and are forced to accept low wages.³³

Women's Income and Status within the Household

The present analysis reveals in detail why women as micro-producers encounter many boundaries to accumulating capital and consequently earn less than their male counterparts. In this section I aim to elaborate on the analysis by examining the consequences of women's incomes for their status within the household. What difference, if

³³ See: Benería and Roldán, *Crossroads* (1987).

any, has their income made to intra-household gender dynamics?³⁴ This question is the subject of a long-standing debate, which has become considerably more significant since the explosive growth of job opportunities for women in export-oriented factory production in many parts of the Third World.³⁵ Within the debate, intra-household relationships are now generally acknowledged as entailing power inequalities, but scholars disagree on whether women's income may improve their status. Bhachu, for example, argues that wage work gives women a strong means for establishing a power base in the household, because it enables them "to invest and consume in their own interests and for their own benefit."³⁶ Kabeer states that the wages of women working in Bangladesh's garment industry have made an unequivocal difference in the lives of most of the female workers.³⁷ Others stress that the social relations of production become bearers of gender and reproduce gender hierarchies. Because of this consequence, jobs generated by export-oriented production are exploitative and have little potential to improve women's status or bring about significant cultural change.³⁸

The present analysis of the capital-accumulating potential of women working in Lima's small-scale economy confirms the theoretical insight that gender hierarchies are an integral part of the social relations of production. The organization of micro-production is strongly embedded within the gender inequalities at the household level.³⁹ Male control of intra-household cash flow and the gender-based division of labor are important analytical tools for understanding how and why women's potential for accumulating capital is hindered and for elucidating the close links between women's limited incomes and their subordinate position within the household. In their search for an alternative production form, women organize in communal workshops. As a result, they become easy targets for large industries seeking cheap outworkers. By accepting work on assignment, the women risk losing control of the production process and are forced to accept low earnings. How can income generated under conditions that merely reproduce gender (and class) inequality ever improve women's status? From a scientific perspective, observers might think that this is impossible.

But the women have a different perspective.⁴⁰ However small their earnings may be, they relieve some of the stress of the daily

³⁴ Kabeer, "Women" (1997), p. 267.

³⁵ Elson and Pearson, "Subordination" (1984).

³⁶ Bhachu (1988), p. 76.

³⁷ Kabeer, "Women" (1997), p. 98.

³⁸ Elson and Pearson, "Subordination" (1984), p. 30; Arizpe and Aranda, "Women" (1986), p. 191.

³⁹ See: Wilson, *Casa* (1990).

⁴⁰ Roldán, "Renegotiating" (1988).

struggle to make ends meet. Often the women spend their money on food, clothes, and school supplies for their children. They also spend some on their own well-being, such as on bus fares to visit a distant relative. One woman reported that she used her income to buy contraceptives. Furthermore, these women's earnings give them a small but meaningful base for renegotiating their status with their husbands. I have already given the example of Miriam, who managed to gain control over her own working capital. In another case, Rosa—the wife of the furniture producer Juan Carlos—finally managed to set up her own business during the course of my study. Her husband had blocked all her previous attempts. She started selling sweets and soft drinks on a very small scale from a stall she had set up in the doorway of her house. Then, her husband started borrowing and asked her to lend him money. To avoid an argument, she gave him her working capital, which he did not repay, thus ruining her business. Rosa was very angry, and was unwilling to accept this. To make her husband see that his dominant behavior was wrong, she mobilized her social network. She openly requested advice from her neighbors, the nurse, and the priest, stressing that her intentions were only to help her children and husband. The general opinion was that she was entitled to earn her own income. Her crusade ended when her husband implicitly admitted he was wrong and agreed to attend a course on marital coaching organized by the church. Although it would be an exaggeration to say that Rosa's status has improved considerably since this incident, it has been a small step in the right direction for her and has made daily interactions with her husband bearable and given her hope for future improvements.

Finally, I want to return to the members of the communal workshops, who, through subcontracting relations, can be integrated into global markets. Though their low income is reason enough for the critical observer to think of their work as exploitative, the women doing such work attribute multiple meanings to it. The assignments are brought to them by the leader of the workshop, which is normally located in or near one of the members' homes. This makes it easier for members to combine their paid work with their other duties. They work four hours a day in each other's company, caring for their children at the same time. The women consider this a favorable working arrangement that partly compensates for their low wages. The women also speak well of their organizations. Although the primary objective of the women's organizations is to support their members in their daily survival effort, they also serve as communal places for the women. Within the grassroots organizations, the women enjoy each other's friendship and solidarity. They learn to assume responsibility, to run things, to defend the democratic structure of their organizations, to express their opinions, and to stand up for themselves. Their self-esteem grows, as does their confidence in solidarity and joint ac-

tion.⁴¹ Last but not least, research indicates that the participation of the women in grassroots organizations has the potential to change household gender relationships. According to Sara-Lafosse, the organizations introduce a cultural change concerning the seclusion in the house of married women and, as a result of women's increased self-esteem, are conducive to improving relationships between spouses.⁴²

Concluding Remarks

The aim of this chapter was to analyze why female micro-producers have fewer opportunities than men to accumulate capital and consequently earn less. Many starting female and male producers integrate the organization of production activities within the organization of their household. Based on their subordinate status within the household—as manifested in particular by the gender division of labor and male control of the intra-household cash flow—female producers face severe boundaries and limitations. Compared to men, they start their activities with less capital, less knowledge, and fewer contacts. They are unable to benefit from the intra-household cash flow the way men do, and they have fewer opportunities to use an unpaid family-worker. And even though female producers have access to informal credit systems, these systems offer fewer opportunities for them to raise capital. Finally, their domestic duties limit both the time they can invest in their production activities and their freedom of movement. Thus, many female producers use their neighborhood networks as sales markets, which decreases their profits and forces them to behave “appropriately” for their gender as part of customer relations. This last point once again emphasizes their domestic and caring duties. Many male producers benefit from their greater dominance within the household in the capital accumulation process (such as access to family labor and extra cash from the intra-household flows), opportunities to avoid household chores and care duties, and greater freedom of movement and time investment. This part of the analysis makes clear that the poor who strive to improve their economic situation do so as gendered individuals. In Lima, gender boundaries, inequalities, and hierarchies may count as social and cultural resources available to men, while for women they may be regarded as a potential source of limitation and difficulties. Therefore, poor women who try to improve their economic situation will

⁴¹ Blondet, *Mujeres* (1991); Sara-Lafosse, *Comedores* (1989); Villavicencio, “Impacto” (1989), p. 271.

⁴² Sara-Lafosse, *Comedores* (1984), p. 90; see also Villavicencio, “Impacto” (1989), p. 268.

simultaneously have to struggle against existing gender boundaries and meanings of femininity and masculinity.

The communal workshops offer female producers an alternative production organization that is independent of male household members and outside their control.⁴³ These workshops may solve some of the problems women encounter when producing individually. However, because the members lack the contacts to sell on favorable markets, they are willing (or forced) to accept assignments from large industries. From the perspective of export companies, the workshops form groups of cheap and easily accessible outworkers. If the women take their chances with these firms, they risk losing control of the production process and are forced to accept very low wages.

The women in this study generate an income under conditions that reproduce gender and class inequalities. This raises the question of whether such an income has the potential to change existing gender hierarchies and improve women's status within the household. The women attribute multiple meanings to their work and income. They realize that their earnings are small, and that—especially by working on assignment—their working conditions may be exploitative. Still, they perceive the opportunity to organize their production activities around their household chores and care duties as an advantage. They spend their income on improving the wellbeing of their children and themselves, thereby enhancing their sense of control and self-esteem. The very fact that they generate an income may already signify crossing gender boundaries and resisting established gender inequalities. Their earnings give them a tool to renegotiate their relationship with their husbands. This tendency is intensified by their participation in grassroots organizations. I share these women's opinion that these are all small steps forward in the complex and slow process of social transformation. Merely stressing the many ways gender inequalities are reproduced entails the danger of denying the importance the women attribute to their income and subsequently denying that these women are vocal actors.

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⁴³ See: Kabeer, "Women" (1997), p. 265.

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DO VICTIMS ONLY CRY?

VICTIM-SURVIVORS AND THEIR GRASSROOTS ORGANIZATIONS IN PERU

MIJKE DE WAARDT

Everybody has seen images of desperate or weeping persons who became victims of natural disasters or civil conflicts. News programs covering these events show scenes of persons who have lost their homes or family members as a result. Less is shown about how people try to reorganize their lives after experiencing such incidents. Nor has much global research been conducted on how survivors of human rights violations try collectively to improve their lives,¹ or on organizations of victim-survivors of the civil war in Peru.² This means that this specific type of grassroots organization run by grassroots human-rights activists has received little scholarly attention. The present chapter addresses mobilized victim-survivors of the Peruvian civil war. Hence, the term “victim-survivor” is used instead of “victim,” because members of these grassroots associations have both a passive role (as victims) and an active one (as organized survivors).³

¹ I am aware of five other studies that focus primarily on victim mobilization, victim-support groups, or needs as expressed by organized victims. On Rwanda, see, Rombouts, *Victim Organisations* (2004); on South Africa, see, Colvin “Trafficking” (2008), pp. 171-182; on Nepal, see, Robins, “Whose” (2009), pp. 320-331; on Guatemala, see, Afflitto and Jesilow, *Quiet* (2007); Viaene, “Life” (2010).

² On Peru, see OXFAM, *Mapco* (2002); Guillerot and Magarrel, *Reparación* (2006); Bebbington, Scurrah and Bielich, *Movimientos* (2011).

³ Another reason I prefer the term “victim-survivor” is that it meets Mahmood Mamdani’s requirement of transcending the victim-perpetrator dichotomy to identify new forms of justice and coexistence in the wake of atrocities. See

Juan, age 52, is a member of an association of unjustly detained persons, comprising those imprisoned without a transparent trial during Peru's recent civil war (1980-2000). He explains why he became and is still a member of a victim-survivor association: "I identify with our association, because we were all born here, we started with nothing, but we [the association, MdW] grew, bit by bit. This place means everything to me. It feels like home, and I feel the urge to strive for all the things that my *compañeros* [fellow members, MdW] are lacking. This is the place where I can find shelter but also hope. Hope for a better future."⁴ Many of these members have been subjected to torture, and some lost their families, homes, etc. while in prison. Unjustly detained persons were released after the civil war ended, because they were found innocent of the accusations against them (mainly terrorism). Juan is part of his association not only because he has been participating since the association was founded, and because he feels comfortable around his fellow members, but also because he thinks that joining forces enables victim-survivors to improve their lives.

Because of the violent civil war of the 1980s and 90s and the transition process that started at the beginning of this decade, hundreds of different associations of victim-survivors of violence arose. This chapter seeks to increase our understanding of the background of these associations and their participation in social and political affairs. Peru is an exceptional case, because of the large number of associations. In general, civil conflicts and authoritarian regimes leave victim-survivors, but not all victim-survivors organize as in Peru. This suggests that participating in this type of organizations enables victim-survivors to use cultural resources. As will be shown, the wave of victim-survivor associations figures within a much broader process that started in this country in the late 1970s with founding what are known as "grassroots organizations" in urban areas. These grassroots organizations are examples of the everyday struggle to improve livelihoods, fight poverty, or adapt to city life; they focus on specific efforts to obtain access to basic services, such as community soup kitchens, neighborhood associations, or victim-survivor associations. Elaborating on the basic principles of critical research, as explained in the introduction to this *Cuaderno*, associations of victim-survivors are seen here as networks and groups of people and their strategies to survive, develop, or in other ways improve their standard of living, politically, economically, culturally, or socially. Sometimes these networks and groups may be identified as examples of collective action intended to strengthen individual, group, network, or communi-

Mamdani, *When* (2002). For a similar use of or discussion about the term "victim," see Pearce, "Sustainable" (1997), pp. 438-455; Laplante and Theidon, "Truth" (2007), pp. 228-250; Rombouts, "Importance" (2002), pp. 216-232.

⁴ No real names are used to ensure anonymity for all informants.

ty management of daily life, perhaps even influencing political agendas. Unlike other grassroots organizations, however, these victim-survivors' associations have little social and political influence on how issues relating to victimhood are addressed. To understand how this type of grassroots organization operates, the chapter opens with a discussion of the background to the civil war. Next, I explain the kind of victim-survivors that have resulted from this political violence. Finally, the description of features of victimhood representations highlights problems with the participation of popular groups in social and political life.

Civil War in Peru

In 2003 the Peruvian Truth and Reconciliation Commission (TRC) issued its final report after a two-year investigation of Peru's recent past, during which the country was plagued by intense violence following political turmoil.⁵ It contained a detailed description of the causes and consequences of the Peruvian civil war (1980-2000). Unlike in other Latin American countries like Guatemala, Argentina, or Chile, where government agencies perpetrated most of the violence, in Peru a score of actors was behind the violence and assassinations. The TRC report identified not only the two guerrilla movements—the Maoist-inspired Sendero Luminoso (Communist Party of Peru Shining Path) and the MRTA (Tupac Amaru Revolutionary Movement)—as responsible for the bloodshed and human rights violations but also, and this was indeed a point of singular importance, the national armed forces, several other state institutions, and local peasant-controlled groups. All parties were responsible for gruesome killings of supporters of the “enemy.” This made the violence “multidirectional.”⁶

Sendero Luminoso was founded in the 1960s and emphasized the extreme poverty and unfair distribution of wealth in Peru. Local university faculties served as its main support base. The movement particularly appealed to young men and women students of peasant origin, who had hoped to escape rural poverty and ethnic marginalization through education. In 1980, the movement resorted to violence and propagated an armed revolution directed against imperialism and intended to destroy all Peruvian institutions, including the government. Its members infiltrated all kinds of organizations to identify possible collaborators with the state, subsequently seizing operational control of these organizations, often after killing those they had labeled as collaborators. They also used explosives to blow

⁵ See: <http://www.cverdad.org.pe/> (accessed March 19, 2012).

⁶ Burt, *Political* (2007), p. 13.

up the infrastructure (i.e., police stations, municipal services, roads) and power stations to destroy the economic structure and, in their view, the state. Initially, the Peruvian government did little to stop the Sendero Luminoso guerrilla activities. “Given the snobbery, racism, and indifference that attended Limeño perceptions of the highland Department of Ayacucho [...] Sendero also seemed an expression of isolation and peculiarity.”⁷ Few took the revolutionaries from an extremely impoverished and largely Indian highland region seriously.⁸ After a while, however, this perspective became untenable. Gradually, Sendero started to employ stronger, brutally effective methods to achieve their political revolution, violent bloodshed became more evident, and massacres were committed.

From 1982 onwards, the Peruvian government proclaimed martial law in different districts, which meant that constitutional rights were suspended, and that the armed forces became highly autonomous in their operations. The military anti-insurgency campaign corresponded with the “dirty war” strategy promoted by the United States throughout Latin America.⁹ The war gave the army *carte blanche* in dealing with presumed insurgents in these parts, and massive violations of human rights soon followed. The suspicion that everybody who lived in these regions could be a subversive resulted in widespread violence against the Quechua-speaking population. Also, local self-defense committees that the army had formed in the countryside became increasingly involved in counterinsurgency tactics. These groups had been rather effective in expelling Sendero Luminoso, but they now also began to use excessive violence against neighbors and others, even those who were in no way responsible for the actions of the guerrilla movement.¹⁰ In 1984, segments of the Revolutionary Left in Peru founded another violent guerrilla movement: the Movimiento Revolucionario Tupac Amaru (MRTA).

On April 5 1992, President Alberto Fujimori, together with the armed forces, committed an *autogolpe* (self-coup), through which the congress, the judiciary, and the constitution were suspended, and much of the media became subject to state control. The main argument for resorting to this drastic initiative was that subversion should be tackled with greater efficiency and speed, and that the administration should be reconstructed. Certain civil rights were suspended, such as the constitutional right to a fair and transparent trial. “Faceless courts” had to judge those charged with high treason (i.e., membership of Sendero or MRTA). That same year, in September,

⁷ Stern, “Introduction” (1998a), p. 1.

⁸ Stern, “Introduction” (1998a), p. 2.

⁹ Stern, “Introduction” (1998a), p. 5; Coletta Youngers, “Verdad y la justicia,” at: <http://www.historizarelpasadovivo.cl/downloads/youngers.pdf> (accessed March 19, 2012).

¹⁰ On this see Fumerton, *From* (2002).

Abimael Guzmán (the leader of Sendero) was captured. His arrest diminished the movement's political leverage and rendered it more vulnerable. The action did not end the harsh approach by the intelligence agencies or the military dirty war tactics but instead reinforced the counterinsurgency strategies. In 2000, videos were released exposing Fujimori as corrupt and authoritarian and led to his downfall. The regime collapsed, after two decades of indiscriminate use of violence, massacres of civilians, disappearances, rape, torture, and a decade of authoritarian control over state institutions and systematic repression of efforts to raise awareness about human rights.¹¹

What Kind of Victims?

This intense violent turmoil caused by Sendero Luminoso, MRTA, state agents—marines, armed forces, and the local self-defense committees—claimed many victims during the first decade of the conflict. One of the most disturbing findings in the TRC report was the total number of fatalities resulting from the internal conflict. Prior to the publication of the commission's report, both government and human rights organizations had estimated that number to be 27,000. The commission concluded, however, that the real number of people who had disappeared (and were presumed dead) was at least 69,280.¹² Moreover, the TRC concluded that 79 percent of the victims of the political violence had lived in rural zones, and that Quechua or another indigenous language had been the mother tongue of 75 percent of the victims. The unawareness of the general public about the total number of deaths was explained in painfully clear terms in the TRC, by the observation that there was a significant relationship between poverty and social exclusion, on the one hand, and that people in these situations were very likely to fall victim to violence, on the other. Socioeconomic class differences, ethnic differences, and regional differences between the highland districts and the region around the capital all overlap considerably.¹³ The structural social inequality based on ethnicity, class, and gender that has dominated Pe-

¹¹ Stern, "Introduction" *Shining* (1998a), p. 4, and, "Introduction to Part V" (1998b), p. 378; Degregori, *Peru* (1994), pp. 90–92.

¹² For more information about how this calculation process, see: "How many Peruvians have died," at: http://shr.aaas.org/peru/aaas_peru_5.pdf. (accessed March 19, 2012).

¹³ Marisol de la Cadena argues that this structural inequality is based on "silent racism." Between the 1930s and the 1960s in Peru, the notions of "class" and "culture" replaced the concept of "race." Afterwards, from the 1960s to the 1980s, these notions were in turn discarded, and the state adopted economic definitions to classify its citizens. However, De la Cadena also states that, despite the replacement of the notion of "race" by notions unrelated to racial/ethnic backgrounds, hierarchical and exclusionary racial feelings continued to permeate social relationships and regulate social interactions. See De la Cadena, "Silent" (1998), p. 143.

ruvian society for most of its history was reflected in the victims of the political violence that plagued Peru during the last two decades of the twentieth century. Today, thirty percent of the Peruvian population lives below the poverty line, despite an average national economic growth of seven percent. Understanding the importance of these basic socioeconomic facts is indispensable for a proper study of the social and political phenomena in post-conflict Peru. Although a detailed exploration of this important subject exceeds the scope of this chapter, it is important that, as a result of the aforementioned differences, people from different regions or social strata have very different memories of the causes, intensity, duration, and effects of the internal conflict, as we will see below.

As is often the case with conflicts, the chaotic character of this kind of phenomena complicates an accurate casualty count. The Peruvian case is even more complex, because many of the inhabitants of the places where most of the violence occurred do not have identity papers or lack access to them. As many people are not registered, showing the disappearance of a person for whom no official records exist presents problems. Other evidence, such as dental records (which were used in similar cases after the dictatorship in Argentina), is unavailable, due to the socio-economic-regional background of the disappeared. Especially in rural areas, it was difficult to lodge complaints or even to know how to lodge an official complaint, since the authorities were far away. Institutions, information about regulations and procedures, and services hardly reach these communities. An additional factor complicating an accurate calculation, which will be discussed in much more detail below, is stigma. Coming from certain areas (known in this period as emergency zones) or having a family member who was picked up by the police or being captured by the police oneself was interpreted as an indication that such individuals were terrorists. These factors withheld people from telling their stories in public and thus complicated calculation of the number of victims. These circumstances merit consideration when discussing victimizations.

The socioeconomic and ethnic profile of those who survived the internal war is largely similar to that of those who perished. This is a result of the disparate levels of violence that occurred in different regions of Peru. The multidirectional violence yielded the following survivor categories. First, there are the relatives of kidnapped and disappeared persons. These include parents, wives, husbands, and children. Some have seen their family members being killed by Sendero or state agents and know that their relatives are dead. Others remain uninformed about the fates of their family members, because they never saw their relatives again after they were picked up by state agents. For the reasons mentioned above, it is difficult to come up an accurate number of this type of victim-survivors. Second, there are

the unjustly detained (i.e., people imprisoned without a fair trial). Some have been subjected to torture during their imprisonment. Because these judicial processes were not transparent, documents that might be used to calculate the exact number of unjustly detained persons are not available. Third, massive numbers of Peruvians were forced to leave their residences and to move to other places (known as internally displaced persons or IDPs). Again, however, the exact numbers of internally displaced in Peru are impossible to calculate.¹⁴ Since IDPs did not move to foreign countries, statistics on border-crossings are useless. Many moved from one place to another and may easily have been counted more than once, once again making an accurate number very difficult to provide. The figure quoted most frequently amounts to a total of 600,000 persons, of whom 54 percent has remained inside their original region, and the rest has moved to other districts.

Fourth, there are the victims of sexual violence. Again, the number of victims in this category and how many persons were raped during the conflict are very difficult to determine. Some of these people have trouble pressing charges against their rapists, because talking about their experiences is too painful for them, or people are afraid of being stigmatized. Moreover, since the majority of both the high-ranking military officers and the leaders of the subversive groups were not known by their own names but by nicknames in the areas where they operated, putting men who sexually violated women on trial is almost impossible, as women often do not know the names of those who violated them. Especially the state agents did not rape women on their own but did so in groups. As a consequence, no single individual can be charged as the main violator. These “factors” make for gaps in the data about this type of victimization. The TRC has provided a provisional estimate: 900 persons told the commissioners that they were subjected to sexual violence in the two decades of conflict.¹⁵

Emergence of Victim-survivors’ Associations

In the course of the civil war victim-survivors’ associations began to emerge. At the beginning of the 1980s, when the conflict had just begun, in Ayacucho relatives of disappeared and kidnapped persons, mainly Quechua-speaking illiterate women, began a joint search campaign in prisons, police offices and wastelands. Lucia, age 60, explains how she met others searching for relatives: “[A]fter walking around for six months, alone, lodging complaints and everything, I

¹⁴ Diez Hurtado, *Desplazados* (2004), p. 67.

¹⁵ TRC, Tomo X, at <http://www.cverdad.org.pe/> (accessed March 19, 2012).

met other mothers. I always saw them at the same places where I was. When Mama Angelica [founder of the association, MdW] saw me crying, she told me that we had to support each other and walk together, that we needed to hand in our complaints together.” During the search for their relatives they devised collective strategies to advance this process in an organized manner.¹⁶ As a result, in 1983 the association later called ANFASEP (National Association of Relatives of Kidnapped, Detained and Disappeared Persons of Peru) was founded. *Justicia y verdad* (justice and truth) about their missing loved ones were the key components of the demands made by this association. In addition to seeking their relatives and sharing information about judicial procedures and negligence on the part of the officials involved, they provided each other with emotional and moral support and shared their pain, while celebrating festivities as well. Soon, they needed a fixed venue to accommodate the increasing number of members attending their meetings—albeit with caution, since Ayacucho was one of the zones under martial law. This meant that they could not organize openly, because this was one of the implications of martial law. They started a soup kitchen to divide family responsibilities, so as to have more time to search for their relatives. This soup kitchen was also visited by orphans who had lost one or both of their parents as a result of the conflict, male ANFASEP members whose wives disappeared, and IDPs. Today, the soup kitchen no longer exists, but ANFASEP members still meet on the 15th and 30th of each month to discuss victimhood-related matters, and the board members see each other a couple of times a week.

Also at the beginning of the 1980s, the IDPs in Huancayo started to devise collective survival strategies in their new surroundings.¹⁷ They set up clandestine, temporary soup kitchens and overnight shelters for people in need. In 1984, they founded Jatary Ayllu, which was rendered into Spanish as *ponerse de pie y seguir adelante* (stand up and go). Together with the support of an NGO, they organized emergency assistance. Their additional activities included arranging information meetings about human rights, education, legal aid, and organized celebrations, such as Christmas and cultural festivals. In November 1988, the government proclaimed martial law in the province where Huancayo was situated as well, considerably changing the situation of the organization. As in Ayacucho, the organizers henceforth had to exercise caution. Furthermore, Sendero Luminoso considered any visible organization a form of collaboration with the state. This included the organizations of the displaced, which it began to infiltrate, seizing control, etcetera.¹⁸ In 1990, they assassinated

¹⁶ Guillerot and Magarrel, *Reparación* (2006), p. 96.

¹⁷ Tamagno, “Abriendo” (1998).

¹⁸ Stepputat and Nyberg Sørensen “Rise” (2001), p. 780.

an important leader of the organization.¹⁹ Today, the association as a whole is less integrated, but members still meet weekly in neighborhood subgroups. In the course of the 1990s, similar associations of IDPs and of relatives of disappeared people were founded in other parts of the country, and innocent detainees now began to organize as well. As mentioned above, already in the 1980s and still more during the government of Fujimori in the 1990s, many people were locked up without a transparent trial, as a result of the dirty war strategies. Those who were released when the conflict was still in progress formed associations as well, as a source of mutual psychological support.

In the period 2001 to 2003, new associations emerged. In the 1980s, there had been only three such associations (two of them are ANFASEP and Jatary Ayllu), whereas 24 were formed in the 1990s. During the transition to democracy, the number of these associations increased. Between 2000 and 2006, 91 associations were founded.²⁰ One such association is Reflexión (2001), of which Juan (who is quoted at the beginning of this chapter) is a member. Many of their members first met during their imprisonment and later ran into each other again at psychological workshops organized by an NGO. They decided to continue the meetings on their own. After a while, they obtained financial support to rent a small office. They extended the activities they organized here. Reflexión also started a soup kitchen, and their office became an overnight shelter for unjustly detained from other cities and accommodated workshops about human rights or legal issues related to the situations of unjustly detained or victim-survivors. The board members meet daily during office hours and convene weekly meetings with all their members.

By 2006, an impressive total of 118 different associations acted as representatives of victims. According to Guillerot and Magarrel, the implementation of institutional care for victims in general or those from a certain victim category is directly linked to the proliferation of such associations.²¹ In the 1990s the number of IDP associations increased as a result of a government program meant to assist IDPs seeking to return to their villages of origin. The program was not very successful in realizing this aim, since only 11 percent of the return-

¹⁹ Tamagno, "Abriendo" (1998), p. 182.

²⁰ See, Guillerot and Magarrel, *Reparación* (2006), p. 111; OXFAM, *Mapeo* (2002). The most recent survey of the number of victim-survivors' associations was published in 2006. A new one is planned. At present their number is estimated to be more than 240. See Anthony Bebbington, Martin Scurrah and Claudia Bielich, "Mapeo de los movimientos sociales en el Perú actual" (2008), p. 41, at: http://www.cepes.org.pe/apc-aa/archivos-aa/e19ae5c595bdc837daaf4cc13d916d7e/Informe_mapeo_movimientos_sociales_FINAL.pdf (accessed March 19, 2012).

²¹ Guillerot and Magarrel, *Reparación* (2006), p. 111.

ees went back with its support.²² Nonetheless, the program helped bring about an expansion of IDP associations. Another state initiative conducive to the growth of associations was the investigation by the TRC. Some 40 percent of the organizations that existed in 2006 were founded between 2001 and 2003.²³ The investigation affected the activities of the ones already present. The TRC relied on such associations in its investigations, as they supplied first-hand witnesses of incidents that had occurred in the civil war, and because their history more or less embodied the history of what had happened then. The work of the TRC inspired people to start new associations. The fact that victim-survivors were contacted by state officials (a highly unusual practice, because of the socio-economic differences in background between the majority of victim-survivors and the classical political elite) and were invited to talk openly about their experiences, which had been impossible during periods under martial law and under the authoritarian regime of Fujimori, was perceived as a window of opportunity to receive some acknowledgment for what happened to them during the conflict after all this time. In addition, by involving the victim-survivors in drafting recommendations for the country, the TRC generated new expectations, which may also have been conducive to the increase in new associations during this period.²⁴

Aside from the expectations generated by these institutional programs, however, programs implemented by another actor inspired people to mobilize. First, during the 1980s, (International) Non-Governmental Organizations—or, (I)NGOs—teamed up with churches to offer emergency support in periods when the violence was exceptionally high.²⁵ Second, over the years, several of these external institutions also began to set up workshops to strengthen the organizational structure and boost the effectiveness of these associations. And third, after 2003, many Peruvian (I)NGOs started to focus on promoting the implementation of the TRC’s recommendations. The “transitional justice” theme rose on the agenda of these (I)NGOs because of the transitions taking place in Peru at that time.²⁶ Present-

²² The majority of the people who returned on their own initiative and without any external support (89%) had, during the period of their displacement, lived in small cities and had maintained close relationships with people from their original domicile; see Diez Hurtado, *Desplazados* (2004), p. 36.

²³ Guillerot and Magarell, *Reparación* (2006), p. 111. At this time, no new official figures about victim-survivors’ associations are available.

²⁴ The TRC’s reparations study group, for example, had organized more than 40 workshops in which victim-survivors and their organizations participated. For a detailed description, see Laplante, “Indivisibility” (2007).

²⁵ In the case of the IDPs, for example, this could mean basic help to survive in new surroundings, and in case of the relatives of disappeared persons legal support.

²⁶ In the past three decades, since the collapse of dictatorial regimes in Latin America and the abolition of apartheid in South Africa, scholars, activists, and others have been involved in defining and researching transitional justice (i.e., how to

ly, (I)NGOs in Peru cooperate with victim-survivor associations to implement projects related to the transitional justice agenda and other development programs meant to support victim-survivors. In addition, they approach these associations to co-organize certain initiatives and to gain access to their members (as the TRC did) to facilitate contacts with their target groups. Victim-survivor associations in turn request financing from these external organizations for certain initiatives. At the time, it was not only Peru's transition to democracy that led (I)NGOs to focus on transitional justice and victim-survivors but also figured within a general trend that had begun in the previous decade and has been described by Oomen as a "judicialization of international relations" (i.e., an increased focus on human rights and legal institutions in international relations.²⁷ Development cooperation, including with respect to Peru because of the international donor relations, has been reformulated in legal terms (under the headings "human rights" and "legal and judicial") over the past years.²⁸ Little research thus far has addressed the nature of these relations between (I)NGOs and Peruvian victim-survivors' associations. According to a report by Oxfam, 90 percent of the victim-survivors' associations was directly founded by an (I)NGO or church or had received indispensable support from such external organizations.²⁹ Ties between victim-survivors' associations and (I)NGOs appear to be remarkably strong and to have led to an increase in these associations.³⁰

In analyzing the founding and increase of such associations at the beginning of the last decade, a very practical reason merits consideration as well. During the conflict, as noted, initiating collective activities definitely entailed some risk. As is often the case in conflicts, the development of such collective activities raised suspicion among both the state armed forces (because social activities were seen as an attempt to confront state agents with their negligence) and the guerrilla forces (as these groups did not tolerate activities other than those or-

deal with the legacies of human right violations, high levels of violence, and terror perpetrated by state institutions and/or by civil actors). The initial foundations for such a discourse were established after World War II by the prosecutors and judges at the Nuremberg and Tokyo trials. See Teitel, *Transitional* (2002); Minow, *Between* (1998); Hayner, *Unspeakable* (2002); Barkan, *Guilt* (2000). For empirical studies, see Fletcher and Weinstein, "Violence" (2002); Rombouts, *Victim* (2004); Theidon, *Entre* (2004). However, even though the term "transitional justice" is now widely used and is indeed frequently the focus of research, its theoretical foundations and consequences remain somewhat fragmented.

²⁷ Oomen, "Donor-Driven" (2005), p. 890.

²⁸ Oomen, "Donor-Driven" (2005), p. 890.

²⁹ OXFAM, *Mapeo* (2002), p. 30. Unfortunately, the authors of this report failed to specify this percentage or explain how they had measured the role of these external organizations, nor did they do so in the interview with me (January 2010).

³⁰ This does not apply or no longer applies to Churches; at least, I did not encounter strong participation by church organizations at meetings or public activities of victim-survivors' associations.

ganized by Sendero) and could therefore have dangerous consequences. The government reprimanded social organizations verbally by accusing them of supporting the guerrillas or endangered them physically by running in leaders of social organizations (some of whom disappeared). Sendero infiltrated social organizations to take over their activities and sometimes killed leaders of social organizations. In February 1992, for example, they shot María Elena Moyano and then dynamited her remains. She was a popular leader of a soup kitchens network and at the time deputy mayor of a Lima neighborhood.³¹ The ensuing wave of fear destroyed mutual solidarity and basic societal trust during the conflict and continues to affect social relations to this day.³² After the transition, organizing became less dangerous, now that Sendero had been “defeated,” Fujimori was gone, and a new transitional government was in place.

Today, people support each other in dozens of different victim-survivors’ associations. Due to the different kinds of victimizations, however, they are not a homogeneous group. The majority of associations focus on specific categories of victim-survivors, such as orphans, relatives of disappeared and kidnapped persons, internally displaced persons, innocent or unjustly detained individuals, and victims of terrorism. At present there is no association of rape victims. Victim-survivors refer to sexual violence as a type of human rights violation widely practiced during this conflict. No formal associations, however, operate on behalf of persons identifying themselves solely as rape victims. Nor are there groups in which the members openly referred to this violation as something that had happened to them or for which they sought acknowledgement. Victim-survivors’ associations differ with regard to several dimensions, including scope (e.g., local, regional, or national), frequency of meetings (twice weekly or monthly or only occasionally), content of the meetings (food supply, informative workshops, etc.), characteristics of members (education, gender), and meeting venue (e.g., private offices, public parks, offices of a development cooperation organization, etc.). Every so often, new national organizations claiming to represent different victim-survivor categories suddenly emerge and may just as quickly be disbanded.

The presence of this type of associations, in which people with similar backgrounds and needs join forces to support each other, figures within a much broader Peruvian trend of using cultural resources that arose at the end the 1970s. Due to the mass migration between the 1940s and 1970s, *pueblos jóvenes* (slums) arose in the outskirts of major cities. Most of the *pueblos jóvenes* were the product of organized land occupations (i.e., squatting). Economic policies

³¹ María Elena Moyano refused to cooperate with Sendero and later on openly criticized the guerrilla group by seeking publicity in the national press. Sendero killed her during a community barbecue.

³² Burt, *Political* (2007), p. 13; Theidon, *Entre* (2004), p. 154.

implemented at the end of the 1970s inspired Peruvians in urban areas to undertake collective action at the grassroots level.³³ They mainly demanded basic services from the government, such as water, electricity, public transport, access to health and educational facilities, etc.³⁴ The self-support group of the *comedores populares* or communal soup kitchens was founded with support from progressive sectors of the Catholic Church to attend to the dietary and nutritional needs of the poor.³⁵ Women cook in turns for themselves and other families in their communities to reduce the cost of food. Over time, these community kitchens started to assume other, more educational roles. While cooking, women shared information about how to solve certain problems, exactly as happened at the victim-survivors' associations described above. The kitchens were also approached by other organizations seeking target groups for their projects. The urban outskirts experienced the "emergence of a vast network of neighborhood associations, communal soup kitchens, women's clubs, and youth groups, many of which received technical training and financial assistance from progressive sectors of the Catholic Church and non-governmental development organizations,"³⁶ as well as new feminist women's groups and philanthropic organizations.³⁷ Thus, these self-support groups were set up through popular networks and received encouragement and active support from by external bodies.³⁸ This use of a cultural resource led to a new kind of participation by popular groups in social and political life, which sometimes led to fulfillment of their basic needs.

Problematic Features of Victimhood

Despite the large growth of victim-survivor associations and the support people find amongst each other, the implementation of victimhood-related policies and participation by these associations in political decisions on victim-related issues are not taken for granted. In contrast to other grassroots organizations in Peru, such as some of the grassroots organizations described in the previous section as being involved in designing or implementing local government projects, not all Peruvian authorities have been willing to implement victimhood-related policies and to include victim-survivor associations in designing and carrying out projects specifically intended to assist

³³ Padrón, *Organizaciones* (1988), p. 32.

³⁴ For more information about the organization of land invasions and self-support groups, see Ypeij, *Producing* (2000), pp. 29-33.

³⁵ Blondet, "Community" (2004), p. 113.

³⁶ Burt, "Decisive" (1998), p. 268.

³⁷ Blondet, "Community" (2004), p.p. 111-129, for detailed information about the background and functioning of *comedores populares*.

³⁸ Carroll, Humphreys, and Scurrah, "Grassroots" (1991), p. 100.

victim-survivors. One such example is the Peruvian reparations program for victims of the Peruvian conflict. The final recommendations of the 2003 TRC report paved the way for this reparations program, and in 2005, a law was adopted that established the program.³⁹ Although describing and analyzing the effects on victim-survivors of this promised but as yet unrealized mechanism would exceed the scope of this paper, none of the victims pertaining to one of the officially recognized victim categories has received any form of compensation thus far. Furthermore, victim-survivors' associations were not involved in political decisions following up on the 2005 law. In sum, the Peruvian government has not shown great zeal in implementing this program and did not work with victim-survivors' associations to put in place this transitional justice mechanism. Below I identify four problematic aspects in the representation of victimhood that explain the lack of a) interest on the part of the Peruvian government in implementing victimhood related-policies and b) participation by this kind of grassroots organization in society and politics. These aspects serve to explain the differences in successes between other, more successful grassroots organizations and victim-survivors' associations: 1) difficulties in defining the kinds of experiences determining whether the individual is to be labeled as a victim; 2) different interpretations of victims and perpetrators of Peru's recent violent past; 3) the role of external organizations in devising victim categories; 4) the negative connotation of the word victim. The first, second, and third aspects are external processes; the fourth one is mainly internally driven.

First, during violent political conflicts and civil or international wars, people become victims of human rights violations. Even though this proposition appears logical, a clear-cut definition of the qualities that determine whether a person is a victim-survivor is difficult to provide. Identifying trends in victim definitions is similarly impossible in this paper. Note, however, that even though since November 1985, the status of victims of gross violations has been officially recognized through the adoption of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power by the Assembly of the United Nations, major differences between member states remain regarding the legal definition of the kinds of experiences determining whether an individual may be labeled as a victim. In Peru, the TRC was the first to officially identify and define types of victims. In the following years, however, not all victimhood-related policy reviews, laws, and legal decrees referred to these victim definitions. Already before the 2005 victim law, for example, a special law

³⁹ Law number 28592, see, <http://www.idl.org.pe/educa/PIR/28592.pdf> (accessed March 19, 2012), and decree N° 015-2006-JUS, see, <http://destp.minedu.gob.pe/docum/DS015-2006-JUS.pdf> (accessed March 19, 2012).

for IDPs was adopted, requiring them to contact different government institutions from those serving than other types of victims for victim-related issues.⁴⁰ Another example is the reparations decree that was promulgated in June 2011, prioritizing a certain group within the categories: the elderly. This includes partners who are over 65 of people who have been killed or have “disappeared” in the course of the conflict; parents who are over 80 of people who have been killed or who have “disappeared” in the course of the conflict; victims of rape and torture who are over 65; and those who are over 65 and have become disabled as a result of the conflict. No mention was made here of the majority of the victim-survivors (i.e., those under 65 or, in the case of parents with a disappeared family member, those under 80). These examples of international and Peruvian definitions of victimhood show that legal-political decisions determine whether and when a type of victimization is counted as valid. The confusion caused at the political Peruvian level as a result of the inconsistent treatment of victimhood categories prevents common agreement on victimhood categories, the need to implement victimhood related-policies, and the involvement of victim-survivors’ representatives in this implementation.

The second complicating factor in the representation of victimhood is the reaction by other members of society to claims for recognition from victim-survivors. In present-day Peru general acceptance of such a status for individuals or for groups proves to be difficult. As mentioned, the TRC associated the probability of falling victim to this violence with the socio-economic backgrounds of individuals. Victims even occasionally suffer physical attacks,⁴¹ or their activities are criticized by journalists or prominent figures and are therefore ignored by the wider public.⁴² Gaining general acceptance of victimhood for both individuals and groups remains difficult, since the extent and the brutality of the violence to which people have been subjected vary greatly, both regionally and across different social strata.

⁴⁰ In May 2004 the Peruvian government adopted law No. 28223, recognizing the special status of internally displaced people and their specific problems. This law defines the rights of citizens with regard to protection from forced displacement and to assistance during displacement for a period of six months or more and during their return, resettlement, and integration. It also identifies the state as the part responsible for preventing displacement in general and particularly that of indigenous and Andean communities with special ties to their land. In other words, the law prescribes the role of the state in future situations, not their concrete responsibilities within the current situation.

⁴¹ This occurred, for example, during a commemoration on August 28, 2008, when victims and the memorial statue “*El Ojo Que Lloró*” were attacked with paint and brute force by Fujimoristas (supporters of ex-dictator Fujimori [1990-2000]).

⁴² The same happened with the TRC members. Certain journalists accused TRC members of being pro-terrorism; therefore, according to these journalists, the TRC report did not reflect what had really happened during the political violence. Stigmatizing TRC researchers instead of criticizing the content of the report seriously hampered further public discussions.

As a result of these differences, conflicting memories of the causes, intensity, duration, victims and perpetrators, and effects of the internal conflict have emerged among people from different regions and/or social strata and have given rise to a polemic.⁴³ According to the official discourse, the violence was committed by a “gang of terrorists” that represented a small group of people with violent ideas.⁴⁴ This interpretation acknowledges that some forms of violence can be attributed to the state (*ibid*). In order to combat terrorism, however, violence by state entities was authorized, with causalities inevitably resulting. Other groups in society, who embrace human rights principles, argue that the violence stemmed from structural divisions intrinsic to Peruvian society, and that as long as these structural problems are not addressed, people may resort to armed violence again. According to the first interpretation, Sendero Luminoso members are the culprits, and victims are people who were confronted with violence committed by Sendero Luminoso.⁴⁵ Therefore, this interpretation excludes all persons subjected to human rights violations committed by state agents. Nor does the second interpretation offer a fair definition of victimhood, since, according to this view, “the responsibility for the violence lies with Peruvian society.”⁴⁶ This extension greatly complicates deciding who is a victim, and who is not, or who may represent a victim’s needs, and who may not. The introduction of an officially recognized legal definition of victimhood in 2005 has thus not automatically led to general acceptance of the legitimacy of this status or of representative spaces where victim-survivors and their claims are being heard and accepted.⁴⁷ The lack of acceptance in society impedes the need to implement victimhood-related policies.

Due to conflicts in the perceptibility of the recent violence, (organized) victim-survivors face indifference and receive little social support and consideration. From time to time, however, they do receive social and financial assistance from external organizations—i.e., (I)NGOs. The third factor that influences the representation of who qualifies as a victim, and what their needs are is the role of (I)NGOs aiming to assist victim-survivors. (I)NGOs, like many other organizations, do not always work with the same target groups: they change their policies and perspectives and consequently the types of victim-survivors they serve or no longer serve. A clear example in Peru is the introduction of the IDP victim category. In April 1993 the Interna-

⁴³ See, Drinot, “For” (2009).

⁴⁴ Drinot, “For” (2009), p.25.

⁴⁵ Drinot, “For” (2009), p. 26.

⁴⁶ Drinot, “For” (2009).

⁴⁷ In contrast to e.g., Colombia, where, according to Garcia-Godos and Knut Lid, “Transitional” (2010), p. 514: “it is possible to argue that once introduced into the Colombian public sphere, the codification of this legal category and its related rights has opened up a space for the formulation of claims that today have gained widespread legitimacy, both morally and legally.”

tional Council of Voluntary Agencies (ICVA) visited Peru, and the displacement theme rose considerably on the public agenda as a result.⁴⁸ The visit from the ICVA also gave rise to an interpretation that conceptualized displacement in the jargon of international development studies. The main contribution was the introduction of the term *Desplazados Internos* (IDPs) to the Peruvian government, Peruvian society, and the IDPs.⁴⁹ A decade later, however, the (I)NGOs became progressively less interested in IDPs as a distinct category, because they were redefining their target groups and no longer earmarked their financial assistance for the displaced. Only a decade before, this category had been suggested as the qualification that would determine eligibility for financial support. But since the (I)NGOs were using the category “displaced persons” less and less, these people were now forced to show that the problems that IDPs faced differed fundamentally from the ones affecting other poor groups or victim-survivors. Thus, the previous victim category became less important. Changes in the importance of victim categories present an obstacle to obtaining recognition for programs designed for these groups.

Fourth, in addition to the more legal-political, societal and, external organizational characteristics that problematize representations of types of victimizations, a personal aspect influences this representation: the negative undertone of the term victim expressed in stigmatization and passive facets of victim-survivors. Garcia-Godos *et al.* have made the following observation: “Common to all victims is that they have experienced at least one form of human rights violation, yet their backgrounds and ways of dealing with their victimization may be completely different.”⁵⁰ Not all persons who have undergone a specific type of event will consider themselves victim-survivors; some will, others will not. Those who do not sometimes find this label stigmatizing, even though they have suffered horrible atrocities and would therefore be entirely justified in adopting this designation.⁵¹ In Peru, as is often the case in conflicts, individuals revealing that they had been victimized were often perceived as a threat by both the state armed forces and the guerrilla movement and therefore as somewhat dangerous. During and after the conflict they also tended to interpret

⁴⁸ The International Council of Voluntary Agencies (ICVA), founded in 1962, is a global network of human rights, humanitarian, and development NGOs that focuses its information exchange and advocacy efforts primarily on humanitarian affairs and refugee issues. ICVA attempts to influence policy and practice to reflect humanitarian principles and human rights through information exchange and advocacy. <http://www.icva.ch/cgi-bin/browse.pl?doc=about> (accessed April 27, 2012).

⁴⁹ Previously, these people had used different identifying designations, especially the phrase “*escapamos por la violencia*” (we escaped the violence), but since working with external organizations such as the (I)NGOs they started to use the concept of “*desplazados internos*” (internally displaced).

⁵⁰ Garcia-Godos and Knut Lid, “Transitional” (2010), p. 490.

⁵¹ Rombouts, “Importance” (2002), p. 228.

their victimhood as an indication that they were terrorists themselves. This implies that the status of victim is intrinsically stigmatizing. This stigma, in addition to other factors, has led to incorrect interpretations of their experiences and has prevented open discussions about what they have been through. In Peru displaced people are widely suspected of being terrorists, simply because they have fled regions where subversive groups were active. People who have been unjustly detained and relatives of persons who have “disappeared” may also be stigmatized because of suspected involvement in subversive activities—and for that reason deemed undeserving of a fair trial. This stigmatizing quality impedes serious discussions about victimhood.

Another negative undertone of the victim-category appears in my conversation with the vice president of the victim-survivor association of unjustly detained, in response to my question about the different concepts now in use in Peru with regard to victims:

MdW: For you, what is the difference between a victim and an affected person?

V.P: A victim is “a mourning-forever [in the sense of grieve or sorrow; mdw]” and an affected person is “a product-of-war.” We have outlived an experience that we did not want but it hit us nevertheless (*que nos tocó*).⁵²

By distinguishing a “permanent state of mourning” from a “product-of-war,” she clarifies that the first category refers to a type of person that after having experienced the horrors of civil war can only mourn, “*a llorar para siempre*” (weeping forever), while the other sort of individual is a product of war and did not choose to undergo any atrocity but had no other option. She clearly identifies herself as belonging to the second category, since she starts the sentence in which she defines this second category with “we.” This corresponds with an observation by Rombouts: “The word ‘victim’ implies a degree of negativity, passivity, personal powerlessness and paralysis.”⁵³ Or, as Jara *et al.* explain: “There is an identification with this position of being a victim, which (in turn) affects the agency capacity, while awaiting external support.”⁵⁴ The concept of victimhood has this negative connotation: members of victim-survivors’ associations are both victims and survivors and in this sense are bipolar or ambivalent. They have a passive role, namely that of victims, and an active role, namely that of organized survivors. This active role, however, is not widely accepted, since victim-survivors are seen mainly as powerless and passive, which hinders the associations aiming to be seen as representa-

⁵² Interview November, 2009.

⁵³ Rombouts, “Importance” (2002), p. 228. See also: Pearce, “Sustainable” (1997); Laplante and Theidon, “Truth” (2007); Viaene, “Life” (2010).

⁵⁴ Jara, Tejada, and Tovar, *Representaciones* (2007), p. 133.

tives of certain groups, with the ability and means to vocalize their claims. In political contexts, their needs therefore tend to be represented by other groups, such as human rights lawyers or (I)NGOs. In sum, recognition of horrible experiences through attribution of the victimhood label can be very important for victim-survivors at both individual and group levels. Still, as explained above, not all victim-survivors wish to be recognized as such. Besides these internal factors (i.e., among the victims or between groups of victims), this section shows that political, social, and organizational (i.e., external) factors also influence this recognition of victimhood status and the narratives used to present this status.

Conclusions

The overt violence of the Peruvian conflict exacerbated the structural violence of systemic racism over centuries. This conflict encompassed two decades of indiscriminate use of violence, massacres of civilians, disappearances, rape, and torture and one decade of control by the authoritarian regime over state institutions and systematic repression of human rights awareness activities. The TRC pointed out that poverty and social exclusion, on the one hand, was significantly related to the probability of falling victim to violence, on the other. Moreover, the structural violence is not reflected exclusively in the probability of falling victim, and people from different regions or social strata have very different memories of the causes, intensity, duration, and effects of the internal conflict. This strongly influences how the conflict and its victims are perceived. As a result of this violent civil war and the transition process that followed, hundreds of different associations of victim-survivors of violence were formed. This chapter has extended the understanding of the background of these associations and their lack of participation in social and political settings.

Despite the large number of victim-survivors' associations (especially in comparison with other countries), the long existence of some, the social support that members find amongst each other, the degree of collective survival strategies organized, and the fact that the associations are emerging within a wider Peruvian cultural resource use (in which people at the grassroots level join forces to collectively improve their lives, sometimes with political success), these victim-survivors' associations have little social and political influence on the treatment of victimhood-related issues. By describing these victims and victim-survivors' associations that this violent conflict caused and analyzing the problematic features in representations of victimhood, I have shown how the context in which victimhood is presented, determines the socio-political appearance and acceptance of such asso-

ciations. Inconsistent treatment of victimhood categories by the state and (I)NGOs, lack of acknowledgement in society of who are victim-survivors, and the stigmatizing and passive connotation of the term “victim” all seriously hinder a shared need for the implementation of victimhood-related policies and the involvement of victim-survivors’ representatives in this process.

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FORUM SHOPPING

THE DAILY PRACTICE OF LEGAL PLURALISM IN ECUADOR

MARC SIMON THOMAS

In the parish of Zumbahua in the Ecuadorian highlands, a case involving five indigenous persons suspected of homicide was initially adjudicated by the local indigenous authorities. Two weeks later, the individuals in question were also named as suspects in a criminal investigation conducted by the national courts. It is striking that the consensus position of the population regarding the two different legal systems appeared liable to changes. Initially, their position reflected support for customary law, although it later shifted in favor of national law, before switching back again in favor of local customs. As this murder case provides a good example of the daily practice of legal pluralism in the Andean highlands of Ecuador, it is used in this chapter as a case study to analyze how indigenous people resort to two different legal systems in cases involving internal conflicts, given the contemporary legal situation in Ecuador of formal legal pluralism in the absence of coordinating rules. It shows that indigenous people do not always blindly accept the course of justice under customary law, simply because it is their tradition.

Legal pluralism, in this chapter, is defined as “the presence in a social field of more than one legal order”;¹ in the Ecuadorian context

¹ Griffiths, *Legal* (1986), p. 1.

this means the existence of customary law alongside national law.² In accordance with Moore’s “semi-autonomous social fields,”³ legal pluralism is about the dialectical and mutually constitutive relationship between customary law and national law,⁴ taking into account that this relationship is not power-neutral. “Legal pluralism is [...] understood as a relation of dominance and of resistance.”⁵ Therefore, the application of customary law alongside national law may be considered a form of resistance—i.e., a strategy of indigenous people to use their “traditional” norms and practices to secure their autonomy against encroachment by the state.⁶ That is not to say, however, that they always prefer customary law to national law. On the contrary, indigenous people are very well aware of the option of resorting to national law, if such action is considered likely to yield a more favorable outcome. Therefore, this chapter argues that viewing customary law as a “counter-hegemonic strategy” alone does not adequately explain the heterogeneity observed in the legal choices ordinary indigenous people make. Choosing between different legal systems is called “forum shopping,”⁷ and it is this phenomenon that will be used to explore the use of law as a cultural resource.

Law, according to Geertz, “is part of a distinctive manner of imagining the real.”⁸ In other words, law (i.e., talking about law, thinking about law, and practicing law) is conceived as a structuring discourse that shapes how reality is experienced. Legal reasoning thus becomes important for people trying to make sense of their world.⁹ This is especially true in cases of disputes. How an initial grievance develops into a dyadic disagreement (two people having an argument) and ends in a triadic dispute (a third party is needed to settle things) largely depends on what people consider right or wrong, as set forth in law.¹⁰ What people conceive to be law, therefore, can be considered a cultural resource. They use law—understandably, perhaps—to in-

² In this chapter, customary law is understood as a set of unwritten, flexible, local, and obligatory norms and practices for a specific community or group of people. Customary law not only prescribes how people should act, it also describes what to do in case of dissent. Customary law therefore both governs and metes out punishments.

³ Moore, *Law* (1978).

⁴ Merry “Legal” (1988), p. 880.

⁵ Sieder, *Customary* (1997), p. 10.

⁶ The word tradition appears in quotation marks, because the indigenous norms and practices (or customary law) are not traditional in the sense of being static or authentic. Customary law is highly flexible, changeable, and develops in and by daily practice, and it is considerably shaped by its context. See: Collier, “Problemas” (1995); Merry, “Legal” (1988), p. 878; Sieder, *Customary* (1997), and, “Customary” (1998), pp. 105-106; Sieder and Sierra, “Indigenous” (2010); K. Von Benda-Beckmann, “Legal” (2001).

⁷ K. Von Benda-Beckmann, “Forum” (1981).

⁸ Geertz, *Local* (1983), p. 184.

⁹ Cowan *et al.*, “Rights” (2002), p. 10.

¹⁰ Felstiner *et al.*, “Emergence” (1980-81).

fluence the course of a dispute. This becomes especially intriguing in a legal pluralist setting, where indigenous people draw either on customary law, on national law, or on both. The aim of this article is to gain insight into how such a setting works in daily practice. Ecuador is, in this respect, an interesting case study. In addition to its large indigenous population,¹¹ the country has experienced real (*de facto*) legal pluralism for almost 500 years, although more recently a situation of formal (*de jure*) legal pluralism has arisen. In its Constitution of 1998, the country officially recognized customary law alongside national law. Since a system that synchronizes both forms of law is lacking, conflicts occasionally arise regarding jurisdiction. Basically, this means that because the “challenge of coordination” has not yet been solved,¹² indigenous people can choose to apply either customary or national law in cases involving internal conflicts; in other words, they can shop between forums.

This chapter is based on findings gathered during three distinct periods of legal-anthropological fieldwork in 2007, 2009, and 2010, including participant observation, interviews, and archival research. The fieldwork was mainly conducted in the parish of Zumbahua (Pujilí canton, Cotopaxi province), but some information was also gathered in the provincial capital Latacunga and in the national capital of Quito. The first section of the present study provides an historical overview of legal pluralism in Ecuador, illustrating how a situation of real legal pluralism came into being with the arrival of the Spanish colonists, and how, at the end of the twentieth century, formal legal pluralism took effect in the absence of any system of coordinating rules that would make these two legal systems compatible. The second section elaborates on the phenomenon of forum shopping, which is prominent in the Ecuadorian situation of legal pluralism. After these two fairly theoretical sections, the article shifts to a more empirical account. A case concerning a homicide will be elucidated in the following section, to explain possible effects of such forum shopping in the contemporary Ecuadorian situation of legal pluralism. The penultimate section discusses legal decision-making behavior by the indigenous people in the Ecuadorian highlands and demonstrates that this process is versatile and therefore often transcends rather simplistic ideas (e.g., that indigenous people resort to customary law, because it is “part of their culture,” or that they reject national law for purely procedural reasons). Instead, I argue in the concluding section that viewing customary law as a counter-

¹¹ Ecuador has a population of approximately 15 million people, of which one third (depending on who is doing the counting) is considered to be indigenous.

¹² Van Cott, “Legal Pluralism and Informal Community Justice Administration in Latin America,” conference paper, (2003), p. 37, at <http://www.nd.edu/~cmendoza1/datos/papers/vancott.pdf> (accessed April 19, 2012).

hegemonic strategy alone does not adequately explain the heterogeneity observed in decision making.

Legal Pluralism in Ecuador

When the Spanish colonized the territory now known as Ecuador, they implemented special legislation that introduced the concept of two separate *repúblicas* and then politically reorganized the peoples and the lands of their newly conquered territory. First, the Spanish introduced special legislation to bring about legal and administrative separation of the people who lived in the countryside (whom they called “*indios*”, regardless of their ethnic origin) from those who lived in cities and towns. Thus, two socio-political classes—following the social class structure of medieval Europe—were identified: the *república de españoles* (i.e., the Spanish and their descendants who lived in the towns) and the *república de indios* (i.e., those who lived in the countryside, whether of indigenous or Spanish origin). Next, the Spanish organized the existing dispersed settlements of the *república de indios* into *reducciones* (connected centers) to control the rural population and to secure a steady flow of taxes.¹³ In line with the strategy of indirect rule, these *reducciones* came under the control of local *curacas* (or *caciques*), members of the ancient, hereditary indigenous elite. In addition to their role in securing tax revenues, these *curacas* had judicial authority in certain matters,¹⁴ even though cases involving major offenses and penalties had to be handed over to the Spanish authorities. The recognition of customary law was limited to a sphere that did not contradict divine and human law, did not affect the official religion, and did not impact the colonial, economic, and political order.¹⁵ At the same time, the indigenous people could make use of formal legislation in cases of disputes or conflicts, just like anyone else. And so they did, as the occasion arose.¹⁶ Thus, even then, forum shopping between customary law and Spanish law was an option.

This colonial model of segregation was replaced by an assimilationist model from 1830 onward, when the nascent Republic of Ecuador aimed to formally abandon the “indigenous world.” The colonial division into two *repúblicas* was officially abolished, and a single, unified nation (meaning one people, one culture, and one normative

¹³ Korovkin, “Reinventing” (2001), p. 40.

¹⁴ Korovkin, “Reinventing” (2001), p. 44.

¹⁵ Ouweneel and Hoekstra, “Corporatief” (1993), p. 112; Yrigoyen, “Constitutional” (2000), p. 204.

¹⁶ Guerrero, “Curagas” (1989); Stern, *Peru* (1982).

system) began to be constructed.¹⁷ As soon as the first organizational laws were promulgated in Ecuador, the figure of the *teniente político* was introduced. As a consequence of the introduction of this new office, customary law became illegal. Basically, this appointed political officer was charged with two duties: one political (serving the state's interests) and the other judicial (the adjudication of minor offences in indigenous communities). As a political official, the *teniente político* "translated" national politics for a local audience and vice versa.¹⁸ As judicial authorities, these officials had to enforce national law, but in practice they did not always observe the letter of the law. Nor did they always determine legal matters within the community. In this context, many rural indigenous communities ended up following their own local norms and practices within their communities, where possible. The indigenous authorities succeeded in maintaining some degree of autonomy. Within these so-called semi-autonomous social fields, customary law therefore continued to be practiced. The situation of two *repúblicas*, with its memories of a "colonial contract" thus remained practically unchanged,¹⁹ and the situation of real legal pluralism prevailed.

From the beginning of the twentieth century, an integrationist model slowly gained ground. On haciendas, indigenous peasants were bound to systems of *concertaje* and *huasipungo*, whereby they agreed to work for the landlord in exchange for the use of small plots of land. The relation between a landlord and his workers at the beginning of the twentieth century has been characterized as an asymmetrical dependence, in which the owner (the *patrón*) took care of his workers, who expressed their gratitude for his care with their labor and loyalty. Such a situation is described by Guerrero,²⁰ although he also shows that while workers were usually dominated by the landlord, they at times resisted in various ways.²¹ One case of such resistance occurred at the Zumbahua hacienda, situated on the west-Andean ridge in the province of Cotopaxi. Becker describes conflicts between workers and the landlord of this hacienda that took place during the 1930s and 40s.²² These conflicts were essentially about working conditions and payment. The indigenous workers on the Zumbahuan hacienda managed to secure legal assistance from a socialist lawyer (who could be seen as an exponent of the *indigenista* movement) based in Quito. With his support, they finally succeeded

¹⁷ Assies *et al.* (eds.), *Challenge* (2000), p. 305; Yrigoyen, "Constitutional" (2000), pp. 206-207.

¹⁸ Baud, "Liberalism" (2007), p. 87.

¹⁹ Platt, *Estado* (1982), p. 40.

²⁰ Guerrero, *Semántica* (1991).

²¹ Guerrero, *Semántica* (1991), p. 353.

²² Becker, "Indigenous" (2007).

in having most of their demands met. They did so by resorting to national law.

The demands by this *indigenista* movement included legal land reforms as regards communal land tenure. The first such reform that was enacted was the Ley de Comunas of 1937, which extended legal recognition to indigenous communities. After the Ley de Comunas, two more influential laws—the land reforms of 1964 and 1973—were implemented. Among the purposes of these reforms were the standardization of local organization and the consequent transformation of rural indigenous people into Ecuadorian peasants. The 1964 land reform primarily promised civil rights by attempting to reorganize material and political power relations in the countryside. The 1973 land reform provided more social rights for the peasantry. The significance of the land reforms was profound, especially in the Andean highlands. Combined with the state’s continuing weak control over the countryside, the reforms created a space in which indigenous communities could secure more local autonomy to sustain and strengthen customary law.²³ Nevertheless, the integrationist model supported legal monism, thus limiting any official recognition of legal pluralism.

During the “long nineteenth century,” as well as throughout most of the twentieth century, the situation of real legal pluralism instituted by the Spanish remained unchanged. Recognition of this *de facto* autonomy of the rural indigenous population, along with that of their customary law, became one of the demands of the new indigenous movements that emerged in the second half of the twentieth century. The initial emphasis on socioeconomic issues shifted to ethnic-cultural claims or, in the words of Pallares,²⁴ “from peasant struggles to Indian resistance.” The indigenous struggle for equal rights began in earnest with the rise of the national indigenous movement CONAIE.²⁵ After years of protest, CONAIE entered national politics in 1996. Its involvement in politics eventually resulted in the promulgation of a new Constitution in 1998.

This new Constitution recognized indigenous authorities and their rights to apply their customary law in cases of internal conflicts. This recognition of legal pluralism, along with the ratification of ILO

²³ Lyons, “Religion” (2001), p. 24; Yashar, *Contesting* (2005), p. 95.

²⁴ Pallares, *From* (2002).

²⁵ The national indigenous movement CONAIE (Consejo de Coordinación de las Nacionalidades Indígenas de Ecuador—the Confederation of Indigenous Nationalities of Ecuador) was founded in 1986 but derives from significant regional federations: the ECUARUNARI (Ecuador Runacunapac Riccharimui, meaning “Indian Awakening” in Kichwa), the Confederación de los Pueblos de Nacionalidad Kichwa del Ecuador (Ecuadorian Kichwa Confederation), and the CONFENAIE (Confederación de Nacionalidades de la Amazonia Ecuatoriana—Confederation of Indigenous Nationalities of the Ecuadorian Amazon).

Convention 169 (which also occurred in 1998),²⁶ represents a radical change with respect to the former tradition of *de jure* legal monism combined with *de facto* legal pluralism. Despite the fact that this new constitution was passed several years after similar reforms in Bolivia (1994), Colombia (1991), and Peru (1993), it may rightly be said to have included more extensive reforms of customary law than the constitutions of most other Latin American countries.²⁷ Seemingly vindicating the notion of “the dialectics of progress,” however, this progressive legislation is enforced very inconsistently. In two recent cases (both in 2002), the Ecuadorian government failed to develop rules that would harmonize national law and customary law.²⁸

Ten years after the Constitution of 1998 was promulgated, it was replaced. The Constitution of 2008 (or “the Montecristi Constitution”) not only recognized Ecuador as an intercultural and plurinational country; it also ratified the rights the indigenous nationalities had been granted in 1998. Echoing the 1998 document, the Montecristi Constitution calls for mechanisms (e.g., additional law or jurisprudence) to be developed to harmonize customary law with national law. Such harmonization has not yet occurred—neither through the promulgation of new laws nor through jurisprudence. In light of these frustrations, the new Constitution of 2008 and two permissive provisions (which were developed under the current Correa government) could be seen as an improvement.²⁹ Once again, however, the significance of constitutional promises proved to be more or less symbolic, because president Correa recently showed that he is not in favor of extensive legal autonomy for indigenous authorities: on national television he proclaimed that customary law was subordinate to national law, and that in cases involving criminal acts (indigenous) perpetrators should be adjudicated by national courts.³⁰ The struggle regarding the extent to which indigenous authorities exercise jurisdiction thus appears ongoing.

The fundamental question here is how to reconcile two intrinsically different normative systems. The four most important challenges concerning such coordination are related to processes, norms,

²⁶ The ILO Convention 169 states that the rights of indigenous peoples (with the tell-tale final “s”) to land and natural resources are recognized as essential to their material and cultural survival. In addition, ILO 169 declares that indigenous peoples should be entitled to exercise control over their own institutions, within the framework of the states in which they live. It also requires states to respect customary law as long as the latter does not violate human rights.

²⁷ Andolina, “Sovereign” (2003), p. 724.

²⁸ Simon Thomas, *Legal* (2009), pp. 38-42.

²⁹ Código Orgánico de la Función Judicial and Ley de Garantías Jurisdiccionales y Control Constitucional.

³⁰ Simon Thomas, “Legal” (2012), p. 17.

sanctions, and authorities.³¹ In terms of processes, customary law includes a substantial oral component and is flexible and dynamic. By contrast, national (positive) law is written, consistent, and based on precedent. Customary law also relates differently to the concept of due process; for instance, it does not provide the possibility of legal representation to accused parties or the possibility of appeal. Second, both normative systems are based on distinct sets of cultural meanings and values. Some offences according to customary law, such as gossip or witchcraft, are not considered violations of national law. Customary law values the social collective (the harmony of the community) much more than national law does; national law instead emphasizes individual rights. Third, customary law is to a large extent governed by the principle of reconciliation and tends to award compensation and restitution to the victim, instead of meting out punishment to the offender. Rituals that use stinging nettles and cold water and whipping, for example, are thus not seen as punishment in customary law systems but rather as a means of “purifying” the offender, so as to make him fit to re-enter society. In any case, such procedures are at odds with most national and international legal systems.

The fourth issue concerns which authority is qualified to exercise jurisdiction, in what situation, and where. Depending on the circumstances, customary law may be applied by a wide range of bodies, from older family members and village elders to *cabildos* (village counsels) or tribunals. National law, on the contrary, is applied by courts (for example the Civil Court in Pujilí or the Criminal Court in Latacunga) and by public prosecutors. An intruder is the figure of the *teniente político*, who, though a state official, in daily practice applies customary law. Several additional questions concerning the qualification of authorities arise. Should indigenous jurisdiction be mandatory or optional? In other words, does the possibility of forum shopping exist? Furthermore, what should be done when a conflict involves both indigenous and non-indigenous subjects? And finally, should indigenous jurisdiction be defined geographically? Ecuador continues to struggle with the challenges involved in developing coordinating rules that would answer these questions.

The overall picture of 500 years of legal pluralism in both Ecuador in particular and in Latin America as a whole can be summarized as follows. Customary law was legally subordinated to Spanish and national law until the end of the twentieth century. Because of its flexible and dynamic character, customary law was able to survive over the course of five centuries. Building on the concept of semi-

³¹ García, “Retos” (2010); Van Cott, “Legal pluralism and Informal Community Justice Administration in Latin America,” conference paper, (2003), at <http://www.nd.edu/~cmendoz1/datos/papers/vancott.pdf> (accessed April 19, 2012).

autonomous social fields, legal anthropologists working in Latin America came to see customary law as the outcome of ongoing and often highly unequal struggles and negotiations in relation to overarching political and legal structures.³² This leads to the present-day perspective on legal pluralism as the simultaneous existence of more than one legal system in the same social field, which should be seen as a “plurality of continually evolving and interconnected processes in wider power relations.”³³ The principle still seems to apply in contemporary Ecuador, which, having formally recognized customary law, continues to lack harmonizing rules. Recent political statements by President Correa might suggest that a quick solution is still far away. And thus the national indigenous movement CONAIE and its regional branches are forced to continue their struggle.

Forum Shopping

Any situation of legal pluralism, whether it is one of real or formal pluralism, offers the possibility of forum shopping. The concept of forum shopping has been introduced in the anthropology of law by Keebet Von Benda-Beckmann as follows:³⁴ “I shall speak of ‘forum shopping’ [...] because disputants have a choice between different institutions and they base their choice on what they hope the outcome of the dispute will be, however vague or ill-founded their expectations may be.” Since her introduction of the concept in 1981, fairly uncritical references to it have appeared in dozens of anthropological studies of legal pluralism. On the one hand, this indicates that the concept is both simple and powerful and thus easy to use. When people can choose between different authorities or systems, they will shop for the most favorable one, as the common reasoning seems to be. On the other hand, the uncritical references could be seen as an indication of a certain lack of interest in the “how and why” of forum shopping.³⁵

Forum shopping refers to the choice one of the parties makes between two or more legal systems and their authorities that are empowered to consider the case at hand. This decision is based on the assumption that the authority chosen is likely to give the case the most favorable consideration. This choice-making behavior is not uncontested. Shahar shows that legal scholars, who study forum shopping as a symptom of conflicts of laws, tend to be especially critical of this phenomenon. These legal scholars look at it as “a disrupt-

³² Starr and Collier, “Historical” (1987), and, *History* (1989).

³³ Sieder, “Recognizing” (2002), pp. 185, 201 note 2.

³⁴ K. Von Benda-Beckmann, “Forum” (1981), p. 117.

³⁵ Shahar, “Forum” (forthcoming).

tive practice that corrupts the legal system, interferes with the ‘efficient’ implementation of a unitary rule of law, and constitutes a grave infringement of the principle of equality under the law.”³⁶ Similar “anti-forum shopping” legal sentiments can be recognized in Ecuador too, especially among legal practitioners criticizing the situation of formal legal pluralism.

Contrary to such a purely legal point of view, a legal anthropological point of view provides the tools to understand more profoundly what forum shopping actually does. It proves that forum shopping does not involve a strictly rational choice that takes place within a situation of different legal forums at the same level playing field. The decision-making process is often far more complex than just “a simple outcome of a rational deliberation of pros and cons.”³⁷ Legal anthropological research shows that forum-shopping practices are embedded in social, cultural, and political contexts and therefore encompass a broader scope than legal scholars’ rational choice assumptions.³⁸ As a matter of fact, Von Benda-Beckmann herself suggested more than thirty years ago that some “social control at the village level” influenced people’s decision-making behavior.³⁹ Additionally, further research on forum shopping reveals that there are related phenomena like “idiom shopping,” “discourse shopping,” and even “shopping forums.”

Idiom shopping, as explained by Spiertz,⁴⁰ basically refers to the strategy that people use when they frame some of their arguments in terms of customary law and others in terms of national law, depending on which authority is handling their case, and which vocabulary is thought to be appropriate and likely to be effective. Biezeveld, however, shows that not only legal arguments are used in that way, but that arguments based on history, politics, and power, are used in the same way too.⁴¹ She argues that people show “enormous creativity in the way they seek to employ these different kinds of discourse,”⁴² and consequently she introduces the concept of “discourse shopping,” as an analogy to forum shopping and idiom shopping. Additionally, when Von Benda-Beckmann introduced forum shopping into the anthropology of law, she simultaneously introduced the phenomenon of “shopping forums.” “Not only do parties shop,” she wrote, “but the forums involved use disputes for their own, mainly political ends too.” The institutions involved in her research expressed a tendency to “acquire and manipulate disputes from which

³⁶ Shahar, “Forum” (forthcoming).

³⁷ Shahar, “Forum” (forthcoming).

³⁸ Shahar, “Forum” (forthcoming).

³⁹ K. Von Benda-Beckmann, “Forum” (1981), p. 143.

⁴⁰ Spiertz, “Vreemde” (1986).

⁴¹ Biezeveld, “Discourse” (2004).

⁴² Biezeveld, “Discourse” (2004), p. 138.

they expect to gain political advantage, or to fend off disputes they fear will threaten their interests.”⁴³

The question arises of how to utilize the concept of forum shopping in the Ecuadorian context? While doing desk research on legal pluralism, one might initially get the impression that indigenous people nearly always prefer local authorities who apply customary law to national courts that apply national law. The impression conveyed by the scholarly literature on legal pluralism in Latin America in general provides insight into the reasons why indigenous people prefer to resort to customary law.⁴⁴ These reasons can be divided into two categories. The first may be termed “pro customary law,” which basically means that customary law is considered more efficient and legitimate (as well as cheaper and faster) than national law. The second category may be termed “contra national law” and has to do with—perceived difficulties related to—access to law. Both these authors and others,⁴⁵ however, also hint that there are exceptions to the rule. This second train of thought has received consideration from other scholars too.

In-depth research on forum shopping reveals that many factors influence people’s decision-making behavior. As Franz and Keebet Von Benda-Beckmann argue, “a complex set” of personal characteristics, self-interest, the particular features of the available systems or the authorities within those systems, the nature of the conflict, the relationship between the parties, and the interests of other parties concerned are relevant.⁴⁶ In addition, power relations and other factors involving social dependency deeply influence decisions. This means, for example, that indigenous people do not always resort to indigenous law, simply because it is part of their tradition.⁴⁷ Nor do they always reject national law for purely procedural reasons. This is not to say that such “pro customary law” and “contra national law” arguments are not being used; as a matter of fact, they are used quite often. The point, however, is that additional reasons underlie these frequently used, obvious reasons.

These findings are in line with a recent study by the Ecuadorian anthropologist Fernando García.⁴⁸ His data offer profound insight into indigenous people’s legal decision-making processes. García’s findings might initially suggest limited knowledge of national law, as expressed by indigenous people. His respondents, however, are keen-

⁴³ K. Von Benda-Beckmann, “Forum” (1981), p. 117.

⁴⁴ Assies, “Oficialización” (2001); García, “Estado” (2009); Sieder, *Customary* (1997); Yrigoyen, “Constitutional” (2000).

⁴⁵ Berk-Seligson, “Access” (2006); Chávez and García, *Derecho* (2004); García, *Formas* (2002).

⁴⁶ F. Von Benda-Beckmann and K. Von Benda-Beckmann, “Dynamics” (2006), p. 25.

⁴⁷ Spiertz, “Transformation” (1991).

⁴⁸ García, “Estado” (2009).

ly aware that in some cases they are simply unable to avoid recourse to state law. This suggests more knowledge than is apparent at first glance, at least on the part of some of the informants. Even more telling is that the respondents who do express knowledge of state law and are “contra” are opposed to its use because of how it is applied, rather than because of any principle objection to its content. In other words, they do not seriously object to the rules as such but are wary of state officials, who are supposed to be professional and impartial but are in fact (i.e., in the eyes of many indigenous persons) corrupt and biased.⁴⁹ Berk-Seligson even argues that many ordinary indigenous people prefer national law, but because of their limited access to it, they are forced to resort to customary law.⁵⁰ Even more striking in the study by García is the criticism expressed by many indigenous persons of their own traditional authorities.⁵¹ Some informants complained (in a manner similar to their perspective on national law enforcement officials) about the indigenous authorities and the enforcement of customary law, rather than about the rules of customary law as such. The most common criticisms were that the most of the authorities were older persons, that they placed too much emphasis on parties’ records, rather than on the facts of individual cases, that they were biased in some cases, and that they sometimes abused their power by imposing excessively harsh sentences.⁵²

To recapitulate the two previous theoretical sections, two general approaches to the use of customary law in a situation of legal pluralism are discernible. One school considers customary law and its use to be the outcome of an ongoing and often highly unequal struggle in relation to national law and national politics. The use of customary law, therefore, can be seen as a counter-hegemonic strategy. Then there is the concept of forum shopping, which, in the Ecuadorian situation, means that ordinary indigenous people can more or less freely choose between customary law and national law. Better yet, these people express a very discerning attitude towards local authorities and procedures as well as towards authorities and procedures in national law, which suggests reasonable legal awareness. What this means in daily practice is the subject of the following sections.

⁴⁹ Chávez and García, *Derecho* (2004), p. 31.

⁵⁰ Berk-Seligson “Judicial” (2008), p. 12.

⁵¹ García, “Estado” (2009).

⁵² See also: Berk-Seligson, “Access” (2006); García, *Formas* (2002), pp. 83-84.

Homicide in Zumbahua

At a party on May 9, 2010, a group of five youths got into an argument with a man who lived in the village of Zumbahua.⁵³ According to eyewitnesses, they did not start a fight at the party. But when the corpse of the man was found later that day in the park, the five youths were immediately identified as suspects. All five were from the neighboring community of Guantópolo and had a reputation among the locals as “troublemakers.” The next day, the five suspects were apprehended and handed over to the *cabildo* of La Cocha, another neighboring community. This is interesting, because the community of Guantópolo has a *cabildo* of its own. Those who captured the five young men, however, knew that at least one of them was related to a member of the *cabildo* of Guantópolo and therefore might receive preferential treatment in that community. A second reason not to hand the five suspects over to the *cabildo* of Guantópolo was that this *cabildo* had absolutely no experience with serious crimes such as homicide. Because of its exemplary conduct during the fairly similar La Cocha murder case of 2002,⁵⁴ the *cabildo* of La Cocha was considered to be the most trustworthy authority in the area.

After the five had been apprehended and handed over to the *cabildo* of La Cocha, the investigation of the case was launched. The investigation and the interrogations were concluded in less than two weeks. During this time, nobody except the *cabildo* and a few other select individuals knew where the five suspects were being held. As a result of the interrogations, the five suspects confessed that they had gotten into a fight with the deceased. None of them, however, admitted to having killed him. Nonetheless, according to the *cabildo*, the confessions all pointed at one suspect in particular, who seemed to have had the greatest degree of involvement in the fight. That is why the *Asamblea General* (i.e., several *cabildos* that collectively constituted a public court) tried four of the suspects two weeks after the fatal incident occurred and then tried the main suspect separately one week later. The elements of all five sentences were identical. Each of the five young men received the same public “punishment,” consisting of an obligation to apologize, a fine of US\$ 5,000, expulsion from the community for two years, mandatory submission to a purification ritual, and a whipping by members of the *cabildos* present. The purification ritual consisted of rubbing the skin of the five young men with stinging nettles and then dousing with cold water. This “ritual

⁵³ Zumbahua is both the name of a rural parish and the village that serves as its administrative and economic center.

⁵⁴ Simon Thomas, *Legal* (2009).

cleansing” took half an hour, as prescribed in the *acta* (the handwritten record of the indigenous legal proceedings).

During the days that followed, several short commentaries on this indigenous legal procedure were broadcast nationwide,⁵⁵ and the punishment received by the five young men instigated an outcry from many sources: on the part of elements of the media, “ordinary” Ecuadorians, jurists, and the government, all of whom condemned the punishment as “barbaric.” Some dissatisfaction with the procedure as a whole was even expressed in the parish of Zumbahua. Several people I interviewed about this case expressed their disapproval of what they saw as the physical brutality of the treatment. Some residents of Guantópolo in particular questioned whether all stages of the indigenous legal procedure had been conducted correctly. Their concerns with respect to due process were focused on the interrogation practices of the *cabildo* of La Cocha. It was considered strange that hardly anybody knew exactly where the five suspects were being held throughout the procedure, or how they were being treated. Residents were also angry about the force that had been used during the purification process and the whipping. It may have been this dissatisfaction that led the people of Guantópolo (among others) to convince the five young men to turn themselves in to the national authorities on May 27, 2010.

With this “surrender,” the criminal investigation by the *fiscal* (public prosecutor) and the prosecution according to national law as a whole shifted into high gear. The criminal investigation began with a preliminary inquiry regarding the role of the indigenous authorities during the indigenous trial. This resulted in the arrest of three members of the *cabildo* of La Cocha. With the assistance of two attorneys, these three were released within twenty-four hours, but the five young men had already been transferred from the jail in Latacunga to a prison in Quito. Rumor had it that the five young men and their supporters in Guantópolo were promised that the investigation would not take much longer than two months. Later, after the Criminal Court of Justice in Latacunga declared itself incompetent to exercise jurisdiction, as long as the Constitutional Court did not give its opinion on the relevance of the indigenous legal proceedings that had been conducted, it became evident that the case would drag on far longer, much to the consternation of the accused and their supporters. This forced the *cabildo* of Guantópolo to “collaborate” with the *cabildo* of La Cocha, as well as the regional indigenous organization MICC,⁵⁶ in seeking the release of the five young men. All parties appeared before the Constitutional Court on November 13, 2010, to

⁵⁵ On ECUAVISIA, see e.g., Teleamazonas, GAMA TV and on MICC TV.

⁵⁶ MICC (Movimiento Indígena y Campesino de Cotopaxi) is a provincial indigenous organization and as such is part of CONAIE.

submit a joint request for both the immediate release of the five men and suspension of legal proceedings against the three members of the *cabildo* of La Cocha. Despite the motions from four attorneys,⁵⁷ the Constitutional Court determined that it was insufficiently informed to issue a ruling. In December, 2010, the Constitutional Court therefore ordered that expert testimony be given on the use of customary law in this specific case; this expert testimony was supplied by the Colombian legal anthropologist Dr. Esther Sánchez Bothero in January 2011. The following month, the Constitutional Court decided to review the case once again.⁵⁸

Considering the Case

How could this case be conceptualized using the two approaches described above? The counter-hegemonic strategy clearly provides some useful clues. The reasons why customary law was preferred over national law were made clear by the *cabildo* of La Cocha, which considered the homicide an internal conflict, given that the pertinent events had all occurred in the indigenous parish of Zumbahua and involved only indigenous people. The *cabildo* therefore considered itself competent to try the case according to customary law and chose not to surrender the five suspects to the *teniente político* of Zumbahua or to the police. Following consultation with other *cabildos* and with the MICC, the *cabildo* of La Cocha decided to observe meticulously all steps of an indigenous legal procedure and to mete out an “authentic” style of punishment. That this was done partly in the local language Kichwa and partly in Spanish can be seen as an example of idiom shopping. The *cabildo* explicitly emphasized the “good example” provided by indigenous authorities in the 2002 La Cocha murder case. Everybody present (over 3,000 people attended the public proceedings) agreed on the norms, process, and sanctions, which aimed at reconciliation, compensation, and restitution. These “authentic cultural” elements were also emphasized by the four attorneys during the hearing that followed at the Constitutional Court. As such, these indigenous legal proceedings can be seen as “pro culture,” even though some “contra national law” elements can be detected as well. The *Asamblea General* believed that a lengthy and expensive procedure would not be appropriate, and that a prison sentence of 16 years (the maximum term of imprisonment according to the Criminal Code) would be excessive.

⁵⁷ One attorney represented the family of the victim. Another attorney acted on behalf of the MICC and therefore the “official” indigenous point of view on customary law. The third one represented the *cabildo* of the community of La Cocha, and the fourth spoke for the five accused.

⁵⁸ Decision by the Constitutional Court on February 3, 2011, in Case 0006-11-CN.

In addition, the presence of the MICC during the indigenous legal proceedings, and the assistance provided by this organization during the subsequent trial in the national court suggest a possible hidden agenda on the part of the indigenous movement. It is common knowledge that CONAIE and its political branch Pachakutik have an understanding that is fundamentally different from that of the Correa administration regarding the jurisdictional scope of the indigenous authorities, as granted by the Montecristi Constitution. Both organizations are disappointed that no coordinating legislation or jurisprudence has been developed yet. The project to draft such legislation, which was initiated by Pachakutik assemblywoman Lourdes Tibán, should be seen in this light.⁵⁹ Given all these factors, the trial of the five young men provided the indigenous movement with a perfect test case to pressure the judiciary and the Correa administration, with the Constitutional Court serving as an important platform to pursue this agenda. That is why, during the hearing on November 13, 2010, the four attorneys also emphatically referred to ILO Convention 169, to article 171 of the Montecristi Constitution, and to the absence of coordinating rules. As such, the La Cocha-Guantópolo murder trial and its continuation at the Constitutional Court can be seen as a strategy against inaction on the part of politics and the judiciary. As I have suggested above, however, this strategy is deployed by indigenous authorities and the indigenous movement, rather than by indigenous *individuals*. The analysis according to the counter-hegemonic strategy approach therefore does not sufficiently explain how *individuals* involved in this murder case made their choices. It remains unclear, for example, why some disagreed to a certain extent with the *cabildo*, or why the five accused voluntarily turned themselves in to the national authorities. An interpretation that employs the concept of forum shopping sheds light on the legal decision-making behavior of the indigenous individuals involved in the La Cocha-Guantópolo murder case by revealing how the people involved in that case used the law.

When the five suspects were apprehended and handed over to the *cabildo* of La Cocha, their captors believed that this was the wisest option. They expected this *cabildo*—because of its exemplary conduct in a comparable case in the past (i.e., the La Cocha murder case of 2002)—to be the most experienced one in the area.⁶⁰ They also saw the *cabildo* of Guantópolo as biased. Finally, those who delivered the suspects to the *cabildo* of La Cocha obviously did not consider national law to be an option. The family of the victim, another party in

⁵⁹ Proyecto Ley Orgánica de Coordinación y Cooperación entre la Jurisdicción Indígena y la Jurisdicción Ordinaria, Oficio No. AN-LTG-0043-10 (el 2 de febrero de 2010).

⁶⁰ Simon Thomas, *Legal* (2009).

this process, specifically wanted the accused to be judged according to customary law instead of national law. Even the people of Guantópolo (despite questions the investigation and interrogation practices on the part of some) did not turn against the La Cocha authorities. The presence of the *cabildo* of Guantópolo and several other inhabitants of that community at the public legal proceedings proves that they too thought that this was the best option at the time. Eventually, however, they disapproved of what they saw as excessive punishment.⁶¹ This insight made them question the previous decision not to let the *cabildo* of Guantópolo handle the case. Disagreements or even rivalries within and between indigenous communities are not uncommon in the Ecuadorian Andes, and questioning the correctness of the application of customary law can be seen as a way of challenging inequitable power relations.⁶²

Thus, some reconsidered their initial opposition to the use of customary law. Eventually, the five accused young men decided to turn themselves in to the national authorities. When the Criminal Court of Justice in Latacunga decided to withhold a ruling on the case, pending the decision of the Constitutional Court, however, the faith of the accused in the national legal system was shaken. As a consequence, the *cabildo* of Guantópolo saw no other option than to join the *cabildo* of La Cocha (despite the previous quarrel over jurisdiction) and MICC in requesting that the five young men be released immediately, and that the charges against three members of the La Cocha *cabildo* be dropped. The analysis of individual choices here shows that the people involved in the La Cocha-Guantópolo murder case have a broad sense of what law is. Like their ancestors, they switch easily between customary law and national law. They are able to act within both normative systems. While from a national perspective, the use of customary law may be seen as challenging the dominance of national law, on a local level the use of national law by the people of Guantópolo may be perceived as a weapon deployed in their rivalry with the *cabildo* of La Cocha.

Although murder cases are rare in the parish of Zumbahua, the elements that may be inferred from the La Cocha-Guantópolo case indicating how people shop between forums should not be seen in isolation. Based on the empirical data gathered during my research so far, it can be argued that the pro-contra dichotomy remains far too simplistic to reflect accurately the daily reality of legal decision-making behavior. The archives of both the Civil Court in Pujilí and the Criminal Court in Latacunga reveal that indigenous people have voluntarily participated in several “national law cases.” In matters in-

⁶¹ See Simon Thomas, “Legal” (2012) for a more extensive elaboration on this disapproval.

⁶² Colloredo-Mansfeld, *Fighting* (2009); Sieder and Sierra, “Indigenous” (2010).

volving civil law (divorces, alimony, custody of children, etc.), such a choice might be explained by people needing to obtain essential documentation. Indigenous people are very well aware that in some cases they simply cannot avoid recourse to state law. Yet even in some criminal cases indigenous people may resort to national law instead of customary law. This suggests that in such cases they have few objections to the rules as such. In other words, they are not always “contra national law.” As such, the La Cocha-Guantópolo case and others I came across during my research reveal that the indigenous are not always “pro customary law” either.

Conclusion

Two distinctive approaches to interpreting the use of customary law in a situation of legal pluralism emerge in this study. The historical overview of almost 500 years of *de facto* legal pluralism showed that customary law was subordinate to Spanish and national law until the end of the twentieth century. In daily practice, however, customary law remained in use. That outline suggests that customary law was used as a form of resistance. At least, this is the common scholarly explanation for the survival of customary law over the course of five centuries. Instead of being helpless victims, rural indigenous people proved, as several authors have demonstrated, capable of preserving the boundaries of their semi-autonomous social settings. The use of customary law is thus considered to be a counter-hegemonic strategy.

This may be true of indigenous authorities and the indigenous movement, but in this article I argue that individuals are subtler in their speech and actions. This is especially the case in the contemporary Ecuadorian legal situation of *de jure* legal pluralism, where rules that would define the personal, territorial, and material spheres of both forms of law are absent. As the analysis of a homicide case in Zumbahua reveals, indigenous authorities, the indigenous national movement CONAIE, and one of its regional branches still use customary law in a counter-hegemonic manner. Because the indigenous authorities are disappointed that no coordinating rules have been developed, it was suggested that this case served as a test-case to pressure politicians and the judiciary. On the other hand, the individuals involved in the homicide case acted quite differently. Like their ancestors, they switched easily between customary law and national law. In other words, they shopped between forums. Additionally, it was shown that such a legal decision-making process transcends a simplistic “pro-customary law” and “contra-national law” dichotomy. Empirical data show that ordinary indigenous people are sufficiently knowledgeable to be critical of both legal systems, and that they know very well how to make use of the situation of legal pluralism in the

absence of coordinating rules. Rather than using customary law as a form of resistance, they appear to navigate tactically between customary law and national law to settle internal conflicts.

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US AND THEM

RESEARCHING DEEP ROOTS OF ANDEAN CULTURE

ARIJ OUWENEEL

Pars pro toto: a part taken for the whole. I have always liked the idea of discussing a research project based on one case only. Even a few short images on YouTube can tell all. October 7, 2007: a surveillance camera inside the S-8 suburban line from Barcelona to Martorell captured scenes of an apparently unprovoked attack. The footage indicates that the time was 11:45 PM. A fifteen-year old Ecuadoran immigrant sits alone to the left in a train compartment, ostensibly reading and sending text messages from a cell phone. Nobody is sitting next to her or across from her. At the station Sant Boi de Llobregat, twenty-two year old Sergi Xavier Martin Martínez (hereafter: S.X.M.) enters the train compartment. He is talking on his cell phone, rather loudly in fact, and takes a seat in the right section of the compartment. Witnesses testified that he said things like: “I killed the Moor. I cut his jugular. I left the woman unharmed. I have friends who can do something as well. I do not know why these filthy migrants come here.” He is wearing blue jeans and a pink-red sweater and must be proud of his meticulously tended crew cut. A young man on a nearby seat watches him.¹

¹ Later on, this young man turned out to be an immigrant from Argentina, anonymously called “P” in the verdict (later identified as Jesús Prieto, age 23). After some time, he provided a press release, asking the television (which had offered him up to € 3,000 for a public statement) and newspapers to leave him in peace. He affirmed that he was aware of his passive behavior during the attack, but he had been deeply terrified. His main action consisted of advising the girl to alert

Of course, S.X.M. notices the Ecuadoran girl. In the trial, her identity is concealed as a protected witness. “Here is another such filthy migrant,” S.X.M. was heard saying, and: “I feel like...” Seemingly agitated, S.X.M. stands up and appears to walk on to the next compartment but suddenly begins harassing the girl. He insults her. The girl tries to repel him with one arm. He grabs one of her breasts. Again, the girl tries to ward him off and responds to her attacker verbally as well. She bends forward to protect herself. S.X.M. seems to walk on. But the moment the situation seems safe again for the girl, he rapidly returns and kicks her violently in the face. Next he punches her, insults her, and slaps her in the face again. He shouts: “Death to all migrants.” At the next stop, Colonia Güell, some seven minutes after he had entered, S.X.M. leaves the train. Outside, he strikes the window next to the girl, shouting: “Filthy migrant, whore, go back to your country!” Immediately, the girl jumps to her feet and walks away from the window. She calls the emergency number.²

To the press and, later, in court, the perpetrator stated that he had no recollection of this act at all and was shocked by the video. He said that he had been drunk and high on XTC and begged the girl’s forgiveness. The girl and the other young man present at the time refuted his defense. They did not remember smelling alcohol, nor had they noticed any signs that he was drunk or under the influence of drugs. The video confirmed their statement. S.X.M. was ultimately convicted of xenophobia (a “*delito contra la integridad moral*,” an offence against moral integrity or moral security) which carries an eight-month prison sentence. In addition, S.X.M. is subject to a restraining order requiring him to remain at a distance of at least a kilometer from the girl for three years and was fined € 6,360. Meanwhile, the girl had changed schools and transformed her lifestyle. For the time being, she no longer rode trains alone, especially not at night.

The Colonial Contract

This chapter is tentative in nature, even speculative, and far from conclusive. Unlike my co-authors in this *Cuaderno*, I have not conducted fieldwork and cannot base conclusions upon interviews or

the police. He also pointed at the camera, indicating that there must be evidence; the YouTube footage shows no sign of such action, however. He had left Argentina eighteen months earlier with his girlfriend in the hope of living amid greater tolerance in Spain—an ideal that now proved futile. See: “Las teles ofrecen € 3.000 al testigo de la agresión racista por contar su experiencia,” at: <http://blogs.periodistadigital.com/24por7.php?cat=100> (accessed February, 2012, or: 02/12).

² For the image, for example: <http://www.youtube.com/watch?v=UcIsvoBHR0andfeature=related> (02/12). For the verdict in this case, see: Juzgado de lo Penal número 16 de Barcelona, PA 672/08, Sentencia 111/09, March 16, 2009.

other qualitative data from the actual research sites. If anything, this chapter is desktop research. I read the *sentencias* (sentences of the court) and the relevant newspaper articles, and I watched YouTube footage and read research reports and other publications by Spanish investigators. The result was articulated to published work I found in the library and personal experiences in the field in Peru and Colombia. My work was guided by one question: how can the preceding contributions help us understand the girl's reaction? After all, she did call the authorities, and the case was tried in court and led to a conviction.

Nevertheless, despite its speculative nature, this chapter can be read as another example of the ecological approach, which concentrates on the direct interactions between a population and its environment or habitat; in this case, the use of cultural resources as limited to groups or networks of people, certain spaces, and specific places. It is as if people arriving from outside can simply “plug in” to share the use of these cultural resources consciously, if they wish, or unconsciously, mimicking habits, internalizing norms and values and adopting mental schemas. This might indeed be true, as the ecological approach is above all an implicit contract between groups of people, regardless of the soil beneath their feet. Submission to local cultures (including all global or universal characteristics these might possess) is strong for one migrant but starts to diminish with two, when they decide to live together. Between them, in daily life, they would behave and speak as if they were “back home,” still using many cultural resources from their place of origin. In Cusco, for example, I met a recent migrant couple who spoke Quechua in their home but Spanish outside. In the kitchen, guinea pigs roamed freely (ready to be cooked), and the entire design and layout of their dwelling was as it had been in their town of origin. Everyone in contact with internal migrants in Latin America or international migrants elsewhere in the world can undoubtedly relate many more such examples.

The use of cultural resources from “home” thus increases with the concentration of migrants. This is the case in Spain, where thousands of Latin Americans settled in the first decade of the present century. Many come from the Andes, especially from Ecuador. They found work as domestic servants and in the construction industry. This must have been *déjà vu*, because the formerly colonized (the majority of Andeans still have deep Amerindian roots) went to serve their colonizer yet again. Conditions in Spain are difficult. Once again, the Andeans experienced the exploitation of low wages and long working hours; they also suffered the discrimination of being treated as “alien” and “less.” At the same time, once again, many exploited and discriminated adult migrants have sued for their rights in court—and won. Others, the youth, also using ancient cultural re-

sources, rebelled and, triggered by riots, started fighting back in organized gangs. Although this sounds like a modern, global response, I found enough characteristics in their actions to stipulate that the Andeans in Spain have remained above all Andeans.

Echoes of the colonial ordering reverberate. During the three centuries of colonial submission, the colonized had the status of *indios* as members of the Amerindian Order or *república de indios*. Spaniards, mestizos, and other “non-*indios*” were administratively and legally embedded in the *república de españoles*. This was not a static arrangement. In many cases, the population adopted different customs and, above all, “amerindianized” modern customs, values, and norms. They continue to do so to this day. The majority of the former *pueblos de indios* are now integrated in the mestizo population of the continent, even though this “other part” of the former *indios* shares the same history as the population referred to as “*indígenas*.” During the colonial era, other communities were formed on large estates (like haciendas) run by Spaniards or on previously deserted or sparsely inhabited lands. Although all lack “original” or “indigenous” roots, most of these hacienda residents were called *indios* as well. If they paid a *tributo* (head tax), they shared the same legal status as other members of the *república de indios*.³

The British anthropologist Tristan Platt has described the relationship between the *repúblicas* as a *pacto de reciprocidad* or social contract: recognition of traditional rights on lands in exchange for the obligation to pay *tributo* and the recognition of the sovereignty of the Spanish Crown.⁴ This hypothesis is tinged with liberal equality embedded in Social Contract Theory or SCT, known for example from Socrates (470BC–399BC), Thomas Hobbes (1588-1679), John Locke (1632-1704), Jean-Jacques Rousseau (1712-78), and John Rawls (1921-2002). Put simply, SCT stipulates that a society is formed by people who gave up several individual liberties to benefit from the social. The Spanish translation—meaning “reciprocity pact”—somehow captures this best: “If you leave me in peace, I won’t bother you either.” In our Dutch world it actually sounds tolerant: “If you let me pray to God my way, I’ll leave you to practice your customs.” At the time, progressive European thinkers admired the Seventeenth-century Dutch Republic for this. The question of course is whether

³ On “amerindianization,” see Ouweneel, *Flight* (2005), pp. 109-129. Also: Mills, *Racial* (1987). More on the *repúblicas*, see: Ouweneel, *Shadows* (1996), *Ciclos* (1998), *Psychology* (2002), and the note “Snapshots of the *República de Indios*,” published as an appendix in Kevin Gosner and Arij Ouweneel (eds.), *Indigenous Revolts in Chiapas and the Andean Highlands*, Amsterdam: CEDLA LAS 77, 1996, pp. 259-262, available on-line at: http://www.cedla.uva.nl/50_publications/pdf/OnlineArchive/77IndigenousRevolts/pp-259-282-Appendix&Bibliography.pdf.

⁴ Platt, *Estado* (1982), p. 40.

this idea of free choice camouflages other or even more fundamental arrangements.

Political philosopher Charles Mills says it did:

White supremacy is the unnamed political system that has made the modern world what it is today. You will not find this term in introductory, or even advanced, texts in political theory. A standard undergraduate philosophy course will start off with Plato and Aristotle, perhaps say something about Augustine, Aquinas, and Machiavelli, move on to Hobbes, Locke, Mill, and Marx, and then wind up with Rawls and Nozick. It will introduce you to notions of aristocracy, democracy, absolutism, liberalism, representative government, socialism, welfare capitalism, and libertarianism. But though it covers more than two thousand years of Western political thought and runs the ostensible gamut of political systems, there will be no mention of the basic political system that has shaped the world for the past several hundred years. And this omission is not accidental. Rather, it reflects the fact that standard textbooks and courses have for the most part been written and designed by whites, who take their racial privilege so much for granted that they do not even see it as political, as a form of domination.⁵

In short, the basic foundation of SCT is wrong: “If we think of human beings as starting off in a ‘state of nature,’ it suggests that they then decide to establish civil society and a government. What we have, then, is a theory that founds government on the popular consent of individuals taken as equals.” In colonial constructions, this is not the case. Mills read the conditions of SCT differently and saw a contract, “though based on the social contract tradition that has been central to Western political theory, [which] is not a contract between everybody (‘we the people’), but between just the people who count, the people who really are people (‘we the white people’).” He recommends understanding SCT as being anchored in Racial Contract Theory or RCT. According to Mills, RCT stipulates that from the sixteenth century onwards, the colonizers have determined the parameters of social contracts worldwide. In his “Overview” chapter, Mills discusses RCT as being “political, moral and epistemological,” as “a historical actuality,” and as “an exploitation contract that creates global European economic domination and national White racial privilege.” Because of its similarities with PostColonial Theory, or PCT, the living legacy of colonialism and imperialism as theorized by, among others, Frantz Fanon (1925-61), Edward Said (1935-2003), Gayatri Chakravorty Spivak (*Critique of Postcolonial Reason* [1999]), or Dipesh Chakrabarty (*Provincializing Europe* [2000]), it seems appropriate to speak of a Colonial Contract, or CC. According to PCT, the effects of colonialism are enduring and permanent, despite massive resistance and adaptation. The colonial *repúblicas* and its con-

⁵ Mills, *Racial* (1987), p. 1.

temporary legacy can be theorized through PcT and Mills' RCT as Colonial Contract Theory.⁶

One problem is how to address the Ecuadorians and Peruvians in Spain. Scholars dealing with their family in the Andes continue to refer to them in CC terms as "Indians," "Amerindians," *indígenas*, or indigenous people. All chapters in this *Cuaderno* struggle with this rather confusing CC terminology. Of course, PcT stipulates that despite their urban focus, in most of the previous chapters the "ethnic" question, once called the "Indian Problem" (*el problema indígena*), remains part of the argument. In a sense, the late Andre Gunder Frank (1929-2005) laid the foundations for the contemporary version of the PcT-CC with an essay originally drafted as a report to the United Nations Economic Commission for Latin America (ECLA) in the early 1960s. "On the 'Indian Problem' in Latin America" still reads as a remarkably current argument, despite a series of dated facts. In this essay, Frank demonstrates that the "indigenous" populations of Latin America find themselves fully integrated in the capitalist structure of the continent, "albeit as super-exploited victims." Their "supposed backwardness" is a characteristic feature of capitalism in Latin America, he says. Therefore, Frank believes that the "all-too-common policy of trying to 'integrate' the Latin American Indians into national life" is inevitably "senseless and condemned to failure." Mills would eagerly agree. To establish a more egalitarian-based social contract, according to Frank, the enduring CC itself must be uprooted. This means not only political, social, and economic decolonization but also cultural, epistemological, and ontological.⁷

In theory, decolonization should also be conceptual. This is still problematic. As part of the colonial legacy, the descendants of the population that was once indigenous to Latin America is still popularly called *indígena* ("indigenous"). From a socio-cultural and historical perspective, this term is a misnomer, of course, because after more than five centuries, contemporary peoples can no longer be directly linked to an "indigenous" genealogy. One problem is that, as is typical of the colonial legacy (CCT), continued implicit use of terms like "indigenous" and "Indian" risks pushing the people back into the past: the "indigenous" is traditional, not modern. If we wish recognize their identity as a colonized population—acknowledging both their exploitation by the colonizers and their success in resisting encroachment and coercion—it would be more accurate to speak of "Amerindians" than of "indigenous." This could include mestizo communities. The word "*indígena*" is often used as a kind of self-chosen positive sobriquet or honorary designation for the contempo-

⁶ Mills, *Racial* (1987), quotes from p. 3, for an overview pp. 9-40.

⁷ Frank, "Indian" (1967), pp. 121-142, quotes from the "Preface," p. xii.

rary politics of emancipation, as is the term “*originarios*” (“originals”).

The second problem is more fundamental. Because the Colonial Contract is based on the Racial Contract, the terminology sets the colonizers apart as white and the colonized as non-white. This terminology is confirmed every time a specific term synonymous with “non-white colonized” is used. The word “indigenous”/ “*indígena*” comes from this source. Decolonization here starts with abandoning such terminology and replacing it, for example, with geographic terms (e.g., “Andino”). In the explicit world of official institutions, however, the terminology is the living proof of the enduring constitution of the Colonial Contract. In fact, in several countries, the concept of “*indígena*” has received constitutional recognition, transforming the term into an official category not unlike the term “*indio*” during the colonial period. In countries like Ecuador, Peru, Colombia, Guatemala, and Peru, the “*indígena*” is therefore back on track toward becoming an artificial person in private and public law.⁸ Seen from the postcolonial perspective, this could be a drawback, but the peoples involved do not see it that way. Anyhow, neglecting the colonial past of Andean migrants in, for example, Spain is fundamentally wrong. As I see it, the case of the S-8 attack must be anchored in the Colonial Contract.

The Stigma in Spain

The attack in the S-8 suburban line from Barcelona in October 2007 instigated a public outcry. The scenes brought swift reactions of disgust from journalists, politicians, bloggers, and the general public in Latin America, Europe, and Spain. In Spain, the video caused others to reflect on the status of immigrants in their country. Perhaps for that reason, the institutions did not let the girl down. She was examined medically and psychologically. The girl sustained various injuries and suffered from post-traumatic stress as well. The video from the security cameras was included as evidence in the trial. In addition, the judge ordered S.X.M. not to leave Colonia Güell de Santa Coloma de Cervelló, where he lived with his father and his grandmother. After the girl made her statement about the attack, the youth was arrested—especially to protect the victim. In the meantime, the Ecuadorian Embassy had taken steps to have the attacker prosecuted. Even President Rafael Correa, who was visiting Italy at the time, interfered in the matter, instructing his executives. In Spain, several

⁸ For more on the *repúblicas*, see Ouweneel, *Shadows* (1996), *Ciclos* (1998), *Psychology* (2002), and, *Flight* (2005).

manifestations were organized against racism in cities like Murcia, Valencia, Bilbao, Barcelona, and Madrid.⁹

The fact that the victim testified in court seems to me to be the first reason to think about CCT. In a way, the subsequent actions taken by the mother Alexia Alejandrina Morla can be understood both as typically Andean and as an example of a novel situation her family was experiencing. These novelties seem clear. Reading Ypeij's words above about the obstacles that single mothers face in big cities, the family situation of the Morlas should be judged as emblematic. Although the NGO SOS RACISMO of Catalonia assisted her every step of the way, Mrs. Morla had to take initiatives to care for her daughter and ensure that a proper report was officially filed at the court to prosecute S.X.M. In Guayaquil, Ecuador, the girl's father William Morla was asked to comment on the case on national television, and his government arranged for him to travel to Spain to assist his daughter. But he had not seen her for two years, ever since she left for Spain to join her mother and her older sister. The mother had left Ecuador seven years earlier, while the father stayed behind in Guayaquil to care for his 83-year old mother and a sister. He had worked previously in Spain in 1998. Little is known about this family, but, as Ypeij concluded regarding Lima, the very fact that Mrs. Morla generates an income in Spain for her family, perhaps including her husband in Ecuador, may signify a crossing of gender boundaries and resistance to existing gender inequalities. The trip made by the father to Spain could be understood as reproducing gender and class inequalities (he would "naturally" take the lead now), but her earnings would have given Mrs. Morla a tool for renegotiating her relationship with him. Scholars and students should not dwell excessively on the many ways that gender inequalities are reproduced, because it might negate the importance the women concerned attribute to their income and economic activities. For Mrs. Morla, the decision to press charges fits perfectly in the overall process. Indeed, this is a small step forward in the complex and slow process of social transformation and strongly merits additional research.

In the struggle for justice, I have the impression that although the mother had taken the decisive initiatives rather than the father, she received competent assistance from local activists. Persuading the victim to testify in court must have been difficult for them. Psychologically, the S-8 suburban line can be considered part of a "safe" situation, as her daily commute between work or school and the home where she lives with her mother and sister. In short, S.X.M. had attacked her on a kind of safe home ground. This is deeply injurious.

⁹ See *ExploRed*, "¡Inmigrante de m..., vete a tu país! 28/Octubre/2007, Archivo de Noticias de Ecuador," at <http://www.explored.com.ec/noticias-ecuador/inmigrante-de-m-vete-a-tu-pais-280885-280885.html> (02/12).

On the train, the Ecuadorian girl must have experienced acute shame and embarrassment. Long neglected by most social science theories, this factor should not be underestimated. “Shame is bound up with our acute sense that we are the target of other people’s aversion, particularly disgust, physical or moral.” Our immediate response, Patrick C. Hogan recalls, is the wish “to hide, disappear, or die.”¹⁰ Perhaps the first to notice that shame has an innate basis in humans was Charles Darwin (1809-82). He realized that humans blush with shame. He wrote to colonial administrators and missionaries all over the world to ask them if this held true for the people under their care as well. Since it did, blushing with shame was not first and foremost cultural. In fact, “it had to have *evolved*, in the biological sense of the word.”¹¹ In his *Moral Origins* (2012), Christopher Boehm demonstrates that shame is universal all over the world, but guilt is not. He argues that guilt is culturally bound to the Judeo-Christian world. Guilt is not “frequently on the tongues,” he says, “of Buddhists or Hindus or Confucians or followers of Islam.”¹² This sounds like the CC in reverse but excludes shame from any “contract” argument.

Feelings, however, can be culturally manipulated if needed. For example, whether or not they blush, people may resist the attitude of submission and obedience and respond with appeasement, contention, protest, or riot. This response is popular among organized minority groups raised in colonial or postcolonial settings, and we usually recognize them in their state of ethnically or gender-inspired social movements. Again, they would adopt some more or less universal characteristics, because social psychologist Aaronette M. White reminds us that organization includes rituals:

Social movement theorists have noted how rituals can serve as important mechanisms for challenging dominant norms and mobilizing participants. The Black liberation movement thrived on songs, poetry, rallies, chants, and a host of other rituals to evoke certain emotions that drive protest. The feminist movement also uses a variety of rituals to produce solidarity among women, such as speak outs on rape, healing circles, and Take Back the Night marches. Rituals dramatize inequality and injustice; at the same time, they allow feelings of ‘fear, shame, and depression to be transformed in to feelings conducive to protest and activism rather than resignation and withdrawal.’ The rituals performed at these meet-

¹⁰ Hogan, *Affective* (2011), pp. 36-37; Arneson, “Shame” (2007), p. 36.

¹¹ Boehm, *Moral* (2012), p. 14 (quote, italics in original).

¹² Boehm, *Moral* (2012), p. 19, on p. 20 he writes (italics added): “a moral word similar to ‘guilt’ is *not* to be found in many world languages [... but], ‘shame words’ do appear everywhere, and they seem to be quite prominent in people’s minds.” Furthermore, “shame feelings are directly linked to a universal physiological response” (*blushing*), “whereas guilt has no such physical correlate as far as we know.” If anthropologists and sociologists speak of “shame-guilt cultures,” they seem to be wrong. There is a “guilt culture”—the one with Judeo-Christian roots—but shame is universal world-wide, not necessarily articulated to guilt.

ings (libation ceremonies, testimonials, and singing) may have increased the salience of a Black feminist perspective and identity in a supportive environment. In addition, most of these women belonged to organizations and networks that emphasized the empowerment of women—economically, spiritually, emotionally, and physically (health wise). The combination of these embedded networks, direct contact with organizers, and the rituals created some of the important conditions for participation as described by recruitment analysts.¹³

Here we see the direct articulation of primary, secondary, and tertiary artifacts: the ritual, what it means, and what purpose it serves. Apparently without such backing, the victim responded actively. Calling the police, as she did, reveals remarkable confidence either in the Spanish police or in her own powers of resistance. We learn from De Waardt's chapter that being a "victim" may be intrinsically stigmatizing: people might think that they are to blame for their misfortune. Had Mrs. Morla's daughter been negative? Passive? This is how she avoided the impression that by not resisting the assault or failing to fight back sufficiently in the eyes of the attacker, in some bizarre way, she would come to be regarded as a participant who had consented to undergo his abuse.¹⁴ Victims of violence may also use their communal roots to organize or to seek organizations that may serve their interests. I have no indication that the Morla women belonged to any organization, but the interest of SOS RACISMO served them well. In addition to obscuring gender boundaries at home, their resistance is the second major theme that articulates them to the CC of their cultural and social roots.

Soon after the Morla case, on October 13, 2007, the NGO *Movimiento Contra la Intolerancia* (Movement Against Intolerance) reported another attack, this one against a Bolivian couple. Such attacks stigmatize the Latin American migrants. Stigma exists, according to a discussion in the *Annual Review of Sociology* (2001), when elements of labeling, stereotyping, separating, status loss, and discrimination co-occur in a power situation that allows these processes to unfold. Examining the stigma associated with an individual circumstance (such as "racial" minority) or assessing an individual outcome at a time (such as impact on self-esteem or social interactions) is insufficient, because the researchers are likely to find some level of effect for a particular stigmatized group on a particular outcome. The ingredients include the official channels, as the Spanish police itself has a poor reputation in these matters. In 2006, SOS RACISMO rec-

¹³ White, "Talking" (1999), pp. 90-91. She refers to Verta Taylor and Nancy Whittier, "Analytical Approaches to Social Movement Culture: The Culture of the Women's Movement," in: H. Johnston and B. Klandermans (ed.), *Social Movements and Culture*, Minneapolis, MI: University of Minnesota Press, 1995, p. 178; Giddings, *When* (1984); and, McAdam, and Paulsen, "Specifying" (1993).

¹⁴ McNeill, "Body" (2008), p. 252.

orded 158 cases of blatant and violent racism, including cases against the police. In fact, the NGO confirmed that they had presented some four thousand complaints in about two hundred municipal Spanish courts. Especially people of African descent are regularly beaten up. Traditionally, members of stigmatized groups have been portrayed as passive victims of negative stereotypes, prejudice, and discriminatory behavior by others. The authors affirm that stigma processes have a dramatic and probably a highly underestimated impact on life opportunities in terms of careers, earnings, social ties, housing, criminal involvement, health, or life in general. Stigma is not just one of many factors. It is a social schema guiding social interactions within minority groups and between them and their surroundings.¹⁵ We need to work with it as a key concept of the CCT.

Inequality and discrimination are of course not unique to the CC. Within traditional SCT arrangements, egalitarian negotiations are usually utopian. In *Stigma* (1963), sociologist Erving Goffman speaks of *in-group alignments* and *out-group alignments*. This is a social identity theory, indicating that a person's theory of self is based on his or her real or imagined group membership. Since Henry Tajfel's successful compilation *Social Identity and Intergroup Relations* (1982), social identity theory has expanded enormously. Research into Tajfel's proposition that the groups to which people belonged (e.g., social class, family, football team, gangs) has confirmed that these groups are indeed an important source of pride and self-esteem as a sense of belonging to the social world. We also know that to improve their self-image, group members enhance the status of their group. After creating "In-Groups" and "Out-Groups" (*Us and Them*), Tajfel believed that the former would discriminate against the latter, finding negative aspects of the out-groups to enhance their self-image.¹⁶ This became institutionalized from scratch in the Colonial Contract, which means that resistance to the oppressor may be immanent as

¹⁵ Link and Phelan, "Conceptualizing" (2001), pp. 381-382. Moreover: Major and O'Brien, "Social" (2005); Pachankis, "Psychological" (2008); Hatzenbuehler, Nolen-Hoeksema and Dovidio, "How" (2009). See also: *ExploRed*, "¡Inmigrante!" <http://www.explored.com.ec/noticias-ecuador/inmigrante-de-m-vete-a-tu-pais-280885-280885.html> (02/12).

¹⁶ In reviewing the literature of human motivation, consider the advances in human genetics. Behavioral geneticists have gained considerable importance by producing substantial evidence that demonstrates the prominence of genetic influences. About half the variation in the measured characteristic—the differences from one person to another—could be attributed to differences in their genes. See: Harris, *No* (2006), pp. 255-256, and, *Nurture* (1998), pp. 38-40, 45-49, 50-51, 98-100; also John D. Mullen's review of *No Two Alike* (2006), in *Metapsychology Online Reviews* 10:10 (March 8, 2006), <http://mentalhelp.net/books/books.php?type=deandid=3039> (06/2007). Also: Harris, "Where?" (1995), and her recent paper, "Why" (2007). Tajfel (ed.), *Social* (1982 [2008]). For more recent work: White, *Identity* (2008); McLean, "Space" (2010); Owens *et al.*, "Three" (2010); Staerklé *et al.*, "Ethnic" (2010); Feliciano *et al.*, "Racial" (2011); Goffman, *Stigma* (1963[1990]), pp. 137-149.

well. The CC has a legacy of continuously checking the balance of power and provision by the colonized. Indian historian Ranajit Guha is widely known for having branded the CC as *Dominance without Hegemony* (1997). For Guha, the British motherland or “metropolitan state” was hegemonic because its claim of dominance at home was based on a power relation rooted in traditional social contract arrangements, in which persuasion outweighed coercion. In Guha’s eyes, the colonial state in India was non-hegemonic, because in its structure of dominance coercion was paramount. Within the CC, Guha believes, assimilating the civil society of the colonized to itself would be very difficult or impossible.¹⁷ For this reason, contention was imminent; perhaps even “indigenous nationalist,” favoring “*indigenista* movements” and anti-imperialism. I like to see the Morla girl’s active response to the racist attack as an example. Perhaps backed by her community, even if only virtually, in notifying the authorities, she displayed resilience, protest, and objections typical for CC situations. The case also shows that this resilience is articulated to a practical mind. In cases of looking for justice, individual Andeans have been known to prefer “forum shopping,” argues Simon Thomas in his chapter. This means that they move tactically between customary law and national law to settle their conflicts and find justice. Looking for instruments that promise a more favorable outcome is only logical. From this perspective, working with SOS RACISMO fits more into the CC category than I had previously assumed.

Rituals of Respect

Resorting to collective action enables victims to avoid stigmatization. In Peru, rooted in the wave of grassroots organizations of the late 1970s, a cultural resource was at hand for victim-survivors of the conflict of the 1980s to find a way-out. These grassroots organizations were expressions of the everyday struggle to improve livelihoods, fight poverty, or adapt to an urban lifestyle. They dedicated their efforts to obtaining access to basic services. The leftist-nationalist regimes in power in Ecuador and Bolivia these days also promote the spread of grassroots organizations. In Spain, violent discrimination is probably not yet sufficiently rampant and severe for victims to organize.¹⁸ Official data provide convincing evidence of this. As early as 2001, the Spanish Minister of the Interior and the Spanish police is-

¹⁷ Guha, *Dominance* (1997), containing modified versions of three very influential essays published between 1988 and 1992. For immanent contention as part of the CC, see also Ouweneel, *Flight* (2005), pp. 140-144.

¹⁸ Interestingly, national “country” organizations sponsored or supported by the embassy of Ecuador were not involved in the Morla case either.

sued press announcements that crime rates in urban metros had risen dramatically. According to newspaper journalists, officials explained that they had the impression that about half of the crimes were committed by immigrants, and that these immigrants therefore intended to subsist mainly from crime. Rereading the official figures, however, researcher Daniel Wagman actually found a *decrease*. Moreover, the number of criminal migrants was much lower than the figure publicized, especially if arrests of illegal migrants (who did not commit any violent crime at all) were purged from the figures. Wagman concluded that only seventeen percent of the crimes was attributable to immigrants. Still, the figure remains disproportionate, since immigrants were about five percent of the population in 2001. The kind of contention initiated by Wagman is of the utmost importance, because research in the United States has made clear that perceptions of crime and the operations of the criminal justice system are important forces in shaping how Americans think about “race”—despite the obvious fact that “race,” being continually negotiated in everyday interactions, cannot be a viable characteristic of individuals. Supposed “racial” disparities in incarceration affect how individuals perceive their own “race,” as well as how they are perceived by others. In sum, the idea of immigrants being criminals negatively influences stigmatization, as well as the immigrants’ self-esteem.¹⁹

An Andean stigma schema would contain generalized information about being colonized and exploited as secondary citizens, about discrimination and resistance, and about how to deal with such issues. Goffman discussed themes like information control about personal identity, including the discredited versus the discreditable, and in-group versus out-group alignments; he also addressed the problems of visibility, appearance, passing, covering, deviations, and norms. An Andean stigma schema would also involve scripts, containing encoded sequences of events in stigmatizing situations that are directly articulated to colonization or its legacy. The scripts tell Andeans what may be expected to occur and may therefore be used to guide their behavior in such situations. Their objective is to command respect. Andean cultures, housed in the towns and villages of the Andes and in the urban surroundings of migrant groups in Lima, Quito, Guayaquil, La Paz, and elsewhere, usually recognize that respect for others is the most central and significant element of

¹⁹ Daniel Wagman, “Estadística, delito e inmigrantes,” published at: [http:// habitat.aq.upm.es/boletin/n21/adwag.html](http://habitat.aq.upm.es/boletin/n21/adwag.html) (02/12); Saterstein and Penner, “Race” (2010). In the US, people who have been incarcerated are more likely to identify and be seen as black and less likely to identify and be seen as white, regardless of how they were perceived or identified previously.

thought and action. To remind people, it must be ritually enforced and acted out.²⁰ This is their contribution to the Colonial Contract.

For this reason, in the Andes, reclamation occurred principally not through protests and rebellion but through courts of law. Traditionally, the use of customary law to deal with internal conflicts could be seen as a form of resistance, as a counter-hegemonic strategy. However, says Simon Thomas, the *indígenas* appear to move tactically between customary law and national law to settle internal conflicts. This has been the case for centuries. The archives are full of reclamations and petitions, and especially during the later Spanish period, their claims were usually granted. Such cases could have been a first step of resistance, especially when the colonial power or its representatives were the adversary or counterpart. The Colonial Contract anticipates the next one: “negotiation by rioting.” If the sense of justice is not satisfied, rioting may be the only means of action left. During most of the Andean past, claiming rights went hand in hand with the opportunities for rioting, which is not the same as violence: “The riot, then,” says George Rudé, “is the characteristic and ever-recurring form of popular protest which, on occasion, turns into rebellion or revolution.” Hence, *We Come to Object* as the title of a famous study of former colonized peasants in Mexico; *We Alone Will Rule*, as the title of a study of “Native Andean Politics in the Age of Insurgency” (1780-1824). Over the past decades, colonial and national historians have revealed the insubordinate nature of the colonized Amerindian and black populations of the Americas. Historical research has taught us that the Amerindian descendants under Spanish rule had developed an almost inbuilt sense of contention and protest, which not only survived the nineteenth and twentieth centuries but, due to increased exploitation, must also have been reinforced.²¹ Thanks to this achievement and knowing how the schemas are generally constructed, the CC reclamation scripts must nowadays be part of the Latin American stigma schemas.

No doubt, the victim in our case must have somehow triggered these stigma schemas. In Barcelona the Morla girl lived—whether nearby or at a distance—in a community of Latin American youth that had begun organizing against discrimination, thereby defraying feelings of shame and embarrassment in their own way.²² The vanguards to this process interfered in the case. On November 3, 2007, several news agencies reported that S.X.M. had to move. He reported to the authorities that he had received threats from the infamous Latin Kings gang. Although this was confirmed by the local Guardia Civ-

²⁰ Goffman, *Stigma* (1963 [1990]); Van Vleet, “Adolescent” (2003), p. 358.

²¹ Warman, ‘*We*’ (1978 [1980]); Thomson, *We* (2002); Baud, “*Huelga*” (1996). For a discussion of riots, see the introduction of Ladd, *Making* (1988), pp. 1-6; and above all: Rudé, *Crowd* (1964), p. 10 (quote).

²² See for example: Martín Coppola, “Actores” (2010).

il, immigrant youths of North African descent had sent him a threatening letter as well.²³ This brings me to a tentative discussion of the other side of the Andean stigma schema, articulated to gang membership, and how this schema derives from the Andean *tinkuy* practice and tells us more about Andean culture than about the situation in Spain.

Youths of Andean origin—Amerindians—in Spain prefer to call themselves *Latinos*. This is the case especially for members of youth gangs in Madrid and Barcelona. Broadcasting images of Latino gang rituals from a surveillance camera, a Catalan news agency spoke of “evidence of resistance.”²⁴ A solemn voice-over informed viewers that the camera had recorded an initiation ceremony of the infamous Latino gang Latin Kings. The footage shows four youths beating up a fifth one, in three short turns. The blows are basically inflicted on the upper torso, hardly any are to the head or below the belt. Although the initiation is considerably less harsh than initiations known from other gangs, especially in the United States, the recruit suffers visibly. After this “initiation light,” the boys congratulate the recruit, welcoming him as one of them, using the expressive gestures that are part of their greeting ceremonies. Spanish researchers believe that gangs like the Latin Kings are indeed “evidence of resistance” against discrimination and stigmatization in European society.²⁵ The video suggests they are consuming from a globalized resource: images of gang behavior, symbols, and rituals on the Internet. In addition, an important Latin American CC-resource seems to be in use here: the tradition of *tinkuy*, or the physical encounter of equals. In the Andes, it involves music, dancing, and heavy drinking. This ritual battle enforces and affirms community bonds between the participating groups or, as anthropologist Inge Bolin recorded, “confirm[s] the rules of life.” Bolin’s book is called *Rituals of Respect* (1998). The *tinkuy* is such a ritual, and respect is what the participants want to confirm or, if necessary, establish. Sometimes, writes anthropologist

²³ For example, see the note on S.X.M. who has moved, 02.11.07, Archivado en Violencia, at: <http://blogs.periodistadigital.com/cronicanegra.php?cat=6723> (02/12). Also: http://www.cadenaser.com/espana/articulo/agresor-menor-ecuatoriana-cambia-domicilio/csrcsrpor/20071101csrscsmac_8/Tes (02/12).

²⁴ “Prueba de resistencia,” *El Periódico de Catalunya*, at: http://www.youtube.com/verify_age?next_url=/watch%3Fv%3DOZqSFMKQUww%26oref%3Dhttp%253A%252F%252Fwww.y (02/12).

²⁵ Lahosa i Cañellas *et al.*, “Bandas” (2008a); Lahosa i Cañellas *et al.*, “Bandas” (2008b); López Corral, “Barcelona” (2008); Feixa *et al.*, *Jóvenes* (2006), esp. p. 137; Feixa *et al.*, “¿Organización?” (2010); Carles Feixa, “Unidos por el Flow: juventud migrante y agencia,” *Mugak* 50 (2011), at: <http://revista.mugak.eu/articulos/show/452> (02/12). On “respect,” see the chapters in Jones and Rodgers (eds.), *Youth* (2009).

Thomas Abercrombie, fighting takes a playful form, whereas in other cases it derails in bloodshed.²⁶

The situation in Barcelona suggests that this is also the case for the Latin Kings. In his discussion of Goffman's contribution to sociology, Thomas Scheff describes and analyzes the pride/shame continuum. He adds that he regards "respect" as "an emotional/relational correlate of the pride end of the pride/shame continuum": "One is rewarded by pride to the extent that one participates, level by level, in the cognitive structure of mutual awareness, and punished by shame, level by level, to the extent that one does not."²⁷ It remains to be seen whether we are dealing here with true emotions. Expressions of shame, writes Nico Frijda in his compelling and persuasive *The Emotions* (1986), can be understood as submission behaviors: head bent, glance downward (or upward from the bent head), hands hanging in explicit inaction. "They are not specific for shame or guilt," he concludes. At the other end of the continuum we find expressions of pride as dominating behaviors. These are behavior patterns encoded in cultural schemas. If so, again, the relevant schema that might explain the Latin Kings' presence in Spain would be a shared cognitive representation of a colonized and exploited people (articulated to objects, events, situations, or behavioral codes) and could be used to describe real or imagined knowledge about how to act and behave in stigmatizing (CC) situations.²⁸

Around 2002, the authorities of Barcelona became aware of the presence of Latin gangs in their city. The phenomenon of "urban tribes" was of course not new at all. Throughout the twentieth century, many European cities had accommodated youths with, for example, a hippy or punk background like *mods*, *punkies*, *skins*, *heavys*, or *góticos*. But with the arrival of thousands Latin Americans in Spain, their children joined *tribus urbanas* that were defined by their place of origin. In 2007, Barcelona officially had about 250,000 immi-

²⁶ Platt, *Guerreros* (1996); Mendizábal Nuñez *et al.*, *Tinku* (1996); Bolin, *Rituals* (1998), pp. 94-100; Abercrombie, *Pathways* (1998), pp. 66, 102, 290, 301-301. Is my reading of the Spanish case through the lenses of Andean history and anthropology too far-fetched? It would not be, if we follow Steven Pinker's *The Better Angels of Our Nature* (2011). Based on a truly extensive literature survey, he performed a similar exercise regarding the cultural difference between the Northern and the Southern states of the US. He concluded that "it's sufficient to assume that settlers from the remote parts of Britain ended up in the remote parts of the South, and that both regions were lawless for a long time, fostering a culture of honor." He adds that "cultural mores can persist long after the ecological [and historical, AO] circumstances that gave rise to them are gone, and to this day southerners behave as if they have to be tough to deter livestock rustlers." See: Pinker, *Better* (2011), quotes resp. pp. 102 and 101.

²⁷ Scheff, *Goffman* (2006), p. 84 (quote), also pp. 36 and 117. Despite its interesting discussion, a warning is in order. Alas, Scheff sometimes adheres to the now often discredited theories of psychoanalysts; see Ouweneel, *Freudian* (2012).

²⁸ Frijda, *Emotions* (1986), p. 37. For schema theory, see the "Introduction" to this *Cuaderno*.

grants, including slightly over 117,000 from Latin America (47 percent). In the winter of 2002-03, investigating the murder of a Colombian boy, the Barcelona police noted an unexpected increase in specific graffiti, targeting groups of Andean youths. Most members of these groups were school-age children, between thirteen and eighteen (by 2007, they would be up to 25), and they were struggling with rival gangs to conquer parts of the urban public space—in practice, only a few parks and plazas. The gangs had a pyramid structure comprising several rites of passage for social climbing, and every member need to pay a fixed quote (e.g., € 12). Gang members look at themselves as warriors for the cause of the Latin American community. For that reason, the gangs propagated this novel identity: being Latino. This identity had not been *en vogue* in their countries of origin.²⁹

Being Latino appeared to be a cognitive representation shared by their parents as well and figured on shared stages, like the neighborhood, churches, markets, and schools. On the streets, the children of Latin American immigrants had the choice of merging with other migrants (e.g., Moroccans), with Spanish youths, or with each other. The instrument of the gang was conducive to teaming up with fellow Latin Americans. In general, the gangs comprised between twenty to forty members, but they did not total more than five percent of their peer group in Barcelona. Their main goal was to cope with the pain of migration. Curiously, their success attracted a few individual youngsters from Morocco, Romania, and the Philippines. If this view is correct, the Latin gangs should not be regarded as a risk to social cohesion but, on the contrary, as an expression to strengthen it. True, especially after short and isolated moments of violence, the relatively small groups received substantial media attention. But gangs like the US-inspired Latin Kings or the Asociación Ñeta are important, not because of their numbers or their power on the street but because of their symbolic role, representing the social problems of migrant children from formerly colonized countries.³⁰ Their sympathizers hugely outnumber their members.

The US organization of the Latin Kings, which originated in 1940s Chicago, is called *Todopoderosa Nación de Reyes y Reinas Latinos*, meaning Almighty Nation of Latin Kings and Kingdoms. In Spain the active membership of the Latin Kings is about 1,300, including some 50 leaders but excluding members presently serving prison sentences. In Barcelona, the Ñetas, initially formed in 1978 in a Puerto Rican prison and the Kings' usual adversaries in *tinkuy* bat-

²⁹ Lahosa I Cañellas *et al.*, “Bandas” (2008a); Lahosa I Cañellas *et al.*, “Bandas” (2008b); López Corral, “Barcelona” (2008); Feixa *et al.*, “*Jóvenes*” (2006), esp. p. 137; Feixa *et al.*, “¿Organización?” (2010).

³⁰ Lahosa i Cañellas *et al.*, “Bandas” (2008a); López Corral, “Barcelona” (2008).

tles as “Latin brothers,” are about half this size. While some of their encounters may have been playful, the gangs are known for serious crimes like theft, assaults, and homicides, if only to sustain themselves economically. In 2006, the Spanish police forces reported having arrested 31 members of the Latin Kings, 20 from the Ñetas, and 33 from the Dominican gang Don’t Play (DDP). Hatred against their enemies and coercion to remain with the gang are key elements. Like the ancient Inka Empire, the Latin Kings in Spain are organized in four units or *suyus* in Quechua: the Inka Kingdom of Madrid, de Spanish Kingdom of Barcelona, the Maya Kingdom of Valencia-Alicante, and the Aztec Kingdom of Murcia. Traditionally, *suyu* representatives had to face off against each other regularly at *tinkuys* to establish mutual harmony and community. Whether the same holds true for these Spanish bands has not been investigated.³¹

The founder of the Latin Kings in Madrid—the Inka—was sentenced to 21 years imprisonment for grand theft auto and assault of the owners in the public park Casa de Campo in 2003. That same year, the seventeen-year old Colombian boy killed at the entrance to his school had been the victim of a fight between the Kings and the Ñetas. After this incident and the ensuing negative publicity, the gang leaders seem to have taken steps towards appeasement, integration, and legalization, assisted in these processes by the Barcelona municipal authorities. The leader of the Puerto Rican Ñetas had issued a missive to the Spanish members that the main task of the Ñetas was to serve their imprisoned members and asked them to refrain from fighting the Latin Kings, who “are not our enemies.” Perhaps the gang threat was a tempest in a teapot, for in 2006 only one member was connected to the forty murders committed that year in Madrid and to two of 33 murders there in 2005.³² Eventually, the practical Andean mind prevailed once again. Strongly urged by the Barcelona city council to pursue a peaceful course, the leaders of the Latin Kings and the Ñetas negotiated a truce. Spanish researchers under the aegis of Carles Feixa concluded that the diplomatic attitude of Barcelona’s city council had helped avoid escalation, whereas the more hostile stand of the one in Madrid achieved the opposite result. In Madrid, the youths still felt the need to counter exclusion and discrimination with violence. In Barcelona the gangs were transformed into officially recognized youth associations, which successfully provided an identity of non-violent resistance.³³

Despite its “Latino” self-labeling, “indigenous” examples are available of a similar kind of regrouping. One such case took place during the 1980s in the Lacandón Forest of Eastern Chiapas, where

³¹ López Corral, “Barcelona” (2008); Lahosa I Cañellas *et al.*, “Bandas” (2008a).

³² López Corral, “Barcelona” (2008); Lahosa I Cañellas *et al.*, “Bandas” (2008a).

³³ See Feixa, “¿Organización?” (2010).

“new communities” were founded by migrants—economic and political refugees from highland Chiapas and elsewhere. These migrants acquired their new status without having to forfeit their Amerindian identities. Tzeltales from Los Altos moved into the Northern Lacandon; Tzotziles joined them, pushed out from the town of San Juan Chamula, bringing with them Protestantism and some political experience with fighting traditional Amerindian elites. In addition to members of opposition groups, expelled in massive numbers from highland towns, landless Amerindians from Oaxaca and Veracruz settled there as well. Over time, a pan-Maya ethnicity was adopted, as the basis of higher levels of organization and opposition to the governing institution. Even the Maya languages merged into something new.³⁴ All this attests to the flexible nature of cultural resource use. New “group identities” are easily formed if circumstances change but may go back very far indeed.

Concluding Remarks

The Morla case shows us the importance of semiotics, the interpretation of signified and signifiers,³⁵ as do the cases discussed in the previous chapters. In the seriously troubled mind of S.X.M., the Andean body of the Morla girl signified some dangerous alien presence in his community. S.X.M. obviously lived in a Barcelona community where exterminating the “aliens” was and continues to be accepted. Talking on his cell phone with another troubled youth from his community must have instilled him with the drive to kick the Ecuadorian girl in the face. A small group of Andean youths, as a group of other young Latin Americans, had been reading this type of aggression as a sign of danger for some time and as incitement to take actions in their own defense. This defense appeared as the form (signifier) of ancient communal traditions (signified) long embedded in the Colonial Contract, combined with novel attitudes and symbols (signifiers) now incorporated in the re-created Colonial Contract in Spain but taken from the Internet and other modern communication media: they founded the Latin Kings and the Ñetas in Spain. The Morla family, aided by SOS RACISMO, chose the course of justice to defend themselves. In this particular case, this proved to be the most successful course of action.

³⁴ See Ouweneel, *A/weer* (1994).

³⁵ Semiotics is dictionary knowledge by now and part of our language. Alas, since the curious popularity of Lacanian texts, it must be expressed this way. Psychoanalyst Jacques Lacan invented something that no semiotician or language scholar would support: the “empty” signifier. Despite the harsh criticism from academics that has fundamentally discredited Lacan’s ideas, some colleagues in anthropology, the literary sciences, and sociology continue to believe this nonsense.

Reading artifacts as signifiers connects people to the signified world, generally to the explicit and implicit institutions that have formed them. In her contribution to this *Cuaderno*, Klaufus discussed competing ideologies about urban space and the value of local cultural resources to understand socio-spatial dynamics in the rapidly transforming urban center of Riobamba. The implicit institutions in Riobamba include values attached to spaces and aesthetics. These were connected as a sign to primary artifacts of the urban built environment, like architectural styles, monuments, public space furniture, and other environmental implements. They are used selectively by different social groups to claim authority over urban space. The conflicts described by Klaufus show a growing awareness of the need to construct a multicultural city and to overcome social conflicts, as a tertiary artifact. Ypeij's discussion of changing gender relations also focuses on implicit institutions, changing to bring about more equal gender relations. More explicit cultural resources were discussed in this volume by De Waardt and Simon Thomas. De Waardt highlighted the tradition of social organization. She presents Peru as an exceptional case, because of the large number of grassroots associations. This kind of explicit institutions had proven to be an artifact that could work in social change. Simon Thomas discussed the use of different systems of law, in which individuals may choose between several forms as a kind of forum shopping. Both explicit and implicit institutions were used as cultural resources in the Morla case in Spain, including social organizations, gender ideology, the law, and collective struggle. As said, by examining their embedment in the Colonial Contract, researching the use of cultural resources eventually unravels the politics of changing the world.

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Cultural resource use has become a major theme defining the role of Latin America in an emerging global society. Such resources may be found “out there,” in the world, ready to use. In this CUADERNO, CEDLA researchers CHRISTIEN KLAUFUS, ARIJ OUWENEEL, MARC SIMON THOMAS, ANNELOU YPEIJ and MIJKE DE WAARDT regard “cultural resources” as any set of cultural elements within a specific sociocultural setting and conducive to the quest for enhanced self-esteem, status improvement, economic advancement, or a liberated identity. Cultural elements that are converted into resources furthering progress for some people may simultaneously turn out to inhibit progress for others. Cultural resources can therefore not be studied as “separate entities” with an intrinsic value, as they may be valued only as “resources” or as “limitations” within the particular context of study.

As material and non-material artifacts, cultural resources reflect historical and contemporary patterns of behavior, practices, traditions, beliefs, and thought. The different ways of drawing behavior models and designing patterns of social life from the well of local customs, national traditions, and the emerging global practices are at the core of the chapters.

As a human geographer, KLAUFUS studies how the constructed space is imbued with meaning and can be used to exert power. Anthropologist YPEIJ, social scientist DE WAARDT and legal anthropologist SIMON THOMAS study how the poor and marginalized use cultural resources to improve their lives and the importance of choice in this context. OUWENEEL borrows the idea of cultural schemas or mental models from cognitive sciences to demonstrate how meaning is anchored in narratives and is restricted to certain spaces and specific places.

ARIJ OUWENEEL has been Associate Professor of History at CEDLA since 1985, and was Special Professor of Historical Anthropology of the Amerindian Peoples at the Universiteit Utrecht (1999-2004). He has edited six volumes with collected essays and has written eight monographs, mostly on Mexican history and culture. Working with film, television, Internet and footage, the object of his current research is to identify and classify cultural schemas depicted in the vast corpus of the Latin American moving image and, at the same time, to contribute to the theory of Latin American encoding processes. His recent work *Freudian Fadeout. The Failings of Psychoanalysis in Film Criticism* (2012) is the first out of a series on this theme.



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