Foreword

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Prologues like this can be rhetorical obstacles to reach the substance of the book they intend to open. Brevity, therefore, is the greatest virtue of such exercises. The reader may skip these pages and come back to them after reading the book or read them now before plunging into the fascinating history that follows. My goals are simply to suggest some general conclusions around the themes of silence, justice, and the truth and to point to connections with other histories beyond Guatemala.

I Ask for Justice uses judicial and administrative sources to document legal conflicts and their resolution. With the use of these sources, the book establishes the positions of the various social actors who, voluntarily or not, had to present their points of view in front of the representatives of the law who dutifully recorded their testimonies. While relations of power were not fundamentally altered in this judicial realm, they were negotiated and transformed. The law itself, its text and its interpretation, changed in the course of these transactions. Carey argues that citizens' decisions to seek legal recourse transformed their relationships with the state, even in places and among people who had remained marginal to the project of that state.

This insight requires a critical look at the received explanations it complicates, for it affects the very ways we learn about social relations. Historians of Guatemala and other Latin American countries have assumed that the hegemony of one sector of the population over another was merely an exercise of power at the expense of the truth. Social domination subordinated the rights of the less powerful members of society and undermined their words by denying them credibility and even rationality. Since Spanish arrived as the language of colonial rulers, words have had different value depending on who utters them and in what tongue. Translation, then, was not an innocent displacement of meaning from one language to another but

further confirmation, for those who already held such notions, of the inferiority and dissembling manners of indigenous speakers and of the need to counsel them against their voluntary ignorance of the law. Racism later reinforced these attitudes by arguing that those descending from the pre-contact populations had lesser intellectual abilities than those of European inheritance. The Guatemalan history of the second half of the twentieth century emerges from this narrative of power as the continuation of a series of overlapping processes of silencing the voices and claims of the majority, now most notably through the U.S.-aided repression of any attempts to assert autonomy or democracy. Exploitation of indigenous labor and the suppression of dissent, whether through colonial hierarchies or postcolonial violence, were undeniably at play in the history of the country; yet the findings in this book suggest that it is not enough to think that inequality of power effectively silenced all possibility of speaking the truth or claiming rights.

When suspects or victims faced the state in court or in other situations prescribed by the law they did not willingly accept the lesser value imposed on their words. As many examples in the following pages illustrate, these men and women presented facts about their lives and deeds that their interlocutors had to accept as valid because they fit their own knowledge about reality. Testimonies and complaints were part of narratives about domestic relations, economic activity, and reputation that the representatives of the state could not just brush aside if their decisions were to have any authority. As Carey shows, the place of those representatives in the communities where they worked depended on their ability to acknowledge voices to which the national state's ideology was not willing to grant much weight. Judicial venues, by definition, required the confrontation of multiple perspectives to build the factual or moral certainties that *letrados* then situated in the coordinates of the law to resolve each case. *Letrados* did not write a monologue: clerks, judges, and other actors with access to literacy certainly gave "political order [a] rigorously elaborated cultural expression," yet they were constantly grappling with the need to register dissonant voices.¹ The judicial operation of recording and interpreting examined by Carey had to be repeated every time order was challenged, and it could not be completed in the absence of the subjects of that law.

If not silence, it could instead be claimed, hegemony produced truth; by dictating the rules to generate valid statements about reality, "power," variously embodied by state officials or by its subjects, made sure that any claim about rights or facts would emerge within a system that ultimately preserved inequality. This book engages Michel Foucault's ideas about the dis-

ciplining effects of punishment, but it also proposes that, before authorities decided and executed penalties, the rules governing opposing statements in court had the effect of empowering precisely those actors who seemed to be the least powerful. When indigenous women claimed that they were involved in bootlegging because of need or that their husbands had failed to fulfill their parental duties, their words educated judges and officials about the failure of the national state to guarantee a sustenance to all its citizens and to extend the benevolent effects of patriarchy to all households. Carey notes that while arguments like these could eventually reinforce gender and class hierarchies, the women who testified cared less about that somewhat abstract effect of their testimonies than about their own pragmatic goals in front of municipal administrators seeking to punish them for tax evasion or husbands using violence to assert control. We can even argue that these women spoke the truth in a way that implicitly contradicted political and familial hierarchies. Suspect María Coroy, for example, went so far as to argue that being accused of selling alcohol, which she did not consider a crime, unfairly damaged her reputation (p. 124). Reconstructing the precise institutional and social contexts in which they made such claims is a central empirical contribution of this book. In doing so, it alters the ultimate meaning of their words by placing them against the grain of a history of Guatemala that equated power with silence or with the artificial production of truth.

There is an aspect of this tension between power and truth that has permeated our reading of other moments of Guatemalan history. The debates about the facts and intentions behind the massive attacks against indigenous communities and leftist opposition in Guatemala in the second half of the twentieth century revolved largely around the production and definition of the historical truth: Can it be found in official documents such as the recently and accidentally found archives of the National Police in Guatemala City? Or in the testimonies from people who endured that violence and hoped their words could eventually lead to justice? Understanding exchanges in local courts before the onslaught that began with the coup against Jacobo Arbenz in 1954 may help us better read the troubling legacy of human rights abuses in the second half of the twentieth century. Too often, and mistakenly, political actors from various ideological positions present as irreconcilable the opposition between factual, juridical truth and narratives of personal experience during those decades of violence. This faulty distinction often leads to value judgments that, as Greg Grandin has pointed out, accept subjective experience from educated authors but discount it when coming from those on the receiving end of prejudice.²

While the dichotomy is misleading in highly public and dramatic cases like that of Rigoberta Menchú, the same simplification can also tarnish our understanding of more mundane documents about routine conflicts. There are different ways to attack the problem. In the case of the repression to which Menchú bore witness, a large, international effort to establish the truth has accomplished what Grandin terms “a victory”—discerning responsibility and intent in general terms, allowing for the cathartic work of memory. The debate about Rigoberta Menchú’s *testimonio*, its factual truth and its broader historical significance, can be settled, argues Grandin, thanks to the findings of the Guatemalan Truth Commission. Similar efforts, such as the *Nunca más* report on disappearances, continue to shape the disputes about the juridical and historical truth in Argentina.³ There is no equivalent authority for the cases examined in this book. To answer questions about facts and responsibilities it seems necessary instead to build a historical perspective that will give words their proper context and identify their possible meanings. Carey has summoned the tools of his craft to carefully lay the foundations for that perspective. In the stories he presents in this book there is a more modest but potentially as enlightening effort to reveal what happened. The right to speak the truth was claimed there on a smaller scale but with comparable significance if our goal is to understand the historical construction of other rights such as due process, equality, and petition. The small-scale victories and defeats of Maya actors in this book revolved around the empirical value of their words and the interpretations those words supported. The routine of courts and the vagaries of local archives (state officials’ compulsion to write down everything and then misplace the papers, in sum) made it possible for these smaller voices to escape anonymity and oblivion, and to tell stories that force us to transcend epistemological simplifications.

That reconstruction of contexts and meanings results in another thesis that might seem surprising if we assume coercion as the ultimate guarantee of rule: by presenting their points of view and demands in front of judicial authorities, argues Carey, the least powerful Guatemalans contributed to strengthening the legitimacy of the national state. One could doubt the importance of judicial venues in a society where informal mechanisms of coercion and deference cemented a long tradition of tribute and forced labor; if power neatly divided society, then legitimacy was the product of a formalistic republican structure written into the law but rarely observed. Democracy being a rather short chapter in the longer narrative of Guatemalan nationhood, one could also argue that the rule of law was not essential to understand politics. Carey, however, explains that the law and courts had enough

discretion built into them—mainly through the agency of judges, prosecutors, and other representatives of the state—to make it strategically feasible for women, indigenous people, and other actors to seek its protection. Bringing to court conflicts derived from offenses against honor, for example, was useful because it provided a public venue in which to counter attacks that were equally public. Carey proves those actors had considerably more knowledge about the legal system than has usually been presumed of them. They did not expect the impartiality and rigor of the law but instead the flexibility of its agents to adapt the outcomes of cases to the views and needs of local actors. For citizens, speaking in court meant that the rules of the judicial game were valid, and by extension, so was the legal system—even if other parts of it, like vagrancy laws or the tax system, were instruments of exploitation and discrimination. Placed in the broader context of economic and social relations, the evidence from these cases suggests that those who usually suffered that exploitation did not conceptualize the legal system as a coherent unit but rather assumed that parts of it were more receptive and others less permeable to their words.

Considering the intervention of subjects defined by their indigeneity makes such a realization all the more surprising. Long experience had taught them that the playing field was always inclined against them. Yet, in specific contexts, indigenous people could use the law to solve problems involving family relations, violence in deeds and words, and perceived abuses against their autonomy as economic agents—producers and sellers of alcohol or traders in the local market.⁴ Being an Indian during the years discussed in this book could also be used rhetorically as an argument to seek—yet not demand, as would have been the case under the colonial regime—the protection of the state to uphold their corporative rights and original pact with the sovereign. During these decades, the seemingly traditionalist use of law and custom was part of strategies that also involved engagement with the market and the national state. Moonshining could thus be justified both as an old practice and as involuntary ignorance of contemporary regulations.

So much for the historiographical straw man of a polarized Guatemala. The opposition of indigenous society and ladino state does not seem so neat under the sharp light of the documents that form the basis of this book. *Ask for Justice* is part of a rich literature that challenges dichotomous views and increasingly gives depth to the multiple ways in which diverse actors participated in forging their own fates during the national period.⁵ There is always something incomplete and tentative, however, about efforts to claim autonomy through institutions—a feeling that they are futile attempts to ignore the implicit coercion that weighs over the words of actors. Yet we do

not need to surmise from that possibility that morality and dignity do not have a history too, as do the law or violence, or that their study is less valuable because it is fraught with ambiguity.⁶ This book documents not just the hidden or public transcripts of power but also interactions around justice and truth in which power was not assumed to be exclusively on one side, thus making the game useless to play.

A specific kind of reading is necessary to make those nuances epistemologically fruitful. Carlo Ginzburg compares the inquisitor with the anthropologist to illustrate the importance of an innovative and systematic inquiry on judicial sources. As they built their archives, through statements or field diaries, both worked in contraposition to defendants and “natives,” respectively—categories often collapsed in this book. The result was not an archive of repression, claims Ginzburg, but productive interactions of great empirical value beyond their intended uses. Judicial archives, as much as field notes, are “intrinsically dialogic” documents.⁷ They do not express a single mind but multiple voices engaging each other. As can be glimpsed from some of the cases cited in this book, this creates a polyphonic effect that, in history as much as in novels, can be useful to build a strong narrative, firmly anchored to reality even if not always conclusive regarding facts or the moral of the story. The historian, to continue with the parallelisms proposed by Ginzburg, shares the judge’s attention to proof yet is less concerned with normative goals than with the reconstruction of events and practices.⁸

We can go even further and say that these dialogic sources make possible a better reading of other historical documents that represent a single author in a position of power. Even if the voices registered by judicial institutions reflect interests and biases, the historian can still use them—as long as her goal is not objective certainty about subjective intentions or the factual truth but an understanding of practices and interactions in their public, disputed, daily texture. The truth, in other words, is not an intrinsic quality attributable to a statement in relation to objective reality but the product of a dialogue in which the speaker and his or her interlocutor establish the validity of statements in relation to a reality that both constitute through their dialogue and their interactions with other actors and material forces. For any statement to be valid it has to be subject to critical, that is, open and rational, scrutiny.⁹ Thus, even the voice of a dictator can only be heard and acquire political value against the background murmur of negotiations and contradictions produced by regular citizens.

Two examples of that constructed reality should help us appreciate the value of dialogic sources to illuminate social life beyond the traditional are-

nas of crime and conflict usually associated with judicial sources. One is the system of exchanges built around local markets examined in Chapter 3. Conflict, and even violence, were not foreign to the everyday lives of vendors and customers. Yet acrimony did not undermine the value of the economic activity taking place in markets; it was evidence of the constant effort to agree on the terms of exchanges, on the rights of different actors to converge in a space, to enforce regulations that were as much legal as they were customary. The state, already exposed in Chapter 2 in its feeble attempts to control *aguardiente* production, became even less coherent in its enforcement as municipal and higher-level representatives behaved according to different logics in front of market vendors. Even patriarchy has to be scaled down as the autonomy of women (expressed in very “masculine” ways through haggling, shouting, and fighting) became evident in documents that by necessity recover the dialogues of female vendors, customers, and bureaucrats. If we compare the polyphonic soundscape emerging from local markets with the majestic landscape that would come from an administrative report (a hypothetical one in this case) on the functioning of local markets, the main difference would be that the latter would emphasize the essential coherence of economic activity, capitalist profit seeking, and the need to merely tinker on the edges to reconcile that small place of trade with the national and international market that made possible state-building. The harmony of political economy would certainly contrast with the dynamic interactions among actors of diverse status and interests recorded in the cases examined by Carey.

Part of the acrimony of market life, a central part I would argue, were the disputes about honor that brought actors to court and are examined in Chapter 6. When the reputation of a woman who traded in public was challenged, she had to respond because the very viability of her place in the economy of the local market was at stake. Trust has a history and incarnates in specific names and faces; part of that history, the best documented perhaps, involves the defense of honor. This is not honor in the colonial sense of inherited status or even the gender-specific attribute examined by anthropologists of Mediterranean societies during the twentieth century but a republican sentiment linked to public perception. Honor, at the intersection of self-esteem and reputation, mobilized resources among a diverse spectrum of the population in terms of class, age, and gender. From our contemporary perspective, honor seems anachronistic, but examined historically it shows that we cannot simply define actors by their position in a continuum of domination and subordination. Disputes about honor started with words or actions that challenged somebody's reputation. The response was

immediate for two reasons: the offense hurt the feelings of self-regard of the target of those words, thus requiring a prompt correction, and it undermined the public's opinion about the victim, particularly in social interactions where trust had material value, such as in the market or the family. Violence could be one way to redress the damage, but seeking public vindication through a court hearing and a sentence was effective, if possibly costlier, because its outcome was more permanent and more easily translatable into words. The premise of this reasoning is that there was one shared space of publicity where all the actors converged, where the law had legitimacy, and where only the conclusions of a debate in which multiple voices participated could give the validity of truth to any statement—however difficult it was to reach an agreement and however biased were the representatives of the state who documented the conversation.

For us, readers and historians, the emphasis on dialogic sources and the messy texture of everyday arguments might seem to be a burden. It would mean that single archives, documents, or top-down perspectives cannot convey reality. How many of these other cacophonous, often mutually contradictory sources do we need to read and analyze in order to achieve the same level of certainty that unified perspectives purport to offer? It is not only a matter of counting (although counting can help) but of reconstructing the rules of the debate so we can predict the results of some of those cases, not only in their sentences but also in their impacts on the lives of the actors involved. It is a burden to read these dialogic sources, then, because it is harder to synthesize the realities they document, and we are never certain about the results. But that also makes them fascinating and worth the effort: they lead to stronger proof and deeper learning, as long as we read them with the systematic rigor and engaging clarity of this book.

Notes

1. Ángel Rama, *The Lettered City* (Durham, NC: Duke University Press, 1996), 7.

2. Greg Grandin, *Who Is Rigoberta Menchú?* (London: Verso, 2011).

3. An exemplary contextualization in Emilio A. Crenzel, *La historia política del Nunca más: La memoria de las desapariciones en la Argentina* (Buenos Aires: Siglo Veintiuno Editores, 2008).

4. Our knowledge about the mobilization of legal resources is probably more developed for the colonial period. See Annick Lempérière, *Entre Dieu et le roi, la république: Mexico, XVIe–XIXe siècle* (Paris: Belles lettres, 2004); Bianca Premo, *Children of the Father King: Youth, Authority, and Legal Minority in Colonial Lima* (Chapel Hill: University of North Carolina Press, 2005); Woodrow Wilson Borah,

Justice by Insurance: The General Indian Court of Colonial Mexico and the Legal Aides of the Half-Real (Berkeley: University of California Press, 1983).

5. Useful comparison in David McCreery, "'This Life of Misery and Shame': Female Prostitution in Guatemala City, 1880–1920," *Journal of Latin American Studies* 18, no. 2 (November 1986): 349–350. For Mexico see Peter F. Guardino, *Peasants, Politics, and the Formation of Mexico's National State: Guerrero, 1800–1857* (Stanford, CA: Stanford University Press, 1996).

6. Osvaldo Barreneche, *Dentro de la ley, todo: La justicia criminal de Buenos Aires en la etapa formativa del sistema penal moderno de la Argentina* (Buenos Aires: Ediciones al Margen, 2001); Pablo Piccato, "The Hidden Story—Violence and the Law in Guatemala," *Law and History Review* 24, no. 2 (2006): 427–433.

7. Carlo Ginzburg, "The Inquisitor as Anthropologist," in *Clues, Myths, and the Historical Method*, translated by John Tedeschi and Anne C. Tedeschi (Baltimore, MD: Johns Hopkins University Press, 1992), 158, 156.

8. Carlo Ginzburg, *The Judge and the Historian: Marginal Notes on a Late-Twentieth-Century Miscarriage of Justice* (London: Verso, 1999).

9. Jürgen Habermas, *The Theory of Communicative Action*, vol. 1: *Reason and the Rationalization of Society* (Boston: Beacon Press, 1984), especially 8–26.

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