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Article

Beyond Transitional Justice: Learning from Indigenous Maya Mam Resistance in Guatemala

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ABSTRACT

The international transitional justice movement – while making great strides in achieving justice and uncovering the truth of what happened during the decades-long internal armed conflict – ultimately constructs a narrow understanding of the conflict and post-conflict in Guatemala. Domestic and international human rights trials and truth commission reports focus, sometimes necessarily, on stories of suffering and the costs of war, and often leave out stories of resilience and triumph. Drawing on Indigenous scholarship about concepts of desire-centered work, refusal, survivance and thrivance, I argue for the need to shift fundamental assumptions and move beyond traditional approaches to transitional justice, identifying important lessons learned. A collaborative research project with a small Maya Mam Indigenous town in western Guatemala brings to the fore voices often missing from mainstream narratives about conflict by centering the community's grassroots development, and self-governance projects through which genocide survivors are building new, vibrant futures for themselves and their children.

KEYWORDS: Community justice, genocide, Guatemala, Indigenous Studies

INTRODUCTION

The cumbia beat bounces from the DJ's speakers as people's bodies match the rhythm under the flashing, colored lights in the darkness in a small town in western Guatemala. The community members of Nuevo Amanecer are dancing late into the humid heavy night, a culmination of the 21st anniversary celebration of the founding of their town. Many had fled the US-supported genocidal violence of the 1980s perpetrated by the Guatemalan military against Maya Indigenous people and leftist political groups. The mostly Maya Mam community members found refuge across the border in Chiapas, Mexico, and lived there in exile as *dispersos*, dispersed refugees, for nearly 15 years before returning to Guatemala in 1998. Every one of the 52 original founding families suffered loss of family members through massacres, direct violence or forced disappearance. Over the years, the community members have worked tirelessly to build a *paraíso*, 'paradise,' for their children and future generations.

One of the dancing pairs is two widows. Other widows sit alone, and with each other, watching the mostly young people dance. The costs of war are visually represented by empty seats; the sacrifices of the community's struggle are starkly present. However, the resilience of the community is also evident by how women step into the empty spaces of loved ones lost. While lost loved ones cannot be replaced, the community members have figured out how to continue *la lucha*, 'the struggle,' and build something new, like the two widows dancing with each other. Groups of children and young people laugh and dance all night long. One young couple, a husband and wife, joyfully dance late into the night with one of their small children: a triumph of *la lucha*.

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The goals of transitional justice are often to make sense of the past as well as to: hold perpetrators accountable for crimes, address the losses of victims and survivors, prevent future atrocities, promote social reconciliation and healing, determine the 'truth' of what happened and have a public acknowledgment of this truth.[1] To achieve these goals, transitional justice offers various mechanisms such as truth commissions, human rights trials and reparations.[2] These methods document the costs of war, tragedy, suffering and the 'failures to advance accountability for individual, high-profile violations, and high-profile violations to the [physical, human] body.'[3] Documenting the costs of war often relies on casting survivors into 'static notions of victimhood,' the 'political economy of victimhood'[4] and an identity as 'victim.'[5] These limitations restrict a full understanding of the dynamic experiences of conflict, particularly those of women who are often only narrowly seen as victims of sexual violence.[6] To be sure, setting a clear record of crimes and culpability is essential in the context where perpetrators maintain political, economic and social power, and engage in genocide denial and spreading disinformation. Societies have only just begun to fully recognize the scope and impact of sexual violence. While preserving the narratives of tragedy, especially those of sexual violence, is fundamental to truth and justice efforts, it is only part of the story.

Scholars have identified limitations of various widely implemented transitional justice methods and mechanisms.[7] Eilish Rooney and Fionnuala Ní Aoláin highlight

1 Cyanne Loyle and Christian Davenport, 'Transitional Injustice: Subverting Justice in Transition and Post Conflict Societies,' *Journal of Human Rights* 15 (2016): 126–149, 127; Ruti Teitel, *Transitional Justice* (New York: Oxford University Press, 2000); Jamie Rowen, *Searching for Truth in the Transitional Justice Movement* (Cambridge: Cambridge University Press, 2017), 3; Amy Ross, 'Truth and Consequences in Guatemala,' *GeoJournal* 60(1) (2004), 73–79, 73.

2 Martha Minow, *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Boston: Beacon Press, 1998).

3 Eilish Rooney and Fionnuala Ní Aoláin, 'Transitional Justice from the Margins: Intersections of Identities, Power and Human Rights,' *International Journal of Transitional Justice* 12(1) (2018), 1–8.

4 Tatiana Sanchez Parra, 'The Hollow Shell: Children Born of War and the Realities of the Armed Conflict in Colombia,' *International Journal of Transitional Justice* 12(1) (2018): 55–56.

5 Karine Vanthuyne, 'Ethnographier les silences de la violence,' *Anthropologie et Sociétés* 32 (2008): 64–71.

6 Sanchez Parra, supra n 4; Rooney and Ní Aoláin, supra n 3.

7 Irma Alicia Velasquez Nimatúj, 'Struggles and Obstacles in Indigenous Women's Fight for Justice in Guatemala,' *PORTAL: LLIAS Benson*, 29 July 2016, https://llilasbensonmagazine.org/2016/07/29/struggles-and-obstacles-in-indigenous-womens-fight-for-justice-in-guatemala/ (accessed 29 July 2021); Rachel Hatcher, 'Truth and Forgetting in Guatemala: An Examination of Memoria Del Silencio and Nunca Mas,'

the fact that transitional justice is often criticized for having a 'narrow, overly legalistic focus.' 'Meanwhile,' they argue, 'the collective resistance of those most directly affected by social repressions and human rights violations is ignored or marginalized.'[8] Those efforts, they explain, make 'little difference to mainstream transitional justice measures or to the states involved and their international partners.'[9] This is certainly the case in postconflict Guatemala.

Guatemalans have seen the implementation of various transitional justice mechanisms such as truth commissions, international and domestic human rights trials and an attempt at reparations programs.[10] As such, Guatemala would appear well-positioned to deliver on the promises of transitional justice such as truth and reconciliation, violence prevention, increased democratization and social reconstruction.[11] Yet by many accounts, these approaches to transitional justice have had limited effects on the everyday lives of Guatemalans.[12] Scholars have documented the ways

Canadian Journal of Latin American and Caribbean Studies 34(67) (2009) 131–162; Roddy Brett, 'Peace without Social Reconciliation? Understanding the Trial of Generals Ríos Montt and Rodriguez Sánchez in the Wake of Guatemala's Genocide,' *Journal of Genocide Research* 18(2–3) (2016): 285–303; Carlota McAllister, 'Testimonial Truths and Revolutionary Mysteries,' in *War By Other Means: Aftermath in Post-Genocide Guatemala*, ed. Carlota McAlister and Diane Nelson, (Durham and London: Duke University Press Books, 2013); Elizabeth Oglesby, 'Educating Citizens in Postwar Guatemala: Historical Memory, Genocide, and the Culture of Peace,' *Radical History Review* (97) (2007): 77–98; Kimberly Theidon, 'Gender in Transition: Common Sense, Women, and War,' *Journal of Human Rights* 6 (2007): 453–478; Victoria Sanford, 'Why Truth Still Matters: Historical Clarification, Impunity, and Justice in Contemporary Guatemala,' in *In the Wake of War: Democratization and Internal Armed Conflict in Latin America*, ed. Cynthia Arnson (Washington: Woodrow Wilson Center Press, 2012); Alison Crosby and M. Brinton Lykes, 'Mayan Women Survivors Speak: The Gendered Relations of Truth Telling in Postwar Guatemala,' *International Journal of Transitional Justice* 5(3) (2011): 456–476; Minow supra n 2; Marcia Esparza and Nina Schneider, eds., *Legacies of State Violence and Transitional Justice in Latin America: A Janus-Faced Paradigm?* (Lanham: Lexington Books, 2015); Matilde González, 'Local Histories: A Methodology for Understanding, Community Perspectives on Transitional Justice,' in *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*, ed. Hugo Van Der Merwe, Victoria Baxter and Audrey R. Chapman (Washington: United States Institute for Peace, 2009).

8 Rooney and Ní Aoláin, supra n 3.

9 Ibid., 1.

10 See: Greg Grandin, 'The Instruction of Great Catastrophe: Truth Commissions, National History, and State Formation in Argentina, Chile, and Guatemala,' *The American Historical Review* 110(1) (2005): 46–67; Ross, supra n1 at 76–77; Hatcher, supra n 7; Brett supra n 7; Velásquez Nimatúj, supra n 7 at 24–25; Elizabeth Oglesby and Diane M. Nelson, 'Guatemala's Genocide Trial and the Nexus of Racism and Counterinsurgency,' *Journal of Genocide Research* 18(2–3) (2016): 133–142; Jo-Marie Burt, 'From Heaven to Hell in Ten Days: The Genocide Trial in Guatemala,' *Journal of Genocide Research* 18(2–3) (2016): 143–169; Naomi Roht-Arriaza, *The Pinochet Effect: Transnational Justice in the Age of Human Rights* (Philadelphia: University of Pennsylvania Press, 2005), 171; 'Former Guatemalan Special Forces Officer Sentenced to 10 Years in Prison for Lying About Role in 1982 Massacre to Get U.S. Citizenship,' *Release No. 14-019* (Riverside: Department of Justice, 10 February 2014), https://www.justice.gov/usao-cdca/pr/former-guatemalan-special-forces-officer-sentenced-10-years-prison-lying-about-role (accessed 29 July 2021); Kate Doyle, 'The Guatemalan Death Squad Diary and the Right to Truth,' *Electronic Briefing Book, #378* (Washington: National Security Archive, 3 May 2012), https://nsarchive2.gwu.edu/NSAEBB/NSAEBB378/ (accessed 29 July 2021); Colleen Duggan, Claudia Paz y Paz Bailey and Julie Guillerot, 'Reparations for Sexual and Reproductive Violence: Prospects for Achieving Gender Justice in Guatemala and Peru,' *International Journal of Transitional Justice* 2(2) (2008): 192–213.

11 Loyle and Davenport, supra n 1 at 127.

12 See: Roddy Brett, 'Peace Stillborn? Guatemala's Liberal Peace and the Indigenous Movement,' *Peacebuilding* 1(2) (2013): 222–238; Joy Agner, 'The Silent Violence of Peace in Guatemala,' *NACLA Report on the Americas*, 14 May 2008; Velásquez Nimatúj, supra n 7 at 24; William Stanley, 'Business as

in which more traditional approaches to transitional justice neglect – or even erase – the diversity of stories told by survivors, particularly marginalized groups such as women and Indigenous people.[13] Guatemalan scholar Edgar Gutiérrez writes that an estimated 80 percent of Guatemalans, 'particularly [I]ndigenous people and women,' experience the country as a failed state, 'lacking access to basic services such as health care, education, security, and basic infrastructure.'[14] Structures of violence such as colonization, racism and social and economic exclusion of the majority Maya population persist in what Maya Kaqchikel scholar Demetrio Cojtí Cuxil calls a 'racist state.'[15] Paul Gready and Simon Robins argue that 'the performance and impact of transitional justice mechanisms have been at best ambiguous and at times disappointing, critiqued, for example, for treating the symptoms rather than the causes of conflict.'[16] The limitations of existing mechanisms highlight the need to imagine possibilities beyond mainstream approaches to transitional justice.

In the case of Guatemala, scholars have identified some of the ways that communities are resisting or operating outside of these traditional approaches to transitional justice. These ways include remaining silent, refugees negotiating their return on their own terms, as well as storytelling and community memory projects.[17] This article seeks to contribute to the existing scholarship, providing an example of how Nuevo Amanecer, a small Maya Mam community in western Guatemala, is working to rebuild after war, and create bright futures for its children.

In an effort to expand on this existing scholarship and address some of the limitations of mainstream transitional justice mechanisms, this article draws on the work of Eve Tuck (Unangax), in which she calls for a 'desire-centered' approach when working with communities that suffer from repression, racism and colonization.[18]

Usual? Justice and Policing Reform in Postwar Guatemala,' in *Constructing Justice and Security after War*, ed. Charles Call (Washington: United States Institute for Peace, 2007), 113–155; Angelina Snodgrass Godoy, *Popular Injustice: Violence, Community, and Law in Latin America* (Stanford: Stanford University Press, 2006).

13 See: McAllister, supra n 7; Oglesby, supra n 7; Theidon, supra n 5; Marcia Esparza, *Silenced Communities: Legacies of Militarization and Militarism in a Rural Guatemalan Town* (New York: Berghahn, 2018); Brigittine French, 'Technologies of Telling: Discourse, Transparency, and Erasure in Guatemalan Truth Commission Testimony,' *Journal of Human Rights* 8 (2009): 92–109.

14 Edgar Gutiérrez, 'Guatemala Fuera de Control: La Cicig y La Lucha Contra La Impunidad,' *Nueva Sociedad* 263 (2016): 81–95, 82.

15 Demetrio Cojtí Cuxil, 'Indigenous Nations in Guatemalan Democracy and the State: A Tentative Assessment,' *Social Analysis: The International Journal of Social and Cultural Practice* 51(2) (2007) 124–147, 125.

16 Paul Gready and Simon Robins, 'From Transitional to Transformative Justice: A New Agenda for Practice,' *The International Journal of Transitional Justice* 8(3) (2014): 340–341.

17 See: Vanthuyne supra n 5; K. Vanthuyne and R. Falla, 'Surviving in the Margins of a Genocide Case in the Making: Recognizing the Economy of Testimony at Stake in Research on Political Violence,' *Journal of Genocide Research* 18 (2016): 207–224; Alison Crosby and M. Brinton Lykes, *Beyond Repair?: Mayan Women's Protagonism in the Aftermath of Genocidal Harm* (New Brunswick: Rutgers University Press, 2019); M. Brinton Lykes, ADMI, Juana Utuy Itzep and Ana Caba Mateo, *Voices & Images: Mayan Ixil Women of Chajul* (Guatemala City: MagnaTerra, 2000); Irma Alicia Velasquez Nimatuj and Maria Aguilar, 'The Inhabitance of Loss: A Transnational Feminist Project on Memorialization,' translated by Susan Murdock, unpublished; Beatriz Manz, *Paradise in Ashes: A Guatemalan Journey of Courage, Terror, and Hope* (Berkeley: University of California Press, 2004).

18 Eve Tuck, 'Suspending Damage: A Letter to Communities,' *Harvard Educational Review* 79(3) (2009): 409–428.

A 'desire-centered' approach recognizes suffering and violence, as well as community strength and resilience. Drawing on Indigenous scholarship and implementing decolonizing methodologies, I argue that transitional justice needs to move beyond existing frameworks to include a broader understanding of experiences of conflict as well as a more expansive view of potential solutions to postconflict challenges. This can be achieved by engaging in 'desired-centered' work.

BEYOND TRANSITIONAL JUSTICE: A 'DESIRE-CENTERED' APPROACH

Tuck advocates for a 'desire-centered' approach instead of what she calls 'damage-centered' work. By using transitional justice methods focusing on narratives that understand the experience of conflict to be narrowly limited to suffering, violence, victimhood and defeat, we run the risk of producing 'damaging research' that reifies colonial structures. Tuck writes that:

> [I]n damage-centered research, one of the major activities is to document pain or loss in an individual, community, or tribe . . . it looks to historical exploitation, domination, and colonization to explain contemporary brokenness, such as poverty, poor health, and low literacy. Common sense tells us this is a good thing, but the danger in damage-centered research is that it is a pathologizing approach in which the oppression singularly defines a community.[19]

She argues for the need to engage in desire-centered work 'that upend[s] commonly held assumptions of responsibility, cohesiveness, ignorance, and paralysis within dispossessed and disenfranchised communities.' Tuck writes that desire-centered work 'accounts for the loss and despair, but also the hope, the visions, the wisdom of lived lives and communities.'[20] Truth commissions and trials are essential in order to create and preserve a historical record of what happened, to acknowledge genocide occurred, to shed light on mass atrocity and to hold perpetrators accountable. This is particularly important in the context of genocide denier movements, and when perpetrators of such violations maintain political, economic and social power. In addition to this important work, transitional justice should find ways to also acknowledge desire, triumph, strength, resilience and survival.

Tuck's concept of 'desire-centered' work allows for the acknowledgement of the genocide against Indigenous peoples of Guatemala, and the extensive suffering and loss experience by Guatemalans, while also including the triumphs and visions for the future. This framing of 'desire-centered' work can offer important opportunities for those working toward justice that does not limit communities to be narrowly defined by the atrocities they suffered. Using a 'desire-centered' lens sheds light on important justice work that communities are doing that otherwise might not be recognized by transitional justice scholars and practitioners.

A 'desire-centered' approach provides a potential solution to what Karine Vanthuyne identifies as a problem with the creation of the identity of 'victim,'

19 Ibid., 413.
20 Ibid.

particularly in the Guatemalan context. Reliance on the identity of victim, she explains, 'can both reproduce the historical and racist myth of the passive Native, on the one hand, and make any discussion of the role of the guerrillas in the conflict, on the other hand, taboo.' Moving beyond the narrow understanding and identity as 'victim' allows for a fuller understanding of people's experience of conflict, thereby recognizing the ways people see themselves as actors in a process of self-determination and enacting agency.[21]

While the history of Nuevo Amanecer is shrouded in loss, suffering, colonization and genocide, visitors to the small town are also regaled with stories of brave and courageous feats of survival and overcoming the greatest of odds to struggle to create a brighter future for the next generations. The youth speak about the sacrifices and strength of their parents and grandparents, and the responsibility they have to continue *la lucha*, to keep working toward achieving their ancestors' dreams. Engaging in 'desire-centered' work that recognizes past sufferings as well as the hopes and dreams for the future opens up opportunities for more extensive partnership and building of collaborative relationships and projects.

Working in collaboration with communities provides an important opportunity for 'desire-centered' work by focusing on the development of shared goals and vision based in relationships. The following sections will further explore Tuck's ideas by drawing on the scholarship of Audra Simpson (Mohawk), Dianne Baumann (Blackfeet) and Gerald Vizenor (Anishinaabe) and their concepts of 'refusal,'[22] 'thrivance'[23] and 'survivance,'[24] respectively. Recognizing and understanding acts of 'refusal,' and the practices of 'survivance' and 'thrivance,' can illuminate opportunities for collaborative projects within the field of transitional justice, providing a way to engage in 'desire-centered' work. Engaging in 'desire-centered' work can identify important collective resistance work which is often ignored and marginalized by mainstream transitional justice.[25]

THE PRACTICE OF COLLABORATION AND 'LEARNING FROM'

Indigenous scholars write about the importance of collaborative research as a way to counter colonial-based extractive practices of research in which, Audra Simpson (Mohawk) explains, 'indigenous people are categorized, studied, ranked, and possessed.'[26] Kimberly TallBear (Sisseton Wahpeton Oyate) argues for a posture of

21 Vanthuyne, supra n 5 at 68–69.

22 Audra Simpson, 'On Ethnographic Refusal: Indigeneity, "Voice" and Colonial Citizenship,' *Junctures: The Journal for Thematic Dialogue* (9) (2007), 67–80, 67.

23 Dianne Baumann, 'Blackfeet Men, "Toxic Masculinity", and Gender Entanglement' (PhD diss., University of Washington, 2019).

24 Gerald Vizenor, *Native Liberty: Natural Reason and Cultural Survivance* (Lincoln: University of Nebraska Press, 2009).

25 Rooney and Ní Aoláin, supra n 1.

26 Simpson, supra n 22 at 67. And see: Ruth Nicholls, 'Research and Indigenous Participation: Critical Reflexive Methods,' *International Journal of Social Research Methodology* 12(2) (2009): 117–126; Kimberly TallBear, 'Standing with and Speaking as Faith: A Feminist-Indigenous Approach to Inquiry,' *Journal of Research Practice* 10(2) (2014), 1–5; Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 2nd ed. (London and Dunedin: Zed Books and University of Otago Press, 2012); Russell Bishop, 'Freeing Ourselves from Neo-Colonial Domination in Research: A Maori Approach to

'standing with,' and development of relationships as a basis for research. 'Standing with' is an alternative to the binary between 'researcher/researched,' or 'colonizer/colonized,' which Stuart Hall argues places the control of the research process and knowledge creation in the hands of the dominant.[27] TallBear and others call for building collaborative projects that go beyond 'dualistic' 'reciprocity' arrangements where the researcher simply 'gives back' to participants.[28]

Russell Bishop (Māori) argues for the development of a co-created vision, plan and execution of a project founded in relationship, by creating an 'enhanced research relationship' where there is a long-term development of mutual purpose and input between the researcher and researched. He argues that:

> The research is driven by the participants in terms of setting the research questions, the design of the work, the undertaking of the work that had to be done, the distribution of rewards, the access to research findings, accountability, and the control over the distribution of knowledge.[29]

Bishop explains, 'connected knowing' focuses on how the agenda and interests of the researcher become that of the other and vice versa, thereby breaking down the 'researcher/researched' binary. Collaborative research calls for a development of a true research partnership with mutual goals.

Over a period of four years, I worked to develop a collaborative project with the community leadership and individuals in Nuevo Amanecer, a small community in western Guatemala about 40 kilometers from the border with Chiapas, Mexico.[30] The community is made up of approximately 52 families who founded the town in 1998 after returning from 15 years of living in exile in Mexico. In the spirit of the collaborative methodology outlined above, I worked with mainly women and youth to discuss the potential for a collaborative project, ongoing project goals, how progress would be analyzed and what the outcomes would be.[31]

Creating Knowledge,' *International Journal of Qualitative Studies in Education* 11(2) (1998): 199–219; Kuni Jenkins and Alison Jones, 'Rethinking Collaboration: Working the Indigene-Colonizer Hyphen,' in *Handbook of Critical and Indigenous Methodologies*, ed. Norman Denzin, Yvonna Lincoln and Linda Tuhiwai Smith (Thousand Oaks: SAGE Publications, 2008).

27 TallBear, supra n 26; Stuart Hall, 'When Was "the Post-colonial"? Thinking at the Limit,' in *Post-Colonial Question: Common Skies, Divided Horizons*, ed. Iain Chambers and Lidia Curti (Florence: Routledge, 1996), 246–248.

28 TallBear, supra n 26; Bishop, supra n 26; Ranjan Datta, Nyojy U. Khyangb, Hla Kray Prue Khyangb, Hla Aung Prue Kheyang, Mathui Ching Khyang and Jebunnessa Chapola, 'Participatory Action Research and Researcher's Responsibilities: An Experience with an Indigenous Community,' *International Journal of Social Research Methodology* 18(6) (2015): 581–599.

29 Bishop, supra n 26, 202–205.

30 I visited Nuevo Amanecer in the summers of 2016 to 2019, spending a total of five months in the town. I intended to return in the summer of 2020, but borders were closed due to the COVID-19 pandemic. When not in Guatemala, I maintain contact with community members and volunteer with the Seattle-based organization New Dawn Guatemala. The project is ongoing.

31 I have not individually named any of my co-collaborators due to privacy concerns and peoples' wishes to not be named publicly. In the cases where I do use names, they have been changed. I obtained consent to interview each participant and to use anonymized details of the interviews in publications. I obtained the informed consent of each interviewee, and community leadership, to identify the name of the town in publications. On May 12, 2016, the University of Washington Human Subjects Division determined that

Through conversations and extensive interviews, I worked with older women to understand their experiences of the conflict, and their plans and dreams for the future. I worked with young women to better understand their experience of returning to Guatemala and inter-generational transmission of memory, and supported them in youth leadership development. Due to my identity as a woman, I was able to pursue deeper and closer relationships with other women to a degree which would have not been culturally appropriate to do with men.[32] I also worked most closely with women because women's voices are often the farthest from the decision-making table and, especially in mainstream transitional justice and human rights circles, women are often seen only as survivors or victims of sexual violence.[33] Focusing on building relationships and partnerships with women allowed for exploring complex intersectional identities that are often lost in the 'one-dimensional capture of "womenandchildren."'[34] Challenging 'victim homogeneity' provided for an important opportunity to do 'desire-centered' work that moved beyond the approach where women are often placed into the monolithic, one-dimensional category of 'women and children,' flattening their experiences as homogenous.[35] Separating out the analysis of women's experiences, and those of children, allows for a richer, more nuanced understanding of the diverse experiences of women and of children as separate entities, and the multitudes of variations in the experiences of women.

While my gender identity helped me develop relationships with other women, my race, nationality and being an outsider brought challenges of power dynamics and limitations into our relationships. As a lighter-skinned, US citizen, non-Indigenous and non-native Spanish speaker, my relationships with the women were influenced by the United States' historical and current policies of colonialism, imperialism, racism and extraction of labor and resources. My status as an outsider both foreclosed and opened up opportunities for connection and relationship while working with the community.

NARRATIVES OF 'REFUSAL': '*¡SOMOS RETORNADOS!* WE ARE RETURNEES!'

During the genocidal violence of the 1980s, thousands of Guatemalans sought refuge in Mexico. The 52 families who would eventually build the community of Nuevo Amanecer lived in Mexico as *dispersos*, or 'dispersed people,' throughout the region of Chiapas, Mexico that borders with Guatemala. The *dispersos* feared both the Mexican immigration officials who would immediately deport them, as well as the Guatemalan military who made frequent incursions across the Mexican border to attack feeling refugees

this research is exempt under category two in accordance with United States federal regulations under 45 CFR 46.101/ 21 CFR 56.104. I protected the rights and welfare of the individuals and community involved in this research project, in the spirit of the Helsinki Declaration of 1975, amended in 2000.

32 Sarah Bronwen Horton, *They Leave Their Kidneys in the Fields: Illness, Injury, and Illegality Among U.S. Farmworkers* (Oakland: University of California Press, 2016), 191–192.

33 Theidon, supra n 7; Sheila Meintjes, Anu Pillay and Meredeth Turshen, *The Aftermath: Women in Post-War Transformation* (Londonand New York: Zed Books, 2001); Mary Moran, 'Gender, Militarism, and Peace-Building: Projects of the Postconflict Moment,' *Annual Review of Anthropology* 39 (2010): 261–274; Mónica Acosta, Angela Castañeda, Daniela García, Fallon Hernández, Dunen Muelas and Angela Santamaria, 'The Colombian Transitional Process: Comparative Perspectives on Violence against Indigenous Women,' *International Journal of Transitional Justice* 12(1) (2018): 108–125.

34 Sanchez Parra, supra n 4.

35 Rooney and Ní Aoláin, supra n 3 at 5–6.

and refugee camps. When the 52 founding families finally returned to Guatemala in 1998, the vast majority of them returned as *retornados*, or returnees, in contrast to others who returned as *repatriados* or *desmovilizados*, people who were repatriated or demobilized through Guatemalan government or UN programs.[36]

The people of Nuevo Amanecer chose to live as *dispersos* and to return on their own volition as *retornados* due to a mistrust of national and international programs. While some women were eager to return to Guatemala, other women were apprehensive. One woman called Marta explained:

> I returned because this is my home, not the other side. I was scared to return because we had left in so much fear. I am still afraid, but luckily nothing bad has happened. Now, I have a little land, some money, and my kids are older. I have land that I can leave them. Those are my dreams.[37]

Some had only narrowly escaped the genocidal violence, fleeing with only their clothes and children. Marta explained:

> I went to the other side in 1982. I was chased by the military to the other side. I had six kids and I brought them with me. We left as a group and I carried my baby on my back, and another in my arms. I ran across the border as the soldiers were charging, but they stopped at the border.[38]

Marta found help through the Catholic Church's Assistance Committee for Immigrants at the Border, or CODAIF, which provided aid such as food, building materials and medical attention.[39] Through CODAIF, the *dispersos* met each other and developed a close relationship with a Spanish, Catholic liberation theologian priest, Padre Juan José Aldas. Through the guidance of Padre Juan José, a group of *dispersos* would go on create the *Asociación de Campesinos Nueva Concepción de Alba* (ACNCA), the self-governance structure of Nuevo Amanecer. Creating the association afforded the group opportunities to solicit support from international organizations and Catholic dioceses in Mexico, Guatemala and Spain.

As *dispersos* and *retornados*, the founders of Nuevo Amanecer exercised self-determination and agency through what Mohawk scholar Audra Simpson calls 'refusal.' 'Refusal,' writes Simpson, is:

> [T]he very deliberate, willful, intentional actions people [make] in the face of the expectation that they consent to their own elimination as a people . . . to having their land taken, their lives controlled, and their stories told for them . . . they refuse to consent to the apparatuses of the state.[40]

36 A handful of families in Nuevo Amanecer returned through the demobilization or repatriation programs, however the vast majority came back to Guatemala as *retornados*.

37 Interview #004, July 2017, interview not recorded per request, original Spanish not available.

38 Ibid.

39 CODAIF, Comité de Ayuda de los Inmigrantes Fronterizos; see: Eliecer Valencia, *Guatemalan Refugees in Mexico, 1980–1984*. (New York: Human Rights Watch, 1984).

40 Audra Simpson, 'Consent's Revenge,' *Cultural Anthropology* 31(3) (2016): 327–328.

Carole McGranahan writes that refusal 'is an effort . . . to redefine . . . expectations or relationships. It is . . . to challenge authority or structure or the rules of engagement in the first place.'[41]

Through the creation of ACNCA, developing a relationship with Padre Juan José and garnering international support, the community was able to return on their own terms. Many women emphasized the importance of them making the choice to return on their own terms as an act of self-determination. 'We returned to Guatemala by our own effort, by our own will,' one woman explained.[42] As opposed to engaging with government programs, the people of Nuevo Amanecer chose to forge their own path forward. Through this refusal, they were also able to continue *la lucha* by resisting the use of 'controlled resettlement as a military strategy to a gain an upper hand on the guerrillas' real or potential social base.'[43] Refusing to participate in the repatriation program was a refusal to participate in an aspect of Guatemala's military strategic plan of social control.

Instead of engaging with state-sponsored resettlement programs, the ACNCA made a strategic choice to engage with the Catholic Church and other international donors. The *dispersos* were able to successfully navigate this relationship, redefining their relationship with the church and the state, allowing them to achieve their goals on their own terms. There is no doubt that the Catholic Church has a complicated relationship with Indigenous communities, having been a key instrument in the colonization and attempted destruction of Indigenous spirituality, culture, language and heritage. However, it is also true that Nuevo Amanecer found a way to redefine the relationship in a way that allows them to achieve their own goals.[44] Recognizing refusal is an important way transitional justice can engage in desire-centered work, and better understand the ways that communities are achieving some of the goals of transitional justice, but on their own terms.

Scholars working in postconflict Guatemala have also encountered acts of refusal to participate in truth commissions, what Mohawk scholar Audra Simpson terms 'ethnographic refusal.'[45] In her work with survivors of violence in Guatemala, Vanthuyne encountered important and nuanced silences when people speak of the past. She writes that these silences 'suggest the potential violence of a post-conflict intervention essentially centered on freeing the voice of the "victims."'[46] Simpson argues that the refusal 'is for the express purpose of protecting the concerns of the community. It acknowledges the asymmetrical power relations that inform the research and writing about native lives and

41 Carole McGranahan, 'Refusal and the Gift of Citizenship,' *Cultural Anthropology* 31(3) (2016), 334–341, 334.

42 Interview #001, July 2017. Original Spanish: 'regresamos a Guatemala por nuestro propio esfuerzo, por nuestra propia voluntad.'

43 Paula Worby, 'Security and Dignity: Land Access and Guatemala's Returned Refugees,' *Refuge: Canada's Journal on Refugees* 19(3) (2001), 17–24, 17.

44 For other similar examples, see: Glen Coulthard, *Red Skin, White Masks Rejecting the Colonial Politics of Recognition* (Minneapolis: University of Minnesota Press, 2014); Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.-Indigenous Relations* (Minneapolis: University of Minnesota Press, 2007); and Jean Dennison, *Colonial Entanglement: Constituting a Twenty-First-Century Osage Nation* (Chapel Hill: The University of North Carolina Press, 2012).

45 Simpson, supra n 22.

46 Vanthuyne, supra n 5 at 67; See: McAllister, supra n 7 at 106; and Theidon, supra n 7.

politics.'[47] In her own work collecting testimonies for the truth commissions in postconflict Guatemala, Carlota McAllister also encountered silences, finding that 'respondents [were] framing their silences are something *withheld* rather than something that cannot be said, as secrets rather than traumatic ruptures,' not as a result of trauma.[48] The act of refusing, withholding or keeping silence is a way for communities and individuals to shift the power dynamics and act from a place of self-determination and agency.

Recognizing acts of refusal is an important way to engage in 'desire-centered' work. It allows for a critical analysis of top-down, mainstream approaches to transitional justice efforts and simultaneously recognizes important collective resistance work being done by communities, which Rooney and Ní Aoláin find are often ignored and marginalized.[49] Recognizing refusal can also illuminate opportunities for transitional justice scholars and practitioners to work collaboratively with communities who are seeking to redefine relationships between marginalized communities and the state, and more clearly highlight desire.

NARRATIVES OF 'SURVIVANCE': '*CASAS DIGNAS*, DIGNIFIED HOUSES'

In July 1998, the *dispersos* returned to Guatemala to a patch of land that the community association had purchased with the support of Padre Juan José Aldas and various Catholic Dioceses. For several months, the original 52 families lived under one big makeshift tent fashioned out of tarpaulin and cooked communal meals out of large industrial-sized pots. Through the community association self-governance structure, they created committees to start to build the physical structure of the town. They organized themselves into two construction groups and collectively built each cement home, starting at either ends of the piece of land. They built the cobblestone road, and a *carpintería*, or carpentry shop, which now serves as the *sala* or main meeting space. They constructed the church and school, and over the years installed electricity and indoor plumbing, and repaired the existing well. They also created a variety of economic development programs such as beekeeping and honey production, as well as tortilla, fish, pig and chicken businesses.[50] As *dispersos* and then *retornados*, the community had refused to participate in government programs in order to build the foundation for their future on their own terms. Through the development of relationships on their own terms they were able to secure resources that supported them in achieving their goals. Despite the Guatemalan government's best efforts, the community continued to exist and build a brighter future for their children, a practice Gerald Vizenor (Anishinaabe) describes as 'survivance.'

Survivance is the idea that the very act of surviving is a form of resistance in the face of genocide, challenging the trope of the 'helpless victim.' Vizenor writes that:

47 Audra Simpson, *Mohawk Interruptus: Political Life across the Borders of Settler States* (Durham: Duke University Press, 2014),105.

48 McAllister, supra n 7 at 106.

49 Rooney and Ní Aoláin, supra n 3.

50 Interviews #001, #005, #006, #008, #010, #011 and #012, all of the mother generation, July 2017; and informal conversations with community elders and leadership including men and women in 2017 to 2019, and anniversary celebrations.

> The character of survivance creates a sense of native presence and actuality over absence, nihility, and victimry . . . Survivance stories are renunciations of dominance . . . the unbearable sentiments of tragedy, and the legacy of victimry.[51]

As *dispersos* and *retornados*, the founders of Nuevo Amanecer took an active role in determining their own destiny in order to build brighter futures for their children. They practiced survivance, finding creative ways to have their needs met when the state failed to provide them through more formal mechanisms such as reparations, truth commissions or criminal trials.

At the 19th annual celebration of the community's return to Guatemala, the *aniversario*, one of the youth leaders interviewed a community elder, Doña Ana, about the town's history. Doña Ana explained to those gathered for the celebration that when they returned to Guatemala, international supporters were going to provide materials to build houses for the community out of wood and corrugated metal. However, with the support of Padre Juan José, the town advocated to receive materials to build cement houses, *casas dignas*, or 'dignified homes.' Doña Ana explained Padre Juan José's reasoning to international donors on behalf of the community: Nuevo Amanecer had suffered so extensively and overcome so many odds that they should be given funds to construct *casas dignas*, out of cement, with solid roofs and floors.

Guatemala established a National Reparation Program (NRP) in 2003, which offers both monetary and non-monetary compensation in the form of cash, land and scholarships, as well as psycho-social support, construction of museums and exhumations to locate the missing.[52] In speaking with community members, our discussions did not touch explicitly on the terms 'justice,' 'reparations' or criminal trials. Many were aware of the genocide trial against former dictator Efraín Rios Montt, but no one in the community was involved in any of the international or domestic criminal trials. We discussed in general the RHEMI and CEH truth commission reports, but not whether community members gave testimony. No one discussed the NRP, though some did say they received psycho-social support and scholarships offered by the Catholic Church and RHEMI. While funds used to purchase the land and the donation of building materials were not the result of a formal reparations program, the Guatemalan government did give the community a piece of land approximately four hours away in the mountains.[53] The soil is poor, the terrain is difficult to navigate and the geographical distance makes developing the land difficult. Community leadership is currently in ongoing discussions about what to do with the land because efforts to grow coffee over the years have not been very successful.

From the original patch of land purchased with the help of Padre Juan José, members drew lots and worked in groups to construct each house. Over the years, the individual would work to pay off the cost of the land and the ACNCA retained formal ownership as a collective. Recently, due to tax law and a variety of other reasons, they are in the

51 Vizenor, supra n 28 at 86.

52 Duggan, Paz y Paz Bailey and Guillerot, supra n 10.

53 Converstions with community members, July 2017.

process of shifting toward individual ownership titles.[54] This has sparked intense conversation among community members, particularly from the older generation who raise concerns that younger generations might sell off their lots for cash. At one of the membership meetings, an older woman, Doña Clara, gave an impassioned speech to the group about the importance of retaining ownership of the land, explaining, 'if you have land you always have work and you always have food because you can work the land to grow food for your family.' 'We suffered,' she explained, 'we gave our blood for this land.'[55] Doña Clara went on to say that she didn't want the loss to be in vain, and it was important for young people to understand where the land came from, through struggle. In an interview, another older woman, Doña Paola, spoke about how her younger brother was forcibly disappeared during the war. When her family could not return to their town due to stigma after the war, she sold her brother's the land in her town of origin and used the money to build a new life with it in Nuevo Amanecer. Doña Paola spoke with great emotion about the significance of her land:

> It is a treasure that one has, a treasure, a memory of what one lived. The land . . . it was a gift they gave me, a gift my brothers gave me, it was land that my brother touched.[56]

Through survivance, despite the limitations of national and international programs, Doña Paola was able to find some healing and start to rebuild her life.

In the early 2000s, Padre Juan José Aldas fell ill and was unable to continue to support the community's development efforts and help ACNCA facilitate relationships abroad. At about that time, in 2006, Nuevo Amanecer began developing a relationship with a group of high school students, their parents and their teacher from Seattle, Washington, USA. The group formed an organization called New Dawn Guatemala (NDG) in 2013 in order to formalize a scholarship program they had created to support the youth of Nuevo Amanecer which was borne out of conversations between NDG and parents and students in Nuevo Amanecer. A member of NDG explained:

> We wanted to pay back for some of what we destroyed. The US funded people who tortured and murdered and we owe the Guatemalan people reparations. We can repay a little piece of that.[57]

Currently, NDG works with the Nuevo Amanecer leadership to identify the needs of the town, as well as to support infrastructure projects such as securing a sustainable water source.[58]

54 Conversations with community members. For more about land titles, see Paula Worby, 'A Generation after the Refugees' Return: Are We There Yet?' in *War by Other Means: Aftermath in Post-Genocide Guatemala* (Durham, NC: Duke University Press, 2013).

55 Community meeting, early July 2017.

56 Interview #005, July 2017.

57 Interview with Jospeh Szwaja, co-founder of New Dawn Guatemala, March 16, 2021, Seattle, WA, USA.

58 I am not a member of New Dawn Guatemala, but occasionally volunteer and make a small monthly donation to the scholarship program. NDG helped facilitate my early contact with the town. I was clear with Nuevo Amanecer and NDG that my work with the town was parallel to but independent from NDG.

Considering the limitations of Guatemala's national reparation program, the relationships that Nuevo Amanecer was able to forge with the Catholic Church and Juan José Aldas, as well as with NDG, provide important resources to help the community rebuild and meet fundamental needs that the Guatemalan government or formal transitional justice programs are not able to provide. However, these relationships are not without complication. Padre Juan José's illness and eventual health decline highlighted concerns about reliance on collaboration with a single person. The community's relationship with NDG is founded on ideas of solidarity, relationship, collaboration and mutual education; however, structures of colonialism, imperialism and power imbalance persist.[59] Complicated issues arise in regards to what Vanthuyne and Falla describe as the 'economy of testimony' in which people in economic distress may feel pressure to tell their story in exchange for financial support.[60] This provides an important opportunity for people to gain access to resources and to tell their story, but can also further exacerbate power imbalances, raising various ethical concerns. Despite the challenges, a commitment to a collaborative approach in this work may have the potential to meet Arturo Escobar's call for a 're-localization' of development efforts, moving away from western-centric dependent 'solutions,' and toward community-driven, self-sustaining projects.[61] Partnerships like these offer an opportunity to engage in desire-centered work that recognizes past suffering and damage, and at the same time to achieve some of the goals of transitional justice. While the goal of these partnerships is to operate outside of the formal top-down structures of traditional mechanisms, it is important to be aware of the ways that they can unwittingly reinforce colonial structures.

While the experiences of loss and suffering faced by the community members of Nuevo Amanecer many never be fully addressed in mainstream transitional justice mechanisms or by the Guatemalan government, community members have found ways to achieve their goals, whether returning to Guatemala on their own terms, purchasing their own land or building dignified homes. Recognizing these practices of survivance provides an opportunity for transitional justice to imagine possibilities beyond current limitations in the field, and highlights opportunities to engage in desire-centered, collaborative work.

NARRATIVES OF THRIVANCE: '*¡¡SOMOS DESCENDIENTES DE GUERREROS FUERTES!!* WE ARE DESCENDANTS OF STRONG WARRIORS!!'

Blackfeet scholar Dianne Baumann takes the idea behind the concept of survivance even further, writing that while her peoples' stories 'may contain elements of pain, the focus centers on pushing beyond survivance to thrivance – a strong sense of self-assurance from appreciation of our own abilities, qualities, and identity.' Baumann pushes the idea of thrivance to be more than just surviving (continuing to exist or stay alive), but also to be successful and thrive in the face of efforts to eliminate the

59 Also see: Jones and Jenkins, supra n 26; and Teju Cole, 'The White-Savior Industrial Complex,' *The Atlantic*, 21 March 2012.

60 Vanthuyne and Falla, supra n 17.

61 Arturo Escobar, 'Sustainability: Design for the Pluriverse,' *Development* 54(2) (2011): 137–140.

Native, relying on oneself and the community in order to achieve this success. Baumann argues:

> This thrivance focus is important as it dives beyond the survival statement of "we are still here" to "we are productive, vibrant, and contributors to today's world" . . . the positivity of a thrivance focus can reset the narrative for the constructive contributions and everyday normalcy of Indigenous peoples today.[62]

The key idea of thrivance acknowledges that through everyday acts, Indigenous people construct and contribute to projects of resistance, and that to succeed is itself a form of resistance.

In the case of Nuevo Amanecer, the very fact that the community exists is a triumph, as seen in the daily lives of the community's children who run, laugh and play in the streets of the town, surviving and thriving. The fact that the children go to school, can obtain scholarships, inherit their parents' land, have a home and participate in Maya cultural celebrations helps us see the community's work to build a brighter future for their children. Simply working to ensure that their children are happy and healthy is an important way the parents are continuing their struggle for justice. Acknowledging this practice of thrivance challenges mainstream narratives that would see the members of this town simply as victims or survivors of genocide who lost the war.

When asked directly about whether or not the leftist movement 'won' anything from the conflict or had gained any triumphs as a result of the struggle, many community members spoke of the ways in which they were able to achieve some successes, and how the community continues *la lucha*. One woman, Alma,[63] explained that Nuevo Amanecer is *paraíso* as she gestured to the trees that bear mangoes, rambutan, papaya and limes, and the corn and banana fields with lush foliage and mountains in the distance. 'This was my parents' house, and now it is mine. It will be my children's,' she explained: 'This is what we fought for.' She and her husband have several children whom they educate about political and social ideologies. Her children are youth leaders and recipients of scholarships to continue their secondary and professional studies. When Alma shared stories about her exodus from Guatemala and her time in Mexico as a young person, she shared stories of painful loss, illness and violence, but also of hope for the future of her children, and the better Guatemala they are building for future generations.

While Alma and her neighbors' lives are not without struggle and loss, her children's daily lives and their potential futures are closer to the dream that she and her community have worked toward for decades. The desire for a better future for their children including access to education, employment, cultural celebrations, land ownership and deep connection to community is coming into reality. The community of Nuevo Amanecer is not only surviving but thriving. Desire-centered work recognizes this thrivance as an important practice of collective resistance that operates outside of mainstream transitional justice frameworks; it works to preserve the past and build

62 Baumann, supra n 23 at 19.
63 Informal conversation, July 2018.

brighter futures. The idea of thrivance centers Indigenous agency and contributions to achieve goals of healing and repairing the destruction of war. Engaging in desire-centered work that highlights thrivance meets Rooney and Ní Aoláin's call to recognize important collective resistance that is often ignored and marginalized by the transitional justice field.

ANIVERSARIO AND YOUTH LEADERSHIP DEVELOPMENT

As discussed previously, damage-centered work often only focuses on a narrow understanding of suffering and oppression. Engaging in desire-centered work can provide new possibilities for transitional justice by learning from what communities are doing to build brighter futures for future generations, and how they speak about their own narratives of the past. One of the most important events of the year in Nuevo Amanecer is the *aniversario* which is celebrated on July 27 every year, marking the community's return to Guatemala, and serves as the town's central historical memory project. The town uses this celebration as the opportunity to preserve the town's history by educating the youth about the suffering of the community, as well as the successes and triumphs over the years. The *aniversario* is a day-long celebration that usually includes a Catholic mass of remembrance and thanksgiving in the morning, a shared meal cooked collectively by the women, sports tournaments and the main event, the *noche cultural*, or 'cultural evening.' Youth leaders are charged with the responsibility of creating, organizing and carrying out the *noche cultural* each year. They choreograph traditional dances and teach them to younger children. Youth leaders step into the role of masters of ceremony and other youth perform songs and spoken word poetry. Youth education and leadership are the central focus of the *aniversario*, and the *noche cultural* specifically. It is through the *aniversario* that young people learn about the history of the town, and are participants themselves in telling the story, which is often different from mainstream narratives of the past.

Young people hear from their elders, and then retell stories of the town which include sacrifice, loss and suffering, as well as triumphs and the town's milestones, such as installing indoor plumbing and electricity. For the 19th anniversary celebrated in 2017, during the event, a youth leader interviewed two community elders about their experiences during the conflict and the violence that pushed them into exile in Mexico. The elders also explained the motivation for returning to build the town of Nuevo Amanecer, and their decision-making about how the governance structure was initially organized. They told how they worked to bring into being their collectively shared vision for the future generations of children and the youth of the town, including the story of how they were able to secure materials to build *casas dignas*. After the *aniversario*, Teresa, a woman in her thirties, said that she had never heard this story about *casas dignas* before. She explained that '. . . this is . . . something that they [the elders] know but hadn't discussed with the community. This is the essence of the aniversario, the discovering of things.'[64] This story acknowledged both the suffering of the past, but also the triumph in obtaining the proper supplies to build these dignified homes, creating a brighter future for their children. Through the

64 Interview #014, August 2017. Original Spanish: 'Este como . . . este algo, que ellos lo saben, pero no habían platicado con la comunidad. Es la esencia del aniversario que se está descubriendo las cosas.'

anniversary celebration, Teresa was able to gain a fuller understanding of the story of origin of her community, the decisions and efforts made and the community's values and vision.

Through the *aniversario*, youth and elders are able to tell the story of community in their own words. This contrasts to what McAllister calls the 'therapeutic narrative,' a narrowly focused testimony captured by Guatemala's UN-sponsored truth commission conducted in the late 1990s. While the truth commission work is essential and captured important narratives resulting in a ground-breaking report, it told only part of the story. McAllister argues that this limited 'therapeutic narrative' excludes more diverse narratives of experiences of conflict such as the 'historical narrative' and the 'heroic narrative.'[65] Similarly, Elizabeth Oglesby argues that Guatemalan's truth commission process left out victims' identities as social actors 'involved in projects of social change.'[66] She explains that the narrow frames of historical memory produced are limited to *relatos de la muerte* or 'tales of death.' Capturing the 'heroic narrative' in addition to the *relatos de la muerte* provides an important narrative of resilience, hope and vision for the future. Desire-centered work recognizes the *relatos de muerte* as well as the 'heroic narrative.'

Community elders instill a sense of futurity and thrivance by putting the young people in charge of organizing and carrying out the *noche cultural*, and of telling the story of the town's history. By supporting youth leadership and empowering them to tell their own narratives of the conflict and the town's history, they are ensuring survivance and thrivance, the continuance of *la lucha* and a brighter Indigenous future. The stories told during the *aniversario* counter mainstream narratives which focus on victimry, suffering and loss. Oceania Fijian scholar Epeli Hau'ofa argued that Native pasts are often constructed by Euro-American imperialism, and that 'our histories are essentially narratives told in the footnotes of the histories of empires.' Hau'ofa suggests a rewriting of histories of native peoples by native peoples themselves, focusing on different characters in the stories, by centralizing Indigenous actors and minimizing colonists.[67] Desire-centered work makes space for communities to tell their own stories on their own terms, and encouraging the youth to tell their own stories is an important practice of survivance and thrivance.

While the *aniversario* celebrates the return as a triumph and a homecoming, the return was an abrupt and at times traumatic experience for some young people. In speaking with young women in their thirties, most of whom were born in Mexico, or were infants when their mothers fled into exile, more complicated narratives of the return emerge. Many of the young people who grew up in Mexico did not know of their Guatemalan roots. Some people, even after learning their family's history, strongly identify as Mexican and did not want to return with their families to Guatemala. Others that were born in Mexico see themselves as *puro guatemalteco*, or 'pure Guatemalan.' Many young people experienced discrimination on both sides of the border while growing up in Mexico, and also when they returned to Guatemala, particularly at school. Upon their return, often the children were ostracized and

65 McAllister, supra n 7.

66 Oglesby, supra n 7 at 79.

67 Epeli Hau'ofa, *We Are the Ocean: Selected Works* (Honolulu: University of Hawaii Press, 2008), 62–65.

called names because they spoke with a Mexican accent and used Mexican-Spanish vocabulary.[68] In a few cases, young people have been able to leverage a dual identity and citizenship as Mexican and Guatemalan in order to move across the border more easily in pursuit of employment and economic advantage. Community leadership and parents of the older generation find that there are low numbers of youth from the town migrating north because of strong community support, scholarships and the fact that families own the land.[69] Despite their own challenges as young people, many of these women now have children of their own who are growing up in a close-knit community, with access to education and support from neighbors and extended family. This narrative of the return that includes these nuanced and complex struggles with identity is not discussed publicly. In considering the future of transitional justice and desire-centered work, silences and exclusions like these need to be considered. The experiences of these women and young people could often be overlooked if lumped into a narrow category of 'womenandchildren.'[70] The concepts of refusal, survivance and thrivance can help us better understand these complex experiences, providing an opportunity to engage in desire-centered work and highlight important acts of collective resistance.

One young person in their early twenties posted a reflection on their Facebook page in recognition of the town's 21st anniversary celebration in 2019. They acknowledged the sacrifices of past generations, as well as the triumphs and hopes for the future:

> Who would say that the efforts of our brothers would have had a reward, they sacrificed for a great purpose, that their children and grandchildren would live in a better environment than they lived, and it is true that the situation today is very unfortunate but we know that in a percentage of young people and children there is the desire to continue with the work of their parents and grandparents . . . and yes, it is true, it was hard life, it was hard, the separation of families and having to leave your country because you were not sure, to reach another country where some saw you as an invasion and others would see you as brothers who suffered a lot. I know it was very difficult all this way. Nights of sorrows and tears to know that lives of many friends and family were lost is very hard . . . but still, look around. Dad, Mom look at the fruit of so much effort. The young generation—we are descendants of strong warriors!! Already 21 years of new life. As a community we have to give thanks, cry, laugh, shout if you can! That we are growing stronger and with the same hopes . . . to be happy.[71]

68 Interviews #021 and #022, August 2017.

69 Informal conversations with community elders and parents of young people.

70 Sanchez Parra, supra n 4.

71 Facebook post by a young person, 28 July 2019, republished with permission. Original Spanish: 'Quien diría que el esfuerzo de nuestros hermanos tendría una recompensa, se sacrificaron por un gran propósito, que sus hijos y nietos vivieran en un ambiente mejor al que ellos vivieron, y es cierto que la situación de hoy en día sea muy lamentable, pero sabemos que en un porcentaje de jóvenes y niños está el deseo de seguir con la tarea de sus padres y abuelos. y Si es cierto fue dura la vida, fue dura la separación de familias y tener que salir de tu país porque no estabas seguro, el llegar a otro país donde algunos te veían como una invasión y otros te verían como hermanos que sufrieron mucho. Lo sé fue muy difícil todo este

The community is invested in developing youth leadership by involving the town's youth in preserving its history, as well as creating a vision for the future, and continuing *la lucha* toward this vision.

REFLECTIONS AND CONCLUSIONS

When transitional justice focuses exclusively on documenting the stories and impact of the violence, loss and pain of war and oppression, we miss important parts of the story, and unintentionally reinforce damaging narratives and singularly define the community by this oppression. It is essential that we heed Tuck's call to engage in desire-centered work that can more clearly illuminate structural violence, and legacies of colonization and genocide, as well as preserve stories of collective resistance, refusal, survivance and thrivance. This will allow us to address the limitations that numerous scholars of transitional justice have identified in the field. Engaging in desire-centered work can challenge ideas of what justice is, and how it can be and is being achieved, beyond the traditional approaches and mechanisms. Future work needs to continue to explore the possibilities and challenges of engaging in collaborative work and address the limitations of the field.

If scholars and practitioners make a commitment to not engage in damage-centered work, and instead shift to desire-centered work, there remain unanswered questions about how this shift could have unintended consequences in certain political, economic and social contexts. In the case of Guatemala, recent political shifts since 2012 have led to a roll-back of many transitional justice and human rights advances. At the same time, the nation's genocide denier movement has gained traction, power and voice.[72] Any critique of the domestic criminal trials or the truth commission reports could conceivably be picked up by the genocide denier movement and utilized to nefarious ends. How, then, can we engage in desire-centered work that acknowledges survivance and thrivance and challenges narrow understandings of victimry, violence and suffering, but does not harm the important work that traditional truth and justice approaches produce? How do we constructively critique traditional approaches to transitional justice without adding fuel to the fire of genocide denier movements and regimes that maintain the political, economic and social power of perpetrators? Further research discussions need to continue to explore these questions, with care and consideration to potential unintended consequences of the work.

The intention is not to be prescriptive; each context has unique challenges, strengths and justice needs. Creative efforts are underway to expand the ideas of what justice can look like through restorative and transformational justice projects at

trayecto. Noches de penas y lágrimas al saber que se perdían vidas de muchos amigos y familiares es muy duro . . . pero aun así miremos a nuestro alrededor. Papá, mamá mira el fruto de tanto esfuerzo. la generación joven y somos descendientes de guerreros fuertes!! Ya son 21 años de vida nueva. Como comunidad hay que agradecer, llorar, reír. ¡Gritar si es posible!!! Que vamos creciendo más fuertes y con las mismas esperanzas . . . Para ser felices.'

72 *The International Center for Transitional Justice*, 'Anniversary of Guatemala's Genocide Verdict Marked by Denial and Polarization,' 15 May 2014, https://www.ictj.org/multimedia/audio/anniversary-guatemala-genocide-verdict-marked-denial-and-polarization (accessed 27 July 2021).

the community level.[73] The intention of this article is not to suggest doing away with more formal transitional justice mechanisms but instead to recognize the importance of the role of community leadership and goals as multiple pieces of a whole. A community knows best what it needs for itself, and it is likely that each community has its own idea of justice, and way of working toward it. It is important to center the desires, goals and work that communities are already doing at the local level. When centering international or external justice mechanisms, there is a risk of recreating and reinforcing colonial structures that center a narrow understanding of what justice is and the solutions to achieving justice. We need to continue to expand our idea of what justice is to include everyday life projects of living, succeeding and celebrating.

73 Grover Cornejo, 'La Justicia Transformativa, Más Allá de La Justicia Restaurativa,' *Revista Internauta de Práctica Jurídica* (19) (2007).