

Gloria's Story and Guatemala's Faith: Adulterous Concubinage, Law, and Religion

M. C. MIROW

John Wertheimer, the author of "Gloria's Story," has produced a complex and absorbing text that skillfully guides the reader through the microhistory of Gloria's concubinage to an enhanced appreciation of the greater legal, social, and institutional forces at play in mid-twentieth century Guatemala. Using Gloria's story to shift into more general observations about law and society in Guatemala, Wertheimer states that laws can "affect behavior by establishing incentives and disincentives for different types of action and by reinforcing or undermining different values."¹ Wertheimer reads the legal records involving Gloria and her family to write her story from the dominant critical perspective of gender and class. He notes the way in which class distinctions played into the creation and maintenance of concubinages and the manner in which gender stereotypes bolstered such institutions. It is all exacting yet comfortable stuff for us to read. "Yes, yes, of course, exactly" we nod as we read of the individual and institutional gendered oppression meted out on Gloria and her children by Julio and the state. Nonetheless, Wertheimer's analysis delves deeper: Gloria may have gained in status and stability through her concubinage, and liberal reforms such as decriminalizing adultery and casting out distinctions between legitimate and illegitimate children may have had the unintended consequence of strengthening the institution of adulterous concubinage.

1. John W. Wertheimer, "Gloria's Story: Adulterous Concubinage and the Law in Twentieth-Century Guatemala," *Law and History Review* 24 (2006): 419.

M. C. Mirow is an associate professor of law at FIU College of Law <mirowm@fiu.edu>.

Wertheimer brings us to this interesting conclusion by adeptly handling a variety of sources. He extracts the details of Gloria's story from the records of legal proceedings and places them against the wider legal and social changes, such as shifts in the language of the civil code, a broader study of family cases in the courts, and interpretations of census data, leading up to and operating concurrently with the story. It is a job well done.

Let us briefly apply a hermeneutic of absence to the narrative Wertheimer constructs. What, in my view, is absent from this account of Gloria's story as it played out in the 1960s? Religion. And perhaps no greater force than religion has shaped western family law in the past thousand years. Christian doctrine and reaction to Christian doctrine have determined Latin American family law from colonial times to the present. On the death of Jacques Derrida, Stanley Fish suggested that religion "would succeed high theory and the triumvirate of race, gender, and class as the center of intellectual energy in the academy."²

Religion, like law, channels behavior and shapes society, especially in the sphere of sexual relationships and family structure and behavior. This is perhaps especially true in Latin America and Guatemala, where the church's hold on people, or its guidance, depending on your perspective, has been historically strong. But religious traces are often harder for historians to document. In the modern era, church attendance, homily or sermon content, credos, personal beliefs, and practices often are not or can not be documented as thoroughly as "Gloria's Story," thanks to the rich legal sources that Wertheimer has deftly explored. The history and sociology of religion and the field of historical theology are fraught with all the methodological challenges associated with the larger fields of history and sociology. William Park, however, suggests that part of writing on law and religion is to "show an appreciation of what religion means in the life of individual believers."³ I believe this charge is all the more relevant to a study of family law and practice in Guatemala in the mid-twentieth century.

I do not assert that "Gloria's Story" is "wrong" or even "incomplete." The story, however, raises fundamental questions about the influence and operation of religion within the narrative. If indeed Stanley Fish is correct that religion will replace race, gender, and class, rather than supplement these perspectives, as the new critical tool of the humanities (and thus the

2. Stanley Fish, "One University, Under God?" *Chronicle of Higher Education*, January 7, 2005, C1.

3. William W. Park, "Spiritual Energy and Secular Power," in *Religion and International Law*, ed. Mark W. Janis and Carolyn Evans (The Hague: Martinus Nijhoff Publishers, 1999), 270.

one that will percolate into legal scholarship a decade or two later), then the dialogue between faith and law as it affects family law and practice should lead historians to further sources, albeit difficult ones.

Religion, of course, played an important part in the construction of colonial and early republic family law. Wertheimer appropriately and accurately describes this influence in the portions of the article setting out the legal development of adultery, concubinage, and legitimacy in Guatemala. Guatemala also experienced the secularization of family law in the later nineteenth century that touched many countries in the region as part of anti-clerical liberal reforms.⁴ But even when the church has been publicly removed from legal and political activity and power, for example through the secularization of marriage laws or the expropriation of church property, it often continues to operate on social and even political levels through unofficial channels and accommodations.⁵

It is not surprising that the Ten Years of Spring and reforms of the Constitution of 1945 led to the omission of recording the legitimacy status of children on birth records, or even that, through inertia, this practice continued after the 1954 coup.⁶ The liberal reformation and secularization of law must not excuse us from examining the religious aspects of law, particularly family law, when the events we study occur in a religiously charged period such as Guatemala in the 1960s. Indeed, in this period the established Catholic Church gained power but was also challenged by foreign Catholic priests through the Catholic Action movement. Established Protestant churches also faced widespread new evangelization activities. Indigenous folk practices continued and competed in the religious sphere as well. Almost all religious actors seemed to be attempting to offer competing ideologies to nascent revolutionary movements growing in the period as well.⁷ It is unlikely that these religious said nothing about family and marriage.

The power of the church is, of course, even greater when it is on the winning side of political conflict. Indeed, the Catholic Church is known to have been one of the forces that served to pressure Arbenz Guzmán to resign, leading to the 1954 coup.⁸ The Constitution of 1956 established

4. Wertheimer, "Gloria's Story," 391, n.55.

5. Peter Lester Reich, *Mexico's Hidden Revolution: The Catholic Church in Law and Politics since 1929* (Notre Dame: University of Notre Dame Press, 1995).

6. Wertheimer, "Gloria's Story," 397.

7. Virginia Garrard-Burnett, *Protestantism in Guatemala: Living in the New Jerusalem* (Austin: University of Texas Press, 1998), 100–119.

8. Maureen E. Shea, *Culture and Customs of Guatemala* (Westport, Conn.: Greenwood Press, 2001), 13.

the clergy's right to perform civil marriages, and there were even calls to establish Roman Catholicism as the state religion.⁹ The Church continued to function as such among Guatemala's significantly large Roman Catholic population. Religion and the Church must have influenced both the law and social practices related to families in twentieth-century Guatemala. It is interesting to note, however, that in the years following the coup, as it appears from Wertheimer's article, the church did not exert pressure for law reform and was not an active participant in the process of creating the Family Court Act of 1964 despite its stronger position under the military dictatorships of the period.

In Guatemala, "the sacred—whether in its Catholic, pre-Hispanic, or even Protestant guise—continues to inform the conduct of much of everyday life."¹⁰ Religion functions on a cultural plane as well. Certainly the Catholic Church (and perhaps Catholic Action since the late 1940s in Guatemala) took a lasting stand against adultery and concubinage. Protestants in Guatemala, although not a particularly large group in the period of "Gloria's Story," also asserted a message of chastity and traditional Christian morality in marriage.¹¹ Likewise, Maximón/San Simón, the Guatemalan folk saint, has a "double personality as protector of sexual virtue and abuser of the same."¹² Indeed, some Guatemalans believe that Maximón/San Simón can prevent a spouse from running away with another.¹³ It seems unlikely that religious leaders in communities would be unaware of adulterous concubinage considering its prevalence, particularly among wealthier men in Guatemalan society.¹⁴

Wertheimer does not completely omit a possible religious component to Gloria's story. The only direct reference to religion, however, is a shocker. It is a tiny story within the microhistory. Wertheimer notes that a local pastor intervened in Gloria and Julio's case. Wertheimer reports from the proceedings that this local pastor sought a "spiritual reconciliation" between Gloria and Julio and that he thought that it had worked to reunite adulterer and concubine.¹⁵ Not only were liberal reforms contributing to

9. Garrard-Burnett, *Protestantism in Guatemala*, 101.

10. *Ibid.*, xi.

11. Shea, *Culture and Customs of Guatemala*, 33–34.

12. *Ibid.*, 53.

13. Jim Pieper, *Guatemala's Folk Saints* (Los Angeles: Pieper and Associates, 2002), 57.

14. John Hawkins, *Inverse Images: The Meaning of Culture, Ethnicity and Family in Postcolonial Guatemala* (Albuquerque: University of New Mexico Press, 1984), 252; Wertheimer, "Gloria's Story," 420.

15. Wertheimer, "Gloria's Story," 418, n.162.

adulterous concubinage, but so too was the advice of local clergy! One wonders whether this was a representative practice of local clergy or merely an aberrant instance.

Let us suppose that the pastor Gloria and Julio consulted was a member of the Protestant clergy as the title implies. If the pastor indeed sought a reconciliation of some sort between the two, what a fascinating reinterpretation or misinterpretation of traditional Christian moral teaching the record provides. Because Protestantism in Guatemala carried and carries with it important political, economic, and social aspects, the very fact that they sought this pastor's intervention indicated that Julio and Gloria were attempting to assert membership in the middle class.¹⁶ Their seeking reconciliation with a pastor also had juristic weight. Indeed, as Wertheimer writes, "The testimony of a local church pastor may well have been decisive."¹⁷ Gloria's position in the legal proceedings was injured when the pastor was unable to testify about arrangements for child custody, because "he believed the couple was reuniting."¹⁸ Thus, in one way religion may have played a determinative part in Gloria's case. The pastor, through his inability to verify her claims that care of the children had been arranged before her departure, ensured that Julio's claims of abandonment were supported. It is likely that his account was given greater weight in the proceedings simply because of his clerical status.

These brief comments are meant to do nothing more than suggest further aspects that were raised in my mind by "Gloria's Story." In fact, a cursory investigation reveals that the additional sources needed to incorporate religion as a method or approach to understanding Gloria's concubinage and to the development of Guatemalan family law are difficult to find and, when located, often disappointing in content. Historians of the church in Guatemala of the period tend to focus on its political positioning rather than its social activities. Homilies and sermons are no longer collected and published as they were in past centuries. Internal reports of the Catholic Church and Protestant denominations and their missionary activities present all the archival challenges so familiar to historians. The communications of Gloria, Julio, and Cristina (remember her?) to clergy deserve respect and confidentiality. Thus, even if one were convinced that the method had something to contribute to the narrative, it is not an easy undertaking.

Wertheimer's story of Gloria stands on its own and stands well without further analysis from the religious perspective. Nonetheless, there is prob-

16. Garrard-Burnett, *Protestantism in Guatemala*, xiv.

17. Wertheimer, "Gloria's Story," 418, n.162.

18. *Ibid.*

ably more to the background legal developments, to the way adulterous concubinage played out in Guatemalan society of the 1960s, and to Gloria's own experiences. These additional perspectives might only be uncovered and lead to a fuller understanding of Gloria's story if we were willing to supplement the trinity of race, class, and gender with religion.