Tracing Responses to Femi(ni)cide in "Postconflict" Guatemala: A Transnational Feminist Analysis

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Abstract

In the first decade of the 2000s, feminists and human rights activists in Guatemala began to call attention to an increasing number of murders of women in the country. Mobilizing the discourse of *femicidio* / *feminicidio* that was circulating in many parts of Latin America at the time, they advocated for women's right to live free from violence and pressured the state to address the conditions that infringe on this right. This dissertation addresses state and civil society responses to femi(ni)cide, examining the assumptions embedded in these responses and their implications for questions of justice and accountability in Guatemala's postconflict and post-genocide context. It draws on interviews with 33 key informants (activists and advocates, representatives of NGOs and state institutions) as well as textual analysis of reports on and campaigns against femi(ni)cide. Grounded in an antiracist and transnational feminist framework, it offers a historicized and contextualized analysis of femi(ni)cide as embedded in social relations of power and structures of exclusion, privilege, and marginalization. The dissertation uncovers a tension between everyday and exceptional violence running through anti-femi(ni)cide activism that is largely sustained by the idea of a continuum of violence against women. Such a continuum links more common and normalized forms of gendered violence to headline-grabbing murders exhibiting signs of torture and overkill by explaining them as violence that affects "all" women as women. While sustaining this tension was central to activists' success in pressuring legislators to adopt a law that criminalized several forms of gendered violence, it has also contributed to the erasure of the particular women targeted by more exceptional forms of violence: those marginalized by constructions of class, race/ethnicity, gender expression, sexuality, and proximity to sex work, gangs, and criminality—whether real or presumed. Contextualizing the Guatemalan state's responses to femi(ni)cide within its historical treatment of sexual and gendered violence in law reveals the gendered, racialized, and classed constructs as well as the structural barriers that together mediate access to justice. Given that state responses to femi(ni)cide have largely been limited to the realm of criminal law, these findings warn against relying on the state to address gendered violence.

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Introduction

Using a transnational and antiracist feminist framework, this dissertation examines state and civil society responses to what activists and advocates—and eventually legislators and policy makers—in Guatemala have characterized as *femicidio* [femicide] or *feminicidio* [feminicide]. As such, I trace how Guatemalan feminists and human rights activists worked to harness the public concern over a sharp increase in *muertes violentas de mujeres* [violent deaths of women] in the early 2000s to push for legislative action on violence against women, a struggle that they had been engaged with for years. One of the main goals of this project has been to examine the assumptions embedded in how *femicidio* / *feminicidio* has been understood, explained, and attended to, as well as the implications that this has for questions of justice, impunity, and notions of rights in Guatemala's "postconflict" and post-genocide context.

The critical analysis I bring to the human rights framework within which anti-violence activists situate their efforts is partly informed by Martínez-Salazar's (2008, 2014) work on state terror in Guatemala. In it, she highlights how peace and human rights discourses were co-opted by the Guatemalan government to justify state-sponsored repression during the internal armed conflict, thus serving as a caution towards reading rights discourses as always or necessarily progressive. As such, another central concern of this research has been to examine if the recognition of *femicidio* / *feminicidio* as a legitimate social issue in Guatemala might be working to uphold or erase other systems of power and exclusion, or occlude important dimensions of systemic and structural violence—an inquiry inspired by Mies' (1983) insight that times of crisis reveal structures of power and oppression that are naturalized or misrecognized in "normal" times. Accordingly, an overarching aim of this project is that bringing such a focus to *femicidio* /

feminicidio can offer an analysis of broader dynamics of power and exclusion in postwar Guatemala, and that this insight can be useful to struggles for social transformation.

From the outset of this project, it was clear that I would have to address contentions around how to name the phenomenon that activists were calling attention to. However, since a central concern of my project was to examine how different actors were understanding and defining these manifestations of gendered violence, I did not want to foreclose any possible paths of inquiry and therefore I combine both concepts that were in common usage at the time—*femicidio* and *feminicidio*—into a portmanteau of sorts, "femi(ni)cide," that encompasses these twin concepts. I use this formulation to reflect the lack of consensus that there has been over time over definitions and usage of the concepts of *femicidio* and *feminicidio* in the Guatemalan context, and more broadly across Latin America. It is meant as a way to recognize the valuable insights and contributions of activists and advocates on all sides of the debate. While, as I discuss below, *femicidio* became the dominant concept used in Guatemala after the adoption of the 2008 Law against Femicide, I continue to use femi(ni)cide here given that a central concern of this project is to examine the ways in which this violence has been defined and the implications that these definitions and their associated responses carry. As such, in this text, I use femi(ni)cide to refer to the wider body of literature and activism that uses either of these concepts and, when discussing a specific text or campaign, I follow the author(s) or group(s)' choice of concept.

Contextualizing Femi(ni)cide: "Postconflict" Violence and Impunity

When discussions of violent deaths of women and debates over femi(ni)cide began in Guatemala in the early 2000s, less than a decade had passed since peace negotiations had brought an end to 36 years of internal armed conflict (1960-1996) in which an estimated 200,000

people had been killed or disappeared, and between 500,000 and 1.5 million had been internally displaced or forced to seek refuge in neighbouring countries and beyond (CEH, 1999).[1] The UN-sponsored Commission for Historical Clarification (CEH, for its acronym in Spanish) found that the Guatemalan state, informed by the counter-insurgency logic of its National Security Doctrine, was responsible for 93% of all human rights violations committed during the armed conflict and that, among the cases it documented, 83% of victims were Maya (CEH, 1999, Vol. V, p. 21). The rural Maya population—whom the state had defined as an "internal enemy"—was especially targeted by the state's scorched earth campaigns which razed more than 400 villages in at least 626 massacres (CEH, 1999). These massacres followed a similar pattern throughout the highlands, as well as in some lowland communities in resource-rich areas in the Ixcán region, the department of Petén, and the Polochic Valley: villagers—men, women, elders, children—were tortured and murdered; houses, crops, animals, and other implements necessary for everyday subsistence were pillaged and burned; rape and sexual violence were systematically used against Indigenous women and girls, and pregnant women were targeted for especially gruesome forms of violence (CEH, 1999; Fulchiron, Lopez, & Paz Bailey, 2009; MCRA, 2003; ODHAG, 1998). Survivors of these massacres understand the army's violence as genocidal in intent, an attempt to "finish [us] off … because we are Indigenous" (quoted in Doiron, 2007, p. 72; see also Fulchiron et al., 2009; Menchú, 1997; MCRA, 2003; Tecú Osorio, 2002). The CEH concluded that the state's actions in four different regions of the country amounted to acts of genocide against five distinct Maya groups[2] and identified the roots of the conflict as lying in the

[1] As McAllister and Nelson (2013) note, these figures have been revised upward since the CEH's reports as more testimonies have been compiled, notably through the reparations program and legal processes.
[2] The Q'anjob'al and Chuj ethno-linguistic groups in the northern part of the department of Huehuetenango, the Ixil in the north of the department of Quiché and K'iche' in both northern and southern Quiché, and the Achí of Baja Verapaz (CEH, 1999).

exclusionary and racist nature of Guatemala's social, economic, and political relations and structures.

Guatemala's Peace Accords—a series of 13 agreements negotiated over five years and culminating with the Accord for a Firm and Lasting Peace, signed on December 29, 1996—included a number of provisions meant to address some of the structural roots of the conflict, including, importantly, provisions related to the recognition of Indigenous peoples' collective rights,[3] the redefinition of the role of the military in Guatemala's internal security, and reform of the legislative and judicial branches of government (Jonas, 2000). Many of these provisions faced significant opposition from members of Guatemala's political and economic elites, not to mention military officials who continued to hold considerable power in the immediate postwar period. A popular referendum meant to ratify some of these reforms was defeated when more than 80% of the population did not even bother to cast a ballot after supporters of the initiative failed to properly inform the population of its contents, and opponents stoked racist fears to rally support for the "no" vote (Hernández Pico, 1999).[4] While polls conducted in the aftermath of the referendum demonstrated that the vast majority of the population continued to support the peace process, the defeat of the referendum gave political elites an excuse to advance only timidly in implementing peace provisions, and made some aspects of the accords—particularly those

[3] The Agreement on the Identity and Rights of Indigenous Peoples, signed in March 1995, included, among others, provisions for the recognition of Guatemala as a "multiethnic, multicultural, and multilingual" nation, for ethnic discrimination to be criminalized, for Maya peoples' cultural and linguistic rights to be protected—including in the educational system by introducing multilingual and multicultural education—and for the incorporation of customary law into national legislation, among others (Jonas, 2000, pp. 75-78).

[4] The process was highly politicized, and suffered many delays. When the referendum was finally held in May 1999, members of Congress had expanded the package of reforms to be voted on to also include measures only tangentially, at best, related to the peace accords (Jonas, 2000). The referendum was defeated largely thanks to the resounding "no" votes cast in Guatemala City, and, to a lesser degree, by voters in other regions of the country that had not directly suffered the repression of the internal armed conflict. Regions more affected, in contrast, voted in favour of the reforms (Hernández Pico, 1999). Analysts suggested that opponents of the reforms had been successful in large part because they were better organized and funded, and had stoked fears of "Indians" taking over the country and gaining "privileges" over *ladinos* [non-Indigenous] (Hernández Pico, 1999; Jonas, 2000).

related to the demilitarization of the state and to the recognition of Guatemala as a multiethnic and multicultural nation—practically impossible to achieve (Jonas, 2000).

Some efforts were made in the immediate aftermath of the peace accords to, if not redress, at the very least attenuate some of the socio-economic inequalities that had led to the outbreak of armed conflict through increased public investments in health, education, and housing, for example. However, Guatemala's "postconflict" economy has been dominated by liberalization and privatization, which has "diminished the scope and sustainability" of the few efforts that have been undertaken to address poverty and economic exclusion (PNUD, 2016, p. 18). Tax reforms that had been agreed to in the peace accords in order to increase the state's ability to fund social programs also faced political resistance, and 20 years later, Guatemala's tax to GDP ratio remained the lowest in Latin America.[5] In 2014, extreme poverty—the inability to ensure even basic nutritional needs—affected as much as 46% of Guatemalan households, while between 60% and 68% lived under the poverty line (ECLAC, 2017, p. 48).[6] Nearly twice as many households live in poverty in rural areas compared to urban areas, and more than three times as many rural households experience extreme poverty as compared to their urban counterparts.[7] Guatemala is indeed a deeply unequal society. It has one of the highest levels of

[5] Guatemala's tax ratio has hovered around the 13% mark (as related to the country's GDP) since the early 2000s (Cabrera, Lustig, & Morán, 2015; PNUD, 2016). This is barely higher than the 12% goal agreed upon in the peace accords as an initial increase to be met by 2000—a target that had to be revised given significant resistance on the part of the Guatemalan government to take real steps to meet that goal (Jonas, 2000). As Jonas (2000) explains, "Increasing taxes was the linchpin in guaranteeing the viability of the peace accords" (p. 169)—it is not surprising, then, that many of the provisions agreed to in the peace accords remain out of reach 20 years later.

[6] The figures cited here are estimates produced by the UN's Economic Commission for Latin America and the Caribbean, and presented in its Social Panorama for Latin America 2015 report (ECLAC, 2017). While official state statistics report a similar poverty rate (59.3%), ECLAC estimates a much higher extreme poverty rate—between 38.5 and 46.1% compared to the state's measurement of 23.4% (ECLAC, 2017).

[7] This assessment is based on the Guatemalan government's own measurement of poverty and extreme poverty, as cited in ECLAC (2017). While official statistics line up fairly well with ECLAC estimates, indicating that 59.3% of households live in poverty overall (42.1% in the case of urban households, 76.1% in rural areas), they report a significantly lower rate of extreme poverty (23.4% compared to ECLAC's estimate of 38.5-46.1%). Government statistics however, indicate a staggering difference in extreme poverty between rural and urban household, with 35.3% of the former experiencing extreme poverty compared to 11.2% of the latter (ECLAC, 2017, p. 49).

inequality in terms of income distribution as well as one of the lowest human development indexes in Latin America (Cabrera, Lustig, & Morán, 2015; PNUD, 2016). Ownership of productive land—which many *campesino* [small-farmer] households, Indigenous and non-Indigenous alike, depend on for their subsistence—is concentrated in the hands of a small number of large landowners,[8] and there are grave disparities in access to education and health care along class and ethnic lines.[9]

Not only have structural and systemic exclusions at the root of the internal armed conflict remained unaddressed, but rates of murder, kidnapping, and other violent crime have also increased dramatically in Guatemala since the signing of the peace accords—making it impossible in the present to call Guatemala a country "at peace" and putting into question the term "postconflict" (McAllister & Nelson, 2013). In fact, in the decades since the end of the armed conflict, levels of violence have not only reached unprecedented levels for a country with no declared armed conflict, but have, at times, surpassed those of war-torn countries. By 2006, homicide rates had increased by more than 120% since the peace accords, reaching a rate of 47 murders per 100,000 inhabitants nationally, and a staggering 108 murders per 100,000 in

[8] An Oxfam report on *Land, power and inequality in Latin America* (Oxfam, 2016) found that the largest 1% of farms controlled just shy of 48% of productive land in Guatemala (p. 25) following a trend of "re-concentration" of ownership in the post-peace accords period.

[9] Access to private health care services is significantly higher for urban residents (19.7% compared to 8.7 in rural areas), for men (18.3% to 12.4% for women), for non-Indigenous Guatemalans (19.1% to 9.4% for Indigenous Guatemalans), and for people from higher socio-economic backgrounds (29.5% to 11.7% for mid-level and 4.3% for lower socio-economic classes), a reality that has real implications for health outcomes given the dire state of public health institutions in the country—partly due to corruption and mismanagement—which has meant that nearly 20% of people make use of public health services end up being turned away either because of lack of supplies, medicine, or shortages of medical staff (PNUD, 2016, p. 167). Similar disparities exist in access to public and private educational institutions, where over 50% of the richest residents attend private institutions that offer a much higher quality of education than their underfunded and under-resourced public counterparts, where 89% of the poorest Guatemalans attend school (PNUD, 2016, p. 168). Furthermore, as the authors of the 2015/2016 UNDP National Human Development Report for Guatemala highlight, "given the lack of an ethnically appropriate educational model, having access to education that serves as a means of breaking free from poverty is a particularly critical challenge for the indigenous and rural population" (PNUD, 2016, p. 168). As a result, Guatemala's already relatively low score of 0.65 on the Human Development Index (below the average for Latin America and the Caribbean but comparable to regional peers Honduras and Nicaragua) reaches an abysmal 0.467 when adjusted for inequality (UNDP, 2018).

Guatemala City (PNUD, 2007, p. 9). The section on Guatemala of a Washington Office on Latin America's (WOLA) report on organized crime from October 2007 begins by stating that:

> violence and crime are spiraling out of control in Guatemala. More than 6,000 people were murdered in 2006, up from 2,900 in 2000, according to police figures. With only about 2 percent of homicide cases ending in conviction, the Guatemalan state faces serious difficulty in carrying out the most basic functions of protecting its citizens and bringing criminals to justice. As a result, the country has become, as a U.N. special rapporteur sadly described, "a good place in which to commit murder." (WOLA, 2007b, p. 7)

Guatemala's murder rate has been declining fairly steadily since it peaked at the end of 2009, closing 2017 with a rate of 25 murders per 100,000 (Mendoza, 2018), making it the "least violent year" so far this millennium ("2017 fue el año menos violento desde 2000," 2018). However, the extremely high levels of violence and impunity that Guatemala has suffered over the past decade and a half will continue to have cyclical impacts as "resources that might have been used for social programs are diverted to responding and reacting to the strain of violence on institutions" (Torres, 2008, p. 3).

The "new violence" affecting Guatemala has been linked to an increase of transnational organized crime throughout the country—including the operation of so-called "clandestine groups" and "parallel powers" that reach far into the structures of formal political power,[10] and of youth gangs, whose structures have become increasingly hierarchical and formalized in recent

[10] Several of the country's 22 departments are currently understood as being "under DTOs' [drug trafficking organizations] control" (InSight Crime, 2017, n.p.) and even as the issue of femi(ni)cide was emerging in the mid-2000s, the PDH (n.d.) discussed the possible participation of "illegal clandestine groups linked directly or indirectly to the state apparatus" (p. 22) in what it was describing as "violent deaths of women"—the latter will be taken up again in Chapter 2.

years (InSight Crime, 2017; OSJI, 2016; Peacock, Beltrán, & WOLA, 2003). While this violence has been particularly intense in Guatemala City and its surrounding municipalities (Benson, Fischer, & Thomas, 2008; Godoy-Paiz, 2011; O'Neill & Thomas, 2011; Torres, 2008), it has also affected rural communities located in or near drug trafficking corridors. Rural communities in areas targeted for large-scale resource extraction and exploitation projects (principally mining, hydroelectric projects, and palm oil plantations) have also been impacted by increased state repression throughout the post-genocide period, in incidents of violence that have often mirrored the patterns established during the internal armed conflict, committed, once again, by state officials or by private security or other individuals with ties to the companies behind the projects.[11] The Guatemalan state has, in recent years, often invoked states of exception or emergency to respond to and attempt to quell the civilian—and especially Indigenous and *campesino*—population's organized resistance to these projects, following a broader trend in Latin America of responding to social conflict with violence, especially in cases where this conflict is related to natural resources (PNUD, 2016).

It is in this context of corruption, rampant impunity, and nearly unchecked power of organized crime and other "parallel powers" that femi(ni)cide has emerged in Guatemala. According to InSight Crime (2017),

[11] In January 2007, 11 women from the Lote Ocho community were raped by armed men in the context of attempted evictions linked to the Fenix mine project, then owned by Skye Resources and later bought by Hudbay Minerals—both Canadian companies (see Kassam, 2017; Maldonado, 2014). On the day of the original eviction attempt, hundreds of armed men—police officers, private security, members of Guatemala's military—made their way into the community and dismantled and burned houses, they returned a few days later and gang raped several women while the men were away tending to their crops—both instances eerily reminiscent of scorched earth practices of the internal armed conflict (see Rodríguez, 2014 for images of the evictions). In a series of evictions in the Polochic Valley in March 2011, in which 723 Maya Q'eqchi' families were evicted from their lands, authorities carrying out the evictions also burned the houses and crops of those affected (PNUD, 2016). The Unidad de Protección de Defensoras y Defensores de Derechos Humanos de Guatemala [Human Rights Defenders Protection Union of Guatemala, UDEFEGUA] has found that land defenders are particularly targeted for state repression through criminalization (UDEFEGUA, 2017).

> at the center of this crisis is a failure of political leaders and security officials to institute and follow through on critical reforms of the legal, justice and security systems; and an inability to extract and prosecute corrupt military, security and government officials from the government. (n.p.)

Some progress has been made in addressing these issues over the past decade, including through the work of the Comisión Internacional contra la Impunidad en Guatemala [International Commission against Impunity in Guatemala, CICIG], a joint UN-Guatemala initiative whose goal was to investigate parallel powers and corruption within the current state structure (its power to investigate crimes of the past was strictly limited), assist in their prosecution alongside the country's Ministerio Público [Attorney General or Public Prosecutor's Office, MP], and advance proposals to strengthen the legislative and judicial sectors (OSJI, 2016). The CICIG functioned from 2007 to 2019 and, in its last years of operation, faced intense resistance and efforts to end its mandate early on the part of the Pérez Molina and Morales administrations.[12] Headway in fighting corruption and impunity had also been made thanks to the work of two consecutive Attorneys General who took deliberate steps to strengthen the MP's investigative and prosecutorial capacities: it was under Claudia Paz y Paz's leadership (2010-2014) that prosecutions of high-ranking ex-military officials for crimes against humanity committed during the internal armed conflict finally went to trial; and Thelma Aldana (2014-2018) was seen as an

[12] It was, after all, a CICIG-led investigation that led the former President Otto Pérez Molina and Vice-President Roxana Baldetti (2012-2015) to resign in the face of massive public protests after it was revealed that they were at the head of an embezzlement scheme operating from within the tax and customs agency (OSJI, 2016). The commission also investigated outgoing President Jimmy Morales (2016-2020), his family, and close associates for campaign financing violations in the 2015 election. While Pérez Molina had caved to popular pressure to renew the commission's mandate during his administration, Morales, however, announced in 2017 that he would not renew it after its latest mandate ended in September 2019. In August 2018, he refused to renew CICIG Commissioner Iván Velásquez's visa and blocked his return to the country, and, in January 2019, he announced Guatemala's unilateral withdrawal from the agreement creating CICIG and ordered CICIG staff be expelled from the country, a move opposed by a Constitutional Court ruling but that nonetheless limited the commission's ability to continue its work until its official exit in September 2019 (Carasik, 2019).

important ally of CICIG commissioner Iván Velásquez, leading the MP's investigation into and, ultimately, prosecution of President Otto Pérez Molina, Vice-President Roxana Baldetti, and their co-conspirators.

My dissertation research straddles a period of over a decade, from the early 2000s when talk of femi(ni)cide began appearing in Guatemalan civil society into 2014, when I concluded my second period of fieldwork and conducted most of my interviews. Offering a comprehensive review of the changing social, political, and economic dynamics of that period is beyond the scope of this project. Rather, my intention in this section was to present the general socio-economic and political context in which the developments I discuss in this dissertation were occurring. Throughout the dissertation, I enter at different time periods—in particular: 1) the mid-2000s when most of the governmental and non-governmental reports that I rely on for my analysis of the discourses of femi(ni)cide "pre-law" were published; 2) the 2008-2010 period when the Law against Femicide was negotiated, adopted, and first applied through the Specialized Justice system;[13] and 3) the 2013-2014 period when I undertook fieldwork and conducted my interviews—offering more detail, as needed, of the particular political *coyuntura* [context or set of circumstances and correlations of forces] that shaped these moments. Given that one of the central aims of this project was to contextualize state and civil society responses to femi(ni)cide in Guatemala in order to understand them within histories of racialized and militarized violence, I also offer deeper historical context for particular themes as they emerge in the dissertation.

[13] The introduction of specialized courts to try crimes of femicide and violence against woman was called for in the Law against Femicide. The Órganos Especializados en Delitos de Femicidio y Otras Formas de Violencia Contra la Mujer [Bodies Specialized in the Crime of Femicide and Other Forms of Violence against Woman—hereinafter, Specialized Justice Bodies or Specialized Justice system] were instituted in 2010, two years after the adoption of the law. The Law against Femicide and the Specialized Justice system are the subject of Chapters 4 and 5, respectively.

Locating Myself in the Field

When I began fieldwork for this project in 2013, I did so after a decade of solidarity and research work in Guatemala, which has given me an ever-evolving understanding of Guatemalan culture and through which I have developed relationships of accountability to organizations within the women's movement. As such, my interest in understanding state and civil society responses to femi(ni)cide was not only academic nor disinterested. Rather, it was informed, as I outline below, by my interactions with and work alongside activists in the country, and my long-standing commitment to supporting their struggles for social justice. My work for over a decade with the Breaking the Silence (BTS) network, a solidarity network based in the Maritime provinces of Canada,[14] and as a researcher over an eight-year period on a multilateral project on reparations for Maya women survivors of sexual violence (Crosby & Lykes, 2019) were particularly formative and informative to this project.

An important focus during my time as a human rights accompanier was on accompanying legal processes, including a group of feminist lawyers and a Maya K'iche' woman involved in the trial of a police officer accused of raping the woman while she was in detention. Similarly, in the gender and reparations project, though the scope of the research was broader than this, some of the women in the group of "protagonists" (Crosby & Lykes, 2019) were seeking justice for the violence they suffered through the courts. Therefore, despite not being focused on femi(ni)cide as such, my prior activism and research experience in Guatemala had included work at the intersections of gendered violence and the law, which was an important part of discussions

[14] I have been involved with the Breaking The Silence solidarity network since 2005. I have volunteered on local committees, where we hosted and organized speaking events and meetings for Guatemalan partners visiting Canada as well as other awareness-raising and fundraising events, and urgent action responses. I have also sat on BTS's international accompaniment committee, advocacy committee, community council, and have sat on as well as chaired the network's steering committee.

I was having with colleagues and friends within Guatemalan civil society and social movements. Through both of these experiences, I got to know several Guatemalan human rights and women's organizations very closely and developed many of the long-term relationships on which I relied during my fieldwork—to find lodging, to learn about events relevant to my research, to put me in touch with potential interviewees, to continue to discuss and deepen my understanding of current events and social justice issues in Guatemala, and, in some cases, to be interviewed for this project. Altogether, they gave me an understanding of the *coyuntura* in which debates over femi(ni)cide were taking place and an awareness of the terrain of the Guatemalan social movement, its different actors and dynamics.

Genealogy of a Research Project

My interest in this project was sparked in 2005-2006 when I was conducting fieldwork for my Master's thesis in Rabinal, in the department of Baja Verapaz, on Maya Achí widows' experiences of the aftermath of the Guatemalan internal armed conflict. I had been introduced to the Asociación para el Desarrollo Integral de las Víctimas de la Violencia en las Verapaces, Maya Achí [Association for the Integral Development of the Victims of the Violence in the Verapaces, Maya Achí—ADIVIMA], where I volunteered during my Master's fieldwork, through my involvement with BTS, which has worked closely with one of the founders of ADIVIMA, Jesus Tecú Osorio, as well as many other Achí survivors of the Río Negro massacre who seek justice and to preserve historical memory. BTS has been working alongside Guatemalan grassroots organizations and communities since the late 1980s to support their struggles for political, economic, and social justice based on principles of solidarity and mutuality. BTS understands the struggle against these injustices as a shared struggle because of our own implication as Canadians in the systems and structures that create and sustain them. As

such, the network's activism and advocacy—which are guided by its long-term relationships of solidarity—are aimed at supporting structural change both in Canada and Guatemala. The network has, for instance, organized in Canadian and transnational coalitions to raise awareness of and address the devasting and deadly impact that foreign mining companies (the great majority of them Canadian) have on Guatemalan communities. And, following its principles of mutuality, BTS has throughout the years fostered exchanges with and between partner organizations and communities both in Guatemala and Canada.

During my time in Rabinal there was a palpable concern over the generalized violence affecting much of the country. Gangs, drug cartels, *asaltos* [muggings], and violent crime were at the forefront of these concerns, but murders of women also featured prominently. The town and hamlets where my fieldwork was centred are far from the capital, where most of the activism aiming to raise awareness of and address femi(ni)cide was taking place, but even so, conversations with NGOs and human rights workers there often touched upon the issue, as did everyday interactions with townspeople, ADIVIMA staff, as well as with the women who participated in my research. In fact, the link between what many were then calling "violent deaths of women"—and would later start being referred to more commonly as *femicidio* or *feminicidio*—and the research I was conducting at the time was drawn for me by a research participant who cited these murders as proof of how much work was still left to be done to ensure that women's rights are respected in Guatemala:

> There are many things left to do for Guatemala to change, so that there is no more discrimination against women. I imagine that all of the assassinations of women that are happening right now are not a good thing, it's not okay that they always assassinate

> women so brutally and all of that. There has to be a change. We have to fight so that a lot changes. (Quoted in Doiron, 2007, p. 155)

My growing engagement with the BTS network and continued commitment to its principles of solidarity and mutuality with partners in Guatemala prompted me to return to Guatemala in the fall of 2007, a bit more than a year after leaving Rabinal, to work as an international accompanier providing a dissuasive presence alongside human rights activists who had been threatened because of their work.[15] Over the next year, I visited, traveled alongside, and shared in the daily lives of human rights activists, Maya survivors and witnesses of the 1980s genocide, *campesino* groups, land defenders, labour organizers, and women's rights defenders. After accompanying, I remained in Guatemala for another year doing consulting and research work before returning to Canada in 2009 to being my doctoral studies.

Being based in the capital during this period between 2007 and 2009, I became better acquainted with national non-governmental and social movement organizations, including some active in the women's movement, and developed close friendships with many activists and organizers. My frequent contact with human rights and women's organizations highlighted how widespread the use of the concepts of *femicidio* and *feminicidio* was. Newspaper clippings I collected during this time spoke to a broader awareness of the issue beyond the activist community. As one key informant explained in 2014, those years (2006-2008) had been the "golden age" of work on femi(ni)cide in Guatemala, the issue had been central to feminist and

[15] I worked with the Coordination for International Accompaniment in Guatemala (CAIG), an umbrella group of ten organizations from nine countries, including BTS, from November 2007 until January 2009—working as an accompanier in the field from November 2007 until August 2007, after which I continued to support the CAIG with administrative support work. International accompaniment (sometimes referred to as "protective accompaniment") is generally provided at the request of communities and activists who see the physical presence of foreigners who are connected to inter- and transnational advocacy networks as a valuable strategy to ensure their safety in the face of political repression and threats and to enable them to continue doing their work in favour of social, political, and economic change.

human rights activism and "everyone" was publishing on the issue, even NGOs that did not have a particularly strong record on gender issues in general nor on violence against women in particular.

When I started the Gender, Feminist, and Women's Studies PhD at York University in 2009 with the intention of focusing my dissertation on femi(ni)cide in Guatemala, this seemed like an emerging area of research and an issue that was still actively debated in activist as well as policy circles. Having been enacted in April 2008, the Law against Femicide was still fairly new, and while there had already been a few convictions under the new statute, advocates were still working to raise awareness of it and to broaden its impact. When the newly appointed UN-sponsored CICIG announced that femicide would be included in its priority issues,[16] I was privy to discussions in my immediate circles in Guatemalan civil society in which some (male) human rights workers greeted this announcement, at least in private, with confusion given that the CICIG's mandate was to investigate "political" violence and corruption while feminists within the same circles—myself included—tried to explain why and how gendered violence is political.

While concern over femi(ni)cide was evidenced in many circles, there did not seem to be any consensus over the causes or appropriate responses to this violence—not to mention the meaning, scope, and usage of the concepts of *femicidio* and *feminicidio*. A panel on *feminicidio* that I attended in the context of the Social Forum of the Americas, which was held at Guatemala City's San Carlos University in October 2008 had illustrated this. In addition to decrying authorities' dismissive attitude and frequent characterization of murders and other forms of violence against women as "crimes of passion," panelists and the 70 plus audience members

[16] The CICIG had committed to investigating the "rash of targeted killings of women," signing an agreement with the Secretariat of Social Works of the First Lady (at the time Sandra Torres) in March 2008. Femicide thus became one of the Commission's four thematic areas. See OSJI (2016) p. 41 and endnote 84 on p. 127.

from across the Americas debated how to best address this violence and discussed the use and definitions of the concepts of *femicidio* and *feminicidio* to describe the violence, debating their specificities, particular benefits, and how useful or different they are across geographic and historical contexts. Together with debates taking place more broadly in civil society and governmental spheres, witnessing and participating in these discussions left me with the sense that the issue would continue to be central to the struggles of Guatemalan feminists, and perhaps to broader social movements, for years to come.

Aim and Central Questions of the Project

Designing a research project in the midst of ongoing debates and seemingly unsettled questions about the very nature of the phenomenon I was setting out to research clearly shaped the epistemological and methodological outlook of my project and ultimately determined the particular focus and framework that I adopted. The lack of consensus over the scope, definition, and causes of the violence of femi(ni)cide was aggravated by a near complete absence of reliable statistics (an issue I take up further in Chapter 2), making it difficult to build an accurate picture of the phenomenon. The limited empirical data illustrating the violence—how/where it was being manifested, in what context, against whom, by whom, etc.—made many possible avenues of enquiry seem speculative at best. Furthermore, informed by Merry (2011) and Nelson's (2009) respective work, I was also wary of the knowledge and governance effects of "indicators," and how the process of counting victims of femi(ni)cide risks producing the very phenomenon it is supposed to be observing: What expressions of violence get counted or are accounted for? What happens to this violence when it is translated into numbers? And, perhaps most consequential of all, what and who gets left out?

Rather than attempting to settle the conceptual debates at the heart of discussions around femi(ni)cide in Guatemala, and more broadly across Latin America, or to better define the scope of this violence, I decided to focus my dissertation project on state and civil society responses to femi(ni)cide and what they reveal about how this violence and its multifaceted dimensions are understood. I set out to: explore the assumptions underlying the approaches to this violence adopted by state and civil society actors; consider what responses they have proposed; and, examine the implications of these responses to femi(ni)cide for questions of justice, impunity, and notions of rights.

This enquiry is principally informed by one of the central tensions I have identified in how the twin concepts of *femicidio* and *feminicidio* have been mobilized across the region as violence that is at once universal and exceptional. While this violence is, on the one hand described as part of a "continuum" of gendered violence—generally referred to in femi(ni)cide discourse as "violence against women"[17]—that affects "all" women, it is, at the same time, depicted as having an emergency or exceptional character, particularly through the emphasis, as discussed in Chapter 2, on "body counts" and on the particularly gruesome nature of some murders of women, especially those that feature torture, dismemberment, and *ensañamiento* (extreme viciousness or overkill).[18] How then do we balance claims by activists and advocates in Guatemala that "all" women are affected by femi(ni)cide with indications that young, impoverished, and often racialized[19] women from Guatemala City's marginalized urban areas

[17] A more detailed discussion of the various concepts used to describe gendered violence, distinctions between them, and their usage is offered in Chapter 1.

[18] *Ensañamiento* is also a legal category, defined in Guatemala's Penal Code in Article 27 on aggravating circumstance as "deliberately increasing the effects of the crime, causing other effects that are unnecessary for its realization or employ means that add ignominy to the criminal action." It is not, however, discussed in the Law against Femicide or its definition of crimes.

[19] Racialization in Guatemala, as Martínez-Salazar (2014) discusses, is "not solely focused on skin color and other physical features" (p. 73) but rather also incorporates cultural and linguistic dimensions, in addition to being co-

tend to be overrepresented among the victims of the most gruesome of these murders (CALDH, 2005)? This question becomes especially crucial when activism has focused on the brutality of the latter in order to emphasize the urgency of the issue, while simultaneously implying that it is also illustrative of the former—that the *ensañamiento* experienced by some women is representative of the violence suffered by "all" women—when, in reality it is present in only a fraction of the thousands of murders included in the body count attributed to femi(ni)cide over the last decade.

I understand femi(ni)cide, of course, as a gendered phenomenon. However, informed by the central feminist tenet that gender is not natural nor essential, but rather socially constructed in relation to other systems of power, this project also asks how indigeneity, race, class, and sexuality, for instance, feature in conceptualizations of and responses to femi(ni)cide? If, as Razack (2008) argues, systems of oppression are "interlocking"—that is to say, they are co-constituting and shape each others' meanings and effects—rather than "discrete systems whose paths cross" (p. 62), then it is also imperative to examine how Guatemala's histories of colonial,

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constituted with class, gender, and sexuality. The oppositional definition of *ladino* and Indigenous is often understood as the basic structure of racialization in Guatemala, with *ladino* being most simplistically defined as "non-Indigenous" despite its changing meanings and criteria of inclusion over time. This designation, however, "disguises the reality that many Ladinos are descendants of Mayas and Europeans and are thus 'mixed' by definition" (Grandin, Levenson, & Oglesby, 2011, p. 129). Since the introduction of the ideology of "ladinization" as a basis for (purportedly universal) citizenship in the emerging nation-state during the liberal reforms of the late 19th and early 20th century, Guatemala's Indigenous people have been pressured to abandon their traditional practices, dress, and language in order to assimilate into dominant *ladino* culture and thereby access a certain, albeit limited, level of ethnic/racial privilege. This ideology has given rise to anti-Indigenous racism through feelings on the part of many *ladinos* (even, and sometimes especially, poorer *ladinos*) of at least being "more than an Indian," as illustrated in Hale's (2006) work in Chimaltenango in the mid 1990s. However, the oppositional definition of *ladino* as non-Indigenous ignores the remaining traces of Guatemala's colonial racial taxonomy which have included a clear economic component, establishing a hierarchy between *Peninsulares* (Spaniards), land owning and educated *criollos*, *criollo* artisans and skilled workers, urban *mestizos*, rural *mestizos*, "freed" Blacks, enslaved Blacks, and Indigenous people (see Martínez-Salazar, 2014, pp. 38-40). Indeed, as González Ponciano (2013) argues, the narrow focus that has predominated in anthropological studies of race in Guatemala on the Indigenous/*ladino* dichotomy and on anti-Indigenous racism among *ladinos* leaves unexamined the power and status of Euro-American Guatemalans who make up the country's economic and political elite, as well as the classed and racialized "imperial whiteness" that this minority deploys in order to protect their privileged position. In Martínez-Salazar's (2014) words: "the concept of Criollo disappeared from official vocabulary, without its cultural and racist domination disappearing from practice" (p. 51).

genocidal, and militarized violence are accounted for in conceptualizations of femi(ni)cide and the responses that have been advanced to address this violence.

Razack's analysis is, of course, specific to Canada's white settler-state. However, Martínez-Salazar (2008, 2014) draws from Razack's interlocking approach in her analysis of the continuing "coloniality of power" in Guatemala. She argues that systems of class, race, and gender have worked together since colonization in Guatemala to determine who counts as "human" and to justify and rationalize violence against those dehumanized by this process in the name of protecting the "privileged class position, race, and gender locations" (Martínez-Salazar, 2014, p. 6). Thus, instead of analyzing how race and class, for instance, intersect with and complicate the dynamics or expressions of femi(ni)cide, I wanted to examine how responses to this violence are themselves informed by constructions of race, indigeneity, class, nation, and coloniality.

With the benefit of hindsight, it is possible to conceive of the adoption of the Law against Femicide in April 2008 as a kind of watershed moment for activism around femi(ni)cide in Guatemala, marking a before and an after in the language, strategy, and even the volume of activism around the issue. That is not to say that feminists and women's groups have abandoned the issue. To the contrary, advocacy and mobilization against gendered violence continues to be central to the work of organizations in the Guatemalan women's movement.[20] However, since the adoption of the Law against Femicide, most of the work on *femicidio* (as it is now defined by the law) that is undertaken by women's groups is done by groups who work on accompanying

[20] The issue of sexual violence was particularly salient during my fieldwork in 2013-2014, both in the context of the sexual violence committed during the internal armed conflict, which had been highlighted in the recently concluded trial of former dictator Efraín Ríos Montt for genocide and crimes against humanity), as well in the context of a joint campaign by UN and government agencies to bring attention to statutory rape largely by denouncing pregnancy in girls under 14—the legal age of consent—as sexual violence crimes.

victims through the justice system, monitoring the functioning of Specialized Justice Bodies, and offering supplementary training for justice workers. As a result, I began to notice the important hegemonizing impact that the Law against Femicide was having on the discourse of femi(ni)cide early on in my fieldwork. Given my decision to focus on responses to femi(ni)cide, and keeping in mind Bueno-Hansen's (2010) observation that "the crux of the conflict in the use of the term *feminicide* [in activism across Latin America] is embedded in the divergence between the drive to generalize for social impact and the push to specify for juridical utility" (p. 307, italics in original), I thought it important to pay particular attention to the story of femi(ni)cide being told through the Law against Femicide, the motivations for having recourse to legislation to address this violence, the process of its adoption, as well as the categories and definitions that it establishes. How did this process of narrowing the category of femi(ni)cide in order to make it compatible with a criminal law framework affect how the violence is understood? What particular exclusions and erasures emanate from such an approach? Since, as Torres (2008) argues, systemic impunity is "*a priori* based on manipulation and prioritization of multiple forms of social injustice" (p. 5, italics in original), it seemed important to examine the implications of seeking to end impunity for femi(ni)cide within a justice system that has, historically and into the present, been fundamentally exclusionary.

What I have found is that as the discourse of femi(ni)cide in Guatemala got attached to notions of rights and, subsequently, inscribed into criminal law, its definition got circumscribed. While, on a discursive level, it continued to be about violence against "all" women, forms of violence that primarily impact women marginalized not only because of their gender, but also their ethnicity/race, economic position, sexuality, occupation, and/or their identity as

transwomen, for instance, were being left out of the discussion, and, crucially, out of state responses aimed at addressing this violence.

The activism by civil society organizations that surrounded the issue has had significant impacts. It, at the very least, has succeeded in getting many people to start questioning and challenging certain practices and therefore seems to have made important strides in de-normalizing expressions of violence that have been and continue to be deeply ingrained in many contexts. The adoption of a law criminalizing these forms of violence and the institution of a Specialized Justice system[21] to respond to these crimes were instrumental in achieving this. However, I have also found that this criminal justice approach has been the state's only substantial response to the violence of femi(ni)cide, and even this response has largely been maintained by support from the international community rather than continued investment by the state, leaving important gaps in prevention and raising questions about its sustainability. The Guatemalan state's reliance on the criminal justice system also means that its response to femi(ni)cide risks inheriting the historical exclusions and discrimination that have been built into the system since the colonial era. While the Law against Femicide and the Specialized Justice system were meant to remedy some of these gendered exclusions and barriers to access to justice, I show in this dissertation that many other exclusions remain. As such, this dissertation highlights the risk, which many key informants in my research called attention to, that a criminal justice response to femi(ni)cide will be co-opted into Guatemala's *mano dura*[22] governmental

[21] The Specialized Justice system is the focus of Chapter 5.
[22] Literally "hard hand" or "iron fist," *mano dura* is used in the Guatemalan context to refer to so-called tough-on-crime policies and practices. *Mano dura* was the central theme of Otto Pérez Molina's presidential campaign in 2011 with the Partido Patriota, whose logo is a clenched fist, and became a guiding principle of his administration when he became President in 2012.

agendas that tend to criminalize the poor and Indigenous populations already situated at the margins of Guatemala's economic and political life.

My intention here is not to delegitimize the work that Guatemalan women's organizations have done in response to gendered violence nor the monumental efforts they have undertaken to push the state to address it. Rather, my research was undertaken in the spirit of contributing to this work and building on it, grounded in my long-term relationships to women's organizations in Guatemala, through both my activism and research. I also want to make explicit that my analysis is not meant as an argument not to get involved in activism against femi(ni)cide or to shun the concept as a locus for organizing. I do believe that the concept can be understood as an "empowered term" able to draw attention to how different expressions of gendered violence are often connected and to start "eroding the norms that allow for the banalization of the murder of women due to their gender" (Bueno-Hansen, 2010, p. 292). I argue, however, that it is important to keep in the background—and often at the forefront—questions such as those outlined above (and many others) as well as an understanding that the structural and systemic violence of racism, of heterosexism, of continued colonization, and of dispossession also have gendered impacts that many women experience "as women" while other women continue to be privileged by these same systems.

Insight from Studies of Guatemala's "New Violence"

A second tension that I identify in femi(ni)cide discourse and that I unpack in this dissertation centres around the links and comparisons that are often made between contemporary expressions of femi(ni)cide and those witnessed during Guatemala's internal armed conflict. On the one hand, the systematic use of sexualized torture and rape of (mostly Maya) women by the Guatemalan state's security forces during the conflict and the overwhelming continuing impunity

for this violence are highlighted as factors that have helped normalize sexual violence and violence against women. On the other, the racial dynamics of that conflict, and the fact that sexual violence was often used against Maya women as a weapon of genocide[23] is rarely attended to; instead, as will be discussed in Chapter 2, this violence is understood as the exclusive purview of patriarchy.

While many argue that the conceptual language of *feminicidio* recognizes the intersections of different types of power structures and forms of oppression (Lagarde y de los Ríos, 2006a, 2010; Fregoso & Bejarano, 2010), with the exception of some work coming out of Mexico, much of the work on femi(ni)cide continues to give primacy to gender and patriarchy in their analyses, especially that focused on Guatemala (Cházaro & Casey, 2006; Morales Trujillo, 2010; Sagot, & Carcedo Cabañas, 2010; Musalo et al., 2010). As I discuss in Chapter 1, it seems that more complex analyses of gendered violence in Guatemala—that are (more) historical and that attend to colonialism, racism, and class dynamics, for instance—have been undertaken outside of the femi(ni)cide framework than within (see for example Carey & Torres, 2010; Crosby & Lykes, 2019; Forster, 1999; Godoy-Paiz, 2008; Menjivar, 2011; Martínez-Salazar, 2008). This project is a humble attempt to begin to bridge this gap.

Interestingly, the literature on femi(ni)cide that has come out of Mexico seems to be better able to attend to the structural and systemic context in which femi(ni)cide has evolved there. Wright (2006) and Fregoso (2006), for example, attend to constructions of class, gender

[23] The Army's scorched earth campaigns of Indigenous communities in the early 1980s included systematic rape and sexual torture of Maya women (CEH, 1999; ODHAG, 1998), a practice that many observers have described as a weapon of genocide (CEH, 1999; Fulchiron et al., 2009). While most testimonies of sexual violence collected in truth commission reports (CEH and REHMI) speak to this context, it does not mean that *ladina* women were not also subjected to sexual violence, especially in the case of detention and torture of leftist activists in what the CEH calls "selective repression." In fact, testimonies to this effect appear in both truth commission reports. However, as Rosser (2015) argues, neither the CEH nor the REHMI project sought out data on gendered or sexual violence in any systematic or sustained way, and the majority of testimonies collected in both projects emanated from the Western Highlands, where state violence was, in many ways, much more intense.

roles and relations, as well as spatial and bodily practices, in the context of transnational capitalism in general and of the US-Mexico border zone in particular in their analyses of femi(ni)cide. Weissman (2010), Dominguez-Ruvalcaba and Ravelo Blancas (2010), Olivera (2010), and Monarrez Fragoso (2010) also seem to offer a more complex, socially-, politically-, and culturally-grounded analysis of this violence than those offered thus far in Guatemala (which will be discussed in further detail in Chapter 2). This raises an interesting question as to if and to what extent the emergence of femi(ni)cide as a social issue in Guatemala has been tied up in the project of "postconflict" legal reform. Together with concerns around the limits of criminalization as a response to femi(ni)cide, this insight motivates another overarching theme of this dissertation, namely, the exploration of how responses to femi(ni)cide "fit" into the broader socio-legal landscape of Guatemala—from how sexual and gendered violence have been addressed historically, to "postconflict" gendered legal reforms, and the workings of Specialized Justice.

Methodology

Data Sites and Sources

Feminist epistemology, as a project that has throughout its history challenged dominant modes of knowing and that recognizes that theory and method inform each other, has often spurred methodological innovation. These are what Hesse-Biber (2007) calls "emergent methods" that develop as feminist researchers grapple with new theoretical questions. Given the interdisciplinary nature of many of these questions, emergent methods tend to draw on and combine different methodological traditions as needed. As previously mentioned, in this project, I draw on primary and secondary sources obtained mainly through fieldwork in Guatemala in

2013 (May to July) and 2014 (January to May), and, in the case of documentary sources, through my prior advocacy and research work in the country.

Between January and May 2014, I conducted individual and small-group[24] interviews with 33 participants—key informants from non-governmental organizations (NGOs) and state institutions as well as individual activists and advocates.[25] Many key informants were from women's organizations that had engaged in advocacy work against femi(ni)cide and gendered violence or violence against women.[26] Other key informants from civil society who had not worked specifically on femi(ni)cide or violence against women were sought out because of their work on issues—including violence—affecting LGBTI[27] people and sex workers, which were both groups that I had identified through my initial review of secondary sources as being largely excluded or invisibilized in discussions of femi(ni)cide but who I suspected could be particularly impacted both by the violence and by responses to it. Key informants from within the state worked either within the Specialized Justice program or in the state's human rights institutions (Procuraduría de los Derechos Humanos [Human Rights Ombudsperson's Office, PDH] and the Defensoría de la Mujer Indígena [Office for the Defence of Indigenous Women, DEMI]). Most key informants were recruited from among my existing network of contacts in Guatemala City, either individuals or organizations with whom I had an existing relationship or "second-degree" contacts I was referred to by people I knew, with the exception of some of the state interviewees, who were recruited by contacting their respective institution directly.

[24] Two two-person interviews and two three-person interviews.
[25] See Appendix A for a list of organizational affiliations of key informants.
[26] As I discuss in Chapter 1, while the former (gendered violence) is my preferred framework, the latter (violence against women) is the most common approach among Guatemalan women's organizations in general and among the majority of key informants.
[27] I use LGBTI rather than the more common (in Canada) LGBTQ to reflect the usage and self-identification of what are often referred to as "sexual diversity" organizations in Guatemala.

The vast majority of my 33 key informants were *ladina*/*mestiza* women. Three key informants identified as Maya, and three others were *ladino*/*mestizo* men. Another two women interviewees were foreigners who had been working and organizing in women's and human rights organizations—including on the issue of femi(ni)cide and violence against women—in Guatemala for several years. The approximate age of key informants ranged from early 30s to early 70s, with most in their 30s or 40s. As mentioned above, most of my key informants were speaking to me from their experience working in women's or human rights organizations in Guatemala City, including several who had legal training, and a handful who had written about femi(ni)cide in NGO and academic sources—some of which I draw on in this dissertation.

A number of factors led me to decide to conserve the anonymity of my key informants. First, though the focus of my research is not particularly sensitive, the reality is that anyone advocating for change in Guatemala is at some level of risk. Second, a number of the key informants who were speaking with me as representatives of the organization or institution where they worked at the time have since changed jobs or functions. Given the passage of time, others who are still in the same organizations or who spoke with me as individual activists or organizers may have changed perspectives, and it was beyond the scope of this project and of my means to conduct follow-up interviews. Since the aim of this project was to understand and contextualize civil society and state responses to femi(ni)cide, I read and analyzed interviews for common themes and for shared or divergent critiques among and across key informants' comments. This is also how I present interview data in the following chapters. Where a key informant's area of expertise or sector of activism or community (women's organization, state institution, activist, LGBTI community, sex worker organizer, etc.) is relevant to comments I am citing, I have included this information to contextualize their comments. In some cases where

there was no risk of identifying participants and it was relevant to the discussion, I included the names of specific organizations, for context.

Translation across and between Mayan languages and Spanish can present particular methodological challenges in many research and activist settings in Guatemala. However, given that my research was located within civil society circles and state institutions in Guatemala City and with Spanish-speaking interviewees, I did not face these particular challenges. While three of my key informants self-identified as Maya and spoke Mayan languages, they were fully bilingual individuals who function in Spanish in their day-to-day work at NGO and state institutions. As such, my interviews were conducted in Spanish. They ranged in duration from 1 to 1.5 hours. Since I speak Spanish fluently, I conducted the interviews myself and translated the interview excerpts included in this dissertation.[28] The interviews followed a loose interview guide that defined key themes and issues of interest according to the particular sector or community of the key informant. However, recognizing the dynamic and intersubjective nature of interviewing (DeVault & Gross, 2012), I also left space for new questions to emerge from these discussions. My interviews were designed to gain a deeper analysis of how femi(ni)cide was understood and responded to by individuals and institutions working on the issue and to offer insight into the central debates around how this violence has been addressed by state and civil society institutions.

I returned to Guatemala several times during the first few years of my PhD for visits ranging from a few weeks to four months, working as a research assistant on the aforementioned project led by my dissertation supervisor, Professor Alison Crosby (Crosby & Lykes, 2019). While this research did not specifically focus on femi(ni)cide, being in the country—sometimes

[28] This is also the case for quoted excerpts of materials originally published in Spanish: unless otherwise indicated, translations are mine.

for extended periods of time during which I worked out of the office of the Unión Nacional de Mujeres de Guatemala [National Union of Guatemalan Women, UNAMG], one of Guatemala's major women's organizations—allowed me to stay informed of important developments in activism and policy around gendered violence, and to continue to discuss the issue with colleagues and participate in forums. During these visits, I began collecting what would become secondary sources for this dissertation, as I had during my time working as an international accompanier. These include studies and reports on femi(ni)cide published by governmental agencies and NGOs (national and international), academic articles and essays, as well as news articles. I relied on these documentary sources to supplement information obtained through interviews and to sketch the evolution of explanations for and responses to violence against women and femi(ni)cide, and the context in which these have unfolded since the peace accords. Academic work and truth commission reports have also provided historical data pertaining to the use of gendered and sexual violence, as well as legislative and judicial responses to these, during the consolidation of the Guatemalan state and in the internal armed conflict.

During my 2013-2014 fieldwork and throughout the decade that I spent working and researching in Guatemala, I had the opportunity to observe and participate in a number of panel discussions, marches, cultural activities, and other public events organized around the issue of femi(ni)cide, as well as, more broadly on violence against women, historical memory, and impunity and access to justice. These experiences form the bedrock of my dissertation project, informing the questions that I asked and the framework with which I approached them. They have contextualized my analysis and allowed me to better understand the dynamics of advocacy and public policy on femi(ni)cide in Guatemala. The panels and other events I attended during my formal periods of fieldwork also contributed content for my analysis of discourses around

femi(ni)cide and gendered violence (mainly violence against women) since the adoption of the Law against Femicide.[29]

A content analysis of these sources—interviews, documentary sources, as well as panels and events—has served to triangulate data and to build a more detailed and complex understanding of the context in which responses to gendered violence are being taken up in Guatemala (Maddison & Shaw, 2012). Critical discourse analysis has also been a key methodological tool in analyzing these sources, as I have sought to understand how individuals and institutions working on femi(ni)cide frame the issue. Rather than extracting only "surface content" as information, I have focused on the "stories" that are told through these texts, employing an analysis that is layered and looks for "repeated themes, metaphors, and styles of narration" (DeVault & Gross, 2012, p. 218). Such an analysis pays attention to the structures of storytelling and listens for the meaning held in the "gaps" and "silences"; it also recognizes that "stories" or narratives are "fundamental to identity and to the ways that people make sense of their worlds" (DeVault & Gross, 2012, p. 219). While this project is not an "institutional ethnography," my analysis does borrow from Dorothy Smith's (2005) approach. Smith's (2005) concept of "ruling relations" highlights the role of language—talk and text—in mediating and actualizing social organization. As such, she focuses on finding gaps or "textual leaps" between different types of narratives as a way of "find[ing] social organization 'in talk'" (DeVault &

[29] Some of the events I attended during my fieldwork included a panel discussion for the launch of a book offering interdisciplinary analyses of violence against women (June 2013), a public forum on sexual and gender violence from a Latin American feminist perspective (January 2014), and panel discussions on transitional justice (February 2014), the MP and the rule of law, and access to justice for vulnerable groups (the latter two in April 2014). I also attended the *Marcha de la Memoria* [March of Memory], organized yearly on Guatemala's Army Day (June 30th) to offer a counter-hegemonic memorialization of the internal armed conflict and the atrocities committed by the armed forces, and Guatemala City's Pride parade in 2013, as well as the International Women's Day March in 2014. In March 2014, I served as a co-facilitator of a solidarity delegation from Canadian social and labour groups that focused on women's organizing and during which we visited a number of grassroots organizations in various parts of Guatemala.

Gross, 2012, p. 220). Applying such an analysis to personal, activist, and state discourses on femi(ni)cide can therefore uncover the "conceptual practices of power" (Smith, quoted in DeVault & Gross, 2012, p. 220) at work in the violence and responses to it.

Epistemological Position and Ethical Considerations

Despite being an outsider to the context I was researching, my history of engagement in activism and research in Guatemala allowed me a certain ease of access to women's organizations and progressive social movements. While I had known some of the organizations and individuals that I interviewed for an extended period of time, and several others were acquaintances, a number of other interviews were with individuals who entered our conversation without having had a close colleague "vouch" for me and knowing little about me beyond the fact that I was a Canadian graduate student conducting research on responses to femi(ni)cide. Each of these scenarios shaped the interviews in different ways.

The focus of interviews with long-time colleagues tended to be a bit broader given our more conversational tone and they were, I suspect, freer in their critiques of their own and of other organizations' and the state's responses to femi(ni)cide and gendered violence because of the trust that already existed in our relationship. However, interviews with individuals that I had never met—who were often speaking with me in an official capacity as a representative of a state institution or a women's organization with which I did not have a direct contact—or did not know as well were rich in detail about policies, laws, political processes, and sequences of events that were sometimes skipped by closer colleagues, who, I imagine, made assumptions about what I must already know. Although my access to state institutions and organizations with which I did not have a prior history was likely facilitated by the fact that I was a foreign researcher with

ties to a Canadian university, this positionality carries epistemological limitations and ethical issues that I take seriously. I will begin by addressing the epistemological question.

Beyond questions of language, trust, and access to key informants, my position as an outsider conducting research in Guatemala limits what I can know in this context. Indeed, despite my fluency in Spanish and long-term engagement in Guatemala, I do not pretend to ever be able to fully "know" or understand the context or experiences that I am researching. Individuals always make strategic decisions regarding the knowledge they impart and information they disclose. However, in a context such as Guatemala where large swaths of the population have been subjected to the violence of centuries of colonization and decades of militarized armed conflict, silence has been used as a strategy to resist outsider interventions (Blacklock & Crosby, 2004; McAllister, 2013). A recognition of my own unknowingness based on the particular coordinates of my positionality—and what I am able to see and hear from such a positionality—is an important part of my transnational feminist praxis.

Most salient among the ethical issues raised by my project is the danger of reproducing patterns of extractive research that position "First World" academics at once as knower and saviour of "Third World" / non-Western women (Mohanty, 1984). Indeed, post-colonial and transnational feminist frameworks have long highlighted how knowledge production was, and continues to be, central to colonial power and domination (Smith, 1999), which has sustained a dichotomy between the North as holder of expert knowledge and the South as the place of experience (Mohanty, 2003). Attempting to resist this dichotomy is at least in part a question of representation in writing and communicating my research, and particularly, of attempting to avoid the discursive colonization of Guatemalan women in my work. It is for this reason that I sought out the knowledge and experiences of key informants—activists and organizations—that

have been working on femi(ni)cide for years, and that, in sections of this dissertation that rely heavily on interview data, I centre the voices and analyses of my Guatemalan interlocuters in my writing.

However, given that most of the organizations and activists working on femi(ni)cide are located in Guatemala City, this focus at once risks reinforcing colonial dynamics of knowledge production that exist within Guatemala. Indeed, the Guatemalan women's movement has, historically, been primarily urban and *ladina*-led (Berger, 2006; Blacklock, 1999), and has been plagued by the phenomenon of the "*Indias permitidas*" [acceptable Indians] (Hale, 2006) by which Maya women who share the analysis and discourse of *ladina* women are accepted in the movement as long as they do not question its racism or dominant ideology (Macleod, 2011). As one key informant from a women's organization recognized during my interview with her, most of the organizations currently responding to femi(ni)cide (mainly by supporting legal cases) are not located in Indigenous areas and do not necessarily have the trust of Maya women. Centring knowledge generated from within this movement therefore risks continuing to marginalize Indigenous and rural women's knowledge and experiences. To counter this, I draw on the written work of Maya women's organizations and Indigenous feminist activists to complement the insight of the few Guatemala City-based Maya activists and advocates I interviewed, in my analysis of the erasures and omissions from femi(ni)cide discourses and responses. It stands, however, that more research on how femi(ni)cide has been understood and responded to in rural and Indigenous communities is warranted—an issue I come back to in the Conclusion.

I have also been conscious of the ethical imperative of not representing femi(ni)cide in a way that naturalizes this violence as inherent to Guatemala, its people, or culture. A transnational feminist framework that highlights the false dichotomy of the local/global resists

this tendency. It holds instead that the global and local inform each other in multiple, dynamic ways, and, through an intersectional analysis that is contextualized and historicized, offers the possibility of "making power and inequality visible and bringing attention to the micropolitics of context, subjectivity, and struggle as well as to the macropolitics of global economic and political systems and processes" (Mohanty, quoted in Dill & Kohlman, 2012, p. 160). By focusing on the systems of power that have sustained gendered violence and shaped responses to femi(ni)cide, and by highlighting women's activism and resistance to this violence, this approach also begins to move away from Western feminist and legal discourses that construct "Third World" women as abject victims (Kapur, 2005).

Given the epistemological position and ethical dilemmas articulated above, this research foregrounds space and history as a way to ensure that its analysis remains grounded in local context. This methodology is informed by Sherene Razack's work on space, race, and the law, which starts from a conception of space not as innocent or empty and waiting to be filled, but as the location where the operations of various interlocking systems of domination—including racial, patriarchal, and capitalist hierarchies—manifest themselves. As such, she argues that spatial analysis offers the "possibility of charting the simultaneous operation of multiple systems of domination" (Razack, 2002, p. 6). This position is also informed by Manuela Camus' (2011) work on Guatemala City's "new violence," perceptions of which she argues are shaped by "historical divisions along class, race, and geographical lines" (p. 59). Offering a historicized and contextualized analysis of violence that links it to social relations of power and structures of exclusion, privilege, and marginalization is also a way to avoid "othering" Guatemala and making violence a property of that place.

I understand knowledge production as an inherently political process and share the intent of many feminist researchers to create knowledge that can contribute to social transformation (Alcoff & Potter, 1993). In this sense, my activist and academic work inform each other along principles of critical transnational feminist praxis (Swarr & Nagar, 2010). I approach both with the recognition that I am implicated through transnational power structures in the dynamics that shape the processes that I am researching (Mohanty, 2003; Nagar & Swarr, 2010), and strive to be accountable to the social movement, activists, and organizations with whom I have engaged over the years. It is in this spirit that I attempt to temper the potentially "extractive" qualities of foreigner-led research in Guatemala by writing in accessible language, communicating my work in non-academic settings, and using the skills I have gained through my academic training and the unearned privilege that I hold as a white middle-class Canadian citizen to support the work of activists and organizations with whom I've developed relationships throughout my time in Guatemala.

During the Sepur Zarco trial of sexual violence as a crime against humanity that I was documenting in my capacity as a research team member of the aforementioned gender and reparations project (Crosby, Lykes, & Doiron, 2018), for instance, I wrote daily breakdowns of the developments in the trial in both English and Spanish which were shared on the BTS blog, among the network in Canada and Guatemala, and with the organizations supporting the trial. I have spoken to community groups and done radio interviews in Canada discussing this and other moments in the struggle for justice in post-genocide Guatemala and the work being done in Canada to support this struggle, and been interviewed on a Guatemalan feminist radio show to discuss the Breaking the Silence network, its history, and its work. I have also shared bibliographies on gendered violence and femi(ni)cide with individuals and organizations

working on the issue in Guatemala and been interviewed by a Guatemalan researcher for her own research on the topic. Throughout the years I have translated many communiqués and requests for urgent action, supported grant writing for an emerging Guatemalan feminist organization, proofread and provided feedback on advocacy materials destined to a North American audience, and provided support for visa applications when organizers or activists had been invited to Canada. I have also provided support that did not depend on my particular skillset or privilege—folding pamphlets, running errands, making coffee, setting up and taking down chairs for meetings or other events—and, on the few occasions when colleagues from Guatemalan social movements came to Canada for a conference, speaking tour, or other event, I have extended them the same welcome and hospitality that I had been offered in Guatemala.

None of this changes the fact that my research holds more immediate potential benefit for myself than for my interlocutors in Guatemala, through potential publications and career advancement, for instance. Nevertheless, it is my intention, once it is completed, to share excerpts of my dissertation, translated into Spanish, with key informants who participated in this project in the hope that they may find some insights useful to their work and that it may contribute to continuing conversations about activism and advocacy against gendered violence, and, particularly, help bolster the arguments of those fighting to broaden understandings of this violence.

Overview of Chapters

Chapter 1 outlines the theoretical foundations of this project. In the first part of the chapter, I trace a genealogy of the concept of femi(ni)cide as it has come to be used in Guatemala to its roots in liberal and radical feminist theories of violence against women (VAW). Drawing on interview data and on the work of Latin American feminist social scientists, I offer

an overview of how it has been adapted and taken up by human rights and women's organizations in Latin America and Guatemala. These approaches, which prioritize violence against women *as* women, are then contrasted with the understandings of violence put forth by women of colour and Indigenous women—particularly those emerging from Guatemala and Meso/Central America. Drawing on transnational feminist critiques of the international human rights regime, the second part of Chapter 1 examines the types of violence and victims that international human rights frameworks tend to recognize. I examine the emergence of VAW as a "public" concern through the early 1990s campaigns to get women's rights recognized as human rights, the legitimacy that these efforts—and especially their success in getting rape and sexual violence recognized in international legal instruments—has leant to anti-VAW activism, but also the limits that relying on human rights regimes place on how this violence and its victims are understood given the narrow and essential category "woman" that it generally assumes, its state-centric nature, and embeddedness in and reliance upon (neo)colonial structures and criminal justice systems. These discussions inform the third part of the chapter, where I examine the repercussions of addressing VAW strictly through a criminal justice approach as well as the broader understandings of violence encompassed in the "violence of the everyday" framework and its concept of a continuum of violence that recognizes how forms of everyday and symbolic violence can work to buttress structural violence and inequality. I argue that a conception of violence that attends to structural and systemic violence and interlocking systems of power (which are of course historically and contextually specific) is necessary in order to identify and address the omissions and erasures within discourses on and responses to femi(ni)cide in Guatemala.

As the title indicates, Chapter 2 traces "talk" of femi(ni)cide in Guatemala. I begin this chapter by examining how concern over "violent deaths of women" and, later, femi(ni)cide emerged in the country before focusing my discussion on the content of NGO and governmental reports produced in the early to mid-2000s, as femi(ni)cide became an issue of public interest. These reports are of particular interest since they were produced by organizations that played a central role in anti-femi(ni)cide activism and in pushing the state to take action against the violence. Delving into their content, exploring the types of violence on which they focus, and interrogating the hypotheses they offer as possible explanations for this violence therefore help to uncover some of the underlying assumptions in state and civil society responses to femi(ni)cide. Here, I identify a tension between the general and the specific in how femi(ni)cide is understood as consisting of, at once, commonplace violence that affects "all" women at the same time as its existence is detected through high body counts and the exceptional violence visited upon the bodies of *some* women—particularly the *ensañamiento* [overkill] observed in the murders of many marginalized women. This tension also translates into the hypotheses offered for the violence of femi(ni)cide, which is at times attributed to (universal and ahistoric) patriarchy, at others to the unchecked criminality of youth gangs and drug trafficking organizations, and still others to the enduring impunity and legacy of sexual violence committed during the internal armed conflict. Ultimately, I argue that these tensions have led to an erasure of the particular ways that marginalized women have been exposed to and experienced femi(ni)cide, in part by collapsing their particular experiences of violence into the experience of "all" women. These reflections act as a caution as femi(ni)cide discourse is increasingly captured by the legal realm, where its definition risks becoming even more circumscribed, and

frames the discussion of subsequent chapters, which examine how this violence has been taken up by the criminal justice system.

Impunity for crimes against women has been central to debates around femi(ni)cide across Latin America and particularly within Guatemala, where dramatic increases in violent crimes were accompanied by "postconflict" efforts to strengthen the rule of law and respect for human rights. Highlighting the prevailing impunity for murders of women served as a tactic to draw attention to state responsibility and lack of due diligence in preventing or punishing this violence. Given the centrality of law and impunity in discourses of femi(ni)cide, Chapter 3 looks at how constructs of gender, race, class, and sexuality have, historically, informed how the law has taken up the issue of gendered violence in Guatemala, and how they have determined which victims deserve justice—or not. This analysis is grounded not only in history, but also in space, with the awareness of how the space that is Guatemala City is also shaped by these constructs and informs how violence and crime are understood in different parts of the city. In the first part of the chapter, I bring together the work of historians, political scientists, and anthropologists who have focused on Guatemalan law and its intersections with gender and indigeneity to illustrate how structural exclusions built into the country's legal framework, along with legally entrenched and racially coded notions of honour and of women's proper roles work together to establish a narrow category of "worthy" victims who deserve protection and justice. In the second part of Chapter 3, I examine this dynamic at work in the cases of María Isabel Véliz Franco and Claudina Isabel Velásquez Paiz, two teenagers murdered in the early 2000s and whose murders were dismissed by Guatemalan authorities as "unworthy" of investigation. (Each of these cases eventually made its way to the Inter-American Court of Human Rights (IACtHR) where the Guatemalan state was found to have violated the victims' rights to equal protection of

the law, among other findings.) Finally, the chapter closes with a reflection on the intersections of *delincuencia* [delinquency] and femi(ni)cide, where I argue that the stigma of *delincuencia* works in two directions, justifying certain murders because of gendered, racialized, and classed markers found on a victim's body at the same time as many murder victims are presumed to be delinquent for the very fact of having been murdered, thus blaming them for their own murder.

Considering how predominant the language of the Law against Femicide and concern over access to justice for crimes defined under this law have become in civil society discourse on femi(ni)cide since the law's adoption in 2008, these are the focus of Chapter 4 and 5. In Chapter 4, interview data and documentary sources help me trace the evolution of proposals and negotiations leading up to the Law against Femicide and Other Forms of Violence against Woman, as well as an overview of the content of this law. Drawing on the work of feminist social scientists in and outside Guatemala, I locate these efforts within a longer history of legal activism on the part of the Guatemalan women's movement in the "postconflict" period, thereby helping to understand the motivations for reform and the balance of power that eventually led to the adoption of the law despite continued resistance on the part of many legislators. I argue that the adoption of a comprehensive law that criminalizes not only femicide but also many other forms of VAW that had until then been very much normalized can be traced back to feminist activists' insistence, through their anti-femi(ni)cide activism, on linking these to murders of women through the concept of a continuum of VAW.

Chapter 5 brings a slightly more critical eye to the content of the Law against Femicide and its operationalization through the Specialized Justice Bodies instituted in 2010, asking questions about the categories established by this law and who they protect. Drawing on the text of the law and on my conversations with feminist and human rights activists, lawyers, and staff

of the Specialized Justice's Sistema de Atención Integral [Comprehensive Assistance System, SAI], as well as on secondary source studies looking at access to justice institutions in Guatemala, I expose some of the exclusions embedded in the language of the law and derived from the limited reach of the Specialized Justice system. I thereby interrogate blanket claims that women's "access to justice" has been improved by the introduction of the Law against Femicide and its application given how geographic location and language (which often intersect with indigeneity and class in Guatemala), as well as gender and sexual identity—all of which inform constructions of worthy victims discussed in Chapter 3—often pose barriers to access. I conclude with a reflection on how emphasizing and encouraging the growth of a *cultura de denuncia* [reporting culture] regardless of these barriers, and in a context in which justice is conceived of strictly as criminal justice, fails to recognize the role of structural and systemic violence in upholding and often justifying forms of gendered violence and VAW, thus occluding the violence experienced by many women marginalized because of their ethnicity/race, indigeneity, sexuality, class, or occupation.

Finally, the Conclusion to this dissertation summarizes its key findings and discusses their significance. Specifically, I argue that considering the Law against Femicide within the broader socio-legal landscape of (neo)colonial and post-genocidal Guatemala reveals the partiality of responses to gendered violence that rely almost exclusively on criminalization. Indeed, through this analysis, I reveal how the omissions and exclusions that I identify in discourses of and responses to femi(ni)cide are in many ways a continuation of the marginalization and disregard in which many women who do not fit the model of "good" women have been held since colonial times. These findings reaffirm the importance of intersectional analyses of gendered violence and of centring the experiences and needs of marginalized women

in activism and policy-making in response to the issue. They also raise the question of whether a state that is actively invested in the dispossession and marginalization of entire sectors of its population can be counted on to provide justice for femi(ni)cide.

Chapter 1

Understanding Violence

This chapter traces the conceptual framework that sustains this project. I begin by offering an overview of the concept of femi(ni)cide, its emergence in feminist theory and how it has been taken up, translated, and adapted to the Latin American and Guatemalan context. I draw on feminist theory as well as interview data to sketch the outlines of this framework and how it has been approached by organizations within the Guatemalan women's movement. I then link these understandings of femi(ni)cide to broader feminist approaches to violence, especially to the violence against women (VAW) approach that has had continuing influence on the debate in Guatemala. The final part of the first section of the chapter contrasts this approach—which originated from a radical feminist politics but has over time become absorbed into, and by consequence also transformed by, the liberal feminist project—with the nuances that Indigenous, antiracist, and intersectional feminists bring to the analysis of gendered violence.

In the second part of the chapter, I look at how VAW became an international "public" concern through women's rights as human rights campaigns led by global feminists in the early 1990s working to get sexual and gendered violence recognized as violations of human rights on par with other forms of violence and torture. Importantly, these efforts raised awareness of the issue and led to the proliferation of anti-VAW activism in many regions, especially in Latin America, where feminists were instrumental to moving the issue forward within regional, inter-, and supra-national bodies. This success can at least partly be credited to the legitimacy that the mobilization of human rights discourses by anti-VAW activists leant to the struggle. However, as I discuss next, there are also limits inherent in thinking about violence within the confines of

human rights regimes. These limits are a consequence of the tendency of human rights regimes to essentialize the category "woman"; to be aligned with state interests, in particular with those of the most powerful states given their embeddedness in (neo)colonial structures; and to, increasingly, rely on law—and especially on criminal justice systems—to ensure their respect.

Finally, I close the chapter by exploring the violence of the everyday framework. I consider how the way that this approach understands violence differs from the frameworks examined earlier in the chapter—especially in how each conceives of the "continuum" of violence—and what possibilities this type of approach can offer to an analysis of femi(ni)cide given that it attends to structural and systemic violence. I conclude that efforts to understand the violence of femi(ni)cide need to be historicized and contextual if they are to be useful in responding to and addressing the issue.

Femicide, *Femicidio, Feminicidio,* Feminicide…

The concept of femicide was first introduced into feminist politics by Diana Russell in 1976 with her address to the International Tribunal on Crimes against Women in Brussels (Russell & Van de Ven, 1976) and later developed in two co-edited volumes on the topic: *Femicide: The politics of woman killing* (Radford & Russell, 1992) and *Femicide in global perspective* (Russell & Harmes, 2001). Prior to Russell's interventions, the concept had been used sporadically in criminology as a descriptive term to identify the gender of a murder victim (i.e. merely to indicate the murder of a woman) but without the unequivocally political charge that Rusell gave it by locating femicide within the "sexual politics of murder" (Russell & Van de Ven, 1976, p. 144) and defining it as "the killing of one or more females by one or more males *because* they are female" (Russell, 2012, p. 2, italics in original).

The definition of femicide advanced by Radford and Russell (1992) is both universal and transhistorical, specifying that it is "no respecter of race, class, or culture" (p. xi) and that it is "as old as patriarchy" (p. 23). They define it as an expression of "male sexual violence"[30] which they see as "a central means by which men maintain power over women and children" (Radford, 1992, p. 6) and locate it at "the extreme end of a continuum of antifemale terror that includes a wide variety of verbal and physical abuse," specifying that "whenever these forms of terrorism result in death, they become femicides" (Caputi & Russell, 1992, p. 15). While the precise wording of Russell's own definition of femicide has undergone slight shifts over the years—substituting, for example, "females" for "women" in the early 2000s in order to recognize the killing of girls as part of the same phenomenon (Russell & Harmes, 2001)—the essence remains the same: to fit into the definition of femicide, Russell maintains that the victim(s) must be girls and/or women, the perpetrator(s), boys or men, and the motive, sexist or misogynist hate.

These three elements remain central in the adaptation of Russell's concept to the Latin American context. The translation of the concept has, however, generated strong debates among feminists in the region over whether the more appropriate form is *femicidio* or *feminicidio*—an issue I come back to below—leading many scholars and activists writing in English about the Latin American context to re-translate the concept into English as "feminicide." For Fregoso and Bejarano (2010) this is a political move meant to "reverse the hierarchies of knowledge and challenge claims about unidirectional (North-to-South) flows of travelling theory" (p. 5).

While some key informants in Guatemala cited Radford and Russell's work when I asked them how they understand the concept of femi(ni)cide, others explained that the scholars that

[30] Drawing on radical feminist theory Radford (1992) specifies that "sexual" here should not be read in a narrow sense of seeking sexual pleasure, but rather as being "focuse[d] on the man's desire for power, dominance, and control" (p. 3).

have most influenced how the concept is understood in Guatemala have been Marcela Lagarde (2006a; 2008; 2010), who uses the concept of *feminicidio* in her work on the alarming rates of disappearances and violent murders of women in Ciudad Juárez, as well as other parts of Mexico, and Ana Carcedo and Montserrat Sagot (2000), who frame their research on murders of women and domestic violence in Costa Rica within the concept of *femicidio*. In both cases, they started to apply the concept of femi(ni)cide to their respective context in the late 1990s and early 2000s, and, while they disagree on the appropriate translation, Russell's work is foundational to both currents.

Carcedo and Sagot (2000) argue that Radford and Russell's definition of femicide is useful because it

> removes the veil that obscures "neutral" terms such as homicide or murder […] it denotes the social and widespread character of violence that is based on gender inequity and distances us from individualized, naturalized, or pathologized approaches that tend to blame the victims, to depict assailants as "crazy," "out of control" or "animals," or to conceive of these deaths as the result of "passionate problems." (p. 12)

It is this same political strength that Lagarde wanted to conserve when she first translated the concept as *feminicidio*, arguing that, in Spanish, *femicidio* would simply indicate the gender of the victim, leaving out "the social construction of these hate crimes" (Lagarde y de los Ríos, 2006b, p. 12). This particular part of the debate has led some key informants to describe the *femicidio* vs. *feminicidio* debate as merely a misguided "linguistic" argument, or a question of translation. This assertion ignores the fact, however, that Lagarde also added an important emphasis on state responsibility, which is central to her definition of *feminicidio* and has become an important point of contention in the debate.

Lagarde calls *feminicidio* a "state crime" in which "silence, omission, negligence and collusion converge in a criminal manner" (Lagarde y de los Ríos, 2004, n.p.) and argues that it "occurs when historical conditions generate social practices that allow for violent attempts against the integrity, health, liberties, and lives of girls and women" (Lagarde y de los Ríos, 2010, p. xvi). Furthermore, in adapting the concept of *feminicidio* to the Mexican context, she adds the elements of institutional violence and impunity to her definition, specifying that, in addition to the various elements that Russell includes in her definition of femicide, in Mexico feminicide "is accompanied by all of this institutional violence that leads to impunity" (Lagarde y de los Ríos, 2006a, p. 233).

While scholars and activists who use the concept of femicide and *femicidio* recognize the systemic character of violence against women, many specifically reject the notion of making impunity a determinative criterion. As Sagot explains,

> whether or not there is impunity or state compliance (or lack thereof) with its responsibility to guarantee security and justice for women, the assassination of women *because* they are women constitutes a universal problem transcending borders and forms of governance. (Quoted in Fregoso & Bejarano, 2010, p. 8; italics in original)

A key informant from a women's organization also explained that it is not the number of women killed or the fact that murders are left in impunity that make this violence matter, but that instead, "we are concerned with every individual death that is produced in this setting of violence against women." Other key informants even qualified the inclusion of impunity and structural violence in definitions of *feminicidio* as "reductionist," worrying that, "if we choose the concept of

feminicide we are invisibilizing these other deaths that occur without structural violence and without impunity."[31]

These reservations resonate with Russell's own comments in a UN session addressing the debate in 2012, in which she explained that she opposed the adoption of Lagarde's expanded definition of feminicide at the international level in part on the basis that "a sound definition must separate the phenomenon being defined [murders of women] from the response to it [impunity]" (Russell, 2012, n.p.). She sustained that according to Lagarde's definition, murders of women that are investigated and successfully prosecuted would no longer be considered feminicide, which would be counterproductive to the main purpose of the concept of femicide, which is to draw attention to and make visible violence that is overwhelmingly normalized and obfuscated.

However, for Lagarde and others who have argued for the concept of *feminicidio* or feminicide, the social and legal impunity and "official indifference" with which murders and other acts of violence against women are committed are themselves part of this normalization and obfuscation. They are not only central to the structure that allows for this violence to be perpetuated but are also part of the violence itself. Indeed, Lagarde's (2010) expanded definition of this violence posits that it is "constituted by the whole set of violent misogynist acts against women that involve a violation of their human rights, represent an attack on their safety, and endanger their lives" and "culminates in the murder of girls and women" (p. xxiii). In contrast, Radford and Russell (1992) see femicide as part of a continuum of violence against women (VAW), but not as a continuum as such. They, and other scholars who use the concept of

[31] The organization represented by these key informants went further than simply not using the concept of *feminicidio*, however. They, along with a few other organizations that I interviewed, continue to prefer describing the murders as "violent deaths of women" arguing that the decision to qualify it or not as *femicidio* lies with the justice system that prosecutes and judges the cases.

femicide, understand it as the extreme end of the continuum of VAW—which also includes sexual harassment, pornography, prostitution, rape, battering, and physical abuse—in that if a woman dies as a result of battering, her death would be considered femicide, but battering, or other forms of VAW, are not in themselves considered expressions of femicide. Femicide is therefore defined as a discreet act rather than as a continuum in and of itself, unlike feminicide, which is seen to encompass a range of acts of violence and violations of women's human rights.

Discussions about historical context, institutional response, and state responsibility for femi(ni)cide were, as one key informant observed, necessarily going to be very different when applying the concept to Latin America compared to the US context where it had originally developed. And, this was especially true when femi(ni)cide was adopted to describe what was happening in Central America, where institutional responses were not only deficient but basically inexistent, as one key informant explained: "institutional presence [in the US] can't be compared to—let alone Mexico, imagine Central America! Because Mexico has a stronger institutional framework [than us] still and we are hopeless in that respect." Indeed, as another key informant noted, Lagarde's concept of feminicide appealed to her explicitly feminist organization for the very reason that it draws attention to the impunity that exists for violence against women and the "action or omission of the state with respect to these crimes."

The debate between these different understandings of femi(ni)cide reflects the tension "between the drive to generalize for social impact and the push to specify for juridical utility" in how the concept is used across Latin America (Bueno-Hansen, 2010, p. 307). Some are describing the widespread occurrences and various forms of this violence, as well as its structural underpinnings, in an effort to demonstrate its pervasiveness (buttressed by the idea that "all" women are affected or at risk) and the urgency of taking action. Others, who also emphasize the

urgency of the issue, are defining it in a narrower manner both in terms of the violence they recognize as part of the phenomenon, and what they see as the proper realm of intervention. Their focus is on denouncing and responding to the murders themselves and not necessarily to the structural violence or impunity that others denounce as sustaining feminicide.[32]

As in other countries across the region, the debate among Guatemalan feminists over which concept was most useful and best described the violence they were observing was spirited. Key informants described it as a "fight" and a "flash point" within the movement, a "poisoned apple," or simply as "absolutely exhausting." While this debate was never completely resolved, it was largely quieted among Guatemalan women's organizations with the adoption of the Law against Femicide in 2008. As one key informant from a women's organization explained, by 2008,

> the feminist movement was tired of discussing this. Relationships had been severed because of it [the debate]. There had been quarrels as to if it's the same, if it's not the same; if it includes this, if it doesn't include it, if it includes that… and also, the law was passed.

By the time that I began fieldwork for this dissertation in 2013, the consensus around the use and definition of the concept of femicide had become quite strong (though feminicide continued to be used by a few organizations, as will be discussed in Chapter 5).[33] The debate had, however, largely been internal to the women's movement and many key informants from feminist

[32] Despite the lack of importance they attach to impunity, those using the concept of femicide in Guatemala have urged and supported a criminal justice response to the violence, which will be discussed in Chapter 5.
[33] Indeed, when women's organizations got involved in discussions around drafting a law to address this violence, even some of the organizations that preferred the concept of feminicide conceded to strategic arguments in favour of the usage of femicide, including the notion that the "state responsibility" component of definitions of feminicide would be more appropriate to the realm of international law, since including it in domestic law would be tantamount to asking the state to try itself. The strategic decisions and negotiations that eventually led to the adoption of the Law against Femicide in April 2008 are explored in more depth in Chapter 5.

organizations felt that they had never been able to fully translate or communicate its nuances to members of the media or to representatives of governmental institutions, who often expressed frustration and confusion when arguments and discussions would break out in meetings.

Confusion over the nuances and proper usage of concepts of femicide and feminicide was reflected in media outlets' common shift, pre-Law against Femicide, between *femicidio, femicidios, feminicidio,* and *feminicidios* regardless of whether they were discussing individual murders, a pattern of sexist murders, or the broader context that make these murders possible. Lagarde (2010) herself recognized that the common pluralization of her expanded concept of feminicide as *feminicidios* in popular usage (and even in the title of the Special Commission established by the Mexican Chamber of Deputies to address the issue) "created the confusion about whether each homicide should be called a feminicide … or whether a set of homicides in a given territory should be called 'feminicide'" (p. xvi). This confusion and the collapsing of feminicide with individual murders of women has led Lagarde, as well as a number of organizations in Guatemala (including a few where key informants for this project worked), to begin using a third concept: that of *violencia feminicida* [feminicidal violence].

The idea of feminicidal violence is meant to highlight the "simultaneity and cross-fertilization of various forms of violence linked to various forms of social oppression" that "all women" experience in the course of their lives (Lagarde y de los Ríos, 2010, p. xix,). It is even broader than the concept of *feminicidio* in that it explicitly includes "violent deaths of girls and women such as those that result from accidents, suicides, neglect of health, and violence" and "takes as the point of departure the assumption that such deaths are caused in the framework of gender oppression and other forms of oppression and therefore are avoidable" (Lagarde y de los Ríos, 2010, p. xx).

Feminist Understandings of Violence: Conceptual Roots of Femi(ni)cide

Radical Feminist VAW: Essentialism and Gender Animus

The concept of femicide as defined by Radford and Russell (1992) and as discussed above has clear roots in radical feminist approaches to violence against women (VAW) that emerged in the 1970s and 1980s.[34] The radical feminist VAW framework frames male sexual violence as affecting "all" women *as* women and includes in its definition of violence a variety of acts and practices which are understood as constituting a "continuum" of violence seen to be primarily structured by sex / gender (see Browmiller, 1975; Jasinkin, 2001; MacKinnon, 2006; Price, 2005). Among these are sexual harassment, rape, physical abuse, domestic violence and battering, female genital cutting (or "mutilation" as it is named by some), prostitution, and pornography. Radical feminists deny the possibility of women willingly engaging in sex work—always understood as prostitution in this framework because of the presumed impossibility to consent—or pornography. For Dworkin (1993), for instance, prostitution is "gang rape … punctuated by a money exchange" (p. 3). This collapsing of sex work with violence is based on the understanding that prostitution is only made possible by the absolute (and purportedly universal) power imbalance between men and women. Violence is seen "as the exclusive provenance of patriarchy" (Haag, 1996, p. 44) and all women are therefore, at the very least, "theoretical victims" (p. 51). Radical feminists understand VAW as a consequence of patriarchal social structures, a social mechanism that maintains gender inequality or, more simplistically, as a tool used by men to control women (Brownmiller, 1975; Jasinkin, 2001; MacKinnon, 2006).

[34] While these frameworks were mostly developed by second-wave feminists within the US, they circulated translationally and have informed how the issues of violence against women / gendered violence have been taken up, particularly in the arena of international human rights and humanitarian law, which continue to bear traces of the "US Sex Wars" (Jaleel, 2013).

Violence against women—specifically rape, prostitution, and domestic violence—is even identified by Millet (1976) as "the bedrock of our oppression" (p. 2).

Much of the early radical feminist theorization on VAW fell into obvious essentialist traps. Brownmiller (1975), for instance, does not only locate the roots of women's vulnerability and of "man's structural capacity to rape" squarely in physiology, but also suggests that sexual violence causes women a "special harm" because it attacks their sexuality, which she understands as being "closer" to women's identity and sense of self (pp. 13-14). This premise ignores a central insight of many anthropologists of violence, namely, that the meaning of violence and how it is experienced is always contextual and situated. Indeed, Sally Engle Merry (2009), for instance, argues that gendered violence has no stable meaning; rather, what is understood as violence shifts with the social and cultural systems that give it meaning. Furthermore, by insisting on the universal vulnerability of women, this VAW framework prevents rape and sexual violence from being understood or addressed in the context of communities, of social disadvantage and impoverishment, and "obfuscates the reality that a woman's risk for sexual violence in all forms is highly dependent on her social identity, status, and circumstance" (Bumiller, 2008, p. 157).

Radical feminist theory on violence against women is of course only one strand of second-wave feminist approaches to violence, which have been more diverse than is often portrayed. Indeed, Haag (1996) complicates what she calls "caricatured readings" of second-wave feminism, arguing that they all too often ignore approaches to violence that were "neither essentialist or anti-essentialist" (p. 35) but that, for instance, recognized the very process of sex differentiation as a form of violence. An acknowledgement of this type of violence became much more common as feminist theory shifted towards more poststructuralist approaches—

especially marked in the so-called "third wave" of feminism—in which VAW is often reframed as gender-based or gendered violence. This shift explicitly acknowledges the socially constructed norms of femininity and masculinity that are part of the "performance" of violence, and which give it meaning (Merry, 2009). Indeed, Merry (2009) defines gender violence as "violence whose meaning depends on the gendered identities of the parties… [and as] an interpretation of violence though gender" (p. 3). She suggests that, given its performative nature, "doing violence is a way of doing gender" (p. 11).

Gendered violence is the concept that I prefer, given that identifying certain expressions of violence as "gendered" does not curtail the recognition of the multiple interlocking constructions of power and identity other than gender that also give meaning to this violence—and that inform how gender is structured and understood in the first place. It is, however, not the prevailing concept used in Guatemala, where, as in most of Latin America, there is a general sense among activists and advocates that the concept of violence against women better reflects the fact that victims of this violence are overwhelmingly women (CAWN, 2010).[35] Even among activists and scholar who use the concept of VAW, many acknowledge that differences do exist among and between women and that these differences can play into the dynamics of violence, as Radford and Russell do when they include "racist femicide" and "homophobic femicide" in the forms of femicide they define (Radford, 1992, p. 7). Many of these approaches are nonetheless "positing gender identity as the 'cause' of violence and privileging that identity over race and culture" (Bumiller, 2008, p. 155). Giving primacy to gender (or in some cases biological sex) in analyses of VAW therefore assumes that racialized and Indigenous women, lesbians, or women

[35] There are also some who argue that the nomination "*violencia de género*" (gender violence) reproduces the gender binary because of the singular usage of "gender" (CAWN, 2010), apparently disregarding—or perhaps unaware of—the binary construction of the category "woman," especially as it has been used in VAW frameworks.

with disabilities (to name but a few of the intersections of identities that could be considered here) experience this violence primarily, or even solely, as women (Grewal, 2005). I would extend this argument to assert similarly that explaining femi(ni)cide based solely on gender *animus*, as violence or murder motivated by the gender of the victim—or as many anti-femi(ni)cide campaigns phrase it, as murders of women *because* they are women—obscures the other interlocking facets of identity and power that inform this violence. Furthermore, arguing that violence against women targets women (only) "*as* women," is a gross simplification of Indigenous, Black, and women of colour's experiences of violence and fails to capture the multiple meanings that they attach to this violence and types of harms that they experience.

Intersectional, Antiracist, and Indigenous Approaches to Gendered Violence

For Indigenous women, as for the Black and women of colour feminists who originally developed the concept of intersectionality in the US, the idea that different facets of identity and multiple structures of power interact, shape, and give meaning to each other "is not an arcane academic concept, but daily lived reality" (FIMI, 2006, p. 4; also see Carby, 1996; Combahee River Collective, 1983; Crenshaw, 1991; Lorde, 1984; Smith, 2006). They hold that the various facets of identities and forms of violence that they experience cannot be neatly separated or compartmentalized, and that privileging gender in analyses of what the liberal, mostly white and Western, feminists have called "violence against women" obscures the socio-economic, political, and historical systems of power that "create the conditions of women's lives" (FIMI, 2006, p. 3). This analysis highlights how interlocking systems of power condition women's vulnerabilities to violence and frame how it is experienced, insisting that VAW or gendered violence is experienced by women of colour as sexist *and* racist, and by Indigenous women as sexist, racist, *and* colonial (as well as homophobic and classist) (Crenshaw, 1991; FIMI, 2006; INCITE!, 2006;

A. Smith, 2005; in the Guatemalan context see Chirix García, 2013; Grupo de Mujeres Mayas Kaqla, 2010, 2011; Macleod, 2012).

Keeping in mind Martinez-Salazar's (2014) analysis of the interlocking systems that have shaped the "coloniality of power" in Guatemala and served to justify and rationalize violence against sectors of the population marginalized by their class, ethnicity/race (especially indigeneity), or gender, in the next section, I offer an account of Indigenous women's understandings of gendered violence in Guatemala that begins to illustrate the interlocking approach (Razack, 2008) that informs this project, as discussed in the Introduction.

Indigenous Women's Interlocking Experiences of Gendered Violence in Guatemala

For the Maya women's group Kaqla (Grupo de Mujeres Mayas Kaqla, 2010; 2011), gendered violence and violence against women is inseparable from colonial constructions and dynamics. They tie many abusive and harmful practices that currently take place within Maya communities to the alienation from culture and ancestral knowledge that has been fostered since colonization. And while the women of Kaqla do not idealize Maya societies prior to colonization as being free from violence, they point to the beginning of Spanish colonization as the moment after which violence against Indigenous women took on new and much intensified forms. Kaqla links colonization to the perpetuation of gendered violence within Indigenous communities, arguing that Maya men's internalization of oppression in the context of continued colonization has contributed to the construction of a form of masculinity that privileges domination and demonstrations of power and virility: "man has to convert himself into an oppressor to demonstrate that he is indeed a man" (Grupo de Mujeres Mayas Kaqla, 2011, p. 85).

Mesoamerican Indigenous women also challenge understandings of gendered violence and violence against women that treat it as strictly interpersonal violence and reduce its impact to

the level of the individual. Maya women from Kaqla argue that even though many of the forms of violence that they face as Maya women may seem like violence directed at and experienced by individuals, their repeated and widespread occurrence have caused collective trauma (Grupo de Mujeres Mayas Kaqla, 2011). The collective impact of gendered and sexual attacks on individual Indigenous women has also been reported by Me'phaa women in Mexico's Guerrero state (Hernández Castillo, 2016; 2017). The rapes of Inés Fernández Ortega and Valentina Rosendo Cantú, two women from a local Indigenous organization, in separate attacks in early 2002 by soldiers of the Mexican army, were experienced by Me'phaa women "as part of a *continuum of violence* that has marked the relationship between indigenous peoples in the region and Mexico's armed forces" (Hernández Castillo, 2017, p. 34, italics in original). Testimonies collected by Hernández Castillo (2017) in her ethnographic work in the region spoke of "violence experienced by an individual lived as an offense against the entire community" (p. 35), to the extent that, in her complaint to the Inter-American Commission of Human Rights (IACHR), Fernández Ortega demanded collective reparations for the violence, including the demilitarization of the region (Hernández Castillo, 2016).

Neoliberal capitalist development in Indigenous territories is often accompanied by militarized violence, especially when this development is being pushed forward without the consent of affected communities. As Hernández Castillo (2016) explains, in such cases sexual violence is often used "as a repressive strategy in the process of dispossession" prompted by capitalist globalization, and its most frequent targets are Indigenous women (pp. 22-23). Given the collective impacts of gendered racialized violence described above, it is evident how, when exerted by a colonial state, this violence can be seen as part of "a wide range of strategies designed not only to destroy a people, but to destroy their sense of being a people" (A. Smith,

2005, p. 3). The understanding of violence evidenced in this approach clearly goes further than that of equating violence, simplistically perhaps, with individual bodily harm. The impact of development projects that plunder, pollute, and patent natural resources has been described by Indigenous women—who are often responsible for managing these resources—as forms of "economic and spiritual violence" that "deny women access to their Peoples' primary sources of food, water, medicine, and building materials" (FIMI, 2006, p. 16).

In Guatemala, Maya Mam women in mining-affected communities of the department of San Marcos have identified this "symbolic, physical, psychological, spiritual [violence], affecting individual and collective mind-body-emotions-spirit" as a consequence of what Macleod (2012) calls "development aggression" (p. 12). They worry about the impact of mining on future generations and about "Who will speak up for the animals that die? … Who is going to protect them?" (p. 10). This reflects the Maya understanding of the sacredness and interrelatedness of all beings, and the idea that all have a responsibility in their daily actions to "maintain the *tejido* [fabric] of life"; any action that harms the planet is therefore understood as also harming its peoples (Grupo de Mujeres Mayas Kaqla, 2010, p. 24).

Impoverishment and dispossession of Maya and other Indigenous communities in Guatemala is not, of course, limited to areas targeted by resource extraction or other development projects. Rather, it is a structural and systemic legacy first of colonization and, more recently, of the internal armed conflict for the majority of Indigenous peoples in the country. For many Maya women in Guatemala, this very dispossession is understood as a form of violence against women because of the "heavy load" that Indigenous women have had to carry in order to sustain themselves and their families as a consequence (Crosby, Lykes, & Caxaj, 2016).

Understandings of violence that are limited to interpersonal violence and individual bodily harm are clearly inadequate to capture these Indigenous women's experiences of violence. Beyond not taking account of the particular meaning that Indigenous and racialized women attach to the gendered (and racialized) violence that they experience, giving primacy to gender to the exclusion of other intersections of power and identity in analyses of this violence often ends up obscuring types of harm that differ from those typically recognized in VAW and gendered violence frameworks. As such, these frameworks implicitly give more importance to the experiences of violence of a particular subset of white—and in Guatemala, *ladina*—women, whose experience is held up as the "universal" experience of VAW or gendered violence in contrast with the "particular" experiences of racialized or Indigenous women. As Chirix García (2010) discusses in relation to the Guatemalan context:

> In a racialized country like Guatemala, violence against Indigenous women is still downplayed or hidden in other forms of social violence or in the best-case scenario, the discourse is generalized from a focus on gender and violence against women, and not from a perspective that makes inequalities, racism, discrimination, and militarization on behalf of the state visible. A *criollo* and *ladino* state is not interested in making visible nor resolving violations against women, especially against Indigenous women. (p. 279, italics denote words left in Spanish upon translation)

Despite the more robust analytical value of interlocking and intersectional analyses of violence, Merry (2009) observes that essentialist frameworks that hold that "all women are subordinated by gender violence" (pp. 13-14) have endured in feminist anti-violence movements because of what is seen as their greater political value—their "generalizing" quality, which gives them the ability to rally a disparate group to a common cause. This supposed political strength

of claiming a common experience of violence among "all" women is, indeed, reflected in Radford and Russell's definition of femicide, a concept that is meant to "name *our* experience" (Radford, 1992, p. 3—italics added), raise awareness of it, and lead to "the creation of a movement against it" (Radford & Russell, 1992, p. xiv). I qualify this political strength as "supposed" here given the observation by Indigenous women that:

> the tendency to compartmentalize and extract gender from a matrix of identity results in a failure to critique and challenge systems of domination other than 'patriarchy.' When 'patriarchy' is analytically isolated from other systems of domination, it becomes an abstraction. In the process, the political potential of feminism is squandered. (FIMI, 2006, p. 10)

However, as I will discuss in the next section, VAW became the main focus of transnational feminist campaigns to get women's rights recognized as human rights despite the critiques of Indigenous and global South feminists. Framed as a common experience shared by "all" women, the permutation of VAW into a human rights issue further entrenched liberal feminist understandings of this violence as "universal" and as primarily structured by gender, limiting the type of harms and forms of violence encompassed by the concept.

Making VAW Public: Human Rights, Women's Rights, and Transnational Movements Against Gendered Violence

The emergence of femi(ni)cide as a social issue in Guatemala in the early 2000s (which I trace in more detail in Chapter 2) coincided with the "dramatic expansion of the international movement against gender violence" (Merry, 2009, p. 82) that had coalesced over the previous decade from regional, national, and transnational campaigns aimed at getting women's rights recognized and enshrined as human rights. Human rights have indeed featured prominently in

Latin American women's movements' activism against VAW, including in anti-femi(ni)cide discourse and activism in Mexico, Central America, and Guatemala. In fact, Lagarde (2010) even invokes human rights in her definition of feminicide, which she sees as including acts that "involve a violation of [women's] human rights, represent an attack on their safety, and endanger their lives" (p. xxiii). Given their concurrent timing and the centrality of human rights and women's rights discourses in anti-femi(ni)cide activism, in this section I examine how gendered violence came to be understood as a human rights issue and the impact that this has had on how This Violence Is Understood.

Women's Rights as Human Rights Campaign Becomes Anti-Vaw Campaign

Violence against women is often seen as the "paradigmatic" feminist issue in the sense that women's groups have succeeded in gaining fairly widespread recognition of it as a legitimate social issue and in getting it onto the policy agendas of regional and national governments, local NGOs, and international institutions alike. This success was in large part due to transnational campaigns that framed the issue in the discourse of human rights. Indeed, feminist anti-violence activists came to understand that "the power of the international human rights framework … lends legitimacy to [their] political demands, since it is already accepted by most governments and brings with it established protocols" (Friedman, 1995, p. 19). The existing human rights regime was, however, largely dependent on a hierarchy of rights that prioritize civil and political rights over economic, social, and cultural rights that have historically "defined women out of human rights" (Youngs, 2003, p. 1223). Feminist intervention into the field of human rights has

therefore aimed to make it more reflective of women's experiences by transforming human rights discourses and practices from an explicitly feminist perspective.[36]

VAW was central to the 1990s movement to frame "women's rights as human rights" [37] not only because it was understood, "in all its manifestations," to be "the most pervasive violation of females" (Bunch, 1990, p. 489), but also because it was seen as the issue that "most parallels a human rights paradigm [because] it involves slavery, …torture, …terrorism," all issues already recognized in human rights regimes but which "have never been defined in terms of women's lives" (Bunch, quoted in Friedman, 1995, p. 20). The women's rights as human rights movement also argued that the typical framework that understands VAW as a "private" matter more appropriately addressed in the confines of the family or community in which it arises "ignores the fact that such abuses, although committed perhaps by private citizens, are often condoned or even sanctioned by states" (Bunch, 1990, p. 488), thus bringing the artificial divide between public and private at the heart of human rights frameworks into sharp relief.

Belém do Pará: Latin American Feminists Developing "Hard Law" Against VAW

The 1979 Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), which calls on states to address discrimination by state actors as well private parties, is generally recognized as the "first step in developing a human rights framework for women" (Jones & Wachala, 2006, p. 127). CEDAW did not, however, explicitly address VAW or gendered violence and has often been criticized for its lack of enforceability (Bunch, 1990; Jones

[36] Feminist interventions have called attention to the particular gendered ways that women's civil and political rights are violated; have argued that socioeconomic rights (the so-called "second generation" of rights) form the bedrock for other rights (without them, other rights are "meaningless" or unachievable) and that they are "key to [addressing] other issues including women's vulnerability to violence" (Bunch, 1990, p. 494); and have worked on "the creation of new legal mechanisms to counter sex discrimination" and "to make existing legal and political institutions work for women and to expand the state's responsibility for the violation of women's human rights" (Bunch, 1990, p. 495).

[37] The tagline came from a campaign launched by the GABRIELA women's coalition in the Philippines in the late 1980s—see Bunch (1990).

& Wachala, 2006), making the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (known as the Convention of Belém do Pará), adopted in 1994 by the Organization of American States (OAS), the world's first and only hard law instrument focused specifically on violence against women.

The Convention of Belém do Pará (1994) understands VAW as a "manifestation of the historically *unequal power relations* between women and men" (Preamble—italics added) and an "act or conduct, *based on gender*, which causes death or physical, sexual or psychological harm or suffering to women" (Article 1—italics added). Despite its mention of the historical nature of power relations, it does not seem to account for colonization in its analysis. Furthermore, by defining the scope of application of the Convention to violence occurring within interpersonal relationships (including family or domestic partner violence) in the community, as well as that which is "perpetrated or condoned by the state or its agents regardless of where it occurs" (Article 2), it extends state responsibility for the prevention, punishment, and eradication of VAW to both the public and private spheres. The Convention of Belém do Pará is also legally binding in that it requires that ratifying states implement its prescribed actions, including "pursu[ing], by all appropriate means and without delay, policies to prevent, punish and eradicate such violence" (Article 7), and extends the accountability measures set out in the American Convention on Human Rights (1969) to the Convention of Belém do Pará (1994, Article 12). As such, individuals and groups are able to bring petitions to the IACHR to report on or denounce violations of the Convention of Belém do Pará's provisions.[38] The Convention "prompted a

[38] This is different from UN declarations which often have no enforcement mechanisms, or a convention such as CEDAW which relies on a separate protocol for enforcement: In 1992, the UN Committee on the Elimination of Discrimination Against Women adopted General Recommendation 19 which requires that states include information on "the incidence of violence against women … legislative and other measures taken to protect women against violence … [and] on the provision of services for victims" in their periodic reports to the Committee (Jones & Wachala, 2006, p. 132). This enforcement mechanism, however, continues to be limited to "reporting" and does not include provisions for sanctions or prescribe any state action in response to VAW.

flurry of legislation with new national laws passed in virtually every country in the hemisphere" in the decade following its adoption (Macaulay, 2006, p. 106); and, since 2008, a second wave of legislation has started replacing the first (Friedman, 2009).

The fact that the Convention of Belém do Pará was adopted as "hard law" and subsequently incorporated—albeit often with modifications—into national policies and legislation has largely been attributed to the strength and coordination of a regional Latin American women's movements that had VAW as one of its central concerns. Indeed, Friedman (2009) argues that the recognition of VAW as a violation of human rights had "its most concrete and powerful expression" in Latin America, where feminists had been organizing through regional feminist *encuentros* [encounters] since the early 1980s (p. 361).[39] These *encuentros* had produced "identity-specific networks as well as advocacy coalitions on a range of issues such as women's health and sexual and reproductive rights, violence against women, and women's political representation" (Alvarez et al., 2003, p. 539) that organized regionally to put pressure on national governments as well as on regional and supra-national bodies to respond to their concerns.[40]

The inclusion, in the Convention of Belém do Pará (1994), of both public and private violence reflects the long-sustained insistence, by Latin American women's movements, on the connection between gendered violence perpetrated by state actors and that committed by private individuals.[41] It also underscores the fact that these regional instruments and national

[39] Relatedly, Latin America is also the region where the concepts of femi(ni)cide has gained the most political currency: all countries in the region with the exception of Cuba and Haiti had adopted laws defining the crime of femicide or feminicide by 2017 (Deus & Gonzalez, 2018)

[40] See Friedman (2009) for a more in-depth account of the regional dynamics at work both in the development and adoption of regional instruments as well as in their subsequent institutionalization at national levels.

[41] This connection is illustrated by the selection, at the Latin American and Caribbean Feminist Encuentro in Bogota, Colombia in 1981, of November 25th to mark the International Day Against Violence Against Women. November 25th marks the anniversary of the assassination of the Mirabal sisters in the Dominican Republic.

legislations were not developed or implemented in a top-down manner, but rather through a dynamic interplay between regional institutions, national governments, and local advocates in which anti-violence activists successfully mobilized international human rights frameworks to bring visibility to the issue, to influence how it is framed at the inter- and transnational levels, and to put pressure on states and supra-national bodies to take action against it.[42]

Limits of Human Rights Regimes for Understanding Violence

As was outlined above, framing VAW as a human rights issue has generally leant legitimacy to anti-violence activism and justified state intervention in what has long been considered a "private" matter. However, its framing as a human rights issue has also influenced how violence against women is understood, and what forms of violence are recognized and therefore condemned within the framework, which is the focus of the following section.

Essentializing the Category "Woman"

The incorporation of women's rights—including prohibitions against VAW—into human rights frameworks in the 1990s was generally accomplished through appeals to gender equality and non-discrimination (Merry, 2006). Informed by strands of liberal and cultural feminisms that were prominent in the US at the time, these appeals emphasized a binary and asymmetrical understanding of sex/gender, focused heavily on domestic violence as well as rape—which was

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Known as the three "butterflies," the sisters had long been involved in the organized opposition to dictator Trujillo's 30-year regime and had been imprisoned, raped, and tortured several times before their assassination in 1960 (Friedman, 2009; UN Division for the Advancement of Women, n.d.). The anniversary of their assassination was therefore a strategic choice for a day of "Non Violence Against Women," as it is often referred to in Latin America, in that it exemplifies the links between violence experienced in the so-called private sphere and the gendered forms of violence employed by states as tools of repression and torture—that is, between violence in peace and wartime as well as in "private" and "public" spheres—and serves as a reminder that while different types of violence have their own specificities and contexts, they are connected. November 25th has been recognized by the UN as the International day for the Elimination of Violence against Women since 1999, illustrating the important influence of Latin American feminists in the transnational movement against violence against women.

[42] See Friedman (2009) for a more in-depth analysis of how these dynamics unfolded across the continent, and in Chile and Brazil in particular.

often framed as the "worst" harm experienced by women—and, as a result, reinforced protective stereotypes that emphasize women's vulnerability (Grewal, 2005; Otto, 2013). Kapur (2005) argues that while the focus on women as "abject victims" of VAW did succeed in gaining recognition for the issue, it failed to empower or liberate women. To the contrary, Miller (2004) warns that a "single-minded focus on sexual harm that avoids consideration of other issues and effects" (p. 18) risks encouraging regressive responses to violence that seek to protect women's honour or chastity rather than promoting a broader agenda for women's rights.

As Bumiller (2008), Grewal (2005), Hesford and Kozol (2005), Kapur (2005), and Miller (2004) outline, it was precisely this narrow focus on VAW as a form of violence primarily structured by gender that made campaigns for the recognition of women's rights as human rights palatable on the international level since, as Grewal (2005) articulates, it excluded "issues that emphasize difference or inequality between women in the North and South, or even difference within a nation-state … [which] could not receive sustained attention from dominant groups of women everywhere determined to create 'common' goals" (p. 154). Indeed, Grewal (2005) explains that the claim that domestic violence was being experienced similarly by "all" women across the world could only be sustained if "the female subject was essentialized" (p. 136), meaning that the VAW discourse mobilized by the women's rights as human rights campaigns has had the impact of "universalizing" and "stabilizing" the category woman.

The "overemphasis on gender discrimination and gender equality" of the 1995 Beijing Platform for Action, for instance, has been criticized by Indigenous women for depoliticizing the issues they confront by ignoring the fact that the human rights violations they experience "are based not only on gender, but on the interplay between gender and other aspects of their identities" (FIMI, 2006, p. 10). Issues of "women's (homo)sexual freedom and autonomy" were

also kept separate from discussions of VAW and women's rights in the lead-up to the Beijing Conference, out of fear that they would "threaten the fragile 'respectability' of those promoting women's rights and thus limit their effectiveness" (Otto, 2013, p. 204). This concern with respectability is, indeed, fostered by the reliance on the part of anti-VAW and women's rights as human rights activists on a liberal equality paradigm that only recognizes the rights of women "who fit the model of woman of legal discourse" (Merry, 2006, p. 231) and therefore "protect[s] only those women defined as 'deserving' according to patriarchal standards, that is, women privileged by class, race, and relationships to heterosexuality" (Radford, 1992, p. 355). Furthermore, by centring domestic violence and rape as the main concern of anti-VAW work, women's rights activists advanced an understanding of violence consistent with the liberal human rights regime's primary concern with individual bodily integrity and that does not pose a significant challenge to dominant modes of power (Grewal, 2005; Haag, 1996; Hesford & Kozol, 2005; Miller, 2004).[43]

Human Rights Regime's Alignment with State and Colonial Power

The types of harm that are recognized as violence within the VAW/women's rights as human rights framework have been conditioned by power dynamics at work in inter- and supra-national institutions. Enforcement and monitoring often depends on the interests of the most powerful nations, who are able to influence international human rights agendas—and deflect attention from their own or their allies' violations—to a degree their less powerful peers cannot (Grewal, 2005; Merry, 2009). Furthermore, colonial notions of modernity and backwardness have been embedded in human rights discourses since their emergence, structuring knowledge

[43] Grewal (2005) explains that some groups attempted to bring economic, social, and cultural rights—often relegated to the so-called "second generation" of rights—into the discussion of violence against women but that "it was clear that differences between women were so great that socioeconomic rights could not rise to the top of the agenda" (pp. 153-154)

production and decision-making around the issue (FIMI, 2006; Grewal, 2005; Kapur, 2005; Merry, 2006). Indeed, as Hesford (2011) argues, "the history of human rights can be told as a history of selective and differential visibility, which has positioned certain bodies, populations, and nations as objects of recognition and granted others the power and means to look and confer recognition" (p. 30).

Given this context, the harm that VAW is seen as causing in the global North is generally one of "impairing" or "nullifying" women's enjoyment of their (already existing) rights, while in the South, culture is made into the problem as "harmful traditional practices" are cast as sources of VAW and violations of women's human rights (Kapur, 2005; Merry, 2010). This logic has led to stereotyping of entire cultures, groups, or countries—and especially their men—as inherently violent and has justified (neo)colonial interventions ostensibly aimed at "protecting" women from this violence—or, as Spivak's (1988) well-known phrase describes it, "white men saving brown women from brown men" (p. 297).

The casting of entire (non-Western/Northern) cultures as disrespectful of women's rights has led some liberal feminists to be suspicious of collective rights, which are seen as potentially stoking violence or abuse of women's rights.[44] The Maya women of Kaqla, however, reject the "false disjunctive" set up between individual and collective rights, which is often based on the idea that collective rights consist of special privileges or as otherwise harmful to the overall pretension of equality. They explain that while "ownership" of collective rights cannot be individualized, "their violation or lack of recognition conditions the exercise of individual rights,

[44] While women's rights are sometimes framed as group or collective rights—with the group's "common" oppression located in patriarchy—they would, as they are currently expressed in dominant human rights frameworks, perhaps best be conceived of as rights of a collective of individuals. Indeed, FIMI (2006) argues that the type of "liberal European" feminism that has informed women's rights agendas conceives of them as "merely an extension of individual rights to women" (p. 10) rather than a true recognition of collective rights.

be they traditional or contemporary" (Grupo de Mujeres Mayas Kaqla, 2010, p. 35). As such, the recognition of Indigenous peoples' collective rights is seen as "the best way to guarantee the exercise of their [Indigenous women's] individual rights" (p. 35). Unfortunately, efforts to integrate collective rights, and especially Indigenous rights, into existing human rights frameworks have been met with resistance since, as Merry (2009) explains, they "not only conflict with the dominant individual/state dichotomy which underlies the creation of international standards, but they also challenge state sovereignty" (p. 84). Human rights as they are conventionally construed, however, pose only a limited challenge to state power given that the international human rights system is based on the premise of state sovereignty and depends on states for recognition and enforcement of its norms. So, while the human rights regime poses a certain limit to state power by monitoring and censoring its excesses, it simultaneously reinforces it (Merry, 2006).[45] This alignment with the state is, in fact, particularly problematic for Indigenous peoples whose rights are often violated by the very state charged with determining the appropriate remedy to these violations (Alvarez Molinero, 2006). The increasing "legalization" of human rights mechanisms—that is to say, the increased turn to law, and particularly to criminal law, in response to human rights violations—accentuates this alignment with and dependence on the state, and, as will be discussed in the following section, raises concerns as to the type of response to violence it allows.

Legalization of Human Rights: Individualizing and Decontextualizing Violence

As a preoccupation with "cultures of impunity" increased in the 1990s, human rights bodies and advocates increasingly turned from "naming and shaping" non-compliant states to

[45] Hesford (2011) discusses the figure of the stateless person whose rights are dependent on being recognized as "belonging" to a nation-state (as a citizen, refugee, etc.) to illustrate the reliance of the human rights system on the state.

criminal prosecution of human rights violators (Engle, 2015; Meckled-Garcia & Çali, 2006b). The idea of submitting human rights violators to criminal law is attractive not only because of law's perceived coercive power, but also because of law's location, ostensibly, outside and above politics (Meckled-Garcia & Çali, 2006a). This "turn to criminal law"—as Engle (2015) calls it—in human rights regimes coincided with the increasing strength of the carceral state in the US and its export, along with other neoliberal policies, to transitioning economies in the post-Cold War era. Preoccupation over perceived increases in criminality in many newly independent former colonies as well as in countries emerging from dictatorships and dirty wars across Latin America also stoked enthusiasm for strengthening the rule of law—and, by extension, the criminal justice system (Comaroff & Comaroff, 2006). This tendency was also reflected in Guatemala, where "law and order" became a central concern of postwar reforms, as will be discussed further in Chapter 4.

Law is often regarded by marginalized groups as a potential tool if not for emancipation, then at the very least for recognition and legitimation. However, despite the potential for marginalized groups to raise public awareness of their rights claims and to challenge certain forms of exclusion through legal action, the legalization of human rights can also have a depoliticizing effect. Since criminal law is only concerned with the immediate circumstances of the case at hand and is designed to individualize responsibility, it strips facts from their context, almost inevitably obscuring power relations and underlying structural dynamics that give them shape and meaning (Engle, 2015; Kapur, 2006). The legalization of human rights has therefore meant that human rights institutions "operate without sufficient awareness and understanding of the macro-historical context … in which mass violations occur" leaving them "powerless to prevent them in the future" (Wilson, 2006, p. 75). This type of "myopic legalism" (Wilson,

2006) often leads human rights NGOs to recommend reductive and technical fixes to problems that have historically entrenched structural causes. In Guatemala, this tendency of recurring on reductive and technical fixes can be seen in the focus on improving investigative and prosecutorial protocols and more generally to strengthening the rule of law, issues that I come back to in Chapters 4 and 5. Indeed, as has been broadly critiqued in the transitional justice literature, when justice in the aftermath of civil war or massive violations of human rights is restricted to criminal justice, more structural issues—including those relating to inequality and redistribution—are omitted (Miller, 2008; Nagy, 2008).[46] In the case of Indigenous peoples, whose rights claims, as was mentioned above, are often diametrically opposed to the interests of the state, this often means that proposed human rights remedies are "principally directed at accommodating the claims of indigenous peoples within existing structures, which is not to address the root cause of those claims" (Alvarez Molinero, 2006, p. 164). Finally, the turn to law in human rights also furthers the "retrospective character" of human rights regimes and, consequently, their narrow focus on providing remedy for breaches rather than establishing mechanisms to help prevent violations and abuses (Engle, 2015; Meckled-Garcia & Çali, 2006a)—a theme that is discussed in more detail in Chapter 5.

Repercussions of Making VAW a Criminal Law Issue

According to Fregoso and Bejarano (2010), framing femi(ni)cide as a human rights issue is what has allowed women's movements and anti-violence activists across Latin America to implicate the state in the crisis. This has generally been done through the principle of due diligence and by calling on states to fulfill their obligation to prevent, punish, and eradicate

[46] Engle (2015) links this "bias" against economic restructuring present in the legalization of human rights to the spread of neoliberalism, which she argues "depends upon and reinforces criminal law, in part to protect private property rights" meaning that "the cards are stacked against any attempt to use criminal law to challenge neoliberalism" (p. 1123).

violence against women, as set out by the Convention of Belém do Pará (1994). In Guatemala, activists seized on the ratification by the Guatemalan Congress of Belém do Pará in 1995 to push for laws prohibiting and punishing VAW, and eventually, as will be further discussed in Chapter 3, to advocate a turn to criminal law in response to femi(ni)cide. It is therefore crucial to be cognizant of the above-discussed limitations inherent in human rights frameworks' conceptions of violence when assessing responses to femi(ni)cide in Guatemala. This is particularly true in the aftermath of the adoption of the 2008 Law against Femicide, which brings the issue into the criminal justice system, a process that, as Engle (2015) argues, brings human rights into closer alignment with the state.

Feminist understandings of violence are undeniably likely to be watered down, if not fully co-opted, into law and order or security agendas when they get taken up by the state—a risk that Radford (1992) recognizes if femicide were to be reinterpreted without feminist analysis, and, I would add, especially without intersectional feminist analysis. Antiracist feminists warn that taking a criminal justice response to gendered violence has a different meaning for women whose involvement with the state has not necessarily been voluntary and is likely to bring their lives even closer scrutiny rather than address root causes of the violence or help improve conditions that render them vulnerable to violence in the first place (FIMI, 2006; INCITE! 2006; Ritchie, 2006). Indeed, as Bumiller (2008) highlights, when faced with women victims of violence, the neoliberal state generally has two responses: it channels offenders into the prison system and manages victims through programs that seek to "improve their short-term survival strategies rather than enlarge their life expectations" (p. 131). As such, she argues that this kind of response to violence result in "joining forces with a neoliberal project of social control" (Bumiller, 2008, p. 15).

The alignment with the state that comes with the turn to criminal law in response to gendered violence can be especially problematic if the political will to address this violence is not well established. On the one hand, having a new law (or, at the international level, a treaty or convention) can be touted as a "solution" in and of itself or as proof that "something is being done" (Kapur, 2006, p. 98) while, in reality, violence remains unaddressed and unresolved. On the other hand, urging prosecution in response to human rights violations can lead to false arrests and prosecutorial overreach—often targeting men from marginalized communities. The detention and torture of men often believed to be unrelated to the crimes in hopes of extracting (false) confessions have been reported in several localities across Mexico, including in Ciudad Juárez, in reaction to international pressure on local and state governments to respond to the crisis of femi(ni)cide. Engle (2015) reports that authorities resorted to this practice in order to give the impression that they were taking action and making progress against femi(ni)cide given that, in the Mexican criminal justice system, suspects are routinely held in pretrial detention and that, once alleged perpetrators are in custody, cases are generally considered resolved.

Some, especially US-based, feminists have begun to refer to the push to address gendered violence and VAW almost exclusively through criminal law as "carceral feminism" (Bernstein, 2010; Engle, 2017; Kim, 2015). While mass incarceration undeniably finds its clearest expression in the United States, the Unitedstatesian[47] carceral logic has, as was mentioned above, been exported to many parts of the world along with concerns over strengthening the rule of law in transitioning states and the turn to criminal law in human rights. Engle (2015) sees a potentially dangerous alignment here of human rights advocates—including feminists, I would

[47] I use Unitedstatesian, a translation of the Spanish *estadounidense*, used commonly throughout Latin American to designate a person, object, practice, etc. from the United States given that the term *americano* [American] is understood as referring to the entire continent.

add—with the carceral state which risks curtailing their ability "to mount a serious criticism of mass and brutal incarceration and the biases we see in nearly every penal system in the world" (p. 1126).

Continuums of Violence and Violence of the Everyday

By extending human rights instruments and principles to include women's realities and experiences, activists for women's rights as human rights aimed to "break down the distinction made by patriarchal states between public and private domains and thus address the violence and subordination of women within the private sphere" (Grewal, 2005, p. 127). These efforts built on the work of earlier generations of feminist anti-VAW activists and scholars who had brought attention to the vestiges, present in modern legislation, of historical rape laws that understood rape as a property crime and an offence against the father or husband of the woman or girl, rather than against the woman or girl herself (see Brownmiller, 1975, for instance). Attending to the gendered and sexual harm that this violence causes to women was certainly of crucial necessity in order to change both social and legal definitions of this violence. However, as I will now discuss, the focus on individual and gendered harm becomes problematic when it becomes the primary or only frame through which violence is understood, as is emphasized within liberal rights-based approaches that have dominated both VAW and femi(ni)cide frameworks.

The focus brought to the particular harms caused to women by men's violence through women's rights as human rights campaigns and anti-VAW activism has posed a challenge to the patriarchal logic that has historically excluded women's experiences from legal and human rights frameworks. MacKinnon (2006), for example, offers a strong critique of the masculinist bias and false universality of the supposedly universal subject of rights regimes; but she resists naming this lack of recognition of women's humanity *as* violent in itself. Haag (1996), however,

critiques the victim subject constructed by feminist understandings of sexual harm as "total harm," arguing that it is as much a "distorted model of subjectivity and social roles" (p. 61) as the masculinist autonomous individual. Furthermore, she suggests that the sympathy that we feel towards this "hobbled subject" is problematic since it "leave[s] our selves intact, and exempts us from critiques of 'normal, everyday violence[s]' integral to sexual differentiation itself" (p. 61).

The process of sex differention is, however, recognized as violence in an approach emanating mainly from anthropological scholarship that examines the "violence of the everyday." It is, in fact, central to Scheper-Hughes & Bourgois' (2004) definition of gendered violence:[48]

> ... violence structured to harness cultural notions of femininity, masculinity, procreation, and nurturance and to put them into the service of state war and mass murder or to fuel peacetime crimes of domination that make the subordinate participate in their own socially imposed suffering. (p. 22)

What this definition of gendered violence, and this approach to violence more generally, succeeds in highlighting are the micro-processes at work in everyday abuses, mistreatments, and violations that lead the dominated to naturalize their own domination and "understand that their bodies, their lives, and their deaths are generally thought of as dispensable, as hardly worth counting at all" (Scheper-Hughes, 1992, p. 216). This type of "act of cognition and misrecognition" is what Bourdieu and Wacquant (2004) name "symbolic violence" (pp. 272-273), the paradigmatic form of which they identify as gender domination. This framework is therefore able to make visible how *everyday* and *symbolic* violence can work to justify and

[48] Scheper-Hughes and Bourgois (2004) do not see gendered violence as separate from other forms of violence, however, all of which they understand as being deeply gendered.

uphold *structural* violence, which Bourgois (2004) defines as "chronic, historically entrenched political-economic oppression and social inequality" (p. 426).

Like scholars and activists working against VAW and femi(ni)cide, those applying the violence of the everyday framework understand violence as existing on a continuum. Conceiving of violence in this way allows them to disrupt distinctions that are often established between war/peace, public/private, and il/legitimate violence, and name *as* violence actions and social dynamics that are not reducible to physical aggression but that nonetheless cause harm to people's sense of self, dignity, and sense of worth (Scheper-Hughes & Bourgois, 2004). Within the VAW framework, the idea of a continuum of gendered and sexual violence has allowed feminists to politicize the issue, highlighting the pervasiveness of men's violence against women and the fact that it is not aberrant or pathological, but rather normalized within social relations of power (Price, 2005). Similarly, defining femi(ni)cide broadly—as encompassing various forms of sexist violence and as violence that affects "all" women—has served to highlight "the connections between seemingly separate occurrences of gender-based violence against women" (Bueno-Hansen, 2010, p. 292), and thus challenge the social norms that naturalize, minimize, and sometimes even justify this violence. Challenging conventional understandings of violence in this way is undoubtedly important since, as Scheper-Hughes and Bourgois (2004) argue, upholding rigid understandings of what violence is works to naturalize social inequalities and power relations.

According to Fregoso and Bejarano (2010), the strength of the concept of feminicide comes from the fact that it "bridges [the] 'private' and 'public' distinction by incorporating into its definition *both* systematic and systemic or structural violence sanctioned (or commissioned) by state actors (public) and violence committed by individuals or groups (private)" (p. 8, italics

in original). However, as was discussed above, anti-femi(ni)cide activists and scholars continue to be split along a tension between the general and the specific: some define it as a continuum that encompasses different expressions of sexist violence (and includes recognition of structural violence and state responsibility), others focus on femi(ni)cide strictly as murder in conditions or with characteristics that demonstrate misogyny. Given its entanglement with criminal law, the latter definition of femi(ni)cide is limited to specific, generally interpersonal, acts that can be recognized in legal regimes that emphasize individual responsibility. This approach to femi(ni)cide, which Bueno-Hansen (2010) calls "legal-technical" because of its goal to get state authorities to address the violence, is therefore also limited by the parameters of violence the state is willing to consider.

Leaving out systemic or structural violence from definitions of gendered violence and femi(ni)cide seems to advance a less robust concept of violence, and one that is less challenging of the status quo. However, it is also important to ask if understanding violence as a continuum that encompasses expressions of interpersonal, everyday, structural, and symbolic violence risks making all violence "one and the same" (Haag, 1996, p. 567)? Indeed, Walker (2009) cautions that understanding violence as a continuum does not recognize, for instance, that women experience the violence of armed conflict distinctly—often as discontinuity and trauma—from the normal or normative violence of everyday life.

Conclusion: The Need for Historicized and Contextual Accounts of Violence

In this chapter, I have begun to bring the main debates around the scope, definition, and causes of femi(ni)cide into conversation with broader feminist literature on violence against women, women's human rights, and intersectional, antiracist, and Indigenous women's perspectives on gendered violence. These juxtapositions have revealed some of the gaps and

erasures in how violence is conceived of in the femi(ni)cide framework, particularly given its focus on violence against women *because* they are women and its reliance on human rights discourses that have tended to stabilize and "universalize" the category woman to the exclusion of large swaths of women who do not correspond to the narrow archetype considered in liberal legal regimes (Kapur, 2006; Grewal, 2005; Merry, 2010). This discussion has also introduced some of the limits and risks of relying on criminalization—including increasingly punitive human rights approaches—as a response to the violence of femi(ni)cide.

What emerges most clearly from the literature reviewed in this chapter is that efforts to address gendered violence through campaigns for women's rights that are focused narrowly on violence experience by women "*as* women" are not sufficient and often fail to capture the experiences of violence of differently positioned women. Indeed, many scholars and activists have been calling for more complex strategies to address violence, that recognize and take into account the intersectional contexts in which it takes place (Bueno-Hansen, 2010; Hernández Castillo, 2016; Kapur, 2006; Merry, 2010). Given the increased legalization of human rights, Kapur (2006) argues that law itself "needs to be contextualized within broader social relations, including unequal relations of power" (p. 102) in order to properly assess human rights responses. For Bumiller (2013), a successful response to gendered violence would also "dra[w] connections to other broadly based antiviolence movements both locally and globally, including those that raise concerns about the state as perpetrators of violence" (p. 206).

More complex analyses of gendered violence in Guatemala that draw links between sexual violence of the past and the present (without trivializing the gendered and racialized dynamics of that violence then or now), that recognize the legacy of state terror, and that attend to histories of colonialism and militarism, as well as class dynamics, have been undertaken.

However, most have been written outside of the femi(ni)cide framework (Carey & Torres, 2010[49]; Crosby & Lykes, 2019; Forster, 1999; Martínez-Salazar, 2008, 2014, among others), including some that are grounded explicitly within a conception of the "violence of the everyday" explored briefly in this chapter (Godoy-Paiz, 2008; Menjívar, 2011). Along with a framework that seeks to contextualize violence within multiple and interlocking systems of power, I therefore bring an awareness of everyday forms of violence to my analysis of femi(ni)cide in Guatemala in the remaining chapters of my dissertation as a way to look for the omissions and erasures in the discourse and activism of femi(ni)cide and in the responses that this activism has spurred.

In the next chapter, I draw on national and international reports to tease out the tensions present in civil society discourse on "violent deaths of women" and femi(ni)cide in the early 2000s when activism around the issue emerged in Guatemala. I examine how this violence was understood, the assumptions and tensions inherent in these explanations of femi(ni)cide, and their consequences for activism moving forward.

[49] Carey and Torres (2010) do use the concept of femicide in their work in the narrower sense of denoting "the killing of women" (p. 143). They do so out of a concern to not make assumptions about the dynamics at work in this violence, and to set out to examine the historical conditions that gave rise to cultural tolerance of violence against women in Guatemala.

Chapter 2

Tracing "Talk" of Femi(ni)cide in Guatemala

This chapter focuses on civil society discourse on femi(ni)cide in Guatemala. In it, I trace the main shifts that occurred as the concept gained political currency and explanatory power in the first decade of the 2000s. Given the important role they have played in anti-violence activism and advocacy, and in pushing the state to take action against femi(ni)cide, I pay particular attention to how women's and human rights groups define femi(ni)cide. By examining how the violence of femi(ni)cide has been understood and explained, I tease out the central debates and tensions at work in these discourses; by extension, this chapter begins to uncover some of the assumptions and structures of power that underlie the responses that state and civil society were developing in response to this violence.

The chapter opens with an overview of the context in which femi(ni)cide emerged as a social issue in Guatemala. I examine what was and was not known in the first years of the millennium about what advocates were calling "violent deaths of women" and the role of activists, the media, and of national and international NGO reporting in bringing attention to the issue. I then turn my attention to these reports, mostly published in the mid-2000s. I offer an analysis of their content, examining the hypotheses that they offered as possible explanations of femi(ni)cide to draw out their underlying assumptions about what forms of violence are important to attend to and why. Trying to decipher from these reports which women are understood as being victims of femi(ni)cide allows me to identify some of the main tensions and debates at work in the discourse, namely between the general and the particular, and between more common forms of violence and more exceptional or spectacular expressions of violence.

These tensions are reflected in the shift, in activists' and advocates' focus, from more commonplace, everyday, forms of violence affecting, in theory at least, "all" women, and the more exceptional violence, such as expressions of *ensañamiento* [overkill], observed in some murders, and particularly in the murders of more marginalized women. The chapter ends with a preliminary reflection on the pitfalls and potential occlusions resulting from this dual focus as the discourse of femi(ni)cide is increasingly captured by the legal realm.

From "Violent Deaths of Women" to Femi(ni)cide

In the early 2000s, feminist activists and women's organizations in Guatemala started sounding the alarm about what they perceived to be intensifying levels of violence against women and increasing numbers of "violent deaths of women"—what some were describing as "systematic crimes against women" (Asencio Alvarez, 2004, p. 5). One of the early cases to gained public attention, in 2001, was of a woman found strangled with a note reading "*muerte a las perras*" [death to the bitches] left with her body (Asencio Alvarez, 2004, p. 6). This case was followed by a series of murders of at least 12 sex workers whose bodies were found with signs of torture (Amnesty International [AI], 2005; Asencio Alvarez, 2004) and in a context where more and more women were being killed in the country. With 307 murders of women recorded by the Policía Nacional Civil [National Civilian Police, PNC] in 2002—or 5.52 murders of women per 100,000 inhabitants—Guatemala already had one of the highest rates of female homicide in the world (PDH, n.d., p. 83), however, the number of "violent deaths of women" kept increasing over the next several years, reaching 527 in 2004 and 720 in 2009 (PDH, 2011).

Violence against women was, at the time, rarely discussed beyond a small circle of women's organizations and an "almost total lack of sex-disaggregated data in official documents mean[t] that gender-related violence [was] generally under-recorded and often rendered almost

invisible" (Amnesty International [AI], 2005, p. 5), leaving activists and advocates struggling to find reliable data on the issue (Aguilar, 2005; Asencio Alvarez, 2004). Underreporting and under-recording of various forms of gendered violence and VAW is a well-known phenomenon in many countries and is often linked to fear or stigma of reporting, legal and administrative barriers including "unfounding" of cases by authorities, as well as the assumption by victims themselves that this violence is "normal" (Johnson, 2012; Palermo, Bleck, & Peterman, 2014; Taylor & Gassner, 2010). In Guatemala in the early 2000s, however, even statistics on crimes whose measurement did not pose this type of methodological challenge were not being compiled in a systematic manner. Different agencies reported conflicting murder statistics, and these statistics were not disaggregated by sex in any part of the country before 2001, and not until much later in some police departments and MP offices (Svendsen, 2007, p. 90). Recent changes to investigative protocols have now introduced the tallying of demographic data into some phases of case investigation and prosecution. However, only a limited amount of data on violent deaths of women or femicide (a legal category since 2008) has ever been disaggregated by marital status and age, and to date no data sources have been able to offer a comprehensive picture of victims' linguistic, ethnic/racial, or class identities—not to mention of their gender identity, sexual orientation, or involvement in sex work. In fact, many murdered women are never even properly identified, buried as "XX" in a public cemetery.

In this context, many reports acknowledge the media's important role in bringing attention to the murders of women and to violent deaths of women and femi(ni)cide (Asencio Alvarez, 2004; Asturias, 2003; CALDH, 2005; GGM, 2004). However, they also note that, at least in the early years of the crisis, the media reported on the issue in a limited and summary way, "not going beyond describing the condition of the body, estimating the age of the victim,

and speculating about the probable motive of the crime" (Asturias, 2003, n.p.). This coverage also often adopted a sensationalist tone and treated these murders as isolated incidents divorced from other social realities in the country.[50] It did, however, provide a source of data for activists and advocates to start compiling their own statistics.

In mid-2001, the feminist monthly *laCuerda,* for example, started publishing a regular summary of the number of cases of women reported to have died from violent causes, been seriously injured, kidnapped, or gone missing or disappeared in the previous month's major newspapers.[51] Like those in mainstream newspapers, the reports in *laCuerda* were quite brief. However, titles like "*Mueren más mujeres*" [More women die] and "*Más victimas de la violencia*" [More victims of the violence] called readers' attention to a broader pattern of increasing violence and avoided treating them as isolated incidents at the same time as longer articles, editorials, and opinions pieces denounced and contextualized this violence. In fact, these pieces were interspersed among articles that discussed the legacy of the genocide and internal armed conflict from which the country had recently emerged, women's leadership and political participation, Indigenous land rights, as well as women's autonomy and sexuality—all themes rarely discussed in Guatemala's mainstream media, especially from a feminist perspective. An editorial in the November 2002 issue, for example, emphasizes the multifaceted roots of violence, linking violent deaths of women, domestic violence, political violence, and organized crime to each other as well as to poverty and inequality, war and authoritarianism ("¿Cuál es el origen de la violencia?", 2002). Another in July 2003 denounces the "double standard" and social exclusion that make women's deaths matter less to authorities, who are

[50] England's (2018) exhaustive survey of media coverage of VAW in Guatemala illustrates that this pattern largely continued in later coverage of the issue, with the exception of a few more in-depth "special reports" which have tended to attend to deeper analyses of the gendered dynamics of this violence.
[51] The entire archive of *La Cuerda* issues is accessible at: http://www.lacuerdaguatemala.org/archivo-pdf/

blamed for failing to respond to the crisis ("Demandas prioritarias, 2003). A short piece in August 2002 highlights the fact that many women are met with victim blaming when they do try to report violence to the police ("Las culpan de su situación," 2002). Other pieces informed women of their rights and of where they could seek help if they were victims of violence, and still others highlighted the state's lack of action on the issue and its apparent inability to properly monitor the situation: a December 2001 article, for example, reports that while eight murders of women had been reported in the country's four major newspapers in November alone, the MP's Office for Crimes against Women had only recorded six for the entire year (Santa Cruz, 2001, n.p.).[52]

As they pushed forward in trying to understand and address violent deaths of women, women's rights and human rights activists turned to feminist theory for some possible explanations for this violence and began to use the concepts of *femicidio* and *feminicidio* to describe, draw attention to, and push authorities to address this violence. Although most publications continued to prefer the concept of "violent deaths of women" or simply "murders of women" to refer to this violence, an article in *laCuerda* used the concept of *femicidio* in reference to the violence that Guatemalan women were facing for the first time in its July 2003 edition,[53] and, by the second half of 2004, femi(ni)cide was discussed in at least one article almost every month.

The fact that the first mention of femi(ni)cide in *laCuerda* came in a piece announcing the launch, in Guatemala, of the Latin America-wide campaign *Por la vida de las mujeres: ¡Ni*

[52] This type of conflicting data about the numbers of "violent deaths of women" occurring in the country would continue to pose a challenge to activists and advocates trying to grasp the scale of the issue in the following years as state sources, such as the PNC, the MP, and the PDH often didn't coincide with each other, and much less with monitoring by the press, or NGOs.

[53] "Feminicidio" had appeared in the pages of the publication in March 2001; however, in that case it was included in the 'Feminist glossary' section and illustrated with Afghanistan's Taliban as an example (laCuerda, March 2001, n.p.).

una muerte más! [For the life of women: Not one more death!] speaks to the transnational circulations at work in anti-femi(ni)cide activism in Guatemala and in Latin America more generally. Indeed, much of the activism against femi(ni)cide emerged from, fed off of, or coalesced into national, regional, and transnational networks, continuing the long history of transnational and continent-wide organizing against VAW touched upon in Chapter 1.

The *¡Ni una muerte más!* campaign, initiated in 2001 by the Latin American and Caribbean Feminist Network against Domestic and Sexual Violence and Isis International, aimed to "reveal the magnitude of the phenomenon of femicide … and draw attention to the lack of reliable records, the poor knowledge of these incidents, and the impunity [that prevails] in most cases" (laCuerda, 2003, n.p.). Organizers also called on activists and women's organizations from across the continent to come up with creative ways of "collecting information about the issue, documenting cases in their countries, carrying out dissemination and awareness-raising activities, and monitoring the public agencies responsible for implementing measures needed to prevent these incidents from re-occurring" (Arte Sana, 2001, n.p.) and announced that they would be awarding prizes for journalistic coverage of the issue. Together, these objectives seem to have spurred local activism around the issue in many countries at the same time as it resulted in increased media coverage.

At the regional level, women from across Central America who had gathered in Guatemala in December 2004 for a regional feminist *encuentro* decided to form the *Red Feminista Centroamericana contra la Violencia hacia las Mujeres* [Central American Feminist Network against Violence against Women], bringing together 29 women's groups—NGOs and national networks as well as more informal community and neighbourhood associations—from Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, and Panama. They issued a

declaration recognizing femicide as an urgent issue in their region and condemning their governments for their inaction—specifically pointing to impunity and corruption in judicial systems as contributors to the violence of femicide (Prieto-Carrón, Thomson, & Macdonald, 2007). The network, which published a report on femicide in Central America in 2010 (Carcedo, 2011), continued to be active at least until 2016 (according to their online presence), and had initiated a Central American Observatory for the Eradication of Femicide and Violence against Women.[54] This regional activism was paralleled in the context of formal party politics, where elected officials were working to establish international networks to study the issue and come up with proposals to address the violence—a dynamic that contributed to the eventual adoption of the Law against Femicide in Guatemala, as will be discussed in Chapter 5.

In Guatemala, the *Red de la No Violencia Contra las Mujeres* [Network of Non-Violence against Women], which had been active in the struggle against violence against women in the country since it was founded in 1991, was at the forefront of efforts to raise awareness about femi(ni)cide, coordinating the *¡Ni una muerte más!* campaign actions within Guatemala and working to hold the state accountable for its lack of action in the face of this violence. Slogans and banners calling for "Not one more death," "No more impunity," "No more assassinations of women," or "No more violence on my body, in my house, in my country" were prominent in marches held specifically to denounce femi(ni)cide in June, August, and November of 2004 (Asturias, 2004; Rodríguez, 2004; "25 de noviembre", 2004) and became commonplace at many feminist rallies and marches in the following years, especially those organized for International Women's Day on March 8th, and for the International Day for the Elimination of Violence

[54] See www.redfeminista-noviolenciaca.org

against Women on November 25th (see Costantino, 2006; Nitsan, 2014; Sauer, 2005).[55] In June 2004, a public forum on *Feminicidio en Guatemala: Las victimas de una realidad oculta* [Feminicide in Guatemala: Victims of a hidden reality] was held in Guatemala City, organized by the Women's Rights Program of the Centro para la Acción Legal en Derechos Humanos [Centre for Legal Action on Human Rights, CALDH], along with the Red Interpartidaria de Mujeres [Cross-party Network of Women] and the OAS program on Democratic Values and Political Management. The forum also included the participation of Mexican anti-feminicide activists from the northern border who drew links between the situation in Guatemala and the murders and disappearances of women in Ciudad Juárez.

According to several of the women I interviewed in Guatemala, a growing public awareness of "violent deaths of women," and, increasingly, of femi(ni)cide began to be perceptible in 2003-2004, coinciding with activities organized in the context of the *¡Ni una muerte más!* campaign and with the CALDH forum. This emerging concern is evidenced in part by the publication in *Prensa Libre*, one of Guatemala's main daily newspapers, of two articles on the issue that went further than the simple "body count" approach that had characterized reporting on the issue until then: "*Acosadas por la muerte*" [Stalked by death] in May 2004 and "*Indiferencia, el peor crimen contra las mujeres*" [Indifference, the worst crime against women] in August (reported in CALDH, 2005, p. 34) as well as an article by Alba Trejo entitled "*Mujeres en la mira de los asesinos*" [Women in the crosshairs of killers] published in another daily.[56] In its diagnostic study included in the report on feminicide published by CALDH

[55] I was myself able to participate in and observe some of these rallies and marches while in Guatemala, notably in November 2007, March and November 2008, as well as March 2014.

[56] This last piece was awarded a Press Prize in November 2003 in ISIS International and UNIFEM's second annual journalism contest focused on feminicide and awarded in the context of the *¡Ni una muerte más!* campaign (see: http://www.cimacnoticias.com.mx/noticia/se-entregaron-los-premios-de-isis-internacional). Its author, Alba Trejo, would be named Femicide Commissioner by the Colom government in 2008.

(2005), the Grupo Guatemalteco de Mujeres [Guatemalan Women's Group, GGM] also comments on a shift, in the first half of 2004, in how the media was discussing murders of women: they observed that by then media coverage was employing language that tended to reflect "a perception of the issue as a social and not an individual issue … This approach stands in contrast with the traditional approach to the problem of violence against women" (p. 102).

National and International Reporting

In 2004, after months of advocacy work vis-à-vis inter- and supra-national actors on the part of the Red de la No Violencia Contra las Mujeres [Network of Non-Violence against Women, REDNOVI], along with other civil society organizations—notably CALDH and the Fundación Sobrevivientes [Survivors' Foundation]—the UN and IACHR finally agreed to send envoys to Guatemala: the UN's Special Rapporteur on Violence against Women, Yakin Ertük (who visited in February), and the IACHR's Rapporteur on the Rights of Women, Susana Villarán (September 2004), were both charged with investigating and reporting back to their respective institutions on the situation related to gender violence and violations of women's rights (Asencio Alvarez, 2004; IACHR, 2004; UNCHRights, 2005). During their visits, they met with government officials, legislators, judges, police, and investigators, as well as victims and their families, and women's and human rights organizations. Their presence in the country was welcomed by activists who had been working to bring awareness to femi(ni)cide, as expressed by Asencio Alvarez (2004) in relation to Ertük's visit: "it served to highlight to international public opinion a phenomenon that, although it far surpasses the deaths of Juárez, had gone almost unnoticed, rarely addressed in the media, and had been made light of by the authorities" (p. 7).

That same year, pressure from activists had also led Guatemala's PDH to start looking into the issue, publishing its first of three annual reports on "violent deaths of women" early in 2004.[57] In it, the authors explain that the PDH's decision to "give preferential follow-up to cases of violent deaths of women, in particular those classified as homicides" (PDH, n.d., p. 26) was motivated by the "increasing social preoccupation," the level of *denuncia* [complaint or condemnation] by civil society organizations, as well as by the PDH's own observation of an increase in violations of women's human rights and of violent deaths of women in particular.

The UN, IACHR, and PDH reports, together with Amnesty International's 2005 "No protection, no justice: Killings of women in Guatemala" (which was followed by a shorter "update" report in July 2006), had a significant impact on anti-violence activism in Guatemala. Importantly, they substantiated much of what feminists and human rights activists had been saying about this violence and brought attention to the issue at the international level. They also provided data and analysis that were in turn used to support and justify future investigations into the violence: in November 2005, legislators from the left-leaning URNG party published their own 148-page report on *Feminicidio en Guatemala: Crímenes contra la humanidad* [Feminicide in Guatemala: Crimes against humanity] (Maldonado, 2005) and over the following four years, several book-length reports were issued in print by Guatemalan NGOs with support from international funders (CALDH, 2005; FMM, 2009; GAM 2007; González Saavedra & González Rosales, 2009; Maldonado, 2005). Additionally, many other NGOs, individual researchers, and scholars—national and international—published and circulated shorter reports, articles, and

[57] Three reports by the PDH on violent deaths of women have been published as a compendium (PDH, n.d.). It includes the 2004 report documenting statistics of violent deaths of women for 2003, which offers an analysis of some of the factors contributing to the violence, a similar report with statistics for 2004 which offers briefs comments on public policies for women's security that have been adopted by the Guatemalan state, as well as a third report with partial statistics for 2005 (from January until September 2005) without any accompanying analysis.

investigative pieces,[58] and at least one feature length documentary film was produced (Portenier, 2007) during this period. The findings presented in the PDH, Amnesty International, and Ertük's reports were central sources of information for most of these.

Once again, these developments were paralleled in the milieu of party politics, where women sitting in the Guatemalan Congress also mobilized around the UN Special Rapporteur's visit and the increased attention it brought to violence against women, issuing a statement condemning all forms of discrimination against women and demanding that the MP carry out proper investigations of murders of women (UNCHR, 2005). The Women's Commission in Congress subsequently held hearings to follow up with state officials on the Special Rapporteur's visit and recommendations. Later in the year, Marcela Lagarde, then a Mexican Representative of Congress, gave her first address on *feminicidio* to the Guatemala Congress (September 2004), launching a bilateral Technical Commission on feminicide, which would be followed the year later by the tripartite (Mexico, Guatemala, Spain) International Interparliamentary Dialogue on Feminicidal Violence—these initiatives will be discussed in more detail in Chapter 4.

Like the PDH (n.d.) and Amnesty International (2005; 2006), most NGO reports published in the mid-2000s used the concept of "violent deaths of women" or "murders of women," with a few also using the concepts either of femicide or feminicide (CALDH, 2005; GAM, 2007; Maldonado, 2005), which were being introduced at the time by feminist activists. The URNG report (Maldonado, 2005) was perhaps the most direct and unequivocally political in its title—Feminicide in Guatemala: Crimes against humanity—which clearly reflects the

[58] See, for example, Aguilar (2005), Asencio Alvarez (2004), CAFCA (2006), Chazaro & Casey (2006), Donoso López (2008), Prieto-Carrón et al. (2007), Ruhl (2007), Sanford (2008a, 2008b; 2008c), WOLA (2007) as well as frequent online NGO reports and updates by the Fundación Sobrevivientes (http://sobrevivientes.org/), the Grupo Guatemalteco de Mujeres (http://ggm.org.gt/), and the Guatemala Human Rights Commission (https://www.ghrc-usa.org/), among others.

influence of Marcela Lagarde's re-definition of the concept as a crime against humanity and human rights violation for which the state is responsible. While organizations or authors who did not use the concept of femi(ni)cide in their reports generally failed to mention why they shied away from the concept, key informants from some of those NGOs explained to me in 2014 that their organizations had never fully adopted the concept, either because of the lack of clarity or specificity it had had at the time, or in order to avoid drawing conclusions about the specific case(s) they were discussing. (The latter explanation reflecting the more legalistic understanding of femi(ni)cide, discussed in Chapter 1, that considers that the determination of whether a murder or pattern of murders consists of femi(ni)cide rests on the motives behind the killing(s)). Regardless of the concept that they used, however, the reports published in the early days of the crisis generally discussed statistics and trends in the violence, the context in which it is occurring, as well as some of the possible causes or roots of the violence. As will be discussed in the following section, in addition to bringing attention to and documenting femi(ni)cide, these initiatives also highlighted weaknesses in state responses to this violence and framed the issue in the language of human rights.

Defining Femi(ni)cide

In the fall of 2011, I began a funding application for my dissertation research with the following paragraph:

> Fifteen years after peace accords ended the 36-year internal armed conflict, Guatemala can hardly be described as a country at peace. Not only has structural violence remained unaddressed, but rates of violent crime and murder have increased dramatically in post-conflict Guatemala. In recent years, women's and human rights groups have condemned the intensifying violence and brutality targeted at women: nearly 5000 women have been

> murdered since 2000, many of their tortured bodies abandoned in landfills, alongside highways, and in vacant lots of Guatemala City.

The particular constraints of the funding proposal obviously led me to write a summarized and simplified sketch of the state of femi(ni)cide in Guatemala. However, in hindsight, I have come to identify how my own framing of the issue mirrored some of the characteristics of NGO and activist reporting on the issue that I was critical of, which I will be examining in this section.

First, reporting that relays numbers of deaths with little or no context ends up using a "body count" as a shorthand indicator of the violence of femi(ni)cide. Cited alongside a mention of some of the brutality exercised on women's bodies, this body count emphasizes the urgency of the issue to press for action to address it, but without any of the contextual information crucial to developing an appropriate response. By using this shorthand, I was reproducing one of the tendencies of discourses of femi(ni)cide: focusing on the exceptional or emergency character of this violence rather than its pervasive quality and "everydayness" in order to incite a response or an action—in my case, funding for my doctoral project.

In my description I also situate femi(ni)cide within a "postconflict" period of intensified violence and criminality and hint to an underlying relationship between this violence and the violence of the past. While, as I state in the Introduction, my intention in this dissertation is to contextualize femi(ni)cide more deeply within this and other histories that continue to impact the social, political, and economic realities of Guatemala, the link that many reports establish between the internal armed conflict and femi(ni)cide is one that is fairly superficial and often fails to account for the structures of racialized and class power that were at the roots of the conflict and that ultimately shaped the "postconflict" by limiting the reach of the peace accords (CEH, 1999; Jonas, 2000).

Missing from the account I offered in my funding proposal, however, is a mention of the human rights framework within which activists approach the issue and draw upon to pressure the state to take action. This is a continuation of feminists' intervention in the field of human rights discussed in Chapter 1, in particular challenging the public-private divide that has typically structured international human rights regimes. However, when these claims are inserted in the legal terrain—and particularly in the criminal justice system, as will be discussed in Chapters 4 and 5—these interventions risk losing some of their transgressive character. I now turn to an analysis of how femi(ni)cide is characterized (through impunity and *ensañamiento*) and explained (by organized crime, the links between femi(ni)cide and the internal armed conflict, and the notion of a patriarchal backlash) in NGO and activist reports.

Characterizing the Phenomenon

Impunity

Not all scholars and activists working on femi(ni)cide agree that impunity and state responsibility should be considered central criteria of femi(ni)cide. Indeed, as discussed in Chapter 1, some see the inclusion of impunity in the definition of femi(ni)cide as potentially counterproductive to the concept's purpose to visibilize violent deaths of women whether or not they occur with impunity or state collusion. However, in the early to mid-2000s in Guatemala, most of the reports on violent deaths of women and femi(ni)cide were highlighting the impunity in which these murders were occurring. For many, the fact that these gruesome murders "systematically remained unsolved" (UNCHR, 2005, para. 28) was part of the worrisome elements and unifying characteristics of the violence. As then-Human Rights Ombudsperson Sergio Morales is quoted as explaining, "there is a common denominator to all the murders: impunity" (AI, 2005, p. 22).

These observers decried the weaknesses of under-resourced and largely inefficient investigative and prosecutorial agencies, including their over-reliance on witness testimony, lack of forensic training or DNA labs in the country, mishandling of evidence and disregard to chain-of-custody procedures, as well as lack of intra- and inter-institutional coordination (AI, 2005; CALDH, 2005; IACHR, 2004; Maldonado, 2005; UNCHR, 2005). These "shortcomings" were identified by Amnesty International (2005) "in the way the authorities have responded to many cases of killings of women at every stage of the investigative process" (p. 15). While these were largely systemic issues generalized across criminal investigation in Guatemala, and therefore not only affecting cases of murdered women, in these cases they were compounded by gendered bias and discrimination that resulted in authorities dismissing certain cases as being inconsequential.[59] A common complaint among advocates at the time was that investigators' use of the notion of "crimes of passion" implicitly blamed victims for their own death by failing to avoid so-called "passionate problems" (AI, 2005; IACHR, 2004; Maldonado, 2005). In May 2004, the PNC attributed 20% of murders of women to "crimes of passion" based on the fact that "the victims are women who have been married more than once" or "the suspects and even those arrested turn out to be former partners who do not seem to have entered into another relationship" (AI, 2005, pp. 18-19). In other cases, the presence of nail polish, tattoos, or piercings on the body of a victim was often enough for investigators to attribute a murder to a presumed involvement in street gangs or prostitution and therefore deem it "'not worthy' of investigation" (Sanford, 2008a, p. 114). As Amnesty International (2005) denounces, these classifications are clearly sexist in that they:

[59] This tendency is illustrated through the cases of María Isabel Velíz Franco and Claudina Velásquez Paiz, both of which made their way to the IACtHR. These cases are discussed in further detail in Chapter 3, where I tease out the gendered, raced, sexualized, and classed assumptions on which their dismissal as "unworthy victims" were based, as well as the imbrication of these assumptions in law.

> are based on firmly entrenched views about men's and women's roles and what constitutes "good behaviour" on the part of women … [they] legitimiz[e] violence against women on the basis of male honour in response to what the perpetrator or society consider inappropriate female conduct. (p. 19)

And while, as will be discussed in Chapter 3, these classifications are not only sexist, but also racists and classist, they were rampant in cases of murders of women: the UN Special Rapporteur (UNCHR, 2005) found that 40% of such cases were archived and never investigated, and Fundación Sobrevivientes reported that only 5 out of 1,897 (or 0.33%) of murders of women between 2001 and 2005 had been successfully convicted (cited in Maldonado, 2005, p. 119). Of the few cases that were investigated, most only moved ahead as a result of the sheer tenacity of family members of the victim who followed up with and put pressure on investigators to continue working on their loved one's case (AI, 2005; IACHR, 2004).

Activists argued that by failing to properly investigate and prosecute murders of women, the state had made itself complicit in femi(ni)cide. For some actors, state responsibility mainly ensued from this lack of due process. For others, however, the state was understood to hold responsibility for sustaining the conditions in which femi(ni)cide was occurring in a broader way, as expressed in the URNG's report:

> …state guarantees for the protection of women's rights are sorely lacking, since the legal and social conditions to ensure women's safety in all areas of their lives (home, work, street, recreational areas, etcetera) have so far not been created. We cannot continue to see the criminal acts against women's lives as murders since they have a clear gendered connotation, which necessitates a different legal treatment than when the victim is a person of the male sex. (Maldonado, 2005, p. 27)

Body Counts and "Ensañamiento"

"The numbers are alarming" warns the author of a report published by Amnestía Internacional Chile in 2004 (Asencio Alvarez, 2004) before citing figures compiled by women's organizations indicating that 1,101 women had been killed in the previous three and a half years (p. 6). Whether it be NGO or research reports, news coverage, or campaign posters, tallies of the number of women who had been murdered in the past year, month, or on an average day feature prominently in representations of femi(ni)cide. In the reports I discuss here, these numbers are often compared with counts from previous years or months, almost invariably reporting an increase in murders. Despite these "alarming" numbers, however, activists calling attention to this trend were initially met with largely dismissive responses from state authorities who were known to chalk this violence up to common crime and *delincuencia* [delinquency; in Guatemala, specifically youth delinquency and gangs].

Then-President Óscar Berger (2004-2008) affirmed that "[w]e know that in the majority of the cases, the women had links with juvenile gangs and gangs involved in organized crime" (Chazaro & Casey, 2006, p. 9). Berger, who was known for openly blaming victims for their own murders,[60] was also dismissive and patronizing to the women working to bring attention to this violence, responding to a foreign reporter who had asked him what his government would do to confront the rising numbers of murders of women with "You're being very pessimistic. You have to be more optimistic" before abruptly standing up, putting an end to the interview with a pat on her shoulder before walking away (Portenier, 2007). During the same period, the director of the MP's Office for Crimes against Women was quoted in a national newspaper in July 2004

[60] An editorial in the January/February 2005 edition of *laCuerda* calls out the Berger government for "classifying violence against women as 'a natural evil of these times' (because they [women] don't stay at home) and therefore inevitable" ("Alto a la violencia", 2005, p. 2).

affirming that there was no gendered pattern to this violence: "Violence has increased in our country in an indiscriminate way against men, women, children. … Ten people are killed daily, only two are women. Violence is not gendered, they are not going to kill you for being a woman" (quoted in Maldonado, 2005, p. 74).

Underlying these responses is the notion that the postwar resurgence of violent crime was claiming many more men's lives than women's, so why should murders of women get special treatment or attention?[61] Activists responded to this incredulity by pointing to two trends that they were observing in the violence: the disproportionate increase in murders of women compared to those of men, and the brutality with which women were being murdered.

The overall homicide rate had, indeed, been increasing since the end of the internal armed conflict in 1996, however, the rate of murders of women had increased by 144% between 1996 and 2004, compared to a still significant but much lower increase of 68% in murders of men over the same period (Carcedo, 2011, pp. 40-41). While this disproportional increase in murders of women is cited in many reports as a cause for concern (AI, 2005; CALDH, 2005; GGM, 2005; PDH, n.d.), the *way* women were being killed was, according to activists, also an important part of the story. Indeed, as a representative of CALDH's women's program explained prior to the IACHR Rapporteur's visit to Guatemala, her organization hoped that Villarán's investigation would help to "characterize these deaths as feminicide … since the [number of] murders have been made visible in the public agenda but not the particular way in which women are killed and all the torture to which they are subjected" (quoted in Santa Cruz, 2004, p. 21). For Amnesty International (2005) as well, it was "the pattern of brutality, the evidence of sexual violence,

[61] This is a challenge to anti-violence campaigns that I heard repeatedly when I was in Guatemala from 2007 to 2009. It was an oft-featured theme of conservative columnists in Guatemala City newspapers and was even brought up by (generally male) colleagues from human rights organizations in the city. Godoy-Paiz (2012) also reports facing similar questions when discussing her research on violence against women in Guatemala City.

which can amount to torture in some cases, and the increasing number of women killed [that] require the authorities pay immediate and urgent attention to the problem" (p. 4).

Activists and advocates used the increase in numbers of murders together with these reports of *ensañamiento* [overkill, extreme cruelty or viciousness, such as torture, disfigurement, mutilation, or dismemberment] in cases of murdered women to make the case that the violence they were witnessing was gendered and sexed, and distinct from the violence targeted at men, and thus deserving of special attention (Aguilar, 2005; AI, 2005; Asencio Alvarez, 2004; CALDH, 2005; Donoso López, 2008). The reports were indeed alarming:

> A key characteristic in many of the cases of women who have been killed in recent years is the brutality of the violence involved. …a number of the bodies of the victims bear signs of sexual violence. Some of the victims had their throats cut, or had been beaten, shot or stabbed to death. Some of the bodies were mutilated. (AI, 2005, p. 10)

> … women's bodies began to appear in different parts of the capital city, mainly, they also had signs of torture and most of them were from lower social classes. (Asencio Alvarez, 2004, p. 6)

> … in the vast majority of murders of women, part of the cruelty with which criminals act is manifested through sexual assault and rape, this being a common denominator among women who are found daily thrown into a ravine, murdered on the street or another abandoned place, or in their own home. (Fundación Sobrevivientes, n.d., p. 1)

> At the time of my visit the public's attention was focused on a series of brutal murders of women. … The majority of victims were poor women between 13 and 30 years of age, who were abducted, gang raped, tortured, mutilated and killed. The corpses were

> generally found dumped around Guatemala City on unused land. (UNCHR, 2005, para. 28)
>
> The bodies of many women, sometimes naked or semi-naked, are often abandoned in public places, on wasteland, down gullies or in city centres. (AI, 2005, p.11)
>
> The issue of the killing of women is not simply a question of numbers. Both the figures and the evidence presented show that more bodies of women are found now than before with signs of torture and in certain cases, mutilation. The victims range from girls to adult women, although the information presented suggests a high percentage of young adult women. (IACHR, 2004, para. 9)

However, just as statistics on murders and violence against women in general were lacking, data tracing the prevalence of *ensañamiento* or sexual violence in female murder victims was also sparse and unreliably recorded. The GGM (2004) study that was published as an accompaniment to the CALDH report found that police and autopsy reports for the vast majority of the 160 cases of violent deaths of women it examined did not indicate if signs of sexual violence had been found on the body (reports for six cases showed signs of sexual violence, 21 did not, and 133 lacked this information) or if the victims had been submitted to extreme cruelty (*ensañamiento* was recorded in 18 cases, no signs of it were found in four, and 138 cases lacked this information) (pp. 11-13).[62] Amnesty International (2006) attributes some of this missing data to authorities' singular focus on "cause of death," explaining that even if evidence of sexual violence or *ensañamiento* had been observed during the autopsy of a particular victim, only the

[62] The 160 cases analyzed by GGM (2004) were of murders committed between Aug 2003 and Aug 2004, representing 33% of murders recorded by PNC over this period.

fact that she had died of a gunshot wound, for instance, would be recorded in homicide statistics (p. 8), resulting in the erasure of tell-tale signs of gendered and sexualized violence.

The authors of the CALDH report (2005) acknowledge the tensions inherent in reporting that decries the lack of investigation and of reliable data on murders of women at the same time as they point to patterns of sexual violence and/or *ensañamiento* to establish the gendered nature of and misogyny at work in these murders. However, they also argue that, despite these shortfalls and contradictions, enough cases are reported by different sources—including the media—to "establish the *ensañamiento* and cruelty used in the murders of women and their sexual character" (p. 47).

Despite the uncertainties, some observers did suggest that a similar subset of women were the main victims of femi(ni)cide in their initial sketches of the violence. Indeed, several statements identifying young impoverished women in urban areas in and around Guatemala City as the main victims of this violence can be found among the discussions of *ensañamiento* quoted above: UN Special Rapporteur Ertük explains that "the majority of victims were poor women between 13 and 30 years of age" (UNCHR, 2005, para. 28); the IACHR's Villarán reports that "a high percentage of [victims were] young adult women" (IACHR, 2004, para. 9); and Asencio Alvarez (2004) states that "most of them were from lower social classes" (p. 6). Other sources also agree with this broad characterization: according to Sauer (2005), "Victims of femicide generally have two things in common: they are women and they are poor. Most of the victims are between 18 and 30 years old, but women of all ages have been murdered" (n.p.); and Amnesty International (2005) states that:

> Most of the women who have been killed over the last few years were adolescent girls or women under the age of 40. … Many were housewives, and a number were students or

> professionals. Many came from poor sectors of society, working in low paid jobs as domestic employees, shop or factory workers. (p. 12)

There is a palpable tentativeness to these descriptions: while report authors seem to be striving to be as precise as possible in their description of whom this violence has been directed at, highlighting that poor young women have been especially targeted, they also acknowledge that women "of all ages" and occupations have been among the victims. Part of this tentativeness could be attributed to the fact that, as discussed above, there was little reliable data available about the violence at the time: observers may simply have been taking a cautious approach to how they represented the victims of this violence, not wanting to make any premature conclusions based on incomplete data and therefore offset their descriptions of the victims with comments about the "many" other women who have been victimized. However, this tentativeness can also be read as the beginning of the tension I discuss in the Introduction and Chapter 1 between the "general" and the "specific," which Bueno-Hansen (2010) identifies as originating in anti-femi(ni)icide activists' efforts to garner popular support for their campaign by making it reflective of a broad range of women's experiences at the same time as they pushed for legislative changes to address this violence,[63] which necessarily required narrower categories. This tension is especially evident when comparing the various accounts offered to explain the roots of femi(ni)cide to each other.

Searching for the Roots of Femi(ni)cide

Gangs, Organized Crime, and Parallel Security Forces

As mentioned above, when authorities were first pressed by anti-violence activists to respond to the increasing numbers of murders of women, their main theories about these crimes

[63] Details of how the latter part of this dual strategy unfolded in Guatemala will be explored in more detail in Chapter 5.

were that, according to the MP, there was no difference between the murders of men and women, or (the PNC's analysis) that these murders were either being committed by youth gangs and common criminals or that they consisted of "crimes of passion" (CALDH, 2005; Maldonado, 2005). The PDH (n.d.) and civil society organizations pushed this analysis further by pointing to evidence of the participation of organized crime networks and parallel security structures, in addition to youth gangs and common criminals, in these murders—especially those that featured *enseñamiento* (AI, 2005; Asencio Alvarez, 2004; CALDH, 2005; Maldonado, 2005).

The participation of parallel security structures, for instance, was suspected in murders that evidenced a high level of organization and access to resources, or that showed signs of extrajudicial execution or forms of torture reminiscent of the internal armed conflict (AI, 2005; Asencio Alvarez, 2004; CALDH, 2005; Maldonado, 2005; PDH, n.d.; Sanford, 2008a). It was thought that the motive for these murders could be to promote instability—in order to justify continued militarization and *mano dura* policies, for instance—or be part of so-called "social cleansing" efforts—either by directly targeting female gang members or sex workers, or by blaming gang members for this violence in order to implicitly justify their killing (CALDH, 2005; Maldonado, 2005; PDH, n.d.). The suspected participation of nearly two-dozen PNC officers in a series of murders in 2003 lends some credence to this theory, at least as a partial explanation for the violence (see PDH, n.d.; and Maldonado, 2005). However, as the URNG report highlights, while these hypotheses "explain the general phenomenon of violence" they do not answer "why they are killing so many women in this moment? Why are they killing poor women in marginalized urban areas? Why so much brutality?" (Maldonado, 2005, p. 80).

Many activists, especially those working from a feminist perspective, decried the fact that hypotheses that blamed murders of women on gangs and organized crime, as they were

articulated by the state, were detached from any analysis of power relations, especially those based on gender. Indeed, even the state's Human Rights Ombudsperson's Office offered an analysis that reproduced an approach to violence long denounced by feminists for depoliticizing VAW and occluding its pervasiveness: in the six broad categories of perpetrators defined by the authors of the report, two focus on murderers showing "psychopathic" or "manic" characteristics (PDH, n.d., pp. 22-23).[64] This type of approach was strongly critiqued by Guatemalan feminists for "giving the impression that violence against women is due to the assailant's altered state of mental health and as such distance itself from explanations that have to do with power and control exercised over women" (del Cid Vargas, 2004, p. 6).

Feminist analyses of violent deaths of women and femi(ni)cide, on the other hand, dug deeper into the context in which this violence was occurring. For instance, when discussing gang violence as a factor in femi(ni)cide, they insisted on highlighting women's lower status within gangs, their vulnerability and limited possibilities for resisting getting involved with gangs or gang members in the first place, and the way that "controlling women's sexual activity and fidelity has become a form of currency among men vying for power or control of a local area" (AI, 2005, p. 13; see also Aguilar, 2005; Maldonado, 2005). This type of approach to femi(ni)cide evidently goes further than a superficial look at perpetrators and motives. Indeed, many of the state's hypotheses were critiqued by human rights and women's rights organizations for confusing "the motives for the murders, murderers, and sociological analyses of the deep causes of social conflict" (CALDH, 2005, p. 53). In contrast, civil society reports delved into the social and historical context in which femi(ni)cide was occurring, focusing in particular on the internal armed conflict and on patriarchy. In the following section, I examine how these

[64] The other categories refer to gang violence, delinquency, extrajudicial or social cleansing, and accidental or negligent deaths.

histories feature in the explanations of femi(ni)cide offered by civil society groups and the assumptions that these explanations carry about which women are victims of or vulnerable to femi(ni)cide.

Internal Armed Conflict and Gendered and Sexualized Violence

The links established in civil society reports between the internal armed conflict that lasted from 1960 to 1996 and the violent deaths of women and femi(ni)cide of the early 2000s are based on three main elements: (1) the idea that impunity for crimes of the past, including the systematic use of sexual violence during the conflict, sends the message that this violence is acceptable (AI, 2005; Maldonado, 2005); (2) the suggestion that, given this impunity, some of the perpetrators responsible for the violence of the conflict may still be operating in the above-mentioned parallel security structures, and applying torture tactics and techniques learned during the conflict (Asencio Alvarez, 2004; Sanford 2008a); and, (3) the notion that the systematic sexual violence committed during the armed conflict and the "current" femi(ni)cide are somehow part of the same violence. Given that the first two hypotheses are fairly self-explanatory, I focus the following discussion on the third.

The link drawn between the gendered and sexualized violence of the internal armed conflict and the violence of femi(ni)cide is more ambiguous in some reports than in others. On the one hand, Amnesty International (2005), for instance, establishes this link by affirming that "the prevalence of violence against women in Guatemala today has its roots in the historical and cultural values which have maintained women's subordination and which were most evident during the 36-year internal armed conflict" (p. 5). Many of the civil society reports, as well as opinion pieces and analyses written by feminist activists and academics, on the other hand, offer a more sustained analysis of the link between the internal armed conflict and the recent

expressions of gendered violence they describe as femi(ni)cide. They argue that both instances belong to the same continuum of *patriarchal* violence against women (Aguilar, 2005; CALDH, 2005; CEG, 2006; Maldonado, 2005). They understand violence against women as "a structural component of the system of gender oppression" (p. 9), a "key social mechanism to perpetuate women's subordination" and a "mechanism to control their bodies and desires" (CALDH, 2005, pp. 9-10). And while they describe it as having existed "forever"—"throughout history and regardless of ethnicity or age" according to one report (CEG, 2006, p. 7)—they identify upsurges in violence against women at certain historical periods, naming the 36-year internal armed conflict and the "current" expression of femi(ni)cide as examples of these junctures.

CALDH (2005), which engages in a more in-depth discussion of this history than most other reports, makes reference to the Spanish invasion and early colonial era as a period in which the rape and murder of Indigenous women were part of systemic efforts to destroy Indigenous identity and culture. However, this analysis seems to be bracketed as a point of reference of sorts as the authors quickly move on to analyze the internal armed conflict and the current context arguing that these more recent "moments" are more "clearly identified." They argue that sexual violence was the principle tactic used to attack women during the internal armed conflict and while they do recognize that the majority of rapes were committed in the context of massacres of Indigenous Maya people, the first reference they make to genocide is three pages into this discussion (p. 28). Until that point, race or ethnicity and racism seem to be included in the analysis under an additive model: "… Indigenous women had, in addition, to deal with ethnic discrimination, making them more vulnerable to sexual violence, which was concentrated in the parts of the country where the majority of the population is Indigenous …" (p. 27). Indeed, most of CALDH's narrative of gendered and sexualized violence during the internal armed conflict is

focused on how, in times of war, women (not described as racially, ethnically, or class specific) are dominated as "objects," their sexuality is controlled, and they are transformed into "*botín de guerra"* [spoils of war"] and attacked as a way to "dishonour" the enemy's reputation (p. 27). Thus, in most of this narrative, the fact that the women most affected by sexual violence were Indigenous risks being read as a coincidence rather than a root factor in the motivation and the structure of this violence, and of the conflict itself: "Sexual violence in the context of the armed confrontation can be explained by the androcentric theory on which war itself is based. It is an instrument for the domination of the other—the enemy…" (CALDH, 2005, p. 27).

In her analysis, first published online and later in print in a GGM newsletter, Aguilar (2005) offers a similar analysis of the link between past and present violence. While she concedes that the violence exerted against women during the internal armed conflict—which she classifies as femicide—"took shapes and representations particular to that counterinsurgent context," she argues that the current manifestation of femicide "maintains a close relationship with this one [during the conflict] and with those that may have occurred during the [Spanish] invasion and the colony" (p. 4). This relationship, she sustains, "is based on the fact that the dead were and are women, executed *because they are women*" (p. 4, italics added), thereby erasing the racial/ethnic dynamic of the genocide and the fact that the women killed "because they are women" were also killed because they were Indigenous Maya.

The easy equivalence between one instance of violence with another is illustrated by an image that appears in Amnesty International's 2005 report on *Killings of women in Guatemala* described in the caption as "a poster campaign to stop violence against women" (p. 9—see Figure 1). The top half of the image features a section of a painting of bodies lying face down in pools of blood and hands tied behind their back surrounding a helmeted soldier holding a rifle in

a hilly landscape. Below, the slogan "*las mujeres estamos hartas de los mano dura*" (we women are fed up with iron fists) appears in capital letters, followed by "*No más violencia. Ni en mi casa, ni en mi país*" (No more violence. Not in my house, nor in my country). These slogans do appear to correspond with the anti-violence sentiment attributed to it by the report's authors. However, the phrase at the bottom of the poster—"*Por eso, no mas ríos de sangre*" (For this reason, no more rivers of blood), a play on words with the last name of former dictator Efraín Ríos Montt—and the fact that the image is instantly recognizable as a scene typical of many of the murals painted as memorials of massacres in Indigenous areas of the country, point to a different intent on the part of the poster's creators. Indeed, the group identified in the lower right corner of the poster, *Nosotras las Mujeres* (We the women), had in 2003, been mobilizing with the slogan "No más ríos de sangre" to oppose what they describe as Ríos Montt's "illegal" bid for the presidency by organizing marches, banner drops, and forms of protest art aimed at "rescu[ing] historical memory so that the perpetrator of genocide does not ascend to power" ("Guatemala: no más ríos de sangre," 2003, n.p.).

While the simplified and incomplete labeling of this poster as a "campaign to stop violence against women" may well have been unintentional on the part of the authors of the Amnesty International report, it does fit within a broader pattern, described above, of reports on femi(ni)cide making facile links between the violence of the internal armed conflict and contemporary gendered violence. Regardless of their intent, the specificity of the gendered, sexualized, *and racialized* violence committed against Maya women in the context of genocide is occluded when this violence is attributed solely to patriarchal efforts to control women. Maya survivors of the conflict (see Crosby & Lykes, 2019; Doiron, 2007; Fulchiron et al., 2009; Menchú, 1997), truth commission reports (CEH, 1999; ODHAG, 1998), and, most recently,

national courts[65] have maintained that the targeting of Maya women was a deliberate and systematic tactic in the Guatemalan state's counter-insurgency campaigns, and was, in some cases, constitutive of acts of genocide.

Figure 1

"*Las Mujeres Estamos Hartas de los Mano Dura*" Poster

Note: Poster reprinted in Amnesty International's 2005 *No protection, no justice* report (p. 9).

Women's Rights and "Patriarchal Backlash"

Nearly all of the reports discussed in this chapter contextualized the violence they analyze as one that was occurring within a patriarchal society. The PDH (n.d.) report, for

[65] See the first decision in the Ixil genocide trial in May 2013 (Tribunal Primero de Sentencia Penal, C-01076-2011-00015) and the decision in the Sepur Zarco trial for sexual slavery in February 2016 (Tribunal Primero de Sentencia Penal, C-01076-2012-00021).

example, mentioned patriarchal and "*machista*" mindsets in a few instances, in its discussion of the "social connotation" (p. 14) of murders of women and of the "cultural cause" of this violence (p. 18-20). However, the authors' analysis seemed to be limited to the level of individual motives explaining these murders: "The machista and patriarchal mindset that prevails in society, and, consequently, in the delinquent, is harmful to women since, according to him, they [women] have no rights and their lives therefore don't matter" (PDH, n.d., p. 14). Other sources also identified the role of patriarchal systems in structuring women's vulnerability and informing the lack of response on behalf of the state (Aguilar, 2005; Asencio Alvarez, 2004; CALDH, 2005; Maldonado, 2005). CALDH (2005), for example, holds that

> feminicide is committed in societies or social circles whose patriarchal characteristics and the violation of human rights are consolidated and exacerbated in a critical manner. For the most part, they are linked to other social and economic conditions of social, legal, and political marginalization and exclusion. (p. 12)

Evident in how some of these arguments are framed is the "harmful traditional practices" narrative discussed in Chapter 1 as a characteristic of international human rights regimes' understanding of VAW, casting the presence of violence against women in Guatemala as a mark of the country's backwardness and lack of progress towards modernity: "Traditional systems of power and patriarchy *remain* largely unchallenged in Guatemala as elsewhere in several other Central American countries and stereotypes regarding the subordinate role of women in society are *still* firmly entrenched…" (p. 10, italics added).

These reports also draw a link between patriarchal social structures, the privileges afforded to men, and the rights denied to women, identifying the latter as a fundamental element of the root causes of femi(ni)cide and of the context that allows it to emerge. It is this analysis

that leads the authors of most of these reports to also argue that, regardless of who is perpetrating the violence, the state is responsible for responding to and punishing it, as well as working to prevent it, as is set out in human rights instruments such as the Convention of Belém do Pará (1994), discussed in Chapter 1, for instance. Since it sees the state as "obstructing, not encouraging, and making the application of justice so inefficient, especially in the case of violent deaths of women," GGM argues in its diagnostic of violent deaths of women, that the Guatemalan state is violating women's human rights (GGM, 2004, p. 40). Other observers coincide with this analysis, and, as a result, call on the state to take action to improve criminal investigation of these cases (through increased resources and gender-sensitivity training and protocols, for example), systematize its registry of cases and statistics on the violence, and implement public security and prevention programs (Aguilar, 2005). Feminists also demanded the repeal or reform of a series of archaic laws that reinforced harmful notions of sexual purity and excused violence against "dishonourable" women.[66] Many of the recommendations issued in reports on femi(ni)cide had already been articulated by feminist activists as necessary actions to address VAW (see del Cid, 2000, for example), but activists seemed to have taken advantage of the momentum that anti-femi(ni)cide campaigns had created to lobby more strongly for changes that they had, in some cases, been demanding for years.

While patriarchy is seen by most as, at the very least, shaping the overall social, legal, and political context that denies women's rights and creates conditions ripe for violence, other feminist and human rights activists attribute a more active role to patriarchy in femi(ni)cide. They posit that some of this violence is an expression of a "patriarchal backlash" against women's changing roles. They argue that femi(ni)cide is a "violent reaction of patriarchy to the

[66] These laws are discussed in more detail in Chapter 3.

changes that have been occurring in economic and social dynamics, and in [women's] presence in spaces traditionally assigned to men" (Maldonado, 2005, p. 91). They therefore see this violence as an attempt to "send a message of terror and intimidation to women, so that they leave the public space that they have gained and confine themselves once again to the private sphere" (p. 92). According to this account of femi(ni)cide, the impunity enjoyed by perpetrators only reinforces the message that "'Women: cross the line and it can cost you your life' and 'Men: you can kill them because they belong to you and you must discipline them'" (Aguilar, 2005, p. 5). This message is, sadly, also often sustained by the victim-blaming rhetoric of state authorities, who turn the patriarchal backlash theory on its head, blaming feminism for inciting the violence of femi(ni)cide. In interviews conducted by WOLA in 2005, senior PNC officials—including the head of the unit charged with investigating murders of women—openly "expressed the belief that 'women's liberation' was the cause of the increased number of murders and concurred that there were few 'innocent' victims" (WOLA, 2007a, p. 12).

Setting aside the distorted victim blaming version of this explanation for femi(ni)cide, the patriarchal backlash hypothesis is clearly informed by radical feminist analyses of VAW that understand violence as a tool to control women or maintain them in submission and identify times of social change as "moments" of upsurge in this type of violence. While this possible (but likely only partial) explanation is mentioned by several observers (Aguilar, 2005; Asencio Alvarez, 2004; CALDH, 2005; Maldonado, 2005), many fail to contextualize it by specifying which changes in gender roles this violence is in reaction to or how, when, and why they occurred.

The UN Special Rapporteur's report (UNCHR, 2005), however, does link some of these changes, and their potential for increasing violence, to the upheaval brought on by the internal

armed conflict and the subsequent social and economic readjustments, which makes for a more nuanced examination of the patriarchal backlash hypothesis as well as a more complex account of the links between the conflict and violence in the "postconflict" period. In the report, Ertürk highlights how the conflict increased the number of female-headed households at the same time as "the psychological ramifications of the civil war and poverty on men's ability to fulfil *machista* roles as providers have intensified family abandonment, unstable relationships and alcoholism" (UNCHR, 2005, para. 25, italics in original). She reports that, together, these conditions have contributed to an increase in violence against women to which women heads of household are particularly vulnerable because of the "socially taboo nature of their entrance into the public realm [which] often brings with it sexual connotations that can lead to women being ostracized by their community support systems and make them targets of sexual advances" (para. 26).

While gender structures and roles undeniably differ across Guatemala—between rich and poor, *ladino/mestizo* and Indigenous communities, rural and urban areas—the internal armed conflict and the economic crises that precipitated its negotiated end seem to have had the overall impact of challenging the established order in many of these sites (Jonas, 2000). Indeed, Blacklock (1999) found that, in Guatemala's urban core, it "destabilized the socially constructed gender roles and identity of most women in the popular classes" (p. 201).[67] A similar impact has also been observed in rural Indigenous areas where newly widowed women were often forced to seek out and rely on paid employment either for the first time or in new ways, and to take on traditionally "male" tasks in the house and in the fields to ensure their household's subsistence (Doiron, 2007, 2010; Green, 1999). That being said, statements that attribute the violence of

[67] In the Guatemalan context, *popular* in the context of social movements or struggles is often used to refer to different types of working class (sometimes union) and grassroots struggles.

femi(ni)cide to a patriarchal backlash without specifying which group(s) of women have accessed new spaces or which changes have occurred in gender roles work to sustain the idea that this violence is directed at and affects "all" women equally.

The idea, however, that femi(ni)cide affects "all" women *as* women—sustained by both the patriarchal backlash theory and by the idea that this violence is primarily motivated and structured by gender—stands in contrast with the reliance, in the overall femi(ni)cide discourse, on *ensañamiento* and body count as indicators of this violence. In the following section, I further examine how this tension between spectacular and everyday violence plays out in attempts to characterize the victims of femi(ni)cide.

The Urgency and the Everyday: Tensions in the Discourse

As can be ascertained from the examination of early (2003-2005) discourses of femi(ni)cide and violent deaths of women in Guatemala offered above, there was no clear consensus in the mid-2000s on what exactly this violence consisted of, what was causing it, or who its main victims were. In reaction to state narratives that largely blamed organized crime and gang violence for violent deaths of women, thereby attributing this violence to some kind of exceptional (and individual) criminality, civil society explanations of femi(ni)cide emphasized the pervasiveness of violence against "all" women and the role of gender as its main catalyst. They did this by mobilizing feminist analyses discussed in Chapter 1 that frame VAW not as aberrant or pathological, but rather as normalized within social relations of power (Price, 2005).

Accounts of femi(ni)cide that centre on patriarchy and explain this violence as being motivated mainly by the victim's gender seem to have been crucial to awareness-raising by disrupting common-sense understandings of VAW that cast it as somehow normal or justified. Victim-blaming rhetoric often used to justify acts of gendered violence has been challenged, for

instance, in actions such as one described by Nitsan (2014) as part of the march marking the International Day for the Elimination of Violence against Women in Guatemala City on November 25, 2010: at a stop in the Human Rights Plaza in front of Guatemala's Supreme Court of Justice, a group of women lie down on the ground in a circle, playing dead, while holding up signs that read "I was not killed for being a sex worker, I was killed for being a woman," "I was not killed for using drugs, I was killed for being a woman," "I was not killed because I have male friends, I was killed for being a woman" (pp. 267-268). As Nitsan (2014) discusses, the strategic location—in front of the Supreme Court— of this act of protest is clearly meant to draw attention to the fact that women in Guatemala are often implicitly (and even quite explicitly) blamed for their own deaths, including by state authorities and members of the judiciary. The repetition on each sign of "for being a woman" as the cause of the murder of these different individuals also serves to draw a link between seemingly disparate and unconnected acts of violence. As such, these types of actions serve the "drive for social impact" (Bueno-Hansen, 2010, p. 207) of anti-femi(ni)cide activism.

However, by sustaining the narrative that this violence affects "all" women *as* women, this type of discourse occludes the overrepresentation, amongst victims, of young marginalized women, and the fact that some of these women may well have been killed not *only* "for being a woman" but *also* "for being a sex worker," for being involved in drugs, or for not conforming to expected social and sexual norms. That is to say, they may have been subjected to violence not strictly because of their gender: the stigma and vulnerability that some women face because of their membership in or association with a marginalized or criminalized group—a discussion I return to in Chapter 3—may also have contributed to their murder. Afterall, concerns over violent deaths of women and femi(ni)cide were first raised in Guatemala precisely in reaction to

an increasing incidence of particularly cruel murders in the early 2000s that included the murder of at least a dozen sex workers as well as many other impoverished and marginalized women. In fact, sex workers I interviewed during my fieldwork in 2014 recalled the fact that some of their colleagues were among the early victims of femi(ni)cide, telling me of rumours that circulated in 2001-2002 that a serial killer was preying on sex workers in Guatemala City. The *ensañamiento* with which many of these murders—and those of other marginalized women—were committed was mobilized by activists to underscore the urgency of the issue and push authorities and policy makers to react. The notion that sex workers or gang-involved women could be particularly targeted by femi(ni)cide was, however, gradually obscured from the more mainstream discourses of femi(ni)cide by analyses of violence that instead highlighted the pervasiveness of violence against "all" women.

When I conducted interviews in 2014, the idea that the violence of femi(ni)cide affects "all" women was widespread: "*Mujer es mujer*" [woman is woman] as one key informant put it when I asked her which women are victims of femi(ni)cide; "Here, *todas* [feminine form of *all*]," answered another, "no woman is exempt because of her social condition, race, ethnicity, or religion"; while a third explained that "violence doesn't discriminate or look at social position." The sex workers that I interviewed also shared the opinion that "all" women were affected by VAW and femi(ni)cide, although they simultaneously talked at length about the different factors, including misguided legal frameworks, stigma, and social indifference to their plight, that make them and their colleagues particularly vulnerable to these forms of gendered—and often classed—violence.

In addition to resisting victim-blaming, as discussed above, these "all women" explanations of violence seem to have been meant to counter the stereotype that poor and

Indigenous men are (more) violent by pointing out that *ladina* and women from higher socio-economic classes are also affected by VAW and domestic violence, including its lethal forms. Indeed, a few key informants explained that upper-class women in Guatemala are more worried about keeping up appearances and are therefore less likely to report violence or leave an abusive partner than their poorer counterparts who, if they have access to the necessary economic resources or support, are generally willing to leave an abusive relationship.[68]

Regardless of their intentions, however, it was clear from the key informants' descriptions of the victims of femi(ni)cide cited above, that they were no longer focused on the murders featuring *ensañamiento* that were prominent in early reports on femi(ni)cide—and that had initially served to raise the alarm over the issue—or even strictly on murders or violent deaths of women overall. Rather, they seemed to be putting forth a definition of femi(ni)cide that included the entire continuum of VAW that affects "all women because they are women," as many key informants expressed—collapsing any distinction between murders of women (with or without *ensañamiento*) and the "other types of violence against women" that had been criminalized along with femicide in the 2008 Law against Femicide.[69]

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[68] As Crenshaw (1991) observes in her influential work on the intersection of race and gender in violence against women in the United States, feminist concerns for "increasing awareness of domestic violence within the white community" often end up "suppress[ing] minority experiences" within anti-violence campaigns (p. 1258). As she notes, comments aimed at highlighting that violence is not only a problem in impoverished or racialized communities or that it "equally" affects women of all backgrounds "seem less concerned with exploring domestic abuse within 'stereotyped' communities than with removing the stereotype as an obstacle to exposing battering within white middle- and upperclass communities" (p. 1259).

[69] I have wondered if and to what extent the Law against Femicide, passed in 2008, may have influenced more recent civil society discourse on femi(ni)cide with its premise that "no woman is safe because the violence is widespread, cutting across class, age, and ethnicity" (quoted in Musalo et al, 2010, p. 166). As I discuss further in Chapter 5, by the time I conducted fieldwork in 2013-2014, many of my key informants defined femi(ni)cide in terms very similar to those outlined in the 2008 Law. However, since my analysis here mainly draws on data from reports published in the early to mid-2000s in addition to fieldwork interviews, and does not include much data from intervening years, a deeper analysis of how the discourse of femi(ni)cide evolved over time and in reaction to the adoption of the Law against Femicide is beyond the scope of this dissertation.

In addition to making visible and politicizing VAW, explanations of femi(ni)cide that understand this violence as affecting "all" women *as* women are also meant to highlight structural and systemic dynamics at work in the violence. This was the intention when parallels were drawn between contemporary expressions of femi(ni)cide and the gendered violence and sexual torture unleashed against Indigenous women during the internal armed conflict, and particularly during the genocidal campaigns of the early 1980s. (This violence was, of course, also racialized, a reality that was often left unacknowledged in NGO and activist reporting, as discussed above.) In addition to emphasizing not only the pervasive but also the supposedly "universal" (i.e.—at all times, in all places and cultures) characters of VAW, the links drawn between the two "moments" of violence (as they were described in some reports) were also meant to advance hypotheses about potential participation of state actors and para-state security forces in contemporary acts of gendered violence. This is, of course, an important goal, as is highlighting the pervasiveness of men's violence against women. However, the easy equivalency drawn between gendered, racialized, and sexual violence committed in the context of genocide and contemporary femi(ni)cide—especially when the latter is cast as violence affecting "all" women—ends up erasing the particularity of the former, and risks making violence appear "one and the same" (Haag, 1996, p. 567). This discourse seems to, again, be using violence particularly targeted at a specific subset of women (in this case, Maya women) to bolster claims that violence against women is universal and transhistorical.

As discussed in Chapter 1, however, Indigenous women's understandings of gendered violence are far more contextual and historically specific, highlighting the particularities of the gendered—and racialized, and often classed—violence that they face and the role of not only patriarchy, but also of colonialism and capitalist encroachment on their lands, in enabling this

violence. An understanding of violence that is contextual, historicized, and intersectional does not negate that gendered violence is pervasive, or that it affects women, trans, and non-binary or genderqueer people in most parts of the world. However, it does advance that gendered violence must be understood as contingent upon these other systems and structures of power that intersect with gender in a given time and place.

A campaign led by the Sector de Mujeres in the mid-2000s offers a good illustration of how attention to structural violence can be linked to violent deaths of women in a way that, instead of flattening differences between women and casting all experiences of gendered violence as one and the same, calls attention to various forms of everyday violence not normally understood as gendered, or even as violent. The slogan of this campaign was visible on banners at several demonstrations and marches starting in 2005, they read "*existen muchas formas de matar a una mujer*" [there are many ways to kill a woman]. This slogan was preceded by another caption that read "*[X] también es violencia*" [is also violence] so that individual banners would read: "Discrimination is also violence, there are many ways to kill a woman"; "The lack of opportunities is also violence, there are many ways to kill a woman"; "The rise in the cost of living is also violence, there are many ways to kill a woman"; or still "The lack of legislation is also violence, there are many ways to kill a woman." At the bottom of the banner, the last line reads: "*No mas violencia en mi cuerpo, en mi casa, en mi pais*," [No more violence on my body, in my house, in my country] (see Figure 2).[70]

[70] Photos of some of the "There are many ways to kill a woman" banners also appear in CALDH (2005), the "Lack of legislation" caption is relayed in Costantino (2006).

Figure 2

"*Existen Muchas Formas de Matar a una Mujer"* Posters

Note: Banners carried during a march commemorating the National Indigenous Peoples' Day in Guatemala City on August 8, 2008. Photo by Surizar (2008) (Creative Commons, CC-BY-SA 2.0).

While the banners did not use the concept of femi(ni)cide directly, activists clearly situated their campaign within that discourse, both through the reference to killing of women and through the visual design of the banners: the slogans were printed in white over a black background with upside down red Venus / female symbols, reminiscent of crosses in a

graveyard, a common form of imagery in anti-femi(ni)cide activism across Latin America.[71] The last caption quoted above, "The lack of legislation is also violence," also seems to make a direct reference to the then-ongoing campaigns to reform the Penal Code to better address violence against women, including efforts to get Congress to adopt specific legislation against femi(ni)cide.

The types of violence highlighted in this campaign clearly encompass a much more expansive definition of violence than the one discussed thus far as representative of anti-femi(ni)cide activism in Guatemala. Given the more expansive definition of the violence it describes, this campaign seems to, on one level, understand "all" women as, at the very least, "theoretical victims" of this violence (Haag, 1996, p. 51). However, on another level, by introducing the idea, for instance, that "the rise in the cost of living is also violence" this campaign makes visible and denounces the everyday forms of violence that work to naturalize social inequalities (Scheper-Hughes & Bourgois, 2004) and that serve to structure women's vulnerability to and experiences of violence. And while this type of campaign moved away from the focus on *ensañamiento* that had, at least initially, acknowledged the particular impact of femi(ni)cide on sex workers and other impoverished and marginalized women, it did so while continuing to highlight forms of systemic and structural violence that disproportionately affect marginalized women, and recognize them specifically as forms of gendered violence.

[71] The pink cross first became a symbol of protest against femi(ni)cide in Ciudad Juárez in the late 1990s. Family members of victims and other activists painted pink-on-black crosses on telephone poles and erected wooden crosses they had painted pink to mark where bodies of victims had been found. An oversized version was also erected on the Paso del Norte bridge leading to the US border by an activist group in 2002. See Flores (2011), Fregoso (2014), and Wright (2005).

Conclusion: Erasure and Occlusion of Marginalized Women

In this chapter, I have presented and assessed the prevailing tendencies that can be observed in the femi(ni)cide "talk" that emerged in Guatemala starting in the early to mid-2000s. This analysis has largely drawn on the major national and international NGO reports published by human rights and women's organizations during this period. As they reported on violence for which few reliable statistics existed, these activists and advocates both described and produced the phenomenon they were observing. The definitions and explanations that they offered of the violence served to frame the debate, but also to put pressure on the state to take action—ultimately leading to the Congress of Guatemala adopting the Law against Femicide in 2008, which will be further discussed in Chapter 4.

Not all of the reports I have drawn on in this chapter used the concepts of femicide or feminicide. In fact, several instead discussed "violent deaths of women." However, the information and analysis that they brought forth served to sustain and substantiate the advocacy and activism that began in their wake and that led to the adoption of the Law against Femicide. Overall, whether framed as violent deaths of women or femi(ni)cide, the central concern of this reporting was the apparently rapidly increasing number of murders of women in Guatemala (especially in Guatemala City and surrounding urban areas), the severe brutality and *ensañamiento* observed in some (or many, depending on the sources) of these murders, and the overwhelming lack of response from Guatemalan authorities and the state. I have illustrated how, along with *ensañamiento* and the ever-increasing "body count" reported by NGOs and the media, a focus on criminality (especially gangs and organized crime) as one of the sources or causes of this violence worked to convey a sense of urgency to the issue and to impress that this violence was an exceptional phenomenon. In another vein, however, I have argued that accounts

of femi(ni)cide that attribute this violence strictly to patriarchal and *machista* mentalities, or to backlashes against women's advance into new social and economic spaces, worked to link this violence to other forms of VAW (other than murder), impressing that it is part of more ordinary or everyday violence directed at women.

Some of the contradictions and tensions in the femi(ni)cide discourse that I have outlined in this chapter can likely be attributed to the lack of clarity that existed in the early days of the crisis about what was happening, what the scope of the phenomenon was, and who exactly it was affecting. However, I also trace them back to activists' competing aims, when framing the issue of femi(ni)cide, to "generalize for social impact" and "specify for juridical utility" (Bueno-Hansen, 2010, p. 307). As I have argued, attempts to "generalize" claims about femi(ni)cide helped move away from individualizing and pathologizing explanations of this violence, as did efforts to highlight some of the structural and systemic dynamics at work—namely, by pointing to the participation of parallel security forces and drawing links between contemporary femi(ni)cide and gendered and sexual violence committed during the armed conflict. Unfortunately, both of these tendencies led to an erasure, in the femi(ni)cide discourse, of the particular experiences of violence of marginalized women. In the latter example, easy comparisons between violence of the internal armed conflict and the violence of contemporary femi(ni)cide often side-stepped the fact that the violence, rape, and sexual torture that Indigenous Maya women were submitted to in the context of the Army's genocidal scorched earth campaigns was not only gendered, but also racialized. In the former, as femi(ni)cide discourses increasingly framed this violence as affecting "all" women, early preoccupations that poorer, more marginalized women (including those who participated in or were in proximity to sex work, gangs, or organized crime) were particularly victimized by this violence seemed to

disappear, despite the fact that they were more likely to be among the victims who suffered the *ensañamiento* that had given the issue such a sense of urgency.

Of course, not all anti-femi(ni)cide activism was as reductive as the above description may make it seem. Indeed, the campaign I describe in the last section of this chapter offers an example of robust and intersectional feminist analysis of structural and systemic violence. Unfortunately, the broader understanding of violence advanced in the "there are many ways to kill a woman" campaign seems to have become increasingly rare within femi(ni)cide discourses in Guatemala as a more legalistic approach to *femicidio* (as it is named in law since 2008) became more prominent within civil society. The adoption of the Law against Femicide has had the advantage of conferring social legitimacy and recognition to the issue; and, as will be discussed over the next two chapters, the recognition in law of not only femicide but also "other forms of violence" has the potential to have important normative effects on how this violence is perceived and, as a result, on behaviour. However, I suggest that surrendering the discourse of femi(ni)cide to the legal realm risks abandoning the "empowered" potential of the concept (Bueno-Hansen, 2010) since legal regimes are much less likely to recognize understandings of gendered violence that challenge the dominant modes of power (Bumiller, 2008; Grewal, 2005; Hesford & Kozol, 2005; Kapur, 2005). This is where Chapter 3 picks up: looking at how violence against women has been understood in Guatemalan law historically, and how these approaches have been couched in social constructions of gender, indigeneity, class, and sexuality.

Chapter 3

Historical Constructs of Worthy Victims:

Gendered and Racialized Law and Space

This chapter offers an analysis of how gendered, racialized, and classed assumptions and exclusions have been embedded in Guatemalan law throughout the years, justifying a lack of attention to and impunity for certain forms of violence, or for violence against certain bodies. When discussing how to define and describe femi(ni)cide, some activists and scholars in Guatemala and other parts of Central America have argued that impunity should not be considered determinative criterion of femi(ni)cide since it risks confusing responses to this violence with the violence itself. However, as was discussed in Chapter 2, impunity has nonetheless featured heavily in debates about the meanings and causes of femi(ni)cide, as well as in anti-femi(ni)cide activism. Indeed, many Guatemalan activists pointed to the almost complete impunity in which violence against women, including the most gruesome murders, was being committed to highlight the state's complicity (at least through omission) in this violence. While crimes against women may not have been explicitly condoned by the state, they argued that by leaving them in impunity it signaled—at least implicitly—that they are acceptable. As one key informant put it: "as long as you have a justice [system] that is slow, that continues to leave most crimes in impunity […] the message you send to that human being who murdered a woman is 'keep doing it, nothing happens anyways.'"

This focus on impunity was also strategic: Guatemalan feminists and human rights activists were drawing on principles enshrined in international human rights regimes to bring state inaction to the attention of local and international publics and pressure the state to respond

to femi(ni)cide. In many of their reports, feminists and human rights advocates argued that authorities' failure to properly investigate these murders and their frequent dismissal of victims as "not worthy" of investigation—often based on stereotypes and prejudiced assumptions related to gender, sexuality, class, and race or ethnicity—amounted to a lack of due diligence on the part of the state to prevent, investigate, and sanction violence against women, as required by the Convention of Belém do Pará (1994), for instance. Without falling into facile equivalencies between past and present expressions of gendered violence (such as the ones I critiqued in Chapter 2 for failing to attend to the racialized dynamics of the Army's use of sexual violence and torture against Maya women in the context of genocide in the early 1980s), in this chapter I seek to trace the socio-legal constructs that have developed in Guatemala to determine who does or does not deserve justice. I ground this analysis not only in Guatemalan history, but also in an awareness of how the space that is Guatemala City has been shaped by this history and can therefore offer a glimpse into how various interlocking systems of power operate (Razack, 2002).

The first part of the chapter highlights the false universal pretense of Guatemala's legal framework. First, I focus on the late 19th and early 20th century, drawing especially on Carey's (2013) archival work on Maya Kaqchikel women's interactions with the legal system during the era of Liberal reforms.[72] This period is important to consider when studying contemporary socio-legal issues in Guatemala, not only for the historical perspective it provides but because many of the institutions at the foundation of the modern Guatemalan nation-state were

[72] Carey's (2013) work focuses on court records from predominantly Kaqchikel towns in the department of Chimaltenango—which, given its proximity to the central valley, where the political and economic power has largely rested since colonial times, had more access to state institutions and formal and informal power structures than Maya communities in many other parts of the country (see pp. 19-21). However, Forster's (1999) work on gender and sexual violence and justice in San Marcos in the north-western part of Guatemala drew similar conclusions to Carey's regarding the impact of class, race/ethnicity, and gender on the legal system's response to violence.

established during these years. The inequalities that they institutionalized would therefore be woven into, for instance, social and legal understandings of Indigenous peoples' roles and rights, as well as their own expectations of the legal system. Indeed, Smith (1990) maintains that the systems put in place during this period of modernization in order to ensure labour for the coffee economy not only served their purpose at the turn of the 20th century, but continued to "dominate Guatemala's economic and political relations thenceforth" (p. 84). Next, I bring my focus to more recent developments to examine how constructions of gender, race, and class continue to influence contemporary legal categories related to sexual and gendered violence in Guatemala. I draw on the work of England (2014), Forster (1999), and Menjívar and Walsh (2016) to analyze how the concept of honour, along with the structural exclusions that have been embedded into law historically, work to establish a narrow category of victims of gendered and sexual violence who are considered "worthy" of justice.

The second part of the chapter looks at how the constructs of worthy victims that have been upheld by Guatemala's legal framework have influenced how femi(ni)cide is understood and responded to, especially by authorities. First, I examine how a narrow category of worthiness or respectability manifests itself in the cases of two victims of femi(ni)cide, María Isabel Véliz Franco and Claudina Isabel Velásquez Paiz, both of whom were dismissed by Guatemalan authorities as *cualquieras*—a word that can mean simply "anybody / nobody," but that, when applied to a woman often has a pejorative connotation, implying she's a "slut" or a "tart." In each of these cases, the victims' families and activists brought complaints to the IACHR, and the IACtHR has since issued a ruling in both cases—in May 2014 in the Véliz Franco case, and November 2015 in the Velásquez Paiz case. Then, in the final section of the chapter, I examine the intersections of *delincuencia* [delinquency] and femi(ni)cide. I look at

how *delincuencia* has worked to justify the lack of investigation into and justice for some murders of women assumed by authorities to be somehow involved in gangs, drugs, sex work, or other "delinquent" acts, but also how femi(ni)cide and VAW risk being used by authorities to justify the continued and heightened criminalization of impoverished and marginalized men.

Contesting the Universalist Foundations of Guatemalan Law: Racialized Gendered Constructs in Guatemala's Sexual and Gendered Violence Laws

Several pieces of legislation that would become the groundwork for the modern Guatemalan nation-state—including the nation's first Civil Code as well as modernized Penal, Fiscal, and Military Codes—were introduced during the period known as the "Liberal era"[73] which was ushered in with the Liberal Revolution of 1871, led by Miguel García Granados and Justo Rufino Barrios. The 1877 Civil Code, for instance, finally replaced Guatemala's colonial law (which had had separate codes and courts for settlers and "Indian" subjects) more than 50 years after the country, along with the rest of Central America, gained independence from Spain. By establishing a legal system that was—in theory at least—applicable to all, liberal reformers were, on the surface, acting "in the name of universal citizenship" (Sieder, 2004, p. 6). However, not only was the new laws' "universal—and exclusionary—understanding of citizenship based on ladino identities and norms" (Carey, 2013, p. 88), but "Spanish paternalism and patriarchy remained deeply embedded in the new legal codes" (p. 34); "universal" citizenship thus remained markedly exclusionary.

[73] A series of Liberal dictators ruled Guatemala from 1871 into the early 20th century; most were military men from the wealthy landowning class. This was the period of modernization and consolidation of the nation-state, during which many national symbols (the flag and anthem, for instance) and institutions (a professional centralized army, for example) were established. The era came to an end with the removal of General Jorge Ubico Castañeda by a popular uprising in 1944 that eventually led to Guatemala's "ten years of spring," itself interrupted by the 1954 CIA-backed coup that would lead to the internal armed conflict.

The exclusionary nature of the emerging Guatemalan nation-state was a direct function of the objectives of the reforms, which were mostly aimed at transforming Guatemala into a modern capitalist economy with institutions and infrastructure capable of supporting the country's expanding coffee industry. Indeed, as Smith (1990) argues, "the emergence of agrarian capitalism [in Guatemala] … created divisions between Indians and non-Indians in the coffee zones of Guatemala that did not exist in the precoffee era" (p. 85).[74] The Liberal state- and nation-building project did not, however, simply exclude Indigenous peoples, but rather, with its focus on coffee cultivation and exportation, it increasingly encroached on Maya land and labour. As McCreery (1994) observes, "coffee provided the motive and the means for the Guatemalan state to penetrate the indigenous community to an unprecedented degree" (p. 175). Systems of forced labour were revived and reinforced, land in areas suitable for coffee growing were increasingly expropriated and privatized, and state power became highly centralized and militarized. *Ladino* militias, local mayors, and village authorities, as well as plantation owners and administrators were empowered to enforce the new labour laws which mainly targeted the highland Maya who continued to grow subsistence crops on their lands in order to compel them to migrate to coffee-growing regions for the harvest through vagrancy laws, debt peonage, and limited access to land (McCreery, 1994; Smith, 1990). As such, despite its "ideology of assimilation, in practice oligarchic liberalism in Guatemala continued to segregate the population along ethnic and class lines" (Sieder, 2004, p. 6) and the Liberal reforms of this era "in fact put

[74] This was also reflected in the gradual transformation, during this period, of the ethnic *ladino* identity into the national Guatemalan identity, blurring stark class divisions within the non-Indigenous population to get them to identify with a supposedly unifying identity at the same time as it promoted assimilation by sending the message that "Indians could become Ladinos by giving up the cultural traits that marked them as Indians" (Grandin et al, 2011, p. 109; see also Grandin, 2000; Hale, 2006; Smith, 1990; Martínez Peláez, 2011).

into place legal mechanisms that institutionalized inequalities between Indians and Ladinos" (Grandin et al., 2011, p. 109).

While Liberal reformers may appear to have been focused on class and ethnicity, gender and sexuality were not simply incidental or of secondary concern. Rather, controlling women's sexuality was central to maintaining the boundaries between class and ethnic groups in such a sharply stratified society, and one in which the Indigenous population was in the majority (McCreery, 1986). Regulation of prostitution therefore became a focus of Liberal dictators out of concern for "protect[ing] the integrity of the [elite *ladino*] family" (McCreery, 1986, p. 335).[75] The 1877 Civil Code put in place by these reformers advanced an understanding of sexuality that is solely reproductive, "investing it with the weight of respectability, promoting as desirable the social position of wife and mother" (del Cid Vargas, 2011, p. 66) consistent with dominant Catholic mores and which has persevered in Guatemala since (see also Jimenez Chacón & Ericastilla Samayoa, 2011).

Invaluable insight into the gendered, racialized, and classed logics that informed the Liberal era's state- and nation-building efforts, and the exclusion and exploitation of Indigenous peoples—and particularly Indigenous women—entrenched in this project, can be drawn from

[75] The first regulations around sex work were introduced in 1881 with the *Reglamento á que deben sujetarse las mujeres públicas en la ciudad de Guatemala* [Regulation to which public women must be subjected in Guatemala City], which banned street prostitution, restricted its practice to licensed and state-inspected brothels, and prohibited "public women" from travelling on city streets at night and without a "lawful purpose" during daytime hours (*Reglamento a que deben sujetarse*, 1881, Art. 1; McCreery, 1986). These and the increasingly strict regulations placed on "Tolerance Houses" (as the brothels became known) by subsequent legislation into the middle of the 20th century (McCreery, 1986; López, 2014) can be understood as an effort to keep "marriageable" women separate from those who were authorized a different—but still highly regulated—sexuality (Jimenez Chacón & Ericastilla Samayoa, 2011). Indeed, McCreery (1986) argues that the "[prostitute's] ready availability protects 'honest' women by venting or diverting socially dangerous male sexual aggressiveness while reinforcing established moral values and stereotypes of male dominance" (p. 335). However, diverging from forms of regulation of prostitution common in the region at the time, the Guatemalan state went much further, introducing an "element of direct coercion of labor" (McCreery, 1986, p. 352) that paralleled those in the agricultural sector. As such, McCreery (1986) argues that the regulation of prostitution in Liberal-era Guatemala "must be understood as part of a liberal drive to mobilize and control society as a whole in the interest of a class-defined vision of national development" (p. 334).

Carey's (2013) archival work retracing Maya Kaqchikel women's interactions with the justice system in two municipalities of the department of Chimaltenango (Patzicía and San Martín) in the early 20th century. Carey's research illustrates, for instance, how discourses of criminology, biomedicine, and public health were deployed to justify the criminalization of Indigenous practices and livelihoods at the turn of the century, cementing into law a distinction between modern "national norms in opposition to Maya identities and practices" (p. 52), such as producing and selling moonshine, street trading by *buhoneros* (travelling peddlers), as well as Indigenous women's market vending. In turn, the criminalization of these practices "engendered a desire for order by creating threats of disorder" (p. 225), thus justifying the increasing militarization and centralization of authority undertaken by early 20th century dictatorial regimes.

The justice system's increasing association between criminality and indigeneity is also evident in the appearance, in the early 1930s, of cultural descriptors in the National Police's criminal profiles and the tendency during that epoch to cast rural, Indigenous areas as areas of unrest and isolated refuges in which criminals were able to evade justice. By using place as a marker of race, the racialization of criminality was made implicit, as Carey (2013) explains: "as authorities established the connection between race and place, the latter served to identify the former, thereby allowing them to critique indigenous practices, knowledge, and customs without referring to ethnicity" (p. 53).

Together, these tendencies provide further evidence that Liberal state- and nation-building projects were very much "bent on cementing racial and social hierarchies" (Carey, 2013, p. 45). The state's vigorous prosecution of Maya Kaqchikel women bootleggers, midwives, and market vendors illustrates this dynamic. Carey's examination of records of interactions between Kaqchikel women and the courts also illustrates how racialized and

gendered constructs informed the way that Chimaltenango courts treated gendered violence in this period of nation-state building; this is the focus of the following section.

Maya Women and the Courts: Adjudicating Gendered and Racialized Norms

In the early 20th century, Indigenous Maya women engaged with the courts to a greater extent than their *ladina* counterparts given that "ladino gender norms generally sought to shield women from public life and thus discouraged their participation in the legal system" (Carey, 2013, p. 7).[76] Maya and poor women, for whom it was necessary to engage in paid work, often outside their own homes, enjoyed greater mobility than *ladina* and especially elite women. This mobility, however, came at a cost for Indigenous women who were therefore more exposed to violence and abuse in public spaces, as well as prosecution for engaging in practices that, as discussed above, were being put under increased scrutiny from the expanding legal system (see also Forster, 1999). According to Carey's (2013) archival research, when Kaqchikel women turned to the courts to seek redress for these abuses, violent treatment, or attacks on their reputation, or when they were compelled to defend themselves from charges of illegally producing and selling moonshine, they alternately and sometimes simultaneously resisted, acquiesced to, and appropriated the racialized, gendered, and classed discourses promulgated by the state for their own purposes. They often framed their claims for justice within their social roles as mothers and their experience of impoverishment and marginalization as Indigenous people to explain their actions or to request leniency from the judge or justice of the peace.[77]

[76] *Ladina* women, for instance, would often be represented by a male family member in court proceedings while Indigenous women generally appeared themselves. Carey (2013) also notes that "in a subtle manifestation of this gendered ethnic distinction, court notaries tended to refer to ladinas by their husbands' last names and indigenous women by their maiden names" (p. 7).

[77] For example, they pleaded that as impoverished mothers they had no other way to provide for their children than to produce or sell moonshine; that incarceration would take them away from their family responsibilities, imposing particular hardship on their children; or that as illiterate Indigenous women they were unaware of the law (Carey, 2013).

These claims often highlighted the state's failure to protect them from abuse or to provide them with the conditions necessary to support themselves and their children, making, at the very least, an appeal to the state's paternalism, and in some cases, an explicit claim to citizenship—and highlighting the myriad forms of structural and systemic violence that they experienced. When these narrative strategies were successful, it was partially because they resonated with Liberal reformers' understanding of male-headed households and of "family preservation" as "foundational to state building" (Carey, 2013, p. 5).

In comparison with prosecutions for the "criminal" Maya practices discussed above, which were dealt with expeditiously, the archival record reveals that courts displayed significant leniency when punishing domestic violence, if it was punished at all (Carey, 2013; Forster, 1999).[78] Not only did "patriarchy at the state level … not require the protection of women from all violent men, just those whose excesses threatened to destroy family life" (Carey, 2013, p. 232), but violence against Indigenous and working-class women "help[ed] to undergird and legitimize all forms of socially sanctioned cruelty against less powerful groups" (Forster, 1999, p. 72). Allowing this violence therefore worked to "gain male consent for a political ethic of 'natural' domination that rested on violence" (Forster, 1999, p. 70), thus helping to sustain racial and class hierarchies. Carey (2013) also highlights that family, friends, and neighbours intervened more readily than the courts to help protect women from domestic violence in the Chimaltenango municipalities that he studied, suggesting that Kaqchikel communities had a lower tolerance for this violence than the state, and that the state's acceptance of gendered violence in order to uphold patriarchal social relations dates back to colonization.

[78] According to Carey (2013) "when authorities arrested these entrepreneurs [bootleggers, midwifes, and market vendors] for plying their trade while only lightly reprimanding men for beating their wives, they established the state's priorities in opposition to the needs of local communities and individual freedoms" (p. 225).

Paralleling their efforts to defend themselves against charges of bootlegging or illegal market vending, Kaqchikel women who had recourse to the courts as victims of domestic abuse in the early 20th century often emphasized motherhood or pregnancy to highlight the seriousness of the crime; some even pursued charges of abortion or infanticide against violent men in attempts to obtain state protection from their abuser (Carey, 2013). Kaqchikel women who stretched the legal category of these typically "female" crimes to apply them to men were also attempting to make a deeper mark on the accused's reputations, as the crimes of infanticide and abortion carried more stigma and were generally taken more seriously than domestic violence. In this sense Maya women were "using the legal system for their own ends… [to] complicat[e] gendered notions of reproductive responsibilities and [hold] men accountable for their violence" (Carey, 2013, p. 118).

When Kaqchikel women were themselves accused of reproductive crimes, however, the notion of honour often came to bear on how they were treated by the courts. Courts of the time understood female honour to be based on women's sexual behaviour (Forster, 1999). In a context in which dominant social mores have been shaped by Catholicism since colonization, this has meant the idealization of virginity and monogamy in women (with more "relaxed" norms for men), an ideal that Jimenez Chacón and Ericastilla Samayoa (2011) argue also served the socio-economic (and, I would add, racial) concerns of the elite by guaranteeing the legitimacy of children who were to inherit their family's (read: father's) wealth and class position. Virginity before marriage has not only been an imperative for elite women, however, but has also applied more generally given the influence of Catholicism in the country since colonization. Indeed, as Chirix García (2008; 2010) observes, Catholic—and, more recently, evangelical—churches have been one of the central institutional influences shaping sexual norms

in Kaqchikel communities along with families, who also police young women's sexuality given that the loss of her virginity before marriage is understood as a loss of honour for the entire family (see Chirix García, 2008, pp. 141-143).

Carey (2013) found that women who could demonstrate that they were otherwise honourable received more lenient sentences, and that attempting to preserve honour was seen as an extenuating circumstance for abortion, for instance, leading to a lighter sentence. These provisions were in fact written into the 1889 Penal Code, which set a three-year prison sentence for women found to have "caused" or consented to an abortion, with a reduction to two years if it she had done so in order "to hide her dishonour" (Código Penal de la República de Guatemala, 1889, Libro II, Título VII, Inciso III, Art. 301). The 1889 Penal Code also called for lighter sentences for infanticide than for homicide, applying the construct of a woman's honour to mark a distinction between the two. Infanticide was defined as the killing of a child within 48 hours of its birth by a mother or a maternal grandparent "in order to hide her [the mother's] dishonour" (Código Penal de la República de Guatemala, 1889, Libro II, Título VII, Inciso II, Art. 298) and made punishable by three years of imprisonment if the crime was committed by the mother, or four years in the case of a maternal grandparent,[79] as compared to parricide (homicide of a family member), which was punishable by 15 years in prison.

While attempting to protect one's honour could lead to a more lenient sentence, authorities and newspapers routinely portrayed women who obtained abortions or intentionally harmed or killed their children as "*madres desnaturalizadas*" [unnatural mothers] who had committed aberrant acts all the while failing to divulge information about the context in which these acts took place, such as abandonment by the father of the child, poverty, or unemployment,

[79] The 1889 Penal Code specifies that if these conditions are not met, the accused is to be sentenced for homicide (Article 289).

thus casting the issue as an individual rather than social or systemic problem (Carey, 2013, pp. 136-146). As Carey (2013) explains, "this label represented more than simply a loss of maternal essence. Women who rejected traditional family structures and, worse, reproductive norms threatened the nation" (p. 140). Drawing on archival research on the same period in another part of the country, Forster (1999) argues that female plaintiffs were also susceptible to being labeled a "*mala mujer*" [bad woman]: "A woman was 'bad' if she possessed traits considered unnatural or dangerous in a female, such as aggression and sexual appetite. … polite society often feared as well as reviled women who had fallen into sexual disgrace" (p. 61). The fact that, in early 20th century Guatemala, preserving her honour was, for a woman, seen by the justice system as a quasi-legitimate (yet still criminal) reason to abort a pregnancy or kill a newborn speaks to the strength of the stigma that being perceived as "dishonourable" held for a woman. While Guatemala's Penal Code has since been amended and modernized,[80] vestiges of the discourses and constructs that informed legislation in the colonial and Liberal nation-building periods can still be found in more recent laws, particularly those related to sex crimes. In the next section, I examine some of the gendered and racialized constructs present in these contemporary laws. This inquiry is informed by England's (2014) assertion that

> identifying and understanding the impact of sexist language is key to challenging the way in which gender violence has been misperceived, ignored, and/or justified through cultural logics. Though changing the language of the laws will not ensure justice, it does at least introduce new vocabulary with which the public can begin to rethink, critique, and disable the cultural logic behind violence against women. (p. 126)

[80] The Penal Code currently in force was adopted in 1973, yet many new laws have been adopted and have therefore amended the Code since then.

Women's Honour and Sexual Violence

Definitions of the crimes of abortion and infanticide no longer contemplate the defence of a woman's honour as an extenuating circumstance in these crimes.[81] Honour has nonetheless played an important role in definitions of gendered and sexual violence until very recently. Indeed, England (2014) argues that the language of the 1973 Penal Code casts sex crimes as crimes against a woman's honour more than as violations of her physical integrity. This is especially evident in the provisions of Articles 173 (rape), 176 and 177 (statutory rape), and 200 (marriage of the victim with the offending party). In the case of rape, the 1973 Penal Code (Decreto 17-73, Art. 173), only recognized rape in cases where "sufficient violence" had been used, where the victim was incapacitated, or was under the age of 12 (see England, 2014). Articles 176 and 177 made the determination of statutory rape of a "woman" between the ages of 12 and 18 dependent on if she was "*honesta*" [honourable, morally upright; read: virgin]. Even in cases that met these restrictive conditions, Article 200 provided for criminal charges of rape, statutory rape, "dishonest abuses,"[82] and kidnapping for sexual purposes to be "extinguished upon the legitimate marriage of the victim with the offender" (as quoted and translated in England, 2014, pp. 131-132).

These articles have now all been repealed—Article 200 was struck down by Guatemala's Constitutional Court in 2006, and Articles 173, 176, and 177 (among others) were repealed by

[81] The Penal Code now defines infanticide as the murder of a newborn by their mother "for reasons intimately related to her condition that produce unequivocal psychological disturbance" (Decreto 17-73, Article 129). If abortion is committed under the same conditions (by a woman experiencing a "psychological disturbance" because of her condition—presumably pregnancy), this same motive also justifies a reduced sentence: six months to two years instead of one to three years (Article 134). Abortion remains criminalized in Guatemala, with the only exception being if the pregnancy endangers the mother's life (Articles 134-140). The framing of "psychological disturbance" as an explanation for infanticide is reminiscent of the way that reproductive crimes committed by women have historically been understood as aberrant (committed by "unnatural mothers"), as discussed above (also see Carey, 2013).

[82] Translated by England (2014) as "sexual acts other than vaginal penetration" (p. 127).

the adoption, in 2009, of the Law against Sexual Violence, Exploitation, and Human Trafficking (Decreto 09-2009) which introduced new definitions of sexual violence into the Penal Code.[83] Even so, these provisions, especially Article 200, were often mentioned by key informants as evidence of the patriarchal biases inherent in Guatemala's legal code, and were highlighted in reports on femi(ni)cide as proof of the deficiency of Guatemala's legislative framework in terms of its response to gendered violence (see AI, 2005 and UNCHR, 2005, for instance).[84] The Constitutional Court itself, in its decision declaring the law unconstitutional, recognized that Article 200 "minimizes the act of sexual aggression, the violence, and the humiliation caused by the violent act, privileging the fact that the woman can '*recover her honor*' or her sexual legitimacy as a '*dignified woman*' through her marriage to the aggressor" (cited in England, 2014, p. 132, italics in original). As England (2014) argues, together, these laws "implied that only respectable women deserved legal protection from sex crimes" (p. 126).[85] They also held up the idea that, in order to be respectable a woman should not be promiscuous or engage in pre-marital sex. Notions of honour and female sexual modesty are also embedded in other parts of Guatemala's legislative framework: regressive ideas about women's proper sexual conduct appear in Guatemala's Civil Code, which includes provisions that women demonstrate "good behaviour" in order to receive alimony upon divorce (see Menjívar & Walsh, 2016), for example.

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[83] This piece of legislation also updated the criminal definition of rape, which is no longer strictly defined as forceful vaginal penetration (which excluded the notion that men or boys can be raped, replacing the criteria of "with sufficient violence" (read as physical force) for "with physical or psychological violence" and recognizing vaginal, anal, and oral rape.

[84] Amnesty International (2005) also critiqued the fact that rape and sexual violence were not prosecuted de oficio but only if the victim initiated prosecution (most other crimes in Guatemala are considered *de acción pública* [prosecuted at the initiative of the MP]) while the UN Special Rapporteur highlights the lack of laws penalizing marital rape and sexual harassment (UNCHR, 2005).

[85] This is, of course, not unique to Guatemala. Ideas about women's honour are embedded in the legislative framework of many Latin American countries, where they have been found to have justified some forms of domestic and gendered violence in the eyes of the law (Pimentel, Pandjiarjian, & Belloque, 2005), as they have in many other parts of the world.

Making women's access to justice and enjoyment of certain rights conditional on her good character and her sexual propriety not only fails to adequately protect women from violence, but it also puts women at risk by sustaining victim-blaming ideologies that justify and can themselves incite violence. Indeed, in Forster's (1999) observations, since "cultural norms rooted in socially conservative values held that it was impossible to rape a woman who had more than one sexual partner… prostitutes could not be raped, and violence against them was considered an occupational hazard" (pp. 61-62). The idea that a woman's honour belongs to her family and husband can also induce violence—an idea which was entrenched in Guatemalan laws until very recently. The 1973 Penal Code, for instance, specified until 2009 that prosecution for "crimes against sexual liberty and security and against modesty" (as these crimes were categorized in the Penal Code) could only be initiated by the aggrieved, or the parents, grandparents, siblings, or tutors of the aggrieved (Article 197). Indeed, in Guatemala, as in other parts of the world, rape and sex crimes have historically been understood as offenses against a woman's male kin and not against the woman herself (England, 2014; also see Brownmiller, 1975). This supposed familial quality of women's honour makes domestic violence a common response to perceived dishonour.

Of course, honour is rarely discussed as a motive for domestic or gendered violence in mainstream Western/Northern discourse unless the perpetrator(s) and victim(s) are racialized, and particularly if they are Muslim or South Asian (Grewal, 2013; Meetoo & Mirza, 2007). In such cases, so-called "honour killings" are blamed on an essentialized and presumably static "traditional" culture and its attachment to honour, as if patriarchal notions of women's honour—and violence motivated by these—were absent from "modern" societies (Grewal, 2013). This racialized discourse of "honour killings" is clearly reminiscent of second-wave approaches to

VAW discussed in Chapter 1 that understand this violence as a symptom of oppression and lack of rights—a problem of culture—in the global South while casting it as more of an individual problem that (more benignly, perhaps) undermines women's enjoyment of the rights they already possess in the global North (Kapur, 2005; Merry, 2010).

Another consequence of the pervasiveness of regressive notions of women's (sexual) honour in understandings of violence is that it encourages the silencing of violence given that, "since honor is focused on reputation, it is damaged only if the transgression is public knowledge" (England, 2014, p. 128). Any remaining trace, in social and legal norms, of the equation of sexual violence with dishonour can therefore be assumed to act as a barrier to efforts by women's groups in Guatemala to foster a *cultura de denuncia* [reporting culture] as a way to combat violence against women (these efforts will be discussed more in-depth in Chapter 5).

Finally, the flip side of this gendered discourse of honour is that, since men are granted "a great deal of sexual liberty," it encourages them to "prey on women with less protection" which, in Guatemala

> has historically meant that men preyed on indigenous women and poor mestizas who were either seen as not having any honor to protect in the first place (because of their inferior indigenous or mixed blood) or whose men were too socially and politically vulnerable to protect them. (England, 2014, p. 129)

This assertion is supported by archival documentation of Kaqchikel women's interactions with early 20th century courts in Chimaltenango. Carey (2013) recounts two different cases brought by Indigenous women against men (Indigenous in one case, *ladino* in the other) who had hit them in retaliation for having been ridiculed. The fact that, in both cases, these men hit the women in front of their husband indicates "that they did not expect Indigenous men to control …

their wives" (Carey, 2013, p. 129). As Forster (1999) argues, courts at the time interpreted rape as "male violence against women who belonged to other men, rather than proven sexual violence, which was often overlooked if practiced against Indian women and, in fact, tolerated if practiced against one's wife or a 'dishonorable' woman" (p. 71).

Constructs informing when and against whom violence is seen as being permissible have therefore been shaped by norms around gender and sexuality, as well as racialized and classed constructs. And these constructs continue to shape contemporary understandings of violence: as will be further discussed below, violence against sex workers and other women perceived to be "bad" because of their sexual transgressions (whether real or perceived) continues to be justified, often through victim blaming rhetoric, while, as England (2014) highlights, the legal system routinely disbelieves Indigenous women and girls who bring forward complaints of sexual violence.[86]

Essentialized Gender, Heteronormativity, and the Civil Code

While the current Constitution of Guatemala, adopted in 1985, declares in Article 4 that "all human beings are free and equal in dignity and rights" and specifies that individuals shall have equal opportunities and responsibilities regardless of gender or marital status, the overall tone of the Constitution continues to cast women as vulnerable, dependent on men, and needing special treatment. Several articles in the Constitution contain exemptions or special provisions for women, who are treated as a "universal group [based] on their reproductive role" (Berger, 2006, p. 44). These provisions reflect an essentialist understanding of gender, and privilege women's location in the family rather than as workers, or other economic or political actors

[86] Indeed, England (2014) asserts that the particular configuration of ideas about women's honour and their intersection with ethnicity and class have left "many poor and indigenous women … essentially unprotected by the 1973 Penal Code" (p. 134).

(Berger, 2006). Menjívar and Walsh's (2016) work illustrate how these gender disparities are further naturalized in Guatemala's Civil Code.

The Civil Code defines the family as the "basis of society," enshrining *in law* expected gender roles of men (breadwinners) and women (homemakers): Article 110, for example, sets out that husbands are obligated to "protect and assist" their wife (reflecting the theme of female vulnerability also present in the Constitution) and, until recently, the obligation to care for children was assigned solely to wives (Menjívar & Walsh, 2016, p. 8). These laws reflect the notion held by Guatemalan lawmakers that, as one key informant put it, "women only have a life within family relationships." Until 1998, for instance, the Civil Code granted married Guatemalan men the ability to prevent their wife from working outside the home "if he deemed that her doing so would jeopardize the household's well-being" (Menjívar & Walsh, 2016, p. 8). Several other articles in the Civil Code—Menjívar and Walsh (2006) count 363—describe "family interests" as "distinct and separate from those of its individual members" (p. 8). Given the power imbalances that exist within families, the prioritization of so-called "family interests" over those of individual members of the family "undermines the rights of those family members who are socially disadvantaged, such as women" (Menjívar & Walsh, 2016, p. 8).

Guatemalan law conceives of the family relationship as strictly heterosexual and monogamous: same-sex unions are not recognized in any legislation, and there is no mention of either sexual orientation or gender identity. Despite this lack of recognition in law, a bill proposed in 2017 (*Iniciativa 5272, Ley para la Protección de la Vida y la Familia*—Bill 5272 Law for the Protection of Life and Family) would have explicitly defined marriage and civil unions as "between one man and one woman, born that way" (Articles 16 and 17) and would

have prohibited educational institutions from "promoting" sexual diversity,[87] "gender ideology," or sexual conduct other than monogamous heterosexuality (Art. 15). The authors of the bill explained in the preamble that the bill was motivated by the fact that "minority groups" were "proposing currents of thought and practices incongruent with Christian morals, as well as modes of conduct and coexistence distinct from the natural order of matrimony and the family" (Iniciativa 5272, Recitals).[88] The fact that this bill passed two readings in Congress before being abandoned (it was never presented for a third reading after its second reading in August 2018)[89] speaks to the entrenchment of heteronormativity among Guatemala's legislators and within the legislative framework itself: enough members of Congress perceived groups advancing a "gender ideology" (presumably feminist and LGBTI groups) to be a credible enough "threat to the moral equilibrium of our society" (Iniciativa 5272, Recitals) to justify the legislation at the same time as they deemed the measures proposed in the bill to be consistent with constitutional norms.

Efforts to introduce a more "gender-sensitive state agenda" (Berger, 2006, p. 43) have been made in Guatemala, particularly in the immediate post-peace accords period, when the 1996 *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar* (Decreto 97-96) [Law

[87] Defined as "sexual conduct distinct from heterosexuality and incompatible with the biological and genetic aspects of the human being" (Bill 5272, Art. 2).

[88] The same bill also proposed increasing restrictions on abortion (Bill 5272, Art. 8), imposing higher penalties for elective abortion (Art. 5, 6, & 11) (which is already criminalized) and creating a new crime of "Promotion of abortion," punishable by 6 to 10 years imprisonment (Art. 12). According to critics of the proposed bill, had the bill passed as it was written it was also at risk of criminalizing women for having a miscarriage (see BBC News Mundo, 2018; Telesur, 2018).

[89] This bill for a Law for the Protection of Life and Family was put forward in the midst of hearings on a bill for a proposed *Ley de identidad de género* [Gender Identity Law] advanced by Sandra Morán (a well-known feminist activist and Guatemala's first out lesbian in Congress) in February 2018 that would have provided for trans people to be registered with the National Registry of Persons (RENAP) with their true gender identity—regulations in Guatemala currently allow trans people to change their name and photo on their national identity card (DPI) but does not allow a change of sex.

to Prevent, Sanction and Eradicate Intrafamily Violence, henceforth "VIF Law"],[90] the 1999 *Ley de Dignificación y Promoción Integral de la Mujer*, (Decreto 7-99) [Law for the Dignification and Comprehensive Advancement of Woman], and the 2001 *Ley de Desarrollo Social* [Decreto 42-2001 Social Development Law (Decreto 42-2001) were adopted. While these laws "appropriated the language of gender equity," they failed to "dismantle traditional constructions of women, femininity, and masculinity" (Berger, 2006, p. 46), not to mention heteronormativity and monogamy. The Law for the Dignification of Women, for instance, fails to contemplate women outside of heterosexual families. And while the Social Development Law does recognize a broader definition of family (including unmarried heterosexual couples and single-parent families), as well as women's contributions to economic development, the Development Councils it instituted to "'promote, plan, coordinate, execute, and evaluate' national development" (quoted in Berger, 2006, p. 52) have been criticized for their hierarchical structure and technocratic bend, potentially limiting women's meaningful participation and power within the council system. Indeed, Berger (2006) cautions that despite "help[ing] to mainstream gender and institutionalize the women's movement, [these laws] have also contributed to limiting the debate about gender" (p. 46).

What can be discerned from the above discussion is that Guatemala's legal framework has until very recently effectively protected only a small portion of the country's women from gendered violence and has framed fairly limited expectations for women's "proper" roles. Indeed, Carey's (2013) work illustrates how gendered violence has historically been treated as a secondary concern by a *ladino* state much more focused on consolidating its power and its particular nation-building project. These structural exclusions, along with the embeddedness in

[90] The Law to Prevent, Sanction and Eradicate Intrafamily Violence, as well as its limitations, will be discussed in further detail in Chapter 5.

law of notions of sexual propriety through the concept of honour (England, 2014) and the almost exclusive focus on women's place within the family and private sphere (Berger, 2006; Menjívar & Walsh, 2016), have worked together to establish a narrow category of victims who deserve protection, or even justice. In the next section, I will examine how these constructs have been mobilized in two cases of femi(ni)cide.

María Isabel and Claudina: Victims not Worthy of Justice

The investigations into the disappearances and deaths of two teenagers—María Isabel Véliz Franco and Claudina Isabel Velásquez Paiz—in the early 2000s illustrate the influence of gendered, classed, and racialized stigma on authorities' responses to gendered violence and femi(ni)cide in Guatemala prior to the adoption of the Law against Femicide in 2008.[91] María Isabel was 15 years old when she failed to return from her winter-vacation job at a store in Guatemala City on December 16, 2001. Her body was found two days later, dumped in a vacant lot in the neighbouring city of Mixco, strangled and stabbed, and with signs of sexual violence, including torn underwear and clothing. In her testimony, reported in IACHR proceedings as well as in NGO reports (Aguilar, 2005; GGM, 2004), María Isabel's mother, Rosa Elvira Franco Sandoval, recounts that when she went to the morgue to identify her daughter's body, she observed signs of *ensañamiento* such as were often described in reporting on femi(ni)cide.[92] Nineteen-year-old Claudina's body was found in the early morning of August 13, 2005, a few hours after her parents had learned from the mother of one of her friends that she had heard Claudina, who had been expected home earlier in the evening, yelling "No, no, no!" when she

[91] Unless otherwise noted, the facts presented in this section relating to both of these cases are taken from the sentences issued in each case by the IACtHR: *Veliz Franco et al. v. Guatemala* (2014) and *Velásquez Paiz et al. v. Guatemala* (2015).

[92] I refrain from recounting details of injuries and signs of torture and sexual violence reported in specific cases in order to interrupt the voyeuristic nature typical of reporting on gendered and sexual violence.

had called her cellphone (*Velásquez Paiz et al. v. Guatemala*, Merits Reports). Claudina's body was found on the street in a lower middle-class neighbourhood of Guatemala City with signs of sexual violence and injuries that had been inflicted previous to her death; she had been killed by a single gunshot.

In each of these instances, authorities had refused to take action when the girl's parents had first attempted to report their daughter's disappearance, informing them that they had to wait 24-hours before filing a report, despite the fact that they were aware that young women in Guatemala faced a high risk of being murdered in the early 2000s—a fact that led the IACtHR to find the Guatemalan state responsible for lack of due diligence in both cases. In Claudina's case, authorities told her parents not to worry that "she's probably out with her boyfriend" (quoted in *Velásquez Paiz et al. v. Guatemala*, Sentence, footnote 170) or sobering up with a friend after a night of partying.

In her petition to the IACHR, Franco Sandoval charged that authorities were "more interested in investigating details about [her daughter's] reputation than about investigating the events that led to her death" (*Veliz Franco et al. v. Guatemala*, Informe de Fondo, para. 23). The IACtHR later found that the MP's preliminary reports on the case were littered with comments about the girl's supposed promiscuity, provocative dress, involvement with gangs, and insinuations about her involvement in sex work, including comments implying that her mother had been aware of these activities and had possibly benefited from them. A police investigator's report, for instance, suggested that María Isabel's murder had been motivated by "possible infidelity in the case of a boyfriend" (quoted in *Veliz Franco et al. v. Guatemala*, Sentence, para. 118a) and a psychological expert suggested that the victim had exhibited "emotional instability because she went out with several boyfriends and male friends" (para. 118d). Perhaps most

glaringly, Franco Sandoval reported that, in August 2004, the Assistant Prosecutor working the case told her that "they killed your daughter because she was a *cualquiera*, a prostitute" before beginning to laugh loudly (para 118c), clearly indicating that authorities were not taking her daughter's murder seriously and had no real intention of trying to find her killer(s).

Similar comments were made by investigators in Claudina's murder as a supposed justification for authorities' initial lack of investigation. A PNC investigator interviewing her parents explained that investigators who arrived at the crime scene had assumed that their daughter was a "*cualquiera*" because of what she was wearing and where she was found (a choker necklace, belly button ring, and sandals; in a lower middle-class neighbourhood), leading Guatemala's human rights ombudsperson to conclude that "the crime scene was not developed as it should have been because of prejudices about the social origin and status of the victim. She was classified as a person whose death did not merit investigation" (PDH report, quoted in Sanford, 2008a, p. 114). It is notable that, in their reports, investigators remarked on a "strong" smell of alcohol at the scene and listed in evidence they collected a presumed condom wrapper found near the victim's body (which turned out to be an empty seasoning package)—two elements that likely also contributed to prejudicial assumptions about the victim, her "worthiness," and the need to investigating her death. Even once the supposed "misidentification" of the victim (which was at the root of their initial prejudiced assumption that her death was one that did not merit investigation) had been cleared up, investigators' perception of the case continued to be influenced by other gendered assumptions, with clear prejudicial tones toward the victim: one investigator explained the murder as one in which "a passionate problem under the influence of alcohol resulted in the death of one person" (quoted in *Velásquez Paiz et al. v. Guatemala*, Sentence, para. 186), and a forensic psychologist consulted by

investigators suggested that Claudina had been a "reckless victim" with an "impulsive, immature, and irresponsible attitude" and charged that she prioritized social activities over her family and education, and that she was "permissive" in her romantic relationships (quoted in *Velásquez Paiz et al. v. Guatemala*, Sentence, para. 189).

In making the types of comments cited above, investigators were laying bare the prejudices that informed how they understood these cases: young women who dress a certain way, who are sexually active, who go out at night (in certain parts of the city) should expect this type of violence, and are to blame if they expose themselves to it. Not only did authorities seem wholly unconcerned about—or at the very least failed to recognize—the risk that these young women faced when their families reported them missing, but even once the victims' bodies had been found with clear indications of violence, the stereotypes and victim-blaming attitudes held by investigators led them to relegate these young women to a category of victims not deserving of justice and, as a result, they neglected to properly investigate their deaths. The judgement handed down by the IACtHR in each case found that gendered stereotypes improperly informed authorities' decisions into what investigative actions were taken—or in these cases, not taken—regarding the deaths of María Isabel Veliz Franco and Claudina Isabel Velásquez Paiz. The Court therefore found that the stereotypes and stigmas held by investigators contributed to the deficiencies it had observed in the investigations, including irregularities in crime scene preservation, handling of evidence, autopsy procedures, and investigative logic.

It would be wrong to conclude that the stereotypes and stigmas that influenced authorities' handling of these cases were nothing more than personal prejudices on the part of investigators. Rather, I argue that they are tied to the gendered, sexualized, classed, and racialized constructs deeply embedded in Guatemala's legislative framework discussed in the

first part of this chapter. For instance, despite fairly clear signs that María Isabel had been the victim of sexual violence before being murdered (a pathologist involved in the early investigation even told her mother that he believed she had been raped), the autopsy did not include any tests to determine if she had in fact been subjected to sexual violence. These tests were not automatically called for in the investigative protocols in place at the time and would only have been performed had they been requested by investigators. How did investigators' determination that the 15-year-old was a *cualquiera* influence the decision not to request these tests? Since, as discussed above, the Penal Code at the time of María Isabel's death held that statutory rape was only recognized in victims deemed to be "honest," authorities' assumptions that she had been involved in sex work or been "promiscuous" would presumably have made statutory rape impossible according to the law's definition. Of course, the fact that she was found, presumably murdered, with signs of *ensañamiento* should have influenced the investigation—would this not have signaled to investigators that the perpetrator(s) used "sufficient violence" to meet the Penal Code's definition of rape? However, this does not seem to have been the case.

Reparation Measures and Calls for Institutional Changes

In its sentences for these cases, the IACtHR found the state of Guatemala in violation of several rights guaranteed to the victims and their families through the American Convention on Human Rights and the Convention of Belém do Pará, including the right to life and personal integrity of the victims, rights to judicial guarantees and judicial protection for their families, as well as the right to equal protection of the law. The Court ordered reparation measures specifically for the families, that the sentences be published and disseminated, and that the state issue public apologies. It also ordered the state to implement a series of institutional measures to

help ensure non-repetition of these types of violations of human rights.[93] Since many of the reparations ordered in the sentence in María Isabel's case had not yet been carried out in the year-and-a-half that separated the two sentences, many of the institutional measures that had been ordered in that case were reiterated in the sentence in Claudina's case. In addition to ordering the state to conduct an effective investigation into the murders with the goal "to identify, prosecute, and punish, as appropriate" the responsible parties (and, in Claudina's case, to sanction any public official found to be responsible for the irregularities observed in the initial investigation into her murder),[94] it also directed it to strengthen the Instituto Nacional de Ciencias Forenses [National Institute of Forensic Science, INACIF] and ensure it receives the necessary resources to conduct its mandated activities in the entire national territory; to provide training on international standards and on the proper application of laws and regulations for members of the Organismo Judicial [Judiciary, OJ], MP, and PNC involved in investigating murders of women; and to ensure that the Specialized Justice Bodies established through the Law against Femicide function in all departments of the country. Additionally, in Claudina's case, the Court ordered the state to integrate programs on gender stereotypes, discrimination, and violence against women into the country's education system, and to adopt a national strategy or mechanism for the immediate and effective search of missing women. The legal bases for an immediate search mechanism were established with the adoption of the Law for the Immediate

[93] Both cases were presented to the IACHR before the Law against Femicide was adopted (María Isabel's case was brought to the Commission in January 2004 and Claudina's in December 2007), and while the Court did recognize that the Guatemalan state had, in the intervening years, made attempts to address violence against women and the impunity in which it exists through legislation, public policy, and reforms to the justice sector, it held that these measures continued to fall short, especially given that many of the responses it had introduced still lacked political support, were chronically underfunded and under-resourced, and often inaccessible to large parts of the Guatemalan population—all points that will be discussed in Chapter 4.

[94] Two arrests were made in the Veliz Franco case in July 2019: her accused killer, Gustavo Bolaños Acevedo, as well as a retired police officer, Jorge Mario Ortiz Maquis, who is accused of having been complicit in the murder and of obstructing justice (Boche, 2019b). The two were ordered to stand trial in November 2019, but the trial had yet to begin at the time of writing in summer 2020.

Search of Disappeared Women in March 2016, and the MP started implementing an alert system bearing both teenagers' names—the Alerta Isabel-Claudina—in September 2017.

The Court's decisions, based as they are on international human rights standards, including those that enshrine women's right to live free of violence, recognized that many of the violations it found were couched in discrimination based on the victims' gender. However, as will be examined in the following section, the discourses that have been used by Guatemalan authorities to justify the deaths of certain women are not only gendered but also depend on constructions of sexuality, class, as well as race and ethnicity—themselves all co-constructed and informed by each other. Indeed, even the stigma attached to sex work and prostitution, while clearly couched in codes of morality and of women's "proper" sexuality, is not *only* gendered but also classed and racialized in a context where regulation of sex work has served, historically, to protect the "'honor' and 'purity of blood'" of the emerging *ladino* bourgeoisie's lineage, maintain class and ethnic boundaries, and "reinforc[e] the approved social role for women of 'virgin-mother'" (McCreery, 1986, p. 335). In Claudina's case, one of the judges—Judge Roberto F. Caldas—also found that the authorities' dismissal of Claudina as an unworthy victim amounted to a violation of her rights to freedom of expression and of movement because they were linked to assumptions about what she was wearing and where she was found (*Velásquez Paiz et al. v. Guatemala*, Sentence, Punto Resolutivo 6).[95] Indeed, as he explained in his partial dissent,

> linking her clothing not only to her gender but also to her belonging to a socially and economically marginalized community, because of her 'piercing' [sic] and sandals, ended up exposing the victim to multiple forms of discrimination based on gender, social

[95] The six judges in the majority found that it was "not necessary to issue a decision related to [these] alleged violations."

> condition, age, and economic position. (*Velásquez Paiz et al. v. Guatemala*, Voto partialmente disidente, Caldas, para. 23)

The determination by investigators that María Isabel and Claudina were *cualquieras* whose deaths didn't deserve investigation was clearly gendered and based on ideas of "good" and "bad" women: the focus on what the victims were wearing and allusions to promiscuity, infidelity, and passionate problems reflect notions of how "proper" young women should behave—and mirror the typical victim-blaming that accompanies gendered and sexual violence in many parts of the world. However, as the dissenting judge's comments in Claudina's case highlights, authorities also deemed her unworthy because she was assumed to be involved with or somehow connected to "a socially and economically marginalized community": youth gangs in Guatemala City. In the following sections, I examine how public concerns about "youth delinquency"—and particularly *maras* [gang]—are informed by social constructions of class and race in the particular space that is Guatemala City; and, as a result, how gender, sexuality, race, and class intersect in femi(ni)cide through its discursive ties to *delincuencia* and gangs.

Delincuencia and Social Cleansing: Gendered and Classed Stigma in Racialized Space

As discussed in Chapter 2, when feminists began expressing concerns about increasing rates and brutality of murders of women, government officials were quick to dismiss their characterization of this violence as indicative of femi(ni)cide, arguing instead that it was part of a general increase in violence or that the "majority" of the victims "had links with juvenile gangs and gangs involved in organized crime," as President Oscar Berger affirmed in one of his notoriously dismissive comments on the issue at the beginning of his administration in 2004 (Cházaro & Casey, 2006, p. 154). While Berger's approach to femi(ni)cide became less dismissive as his time in office wore on and talk of femi(ni)cide became more widespread—and,

quite possibly, as national and international organizations pressured the state to take action[96]—delinquency and gang violence continued to feature prominently in his and subsequent administrations' explanations of femi(ni)cide. A 2010 interview by teleSUR tv, a Venezuelan television network, with Alba Trejo, then Presidential Commissioner on Femicide, illustrates this. In this interview, Trejo begins by explaining that government analyses have identified three main "causes" of femicide: machismo, human trafficking, and organized crime. However, when she develops on these points, her explanations of femicide privilege the idea that murdered women had become victims of *delincuencia* and organized crime, where they were used as objects or instruments in the drug trade and gang wars (teleSUR tv, 2010).

Talk of *delincuencia* directed at "troubled" (and "in trouble"), "out of control," or generally undisciplined youth—particularly young men—is clearly couched in a language of morality. However, O'Neill's (2011) and Camus' (2011) respective work illustrates how popular discourses of morality and *delincuencia* in Guatemala are also racialized through a particular spatial logic that establishes a fundamental distinction between urban and rural Guatemala. In his work on Guatemala's neo-Pentacostal megachurches, O'Neill (2011) demonstrates how Christian charity practices are shaped by a "moral geography" that distinguishes the morally superior rural highlands from the so-called *delincuencia* of Guatemala City (p. 175). According to a highly racialized moral and spatial ranking within this moral geography, rural Indigenous people, who are seen as less developed (both spiritually and economically) than the capital's

[96] The fact that he was establishing a commission—albeit temporary—to spearhead government policy on the issue less than two years later speaks to the amount of political currency the concepts had gained, mainly as a result of the awareness raising and political advocacy work of feminist activists and women's organizations, who, as examined in Chapter 2, mobilized international networks in their advocacy and drew on reporting by inter- and supranational human rights organizations.

ladinos, but more "righteous" than the urban poor, become the deserving recipients of Christian charity (O'Neill, 2011).

Camus (2011) highlights how a similar spatial and colonial logic establishes who does and does not belong in urban spaces in her account of how residents of Primero de Julio (a residential neighbourhood on the outskirts of Guatemala City) have come to blame the violence and class decline of their neighbourhood on impoverished and marginalized urban Indigenous populations. In their conversations with the author, neighbourhood residents cast indigeneity as a fundamentally rural condition and Indigenous populations as pre-modern people who live well when they "work the land over there" but are unable to adapt to urban life, where they "get lost," are "corrupted," "contaminated," and "ruined" (quoted in Camus, 2011, pp. 55-59). As she notes, "such statements reflect the powerful ways that historical divisions along class, race, and geographical lines shape the way that Guatemala's new violence is perceived in urban areas such as Primero de Julio" (Camus, 2011, p. 59).

What we can see at work in these two examples are elements of a type of race thinking that has been at work since the colonial era, denying any common bond between the rural Indigenous and the urban *ladinos*. Indeed, Martínez-Salazar (2014) explains how, by destroying existing Mayan cities and forcibly displacing Indigenous people into *Pueblos de Indios* [Indian Towns], Spanish colonizers placed the city at the center of the colonial project, thus establishing urban space as European space from which Indigenous peoples were—with few exceptions—excluded by law until the end of the 19th century. Colonial cities were also understood by the Spaniards and *criollo* elites as places of "civilization" in contrast to the supposed "barbaric" *Pueblos de Indios*—despite the fact that, as Martínez-Salazar (2014) highlights, "*they* were the barbarians, for they had invaded Indigenous Peoples' societies" (p. 35, italics in original). Racial

ideologies of *blanqueamiento* (whitening) and *mestizaje* prevalent in Latin America since colonization have, of course, privileged light(er)-skinned and culturally European (and thus the "modern," "developed," "civilized," and so on) people in the racial hierarchy (Goldberg, 2009). In this sense, we can see how, in the examples offered above, space works to racialize *delincuencia* not only through morality, but also through modernity and its "constitutive colonial difference" (Hesse, 2007, p. 649), the "non-modern"/ "non-Europe."

While not restricted to it, the increasing and intensifying violence of so-called "postconflict" Guatemala has affected the capital, Guatemala City, and the sprawling urban areas that surround it most intensely (Godoy-Paiz, 2009; Thomas, O'Neill, & Offit, 2011). The general sense of insecurity that exists in Guatemala City is stoked by the media's often graphic reporting on the frequent murders, muggings, gun fights, car jackings, or kidnappings that occur throughout the city; however, not all parts of the city are understood as being violent or unsafe in the same way. Indeed, another type of spatial logic, which defines certain parts of the city as *zonas rojas* [red zones] because of their high levels of crime and violence, informs understandings of the violence of Guatemala City and the supposed *delincuencia* that feeds it.

The designation of certain areas as red zones can change over time and depending on whom you ask.[97] However, some areas of the city, particularly parts of Zone 18 and neighbourhoods known in Guatemala as "precarious settlements" are almost invariably understood as red zones (O'Neill, 2019). These zones have been the focus of many state security policies and resources—though, as O'Neill (2019) discusses, the police often refuses to patrol some of these areas because of the perceived risk—and featured heavily in state discourses of

[97] For example, O'Neill (2019) found that while delivery drivers in Guatemala City's Zone 18 had a more nuanced understanding of risk within the zone (depending on traffic, time of day, and ease of access), the PNC invariably consider the whole of Zone 18 high risk.

femi(ni)cide in the mid-2000s, which is not surprising given authorities' focus on gangs and organized crime as the source of the problem (see Chapter 2). For example, at a panel on the role of forensic sciences in investigating feminicide in Guatemala City in May 2010, Presidential Commissioner on Femicide, Alba Trejo (whose interview with teleSUR is discussed above and who attended as a member of the audience) reacted to the panel with comments that framed the issue as a problem of particular salience in the city's "red zones," despite the fact that panelists' presentations focused more on the range of applications of forensic sciences than on the causes or roots of femi(ni)cide.[98]

Guatemala City is divided into 22 zones that extend in a rough spiral from zones 1, 2, and 3, known as the city's "historical centre," out to zones 24 and 25, which border with neighbouring municipalities.[99] A series of processes and events that rendered conditions of life in rural areas ever more precarious—natural disasters, economic booms and busts, neo-liberal reforms, as well as the internal armed conflict and repression—have fuelled migration into the capital throughout its history, shaping the demographic make-up of the city and its various zones (Levenson 2011; Thomas et al, 2011). When migration into Guatemala City increased substantially in the aftermath of the 1976 earthquake and in reaction to the Army's scorched earth campaigns in the western highlands in the early 1980s, hundreds of precarious settlements began to appear in various parts of the city where people settled on unoccupied land, building homes from whatever materials were available (Murphy 2004; Thomas, O'Neill, & Offit, 2011). Having developed on the margins of the city in very literal ways—often clinging to the sides of the many ravines that cut through the urban areas of Guatemala City and its surroundings—these

[98] The panel was organized by Unitedstatesian academic Victoria Sanford and held at the Latin American Faculty of Social Sciences (FLACSO) in Guatemala City on 26 May, 2010. I was present as a member of the audience.
[99] Zones 20, 22 and 23 no longer exist as they have been absorbed into neighbouring municipalities.

communities were settled "beyond the reach of property rights regulation" (Thomas, O'Neill, & Offit, 2011, p. 6), which places them outside of the frontier of law, and thus in a space understood to be inherently violent (Blomley, 2003, pp. 124-125).[100] Indeed, in his study of the formation, development, and integration of one such precarious settlement, El Mezquital (established in 1984), into the state apparatus, Murphy (2004) relates how the community's lack of access to basic social services is justified by popular discourses that cast its residents as "improper citizens who fail to fulfill their responsibilities and do not deserve to be on the lands that they inhabit" (Murphy, 2004, p. 52). Furthermore, in a similar moral economy that distinguishes so-called squatters from "proper citizens," residents of precarious settlements are generally understood as people who "do not share the dominant values of society, lack proper education and skills, and are prone to alcoholism, drug addiction, and crime" (Murphy, 2004, p. 52).

It would be imprudent to extend Camus' (2011) analysis, outlined above, of how spatialized colonial logics have produced a racialized understanding of *delincuencia* in Primero de Julio to other neighbourhoods and precarious settlements in Guatemala City given that each has their own specific histories and local racialized and classed dynamics. However, it seems relevant to this discussion that parts of the city that saw large in-migration from rural areas during the conflict and in the post-genocide period seem to be particularly marked as red zones and understood as especially, and even inherently, violent.

[100] This resonates with Carey's (2013) analysis, discussed above, of how the association between indigeneity and criminality was cemented at the turn of the 20th century by the legal system's association of "certain behaviors or lack thereof with rural areas"—which were understood, because of their isolation, as good places to harbor criminals—thereby using "place as a marker of race and crime" (p. 55), all under the guise of Liberal reformers' project to establish "universal" rights.

In stark contrast with the so-called red zones of the poorer parts of the city, zones 10, 14, 15, and 16 in the southern part of the city, stand as "spaces of respectability" (Razack 2002) where violence—though undeniably present—is not normalized or naturalized in the same way. This was illustrated in an article published in *Prensa Libre* (one of Guatemala's leading national newspapers) on October 17, 2010 (Orantes, 17 October, 2010). The article, "Indignación por ataque asesino en la Zona Viva" [Murderous attack in Zona Viva causes outrage] was published the day after a shoot-out in Guatemala City's Zone 10 took the life of three people and left eight others injured, and includes reactions from the public and politicians to the attack. On one hand, these statements are revealing of the way in which the space is understood as a place where violence does not belong; "this cannot be happening in these spaces," as one interviewee asserts. Comments attributed to Adela de Torrebiarte, a Guatemalan politician and former Minister of the Interior, on the other hand, clearly identifies which subjects are meant to occupy this space as well as the activity they should engage in there:

> …this is unfortunate and disturbing. Although this is not the first time there have been homicides, this was an attack against citizens who were in a restaurant, in a zone that is touristic. In cases like these, the Attorney General must proceed with an investigation immediately.

This comment also marks a distinction between whose life counts and who, by extension, can be killed with impunity. There have been other homicides, the former minister observes, but, "cases like these" deserve attention and investigation, presumably because of whom they were directed against: citizens and tourists engaged in consumption, victims implicitly more "worthy" than others. Also implicit in these comments is that, in stark contrast with the Zona Viva, where

violence simply "cannot be happening," there are spaces where violence is understood as normal and acceptable; or at the very least, expected—the red zones discussed above.

As in many other parts of Latin America, security has become a commodity in Guatemala City. The wealthy often live, work, shop, and socialize in gated neighbourhoods and guarded compounds, separated from the rest of the city by walls topped with razor wire or broken glass and relying on armed bodyguards and private security[101]—and sometimes even armoured cars and bulletproof clothes—in order to navigate between these walled-off areas (Levenson, 2011; O'Neill, 2019; Thomas et al, 2011).[102] In contrast, in poorer neighbourhoods where even basic public services such as water, sanitation, and electricity are scarce—never mind comprehensive social services or initiatives meant to ensure public safety, and much less broader understandings of human security—life itself has been made precarious. And while liberal social orders that centre individual property rights condemn the land invasions through which many precarious settlements came to be seen as violent (Blomley, 2003), the structural and systemic violence of the real socio-economic exclusions experienced within these communities is not recognized—or rather, is not understood *as* violence.

The fact that certain parts of the city are understood as "violent" or not is therefore not accidental, but rather linked to who inhabits them and how they were settled, which itself impacts the level of material resources that are available and have been invested in the area as well as the historically entrenched constructions of race and class that inform how the area and its residents are understood. Of course, the way that violence is understood—as contextual or inherent, for instance—deeply influences how it is responded to. For example, when ascribed

[101] The number of private security guards employed in Guatemala have steadily increased since the end of the armed conflict to the point where they far outnumber the number of police officers (O'Neill, 2019).
[102] As O'Neill (2019) discusses, home delivery service for fast food has also become a security-related commodity for the middle-class in a context where travelling to pick up food means potentially exposing yourself to violence.

criminality and *delincuencia* are understood as irredeemable—which seems to be the case in the spatial discourses on violence in Guatemala City's marginal areas exposed above—it justifies the use of "exceptional violence … to keep in line those whose uncivilized nature are so much in evidence" (Razack, 2008, p. 47).

Social Cleansing: The Stigma of Being Murdered

As discussed in the Introduction, rates of violent crime increased dramatically in the years after the Peace Accords were signed, particularly in Guatemala City where murder rates reached 108 murders per 100,000 in population in 2006 (PNUD, 2007). While this violence was not solely attributable to *maras* [gangs] or *mareros* [gang members], gangs did become an important focus of public discourses of security and crime over this period (O'Neill & Thomas, 2011). Guatemalan authorities had initially raised concerns over youth gangs in the mid-1980s, according to some observers in an attempt to distract from the state's own violence (Levenson, 2013). However, by the late 1990s and early 2000s, fear of *maras* had generalized among the broader population as gangs transformed from groups mostly made up of young people seeking a sense of community and solidarity—and generally not involved in anything more than petty crime—to highly hierarchical groups that idealize violence.[103]

This fear of gangs—though not necessarily unjustified—has led to stigmatization of youth, particularly of young men from marginalized neighbourhoods and impoverished backgrounds, with often deadly outcomes. Indeed, over the same period in which Guatemalan feminists started drawing attention to femi(ni)cide in the mid-2000s, human rights activists in the country were also calling attention to patterns of violence that they argued testified to a practice of extrajudicial executions of marginalized youth. While a similar practice had been observed in

[103] See Levenson (2013) for a rich discussion of this evolution and of the historical, social, economic, and political context that has shaped it.

Guatemala City in the 1990s (at the time targeting street youth), it seemed to have reappeared and re-intensified since 2003. In its more recent iteration, the victims were youth "who belong to gangs or *look* like they belong to them (they meet the physical stereotype that authorities and the social imaginary associate with someone who is in a gang)" (CALDH et al., 2007, p. 16).

The modus operandi of these murders pointed to the participation of official or parallel security forces: the bodies of murdered youth were often found with hands tied together behind their backs, with signs of torture, far away from their homes or from where they had last been seen, and with evidence that the bodies had been moved after having been killed—indicating access to resources necessary for moving bodies as well as the ability to move across space undeterred by authorities (CALDH et al., 2007; Sanford, 2008a). Among youth whose bodies were found with signals of torture (considered one of the main signs of extrajudicial executions) in February 2006, 63% had a police record and 17.5% had anti-gang or anti-*delincuencia* messages attached to their bodies (CALDH et al., 2007, p. 39).

By naming these murders "extrajudicial executions," human rights organizations seek to highlight the participation of the state and its security apparatus. However, it is much more common in Guatemala to hear these murders referred to as *limpieza social* [social cleansing], understood as

> the elimination of marginalized persons or "beings from lower sectors or strata of the population who, because of their marginalized condition carry the stigma of being 'deviant' or 'dangerous', which contributes, from the point of view of some social sectors, to justify their extermination." (Elsa Blair quoted in CALDH et al., 2007, p. 12)

This is telling of the perception that these murders would, to borrow from Foucault (2003), "make life in general healthier … and purer" (p. 255).

The CICIG suspects that up to 25% of the murders recorded during the tenure of Carlos Vielmann as the Minister of the Interior from 2004 to 2007 (under President Berger) may have consisted of extrajudicial executions.[104] This coincides with the same period during which feminists and human rights activists were starting to draw attention to violent murders of women and femi(ni)cide in the mid-2000s—in part by highlighting cases of murders that featured *ensañamiento* or overkill, as discussed in Chapter 2. While the particular gendered, sexualized, racialized, and classed ways in which *delincuencia* is understood in Guatemala has meant that marginalized and impoverished young men were especially targeted by these extrajudicial executions, a number of socially and economically marginalized women were likely victimized as well. Indeed, among the cases of presumed extrajudicial execution observed by CALDH et al. (2007) in February 2006, 20% of victims were women or girls (p. 45). It is therefore quite possible that, as some observers suspected at the time, some of the murdered women whose bodies were found with signs of torture or *ensañamiento* were in fact victims of extrajudicial execution because they were involved (or were suspected to be) in gangs, *delincuencia*, or sex work.

This contrasts however, with the prevailing understanding of femi(ni)cide as violence (sometimes exclusively murder) directed at women "because they are women," which, as I

[104] Vielmann is currently awaiting trial in Guatemala on charges of torture in the case of seven individuals who had escaped from a Guatemalan prison and were later found to have been killed in operations (known under the code name "El Gavilán") led by officials from the National Civilian Police and the Ministry of the Interior in 2005 in which they tracked down fugitives, tortured and killed them, and then modified the crime scene to make it seem like they had been killed in an exchange of fire with police (see CICIG, 2018a, 2018b). Vielmann had previously been tried in the Spanish National Court for similar charges in the case of another group of prisoners killed in El Pavón prison in 2006 (known as the "Pavo Real" case), but was found not guilty. A number of other high officials and police officers have been or are being tried in various jurisdictions on charges related to these cases, including Alejandro Giammattei who was head of the prison system at the time and was elected president in 2019 (he faced charges in Guatemalan courts, and spent 10 months in pre-trial detention but charges against him in were eventually dropped), and Erwin Sperisen who was convicted to 15 years in prison by a Swiss court. Prosecutors in these cases and the CICIG point to evidence that the officials led a clandestine security structure that carried out "social cleansing" (CICIG, 2018a, 2018b; de León Sagot, 2014).

explore throughout this dissertation, risks occluding the particular ways that women who are positioned differently within interlocking structures of power and identity experience and are victimized by femi(ni)cide not strictly because of their gender, but also because of how gender intersects with their race/ethnicity, sexuality, and class, for instance. María Isabel and Claudina were dismissed by authorities as victims whose murder was not worthy of investigation or justice because they were assumed to be *cualquieras* or somehow associated with *delincuencia*, gangs, or sex work—assumptions informed by the girls' appearance, clothing, as well as the locations in which their bodies were found in the classed and racialized space that is Guatemala City.

The dismissal by authorities of violent murders of women as "gang violence" not only serves to blame the victim and justify the lack of investigation when authorities assume that the victims had ties to *delincuencia*. It also sets up a disturbing reverse logic where being murdered marks certain victims as *delincuentes*. As an expert witness testified to the IACtHR in the Velásquez Paiz case, "being the victim of a violent death … transforms [the woman] into whatever pejorative or denigrating category corresponds to the gender stereotype" (quoted in *Velásquez Paiz et al. v. Guatemala*, Sentence, para. 182)—in the case of Maria Isabel and Claudina, that of a *cualquiera*.

I observed this dynamic in the aftermath of the murder of two teenaged girls during my fieldwork in April 2014, in a neighbourhood near to where I was staying. The sisters had been walking to school in Guatemala City's Zone 1 on the morning of April 3, 2014 when they were gunned down by two men travelling on a motorcycle a few blocks away from the high school they attended. Talk and images of the attack—which had been caught on nearby security cameras—quickly spread around the neighbourhood and the city, and prompted the school to close for a few days out of concern for students' security. As I drove by the school in the back

seat of a taxi the following week, I made a comment to the driver to the effect of how sad the killings were. To my surprise, his response was fairly dismissive, alluding to the idea that these girls had been "*metidas en algo*" [mixed up in something—a common expression in Guatemala signifying that someone is involved in illicit or suspicious activities]. This, of course, had also been the essence of President Otto Pérez Molina's comments on the killings before any semblance of an investigation could have been conducted—that the girls had links to Mara 18, one of the transnational street gangs that operates in Guatemala. Presumably, the fact that these girls had been killed was, retroactively, evidence that they had been up to no good.[105]

Given their strong presence, social cleansing practices and discourses evidently need to be taken into account when considering responses to femi(ni)cide, not only on the part of authorities, but also of activists and advocates, and of civil society in general. This chapter closes with just such a reflection, looking at how anti-femi(ni)cide advocacy has responded to the victim-blaming and dismissiveness that has marked the cases of many victims associated, accurately or not, with *delincuencia*, gangs, and sex work.

"She Was not a Gang Member or a Prostitute": Ladies Get Protection[106]

The stories of both María Isabel and Claudina's deaths and the authorities' failure to properly investigate them featured prominently in many of the reports discussed in Chapter 2. Amnesty International's *No Protection, No Justice* report in 2005 uses María Isabel's case to illustrate its findings on how authorities respond to violent deaths of women—the deficiencies in investigative procedures, the plight of family members seeking justice, as well as the stigma and

[105] In this case, unlike in many others, such stigmatization on the part of authorities (much less the President) did not stand in the way of successful prosecution: two men, presumed members of the Mara Salvatrucha, were sentenced to 52 and 62 years in prison for the murders (they had originally been charged with femicide) (Alvarado, 2015).
[106] The title of this section is inspired by Miller's (2004) article "Sexuality, violence against women, and human rights: Women make demands and ladies get protection."

impunity marring the case—while the update to the report it published in 2006 centres Claudina's case (see AI, 2005, 2006). Claudina's father's search for justice is also a central thread of the NFB/BBC documentary *Killer's Paradise,* released in 2007 (Portenier, 2007). The two cases are identified by the Guatemala Human Rights Commission (GHRC, 2009) as "egregious examples of the sadistic and violent murder of young women [that] have become representative of the thousands of cases that are not properly investigated and are never solved" (p. 1). Accounts of the cases have also been referenced and reproduced in many academic analyses of violence against women and femi(ni)cide in Guatemala (see Cházaro & Casey, 2006; Godoy-Paiz, 2012; Musalo et al, 2010; Sanford, 2008a; among others).

In most accounts, these cases are presented in such a way to emphasize the injustice in how authorities responded to these teenagers' murders and to contest their categorization as victims not "worthy" of investigation or justice. In a context in which logics of social cleansing justify the murders of presumed gang members and so-called delinquents and in which the young women's presumed ties to *delincuencia* or sex work were enough, in the eyes of investigators, to make them *cualquieras* somehow responsible for their own deaths, it is not surprising that the reaction of victims' families and justice advocates is to deny any such allegation and attempt to paint the victims in a more positive light. However, by trying to reframe the victim as someone who is worthy of justice, they risk reclaiming only that particular victim's respectability and status as someone whose death matters without challenging the idea that some others do not.

The following extract from Sanford's (2008a) account of the investigation into Claudina's murder illustrates how the discourse of *delincuencia* sets the tone for this dynamic:

> The first police officers on the scene determined that Claudina's murder was "not worthy" of investigation because she had a belly button ring and was wearing sandals. In the parlance of the Guatemalan police, this meant she was a gang member or a prostitute. But Claudina was not a gang member or a prostitute. Claudina Isabel Velasquez Paiz was a 19-year-old law student. Beautiful, gregarious, and well liked by her peers, more than 500 people attended her memorial service. (p. 114)

The mark of *delincuencia* and "prostitution" etched on Claudina by what she was wearing and where she was found needed to be erased before her death could be cast as unjustified in the eyes of authorities. In Sanford's (2008a) account it is the mention of certain gendered and classed attributes of the victim that become the ground on which to make this claim for respectability: she's a law student, "beautiful," "well liked." Similar gendered language is reflected in a description of María Isabel, offered in the first lines of a Guatemalan sociologist's report on femicide (Aguilar, 2005):

> María Isabel was a 15-year-old teenager, tall, thin, fair-skinned, and long chestnut-brown hair. She had just finished her third year of junior high school... she was a happy, funny and friendly girl... she liked to listen to music, to sing and dance. (p. 1)

The victim was "friendly," "funny," "thin"—all desirable traits in a respectable young woman. Tellingly, she is also described as being "fair-skinned," revealing the racial dimension of these claims for respectability.

While such discursive strategies might effectively dispute the authorities' initial assumptions that María Isabel and Claudina belonged to the category of people "whose death did not merit investigation" (PDH office, quoted in Sanford, 2008a, p. 114), it does not, however, challenge the idea that such a category exists. Families and advocates often reclaim victims'

respectability through gendered (beautiful, gregarious, friendly, well liked), classed (the fact that they were students), and racialized (fair-skinned) language that makes these exceptional cases (exceptional because of the *ensañamiento* and extreme violence that they suffered) recognizable as violence against the supposedly universal "woman," implicitly leaving out women who do not fit this description out of the category of respectable victims who are "worthy" of justice. "But Claudina was not a gang member or a prostitute." And what if she had been? Would that have made her death justifiable? Or not deserving of justice? Without examining and challenging the way that *delincuencia*—and, in Claudina and María Isabel's cases, sex work,[107] with its particular racialized and classed notions of respectable sexuality and gender—works to mark a divide "between what must live and what must die" (Foucault, 2003, p. 254), calls for justice that focus on particular victims' respectability do not extend much beyond themselves and others like them.

The action held in the Human Rights Plaza in November 2010, described in Chapter 2, in which signs reading "I was not killed for being a sex worker" or "I was not killed for using drugs" followed by "I was killed for being a woman" were held up by women pretending to be dead bodies on the ground does not explicitly deny the fact that some of the victims of femi(ni)cide may well have been sex workers or drug users. However, by insisting on the fact that this was not the reason that they were killed—that they were killed "for being a woman"—it risks occluding the interlocking structures that not only make some women more vulnerable than others, but also condition the response they get from authorities. Indeed, as I have illustrated throughout this chapter, the treatment that women victims of violence have received from

[107] As discussed above, investigators had insinuated to her mother that María Isabel had been involved in sex work and that this was what had gotten her killed. The fact that, as a minor, María Isabel's presumed involvement in sex work could not have possibly been legal or consensual was, however, never mentioned by police.

Guatemala's legal system has always been shaped not only by their gender but also by other facets of identity and structures of power such as race/ethnicity (in particular indigeneity), class, occupation, and sexuality. And, as the IACtHR highlights in its decision in *Velásquez Paiz et al. v. Guatemala* (2015), the Guatemalan state would have had the same obligation to guarantee the victim's rights, protect her from violence, and exercise due diligence in investigating her death had she been a sex worker. So why insist that victims are being killed "for being a woman"?

This question is especially pertinent given that murders of women featuring *ensañamiento* that were presented as emblematic of femi(ni)cide and used to emphasize the urgency of the issue in early activism and NGO reports (as discussed in Chapter 2) often involved victims who were marginalized not only by their gender but also by constructions of race/ethnicity, class, and sexuality—and, notably, by their involvement or proximity to sex work and gang activity. Since understandings of and responses to gendered violence have been informed by racialized, classed, and heteronormative constructs at least since the establishment of Guatemala's modern, Liberal-era, legal codes, responses to femi(ni)cide need to account for these constructs and how they intersect with and inform the category of gender.

Conclusion

In this chapter, I have illustrated how the assumptions that shaped the formation of modern state institutions in Guatemala in the late 19th and early 20th century have had long-standing impacts on how gendered violence is taken up by the legal system. Drawing on the work of historians and political scientists specialized in this period of Guatemalan socio-legal history, I have outlined some of these racialized, classed, gendered, and heterosexist assumptions and how they have filtered into Guatemala's current legal framework, contributing to the

construction of categories of victims that are seen as being worthy, or not, of the attention and resources of the justice system.

Carey's (2013) archival work provided an illustration of how domestic violence and VAW—particularly when directed at Indigenous women—were of secondary concern to the preservation of the nuclear family, seen as the very foundation of the nation-state. Read together, Carey's analysis, along with the work of Forster (1999), England (2014), and Menjívar and Walsh (2016), also offer a glimpse into the racialized and gendered constructions of the categories of honour and sexual propriety, which ultimately serve to shield some women from violence—and from state interrogations into their conduct—while implicitly justifying the violence experienced by others, and sometimes even blaming them for the violence to which they are subjected.

By drawing on the cases of María Isabel Véliz Franco and Claudina Isabel Velásquez Paiz, two teenagers killed in the early 2000s whose murders were taken up by anti-femi(ni)cide activists as exemplary of state inaction and discrimination, I traced how constructions of worthiness and respectability have impacted how the state responds to the violence of femi(ni)cide. Because authorities assumed that these girls were *cualquieras* or somehow connected to *delincuencia* or sex work, their murders were immediately categorized as not worthy of investigation. While these assumptions were, in the cases of Véliz Franco and Velásquez Paiz, most clearly based on markers of class and gender, this chapter also illustrated how *delincuencia* is also intimately tied to race/ethnicity in the highly segregated space that is Guatemala City.

Finally, I argue that, because of the logic of social cleansing that has taken hold in Guatemala in reaction to the dramatically increased levels of criminal violence that have been

experienced in recent years, the fact of being murdered is enough to mark (some) women with the stigma of *delincuencia*, thus justifying their death through retroactive, postmortem, attributions of responsibility. In this context, contesting a particular victim's inclusion in the category of victims unworthy of justice—whether because of their assumed proximity to or involvement in sex work, organized crime, or youth gangs based on their appearance or of where they were found—is not enough. Such a move not only leaves the categories of worthy/unworthy victims unexamined, but it also fails to challenge the fact that such as category exists at all.

In the following chapter, I shift my focus to the process of legislating against femi(ni)cide, highlighting how the activism described thus far in this dissertation in conjunction with feminist efforts to push "postconflict" legal reforms influenced the debate, eventually leading to what one key informant described as one of the most progressive laws against violence against women in the continent—at least on paper.

Chapter 4

Legislating Femi(ni)cide: From Feminist Activism to Criminal Law

This chapter traces the development—in reaction to the activism and advocacy of women's and human rights organizations nationally and internationally—of legislation against femi(ni)cide in Guatemala. Drawing on interview data and on documentary sources (including former Justice Aldana's (2013) book detailing the motivation for and process of establishing Specialized Justice Bodies for crimes against women, the texts of proposed legislative bills, media reports, as well as the work of feminist social scientists in and outside Guatemala), I locate these developments in the broader framework of the long-standing work that Guatemalan women's organizations have been engaged with in response to VAW for many years, in most cases prior to the emergence of femi(ni)cide and violent deaths of women as an issue in the country.

Given the historical socio-legal context outlined in Chapter 3, an important part of the legal reform activism that Guatemalan women's organizations have engaged in has focused on amending parts of the country's legal framework that continued to incite, or at least excuse, violence against women. Among the articles or provisions mentioned by key informants as being salient in their activism in the immediate post-peace accord period were a section of the Criminal Code that provided for rape charges to be vacated if the accused agreed to marry the victim, as well as Civil Code provisions that allowed a man to decide if his wife was permitted to work outside the home. They explained that together these provisions naturalized violence and men's control over women, and deepened women's economic dependency on their husbands.

For these reasons, several key informants clearly located activism and advocacy against femi(ni)cide and violence against women within this broader struggle for gendered legal reform:

> This law [against femicide] was part of an intense process in which we invested a lot of time and a lot of determination and skill that concluded with this [law]; but since '87, since we learned that the CEDAW existed we started analyzing the [legal] codes.

Campaigns against femi(ni)cide had, by the mid-2000s, succeeded in gaining much more attention and political currency than past anti-violence campaigns. As discussed briefly in previous chapters, the attention that was brought to the issue by national and international reports and media coverage eventually led the state to start taking action in response to this violence: in late 2005, the government of President Berger established a Presidential Commission on Femicide and, most significantly, in April 2008, the Congress of Guatemala adopted the Law against Femicide and Other Forms of Violence against Woman. As will be outlined in this chapter, the latter was largely adopted thanks to the continued pressure put on Congress by the women's movement, in tandem with pressure from international institutions that helped raise awareness of and condemnation for femi(ni)cide.

The chapter begins with an overview of Guatemalan feminists' anti-violence activism and engagement with the law, as well as the national and international dynamics that influenced them. I then examine some of the gendered legal reforms that have been taken up in "postconflict" Guatemala before offering a more in-depth discussion of the Law against Femicide where I discuss the confluence of factors that led to the adoption of this law, offering an overview of the process of its drafting, including other bills that had been proposed in the months prior to its adoption, and negotiations over content that led to its final approval. Then, I discuss the regional and transnational influences in these processes as well as the critical role that

the Guatemalan women's movement played in both creating and taking advantage of a "favourable balance in power," as one key informant described it, to push members of Congress to take action on the issue. The chapter ends with a reflection on how the mobilization, by Guatemalan feminists, of the notion of a continuum of violence against women in their activism allowed for "other forms of violence against woman" (as the law names them) to be criminalized despite their continued normalization in Guatemalan society at large, as well as among members of Congress.

Guatemalan Women's Anti-Violence Activism

Women have been active in social and political struggles in Guatemala throughout the country's history—and in different capacities and spaces dependent on their class, ethnic/racial background, and location[108]—and among the membership and leadership of many of the "popular movement" organizations that emerged in the late 1970s and early 1980s in resistance to the country's deepening social, economic, and political crisis (Berger, 2006; Blacklock, 1999; Blacklock & Crosby, 2004; Monzón, 2011, 2015). A series of historically contextual developments, however, led to the proliferation of women's organizations in the late 1980s.[109] While Indigenous women were also active in many organizations that emerged as Guatemala moved towards democratization—including, notably, the Coordinadora Nacional de Viudas de Guatemala [National Coordination of Widows of Guatemala, CONAVIGUA] and Mama Maquín

[108] Monzón (2011, 2015) provides some examples of women's social and political activism prior to the internal armed conflict, including Indigenous Maya women's resistance to colonial authorities in the late 18th and early 19th century, a 1925 strike by women coffee workers, as well as *ladina/mestiza* middle- and working-class women's organizing for political, labour, and social rights during the decade of the 10 years of spring (1944-1954).

[109] Blacklock (1999) recorded the existence of 20 women's organizations based in Guatemala City in 1993 as well as a "growing number" of women's associations and collectives in the city's marginalized neighbourhoods and urban areas—most of these would have been formed within the previous decade. Also see Berger's (2006) study of the Guatemalan women's movement in the democratization and immediate "postconflict" period.

(which organized in exile in Mexico)—most women's organizing during this period was located in urban areas and comprised of middle class or professional *ladina* women.

The return to "civilian rule"—albeit with significant continued military control— in 1986 and the start of negotiations to put an end to decades of internal armed conflict were the first developments that opened political space for a coordinated women's movement. In particular, the participation of women in the peace process in the Asamblea de la Sociedad Civil [Assembly of Civil Society, ASC] through the Sector de Mujeres [Women's Sector][110] "increased the national visibility of the women's movement, strengthened the movement's internal organization, and provided the organizational structure to help the movement develop a multicultural, multiclassed gender analysis based on rights" (Berger, 2006, p. 35). The series of economic crises that had pressured Guatemala's military rulers to move toward democratization can also be seen as contributing to women's organizing in the country since these crises, as well as the war itself, had, as discussed in Chapter 2, "destabilized" gender roles and identities (Blacklock, 1999; Doiron, 2007, 2010; Green, 1999). These developments coincided with the consolidation, both regionally and internationally, of feminist movements and of activism in favour of women's human rights. According to Monzón (2011), together, these conditions in the late 1980s and early 1990s allowed feminist intellectuals in Guatemala to start debating the "woman question" for the first time.

The context in which women's organizations emerged in Guatemala has shaped the evolution of the women's movement in important ways. The leadership role of women who had

[110] The Sector de Mujeres initially identified the "sector" of informal coalition of women's groups, organizations, and feminist activists that had come together for the explicit purpose of participating in the peace negotiations through the ASC. It eventually became an established NGO and has remained active in the post-peace accords period, continuing to operate in the present as a feminist coalition of women's organizations and acting as the representative of women's organizations in the Comisión Nacional de los Acuerdos de Paz [National Peace Accords Commission].

been key figures in left-wing and union organizing, as well as in the armed struggle, meant that, at least in the early days, "address[ing] the issues of *pobladoras* [working class woman] in an effort to contribute to the class struggle of the popular movement" (Blacklock, 1999, p. 210) became a central concern of the emerging women's movement as well. However, according to Blacklock (1999), this leadership was also responsible for the "top-down" formation of many organizations and the consequent lack of consultation with or guidance from the same *pobladoras* that organizations were striving to assist. In subsequent years, with Guatemala's growing integration into neoliberal globalization—a key feature of its democratization—the women's movement has become increasingly professionalized and focused on service provision, turning away from "protest politics to policy work" (Berger, 2006, p. 2; see also Monzón, 2015), a common characteristic of the "NGO-ization" of social movements—and particularly of the women's movement—that has been observed across Latin America in the 1990s.[111]

The reliance of emerging women's organizations on international funders to sustain their activities partly encouraged these trends. Indeed, starting in the 1990s at the Latin American level, international donors had started to emphasize "visible impact and quantifiable project results" much more than in previous decades, "reorient[ing] the activities and internal dynamics of many NGOs" (Alvarez, 1999, p. 197). In Guatemala, this coincided with the negotiation of successive peace accords, a period during which the number of NGOs operating in the country increased dramatically and many organizations that had gone underground because of state repression also began to re-emerge. The signing of the peace accords led to an influx of funding

[111] Alvarez (1999) first coined the concept of NGO-ization when describing a shift, in the late 1990s, in the composition and focus of feminist NGOs across Latin America. She argued that the increasing reliance on international and state funding by feminist NGOs and their entry into subcontracting and consulting relationships with the state could potentially threaten their ability to critically assess and pressure state bureaucracies. See Berger (2006) for a discussion of this trend in Guatemala. Also see Alvarez (2009) where she revisits her earlier argument, contextualizing and tempering it a bit.

for development and reconstruction projects from international institutions, including the various aid agencies of European and North American countries (Beck, 2014). This new context also introduced more stringent expectations in terms of reporting and accountability than there had been for the (lesser and often also underground) international support that had been provided to social movements and organizations during the height of the conflict in the late 1970s and early 1980s (Beck, 2014; Blacklock & Crosby, 2004). The Guatemalan women's movement was not impervious to these trends, and, as funding pushed them toward more project-based work and service provision, women's organizations had to develop the skills and knowledge to implement and monitor these programs, at the same time as funders began favouring organizations that had staff that could demonstrate desired technical and professional competencies, as well as the class background and personal connections necessary to successfully negotiate with state bureaucracies (Berger, 2006).[112] The increasing professionalizing of women's organizations that resulted from this shift further widened the divide in terms of class and ethnicity between staff and what were now coming to be regarded as "clients": the former being mostly composed of middle- or upper-class, urban, *ladina* or *mestiza* women, and the latter of poorer and often Indigenous women from rural or marginalized urban areas (Blacklock, 1999).[113]

In addition to its structure, the focus of the Guatemalan women's movement was also importantly influenced by the national, regional, and international contexts of the 1980s and 1990s in which it emerged and consolidated. The women's movement inherited its focus on human rights from the "popular" movement and armed struggles against a genocidal

[112] While this has been observed as a general trend in the women's movement, Beck's (2014) research with NGOs in other sectors in Guatemala found that the history of an organization's foundation, along with the historical distrust that has existed between social movements and the state has conditioned this impact, "resulting in an uneven process of professionalization and varied relationships with the state" (p.153).

[113] Berger (2006) identified a similar ethnic and class divide between women's organizations in the late 1980s that identified as feminist and those that did not, specifying that the latter tended to maintain more of a focus on intersections of class, ethnicity/race, and gender in their work (see pp. 29-31).

counterinsurgency regime of the 1980s. Indeed, organizations such as the Grupo de Apoyo Mutuo [Mutual Support Group, GAM] and CONAVIGUA[114] that were formed in response to the widespread state practice of "disappearing" political dissidents, union activists, students, community organizers, and anyone else it considered an "internal enemy" made strategic use of human rights discourses to denounce this practice and demand accountability.

A common tactic was to expose state abuses to an international audience as a way to "pressure the Guatemalan state to recognize its international commitments through covenants to respect human rights and thereby build a safety shield for political activists in Guatemala" (Blacklock & Macdonald, 1998, p. 136). This was often paired with work focused on "political conscientization" aimed at "generating a sense of entitlement by raising awareness of what human rights are and who has them" (p. 137)—a practice that many women's organizations have upheld into the present. Together, these strategies ensured that human rights remained "the organizing principle and discursive framework of popular struggle" in Guatemala into the so-called "postconflict" period (p. 138). According to Berger (2006), this concern also translated into women's organizing, where the concept of rights has come to play a "key organizing role and unifying point for the Guatemalan women's movement" (p. 114).

As in other parts of the world, and especially across Latin America, violence against women became an increasingly important focus of Guatemalan women's organizations in the 1990s. The establishment of the REDNOVI in 1992 by ten women's organizations was a clear signal that anti-violence work was to be one of the unifying forces in a movement that has historically been divided along urban/rural, racial or ethnic, and political (as well as partisan)

[114] Interestingly, both organizations were mainly led by women but neither defines themselves as feminist, and GAM does not even identify as a women's organization.

lines, and that has also seen cleavages emerge around such issues as sexuality and debates around how closely to work with the state, if at all (Monzón, 2015).

This focus on rights also translated into women's organizations' work on VAW, both in the pressure tactics that they adopted as well as in their rationale for why this work is important. Indeed, when I asked key informants why it was important to address femi(ni)cide or violence against women more generally, their responses almost always included a reference to the concept of rights in some way. For some organizations, like Convergencia Cívico Política de Mujeres [Women's Civic and Political Convergence, CONVERGEMUJERES], whose organizational mission is to promote women's political participation, VAW became part of their work when they found that this violence was an obstacle to women's civic and political participation. In my interview with representatives of CONVERGEMUJERES this was explained as a decision, on the part of the organization, to address this more immediate need as a step towards realizing their overall objective.[115] Many other women's organizations in Guatemala also started working on violence against women tangentially—because it "came up" in the context of, or was an obstacle to, their other work with groups of women—or as part of a broader program focused on women's rights.[116] As one key informant commented:

> Gender violence is one of the main obstacles to the exercise of the rest of women's rights. I mean, I think that this is the reason that it's become a rallying cry because we are all

[115] CONVERGEMUJERES' focus on women's political participation as a "strategic gender interest" (Molyneux, 1985) and VAW as an obstacle—more of an immediate or "practical" interest in Molyneux's formulation—came across clearly in my interview with representatives of the organization, reflecting the liberal feminist orientation of the group.

[116] Few organizations in Guatemala have had a singular focus on violence against women or gendered violence, with the exception of the Grupo Guatemalteco de Mujeres (GGM) and Fundación Sobrevivientes. Sobrevivientes, however, does not define itself as feminist or identify very closely with the women's movement. The key informant I interviewed explained that the Foundation's work has shifted slightly according to the needs that they observe: legal support in cases; economic support / training for women survivors; psychological process to empower survivors and avoid that they get right back into another abusive relationship.

> conscious that violence impedes women's economic empowerment, political empowerment, mobility. … where we promote women's rights, we have to address violence against women, otherwise there's no way forward.

Regardless of how they came to work on the issue, many key informants—from women's organizations, state institutions, as well as individual feminists—made reference to women's "right to live a life free of violence" when discussing why violence against women and femi(ni)cide are important issues. This reference to Article 3 of the Convention of Belém do Pará (1994), which states that "Every woman has the right to be free from violence in both the public and private spheres" has become a ubiquitous slogan of anti-VAW and anti-femi(ni)cide campaigns across the continent and places these struggles squarely within the regional and transnational "women's rights as human rights" movements of the 1990s and early 2000s, discussed in Chapter 2. The use by Guatemalan women's organizations of a human rights framework to understand and explain their work on VAW is therefore both exogenous and endogenous, at once influenced by the international/regional circulations of human rights discourses as well as by the legacy of organizing during the internal armed conflict in resistance to state repression.

Legal Activism: Using the Law to Change Social Norms

Recourse to legal activism—building, knowing, and using legal tools in order to put the rule of law within the reach of marginalized groups—has become a common tool in the struggle of women's movements in Latin America against violence against women and forms of sexual and gender violence (Garcia, 2014). Feminists advocating for legal reform as a tactic to fight violence against women call on the social control function of law—its ability to employ coercive means to regulate human conduct—to argue, on the one hand, that the criminalization of

violence against women can have a dissuasive or preventative impact. On the other, they also recognize the "positive aspect of law as an agent of change [which] comes from the potential it has to alter cultural norms" (Fregoso, 2014, p. 15). When I asked the Guatemalan feminists and anti-violence activists that I interviewed during my fieldwork why recourse to the law had been important in the struggle against femi(ni)cide, their answers echoed these understandings of the power of law. They spoke of the potential dissuasive impact of criminalizing violence against women while also pointing to law's symbolic power, insisting that naming violence—in this case femi(ni)cide and violence against women—is the first step in recognizing that it exists and starting to respond to it. As one key informant explained: "I am going to resort to a very old saying, but what isn't named doesn't exist".

Second-wave feminist approaches to VAW have, as discussed in Chapter 1, highlighted how the lack of recognition, historically, of women as rights-bearing subjects in Western legal traditions has contributed to violence against women and its perceived permissibility. A few of the activists I spoke with who were also lawyers clearly located Guatemala's legal framework within these traditions given that, as a former Spanish colony, it was established as a civil law jurisdiction (and therefore derives from, as one key informant put it, "Roman law") and identified the various ways that this framework sustains impunity for crimes against women and maintains the violent (for women) status quo. One key informant spoke of her analysis early in her career of provisions in the Guatemalan Civil Code that, as discussed in Chapter 3, have conditioned women's access to certain rights on their relationship to men (generally their father or husband), amounting to women not being considered autonomous individuals under law. Other key informants described how the antiquated laws around sexual violence (also discussed in Chapter 3) that remained in the Penal Code until relatively recently, the lack of any law that

recognizes or penalizes sexual harassment and marital rape, as well as the fact that rape and sexual crimes were, prior to 2008, not defined as crimes "*de acción pública*" [subject to prosecution without the participation of the victim(s)] all contributed to normalizing sexual violence and abuse (on this point also see AI 2005; UNCHR, 2005).[117] However, in addition to striking down sexist provisions in existing legal frameworks, many argued—paralleling the argument articulated by Bunch (1990) in relation to human rights regimes—for the need for specific legislation addressing femi(ni)cide as a way to "gender" the institution of law by introducing legislation on issues that have historically disproportionately affected women but have remained unrecognized and outside of law's reach.

The murder of women was, of course, already criminalized in the Penal Code under the general prohibition against homicide. However, the goal of legislating against femi(ni)cide was to "name" it in law, as one key informant (quoted above) argued, and therefore recognize the specificity of the violence, distinguishing it from murder and violence against men because of its sexist undertones. As mentioned in the introduction to this chapter, several key informants contextualized this push for a legal—and specifically criminal—response to femi(ni)cide within the broader history of feminist engagement with the law in order to address sexism and correct discrimination, within Guatemala as well as globally.[118]

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[117] Indeed, a key informant offered an anecdote from recent research visits that illustrates how the now revoked legal definitions of sexual violence continue to work to normalize such violence. She explained that when her team visited police stations in northeastern Guatemala, a large portion of police reports that they observed had been filed for rape. When they asked why there were so many cases of rape they were told that the cases were not rape but rather cases of "boyfriends steal[ing] young women" and parents reporting it as rape to force them to get married, referring to the repealed Penal Code provision that used to permit rape charges to be vacated if the accused married the victim, but that have evidently continued to influence social behaviour and expectations.

[118] This was especially highlighted by organizations with a more liberal feminist bent, such as CONVERGEMUJERES as well as by key informants trained as lawyers and organizations that work accompanying legal cases, but appeared as a subtheme of interviews with many other organizations and activists. Illustrating the global feminist conceptualization that many key informants seemed to hold of this activism, one key informant traced the lineage of the Law against Femicide and the activism that spurred it all the way back to Olympe de Gouges as well as other 18th and 19th century European activists for women's suffrage.

In the following section, I outline the "postconflict" gendered legal reforms that preceded the Law against Femicide and gave it context. Feminists and anti-violence activists who turn to law to attempt to address sexism, discrimination, and gendered violence are often well aware of the apparent contradictions of drawing on an instrument—law—that they critique for its patriarchal and masculinist bias (Davies, 2011; Kline, 1993; Youngs, 2003). This was also the case for several of the activists that I interviewed who saw legal reform as a necessary, or at least a very important, but imperfect tool—an issue that I return to in Chapter 5.

Peace Process, Democratization, and Gendered Legal Reform

Through their participation in the ASC, various sectors of Guatemalan civil society had worked together to develop proposals on a series of topics contemplated within the peace process, many of which were eventually adopted in the accords themselves.[119] Feminists and women's organizations participating in the Sector de Mujeres of the ASC brought attention to gender issues, pushing for a number of provisions on gender equality to be included in the proposals that civil society brought to negotiators (Méndez & Barrios-Klee, 2010). This was significant in that, while many women had participated in and led left-wing organizations, it was one of the first times that they organized explicitly around gender issues (Alvarez, 2002; Berger, 2006). Berger (2006) argues that this experience not only increased the visibility and internal organization of the women's movement, but "also eventually convinced many women of the need to work with and within the state for change" (p. 35). Despite the fact that the final series of Peace Accords did not include a "gender" or "women's accord," the work of the ASC, and of the Sector de Mujeres in particular, did result in the recognition, in the accords, of more diverse roles for women—especially in relation to economic and community development (Berger,

[119] See Alvarez (2002) for an overview of the structure and functioning of the ASC.

2006). A provision calling for sexual violence to be criminalized and considered an "aggravated" crime when committed against Indigenous women was also included in the accords. This provision was advanced largely as a result of Indigenous women's activism to get the Peace Accords to recognize and denounce the wartime sexual violence that they were subjected to at the hands of the Guatemalan Army; however, instead of this recognition, the recommendation to consider indigeneity as an aggravating factor in sexual violence charges going forward reflected the overall approach in Guatemalan law of understanding Indigenous women within a framework of "vulnerability" (Berger, 2006) Finally, in the context of the Accord on Socioeconomic Aspects of the Agrarian Situation signed in June 1996, the signatory parties agreed that the state would "revise national legislation and regulations in order to eliminate all forms of discrimination against women's economic, social, cultural, and political participation" (cited in Méndez & Barrios-Klee, 2010, p. 37) in order to come into compliance with CEDAW, which it had signed and ratified in the midst of the conflict.[120] Guatemalan activists in later years would continue to justify their calls on the legislature to take action against discrimination and violence on similar grounds (of ensuring compliance with CEDAW), also citing Article 46 of the Constitution of Guatemala which gives pre-eminence to international human rights treaties and conventions over domestic law.

The first attempt at such "harmonization" of domestic law with international conventions, the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar* (Law to Prevent, Sanction, and Eradicate Intrafamily Violence, Decreto 97-96, henceforth "VIF Law"), was

[120] Guatemala ratified the CEDAW on August 12, 1982, when Ríos Montt was de facto President and in the midst of ongoing repression across the country, scorched earth campaigns in the Western Highlands, and specifically, of Operation Sofía in the Ixil region. This military operation was carried out from July 16 to August 19, 1982 and was found to have "intentionally caused harm and suffering to Indigenous Ixil communities by the Army in its campaign to eradicate armed guerrilla groups" (Doyle, 2009), resulting in the torture, massacre, and forced displacement of thousands of Indigenous civilians in the area (Tribunal Primero de Sentencia Penal, C-01076-2011-00015).

initiated in parallel with the peace process and was adopted by Congress in October 1996, only a few months before the final peace accords were signed.[121] It was the first of three "gendered" laws adopted between 1996 and 2003 that, as discussed in Chapter 3, "created the legislation, discourse, and institutional structures for a more gender-sensitive state agenda but simultaneously also confirmed patriarchal notions about Guatemaltecas" (Berger, 2006, p. 43).[122] Along with the creation of the DEMI in 1999 and the Secretaría Presidencial de la Mujer [Presidential Secretariat for Women, SEPREM] in 2000, the Interfamily Violence law also established the first pieces of what many in the women's movement have since come to call the "*institucionalidad a favor de las mujeres*" [institutional framework in favour of women]. These advancements—as well as the adoption of the Law against Femicide, discussed below—were all largely accomplished thanks to the efforts of feminist activists and women's organizations which seized the openings created by the peace process, including the increased strength and mobilization of the movement, to push for reform (Berger, 2006; Méndez & Barrios-Klee, 2010).

Law to Prevent, Punish, and Eradicate Intrafamily Violence

In the late 1990s, women's groups were lobbying Congress to pass a law to integrate the principles of the recently adopted Convention of Belém do Pará into domestic law. The proposal they advanced, however, for a Law to Prevent, Punish, and Eradicate Violence against Women, faced resistance from legislators who wanted to "keep the law neutral" and therefore "attempted to turn attention away from any discussion of gender politics and power inequities" (Berger,

[121] While this law is not, strictly speaking, a "postwar" law since it was passed a month before the final peace accords was signed, I treat it as such here, recognizing that the strict division between "pre" and "post" armed conflict is often artificial and not necessarily useful, especially given that direct talks between the URNG and the Guatemalan government began five years before the final accord was signed, which was, itself, preceded by a number of agreements signed between 1994 and 1996.

[122] The other two laws identified by Berger are the *Ley de Dignificación y Promoción Integral de la Mujer* (Law for the "Dignification" and Comprehensive Advancement of Woman, Decreto 7-99) and the *Ley de Desarrollo Social* (Social Development Law, Decreto 42-2001), discussed in Chapter 3.

2006, p. 47). The law that was finally adopted—the Law to Prevent, Sanction, and Eradicate Intrafamily Violence (known as the "VIF Law")—echoes the Convention of Belém do Pará (1994) in its title and much of its language.[123] However, Guatemalan feminists charged that by making "intrafamily violence" its focus instead of violence against women, the VIF Law failed to recognize the fact that this violence is overwhelmingly committed by men, and that the victims are generally women.[124]

When I asked them why the Law against Femicide was important, many key informants specifically referred to the 1996 VIF Law and the need to address its shortcomings, including, as several described it, its potential to be "used against women." Despite recognizing the importance of the VIF Law's provision for protective measures to be put in place for victims, they also insisted on the limitations of a law whose only power is to "monito[r] an abusive situation after it has already happened" (Berger, 2006, p. 47) and provides no other recourse or resources for women victims of violence in a context in which even the limited protective measures it calls for are rarely enforced. Furthermore, since the VIF Law was not a criminal law, the Penal Code continued to treat this violence as any other assault, with punishments established in proportion to the severity of bodily harm (the number of days wounds take to heal, for example), thereby "set[ting] up an implicit economy of violence, where a certain level of abuse is accepted as inherent to family relations, beyond which it constitutes a criminal offence" (Macaulay, 2006, p. 109). As Friedman (2009) explains, while this approach was common in the first "wave" of integration of the Convention of Belém do Pará into domestic laws across the continent in the 1990s, the failure to address violence against women as a crime in these laws

[123] The law's recitals also recognize Guatemala's ratification of the Convention, and of CEDAW, as part of the context in which it was adopted.
[124] This critique of the VIF Law, mentioned by several key informants, is also discussed by Berger (2006).

and to specifically uphold "women's right to a life free from violence" (p. 363) makes them fall short of compliance with the Convention.

It would take until the mid-2000s for bills addressing the shortcomings of the VIF Law and focusing specifically on violence against women rather than on "intrafamily violence" to make their way back to Congress.[125] These proposed bills coincided with a period in which, as discussed in Chapter 2, talk of femi(ni)cide had become common across Guatemalan society, influencing the content of these bills and how they were taken up—which is the focus of the following section.

Regional and International Pressure on Congress

By the mid-2000s, violent deaths of women and femi(ni)cide had become an issue of concern for Guatemalan civil society. Reports published by national and international NGOs had focused attention on the increasing rates of murders of women in Guatemala as feminists and anti-violence activists were organizing through the *¡Ni una muerte más!* campaign, together urging the state to take concrete actions to address this violence. Women were already making the case for a legal response to the violence as early as 2004, demanding, in marches to mark the International Day of Elimination of Violence against Women in November 2004 and International Women's Day in March 2005, "justice, investigation, and prevention" of the violence, "that the law against sexual harassment be approved and that penalties for intrafamily violence be increased" ("25 de noviembre," 2004, p. 4) and declaring that, as discussed in Chapter 2, "the lack of legislation is also a form of violence" (see Costantino, 2006, p. 117).

[125] Bill 2630 consisted of a fairly comprehensive proposal that called for a number of reforms to the Penal Code in order to address sexual violence and violence against women. It was first introduced to Congress in 2002, where it languished in committees for nearly four years before being sent back to debate in 2006 and ultimately being abandoned (Bill 2630; "Análisis de Ley contra el Femicidio," n.d.). This bill included definitions of broader human rights violations and was therefore sent to several different committees for study, which was reportedly hard to coordinate.

During the same period, a group of female legislators started meeting with their counterparts from Mexico, and later Spain, to address exactly this issue. The initiative started as a bilateral "Technical Commission" launched by Mexican academic and activist Marcela Lagarde, who sat in the Mexican Chamber of Deputies at the time and was president of that body's Special Commission on Feminicides[126] (Comisión Especial de Feminicidios, 2005). She travelled to Guatemala in September 2004 to address the Guatemalan Congress and met with a group of women members of Congress to discuss the establishment of the Technical Commission. The following spring, the initiative evolved into a tripartite "International Interparliamentary Dialogue on Feminicidal Violence" which brought together a number of legislators from Spain, Mexico, and Guatemala who shared critiques of their respective government's responses to violence against women in general and femi(ni)cide in particular, and aimed to work together toward the creation of state policies to address this violence and to promote the adoption of provisions against feminicide at the international level (Comisión Especial de Feminicidios, 2005, pp. 21-22).[127]

The group, whose activities were supported, among others, by UNIFEM, the UN International Research and Training Institute for the Advancement of Women (UN-INSTRAW), and the United Nations Population Fund (UNFPA), worked together to systematize information related to feminicidal violence in their countries and discussed strategies to respond to this violence, including through legislative action and the development of "efficient legal mechanisms" at the national level (Comisión Especial de Feminicidios, 2005). They also

[126] The full name of the commission was *Comisión Especial para Conocer y Dar Seguimiento a las Investigaciones Relacionadas con los Feminicidios en la República Mexicana y a la Procuración de Justicia Vinculada* [Special commission to understand and monitor investigations related to feminicides in the Mexican Republic and the corresponding pursuit of justice].

[127] See Aldana (2013, pp. 205-208) for the text of the Covenant signed by the participants when the Dialogue was established.

endeavoured to "develop initiatives on the international level to demand the attention of states" (Aldana, 2013, p. 68). As such, meetings were held in each of the three countries—in Mexico in May, Guatemala in June, and Spain in September of 2005, and once again in Mexico the following year—as a way to share information but also to encourage states and supranational bodies such as the Iberoamerican Parliamentary Meetings as well as the Inter-American Women's Commission of the OAS to address the issue. One of the Guatemalan congresswomen who participated in the Dialogue describes the process:

> What we did was go to Spain and Mexico to show what was happening in Guatemala. Even though Mexico had the situation in Juárez…[sic] So the combination of what was going on in Juárez and Guatemala made us become visible to the world. This lobbying gave us positive results, especially in Spain. In Guatemala we had 462 that had been brutally murdered and in Spain, 6. To get to Europe with these numbers was inadmissible…[sic] They would tell us:—This state of affairs cannot continue without proper legislation. (Myrna Ponce, quoted in Aldana, 2013, pp. 67-68)

Another member of Congress who participated in the Dialogue explained that "the [Guatemalan] State has abandoned its social responsibility and insecurity, violence, and femicide have been unleashed. I have no doubt where the responsibility lies: I affirm it both outside and inside Guatemala" (Alba Maldonado, quoted in Prieto-Carrón et al, 2007, p. 33).

This strategy, of seeking outside support in order to put pressure on the state, is reminiscent of the "boomerang" and "pincer" effects that helped get Latin America's first generation of laws on gendered violence adopted in the 1990s (see Friedman, 2009). In that case, the work of the Inter-American Commission of Women (CIM) at the supranational level (developing the Convention of Belém do Pará along with its accountability mechanisms) along

with the activism and campaigning from local and national civil society succeeded in putting enough pressure on states to start integrating the principles of the Convention into their national legislation. In Guatemala, that process led to the adoption of the 1996 VIF Law discussed above.

Starting in 2004, inter- and supranational actors were once again exerting pressure on the Guatemalan state, this time to respond to femi(ni)cide and violent deaths of women. That year, the CIM began implementing a monitoring protocol that, while state-centric, "national advocates can use … to promote the original intent of the Convention of Belém do Pará" (Friedman, 2009, p. 369); in April 2006, the European Union discussed conditioning its aid to Central American countries on the implementation of measures to address violence against women (Prieto-Carrón et al, 2007); and in May 2007, the US House of Representatives passed a resolution condemning the violence, calling on authorities to investigate the killings, and "urg[ing] the Government of Guatemala to recognize domestic violence and sexual harassment as criminal acts," among other actions (H.R. Con. Res. 100, 2007).

In the last of these examples, the Interparliamentary Dialogue is cited in the preamble of the resolution, testifying to the influence of its lobbying vis-à-vis international actors. Several key informants explained that the members of Congress who participated in the Dialogue—including Lagarde herself, who has close ties to Guatemalan feminists—also played an important role in developing and negotiating the content of some of the bills addressing violence against women that would be proposed over the following years and in lobbying for their approval. In fact, it was at their urging that Congress passed a resolution in November 2005, on the eve of the International Day for the Elimination of Violence against Women, condemning the murders, sexual abuse, rape, and violence against Guatemalan women and declaring its intention, among other things, to address violence against women and the impunity that was reigning in cases of

femicide (Aldana, 2013). This was the first signal that the Guatemalan Congress was starting to react to pressure—exerted from above and from below—to address the rising indicators of violence against women and femi(ni)cide.[128]

Legislators in Action: A Flurry of Bills

Four different bills would be proposed by members of Congress from across the ideological spectrum over the next two years: in August 2006 *Iniciativa 3503, Ley contra el Femenicidio* [Bill 3503, Law against Femenicide [sic]] was presented by legislators from the centre-left Unión Nacional de la Esperanza [National Union of Hope, UNE]; then in November, a member of Congress from the Bloque Solidaridad (Solidarity Bloc, a group of legislators that had defected from the conservative Gran Alianza Nacional [Great Nacional Alliance, GANA]) presented a bill for a *Ley contra el Acoso y Hostigamiento Sexual* [Law against sexual assault and harassment] (Iniciativa 3566); in February 2007, a group of legislators, mostly from the right-wing Frente Republicano Guatemalteco [Guatemalan Republican Front, FRG] and Partido Patriota [Patriot Party, PP], proposed *Iniciativa 3612, Ley Tutelar del Derecho Humano de la Mujer a una Vida Libre de Violencia* [Bill 3612, Law for the Protection of the Human Right of Woman to a Life Free of Violence];[129] and, finally, in October, two members of Congress, women from the socialist Unidad Revolucionaria Nacional Guatemalteca [Guatemalan National Revolutionary Unity, URNG] and centre-left Encuentro por Guatemala [Encounter—or

[128] The Women's Commission of the Guatemalan Congress had issued a statement during the visit of the UN Special Rapporteur in February 2004 "condemning all discriminatory actions against women, noting that they are conducive to acts of violence such as murder and sexual assault … [and] demanded that the Ministerio Público carry out proper investigations in order to solve all the cases of the murdered women and punish those responsible" (UNCHR, 2005, para. 60). It is noteworthy, however, that this statement did not call for legislative action, turning instead to existing institutions and processes. The 2005 statement is also much stronger since it was voted upon by the entire Congress and not issued by a Commission representing only a fraction of its (female) members (though male members of Congress have also served on the Women's Commission).

[129] The main proponent of this bill was Myrna Ponce, one of the legislators who had participated in the Interparliamentary Dialogue.

Together—for Guatemala, EG], presented a proposal for a law that had largely been developed by women's organizations, the *Ley Marco Sobre Violencia contra las Mujeres* [Framework Law on Violence against Women] (Iniciativa 3718). One key informant reflected on this period:

> As the facts evolved, as the phenomenon of feminicide evolved, it became necessary to give the issue greater weight and it also became a political debate and everyone started talking about violence against women. Well, they even started talking about a serial killer … all of these police visions, let's call them, of the issue that seemed to belong more to detective novels. So, there's quite a debate that started in the Congress of the Republic, members of Congress … were even proposing third terms without knowing what it was about, because they were alluding to, or they thought that it was alluding to the *femenino* [feminine], so they were talking about *femenicidio*, for example.

None of these bills made it past the committee stage, where they were blocked by party politics and ideological divides, despite efforts by some women members of Congress to convince their colleagues to support the proposed bills addressing violence against women. However, two of these proposals (Iniciativa 3503 and Iniciativa 3718) would be brought back and combined under *Iniciativa 3770, Ley contra el Femicidio y Otras Formas de Violencia contra la Mujer* [Bill 3770 Law against Femicide and Other Forms of Violence against Woman] which would eventually become Decreto 22-2008.

In June 2007, members of the Human Rights Commission in Congress, which had been charged with studying Bill 3503, invited civil society groups, state institutions, and international organizations to a meeting to discuss the content of the proposed bill, which they had decided to send back to Congress for approval. When the bill was received with criticisms, the Commission's president invited those in attendance, and particularly civil society organizations,

to submit proposals that would address the problems they had identified in the bill (Asamblea de Organizaciones No Gubernamentales y Gubernamentales, 2007, pp. 2-3). According to many observers, the bill was poorly written and lacked clarity, and while its intention was to protect the human rights of women, it also stood in contradiction with other human rights principles, notably by introducing the death penalty for the new crime of "femenicide" that it would have created (FMM, n.d).[130]

Spurred by their concerns over the bill's content and the fact that its proponents clearly did not have a good grasp of the issue—as evidenced by their misspelling of *femenicidio*—a number of women's groups, along with allied state institutions such as the SEPREM, DEMI, and Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y contra las Mujeres [National Coordination Office for the Prevention of Domestic Violence and Violence against Women, CONAPREVI], decided to join forces to create a second proposal,[131] a bill which they hoped would be "more complete" and "include other needed provisions that have been sought by women's organizations for years and that are also included in different reports and recommendations of human rights rapporteurs" (Asamblea de Organizaciones No Gubernamentales y Gubernamentales, 2007, p. 3). While this new proposal—the Framework Law mentioned above—did define "femicide" as a crime, its overall focus was on violence against women and reflected a broader understanding of this violence than Bill 3503, notably by

[130] This last provision stands in clear violation of the 1969 American Convention on Human Rights which prohibits states from extending capital punishment beyond crimes for which it was already applied when the Convention came into effect (FMM, n.d., p. 4).

[131] They organized working groups and meetings under the banner of the Asamblea de organizaciones no gubernamentales y gubernamentales para promover propuestas y reformas legales a favor de las mujeres [Assembly of non-governmental and governmental organizations to promote legal proposals and reforms in support of women]. The civil society organizations that participated in this initiative are the following: CONVERGEMUJERES, REDNOVI, Coordinadora 25 de Noviembre, GGM, Tierra Viva, Red de mujeres para la construcción de la paz [Network of women for the construction of peace, REMUPAZ], Sector de Mujeres. The Guatemalan Human Rights Ombudsperson's Office also participated, as did the United Nations Population Fund (UNFPA), the United Nations Development Fund for Women (UNIFEM), and an EU-funded program to fight against social exclusions.

including provisions on sexual harassment, institutional violence, and civic and political violence, among others. It was submitted to Congress in October 2007 as Bill 3718 and sent for study to the Women's Commission, where it received approval, but it never made it back to Congress for reading (Aldana, 2013). In fact, with a general election having just taken place in September 2007, and the end of the congressional session approaching in November, all bills still pending reading and discussion in Congress were effectively dead.

With a new government in place and the opening of a new Congressional session, the women's organizations that had worked on the proposal for the Framework Law approached the UNE, which had won the most seats in Congress (51 out of 158), and whose candidate, Álvaro Colom, had taken the presidency, to propose that they combine their two bills to develop a proposal that would be acceptable to Congress. As some of my key informants explained, they hoped to take advantage of the "enthusiasm" and movement that there had been in Congress around the issue and what they understood as a "favourable balance of power" to get a law on violence against women passed.

In discussing the important role of the UNE and the party's alliance with women's organizations in getting this law passed, a few key informants specifically mentioned First Lady Sandra Torres de Colom, explaining that her "political will" played an especially crucial role in moving the bill forward. As one key informant explained, the former first lady, who had had political ambitions of her own at the time,[132] had wanted to start building a legacy and saw

[132] Sandra Torres' political ambitions became clear in the last year of her husband's mandate as president, when she announced her intention to run as a presidential candidate in the 2011 campaign. Given constitutional prohibitions against family members of current and past presidents from running for that same office, she and President Colom divorced. She was nonetheless barred from running by the Tribunal Supremo Electoral [Supreme Electoral Court]. She successfully registered as a presidential candidate with the UNE in 2015, but lost in the second round to Jimmy Morales. She ran again in the 2019 campaign but lost in the run-off to Alejandro Giammattei. She is currently under house arrest, facing trial for breaches to campaign financing rules and unlawful assembly linked to her 2015 presidential campaign.

femi(ni)cide, with all of the international attention the issue was garnering, as important and urgent enough of an issue to serve as a good foundation for such a legacy. Recognizing that the UNE had stronger political interests in ownership of the law than they did, women's organizations therefore suggested that the content of the Framework Law (especially related to the continuum of violence against women) be integrated into a revised version of the UNE's proposal which was specifically focused on femi(ni)cide. As one key informant explained,

> we [in the women's movement] weren't actually interested in being prominent [in the process]. We were interested in the content of the law that had been discussed by all of the women's organizations. So, the Law against Femicide and Other Forms of Violence against Woman was born.

Whatever their political calculation or Torres' particular motivations, the support of UNE legislators was central to developing Bill 3770 and getting it to Congress. However, the party's share of seats in Congress (about one-third) were not enough to get the bill approved, so its proponents embarked on negotiations with a broader coalition of legislators. They first worked to get the proposal known and then to negotiate its content in order to craft a law that they felt confident would be approved by Congress. This collaboration included members of Congress from such ideologically opposed parties as the socialist URNG and the far right FRG, leading one key informant to reflect on the "contradictory" alliances produced by this effort.

Bill 3770 was first introduced to Congress on March 11, 2008. It was sent for study to the Women's Commission, which approved the proposal and sent it back to debate on March 31. That same day, the group of legislators that had proposed the bill attempted to get the law passed in a single session citing its "national urgency," but withdrew the motion once it became clear that it would not receive the approval of two-thirds of the chamber it needed to pass in one

reading (Sánchez Valverde, 2013, p. 188; also see Cardona, 2008a). Instead, it went through the standard three readings in Congress (on April 2nd, 8th, and 9th), where the proposal was further amended—undergoing more than a dozen amendments, in style and content, from its original form (Aldana, 2013)—before being adopted on April 9, 2008. Guatemala thus became one of the first countries in the world to adopt a law that specifically defines and prohibits the crime of "femicide." Representatives of women's organizations sitting in the public gallery greeted the law's adoption with cheers and by throwing rose petals into the air (see Figure 3). The next day's newspapers celebrated the law with headlines calling it an "historic achievement" and a "victory" (see Blas & Osorio, 2008).

Figure 3

Press Clipping *Prensa Libre*, April 10, 2008

Note: The printed caption reads "Members of women's organizations throw rose petals to the chamber to celebrate the passing of the law against femicide." Photo by Erlie Castillo (Blas & Osorio, 2008).

Decreto 22-2008: Law against Femicide and Other Forms of Violence Against Woman

The Law against Femicide and Other Forms of Violence against Woman (hereby "Law against Femicide") defines the crime of femicide as "the violent death of a woman, caused in the context of unequal relations of power between men and women, in the exercise of gender power against women" (Decreto 22-2008, Art. 3(e)). It is made punishable by 25 to 50 years in prison. The law also qualifies violence against women as a criminal act, distinguishing between its physical, sexual, and psychological expressions—calling for five to 12 years of incarceration for acts of physical or sexual violence, and five to eight years for psychological violence—as well as economic violence, which it defines as

> actions or omissions that infringe on a woman's use, enjoyment, availability, or access to her property … causing her material possessions to be damaged, harmed, transformed, stolen, destroyed, withheld, or lost … as well as the withholding of work instruments, personal documents, property, assets, economic rights or resources. (Decreto 22-2008, Art. 3 (k))

The latter is made punishable by five to eight years in prison. All of these forms of violence become crimes under this new law, regardless of their severity. Furthermore, Article 6 of the law sets out that alternative punishment measures (such as sentence reductions, or releasing defendants on bail or to house arrest in lieu of remanding them) are not permitted for the crime of femicide.[133] And, under the provisions set out in Article 9, cultural or religious customs or traditions cannot be invoked as a defence or justification for violence against women. The 2008

[133] While this is not specified in the Law itself, the implementation protocol for the Law against Femicide (put into place by Guatemala's Judicial Body in 2010) forbids any measures aimed at "dejudicializing" (removing cases from the courts) any cases charged under the Law (OJ, 2010). Prior to this change, it was common for judges and prosecutors to use their discretion in cases of sexual and domestic violence to avoid the prosecution of accused that they considered "low-risk, non-violent offenders" (WOLA, 2007a, p. 10) by invoking the *criterio de oportunidad* [opportunity principle], one such dejudicializing measure that allows the Public Ministry to abandon prosecution in cases considered to have minimal social impact, among other criteria.

law also calls for reparations to be paid out to victims and/or their next of kin, specifying that these should be "proportional to the harm caused and to the degree of culpability of the perpetrator" (Decreto 22-2008, Art. 11).

In terms of state obligations, the Law against Femicide orders the state to protect the rights of victims (Art. 12), guarantee access to and functioning of the shelter system (Art. 16), strengthen government departments in charge of criminal investigation (Art. 14), violence prevention and support to victims (Art. 13), and offer training to public servants (Art. 18). Article 15 also calls for the creation of specialized courts, that are to function 24-hours-a-day and be responsible for hearing cases involving the new crimes introduced by this law—the first of these courts were established in 2010.[134] Only one article out of 28—Article 4—discusses prevention, which, as will be discussed further in Chapter 5, it does in fairly general terms.

As discussed above, the Law against Femicide came about as a negotiated combination of two proposed bills—the UNE's Law against Femenicide and women's organizations' Framework Law—which was then negotiated and amended with a larger group of legislators. As such, some concessions were made along the way. A former FRG congresswoman who had participated in the Interparliamentary Dialogue and had spearheaded the February 2007 proposal for the Law for the Protection of Women's Human Right to a Life Free of Violence (Iniciativa 3612) explained that "for our lobbying with congressmen to be successful, arguments about patriarchal behaviour were omitted, so that we could manage to get the law approved" (Aldana, 2013, p. 74). Indeed, one of the representatives of a women's organization that I interviewed during my fieldwork commented that some of the concessions that had been made—which she interpreted as weaknesses in the law—were due to the intense politicization that the bill

[134] Chapter 5 discusses the Specialized Justice system in more detail.

underwent before it came to a vote. However, she argued that without this politicization, the law may not have been passed at all.

Politicized Concessions in Law

One of the first concessions that was made in negotiations was in the name of the law. Women's organizations had been proposing a law that they had called "Framework Law on Violence against Women" in part as an attempt to avoid the femicide versus feminicide debates that had been raging in Guatemala and across Latin America at the time and so that "*todas* [feminine *everyone*] would feel included," as one key informant explained. While some organizations participating in the discussions preferred the term *feminicidio*, several key informants reflected on how the definition of feminicide as a "state crime" made it inappropriate for inclusion in a national law. Indeed, some argued that, given the implications of state responsibility, feminicide would be more compatible with international law—"the state cannot take itself to trial," explained one key informant—while others anticipated that Congress would likely balk at the prospect of attributing blame for feminicide to the state. However, as another key informant explained, when women's organizations got Torres and the UNE to accept that the content of the Framework Law be integrated into their proposed bill, the debate switched from the theoretical realm—about which concept better reflected the reality of violence in the country—to a political debate about if, as a movement, they wanted to push for a law or not. This reflection was shared by a second key informant from a women's organization who remembered that her organization's assessment had been that "if we can make progress it doesn't matter what word we include in the law, [the important thing is] what the definition will be, what it encompasses … because it's necessary to have these tools."

A few other concessions in terms of state responsibility can be observed in the content of Decreto 22-2008 compared to the Framework Law proposal: while the latter included the crimes of "institutional violence" (Art. 9), "civic and political violence" (Art. 10), and "neglect of duties" (Art. 11), all of which would have penalized civil servants and/or authorities found guilty of having committed these crimes (to be defined by the law) with between two and six years of prison, these provisions do not appear in the final version of the Law against Femicide.[135] The absence of these provisions in the Law against Femicide highlights the interpersonal focus of this law, which does not consider discrimination or lack of access to public services, for example, to be a form of "violence" in the same way as the other crimes it defines. Furthermore, while the Law against Femicide orders protective measures to be issued to women who report violence, it continues to do so under the limited provisions of the VIF Law. The bill for a Framework Law, on the other hand, had included additional protective measures to those already in place with the VIF Law, including various measures meant to offer economic support for the victim, reflecting the long-standing feminist analysis that economic dependence on a violent partner can represent a significant barrier to leaving a relationship or reporting violence.

The status of the Law against Femicide as a "special law" (meaning that it is a standalone law and does not amend or reform the Penal or Civil Codes) is another point that was conceded in the process of negotiating the law. Women's organizations had originally been advocating for a law that would have introduced a series of reforms to the Penal Code to criminalize expressions

[135] Article 9 of the proposed Framework Law (Bill 3718, 2007) would have punished "action or omission by staff or representatives of State institutions that discriminate against women or contribute to limiting women's exercise of their rights, access to justice, public services ...or promotes violence against women;" Article 10 was aimed at punishing "Conduct permitted ... or incited by the state, civil servants, or involved individuals that inhibit, restrict…or limit women's exercise of citizenship, including their participation in decision-making spaces…" and includes a note on sexism in hiring and nomination decisions; and Article 11 is meant to penalize any "civil servant or state authority who failed to act on the knowledge of the disappearance of a woman" if the woman was subsequently found dead.

of violence against women and to define femi(ni)cide through the addition of "aggravating circumstances" such as misogyny, for example, to the already existing crime of homicide. Some argue that this would have had a broader impact since the Penal Code is the basis for all criminal trials in Guatemala and charges for these crimes could therefore have been heard in all criminal courts, perhaps avoiding some of the issues that have since come up with the treatment of the Law against Femicide and Other Forms of Violence against Woman as "discretionary" by some judges in the regular court system as well as with the lack of accessibility to Specialized Justice courts in certain parts of the country (which will be further discussed in Chapter 5). Indeed, Musalo et al (2010) found that the status of the Law against Femicide as a special law "has resulted in confusion and resistance" among justice system operators in the early years after its adoption, some of whom claimed to ignore if it was to be applied in criminal or family courts, and others who simply chose to follow the Penal Code instead (p. 199). England (2014) also reports that the co-existence of "different criteria for defining sexual violence … has created confusion over when to apply the Anti-Femicide Law and when to apply the Penal Code" (p. 137). A further drawback of the special law status, according to other observers, was that such a law can be harder to institutionalize across state institutions, which is important in order to bring about deeper social change.[136]

Some of these concessions were consciously strategic on the part of individuals and organizations pushing for the law, as one lesbian feminist activists I interviewed framed the decision not to push for the recognition of intimate partner violence in lesbian couples within the Law against Femicide. She explained that a less heteronormative understanding of gender-based violence could jeopardize support for the proposed bill and risked being "distorted" and "used

[136] See Musalo et al (2010) for a more detailed discussion of what this law's (and the 1996 VIF Law's) status as "special laws" entails.

against women," describing this decision as "a very heavy, very fucked up, and very difficult decision" to "sacrifice an issue that does exist and that affects us for the common good."

Among the impacts the Law against Femicide would have for the "common good" were advances in broadening the definition of sexual violence from the Penal Code's definition. Prior to the adoption of the Law against Femicide, the Penal Code only recognized rape if it included the use of "sufficient force," involved vaginal penetration, and when the victim was deemed "*honesta*" (see Chapter 3).[137] The definition of sexual violence under the Law against Femicide is considerably broader than this, to recognize "physical and psychological violence … [that] infringes on a woman's sexual liberty and indemnity" and includes denying a woman access to contraceptives and to STI prevention methods as a form of sexual violence (Decreto 22-2008, Art. 5). It fell short, however, on the topic of sexual harassment, which is completely absent from the law. As one key informant who had been involved in the lobbying on behalf of a women's organization explained, members of Congress had made clear from the beginning of negotiations over the law that the provisions against sexual harassment that had been included in the Framework Law proposal—which made sexual harassment punishable by two to six years in prison—were completely unacceptable: "The door was completely closed to this one. [It was a] nonstarter."

The inclusion of sexual harassment in the proposal from the women's movement was a continuation of their attempts, which had started in the mid-1990s, to get sexual harassment recognized in Guatemalan law. As happened with the Law against Femicide, however, each of these attempts has been met with resistance and even outright hostility from congressmen. Indeed, one key informant told me that congressmen were complaining that if sexual harassment

[137] As mentioned in Chapter 3, the Penal Code's definition of sexual violence was later amended with the adoption, in 2009, of the Law against Sexual Violence, Exploitation, and Human Trafficking (Decreto 9-2009).

provisions were to be included in the law, they would be charged for innocent *piropos* [which can be translated as either flirting or catcalling], and Hilda Morales, a feminist and human rights lawyer who has been active in these struggles for several decades, told a reporter about overhearing congressmen stating that these provisions would "pass over my dead body; besides, it's being promoted by old, fat, ugly, and unharassable women" (Carrillo Samayoa, 2008, p. 19). In the immediate aftermath of the adoption of the Law against Femicide—without sexual harassment provisions—Member of Congress Nineth Montenegro explained that her male colleagues reacted strongly every time the issue was brought up in Congress since they saw it as a threat to their political career, adding that women in Congress shied away from bringing up the topic because of the mocking and "offensive" jokes that they were subjected to when they did (Carrillo Samayoa, 2008, p. 19).

Resistance to Punishing "Normal" Violence

The comments outlined above make it clear that sexual harassment was seen by male members of Congress as being too "normal" to warrant being legislated against. However, activists and advocates did succeed in getting other forms of violence that had been, and in many ways continue to be, very normalized in Guatemalan society and elsewhere included in the Law against Femicide and Other Forms of Violence against Woman. Indeed, as one key informant from a women's organization explained, relative to the issue of violence against women in general:

> inserting it into [political] discourse has been very difficult since there's a resistance. No, not a resistance, there's a *negation*, because from the moment that you make violence against women visible, you make privilege visible, and men don't want to give up their privilege. (Italics added to emphasize tone and gestures)

Despite the concessions noted above, key informants from civil society as well as civil servants who work on this issue from within the state celebrated the inclusion in the law of what they saw as strong provisions against violence against women (see Musalo et al, 2010). In particular, the recognition of violence against women beyond its strictly physical expression was named by several key informants as an important step forward in combating some of the more insidious, normalized, and thus invisibilized, forms of violence experienced by women:

> …it's a great achievement [despite the omissions of the law] … because it establishes situations that weren't even seen, psychological violence, for example, is defined in the law … I mean it includes things that—for example in this country economic violence isn't recognized, the fact that the husband is the owner of the house and she doesn't exist—but now it's defined in law. So, these are very powerful achievements.

Furthermore, some thought that it was especially important that the law not only names these forms of violence but makes them crimes:[138]

> …a lot of types of violence that people weren't aware of were recognized for the first time. That is, when a state …creates definitions and crimes, what it is doing is delegitimizing and saying "Hitting a woman, harming her psychologically, harming her economically, that's illegal, it's inappropriate." That's all well and good, and that's already been said, but [now] it is *penalized* and it will have consequences as a *crime*! [italics added to emphasize tone and gestures]

In addition to increasing their visibility and working to delegitimize these forms of violence, their characterization as criminal offences "*de acción pública*" [subject to prosecution by the public prosecutor regardless of the participation of the victim(s)] means that they can now be

[138] As will be discussed in Chapter 5, however, many of the key informants saw limitations to responses to violence against women that are solely focused on criminal justice.

prosecuted without the need for victims to press charges or participate in the prosecution, a process that many feminists have identified as an onerous and often revictimizing experience, and one that can often expose victims of abuse to pressure and manipulation from perpetrators who have an interest in trying to get them to desist from participating in their case.

While the inclusion of these provisions against violence against women in the Law against Femicide were celebrated by anti-violence activists and advocates as one of the biggest achievements of the law, they were none the less met with more resistance from other sectors of civil society and the state, including some justice operators. Indeed, the first major challenge to the law, which came in the form of a constitutional challenge in August 2011, was brought by three male lawyers from the northern city of Quetzaltenango. In addition to implying that violence is a consequence of "the failure to fulfil divine mandates" and decrying that the law would "foster the breakdown of the family" (CC, Expediente 3009-2011, pp. 2-3), the claimants alleged that the provisions against violence against women (Article 7) and economic violence (Article 8) of the Law against Femicide violate the constitutional guarantee of "liberty and equality" since they subject men to different treatment under the law, arguing that this amounts to gender-based discrimination. They also argued that the classification of these offenses as criminal and *de acción pública* (Article 5) violates the constitutionally guaranteed right to "freely access courts and state dependencies." The claimants based the latter argument on their understanding of "institutions of the family and marriage, as well as domestic partner relationships" as belonging to the private sphere and that prosecuting violence that occurs within

this sphere is therefore not in the state's proper purview unless it is requested by the victim(s) (CC, Expediente 3009-2011, p. 2).[139]

NGOs, state institutions, individual feminists and lawyers, and even the Attorney General herself intervened in the process, presenting amicus curiae briefs to the court defending the law. The Constitutional Court ruled against the action in February 2012, citing Guatemala's obligations under the international conventions it had ratified, and arguing that this law was passed in order to correct preexisting vulnerabilities and inequalities and is therefore consistent with the principle of "relative equality" (CC, Expediente 3009-2011). However, it is telling that some of the same allegations of unconstitutionality and discrimination (against men) had been lobbied against the VIF Law when it was adopted in 1996. As one key informant recounted, those opposed to the VIF Law at the time also argued that that law violated the "principle of equality because it gives women more power and also because it's women's fault if they suffer violence if they don't fulfil their domestic responsibilities."[140] It is also important to note that the criminalization of femicide itself was not challenged by this group of lawyers, as one key informant explained:

> the plaintiffs do not impugn femicide, only violence against women and the fact that it is "*de acción pública.*" Why don't they impugn femicide? Because that's like accepting and holding as normal the murder of a woman, so that would be an unthinkable level, right? What happens is that they still hold those prejudices [in regards] to violence against women.

[139] The claimants mentioned at least nine articles of the Constitution that they alleged were being violated by the Law against Femicide. However, their argument almost solely focused on the rights to equality and to freely access the courts, mentioned here (see CC Expediente, 3009-2011, for more detailed information).

[140] Opponents of the VIF Law also claimed that it was an unconstitutional because it empowered police to order assailants to stay away from the home they share with the victim(s) (which they presumably own given the gendered disparity in property ownership) and to confiscate any weapons the assailant may possess.

In 2014, six years after the Law against Femicide was adopted—and two years after the Constitutional Court confirmed that the law respects the constitution—some forms of violence against women criminalized by the Law, especially its economic and psychological expressions, continued to be seen by many across the country, as too "minor" to warrant imprisonment:

> the fact that femicide is a crime is more accepted by society that the crime of psychological violence or physical violence. Why? Because these are still considered *normal* within a couple and are not *so* serious that someone is put in jail, right? [italics added to emphasize tone and gestures]

As this same key informant commented: "In the past, they wouldn't charge you for hitting a woman and now you see sentences for psychological violence, which in the past people didn't even imagine that that violence existed."

The basis on which some sectors challenged the Law against Femicide and the VIF Law reveals how deeply rooted and normalized violence against women is and the extent to which men perceive anti-violence actions as a threat to their privilege or even as a violation of their rights. This was evidenced by the many comments that key informants reported having received or overheard from men who made light of the Law against Femicide, and particularly its provisions against the various forms of violence against women it penalized. One key informant explained that in the aftermath of the law's adoption, it had been dubbed the "divorce law," the "law against life," and the "law against family." She recalled that one newspaper columnist had even called for Congress to also pass a "law against puppycide," revealing a strong disregard for the lives and humanity of women.[141] Another key informant related men's complaints that

[141] Many of the activists who had been at the forefront of pushing for the law were attacked in the media, including First Lady Sandra Torres herself, who was accused of being a lesbian because many of the anti-violence activists were or were perceived to be lesbians. Opponents of the law implied that they wanted this law adopted so that more women would leave their husbands and be single.

"These days if you look at a woman the wrong way she's going to accuse you of psychological violence."

As is illustrated by the fact that the constitutional challenge against the Law against Femicide was brought forth by a group of lawyers, the trivialization of violence against women was also observed within the justice system. As Musalo and Bookey (2013) reported, there was still "widespread hostility" to this law as late as 2013, raising "serious questions about the depth and consistency of the political will to ensure compliance" (p. 13). And, as another key informant who works with the Specialized Justice Oversight, Monitoring, and Evaluation Unit[142] offering gender sensitivity training as well as training on the content and application of the Law against Femicide to judges and other justice workers commented, while the resistance to this law has diminished over the years since it was adopted, her unit was still hearing complaints in 2014 from female employees in the justice system about the conduct of some of their colleagues, including judges. Indeed, a key informant whose organization acts as joint prosecutor in cases of femicide and violence against women explained that she and her colleagues continued to observe resistance from public prosecutors and other justice system workers to punishing violence against women: "It seems very subjective to want to penalize something that appears [to them] normal," she explained. Key informants reported that some investigators, prosecutors, and judges—especially in areas of the country where the Specialized Justice system had not yet been set up—were apparently choosing to ignore the Law against Femicide and continuing to charge perpetrators of violence against women with *faltas* [more or less equivalent to a misdemeanor] in cases where the victim had only suffered minor injuries:

[142] The Oversight, Monitoring, and Evaluation Unit of Bodies Specialized in the Crime of Femicide and Other Forms of Violence against Woman, which was created as part of the specialized femicide courts will be discussed in Chapter 5.

> When it consists of very minor fights, they put down "intrafamily violence" and when it's more intense violence then it's "violence against woman." So, even in the term that they put down on the complaint, many people still use that name, and make that distinction, right? Even though according to the law that distinction should no longer exist.

As the key informant whose organization acts as joint prosecutor cited above also explained, she and her colleagues have in some cases had to pressure public prosecutors to charge suspects with femicide instead of homicide so that the case can be heard in a Specialized Justice court, which they understand as being more sensitive to gendered violence.

Judges in the Specialized Justice system are, however, not infallible nor immune to normalized sexism and misogyny.[143] And, even within the Specialized Justice system, some judges and prosecutors resist pursuing charges or convicting cases of psychological violence, especially when victim looks "well" or does not present as they expect a "traumatized" victim to present. Indeed, several key informants whose work puts them in proximity to the justice system explained that psychological violence had, since the adoption of the Law against Femicide, been the hardest form of violence to prosecute and successfully convict given the challenge of having to prove it had been committed without what some consider "physical" proof. They explained that psychological violence is meant to be understood as a crime of *mera actividad* [conduct crimes in some jurisdictions], meaning that it does not have to produce any particular consequence or harm in order to be considered a crime. However, judges have been known to question charges for psychological violence by asking of the victim "But, you're fine now! What

[143] While writing this dissertation, news in Guatemala broke that a sitting judge recently appointed to preside in a Specialized Justice court in Chimaltenango had been the subject of dozens of administrative complaints, including for abuse of authority and at least six reports of violence against women (judges in Guatemala benefit from the right to an *antejuicio* [pre-trial] process and he had never formally been charged) (Santos, 2017). The Supreme Court of Justice reversed the appointment, and, in June 2018, the judge lost his immunity from prosecution and was detained in a separate corruption case (Hernández Mayén, 2018).

psychological impacts are you talking about?" as the judge in a case accompanied by one key informant asked. In this case, it had taken three years for the violence that the victim had suffered at the hands of her brothers and brother-in-law to finally come to trial. During this period, she had sought and received psychosocial support to deal with the impacts of the violence. The explicit goal of such support services for victims is "that the victim recover the level of emotional health that she had [prior to the violence / abuse]," as the same key informant explained. However, this becomes an issue when accomplishing this goal works against the chances of successfully prosecuting the perpetrator:

> So, if we succeed [in helping the victim to recover], later during the trial the very judge tells her "Nothing happened to you." Even worse if it [the trial] is for psychological violence. So sometimes the justice operators are the ones who turn out to be an obstacle.

Criminalizing "Normal" Violence: Feminist Activism Against a Continuum of Violence

On April 9, 2008, the day that Bill 3770 was to undergo its third and final reading, representatives of women's organizations were present in the public gallery, as they had been for the other sessions in which the bill had been discussed. That day, activists had also gathered at the entrance to Congress in order to lobby legislators as they arrived, handing them a purple ribbon and a card that urged them to vote in favour of the bill (see Cardona, 2008b). The stairs leading up to Congress from the street had been converted into an improvised altar to murdered women, covered with candles, flowers, and handwritten signs that read "Mourning for the assassination of so many Guatemalan women," "We demand a law against Femicide," and "They raped me, mutilated me, assassinated me. Gentlemen congressmen we need Law against Femicide so that the same thing doesn't happen to other women" (see Figure 4; also see Cardona, 2008b; "Ley de feminicidios," 2008). Former Member of Congress Myrna Ponce—

who was described by one key informant as someone who had been working on this issue "from the inside"—recounted the lobbying efforts in the lead-up to the vote:

> We handed out postcards of a woman who had been brutally assassinated. And we were telling members of Congress: This is what happens in our country. Later, a mass was officiated in the Metropolitan Cathedral in memory of this assassinated woman. Consecutively, a meeting was held with all the female members of Congress. We placed white cardboard silhouettes of women in the room where the meeting was held. Upon entering the room, members of Congress came upon the images of assassinated women. At that time 462 women had died a violent death and that had a big impact. (quoted in Aldana, 2013, p. 81)

Figure 4

Press Clippings La Hora April 9 and 11, 2008

Note: Press clipping from April 9th and 11th show the improvised altar set up on the stairs leading into the Guatemalan Congress. The caption on the left reads: "Flowers, candles, dolls, shoes, and slogans placed by women's organizations at the main entrance to the parliamentary chamber in order to demand that members of Congress support the law against femicide" (in Cardona, 2008b & La Hora, 2008, respectively)

Given the insistence on the part of many anti-violence activists that it is the criminalization of the "Other Forms of Violence against Woman" included in the Law against Femicide that has "the biggest impact" because it "denaturalizes and denormalizes violence against women," it is striking that lobbying efforts to get the law adopted were so focused on the type of "body count" optics that I critique in Chapter 2. Indeed, as discussed above, the bill proposed by women's organizations (Iniciativa 3718, Framework Law), which served as the foundation for large parts of the Law against Femicide as it was eventually adopted, was not especially focused on femi(ni)cide (and did not use the concept), but rather on violence against women more broadly. In fact, in the justification for the law, the bill's proponents do not mention any increase in violence against women nor of violent deaths of women, framing the proposed law instead as an attempt to address the "grave violation of human rights and fundamental liberties" that violence against women constitutes (Bill 3718). The other two initiatives that had preceded it—Bill 3612 Law for the Protection of Women's Human Right and Bill 3503 Law against Femenicide—however, both cited the high numbers of murders of women that had been occurring in the country since the early 2000s, and Bill 3503 also named the "alarming" trend of excessive violence and *ensañamiento* observed in these murders, as well as Guatemala's "record number" of "femenicides" as compared to Ciudad Juárez, as justifications for the "urgent need" of this law (Iniciativa 3503).

It seems evident then that the visibility that femi(ni)cide—and especially its more spectacular and exceptional elements—had gained in Guatemalan society in the years previous to the law's adoption was an important motivator for legislators to take action on the issue. While some legislators, especially those that had participated in the Interparliamentary Dialogue, were

surely committed to the issue, when I asked key informants about the context in which the law had been approved, many of them commented that Congress had not passed this law out of any kind of "political conviction." Rather, resistance to the law continued into the very late stages of debate even though the bill had been discussed and negotiated over time, with some members of Congress so opposed to Bill 3770 that they threatened to break quorum in order to avoid it coming to a vote (Menjívar & Walsh, 2016; Sánchez Valverde, 2013).

Instead, key informants suggested that the Law against Femicide was largely passed thanks to the efforts of feminist activists and women's organizations, who had been raising awareness of femi(ni)cide and putting "permanent" pressure on Congress to take action on the issue for years. A few of the key informants reflected on the added pressure exerted by inter- and supranational bodies, including funding agencies and donor countries who could potentially impose economic pressure, by withholding aid or loans for instance, in order to push the state to take action, but this seemed secondary to the pressure exercised by civil society: "there was support and endorsement from international organizations but in that moment it was women members of Congress with the women's organizations who pushed and pushed for this law to be passed." As this key informant explained, "at the end of the day, civil society organizations are the ones that push the entire system forward"; a sentiment that was echoed by others: "everything we have here, even if it isn't implemented, comes from the proposals, lobbying, and day-to-day work of the women's organizations who are doing advocacy," explained one key informant while another told me that "as a rule, all of the advances that you see in our country are a product of women's struggles." Indeed, for most of my key informants, the adoption of the law was due to the "collective work" of women's organizations and demonstrated "the strong impact of the struggles of the women's movement against gender violence." As one key

informant expressed: “It’s not that there’s an attitude of wanting to change on the part of society as a whole, it’s more the insistence, the stubbornness” of feminist activists. Echoing this sentiment, another key informant explained that after years of hard work and lobbying on the part of the women’s movement, where they came back time after time to present a new proposal to legislators which included whatever had been deemed “lacking” from the previous proposals, Congress had finally run out of excuses.

As discussed above, the women’s movement had started lobbying for laws to replace or update the 1996 Intrafamily Violence Law almost as soon as it was adopted. They relied on international conventions such as the CEDAW and the Convention of Belém do Pará to call for the criminalization of violence against women: “That’s a grievance that we’ve had ever since we learned that CEDAW existed, right? That we were lacking laws making [violence against women] visible.” However, it was not until they had succeeded in creating, as one key informant described, a situation in which it would have looked bad for members to vote against their proposals that Congress finally took action to address violence against women:

> it was a *coyuntura*, of those rare *coyunturas* that occur in the country that finally allows the correlation of forces within the legislative body itself to permit these demands to be taken seriously, whether it be because of the political merits that the issue carries or also because of, let’s say, all of the organizing, the lobbying work that the organizations … that have been able to permeate in these institutions in such a way that not taking action—it would look quite bad if they didn’t do it.

The following description of the proceedings in Congress when Bill 3770 went through its third and final reading illustrates this dynamic—with anti-violence activists cheering in the public gallery as “not a single” legislator raised any objections to the bill:

> During the reading of the law that was approved in the plenary session, continuous applause was received from the gallery as members of Congress approved each section and article, which demonstrates the attention of groups and civil society representatives who were present in Congress. Likewise, during the entirety of this final discussion, not a single voice against the content of the initiative was heard nor the opinion of those deputies who had been opposed in session 13. (Congreso de Guatemala, 9 de abril 2008, as quoted in Sánchez Valverde, 2013, p. 191)

The fact that the Law against Femicide needed a confluence of factors to come together in order to get adopted is not a unique case in Guatemalan politics, but rather one that is shared with other progressive initiatives affecting the judicial sector. In fact, the Open Society Justice Initiative (OSJI, 2016) attributes the ratification of the CICIG (discussed briefly in the Introduction) to a "'perfect storm' of 'extraordinary and unrepeatable events'" (p. 37) rather than to the presence of true political will or support in Congress for the proposal, describing it as part of "Guatemala's politics of 'short-term decision and accidents'" (p. 37, quoting Edgar Gutiérrez, a Guatemalan political columnist). Factors that led to the ratification of the CICIG included, according to the OSJI (2016), intense lobbying by human rights activists and organizations within the country as well as international outrage and concern about recent high-profile killings, in Guatemala, of representatives of the Central American Parliament. At least some of these factors can find parallels in the struggle to get the Law against Femicide adopted, including the lobbying and pressure exerted on Congress at once by Guatemalan feminists and women's organizations as well as international actors, combined with their continued success in getting the media to focus on femi(ni)cide and its "extraordinary" violence.

Given the ongoing resistance, discussed above, to provisions of the Law against Femicide that criminalize forms of violence that have long been, and largely continue to be, normalized, it seems highly doubtful that economic or psychological violence, for instance, would have been criminalized had they not been linked, through the discourse circulated by feminist activists, to fem(ni)cide and violent deaths of women. I would suggest then, that it was the insistence on the part of women's organizations on the notion of a gendered continuum of violence linking these "ordinary" expressions of violence to "extraordinary" femi(ni)cide, with its hundreds of brutally murdered women, that allowed for the criminalization of the former. Anti-violence activists can, therefore, be understood as having successfully mobilized the "spectacle" of femi(ni)cide in order to intervene on a much more mundane level, where, they hope, the law can have a deeper impact.

Conclusion: Strategic Victories in Legislative Change

In this chapter I have outlined the broad context in which Guatemalan legislators came to adopt the Law against Femicide in 2008. Drawing on the work of Guatemalan and North American political scientists and sociologists, I traced how feminists in Guatemala started to employ legal activism in the mid-1990s, taking advantage of the democratic openings offered by the peace negotiations to intervene in a legal framework that they saw as sustaining and justifying women's inequality and oppression, working to get sexist provisions amended or repealed and more gender-sensitive laws adopted. Activists and advocates I interviewed clearly located their more recent efforts to get the Law against Femicide adopted within this broader trajectory of legislative activism, highlighting the sustained pressure that feminists have put on the state to respond to their demands, both from within and outside the system. While earlier efforts at gendered reforms in the wake of the peace accords were also substantiated and justified

by drawing on international mechanisms such as CEDAW and the Convention of Belém do Pará, in the case of the Law against Femicide, mobilizing national and international public opinion, and the support of international donor countries and agencies, were also central to the success of Guatemalan feminists in securing legislative action. This combined pressure coming from below and from above finally moved a largely disinterested Congress to act on the issue.

As I outlined above, many key informants insisted that sustained activism against femi(ni)cide on the part of feminists and women's organizations was crucial in getting the state to respond to femi(ni)cide—in terms of mobilizing international support as well as in ultimately pressuring Congress into action. Given the resistance that many in Congress (and in the judiciary, for that matter) expressed to criminalizing forms of violence that they understood as "normal" or trivial, I argue in this chapter that this activism was especially decisive in getting "other forms of violence" included in the law. I advance that the links that activists established between the more visible and exceptional expressions of violence (involving *ensañamiento* and the ever-increasing numbers of murders of women) and the more common and everyday expressions of physical, emotional, psychological, and economic VAW framed the discussion in such a way that inaction was simply no longer a choice—members of Congress could no longer deny that femi(ni)cide was an issue or that it merited attention.

The Law against Femicide, and its criminalization of "Other Forms of Violence against Woman," has the potential, according to many key informants from civil society, to challenge the very normalization and naturalization of violence against women that make taking concrete action to counter it so difficult. As such, despite the concessions that they had to accept in negotiating its approval, my key informants had a mostly positive assessment of the law. A representative of one of the women's organizations that had been a major player in this process

explained that her organization would not have supported the law if they had not seen any good in it, or if they had thought that passing a weak law was a ploy on the part of politicians to get activists out of their hair—to later be able to respond to the movement's demands by saying "'We gave you that already' but that [the law] is useless." As another feminist activist explained, speaking of a workplace sexual harassment policy she was developing partly based on definitions of VAW that had been enacted by the Law against Femicide (since sexual harassment is not codified anywhere in Guatemalan laws or regulations), the Law against Femicide "gives you a legal framework to support certain processes," adding that it has also "been useful to thousands of women who have been able to report [violence] and feel like there is something shielding you to be able to report." As yet another key informant suggested, the challenges and resistance to this law can also be read as a testimony to its impact: "the law put something in motion because what used to be normal is now penalized. But then the new generations are also starting to see that certain behaviour is not tolerated and needs to be modified." While activists within the women's movement generally saw the Law against Femicide in a positive light, several of my key informants highlighted some important limitations, some of which are inherent to adopting a criminal law approach to gendered violence, which is where Chapter 5 picks up.

Chapter 5

"Access to Justice" and Limits of Criminalization

This chapter is centred on the content of the Law against Femicide and Other Forms of Violence against Woman and how it has been applied, especially through the Specialized Justice Bodies, which were instituted in 2010 in order to comply with provisions of the new law. This focus is motivated by a shift in the discourse on femi(ni)cide that I observed during my first fieldwork visit to Guatemala in 2013, compared to when I had started conceiving of this project at the beginning of my doctoral studies in 2009.

As mentioned in the Introduction, I returned to Guatemala several times between the start of my doctoral coursework and my fieldwork, and these visits together with my efforts to keep informed of Guatemalan news through online sources as well as through solidarity and advocacy networks had made me aware of new policies and practices in the judicial system. They had also made me aware of an apparent waning of interest in the issue of femi(ni)cide on the part of social movements and NGOs, or at the very least on the part of the press. While mentions of femi(ni)cide would return to the headlines each year around November 25—the International Day for the Elimination of Violence against Women—and sometimes on International Women's Day (March 8), they were largely absent the rest of the year, except as part of coverage of a specific murder or trial, in which case the concept of femicide was being used in the strict legal sense, and did not necessarily include broader discussions of patterns of violence or impunity.

Given that, during these intervening years, I was working as a researcher on a project not specifically focused on femi(ni)cide (but on wartime sexual and gendered violence), my direct engagement with the issue while I was in Guatemala was somewhat limited. As such, by the

time I started interviews in 2014, I was surprised to note how much narrower the discourse on femi(ni)cide seemed to have become: several civil society organizations—particularly feminist or women's organizations—continued to work on gendered violence and related issues; however, neither femicide nor feminicide seemed to be central to their advocacy.[144] I was especially surprised to note that, when the concept of femi(ni)cide did make its way into discussions of sexual violence or violence against women, it was with a seemingly newfound coherence, one that, I soon noticed, very closely reflected the language of the Law against Femicide.

The adoption by Congress of the Law against Femicide and Other Forms of Violence against Woman (Decreto 22-2008) after years of pressuring authorities to act on the issue was heralded as a major victory for the Guatemalan women's movement. It is perhaps not surprising that the adoption of this law—which in effect signaled the state's recognition of femicide as a legitimate social issue—marks the apex of activism around this issue and in some ways, may have freed up some energy and resources to move on to work on other issues or campaigns. Indeed, as one key informant from a human rights organization explained, the pressure on civil society organizations to move on to other issues is especially pronounced in Guatemala given the number of urgent issues that are seemingly always arising:

> one of the ills of this country is that these are conjunctural issues that later disappear … There are so many problems that one thing is replaced by the next … so [femi(ni)cide]

[144] The issue of sexual violence during the internal armed conflict was particularly salient in the few years preceding and following my fieldwork in 2013-2014. I began my fieldwork in the immediate aftermath of a trial against former dictator Efraín Ríos Montt on charges of genocide and crimes against humanity, in which evidence of systematic sexual violence against Ixil women—along with that of torture, forced displacements, and widespread massacres—helped convince the judges of the intent to destroy the Ixil people in whole or in part that motivated the scorched earth campaigns he led (OSJI, 2013). This also corresponded with a period during which a few NGOs and survivors' group were working to bring cases of sexual violence committed during the internal armed conflict to trial: the Sepur Zarco case, which went to trial in February, 2016 (see Crosby, Lykes, & Doiron, 2018; Crosby & Lykes, 2019) and the case brought forth by 36 Achí women and the Rabinal Community Law Association, in which one former civil-patroller was ordered to stand trial in October 2020 (see Burt & Estrada, 2020).

> was set aside in part because the law was enacted [and] specialized courts were established.

Even so, given the spirited debates that I had witnessed only a few years earlier, I was surprised at how quickly the legal definition of this violence had gained hegemonic strength and seemed to, in a certain sense, circumscribe understandings of femi(ni)cide.

In field notes I wrote from Guatemala in March 2014, I reflected on how many key informants' understandings of the issue seemed to be almost entirely framed by the Law against Femicide, at least in terms of the types of violence they described as being part of this phenomenon. Almost without fail, when I asked key informants what femi(ni)cide or even violence against women consisted of, or how it manifested, their answers mirrored the language present in the Law against Femicide. In several cases, key informants even recited the law almost word for word: when I asked one key informant how she understood violence against women, she started by saying "Well, the law established that there are four types of violence…" and proceeded to describe the "Other Types of Violence against Woman" included in the law; another explained that "In Guatemala, we defined it as..." and proceeded to recite the Law's definition of femicide in response to my question about what types of violence are understood as femicide; a few other key informants explained that their organizations only started using the concept of femicide once it had been defined in law (and had never used the concept of feminicide).

Given how central the Law against Femicide has become to femi(ni)cide discourse in Guatemala, this chapter examines its application and impact, paying particular attention to the legal system's differential responses to women depending on how they are situated at the intersections of gender, race, class, sexuality, and geographic location. As discussed in Chapter

4, by mobilizing international attention and condemnation, feminists working within and outside the state were able to negotiate a law that is remarkably comprehensive in terms of the types of violence that it recognizes, including many forms of violence that were and continue to be deeply normalized. This was indeed an important "victory," as several key informants expressed. Together with reforms in the OJ and MP that came largely as a result of this law and of the women's movement's continued activism, many hoped that this new response to femi(ni)cide and VAW would start reducing levels of violence and addressing the overwhelming impunity in which this violence has remained in Guatemala. However, as I will explore in this chapter, several factors have limited the potential for progress initiated by the Law against Femicide.

In the first part of this chapter, I offer an analysis of the content of the law itself, exposing some of the assumptions embedded in the language of this law that contradict its claim to protect "all women" and instead reveal which categories of women and forms of violence are implicitly excluded from its purview. I also examine the implementation and reach of the Specialized Justice system and its associated SAI, considering its structure and purpose, the steps it has taken to try to avoid revictimization and the supposed increase in reporting it has fostered, as well as the inherent limitations to addressing gendered violence in a "special" system, in terms of its sustainability and its impact on the broader structure of the judicial system.

In the second part of the chapter, I interrogate the claim that Specialized Justice has, or will necessarily, improve(d) women's "access to justice." I examine the barriers to access to justice faced by differently located individuals, including rural and Indigenous women as well as LGBTI people and sex workers, and ask what it means to encourage a reporting culture in these unequal conditions. I conclude that efforts to improve women's access to justice often side-step limitations inherent in attempting to address gendered violence through criminal law—especially

in a society rife with inequities structured by interlocking systems of race, class, gender, sexuality, and geography/location.

Subjects of Law: Who Is Protected by the Law Against Femicide?

As it is put forth in its first article, the purpose of the Law against Femicide and Other Forms of Violence against Woman is to "guarantee the life, liberty, integrity, dignity, protection, and equality of all women before the law" (Decreto 22-2008, Article 1). This law therefore purports to protect "all women" without exception; however, as will be examined in this section, other elements of how the law is currently written and applied result in erasures and exclusions of certain women because of their sexual orientation, their status as transwomen, their indigeneity or ethno-linguistic community, the fact that they live in rural areas, or because they lack access to resources.

Protecting the Archetypal "Woman"

The claim that the Law against Femicide extends its protection to all women stands at odds with the use of the singular "woman" in the title of the law which, in addition to femicide, criminalizes "other forms of violence against woman."[145] Transnational feminists have long criticized how liberal rights discourses have stabilized and "universalized" the category "woman" in a way that "silences women's diversities by confining rights entitlements to those who fit the model of woman of legal discourse" (Merry, 2006, p. 231; see also Grewal, 2005). Indeed, writing on femicide and violence against women two decades ago, Radford (1992) warns that in a context in which the category "woman" is understood in a limited, narrow way, women who are not understood as being "'deserving' according to patriarchal standards, that is, women

[145] In this chapter, I use "violence against woman" when I refer to the crime created by the Law against Femicide and the more usual (in English) formulation of "violence against women" when discussing the broader concept and issue.

privileged by class, race, and relationships to heterosexuality" are at a risk of not being protected from violence to the same extent (p. 355)—a warning that seems important to heed given, as discussed in Chapter 3, the narrow way in which the notion of "worthy" victims of sexual crimes has been constructued historically in Guatemala.

As discussed in Chapter 4, women's organizations who advocated for the adoption of the Law against Femicide, and negotiated its content, were hoping that this law would "correct" the limitations of the 1996 Intrafamily Violence Law and what they saw as its failure to define domestic violence as a crime as well as its depoliticized understanding of this violence. They argued that by treating this violence as "neutral" and all family members as potential victims it obscured the fact that it is predominantly exercised by men against women.

The Law against Femicide does, indeed, strike a decidedly different tone from the VIF Law: unequal power relations, misogyny, and the submission and discrimination of women are all discussed in Article 3 of the Law against Femicide (Decreto 22-2008), which sets out the definitions of the concepts used in the law. Femicide itself is defined in this section as occurring within "unequal relations of power between men and women" and more specifically in the "exercise of gender power against women" (Decreto 22-2008, Art. 3(e))—indicating that this law is specifically meant to sanction violence committed by men against women. Women are, in fact, named as the "passive subject" (victim) of the law and while the law does not specify an "active subject" (i.e., a perpetrator; see Deus & Gonzalez, 2018), it was the understanding of most key informants, including legal professionals who have worked within the Guatemalan judiciary and governmental human rights institutions, that only men can be charged under the

Law against Femicide.[146] The law does, after all, define femicide and violence against woman as occurring within "unequal relations of power between men and women."

One of the consequences of defining femicide and violence against "woman" (also phrased in the singular in the text of the law) as a crime necessarily committed by a man is that it excludes from its definition gendered and misogynist violence exerted by women against other women. Indeed, several key informants noted that they believed that the law is guided by the mistaken assumption that only men are capable of misogyny. They pointed to in-law and same-sex relationships as two common contexts in which women often suffer violence at the hands of other women that would not be recognized under the Law against Femicide because the perpetrator is not a man. A few described cases they had worked on in Maya communities where it is common for couples to live with the husband's parents after being married, giving in-laws the ability to monitor and control their daughter-in-law's behavior—and, key informants insisted this power was especially wielded by mothers-in-law.

Chirix García's (2010) work on social constructions of sexuality in the Maya Kaqchikel community of San Juan Comalapa also highlights the different forms and degrees of violence that can manifest themselves in these in-law relationships: from mothers who counsel their sons to beat their wife once in a while to keep her in line, to daughters-in-law treated as servants by their mothers-in-law, who expect the former to do all the housework and take care of them in their old age. Chirix García (2010) also discusses how women—and, according to her, especially mothers-in-law—often invisibilize and normalize violence through comments that attribute their daughters-in-law's complaints about mistreatment or abuse to women's supposed

[146] Decreto 22-2008 defines the victims of all crimes defined in the law as "the woman of any age against whom any type of violence is inflicted" (Art. 3(i)) but fails to define the active subject / perpetrator. As one key informant explained: "In Mexico it [the perpetrator] can be a woman, here it cannot."

emotional instability (instead of being the result of actual mistreatment, abuse, and violence). These illustrate how women themselves often uphold the heterosexist norms that can serve as a "justification" of violence and put pressure on women to stay in violent relationships out of fear of gossip and being judged by family, neighbours, and community members (Chirix García, 2010). These dynamics, however, are not unique to Indigenous Maya communities. Indeed, similar patterns were reported by Menjívar (2011) in her work on *ladina* women's experiences of violence in eastern Guatemala, where female kin (family of origin as well as in-laws) often participated in the monitoring and control of women's physical movement and social interactions in order to avoid damaging gossip. And in cases in which women faced mistreatment and abuse from their husbands, Menjívar (2011) exposes how the support and solace that they received from their mothers and mothers-in-law often served to "reinforce constructs of masculinity that normalize violence" and ended up "sustaining [their] suffering" by encouraging the women to "*aguantar*" [endure] what was seen as "the way things were" (pp. 128-129). Thus, rather than think about violence against women as an isolated act necessarily committed by individual (or groups of) men, these reflections point to a more complex understanding of how sexist and misogynist violence often gets perpetuated and sustained by women, who are also capable of enacting it against other women.

A few key informants related stories of women who attempted to report violence and beatings that they had suffered at the hands of their same-sex domestic partner only to be turned away by authorities. One explained that the victim "went to file a complaint under the violence against women law and they told her 'No' because that's only by men against women." These types of incidents therefore end up being treated as if victims had been "attacked by a stranger on the street" given that their relationships are not recognized by the state and that the Law against

Femicide does not contemplate violence exerted by one woman against another as violence against woman.

These erasures are important to highlight given that women's organizations and feminist activists have celebrated this law for having "for the first time, recognized these violences [sic] by loved ones [and] close relatives, where there's a dysfunction and there's horrific power," as one key informant told me. Indeed, as another key informant from the sexual diversity movement explained in relation to a woman who had suffered violence at the hands of her same-sex partner, "the whole pattern of violence that she exhibited corresponded precisely with the patterns that this law is trying to eradicate," and yet, the victim was unable to seek justice or protection from the very law meant to address this type of violence because the assailant was another woman and the violence she was exerting was therefore not considered "violence against woman" in how the Law against Femicide has been interpreted.

Violence Against Lesbians, Transwomen, and Sex Workers

The insistence within activist discourses and state legislation that femi(ni)cide consists of violence against women *because* they are women also risks missing important dynamics at work in violence directed at women who do not conform to expected norms of gender or sexuality. Interviews with sex workers and activists from LGBTI organizations revealed that they have no way of knowing how many lesbians, transwomen, or sex workers have been among victims of femi(ni)cide: no statistics or reporting exist on violence against these groups. Violence directed at transwomen, for instance, is not contemplated in the Law against Femicide and has largely been absent from discussions of violence against women and femi(ni)cide among women's organizations in Guatemala despite being a form of violence that is undeniably gendered and

misogynistic.[147] And while some of the early reporting on femi(ni)cide observed that young, impoverished, and marginalized women in urban areas, including sex workers and gang-involved women, seemed to make up a significant proportion of murdered women in Guatemala (AI, 2005; CALDH, 2005; GAM, 2007; GGM, 2004), that recognition was gradually replaced by an "all" women approach to femi(ni)cide that seems to side-steps inquiries into the over or under-representation of specific groups of women among victims of femi(ni)cide. While reliable demographic statistics on victims of femi(ni)cide or violence against lesbians, transwomen, and women sex workers are generally limited if available at all, anecdotal evidence would suggest that violence against these groups—which often intersect and overlap—is rampant and very much normalized.

Two different key informants from LGBTI organizations recounted the story of the murder of a group of lesbian women in the department of Jalapa in 2013.[148] As one of them explained, these women were part of a group of friends who got together to play soccer and drink beer. Since they all presented in a fairly masculine way, they were initially misgendered when their bodies were found; and while authorities reportedly identified them in some sources as "women dressed as men," key informants told me that there was no mention in reporting on the case that they were lesbians and LGBTI activists only found this out through word-of-mouth. No one was ever charged for these murders—the suspected perpetrator was rumoured to be a very powerful man in the community, possibly the ex-husband of one of the victims. While

[147] There seems to have been some positive movement in Guatemalan civil society in relation to the inclusion of transwomen in discussions of gendered and sexual violence since my fieldwork. A Tribunal of Conscience on "sexual violence in the past and present [as] a crime" organized in June 2019 to discuss the impunity that continues to reign in those cases and to "document cases that have not reached the justice system" included among its organizers the Organización Trans Reinas de la Noche (Queens of the Night Trans Organization, OTRANS), an organization of trans people based in Guatemala City and active in LGBTI struggles for more than a decade, alongside more "mainstream" *ladina*/*mestiza* women's organizations such as UNAMG and Sector de Mujeres, as well as a few Indigenous women's organizations (FGER, 2019).

[148] One key informant told me that seven people had been murdered in this incident, the other simply said "a few."

these murders could very well fit into the law's definition of femicide, asserting that these women were killed simply "because they were women" would not fully capture the violence if in fact their sexuality and gender expression informed the context of their murders. As a group of lesbians that adopted a masculine gender expression, they were breaking with an important tenet of how to be "respectable" women in the context of heterosexist patriarchy and, by extension, "worthy" victims—as explored in Chapter 3. As one of my key informants argued, killing a lesbian "carries a different political weight," and one that needs to be taken into account when responding to this type of violence and when working to prevent it.

Transgressing the binary sex-gender order also exposes transwomen to violence. In fact, as a few of my key informants argued, gendered violence is often expressed even more intensely against transwomen: "I think that trans [women] are more frequently the object of violence precisely because it touches on these stereotypes about femininity, right? I think that that's why they are always the most attacked," explained an activist with a sexual diversity organization. And, as a sex worker organizer explained:

> We can't say that only biological [sic] women are enduring violence because, for example, our trans *compañeras* [companions / friends]… the fact that they changed to feminine exposes them to assault since they've stepped outside the box, people think man-woman, penis-vagina, and if someone changes that then you've changed everything and it has to be eliminated because it's bad.

The sexual diversity organizer quoted above recounted having travelled to Retalhuleu to try to gather information on the case of a transwoman who had recently been lynched in that department only to find that all of her belongings—from the small storefront she ran out of the front of her house down to the toilet and sink from her bathroom—had been taken away. The

only thing remaining at the site of what had once been her house was the cement platform on which it had been built. As that key informant explained, the intensity of this transphobic violence is not only meant to harm the victim physically but rather "attempts to erase you, your existence, deny the fact that you were once there, that you existed." While overall homicide rates have fallen in recent years, the number of murders of transwomen have been increasing (OTRANS et al., 2018).

Despite this intensity, the recognition that violence against transwomen can be linked to and intersect with similar forms of misogyny than those motivating femi(ni)cide was not commonly expressed in my interviews. Only eight out of thirty-four key informants even mentioned violence against transwomen.[149] In five of these interviews—three with individuals active in the LGBTI movement or sexual diversity organizations as well as two interviews with sex workers, one of which was a small group interview—key informants drew links between violence against transwomen and VAW or femi(ni)cide. In the other two interviews, violence against transwomen was only discussed briefly after a comment or question on my part about sexual diversity. One of these key informants was a representative of a women's organization that works mostly on legal accompaniment to women victims and survivors of violence who suggested in her comments that violence against transwomen was a separate issue from femi(ni)cide and that it could be dealt with "later." The other was a former bureaucrat who I had learned from a previous interview had been involved in discussions with sexual diversity organizations advocating for the investigative protocols used in cases of femicide to be applied in

[149] The lack of recognition of and attention to violence experienced by transwomen is not a problem unique to Guatemala. Indeed, in a 2016 report prepared for the Committee on the Elimination of Discrimination against Women, Egale Canada (2016) affirms that "Sexual violence and D/IPV [domestic and intimate partner violence] response services under-recognize those outside of a cisgender, heterosexual relationship" (p. 6). Similarly, a 2009 survey of victim assistance agencies in the US revealed a severe lack of training, cultural-competency, and availability of LGBT-specific services among agencies (NCVC & NCAVP, 2010).

murders of transwomen. An activist who had been involved in this advocacy had told me that, after initial resistance, state interlocutors seemed to have finally understood their position and appeared willing to make some changes. However, in our interview, the former bureaucrat told me that treating murders of transwomen as femicide was simply impossible since forensic investigators would "see the penis" as soon as the body arrived at the morgue. So, while the Law against Femicide does recognize the "unequal relations of power between men and women" that give rise to men's "violence against woman," this former bureaucrat's comments during our interview revealed the essentialist and deeply transphobic understanding of who this (singular) woman is understood to be.

As a 2018 report to the UN Human Rights Committee on the Human Rights Violations Against Transgender Women in Guatemala (OTRANS et al., 2018) outlines,

> transgender women are particularly vulnerable to violence because the absence of other employment opportunities often forces them into sex work. … Transgender women involved in sex work are constantly suffering aggressions and threats due to their gender identity. Between January and November 2017, 71 reported cases of such aggression occurred in Guatemala. (p. 7)

Indeed, as the sexual diversity activist quoted above explained, harassing trans sex workers is almost a rite of passage for young Guatemalan men.

When I asked sex workers about the incidence of femi(ni)cide among their peers, one of them explained that "we recognize it [the high rate of murders of sex workers] because they are killed in areas where sex work is practised, so we know who they [the victims] were." However, as another explained this is not recorded in news reports or statistics:

> if you look at femicide statistics, it only says "murdered woman, this and that, in such and such place." But it doesn't say "woman sex worker was murdered," with all that this implies. They invisibilize us, so there aren't any statistics.

She went on to explain that while the organization she belongs to has tried to gather its own data on the issue, the peers of murdered sex workers often refuse to talk about the murder out of fear of reprisals, while family members often do not know or do not acknowledge that their loved one was engaged in sex work:

> When we go out to gather information, they don't tell us, they don't talk because they're afraid that they'll be assaulted. And the family members, well, we find a close family member and [ask] "Look, what happened?" "Who knows! She was selling Avon products, catalogue products" [or] "Oh no, she was a moneylender." They never accept that the *compañera* was a sex worker. Why? Because of the stigma.

Given the stigma attached to sex work and the categories of "worthy" victims that have become embedded in the Guatemalan legal framework (discussed in Chapter 3), it is not surprising that family members would be reluctant to discuss their relative's involvement in sex work even if they had been aware of it—especially to investigators looking into their loved one's murder. Indeed, the Amnesty International (2005) report on violent deaths of women discussed in Chapter 2 described how family members of murdered women in Guatemala felt that they had to "prove their relative was 'respectable' or that they had not been involved in any crime before the authorities would take their complaint seriously" (p. 21).

As has been discussed in previous chapters, there is also reason to believe that the overrepresentation of sex workers among victims of femi(ni)cide is even more pronounced when considering only those murders featuring *ensañamiento*—the very brutality that served to

highlight the urgency of addressing femi(ni)cide.[150] While debates continue over the root causes of this violence and the identity of its perpetrators is often unknown (some of the hypotheses were discussed in Chapter 2), sex worker organizers I interviewed maintained that the conditions and marginal areas in which they and their colleagues work shape their vulnerability to femi(ni)cide, and particularly to its most brutal expressions:

> Most brutal murders [of sex workers] have been the product of insecurity, of the lack of security that exists in places where sex work is practiced. These are also places where there's too much access to—how shall I say?—to gangs, to organized crime. So, what this does is that it traps sex workers as a collective, making them more vulnerable. It leaves you out in the cold… It allows gangs, extortionists, to extort women who practice sex work.

These women were particularly concerned about the conditions they and their colleagues face in areas of Guatemala City where street-based sex work, as well as sex work operating out of bars and hotels, is especially concentrated, which are also areas known to be rife with gang activity and organized crime. They told me of several women sex workers that they knew had been murdered after they had started selling drugs or collecting extortions, activities they often participated in after being threatened or having become romantically involved with a gang member.

In addition to being exposed to these risks because of the marginal and dangerous areas in which sex work has been confined,[151] sex workers are also subjected to physical and sexual

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[150] As discussed in Chapter 2, in 2001 at least 12 women who were found strangled to death and with sexist inscriptions carved into their bodies are known to have been sex workers (AI, 2005, p. 13). This was a period that key informants from sex workers' organizations remembered as one in which a serial killer was preying on Guatemala City's sex workers.

[151] While a deeper examination of the historical context in which sex work in Guatemala City evolved and of its socio-spatial dynamics, lies beyond the scope of this dissertation, it is important to note that Guatemala's Labour

violence at the hands of partners, clients, and authorities that is often motivated by the gendered and sexualized constructs discusses in Chapter 3, as one of the sex worker organizers I interviewed explained:

> We are also chastised for having chosen to do sex work. That's where the double standard exists because the client comes to use my sexual services but he also wants to chastise me and wants to exploit or rape us simply for being women sex workers.

As the above quote evinces, the gendered expectations of men being sexually active and women being chaste that pervade society more generally also impact sex workers. However, as a sex worker organizer explained, when sex workers are murdered, the way that these murders are covered by the media ends up obscuring the fact that this violence is gendered and targets them at least in part because they are ("bad") women:

> … when we women—women sex workers—are assassinated, they quickly say "Prostitute brutally killed because of links to gang" or "organized crime"; "Murder by gang"; "Drugs." Everything except her essence as a woman, as a woman who was practising street-based sex work and who was a victim of violence, who was a victim of femicide. That isn't seen. That isn't seen because the sensationalist, macho, patriarchal press foments rights violations and all forms of violence against women as well.

Later, speaking of the reaction from authorities and civil society more broadly, she added: "They don't really talk about the violence that exists against us, against us women as such."

Code does prohibit prostitution (along with gambling, cockfights, and selling or distributing drugs or alcohol) within three kilometers of a workplace (unless it is otherwise regulated by local or municipal law) (OMES, 2013), pointing, once again, to how legal frameworks shape vulnerability to violence.

Specialized Justice and the Comprehensive Assistance System

As discussed in Chapter 4, in addition to criminalizing various expressions of violence against women and making them punishable by significant jail time, the Law against Femicide also sets out a number of measures to be taken by the state and by justice sector institutions, including measures meant to improve women's access to justice and curb impunity for crimes against women: creating the OJ's Specialized Justice Bodies and the MP's Prosecutor against Crimes of Femicide (Decreto 22-2008, Art. 14); ensuring public servants receive training in gender-sensitivity and on the content of the new law (Article 18 assigns responsibility for the latter to NGOs); and, guaranteeing access to information and "comprehensive assistance" (Art. 13) as well as free legal assistance (Art. 19) to victims.

According to several observers, the implementation and institutionalization of Specialized Justice within the OJ has been one of the most important outcomes of the Law against Femicide and many believe that without it, the Law would likely have remained no more than a symbolic gesture (Aldana, 2013; CIJ, 2016). While a few cases were successfully tried in "regular" courts in the first two years after the Law against Femicide had taken effect, it was not having the impact that many had hoped as several judges were continuing to apply the VIF Law instead of the newly defined crimes of violence against woman and their respective penalties (Casa de América, 2014). And while Article 15 of the Law against Femicide called on Guatemala's Supreme Court of Justice (CSJ for its Spanish acronym) to create specialized courts tasked with hearing crimes defined under the new law, it seemed at the time as if this provision was destined to like so many other pieces of Guatemalan legislation, end up as a "dead law," as one key informant described it. It was in the hopes of avoiding this outcome, and after observing that many judges were still not interpreting the Law against Femicide correctly two years after its

adoption that Judge Thelma Aldana started putting together a proposal to introduce Specialized Justice when she began her term on Guatemala's Supreme Court in 2009 (Aldana, 2013; Casa de América, 2014).[152]

Aldana, who was the only woman on the Court at the time, recounts taking her seat on the Supreme Court with the ambitious intention of implementing specialized justice for femicide. Expecting resistance, she prepared a proposal to open three courthouses specialized in femicide (one in each of the departments that had been found to have the highest rates of violence against women and femicide) thinking that, after negotiations, she would be left with an agreement to open one courthouse (see Casa de América, 2014; also Aldana, 2013). Her proposal did indeed encounter resistance among the Supreme Court judges, but was eventually accepted. A key informant from the Unidad de Control, Seguimiento, y Evaluación de los Órganos Especializados en Delitos de Femicidio y Otras Formas de Violencia Contra la Mujer [Oversight, Monitoring, and Evaluation Unit of Bodies Specialized in Crimes of Femicide and Other Forms of Violence against Woman, hereinafter Oversight, Monitoring, and Evaluation Unit] [153] reported in our interview that it took several sessions before consensus was reached among the other 12 members of the Court to approve Aldana's proposal, only ceding once Aldana was able to find

[152] In Guatemala, Supreme Court judges are appointed by Congress to a five-year mandate, and these 13 judges then elect one of their peers to serve as President of the court for a one-year mandate. Judge Aldana served on the Supreme Court of Justice from 2009 until 2013, she was the Court's President in 2011-2012. She was subsequently named Attorney General in 2014, a position she held until May 2018. As such, she has played an important role in strengthening the rule of law in Guatemala and in shaping the direction of the country's justice system. Her predecessor at the MP, Claudia Paz y Paz had undeniably initiated important reforms of the institution, especially as it pertains to the fight against impunity for crimes committed during the internal armed conflict. When Aldana's selection as Attorney General was announced, leftists and progressives who had been highly supportive of Paz y Paz were initially cautious, and slightly suspicious of Aldana's ties with political and economic elites. However, she continued the MP's work strengthening the rule of law, combating impunity and corruption in the country, and bringing an even stronger focus on femicide and VAW within the institution.

[153] The Oversight, Monitoring, and Evaluation Unit was established in 2012 during Aldana's tenure as President of Guatemala's Supreme Court of Justice. It was set up to provide administrative and technical support to the Specialized Justice Bodies, from identifying training needs, monitoring and reporting on the Bodies' activities (sentences, victims services, etc.), to proposing strategies to incorporate gender-sensitive and ethno-culturally appropriate practices (key informant interview; see also http://www.oj.gob.gt/justiciadegenero/index.php/unidad/).

funding for her project. Incidentally, the budget used to establish the Specialized Justice Bodies had originally been intended to fund an agrarian court system that had been proposed by the CSJ in 2005 to deal with the rampant and often racialized land conflict in the country but that never got off the ground because of opposition from business interests (see Casa de América, 2014; PNUD, 2016, p. 117). The same key informant from the Oversight Unit cited above explained to me that, since its establishment, the success of the Specialized Justice program, as well as the significant support it has received from donor agencies of European and North American countries, have worked to create a certain "protective effect" that has counter-acted any continuing resistance the program may have faced.

Structure and Purpose of the System

The first Specialized Justice Bodies were introduced in 2010, in the departmental capitals of Guatemala, Chiquimula, and Quetzaltenango—the three departments that were found to have the highest rates of violence against women and femicide. Between 2012 and 2014, the Specialized Justice system expanded to another eight departments, added an appellate court, appointed additional judges to existing courts in Guatemala City, where it also installed a second set of courts as well as a 24-hour court. In 2016, courts were opened in two more departments, with an expansion to one final department in 2019, brining Specialized Justice Bodies—ranging from first instance courts, sentencing tribunals, and appellate courts—to 14 out of 22 departments.[154] Since March 2016, in addition to being authorized to hear cases charged under the Law against Femicide in their jurisdiction, Specialized Justice Bodies also deal with crimes

[154] The following departments have some level of coverage by the Specialized Justice system: Guatemala, Chiquimula, and Quetzaltenango as of 2010; Huehuetenango and Alta Verapaz as of 2012; Izabal and Escuintla as of 2013; San Marcos, Sololá, Quiché, and Petén as of 2014; Chimaltenango and Suchitepéquez as of 2016; and Jutiapa as of 2019.

of sexual violence charged under the Law against Sexual Violence, Exploitation, and Human Trafficking (Acuerdo No. 5-2016).

As is explained on the OJ's website, Specialized Justice "arises in light of society's demand to have Jurisdictional Bodies with an analysis and interpretation different from the conventional [courts]" and has the stated goal of "attending to the particular needs of the victim / survivor of violence, as well as avoiding revictimization."[155] In order to meet these goals, staff in the Specialized Justice Bodies—from administrative personnel to judges—have all received specialized training: a course on Transversalización de Género y Análisis Normativo en Materia de Violencia contra la Mujer [Gender Mainstreaming and Regulatory Analysis in the Area of Violence against Women] is offered across the judiciary, and judges assigned to Specialized Justice Bodies also undergo a second more in-depth training program immediately before starting their appointment. One key informant who had worked in the OJ's gender training program and was herself a former judge explained that, through these programs, judges and other justice administrators receive training on gender-sensitivity, the evolution of international instruments on human rights and women's rights, barriers to justice for women, stereotypes and myths about VAW, the "cycle" of VAW, as well as more detailed training on the content of the Law against Femicide and the Law against Sexual Violence, Exploitation and Human Trafficking.[156] According to evaluations of the Specialized Justice Bodies, this training has been central to ensuring that national laws and international principles are applied consistently in cases related to femicide and VAW (CIJ, 2016; Unidad de Control, Seguimiento, y Evaluación

[155] See http://www.oj.gob.gt/justiciadegenero/index.php/organos-especializados for more detail.
[156] Between 2009 and 2014, 4,771 magistrates, judges, and *auxiliaries judiciales* [assistant magistrates] received training through these programs (CIJ, 2016). In addition to the training offered from within the OJ, women's organizations have, throughout the years, also worked on offering different types of gender-sensitivity training to justice operators.

de los Órganos Especializados en Delitos de Femicidio y Otras Formas de Violencia contra la Mujer del Organismo Judicial [Unidad de Control], 2014).

Social workers, psychologists, and child-care providers who make up the SAI also work within the Specialized Justice Bodies and are considered OJ employees.[157] Each incoming case is assigned to an SAI social worker and psychologist who accompany the victim(s) throughout the legal process to ensure that they receive the social and psychological support that they may need in order to "overcome the effects of the violence to which they were subjected" (Unidad de Control, 2014, p. 42). Among other responsibilities, SAI staff keep victims informed on the status of the case, assist them in finding legal assistance, ensure that necessary security measures (restraining orders, etc.) are in place, provide support while they give testimony and arrange for accommodations to give testimony during pre-trial hearings or via video-link so that the victim does not have to testify in front of the accused, follow up on the implementation of any measures of reparation or restitution ordered by the court, and otherwise coordinate with state and civil-society institutions that provide services to victims. In some areas of the country, the SAI has initiated self-help groups to help women continue in their "empowerment" process even after their case has reached a conclusion (Unidad de Control, 2014).

The MP has also implemented policies to improve victim services, avoid revictimization, and implement investigative procedures and prosecutorial protocols that are more gender-sensitive and that demonstrate an awareness of how VAW manifests.[158] As key informants who

[157] It is significant that these services are provided by public servants hired and paid directly by the state since this type of service has typically been ensured by NGOs in Guatemala, even when they are state-funded services—see discussion below of how the country's women's shelters, known as Centros de Apoyo Integral para Mujeres Sobrevivientes de Violencia [Holistic Support Centres for Women Survivors of Violence, CAIMUS] are operated.
[158] The MP instituted a Holistic Care Model of its own within the MP offices in January, 2011 (MP, 2015). The Fiscalía contra el Delito de Femicidio [public prosecutor's office against the crime of femicide] was later established in November, 2016 (Álvarez, 2016). While the Specialized Justice efforts have been much more publicized (in part due to funding from UN programs), the issue continued to be front and centre on the MP website in late 2018 with

work within the SAI, the Oversight, Monitoring, and Evaluation Unit, and training units of the OJ explained, the OJ has emphasized inter-institutional coordination while implementing Specialized Justice in order to try to limit duplication of efforts and to ensure that resources are used efficiently and effectively. For instance, the expansion of Specialized Justice into the departments of Sololá, San Marcos, Quiché, and Petén in late 2014 was planned in coordination with the MP, so that it could also set up branches of its Women's Office in regions where Specialized Justice operates (CIJ, 2016). And, when a 24-hour court for crimes of femicide, VAW, and sexual violence was established within the MP's central office in Guatemala City in 2012, the Instituto de Defensa Público Penal [Institute of Public Criminal Defence, IDPP] (which, according to the Law against Femicide, is responsible for providing legal support to victims, according to the Law against Femicide), the INACIF, and the correctional system also set up offices in the building so that victims would be able to report violence to the court, receive immediate psychosocial assistance, access medical exams and reports, and get security measures issued promptly and without having to visit various institutions (Unidad de Control, 2014). According to the International Commission of Jurists (CIJ, 2016), "the experience of the specialized justice bodies [sic] has contributed to generating a comprehensive vision of the justice system" (p. 75).

These efforts are meant to reduce the risk of revictimization that women face when accessing the justice system in the face of violence and to minimize or eliminate the obstacles that prevent women from pursuing legal remedy in the first place, or from continuing with their case once it is in process. The establishment of childcare spaces in courts, for example, responds to the fact that women's childcare responsibilities can limit their ability to access certain services

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"*Atención a Victimas de Violencia contra la Mujer*" [Services for Victims of Violence against Women] appearing as one of the three banners that were cycling at the top of the MP's homepage.

or to attend meetings or appointments. They represent a turn toward a victim-centred approach to justice, responding at least partially to feminist critiques of state-centric—and often criminal-justice-system-centric—responses to VAW that situate the state, or, at best, society in general, as the "offended party" in criminal proceedings, casting the victim as "a mere witness to her own abuse" (Macaulay, 2006, p. 105). Instead of a singular focus on assignment of blame, prosecution, and punishment, the victim-centred approach of Guatemala's Specialized Justice Bodies for crimes of femicide and other forms of violence against women aims to "satisfy the needs of the victim and her reparation rather than her being used exclusively for the purpose of investigation and criminal prosecution" (CIJ, 2016, p. 67).

Making Strides Against Revictimization and Impunity?

When I was conducting field work and interviews in Guatemala in 2014, the Specialized Justice system was still in its very initial stages. The oldest of the courts had only been in place for a bit over three years and several of the now functioning courts had yet to be established, the Appellate Court had been in place for less than two years, and the Oversight, Monitoring, and Evaluation Unit had been up and running for just over a year. As such, it was still too early to fully evaluate the impact of Specialized Justice.[159] Even so, many key informants expressed generally positive impressions, particularly related to the victim-centred approach that the system was instituting and to the idea that investigation and prosecution of crimes against women were improving, including this key informant, a feminist activist:

> Yes, progress has been made in terms of what the Law lays out: a model of comprehensive care, a victim services office. The Law has enabled an increase in

[159] Unfortunately, the Oversight, Monitoring, and Evaluation Unit seems to have been largely inactive since soon after my fieldwork, leaving a dearth of information on the continuing operations of Specialized Justice Bodies. The information provided in this section that is dated after my fieldwork was obtained from a report by the International Commission of Jurists (CIJ, 2016) and in sporadic newspaper reporting since.

> reporting; also regarding [victim] services in Specialized Justice centres and that they have opened in several places … criminal investigation has improved. We're on a positive track in that area.

Apart from five key informants who worked within the Specialized Justice Bodies in some capacity,[160] only a few others had any directed experience with Specialized Justice, generally as legal counsel or advocates for victims. The latter reported positive encounters with the new system: "I wish all the courts were like that because you can see the difference in the attention provided to victims," emphasized one key informant. Observers from within and outside the Specialized Justice system concurred that the gender-sensitivity training and victim-centred procedures being put in place in these bodies were starting to challenge the androcentric and often sexist assumptions at the basis of the criminal justice system. Many contrasted this with revictimizing practices and bad experiences that they had witnessed in cases of VAW brought to "regular" courts.

For staff within the system, the victim-centred approach of Specialized Justice is really what differentiates these courts from the rest of the criminal justice system. They spoke separately of having witnessed victims becoming "empowered" by the care and attention they were receiving within the system, which made victims feel like they mattered and like "someone is paying attention." Another key informant who worked in the system cited the training that judges receive on the "cycle" of VAW and the fact that judges are now aware of some of the power dynamics that can lead victims to recant their testimony or withdraw their complaint as a positive step in discouraging perpetrators, their family members, or their defenders from threatening or pressuring victims to abandon the case.

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[160] These included three staff of the SAI and two key informants from the Oversight, Monitoring, and Evaluation Unit.

According to a key informant from the Oversight, Monitoring, and Evaluation Unit, in addition to these qualitative improvements, the Unit had also identified "substantial quantitative progress": "We went from one sentence in 2008 to 350 sentences in 2010 when they [the Specialized Justice Bodies] started and it kept increasing to reach 1,250 sentences in 2013." By 2018, 15,784 sentences had been handed down by Specialized Justice courts (Quiñones, 2019). Likewise, the International Commission of Jurists (CIJ, 2016), suggests that, with the establishment of Specialized Justice, "a process has been initiated to gradually break the barrier of impunity that upheld the continuum of violence against women in Guatemala" (p. 113). Indeed, given their findings that 71% of verdicts in femicide cases between July 2013 and June 2014 were handed down by the 18 Specialized Courts that had been established at the time compared to 29% by 102 "ordinary" courts, the CIJ (2016) describes the Specialized Justice Bodies' impact as leading to "a significant increase in the response of the justice system to the victims in terms of sentencing, compared to what is offered by ordinary justice" (p. 65). The Oversight, Monitoring, and Evaluation Unit (Unidad de Control, 2014) and the CIJ (2016) also report that VAW cases brought to "ordinary" courts are more often dismissed or lead to misdemeanour charges [*faltas*] rather than criminal charges than those brought to Specialized Justice Bodies, an observation that was also shared by several of my key informants who worked within or close to the Specialized Justice Bodies.

Increased Reporting

While the establishment of the Specialized Justice system had apparently led to an increase in the number of femicide and violence against women cases that make their way through the justice system and reach a verdict, it has also coincided with a sharp increase in reporting of incidences of violence against women. During my fieldwork in 2014, there was

much discussion—in the context of interviews as well as in the media—of the high number of cases of "violence against woman" being reported to authorities since the Law against Femicide had been adopted, and, especially, since the establishment of the Specialized Justice Bodies: from 11,566 reports of VAW in 2008, there was a 23% increase in reporting in 2012, reaching 49,400 reports in 2013 (CIJ, 2016). However, instead of interpreting this as a "real" increase in violence, feminists and human rights defenders as well as OJ and other state representatives generally concurred that it should be interpreted as a reduction in underreporting of violence. As one of these key informants explained, "it's violence that is currently coming to light. This violence has existed but wasn't recorded, so we aren't going to find the same number of cases ten years ago when there weren't any statistics or a law."

Many key informants saw the increase in reporting as another sign of the progress that had been achieved since the adoption of the Law against Femicide and, especially, the introduction of the Specialized Justice Bodies. They understood it as evidence that women's trust in the Specialized Justice Bodies and in the justice system overall had increased.[161] They posited that the introduction of victim-centred approaches, the increase in verdicts and convictions in cases of VAW, as well as the progress that the MP had been making more broadly toward strengthening the rule of law and fighting against impunity under the leadership of then-Attorney General Claudia Paz y Paz[162] all contributed to the public's increased trust in the justice

[161] While key informants and OJ representatives did not provide detailed information about the level of support for or trust in Specialized Justice in terms of race/ethnicity or region of the country, one key informant did talk about mobilizations by Indigenous women in Chimaltenango demanding that Specialized Justice Bodies to be established there.

[162] My interviews were conducted at the end of the tenure of Claudia Paz y Paz as Attorney General. As mentioned above, Paz y Paz, who had a long trajectory as a human rights activist and scholar, had instituted reforms within the MP to strengthen the institution. During her tenure cases related to human rights violations committed during the armed conflict had started advancing for the first time in decades, including the trial for genocide and crimes against humanity of former dictator Efraín Ríos Montt. The sentence in the latter had also brought the issue of sexual violence during the war into focus, as had a Tribunal of Conscience on Sexual Violence committed against women during the internal armed conflict, held in 2010.

system in general, and in (at least some) women's willingness to come forward to report violence in particular. Indeed, a few key informants even pointed to requests from women's groups in areas where Specialized Justice had not yet been implemented to get the system expanded to their department as proof that women had more trust in the Specialized Bodies than they did in "regular" courts.

Key informants associated the increase in reporting of VAW with the "media effect" of the adoption of the Law against Femicide and the strengthening of a *cultura de denuncia* [reporting culture] that had been achieved through awareness-raising campaigns in the aftermath of the Law against Femicide: women were now more aware of VAW, of the fact that it is a crime, and of the steps that they can take to report it and pursue justice through the courts. A key informant from the Oversight, Monitoring, and Evaluation Unit of Specialized Justice Bodies also identified a generational shift in this reporting culture: "a reporting culture is fostered especially … among victims from 18 to 35 years of age … that for me means that we are in the generation that dares to report, not [one] that let these things pass."

As other key informants explained, Guatemalan women's awareness of VAW had been growing for some time. As discussed in Chapter 4, raising awareness about women's human rights and the right to "live a life free from violence" has been a central focus of many organizations within the Guatemalan women's movement. Several representatives of organizations that I interviewed talked about the outreach work they have done with women to encourage them to know and defend their rights, including, post-Law against Femicide, knowing the *ruta de la denuncia* [reporting path], the institutional process of filing a complaint if ever they are victim of violence against women, including where to report and the various steps involved in the legal process; I discuss some of these efforts in more detail later in this chapter.

The adoption of the Law against Femicide and the introduction of the Specialized Justice Bodies had brought awareness to new levels, however; a reality that one key informant, a feminist activist, identified as "empowering": "It had started before, but certainly after the adoption of this law, and of any law that protects women's rights, it empowers."

Judges who participated in the CIJ's (2016) study of best practices in specialized justice also observed changes in social and institutional understandings of violence against women since the adoption of the Law against Femicide and the introduction of Specialized Justice Bodies. They pointed to women's increased willingness to report violence and to a more widespread understanding of VAW as a crime as evidence of this "perceptible change," and yet expressed reservations as to if this actually represented a deeper cultural change in how this violence is perceived: they attributed these changes to men's "fear … of being subjected to a judicial system that has been set up against them" more than to a "belief in the respect for women's rights" (CIJ, 2016, p. 63).

Drawbacks of Applying a "Sociological" Approach in the Criminal Justice System

Despite the positive comments from many key informants about the gender-sensitivity and concern for avoiding revictimization that they were now witnessing in the Specialized Justice program, other key informants expressed reservations about how much progress the Law against Femicide and Specialized Justice were actually making in getting justice for femicide and VAW. Some were critical of the way that the crime of femicide had been defined in the 2008 Law against Femicide. Two key informants who were well acquainted with the application of this law (having legal training and/or working for an organization that accompanies victims through the legal process) explained that the Law's reliance on sociological concepts such as "unequal relations of power" and "misogyny" to define the crimes of femicide and VAW has

made these crimes hard to prove in court since these concepts do not have a clear definition in criminal law. According to one of these key informants, this challenge has led some prosecutors to present charges of assassination rather than femicide because they find that crime easier to prove. This concern is echoed by Judge Aldana (2013) when she comments that the inclusion of "because she is a women" in the definition of femicide in the Law against Femicide "causes serious problems for those who must prosecute an instance of femicide because it is a subjective element that is difficult to prove objectively or through scientific proof" (p. 140). For Aldana (2013), this is not a condemnation of the Law against Femicide. Rather, she insists that "an effort must be made to understand how inequality, discrimination, and the subjugation of women to men function in the ideological cultural construction as if it were natural, and, therefore, acceptable" (p. 140). The key informants cited above, however, suggested that the way that femicide and VAW are defined in the 2008 Law against Femicide has only facilitated the prosecution of perpetrators with an intimate or family link to the victim, which is often, they explained, when the "unequal relations of power" between the perpetrator and the victim is clearest and easiest to prove in court.

The lack of objective criteria in the definition of femicide and VAW, together with apparent prioritization of gender-sensitivity training and the gender of candidates for judgeships[163] over other considerations in hiring decisions for new courts, had, according to one key informant's observations contributed to a high number of convictions for femicide and VAW

[163] In 2016, 54% of judges in Specialized Justice Bodies were women (37 of 68 judges). The gender make-up of the courts had changed towards a more balanced representation of men and women in recent years, however. When I conducted interviews in 2014, 32 of 52 judges in Specialized Justice courts were women (62%) and when the first three courts were established in 2010 in the departments of Guatemala, Chiquimula, and Quetzaltenango the "majority" of judges hired into these were women who had completed a Master's degree in Women's Rights and Access to Justice at Guatemala City's Universidad San Carlos (Morales Trujillo, 2014). The ethno-linguistic makeup of the courts (and of staff in the Specialized Justice system more broadly) is not reported anywhere (see CIJ, 2016).

being overturned on appeal. This key informant, a lawyer with in-depth experience in women's and human rights explained that,

> They're overturned on appeal because the judges write essays on gender and they write essays on unequal relations of power … but that's not criminal [law]. … Criminal justice for femicide requires … a very good judge, male or female—if they have that feminist perspective, great! But [this perspective has to be] within criminal law—and someone who knows criminal procedural law.[164]

Along with budgetary concerns (discussed below), this made this particular key informant skeptical that the strides that others were celebrating in the Specialized Justice program would prove to be as deep or as lasting as they would need to be in order to have a real impact on impunity for crimes against women.

The idea that women are somehow better suited for the work of Specialized Justice was, however, expressed by a number of different key informants. Key informants from the SAI—where the overwhelming majority of staff are women—linked the predominance of female social workers and psychologists within the courts to the "fact" that women are able to establish a better rapport with victims, and are therefore better able to support them.[165] A key informant from a women's organization offered that women are generally "more aware" of VAW, though she did recognize that "there are also [female] judges who are clueless." However, as the human rights lawyer quoted above, asked, "Why are women the ones that have to try this [violence]?"

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[164] As another key informant with experience in criminal law explained, the criminal justice system in Guatemala has a high rate of cases that are overturned on appeal in general and that, in her opinion, this was not necessarily a problem with Specialized Justice or the Law against Femicide per se. However, the critique of judges in Specialized Justice not having received enough training on criminal procedural law has appeared elsewhere, see Reynolds (2012).

[165] At the time of writing, the SAI representatives that I interviewed informed me that virtually all SAI staff were women. At the end of 2014, there were 79 people working in the SAI including 30 psychologists, 29 social workers, and 20 childcare workers. There was no available breakdown of staff according to race/ethnicity.

Indeed, not only does the notion that judging femicide and VAW is women's work follow "the logic that it's not the whole of society that has to respond," as she put it, it is also an idea that is often based on, and risks bolstering, essentialist notions of gender that cast women as "natural" caretakers, as more attuned to others' suffering, or that ties the experience of violence to the gendered/sexed female body.

Sustainability of the System

A second critique of the Specialized Justice system that came out of interviews was that making it a separate entity was necessarily more expensive than prosecuting these crimes within the already functioning criminal justice courts. While certain parts of the system—including, notably, gender-sensitivity training and public outreach and awareness-raising campaigns—have at least partially been supported by funds from international donors, by June 2014, the OJ had invested 148 million Quetzales (nearly 20 million USD) in the Specialized Justice program since it was introduced in 2010 (Unidad de Control, 2014, pp. 21-22).[166] The high cost of the system was cited by several key informants as a barrier to its expansion, and, consequently, a potential limit to women's access to justice in areas of the country where Specialized Justice had not yet, and could potentially never be, implemented. Together with the dramatic rise in numbers of cases of VAW being reported and thus formally entering the system, it also made some observers doubt the sustainability of the system.

The idea that the sheer magnitude of the issue—the fact that violence against women in its many forms is now the single most reported crime in the country, with over 50,000 reports being filed per year in recent years (Boche, 2019a; Muñoz Palala, 2017)—was beyond what the justice system could realistically be expected to be able to respond to was a recurring theme in

[166] This figure was prior to the establishment of the last four courts in Petén, Sololá, Quiché, and San Marcos.

many interviews. Since the time of my fieldwork, the Guatemalan media's coverage of VAW has also repeatedly called attention to the fact that levels of violence surpass the system's capacity to respond, pointing to increasing delays in cases being heard once violence is reported (Boche, 2019a; Muñoz Palala, 2017). While the amount of time a particular case takes to move through the system is partially determined by how many judges and courts are available, even if the OJ was somehow able to double or triple its capacity, the need would still be much greater than the available capital and human resources. Also crucial is the fact that the other state institutions involved in investigating and prosecuting cases (the MP and INACIF) and of providing defence for the accused (the IDPP) do not have a budget or capacity comparable to that of the Specialized Justice Bodies, which also limits how cases are able to move forward in the system. As one key informant expressed, unless the entire system is strengthened—including improved investigation, better gathering and managing of evidence, and improved prosecution—it is irrelevant if the judge is sympathetic to the victim or not.

Similarly, while several key informants welcomed the strengthening of a reporting culture—which many saw as an element of women's empowerment and recognition of themselves as bearers of rights—they recognized that having a strong reporting culture is useless if the system is ineffective or so overburdened that it is not able to provide a timely response; or, especially grievously, where the justice system is inaccessible or simply absent. At the end of 2019, Specialized Justice Bodies were absent from 8 of 22 of Guatemala's departments and, as will be discussed in the next section, even in departments where Specialized Justice Bodies are present, they, like "regular" courts, are often inaccessible to many Guatemalans, especially rural and Indigenous women.

As is mentioned above, the Oversight, Monitoring, and Evaluation Unit—the institutional body whose purpose it was, through its monitoring and evaluation work, to "propose strategies of continuous improvement to the Specialized Courts and Tribunals in order to strengthen its action and provide quality assistance to women victims of violence" (OJ, n.d.)—has regrettably become inactive since my fieldwork: it has not published an annual report on Specialized Justice's operations since 2014 and statistics on the number of new and resolved cases in the system were last updated some time in 2016. While I do not know why the Unit ceased its activities, the fact that it is no longer active does speak to the vulnerability of a system that has weak political backing and relies largely on international aid for its functioning.

Access to Justice

The Specialized Justice Bodies located in the department of Guatemala (serving the capital city and surrounding municipalities) had, as of June 2014, registered the overwhelming majority of cases brought to the Specialized Justice program in the four years since Specialized courts had been instituted: of 7,133 cases, 5,040 had been heard in Guatemala City compared with between 106 and 682 cases per court in other departments (the former in Escuintla, where a Specialized Justice court was established in 2012, and the latter in Quetzaltenango, one of the first departments to get access to Specialized Bodies along with Guatemala) (Unidad de Control, 2014, p. 66).[167] While the department of Guatemala *is* the largest department in terms of population, the number of cases brought to Specialized Justice Bodies in that department—70% of all cases in the first four years of the system—is disproportionate to its share of the country's population (roughly 20%). Beyond the differing lengths of time that the Specialized Justice Bodies had been functioning in different departments, the Oversight, Monitoring, and Evaluation

[167] The figures reported were for the seven departments in which Specialized Justice Bodies had begun functioning between 2010 and 2012; seven more departments entered the system between 2014 and 2019.

Unit attributes this "chasm" between the number of cases registered by Specialized Bodies in the department of Guatemala compared to other department to three main factors: (1) the extremely high rates of violence in the capital; (2) the more robust awareness-raising campaigns that had been undertaken in Guatemala City; and (3) a variety of cultural differences and barriers to reporting that they identify in other departments, especially in majority-Indigenous departments, where Indigenous women's "double oppression" is cited, and in Chiquimula, a department in Guatemala's eastern zone, where they argue gendered violence is particularly normalized and internalized (Unidad de Control, 2014).[168]

In terms of the ethnic identity of those availing themselves of SAI services (which are only accessible through judicial process, which means that victims have to have reported violence in order to access these services, and can therefore not be interpreted as being reflective of the incidence of gendered violence across ethnic communities in Guatemala), data collected by the Oversight, Monitoring, and Evaluation Unit reveal that between July 2013 and June 2014, 69% were *ladina*/*mestiza*, 30% were Maya, and 0.42% were Garifuna (Unidad de Control, 2014, p. 60).[169] These figures at least partially reflect the ethnic makeup of the departments where the highest number of cases are heard—85% of the population of the department of Guatemala, for example, identifies as "non-Indigenous" when identifying their "linguistic community" (INE, 2012). However, rather than simply pointing to presumed "cultural differences" cited by the Oversight, Monitoring, and Evaluation Unit or to the fact that the majority of cases are reported in the department of Guatemala as contributing to the disproportionate representation of *ladina/mestiza* women among victims reporting violence, I want to focus this section on

[168] See Menjívar (2011) for an account of the everyday and institutional facets of this normalized and internalized gender violence in Guatemala's eastern lowlands.
[169] This data was compiled based on voluntary self-identification, which the Oversight, Monitoring, and Evaluation Unit itself flags as having the potential to under-represent Maya users (see Unidad de Control, 2014, p. 60).

examining some of the conditions that often end up putting justice out of reach for the most marginalized, including, notably rural Indigenous women.

It is also important to note, as I have done several times in this dissertation, that reliable statistics on the ethno-linguistic makeup of victims of femi(ni)cide (whether they report violence and participate in judicial proceedings or not) are not available.[170] Of course, discussions of rates of VAW and femi(ni)cide, and of levels of impunity for this violence, that fail to specify which groups of women are being victimized and who among them are seeing their perpetrators brought to justice only serve to reproduce the supposedly universal category "woman" as the victims of this violence, thus erasing how ethnicity/race, class, and/or sexuality shape gendered violence, influence vulnerability to it, and condition the response of the judicial system.

Barriers to Indigenous Women's Access to Justice

As discussed above, the victim-centred measures and gender-sensitive training integrated into the Specialized Justice system were aimed at removing barriers to women's access to justice. As a key informant who worked within the system explained, "We have to make access to justice for women a reality, and that it not only exists on paper." While the introduction of Specialized Justice Bodies and of victim-centred measures seems to have at least started to mitigate some of the gendered barriers to access to justice, several other barriers remain, especially for rural and Indigenous women, and for women with scarce economic resources. Access to the justice system for Indigenous people in Guatemala—both in terms of the geographic reach of judicial institutions as well as the availability of linguistically- and culturally-appropriate services—has been a demand of Indigenous people in Guatemala at least

[170] Data on the ethnic-linguistic makeup of victims of femicide only started being compiled by the SAI around 2014, and the Oversight, Monitoring, and Evaluation Unit, which would presumably have analyzed and reported on these findings has not released any new publications since 2014. As noted above, this data would also have been limited to victims who report and make use of SAI services.

since the peace negotiations (see Sieder, 2004). However, 20 years after the Peace Accords were signed, the IACHR found that:

> In addition to the condition of poverty, the vast majority [of the Guatemalan population] is unable to access the administration of justice given the lack of state presence throughout the territory, the insufficient infrastructure and training of members of the judiciary, and the lack of interpreters and members of the institutions for the administration of justice who are familiar with the indigenous languages and culture, among other factors. (IACHR, 2016, para. 405)

And while these remarks were made about existing barriers in the Guatemalan justice system in general, similar critiques have also been made of the Specialized Justice Bodies specifically.

As a representative of the DEMI explained, the institution where she works has raised concerns about the geographic coverage of the Specialized Justice system, highlighting that (at the time of our interview in 2014), only seven departments out of 21 had Specialized Justice Bodies in operation. While another seven departments have, as of the summer of 2020, since been added to the Specialized Justice program, the courts and associated SAI services in all of the departments where they operate are centralized in the departmental capitals, which is out of reach for many rural Indigenous women both in terms of time and economic costs of travel. In Guatemala City, the Justice Centre for Crimes of Femicide and Other Forms of Violence against Woman is located in an area of the city's Zone 10 that is home to foreign embassies, high-end shopping malls, and exclusive private hospitals, and that is hard to access by public transit. As one key informant from a women's organization reflected, the lack of geographic coverage of Specialized Justice Bodies is also an issue with most other public services and institutions in Guatemala: "you can find almost everything in places that have courts specialized in femicide,"

noting that, outside of these areas, "there are large sectors of the population that don't have access to the limited institutional framework that is created." The disparity in access can also be noted in the stark difference in the quality of facilities made available to Specialized courts in other departments compared to those in Guatemala City. The Justice Centre for Crimes of Femicide in Guatemala City, which was inaugurated in August 2012, is a multi-story building designed for the very purpose of housing the various components that make up the Specialized Justice system—its courts, offices, and various SAI facilities. In contrast, key informants who work accompanying women through the judicial processes related their experiences in Specialized courts in departments outside of the capital city, where these same services were being offered out of rented residential buildings not designed for judicial proceedings or trials, describing, for instance, victims and witnesses having to access an improvised "courtroom" by entering through a bathroom.

At the end of 2014, the Specialized Justice Bodies had only eight Maya interpreters working in the entire system, and as such had to call upon interpreters from among the other 97 OJ interpreters or 75 interpreters of the Red Nacional de Intérpretes y Traductores [National Network of Interpreters and Translators] when needed (Unidad de Control, 2014, p. 93). Beyond the fact that a lack of interpreters familiar with a victim's language and particular local context is likely to limit her participation in the judicial process (Unidad de Control, 2014, pp. 94-95), one also has to wonder what impact receiving interpretation from an interpreter from outside the Specialized Justice program would have on the quality of assistance and support accessible to non-Spanish speaking women, given the specialized training that SAI staff and other members of the Specialized Justice Bodies receive. And while there had been some progress at the level of the MP in terms of hiring staff who speak local Mayan languages, the DEMI representative I

interviewed explained that interpretation was not necessarily available at all stages of the legal process and that this has serious impacts for Indigenous women's ability to access justice:

> We must remember that the process of access to justice for Indigenous women is not limited to reporting [violence] but rather entails several steps and that the attention provided at all of these steps is not always followed-up with or as culturally appropriate as it should be. And so, we know that if in one of these phases of the process [the victim] doesn't obtain culturally appropriate attention or attention in their language, the results of the case may not be achieved because in the end the Indigenous woman won't understand.

As is also alluded to in this key informant's remarks, translation and interpretation are not the same as practicing culturally-appropriate approaches to victims-services, which is far from a reality across the various state dependencies that attend to victims in Guatemala. The International Commission of Jurists (CIJ, 2016), for instance, cautioned that Specialized Justice Bodies, like the overall justice system of which they are a part, were constructed from a mono-cultural vision—based on assumptions and understandings of the dominant *ladino* culture—and, I would add, that has historically justified or at the very least overlooked various forms of violence against Indigenous women, as was discussed in Chapter 3.

Taken together, the conditions discussed above would seem to indicate that rural and Indigenous women in Guatemala face more barriers to accessing justice for sexual and gender-based violence than some other women, especially those in departments that do not have Specialized Justice Bodies in place and that must turn to courts that are, according to several observers, less likely to take their claims seriously. The progress achieved through the

implementation of Specialized Justice should therefore be understood, like the overall justice system in Guatemala, as being partial, at least in practice if not on paper.

Access to Justice for LGBTI People

At the time of my fieldwork there had been some recent advances in terms of recognition of LGBTI rights within the judicial system and the related state apparatus: in April 2014, the PDH had named a Sexual Diversity Ombudsperson; in May, Attorney General Claudia Paz y Paz had issued new policies for the investigation and criminal prosecution of cases of discrimination that included sexual and gender diversity as a grounds for discrimination that must be prosecuted by the MP (IACHR, 2015); and, in June, it was announced that the PNC's Office of Victims Services would add a question about sexual orientation on the form that is filled out when someone reports family violence (GayGuatemala, 2014). These advances had only been achieved after years of pressure from LGBTI activists and organizations, who certainly welcomed this form of recognition on the part of the state, but were cautious about expecting that it would lead to significant change. Indeed, as the REDNADS representative I interviewed explained the week after the announcement of the creation of a Sexual Diversity Ombudsperson, while there are many individuals doing valuable work within state agencies to advance the rights of LGBTI individuals, it is simply not seen as a priority by these institutions on a whole: "gays, lesbians, and trans people, we aren't exactly a community that must be attended to immediately. They see us as 'Yes, it's legitimate [LGBTI demands], but we can't at the moment.'" This key informant continued to explain that he was not aware of a single case of homophobic or transphobic discrimination or violence reported to the authorities that had been resolved, and that, despite the fact that up to 18% of gay men and transwomen in the country live with HIV (compared to a rate of less than 1% in the overall population) the state had thus far refused to

focus its HIV-related resources or programming on attending the LGBTI community. It is therefore evident that neither the direct interpersonal violence experienced by members of the LGBTI community nor the structural and systemic ways that LGBTI peoples' lives are devalued and put at risk are being addressed by the state, by the judiciary, or by any other institution.

Cultura de Denuncia in Unequal Conditions

Many key informants were aware of the comparative barriers to access to justice that women differently situated in terms of race/ethnicity, class, gender, sexuality, and urban or rural location may face, particularly as they relate to the absence of public services and judicial institutions in much of the Guatemalan territory, and to linguistic barriers to access. However, despite this awareness, several key informants, especially those working within state institutions or organizations that accompany victims through the judicial process, still emphasized the importance of building a reporting culture as a response (albeit partial) to gendered violence. They talked about the importance of women knowing the law and being aware of the concept of femicide, suggesting that familiarity with the so called *ruta de la denuncia* [reporting path] can help avoid re-victimization, and that "women need to know more about their rights to be able to demand that the law be obeyed, to seek protection." In these comments, a *cultura de denuncia* and an awareness of rights were presented as needing to be learned (a process described by several key informants as "empowering"), thereby at least implicitly marking a distance between themselves and the women that they talked about empowering, reflecting the ethnic and class division, discussed in Chapter 4, that often exists in Guatemala between staff of women's organizations and the women that they work with.

This idea is, of course, widespread in global feminist and international development circles. As Grewal (2005) highlights, programs that function under the assumption that women

in the "non-western" world need to be "taught" their rights have been heavily funded by various development and aid agencies from the global North. And while these types of programs testify to the transnational circulation of human rights discourses and, to a certain extent, to the "vernacularization" of human rights concepts and principles (Merry & Levitt, 2017), they also "illustrat[e] the asymmetries of power between those who teach and those who are to learn" (Grewal, 2005, p. 145). Indeed, impoverished and Indigenous women are the ones who seem to be assumed to be in need of training or awareness-raising on VAW and women's rights in Guatemala. One key informant from a state institution conjured the image of a woman without access to newspapers or television—the types of media that she affirms provide information on women's rights—who "will obviously not have information about her rights," she explained. Another (from a different state institution) decried the "lack of sufficient dissemination [of information] not only in Spanish but in Indigenous languages, for all women in Guatemala to know that they have the right to a life free from violence" and that they can report violence and request security measures. The implication here is that poor and Indigenous women are assumed to not already know their rights or not already be empowered enough to assert them. However, the idea that Indigenous women are not conscious or aware of their rights has clearly been challenged by Carey's (2013) archival work, discussed in Chapter 3, that traces Indigenous Kaqchikel women's strategic use of the courts to defend their rights when they or their livelihoods were under attack.[171] Furthermore, as discussed above, regardless of their level of awareness of their rights or of issues such as VAW, impoverished, rural, and Indigenous women

[171] Indigenous women's ongoing struggles to claim and defend their rights in Guatemala are also documented in Crosby and Lykes (2019); Crosby, Lykes, & Doiron (2018); Fulchiron et al. (2009); Grupo de Mujeres Mayas Kaqla (2010, 2011); Tzul Tzul (2014, 2018); and Macleod (2011; 2016), among many, many others.

are the ones who face the most barriers to accessing any state institution, especially judicial institutions and Specialized Justice Bodies.

The dearth of state institutions at which to seek assistance or report violence is often parraled by an absence of service organizations. Indeed, as one of my key informants, who headed a woman's organization in Guatemala City, remarked on the often-distinct focus of women's organizations working in rural, Maya areas and in the city:

> Many of the organizations that are most effective at bringing cases to justice are not in Indigenous territories. … Indigenous women's organizations, for example CONAVIGUA, is more of a grassroots organization than an organization that is taking cases, the same with MOLOJ [Political Association of Maya Women]… Maya women are very justifiably reluctant to turn to non-Maya organizations to bring their cases forward.

The few key informants who had worked directly with victims of gendered violence in rural or Indigenous communities offered deep reflections on the complexity of ensuring that rural and Indigenous women have access to justice for this violence. This led them to have a much more critical assessment of efforts to foster a reporting culture. As one expressed:

> We women's organizations have committed a grave injustice by mythologizing reporting. I mean, we've made a myth of reporting and you'll notice that the first thing they say to women all over is—there are even radio campaigns where they say "Oh! Women, report violence!" Damn, if they go report violence, they come up against a failed state that gives them a slap in the face.

And, in the words of another,

> The women that we are training and teaching so that they dare to report, to break the silence, what happens to them when they reach out to those services? There's a lack of quality care, there's no information, she's discriminated against.

As a third key informant expressed:

> We also see it as paradoxical that we are training women on the reporting path, we are empowering them to claim their rights but later when they access the justice system, [it] doesn't provide them with the means to achieve justice.

She added, "we give so much information on the reporting path and it turns out that there aren't any Specialized courts that see this type of case [in their areas]. So, at times it's even contradictory."

These key informants described experiences in communities where the nearest justice of the peace or courthouse was hours away. In these situations, women would first have to find someone to watch their children, or travel with the stress of having left them with an abusive partner, sometimes spending the night in a corn field, or on the courthouse steps waiting for it to open in the morning. It is in reaction to this reality that Organización de Mujeres Tierra Viva [Living Earth Women's Organization], one of the organizations that I interviewed during my fieldwork, had started a process to build community-based networks to support victims in places where there is no police or courts. One of the functions of these networks would be to accompany victims to the nearest health clinic, police station, or court so that they would not have to travel alone. In this type of context, one of my key informants from Tierra Viva suggested that something as simple as establishing a "community fund" could go a long way in addressing VAW by giving women access to small sums of money to cover bus fare or food to leave for their children when they had to travel to access services and couldn't be home to cook

for them. As another key informant from a women's organization explained, these types of "practical measure of assistance to victims" have been missing from responses to VAW thus far. This was a barrier that the SAI staff I interviewed recognized, explaining that the "economic question"—helping victims access forms of economic support or employment to break their dependence on an abusive partner—continues to be the hardest obstacle to overcome in addressing VAW.

Several key informants did seem to recognize that they are differently positioned than many other Guatemalan women in terms of their ability to leave a potentially abusive relationship or to access the justice system and advocate for themselves if they were victimized. Given that most of my key informants were well-educated women (including a number of whom were trained as lawyers) who are activists and work in NGOs or state institutions focused on women's and/or human rights, and are based in Guatemala City, where there is better access to services and resources than in many parts of the country, this is perhaps fairly self-evident. As touched upon above, discussions of encouraging a *cultura de denuncia* that were framed by key informants as empowering women to know their rights and take action against violence implicitly marked a distance between those who teach and those who learn. However, in the one interview where a distinction between "clients" and staff was explicitly recognized, the economic dynamics that work to keep many women in abusive relationships was what was seen as marking this distance:

> In the women's organizations we are contributing to, shall we say, [women's] empowerment of their rights, but what is missing is the part on the issue of autonomy and economic independence. Because, in our condition, we say "Yes! Report and go, leave your house!" But these women don't have anywhere to go, they don't have a job either.

Indeed, many recognized how structural factors such as poverty may influence women's ability to leave a partner on whom she is economically dependent or to have the time and resources to follow through with the various steps involved in the legal process. Several also discussed how discrimination may play out in the legal system. However, while many key informants did acknowledge that Indigenous and impoverished women experienced a certain level of increased vulnerability to violence (which they often linked to lack of access to and knowledge of institutional resources, as discussed above), only a few recognized the intersectional dynamics at work in gendered violence itself.

One of the few key informants to explicitly acknowledge the intersectional nature of femi(ni)cide was a Maya key informant who explained the links between feminicide during Guatemala's armed conflict and contemporary feminicide (as she described it) as such:

> …the patriarchal system would be the first filter; the biggest let's say. But a system that is also neoliberal capitalist, colonial. From there, the whole structure of racism that cuts across this entire process. I don't know why but I don't think there are studies of how many feminicides have been committed against Indigenous women—or, as you were saying, against lesbians—because the truth is they see us as a homogeneous block "women" … and they don't see that some of us are here and others are there.

In most interviews, however, when talking about VAW, participants did not seem to recognize that differently positioned women experience this violence differently and that it is often structured by and motivated not only by gender and sexism, but also by racism, classism, or homophobia, for instance, or by the stigma attached to participation in or proximity to sex work or *delincuencia*. This notion was reflected in the frequent repetition by key informants of a definition of femi(ni)cide and VAW as violence affecting "all" women *because they are* women

and of the refrain that this violence "doesn't discriminate," and was reiterated by their much more frequent use of "we / us" statements when discussing VAW in general than when they spoke about the need to empower and teach rights. It was also reflected in the much too common idea that the missing pieces to ensure access to justice for Indigenous people are translation or to extend the reach of judicial institutions into geographic areas not currently covered. Working to improve these types of barriers to access to justice can provide some important remedies. However, it fails to consider the structural and systemic exclusion of Indigenous women in particular and Indigenous people in general from institutions that are not only patriarchal but also racist, colonial, and capitalist.

"Access to Justice": Focusing on Remedy Instead of Prevention

Given the discursive focus on impunity in many of the campaigns against femi(ni)cide and violence against women in Guatemala (see Chapter 2), it is not entirely surprising that measures to reduce impunity and to mitigate—and ideally, eliminate—barriers to accessing justice would feature in state responses to this violence. However, as one key informant explained, while well-meaning, the focus that anti-femi(ni)cide activism has had on the demand for "no more impunity" is not enough since "non-impunity comes at the end of the process, when women have basically already become victims of violence or femicide." Indeed, "access to justice" only comes into play once an act of violence or a violation of rights has already occurred.

The measures discussed so far in this chapter, the Law against Femicide, the Specialized Justice Bodies, and the OJ and MP's victim-centred services seem to have been at least partially effective in improving access to justice for some victims and survivors of gendered violence (at least in the areas where they have been implemented), and ultimately could have the potential to

help decrease levels of impunity for femi(ni)cide and violence against women. They are, however, by and large the only responses the Guatemalan state has had to this violence.

The Law against Femicide includes provisions to ensure the continued operation and funding of CAIMUS, the country's network of shelters (Art. 16). It also names the state as responsible for overseeing policies to prevent and eradicate violence against women through the CONAPREVI, which includes representatives of various state institutions as well as civil society (women's organizations) (Decreto 22-2008, Art. 4; Art, 17). During my fieldwork, however, it became clear that these measures had largely been abandoned by the state. As I argue in this section, by addressing femi(ni)cide almost exclusively through criminal law, the Guatemalan state is casting gendered violence as an individual problem, and neglecting to address the structural or systemic dynamics that shape, sustain, and justify this violence.

The inclusion of provisions to fund CAIMUS and keep the CONAPREVI operational led some observers to argue that the Law against Femicide goes beyond the punitive logics of criminal law and instead "presents a comprehensive vision … that the state, through its public policies, should be implementing public actions from prevention of violence against women to punishing perpetrators" (Aldana quoted in CIJ, 2016, p. 37). Prevention, however, is only cited in one out of 28 articles in the Law against Femicide, where its discussion is limited to calling on the state to create awareness-raising campaigns and to work to "generate opportunities for discussion to negotiate and push for public policies for the prevention of violence against woman and femicide" (Decreto 22-2008, Art. 4). Furthermore, a closer examination of the state's responses to this violence, both in terms of fulfilment and application of the Law against Femicide, and its actions—or, more accurately, inaction—beyond the law, reveals an approach that is far from the "comprehensive vision" aspired to in the above statement.

At the time of my fieldwork in Guatemala in 2014, Otto Pérez Molina, a retired Army General and former head of military intelligence was in the third year of his mandate. Nearly all key informants from the women's movement decried the fact that his administration had been withholding funds from the country's seven CAIMUS for nearly a year (Coordinadora 25 de Noviembre, 2013; GGM, 2013). Despite having made several funding announcements, the government had never disbursed these funds to the network of CAIMUS, leading one key informant to opine that, in terms of ensuring protection for women victims of violence and providing them with support to be able to leave a violent situation, the state had "failed":

> It's a state responsibility. […] [but] it hasn't been delivered with the required consistency and frequency. Women need to eat more than every six months and these centres can't pay their staff—psychologists, lawyers, social workers, physicians—only once or twice a year.

As a communique released by GGM (2013) signals, not only was the state delinquent in transferring the funds that the women's organizations who administer the shelters in Guatemala, Escuintla, Suchitepéquez, Baja Verapaz, Quetzaltenango, Petén, and Chimaltenango depend on for everything from meals for their clients to salaries for shelter staff, but it had also failed to comply with provisions of the 2004-2014 Plan Nacional para la Prevención y la Erradicación de la Violencia Intrafamiliar y contra las Mujeres [National Plan for the Prevention and Eradication of Intrafamily Violence and Violence against Women, PLANOVI] that called on the state to expand the CAIMUS system to cover all 22 departments by 2014. Furthermore, the Pérez Molina administration had stopped convening meetings of the CONAPREVI—the national coordinating body named in the Law against Femicide as responsible for planning and implementing public policies to reduce intrafamily violence and violence against women—in

2013, thus effectively paralyzing the renewal process of the PLANOVI which was set to expire in 2014.[172] Having also cut ties with women's organizations and undermined the functioning of the few existing state institutions working to promote women's rights, the Pérez Molina administration not only failed to make progress in preventing gendered violence but effectively eliminated the few preventative measures that had been in place before he took office.[173] Instead, as I discuss below, the Pérez Molina administration approached femi(ni)cide strictly through a (militarized) criminal justice lens.

The state's lack of attention to preventative work was, according to many of my key informants, a serious gap given that, as one key informant insisted, "prevention work is the most important" but is also

> what has been forgotten during all of these years. It's been at a standstill. So, there's been all of this push to report violence, but what is really being done to prevent it? … Changes in legislation, creating infrastructure, that's good, it's good because those things need to exist, but what we really need to invest in is on changing this cultural imaginary that promotes, sustains, increases violence against women.

As most other key informants, this representative of a women's organization saw the Law against Femicide as a necessary, but not sufficient, tool to address violence against women. While many maintained that the penal system is the strongest "weapon" available to combat this violence, they also argued that this approach needs to be accompanied by prevention and

[172] The CONAPREVI was finally reactivated in October 2016, nine months after President Jimmy Morales took office. In November 2019, the CONAPREVI finally approved a new PLANOVI for 2020-2029 (CONAPREVI, 2019).

[173] As a few key informants from women's organizations highlighted, the Pérez Molina administration had not only cut off dialogue with women's organizations but with most civil society organizations working on issues related to human rights, justice, and historical memory. In addition to institutions put into place to promote and protect women's rights, this administration also, in the words of one key informant "coopted … the few institutions that came out of the Peace Accords."

education work, as well as by more comprehensive public policies. However, as one key informant from a women's organization put it, "In everything to do with prevention the state is useless. Nothing, it has nothing." Indeed, while the International Commission of Jurists (CIJ, 2016) has heralded the Law against Femicide and its institutionalization through the Specialized Justice program and its associated victim-centred approach as a "best practice" in the fight against the high levels of impunity that have long sustained violence against women in Guatemala, it also warns that "as long as the preventative aspect of the phenomenon is not addressed with as much gravity as the punitive aspect, the judicial system will be insufficient to respond in an adequate way to the current high level of violence" (p. 113).

Some key informants working within the SAI suggested that, in some cases, prosecuting lower levels of violence against women could interrupt the cycle of violence in an abusive relationship, and therefore prevent this violence from escalating to femicide. Given that, in 2011, three out of ten victims of femicide in Guatemala had previously reported violence (Musalo & Bookey, 2013), the possibility that prosecuting VAW can sometimes prevent femicide should not be discarded. Rather than working to prevent violence from escalating to femicide, however, some key informants suggested that the Law against Femicide may be having the opposite effect: one key informant who works with an organization that provides legal and psycho-social accompaniment to victims told me that now that they face the possibility of being jailed for violence against women, men had started hiring hitmen to kill their wives for them, thereby obfuscating their participation. While it did not confirm who was hiring them or why, a study carried out by GGM in 2011 did observe

> an increase in the number of femicides carried out by hit men [sic] wherein the "material author" of the crime may be punished, but the "intellectual author" of the crimes (and, as

> a result, the motive) remains undiscovered by the authorities. (Musalo & Bookey, 2013, p. 7)[174]

The idea that abusive men had started taking precautions to avoid detection in reaction to the Law against Femicide was also reflected in the interview I conducted with a representative of the DEMI, who related stories of victims who went to the institution for assistance, informing them that "my husband used to hit me in the face but that left marks, so now that he knows that there's a law, he hits me in the ribs, he hits me on the legs." It seems, therefore, that while awareness of the new law may have influenced men's behaviour, in some cases this has been reflected more in changes aimed to avoid getting caught rather than at ending abusive or violent practices.

Observations of this type led some key informants to criticize the characterization of awareness-raising of the Law as "preventative" action, explaining that education and prevention efforts have to be more robust than simply putting up billboards informing women of their right to live free from violence and of where to report, which, they suggested, only serve to warn abusers to be more careful as to not get caught. Instead, key informants spoke of prevention as initiatives that provide education (formal and informal; with children as well as adults) designed to challenge cultural constructs that work to justify gendered violence, initiatives that improve citizen security, initiatives that offer better economic opportunities as a measure to combat organized crime and gangs and to reduce vulnerability to violence, and, importantly, initiatives that work with men in general, and perpetrators in particular. As they explained, things get "complicated," as one put it, if work promoting women's rights is only done with women: "we

[174] Musalo and Bookey (2013) argue that the use of hitmen, along with attempts by perpetrators to disguise femicides as suicide have "obscured" statistics on femicide in Guatemala, making it nearly impossible to come to a full understanding of who is committing these crimes or of what their motives are. They see the link between VAW and femicide as a further argument that "more effective preventive strategies" are needed to prevent VAW in the first place (p. 9).

are telling women 'You have rights, assert them!' Who is telling men that women also have these rights?" as another explained. Other key informants also expressed a preoccupation that focusing solely on victims in awareness work sets a dangerous precedent of expecting women to avoid violence—and can result in victim-blaming if she does become a victim.

However, despite the recognition of the importance of doing prevention work, and of doing this work with men, it did not seem to be an important focus of women's organizations at the time of my fieldwork. Indeed, a long-time feminist activist I interviewed articulated a critique of women's organizations that was similar to the one others were offering of the state: that many organizations were working on encouraging a "reporting culture," accompanying legal cases, and doing follow-up and monitoring of Specialized Justice and the application of the Law against Femicide, but that few were involved in prevention work. As another key informant explained, the response to femi(ni)cide should not lie exclusively within the law:

> Of course, not every explanation of femicide and violence against women should be done under scrutiny of the law. The law is part of it, but we need to carry out a much broader and more complex analysis of violence against women, which is what we are not doing. It's as if we're resigning ourselves to "Oh ok, the law is there, let's monitor it."

Rather, as yet another long-time feminist activist from the women's movement advanced, more structural work is needed in order to truly address the issue:

> The painful part is that I don't see any action on preventing violence against women—and I'm talking about structural action because it's not just a question of social relations… that's been our responsibility in the women's movement because there's been a period in which all of this issue of violence has only been understood within relations of power between women and men. … But if these relations of power are understood as

outside of economic relations, political relations, ethnic relations, then no, we're speaking into the void.

Seeking Justice from a Militarized Colonial System

Pérez Molina, who had won the 2011 presidential election running on a *mano dura* platform, approached femi(ni)cide in a decidedly militarized manner, as he did most other "criminal" issues, as well as public security issues more broadly. In fact, within ten days of taking office in January 2012, he had created five new militarized task forces to address extortion, contract killing, robbery and muggings, kidnapping, as well as femicide. This increased militarization of state responses to femi(ni)cide ushered in by his administration went hand-in-hand with a reinvigoration, in state approaches to gendered violence, of intrafamily violence discourses that privatized and depoliticized the issue, framing it as a concern for the heterosexual nuclear family rather than as an issue of women's rights (Fuentes, 2016). An early indication of this lack of concern with women's rights came when, in reaction to reports that a gang of rapists had been using taxis to kidnap women in a busy part of the city, the Ministry of the Interior issued a statement advising women not to walk alone in that area after 8pm—advice that was quickly rebuffed by Guatemalan feminists as a regressive curtailing of women's rights and as victim-blaming (Menchú, 2012).

On March 12, 2012, less than two months into the Pérez Molina administration, a massive and heavily armed squadron of soldiers, police officers, and MP prosecutors conducted raids in two precarious settlements in Guatemala City's Zone 12 in order to execute a series of arrest warrants. While the individuals being sought out were accused of a number of different crimes, online reporting that was accompanied by a picture of a military tank in the city's streets, stated that the purpose of these raids was to arrest presumed gang members for the crimes of

femicide and other "various crimes" (Prensa Libre, 2012). By naming only femicide among the various crimes for which the "gang members" were being sought, these reports were seemingly justifying the militarization of public security for the purported goal of protecting women from violence—a contention that has also been held by the state, and contested by feminist activists and women's organizations.[175]

A militarized response to gendered violence is, of course, ineffective at best. It could, in fact, be better described as counter-productive given that the presence of military troops has been observed to increase gendered, sexualized, and racialized violence in many different contexts (Giles & Hyndman, 2004). Indeed, as one key informant, who had been involved in anti-violence work in rural communities, noted: "the security policies that the current government is initiating, instead of making women feel safe, they are making them feel unsafe because … with the remilitarization of the territories there's an increase in violence against women, especially sexual violence." And, as another concurred, "this government's security policy is to put soldiers and police officers in the communities. Not only does this not guarantee greater safety for women, but it revictimizes them, makes them more vulnerable."

While not a new phenomenon in Guatemala even in the so-called "postconflict" period,[176] the increased re-militarization of internal security during the Pérez Molina administration through the creation of new and reopening of old military bases, assignment of "Reserve Army Squads for Citizen Security," and declarations of states of siege in various departments was especially concentrated around marginalized and impoverished communities in

[175] See Fuentes (2016) for a more in-depth analysis of the Pérez Molina administration's use of femi(ni)cide to justify militarization of public security and of Guatemalan feminists' denunciation of this approach.
[176] In fact, the Guatemalan Army has actively participated in joint patrolling units (where soldiers patrol the streets along with PNC officers) since at least 2000 despite stipulations of the 1996 peace accords that called for radical reforms to the Army's role in Guatemalan state and society. And while Pérez Molina's successor, President Jimmy Morales (2016-2020), put an end to the joint patrolling in March 2018, soldiers continue to patrol in many parts of the country (Montepeque, 2020).

urban areas (especially in and around Guatemala City) and, in rural areas, mainly Indigenous communities that had mounted resistance to the encroachment of extractive industries and other large development projects.[177] However, this increased militarization of security also went hand-in-hand with an increased criminalization of human rights activists and Indigenous land defenders, including cases in which the Law against Femicide was put to "malicious use."

During a visit to San Rafael Las Flores with a Canadian solidarity delegation I was co-leading in March 2014, community leaders we met with described some of the instances of criminalization that members of the local *Comité en Defensa de la Vida y la Paz* [Committee in Defence of Life and Peace] had been subjected to, which they associated with their attempts to organize a community consultation in relation to the development of a silver mine in the region. Three members of the committee, Rudy Pivaral, Óscar Morales, and Gustavo Martínez, along with Yuri Melini, lawyer and founder of an environmental rights organization based in Guatemala City, were initially declared guilty of "violence against woman" for allegedly having caused psychological harm to 13 female workers of the mine in a provisional ruling by a local justice of the peace. This decision was eventually overturned and the case was dismissed (see laCuerda, 2015; Atlantic Regional Solidarity Network et al., 2012; OCMAL, 2012). Two men involved in the resistance to a large hydroelectric project in Santa Cruz Barillas, Huehuetenango were similarly criminalized under the Law against Femicide when they were convicted of femicide and assassination in the killing of a woman and a man and sentenced to 33 years in prison in 2014—despite the fact that, in the case of one of the accused, he was not even in the town where the killings took place at the time of the crime. A retrial in 2015 led to the annulment of the sentence and absolved the accused of all charges; they were finally released

[177] Early in 2015, this increased militarization drew critiques from the UN High Commissioner for Human Rights (UNHCHR, 2015; see also Gagne, 2015; GHRC, 2013; Kinosian & Badesch, 2013; laCuerda, 2015).

early in 2016 after having spent over two years in detention (see Front Line Defenders, 2015; laCuerda, 2015; NISGUA, 2016). Many other community leaders, activists, and land defenders in both San Rafael Las Flores and Santa Cruz Barillas have been criminalized, and both communities were subjected to states of siege during the Pérez Molina administration.

Another instance of malicious use of the Law against Femicide was highly publicized during my fieldwork in 2014, this one by then Vice-President Roxana Baldetti involving Rubén Zamora, the founder and editor of elPeriódico, one of Guatemala's major newspapers. Baldetti accused Zamora of psychological violence after he published articles critical of her and questioning the source of her wealth (Baldetti was eventually forced to step down in the midst of a corruption scandal which continues to be tried in the fall of 2020, and the charges against Zamora were dismissed). Similar accusations of "violence against woman in its psychological manifestation" would be made under the Law against Femicide by other powerful female politicians in the following years, including by the former First Lady turned presidential candidate Sandra Torres and former Minister of External Affairs Sandra Jovel, in a few other cases again involving Zamora in response to critical reporting, but also against fellow politicians and bureaucrats, seemingly to detract attention from investigations into wrongdoing (CPJ, 2018; Morales Toj, 2019; Pocasangre, 2019).

Contrary to what several (male) commentators have published in newspaper column after newspaper column, this malicious use of the judicial system is not unique to the Law against Femicide. Instead, as a few key informants explained, laws are frequently misused and manipulated given that, as one key informant put it, Guatemalans are "accustomed to live among violations of human rights … So, when a [new] law comes around, I use it how I please, not within a framework of law, of common good, of justice, of well-being, but for my own benefit."

Nevertheless, these patterns of misuse of the Law against Femicide raise questions as to the implications of relying on a judicial system that has lent itself to the government's *mano dura* agenda and participated in the criminalization of human rights and Indigenous struggles to bring justice for femi(ni)cide. They also serve as a caution not to allow the response to femi(ni)cide—or to gendered violence more broadly—to be co-opted into the state's security agenda, which continues to wield militarized power against Indigenous communities asserting their rights to determine the fate of their territories. As a Maya feminist key informant explained, the recognition of Indigenous rights would challenge the very structure of the state:

> from the standpoint of Indigenous peoples we have seen that the state or those who are in position of power within the state are not going to allow the rights of Indigenous peoples to enter into this process since this would mean changing the state completely and the logic on which it's established, and that would make them lose power.

Conclusion: Justice for (Some) Women Trumps Structural Change

In this chapter, I have examined the application of the Law against Femicide and Other Forms of Violence against Woman through the Specialized Justice system and interrogated its perceived impacts in terms of improving women's access to justice. I opened the chapter with an analysis of the language of the law itself and what its definitions of violence and of the active / passive subjects of the law implied about the category "woman" that is protected by the law. While the law does purport to protect "all women," the experiences and observations of my key informants revealed that its interpretation and application are in fact guided by a biologically essentialist approach to VAW that fails to recognize this violence if it is exerted by a woman, thus excluding domestic or intimate-partner violence experienced by lesbians, or against a transwoman because it fails to recognize transwomen's gender and, by extension, the gendered

violence to which they are much too often subjected. As sex workers explained, they have also been left essentially without protection from violence despite the adoption of the Law against Femicide, often because the violence they experience is seen as somehow justified or deserved because of the stigma attached to their occupation that casts them as "bad" women, as *delincuentes*, or as both.

As several key informants remarked, Guatemala is not lacking in laws. However, it does have the unfortunate distinction of being a country where even the most progressive and comprehensive laws often end up having little impact, especially since they are frequently ignored or largely unimplemented, as one key informant explained: "[Guatemala] has excellent laws, it has approved everything, it has subscribed to everything, it has everything. But it doesn't manage to enforce it." As such, activists and advocates have put a lot of effort into building awareness of the law, encouraging a "reporting culture" vis-à-vis VAW and women's rights, and monitoring the functioning of the judicial branch; and, on the institutional side, introducing gender-sensitive reforms, including training and procedures aimed at avoiding revictimization.

Some argue that the introduction of the Specialized Justice system has mitigated some of the gendered barriers to access to justice experienced by victims of VAW. However, this chapter has exposed how women who fall outside of the norm because of their race/ethnicity, gender expression, sexuality, class, occupation, or geographic location continue to face barriers to accessing justice that are not addressed by Specialized Justice. Indigenous and rural women, for instance, often live out of reach of state institutions, which generally function in Spanish with limited translation or interpretation into Maya languages, are structured according to colonial logics, and continue to be used as a repressive tool against Indigenous land defenders, for

instance. And LGBTI individuals and sex workers must contend with a system that, as discussed above, essentially fails to recognize them or their rights. As a key informants from a sexual diversity organization explained, "it's not as simple as lacking a *cultura de denuncia*, in a system that invisibilizes us, that has no mechanism to recognize us," and, as a woman sex worker described it, "it's not that there isn't a *cultura de denuncia*, it's that this country cannot guarantee our safety if we report"—statements that, I suspect, would resonate with other marginalized groups. Encouraging a *cultura de denuncia* is an endeavor that is likely to only reach those who actually have access to institutions (the economic means, time, and ability to travel, for example) and who feel that they are recognized by the system, that they will be believed, and do not fear retribution or further violence if they choose to come forward.

Of course, one way of looking at the "all" women discourse that has been so prevalent in femi(ni)cide discourse and anti-violence activism in Guatemala is to understand it as a call to broaden the now-exclusionary categories of worthy victims and to recognize that all women's lives (should) matter. However, by treating the category "woman" as unmarked by class, race/ethnicity, sexuality, occupation, or any other axis of power and identity, the Law against Femicide and the efforts to improve women's access to justice that have accompanied it risk falling into the same "universalist" trap that, as has been examined in previous chapters, has been critiqued in efforts to integrate VAW in international human rights frameworks.

The debate around access to justice for crimes against women has been framed in such a way that "justice" is conceived of almost strictly as judicial—and most often criminal—remedy once an act of violence or a rights violation has been committed. Having access to basic services that allow people to live a dignified life is rarely included in discussions of impunity and "access to justice," just as the daily forms of abuse, mistreatment, and violations that lead the dominated

to naturalize their own domination and understand themselves as "dispensable"—what Scheper-Hughes (1992) describe as the "violence of the everyday"—are generally not understood as violence.[178] I would argue that access to justice needs to be conceived of in a radically different manner, in a way that also encompasses social and economic justice and that recognizes structural factors that shape inequality, if femi(ni)cide and gendered violence are to successfully be addressed. In the Guatemalan context, as others have argued before me (Crosby & Lykes, 2019; Cumes, 2009; Otzoy, 2008; Sieder & Macleod, 2009; Sieder, 2017), justice that is truly inclusive and transformational would also need to take Indigenous practices and conceptions of justice into consideration—and particularly those of Indigenous women. Furthermore, as one Maya key informant highlighted, justice for femi(ni)cide will remain partial if it only addresses individual contemporary cases without recognizing historical wrongs or addressing the country's legacy of colonialism and genocide:

> If there are no precedents of justice, truth, and memory for cases of the past, how are we to expect that the cases of sexual violence, feminicide, and intrafamily violence—as they call it—against women of the present will have an impact and bring change, if we haven't even dealt with the past, with crimes against humanity?

The lack of concern for—and, indeed, apparent resistance to—structural change in state responses to femi(ni)cide is important to highlight here given the fact that, as mentioned above, the first series of Specialized Justice Bodies were established with funds that had been set aside

[178] This reflection was spurred in part by the remarks of panelists during a public forum on "Obstacles to Access to Justice of Vulnerable Groups" held at the Latin American Faculty of Social Sciences (FLACSO) in Guatemala City in April, 2014. Two panelists in particular, Justo Solorzano (speaking to access to justice for youth and adolescents) and Benito Morales (on Indigenous people and the administration of justice) highlighted the fact that impunity in Guatemala is almost exclusively discussed as related to the criminal justice system despite the fact that the lack of response and attention by other branches of the judiciary as well as the administrative structures of the state also leads to violations of rights and impacts individuals and populations in important ways, and that these types of violations are generally structural.

to create agrarian courts (Casa de América, 2014; PNUD, 2016), which would presumably have addressed continuing and often racialized land conflicts, a pervasive source of inequality that has remained unresolved since the peace accords. While these agrarian courts faced too much resistance to get off the ground, femicide courts do not seem to have represented as much of a threat to the status quo. The scope of my research is, of course, too limited to determine exactly where the resistance to one and lesser resistance to the other came from, or what motivated it. However, it is not difficult to imagine that responses to femi(ni)cide may have faced greater opposition had they sought to address more structural issues and presented a broader understanding of "access to justice" than simply promoting a reporting culture.

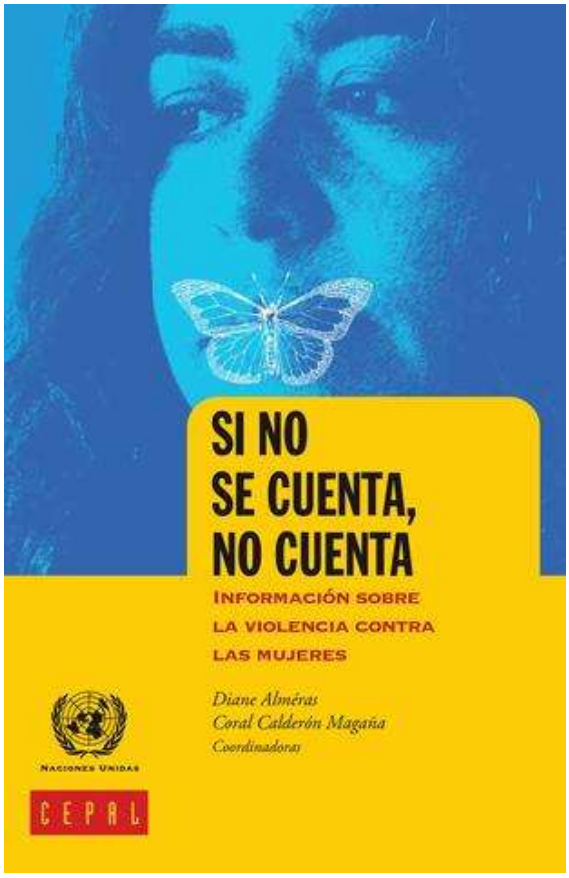
Awareness of the intersections of structural inequities and gendered violence has been demonstrated in some discussions of femi(ni)cide, including in the "There are many ways to kill a woman" campaign described in Chapter 2, as well as in the definition of "feminicidal violence" adopted by some activists in Mexico and Guatemala which, as discussed in Chapter 1, encompasses deaths of women from such causes as neglect, suicide, or lack of access to basic needs and essential services like healthcare, among others. However, as I have argued in this and previous chapters, the discourse of femi(ni)cide in Guatemala seems to have been gradually constrained since the adoption of the Law against Femicide, moving towards a narrower, more legalistic understanding of this violence. Combined with the structural barriers to access to justice exposed above, the constrained definition of "femicide and violence against woman" that appears in the law and its application leaves many women unable to attain justice for the gendered violence they experience—many forms of which are not recognized by the law.

The perils of this approach were brought into focus when I was leaving an interview with a key informant from the Specialized Justice Oversight, Monitoring, and Evaluation Unit during

my fieldwork. Much of the interview had focused on the abrupt increase in reports of VAW in recent years and the system's inability to deal with the sheer number of cases it was facing. As I left the Unit offices, which were housed in the building of the Supreme Court of Justice, I noticed a floor to ceiling poster hanging at the entrance with the words "*Si no se cuenta, No cuenta*," which can be read either as "If it's not counted, it doesn't count [isn't important]" or "If it's not told, it doesn't count [isn't important]" written in capital letters under a monochromatic image of a woman's face, with the outline of a butterfly drawn over her mouth (see Figure 5).

Figure 5

"Si No Se Cuenta, No Cuenta" Poster



Note: Cover image of the UN Economic Commission on Latin America and the Caribbean's 2012 report on VAW and femicide in the Americas (Alméras & Calderón Magaña, 2012).

It was the cover of a recent report on VAW and femicide in the Americas published by the UN's Economic Commission on Latin America and the Caribbean, in which the authors explain that the title was intended to reflect the importance of "counting" and "naming" in order to spur action against violence: "What isn't counted isn't named, and what doesn't have a name isn't acted upon" (Alméras & Calderón Magaña, 2012, p. 32). However, hanging in a hallway of the highest court in the country, the "naming" or "telling" urged by the poster seemed circumscribed to initiating a criminal legal proceeding by filing a police report or initiating a complaint at the Public Prosecutor's Office. In that case, what happens to forms of violence that are not intelligible from the law's point of view or those experiences by victims who aren't believed or understood as "worthy"? Do they not "count" if they are most likely not "counted"?

In the next chapter, which serves as the Conclusion to this dissertation, I offer a summary of my key findings and discuss the implications of these omissions and erasures and the possibilities for further research they reveal.

Conclusion

This dissertation has examined how femi(ni)cide has been understood in "postconflict," post-genocide Guatemala, as evidenced through state and civil society responses to this gendered violence. One of the main goals of this project was to examine the assumptions embedded in these discourses of and responses to femi(ni)cide and the implications that these have had for questions of justice, impunity, and notions of rights. Central to this aim was the awareness that although femi(ni)cide is clearly gendered, it occurs in the context of interlocking structures of power and identity that give shape and meaning to each other and that condition women's particular vulnerabilities to violence as well as the responses they encounter if they choose to report this violence. As such, I have, throughout this dissertation, brought an awareness of how structures of power linked to facets of identity such as indigeneity, race, class, and sexuality, for instance, feature—or not—in discourses of and responses to femi(ni)cide.

This analysis was motivated by my observation, early in the development of my doctoral project, of a tension in the discourse on femi(ni)cide that described the violence of femi(ni)cide as, at once, universal and particular, everyday yet exceptional. This tension was manifested in anti-femi(ni)cide activism through, for instance, its insistence that this pattern of violence is directed at "all" women because of their gender at the same time as it held up as evidence of the existence and brutality of femi(ni)cide the particularly gruesome murders that disproportionately affected certain groups of marginalized women. I had also started to identify this tension in explanations of femi(ni)cide that linked its expression—especially centered in and around Guatemala City—in the early 2000s to the brutal gendered and sexual violence unleashed by the Guatemalan Army during the counterinsurgency campaign of the 1980s with, at best, limited

recognition that this earlier violence was part of a genocidal campaign and had thus been particularly targeted at Maya women. Therefore, instead of adopting an approach that sometimes over-simplistically posits that violence "now" is linked to violence "then" and that both are expressions of universal violence against "all" women *as* women, this project has sought to contextualize and historicize how femi(ni)cide, as a pattern of gendered violence, is understood and responded to in Guatemala, in addition to examining how the very structures of gender that inform responses to this violence have been co-constituted with Indigeneity, race, class, and sexuality through time.

Below I offer a summary of the chapters and key findings of this dissertation before discussing the significance and some of the limitations of my project, along with avenues for future research that these findings and limitations reveal.

Summary, Key Findings, and Significance of the Research

This dissertation opened with a discussion of the foundations of my doctoral project, in Chapters 1 and 2. In these chapters, I traced the genealogy of the twin concepts of *femicidio* and *feminicidio*, linking them to broader feminist theory on violence against women and discussing how the concepts were first taken up and adapted in the Guatemalan context. In particular, in Chapter 1, I exposed the limits of radical and liberal feminist approaches to VAW that see this violence as universal and as primarily (or sometimes exclusively) structured by patriarchy and misogyny, contrasting these with more intersectional approaches advanced by Indigenous, Black, and women of colour feminists who experience many expressions of gendered violence as motivated not only by sexism, but also by racism, classism, heterosexism, and colonialism. In this chapter, I also discussed the implications of transnational campaigns to insert VAW into international human rights regimes, including the increasing tendency of resorting to criminal

justice in response to human rights violations in general and to VAW in particular. I concluded that analyses of femi(ni)cide that contain a broader understanding of violence—including an awareness of forms of everyday, structural, and symbolic violence—and that are historicized and contextualized are necessary in order to reveal the omissions and erasures in the discourse and activism around the issue.

Chapter 2 brought into closer focus the ways in which femi(ni)cide and "violent deaths of women"—as the phenomenon was initially referred to by many human rights organizations—in Guatemala have been represented in NGO and state agency reporting. Drawing on reports published by non-governmental, state, as well as inter- and supra-national organizations in the mid-2000s, when this violence had finally captured the attention of a national and international public thanks to the activism of women's and human rights' groups in the country, I identified the main characteristics of and explanations for the violence that were being advanced at the time. I also teased out the tensions at the centre of these discourses of femi(ni)cide—between the general and the specific, the exceptional and the everyday, the universal and the particular—and how they led to particular occlusions in anti-femi(ni)cide activism. For instance, I highlighted how some of these campaigns ended up casting the gruesome and intense violence suffered by women marginalized because of, often presumed, connections to gangs or participation in sex work as violence meted out "for being a woman," an account that is clearly reductive and dismissive of how stigma and marginalization shape vulnerability and victimization. Finally, this chapter also identified how, as responses to femi(ni)cide became increasingly tied to the criminal justice system, some of the more complex analyses of this violence seemed to disappear from public discourse, leaving the more legalistic definition of

"femicide"—with its limited structural or systemic analysis—as the prevailing frame in which to understand this violence.

Chapter 3 contextualized the discussion of justice and impunity that has been central to anti-femi(ni)cide activism by locating it within a discussion of the gendered, racialized, and classed constructs that have been built into Guatemalan law. The discussion in this chapter puts into question the universalist claims of Guatemala's legal framework by exposing the inequalities that have been institutionalized into the legal system at least since the era of Liberal reforms of the late 19th and early 20th century, particularly related to assumptions about the "worthiness" of certain victims. The persistence of some of these constructs into contemporary times and their impact on responses to femi(ni)cide was illustrated through the cases of María Isabel and Claudina, two teenagers found murdered in Guatemala City streets in the mid-2000s. The killings of these young women were dismissed as "unworthy" of investigation because of gendered, sexualized, and classed stigma, the locations in which their bodies were found, and the resulting assumptions about their links to gangs, sex work, or other forms of *delincuencia*—the latter of which carries heavy connotations in the classed and racialized space of Guatemala City and often serves to justify so-called "social cleansing." As I argued in this chapter, given that having been murdered is often enough to mark some victims as *delincuentes* regardless of the actual circumstances surrounding their death—and therefore implicitly justify their murder and the subsequent lack of investigation—simply disputing a particular victim's "unworthiness" in order to pressure authorities to investigate her case without challenging the very existence of this category does little to advance justice for victims of femi(ni)cide more broadly.

Chapters 4 and 5 focussed on the Law against Femicide and Other Forms of Violence against Woman as well as the Specialized Justice system that, together, make up the state's main

response to femi(ni)cide. In Chapter 4, I traced the development and negotiations over the Law against Femicide, in the context of Guatemalan feminists' efforts to implement gendered legal reform in the wake of the peace accords and the national and international anti-femi(ni)cide activism that aimed to draw attention to and condemnation for this violence. The widespread pressure that this activism was able to put on the Guatemalan state to take action in response to femi(ni)cide led to the adoption of a law that criminalized a broad array of expressions of violence against women, many of which had been quite normalized—and in many ways continued to be so even after the adoption of the law. Indeed, I argued that some of these forms of violence—including some forms of physical and psychological violence—were perceived as so "normal" that they would not have been criminalized had it not been for their association in anti-femi(ni)cide activism with the more "spectacular" forms of violence—murder and overkill—also encompassed in understandings of femi(ni)cide. The link between these forms of violence were largely cemented through women's organizations' mobilization, in their activism, of the concept of a "continuum of violence" to explain femi(ni)cide.

While the adoption of the Law against Femicide was generally heralded as an important victory, I found that some key informants within civil society saw limitations in the law and its implementation. Chapter 5 therefore furthered the discussion of the omissions and erasures evident in discourses of femi(ni)cide that had been introduced in earlier chapters by turning a more critical eye to the content of the Law against Femicide and its application, particularly through the Specialized Justice system. In this chapter, I advanced that analyzing the language of the law and the structure of the Specialized Justice system within the context of the pervasive and persistent inequalities experienced by many marginalized groups in Guatemala reveals implicit (and sometimes explicit) exclusions from protection by the Law against Femicide.

Indeed, these historically embedded inequalities have been observed to essentially impede many women's ability to access justice for gendered violence—especially rural, impoverished, and Indigenous women, and for women who, because of the exclusionary categories embedded in Guatemalan law are unlikely to report violence, not expecting to be believed or attended to. The analysis offered in Chapter 5 exposed the pitfalls of focusing on improving "access to justice" as a strategy to address gendered violence since it often side-steps the limitations of criminalization, including the lack of attention that this approach brings to violence prevention, to working with men, and to addressing structural and systemic exclusions—themselves forms of violence.

When I set out on this project, I wondered whether, despite not being a transitional justice measure *per se*, considering the Law against Femicide—like the other gendered legal reforms discussed in Chapter 4—within the larger "postconflict" period in which it was adopted might allow for a reading of the law as part of the "definitional project" of transition that marks a rupture between the past and present state (Miller, 2008) in that the latter is attempting to distinguish itself as respectful of rights and the rule of law. As I discussed in Chapter 4, I do see activism on the part of feminists and women's organizations for stronger legislation against violence against women—and specifically for its criminalization—as part of feminist efforts to implement gendered reform in the wake of the peace accords. As my key informants expressed, it was this constant pressure from activists and their allies outside and within government, and by international actors, rather than real political will that forced presidents Berger (2004-2008) and Colom (2008-2012) to start acknowledging the issue by appointing special commissions, and pushed Congress (during the Colom presidency) to adopt the Law against Femicide. In taking these actions to respond to femi(ni)cide, the actors involved may well have been attempting to better the image of the country or of their own administration or government in regards to its

respect for human rights—or, more cynically perhaps, to meet explicit or implicit conditionalities for international aid, loans, and other favours. However, the fact that responses to femi(ni)cide have largely failed to go beyond criminalization—especially with the undermining of the few measures that had existed outside of the judicial system by the Pérez Molina (2012-2015) administration—betrays the half-heartedness of the Guatemalan state's commitment to address gendered violence. As the aftermath of genocide and war continues to unfold in Guatemala and it has become clear that the "transition" from war to postwar or from conflict to peace is neither simple nor linear (McAllister & Nelson, 2013), there is an interesting parallel to draw between the state's response to femi(ni)cide and its efforts at upholding the peace accords and implementing their recommendations in that both are half-hearted and tentative (at best), as well as partial.

Indeed, what this dissertation reveals by considering the Law against Femicide within the broader socio-legal landscape of post-genocide Guatemala is the partiality of the state's commitment to addressing gendered violence. As discussed in Chapter 5, for instance, minimizing the barriers to justice for some women through the institutionalization of the Specialized Justice system was more acceptable to the state than creating mechanisms that could help mediate structural inequities—such as the proposed agrarian courts whose funding was redirected to Specialized Justice for femicide. Furthermore, the omissions and exclusions from the Law against Femicide that I have discussed throughout this dissertation put into question the Law's claim to protect "all" women. In fact, whether they originate from constructs of worthy victims rooted in the Guatemalan legal framework, from concessions or shortcomings in the Law itself, or from its institutionalization and implementation through the Specialized Justice system, these exclusions are in many ways a continuation of the marginalization and disregard in which

Indigenous, rural, and impoverished women, as well as women marked as "bad" because of their sexuality, gender expression, non-monogamy, participation in sex work, status as transwomen, or proximity to *delincuencia*, have been held since colonial times. Finally, the patterns of malicious use of the Law against Femicide—including against Indigenous land defenders and by politicians trying to silence critics— discussed in Chapter 5 highlight the limitations of criminalization as a response to femi(ni)cide and to gendered violence more broadly, and the associated risk of these issues being co-opted into the state's security agenda to justify violence against those already marginalized.

Together these findings reaffirm the importance of centring the experiences and needs of marginalized women in activism and policy-making on gendered violence instead of relying on universalizing understandings of violence that fail to recognize the distinct experiences of differently positioned women. They also raise the question of whether a state that is actively invested in the dispossession and marginalization of entire sectors of its population can be counted on to provide justice for femi(ni)cide. Many feminist activists in Guatemala are, of course, aware of this contradiction and, as outlined above, are engaging with the state in a strategic way when, calling on it to address femi(ni)cide, for instance, they push the state to broaden the scope of rights it recognizes and—on paper at least—guarantees to Guatemalan women. As one key informant who identifies as a lesbian feminist explained when discussing the lack of recognition of her multifaceted identity by the Law against Femicide "we [*nosotras*] have to learn to play with these laws," likening the Law against Femicide as a "small hole" that can be seized upon to open others.

Anti-femi(ni)cide activism in Guatemala does not seem to have been exclusionary by design. Rather, these omissions and exclusions seem to have been at least partially a by-product

of the urgency with which this activism was undertaken, given that, as one key informant, a long time feminist activist, explained, with so many pressing issues to address at all times "there isn't the time to spend a few hours mulling over the issue." This reflection is reminiscent of Rosser's (2015) discussion, in relation to the efforts of human rights workers to integrate sexual violence into Guatemala's truth-telling processes, of "urgency praxis," which she defines as the "strategic, imperfect efforts to do the best possible work with the resources available, in the heat of the moment" (p. 232). In this sense, I understand that feminists, human rights activists, and women's organizations in Guatemala working to bring attention to the urgent and emergent violence of femi(ni)cide made strategic decisions about how they framed the issue and the responses they demanded from the state within the limits of what they understood as feasible, in a context that was deeply resistant to discussions of sexualized and gendered violence. Nevertheless, once the issue was handed over to the state, broader feminist debates about this violence and appropriate responses to it have largely been quashed. As the same key informant cited above explained:

> we have this law that is very advanced for many countries but this very fact took away the argumentative power of women's organizations over conceptual and political terms [in relation to femi(ni)cide]. This is why you now see more about sexual violence and less on violence against women in a broader sense, because [the latter] is being left to the state.

State recognition and action against femi(ni)cide brought important regulatory gains through the adoption of the Law against Femicide. However, with discussions of femi(ni)cide within women's organizations having stalled after the law's adoption, it has left activism and advocacy to be informed by, as the same key informant put it, "arguments [that are] now a little

backwards." Given that state responses to femi(ni)cide have largely been driven by pressure from feminist activists, this finding has implications for any continued policy-making on the issue.

As discussed in the Introduction and Chapter 1, much of the work that had been published about femi(ni)cide in Guatemala when I started this project offered an analysis that gave primacy to gender, sometimes to the exclusion of other intersections of power and identity. This dissertation, however, makes clear that analyses of femi(ni)cide in any particular place or time must not only be intersectional, but also contextualized within the particular histories that have shaped that location. In the case of Guatemala, the histories of colonialism and militarization that have shaped exclusion and inequality are particularly salient. By proposing a contextualized and historicized analysis of civil society and state responses to femi(ni)cide in Guatemala, and particularly of the Law against Femicide, this project begins to fill this gap in the literature. And by documenting some of the exclusions and omissions that have resulted from the particular ways in which femi(ni)cide has been responded to in Guatemala, I hope that this dissertation can help bolster the arguments of those fighting to broaden understandings of femi(ni)cide in Guatemala and beyond, and support efforts towards activism and policy-making informed by more complex, inclusive, and historically-grounded understandings of gendered violence.

Activism against gendered and sexualized violence has been highly visible in recent years. There is, of course, the #MeToo movement that took off in the fall of 2017, prompting millions of people, first in the US and then around the world, to share experiences of sexual assault and harassment on social media, and initiating discussions about the pervasiveness of sexualized violence in many spaces that had previously been impervious to these debates. More

recently, a powerful anti-rape and anti-violence performance, *Un violador en tu camino* [A rapist in your path] initiated by the Chilean collective LASTESIS in the midst of anti-government protests in the fall of 2019 (and inspired by the work of Argentine anthropologist Rita Segato) quickly went viral and was replicated throughout Latin America and eventually in at least 367 performances in 52 countries (Minutaglio, 2020). The choreography and chant, anchored around the refrain "*El violador eras tú, El violador eres tú*" [The rapist was you, The rapist is you], at once denounces victim blaming ("*Y la culpa no era mía, ni dónde estaba, ni cómo vestía*" [It wasn't my fault, not where I was, not how I dressed]) and state complicity in violence ("*Son los pacos, Los jueces, El Estado, El Presidente, El Estado opresor es un macho violador*" [It's the cops/pigs, It's the judges, It's the President, It's the state, The oppressive state is a macho rapist]. In some performances, a silent but visible demand for access to safe abortion is also accomplished through performers' donning of green bandanas around their necks—a symbol that originated with pro-choice activists in Argentina.

While the visibility—at least in mainstream media and political circles—of campaigns against gendered violence has ebbed and flowed, feminist activists have continued to mobilize against unabated violence. Before #MeToo and *Un violador en tu camino*, there was also, for instance, the *#NiUnaMenos* [Not one less] movement, which originated in Argentina in 2016 in protest of the murder of a pregnant teenager and has since reinvigorated activism against femi(ni)cide in many parts of the continent. Social media has expanded the reach and accelerated the spread of these movements against gendered violence over multiple borders, and inspired activists in other countries to adapt a concept, slogan, hashtag, or protest chant to their own context in order to push for change. Given the tension between the universal and the

particular at play in the transnational travel of anti-violence activism, the contributions that my dissertation has to offer seem particularly timely and relevant.

Limitations and Areas for Future Research

Given its focus on state and civil society responses to femi(ni)cide, I centred my research for this dissertation in Guatemala City where most state institutions and civil society organizations that had a history of activism on the issue are located. Limiting the geographical scope of the research was also a question of feasibility (in terms of time and resources) and access (my network from previous research and activism in Guatemala was mostly located in Guatemala City social movements). While five of my key informants from civil society discussed experiences of working against violence against women in rural and Indigenous communities, the work of two of these five key informants had been limited to accompanying legal (criminal) cases and another two had worked on the issue through organizations based in Guatemala City (the institutions offering legal accompaniment were also based in the capital).

This points to a clear limitation of my project in that it does not fully consider Indigenous or rural women's organizing against femi(ni)cide. A similar limitation of this research ensues from the lack of key informants from transwomen's organizations since my attempts to reach out to an organizer with the main trans organization in Guatemala City through a contact in the LBGTI community were unsuccessful, and my emails to the organization's general email went unanswered. Given the virtual invisibility of Indigenous women and the complete exclusion of transwomen in discourses of and responses to femi(ni)cide, these are important gaps in the literature that have yet to be filled. Pursuing research on the topic with the Red Multicutural de Mujeres Trans de Guatemala [Multicultural Network of Transwomen of Guatemala--REDMMUTRANS], a network of trans-led collectives from seven departments outside of the

capital city which includes Maya, Garifuna, Xinca and *mestiza* women would be particularly interesting and could make valuable contributions to the intersectional study of femi(ni)cide and its responses.

Another group of women that have largely been left out of discourses of and responses to femi(ni)cide are sex workers. Outside of the mention of sex workers as victims of some of the most brutal murders of women in early reports on femi(ni)cide, their vulnerability, victimization, or access to justice is rarely discussed—nor do sex worker organizations seem to have been consulted during the development and negotiations over the Law against Femicide. And this despite the fact that, as discussed in Chapter 2, the *ensañamiento* with which they and other marginalized and stigmatized women were killed was often pointed to in anti-femi(ni)cide activism to convey the urgency and seriousness of the situation. Given the findings on how the stigma of *delincuencia* and the gendered, sexualized, and classed constructs that go along with it mark certain victims of femi(ni)cide not only as undeserving of justice but in some cases as deserving of death, broadening the inquiry I present in this dissertation to include sex workers' perspectives on femi(ni)cide would be important. Indeed, along with Indigenous and transwomen mentioned above, sex workers are another group of women who, because of the racialized, gendered, classed, and hetero- and cis-sexist categories embedded in the Guatemalan legal framework (discussed in Chapter 3), are unlikely to receive a response from the state, whose lives have been devalued throughout Guatemalan history, and whose deaths have typically been thought not to matter.

As discussed in the Introduction, fieldwork for this project was completed in 2014, and I did not have the resources to conduct follow up interviews to examine how the situation I have presented in this dissertation may have evolved with the passage of time. This bears the most

impact on some of the data presented in Chapter 5, which discussed the implementation of the Law against Femicide through the Specialized Justice system and the state of access to justice for differently positioned women in Guatemala. Unfortunately, as I mention in the text, the Oversight, Evaluation, and Monitoring Unit which was the official and most reliable source of information on the functioning of Specialized Justice seems to have ceased its operations shortly after my fieldwork. While a report by the International Commission of Jurists (CIJ, 2016) which compared "good practices and results" of Specialized Justice for femicide in Guatemala with experiences from Spain, Brazil, and El Salvador provided valuable information, nothing of significance reviewing the functioning of the system has been published since.

Postscript

The past five years have been quite eventful for Guatemala's justice sector and in the search for accountability for crimes of the past and present. Building on reforms initiated by former Attorney General Paz y Paz, and with the support of the CICIG, the MP's office under the leadership of Thelma Aldana (who had initiated the Specialized Justice system within the OJ when she sat on Guatemala's Supreme Court of Justice) began a head-on offensive against corruption at the highest levels of the state. In the spring of 2015, they revealed corruption schemes within the chronically-underfunded social security system as well as the customs agency that could be traced back to individuals close to President Pérez Molina and Vice-President Baldetti. First the Vice-President and later the President were forced to step down as evidence mounted of their direct involvement, and, eventually, leadership, in the customs corruption scheme, prompting tens of thousands of Guatemalans to fill Guatemala City's central plaza for massive weekly protests demanding their resignation and prosecution (they are both currently awaiting trial). It was the beginning of what some started calling the "Guatemalan

Spring," which gave hope that decades of war, violence, and corruption at the hands of a criminal state were finally coming to an end (Rodríguez Pellecer, 2015).

Investigations into the customs corruption scheme led CICIG and MP investigators to uncover widespread election financing fraud as well as money laundering and bribery networks embedded in at least eight different government ministries and offices and involving some of Guatemala's most powerful social and economic actors (Silva Ávalos & Olaya, 2020). Efforts to discredit and undermine the work of the CICIG in reaction to these investigations eventually led President Jimmy Morales—an actor with no prior political experience and with deep loyalties to the military—to end the Commission's mandate in 2019 (at a time when his brother, one of his sons, and he himself had also come under investigation).[179]

President Alejandro Giammattei, who won the 2019 presidential elections in a run-off with former First Lady Sandra Torres, is vehemently opposed to reinstating the CICIG, who he charges "persecuted" him when he was director of the prison system and investigated for his role in the extrajudicial execution of seven prisoners (see footnote 104 above). After less than a year in office, and in a year in which normal operations of the state have been upended by the Coronavirus pandemic, the direction Giammattei's administration will take on questions of justice, and in response to gendered violence, is uncertain. However, so far, his ties to traditional power centres do not leave much hope for a reinvigoration of the fight against corruption or for historical justice (Nájar, 2019). In fact, according to the head of the MP's Anti-Corruption Unit, Guatemala's fight against corruption has not only stalled, it has regressed (Silva Ávalos & Olaya, 2020).

[179] See p. 10 for more details on this and on Pérez Molina's prior frustrated efforts to put an end to the Commission's work in Guatemala.

Still, despite these set-backs in the fight against corruption, many cases involving crimes committed during the internal armed conflict have continued to advance, including some that specifically address sexual violence used as a weapon of war and genocide. In February 2016, a former Lieutenant Colonel and a former military commissioner were convicted for crimes against humanity in the form of sexual violence and sexual and domestic slavery at the military outpost of Sepur Zarco (Crosby, Lykes, & Doiron, 2018). In May 2018, four former high-ranking military officials were convicted of torture and sexual violence against Emma Molina Thiessen and of the forced disappearance of her 14-year-old brother Marco Antonio, crimes that had been committed in 1981 (Burt & Estrada, 2018). And, as I write this Conclusion in October 2020, a former civil defense patroller has been indicted on charges of crimes against humanity and sexual violence committed during the country's genocide in a case brought forward by 36 Achí women.

Since March 2017, Guatemalan feminists have been mobilizing to demand justice for the death of 41 girls and the injuries sustained by 15 others during a fire at an orphanage known as the Hogar Seguro Virgen de la Asunción [Virgin of the Assumption Safe Home]. The Hogar Seguro, which was home to close to 600 children and teenagers who had been physically or sexually abused, had been abandoned, had disabilities, who were experiencing addiction, or whose families were otherwise unable to take care of them, had long been the subject of complaints over inhumane conditions and violations of human rights, including suspicions of sexual exploitation and human trafficking (Walsh, 2019). On March 7, a group of girls began to protest these conditions, eventually leading 56 of them to be locked into a small classroom overnight with no access to water, clean clothes, or restrooms. On the morning of March 8, International Women's Day, one of the girls set fire to a mattress in an attempt to get the

attention of Hogar Seguro staff and police officers who were stationed just outside the locked classroom. It quickly spread throughout the room. Authorities waited nine minutes before opening the classroom door and another 40 minutes before they allowed firefighters to enter the facilities. Nineteen girls died that morning and 22 more succumbed to their injuries over the next week. Another 15 continue to live with extensive injuries from the fire (Walsh, 2019).

Mobilizations around the Hogar Seguro case did for a time renew discourses of feminicide (rather than "femicide" as defined in law) in Guatemala given the direct and very obvious state responsibility for these girls' deaths. When *Un violador en tu camino* was performed in front of the Guatemalan Supreme Court and Guatemalan Congress in November 2019, local feminists opened the performance with an added verse denouncing the Hogar Seguro tragedy: "*No eran calladitas, Eso no les gustó, Exigieron sus derechos, Y el Estado las quemó*" [They didn't keep quiet, They didn't like this, They demanded their rights, And the state burned them] and ended the performance with a chant of "*¡No fue el fuego, Fue el Estado!"* [It wasn't the fire, It was the state!]. Twelve people have been charged in the case, though the legal process has seen repeated obstructions and delays, and observers, including the Office of the United Nations High Commissioner for Human Rights, have questioned the levity of the charges those currently in custody face given the circumstances of these girls' deaths (Walsh, 2019). It remains to be seen if anyone will be held accountable for the violent deaths of these girls.

Reference List

25 de noviembre. (2004, December). *laCuerda*, *74*, 4.

2017 fue el año menos violento desde 2000. (2018, February 1). ElPeriodico. https://elperiodico.com.gt/nacion/2018/01/02/2017-fue-el-ano-menos-violento-desde-2000/

Aguilar, A. L. (2005). *Femicidio…La pena capital por ser mujeres*. http://cdd.emakumeak.org/ficheros/0000/0288/femicidio.pdf

Alcoff, L., & Potter, E. (1993). *Feminist Epistemologies*. Routledge.

Aldana, T. (2013). *Los retos de la esperanza: Justicia especializada con enfoque de género: Guatemala*. Armar Editores.

Alméras, D., & Calderón, C. (2012). *Si no se cuenta, no cuenta: Información sobre la violencia contra las mujeres*. CEPAL. https://repositorio.cepal.org//handle/11362/27859

Alto a la violencia social y política. (2005, February). *laCuerda*, *75*, 2.

Alvarez, E. (2002). The Civil Society Assembly: Shaping agreement. *Accord*, *13*, 48–52.

Álvarez Molinero, N. (2006). From the theory of discovery to the theory of recognition of indigenous rights. In S. Meckled-García & B. Çali (Eds.), *The legalization of human rights: Multidisciplinary perspectives on human rights and human rights law* (pp. 152–166). Routledge.

Alvarez, S. E. (1999). Advocating feminism: The Latin American feminist NGO "boom." *International Feminist Journal of Politics*, *1*(2), 181–209. https://doi.org/10.1080/146167499359880

Alvarez, S. E. (2009). Beyond NGO-ization?: Reflections from Latin America. *Development*, *52*(2), 175–184. https://doi.org/10.1057/dev.2009.23

Alvarez, S. E., Friedman, E. J., Beckman, E., Blackwell, M., Chinchilla, N. S., Lebon, N., Navarro, M., & Tobar, M. R. (2003). Encountering Latin American and Caribbean feminisms. *Revista Estudos Feministas*, *11*(2), 541–575. https://doi.org/10.1590/S0104-026X2003000200013

Álvarez, W. (2016, November 23). *Inauguran Fiscalía de delitos contra el Femicidio*. Ministerio de Gobernación webiste. https://mingob.gob.gt/inauguran-fiscalia-de-delitos-contra-el-femicidio/

Amnesty International. (2005). *Guatemala: No protection, no justice: Killings of women in Guatemala* (AMR 34/017/2005). Amnesty International. https://www.amnesty.org/download/Documents/80000/amr340172005en.pdf

Amnesty International. (2006). *Guatemala: No protection, no justice: Killings of women (an update)* (AMR 34/019/2006). Amnesty International. https://www.amnesty.org/en/documents/document/?indexNumber=AMR34%2f019%2f2006&language=en

Arte Sana. (2001). *Campaña: Por las vida de las mujeres ni una muerte +*. http://www.arte-sana.com/articles/espanol/campana_nomas_article.htm

Asamblea de Organizaciones No Gubernamentales y Gubernamentales para Promover Propuestas y Reformas Legales a favor de las Mujeres. (2007). *Propuesta de proyecto de Ley marco sobre violencia contra las mujeres* [Position paper].

Asencio Alvarez, J. E. (2004). *Informe de crímenes contra mujeres en Guatemala*. Amnistía Internacional Chile. http://bd.cdmujeres.ucr.ac.cr/documentos/informe-crimenes-contra-mujeres-guatemala

Asturias, L. E. (2003, July). No pedimos milagro. *La Cuerda*, *58*.

Asturias, L. E. (2004, July). No más exterminio. *laCuerda*, *69*.

Atlantic Regional Solidarity Group, BC CASA/Café Justicia BC-Vancouver, Canada-Philippines Solidarity for Human Rights, Center for International Environmental Law-Washington, Maquila Solidarity Network, Maritimes-Guatemala Breaking the Silence Network, Mining Justice Alliance-Vancouver, MiningWatch Canada, Mining Working Group-Maritime Conference-United Church of Canada, Network in Solidarity with the People of Guatemala-US, Rights Action-US/Canada, & Social Justice Coalition-Montreal. (2012, September 6). *North American organizations call for stop to criminalization of rights advocates in Guatemala*. https://miningwatch.ca/news/2012/9/6/north-american-organizations-call-stop-criminalization-rights-advocates-guatemala

BBC News Mundo. (2018, September 5). *Guatemala: En qué consiste la controvertida Ley para la Protección de la Vida y la Familia que se está debatiendo en el Congreso*. BBC News. https://www.bbc.com/mundo/noticias-america-latina-45416711

Beck, E. (2014). Countering convergence: Agency and diversity among Guatemalan NGOs. *Latin American Politics and Society*, *56*(2), 141–162. https://doi.org/10.1111/j.1548-2456.2014.00234.x

Benson, P., Fischer, E. F., & Thomas, K. (2008). Resocializing suffering: Neoliberalism, accusation, and the sociopolitical context of Guatemala's new violence. *Latin American Perspectives*, *35*(5), 38–58. https://doi.org/10.1177/0094582X08321955

Berger, S. A. (2006). *Guatemaltecas: The women's movement, 1986-2003* (1st ed.). University of Texas Press.

Bernstein, E. (2010). Militarized humanitarianism meets carceral feminism: The politics of sex, rights, and freedom in contemporary antitrafficking campaigns. *Signs: Journal of Women in Culture and Society*, *36*(1), 45–71. https://doi.org/10.1086/652918

Blacklock, C., & Macdonald, L. (1998). Human rights and citizenship in Guatemala and Mexico: From "strategic" to "new" universalism? *Social Politics: International Studies in Gender, State & Society*, *5*(2), 132–157. https://doi.org/10.1093/sp/5.2.132

Blacklock, Cathy. (1999). Democratization and popular women's organizations. In L. North & A. B. Simmons (Eds.), *Journeys of fear: Refugee return and national transformation in Guatemala* (pp. 196–212). McGill-Queen's Press.

Blacklock, Cathy, & Crosby, A. (2004). The sounds of silence: Feminist research across time in Guatemala. In W. M. Giles & J. Hyndman (Eds.), *Sites of violence: Gender and conflict zones* (pp. 45–72). University of California Press.

Blas, A. L., & Osorio, J. (2008, April 10). Aprueban ley contra femicidio. *Prensa Libre*, 3.

Blomley, N. (2003). Law, property, and the geography of violence: The frontier, the survey, and the grid. *Annals of the Association of American Geographers*, *93*(1), 121–141. https://doi.org/10.1111/1467-8306.93109

Boche, E. (2019a, July 3). Impunidad prevalece en casos de violencia contra la mujer. *elPeriódico*. https://elperiodico.com.gt/nacion/2019/07/03/impunidad-prevalece-en-casos-de-violencia-contra-la-mujer/

Boche, E. (2019b, November 15). Alteración de escena mantuvo en la impunidad caso Véliz Franco. *elPeriódico*. https://elperiodico.com.gt/nacion/2019/11/15/alteracion-de-escena-mantuvo-en-la-impunidad-caso-veliz-franco/

Bourdieu, P., & Wacquant, L. (2004). Symoblic violence. In N. Scheper-Hughes & P. I. Bourgois (Eds.), *Violence in war and peace* (pp. 272–274). Blackwell Pub.

Bourgois, P. I. (2004). US Inner-city apartheid: The contours of structural and interpersonal violence. In N. Scheper-Hughes & P. I. Bourgois (Eds.), *Violence in war and peace* (pp. 301–307). Blackwell Pub.

Brownmiller, S. (1975). *Against our will: Men, women and rape*. Simon and Schuster.

Bueno-Hansen, P. (2010). Feminicidio: Making the most of an "empowered term." In R. L. Fregoso & C. L. Bejarano (Eds.), *Terrorizing women: Feminicide in the Américas* (pp. 290–311). Duke University Press. https://doi.org/10.1215/9780822392644

Bumiller, K. (2008). *In an abusive state: How neoliberalism appropriated the feminist movement against sexual violence*. Duke University Press.

Bumiller, K. (2013). Feminist collaboration with the state in response to sexual violence: Lessons from the American experience. In A. M. Tripp, M. M. Ferree, & C. Ewig (Eds.), *Gender, violence, and human security: Critical feminist perspectives* (pp. 191–213). New York University Press.

Bunch, C. (1990). Women's rights as human rights: Toward a re-vision of human rights. *Human Rights Quarterly*, *12*(4), 486–498. https://doi.org/10.2307/762496

Burt, J.-M., & Estrada, P. (2018, May 23). *Four retired senior military officers found guilty in Molina Theissen case*. International Justice Monitor. https://www.ijmonitor.org/2018/05/four-retired-senior-military-officers-found-guilty-in-molina-theissen-case/

Burt, J.-M., & Estrada, P. (2020, October 16). *Former civil defense patroller sent to trial in Maya Achi sexual violence case*. International Justice Monitor. https://www.ijmonitor.org/2020/10/former-civil-defense-patroller-sent-to-trial-in-maya-achi-sexual-violence-case/

Cabrera, M., Lustig, N., & Morán, H. E. (2015). Fiscal policy, inequality, and the ethnic divide in Guatemala. *World Development*, *76*, 263–279. https://doi.org/10.1016/j.worlddev.2015.07.008

CAFCA. (2006). *Análisis criminalístico de los homicidios de mujeres en Guatemala*. Centro de Análisis Forense y Ciencias Aplicadas.

CALDH. (2005). *Asesinatos de mujeres: Expressión del feminicidio en Guatemala*. Centro para la Acción Legal en Derechos Humanos.

CALDH, ICCPG, & SEDEM. (2007). *Las ejecuciones extrajudiciales de jóvenes estigmatizados*. Centro para la Acción Legal en Derechos Humanos, Instituto de Estudios Comparados en Ciencias Penales, Seguridad en Democracia. https://issuu.com/caldh/docs/caldh_ejecuciones_jovenes

Camus, M. (2011). Primero de julio: Urban experiences of class decline and violence. In K. L. O'Neill & K. Thomas (Eds.), *Securing the city* (pp. 49–66). Duke University Press.

Caputi, J., & Russell, D. E. H. (1992). Femicide: Sexist terrorism against women. In J. Radford & D. E. H. Russell (Eds.), *Femicide: The politics of woman killing* (pp. 13–21). Twayne.

Carasik, L. (2019, January 26). Guatemala's 'slow-motion coup' rolls onward. *Foreign Policy*. https://foreignpolicy.com/2019/01/26/guatemalas-slow-motion-coup-rolls-onward/

Carby, H. (1996). White woman listen!: Black feminism and the boundaries of sisterhood. In H. A. Baker, M. Diawara, & R. H. Lindeborg (Eds.), *Black British cultural studies: A reader* (pp. 61–86). University of Chicago Press.

Carcedo, A. (2011). *We will not forget nor will we accept: Femicide in Central America, 2002-2006* (S. Murdock, Trans.). Centro Feminista de Información y Acción, Horizons of Friendship.

Carcedo, A., & Sagot, M. (2000). *Femicidio en Costa Rica 1990-1999*. Instituto Nacional de las Mujeres. http://mujeresdeguatemala.org/wp-content/uploads/2014/06/Femicidioen-Costa-Rica.pdf

Cardona, K. (2008a, March 31). Dictamen favorable a ley de femicidio. *La Hora*, 4.

Cardona, K. (2008b, April 9). Aprueban Ley de Feminicidios. *La Hora*, 2.

Carey, D. (2013). *I ask for justice: Maya women, dictators, and crime in Guatemala, 1898–1944*. University of Texas Press.

Carey, D., & Torres, M. G. (2010). Precursors to femicide: Guatemalan women in a vortex of violence. *Latin American Research Review*, *45*(3), 142–164.

Carrillo Samayoa, A. (2008, abril). En esta lucha no han cedido. *laCuerda, 110,* 19–20.

Casa de América. (2014, October 15). *Los retos de la esperanza: Justicia especializada con enfoque de género* [Video]. https://www.youtube.com/watch?v=g_ok9IXDNNc#t=160

CAWN. (2010). *Intersecting violences: A review of feminist theories and debates on violence against women and poverty in Latin America*. Central America Women's Network.

CEG. (2006). *Informe especial: La violencia en Guatemala y la responsabilidad del estado*. Centro de Estudios de Guatemala.

CEH. (1999). *Guatemala, memoria del silencio*. Oficina de Servicios para Proyectos de las Naciones Unidas (UNOPS). http://www.centrodememoriahistorica.gov.co/descargas/guatemala-memoria-silencio/guatemala-memoria-del-silencio.pdf

Chazaro, A., & Casey, J. (2006). Getting away with murder: Guatemala's failure to protect women and Rodi Alvarado's quest for saftey. *Hastings Women's Law Journal, 17*, 141–186.

Chirix García, E. D. (2008). *Una aproximación sociológica a la sexualidad Kaqchikel de hoy*. FLACSO Guatemala.

Chirix García, E. D. (2010). *Ru rayb'äl ri qach'akul = Los deseos de nuestro cuerpo*. Ediciones del Pensativo.

Chirix García, E. D. (2013). *Cuerpos, poderes y políticas: Mujeres mayas en un internado Católico = Ch'akulal, chuq'aib'il chuqa b'anobäl: Mayab' ixoqi' chi ru pam jun kaxlan tz'apatäl tijonïk*. Ediciones Maya' Na'oj.

CICIG. (2018a, October 29). *Torture and extrajudicial executions from 2004 to 2007*. Comisión Internacional Contra la Impunidad en Guatemala. https://www.cicig.org/cases/ejecuciones-extrajudiciales-y-torturas-2004-2007/?lang=en

CICIG. (2018b, November 22). *Extrajudicial executions and torture case*. Comisión Internacional Contra la Impunidad en Guatemala. https://www.cicig.org/cases/extrajudicial-executions-and-torture-case-2/?lang=en

CIJ. (2016). *Buenas prácticas y resultados de la justicia especializada en femicidio y mayor riesgo*. Comisión Internacional de Juristas. https://www.refworld.org/pdfid/5a2129594.pdf

Comaroff, J., & Comaroff, J. L. (2006). *Law and disorder in the postcolony*. University of Chicago Press.

Combahee River Collective. (1983). A Black feminist statement. In C. Moraga & G. Anzaldúa (Eds.), *This bridge called my back: Writings by radical women of color* (2d ed., pp. 210–218). Kitchen Table, Women of Color Press.

Comisión Especial de Feminicidios. (2005). *Por la vida y la libertad de las mujeres: Primer informe sustantivo de actividades, 14 de abril 2004 al 14 de abril 2005*. Congreso de la Unión (México). http://www.cimacnoticias.com/especiales/comision/informe/informe_completo01.pdf

CONAPREVI. (2019). *Plan nacional para la prevención y la erradicación de la violencia contra las mujeres 2020-2029, PLANOVI*. Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y contra las Mujeres & Secretaría Presidencial de la Mujer. https://seprem.gob.gt/wp-content/uploads/Planovi-2020-2029-1.pdf

Coordinadora 25 de Noviembre. (2013). *Dia Internacional de la No Violencia Contra las Mujeres: Comunicado de Prensa* [Press release].

Costantino, R. (2006). Femicide, impunity, and citizenship: The old and new in the struggle for justice in Guatemala. *Chicana/Latina Studies*, *6*(1), 108–121. https://www.jstor.org/stable/23014586

CPJ. (2018, July 25). *Guatemalan minister uses law preventing violence against women to silence critical journalist*. Committee to Protect Journalists. https://cpj.org/2018/07/guatemalan-minister-uses-law-preventing-violence-a/

Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, *43*(6), 1241–1300.

Crosby, A., & Lykes, M. B. (2019). *Beyond repair?: Mayan women's protagonism in the aftermath of genocidal harm*. Rutgers University Press. https://doi.org/10.36019/9780813599007-fm

Crosby, A., Lykes, M. B., & Caxaj, B. (2016). Carrying a heavy load: Mayan women's understandings of reparation in the aftermath of genocide. *Journal of Genocide Research*, *18*(2–3), 265–283. https://doi.org/10.1080/14623528.2016.1186952

Crosby, A., Lykes, M. B., & Doiron, F. (2018). Affective contestations: Engaging emotion through the Sepur Zarco trial. In M. Macleod & N. de Marinis (Eds.), *Resisting violence: Emotional communities in Latin America*. Palgrave Macmillan. https://doi.org/10.1007/978-3-319-66317-3

¿Cuál es el origen de la violencia? (2002, November). *laCuerda*, *51*.

Cumes, A. E. (2009). Mujeres indígenas, poder y justicia: De guardianas a autoridades en la construcción de culturas y cosmovisiones. In A. K. Miriam Lang (Ed.), *Mujeres indígenas y justicia ancestral* (pp. 33–47). UNIFEM.

Davies, M. (2011). Feminism and the idea of law. *Feminists@law*, *1*(1). https://journals.kent.ac.uk/index.php/feministsatlaw/article/view/9/28

de Léon Sagot, D. (2014, May 20). *Se refuerza señalamiento contra Sperisen como miembro de estructura dedicada a limpieza social*. CERIGUA. https://www.ridh.org/Cobertura_Sperisen/refuerza_senalamiento_sperisen.html

del Cid Vargas, P. I. (2000, November). Un paso adelante y dos atrás. *laCuerda*, *29*.

del Cid Vargas, P. I. (2004, November). Por qué las asesinan. *laCuerda*, *73*, 5–7.

del Cid Vargas, P. I. (2011). Carácter político de las sexualidades. In SEPREM (Ed.), *Nosotras, las de la historia: Mujeres en Guatemala (siglos XIX-XXI).* (pp. 64–71).

Demandas prioritarias. (2003, July). *laCuerda*, *58*, 2.

Deus, A., & Gonzalez, D. (2018). *Análisis de legislación sobre femicidio/feminicidio en América Latina y el Caribe e insumos para una ley modelo*. MESECVI & ONU Mujeres. https://lac.unwomen.org/es/digiteca/publicaciones/2018/12/analisis-legislacion-feminicidio-femicidio-modelo-de-ley

DeVault, M. L., & Gross, G. (2012). Feminist qualitative interviewing: Experience, talk, and knowledge. In S. N. Hesse-Biber (Ed.), *Handbook of feminist research: Theory and praxis* (2nd ed., pp. 206–236). SAGE.

Dill, B. T., & Kohlman, M. H. (2012). Intersectionality: A transformative paradigm in feminist theory and social justice. In S. N. Hesse-Biber (Ed.), *Handbook of feminist research: Theory and praxis* (2nd ed., pp. 154–174). SAGE.

Doiron, F. (2007). *Indigenous Achí widows' experiences of armed conflict in Rabinal, Guatemala: Implications for peace and development in the aftermath of* La Violencia [Unpublished Masters thesis]. Saint Mary's University.

Doiron, F. (2010). Widows, mothers, activists: Indigenous Achí women's experiences of *La Violencia* in Rabinal, Guatemala. *Journal of the Motherhood Initiative for Research and Community Involvement*, *1*(1), 77–90.

Domínguez-Ruvalcaba, H., & Ravelo Blancas, P. (2010). Obedience without compliance: The role of the government, organized crime, and NGOs in the system of impunity that murders the women of Cuidad Juárez. In R. L. Fregoso & C. L. Bejarano (Eds.), *Terrorizing women: Feminicide in the Américas* (pp. 182–196). Duke University Press. https://doi.org/10.1215/9780822392644

Donoso López, S. (2008). Feminicidio en Guatemala: Las víctimas de la impunidad. *Revista d'Estudis de la Violència*, *4*. http://www.taringa.net/posts/info/15997508/Feminicidio-en-Guatemala-Las-victimas-de-la-impunidad.html

Doyle, K. (2009). *Operation Sofia: Documenting genocide in Guatemala (A companion report to the United Nations Secretary-General's Study on violence against women)* [National Security Archive Electronic Briefing Book No. 297]. The National Security Archive. https://nsarchive2.gwu.edu/NSAEBB/NSAEBB297/index.htm

Dworkin, A. (1993). Prostitution and male supremacy symposium: Prostitution: From academia to activism. *Michigan Journal of Gender & Law*, *1*, 1–12.

ECLAC. (2017). *Social panorama of Latin America 2015* (LC/G.2691-P). Economic Commission for Latin America and the Caribbean. https://www.cepal.org/en/publications/39964-social-panorama-latin-america-2015

Egale Canada Human Rights Trust. (2016). *Canada: Discrimination and violence against lesbian, bisexual, and transgender women and gender diverse and two spirit people on the basis of sexual orientation, gender identity and gender expression*. Egale Canada Human Rights Trust & ILGA-NA. https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CAN/INT_CEDAW_NGO_CAN_25380_E.pdf

England, S. (2014). Protecting a woman's honor or protecting her sexual freedom?: Challenging the Guatemalan patriarchal state through reforms to sexual violence legislation. *Latin American Perspectives*, *41*(1), 124–142. https://doi.org/10.1177/0094582X13492136

England, S. (2018). *Writing terror on the bodies of women: Media coverage of violence against women in Guatemala*. Lexington Books.

Engle, K. (2014). Anti-impunity and the turn to criminal law in human rights. *Cornell Law Review*, *100*(5), 1069–1128. http://scholarship.law.cornell.edu/clr/vol100/iss5/2

Engle, K. (2017). *Feminist governance and international law: From liberal to carceral feminism* (SSRN Scholarly Paper ID 3091260; Public Law and Legal Theory Research Paper Series). Social Science Research Network. https://papers.ssrn.com/abstract=3091260

Federación Guatemalteca de Escuelas Radiofónicas. (2019, April 8). *Realizan tribunal de conciencia sobre la violencia sexual ante falta de justicia*. https://fger.org/2019/04/08/realizan-tribunal-de-conciencia-sobre-la-violencia-sexual-ante-falta-de-justicia/

FIMI. (2006). *Mairin iwanka raya: Indigenous women stand against violence*. International Indigenous Women's Forum. https://www.eldis.org/document/A24012

Flores, N. M. (2011, March 31). *The pink cross: Resisting feminicide in Ciudad Juárez*. Cultivating Conversations for Academy, Church & Society. https://nicholemflores.com/2011/03/31/the-pink-cross-resisting-feminicide-in-ciudad-juarez/

FMM. (n.d.). *Comentario a la Iniciativa 3503 del Congreso de la República "Ley contra el Femenicidio" (sic)*. Fundación Myrna Mack. https://myrnamack.org.gt/historial/images/stories/fmm/archivos/analisis/2006/Iniciativa_de_Ley_de_Femenicidio.pdf

FMM. (2009). *Impunidad, estigma y género: Estudio de procesos penales por muerte violenta en el Departamento de Guatemala, 2005-2007: Documento para el debate*. Fundación Myrna Mack.

Fonow, M. M., & Cook, J. A. (2005). Feminist methodology: New applications in the academy and public policy. *Signs: Journal of Women in Culture and Society*, *30*(4), 2211–2236. https://doi.org/10.1086/428417

Forster, C. (1999). Violent and violated women: Justice and gender in rural Guatemala, 1936-1956. *Journal of Women's History*, *11*(3), 55–77. https://doi.org/10.1353/jowh.2003.0113

Foucault, M. (2003). *Society must be defended: Lectures at the Collège de France, 1975-76* (1st ed.). Picador.

Fregoso, R. L. (2006). The complexities of 'feminicide' on the border. In Incite! Women of Color Against Violence (Ed.), *Color of violence: The Incite! Anthology* (pp. 130–134). South End Press.

Fregoso, R. L., & Bejarano, C. L. (Eds.). (2010). *Terrorizing women: Feminicide in the Américas*. Duke University Press. https://doi.org/10.1215/9780822392644

Fregoso, R.-L. (2014). For a pluriversal declaration of human rights. *American Quarterly*, *66*(3), 583–608. https://doi.org/10.1353/aq.2014.0047

Friedman, E. (1995). Women's human rights: The emergence of a movement. In J. S. Peters & A. Wolper (Eds.), *Women's rights, human rights: International feminist perspectives* (pp. 18–35). Routledge.

Friedman, E. J. (2009). Re(gion)alizing women's human rights in Latin America. *Politics & Gender*, *5*(3), 349–375. https://doi.org/10.1017/S1743923X09990171

Front Line Defenders. (2016, January 9). *Retrial continues in case of detained environmental rights defenders Saúl Méndez and Rogelio Velásquez*. Front Line Defenders. https://www.frontlinedefenders.org/en/case/case-history-rogelio-velasquez

Fuentes, L. (2016). *(Re)reading the boundaries and bodies of femicide: Exploring articulations within the discursive economy of gendered violence in "post war" Guatemala* [Doctoral dissertation, Birkbeck, University of London]. http://vufind.lib.bbk.ac.uk/vufind/Record/546143

Fulchiron, A., ECAP, & UNAMG. (2009). *Tejidos que lleva el alma: Memoria de mujeres mayas sobrevivientes de violación sexual durante el conflicto armado*. Equipo de Estudios Comunitarios y Acción Psicosocial & Unión Nacional de Mujeres Guatemaltecas.

Fundación Sobrevivientes. (n.d.). *Análisis sobre la situación de violencia en contra de la mujer en Guatemala* [Newsletter].

Gagne, D. (2015, March 26). *UN chastises Guatemala on militarization of security*. InSight Crime. https://www.insightcrime.org/news/brief/un-chastises-guatemala-on-militarization-of-security/

GAM. (2007). *Guatemala 1999-2006: Origen, manifestación y tendencias del feminicidio*. Grupo de Apoyo Mutuo.

García, B. (2014, June 6). *Activismo jurídico* [Workshop]. Diplomado violencia sexual y de género: Análisis interdisciplinarios, prevención e intervención, CIESAS Pacífico Sur, Oaxaca, Mexico.

GayGuatemala. (2014, June 10). *Se agregará campo LGBT en formulario de denuncias de OAV de la PNC*. GayGuatemala. http://www.gayguatemala.com/index.php/actualidad/news/nacionales/2772-campo-lgbt

GGM. (2004). *Diagnóstico situacional de las muertes violentas de mujeres en Guatemala*. Grupo Guatemalteco de Mujeres. http://genero.bvsalud.org/lildbi/docsonline/get.php?id=262

GGM. (2013). *Comunicado en el marco del Día Internacional de la No Violencia contra las Mujeres* [Press release].

GHRC. (2009). *Guatemala's femicide law: Progress against impunity?*. Guatemala Human Rights Commission. https://www.ghrc-usa.org/Publications/Femicide_Law_ProgressAgainstImpunity.pdf

GHRC. (2013). *Militarization in Guatemala* [Fact sheet]. Guatemala Human Rights Commission. http://www.ghrc-usa.org/wp-content/uploads/2013/11/militarization-fact-sheet.pdf

Giles, W. M., & Hyndman, J. (2004). *Sites of violence gender and conflict zones*. University of California Press.

Godoy-Paiz, P. (2008). Women in Guatemala's metropolitan area: Violence, law, and social justice. *Studies in Social Justice*, *2*(1), 27–47. https://doi-org.ezproxy.library.yorku.ca/10.26522/ssj.v2i1.966

Godoy-Paiz, P. (2011). *Looking back, seeing forward: An ethnography of women and violence in post-war Guatemala City* [Doctoral Dissertation, McGill University]. http://digitool.library.mcgill.ca/webclient/StreamGate?folder_id=0&dvs=1500328308533~363

Godoy-Paiz, P. (2012). Not just "another woman": Femicide and representation in Guatemala. *The Journal of Latin American and Caribbean Anthropology*, *17*(1), 88–109. https://doi.org/10.1111/j.1935-4940.2012.01192.x

Goldberg, D. T. (2009). *The threat of race: Reflections on racial neoliberalism*. Wiley-Blackwell.

González Ponciano, J. R. (2013). The shumo challenge: White class privilege and the post-race, post-genocide alliances of cosmopolitanism from below. In C. McAllister & D. M. Nelson (Eds.), *War by other means: Aftermath in post-genocide Guatemala* (pp. 307–329). Duke University Press. https://doi.org/10.1215/9780822377405

González Saavedra, A., & González Rosales, P. (2009). *Violencia feminicida en México y Guatemala: Cuando los gobiernos atentan contra la vida de las mujeres*. CESEM & UNAMG.

Grandin, G. (2000). *The blood of Guatemala: A history of race and nation*. Duke University Press.

Grandin, G., Levenson, D., & Oglesby, E. (2011). *The Guatemala reader: History, culture, politics*. Duke University Press. https://*doi*.org/10.1111/j.1557-203X.2013.01196_5.x

Green, L. (1999). *Fear as a way of life: Mayan widows in rural Guatemala*. Columbia University Press.

Grewal, I. (2005). *Transnational America: Feminisms, diasporas, neoliberalisms*. Duke University Press. https://doi.org/10.1215/9780822386544

Grewal, I. (2013). Outsourcing patriarchy: Feminist encounters, transnational mediations and the crime of 'honour killings.' *International Feminist Journal of Politics*, *15*(1), 1–19. https://doi.org/10.1080/14616742.2012.755352

Grupo de Mujeres Mayas Kaqla (Guatemala). (2010). *Rub'eyal Qak'aslemal: Caminos para la plenitud de las mujeres mayas y nuestros pueblos : propuesta metodológica a partir de la experiencia de las Mujeres Mayas Kaqla*. Mujeres Mayas Kaqla.

Grupo de Mujeres Mayas Kaqla (Guatemala). (2011). *Tramas y trascendencias: Reconstruyendo historias con nuestras abuelas y madres*. Magna Terra Editores.

Guatemala: No más ríos de sangre. (2003, December). *Triple Jornada*, *64*. https://www.jornada.com.mx/2003/12/01/articulos/64_guatemala.htm

Haag, P. (1996). "Putting your body on the line": The question of violence, victims, and the legacies of second-wave feminism. *Differences: A Journal of Feminist Cultural Studies.*, *8*(2), 23–67.

Hale, C. R. (2006). *Mas que un Indio (More than an Indian): Racial ambivalence and the paradox of neoliberal multiculturalism in Guatemala*. School for Advanced Research Press.

Hernández Castillo, R. A. (2016). *Multiple injustices: Indigenous women, law, and political struggle in Latin America*. The University of Arizona Press.

Hernández Castillo, R. A. (2017). Between community justice and international litigation: The case of Inés Fernández before the Inter-American Court. In R. Sieder (Ed.), *Demanding justice and security: Indigenous women and legal pluralities in Latin America* (pp. 29–50). Rutgers University Press. https://doi.org/10.36019/9780813587950

Hernández Mayén, M. (2018, June 22). Juez Adrián Rodríguez pierde su inmunidad y queda arraigado. *Prensa Libre*. https://www.prensalibre.com/guatemala/justicia/desaforan-a-juez-guatemalteco-involucrado-en-un-presunto-caso-de-corrupcion/

Hernández Pico, J. (1999). Guatemala: Why was the referendum defeated? *Envío*, *216*, 12–17.

Hesford, W. S. (2011). *Spectacular rhetorics: Human rights visions, recognitions, feminisms*. Duke University Press.

Hesford, W. S., & Kozol, W. (Eds.). (2005). *Just advocacy? Women's human rights, transnational feminisms, and the politics of representation*. Rutgers University Press.

Hesse, B. (2007). Racialized modernity: An analytics of white mythologies. *Ethnic and Racial Studies*, *30*(4), 643–663. https://doi.org/10.1080/01419870701356064

Hesse-Biber, S. N. (2007). *Handbook of feminist research: Theory and praxis*. SAGE.

Hinsliff, G. (2020, February 3). 'The rapist is you!': Why a Chilean protest chant is being sung around the world. *The Guardian*. https://www.theguardian.com/society/2020/feb/03/the-rapist-is-you-chilean-protest-song-chanted-around-the-world-un-iolador-en-tu-camino

IACHR. (2015). *Situation of human rights in Guatemala: Diversity, inequality and exclusion* (OEA/Ser.L/V/II.Doc. 43/15). Inter-American Commission of Human Rights. https://reliefweb.int/report/guatemala/situation-human-rights-guatemala-diversity-inequality-and-exclusion

Incite! Women of Color Against Violence. (2006). *Color of violence: The Incite! anthology*. South End Press. http://www.loc.gov/catdir/toc/ecip0617/2006024094.html

INE. (2012). *Caracterización: República de Guatemala*. Instituto Nacional de Estadísticas Guatemala. https://www.ine.gob.gt/sistema/uploads/2014/02/26/L5pNHMXzxy5FFWmk9NHCrK9x7E5Qqvvy.pdf

InSight Crime. (2017, November). *Guatemala profile*. InSight Crime. https://www.insightcrime.org/guatemala-organized-crime-news/guatemala/

Inter-American Commission on Human Rights. (2004). *The IACHR Special Rapporteur evaluates the effectiveness of the right of women in Guatemala to live free from violence and discrimination*. Inter-American Commission of Human Rights. http://www.cidh.oas.org/Comunicados/English/2004/20.04.htm

Jaleel, R. (2013). Weapons of sex, weapons of war: Feminisms, ethnic conflict and the rise of rape and sexual violence in public international law during the 1990s. *Cultural Studies*, *27*(1), 115–135. https://doi.org/10.1080/09502386.2012.722302

Jasinski, J. L. (2001). Theoretical explanations for violence against women. In C. M. Renzetti, J. L. Edleson, & R. K. Bergen (Eds.), *Sourcebook on violence against women* (pp. 5–22). Sage Publications.

Jiménez Chacón, M. L. L., & Ericastilla Samayoa, A. C. (2011). Matrimonio, divorcio y transgresiones sexuales. In SEPREM (Ed.), *Nosotras, las de la historia: Mujeres en Guatemala (siglos XIX-XXI).* (pp. 28–63).

Johnson, H. (2012). Limits of a criminal justice response: Trends in police and court processing of sexual assault. In E. A. Sheehy (Ed.), *Sexual assault in Canada: Law, legal practice and women's activism* (pp. 613–634). University of Ottawa Press.

Jonas, S. (2000). *Of centaurs and doves: Guatemala's peace process*. Westview Press.

Jones, H., & Wachala, K. (2006). Watching over the rights of women. *Social Policy and Society*, *5*(1), 127–136. https://doi.org/10.1017/S1474746405002800

Kapur, R. (2005). *Erotic justice: Law and the new politics of postcolonialism*. Routledge.

Kapur, R. (2006). Revisioning the role of law in women's human rights struggles. In S. Meckled-García & B. Çali (Eds.), *The legalization of human rights: Multidisciplinary perspectives on human rights and human rights law*. Routledge, Taylor & Francis Group. https://doi.org/10.4324/9780203008683

Kassam, A. (2017, December 13). *Guatemalan women take on Canada's mining giants over "horrific human rights abuses."* The Guardian. https://www.theguardian.com/world/2017/dec/13/guatemala-canada-indigenous-right-canadian-mining-company

Kim, M. (2015). *Dancing the carceral creep: The anti-domestic violence movement and the paradoxical pursuit of criminalization, 1973 - 1986* (ISSI Fellowship Working Paper). UC Berkeley. https://escholarship.org/uc/item/804227k6

Kinosian, S., & Badesch, A. (2013, July 24). *Militarization of law enforcement in Guatemala*. Security assistance monitor: A citizen's Guide to U.S. security and defense assistance. http://www.securityassistance.org/blog/militarization-law-enforcement-guatemala

Kline, M. (1993). Race, racism, and feminist legal theory. In D. K. Weisberg (Ed.), *Feminist legal theory: Foundations* (pp. 339–347). Temple Univ. Press.

La Hora. (2008, abril). PDH concluye estudio sobre feminicidios. *La Hora*, 8.

laCuerda. (2001, March). Glosario. *laCuerda*, *32*, 5–7.

laCuerda. (2003, July). Ni una muerte más. *laCuerda*, *58*.

laCuerda. (2015, abril). Con el gobierno de Pérez aumenta la represión. *laCuerda*, *177*, 7.

Lagarde y de los Ríos, M. (2004). *Por la vida y la libertad de las mujeres: Fin al feminicidio* [Presentation to Guatemalan Congress].

Lagarde y de los Ríos, M. (2006a). Del femicidio al feminicidio. *Desde el Jardín de Freud: Revista de Psicoanálisis*, *6*, 216–225.

Lagarde y de los Ríos, M. (2006b). Presentación a la edición en español. In D. E. Russell & R. A. Harmes (Eds.), & G. Vega Zaragoza (Trans.), *Feminicidio: Una perspectiva global*. CEIICH-UNAM: Comisión especial para conocer y dar seguimiento a las investigaciones con los feminicidios en la Republica Mexicana y la procuración de justicia vinculada.

Lagarde y de los Ríos, M. (2008). Antropología, feminismo y política: Violencia feminicida y derechos humanos de las mujeres. In M. L. Bullen & M. C. Dies Mintegui (Eds.), *Retos teóricos y nuevas prácticas*, (pp. 209–240). Ankulegi.

Lagarde y de los Ríos, M. (2010). Preface. Feminist keys for understanding feminicide: Theoretical, political, and legal construction. In R. L. Fregoso & C. L. Bejarano (Eds.), *Terrorizing women: Feminicide in the Américas* (pp. xi–xxvi). Duke University Press. https://doi.org/10.1215/9780822392644

Las culpan de su situación. (2002, August). *laCuerda*, *48*.

Levenson, D. T. (2011). Living Guatemala City, 1930s-2000s. In K. L. O'Neill & K. Thomas (Eds.), *Securing the city* (pp. 25–47). Duke University Press.

Levenson, D. T. (2013). *Adiós niño: The gangs of Guatemala City and the politics of death*. Duke University Press. https://doi.org/10.1215/9780822395621

Ley de feminicidios. (2008, April 9). *La Hora*, 1.

López, C. (2014). Las mujeres, un instrumento para inocular: Las secuelas que trascienden fronteras. *Asociación para el fomento de los estudios históricos en Centroamérica*, *60*. http://afehc-historia-centroamericana.org/?action=fi_aff&id=3773

Lorde, A. (1984). Age, race, class, and sex: Women redefining difference. In *Sister outsider: Essays and speeches* (pp. 114–123).

Macaulay, F. (2006). Judicialising and (de)criminalising domestic violence in Latin America. *Social Policy and Society*, *5*(1), 103–114. https://doi.org/10.1017/S1474746405002782

MacKinnon, C. A. (2006). *Are women human?: And other international dialogues*. Belknap Press of Harvard University Press.

Macleod, M. (2011). *Nietas del fuego, creadoras del alba: Luchas político-culturales de mujeres mayas*. FLACSO Guatemala.

Macleod, M. (2012, April). *A well of sadness: Mayan women and multifaceted violence in Guatemala* [Conference presentation]. Latin American Studies Association XXX International Congress, San Francisco, CA.

Macleod, M. (2016). Development or devastation?: Epistemologies of Mayan women's resistance to an open-pit goldmine in Guatemala. *AlterNative: An International Journal of Indigenous Peoples*, *12*(1), 86–100. https://doi.org/10.20507/AlterNative.2016.12.1.7

Maddison, S., & Shaw, F. (2012). Feminist perspectives on social movement research. In S. N. Hesse-Biber (Ed.), *Handbook of feminist research: Theory and praxis* (2nd ed.). SAGE.

Maldonado, A. E. (2005). *Feminicidio en Guatemala: Crímenes contra la humanidad, investigación preliminar* (p. 147). Unidad Nacional Revolucionaria de Guatemala. http://www.corteidh.or.cr/tablas/25828.pdf

Maldonado, M. (2014, July 8). *Mining for the truth in Guatemala*. Maclean's. https://www.macleans.ca/news/world/mining-for-the-truth-in-guatemala/

Martínez Peláez, S. (2011). The ladino. In G. Grandin, E. Oglesby, & D. Levenson-Estrada (Eds.), *The Guatemala reader: History, culture, politics*. Duke University Press. https://doi.org/10.1111/j.1557-203X.2013.01196_5.x

Martínez-Salazar, E. (2008). State terror and violence as a process of lifelong teaching–learning: The case of Guatemala. *International Journal of Lifelong Education*, *27*(2), 201–216. https://doi.org/10.1080/02601370801936374

Martínez-Salazar, E. (2014). *Global coloniality of power in Guatemala: Racism, genocide, citizenship*. Lexington Books.

McAllister, C. (2013). Testimonial truths and revolutionary mysteries. In C. McAllister & D. M. Nelson (Eds.), *War by other means: Aftermath in post-genocide Guatemala* (pp. 93–115). Duke University Press. https://doi.org/10.1215/9780822377405

McAllister, C., & Nelson, D. M. (Eds.). (2013). *War by other means: Aftermath in post-genocide Guatemala*. Duke University Press. https://doi.org/10.1215/9780822377405

McCreery, D. (1986). 'This life of misery and shame': Female prostitution in Guatemala City, 1880–1920. *Journal of Latin American Studies*, *18*(2), 333–353. https://doi.org/10.1017/S0022216X00012050

McCreery, D. (1994). State power, Indigenous communities, and land in nineteeth-century Guatemala, 1820-1920. In C. A. Smith & M. M. Moors (Eds.), *Guatemalan Indians and the state: 1540-1988* (2nd ed., pp. 96–115). University of Texas Press.

Meckled-García, S., & Çali, B. (2006a). Introduction: Human rights legalized—Defining, interpreting, and implementing an ideal. In S. Meckled-García & B. Çali (Eds.), *The legalization of human rights: Multidisciplinary perspectives on human rights and human rights law*. Routledge.

Meckled-García, S., & Çali, B. (Eds.). (2006b). *The legalization of human rights: Multidisciplinary perspectives on human rights and human rights law*. Routledge.

Meetoo, V., & Mirza, H. S. (2007). "There is nothing 'honourable' about honour killings": Gender, violence and the limits of multiculturalism. *Women's Studies International Forum*, *30*(3), 187–200. https://doi.org/10.1016/j.wsif.2007.03.001

Menchú, R. (1997). *Me llamo Rigoberta Menchú y así me nació la conciencia* (E. Burgos Debray, Ed.; 14th ed.). Siglo Veintiuno Editores.

Menchú, S. (2012, May 30). Baldetti enmienda la plana a Gobernación. *El Períodico*. https://gt.transdoc.com/pagina_interna/22261

Méndez, L., & Barrios-Klee, W. (2010). *Caminos recorridos: Luchas y situación de las mujeres a trece años de los Acuerdos de Paz*. Unión Nacional de Mujeres Guatemaltecas.

Mendoza, C. (2018). *Informe annual sobre la violencia homicida en Guatemala durante el año 2017*. Diálogos. http://www.dialogos.org.gt/wp-content/uploads/2018/03/Informe-Anual-sobre-la-Violencia-Homicida-en-Guatemala-2017-DIALOGOS-6mar2018-revisado.pdf

Menjívar, C. (2011). *Enduring violence: Ladina women's lives in Guatemala*. University of California Press. https://*doi*.org/10.1525/9780520948419

Menjívar, C., & Walsh, S. D. (2016). Subverting justice: Socio-legal determinants of impunity for violence against women in Guatemala. *Laws*, *5*(3), 31. https://doi.org/10.3390/laws5030031

Merry, S. E. (2006). *Human rights and gender violence: Translating international law into local justice*. University of Chicago Press.

Merry, S. E. (2009). *Gender violence: A cultural perspective*. Blackwell Pub.

Merry, S. E. (2011). Measuring the world: Indicators, human rights, and global governance. *Current Anthropology*, *52*(S3), S83–S95. https://doi.org/10.1086/657241

Merry, S. E., & Levitt, P. (2017). The vernacularization of women's human rights. In S. Hopgood, J. Snyder, & L. Vinjamuri (Eds.), *Human rights futures* (pp. 213–236). Cambridge University Press. https://doi.org/10.1017/9781108147767.009

Mies, M. (1983). Towards a methodology for feminist research. In G. Bowles & R. Duelli-Klein (Eds.), *Theories of women's studies* (pp. 117–139). Routledge.

Miller, A. M. (2004). Sexuality, violence against women and human rights: Women make demands and ladies get protection. *Health and Human Rights*, *7*(2), 17–47.

Miller, Z. (2008). Effects of invisibility: In search of the "economic" in transitional justice. *International Journal of Transitional Justice*, *2*(3), 266–291. https://doi.org/10.1093/ijtj/ijn022

Millett, K. (1976). *The prostitution papers: "A quartet for female voice."* Ballantine Books.

Minutaglio, R. (2020, February 13). *How a Chilean chant became the world's most powerful feminist anthem*. ELLE. https://www.elle.com/culture/career-politics/a30858742/las-tesis-chilean-chant-feminist-anthem/

Mohanty, C. T. (1984). Under western eyes: Feminist scholarship and colonial discourses. *Boundary 2*, *12/13*, 333–358. https://doi.org/10.2307/302821

Mohanty, C. T. (2003). *Feminism without borders: Decolonizing theory, practicing solidarity*. Duke University Press.

Molyneux, M. (1985). Mobilization without emancipation? Women's interests, the state, and revolution in Nicaragua. *Feminist Studies*, *11*(2), 227. https://doi.org/10.2307/3177922

Monárez Fragoso, J. E. (2010). The victims of Cuidad Juárez feminicide: Sexually fetishized commodities. In R. L. Fregoso & C. L. Bejarano (Eds.), *Terrorizing women: Feminicide in the Américas* (pp. 59–69). Duke University Press. https://doi.org/10.1215/9780822392644

Montepeque, F. (2020, March 1). Ejército incrementa patrullajes para "disuadir" la criminalidad. *elPeriódico*. https://elperiodico.com.gt/nacion/2020/03/01/ejercito-incrementa-patrullajes-para-disuadir-la-criminalidad/

Monzón, A. S. (2011). Participación social y política. In SEPREM (Ed.), *Nosotras, las de la historia: Mujeres en Guatemala (siglos XIX-XXI).* (pp. 146–205).

Monzón, A. S. (2015). *Las mujeres, los feminismos y los movimientos sociales en Guatemala: Relaciones, articulaciones y desencuentros*. FLACSO Guatemala. http://www.flacso.edu.gt/publicaciones/?p=1384

Morales Toj, J. (2019, April 10). Aplicación perversa de la Ley de Femicidio. *La Hora*. https://lahora.gt/aplicacion-perversa-de-la-ley-de-femicidio/

Morales Trujillo, H. (2010). Femicide and sexual violence in Guatemala. In R. L. Fregoso & C. L. Bejarano (Eds.), *Terrorizing women: Feminicide in the Américas* (pp. 127–137). Duke University Press. https://doi.org/10.1215/9780822392644

Morales Trujillo, H. (2014, April 9). *El acceso a la justicia de las mujeres* [Forum presentation]. Obstáculos al Acceso a la Justicia de Grupos Vulnerables, FLACSO Guatemala.

Muñoz Palala, G. (2017, July 7). Denuncias de violence contra la mujer sobrepasan capacidad de organismos especializados. *Prensa Libre*. http://www.prensalibre.com/guatemala/justicia/denuncias-de-violencia-contra-la-mujer-sobrepasa-capacidad-de-organismos-especializados

Musalo, K., & Bookey, B. (2013). Crimes without punishment: An update on violence against women and impunity in Guatemala. *Hastings Race and Poverty Law Journal*, *10*(2), 265–292.

Musalo, K., Pellegrin, E., & Roberts, S. S. (2010). Crimes without punishment: Violence against women in Guatemala. *Hastings Women's Law Journal*, *21*, 161–222.

MCRA. (2003). *Oj K'aslik, estamos vivos: Recuperación de la memoria histórica de Rabinal (1944-1996)*. Museo Comunitario Rabinal Achí.

Nagar, R., & Swarr, A. L. (2010). Theorizing transnational feminist praxis. In A. L. Swarr & R. Nagar (Eds.), *Critical transnational feminist praxis*. State University of New York Press.

Nagy, R. (2008). Transitional justice as global project: Critical reflections. *Third World Quarterly*, *29*(2), 275–289. https://doi.org/10.1080/01436590701806848

Nájar, A. (2019, August 11). *Qué queda de la "primavera chapina" y por qué se teme que Guatemala sufra un regreso al pasado*. BBC News Mundo. https://www.bbc.com/mundo/noticias-america-latina-49142067

NCVC, & NCAVP. (2010). *Why it matters: Rethinking victim assistance for lesbian, gay, bisexual, transgender, and queer victims of hate violence and intimate-partner violence*. National Center for Victims of Crime & National Coalition of Anti-Violence Programs. http://avp.org/wp-content/uploads/2019/02/WhyItMatters.pdf

Nelson, D. M. (2009). *Reckoning: The ends of war in Guatemala*. Duke University Press.

NISGUA. (2016, January 22). *Land defenders Saúl Méndez and Rogelio Velásquez finally return home*. Network in Solidarity with the People of Guatemala. https://nisgua.org/land-defenders-saul-mendez-and-rogelio-velasquez-finally-return-home/

Nitsán, T. (2014). *From left to rights: Guatemalan women's struggles for justice* [Doctoral dissertation, University of British Columbia]. https://open.library.ubc.ca/cIRcle/collections/ubctheses/24/items/1.0167001

OCMAL. (2012, August 22). *Tentativas repetidas de criminalizar a defensores de los humanos derechos*. Observatorio de Conflictos Mineros de América Latina. https://www.ocmal.org/tentativas-repetidas-de-criminalizar-a-defensores-de-los-humanos-derechos/

ODHAG. (1998). *Guatemala: Nunca Más, informe Proyecto Interdiocesano de Recuperación de la Memoria Historica*. Oficina de Derechos Humanos del Arzobispado de Guatemala.

OJ. (n.d.). *Misíon-Unidad de Control, Seguimiento y Evaluación de los Órganos Especializados en Femicidio y Otras Formas de Violencia Contra la Mujer*. Justicia Especializada. http://www.oj.gob.gt/justiciadegenero/index.php/unidad/

Olivera, M. (2010). Violencia feminicida: Violence against women and mexico's structural crisis. In R. L. Fregoso & C. L. Bejarano (Eds.), *Terrorizing women: Feminicide in the Américas* (pp. 49–58). Duke University Press. https://doi.org/10.1215/9780822392644

OMES. (2013). *Estudio sobre la incidencia y la participación política de las mujeres trabajadoras sexuales en América Latina y el Caribe: Guatemala*. OMES & REDTRASEX. https://www.redtrasex.org/Estudio-sobre-la-incidencia-y-la

O'Neill, K. L. (2011). Hands of love: Christian outreach and the spatialization of ethnicity. In K. L. O'Neill & K. Thomas (Eds.), *Securing the city* (pp. 165–191). Duke University Press.

O'Neill, K. L. (2019). Disenfranchised: Mapping red zones in Guatemala City. *EPA: Economy and Space, 51*(3), 654–669. https://doi.org/10.1177/0308518X18800069

O'Neill, K. L., & Thomas, K. (Eds.). (2011). *Securing the city*. Duke University Press.

OSJI. (2013). *Judging a dictator: The trial of Guatemala's Rios Montt*. Open Society Foundations. https://www.justiceinitiative.org/publications/judging-dictator-trial-guatemala-s-rios-montt

OSJI. (2016). *Against the odds: CICIG in Guatemala*. Open Society Foundations. https://www.opensocietyfoundations.org/sites/default/files/against-odds-cicig-guatemala-20160321.pdf

OTRANS, REDTRANS Guatemala, REDNADS, REDLACTRANS, Center for International Human Rights of Northwestern Pritzker School of Law, & Synergía-Initiatives for Human Rights. (2018). *Human rights violations against transgender women in Guatemala*. United Nations Human Rights Committee.

Otto, D. (2013). International human rights law: Towards rethinking sex/gender dualism. In M. Davies & V. Munro (Eds.), *The Ashgate research companion to feminist legal theory* (pp. 197–216). Ashgate.

Otzoy, I. (2008). Indigenous law and gender dialogues. In P. Pitarch Ramón, S. Speed, & X. Leyva Solano (Eds.), *Human rights in the Maya region: Global politics, cultural contentions, and moral engagements* (pp. 171–185). Duke University Press.

Oxfam International. (2016). *Unearthed: Land, power and inequality in Latin America*. Oxfam GB. https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-land-power-inequality-latin-america-301116-en.pdf

Palermo, T., Bleck, J., & Peterman, A. (2014). Tip of the iceberg: Reporting and gender-based violence in developing countries. *American Journal of Epidemiology*, *179*(5), 602–612. https://doi.org/10.1093/aje/kwt295

PDH. (n.d.). *Compendio "muertes violenas de mujeres" 2003 a 2005*. Procurador de los Derechos Humanos de Guatemala.

PDH. (2011). *Informe estadístico sobre homicidios, lesiones, violencia intrafamiliar y delitos sexuales contra la mujer. Enero a diciembre 2008-2009-2010 y enero a julio 2011*. Procurador de los Derechos Humanos de Guatemala.

Peacock, S. C., Beltrán, A., & WOLA. (2003). *Hidden powers in post-conflict Guatemala: Illegial armed groups and the forces behind them*. Washington Office on Latin America. http://www.wola.org/index.php?option=com_content&task=viewp&id=48&Itemid=2

Pimentel, S., Pandjiarjian, V., & Belloque, J. (2005). The "legitimate defence of honour", or murder with impunity? A critical case study of legislation and case law in Latin America. In L. Welchman & S. Hossain (Eds.), *"Honour" crimes, paradigms, and violence against women* (pp. 245–262). Zed Books.

PNUD. (2007). *Informe estadístico de la violencia en Guatemala*. Programa de las Naciones Unidas para el Desarrollo. http://www.who.int/violence_injury_prevention/violence/national_activities/informe_estadistico_violencia_guatemala.pdf

PNUD. (2014, September 22). *MIDES, OSAR y ONU promueven la prevención y protección de niñas y adolescentes contra la violencia sexual y embarazo mediante la formación de Madres Guía*. El PNUD en Guatemala. https://www.gt.undp.org/content/guatemala/es/home/presscenter/articles/2014/09/22/mides-osar-y-onu-promueven-la-prevenci-n-y-protecci-n-de-ni-as-y-adolescentes-contra-la-violencia-sexual-y-embarazo-mediante-la-formaci-n-de-madres-gu-a.html

PNUD. (2016). *Más allá del conflicto, luchas por el bienestar: Informe Nacional de Desarrollo Humano 2015/2016*. Programa de las Naciones Unidas para el Desarrollo. https://www.gt.undp.org/content/guatemala/es/home/library/poverty/informes-nacionales-de-desarrollo-humano.html

Pocasangre, H. (2019, May 10). *Sandra Torres usa otra vez, Ley contra el Femicidio, a su favor*. República. https://republica.gt/2019/05/09/sandra-torres-ley-femicidio-el-periodico/

Portenier, G. (2007). *Killer's Paradise* [Documentary]. NFB & BBC.

Prensa Libre. (2012, March 12). Allanamientos en Villa Lobos. *Prensa Libre*. http://prensalibre.com.gt/noticias/justicia/allanamientos-Villa_Lobos-policia-pandillas-sicarios-extorsion-MP_0_662333896.html#

Price, L. S. (2005). *Feminist frameworks: Building theory on violence against women*. Fernwood.

Prieto-Carrón, M., Thomson, M., & Macdonald, M. (2007). No more killings! Women respond to femicides in Central America. *Gender and Development*, *15*(1), 25–40. https://doi.org/10.2307/20461179

Quiñones, A. (2019, December 1). Lecciones de la justicia especializada para combatir la violencia contra las mujeres en Guatemala. *Prensa Libre*. https://www.prensalibre.com/guatemala/justicia/lecciones-de-la-justicia-especializada-para-combatir-la-violencia-contra-las-mujeres-en-guatemala/

Radford, J. (1992). Introduction. In J. Radford & D. E. H. Russell (Eds.), *Femicide: The politics of woman killing* (pp. 3–12). Twayne.

Radford, J., & Russell, D. E. H. (1992). *Femicide: The politics of woman killing*. Twayne.

Razack, S. (2002). *Race, space, and the law: Unmapping a white settler society*. Between the Lines.

Razack, S. (2008). *Casting out: The eviction of Muslims from Western law and politics*. University of Toronto Press.

Reynolds, L. (2012, June 27). *Lucha contra el femicidio: Entre avances y tropiezos*. Plaza Pública. https://www.plazapublica.com.gt/content/lucha-contra-el-femicidio-entre-avances-y-tropiezos

Ritchie, A. (2006). Law enforcement violence against women of color. In Incite! Women of Color Against Violence (Ed.), *Color of violence: The Incite! Anthology* (1st edition, pp. 138–156). South End Press. http://www.loc.gov/catdir/toc/ecip0617/2006024094.html

Rodríguez, D. (2004, September). Nuestra opción como Red de Mujeres Periodistas. *laCuerda*, *71*.

Rodríguez Pellecer, M. (2015). Sí, en Guatemala está empezando la primavera. *Política Exterior*, *29*(168), 128–136. https://www.jstor.org/stable/26450752

Rosser, E. C. (2015). *Urgency praxis, sexual violence and feminist knowledge production in Guatemalan truth-telling* [Doctoral dissertation, York University]. https://yorkspace.library.yorku.ca/xmlui/handle/10315/30679

Ruhl, K. (2007). Guatemala's femicides and the ongoing struggle for women's human rights: Update to CGRS's 2005 report Getting away with Murder. *Hastings Women's Law Journal*, *18*, 199–222.

Russell, D. E. H. (2012). *Defining femicide: Introductory speech presented to the United Nations Symposium on Femicide* [Speech]. http://www.dianarussell.com/f/Defining_Femicide_-_United_Nations_Speech_by_Diana_E._H._Russell_Ph.D.pdf

Russell, D. E. H., & Van de Ven, N. (1976). *Crimes against women: Proceedings of the international tribunal*. Les Femmes Pub.

Russell, D., & Harmes, H., Roberta A. (Eds.). (2001). *Femicide in global perspective*. Teachers College Press.

Sagot, M., & Carcedo Cabañas, A. (2010). When violence against women kills: Femicide in Costa Rica, 1990-1999. In R. L. Fregoso & C. L. Bejarano (Eds.), *Terrorizing women: Feminicide in the Américas*. Duke University Press. https://doi.org/10.1215/9780822392644

Sánchez Valverde, L. D. (2013). *Derechos de las mujeres en Guatemala desde la aprobación de la ley contra el femicidio: Análisis de coyuntura (2007-2009)* [Undergraduate thesis, Universidad de Costa Rica]. http://www.kerwa.ucr.ac.cr/handle/10669/806

Sanford, V. (2008a). Feminicide in Guatemala. *ReVista Harvard Review of Latin America*, *Winter 2008*, 20–22.

Sanford, V. (2008b). *Guatemala: Del genocidio al feminicidio*. F&G Editores.

Sanford, V. (2008c). From genocide to feminicide: Impunity and human rights in twenty-first century Guatemala. *Journal of Human Rights*, *7*(2), 104–122. https://doi.org/10.1080/14754830802070192

Santa Cruz, W. (2001, December). Attención a la violence: Prioridad pendiente en salud pública. *laCuerda*, *41*.

Santa Cruz, W. (2004, September). CIDH investigará feminicidio en el pais. *laCuerda*, *71*, 21.

Santos, J. E. (2017, May 1). Futuro juez de Femicidio fue denunciado por violence contra la mujer. *ElPeriódico*. https://elperiodico.com.gt/nacion/2017/05/01/futuro-juez-de-femicidio-fue-denunciado-por-violencia-contra-la-mujer/

Sauer, J. (2005). Fighting Femicide In Guatemala. *Off Our Backs*, *35*(3/4), 36–38.

Scheper-Hughes, N. (1992). *Death without weeping: The violence of everyday life in Brazil*. University of California Press.

Scheper-Hughes, N., & Bourgois, P. I. (2004). *Violence in war and peace*. Blackwell Pub.

Sieder, R. (2017). *Demanding justice and security: Indigenous women and legal pluralities in Latin America*. Rutgers University Press. https://doi.org/10.36019/9780813587950

Sieder, R. (2004). *Legal globalization and human rights: Constructing the 'rule of law' in post-conflict Guatemala* [Presentation]. http://campus.usal.es/~dpublico/areacp/Doctorado0304/Seminario_Investigacion03/Sieder04.doc

Sieder, R., & Macleod, M. (2009). Género, derecho y cosmovisión maya en Guatemala. *Desacatos*, *31*(septiembre-diciembre 2009), 51–72.

Silva Avalos, H., & Olaya, A. (2020, June 17). *the legacy of how Guatemala destroyed its own anti-corruption crusade*. InSight Crime. https://www.insightcrime.org/news/analysis/guatemala-anti-corruption-prosecutor/

Smith, A. (2005). *Conquest: Sexual violence and American Indian genocide*. South End Press.

Smith, A. (2006). Heteropatriachy and the three pillars of white supremacy. In Incite! Women of Color Against Violence (Ed.), *Color of violence: The Incite! Anthology* (1st edition, pp. 66–73). South End Press.

Smith, C. A. (1990). Origins of the national question in Guatemala: A hypothesis. In C. A. Smith (Ed.), *Guatemalan Indians and the state 1540 to 1988* (1st edition). University of Texas Press.

Smith, D. E. (2005). *Institutional ethnography: A sociology for people*. AltaMira Press.

Smith, L. T. (1999). *Decolonizing methodologies: Research and indigenous peoples*. Zed Books.

Spivak, G. C. (1988). Can the subaltern speak? In C. Nelson & L. Grossberg (Eds.), *Marxism and the interpretation of culture* (pp. 271–313). University of Illinois Press.

Surizar. (2008). *Existen muchas formas de matar a una mujer* [Photograph]. https://www.flickr.com/photos/puchica/2746665635/in/photostream/

Svendsen, K. (2007). *Por ser mujer: Limitantes del sistema de justicia ante muertes violentas de mujeres y víctimas de delitos sexuales*. ICCPG.

Swarr, A. L., & Nagar, R. (2010). *Critical transnational feminist praxis*. State University of New York Press.

Taylor, S. C., & Gassner, L. (2010). Stemming the flow: Challenges for policing adult sexual assault with regard to attrition rates and under-reporting of sexual offences. *Police Practice and Research, 11*(3), 240–255. https://doi.org/10.1080/15614260902830153

Tecú Osorio, J. (2002). *Memoria de las masacres de Río Negro: Recuerdo de mis padres y memoria para mis hijos*. Nawal Wuj.

teleSUR. (2018, August 30). *Guatemala weighs controversial bill banning "gender ideology."* TeleSUR. https://www.telesurenglish.net//news/Guatemala-Ban-Gender-Ideology-Name-Freedom-20180830-0026.html

teleSUR tv. (2010, November 25). *Violencia contra la mujer en Guatemala* [Video]. https://www.youtube.com/watch?v=gaOLqVt7HWQ

Thomas, K., O'Neill, K. L., & Offit, T. (2011). Securing the city: An introduction. In K. L. O'Neill & K. Thomas (Eds.), *Securing the city* (pp. 1–21). Duke University Press.

Torres, M. G. (2008). Imagining social justice amidst Guatemala's post-conflict violence. *Studies in Social Justice, 2*(1), 1–11. https://doi.org/10.26522/ssj.v2i1.964

Tzul Tzul, Gladys. (2018). Rebuilding communal life. *NACLA Report on the Americas, 50*(4), 404–407. https://doi.org/10.1080/10714839.2018.1550986

Tzul Tzul, Gladyz. (2014). Las luchas de las mujeres indígenas en Chuimek'ena', Guatemala: Una aproximación teórica a las estrategias. *Contrapunto, 5*, 64–74.

UDEFEGUA. (2017). *Informe criminalización en Guatemala: Análisis de situación 2012-2017*. Unidad de Protección a Defensoras y Defensores de Derechos Humanos de Guatemala. https://udefegua.org/informes/informe-sobre-criminalizaci%C3%B3n-en-guatemala-2012-2017

UN Division for the Advancement of Women. (n.d.). *International Day for the Elimination of Violence against Women*. Retrieved November 9, 2020, from https://www.un.org/womenwatch/daw/news/vawd.html

UNCHR. (2005). *Report on violence against women, its causes and consequences, Mission to Guatemala* (E/CN.4/2005/72/Add.3). UN Commission on Human Rights. http://www.refworld.org/docid/42d66e740.html

UNDP. (2019). *Inequalities in Human Development in the 21st Century: Briefing note for countries on the 2019 Human Development Report, Guatemala*. United Nations Development Program. http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/GTM.pdf

UNHCHR. (2015). *Annual report of the United Nations High Commissioner for Human Rights—Addendum—Report of the United Nations High Commissioner for Human Rights on the activities of his office in Guatemala* (A/HRC/28/3/Add.1). United Nations High Commissioner for Human Rights. https://daccess-ods.un.org/TMP/2774597.10836411.html

Unidad de Control, Seguimiento y Evaluación de los Órganos Especializados en Delitos de Femicidio y Otras Formas de Violencia contra la Mujer del Organismo Judicial. (2014). *Tercer informe de los Órganos Jurisdiccionales Penales en delitos de Femicidio y otras formas de Violencia contra la Mujer, Violencia Sexual, Explotación y Trata de Personas*. Organismo Judicial. www.oj.gob.gt/justiciadegenero/wp-content/uploads/2014/12/Tercer-Informe.compressed.pdf

Walker, M. U. (2009). Gender and violence in focus: A background justice in reparations. In R. Rubio-Marín (Ed.), *The gender of reparations: Unsettling sexual hierarchies while redressing human rights violations* (pp. 1–17). Cambridge University Press.

Walsh, A. (2019, March 5). *41 crosses, 56 lives: The struggle for truth and justice two years on from the Hogar Seguro Virgen de la Asunción fire*. Women's Media Center. https://womensmediacenter.com/women-under-siege/41-crosses-56-lives-the-struggle-for-truth-and-justice-two-years-on-from-the-hogar-seguro-virgen-de-la-asuncion-fire

Weissman, D. M. (2010). Global economics and their progenies: Theorizing femicide in context. In R. L. Fregoso & C. L. Bejarano (Eds.), *Terrorizing women: Feminicide in the Américas* (pp. 225–242). Duke University Press. https://doi.org/10.1215/9780822392644

Wilson, R. A. (2006). Is the legalization of human rights really the problem? Genocide in the Guatemalan Historical Clarification Commission. In S. Meckled-García & B. Çali (Eds.), *The legalization of human rights: Multidisciplinary perspectives on human rights and human rights law* (pp. 75–91). Routledge.

WOLA. (2007a). *Hidden in plain sight: Violence against women in Mexico and Guatemala*. Washington Office for Latin America. https://www.wola.org/analysis/hidden-in-plain-sight-violence-against-women-in-mexico-and-guatemala/

WOLA. (2007b). *The captive state: Organized crime and human rights in Latin America*. Washington Office for Latin America. https://www.wola.org/analysis/the-captive-state-organized-crime-and-human-rights-in-latin-america/

Wright, M. (2006). *Disposable women and other myths of global capitalism*. Routledge, Taylor & Francis Group. https://doi.org/10.4324/9780203390313

Wright, M. W. (2005). Paradoxes, protests and the *Mujeres de Negro* of Northern Mexico. *Gender, Place & Culture*, *12*(3), 277–292. https://doi.org/10.1080/09663690500202376

Youngs, G. (2003). Private pain/public peace: Women's rights as human rights and Amnesty International's report on violence against women. *Signs: Journal of Women in Culture and Society, 28*(4), 1209–1229. https://doi.org/10.1086/368325

Legal References

Acuerdo Número 5-2016, 16 March 2016, Corte Suprema de Justicia (Guate.). http://www.oj.gob.gt/images/acuerdos/Acuerdo_5_2016.pdf

Código Penal de la República de Guatemala (1889). http://biblioteca.oj.gob.gt/digitales/27234.pdf

Cógido Penal de la República de Guatemala (1973). https://oig.cepal.org/sites/default/files/2005_gtm_d17-73.pdf

Corte de Constitucionalidad [CC] [Constitutional Court], 23 February 2011, Sentencia, Inconstitucionalidad General Parcial, Expediente 3009-2011 (Guate.). http://www.cc.gob.gt/index.php?option=com_content&view=article&id=594&Itemid=73

Decreto 07-99, 9 March 1999, Ley de Dignificación y Promoción Integral de la Mujer [Law for the Dignification and Comprehensive Advancement of Woman], Diario de Centro América Vol. CCLXI No. 29, 9 April 1999 (Guate.). https://www.congreso.gob.gt/detalle_pdf/decretos/541#gsc.tab=0

Decreto 09-2009, 19 February 2009, Ley Contra la Violencia Sexual, Explotación y Trata de Personas [Law against Sexual Violence, Exploitation, and Human Trafficking], Diario de Centro América Vol. CCLXXXVI No. 49, 20 March 2009 (Guate.). https://www.congreso.gob.gt/detalle_pdf/decretos/13124

Decreto 22-2008, 9 April 2009, Ley contra el Femicidio y otras Formas de Violencia contra la Mujer [Law against Femicide and other Forms of Violence against Woman], Diario de Centro América Vol. CCLXXXIV No. 27, 7 May 2008 (Guate.). https://www.congreso.gob.gt/detalle_pdf/decretos/13045#gsc.tab=0

Decreto 42-2001, 26 September 2001, Ley de Desarrollo Social [Social Development Law], Diario de Centro América Vol. CCLXVII No. 72, 19 October 2001 (Guate.). https://www.congreso.gob.gt/detalle_pdf/decretos/395

Decreto 97-96, 24 October 1996, Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar [Law to Prevent, Sanction and Eradicate Intrafamily Violence], Diario de Centro América Vol. CCLV No. 34, 28 November 1996 (Guate.). https://www.congreso.gob.gt/detalle_pdf/decretos/903#gsc.tab=0

H.Res.100, 110th Congress (U.S.A). (2007).

Iniciativa 2630, Iniciativa que dispone reformar el Decreto Número 17-73 del Código Penal [Bill to reform Decree Number 17-73 of the Penal Code], Congreso de la República de Guatemala (12 March 2002). https://www.congreso.gob.gt/detalle_pdf/iniciativas/3296

Iniciativa 3503, Iniciativa que dispone aprobar Ley Contra El Femenicidio [Bill to approve Law against Femenicide], Congreso de la República de Guatemala (3 August 2006). https://www.congreso.gob.gt/detalle_pdf/iniciativas/1757

Iniciativa 3566, Iniciativa que dispone aprobar Ley Contra el Acoso y Hostigamiento Sexual [Bill to approve Law against Sexual Assault and Harassment], Congreso de la República de Guatemala (27 Novembre 2006). https://www.congreso.gob.gt/detalle_pdf/iniciativas/1352

Iniciativa 3566, Iniciativa que dispone aprobar Ley Tutelar del Derecho Humano de la Mujer a una Vida Libre de Violencia [Bill to approve Law for the Protection of the Human Right of Woman to a Life Free of Violence], Congreso de la República de Guatemala (21 February 2007). https://www.congreso.gob.gt/detalle_pdf/iniciativas/1770

Iniciativa 3718, Iniciativa que dispone aprobar Ley Marco sobre Violencia contra las Mujeres [Bill to approve Framework Law on Violence against Women], Congreso de la República de Guatemala (24 October 2007). https://www.congreso.gob.gt/detalle_pdf/iniciativas/4335#gsc.tab=0

Iniciativa 3770, Iniciativa que dispone aprobar Ley Contra el Femicidio y Otras Formas de Violencia Contra la Mujer [Bill to approve Law against Femicide and other Forms of Violence against Woman], Congreso de la República de Guatemala (11 March 2008). https://www.congreso.gob.gt/detalle_pdf/iniciativas/2140

Iniciativa 5272, Iniciativa que dispone aprobar Ley para la Protección de la Vida y la Familia [Bill to approve Law for the Protection of Life and Family], Congreso de la República de Guatemala (27 April 2017). https://www.congreso.gob.gt/detalle_pdf/iniciativas/66#gsc.tab=0

Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará), June 9, 1994, OAS Treaty Series No. A-61. https://www.oas.org/juridico/english/treaties/a-61.html

Organismo Juidicial [OJ] [Judicial Branch], September 2010, Protocolo de la Ley contra el Femicidio y otras formas de Violencia contra la Mujer, Decreto No. 22-2008 del Congreso de la República, Organismo Judicial (Guate.). http://www.oj.gob.gt/justiciadegenero/wp-content/uploads/2014/07/PROTOCOLO-de-la-Ley-contra-el-Femicidio-y-otras-formas-de-Vi.pdf.

Tribunal Primero de Sentencia Penal, Narcoactividad y Delitos contra el Ambiente [Criminal, Narcoactivity, and Crimes against the Environment Trial Court], 10 May 2013, Sentencia [Sentence] No C-01076-2011-00015 Of. 2º (Guate.).

Tribunal Primero de Sentencia Penal, Narcoactividad y Delitos contra el Ambiente [Criminal, Narcoactivity, and Crimes against the Environment Trial Court], 26 February 2016, Sentencia [Sentence] No C-01076-2012-00021 Of. 2º (Guate.). https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/caseLaw.xsp?documentId=1C57325B4F89A421C12581B00043C3DF&action=openDocument&xp_countrySelected=GT&xp_topicSelected=GVAL-992BU6&from=state

Velásquez Paiz et al. v. Guatemala, Excepciones Preliminares, Fondo, Reparaciones y Costas, Sentencia, Corte Interamericana de Derechos Humanos Serie C No 307 (November 19, 2015). www.corteidh.or.cr/docs/casos/articulos/seriec_307_esp.pdf

Velásquez Paiz et al. v. Guatemala, Excepciones Preliminares, Fondo, Reparaciones y Costas, Voto parcialmente disidente Juez F. Caldas, Corte Interamericana de Derechos Humanos, Serie C, No. 307 (November 19, 2015). www.corteidh.or.cr/docs/casos/votos/vsc_caldas_307_esp.doc

Velásquez Paiz et al. v. Guatemala, Report on Merits, Report No. 53/13, Inter-American Commission on Human Rights, Case 12.777 (November 4, 2013). https://www.oas.org/en/iachr/decisions/court/12777FondoEn.pdf

Véliz Franco et al. v. Guatemala, Excepciones Preliminares, Fondo, Reparaciones y Costas, Sentencia, Corte Interamericana de Derechos Humanos Serie C No. 277 (May 19, 2014). Accessible at: www.corteidh.or.cr/docs/casos/articulos/seriec_277_esp.pdf

Véliz Franco et al. v. Guatemala, Informe de Fondo, Informe No. 170/11, Comisión Interarmericana de Derechos Humanos, Caso 12.578 (November 3, 2011). https://www.oas.org/es/cidh/decisiones/corte/12.578FondoESP.pdf

Appendix: Key Informant Affiliations

The following organizations had key informants participate in this research. I interviewed more than one key informant at a number of these institutions. An additional seven key informants who were unaffiliated or were not speaking with me on behalf of their organization/institution were also interviewed.

Asociación Sororidad Activa

Colectiva Lésbica Todas Somos

Convergencia Cívico Política de Mujeres (COVERGEMUJERES)

Defensoría de la Mujer Indígena (DEMI)

Fundación Sobrevivientes

Grupo Guatemalteco de Mujeres (GGM)

Instituto de Estudios Comparativos en Ciencias Penales de Guatemala (ICCPG)

Mujeres Transformando el Mundo (MTM)

Organización Mujeres en Superación (OMES)

Procuraduría de Derechos Humanos (PDH)

Red Nacional de Diversidad Sexual y VIH de Guatemala (REDNADS)

Sector de Mujeres

Sistema de Atención Integral a la Victima de los Órganos Especializados (SAI)

Organización de Mujeres Tierra Viva

Unidad de Control, Seguimiento, y Evaluación de los Órganos Especializados en Delitos de Femicidio y Otras Formas de Violencia Contra la Mujer

Unión Nacional de Mujeres Guatemaltecas (UNAMG)