

**Urgency praxis, sexual violence and feminist knowledge production
in Guatemalan truth-telling**

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ABSTRACT

Since the early 1990s, feminist interventions in international law have sought to make sexual violence in wartime more visible, punishable and preventable. This dissertation focuses on the experiences of workers and the development of feminist analysis in the Interdiocesan Recuperation of Historical Memory project (REMHI, 1994-1998) and the Historical Clarification Commission (CEH, 1997-1999), two truth-telling processes in Guatemala that operated during these broader historical shifts. Often considered silence-breakers on sexual and other violations in the 36-year internal armed conflict, these historically-grounded processes provide a unique perspective on feminist transitional justice work, and important insights for those facing similar issues elsewhere. Drawing on interviews, textual analysis and a range of secondary sources, my dissertation makes three key contributions. First, given persistent international failures to turn gender visibility into accountability, I propose the conceptual tools of ‘participatory rhetoric’ and ‘worstness’ to clarify the representational limitations of a perpetual focus on visibility and ‘silence-breaking.’ Discourses of participation and victim-centeredness often conceal continuing structural limitations to marginalised women’s analytical involvement in rights work. Such conditions tend to channel women’s testimony into narratives of ahistorical victimisation, diminishing the historical significance of women’s wartime experiences and muting their postwar political demands. Second, I shift the methodological gaze of research on sexual violence from the trauma of victims to the mediating practices of rights workers. I argue that ongoing feminist efforts to expose sexual violence in Guatemala have driven broader challenges to the gendered hierarchies and exhausting practices of objective knowledge production favoured in human rights work. Using a discursive approach to rights, I show through a range of practices that workers in ‘peripheral’ sites like Guatemala are key actors, knowledge producers and innovators whose creative contributions should be major case studies informing transitional justice. Third, I highlight the practical adaptations and intense emotional labour required to perform high stakes truth-telling work successfully. With empirical support from interviews, I propose the framework of ‘urgency praxis’ to better account for the limited representational possibilities, the naturalised divisions of labour and the exhaustion of social movements that are products of this race-against-time form of rights defense.

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Chapter 1: Introduction and Methodology

Since the early 1990s, the world has witnessed the development of a range of strategies in international law and human rights defense that seek to make sexual violence in wartime visible, punishable and preventable. Such developments occurred in multiple sites, at a moment of global historical shifts, including the end of the Cold War, rapid economic globalisation, and increasing ethno-nationalist conflict. In this context, many nascent democracies sought out mechanisms of transitional justice to document past atrocities, provide a measure of justice and reconsolidate national unity. In the same period, activists' claims that women's rights were human rights began to make headway on the international scene, and their demands were gradually incorporated into the categories and practices of universal human rights. This dissertation focuses on the experiences of workers and the development of feminist analysis in the Interdiocesan Recuperation of Historical Memory project (REMHI, 1994-1998) and the Historical Clarification Commission (CEH, 1997-1999)¹, two truth-telling processes in Guatemala that operated in the midst of these broader historical shifts. Often considered silence-breakers on sexual violence as well as on the atrocities committed in the 36-year internal armed conflict more generally, I argue that these historically-grounded processes provide both a unique perspective on feminist transitional justice work, and important insights for those working on similar issues elsewhere.

Women and feminists who fight impunity for sexual violence have met with sustained resistance from colleagues in rights organisations and social justice movements. These objections are frequently rooted in a masculinist rhetoric of life and death that places sexual violence lower on a scale of seriousness than other more 'universal' crimes such as torture or forced disappearance (Paz y Paz 2006, Rubio-Marín 2009, Walker 2009, Morán 2011). Disrupting the normalcy of such universalist constructs has been central to various feminist projects of international judicial reform. Feminists insisted on the equal seriousness of certain gender-based violations, as well as the need to recognise them 'as' torture, genocide and crimes against humanity (Copelon 1995, Buss 2002, Cole 2010). As a result, since the early 1990s, there have been significant developments around sexual violence and women's rights in international legal and human rights frameworks. But despite the increased prominence and visibility of gender and sexual violence, much human rights work continues to over-determine women as one-

¹After the first mention where their names are spelled out, this dissertation refers to organisations with the acronyms by which they are widely known. For a list of acronyms accompanied by their full names, see Appendix A.

dimensional and apolitical victims. This approach is notable in the Guatemalan truth and historical memory projects studied in this dissertation, and across many more recent initiatives worldwide.

In 1999, the CEH's final report was delivered to the public at a major event attended by thousands of Guatemalans. In his presentation, Head Commissioner Christian Tomuschat highlighted his shock at the extent and brutality of sexual violence it described (CEH presentation ceremony, 1999). Despite an unprecedented level of public exposure and frequent responses of shock, in the CEH and REMHI reports, sexual violence did not receive the same treatment as other violations that were understood and explained as rooted in structural violence. While scathing on class and race-based oppression, the conclusions say little and the recommendations in both reports are silent on sexual violence. Further, they leave no proposals for preventing its recurrence, nor for supporting survivors in rebuilding their lives (REMHI 1998, CEH 1999). My research begins from this disjuncture in reports that often form the basis for post-conflict agendas of peace-building and social transformation. I have sought to understand how both major visibility and continued marginalisation could be features of the same documents, and in particular, how this implicates the methodologies and practices of workers behind the scenes in these processes. Beyond the REMHI and CEH processes themselves, I show in this research how this selective visibility has opened space for further activism, but has also complicated the subsequent struggles of survivors of wartime sexual violence and those accompanying them.

This project features interconnected empirical and epistemic goals. I aim both to provide more robust historical documentation of how feminist changes came about in Guatemalan truth-telling, and to develop a clearer accounting of related practices of knowledge production and their effects on human rights struggles. In dialogue with other sites where this pattern of selective visibility is also observable, I emphasise the pressing need to better understand the relationship between discourses about sexual violence, dominant visibilisation practices, and sustained failures to bring about justice and accountability. In the face of major feminist legal advances internationally, the field of transitional justice must address the fact that significant improvements in the life conditions of survivors have rarely followed the official acknowledgment and exposure of sexual violence (Nowrojee 2005, Brouwer 2005, Theidon & Laplante 2007, Duggan, Guillerot and Paz y Paz 2008, medica mondiale 2009). I argue that to

adequately address the current situation, we must press pause on narratives of feminist progress in transitional justice, in order to critically assess the field's continued faith in law as a tool of gender justice, in the rhetorical utility of 'victim-centeredness' and 'silence-breaking,' and in relatively shallow notions of women's participation as evidence of democratisation. Further, it is crucial to deconstruct the conventional division between testimonial and analytical labour within truth-telling work. This is especially important when these divisions reproduce the social relations of power that are implicated in the armed conflicts that such processes seek to document. Without dismissing the vital role played by victim testimony in human rights reporting, this dissertation highlights the key contribution of rights defenders and other intermediaries in the production of human rights within transitional justice work. My research focuses on the emotional and representational impacts of these workers' struggles to mediate between demands of objectivity and solidarity that predominate in this work. By examining the practices as well as the products of such processes, I highlight the long-term risks to feminist movement sustainability posed by rights work that fails to address the links between its personal and political dimensions. In short, this study provides more than a case study on sexual violence in Guatemala. The feminist practices of exposure, survival and transformation employed in Guatemalan truth-telling are important for building feminist historical memory, but also because they open space for deeper transformations in human rights and transitional justice work as a whole.

This introductory chapter lays out a brief overview of the issues explored in the rest of the dissertation, including a summary of its chapters. It then provides more background on the Guatemalan truth-telling processes and early feminist initiatives that emerged from that context. That section is followed by a discussion of the dynamics of telling other people's stories in human rights defense, and a detailed account of the methodological approaches taken in this project.

Interrogating feminist practices of exposure and silence-breaking

In many settings over the last thirty years, truth commissions and other transitional justice processes have emerged as the preferred vehicle for coming to terms with the aftermath of war and authoritarianism. Their symbolic role in such contexts is often summed up in the title *Nunca*

Más (Never Again)² which has been repeatedly chosen in Latin American initiatives to emphasize the desire to use accountability mechanisms such as human rights reporting to end violence and impunity. Truth commissions and related processes provide the opportunity to tell the truth about violations of human rights, to dignify the memory of victims and survivors and to document and condemn atrocities, sometimes in tandem with judicial measures, or in contexts of impunity, instead of them (Rotberg 1998, Hayner 2002).

Breaking silence has become a key tool of such processes. Truth-telling and transitional justice work relies heavily on victim-witness testimony in settings where information was tightly controlled and “official” history erased horrific acts of torture and everyday hardship inflicted on the population. Encouraging speech and participation in truth-telling is often seen as a way to counteract the effects of such regimes. Feminist exposure practices in this field have also stressed the importance of silence-breaking and encouraging the speech of survivors, drawing on closely related and enlightenment-inflected discourses of voice, citizenship and political participation. These approaches have been accompanied by a range of policies designed to facilitate the participation of women survivors (Nesiah 2006, Rubio-Marín 2006, 2009, Munro and McGlynn 2010, Valji 2011). Despite this encouraging context, survivors have struggled to be heard and understood in ways that lead to forms of justice that are meaningful on their terms. More often, they find themselves participating in processes that position their act of speaking out and calling for justice as an end goal and a triumph in itself, to be repeated as frequently as possible.

Feminist critics contend that such processes can begin with excellent intentions, but can quickly become insidious spectacles of testimonial repetition. There are now many accounts of journalists and international workers arriving at sites such as mass graves in the former Yugoslavia, asking of those who gather to search for their relatives, “are there any women here who were raped?” (Hesford 2011, 114; see also Duska Andric-Ruzicic 2003, 108). In her critical discussion of the treatment of wartime sexual violence in media and documentary film, Wendy Hesford illustrates that although unprecedented media attention helped to communicate to the world the magnitude of mass rape in the Yugoslavian and subsequent conflicts, many remain ambivalent about the impacts of so much attention. Hesford highlights a particular moment in the

² Spanish terms retained in the text are accompanied by English translations in brackets. For a full list and brief explanations of Spanish terms used in this dissertation, see Appendix B.

well-known documentary from the Balkans, *Calling the ghosts: A story about rape, war and women* (Jacobson and Jelincic 1996). As women and children crowd a camera in one scene, one woman sums up the political and ethical issues facing journalists, human rights defenders, women's advocates and survivors alike. She shouts: "If you are going to help—then shoot. If not, then don't film us" (ibid).

This project engages with ongoing discussions around appropriate forms of solidarity and ethical witnessing for gendered and sexual violence. Exposure is an important dimension of this work, given the history of denials and marginality that has long plagued women's efforts to obtain justice for sexual violence. Yet returning to rape victims to repeatedly recount the same violations while offering no new remedy has become a ubiquitous, harmful and in some cases "pornographic" practice (Theidon 2007). As a researcher grounded in transnational feminist thought, I sought out entry-points to explore feminist knowledge production and truth-telling work that look beyond the conduit of data-gathering through women's testimony about rape.

Though it considers various feminist approaches³, the position of this project is clear. It puts forth a transnational feminist critique of liberal approaches to gender and sexual violence, to argue that 'exposure' of sexual violence in human rights work, without concerted shifts in interpretive and advocacy frameworks, can continue to feed into the same power structures that generate the violence. This position critiques analyses of gender as the primary and original site of women's oppression, challenging feminists and others to see gender instead as a power relation interconstituted with race, nation, class and sexuality in complex ways that are often unrecognised in international human rights discourses and legal categories. Histories of imperial and colonial power should be understood as central to such processes, as is evident in the robust transnational and interdisciplinary literature on which this dissertation draws (Yuval Davis 1989, Alexander and Mohanty 1997, Grewal 1999, Spivak 2000, Lazreg 2000, Kapur 2002, Zarkov 2007, Clarke 2009, Hesford 2011, Orford 2002; 2012).

³ It is important not to take for granted the meaning of 'feminism' in the realm of international and transitional justice or human rights work. In this project, three broad positions emerge: first, the mainstream legalist feminisms that have chipped away at law's masculinist universalism; second, more anti-racist, postcolonial and transnational feminist critiques which refuse similarly universal notions of gender, femininity and victimhood that circumscribe the analytical reach of legal feminisms; and third, a position emerging from wariness by indigenous women about the exclusions and inequities of feminisms altogether, is also indispensable here. Since these forms of critique are not different stages on a progress narrative, but rather different aspects of a dialectical process, I discuss them in this project as divergent responses to the various deficiencies of international and transitional justice, one of which has consistently involved gender.

Such analysis of the imperialism and colonial violence of law and human rights can lead some towards a rejectionist position, especially with reference to the implicit recognition of the state as a legitimate actor, capable of assigning redress, despite the fact that it is also the source of harm. With many who engage in context-specific critiques of human rights and international law (Anghie and Chimni 2003, Merry 2006, Levya Solano, Pitarch and Speed 2008, Collins, Falcón, Lodhia and Talcott 2011), I look instead towards the enduring power of rights discourses in particular struggles, and to the “social life of rights” (Collier and Speed, 2000) as adopted and adapted strategically. At different levels of power and interpretation, the incommensurability of human rights with other frameworks remains a stumbling block, but human rights discourse is an important tool in struggles for survival and dignity, including those of women survivors of sexual violence.

Being incorporated into human rights frameworks has provided some equivalency between sexual and other forms of violence. At the same time, I argue that feminists must continue to acknowledge the consequences of using discursive tools that still do not account for women’s full subjectivity and citizenship and that can perpetuate rather than challenge the globalised power relations in which they operate. Wendy Hesford (2011) argues that an identity-based politics of speech and visibility dominates Western feminism through an “ocular epistemology.” This works to “incorporate victim subjects into social relations that support the logic of a global morality market that privileges Westerners as world citizens,” (Hesford 2011, 9) divides the world into spectators and sufferers, and directs attention away from the growth of global capitalism (ibid 7). She argues that exposure of violence on its own is insufficient, and that those involved in rights-based work must “scrutinize the objectivist model of visual evidence—seeing is believing—foundational to contemporary human rights politics” (ibid 8). Hesford calls this spectacle a “sign of contradiction that is mediated by truth-telling genres and their contexts” (ibid), encouraging interrogation of how such representational practices are linked to maintaining the status quo, especially in situations of perpetual impunity.

In this vein, my dissertation asks, how are human rights workers implicated in the representation of sexual violence, including through their mediation of testimony and their use of existing categories of victimhood and violation? What is it like to be pulled between objectivity and empathy when the stakes are so high? Were these the results that feminists intended when they intervened in gender-blind rights work? What additional interventions are needed to ensure

that ‘silence-breaking’ does not become a ritual of shock and spectatorship, but is actually responsive to the ideas and demands of survivors themselves? And how can we understand these issues within the context of urgency and risk in which they frequently unfold?

In pursuing these more epistemic questions, the project draws on a broad array of interdisciplinary sources, including Guatemalan historical material and particularly the contemporary products of struggles for human rights, as well as literature on transitional and international justice, transnational feminist and critical human rights work on representing violence and trauma, and explorations of emotion, subjectivity, politics and voice. It features detailed engagement with the reflections and experiences recounted in eighteen interviews held with former workers in the REMHI and CEH processes and those who currently work in rights defense in Guatemala. It also draws on my own experience as a crisis worker, and my participation in a research project on gender and reparations for survivors of wartime sexual violence in Guatemala, between 2009 and 2013.⁴

Throughout, the dissertation explores the costs and dilemmas of gendered visibilisation and accountability within transitional justice and historical memory work. It begins from the premise that human rights are discursive, built not only through formal mechanisms, but also through ongoing practice (Goodale 2007, Kurasawa 2007). This approach creates space to consider the uniqueness and importance of the historically-focused approaches taken in Guatemalan truth-telling, which contrast with but also complement more legally-grounded truth-telling work employed elsewhere (Grandin 2011, Mersky 2012). This approach also opens up the possibility of exploring how analyses of gender violence developed in unexpected, non-metropolitan sites (such as Guatemala) through the innovations of workers, rather than only through top-down implementation of nascent United Nations (UN) policy. Far from a consensus area at the time, my research shows how sexual violence became meaningful in these processes due to active efforts by individuals, a significant claim in a historical context where women’s contributions and experiences have routinely been erased or appropriated. Thus, one of the more empirical goals of this project has been to contribute to historical memory of feminist struggle.

⁴*Understanding women’s struggles for justice, memory and redress: A study of gender and reparation in Guatemala.* Principal investigator: Alison Crosby. See Crosby and Lykes 2011, Lykes and Crosby 2014, Crosby, Lykes and Caxaj 2016.

My overall approach in this dissertation is grounded in a critique of positivism⁵ and its concomitant investment in objective knowledge production. Positivist frameworks have been heavily employed in human rights documentation work, leading to particular methodological and representational decisions that favour quantitative research oriented towards statistical analysis and categorisation in large databases (Hayner 2002, Wilson 2003, Ball, Spierer and Spierer 2008). This form of methodology is often presented as rational, scientific and unbiased, which are deemed desirable qualities in a context where states and militaries have long sought to discredit the claims of rights activists as rooted in ideology rather than hard evidence. Counter to the positivist approach, I draw on a range of critical scholarship to argue that information is always mediated by the people and methods collecting it, and that such mediation need not be concealed in order for the information to be legitimate (Haraway 1988, Code 1991, Massey 2005, Harding 2012, Merry 2013).

Particularly in the case of gender and sexual violence in the gender-blind era, the established truth-telling methods and their products deserve critical attention in order to highlight their historical limitations, but also to trace their legacies into the present. We find ourselves in a new era of gender-sensitivity, with a range of policies and procedures on how to improve women's comfort so that we may better collect data about the harms that befell victims. The categories (such as 'victim' or 'woman') and many of the guiding presumptions of such work (such as the idea that women's silence stems from shame and fear) have not been adequately rethought or transformed with the addition of women's voices and experiences to the existing human rights frameworks. In particular, a growing number of critics argue that 'victims' are not merely located by such processes, but actively produced, with major consequences for women's political demands in the aftermath of war and atrocity (Kapur 2002, Clarke 2009).

Deconstructing the positivist logic in such work entails breaking down the idea of objective knowledge and objective, rational knowers. It suggests rethinking representational practices, and questioning taken for granted categories, roles and divisions of labour in human rights knowledge production (Wilson 2009). This necessitates not only rethinking how 'women,' 'victims' and 'sexual violence' are understood, but deconstructing a wider range of intersecting categories that are central to the power relations inherent in human rights work. The intense

⁵ Here I distinguish positivism from empiricism. I believe it is important to seek out knowledge via experience and evidence, rather than to produce knowledge from a purely ideological basis. I do not understand such information to be indisputable fact, fixed in meaning, but rather subject to interpretation.

context in which truth-telling work is carried out suggests that both political and emotional motivations inform the representational practices workers adopt, and that presenting such knowledge as ‘objective’ misrepresents the character and significance of the work these processes perform. Further, excluding emotion and subjectivity from human rights texts, and restricting the visibility of so-called ‘private’ gender violence, both appear to uphold the same ethos of objectivity within the rights work of this era. This points to overlapping origins of these exclusions and thus to the importance of deconstructing both together.

Through the Guatemalan case and the questions it opens up around solidarity, history, emotional labour and social justice, this project aims to explore how a transnational feminist analysis can intervene productively in transitional justice and human rights work, without shutting down important strides made in related feminist struggles for legal recognition. Below, I provide a brief summary of the chapters in the dissertation, before continuing with historical, theoretical and methodological discussion in the remainder of the introduction.

Chapter summaries

This introductory chapter provides background to the project, including theoretical and methodological foundations for critiquing practices of gendered visibility, and studying the experiences and reflections of human rights defenders who are central players in ‘telling the stories of others,’ though mainly occluded in the reports they help to construct. Chapter 2 presents a critical review of the growing literature on transitional justice, truth-telling and sexual violence, and provides some theoretical tools that will be used throughout the dissertation. This chapter problematises the field’s reliance on legal over historical approaches, a theme that emerges strongly in feminist debates around violence and in the Guatemalan truth-telling initiatives. It explores how dramatic shifts in gendered visibility, particularly through the juridical category of ‘rape,’ have been tempered by patriarchal containment practices, and how adoption of more ‘victim-centered’ discourse has not often translated into better outcomes for victim-witnesses who participate, hoping for meaningful justice and reparations. This chapter thus problematises the frequent reliance on what I call ‘participatory rhetoric’ in such processes, which takes women’s presence as evidence of gender-attentiveness, even when the available avenues for participation are narrow and riddled with accessibility issues. These tendencies

continue to position women primarily as sexual violence victims, whose contributions are treated as useful data but are rarely understood as analytically or historically significant.

In Chapter 3, I provide historical background about the armed conflict in Guatemala, the peace negotiations and the establishment of the REMHI and CEH processes. The chapter outlines the basic contours of women's organising in Guatemala before presenting an intersectional reading of discourses on women, gender and sexual violence in the two truth-telling reports. I outline the contradictions that emerge when women are mainly absent from narratives of historical agency but featured as embodied victims of sexual violence. In particular, women emerge as victims of sexual violence and rarely as historical actors, despite their major contributions to human rights movements from the 1980s onwards. In this case, such a pattern was partly an effect of workers' attempts to remedy gender-blindness in ad hoc ways in order to better address emergent testimony on sexual violence. Because this material on sexual violence highlights indigenous women's experiences, these 'worst' manifestations of racialised gendered violence helped to support the partial integration of gender into the genocide claim in the CEH. However, the chapter argues that this 'worstness' approach also rendered hypervisible a very restricted notion of women's experience in the war, leaving other experiences and agencies unexamined until more recent efforts.

The remaining chapters draw more directly on my interviews, outlining a range of struggles and debates that formed the backdrop of the work in the REMHI and CEH and influenced the representational practices employed by workers in these processes. Chapter 4 reconstructs how some workers succeeded in incorporating a limited exposure and analysis of sexual violence, while navigating around major procedural and cultural obstacles. The chapter examines a shift observable both in Guatemala and in the broader critical feminist literature towards questioning long-held assumptions about silence, shame and sexual violence, exemplified in worker ignorance and discomfort about sexual violence, absent narratives of women combatants, and a widespread unease with exposing sexual violence committed by the guerrilla. The chapter also considers how the marginalisation of women and sexual violence is structured into human rights work in Guatemala as a legacy of both liberal humanist approaches and the militant Left, closing with a discussion of feminist challenges to the pervasive cultures in rights organisations since the CEH and REMHI.

The fifth chapter advances a discussion of theoretical approaches to testimony and illustrates the tension between critiquing positivism while maintaining support for the documentation goals of such processes. It explores how the methodologies and staffing practices of these truth-telling processes cultivated impressions of either ‘objectivity’ (CEH) or ‘authenticity’ (REMHI), which were both understood as a source of authority to narrate history and denounce rights violations in Guatemala. The messiness, flexibility and creativity of these processes behind the scenes belies any impression of order communicated in the final reports, and provides a window into how wider debates over victimhood, agency and identity played out among workers and observers, against the backdrop of unremitting time pressure and public skepticism about their work. The production of human rights knowledge emerges less as a rational and objective process than a fraught affair, shot through with power relations of gender, race, class, nationality, language and geography. Yet, far from discrediting their work as “subjective,” this chapter exposes the incredible odds against which workers in truth-telling bodies struggle, which extend far beyond breaking down the silence and fear of witnesses whose stories they seek.

Chapter 6 makes the dissertation’s major theoretical contribution, advancing the concept of “urgency praxis” as both a political posture and coping mechanism that lends itself to the particular form of knowledge production that predominates in truth-telling and human rights work. The concept of urgency praxis creates space to understand representational decisions as always already strategic, imperfect efforts to do the best possible work with the resources available in the heat of the moment. It also highlights the difficulties inherent in effecting changes in the established methodologies of such processes when the stakes are so high and there is so little time for reflection and deliberation. In advancing this framework, I make no claims that it is particularly feminist. Discourses of practicality and urgency are often used to exclude women’s experiences and perspectives in rights work, but related counter-strategies are also employed by feminists to mitigate such exclusions, using the inadequate categories and tools of the universalist human rights regime to make sexual violence visible. Here, the framework of urgency praxis is grounded in the experiences of intensity, stress, exhaustion but also solidarity that permeate workers’ memories and drove their work in the CEH and REMHI.

Rather than bracketing this emotional context as a set of obstacles that must be overcome to reach the end of the process, my approach highlights it as constitutive of the process itself and

the forms of knowledge that it produced. It outlines specific strategies adopted by workers in order to continue working in the face of exhausting and traumatic circumstances, especially strategies of self-effacement and the deferral of physical and emotional needs. These emerge in Chapter 6 both as coping mechanisms and as practical gestures of solidarity with those they frame as “more” victimised and urgently in need of justice. In the latter part of the chapter, I consider the contradictions inherent in a feminist adoption of urgency praxis, and through reflections from participants, this section illustrates how such patterns have persisted in the present day, where neoliberal “NGOisation” (Alvarez 2000, Bastos Amigo and Brett 2010, McAllister and Nelson 2013) is coupled with state impunity for violence, and the struggle continues indefinitely. Questions of movement sustainability, burnout and knowledge loss that plague feminists in many sites are of particular relevance here, where they impacted the potential for advances for women survivors in various interconnected transitional processes. The chapter concludes with a brief consideration of how some feminists in Guatemala have begun building another way of working.

Chapter 7 considers the various legacies of the REMHI and CEH, including on gender violence. Chief among these is their space-opening around the issue of sexual violence, providing a key foundation on which others have built their histories, legal struggles and movements for institutional and personal change. The chapter also presents participants’ reflections on the development of more intersecting approaches to human rights in their work, and the potential and limitations of the REMHI and CEH legacies for new generations. This chapter is followed by the conclusion of the dissertation, which summarises its main contributions and puts forth a range of conclusions on solidarity, urgency, representation and victim-centered practices in the work of truth-telling and human rights.

Weaving the story: Gender and truth-telling work in Guatemala

Guatemala is a small Central American country with a population of over fourteen million people (UNDESA 2012), a majority of whom are indigenous members of over twenty Mayan linguistic groups. For much of its recent history, the country was ruled by a powerful colonial oligarchy. Through popular revolution in 1944, Guatemalans broke from this pattern, successfully bringing forth a social democracy. Following a decade of rapid social development, democratic leadership and later land-redistribution, a CIA-supported military coup imposed

military rule in 1954, which led to the decades-long counter-insurgency war against those who resisted, and as time wore on, civil society in general (Handy 1984, 1994, REMHI 1998, CEH 1999, Grandin 2004). Between 1960 and 1996, the country witnessed one of the most brutal armed conflicts on the continent, which featured some of the highest rates of death, disappearance and internal displacement in the region (CEH 1999, IW 2012b). The practices of the military were ruthless, and thousands of indigenous communities were fractured and scattered as a result of indiscriminate policies of scorched earth warfare, forced conscription, systematic rape and genocide. In cities, intellectuals and members of social movements were tortured and killed, and state surveillance was ubiquitous (REMHI 1998, CEH 1999). Even as Guatemala returned to a state of nominal peace in 1997, webs of trust were extremely damaged, and many had very low expectations for the work of the truth-telling projects. Would people be too afraid to participate? Would the military intimidate workers? Would they really be able to challenge the ‘official story’? Though much writing on truth commissions and related processes presents them abstractly as homogeneous, smooth-running bodies, in this project I draw on workers’ recollections to illustrate the complexity and enormity of demands placed on individuals who contributed their time and energy to these projects. In her comparative study on truth commissions, Priscilla Hayner underlines the difficult task facing workers in processes like the CEH and REMHI:

Truth commissions are virtually never smooth, pleasant, well-managed, well-funded, politically uncomplicated bodies. On the contrary, most struggle daily with a barrage of methodological, operational, and political problems, and operate under extreme pressures of time, under the heavy moral and emotional weight of their task and the risk of damaging error in their conclusions. Often they have been the targets of explicit threats of violence from those who feel threatened by their investigations. They are confronted with hundreds of critical operational questions that will determine the kind and quality of truth that will emerge, questions for which there are often no clear right answers. Even in the best of circumstances, with top-notch managers and sufficient resources, the problems are many and the stress intense (Hayner 2002, 213).

The REMHI and CEH were not immune to such pressures. The CEH was supported by the United Nations and began its work in the fall of 1997. A UN report about the work of the CEH (UNOPS 2000) devotes a chapter to the daily practices of a CEH field office. It was written by the director of the office in the Ixil region, one of the areas identified as a target of genocide at the hands of the Guatemalan military:

In the first few days we encountered our first challenge: how to explain the CEH mandate to the Ixil population in clear and objective terms, without generating unfounded expectations and with the intention of reaching the most communities in a short time. A dissemination plan was enacted, through talks with key actors and radio announcements. [...] The main objective of these talks was to communicate our purpose to people from a different culture, using clear and understandable images. Constant dialogue was important, especially with Ixil women translators who constantly provided feedback. One successful image we used in different talks was the “truth tree.” The tree’s roots were individual stories that answered one question: What happened? The tree’s trunk was collective history and answered the question: Why did it happen? The fruits, naturally, were the results of clarification, and answered the question: What can be done so it never happens again? The same three dimensions can be presented using the image of sowing crops: the grains of corn are individual histories, the land is collective history and the field representing the harvest is the fruit of our search for truth (UNOPS 2000, 143).

Perhaps most significant for an inquiry into the gendered dimensions of such work is the third approach to explaining the CEH’s work to local communities:

Another important and appropriate image we used was weaving: different colored thread represents individual stories, the *huipil*’s⁶ colors are the collective histories, and the loom is the Commission’s work, which helps to harmonize personal histories and mold the Ixil people’s history. But the protagonist is the weaver, which represents the Ixil woman: by personifying the people, she is the one who must write their history (ibid).

This metaphor of the weaver communicates the noble aspirations of this work, particularly in its efforts to put victims front and centre in a way that draws on one of the most recognisable, pan-Mayan motifs of the *huipil*. It portrays the work of this truth-telling project as a collaboration between indigenous victim-witnesses and the (multinational) staff who collect and work with their raw testimonies. Yet the representation of the protagonist figure as an indigenous woman is telling. In a range of truth commissions and similar initiatives worldwide, racialised, impoverished, rural women are often figured as the most oppressed group, and their public speech and participation has become a sign of both their liberation and of the success of such an initiative at drawing out even the most inaccessible of stories as it pushes towards national reconciliation and a new democratic order.⁷ As a symbol, it can be a powerful message of hope for the future where such women have faced systematic barriers to public participation, respect

⁶ A *huipil* is a garment woven and worn by Mayan women that features distinctive designs associated with various communities. The symbolism of the *huipil* is important here not only for its resonance with Mayan people but also because during the war, when indigenous people were being targeted by the military for suspected association with the guerrilla, many had to stop wearing this key cultural marker of identity and belonging, along with other signs of indigeneity, in order to survive. See especially Macleod 2011, 79-118.

⁷ See discussion of this dynamic in South Africa in Sanders 2007, Al-kassim 2008.

and material well-being. In Guatemala, Ixil women and members of the over twenty other Mayan linguistic groups were indeed well-represented as witnesses at the CEH. However, they were under-represented in the other daily operations of the commission. In its report, they emerge primarily as victims of vicious and genocidal sexual violence. This visibilisation of sexual violence was important for all women in Guatemala, but its emergence forms a stark contrast with the image of the Ixil woman weaver as agent, deftly driving the entire process.

While the disjuncture between women as victims and agents will return throughout this dissertation, the metaphor of the weaver may well have been effective, as the CEH was received enthusiastically by many communities in the region. The Ixil field team successfully connected with a large number of victims, survivors and even perpetrators who were ready to come forward and recount what had happened to them and their communities. As indicated in this field director's piece, the team knew that they would be working in an area hard-hit by terror and destruction, and "we approached the area with passion and a profound interest, not only from the point of view of a legal and social investigation, but above all in solidarity and with human sensitivity" (UNOPS 2000, 141). The work performed in this region in a brief seven months (mainly by a team of four investigators and several translators) collected over a thousand testimonies, including forty collective testimonies, performed other in-depth investigations, supported two major exhumations, and thus documented the destruction of eighty percent of Ixil villages, over sixty massacres and concluded that over half the population of this region were victims of grave human rights violations (UNOPS 2000, 142-145). Further, along with material from other regions, the research they performed was later instrumental in founding the groundbreaking claim of genocide that has recently led to national prosecutions of high ranking military officials, the first in-country genocide trials in world history (AJR and CALDH 2013).

This small team of workers was part of a much larger set of projects working for truth, justice and reparation in the immediate post-war context. The CEH project itself had, at its largest, two hundred and seventy staff members, consisting of Guatemalans and people of thirty-one other nationalities, in fourteen offices throughout the country. Over frequently rough terrain their staff visited almost two thousand villages and came into contact with over twenty-thousand people. The resulting four thousand four hundred-page report documented the loss of an

estimated two-hundred thousand lives, and documented the disappearance of over forty-thousand people (UNOPS 2000, v)⁸.

Prior to the establishment of the CEH as part of the peace agreements signed in December 1996, the Catholic REMHI project had already spent nearly three years working in many of the same communities, developing methodologies not only of documentation and truth-telling but of social and psychological repair (REMHI 1998, Vol. I). While the projects operated separately, the CEH benefited from the extensive groundwork laid by REMHI in addressing the pervasive fear and social atomisation that had been a feature of the thirty-six-year armed conflict. As REMHI's work drew to a close in 1998, the project shared its database and other materials with the larger CEH. Both projects were supported by the knowledge, networks and often unbelievable energy of numerous groups formed during and after the war, from widows' groups to those seeking the disappeared to those fighting for agrarian and cultural rights. They worked alongside specialised organisations that had formed to perform exhumations, provide psychosocial accompaniment to survivors of the violence, and assemble legal cases for national and international trials. They also had enemies, articulated most directly in the assassination of Monsignor Juan Gerardi, the Bishop who had championed the REMHI project and had just presented its scathing final report when he was beaten to death in his own garage (CEH 1999, Vol. IV, 115). The REMHI and CEH projects inspired both frustrated critique and hope, leading in many cases to more detailed investigations in areas that they could only touch upon with limited time, staff, funds and political opportunity.

This project focuses on one such area: the exposure of systematic sexual violence out of a set of distortions and voids on the topic that was being openly challenged by women and feminists in multiple contexts in the 1990s. In Guatemala, the post-war transition occurred at precisely the moment that women's organising internationally was beginning to bear fruit at the statutory level. In moments of political transition, feminist scholars and advocates argue that it is an opportune time for women to push for transformative change (Meintjes, Turshen and Pillay 2002, Nairobi Declaration 2007, Rubio-Marín 2009). Feminist mobilising had been stifled during the war, but emerged alongside the growing indigenous rights movement to demand more rights

⁸ The CEH report's statistics about the casualties of the war have often been used as definitive. However, as more evidence has been uncovered and analysed, through exhumations, more testimony (especially in the National Reparations Program (PNR)), and the recovery of archival documents, estimates currently cited are often higher than the CEH's numbers. For the CEH's 200 000 dead and 40 000 disappeared, many now cite these figures as 250 000, and the 45 000 disappeared. See McAllister and Nelson 2013, 20.

and recognition. While they formed a part of a much larger terrain of action and analysis, the REMHI and CEH represented moments of opportunity for nascent movements, and their space-opening on sexual violence supported a rapid shift in the intelligibility of gender violence within human rights, advocacy and social service work.

This shift did not happen naturally, but was the result of struggle on multiple fronts: individual, interpersonal, institutional, and especially discursive. Though most defer to collective forces in which they merely participated, the role of specific activists in this work is important, and by any measure Yolanda Aguilar has been central in initiating longer-term work on sexual violence. Aguilar's experiences indicate the importance of linking what happens in truth-telling processes to the dynamics of broader social movements with which they interact and share participants. In the REMHI, the first major process of truth-telling and historical memory in Guatemala, Aguilar testified about her experience of capture and subsequent torture by the military as a teenaged political activist. Though not sought out by REMHI staff, one key aspect of Aguilar's testimony was its graphic description of the forms of abuse and sexual torture inflicted on her during the imprisonment (REMHI 1998, Vol. II, 60-64). She gave the testimony with her identity attached, rather than anonymously, and has continued to work on the theme of sexual violence in the intervening years.

Work on truth commissions and related bodies usually involves a steep learning curve and a high level of dedication by staff to fulfill their mandate in a limited time frame. Aguilar's reflections, shared with me in an interview in 2010, outline both the urgency felt by women working in these processes, and the practical approach they took to building a base for broader social change in a fragile post-war context:

In Guatemala...and maybe you've noticed, we've created many things, yes? We have a level of creativity based in necessity [...] so normally, we don't have anything planned, pre-determined in terms of what we are going to do exactly, rather that these are the social conditions of the country and it is necessary to start a process, and two more people start, and little by little the process starts to move [...] The report on the recuperation of historical memory was, I would say that it was the first, fundamental step in bringing reflection on violence against women, during the conflict, and in this sense it was the first truth report in the world that talked about violence against women in conflict (Aguilar 2010).

Prior to the political openings of the peace negotiations in the early 1990s, which precipitated the work of the REMHI, Aguilar had also suffered the disappearance of her mother and had been in

exile for over a decade. On returning to Guatemala, she enrolled at the University of San Carlos to study anthropology and began to work as a consultant at the office of the Human Rights Prosecutor (PDH). Going in to testify for REMHI, she characterises her intentions as simply to document the events: “I will give my testimony and then I’m going to leave again. [Once] I finished, that was it” (2010). But her involvement was to be far greater. Her testimony exposed a serious analytical gap in the work of the REMHI:

When I finished giving my testimony, the director of the REMHI, Edgar Gutierrez, said to me, ‘look, we need someone to be in charge of the theme of women,’ not knowing very well where it would lead, right, there were only a few months left before the end of the project and they said, ‘will you take this on?’ I, I said ok, yes, I will take it on, no? (ibid).

As it turned out, Aguilar and two others worked for almost eight months on the chapter that drew together women’s experiences, including rape, into a coherent narrative that condemned gender violence and affirmed women’s survival strategies and activism. With no training and few precedents to follow, they did what they could:

We started to name what had happened to women, family members of the disappeared, what happened to women...who were widows, and what happened to women in terms of sexual violence, to women who opened spaces of human rights. This is to say that we created a chapter that opened onto many violations of human rights, the theme of sexual violence among them. And it was profoundly moving, for me and the team. I am sure that it changed our lives (ibid).

This process of naming and exposure in the REMHI and CEH is detailed in Chapter 4 of the dissertation. Guatemala’s reports are the first in Latin America to focus any attention on sexual violence in war and military rule. For many, naming violence against women creates a visibility and intelligibility that is a pre-requisite for eventual accountability.

I believe that in Guatemala [testimony about sexual violence emerged] because it was impossible to put off, it wasn’t possible anymore, in no country in the world! The women in the world, we couldn’t wait for another armed conflict to happen for it to be mentioned. So Guatemala is like that, the exact border, the exact limit between the tolerance of women and the necessity of naming, in truth reports, what happened to women in the armed conflict (ibid).

Since the release of the REMHI report in 1998 and the CEH report in 1999, work on violence against women has expanded, both in relation to the conflict and as a social problem more generally. Aguilar’s commitment has extended from work on legal reform in the PDH, to the REMHI chapter on women, to information-sharing on gender with other truth-telling

processes (for example, in Peru), and groups of women survivors in Ecuador and Colombia. A decade after being invited to testify in Tokyo at the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery (2000), Aguilar's encouragement helped a similar Tribunal of Conscience to take shape in 2010 in Guatemala City. This Tribunal not only exposed and condemned wartime sexual violence and demanded state recognition and reparations, but also served as a major training ground for groups of women who had decided to pursue their cases through legal avenues (Aguilar 2010, Crosby and Lykes 2011, ECAP, UNAMG, MTM and hegoa 2012).

Many of the participants in the Guatemalan Tribunal of Conscience had been part of an ambitious project of historical memory and healing among survivors of wartime sexual violence in some of the communities most affected by the war.⁹ Their work began in 2003 as an initiative by Aguilar and a French international worker named Amandine Fulchiron. Aguilar describes how they came to work together after Fulchiron approached her with a proposal for a project that worked with women:

I said, I will come work with you, or we can do something together, but under one condition. This has to be a large process, because I am tired of the fact that with women's things, all the time people think they're less important. So I'm convinced that we'll do something big, that will have an impact in this country [...] So that's how we started. We worked with the idea in 2002, all of 2003 while I was working on my thesis and dedicating my time to this project, "From victims to actors." That was what we called it, yes? With the same approach. Women victims move in a moment, in a moment of their lives to become actors in their own transformation (Aguilar 2010).

In the early "From victims to actors" project, they began consulting with women's and feminist organisations,

because we realised that we were going to discuss a theme that [whispers] has not been discussed in Guatemala. No one was talking about sexual violence, with the exception of the two reports, REMHI and the CEH. So we needed to generate a space that was called [...] "Let's talk about sexual violence"(ibid).

This inter-organisational initiative operated in parallel with the Victims to Actors project, focusing on naming sexual violence and building an understanding of it as a collective experience—both in connection to wartime abuses and in everyday contexts. They built capacity

⁹ This project has greatly informed my current research. The major written source on their work is Fulchiron, López and Paz Bailey 2009. Between 2009 and 2013 I worked as a research assistant on an initiative on gender and reparations that involved many of the participants in the groups discussed here. See Lykes and Crosby 2014, 2015; Crosby, Lykes and Caxaj 2016.

and knowledge within the two main accompanying partners in what briefly became known as the Agents of Change Consortium: psychosocial organisation ECAP¹⁰ and feminist organisation UNAMG.¹¹ Aguilar comments that these groups were

more lost than anything else, because they had the good will but no one had worked on this theme before. [...] Here was ECAP who had experience working with victims of the war, and here was UNAMG with their experience working with women, right, and they went along making proposals and finally we achieved a proposal on sexual violence that was a lot more holistic (ibid).

The projects that grew out of Aguilar and Fulchiron's initial work created space for both mutual support and political action by indigenous women survivors, and relations of political solidarity across divides of class, race, geography and language. UNAMG, ECAP, and the feminist legal group MTM¹² accompanied three main support groups in different areas of the country. Among other things, these groups built an analysis of the effects and meanings of the wartime sexual violence, involving an output that also includes two books (*Breaking the Silence*, 2006; and life history project *Weavings of the Soul* (Fulchiron, López and Paz Bailey 2009)) and various legal interventions seeking recognition of harms and reparations at both national and international levels. Though the earlier consortium has since dissolved over differing political strategies, their impact has been keenly felt, and many continue to work towards the same goals. The work associated with this set of initiatives with women survivors has served as an important source for this project. In particular, its methodologies, as discussed later in this dissertation, illustrate the range of possibilities for socially transformative work on sexual violence. Many transitional justice initiatives have made a discursive shift towards 'victim-centeredness,' and they actively seek out the participation of women, but frequently their understanding of participation is very limited. As the *Weavings of the Soul* study (Fulchiron, López and Paz Bailey

¹⁰ *Equipo Comunitario de Apoyo Psicosocial* (Community Team for Psychosocial Support), one of the organisations that grew out of the acute recognition during early historical memory work (such as the REMHI project) that survivors of genocide needed psychological support in a culturally competent form that helped rebuild communities rather than only operated on the individual level. From the 1990s ECAP established roots in Rabinal and other genocide-affected communities and accompanies many processes such as exhumations.

¹¹ *Union Nacional de Mujeres Guatemaltecas* (National Union of Guatemalan Women), a women's organisation that was established in the early 1980s and was forced underground for a time, before being resuscitated after the peace accords in 1996. UNAMG headquarters are in Guatemala City but they have regional offices in numerous departments in the country, the largest of which is in Chimaltenango. As part of the reparations project I worked most closely with UNAMG.

¹² *Mujeres Transformando el Mundo* (Women Transforming the World), a more recently created feminist NGO that provided legal support for survivors and took on "unwinnable cases" (Morán 2011) to create precedents in the legal system. This organization has already undergone a split since my interviews.

2009) articulates repeatedly, both through its text and its practices, intimately tied to any hope for justice is an approach to historical memory in which survivors are not mere witnesses who provide raw testimonial data, but active participants and protagonists (Lykes and Crosby 2014) in more profound and lasting ways. The REMHI and CEH may have opened space, but it was up to others to take up the challenge of making these spaces meaningful and sustainable. In the following section, I draw on my own experiences of research and advocacy as an entry-point to discuss the complexities of knowledge production in human rights work.

Taking up space and telling other people's stories: Human rights displacements

As a PhD student in 2009, I received enough funding to present a paper at a conference on transnational feminisms at the University of Manchester. After the conference, I took advantage of Europe's ultra-cheap flights to visit a friend who lives in Istanbul. It was winter and we spent a lot of time in smoky bars and cafes with feminists and other activists.¹³ Through this ubiquitous haze, my friend told me that a number of people at her feminist group, Amargi, wanted me to come speak to them about my research on gender and truth commissions. Many members were involved in peace activism and they wanted to know about how women had exposed abuses by the government and military elsewhere. I protested that I was just a student and had not completed my field research, but dutifully prepared a talk and some slides from a visit to the newly discovered Guatemalan police archives.¹⁴ Given my recent and longer term immersion in the most trenchant critiques of feminist imperialism, I felt it was crucial to explain why I in particular had been researching in Guatemala. A good part of the talk I wrote involved explaining how I came to the research: more or less, authorising myself to deliver a talk on Guatemalan women's activism.

When I arrived at Amargi, the book-lined room was full of women. This more middle-class feminist group had also invited members from a socialist feminist collective down the street. Someone from an independent TV show insisted on interviewing me on camera in a back room before the talk. My friend was also fielding calls from a journalist at European Newsweek. I was confused about this surreal situation. I had presented to small groups at academic

¹³ Smoking had just been outlawed indoors, but the bar we frequented was six flights up from the street. The Kurdish owner, one of the few successful conscientious objectors from obligatory Turkish military service, figured the police would rarely hike up the stairs to enforce the law, and people showed their rejection of authority in their casual disregard for the smoking bylaw.

¹⁴The Historical Archives of the National Police (AHPN). See detailed treatment of this important site in Weld 2014.

conferences before and understood my research as a public good, but was unprepared for the idea that I was considered an expert on anything, that I could speak about and for others in this way. In my view, the real experts were Guatemalans, and in some ways I still couldn't believe that I was being permitted to do this research.

The talk was consecutively translated by a young undergraduate student, and I understood too late how long it would take to get through it. But people politely sat while I talked about myself for what felt like an inappropriately long time before delivering the goods. I realised what should have been obvious, and what my friend later gently confirmed: the majority of women had come to hear basic, concrete information that was too rarely translated into Turkish: What have women done? How well did it work? Did they manage to make the military accountable? What did they learn? Would it work in Turkey? As I understand it, they didn't particularly want to know about me, or my position in relation to theories of oppression, but rather wanted someone to act as a conduit for their interests, questions, and transnational concerns. Caught up in not being perceived as some sort of imperialist, I had minimised the urgency of the situation in Turkey, and the ongoing importance of sharing knowledge of struggle in all directions, across any borders, even if imperfectly and just as a messenger. Though I did pass on useful information, I left feeling like I had perhaps wasted some people's time, and that I should have known better after years in a range of multi-lingual spaces: when translation is being performed live, you had better say something worth hearing, because every minute counts.

I foreground this story for a number of reasons. Most obviously, it places me as a researcher who is trying to face up to the responsibilities and ethical quandaries of transnational research, but who sometimes gets it really wrong. In negotiations around privilege and advocacy, I run up continuously against the sort of contradictions and fumbling that occurred at Amargi: never sure whether I communicate the arrogance of taking up space without question, or the bizarre narcissism of over-explaining my position rather than talking about those who do not have my privileges. These issues sometimes seem overwrought on the page, but they foreground ongoing questions about power and privilege in advocacy and academic research. Since beginning my undergraduate thesis in 2003, I have repeatedly been told by some academics that discussions of a writer's positionality are 'dated.' Others continue to encourage critical reflection on the relationship between experience, social position and knowledge production. For me, the personal and political dimensions of this project somehow become unthinkable without some

reference to my own negotiations written into the margins. Further, the same types of negotiations have emerged in interviews for my dissertation, with other intermediaries in this massive project of documenting the harms and calling for justice in Guatemala. This dissertation, at its root, is about better understanding the work of intermediaries in rights-based advocacy. When taken broadly, this is a position that I share with those I interviewed, despite the range of ways in which our experience and knowledge can be contrasted.

While I spent a large part of my life committed to anti-oppressive practice, much of the time what this came to mean concretely was a practice of actively not taking up space, to enable others who are routinely silenced to speak. In large part, this has been a negotiation with the unearned privileges of whiteness, in a settler society in which white people embody dominance, unearned economic power, and colonial violence. I present here two main ways in which I lived these negotiations: the first was as a sexual assault crisis line volunteer, where active listening practices entailed creating space for the caller to talk through their feelings, rather than receiving counselling on how to fix their problem. The philosophy behind non-directional active listening in this context was explained as a question of power and control: because sexual violence is so clearly about losing control (over body, relationships, pain) it was crucial to create a conversational dynamic in which the caller could feel in control, even for a short while. By making the experience into a narrative framed by the survivor, they were taking back a sense of control over the events and their lives. As a trainee I had doubts about how well this idea would work, but after three years of taking calls, it had subtly, yet radically altered the way I interacted with everyone in my life.

The second influence around taking up space emerged in various sites: classrooms, meetings and training sessions at the sexual assault centre, other activist spaces around Montreal, and subsequently in my life in Toronto and time in Mexico and Guatemala, as a student and teacher. In Canada, long term pressure by people of colour and trans people had impacted many grassroots groups and feminist spaces. Many were stumbling through processes of ‘trans-inclusion,’ ‘anti-racist education,’ and ‘anti-oppressive overhauls.’ Those with embodied and inherited privilege learned to take up less space. Again, often this was framed as an incitement to speech: creating the conditions for the most oppressed to speak out, as a way to create safer spaces and encourage more full participation. In this context, there are those who grow impatient with routinised anti-oppressive work in activist, educational or union-based groups, often

because to be meaningful, it tends to be long term, unremitting labour that has to be continuously re-booted at each new encounter. In this milieu, ‘active listening’ and ‘not taking up space’ are not always adequate approaches. Often in my experience, such strategies have been perceived as those with privilege passively observing oppressive dynamics, and sustaining a context in which, for example, people of colour are always required to call others out on their racism.¹⁵

These ‘spatial’ interventions around power were mainly framed around the ubiquitous dichotomy of speech and silence that has long dominated a range of feminist and anti-oppressive theory and practice. Speech features in a wide array of Western political theory as the basis both for humanity, subjectivity and political agency or participation. In his ambitious philosophical treatment of Holocaust testimony, Giorgio Agamben writes, “subjectivity and consciousness, in which our culture believed itself to have found its firmest foundation, rest on what is most precarious and fragile in the world: the event of speech (Agamben 1999, 122). While Agamben describes the actual event of speech as “precarious and fragile,” its symbolic power as a foundation for dominant Western notions of citizenship and subjectivity is not so ephemeral. It goes to the heart of definitions and enactments of representative government, participatory democracy, and declarations of freedom from tyranny. Many consider ‘speaking truth to power’ to be a revolutionary ideal; in the context of human rights, unrestrained speech has been framed countless times as freedom, and silence as indicative of oppression or subjection. Such notions also inform rights-based advocacy, interventions in democratisation and development, gender-mainstreaming, and transitional and international justice. As discussed at the beginning of this introduction, in the symbolic economy shared across these enlightenment-influenced fields, silence must be publicly broken to create the possibility of the full citizenship of women or other marginalised people. The causes and meanings of silence can often be taken for granted in this broad range of sites.

Collecting and telling other people’s stories is a crucial aspect of human rights work. The most effective rights work has both probative and affective value—or in other words, it proves something at the same time as it moves someone, often by appealing to a shared humanity. The stories of victims and survivors drive the entire machine. As many have shown, such story-

¹⁵ See Srivastava, 2002, “You’re calling me a racist,” for a useful discussion of the difficult dynamics produced in white-dominated feminist spaces in Toronto when women of colour have attempted to identify racism and white privilege. See also Wilmot, 2005. In the context of transnational work, see Nnaemeka 2005. Often, such discussions feature entrenched hierarchies of struggle, such as, ‘After the revolution, we will fix racism or patriarchal oppression...’

telling is most successful and credible when it follows established conventions. These can include establishing facts, highlighting the victim's voice and experience, and minimising both contextual information and the role of intermediaries, organisations and other mediators in the story. In the end product of a human rights report, one may well get the impression of getting 'just the facts' in some objective, scientific endeavour. To achieve this effect, a crucial set of stages in the process of producing human rights knowledge is purposely occluded. Richard Wilson has called this the "skeletonising of the human rights narrative," a process which helps to create a universal human subject out of a story that is often very distinct from the experiences of the audience (Wilson 2009; see also Hesford 2011).

Stephen Hopgood's ethnography (2006) on staff at the International Secretariat of Amnesty International (AI) in London provides both an institutional history of AI and a glimpse of the recent practices and conflicts in this setting. While many consider Amnesty the forerunner in defending human rights, Hopgood's work shows how it took decades before the organization began adopting the language of human rights, opting instead for narrower conceptions of civil rights and taking a position as a principled, impartial outsider rather than a participant in a global movement for social justice. Hopgood argues that it was not the authenticity of the pain of prisoners of conscience, but the pragmatic mandate of impartially bearing witness that became the source of AI's almost mythical public authority (2006, 60, 91),¹⁶ an approach that permeated many rights-based endeavours seeking to establish and maintain authority.

In a similar vein, Wilson argues that the trustworthiness of human rights reporting is in the genre itself (2009, 222). The "validity of the human rights report rests upon reputation and rhetoric," similar to the ways in which scientific texts and legal contracts use an established discursive strategy to convey (supposedly) value-free information (221). As a result, testimony which may otherwise be dismissed is rendered legitimate by its incorporation into this larger, authoritative format. Wilson's study shows how the use of testimony in specific ways in human rights reports serves to preserve the binary between the subjectivity of the survivor-witness and

¹⁶ Perhaps not surprisingly, impartiality as the source of AI's credibility was often raised as a reason to resist change, despite the impressive range of shifts occurring in technology and in rights campaigning over the past three decades. Hopgood details several policies supposedly grounded in this notion. One of the most difficult for many staff to accept was the rule that mandated 'country' expertise among researchers, but forbade people to 'work on their own country' (WOOC). Hopgood's interviews show how this rule produced a notion of expertise that was separate from life experience, which helped preserve a white, male core of researchers, rather than building relations with those who had lived in the countries and operated at the grassroots level (2006, 97-100).

the objectivity of the human rights workers, organisations and reports in which the testimony appears.

In this project, I argue that the work of these intermediaries is an important source of information about the decidedly not objective, impartial or desubjectified process of human rights defense, particularly at times of transition when new rights are being debated and developed through practices on the ground. I explore some of the representational and ethical challenges faced by those who mediate between testimony and data, attempting to expose violence visited onto others: denouncing without ‘speaking for,’ and without taking up too much space; balancing representations of victimhood and agency, without reducing survivors to their bodies or to some romanticised projection of their courageous agency; dedicating one’s energy or even life to social justice, without always taking care of oneself in the process. I turn now to a discussion of the methodological approaches that are employed in this project.

Complementary methods for studying practice

In this project, the multiple sites, layers of power and the ways people negotiate with them have made multiple research methods indispensable. I have employed methods of critical discourse analysis, qualitative interviewing, and studied a range of primary and secondary sources. I also draw on my experiences working as a research assistant with Guatemalan rights defenders in a participatory project on gender and reparations, *Understanding women’s struggles for justice, memory and redress: A study of gender and reparation in Guatemala*, between 2009 and 2013. This is a multilateral initiative partnering researchers at York University, Boston College and UNAMG in Guatemala City. Participating in this larger initiative has been important in terms of establishing contextual knowledge, building relationships and gaining a sense of the history and development of UNAMG and allied groups such as ECAP and MTM in the larger movement for justice, against impunity. My own dissertation interviews include feminists who worked or currently work with each of those organisations.

Discourse analysis and discursive approaches to human rights

An important dimension of this dissertation project is its focus on practice. Despite the pervasive focus of mainstream studies of human rights on normative approaches that favour the positivism and ‘objectivity’ discussed earlier in this chapter, critics increasingly opt for more deconstructive

approaches, which argue that discourse and representational practices are also part of any social reality. In other words, once something is represented by people in language, it is the product of interpretation, no matter what method was used to extract the data and to present it. Discourses and categories of human rights work are thus socially constructed and do not represent static realities. Anthropologist Mark Goodale writes that:

to conceptualize human rights as one among several key transnational discourses is to elevate social practice as both an analytical and methodological category. Despite the nod that several strands of social or critical theory make toward practice, praxis, or agency within their broader studies of discourse, in fact the actual consideration of social practices more likely than not remains prospective, or merely categorical. In contrast, discursive approaches to human rights assume that social practice is, in part, constitutive of the idea of human rights itself, rather than simply the testing ground on which the idea of universal human [rights] encounters actual ethical or legal systems (Goodale 2007, 8-9).

In other words, what we know as rights-related data are ‘always already’ representations, and doing human rights work contributes to actually creating rights, rather than just enacting what is already guaranteed in laws and conventions, hashed out elsewhere. Sociologist and rights theorist Fuyuki Kurasawa advances a closely related approach from a sociological vantage point. Concerned with re-orienting the top-down approaches to human rights that prevail in many disciplines, he focuses on human rights as practices that emerge in a wide range of what he calls “worksites of global justice,” from art shows to international tribunals (Kurasawa 2007, 18). Kurasawa indicates five broad areas of this work: bearing witness, forgiveness, foresight, aid and solidarity, arguing that the labour involved in these practices constitutes human rights as we know them today. In this dissertation, I consider the REMHI and CEH as several among a much broader set of such “worksites” of witnessing and solidarity in Guatemala that continue to resist impunity and push for justice, while troubling the boundaries of what were conventionally understood as human rights.

I began this project with a critical discourse analysis of reports produced in very specific settings and with many constraints (see Chapter 3). Though it is not the only methodological approach employed, this analysis helped illustrate some of the contradictions and discursive limitations of a project of gendered visibility, while also pointing to some potentially important inroads for interviews. Discourse analysis has been taken up in many fields as a tool to draw out the dominant ideas structuring both written texts and speech acts. In her study of the operations

of gendered power in sexual assault hearings, feminist linguist Susan Ehrlich explains why critical discourse analysis has become a key tool for feminist analysts:

proponents of critical discourse analysis assume that dominant social structures and processes are partly discursive in their nature and aim to expose how such discursive practices contribute to the production and reproduction of unequal social relations. Indeed, this type of discourse analysis, some would argue, is a necessary prerequisite to social change, as the ideological perspectives that linguistic practices encode and support often go unnoticed and are not easily foregrounded by speakers predisposed to think about the world in particular ways (2001, 35).

Ehrlich discusses the “institutional coerciveness of legal discourse” in particular, which I argue is a close cognate of the human rights discourse often used to frame the work of truth-telling. She also promotes a disruption of the “commonsensical naturalization of gendered assumptions” that have been encoded into discursive practices (ibid).

In particular, reading the CEH and REMHI reports discursively can illustrate how various ideas about women and gender permeated processes that are more or less gender-blind. Alone, however, such an analytical strategy risks assuming a great deal about the knowledge and motivations of both those testifying and those assembling the reports. Proponents of mixed methodological approaches such as institutional ethnography argue that examining the interactions of texts and actors can be crucial to understanding how power relations are produced and reproduced in institutional settings (Naples 2003, Smith 2006, Eastwood 2006). Much has been written about the uses and abuses of the testimony and voices of non-Western, subaltern or marginalised people (Spivak 1988, 1999, Trinh 1989, Beverley 1993, Narayan 1997, Cubilié 2005). Because of the range of people discussed in this research whom we may consider ‘knowledge producers,’ from the outset, I aim to highlight the challenges and also the benefits inherent in taking seriously discourse analysis as an analytical tool of deconstruction, while leaving space to understand testimony as a situated political act whose deconstruction has serious consequences.

In examining processes that promote participation by marginalised people, mainly through the use of testimony, this dissertation problematises the naturalised division between analytical and testimonial labour along the same lines of identity and privilege that divide many societies. A similar interrogation has been carried out by postcolonial and transnational feminists who observe researchers extracting testimonial or experiential knowledge from women in Global South contexts and theorising about it in the Northern academy. In this scenario, Southern

women are framed as figures widely described as “the native informant” (Spivak 1993, 1999, Visweswaran 1994, Narayan 1997, Kapur 2002). Human rights work does not map precisely onto the academic research that is the subject of these critiques, but transnational feminist analysis provides useful tools for critical research on human rights. Echoing Goodale, Richard Wilson calls for more sociological and anthropological approaches to the production of human rights knowledge, to examine the effects of the common experiential gap between survivors and those who listen (2009, 226). What mediations happen and why? Such a question is particularly important when considering the various national and local implications and identities of workers, in relation to dominant constructions of impartiality, credibility and objectivity. Further, studying these issues necessitates a methodological approach that does not take for granted the category or political unity of ‘women,’ but rather has the capacity to recognise complexities and how they relate to particular representational politics.

Hyun Sook Kim (2007) proposes some useful elements of a methodological approach for transnational feminist research. She writes that such research must be attentive to the need to bridge material and discursive analyses, and particularly the relation between representations and social inequalities. It should highlight the importance of social structures and the state, consider linkages across borders and treat “scale or geographic unit of analysis as historically and culturally contingent” (Kim, 118). Kim also stresses the role of empirical research in uncovering “cultural, material, structural and historical forces, which in turn shape social relations, hierarchies, identities and conflicts in distinct ways”(ibid). This ambitious agenda calls for feminist knowledge production that avoids pernicious universalisms by rooting itself in a particular historical and institutional context, without limiting its frame of reference or critique to this single space, as doing so can render invisible how the privileges of some are productive of the subjection of others. Elsewhere, Mohanty and Alexander have similarly called for research that is “location-specific but not necessarily location-bound” (2010, 27), underlining the ongoing importance of both sharing feminist knowledge and experience across borders, and retaining its specificity within ongoing relations of global inequality and exploitation.

In their recent volume on transnational feminist praxis, Swarr and Nagar write of the need for ongoing interrogation of the concepts and contexts that transnational feminist work intends to disrupt, including the dichotomies of academic/activist, individual and collective production of knowledge, and theory/method. They argue that this sort of interrogation can serve as:

a meaningful entry point from which to consider the relationships between local and global as well as to revisit the politics of authenticity, translation, and mediation with an explicit aim of extending ongoing conversations about the meanings and possibilities of transnational feminist engagements (2010, 2).

This continuously reflexive impulse illustrates the necessity of breaking apart common-sense categories and assumed roles in knowledge production. Across many fields, practices of denaturalisation have become useful tools to make visible those who are closer to the centre than the margins. Inherent in the refusal to take for granted now established categories of representation such as ‘sexual violence victim’ is an attempt to de-centre such categories in order to consider the conditions, and architects, of their production. Anti-racist feminisms and critical theories of whiteness have been helpful models in this respect (Hill Collins 1989, Frankenberg 1992, hooks 2000), in their explicit argument for turning the gaze away from the marginalised and onto those who still monopolise the production of knowledge about them. This body of theory, in addition to other ethical considerations, informed my methodological decision to structure my study around rights workers, rather than survivors of sexual violence.

Semi-structured interviews

This dissertation draws on eighteen interviews conducted between 2010 and 2012 with key participants in the CEH, REMHI and subsequent feminist or historical memory work, such as the Tribunal of Conscience in Guatemala City and related work by survivors and accompaniers. Basic profiles of participants are available in Appendix C. The interviews in this dissertation do not build an exhaustive account of these large and complicated processes, but they do provide some first-hand perspectives on a cross-section of different tasks that helps show some of the stages of knowledge production: work in REMHI and CEH headquarters and report-writing or coordination; training of workers; field work in various regions of the country and with different populations (e.g. urban, rural, refugees and returnees, military, ex-members of mandatory civil patrols (PAC), genocide survivors); liaising between work groups (such as historical and legal); women’s chapters or other report sections more specifically. They involve people who were working at several levels of responsibility in the processes and also draw out reflections on tasks performed by others (notably, translation work and exhumations). Other published sources and a range of studies that emerged at the ten-year mark provide more textual

support on historical, logistical and database work, as well as comparisons with other transitional justice processes (UNOPS 2000, ODHAG 2008, IW 2009, 2012).

The reflections of those in charge of such processes could be interesting, but I focused my interviewing on people at intermediate positions, rather than those at the top, such as the commissioners of the CEH, for example.¹⁷ Beyond the CEH and REMHI themselves, I consider of key importance accompanying processes or organisations, and those that emerged from the groundwork laid by these processes.¹⁸ In the marked absence of concerted state uptake, civil society organisations often have a very clear orientation around monitoring the implementation of the peace accords and the recommendations of the truth reports. In particular, feminists working against violence have crucial knowledge to share on the gendered imperatives for historical memory work and the ways these are linked to REMHI and CEH.

Though even this small summary is reductive, what interview participants have in common is part of the reason they were selected, and informs my analysis. I understand my interview participants in several ways, which I discuss below: as middle people, as key informants, as relatively privileged and as survivors and active rights defenders. Participants are mainly ‘intermediaries’—those whose work moves between different contexts and languages, who often “vernacularize” international discourse for various purposes (Merry 2006), and whose rights-based work is usually paid. Participants are mainly urban-dwelling, ladino or otherwise non-indigenous, and Spanish-speaking. Most are women, and most know each other either well or at least by reputation. They work in various capacities that range from more technocratic roles, such as in the United Nations Development Program (UNDP) or the International Centre for Transitional Justice (ICTJ), to academic work, to more explicitly politicised work as rights defenders, mainly in some of the prominent NGOs in Guatemalan civil society. Many had been public intellectuals or militants in social movements, whether or not they were also active

¹⁷This is partly because those in such positions often feel they are tasked with representing the entire process, which means towing the official line, and an aversion to serious public critique. Christian Tomuschat, head CEH commissioner, published some reflections in *Human Rights Quarterly* (2000) and his discussion was quite general. One published discussion from Otilia Lux de Cotí, one of the other commissioners, is similar, though she does assert that being a woman, she had to defend the need to focus on women and children throughout the tenure of the CEH: “there was resistance from some people as there were also those who saw the necessity of including this theme” (CONAVIGUA, ICCPG AND MOLOJ 2008; 257). The third commissioner, Alfredo Balsells Tojo, is deceased.

¹⁸Such as, but not limited to, ECAP, CALDH, AJR, MOLOJ, CONAVIGUA, FAFG, AHPN, UNAMG, ICCPG, MTM, and related work such as the Tribunal of Conscience and the different trials brought by survivors. Please see Appendix A for the full names of these organisations.

participants in the guerrilla during the war. This includes the non-Guatemalans I interviewed, all of whom had spent a considerable amount of their lives in Guatemala.

Participants come mainly from the same war-shadowed “long generation,” coming of age during the 1970s and 1980s and in many cases beginning their activist lives very young.¹⁹ Many have cycled through a similar list of organisations over the course of their careers. Most have been working steadily in these circles since the space was opened and some in more clandestine ways before that. This is partly why their discussions are useful at linking transitional justice processes and related longer term work in Guatemala, as well as tracking the persistent forms of urgency that drive this work. They are about evenly divided between those who had worked on the CEH, REMHI, or both, and those who have used these reports and their various legacies in their own rights work. Of those interviewed, several are American women with close ties to Guatemala, and several are Guatemalan men who work on human rights issues without specific attention to gender. Not all the women or men interviewed identify as feminists. Either way, participants tended to have a complex understanding of feminist debates and challenges, grounded in both local experience and various transnational exchanges.

I spoke with people who made time for me, and whom I could access through various networks in which I moved while in Guatemala, including through some initial contacts facilitated by my research supervisor and committee member Alison Crosby, and others I knew who are involved in activist work. I also cold-called some organisations or approached people after meeting at particular events (such as the Tribunal of Conscience). Some participants suggested I contact specific colleagues. I contacted more people than I interviewed, as a number of potential interviews became impracticable because of scheduling issues, and I decided against doing any interviews by phone or Skype.²⁰ Many times when I sought interviews or asked people about gender more casually, whether in relation to the CEH and REMHI or in relation to present-day activism, they recommended I speak to the same few women, especially Yolanda Aguilar and Luz Méndez. I began to think of them as ‘the usual suspects.’ It is abundantly clear that these individuals have accumulated a large amount of experience and expertise that deserves to be documented. But as I conducted this research, I noticed that people were still fairly comfortable

¹⁹ The ages of participants were not specified (in fact some people joked about their advancing age when reminiscing about their work in these 1990s processes). I imagine they span from their thirties to sixties, with many perhaps in their mid-forties at the time of the interviews.

²⁰ I decided that given the relatively limited amount of time we would spend talking, it was important to establish a good rapport, which is more difficult on the phone.

thinking about gender as the domain of a few specialists. This may take the pressure off the majority of rights defenders to examine their own implication in gender and other relations of power, to ‘call in the experts’ as needed rather than to understand the entire endeavour as gendered. Clearly such specialised knowledge and firsthand experience are indispensable. Such a tension between expertise and mainstream uptake (as well as the exhaustion it can produce) became one of the themes explored in multiple interviews, and contributed to the conceptual framework of urgency praxis in Chapter 6.

Interviews were conducted in an open-ended, semi-structured manner based around a loose set of questions that were geared towards people’s experience in the CEH or REMHI, their work as rights defenders, or both, depending on the person. The interviews had empirical and more conceptual objectives. For former workers in CEH or REMHI processes, I generally asked about how they got into the work, typical tasks or workdays, including the emotional context. I inquired about their memories of how gender was taken up in the processes, how this impacted them personally, as well as other questions about the legacy of truth-telling, and how they see these experiences impacting their lives and work in the present. For those involved in feminist and other rights organising, the interviews focused more on the development of feminist consciousness, how they came to activist work, their relationship to the Left, these truth and historical memory projects and more recent initiatives on sexual violence, as well as how they have used the REMHI and CEH in their ongoing work. I was also interested in how more mainstream organisations have changed to incorporate feminist and anti-racist critiques, and sometimes this became a practical discussion (about shifts from silo programming (e.g. women, youth, genocide survivors) to more holistic programming) while for others it was more theoretical (for example, discussing whether intersectionality was a useful theory or not). I asked both sets of participants about their views on historical memory in relation to rights discourse, how different actors understand the role of law in the struggle against gender violence, and about their strategies for coping with traumatic and threatening work, then and now.

As an interviewer, I wanted people to feel comfortable and in control, and in multiple cases I sent them detailed information about the project beforehand (such as a list of potential interview questions or a translated section of the project proposal). My efforts at not being intimidating were perhaps facilitated by my imperfect Spanish skills and my self-presentation as a researcher in training, willing to take cues from participants. I also frequently met with people

in a place of their choosing: an office, living room, café, or in one case, a car.²¹ I generally outlined the areas I was interested in covering at the beginning of interviews and then allowed participants to influence the direction of the interview. This often resulted in long periods where they narrated experiences and in which I listened, mirroring the life history model that is often used in feminist work in Guatemala. In other cases, interviews proceeded in a much more dialogical style, in which we discussed specific ideas or theories in detail. I made efforts to dialogue interviews with one another as they were carried out, for example by mentioning a particular position or experience recounted in another interview without naming the participant, or by asking multiple people about the same theme that had not been planned from the beginning but emerged clearly in earlier interviews. Though this is not a sample size that lends itself to easy comparison, these strategies have sometimes clarified or facilitated comparison between different people's accounts and views. Formal follow-up interviews were not envisioned in this project, in part because people working in this area are extremely busy and often also because we covered many bases in the initial interview.

Interviews were between one and four hours long. They were fully recorded in digital form, except in a few cases where I did not record certain discussions, as requested by individual participants. I transcribed all recorded interviews completely in the language in which they were originally performed. This arduous task no doubt extended the length of the project, but emerged from my commitment to accuracy and accountability to people whose words inform my work. However, there is a limit to the sort of trust that can be built in this relatively brief research relationship, and some things are still risky to say publicly. Since interview responses are frequently the product of negotiations or strategic decisions, rather than simply transparent revelations of the 'truth,' I have endeavoured not to present what was uttered in one moment as the articulation of an absolute fact or a timeless, enduring political position. The political situation in Guatemala has shifted fairly dramatically between the first interviews in 2010 and the completion of this dissertation. Some organisations have splintered or changed focus, and many people have embarked on new projects. At the same time, many said they were glad for the opportunity to reflect on their experience and the legacy of years (or often decades) of hard rights

²¹ That interview is punctuated by a ubiquitous turning signal and exasperated discussion of the impossibility of finding parking in the centre of Guatemala City. I mention it here because it illustrates the more general willingness of participants to make time for me, and to do a serious interview, even when extremely busy with their regular work.

defense work. It is my hope that, even if they draw on reflections in a moment already slipping away, these discussions help contribute to truth and historical memory work already underway.

Power and privilege

I have grappled with the issue of privilege in this project. Though I draw on many complementary forms of information and analysis, I conducted research as an outsider in a space featuring relationships and power dynamics whose nuances I could not pretend to fully understand. This is important to acknowledge both in my analysis of documents and particularly in interviews. The power dynamics inherent in work across social, national and professional boundaries can have a major effect on interview responses. Interpreting people's reflections in this context, and using a feminist framework as described above, has required continuous reflexive action on my part, with careful listening and as few assumptions as possible. Since this project aims to deconstruct and problematise the romanticised notion of the privileged advocate as liberator and facilitator of the speech of silent, oppressed others, I resist reproducing those dynamics in my work. Below, I outline several approaches that have been useful in this task.

The first is a negotiation between recognising that interview responses are not merely transparent revelations, and that at the same time, my political position within transnational power disparities is generally to respect these forms of opacity. I treat participants as individuals who have agency in the process, including the agency of withholding information or views from someone they did not know very well—for whatever reason. In this dissertation, I analyse particular constructs that emerge in multiple interviews, but the context of these interviews encouraged me towards taking claims at face value rather than performing a deeper discourse analysis of transcripts. Though interested in the role of emotion in human rights work, I have tried to refrain from psychoanalysing or over-reaching analytically from these interviews, which I am considering as key contributions within a much larger body of primary and secondary sources. I incorporate extensive direct quotations from interviews in the second half of the dissertation, and attempt to avoid speculating or taking people's words out of context. This approach best corresponds with my position on the possibilities and limits for transnational knowledge-sharing in the context of academic research, while still engaging in some form of empirical work. Rather than expecting transparency or “just the facts,” I acknowledge

participants' multiple motivations for structuring and limiting information into a narrative of their choosing.

Another approach that has been helpful in this project is to carefully avoid the overly mechanical application of intersectional analysis, so as to account not only for the ongoing privilege many enjoy based on class, race and linguistic identities, but also to consider the issue that many participants are also survivors—both 'direct' and 'indirect' victims, to use international terminology. The trickiness of this privilege/survival question expanded as some people I interviewed and others I knew peeled back layers of their own relation to the conflict and the struggle for truth and justice: multiple family members who were murdered or disappeared; participants themselves rape or torture survivors, or refugees after intolerable numbers of death threats or attacks; former members of the student movement and then the guerrilla, growing up as activists. On the whole, participants all presented themselves as workers, activists and professionals, rather than as victims. As multiple participants point out in relation to the truth-telling processes in Guatemala, drawing too definitive a line between victims and non-victims (as well as victims and perpetrators) masks the complexities of this and other post-conflict sites. Further, performing human rights-related and feminist work brings its own unrelenting fears and risks. I wanted to create space in this project for such risks and struggles to be recognised, without minimising other struggles for survival that are often the focus of rights defenders' everyday work.

When I performed interviews, people often assumed I already knew a significant amount about their past and their experiences. In many cases this was true, but not always, and they usually knew less about me. When I meet someone knowing details of their past experiences in war, and they sometimes know next to nothing about me or whether I will do justice to their words, this implies a serious imbalance. It highlights the swing such people must effect between public and private pain—the contradictions of clandestinity, the sometimes hyper-public nature of abuses and their denunciation, and the private forms of suffering and recovery in which many engage, out of the spotlight.

In addition to the above negotiations with power in the research relationship, I have endeavoured to draw from interview participants as analytical resources, rather than just employing interview transcripts as collections of facts that validate a hypothesis, or as unassailable 'authentic' testimony from Southern Others. One of the enduring legacies of the

Guatemalan conflict was the decimation of intellectuals as a class, and the criminalisation of intellectual and political thought that deviated from the official position. I consider all of these participants ‘key informants,’ in that they were involved with social movements or rights work for a long time and have a huge wealth of knowledge to share. Their knowledge and contributions are multi-faceted. Getting straight certain facts or sequences of events is important, but I also relished these interviews as intellectual discussions, and often as theoretical interventions. This approach is loosely informed by grounded theory practitioners who encourage researchers to draw theory out of data rather than force data to fit into previously established theoretical categories (Charmaz 2006). As discussed above, it also derives from the political agenda of postcolonial and transnational feminisms, which insists that people in the Global South are knowledge producers and theorists, turning the conventional, extractive field research model around (Narayan 1997, Alexander 2005). As an epistemic question, this suggests the need to problematise not just the notion that my own interviews are transparent, voluntary revelations, but to also apply a parallel critique to the relationship between these workers and those who provided witness testimony in the processes I examine.

In general, despite the obvious privileges enjoyed by my interview participants, which they readily acknowledge, I feel it is too easy to call everyone ‘elites’ in the sense used elsewhere in the incisive critical anthropological work by Sally Engle Merry (2006) and Kamari Clarke (2009, 2010). Though it is likely not limited to Guatemala, the power dynamic in which these Guatemalan workers and rights defenders find themselves—nationally privileged, and also routinely threatened²²—is not often described in otherwise relevant research on human rights work. This is a dynamic well-understood in Guatemala, but not limited to the local context. These are decidedly transnational spaces, and examining them as such could nuance theory on transnational human rights work and transitional justice. In one important example, in Chapters 5 and 6 I illustrate practices of deferral of self that might be interpreted as feeding a self-sacrificing ‘savior’ identity, the kind of subject formation long critiqued by transnational feminists

²² These threats have a gendered dimension both in terms of how they target women differently from men in rights work in general, and how they target women’s rights defenders specifically because of the work they are doing. Some of these issues emerge in interviews. The broad issue is documented in AWID’s ongoing set of reports, <http://www.awid.org/AWID-s-Publications/Women-Human-Rights-Defenders> especially the Mesoamerica-focused coalition which includes participants from Guatemalan organisations: <http://www.awid.org/Library/Violence-Against-Women-Human-Rights-Defenders-in-Mesoamerica-An-assessment-in-progress-2010-2011-Update> Throughout this dissertation, I occasionally cite materials available primarily online. In all cases, I also retain hard copies of these materials in the event that URLs change in the future.

(Mohanty 1984). Yet in this case, one alternative interpretation is that non-indigenous Guatemalans often put aside their own experiences of victimisation in this work, in an expression of their deeply felt solidarity across difference.

Many people's memories faltered around certain facts, dates or experiences. Some told me stories about other participants, who when I spoke to them revealed a contrasting set of information and reflections. A few were understandably cynical about my motives or about feminism, and others likely wanted to get something off their chests about other activists or about institutions like the UN or ODHAG. As key informants, their information was invaluable but just as the CEH and REMHI did with witness testimony, so I read and conversed widely about these areas in order to corroborate, contextualise and deepen my understanding of interview and report material. My own interpretation of materials was not only limited but also facilitated by my relative privilege and outsider status. As Yolanda Aguilar wryly told me while encouraging me to circulate the results of this study in Guatemala, (still rare as a research outcome):

Guatemalans [...] we have the impression of talking and talking a lot, but we don't write ourselves. And I assure you, you all know more [...] than the people of Guatemala know about what we've done here (Aguilar 2010).

People in such public or professional positions are often asked for interviews by researchers and some made clear to me their critical views on the sort of research that draws contributions out of the South, never to return. I received different requests about the results of the research, which I have respected and will continue to respect moving forward.²³ It is my hope that this project does justice to the experiences and analyses of participants featured in the following chapters. I turn now to the dissertation itself, and its broader goals of building feminist historical memory and expanding the transformative possibilities for knowledge production in this work.

²³ The most common request was for some form of executive summary of the dissertation research in Spanish, something I will complete after defending the dissertation. Other requests included receiving a copy of the full transcript of the interview, and being able to review the dissertation in draft form. I treated requests for anonymity in a similar, individualised fashion, as some participants were happy to have their names in the research and others were wary of this possibility. Perhaps not incidentally, given its re-emergence as evidence in recent genocide cases, all those who wished to participate anonymously were ex-CEH workers.

Chapter 2: Contradictions of gendered visibility in transitional justice

Space-opening, participatory rhetoric and patriarchal containment

In this chapter, I first outline some of the contours of the field of transitional justice, focusing on the field's increasing reliance on legal positivism, and then exploring its relationship to sexual violence visibilisation projects in international law that were developing over the same time frame. Early advances around gender violence, in iconic sites such as the International Criminal Tribunal for the Former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) or in truth commissions of the 1990s, often had a disappointing impact on the ground for the majority of survivors. This drew more feminists to work towards an increasingly comprehensive program of reparations and to push for 'victim-centered' measures, developing into a more consolidated critique starting with the establishment of the International Criminal Court (ICC) Charter in 1998 and the ICC itself in 2001.²⁴ Though they succeeded in incorporating women as subjects of rights into international legal regimes, feminist strategies of visibilisation in this era most often mobilised already recognisable frameworks in which women were understood as helpless, embodied victims. As I argue in this chapter, this was important as a space-opening strategy but has not guaranteed continuing transformation of the still patriarchal and colonial international legal regime. It has also unwittingly contributed to the deepening of the victim category and its depoliticising potential, at the expense of other more complex forms of subjectivity and agency that potentially lend themselves to more radical political projects.

Drawing on a range of critical feminist literature, this chapter challenges the notion that exposure and visibility have been adequate approaches to gendered harms in transitional justice, arguing that they can easily be co-opted by patriarchal containment practices already in use in the field. Explored here with reference to the emergence of the category of 'rape' in the 1990s International Criminal Tribunals (ICTs) or Ad-Hoc Tribunals and concomitant approaches of 'victim-centeredness' in transitional justice, this discussion highlights the need for attention to discursive analyses and methodologies in this field, as a complement to the positivist empiricism that predominates. One of the main methods of women's and human rights work involves making visible the formerly invisible, or 'breaking the silence,' which is frequently framed as an

²⁴ For useful documentation from this period, see the monitoring and training work of the ICC Women group, also known as Women for International Gender Justice (WIGJ): www.iccwomen.org.

oppositional act, despite the increasing incorporation of human rights into the machinery of neoliberal governance and discipline. Thus, it is important to consider the paradoxes and ongoing blind-spots of such incorporation, without undermining the work they do in supporting various forms of justice for victims and survivors.²⁵

This chapter introduces several conceptual approaches that will support my analysis in the remainder of the dissertation. One tool is Wendy Hesford's notion of "spectacular rhetoric" (Hesford 2011). As a contribution to broader discussions among transnational feminists, Hesford uses this concept to describe how dominant representations of feminist advances in human rights favour spectacles of sexualised trauma at the individual level, while sidelining the material violences that are implicated in sustaining global relations of inequality at the structural level. The resulting hypervisibility of sexual violation often becomes the only visibility of women, an issue of concern throughout this dissertation and of particular interest in my analysis of the CEH and REMHI reports in Chapter 3.

Despite this pattern of hypervisibility, I argue that women do not only appear in the new international legal landscape as rape victims, but also more broadly as the bulk of participants in post-war processes such as truth commissions. Thus, a related discourse emerges which I call "participatory rhetoric." Both rhetorical formulations of spectacular and participatory rhetoric draw on the symbolic power of women speaking out in public about private harms. I argue that the spectacle of women's speech is not only significant because women are revealing their trauma in acceptable scripts, but also because they are understood to be doing so willingly, exercising their rights as full citizens, liberated from shame and fear by the court or truth commission in question. Because such processes frequently frame their goals as part of larger processes of development, modernisation and progress, women's agency as participants can come to symbolise the success of these bodies. Indeed, some argue that women's speech about violation has quickly passed from needing the authorisation of the process in question in order to become intelligible as speech, to working as a mark of authorisation for such processes, without

²⁵Janet Halley articulates this problem in her "Taking a Break from Feminism" when she calls the international legal feminist project a component of 'governance feminism' (Halley 2006); see also discussion in O'Rourke (2011). Anne Orford writes that it is crucial to "think through the ethical issues involved in developing a feminist reading of international law," and highlights the dangers of the particularly imperialistic ways in which "feminist legal theory is invited to participate in the project of constituting women and the international community" (2002, 275).

which the full ‘truth’ cannot be known (Al-kassim 2008). However, silence-breaking itself cannot continue to be seen as the achievement of ‘truth’ or ‘justice.’

Rights theorist Anne Cubilié writes that survivors and witnesses are inherently threatening—both to states and to humanitarian bodies—because they challenge “the notion that law is not inextricably bound to the violences that human rights seeks to mitigate” (2005, 21; see also Edkins 2003). Yet this chapter shows how in adopting such frames of spectacle and participation, transitional justice processes can contain and neutralise the threat posed by survivors to the status quo, appearing to take a progressive stance on women’s rights, without destabilising nascent nation-building and neoliberal projects. As tropes of transitional justice success, both spectacular and participatory rhetoric can serve to mask the continuities of violence in the lives of sexual violence survivors, as well as the lack of material restitution for victims of mass atrocities, whether sexual or other forms of violence. Developments in Guatemala and other sites since the 1990s illustrate the gradual widening of public discourse from articulations of shock and pity, to calls for justice and accountability for rape and sexual violence. Though both approaches continue to co-exist simultaneously, the shift is partly attributable to the greater participation of survivors themselves, not only in providing testimony (or ‘data’) but also in deciding how and why to organise, make demands and continue to insist on the contemporary relevance of the past. Here I argue that the mere participation of women is distinct from the meaningful agenda-setting that happens when survivors are not relegated to particular testimonial positions. In approaching the larger shifts taking place around gender violence worldwide, this chapter provides context for related discussions in the rest of the dissertation, which will illustrate many of these tensions in the context of Guatemalan truth-telling and historical memory projects.

Transitional justice: Legal and historical approaches

Transitional justice is a rapidly developing field that seeks to bring together academic and practitioner approaches to post-conflict and post-authoritarian settings considered to be ‘transitioning’ towards democracy. This field includes the study of truth commissions, international criminal justice, human rights movements, post-authoritarian democratisation and reparations (for general reference, see Teitel 2000, Hayner 2002, De Greiff 2006). It emerged as a field in the late 1980s and early 1990s as an outgrowth of human rights movements and legal

responses to calls for accountability for authoritarianism and atrocity. The rapid expansion of a transitional justice discourse, represented most often in the iconic form of the truth commission, was at first seen by many as a trade-off where ‘justice’ was relinquished for ‘truth,’ institution-building and stability (Minow 1998, Rotberg and Thomson 2001, Hayner 2002). Thus truth commissions were sometimes preferred by regimes that perceived them as ‘softer’ than the hard law of criminal tribunals, while imitating some of the main procedural aspects of law, such as hearings featuring public testimony. The truth commission has frequently represented both a compromise and a space that could be continuously re-invented in new sites, depending on the local context, conflict and political actors. Thus the relative ‘toothlessness’ of truth commissions has varied; while some have been critiqued for their lack of ‘hard’ subpoena powers or the power to grant amnesty, others have been critiqued for having too much power, essentially setting up a parallel state (Hayner 2002, Clarke 2009). One discourse that has tended to travel hand in hand with ‘truth’ was the notion that such pseudo-legal processes would facilitate national ‘reconciliation.’ Such discourses often took for granted the idea that the nation was like a person, in that it had a psyche that could be ‘healed’ (Hamber 2002, Wilson 2003, Corntassel and Holder 2008, Zolkos 2012). Within this symbolic arrangement, giving and receiving testimony functioned as the main vehicle for such healing to take place. While sometimes a starting point for more profound collective healing and reconciliation work, in practice truth commissions have frequently supported the re-consolidation of discourses of national identity and unity that are usually implicated in gender, ethnic and class violence. As discussed in the chapters that follow, critics continue to debate the utility of such performative processes in contexts ravaged by war and insecurity.

Since its inception, transitional justice has been a relatively dynamic area, building theory through practice and sharing lessons learned across different projects (including by feminists). However, orthodoxies emerged rapidly, especially around preferred tools, discourses and model cases, without substantial support from empirical data. After a period of relative experimentation and triumphalism, a body of more critical scholarship has developed, in part based on the availability of more research about court and truth commission processes and their impact across multiple sites, but also emerging from questions about how to interpret the data across such a diverse terrain (see for example McEvoy and MacGregor 2008, Baxter, Chapman and Van der Merwe 2009). Such a move from exception or experiment to triumph to critique can also be

observed across feminist assessments of developments in these areas (Askin 1997, 2001, Ross 2003a, Brouwer 2006, Rubio-Marín et al, 2006, 2009, McGlynn and Munro 2010). A detailed review of trans-disciplinary literature on truth commissions, transitional justice and reparations exceeds the bounds of this chapter, but I draw on as much of this literature as possible to outline some of the critiques that have emerged in the past ten years and which inform the direction of my research.

Despite being scattered across many disciplines, much of the field of transitional justice has been steeped in legal frameworks. In her historically-focused article, Paige Arthur traces the meanings of the term ‘transition’ from a socialist framework into an era where the transition from authoritarianism to liberal democracy became its taken for granted meaning (Arthur 2009). Arthur notes that as the main issues in transitional justice became framed in increasingly legal terminology, the field that aimed to come to terms with the past ironically bracketed historical analysis outside of its borders.²⁶ This is perhaps not surprising in a field that developed within the shifting landscape and liberalising agenda of universal human rights in the post-cold-war era. Such universalising tendencies resonated with the liberal political science approaches of the time, notably Francis Fukuyama’s wildly premature claim that liberal democracy represented “the End of History”(1992).

In many sites, legalism seemed to be a natural progression for those doing human rights work, many of whom shaped the early transitional justice agendas in ways that led to a rapid eclipsing of historical approaches for the more unified and at times universalistic ones favoured in law and mainstream political science.²⁷ Historian Greg Grandin writes that in the context of the early Latin American transitions, the first truth commissions skirted around the historical roots of the conflicts in question:

being largely run by lawyers, they were concerned that too close an attention to realms of human activity comfortably associated with historical inquiry—an examination, say, of economic interests and collective movements, or the unequal distribution of power in society—might grant moral pardons or inflame passions. In most truth commissions, history was not presented as a network of causal social and cultural relations but rather as

²⁶ For a key example, see the ambitious three-volume foundational texts on transitional justice edited by Neil Kritz, 1995.

²⁷ For a useful example of how this approach evolved over several decades, see the biography of Argentinean human rights lawyer and former political prisoner Juan Méndez (2011). This legal universalism frequently contrasts with the strategies taken up in Guatemalan historical memory processes; although a strong legal agenda has developed since the 1990s, its reliance on historical analysis is notable. See more discussion of Greg Grandin’s work (2011) in Chapters 3 and 5 of this dissertation.

a dark backdrop on which to contrast the light of tolerance and self-restraint. In other words, truth commissions, by presenting an interpretation of history as parable rather than as politics, largely denied the conditions that brought them into being. In Latin America, this meant portraying terror not as an extension of a reactive campaign against social-democratic nationalist projects, nor as an essential element in the consolidation of a new neoliberal order, but as a breakdown of social relations, as but one more instance in a repetitive cycle of “interruptions in democratic rule” that had taken place since independence in the early nineteenth century. As such, truth commissions serve as modern-day instruments in the creation of nationalism and embody what Benedict Anderson describes as nationalism’s enabling paradox: the need to forget acts of violence central to state formation that can never be forgotten (Grandin 2011, 37-38).²⁸

However, others defend the field’s continued focus on law. Christine Bell (2009) provides a useful primer on the legalist perspective in this context, arguing against conceiving of transitional justice as a “praxis-based interdisciplinary field” (5), instead viewing such approaches as “colonising law” (21). Her argument supports a relatively narrow interpretation of transitional justice, a reassertion of a position that has long produced debates about the utility and limits of law in the wake of mass atrocity. Many critiques of such narrowness have focused on the individualising nature of human rights discourse and legal processes (Mamdani 2000, Ross 2003a), the conventional separation of law from economics (or political from economic and social rights), and the relationship between transitional justice mechanisms and development (Guillerot 2006, Miller 2008, McEvoy and McGregor 2008). Others discuss the poor fit of Northern models of justice and neoliberal ‘progress’ in diverse Southern contexts (Nowrojee 2005, Nagy 2008, Benson, Fischer and Thomas 2008, Clarke 2009) as well as delineating the politics of representation, testimony and expertise that reproduce rather than expose or challenge existing social hierarchies (Lindsey 2002, January 2008, Henry 2009, 2011, Hesford 2011).

Progress narratives and fetishizing the rule of law

A number of critical scholars have explored the ways in which legalism operates in this field. In her discussion of the conflicting goals of transitional justice, Leebaw notes a departure from the 1980s and early 90s which “focused on tensions, trade-offs and dilemmas associated with transitional justice” (2008, 98) and had often been framed as a softer, pseudo-legal approach favouring impunity as a pathway to stability. While many interpret this departure as evidence

²⁸ On the consequences of concealing or mystifying the foundational violence of law see Derrida 1992, in dialogue with Walter Benjamin’s earlier theoretical classic, “Critique of Violence.” Benjamin 1986. See also Brown 1995.

that the field has matured and overcome some of its growing pains, she argues instead that newer approaches, whether focused on rule of law or reconciliation, instead make achievements in the field “more difficult to evaluate to the extent that they have re-conceptualized the goals of transitional justice in apolitical terms” (Leebaw 2008, 98).

This depoliticisation is likely aided by what Rosemary Nagy calls a “one-size-fits-all” model of intervention (2008), with substantially similar commissions, mandates, methodologies and human rights language proffered by international bodies in vastly different historical, social and political settings. As the field developed, passing on “lessons learned” (through conferences, articles, and consultations) has ostensibly helped those involved in newer processes to reproduce the successful aspects of their predecessors while avoiding their errors and pitfalls.²⁹ Processes like truth commissions tend to be operating with limited resources and on a tight timeline, often with a majority of staff who have never participated in such an initiative, and such input seems to be welcome in many cases. A parallel pattern is evident in the international legal sphere, in that as more law becomes codified, legal expertise (and precedents) are passed between different contexts and jurisdictions.

However, Zinaida Miller cautions that such lessons learned can also signal “the transfer of ideological preoccupations that underpin the seemingly neutral discourse of the project” of transitional justice (2008, 271). Various authors have noted the professionalisation of such work over time, for example with the establishment of the New York based International Centre for Transitional Justice (ICTJ), and the phenomenon of experts who move from location to location. Miller claims that shared blindnesses about the relative success or failure of initiatives can be passed on unintentionally, as experts perpetuate “not a conspiracy of interests but a coherence of blindness,” (271-2). As Nagy puts it, this dynamic can serve to channel or streamline the “horizon of options” for those working through a transition (2008, 5), resulting in a narrow and dogmatic approach to transitional justice practice.

Leebaw illustrates that recognition of the limits of the one-size model of transition was already emerging in the mid-1990s, as advocates identified many of the dilemmas of transitional justice as being “based on false dichotomies and limited thinking about the range of forms that

²⁹ See for example the piece published in *Human Rights Quarterly* that discussed a larger process of information sharing among workers from the South African TRC and Guatemalan CEH in 2003. Each participant prepared a discussion paper on the lessons they thought relevant and the whole group met to put together a broader document. (Freeman and Quinn 2003). Though there were many interesting observations, there was no substantial discussion about gender in this article, despite early innovations in both Commissions.

transitional justice might take” (2008, 102; see also Mariezcurrena and Roht-Arriaza 2006). Alternative approaches like hybrid tribunals, interim reparations programs and women’s hearings have proliferated, and Leebaw notes that truth commissions were becoming increasingly acceptable as a viable option, despite their perceived softness in relation to law. Yet certain narratives of progress and ‘best practices’ have persisted in ways that a range of critical scholars identify as problematic.³⁰

In her analysis, Miller indicates that at the root of such progress narratives is a “fetishization of familiar terms, tropes and debates” which can produce a sort of “scholarly inertia” (2008, 275). In her interpretation,

each trope stands in for an aspect of the liberal project: justice represents the struggle for a ‘depoliticized’, trustworthy rule of law; truth represents the rights of victims to tell their stories and thus to ‘democratize history’[...]; and reconciliation represents the aspiration to a newly united citizenry in the post-conflict state (ibid).

Here Miller explicitly links the conceptual frames of statist liberalism with the global project of transitional justice. She adds that through the ‘lessons learned’ form of information-sharing and technical expertise, “deeper challenges to the state-building project potentially disappear,” and that “questions of inequality and structural violence are lost in the process of reconfiguring familiar debates” (ibid), despite the fact that such structural violence is often central to the cause of the conflicts in question (see also Clarke 2009). Paige Arthur’s analysis also supports such an assessment, noting that the rise of transitional justice as a coherent field coincides with the spectacular failure of state-based socialism, the decimation of the militant left across much of Latin America, and increased pressure on developing and transitional economies to fall in line with neoliberal models (Arthur 2009; see also Levya Solano and Speed 2008).³¹ Further, a neoliberal consensus about the non-viability of economic rights claims was emerging at the

³⁰Priscilla Hayner, author of an influential comparative study on truth commissions, indicates her continued surprise at how “comfortable assumptions have been restated over and again in untested assertions by otherwise astute and careful writers, thinkers and political leaders” (2002, 6). Hayner raises as examples the notion that truth leads to reconciliation, and that digging up painful memories is “cathartic” (ibid), both pervasive in the well-known South African TRC. As Hayner’s research attests, the subsequent critiques of these positions within South Africa are often less well-known.

³¹ This does not mean the erasure of ‘the economic’ went uncontested, and activists on the ground in many sites did not give up on their demands for redistribution as a part of ‘transitional justice.’ After a period more focused on issues of ‘recognition,’ the issue of ‘the economic’ or redistribution has re-emerged in the English-language scholarly literature on transition, but not until the late 2000s, and then still often framed by the problematic of how to distinguish reparations from development assistance. See for example the *International Journal of Transitional Justice* special issue on transitional justice and development, 2008.

precise moment when women's rights became visible and intelligible as human rights. Not incidentally, these did not develop through the register of women's socio-economic or citizenship rights, but primarily through that of the sexualised rape victim (Hesford 2011).

An increasing number of critics argue that the emergence of the 'rule of law' as a focus for transitional processes has played a major role in perpetuating some of the patterns discussed above, especially when experienced as what Ní Aoláin and Hamilton have labelled "rule of law proselytizing" (2009, 381) and marginalising more local discourses framed by other logics, such as historical memory.³² It has been critiqued not only by critical transitional justice scholars but also those in governments and civil societies involved in contentious relations with emergent international legal bodies such as the ICTY, ICTR and ICC. Leebaw writes that earlier optimism around the potential for an international triumph against impunity rested on several problematic assumptions—first, that international law and its institutions "would be widely accepted as legitimate and neutral" and second, that such institutions "would easily establish independence from local elites"(2008, 103). Challenges to the legitimacy of ICTs and related bodies can be based on various rationales, which can make strange bedfellows. Powerful members of militaries and oligarchies object because they risk imprisonment. Prominent human rights lawyer and ex-political prisoner Juan Méndez highlights the complexity of these issues as faced by the Inter-American Court of Human Rights (IACHR) in the heyday of Latin American dictatorships (2011, 99-107). But others also resist. Leebaw notes that ordinary people in Rwanda and the Former Yugoslavia challenged the local legitimacy of international law and ICTs, based on concerns about paternalism and a loss of sovereignty (2008, 104), and Kamari Clarke cites similar concerns around the ICC's interventionist stance in Uganda (2009, 89-116).

Further, many remain uneasy about the proliferation of international legal regimes because in their view, one of law's principal foundations is colonialism. A dissident school of thought often referred to as TWAIL (Third world approaches to international law) advances a critique of the liberal presumptions of law's neutrality and of the false consensus about its jurisdiction, especially over the global south where many see the expansion of international legal regimes as a present-day form of exploitation and institutionalisation of unequal power relations

³²See especially Matilde González' work on local history in Guatemala as a pathway to preserving historical memory and achieving transitional justice (with AVANCSO, 2002; 2009).

(Anghie and Chimni 2003, Okafor 2005, Chimni 2006, Clarke 2009).³³ In the context of debates over local appropriateness and legitimacy, narratives about the success of particular initiatives and approaches are facing more scrutiny as time passes, reconciliation is fleeting, and the underlying inequalities that contributed to the conflicts remain. For Baxter, Chapman and Van der Merwe, the key to assessing the effectiveness of transitional measures is to go beyond how such processes contend immediately with the violent past, to examine how they fare in building institutions, policies and practices that will enable the embryonic democracy to deal with emerging and potential patterns of social conflict and violence. Amid all the change taking place, the harsh reality is that frequently too much stays the same, including the structural underpinnings of violence, the experiences of marginalization and racial or ethnic exclusion, and popular attitudes toward “the other” in historically divided societies (Baxter et al., 2009, 5).

Such institution-building can depend immensely on local political conditions. A range of scholars now argue for more empirical research in various areas of transitional justice, in order to more clearly separate ideology from experience. In other words, they refuse to take for granted that the models proffered by experts have resulted in successful outcomes in various sites around the world, or at least, that what worked in one place will automatically work somewhere else with distinctive cultural, historical and socio-economic features.³⁴ At the other end of the spectrum, however, it is possible to feel that a process was too unique for its lessons to be useful to people with similar goals elsewhere. Workers often feel that bodies such as truth commissions are a one-shot deal with a steep but finite learning curve, and detailed evaluation work can sometimes be truncated in favour of other more pressing follow-up projects.

My interviews with former workers from Guatemalan truth-telling processes indicate that it is not always clear which lessons were learned until much later, outside of the heat or exhaustion of the moment, and over time, many have shifted how they feel about the outcomes of these processes substantially. As a result, many in this field are articulating the need to

³³ Many who use these approaches discuss colonial structures of power without focusing on gender as an interconstituting component. On the other hand, much mainstream feminist work displays total inattention to the colonial and imperial aims and legacies of international law (as described and critiqued in Orford 2002, Kapur 2002, Engle 2004, Halley 2006). The predominance of a liberal feminist analysis can perpetuate the impression that well-intended, pragmatic and technical work is the best feminist analysis has to offer to those seeking justice and reparations, despite the wealth of other possible approaches to such questions.

³⁴On empiricism, see especially Mendeloff (2004), Rubio-Marín (2006) and contributors to Baxter, Chapman and Van der Merwe’s edited collection (2009). In my view, this goes especially for the much hyped and also very fraught terrain of debate about the benefits or harms of a feminist focus on trials and courtroom justice, as discussed in more detail below.

continue looking both backwards and forwards. Those with firsthand experience note how difficult such a dual movement is in the immediate aftermath of conflict. Work in a range of truth-telling endeavours is overshadowed by the feeling of urgency and the desire not to miss fleeting windows of opportunity (Hayner 2002). Comparative work in this area must thus ride the line between generalisability and uniqueness, legal universalism and historical particularity. Such positioning is not easy, but is familiar terrain for feminists working in multi-cultural and transnational anti-violence work. Below I discuss some of the fault lines in feminist approaches to sexual violence, law and transitional justice.

Gender, sexual violence and law: Critical divides

Feminists have long been split on how best to approach the issue of sexual and gender-based violence. One major conflict that has emerged in many national settings since the North American second-wave addresses women's different relationships with and access to law, which operates within a predominantly liberal paradigm. In the context of historical neglect, misogyny and invisibility, North American and European feminists spearheaded major legal reform projects on sexual and gender-based violence between the 1970s and the 1990s. These reforms were often bittersweet, as police have continued to under-charge sexual crimes, defense lawyers learn how to circumnavigate the law, and recalcitrant judges continue to make rulings that uphold oppressive attitudes about "provocation," rapeability and consent (Gotell 2010, Johnson and Dawson 2011, Sheehy 2012).

In her classic article Carol Smart cites the context-poor approach of law as one major obstacle for women seeking justice in the courtroom. Legal frameworks generally rely on abstraction and universalism, and on experts such as lawyers peeling off the extraneous information from a claimant's story—the "chaff," in Smart's words—and retaining only what is relevant to a case (Smart 1991, 198-199). North American and Western legal frameworks are based on a Lockean notion of the abstract, disembodied and autonomous individual, a framework that has historically supported a division of public and private spheres of activity, the privatisation of sex (including sexual violence) and patriarchal control over women (ibid; see also Mohanram 1999). This liberal framework has long supported the close association between women and their bodies (Schiebinger 1989, Grosz 1994), along with the assumption that the primary way in which women are 'different' from the masculine/universal norm is through 'sex.'

This approach often results in strategies of containment, where the ‘difference’ of women is routinely partitioned off from the norm as exceptional or ‘special’ cases. Sexual violence has become one of the paradigmatic sites where women’s supposed difference can be articulated in such a framework, and as a consequence the norm remains intact, while other also “gendered” experiences are less intelligible.

As Foucault (1990) and Butler (1993) have argued, the power of law is not only regulatory but also enunciative: its categories and proscriptions bring specific subjects into being and marginalise others. Radical feminists have long argued that when rape and sexual assault claims enter the public sphere, victim-survivors must negotiate with powerful oppositional discourses about women that help to keep hegemonic social structures intact (Dworkin 1981, MacKinnon 2006, Johnson and Dawson 2011). These analyses show how discourses of victimhood draw on restrictive constructs of femininity: the sexually pure and “innocent” virgin who can be saved by patriarchal forces, and the sexually deviant and thus “deserving” whore whose refusal of male control leads to abjection and punishment, thus securing the respectability of “good” women. Victims who can be saved resonate strongly with colonial rescue narratives, which rely on racialised notions of activity and passivity, and attendant constructions of political or apolitical subjectivity (Mohanty 1984, Spivak 1988, Narayan 1997). Attempting to frame oneself outside of dominant binaries of respectability tends to be a difficult and frustrating endeavour, partly because the abstract, rational individual is such a poor fit for embodied, complicated and specific women, and also because any type of agency (whether sexual or not) is often inappropriate behaviour for women who are supposed to be following a patriarchal script (Marcus 1992, Mardorossian 2002). Legal definitions of sexual violence tend to be more intelligible to the mainstream when framed in terms of penetration and contract, rather than those more closely reflective of widely shared experiences of coercion and force, and when they are articulated as a simple issue of gender difference, rather than one that carries classed and racialised meanings as well.

Thus many women find their assaults naturalised, eroticized or denied, and have focused their critiques of law on its tendency to individualise and isolate from one another structural problems such as patriarchy, racism, classism, homophobia and disability (Crenshaw 1991, Razack 2002, Cabal and Motta 2005). Because legal advances around domestic violence have tended to be implemented without equal attention to their impacts on those who are most heavily

policed, blanket criminalisation is not an approach supported by all feminists. A key critical position has developed among anti-racist feminists in North America, who oppose the criminalisation model because it is supportive of the racist prison-industrial complex and of coercive forms of state control over the private lives of women of colour and their families (Davis and Shaylor 2001, Sudbury 2004, Smith 2005, INCITE 2006, Bumiller 2008). Without dismissing the need to grapple with gender violence, they provide a radically different template from legal feminist analyses in refusing to legitimise the repressive arm of the heteropatriarchal, colonial and capitalist state.

Gender in transitional justice

The international response to the armed conflicts in the former Yugoslavia and Rwanda heralded a new era for the recognition of women's human rights. A direct result of feminist organising at the international level, key developments on sexual violence in international law have meant more explicit recognition for harms to women in conflict situations that had previously been overlooked and downplayed. Some major developments include the prosecution of rape as genocide in the *Akayesu*³⁵ case at the ICTR, securing the legal status of rape as a stand-alone crime against humanity in the charter of the International Criminal Court (ICC), and the influence that these moves have had on other charters as precedent, for example the Special Court in Sierra Leone (Staggs Kelsall and Stepakoff 2007, Oosterveld 2008). These developments are important particularly because they insist on state responsibility for the use of systematic sexual violence as a tactic of war, rather than continuing to understand such acts in individualised and privatised frameworks. Further, the development of the ICC was an unprecedented and exciting event for those who have been waiting for a comprehensive approach to human rights violations and crimes against humanity to take shape (Chinkin and Charlesworth 2000, Brouwer 2005, Quéniévet 2005).

In International Humanitarian Law (IHL) prior to these advances, wartime sexual violence had been visible mainly in relation to “special protections” of civilians or non-combatants, and was often referred to euphemistically, as was the case at the Nuremberg Tribunal (Chinkin and Charlesworth 2000, 314; Gardam and Jarvis 2001, 62). In the twentieth century, the nature of warfare shifted, moving from mainly military to mainly civilian casualties,

³⁵Prosecutor v Jean-Paul Akayesu (Judgment) ICTR-96-4-T (September 2 1998); hereafter cited as *Akayesu*.

which means the proportion of women casualties increased immeasurably. However, the assumption that what Cynthia Enloe has called “lootpillaging and rape” is a natural part of war remains resilient (Enloe 2000, 108)—in other words, sexual violence continues to be perceived as “collateral damage” (Gardam and Jarvis 2001, 23). Often subject to paternalistic approaches, feminists of many stripes claim that sexual violence has not been well understood or integrated into IHL. Links between women and victimhood remain strong, providing a foil for the ‘rational actor’ of liberalism. An interesting parallel can be observed between the notion of the ideal, sovereign state (impenetrable, autonomous) and the sovereign individual, to which women already have limited access in such scripts. Thus, as in many domestic systems, in IHL women’s claims are generally expected to fit into existing patriarchal, classed and racialised discourses of victimhood, such as passivity, shame, hysteria or immorality, in order to become intelligible.

The different degrees of feminist skepticism about law have never been reconciled. However, as outlined by Karen Engle (2005), many of these philosophical differences were temporarily put aside as a broader consensus developed around an agenda of basic visibilisation in international law in the 1990s. Where formerly sexual violence was naturalised and considered collateral damage of the chaos of war, now it was to be named a violation on par with other violations of human rights, and at least at a statutory level, punishable by stiff penalties. The frequent celebratory listing of advances from this era communicates both the urgency of the moment and the sense that a paradigm shift had finally occurred. But as at the domestic level, assuming that formal progress constitutes change for the majority of women effects a slippage between the formal accomplishments on the books, and the substantive or material experience of women who are seeking justice and redress. This lack of correspondence between symbolic and material gains is mirrored in the wider project of transitional justice more generally. As many feminists argue, feminist legal reform aims to create the conditions for women’s equality, but it would be a mistake to allow legal and transitional bodies legitimacy as purveyors of gender-justice, while failing to hold them accountable for the lofty ideals they now espouse about women and gender. The disconnect between formal and substantive equality is well-known and documented in a range of feminist literature (Cornell 1998, Jackman and Porter 1999, Walker 2009, Rubio-Marín 2009, Rimmer 2010). But as with transitional justice more generally, feminists also continue to debate the need to invest massive resources into legal struggles which do not seem to deliver massive returns to victims and survivors.

Feminist literature in transitional justice falls roughly into two waves—the triumphalist early era, and the more critical appraisals that follow. These waves occurred across a range of sites that can be hard to generalise, both in terms of the procedural site such as tribunal, truth commission or reparations program, and in terms of the wide array of national, linguistic and cultural contexts. Until recently this work was scattered across many disciplines and publications. Various consolidated volumes have emerged (Rubio-Marín 2006, 2009, Pankhurst 2008, McGlynn and Munro 2010, Buckley-Zistel and Stanley 2011, Yarwood 2013), and the field often combines more law-based discussions about the major advances and failings of the ICTs and ICC with parallel discussions about other processes such as truth commissions.

Susan Harris Rimmer’s book on gender and transitional justice in Timor Leste systematises some of the principal critical contributions into what she calls three “feminist counter-narratives to transitional justice” (Rimmer 2010, 8). To some extent, these show important affinities with non-feminist critiques and debates in the field. First, in the shadow of major legal advances achieved by feminist judicialization strategies, Rimmer discusses the dilemma of engaging with law, focusing on the frequent critique of trials as less than ideal for advancing women’s justice claims, since so many feminists argue that law is inescapably misogynistic (Smart 1991, Mertus 2004). However, this is far from a consensus position. Catherine O’Rourke considers many critiques of the international legal feminist project “abstract” and “fragmenting,” highlighting how feminists who critique the legalist approach align themselves (if unwittingly) with realists and others who are overtly against both feminism and the positive regulatory power of law.³⁶ O’Rourke defends the ongoing importance of the “positive norm transfer” of legal norms on gender violence from the international to the domestic context. Despite her dismissal of valid postcolonial critiques, O’Rourke’s contributions indicate the need for more attention to the relationship between international advances and domestic legal and activist spheres (see also Sikkink 2001 on the “justice cascade”).

Rimmer’s second counter-narrative highlights the debate over naming crimes, or what is frequently called *tipificación* in Latin America. Where many argue that the project of making sexual violence visible accomplished its goals, others point to the gaps in the current legal

³⁶ Catherine O’Rourke breaks this critique down into a useful primer on some of the fault lines between feminist legalism and other feminist frameworks that centre postcolonial or other structural analyses. As she puts it, various critiques of the legal feminist engagement with International Criminal Law (ICL) posit it first as legally deficient; second, as a set of practices that sexualises and infantilises women; third, as silencing both individual women and women’s movements; and fourth, as imperialist (O’Rourke 2011, 13-14).

regimes that have formed out of a naming strategy that focused so heavily on the singular concept of ‘rape,’ as discussed later in this chapter. This rendered less intelligible serious and widespread practices such as forced maternity, post-conflict domestic violence and the routine violation of women’s economic and social rights (Rimmer 2010). Still others note that it was those sexual violence claims with a tidily articulated definition, perpetrator and victim that fit best into the rule of law frameworks in transitional and international justice, rendering others unintelligible or ambiguous (Buss 2009, Boesten 2010).

Important critiques are arising around the need for a renewed fight for intelligibility (both through naming and other strategies) for reproductive rights, involving a more integral understanding of the relationship between land seizure, entrenched power and gendered violence (Smith 2005, Miller 2008, Meertens and Zambrano 2010, Rights Action 2012). This demands, among other things, a broader critique of legal categories through an intersectional lens, as pioneered by Crenshaw (1991) and Hill Collins (2000, 2009), but at the same time a shaking up of the categories in the standardised ‘laundry list’ of race, class and gender. The need for stronger engagement with intersectionality has been acknowledged in transitional justice by some (see especially Ní Aoláin and Rooney 2007; also Nesiah 2006, 30), but often only nominally. Especially given the emergent jurisprudence on rape as a form of genocide, such thinking has potential but requires better conceptual tools than those currently in widespread use at the international level. The tools already developed by feminists of colour and indigenous feminists in North America have centered reproductive rights as part of a larger historically grounded struggle to account for sexual violence but also for the other effects of colonialism and racism. They illustrate a range of alternatives to the ‘rule of law’ or ‘law and order’ feminist approaches to violence (Smith 2005, INCITE 2006). However, international law has remained impervious to such intervention, and its categories remain resilient.

Third, Rimmer notes the increasing prioritisation of making material gains for women, without having to resolve all the other epistemic debates about ‘women’ and ‘gender,’ as discussed by Bell and O’Rourke (2007). Too often, transitional processes are not redistributive processes. Efforts to secure reparations (even if mainly symbolic) rarely engage with gender as an intersecting aspect of national or racial identity, and often do not adequately recognise the feminisation of poverty that impacts women’s lives and their ability to participate in such processes. The increasing shift from the fight for visibility and legal recognition towards material

recognition through reparations holds promise. However, reparations most readily implemented by states have often been in the form of grudging symbolic recognition or small cash payments. As argued by Rubio-Marín, reparations achieved for women are less meaningful and effective when they remain isolated from larger transformative projects.³⁷

Other key feminist critiques have analysed the limited ways in which women and gender have been ‘seen’ in such work. Sociologist Fiona Ross’ (2003a) work on the South African Truth and Reconciliation Commission (TRC) is one foundational contribution in the critical literature that focuses more on truth commissions than trials. In her study, Ross critiqued the way women’s testimony was instrumentalised and moulded to fit into a pre-existing narrative of sexual victimisation. Ross’ contribution represents a refusal to take for granted the meaning of women’s participation in such processes. Though the TRC demonstrated some responsiveness to feminist critiques that it had been set up without gender in mind, the TRC’s later attempts to remedy its gender blindness involved creating separate women’s commissions and eliciting testimony focused on their own sexual trauma, as somehow understood separately from what had happened to their families, communities and women’s own activism. Ross interrogates the preconceptions about sexual harm that drove the TRC’s approach. She and others writing on the South African context (Motsemme 2004, Driver 2005, Al-kassim 2008) note the inadequacy of such a strategy, in its incapacity to ‘hear’ how women articulated the complexities and the everydayness of their experiences. This issue is taken up in more detail in Chapter 4. It is one key example of how naming and making women’s pain visible is not a straightforward endeavour, and even if influenced or driven by particular feminist analyses, it can have effects that were not intended and that do little to help the individuals or communities who participated.

Despite the impressive and interdisciplinary growth of feminist work in the area, some questions seem to have escaped widespread feminist scrutiny in the English-language literature. One area that has received little attention is the relatively narrow scope of Anglo-American scholarship on feminist developments. The majority of the literature documenting advances on sexual violence in international law in both triumphalist and more critical waves tends to seriously underrepresent regional legal developments, focusing heavily on ICTY, ICTR, ICC and

³⁷ See this position articulated by framers of the Nairobi Declaration on Women’s and Girls’ Right to a Remedy and Reparations, in Couillard, 2007. This critique is similar to Smith’s claims about the inadequacy of individual legal solutions to abuses in the US boarding schools for indigenous children (2006).

more recent Special Court in Sierra Leone.³⁸ In several cases the Inter-American Court of Human Rights (IACHR) was an international innovator, as the first regional court to rule that rape was torture (1996), or enshrining the popular framework of femicide into law in the 2010 Campo Algodonero case against the Mexican state. The development and circulation of legal and popular understandings of sexual violence in Latin America is not identical to those in the relatively closed circuit of European-based or African tribunals (which some argue are European-dominated: Clarke 2009, Neocosmos 2011). However, here I note a similar trend around cases in the European and Inter-American Courts, making this issue less about European than Anglo-dominance within relatively limited circuits of feminist information-sharing. It is important to document how dynamic regional practices and analyses challenge the presumption that knowledge is developed at the centre and then later adopted by the periphery, and complicating such narratives is one of the goals of this project. Scholars have shown how women's human rights discourses travel and are translated or "vernacularised" in various local contexts, as Merry has called it (2006). As documented by Alvarez (1999, 2000) Latin American feminist mobilisation has thrived at the regional level even as it has become more integrated into the NGO model and the demands of the UN-system (see also Costa 2006).

Mirroring the debates in transitional justice around 'hard' law and 'soft' truth commissions, another area that deserves more critical attention is the exaggerated focus of feminists in this field on formal institutions such as ICTs, and increasingly truth commissions, to the detriment of less formal but ever-popular grassroots events such as women's tribunals and other historical memory or community building work which is better documented in NGO-based

³⁸This lacuna of Latin American feminist developments is not total (e.g. see O'Rourke 2011 on Chile; Keck and Sikkink more broadly, 1998). Latin Americans have been major actors in these fields from the beginning, as a result of their leadership in framing the formative debates about post-authoritarian transition in the 1980s, especially drawing on experiences in Chile and Argentina. Here I am more noting that the development of a specifically feminist 'transitional/gender justice' literature in English has mainly excluded developments in the Inter-American circuit, as well as significant activism around femicide, both of which have pushed conceptualizations of gendered violence in important ways (on femicide, see for example Fregoso and Bejarano, 2010). Most of the material assembled by the ICC Women group to lobby for gender parity and gender justice at the ICC only draws on jurisprudence at the ICTY and ICTR (with a few small exceptions); also the otherwise excellent collection on comparative rape law by McGlynn and Munro (2010) contains almost no discussion of Latin American jurisprudence, a fact they freely acknowledge (12) but do not seem to problematise sufficiently in a book boasting 'international and comparative perspectives' which continues to reproduce the same limited frames of the majority of the feminist legal literature. Though obviously much material exists only in Spanish, the notion that this is merely an issue of translation or that there are no scholars working on such issues in/on Latin America does not stand up to the evidence. Inter-American court and commission materials are often available in English, and many NGOs work tirelessly to translate and publicise other advances in Latin America.

and popular literature.³⁹ The relative inattention to women's tribunals in particular implies an assessment about their relative 'seriousness' or 'hardness' in relation to achieving 'gender justice,' without necessarily engaging women on their own terms, around their own motivations for pursuing such a process. Such popular tribunals are not totally unproblematic sites, but they deserve to be taken as seriously as other initiatives, especially in light of the ongoing feminist critiques of the unenforceability of legal rulings on sexual and gender violence. It is often the unenforceability or softness of the declarations of such popular tribunals that makes them less interesting to those who seek formal mechanisms to protect women. Yet the massive gap between formal and substantive rights and protections is often precisely the message women's tribunals aim to articulate. By 'aping' the law, they appropriate its discourses and structures, much like truth commissions do, but sometimes with a more overt critique, as Chinkin has argued (2001, 339-341). Women's tribunals also represent a fertile ground for rights training and networking, including transnationally. Their greatest potential may not be in the product or the sometimes formulaic performances of justice, but in the process itself.⁴⁰

Feminist critiques within this field have developed quickly, and many practitioners are now aware of them. But untangling such issues is slow, painful and often unpredictable work that many do not have the time, mandate, or insider knowledge to manage. Particularly if transitional processes are set up to mimic law and to use the language and established categories of law, intersecting structural analyses are difficult to articulate without disrupting the process. Rather than "thinking beyond the program" (Duggan and Jacobson 2009, 153-4), it is usually easier to operationalise discourses already widely in use in the prevailing frameworks. As explored in the rest of this project, the practical urgency demanded of transitional justice workers frequently shapes the material they produce and the discursive approaches they employ. In the next section I explore the context and circulation of one such discourse, around rape and its attendant construction, the 'rape victim,' in the ICTY and ICTR.

³⁹ On women's tribunals, see extensive material on the site of NGO El Taller International, www.eltaller.org; see also how-to handbook from Rutgers Centre for Women's Global leadership by Reilly and Posluzsny, 2005. Academic discussions on the Tokyo Tribunal on sexual slavery in 2000 include Chinkin 2001, Askin 2001, Nishino 2009; on other more recent tribunals see Girard and Nowicka 2002 (abortion rights in Poland); Mugo and Onyango, 2008 (abortion rights in Kenya); Crosby and Lykes 2011 (wartime sexual violence in Guatemala).

⁴⁰ See UNAMG, ECAP, MTM, hegoa 2012, on Guatemala's Tribunal of Conscience on wartime sexual violence in 2010, one outcome of which has been a 'hard' legal case brought by a group of women who participated in the Tribunal. Also interesting is the fact that the Tribunal format has just been used in Guatemalan mining-affected communities, framed as an International Health Tribunal (Caxaj 2012, Rights Action 2012).

Statutory explicitness versus ‘reading in:’ Defining and prosecuting rape internationally

In their overview of international legal institutions since the Second World War, legal scholars Goldstone and Smith note that by the early 1990s, there were already negotiations to implement a standing international court, but it was originally envisioned as a way to combat international drug cartels, and was not very developed by the time the conflict in the former Yugoslavia began claiming lives (Goldstone and Smith 2009, 95-97). In 1993, after numerous resolutions and a Commission of Experts failed to end the conflict, the UN Security Council voted to form the International Criminal Tribunal for the former Yugoslavia (ICTY), to be housed at The Hague. The ICTY was the first international tribunal since the 1940s. Member states of the UN were required to comply with the court, even when they disagreed with the resolution creating it. Those who objected early on questioned the legal validity of such tribunals, arguing that the Security Council had interpreted its mandate around peace and security too broadly and there was no explicit mention of tribunal powers in the relevant Chapter VII of the UN Charter.⁴¹ Less than two years later a similar process created the International Criminal Tribunal for Rwanda (ICTR), to be based in Arusha, Tanzania, and sharing the same chief prosecutor with the ICTY until 2003. Both Tribunals were created using overlapping but not identical sources of international law (such as Common Article 3 of the Geneva Conventions) and were to have equal jurisdiction to the domestic courts in Rwanda and the former Yugoslavia, mainly out of the perception that local courts alone would not be able to deliver fair trials in the aftermath of such vicious and polarising atrocities. The ad hoc tribunals both experienced considerable resistance to cooperation by states and extensive critiques of their expensive budgets, at some points accounting for about ten per cent of the entire UN operating budget (Goldstone and Smith 2009, 100).

The media sensationalism surrounding mass rape in these contexts occurred at a time when women’s rights campaigns were pushing new boundaries. Contemporaneous to the public campaigns by former sexual slaves (known euphemistically as ‘Comfort Women’) for accountability and apology by the Japanese government in the early 1990s, there was a clear expectation on the ICTY and ICTR to deliver justice around mass rape where before justice had

⁴¹ Major objections came from China and Brazil, though they eventually relented and lent their support the resolution (Goldstone and Smith 2009, 97-98).

been selective or foregone for other priorities.⁴² The 1990s marked a new era in international law in general, after fifty years of inactivity during the Cold War (Schabas 2007, Arnold and Quénivet 2008, Goldstone and Smith 2009). Though not often discussed in the feminist literature, the extensive developments around sexual violence should be seen as a part of a larger push for international consensus and accountability structures, in what was framed by liberal legalists as a massive void. When feminists claim victory in this context, it contributes to the legitimacy of a project that represents to many the triumph of individualistic, liberal, Western ‘justice’ as well as to discourses of modernity, civilization and rule of law. In this new ‘civilized’ and modern era, some feminists’ mobilisations of such ideas in support of legislation on rape ensured that a particular, individualised understanding of women’s rights and sexed victimhood was to play a central symbolic role, with continuing material consequences. Though here I discuss legal processes, the categories developed in those settings have become important components of a larger array of feminist interventions relying on rights discourse, including truth-telling initiatives.

Notwithstanding the many “firsts” related to women and the improved profile of sexual violence in the ICTY and ICTR, the actual jurisprudence has exposed an ongoing legal ambivalence about women, and illustrated the discursive power and the adaptability of restrictive and highly patriarchal approaches to sexual violence and judicial authority.⁴³ These ICTs’ ambivalence about making ‘rape’ more visible, let alone more punishable, raises key questions about exclusion and authority that have long fuelled women’s activism: how much power have women survivors had to define their own experiences, to determine their meaning, to produce knowledge that has validity in public and can drive social change? With more visibility, how

⁴² For example, in the Nuremberg trials, rape was treated euphemistically, while it featured more prominently in the Tokyo trials and contributed to the death sentences of the accused (Askin 2001). Various scholars note that the 1948 related trials in Batavia, Indonesia only prosecuted the forced prostitution of 35 Dutch women, leaving the claims of thousands of Asian women unanswered until the former sexual slaves’ movement in the 1990s (Askin 2001, 27; Henry 2011, 45). Henry points to the racism inherent in this sort of hierarchy of victims (ibid).

⁴³ In one example, Noelle Quénivet notes that in the run-up to the establishment of the International Criminal Court (ICC) charter in 1998 (which benefited from a half decade of ICTY and ICTR jurisprudence) there was still an overt expectation by many participants that rape claims would need to be substantiated by evidence of struggle—in other words, that women who could not ‘prove’ rape with marks of force on their bodies could be dismissed on the grounds of ‘insufficient’ evidence (Quénivet 2005, 20). In fact this happened in the *Kunarac* trial, as Buss points out, with odd effects—mass rape was described ad nauseum, but there was not enough physical evidence in many individual cases. Buss notes that this illustrates the tensions between proving and punishing individual and mass crimes (Buss 2002, 99).

much has this distribution of power shifted? And is it possible or worth trying to disrupt the gendered power of law using its own tools?

Among all the discursive possibilities, feminists lobbied around the statutory inclusion of ‘rape’ in these tribunals.⁴⁴ There was no definition of rape in international law at the time of the ICTY’s inauguration. Using national law as a template was deemed undesirable, partly because this new set of international legal initiatives was already vulnerable to claims that it was partial or Euro-American-dominated. This meant the ICTY and later ICTR had to invent a definition of rape in the trial chamber as they went along (Chinkin and Charlesworth 2000, 322). This situation exposed for scrutiny the perpetuation of previously dominant discourses of sexual violence and women’s victimhood in the UN and international settings, and the generally low level of gender-sensitivity of these tribunals and their staff.

In the long-held liberal pattern of seeing women’s ‘difference’ as sexual, rape was the only explicitly gendered crime named in the ICTY and ICTR statutes. Thus, rape became a catch-all category which helped expose gender violence but supported its ongoing containment into particular patriarchal understandings, such as the lumping of all ‘sexual’ questions into one category. Since what had happened to women mainly exceeded conventional understandings of ‘rape’ in scope and in variety, advocates used two main strategies to make visible and prosecute different forms of sexual violence. First, they established the statutory primacy and seriousness of rape, and then broadened what ‘rape’ means by including a longer list of acts under its definitional purview; and second, they read sexual violence into other already existing charges (such as torture). Feminist commentators seem fairly split on these strategies.

The first approach supported greater explicitness, usually by refusing to let go of the category of ‘rape’ itself, perceiving such a move as one more misogynistic gesture of law. The benefits are complex. The already legible ‘rape’ carries a gendered seriousness and a certain condemnation as the ‘worst’ violation of a woman, whether in terms of more feminist constructions of her rights and dignity, or more patriarchal notions of the honour of men in her life who frame her as a legal minor or as property. Keeping rape explicit potentially allows feminists to publicly and actively expose gendered biases and prejudices which naturalise sexual

⁴⁴ Niamh Reilly (2009) discusses how this was partly addressing the near total invisibility of sexual violence, and partly designed strategically as a way to take up the gendered crimes that most closely resembled those which already had the most major sanctions in place: to take up the violated body protected from torture and to claim equivalency for rape victims, in this new moment of opportunity opened in international law in the post-Cold War. See also Bergoffen 2009.

violence as ‘sex’ or chaos. Some also argue that explicit naming of rape as a stand-alone crime makes it less likely that currently positive advances for women can be later rescinded through new court decisions in the future. This is important because statutory law sits higher in the hierarchy of sources of international law than do individual judicial decisions, and judges are not forced to contend with earlier precedent as they would be in a common law system (Chinkin and Charlesworth 2000, 335).

Such a move to explicitness also encourages an ongoing separation and sexualisation of what others argue should be mainstreamed as crimes of force. The second approach, ‘reading in’ supports the mainstreaming of sexual violence by charging it as another version of already established, and serious, crimes of force such as assault or torture. Ruth Rubio-Marín claims the category of rape tends to be ‘under-inclusive’ of gendered harms to women (2009, 78-80) and cites gradual moves towards categories like gendered or gender-based violence as partly addressing this problem.⁴⁵ Proponents of this approach argue that intersecting oppressions may emerge in more complexity with ‘reading in’ than when a claim is made explicitly about women’s gender, in which case lawyers’ and judges’ preconceptions about ‘sex’ sometimes blot out other distinguishing factors that are also relevant. Some crucial arguments have been made using this ‘reading in’ logic, including the ubiquitous “rape as genocide” claim successfully prosecuted in the 1998 ICTR case, *Akayesu*,⁴⁶ and the prosecution of rape as torture in *Celebici* (1998)⁴⁷ (discussed in Campbell 2004, 332).⁴⁸

Feminist legal scholar Catharine MacKinnon has made the most consistent and vocal claims that to remove the ‘sexual’ in sexual violence or rape would be to erase the ways in which dominance is eroticised in patriarchal culture—that heterosexual sex is always about relations of

⁴⁵ Though see the objections of the Vatican and various states to the use of the term gender in the 1995 Beijing declaration. Deep resistance to any use of the term ‘gender’ somewhat relented once this coalition succeeded in re-defining gender as nothing more than another word for sexual difference, thus evacuating what many see as its political power (Day 1996, Copelon 2000, Merry 2006).

⁴⁶ See extensive discussion in Brouwer, 2005. Brouwer actually argues for a more explicit claim than rape is a tool of genocide against ethnic groups: she claims that women in Rwanda were also targeted as women and this sort of targeting of women *qua* women should be recognised internationally (44-45; 83), something from which other feminists have previously shied away as failing to recognise the interconstitutive nature of genocide (Gardam and Jarvis 2001, 80-90). But see recent claims in Fulchiron, López and Paz Bailey’s 2009 publication based on accompaniment with groups of survivors of wartime rape in Guatemala, arguing that what happened to them was both *genocidal* and a manifestation of *femicide* (discussed further in Chapters 3 and 7 of this dissertation).

⁴⁷ Prosecutor v Delalic et al., “Celebici” (Judgment) IT-96-21-T (November 16 1998). Hereafter cited as *Celebici*.

⁴⁸ See also the debate around the creation of the new crime of “forced marriage” in the Special Court of Sierra Leone, which Annie Bunting (2012) argues would be better prosecuted under the existing category of “enslavement.”

dominance and that rape is merely further along a continuum of masculine violence (MacKinnon 2006, 86-90). MacKinnon's well-known involvement with the ICTY is evident in some of the judgments involving rape where such arguments became central, such as the *Foca* trial (MacKinnon 2006, 241-242).⁴⁹ Yet transitional justice scholar Vasuki Nesiiah argues that 'reading in' or dealing with 'rape-as-' minimises gender essentialism and increases the possibility of including men who have been violated. Due to the over-gendering of the rape category as female, some men may feel more comfortable coming forward if rape were treated as one variant of torture.⁵⁰ Nesiiah also notes that this discomfort is not merely or always based on a disavowal of the feminine or an expression of individual homophobia—in some jurisdictions even claiming to be a victim of rape as a man is considered a homosexual act, and carries a jail sentence (Nesiiah 2006, 38; Campbell 2007). Such constructs in Guatemala contributed to the decision in the national reparations program that reparations for sexual violence would only be awarded to women, despite documentation of sexual violence against men in the CEH report (Rubio-Marín 2009, 98-100).

As a result of these varying strategies and epistemic approaches, the jurisprudence on rape in early ICTs appears somewhat haphazard, and the tribunals ended up with multiple definitions of the same crime. Also, even when rape and broader definitions of sexual violence have been specified as statutory offenses, judicial discretion has done much to steer the direction of its definition and interpretation away from the most radical or disruptive possibilities.⁵¹ Though pragmatic feminist work to open discursive space has been important, the ongoing tendency for containment of gender violence into older approaches to rape has continued to be exhibited in practice. The following three examples from the *Foca*, *Akayesu* and *Furundzija*⁵² trials illustrate this problematic. While not an adequate accounting of the gender-related

⁴⁹ Prosecutor v Gagovic et al., "Foca" (Judgment) IT-96-23/1-T (February 22, 2001). Hereafter cited as *Foca*.

⁵⁰ For various reasons, this position is sometimes also taken by women. In Guatemala, the Juana Méndez case is an instructive example. Méndez is an indigenous woman who was raped by police while in custody. In an interview, she discusses her preference for pursuing charges of torture over those of rape due to the greater stigmatisation of rape survivors in her community (CONAVIGUA, ICCPG and MOLOJ 2007).

⁵¹ See especially Staggs Kelsall and Stepakoff (2007) on how it was the very explicitness of sexual violence in the Special Court of Sierra Leone's statutes, as a "lesson learned" from earlier efforts, that allowed trial judges to exclude sexual violence totally. The authors argue that despite the presence of 'gender experts,' restrictive evidentiary timelines were privileged over ensuring that there was enough evidence for sexual crimes to be successfully prosecuted, and thus many witnesses were forced to testify only to other crimes that were provable, without mentioning their sexual assault. Thus, knowing about sexual violence does not necessarily lead to pursuing charges (370-372).

⁵² Prosecutor v Anto Furundzija (Judgment) IT-95-17/1-T (December 10, 1998). Hereafter cited as *Furundzija*.

decisions in these trials, this is intended more as a snapshot of the definitional contradictions around rape that occurred in these formative moments of international justice for sexual violence.

Foca: When the trial chamber in the ICTY *Foca* case (also known as *Gagovic et al.*) came up with a definition of rape early in the tenure of the tribunal, it was deceptively straightforward: “forcible sexual penetration of a person” (Chinkin and Charlesworth 2000, 322). Some feminists praised its “deconstructive” character—meaning that it described elements of the crime rather than taking a common understanding as self-evident, which avoided a patriarchal consensus about what ‘rape’ means and made it possible to prosecute rape ‘as’ various other crimes if rape charges themselves failed (Chinkin and Charlesworth 2000, 332). Others critiqued it for not having a substantial enough basis in the conventional sources of international law (Quéniwet 2005).⁵³ Though the prosecution argued that rape was force (not ‘sex’), the case mainly hinges on penetration, long the target of feminist protest as a ‘male-centered’ notion of rape, and on defining the threshold of force via consent, calling up the much-revered “rational man” of law (MacKinnon 2006, Naffine 2009, Sheehy 2012).

Akayesu: In the ICTR trial of *Akayesu* (1998), the court followed what Kirsten Campbell calls a “conceptual approach” to defining rape. The definition proposed was broader and rested on the idea of rape as both an “invasion” and a coercive sexual act. It explicitly stated the need to go beyond a description of “mechanical acts” (Campbell, 2007: 415). This definition retained some of the element of force, and rejected penetration as the paradigmatic defining factor of sexual violation. It also opened up more possibility for prosecuting sexual crimes against male victims. The *Akayesu* definition was taken up by advocates in ICC Women for Gender Justice, and heavily influenced the ICC charter’s broader definition of the elements of the crime of sexual violence (Brouwer 2005, 47). The definitional strategy in this case is an example of broadening the category from within. While sexual or gender-based violence were not listed as explicit crimes in ICTY or ICTR, in a sense, ‘rape’ in *Akayesu* works as an umbrella term, much the way “sexual assault” does in other jurisdictions such as Canadian law (Johnson and Dawson

⁵³ An area of ongoing conflict in international law is around precedent, and acceptable sources for international law. In International Humanitarian Law, a long tradition of prioritising military considerations has resulted in a deep-seated reverence for hierarchy and tradition, and a suspicion of innovation or intervention from new sites (Gardam and Jarvis 2001, 6). In this case, the definition of rape was caught up in these larger arguments over judicial authority and the undue influence of outside parties such as lobbyists (NGOs, feminists), and also often victims themselves (who were not supposed to be active participants). Notably, patriarchal and judicial discomfort with women who are “out of place” appears closely related to these objections.

2011). Promisingly, it maintains the space won for rape as a statutory category, but at the same time does not rest on the prior discursive meanings of ‘rape.’

Furundzija: In the *Furundzija* trial at the ICTY (1998), the definitions in *Foca* and *Akayesu* were both rejected as the trial chamber endeavoured to create yet another. Their strategy was based on a broader set of sources, and included an examination of many national laws on rape. The idea was not to locate the ‘best’ law, but rather, to consult the common denominators of all definitions in order to build something truly “international” (Brouwer 2005, 30). The result in the case of rape is not a definition that represents how the majority of victims experience rape or sexual assault, but rather, what the majority of elite jurists, lawyers and judges deem relevant to the crime. These lowest common denominators marked a return to patriarchal, male-centered definitions, preoccupied with penetration and limited consent paradigms, and long deemed inadequate by feminists of many stripes.⁵⁴ This definition also returned to naming the very body parts that *Akayesu* had deemed insufficient.⁵⁵

In sum, the *Furundzija* definition reinforced what *Foca*’s first effort had recycled from countless patriarchal discourses, and *Akayesu* had begun to erode. More recent cases have worked through the multiple questions that emerge when a term remains vague, yet narrow, and in the process, continued to fight out the presumed sufficiency (or supremacy) of one explicit ‘rape.’ Penetration (of body parts, with body parts or objects) vacillated in importance but never vanished—it remained the physical exemplar of “invasion”; consent became insufficient in wartime, where the context was deemed to overdetermine any relations between women and men of opposing sides,⁵⁶ and then once again became the determining factor of rape (ICTR’s *Semanza* (2003),⁵⁷ *Kajelijeli* (2003),⁵⁸ in MacKinnon 2006, 239), but not before a new and

⁵⁴ While it is possible to object to the treatment of sexual violence in outmoded legal frameworks in the Global South on the grounds that they are a vestige of colonial domination, it is important to recall that supposedly “developed” jurisdictions had barely advanced past these constructs by the 1990s. For example, conjugal rape was not recognised as a crime in France until 1990 and 1991 in the UK. See Chetcuti and Jaspard 2007.

⁵⁵ Rape was elaborated as i) “the sexual penetration, however slight a) of the vagina or anus of the victim by the penis of the perpetrator, or; b) of the mouth of the victim by the penis of the perpetrator, ii) by coercion or force or threat of force against the victim or a third person” (cited and discussed in Campbell 2004, 332).

⁵⁶ This is something like the caveat in Canadian law that a person cannot consent to sex with an authority figure, but writ much larger. It is a notion Karen Engle cautions is dangerously close to reinstating the notion of the victimised woman with no agency (Engle 2005, 784). Compare with MacKinnon’s perspective that claiming war as a condition in which consent is moot does not delegitimise consent as a determinant of rape in other circumstances (MacKinnon 2006, 242).

⁵⁷ Prosecutor v Semanza (Judgment and sentence) ICTR-97-20-T (May 15, 2003).

⁵⁸ Prosecutor v Kajelijeli (Judgment and Sentence) ICTR-98-44A-T (December 1, 2003).

promising framework emerged, that of a victim's "sexual autonomy" (*Kunarac*,⁵⁹ in Buss 2002, 96; Campbell 2004). Several defendants were tried multiple times for rape during the same trial, under charges of rape and (rape as) torture. Successful convictions on rape as torture charges (for example in *Celebici* 1998) were useful in gaining recognition for what feminists and NGOs had already been claiming in increasingly larger numbers—despite ongoing resistance to gendering torture in human rights work.⁶⁰ Yet it is clear that this pragmatic strategy of dual charging was not used in enough ICTY and ICTR cases, and crucially, that claims of rape were rarely investigated at all levels—by police, military and the prosecution. For example, in the aftermath of the Rwandan conflict, despite the fact that is most clearly remembered for the ubiquity of rape, Brouwer (2007) highlights that "rape charges were not brought in seventy per cent of cases in which judgments had been delivered" and "of the remaining thirty per cent [...] twenty per cent had resulted in acquittals and only ten per cent in rape convictions" (300-301).⁶¹

Clearly the feminist approach to sexual violence at the time was focused on opening space strategically and on addressing an urgent issue in what many saw as the most practical way. Any assessment of the imperfection of such an approach must account for power relations and other serious limitations placed on feminists in these foundational moments in international law. However, with the benefit of hindsight, devoting more time and consideration at the statutory level in these tribunals might have supported a more critical perspective about how best to deal with a broader range of sexual violence claims, given the high profile of crimes in these conflicts that included, but went far beyond the more conventional (and patriarchally acceptable) definitions of rape.⁶² Lacking robust statutory support, rape and other forms of sexual violence were frequently defined and redefined in trials. As a range of studies has now documented, this had serious impacts on survivors. Without wishing to paint victim-witnesses as one-dimensional,

⁵⁹ Prosecutor v Kunarac et al. (Judgment) IT-96-23 & 23/1 (February 22, 2001). Hereafter cited as *Kunarac*.

⁶⁰ This analysis of rape as torture was already part of the jurisprudence in the IACHR (*Mejía v. Peru*, 1996) and ECHR (*Aydin v. Turkey*, 1997). It has led to a re-examination of pre-1990s human rights work which did not recognise such harms as systematic (see for example Balardini, Oberlin and Sobredo 2012 in Argentina, O'Rourke 2011 in Chile).

⁶¹ See also Human Rights Watch reports on Rwanda, 1996; 2004. The 2004 report is heavily critical of the lack of gender-sensitivity exhibited in community-based *gacaca* tribunals that were adopted both to address a massive backlog in higher level courts and to attempt a more culturally appropriate form of justice. On similar patterns of under-charging at the ICTY, see Buss 2002, 96; medica mondiale 2009.

⁶² For example, doubts arose in trials about whether penetration with an object (other than a penis) would count as rape; how to treat forced nudity and other non-penetrative assaults, and domestic slavery. The ICC women's caucus on gender justice claimed the *Akayesu* definition of rape "would include such acts as [...] reproductive mutilations common in these situations" but that would not fall within scope of Furundzija definition (Quénivet 2005, 10). Quénivet argues more narrowly that invasion implies penetration but not mutilation (*ibid*).

fragile or easily silenced (already a persistent stereotype), many advocates argue that rape and its denial are frequently and understandably traumatic and revisiting them can be hard on those bearing public witness to their own assault. Despite the ubiquity of claims that breaking silence was in itself reparative and therapeutic, this was rarely the case for women witnesses obliged to hear public debates over whether their assaults ‘counted’ as intelligible violations. Some feminist critiques have addressed this aspect of international advances (Mertus 2004, Henry 2011). In particular, Franke indicates testifying can be profoundly alienating for women and that such processes make women victims into “martyrs” in order to establish legal precedent (2006, 820-821).⁶³ In my view such critiques have not been taken seriously enough. It may not have been a viable legal option to fully consider the effects of such an ad hoc, trial-based definitional process on survivors. But survivors bore a heavy cost even as they continued to be presented as the main beneficiaries of these advances.

Contradictions of feminist space-opening and patriarchal containment

Feminist struggles to render sexual violence punishable in international law have established hard legal standards for use in future legal processes but also in many contexts outside tribunals: truth commissions, human rights reporting, and domestic activism attempting to leverage international developments. In the intervening years, such uptake is observable across international and domestic legal contexts, including in Guatemala and in the regional Inter-American Court of Human Rights (IACHR).⁶⁴ It is crucial for women to be included rather than excluded or invisibilised, as argued forcefully by women in such processes and by the range of UN Resolutions on Women, Peace and Security since SC Res. 1325 in 2000. But did the explicit inclusion of ‘rape’ in ICTY and ICTR statutes and practices shift how gendered violence was already understood in various contexts? Few would argue that the visibilization and legal prohibition of sexual violence in the ICTY and ICTR were alone responsible for a gendered interpretive shift in human rights frameworks more generally. These arcane definitional moments around ‘rape’ help

⁶³ However, in the context of the Special Court in Sierra Leone, Staggs Kelsall and Stepakoff indicate that officers of the court wondered if requiring survivor testimony about sexual violence was “morally justifiable” because of its traumatic impact on victims. While they may be well-intended, such arguments can also be used to support the exclusion of sexual violence altogether, or of victim-witness participation in the trials. These authors argue, crucially, that pain and empowerment are not mutually exclusive outcomes of testifying, and that one of the more negative psychological impacts in the SCSL was when victims were prevented from testifying about rape specifically (366; 372-373).

⁶⁴ Discussed in more detail in Diez 2006, López-Antillon 2007, AJR and CALDH 2013.

to illustrate how closely the newly visible woman rape-victim-witness of the 1990s ICTs mapped onto the older understanding of ‘women and children’ as natural victims such that, when people began to work with gender in a more diverse array of processes (UN-based, NGO-led and otherwise) the most available discursive construct was familiarly passive, voiceless, almost always female, deeply traumatised and in need of help. This construct did not radically challenge the established patriarchal and colonial foundations of international peace and security, and did not always disrupt existing conceptual hierarchies or approaches that compartmentalise women’s rights from ‘regular’ human rights. Highlighting women’s sexual victimisation frequently helps to perpetuate the idea that taking a gender perspective is still more about exposing women victims than militarised masculinities (Carpenter 2006, Zarkov 2007, Theidon 2008), and it tends to position actual survivors as peripheral to the operations of justice. Without collapsing one set of processes and historical circumstances into another carried out under different conditions, such a pattern also emerged in the REMHI and CEH reports in Guatemala, as I will discuss further in Chapter 3.

Other concrete examples of patterns of containment and patriarchal continuities are easily located in feminist literature. Kirsten Campbell (2007) disaggregates data on sexual violence charges in the first years of the ICC, uncovering an ongoing interpretive bias that has continued to construct women as passive victims and men as agents, shying away from discussing and pursuing charges for the rape of men in what she sees as a strategy to maintain a gendered dichotomy. Rubio-Marín adds that fighting for the visibility of the rape of men by de-linking ‘sexual violence victim’ and ‘women’ is key to fighting the notion that women are naturally or particularly rapeable (2009, 100). She also underlines how mere visibility is not enough: as these terms are taken up in other sites, the old meanings can travel with them. For example, despite a commission-wide visibilization of gender violence in Peru’s truth and reconciliation commission, ‘rape’ was informally placed at the bottom of the list of priorities for reparations because it was deemed less ‘serious’ than death or forced disappearance (2009, 79-81), a problem that also emerged in the Guatemalan case (Paz y Paz 2006, Morán and Corzantes 2011). And while the approach to sexual violence in the ICC charter is touted as a great achievement for feminists and women, and an improvement on ICTY and ICTR restrictions, it still only deals with mass crimes, leaving supposedly more mundane crimes to local jurisdictions that already fail adequately to address them. Chinkin and Charlesworth raise the problem of sex-trafficking as

a key gap that is not addressed by the ICC framework (2001). Claudia Paz y Paz discusses how the use of the relatively inclusive Rome Statute as a template for reparable violations in Guatemala meant excluding some important gendered violations and including others that were less relevant in the Guatemalan context, creating more work for those building a locally relevant framework for the reparations program (2006, 106). In Peru, Boesten (2010) makes a similar argument about the hard-won recognition of “rape as a weapon of war,” claiming that despite the battle for visibility, overemphasis on this one sexual violence category can obscure other “rape regimes” and force survivors to adhere to a restrictive script about rape in order to receive support, which can undermine the transformative potential of transitional processes.⁶⁵

In this battle for visibility and condemnation of sexual violence, feminists of various persuasions have conceded that ‘rape’ and ‘sexual violence’ are both inadequate terms for what happens in war, but these terms carry enormous symbolic meaning and were taken up earlier in many international fora than the concepts of ‘gender violence’ or ‘gender-based violence.’ While somewhat blunt instruments, these terms were already widely intelligible and held open the discursive space now occupied by a broader range of terms, even if they did so by mobilising discourses favoured by conservative or patriarchal actors and institutions. In other words, certain feminists took advantage of an opportunity in the context of pragmatic urgency.⁶⁶ Gendered violence is a term that is not always as translatable (or that sometimes appears awkward and foreign when translated) which can heighten the impression that the analysis behind it came from elsewhere.⁶⁷ Indeed, the material I examine from Guatemala mainly uses the terms ‘*violación*’

⁶⁵ See also Buss taking a similar position, 2009; Hastings, 2002 on the uses of such a script in the context of refugee claims for Guatemalan women entering the US. For more in-depth discussion on the Peruvian context, see Theidon 2004. Rubio-Marín also points to the strategy employed in several sites of mapping a pattern of violations onto a collective of victims and awarding all of them reparations accordingly without requiring individual ‘proof’; for example, where torture was known to be a ubiquitous practice in a particular prison. She suggests employing similar logic to questions of rape which was known to be widespread but for which sometimes little physical evidence remains (2009, 80).

⁶⁶ See similar discussions around the 1994 Cairo Conference on Population and Development, where a platform on reproductive rights was developed by an international coalition of feminists and adopted by the United Nations Population Fund (UNFPA), but after a range of compromises that some consider minimised the radical political potential of the framework to transform the oppressive agenda of ‘population control’ that had previously dominated these conferences (Joachim 2007, De Koninck 1999).

⁶⁷ It is not that there is no way to articulate these ideas in languages other than English, and it is definitely not the case that those outside of English hegemonic spaces are not also already talking and theorizing about such ideas (see especially more complex discussions by Alvarez et al. 2014, Costa 2006, Alvarez 1999, 2000). Sometimes when translated, feminist terms do not have the same “flow” as the English versions. They can appear messier, more awkward and foreign in a way that is indiscernible to those without sufficient knowledge of the nuances of Spanish (for example with the term “gendered”). Such an impression may help support arguments that women’s rights are an

and '*violación sexual*' fairly interchangeably, and while analyses of sexual and gender based violence may have become more sophisticated since then, including the increased use of *violencia de género*, the use of *violación* has not faded out.⁶⁸

In this project I maintain a minor slippage between terms such as sexual violence and gendered or gender-based violence (though less often 'rape') as an acknowledgement of both the space opened by the earlier approaches and the inadequacy of relying on any one term. Even if it seems more adequate analytically, a broader umbrella term like gender-based violence could well imply that progressive changes have taken place without necessarily changing any of the underlying patriarchal and feminist assumptions that accompanied older terms like rape. Rimmer has referred to this tendency as "changing the curtains" (2010), or in other words, making cosmetic alterations that ignore the root causes of the original problem. Although the adoption of one umbrella term might simplify and streamline approaches, it may also communicate a false consensus and perhaps understate the fact that all terms are adopted strategically and in an unequal terrain of power relationships—in this case, a terrain where some feminists coordinated the program of international 'visibilisation' and 'gender justice' in a way that could not adequately recognise the breadth and depth of so many women's experiences.

Victim-centeredness as participatory rhetoric

International and transitional justice are not monoliths, nor are they made up of heartless people who wish to harm women survivors. Yet it is now widely acknowledged that survivors' experiences in such processes have been mixed at best. A number of developments have attempted to better accommodate women and others who find themselves among the excluded and unheard. In general, this shift towards 'victim-centeredness' is understood to have emerged partly from feminist struggles. For example, Brouwer has noted that it was ICTY and ICTR failures towards women that spurred the development of a more 'victim-centered' process at the ICC (2007). Victims' rights movements overlap feminist movements in pressing for a more

external imposition that limits local power. Others who note the particular trouble of gender, gendered, and gendering in contexts of translation include Coronado and Staudt (2005,144) and Spivak (1993, 211).

⁶⁸ Also, many women and men who discussed sexual violence with the Guatemalan truth-telling projects used non-explicit terms to describe rape, which were then (often) translated into Spanish as something other than sexual violence. As feminist rights defender Maya Alvarado puts it, many survivors' revelations of rape came quietly and "between the teeth" (2010; see more discussion in Chapter 4 of this dissertation). This is also reflected in the experiences of Theidon who worked with the CVR in Ayacucho region of Peru (2007). Thus, insisting on the use of one term over another can sometimes miss the point.

explicit role in international proceedings, and in particular more protection and support for those who testify to their own harms. The ICTY's victim-centered Rule 96 formally addressed some of these concerns, despite many jurists' objections that victim anonymity and rape-shield laws compromised the rights of the accused to a fair trial.⁶⁹ The ICTR was the target of scathing critiques from NGOs and individual victims for instrumentalising victims by using their testimony but ignoring their material needs (for food, shelter, medication) and keeping them in the dark about cases (HRW 2004, Nowrojee 2005, Brouwer 2007, 304-7, *medica mondiale* 2009, Koomen 2013). In response the court made efforts to improve its communication with local communities about the purported benefits of testifying for the ICTR in Arusha and the significance of trial outcomes (especially *Akayesu*; Brouwer 2007, 307). The ICC has also highlighted additional measures of direct victim participation: victim impact statements, the facilitation of an *amicus curiae* brief process (which in some cases can result in re-filing charges to deal more explicitly with sexual violence), the possibility for direct communication between victims and the prosecutor, as well as an in-built interim reparations process for those who cannot wait years for trial outcomes. While most of these interventions can still be inaccessible or overturned by a judge, they indicate some minimal responsiveness to ongoing claims that victims' interests are not "coextensive with those of the international community" or the prosecutors of trials (Brouwer 2007, 285), and that justice is not being done merely by ensuring that some war criminals are locked away in prison. In other words, even in a retributive framework, better communication and more substantial restorative work must be attempted.

However, despite major (though perhaps not structural) shifts towards gendered visibility or 'mainstreaming,' many procedural obstacles remain for women in transitional justice initiatives. While these are to be expected in formal tribunal settings, given the extensive feminist critiques of law discussed in this chapter, they are also prevalent in truth commissions and reparations programs, which are still often preferred over trials as they are perceived to be more flexible and 'victim-centered' (Minow 1998, Rubio-Marín 2009). The problems reported in many transitional sites contradict, by act or omission, the democratising and transformative

⁶⁹ ICTY's Rule 96 on protective measures for witnesses stated that no corroboration on rape testimony was needed, that consent under duress was invalid, that evidence on consent must be discussed beforehand, and that prior sexual conduct was inadmissible. Many aspects of Rule 96 were challenged throughout the ICTY trials, and in particular, the section on consent was modified so that it did not rule out defenses of consent entirely. For discussion, see Chinkin and Charlesworth 2000, 322-323; Buss 2002, 97; MacKinnon 2005, 240; Quéniévet 2005, 23-30. These objections are in line with decades-old strategies to get around such 'rape-shield' provisions in various domestic jurisdictions, notably the US and Canada (Gotell 2010; Johnson and Dawson 2011, 109-110).

claims of such bodies, whether based in frames of human rights or more explicitly those of gender equality.

Researchers describe a range of problems in truth commissions, such as the absence of gender-based policy or analysis from the beginning of a truth commission process (to be ‘added’ in later), or in the recommendations (Diez 2006, Paz y Paz 2006); a lack of gender parity among truth commissioners, and not enough gender-disaggregated data (Borer 2009, 1181-3; Dal Secco 2008). Issues of access in reparations programs include stringent and expensive requirements around identity documents (Mazurana and Carlson 2009, 207-8; Viaene 2010); medical proof of rape (Rubio-Marín 2009, 79); bank accounts (Nesiah 2006, 38; Rubio-Marín 2009, 106; Borer 2009, 1183) and official language use (Paz y Paz 2006, Viaene 2010, 17). Other documented experiences include low confidence in state legitimacy and experiences of racism in daily interactions with state bodies (Viaene 2010, 16-17); a lack of consistency or control over decisions made about confidentiality (Amnesty International 2009); program office sites that are overly centralised, physically inaccessible and require people to miss work to make a claim (UNOPS 2000, Hayner 2002); tying ‘official victim’ status to testimony before a truth commission or other onerous criteria (Ross 2003a, Nesiah 2006, Brouwer 2007, 222), and related statutes of limitations such as what Nesiah calls the “closed list,” whereby only those who testify during the tenure of the commission or program are eligible to make claims (Nesiah 2006, 21). Such obstacles persist in even the most recent processes, and represent a formidable agenda for those working on transformative, rather than merely reformist, approaches to structural violence.

On a more epistemic level, various isolated ‘victim-centered’ measures do not appear to disaggregate the amalgamated conception of sexual violence victim/woman/gender that is so prominent in such processes and that arguably supports the ongoing structural positioning of ‘victims’ as peripheral actors. A transformative rather than merely reformist approach challenges not just institutions but also discourses and taken-for-granted frameworks in which violations become intelligible. As with making visible the category of ‘rape’ discussed above, it is possible to challenge the assumption that ‘victim-centeredness’ is an inherently feminist conceptual framework. I argue instead that it is productive to take seriously both transnational feminist and anti-colonial wariness of victim-centered discourses, without refusing to recognise the strategic uses of such discourses within the limited space allotted to victim-survivors in this domain.

Some authors do explicitly acknowledge the problem with the disempowering and misogynistic baggage of victim language; for example, the activist creators of the Nairobi Declaration,⁷⁰ including a number of grassroots Guatemalan groups, call for facilitating victim participation in creating their own definition of victimhood, and citing principles like autonomy, dignity and privacy as the basis for their claims (Couillard 2007, 449). Others discuss the importance of self-identification over being named and ‘outed’ by a transitional program, both for reasons of diverse political orientation and personal security (Nesiah 2006, Paz y Paz 2006, Amnesty International 2009). While victim-language continues to pervade this field, others argue for alternative labels for those who survive sexual and gendered violence: victim-survivors (Theidon and Laplante 2007), rights activists (Laplante 2007a), protagonists (Lykes and Crosby 2014) educators, artists, (ECAP 2009, Paz Bailey 2010), veterans (Rimmer 2010) and heroes (Theidon 2007, Hamber and Palmary 2009).

Transnational feminist critics have demonstrated the importance of interrogating the type of subject formation that is enabled, but simultaneously occluded, by an overt focus on women sexual violence victims within human rights and international legal frameworks (Grewal 1999, Kapur 2002, Zarkov 2007, Hesford 2011). Rather than focusing mainly on hypervisible victims, this inquiry involves looking at other actors in such work, as I have done in parts of this project. Wendy Hesford has called the frequent reproduction of victimhood narratives “spectacular rhetoric” to highlight the continuing international interest in human rights testimony as a performance of suffering, meant to be consumed by the more privileged, but not necessarily to end the suffering (2011). This displacement of material questions and of the political and ethical responsibility of readers is a common feature of ‘stories of suffering’ which may be intended by the original tellers to seek redress, but can be repackaged and commodified into the framework of individual triumph over adversity, where the political demands frequently vanish (Alcoff and Grey 1993, Kleinman and Kleinman 1997, Gilmore 2002, Schaffer and Smith 2004). In Hesford’s work, the proliferation of testimony on sexual violence against women constitutes one of the prime examples of this phenomenon (Hesford 2011). In a related pattern, many feminists and non-feminists alike may hold up women’s ‘participation’ in such transitional processes, in any form, as evidence of a gender-sensitive, victim-centered environment. This is a discourse

⁷⁰ The Nairobi Declaration (2007) is the product of a transnational feminist effort to develop more comprehensive guidelines on reparations for women and girls. For a concise discussion of the process and the contents of this Declaration, see Couillard 2007; Nairobi Declaration Background Document 2007.

that I call “participatory rhetoric,” with a nod to Hesford’s spectacular rhetoric. Both concepts draw on the symbolic relationship between women’s public speech and democratisation or improving conditions for women to exercise their rights. Both can also hold up speech as evidence of rights or increased democratisation, rather than actually listening to the ways women articulate their demands and their ongoing structural disempowerment.

A common feminist refrain is that numerical representation of women at all levels in transitional bodies is crucial (Nesiah 2006, Nairobi Declaration 2007, Theidon 2007, Rubio-Marín 2009, Borer 2009, Goetz and Jenkins 2010, Meertens and Zambrano 2010). Though many do not specify, Nesiah (2006) notes that it is especially important to involve women who have a long history of leading and participating in political struggle, since as others point out, it is reductive and sometimes harmful to assume a common experience and political perspective for all women (see Theidon 2007). ‘Participation’ is a term that connotes voluntariness or choice, and calls up the symbolism of speaking out as a therapeutic articulation of new rights and democratic freedoms previously unavailable to many women. But speech itself is not the sum total of the justice that most women claim to be seeking. Taking the symbolic act for the whole obscures the major barriers experienced by many of the most marginalised participants in transitional justice initiatives. While women show up, the process itself is often more alienating and impoverishing than it is just, therapeutic or reparative. Women’s participation in a tribunal, truth commission or reparations program may be driven as much by dire economic need as by the desire to exercise a right, an issue that has been starkly illustrated in Guatemala. Motivations can be complex, but poverty has driven many indigenous women to come forward for reparations even when doing so constitutes a major risk to their safety and when they suspect they will suffer public shaming (Fulchiron, López and Paz Bailey 2009, Morán and Corzantes 2011).⁷¹

⁷¹ Various feminist theorists have explored the gendered dimensions of shame (see especially Ahmed 2004), and shame is often an expected side effect of sexual violence. For example, Engle and Lottman (2010) critique the expectation that ICTR witnesses perform shame in order to legitimise their claims to harm in rape cases from the Rwandan genocide. It is important not to overgeneralise about how pride and shame are connected to sexual violation, but instead attempt to understand the complicated emotional responses different people have had towards being publicly identified as survivors, and receiving cash reparations payments from the state. See Viaene (2010) on this experience more generally, based on interviews with Q’eqchi’ people in Guatemala. The Madres of Plaza de Mayo in Argentina and many survivors of wartime sexual slavery in East Asia continue to refuse payments on principle; many women survivors in Peru and Guatemala have accepted them (Laplante and Theidon 2007). The acceptance or refusal of reparations payments may be just as much a reflection of survivors’ relative class positions and access to resources as an expression of their political feelings (Nesiah 2006, 35; Theidon and Laplante 2007).

The position of the victim is taken up strategically by many, and is not occupied exclusively by women. However, it is a feminised category that tends to be coded as passive in relation to a more idealised, rights-bearing human subject as outlined in foundational documents such as the 1948 Universal Declaration of Human Rights (Cubilié 2005). In the twilight of the Cold War, with the development of a human rights movement not tied directly to the Left, and uncertainty about which acts of violence might be prosecutable in the future, victimhood increasingly carried a veneer of innocence not always available for those who were part of (or supported) a militant guerrilla group (Levy Solano and Speed 2008, Méndez 2011). Guatemalan scholars and activists in particular draw attention to the implications of this appealing innocence, which channels the controversial “between two armies” or “doctrine of the two demons” thesis. A recurrent theme in Latin American truth-telling projects since Argentina’s National Commission on the Disappeared (CONADEP 1984), this approach stemmed from a “refusal to attach historical importance to the repression conducted by the previous regime apart from the fact that political violence is a symptom of illiberal intolerance” (Grandin 2011, 46). When assumed in Guatemala, this position often supports an erroneous equivalency between the acts of the military and the guerrilla, as well as the assertion that indigenous people were mainly manipulated by the military and guerrilla, rather than also active participants in the war (Torres-Rivas 2006, Nelson 2009, Paniagua 2010, Pivaral 2010, Nora⁷² 2011, McAllister and Nelson 2013). This debate will be discussed in more detail in Chapter 5.

In her book *Fictions of Justice* (2009), critical anthropologist Kamari Clarke advances a trenchant critique of victim-centeredness that focuses less on gender violence and more on the entire international and transitional justice enterprise. She draws attention to the creeping “tribunalization” of rights and justice claims that is inherent in the current transitional justice preoccupation with rule of law (2009, 45). Acknowledging that nominal attempts to make adversarial processes less onerous for individual witnesses can be important, she asks critics to

Thus economic conditions are a key mediator of who is perceived as ‘proud’ versus ‘ashamed.’ The shame(ing) of people who accept reparations payments extends beyond the issue of sexual violence. More generally, some feel accepting state money is like someone is buying their silence or as though they are eating their dead relatives, as reported in Viaene’s research in Alta Verapaz (2010, 16). In the case of sexual violence, it can be interpreted as prostitution—especially if women were forced into sexual slavery (Fulchiron, López and Paz Bailey 2009). In either case, accepting reparations payments does not mean the structures of communal shaming and stigma do not exist in the latter sites, but that immediate material needs in situations of dire poverty can override the desire to refuse out of pride.

⁷² Pseudonym (assigned by author).

reconsider the now taken-for-granted notion of ‘victims’ justice’ as a progressive development, most centrally the dubious consequences of a ‘victim-centeredness’ that does not challenge the underlying basis for authority of the transitional processes in question. Focusing on the expansion of the jurisdiction of the ICC in Africa, Clarke points to the posture of victim-centeredness as a rationale for rolling out a Northern-dominated program of rule of law and neoliberal economic policies across the Global South. One key aspect of this process is the individualisation of notions of justice and of criminal responsibility.

Clarke focuses on approaches to individual justice in the ICC. At its inauguration, then UN Secretary General Kofi Annan called the Court a cornerstone, explicitly citing collectivized criminal responsibility as the “enemy of peace” (cited in Clarke 2009, 4). Clarke’s position sees the conflicts in Africa that take up so many of the ICC’s resources as implicating far more than individual leaders. She argues that individualising discourses of justice sidesteps collective action and also the root structural causes of conflict, especially those that are resource-based, which inevitably implicate many in the Global North (see also Miller 2008). Further, echoing claims of other legal anthropologists, Clarke claims that the paradoxical presumptions of universalism and secularism on which Western law rests render unintelligible a range of other approaches.⁷³ Drawing on Derrida, Clarke considers the victim as a sort of “spectre of justice,” which is closely related to

the spectacularization of the law in such a way that produces a representational domain in which performances on the world stage are institutionalized through the ethical cultivation of human rights principles and the crowding out of others (Clarke 2009, 6).

With echoes from the work of many postcolonial theorists, she argues that the figure of the victim is needed to establish the legitimacy of such bodies and jurisdictions as the ICC, but that the victim is not meant to have any meaningful agency in the proceedings—and interestingly, neither is the perpetrator (108-9). In Clarke’s view, “the articulation of criminal responsibility in defense of the victim has had the opposite of its intended effect,” producing what she calls

⁷³Clarke’s work focuses on the issue in relation to Islamic law. More broadly relevant to Guatemala and across Latin America are discussions of legal pluralism that take up indigenous *costumbre* [customary religious practice] as complementary or competing legal systems, as indicated in a number of interviews I conducted with rights defenders attempting to navigate multiple systems and world views in confronting violence against women. This issue is discussed in the concluding chapter of the dissertation. While not identical situations, Clarke’s approach contributes analytical tools that can be useful in a range of pluralist dilemmas.

“disembodied political subjects that allow agency to be reassigned to the institutionally powerful in their name.”⁷⁴

Here, Clarke is arguing for a far more critical perspective on how victim participation is sought out and mobilised in transitional processes. In the context of feminist approaches, the slippage between claims about participation in the two (often overlapping) areas of the expert/analyst/decision-maker and victim/witness/recipient means the mere presence of women claimants can be taken as evidence that more progressive shifts in women’s roles and political representation have also been made, a misapprehension facilitated by the reliance on a politics of visibility or presence as representation. One goal in this dissertation is to encourage the disaggregation and intersectional critique of the category ‘women’ in transitional justice work, to explore the differences in how transitional processes and their advocates construct and seek out women’s participation. There is little doubt that ordinary, “non-expert” women’s contributions to truth-telling and international justice processes provide crucial primary data. But to what extent are these women’s ideas and experiences valuable as more than “data,” and beyond superficial measures to appear gender-inclusive? An intersectional critique complicates this question considerably in settings where social inequality is organised across axes of gender but also racialisation, class and other factors such as language and rurality, as I explore in more detail in the context of the Guatemalan truth-telling projects. Such an approach is indispensable in this discussion, in the ongoing construction of research that refuses to romanticize women’s mere presence as automatically positive or legitimating of processes that are too often replete with structural barriers and indifferent to women survivors’ needs and demands.

Conclusion

In this chapter I have outlined some of the main contours of the field of transitional justice, focusing on critiques of an over-reliance on standardised forms of legal universalism, despite possibilities for more historical and locally-oriented approaches. For many marginalised groups, the law has worked more as a tool of exclusion than liberation, and various social justice movements have been wary of an outright embrace of legal strategies for structural change.

⁷⁴Clarke 2009, 4. Clarke notes the current international focus on the problem of the child soldier as victim. She highlights the haunting idea that both perpetrator and victim might be bound up in one figure which is too complicated for a saviour narrative in which, in African land and resource-based conflicts with long term historical roots, ‘saviours’ are always implicated in atrocity as well (2009, 108-111).

Despite existing critiques, feminists took advantage of shifting international terrain in the post-Cold War period to push for visibility and sanctions for sexual violence in the wake of conflicts in which mass rape was a major feature. In considering the resulting statutory and trial-based developments around sexual violence in international law, I provide an overview of the gender bias that continues to pervade Western legal systems in general, and the inaugural International Criminal Tribunals in particular. I examine feminist debates on how best to name and institutionalise the criminalisation of sexual violence in war, through the definitional ambiguity around “rape” in three key cases in the ICTY and ICTR, as well as other areas of transitional justice where critiques have focused more on the spectacular and traumatic impact of symbolic measures, and the turn towards making concrete material gains for women. The tensions between projects of space-opening and more transformative discursive strategies illustrate how superficial gender visibilisation can co-exist with forms of patriarchal containment in this field. In the last section of the chapter, I demonstrate how the increasing emphasis on “victim-centeredness” encourages a slippage between notions of women’s participation as presence, and more profound engagement. In turn, this “participatory rhetoric” allows transitional processes such as trials and truth commissions to appear inclusive and responsive to women witnesses, regardless of their actual practice.

Without assigning a unified purpose to all women who testify in such processes, it is clear that women’s ideas and speech do not confine themselves to scripts of gendered victimisation and rape. As Ross (2003a) and others illustrate in various detailed case studies, interpretive intervention plays a major role in framing and containing the gendered dimensions of women’s speech. Testimonial forms of inclusion are not in themselves problematic, but relying on the conduit of testimony alone risks reproducing the marginalisation of women survivors by making victimhood a condition of their public speech. A range of critical and theoretical material suggests that this use of testimony structurally positions marginalised women as outside of politics and history, at the same time as it can point to broad-based participation of women as evidence of gender-sensitivity. Dina Al-kassim (2008) advances such claims about the contradictory role of women in the South African TRC. As it welcomes previously silenced victims, the entire process pivots on women’s presence, yet what they say can threaten the claims to legitimacy of the whole endeavour if they fail to stick to a script that keeps them in an unambiguous, domestic and victimised space (2008, 176). While highlighting the clear demands

for justice by indigenous women, Crosby and Lykes (2011) have raised similar questions about the performative value of speech in women's tribunals such as the 2010 Tribunal of Conscience in Guatemala City. Critics suggest that the agent that emerges from such sites may be less the woman witness than the benevolent force of justice, whether in the form of the ICC, the relevant TRC, NGO, human rights worker, lawyer, or valiant feminist 'silence-breaker.'

My discussion has focused some attention on both discourses of feminine victimhood and those of women's participation. These discourses materialise two opposing notions of women: the passive victim and the active but grateful citizen. When we draw out both spectacular and participatory rhetorical formations, the common thread is precisely what Clarke describes as "disembodied political subjects that allow agency to be reassigned to the institutionally powerful in their name" (2009, 4). Both figures benefit from the presence of the truth commission or tribunal and to some extent their agency is framed as contingent on these processes. Although the inclusion of sexual violence has become more mainstream, the stories that such processes have favoured continue to downplay or erase activist women (Ross 2003a; see also Chapter 3). Such responses arguably demonstrate the elasticity and tenacity of old discourses as they grapple with the apparently unthinkable challenge of marginalised women's political subjectivity and action. The CEH and REMHI processes emerged at precisely the moment when such shifts were occurring internationally. With these developments in mind, the following chapter examines the context and content of their reports.

Chapter 3: Historical context and intersectional analysis of the REMHI and CEH reports

This chapter first presents the context of the emergence of the REMHI and CEH processes before moving to an intersectional gender analysis of the REMHI and CEH reports themselves. It draws on a range of sources, including the REMHI and CEH reports, secondary historical and anthropological literature, reports from human rights organisations, and interviews with former REMHI and CEH workers and other rights defenders. The chapter introduces some of the specific ways in which transitional justice and historical memory discourses and practices have overlapped and unfolded in Guatemala, and introduces the basic contours of women's wartime activism. Through a close reading of the REMHI and CEH reports, my analysis illustrates some of the tendencies discussed in the previous chapter, focusing on the contradictions generated by a politics of gendered visibility. Despite women's considerable participation as protagonists during the war in Guatemala and as witnesses in the truth-telling efforts that followed, the chapter shows how they emerge predominantly as victims of sexual violation and are contained from the reports' historical arc and recommendations.

The CEH and REMHI reports relied heavily on the oral testimony of thousands of Guatemalans, many of whom were indigenous women.⁷⁵ My critical discourse analysis of their reports is intended as a contribution to a much larger and very complicated set of public discussions about these reports and their role in Guatemala, as well as the difficulties of doing justice to questions of gender violence within such work. It provides a critical exposition which sets up and opens into the more interview-based exploration that follows. The analysis aims to problematise gendered assumptions emerging from the objective construction of rights knowledge, but without undermining the work performed by witnesses and rights defenders who call for justice in the wake of atrocity. Intended as a contribution to broader documentation of how such processes work, it supports the goals behind 'silence breaking' around sexual violence, while also interrogating their various gaps and oversimplifications.

In this project, I have attempted to separate the textual and ethnographic aspects of these questions, or in other words, I present here a summary and discourse analysis of particular parts of the reports themselves and then, in Chapters 4-7, explanations and reflections offered by

⁷⁵ Both reports note that approximately half of those who testified were women. REMHI 1998, Vol. I, 203; CEH 1999, Vol. III, 20.

interview participants and subsequent research. Methodologically speaking, this indicates that the texts have their own life and can produce multiple readings, regardless of the intentions of their authors. Mine is not intended as the definitive reading, but rather as a way to highlight the importance of bringing actual texts into dialogue with people's recollections, second-hand impressions and selective uptake.⁷⁶ In the spirit of institutional ethnography (Smith 2006, Eastwood 2006), this section aims to make more transparent how dominant discourses structure texts produced in institutional settings. Reflection on these patterns can support the development of pathways away from reproducing such discourses in future endeavours, and create more appreciation for intermediate actors' roles as well as the impact of context on what, and how, knowledge is produced.

As discussed earlier, in a gender-focused reading of the REMHI and CEH reports, tensions continue to be visible between the more universal feminist project of deconstructing gender-blind universalism, and the intersectional and particularly indigenous feminist critique of the inadequacies of such a visibility agenda. My reading focuses on women (as signs for gender), and uncovers both the hypervisibility of sexualized, racialised victimhood and the under-visibility of all women as political actors. As I will show with reference to these reports, the prominent positioning of women as victims of sexual violence can be seen as a significant improvement over their exclusion from previous truth-telling endeavours in other sites. Yet without a concomitant presence in any other subject position, these reports are able to continue to adhere to principles of gender-blind universalism: when illustrated as special or different from the universal norm, women's experiences can become highly visible without posing a serious challenge to the broader framework employed. Rather than only asking the more positivist question, 'where are the women?'⁷⁷ this analysis considers more discursive and epistemic questions about the conditions and functions of women's visibility: *how* the CEH and REMHI reports made women 'visible'; on what grounds they 'included' women and sexual violence in human rights discourse; and how they 'contained' them in relation to a larger and ostensibly ungendered truth.

⁷⁶ Some participants in my interviews appeared apologetic or embarrassed that they had not read the entire report in question (or, not in a long time), regardless of the fact that they work incredible hours and both reports are thousands of pages long. I believe that both the actual texts and the multiple ways in which they live on in popular memory or mobilisations are important.

⁷⁷ See for example Rubio-Marín's 2006 volume on reparations, *What happened to the women?*; McKay and Mazurana's 2004 *Where are the girls? Girls in Fighting Forces in Northern Uganda, Sierra Leone and Mozambique*. I do not mean to imply that such positivist questions are unimportant in feminist research.

In these reports, I concentrate on two main contradictions. The first contradiction is between the marked absence of historical acknowledgement of women as protagonists, and the various other parts of the reports in which they emerge frequently, if incidentally, as actors. The second contradiction is between the exposure of sexual violence as a human rights violation linked with long-term structural inequalities experienced by women, and the near absence of sexual or other structural forms of gender violence in the conclusions and recommendations in the reports. Both sets of contradictions are consistent with a historical and transnational pattern within human rights discourse not of making sexual violence and women completely invisible, but rather of containing them as ‘sexed difference,’ and naturalising what happens to women in war as ‘chaos’ or ‘collateral damage,’ a pattern that has proved difficult to disrupt even as the visibility of gendered violence has improved since the 1990s. In the Guatemalan case, such an accountability gap meant that despite silence-breaking in the REMHI and CEH, sexual violence was effectively left out of the reparations agenda until renewed interventions by women and feminist advocates (Paz y Paz 2006, Morán and Corzantes 2011).

Tracking these textual contradictions tells an interesting part of the story: for univocal documents that strive for certain forms of objectivity, the CEH and REMHI reports’ approach to women, gender and sexual violence is confused. When viewed as texts constructed and debated by many actors, however, such confusion turns into a conversation, and potentially a struggle for discursive hegemony, which produces questions about how this work was carried out and the internal dialogues and struggles between feminists and others that are so far less well documented than the sexual violence they helped to expose. In other words, the contradictions in these reports hint at the complexities and costs of creating gendered accountability. As it turns out in this case, the REMHI and CEH constituted the tip of a much larger iceberg.

Guatemala: Brief historical background

While this chapter cannot provide a detailed analysis of the expansive work performed by historians and anthropologists in Guatemala, it is important to foreground the historical context of the internal armed conflict and truth-telling measures in Guatemala. The internal armed conflict was characterised by intense brutality and by the large number of casualties, estimated at over two hundred thousand deaths, forty thousand disappearances and over a million refugees

and internally displaced people (CEH 1999).⁷⁸ These are much higher casualty figures than those documented as a result of the South American authoritarian regimes of the same period. Struggles against repressive military governments, or even seeking disappeared relatives involved major risk and were most often performed in a context of fear and uncertainty. One of the central tensions in discussing the meaning of this conflict centres on the contrast between the military's assertions that they were fighting leftist guerrillas in a counter-insurgency war, and the evidence that the guerrilla were seriously outgunned, progressive social movements were decimated and indigenous people were overwhelmingly targeted and victimised, leading to a qualified claim of genocide in the CEH report, centered around specific Mayan linguistic groups (CEH 1999). Guatemalan scholar Edelberto Torres-Rivas has called it not a civil war but a war against civilians or "*guerra contra los civiles*" (Torres-Rivas 2007).

Longer-looking approaches to history see continuities between the strategies employed in the internal armed conflict and those used over the course of five centuries of colonisation and violent domination by elites. Such practices included the forced movement and concentration of populations, rape, slavery and indenture, debt peonage and the concentration of land in the hands of a small settler group (Handy 1984, Smith 1990, CEH 1999 Vol. I, 82-96; Martinez Pelaez 2009). While indigenous people managed to secure some autonomy at the local levels of government through the early twentieth century, this generalised pattern of domination continued through the Liberal coffee economy until the fall of the dictator Jorge Ubico in the 1930s and the rise of social democratic and labour politics in the 1940s, in step with developments in other Latin American countries (Handy 1984, Grandin 2004). From 1944-1954 in a period often dubbed the 'Democratic Spring,' the democratically elected governments of Juan Arévalo and Jacobo Arbenz pushed for monumental changes to the society, including the enfranchisement of literate women in 1946, a social security system, widespread union organising and educational reforms. The legalisation of the small PGT (Guatemalan Communist Party) and the implementation of a sweeping land reform bill (both in 1952) ultimately proved too threatening to elites and foreign interests, especially the United Fruit Company, whose monopoly was

⁷⁸These figures are the product of the research of the CEH, and have been widely cited since the release of the report in 1999. In the intervening years, other evidence not available to the CEH has emerged, leading to larger estimates of 250 000 dead and 45 000 disappeared. See discussion in McAllister and Nelson, 2013, p. 20

threatened.⁷⁹ Aided by the CIA, a faction of the Guatemalan military stripped president Arbenz of his position and property and forced him into exile in his underwear. They then imposed a series of dictatorships that stretched from 1954 into the 1980s (Handy 1994, REMHI 1998, Vol. III; CEH 1999, Vol. I).

The ensuing armed conflict involved several phases. With a rapid closure of spaces of civil society and dissent, the PGT went underground and a nationalist faction of the army loyal to Arbenz formed FAR (Revolutionary Armed Forces) and began a series of attacks on the state in the 1960s (CEH Vol. I, 123-145). After vicious repression which featured selective assassination and forced disappearances, they withdrew to reorganise. The liberationist group Catholic Action and the CUC (Committee of Peasant Unity) were becoming increasingly radicalised. In the 1970s, other revolutionary groups such as the EGP (Guerrilla Army of the Poor) and ORPA (Revolutionary Organisation of People in Arms) formed and began to organise both in urban and rural settings, aided by some openings encouraged by relief efforts in the aftermath of the 1976 earthquake (CEH 1999, Vol. I, 169; ODHAG 2002), and hastened by other events such as the corrupt overturning of election results in which indigenous men had won positions in local government (Arias 1990).

The base for resistance grew, and armed groups consolidated into the URNG (National Revolutionary Union of Guatemala) after state responses escalated. Oft-cited tipping points are the Panzós massacre in 1978 and the firebombing of the Spanish Embassy in 1980. In Panzós, peasants demonstrating against landowners were confined to the square in which they had assembled and razed to the ground by the military, starkly illustrating the stakes of defending basic rights (CEH 1999 Vol. VI, 13-24; Grandin 2004). In 1980, the police set fire to the Spanish Embassy where thirty-seven activists and members of the revolutionary movement, (including Vicente Menchú, father of later Nobel laureate Rigoberta Menchú) had staged a peaceful occupation to draw attention to the plight of indigenous people in Quiché. Thirty-five people

⁷⁹ The Agrarian Reform Bill called for the expropriation and redistribution of large tracts of underused land. This was to be carried out by radically democratic local agrarian committees called CALS, run by peasants who would inspect disputed land and pass their decisions up to more national level committees (REMHI 1998, Vol. II, 8-9; CEH 1999 Vol. I, 101-103; Grandin, Levenson and Oglesby 2011, 198). Once this law began to be implemented, most agree that it was the death knell for the democratic government. However, there is some debate over the reasoning behind the CIA-supported coup in 1954—earlier interpretations focused more on the direct ties many in the US administration had to United Fruit Company interests, while more recent interpretations, partly influenced by the gradual declassification of CIA files, have placed more emphasis on the anti-communist, Cold War motives of the US government and its Guatemalan allies (Grandin, Levenson and Oglesby 2011, 197-199). In either case, one result was a continued entrenchment of anti-democratic power by local elites.

were killed and Spain withdrew its diplomatic ties.⁸⁰ With these two events setting the tone, the scale and intensity of the violence exploded. In Guatemala City students and union leaders were decimated, and in the countryside a scorched earth policy resulted in the destruction of over six hundred villages, involving massacres, systematic rape and reproductive violence and often perpetrated by the ruthless *Kaibiles* killing squad, trained at the notorious School of the Americas (CEH 1999, Vol. I, 183-203). This period also saw the concentration of survivors into camps called ‘model villages’ and the implementation of a mandatory civil patrol system that fractured communities and effected surveillance on a wide scale, while presenting a development-focused face to the outside world that was applying pressure on Guatemala to end the war (CEH 1999, Vol. I, Zur 2001). As documented in their operational plan, *Plan Sofía*, the US-supported military targeted for extermination entire groups of indigenous Guatemalans whom they framed as guerrilla or as their support base, irrespective of individual involvement in armed resistance.⁸¹ As being part of the armed wing of the movement became more and more deadly, victims’ and widows’ movements such as GAM, FAMDEGUA, and CONAVIGUA emerged in the 1980s, headed mainly by indigenous and non-indigenous women in search of their disappeared loved ones (Green 1999, Zur 2001, CONAVIGUA, MOLOJ and ICCPG 2008).

The nascent human rights movement and international scrutiny from two visits from the Inter-American Commission on Human Rights (1981, 1983) had added legitimacy to testimonial accounts of the violence in the Guatemalan highlands. At least partly in response to this scrutiny, the military conceded a nominal return to democracy in 1985, drafting a new constitution. Peace negotiations gradually took shape over the next decade, first through participation in regional peace initiatives (Contadora, Esquipulas I and II) in 1986 and 1987, then through a Church-based Commission for National Reconciliation (1987). These efforts involved no official state involvement until a series of negotiations was struck more directly between the military and the URNG, from 1991-1996 (CEH 1999 Vol. I, 262-266; Jonas 2000, UNOPS 2000).

⁸⁰ CEH 1999 Vol. VI, 163-182. One of the only survivors was taken from his hospital bed and beaten to death only days later. See Arias 2007 for detailed debate over who started the fire. After sixteen years in the courts, a 2015 ruling vindicates the struggle for truth and justice, convicting former chief of police Pedro García Arredondo of homicide and crimes against humanity for ordering this attack (Malkin 2015, Grandin 2015).

⁸¹ This plan was not available for the CEH or REMHI, who faced a reticent military and based much of their analyses on testimony and what could be pieced together from available documentation. The military denied the existence of the highly incriminating Plan Sofía until 2009. See discussion in Asturias Valenzuela (2012) or the National Security Archive website: <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB297/>

Between the reinstallation of democracy in 1985 and 1996, when the final peace accord was signed, however, the military maintained de facto power, and no large-scale investigation or legal accountability measures were implemented with reference to claims of human rights abuses. A brief resurgence of guerrilla activity in the late 1980s masked the increasing military weakness of the URNG's position, but the Guatemalan army continued to frame and respond to such actions as a major threat through its National Security Doctrine (REMHI 1998, CEH 1999, Jonas 2000). Culminating in December 1996, the ten peace accords included greatly expanded recognition for Mayan people's rights and for Guatemala as a 'pluricultural nation,' as well as a contentious accord laying out how human rights would be monitored and violations documented (Jonas 2000). Both the REMHI and the CEH emerged from this context, the REMHI as a response by the more liberationist wing of the Catholic Church to the perceived weakness of the accord on what would later become the UN-headed CEH.

The REMHI and CEH processes did much to expose the scope and effects of state-sanctioned human rights violations in the Guatemalan internal armed conflict and have been important tools in the broader struggle for social justice, but the accomplishments in this struggle have been hard-won. Advances such as reparations through the National Reparations Program (PNR) have been slow to materialise and come about in a piecemeal fashion, due to constant pressure and monitoring from human rights groups and international observers (IW 2008). Without major judicial reforms, impunity has remained a systemic problem, and petty crime has become difficult for many to distinguish from the more organised variety, often creating support for right-wing '*mano dura*' (iron fist) policies (ibid). The CICIG (International Commission against Impunity in Guatemala) is a UN-sponsored body that was implemented to investigate and disband the clandestine security apparatus that operates in parallel with state forces. Its exposures of these structures, organised crime and widespread corruption have laid bare the extent of the problem from the CICIG's inception in 2007. It has some legal powers and has provided support for judicial reform and on high profile court cases (CICIG). A brief interlude under the centrist president Alvaro Colom allowed for more serious judicial reforms under Attorney General Claudia Paz y Paz, leading also in the spring of 2013 to the first in-country genocide trials for high level military officials, convicting former head of state Efraín Ríos-Montt.⁸² Another former general centrally implicated in the atrocities of the 1980s, Otto Pérez Molina, was elected

⁸² Unfortunately this ruling was annulled days after the guilty verdict for Rios-Montt.

president in 2011 and consistently undermines these efforts, including by denying that genocide occurred (Weld 2013) and more generally by restricting the development of progressive measures for victims of the armed conflict.

As time passes and the security situation continues to deteriorate, the lack of diffusion of truth and historical memory processes means that it becomes more difficult to link the destruction of society effected by the war with the current insidious violence. This problem is relevant both in general and in relation to gender violence. The debate about what activists are fighting for continues to be inflected by the Cold War era framings that demonised all civil society organising as a plot by communists seeking to destroy the state.⁸³ Yet rights defenders and survivors, by no means mutually exclusive categories, continue to struggle for accountability and justice, using both law and historical memory as key tools, often at great risk to themselves, their loved ones and the organisations in which they are involved.

Impunity and historical memory struggles: Peace negotiations and origins of REMHI and CEH

As recounted in Susanne Jonas' book-length discussion (2000) as well as the REMHI and CEH reports, by the time official peace negotiations got under way the global Cold War context had changed and many were exhausted with conflict. When President Serrano attempted an “*auto-golpe*” or self-coup in 1993, dissolving Congress and the courts, and suspending basic freedoms, a broad sector of society including most of the military rejected the action, indicating that reform was a real possibility (CEH 1999, Jonas 2000). Brokered by ‘friends’ such as the US, Colombia, Spain, Venezuela, Norway, and Mexico, peace negotiations took shape around a number of separate accords, each dealing with different aspects of the transition, including the terms of “democratization, human rights, the socioeconomic and agrarian situation, the rights of

⁸³ Three recent examples: 1) The public smearing of K'iche' anthropologist and rights defender Irma Alicia Velasquez Nimatuj by Ricardo Méndez Ruiz, president of the right-wing Foundation Against Terrorism. Velasquez Nimatuj responded with a legal “right of response” in the newspaper *elPeriodico* (15 July 2013). 2) The public debate around the “Betrayal of the peace” campaign (*campo pagado “Traicionar la paz”*) in which prominent members of society with left-leaning pasts cautioned in paid editorials that the national genocide trial could open the door to instability (April 2013). See summary: <http://www.elperiodico.com.gt/es/20130420/opinion/227177/>. 3) The letter circulated in December 2011 calling for “parity” in prosecutions for crimes committed by the guerrilla in the war. It names many rights defenders, journalists and people with famous relatives on the left. The letter was widely interpreted as a new blacklist and smear campaign by incoming President Perez-Molina against the current Attorney General Claudia Paz y Paz Bailey, under whose leadership major movement has been made for prosecutions of the ‘intellectual authors’ of the genocide. See Wirtz’s English summary of events: <http://americasquarterly.org/node/3167>.

indigenous people, and the resettlement of displaced populations” (Méndez and Barrios-Klee 2010, 14). As feminist rights defenders Méndez and Barrios-Klee put it, the broadness of issues on the table from the outset represented a key opportunity to push for the institutionalization of women’s rights (2010, 14).

The early *Acuerdo Marco* or “framework agreement,” which laid out the framework of the peace negotiations, created a parallel table of dialogue as part of the methodology for consulting civil society, which it divided into various sectors. This became known as the Association of Civil Society (ASC). Such a move represented an important symbolic opening for the public expression of Guatemalan democratic desires, and many took it up with enthusiasm. However, it was an extremely broad assembly. Among the many groups represented were an indigenous sector, a group of Guatemalans living abroad in the US, as well as the controversial participation of CACIF (Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations). CACIF’s membership included many of the most prominent families in Guatemala who had actively supported the military during the war, making them less than natural allies for the majority of other members of ASC, both for their past actions and for their support of the neoliberal privatisation agenda (see detailed account in REMHI 1998 Vol. III, Jonas, 2000).

A seasoned member of the URNG, Luz Méndez was the only woman negotiator with the URNG delegation to the peace negotiations,⁸⁴ and she used this opportunity to bring gendered concerns to the table. As some interview participants have stressed, the emergence of an organised women’s movement was stunted in Guatemala by decades of war. At first, women were not imagined as a sector in the ASC, but strong public pressure led to their incorporation (Méndez 2010). This *Sector de Mujeres* continued to operate as a group after the peace accords concluded. For some, the ASC was the place where they were first able to operate collectively in the open, and constituted key training for later organising in human rights and social justice-based groups. Méndez notes that the Framework Agreement provided a useful map for how decision-making should operate, requiring, for example, consensus-based documents that necessitated hard work in the ASC, and without which members of civil society would have lost

⁸⁴ Méndez is quick to point out that she worked in a broader context in which many women were actively fighting for a feminist agenda (Méndez 2010), which is discussed in more detail in Chapter 4. In the peace negotiations themselves, other women in the URNG played important roles towards the end of the process, and there were several prominent women in the state’s bodies such as the Commission on National Reconciliation (Méndez and Barrios-Klee 2010, 15).

the opportunity to influence the negotiations. Though their non-binding character was often critiqued, the ASC recommendations had a large amount of influence in parts of the official peace process. The decision by the URNG to take up all ASC recommendations may also have added some credibility for those who were unsure about its potential to transition into peacetime politics as a party.⁸⁵

Méndez remembers reticence on the part of the URNG to take women's concerns seriously. While many saw the peace negotiations as an inappropriate forum for such concerns, she credits the leadership with the more general decision to take up and fully endorse the entire ASC public platform. She recalls that this willingness to take up civil society recommendations "was a doorway for me," (Méndez 2010) though convincing URNG members was still arduous. She remembers several strategies. The first was to call people on their commitment to justice. She argued that if they were fighting for justice for *campesinos* and for unions, but not women, the URNG was not living up to its full commitment to civil society. Second, after the URNG members were convinced, she had to also convince the government side and lobby the UN moderator that these were valid concerns (ibid). The resulting accords include language that closely mirrors that of the contemporaneous Belém do Pará convention on women's rights, stressing the layering of disadvantage on women in certain social positions (1994).⁸⁶

Despite the path-breaking successes of Méndez and women in the *Sector de Mujeres* at getting gender on the peace agenda at all, this did not guarantee any broader shifts around gender in the postwar landscape.⁸⁷ The most contentious accord involved the transition of military

⁸⁵ Such uncertainty has been borne out since 1996 by divisive political debates and the URNG's general poor showing in the polls (Luciak 2001a, Alvarado 2010).

⁸⁶ The Belém do Pará convention on violence against women (1994) stresses in Art. 9 the increased vulnerabilities of marginalised women: "For adoption of the measures referenced in this chapter, the States Parties will take into account particularly the situation of vulnerability to violence that women can suffer due to, among other reasons, their race or ethnicity, migrant, refugee or displaced status. Similarly they will consider women who are objects of violence while pregnant, disabled, legal minors, aged, or in a marginalised socio-economic situation or affected by armed conflict situations or the deprivation of liberty" (my translation). *Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women*, June 9 1994.

⁸⁷ See Goetz and Jenkins (2010) on the few examples of peace negotiations that involved provisions on women and gender, noting the continued absence of women in peace processes, despite UN Resolution 1325 (2000). Since 1992, in 24 major peace processes only 2.1% of signatories were women, with no women as chief negotiators (263). They indicate that despite the range of UN Resolutions supporting its status as an issue of peace and security in the international arena, mediators are hesitant to attempt to bring gender violence into discussions for fear of appearing to have a biased agenda. Pressure from local women's groups, international civil society and UN states can be crucial (for example in the Democratic Republic of Congo and Sudan, 273). But as echoed in other contexts, they stress that explicit language on sexual violence early on can make the battle for accountability and reparations less onerous.

power and the investigation of past abuses. Notably in this case, the creation and mandate of the CEH were controversial from the outset and took years to agree on. The CEH was a sticking point for much of the negotiation period, and took its final form in the Oslo Accord of June 1994 (Tomuschat 2001, Méndez 2010). The military objected not only to the proposed creation of a UN-based truth commission but also to rights-monitoring through a UN mission that became known as MINUGUA (United Nations Mission in Guatemala). Negotiators helped ease the deadlock when they decided to separate these two components—the MINUGUA accord was accepted about two years before the one mandating the CEH, by which time the compromise reached by the parties involved a widely decried move to prohibit ‘naming names’ in the CEH report. Méndez remembers this as a difficult time: “this was a very long battle, and in this long battle, we didn’t incorporate a gender lens. I do have to confess that I didn’t have the strength to do it” (Méndez 2010).

As negotiators haggled over what appeared to be an increasingly toothless UN commission, the human rights office of the Catholic Archbishop (ODHAG) had been busily assembling the REMHI project under Bishop Juan Gerardi’s supervision. This was before ‘peace’ had officially been declared and the work was seen as risky but urgent, as there was some fear that in a new climate of peace and civilian government and accountability, those responsible for crimes would destroy evidence and intimidate people from testifying (REMHI 1998). Maya Alvarado, feminist rights defender and colleague of Méndez at UNAMG (National Union of Guatemalan Women), remembers that the REMHI arose “really out of a disqualification of the peace process” (Alvarado 2010).

REMHI was in operation from 1994 to 1998. The process focused most of its energy in rural indigenous communities and refugee camps, aiming to gather as much testimonial evidence of the violence as possible. They were under none of the CEH restrictions in terms of ‘naming names’ or using a particular methodology, so to some extent their work reflected the creativity and flexibility of those working on the ground. Originally conceived as a broad process of social reconstruction and somewhat in keeping with the liberationist bent of many politicised members of the church and secular rights defenders, the REMHI process trained over six hundred workers, predominantly rural community members as well as urban supporters. The role of these workers was not seen as merely collecting data but fomenting larger social processes. Many of the community members who participated as local staff were catechists, which meant that the

majority were indigenous men (REMHI 1998, Amézquita 2011, Mersky 2012). Another group of workers, listed in the front of the REMHI report, performed technical, analytical and writing work. Among this group the commitment and solidarity were clear, but there were fewer indigenous people from affected communities.

With few precedents, many cite the Salvadoran truth commission as the main influence on the REMHI, though most often as a process not to emulate. In the context of extreme polarisation in the postwar period, El Salvador's UN-headed commission favoured hiring outsiders as workers, who often lacked the necessary knowledge of the historical and social context. Observers in El Salvador have noted that this process had the effect of uniting the right and fragmenting the left (Hayner 2002, 115-120), particularly due to uneven reporting practices on rights violations committed by different wings of the guerrilla. Though REMHI began with some tools borrowed from the Salvadoran commission, they quickly realised a different approach should be developed in Guatemala. REMHI's report describes the moment as a "methodological crisis," arising almost immediately when confronted with forms of violence that greatly exceeded the frameworks offered by conventional human rights work (REMHI 1998, Vol. I, xxi). Questions emerging from initial consultations with communities included, for example, "in what category would one put the obligation to kill a brother?" and "what concept could be applied to public ceremonies where everyone was forced to hit a victim in the head with a stick until they died?" (ibid). Further, REMHI's approach was one of social reconstruction, a complicated proposition. The first volume quotes a nun who participated in the initial consultations with dioceses: "we should not lose sight of the fact that we are going to stir up a history that is not dead ash, but burning material, and that if we don't know how to do this work, it could do harm to the communities" (Vol. I, xix). REMHI's approach thus took great pains to document and work through some of the psychosocial impacts of the violence, and to do so not only with individuals but also at the level of the community.

The CEH was to be the larger and more 'official' documentation project. Three commissioners were appointed at the beginning of 1997, although work did not begin in earnest until that fall. The UN Secretary General chose Christian Tomuschat, a German jurist and UN expert on Guatemala, to head the commission, while the URNG and the Guatemalan government selected the others, Otilia Lux de Cotí, a Maya K'iche' educational specialist and activist, and Alfredo Balsells Tojo, a ladino lawyer (Rothenberg 2012, xxxvi). The staff included 269 support

staff—142 Guatemalans and 127 international workers (ibid). In his introduction to the abridged English translation of the CEH report, first released in 2012, Daniel Rothenberg stresses that though the UNOPS (United Nations Office for Support Services) managed logistics and finances of the CEH, it was not formally managed by the UN as had been the case in El Salvador’s truth commission.⁸⁸ The CEH did carry some of the hallmarks of a large UN project. Report coordinator Marcie Mersky notes that the CEH had its frustrating bureaucratic aspects but that in her experience it was still more flexible than other UN jobs (Mersky 2012). Some of the principal examples of this flexibility included fairly elastic job descriptions for workers, blurring the distinction between technical and logistical tasks, improving the flow of information between different parts of the operation, and other elements such as the decision to expand the initial list of violations to be recorded once field work had already begun. A UNOPS report created after the conclusion of the CEH (2000) highlights this form of “open planning” as an important feature of the CEH. While a number of people (including some of my interview participants) worked in some capacity in both REMHI and the CEH, others participated in one process only.

Despite the widely shared feeling of urgency and nervousness about the potential closing of a window of opportunity at any moment, these two processes were proceeding along different timelines and did not collaborate in a coordinated way. Organisational competition is a theme that emerges continuously in interviews about feminist and human rights work in this setting, and it was also felt among those working in CEH and REMHI.⁸⁹ Many who had supported REMHI for years had strong reservations about the CEH. There was some incredulity that an externally coordinated and staffed process with a weak mandate could ever truly understand and represent what had happened in Guatemala. Building community trust after it had been so intensely shattered was a long term task and REMHI had a large head start. However, as Paz y Paz (who worked on the CEH) and Mersky (who worked on both bodies) acknowledge in their

⁸⁸ Due to multiple budgetary crises, United Nations Development Program (UNDP) also provided various forms of support throughout the process (UNOPS 2000).

⁸⁹ For example, competition between the two main forensic anthropology organisations, FAFG and CAFCA (Alfaro 2010); between feminist and non-feminist NGOs (Aguilar 2010, Morán 2011); divergent views on feminist priorities across the range of feminist groups fighting gender violence (Alvarado 2010, Morán 2011). This sort of competition is often related to gaining access to international sources of funding (Aguilar 2010, Morán 2011) as neoliberal restructuring led to the NGOisation of civil society (Alvarez 1999), but it is also understood in the context of the desire to be recognised for expertise and hard work, to be the best group or produce the best report (Mersky 2012). At the same time as they describe competition, most participants acknowledge that organisations mainly had overlapping goals and were more or less united against a common foe—so the experience described often sounds closer to the business term ‘co-opetition.’

interviews with me, the “total agnosticism” of civil society was counterbalanced by what Mersky calls “the incredibly mature decision” of human rights organisations (including REMHI and ODHAG, where REMHI was housed) to support the work of the CEH regardless (Mersky 2012). Paz y Paz indicates that the “total skepticism” of civil society “didn’t serve any useful purpose now that you can see what’s been achieved. It’s excellent” (Paz y Paz 2010). As is often remarked, the cynicism worked in their favour, as the CEH turned low expectations and an implausible timeline on their head with a historically grounded document including a game-changing genocide claim.

Particularities of truth-telling and historical memory in Guatemala

Truth commissions were still in their relative infancy in the mid-1990s. Though there had already been numerous others worldwide,⁹⁰ some of my interview participants have noted that they had little knowledge of them while others mainly knew of four such endeavours: Chile, Argentina, El Salvador and the contemporaneous commission in South Africa.⁹¹ While careful not to equate the scale of violations committed by guerrilla with those of the genocidal military, some argue that a weak official truth commission was also in the interests of the URNG leadership. As former CEH worker Maria Baquero puts it, “when the treaties were signed, as they say in Spanish ‘*entre bomberos no se pisan las mangueras*.’⁹² So, the URNG and the government made sure that no one was going to be punishable” (Baquero 2012).

Another former worker, Nora, articulates a similar feeling:

I think...the original mandate was kind of on purpose... because you know, the army and I think the guerillas, too, they wanted a weak report, they wanted it quick and dirty and, you know, kind of like El Salvador was, really quick and...not a very good report (Nora 2011).

Though these participants are far from alone in this assessment, it was not an impression shared by all, and the official position of the CEH was far more diplomatic, focusing on the importance of transparency, impartiality and objectivity (UNOPS 2000).

⁹⁰ See Hayner 2002 for early comparative work.

⁹¹ Aguilar 2010, Pivaral 2010, Paz y Paz 2010, Estrada 2011, Mersky 2012; Jonas more or less repeats this list in her book on the peace negotiations, 2000.

⁹² Literally: ‘Among firefighters, no one steps on the hose.’ Roughly equivalent to the English aphorism, ‘There is honour among thieves.’

Historical memory as a framework has flourished alongside the growing interest in transitional justice in Latin America, at least partly as a result of the intensity of state denial and repression. With the historical memory framework, many people aim to contest the official story of the militarised, authoritarian state—to “set the record straighter” as Mersky has put it (Mersky 2012). This intention is also reflected in other sites in the region, including Chile, Argentina, El Salvador, and Brazil, and around the world.⁹³ Many are motivated by the desire to dignify the lives and deaths of victims, to lay their memory and spirit to rest, and to reclaim their stories from the smears of the state’s anti-insurgency propaganda. The desire for justice figures prominently, including but not limited to calls for legal proceedings and punitive measures. In other sites, especially Argentina, extensive legal reform took decades to implement but it has now made serious courtroom justice for atrocities a real possibility (Goldstone and Smith 2009). Human rights experts who had gone through truth-telling processes in the Southern Cone in the 1980s lent support to REMHI and CEH, and since then various figures such as activist judge Carlos Rozanski⁹⁴ continue to support efforts to achieve meaningful legal reform and reparations in Guatemala. Under the recent term of Attorney General Claudia Paz y Paz, significant progress was made, including prosecutions of the previously “untouchable” war criminals, a major reduction in impunity rates and an institutional focus on improving responses to violence against women. Many feared these changes would be short-lived (Reynolds 2013) and indeed, some are already being dismantled under Paz y Paz’ right-wing successor, Thelma Aldana (Alford-Jones, 2014).

The desire to achieve meaningful justice often expands beyond the capacity of those performing truth and historical memory work, but this work can play a key role in putting forth and sustaining important ideas—in Guatemala, such ideas include the genocide claim and claims that sexual violence violated human rights, as well as the simultaneous and frequently strategic

⁹³However, in other areas outside Latin America where repression operated with a similar intensity, the framework has not always been as popular. One emergent question is around the regional character of this memory-focused framework, as opposed to the more universalising tendencies of transitional justice discourses. As a counterpoint, Shaw (2005) discusses how the dogma of memory through performative truth telling at the TRC in Sierra Leone went against the grain of the complex strategies of forgetting that had allowed people (especially children) to assume ordinary lives again after the conflict. Shaw identifies this truth-telling/remembering imperative with Western rights culture and considers it inappropriate for the Sierra Leonean context.

⁹⁴Rozanski has used the term ‘genocide’ to describe the violation of human rights of those involved in left-wing social movements during the authoritarian regime in Argentina, under the interpretation that they constituted a “national group.” Genocide Convention language is seldom interpreted to be applicable outside of ethno-cultural groups. See more discussion in Chapter 5.

use of multiple discourses around truth, justice, memory and reparation. Thus actors involved in ‘transitional justice’ initiatives as imagined internationally (as workers, as witnesses, as receiving publics and governments) are simultaneously participating in the production, reception and contestation of historical memory in a diverse array of other fora.⁹⁵

Both REMHI and CEH established and maintained an important historical orientation throughout their work. REMHI uses the term ‘historical memory’ freely to structure its goals, while the CEH was intentionally called a commission of ‘historical clarification’ rather than ‘truth.’ The two reports both produced long historical volumes which at the time helped provide documentary base-lines for much-lacking national histories. The form of the CEH fit more squarely into the model of truth commission than did the REMHI. Some have taken it up as part of the truth commission genre (Hayner 2002, Grandin 2011, Rothenberg 2012), but it is important to note that others reject the label of truth commission altogether. In some cases this is a gesture that points out the limitations of the commission in relation to the greater subpoena and legal powers of other truth commissions such as Argentina’s CONADEP or South Africa’s TRC. In other cases, such a position demonstrates doubt about the possibility for an ‘objective’ truth under those conditions (UNOPS 2000; Pivara 2010), but also, it serves to highlight the uniqueness of the CEH. The historical circumstances and power relations produced a specific body which led to unique outcomes, such as the genocide claim (Mersky 2012). And indeed, the CEH and REMHI are also unique simply because as two quite large and official bodies they existed in counterpoint and sometimes competition for much of their tenure, while in most places there has been just one official truth commission.⁹⁶

⁹⁵ In Guatemala, multiple formal and informal historical memory projects unfold alongside more formal initiatives, and responding to a number of different imperatives, including the limited state response to victim demands. Such fora include individual and community collection of testimony (Tecú-Osorio 2006); houses of memory, and the incredibly reclaimed and transformed archives of the former national police (Weld 2014); makeshift and more permanent memorial sites, photography (Daniel Hernandez-Salazar; James Rodríguez; Jean-Marie Simon), political cartoons (Chacón 2011), documentary film (Yates 1983, 2011; Stelzner 2009); theatre and dramatic arts groups (Rayuela; Caja Lúdica, as discussed in Crosby 2009). Though underrepresented in the historical record more generally, there is now a growing number of materials by women and about women’s role throughout this history. Many are in the form of testimonies and in activist or NGO-based publications. See *Weavings of the soul* (Fulchiron, López and Paz Bailey 2009); *Granddaughters of fire* (Macleod 2011); *Times have changed* (González and AVANCSO 2002); *Neither forgetting nor silence* (UNAMG, ECAP, MTM, hegoa 2012); *Weavers of peace* (CONAVIGUA, ICCPG and MOLOJ 2008); *Living memories of a light* (ODHAG 2002). Also important are the few but important biographical (Ramírez 2001, Colom 2007) and ethnographic (Hernández Alarcón et al. 2008) accounts of women’s participation in the revolutionary movement.

⁹⁶ In some cases the official truth commission has so little legitimacy that civil society actors lobby to assemble another one. See examples in the case of Indonesia-Timor Leste (Rimmer 2010) and Sri Lanka (many thanks to Jessica Chandrashekar for discussing this case with me).

The CEH and REMHI, in refusing the mainly legalist bent of some other truth-telling processes, made evident another possibility. Historian and former CEH worker Greg Grandin has argued that the main innovation of the CEH in Guatemala was its harmonisation of seemingly opposing legal and historical approaches (2003, 2011). As detailed in the UNOPS report and evaluation, one strength of the CEH was its focus on multidisciplinary, which helped it to balance this set of tensions. The CEH attempted to place one legal expert, one social scientist (such as a historian or anthropologist) and one translator on each field team (UNOPS 2000, 27). Grandin writes that,

rather than dilute institutional responsibility (the Commission was prohibited from identifying individual violators) in abstract structural causes, the CEH joined historical and juridical analysis in a manner that strengthened legal doctrine. The application of history to law allowed the Commission to rule that the Guatemalan state committed acts of genocide against its Mayan population (Grandin 2011, 79).

Grandin indicates that proving genocide is complicated by a stringent legal burden of proof, requiring not just evidence of acts but also of intent, which is difficult to prove on a level beyond the individual (even though genocide by definition is a collective crime) (ibid). Yet without this historical basis to outline how racist and classist attitudes became entrenched within state structures, a genocide claim may not have stood up to scrutiny. Rather than creating a false dichotomy between legalist and historical approaches in truth and transitional justice work, Guatemala thus provides the opportunity to examine the possibilities and tensions opened by the attempt to take both seriously. As an ‘on the ground’ response to emergent concerns, the structural tension between law and history represented in the CEH and its relationship with the REMHI continue to provide this field with useful tools and perspectives.

Examining and comparing processes like truth commissions from diverse national contexts can be useful for many reasons, but it also risks homogenising important elements of local realities. As discussed briefly in the previous chapter, a movement among academics and practitioners to ‘localize’ transitional justice addresses concerns that the field has become too invested in ‘one-size-fits-all’, dogmatic models dictated by a professionalising team of experts (McEvoy and McGregor 2007). Historical memory work *as* transitional justice, however, is not as prominent a discussion. Matilde González’ work (2002, 2009) with AVANCSO (a research institute based in Guatemala City) in the war-affected town of San Bartolome Jocotenango, advances the potential for this notion, which was pioneered by the team at ODHAG with the

REMHI project. REMHI could not accomplish all the goals it set out for itself because it was dramatically cut short by the assassination of Bishop Gerardi a few days after he presented the final report. But its framework of memory work as social reconstruction is perhaps under-appreciated in the more hegemonic world of transitional justice, and as González states (2009, 296), the state's failure to implement the recommendation of more formal processes such as the CEH and REMHI make initiatives like the local history recuperation in Jocotenango sites for ongoing struggle.⁹⁷

However, as some interview participants and authors have indicated, Guatemala's truth-telling bodies have been less well-known throughout the world than many others, and have failed to become 'model' or paradigmatic cases, notwithstanding their particular innovations. The introduction to one edition of the CEH indicates that the CEH has remained "a document for study used almost exclusively by specialists" (Torres-Rivas 2006, xv; see also Taracena Arriola 2007). Some attribute this to the geopolitics of language and also the cumbersome and thus inaccessible size of these massive projects (Freeman and Quinn 2003, Torres-Rivas 2006, xv, Grandin 2011, Mersky 2012, Rothenberg 2012).

In book form, REMHI is four volumes long, whereas the CEH's full report consists of twelve volumes, with a total length of nearly four-thousand five hundred pages. The full-text Spanish version of the CEH report is available on a website hosted by the AAAS (American Academy for the Advancement of Science) and can be downloaded from various other sites as well. Some volumes have been released as stand-alone editions, such as the 'Causes and Origins' (historical) chapter, released in 2001 and reprinted in 2006 with a preface by celebrated historian and former CEH worker Edelberto Torres-Rivas. An abbreviated one-volume version of REMHI was translated and published in English in 1999, and a Japanese translation followed, at least

⁹⁷ At the national level see also the excellent collection of testimonies of women activists called *Tejedoras de Paz* (*Weavers of peace*, 2008). Supported by international NGOs (FOKUS, JURK and LAG) and led by a coalition of Guatemalan rights groups (CONAVIGUA, MOLOJ, ICCPG), this text is an explicitly multicultural life-history project that frames its opening discussion around UN Resolution 1325 and the notion that women have been the indispensable backbone of peace work in the country. This book gathers the stories of twenty-eight women who narrate their own ongoing struggles against impunity and for social justice. The book places narratives of indigenous and ladina women side by side, without attempting to reconcile them. It illustrates how more recently, particularly Mayan women's activism for peace has gradually taken on a more conscious focus on gender, but that each activist's process of coming to consciousness was a product of her own situation. It is a useful resource for this project especially because it illustrates through personal accounts the presence of women in many areas of national history that have tended to invisibilise their influence. This text makes continuous gestures to regional and indigenous approaches to historical memory while also drawing on international frameworks of human rights and democratisation.

partly the product of a relationship between feminists Yolanda Aguilar and Shihoko Niikawa. Niikawa had worked with the 2000 Tokyo Tribunal for victims of sexual slavery by the Japanese military and later served as a judge in Guatemala's 2010 Tribunal of Conscience (Aguilar 2010). Of the larger CEH, only the conclusions and recommendations were made available in English directly after it concluded its operations. It took until 2012 for an abbreviated and 'de-bureaucratized' single volume version of CEH to be released in English, though parts of it had already been repurposed elsewhere.⁹⁸ In the 2012 version of the CEH, editor Daniel Rothenberg indicates that "the difficulty of accessing a readable version of the commission's work" is one of the principal reasons that the Guatemalan conflict is either unknown outside the country or misunderstood within (Rothenberg 2012, xix).

The CEH budget provided some funds for translation into a vernacularised version in some major Mayan languages. But geographer Elizabeth Oglesby attributes much of the poor diffusion of the findings to the fact that at the emotional ceremony where the final CEH report was presented in 1999, President Arzú refused to cross the stage to accept the report on behalf of the state. This was followed by a failure to follow through with many of its recommendations, including the funding of "a governmental office to provide follow-up" (Oglesby 2005, 78; IW 2008). Yet former REMHI and CEH worker and current staff member at the NGO Impunity Watch, Carlos Amézquita wonders if a relatively weak CEH that could not compel government support may have been a blessing, if only because it gained nominal public acceptance as opposed to a more violent refusal and suppression (Amézquita 2011).

It may be true that most people in Guatemala and outside have never read the reports. But as I discuss throughout the dissertation, it is important to recognise the disproportionate impact of their targeted use, and the enormous potential of key facts and ideas in the reports to shift public discourse. These reports (particularly the CEH) have been cited countless times in human rights reports for which they have served as baseline data, as well as in the press and increasingly employed as historical support in legal cases.⁹⁹ Though the reports may be little read, the parts

⁹⁸ For example, the CEH genocide section has been featured in English in Higonnet's *Quiet Genocide* (2009), and in abbreviated form in the *Guatemala Reader* (Grandin, Levenson and Oglesby 2011, 386-394). The historical chapter has been abbreviated, translated and reprinted as part of Greg Grandin's book *Who is Rigoberta Menchú?* (2011, 99-149), while excerpts on the mandate and investigative procedures appeared in the UNOPS report and evaluation on the process in 2000.

⁹⁹ In his comparative discussion of the truth commissions in Chile, Argentina and Guatemala, Grandin notes that the CEH is constantly cited, while the others and particularly the Rettig (Argentinean) Commission have enjoyed far less uptake (2011, 59).

that continue to be repeated in numerous publications, studies and campaigns are important tools to challenge ongoing denials. One statistic that continues to return, for example, is the CEH's attribution of 93% of responsibility of human rights violations to the military, and only 3% to the guerrilla (CEH 1999). Further, psychosocial support work by ECAP and other organisations in communities targeted for genocide has long featured popularised versions of the REMHI report, which as several interview participants point out, many community members helped to construct (Paz Bailey 2010, Amézquita 2011). This recursive relationship between little-read reports and diffuse, popular uptake is an important one, as is an inquiry into which parts of the reports become more broadly 'known' and which parts get lost or mis-remembered through this process of mediation. Thus despite the relatively small number of people who have actually read the reports, not just the processes but appropriation of the texts themselves have performed a space-opening function in many areas of society. One major and now widely acknowledged area in which this pattern is observable is that of women's rights and particularly the issue of sexual violence. In the next section, I will first give a brief overview of women's organising in Guatemala and then move to the REMHI and CEH reports themselves to explore these questions in more detail.

General overview of the development of women's activism in Guatemala

The Guatemalan peace accords and truth-telling processes represented large openings to begin discussing women's rights and gendered violences more publicly. This should not be taken as an indication that women were not fighting for rights before this time. As a number of my interview participants discuss, women's experiences have not easily become priorities for historical memory work, but women's organising (as women or in mixed gender settings) in the region and in Guatemala has a robust history. As in many sites, it has not been adequately documented in conventional ways, frequently because actors have been absorbed into movements not understood primarily through the lens of gender, but also due to the lack of resources (time, money, energy) to record their own histories and struggles.

In Guatemala and in other parts of Latin America, numerous women's first experience of large-scale organising was in the search for the disappeared and the fight against forced conscription across the 1970s and 1980s. Groups like the COMADRES in El Salvador, GAM and CONAVIGUA in Guatemala, the Madres de Plaza de Mayo in Argentina and many others

emerged and gained international recognition and support with their non-violent protests against authoritarian states. Though they varied in other important ways, these groups were all composed primarily of women and focused on calls for the return of the dead and disappeared. In Guatemala as in the region more generally, women's activism on behalf of the disappeared, against forced conscription, and for demilitarisation, is more widely understood today as having opened the way not only for a peace agenda but also for women's fuller participation in the world of conventional politics (CONAVIGUA, ICCPG, MOLOJ 2007; Méndez and Barrios-Klee 2010). Various women leveraged their success and popularity in rights based organising into long term careers as representatives in the national assembly.

The activism employed in women's search for the disappeared remains iconic. One of the principal strategies adopted in many sites was to bring women's bodies into public view in place of the disappeared; these bodies incongruously took up increasingly large amounts of public space, disrupting the presumed divide between the domestic realm and the streets, and the presumed notions of respectable feminine behaviour. Examples include GAM's well-documented strategy of loudly banging pots and pans at demonstrations, or blowing whistles in congress. They brought with them photos, lists and artefacts that reasserted the existence of their dead and missing relatives. This form of protest functioned as a shaming mechanism for militarised regimes and played on deeply held views on the moral importance of mothers and wives in the face of morally bankrupt militaries and states. It also worked through a refusal to accept the psychological violence waged by the absence and erasure of their loved ones. By calling for documentation, exhumations and forensic investigation, these groups collectivised the struggle for accountability and closure instead of suffering family 'shame' in private. At the same time, these immensely political actions were most often framed in the language of life and of survival: in Argentina the Madres claimed famously "we don't defend ideologies; we defend life," while "turning their powerlessness, as protected females within the family, onto the state" (Radcliffe and Westwood 1993, 17-18; see also Jelin 1997, 65-83).¹⁰⁰

¹⁰⁰GAM did not present itself as a 'women's organisation'—while its members and famous protagonists like Nineth Montenegro were principally women, this is partly due to the higher number of men targeted directly by policies of state disappearances. In GAM, men participated in protests and leadership positions. However, women were not "protected." As an early human rights organisation in the still overtly repressive context (founded in 1984), it was the disappearance, torture and murder of many of GAM's key members (women and men) that illustrated for growing numbers of urban Guatemalans the gruesome costs of refusing to accept the status quo, and also importantly, demonstrated that notions of women's untouchability that had seemed somewhat effective in Argentina did not apply in Guatemala. This also occurred in Argentina after the disappearance of one of the Madres' early

Women could do such things because of their social role, even if just because of their left-behindness as widows in a war that, until the later indiscriminate phases, mainly targeted men. In Guatemala, CONAVIGUA became the major widows' organisation formed in and working from indigenous communities. Founded in 1988, the group focused a good deal of their early energy on grassroots struggle against the obligatory civil patrols (PAC) that forced all rural indigenous men to participate, frequently in atrocities against other communities. CONAVIGUA put their support behind entire communities of men to desert their posts in the PAC, accelerating the process of demilitarisation in the countryside. In the collection of women's testimonies, *Weavers of Peace*, Rosalina Tuyuc, one of the founders of CONAVIGUA, underlines the conditions of continuous terror that drove many indigenous widows to rise up in the 1980s:

Many women were united in thinking that we could contribute to peace and fight for life, joining our forces to move ahead. The sacrifice was worth the pain because we women lost our fear of raising our voice and the fear of death, because we were suffering attempted kidnappings. Neither bombs, nor shrapnel, nor armored cars, nor armed and hooded men could stop the work of the women. Against military tanks, girls, young women and old women mobilised, they managed to lose their fear and started on the pathway to denouncing human rights violations (Tuyuc, in CONAVIGUA, ICCPG and MOLOJ 2008, 105).

Tuyuc stresses that in the 1980s,

we were in the moment of greatest repression... In those years many women widows, out of fear, out of terror, were coerced, were intimidated, suffered sexual violations by soldiers, civil patrollers, and also military commissioners. This coercion was constant, to get money and food or wash the soldiers' clothes, supposedly so that they would free their husbands. [...] The situation of widowhood was very difficult, filled with desperation, terror, tears, insomnia and hunger. Women did not know what to do, to find their husbands [...] This was how we united the strength of women, to reclaim dignity, reclaim the fight for life, for respect of their dignity as women, and so that their sons were not taken to prison (ibid).

Co-founder of the *campesino* organisation CUC and long-time indigenous and women's rights defender Maria Toj Medrano recounts in detail the different practices of mass demobilisation and demilitarisation that communities took up with the support of CONAVIGUA, the CUC and other

leaders; see also Balardini, Oberlin and Sobredo (2012) on widespread sexual torture of women in detention. As some comment (REMHI 1998; CEH 1999; Berger 2003, 196, Torres 2005, Mersky 2012) special types of torture and overkill seemed reserved for women political activists who had crossed traditional social boundaries. Further, in some regions in Guatemala, the extrajudicial execution and disappearance of local men had a strategic value where members of the military then forced local women into sex work and domestic roles, arguing that there was no one else left to support them and their families (Fulchiron, López and Paz Bailey 2009).

groups.¹⁰¹ They often used direct action tactics, in one case occupying the Organisation of American States (OAS) headquarters in Guatemala City for twenty-six days in 1993 (Toj Medrano, in CONAVIGUA, ICCPG and MOLOJ 2008, 60-61). In addition to the search for the disappeared and for demilitarisation, CONAVIGUA has continued to play a major role in the struggle for exhumations of clandestine graves, and to obtain adequate reparations for indigenous women.

Former CEH worker Sergio Pivaral reflects on the gendered dynamics of survival in the armed conflict: “state terror was directed not just to fight against the guerrilla, because the majority of victims were civilians, not guerrilla, but rather to inculcate terror as a tool to prevent or inhibit citizen participation.” This meant that women’s lives were affected at a personal and social level, designed to make them unable to keep participating in public life.

Now, something interesting about the Guatemalan case is that it is *precisely* these women, among them survivors of sexual abuses, physical violence, who afterwards took up protagonism on a theme that to me is the most important in the post war in relation to reparations, which is the exhumation of clandestine cemeteries. [...] If the state terrorism against women [...] had as its objective one of the tactics of genocide, the destruction of citizen participation, at the end we can say that it didn’t work—twenty years later [...] it is precisely these women who are going through these processes, and who have suffered today at the root of these processes but in spite of... we’re not talking about a generational takeover here—it’s the *same* generation that suffered twenty years later, who are capable of reorganising to demand, for example, the return of their families’ remains (Pivaral 2010).

Apart from the large-scale mobilisation of women in organisations focused on finding the disappeared, countless other women had also gained experience and become activists through different paths. Women were inspired and politicised by various combinations of Marxist egalitarianism, liberation theology, basic survival needs, personal experience, and long histories of resistance to colonial domination. Some fought in mainly urban student and other unions, leftist guerrilla groups or their support structures, non-violent social justice groups (including Catholic Action), and many indigenous women mobilised in organisations such as the CUC (Committee of Peasant Unity), CERJ (Runuel Junam Council of Ethnic Communities), market collectives, and refugee organisations while in Mexico (Crosby 1999, Green 1999, ODHAG

¹⁰¹ When their husbands or sons were not available to patrol, Toj Medrano indicates that women were expected to fill in (2008). Though this gendered dimension is not widely discussed in relation to the PAC, it illustrates the degree to which the civil patrol system militarised entire communities. See also Zur 2001.

2002, Grandin 2004, Hernández Castillo et al. 2008, CONAVIGUA, ICCPG and MOLOJ 2008, Fulchiron, López and Paz Bailey 2009, Macleod 2011).

The historical fact of women's organising is indisputable. But as many note across a range of fields, the reasons women organise and the form their organising takes varies greatly. Overgeneralisations about their political and feminist motivations tend to elide important divergences and power relations. In particular, analysts have often debated the extent to which it matters whether women organise as feminists. While some have made a distinction between the 'practical' and 'strategic' organising of women in Latin America (Molyneux, 1985), others highlight how women who lack access to formal education or other resources of self-proclaimed feminists organise on their own terms and can come to parallel conclusions about gender as those who are more privileged, but in terms that make sense in their own lives.¹⁰² As indigenous, racialised and *campesina* women have repeatedly argued across the Americas, it is possible to critique patriarchy or gender violence without embracing the Western feminism popular with the middle classes.¹⁰³ Thus, not identifying as feminists or organising 'as women' is just as much an issue of strategy and agency as it is one of ignorance or ambivalence. Mersky observes in her interview that as a politically significant category, "victim" emerged in Guatemala at precisely the moment when massive casualties made it clear that armed guerrilla struggle would not succeed, and it was women who began organising in large numbers under this banner to find the disappeared (2012). These women channelled the symbolic power of the conventional gendered meanings of victimhood (such as passivity, powerlessness, objectification, voicelessness) but also contradicted them by acting as protagonists, leaders, spokespeople. Such women activists *were* victims, but they confounded convention by refusing repeatedly to be silenced because of

¹⁰² See Schirmer's discussion of this issue in relation to two such groups, COMADRE in El Salvador and CONAVIGUA in Guatemala (1993).

¹⁰³ See Hernández Castillo 2008, Carillo and Chinchilla 2010, and especially Macleod 2011, on these discussions in Guatemala; Speed 2009, in the context of Zapatista organising; Nagels 2013 on the clashes between indigenous decolonisers working in the wake of Evo Morales' electoral victory in Bolivia, and the non-indigenous feminists who had made earlier inroads into state structures. For a useful discussion laying out the need for but also difficulties with an indigenous feminist identity or movement in North America, see the introduction to *Indigenous women and feminism* (Suzack and Huhndorf, 2010). Understanding patriarchy as essentially a tool of colonisation which needs to be resisted, but feminism as a mainly white women's bourgeois movement necessitates alternative ways of conceptualising the tasks at hand (see also Smith 2005 on this issue in the US context).

it. However, it is significant that women organising as victims rarely if ever articulated this victimhood in terms of *sexual* violence prior to the REMHI and CEH.¹⁰⁴

Reading the CEH and REMHI reports for women, gender and sexual violence¹⁰⁵

It is by now well documented (including in the rest of this dissertation) that, like other truth-telling processes around the world, the CEH and REMHI were assembled and planned without a clear strategy around gender violence. But the following reading is not intended as an exercise in illustrating how ‘bad’ or internally inconsistent human rights work was before the advent of widespread gender mainstreaming measures. In fact, gender mainstreaming has fallen under scrutiny from a broad array of critics, including feminists, for its relative incapacity to account for differences among women, as well as its tendency to be taken up in technocratic or additive ways rather than those which would transform structural gendered inequalities (Baden and Goetz 1997, Charlesworth 2005). As a liberal strategy of inclusion based on one axis of identity or oppression, gender analysis is important but insufficient at identifying and transforming more complex and insidious social relations of inequality and violence. Thus in the analysis that follows, I read the reports along a gender optic, but one that is intersectional, considering a more complex range of power relations that does not take for granted the unity of ‘women’ as a discrete group. My reading cannot go into the same degree of detail about the thousands of pages contained in these reports. For the purposes of this analysis, I try to provide a general sense of the reports as a whole, and then focus more directly on three particular areas: the historical sections, the chapters on women and sexual violence, and the CEH material on genocide. Though as already indicated there are now multiple versions and formats available, my examination of the reports are of the original, full reports in Spanish. In both cases, I cite from the book versions.

The 1999 Spanish (full version) CEH report, *Memory of Silence*, is laid out as follows: an introductory section that sets out the CEH’s mandate, methodology, staffing and support; Chapter 1: “Causes and Origins of the Armed Conflict” which I will call the historical chapter; Chapter 2: “Human Rights Violations and Acts of Violence,” a multi-volume section that is

¹⁰⁴ Early organising around the still edgy category of domestic violence was carried out in a few organisations before the peace accords, such as GGM (Guatemalan Women’s Group) and *Tierra Viva* (Living Earth) (Berger 2006, 29-30, Alvarado 2010). See more discussion in Chapter 7.

¹⁰⁵ Though the analysis in this dissertation has expanded since 2007, parts of this chapter pertaining to the CEH report have previously appeared in the *International Journal of Transitional Justice* 1(3), 391-410.

broken down by particular violations, which are documented and described in detail; Chapter 3: “Effects and Consequences of the Armed Conflict,” a more thematic section that deals with the effects of the war on the economy, state institutions and the national social fabric; and the Conclusions and Recommendations section. These materials are followed by a lengthy set of Appendices, which includes both summaries of all cases examined in the report, and a set of nearly one hundred “illustrative cases” (often also known in the field as paradigmatic cases), which are more detailed descriptions of cases investigated more thoroughly and meant to represent and better illustrate a type of violation. The appendices also include various documents about the CEH process, such as legal and methodological material, and copies of letters requesting state cooperation and documents.

The 1998 REMHI report covers most of the bases covered in the CEH, though sometimes in different ways or to a different degree. REMHI’s report shares the title *Never Again* with numerous truth-telling efforts in other sites. The full report is a four-volume set of books with the following titles: “Impacts of the Violence,” which includes a discussion of methodology and leads with a detailed illustration of how the war affected society; “Mechanisms of Terror,” which corresponds roughly with the CEH volume on human rights violations, while employing a more holistic focus than the human rights framework that structures the CEH; a more classical (less ethnographic) volume called “The Historical Context”; and “Victims of the Conflict.” This last 544-page volume consists almost entirely of the names of victims of the internal armed conflict. Though in this chapter I may imply mainly similarity by often considering them together, the CEH and REMHI reports and processes differed in many ways. Drawing attention to the relative similarities should not detract from the important ways in which they can also be contrasted. I take up some of the key comparative questions in more detail in Chapter 5, focusing on how discourses of identity, objectivity and locality shaped the work of REMHI and the CEH.

In the accepted style of human rights work of this time, both reports are written with the classic objective-authorial voice as the thread that binds the material together. They intersperse this text with fragments or sometimes longer segments of testimony, usually cited as an anonymous case number from a specific region of the country. Sometimes these stories are identified with an individual (such as Yolanda Aguilar’s testimony to REMHI, Vol. II, 60-64), and though victim-witness accounts are more prominently featured, both reports also feature some first-hand perpetrator accounts. The use of raw testimony varies throughout. For example, I

estimate that the second REMHI volume “Mechanisms of Horror” is from one third to one half direct testimony, a pattern also reflected in parts of CEH’s second volume on human rights violations. In contrast, historical volumes in both REMHI and CEH reports favour a more seamless narrative style, featuring testimony in fewer situations, though when it is used in REMHI, it is highlighted both by placing it in italics within the text, and employing text-boxes to relate detailed cases from around the country. The REMHI project also frequently incorporates archival photos to illustrate content, including several freehand maps drawn by witnesses, and the CEH report often features graphs to illustrate particular patterns of violations.

Gendered agency: Women’s under-visibility as historical and political actors

Across many sites, feminist analyses have frequently sought to challenge the predominant representations of women as passive objects or victims with little voice or role in public life. It is important to observe that both women and men figure prominently as victims in the CEH and REMHI reports. This can be attributed at least partly to the fact that such reports are by mandate victim-focused. Women almost always make up a disproportionate number of non-combatants and thus can be expected to be well represented as victims of indiscriminate attacks on civilians, such as the scorched earth campaigns of 1981-3 and in particular massacres, such as Rio Negro.¹⁰⁶ In fact, the majority of the reported victims of this conflict were men (roughly 75%), and many of them occupied non-combatant roles (CEH 1999 Vol. II, 322). However, women’s visibility in these reports is not as often attached to other roles as that of non-combatant men—for example, men who emerge as victims in the narrative of the reports have public roles, such as politician, activist, priest, catechist and farmer, whereas women’s victimhood is less frequently qualified by specific social roles that also illustrate some level of social protagonism.¹⁰⁷ This narrower range of subject positions usually focuses on exceptional women activists, including nuns.

Both reports do many things effectively in their dedicated historical sections. They make clear connections between land inequities, colonialism and structural racism and the strong linkages between economic oppression and racial oppression. Indicating the important

¹⁰⁶ On the Rio Negro massacre, see CEH 1999 Vol. VI, 45-56. In International Humanitarian Law the categories of women and children are often taken as synonymous with ‘non-combatant’ (Gardam and Jarvis 2001). This construct often has strategic value: illustrating the targeting of women and children is a way of exemplifying the use of illegal, anti-civilian tactics of war by the military and security forces.

¹⁰⁷ Later in the conflict, ‘widow’ became one such important category.

democratic openings in the Democratic Spring period (1944-1954), they illustrate various stages of the proceeding armed conflict and in particular the progressive closure of all outlets for peaceful action, the development of various factions of guerrilla and how the parallel growth of social movements, such as indigenous organising and trade union militancy, met with increasing repression and led to greater political polarisation over the decade of the 1970s (REMHI 1998, Vol. III, 73-155; CEH 1999 Vol. I, 147-197). This particular documentation of social protagonism constitutes a refusal of the military policy to treat as interchangeable activist civilians and active combatants, escalating to scorched earth attacks in the early 1980s. Later discussions in these reports of nominally democratic institutionalisation and eventual peace negotiations do not hesitate to call out the continuation of ‘war by other means’¹⁰⁸ politics of successive governments, along with troubling patterns such as the militarisation of police and the presidential guard (EMP). REMHI also tracks the development of policies of privatisation under neoliberal doctrine supported by international institutions (Vol. III, 308-321). Since many such policies involved the use of land and natural resources, they often renewed repression of communities returning from refugee camps, providing a haunting line of continuity in the report.

CEH Historical Chapter: Causes and Origins of the Internal Armed Conflict

The gendering of historical agency is perhaps most apparent in the CEH’s first chapter, introduced as an effort by a “select team of historians” to frame the report in terms of Guatemalan history. This group was recruited in an effort to draw more Guatemalan intellectuals into the process (Taracena Arriola 2007, Nora 2011), because of their local expertise, but also to increase the local credibility of its analysis. The group states the importance of ordinary Guatemalans to national history:

[t]he objective of this chapter of the report is to contribute to the understanding of the way in which Guatemalans have constructed their own history, which is the only way to explain the origins and prolongation of the armed conflict (CEH 1999 Vol. I, 81).

The account that follows, however, presents a fairly conventional historical narrative that rarely draws directly on the testimonies gathered by the CEH and voluminously presented in other sections. This chapter is critical of authoritarianism, classism and racism and despite earlier wrangling over the precise range of years to be examined by the CEH, it is clearly sympathetic

¹⁰⁸ For a more recent text on the continuation of “war by other means,” see McAllister and Nelson 2013.

towards the ‘500 years of colonial exploitation’ approach to the history of the Americas. While the vast majority of the chapter remains focused within the literal 1962-1996 date range of the armed conflict as mandated,¹⁰⁹ it opens with a section called “Historical Causes” that outlines the dynamics of exploitation during the colonial era, which left profound inequalities in land tenure and social status. This section discusses the patterns of authoritarian rule underpinned by racist ideologies, and the political struggles against them that contributed to the formation of the Guatemalan nation-state in the nineteenth and twentieth centuries (82-95). In the following section, “Immediate Antecedents (1944-1961), the chapter clarifies how the 1944 democratic revolution and its destruction by anti-communist forces cannot be excluded from the analysis of the war that directly proceeded it (97-122).

In striking this balance between a history of the war itself and a longer trajectory of structural violence, the chapter thus lays important ground work for the genocide claim detailed in a later section of the report. As a historical source that periodises the war and analyses its main dynamics and causes, it is a useful baseline document and is frequently cited across a range of studies and reports. The chapter is also one of the first official articulations of what had been so long denied by the state, and it does not shy away from this responsibility. At the same time, the CEH history chapter is a clear example of why interrogating women’s invisibility is still a worthy pursuit for feminists. Women are not visible agents of history or of reconciliation, nor are they even victims. This is a sweeping political history, confined to the public sphere, which conspicuously underplays the extensive activism of widows’ and families’ organisations like CONAVIGUA, GAM and other Guatemalan human rights groups made up primarily of women.¹¹⁰ This chapter does not address women’s participation in broader leftist resistance movements and at best underplays the gendered significance of their courageous efforts at rebuilding society. A range of feminists have critiqued the individualist ‘great women’ approach to history¹¹¹ in favour of a nuanced examination of the everyday experiences of women,

¹⁰⁹ The start date of the internal armed conflict is popularly understood as 1960, but the CEH was mandated to begin its investigation from 1962.

¹¹⁰ Debates over whether the women activists themselves identified ‘as women’ or not does not mean there is nothing to analyse concerning the role of gender in social life and political resistance.

¹¹¹ A classic example of the effort to reclaim the great women of history is *The Dinner Party*, a 1970 art installation by Judy Chicago, with elaborate place settings for significant women in Western history arranged around a triangular table. Linda Nochlin’s 1973 article, “Why have there been no great women artists?” suggests that the search for women heroines and role models in history would not confront the pervasive structures that reproduce inequality in everyday life.

negotiating between oppression and agency.¹¹² Yet even a tokenistic concentration on exceptional individuals would be an improvement on the blanket invisibility that pervades the macro-historical approach exemplified in this report section. In particular, long-time activist and Nobel laureate Rigoberta Menchú is barely mentioned despite the fact that she is possibly the best-known Guatemalan in the world and one closely associated with drawing international scrutiny onto the conflict. The historical chapter that makes the CEH unique among truth commissions and aims to set the stage for the rest of the report does not take up many obvious opportunities to incorporate women (even if problematically), which leaves under-analysed the importance of women's protagonism in resistance to authoritarianism and militarisation.

This chapter does not present a particularly elitist history, as it chronicles both the machinations of elite political actors (such as coups) and the activities of 'the people' across a range of forms of resistance and compliance. But despite its well-supported assertions that structures of exclusion such as racism and classism were central causes of the violence, there is no discernible effort to extend the historical materialist framework to gender oppression as a form of structural violence. Consequently, in some key ways, it maintains a gendered division between public and private spheres. This section's approach, in its notable attempt to provide a viable alternative to the military's "official history" of denial, does not appear to consider women to be relevant to these purposes. More a missed opportunity and a reflection of conventional historical practices than a wilful exclusion, the effect is compounded by a similar approach and near invisibility of women in both the introduction and the conclusion and recommendations of the CEH.

REMHI Vol. III: The Historical Context

Many of these patterns are also reflected in the REMHI report's historical volume. Most critically, it also features large swaths of historical narrative that present public history without remarking on women at all. Further, its report introduction, conclusions and recommendations present the same absence of attention to women as a group, despite other material to the contrary. The introduction to the historical volume points out the lack of established historical sources on

¹¹² See Carey 2006, for a useful discussion of such negotiations among Kaqchikel women in the Guatemalan context.

the periods most in need of clarification, between the 1960s and the era of the peace negotiations:

There are at least three large categories of analysis that should form a central part of efforts in this direction, and that so far here have not been researched with enough vigour: power (its concentration in military and economic sites, where land disputes have been a fundamental element), inter-ethnic relations and violence (REMHI 1998, Vol. III, vii).

REMHI's historical volume begins with a short précis of the historical period preceding the conflict, focusing particularly on how the entrenchment of the Liberal government and the oppressive policies of the coffee economy set the stage for the October Revolution in 1944. Divided into eight chapters which are principally structured by the government that was in power, the volume frames its goal as complementing the broader discussion of the impacts and techniques of violence "which in reality constitute the heart of the present report" (ibid). Indeed, while the CEH report leads with history, REMHI places it third of four volumes. Both REMHI and CEH portray writing history as both a necessary aspect of their work, and part of a much larger undertaking to which they could only partially contribute.

REMHI's historical volume effectively details the importance of religion and religious figures in the conflict, and later in supporting the peace negotiations and return of refugees (347-350). Various parts of the volume illustrate the different positions represented in a deeply divided church, part of which supported the repressive policies of the military's National Security Doctrine and part of which, influenced by the liberalising Vatican II and CELAM (Latin American Episcopal Council) conferences in Medellín (1968) and Puebla (1979), remained on the frontlines in the countryside throughout the 1970s, defending others and targeted themselves in policies of selective assassination (for example in El Quiché, where eventually catechists were all tagged as subversives, 139). REMHI illustrates how in the 1960s and 1970s, liberalising forces in the Church "were a motor of social and economic development in the communities, which brought a progressive direction that shocked the rigidity of the system, and, on the other hand, also provoked intercommunity conflicts" (Vol. III, 138). The report provides context for the various pressures on ordinary people to convert from Mayan *costumbre* to more doctrinal Catholicism (e.g. in the Arbenz era, 139) and later as the military began to identify Catholics as subversive, to evangelical groups such as Church of the Nazarene (142) in order to deflect suspicions that they were communists or sympathised with guerrilla. REMHI declares that the situation became "almost a religious war" by the scorched earth period culminating in 1982

(137) and documents some of the ongoing tensions in communities where protestants could act with impunity (supported by many in government since Rios-Montt's coup in 1982) while Catholics struggled to rebuild (215-217)—one example of how religion and politics were transformed from a liberatory possibility to a difficult reality for so many.¹¹³

Women are often part of REMHI's historical narrative, especially as nuns who valiantly protect civilians. This presence is repeated in other parts of the report, and indeed, several of the project's diocesan coordinators were female religious figures. Because of the religious significance of the theme of martyrdom, sometimes the narrative explicitly celebrates as martyrs those who were killed protecting others—one feature provides details of the deaths of twelve such figures, including one woman, Sister Victoria de la Roca (Vol. III, 151-152). Victims' groups composed predominantly of women such as GAM and CONAVIGUA are often mentioned as political forces in later chapters (see e.g. the photo of an early GAM press conference, Vol. III, 229). The aggregate effect in the historical volume of the REMHI report may be a less dramatic level of under-visibility than in the history section of the CEH report, but at the same time there is no obvious effort to integrate a gender analysis.

Universal witnessing and victimhood: Incidental women

Identifying women's under-visibility as historical actors is not the same thing as saying they are never visible. Instead, they emerge in the majority of these texts as gender-neutral individuals who suffered from and helped document gender-neutral violations. Women become visible as human agents as long as they access the idealised subjectivity of human rights victimhood in the same ways as men, in neutral categories where experiences can presumably be universal. One such category is that of witness. Along with many observers of transitional justice processes, I believe it is crucial to highlight the massive participation of women at the level of witness testimony. Testifying is in itself a frequently dangerous and courageous act which should be understood as involving a wide array of intentions, but definitely not always as apolitical. The broad participation of women witnesses in both processes is obvious and discernible throughout

¹¹³REMHI is presenting a Catholic perspective here, but the Christian trope of fighting for the defenseless against oppression has been a powerful motivator for many. See also Ricardo Falla's (1994) work from the pre-REMHI era. Falla is a radical priest and anthropologist who framed his support of the Mayan populations under siege in explicitly religious terms. He considered himself to be continuing the work of the gospel in testifying against oppression. He collected testimonies while living clandestinely with the CPR (Communities of Population in Resistance) in the 1980s, and published them before the REMHI or the CEH had completed their work. It was work like this that helped contribute to public scrutiny of the war, both nationally and internationally.

in the reports' generalised use of testimony by women. Though most testimony is anonymous, women are identifiable by context, such as through discussions of tortilla-making, their relation to a husband or children, and gendered terms like '*nosotras*' (the female-specific gendering of the term 'we'). Despite the fact that they did not consider gender analytically significant to begin with, it is possible to read these reports as testaments to women's massive voluntary mobilization as witnesses in support of these important processes. Testifying is undoubtedly the principal, most visible form of 'women's participation' in the CEH and REMHI projects. Given the broader democratizing aims of such endeavours, such participation is often taken as evidence of their appeal and thus the successful mobilization of women. In Chapter 2 I have called this type of framing 'participatory rhetoric' to highlight how superficial assessments of women's participation, such as counting how many women were witnesses, sometimes functions to make transitional processes appear gender-sensitive without making concrete procedural or analytical efforts. As discussed in that chapter and many more recent assessments of reparations programs in particular, women's participation likely remains high not because of an enabling environment, but *despite* major systemic blockages that hamper their participation (Paz y Paz 2006, Rubio-Marín 2009, Morán and Corzantes 2011, IW 2012a). As in Guatemala but also documented in other sites, this participation is often due to extreme poverty in which many survivors find themselves.

Outside the historical volumes, women are often featured as witnesses and as victims of 'non-gendered' violations throughout the reports. The reports both feature some high profile cases of human rights violations involving women, without highlighting their gender, notably the Myrna Mack case (REMHI 1998, Vol. III, 292-294; CEH 1999 Vol. VI, 235-244) and Maritza Urrutia case, (REMHI Vol. II, 198-202; CEH 1999 Vol. VI, 245-250). Other examples of this neutral human visibility include the discussion of prominent activists and groups (like GAM and CONAVIGUA) including mentioning the names of women participants (REMHI Vol. III, 353), again, without remarking on their gender.¹¹⁴ In both reports, within various other discussions, sometimes rape is briefly documented without a clear discussion of the gendered significance of rape—particularly in testimony about massacres, where rape was frequently practiced

¹¹⁴ Interestingly, in Rothenberg's abbreviated English language version of the CEH, published in 2012, most of these neutral mentions are maintained, despite the massive reduction of pages of the original report into a slim single volume. While other material was cut, this retention seems to be a clear indicator of the major shift in public understanding of the importance of women's activism and of gender in general as an analytical framework in human rights work.

beforehand. This sort of rupture can have the effect of equalisation (by treating rape as a crime on par with other violations), but at other times has more jarring effects.

In terms of equalisation possibilities, Yolanda Aguilar's testimony about her own rape in detention was included in REMHI's section on torture (Vol. II, 60-64). This was perhaps a surprising move given prevailing views about the still tenuous validity of feminist 'rape as torture' arguments in human rights circles in the 1990s, although the account details other forms of torture as well. The heading of Aguilar's section is 'the story of many.' The section on torture does not elaborate on gendered forms of torture, beyond this very substantial portion of testimony (at five pages, one of the longest in the entire report). A more explicit approach to gender is mainly taken up elsewhere in the separate chapter on women, which was written by a small team including Yolanda Aguilar and Claudia Estrada, both of whom participated in interviews for this dissertation. In the CEH, the inclusion of the case on sexual slavery in El Quiché as one of the illustrative cases is another indication that sexual violence is important and on par with other violations (CEH 1999 Vol. VII, No. 91, 13-26).¹¹⁵

Other discussions of rape fall outside the chapters on women in these reports, but do not contribute to the impression that rape is on par with other violations. Here I provide two examples. The first is an account in an illustrative case in the CEH of two women in the EGP, Guisela Irasema López and Marilú Castillo, who had been captured, interrogated and tortured by agents of the state who also "had sexual relations with them" repeatedly over several months, before they escaped. The women were brought to Nicaragua by their comrades and interrogated to determine whether they had really escaped as they recounted, or had been "won over" and were now working to infiltrate the EGP. Since the majority of the members did not believe their story, they were shot in an *ajusticiamiento* (extrajudicial killing) (CEH 1999, Vol. VI, 381-384).

The second example is a REMHI testimony feature from an ex-member of the G2 squadron,¹¹⁶ part of a four-page section called "Psychosexual control of the troop" (REMHI 1998 Vol. II, 211-214). This testimony describes how a military commander made women remove their clothes and perform 'sensual' dances before new recruits, who were then ordered to get naked and join them. The storyteller implies a race and class distinction between himself, who joined in with enthusiasm because he "loves dancing" and the recruits from the countryside who

¹¹⁵ Several other Illustrative Cases feature sexual violence as part of the violations covered (CEH 1999 Vol. VI: No. 13, 297-302; No. 64, 367-372)

¹¹⁶ G2 was a clandestine police unit that carried out torture and extrajudicial executions.

were ashamed and danced awkwardly. Eventually all the men “became excited” and lined up to have their turn raping the women, whom they paid by passing a hat around for bills. The commander ensured that everyone got a turn, to “get rid of our tension and our needs,” but would not allow the men who had gonorrhea or syphilis to go until the others had finished with the women—some two or three times. The piece is entitled “sex after the massacre” (Vol. II, 213-214). In both the above instances, the reports call these coercive acts ‘sex’: the captors “had sexual relations with them”; “sex after the massacre”; “all the men had their turn having sex with her.” While rape is not concealed, it is equated rhetorically with ‘sex,’ or in the case of the REMHI account, used interchangeably with “making love.”¹¹⁷ Even if REMHI presents this testimony as part of a section that indicates a critical perspective on psychosexual bonding rituals, the testimony itself appears unmediated.¹¹⁸ These examples show how the significance of sexual violence as a violation of women’s human rights appears to be unevenly understood throughout the various sections of the reports.

Women’s absence from historical narratives, except when subsumed into the universal, reflects widely accepted historical practices. These practices have been widely critiqued before and since the 1990s by feminists who argue that women have been ‘hidden from history.’ But these issues may not have appeared as glaring if specific sections of the reports had not opted to highlight women’s sexual victimhood as clearly as they did. The CEH and REMHI both operated at the cusp of the moment when expanding approaches to sexual violence in international law ruptured the long-standing universalist framework of human rights. In these reports, when women appear ‘as women,’ they mainly appear as victims of horrific forms of sexual and other gendered violence. Even when they are made highly visible, women’s bodies and experiences are illustrated as “excentric” (Alarcón, Kaplan and Moallem 1999) or outside the universal,

¹¹⁷ Note that this euphemistic ‘sex’ language is also retained without comment in the 2012 English version of the CEH report (CEH 2012, 136). The suspicion of female treachery and particularly the use of ‘feminine wiles’ and sex to gain favour with captors (not to mention diminishing cohesion within troops) has a long history in wartime (Enloe 2000). However, already in the original CEH report there is evidence that this situation has been a site of debate and regret on the part of members of the URNG. While the rhetorical framing is questionable, the CEH refuses any combat-related explanation for the *ajusticiamiento*. It was later framed by the URNG leadership as the result of fears of infiltration, the “worst expression of a situation of defeat” (CEH 1999, Vol. VI, 386). But this issue still unnerves: several people who heard about my research topic have spontaneously brought up this *ajusticiamiento* and the lack of justice for the victims and their families as part of the wider unresolved history of gendered and sexual violence in the conflict. See another account of the execution recounted by the mother of one of the women, in the ODHAG collection of women’s testimonies (2000).

¹¹⁸ Interestingly, in the REMHI chapter on women (discussed below), this same testimony is explicitly framed as sexual violence against women and used as an example of the transmission of diseases as another serious impact of sexual violence (REMHI 1998, Vol. II, 210).

neutral norm, contributing to a hypervisibility of specific forms of gendered violence and victimhood and the continued under-visibility of other subject positions. Where before women's main gendered visibility as sexed victims excluded them from consideration as victims of human rights abuses, here it becomes one of the main criteria for their inclusion.

Sexual violence: Contained equalisation

REMHI: Confronting the pain: From violence to the affirmation of women

REMHI has multiple sections that detail the impacts of the conflict on women, which are also among the sections that best illustrate the elements of what the CEH would later declare a genocide.¹¹⁹ These include a chapter called "Familial consequences of the violence" (REMHI 1998, Vol. I, 61-80), "The Destruction of the seed" (81-98) Aggressions to the community, (99-137); and "Confronting the pain: From violence to the affirmation of women" (203-237).

Though these chapters include discussions about changing roles and the difficulties facing widows, minor mentions of combatant daughters, and concerns that children will not know their fathers, the last chapter is the only one explicitly "about" women. It begins:

[t]his chapter is an attempt to reconstruct the historical memory of women, at the same time as it is a recuperation of their experiences of suffering, and a recovery of their protagonism in maintaining the social fabric that was destroyed by the violence. Women shared the experience of their communities, groups or families, as has been analysed in the preceding chapters. However, this chapter includes an analysis of various specific forms of violence against women, as well as reflections on their role as women and their protagonism in familial and social recovery (REMHI 1998, Vol. I, 203).

The thirty-four-page chapter notes that the authors selected one-hundred and eighty-five testimonies from those collected by REMHI field workers, and further, performed twenty-four interviews with women key informants "on aspects of the violence, political participation and problems of women" (ibid). They also performed nine collective interviews in the departments of Alta Verapaz, Quiché, Huehuetenango and Petén, and used two interviews collected by REMHI from ex-military perpetrators. Though ethnicity is not usually indicated, the majority of the

¹¹⁹ REMHI did not use the term genocide, which is arguably the most controversial claim advanced in the CEH report. The CEH report's genocide determination in 1999 contributed to the mainstreaming of the term in Guatemala and did much to shape legal strategies of affected groups that had pushed for this outcome. REMHI described patterns of death by forced displacement, destruction of villages and mass killing that fit squarely within frameworks of genocide, and though their work was conducted on a smaller scale than that of the CEH, having two official sources that documented the same atrocities has made it more difficult to isolate the CEH for its genocide claim or the REMHI for its practice of 'naming names.'

testimony fragments featured in this chapter come from the various departments of Guatemala that are majority indigenous and primarily rural.

The chapter leads with the issue of violence against women, including accounts of sexual violence, forced domestic labour and dancing for perpetrators, and the numerous massacres involving women, noting that one in every six massacres analysed involved sexual violence as part of the *modus operandi* by soldiers or the civil patrols (PAC) (REMHI 1998, Vol. I, 210). The discussion of sexual violence stresses the massivity of the violence and works through some of its meanings in the context of the war and the women's experience. Importantly, the report states that "rape was part of the machinery of war" (ibid, 211), citing early materials produced in Spain about the mass rapes in Bosnia. It provides a typology of the patterns used against women in massacres, including their separation from the larger group by gender, the use of rape and then killing, and the fact that in more selective massacres some women escaped death but rarely other forms of torture, many of them sexual (209). The chapter also outlines other forms of torture that accompanied sexual violence and explores various specific effects on women survivors, such as guilt and self-loathing, isolation and resignation, and the complications involved in bearing the children of rape (218-220).

Women frequently had to trade their bodies for their lives, since rape and domestic skills functioned as a form of currency following massacres or the more selective seizure and disappearance of their husbands. The chapter stresses that sexual violence was used as a form of domination and demonstration of power, but especially in contexts where the soldiers and the PAC wanted information or saw abusing women as a prime counterinsurgency tactic (216). The testimony frequently claims that women were pressured to admit they or their husbands were part of the guerrilla, and that their status as mothers was used as added pressure. Many were raped in front of their children (206-7), and gruesome scenes of reproductive violence emerge in numerous testimonies. One from Huehuetenango describes how the military sliced open the stomach of a woman who was eight months pregnant, "took out the fetus and played with it like a football" and then left the woman hanging from a tree (206). Another case from Alta Verapaz indicates that pregnant women were cut up with machetes and children were decapitated (207). An interview performed as part of the team's investigation states that in many cases "the fetuses were hung with the umbilical cord. There is no doubt that the fact of killing children in front of their mothers was especially intended against indigenous women" (ibid).

The use of perpetrator testimony throughout the text is unsettling, but it helps to illustrate concrete ways in which the total objectification of the women was treated as routine. For example, it shows that members of the PAC had to learn and sing “the Hymn of the Macho Patroller” daily, and illustrates the frequent comparison between women and animals (e.g. dogs) to describe how women were treated. Though the discussion of sexual violation takes up the bulk of the chapter, at one point it turns to the importance of survival and possibility of resistance, focusing on the key roles of women in the search for the disappeared and other human rights struggles, and their work rebuilding the social fabric. There is a description of how women gave birth in the mountains (where many people hid from the military), sometimes assisted by *comadronas* (midwives) (REMHI 1998, Vol. I, 225). Many discuss women’s changing roles and the absence of reliable sources of income without a breadwinning husband, forcing them to relocate their families to larger towns. The chapter discusses how women tried to confront their own fears and maintain hope by making the search for their loved ones a more collective effort throughout the 1970s and 80s (ibid, 231-232), creating the bedrock for a broader human rights movement. As one woman puts it:

They annihilated the labour movement, the popular movement, and it suddenly had a resurgence, so to speak, [with] only women. Those who risked challenging the system and facing it in this moment were women. I believe that these two things are very important (230).

The chapter names some of the most well-known women leaders (Menchú-Tum, Mack, Tuyuc and Montenegro) as having had a major impact both locally and internationally. Another one of the chapter’s interviewees agrees:

When women start to make demands for our disappeared family members, for life, liberty, against military dictatorships that were completely dominating the country, the participation of women becomes more evident. Including how much it surprises the military. It’s incredible that these little women, those tiny little feeble ones, can go up against an army that has always inspired fear, you understand? That’s where I feel they started to realise that the participation of women is effective, that women are courageous. Because no one could have believed that we could confront and persevere and get rid of the army. It wasn’t that one could do it, it’s that we dared to do it (236).

Though the number of cases in REMHI that discuss sexual violence is relatively small (one-hundred and forty nine victims in ninety-two cases), the impressions left by this chapter hold true today, particularly the discussion of the extended and multifarious impacts of sexual violence on the lives of survivors. Its balance between the overwhelming horror of massive sexual violation

and the crucial protagonism of women in rights struggles is notable. The chapter closes with a hint of things to come in Guatemala: “women who were for a long time invisible in society should now be recognised as subjects of change, while respecting and valorising their contributions as an example of dignity and the defense of life” (REMHI 1998, Vol. I, 237).

CEH: Sexual Violence against Women

When they are constituted as a category in the CEH report, the dominant position of women is that of sexual violence victims. However, sexual violence is not confined to the section devoted to it, but rather is acknowledged and incorporated into analysis in other sections on human rights violations, including those on military strategy and intelligence, torture, assault on existence, integrity and cultural identity and genocide (CEH 1999, Vols. II and III). This appears not as a token gesture, but a part of a larger story of systematic violations. Thus, in the report’s framework of human rights violations, sexual violence does not occupy the marginal, nationally dishonourable position that it does in older approaches. Rather, it is raised to a level of structural equivalence with other violations. The report shows evidence of a concerted effort to maintain the sexual violence thread throughout the two volumes on human rights violations.

The section on sexual violence itself is located at the beginning of the second of two volumes on human rights violations, which is a fairly prominent position in the report (CEH 1999 Vol. III, 13-55). In some ways, this section appears to be about women rather than about a particular violation. In name, it adheres to the structure of the rest of the report (which names sections by major human rights violations), but it deviates in content by also discussing women and gender more generally.¹²⁰ The chapter states that ninety-nine percent of reported sexual violations were perpetrated on women, whereas women’s proportional share of other violations was much lower, providing an obvious rationale for the sustained attention to gender in this one section¹²¹.

¹²⁰ One section of the CEH report is called ‘Violence against Children,’ which points to an interesting issue: why the section ‘Sexual Violence Against Women’ is not called simply ‘Violence against Women.’

¹²¹ CEH 1999, Vol. III, 19. This 99 percent figure represents 1317 cases, or 14 percent of the total 9411 violations against women reported to the CEH (22). The CEH often could not determine victims’ gender. The total number of reported sexual violence cases is 1465 (23). Most of these cases were not self-reported but made by other people (often family members, 22), and often described the victims’ deaths afterward (23). The CEH also notes that most people who testified about sexual violations mentioned it as part of an aggregate of violations, that it was not stated as their primary reason for testifying (22).

The first five pages of the section reiterate every major international statute and convention that identified violations of women's human rights and incidents of sexual violence as serious crimes. Here, the CEH report demonstrates that women are not a representational problem in human rights and that women have access to the same formal protection enjoyed by men. This framing functions as proof that sexual violence against women is a serious human rights violation. It employs a more explicitly human rights-based framework than what was employed in the REMHI chapter on women. Under the heading 'Gender Violence,' the chapter discusses the prevalence of violations against women in CEH testimony and indicates that these must be situated within the framework of "other forms of human rights violations that women also suffer, the life conditions that they had to confront along with their children, the pain and the experience of this combination of violence that they survived" (CEH 1999, Vol. III, 19). In 'Suffering in Silence,' the following section, the report discusses the isolation experienced by women, their attempts to cope, and their conviction that this must not happen to others because surviving sexual violence, more than any other violation, happens in silence in Guatemala (ibid, 20-22).

Following more statistics on the cases in the CEH, the next part of the report is called 'Conceptual Framework of Violence Against Women.' Here, the CEH makes its clearest statement on gender. The report states that violence directed at women as women is "gendered violence, in which framework, acts of sexual violence are defined as violent acts of power against people considered inferior because of their gender" (25). They go on to state that:

[s]ocioeconomic and political power are founded in social structures where masculine power is predominant, including the State when it exercises hierarchical and patriarchal control ... vulnerability is not intrinsic to the identity of women, but traditionally, society has attributed to them debility and fragility as proper 'values'; in reality these are the life conditions that expose women to aggression. Oppression, exploitation, discrimination, inequality convert into the root of women's inequality (ibid).

This statement thus lays blame for violence against women on social structures rather than treating it as a natural or unavoidable phenomenon, and implies a clear continuity between the forms of violence experienced in the conflict and those experienced in women's everyday lives. It is followed by a brief discussion of masculinity and the important symbolic role played by Mayan women in processes of cultural reproduction. This is followed by a long section detailing the types of sexual violence experienced by women, interspersed with fragments of testimony as

examples. Although the narrative portions of this section tend to be repetitive, the testimony is never the same. Here, as in other sections, the strategy of featuring pieces of primary testimony is a strength of the report. The individuality of survivors, as evident in their different narrative styles and concerns, to some extent mitigates the overwhelmingly bureaucratic and dis-individuated tendencies of a report that discusses violent death on a massive scale. This section repeats that sexual violence appears to have been used systematically as a weapon of war (CEH 1999, Vol. III, 50), an important repudiation of the military's claims,¹²² and a position which is sometimes held up as evidence of the CEH's commitment to women. It also outlines how other acts devaluing indigenous women (for example, linguistic oppression, *ibid* 41) were an integral part of sexual violence. It exposes domestic slavery and other forms of violence that cemented women's subordinate role (42-44) and indicates that some women believed they were assaulted during the armed conflict because they left their homes and entered the public sphere (42). The report indicates that a number of women survivors view the violence against them as their own fault rather than as a violation of human rights. But, as with REMHI's chapter, this section is more than a composite of stories about sexual victimisation; readers learn both of women's strategies for survival under the unremitting threat of violence, and their ongoing pain.

Echoing and amplifying the findings of the REMHI chapter, a significant amount of testimony describes instances of foeticide and violence that singled out women's breasts, pregnant bellies or genitals and indicates that women who were pregnant or had just given birth were much easier to target (34). Numerous witnesses throughout the section describe mass rape organised by the military as a mandatory bonding ritual for soldiers. Several testimony fragments from men demonstrate a concern with how the military's assault on 'their' women made the men appear weaker and less masculine. An analytical separation between sexual violence and

¹²² In one example, upon seizing power in 1982, President and General Efraín Ríos Montt described rapes committed by troops answering to his predecessor as collateral damage, as unintended mistakes. They were part of "a large number of errors committed by the troops such as vandalism, rapes, robberies and the destruction of crops, which have been heavily exploited by national and international subversives" (CEH 1999, Appendix F; Plan Victoria 82. See discussion in Diez 2006, 11-12). Researcher Andrea Diez calls this part of "an effort to clean up his international image." The same document also outlined the need for sexual services to maintain "the fighting spirit of our troops" (*ibid*). Ríos Montt's brief stint in charge (1982-1983) was characterised by the highest rates of rape in the entire conflict and both REMHI and CEH contain testimony that indicates the use of sexual violence as part of military training, bonding and strategy. Many of the most incriminating operational plans of the military were unavailable to the CEH and have emerged more recently—including Plan Sofía, which mandated the indiscriminate targeting of civilians and now provides important proof of intent in genocide cases. The military denied the existence of Plan Sofía until 2009. See discussion by Asturias Valenzuela (2012).

(gendered, often structural) violence against women is maintained throughout, but the links between different forms of violence are easy to make as a reader. For example:

sexual violence is one of the forms of violence that produces the most grave and complex harms which affect the survivors for life and destroy the victims' identities, as well as their capacity to have relationships and, significantly, their reproductive capacity (CEH 1999, Vol. III, 50).

The last pages of the CEH section on sexual violence against women reiterate the systematic nature of the violence and its impact on the Mayan biological and cultural collective. Here, the chapter seems to set up the base for a later discussion of how indigenous women were targets of genocide because of the particular ways in which they are linked to ethnic groups. Reading the section on sexual violence (as with any section in the report) is difficult. It covers many bases in articulating the intersecting violence experienced by indigenous women in particular. The pervasive narrative is that of embodied and ongoing victimhood. The last quoted witness states that:

sexual violence is a crime against humanity, against women who have no voice, no protection, and we hope that this harm will heal, but at the same time we hope that many other young women will be free in the future (ibid 57).

If anything, the section hints that the CEH will make related recommendations, which it does not. The report lays out such an array of atrocities against women, but the principal gender-related 'never agains' are left in the transcribed words of women witnesses. On its own, the section on sexual violence against women is compelling and relatively advanced for the time in which it emerged. However, it also works as a container that limits how much women and 'sex' leak into the rest of the report. Through documenting these forms of violence, it both highlights and overwhelmingly confirms the dominant story of women's marginal place in the nation, the conflict and its aftermath.

Gender and genocide in the CEH and REMHI

While REMHI was bold in many ways and did not resist naming the names that were prohibited by the mandate of the CEH, it did not explicitly name the excessive violence targeting indigenous communities as genocide. In the aforementioned chapters in Volume I (Familial consequences of the violence, The Destruction of the seed, Aggressions to the community, and Confronting the pain: From violence to the affirmation of women), through testimonies

predominantly by women about the destruction of their social fabric and way of life, it becomes clearer that the military assault on indigenous communities had gendered dimensions even when this is not spelled out explicitly until the chapter on women. The chapter on women stresses that sexual violence was both systematic and “part of the machinery of war” (REMHI 1998, Vol. I, 211), and describes various patterns of violation that now appear genocidal, even if the report writers did not have the numbers, the analytical tools or perhaps the desire to make such a claim. Framed by the more holistic, psychosocial goals of the REMHI project rather than human rights categories in the CEH, REMHI was able to develop certain themes that emerge perhaps less clearly in the CEH. For example, many of REMHI’s sections conclude with a discussion of the decision and the will to live. This helps to emphasize the strength of survivors and also makes it more difficult for readers to come away with an impression only of death and mute victimhood. This seems mainly the result of intentional design—the coding key for analysing testimonies is included in Vol. I (201-202). The five main categories are: Confronting the facts; Ways of giving meaning to the experience; Forms of support; Forms of defense and organisation; Forms of avoidance. At least two of these categories are focused on active efforts not only to survive but to rebuild social and communal ties and to fight for rights. In general this is an important contribution from the psychosocial community supporting the work of REMHI, illustrating a dual therapeutic-political possibility built into the process of testifying which carried over into the report-writing (see also Beristain 1998). But for more explicit work on genocide we must return to the CEH.

The CEH Genocide Section is located at the end of the volumes on human rights violations. Although there is some degree of ‘ethnic mobility’ in Guatemala (Smith 1996, Nelson 2003, Bastos and Cumes 2007), for the purposes of its genocide claim, the CEH takes as self-evident the ethnic categories of Maya or ladino. It uses the overarching indigenous identification of Maya as the basis of its claims about race or ethnicity and to support the genocide claim. Without pushing the framework of the Geneva Convention, this was likely the most effective way to achieve the significant repudiation that comes with such a claim.¹²³ The CEH advances a

¹²³ Even here the CEH had to stretch its analysis, as outlined by former CEH worker Greg Grandin in his discussion of the legal distinctions between ‘motive’ and ‘intent’ to destroy (2003, see especially 347–350). The official line of the military was that they were targeting subversives in a counterinsurgency war, not an ethnic group. Ethnic identity in Guatemala, as everywhere, is complicated and historically mutable. Not everyone affected by this violence identified as “Maya,” but the term has been taken up more readily as the basis for indigenous organising since the early 1990s (Nelson 1999, Bastos and Cumes 2007, Brett 2008). In a historical context where

claim of genocide based on Geneva Convention categories (a) through (c).¹²⁴ They divided the lengthy genocide section by the four regions where the CEH could gather enough evidence to argue that a particular Mayan linguistic group was targeted as a whole by the military. There was also evidence in other areas and among other groups, but the CEH did not have the resources to follow up on them (IW 2008).

For each geographical area, the report follows a similar pattern, listing different violations by category and describing some in detail. For example, torture is one category, followed directly by sexual violence against women. Since sexual violence is already discussed in the CEH section on torture, this particular analytical separation again deviates from a “male conception of harm,” which would isolate rape as a naturalised, lesser harm located outside torture (Bauer 1996). Also, as the pattern is repeated in all four regional sections, it suggests that sexual violence will play a central role in the report’s genocide claim. How sexual violence actually fits into this section’s conclusions on genocide is more ambiguous.

This conclusion on genocide is in some ways the moral centre of the report. The Geneva Convention categories held up as support for the CEH’s genocide claim are only (a), (b) and (c) – which though potentially descriptive of the conditions in which rape is exercised, are the explicitly non-gendered categories. Sexual violence against women is included in the section’s conclusion under the general theme of ‘(a) attempting to kill as many members of a group as possible’ (CEH 1999, Vol. III, 419-420). The CEH states:

Especially frequent were repeated collective sexual violations against women, practiced publicly, and aiming to leave traces of the act which would become pervasive in time and in the social reproduction of the group (Ibid, 420).

Systematic wartime rape was outlined in the sexual violence section of the report and considered a war crime before the report was released, but here the report does not end up arguing that it constituted an integral part of genocide, or that any of the violence focused on reproduction could fit Geneva Convention category (d), which comprises ‘measures aiming to

“ladinización” was officially encouraged but “Mayanización” was not, ethnic mobility is a complicated terrain, particularly in the post-peace-accords era where discourses of multiculturalism and neoliberal politics co-exist. See Hale 2002, 2007, Bastos and Cumes 2007.

¹²⁴ The categories of the 1949 Geneva Convention on the Prevention of Genocide are as follows: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; and (e) Forcibly transferring children of the group to another group. UN General Assembly, *Prevention and punishment of the crime of genocide*, 9 December 1949, A/RES/260.

impede births in the group.’ While many of the references to sexual violence throughout the report point to the way it targets indigenous women’s role as *biological* reproducers of an ethnic group (including some of the examples included in the genocide section itself), here the conclusive claim is that women are *social* reproducers. In my interpretation, this means that genocide targeted them via a gendered method, but to violate the ethnic group rather than primarily to harm them as women. On this front the report seems to step back from a clearer integration of sexual violence into its definition of genocide as a form of sexual and reproductive violence against women.

The life-histories project of wartime survivors of sexual violence, *Weavings of the Soul* (Fulchiron, López and Paz Bailey 2009) advances a far more detailed analysis of the limitations and possibilities in the CEH’s approach to sexual violence in genocide, employing a dual focus not only on sexual violence as a genocidal weapon of war that targets the ethnic group (ibid 153-185), but also feminicide (189-218), which targets women for being women. Feminicide is a framework that has regional resonance in Latin America and has grown in importance over the last decade as a way to explain the rapid increase in murders of women, coupled with dynamics of near total impunity, which constitutes a key foundation for the crime (see especially Fregoso and Bejarano 2010). Many employing this framework operate with a less historically-oriented analysis, allowing them to focus on a universalised feminine victim figure oppressed by a global patriarchy, rather than affording equal priority to the range of other social identities that are also in play.¹²⁵ By framing the wartime sexual violence against Mayan women as both genocide and feminicide, this study creates analytical space to maintain focus on both the egregious ethnic and gendered dimensions without prioritising one over the other. It also creates a line of historical continuity that asserts state responsibility (by act and omission) for sustaining conditions in which such violence thrives. Barely a decade after the CEH, this is a near total shift in understanding the structural and intersectional nature of gender violence. Although produced out of a small process that is peripheral to the operations of the state, the work in this initiative addressed the obvious inconsistencies and gaps in the CEH and REMHI reports around women, and has provided important analytical support for the Tribunal of Conscience in 2010, as well as later developments such as court cases.

¹²⁵ See for example Musalo 2010. See Chapter 7 for more discussion of the issue of feminicide in Guatemala.

In the CEH report, many of the pieces are present for those who aim to argue that gender violence was genocidal, but without some form of mediation, the information about sexual violence in this section remains somewhat secondary to the larger ‘truth’ it constructs. Much of the international jurisprudence on wartime rape as genocide was still emerging. The initial ruling in the *Akayesu* case at the ICTR was in September of 1998, and the CEH report was presented to the public in February of 1999. Further, at that time expertise on genocide generally involved a different knowledge base than expertise on gender violence. While the four ethnic groups chosen represented the best case for genocide in other categories, sexual and reproductive violence was simply not reported in the same numbers as other violations (in any region). As former CEH worker (and more recently attorney general) Claudia Paz y Paz remarks over a decade later, there will never be mathematical certainty about this issue, “but there were [close to] ten thousand cases of torture and one thousand of rape. This indicates a very clear case of underreporting” (Paz y Paz 2010). Edda Gaviola of CALDH, which has accompanied victims organisations advancing genocide cases, states that the CEH work on genocide used international definitions “to the letter,” and that “there was a fairly traditional understanding” of genocide (Gaviola 2010). As discussed in the following chapters, for those working directly on assembling this argument, and for the commissioners tasked with signing off on the final report, sticking to the most conservative and established definitional lines around genocide, rather than those still developing around sexual violence, represented the best strategy for widespread acceptance of a controversial and unexpected conclusion.

Although it seems not to have been completely intentional, in a sense the focus on indigenous women in the sexual violence chapter and the absence of women as historical actors in the narrative of the CEH uphold some of these arguments about genocide and social destruction by underlining women’s role in sustaining Mayan culture. As many feminist critiques of nationalism argue, presenting women as devoid of historical agency does not merely lead to underrepresenting their political activity. It also implies that women’s importance to the society is somehow outside of time, in a symbolic economy that represents women as reproductive of culture, which tends to be understood as cyclical rather than linear or progressive (Yuval Davis 1989, McClintock 1995). Yet as increasingly confronted by Mayan feminists negotiating between epistemically distinct notions of gender complementarity and women’s rights, women

do play particular cultural roles, but many do not see this as a reason for their exclusion from public decision-making or other forms of power (Macleod 2011).

Hypervictimisation, “worstness” and the least ambiguous victim-figure

The main focus of the CEH report’s sexual violence section is on Mayan women, as the reported levels of sexual violence were concentrated in this group (eighty-three percent of testimonies, CEH Vol. III). This is the predominant site and position in which women are discussed with attention to their gender rather than as universal subjects. Thus in both reports and particularly in the CEH, ‘woman’ and ‘indigenous woman’ come to occupy nearly the same conceptual space, and ‘indigenous woman’ and ‘victim of sexual violence’ also become closely overlapping categories. Why do the ‘most victimised’ women come to stand for all women in this report? Also, conversely, what does the relative invisibility of non-indigenous women imply about their experiences, whether of sexual violence or otherwise? Why is there virtually nothing about women combatants? Generalised explanations of silence, fear and shame on the part of victims and gender-blindness on the part of workers are certainly relevant, but inadequate here. Women made up about half of the staff of the CEH—five of the sixteen central team members; ten of fourteen heads of regional field offices, and ninety-two of one hundred and eighty-four field researchers (Diez 2006, 1). Anecdotal evidence suggests that relatively few such women were indigenous.

When the gendered visibility of women is mainly limited to sexual violence and such violence is mainly documented through the excessive cruelty inflicted on impoverished, rural indigenous women, a certain representational effect emerges which I have termed ‘worstness.’ Worstness describes the representational tendency that renders hypervisible those forms of suffering deemed to be the worst example of a typology. In human rights work, conventional wisdom has long employed hierarchies of violations that place certain crimes (such as torture) above other crimes (such as sexual violation).¹²⁶ In the case of making women visible in human rights frameworks, rape and particularly genocidal rape came to be represented through this optic, as the ‘worst’ examples of what is done to women in war. The tendency to focus on the layering of oppressions onto the most victimised and least ambiguous victim-figure is a key

¹²⁶Margaret Urban Walker also notes that combat-related deaths are also frequently prioritised over those of the defenseless and non-combatants. In other words, “there’s nothing that compares to dying on the battlefield” (Walker 2009, 42-44).

aspect of the development of overall approaches to gender-visibility and victim-centeredness. To some extent, this effect is discernible in both REMHI and CEH reports.

Gaining visibility for rape is generally understood as a major achievement internationally, under challenging circumstances, as outlined in Chapter 2. Some feminists have argued against the dilution of the “rape” category by promoting a hierarchy of gendered offenses, where no matter what other form of gendered violence is included, rape is at the top, as the “worst” violence against women which receives the harshest penalty (see for example Askin’s position, in Quénivet 2005, 13-14). Others have mirrored such claims in arguing that genocidal rape is more special and serious than ‘regular’ rape’ (whether in wartime or peacetime).¹²⁷ Still others distinguish between sexual violence committed systematically by the military and more sporadically by the guerrilla (Fulchiron, López and Paz Bailey 2009). While their intentions vary, the effects of such hierarchies can be to legitimise the overvisibility of a particular sort of woman victim, which leaves little discursive space for other forms of subjectivity, and for other events to be as bad as, worse than, or inseparable from, ‘rape.’ Also, it is important to interrogate how little these rape hierarchies differ from those that (still) place ‘rape’ itself at the bottom of the list in reparations programs that aim to mitigate the harms of war, as reportedly happened in the Peruvian Truth and Reconciliation Commission (CVR) (Rubio-Marín 2009) and the Guatemalan National Reparations Program (PNR) (Paz y Paz 2006, Morán and Corzantes 2011).

Worstness is a familiar model in struggles for recognition. Queer theorist Judith Halberstam has called competitive claims to oppression “transgressive exceptionalism,” (Halberstam 2005, 20). Arguments over ‘the worst’ human rights violations or atrocities are common in discussions of how to classify events and policies as genocidal, as is evidenced in the controversies that arise in comparative genocide studies (see e.g. Gelatelly and Kiernan 2003; *Journal of Genocide Research*). The Holocaust continues to stand as the paradigmatic ‘worst’ case, against which all other events are measured.¹²⁸ In a widely publicised speech promoting the genocidal rape argument that emerged from the context of the ICTY and ICTR in the 1990s, Catharine MacKinnon repeatedly used the Holocaust as an analogy of the treatment of Muslim

¹²⁷ For this view on the Former Republic of Yugoslavia, see MacKinnon, 1994, who focuses on the need to identify the particular heinousness of rape by Serbian perpetrators because of its genocidal intent; see an opposing viewpoint from Mladjenovic (2003) who argues that some rape was not worse than other rape, and that survivors should be able to access the same resources after the fact. See also Copelon (1995) on this position.

¹²⁸ My interviews with those who worked directly on the genocide section of the CEH report confirm that there was reticence at all levels within the commission to claim an equivalence with the European Holocaust (Anonymous interviews, 2010-2011). Discussed in more detail in Chapter 5.

women in Bosnia by Serbian forces (1994). This was an insistence on women's full inclusion into the category 'human,' including all the rights this implies, but it also raises the stakes of 'worstness.' Where formerly the paradigmatic victim was a universalised figure, based on the testimony of mainly men, but taken to be representative of all, here the femaleness of rape victims and the gendered nature of their experience appear to act in an additive (rather than intersectional or interconstituting) way. They are thus *more* victimised than their male counterparts by virtue of the method with which genocide was carried out.

Critics in many sites worldwide note that the prevailing approaches have succeeded in building international law through the expansion of victim discourse, but without adequate improvement of victims' lives. Despite its good intentions, the worstness approach also frequently reproduces an ongoing separation between the practitioners and the claimants of rights in such settings. This separation can sustain representational practices that may circumscribe the range of options available to women survivors in the aftermath of armed conflict. Critiques especially from the perspective of indigenous women and feminists claim that the representations of indigenous women that prevail present an impoverished understanding of their agency (in the Guatemalan context, Hernández Alarcón et al. 2008, Fulchiron, López and Paz Bailey 2009, Macleod 2011). With Hesford (2011) and others, I argue that such an additive 'worstness' approach relies heavily on a spectacularised politics of shock. This tendency to focus resources on the spectacular at the expense of the everyday continues to pose a problem for feminists more generally in efforts to create international standards that apply not just in wartime but all the time (Joachim 2007, Edwards 2010).¹²⁹

Identifying and problematising this tendency towards worstness is not intended as a value judgment on the seriousness of a particular experience, but rather as an opening to ask why indigenous women emerge so clearly here as victims of genocidal rape, but not in other positions in which they were also important, such as refugee activists; leaders of the protracted anti-conscription struggle and search for disappeared; and guerrilla members and supporters.¹³⁰

¹²⁹ The exceptional, massive and spectacular nature of war rape in the former Yugoslavia and Rwanda were seen by many as an unacceptable rupture. Feminists debate the extent to which a 'continuum' model of violence, rather than one of 'rupture,' allows a clearer picture to emerge about the every-dayness of gender violence, where peace-time norms and violences inform what happens in war, and the gendered impacts of wartime extend long into the post-war future (Cockburn 2007, Walker 2009).

¹³⁰ This is one area in which REMHI potentially creates a more 'balanced' image of women's experiences in the conflict than does the CEH. Although many consider CEH the more 'official' report, partly because it had UN backing and drew on a larger, more nationally representative data sample, in the case of representing women as

Working out the intricacies of the meanings of wartime sexual violence and rape as genocide is beyond the scope of this chapter, but in a key contradiction, the ‘worstness’ outlined in the sexual violence chapter of the CEH helps to add support to a genocide claim, even as it narrows the potential for other forms of subjectivity to emerge.

Conclusion

In this chapter, I have presented some key elements of the historical context in which the REMHI and CEH processes operated, accompanied by a range of other civil society and international actors. The chapter then proposes an intersectional gendered reading of the REMHI and CEH reports, highlighting the contradictions that emerge when such processes expose specific forms of sexualised and racialised victimisation without incorporating gender analysis more holistically. As products of a specific moment in the history and development of feminist rights defense in Guatemala, these reports are both useful documentation of acts that had long been silenced, and illustrations of the continuing gaps and the work ahead. My reading traced various forms of visibility and invisibility of women and gendered experience: the under-visibility of women as historical actors, their visibility as neutral witnesses and victims of conventional violations, and the hypervisibility of indigenous women as victims of various forms of sexual and reproductive violence. This framing improves upon the invisibility and exclusions of earlier truth-telling work, but the focus only on sexed victimhood, an area which symbolises women’s ‘difference’ from the universal, allows major visibility without disrupting the gender-blindness of the broader analysis. The exposure of sexual violence as a human rights violation linked with long-term structural inequalities experienced by women is mitigated by the absence of attention to sexual or other structural forms of gender violence in the recommendations of the reports.

As indicated in both Chapters 2 and 3, feminist strategies of space-opening are not always and immediately compatible with more transformative efforts to shift the discursive meanings of gender and sexual violence. These competing priorities expose tensions between the more universal feminist project of deconstructing gender-blind universalism, and the intersectional and particularly indigenous feminist critique of the inadequacies of such a

agents, REMHI’s holistic perspective may have been more effective than the CEH’s which (when it discussed women) focused almost exclusively on victimhood.

visibility agenda in the face of urgent material and social needs. While I share the critiques of the latter position, it is not my intention to bring all the weight of feminist hindsight to bear on these impressive and pathbreaking documents. Within the constraints of such a project, the REMHI chapter on women shows how it is possible both to expose sexual violence and to maintain a discourse of women's protagonism, challenging the prevailing approaches to women in human rights defense. While perhaps more fully entrenched in this discourse of female victimisation, the CEH chapter on sexual violence against women advances what I have called a strategy of contained equalisation. Further, it takes advantage of the newfound international prominence of sexual violence to describe women's other structural disadvantages in Guatemala, particularly those impacting indigenous women. This has multiple, and sometimes contradictory effects. Importantly, it can be read in support of arguments that emerge in the later genocide section.

One effect of the containment of gendered questions in a dedicated chapter is a non-ideal equivalence of 'sexual violence' and 'woman.' But since sexual violence suddenly qualified for an equivalence and an intelligibility that women's other embodied and gendered experience could not yet gain within human rights discourse, its hypervisible status helps to enable another kind of visibility within the text, and women's other gendered experiences can trickle into the report and occupy a space adjacent to the neutral human rights discourse that dominates other sections. This creates potential for future more robust arguments that include gender in an analysis of structural violence, as the CEH advances in the case of entrenched structures of racism and classism, rather than leaving what happens to women as a sexualised phenomenon unconnected to other historically entrenched forms of power.

Further, the CEH report does include testimony from several witnesses about sexual violence against men. In her interview, CEH report coordinator Marcie Mersky concedes that it probably gets very little notice because it's like in two paragraphs...it's just little tiny mentions of ... sexual violence against men. And against boys. That's really really really important and I think it's probably something that's *grossly grossly* underestimated (Mersky 2012). She indicates that there was some debate about where to put it in the report, but "there was an agreement that it was definitely important to include the few cases that we had" (Mersky 2012). In human rights work where people have successfully broken taboos around sexual violence against women, similar strides have not been made around the abuse of men, despite increasing evidence that such violence is used systematically as a way to humiliate, demonstrate power and

enforce military cohesion through a culture of violence and terror.¹³¹ The CEH's incorporation of these testimonies indicates some understanding that the taboo around sexual violence exists across gender lines.

It is a tall order to legitimise the place of sexual violence in human rights work, open space for major public discussions and acknowledgement for the first time, while also avoiding hypervictimisation. Both the REMHI and CEH reports faced this set of challenges. To some extent the question of "getting it right" on a formal level is mitigated by the extensive historical grounding of the reports, and their generalised opening of space that has allowed a continuing interpretation of events from the vantage point of the present. In other words, popular conceptions of the goals and moral power of such processes have filled in the gaps between what is in the text, and what people believe should be there. The effect of reading the genocide section along with the rest of the CEH sections on human rights violations is still that sexual violence had some function in the genocide, even if it is ambiguously located in the conclusion of the genocide section and frustratingly invisible in the conclusion of the report itself. Although gender violence was not explicitly and always linked to the genocide claim in the CEH report, its presence is strong enough that many activists use it as a base to support their own claims that gender violence was genocidal, and they now organise around gendered notions of genocide that have emerged internationally since the 1990s. Over the last decade, my reading of this ambiguity has slowly veered towards a certain interpretive optimism, influenced significantly by the feminist mobilisations that came afterwards.

As will be discussed in the chapters that follow, the process has been slow. It included challenging universalist perspectives about human rights violations and promoting women's leadership within victims' organisations such as the Association for Justice and Reconciliation (AJR) (Diez 2006, Gaviola 2010), building respect, confidence, historical memory and rights consciousness through group work and accompaniment with survivors (Fulchiron, López and Paz Bailey 2009, Paz Bailey 2010, Crosby and Lykes 2011) and creating secure means for them to testify publicly (IW 2012a). In the globally unprecedented national genocide case against Ríos-Montt and Rodríguez Sanchez, another retired general, in 2013, women from the Ixil region

¹³¹ See Cockburn and Zarkov (2002), Zarkov (2007) and Pankhurst (2008). This point is particularly emphasised in Impunity Watch's much more recent assessment of the gender sensitivity of transitional justice mechanisms in Guatemala. The report focuses mainly on gender sensitivity as it pertains to women but is notable in its discussion of the lack of measures taken up to deal with gender violence against men (IW 2012, 19).

provided first-hand testimony about sexual violence, which formed an important component of the legal proofs of genocide in this case (AJR and CALDH 2013).

Rather than negating the important strides represented in focusing attention on violences against indigenous women, highlighting ‘worstness’ as a textual effect makes it possible to consider the extent to which prevailing representational strategies in human rights work have reached the limits of their utility, and to consider which other strategies must become part of a transnational, multi-sited feminist arsenal. This may include cultivating forms of listening, documenting and responding whose end points are not already pre-determined, and whose actors are not so rigidly bound to either testimonial or analytical practices, subjectivity and objectivity, victim and non-victim positions (see especially Ross 2003a,b, Theidon 2007, McAllister 2013). In this project, such an endeavour starts with exploring the relationship between the hypervisibility of ‘worstness,’ and other, concomitant invisibilities in the reports of the REMHI and CEH processes. In the chapters that follow, I explore some of the causes and effects of such representational practices, including the creation of contrasting subjectivities for victims and human rights workers, and the continuous invisibility of gendered experiences that exceed the definitional bounds of paradigmatic terms such as ‘rape.’

Chapter 4: Gendering truth and historical memory: Rethinking silences and coming to feminism¹³²

This chapter features the memories and reflections of ex-REMHI and CEH workers and other human rights defenders, to explore how sexual violence was taken up in Guatemalan truth-telling. The textual analysis in the preceding chapter provided a glimpse of the exposures and invisibilities in the REMHI and CEH reports. Here, interviews and more recent secondary material substantiate and expand on some of the impressions created by the textual analysis. In the first part of the chapter, I discuss the developing perspectives on silence, speech and gender in the transitional justice literature, to bring them in dialogue with perspectives articulated by participants in my interviews. I then draw on interviews to outline how workers remember the shift from gender-blindness to exposing sexual violence in the REMHI and CEH. Following this section, I turn to other silences that are being broken in feminist historical memory work performed since the REMHI and CEH, focusing on sexual violence committed by non-state actors, and the growing documentation of women's diverse roles within the guerrilla forces. The last part of the chapter explores the interconnections between the experiences of prominent women rights defenders on the Left and their "coming to feminism."¹³³

Since the 1990s, many feminist discussions of human rights and international law have heralded a triumphant new era for women. This feminist success story often favors a progressive narrative in which major legal developments at the international level were then taken up in multiple contexts around the world. The legal advances detailed in Chapter 2 and their subsequent global adoption have ensured that sexual violence is no longer officially invisible or treated as collateral damage, but in practice this shift has been incomplete and contradictory. Critics and practitioners consulted throughout this project explain how gendering transitional justice and historical memory work must involve more than exposing sexual violence or 'including' women in already gendered discourses of human rights (Nesiah 2006, Rubio-Marín 2006, 2009, Munro and McGlynn 2010, Valji 2011). The formal advances in this area are no guarantee that major cultural shifts will also occur to ensure their widespread adoption and

¹³² A short discussion based on parts of Chapters 4 and 5 appears in my 2015 article in *Latin American Policy* 16(1).

¹³³ Thanks to Alison Crosby, who suggested the useful framework of "Coming to Feminism" during early stages of the research.

institutionalisation. This tension between formal rights and practice or lived experience is often a feature of the conflictual relationship between law and social change.

Without rejecting them completely, my approach in this dissertation has been to decentre legal and normative approaches to human rights, in favor of more empirical assessments of the practices of witnesses and rights workers. Both the peace accords and the REMHI and CEH reports are frequently cited as having helped to open space for the struggles of women and indigenous people at a crucial historical moment in Guatemala (Jonas 2000, Nolin Hanlon and Shankar 2000, Alvarado 2010, Pivaral 2010, Estrada 2011). Given the general lack of training and knowledge of feminist approaches, as well as some institutionalised hostility, it is important to explain the actual mechanism of change. How did these new human rights emerge and become intelligible in this site? There is no doubt that the transnational spread of legal precedents and statutory developments has given strength and clout to a multitude of local feminist struggles. But in the case of Guatemalan truth-telling, sexual violence emerged as an important dimension of the Guatemalan conflict less through the top-down legal interventions of those informed by the changing landscape of international law and more through the unexpected testimony of victim-witnesses and the adaptations of rights workers on the ground in response.

Examining what people actually did on the ground helps to illustrate the active development of women's rights in sites too often understood as "backward" or peripheral to the operations of global politics and international law (Merry, 2006). As gender analysis becomes less controversial in this work and particularly as it becomes a more reliable source of international funding, many understand the REMHI and CEH processes as having advanced the agenda on women's rights in Guatemala, but without a clear sense of how this shift occurred. Thus, the entire process can be seen as 'gender-sensitive' when in fact such initiatives were partial, ad hoc and supported most strongly by a few individuals. Keeping these dynamics in mind, this chapter has several main objectives: to claim for these processes some autonomous and practice-based initiative on gender violence, rather than only a trickle-down effect of metropolitan developments in international law, as Merry's framework of "vernacularization" (2006) is often interpreted. At the same time, the chapter aims to document that these moves were a result of the work of feminists who were not completely embraced by the processes in which they laboured.

Most offer overlapping cultural and procedural explanations for the particularities of work on gender and sexual violence in these processes, both of which will be explored here. Guatemalan national culture in this period tended toward conservative views of gender roles, particularly around questions of sexual and domestic violence. But my discussion of culture explicitly rejects its use as an international shorthand for backwardness and underdevelopment. Rather, in using the term, I also draw attention to shared cultures within human rights work and social movements on the Left. The prevailing view, shared by many doing rights defense and related work both in Guatemala and more metropolitan sites, was that feminism was ‘partial’ or biased and would impact negatively on the credibility of the work produced. This approach also informed the hierarchy of violations that encouraged a concentration on the most ‘universal,’ ‘serious’ or ‘worst’ violations such as torture and forced disappearance.

Ethnographic work in institutional settings, such as Merry’s 2006 study of CEDAW (Convention on the Elimination of Discrimination Against Women) meetings at the UN (2006) or Hopgood’s work in Amnesty International headquarters in London (2006), shows that much can be learned by turning the gaze of researchers and social critics onto those who are used to being outside the frame of observation. Clarifying how cultures operate in organisations or social movements can help illustrate how their internal dynamics influence the knowledge and actions that they produce. As many participants have stressed, the truth-telling bodies and the human rights organisations that supported their work are a product of patriarchal cultures and can be expected to reflect mainstream dynamics by default, even if their explicitly articulated political positions seem opposed to the dominant culture. For participants in my interviews, the persistent silences around gendered exclusions and violence in social movements did much to structure their experiences both of working to make sexual violence visible, and of coming to feminism, which is why I have linked these issues in this project. Here I begin with a discussion of how feminist approaches to silence have developed in relation to transitional justice, before moving to the REMHI and CEH processes.

Listening and hearing, silence and silencing: Silence as contested terrain

In feminist work in transitional justice, ‘breaking the silence’ continues to be an important symbolic possibility, but since the 1990s, a multi-layered critique around how silence is constructed has emerged. Most literature in the field recognises to some degree the

problematic way in which women's 'silence' has been discovered, then inadequately addressed by truth commissions and related bodies (well-summarised in Theidon 2007, 456-9; Al-kassim 2008, 176). Within such critiques, there is varying acceptance of several commonly held notions. The first is that 'women don't talk' because they are intimidated, damaged, or fear the consequences of making public sexual violations that are supposed to stay private, or more generally, because they are not accustomed to participating actively in the public sphere. When accommodations are made, such as women's commissions, specialised 'gender training' for statement takers, or hiring dedicated female staff out of the impression that 'women talk to women,' many contend that still 'women don't talk about themselves,' but rather about the violations that befell their (mostly male) family members (see for example, Nesiiah 2006, 17; Laplante 2007a, 315). Such an interpretation was prevalent in the aftermath of the South African TRC and has been absorbed into gender-mainstreaming strategies in various transitional justice initiatives that came in the decade after the South African and Guatemalan experiences.

Fiona Ross, along with other critics, has pointed out how women 'talking about themselves' tends to be interpreted narrowly and in relation to sexual violence as the main 'gendered' truth (2003). Such observations can indeed help develop important measures of attending to women's speech and participation, at a minimum by problematizing what has been accepted as the unnamed norm. But in her analysis of dynamics of silence on sexual violence in Peru, Theidon reiterates Ross' critique of the relative priority placed on rape narratives. She indicates that broadly defining sexual violence can still lead to narrow definitions of the gendered dimensions of armed conflict (2007, 458). In Theidon's interviews with women in the aftermath of the war in Peru, they talked about their socioeconomic rights, ethnic discrimination and the failures of justice systems, community suffering, searching for firewood, the hunger of their children, and their outrage at racism when seeking refuge. In these diverse discussions, "they *are* talking about themselves and the gendered dimensions of war. And beyond the list of dangers that engulfed them, they have much to say about the actions they took in the face of those challenges"(459). Theidon's work looks to the women's narratives of heroism as an alternative to the unremitting construction of passive, fearful victims. Similarly, Ross locates a set of trickster narratives within the testimonies of women activists whose stories had been whittled by the South African TRC into tales of victimhood (2003a, 154-55).

One impetus behind procedural shifts to take gender more seriously in transitional justice methodology was a tendency towards the so-called therapeutic hypothesis or therapeutic assumption (Pupavac 2001, Henry 2009): the notion that testifying would help to heal people, writ large in South Africa, where one TRC slogan was ‘revealing is healing.’¹³⁴ In a range of sites, this therapeutic hypothesis has existed in tandem with another construct: that speaking publicly or doing anything that recalls sexual assault will irreparably damage the victim-survivor, who is so fragile and damaged already. Processes thus sometimes claim to be designed to limit or negate public exposure or shaming, but without more serious accompaniment, these can still fail spectacularly. For example Amnesty International has recently discussed in detail how conducting private trials in Bosnia to protect women’s ‘morality’ has clashed with many survivors’ desire to force confrontation and bring the issues out into the open (AI 2009, 26).¹³⁵

The presumption that testifying is either therapeutic or harmful is considered by many as an inappropriate implementation of a Western or Anglo-centric model of gendered silence and post-traumatic stress disorder (PTSD) frameworks in a diverse terrain.¹³⁶ In particular, the notion of the individual that emerges is often at odds with how people understand themselves and their relationship to their family or community (Ross 2003a,b). Fiona Ross tracks the interplay between one witness, Yvonne Khutwane, and the members of the commission, who wanted her to talk more about being raped by police, while Khutwane wanted to talk about other events that had motivated her to come to testify, which had more to do with restoring her reputation as part of a community after rumours she had been involved in illegal activity. Ross notes that the part of Khutwane’s story that was featured in the report and related press coverage was about rape, rather than those things that she had spent more time discussing, for her own reasons (Ross 2003a, 87-100). Documenting rape was important, but pushing for an extended description of the act seemed to Ross to be more for theatrical purposes. Khutwane’s clear discomfort with this dynamic can be seen in multiple ways: as resistance to being maneuvered into a script of

¹³⁴ The idea that the nation does not have a psyche and cannot be healed has been clearly articulated and perhaps better understood since critiques of its overuse in South Africa. A range of voices articulated this critique contemporaneously with the TRC in South Africa. See discussion in Minow 1998, 63; Hayner 2002, 134-150. For an argument against the therapeutic hypothesis in Sierra Leone, see Shaw, 2005.

¹³⁵ At other times, the ICTY has exhibited a disregard for women’s safety in publicly associating them with trials or the program (AI 2009, 26-7).

¹³⁶ See especially Pupavac 2001 (on “therapeutic governance”), Hayner 2002, 141-147; Galappatti 2003, Lykes and Mersky 2006, Kimura 2008, 11-12; Duggan and Jacobson 2009, 147; Boesten 2010, Viaene 2010, 21-23; Hamber and Gallagher 2015. For a more detailed discussion of mental health in the context of liberation psychology, see Laplante 2007a.

sexualised victimhood, or as proof that the strategies of the TRC were working, that despite shame and fear, here was a woman who, after a caring nudge, was talking about rape anyway.

Many critics have noted that testimony should not be understood as a pure or authentic utterance, but rather as always already mediated. Such mediation often runs counter to the desire for speakers to retain some measure of discursive control over what happens to their accounts (Franke 2006, 825). As Kimura (2008), Cubilié (2005) and others attest, testimony can be a site of subject formation for women, and creating a narrative is a way to make sense of a catastrophic event. In some ways, narration *can* be therapeutic, and this notion is central to much writing in the field of memoir and autobiographical studies (Gilmore 2001). Yet as will be outlined in more detail in Chapter 5, a process of fragmentation, re-purposing and re-interpreting is built into truth-telling work that seeks out specific information, classifies and feeds it into a database, belying much of the richness of the events, and the ways in which tellers attempt to reconstruct their worlds and futures through the recounting. Theidon calls for analysing the construction of narratives, rather than merely itemising their content, which can tell more about how women remember and work through their experiences in conflict, as well as how they want to be remembered. She writes that the focus of truth commissions only on categories of victimisation may create other silences, and that a move beyond victim-driven logic will open up more spaces for women. Further, she notes the

deep injustice of both rape and its narrative burden. It is, of course, women who are incited to speak about sexual violence; the silence of gang rapists is left undisturbed¹³⁷ [...]What does it mean to be asked to narrate your life in an idiom that cannot possibly ‘do you justice’? (2007, 473; see also Caple James 2010, McAllister 2013).

Foucault famously described a particularly modern pattern of speech about sex as “confessional,” which rather than performing a liberating function, merely assigned more control to the experts to define and ‘forgive’ the taint of sex (Foucault 1990, 58).¹³⁸ Various scholars have analysed the dynamics of public truth-telling testimony using this model (see especially Sanders 2007, Posel 2008). In the North American context, Alcoff and Grey write that, while

¹³⁷ See Borer making a similar point about the South African TRC, where rape was technically eligible for amnesty claims if it was treated as a case of torture. In that case, the silence of victims was echoed by the silence of perpetrators, and no one chose to claim amnesty for rape (2009, 1178).

¹³⁸ In the context of transitional justice, see “taint” language expressed in Judge Itoe’s ruling on the inadmissibility of discussion of sexual violence that was not part of a formal charge in a 2005 Special Court of Sierra Leone case. He called this a potential “stain” that could leave an “indelible scar of bias” towards the defendant (Staggs Kelsall and Stepakoff 2007, 368). Freedman 2014 offers another example of “stain” language, this time referring to the influence of feminists in international law.

repeated telling of sexual assault stories resembles Foucault's confessional, especially in sensationalised media coverage, it is also important to note that his model lacks a collective dimension (Alcoff & Grey 1993, 260-3), and that talking about sex versus sexual violation are distinct practices (269), even if both may have the titillating effect of the taboo and the spectacle. Their critique aims to clarify that women survivors recounting stories on a pathway towards healing do not readily fall into the same modernist traps as Foucault predicts for so many forms of confession or public, sexualised truth-telling. Alcoff and Grey argue that to avoid further individualisation of the confessional pattern, feminists and survivors must challenge and eliminate the dominant role of "expert mediator"—for example, the social worker, doctor or psychiatrist (282-4). Though in a different context, this observation remains an important insight for work in transitional justice (see for example Laplante 2007).

If promoting the visibility of women in human rights discourse was most often premised on the 'difference' of sexual violation, it made sense to believe that this private harm could be therapeutically removed by the interventions of the truth commission and thus women could arrive at an idealised goal of individual speaking subject: as Ross puts it, "voice" becomes conflated with "self" (Ross 2003a, 163). But reading women's speech as problematic because it is only about 'others' (or not about sexual violence) structurally excludes women from political agency on precisely the terms with which they are being set up to pursue it. Thus a growing chorus has taken feminists and human rights bodies to task for this politics of 'giving voice' rather than learning to hear in registers other than those in which listeners feel most comfortable (Das 2000, 2007, Ross 2003a, Motsemme 2004, Rubio-Marín 2009, 74; Hesford 2011, Crosby and Lykes 2011). In this light, Al-kassim discusses the 'spectrum of refusal,' as a way to better appreciate the range of reasons women don't talk about the things the TRC 'wants' in order to break silence successfully (2008, 183-4; see also Kashyap 2009, 459-60). Sociologist Nthabiseng Motsemme works through some of the meanings of silence for women living in South African townships during apartheid—she considers silence as

resistance and courage; silence as illusion of stability; and silence as a site for coping and the reconstitution of self. Overall I suggest that it is when the language of silence, which forms part of the 'economy of the invisible', is also uncovered that we have a better view of those privatized experiences of living daily in violent contexts (2004, 910-911).

She argues that by seeing silence as presence and as speech, not just as absence and voicelessness, it could “become a site for creating new meanings and forms of enablement for those at the margins” (2004, 926).

To argue for a broader focus on women’s gendered experience not just as sexual violence victims is complicated: they quite readily emerge as mothers, wives, maintainers of the home fires. To institutionalise such a framing could reproduce the structural assumptions about women as relegated to the private sphere, and to reproductive but not productive work—to the same scripts of ahistorical and pre-political being informing constructions of sexual violence victims (Rubio-Marín 2009). Al-kassim notes how women’s bodies already heavily signify the private, the home, kinship, tradition, “past and future, but never the present” (2008, 176; see also McClintock 1995):

Within the TRC’s structuring framework the only way to speak to politically motivated violence against women is public testimony, but this publicity of the woman’s body runs against the grain of other foundations and representational duties, and it demands that women adopt a position of speaking subject that felt foreign at best and like a violent repetition for many (Al-kassim 2008, 176).

At the same time, as Al-kassim puts it, “without the word of victimized women, the state’s archive would be incomplete” (2008, 174). Her analysis here goes straight to the heart of the matter: if the TRC works with the aim to fill in the archive, and women represent the most silenced group, then their stories of trauma help achieve the goals of the TRC. After decades of conventional human rights practices that bracketed out women’s gendered experience as biased or illegitimate, in a new era of victim-centered politics, truth-telling processes can become dependent on the symbolic weight of women’s participation for their own legitimacy.

Because they often construct women as silenced by fear and shame, and understand their role as coaxing stories from them, truth commissions and related processes are more likely to fit what women say into pre-determined narratives and categories than they are to represent what women say on their own terms. When women victim-witnesses remain silent, this can goad the commission into working harder at coaxing: thus resistance is understood as shame-based, rather than implicating the commission as also a potentially intrusive and damaging force (Theidon 2007, 458). With these discussions in mind, the chapter now traces the early work of exposing sexual violence in the REMHI and CEH processes, and the negotiations of staff around dynamics of silence and silencing.

REMHI and violence against women

As numerous participants put it, REMHI's work took place not with an explicit intention of stifling discussion of gendered violence, but in a Church that had historically upheld deeply conservative gender roles, and in a broader context of generalised distrust of feminism. In a 2011 interview, REMHI coordinator Carlos Beristain remembers this tendency as part of a more generalised closure of REMHI from particular elements of civil society:

The women's movement was absent from REMHI, not only the women's movement in general, but a large part of the politicized social movement [...who] at first saw REMHI as something having to do with the Church, or certain sectors of the archbishop's office. [The members of] REMHI also viewed civil society with some mistrust, [with an attitude of] this is our project, don't try to come here to manipulate, some attitudes on the part of key personnel [within REMHI] that were sort of reticent (in Marston, Oglesby and Patterson-Markowitz 2011, 89).

Beristain recalls a divide between REMHI workers who began pushing for gender violence as a category of analysis and others who resisted this change as part of "a 'feminist' agenda that would distract from other central goals of the project" (ibid 88-89). As recounted by Yolanda Aguilar, close to the end of REMHI's data collection period, project coordinator Edgar Gutiérrez approached Aguilar to coordinate the section on women.¹³⁹ Her testimony had undoubtedly been one precipitating factor, but she also brought experience from other work on gendered violence:

I was coming from experience in the PDH [Human Rights Prosecutor's office] working on violence against women in general, but in the 90s, we started to work on the theme of "intrafamilial violence," right? But I saw that this wasn't sufficient, that in the time I was in the *Procuraduría*, we put forward the law to prevent, sanction and eradicate intrafamilial violence (Aguilar 2010).¹⁴⁰

That law precipitated a range of feminist inspired legal reforms of the draconian system that Aguilar's generation had inherited from the legal vacuum that resulted from nearly four decades

¹³⁹ Beristain recalls the beginnings of this shift happening earlier, about "half way through" the work of the REMHI (Marston, Oglesby and Patterson-Markowitz 2011, 89).

¹⁴⁰ In her critical work on women's transnational organising in Latin America, Sonia Alvarez (2000) discusses shifting feminist practices in the 1990s, including the adoption of international policy language that reduces or erases the cultural specificity of Latin American feminisms and their demands. Further, she describes how feminist groups that work closely with the state or other bureaucracies become accustomed to making large concessions on their demands in order to come to "premature consensus" and maintain harmonious relations—something she says is sometimes unnecessary and in most cases extremely deradicalising, alienating many feminists from collaborative work and leading to the rift between those who would work within the system and those who choose to remain autonomous (13-14). This is part of a larger discussion of the so-called NGOisation of civil society in the wake of neoliberal state restructuring. The discussion exemplifying such depoliticisation involves the early and fairly uncritical adoption by many feminists of the language of 'intra-familial violence' as opposed to the more politicised 'violence against women' framework they formerly used (20-21). Here Aguilar is making a similar point.

of war. The gradual construction of a basic legal infrastructure around violence against women is recounted in more detail in Chapter 7 (see also Berger 2006, Walsh 2008, Musalo 2010). Though this first experience was important, Aguilar stresses that it was new terrain for her, conducted “with no knowledge, because I knew absolutely nothing about laws.” She notes that after accepting Gutierrez’ request, she began the work with a small three-person team, including Claudia Estrada, who was also interviewed for this dissertation. While Aguilar came onto the project near its conclusion, the others had been with the REMHI for several years already in the Ixcán and Petén regions. At first they had to figure out what could be done with the data that REMHI had already collected:

The methodology that we used tried to identify, within the testimonies that existed[...] how many cases of human rights violations in general there were in the armed conflict. In these cases, how many were testimonies from women? Because there were many testimonies from men, right, almost always men were witnesses, and they said, “well, to the young girl, such and such happened,” or in the entire community, but there were no direct testimonies from women (Aguilar 2010).

As indicated at the beginning of this chapter, transitional justice literature that takes up the issue of sexual violence often remarks on the issue that women mainly testify about others, rather than themselves (and by implication, sexual harm that befell them) in truth-telling processes (Nesiah 2006, Rubio-Marín 2006). However, here Aguilar mentions another issue that was a feature of the initial work in both REMHI and CEH: testimony about sexual violence coming from secondary witnesses, and particularly men, rather than from those who experienced it themselves. This is partially attributable to the high coincidence of mass rape and death in massacres, as well as broader issues of shame and silencing that are present in many settings involving sexual violence. It also reflects a more general pattern in human rights testimony in Guatemala. In the context of national genocide cases put forth by the genocide survivor-led AJR (Association for Justice and Reconciliation) Andrea Diez writes that, “the vast majority of witnesses are men, whether due to their facility in the Spanish language (more common among men than women in almost all indigenous communities) or because they constitute the authorised voice of the group” (Diez 2006, 44).¹⁴¹

¹⁴¹ Diez’ study was commissioned by the NGO PCS (Project Counselling Service), which has been a leader in fostering dialogue about wartime sexual violence within Guatemala and across the region (for more on this work, see Crosby 2009). This report examines all testimony in Guatemalan human rights related cases between 1996 and 2006, to illustrate that sexual violence is present in many testimonies, from perpetrators to direct victims to other witnesses, but up to that time it was almost never taken up as part of the ensuing legal cases. Her report is a crucial

Though REMHI had not taken up gender violence in its field research, the team working on the women's chapter returned to the communities in the final phase of the project, more actively seeking to discuss women and gender violence. Claudia Estrada remembers that even when the topic was sought out explicitly by female workers, it was mainly men who would talk about rape. She recalls the collective corporeal impact of the issue. For example, with local workers in Huehuetenango, "automatically men would hunch over," because in many of their communities, all women had been raped, as well as some men. In her interpretation, "they too felt violated because in the end, yes, the other is part of their lives...or in terms of machismo, part of their property...they themselves were also assaulted" (Estrada 2011).

Though clearly not on the scale of the REMHI as a whole, the targeted work on women performed near the conclusion of the REMHI project helped to fill out the picture already painted by the earlier testimonies. In Aguilar's recollection, it was a daunting task:

There were hundreds of testimonies! And the people who worked on them, let's just say they only passed us a selection, then we would review the selections and then would do another selection. [...] Look, I had here pages and pages and pages of testimony. We had three months to write a chapter, I'd never done it before, and the hardest thing was not just organising the testimonies, but reviewing the testimonies [...]we started to name what had happened to women, family members of the disappeared, what happened to women... who were widows, and what happened to women in terms of sexual violence, to women who opened spaces of human rights. This is to say that we created a chapter that opened onto many violations of human rights, the theme of sexual violence among them. And it was profoundly moving. For me and the team. I am sure that it changed our lives. So I wasn't there three but seven months in REMHI, right, because there was so much to review (Aguilar 2010).

Despite the intense personal impact of this work, Aguilar was well aware that it had made less of an impact outside of her work team.

It was a very interesting experience, very enriching...but as my work was strictly on one chapter, I didn't participate in the creation of recommendations nor in conclusions of the REMHI report. Anyway I was very sick, very bad, all of us, right? Everyone was emotionally exhausted, everyone, so we withdrew, finished our contracts, and then I went about writing my undergraduate thesis, and some other things[...] REMHI ended, they made the recommendations, they made the conclusions, but they never made any recommendations or conclusions on the subject of women. Each time I think about it I think there were no bad intentions. Rather, it's simply not normal that the theme of women is present, unless one or two women take charge of it, right? And so this also

and fairly early piece of this puzzle that provides clear evidence of institutional resistance within both the judicial system and human rights organisations to taking sexual violence seriously as a human rights violation. It follows some of the same threads as this project in its brief examination of gender in the CEH.

happened in the REMHI report. At the time no one realised that was the way things were (ibid).

In my interview, Claudia Estrada echoes the sentiment that the lack of gender analysis in the REMHI initially was not through a lack of will so much as that it never occurred to anyone in charge, including the women: “we should be really clear about this.” She remembers that none of the questions in the REMHI guide were about gender. Had there been more gender focus from the beginning, “I believe it would have been very rich, even if it was just a simple question like ‘...and what happened to the women?’ ” In Estrada’s view, many testimonies were very general, a sentiment echoed in various other interviews. The absence of rape from the list of human rights violations was not caused by a *machista* attitude per se, but rather that “it never occurred to anyone” (Estrada 2011). Although women were fewer in number and their knowledge had not been sought out specifically, former REMHI worker Carlos Amézquita remembers that women had a major impact in refugee camps,

it’s interesting that there were some women with very notable levels of participation, right, women who collected ten times more testimonies than the men, who achieved far more with this attitude [...]. And in cases of forced disappearances or...massacres involving children, the women were very forceful in their testimonies, and in the work that they were doing. So we could say that numerically there was no balance, the majority were men, but the women who were protagonists were very, very strong and forceful. [...] Of course, if the project had included women in other ways, there would have been much more information about human rights violations, and about things like rape...certainly, there would have been a lot more information (Amézquita 2011).

Though the work was proceeding at the same time as various important advances around sexual violence in international law, those who worked in REMHI and later on the CEH did not often know about these advances, and they frame their experience more as starting from scratch. Estrada remembers having no international frame of reference about sexual violence at the time of the REMHI—she thinks that Aguilar or others might have,

but I didn’t live it that way. It was coming from Guatemala, seeing what happened to the women: ‘oops! we forgot them, we should have done it from the beginning. We didn’t, let’s do what we can in this last phase.’ That’s how simple this issue was (Estrada 2011).

Aguilar, too, remembers working in the dark:

on sexual violence, some themes began to emerge. Honestly, I had no idea—I had lived sexual violence in my life, but I had no idea that the United Nations had done anything on sexual violence, I had no idea (Aguilar 2010).

Sexual violence and the CEH

As mentioned earlier, one aspect of this research that interested me in the early stages was the idea that with two such processes overlapping, the ‘lessons learned’ exchanges that are a feature of work across transitional justice sites could potentially be more efficient and productive than usual. If REMHI had neglected gender until the end and then realised its error, they could share this ‘lesson’ with the CEH. But even though they were fighting for many of the same goals, each process was operating as if on its own, particularly in the end stages as reports were being written up by a reduced number of overtaxed staff, and the CEH was not far behind the REMHI when they completed their report in 1998. While clearly there were affinities and overlaps, the issue of gender and sexual violence appears not to have been discussed very much across these lines. But merely raising the issue had created a powerful opening. REMHI contributed its report and database to the CEH at the conclusion of its operations, which then fed into the last phase of the CEH’s work. As CEH alumnus and human rights lawyer Claudia Paz y Paz candidly exclaims about gender analysis,

If we did it badly, they did it much worse! Thanks to Yolanda, at least there was some analysis in REMHI. REMHI ended up with one tenth of the cases that CEH had, because they dealt with sexual violence in a hurry, in a race to the finish. But this opened the doors to the CEH work. [...] REMHI was a definite influence on our work. The CEH couldn’t be any less than REMHI; we had their information and ours, so we had won territory (Paz y Paz 2010).

This notion that it was a few women who pushed for gender analysis is shared by various key figures in this area. In Andrea Diez’ report, feminist activist María Eugenia Solís states that “we can’t say that this was a collective preoccupation, but rather one of individual women who were present [...] women spread throughout the ODHAG or the Pastoral¹⁴²” (quoted in Diez 2006, 4). Diez continues that, “just as Yolanda Aguilar was key for the elaboration in REMHI, Teresa Rodríguez, a Spanish consultant, was the person who pushed the theme within the CEH” (ibid). As Claudia Paz y Paz points out, Rodríguez worked in the department of El Quiché and

you’ll notice that many of the cases of sexual violence are from there because she collected them, so their inclusion depended more on the good will and the interest or the seriousness of the investigator, than on an institutional decision. The same thing happened with the theme of ethnicity because they had not even noted the ethnic origin of victims, and afterwards they had to do double the work, because at first there was no

¹⁴² The Women’s Pastoral supported activities for women in the Church.

intention to determine if there had been violence differentiated by ethnicity, and the same thing happened with sexual violence (quoted in Diez, 4).

An important counter-narrative to this story of ‘a few women’ emerges in my interviews as well. In relation to her experiences as the lone female negotiator for the URNG in the peace negotiations, Luz Méndez rejects any implication that she pushed for gender visibility by herself. She puts it succinctly: “I believe it was a conjunction of those efforts by women, in the women’s movement, through the ASC, women in the international arena, and I, as a woman[...] who now considered myself a feminist, fighting in an arena of revolutionary political struggle” (Méndez 2010). Aguilar herself, though frequently featured as a central figure in this ‘a few women’ shorthand, agrees that feminist struggle is collective. She also makes a clear distinction between organisations and collectives:

Nothing really comes from the mind of only one person. Generally projects and the things that we have done have always been collective, right? [...] I am not one of those people who has been in organisations all my life—I’ve almost never been in organisations, rather I’m a part of collectives where I lend support and we create together (Aguilar 2010).

This issue highlights the tension between the need for historical recognition of women’s labour, and the collectivist desire not to be seen to take individual credit for broader projects, or to be profiting off the pain of others.

In my interview with Claudia Paz y Paz she claims that there is definitely more evidence about sexual violence in the CEH in areas where people asked about it routinely in the field interviews. There are more cases reported in Quiché because of the high incidence, but also because people there had more of a political consciousness about its significance. She notes that in Cobán as well, she had friends who worked on the CEH who made deliberate efforts to ask survivor-witnesses about sexual violence (Paz y Paz 2010). Nora, who performed liaison work and wrote parts of the final CEH report, reflects that

I don’t think anyone, you know, thought, ‘Oh, we’re going to give short shrift to sexual violation.’ I don’t remember it actually coming up until much later on in the commission when it was so obvious that it was coming out in the testimonies (Nora 2011).

She also recalls the gradual shift towards more openness around including sexual violence as part of a larger range of issues that were not taken up from the start but became more important as testimony illustrated the gaps:

there were other things that had to be added, like...death by forced displacement had to be added as a category of violation. Because you know, [in the beginning] it was sort of the lawyers coming in with...their fixed notion of what a human rights violation was, like it was torture, it was forced disappearance, it was extra-judicial execution, it was whatever, whatever. But then stuff...started to come out, like the context of the... conflict in the testimonies from all over the country, so I think the sexual violations and displacement...came from the testimonies (ibid).

Marcie Mersky headed the regional office for Guatemala City and a range of surrounding areas, and later coordinated the CEH report. She shares her recollections of how sexual violence became the focus of a chapter in the CEH:

It wasn't, you know, the plan [...] it wasn't in on the design at the beginning, but lots of other things weren't either... There are other issues that kind of got brought in later in the game. Gender was probably among the initial ones [...] In fact probably...the last of really serious elements to be...methodologically incorporated was the study on genocide.... [Gender was] definitely one of the earlier ones... but without really the resources [...] to do a serious job on how to pull it together methodologically. [...] You know, we were up and running, that was September when we started [...] it was probably like in October of '97, something like that. And what I remember is...there was going to be a working group and [...] there was a woman who was running the little Escuintla office, was it? I don't remember who else was in that [group]... but it seemed to me that the approach [...] was a little bit 'too little, too late' [...] given the time constraints at that point. We thought we were going to be in these regional offices really pretty much only 'til January, and the some of the bigger offices like mine got extended until May... but it didn't seem to me that we had the methodological preparation to really do it in a good way (Mersky 2012).

Mersky supported the idea in spirit but felt the execution would be complicated and difficult to fit into the other work that was already planned. She felt in particular that there were not enough staff.

I covered Guatemala City, Chimaltenango, Sacatepéquez, and I can't remember now which other departments around Guatemala... the Department of Guatemala with five staff people...! [laughs] And we had both everything that had happened in the city over a [...] thirty-two year period, and you know, Chimaltenango, which was one of the most severely hit by massacres in the country... and then they said 'come work in a working group to develop a way of working on [gender]...!' (ibid).

Mersky credits Rodríguez' initiative in Santa Cruz del Quiché for pulling together much of the sexual violence data that forms the basis for the final report.

I think that given the lack of specific methodologies and the timeframe and the kind of, the ad hoc way in which it was done, she did an honourable job. I would say [...] it certainly didn't at all do justice to the quantitative kind of appraisal of what went on, but

my guess is that even with a much bigger study in terms of what you can do in a year and a half, the qualitative... nature of the findings wouldn't have varied all that much [...]it would have been much richer in detail and all the rest, but probably the broad strokes of what happened are more or less there, I'd venture to say (ibid).

While she acknowledges not having read it in a while, the weaker part of the CEH report's sexual violence chapter for her was that it was weighted heavily

to the rural indigenous... experience [...] that was what the work in the Quiché was about and [Rodríguez] drew most heavily from the Quiché examples because that's what she knew the best and didn't draw so heavily on some of the work done in other places. [...]she didn't have a lot of time to pull it together and that seemed reasonable and honourable, no complaints about that. [...] I do think the big gap was that there was really nothing that I remember [...] on urban women... you know activist women who were disappeared, tortured, raped, murdered under these circumstances (ibid).

Mersky stresses that from her work in the area over the years, it is clear that the incarceration and interrogation of women political activists involved systematic sexual violence. "Women who were captured were systematically raped [...] across the board." This co-incidence was not possible to substantiate as a widespread pattern in the working timeline of the CEH, beyond some high profile examples.¹⁴³ "I think REMHI probably does a slightly better job on that, but...it wasn't really the focus of REMHI's work" (ibid).

"Between the teeth": Navigating Silences in CEH and REMHI

For many feminists attempting to break the silence on gender violence in this field, making basic changes to methodology has been a major focus. As indicated above, one common assumption in such work is that women are more likely to reveal experiences of sexual violence to other women. While this may be important to many, interviews on Guatemalan experiences reveal a more complicated terrain of interlocking power relations that requires an intersectional lens to understand. Not only workers' gender but other aspects of their identities, training and levels of comfort discussing sexual violence are also important elements. Related procedural issues include the availability and privacy of spaces available for taking testimony, and how violations were named and recorded in questionnaires and coding keys. Procedural issues may appear to

¹⁴³Later Mersky reflects that the collection of information about the urban guerrilla more generally suffered from the same lack of time to rebuild trust. Urban groups had operated as cells, and were completely shattered in the 1970s and 1980s. Whereas rural communities had begun the task of rebuilding, urban fear, distrust and fragmentation were compounded by the era of the CEH. Mersky notes that the commission completely underestimated this dynamic, having assumed that fear would be more of a factor in rural and predominantly indigenous areas (2012).

predominate here, but they are supported by a backdrop of cultural and historical relationships and assumptions.

REMHI's situation is clearer than the CEH's in this respect, in that there is universal agreement that no gender-related questions were part of REMHI interview question guides. The case of the CEH is more ambiguous. Two separate published versions of the CEH questionnaires (UNOPS 2000, Mezquita 2008) show that rape was included explicitly on CEH forms used in testimony collection. But what these forms do not show are the numerous different versions that were used and adapted over the course of the CEH's field research, something that various interview participants had both pushed for in order to improve the quality of data and found irritating because of the methodological inconsistency (Pivaral 2010, Paz y Paz 2010).

These published versions of the forms may give the mistaken impression that gender had been a more central analytical category from the start. One source, a 2008 Impunity Watch report on transitional justice measures in Guatemala, appears to take at face value the inclusion of rape on forms, based on these published versions (IW 2008, 24). Andrea Diez, with the support of interviews, takes a more cautious tack, attributing the eventual inclusion of rape to the interventions of workers like Teresa Rodríguez throughout the operation of the CEH (Diez 2006, 5). In my interviews, people's memories vary. Claudia Paz y Paz could not remember how explicit the CEH forms were about sexual violence, but she indicates that it would have mattered far less than the insufficient training for field workers on how to take statements on sexual violence (Paz y Paz 2010). Indeed, inclusion of a violation on a form does not provide any sense of the issues around survivor *or* worker discomfort when asking about a sensitive issue like sexual violence. Many respondents consider other conditions more important than the forms themselves. Nora raises the context in which testimony was taken, including the presence of male translators, who were often local religious leaders:

the catechists, for sure they were all men, you know, so even if women came forward... I mean, I don't know if you've found instances where women were...it really truly was confidential testimony. I mean people talked about the conditions [laughs] under which people gave their testimonies, it was anything but confidential (Nora 2011).

Maria Baquero worked as a field researcher in the Ixil region and then on writing parts of the final CEH report. She remembers collective testimonial practices as a mainly positive development:

We began doing group interviews, even though that wasn't contemplated in the methodology, largely because ... when we would ask ... a woman about what happened to her and we would ask her you know, do you want... one of our colleagues can stay with your kids in the next room, and they'd say, 'why? They should hear everything,' and she would talk about being raped and she would talk about her husband being killed in front of her eyes, and she would talk about the seven children she had before all being killed in front of her. And the whole family would listen and... all the family members, the grandmother, the sister, would ... talk (Baquero 2012).

Various people remember some such groups being made up exclusively of women, both in REMHI and the CEH, a practice that was more common when established organisations helped publicise the CEH and encourage their members to testify. This participation of organisations is often cited as a key factor in the ability of the CEH to build trust and gather sensitive information, particularly when field teams first worked at building relationships with such groups and with local authorities. CONAVIGUA (the major national widows' group) representative Lucina Moscoso indicates that,

[t]he majority of women belonging to CONAVIGUA are victims of violence. We had already worked in exhumations and we supported the women in the communities. So, we believed supporting the commission was a priority. CONAVIGUA went to the communities and spoke with women. We told them that they should tell their stories so that they didn't remain hidden and so the communities' history could be known. Later, we accompanied the investigators from the commission to the communities while they gathered testimonies. Often the commission arrived and CONAVIGUA had already gathered hundreds of people (quoted in UNOPS 2000, 16).

Though there were regional variations, the overall response in Nebaj, the base for the field team in the Ixil area, "was surprisingly positive—surpassing even the most optimistic expectations" (UNOPS 2000, 144). Because the small office loaned by MINUGUA was packed for ten hours every day with people giving testimony in the initial stages of the investigation, a supportive member of the Defender of the Cotzal Woman group provided her small house as an overflow space to give testimony, and a steady stream of conflict-affected women to testify (UNOPS 2000 144; Baquero 2012).

Maria Baquero recalls that efforts were made to include women on all CEH field teams, which she assumed was a measure to facilitate the testimony of women in particular about sexual violence. But in practice, she feels that the way a field team was received depended considerably on whether men were present. For example, in her team of four researchers and three translators, when she traveled with the female translators and without any other men, "it was a very different

dynamic. I think...we were taken less seriously. I didn't feel threatened but we were taken less seriously even by the women" (Baquero 2012). Baquero also reflects that the severity of the violence in the Ixil area might have influenced the form that testimonies took,

it didn't seem like they were going into a lot of detail. They would just say, 'I was raped,' they wouldn't say how [...] they...wouldn't give us any particular detail about the conditions. [...] They would even sometimes go to one of my male colleagues [...]this is where there was some gender differentiation. I think sometimes one of my male colleagues seemed like he was the boss. I never had an issue with it [...] because there was so much to do. Some of the men wanted to sit with me because they recognised me from other places...or because they didn't want to talk to a man, I think (Baquero 2012).

Baquero reflects further that she may be making assumptions about witnesses' motivations: "there wasn't a lot of understanding the 'why'" (ibid). Indeed, Claudia Estrada feels that as a REMHI worker, being an outsider with class and ethnic privilege had the greatest impact on the way she was received in communities where she did most of her work. She felt that there was already such an unequal power relation between her and the local people, and that coming from the capital meant she had another level of status that probably mitigated the issues she might otherwise face for being a woman (Estrada 2011). Sergio Pivaral worked in several field offices of the CEH. He remembers,

yes, there was an official policy, as far as possible, in cases of sexual violence, for example, the women that I interviewed, or in cases where victims requested [to speak with a specific person]. Yes, there was a policy, but it was always limited by the work itself. If there isn't a female researcher in that moment, if there isn't a foreigner in that moment...it has to be a ladino man! [laughs wryly] (Pivaral 2010).

Further, perhaps more important than having women on the CEH teams themselves, the practice of decentralising operations by bringing the field teams into relatively isolated communities made it possible for far greater numbers of women to testify, according to Fermina López of CONAVIGUA (UNOPS 2000, 15).

Clearly the groups encouraging testimonial participation in local communities played a role in shaping what people discussed. Particularly with respect to REMHI, the historical gender dynamics in the Church are important in this respect. In REMHI, Claudia Estrada notes that most of the local workers were men because of their positioning in the hierarchies of the Church, but that there were also a number of very active nuns (Estrada 2011). Carlos Amézquita continues along familiar lines—as many have put it, at that moment, before peace had been officially declared,

effectively there were only two institutions capable of arriving at national coverage: the church and the army [laughs]. So the Church with its structures and its contradictions, among them discrimination against women, operated this project. So in that historical moment maybe it was very hard to do something else. Look, for example at the situation in the refugee camps, the majority, we could say, had an infrastructure of support that generally...those who wanted to facilitate it were the religious leaders who were there in the communities, they connected people, they met with them to make sure they went to the trainings, so, in the camps, almost all of these people were nuns. They were religious women, those who facilitated the realisation of the project. I doubt that any of them had a gender analysis! Because nuns aren't like that. [...]But they helped substantially. They supported the people collecting testimony—I suppose, I'm not sure but I suppose they also participated in the testimonial declarations of women. But it wasn't intentional, right? It was more that [it was] the Church infrastructure that existed (Amézquita 2011).

At the time using these already established networks seemed to be the most practical approach, even if it may have shaped patterns of participation and data in particular ways. Many of those working in ODHAG and REMHI were not actively religious, but they understood the practical importance of church infrastructure in areas where webs of social trust had been badly damaged by decades of state violence. After REMHI was completed, though, this institutional stability approach became more difficult to accept for those working on women's issues. After her pathbreaking work on the women's chapter in REMHI, Yolanda Aguilar continued to work at ODHAG supporting the women's pastorals, hoping that she could expand the spaces REMHI had opened around women's experience specifically. However, she struggled with the institutional dynamics of sexism, and after she secured funding for further women's programming, she felt that ODHAG pointedly hired a different person to run the project.

The Church is very restricted in its vision of women. Or, the fact that the Church has tried to do what it has was a great advance but...working in the Church has the great restriction that you are always right up against power, right, which is linked to the view of women as oppressed, as submissive, as violated [...] I believe there's been some interesting work for example in the women's pastorals, in the departments, but in the capital nothing has advanced, absolutely nothing (Aguilar 2010).

With reference to these issues in REMHI, Claudia Estrada notes that silences were both a result of general social stigma about rape, as well as the broader political context:

the information on rape in the REMHI is really minimal...neither men nor women wanted to talk about this theme...remember, this was before the peace accords were signed, when REMHI began, right? And in a context where Rios-Montt was a candidate...for the presidency! (Estrada 2011).

Mersky speaks to the specific issues around trust that her CEH team faced when trying to verify and document initial reports of sexual slavery in a particular area:

I had, interestingly enough, mostly women working as investigators... including a Kaqchikel woman. She spoke Kaqchikel very well and was from a very respected family in one of the... municipalities that was very hard-hit, and we had very good relationships, and... I had a couple of other Guatemalan investigators who had also worked some in Chimaltenango and had pretty good relations with the organizations working there. At one point we had been told separately that in one particular community [...] we had what we thought was really excellent information from good sources [...] that a small group of women had been basically held as sexual slaves had been raped repeatedly and were basically at the bidding of the local commander... for quite a while, and we had the contacts, we went into the *aldea* [village] and no one knew anything, you know, even... our Kaqchikel woman who was basically from the town, one town over, and... 'nothing happened here'... 'nothing of that sort'... So, even with the best of intentions, with the timeframe that we had, you know... we found it very difficult to... really go in and... pulling our best resources with the best information, with the best sort of positioned people to do it, and with a lot, you know, significant sensitivity to what we were trying to do but with really inadequate time to develop the relationships. I think we went back twice and got the same... we made a serious effort (Mersky 2012).¹⁴⁴

Though today sexual violence is a more widely acknowledged feature of the internal armed conflict, in the 1990s many in Guatemala were unaware of the dynamics of sexual violence during the war. Nora reflects on how little she had known about it, despite her prior work with refugees and close relationship with those who were fighting for social justice:

Now that I think of it, there wasn't anybody on the Historical [Group at the CEH who worked] on, you know, gender... I think that that is something that I learned. I don't think I knew... and I had done a lot of field work. I had been all over the country. I had been to Huehue, Quiché, Ixil, Ixcán [...] the South Coast, I had done a lot of field work... I hadn't heard, you know, a lot of testimonies about rape. I don't think I had asked, you know, I didn't ask... so it was something that was new to me too [...] how systematic rape was, and not just during the massacres but women who were captured and detained, and the ways in which the *destacamentos* [military bases] became like rape houses (Nora 2011).

In her field research prior to the CEH she indicates that she and her co-researchers had not discussed the issue of sexual violence:

We never talked about asking it. But I think if we had talked about it that we would have been reticent to ask directly, you know, and also the language barrier... because you know... we were never, we were hardly ever alone with women [...] just the women,

¹⁴⁴ Sexual slavery was still documented in the report and featured as one of the illustrative cases. Since the CEH investigation, it has been documented more robustly (González and AVANCSO 2002, Fulchiron, López and Paz Bailey 2009, Grandin, Levenson and Oglesby 2011, UNAMG, ECAP, MTM, hegoa 2012).

because of the language barrier (Nora 2011).

This reticence is also reflected in Kimberly Theidon's experience working with the TRC in post-war Peru. She never asked women if they had been raped—the question seemed “ethically unacceptable to me given that we were not in a position to offer these women any form of justice or sustained counselling”(2007, 465). She notes that while women spoke as victims, in every community Theidon worked in, women talked of defending their communities, and when they talked of rape, they located their stories within broader social dynamics.

Feminist activist and executive director of the feminist organisation UNAMG, Maya Alvarado claims that although she wasn't directly involved with the REMHI and CEH, feminist colleagues told her that workers did not always understand when women were actually telling them about rape:

some testimonies about sexual violence began to appear, and there was no... methodology, nor did anyone have resources to understand what the *compañera* was telling them...so she would come to recount that her husband had been kidnapped, and things that hurt substantively, very mumbled [*entre los dientes*: literally ‘between the teeth’] at times, you know, talking about it, but the focus was put on the story of the other, and it[sexual violence] remained a kind of collateral damage (Alvarado 2010).

Claudia Paz y Paz returns to the notion that learning how to hear is a key component of this work. She echoes Alvarado's example of women who went to local military bases seeking their disappeared husbands, a common scenario that is repeated in many women's experiences and testimony on this conflict. Paz y Paz acknowledges that in many CEH interviews, it was established that such women “had been interrogated, but women were not asked if they had also been raped, and a woman tended not to disclose voluntarily because she felt it was her fault or that she wouldn't be believed” (Paz y Paz 2010). This aspect of the more standardised story of interrogation has emerged after more serious accompaniment work with survivors, as they slowly work through their fears, shame and isolation in a setting where they are not judged or punished by others. Sexual violence survivors from both wartime and peace-time assaults have not been uniformly supported within their communities and many have decided not to tell anyone to avoid ostracism. While this can protect their families and livelihoods, it can also compound the various negative physical and emotional effects of the horrific assaults they endured (Fulchiron, López and Paz Bailey 2009, ECAP 2009).

Pioneering research and accompaniment work has also established a range of other details, but has demanded serious shifts in how organisations operate. One example of such shifts is outlined by community psychologist Olga Alicia Paz Bailey. While she did not work in these truth-telling processes, she spent over fifteen years accompanying genocide survivors in Guatemala's interior through the community psychology organisation ECAP. ECAP was born alongside REMHI, providing psychosocial support, and picking up many of the threads dropped when the REMHI program was halted after Gerardi's assassination in 1998.¹⁴⁵ In its early days in 1997, a small group of psychologists began to accompany survivors in the community of Rabinal, in the department of Baja Verapaz. Members of the forensic anthropology team working there had

noticed that people were bad, that they were committing suicide, there were men who were committing suicide, and...they started to talk with our psychologists to see what we could do, in cases of torture...so we linked up with organizations from the South, psychologists who worked with survivors of forced disappearance, the tortured, and with organizations from Denmark and Spain who had received exiles from Latin America, this is what trained us. So we started to work accompanying them, these other psychologists. And we basically worked on forced disappearance, torture, accompaniment in justice processes. We linked up, made networks with CALDH who were bringing the genocide case, with the FAFG who were doing exhumations, with the ICCPG, with the ODHAG—which is to say we made networks, we didn't work alone. [...] That's how ECAP was born. So we worked with the REMHI animators in Rabinal, because they were very...overloaded with...everything they received in the testimonies...but we didn't do the work of collecting historical memory. After that, in 98 I think, we were doing really good work, 99, Yolanda Aguilar appears and asks us, 'you've worked with survivors, do you have groups of survivors of sexual violence?' So we said, 'nooo...no we don't have specific groups, we only work in mixed groups, so sometimes something came out, but we work on it in individual therapy'...and Yolanda said, 'how has nothing come out, how has nothing come out? This can't be!' And we [...] realised the terrible error we committed in not asking women apart [from men], what they had lived, imagine! (Paz Bailey 2010).

Paz Bailey says that Aguilar was a direct influence on this aspect of their work, beginning with that frustrated intervention: "what's happening in Guatemala? What's happening with all of you? How can we attend to the women?" (ibid). She notes that after a few years, Aguilar gained more faith in them as they implemented separate processes with the women. These early collaborations eventually became part of the accompaniment structures, with the women's organisation

¹⁴⁵ Paz Bailey more recently worked as one of three researchers accompanying the support groups of wartime sexual violence survivors and co-wrote the pathbreaking study, *Weavings of the Soul* (2009) that showcases the survival struggles and life histories of sexual violence survivors in the post-war.

UNAMG, for the work with women survivors coordinated by Aguilar and Amandine Fulchiron. Paz Bailey recalls it being a difficult time.

In that moment, I believe that we had a lot of resistance to the theme of sexual violence [...] you've worked directly with victims, right? It's something that captures you! (Paz Bailey 2010).

She talks about the impetus from one Argentinean psychologist who was working with Yolanda Aguilar and Amandine Fulchiron, accompanying support groups of survivors:

and she had it very clear, she knew she wanted to attend to women separately and she organised the groups in the interior [that became the basis for the later work analysed in Fulchiron, López and Paz Bailey 2009]. Because ECAP was the organisation that did work with groups, UNAMG didn't yet. I feel that for all of us in ECAP, it really cost us a lot to enter into this theme because torture is terrible, it also affects you as a psychologist, but sexual violence has to do with...your former aggressions, not necessarily political ones [E: or not political in that sense?]. Not necessarily, pardon me, in the sense of state terror. [...] It gets you on a personal level (Paz Bailey 2010).

Creating separate spaces and groups made exclusively of women survivors has made survivors' mutual support and political mobilisation possible in this context. My interview participants do not all agree on the extent to which a more coherent policy on single-gender groups would have drawn out more testimony on sexual violence in the REMHI and CEH, given the lack of other supports and longer term accompaniment. Following this 'women talk to women' thread, Claudia Paz y Paz stresses that merely putting women in the interviewer positions is not an adequate assurance that testimony about sexual violence will emerge:

it's not just that the majority of people who did ask about rape are women. Women have problems talking about sexual violence! Everyone acted in good faith and without sexism, but the general belief is that this is something very painful (Paz y Paz 2010).

Paz y Paz references Andrea Diez' argument that accounts of rape in Guatemala have been silenced, rather than the accepted transitional justice and human rights dogma that "women don't talk" or "women talk to women." According to Diez, Guatemalan survivors are frequently blamed for not speaking out in larger numbers, not just in truth-telling initiatives but with the human rights cases that have followed in their wake:

When we ask victims' organisations, human rights activists or public servants why these cases have not gone to trial, or not even been seriously investigated, the response is almost always that those who survived or who can testify about what happened do not want to speak or to remember (Diez 2006, prologue).

Yet her report notes that, when faced with evidence that sexual violence occurred and no one followed up on it, “another justification emerges for the exclusion of these legal facts: there isn’t enough proof: ‘the accounts of survivors and witnesses are not sufficient to demonstrate criminal responsibility’”(ibid).

Gaining credibility for such testimony has been a long-term processes. On work as part of the collaborative effort of UNAMG and ECAP with women survivors, Paz Bailey indicates that:

in the research project we confirmed with the participating communities that there is no ritual for healing from sexual violence...we did workshops with *comadronas* [midwives] and the women themselves, the fifty-seven women tell you that there is no ritual to heal her because there is no way to name sexual violence (Paz Bailey 2010).

More precisely, there is no word for “rape” in multiple indigenous languages. The term *agarrar*, meaning to grab or to seize, is sometimes used by translators working explicitly with women survivors, but such nuances were not necessarily clear during testimony in REMHI and CEH processes (Fulchiron, López and Paz Bailey 2009, Paz Bailey 2010, Morán 2011). The issue of translation more broadly is something that researchers and accompaniers have taken up with increasing interest and precision, particularly in Crosby and Lykes’ research, where women playing the dual role of translators and rights promoters are active participants in the analytical aspects of their analysis of gender and reparations (Crosby and Lykes 2011, Lykes and Crosby 2014, 2015, Crosby, Lykes and Caxaj 2016)).

CONAVIGUA activist and recent coordinator of the National Reparations Program (PNR), Rosalina Tuyuc has indicated that many rape survivors who did want to speak could not testify in the CEH—not just for reasons of discomfort or fear but also for a range of reasons related to accessibility (IW 2008), which made these accessibility questions of special urgency in the reparations process. Doubtless many are still working through their pain in private and do not consider it worth the social risks to testify about rape in public. Others, more optimistically, have gone through various processes (personal or collective) which made them more prepared to speak about the experience (for example, the accompaniment process described above, or the Tribunal of Conscience in 2010). Claudia Paz y Paz reiterates that underreporting is a major issue with respect to sexual violence, but claims that people working in this area need a more critical understanding of the issue, starting with the recognition that women survivors are social subjects who do not need others to fall into positions of pity or narratives of hypervictimisation. She discusses a working group of women from different civil society organisations and NGOs—

a multidisciplinary group including psychologists, lawyers, and other feminists—who have been coordinating their work around sexual violence, precipitated by both the accompaniment work of UNAMG and ECAP, and the Juana Méndez case.¹⁴⁶ Paz y Paz relates some of their collective reflections on healing. While it is crucial to communicate the seriousness of rape, they have struggled not to do so in such a way that presents it as so bad that no one can heal from it:

How do we avoid falling into this? We have to change our focus[...] you can be so involved in the work, ‘what happened, how is it possible, how horrible!’ that you aren’t looking ahead, at these women walking forth—with wounds—clearly they don’t see themselves as victims but rather as survivors (Paz y Paz 2010).

This is a sentiment that resonates with my previous discussion of the representational effects of ‘worstness’ approaches to sexual violence. It is also repeatedly echoed in the work of Yolanda Aguilar and has formed the basis for the UNAMG-ECAP accompaniment work with women survivors over the past decade.

Feminist lawyer Lucía Morán worked along with ECAP and UNAMG, through MTM, the feminist legal organisation providing support for court cases. Here she articulates a positive approach to victim-centeredness that draws on international advances developed out of consultations with victims, but is founded in principles of accompaniment:

We have based a lot of our work in declarations that were made in the UN on the treatment of victims, especially those victims that have suffered abuses of power... these have been very interesting investigations and experiences, right, that came from victims themselves. This is important to highlight. For us as feminists, this is the important part: at the end of the day, the women have decided to access the system. You have all the rights, all the freedom to decide, if you will or won’t seek justice, especially with a theme that is as...intimate as sexual violence. But if you decide to go, it’s because you are pursuing something with this. You as a victim have a “why.” So, for us it is very clear, we could say, starting from this objective, asking the women, ‘what are you hoping to get at the end of all this?’ And we consider with them how to build a pathway to get there. Because we understand ourselves as companions of this process. That’s all. We accompany an effort or a struggle that could be of one, could be of ten, could be more than a hundred—like what’s happening right now with the theme of sexual violence during the internal armed conflict (Morán 2011).

Olga Alicia Paz Bailey reflects further on the question of women’s silences:

¹⁴⁶ Juana Méndez is an indigenous woman who was raped in custody by police. She decided to pursue charges of torture, accompanied by many organisations. This served as a kind of test case for the justice system, exposing major issues such as translation barriers and institutionalised sexism, racism, classism, as well as Méndez’ ostracism from her community. She later participated as one of the judges in the Tribunal of Conscience on Sexual Violence in 2010. See account in CONAVIGUA, ICCPG and MOLOJ 2008, 261-267.

We always have this fear that women won't talk, that they keep silent, that they stay encapsulated in their own pain, and this is our own fear—professionals have a great fear of talking about sexual violence, but half the time, one asks the woman, like a question to any human being, 'what happened to you?' and the women *do* talk about themselves. If they have a safe space, they talk. And there are many women waiting to talk, and they simply haven't found the space to talk. Historical memory work must meet the gaze of those who don't have space to speak, or else it will continue to be, I'd say, men who narrate history (Paz Bailey 2010).

Filling the gaps and writing new histories of survival and protagonism

In the REMHI and CEH, even with the inadequate discussion of women's pivotal role in human rights activism and the victims' movements, there is a substantial amount of material on this activism distributed across these texts. This is less true when considering women's experiences and roles in the guerrilla, which are even more under-represented. The context of clandestinity, the moment at which field research was being carried out, and the short time frame of research directly shaped the possibilities for gathering data as well as the type of representations that emerged as a result. This seems particularly clear around the notion of female combatants. Some famed women were already widely known (such as 'Comandante Lola,' Yolanda Colom, Rogelia Cruz, Chiqui Ramirez) but these have tended to be understood as exceptional cases, and are predominantly ladina women. The notion that a number of indigenous women had actually been active guerrilla members (rather than "camp followers" for example)¹⁴⁷ seems to have been both unknown to many and downplayed or disbelieved by others until recently.

At the time of the demobilization of the guerrilla in Guatemala following the peace accords, the reported numbers of women combatants were considerably lower than in other groups in the region, such as in El Salvador and Nicaragua (Luciak 2001b). Many people were excluded from these counts, according to a recent oral history collaboration between feminist group La Cuerda, researchers from AVANCSO, and the group Kumool, which emerged from the *Plataforma Agraria* (Agrarian Platform) organisation (Hernández Alarcón et al. 2008). The book, *Memorias rebeldes contra el olvido: Paasantzila Txumb'al Sotzeb'al k'u'l* (Rebel memories against forgetting), was constructed from interviews and collective working processes, involving almost thirty indigenous women ex-guerrilla whose participation in the guerrilla ranged from three to twenty years. The author-accompaniers of this oral history project compare

¹⁴⁷ For more on the history of women "camp-followers" and how they have been constructed by others, see Enloe 2000.

figures from the URNG and the Fundación Guillermo Toriello (FGT), the organisation tasked with assisting the demobilisation and reintegration of ex-combatants in 1997. They indicate a disparity not just between the number of demobilised people counted by FGT, the URNG, and the much larger number of people excluded from both counts, but also between FGT's record of 15% women combatants and the URNG's 25% (Hernández Alarcón et al. 2008, 42). The bulk of the officially demobilised were indigenous people and programs for reintegration and employment have mainly been interpreted as a failure. Most families still live in precarious conditions. Demobilisation was brief and not all of the over a million displaced people had yet returned from refugee camps, which means they were often not counted and did not receive related assistance. This issue was reportedly of little interest to URNG leadership at the time, leading others to organise various ex-guerrilla groups such as Kumool, and another group in the Kaqchikel-speaking areas called UDAK (ibid 43-44). Kumool is a mixed gender organisation focused on development, reparations and dignification in which a number of Ixil women former guerrilla have participated actively since its formation.

From the outset, this text challenges the pervasive representation of indigenous women as either spectators or victims, rejecting a scholarly tendency that Elizabeth Jelin has called “the ritualised repetition of the traumatic and sinister tale” (quoted in Hernández Alarcón et al. 2008, 17). In their introduction, the accompanying authors note that

we wanted their story to be told differently from the usual, whether in the testimonial style of human rights advocacy or the ethnographic biography that has characterised the narrative of this region, so hard-hit during the internal armed conflict; a situation that underlines their role as victims, martyrs, or else talks about the clear socioeconomic and political disadvantages that accompany these and other indigenous women's lives. In sum, we wanted to build a different narrative (ibid 21-22).

The participants focused on their memories of the war, their everyday lives and forms of resistance, and their political action, with reference to three main themes: the body, feelings and the current situation (28). While clear on the differences between this work and an academic project, participants emphasised their desire for a printed record in book form, even in the case of those who cannot read.¹⁴⁸ They stressed the importance of intergenerational chains of memory

¹⁴⁸This desire has also been articulated in other historical memory processes. For example, see the discussion of the photo-voice project by a group of Mayan Ixil women in Chajul (Lykes, Terre-Blanche and Hamber, 2003) and the glossy book that served as the final product (ADMI and Lykes 2000).

(25-26) against the power of others to write them out of the history of the conflict and of the URNG, as well as to negate their contributions in their communities and families (27).

This text deserves a more extensive treatment—here the pertinent element is the relatively little time it spends on sexual violence. Participants indicate that they were most often encouraged by their fathers to join the guerrilla (Hernández Alarcón et al. 2008, 49). None of the interview participants detailed sexual abuses against them (ibid 50), though one participant discusses her decision to join the guerrilla as a way to seek protection from potential rape by soldiers in her village. Various people also refer to stories of abusive male commanders who would try to trade sexual favours for the promise of a lighter workload for women (50-52). The discussion of gender difference focuses more on experiences like the discomfort of having to wear ill-fitting uniforms, the complications of menstruation, and not being able to continue wearing the traditional *traje* (indigenous clothing). Women discussed how they learned to be strong through performing the same tasks as men, and that their strength could save the lives of their companions (53). The text indicates that women often came to understand that practices such as arranged marriages belonged in the past and that sexual violence was a sanctionable act, which were important supports for their lifelong assertion of their rights (53-54).

Documenting membership in the guerrilla and sexual violence by the guerrilla may involve some overlaps, but it is not the same project. In the *Weavings of the Soul* study (Fulchiron, López and Paz Bailey 2009), which involved a more extensive process of accompaniment by ECAP and UNAMG and focused more directly on sexual violence, six of the fifty-four women participants in the multi-year process reported sexual violence by the guerrilla (ibid 185). The text stresses that it is already a “higher percentage than what is recorded in the CEH.” They outline how:

it is important to note the lack of information that we could collect in this respect, due to the taboo that surrounds sexual violations committed by the guerrilla, in groups that are ideologically aligned with them. Survivors fear talking about it, for fear of being branded traitors or crazy women (185).

They continue that others who were part of base communities have experienced pressure from leaders not to speak about it. The authors reflect on the need to adapt their present forms of accompaniment so that the women will support each other’s denunciations, even when they are not against the military (ibid). The section is brief, and stresses that the difference between military rape and guerrilla rape was that the military sanctioned the practice officially whereas

the guerrilla practiced it as individuals. However, the range of sexual violence discussed is not particularly distinguishable from that committed by the military— women whose husbands were away, missing or dead were treated as domestic labour and public property, then raped on repeated occasions; others were forced to bathe in front of guerrilla members, to trade rape for their survival, and were threatened to keep silent on pain of death (Fulchiron, López and Paz Bailey 2009, 186-7). Two women who were active combatants were raped by their “*compañeros*.” One woman recounts trying to denounce a community leader, but since it was her word against his, she found herself in a situation of vulnerability. This type of dynamic has created divides between survivors who seek the same forms of support from organisations (ibid 185).

While it is somewhat accepted in regional scholarship that various guerrilla groups constituted areas where sexual harassment and assault occurred that women had few options to refuse or denounce, Jocelyn Viterna’s recent study of ex-FMLN (Farabundo Martí National Liberation Front) women in El Salvador roundly denounces this narrative (Viterna 2013). From 230 interviews with ex-guerrilla and others, she finds a different image of women who stood up for themselves, rebuffed men’s advances and exceptional claims that “we might die tomorrow” with laughter. Many women she interviewed felt empowered to ignore *piropos* (catcalls and other forms of harassment) as a signal of disinterest, and engage in a mainly non-sexual existence alongside men (Viterna 2013, 154-155). They discussed the great respect that was expected and enjoyed by women, without pretending that women were chaste or lacked sexual agency. Rather, women were armed, and they were protected by “the rules of the camp,” which involved stiff sanctions for men who made unwanted advances against women and included executions for rape (ibid 155). Viterna explores the nuances of “respect,” particularly the notion that what was respected was more accurately one man’s right to a woman, rather than a woman’s right to her own sexual and bodily autonomy (156-158), as well as the sometimes coercive ways in which women’s reproduction was controlled. But love, courtship, marriage, pregnancy, birth and mothering all occurred within this fraught context and the memories of the women, as reported to Viterna, are far more positive than negative.

The study indicates that women often interpreted questions about sexual harassment in the FMLN as being about rape, and notes the frequent lack of nuanced language available to differentiate different practices or acts (244). Rape was discussed more as a recruiting tool—

narratives of rape by the military encouraged women to join FMLN (Viterna 2013, 112-113; 216) as they did the EGP or other wings of the URNG in Guatemala. Viterna points to this as part of a rhetorical practice of more generally gendering the FMLN as the ‘good guys’ who protected rather than brutalised civilians (ibid). In El Salvador, a certain mythologising of the guerrilla as egalitarian also supported women’s initial participation (ibid 238) though the actual experience reportedly varied greatly across factions. For example, one faction assigned all women the position of ‘cook’ initially, while another actively recruited educated women from refugee camps to develop their communications and medical infrastructure (253-254).

Emerging scholarship that is not focused primarily on sexual violence on the Left makes an important intervention into assumptions that women’s experiences in such settings have been overwhelmingly negative. But others in the region reflect more difficult dynamics. As Theidon discusses in the context of Colombian DDR (Disarmament, Demobilisation and Reintegration) programs for ex-guerrilla and paramilitary, reintegration programs assume male participants. The notion that men can be ‘rehabilitated’ is not often popularly extended to the women who fought alongside them. Many express the idea that such women are damaged, no longer sexually pure, or loose (Theidon 2008, 29-30). In the Peruvian context, Silva Santisteban analyses the different popular discourses around women’s participation in the conflict to conclude that women combatants are “symbolically dead” (2011). They are made invisible in gendered narratives that necessitate choosing between sexualised victimhood or unarmed activism and leave any narratives about the heroism of armed militancy to men.

Viterna leaves perhaps under-examined the possibility that silences around guerrilla sexual violence are different from its non-occurrence. Without superimposing the Salvadoran experience onto Guatemala, one aspect of this silence that could be significant is the distinction between those women who were guerrilla (as discussed in the *Rebel memories* text) and those who perceived themselves only as civilians (as the majority of the participants in the *Weavings of the Soul* life histories)—though this distinction can sometimes be blurry. Both silences, on inequality and abuse between militants, and violations committed by guerrilla against civilians, can be rooted in fears of feeding the opposition, where admitting to any violations on the part of the URNG would contribute to the militarised narrative that the war was fought by two armed groups on equal footing. Such fears are often articulated to me by friends and colleagues working in Guatemala, and often materialised in the actions and smear campaigns of the Right. However,

there is also a lingering sense among some commentators that the excesses of the guerrilla were not adequately addressed by the REMHI and CEH processes—both in general and in terms of sexual violence. Sergio Pivaral indicates that in one region where he worked for the CEH, Huehuetenango, rights violations by guerrilla were much higher than the national average frequently reported (3%), simply because there was more guerrilla presence in this region (Pivaral 2010). In the case of rape by the guerrilla specifically, Maria Baquero stresses that such violations were “known” anecdotally at the time of the REMHI and CEH, but without the support of adequate testimony.

I never took any testimony about women being raped in URNG [...] I was never presented... I took over two hundred testimonies and I was never presented with that. [...] But I know it happened, so, how do you [deal with this] in this context of a researcher? (Baquero 2012).

She raises the question of “lay knowledge,” all the background knowledge that workers carry with them, and how challenging it is to incorporate it into a report that is so dependent on testimony.

So...that was frustrating at certain moments, like not finding more evidence for certain things, like we thought we would find more rape....and that doesn't mean it wasn't there! It just didn't, it just didn't come up, because of the way we conducted ourselves, or the interviews or the forms or, whatever it may have been...or maybe it's not about us, maybe it's about the people that were giving the testimony and their outlook[...] but some of it might actually be, you might think it's valuable [slapping palm] you *know* that story needs to make it in there, do you make a testimony on your own and say, you know, I heard people were raped? How do, how can these mechanisms sort of collect that? I don't know if they can (ibid).¹⁴⁹

In processes so dependent on testimony, this sort of dilemma may be inevitable. Mersky puts it this way:

I mean there's only so much you can do in eighteen months, with the number of people you have and whatever else you have to work with. [...] These kinds of reports, it's like your arm on the beach on the sand [gestures widely with arm] like *this*... and that's what you get. Lots of grains even in the sweep of your arm don't get caught, and there's just so much more sand. But that's what you get ...so you try and make the best of that and do the best you can [...] I don't think you can get everything into these things (Mersky 2012).

¹⁴⁹ A similar frustration is articulated by workers in the AHPN national police archives project in Kirsten Weld's study, where workers have trouble reconciling their memories with having to prove them using official documents that are filled with half-truths and lies. A document codifier says, “I might know something, but if the document doesn't actually say it outright, I can't speculate.[...]I struggle with that, I struggle with it very much. Because sometimes, even if a document doesn't explicitly say something, it's obvious!” (Weld 2014, 169).

As has become clearer in the interim, merely focusing on getting women to speak is not an adequate solution to the relative lack of testimony on sexual violence. Yolanda Aguilar has noted that since her work in REMHI, she has acted as a consultant in a number of sites pursuing gender-sensitive post-conflict truth-telling. In her experience across the region, women's reporting of sexual violence in war (by a range of actors) greatly increases when they have begun processes of community building and healing such as those featured in the *Weavings of the Soul* project she and Fulchiron accompanied (Aguilar 2010). Olga Alicia Paz Bailey adds that it is still hard to say "that we have to change the hegemonic discourse, [including] the discourse of the left, that the discourse of the left has a very strong gender oppression" (Paz Bailey 2010). In her work with survivors and with Fulchiron and López, this analysis emerged forcefully. Together, they assert that while gender oppression

is not identified as one of the great structural systems of domination that exist in Guatemalan society; while it is not recognised that violence against women, particularly sexual violence, is a grave social problem; while this social problem is not questioned so that policies can be adopted to put an end to such injustices, the social and political organisations will continue to contribute to the reproduction of this patriarchal system, even when they declare themselves of the left or revolutionary (Fulchiron, López and Paz Bailey 2009, 187).

Women militants on coming to feminism

Several participants in my interviews discussed how their experiences in the militant Left were linked to their uptake of feminism. It is common to narrate the war as a different time, an era of exceptionalism. Claudia Estrada reminds me that despite the egalitarian ethos of many members of the revolutionary struggle, "we fought in a context of war, in hierarchical revolutionary organisations." She was a member of the PGT (Guatemalan Workers' Party), which was in her estimation the revolutionary organisation with the fewest women in higher positions. However, "none of them really had any gender sensibility." She acknowledges that women had to fight for their position inside the PGT, often because in a context of clandestinity and insecurity, being a mother complicated things considerably (Estrada 2011). Luz Méndez elaborates with her experiences. She notes that her political education in the PGT was excellent for understanding the economic and social realities but the "two great absences in this training" were a lack of understanding of the origins of oppression and racism against indigenous people in the revolutionary organisations, and the underrepresentation of women (Méndez 2010).

Echoing a now established critique, Méndez discusses how the PGT saw indigenous people as part of the oppressed classes, but only on the level of class. Other guerrilla organisations, especially EGP and ORPA¹⁵⁰, had done more work on racism internally and she saw the unification of guerrilla groups into the URNG as an opportunity to expand PGT's understanding of the issue. In its 1982 constitution and political platform, URNG included the goals of ending racism against indigenous people. Before this point, Méndez says that members of the PGT did not have the theoretical tools to take up such questions.

So there, I felt that I made a leap, in terms of the interpretation of the Guatemalan social reality. In terms of consciousness-raising [*concientización*], and then also in the later stage of the [peace] negotiations, I had a very very rich, very solid relationship with the indigenous *compañeros* when we were discussing the accord on identity and rights of indigenous peoples (Méndez 2010).

Méndez says the peace negotiations were a time of “much reflection, much discussion, many proposals” and that her work with indigenous representatives makes up some of her best memories of the negotiations (ibid).

The indigenous rights accord was one of the earlier pieces of the negotiations, finalised in 1994. Méndez remembers that it was much earlier, at the start of the negotiations in 1991, that she was hit by the “acute reality of the under-representation of women.” On the first day, she was the only woman on either side of the table (though later others joined in various capacities, such as Teresa Bolaños in the National Reconciliation Commission (CNR)). “I realised that in this I was alone, and for the first time I noticed the tension.” Though she had considered the issue before as she had risen through the mainly male ranks of the PGT, “I didn't see it as a problem, I didn't feel alone before the peace negotiations.” When she began to be involved in a youth wing of the movement, the *Juventud Patriótica del Trabajo* (JPT) and then especially at university, Méndez recalls an environment of gender parity—in meetings it was “maybe not half women, but a substantial number, involving a strong female leadership with many women leaders.” She indicates that this context made it harder for her to see existing gendered inequalities (Méndez 2010).

Méndez remembers the early years of the URNG as the time when UNAMG was founded, where at the time of our interview she served as vice-director of the board. In its early days, UNAMG was an organisation that was run mainly by university professors, who invited

¹⁵⁰ See CEH 1999, Vol. I, 178-183 for one elaboration of these differences in position.

her to join. Some of them were doing militant PGT work as well, ostensibly in a clandestine way, though she sniffs exaggeratedly and says, “you could smell it, you know?” She attended some meetings and engaged on an intellectual level, studying authors like Max Weber, but

in spite of this, it didn’t move me on an emotional level. I didn’t identify with...this vision of the oppressed woman. I didn’t feel it at all, I felt like I was in a space where I felt very empowered. And I believe that socially yes, I was an oppressed woman, of course I was, in my home as well. But in that moment I didn’t perceive it (Méndez 2010).

She continued to prioritise the youth struggle and didn’t join UNAMG, though she continued to support and publicise their work (until they had to dissolve and go underground due to threats and the disappearance of one of their leaders). After that it was hard to be in contact with any of them because of the clandestine nature of their and her work. She only knew a small circle of women.

So yes, I felt very alone [during the peace negotiations], very solitary, but the feeling of loneliness maybe wasn’t so much of a problem, or it wasn’t the biggest problem. Rather I started to notice that I was being treated in a different way for the first time in my political militancy. I began to notice that people did not put a lot of confidence in me, or in my opinions...my own *compañeros* in struggle, I started to notice that they were seeing me as a woman and not as a *compañera* in struggle” (Méndez 2010).

Méndez’ experience of exile dovetailed somewhat into her time on the peace negotiations. She had left Guatemala for Mexico after almost being captured in the 1980s and as a result of her feelings of isolation on the peace negotiation team, she sought out the external arm of UNAMG, which was operating in Mexico at the time. She knew some of the women from shared activism but had never really talked with them about women or gender. She notes that she kept quiet about what was happening in the peace negotiations, looking to them for support and feminist theory rather than explicit advice. She made the political commitment to join in 1991, in an opportune moment where the group was undergoing political and ideological reflection. They read extensively—Marxist classics, feminist classics, US radical feminists and the equality feminists. “I opened my mind for the first time to the existence of the patriarchal system,” which implied radical changes in her personal and political life and greatly impacted the peace negotiations (Méndez 2010).

Méndez attributes to this feminist awakening a better understanding of the behaviour of her URNG *compañeros*, feeling “profoundly empowered to defend the space I had won” by pushing to incorporate a gender perspective into the accords, working with contributions from

the *Sector de Mujeres* in the Assembly of Civil Society (ASC). As discussed earlier in this dissertation, she is careful to credit this broader sector with providing her with the tools to fight at the table, to show that such a perspective was more broadly represented in Guatemalan civil society. “That was for me the substance with which I could put into practice the defense of women’s interests.” Further, Méndez credits her participation in the Beijing World Conference on Women in 1995 as another important feminist influence. Two main things impacted her when she participated as a delegate: first,

the massivity, the massive presence of women, the strong, solid discourse[...] this impacted me a lot. And on the other hand I was impacted by the contents of the Platform [of Action]...especially the part that referred to women and armed conflicts. This gave me political and conceptual substance, and yes, I used it forcefully at the negotiating table¹⁵¹ (Méndez 2010).

Exile also created space for others to explore feminism. For example, Claudia Estrada discusses her own sources of feminist inspiration as “nearby international influences” from Mexico and other Central American countries, notably Nicaragua and El Salvador. In her experience, the “horrible loneliness” of exile, mainly in Mexico City and then San Cristobal de las Casas, Chiapas, was mitigated by the interesting opportunities for learning and solidarity. “I entered into feminist theory but more like this...[gestures sideways]...not head on” (Estrada 2011).

As Estrada puts it, “Mexican feminism is many years ahead,” which she attributes mainly to the historical fact that it is easier to think about feminism in peace time when “you no longer have to live in hiding because they will kill you if they know you’re on the left, [or even] for having a University student card” (ibid). In San Cristobal, she ran a bookshop for years before deciding to return to Guatemala and assist on the REMHI project in the early 1990s. Estrada identifies practically with feminist goals, “not with a ...feminist theoretical basis but of life, of action, of everyday life.” Though she appreciates the way that feminism can subvert the established order, when we spoke she was not an active part of any feminist organisation (Estrada 2011).

¹⁵¹ Méndez later worked as one of the creators of Resolution 1325, which took up these openings in the Beijing Platform of Action and enshrined them in international law, precipitating a number of other resolutions on the topic since the year 2000. She discusses these experiences in the life history collection, *Weavers of Peace* (CONAVIGUA, ICCPG and MOLOJ 2008)

Another prominent feminist with a history on the revolutionary left, Maya Alvarado worked as the Executive Director at UNAMG when we spoke in Guatemala City. She traces her own path to feminism from her contradictory experiences of militancy and exile, through her activist mother's books and letters, to academia and post-war social organisations, punctuated with re-encounters with friends who had been in exile in Mexico where it was more possible to stay in contact with feminist currents. She notes that this was especially enriching after so long in a clandestine organisation with restricted access to such exchanges. Alvarado was involved from a young age in the student movement, in the context of state repression. Though it is more generally acknowledged now that gender inequality was a feature of the Left of that era, she feels it is still rare to discuss issues of sexual violence frankly. Alvarado notes that sexual assault was present in this movement, and remembers the contrast she felt as a teenager between the ideals and reality of revolution. "These issues [...] were lived in that moment in solitude, in solitude and in silence. We didn't talk about it, it wasn't discussed, and still I ask myself why we never talked about it" (Alvarado 2010). She recalls that even though people knew about it, there was no action on sexual assault. Then she moved to "spaces of stronger militancy." There, too, she recalls cases of abuse and assault among militants:

There were cases that have still not been sufficiently discussed, nor put on the table [...] I was always uncomfortable that we didn't talk about it, but neither did I talk about it, nor did I raise it [as an issue] (Alvarado 2010).

In the era of the peace negotiations and the *Sector de mujeres*, finally there was some opportunity—"things went "click" for me, and not just me, many others." Alvarado got involved with the *Sector de Mujeres* on her return to Guatemala from exile in Cuba. She and Sandra Morán (another prominent feminist activist who played a leadership role in the *Sector de Mujeres*) knew each other from the social movement, but up to then had never discussed women's issues. Now via the ASC she saw how women, too, could be involved in setting a minimum agenda for the country. Alvarado recalls the resistance and foot-dragging [*freno*] from other members of the revolutionary movement, who called them traitors for thinking about women's issues when they were negotiating peace. "So I said, yes, there's something here! Because I'm not a traitor, I still call myself a woman of the Left" (Alvarado 2010).

Alvarado felt that many things had gone unnamed and that these kinds of disqualifications were very hard on women in this revolutionary space. Another push in the

direction of feminist action and perhaps away from the URNG came when they decided to become a political party after the signing of the peace accords in 1996. She recalls this as a disillusioning and painful time. “How could there be more of the same? I did not want to keep swallowing my words, my thoughts, biting my tongue, you know?” For Alvarado, the prevailing context is one in which international cooperation¹⁵² becomes co-opted and converted to NGOs. In a related shift, she feels that her former revolutionary organisation lost credibility because it was unable to reconcile the demands of social and popular movements with its own new role as a political party. Recalling the iconic moment of the Democratic Spring, Alvarado claims that in 1944, the repressive government was overturned by “the *Frente Popular Libertad* [the Popular Liberation Front], not a political party,” and this movement was also very strong in the 1970s. She says she understands the need for different forms of militancy in the movement and is happy to participate in public events like marches, but “it was a potent, strong movement, and my expectation during the [peace] negotiation process was that this is what it would return to.” This meant including a broad array of people such as student leaders, professionals, union members and *campesinos*. A political party fell far short (Alvarado 2010).

In describing explicitly how she came to feminism, Alvarado traces two paths—on the one hand she credits her above experiences on the Left, and on the other, she begins with her mother, who had been a founding member of the *Alianza Feminina* [Women’s Alliance] in the 1940s. Though they clearly associated with the PGT and read some feminist texts, she stresses the “feminina” part, that this group advocated women’s rights, not necessarily the vindication of feminism.¹⁵³ Her mother had talked about her past, not in a way that strongly encouraged her daughter in a feminist direction, but more in terms of generalised social struggle. Alvarado

¹⁵² *Cooperación internacional* is a concept that can include international aid and other forms of solidarity work.

¹⁵³ Their achievements are impressive. Mainly a group of middle class and elite women in the capital, the *Alianza* mobilised for the vote, fair salaries, daycare and collective kitchens in factories, among other things (Luciak 2001a, 183; Levenson 2011, 46). Democratic Spring President Jacobo Arbenz’ wife Maria had been a member of the *Alianza*, and right-wing attempts to discredit the leftist politics of the Arbenz government frequently drew on stereotypes of domineering women as the unnatural result of communism. Classed and racialised notions of women’s ‘place’ became unsettled in that era. Among the conservative and powerful, there was a considerable amount of anxiety about the unravelling of traditional societal bonds (and presumably, social control). Some, like the fervent anti-communist campaigner Archbishop Rossell, collapsed social liberalisation into communism and claimed that communists were corrupting women who would then in turn become “corrupters of the feminine soul among the women of the workers and peasant classes” (Rossell speech, 1954, in Grandin, Levenson and Oglesby 2011, 228). He thus rhetorically linked women and peasants or indigenous people as both pure and corruptible, to be protected, and as ideal vehicles for communist propaganda. Indeed, in 1952 he had already singled out the *Alianza Feminina* as “totally Communist, atheist, anti-Catholic, and at least anti-Guatemalan” for using God’s words in support of a “pro-Soviet peace” campaign, to be rejected at all costs (cited in Saxon 2007, 250).

remembers her mainly as a social subject of the search for her father, who was disappeared for his political activities as leader of the PGT in 1972. She remembers the signing of the peace accords in 1996 as a significant moment also because it coincided with the death of her mother. At this moment, she had to collect her mother's things and found all of her old books. Though they had never discussed feminism, here were copies of Beauvoir's *The Second Sex*, books by Flora Tristan, Alexandra Kollontai, with all her mother's under-linings intact. "This was the first time that feminism grabbed me by the hand." She became a mother herself in these years and spent a lot of time reading, trying to get the fundamentals of feminism down. Like many people in this context, her academic studies were interrupted by the war, but as soon as her daughter turned two she enrolled in a diploma course around gender and development and participated in various other feminist spaces (Alvarado 2010).

These accounts are brief, but provide important context for feminist historical memory. Many participants identify how much their legitimacy mattered when doing rights-based work in an era where women were fighting for acceptance as public actors. In some ways, this led them towards taking up positions of strength, rather than identifying as powerless and voiceless victims. While Luz Méndez felt empowered enough that she "didn't identify with... this vision of the oppressed woman," others were trying not to be simply dismissed as women. Marcie Mersky recalls her delight in the 1980s to suddenly see large numbers of women emerge onto the political scene in their search for the disappeared and challenge the authority of the military and the state. But she was still surprised by her own shock at the presentation of the CEH report in 1999, when Christian Tomuschat, a "white haired German jurist" read parts of the report in public, essentially validating what victims' groups had been claiming for years. Hearing it from this person with far more social authority illustrated for her that "the denial had been *so* extreme and [drew on] the sort of classic lines because they were women ... 'oh it's just '*mujeres locas*' [crazy women]... so there's a sort of writing people off as '*locas*'" (Mersky 2012). In this context, taking up the 'private' issue of sexual violence would only exacerbate these existing dismissals, so, strategically or not, many women stuck to issues that would not further damage their tenuous credibility.

Numerous feminists who participated in these interviews perceived a contrast between the working culture of the CEH or REMHI, and the more overtly sexist culture of the human rights movement more generally. This was repeatedly explained to me as connected to the

urgency of the moment: there was so much at stake, and as Aguilar expresses, “there was no time for those things” (Aguilar 2010). But people’s stories are peppered with memories of paragons of the Left who had transitioned into rights work and missed the memo on gender equality, as well as a broader tolerance of what are now sometimes referred to as ‘micro-aggressions.’¹⁵⁴ Maria Baquero remembers a well-known sexual harasser within the upper echelons of the CEH whom she believes was never reprimanded for his behaviour towards women. She also recounts her own experiences with both gendered threats to workers and gendered dismissals of the threats by her CEH superiors. Within the context of other threats to CEH workers:

we were harassed, regularly. I was harassed, my....I don’t remember my Guatemalan colleagues talking about being harassed, it could be because [laughs] I think Guatemalans have a very black sense of humour, very dark sense of humour, and they would say, you know, they would say, ‘oh you know it was just my ex-girlfriend calling me and giving me a hard time,’ you know if they got these weird phone calls they would say that, they would play it down, and I think, I was harassed a lot. [...] In the CEH, it was interesting, I don’t know how important it is, a group of us, three or four women, said that we had been getting calls, and actually they were playing, at one point...[laughs] they were playing a bolero, like a Mexican bolero [...] we were living together at one point, and they would, they would make, the call would come on and this Mexican bolero would come on and it would say like, ‘yesterday you loved me but now you don’t and so, you know, you’re going to die,’ or you know, ‘this is the end of you,’ or something like that, very creepy stuff, and I remember going to the CEH and they were like, ‘oh, you must’ve met, you girls must’ve given your number at a bar to someone and they’re just disgruntled cause you won’t call them back.’ I swear to you. [...] There was two or three of us that put in this complaint, we lived in the same house, so it was our number (Baquero 2012).

Baquero’s account shows how the some staff in the CEH interpreted gendered threats in a gendered way, despite existing patterns of treating women activists with specific forms of violence that highlighted their gender or sexuality.¹⁵⁵ Yolanda Aguilar expands this analysis:

¹⁵⁴See internet communities where people anonymously submit their experiences: Microaggressions.tumblr.com; everydaysexism.com.

¹⁵⁵ See Gabriela Torres’ research on sexually explicit imagery of terror in press reporting on the corpses of women discovered during the war (2005), along with Mersky’s claims that sexual torture of women militants was widespread if hard to document (Mersky 2012). This is not to create some equivalence between everyday sexual harassment and sexualised murder of activists, but rather to draw attention to the ways in which women activists’ bodies have long been targeted in specific ways in Guatemala. The issue persists in the present debates about feminicide. See also the *Iniciativa Mesoamericana de Defensoras* regional report on women rights defenders in the Mesoamerican region (2011). The threat to activists more generally is highlighted by the existence of an organization devoted to the defense of human rights defenders, UDEFEGUA. Offering services of ‘monitoring, verification, protection and accompaniment, the organization has existed since 2000, and at present has registered 2491 threats against human rights defenders. Source: www.undefegua.org

the institutional culture of human rights work in Guatemala is equal to the patriarchal culture of Guatemala. There's been no change—the difference is that most of the women and men who work in the institutions try to, or don't try, they are politically committed to social change in Guatemala, which increasingly implies...being sensitive... So people who work in these organisations are more and more sensitive to, ok, discrimination, right, racial or homophobic discrimination or discrimination against women, but this sensibility does not always translate, and less in those years, it doesn't translate into cultural transformations on women or...especially on women. Neither on racism—racism is still more socially condemned and more accepted [...but] there is a very strong latent, deep-rooted racism...I could tell you many stories (Aguilar 2010).

I will return to the discussion of how such women have worked to transform human rights work in Chapters 6 and 7.

Conclusion

The REMHI and CEH were taking place in a watershed decade for women's human rights. As discussed in Chapter 2, the international legal status of sexual harms to women in wartime was undergoing a profound shift. As the first truth-telling processes in Latin America and among the first in the world to expose sexual violence, REMHI and the CEH broke ground and created possibilities for future struggles for justice and redress. However, as this chapter shows, these developments were not the result of the intentional implementation of a top-down program of women's human rights and legal norms, but rather of the on-the-ground practice of workers. This chapter has thus illustrated how sexual violence was made visible in the REMHI and CEH reports, despite the lack of initial knowledge and commitment to the issue. Through worker recollections and a range of supporting sources, it explores a combination of factors: the gravity of testimony that emerged from witnesses, the work of a few women in each process who pushed for the material to be included and analysed as serious human rights violations, the support of broader feminist organising and belatedly of other staff in the projects themselves.

The chapter also considers both procedural barriers, such as the lack of training and standardised procedures for testimony on sexual violence, and cultural barriers, such as the patriarchal biases of the Church and militants on the left, as well as fear and shame of victims around the social consequences of coming forward without longer term processes of accompaniment. I have outlined how prevalent ideas about sexual violence and women's speech played out in this concrete setting, showing how feminist critiques focus not only on overcoming women's silence so that their stories can be known, but also on the dynamic of exposure and

consumption that can develop when ‘getting the story’ of rape becomes an end in itself. Thus, although REMHI and CEH did not apply many of the now standard approaches of the gender in transitional justice tool-kit, they illustrate how practical adaptations and a high level of political commitment to survivors made possible the emergence of a new (if incomplete and contradictory) approach to women’s human rights.

The chapter links these early experiences of exposure in the REMHI and CEH with women militants’ narratives of coming to feminism, and their later work with survivors and in human rights organisations. In these overlapping sites, an absence of focus on women’s crucial role as militants and political actors has resulted in a distorted vision of the war, where women’s main visibility is still as sexual violence victims. Given the stereotypical constructs around women’s sexuality and irrationality, some women militants indicate that they disidentified with this vulnerable figure, and that work on sexual violence is both a personal and political project that was difficult to effect until the war had concluded. Such efforts to reclaim the historical memory of militancy and also of survival have resulted in a broader range of stories and subjectivities than were part of the public record during the time of the REMHI and CEH. One factor supporting their emergence is the increasing recognition in the human rights sector that cultural and organisational change are an integral part of overall social change. Such changes could entail breaking down numerous conventional ideas about self, victimhood, militancy, solidarity and objectivity. As women’s and indigenous people’s rights have become more institutionalised, it remains important to continue dispelling the notion that a feminist or indigenous perspective is an unacceptable form of ‘bias.’ How to maintain the necessary objectivity to be taken seriously in the high stakes work of human rights defense, while simultaneously remaining responsive to the experiences of those marginalised by those very abuses? In the next chapter, I explore how CEH and REMHI workers experienced the pull of these different imperatives.

Chapter 5: The politics of knowledge production in truth-telling: Methodology, identity, credibility

Between testimony and data

In the 1990s, pressure to include women's sexual victimisation in established human rights frameworks exposed the ways in which rights instruments and institutions of justice can perpetuate the forms of marginality and violence that rights are meant to challenge. In the next chapters, I suggest that the historical moment in which the REMHI and CEH operated was a watershed not only for a range of new human rights frames (such as women's rights and indigenous rights) but also for a concomitant questioning of the rational, objective methodology put forth as the hallmark of legitimate and just human rights work. Such "objective" approaches rest on the positivist assumption that what happens during war and authoritarian rule can be quantified by authorised figures through the collection of testimony about violations in established human rights categories, organised in a database, and analysed in a final report whose legitimacy rests on its scientific methodology (see for example Ball, Spierer and Spierer 2008). But in all its complexity and ambiguity, human experience resists such quantification. To what extent is objectivity possible, and should it be the goal of such processes of documentation and denunciation? Human rights discourse, instruments and laws are no guarantee of social change or non-repetition. As illustrated in the reflections in the following chapters, this research suggests the need for a corresponding deconstruction and reconstruction of ingrained thinking about knowledge production, the division of labour among knowledge producers, and the power relations that are naturalised as a result.

In the highly charged circumstances that accompany truth-telling work, Priscilla Hayner remarks that it is often surprising how much of the methodological and definitional decision-making continues to be left up to individual truth commissions (Hayner 2002, 6). Despite frequently stated claims to victim-centeredness, many truth-telling processes find that the existing models for performing large-scale human rights investigations do not favour qualitative or narrative-focused approaches. Rather, most rest on quantification, or as the South African TRC information manager Janis Grobelaar puts it, "acontextual logical positivism." In Grobelaar's view, a database-driven approach is appealing for practical reasons, but it is more focused on the "what" of a conflict than the "why," precluding much of the complexity of the

material being investigated (quoted in Hayner 2002, 81). Because many truth-telling processes rely heavily on testimony, their attempts to be respectful, culturally competent and attentive to local complexity can clash with conventional approaches to ensuring that material collected can stand up to critical scrutiny in the future. The ensuing tension between what Wilson calls “narrative truth” and “forensic truth” (2003, 375) has been well-documented and analysed in interdisciplinary scholarship. Since the Guatemalan processes and the South African TRC, a range of critics have demonstrated how the positivist approach to transitional justice produces (rather than merely locates) victims, reproduces the biases of the broader society, dehistoricises and depoliticises the narrative of the violations in question, and takes for granted problematic ideas about silence and speech (Ross 2003a,b, Wilson 2003, Clarke 2009, Grandin 2011). Yet positivist methodologies continue to be privileged in a range of settings. As intermediaries between testimony and ‘data,’ workers play an important but still under-examined role in navigating these contradictions of truth-telling and historical memory work, and particularly here, innovating around the most limiting aspects of positivist methodology without unduly upsetting the claims to objectivity and authenticity on which these processes rest.

The creativity, flexibility and ad hoc practices employed behind the scenes in the REMHI and CEH processes contrast with the ordered impression created by their final reports. They highlight how debates over the meanings of identity, agency and victimhood continued throughout the work of these processes, in the face of constant pressures on the resources, time and political perspective of workers. As I indicate in the introduction to this dissertation, the production of human rights knowledge emerges less as a rational and objective process than one that is irrevocably shaped by power relations of gender, race, class, nationality, language and geography. Exploring the various practices and negotiations of workers shows how efforts to attend to pressing philosophical and ethical questions on testimony are confronted with constant logistical issues like inadequate database design, hiking through mud, threats to and conflicts between workers, verifying on-the-spot translation of testimonies, attending to those who are upset, and also, finding a way to deal with workers’ own emotional responses. Feminist scholars and anthropologists have led the charge that more thought be put into the social, political and gendered context in which testimony is elicited (Das 2000, Ross 2003a,b, Cubilié 2005, Theidon 2007). While rights work continues to rely on lofty claims to objectivity and impartiality to support the legitimacy of their findings, Richard Wilson calls for examining the:

powerful representational claims articulated within human rights discourses, so as to drag them down from the rarefied epistemological and moral high ground, and include them in more sociological debates about the interpretation, understanding and explanation of empirical evidence and the limits of its representation (Wilson 2009, 213).

With an eye to this challenge, this chapter begins with a review of scholarly approaches to testimony and trauma, based particularly in the paradigmatic moment of the European Holocaust. Though they were not the only influence on the REMHI and CEH, such frameworks continue to impact human rights work around the world. I problematise the frequent preoccupation with universalist notions of “unspeakability,” given that human rights testimony in a variety of sites often explicitly negotiates between the impossibility of articulating experiences of horror, and the necessity of trying, regardless of the inadequacy. This dimension points to the added ethical and political responsibility felt by both witnesses and workers in situations where no justice has been attempted, or where violations are ongoing (such as Guatemala in the 1980s and 1990s), as opposed to contexts in the more distant past (such as the European Holocaust).¹⁵⁶ This urgency is a major feature informing the practices of workers in the REMHI and CEH, as discussed further in Chapter 6 using the concept of “urgency praxis.”

I then provide more background on the methodologies and operations of the REMHI and CEH processes, drawing on interviews and supplementary material, including a lengthy report on the CEH process published by UNOPS (2000). The UNOPS report has been a useful complement to other sources in that it was created soon after the CEH ended, and explains some behind the scenes technical details that would be more difficult to reconstruct through interviews. Chapter 5 explores the contours of several debates around power, difference and identity that were a major feature of the Guatemalan context. First, I explore the commitment to either objectivity or local authenticity, both of which were figured as the best way to avoid being dismissed by detractors, and played out through workers’ negotiations with inadequate methodologies across a range of positions and tasks. Then, I discuss the division of labour between indigenous and non-indigenous as well as national and international workers in these processes. Lastly, I touch on the complicated discussions and debates over the meanings of *victimidad* (victimhood) and *actoría social* (social agency) and the competing imperatives facing truth and historical memory workers in the Guatemalan context. While the rest of this project shows how gender and sexual violence were flashpoints demonstrating the various debates and

¹⁵⁶ Even though as Agamben (1999) insists, justice is never possible in the case of the Holocaust.

disunities in human rights work in this era, this material illustrates how they cannot be understood separately from the broader context, as gender is co-constructed with multiple, intersecting relations of power. Although truth-telling projects are usually presented as positivist endeavours, the range of participants in the production of human rights knowledge imply a range of agendas and political positions, which can shape data in both conscious and unconscious ways. In turn, as I explore later in Chapter 6, these processes and their knowledge also shape workers in ways that have a lasting impact on their lives and work.

Representing horror, calling for action, creating community: Perspectives on testimony

Though the differences are numerous, truth-telling venues are often modeled on legal settings. Testimony is used as one source among others, to expose and document violations, refute official truths or denials, to claim redress, to render such processes accessible to the maximum number of people (by not requiring literacy, for example), and to support the ‘never again’ preventative function through widespread exposure and public denunciation of atrocity. In Francisco Goldman’s investigation into the murder of REMHI project coordinator Bishop Juan Gerardi, he discusses the Bishop’s desire to create a report that would have a lasting emotional impact, relying heavily on the directness of testimony to drive home its message:

The authors of the REMHI report attempted to describe and illustrate the logic behind what they called “the inexplicable.” But numbing numerical estimates, analysis of tactics and causes, and even journalistic reconstructions of specific massacres could “explain” only so much. Bishop Gerardi, as he’d once told Edgar Gutierrez [coordinator of the REMHI report], had wanted a report that would “enter readers through their pores” and move them. Thus there were hundreds and hundreds of pages of direct testimony distributed throughout the text (Goldman 2008, 22-23).

In the view of many working in this field, testimony is a powerful medium that creates a direct channel between readers of human rights reports and the witnesses themselves. The “pores” metaphor reportedly used by Gerardi is appropriately embodied, but it also communicates a universalism that is not always achieved through the use of testimony. As human rights worker and theorist Anne Cubilié asserts, testimony is a diverse medium. Beyond the differences between individual survivors’ experiences, there are large variations between legal, literary, artistic and other forms which demand different types of reception (2005, xv). Many forms of testimony attempt to communicate experience across two gaps—the experiential gap between directly affected and unaffected people (Wilson 2009), and what Hesford calls the

“knowledge paradox,” essentially a gap between public knowledge and meaningful action (2011, 60). Due to a dominant investment in the “ocular epistemology of human rights” (Hesford 2011, 3), filling these gaps is a complicated proposition.

On an abstract level, many theorists are concerned with how traumatic experience raises particular problems for representation (Scarry 1985, Levi 1996, Agamben 1999, La Capra 2001, 37). Because trauma is so often figured as embodied voicelessness, unspeakability is a common framework to understand the limits of representation. Many theorists draw on the work of Elaine Scarry, who outlines how the pain of torture puts people outside of language—expelling them from their world and making them all body, their only point of reference the torturer. This has a profoundly individualising effect—as Scarry puts it, it is ‘world destroying’ (Scarry 35, 1985). In her understanding, pain is intangible to others because it cannot be fully communicated through language, echoing well-established claims that Holocaust testimony is inadequate as there is always an excess of inarticulate horror that creates a situation of unspeakability.¹⁵⁷

This unspeakability is one reason why ‘making visible’ has been such an enduring practice on which human rights organisations and campaigns rely. Scarry argues that “the very invisibility of pain allows us largely to divorce ourselves from responsibility for those suffering from it” (Cubilié 2005, 16). She frames pain as certainty, and its absence as doubt (Scarry 1985, 4-5). But while rights reporting used to be founded on dry, factual reporting practices (as analysed by Richard Wilson, 2009) increasingly it has become an image-based language of visuality—as Hesford describes it, a practice of *ekphrasis* or putting it before one’s eyes so that “seeing is believing” (Hesford 2011, 8).

Philosopher Giorgio Agamben has explored the idea that any total or true witness to the Holocaust is already dead, and that all efforts at representing the horror will fall short (Agamben 1999). Many agree that ‘true’ witnessing is impossible, as much as they feel the importance of bearing witness. Such a paradox of unrepresentability forms an important part of the testimonies of survivors of the Holocaust and other atrocities (see especially Levi 1996, who informs much of Agamben’s work). However, historian Dominick La Capra argues that the notion of absolute unrepresentability has several undesirable consequences. First, such a fixation:

¹⁵⁷ For Scarry, interrogation practices in which this sort of torture unfolds rarely procure vital information, but are all about the power of voice. She describes a process in which the subjectivity of the prisoner is consistently denied, until eventually they speak only the words that constitute the torturer’s world (1985, 35). This means that the torturer’s voice is “doubled”, and as Tomlinson puts it, that the body is forced to signify not its own suffering, but the power of authority (Tomlinson 1998, 704).

may divert attention from what may indeed be represented or reconstructed with respect to traumatizing limit events and should be as accurate as possible. [...] [Second,] it may lead to a construction of these events in terms of an insufficiently differentiated, rashly generalized, hyperbolic aesthetic of the sublime or even a (positive or negative) sacralisation of the event which may prompt a foreclosure, denigration, or inadequate account not only of representation but of the difficult issue of ethically responsible agency both then and now (La Capra 2001, 92-93).

This tendency can make it difficult to understand the historical roots of conflict, in favour of less political and more primordial explanations of “evil,” as Grandin uncovers in the Chilean and Argentinean truth commissions in the 1980s (Grandin 2011, 33-75). In a similar vein, in his critique of the ahistorical narrative on apartheid that emerged in the South African TRC report, Wilson calls this focus on evil “the replacement of history by theology (2003, 377).

La Capra’s larger body of work addresses the ways in which the European Holocaust has been theorised beyond its historical context, as a way of grappling with deep questions about humanity as a whole, and developing legal and human rights infrastructure based on the effects of the Holocaust that is meant to extend far beyond that event.¹⁵⁸ Theory on trauma, memory and witnessing developed in the West in close relation to scholarship on the Holocaust. In various moments of testimonial production, gender was not a framework actively taken up by those testifying or those studying the testimonies, and the majority of theory about testimony has remained tied to the gender-blind universalism that I have already discussed in detail in other chapters (Ofer and Weitzman 1998, Edkins 2003, Cubilié 2005, Hedgepeth and Saidel 2010).

Though women testified along with men, and all testimonies contained individual nuances, until recently theory about Holocaust survival has relied on a notion of the ‘standard’ Holocaust testimony and survivor as the archetypal human victim (for example in Felman and Laub 1992, Caruth 1996, Levi 1996, Agamben 1999; discussed in Cubilié 2005). Joan Ringelheim writes that the women’s Holocaust testimonies that have gained widespread readership tend to be those that fit more clearly into the universal model (1998, 339) that mirrored a universal form of ‘human’ experience in the face of atrocity, rather than stories that

¹⁵⁸ See in general the growing field of ‘Comparative Genocide Studies,’ or in particular, the provocative collection *Is the Holocaust Unique?* (2009 [1995]) edited by Alan Rosenbaum, in which various scholars advocate for their positions with reference to other events for which a designation of genocide remains more controversial. The introduction and some of the contributors (e.g. Richard Goldstone) note their distaste at the manner in which such concerns are expressed, such as through denials of the suffering of one group compared to another, which as some point out, tread into the territory of Holocaust denial. But the book as a whole underlines the rhetorical power of naming an event a genocide.

seemed more ‘specific’ because they recounted the gendered experiences of women. Later initiatives by women (in the 1980s and onward) began to breach this gap by taking up gender explicitly as an analytical category, both in re-examining older testimony and in performing new interviews and documentary projects.¹⁵⁹ These developments around gender have been accompanied by a broader shift towards polyphony and fragmentation in studies and theories about the Holocaust, which have gradually replaced the need for one standardised story or a positivistic expectation of what survivors can deliver via memory (Ball 2000, La Capra 2001).

Much testimony and scholarship highlights the ambiguity and guilt around survival (Levi, 1996; Agamben, 1999), yet outside of explicitly feminist scholarship, theorists have rarely engaged with the way in which a preoccupation with trauma’s “unspeakability” is itself gendered. Men who cannot access speech and the position of the universal subject can figure the resulting loss of power as dehumanisation, but in ways that bear strong similarities to dominant understandings of the embodied disempowerment of femininity. This is a process which can render actual women invisible. Feminists have argued that this neutral version of suffering ‘man’ has blocked out the details of various women’s resistance, survival and death¹⁶⁰, and thus also denied their importance to history. Women’s testimonies are disruptive precisely because they “locate difference as a site of resistance, witnessing and identity, while still claiming a form of universal humanity” (Cubilié 2005, 12).

The symbolic function of speech is instructive in this respect: if trauma renders people speechless, then testimony often comes to be understood as a key moment in re-asserting subjecthood. In particular, Cubilié indicates that human rights testimony is part of an attempt to reassert one’s existence as a subject, to “write oneself back into the juridical structure from which one has been ‘disappeared’” (Cubilié 2005, 21). She refuses to take the impossibility of witnessing via language as a depoliticising gesture of futility in the face of atrocity. Addressing

¹⁵⁹ A 1983 US conference was an important early initiative. The Ofer and Weitzman collection *Women in the Holocaust* (1998) is an excellent tool in this regard, and a more recent collection focused on sexual violence against Jewish women in the Holocaust was released in 2010 (Hedgepeth and Saidel 2010).

¹⁶⁰ Women’s Holocaust testimony identified points of historical interest and diversity which had not yet been discussed in public—for example, trading recipes and creating a cookbook as a way to survive hunger in concentration camps, focusing on mutual support networks (Ringelheim 1998), or detailing how being singled out for forced abortion and rape impacted women survivors’ later reluctance to have children, in contrast to received knowledge that survivors later tried to have large families in defiance of the Nazis’ genocidal program (Amesberger 2010, 150).

this tendency in Agamben's attempts to locate a pure witness in the figure of the muted, dehumanised figure of 'bare life,' and despite his stated intentions to the contrary, she writes:

[t]his is an example of the sort of formulation at the heart of many theories of atrocity. It addresses itself to the limits of representation, but it does not allow for a witnessing that witnesses even from within language while in the midst of this impossibility. Testimony and the responsibilities of justice and ethics are not just about an impossibility; they are also about what we are willing to do as witnesses to the witness (2005, 3).

As Cubilié uses it, testimony is "more than a language which no longer signifies" (Cubilié 2005, 3). Instead, she considers it a performative relationship of language and action between the figures of the survivor-witnesses (mute and speaking), the witness to the testimony (such as the reader or listener), and the dead. This implies a responsibility, whether to act as an ethical listener, to share the story in an effort to prevent recurrence, or to actually intervene in meaningful ways, in situations where the violence is still ongoing (ibid). The tendency to universalise stories in the model of the Holocaust narrative frequently erases precisely the elements—urgency, context and demand—that are so crucial to the speakers.¹⁶¹

Rigoberta Menchú's experience is a key example. While many would now take up Menchú's (1983) testimonial account of military assaults on Mayan people in Guatemala as a literary account, Menchú was testifying to the ongoing suffering and resistance of Mayans in a genocidal war. She employed an established indigenous framework of collective narration, but also a modernist notion of rights inflected with liberation theology, which was then mediated via the editorial interventions of anthropologist Elisabeth Burgos-Debray.¹⁶² Menchú called for witnesses and for outside intervention into the ongoing violence in Guatemala. John Beverley writes that a key quality of this "*narración de urgencia*" [narrative of urgency] is its materiality—that it is happening right now and that listeners may have an actual responsibility to stop it (Beverley 1993, 73). Thus, Menchú invoked a particularly embodied call, not for pity, but for other, witnessing bodies to engage in and support ongoing revolutionary action.

¹⁶¹ Richard Wilson also suggests that more historicisation is a way to avoid reductive analyses of primordialism that naturalise violence as a "tribal" attribute, as have emerged in the case of the Rwandan genocide (2009; see also Miller 2008, Clarke 2009). It was out of the desire to avoid this issue that La Capra developed a distinction between notions of "structural trauma" (suffered by all humans) and "historical trauma" (suffered as a result of specific historical events, such as wars) (La Capra 2001, 52-57).

¹⁶² See detailed and divergent discussion of how this testimonial account was shaped and mediated in Burgos-Debray 1999, Aceituno and Taracena 2001, Grandin 2011. The *Latin American Perspectives* Special Issue "If Truth Be Told" focuses on scholarly responses to the controversial position taken by David Stoll that Menchú's account was not entirely true. Arias' 2001 book on the controversy is another important source. See also Carr 1994, Sommer 1999, Gilmore 2001.

Cubilié writes that response is too often left untheorised in discussions of testimony, perhaps in part because the model of the Holocaust is so pervasive (xv, 160-161). She argues that it is crucial to distinguish between practices of ethical witnessing and spectatorship of suffering, or what Hesford calls the “human rights spectacle” (Hesford 2011). The practice of ethical witnessing is usually distinguished by the capacity to communicate empathy without fully claiming to understand the experience being recounted. La Capra calls the feeling not empathy but “empathic unsettlement” (2001, 102). He notes the importance of maintaining historical context as a way of avoiding the blurring of distinctions between victims and perpetrators in stories of trauma: events might traumatise many, including perpetrators, but that does not render them victims. Similarly, he aims to guard against the appropriation of suffering by secondary witnesses, such as those reading testimony or visiting the Holocaust museum (La Capra 2001). As he indicates, affective responses that crowd out the story being told signal a refusal rather than an openness to receive and to witness. But as indicated in this dissertation project, responses from human rights workers that draw on deep solidarity with victims and their political struggles do not preclude framing testimony within dominant, individualising models (victimhood, trauma), particularly if the political struggle involves a genocide claim for which the “least ambiguous victim figure” provides key evidence. Representational decisions at this intermediate level can play a strong role in how testimony is mobilised, and those who make these decisions face a steep responsibility.

Testimony is often the raw material out of which truth and human rights work creates its claims. But it is not only text or raw data: it is also valued as a practice in ways that can contrast with (and slow down) the data-driven goals of time-strapped truth commissions. Besides its historical and documentary utility for CEH and REMHI, most relevant to Guatemala has been the use of testimonial practices as part of the life history model in a dual process of recovery of self and community, and building collective memory (González and AVANCSO 2002, CONAVIGUA, ICCPG and MOLOJ 2008, ECAP 2009, Fulchiron, López and Paz Bailey 2009). This model of narration has been important in feminist antiviolence work more generally, because it creates supportive space where women develop the capacity to understand their lives outside of dominant paradigms of guilt, self-hatred and inferiority. Such work often focuses on moving from the posture of victim to survivor and in understanding the violence not as an individual incident, but as part of a more structural phenomenon. In Guatemala, it has been used

both in the context of groups of survivors of wartime sexual violence (Fulchiron, López and Paz Bailey 2009), and survivors of genocide more generally within community or liberation psychology practice (ECAP 2009). These approaches support the construction of narratives through which people make sense of and work through traumatic events, but also build up a sense of themselves as agents, survivors and members of communities. As coordinator of the REMHI report, Carlos Beristain notes, “focusing on the injuries ran the risk of victimising the survivors. Each account demonstrated an enormous will to survive and to resist, and the testimonies needed to be handled in a way that not only recognised the pain but also rescued the sense of dignity that the violence had tried to suppress” (Beristain 1998). For many working within community and liberation models of psychology, testimonial practices are thus intentionally processes of community- and subject-formation, rather than merely for information-gathering (Martín-Baró 1996, Beristain 1998, Lykes, Terre-Blanche and Hamber 2003, Lykes and Mersky 2006).

To some extent, despite the frequent expectation that people would be too afraid and too traumatised to speak about their experiences in the war, such story-telling emerged spontaneously in many settings. Marcie Mersky reflects on this pattern that preceded the truth-telling work of REMHI and the CEH:

I think most of us who were in the country in the mid-eighties [...] often times found it kind of... ‘Wow.’ You’d be going and you’d talk to people in the country-side about corn or corn costs, the rest, and then suddenly they’d be telling you about what had happened even though... you hadn’t asked about it. And there seemed to be at least for some people a real... urge to talk about what they had lived through and survived and what had happened to relatives and what happened to their communities... even if you didn’t go there to do that. I... for a long time thought that it was in part because people were astonished at their own survival and that by talking about it, they had someone who believed them and therefore could believe themselves, that these things happened, there was something affirming in telling it that... I don’t know if you could, and I’m not, I’m not going down the ‘healing’ path because I don’t know what that means but at least some sense of affirmation by having a listener believe and therefore being able to believe that somehow you had survived these unimaginable events (Mersky 2012).

This impression of testimonial accounts revealed in unsolicited moments is compelling, but there are other experiences in Guatemala that raise challenges to the positivist model of human rights work. In her recent treatment of testimony (2013), anthropologist Carlota McAllister links the Christian religious form of testimony with the more recent development of frameworks of trauma, which substituted “healing for salvation in enactments of this

confessional tradition” (McAllister 2013, 94). This traumatic model of healing connects narration, empathetic listening and affirmation as necessary components for the eventual liberation from the weight of the past (McAllister 2013, 94-95). McAllister then outlines the development of a Latin American form of *testimonio* as “first-person life histories of members of subaltern communities,” and encouraged in the context of guerrilla mobilisations across the continent (96). She indicates that the relationship between listener and speaker/s is different in revolutionary *testimonio*, which aims at transforming consciousness (or *conciencia*) and the future world:

Since the fulfillment of *conciencia* depends on reaching this future, revolutionary *testimonio* seeks less the compassionate identification of its readers than their passionate enrollment in hastening it (ibid).

McAllister points out how the use of the revolutionary *testimonio* genre retains this orientation towards the future even as it recounts brutal experiences of violence and loss, drawing on testimonial accounts produced in a particular CPR community¹⁶³. Thus, suffering informs the passion to “go on” (97)—importantly, it is not a barrier to representation or expression as in the Holocaust models discussed above (ibid). Despite this history and the extensive use of the model in Guatemala, McAllister notes that therapeutic and humanitarian motivations for testimony began to overtake revolutionary ones. However:

Many contemporary Guatemalan *testimonio*-takers are also former participants in or collaborators with armed struggle and are deeply familiar with the revolutionary past of their practice. Some of those from whom they gather testimonios may share this familiarity, even perhaps having figured as the anonymous heroes of earlier testimonial collections. Yet as a rule postwar *testimonio*-taking steers clear of this shared experience. The convention that only trauma constitutes a true event in therapeutic *testimonio* facilitates this move by narratively relegating other goings-on to, at best, political or historical context (97-98).

She continues that ruling revolutionary narrative elements “out of context” is a gesture that marginalises futurity in favour of reconstituting the “everyday worlds” of victims (98).

Echoing the discussions of feminist critics in Chapter 4, McAllister calls for a distinction between two modalities of silence: the unspeakable and the inaudible. As someone who has

¹⁶³ *Comunidades de Población en Resistencia* or Communities of Population in Resistance (CPRs) were autonomous, peaceful communities that set up in isolated areas (often the jungle or mountains) during the later years of the war. As with many communities of displaced people, they were often made up primarily of women and children (Pivaral 2010).

actively produced testimony in human rights initiatives in Guatemala, she describes how long it took to learn precisely how to draw out and shape people's stories to fit into the desired form, and some of the misgivings this process produced in her (93-94). Particularly in the context of historical practices of interrogation, revolutionary clandestinity and Mayan cultural norms that favour indirect conversation rather than direct questioning, she indicates that the framework of trauma can distort people's narratives and limit possibility (on clandestinity see also Nelson 2009).

McAllister's discussion centres on a range of narratives that emerged (and did not emerge) in her own field research in the Maya K'iche' community of Chupol, Quiché, an area that was heavily involved in the guerrilla and its support structure, and thus also heavily targeted by the military. In this context, keeping secrets, and evading direct discussion of this past in favour of "allusions, parables and puzzles" (112) makes sense, but it is not discernible within the humanitarian frame that seeks traumatic rupture (106). McAllister proposes practices of witnessing based in other, less transparent logics, where it is possible to accept the impossibility of certainty about a story's meaning (113-114). Here she works in dialogue with Nelson's work on the ambiguity of being "the non-duped" in the two-faced world of the postwar (2009, 30, cited in McAllister 114): you can think you are not being fooled by the stories people tell you about the past, but "how would you know?" (Nelson 2009, 12). In somewhat diluted form, the themes discussed in McAllister's chapter emerge below in a range of CEH and REMHI workers' reflections. In their struggles with the limits of the genre, they highlight competing imperatives of accounting for victimhood and histories of militancy.

Returning now to the truth-telling processes, it is possible to see how particular parts of testimonies were more useful to the established logic of the process (particularly the CEH), leading to push-back among workers who felt, like McAllister, that there was more to the story and the process than itemising harms. The section of the CEH report that outlines its mandate and investigative procedures highlights both the importance of testimony and the need for serious practices of interpretation and mediation:

The long periods of time that had passed since many of the events had occurred was an objective difficulty in the investigation. This was especially so given the fact that when field investigations began, virtually the only source of information was the victims'

memories;¹⁶⁴ their testimonies, which were cross-checked and complemented with information from other sources, formed the basis for the construction [of] the elements of certainty for a case.¹⁶⁵ Compiling the information was a complex task, in part, because the vast majority of the victims of the most serious acts were indigenous *campesinos*, many of whom speak a Mayan language, have great difficulty communicating in Spanish, and may not be able to read or write. In addition, the narrative style of their languages makes it difficult to establish detailed events according to the Commission's categories and methodology. To facilitate the testimony collection from indigenous citizens, the CEH contracted translators and interpreters, which enabled people to speak more comfortably in their native language. Despite these difficulties, the wealth of testimonies collected in the field is the most valuable capital in this Report; its pages breathe with the living memories of many, many Guatemalans.¹⁶⁶

Here, testimony is identified as both a key foundation, using another embodied metaphor, and at the same time, testimony is framed as inadequate for the documentation-related purposes of the CEH. It is “valuable capital” that must be molded to fit into pre-established categories and methodologies. Though here the CEH report attributes a certain narrative style to Mayan cultural norms, in fact this sort of framing is frequently employed in diverse legal settings that seek “only the facts” (Smart 1991, Wilson 2009). In their interactions with law in North America, many women have perceived this approach as a barrier to justice, where context that they deem crucial to their experiences of violence and marginalisation is parsed away, along with much of their control over the meaning of their experience (Smart 1991, Johnson and Dawson 2011). This chapter now turns to the more concrete negotiations around these issues in practice, among hundreds of actors and over several years in Guatemala.

¹⁶⁴ In post-conflict and post-authoritarian sites, archives and state documents have often been compromised or destroyed. One of the charts included in the CEH Report lists thirty-three public archives [*registros civiles*] known to have been destroyed during the armed conflict (CEH 1999, Vol. IV, 275). Another well-known example of destroyed documents is the East German Stasi, who shredded material related to their surveillance program in anticipation of the post-communist political transition. These shredded documents fill 16 000 sacks and are currently being re-assembled both by hand and with a computer program called the ePuzzler (Bowlby 2012). Such discoveries and technologies have not always been forthcoming, making testimony an enduring form of evidence.

¹⁶⁵ Not all violations in testimonies became actual human rights cases. The CEH developed a fairly complex set of checks and balances to verify or corroborate a story, and then assigned it a reliability rating. These procedures are in themselves an interesting dimension of the efforts of this body to produce quantifiable human rights facts, but detailed enough to warrant a more extensive treatment than I can provide here. They are explained in the CEH sections on investigative procedures (CEH 1999, Vols. I, XII).

¹⁶⁶ Mandate and Investigative Procedures, CEH 1999, Vol. I, 60. I use the translation reprinted in English in the UNOPS report 2000, 119.

REMHI: Methods of social reconstruction and truth-seeking as social process

REMHI's mandate was to recuperate historical memory. On its back cover, the report states:

Each story is a journey involving much suffering, but also a great desire to live. Many people approached us to recount their case and to say “believe me.” This implicit demand is linked to the recognition of injustice of the acts and to the vindication of the victims and their family members as people, whose dignity others tried to beat down. Clarifying and explaining—as far as possible—what happened, without focusing on the harm nor stigmatizing the victims, constitute the foundations for a process of social reconstruction. Only in this way can memory achieve its role as an instrument to rescue collective identity (REMHI 1998, Vol. I).

The potentially religious overtones of testimony in REMHI are blended with historical and rights-based approaches in an impressive synthesis, considering the wide range of views on the Church among those directly involved in the project and report-writing. REMHI started out following some guideposts from other truth-telling processes but they also broke their own path, and my interview participants had much to say about their methodology. Claudia Estrada feels that the great advantage of working on a non-UN project with few precedents was that it was possible to say, “right, this doesn't work,” to throw out established methods and to build a new model (Estrada 2011). Carlos Amézquita describes REMHI's initial design as “relatively classic” and agrees with the Church decision to start from scratch. Many felt that the model of outsiders showing up and asking “what happened to you?” was unlikely to be successful because of the nature of the conflict and the way it had destroyed the social fabric, but further, Amézquita argues that “this is *their* memory, and they should be the protagonists” in historical memory work (Amézquita 2011). It was with this type of conviction that REMHI trained over six-hundred people as local ‘Animators of Reconciliation’ (REMHI 1998, Vol. I, xxiv)—a title that several interview participants now raise with awe at their own optimism. Mersky remembers:

we'd spent a lot of time thinking about ‘Oh, this is going to be permanent, it's really different than one of these fly-by-night commissions’ and [...] the people, people will know the testimony takers and there'll be trust and we'll work on it *forever*’ and we even called them *animadores de la reconciliación*, some crazy Catholic thing (Mersky 2012).

This recollection indicates the pride people had in working for the long-term, with local knowledge and expertise. This contributed to the frequent construction of REMHI as “authentic,” in contrast to the later CEH. There is unanimous agreement that the assassination of Bishop Gerardi cut short these long-term intentions; as rights defender Edda Gaviola puts it, Gerardi's murder also “killed REMHI” (Gaviola 2010). ODHAG's ten-year report on REMHI's

legacy outlines in detail the various community responses to the assassination, from total disidentification with the project, to more active engagement, motivated by indignation and the refusal to be silenced (ODHAG 2008). Despite the difficulties faced in achieving its original goals, what REMHI accomplished by optimistically throwing the established methods out the window was remarkable, both for the information gathered and analysis developed, as well as for the form of interaction between advocates and local communities that was modeled in these early days. Collecting information about violations committed during the war was undoubtedly an important goal. But in Claudia Estrada's view, a project focused on healing and long term reconstruction could not have "schematic interrogation" as its only goal. While the animators were supposed to pursue a set series of questions, with reporting and "homogenization of data" as one goal, they were instructed to let people express themselves freely. If at the end they had not touched on everything in the brief question guide, she remembers that workers were not pressed to pursue all the questions (Estrada 2011).

Estrada still recalls that the different forms for REMHI were colour-coded to facilitate the work. The workers did not always take notes, both because some were not literate or semi-literate in Spanish, and also because their role included serving as emotional support for those who testified. As an aide memoire, they often asked people to draw pictures of the stories they told, methodologies that have since been repeated and expanded across a range of historical memory projects in Guatemala (Lykes and ADMI 2000, ECAP 2009, Lykes and Crosby 2014, 2015). Estrada also remembers the introduction of mini-audio recorders into the process. She notes that this seemingly simple device was often difficult for people to operate who were more used to agricultural work, and that many recorders ended up broken or under-used. But even so, ODHAG continues to house a valuable collection of audio testimonies given in the original languages.¹⁶⁷

In REMHI, Carlos Amézquita details various methodologies that he recalls being effective. In the Ixcán region and in refugee camps in Mexico, often testimony-gathering took place in workshops that lasted two to three days, involving roughly twenty-five or thirty people.

¹⁶⁷ In the CEH, interviews were not generally tape-recorded, and after the CEH concluded its work in 1999, materials were secured in a vault in New York to guarantee anonymity and the security of data (CEH 1999). Some who took CEH testimonies in the field made detailed notes on the spot, while others opted to write only basics and to make more detailed records once they returned to the field office later in the day or week. When interpreters were used (frequently), notes were based on these on-the-spot translations.

Apart from their work collecting testimony, the REMHI workers also brought texts that they were working on for the report:

In the first part of the workshop, the community reconstructed historical memory, discussing, ‘how did we arrive at this point in the conflict?’ So we would have a text, and we’d have a discussion about the text with the community. With the twenty-something people. And they would say, ‘yes, that’s correct, no these dates aren’t correct,’ like that, right? These are things that people do regularly now in collective memory programs. (Amézquita 2011).

He notes that these practices worked partly because they elaborated on already existing community practices. “The practice of debating about political questions, say, affecting the community, yes, that’s a historical practice. Now, debating about a text to see if the text was correct, or if it should be published, that’s more recent, it’s different” (ibid).

One obvious barrier for some people’s participation in such processes was literacy, raising issues of privilege and access in Guatemala that cross lines of race, language, class and gender. Amézquita notes that in the case of the catechists, who made up a large part of the Animators, “many, many, the majority” could read and write:

There were exceptional cases of people who couldn’t read but [chuckles]...there was this man who has always been emblematic to me, a *señor* who collected around 120 testimonies for us, and he was always with his son, who did know how to read. And he would go to the meetings with his son who would have been about twelve years old, something like that. The son took notes and also explained them, and the two walked to the villages collecting testimonies. On top of that, they gave us documents that were so tidy, so well-constructed, I would guess the two of them spent hours working on the documents...so there were cases like that, and [on the other hand] there were people who couldn’t read and who were always asking questions and I suppose they participated less effectively in the debates too (ibid 2011).

In these collective discussion settings, Amézquita estimates that women’s participation was between ten and fifteen percent. “The women who attended came of their own, very strong initiative. So they were quite active in debates, but there were very few of them. Few and influential” (ibid).

Mersky notes the importance of the REMHI’s model of “truth seeking as social process,” adding that there are still few truth-telling processes that have approached the work in this way. In the end there were many non-local people involved, but the decision to prioritise work with oral traditional methodologies and local testimony-takers was significant. Though a smaller

proportion of those trained to be animators actually did the work, Mersky stresses that these trainings ended up having a major impact:

we did in fact have six hundred people or so participating in these trainings and that was ... first in eight or ten dioceses over a year and a half, two year period... and those are what I always thought of as...the innermost of a concentric circle, a set of concentric circles... that REMHI [created]... and even though we didn't set up these trainings to have people talk about what, you know, to give their own testimonies, we had actually inadvertently created a safe space in which those folks who were attending the trainings could actually talk about what had happened, and especially when we got to sort of more into the interviewing techniques and... all those things... even though we didn't end up taking testimony in those places it was *very clear* that people were using the space to begin to talk about what had happened (Mersky 2012).

Many interview participants have underlined the key space-opening and silence-breaking function played by REMHI in these early days. Mersky articulates this clearly with her 'concentric circles' model:

There was a kind of a first safe circle that was structured, that REMHI provided to people... [...] and then folks would go out to their communities and begin to take testimonies and so then get at this next circle of people, kind of more openly discussing these issues beyond the intimate and then...when the report's made public, you get this other sort of discussion of these things: you get this sort of widening set of circles of... of social processes and social discussion of... what happened that you didn't get in an operation like the CEH where... it's... a lot shorter, it was half the time in terms of the actual digging and reporting right? You know, without the same sort of rootedness in communities, in place (Mersky 2012).

CEH: National coverage and methodological objectivity

Tensions between generalisability and responsiveness to local experience are common in truth-telling processes (Hayner 2002, Baxter, Chapman and Van der Merwe 2009). In the CEH, this tension was manifested in a number of ways. The CEH faced a range of public perceptions—perhaps as is common in this work, they had to contend with various claims about their 'objectivity' and at the same time, about the adequacy or authenticity of their local knowledge, mainly due to the fact that nearly half the CEH staff members were not Guatemalan. Because REMHI was operating at the same time, it often provided a clear counterpoint on these issues. Mersky stresses that

in fact there wasn't, at a national level, there wasn't a whole lot of collaboration. REMHI by that time was a little bit too competitive with it. Where there was real... support was... like in the Quiché and then in Alta Verapaz and some of the dioceses where REMHI had worked ... there was a lot of local collaboration[...] But on a national level

...[things were] competitive by the end of it. I mean they wanted to be the better report, and they wanted to be... better... kind of more authentic(Mersky 2012).

Though both were supported by large, transnational institutions (the Catholic Church and the UN), REMHI's staff was almost all local. While the church was no neutral actor, those involved in REMHI were generally known and trusted in their communities. Still, Claudia Estrada discusses the REMHI as a mainly rural project, due to a number of factors including the lower levels of confidence in the Church as an institution in urban areas and particularly in the capital (Estrada 2011)¹⁶⁸ The UN did not enjoy particularly widespread appeal at this time either (Lawyers Committee for Human Rights 1990, Jonas 2000).

Comparing the two processes, former CEH worker Nora reflects that:

the CEH [...] definitely had lacunas in its coverage, but it was more national than REMHI because REMHI worked through the Dioceses,¹⁶⁹ and also REMHI is pretty much strictly based on the testimonies. I mean they had, they do have a historical volume but they don't really, it's not that rigorously done...whereas CEH had a lot of different sources: it had testimonies, it had key witness interviews, it had declassified documents, it had the military, some of the military documents,¹⁷⁰ so that's the only way for example the CEH could have come up with the genocide section, by putting those different sources of information together in a way that REMHI just couldn't possibly do. Because you know it was, REMHI was something else ...I think there were ways in which the two projects ...were actually quite compatible (Nora 2011).

Nora and others point out the "REMHI effect," whereby the first process of community-based truth-telling created the possibility for the CEH to work more effectively later on. However, Maria Baquero felt differently about the REMHI-CEH relationship. She had friends who had worked on the REMHI project, and she communicates a large amount of respect for their work, under sometimes less secure conditions than the CEH. She remembers some former REMHI people were frustrated to observe the CEH try to reinvent the wheel in terms of research practices:

hearing from my colleagues... it was sort of like, 'God, like you people are so stupid, like you're taking six months to figure certain things out that we already figured out, so why

¹⁶⁸ ODHAG's report on the impacts of REMHI indicate that many members of the guerrilla did not trust the motives of the Church at the beginning of the REMHI project (2008, 22).

¹⁶⁹ One of which (Chimaltenango) declined to participate in REMHI, which meant that beyond documenting more testimonies from more witnesses overall, CEH documented some events through testimony that were not included in REMHI.

¹⁷⁰ Both the CEH report and Tomuschat elsewhere recount how the mostly fruitless struggle to obtain documents from the Guatemalan state greatly impeded certain goals in the commission. CEH 1999, Tomuschat 2001.

don't you just start where we left it off...and you know, go forward with some of this?'(Baquero 2012).

For her, however, this moving forward did not mean shifting focus from the task of collecting direct testimony. She describes the delicacy of CEH field work as a participatory process where the conditions on the ground helped to shape the practices of those collecting testimonies.

Though it had not been set up with the same social objectives as REMHI, workers could see the importance of moving beyond "schematic interrogation" here as well:

we would come to a village and we would sometimes have sixty people waiting for us just to take testimony and each testimony could take thirty, sixty minutes, sometimes ten, it really depended ... but we certainly couldn't hurry people and so... in that sort of rush to get things done and to get... we knew a lot of the stories were exactly the same, and we knew a lot were telling us the same event but we knew, we also knew that every single one wanted to feel that they had deposited their testimony with us, cause this was a sense of completion. This is what *they* said to us. Because many times we were like, oh, we already... 'no, but *I* want to tell you. I want to say, I want to...' Many times, '*yo quiero contar de mi muerto*, I want to talk to you about *my* dead one. I want to give my son's name, or you know, tell *his* story.' And then that was also, sort of a process, I think, for them, of getting to their... getting the truth out (Baquero 2012).

Baquero also recounts the use of collective testimonial practices in the work of the CEH. Though the UN and managers of the project initially expressed major concerns about being able to guarantee anonymity, Baquero describes the need to exercise flexibility on the ground in the Ixil region, emerging in both family settings and larger community settings. On a more public, community-level the process sometimes mirrored the collective practices that Carlos Amézquita described in REMHI:

I remember sitting in Acul where there was a large exhumation... we worked in conjunction with the [Guatemalan Forensic Anthropology Foundation, FAFG]... They would dig up the bones essentially, and we would... not do the post-mortems... but we would be... trying to gather information on ...the events that led to the massacre. So often people did not want to leave the exhumation site because they were waiting until they found their... loved one's body. So really they would sit there ... in the rain... twelve, fourteen hours a day... and so we couldn't get them to leave to do interviews in closed quarters... And so we would sit there and eventually the whole town would come and we would do, I wouldn't say all inhabitants of Acul, but certainly thirty to forty people would sit around, and not everyone would participate, but it was clear that the presence of all was necessary ... as a way of ... assenting? I think in a communal way and saying 'yes, what she's saying is right,' [...] or sometimes saying 'no, it wasn't that way, remember what happened?' I think that sort of blew the commission away. They didn't really know ... they were like, 'What are you doing?! You were supposed to guarantee anonymity!' and we'd say 'we tried... but they don't want anonymity'(Baquero 2012).

Baquero now feels more empathetic towards her CEH supervisors, whom she acknowledges were just doing their jobs in trying to ensure anonymity, but she stresses that her field team operated flexibly out of respect for the process of the community.

Being the more ‘international’ process meant a bigger budget and the capacity to cover a broader geographical area, which could potentially mean creating a more representative report that drew on as many local experiences and contexts as possible. But establishing local context was complicated when the work was fragmented into so many tasks. Nora remembers:

It was just... [exhales] I don’t know. It was a real frustrating thing... It was frustrating I think, the melding of the legal and historical analysis, as a kind of mixing of lawyers and social scientists within the commission. Because the lawyers were looking at cases outside their context and the social scientists were looking at the context... and it was often, it was really hard [...] It was hard to translate the kind of historical complexity of the conflict in ways that the commissioners would understand because the commissioners had to approve the report, right? Nothing could be published unless it had their approval (Nora 2012).

One stage of the work that sought to bridge this gap in the REMHI and was repeated in the CEH was the completion of local context reports by field teams working in each region. Carlos Amézquita had worked on the regional report for the Ixcán region. He was in and out of refugee and returnee camps in the Ixcán and Southern Mexico for three years, spanning a good deal of the REMHI project. Most of the regional reports were incorporated into the larger REMHI report, but the Ixcán report was also published separately, “because it had its own value” (Amézquita 2011).

Nora asserts that though testimonies were still the primary source of information in the CEH, the Context Reports were

more important for the part of the report that dealt with the causes of the conflict and I think they were important for other parts, like the genocide part of the report. A lot of that came from the *Informes del Contexto* [Context Reports] of those regions because it was able to situate, you know, why did this happen in this region, right? Why were different people targeted in different periods. [...] All the work of that was done by people in the field offices. My only role in that was a little bit of ...like I travelled to a couple different field offices and had like workshops...talking about...crossing different sources of information, and a little bit about, you know, trying to be careful about certain testimony. Like what people say now about their experience... you know, that you had to be careful in how you weighed a testimony that was given now that you were trying to analyze something historically [...] The kind of ‘minefields of memory.’ Like why would people, why people...today or at the time of the commission would talk a certain way about the

armed conflict that didn't necessarily reflect, you know, literally what they might have thought, you know, fifteen years prior to that, right? [...] The *Informes del Contexto* were really uneven. Some of them were pretty sparse, some of them were really, really well-developed. So I think the ones that were really well developed were definitely a very important source...for the commission (Nora 2011).

Baquero feels that CEH field teams should have had to read what had already been written about the areas in which they were working, in order to have more context for what was being described by witnesses. This was a practice employed by her team in the Ixil area but not required of researchers, most of whom were already putting in extremely long days collecting direct testimonies. She reflects on the need to meld local and national perspectives:

I think the CEH in the end [worked in] such a diverse country, and such diverse regions that...it is hard to speak about Guatemala as one country in general and I think the violence, the armed conflict was no exception to that. But you still had to make sense of some overarching strategy, why? Because of legal reasons perhaps, of intent, you wanted to, there was clearly an intent. How do you put together, you know, the middle class college student with the...the catechism teacher from Alta Verapaz? It's hard but it was an exercise in constantly looking at it closely—also out of respect and, you know, honouring the person in front of you [...] I'm not sure that was always clear to all of the workers, but [...] you needed to not only zoom in but also zoom out (Baquero 2012).

Mersky notes that in this work,

it would have been great to ... have had the capacity to do a better analysis of the links between [...] local conflicts and local contexts and national contexts and the national conflicts, something that still hasn't been, you know, there are a couple of monographs that...look into that but in terms of looking at causalities and real dynamics, real kind of underlying dynamics as they play out in peoples' lives.¹⁷¹ It's just been very hard for a truth commission to get. So this big picture thing is like that too: [there are aspects] that don't get captured necessarily or maybe they, you get a *flash* of it...(Mersky 2012).

Historian Arturo Taracena Arriola's published reflections indicate that the historical group at the CEH became concerned about historical coverage of the earlier period of the war in the face of field teams who

tended to minimise the first stage of the internal armed conflict from 1962 to 1978 for its lower number of deaths and its essentially intraladino (non-indigenous) character, in the face of the proportions attained in the war in Guatemala beginning in 1979—especially in the rural areas—with the motive of intensive application of the National Security Doctrine against the “internal enemy” and its multitude of disappearances, massacres, model villages, civil patrols. There was a marked tension between the vision of the historical research team, focused on advancing a global vision of the immediate historical

¹⁷¹ See, for example, González and AVANCSO, 2002; Grandin 2004.

past, and the members of the field teams, [who were focused on] denouncing the magnitude of human rights violations, in particular in indigenous communities (Taracena Arriola 2007, 11).

Taracena Arriola stresses that these goals need not be opposed, and acknowledges the humanitarian motivation to denounce atrocities. In his estimation, the assignment of the majority of field offices in areas where the most massacres had occurred resulted in patchier data about both the earlier period of guerrilla mobilisation in the southern and eastern regions of Guatemala, and the experiences of ladinos more generally (2007, 17-18).

Some participants noted that the CEH's official approach to field research had been too passive. While REMHI was embedded in communities for years in some cases, the process of field research in the CEH was between eight and ten months, depending on the field office, which were slowly retracting one by one towards the end. Sergio Pivaral felt that many teams wasted time at the beginning of the period as they had been instructed to wait in the regional CEH offices for people to come to them to testify. One of the iconic images many remember about the CEH was the lines of people spontaneously forming outside offices, and people waiting all day to testify. This posed a direct challenge to the general feeling that the majority of people would be too afraid to come forward in public, or would not recognize the CEH's autonomy. While public hearings have been a feature of some truth commissions such as the South African TRC, in Guatemala this did not seem feasible due to major security concerns, in addition to the logistical hurdles of reaching people in decentralised rural areas (Hayner 2002, 225-228). While in some places, there were lineups, in Pivaral's experience, waiting for people to show up at regional offices "turned out to be inefficient. The majority of victims lived in hamlets, in villages far from the urban centres where the offices were, so we needed to leave and do the collection of reports in the communities" (Pivaral 2010).

This frustration about the allocation of scarce resources and a 'race-against-time' feeling pervades my interviews, especially those dealing with the CEH. Though the CEH was larger and had more resources at its disposal than the REMHI, its mandate was very broad for the original six month time frame. There were serious delays setting up the commission and constant issues around obtaining the funds that had been committed by various governments (UNOPS 2000, 35-38). Based on different readings of the mandate, there were varying interpretations of the CEH's tenure. Originally set at six months long, with the possibility of a six month extension, opinions

differed on whether this meant six months of field research, or six months for the entire project. Budgeting, logistical and staffing issues were ubiquitous as the difficulties of having no fixed end date forced people to presume they may have to wrap up at any moment. Nora remembers the stress of working with “ridiculously short deadlines... we were under so much pressure to get this report done because we didn’t know from month-to-month whether the commission was going to continue” (Nora 2011). But creative interpretations of the mandate and major pressure from supporters (nationally and internationally) resulted in a longer timeline than originally foreseen (UNOPS 2000, Jonas 2000). In terms of methodology, this created complications as much as it opened up possibilities for the work.

Human rights violations as data: Forms, categories and *tipificación*

The physical and intellectual challenges of mounting a major truth-telling process should not be understated. Participants in my interviews shared the sense that accurate documentation was a major priority, but logistically this could be difficult. Turning a narrative into data for a form that could be standardized and worked into a report was a complicated and often stressful process. As Richard Wilson puts it,

[a]nthropologists have been critical of the reliance of human rights institutions on positivistic approaches to knowledge and history, on the usual grounds that it is inappropriate to apply natural science principles to societies, and that positivism excludes consciousness, meaning, and intentionality (Wilson 2003, 374).

Wilson notes that this critique has “crystallized” in studies of the South African TRC, particularly in the fluctuating importance of “narrative” truth and “forensic” truth. Over the first year of the TRC when testimony was being broadcast in the national media, he argues that narrative truth was predominant, but after this time, the legal-forensic truth produced by a reliance on a major human rights database system prioritised quantitative data. Wilson’s analysis, informed by the work of Lars Burr (2000) and Fiona Ross (2003a), describes how the overarching truth about apartheid was determined by “internal bureaucratic processes” and inconsistencies, more than political ones (375).¹⁷² Wilson highlights the “ambiguity and

¹⁷² For example, each act was counted as a separate act of violence, which made it more difficult to understand the effects of apartheid on social structures. Wilson 2003, 374.

contradictions of trying to fix and codify individual and social memories, which are fluid, fragmented, fleeting, transient.”¹⁷³

In the CEH, Baquero notes that her area of field research was one site where the scorched earth policy had been carried out. This meant a high volume of material in conditions that were not always ideal:

we had a lot of work to do and...most of our interviews were in Ixil... we had a translator [...] but it was enormously frustrating to be in an interview and have to pull out tons and tons of sheets of paper. We obviously didn't do them on computers. They didn't have PDAs or anything that we could use. And then having to actually hike six hours sometimes with all the paperwork on our backs was difficult (Baquero 2012).

The UNOPS report on the work of the CEH indicates that the few times people did try to take notes on testimony with computers, witnesses became very uncomfortable. The report stresses that in a context where state terror had often relied on surveillance tactics, including the direct collection of information on citizens, the use of the computer in this setting made the process feel like they were being interrogated (UNOPS 47, 2000). But on the database end, Rocio Mezquita (2008) writes that small things like illegible hand-writing created a lot of extra work for analysts. She also notes the need for people with local knowledge on each field team as many lacked context and often had problems with unfamiliar place names, a suggestion echoed by Baquero.

The database team began as a small group, but by the conclusion of the CEH project, it was the largest team on staff (UNOPS 2000). Their work involved verification (including eliminating repetition¹⁷⁴ and ensuring accuracy of names, dates and other information), data entry of the work emerging from the field teams, and other tasks such as comparing CEH data with other databases contributed by supportive human rights organisations. In order to “insure the independence of sources and CEH analysis” the CEH material had its own exclusive database, rather than attempting to merge all sources of data into one master-database (UNOPS 2000, 57). The report on the process concedes its approach to staffing the database was

¹⁷³ For example, the TRC defined and operationalised the category of victim very narrowly—many more testified than received official victim status, because the system used particularly narrow criteria to determine gross violations of human rights (see also Ross 2003a,b).

¹⁷⁴ Reporting on massacres often came from numerous witnesses (often independently, though the increasing use of communal testimony eased this burden somewhat) and had to be merged into one case. This was complicated further by the extensive internal displacement of people during the war, which meant many witnesses reported events that had happened elsewhere. Standard practice was that whoever received the testimony would forward it to the office closest to the site of the violation, so that the investigators there could use it in their analysis of local cases (UNOPS 2000 49-50).

insufficient —perhaps partly because the response to the investigation was stronger than expected, but also because the capacities of those doing the work had been overestimated. “It was estimated that each analyst could review 12 cases per day [...] Initially, the CEH calculated that a single data processor could enter 40 cases daily but that figure was overly optimistic and had to be reduced” (UNOPS 2000, 58).

Serious bottlenecks developed between the field offices, the analysts and those doing data entry, and delays at any stage of the process could impact everything, because the margins for slowdowns were so small. The CEH was committed to an organic mode of work where those in the central office (including the commissioners) would regularly review available cases and their analysis would feed into decisions about how to proceed with the rest of the investigation. This meant they needed a constant input of information (UNOPS 2000, 26). The CEH did increase the number of case analysts, and then later data entry workers to handle the glut of information, but they also indicate the difficulty of hiring new people who could get up to speed and who were trustworthy (58). While elsewhere in the UNOPS report there are indications that workers were under intense amounts of stress, in this section it is left to the reader to figure out why database workers were slower than expected: lack of skill and training, or difficulty with the repetition of traumatic material.¹⁷⁵

The CEH used a less holistic framework of analysis than the REMHI. Though they documented many of the same acts and forms of violence, REMHI’s report remains more narrative while the CEH more clearly frames the material in the language of international human rights law. One major outcome of either framing was the explicit naming of some violations and the exclusion of others, as well as the production of a restricted category of victimhood. For a project operating on the fly and aiming to be responsive to the data emerging, this brought up obvious complications in relation to CEH research methodology. Sergio Pivaral felt strongly that the CEH “investigation at a purely academic level suffered from the abundant changes in forms for collecting information,” which he considered methodologically and statistically significant. Pivaral estimates that the forms went through as many as four major changes in the time that he

¹⁷⁵ Hayner indicates that one outcome of her comparative study of truth commissions has been the unexpected realisation that often those workers who become the most traumatised are those performing coding and data entry. While many assume that face-to-face work is more arduous emotionally (e.g. La Capra 2001, 102), Hayner discusses how the face-to-face interaction with victims, who demonstrate “signs of resilience” can often mitigate some of the poisonous information contained in their testimony. Also, Hayner notes that on average, coders and database workers process a larger number of cases than field workers 2002, 6-7; 151-152.

worked in the field. Apart from this flux, workers were sometimes unclear on the precise definitions of violations. For example, Pivaral remembers,

it was not clear, what do we consider a massacre? Is a massacre more than two dead people, more than three, more than four? All these things, for example, that had not been defined from the start, and kept changing even after information collection had already started (Pivaral 2010).

In her discussion of the CEH's methodology, Rocio Mezquita echoes that practices were particularly inconsistent in relation to naming massacres (2008, 208), but that there were also other situations where definitive decisions about naming and entering violations into the database could fall short. In particular, she highlights that gang rapes were recorded as a single violation (Mezquita 2008, 216).

While they used a semi-open interviewing technique, CEH field workers were required to fill out several forms that were to be entered into the database later on (UNOPS 2000, 47). In addition, they were required to summarise the actual testimony. The UNOPS report claims that:

In the initial training for field personnel, the investigators were instructed to keep the summaries very brief and highlight only the essential elements of each human rights violation. However, in the first weeks of field operations, it became evident that with this procedure, the CEH ran the risk of losing an important part of the information and richness of the testimonies. Many investigators began to insist on reviewing the original criteria for the summaries, suggesting that these could be broadened so as to retain the greatest amount and range of information that could be useful in writing the Final Report. These proposals were adopted by the Commissioner, although no single model ever existed for the summaries. Some were short, while others were much more extensive. Some were brief descriptions of events, while others told the story in considerable depth and detail, often incorporating direct quotes from the testimony (UNOPS 2000, 48).

Here it is important to contrast public rhetoric about the voices of victims with the difficulty of getting their voices and narratives into the reports.

The invisibility or unintelligibility of certain experiences is unavoidable, and was perhaps more obviously a focus in my interview discussions because people knew that the visibilisation of sexual violence was my main research topic. As indicated in Chapter 3, the initial list of violations informing both processes was adopted by REMHI from the Salvadoran commission, and it was quite limited. Claudia Estrada recalls that it was not very useful, primarily because in El Salvador, the workers were mainly university-educated, foreign professionals, while in Guatemala, the Church's pastoral project of social reconstruction featured workers who often came from the same communities as witnesses and victims, with a range of literacy levels. As

discussed earlier, REMHI developed other methodologies that were less dependent both on literacy and on the taxonomies of human rights, but the CEH took up more or less the same list to begin their work. As testimony was analysed to be put into the report, patterns emerged that had not been contemplated at the outset, such as the widespread use of sexual violence by the military, and despite the complications that arose, workers attempted to include them in their analysis. This degree of flexibility is an important feature of the CEH. As Mersky noted earlier, “[sexual violence] wasn’t the first or the last to be incorporated,” and not all violations were included via the same process. Mersky recalls that the two principal violations adopted during the field research stage were sexual violence and death by forced displacement, and that genocide was not taken up until the later stages of analysis and report writing:

I do remember some early conversations with Tomuschat [head commissioner] [...] I was concerned the list of violations to be... investigated didn’t reflect the entirety of what had happened. And I was particularly concerned actually about the issue of forced displacement and especially... death during displacement, that in my own informal work and also the work I had done in REMHI before, taking lots and lots of testimonies when people just talked, you know, outside the formal context...they often talked about, you know, what happened when they fled and being displaced and how many people died during that period, so the women and children and the infirm, and in listening over the years I had come to a con- I don’t know if conclusion is maybe too strong, but I had come to a sense that maybe as many people had died under those circumstances than actually at the direct hands of the military and massacres, and that that period of flight and losing so many people in those ways had also been a deeply traumatizing...experience in addition to the fact that lots and lots of people died...during that time. So in fact that was the issue I first went to him about and I felt that [the] Commission really needed to do... a more serious job, that it needed to broaden...the initial list of violations, pretty short list, but what happened in Guate had to take into account this other dimension, which... actually later turned out to be pretty important for the genocide work, because... it gives indications of intent. But I was concerned just from the basis of what I’d heard in people’s... stories about how massive that had been (Mersky 2012).

Other violations were also added to the report closer to the end. Former CEH logistics worker Eduardo Tercero points out that another major gap that has since been taken up by rights defenders is violence against children—although there was “the crudest testimony, there are also no recommendations on children” (Tercero 2010).¹⁷⁶ Mersky agrees that an analysis of the impact of violence on children and youth “was also incorporated very late” (Mersky 2012).

¹⁷⁶ This is actually incorrect: see CEH 1999, Vol. V, 66-67, recommending a national commission to search for disappeared children. The government did not prioritise this issue. ODHAG (2000) and SEPAZ (2010) (a state body responsible for monitoring the implementation of the peace accords) have contributed crucial investigations, but not on the scale that would have been possible with properly allocated state resources. The national Commission on the

This question of intelligibility was also complicated by the various forms of translation that commonly accompanied REMHI and CEH work. Baquero recalls that because often Ixil terms didn't correspond with codes for violations that would be entered into the CEH database, "we ended up using a lot of ... the 'other' category. Or just writing things up in notebooks... and then, you know, typing them up when we got to the office" (Baquero 2012). "Typifying" violations is both crucial for gaining widespread recognition and redress, and often critiqued as an overly mechanical process that can circumscribe the ways that people's experiences are understood, rendering unintelligible important dimensions. These dynamics are reflected in the development of the "rape" category in international law, as discussed in Chapter 2. Baquero notes that despite the relative toothlessness of the CEH in the immediate postwar period,

there was still the hope that someday... that someday, if we typified the violations, that someday ... this could be used: there might be a loophole or the legislation might change ... so I, I think, part of it is just the ingrained thinking [of lawyers]... but part of it was maybe a hopefulness (Baquero 2012).

In practice, participants underline the difficulty of balancing this hopefulness with the complexities of the stories emerging. While she speaks with admiration of the database workers, Baquero notes that they were necessarily oriented towards the database, rather than bigger picture questions, including the "why" of the conflict as specified by Grobelaar at the beginning of this chapter. In Baquero's view this contributed to a certain "lack of vision" about methodology, which did not place enough of a priority on the potential uses of qualitative data. She says that the bureaucracy "was unfit to capture a lot of the details" and in some ways posed challenges to the commission's main goals.¹⁷⁷ The sheer volume of data to be tackled and organised posed an immense challenge. But former database worker Rocio Mezquita indicates that while analysts ran into problems related both to too much and too little information, too much tended to be the better outcome (2008, 211). Beyond the more official format of the Context Reports and testimony summaries, Baquero and others who did both field work and later

Search for Disappeared Children (CNBND) is a non-state body established in 2001. They estimated that 1000 children had been victims of forced disappearance during the war. Impunity Watch indicates that by 2011, over 600 people had been reunited with their birth families (IW 2012b, 108-109).

¹⁷⁷ While most famously associated with South Africa, this critique spans a range of contexts—it has been strongly articulated by ex-commissioner Patricia Nyaundi on the more recent Kenyan TRC, which ran from 2008-2012. Nyaundi indicates that the romantic vision with which they took up the TRC model gave way to the "shock of our lives" as the recommended model and methodologies felt increasingly rigid in the face of divisive and complex political debates about virtually every aspect of their work (Nyaundi 2012).

report-writing found their own notebooks to be a rich source of supporting information when attempting to make sense of the mountain of testimony.

One further adaptation mentioned in the UNOPS report was the development of a glossary of key terms that were not officially considered human rights violations in themselves, but important themes in testimony, and later useful in supporting the genocide claim. Some of the terms included were “forced displacement”, “crop burning” and “destruction of sacred grounds” (UNOPS 2000, 48). This glossary helped to bridge the gap between the limited information required in forms, and the complex, detailed accounts gathered by many in the field who did not (or could not) reduce them so easily. This glossary also had information on details that could establish a modus operandi or identify perpetrators (uniforms, weapons, etc.), information on victims’ organisations, military or guerrilla units in the area, consequences of the conflict, such as “loss of employment, the decision to no longer wear indigenous clothing, community divisions, and the destruction of labor and community organizations” (UNOPS 2000, 48-49).

“They’re never going to believe us!” Methodologies for documenting genocide

As the REMHI and CEH did their work, a growing Mayan movement outside of these processes was becoming more vocal about the need to frame the violence not just in terms of gross human rights violations, but as a genocide. When the CEH report was released, the genocide claim came as a surprise to many who had dismissed the CEH, and as a major blow to the military and associated powers. It was controversial both on the right and in left-leaning circles, and continues to elicit debate today. Diane Nelson puts it succinctly: “[i]t is hotly contested whether people were killed because they were Maya or because they challenged the structures controlling land and labor” (2009, xviii). The military and its conservative allies vociferously reject that a genocide occurred. They often argue that some people in the army and PAC had committed “excesses,” and frequently make the distinction between the military’s objectives of eliminating subversives, and their strategies, which involved a practical overlap between ethnic identity (especially of certain groups such as Ixil speakers) and subversion (CEH 1999). In interviews relating specifically to work on genocide in the CEH, I note participants’ requests for anonymity. While it is likely that many of them relate to personal security in the context of a hugely contentious issue, the reasons for these requests are not always clear. The

participants all communicated pride in their work, but asked that their names not be attached to it.

In their interviews, participants noted a number of issues around developing a genocide claim in the CEH. The first was the major political and intellectual debate that took hold both inside and outside the CEH and which was to some extent resurrected in the Guatemalan press in response to the 2013 genocide trials. As one source indicated, many debated the degree to which genocide had to resemble the paradigmatic Nazi genocide in the Second World War—in all countries where a people lives, actively trying to exterminate all members of a group. Despite this definitional doubt, various groups had already been mobilising the “Mayan Holocaust” as a framework (anonymous interview 2010).

After many decades of officially framing social organising in terms of class or campesino groupings, a more overt ethnic identification was emerging. Some scholars have called this ‘Pan-Mayanism.’ Anthropologist Kay B. Warren (1998) used the term to connote the various ways in which Mayanness was being articulated politically in the 1990s, through a typology of ‘populares’ (groups that were more closely associated with land-based and campesino demands) and ‘culturales’ (groups more focused on defining and preserving Mayan culture, with a special focus on language rights). This typology has been critiqued for various reasons (Velasquez Nimatuj 2005, Brett 2008, Bastos and Brett 2010), most commonly because it is too categorical about the divide between groups and struggles. K’iche’ anthropologist Irma Alicia Velasquez Nimatuj highlights a tendency in some prominent academic treatments of indigenous and campesino activism that tended to downplay the political agency of ‘populares,’ whose interconnecting approach to territorial, resource and economic rights were also indigenous in character, despite not employing identical arguments or frameworks as those who framed their grievances more directly within discourses of culture and ethnicity (2005). The expansion of possibilities for ethnic identification and pluriculturalism were concrete, if circumscribed, openings in post-war Guatemala. While symbolic advances have been made, such as the enshrining of indigenous rights in the peace accords and other important legal documents, and

the occasional appointment of indigenous people in government posts, the majority of indigenous people continue to experience compounded forms of intersecting discrimination.¹⁷⁸

Another closely connected aspect of the debate about genocide was to what extent this analysis reflected an adequate rendering of the nature of the violence wrought in the war. As argued in Argentina by Judge Carlos Rozanski and echoed by activists, those who had been targeted and eliminated in the Dirty War in Argentina were part of a social group of intellectuals, students and other young radicals who were perceived as a collective threat to those in power. While this social group does not fit into the conventional definitions of a “national group,”¹⁷⁹ Rozanski has argued that the intent to eliminate them was clear (IW 2012b, 86). As social critic Naomi Klein points out in her book *The Shock Doctrine*, the history of the conventional list of categories, like most convention language, is one of uneasy consensus. Stalin, still an ally in the post-WWII but pre-Cold War era of the late 1940s, had refused to accept genocide convention language that would include groups (such as intellectuals) that his regime was purging (Klein 2007, 124-5). This same language might have lent itself more directly to condemning the type of systematic violence featured in the political disappearances and extra-judicial executions of 1970s and 80s Latin America. But despite being literally unconventional, Rozanski’s argument has resonated with the position of groups such as HIJOS and others who use public shaming practices called *escrache* (Colectivo Situaciones 2009). These groups do not hesitate to call what happened a genocide in popular terms, although this position remains controversial in Argentina.

In Guatemala, some reportedly argued for a similar approach in order to account for the brutal targeting of intellectuals, labour leaders and the middle class between the 1960s and 1980s (anonymous interview 2011). But the interpretation that gained more traction within the CEH was more squarely focused on Mayan people, through the lenses of race and ethnicity. As Weld writes in her study of the police archives in Guatemala City, the idea of the Maya as an ethnic group united by their brutal victimisation was both true and effective in gaining worldwide support for human rights struggles in the 1980s, and an incomplete story that did not adequately account for the selective character of urban terror, nor the fact that many Mayan people had been active militants as well as victims (Weld 2014, 10-11; see also McAllister 2013).

¹⁷⁸This ranges from ongoing forced removals of communities from land destined for mining projects, to Velasquez Nimatuj being refused entry to a restaurant in an affluent part of Guatemala City entry because she was wearing traditional indigenous dress (CONAVIGUA, ICCPG, MOLOJ 2008, 275).

¹⁷⁹ Usually narrowly interpreted as ethnic or religious groups; literally, in the genocide convention the wording is “national, ethnical, racial or religious group.”

Grandin elaborates:

many on the Left who were members of the insurgency or affiliated social movements were uncomfortable with the charge of genocide. For them, the description of the repression as genocide risked overshadowing the fact that the state was being challenged by a powerful, multiethnic coalition demanding economic and political reform. Many felt that by purportedly denying indigenous participation in the popular movement, the claim of genocide risked reducing the history of the repression to a simplified tale of ladino violence heaped on defenseless Indians (2011, 90).

Just as women and gender-based violence were emerging as viable human rights categories at this moment, so frameworks of indigenous identity and rights were developing that lent themselves more directly to the genocide claim. But, for diverse reasons, many people did not identify in ways that fit into international human rights language and the emergent indigenous rights framework (Nelson 1999). Grandin discusses how the CEH innovated analytically in order to circumnavigate these dilemmas of identification and intention. They interpreted the motive to destroy a group as separable from the intent to do so, arguing that intent was all that was needed for a genocide claim—whether the military was motivated by racism or by anti-communism, the CEH documented the intent and “prevented counterinsurgent justifications from mitigating the severity of the charges of military atrocities” (Grandin 2011, 98). In practice, this approach was supported by the historical analysis that illustrated the complicated ways in which racism and class-based oppression were built into the feudal economy, including the forms of diffuse governance of indigenous people that had begun to break down.

The decision to pursue a line on genocide partway through the work of the CEH created several major methodological hurdles. Because no one had planned to make an ethnicity-based genocide claim in advance, those who took testimony in the field had noted the ethnicity of the witness, but not of victims (unless in cases where these were the same individual). One worker indicates that much of their earlier work involved combing through testimony and deducing ethnicities out of names, towns and areas that were mainly indigenous, “because it wasn’t foreseen. Imagine!” Occasionally they had to return to communities to verify ethnic information that was needed to support a genocide claim.¹⁸⁰ In a related discussion, Maria Baquero recalls trying to make sure that everyone made it into the report as a distinct individual: even if many

¹⁸⁰ Though not as clear of a concern until later efforts to reconstruct the gendered dimensions of the conflict more intentionally, such as for the Tribunal of Conscience in 2010 (UNAMG, ECAP, MTM, hegoa 2012), it was not always possible to determine the gender of victims in massacres that were used to substantiate the genocide claim.

people in a village had the same name, which can be common, they fastidiously sought out unique data such as birthdates, so that they could all be recorded. This was important from a symbolic perspective, but equally from the perspective of deniability and magnitude: results could not be dismissed as duplications just because two people from the same village had the same name (Baquero 2012; see also Mezquita 2008).

Another methodological issue was that dates in the testimonies did not always corroborate with other sources. This is partly because the only source that was created contemporaneously with the events it documents was the 1983 Inter-American Commission (CIDH) report. The others, such as testimonies collected by anthropologists, REMHI and CEH workers, were all collected in the following decade, and relied on more distant memory. When the date for a massacre in a witness testimony to the CEH didn't coincide with the date of the massacre as recorded in the CIDH report, CEH workers had to go back to fact check many of the dates to verify them in as many ways as possible. As with the ethnicity issue above, in some cases this verification work meant returning to the communities themselves—despite understaffing and the grinding lack of time (anonymous interviews, 2010, 2011).

This Mayan-centered approach to genocide also potentially called attention to the Left's history of inadequate approaches to addressing racism within its ranks and in its political platforms, including the well-documented notion that race or ethnicity was merely an expression of class inequality. As indicated in a range of studies, indigenous people had mobilised and organised both with and without the guerrilla in Guatemala, in open and clandestine ways (Arias 1990, Grandin 2004, Brett 2008, Nelson 2009, Camus 2010, Esquit 2010, McAllister and Nelson 2013). Though they discussed it, there is no clear consensus about the extent to which guerrilla organizations actually took on the racism inherent in organisational structures at the time (in which the leadership of the first-generation revolutionary movements were urban ladino men). (CEH 1999, Vol. I, 178-183).

As the CEH report explains, the PGT and FAR were orthodox Marxist groups, focused on the centrality of class oppression and did not consider indigenous people a part of the revolutionary vanguard without first going through a process of proletarianisation (ibid). The EGP and ORPA attempted more nuanced analyses. The CEH puts it this way: despite its attempts at finding a “third way,” the EGP “remained bound to a class-based framework linking indigenous people with poor ladinos”(180). The CEH calls ORPA “the guerrilla organization

most concerned with the role of the Mayan people, or the “*pueblo natural*” [...]. ORPA viewed “Marxism as an instrument for analysis, but not as dogma. They considered indigenous people, not class, to be the core of the revolution”(257) and used an anti-colonial nationalist, rather than class-based strategy. ORPA focused on developing a small guerrilla vanguard which would be supported by, but would not control or otherwise dictate to, a larger social movement.¹⁸¹

Nevertheless, upon merging into URNG, such analyses were never totally reconciled with the more dogmatic forms of Marxism. As indicated in the CEH report, the guerrilla’s plan to broaden their base coincided with indigenous activists and leaders who wanted to build and broaden their own movements—particularly in the context of continuous closures of already limited political channels by the 1970s. Some testimony included in the CEH conclusions underlines these claims.¹⁸² An ex-combatant from Chimaltenango states:

You have to understand the real causes of the war. It’s not as if the war came out of nowhere. A guerrilla group would arrive in a village for example, and they’d say, ‘Look, we have to fight for this and this.’ The guerrillas didn’t invent those things...For example, my parents, they were from the generation of 1944 and they knew all about the achievements of the revolution. And so the people got excited.

A young K’iche’ leader and guerrilla fighter continues:

historical memory of poor indigenous people is very potent, but it is strongest when it involves the memory of a historical claim, the memory of political demands, and an awareness that this is not their system, that this is not their state...all of that came together...the historic possibility for liberation, to change the system. Sure, the guerrillas announced the possibility of overthrowing the Lucas regime and installing a revolutionary government. And this ignited people (cited in Grandin 2011, 128).

Within this context of competing agendas and histories, the credibility of individual CEH workers who worked on the genocide argument proved to be a point of hesitation. The accusations that the CEH was partial were already circulating, but particularly with respect to this bombshell, interview participants stress that it was important to make the claim based on solid evidence and not to appear to be doing it out of political or ideological bias. At first the only people working directly on the issue of genocide in the entire CEH report were two women.

¹⁸¹ The CEH discusses how these distinctions played out in significant ways in the war. While EGP made little distinction between the armed guerrilla and its support structures, ORPA was more clearly subdivided. One outcome of this distinction was that in the EGP-controlled areas, casualties were often far greater, while ORPA’s areas involved smaller numbers of fatalities during the scorched earth phase of the military offensive (see CEH 1999, Vol. I, 180; Vol. II, 259-263; discussed in Grandin 2011, 127).

¹⁸² Here I use the translated English version in Grandin’s text (2011, 128).

One source I interviewed, Sofia,¹⁸³ said that one day, they reached a breaking point where they just stopped, and one of them said, “they’re never going to believe us. For a thousand reasons!” not the least of which involved their gender. Sofia notes that at the beginning she had not wanted the CEH to go so far as declaring genocide, even though that was where the evidence was leading. The pair was advised to write up the work so that the commissioners would review it, but they were unsure about how to carry the heavy responsibility. “So we decided to bring in an impartial expert from the International Criminal Tribunal for the Former Yugoslavia (ICTY), Payam Akhavan, at that point one of the few experts on genocide.” Then they worked “not to convince, but just to show the data” (ibid) to someone who had an international reputation and also would not be perceived as an interested party the way that most other CEH workers (whether foreigners or nationals) might be.

Akhavan met with the three commissioners “like it was the Holy Inquisition, and told them that genocide had *clearly* happened in Guatemala” (Sofia 2010). After that consultation, and in the context of mounting pressure by indigenous groups, Sofia feels that things shifted internally. More people were transferred to work on the issue directly (ibid). But the nervousness and hesitancy about making such a serious claim, felt by those first individuals, reportedly travelled all the way to the commissioners themselves. One participant who had been brought in at that moment to support the first two workers on genocide wonders if such a serious responsibility had intentionally been left to a handful of relatively young, if well-educated and hard-working people. At the time it was not clear how committed the commissioners were to advancing such a controversial argument, and the final decision to move forward with it came very late in the life of the CEH (Sofia 2010, Anonymous 2011)

Sofia talks of the solitude and the immense responsibility of the work, particularly for Guatemalan nationals to be able to contribute to a reconstruction of the history of the war. The stakes were extremely high. She felt this pressure very strongly:

how could you do this badly? And how could you do it well? Because it’s not like you’ve worked on five previous truth commissions. It’s not a job you have for your whole life, but something you learn in the process of doing (Sofia 2010).

She further notes that collective work was rare at the analysis and report writing stage, when most people worked on their own tasks in relative isolation.

¹⁸³ Pseudonym

What affected me most psychologically was this burden of ‘how will I do this, to do it responsibly, seriously?’ It’s not...it’s not normal! [laughs]. I mean, generally this work happens in teams, it’s not one person over there...[gestures in various directions](ibid).

This type of solitary practice contrasts sharply with the experiences of some field researchers in the REMHI and CEH projects. Maria Baquero notes that among her field team: “there was a lot of conversation. We lived together, we ate together, we were together all the time. There was a lot of conversation about things that had happened... or how to deal with things” in a collective way (Baquero 2012). Sergio Pivaral adds that the work became difficult to leave behind and that field workers would talk about it incessantly during their time off (Pivaral 2010).

In contrast, a number of interview participants who worked not with victims but directly with human rights data, echo the perceived necessity of this style of work, along with its negative impacts on their mental health.¹⁸⁴ Nora, who worked in the headquarters and performed liaison work between different work groups, was ideally positioned to comment on the question more broadly:

One of the things...one of the problems structurally of the commission was...there wasn’t...cross-pollination until maybe the very end, between the cases and testimonies and the historical analysis. And a lot of people complained about that, for example the group of Guatemalan social scientists in the *Grupo de Análisis Histórico* [Historical Analysis Group], they really wanted to have access to the stuff that the field offices were producing in order to write their input reports. But it just wasn’t possible because these were going on simultaneously. Like the database wasn’t ready, you couldn’t access it until, you know, we were already *way* into the writing of the Report. [...] In some sense it would have been...interesting for people writing the Historical part of the Report to...visit the Field Offices or get a sense...but that just wasn’t possible, because the offices were too busy, you know out getting testimony (Nora 2011; see also Taracena Arriola 2007).

Though he himself worked on the CEH, Greg Grandin’s laudatory framing of its analytical achievements glosses over this tension in the work. In the preface to his recent text re-affirming the importance of Rigoberta Menchú’s testimony *I, Rigoberta* (1984) and situating it within the broader context of historical clarification, Grandin writes,

¹⁸⁴ Isolation emerges strongly in Stephen Hopgood’s (2006) ethnography of the International Secretariat of Amnesty International, as a practice human rights researchers insisted they needed in order to do the work well, but which also contributed to a fragmented and hostile work environment described in detail in his book. Though more recent, see also Weld’s discussion of different working styles in the Guatemalan National Police Archives where as the project was bureaucratised, a growing isolation and mechanisation of working patterns was also felt strongly by certain workers who spent all day working directly with documents on state terror (2014, 195-6).

the CEH did what no other truth commission had done before or has done since: it gave a team of Guatemalan historians and social scientists (composed of intellectuals from across the political spectrum, absent the recalcitrant right) access to its research—including an enormous database of over eight thousand testimonies, about a dozen “context reports” or local histories, composed by the CEH’s regional offices, interviews with key actors, including former presidents, military strategists, death squad members, and guerrilla leaders, thousands of declassified US government documents, and an extensive library of secondary sources—and asked them to write an analysis of the “causes” and “origins” of the human rights abuses. The result was a sweeping interpretation of Guatemalan history that went well beyond the often vacuous “reconciliation talk” of past truth commissions (2011, ix-x).

In fact, the list of sources provided by Grandin represents the end result of those eighteen months of work. This team of social scientists and historians were working on reports that formed the basis of the historical chapter of the CEH, while others were collecting all the above data. In practice, their access to new data was reportedly far more limited, due to numerous bottlenecks between field teams, database workers and other analysts as described and lamented in detail in the UNOPS report on the under-staffed and over-taxed process (UNOPS 2000, 56-58, 61). The report states that this Historical group “remained on the margin” of the activities in the central office, which helped contribute to the group’s independence (UNOPS 2000, 60). Their work was completed before field research ended, and others (mainly former field researchers) took up the task of integrating the context reports, historical research and testimonies into a historical narrative (see also Taracena Arriola 2007).

In the grand scheme of things, the imperfect access of historians and social scientists to case information and raw testimony may be a minor point, given that Grandin’s overall assessment of the unique historical contribution made in the CEH is an important one. However, such nuances matter to a feminist reconstruction of the process. Since major violations (including the systematic use of sexual violence) emerged in testimony to which the historical analysts had little access, this lack of cross-pollination appears to have had a major impact on the gender-blindness of the historical chapter. As Nora concedes:

I don’t think anybody writing the stuff that went into the Historical part of the Report knew that there was going to be this big section on sexual violation because that didn’t come out until much later (Nora 2011).

Another anonymous participant who also worked with the historical group, confirmed for me that in their recollection, though the group had anecdotal evidence of the use of sexual violence

as a terror tactic, they had no idea about the extent of gender violence as they worked in the CEH (Anonymous 2011).

Back at the genocide section, Sofia accepted neither the need for isolation nor the individual working style, despite the urgency and volume of materials people were working through. While building the case for the genocide claim, she slowly convinced a few co-workers to adopt more collective working practices, which in her view improved the experience and the quality of their analysis. Crucially, in the case of the genocide work, she says that working for a time alongside Teresa Rodríguez, who was developing the issue of sexual violence in the report, made much clearer the role that gender violence had played in the genocide, a crossing of analyses that is observable in my gender-focused reading in Chapter 3. This ad hoc attempt to integrate different parts of the report may have begun partly as an effort to mitigate an isolating work environment, but it doubtless ended up improving the concrete possibilities for women survivors who sought visibility and redress later on.

Producing victims and “Going Native”: Divisions of labour, identity and credibility

Documenting victimisation was indeed a major goal of both REMHI and CEH processes. However, a discursive approach to human rights work shows how workers in these processes participated not just in locating but also in producing victims. Below I explore how these processes differentiated workers from victims and from each other, which helped to naturalise already existing social and occupational divides, and favoured conventional forms of knowledge and knowledge production. In this section I outline two distinctions between different groups of workers in these processes. The first was between foreigners and nationals, something that emerged more forcefully in interviews on the CEH, if mainly because the REMHI workers were predominantly Guatemalan. The second divide was between indigenous and non-indigenous workers, an identity distinction that maps onto a particular division of labour in both processes. I bring these distinctions to the national debate around victimhood and social agency that weighed heavily on these workers. While not totalising, these reflections open onto some key questions about the role and construction of victims and workers in truth-telling work more generally.

In my interviews, the distinction between foreigners and nationals was recalled for a number of reasons. One was the notion that foreignness was a form of impartiality in itself; the other was the UN-based pay disparity between national and international workers at the CEH.

The ‘lessons learned’ section of the UNOPS report describes a balance between “nationals” and “internationals” as crucial:

[n]ationals generally have a greater knowledge of local and national issues, while international personnel, who generally have not been direct participants in the country’s recent history, have the independence and critical distance from national history needed to assure the investigation’s independence (UNOPS 2000, 86).

No one I spoke with agreed that figuring foreignness as impartiality or paying foreign workers more than Guatemalans had been particularly useful approaches in the CEH. Respondents considered these issues with varying levels of diplomacy. For example, on the more diplomatic side, UN professional Eduardo Tercero’s assessment acknowledges the importance of the CEH having an international profile, rather than just a national one as was the case in REMHI. This was understood as increasing international awareness and scrutiny, which would reduce the possibility that rights abuses and intimidation could continue unabated.¹⁸⁵ Equally important was a clear presence of national workers in such an international process. Tercero felt that

the team was very rich in conception and in professional function. There were differences between international and national workers, but I saw this as positive because differences feed discussion (Tercero 2010).

Others are less circumspect. Baquero remembers that a number of young lawyers had come from Spain to work on the CEH because there were not enough jobs for them in Europe, and that these lawyers did not always come with the life experience or political commitment that such a project demanded. She also discusses the problems that emerge when people accustomed to desk work were assigned positions on field teams and suddenly had to engage in what amounted to hard labour in comparison (Baquero 2012). Pivaral adds,

I think the issue of international workers’ experience in many cases was a little bit problematic, it wasn’t the same as a European country, or in fact a few stints as a volunteer in Latin America, to come and assume positions of supervision and research for work like the CEH, for example (Pivaral 2010).

¹⁸⁵ This is the logic with which accompaniment programs such as Peace Brigades International, Acoguate, and Projet Accompagnement Québec-Guatemala operate. Foreign volunteers are placed with local rights activists deemed vulnerable, thus ensuring a direct international stake in the defense of the rights of both people. See for example Mahonty 2007. For a more recent discussion of the necessity of heavy international involvement and scrutiny, see this position articulated by workers in the AHPN (Historical Archives of the National Police) Weld 2014, 23.

Pivaral acknowledges the high level of commitment of some foreigners, especially those who had experience in Guatemala already. Then there were the others who didn't know Guatemala at all,

so there were cases of very, very young professionals, twenty-*poquitos* [twenty-something] years old who had their first job, who were suddenly supervising the 'sacred cows' of research, for example Doctor Rivas, no? ¹⁸⁶ So this type of thing, maybe in a second experience would not be repeated (ibid).

Nora recalls that "there were about half Guatemalan and about half Internationals in the commission. The Guatemalans were paid a lot less, which was according to the pay scale of the UN" (Nora 2011). Mersky remembers pay being the major issue for her as a manager.

It wasn't fair to pay internationals more than nationals for the same job [...] the UN does that across the board all the time, that's grossly unfair and made for a lot of tension that was unnecessary [...] I'm telling you. This was a real problem. [...] I mean it wasn't every day but it was definitely there... You know, and we'd raise it at... these monthly meetings, 'this is really hard to manage because, can't you do something about this?'... And the answer was always 'no we can't do this, it's UN rules' (Mersky 2012).

She remembers asking for several people to be re-qualified at a higher pay grade because they hadn't been given enough credit for their work experience. "For the most part I didn't go there, and it was fairly rigid and it didn't really seem like a great use of time [...] There was a lot of inequity in that whole... system." Other issues included the hiring of a single human resources person for the entire CEH staff, which

made our lives miserable oftentimes and that was a cost-cutting kind of thing [...] it made staff very unhappy, and why would you want to do that if you could put you know, what, another three-thousand dollars to solve the problem by having a second human resources person or something... [the work was affected by] those basic management issues of how important it is to keep your staff happy... [or] at least, forward-looking and engaged and glad to be doing this (Mersky 2012).

Beyond the lack of human resources capacity and the bureaucratic hierarchy in pay, another hierarchy was established along lines of nationality. Pivaral remembers,

it was decided that the heads of departments would always be international people, not nationals. Supposedly under the premise that this would guarantee a certain type of impartiality [...] in practice, I think it can be said openly that, not about all of the internationals, not many, but some of the internationals at a high level in the CEH were not precisely impartial. Nor were they precisely impartial during the war. Rather those of them who had experience in Guatemala had participated in the revolutionary movement.

¹⁸⁶ Edelberto Torres-Rivas, celebrated Guatemalan historian.

[...] I'm not one to judge, but at least in relation to the original premise that foreigners would guarantee impartiality... (Pivaral 2010).

Mersky echoes that “Guatemalans were not allowed to have positions of responsibility, of authority, over others ... the heads of teams were all foreigners.” She indicates that this was an official policy, based in the understanding that such people were seen as more likely to be objective and out of respect for confidentiality,

but it didn't really make any sense in the end. You had Guatemalan secretaries reading the whole thing and, you know, doing the transcripts and knowing who said [what]... I don't think it took the best advantage of the human resources that were available at the time (Mersky 2012).

She says that with fewer logistical issues, the CEH might have better taken advantage of the richness that was available locally. “But at least it was *so* much better than the Salvadoran decisions that the UN made there, which was that [...] nobody who had ever set *foot* in Salvador could work on that commission” (ibid).

In her study on the peace accords in Guatemala, Susanne Jonas indicates that in El Salvador, foreignness had been figured as impartiality largely because of widely held public perceptions that most active civil society organisations were just fronts for the FMLN (Farabundo Martí National Liberation Front), the main guerrilla group in the Salvadoran conflict. While similar perceptions of such '*doble militancia*' [double militancy] were also held by a range of people in Guatemala, Jonas asserts that they were far from accurate (Jonas 2000). Especially among feminists I interviewed, people may have maintained their leftist sympathies but by the time the peace accords were coming together in the 1990s, many were searching for new pathways to social justice that were not so intimately tied to the URNG. In staffing the CEH, however, this approach to bias still held some sway. Nora expands on this issue:

A lot of people were pulled in from Antigua because MINUGUA¹⁸⁷ was downsizing right around the time that the commission was being created. So they pulled in a lot of Antigua people partly because those people were known to the UN, and they were out of work, and also this idea of objectivity[...] some people were pulled in from REMHI but it was mostly you know, database people [...] and not so much...the analysts. Because there was this idea that, like, you know, the analysts from REMHI were not objective, right? [...] There were some obvious people from like ODHAG and REMHI ...or even the human rights community that could have been hired in the commission and weren't [...] I think it's totally bogus, it's the way diplomatic missions run, you know, where you

¹⁸⁷ MINUGUA was the UN mission in Guatemala, implemented as part of the peace accord on human rights monitoring. It was headquartered in the historical town of Antigua, some 30km from the capital.

can't stay too long in the country or you go native, right. Because there were a lot of people with a lot of expertise and knowledge and analysis that you know, really could have contributed and they weren't hired. But on the other hand I have to say...the bulk, for the most part the quality of the people that were hired I think was pretty high. I mean for the most part I'd have really good things to say about ...Guatemalan but also international colleagues, and people... really claimed the work. You know, people really gave it their all (Nora 2011).

Eduardo Tercero continues to work with the UN in Guatemala and echoes Nora's sentiment. He stresses that he was "lucky to have been through the whole process [...] it was a unique, once in a lifetime opportunity." He repeatedly describes the work as demanding, adding that it was "intense—it required a high level of *compromiso*[political commitment][...] This was the only project where I saw this much personal as well as professional commitment" (Tercero 2010).

On the level of taking testimony, these divisions between national and international workers held different meaning for different people. In the context of truth-telling work in general, Claudia Estrada reflects that clearly some people would prefer not to testify to a ladino person, because they were often the embodiment of state terror, or perhaps part of the guerrilla. Further, she thinks that maybe a foreigner would put witnesses more at ease because they had not been so directly involved in the conflict (Estrada 2011). Yolanda Aguilar adds that not just in truth-telling work but more broadly across the field of human rights work, it can be important to have foreigners shoulder some of the work on emotionally difficult issues when local activists have been carrying the torch for a long time. Foreigners often bring energy and a fresh perspective. But, conversely:

it has the disadvantage that you don't have the same [pats hands together] the same...glue, right? I couldn't be doing what I am doing if I hadn't lived it in the flesh...I'm telling you: how can I tell people they can heal, if I had never lived it? I say to you, you can do it because I know you can do it, move out of the most terrible things in life. And I believe this is what gives credibility to REMHI (Aguilar 2010).

Back at the CEH, Mersky calls any clear distinction between international and national workers "a little bit facile." As the head of an office as well as various other teams that featured both Guatemalan and international workers, she stresses that there were committed and more problematic individuals from both groups.

I had people complain to me...testimony-givers, for different reasons... complained to me because I was the head of the office, they sought me out a couple of times, one who said... 'I don't want to speak to a foreigner, they won't understand me'... and I had other people say 'I don't want to speak to a Guatemalan, I don't trust them' ... So I said 'Oh!

Cool.’ [laughs] I think I can handle it, you know, we can figure that out... and I can respect both of those positions (Mersky 2012).

These issues are also relevant to discussions of gender. While the perceived objectivity of human rights work has long been seen as a hallmark of its legitimacy, feminists have continued to fight against the notion that they display bias merely by pursuing lines of inquiry about gender violence or other gender issues. A widely held feminist position is that objectivity is not possible for any knowledge producer, and that positivist positions merely ignore the biases of those in positions of dominance (Hill Collins 1989, Harding 2012). Maria Baquero considers such epistemic questions very complicated to unpack. She particularly rejects the idea that having feminists actively involved in such a process would negatively affect its outcomes, a position she explains in relation to three members of her own field team. Importantly here, Baquero figures commitment and solidarity with victims and with the struggle for social justice as more important tools in the process than a commitment to objectivity.

One of my colleagues [was European...] I never understood his motivations until much later. Why he had worked for Guatemala for so long... he had a Ph.D. in political science. You know, very, very intellectual approach, analysis. Read everything ever written about Guatemala, very charismatic guy... lots of solidarity though not the accompaniment type. I later found out that his father had died many years before and had left him a great deal of money[...] his father’s company, a building company had worked paving the roads that allowed the military incursions into the highlands. And he realized as an adult, and he used all his inheritance money basically to work for small NGOs and to ... dedicate his life to Guatemala. So that was ... him. His story. [The second colleague was] a Guatemalan man, who was of German descent, who had grown up very privileged in Guatemala, who was my age, so he had been ... pretty much a teenager and a grown up for the entire period of violence and... his parents had ... had a huge coffee plantation... where obviously there was slave labour and [...] surely more than one labour leader died... close-by on the *finca*, and he never knew any of this. His parents really sheltered him and when he was 18 years old, he was sent to study... in Germany and he went and he saw [chuckles] he saw as a student that there was going to be a ... talk given by CONAVIGUA... or *Grupo de Apoyo Mutuo*, you know, GAM with Nineth Montenegro, one of these people, a solidarity talk and asking for funds and raising awareness... and he went, he was so excited... he missed Guatemala so much, [...] and he went and heard them talk about the massacres and you know, this was maybe ‘89, ‘90 you know, they were talking about the bombing of the CPRs,¹⁸⁸ he would say, “that’s not... these people are liars! It’s awful!” But he was so rattled by the experience, that he started to do research and he started to ... you know, looking at newspaper articles [...] and he was... completely... floored. He couldn’t believe he didn’t know this about his country. And he was so mad at his parents. So he picked his bags up, and he went back to Guatemala, and

¹⁸⁸ *Comunidades de Población en Resistencia* or Communities of Population in Resistance.

he went to law school, and he became a lawyer to work in human rights, and he hated *finqueros* [plantation owners], and military, like you have no idea. And it was wonderful because... he looked like one of them [...] and I think he went to interview some military figure, and he was so pumped up for it. [Slows voice down] He went in, he had a nice suit, the guy was all relaxed, he thought it was going to be really easy and then he just *slammed* him! And the guy was completely taken... off [guard]. So... what motivates us? Was he subjective? I don't know! [...] My other Guatemalan colleague had been... basically making... guerilla bombs since he was 6 or 7 years of age. [...] He was in the *guerrilla urbana*, he had been in a safe house by the time he was 15... and he had a lot of survivor guilt. He had survived and so many people in his cell had all died [...] So everyone there really, I mean ... talk about a feminist skewing the process. I mean, everyone sort of brings their baggage. I think in these processes, it's inevitable... and I had my own... perhaps not as heavy baggage as some of these (Baquero 2012).

If the division between international and national workers was often remarked on, the divide between Mayan and non-Mayan workers seems to have been taken more for granted. To some extent, this was also a gendered divide. In debates around the heavier involvement of foreigners in the CEH than in REMHI, Guatemalan nationality was often articulated as a unitary construct.¹⁸⁹ In the context of a genocidal conflict and a country still deeply divided by ethnicity, class, geography and language, it is not surprising that the majority of victim-witnesses were expected to be indigenous. The lower representation of indigenous people in the ranks of researchers, analysts and writers appears to have been understood by many as a natural outcome of these same processes of marginalisation. Pivara! notes,

in the field offices I worked in, Barillas and Huehuetenango, the only Mayan staff were the translators. There were no Mayan researchers. Notable. This is a good point that I had never really thought about, how many Mayan researchers were there really? There were recognised names, like [Sam] Colop, others,¹⁹⁰ but at least in the [...] offices where I was, there weren't more than the translators[...] This has changed a lot, for example I work here [at UNDP] with at least two professional Mayan women on the technical team, who have supervisory responsibilities over ladino personnel (Pivara! 2010).

Mersky rejects any overall impression that no indigenous people worked as researchers in the CEH, recalling one Kaqchikel woman in particular who was a huge asset to her team in

¹⁸⁹ At the same time, the idea of outsiders and locals remained relevant in considerations of the mainly non-indigenous workers entering communities in the interior. Amézquita acknowledges that at the time of the REMHI, there was a certain amount of urban bias among Guatemalans based in the capital, "that it takes a lot for people to leave their urban world, but no, for me it wasn't like that. On the contrary...I enjoyed it a lot, going to other places. I had this attitude that, when they asked, does someone want to go to Ixcán, I raised my hand!" (Amézquita 2011).

¹⁹⁰ Colop was a prominent Mayan activist and journalist. Later Pivara! mentions Otilia Lux de Cotí, one of the commissioners. Some participants considered Lux de Cotí's role a symbolic one that had carried little power; others considered her role pivotal for supporting indigenous lobbying of the commission to take the genocide argument seriously.

Chimaltenango. This impression is also dispelled by reading the list of staff who agreed to have their names printed in the final report, including notable rights defender Maria Toj Medrano (CEH 1999). But my participants agree that Mayan people were more numerous as translators and guides. Many acknowledge the intense commitment and indispensability of such workers. Maria Baquero discusses forging a closer relationship with one of her translators, Manuel, in the Ixil region, who also served as guide and as a form of personal insurance, who could defuse difficult situations and read subtle social cues.

Even when I did later work, in Guatemala... everyone sort of... it was just known... the translator... could save your life ... not physically but, your translator, by being able to read cues and knowing what was up ahead and knowing ... could just ... even if you were Guatemalan but if you were in areas where... no one spoke Spanish you needed to have a translator you could absolutely trust and... who had all these skills, man or woman. Needed to be more than just a translator, needed to be able to have visibility (Baquero 2012).

In dialogue with Baquero's reflections, Pivaral adds:

it was hard because none of the workers in these field offices spoke the local languages—in Huehuetenango there are over nine Mayan languages—so we were with various translators, depending on the community where we worked and we did try to find people who had experience and recommendations from institutions like REMHI and the human rights organisations, but the problem of translation is impressive, you are never sure if something was accurate, we didn't have official translators in that era [...] for example to be able to translate in a trial in the interior now you need some type of academic or technical accreditation. In that time it was a lot more scarce—they were almost spontaneous translators from the community (Pivaral 2010).

He notes that translation continues to be a problem today. A number of participants reference the translation issues that emerged in the high profile Juana Méndez case, in which an indigenous woman who was arrested and raped by police while in custody decided to bring the officer to court (CONAVIGUA, ICCPG, MOLOJ 2008, Paz y Paz 2010, Morán 2011). Though guaranteed in the peace accords and by law, language rights in basic relations with the state have been hard-won and the lack of translation services continues to work as a barrier to justice for Guatemalans who do not speak Spanish, particularly for women. Baquero discusses the difference between her team's male translator Juan and the two female translators, Magdalena and Juana, who also worked with the Ixil field office, indicating their differing skill sets and the different pathways that they had taken to learn Spanish. She recalls that it was less common to

have women in the role and in fact the field team mainly preferred Manuel. In general Baquero asserts that in rural Guatemala,

men are more literate, men are in the army, men... men speak Spanish better, in general[...] we did have two women [...] but they weren't as good, they weren't as bright, I mean like bright like [snaps fingers] quick, thinking on their feet kind of thing. But Manuel had been... a bodyguard for...some of the *comandantes* of the URNG. He had been in the guerrilla movement many years... was a farmer himself... knew every single road, I mean [...] in pitch darkness he could guide us anywhere... or tell us, this is where we need to rest and stay ... he was amazing. He was *amazing*. The other two women were less able to do that. And we... there was a lot of physical... you know, movement ... we had to walk a lot of places in knee-high mud... and then get there and not really eat anything and just start working and work for hours [...] the women that we were able to get were women that ...were not peasants, they were not used to walking and working and, you know, being in the field. Manuel had done both. This is a rare case, and you know [he] had learnt Spanish from living in the city and from being with... the higher authorities in the URNG and... I think he had spent some time in Mexico. [...] So the women had not gone through that. So they spoke Spanish because they had gone to school, but they didn't sort of have the life experience ... they were younger and they didn't necessarily know how to ask... so with them, translation was more onerous. I did have to ask the same question, cause I could tell that certain things... I'd have to ask them to elaborate. And I worked with Manuel longer, and so he knew when to prompt. He knew when I was going to ask him to prompt, so he would prompt for me. And while I didn't understand Ixil, I could follow some of the things. So of course when we were out in the field it was often 'who gets Manuel?' You know, because he was such a resource, and clearly the person who had to walk four or five hours was going to walk with Manuel. It's also invaluable to walk into some of these villages because sometimes there are conflicts. Sometimes people are waiting for you that aren't happy that you're there... and so... in those cases being with a male... a male translator is a lot more important. I don't know whether that's why other organizations or other offices had male ... translators but [...] men have a ... conferred status that women don't have. And in those cases... you have to embrace it (Baquero 2012).

Here, rather than reflecting the now standard notion that having women speak to women was ideal for facilitating testimony about sexual violence, Baquero stresses the value of men in keeping workers safe and bolstering the credibility of the CEH.

The issue of under-representation in more analytical roles is a complicated one. My interview participants did not say directly that "indigenous people did not have the skills we needed at that time," nor that "if this report had had more indigenous people writing it, it would have had less credibility," but both ideas are supported by dominant social imaginaries of the time and may have formed the backdrop of the staff selection process, whether consciously or

unwittingly.¹⁹¹ The work of guides, translators and others who facilitated access to indigenous communities was generally framed as indispensable to these processes, even as participants noted that they did not know of special efforts to recruit more indigenous workers outside of these occupational roles. In the urgency of the moment, both processes made use of existing networks within the Church and those who had experience in rights defense and more bureaucratic positions.¹⁹² To some extent, structural injustices in society were reflected back in task division in the bulk of this work, and indigenous people (particularly women) were more frequently positioned as victims both through the use of human rights discourse focused on enumerating violations, and in the relative lack of other meaningful conduits for their participation.

Indigenous people were expected and welcome to testify in large numbers, but as Ross and others remind us (2003a), testimonial positions in such truth-telling processes can be narrow. Testimony in this work must be accompanied by enabling structures and intelligible discourses within which speakers are assigned the authority to narrate (Beverley 1993, Al-kassim 2008, Rodríguez Maeso 2011). If the authorised discourse was mainly one of “humanism” rather than “political militancy” (Rodríguez Maeso 2011, McAllister 2013), who had the authority to narrate in REMHI and the CEH? The analysts and report writers wielded an important amount of discretion around how the material was presented to the public. The CEH commissioners signed off on all the decisions in that process, but they were subject to pressure from indigenous groups who wanted a genocide ruling (Lux de Cotí, in CONAVIGUA, ICCPG and MOLOJ 2008), and consulted with community groups on what they wanted to see in the recommendations (UNOPS 2000). Beyond sanctioned forms of official consultation, those who testify can also be understood to be performing the work of mediation or analysis: deciding what to include and how to frame it is a practice that begins long before the testimony encounters a person taking the statement or entering it into a database (McAllister 2013). But, following this thread, there is no

¹⁹¹ For example, Nora discusses the persistent notions of indigenous innocence and manipulability (2011), also noted in Taracena Arriola (2007); articulated more extensively within Nelson’s framework of “dupes/duplicity” and the “two-faced Indian” (2009). In a similar vein, Mersky contrasts the perceived credibility of CEH commissioner Christian Tomuschat with the *locas* who called for the return of the disappeared (2012), and Sofia recalls her concern over the genocide claim being taken less seriously until assessed by an outside expert (2010).

¹⁹² UNOPS discusses the relationship between staffing and worker identity in only in the most circumspect of ways, in its ‘lessons learned’ section: “Personnel should be selected with great care for a short term operation—time invested in the selection process reduces time needed for forming and training the teams.” Here they highlight the need for people with “an understanding of the purpose of the process, the country, and other key aspects” so that work can begin by “building on the experience of each staff member.” (UNOPS 2000)

way to know how differently (or similarly) the CEH policies and representational practices would have been if it were staffed with more indigenous analysts and researchers.

In a recent comparative study, Silvia Rodríguez Maeso examined the uses of testimony and discourses of depoliticised innocence to frame the possibilities for indigenous people's speech in both the Peruvian CVR and the Guatemalan CEH. On the surface, the use of victim testimony suggests "a transition from 'silence' to a citizens' 'speech community,' from which to denounce rights and claim restitution." For Rodríguez Maeso, the narrative focus on suffering violence showed similarity with other truth projects in Latin America's Southern Cone, but "the implications acquire a different tone when the victim is the 'subversive Indian.'" She writes:

What both [truth commissions] analyzed here show is that such an authority is destabilized whenever the "victims" leave the position *between two fires*, between the "guerrilla" and the army. [...] We may then ask ourselves: what *political* space is left for these populations when, through testimony, they acquire the condition of victims? (2011, par. 43).

I expand on this problematic below in relation to the mediation of testimony.

Competing imperatives of *victimidad* and *actoría social*

In this section participants discuss the realisation that the struggle to document violations and dignify victims creates representational dilemmas when coupled with the struggle to reclaim people's militancy and agency during the war. One by-product of the efforts to dignify victims and delineate state responsibility is the tendency to portray victims of state violence as 'innocent,' rather than continuing to draw attention to the struggle that so many died supporting. Though it certainly has specific local contours, this issue is not limited to Guatemala. In the Argentinean context, Pilar Calveiro writes about the need to move past ideological constructs about the 'innocence' of the disappeared, and reclaim their political militancy as part of historical memory work (2006, 53-62).¹⁹³ This struggle is also under-way in Guatemala,¹⁹⁴ though its dynamics are marked in particular ways by the racialised character of state violence. In the face of a failed guerrilla movement and a human rights machinery increasingly structured

¹⁹³ Theidon (2007) also discusses the strategic importance of the notion of innocence for those testifying in the Peruvian CVR.

¹⁹⁴ For example in the recent publication *Dignidad a pesar de lo vivido* (2011) (Dignity in spite of lived experience), which features testimonies of survivors of the violence of the war, but places it in a context in which the speakers are protagonists and part of larger social struggles, rather than isolated or interchangeable victim narratives. Not incidentally, Yolanda Aguilar coordinated this project.

around the notion of victimhood, armed militancy and other forms of leftist activism often come to be understood as somehow drawing violence upon oneself, and by extension as deserving it by being '*metido en algo*' (involved in something) (Nelson 2009, Pivaral 2010, Nora 2011).

The issue of how to remember and dignify victims without erasing a history of their protagonism and militancy (armed and otherwise) emerged as one of the central debates at the CEH. Nora puts it this way:

We were going to document the violations, we were going to document the atrocities [...] I don't think that was ever in question that people were not going to come forward, especially after REMHI had kind of prepared the way[...] But what was in question was the narrative framing of those testimonies...and being able to rescue...a sense of agency on the part of people [...] not that we had to say that everybody supported the revolution, but that there were these...many, many, many kinds of social struggles in the country and that they kind of coincided in different ways, in different periods, with the armed revolution, even though they weren't necessarily the same thing as the armed revolution. It was really important that we get out in the report, you know, *what was it all about, what were people struggling for?*(Nora 2011).

Mersky situates this dilemma within the context of sweeping denials that had predominated during the authoritarian era:

I was motivated by a number of things but one... was... in part because the denial by the state had been *so* overpowering, [saying] that the massacres hadn't happened, that the disappeared hadn't disappeared, or if they had disappeared it was 'unknown men' on the right and the left who were battling this out, with the government having nothing to do with it, all those sort of mantras of the seventies of what was going on ... and the ability to do this, to lie about it with absolute and utter impunity was beyond me [laughs]. That was kind of one of the major motivations for me...this whole question of denial and how to... help to set the story straighter if not straight (Mersky 2012).

One popular framework for understanding the extreme violence that destroyed entire communities in the Guatemalan armed conflict is the notion of being 'between two armies' (Stoll 1994), 'between two demons' (Grandin 2011) or, alternatively, 'the sandwich theory' (Taracena Arriola 2007). In this set of theories, the guerrilla and the military fought out their battles and the majority of Guatemalans, caught in the middle, died as collateral damage. Anthropologist David Stoll's 1994 study in the Ixil area advanced this interpretation of the conflict, and was met with strong rebuttals by scholars and activists. This explanation often erroneously represents the two warring parties as equally matched, providing a false rationale for the military's disproportionate and indiscriminate attacks on civilians. It also plays on long-held stereotypes about indigenous people as simple, disorganised, easily manipulable and apolitical (see extensive discussion in

Nelson 1999, 2009). Yet in the charged political environment, it provides a space for victims and their families to refuse to accept that this catastrophic violence was somehow their fault.

Though the CEH's final report attributed 93% of violations to the state and only 3% to the vastly outgunned guerrilla, rights defenders working in this area continue to fear that popular narratives about the war imagine more equal proportionality. Given this issue, there were low expectations for any detailed discussion of excesses by the guerrilla in the REMHI and CEH reports. Exposing violations by both sides is an approach officially adopted by major human rights organisations such as Human Rights Watch and Amnesty International by the early 1990s (Méndez 2011)¹⁹⁵. This made some in Guatemala feared that in doing so, a sense of the proportionality of the state violence would be lost in the shuffle.¹⁹⁶ Calls for 'balance' in reporting atrocities have returned to public debate more recently, as smear campaigns from the militarist right have attempted to discredit the work of human rights activists by associating them with crimes committed by guerrilla groups but never brought to justice, as discussed in Chapter 3. These claims emerged in the context of genocide cases against high ranking members of the military. Such positions demanding 'balance' or 'equality' in the treatment of both sides reflect a long term refusal by the right to recognise the immense power differential between the two parties to the armed conflict.

Baquero recalls that several of her co-workers left the CEH feeling frustrated that particular discussions of the violence of the guerrilla against civilians had not made it into the report to the extent that they wanted. She also recalled a few instances where people gave testimony about such experiences and, because of the way the testimony was expressed, she felt they were trying to make a particular point that guerrilla had not been innocent of violations even

¹⁹⁵ As illustrated in the 2011 biography of Juan Méndez, former Argentinean political prisoner and founding member of Human Rights Watch (HRW), this decision emerged out of human rights work in Central American conflicts in the 1980s, and it "changed human rights everywhere. Up to the 1980s, documenting guerrilla or non-state violations was not standard practice, due to the lack of legal infrastructure to hold people accountable for such crimes in wartime, and fears that rights workers would lose the confidence of those who were suffering at the hands of the state, that it would communicate that somehow they were trying to equate guerrilla and military crimes, or that it might reduce their ability to maintain contacts and to get reliable information and testimony, which would ultimately be bad for human rights (Méndez 2011). Méndez writes that HRW made the shift anyway because they believed that human rights should be truly universal, no matter who perpetrated violations. Interestingly, his argument also rests on the notion of "impartiality." He credits this shift in practice with the gradual acceptance across the board that later (under his watch) resulted in cases in the IACHR that set legal precedent that paved the way for charging non-state actors with war crimes.

¹⁹⁶ See discussion in Torres-Rivas 2006; for an example of the opposing perspective that discusses the CEH's 'partiality' in detail, see retired Guatemalan military Colonel and *el Periódico* columnist Mario Mérida's *La historia Negada: Compendio acerca del conflicto armado interno en Guatemala* (2010 (self-published)).

though they had not committed the vast majority (Baquero 2012). Nora remembers that the debates among CEH workers were sometimes complicated by approaches that had made sense in other regions.

One of the issues that did come up was ...because there were UN people that were hired who didn't, you know, some of them had experience in Guatemala but some of them didn't... There were a bunch of people that had had experience in Colombia, so there was a bit of translating the paradigms of other conflicts onto the Guatemalan case, for example the whole issue of the population being caught between two armies. That was actually a big thing, a big point of debate within the commission because it had a lot to do with [...] the melding of the legal, the juridical and the historical analysis –the cases and the context. And you know there were definitely – it was a contingent within the commission, some of them had been in Colombia and some of them, for other reasons, kind of had this line of, you know, 'this is what the report has to say, that there were these two armed groups, and they committed these abuses, and the population was kind of caught in the middle.' And then there were others of us within the commission who were saying 'No.' (Nora 2011).

This is a good check on simplistic understandings of regional approaches to historical memory, indicating that interpretations that had worked elsewhere in Latin America were not necessarily accurate in Guatemala. But resisting the explanatory pull of the 'between two armies' narrative was complicated in practice, not least because of the mandate of the CEH:

We were struggling. There are a lot of reasons why that narrative has so much strength. One is that [in] the...testimonies themselves...people are talking about ways in which they were victimized, right, and the mandate of the commission was to document those crimes, those human rights abuses...so obviously people were victims, right, and so a huge task of the commission is to document peoples' victimhood [...but] people will talk about that experience now [in a way] which doesn't necessarily reflect what they might have been thinking in the moment, about their agency in the moment or their participation in organizations, whether they were armed or not.¹⁹⁷ There's a problem I think of racism in this country of [...] sort of a common sense assumption that 'of *course* Mayans were manipulated because how could they have been anything else but manipulated, how could they have known what was going on?' you know. So you kind start to [push back] against that legacy. I even think that there were some institutional legacies, there are even sectors in the...Mayan movement that kind of have a stake in carving out a clean space that's untainted by the failed revolutionary movement. So there's ...a stake in kind of sweeping some of that history of political agency...under the rug, right? (Ibid 2011).

Though Nora is adamant about the emergence of a narrative of social protagonism in the CEH report, not everyone saw this as the dominant thread. Feminist rights defender Maya Alvarado

¹⁹⁷For a succinct list of the issues arising from an uncritical approach to using testimony, see Beristain 1998.

has a strong reaction: “In the area of historical memory, I’m starting to see that there’s a... [E: gap?] a gap, yes, in this sense of social, or political agency, of the assassinated and the disappeared.” She believes that revolutionary militants are mainly presented in historical memory as victims, not as fighters.

What I want to remember, what I would have liked them to recuperate, not just for me but for the whole revolutionary movement was how people gave their lives and their militancy. We could say that it is another great gap that I encountered, this non-reclamation of the *compañeros* and *compañeras* in the four organisations of the URNG who fell, and who up to this very day have not been recognised as revolutionary *luchadores sociales* [...] because today there is recognition of the victims as victims, who did nothing more than just being there in the moment (Alvarado 2010).

She says that such recognition of harms to unarmed civilians is crucial, but does not support extending this analysis to “that ill-fated perspective” on hapless indigenous people who had no involvement in the social movements but rather were caught in a bloodbath between fighting forces like “the *salchicha* in the sandwich”(ibid).

Like many with revolutionary orientations, Alvarado is skeptical of symbolic gestures towards change. She raises the celebration of USAC (University of San Carlos) student leader Oliverio Castañeda de León by the recent Colóm government as an example of the distance left to travel in reclaiming the history of social militancy in historical memory work. As outlined in the CEH report, Castañeda de León was heavily involved in organising in the capital during the late 1970s, including demonstrations that involved majority Mayan participants demanding justice for the massacre in Panzós, and a general strike in September of 1978 that paralysed the city. His name was included in a death list released by a group called the Secret Anti-communist Army (ESA), and he was the victim of an extrajudicial killing in October of 1978 after a march commemorating the Revolution of 1944 (CEH 1999, Vol. VI, 119-125). Despite his militant past on the left, Castañeda de León’s pacifist stance has been emphasized, which Alvarado feels can continue to imply that guerrilla who took up arms deserved to be killed¹⁹⁸ (Alvarado 2010).

¹⁹⁸ As indicated in the CEH discussion of this case, in this era, Castañeda de León’s position against violent protest and armed revolution was generally shared in the PGT (Partido Guatemalteco del Trabajo), the JPT (Juventud Patriótica del Trabajo—youth wing of PGT), his student association, the AEU (Asociación de Estudiantes Universitarios) and *Frente*, another student group in which he was involved. Instead of armed struggle, at this historical moment they promoted “democratic participation as a solution to the conflicts and proposed political struggle as a way to confront the national situation.” CEH 1999, Vol. VI, 119. However, many recall the events at the end of the 1970s as increasingly radicalising, forcing them to consider armed struggle that they had previously sought to avoid.

This gap in recognition may in many cases be linked to the struggle to gain reparations from the Guatemalan state. Walter Paniagua's research in the Ixil region sees the construct of "*victimidad*" as having emerged at least partly in response to the possibility for reparations through the PNR (Paniagua 2010). In structural critiques of transitional justice, some critics argue that reparations circumscribe the possibility for redistribution and transformation of structural inequalities more broadly (Miller 2008). Often reparations programs act as a form of closure on forms of violence with deeply historical roots, as the nation-state moves forward with an uncontested neoliberal agenda in which formerly disempowered groups feel little change in their standing or life chances. Reparations, as many claim, can only ever be symbolic. Many did see the CEH in particular as a vehicle for putting in motion the reparations agenda in Guatemala. While reparations are important, Nora felt this agenda could be problematic because it contributed to a narrative framing of experiences that favoured victimhood over more complicated forms of subjectivity and agency:

I even heard some of the UN people talk about the need to project this narrative of victimhood in order to set the communities up for the reparations. That it was really important to portray the Mayans as victims so they'd be set up for the reparations. I heard actually a UN functionary say that straight out... [...] That to me is the essence of what I felt, was the struggle within the commission, what I saw as the struggle [...] yes it was very *hard* and sometimes there was you know, more convincing that had to be done and it was a lot of work getting testimonies but [...] I would be really sad if people read the report and didn't feel that, you know, there was some kind of agency [laughing] kind of rescued in the report! (Nora 2011).

Baquero recalls that often the most difficult part of work in the field was not in getting people to talk, but in managing expectations about the outcomes of the process. She remembers one of the final questions in the CEH guide as particularly difficult, because it asked what people wanted for all that they had lost. This tended to be interpreted in a material way, and often the teams had to explain that they did not actually bring any form of compensation with them, and that participating in the CEH brought no guarantees for future reparations. She also believes that it encouraged people to frame their experiences primarily through the lens of victimhood:

I feel like [witnesses] would speak more in the language of victimhood if they felt that there could be compensation, you know, money. When they would say 'look, and we lost all this stuff, now build us a school! Now give us our land back, or you know, give us new seed, because now the seed is so expensive' or, you know, a tractor or a cow or something. I mean, clearly, but when you talked about their experiences without that

potential ... contingency of money, I didn't, I didn't feel that people were, would speak about themselves in those terms (Baquero 2012).

“This black and white schema doesn’t work to understand a war”

Workers’ reflections on truth-telling work illustrate the struggle between the ambiguities of experience, and the more categorical human rights categories. They struggled not only with the competing imperatives of representing victimhood and protagonism, but also with developing adequate ways to represent victims, perpetrators, and various forms of complicity. In his reflections, Pivaral asserts that truth-telling workers generally understand the ambiguities in people’s lived experience, but it is difficult to reflect them in this work. One thing he found complicated in practice was how so many people had participated in the conflict in ways that exceeded the ‘either-or’ frames of human rights discourse, focusing especially on the issue of forced participation in the PACs (mandatory rural civil patrols):

This is another theme where you see that nothing is black and white—you have to be either a victim or a victimiser. But it isn’t like that [...] The PACs are themselves a violation of human rights, according to the 1997 MINUGUA report, because participation was forced. So members are victims and victimisers (Pivaral 2010).

He personally received many testimonies from ex-PAC, and found it hard to categorise within the CEH typologies:

In Huehuetenango, eighty per cent of the men over seventeen years old patrolled at some point, and some patrolled after having fought in the guerrilla movement[...] so I believe it’s very relative, one must look at it case by case [...] and above all have the amplitude to say that this black and white schema doesn’t work to understand a war (ibid 2010).

He clarifies that this does not mean that the PAC should not be held liable for violations of human rights. Controversy erupted around the use of PAC pensions as part of an election campaign, when victims of the conflict had still not received any form of reparations from the PNR.¹⁹⁹ Pivaral asserts that, normally, the rule of law would stop such situations from sliding into murky relativism. He links the perpetuation of such problems to the ongoing impunity and failure of the rule of law.

If you were in a court of law, of the type that don’t exist in Guatemala, but a little more ...normal, you could judge someone for having committed crime [...] but also recognise

¹⁹⁹ These payments were framed as rewards for service defending the nation, which betrayed a posture of defiance towards the national reparations agenda and particularly towards the claims of its victims. See discussion in IW 2008, Nelson 2009, 299-302.

their status as victims [...] I was collecting [testimonies for] a patrol that was living with this guilt that I couldn't understand [...] They were ordered to patrol with a military column [...] and they found two young women, supposed guerrillas, because probably they had made tortillas for the guerrilla or something, but the commander said that they were *guerrilleras*, and he ordered the twenty men of the patrol to rape them. And this man's son was patrolling, his fourteen or fifteen-year old son, and they didn't make the son rape the women, but the man was forced to [rape] the woman, both women, in front of the son. So this man could never overcome his guilt because he was a rapist...but a rapist who had been forced to rape with a pistol behind him, right! How are you going to say to him, 'look, you're not a victim because you're a patroller,' or how can you say to that poor woman that they raped, 'no, the army forced him to,' right? This is not relativising. It's the total opposite (Pivaral 2010).

For some, these discussions move in the direction of a notion of "collective guilt." This is a tricky proposition, as articulated by Guatemalan historian and former CEH worker Edelberto Torres-Rivas (2006). Collective responsibility is a tempting panacea for the ills of a post conflict society, but it also leads to no one taking responsibility, which merely sustains the status quo. In his introduction to one published version of the CEH report, Torres-Rivas argues that it must be possible to conceive of different forms of guilt for mass violence, not just those modeled on legal individualism (2006; for this argument in the African context, see Clarke 2009). He raises the uncomfortable reality of tacit bystander support for genocidal military policies in the 1980s, and more active alliances between businesses and military. In this discussion, Torres-Rivas focuses mainly on convincing those whose privilege has insulated them from the major impacts of the war to take on some collective guilt, arguing that this does not preclude individualising responsibility for some: for example, pursuing those who ordered genocide and war crimes in a court of law, the so-called 'intellectual authors' rather than just the 'material authors' who had so far borne the brunt of legal efforts (Torres-Rivas 2006).²⁰⁰

Maria Baquero raises the complications of victimhood and complicity within a story about a widow she calls Doña Juana. This particular woman had been instrumental in encouraging and gathering other women from the community to testify for the CEH:

We went to her house once, and she had all these women standing, sitting on benches in her house, in her hut, and, when my colleague finished the interviews and I came in to sort of thank her for her time and, you know, ask her if there were any other questions [...] and there's a picture ... of a Kaibil on the wall, and he's holding his gun right, he's like all painted...[inhales] and she notices us looking at the pictures, and she says, 'ooh,

²⁰⁰ Hayner notes this dynamic of prosecution in Guatemala but also across a range of transitional sites, including Haiti, Uganda and Rwanda (2002, 89).

you know that's my, that's my son in law. Kaibil!' you know, and she was very proud of him [laughing] and she had, basically an awful [experience during the war]... *clearly* this was one of the perpetrators [...] the elite force of the military, very brutal in their techniques. When you heard the Kaibiles had gone through a village you knew you were going to hear some really, I'd heard of things, like impalings, public impalings...like public impalings of village elders [tapping table for emphasis] of the religious leaders, spiritual leaders, public raping of village elders, things like that...and while they're getting their necks slit, I mean like really heavy duty public displays of violence, obviously to inject terror, so well-studied, you know, well-polished techniques. [...] He was representative for *us* of the perpetration of the violence, but for her...you know, her daughter had married this man and she had a picture of him on the wall with his gun hanging over his head and she was very happy about it (Baquero 2012).

For Baquero, this example illustrates something more profound about the war's aftermath in Guatemala and the possibility for understanding personal agency, even within spectacular forms of victimisation:

The ways people negotiate those notions are very different, and I think, from my perspective that was earth-shattering, because I, not only had I not lived through that violence and come out the other end, but I had also no sense that it could be done that way. That...those ways of coping and seeing reality and seeing history were possible.

She frames these reflections within the language of choice:

I think people choose. Choose definitely how they deal...people, make choices, people you know, suffocated their children in the forests when they were hiding and they felt that the army was close-by, the baby started to cry and there were forty people hiding, the baby died, you know, they would they would cover its mouth until it [inhales]...people chose, and they were very cognizant of that choice and they would say, 'I chose.' They might cry but they would say 'it was, it was the baby or it was all of us, and it couldn't be....' So people chose, some people chose to flee, some people chose to stay, you know... I think ...it was very complicated"(ibid).

Conclusion

The REMHI and CEH took place in a particular historical moment when human rights were undergoing multiple shifts, both towards a fuller accounting for women's and indigenous people's rights, and away from the most extreme forms of positivism as requisite methodological approaches for legitimate human rights documentation work. Being perceived as objective is the hallmark of a particular moment in human rights work, but for a range of workers in the CEH and REMHI processes, this notion was often a poor fit for doing work in solidarity with those who served as witnesses to the brutality of the war. At the same time, participants recognise how this discourse of objectivity functions to bolster credibility and to authorise speakers and

knowledge producers in such work, often shaping institutional approaches to expertise and staffing, for example in reproducing existing social divides in tasks of testimonial and analytical labour or in supervisory roles.

This chapter demonstrates how the initial methodological frameworks of the REMHI and CEH created dilemmas for those who were committed to a just rendering of the conflict, but who acutely recognised the tensions between the competing imperatives of the work. Attempting to document atrocity while maintaining a narrative of social protagonism is a difficult task, made more complicated by the range of divergent positions on the best way to proceed. In both Chapters 4 and 5, participants demonstrate how such methodological limitations pushed workers to advance some of the most innovative aspects of these projects, including the incorporation of violations not foreseen at the beginning (such as sexual violence, violence against children, death by forced displacement and genocide), the relatively major role assigned to historical analysis in the final reports, and the inclusion of more qualitative field data in reports than originally planned. In these efforts, the initiative of workers, and the support and flexibility of those in charge was often crucial. Making visible the struggles and triumphs of the intermediaries between testimony and ‘data’ shows the unpredictability of almost all aspects of the truth-telling process, and the human energy and ingenuity that contribute to what in the end becomes a seamless report. In the next chapter, I continue to discuss the experiences of workers, with a focus on the embodied and emotional impacts of this intense work, both on workers and on the knowledge that is produced.

Chapter 6: Emotion, subjectivity and urgency praxis in rights-based knowledge production

Urgency praxis and “bowling straight ahead”

As is evident in the experiences of workers throughout this project, human rights-related work in Guatemala demanded a high level of personal and political commitment. In various sites, psychologists, former workers and participants have recommended more attention to vicarious traumatisation and post-traumatic stress disorder (PTSD) as potential effects of this work.²⁰¹ This has resulted in more supports for those at the frontlines than was generally available when the Guatemalan truth-telling processes were operating.²⁰² Documenting and treating exhaustion and vicarious traumatisation is important in itself, especially since Hamber and Wilson have indicated that psychosocial support in such endeavours has been “woefully inadequate” (Wilson 2003, 372; more recently, see Zolkos 2011, Hamber and Gallagher 2015). However, how this emotional context shapes the *products* of such work has not often been the focus of research in the social sciences. In the preceding chapters, I have demonstrated how human rights-based forms of knowledge production encourage the visibilisation and circumscribe the speech of a particular type of victim, and that in efforts to support the justice claims of survivors of sexual violence, workers in various sites have diligently exposed the forms of sexed victimisation that are legible within those frames. They have also pushed to expand how gendered violence is understood, and run into a range of representational problems within a human rights discourse that is still structured around gendered conceptions of objectivity and rationality. These framings pose additional problems for representing other historical forms of agency and militancy, as illustrated in the previous chapter with respect to the circulation of constructs about the ‘innocence’ of indigenous people in Guatemala and in the division of labour in these processes.

Examining workers’ negotiations in rights-based truth-telling can underline the importance of other frameworks also in use in Guatemala, particularly that of historical memory.

²⁰¹ Clinical work on this issue among psychologists, social workers and other frontline workers has provided additional names for the different dimensions of this issue: secondary traumatic stress, shared trauma, indirect trauma, compassion fatigue and burnout. See especially Hensel et al. 2015, Knight 2013 and Tosone, Nuttman-Shwartz and Stephens 2012.

²⁰² Frontline psychologists were more widely available at the TRC in South Africa. Trained staff called “briefers” attended mainly to the witnesses testifying during the first phase of the commission, and sometimes others, though less often for the workers who took testimonies or performed other tasks. See Hamber 2002, Hayner 2002. Various sources have outlined the vicarious traumatisation of journalists covering the public hearings (Krog 2000) and of database workers (Hayner 2002, Wilson 2003).

In these struggles to adequately attend to those who have suffered and seek redress, without reducing the task only to documenting signs of harm, workers such as those in my research have tried to close the gap between the tragic “victim-subject” of human rights discourse (Kapur 2002, McAllister 2013), and the more complex human agents before them. As a process born out of solidarity but often effected by instrumentalising tools based in other logics, the effects of such negotiations are complicated. This chapter is grounded in the experiences of intensity, stress, illness and exhaustion that permeate workers’ memories and drove their work in the CEH and REMHI. Instead of seeing the emotional context as something that must be overcome in order to do truth-telling work properly, participants show how it played a key role in constituting both the tasks at hand and the knowledge that emerged. In attending to victims and their stories, the various representations of harm, victimisation and historical agency discussed in previous chapters are one product of these processes. Another product that I will examine in the current chapter are the ‘selves’ that emerge from this work. I highlight constructs from interviews that focus on selflessness and self-effacement (or taking up less space); and deferral, a continuous shifting of focus back to the ‘real’ or ‘worst’ victims, manifested in the frequent re-telling of other people’s stories, ambivalence towards praise or recognition, and the ubiquitous minimising of participants’ own physical and emotional struggles throughout the experience of working in these processes.

From these shared experiences, I propose the concept of urgency praxis to highlight the links between the political and emotional context and the particular form of knowledge production that predominates in truth-telling and human rights work. As explored below, the unremitting urgency of the work of documentation, its magnitude, the intensity of the material and the pace of the work mean that for many workers, “the only way you can get through is to... bowl straight ahead,” as Mersky puts it (2012). “Bowling straight ahead” is a coping strategy as much as it is a practical response to the impossible tasks at hand. It implies little time to deliberate or doubt decisions made in the work. It also highlights the difficulties inherent in effecting changes in the established methodologies or categories used by such processes when the stakes are so high and there is so little time for reflection. With the concept of urgency praxis, I aim to create space to understand representational decisions as always already strategic, imperfect efforts to do the best possible work with the resources available, in the heat of the moment. It can help to explain the strategies employed by feminists in the international legal

arena as they chose to organise around the inadequate but highly visible category of ‘rape’ (see Ch. 2) as well as in the REMHI and the CEH when workers highlighted the ‘worst’ forms of gendered and racialised victimisation, hoping for maximal exposure in the reports (see Ch. 3,4). It can also be used by those who resist feminist advances, framing other purportedly ‘universal’ violations as more urgent priorities.

Beginning with a short discussion of theories of embodiment, emotion and affect, and a reflection from my own experiences in feminist crisis work in Montreal, this chapter provides a broad overview of the physical and emotional intensity of rights-based work in CEH, REMHI and other processes as remembered by these workers. The chapter aims to draw out how rights defenders understood and lived issues of embodiment and emotion in this work, which along with earlier material in the dissertation develops the conceptual framework of urgency praxis. In the latter part of the chapter, I discuss the continuing problem of burnout and exhaustion that persists in the human rights and antiviolence movements in Guatemala today, which may contribute to a broader short-circuiting of feminist advances within other processes. Burnout is a risk for all workers, but due to a heavy burden on individual feminists in non-feminist institutions, feminist burnout has been a particular feature of this work, which impacted not only individual workers but also the capacity for successive processes to follow through on issues of gender violence, instead reinventing the wheel (or ‘re-breaking’ the silence) at various stages. The examples in this discussion include the peace negotiations, the REMHI, the CEH and the PNR.

Conditions that necessitate urgency praxis raise challenges for feminists trying to carve out spaces for their own protagonism, and illustrate particular ways in which human rights work is always already a gendered process. As problematised here, this form of coping and knowledge production, remembered as a feature of the intense and exceptional REMHI and CEH projects, has in some ways become institutionalised in the context of impunity and ongoing struggles for any form of accountability and meaningful memory. The chapter concludes with reflections from a number of rights activists on maintaining personal and political sustainability in the face of neoliberal impunity.

Feminist genealogies of emotion and embodiment

Richard Wilson argues that scholars must pay more attention to the connections between the “emotional lives of those involved in human rights activities and the way human rights texts represent violations” (2009, 220). He argues that such texts are structured around practices that maximise the impression of objectivity and authority, so that individual workers and their various subjectivities and mediations tend to be rendered invisible, making testimony the only visible form of subjectivity in rights reports (*ibid.*). While Wilson’s analysis is not explicitly feminist, the agenda he proposes for research has heavily influenced my own work here.

Emotion has long been posited in Western and colonial knowledge systems as inferior, bestial, and feminine. When such systems aligned emotion with feminine hysteria, embodiment, disorder and irrationality, they also produced an idealised flip side: the disembodied, ordered, rational, sovereign self (Schiebinger 1991, Grosz 1994). This self was framed at once as universal and as masculine, in a foundational contradiction that feminists would spend centuries challenging. It has formed the bedrock of many forms of exclusion on which modernity was built, including the public-private divide. This idealised rational subject has also been subjected to protracted critique from colonised groups and others too often overdetermined by distorted ideas about how their bodies preclude full participation in political and social life. This dehumanising tendency has historically limited access to idealised modern rationalities and the various forms of social power and belonging that have gone along with them, such as citizenship (Spivak 1999, Mohanram 1999, Razack 2002, Ahmed 2004). In recent decades, scholars in the social sciences and humanities have effectively shifted away from postures of disembodied rationality, deconstructing the Cartesian dualism between mind and body, challenging the constitution of scientific knowledge as “objective,” and foregrounding the influence of emotion and subjectivity on everyday life and in systems of power and oppression. Writing the body and emotion back into more positivist areas of inquiry has occurred in various disciplinary and interdisciplinary frameworks—for example, some scholars work on “embodiment” (Butler 1993, Grosz 1994, Shildrick and Price 1999), the “sociology of emotion,” (Bendelow and Williams 1998, Hochschild 1998), the “spatial turn” (Razack 2002, Massey 2005) or “affective turn” in scholarship (Ticineto Clough and Halley 2007, Gregg and Siegworth 2010). Affect theory has been of particular interest in recent scholarship.

As social theorist Michael Hardt indicates, the innovation of affect theory is its synthesis of work on body and mind, reason and passion. Affects “illuminate, in other words, both our power to affect the world around us and our power to be affected by it, along with the relationship between these two powers”(Hardt 2007, ix). Though academic approaches may recently have crystallised in this theoretical framework, I draw on a diverse genealogy of scholarship that does not always use the vocabulary or precise theoretical orientations of affect. This scholarship includes interdisciplinary studies on trauma and testimony (Ball 2000, La Capra 2001, Edkins 2003, Cubilié 2005), antiracist and postcolonial theory (Lorde 1984, Mohanram 1999, Spivak 1999, Fanon 2008), queer melancholia (Butler 1993; Cvetkovich 2003), materialist feminist theory on emotional labour and care-work (Luxton 1980, Hochschild 1983, Guy, Newman and Mastracci 2008, 2012; or alternatively, “immaterial labour,” Hardt and Negri 2000) as well as both clinical and activist discussions about self-care and burnout (Arches 1996, Baird and Jenkins 2003, Guy, Newman and Mastracci 2008, Mena and Vaccaro 2011, Tosone, Nuttman Shwartz and Stephens 2012, Knight 2013, Valenti 2013, Hensel et al. 2015).

This wide range of scholarship generally shares critical interest in what emotions do in the world: how they impact work, politics and representational practices, and the subjects that particular emotional contexts produce. My approach in this chapter has been to take up questions of emotional labour, subjectivity and knowledge production in transitional justice and human rights work, by drawing on this broad genealogy, but foregrounding my interview participants’ understandings of physical, emotional and political experiences.²⁰³ While this scholarship displays a varying commitment to analysing the close connection between women and care-work or emotional labour, in my view they are inseparable discussions rooted in feminist analysis of the fundamentally gendered, racialised and classed dimensions of power in the Western world.²⁰⁴ Many forms of public service and frontline work demand high levels of empathy, but also the

²⁰³ There is still significant debate among theorists over the difference between the terms “affect” and “emotion.” This is not a claim that they are identical, but rather a recognition of the overlap of various forms of work on emotion and its social and political functions. See introduction to *The Affect Theory Reader* for distinctions and affinities between such approaches (2010). For an approach that corresponds more with my intentions, see the recent work of Cheryl Suzack (2010), as well as Ahmed’s *The Cultural Politics of Emotion* (2004).

²⁰⁴ In their US study (which included 911 operators, social workers and police officers), Guy, Mastracci and Newman found that women are still concentrated in “emotion work” and exert more emotional labour than men who do the same jobs (Guy, Mastracci and Newman 2008, 92). The ability to recognise, manage and often suppress their emotions is key to their work, but often undervalued and unrecognised in an economy where physical and cognitive labour are more easily quantified (8). The authors outline how pay inequity is the penalty for emotion work (136), and since caring is naturalised and essentialised as a feminine attribute rather than a skill, the gender divide in caring and emotion work is perpetuated in the wider economic structure (161).

capacity to manage and often suppress emotions. Such work often exposes workers to traumatic situations and to the secondary or indirect trauma inherent in supporting others. Human rights work has its own set of challenges, but much of the literature on emotional labour, care-work, vicarious trauma and burnout is relevant to the experiences of participants in my research. In particular, caring deeply about particular people and issues is often the flip-side of work in which control of one's emotions is a key asset. Workers involved in emotion work "worry that work is hardening them emotionally," (Guy, Mastracci and Newman 2008, 96). As the authors of a major study of public servants assert, "[i]n order to burn out, a person needs to have been on fire at one time" (Guy, Mastracci and Newman, 104).

Since this dissertation draws from the experiences of activists and functionaries who have expressed interest in my final analysis, I have deliberately chosen to work as much as possible in terms and expressions that were generated by them, with the intention of communicating the fruits of this research to them and other practitioners who might be best positioned to consider its relevance (or not) to their past and current practice. This does not indicate a dismissal of relevant theoretical frameworks. However, I share the misgivings of many feminists who have debated the utility of theoretical language that is inaccessible to those whom it describes (see especially hooks 1984), and interrogate the differential value and prestige assigned to 'pure' versus 'applied' knowledge, when feminist approaches to praxis have long undermined any clear demarcation between such categories.²⁰⁵ Feminists are only some of the groups fighting for social justice who have created their own set of terms to describe experiences of marginalisation that have been invisible in mainstream legal and social discourse (and, notoriously, spellcheck).²⁰⁶ But as illustrated across the work of a range of luminaries, writing about the complexities of oppression, resistance, embodiment, emotion and desire does not have to mean creating particularly inaccessible texts.

As indicated throughout this dissertation, I examine human rights struggles around sexual violence as discursive sites where practice helps to produce the categories of violations and identities of various actors. One important component of this practice-based approach is the

²⁰⁵ See Lock Swarr and Nagar, 2010 on a transnational feminist approach to praxis. Halberstam adapts from Stuart Hall the term "low theory" as a way, along with popular knowledge, to "explore alternatives and to look for a way out of the usual traps and impasses of binary formulations (2011, 2). See also hooks 1984, Lorde 1984, Smith 2005.

²⁰⁶ This includes terms for many forms of sexual violence that are now often taken for granted. For example, "sexual harassment," "marital or conjugal rape" and "rape as a weapon of war" are all relatively new products of this form of creative visibilisation. A memorable seminar by Cynthia Enloe in 2006 outlined this question for me early on in my graduate studies. See her discussion in Enloe 2000.

notion that sites of human rights defense, and by extension, transitional justice, can be sites of subject formation for a range of actors—those giving testimony, those receiving and analysing it, and those members of the public, states and militaries who read the reports or consume related products such as media reports. Transnational and antiracist feminist work contributes indispensable critiques of how members of dominant groups form their subjectivity in relation to others whom they want to “help,” in policies and practices as diverse as antislavery activism, colonial governance, development and humanitarian relief, human rights campaigns and documentary film production (Mohanty 1984, Ware 1992, Spivak 1993, Mohanty and Alexander 1997, Grewal 1999, Ahmed 2004, Hesford and Kozol 2005, Heron 2007). Before the concept of human rights existed, humanitarian appeals already used powerful moral constructs to effect particular responses in their target readers and respondents. One of the enduring contradictions of the modern human rights regime is that while it was intended to be universal, rational and objective, its defense was often steeped in emotional appeals, religious motives, and moral arguments. Feminists operating across borders and human rights defenders continue to make use of the discursive frameworks employed in those earlier times.

Being and becoming subjects is an emotional process. Rights defenders’ investments in the figure of the rational, disinterested worker vary widely, but most rights defenders I encounter in the Guatemalan context have passionate stories about how and why they are dedicated to this work. However, most indicate how frequently the actual work of rights defense pulls them back towards the performance of the rational, objective self, outwardly performing what Hochschild has called “emotional asceticism” (2001) in order to attend to those whose suffering seems more acute, and fitting testimony into existing constructs of the traumatised, hyper-embodied, hyper-subjective victim. In contrast with this traumatised figure, workers are structurally nudged to continually position themselves outside of victimhood. ‘Putting the victims first’ through highlighting their testimony helps to keep focus on the ‘worst’ violations of the war, but in the process it also produces another subject—a self who is selfless.

In his ethnographic work on Amnesty International, Stephen Hopgood outlines the characteristics of the ideal Amnesty worker in the twentieth century: “voluntarism, individualism, practicality, self-discipline, self-effacement and moral import”(Hopgood 2006, 2). A similar framing is echoed repeatedly in the UNOPS report’s laudatory comments on staff

dedication in the CEH process. It states that when it was clear that the CEH was understaffed and working on a seriously restrictive timeline,

personnel responded enthusiastically to the massive public participation: the majority of staff worked with little rest, including nights and weekends, in order to attend to the greatest number of people. The importance and the very difficult subject matter of the CEH's investigations, and especially the human relationships that developed between the investigators and the public, meant that staff voluntarily took on the extra work loads with great dedication (UNOPS 2000, 30).

Further in the report, these laudatory claims continue:

[The work] required special physical and mental strength from investigators, who worked an average of 12-16 hours daily, often including weekends. Listening daily to the horrifying testimony and witnessing the profound suffering expressed by the people testifying was extremely taxing emotionally for the investigators. This extra emotional burden, in addition to the demands of the rest of the work, was exhausting, although usually it did not prohibit the investigators from completing their tasks. To the contrary, many investigators commented that, motivated by the testimonies, they were increasingly convinced of the enormous importance of the work to be carried out by the CEH, which in turn enabled them to continue, despite great physical and emotional strain (UNOPS 2000, 45).

The dedication of workers is not at issue in this project. Rather, my analysis focuses on its meanings and effects, both personally and politically. As interview participants will underline in this chapter, working to one's own physical and emotional limits in the REMHI and CEH was less the product of an identification with the unemotional, impartial humanist martyr of Hopgood's Amnesty, and more about the deferral of self as a form of solidarity and "ethical witnessing" (Cubilié 2005). Below, I discuss how this displacement or deferral of self functions in conditions of urgency to sustain important work.

Displacing ourselves for the Other

I have never worked on a truth-telling project, and to some extent the dynamics described in this dissertation are unique to such work. Yet the further I went in this research, the more I was able to identify my own experiences in social movements and organisations within the dynamics of described by my participants. This was most evident in my own work on sexual violence. Starting when I was 20, I became heavily involved in crisis intervention work at SACOMSS, the sexual assault centre at McGill University. I threw myself into a set of practices that addressed the need to 'do something' which I felt was neglected in my formal education. It also brought me

into the fold of feminist collective organising. It is hard to overstate the impact of this experience, on my teaching and research, as well as on how I understand friendship, family and social justice. As an all-volunteer organisation with a shoestring budget from a student levy, we sustained a phone line, support groups, legal education, accompaniment and other services. We trained each other, researched and updated our own resources and operated on a non-hierarchical model, all while the university administration refused us permanent office space and continuously underplayed the prevalence of sexual violence on campus. As the only English-language service of its kind in Montreal, and to the general consternation of the university administration, we served not just students but everyone who asked for our support.

Within close memory of the Montreal massacre,²⁰⁷ the crisis branch of the centre required confidentiality of volunteers, meaning we could not tell anyone where we volunteered, ostensibly for reasons of security. Perhaps this confidentiality protected some of us from backlash, but it also made it difficult to find adequate emotional support. A good number of volunteers were survivors, and almost everyone was a full-time student, often also working a part-time job. We attempted self-care and mutual support, but many of us became burnt out and emotionally damaged. Yet walking away seemed like a failure. Who were we to shirk this responsibility? Everyone knew how few supports there were for survivors, and even fewer that operated with a feminist, non-interventionist model. The rate of sexual violence was certainly not decreasing whether one went by official statistics or the level of demand for our services. The problem was urgent, and the solution we could offer deceptively simple. It merely required everything we could give, all of the time: a displacing of ourselves in order to adequately hear and accompany others.

The stories I heard working on the crisis line are mainly still with me. I would go home after night shifts, and dreams of other people's terror intermingled with scenes from my own life.²⁰⁸ Sometimes, unpredictably, when I hear the distinctive ring of the brand of office phones

²⁰⁷ In 1989, failed applicant Marc Lepine burst into the engineering faculty of the École Polytechnique in Montreal and after separating out the men, killed fourteen women students he perceived as responsible for taking his place in the school, explicitly identifying them as feminists. The event was taken as a wakeup call around gender violence and spurred policy reforms, including a gun registry and the most broad-spanning study to date on the prevalence of violence against women (Johnson and Dawson 2011).

²⁰⁸ See McAllister (2013) for a similar discussion of the impacts of her experience following war-related testimony work in Guatemala. Though vicarious traumatisation is one way to frame such issues, in this project I focus more on their representational effects than on the harms they cause to workers, an approach also reflected in McAllister's work. This is not because I am unconcerned but because I am still building my knowledge base on the more clinical side of these questions.

we used, my heart leaps into my throat. At a recent reunion in a downtown park with volunteers of that era, many of us expressed incredulity, but also pride, at how much of our lives, our entire selves, we had poured into the centre. In different ways, the work had left its mark on our personalities and career decisions. We sat on the grass, our cheerful picnic strangely incongruous. It felt like no time had passed, as though we had been through something larger than life that would bind us for a long time yet.

I have noticed some interview participants in this dissertation project process their experiences in a similar way, but I am not implying some automatic equivalency between the above experience and my research participants, and do not intend to appropriate the suffering or the labour of others as my own. As outlined in critiques of ‘global sisterhood’ and the rescue politics inherent in the spectacularisation of suffering in the Global South, feminists in the North must attend to the complexity of the spaces and power relations between ourselves and others (Mohanty and Alexander 1997, 2010, Grewal 1999, Spivak 2000, Waller and Marcos 2005). Just as identifying as a woman does not mean one can understand all the experiences of women, or that some form of experience with sexual violence (personal or professional) does not guarantee a barrier-free empathy with all survivors, so some feminists do not have an automatic affinity with others. Differences between us are not erasable with universalist credos. Yet perhaps the hardest, slowest piece of transnational feminist work is refusing to take the acknowledgement of difference as an impenetrable and permanent wall between people with different life experience and different forms of power. How to avoid homogenising gendered oppression, while still fighting it? Resisting both a natural feminist “we,” and an irreconcilably unknowable “Other” can reveal at least the potential to think about this difference, this “border or boundary as a zone that deconstructs itself through historicization” (Kaplan 1994, 150). Longer term critical engagement that assumes neither total otherness nor total sameness can perhaps lead towards more contingent forms of solidarity (Grewal and Kaplan 1994).

In other words, my crisis experience has served as a cautious entry point for me into the discussion of emotional labour in transitional justice and historical memory work. There are parallels between the work examined here, and the broader range of rights defense and feminist accompaniment work effected worldwide, and particularly in the context of neoliberal globalisation, such parallels must continue to be explored as the basis for meaningful forms of transnational solidarity. At the same time, social and historical context cannot be minimised in

building these linkages. Though the front-line-ness and some of the competencies and demands may be similar, two key differences emerge immediately that make it easier to see how these experiences do not map directly onto one another. First, while crisis line workers in Canada are performing work that may not have the support of everyone, it enjoys a level of acceptance that does not pose a significant threat to the lives of workers. Those who have worked on human rights issues in Guatemala and elsewhere in the region have no such illusions and the level of personal danger assumed by workers is a constant.²⁰⁹ The second issue is that the type of crisis work I performed aims to provide support to survivors, while the work of rights defenders in this project may include both goals of support and of documentation. This was especially true in the REMHI. This dual role greatly increases the stakes and personal accountability in the work, and it continues to take its toll. Yolanda Aguilar's analysis is particularly cogent:

I believe that no one can work on genocide, just as no one can work on sexual violence, without being profoundly moved and wounded. [...] I believe that the human rights and feminist organisations, all the organisations of this country have to heal! It's...it's terrible, but we have dedicated our lives to giving to others, and the people who want to change the country are what has not changed. [...]If you're Guatemalan, and you've lived, and you've been suckled on the political history of this country, of suffering and pain and agony, and of, 'I'm a victim'...there's a profound culture of victimization in this country, very profound. So I believe in trying to change this culture. But this culture doesn't start only with victims, or with the people who survived the violence, but basically, the culture is reproduced inside of rights organisations. Because we are so used to feeling so badly, always, that [we act as though] organisations don't have the right to be better (Aguilar 2010).

This chapter now explores these dynamics through the experiences and reflections of rights defenders in Guatemalan truth-telling and historical memory work.

“Feeling so badly” but “nothing really serious”: Intensity, illness and stress

Some parts of my interviews with former REMHI and CEH workers were more informational, seeking background on logistics and day to day operations of these massive processes. When I turned to areas more concerned with feelings, some participants remained comfortable while others were more reticent. Given our relationship as relative strangers, this is completely understandable. But when people began talking about the emotional and embodied aspects of the

²⁰⁹As documented by the work of UDEFEGUA, the Guatemalan organisation that defends the rights of rights defenders and documents threats and acts of violence against them; further, numerous interview participants note a sharp increase in acts or threats of violence to their staff when they began to work on the issue of sexual violence during the war (e.g. Paz Bailey 2010).

work more intentionally, the reflections that emerged are among the most vivid descriptions in the interviews. Often the physical and emotional effects of the work are remembered together: people's discussion of physical illness, emotional disturbance, exhaustion, intense urgency and ad hoc-ness meld together. Sergio Pivaral remembers the single-mindedness and obsession with which many CEH workers lived their lives for the duration of their participation:

I lived during that time with my girlfriend, my *compañera*, who also worked in the CEH, and...yes...there were moments in which...our life when we would get together with others from the commission, outside of office hours, was to always talk about cases. 'In such and such massacre this happened,' [...]from Huehuetenango to Guatemala for example on the highway--at that time you took between six and seven hours--sometimes we would spend the whole trip talking about these kinds of things [laughs] (Pivaral 2010).

He remembers once leaving Huehuetenango in a car of field researchers and making a pact not to talk unless it was about something other than the war and the work they were doing: "We easily spent two hours without talking, three or four people in the car—it was a type of, of obsession you had with the theme because it's what you were living day and night, no?" (ibid).

Nora, who worked in the capital, remembers a year and a half of intensity:

Oh my God. It was so intense... I lived in Zone Two and the *sede* [headquarters] office was...right across the street. Just to give you an example, in Guatemala City at about eleven o'clock at night the street lights start to flash. And there were, I think, weeks, maybe even months, where I never saw a regular street light. I only saw flashing street lights [laughs]. Basically, you know, I would...get home about eleven or twelve at night and be back at the office at like, eight the next morning. Every day, seven days a week (Nora 2011).

Just as frequent are participants' quick dismissal of these intense embodied experiences through comparisons both with other workers and victims. As with most participants who outlined the intense workload, Nora stresses immediately that this was across the board and that there was nothing unique about her dedication:

everyone—it wasn't just me, I'm not saying I was more dedicated than anybody else—everybody was working like that, especially the people in the field offices. I mean, they had a job that was like super-human really. Because they had a lot of physical demands. I mean, they were like, hiking out to *aldeas* [villages] and stuff (ibid).

Some people talked about the regular challenges that can be expected when working in rural areas. Carlos Amézquita remembers:

Due wholly to sanitary issues, yes, it was hard, there were moments in which we found

ourselves...for example in Chiapas...in a couple of workshops that we went to give, the whole community got sick, and we did too! [laughs] Really seriously! Then there were some really intense experiences of illness, things like that, and having serious difficulties getting out of the area. But apart from those experiences which are basically the same conditions in which people were living...nothing really serious (Amézquita 2011).

Here he echoes Nora's claim that such experiences were just like everyone else, that there was no sense complaining about the hardships he experienced as a worker. Several participants report the feeling that illnesses had been caused by working on the CEH, even when they acknowledge that such claims sometimes sound a bit superstitious. Nora reveals:

I just had cancer. And the doctor told me I could have had my tumor for, like, I don't know, years and years. So my hypothesis is that I started then [laughter]. But I don't know, I mean that's crazy, I don't know where I came up with that. [...] But I think a lot of people had physical things. You know, I think the trauma, not the trauma, but the stress of it [...] Marcie and I used to talk about this, what people did with the trauma in their body (Nora 2011).

Marcie Mersky vividly describes how draining the work was:

I used to say...I had used up every ounce of energy in my being, down to the bone marrow, that there was not even bone marrow left and that every morning ... it was like starting a car on empty so you put in the gas and you only had enough gas money for the day basically [laughs] and so I can get enough...energy to sort of make it through the day but there was nothing extra, and that it actually took a while, it took a couple of years [laughs] to feel like...I was kind of normal again, had normal energy levels... and I'm absolutely convinced that it has taken years off of my life, that I will probably die younger than I might have and that...it did permanent damage to my brain cells. Often times I've said that...working on historical memory, I lost my own. There's just so much adrenaline or whatever...*angst* that goes into it... [Getting back to normal] took a really long time, it was a sense that I had nothing left down to the marrow (Mersky 2012).

Working in the field required people to be permanently prepared to deal with unexpected people and situations. Though sometimes this involved defusing the potential for violence when workers were unwelcome in local communities, others who were expected to be allies to the processes could also pose problems. Maria Baquero recounts a heated interaction with an anthropologist who arrived to film the forensic anthropology team for a documentary, and wanted to film the community testimonies taking place at a major exhumation site, without going through any ethical review process or getting permission from the CEH. Baquero adamantly refused and essentially recalls putting herself on the line to protect the rights of the witnesses, despite threats from the anthropologist that "I know your boss" and "I can get you fired." Then,

that night I went home and I got really sick. And my fever went up to like Fahrenheit 103, 104, the next day I couldn't get out of bed. I leave with my colleagues and I say 'go to work, I can't, I can't get up.' And I was two days in bed. I didn't really know what time it was, what day it was. And I said to one of my colleagues... anecdotally, just to give you a sense of ...we were maybe losing our marbles at that point, I said, "I think she gave me, I think this woman gave me *mal de ojo*"[the evil eye] because it was right after this happened and I started falling apart and getting sick. It turned out I had ...Hepatitis A and was coming down with a fever and I turned yellow. It wasn't her fault, but it was a moment in which I ...they of course all made fun of me, but for the first few days I said 'this is something, this woman is ... such a nasty person she somehow ... you know...put the evil eye on me and I'm sick.' As it turned out, I just had hepatitis, it wasn't a big deal. [...] My immune system was ... you know... depleted by the stress (Baquero 2012).

Again, here she claims that a serious illness "wasn't a big deal." Others also remember interconnected embodied and emotional effects. Yolanda Aguilar became bedridden during and after her work on REMHI. As she describes, her small team struggled against becoming overwhelmed by both the magnitude of their task and the traumatic nature of the material:

I realised that the profound pain that I had inside of me was not only my pain, but the pain of all the women of this country, of all the women who have passed through similar experiences. And so it was ...a profoundly painful, profoundly devastating experience, so I wrote...five pages? We could say that the time extended and I stayed 15 days in bed, because it was so intense, it was *so intense*, it was describing in the experience of other women my own personal experience. But also, putting on the table...all the pain of this country, through women (Aguilar 2010).

At the same time, Claudia Estrada remembers that she and Yolanda Aguilar often had the task of providing emotional support to pastoral workers who had been collecting testimony in the countryside. These examples show both how people deferred their own needs until a crisis point, and also how they now remember this intensity in contrast with others whom they believe had it worse.²¹⁰ As discussed below, such framings are also evident in responses to the threats against workers on these processes.

Risks and threats: "This is what happens when you investigate the past..."

The REMHI spanned the pre- and post-peace accords era, while the CEH emerged in the beginning of the peace era. This period is remembered as both a jubilant time where many hoped for major change, and a series of disappointments in the failure of the still militarised state to

²¹⁰ Hayner's research in South Africa (2002) identifies a similar construct of "I'm not as bad off as them" within some victims' groups (see discussion, 148).

take up a peace agenda and the failure of a referendum to approve an abbreviated version of the peace accords (Jonas 2000). In many cases this disappointment has only been magnified in the interim. Threats against REMHI and CEH workers have been documented in various sources.²¹¹ In interviews, it was difficult to get a sense of how commonly threats were experienced by individuals. As Baquero states earlier in her discussion of the frequent intimidating phone calls to the group of women she lived with, some Guatemalan colleagues likely chose to minimise or make light of threats they received as individuals. She continues:

throughout I think many of us felt that this work was extremely tenuous and very... dangerous to an extent--dangerous for what it was saying, not so much---I mean, yes, we were careful and, but there was...there was a lot of push-back [against serious security measures]" (Baquero 2012).

However, many participants recall the assassination of Bishop Juan Gerardi as an open threat to human rights and historical memory work at the time. Despite an early perception that "there was a sort of *entente* between the army and the guerrilla precisely because they had just signed the peace accords," Sergio Pivaral is clear on the message sent by the Gerardi assassination:

What bigger threat could there be? [Right] when the CEH had started collecting its information, which coincided with the presentation of REMHI's final report by Mons. Gerardi, who was assassinated afterwards, as you know, by state agents, members of the EMP [presidential guard], with...blows to the head. So what greater threat could there have been to the work of the CEH than this, if you see, 'this is what happens when you investigate the past'? (Pivaral 2010).

Baquero adds to this reflection:

[The assassination of] Gerardi was a surprise and it was a tragedy, we didn't think that someone like that could be touched. I don't know whether Gerardi's death emboldened the commissioners in any way [...] I think it was the first [exhales]...it was the first event...that was announcing the violence that was to come[...] in retrospect, sure... of course you know, everyone still had guns, and the violence, and unemployment...but when you're at the, in the moment, you think that can't, not that it can't happen but that it won't, that things will be different, and there was...a lot of hope, and I think Gerardi's death, you know, foretold everything that came after. [...] I think we all knew that people followed us and were, you know, our REMHI colleagues had had even less protection than we had... and we knew that, you know, certain things had not changed in Guatemala, but we didn't think that was possible, killing someone of his stature (Baquero 2012).

²¹¹ See for example the extended discussion in the ODHAG follow-up report on the REMHI (2008) documenting attacks and threats to workers in different participating dioceses, including a case of rape (42-3).

Gerardi was certainly the most prominent victim, but assassinations of other members of the social movements continued into the peace era. Guatemalan anthropologist Myrna Mack's assassination had dealt a heavy blow, and was incorporated into both REMHI and CEH reports.²¹² Before the shattering and tragic setback of Gerardi's murder, Carlos Amézquita remembers REMHI receiving many threats, most of which were attributable to the army, "but not all of them. There were people in the Church who were against the work we were doing" (Amézquita 2011). Amézquita recalls that the status of REMHI workers, particularly those who crossed into Mexico, could be tenuous, because the members of the Church who supported them were also under surveillance:

Yes, we had...ok, over there [in Mexico] we had the support of the Jesuits who did have the formal authorisation of the Mexican government, though always under heavy suspicion, right? I'd go from Guatemala to Merida, [on my way to] the camps, and arrive in Campeche for example where the Jesuit bishop had his offices, and from there we would travel with them, in their cars. We never had a serious security issue. Though we did have [chuckles] the information that we were carrying sometimes were very heavy testimonies, but I think this all had a lot to do with your personal attitude, right, of not noticing the tension and not drawing the suspicion of the Guatemalan authorities (Amézquita 2011).

One common thread in recollections of field work for REMHI and CEH was the need to always be alert, even if most of the time nothing happened. Some threats were made and never carried out. On the CEH, Pivaral recalls, "yes, we were threatened on a few occasions, bomb threats in the Huehuetenango headquarters that never materialised, right?...against me personally, no" (Pivaral 2010). Other threats were manifested physically. Baquero recalls being in a car accident that was the result of tampering:

I was driving, we drove these huge land cruisers, and um, I don't know whether you've ever been to that area of Guatemala around Chichicastenango, there's lots of hills and lots of curves, which are dangerous, and we went around a curve and I was driving and the tire fell off, and fortunately we were on, we had just finished a curve, so the tire [...] rolled into a gutter and we were able to fetch it, but it went down, we thought it had gone into the abyss [...] fortunately there was no car in the opposite [...] it didn't hit anything but you know, you know obviously we were like this, [frightened gesture] and, and we picked it up and we ... were right before Quiché so there was a CEH office in Quiché and we asked them to come and get us and bring tools and everything, and they discovered that [...] the bolts had been filed down, and so had just been getting looser and looser and

²¹² Further, the Mack case, an early test of the ability of the national judicial system to actually render justice, was one of the first to use the CEH as part of a legal proceeding. Some of the same perpetrators in Mack's murder were eventually indicted in the Gerardi case. See discussion in Goldman 2008, ODHAG 2008, Nelson 2009.

looser. So, I think throughout, we always felt like this was not cool with a lot of people [laughing] (Baquero 2012).

Still other things were perceived as threatening, and contributed to the backdrop of uncertainty about public support for this work. The press played a large role here. Pivaral recalls particularly:

the constant columns in the press always from editorialists on the right, and those supposedly from the left questioning the work of the commission. And to me, I've never forgotten this and you can cite it if you want, and if you talk to him, tell him, Mario Roberto Morales, supposed columnist of the left, because he was a revolutionary militant in the era [...] I remember a *frightening* column on the work of the commission when we were starting the work, *super scary*, saying that all of us, the investigators, and not even the idea of the commission were valid, right, and with all this debilitating bile...because this is someone completely pathetic. [...] This column was so offensive that there was a whole movement of researchers, especially the nationals, who encouraged the commissioners to respond to this guy, right? In the end the commission didn't respond because there were also already columnists on the right who were questioning us. This type of bombardment in national public opinion was really frequent [...]but the most important was the work. The threats were relatively low, two bomb threats, nothing more in the case of Huehuetenango (Pivaral 2010).

He says it contributed to his stress, but “there are more important things than reading Mario Roberto....[laughs]” (ibid).

These participants show how keeping focus on continuing the work, rather than being derailed by threats, produced a particular type of worker: defiant but also industrious and focused. Being able to cope with major and continuous stress and uncertainty is a major asset in a human rights defender working on a truth-telling project, but such coping would take its toll.

“John and Jack:” Coping strategies

In the years following the completion of the CEH project, one interview participant, Alejandro Alfaro worked with FAFG, the forensic anthropology team that performed many exhumations. Alfaro started work as a young anthropologist in 1999, following up from the work initiated in REMHI and CEH. Many staff had worked alongside these processes as they were happening, but the younger Alfaro didn't join until after the CEH report was released. He discusses the friendship and mentorship of one older colleague, Flavio, who had also worked as an assistant in the morgue of the notorious Dra. Kroker.²¹³

²¹³ Dr. Kroker had worked as the coroner in the morgue in Santa Cruz del Quiché, a regional centre in one of the hardest-hit departments of Guatemala, and performed autopsies that openly identified signs of torture and

So Flavio had worked as her assistant in the morgue of Santa Cruz del Quiché, and he learned a lot from her...I really got along with Flavio. When I went to do the interviews [with relatives of those being exhumed] it had an enormous impact, I had never done them before, and we wouldn't get back till noon—we'd go for various days at a time[...] So we get back at like ten in the morning and I was super bad, so I went with Flavio, right, because you needed to talk with someone... everything that people had told me, everything that had happened... I don't know if he had no one else to let off steam with either, or maybe if he understood it as some kind of contest to choose the saddest story [laughing] but I remember telling stories and the both of us just sitting there like, 'WAAAAH!' Crying! [laughs and wrings hands] but in the end, it was good, because that's how you get it out of you, right? (Alfaro 2010).

Sergio Pivaral has worked closely with FAFG over the years. He says,

Look, with Fredy Peccereli for example, the director of FAFG—because the forensic anthropologists now have the same type of problem, probably stronger because they're not only hearing testimonies but also looking at people, looking at [remains]—one time we joked, at the beginning of the 2000s, we said, right, “in my time the only therapists we knew were John and Jack, no?” [laughs] Jack Daniels and Johnny Walker, the only psychosocial accompaniment we had!²¹⁴ (Pivaral 2010).

Note again the assertion that another group is more seriously affected by the work, and making light of otherwise serious issues. Pivaral hesitates to call any of this drinking “alcoholism”, explaining it more as a circumstantial situation: “when there isn't really a system of psychosocial accompaniment, you have to find another way to free yourself” (Pivaral 2010).

Alfaro underlines the normalisation of drinking as a memorable part of the work at FAFG. At the end of his first day in the field:

we started to drink and everything, but people were drinking as if the world was ending, like it was the last day ever! [laughing] [...] The next day, I was like ‘oyyy, I can't get up! I feel terrible!’ and everyone else is all ready, having breakfast and I'm like, ‘*puchica*, how is this possible?!’ [...] After that day, the next night, people were drinking again in the same way. So it was, wow! (Alfaro 2010).

extrajudicial execution. Alfaro speculates that although her work exposed military atrocities in a period of denial and repression, she was allowed to continue her work because her father had been a high ranking member of the army (2010).

²¹⁴ The use of black humour as a way to acknowledge serious issues emerges repeatedly in the responses of those who work in the area of human rights. Pivaral is self-reflexive about this: “Black humour is a really normal thing [in this work], I believe. Probably it's because of the lack of psychosocial accompaniment, both activists and researchers, I agree with this” (2010). Others point out that black humour is already a Guatemalan cultural attribute. Alfaro told me a well-known joke about crabs in a bucket to hammer the point home: on a beach there is a range of buckets of crabs with different nationalities. They all have lids on them except the Guatemalan bucket. Why? Because instead of helping each other to climb out, Guatemalan crabs pull each other back down into the bucket.

As with Pivaral, Alfaro likes to socialise and is no anti-drinking crusader. Many workers in this area are relatively young and drinking is just an accepted social practice. But this seemed different, partly because of how much was at stake:

I remember that I went to Fredy, the director and said, “it’s important that there’s psychosocial support for us,” right, because the way people were working this out was drinking. And if for example someone wants to nail us at the legal level it’s pretty easy, right, because we were super drunk, so not just for the anthropologists’ mental and physical health, but also for the whole process. But yes, there wasn’t any money for it (Alfaro 2010).

From a position which carried more authority inside the CEH, Mersky considers the practice of drinking as a form of self-care or letting off steam:

Well, I don’t know. We didn’t have a lot of free time. When were you going to go out and hang out? You know, I didn’t do a lot of hanging out... I worked from September ’97 to the end of February of ’99 and I don’t remember a lot of hanging out. I don’t remember a lot of vacation time. I don’t remember a lot of going out [laughs]. I don’t remember because people were really tired and working really, really hard. Other people may have, you know, done more but I was already pretty old by the time so I wasn’t in my major partying mode like some folks might have been... I was one of the older people I think doing this [...] a lot of them were very young.... So they may have experienced that whole thing. I mean I certainly didn’t do the drinking, drugs that I know a lot of people [laughs] were doing! [...] A lot of people drink even without the commission. Some of those people who were drinking at the commission were drinking without the commission. So that would be maybe, ‘Oh it’s so much work! It’s so much pressure I drank!’ But believe me, some of the people I knew who were doing most of the drinking... would have drunk anyway. So that’s never terribly convincing, but maybe they needed a coping mechanism for something else (Mersky 2012).

“If I open the door to my heart a little, all the demons will come out”: Complexities around psychosocial support

While REMHI was uniquely structured around psychosocial principles, both the REMHI and CEH processes targeted the resources they did have for psychological support towards supporting victim-witnesses. As Alfaro exemplifies above, finding ways to process the difficult aspects of work with genocide survivors was performed in an ad hoc manner. In our interview, Mersky noted that the CEH in Guatemala was probably one of the very last worldwide that did not have a serious policy on mental health (Mersky 2012). Many former workers comment that this had seemed normal, much like other established practices in human rights work (such as the

use of universal frameworks that disregarded women's experiences). Maria Baquero notes with frustration that:

because there was time pressure, because the conditions we were working in were *so, so* intense, the material we were collecting was *so so* intense, we were never, we were never offered any mental health [support] at all, which in retrospect...at the time it didn't seem wrong but you know! [...] I'm still taking care of myself now (Baquero 2012).

In the UNOPS report on the CEH process, when the well-being of workers is discussed at all, it is most often in the positive evaluations of dedication and self-sacrifice, as in the examples used earlier in this chapter. The one major deviation from this approach is in the Lessons Learned section, where one lesson is devoted to "stress management" (88). I reproduce it here:

Operations of this nature are very stressful: historical, human and even working conditions lead to generatized [sic] and permanent overload. In addition, daily interaction with torture victims, their families, survivors of massacres and other violations is extremely taxing on personnel. It is very important to monitor stress levels and find creative ways to manage these situations. Working in a truth commission or similar operation is not just another job. Daily relations with victims of violence so profound and painful signifies sharing their pain, sadness and even their fear. Team leaders must be conscious of this and assist personnel in overcoming their stress and continuing the work. Frequent group discussions and reflections among the members of each team provide one method (although not the only one) for dealing with this kind of stress. Team leaders should be aware of the effects this stress has on personnel. In some cases, personnel transform stress into "heroic" attitudes: for example, foregoing weekend rests, working long hours and late into the night, etc. While these attitudes and practices may be one way that staff members deal with their own sense of impotence in the face of the testimonies they are taking, it is important to monitor psychological defenses. Sometimes, personnel must be ordered to rest or take vacations, even against their will. Professional psychologists can help with stress management, but in some cases it may be necessary to reassign staff to new duties or even to fire someone if he or she becomes personally affected beyond prudent limits (UNOPS 2000, 88).

Here, "stress management" appears to be a euphemism for efforts to cope with the intensity of this work, and the passing reference to psychotherapy is a hint at the low priority assigned to this issue, even after the stress-related 'Lesson' was learned. Among participants, there are a range of recollections about whether or not psychosocial support was offered and to whom. Some feel that in retrospect it was detrimental to staff not to be offered psychosocial accompaniment, such as individual counselling. Others recall receiving some support, but that it was insufficient; still others remember not receiving it while believing that it had been available to some, under the reasoning that those people had the highest need. Some indicate that even if it had been offered,

the conditions of intensity might have mitigated both the uptake and the impact of such support. These impacts are reflected in the experiences of those who worked in the field and in report writing phases of the CEH and REMHI. They are also observable in related work, such as exhumation, and the work of ECAP and other organisations since these processes concluded.

Pivara articulates explicitly that workers understood themselves as being less traumatised than victim-witnesses, to an extent that psychological support seemed frivolous. This form of deferral appears in many people's accounts:

Remember in '97 there hadn't been that much work on these topics so probably the commission was not prepared. I remember that when I started work there was a psychological consultant who worked in the headquarters, [...]but no counsellor... Practically, we worked in the *campo*, at least where I worked, there was a different dynamic. Probably...not probably, it wasn't ideal, but in that moment you don't notice. First, there was no psychological accompaniment for the investigators. Second, I believe none of us, of those I remember from the team in Huehuetenango, was seriously looking for it, nor did they engage the person in the capital, because there was this sense that, ok, you know how messed up you are, right, but, in that moment, if there's a woman who has been raped, whose child they killed, whose husband was tortured in front of her, and then burned alive, *she* is the victim, understand? And she's not receiving any psychosocial accompaniment from us [laughs]. So people would try to minimise the real affective load [*carga afectiva real*] from the simple fact of listening to testimonies because you're contrasting that with the reality of people who suffered those things. [...]It was like, you feel like, you don't feel it's necessary if *those* people, *those* people don't need it, that's how we felt at the time. Obviously this created problems, there were some...psychosocial repercussions. Some of us had nightmares, other people...I remember that I, after finishing work on the commission, I spent five years without crying, for no reason, I mean, people were dying, [I was] at a funeral, for whatever reason, not crying (Pivara 2010).

Mersky reports a range of others felt the same way about making such support available first to victims: “[We felt like,] ‘well if there's going to be *any* psychological support in this it ought to be for the victims and not for us. They're the ones who really need the support’” (Mersky 2012).

Participants understand their approach as a simple issue of practicality, of making do because resources were scarce and there were more deserving people than themselves. These responses illustrate one impact of workers' deferrals of their own needs in order to keep working: they fortified the already existing conceptual divide between worker and victim, creating a disidentification with victimhood (in this case through not needing psychosocial support) even though the differentiation is explicitly articulated not as a gesture of power or dominance, but one of solidarity with victims.

Nora doesn't remember any formal counselling, but repeats the notion that field workers were more susceptible to trauma because of their proximity to survivors:

There might have been like some psychologists around for the people who were in the field offices. [...] I vaguely remember at some point there was all this talk about maybe having like a counsellor, [...] but it was just for the field people so the idea is that those of us who were in the *sede* were supposedly not under... as much stress, which I, that's true in some ways because [...] we were not face-to-face with people giving their testimony, which is a whole different [kind] of stress.

From his position in the Support Office, Eduardo Tercero echoes that it was more important to be vigilant about the emotional impact and potential for PTSD for the frontline workers than for people like him doing more logistical work (Tercero 2010).²¹⁵ But Nora indicates that the constantly approaching and shifting deadlines and the desire to do a good job were key to understanding the working conditions in the headquarters:

we were under a lot of stress because the work was so... there was so much work to do [...] we kept having these like ridiculously short deadlines and dates would get extended like month-by-month so we were under so much pressure to get this report done, because you know we didn't know from month to month whether the commission was going to continue. [...] So there's a lot of pressure to still like 'Oh my God: [quickly] Keep going. Keep going. Keep going. Don't stop.' [...] But... a lot of people really struggled, you know, both within the commission but also, you know, a lot of organizations that came to the commission...so there was a lot of... just a lot of desire ...that the report be *good*. So that was the stress. So the stress I think for those of us in the *sede* wasn't so much, you know taking the testimony, or, you know, seeing people face-to-face but it was the stress of ... 'it's really important that this report come out well because if it doesn't it could be awful.' Maybe we, maybe we felt like the stakes were high in a kind of...insulated way where you know, we were the only ones that really at the commission felt this intensity. But I think there were a lot of people outside the commission that also felt that way. So you know... there were a lot of politics involved, you know? So there were a lot of things that could have gone wrong. I mean it was not guaranteed at all that the report would come out the way it did (Nora 2011).

Mersky, the report coordinator, recalls how it felt coming up to the final stretch. "I remember I really wanted to do it, I was really engaged in it. Worked really hard... It was important that it come out *right*." She is silent for a while. I ask if she had other people to talk to when things got hard. "Don't remember.... Just so busy [laughs]" (Mersky 2012).

Many of the same people who had worked with such intensity in the CEH field offices were drawn into the central office in the report-writing phase. This was framed as a way of

²¹⁵ See an opposing position discussed in Hayner 2002, 6-7; 151-152.

providing continuity, drawing on workers' experiences and ensuring maximal territorial coverage. But at the same time as people were becoming seriously exhausted, there was a degree of disillusionment about having to stop field work when there were so many people who had not yet told their stories. The time pressures were intense. How far to push in this moment of opportunity? As the UNOPS report puts it,

The difference between desire and certainty, possibility and probability, the maximum and sufficient, generated debate between some staff members, in some cases heated [...] In some cases, tensions became personal: on one side were the field investigators, who wanted to increase their personnel, obtain greater logistical support, extend their terms and finish work already begun; another group—especially those heading the operational units in headquarters—wanted the central office to be strengthened; and yet another group, made up of those with administrative responsibilities, argued that not only could no further funds be approved, but expenditures would actually need to be cut, given the lack of funds (UNOPS 2000, 37).

The report on this process rarely alludes to tensions among staff. Here, it assimilates the issue back into a narrative of relative unity by indicating that such arguments were productive because they provided a far clearer picture of actual conditions than written reports submitted to decision-makers. Thus they sought “a synthesis that could be constructed from the dialectic among the opposing demands (ibid).”

Baquero discusses the general sense of those with whom she worked closely in the report-writing phase of the CEH.

We were... from a mental health point of view, we were exhausted. We were frustrated that we weren't back in the field that...no one was back in the field anymore. But we had such an intense connection...that... we were frustrated to sort of be in the office and not being able to get more data... We were trying to be as faithful as we could to the voices, and trying to be as comprehensive as we could. Fortunately most of us had done a lot of qualitative data collection (Baquero 2012).

Mersky remembers that the CEH eventually hired a Guatemalan psychologist who had very little experience and happened to be eight months pregnant:

and then they made it obligatory to go to these sessions which about half of us said we're not gonna go to obligatory sessions with a woman who knows nothing about these issues who's eight months pregnant, we're gonna kill the baby! [...] Not only me but also several other people said 'We're gonna kill this baby if we...' [laughs] it's like 'This is not a good thing for the baby! We shouldn't do this.' [...] I remember people telling me 'Oh, she showed us videos of violence to see how we reacted' and it was like it was the worst thing you could possibly...she didn't have a clue. So that didn't work. [...] The operational staff didn't really know what was needed (Mersky 2012).

Claudia Paz y Paz reflects on what the work had done to those who were there at the end of the process:

Later they gave us psychosocial support, at the end...[...] We were, like, really hardened too, and it's really difficult for someone to accept 'I'm screwed.' It doesn't really help you either. It's easier to be, like, [heroically:] 'we're human rights defenders!' right? [...] There's always some of that. Of being screwed and everything, you say, "no, I'm strong and I can do it, and I don't need [help]"...here in ICCPG²¹⁶ we've worked on this, because of our work in prisons and there was a period where there were threats and all that. But it's hard, because people don't want to do it [get counselling]. So it's when they're in crisis, and then the crisis passes and that's it (Paz y Paz 2010).

When I asked if part of this is a culture of sexism within the human rights field, as described in other interviews such as Yolanda Aguilar's, Paz y Paz says, "for sure that's what is going on" (Paz y Paz 2010). Olga Alicia Paz Bailey, who has provided psychosocial support to survivors and accompaniers through ECAP, accepts that there is something to the idea that people are approximating the dominant, masculine figure who "can do it all," but at the same time returns to the idea of the human condition:

I think there are two things: one is survivors' guilt; those who are alive, whose *compañeros* died, say, 'I'm going to work, going to work, going to work until I die, because if I'm still alive, it was for something and I don't have time to cry.' And the other is a defense mechanism, I believe all human beings have it. Thinking that if I open the door to my heart a little, all the demons will come out, so better I don't even open it even a little. And I see this in all the professions, like lawyers who work on human rights, with anthropologists, with psychologists, closing up, closing up, closing up, because they think it's going to come out. That they won't be able to control what comes out, men and women.

Paz Bailey notes that ECAP workers have mandatory psychological supervision, but that this doesn't really diminish the potential for not attending to their own mental health:

Some people prefer not to talk, they stay silent for 45 minutes or however long the supervision takes. It's private, people can do what they want, but there are consequences to not dealing with it [...] There's a lot of pain covering the things you've never cried about (Paz Bailey 2010).

Whether through absence of psychological support or resistance to it, workers recall other forms of coping with the demands and difficulties of this work. Baquero and others sought out their own psychotherapist. After a while a number of them who had been seeing this same

²¹⁶ Human rights organisation where she worked as Executive Director at the time of the interview.

therapist realised that she had abruptly left the country. “We were like...we burnt her out!” (Baquero 2012). A number of people remember starting relationships with their co-workers, who provided comfort and companionship, while they were going through an intense experience that may have been hard to understand for those outside of it. Alfaro recalls, “another thing I did was write a lot, I wrote a lot, a lot of stories, and I did drink as well, though I didn’t drink like it was the end...there are different ways to live with these things” (Alfaro 2010). Mersky thinks for awhile about self-care before responding:

I still had very good friends and when I did have time I hung out with them or I had them over for dinner but I don’t remember any special anything that I did... Must have done some things together... I remember trying to take off at least a day over the weekend at least while I was in the Field Office...or at least just read...but trying not to schedule too much actual work over the weekends. So actually, when we were back at Headquarters and I had a different team working on...on some of the writing stuff... I was really concerned about other people taking vacation time when they seemed like they were on the edge ... taking off a bit of time (Mersky 2012).

Though this UNOPS report has been a useful source on some internal perceptions of the CEH shortly after it wrapped, not everyone was invited to participate in this process of evaluation. Baquero echoes Mersky’s understanding of “bowling straight ahead” as the best practice for getting through such an intense process, but she feels strongly that the lack of evaluation and closure for staff had been a weakness of the CEH process.

I think that not just doing [an evaluation] but I think really questioning the methodology that they used [...] they probably hand-selected people that they knew wouldn't speak badly of it, and, then maybe gave them a survey to fill out...this is too important, I think [...] I mean, [the CEH] isn’t necessarily going to get repeated again but I think any good intervention or job anywhere needs to have this. For the closure of its employees, for eventual potential future actions that might benefit from this...I’m not sure other commissions in other places would necessarily want to look at this but I think focus groups would have been ideal. I think it would have been a very rich experience to confront different positions (Baquero 2012).

In relation to human rights work more generally, Yolanda Aguilar indicates that in her experience,

institutional dynamics are so perverse, they’re very sick, right, and they’re very aggressive, and the truth is I prefer to keep my own time, my spaces, I prefer...keeping a certain distance from institutions, right. Not making my agenda [conform to] institutions, but the dynamic is very aggressive, so finally you end up sick. And I think this has not changed enough [...] I know that in many places it’s like this...I think that people who have been human rights activists are the most Christian of the Christians, because we

have lived in sacrifice for the demands of delivering life, the struggle for the poor, and I don't know what else, yes, but what about us? And where are we? And what possibility do we have to stop, and say, what am I doing with my life? (Aguilar 2010).

Aguilar's forceful claims here derive from her own experience, but are reflected in varying degrees in other participants' discussions of the emotional demands placed on workers in the truth-telling processes and related work (such as in ECAP or UNAMG). Ignoring or minimising physical and mental discomfort, the deferral of needs to those perceived as more needy (both victim-witnesses and workers), and engaging in overwork with little prospect for relaxation or reflection as common threads. Perhaps it is no surprise that some workers who experience a certain "hardening" in such processes begin to do things by rote, and rely on methods and discourses that meet with the least resistance, including those concerning sexual violence.²¹⁷ What is perhaps more interesting in this setting is the intensity with which some people continued to fight for the best possible process and product, to the detriment of their health, all the way to the bitter end. In their adoption of urgency praxis as a strategy of both survival and rights defense, they expressed their solidarity and political convictions in continuation of some small part of the struggle they were helping to document.

Testimonial exhaustion, feminist burnout and knowledge loss

The original proposal for this dissertation had included discussions of emotion and internal struggle because I hypothesized that they were part of the under-appreciated historical experience of women rights defenders working to expose sexual violence in gender-blind contexts. The decision to pursue the question as more directly connected to knowledge production came after participants' responses on the subject were so forceful and so similar, across a broader range of sites than just the REMHI and CEH. Because of the unresolved question of the lasting legacy of transitional processes in general, it seemed important to me to pose the same questions about human rights and feminist work in the present that I had been tracking in the CEH and REMHI reports. When examined as moments in time, as finite processes, it is possible to miss the continuities that are observable between the REMHI and

²¹⁷ See, for example discussion in Wilson 2003 of the progressively less thoughtful and interventionist approach of database staff at South Africa's TRC when categorising violations contained in testimonies. One data processor told Wilson: "In the beginning there was lots of interpretation of the statement but by the end we were just like robots. You read it and put it in the computer as it is" (377). See discussion of similar effects in feminist antiviolence workers (Baird and Jenkins 2003) and emergency workers (Guy, Mastracci and Newman 2008).

CEH and other, longer term struggles that do not have any end date. The REMHI and CEH processes drew on practices that had developed in difficult, risky conditions of war and postwar, and provided training as well as base-line data for people to engage in the same type of work in the longer term. The emergency feeling and the urgent race-against-time conditions encouraged the deferral of personal lives and emotional struggles. But these conditions are also reflected in the more recent experience of rights defenders who continue working under conditions of risk against a backdrop of impunity. Operating permanently under this urgency logic is partly a product of neoliberal state restructuring that led many social movements to reconstitute as NGOs or organisations that rely in whole or in part on short term international funding.²¹⁸ In neoliberal impunity, ordinary people struggle to do the work that has been abdicated by the state.

Participants stress that sexual and gender-based violence work requires its own form of accompaniment, for survivors and companions both. Yolanda Aguilar's health was seriously impacted by the work in REMHI, which caused her to withdraw from organising and focus on healing. For Aguilar, the difficult burden of the work was magnified by the way her own direct experience was mirrored in the testimonies examined in the REMHI (Aguilar 2010). As one of the few direct victims of sexual violence that had gone public at the time, her experience is fairly unique. However, other feminists who have worked in the area of sexual violence since that time make some connections to their own experiences as well. In the context of her accompaniment of survivors of wartime sexual violence, Olga Alicia Paz Bailey says that it is impossible to change the public without changing the private as well. Work on sexual violence in the war

touched me...all my personal life as well [...]It was very difficult because I had the opportunity to create life stories, and it was very beautiful because you put yourself into the life of another person, you share, and what happened to me was that some of my own memories began to awaken (Paz Bailey 2010).

She discusses how during ECAP's collaboration on the research with survivors of wartime sexual violence, UNAMG's accompaniment was important because they had more feminist background, and that they shared many resources.

When the investigation came out, or when people knew we were doing it, some friends from university approached me, people I hadn't seen for many years, [...] some from my Masters, and they said, 'look, Olga Alicia, what you're studying, it happened to me [whispering], it happened to me.' So you listen. Because maybe that woman has not had

²¹⁸ See especially discussions on "oenegizacion" / NGOisation of Guatemalan civil society in McAllister and Nelson 2013, Bastos Amigo and Brett 2010; see Alvarez 1999 on these dynamics in regional feminist work.

the opportunity to talk about it since she was eight or nine years old. It didn't happen to her in the war, rather with an uncle, a cousin...in the bus...but the different forms of violence, you realise that every woman has some story. [...] it goes from touching to unwanted kisses, public humiliations, to sexual violation, to the deaths of women that we're seeing now in Guatemala. [...] This touches you, or it touches the life of your daughter, or it touches the life of your mother—there's a chain of aggressions from above to below, so I find out that it happened to my mother, it happened to my grandmother...(Paz Bailey 2010).

Being identified as someone who 'knows about' sexual violence can lead to frequent disclosures. It is certainly familiar to me as a teacher in gender studies and public participant in feminist support work for survivors. Far from consuming and appropriating others' experiences of horror, Paz Bailey's experience illustrates the transformative power of coming to understand the world as a system of power relations, including gender, extending deep into the private sphere. This positive side of the experience sometimes pushes people through the difficult parts. But one side-effect of being a good listening ear for such stories is that they beget more stories, and there is rarely anywhere to put them.

Despite various claims already discussed that feminist knowledge tends to be collective rather than produced by individuals, the feeling of isolation and exhaustion can persist even knowing the broader support base that exists for feminist work. One important dimension of this exhaustion is the ubiquitous practice of collecting and analysing traumatic testimony in human rights work. Aguilar notes the importance of Shihoko Niikawa, the Japanese feminist who translated part of the REMHI report into Japanese, and encouraged Yolanda to participate in the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery, held in December 2000²¹⁹.

Shihoko and I got to know each other, and she was insisting that it was necessary for me to go to Japan, to present my testimony, that I should present my testimony, I didn't want to... and I didn't want to know *anything* about testimonies, the impact of having worked on so many testimonies was so intense, and the emotional impact was so strong, I withdrew for months in my bed. That's where I started my alternative health treatments. Homeopathy and various things. And, it was very interesting because I said to Shihoko, no, no, no I'm not going, I'm not going. If you want to see my testimony, go read the REMHI, right? [...] Six months before the activity, I said to Shihoko, ok, I'll go, but I'm not going to read my testimony, I'll attend, nothing more. Sure, said Shihoko, that's very, very good. Three days before the activity, I start to write. And the talk emerges that I present at the Tribunal [...] I think that was the first talk I've given where I started to

²¹⁹ This relationship continued, and Niikawa later served as a judge at the Guatemalan Tribunal of Conscience on Wartime sexual violence in 2010.

name that yes, it is possible to move out of the pain. From 2000 to 2010, it was a long, long process, no? (Aguilar 2010).

Marcie Mersky expresses a similar sense of exhaustion with direct work on testimony. She recalls an early discussion with Brinton Lykes,²²⁰ a community psychologist who had been canvassing the Guatemalan countryside in the 1980s trying to get a sense of the sort of mental health support available to survivors. Often the little that was available came through religious figures such as nuns. Mersky remembers her friend and colleague's frustration with the magnitude of the situation. In the absence of support,

‘What do you do, what do you do with all this suffering that you’ve been handed, you know? What do you do with it? Where do you put it? How do you...what do you do with it?’ [...] or ‘How do you digest it all? Where do you...where do you *put* it?’...That always seemed to be... an important question. [...] Personally I don’t *do* testimony anymore. I don’t read them, I don’t look at them, I don’t watch films with them. Not interested, doesn’t teach me anything anymore, I don’t care *where* it happens, stories are similar enough [laughs]...gone there, heard this... it’s neither fulfilling for me, nor necessarily am I a good listener anymore...I am very glad that other generations are taking up this work [laughs] (Mersky 2012).

Even when attempting to change the focus of such work, as Aguilar suggests, towards something more life-affirming, the broad impacts of working in this area over a longer period of time can be serious. This has often meant that either people stay around by finding ways to manage the intense emotional demands, or they leave the work (either temporarily or permanently), and their knowledge and expertise leaves with them. There continues to be a sense that in conditions of impunity, there is no time to do the real reflective work that some, like Aguilar, insist is needed. Thus, a longer term form of urgency praxis is still pervasive, including among feminists who may be more susceptible to burnout precisely because they tend to be the only ones dealing with feminist issues in their own organisations and networks.

This is a result of a fairly common experience among feminists that the non-feminist left will rarely prioritise women’s and feminist struggles. In a reflection on the feminist potential for the Latin American electoral (re)turn to the left in 2007, Veronica Gago summarises it as follows:

²²⁰ Lykes is also co-researcher with Alison Crosby on the project on gender and reparations in Guatemala where I worked as a research assistant from 2009-2013. See Crosby and Lykes 2011, Lykes and Crosby 2014, 2015, Crosby Lykes and Caxaj 2016.

[l]eftist politics has always had a complex relationship with women's struggles, one that many times translates into political exploitation and neutralization. The strategies are many: reducing women's battles to a "theme" among many others; organizing them into sectors and hierarchies (the famous feminine "branch," or women's section of the political parties), with a ranking system that assures that women's objectives are not the top priority of any political program; simplifying what is demanded or championed to a question of quotas (candidacies on party lists and distribution of other political positions as the only concept of equal opportunity); and marginalizing the spaces where the personal is political (sexuality, the sovereignty of the body, pleasure) or making invisible the domestic and informal economy, in which women predominate (Gago 2007, 17).

A range of women on the revolutionary Left and in (not identical) sites of human rights defense in Guatemala recall the way that feminism, in its refusal to detach the personal from the political, the emotional from other dimensions of life, has been framed as an interloper that will divide rather than strengthen a movement for social justice. Varying degrees of this position were often held by women as well as men, as indicated in Chapter 4. Often, the exclusion of concerns raised by women has been framed merely as an issue of practicality in the context of scarce resources and other urgent priorities.²²¹ As explored in this project, these practical decisions can extend from the failure to acknowledge or collect testimony on sexual violence, to institutional cultures that tolerate sexual harassment. Urgency can be used both as an incitement to action on these fronts, and a rationale for maintaining current practices that hierarchise struggles by marginalising the embodied concerns of women and other social groups.

As this dissertation documents, feminist urgencies have not always been co-extensive with those of human rights movements and transitional justice more generally. I have attempted to highlight the complicated negotiations between a shared context of state denial and impunity, and the highly embodied ways in which the urgency of rights work is lived. In the context of Guatemalan post-war truth-telling and subsequent rights work, feminists have fought to ensure that issues of gender violence and inequity do not fall from view within human rights work more generally. This struggle falls disproportionately on some women, and is exhausting in a context which is already exhausting. Those who contributed to this research have thus articulated a set of deeply felt struggles, folded into the fabric of other deeply felt struggles: within the fight, another fight. For them, it has extended across time and into the present in a variety of ways.

²²¹ In the context of the reparations program in Guatemala, Duggan, Guillerot and Paz y Paz write of land fund meetings in some areas where only men were appointed to committees because having women involved would slow down the process (ostensibly due to their childcare and other domestic responsibilities) (2008, 209).

Personal and political sustainability in the face of neoliberal impunity

In neoliberal North America, a range of feminist writing has documented the detrimental impact that shrinking state funding has had on anti-violence services such as shelters. Many have lamented that the increasing focus on fund-raising to maintain basic service provision makes it difficult to sustain a more active political agenda as feminists, and that burnout is difficult to avoid (Arches 1996, Hoyt 2000, Bumiller 2008, Johnson and Dawson 2011). Of particular concern is the fact that often those on the frontlines are also members of the same marginalised groups they aim to support. The issues facing feminists in Guatemala are not identical, but certain trends resonate with their struggles for a sustainable movement. Maya Alvarado and Yolanda Aguilar both offer their thoughts on the need for critically reflective work, a strong understanding of the history of movements in which people are participating, and forms of practice that are responsive to the current political situation but also do not reproduce the exhausting dynamics of the work discussed in this dissertation. Alvarado takes a strong position on the depoliticising effects that emerge in feminist work that in some cases has devolved to “activism” as opposed to a political movement:

We’ve fallen into activism, at times, in activism we’ve abandoned political action in favour of projects, but political action that situates our position with respect to our reality gets displaced so we can accomplish [projects] that exhaust us...we become very exhausted and very sick.[...] This is a personal reflection ...I feel that the theme of commemorating March 8th has been de-politicised...little butterflies and I don’t know what else...it has depoliticised the claim to rights. March 8th as much as the 25th of November, because either way you have to talk about violence but no one is talking about the workers! To the point where it has become a commercial holiday (Alvarado 2010).

She describes this as a banalisation of the dates commemorating feminist struggle, which are emptied of content [...] and no one reads the violence as a structural issue—rather they leave it as a theme of ‘relationships,’ that we can resolve with...with being nice? [laughs] I don’t know...it’s in the structures of the state, it’s in the structures of society, which implicates social institutions starting with the family (ibid).

Despite the successes of feminist pressure on the government to legislate against femicide, Alvarado argues that the state has failed to take up the law actively and to train people properly: “there isn’t an appropriation, nor an intentionality.” This link between collective exhaustion and the abdication of the state from addressing serious issues of social justice and human rights emerges in multiple interviews. In the case of feminist efforts at legal reform, after focusing so much energy on that particular goal, “the women’s movement is pretty exhausted in Guatemala

from reforming the legal system [...] and we have *marvellous* laws!” Alvarado remembers a visit from a group of Spanish feminists who were amazed that the Guatemalan law against femicide is more comprehensive than the one in Spain, and that all the relevant international conventions are ratified, but “where did we get?” The numbers get worse, even as the visibility of feminist issues improves. Alvarado stresses it is important not to get lost there. It is easy to become a pessimist with such huge obstacles—she talks about the Tribunal of Conscience and the associated legal efforts of women survivors,

like throwing a rock in the system trying to break it [...] What are we doing? We need to be clear, because this is no simple struggle—and we have to take into account that this is a struggle, not a job (Alvarado 2010).

She is pleased that in this key shift among younger women, “now people aren’t just talking about a women’s movement but a feminist movement,” and doing more than coordinating events like women’s marches, for example (ibid). Yolanda Aguilar concurs, favouring work in collectives to that in organisations. She also indicates the impact of the NGO model on how women’s organisations operate:

women’s organisations depend on funding, so they barely advance in their deep reflection about the changing reality. Right, they *do, do, do*, ‘right now there are a thousand women affected by this disaster, let’s go with the thousand women! And now there are 200 and let’s go with the 200!’ It’s something...you can’t keep doing it! (Aguilar 2010).

Aguilar has addressed this issue by creating spaces and methodologies for human rights workers to work on themselves and their physical and emotional health. She recently established the Q’anil Centre about 40 km outside of the city, as a permanent space where she could work on group accompaniment. “But it’s been a bit complicated beginning processes of healing for people in the social movement in Guatemala after such a violent and...aggressive culture, and so conservative [...] it’s not easy” (Aguilar 2010). She decided to restructure and re-start the work from the city, operating individual and group healing processes. “Everyone has been militant, was on the left or currently on the left, or belongs to an organisation” (ibid). One organisation she has worked with is CALDH, the Guatemala City human rights organisation currently accompanying survivor organisation AJR in the legal cases around genocide. Aguilar has long had involvements in the organisation without officially working for them, and when we spoke she was performing an organisation-wide evaluation.

The country has changed. CALDH is a synthesis of the country, right. So CALDH has to change, it has to change culturally, which is the hardest part, which for example, I proposed to them that we do a complete restructuring [...] but a restructuring isn't worthwhile if there is not also a process of a different kind of accompaniment... a human accompaniment that works on people's wounds and that heals them. [...] When I'm doing healing processes I notice that in my culture, I work here with body[corporeal] therapy, and all the people move their body but *the body doesn't move*, because the mestizo [...] because we're all about talk. My god! There are so many things to say. We're all talk but little, zero work with the body. So that's why it's so hard. For me it's a big achievement that ECAP and UNAMG are finally doing this work (Aguilar 2010).

Aguilar indicates that it is a mistake to assume that feminists are the most forthcoming in seeking out such accompaniment and healing. For her this pivots on the fact that many women have still internalised the notion that it is important (or possible) to separate personal and political change. Aguilar asserts that these are totally interconnected.

This is a feminist principle, but no one does it. [...] It's not a condition of being feminist—'ah, I'm a feminist, now I have everything resolved'—lies! A thousand times lies. [...] Working with institutions, I had thought that I would first be working with feminist organisations, right? [...] being feminist, what I was saying earlier, we have advanced a lot more in our own processes. So everyone is answering the phone [breathless voice] 'ay, I have a meeting, I have, I don't know what, I have...' and this...rewinds processes, so finally I arrived at the conclusion that it is the people who really want healing who will stay in these processes. There. [...] I think it's fine because you continue with the understanding that you won't try to change everyone's life, but just those who want to change. Only those that want to change. [...] Because from the most terrible things always come the best essences (Aguilar 2010).

In Alvarado's view, however, there is a major difference between self-care practices like "getting massages, and having debates in the Feminist Assembly²²²"—which she feels exemplifies the difference between activism and political action. "I may retract this in ten years, but I'm more in favour of political action." She carefully clarifies that this does not disqualify Yolanda's work, that it is very

beautiful, but at times as well, it seems to me that presenting it as a posture in the face of such an overwhelming reality...it seems good to me as a resource, that whoever wants to use can have at their disposal...but I wouldn't agree with this becoming a pretext for inaction, to avoid pronouncing one's position [...] Yolanda has been a fundamental voice...the point is more not to fall only on the side of self-care and not do anything else (Alvarado 2010).

²²² An event that had just taken place in Guatemala City at the time of this interview.

In this exhausting environment, Maya Alvarado draws “strength and vitality” by spending time with friends and family, and reading books. She prefers participating in debates to doing administrative work and wants to “go beyond a ‘project,’ to try to be socially, a voice, this gives me a lot of strength” (ibid).

One complicated dimension of this setting is a dynamic of invisibility and later appropriation of feminist work, which exposes the need for explicitly feminist historical memory work, and particularly of histories of activism and struggle. This is illustrated in the experiences of women attempting to make gender violence visible in various transitional and human rights bodies. As outlined in this dissertation, many times it has been individual women who carry the burden of exposing gender violence and challenging sexist dynamics in organisations that uphold the status quo. Because of the lack of institutional commitment, women carry the knowledge of what they did and how to build on it with them, outside the official documentation of the process. Not only can these individuals become overwhelmed and exhausted by the responsibility they have shouldered, but their departure from one such process also means that closely connected processes do not have ready access to their knowledge and expertise. Thus it is possible to see a cascade effect of exhausting successively more feminists, and short-circuiting a possible feminist legacy even after extensive feminist work has happened.

For example, in the peace negotiations, Luz Méndez struggled to get women and gender on the table. REMHI was operating while the peace negotiations were going on, and the team that worked belatedly on exposing sexual violence in that process do not recall any exchanges with Méndez. Then as the REMHI drew to a close Aguilar notes that people were all “very sick” and withdrew from that type of work for a period, in many cases. Overlapping with this moment, the CEH was moving forward, also with no gender framework, and also receiving testimony about sexual violence that Teresa Rodríguez took on in the field research and report-writing phase. Aguilar recalls:

I disconnected myself from what the CEH was doing, also I was in the ODHAG after REMHI, I stayed there and I didn’t really want to link myself with anything similar, and, CEH hired its people. I never knew Teresa [Rodríguez], they never interviewed me.... Claudia Paz from the ICCPG worked there, and I did know her. But, but I had almost no contact with the CEH (Aguilar 2010).

In both CEH and REMHI reports, feminists were not sufficiently influential or widespread to influence the writing of the conclusions and recommendations, which contributed

to the containment of the issues they helped to expose. Their levels of exhaustion also appear to have been acute.²²³ Further, because the recommendations of the CEH served as a direct basis for the mandate of the later National Reparations Program (PNR), once again gender and sexual violence were de-prioritised (Morán and Corzantes 2011). This resulted in yet another set of struggles by other women and feminists against the same entrenched ideas, particularly surrounding the PNR's early position that cases registered with the CEH were the only ones that would be considered for reparations. This policy was later changed when feminist pressure asserted that the insufficient approaches in the CEH had disadvantaged women survivors of sexual violence, whose underreporting had by then long been suspected. Claudia Paz y Paz compares the CEH and the PNR; though their work is not separated by a very long period, the PNR had more extensive psychosocial accompaniment and benefited from other accompaniment work with survivors which had by then begun to take place. She notes that this has contributed to the greater number of cases reported, because there is nominal support for women's testimony. While not perfect, "at least sexual violence is acknowledged as a theme, and there are women interviewers and other forms of public education about the topic now" (Paz y Paz 2010; for extensive commentary see Paz y Paz 2006, Morán and Corzantes 2011, and discussion in Chapter 7).

It is not my intention to overstate the hypothesis that "individual women did it all" to expose sexual violence, in the face of more complicated evidence, as outlined in Chapter 4. Such women were supported by nascent and more established organisations, for example, and there were many non-feminists along the way who recognised the importance of supporting the work even in the absence of more systematic possibilities. Women and feminists operate in many spaces, often share knowledge outside of official settings, and maintain forms of institutional memory that would otherwise be lost. Yet this set of interconnected examples links feminist burnout not only to the lack of tools and knowledge about gender analysis in that historical moment, but also to the broader issue of non-feminist, positivist human rights culture partly rooted in the Left. Although this 'case' happened in a period in which gender was not recognised in rights work as it is today, and not all rights movements have the same connection to the historical Left, it is still relevant to broader patterns of feminist labour in transitional justice and

²²³ Numerous people who recounted her key contributions in the CEH have asked me about how to contact Teresa Rodríguez. I never got to speak with her in person and cannot assume anything about her experience. However, she is difficult enough to locate that I imagine it is on purpose.

human rights work, suggesting additional explanations for the persistence of non-feminist approaches and attitudes alongside surface-level gender-visibility.

Further, it is important to put this struggle in the context of the more recent institutional gestures towards gender-sensitivity as indicated in Paz y Paz' examples in the PNR. Many human rights organisations have recognised sexual violence as a violation of human rights in the interim. But as feminist lawyer and rights defender Lucia Morán articulates, certain Guatemalan NGOs have hastily incorporated gender into their existing genocide-related work, which allows them to gain access to new international funding. She sees this as instrumentalising survivors rather than supporting them. Other, more women-focused organisations struggle for the same level of recognition and international support. And when the larger organisations create projects or positions that deal with the issue, they have passed over the very women whose expertise and insistence helped put it on the agenda in the first place (Morán 2011). Aguilar wholeheartedly agrees, recounting a key example of this phenomenon. A year after her completion of graduate studies in London and Spain and subsequent return to Guatemala, Yolanda was called by staff at the ODHAG to invite her to participate in the celebrations around the tenth anniversary of the REMHI report. As she tells it, she was incredulous.

When I returned to Guatemala last year, I was invited to give a talk, it was a bit funny. [...] The talk was...it's incredible...on the recommendations that REMHI made on women. [E: Nothing!] And they didn't know! [...] The talk was] for them! For the people at ODHAG! I swear! I returned at the end of 2008 to Guatemala and I got the invitation sometime in March of 2009. Mm, and I told them, I can't believe this. I said, 'put up your hand, everyone here who has read the REMHI.' Yes! [in a righteous tone]: And everyone puts up their hand! 'And put up your hand, everyone who has read the recommendations.' Everyone puts up their hand. 'I can assure you all that you haven't read any of the recommendations of the REMHI, because in REMHI there aren't recommendations on women!' So, you can imagine, as I told them, it's a frenetic activism...it's terrible Emily, it's terrible. People do and do and then they see you, let's say as an example, they see you and they think, this will bring us funding. [...] I have also lived off international *cooperación* and also done things to survive, but I can't function in a way where I see dollar signs instead of people. You understand? So, they hadn't read REMHI! They didn't know there were no recommendations on women, and they wanted me to give a talk about that! I swear. So it was very hard. But look, so I went, I gave them a talk that I'm telling you about, that they don't understand anything, right, and I explained why there had been no recommendations, right? The advantage is that I believe that distance that I've had from institutions lets me say everything. Because I don't have, let's say, conflict with power, I'm not trying to arrive at directing any institution [...] I don't have this dependency. [...] I can say things, right? Whether you like it or not.

Conclusion

This chapter has outlined how the emotional and embodied impacts of truth-telling work affect both the workers and the representations they produce. The unremitting urgency and the intense desire to do justice to the experiences recounted to them contributed to the posture of “urgency praxis.” Strategies of doing one’s best with the information and resources available are evident throughout this project. When adopted by feminists, they have led to important exposures around sexual violence that are often short-circuited by a lack of political will, as well as the inadequate tools and discourses in which human rights defenders operate. In this chapter, participants’ reflections show how the interlinked physical and emotional challenges of this work encouraged the production of selves that contrast with victims. The practices of deferral and selflessness in the practice of these workers created the possibility for solidarity through difference: representing others as worse off than oneself helped to sustain the work, even as it produced reductive representations of victimhood that have been critiqued in this project.

Clarifying the function of urgency praxis in this site is not intended to idealise it as a form of practice. Rather, it helps to explain how this work gets done and particularly, creates space to understand the decisions of workers as always strategic ones, made in frequently difficult conditions. Further, it shows how feminists have explicitly recognised the links between the exhausting labours in which they engage to expose sexual violence in war, and to fight for equality within organisations supposedly oriented towards social justice. Challenging gender inequality and violence calls for more than statutory and procedural tools: it is also a question of occupational and political culture. Without serious shifts, feminist burnout becomes a frequent outcome, which has contributed in Guatemala to the loss of knowledge and expertise at crucial times in the transitional period. In the age of impunity, the unreflective, action-oriented urgency praxis model of rights work continues to function, rendering transformative feminist interventions ever more difficult and ever more necessary.

Chapter 7: Legacies of truth-telling and new pathways in rights defense

In this chapter, I outline some of the legacies of the REMHI and CEH processes, both generally and in relation to sexual violence. Though the reports are important documents, often the experience of participating in the processes themselves contributed as much to their legacies as the written record they left behind. In my interviews and the supporting literature, a range of commentators agree that these processes provided important openings to begin talking about the internal armed conflict, and that particularly the CEH was a key tool in advancing genocide claims in national and international fora. In the following chapter, I outline the impact of the REMHI and CEH processes on struggles for justice and reparations in Guatemala. With reference to gender, I then discuss three main areas: first, the space-opening effect of these reports; second, their impact on increasingly intersectional approaches to human rights that challenge prevailing hierarchies and urgencies of rights struggles; and third, the continuing importance of situating both wartime sexual violence and feminist struggle within broader, intergenerational historical memory work. These dimensions are crucial to understanding the significance of feminist work in Guatemalan human rights defense, but they also speak to human rights and transitional justice as a whole. The latter part of this chapter elaborates on discussions of feminist rights work in Chapter 6, and lays the groundwork for the concluding chapter.

The CEH report was presented at an event at the National Theatre in the centre of Guatemala City, in February of 1999. Some have stressed the cathartic effect of this event, after so much exhaustion and anticipation. Others have downplayed its importance when contrasted with the ongoing lack of concrete progress on reparations and prosecutions, foretold by then President Arzú's public rejection of the report during the ceremony. Marcie Mersky considered the whole experience "astonishing" and "probably the single most moving public event" she'd ever attended. I quote at length from the interview:

It was amazing. [...] It was... truth as reparation. "Truth is Reparative" [...] with capital letters, right? For the people who were there [...] they had big screens projecting it so there were probably, I think there were three thousand people inside, maybe a similar number outside... [...] but... it was the most astonishing thing because Tomuschat²²⁴ gets up there and starts doing his speech and he's speaking very... determinedly and very... forcefully and with lots of emphasis...and as he does it [...] all these people are applauding and standing up and shouting and, and then at some point in this whole thing

²²⁴ Head CEH commissioner, Christian Tomuschat.

you start to see people crying...and then it's kind of like, row after row after row of people beginning to cry... and what was that about?... In talking to people who were really tough, people who don't usually cry, [it] was a sense of, a vindication...in part because... I think the denial had been *so* extreme and... you know, one of the sort of classic lines, because [most victims' advocates seeking the disappeared] were women actually, so it's sort of going back to the gendered... "oh it's just '*las locas*'" ... '*las locas*'... so there's a sort of writing people off as...being *locas*... and to then have...a determined white-haired German jurist sort of say these things was... deep vindication and [...] a real act of reparation... and I had no sense in my life that a public event could do that, or that it could be so... powerfully moving. And like, somebody like Helen²²⁵ who's tough, Helen's tough... she cried for the next two days. I mean seriously she didn't stop crying for two days after that. And there were a lot of other people in the same sort of ballpark and then for years you couldn't get Helen to talk about it without crying [...] it was really... you know, quite incredible... and I don't think people maybe pay enough attention [...] cause it's a kind of a theatrical part of it (Mersky 2012).

Though South Africa's TRC was known for its public hearings, Guatemala did not have the same level of sustained public attention on the stories of victim-witnesses. Mersky noted that the videos documenting the final event were poorly produced and could not do it justice: "It's really too bad because... it was *astonishing*... astonishing" (ibid).

This performance of truth-telling was all the more astonishing because it was carried out against the backdrop of continuing impunity for both present-day crimes and those committed during the war. The presentation of the CEH report came less than a year after that of REMHI in 1998, which had cast a long shadow. Just days after presenting the REMHI report he had so passionately supported, Bishop Juan Gerardi was murdered. Many suspected military involvement, but in 1998, no high-ranking member of the military had ever been convicted of a human rights crime or an extrajudicial execution.²²⁶ After monumental legal efforts that spanned the twentieth and twenty-first centuries, members of the elite presidential guard (EMP) were convicted for the crime. But Gerardi's case remained exceptional: ten years after his

²²⁵ Helen Mack, sister of Guatemalan anthropologist Myrna Mack who worked with displaced populations in the 1980s and was murdered in 1991. The persistence of Helen Mack and other rights activists to see justice done resulted in a protracted set of legal battles which served as one of the first major tests of the peace-accords-era justice system. Noel Betteta was convicted of the stabbing in 1993, but Mack persisted in pursuing the intellectual authors of the crime, resulting in the conviction of Colonel Juan Valencia Osorio (member of the EMP presidential guard) 11 years after the crime, though others were acquitted. The same people were also implicated in the Gerardi case. One important aspect of this crime was the way it was made to appear as a common crime, a *modus operandi* of the Guatemalan military and security apparatus. See REMHI 1998, Vol. III, 292-294; CEH 1999, Vol. VI, 235-244; Goldman 2008.

²²⁶The Gerardi case represents an impressive legal effort that also worked as a capacity-building case. See book-length coverage, *The Art of Political Murder: Who killed the Bishop?* (2008) by investigative journalist Francisco Goldman.

assassination, the NGO Impunity Watch counted only three massacre cases in which the material (but still not intellectual) authors had been charged. Despite the roughly 600 massacres documented in the CEH report, the dormant Historical Clarification Unit of the Public Ministry²²⁷ had not presented a single case in its first three years of existence (IW 2008, 14).

Many of those identified as collectively responsible for genocide and crimes against humanity still hold both formal and informal power in Guatemala, and unsurprisingly, neither the CEH nor the REMHI have been officially embraced as national history. Neither were they widely incorporated into school curricula, in contrast with the broader uptake of the TRC in South Africa, for example. Impunity Watch notes that 2008 marked the first year when national school curricula included detailed discussion of the causes of the internal armed conflict. The organisation judges the impact of these changes as minimal so far, especially given the relative youth of the Guatemalan population, many of whom were born after the war was over (IW 2008).²²⁸

Edda Gaviola is a long term advocate for genocide survivors and staff member and former director at the human rights organisation CALDH (Centre for Human Rights Legal Action). She stresses that President Arzú's rejection of the CEH report in 1999,

symbolically demonstrates that the theme of historical memory in Guatemala is a theme that continues to be in dispute: it's an area of discussion, an area of debate, but also of threat. It's an area of violence. It's very complicated (Gaviola 2010).

Gaviola adds that in transitional justice and truth commissions there has often been an emphasis on the theme of reconciliation, but that this "catharsis model" can't be sustained without being accompanied by acceptance of the truth and major justice initiatives: "you can't advance if you don't accept what happened" (ibid 2010). Here she echoes the common refrain of activist groups such as HIJOS (Sons and Daughters for Identity and Justice Against Forgetting and Silence), the radical group of children and relatives of the disappeared that formed in Guatemala in 1999.²²⁹ In a follow-up study conducted ten years after the REMHI report was released, HIJOS representative Wendy Santizo Méndez claims:

That the authorities asked for forgiveness is a joke, it's a farce [...] this is why our slogan is "neither forgetting, nor forgiving." Some human rights organisations perceive us badly when we say, "we won't forget, we won't forgive and we won't reconcile." Because for

²²⁷ Abbreviated in Spanish to MP, this is the state body equivalent to the Public Prosecutor's office

²²⁸ Oglesby (2005) discusses the limited efforts of educators in the years before this broader curricular incorporation.

²²⁹ HIJOS groups exist in a number of countries, including Argentina and Mexico.

us reconciliation is the application of justice, and until there is justice, we can't reconcile, it was genocide that happened here. It wasn't car theft, it wasn't the theft of private property, it was the theft of human dignity, of the life of thousands of Guatemalans. This can't be forgiven with the presence of an authority figure on radio and national television. (ODHAG 2008, 70).

Human rights defenders often indicate that the REMHI and CEH reports provide a key reference point for understanding Guatemala's past and present structural problems by contextualising the conflict, especially since the state has not taken on this role itself. Jean Arnault was the head of MINUGUA, the UN verification mission in Guatemala, at the time of the CEH. In 2000, he stressed that "the report is a point of departure, not a point of arrival. Unless a commission begins where the CEH finished, by insuring the recommendations are adopted, then medium-term social and cultural change could be limited" (UNOPS 2000, 19).

Earlier assessments often focused more on the unsatisfying results of the REMHI and CEH in the short term. For example, Rigoberta Menchú-Tum insisted that after the completion of the CEH report, there was "complete censorship[...] [t]he results would have been much greater had the State identified with the Report and published it in the mass media" (UNOPS 2000, 24). For a range of commentators, it was both an important step to be able to publicly name the state for its crimes, and a difficult realisation that the impunity of authoritarianism has continued into the present day. Wendy Méndez indicates how the truth-telling processes inspired HIJOS:

We were born in June of 1999, but already in 1998, the assassination of Monsignor Gerardi drove us and made us a lot more committed. It came to reaffirm our work recovering the dignity of the victims and survivors and show how speaking out played a liberating role in making the real story known (ODHAG 2008, 51).

As part of this struggle to expose the truth, many comment that press coverage of the reports and of the conflicts in general represented a positive improvement around the time of their presentation. Journalist Iduvina Hernández says that beyond improving press reporting on the conflict²³⁰:

I understand REMHI as something that continues beyond the four volumes of the report. It constitutes a process that has permitted communities to reach a level of empowerment to initiate processes of truth and justice (ibid, 30).

Below I discuss various key aspects of this struggle that have developed since the REMHI and CEH.

²³⁰ A point echoed by Mersky (2012).

Truth, justice, reparations: “It is we who do the state’s own work”

Calls for truth, justice and reparation are often intertwined in this setting, though their meanings are not a matter of consensus. In the period since the peace accords, my interview participants can locate and recount numerous inspirational stories of breaking silence and thwarting impunity. Paradigmatic legal cases and other initiatives like the more recent Tribunal of Conscience on wartime sexual violence²³¹ present good examples. The Mack and Gerardi cases both helped to demonstrate that the postwar legal system was occasionally capable of delivering justice, albeit slowly and with a level of accompaniment that far exceeded what is available for a regular case. Other cases focusing on wartime massacres in Rio Negro and Plan de Sanchez also demonstrated the potential for attaining justice for collective human rights violations within the legal system, both domestically and internationally. A number of legal cases have used the REMHI or the CEH as evidence, contrary to the general sentiment during their operation that they were not rigorous enough and did not have enough teeth to be useful. These include a genocide case tried in Spain using the law of universal jurisdiction (Roht-Arriaza 2009) ; the Chautelum case (ODHAG 2008); and the in-country genocide case that convicted Rios-Montt and featured survivor testimony on sexual violence in 2013 (AJR and CALDH 2013).²³²

However, these success stories cannot mask the nearly inhuman efforts required to accompany a few paradigmatic cases through a compromised legal system, and simultaneously to reform the system itself. Sergio Pivaral remarks on the advances achieved by certain cases in a legal system that few had believed in: among others, the Mack and Gerardi cases had not seemed possible during the time they worked on the CEH, particularly with the lack of legal powers the CEH possessed. “It surprises me a lot! [...] Because we couldn’t do it [at the time of the CEH], the impotence in that moment meant we couldn’t promise this” (Pivaral 2010). He continues, underlining how his long-term cynicism about the potential for justice has been tempered by legal advances: “I have always said, look, the Myrna Mack case took thirteen years to get a

²³¹ This two-day event featured a panel of distinguished feminist judges and showcased testimony from survivors of wartime sexual violence and statements from a range of experts in law, rights defense and forensic anthropology. It condemned the sexual violence documented in REMHI and the CEH, and called for an end to impunity. It also served as a training ground for groups of survivors who chose to pursue their cases together at the domestic and international level. The Tribunal is discussed briefly in the dissertation introduction. For more extensive coverage, see Crosby and Lykes 2011, and ECAP, UNAMG, MTM and hegoa 2012.

²³² Each case has generated a large amount of primary and secondary documentation. For more context and commentary on key legal cases in the past fifteen years, both in the domestic and international context see especially recent Impunity Watch reports (2008, 2009, 2012a and 2012b).

ruling and how many resources, how much international support, so how can we ask people who are bringing a case of rape or a case of forced disappearance” to believe in the justice system? But, Pivaral notes a number of recent cases²³³ that made unexpected advances on crimes related to the war, indicating that perhaps the paradigmatic cases like Mack and Gerardi would not be such isolated incidents. “Now I’m starting to see the effects...I hope this process will continue to accelerate, and that the theme of justice will really start to produce results”(*ibid* 2010).

Some of the legal legacies of the CEH are very concrete, and very recently recognised. Pursuing evidence on genocide represented the possibility for eventual prosecution, however remote, because it was not covered by national amnesty laws that had provided immunity for figures like Rios-Montt. Even without this legal protection, Rios-Montt and others enjoyed *de facto* protection, as Impunity Watch reports that MP staff had been verbally instructed not to move ahead on the Rios-Montt genocide case (IW 2008; see also Roht-Arriaza 2009). With a shift in government, this untouchability became less tenable. Only weeks before my interviews with Mersky and Baquero in 2012, Efraim Rios-Montt was arrested for genocide committed while he was president in 1982. After this moment, Baquero says:

I finally felt like my life has some meaning because ... this is what we wanted to do [...] People drew maps for us [...] We had maps of where the bombings were... you know ... that the commission didn’t really want, so I kept them. [...] When I left I was working for AVANCSO... maybe two or three years afterwards? So I... still kept all of that stuff in my house and when I left Guatemala I found my lawyer friends and said, ‘take it, use it, don’t throw it away, if you don’t want it give it to someone else, but don’t throw this stuff away’... and... I gave it to one of the lawyers that [later] made the [genocide] case... they used some of those maps! (Baquero 2012).

These important cases are overwhelmingly the exception, rather than the rule. But the inadequacy of truth without justice (however defined) has pushed people to continue to engage with the law. Helen Mack pursued the case of her sister’s extrajudicial execution all the way to the Inter-American Court. She asks,

[d]id truth help me? Definitely it did for moral reparation. (...) But up to where... the local people...how does truth help them if they are living with the perpetrator, with the “actor”? (PCS 2010, 41)

²³³ Such as, in the domestic context, the El Jute case on forced disappearance and illegal detention, and the Fernando Garcia case of forced disappearance (see detailed discussion and documents on this case at the national security archive website: <http://nsarchive.gwu.edu/NSAEBB/NSAEBB337/>).

As Mersky asserts above, truth can be reparative in certain contexts. But many others insist that on its own it is a bitter pill to swallow (Rotberg and Thompson 2000, Wilson 2003, Theidon and Laplante 2007, Gaviola 2010). Knowing the truth on an individual level can be a dramatically different experience from having the truth told and affirmed by others, especially by the state. In an interview performed for the UNOPS report in 2000, GAM co-founder and then congressional deputy Nineth Montenegro says, “[t]he [CEH] report talked about things we already knew. It didn’t reveal anything new about extra-judicial executions, genocide, forced disappearances and the participation of foreign forces.” In her view,

[w]hat’s important is the valor of what is said and who is saying it; that is what makes the difference. In other words, the fact that someone designated by the United Nations has said these things with the valor and force with which they are said, that’s what is new (UNOPS 2000, 13).

In her discussion above of the impact of the public presentation of the CEH report, Mersky indicates the perhaps unexpected degree of validation many experienced when a public official pronounced on the violence long denied by the state. In the search for the disappeared, as in many other parts of Latin America, one insidious effect of political disappearance was never knowing whether loved ones were in fact dead. Not being able to see or bury the dead had a major impact in this respect, and many people focused their energy on exhumations and the right to know the truth about what happened as a result.²³⁴ Rosalina Tuyuc, former head of the National Reparations Program, indicates the key role played by dignification in processes of reparation. But “dignification is not just a monument, right? Rather, it’s support for exhumations” (PCS 2010, 37). In Mayan communities, not being able to properly bury the dead has had major impacts on people’s ability to mourn and to perform appropriate rituals. One key study carried out in Alta Verapaz outlines how the experience of death in displacement was frequently understood in the context of *susto*: a condition of sustained emotional and physical stress that caused people’s souls to remain where they had died, unable to move on (Viaene 2010; see also discussion of *susto* in Green 1999).

Maria Baquero recalls witnesses’ descriptions of the military’s efforts to prevent them from honouring their loved ones:

in the early years, they wouldn’t allow people to go and they would put guards and...they would sometimes even put guards to guard dead bodies, and just let them rot, let dogs eat

²³⁴ See Méndez 2011, Impunity Watch 2008, 2012b on the regional development of laws around the right to truth.

them...there was a very, very purposeful campaign to not let people...it wasn't just the massacres, it wasn't just the violence of the moment, it was constant...obstacle to living and to mourning (Baquero 2012).

She indicates that as time wore on, in many cases, "people already knew where the clandestine cemeteries were and they weren't clandestine. You went, and there were crosses and there were offerings and there was *pom* [incense] you know, incense and candles..." (ibid 2012). Despite this knowledge, exhumations still offered an additional form of certainty and closure. Baquero indicates that this was lived in a range of ways. During the time of the CEH:

At one of the exhumations a man was standing and [...]one of the anthropologists had a camera, was taking pictures of the plot, and they had already, you know, there were already bodies [...] uncovered at the bottom of the pit, and a man was standing with this, about a fourteen-year old boy, and he went over and he tapped on his shoulder and he said [taps table] 'can you take a picture of me with my son?' So he aimed the camera to take a picture of this man with the young adolescent boy and he goes, 'no no no no no,' and he asked if he could go down into the pit, and he stood next to one of the bodies, one of the skeletons, and he said, 'this is my son,' and he asked him to take a picture. So people lived in this very fluid way, it was like, and without drama, I mean like, what we would consider the drama, and there was, certainly there was sadness and weeping and people would mourn for two or three nights, sometimes once the—when the bodies were out...but there was just this fluidity about it that was *so* disrupted during the war (Baquero 2012).

The CEH and REMHI (through ODHAG) both sponsored some exhumations, but due to resource and time constraints, their impact was minimal compared to the areas that were known to contain mass graves (CEH 1999, Vol. IV, 277-278; see also Sanford 2003 on exhumations in this period). Many more exhumations have been carried out since the REMHI and CEH. The labour of victims' groups and support from civil society has been crucial. Rosalina Tuyuc elaborates:

[i]n practice, all the work of the exhumations has been assumed by the victims, for example: soliciting from landowners, municipalities or the state itself, permission to do the exhumation on private land. Or, not only this, but also the situation of being able to do the exhumation, which in practice is the responsibility of the Public Ministry, which it doesn't do either, so it is we who do the state's own work (PCS 2010, 37).

Helen Mack takes the same position on state abdication: "everything referring to exhumations, everything about historical memory. The state has not put in a cent, everything has been done with international funding" (PCS 2010, 38).

This issue stretches far beyond state neglect for exhumations. As starkly illustrated in Impunity Watch's recent comparative study on the search for the disappeared in six Latin American countries,²³⁵ official documentation of the disappeared (by truth commissions or other state bodies) is normally far lower than that of victims' organisations such as GAM in Guatemala, who have been working more actively on the issue and over a longer time frame. For example, the CEH recorded 6159 cases of forced disappearance, while the range of victims' organisations in the country document about 50 000 (IW 2012b, 33). Across the countries studied, Impunity Watch found a total of 46 884 disappeared in official records, and 154 090 in victims' organisation records (ibid, 42). As has now been argued in pathbreaking cases in Argentina, and in a number of Inter-American Court cases, beginning with Velasquez-Rodríguez,²³⁶ it is the duty of the state to expose the truth about the disappeared, not the responsibility of individuals (IW 2012b, 86).

Finding the truth is often coupled with demands for justice and redress, some of which is meant to be addressed by state reparations programs. Much of the debate surrounding reparations has centered on two main areas: first, the controversial politics surrounding the Commission for National Reparations (CNR) and later National Reparations Program (PNR), and second, the gap between the rhetoric of "integral reparations" and the reality in which the PNR has mainly delivered economic reparation to individuals in one-time cheques. This enormously complicated terrain cannot be detailed here, and has been well-covered in a range of research (Paz y Paz 2006, Duggan, Guillerot and Paz y Paz 2008, PNR 2008, Viaene 2010, PCS 2010, Morán and Corzantes 2011, Crosby, Lykes and Caxaj 2016). Many critics highlight that although the CEH recommended victims' groups be active participants in directing the reparations program, many such groups (especially those composed mainly of women such as GAM and CONAVIGUA) found themselves completely shut out of the process (Paz y Paz 2006, Morán and Corzantes 2011). When political differences divided those who were in charge of reparations, the government intervened, disbanded the commission and re-staffed it with bureaucrats who did not usually have the same connections or commitment to social justice struggles. But the appointment of the founder of CONAVIGUA, Rosalina Tuyuc, as head of the Program indicated a symbolic swing back in the direction of victims. Tuyuc was critical of the failures of the PNR

²³⁵ Guatemala, El Salvador, Honduras, Argentina, Peru and Colombia.

²³⁶ Velasquez Rodríguez Case, Judgment of July 29, 1988, Inter-Am.Ct.H.R. (Ser. C) No. 4 (1988).

far and advocated for culturally appropriate forms of reparation in the context of loss of land, language and other traditions, and for sexual violence to be included as its own violation (PNR 2008, PCS 2010, IW 2012a).

“Integral reparations” is an approach that draws on the UN Basic Principles on the Right to Reparations at the international level, where reparations must address five main areas: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition (Basic Principles 2005). While some of these areas are often interpreted in monetary terms, many deal with other dimensions such as telling the truth about the disappeared, public apologies, memorialisation ceremonies, monuments, exhumations or national holidays. These principles recognise the fact that total reparation is never possible (AI 2009, 37; see also De Greiff 2006). Tensions between individual monetary compensation and more collective forms were already evident to some observers during the field work of the CEH. In the present-day, some survivors who receive only monetary compensation feel that their silence is being bought (Viaene 2010) while others wait for cheques that never come, leading to what advocates have called “revictimisation” through the PNR process (IW 2008, 2012, Fulchiron, López and Paz Bailey 2009, PCS 2010). Some put it more starkly: in ODHAG’s 2008 follow-up report on the REMHI, Alfredo Anckerman calls the focus on individual payment the “commodification of pain” (2008, 73).

Rosalina Tuyuc defends individual monetary compensation as a humanitarian consideration for those living in situations of extreme poverty, to pay for daily living costs and medical and psychological care that they would not otherwise be able to afford. However, she expresses disappointment that it has also been appropriated by particular groups and politicians at both the local and national levels. She claims that often when she goes to deliver cheques in communities,

people say ‘but I wasn’t looking for that, what I wanted is to know where my child is.’ Or there are families who have come also and say, ‘no, we renounce economic reparations, the only thing we want is justice and truth...’ For example, a *señora* who came here said: ‘Look, twenty-five years ago my son was seeking a drinking water project and up to now no one has risked promoting this water project, it hasn’t been done in the community. But if you could support this water project and name it after my son, with this I would feel repaired’ (PCS 2010, 39).

Beyond these discussions, there are many other critiques of the inadequacies of the reparations program. CALDH workers with whom I spoke in 2010 complained that the PNR

seemed to be stuck in a permanent diagnostic phase: they return to communities without implementing promised reparations, some for as many as seven years, by which time many people lost faith in the program completely. Various access barriers and procedural issues for women survivors and participants have been documented (Paz y Paz 2006, Fulchiron, López and Paz Bailey 2009, IW 2012a), including the delivery of cheques to survivors of sexual violence in public ceremonies with no attention to the potential impact that being publicly identified might have on their lives (Duggan, Guillerot and Paz y Paz 2008, 208). But the emergence of more testimony on wartime sexual violence indicates that more accompaniment, a higher public profile and perhaps also more time produces better evidence of this form of violence—something stressed in my interviews with Paz y Paz (2010), Aguilar (2010) and Morán (2011), and elsewhere by Tuyuc (IW 2008, 23). CEH cases initially provided the basis for validating PNR cases for reparations. Though an increase in testimony on sexual violence is often touted by advocates as a victory over silence and fear, here it mainly exposed the distance left to travel before sexual violence survivors will be treated equally. High levels of sexual violence testimony at the PNR raised the suspicions of those working within its bureaucracy that rape was something women themselves were inventing to get money from the state. A policy was implemented that required women to ‘prove’ their credibility in front of psychologists (IW 2012a). Feminist lawyer Lucia Morán notes the perverse nature of investing in psychosocial resources, but using them to cast doubt on women rather than to support them:

For the women it was very hard to hear...because it was like, ‘so, you don’t believe me.’ Now the result is that, a terrible fear has come over them because they are victims of atrocities, right? So, when an authority figure threatens them...practically they interpret this as a threat, it makes them feel really bad (Morán 2011, see also IW 2012a).

This process in itself intimidated some women survivors from following through with their cases (Morán 2011), but as discussed below, advocates and survivors across the country continue their struggle across a wider terrain.

Space-opening around sexual violence: Legal visibility and reform

As I highlight throughout this project, many rights defenders now recognise the crucial role played by the REMHI and CEH in opening space for more public approaches to sexual violence. Without singling out any one organisation, Claudia Paz y Paz indicates that there has been a generalised reluctance to name sexual violence in rights defense on genocide and the disappeared, which has also meant a reluctance to testify about it in various cases moving through the Inter-American court (Paz y Paz 2010; see also Diez 2006). She acknowledges that more recent shifts to incorporate sexual violence in such cases,

might not seem like much to you, because things shouldn't be the way they are. But there are shifts in organisations that bring cases forward, in victims' organisations and in functionaries, towards a consciousness that sexual violence exists, that it's something terrible and that it must be investigated. Five years ago even, this was not the case. This is excellent: this is territory we won! (Paz y Paz 2010).

Many see the REMHI and CEH reports as a primary base for building more robust feminist historical memory. Luz Méndez indicates that the CEH and REMHI “made a valuable contribution in incorporating sexual violence against women in armed conflict into their reports, although in a reduced form when compared with other violations of human rights.” For the time, it was “magnificent work.” To Méndez, the strength of the CEH is its historical and structural vision, and she sees an “indispensable line of historical continuity” between the reports and her current work with sexual violence survivors (Méndez 2010). In the ECAP-UNAMG accompaniment with indigenous women survivors, the CEH was a useful reference tool informing the projects. Beyond its analysis, Aguilar adds that the CEH helped to show them where in the country to start building the support groups that were the basis of their later work (Aguilar 2010; see also PCS 2010, 37).

When such space was opened, it was into a near vacuum on women's rights at the domestic level. The ambitious agenda of legal reform that followed the peace accords in 1996 included major changes to national laws on violence against women. In the later 1980s, after nominal democratisation measures were implemented in 1986, the state began to acknowledge gender as an issue, if only as a way to improve Guatemala's international image.²³⁷ GAM and other groups without explicit feminist politics were joined by increasingly feminist groups in the

²³⁷ For example in gender-focused articles 4, 47 and 52 of the Constitution (Berger 2003, 198); but this Constitution defines women as a 'special' and 'dependent' group (Berger 2006, 42-46).

capital who built on the paths the earlier activists had broken (Blacklock and Crosby 2004). These newer groups included GGM (Guatemala Women's Group) and *Tierra Viva* (Living Earth), both founded in 1988, which focused respectively on service provision, and public education and documentation. GGM was one of the first groups that explicitly fought domestic violence after setting up a women's centre, and later in 1991 became a member of the *Red de la No Violencia* (Network Against Violence Against Women) with other organizations. These groups collaborated on a range of initiatives, and created the 25th of November group to organize antiviolence events on the UN Day of action (Berger 2006, 199; Walsh 2008, 59-60, Alvarado 2010). GGM opened a women's shelter in 1994 when such services were almost universally unavailable, and the group struggled to counter the prevailing view of state and Church authorities, who argued that providing women and children a sanctuary space violated the sanctity of the home and patriarchal family. As GGM founder Giovanna Lemus notes in her interview with Walsh (2008), early frontline work obviated the need for stronger laws. Further, Guatemala's ratification of the Inter-American Convention to Prevent, Sanction and Eradicate Violence Against Women in Belem do Para (1994) created an opening that women continued to leverage in the ongoing peace negotiations (Walsh 2008, 59-60). Defender of the Indigenous Woman (*Defensoría de la Mujer Indígena* or DEMI) was one body created within the context of these openings.

The resulting first step for legal reformers was a new law on "Intrafamilial violence." Some felt this term depoliticised the issue of "violence against women" (see for example Aguilar in Chapter 4, and Alvarez 2000), but the law represented a marked improvement on older legislation on violence against women, formed the basis for later legislation, and showed that feminist pressure on legislators could obtain results (Berger 2006). With Belem do Para and the Beijing World Conference on Women occurring within a year of each other, those working directly on these issues felt the time was right for pressure around both women's political participation and protection from violence. In her study of feminist activism in this period, Susan Berger notes the contradictory openings simultaneously created by neoliberal economics: organising as women became possible in new ways, but the state was able to evade responsibility for citizens while depending on women's groups and increasingly NGOs to fill the gaps—for example, by sending women to GGM shelters or to CONAVIGUA's literacy programs (Berger 2003, 201).

GGM and other groups worked through the *Red de la No Violencia* to press the state to create a body on violence against women. The resulting CONAPREVI, formed in 2000, is one example of the possibilities and perils of demanding state accountability but also giving up some control or autonomy once the state agrees to do something.²³⁸ Activists worked through CONAPREVI to lobby the UN special rapporteur on violence against women to visit the country in 2004 and pressure the government to take violence against women more seriously (ibid). Subsequent organising against violence has grown from such initiatives. Norma Cruz' internationally recognised anti-violence organisation, *Sobrevivientes* (Survivors) is one well-known protagonist in the capital. This group has worked increasingly closely with the public prosecutor's office (MP) on cases of sexual and gendered violence. They also more recently created a major pressure campaign to investigate and regulate the many cases of coercive international adoptions taking place in Guatemala. Other groups such as the feminist legal organisation Women Transforming the World (*Mujeres Transformando el Mundo* or MTM) began to take on cases that others (including *Sobrevivientes*) considered "unwinnable" (Morán 2011). Their accompaniment of women through the judicial process has demonstrated the extent to which such unwinnability is a question of resources and political will rather than merely legal facts.

Though these were important gains, a rapidly deteriorating domestic situation formed the backdrop for this organising and institutionalisation of formal rights. After the initial cautious optimism at the signing of the peace accords in 1996, the consequences of the failure to demilitarise Guatemalan society became quickly apparent. One consequence was a rise in gang violence and organised crime related to the incapacity (or unwillingness) of the state to maintain that hallmark of liberal democracy: the rule of law. In the context of the generalised increase in homicides (an average of 5000 per year, according to IW 2008, 14) came an alarming rise in the murders of women. In other parts of Latin America, particularly in Northern Mexico border

²³⁸ Walsh's study illustrates how CONAPREVI's formation was linked in legislation to the implementation of the new law on intrafamilial violence (Walsh 2008, 61) and was partly successful because of negotiations with then President Portillo's wife, who was interested in sitting on the board of the organisation. The body included representatives from civil society through the *Red*, and state representatives from various branches, including the judicial and statistics bodies and the Presidential Secretariat for Women (SEPREM), the last of which became responsible for CONAPREVI's budget, causing problems around conflicting funding priorities (ibid).

cities such as Ciudad Juarez, activists had developed an analysis of the rapidly increasing murder rate of young women as “feminicide” (Lagarde 2008, Fregoso and Bejarano 2010).²³⁹

The spike in killings of women in Guatemala became a flashpoint of concern as broad coalitions of women were already fighting for legal reform around gender violence. After partial victories such as the intrafamilial violence law, many focused their energy on creating a broad law against feminicide, first achieved in 2008. As discussed by CALDH (2005), Sanford (2008) and Musalo (2010), various theories have been advanced about the causes of feminicide in Guatemala. While some noted the similarities in the spectacularly violent torture and murders of Guatemalan women and what had been practised (particularly against activists) during the war, others focused more on how merely being a woman could be seen as a universal risk category (Sanford 2008, Ihmoud 2011). This has sometimes drawn more focus to individual men as culprits rather than the negligence and tolerance of specific institutions such as the military or police. Without consensus on these questions, many still agree that major judicial and policing overhauls must be a part of a coordinated approach to the issue.

When I spoke with Claudia Paz y Paz in 2010, she stressed the shifts in attitudes in the MP around taking sexual violence seriously. She raises the domestic El Jute case as an example, which incorporated sexual violence very late,

but at least it’s there. The Public Prosecutor recently created a small unit, which has few resources, but they are working on it. Since the last Attorney General, González, now there is more sensitivity and knowledge in the MP (Paz y Paz 2010).

The following year, Claudia Paz y Paz herself became Attorney General. Claudia Estrada, who works at the National Police Archives (AHPN), stresses that Paz y Paz’ influence has been extremely important to them. The MP, which had often been difficult to work with in the past, had become noticeably more cooperative under Paz y Paz’ leadership, and the evidence of

²³⁹ Also often called femicide. Distinctions between the two terms reflect ongoing political debate around the origins of violence against women. The term femicide is concerned with the killing of women because they are women, deriving from the work of Radford and Russell (1992) and others. Central to this understanding is the notion of patriarchy as a universal framework organising societies and centered in the family (as well as other social institutions). *Feminicide* developed (particularly in the Mexican border city of Juárez, see Lagarde 2008, Fregoso and Bejarano 2010), as a way to articulate such killings as caused not just by individual men acting under the dictates of a universal patriarchy, but also under the purview of a state that by act or omission, creates conditions that tolerate violence against women, including but not limited to murder by men. The question of state responsibility, like the extra ‘ni’ in the terminology, may seem like a subtle distinction, but it remains a crucial element in the struggle for women’s security and accountability in the region. See the recent text *Terrorising Women* (2010) for a useful cross-section of approaches to the concept and its use in Latin America. On Guatemalan killings in particular see the yearly reports of the Procurador de Derechos Humanos (archived at: <http://www.pdh.org.gt/documentos/informes-anuales>); see also CALDH’s report (2005).

human rights violations that was being gathered in the archives was finally being put to good use in cases taken up by the MP (Estrada 2011).

Of course, one person cannot be expected to change everything in institutions that are often acknowledged as internally corrupt—as Baquero notes, “I don’t know how she’s not had like a massive heart attack, I mean I can’t understand the stress that she’s under!” (Baquero 2012). But in under four years in the position, Paz y Paz succeeded in reducing the overall impunity rate for violent crime by almost 25% (Alford-Jones 2014). She purged the MP and hired a new generation of lawyers, restructured its processes and implemented a system of promotions for people who cleared cases successfully (Reynolds 2013). Many judges were retrained, and throughout this work, she brought an agenda to improve the justice system’s response to women who suffered violence. One outcome of this commitment was support for special domestic violence courts staffed by people actually trained to work on issues of gender violence, and a special prosecutor’s unit was provided with more resources for crimes against women (Reynolds 2013). Other advances include special provisions such as the option to testify confidentially in rape trials (IW 2012a).

Paz y Paz’ remarkable reforms were possible in a particular climate. Alvaro Colom’s government was not openly affiliated with the military, which created space for movement on a number of justice and human rights related issues. When the government of Otto Perez Molina took over, this former general who had presided over the hardest-hit region during the genocide retained Paz y Paz until her support for moving ahead on cases implicating high-ranking military officers resulted in political maneuvering and her removal before the end of her term. A right-wing judge, Thelma Aldana, was selected to replace her, already dismantling some of the gains made in this short period (Alford-Jones 2014). However, Aldana has continued to support legal initiatives around sexual violence, indicating a wider range of public awareness and support for gender issues than in the era prior to Paz y Paz’ tenure.

The experience of Paz y Paz in the powerful office of Attorney General indicates how feminist critiques of law, as I explored in Chapter 2, can be balanced by strengthening institutions that can support women, as it is not always the institution or tools themselves that are problematic. Much is determined by those who do the work and what they do with their power. But even so, the impunity gap decried by feminists around the world returns the question of the over-focus on the law as a potential tool for empowerment and justice for women. Despite the

successes of feminist pressure on the government to legislate against femicide, Maya Alvarado argues that things must move beyond one institution or figure. The state has failed to take up the law actively and to train people properly, and the situation “doesn’t create indignation [...] this state terror continues to operate.” With narco-trafficking and organised crime, the peace agenda “remains insufficient...things have become more complex” (Alvarado 2010).

In some secondary literature on these advances in Guatemala, there is a tendency for the story of progressive feminist legal reform to predominate, without accounting for intersecting inequalities that already divide women, in Guatemala as elsewhere (see e.g. Walsh 2008, Musalo 2010). Others have analysed the deficiencies of dominant approaches to femicide, particularly around the sensationalistic representations that tend to take up the stories of “good” or “innocent” victims who fit more clearly into frameworks of gendered, racialised and classed respectability (Ihmoud 2011, Doiron 2012). Police frequently declined to investigate murders of young women because they were wearing sandals or had a belly-button piercing (Portenier 2007, Sanford 2008), markers that coded them as sex workers in the eyes of the police. Against this manifestation of institutional misogyny, some researchers, campaigners and journalists focused on re-framing those who had been murdered as respectable and from “good families” as women worthy of investigation, and by implication, not involved in the sex trade. One by-product of this strategy was the under-attention to how discourses of gendered respectability map onto those about race and class (Ihmoud 2011, Doiron 2012) and the over-focus on relatively privileged women when others were also impacted. Further, these critics question the infrequent discussion of the links between what was done to women systematically in the war, and what was emerging in the postwar.

Survivors’ analysis around the role of racialised sexual violence in the genocide has developed in the support groups in the ECAP-UNAMG life history project discussed throughout this dissertation. In Fulchiron, López and Paz Bailey’s 2009 study emerging from this accompaniment work, one important thread of analysis is the clear articulation that the sexual violence survived by indigenous women was an integral element of the genocide. But another part of this analysis proposes that sexual violence in the armed conflict should also be understood within the newly popularised framework of femicide (2009, 189-218; also discussed in Chapter 3). While some advanced femicide as a way to understand extreme violence against women without reference to the war, nor to the continuing social divides

between women, others have taken the framework as an additional political tool with which to conceptualise their experiences. Rather than being contained in discussions of the past, Fulchiron, López and Paz Bailey's proposed framework forms a bridge between what happened to indigenous women in the war (and throughout colonisation), and what is happening to a range of women in the post-war. The meanings of this continuity can be complex, but it is a good example of the ways that survivors have built on the CEH and REMHI, while not accepting their analytical limitations around gendered violence, nor taking different limitations of the femicide framework at face value.

Femicide struggles in the 2000s are also a useful site to display the diversity of groups and analyses that touch on post-war approaches to violence against women. In the ECAP-UNAMG project and related work including the Tribunal of Conscience in 2010, testimony about rape in the war and rape as a strategy of expulsion from resource-rich land in 2007 were explicitly juxtaposed (ECAP, UNAMG, MTM and hegoa 2012, 49-54). Both Luz Méndez and Maya Alvarado, while respectful of many feminist approaches, stress the importance of historicizing analysis of violence against women as their priority at UNAMG. Alvarado notes that while other organisations worked on violence against women earlier than the pathbreaking work of the REMHI, including GGM and Tierra Viva, GGM's work never had a historical approach. She feels that "there are many positions in the women's movement, which isn't bad, it's just that at UNAMG our perspective is historical" (Alvarado 2010). At the same time, "disencounters" can emerge when others work only in the present. She feels that there has not been enough debate in the movement yet about these questions. Indeed, when I was seeking out interview participants, one activist indicated to me that she would not be a good interview subject because she "doesn't work on the violence of the past," even though I explained that I was interested in the legacies of that violence and feminist struggles in the present.

At CALDH, Gaviola credits Yolanda Aguilar's work with CALDH and the ECAP-UNAMG project more generally with making CALDH think differently about sexual and gendered violence. Since taking up the issue of femicide in 2004, they grew to understand the links between different forms of gender violence, and the failure of guarantees of non-repetition in the post-conflict milieu. CALDH was an early adopter of Lagarde's femicide frame (stressing the relationship to state) which has been indispensable as an analytical tool in a context of impunity (Gaviola 2010). With an analysis of impunity in the postwar, it became more

possible to link the violence to organised crime, and to make the case for the state's responsibility for its perpetuation. Rather than focusing on a violence against women continuum, Gaviola thus highlights CALDH's institutional focus on the continuum of patterns of violence more generally due to ongoing impunity (Gaviola 2010).

Resisting hierarchies of violence and struggle: Forging intersections and organisational transformation

As feminists have argued around the world and across generations, the personal and political dimensions of life are often inseparable. Those who worked on sexual violence in the REMHI, CEH and the related processes that emerged (like ECAP-UNAMG's work with survivors) indicate the key shifts that this work encouraged in their understanding of the political dimensions of 'personal' or 'private' issues. These shifts entailed not only changes in procedures and categories of violations, but also in power relations within rights organisations themselves. Here I draw on two main discussions: on sexuality, masculinity and gender identity, and on race and racism.

In Guatemala, unpacking gendered hierarchies of violations is a legacy that first involved exposing sexual violence, and then extended into questioning and recalibrating the way that individuals and organisations understood the relationships between different rights. In some cases, people felt that it was the personal nature of sexual violence, its ability to reflect one's own life experience despite not having occurred in the same context, that made the personal and political link more obvious (Paz Bailey 2010, Aguilar 2010). In the REMHI, CEH and other 1990s human rights work, the working culture was not particularly welcoming of feminist initiative. Aguilar shares two main experiences around the culture of human rights work around the time of these truth-telling processes. One was in a government institution, the PDH (Human Rights Prosecutor) and the other in the Archbishop's Human Rights Office (ODHAG), which had earlier served as the institutional base for the REMHI project.

In the PDH, I quit, basically because all the prosecutors...let's see, people who direct institutions are generally men, and men of a generation whose... work on themselves never happened (Aguilar 2010)

Aguilar highlights one "machista" lawyer who worked at the PDH. An important member of the revolutionary movement of the 1940s, he liked to tell sexist jokes at work. These are

deeply rooted in Guatemalan masculine culture, including some women as well [...] Jokes about the bodies of women, or about fucking women, and women as asses... women as asses, it's a terrible thing in this country. Even worse among defenders of human rights (ibid).

She says that in the PDH she didn't experience "strong aggressions" but that there was a clear culture in which it was hard to have one's critiques taken seriously. However,

in the case of the ODHAG, yes, there were strong institutional aggressions—in the time I was there it was the same with other rights organisations. In REMHI no, because REMHI was so intense that at least I didn't experience anything, and we were so immersed in the work, the REMHI was so important for the country that I think there was no time for those things. But in the ODHAG, yes, I remember a men's collective named after Vicente Fernandez [an icon of Mexican *ranchera* music] formed in various rights organisations [...] and it was really a machista collective, in the sense of assaulting the work of women. I remember that when I created the women's program at ODHAG, a few days after I arrived, on the bulletin board of ODHAG there was this banner, yeah? And photos of naked women. *In the ODHAG, in the ODHAG!* (Aguilar 2010).

ODHAG's offices are attached to the Catholic Cathedral in the central square of Guatemala City perpendicular to the presidential palace. To enter, one walks through a pair of imposing, heavy wooden doors, and though the space is separated from the actual church, it is still clearly a religious building.

Women's buttocks, women's crotches, bodies of naked women, and it said...now I don't remember what it said but even just the existence of a poster with this kind of photos cut out of newspapers and with sentences about women, in the days when I had arrived and was developing a project on women in the ODHAG, it was...it was an assault. So I took down the poster, right, and the next day another poster appeared, which I made, that said, "all the members of the Colectivo Vicente Fernandez should be concerned with defending the rights of all," right, "instead of assaulting women in the institution in this way. And they should re-examine whether they should, or could, continue working in an institution of human rights." The terrible thing was that many of those in the collective were men who also participated in the direction of the ODHAG, and people who continue to work in rights organisations [...] If you take it as a joke, then it's not discrimination—isn't this part of our national problem? [...] I think probably the ODHAG was the place where I experienced the most aggressions of this kind. [...] The Church feeds this for sure, but the funny thing is that in the human rights organisations [of] the Church, the majority of people don't belong to the Church. So they're human rights activists, they work in the Church by coincidence [...] or for money...so they take it as a joke, or more, they take it as part of the masculine culture to laugh at women, the asses of women... 'uy, what are we going to do now that a women's rights defender is coming?' (Aguilar 2010).

Since that time, Aguilar has devoted much of her energy to the task of collective documentation and healing from sexual violence, but she has increasingly turned her attention to assisting organisations to change their structures and culture to better account for gendered and other issues of power, as described in Chapter 6. Various others who participated in interviews detailed to me the ways that Aguilar acted as a consultant in this process, especially at ECAP and CALDH.

In CALDH, an organisation that is not explicitly feminist, Edda Gaviola feels that although things were not always easy, machista colleagues have changed, and there are women leaders in the organisation. CALDH has put a lot of energy into this process, some of which she attributes some of this to the new generation entering into the work. She also indicates that in their extensive work with Association for Justice and Reparations (AJR), an indigenous survivors' group that put forth the 2013 national genocide case, the growing leadership of women in that organisation illustrates parallel institutional struggles and learning curves (Gaviola 2010).

At ECAP, another organisation that had not previously worked with feminist approaches, work with women survivors of wartime sexual violence precipitated more analysis on gender relations. Olga Alicia Paz Bailey recounts how she was a committed advocate for genocide survivors long before she was a feminist, and it was direct work with survivors that shifted her perspective, urging her to actively push to change institutional practices and dynamics.

I was totally *comprometida* [politically committed] to genocide, to the struggle for justice for genocide in Guatemala, and I still am today. This was my flag—and to demonstrate the psychosocial effects caused by impunity in Guatemala. But when I became a part of the investigation²⁴⁰ it was so obvious that I became half-crazy realising that gender oppression is even...stronger because it continues today and it's more invisible. So I, all I did was take up a new flag, which is the struggle for human relations, between men and women. [...] Many things came out in this investigation. But I stayed the most resistant, I said 'nooo, we don't have to be so radical,' and later I turned into, I think, a very radical woman (Paz Bailey 2010).

When we spoke for this interview, Paz Bailey was in a reflective space, preparing to leave ECAP for studies in Mexico, after over a decade as one of the driving forces in the organisation. In ECAP and for Paz Bailey, work on this issue of sexual violence in war was also tangled up in work in the organisation to create a more gender-equitable work environment. The

²⁴⁰ As outlined in Fulchiron, López and Paz Bailey 2009.

organisation is made up predominantly of women (she estimates 80%), with about 60% Mayan workers. Once they began, she says that the broader incorporation of issues of gender inequality and violence have been introduced in all their projects. In implementing these changes, ECAP first had to work through the fears of indigenous staff that this work was just a way to demonise indigenous communities and culture, as well as resistance from men. Olga Alicia Paz Bailey recalls this process in detail:

We had a lot of discussions in ECAP about how to implement the work with women, what should we do? [...] it settled into ECAP so profoundly that now once a month we have a training space for psychologists—women work on gender [...] where we work on ourselves, our problems, our problematics, and tools for this work. So this is what we are working on, and the men are in a course on masculinity. That's been super complicated because... it costs the men a lot, because they say that in ECAP we've never had any aggressions from the *compañeros*, not like I've experienced in other organisations. For example, when you're trying to talk about something important, 'ay, when you get mad, you look prettier!' Men say things like that to you...they...they assault you. Or 'please! this topic is not for women!' or things like that (Paz Bailey 2010).

Paz Bailey indicates that although men in the organisation agreed to begin this work, in practice their masculinity discussion group faced internal resistance:

When the men were supposed to be talking about masculinity, casually, they went to play football, something they had never done before, so that's an active resistance against actually engaging themselves. That was in the beginning, now it's been about two years and they're working the way we're working. [...] At first you would approach the group of men and they're like, 'haahaahaaa, hohohoho,' like it's all so funny. And they want to talk a lot of the time, this is coming from the men themselves because of things they had previously shared, right, they want to talk about their more recent experiences, but it was like, a way to re-valorise a little the macho side of men, right, sharing as though they're, I don't know, in a restaurant, each of their experiences, more than to do a critical analysis of their attitudes. [...] The facilitator is good but it really takes a lot for men...you have to have a lot of patience for others to listen and to engage (Paz Bailey 2010).

She identifies a contradiction also noted in anti-violence work in other contexts. While as human rights defenders, men are committed to social justice and fighting against gender violence, they are often still resistant to seeing their own private lives and professional behaviour as part of the same struggle. Paz Bailey calls herself a “realist” in this respect, noting that serious change will take time to break through these barriers, but that women's solidarity with one another makes real change possible:

Yes, they do want to work on it...look at, for example in the Rabinal radio program, run by Fernando Soas, they take up the theme of gender with all their hearts, yes it's there,

yes they want to work on it, they play the CDs that we made about sexual violence during the war [...but] there's like a division between the things in their work that they can analyse rationally, and to say that this was bad, violence against women is bad, but there's a division when they go back to their private lives. So there, they close ranks. Here's an example: [...] there was a *compañero* in ECAP who was fired for assault. First person, ok, first case that was acknowledged. And they fired him [claps hands]. He assaulted another *compañera*. And to us, this all seemed like the most normal thing. But the men, they were saying things like, 'so, we can't joke around at all anymore?' 'we can't even...!' So it was really good, because we took it up to there, and then said no. [...] It was saying, 'I don't know what you think, about what you can and can't do, but in this institution, it's not allowed' [...] It was a process where the coordinators considered the case, and they basically said, 'you can't continue to be a psychologist, you can't keep working'. Because it was pretty crude. And the courage of the woman who denounced him...that also valorises [our struggle]...what it says is 'here, women will be respected and those who denounce will be supported.' [...] But still in the hallways, between men, like I was saying, that's when it affects you personally, men close ranks and say, 'oh, it can't be! So, how far will this go? and now we can't even have relationships with *compañeras*...' horrible things like that! [laughs] From professionals! (Paz Bailey 2010)

ECAP demonstrates how an organisation that is not explicitly feminist can transform working practices. Among the men I interviewed, I had to do some interesting negotiations to get them to discuss gender without deferring to the expertise of 'the usual suspects.' As described throughout this project, individual women are indeed still taking up most of this initiative. How can organisations move past this dynamic, not just in mainstreaming efforts in procedures and programming but equally in personal behaviour and engagement? Nuanced versions emerged of the familiar refrains: 'women's issues divide the Left' and 'women are the best people to carry the entire struggle for gender equality forward.' Impunity Watch's Carlos Amézquita carefully articulates a key divide between 'women's' interests and 'feminist' interests as a point of hesitation for him, providing the example of Zury Rios' rise to power and occasional support of some women's issues as a complicated situation.²⁴¹ He points to the patterns of "sectorialisation" in social movements that were facilitated by the splintering of the left in the 1990s, which can be a gift to the highly organised and consolidated power of those on the right (Amézquita 2011). Sergio Pivaral notes that it can be problematic to expect women to always take up issues of gender inequality and violence in organisational settings, but that, on the other hand, it's women's experience and he feels uncomfortable appropriating it from them when he has not

²⁴¹ Rios is the daughter of war criminal Efraim Rios-Montt, now a politician in the national assembly and running for President in the 2015 elections. While she has supported some women's initiatives, rights defenders understand her affiliations as aligned with the elite power structures in the country, rather than with struggles for social justice.

suffered the same form of oppression (Pivaral 2010). Feminist lawyer Lucia Morán points out that this is the sort of argument that leads to a total abdication of responsibility on the part of the state, reproduced in miniature within rights organisations. She uses the example of research and advocacy around sexual violence, which has all been performed by NGOs and other non-state organisations (Morán 2011). Others above make a similar point about the issue of the disappeared, which the state is supposed to investigate but which falls disproportionately onto the families of victims and small forensic anthropology organisations funded by foundations and international donors.

More optimistically, Alejandro Alfaro reflects on his own experience as an activist and forensic anthropologist. He claims that working alongside feminist women and exchanging ideas over time was the way he adapted his perspectives and started to understand the significance of gender for himself as well as in his professional work. Though as a progressive person, he learned about the abstract notions of gender and gender violence, in his experience it was through personal interaction and being challenged by women in his everyday life that he understood the implications of how the personal and political intertwine, as discussed above by Paz Bailey (Alfaro 2010, Paz Bailey 2010).

Challenging hierarchies of rights and survival in the area of sexual violence has encouraged some to reflect more seriously on related hierarchies. Pivaral says that he spent many years thinking that first, people needed the right to life, in the context of the war, before they could fight for other “luxuries” such as the protection of non-normative sexual identities. But over time and with the development of LGBT rights activism in Latin America, he now understands that it is not so easy to separate out “survival” from “sexual identity” (Pivaral 2010). This is more concretely observable in the emergence of the gay pride parade in Guatemala City, which I first attended in 2010. Although a range of people marched through the city centre in a parade, many wore masks and carried placards with “¿Dónde Están?” [where are they?] posters of missing and murdered friends and loved ones, particularly trans people and sex workers. These posters reproduce exactly the model employed by GAM and others in the war when seeking the disappeared. This stark reminder that the links between queerness and death are so pronounced in this context makes the tools of the older human rights movement pertinent in struggles that are only more recently gaining visibility.

While work against sexism is ongoing, another major set of challenges facing these workers is internalised racism and the often major cultural rifts between indigenous and non-indigenous workers. While certain organisations have over half indigenous staff (for example, ECAP, and on a larger scale, the PNR), interview participants note the sometimes rocky terrain of creating a culturally competent workplace that challenges racism but also does not refuse to challenge other forms of oppression. These struggles are most notable in discussions of legal pluralism and questions of violence against women. In reference to the need to reflect deeply on transforming feminist practice to antiracist practice, Maya Alvarado says that for her one of the major lessons of the old times, of so-called “Real Socialism,” is that it is unproductive to hierarchise struggles. She adds that some indigenous rights promoters who work with the organisation are advocating for UNAMG’s more active insertion in the ongoing struggle for territories and against resource exploitation that harms communities (Alvarado 2010). Paz Bailey discusses at length the shifts in her own practice that developed in work with wartime sexual violence survivors:

UNAMG had the whole feminist trajectory, we had the psychosocial, and I didn’t really have much of an idea what it meant when we talked about gender violence [...] As an institution that has no idea...we had an idea of human rights, and we had an idea of violations of human rights, but we didn’t really have the rest...so I joined the investigation, with a K’iche’ anthropologist and a political analyst [López and Fulchiron], both of whom had feminist training. So for me, it was crucially important that we didn’t look at everything from that one lens of gender, but rather that we see it also from the...oppression of indigenous peoples. The strategy of the state...that we don’t forget these oppressions that Guatemala has suffered. Undoubtedly for the three of us on the team, everyone who worked on the project, for five years maybe—I started in 2005 but had already been doing the work—it affected us, it touched us, our own existence (Paz Bailey 2010).

She describes how the ECAP-UNAMG alliance with survivors began to impact working dynamics among staff at ECAP:

When we started there was, on Mayan culture and the repression of women, we had many barriers [...] resulting in the denial of certain things, even though they came out in the investigation.[...] Up to the present day, there are women who are...given by their fathers in a negotiation between families, for marriage. This is true. That came out of the investigation. [...]We didn’t know the degree...we knew that this had happened before, but now we learned that for two *quintales* of corn, my father can sell me, a child of thirteen or fourteen years, in Huehuetenango. So considering these things, it isn’t really important to tell me that culture works that way because out there, there isn’t any negotiation between culture and women’s rights. [...] Or if a rapist marries a woman,

things correct themselves. And this coming from young women, we're not talking about nineteen-forty in Guatemala (Paz Bailey 2010).

Lucia Morán of the feminist legal organisation MTM agrees that advocates need to balance legal pluralist principles that respect local forms of justice with existing, and often inadequate, approaches to indigenous women's rights (see also discussion by indigenous activists in Macleod 2011). This balance is difficult to strike when the accompaniers are not a part of the communities in question. Paz Bailey continues:

when you propose things in that way, as critiques...like when someone says..."I don't know, it's very relative, in Mayan culture the black and the white live together, the good and the bad"...and it's not relative, for me no! So we have had a lot of divisions in our own team [...] We had a lot of workshops in ECAP on power relations between team members, so that's how we got a lot of it out, getting together for a lot of discussions [...] What I really want is to present more of this research, from the investigation, but also from the investigation of [Emma] Chirix, the Kakchiquel anthropologist who is dedicated to studying her own culture, and is critical, and of Irma Alicia Velasquez...presenting many things, so that people can't just say to me, they can't say to me "it's easy for you to say because you're not inside of it, it's not your culture" (Paz Bailey 2010).

Paz Bailey indicates that working through these divisions has been a rich source of knowledge for their practice. She notes the various forms of psychological support that workers had from the beginning of the work with UNAMG and the survivors, including body work with a specialist from Spain, and workshops with the rights promoters and translators around language and communication.

We worked a lot early on with cultural resources for healing. We also had sessions in the Ixil area and Rabinal with Maya *comadronas* [midwives] and *sacerdotes* [traditional priests] to share between psychologists and traditional healers—what could they teach us? What are we missing, what sort of support can they give us? It was very rich, and it built, over time, a space where we could discuss cases (ibid).

Cultural and linguistic rifts have been a major source of exclusion for indigenous people from educational and justice systems in Guatemala. Claudia Paz y Paz claims that translation continues to be one of the major areas in which institutions of justice and human rights must continue to work critically, particularly since Mayan women are less likely to learn Spanish than men. An important point of reference is the Juana Méndez case, where an indigenous woman who was arrested and raped by police while in custody decided to charge the officer with torture. The case was accompanied by a range of organisations, including MTM. Not a Spanish-speaker, Méndez required translation in order to participate in the process. Since none of the

accompaniers and few in the tribunal in Quetzaltenango spoke K'iche,' they had to locate a translator who was both bilingual and had the confidence of Méndez. Paz y Paz recalls that this interpreter did not have the formal tools or training for official translation work, and understandably, she sometimes operated as an advocate rather than merely translating exactly what had been said. Because the defense lawyer in the case was bilingual, he began questioning the translator's accuracy, which then intimidated her in the court room (Paz y Paz 2010, Morán 2011). Although there are more training programs for official court translation, this continues to be an area of relatively low priority in the justice system (IW 2012a)²⁴². Further, obtaining translation support does not mean that the other structural barriers and forms of discrimination in the justice system disappear.

Rights defenders have also developed increasingly intersectional approaches within the structures of organisations themselves. Edda Gaviola emphasises the ongoing importance of the critique that mainstream rights organisations don't take up women's and sexual rights. But she notes that it's hard to generate the intersections between the doctrine of human rights and feminist thought. Ultimately, "sometimes we can't opt into everything, which enables us to work on something more specific" (Gaviola 2010). Overall, a range of participants note the impact that thinking about sexual violence as a human rights violation has had on their understanding of human rights defense overall. They tend to speak from their own experience and some are skeptical about particular terms developed in North America. For example, Luz Méndez shares her doubt that the framework of "intersectionality" is an adequate approach to the kinds of violence and oppression that have touched Guatemala (Méndez 2010), echoing the critiques of some postcolonial and antiracist theorists who opt for analyses of "interlocking" (Razack 2002) or interconstituting oppressions. This important line of critique reflects the desire to work across the differences sustained by both the state and the Left during the war, and the motivation to develop understandings and practices that work on the ground, from the particular reality in which they live.

Representatives from both UNAMG, a feminist organisation, and CALDH, a human rights organisation, discuss how the transformation of their work to integrate gender more holistically involved restructuring and jettisoning the 'program' model (Alvarado 2010, Méndez

²⁴² In a rare demonstration of the accessibility that is possible with adequate resource support, at the Tribunal of Conscience in 2010, organisers successfully obtained enough international funding to provide headsets with simultaneous translation services in six of the major indigenous languages in Guatemala.

2010, Gaviola 2010). In earlier work, Gaviola notes that their programs operated as a set of silos, in which teams were very gendered—men tended to work on genocide while women worked on violence against women, and youth worked on youth. “There was little interconnection and programs had internal contradictions” (Gaviola 2010). She states that, working with Yolanda Aguilar as a consultant, the organisation opted for a broader vision, and they had to seek out the interconnections between different forms of oppression they were fighting—for example, femicide is also about the extrajudicial execution of youth, as many of the women targeted are very young (Gaviola 2010). Integrating international legal and activist developments can provide important inspiration. Yet the international orientation can also be the very thing that determines these “silos,” as indicated in several discussions about the limitations of brief, program-based funding at UNAMG. Sometimes funding is available for women’s citizenship and democracy struggles in a moment when the organisation becomes increasingly politically committed to fighting sexual violence, for example. Developing a way to maintain operating funds and retain some degree of autonomy to work on struggles over the longer term is complicated, but it highlights the distinction between what Alvarado calls a “struggle” and a “job.”²⁴³

Paz Bailey notes the impressive shifts that have been effected at ECAP since they began work with UNAMG and the survivors:

After we started working on the project and the work with women, we were just casually making the strategic plan for 3 or 5 years...and we women were very motivated to bring in the theme of violence, the work on violence against women, so it became incorporated. And not suddenly but bit by bit, in all the projects...if you were to come right now, they all work with women, with attention to women survivors of violence, because there is a lot more than sexual violence [...] so that was a leap, from when Yolanda came to ECAP like I was saying, up to now I think we have repaired the guilt of having had that terrible lapse [laughs] (Paz Bailey 2010).

These examples illustrate how rights struggles around sexual violence challenged the very way in which activists understood their work and themselves. Through increasingly intersectional approaches and active rejection of sexist and racist working cultures, they confront some of the dynamics that marginalised sexual violence in human rights defense, and continue to reflect on the best way forward.

²⁴³ The tendency for international funding agendas to dictate social movement possibilities is discussed in a range of literature—most recently in McAllister and Nelson, 2013.

Conclusion: New generations, historical memory, feminist struggle

The reflections of the participants in this research show how feminist historical memory and transformative feminist practice in the present can be complementary. In the long aftermath of war and conditions of ongoing impunity, working through the legacies of victimhood and militancy is a key dimension of creating a better present. When Maya Alvarado and I spoke, she had just attended a grassroots Feminist Assembly that involved intense debate and rejected the depoliticised “women’s rights” framework she critiques in Chapter 6. One of the issues raised at the Assembly, both implicitly and explicitly, was the ageism of the current social movements. She mulled over the importance of fostering intergenerational dialogue about what a long, revolutionary survival struggle does to people. Many young activists at this event had identified her as part of the establishment. Despite her lifetime of struggle, including in exile, she acknowledges that young people might perceive her current institutional power and access to resources as a more permanent status. Alvarado insists that this is yet another reason why “we need historical memory of feminist struggle: how did we get to now? We have to understand all the painful breakages along the way” (Alvarado 2010). Alvarado’s colleague Lucia Morán elaborates on this issue:

It’s important to have a historical vision. [...] I believe that today’s activism...it’s a consequence of the activism of the past. The social organisations, especially mixed organisations but also some, in fact, made up of women themselves...still operate under the schema of class struggle, that’s their view, their focus, on human rights, on class. But, gender as such, or feminism, even less—these have not...permeated. In fact, there are very prestigious organisations that do investigations and work on the theme of memory, of justice...but they’re partly blind, we could say. On top of that, I also believe that at the end of the day, the theme of power is *always* working, right? I think men continue to hold the power in those organisations, they still operate in that structure that in a certain moment in the war...it was vertical and operated with a lot of blind militancy [...] in that moment, women were not important as women, right? Rather, a woman could say a slogan [...] you could be a visible voice out there...because sure, you could hold up a gun...[but] basically we would be cooking, right, for everyone inside. There has never been a real exercise of consciousness raising about the role of women in those spaces. What has been done on this issue was done by women themselves, who somehow encountered feminism...in other spaces of activism. So they disconnected with all this and have created their own organisations...so I believe that [within] this theme of memory and justice...the theme of gender violence will not prosper or develop within those spaces (Morán 2011).

Working to transform existing spaces, cultures and discourses can be difficult, and the allure of working autonomously can wear off quickly when little financial support is forthcoming. But a

key theme in many feminist reflections is that women and feminists routinely find and support each other. Aguilar recalls the space developed in the years after the REMHI:

The experience in REMHI was...it was fundamental, it was transcendental because we started to talk with other women, from women's organisations, about two things. First, of the significance that sexual violence had in the lives of women during the armed conflict. And we started to work with some—two or three women from the *Sector de Mujeres* and other organisations, to start naming this. But also, in that time we did, not just the REMHI, but after ODHAG, we did the first Tribunal of Conscience against violence against women in Guatemala. We did this tribunal without one cent, with the support of all the women's organisations, because for the first time we were going to talk in a Tribunal of Conscience about cases of women who had been, some of them raped, or there was a case of intrafamilial violence, there was a case of...violence during the armed conflict, of the kidnapping of children... that is to say, there were various cases about women. That was fundamental. And for me the great honour was that we did it without one cent of funding. Instead, women brought some bread, other women brought water, other women brought papers, and that was how it was done. It was very important, and I remember that it was the anniversary of something in the United Nations... the UN had promised funding for this activity. For some reason they didn't give it to us, but ... the activity happened anyway and it was very successful (Aguilar 2010).

These sometimes very organic feminist pathways represent an important legacy to maintain the fight for social justice. Yet it is important to refocus on the discussions of exhaustion that emerge from human rights defense and related social justice work in this context. Many fear that with a brief lack of vigilance, what follows is the looming dismantling of any small gains they have made. This constant holding of the line belies the desire to rethink exhausting and unequal ways of working. How to remember and learn from the past without remaining tied to its methods of militancy?

Though Guatemala is a young country, it is not fair to place all hope for the future on the shoulders of today's youth. Participants in my interviews see both potential and risk for new generations, growing up in the shadow of a war about which the country remains divided and under-informed, and whose root causes have yet to be meaningfully addressed. Despite this fact, many participants talk about their optimism for the next generation. In numerous sites of rights defense based in the capital, a generational shift has entailed the development of important capacities in young people. Some examples include the training of a generation of archivists at the national police archives (AHPN) (Weld 2014), forensic anthropologists at CAFCA and FAFG (Alfaro 2010), and a new generation of progressive lawyers within the MP during the tenure of Claudia Paz y Paz (Reynolds 2013). Similarly, a young generation of indigenous

women activists and professionals has emerged across the country, some of whom identify openly with feminism and others who have forged alternative critical paths (see especially the group Kaqla, whose political perspectives are profiled in detail in Mcleod 2011). Despite the continuing structural barriers to education and economic success, many indigenous women have stood on the frontlines of recent struggles for land, dignity and human rights, tracing a line backward to the historical resistances now slowly being documented. The continuing legacies of the REMHI and CEH processes are not just in their reports, but in the spaces they helped to open and the continuing and evolving practice of those who produced and accompanied them. This is a living legacy, resting on history but always moving forward with the urgency and relentlessness of lives lived in solidarity and struggle.

Chapter 8: Conclusion

Human rights defenders around the world face serious challenges and make considerable compromises in carrying out their work. Rights defense can be dangerous, exhausting and terrifying, as much as it is also inspiring and energising. In this frequently intense line of work, doubts, debates and internal critiques are relatively common behind the scenes, but in public, these often give way to a more united front against the categorical denials of states, their militaries and other perpetrators of atrocities. In Guatemala, this resistance to exposing internal divisions is partly a product of the strong relationship between the militant Left and contemporary human rights organisations. A strong, authoritative voice and purportedly objective methodologies have long been important foundations for the denunciations of rights reporting (Hopgood 2006, Ball, Spierer and Spierer 2008, Wilson 2009, Méndez 2011), while the regimented hierarchies of wartime militancy also continue to inform practice in this site (Gaviola 2010, Morán 2011). When exposing sexual violence within transitional justice, feminists and their allies have found themselves caught between competing imperatives: to use existing mechanisms, discourses and practices of human rights defense for urgent documentation, denunciation and legal redress, or conversely, to effect transformations in these same mechanisms, discourses and practices that have for so long produced the invisibilities and impunities against which women struggle. Feminists seeking to challenge the orthodoxies in this field have rarely seen their labours documented, despite the fact that their experiences hold important insights for current transitional justice theory and practice. While some fruits of feminist labours in the 1990s rapidly became the new orthodoxy in gender-sensitive forms of rights defense, peace-building and transitional justice, I argue that premature triumphalism on the victories of these efforts has obscured how little transformative work has been accomplished in transitional justice efforts worldwide.

In this project, I take as a starting point the disjuncture between dominant visibilisation practices and discourses about women and sexual violence, and sustained failures to bring about justice, accountability and meaningful improvements in survivors' lives. This disjuncture is reflected in the REMHI and CEH reports studied in this dissertation, but also in a range of other transitional justice processes around the world (HRW 2004, Nowrojee 2005, Brouwer 2007, Theidon & Laplante 2007, Duggan, Guillerot and Paz y Paz 2008, medica mondiale 2009,

Rimmer 2010, Koomen 2013). I argue that this pattern is not merely attributable to failures in the rule of law, nor to a lack of legal infrastructure addressing gender violence. I draw on transnational feminist and critical human rights scholarship to highlight both the colonial and misogynistic underpinnings of law (Kapur 2002, Orford 2002, Anghie and Chimni 2003, Clarke 2009), and the importance of understanding rights as products of ongoing interpretation and practice (Merry 2006, Goodale 2007, Kurasawa 2007). Throughout the project, I argue that persistent negative discourses about women, gender and sexual violence within law and rights defense have mitigated the radical potential of a transition to gender-sensitivity and victim-centeredness in truth-telling and other transitional justice work. In this complex transnational terrain, the gaps between exposure and accountability have been both sustained and subverted through the practices of rights workers. I propose that one way to close the accountability gap is to better understand the experiences and conditions of labour for those documenting and representing rights violations. Rather than returning to the victim-witnesses who are more often the focus of studies on truth-telling, this project focuses on the representational role that truth-telling workers play in mediating testimony, and in actively constructing human rights.

Throughout this field, well-intended policies of victim-centeredness have had varied impacts on the outcomes of truth-telling and other rights work. Drawing on these Guatemalan and other case studies (Ross 2003a, Theidon 2007, Clarke 2009), I argue that discourses of victim-centeredness often mask the continuing containment of victims from participation in the more explicitly analytical stages of truth-telling work. This testimonial-analytical divide can reproduce existing social inequalities, and potentially drive agendas and narratives that are distinct from those of witnesses, such as (perhaps) the narratives of hypervictimisation of indigenous women featured in the CEH report. In the reports created through this naturalised division of labour, the voices of witnesses may be featured, but their mediation by others remains less visible. Further, I suggest that this division of labour encourages rights defenders to exaggerate their identification as non-victims, to an extent that can discourage self-care and have serious impacts on their health and future involvement in social justice work. The Guatemalan case suggests particularly serious implications for feminist rights defenders, who frequently carry the burden of feminist interventions on their own within larger processes and institutions.

The urgency with which truth-telling processes operate forms a crucial but under-examined dimension of the emotional labour performed by workers. With the framework of

urgency praxis, I foreground the strategies employed by rights defenders to cope with physically, politically and emotionally demanding work. It has not been my intention merely to critique the limitations of exposures and space-opening practices that were achieved by feminists in this era, but rather to understand the restrictive conditions of their possibility and to explore their various legacies into the present. With this project, I aim to enrich feminist historical memory of the exposure of wartime sexual violence in Guatemala. I also draw on the analyses of feminist pathbreakers to illustrate how exposing sexual violence through the REMHI and CEH helped to problematise and transform the unsustainable conventions and practices of the human rights movement, and to some extent, the Guatemalan Left. Below I provide a more detailed review of the main arguments and approaches taken in this dissertation, followed by a range of conclusions on transitional justice, representing gender violence, and the role of urgency and solidarity in the work of truth-telling and human rights.

Review of arguments

In Chapter 2, I argue that the focus on legal positivism in the formative moments of the field of transitional justice created conditions that supported a particular project of feminist visibilisation and criminalisation of sexual violence in wartime. While sexual violence in war was exposed and condemned in International Criminal Tribunals and other early initiatives (Copelon 1995, Askin 1997, Munro and McGlynn 2010), it also tended to be contained through patriarchal legal discourse and practice that framed women's main difference from the universal norm as sexual (Smart 1989, MacKinnon 2006). Recent trends towards victim-centeredness were partly developed in response to the poor treatment of survivors exposed in these feminist interventions in the 1990s, and they have succeeded in promoting more participation and support for victim-witnesses in particular sites (Brouwer 2007). Participation as witnesses through the conduit of testimony can be indispensable and productive for many people and serves an important documentary function. However, I argue that such approaches have not succeeded in deconstructing the pervasive discourses that keep women victim-witnesses from other meaningful forms of participation that lead to agenda-setting, rather than merely contributing data for later analysis by others (see especially Nairobi Declaration 2007, Couillard 2007). In this chapter, I introduce Hesford's concept of "spectacular rhetoric" (2011), and propose the concept of 'participatory rhetoric' as an accompanying framework. Together, these frameworks illustrate

how encouraging the exposure of women's experiences and voices in such settings can produce sexualised spectacle, no matter how couched it may be in frameworks of intrepid silence-breaking through the healing and democratising power of speech (Franke 2006, Theidon 2007, Al-kassim 2008, Hesford 2011). Critics suggest that in the transition between gender-blindness and gender-attentiveness in transitional justice, the presence of traumatised women victims has shifted from an element to be excluded, to something that helps bolster the credibility of the institution in question (Ross 2003a, Al-kassim 2008; Clarke 2009 on this pattern with respect to victims more generally). Thus, in this chapter I conclude that historically and legally unauthorised experiences and voices have become desirable data in truth-telling work, but victim-witnesses' messages and interpretations continue to be circumscribed by the divisions of labour and the hierarchies of violations that once excluded sexual violence completely.

In Chapter 3, I illustrate this pattern of inclusion and containment more concretely through a gender-focused critical discourse analysis of the Guatemalan REMHI (1998) and CEH (1999) truth-telling reports. In the context of the particularities of the peace accords era in Guatemala, my reading illustrates some contradictions of a politics of gendered visibilisation within human rights frameworks. Without wishing to undermine the goals of obtaining recognition, justice and redress for victims of sexual violence, my analysis interrogates the gaps and oversimplifications of the approaches taken in these reports. In particular, I explore the representational effects that surface when overt engagement with women as a category (and particularly indigenous women) is focused on experiences of sexual violence. Though women emerge incidentally as participants narrating the stories contained in the reports, explicit focus on women's key protagonism as rights defenders, seekers of the disappeared, and members of the guerrilla are under-visible in these texts. The absence of recommendations about sexual violence or other forms of violence against women calls into question the exposure of these violations within the reports, effectively naturalising structural violence that in its other forms (such as racism and classism) is both strongly denounced and the subject of recommendations (Diez 2006, Fulchiron, López and Paz Bailey 2009, Crosby and Lykes 2011, Marston, Oglesby and Patterson-Markowitz 2012). What emerges most strongly in the CEH report is an image of the least ambiguous victim-figure, the indigenous woman victim of spectacular and systematic forms of rape by the military. I have called this hypervictimised representational effect 'worstness,' an approach often also employed in the early international legal efforts of feminists discussed in

Chapter 2. Worstness has an ambiguous legacy. As a representational strategy, I argue that worstness improves the chances for visibility within non-feminist frameworks that tend to downplay the significance and ubiquity of gendered violence. Despite women's continued invisibility in subject positions other than rape victims, one important effect of this hypervictimised worstness in the CEH report is that it lends support for a more explicit inclusion of sexual violence in the report's genocide claim. While it occludes important forms of historical agency when it is the only representation of women, this manifestation of worstness operates in tandem with broader efforts to prove the harms wrought by genocide on the Mayan people.

Reading both reports with an eye to the exposures and functions of sexual violence shows the containment strategies of conventional human rights work of the era, but also the less well-known innovations within the chapters focused on women. REMHI's chapter on women balances representations of sexed violation with those of women rights defenders, mothers, midwives and other important forms of agency (REMHI 1998, Vol. I, 203-237). CEH's section on sexual violence (CEH 1999, Vol. III, 13-55) advances discussion of violence against women more generally in Guatemala, and situates its work within jurisprudence and human rights conventions that make it impossible to claim statutory inferiority for sexual violence, creating what I call 'contained equalisation.' I argue that, even if both reports conclude without adequately accounting for their exposures on sexual violence, they open crucial discursive space for such work in the future. Further, they situate sexual violence within historical narratives where women emerge as historical subjects as well as victims of systematic forms of violence, rather than only within humanist frameworks that can universalise women's experiences and thus elide important differences between women. Such historical grounding remains one of the unique contributions these Guatemalan truth-telling processes can make to transitional justice practice more broadly, and as I show throughout the dissertation, it has supported further struggles for memory and justice in the interim.

The REMHI and the CEH opened space for future developments around sexual violence, both in war and the "postwar." This space-opening was not merely a natural evolution of ever-expanding and progressive human rights discourse, but rather the result of efforts to do justice to the experiences of victims by individuals working within gender-blind and sometimes resistant organisations. Grounded in the reflections and recollections of former REMHI and CEH workers, Chapter 4 outlines how their practices responded to emergent testimony, which resulted

in the exposure of sexual violence in the REMHI and CEH reports. Though international legal developments on sexual violence were intensifying elsewhere, in Guatemala I argue that they did not provide the primary impetus for the shift to acknowledging sexual violence as a rights violation. This key case study thus shows how developments in non-metropolitan sites of transitional justice also provide key information on the incorporation of sexual violence into a human rights framework. Further, it demonstrates the ongoing importance of writing feminist labour back into the story where otherwise, credit for pathbreaking exposures of sexual violence tends to be attributed to these truth-telling processes as a whole.

In Chapter 4, I explore the procedural and cultural barriers to exposing sexual violence in this era, in dialogue with prevailing approaches to silence, shame and trauma. As women and feminists began to challenge mainstream silences on sexual violence, both in Guatemala and elsewhere, they also began to critique the forms of silencing effected by institutions and by many of their workers. In reconsidering the meanings of “silence” in connection with sexual and gender violence (Ross 2003a, Motsemme 2004, Diez 2006, Paz y Paz 2010), some have worked towards more robust histories of women guerrilla and of sexual violence committed by non-state actors (Hernández Alarcon et al. 2008, Fulchiron, López and Paz Bailey 2009, Viterna 2013). Further, the reflections of several women with histories on the militant Left link the silences on sexual violence within social movements of the past with the current persistence of hierarchical approaches to violence in present-day rights work. The experience of coming to feminism involved, for some, a rupture with the Left of wartime, but not with the goals of social justice that they continue to carry in their present work (Aguilar 2010, Alvarado 2010, Méndez 2010, Gaviola 2010). As participants’ reflections show, working more explicitly on the issue of sexual violence has facilitated an understanding of the links between personal and political struggles that has begun to transform their practice as feminists and human rights defenders, as discussed further in Chapters 6 and 7 (see especially Paz Bailey 2010).

In Chapter 5, I move beyond the issue of sexual violence to explore some of the other ways in which workers pushed back against the restrictions of established practice in human rights and transitional justice. With a focus on worker responses to the positivist methodologies promoted for truth-telling work around the world, this chapter continues to demonstrate the importance of understanding workers as key intermediaries between testimony or other forms of information collected, and ‘data’ deemed useful in final reports. I outline briefly some of the

prevailing approaches to testimony, including the paradigmatic moment of the European Holocaust (Felman and Laub 1992, Caruth 1996, Levi 1996, Ringelheim 1998, Agamben 1999), and the challenges raised by both feminist and Latin American-centered analyses that place testimony in the context of its emergence and refuse to take for granted its spontaneity or transparency (Cubilié 2005, McAllister 2013). These approaches illustrate further the ways in which humanitarian discourse and positivist understandings of rights can circumscribe the possibilities of post-conflict truth-telling and overdetermine the meanings of witnesses' speech and silence. Such misinterpretations emerge particularly in contexts in which the withholding of information is interpreted through the lenses of shame and fear, rather than other possibilities born out of revolutionary motivations, clandestinity, and a gendered "spectrum of refusal" (Theidon 2007, Al-kassim 2008, Engle and Lottman 2010, McAllister 2013).

While some workers did simply follow the rules and the logic of the categories proffered from the start, in this chapter I highlight how others who pushed back were able to create new possibilities for such work. Often, the impetus for these efforts came from their strong commitment not to objectivity but to solidarity with victim-survivors and to the unfinished struggle for social justice in Guatemala. This applies both to those in positions of leadership and at less senior levels in the REMHI and CEH. Rather than accepting a positivist approach, REMHI's coordinators determined that a more community-centered methodology was needed that would attempt to rebuild the social fabric through the reconstruction of historical memory (REMHI 1998, Vol. I; Beristain 1998). As a whole, the REMHI process stands as a meaningful alternative to more data-driven processes of truth-telling. In contrast, the CEH moved ahead with a more classical truth commission design, but it too innovated by operating with explicit principles of flexibility and open-planning, despite the challenges that this posed within the limited time frame (UNOPS 2000).

As with the exposure of sexual violence, this chapter notes how other violations that emerged through testimony, such as death by forced displacement, genocide and violence against children, were incorporated into the analysis of the reports via worker initiative (Sofia 2010, Nora 2011, Mersky 2012). This pattern is particularly clear in the CEH. Field researchers advocated to use more qualitative data in the final report (Baquero 2012), and some workers pooled their analysis, resisting the isolating tendencies of the high pressure analytical and writing work in CEH headquarters in order to cross-pollinate their materials. As Sofia outlines (2010),

this resulted in a more nuanced analysis of gender in the genocide section. Historical Group members pressed for more coverage of earlier periods of the conflict, while field teams pushed for more time and resources for particular sites that had been hit hardest by the genocidal state assault in the 1980s (UNOPS 2000, Taracena Arriola 2007, Baquero 2012). The collective testimonial model employed in REMHI was adapted in particular sites for use in the CEH, even though it did not meet standards that had been established around confidentiality (Baquero 2012). Crucially, many of the areas in which workers negotiated or pushed for changes resulted in the most significant innovations in these processes.

Chapter 5 also explores how these innovations and struggles occurred against the backdrop of a range of debates: first, between the appropriateness of authenticity deriving from local knowledge and experience, and the impartial objectivity based in a lack of connections to the country and the conflict. Unpacking these constructs exposes another area of inquiry: how the divisions of labour in the REMHI and CEH mapped onto other social divisions, most notably those of ethnicity, language and social class. This intersectional set of questions dialogues with Chapter 2, where I problematise the restricted, testimonial forms of women victims' participation that have been most fostered in transitional justice processes. Would it have been possible to engage more indigenous women workers in positions that had more analytical sway over the CEH, for example? Or is this a misleading question that ignores the influence of the actual forms of participation of indigenous people, as well as social movements operating outside and in collaboration with the REMHI and CEH? The issue is complex, but important to raise in the context of wider discussions of objectivity, impartiality, solidarity and ingrained racism with which these processes, witnesses and workers negotiated. In this vein, I also outline some major contours of the Guatemalan debate over wartime agency and victimhood (Taracena Arriola 2007, Nelson 2009, Alvarado 2010, Paniagua 2010, Grandin 2011, Nora 2011, Baquero 2012), focusing on the competing imperatives of advancing a narrative of unqualified victimisation of Mayan people, or rescuing the social agency and dignity of the many thousands who died for a revolutionary cause, across the lines of identity that the war had exacerbated. The outcomes of these decisions, both at the micro-level and in the reports as a whole, are still being debated.

Across this range of discussions, it is difficult to escape a sense of both the intense motivation and the exhaustion inherent in the experience of truth-telling work, as well as closely related psychosocial and other accompaniment work. In Chapter 6 I focus more attention on the

emotional and embodied impacts of this labour as described by some of the many people carrying it out. Throughout the dissertation, I have illustrated a range of practices in the REMHI and CEH that adapted to conditions of urgency with what seemed like the most practical decisions and solutions: a basic manifestation of what I have called ‘urgency praxis’ in this project. While useful for feminist inquiry, urgency praxis is not an inherently feminist framework. Indeed, sexual violence and women’s other gendered concerns are so often dismissed or downgraded for rationales of urgency and practicality (Gago 2007, Duggan, Guillerot and Paz y Paz 2008, Rubio-Marín 2009, Morán and Corzantes 2011). Yet across the developing field of transitional justice in the 1990s, feminists and their allies employed similar logic to insert sexual violence *into* the universalist narrative of human rights violations. Out of pragmatic urgency, they adopted representational strategies that would at least render visible these violations, if not transform the entire interpretive framework. In the Guatemalan context, a similar strategy of ‘worstness’ worked to render patterns of racialised sexual violence visible in a way that was the most difficult to dismiss.

The emotional context of truth-telling and documentation work is important for many reasons. Here I focus on its relationship to the representations of violence and the subjectivities it produced, as well as questions of longer term sustainability. When truth-telling and historical memory work encourages a focus on victims, behind the scenes it can produce a range of responses in workers. One is a desire not to appropriate the pain of others or to block out the suffering of others with vicarious responses (as with LaCapra’s distinction between empathy and “empathic unsettlement” 2001, 102). In this chapter, I show how the difficult labour of focusing on victims was experienced by some workers, not just in the framework of trauma, but also as a demonstration of solidarity, by consistently deferring their own needs in favour of those they deemed most deserving, worst-affected, and least ambiguously victimised. Thus, through the discussions of intensity, stress, and illness in Chapter 6 I argue that these highly charged, time-strapped processes encouraged the production of victims out of the witnesses who participated, but also what I call ‘selfless selves’ out of the workers. These selves often adopted urgency praxis not only as a way to adapt human rights frameworks to better address local conditions, but also as a form of physical and emotional survival, in the face of the impossible, unremitting task of doing justice to victims and witnesses.

In Chapter 6, I also demonstrate why the framework of urgency praxis should be of interest to those far beyond the immediate context of these long concluded truth-telling processes. Such conditions of urgency have not disappeared since the conclusion of the REMHI and CEH, particularly but not only for feminists. In the range of transitional and related processes in Guatemala, feminists have fought for the visibility and legitimacy of women's experiences and demands, only to become worn out and leave before new processes take over, which then repeat the same hierarchies and power relations as though the earlier struggles had never happened. As many attest, sexual violence is still almost always ignored unless a few women take it on (Diez 2006, Aguilar 2010). Thus for feminists in the postwar, urgency praxis has become a mode of permanent silence-breaking that many have struggled to make more sustainable. The current conditions of near impunity make it difficult to institutionalise any gains, as detailed in Chapters 6 and 7. Yet feminists and rights defenders who have worked on exposing sexual violence assert that it was this work that showed them what needed to change in human rights defense more broadly (Paz Bailey 2010). As I suggested at the beginning of this dissertation, the ethos of objectivity prevalent in human rights defense of the REMHI and CEH era upheld both the exclusion of emotion and subjectivity from human rights reporting, and the containment of so-called 'private' gender violence. This indicates that such exclusions have shared roots, and that they can be more productively transformed together. Such radical epistemic changes are more likely to stick if rights defenders transform both procedures and cultures that tolerate sexual violence in the workplace, including entrenched attitudes that shun emotion (even when rationalised as the need to be strong for others, or to defend the revolution). One key dimension of this shift is the need for time and reflection: to leave on hold the 'go-go-go' mode of rights defense that is historically rooted in times of war, and re-examine the costs of maintaining 'selfless selves.' But as Alvarado, Aguilar and others show in this context, the urgencies are always pressing, and it is a difficult balance for many.

In my discussion of the legacy of REMHI and the CEH in Chapter 7, I have outlined a range of shifts in Guatemala's legal system and in human rights work that provide cause for hope and, simultaneously, elicit fear of rapid dismantling. This chapter helps to demonstrate the widespread and long-term impact of the work of the truth-telling processes, as well as the importance of understanding their legacy not as isolated bodies but as part of a much broader coalition of activism. On the whole, Guatemalan rights defenders' struggles exemplify many of

the tensions that arise when putting feminist principles into practice, but they also show how creative, sometimes messy negotiations with and around rights discourse can produce new possibilities. With this dissertation, I argue for the continued value of both a focus on the practice of rights (as outlined by Goodale 2007) and on the sometimes unbelievable contributions of workers themselves. Laws, conventions and policies are important tools, but they do not effect the space-opening and transformative groundwork on their own, nor can they sustain the changes they announce without far more complex, and far more human efforts.

Conclusions

On transitional justice

In this dissertation I have explored how human rights are created and nuanced through practice, and have presented a detailed case study on the limits of methodological positivism in human rights defense and transitional justice. This study illustrates how the contradictions of large-scale human rights documentation work are most often borne by the workers who are tasked with transforming testimony into quantifiable data. In their efforts to do justice to victim-witnesses, these workers have expanded transitional justice categories and methods, often at great cost and with little credit. Tracking how rights unfold through practice pushes back at the idea that human rights originate from some more metropolitan centre. While Guatemala is a site of transnational politics and knowledge as well as enormous historical resiliency, I argue that it has not been adequately studied for theoretical insights in the field of transitional justice, and that there is much more to be learned from the REMHI and CEH processes, their participants, and their legacies, both around gender and sexual violence and more generally. Below I outline three key areas to which my dissertation contributes in the field of transitional justice.

First, my research draws attention to REMHI and the CEH as innovators in foregrounding methodologies of historical memory and analysis, as alternatives to the legal universalism that has framed many other transitional processes. A historical focus mitigates the overreliance on law that I critique throughout this project, and in the CEH, it led to serious advances on both genocide and sexual violence. I have sought to demonstrate not the superiority of history over law, but rather concrete ways in which a robust historical grounding can nuance, inform and support popular demands for legal intervention. This is readily observable in the major advances

that women survivors and their accompaniers have made in the brief period since the REMHI and CEH.

Despite their pragmatic use of law as a tool for pursuing justice, many feminists continue to argue that the universalism of law has been partly productive of women's ongoing marginalisation. Even within my small sample, there are a range of positions on the value of relying on law to improve conditions for women, for intersecting reasons that include misogyny, classism and racism. In the Guatemalan truth-telling processes, a methodological focus on historical memory created the robust grounding that later supported legal action by women survivors. Guatemalan feminists have articulated their deep ambivalence about the possibilities for using law in the context of impunity: as Maya Alvarado states, it is like "throwing a rock in the system trying to break it" (2010). But they are also demonstrating through serious reforms and paradigmatic cases that it is neither acceptable nor necessary to choose between legal forms of justice and other forms of social justice and historical memory.

Given its lack of legal powers, many expected the CEH's weak mandate to result in a weak outcome. However, the CEH process located and built on other strengths, leading to a relatively unique situation where an official determination of genocide was made in a truth commission rather than a court of law. This experience should not be used as a rationale for advancing 'toothless' truth-telling processes as the wave of the future. Rather, it is some evidence that law is not the only tool available in so-called transitional societies, that truth-telling work is dynamic and powerful, and its results are unpredictable in the hands of a civil society that will not give up.

Second, my research generates more qualitative evidence in support of providing diverse forms of psychosocial assistance to everyone involved in truth-telling processes. The developing scholarship in this area indicates that the field has made major strides since the REMHI and CEH (see especially Hamber 2002, Hamber and Gallagher 2015). I argue that to be meaningful, such support must be adapted to the particular deferrals effected by people working in rights defense, which in some cases might mean providing support long after the completion of the project, when some of the urgency finally dissipates and workers acknowledge they can begin to take care of themselves. Further, I argue that this field must continue to examine the medium- to longer-term impacts of truth-telling work, and particularly to foster the abilities of both witnesses and key rights defenders to remain active in the struggle. Truth commission workers should not

be put in the position of advocating for limited psychosocial resources to go to victim-witnesses first, as some recall was the case in the CEH. I conclude here that occupational environments that downplay the impact of the emotional labour of rights work, whether through the underfunding of psychosocial services or otherwise fostering cultures that lead to burnout can seriously undermine many of the primary goals of truth and transitional justice work. This is an area where more extensive study would likely contribute to practical innovations in the future.

Third, this project looks for new lessons in old places. I have made extensive use of a range of excellent research in this field, but I question the tendency of theorists and practitioners in transitional justice to study either iconic cases (such as the South African TRC) or the newest data on the newest process. Here I echo the instinct of Joanna Quinn (2010), who studied “failed” truth commissions (in Uganda and Haiti) that others had dismissed as analytically uninformative. In the case of REMHI and the CEH, returning to these cases with the benefit of time can now illustrate the impact of the process of truth-telling over the longer term. The mellowed reflections of workers might be different than those that emerged in the immediate aftermath in 1999 or 2000, but for this reason, they have their own value. In dialogue with the desire to rethink the urgency praxis model of rights defense, while acknowledging its strategic utility, here I stress the importance of the passage of time and the accumulation of experience on the lessons that workers might like to pass on.

On exposing and representing gender violence

Non-feminist scholarship in a range of fields frequently continues to operate as though gender and other intersecting power relations are more the purview of specialists than their fields as a whole. For this reason, I hesitate to separate conclusions on gender violence from those on transitional justice more generally. Indeed, this dissertation demonstrates how exploring gender dynamics and feminist struggle is useful not only for improving feminist approaches in this field, but also for exposing broader issues around identity, labour and power affecting rights defense and truth-telling as a whole. However, I argue that intentional and explicitly feminist historical memory work is crucial to understanding the gaps and failures in current practice, and highlighting alternative strategies that feminist researchers and rights defenders are already using successfully. Below I present five conclusions on the work of exposure and the fight for accountability for wartime sexual violence.

First, in an era when women and sexual violence are so visible within current practice, I argue for the continued relevance of detailed analysis of feminist efforts to overcome gender-blindness in the past. Despite many symbolic advances, my research illuminates some of the many ways in which the human rights system circumnavigates feminist advances, with marked continuities between the pre-1990s era and the present day. The concepts of participatory rhetoric and patriarchal containment are two key examples of these strategies. While these are useful in the context of the REMHI and CEH reports of the bygone era, they also help to explain the issues women face in transitional justice and human rights work of today. Similarly, in this project I show the major limitations of well-meaning policies of victim-centeredness, if they are not accompanied by the analyses and political projects of ‘victims’ themselves. Key alternatives are articulated on an international level by the Nairobi Declaration (2007), and in Guatemala through the ECAP-UNAMG accompaniment project with wartime sexual violence survivors (Fulchiron, López and Paz Bailey 2009). These should be considered as serious interventions into current efforts to render transitional processes more victim-centered or gender-sensitive.

Second, I argue that truth-telling processes that open space on sexual violence make indispensable contributions to later activism, even when their immediate results seem disappointing. This is exemplified in the CEH and REMHI in Guatemala, but is also relevant for intergenerational feminist work in a range of sites. Feminists who broke through silence and entrenched sexism often lacked tools and like-minded colleagues, and endured ridicule or more benign forms of exclusion. The results of their struggles may not always seem revolutionary in hindsight, but their labours were intense, and they ushered in crucial changes. Overtaxed women activists frequently leave few traces of their work after the fact, and the resulting lack of institutional memory is a constant issue at the grassroots. It can also operate in rights work where women’s early pathbreaking has been more recently appropriated by processes as a whole, now that women’s rights are more acceptable in the mainstream.²⁴⁴ Here I conclude that while sexual violence is undoubtedly more visible, it is important for feminist research to make equally visible the work that sustains its exposure, both for the insights this research uncovers and for the belated recognition it can provide to feminist labour. This larger project has barely begun.

²⁴⁴ Recall Aguilar’s incredulous response to the efforts to include gender in the tenth anniversary of REMHI, for example (p. 273 in this dissertation).

Third, with Wendy Hesford (2011), I argue that efforts to combat gender violence remain stuck in a cycle of exposure without accompanying structural transformation. This project has shown that focusing on the voices of survivors through motifs of silence-breaking and speaking out is still an important political posture, but in itself it can contribute to revictimisation if not accompanied by a range of other measures seeking justice and redress. This case illustrates one such cycle of exposure, but also the various strategies that activists have used to move out of it. My methodological approach turns the gaze from marginalised women onto those who mediate their testimonies, demonstrating one strategic refusal of the “pornographic” (Theidon 2007) repetition of women’s stories of violation. It is not the only pathway, and I conclude here that in order to move out of the cycle of perpetual silence-breaking, rights defenders in transitional justice must shift from a singular focus on victim testimony to more multi-layered knowledge production on sexual violence. In addition to analysing the role of rights workers as I have done, more direct and masculinity-focused work with men (perpetrators or otherwise) is a necessary part of this larger project, as discussed by Zarkov (2007) and Theidon (2007, 2008). Though not featured in this project, the growing regional activism and scholarship on human rights and diverse sexualities and gender identities must also inform these developing agendas, and particularly support the continued disaggregation of the universal categories such as “women” and “men” that prevail in human rights work (Alexander 2005, Berger 2006, Kempadoo 2009, Corrales and Pecheny 2010, Murray 2012). Other possibilities include the creative methodologies employed in Crosby, Lykes and UNAMG’s work on gender and reparations, drawing women’s analyses not only from conventional interviews, but from a range of other practices such as collage and theatre performance, and involving translators and rights promoters in the interpretation of the research (Crosby, Lykes and Caxaj 2016, Lykes and Crosby 2014, 2015).

Fourth, the presence of individual women and feminists continues to be an important factor in ensuring basic accommodations and facilitating the participation of women survivors, and should continue to be a priority for transitional justice and historical memory work. However, such processes must go far beyond merely hiring anyone in the category ‘women,’ instead drawing on major feminist theoretical advances around intersectional power relations to inform a broader agenda of meaningful measures where diversification is linked with transformation. Arriving with feminist expertise should not be mistaken for a desire to be

assigned only tasks related to women and contained from other areas of analysis and decision-making. ‘Leave that for the women, they will handle gender/sexual violence,’ is an attitude that hierarchises not only rights but also occupational roles within such processes. It is important both to expose and refuse this persistent hierarchisation in human rights defense. I conclude that institutional support for feminist analysis throughout rights defense and transitional justice processes is crucial for sustaining feminist practice and reducing pervasive forms of burnout documented in Chapter 6.

Fifth, the insights provided by rights defenders seeking to transform their current work environments demonstrate that changing laws, policies and procedures is not enough to change practice. Organisations and methods based in both liberal humanism and leftist revolution can both carry over forms of sexist and racist behaviour. As outlined by the Guatemalan feminists featured in this dissertation, cultural interventions within organisations must be integrated with policy changes, in recognition of the inseparability of the personal and the political.

On urgency, solidarity and human rights work

The main conclusion I propose on the subject of urgency praxis is that it has ambiguous and contradictory effects, sustaining truth-telling work but also making it more difficult for some narratives to emerge within these processes. I argue that representational strategies used in truth-telling and other rights work are often affected by the urgent and serious emotional context of the work, and I propose the conceptual framework of urgency praxis to explain how workers in such processes both cope with the emotional demands, and try to do the best job possible. In and of itself, urgency praxis is a form of compromise.

One of the major features of urgency praxis in Guatemalan truth-telling was the self-effacement practiced by workers in order to focus attention on the needs of those perceived as the most victimised. Within frameworks already focused on victimhood, this tended to produce representations of ‘worstness’ that made it more difficult to recognise experiences of militancy among witnesses who testified, even as it supported clear denunciations of extreme patterns of systematic state violence, such as sexual violence and/as genocide. Urgency praxis was an important tool in opening space, but it has shown more limited utility in the longer term efforts to transform human rights work.

If I were unaware of the financial and political realities facing transitional justice work, I would recommend longer timelines, far more funding, broader recruitment and training strategies and better public education about the limitations facing truth commissions and related bodies. Perhaps such changes would reduce the need for strategies of urgency praxis. But if truth-telling work continues to function with scarce resources, high stakes and race-against-time schedules, such recommendations will have little effect, and those working in solidarity with human rights struggles will continue to dedicate themselves to the work. Rights defenders working with such conviction are not guaranteed to take advice about taking time off, relaxing, going to a counsellor or other forms of self-care. As outlined above, truth-telling processes must dedicate more resources to forms of psychosocial support that recognise the unique politico-emotional posture this job demands.

Further, as a strategy to accomplish intense tasks over a fixed amount of time, urgency praxis might indeed be very effective. As a permanent way to operate in highly stressful conditions of permanent impunity, its institutionalisation should give rights defenders pause. I recommend that other sites implementing truth-telling in contexts of impunity consider the important reflections of Guatemalan rights defenders on how to break out of this unsustainable form of solidarity work, in order to foster a healthier civil society and increase the impact of rights defense work over the long term. The innovative healing and consulting work performed by Yolanda Aguilar at Centro Q'anil provides a potentially transformative proposal for rights defenders in similar patterns of perpetual urgency.

Lastly, rethinking knowledge production includes rethinking notions of expertise. This is also centrally a question about solidarity. How can those marginalised by repression and war not only participate but also set the agendas in truth-telling work? Testimony and translation work are crucial conduits and should not be discounted, but the various experiences in the field in both REMHI and CEH demonstrate the potential for far more extensive local engagement. Even if these processes remained fairly conventional in other ways, such efforts remain under-appreciated in the field and can help to inform practice elsewhere. Further, transitional justice as a field must aim higher than its current practices of victim-centeredness. Current and future practitioners must attempt truth-telling and historical memory work that radicalises standard notions of 'participation' and 'expertise.' Working across multiple lines of identity and oppression, truth-telling work must refuse conventional constructs of silence, to grapple with the

challenge of both supporting and fostering the analysis of conflict-affected individuals and communities. With all its limitations, particularly around gender, REMHI still stands as a key jumping-off point for those attempting this more radical agenda.

In short, I have demonstrated some of the ways in which progress around gendered visibility in transitional justice has not been adequately accompanied by meaningful forms of accountability. I propose the concepts of participatory rhetoric and worstness as key analytical tools to explain this gap and to critique the limitations of well-meaning policies of victim-centeredness in this field. Such limitations include an exaggerated focus on victims of sexual violence, accompanied by a lack of attention to women's active roles in conflict and rights defense. Through discourse analysis of the REMHI and CEH truth-telling reports in Guatemala, and interviews with those who helped to construct them, I demonstrate one methodological approach to analysing the production of human rights knowledge about sexual violence that does not require returning to survivors for repeated re-tellings of their stories of trauma. I analyse the intense efforts of feminist rights defenders to expose sexual violence in gender-blind processes, and the linked labour of those who challenged other limitations rooted in forms of objective knowledge production in human rights and transitional justice work. This exploration intervenes in the notion that rights are produced in law, focusing instead on practice in Guatemala. And finally, I propose the framework of urgency praxis as a contribution to struggles to account for emotional labour in rights defense and to challenge prevailing practices that exhaust social movements in contexts of impunity. With these contributions, I argue that Guatemala's truth-telling processes and the vibrant organisations and movements that accompanied them are of enduring relevance for feminists and other practitioners seeking innovative approaches in the field of transitional justice. It is my hope that this project has contributed in a small way to understanding the enormous contributions made to truth-telling by both witnesses and workers, as well as to the broader project of building historical memory of feminist struggle.

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Ana Lucia Morán, July 9, 2011. Guatemala City.
Claudia Estrada, July 27, 2011. Guatemala City.
Maria Baquero, February 20, 2012. New York City.
Marcie Mersky, February 21, 2012. New York City.

APPENDIX A: Acronyms

AAAS American Association for the Advancement of Science
AEU Asociación de Estudiantes Universitarios (Association of University Students at the University of San Carlos)
AHPN Archivo Histórico de la Policía Nacional (Historical Archive of the National Police)
AI Amnesty International
AJR Asociación de Justicia y Reconciliación (Association of Justice and Reconciliation)
ASC Asociación de la Sociedad Civil (Association of Civil Society)
AVANCSO Asociación para el Avance de las Ciencias Sociales en Guatemala (Association for the Advancement of Social Sciences in Guatemala)
CACIF Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations
CAFCA Centro de Análisis Forense y Ciencias Aplicadas (Centre for Forensic Analysis and Applied Science)
CALDH Centro para la Acción Legal en Derechos Humanos (Centre for Legal Action in Human Rights)
CEDAW Convention on the Elimination of all forms of Discrimination Against Women
CEH Comisión para el Esclarecimiento Histórico (Historical Clarification Commission)
CELAM Latin American Episcopal Council
CERJ Comunidades Etnicas Runuel Junam (Runuel Junam Ethnic Communities)
CICIG Comisión Internacional Contra la Impunidad de Guatemala (International Commission Against Impunity in Guatemala)
CNR Comisión Nacional de Resarcimiento (National Reparations Commission)
CONAPREVI Coordinadora Nacional para Prevenir la Violencia Contra las Mujeres (National Coordination on Prevention of Violence Against Women)
CONAVIGUA Coordinadora de Viudas de Guatemala (Coordination of Widows in Guatemala)
CONADEP Argentinean National Commission on the Disappeared
CUC Comité de Unidad Campesino (Peasant Unity Committee)
CPR Comunidades de Población en Resistencia (Communities of Population in Resistance)
DEMI Defensoría de la Mujer Indígena (Defenders of the Indigenous Woman)
DDR Disarmament, Demobilisation and Reintegration
ECAP Equipo Comunitario de Apoyo Psicosocial (Community Team for Psychosocial Support)
EGP Ejército Guerrillero de los Pobres (Guerrilla Army of the Poor)
ESA Ejército Secreto Anticomunista (Secret Anti-communist Army)
FAFG/EAFG Fundación de Antropología Forense de Guatemala (formerly Equipo de ...) (Forensic Anthropology Foundation)
FAR Fuerzas Armadas Rebeldes (Rebel Armed Forces)
FMLN Farabundo Martí National Liberation Front--El Salvador
HRW Human Rights Watch
ICC International Criminal Court
ICCPG Instituto de Estudios Comparados en Ciencias Penales de Guatemala (Institute for the Comparative Study of Penal Sciences)
ICTR International Criminal Tribunal for Rwanda
ICTY International Criminal Tribunal for the Former Yugoslavia
IW Impunity Watch
JPT Juventud Patriótica del Trabajo (Patriotic Youth Workers)—youth wing of the PGT
MINUGUA Misión de las Naciones Unidas en Guatemala (United Nations Mission in Guatemala)
MOLOJ Asociación Política de Mujeres Mayas (Political Association of Mayan Women)
MP Ministerio Público (Public Ministry/Public Prosecutor's Office)
MTM Mujeres Transformando el Mundo (Women Transforming the World)
OAS Organisation of American States
ODHAG Oficina de los Derechos Humanos del Arzobispado de Guatemala (Archbishop's Human

Rights Office in Guatemala)

ORPA Organización Revolucionaria del Pueblo en Armas (Revolutionary Organisation of Armed People)

PAC (/ex-PAC) Patrullas de Autodefensa Civil (Civil Patrols for Self-defense)

PDH Procuraduría de Derechos Humanos (Human Rights Prosecutor)

PGT Partido Guatemalteco de Trabajo (Guatemalan Workers' Party or Communist Party)

PNR Programa Nacional de Resarcimiento (National Reparations Program)

REMHI Proyecto Interdiocesano de Recuperación de la Memoria Histórica (Interdiocesan Recuperation of Historical Memory Project, coordinated by ODHAG)

SCSL Special Court for Sierra Leone

SEPAZ Secretaria de la Paz (Secretary of Peace)

SEPREM Secretaria Presidencial de la Mujer (Presidential Secretary for Women)

TRC / CVR Truth and Reconciliation Commission, Comisión de la Verdad y la Reconciliación

UDAK Unión para el desarrollo alternativo Kaqchikel (Kaqchikel Union for Alternative Development)

UDEFEGUA Unidad para la protección de los defensores de derechos humanos (Unit for the protection of Human Rights Defenders)

UN United Nations

UNAMG Unión Nacional de Mujeres Guatemaltecas (National Union of Guatemalan Women)

UNOPS Oficina de Servicios para Proyectos de las Naciones Unidas/ United Nations Office for Support Services

UNDP United Nations Development Program

UNIFEM United Nations Agency for Women and Development

URNG Unidad Revolucionaria Nacional Guatemalteca (National Revolutionary Unity of Guatemala)

USAC Universidad de San Carlos (University of San Carlos)

APPENDIX B: Glossary of Spanish terms retained in the text

- actoría social*—social agency, protagonism or militancy
- acuerdo marco*—framework agreement: a key document in the Guatemalan peace negotiations process
- ajusticiamiento*—extra-judicial killing
- aldea*—a village
- animadores de la reconciliación*—animators of the reconciliation: the title of local field workers for the REMHI process
- auto-golpe*—“self-coup”: attempted by President Serrano in 1993
- comadronas*—indigenous midwives
- compañero/a*—comrade or companion, used both in everyday conversation and in a revolutionary context
- compromiso*—strong political and personal commitment
- comprometido/a*—strongly committed to a cause
- concientización*—coming to consciousness, or consciousness-raising, usually in a revolutionary context
- costumbre*—indigenous religious practices that predate or exist in tandem with Christianity
- destacamentos*—military bases
- doble militancia*—double militancy: working towards political goals in legal organisations as well as clandestine ones
- Dónde Están?*—“where are they?” A slogan frequently used on posters of groups seeking the disappeared
- finca*—plantation
- finqueros*—plantation owners
- freno*—literally “brakes”: slowdown or resistance to change
- Frente Popular Libertad*—Popular Liberation Front: the revolutionary movement that successfully brought forth Guatemala’s Democratic Spring in 1944
- Grupo de Análisis Histórico*—Historical Analysis Group (in the CEH)
- “guerra contra los civiles”*—a war against civilians: an expression used by historian Edelberto Torres Rivas (2007) to underline the inadequacy of the term “civil war” in Guatemala
- guerrilla urbana*—the urban guerrilla
- ladino/ladina*—a racialised term used in Guatemala to distinguish a group who have traced lineage to Europeans and frequently denied any intermixing with indigenous populations. Ladinos hold the most formal political and economic power in Guatemala. Some now use the term “mestizo” as a political rejection of the racist connotations of “ladino.”
- luchador/a social*—social militant
- mal de ojo*—the evil eye
- mano dura*—iron fist: a term used for hard-line politics
- “metido en algo”*—involved in something: an expression of generalised suspicion about a person’s political activities, rooted in counter-insurgency strategies
- narración de urgencia*—narrative of urgency, as in Rigoberta Menchú’s testimony (see Beverley 1993)
- nosotras*—the female-gendered form of the term “we”
- piropos*—verbal harassment or attention commonly directed at women in the street and other public spaces
- Plataforma Agraria*—Agrarian Platform

puchica—Guatemalan swear-word
quintal—a unit of measurement traditionally used for basic items like corn
ranchera—a popular style of music from Mexico
Red de la No Violencia Contra las Mujeres—Network Against Violence Against Women
sacerdote—traditional Mayan priest
salchicha—sausage
Sector de Mujeres—women’s sector: a key space for post-war organising around women’s demands
sede—headquarters
tipificación—typifying: standardising something so that it fits into a category
traje—traditional indigenous clothing worn by Mayan women indicating linguistic group and community
victimidad—victimhood
violencia de género—gender violence
violencia sexual—sexual violence

APPENDIX C: Profiles of interview participants

Yolanda Aguilar: Guatemalan feminist and former student militant; survivor of torture; former witness and analyst for the women's chapter in the REMHI process. Long-term supporter and accompanier of survivors of sexual violence, in both domestic and transnational initiatives. Currently performs consulting work for rights organisations and runs a healing centre for rights defenders in Guatemala City.

Alejandro Alfaro: Guatemalan with experience in a range of activism and accompaniment; worked in FAFG, one of the major national forensic anthropology teams that has performed hundreds of exhumations. At the time of the interview, he was about to start divinity school in Colorado and is now a practicing minister.

Maya Alvarado: Guatemalan feminist with long history on the revolutionary Left; did not work in CEH or REMHI, but the reports contain cases about her family members. Experience in revolutionary radio broadcasting; spent years in exile, and became involved in feminist work upon her return to Guatemala. Alvarado was executive director at UNAMG at the time of the interview.

Carlos Amézquita: Guatemalan rights defender and professor at USAC; former field researcher in refugee camps in Ixcán and Mexico and report writer in REMHI process; worked on the CEH report. Amézquita currently works at Impunity Watch in Guatemala City.

Maria Baquero: American with experience in Guatemalan rights defense; former CEH field researcher in Ixil area, and later report writer on the consequences of the armed conflict. Baquero is now completing a PhD in public health at Columbia University in New York.

Claudia Estrada: Guatemalan ex-member of the PGT; performed emotional accompaniment and diocesan liaison work in REMHI; later worked on the women's chapter in the REMHI. Spent over a decade in exile in Mexico and her children now identify as "Guatemex." Estrada currently works in the archives of the former national police (AHPN, Archivo Histórico de la Policía Nacional) supporting the documentation of thousands of cases of torture and forced disappearance.

Edda Gaviola: Guatemalan feminist and long-time rights defender. Formerly director of CALDH, one of the main organisations accompanying AJR, a major survivors' group pursuing justice for genocide.

Luz Méndez: Guatemalan feminist with a history on the militant Left that began in student politics; worked on diplomatic team of the URNG and later spent years in exile in Mexico, where she joined the clandestine version of UNAMG. The only female member of the URNG negotiating team in the Guatemalan peace negotiations, which informed her work as one of the contributors to the UN Resolution 1325 on Women, peace and security. Méndez has more recently worked in research and leadership positions supporting the work with sexual violence survivors in UNAMG and ECAP.

Marcie Mersky: American who grew up in Guatemala and spent many years active on the Left and in struggles for social justice. Worked in leadership roles in both REMHI and the CEH, where she coordinated the final report. One of the few members of the CEH staff who stayed with the process until its conclusion. At the time of the interview, Mersky worked at the International Center for Transitional Justice (ICTJ) in New York.

Lucia Morán: Guatemalan feminist, lawyer and rights defender. One of the driving forces in MTM, the small feminist legal organisation that brings “unwinnable” test cases to court and accompanies survivors involved with ECAP and UNAMG in their legal cases. Morán is also a poet and has been an active participant in a women’s artist collective.

Olga Alicia Paz Bailey: Guatemalan feminist community psychologist and advocate for genocide survivors; worked at ECAP since its early days in the 1990s, including as a researcher with survivors of wartime sexual violence in the ECAP-UNAMG project. She co-wrote the life-history study that emerged from that research, *Weavings of the Soul*. At the time of the interview, she was embarking on further studies in Puebla, Mexico.

Claudia Paz y Paz: Guatemalan rights defender; worked on legal case review and writing various sections in the CEH report. Later directed the human rights organisation ICCPG, before being appointed to the position of Fiscal General of Guatemala (Attorney General) in 2011 where she has pursued a feminist agenda and spearheaded important reforms of the justice and policing systems.

Sergio Pivaral: Guatemalan with extensive experience in rights defense from a young age; former field researcher and report writer in CEH. Took over 150 testimonies in Huehuetenango and Barillas field offices. At the time of the interview, Pivaral worked in a coordinating role in the transitional justice program at UNDP in Guatemala.

Eduardo Tercero: Guatemalan, with extensive UN experience. Worked in as assistant of operations in the Support Office for the CEH, which involved bridging between the technical staff and administrators of the CEH. Tercero trained as a veterinarian, but has worked for UNOPS since the days of the CEH.

Anonymous participants:

Nora (pseudonym): Non-Guatemalan, with research experience in Guatemala; performed liaison work between different CEH teams and later report-writing.

Sofia (pseudonym): Guatemalan, with experience in rights defense; worked on genocide section in CEH report.

A note: A small number of other anonymous participants informed my research and analysis but did not want any identifying details to be included in this project. One of these participants worked on the issue of genocide in the CEH, and another on the Historical Analysis Group. Those whose reflections became more central in this project have been assigned pseudonyms (above), but details about their lives outside of this historical context have been removed.