Women in Guatemala's Metropolitan Area: Violence, Law, and Social Justice

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Abstract: *In this article I examine the legal framework for addressing violence against women in post war Guatemala. Since the signing of the Peace Accords in 1996, judicial reform in Guatemala has included the passing of laws in the area of women's human rights, aimed at eliminating discrimination and violence against women. These laws constitute a response to and have occurred concurrently to an increase in violent crime against women, particularly in the form of mass rapes and murders. Drawing on fieldwork conducted in Guatemala's Metropolitan Area, this paper juxtaposes the laws for addressing violence against women to Guatemalan women's complex, multilayered and multi-dimensional life experiences. The latter expose the limitations of strictly legal understandings of the phenomenon of gender-based violence, and highlight the need for broad social justice approaches that take into account the different structures of violence, inequality, and injustice present in women's lives.*

On April 9, 2008, amid cheers and applause from the public tribune, the Guatemalan Congress passed the *Ley Contra el Femicidio y Otras Formas de Violencia Contra la Mujer* (Law Against Femicide and Other Forms of Violence Against Women)[1]. This law, which calls for penalties of up to fifty years in prison for those found guilty of violent crimes committed against women, and specific institutional measures to be taken for addressing the problem, came after years of activism and lobbying on the part of human rights and women's organizations in Guatemala directed at eradicating distinct forms of violence against women. The approval of this law also signifies a response to the mass wave of gender-based violence that has swept Guatemala in the first decade of the 21st century. More than a decade after the signing of Peace Agreements in 1996, which brought about the negotiated end to one of the bloodiest armed conflicts in Latin America's recent history, Guatemala remains haunted by the consequences of war and faces serious problems of insecurity and violence, including growing homicide rates and organized crime (PNUD, 2007). Furthermore, in this "post-conflict" context, there has been an alarming increase in rates of violence against women, particularly in the form of mass rapes and killings (Amnesty International, 2005; PNUD, 2007).

This article is concerned with the gendered dynamics of violence in post war Guatemala, and focuses on the experiences of women, who have historically been among the most vulnerable and unacknowledged victims of violence in the country. Drawing on ethnographic fieldwork conducted throughout the year 2007 in Guatemala City and surrounding municipalities, what is referred to as the Guatemalan Metropolitan Area (*Área Metropolitana de Guatemala*), I examine

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[1] For short, I use "Law against Femicide".

the multiple ways in which a context of gender-based violence and generalized insecurity affect women's lives, and consider what social justice might mean for women situated at a crossroads of multiple, diverse, and converging processes of injustice and violence.

I examine the legal framework for addressing violence against women in the country, particularly three laws aimed at reducing and eliminating gender-based discrimination and violence: the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar* (Law to Prevent, Saction, and Eradicate Violence within the Family)*, the *Ley de Dignificación y Promoción Integral de la Mujer* (Law for the Dignification and Integral Promotion of Women)*, and the *Ley Contra el Femicidio y Otras Formas de Violencia Contra la Mujer* (Law Against Femicide and Other Forms of Violence Against Women).[2] I argue that the emergence of these laws represents a significant victory for Guatemalan women, that should be situated within the converging processes of Peace negotiations and a growing women's movement on the one hand, and escalating generalized violence, insecurity, and crime, where violent murders of women have been on the rise, on the other. I juxtapose the legal framework for addressing violence against women to Guatemalan women's complex, multilayered and multi-dimensional life experiences. This juxtaposition exposes the limitations of strictly legal understandings of the phenomenon of gender-based violence promoted by the State, which tend to shift the focus away from the social, political, economic and historical factors underlying violence toward women in Guatemala.

Women at a Crossroads of Violence

Before the justification was "you are not going out because you are a woman". Now, mothers with good reason say, "you can't go out because you could be raped, you could be killed". Last month in my colonia there where two or three killings in one week. Imagine, in one week! -Ana[3]

Living in the barrio *El Limón,* one of the countless so-called 'red zones' of Guatemala City with a reputation of high gang activity and crime, thirty year old Ana, a Mayan K'iche' woman, fears for her safety every day. Every morning when she gets on to the *camioneta* to travel to her workplace, she is uncertain whether she will make it to work and return home safely at night without incident. For Ana, like many residents of Guatemala City and adjacent municipalities, fears that she may be robbed, assaulted, injured, or killed at any moment are not unfounded. Twelve years after the signing of the Peace Accords in Guatemala, the country is described as, "one of the most violent countries in the world officially in Peace, where the human rights of the population continue without being fully respected" (PNUD, 2007, p.9). Thus Guatemala has followed the worrying trend described by researchers of Latin America (e.g. Balán, 2002; Caldeira, 1996; Rotker, 2002) – namely, that despite certain recent democratic reforms, systemic human rights violations, as well as everyday crime and insecurity continue to thrive. In Guatemala, in addition to continued political violence in the form of intimidation and violent attacks against human rights workers or individuals for political purposes, the country faces growing homicide rates, including increasing rates of murders of women, children and youth,

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[2] For full text of the laws see: Congreso de la República de Guatemala (1996, 1999, 2008) respectively.
[3] I use pseudonyms to protect the anonymity of research participants.

escalating gang activity and organized crime, high rates of fire arm possession and use, as well as high incidences of armed robberies, kidnappings, and theft (del Alamo, 2004; Amnesty International, 2005; Asturias & Del Águila, 2005; Logan, Bain & Kairies, 2006; CALDH, 2006; CIIDH, 2006; PNUD, 2007; Urías, 2005). Moreover, there are indicators that problems of violence have intensified in the current post-peace agreement era. One report indicates, for example, that "in the past seven years homicidal violence has increased more than 120%, going from 2,655 homicides in 1999 to 5,885 in 2006" (PNUD, 2007, p.9).

Many explanations are offered for the persistence of violence in "post-conflict" Guatemala. Not surprisingly, these vary depending on who is doing the analyzing of incidents and forms of violence, and for what purpose. While *mareros* (youth gang members) are often cited in governmental[4] and everyday discourses as the principle cause of current violence in Guatemala, a deeper analysis of the present situation brings other factors to the fore. These include vast social inequalities and high levels of poverty along class, ethnic, gender, and geographical axes; rampant legal impunity; and clandestine groups (often linked to powerful individuals) that profit from illicit activities such as the trafficking of human beings, arms and drugs (PNUD, 2007, p. 10).

Guatemala's long history of violence and state repression toward vast segments of its population spanning the colonial period, then through a long line of conservative and liberal dictators, and most recently exacerbated by decades of horrific internal armed conflict, is also at the core of persistent and ubiquitous violence today. The armed internal conflict, emerged in the Cold War context and endured from 1960 to 1996. Claiming the lives of 200,000 people and displacing 1.5 million, the war has been one of the bloodiest conflicts in Latin America in the last quarter of the twentieth century. While both sides, the military and the insurgency, committed acts of violence, the U.N. sponsored Truth Commission found that over 90 per cent of acts of violence were carried out by agents of the state. Mayan indigenous peoples, who were seen by the state as guerilla supporters, represented over eighty per cent of the victims of violence (CEH, 1999; ODHAG, 1998**).**

During the war, women were among the targeted victims of state-sponsored violence: indeed, government agents carried out mass sexual violence, particularly in the form of rape and sexual torture, against women. The greatest proportion of this violence was directed at indigenous women, as a means of damaging the social fabric of indigenous communities, and to create a climate of terror in the country (CEH, 1999; ODHAG, 1998). As in other war-torn countries, such as Rwanda, Sierra Leone or Kosovo and Bosnia-Herzegovina (IRIN, 2004), rape and sexual assault of women in Guatemala were part of the machinery of war.

In the aftermath of the armed internal conflict, violence against women has been on the rise across Guatemala. While human rights organizations and activists have long laboured to prove that genocide occurred during Guatemala's armed conflict, in the first decade of the twenty-first century, the concept of *femicide*—the killing of women by men because they are women

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[4] In 2007 the Army General Otto Pérez Molina of the *Partido Patriota* ran for president on a Platform centered on battling crime in Guatemala through attempting to quash gangs. Though ultimately defeated by Álvaro Colom Caballeros of the National Unity for Hope (*Unidad Nacional de la Esperanza,* UNE), advertisements in newspapers, billboards and television for Pérez Molina commonly indicated that his party would take a *mano dura* (clenched fist) position for battling gangs and crime in the country. Indeed, the clenched fist was his party's symbol.

(Russell, 2001, p.3)—has gained currency among women's organizations as they attempt to evidence the existence of this insidious, systematic form of violence against a targeted group. Present-day violence against women in Guatemala, particularly the increase in the killings of women, demonstrates all too well the ongoing violence that pervades Guatemala's "post-conflict" era. Various studies (e.g., Amnesty International, 2005; CALDH, 2006; PNUD, 2007) attest to the disturbing increase, over the past eight years, in the murder rate of Guatemalan women. For example, the Amnesty International (2005) report, *Guatemala: No Protection, No Justice: Killings of Women in Guatemala*, which has played a central role in drawing attention to this disturbing issue, indicates that the number of women murdered annually over the three years spanning 2002 to 2004 almost tripled (from at least 163 women in 2002, to 383 in 2003, to over 527 in 2004). A subsequent report produced by the United Nations Development Program for Guatemala indicates that the numbers of murdered women in 2005 and 2006 were 518 and 603 respectively (2007, p. 30); these figures evidence an alarming trend that has received little attention by the Guatemalan government and the international community.

Femicide in Guatemala is occurring in a context of generalized violence affecting great segments of the population. Both women and men face a situation marked by fear and the potential of being victims of violence at any given moment. Moreover, a woman and a man's experiences of life in Guatemala are influenced by their various social locations, including ethnicity, class, age, and geographic location. Thus, not all women in Guatemala experience life and violence in the same ways. While women's experiences vary, a focus on their lives is necessary as the violation of their bodies has constituted a virtually normative practice in Guatemala. As certain scholars (e.g., Few, 2002; Nelson, 1999) highlight, since the Spanish conquest, ethnic relations as well as national and state formation in Guatemala have been maintained and (re)produced through gender and gendered violence. Analogous to different historical periods in Guatemala, including during the armed internal conflict, in the "post-conflict" context men are murdered with more frequency than women. However, there are indicators that proportionally the violence directed at women has increased at a higher rate in this period than the proportional increase in violence directed against men (e.g. see, Palma & Sas, 2007). Furthermore, violent crimes against women often entail rape and other forms of sexual violence, and their bodies frequently show signs of mutilation of facial features and sexual organs (Amnesty International, 2005). The patterned, gruesome, sexualized and misogynist nature of violence perpetrated against women is a central factor for distinguishing violence toward women and men, and suggests a need to carefully interrogate violence against women in particular.

A number of factors impede accuracy in the recording of the murders of women in Guatemala. A lack of public confidence in state institutions, indifference on the part of officials, and deficiencies within the judicial system to deal adequately with these cases, all contribute to the under-registration of violent crimes against women. In addition, it is widely believed that police forces collude with organized crime, as has been observed for other Latin American contexts (Caldeira, 2000; Goldstein, 2003), and may thus be complicit in violence against women. The chronic lack of reporting, investigation, and prosecution of these crimes has resulted in a situation where the perpetrators of these acts remain largely unidentified and unpunished, which can be seen as exacerbating the climate of fear and insecurity present in Guatemala. In Guatemala, as in countless societies throughout history and around the globe, violence has been perpetrated on women's bodies for the purposes of sustaining patriarchal systems, nation

building and nationalism, and for the waging of war (Das, 1997; Giles & Hyndman, 2004; Malkki, 1995; Olujic, 1998).

Finally, certain observers (e.g., Del Alamo, 2004; Urías, 2005) have pointed out how documented rates of domestic abuse—a less publicly visible form of violence— are also alarmingly high in Guatemala. Due to the secrecy that often accompanies domestic violence and the great methodological challenges it poses for researchers (Ellsberg, Heise, Pena, Agurto & Winkvist, 2001), the figures on such incidents are much more scarce, and perhaps even less accurate than the figures on cases of femicide. Nevertheless, there are indicators that this form of violence in Guatemala constitutes a serious social problem (e.g., see Asturias & Del Águila, 2005; Del Alamo, 2004; La Hora, 2003; Urías, 2005). In her research on gender relations before, during and after the Guatemalan civil war, anthropologist Judith Zur (1998), for example, listened to many women in the war's aftermath who told her that for them, men's alcoholism and violence in the home were central issues of concern.

My study is focused on the Metropolitan Area (*Área Metropolitana de Guatemala*, AMG)[5] in the department (province) of Guatemala. The Guatemalan Metropolitan Area includes the municipality of Guatemala City – Guatemala's capital city – and surrounding municipalities including Mixco, Villa Nueva, Chinautla, and San Juan Sacatepequez. This area contains three million of the country's thirteen million inhabitants. As Rotker et al. (2002) observe for other post-conflict and post-dictatorship countries in Latin America, violence in Guatemala in the post-war period has moved increasingly to urban areas, with the Department of Guatemala, and especially the Metropolitan Area, topping the list as the most crime-ridden area. In its statistical analysis of violence in Guatemala, the United Nations Development Program found that the Department of Guatemala, "has accumulated during the last years more than 50 percent of the illicit activities that are registered in the country" (PNUD 2007, pp.16-17). Furthermore, 35 percent of the registered illicit activities at the national level are carried out in the municipality of Guatemala City alone (PNUD, 2007, pp. 16-17). As such, the report also indicates that, "Guatemala City is one of the most violent places on the continent" (PNUD, 2007, p.24).

As well as being the site of a large percentage of violence and crime in the country, the Metropolitan Area of Guatemala also holds a significant portion of the country's urban poor (Gellert, 1999, p.38). While the city remains the centre of political, commercial and industrial power, great segments of its population do not earn a sufficient income to cover their most basic

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[5] The area covering Guatemala City and neighboring municipalities, such as Mixco, Villa Nueva, Chinautla, and San Juan Sacatepequez is commonly referred to as the *Área Metropolitana de Guatemala* or *Área Metropolitana de la Ciudad de Guatemala* (Metropolitan Area of Guatemala -AMG). However, there is some disagreement about what constitutes the AMG, with some researchers referring to the entire department of Guatemala as the AMG (Gellert, 1999). In this article, I use the former definition as this was the definition I found was most commonly used during my fieldwork in Guatemala.

[6] At a national level, there are also indices of growing social inequalities and low human development trends. While in 1989 the extreme poverty strata represented five times the proportion of the population found in a situation of 'high development', in 2004 it represented nearly ten times the same population (PNUD, 2005). Malnutrition among Guatemalan children is extremely high: 64% of extremely poor and 53% of poor children suffer from malnutrition (World Bank, 2003, p.14). Compared to other countries in Latin America, Guatemala ranks poorly with respect to health indicators: life expectancy (65 years) is the lowest and infant mortality (40-45 per thousand) is the highest in Central America (World Bank, 2003, p.14). Furthermore, literacy in Guatemala ranks far below average in Latin America; with an illiteracy rate of 31% in 2000, primarily represented by women, the poor and rural residents, only Nicaragua and Haiti rank worse (World Bank, 2003, p.63).

needs (Valladares Cerezo, 2003, p.5). According to a study of urban slums in Guatemala City, approximately sixty per cent of the population of the Metropolitan Area can be classified as "poor" (Valladares Cerezo, 2003, p.6).[6] In addition, it is estimated that one third of the inhabitants of the Metropolitan Area live in precarious settlements, many without running water, drains and sewage systems (Valladares Cerezo, 2003, p.3). Thus, Valladares Cerezo (2003) points out that, in recent years the city has been characterized, by considerable horizontal expansion, with peripheral commercial sub-centres, an inefficient public transport system, proliferating precarious settlements, a free market economy and a decrease in State attention to housing needs.

This article emerges from a larger doctoral project focusing on the impact of intersecting forms of violence on the quotidian experiences, lives, and social relations of differently-positioned women in contemporary urban Guatemala. I utilized a combination of research methodologies during the course of this year-long study. Participation observation served as an important research method: I immersed myself in everyday life in Guatemala City, and spent time with women, and their families, in their homes throughout the urban area. During my initial months in Guatemala, I sat in on a woman's support group, which was run by Guatemala City-based institution that supports families of murdered women and victims of domestic as well as other forms of violence. With the permission of the support group participants, I was able to sit in on all of their by-weekly sessions over the four and a half month period their group met. I later interviewed various support group participants individually in their homes. In addition, throughout my stay in Guatemala, I conducted structured and semi-structured with a range both indigenous and non-indigenous (*ladina/mestiza*)[7] women—including women not aligned to any particular institution—ranging in age from twenty to forty-five years, all of whom resided in the Metropolitan Area of Guatemala. I also interviewed activists, human rights workers, as well as government and NGO employees whose work was related to, in broad terms, advancing women's rights and, specifically, aiding women in situations of violence.

I selected Guatemala City and its surrounding municipalities as the focus of my study as it represents an area little-studied in academic analyses of the impact of war on daily life and post-war reconstruction. Literature on the consequences of wartime violence in Guatemala has tended to focus—with valid reason—on rural areas of the northwest highlands, which saw the bulk of massacres during the armed conflict (e.g., see Manz, 2004; Zur,1998). However, as both truth commission reports (CEH, 1999; ODHAG, 1998) document, state sponsored violence during the first two decades of the war (1960s and 1970s) had an urban character. During the period from 1954 to the late 1970s, when U.S.-sponsored counterrevolutionary forces targeted politicians, academics, students, and trade unionists (committing "selective" killings), acts of political violence were primarily committed in Guatemala City (Ball, Kobrak & Spirer, 1999; CEH, 1999; ODHAG, 1998). For instance, Paul Kobrak (1999) documents the systematic attack by State forces on leading intellectuals in the City, particularly those affiliated to the University of San Carlos. Furthermore, three of the most publicized war-time incidents – the 1980 burning of the Spanish Embassy that killed 39 K'iche' peasants (including the father of Nobel Laureate Rigoberta Menchú), the vicious stabbing to death of anthropologist Myrna Mack Chang in 1990,

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[7] In Guatemala, the term *Ladino/a* is used to refer to European descendents or (usually) to persons of mixed Mayan and Spanish ancestry. Sometimes the term is used interchangeably with *Mestizo/a.*

and the 1998 murder of Bishop Juan Gerardi (two days after he had presented the *Nunca Más* Report outlining the horrific abuses of the Guatemalan Military) – all occurred in downtown Guatemala City. Moreover, the severity of violence in Guatemala City during the post-war period signals a need to include an urban focus in analyses of the multiple effects of war on people's everyday lives and social relations in its aftermath.

Guatemala's Legal Framework for Addressing Violence Against Women

The laws passed in Guatemala in the area of gender-base violence are the result of the convergence of both local and global processes. Guatemala is among numerous States in the post-Cold War era (see Nyamu-Musembi, 2006; Ulrich, 2000) that have made judicial reforms in the area of violence against women. In the past two decades, international organizations and donors, within a framework of "strengthening the rule of law", have paid increased attention to gender-based violence, and countries around the globe have passed laws against violence toward women (Ulrich, 2000). In Guatemala, since the signing of Peace Accords in 1996, the national congress has approved three important laws specifically directed at addressing gender disparities and protecting women against different forms of violence: the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar* (1996), the *Ley de Dignificación y Promoción Integral de la Mujer* (1999) and, most recently, the *Ley Contra el Femicidio y Otras Formas de Violencia Contra la Mujer* (2008).

At this historical juncture, women in Guatemala are protected by law against violence more than in any time in the past. Paradoxically, widespread violence against women in Guatemala in the post war period has been concurrent to women's increased legal protection against various forms of violence and discrimination. Why, then, does violence against women persist? Why has violence increased as laws to prevent it have been simultaneously passed? And, how far-reaching can the laws against violence toward women be in a context where the judicial system does not function effectively and impunity is rampant? The discrepancy between increased legal protection against violence and rising figures of violence against women suggests that the approval of laws for the reduction and eradication of violence toward women is not sufficient to address this social problem, and may only be a part of larger social changes required for its amelioration.

The laws passed in Guatemala aimed at reducing and eliminating distinct forms of violence toward women must be seen in relation to women's growing activism and lobbying. Without the efforts of individual activists and women's and feminist organizations such as Grupo Guatemalteco de Mujeres, Tierra Viva, the National Coordinator of Guatemalan Widows (CONAVIGUA), and the No Violence Against Women Network, among others, that have worked tirelessly to raise awareness surrounding women's subordination in both the private and public spheres, it is unlikely the present laws would have even been proposed. Their efforts have made violence against women an issue worthy of attention by members of congress, human rights groups, and segments of the Guatemalan population—hardly a simple task considering the extent to which violence against women in Guatemala is sanctioned both culturally, but also arguably by the State.

The achievements of the Guatemalan women's movement, particularly in relation to the laws on gender-based violence have significant historical roots. For instance, an organized women's

movement was already present in Guatemala in the 1940s, with the creation of the *Alianza Femenina Guatemalteca*, the first collective organization aimed at mobilizing women (Carrillo, 2004, p.156). Yet, it is in the last three decades in particular that the movement gained significant momentum and visibility. During this time, the women's movement expanded its organizational structure and increased its visibility (Berger, 2006). Furthermore, it placed the eradication of all forms of violence, including violence against women, at the centre its political agenda. Though internally diverse and historically fractured along ethnic, class, and urban-rural lines, the women's movement has become a powerful player in shaping national policy (Berger, 2006)—as the passing of laws in the area of women's rights attests.

In their present struggles for social justice, Guatemalan women are increasingly utilizing the instruments of international conventions and law as part of multi-faceted efforts to advance their rights and promote gender equality. On the one hand, an international human rights movement has created spaces for women to articulate their demands for greater social equality. The last two decades have given rise to a shift in the ways in which marginalized groups throughout the globe, such as ethnic minorities, indigenous peoples, and women, are making claims for their rights. Where nation-states are becoming weakened, or they assuage themselves of the responsibilities for providing for their citizens, due largely to neo-liberal reorganization, collectivities increasingly seek social justice redress in international forums (e.g., Niezen, 2003; Merry, 2006). Accordingly, Guatemalan women are utilizing the new opportunities emerging from international law and its forums for debate and exchange, such as meetings of the United Nations (UN), to advance their rights as women in Guatemala. On the other hand, women's rights are challenged by an international human rights framework that draws on liberal rights ideals, and promotes formal equality universally. Feminist scholars are critical of human rights discourses and practices precisely because of their universalist, as well as masculinist, orientations (e.g., Merry, 2006; Molyneux and Razavi, 2002, p.7). The promotion of liberal rights and universal equality is often at odds with appeals for the recognition of the specific needs of particular peoples, such as women, and/or efforts to maintain cultural diversity (Merry, 2006, p.131).

Transnational processes, and "legal globalization"[8], have nonetheless been an integral part of judicial reform in the area of gender based violence in Guatemala. In addition to national factors, the international context has been an important part of the emergence of laws on women's rights in Guatemala. The concept of femicide is an imported one in Guatemala. In the 1990s, the cruel rapes, disappearances, and murders of hundreds of women in Ciudad Juárez, Mexico drew international attention (e.g., see Inter-American Commission on Human Rights, 2002; Ensalaco, 2006; Olivera, 2006), and victims groups as well as feminist organizations ultimately came to utilize the concept of femicide to describe the situation. When a similar pattern of murderous violence against women was observed in Guatemala, human rights and women's groups drew comparisons to the case of women in Ciudad Juárez. Subsequently, women's groups in Guatemala have participated in information exchanges and networking with women's groups in Mexico, across different Latin American countries, and beyond. Local efforts to draw attention to the grave dimensions of the problem of violence against women in Guatemala have both led to, and been supported by, international attention to the issue. For instance, in 2004 the UN

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[8] I borrow this term from Sieder (2004).

Special Rapporteur on Violence Against Women, Yakin Ertürk, visited Guatemala to investigate the situation of women in the country and produced a report (Ertürk, 2005) outlining her findings and specific recommendations for the Guatemalan State and the international community for responding to the realities of Guatemalan women.

International flows of money into the country for "peace" and "democracy" building are also significant factors behind judicial reform in Guatemala, and for understanding the emergence of laws against discrimination and violence toward women. In the post-Cold War era, judicial reform is a central component of State and internationally driven initiatives for post-conflict and post-dictatorship rebuilding and democratization. These efforts, as is particularly evident in the Guatemalan case, are often donor-driven (that is, they stem from external pressures), and do not necessarily emerge from within the State. Donors including the World Bank, the Inter-American Development Bank, the United Nations Development Program, or country donors such as the United States Agency for International Development (USAID) invest in democracy building, legal reform, and promotion of human rights (Sieder, 2004, p.3), even while they promote a neo-liberal market framework that ultimately makes their intentions suspect. Nonetheless, legal reorganization and reform of the State together with promotion of human rights are now central components of armed conflict rebuilding and transition (Sieder, 2004, p.3).

Judicial reform was a central component of the United Nations brokered Peace Accords in Guatemala, which included an accord specifically focused on reforming the Guatemalan legal system. In particular the *Agreement for Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society* signed in September of 1996 outlined various measures for decreasing and redefining the role of the military, which had previously gone unchecked, and increasing the role of legal institutions in promoting internal security (see Jonas, 2000). The Agreement on Strengthening Civilian Power, came after the Comprehensive Accord on Human Rights, signed in March of 1994. Unlike other Accords, that were to be implemented after the official signing of Peace, the Human Rights Accord would come into effect immediately (Jonas, 2000, p. 71). Under this Accord, the government and the Guatemalan National Revolutionary Unity (URNG) vowed to meet their obligations under international law. As Sieder (2004) observes, the Peace Settlement's focus on human rights meant that in the years following the signing of Peace, strengthening the rule of law was on the agenda of the government, Civil Society, and the international community.

Among the Peace Accords signed, there was a comprehensive accord on human rights, accords for addressing social and economic aspects of the agrarian situation, for strengthening civilian power, and an accord on the rights of indigenous persons. However there was no accord that directly addressed women. Women's rights are referred to by some as the "missing" accord (e.g. Jonas, 2000, p.86). Susanne Jonas suggests that this elision was largely the result of, "long standing lack of attention to gender issues by both negotiating parties and the late development of the women's movement in Guatemala" (2000, p. 86). Nonetheless, the peace negotiations, which saw creation the *Sector de Mujeres* (Women's Sector), as part of the National Assembly of Civil Society opened up spaces for a debate specifically around gender (Berger, 2006, pp. 34-36). The participation of the Women's Sector in the peace process also facilitated the organizational structure of the movement, which has increasingly come to work within governmental structures, not merely providing pressure from outside (Ibid.).

Given the transnational influence on judicial reform in Guatemala, the different laws aimed at reducing and eradicating gender-based discrimination and violence in the country draw upon

international law and conventions, in particular the Convention for the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará), both ratified by the Guatemalan government —all of which frame women's rights in the language of human rights. The definition of violence within the family as a human rights violation is the most basic premise of the first of these laws, the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar* (the 'domestic violence law', approved in 1996). Article one of the law's first chapter indicates that,

> Violence within the family constitutes a violation of human rights […] and should be understood as an action or omission that directly or indirectly causes physical, sexual, psychological and/or economic harm or suffering both in the private and public sphere, on the part of relatives, partner, or ex-partner or with whom children have been procreated (Congreso de la República, Decreto 97-96, Capítulo 1, Artículo 1).

This law represented an important victory for Guatemalan women. In defining violence against women as a human rights violation, the law holds potential for legitimizing women's denunciations of abuses against them within their homes, a violence that is all too often hidden and silenced. For instance, up until recently rape was not considered "rape" if it occurred in the context of marriage.[9] With the approval of the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar*, women gained the possibility of prosecuting their aggressors for harmful actions committed against them that previously may not have been considered forms of violence. Moreover, in addition to making it possible for women to denounce domestic abuse as a crime and violation of their rights, and calling on institutions to provide legal assistance to victims, the law makes "security measures" (*medidas de seguridad*) possible. The "security measures" are an important component of this law, making it possible for the accused aggressor to be ordered to leave the common residence immediately, have his/her weapons decommissioned, and child visitation rights suspended in cases of sexual aggression against minors (Artículo 7).

Though it represents a significant victory for women in Guatemala, the domestic violence law contains significant shortcomings. First among them is the law's failure to directly address domestic violence against women; its focus is violence within the family generally. In other words, it is possible under this law for a male spouse, grandparents, or children to be considered the victims of domestic violence. Through its use of gender-neutral language, constant throughout all articles, the law fails to denounce violence against women. Political scientist Susan Berger (2006, p.46) argues that the gender-neutrality of this law is not an accident. Women's groups had pushed for and lobbied for a law that would address violence against women specifically, as it was premised on international conventions for addressing the rights of women ratified by the Guatemalan State. However, Berger explains, proponents of the law could not garner enough support within the National Congress, and thus proposed in its place the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar*. The fact that in the end, the law was framed in a gender-neutral manner, and focuses on individual victims and aggressors,

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[9] Article 200 of the Guatemalan Penal Code, which established that criminal responsibility for rape could be waived where the victim was over 12 years old and the perpetrator married the victim was only suspended in 2005 (Amnesty International, 2007).

reflects the de-politicizing process that took place in its framing and approval. Gender imbalances with respect to who is likely to be a victim of domestic violence were systematically ignored. Furthermore, structural conditions such as the feminization of poverty, as well as social and historical factors that make women more vulnerable to domestic violence, were ignored by the law.

In many ways the subsequent laws on women's rights and violence have built on and served as correctors of the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar*. For instance, the *Ley de Dignificación y Promoción Integral de la Mujer* (Law for the Dignification and Integral Promotion of Women), approved in 1999, was broader in scope than the domestic violence law, and directly addressed women. Its central objectives were, "to promote the integral development of women and their participation at all levels of economic, political, and social life in Guatemala" (Congreso de la República, Decreto 7-99, Artículo 2a). This law had the potential to be far-reaching as it emphasized not only eliminating violence toward women, but also eradicating different forms of social discrimination against women, for instance in educational institutions or in the labour force. This law was also guided by the framework of human rights and had among its objectives promoting women's development in the different spheres of their lives as outlined in the Guatemalan Constitution, as well as International Conventions on Women's rights.

The most recent law, the Law Against Femicide, similarly corrects some of the shortcomings of the original law on violence within the family. While the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar* failed to specifically address women, and the *Ley de Dignificación y Promoción Integral de la Mujer* was general and hence difficult to apply, the Law Against Femicide is both specific in its terms of application and directly addresses women. The first article of the first chapter states,

> The present law has as its objective to guarantee the life, liberty, integrity, dignity, protect-tion, and equality of all women under law, particularly when because of their gender within relations of power or trust, in the public or private sphere, the aggressor commits against them discriminatory or physically, psychologically, economically violent practices, or disrespects their rights. The aim is to promote and implement dispositions oriented toward eradicating physical, psychological, sexual, economic violence or any type of coercion against women, thus guaranteeing them a life free of violence, based on stipulations in the Political Constitution of the Republic and international instruments regarding women's human rights ratified by Guatemala (Congreso de la República, Decreto22-2008, Capítulo 1, Artículo 1).

The subsequent chapters and articles of the Law Against Femicide are detailed in outlining penalties for different crimes against women, compensation for the victims, and obligations of the State. The law is also significantly more detailed than its predecessors in defining violence against women and the different forms this takes. One of the criticisms of the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar* that I heard frequently during my research from staff within institutions that offered services to victims of domestic violence (such as the Public Ministry's Office for Attention to Victims), was that the law still made it nearly impossible to try domestic abuse. I was told this was particularly the case when dealing with situations of psychological or emotional abuse, since the Guatemalan penal code does not contain necessary

articles that would make such a crime possible to effectively prove in a court of law. Thus, women's legal representatives had to work diligently to find other articles available, such as on physical assault, to mobilize in a court setting. The added detail of the articles contained in the Law Against Femicide can thus partly be understood as a response to these criticisms.

The passing of the laws in the area of women's rights and gender-based violence illustrate, as Berger (2006) points out, that the women's movement in Guatemala has put gender on the government's social, political, and economic agenda. Moreover, there have been certain concrete results stemming from the passing of the laws. Chief among them is the creation of the National Coordinator for the Prevention of Violence Within the Family and Against Women (CONAPREVI), an organizational body that oversees the implementation of the *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar*. CONAPREVI has mixed, government and civil society, representation and has developed the National Plan for the Prevention of Violence within the Family (PLANOVI 2004-2014). This ten-year plan establishes lines of actions for addressing violence within the family and against women, including research and statistical analyses of violence against women; prevention activities such as educational campaigns; providing, legal, psychological, and medical services to victims of violence; and strengthening of institutions that work in the area of gender-based violence prevention.

Limitations of the Laws & Women's Everyday Experiences

A mere review of written laws against violence toward women in Guatemala is insufficient for understanding the reach and dimensions of problems of violence on women's lives, as well as the potential and limitations of legal reforms in this area. Laws gain their significance in relation to the context out of which they emerge and where they are applied. Thus, it is important to ask, what happens when the laws against violence toward women in Guatemala are put into practice? What do the implications of judicial reform and the passing of laws in the area of gender-based violence really amount to for women living in a context where residues of war-time violence as well as post-war crime and insecurity intersect with gender-based discrimination, and constantly operate in tandem to intensify the other's effects? In her multi-sited analysis of laws against gender-based violence, anthropologist Sally Engle Merry (2006) examines the complex interplay between a global rights-based women's movement, guided by the principles of human rights, and the implementation of international laws on gender in particular local settings. Merry concludes that a global human rights approach often does not adequately accommodate the particularities and intricacies of local settings. Drawing on the insights of Merry it is important to ask, how far does the current legal framework for addressing violence in women's lives go to reduce incidences of violent acts, and as important, the quotidian processes and experiences of violence and injustice for women in Guatemala?

Feminists scholars criticize liberal law making on the grounds that it disregards social justice through a focus on formal rights rather than substantive outcomes (Molyneux & Razavi, 2002, p.8). For instance, they argue that while neo-liberalism is premised on the freedom of contract, if the subjects of rights lack the conditions and resources to exercise their rights, freedom of contract does not truly constitute freedom (Elson, 2002; Nussbaum, 2002). With the passing of laws in the area of gender-based violence, a woman in Guatemala now has the formal right to a life free of violence. However, what does this right mean to her if she is unable to freely walk

around her neighborhood without fear of attack or leave her home without being subject to family and/or community control? A strictly legal, formal rights-based, framework such as the one ascribed to by the Guatemalan State, treats violence as an act involving *an* individual perpetrator and victim. This approach is problematic as it ignores the social conditions that give rise and sustain relations of domination. As the emergent body of social science literature on violence underscores, violence is contextual, therefore, the outcome of particular social, cultural, political, and economic structures and process that sustain and legitimize the suffering of certain groups of people (Scheper-Hughes & Bourgois, 2004; Caldeira, 2000; Das, Kleinman, Ramphele & Reynolds, 2000; Malkki, 1995). Moreover, the State's legal framing of violence against women not only ignores a woman's life history and context, but also that of the "aggressor". We could learn a great deal about the social problem of violence against women by considering why men resort to violent actions. Addressing violence toward women does not imply addressing only women's lives, but the conditions of the relations between individuals (men and women) and between individuals and their communities.

Women in Guatemala confront a "multidimensionality of systems of subordination" (Forster, 1999, p.58) where political, structural, economic, interpersonal and symbolic violence intersect (Menjívar, 2008), and synergetically manifest themselves on their everyday experiences. A global human rights approach to addressing violence against women, with a tendency to ignore particularities of the local context and an emphasis on individual victims and perpetrators, fails to capture the multilayered and multi-causal experiences of violence of women in Guatemala—in itself a highly diverse segment of the population. Indeed, the need to take into account, in State and institutional responses to violence against women, the various layers of violence in women's lives became more than apparent to me during the course of my research. In by-weekly sessions the women's support group for victims of domestic abuse and family members of murdered women I sat in on during my fieldwork, women not only discussed abuse suffered at the hands of their spouses, but also fears about other forms of violence either towards themselves or their children. For instance, doña Celeste, a K'aqchikel (indigenous) woman and mother I met in the support group and then later visited and interviewed in her home, shared the problems she regularly experienced with her spouse, including his drinking and abusive behaviours toward her and her children. Doña Celeste's life, however, was also layered with the pain she consistently carried with her since her first-born, nineteen year-old Lorena, had been raped and murdered in 2003. The death of her daughter, she told me, changed everything for her and her family. If having to endure this tragedy were not enough, now she constantly worries about her other children. For example, her seventeen year-old daughter Veronica (now her only living daughter), must walk past the home of her sister's suspected killer every day on her way to school. For a time, Celeste and her husband pulled Veronica out of school for this very reason. The decision of whether Veronica should continue her studies was influenced by violence and fear of further violence. Doña Celeste also worries that the accused and his family may take reprisals not only on Veronica but possibly against her other children.

Fear of reprisals was similarly an issue for other women I came to know during my research, such as thirty-nine year-old, doña Rosa. Doña Rosa shared with me how one day she came home after work to find her home surrounded by neighbors and police officers, one of whom coldly asked her, "Are you the mother of the girl that was raped?". Rosa described this as the worst moment in her life, as it turned out she was indeed the mother. Her then thirteen year-old daughter, Mildred, had been the victim of a vicious sexual assault by a man known to the family.

Furthermore, because Mildred protected her nine year-old sister by hiding her in her arms, she was cruelly beaten and nearly killed. Hers was one of those cases of femicide where the victim happened to survive—the cases that often do not make the headlines or official statistics. Today, seven years later, the aggressor has not been sentenced, as his legal representatives have employed different legal measures to draw out his trial, doña Rosa explained. As a result, doña Rosa constantly worries that the aggressor may take reprisals on Mildred or her other five children.

Gender-based violence against Lorena and Mildred, the daughters of doña Celeste and doña Rosa, had horrific consequences for the victims; in the case of Lorena, it claimed her life. However, these stories of violence do not end there. These horrendous events are the beginning points of other stories, of other life and family trajectories, that must bear their consequences. Both doña Celeste and doña Rosa, as well as their respective spouses and children now must also live the after-effects; the reverberations of those violent events and their adverse effects. Husbands and male children also suffered as a result of the gender-based violence committed against these young women, a point often ignored by analyses of violence toward women. Doña Celeste's partner told me how he has to work alongside, and "shake the hand" of the man he suspected was responsible for Lorena's death. This daily act of symbolic violence angered him, but he could do nothing about it, he shared. His own violent behaviour toward Celeste and their children might be seen in relation to his own condition of disempowerment and inability to act in other spheres of his life, including the injustice of Lorena's death.

Both women told me they felt that a sense of just closure would result from their daughter's aggressors being punished, but it would not alleviate their fears of reprisals or concerns about crime in Guatemala City or their concerns about mere economic survival. Both women are poor; they make a living from making and selling *tortillas*, and do not read and write. Their opportunities for social ascendency are extremely limited. What is more, stepping forward to denounce crimes against their daughters (that was possible with the assistance of the Guatemala City based organization providing legal and psychological assistance to victims of violence where I met Celeste and Rosa) created its own set of problems for them. For instance, Doña Celeste believes that it was her own cousin that was responsible for her daughter, Lorena's death. However, the cousin was declared innocent in court of any wrongdoing in the case. Doña Celeste's family has now turned against her. "This hurt me", she stated:

> They are happy, and I am here with pain. They have humiliated my family in front of every-one. They even held a special church service, in front of my husband and other children, where they accused us of Lorena's death, because we let her go out. This hurt me so much and I don't speak to my side of the family since then. My husband and children were there, we were all there when they said this to us. When the lawyers called me to be present at another public hearing, I said, why should I be there if justice is not made?

As well as experiencing fear that the accused aggressor and those close to him might take reprisals on her other children, bringing Lorena's case to court caused great divisions between doña Celeste and her extended family. Here, it is possible to draw parallels to the observations of Sally Engle Merry in her research in Hawai'i and the battered-women's movement in the United States. Merry illustrates how the sense of self promoted by a human rights approach, drawing on notions of the autonomous self, was often at odds with a sense of self rooted in the family,

religion and community for women in her study (2006, p.181). As a K'aqchikel woman, for whom her extended family, religion and community were fundamental aspects of her sense of self, having to cut ties to her extended family has been for doña Celeste a particularly painful experience.

The Guatemalan women's movement has effectively utilized instruments of international law to advance claims based on their collective identity as women. At the same time, the category of women is not a homogenous one, and the passing of laws against violence may have different outcomes for women depending on their situation in Guatemalan society. The dominant legal system in Guatemala, as with other state institutions in the country, has historically been guided by racist, classist, and sexist ideologies and practices, and has thus worked to reinforce existing social inequalities. In her analysis of justice and gender in rural Guatemala between 1936 and 1956, historian Cindy Forster (1999) highlights the class and racial violence in the country that often paralleled incidents of sexual violence. Using as her historical referent court cases of instances of rape of women and infanticide during the dictatorship of General Jorge Ubico and the subsequent democratic revolution, Forster highlights patriarchal, as well as class and racial biases that underpinned legal proceedings and rulings, and thereby contributed to the routinization of violence against certain groups of persons. Forster highlights how in a historical period marked by struggle over land – when class and racial identities tightly intertwined as "elite fears of class war were expressed in racial language" (1999, p.56) – sexual violence against poor and indigenous women did not count in official terms as violence. Indigenous women and women from lower socio-economic social strata were deemed dishonourable, and in some cases even "bad women" (*mujeres malas*) by virtue of their social positioning, and thus their "morality" could not be defended in court. Forster cites cases where even documented physical proof of assault was not enough to convict an assailant. The social revolution of 1944 brought about changes in social attitudes towards rape and other forms of violence against women, Forster points out. Civil Society, was less willing to condone violence against women after 1944, stemming in part from the new discourse of social equality between 1944 and 1954 (Forster, 1999, p. 60). Forster argues that the numbers of rape cases brought to trial increased in the revolutionary period; however, most men charged were never imprisoned or otherwise punished.

In addition to the force of legal apparatuses to reinforce social inequalities, there is unequal access to legal institutions in Guatemala. Doña Celeste and doña Rosa's access to legal representation for their daughters' cases was facilitated by their residence in the department of Guatemala, where most government and social services are found. Had doña Celeste and doña Rosa resided in rural Guatemala, accessing services of the State—however inadequate—would have proved particularly challenging. In a comprehensive study of indigenous women's access to justice in Guatemala, the *Defensoría de la Mujer Indigena* (DEMI) found that indigenous women encounter numerous obstacles when seeking out legal aid. These include their low socio-economic status; 77% of indigenous women are poor and 58.3% illiterate (DEMI, 2007, p.28). Other obstacles identified include language barriers (the great majority of institutions work in Spanish not indigenous languages), discrimination and racist treatment, as well as insensitivity and the tendency for officials to blame women for their situations (DEMI, 2007). Doña Rosa experienced this insensitivity when the police officer asked her about the rape of her daughter without concern for the pain such news might cause her as a mother.

Furthermore, as revealed by the experiences of doña Celeste and doña Rosa, many Guatemalans are deeply suspicious of state institutions (Sieder, 2004, p.3). In a context where the state has been extremely repressive against its citizens, where the military has controlled the judiciary and acted with impunity, and police forces routinely partake in illegal activities, it is not surprising there would be such prominent mistrust among the population. Thus, in the last decade and a half Guatemala has seen the emergence of "parallel states" (Caldeira, 1996), and forms of justice, such as lynchings where groups have taken justice into their own hands and injured or stoned suspected individuals.[10]

Conclusion

The passing of laws in Guatemala in the area of women's rights, aimed at eradicating discrimination and violence toward women, are immensely important victories. Against a historical backdrop of State, institutional, and culturally sanctioned disrespect for women's bodies and dignities, the significance of the laws against gender-based violence, cannot be undermined. Nevertheless, as this article has illustrated, the assembly of laws for addressing gender-based violence in Guatemala is not without certain shortcomings and limitations. Among the weaknesses of the State's legal framework, is the conceptualization of violence against women as representing synchronic events, rather than on-going social processes. State and institutional approaches for addressing gender-based violence in Guatemala could go further in situating the phenomenon of gender-based violence within social structures that contribute to its emergence and proliferation, including growing economic disparities and poverty, as well as enduring patriarchal practices and ideologies. The laws on their own fail to take into account how women's experiences of violence in post-war Guatemala are multilayered and embedded in global and local structures of power and domination. In addition, it is not only gender-based violence that affects women; their experiences are layered with structural, political, class and ethnic violence that similarly need the attention that femicide and, to a lesser extent, domestic violence, have received. Through framing violence toward women as merely interpersonal, the laws depoliticize gender-based violence.

It remains to be seen how far the body of laws reviewed in this article can go in reducing rates of gender-based violence, especially when impunity is widespread in Guatemala. At a national level, less than 2% of murders of women end in conviction (Orantes, 2008). Judicial reform thus far has been insufficient to halt increasing rates of violence against women; on the contrary, rates have significantly increased, parallel to the passing of laws on discrimination and violence against women. The passing of laws in the area of women's rights and eradicating violence toward women is one (important) aspect of a series of reforms that would be necessary for effectively addressing the prevalence of violence in women's lives. Other reforms might include the actual application of the specific laws in this area and breaking the wall of impunity, the full

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[10] The United Nations Mission for Verification in Guatemala (MINUGUA, 2001, p.1) found that between 1996 and 2001, there were a total of 421 *linchamientos* committed. The *linchamientos* occur primarily in communities that were affected by the violence of the armed conflict (in the northern and north western Altiplano). Various explanations are offered for the *linchamientos* including the high levels of insecurity in Guatemala, the exclusion and lack of trust of the majority of the population in the judicial system, and the impunity prevalent in the country.

implementation of the 1996 Peace Accords and subsequent recommendations of the Truth Commission report (CEH, 1999), as well as increased investment in human development. Rather than be taken as solutions to the problem, which implies a finality the laws do not provide, laws in the area of gender-based violence could be taken as starting points for wider debates about the multiple and intersecting structures of inequality and injustices present in women's lives, and about how to begin adequately responding to them. Judicial reform in relation to violence against women, and the spaces opened by the peace process (Jonas, 2000) could serve as a platform for broader discussions and more holistic efforts to find solutions for the problems of violence in post-war Guatemala. The question of justice in relation to violence toward women in Guatemala needs to be reframed by national and international actors as one about social justice. Scholars, policy makers, and governmental and non-governmental institutions should more readily look to the complexities of women's lives and take cue from Guatemalan women's activism, which highlights the multiple spheres on which women's rights must be fought. Formal legal rights are one important step in women's larger struggles for social justice.

Acknowledgements

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