

From Genocide to Femicide: Impunity and Human Rights in Twenty-First Century Guatemala

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This article analyzes contemporary social cleansing and femicide in Guatemala. Further, it explores the costs of these murders for individuals, families, and Guatemalan society by exploring the homicide case of Claudina Isabel Velasquez Pais as it haltingly moves through the Guatemalan judicial system. This article offers a critically needed assessment of the lived outcomes of a society where the genocidaires have never been brought to justice and impunity reigns more than a decade after the signing of peace accords. I conclude with an analysis of the state's role in preventing violence against women. Understanding the state's role enables us to interrogate the official explanations of the killing of women which, in turn, leads us back to the historic role of the state using terror as a primary recourse of power guaranteed by impunity from the genocide of the 1980s to social cleansing and femicide today.

Introduction

In this article, I explore the current human rights crisis in “peacetime” Guatemala. I provide an overview of Guatemala’s internal armed conflict of the late twentieth century and specifically consider the genocide of the 1980s in order to assess “postconflict” violence in twenty-first century Guatemala. It is in today’s postconflict peacetime where we find the alarmingly high homicide rate of 42 per 100,000 Guatemalans that we can begin to analyze current selective repression (known as social cleansing) and gang violence. Within these structures of everyday institutional and organized terror, we can then begin to explore the contemporary phenomenon of femicide—the institutionalized killing of women. An exploration of the criminal investigation of the murder of Claudina Isabel Velasquez Paiz

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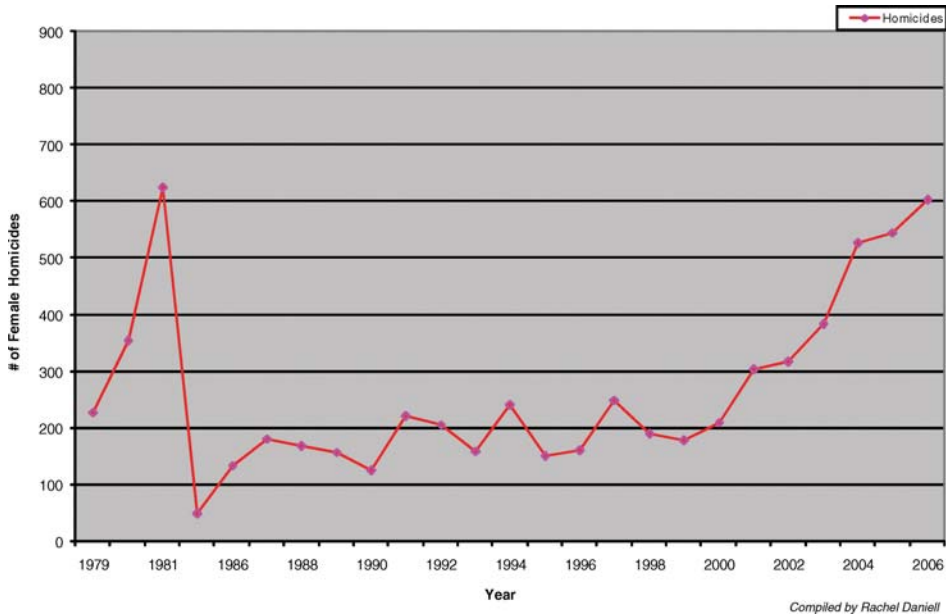


Figure 1. Female homicides in Guatemala—WHO and PNC Data

reveals the role of the state in Guatemala’s femicide and its omission of its responsibility to guarantee equal protection before the law to all its citizens.

Claudina was one of 518 women who were murdered in 2005. Each year it is more dangerous to be a woman in Guatemala. More than 600 women were killed in 2006. In 2007, on average, two women have been murdered each day. Between 2002 and 2005, the number of women killed increased by more than 63% and nearly 40% of these murders happened in or near Guatemala City. Most of the women who are killed are between 16 and 30 years old. In 2005, 68 of the female murder victims were under 17 years old (Procuraduría de Derechos Humanos [PDH] 2005, 2006a). Indeed, the mortality rate of women in peacetime Guatemala today is reaching the very high levels of female mortality in the early 1980s at the height of the genocidal war that took 200,000 lives. (Comisión para el Esclarecimiento Histórico [CEH] 1999). Figure 1, based on statistics from the World Health Organization (WHO) and the Guatemalan National Police (PNC), illustrates the murder rate of women in Guatemala from 1979 to 2006.

The cost of these killings is brutal in lost lives and lost futures. As UN Rapporteur Philip Alston notes, “the death toll is only the beginning of the cost, for a society that lives in fear of killing is unable to get on with its life and business in the ways that it wants” (Alston 2007: 5). In this article, I attempt to explore the costs of these murders for individuals, families, and Guatemalan society by exploring the case of Claudina Isabel Velasquez Pais within the historical context of genocide and the contemporary context of social cleansing and its links to state. This article offers a critically needed assessment of the lived outcomes of a society where the genocidaires have never been brought to justice and impunity reigns more than a decade after the signing of peace accords. To these ends, I begin this article with a summary of the truth commission’s finding of genocide as well as recent regional and international court orders and judgments on the Guatemalan genocide. I then turn to the current “postconflict” violence and suggest that we must explore contemporary social

cleansing and historic structures of impunity in order to understand femicide. I conclude with an analysis of the state's role in preventing violence against women. Understanding the state's role enables us to interrogate the official explanations of the killing of women that, in turn, leads us back to the historic role of the state using terror as a primary recourse of power guaranteed by impunity from the genocide of the 1980s to social cleansing and femicide today.

The Commission for Historical Clarification Finds Genocide

In December of 1996, the Guatemalan Army and URNG¹ guerrillas formally signed peace accords ending more than three decades of armed conflict that was popularly referred to as *La Violencia*—the Violence. The establishment of a truth commission, the Commission for Historical Clarification (CEH),² was one of the outcomes of the peace accords. The CEH began its work in 1997 and published its final report in 1999. Among the most important findings of the report was a quantification of *La Violencia* supported by survivor's narratives. These findings included:

- 626 villages massacred,
- 1.5 million people displaced,
- 150,000 people fled to refuge in Mexico,
- More than 200,000 dead or disappeared (CEH 1999).

While these numbers of dead indicate savagery on a massive scale, particularly in a country that had a population of approximately 8 million at the height of the violence in the early 1980s, more shocking still was the attribution of responsibility for these horrific crimes. The CEH determined that the Guatemalan Army was responsible for 93 percent of all human rights violations and the guerrillas responsible for 3 percent with the remaining 4 percent of violations committed by unknown assailants (CEH 1999, v5: 42). Most significantly, the CEH found the Guatemalan army and national security state responsible for acts of genocide committed against the Maya who comprise a majority of the Guatemalan population, yet remain politically and economically marginalized by poverty, inequality, and discrimination (CEH, 1999, v2: 315).

Defining Genocide

The Genocide Convention was adopted by the United Nations General Assembly on December 9, 1948, and Guatemala is a signatory to this convention in which: “genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, such as

- (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;
- (e) Forcibly transferring children of the group to another group.”³

Moreover, Article I clearly states that “Genocide, whether committed in time of peace or time of war, is a crime under international law which they [the signatories] undertake to prevent and punish.”

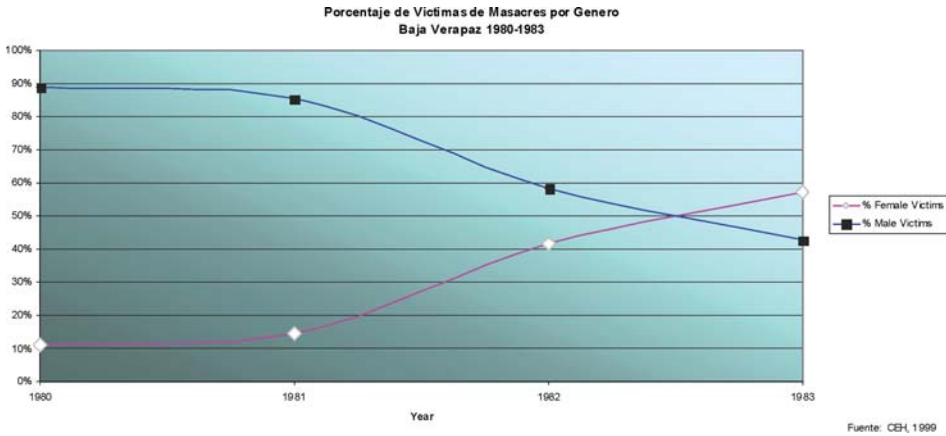


Figure 2. Percentage of massacre victims by gender—Baja Verapaz 1980 to 1983.

Who was responsible for the Guatemalan Genocide and how can responsibility be determined? Drawing on the 12-volume CEH report, I developed a database of all 626 army massacres that identifies location of the massacre, the perpetrators (army or civil patrol), and the ethnicity, age, and gender of the victims. I focused the database on 1980, 1981 and 1982—the years with the most massacres. During these 36 months, more than 43 percent of all massacre victims in Rabinal died in the first nine months of the dictatorship of General Efraín Ríos Montt who came to power through military coup in March 1982.

Genocide is a gendered atrocity because it has the intention to destroy a cultural group. This means the destruction of the material bases of the community as well as its reproductive capacity. In this way, women and girls are primary targets of genocide. In 1981, females (including adult women and girls) comprised 14 percent of massacre victims in Rabinal (Sanford 2003a, 2003b).⁴ In June 1982, three months into Ríos Montt's dictatorship, females made up to 42 percent of massacre victims. In mid-1982, the number of women and girls killed rose so sharply that the comparative percentage of male victims actually dropped.⁵ This point of intersection represents the successful implementation of a change in Guatemalan army strategy that shifts from selective massacres of men to massive massacres of all men, women, and children. This shift, located in mid-1982, is three months after Ríos Montt came to power through military coup.

Notably, the municipality of Rabinal is a majority Achi-Maya population. The next municipality is Salama, which is also the departmental capital of Baja Verapaz but is majority ladino or mestizo—mixed Spanish, European, and indigenous ancestry. If we total all the massacres in Rabinal and Salama, we find that majority-Maya Rabinal suffered 99 percent of the massacres, while majority-ladino Salama suffered 1 percent. Indeed, in the Achi-Maya region of Baja Verapaz, fully 16 percent of the population was killed in army massacres. At the national level, the ethnicity of the victims is significant as well. Fully 83 percent of victims were Maya and 17 percent were ladino (CEH 1999).

Finding Genocide in Guatemala

Five years after the CEH findings of genocidal acts, on April 29, 2004, the Inter-American Court condemned the Guatemalan government for the July 18, 1982 massacre of 188 Achi-Maya in the village of Plan de Sánchez in the mountains above Rabinal, Baja Verapaz

(Corte IDH 2004). In this judgment, and for the first time in its history, the Court ruled that genocide had taken place and attributed the 1982 massacre and the genocide to Guatemalan army troops. Beyond the importance of this judgment for the people of Plan de Sanchez, the Court's ruling is particularly significant, for in the judgment key points include: a declaration that there was genocide in Guatemala, which was part of the framework of the internal armed conflict when the armed forces of the Guatemalan government implemented their National Security Doctrine in their counterinsurgency actions. Moreover, the Court placed responsibility for the genocide during the regime of General Efraín Ríos Montt who was the architect of the National Security Doctrine.

Two years and some months later, the Spanish Court issued an international arrest order charging various former generals and military officials with genocide, terrorism, torture, assassination, and illegal detention. Those charged include: General Efraín Ríos Montt (head of state through military coup from March 1982 to August 1983); General Oscar Humberto Mejía Victores (head of state through military coup from August 1983 to January 1986); General Fernando Romeo Lucas García (President of Guatemala from 1978 to March 1982); General Ángel Aníbal Guevara Rodríguez (Minister of Defense under Lucas García); Donaldo Álvarez Ruíz (Minister of Interior under Lucas García); Colonel German Chupina Barahona (director of the National Police under Lucas García); Pedro García Arredondo (Chief of Command 6 of the National Police under Lucas García); General Benedito Lucas García (Army chief of staff during his brother's reign) (*El Periodico* July 8, 2006: 1). As of June 2007, none of these military officers has been extradited and each has filed numerous appeals to slow the process.⁶ Moreover, they continue to make public justifications and/or to deny any knowledge of human rights violations. While not one of them has been jailed, the country of Guatemala is now their jail because INTERPOL (International Criminal Police Organization) agreements bind any country receiving a visitor on INTERPOL's international arrest order list to make that person immediately extraditable.⁷ Still, they continue to argue that self-granted amnesties give them immunity from prosecution as they live with impunity in Guatemala.

“Postconflict” Violence and Femicide

If the generals and their genocidal cronies are the winners with impunity, the citizens of Guatemala are not. It is against this backdrop of genocide and impunity that Guatemalans today find themselves living in an extremely violent country with an astronomically high homicide rate that continues to rise. There were 3,230 murder victims in 2001. By 2005, the number of victims increased to 5,338 (PDH 2005: 8).

In five years of “peacetime,” there have been 20,943 registered murders in Guatemala. If the number of murder victims continues to rise at the current rate, more people will die in the first 25 years of peace than died in the 36-year internal armed conflict and genocide. Moreover, Alston points out that while the female population increased by 8 percent between 2001 and 2006, the female homicide rate increased by more than 117 percent (Alston 2007: 11). The majority of the women who are murdered are between 16 and 30 years of age (PDH 2005: 11).

The Pan-American Health Organization classifies more than 10 homicides per 100,000 inhabitants as an epidemic and public health concern. In Japan, there is less than 1 murder per 100,000 inhabitants (Wikipedia 2007); in the United States, the murder rate has remained at roughly 9.8 per 100,000 since 1980 (Bureau of Justice Statistics 2007); Venezuela's homicide rate is 33 per 100,000 (Pan-American Health Organization [PAHO] 2007); and

Guatemala:
Number of Homicide Cases By Year
source: PDH 2006

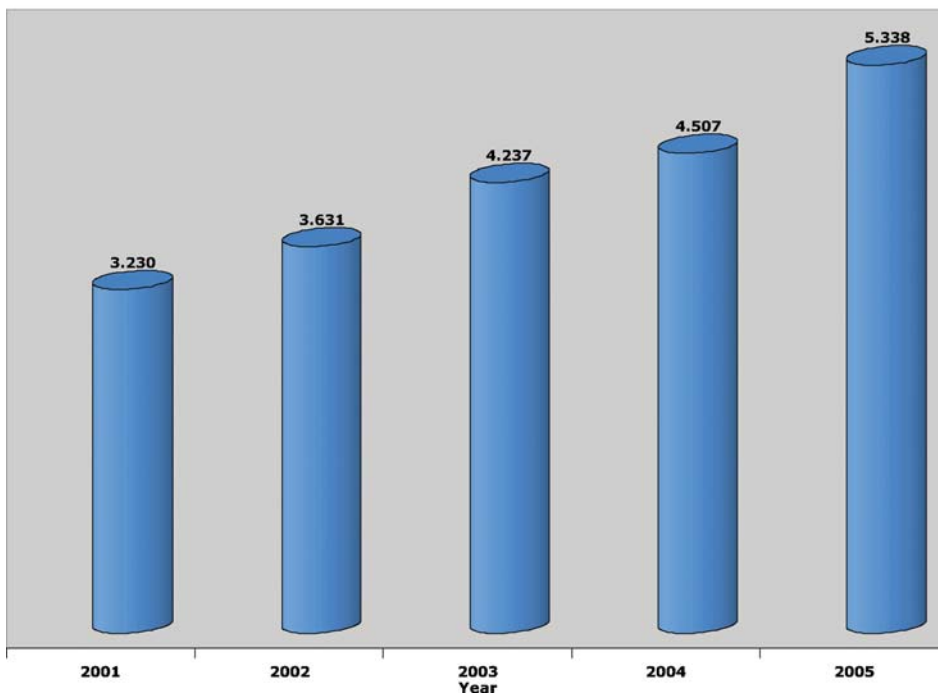


Figure 3. Yearly homicides in Guatemala.

Femicidio - Women Killed in Guatemala
Totals and Percentages
Base Year 2002
Source: PDH 2006

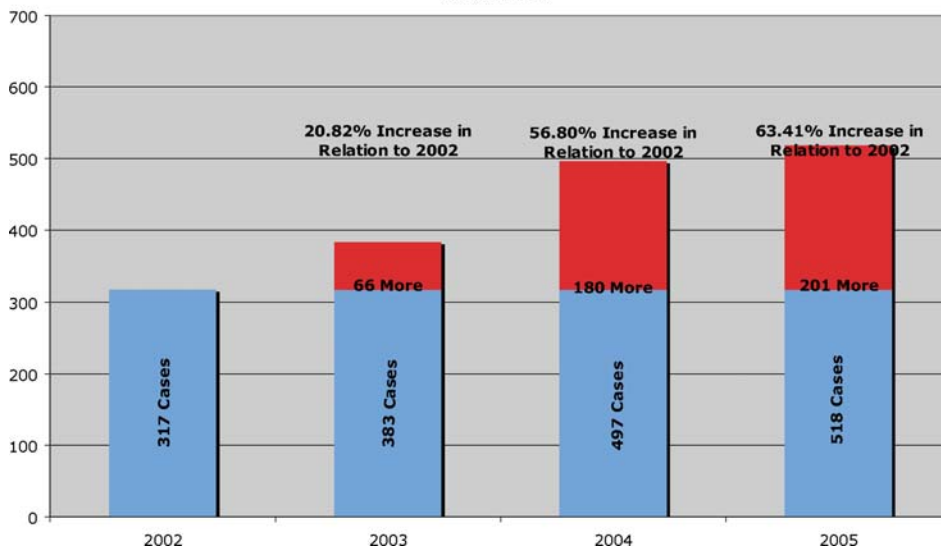


Figure 4. Femicidio.

In 2005 there were a total of 518 Female and 4,820 Male murders registered. Between 2002 and 2005, 1,715 female homicides and 15,998 male homicides were registered in Guatemala - a national total of 17,713 people killed in four years.
Source: PDH 2006

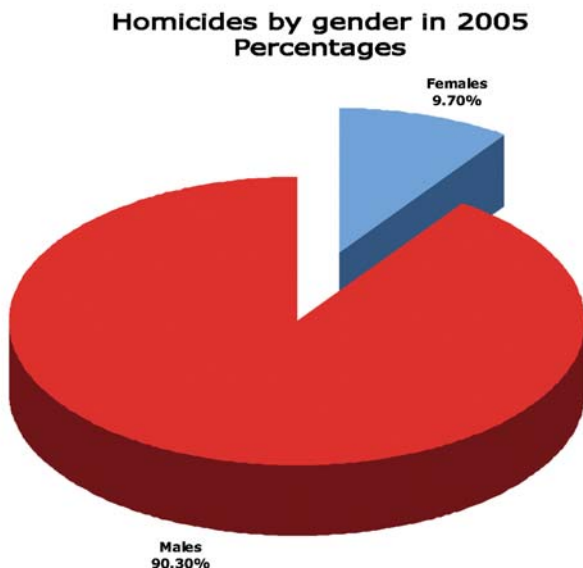


Figure 5. Homicides by gender in 2005.

Mexico had a rate of 14.11 per 100,000 in 2000 (Data 360 2007). In Latin America, the average number of murders for each 100,000 inhabitants is 30 (PDH 2006a: 5). In 2005, there were 42 homicides for every 100,000 inhabitants in Guatemala. If we narrow our focus to Guatemala City, there were more than 80. If we focus on Escuintla, the department immediately adjacent to Guatemala City, there were 147 murders per 100,000 inhabitants—some of these murder victims have been identified as residents of Guatemala City whose bodies were dumped in Escuintla (PDH 2006a: 5). Between 2002 and 2005, there were 1,715 female homicides and 15,998 male homicides—a national total of 17,713 people killed in four years (PDH 2005: 9).

This differential between male and female homicides does not cancel out feminicide as a phenomenon in Guatemala. Rather, given these alarming statistics on the killing of both men and women, I suggest that in order to understand feminicide in Guatemala, we need to problematize the killing of men as well.

Social Cleansing

Social cleansing refers to a mechanism of selective or arbitrary repression that is systematically produced by either armed actors with ties to the state or by private actors who carry out repression with the acquiescence, complicity, support, or toleration (whether deliberate or involuntary) of the state. Social cleansing is a direct violation of the human right to life. Social cleansing is directed at individuals or groups of individuals who are considered undesirable and has the goal of intimidation and extermination. The practice of social cleansing carries an implicit guarantee of impunity for the authors of these crimes. This guarantee is insured by nonexistent or deficient state investigations that do not allow for the identification or punishment of the perpetrator. Whether by the commissioning of social

cleansing or omission of its responsibilities to guarantee constitutional protections to all citizens, the state is responsible for this violation of the human right to life.

The cause of death, the location of the cadavers, and the profile of the victims can serve as indicators of the existence of social cleansing. Likewise, signs of torture can indicate social cleansing. In 2004, 22 cadavers were found with signs of torture. In 2005, there were 305 cases. Among these 305 cases, there were 403 marks from different types of torture—the most common being marks of strangulation, followed by a bullet to the head, blows to the head and body, and bound hands and feet were the other signs most frequently reported. Of the 305 cadavers with signs of torture, more than 18 percent of the victims were women, although they comprise 10 percent of all homicides. Women with signs of torture also had signs of sexual abuse. Of the 5,338 homicides in 2005, some 648 cadavers were found in a place different from where they were killed (PDH 2006a). This means that the victim was detained and taken somewhere to be killed. Then the cadaver was transported and dumped at another location. Because social infrastructure and resources are necessary to carry out this type of premeditated murder, it may be defined as social cleansing when a pattern can be established.

To explain such a pattern as merely the result of common crime, we would have to accept the unlikely proposition that, beginning in 2003, ordinary murderers not only increased their activities but that they took extraordinary pains to sequester and to confine their victims, torture and kill them, then dump their cadavers—with each activity taking place in a different location. We would also have to accept that they were able to move freely and undetected by any security forces in the country—a highly unlikely proposition in a country with multiple urban police checkpoints. While some observers, such as the PDH (Human Rights Ombudsman) have linked these findings to social cleansing (PDH 2006a), the national government and police blame gangs and organized crime as well as common delinquency for the high murder rate (Alston 2007: 2). Newspaper articles tend to cast a veil of suspicion on the victims with a particular lexicon; for instance, if a male victim is identified as having tattoos, this is meant to signal that he was a gang member. A female victim with a belly button ring is branded as a gang member and/or prostitute. For many Guatemalans, the absence or inadequacy of public security as well as the corruption of government forces is to blame for the high murder rate. In fact, an April 2007 poll of Guatemalan citizens found that 90 percent do not trust the police (Prensa Libre 2007a).

Gang Violence

While Guatemala, like Mexico, El Salvador, and other Latin American countries, does have a serious gang problem, there are markers to gang activity that are actually quite different from those of social cleansing. Gangs tend to practice violence in their territories and generally carry out violence over territories, markets, resources, partners, or membership. This means that gangs carry out violence, such as murder, within their territories or on the peripheries of their territories (ERIC, IDESCO, IDIES, and IUDOP 2001, 2004; UCA, ERIC, IDESCO, IDIES, and IUDOP 2004). These types of gang violence are exacerbated when gangs become linked to organized crime—in the case of Guatemala, to drug traffickers. In many ways, Guatemalan gangs today resemble the sicarios of Colombia—local thugs for hire who act independently but are also tied to drug trafficking and paramilitary groups.

Gang violence generally involves fire arms and knives. Often, the victim is left with a tattoo or some other distinct mark carved on the body of the victim to mark the authority of the gang. There is little that is professional or technical in the handling of the murder.

There are usually few shots due to limited capacity and resources (PDH 2006a). Gangs carry out murders in the least complicated and most immediate way possible because of their limited capacities and resources, as well as the insecure environment in which they operate. Whereas social cleansing includes intense managing of the crime scene, gangs make no effort to remove the evidence. When there are disputes between gangs, age is an important variable and the victims are generally young. Cadavers of gang murders generally appear in the territory where the gang dominates, which also tends to be where the murder takes place. The pattern of targeting, sequestering, transporting, confining, and torturing the victim prior to the murder, only to transport and to dump the victim's cadaver in yet another locale is not a *modus operandi* of gang violence—it is the hallmark of social cleansing.

Comparing Social Cleansing to Gang Violence

The infrastructure and resources that sustain social cleansing allow more complicated, long, and drawn out murders that usually include torture. Social cleansing seeks to generate terror by leaving signs of torture in order to warn others close to the victim of what could happen to them. Gangs target their victim, not a larger group. Whereas gangs kill in their own territories, social cleansing victims are generally taken to a different location, a clandestine jail, where they are tortured and killed. Later, they are dumped in another location that is mostly outside gang territories. Whereas gang victims are generally young between 16 and 20 years old, social cleansing victims fall into a wider age range (PDH 2006a). Murders by gangs indicate low use of resources. Social cleansing requires resources. For example, a car is indispensable as are a place to confine the victim, modes of communication, and a highly coordinated team. When social cleansing is carried out, there are efforts made to sway public opinion to accept this method of social control. There have been banners, flyers, stickers, and posters circulating in the country that support social cleansing methods.⁸

When the Killing of Women Becomes Femicide

If more men than women are murdered each year, why categorize the killing of women in Guatemala as femicide? If Claudina Isabel Velasquez Paiz was killed by someone who knew her, why place her murder in the category of femicide? What is femicide and how does it help to explain the phenomena? The concept of femicide builds on the term *femicide*, which refers to the murder of women in criminology literature (Brookman 2005; Morgan 2006; Muller 2005; Potts 2005) and also refers to a crime of hate against women in the emerging feminist literature addressing the murder of women (Russell and Harnes 2001). Insisting that the murder of women must be problematized within larger structures of patriarchy and misogyny, Russell (2001) defines *femicide* not simply as the murder of females but rather as “the killing of females by males because they are female” (3). Russell further categorizes *femicide* as “a form of terrorism that functions to define gender lines, enact and bolster male dominance, and to render all women chronically and profoundly unsafe” (Russell 2001: 177). Femicide is a political term. Conceptually, it encompasses more than *femicide* because it holds responsible not only the male perpetrators but also the state and judicial structures that normalize misogyny. Impunity, silence, and indifference each play a role in femicide. The concept of femicide helps to disarticulate belief systems that place violence based on gender inequality within the private sphere (Maldonado Guevara 2005) and reveals the very social character of the killing of women as a product of relations of power between men and women. It also allows for an interrogation of legal,

political, and cultural analyses of institutional and societal responses to the phenomena. Femicide leads us back to the structures of power and implicates the state as a responsible party, whether by commission, toleration, or omission. In Guatemala, femicide is a crime that exists because of the absence of guarantees to protect the rights of women.

A recent study on femicide in Canada revealed that women are more likely to be killed by men. Over a 20-year period in Ontario, men were the perpetrators of 98 percent of the 1,206 murders of women. Men are also more likely to be killed by men. Indeed, despite the media preoccupation with women killing their husbands, more than 50 percent of the women murdered were victims of spousal homicide whereas less than 10 percent of male victims were killed by a spouse. The Ontario study concluded that the killing of men reflected “relations within a gender,” whereas the killing of women was “a matter of relations between genders” (Gartner et al. 2001: 160). Still, while these murders may be categorized as femicide because 98 percent of the women were killed by men and these murders were gendered, they do not constitute a femicide because, while the state may not have adequately protected the women and prevented the murders from taking place, the Canadian state did resolve 93 percent of the murders (150).

In my work, I use the concept of femicide to discuss the killing of women in Guatemala. Femicide connotes not only the murder of women by men because they are women but also indicates state responsibility for these murders whether through the commission of the actual killing, toleration of the perpetrators’ acts of violence, or omission of state responsibility to ensure the safety of its female citizens. As Marcela Lagarde has noted in her work on femicide in Ciudad Juarez, Mexico, “Femicide occurs when the authorities fail to efficiently carry out their duties to prevent and punish [the killing of women] and thus create an environment of impunity” (Lagarde 2005: 1). Indeed, femicide in Latin America first came to international attention with the killings of young women in Ciudad Juarez in the early 1990s. While there are similarities in the patterns of registered murders of women in Juarez and Guatemala, the murder rate of women in Guatemala is much higher. Between 1993 and 2003, there were 370 registered murders of women in the Mexican state of Chihuahua in which Ciudad Juarez is located (Erturk 2005: 10). In just the year 2003, there were 383 registered murders of women in Guatemala (PDH 2005, 2006a), and in 2006 there were 603 murders of women (PDH 2007).

The Case of Claudina Isabel Velasquez Paiz

The last time Claudina communicated with her parents was around 11:45 pm on August 12, 2005. Around two in the morning on August 13, her parents were awakened by Zully Moreno, the mother of Claudina’s boyfriend Pedro Samayoa Moreno, who went to their home to inform them that Claudina was in grave danger. Senora Moreno claimed that Claudina called her to tell her she was walking home and that this call was cut short by Claudina’s screams for help. Claudina’s parents immediately went out to search for their daughter—first at the house where Claudina had attended a party in the nearby neighborhood of Colonia Panorama. With no leads from the party, they began to search the neighborhoods from the party to their home.

Desperate, they attempted to make a report at the local police station at about 3:00 am on August 13. The police, however, refused to take a report or even to listen to the worried parents. They suggested that Claudina had run-off with her boyfriend and that, in any case, they would not receive any reports until Claudina had been officially missing for 24 hours. It was not until 8:30 in the morning that the police formally received Claudina’s parents

and made an official report that classified Claudina Isabel Velasquez Paiz as missing. This was 3½ hours after her lifeless body was found on the street on 10th Avenue in Colonia Roosevelt in Zona 11—a neighborhood not more than two miles from the party where she was last seen by friends. Still, she was not identified until much later that day.

In fact, Claudina's case, like more than 500 murder cases of women in Guatemala in 2005, was dismissed from the moment her cadaver was found. As one official acknowledged, "the crime scene was not developed as it should have been because of prejudices about the social origin and status of the victim. She was classified as a person whose death did not merit investigation" (PDH 2006b: 5). The first police officers on the scene determined that Claudina's murder was "not worthy" of investigation because she had a belly button ring and was wearing sandals. In the parlance of the Guatemalan police, this meant she was a gang member or a prostitute.

But Claudina was not a gang member or a prostitute. Claudina Isabel Velasquez Paiz was a 19-year-old law student. Beautiful, gregarious, and well liked by her peers, more than 500 people attended her memorial service. Her father, Jorge Velasquez, did not understand what was happening when several armed police officers in uniforms with police vests arrived at the memorial service and demanded access to his daughter's cadaver. When Mr. Velasquez refused, the police threatened to arrest him and his wife. The coffin was removed from the memorial service and placed in a private room where police officers unceremoniously took finger prints and nail clippings from the body in the coffin. When they were finished collecting this material for forensic analysis, they handed Mr. Velasquez a paper bag. In response to his dismay, the officer explained that the bag contained the clothing Claudina had been wearing at the time she was murdered. "Most families bury the clothing in the coffin," the police explained. Distracted, Mr. Velasquez responded that he would not be burying it in a coffin and that he would not allow them to ever again disturb his daughter. Without thinking about the implications, he asked the funeral home to burn the bag and its contents—which in murder cases throughout most of the world would be part of the evidence held on file.

Murder Investigation Protocol

While there are no binding international standards for murder investigations, basic investigative procedures vary little internationally and nowhere is it suggested as a good investigative procedure to return the clothing of a murder victim to the family for burial with the body. In fact, if there is anything remarkable about standard protocols, it is their procedural simplicity and scientific consistency regardless of the complexity or the locale of the case. The first task is to secure the crime scene and to document all the evidence by mapping, photographing, and collecting everything possible from blood stains to footprints. The body should then be removed from the scene and taken to the morgue for a complete medico-legal autopsy. This should include examination of all internal organs, including the brain. Samples of blood and possibly other fluids should be taken for toxicology examination to review for the presence of drugs, alcohol, or other toxic agents. If sexual assault is suspected, vaginal, rectal, and oral swabs should be taken to collect seminal fluids for DNA analysis. It is during this autopsy that fingernail scrapings and fingerprints should also be collected for DNA studies. In cases with gunshot wounds or blunt force traumas, radiographs should also be taken.

Prior to the autopsy, the clothing is removed from the victim. This is usually done with pinking shears to avoid any confusion with tears to the clothing that may have been caused by knives, bullets, or struggle during the assault. Hair and other fibers on the clothing

(and body) should also be collected for microscopic examination. Any stains caused by blood or other body fluid would also be collected from the clothing. Any tears in the clothing are studied to determine their size, pattern, and relation to the wounds the victim suffered. After all of this review of the clothing is completed, the clothing is then retained as evidence. As Dr. Clyde Snow points out, the victim's clothing "is not returned to the next-of-kin."⁹ Personal effects such as jewelry or other valuables are returned to the family unless they are deemed to have evidentiary value. If retained as evidence, they are not returned to the family until after the trial—this, of course, assumes there will be a trial, which assumes there will be an arrest, which assumes there will be an investigation that leads to a suspect.

There are many unexplained incidents in Claudina's case. Beginning with the crime scene, Claudina was covered with a sheet before the crime scene investigation began. Where did the sheet come from? Who covered her? These are logical questions. Minimally, the presence of the sheet indicates that someone had access to her cadaver before the authorities. While the sheet is present in the first crime scene photos, it was neither kept nor examined as evidence. There is no record of the names of the paramedics who were the first on the scene, which means there is no record of whatever types of manipulations they may have done to her body to either attempt to resuscitate her or to determine that she was dead. It is also unclear how long the crime scene investigation lasted. The auxiliary investigator for the Ministerio Publico (MP) claims they spent one hour from 6:30 to 7:30 am documenting the crime scene and collecting evidence. The MP's medical examiner states in his autopsy report that he completed the autopsy at 8:10 am. The morgue register indicates that the cadaver was received at 6:30 am. There is no clear inventory of the victim's clothing, nor is there any clarity as to whether any forensic examination of her clothing was actually conducted. And, the PNC report that is dated August 16, 2005 (PNC Informe No. 2242-2005 EEC G-10) casts doubt on its contents by failing to note that Claudina's fingerprints and nail shavings were taken at the funeral home, not during the crime scene investigation nor during the autopsy.

Although Claudina's body was found in front of a house that also has an informal restaurant, no effort was made by either the national police (Policia Nacional Civil [PNC]) or prosecutor's office (Ministerio Publico [MP]) investigators to search the house or restaurant for blood stains or other evidence. Likewise, it is unclear if the inhabitants of the house were ever interviewed because witnesses were not identified and no follow-up interviews were conducted. The report cites that various witnesses (without providing names) saw a vehicle that resembled a white taxi at the crime scene. Both the MP and PNC reports cite witnesses without names as "witnesses who prefer not to be identified said . . ." (MP 2005 Informe MP001/2005/69430 and PNC Informe 824-05. Ref/JU.JRMF.ruiz). While both MP and PNC carried out interviews, these were conducted separately and no efforts were ever made for the different investigators to meet or to compare notes.

There is also tremendous confusion about the most basic and critical pieces of forensic information, such as the time of death. The report of the medical examiner states that death occurred between "one and three hours" but does not indicate whether he is referring to one and three in the morning or one and three hours before the autopsy. Whatever the case may be, given that the autopsy was completed at 8:10 am according to the medical examiner, it is unclear whether "one and three hours" refers to the actual autopsy in the medical examiner's office or when the cadaver was first examined at the crime scene at 6:30 am by the PNC and MP crime scene investigators. Additionally, neither the body temperature of the victim, nor the ambient temperature are included in the report—both of which are critical for determining time of death (Medico Forense Informe 2005a).

There are also significant discrepancies in the identification of actual injuries sustained by the victim among the various reports. The MP report does not include injuries that are visible in the crime scene photos and also described in the PNC report that include significant bruising to the left eye socket and cheek. The medical examiner also fails to note severe scraping on the left knee and right flank—both of which also appear in the photos and are mentioned in the PNC report. There is no documentation indicating the sampling or analysis of blood stains—neither from the victim's clothing or at the crime scene. While the medical examiner indicates that there was some kind of postmortem manipulation of the cadaver, there is no explanation of what this might have entailed, or its significance to the case (Informe Forense del MP 2005 and PNC 2005b).

While the report indicates that various pieces of clothing had blood stains, the victim's bra and belt had been removed, her pants zipper was down, and her blouse was on backwards, only her blouse was submitted for analysis and no analysis was done on the rest of her clothing. And, there is no indication in the report that any effort was made to collect fingerprints from the blouse. Though the victim sustained a gunshot wound to the head, there is no indication in the report about the angle or pathway of the bullet that could indicate the position of the victim and murderer when the gun was fired. There is also no indication as to whether the location where Claudina's body was found is the location where she was killed—another critical piece of information in a murder investigation. While the crime scene investigation was completed by 7:30 am on August 13, the report of the medical examiner from the crime scene was not written until August 30, 2005, and it was not incorporated into the investigation file at the MP until November of 2005 (MP Informe 2005b).

The autopsy conducted at the morgue is full of omissions and inconsistencies beginning with who actually carried out the autopsy because the medical examiner does not list the names of those who participated. It took the medical examiner more than a year to report the time of death and nearly two months to include Claudina's name on the report. The initial report states that an autopsy was carried out on a female person identified as "XX" (the equivalent of Jane Doe) of approximately 20 years of age at 11:00 am on August 13, 2005. Although this report carries a date of August 16, 2005 and Claudina's mother identified her body at noon on August 13, the medical examiner never added Claudina's name to the report. This omission had to be corrected through an official correction of the report through a formal request from the prosecutor's office—and this did not happen until October 7, 2005. In the same official correction adding Claudina's name, the medical examiner clarified the confusion over the time of death. Contrary to the "one and three hours" determination from before, the medical examiner wrote on October 7, that "the time of death was between seven and eleven hours after the autopsy" (Medico Forense del Organismo Judicial, October 7, 2005). It was not until June 7, 2006 that the medical examiner corrected this error and indicated that the time of death was between 7 and 11 hours before the autopsy (Medico Forense del Organismo Judicial 2005c).

No bullet pathway and no angle have ever been attributed to the bullet wound. Contusions and bruises on her eye and jaw have never been included or analyzed in any forensic report. Additionally, a significant hemorrhage near her nose is obvious in photos and video taken at the crime scene but is absent from the forensic report. Likewise, the omission of the severe scrapes to her left knee, right flank, and left toes leave as a permanent point of speculation whether these injuries were sustained during a struggle or were postmortem injuries sustained while Claudina's body was moved from wherever she was killed to where her body was discovered. In general, there is no detailed explanation about her injuries, except to determine that Claudina died from a gunshot wound to the head. The ballistic analysis fared no better. The ballistic report is dated February 2, 2005, and the MP stamped

it received with a date of February 28, 2005 (PNC 2005a). These dates are baffling given that Claudina was killed six months later.

The prosecutor's office did not even interview Claudina's family members until one month after her murder and only then because they sought out the prosecutor's office to find out what was happening with Claudina's case. The MP never sought out the friends and acquaintances that were last with Claudina to get their versions of what happened the night of her murder. No search was ever conducted of the vehicles in which Claudina is known to have traveled in the last 24 hours of her life. The only statements taken by the MP were those of individuals who voluntarily and randomly presented themselves to the MP to make a declaration. These statements were taken without ever having taken testimony from Claudina's parents and without ever having developed any clear objectives for interviews in the investigation. No joint meetings have ever been held among investigators who have been involved in this case to develop strategic lines of investigation. Thus, all statements have simply been recorded and taken at face value. No analysis of contradictions has ever been conducted.

The MP has made no effort to locate any potential witnesses at the crime scene where Claudina's body was found. The MP has not been able to develop a list of names of the people who attended the party Claudina attended in the final hours of her life. Rather than interviewing everyone who is known to have attended and developing a list of attendees, the MP's response is that there was no formal list of invitees. Searches of the homes of primary suspects did not take place until three months after Claudina's murder. There has been no real search for a weapon. It was not until June of 2006 that the MP began to interview people about Claudina's case. Still, these interviews do not appear to have included any preparation to clarify where Claudina was and with whom during the last hours of her life. The MP has not been able to collect complete telephone registers of those last seen with or last in communication with Claudina. Claudina's cell phone is still in use, though the MP has been unable to identify its whereabouts.

One of the most striking aspects of Claudina's case is that it is actually a case that is being investigated. Most cases end where Claudina's would have ended had her father not used all of his resources to push for an investigation. Her case would have ended with an autopsy report that did not even include her name. This may explain why the Ministerio Publico had eight successful murder prosecutions in 2005 when there were 5,338 homicides of men and women.

Frameworks for Understanding the Killing of Women in Guatemala

What types of profiles can we develop to understand the killing of women in Guatemala? While the data provided by the PNC and MP are inadequate in many ways, we can begin to develop new frameworks on femicide by reviewing their data, analyses, and conclusions on the killing of women. The National Civil Police, based on their superficial registrations of these murders of women, classify the "cause" as follows: 21 percent were involved with gangs, 21 percent of victims had personal problems, 17 percent had passionate problems, 10 percent were killed during a robbery, 9 percent were involved in drug trafficking, 5 percent died when they were raped, 4 percent died in crossfire, and 13 percent are grouped together as suicides, carjacking victims, and domestic violence leading to murder (Maldonado Guevara 2005). The Ministerio Publico, prosecutor's office has a special prosecutor for crimes against women. This prosecutor has publicly stated on several occasions that there is no specific cause for violence against women because all violence in Guatemala has increased.

Therefore, according to the prosecutor charged with resolving the murders of women, the astronomical rise in the killing of women is only incidental to this general increase.

Much of civil society, drawing from newspaper articles, blames gangs, serial killers, and drug traffickers. Some Congressional deputies with ties to military political parties argue that the homicide rate justifies increased military presence to secure neighborhoods—it is not uncommon to see several dozen heavily armed police and soldiers patrolling neighborhoods together. Still other congressional deputies believe the homicide rate can be explained by a combination of organized crime and drug traffickers using the murders as a distraction. They point to the fact that these murders are happening at a time when redefinition of the army and public security is being debated. They further argue that this violence is destabilizing and in the interest of what many have come to refer to in Guatemala as “parallel powers” (Peacock and Beltran 2003).

Likewise, the United Nations connects the impunity of brutal assassination of women with the existence of parallel powers holding the recourse to violence that increases their power and a state with no political will to stop this. The Inter-American Commission for Human Rights (IACHR) concluded that these assassinations are meant to signal to women to watch out and to return to the private sphere of home and their familial duties. As women have taken on more public roles and are viewed as in competition with men, they are told to abandon the public arena and to give up on civic participation. Certainly one outcome of this feminicide is that women cannot safely walk alone at night anywhere in Guatemala. Moreover, according to IACHR Rapporteur Susan Villarlan, the very classification by police of victims being killed in crimes of passion is not based on investigation. Rather it is based on discriminating against women, blaming the victim, and revictimizing the families of victims by blaming the victim for being unfaithful or jealous or dishonest and damaging the honor of the man (IACHR 2004). This IACHR determination is supported by Amnesty International that has concluded murders classified as “crimes of passion” are never investigated (2005).

While the link between the killing of women and social cleansing may not be immediately visible given that only two percent of women murdered have been prostitutes, I suggest that the killing of women justifies social cleansing because blaming gangs for the killing of women becomes a reason to carry out social cleansing on poor, young men. Moreover, prostitutes are not necessarily the only potential targets of social cleansing. A PDH (Human Rights Ombudsman – Procuraduría de Derechos Humanos) study on social cleansing found that the increase in the number of women killed whose bodies bore marks of torture and other sadistic abuse accounted for 40 percent of the total increase in female murders in 2005 (PDH 2006a).

The impunity of these killings is not without precedent. These very high homicide rates also give *carte blanche* to clandestine groups trying to stop women’s and human rights nongovernmental organizations (NGOs) from pushing for justice. In 2001, a group of armed men entered the offices of a women’s organization in the center of the capital and beat and raped the women in the NGO office. All this took place just one block from a police station (Familiares y Mujeres Sobrevivientes de la Violencia 2007).

Historic Role of the State and Impunity

In the 1980s, thousands of women were subjected to sexual violence and torture prior to being assassinated by state agents. In fact, the report of the Commission for Historical Clarification confirms that the state trained its soldiers and other armed agents to rape and to terrorize women. During the war, army soldiers and other security officers were responsible for 99 percent of acts of sexual violence carried out against women (CEH 1999).

- According to the CEH, the material authors of sexual violence against women were:
- 89% - Army
- 15.5% - PAC
- 11.9% - Military Commissioners
- 5.7% - Other Security Forces

Source: Consorcio Actoras de Cambio: La Lucha de las Mujeres por la Justicia y el Instituto de Estudios Comparados en Ciencias Penales de Guatemala, 2006:32

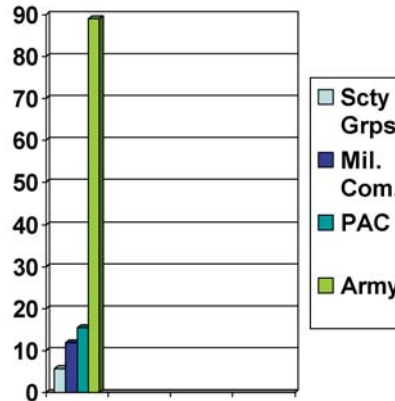


Figure 6. State agents as material authors of sexual violence against women.

These crimes of the state and its agents have never been brought to justice and have remained in impunity. The state trained killers to rape, to mutilate, and to murder women during the war. These killers and rapists are free. If the state continues to protect these killers and rapists with impunity, then why would we expect them to search out the murderers of Claudina Isabel Velasquez Paiz or any of the other women who have been killed? Writing about the effects of the wars of the 1980s on women in El Salvador and Guatemala, UN Rapporteur Yakin Erturk noted the need for “recognition of the gravity of sexual violence used as a weapon of war during the conflicts and the need for justice for the victims and survivors” (Erturk 2005: 2). Connecting the violence of the past with the present femicide, she pointed to the imperative of prosecuting perpetrators of previous violent crimes against women as “an important step in the fight against impunity, not only because the perpetrators would finally be brought to justice, but also because of the deterrent effect for future acts” (2). It is a travesty that more than a decade after the signing of the peace accords, the national police are “considered today to be the principal source of human rights violations” (16) in Guatemala.

As Erturk concluded in her report on Guatemala:

Violence against women is met with impunity as authorities fail to investigate cases, and prosecute and punish perpetrators. In this regard, the absence of rule of law fosters a continuum of violent acts against women, including murder, rape, domestic violence, sexual harassment and commercial sexual exploitation. Security and justice institutions have not responded adequately, particularly by failing to resolve a recent series of brutal murders of women. (2005: 2)

Conclusion

The evidence I have presented in this article demonstrates that we can make connections between practices and discourses of violence in the past and present. Indeed, there is a particular lexicon that we can trace from the 1980s to the present. In the 1980s, the military regimes blamed the victims by calling them subversives, threatened anyone who opposed the repression, claimed amnesty for any crimes committed by the army, blamed the guerrilla for any killings or disappearances, and pled ignorance to the violence engulfing the country. In the 1990s, the army blamed the massacre victims for causing the massacres, claimed

the victims and survivors were subversives, threatened anyone who sought exhumations, claimed amnesty for any crimes committed, blamed the guerrilla for all violence, and pled ignorance for obvious army violence. After the Spanish Court issued its arrest warrant, the generals claimed the Spanish judge was an Euskadi Ta Askatasuna (ETA) terrorist, threatened witnesses, claimed amnesty for any crimes committed, blamed the guerrillas for massacres, and pled ignorance.

In the contemporary cases of femicide and social cleansing, the justice system in general and the prosecutor's office in particular have dismissed the victims as less than worthy by calling them gang-members, blamed the gangs for all the violence, claimed social cleansing does not exist, claimed witnesses will not come forward, and continued to plead ignorance about all aspects of violence. It is impunity that ties together the genocide of the 1980s, the Inter-American Court decision, and the Spanish Court's international arrest warrant with the killing of women, social cleansing and Claudia. Impunity is the violation of the law by those charged with upholding it.

The international community can play a positive role in ending impunity in Guatemala by supporting women's human rights groups, the PDH (Human Rights Ombudsman), and the recently approved International Commission Against Impunity in Guatemala (CICIG—Comision Internacional Contra la Impunidad en Guatemala), which is a formal commission jointly established by the United Nations and the Guatemalan government to investigate and to disarticulate clandestine organizations by working with the Guatemalan justice system to bring the parallel powers to justice (Prensa Libre 2007b). Diplomatic missions, concerned citizens and international aid groups can support the work of CICIG by tying international assistance to ending impunity. Specifically, the international community can pressure the MP (prosecutor's office) to move forward on femicide and homicide cases; pressure the PNC to conduct unbiased investigations; pressure the medical examiner's office to complete a consistent forensic protocol on all murder victims regardless of appearance; and to include sexual assault as a standard protocol in murders investigations; to pressure the Guatemalan government to cooperate with the Spanish Court; and to cooperate with the extradition of the generals for trial in Spain as well as moving forward on the prosecutions of hundreds of human rights violations cases currently stagnating in the court system; and to support the dismantling of impunity by a full investigation and disclosure on the role of parallel powers in the state, accompanied by the prosecution of those responsible.

Notes

1. URNG – Union Revolucionario Nacional Guatemalteca – Guatemalan National Revolutionary Union.
2. Comision para el Esclarecimiento Historico (CEH).
3. Article II of the convention.
4. See also Sanford Guatemalan Genocide Databases, www.yale.edu/gsp.
5. Indeed, in his work on gendercide, Adam Jones suggests that the international community should be watchful for the selective massacres of men that often precede the massive killings of men, women, boys, and girls in genocide, see JONES, Adam. (2004) *Gendercide and Genocide* (Nashville: Vanderbilt University Press).
6. General Fernando Romeo Lucas Garcia appears to have died in Venezuela shortly before the arrest order was issued.
7. For more on INTERPOL's role in extradition, see INTERPOL's official website: <http://www.interpol.int/Public/Wanted/fugitiveInvestServ.asp>.
8. For example, presidential candidate and former General Otto Perez Molina used the “Mano Dura” [The Strong Hand] as his election symbol in his 2007 presidential campaign (he lost the election,

but was a close second). The Mano Dura was also a symbol of death squads in the 1980s and is understood to represent the (unlawful) elimination of “undesirables.”

9. Author communication with Dr. Clyde Snow, July 1, 2006.

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