



UNIVERSITY OF GOTHENBURG
INSTITUTION OF GLOBAL STUDIES

VIOLENCE AGAINST WOMEN AND FEMICIDES

EVALUATION OF LEGISLATION TO END IT IN GUATEMALA

Master Thesis in Global Studies
Spring Semester 2014
Date of submission: 03-02-2014
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Word Count: 19897

ABSTRACT

Currently, Guatemala is after El Salvador the country where most women are being murdered per capita in the world. In 2008, the Guatemalan Congress approved the Law Against Femicide and Other Forms of Violence Against Women (Decree 22-2008). This law defines femicide as the murder of a woman, within the unequal power relations between men and women, because of her condition of being a woman. The aim of this thesis is to evaluate the impact of the law during the five years that it has been adopted, and the factors that have influenced such an impact. By evaluating the law's outcome, through distant semi-structured interviews with professionals in Guatemala and scholars in the subject, secondary sources and statistics, using Johan Galtung's theory on violence, the thesis has found that the law has contributed to make violence against women and femicides visible for Guatemalans, as well as for the international community. Moreover, it has made more women denounce abuse. However, the femicide rate has increased during these five years and the culture of impunity that governed the country before and during the internal armed conflict (1960-1996) continues to prevail. Despite the law, women can still be murdered without greater consequences. Factors found that influence the unsatisfactory impact are presented as; a patriarchal culture internalized in both men and women, a lack of political will to change the prevailing structures (by not raising awareness and providing the financial resources required) and a continued distrust for the State.

KEY WORDS: Violence Against Women, Femicides, Legislation, Guatemala

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ACKNOWLEDGEMENTS AND DEDICATION

Firstly, I would like to thank my supervisor Edmé Dominguez at the Institution of Global Studies, in the University of Gothenburg, for her constructive comments and helpful suggestions.

I am also most grateful to the researchers who dedicate their time for women's rights, without their wise and insightful answers this study would not have been possible. *Muchas gracias* Cecilia Menjívar, Emilia Barbosa, Karla R. Lemus B. from GGM, Mara Olga Rodríguez Baldizón from Fundación Guatemala, REDNOVI, Roselyn Costantino, Serena Cosgrove, Victoria Noemí Chanquín Miranda from GGM and Rubén Aníbal Berganza Juárez from CENADOJ.

I would also like to thank my family who always stand by my side and my life companion Johan, the most caring and gentle person I have ever met.

And thank you to my colleagues Karin Hagberg, Lina Burnelius, Marie-Laure Sundman, Martina Longard and Nicholas Phillips for your comments.

Last but most important, I dedicate this thesis to all women, children and men who are living with fear of violence.

"The most common way people give up their power is by thinking they don't have any."
Alice Malsenior Walker

ABBREVIATIONS¹

CAIMUS: Centros de Apoyo Integral para Mujeres Sobrevivientes de Violencia (Integrated Support Centres for Women Survivors of Violence)

CEDAW: Convention on the Elimination of All Forms of Discrimination against Women

CEH: Comisión para el Esclarecimiento Histórico (The Commission for Historical Clarification)

CENADOJ: Centro Nacional de Análisis y Documentación Judicial (National Centre for Juridical Analysis and Documentation)

CICIG: Comisión Internacional contra la Impunidad en Guatemala (International Commission Against Impunity in Guatemala)

CIDEJ: Centro de Información, Desarrollo y Estadística del Organismo Judicial (Centre of Information, Development and Judicial Statistics)

CONAPREVI: Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y contra las mujeres (National Coordinator for the Prevention of Intra-familial Violence and against Women)

GBV: Gender-Based Violence

GGM: Grupo Guatemalteco de Mujeres (Guatemalan Women's Group)

GHRCH: Guatemalan Human Rights Commission

INACIF: Instituto Nacional de Ciencias Forenses de Guatemala (National Institute of Forensic Sciences of Guatemala)

IPV: Intimate Partner violence

OAS: Organization of American States

PAC: Patrullas de Autodefensa (Civil Defense Patrols)

PLANOVI: Plan Nacional de Prevención y Erradicación de la Violencia Intrafamiliar y Contra las Mujeres (National Plan for the Prevention and Eradication of Intra-familial Violence and Against Women)

PNC: Policía Nacional Civil (National Civil Police)

REDNOVI: Red de la No Violencia Contra las Mujeres (The Network of Nonviolence Against Women)

UNIFEM: United Nations Development Fund For Women

URNG: Unidad Revolucionaria Nacional Guatemalteca (Guatemalan National Revolutionary Unity)

VAW: Violence Against Women

¹ The English translation for Guatemalan organizations etc. will be used, but the acronyms remain in Spanish.

MAP OF GUATEMALA



Source: United Nations 2004

1. INTRODUCTION

Up to this date, multiple forms of violence against women (VAW) have received an increasing attention as a public health- and human rights concern. Still, researchers and activists have not reached a conceptual and methodological consistency in the normative frameworks concerning VAW and femicides (the killing of females by males *because* they are females²). This has led to differences in the collection and the evaluation of data (Path et al. 2008; Manjoo 2012). As a consequence, there is still a significant gap in the understanding of the effectiveness and the impact of different measures to prevent VAW and femicides (Krug et al., 2002; UN 2006).

Even though VAW knows no boundaries, no wealth level and occurs in every country in the world (UNIFEM 2006, StopVAW 2007) more than half of the 25 countries with the highest femicide rates per capita are situated in Latin America (Alvazzi 2011). In Central America, Guatemala together with El Salvador and Honduras, known as “the Northern Triangle”, did recently receive the infamous distinction of being the most violent region in the world (Garita Vilchez 2012; Stewart 2012). Furthermore, the act of lethal VAW has in some cases taken on extremely cruel forms. This type of violence can include deprivation of liberty, sexual abuse and torture, mutilation and decapitation, and the abandoning of bodies in public spaces by perpetrators - individual or groups (Manjoo 2012). Moreover, impunity (exemption from punishment³) is widespread, and especially when it comes to crimes against women (StopVAW 2008; Manjoo 2012). Even though men are ten times more likely to be killed than women in Guatemala (Carey & Torres 2010), the violence women suffer before the lethal act differs in the majority of cases. Femicides are rarely isolated incidents that arise suddenly and unexpectedly, but are rather the ultimate act of violence that is experienced in a *continuum* of violence (Path 2008; Manjoo 2012). The violence increases gradually until it turns deadly, but it also integrates a multitude of causal factors at an individual, interpersonal, institutional and a structural level (Moser and Clark 2001).

The alarming escalation of extreme forms of violence against women and girls during the 80-90s pressed a need to create and adopt new concepts and strategies to address it. In this context, the feminist Guatemalan Women's Group⁴ (GGM) was created in 1988 and has during the years realized multiple efforts to situate the problematic of VAW on the political agenda together with other feminist organizations:

² (Russell 2011 n.p., emphasis in original). For a deeper definition of femicide see chapter 1.4.3 FEMICIDE

³ (IW 2007)

⁴ Grupo Guatemalteco de Mujeres

Not an easy task, if one takes into account that in Guatemala there were no laws, public policies and institutional mechanisms for the promotion and protection of women's human rights, and specifically not targeted to prevent, punish and eradicate violence against women (GGM 2010, p.5, translated by the author).

According to GGM and other feminist organisations, one of their most significant contributions, is the lobbying and the achievement of making the Guatemalan congress pass the *Law Against Femicide and Other Forms of Violence Against Women* (Decree 22-2008)⁵. Despite the prevalent impunity in Guatemala's Legal System, this piece of legislation for women's right to live a life free from violence is perceived by many as a step towards the recognition and the respect for this right. Still, according to GGM, femicide rates have increased between 2008 and 2013 (see Chart 3 in chapter 5.1.3).

In this thesis, an attempt is thus made to understand the impact of the law during the five years that it has been adopted. Through a qualitative evaluation of the impact, this case study's aim is to contribute to the analysis of legislations as a measure to prevent VAW. Is it constructive or insufficient?

1.1. PURPOSE AND RESEARCH QUESTIONS

The purpose of this study is to evaluate the impact of the *Law Against Femicide and Other Forms of Violence Against Women* in Guatemala since it was adopted in 2008. This is foremost to enhance an understanding of legislation as a measure to prevent VAW and femicides. Furthermore, the aim is to understand if the law has empowered more women to denounce abuse, made VAW decrease in general and to evaluate the law's institutional implementation. If the law has become a rhetorical initiative without any real impact, the aim is to understand the factors that influence such an impact. To achieve this, following research questions have been addressed:

1. Has the *Law Against Femicide and Other Forms of Violence Against Women* (Decree 22-2008) in Guatemala had any impact regarding VAW and femicides, and in such case in what form?
2. Which are the factors in Guatemala that influence such an impact?

⁵ In Spanish: *Ley contra el Femicidio y otras Formas de Violencia Contra la Mujer* (Decreto Número 22-2008). To see a translation of the first sentence of each one of the seven Chapters and 28 Articles, followed by the original law in Spanish see Annex 1. See Annex 2 for the translated articles relevant for the evaluation.

1.2. RELEVANCE FOR GLOBAL STUDIES

To write about the law in Guatemala was decided during an internship at the Americas Department in the Ministry for Foreign Affairs in Stockholm, in 2013. One of the tasks was to write a longer report on gender equality in the region. By studying issues as women's employment rate, political representation, Sexual and Reproductive Health and Rights (SRHR) and sexual violence in the region, the high numbers of femicides in some countries continued to reappear. Reading more about VAW and instruments adopted to prevent it, the issue seemed relevant for the field of political globalization since its legal discourse is more global than expected.

According to the United Nations, VAW is a pervasive human rights violation reaching pandemic proportions (UN 2012; UNiTE., n.d.). Up to seven in ten women worldwide have experienced violence in their lifetime (UNiTE n.d.). The experience that VAW is not prioritized but that women themselves become the object of suspicion is neither tied to a single nation-state or region. A global momentum to stop VAW is also growing, and in 2008 the United Nations' Secretary-General launched a multiyear global campaign called *UNiTE to End Violence against Women*⁶. The campaign identifies the power of the law and the first of its five key-goals is for all countries to adopt and enforce national laws that address and punish all forms of such violence by 2015 (UNiTE 2008). Several countries worldwide have adopted laws to end different types of VAW. See the improvements to the legal system in India due to massive protests from civil society; both in India and abroad, after a gang rape killed a woman in New Delhi, in 2012 (PRS 2013). See also a current campaign in Sweden, my country of origin, which demands a 'law of consent' before sexual intercourse (FATTA 2013). In Latin America⁷, seven countries (including Guatemala⁸) have adopted legislation to prevent and punish VAW, as well as identified the crime of femicide (Garita Vilchez 2012).

However, according to some scholars (Molyneux and Razavi 2002) the advancements of liberal and legal rights have not been matched by significant progress in the achievement of greater social justice. Thus, it becomes relevant to put national laws against VAW (in this case in Guatemala), as part of a normative global campaign, under scrutiny. Since social processes are becoming more interconnected it enhances people's chances to learn more about each other and from each other (Steger 2003). Nonetheless, globalization studies do

⁶ The campaign brought together nine UN offices and agencies to end VAW.

⁷ Most of the countries in the Caribbean Community (CARICOM) have also adopted legislation on the prevention and punishment of VAW (Garita Vilchez 2012).

⁸ Guatemala is the single country that has incorporated the term femicide in the appellation of the legislation - Law Against *Femicide* and Other Forms of Violence Against Women.

also call for an interdisciplinary approach that requires literature on subjects that have often been studied in isolation from each other (ibid.). Therefore, this study attempts to incorporate development studies (in the legislative area of this issue) with feminist theories, conflict resolution and peace studies.

1.3. DELIMITATIONS

For the scope of this thesis some delimitations have been required. As the purpose is to understand the impact of the law, only Articles of the law concerning the impact (the aim and the measures said to be taken to reach this aim) have been taken into consideration⁹.

For aspects concerning VAW in general, it has not been possible to take into consideration the different types of violence that women can suffer, such as: violence in the name of honour, genital mutilation, dismemberment of specific body parts, decapitation and so on.

Neither, the consequences of the violence, its impact on women's physical and psychological health, which not only affects themselves, but their children/families and communities, has been investigated in-depth. Nor the *loss in human development* due to the inequality between women and men. However, it can be mentioned that Guatemala was given second place in Latin America, after Haiti, in having the most deficient gender equality in 2012, according to the UNDP index on gender equality¹⁰ (UNDP index 2012).

1.4. KEY CONCEPTS

In the following sections, some key concepts relevant for the thesis will be defined. Key concepts often make part of the THEORY and ANALYTICAL FRAMEWORK, but in this thesis it is considered facilitating to have an understanding of them before reading the BACKGROUND and PREVIOUS RESEARCH.

1.4.1. GENDER

Depending on the context, the term gender may refer to the biological sex - the state of being female, male or intersex, or to the social construction of 'gender roles' and gender identity (Haig 2004). In simple words, the sex is what makes us female or male and gender is what

⁹ To get a better overview of the whole law, see Annex 1 for a translation of the first term/sentence of each one of the law's seven chapters and 28 Articles followed by the original law in Spanish. See Annex 2 for a translation of the relevant Articles that concern the impact.

¹⁰ The UN index measures countries' gender equality by looking at three social areas: reproductive health, political participation and economic activity. The index shows loss in human development by examining inequality between men's and women's possibilities in these three dimensions.

ascribes us as feminine or masculine, where the latter can be perceived as performing a role (Butler 1990). According to Lindsey (2011), one of the most important social structures that organize social interaction is *status*, a category or position that is significant of how a person will be defined and treated (Lindsey 2011). When societies categorize members by status they rank them in a system of social stratification (ibid). A *role* is then the expected behavior associated with the status (ibid). For example, if females are determined by a subordinated status, they will perform an inferior role. When normative role behavior becomes too rigidly defined, they become *stereotypes* that compromise our freedom (ibid). These oversimplified conceptions assume that people who occupy the same status group share certain traits in common (ibid). The expected role of males has traditionally been: the breadwinner, the disciplinarian, the ultimate decision maker in the household etc., while the status of women calls for expected roles involving love, nurturing, self-sacrifice, home-making and availability etc. (ibid). The assignment of negative gender stereotypes can result in *sexism*, which is often referred to gender racism - a prejudice or discrimination based on the status of a person's sex (Götz 1999). When sexism towards women becomes despise and hatred it is referred to as misogyny. Males can be victims of the negative consequences of sexism, but females are more likely to experience it since the status they occupy is more stigmatized (Lindsey 2011).

Sexism is perpetuated by systems of patriarchy, male-dominated social structures leading to the oppression of women. Patriarchy, by definition, exhibits androcentrism – male-centered norms operating throughout all social institutions that become the standard to which all persons adhere. Sexism is reinforced when patriarchy and androcentrism combine to perpetuate beliefs that gender roles are biologically determined and therefore unalterable (Lindsey 2011, p. 3).

This perspective has preserved the idea that patriarchy is an inevitable fact of history, but women's gain in education has given women the power to engage in the research that offers alternatives to prevailing androcentric views, which is often considered as feminism or feminist theory. There is a diversity of feminist schools¹¹, but they all come together in networks under the umbrella of feminism, a movement that seeks to understand gender identities, and the power relation between them, to end sexism and oppression (Lindsey 2011). While acknowledging that the different schools present important factors¹², it can however be problematic to associate women with pacifism as for example radical feminism

¹¹ To see a short review on some of the different schools see Annex 3.

¹² As inter-alia: intersectional discrimination and historically shaped gender identities that has led to contemporary unequal structures as double labour and discriminatory legislation and institutions.

do. To claim that women are naturally and culturally superior in matters of peace and war can serve to reproduce homogenous gendered dichotomies and power hierarchies (Confortini 2006). “The association of femininity with peace lends support to an idealized masculinity that depends on constructing women as passive victims in need of protection” (Ann Tickner cited in Confortini 2006, p.334). Recent feminist works on masculinities have presented evidence that violence is implicated in the construction and reproduction of hegemonic masculinity (Confortini 2006). When violence is involved in the construction of masculinities, “being a man” becomes equated with violence (Confortini 2006). This construction and dichotomy in a patriarchy, where masculinity is perceived as the superior gender, means that violence and war can be valued over nonviolence and peace (ibid).

1.4.2. VIOLENCE AGAINST WOMEN

In establishing the context of how the concept of VAW¹³ is understood and employed in this thesis, an important consideration is the use of terminology. One of the concerns with the term ‘violence against women’ is whether it is more accurate to solely define ‘violence’. Specially, considering the previous discussion in chapter 1.4.1. GENDER. Nonetheless, it is argued that ‘violence against women’ should be used when it is aggressive behaviour that adversely and disproportionately affects women (Crowell and Burgess 1996). Another term that is often used interchangeably with ‘violence against women’ is ‘gender-based violence’, which is defined as violence directed against a person on the basis of its gender (Western 2013). It is thought of adequate to interchange it with ‘violence against women’, as gender-based violence is more often inflicted by male perpetrators on women and girls (EIGE n.d.). However, ‘gender-based violence’ can also be used to refer to violence experienced by men or queers (because they do not identify with a specific gender or sexual identity) and does not solely refer to violence experienced by women. In this thesis, the term ‘violence against women’ will be most used as it directly states the nature of the violence.

When ‘violence against women’ is used, there is however not a broad consensus on exactly how to define it, i.e. the term is used to describe a wide range of acts. These acts include *emotional and psychological violence*, as: threats of violence and arbitrary deprivation of liberty, to *physical violence*, as: beating and violence leading to femicides, and to *sexual violence*, as: sexual abuse and rape (Crowell and Burgess 1996; EIGE n.d.; Manjoo 2012). Psychological and emotional violence is also taken into consideration because several women

¹³ To see which forms of violence against women that have been left out see chapter 1.3. DELIMITATIONS.

argue that they find psychological violence and degradation more harmful than actual physical violence (Walker 1979; Follingstad et al. 1990; Krug et al., 2002). Despite several meanings, there is recognition that the root cause of the multiple forms of VAW that exists is *unequal power relations between men and women* (UN Declaration 1993, preamble; UN 2006, Lindsey 2011). That men who exert VAW can do so due to the superior position the masculine gender has been given in patriarchy.

1.4.3. FEMICIDES

The term femicide was first used in England in the beginning of the 19th century to describe the killing of a woman (Corry 1801; Wharton 1987). It reappeared in the 70s feminist movements to raise feminine consciousness about women's own experiences of violence (Manjoo 2012). Femicide was also seen as a substitute for the term 'homicide', which from a linguistic perspective leaves women invisible as victims: 'homicide' comes from the Latin word *homicidium* and *homo* means - man and *coedere* - to kill (Morales Trujillo 2010).

In 1975, Carol Orlock, an American writer, was preparing a book called "Femicide", which was never published, but Diana E. H. Russell picked up the term and used it in the first *International Tribunal on Crimes Against Women* in 1976 (Russell 2011). The tribunal gathered hundreds of women from around the world in Brussels to testify about violence they had experienced for being women (ibid). For Russell, the term 'femicide' promised to raise global awareness of the misogynist character of most murders of women and girls, as well as, to mobilize women to combat these lethal hate crimes against them (ibid). During the tribunal she stated:

We must realize that a lot of homicide is in fact femicide. We must recognize the sexual politics of murder. From the burning of witches in the past, to the more recent widespread custom of female infanticide in many societies, to the killing of women for so-called honour, we realize that femicide has been going on a long time (Russell testimony 1976, published 1990, p. 104).

The last definition Russell made on 'femicide' and currently use is: "the killing of females by males *because* they are female" (Russell 2011 n.p.). According to her, it covers all manifestations of male sexism and in addition it recognizes that not just 'women' but also girls and female babies are victims of sexist killings (ibid). As well as, many boys and male youths are perpetrators of femicide (ibid).

The term was brought into Latin America in 2004 by the Mexican feminist and Congresswoman Marcela Lagarde y de los Ríos, who chose to translate the term into Spanish

as ‘feminicidio’ (ibid). It was considered that the Spanish use of the original word femicide ‘femicidio’ is homologous to homicide and solely means the homicide of women (Lagarde y de los Ríos 2010). Lagarde y de los Ríos (2010) and other feminists argue that feminicide is a state crime (ibid). That it occurs when authorities fail to professionally and efficiently carry out their duties to protect women, prevent killings and punish the perpetrators – thus creating an environment of impunity (Carey & Torres 2010; and Russell 2011). ‘Feminicide’ is then seen as useful to adopt when holding governments to account, as it highlights the institutional violence of such crimes, which is caused by States’ acts or omission (Manjoo 2012). However, both ‘femicide’ and ‘feminicide’ share the claim that cultural and social practices sustain the murder of women.

In this thesis the term femicide is used because as Russell argues, while impunity for femicides is common in many countries, this is not always the case (Russell 2011). Furthermore, according to Hilda Morales Trujillo (2010), a known women’s rights activist and Lawyer in Guatemala, femicide is the most widely used term within the *Latin American and Caribbean Feminist Network against Domestic Violence and Sexual Violence*, and the one officially used by the *Committee of Experts on Violence of the Monitoring Mechanism of the Convention of Belém do Pará*¹⁴ (Morales Trujillo 2010).

Before going to the BACKGROUND of violence against women in Guatemala and PREVIOUS RESEARCH a brief presentation of the thesis’ disposition follows.

1.5. DISPOSITION

The first chapter INTRODUCTION, has introduced the subject of this thesis, its purpose and the research questions that will be answered. Furthermore, it has presented this study’s relevance for the field of global studies, followed by delimitations that have been taken and key concepts. The second chapter BACKGROUND VIOLENCE AGAINST WOMEN IN GUATEMALA, presents the background of violence against women, followed by women’s participation in the creation of the law and previous literature that concern VAW in Guatemala, Latin America and the specific law. In chapter three METHODOLOGY AND MATERIAL, the methods used to evaluate the impact of the law are presented, followed by ethical considerations and criticism of sources and methodology. Chapter four THEORY AND ANALYTICAL FRAMEWORK, presents Johan Galtung’s three types of violence, direct, structural and cultural violence,

¹⁴ The Convention of Belém do Pará is the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women* (1994) often known as the Belém do Pará Convention (OAS n.d.)

followed by the theoretical framework that will permeate the following chapter FINDINGS AND DISCUSSION. This chapter presents the study's results - the law's impact during the five years that it has existed and factors that have influenced that impact. Lastly, comes the chapter CONCLUSIONS followed by suggestions for further considerations.

2. BACKGROUND VIOLENCE AGAINST WOMEN IN GUATEMALA

To understand the impact of the law in Guatemala, an understanding of the context in Guatemala is first required, as it is within the context the causal factors exist that hinder or promote a change by the law (Bryman 2004).

It is not possible to analyze VAW and femicides in Guatemala today without bearing in mind the internal armed conflict¹⁵ between the State Army and the Guatemalan National Revolutionary Unity (URNG) that reigned the country for almost four decades (1960-1996) (Sanford 2008; Morales Trujillo 2010; Menjivar 2011). In 1954, an anticommunist Army overthrew socialist president Jacobo Árbenz Guzmán. This coup d'état became the beginning of the U.S. and CIA¹⁶ led anti-Soviet strategies in Latin America, that later would be called 'the National Security Doctrine'¹⁷ (CEH¹⁸ 1999; Feierstein 2010). This incident led to social unrest among left-wing sectors in the 60s and to the creation of guerilla movements formed by members of opposition political parties and armed forces, eventually called URNG (Weber 2012). *La Violencia* (the violence), as the internal armed conflict often is referred to, started in 1962 when, based on the 'National Security Doctrine', the guerilla movements – of which indigenous Maya population were considered part of – were identified as the enemy (ibid). *La Violencia* took place until 1996 when the Guatemalan government and the guerilla movements formally signed the last Peace Accords (ibid). One of the outcomes of the Peace Accords was the establishment of a truth commission, the *Commission for Historical Clarification* (CEH) that began its work in 1997 and published its twelve-volume report in 1999 (Sanford 2008). The report determined that the State Army and related paramilitary groups were responsible for 93 percent of all human rights violation documented by the CEH, while the guerilla was responsible for three percent, and other non-identified groups for four percent (CEH 1999 cited in Sanford 2008; Weber 2012).

Drawing from survivor's narratives, among the most significant findings from *La Violencia*

¹⁵ It should neither be forgotten that Guatemala was colonized by the Spaniards and did not reach their independence until the 15th of September of 1821, but a review of this does not fit in the scope of this thesis.

¹⁶ Central Intelligence Agency

¹⁷ The National Security Doctrine meant the systematic annihilation of political enemies (Feierstein 2010)

¹⁸ This is only a review of the CEH available on the Internet.

were that, 626 villages had been massacred, in which the majority were Mayan, 1.5 million people were displaced, 150.000 people fled to refuge in Mexico and 200.000 people were killed or disappeared¹⁹ (CEH 1999 cited in Sanford 2008). The CEH found that the Guatemalan Army was responsible for acts of genocide²⁰ committed against the Mayan who (subdivided into 21 different Mayan, as well as non-Mayan *Xinka* and *Garifuna* groups) form the majority of the population (Sanford 2008; Weber 2012). Altogether, 83 percent of the victims were Maya and 17 percent were ladino or mestizo²¹ (CEH 1999 cited in Sanford 2008).

Violence against women during the internal armed conflict was also characterized by genocide. According to Victoria Sanford's²² research (2008), female victims (adults and girls) in the municipality of Rabinal comprised 14 percent of massacre victims in 1981 and in June 1982 (three months into president Rios Montt's dictatorship) females made up 42 percent of the massacre victims, and in mid-1982, the number of females killed rose over the number of male victims (Sanford 2008). The aim of the State Army was to destroy the enemy, thus to destroy the material bases of communities as well as its reproductive capacity (ibid). In this way, the genocide became gendered and women and girls became the primary targets (ibid).

The CEH confirms that the State trained its soldiers and other armed agents like the Civil Defense Patrols (PAC) to rape and terrorize women - army soldiers and other security officers were responsible for 99 percent of the sexual violence carried out against women (CEH 1999 in Sanford 2008). Sexual violence²³ formed a systematic part of the massacres and it was used to spread terror, to gather information, but also to prevent the birth of future 'guerrilleros' (Weber 2012). According to the CEH report, 88.7 percent of the victims of sexual violence were Mayan women, and 10.3 percent were ladina women (Méndez Gutiérrez 2012; Weber

¹⁹ At the height of the violence in the early 1980s, Guatemala had a population of approximately eight million (Sanford 2008).

²⁰ "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" (United Nations' Genocide Convention 1948)

²¹ Mixed Spanish, European and indigenous ancestry

²² Victoria Sanford is Associate Professor of Anthropology at Lehman College and the Graduate Center, City University of New York. She is also a Research Associate at Rutgers Center for the Study of Genocide and Columbia University's Center for International Conflict Resolution. She is also the author of several books concerning genocide and femicide in Guatemala (Sanford 2008).

²³ The CEH report establishes that men formed the majority of the direct victims of most human rights violations during the armed conflict, and sexual violence was also committed to men, a topic hardly investigated, however women formed 99 percent of the victims of sexual violence (Weber 2012).

2012). The Recovery of Historical Memory project (REHMI) reported that an act of sexual violence constituted a form of victory for the army, eliminating Maya women was linked with that of eliminating the guerilla (GHRC 2009). Rapes, mutilations, sexual exploitation, forced sterilizations due to rapes, provoking forced abortions by feticides (to cut up girls and women's bellies and pull out the fetuses) were systematically committed torture by the Army and paramilitaries against Maya women (Simón 2011).

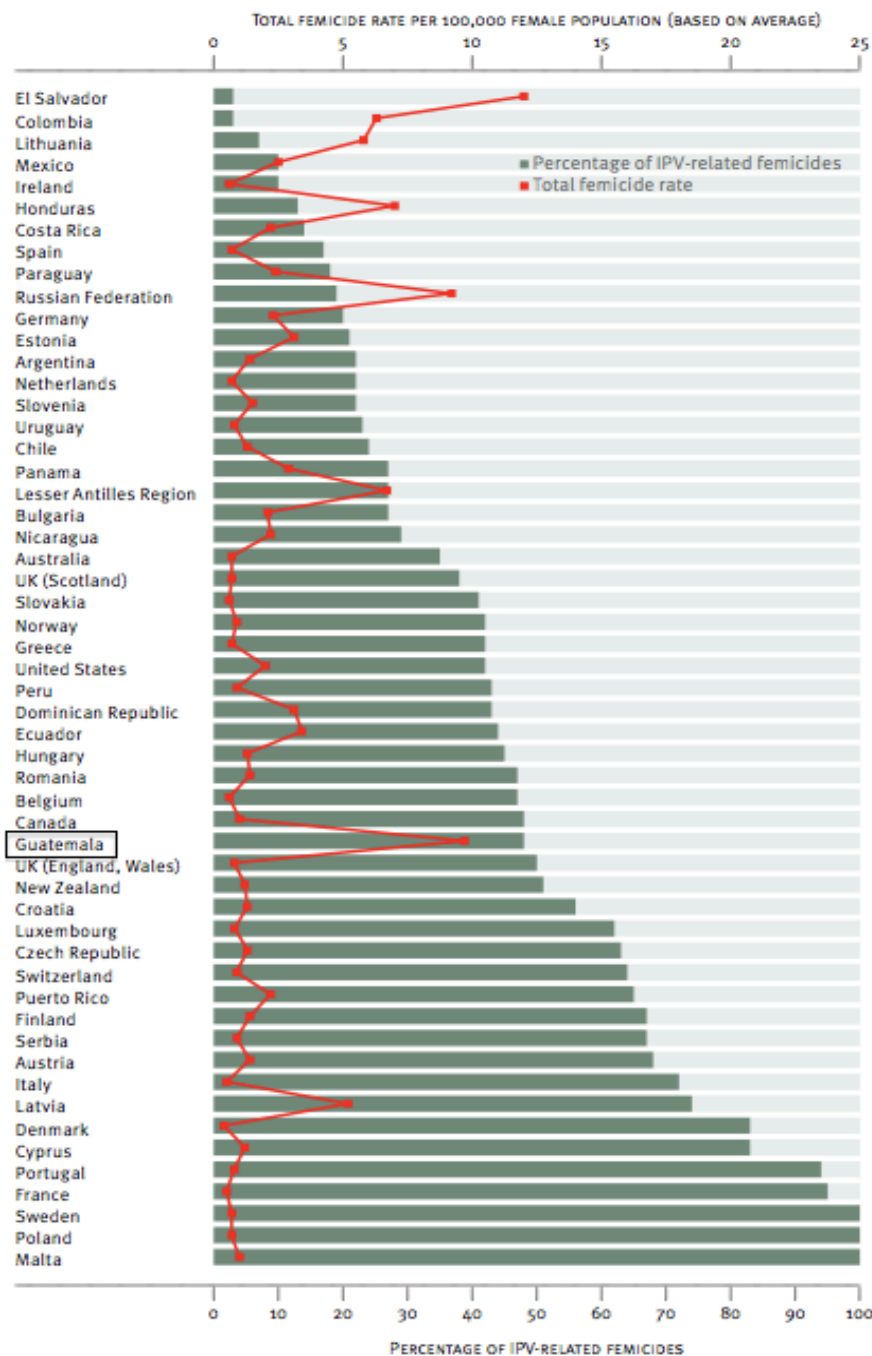
Apart from various physical consequences, sexual violence also has important social, cultural and psychological consequences (Weber 2012). Guatemala had at the time a conservative culture in which sexuality was considered a taboo and culture prescribed that sexual relations should be limited to marriage, a notion that was damaged by sexual violence (ibid). It provoked shame and guilt in women, but also in men, for not being able to protect the women. This collective shame was expressed in discrimination and stigmatization of the women, to make it easier to handle or to release the anger and shame felt by the community (ibid). According to the CEH, Mayan men reacted to the rape of the women in their families and communities by blaming the women, which was said to be easier than blaming the military (CEH cited in GHRC 2009). Consequently, many of these women have never told anyone about being victim of sexual violence and those who did were rejected, despised or expelled by their community making it impossible to seek help (Weber 2012). Until recently, these crimes of the state and its agents have never been brought to justice (Sanford 2008).

In 2010 though, fifteen women from the Mayan *Qeqchi'* testified in front of a Guatemalan Court for the first time in history about sexual slavery and rape during the internal conflict (Méndez Gutiérrez 2012, translated by the author). The violation they suffered started in 1982 when their husbands were captured illegally by members of the Army and killed or forcefully disappeared (ibid). After torturing and killing the men, the soldiers burned up their houses and belongings (ibid). The same day, the women were raped in front of their children (ibid). Afterwards, they were held as sexual and domestic slaves and the commanding officer ordered the women to organize in "turns", in which they were forced to present themselves every three days in the military center²⁴ (ibid). The rapes were perpetrated in a systematic multiple manner, and in addition, they were forced to cook and wash the uniforms of the

²⁴ The soldiers installed the military center at the request of the landowners in the area; it was used as a place for rest for the troops, and became part of a circuit of military centers in Northern Guatemala (Méndez Gutiérrez 2012, translated by the author). It brought together national and transnational economic interests around the mining, oil extraction and agro fuel production (ibid). With these ends, the area was the scene of one of the great wave of land grabs against the peasant population (ibid).

soldiers (ibid). The “turns” kept on for six months, but the slavery continued for six years (ibid). In 2005, the UN special rapporteur stated that there is a 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” (Ertürk 2005, p.2). According to María Eugenia Solís, an ad hoc judge in the Inter-American Court of Human Rights until 2010, the first job is still

Figure 1. Femicide rates per 100.000 women and % of IPV- related femicides 2004-2009



Source: Alvazzi del Frate 2011, p.129

to get women in certain communities to understand that they are human beings and that it is not normal that they are abused (Simón 2011).

Currently, in “post-conflict” Guatemala, almost 20 years since the signing of the Peace Accords, the violence women suffer have taken on a different pattern. Today, one third to 50 percent of the femicides occur due to domestic violence or by Intimate Partner Violence (IPV) (Amnesty International 2005; see Figure 1.). Yet, with annual femicide rates reaching the level of the female

murders during the genocide (Carey and Torres 2010; Sanford 2008) the patterns of impunity for the perpetrators continues practically the same, with only eleven perpetrators convicted of 5027 femicides from 2000 to 2009 (Carey and Torres 2010).

2.1. WOMEN'S PARTICIPATION IN THE CREATION OF THE LAW

The following section presents some processes of increased participation of women that led to the *Law Against Femicide and Other Forms of Violence Against Women* in 2008.

The *Law Against Femicide and Other Forms of Violence Against Women* is the result of actions undertaken by women's organizations that have fought for the State of Guatemala to recognize that violence against women is a human rights issue that affects the society as a whole²⁵ (REDNOVI interview 26-01-2014).

Since men formed the majority of direct victims during and after the internal armed conflict, more women were left and had to reconstruct the social network, resist, take care of the children, or forced to sexual slavery (Weber 2012; REDNOVI e-mail communication 01-02-2014). Eventually many women started processes to denounce the crimes and search for their disappeared family members (ibid). In the process of increased participation of women, various human rights organisations were established (ibid). In 1988, already before the Peace Accords, the feminist Guatemalan Women's Group was created (GGM 2010). Today it has reached national and international recognition for situating the problematic of VAW in Guatemala on the political agenda. Eventually it became part of the *Network of Nonviolence Against Women*²⁶ (REDNOVI) that was established in 1991 and that brings together eight women's organizations. Together, they played an important role in lobbying for the Guatemalan ratification of the *Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women* (the Convention of Belém do Pará) in 1994 (REDNOVI interview 26-01-2014). From that moment, organizations took concrete actions for the emission of a law that would nationalize the Convention (ibid). Hence in 1996, Guatemala adopted the *Law to Prevent, Sanction, and Eradicate Intrafamily Violence*²⁷ (REDNOVI interview 26-01-2014). However, this new law did not identify VAW as the Convention had recognized it (ibid), which was problematic since the statistics that started to emerge after the law showed that the violence was mainly directed against women in the

²⁵ “La Ley contra el Femicidio y otras formas de violencia contra la mujer, es producto de las acciones emprendidas por las organizaciones de mujeres quienes han luchado para que el Estado de Guatemala reconociera que la violencia contra las mujeres es un problema de derechos humanos y que afecta a la sociedad en su conjunto” (REDNOVI interview 26-01-2014).

²⁶ Red de la No Violencia contra las Mujeres

²⁷ *Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar* (1996)

families, of all ages without distinction of ethnicity, social class, or place of residency (Chanquín Miranda interview 08-01-2014). Furthermore, according to Morales Trujillo, member of REDNOVI and the National Women's Office, the administrators of justice showed a reluctance to comply with its mandates in the years following the adoption (Morales Trujillo 2010). So in 1998, REDNOVI and other organizations took the initiative to develop regulations for the law, which were approved in 2000 (REDNOVI interview 26-01-2014; Morales Trujillo 2010). As an outcome of the regulations, *the National Coordinator for the Prevention of Intra-familial Violence and Violence against Women* (CONAPREVI) was created of which REDNOVI became part of (Morales Trujillo 2010). CONAPREVI eventually developed *the National Plan for the Prevention and Eradication of Intra-familial Violence and Against Women* (PLANOVI) 2004-2014, which aimed to create four strategic areas:

- 1) Research, analysis and statistics
- 2) Prevention of intra-familial violence against women
- 3) Integral attention to survivors of intra-familial violence and violence against women²⁸
- 4) Institutional strengthening (REDNOVI e-mail communication 01-02-2014)

With CONAPREVI and the indications of PLANOVI, women's and human rights' organizations in Guatemala as: REDNOVI; the Guatemala Foundation²⁹; the Survivors Foundation³⁰; the Centre for Legal Action on Human Rights³¹; the Women's Sector³² and the Network of Researchers for the Life and Liberty of Women³³, continued to search for a specific law. The first proposal, named *Framework Law on Violence Against Women*³⁴, was brought to the Guatemalan Congress in 2007 (Lemus B. interview 08-01-2014; REDNOVI interview 26-01-2014). Nonetheless, not after a modification and a consensus between the Congress and the women's movement, international and governmental³⁵ support, a commitment from victims' families and several deputies³⁶, the *Law Against Femicide and Other Forms of Violence Against Women* (Decree 22-2008) was adopted by the Guatemalan

²⁸ In inter alia *Integrated Support Centres for Women Survivors of Violence* (CAIMUS)

²⁹ Fundación Guatemala

³⁰ Fundación Sobrevivientes

³¹ Centro de Acción Legal en Derechos Humanos

³² Sector de Mujeres, was formed during the negotiations that led to the Peace Accords.

³³ Red de Investigadores por la Vida y la Libertad de las Mujeres

³⁴ Ley Marco de Violencia contra las Mujeres

³⁵ The Government party at the time, the social-democratic *National Unity of Hope* (UNE) with president Álvaro Colom and the First Lady, Sandra Torres, supported the law.

³⁶ Women deputies, as Nineth Montenegro, Roxana Baldetti, Delia Back and Mirza Arreaga whom only made up 13 percent of the deputies (20 out of 158) contributed to get the support of 112 parliamentarians for the approval of the law (Barbosa interview 24-12-2013).

Congress (Barbosa interview 24-12-2013; Menjívar interview 28-11-2013; REDNOVI e-mail communication 01-02-2014; Rodríguez Baldizón interview 17-12-2013).

Before going to the chapter on the METHODOLOGY AND MATERIAL that was used to evaluate the impact of the law, a section follows on previous literature on VAW and femicides in Latin America as well as in Guatemala, followed by previous literature on the law.

2.2. PREVIOUS RESEARCH IN LATIN AMERICA AND GUATEMALA

Previous literature on VAW and femicides in Latin America is becoming vast as a response to the escalation in VAW in the whole region. One example is *Terrorizing Women: Femicide in the Américas*³⁷ (2010) edited by Rosa-Linda Fregoso and Cynthia Bejarano. Where Marcela Lagarde y de los Ríos and other feminist scholars, human rights lawyers and activists have made the effort to categorize violence and femicides in different countries, as in Mexico, Guatemala, Argentina and Costa Rica. Divided as well by chapters on the analytical framework of femicide and personal testimonies, it gives an in-depth understanding of the patriarchal culture and the structural and legal norms that naturalizes VAW. The book reflects the variety of approaches taken to understand its complexity.

In the case of Mexico, more specifically Ciudad de Juárez on the border to the U.S., Rita Laura Segato considers for example the perpetrators as part of a system of communication and power, belonging to fraternities in a so called sovereign *second state* where its requisite is a rigorous pact of silence (Segato 2010).

/.../ more than a cause, impunity can be understood as a product, as the result, of these crimes, and the crimes can be seen as a means for producing and reproducing impunity: a blood pact sealed with the victims' blood (Segato 2010, p.79).

The fraternity, part of a regional totalitarianism, leaves signs on the bodies of murdered women who have embodied the representation of a dominated territory (Segato 2010). For Segato, the murders in Ciudad de Juárez are not ordinary gender crimes but corporative crimes that tell us that this is a matter of an occupied territory in which we cannot interfere (ibid). Other scholars point at the border situation, the global economic liberalization and the *maquilas* industry as the core of an export economy that contributes to an unjust development (Weissman 2010). This approach seeks to understand the relationship between socioeconomic

³⁷ The Spanish version: *Feminicidio en América Latina* (2011).

systems that depend on the subordination of poor communities and gender oppression in the form of femicides:

Violence is perpetrated against women whose place in the hierarchy of market values renders them readily interchangeable cogs in the wheel of production. They are vulnerable precisely because they are easily expendable; they are deprived of human rights because they are denied their humanity (Weissman 2010, p.226).

In one of the chapters on Guatemala, Cházaro, Casey and Ruhl examine the underlying conditions that cause women to flee their home country, in this case to the U.S. Writing this chapter before the adoption of the *Law Against Femicides and Other Forms of Violence Against Women* (2008), the authors seek to provide a framework for the Guatemalan state's dismal record for protecting women's lives, examining the conditions that give rise to the femicides, including the legacy of military violence, a history of impunity, and systematic discrimination against women (Cházaro, Casey and Ruhl 2010). When examining the theories behind the femicides the authors argue that the lack of proper investigation and prosecution of the femicides increases the difficulty of pinpointing who is behind (ibid). Consequently, several different theories have emerged, ascribing blame to different societal factors or agents, such as: domestic violence, a backlash against women's empowerment and participation in the public sphere, an overall increase in the general crime rate, gangs and organized crime³⁸ and the security forces (ibid).

In Victoria Sanford's article *From Genocide to Femicide: Impunity and Human Rights in Twenty-First Century Guatemala* (2008), she concludes that it is possible to draw connections between practices and discourses of violence in the past and present:

In the contemporary cases of feminicide 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 /.../ with the killing of women /.../ Impunity is the violation of the law by those charged with upholding it (Sanford 2008, pp.119).

³⁸ According to a report by the Guatemalan Human Rights Commission (2009), gang violence has risen since 1995 in Guatemala (GHRC 2009) and government officials frequently cite young members of Guatemalan gangs (known as *maras*) as being responsible for the murders of their partners, wives or girlfriends (Cházaro, Casey and Ruhl 2010). According to the report, gang initiation often includes killing an innocent victim and several cases of femicide have been linked to this rite of passage (GHRC 2009). However, the authors argue that while gang violence may be a factor, the authorities tend to categorize all of the femicides as gang-related without having done proper investigations (Cházaro, Casey and Ruhl 2010).

Overall, *Terrorizing Women: Femicide in the Americas* (2010) is an effort to understand violence rooted in gendered power structures, exercised by both the state and individual perpetrators, as a violation of human rights.

During the last years, some literature has emerged concerning the *Law Against Femicide and Other Forms of Violence Against Women* (2008) in Guatemala. For example Paula Godoy-Paiz's article (2009) examines the legal framework for addressing VAW in post war Guatemala. According to Godoy-Paiz, the judicial reform and the passing of laws since the Peace Accords constitute a response to an increase in violent crimes against women, and points to both phenomena as something that has occurred simultaneously (Godoy-Paiz 2009). Drawing on fieldwork conducted in Guatemala's Metropolitan Area, she exposes the limitations of strictly legal understandings of the phenomenon of gender-based violence, and highlight the need for a broad social justice approach that consider the different structures of violence, inequality and injustice present in women's lives (Godoy-Paiz 2009).

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 /.../ Formal legal rights are one important step in women's larger struggles for social justice (Gody-Paiz 2009, p.43).

She questions how far the body of laws reviewed in her article can go in reducing rates of gender-based violence, especially when impunity is widespread in Guatemala (ibid).

The Guatemalan Human Rights Commission's report *Femicide Law: Progress Against Impunity?* (2009) divides the law into its positive results and the critiques, followed by GHRC's recommendations. As positive results, the report states that by criminalizing *all* forms of violence against women, the law symbolizes a gradual shift in the perception of women, and recognizes unequal power relations between men and women (GHRC 2009, p.10). Among the criticism, GHRC states that:

/.../ as organizations and government bodies try to evaluate the progression of the law's implementation, many name problematic factors including a lack of understanding of the law, continued social unrest, poor media portrayal, and inadequate efforts on the part of the implementers (GHRC 2009, p.11).

Hence, one year after the law was adopted there was still not a complete understanding of the term femicide, neither of how and when the law should be used instead of Guatemala's Penal Code (ibid). Even though evaluations of the law's implementation by government bodies have not yet been identified, organizations like the Guatemalan Women's Group (GGM) has started to publish analysis of the violent murders of women that occur every month.

Furthermore, in the last one of 2013, GGM actually problematizes the way the authorities comprehend the concept of femicide (GGM 2013). GGM disagrees with femicide being consigned to “acts that merely occur in the home”, and argues that this perspective minimizes the gravity and the reach of the VAW that is not perpetrated by a partner or an ex-partner (ibid). According to GGM, what defines femicide is not the place where it occurred but the relations of power that are produced between the victim and the perpetrator, regardless of if they knew each other from before (ibid).

It is femicide /.../ when death has been perpetrated by a man or more than one, and the victim has been subject to harassments for being a women, namely, sexual violence, acts of cruelty whose meaning and symbols denote contempt for her humanity, body and female sex³⁹ (GGM 2013, p.8).

Among the recommendations, GHRC argues that the law must be fully implemented in order to bring victimizers to justice and move towards gender equality to begin reducing VAW (GHRC 2009). At the same time, they urge for thorough investigation into what is lacking and what can be improved (ibid). This appeal is followed by practical recommendations as improved crime scene investigation; greater protection for women survivors of violence and their children and the families of femicide victims; a national education campaign concerning women’s rights; a recognition, as the Historical Clarification Commission has stated, that Guatemala is in dire need of healing on a national level: “The wounds of war, violence, and hatred must be recognized and addressed in order to move forward” (GHRC 2009, p.13).

Finally, the last report found that touches the topic on legalisation on femicides and VAW in Guatemala is from United Nations campaign UNiTE in Latin America: *La regulación del delito de Femicidio/Feminicidio en América Latina y El Caribe* (2012). The report is a comparative study of the seven countries in Latin America that until 2012 have typified the crime of femicide in their legislature. The main conclusion is that since the laws are merely new (the first law was adopted in Costa Rica in 2007) the “logical consequence is that it does not exist in the seven countries a vast development of the jurisprudential about the theme” (Garita Vélchez 2012, p.31, translated by the author). However, regarding the literature reviewed concerning the law in Guatemala specifically, it is more than four years ago since they were written and there is not a thorough evaluation of the law’s impact today.

³⁹ Es femicidio /.../ en tanto la muerte haya sido perpetrada por un hombre o más de uno, y haya sido sujeta a vejámenes por ser mujer, a saber, violencia sexual, actos de saña cuyo significado y simbología denoten desprecio a su humanidad, cuerpo y sexo como mujer (GGM 2013, p.8).

In addition to new statistics, this thesis has the advantage of raising the voices of women who have inside knowledge about VAW in Guatemala and the law.

With the background and the literature review in mind, the following chapter presents the material and methodology used to evaluate the impact of the *Law Against Femicide and Other Forms of Violence Against Women* (2008).

3. METHODOLOGY AND MATERIAL

In the following sections, methodology and material relevant for the understanding of the law's impact are presented⁴⁰. To better understand the implementation of specific obligations stated in the law and the law's general aim to *prevent femicides and other forms of violence against women*, mainly three types of data have been collected. Firstly, distant semi-structured interviews were conducted with professionals in Guatemala and scholars on the subject (hereinafter called informants⁴¹). Secondly, a collection of secondary sources as literature on the subject and reports published by Guatemalan women's organizations and the Guatemalan government were examined. Thirdly, sources mentioned were complemented by compiling available statistics on femicides, denounces and sentences.

3.1. QUALITATIVE METHODS

One of the advantages with using qualitative methods is that the collection and the analysis of data can proceed simultaneously, repeatedly referring back to each other (Bryman, p.401). However, the decision to use qualitative methods was mainly based on the idea that it provides greater opportunity for a feminist sensitivity, that better can contribute to make women's voices heard (Bryman 2004). To see some reasons to why quantitative methods as statistics are viewed as more incompatible with feminism see section 3.5. ETHICAL CONSIDERATIONS. Qualitative methods have also most often constructivism as its ontological position (ibid). This means that social phenomena and categories as 'organizations' and 'culture' are perceived as produced through social interaction and are thus in a constant state of review (ibid). In this way, the researcher presents a specific version of social reality, rather than one that can be regarded as definite and independent of social actors (ibid).

⁴⁰ The law itself has been used as a criterion to know the specific obligations that the government of Guatemala has undertaken by ratifying the law.

⁴¹ In contrary to respondents who also are the unit of analysis, the informants give information about what is studied.

When getting familiar with the subject of this thesis it became evident that Guatemala had a relatively high number of femicides despite the law forbidding femicides and VAW. Nonetheless, a decision was made to do an inductive research in order to avoid preconceptions (ibid). To have a hypothesis that in beforehand dismissed the functioning of the law would have required more knowledge.

3.2. EVALUATION OF THE IMPACT

In recent years, evaluations based on qualitative research have emerged (Bryman 2004). Evaluation research is concerned with the evaluation of social and organizational programmes or interventions (ibid). Typical questions that it poses are e.g. has the intervention, new policy, or the organizational change achieved its anticipated goals? (ibid). There are different opinions on how qualitative evaluation should be carried out, but the different views often unite around recognition of the importance of an in-depth understanding of the context in which an intervention occurs, and the diverse viewpoints of the stakeholders (ibid). Whether the mechanisms have certain effects, in this case the Guatemalan law, are affected by the contexts within which the intervention is made (ibid).

The aim of this thesis is to understand the impact of the *Law Against Violence and Other Forms of Violence Against Women* (Decree 22-2008) and the factors that influence that impact. Therefore, the law itself worked as a point of departure⁴². However, it was soon clear that not the whole law concerned its expected outcome. Article 6 and 7 for example; contain definitions of femicide and VAW. Therefore, delimitations had to be done so that only Articles that concern the expected outcome, and the measures stated to reach that outcome, were extracted. These Articles were analyzed and later used as a criterion for the evaluation of the impact. They were also translated from Spanish to English. To get a better overview, a translated summarize of them can be found in Annex 2.

Even though it has not been possible to evaluate each one of the obligations stated, an effort has been made to evaluate as many of them as possible through distant semi-structured interviews, secondary sources and statistical records. However, the interviews were semi-structured and to pose specific questions on the implementation of each one of the obligations stated in the law would have been too excessive and probably caused poorer participation.

⁴² See Annex 1 for the first sentence of each Chapter and Article translated, followed by the original law in Spanish. Annex 2 presents a translation of the Articles that concern the impact of the law.

Even though there was a set of specific questions to be covered there was a greater emphasis on the informants' own viewpoints on the law's general impact (Bryman 2004).

3.3. DISTANT SEMI-STRUCTURED INTERVIEWS

Alongside the collection of data, efforts were made to get in contact with organizations working for women's rights and especially against violence in Guatemala. The attendance to interviews seemed however to become meager, so relevant people to do interviews with were searched for through the LASA⁴³ Gender Section group as well⁴⁴. A request was sent to the e-mail group if there were people involved in the issue that would have the possibility to answer some questions. Shortly after, twelve persons answered that they were, or that they knew others who were. Eventually some of the women's organizations answered as well.

An inventory was made of the persons who could, and together they made up fourteen people, both women and men. A new e-mail was sent to them, explaining the idea of the thesis more thoroughly and asking if they had the possibility to answer five interview questions attached in a word document (called INTERVIEW GUIDE) as seen in Annex 6. Since there were both Spanish and English speaking persons in the inventory, the same questions were sent in both Spanish and English so they would have the possibility to choose the preferred language. Eventually eight persons, four Guatemalan and four from the U.S., answered the INTERVIEW GUIDE (see LIST OF INFORMANTS in Annex 7 and the last chapter INTERVIEWS for the entire interviews attached). The informants, made up of female professionals, activists and scholars in the subject from Guatemala and the U.S. created a good balance in the answers, seeing both the issue from a Guatemalan perspective and an external perspective.

The decision to have five questions in the INTERVIEW GUIDE was taken because of the advantage to pose as simple and clear questions as possible (Bryman 2004). The aim was to make everyone feel they had the possibility and the time to answer. The majority of the eight persons who did answer were very busy and had to be contacted again after some time when they had finished their current work. One person did even cordially decline because she was overextended at work and said that appropriate responses to the questions would require writing a mini thesis. Nonetheless, by the time that the INTERVIEW GUIDE was prepared, some data had already been collected and analyzed which affected the questions to not be entirely

⁴³ Latin American Studies Association.

⁴⁴ Supervisor Edmé Domínguez is part of this group.

inductive as question 4. *What role, if any, has impunity played?* One of the informants, Rodríguez Baldizón (interview 17-12-2013) from Guatemala Foundation, did also advise me to change the first question from: *Do you know how the law was implemented..?* to: *Do you know how the law was adopted..?* Emphasizing that there is a relevant difference between adopting a law and practically implementing it. Unfortunately by then, all the interview guides were already sent out to everybody except one, to whom I did change the question. In this aspect, it would have been plausible to have sent these as pilot interviews, but concerning the timeframe and how busy the informants were it seemed unreasonable to send a new set of questions. Though in some cases, the e-mail communication continued with follow-up questions.

The advantages of using online interviews are several, for example, they are cheap to conduct compared to face-to-face equivalents, and participants who would otherwise normally be inaccessible, like in this case, can more easily be involved (Bryman 2004). Moreover, there is no need to audio-record or transcript the interviews, which represent an enormous saving in time and cost, and does also eliminate the problems that may arise from mishearing or not hearing at all what is said (ibid). However, there are also disadvantages as only getting access to people with online facilities (to see how this affected this thesis see CRITICISM OF SOURCES AND METHODOLOGY).

Finally, to get a comprehensive meaning of the informants' viewpoints⁴⁵ on the law's impact and factors that influence the impact, answers to questions 2 to 5 were coded simultaneously as collecting the data. This means that while reading through the answers, marginal notes were made about significant concepts or keywords used by the informants (Bryman 2004). Different concepts or phrases to describe almost the same phenomenon were put in the same code. Meanwhile, the codes were compared with the existing literature to see if there was any relation and if there were any connections between the codes (ibid). Reflecting on the importance of the findings for the research questions, the coding did also serve as a base for the division of the chapters in FINDINGS.

3.4. SECONDARY SOURCES

Alongside the distant semi-structured interviews, the collection of secondary data was carried out. Since the informants eventually were eight, it was plausible to complement with

⁴⁵ All the interviews are inserted in REFERENCES > INTERVIEWS. Four of them are left in their original language Spanish but when cited in the text they are translated to English with the informants consent.

information from secondary sources as literature and reports from Guatemalan women's organizations. For example, Guatemalan Women's Group (GGM) has a relatively good webpage: www.ggm.org.gt, where they publish reports, and since recently they publish an analysis of each month's femicides.

Although, only sources written after the adoption of the law in 2008 could be used to understand the impact of the law, there was arguably enough reliable and valid data for the scope of this thesis. Arguably, because most secondary sources were collected from organizations problematizing the current situation for women in Guatemala, which means that there is a probability of bias as to criticism against the law's impact until now. To balance the secondary data, documents concerning the implementation of the law were also searched for at Guatemala's government's webpage without mayor achievements. However, since this study is qualitative, the main responsibility lies with the author to interpret the data.

There are several benefits in using secondary sources, especially when the research considers a different country. For example, it saves you time, costs and practical difficulties that can result from collecting first-hand data yourself (Bryman 2004). It also gives the opportunity for longitudinal research, i.e. the possibility to analyze trends over time, which would not have been possible if only collecting primary sources once (ibid). It also gives time to truly analyze the data: "Making data available for secondary analysis enhances the possibility that fuller use will be made of data" (Bryman 2004, p.205).

However, there are also limitations. Firstly, when oneself does not collect the data, a period of familiarization with the data is necessary, especially when the data is large and complex (ibid). It is argued that secondary analysis offers the opportunity to examine data of far higher quality than oneself could collect, but nonetheless, secondary data's quality can never be taken totally for granted (ibid). Large and complex data and a quality that cannot be taken for granted were also experienced when collecting the following sources used to evaluate the impact of the law.

3.4.1. STATISTICS

Statistical records were used as a complement to the distant semi-structured interviews and the secondary sources already mentioned. Since this thesis is based on qualitative methods, the statistics are seen as an indicator rather than an authentic representation (Bryman 2004). Statistics concerning crimes have been in particular focus of attention among critics of the use of official statistics since they can be very misleading (Bryman 2004). This is because they

only record those individuals who are processed by the agencies that have the responsibility for compiling the statistics (ibid). Generally, the implications of this process for the crime rate and for criminal statistics are according to Bryman (2004) that a substantial amount of crime undoubtedly goes unrecorded as a result of not coming to the attention of the public; that acts are not being recognized as criminal; or not being reported; that decisions regarding police surveillance may result in some crimes being given lower priority and so on (ibid). In other words, given the situation presented earlier in Guatemala on VAW, it is arguable that there is a high amount of unrecorded crimes i.e. ‘the dark figure’ (Coleman and Moynihan 1996).

Article 20 of the Law in Guatemala states that The National Institute of Statistics (INE) is required to establish a *National System of Information on Violence Against Women*, which has to generate statistical information about VAW. This exists today, and consists of thirteen member institutions. One of the member institutions is the Legal System itself, which e.g. CENADOJ⁴⁶ and CIDEJ⁴⁷ are part of. When searching for statistics, as the amount of femicides, reported crimes and sentences convicted since 2008, an array of different statistics was found. This is due to the variety of authorities that try to keep a statistical record including the Legal System, the National Civil Police (PNC), as well as organizations as GGM. The main problem was not that there are many, but that the statistics revised were not consistent. Fortunately, this thesis does not hinge upon the statistics as they are seen more as an indicator of the situation and a complement to the other sources.

However, eventually some decisions had to be taken, as to not use PNC’s statistics after learning that the majority of the people who work there today, also worked for the police during the internal armed conflict (1960-1996) and the police together with the Guatemalan Army was as earlier mentioned, responsible for 93 percent of the atrocities during the conflict (CEH 1999 cited in Sanford 2008; and Weber 2012). After conducting the interviews, it seemed that GGM, part of REDNOVI, has worked as an informal “coordinator” for attempting to create a synchronized statistical registry. Even if they have not been recognized as such, the statistics revised shows that GGM processes statistics from several authorities within the Legal System as well as from articles in the media. So the statistics used in the thesis are mainly extracted from GGM’s statistical records complemented with statistics from the Legal System’s different administrative subunits.

⁴⁶ National Centre for Juridical Analysis and Documentation

⁴⁷ Centre of Information, Development and Judicial Statistics

To create a chart of the amount of denounces and sentences in the Guatemala's courts between 2008 and 2013 research was made on the internet, but after not finding enough reliable data I took direct contact with CENADOJ and GGM. Thanks to Victoria Noemí Chanquín Miranda, Coordinator of the Investigation Program at GGM and Rubén Aníbal Berganza Juárez at CENADOJ I got this information sent by e-mail. Efforts have been made to find the same statistics on the Internet without success. To compile the chart of femicides during 2008 and 2013, available statistics were found on INACIF's⁴⁸ webpage, which were used to complement the processed statistics from GGM.

3.5. ETHICAL CONSIDERATIONS

As can be seen in the interview questions (see INTERVIEW GUIDE in Annex 6) the interview participants were informed about the possibility of being anonymous. Even so, everyone except one filled in their name, profession and reason for why they were involved in this issue. However, there is a possibility that this thesis is published on the webpage of the Institution of Global Studies and then there is the matter of *reuse* of the qualitative data, which leads to ethical problems associated with the promise of confidentiality (Bryman 2004). Still, when explaining this problematic to the informants in a new e-mail no one decided to change their status. With this new e-mail, the parts where they are mentioned were also sent in order to control that their answers were represented in a reliable way.

Statistics were used to complement the qualitative data and according to some feminists it can turn women into objects (Bryman 2004). Yet, there is also a recognition that many of the worst excesses of discrimination against women might not come to light without statistics (ibid). This recognition is also made in this thesis. Even if it were difficult to name murdered women as numbers...

They are not statistics; they are brave women who lost their lives violently, leaving a huge emptiness in their beloved ones and in the Guatemalan society⁴⁹ (GGM webpage n.d.).

... it would be challenging to understand how widespread femicides are without them.

⁴⁸ National Institute of Forensic Sciences of Guatemala

⁴⁹ "No son estadísticas, son mujeres valiosas que perdieron la vida violentamente, dejando un enorme vacío en sus seres queridos y en la sociedad guatemalteca" (GGM webpage n.d.)

3.6. CRITICISM OF SOURCES AND METHODOLOGY

The main criticism of the sources, excluding the criticism mentioned in the statistical part, ought to be that none of the distant interviews were carried out with respondents i.e. persons directly affected by the law. These would have been women who have been exposed to any of the violence stated in the law and have denounced it to Courts or Specialized Courts for these types of crimes, and know personally how the law has been implemented. For example, if their reports of abuse were taken seriously, and if they got the guaranteed integral and legal assistance free of charge, and the information guaranteed in the law, etc.

However, some of the people who have had the possibility to answer my questions are part of grassroots organizations in Guatemala. By certain academics, trying to understand the complexity of power relations in violence and conflict, it is in the grassroots where the practical knowledge resides. For example Lederach (1997) argues that there are three kinds of actors: top leadership, middle-range leadership and grassroots leadership. The first two include the military, political leaders, academics, respected leaders in different sectors and NGOs like the UN (Lederach 1997). Grassroots leadership include most people from the society involved in various local communities, smaller NGOs etc. and herein are the persons who have the possibility to directly see the disagreement among people, in contrast to the leaders in the first two types of actors (ibid). Nonetheless, being part of the grassroots also means that it is difficult to be neutral, to not take a stand when understanding the root causes, seeing the everyday incidences and trying to find solutions, which can affect the validity of the documents (Bryman 2004). For this reason, to balance the answers, also scholars in the subject were searched for through the LASA Gender Section group. As well as documents from the government of Guatemala. The method of triangulation was also used: to use more than one method or source of data, in this case, interviews, secondary sources and statistics to crosscheck the findings, which increases the reliability of the findings (Bryman 2004).

Nonetheless, the main bias in this qualitative thesis lies within myself. As author I am part and parcel of the specific knowledge produced in this text (Bryman 2004). The main concern with this according to me, being in a said “epistemological privileged position” in the so called “West”, is that someone would perceive this thesis as having a positivist usage of “collective oppressed women” in a so called “underdeveloped country” in the so called “Global South/Third World” (Spivak 1994). Aware of postcolonial and postcolonial feminist criticism, it can be highlighted that Guatemala (which historically has been oppressed by

Spain and later used, as part of Latin America, as the “backyard” of the U.S.⁵⁰) is seen as an example in trying to understand and prevent VAW. More specifically, the work of different strong women’s organizations is seen as an example. The expectation of this thesis is merely to generate an increased understanding of VAW, femicides and on top-down measures to prevent it.

4. THEORY AND ANALYTICAL FRAMEWORK

The following section presents the theory and analytical framework that will permeate both the findings and the discussion to facilitate its understanding. Theories concerning VAW from global organizations as the United Nations and the WHO will be synthesized with Johan Galtung’s theory of violence and peace (1969; 1990). The coherence of this synthesis (Bryman 2004) sustains on the idea that feminism and peace studies have certain characteristics in common. “Galtung’s theory of violence offers theorists and practitioners in the field of violence against women a framework within which violence against women can be seen in the larger context” (Confortini 2006, p.356). However, to look at some implications with this relation see section 1.4.1. GENDER.

The sections in this chapter will be outlined as following:

- Globally agreed links to VAW. Different levels of VAW; direct violence; structural/institutional violence and cultural/societal violence.
- A discussion of Galtung’s theory of violence followed by the expected outcome of legislation on VAW and femicides.
- A final theoretical framework of the key concepts used to facilitate the understanding of the findings.

4.1. DIFFERENT LEVELS OF VIOLENCE AGAINST WOMEN

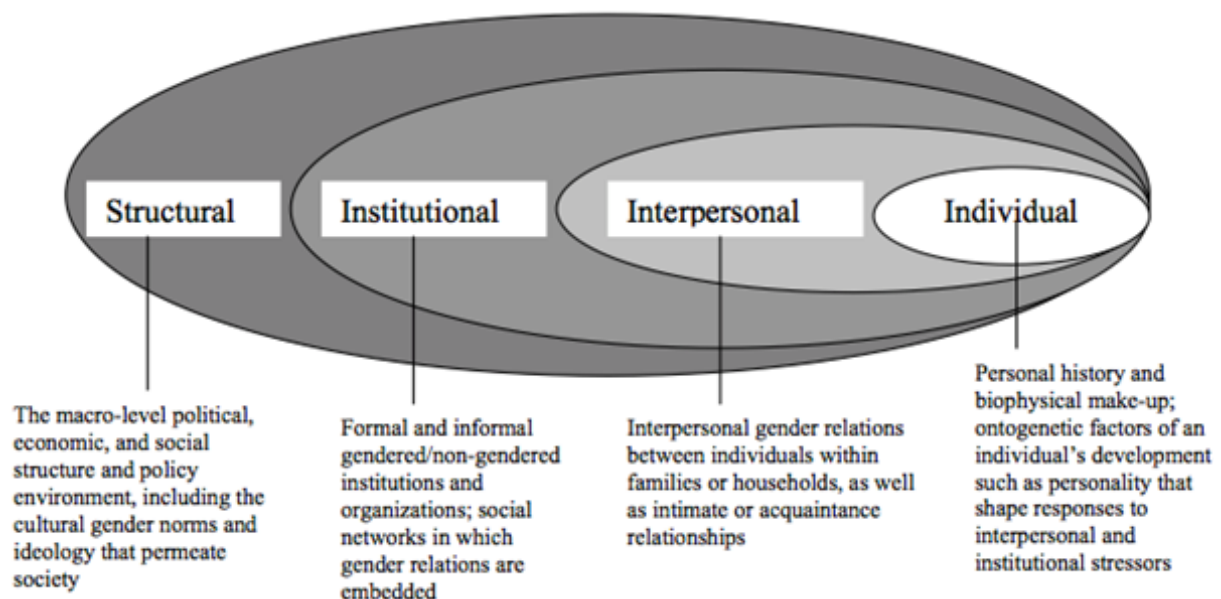
In 1981, The UN *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) entered into force and brought into climax the efforts to codify comprehensively international legal standards for women (UN Women 2009)⁵¹. CEDAW’s general recommendation No. 19, from 1992, established that *all forms of VAW constitutes a form of gender-based discrimination*, and that discrimination is a major cause of such violence (Recom. 19. n.d.). Another key link was made at the World Conference on Human

⁵⁰ Livingstone 2009.

⁵¹ To see an historical overview of some of United Nations’ instruments of law, policy and practice to reach women’s right to a life free from violence see Annex 4.

Rights in Vienna in 1993, where women’s movement urged to redefine the outlines of human rights law to include the experiences of women (UN 2006). They presented almost half a million signatures from 128 countries demanding that such violence be recognized *as a violation of women’s human rights* (ibid.). According to the UN (2006) the human rights framework provides access to a number of tools and mechanisms that have been developed to hold States accountable which include the human rights treaty bodies and international criminal tribunal. After the Conference in Vienna 1993, the General Assembly adopted the *Declaration on the Elimination of Violence against Women*.⁵² The Declaration identifies three⁵³ main spheres where different types of VAW occur, these are: in the family, in the community and violence perpetrated or overlooked by the State (UN 2006). These main spheres resembles to the levels defined by Moser and Clark (2001) which include: VAW at an individual, interpersonal, institutional and a structural level (see Figure 2)

Figure 2. Causal factors to VAW: structural, institutional, interpersonal and individual



Source: Moser and Clark 2001, p.40

Moser and Clark (2001) advocate for the use of the multidimensional notion of *continuum* as a tool when analysing VAW, not only because the violence increases continually until it turns deadly, but also because it integrates causal factors in all those levels (Moser and Clark

⁵² A further outcome of the conference was the application by the Commission on Human Rights of a Special Rapporteur on violence against women, its causes and consequences. This mandate created an institutional mechanism for regular in-depth review and reporting on VAW around the world (UN 2006).

⁵³ According to the Special Rapporteur (2012) there is also a 4th main sphere for VAW that is not possible to analyse in the scope of this thesis: "violence that occurs in the transnational sphere" (Manjoo 2012, p.3).

2001). In other words, the discrimination and violence that is reflected in femicides can be understood as multiple circles intersecting with each other on different levels. These levels and the spheres from the *Declaration on the Elimination of Violence against Women* are similar to the *types of violence* that one of the best-known peace and conflict researchers, Johan Galtung, has recognized, which are: *direct, structural and cultural violence*. Galtung sees a basic time relation in the three concepts of violence, where direct violence is an *event*; structural violence is a *process* with ups and downs; and cultural violence is an *invariant*, a ‘permanence’ remaining essentially the same for long periods (Galtung 1977 cited in Galtung 1990). According to Galtung, cultural violence is most often the *legitimizer* of both direct and structural violence. “Generally, a causal flow from cultural via structural to direct violence can be identified” (Galtung 1990, p.295). To facilitate the review of the three theoretical frameworks presented they are synthesized in Table 1.

Table 1. Synthesized theoretical framework on different levels of VAW

Johan Galtung’s theory (1969; 1990) Types of violence:	UN Declaration on the Elimination of VAW (1993) Spheres of violence:	UN Special Rapporteur on VAW (2012) Causal factors of violence:
Direct violence	In the family	Individual factors
Cultural violence	In the community	Interpersonal factors
Structural violence	Violence by the State	Institutional/Structural factors

Despite their similarities, the types of levels are not horizontally equivalent, for example structural and cultural violence can permeate violence in the family, in the community and by the state. Those two types can also cause individual and interpersonal factors of violence. However, drawing from these three similar, but different, frameworks, VAW will be further framed as: direct; structural/institutional; and cultural/societal violence.

4.1.1. DIRECT VIOLENCE AGAINST WOMEN

Direct violence includes a *subject*, an *object* and an *action* (Galtung 1969). Commonly identified forms of direct VAW occur frequently within the family and include a wide range of acts⁵⁴. The following section focuses on intimate partner violence (IPV), commonly

⁵⁴ Violence within the family includes inter alia: “...battering and other forms of intimate partner violence including marital rape; sexual violence; dowry-related violence; female infanticide; sexual abuse of female children in the household; female genital mutilation/cutting and other traditional practices harmful to women; early marriage; forced marriage; non-spousal violence; violence perpetrated against domestic workers; and other forms of exploitation” (UN 2006, p.37)

referred to as domestic violence⁵⁵, since it is the most common form of direct violence experienced by women globally according to the UN and the WHO (Krug et al., 2002; UN 2006; Manjoo 2012). Herein lays one of the foundations for the statement that women and men experience, and are subject to, violence in different ways. According to a UN report, female homicide rates are more likely to be driven by this type of violence than by organized crime-related homicide that more often affects men (UNODC 2011). According to the WHO *World Report on Violence and Health* (2002), men are much more likely to be attacked by a stranger or acquaintance than by their wife or female partner (Krug et al., 2002; Manjoo 2012). The home is thus where women are most likely to be killed, whereas men are more likely to be murdered on the street (UNODC 2011). The condition that women are often emotionally involved with and economically dependent on the man that victimizes her has further implications for the dynamics of the abuse and the approaches to deal with it (Krug et al., 2002). Furthermore, direct VAW becomes easier to carry out when societal norms and legal systems do not treat it as a crime, but rather as a private family matter or a normal part of life (WHO n.d.).

4.1.2. STRUCTURAL VIOLENCE AGAINST WOMEN

According to Galtung, indirect violence⁵⁶ can be linked to structural violence, where the consequences cannot be traced to persons as actors (Galtung 1969). Violence without the subject-object-action relation is thus structural. The violence is “built into structure” and shows up as unequal power, and consequently as unequal life chances (Galtung 1969). This happens when *resources* are unevenly distributed as: income, literacy/education, medical services - that are existent in some districts and for some groups only, and so on (ibid.) These rank dimensions tend to be heavily correlated due to the way they are tied together in the social structure (ibid.). Above all, structural violence, or social injustice, occurs when the *power to decide* over the distribution of resources is unevenly distributed:

The archetypical violent structure, in my view, has exploitation as a center-piece. This simply means that some, the topdogs, get much more (here measured in needs currency) out of the interaction in the structure than others, the underdogs (Galtung 1978 cited in Galtung 1990, p.293)

⁵⁵ IPV is commonly referred to as spousal abuse as well, but since the research has expanded to capture the experience of women in intimate relationships beyond formal marriage the term will not be used in this thesis.

⁵⁶ When *resources are channeled away* from constructive efforts to bring the actual act closer to the potential act (Galtung 1969, p.169).

When women do not have equal power to men, equal life chances, access to resources and to the power to decide, they are discriminated by ‘someone’. According to Galtung, ‘discrimination’ is a label for structural violence (Galtung 1990). In 1981, CEDAW made clear that all forms of VAW fall within the definition of discrimination against women. This implies that the UN sees VAW primarily as a structural issue. This will be further analyzed in the discussion of the findings.

Institutional violence against women is present in States’ responses to the killings of women and can include: lack of access to justice and effective remedies, tolerance, the blaming of victims, negligence, threats, corruption and abuse by officials (Lagarde y de los Ríos 2010). Under this scenario, VAW becomes institutionalized, and femicide becomes a State crime, tolerated by public institutions and officials. This due to the inability or lack of will to prevent, protect and guarantee the lives of women who have experienced multiple forms of discrimination and violence throughout their lifetime (Ibid.). Rather than serving isolated or individual purposes, such violence follows institutional logic to delineate and sustain hierarchical social relations (Hutchinson 1999). The UN *In-depth study on all forms of violence against women* (2006) contends that the State plays a key part in the construction and maintenance of gender roles and power relations.

State inaction with regard to the proper functioning of the criminal justice system has particularly corrosive effects as impunity for acts of violence against women encourages further violence and reinforces women’s subordination (UN 2006, p.34).

4.1.3. CULTURAL VIOLENCE AGAINST WOMEN

For Galtung (1990), violence studies in general are about two problems:

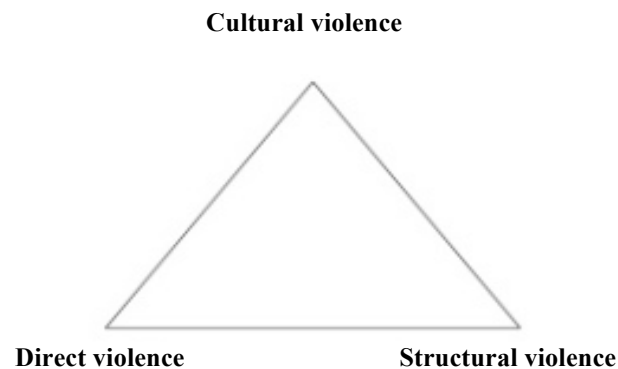
1. The use of violence and
2. The legitimation of that use

According to Galtung, it is not possible to classify entire cultures as violent (Galtung 1990). Saying “culture A is violent” would thus create a cultural stereotype (ibid.). By cultural violence, Galtung means those aspects of culture, the symbolic sphere of our existence, as religion and ideology, or language and art, like e.g. media glorification of violence – that can be used to justify or legitimize direct or structural violence (ibid.).

The culture preaches, teaches, admonishes, eggs on, and dulls us into seeing exploitation and/or repression as normal and natural, or into not seeing them (particularly not exploitation) at all (Galtung 1990, p.295).

By this, cultural violence makes direct and structural violence feel legitimate, by changing the morality of an act from wrong to right or at least acceptable (Galtung 1990). For example ‘to murder on behalf of oneself is wrong’ but ‘to murder on behalf of the country is right (ibid). Galtung’s types of violence: direct-, structural-, and cultural violence are put in a triangle (see Figure 3).

Figure 3. Johan Galtung’s triangle of violence: direct-, structural-, and cultural violence.



When the triangle is put on its direct- and structural violence feet, the image shows cultural violence as the legitimizer of both (Galtung 1990). When the culture preaches, teaches and renders invisible the violence or make us believe that the violence is acceptable, an eruption will eventually occur – “the efforts to use direct violence to get out of the structural iron cage, and counter-violence to keep the cage intact” (Galtung 1990, p.295). One reaction is thus direct violence but there can also be a feeling of hopelessness and frustration over deprivation of resources for ‘the underdogs’. Both direct and structural violence create needs-deficit which can become a trauma, and if it affects a group it becomes a collective trauma that can show up inside as aggression or apathy and withdrawal (Ibid). A major form of cultural violence created by ruling elites ‘the topdogs’ is to blame the victim of structural violence - the one who throws the first stone to get out of the iron cage - by stamping him or her as an aggressor (Galtung 1990). The psychological mechanism that legitimizes this violence would be internalization (ibid).

Cultural justifications for VAW usually follow from notions of the traditional gender roles between men and women. In many settings women are expected to look after their homes and children, and show their husbands obedience and respect (Krug et al., 2002). From a multinational study, wife beating is largely regarded as a consequence of a man’s right to inflict physical punishment on his wife (ibid). As the author in one country of the study stated,

“Beating a wife to chastise or to discipline her is seen as culturally and religiously justified... Because men are perceived as the ‘owners’ of their wives, it is necessary to show them who is boss so that future transgressions are discouraged” (author cited in Krug et al., 2002: 95). These transgressions means to not behave as the feminine gender “should” behave. When women is subjected to violence for transgressing social norms (that govern sexuality and family roles), the violence cannot only be defined as direct violence, because through its punitive and controlling functions, it also reinforces prevailing gender norms (UN 2006).

In one of Rona M. Fields earlier books, *The Future of Women* (1985), she listed eight geopolitical and social conditions that are predictive of women’s status (Fields 2013). These principles derived from Fields historical research and studies of the reports and the proposals that were submitted to the United Nations *Decade for Women 1976-1985*⁵⁷. According to Fields, these predictors are useful in revealing where gender genocide⁵⁸ will occur. Five of the eight predictors have been chosen relevant to this thesis (see Table 2).

Table 2. Geopolitical and social conditions predictive for women’s status

1. Women’s position is always directly related to the society’s social and political conditions. Unrest, disorder, or distress in a society, will especially adversely affect women.
2. The status of women is a function of that society’s definition of marriage and family, which are defined by childbearing/rearing practices.
4. In most countries, rape, kidnapping, and enslavement have been used to control and terrorize women.
6. The subordination of women is worse within groups that are themselves oppressed. In such instances men are put in subordinate positions in relationship to other men, which slights his masculinity, and he seeks to restore it through sexual domination of women in his group.
8. The status of women is adversely affected by wars and violence. These glorify the stereotypical qualities of masculinity, but further restrict women to the role of breeder and feeder, because of the threat to the survival of the group. Furthermore, wars and violence require a psychological dehumanizing of the enemy and, in particular, of the women of the enemy society.

(Fields 1985 cited in Fields 2013, pp.3)

Every predictor can be related to Guatemala during the internal armed conflict but also today. Efforts to uncover the factors that are associated with VAW and that hinder measures to prevent it, should therefore be situated within this larger social context of power relations.

⁵⁷ The United Nations *Decade for Women* objectives’ were: equality, development and peace (UN 2006)

⁵⁸ In this context: to destroy women as a social group in society.

According to Lagarde y de los Ríos (2006), femicide is formed as *social* VAW. Society has accepted that there is violence against women and ignores, silence, devalues and trivializes violence against women (Lagarde y de los Ríos 2006). The culture reinforces this violence as natural, with a constant reinforcement of images, approaches, explanations that legitimize the violence, which makes it an illegal but legitimate violence (ibid.).

4.2. GALTUNG'S THEORY ON VIOLENCE

Galtung argues that violence can start in any corner in the direct-structural-cultural triangle (Galtung 1990). A violent structure can become institutionalized as well as direct violence, which can become repetitive, ritualistic – almost like a vendetta, while cultural violence becomes internalized (Galtung 1990). However, the triangular syndrome of violence should be contrasted with a triangular syndrome of peace in which cultural peace produces structural peace, with reciprocal, equitable relations among diverse partners, and direct peace “with acts of cooperation, friendliness and love” (ibid.). This would be obtained, according to Galtung, by working on all three corners at the same time, not assuming that change in one type will automatically lead to changes in the other two (ibid.). To solely address direct violence would be achieving a ‘negative’ peace, since a society cannot be called peaceful unless also unjust economic and political structures and unjust relations are addressed and removed. In order to reach a complete ‘positive’ peace a strategy that integrates the whole society is necessary (Galtung 1964).

Ethical systems directed against intended violence will easily fail to capture structural violence in their nets – and may hence be catching the small fry and letting the big fish loose. From this fallacy it does not follow, in our mind, that the opposite fallacy of directing all attention against structural violence is elevated into wisdom. If the concern is with peace, and peace is absence of violence, then action should be directed against personal as well as structural violence (Galtung 1969, p. 172).

According to the UN *In-depth Study on All Forms of Violence Against Women* (2006), the expected impact/outcome of legislation on VAW is to establish standards of ‘right and wrong’ and to prevent wrongdoers through arrests, prosecution and punishment of perpetrators (UN 2006). Legislation does also provide access to justice and can mandate the allocation of resources to provide remedies, and establish services for survivors (ibid.). Drawing from Galtung’s theory, this means that the first expected outcome from a law is to prevent direct violence by sanctioning ‘wrong’ behavior through arrest, prosecution and punishment. Secondly, if the implementation of the law is effective, to prevent cultural

violence by raising awareness about what is ‘right and wrong’. In other words, the expected outcome of laws on VAW is for violence to decrease or end. This assumes however, that there already is an absence of structural violence i.e. that there is a functioning judicial system from the beginning that can exercise justice, allocate resources and provide remedies. According to the UN study, laws alone are insufficient, and need to be part of a broader effort that encompasses public policies, public education, services and violence prevention etc. (UN 2006). A list of these principles that the UN suggests should follow laws to give them greater potential to address VAW can be found in Annex 5.

4.3. THEORETICAL FRAMEWORK

The key concepts from this chapter that will be used in the findings and discussion are firstly, that *all forms of violence against women are a violation of women’s human rights*. The law that is put under scrutiny in this thesis includes five types of violence (excluding femicide); violence against women; economic violence; physical violence; psychological or emotional violence and sexual violence (see Annex 1 Chapter 4). However, when presenting the amount of denounces on violence against women, all forms of violence will be presented under “violence against women” without distinction. Secondly, Galtung’s different types of violence will permeate the whole chapter of FINDINGS AND DISCUSSION, specially to understand if the law has had impact on all three levels; *direct, structural and cultural* violence.

5. FINDINGS AND DISCUSSION

In the following sections, findings in the data concerning the impact of the *Law Against Femicide and Other Forms of Violence Against Women* (2008) in Guatemala are presented. As well as a discussion related to the theory and the analytical framework on the possible factors that have influenced such an impact.

5.1. THE IMPACT OF THE LAW

During the five years that the law has existed it has had both positive and negative impacts. To look at some concrete positive examples, the law outlines several measures⁵⁹ to create a model of justice specialized in VAW (REDNOVI interview 26-01-2014). These include, the creation of Specialized Courts and tribunals trained for these crimes, prosecutors for women,

⁵⁹ See Annex 1 and Annex 2

the systematization and publication of statistical information through an inter-institutional coordination, and the management of CAIMUS⁶⁰ by specialized employees (Chanquín Miranda interview 08-01-2014; REDNOVI interview 26-01-2014).

According to one informant, the approval of the law has been “a historic conquest for women”⁶¹ (Chanquín Miranda interview 08-01-2014). As one of the law’s main outcomes, it has made the problem of VAW *visible* (Morales Trujillo 2011; Rodríguez Baldizón interview 17-12-2013). The violence has become visible for many reasons; firstly, VAW was not considered a crime before the law (REDNOVI interview 26-01-2014) and now the history of VAW and femicides in Guatemala has gained more recognition by the same Guatemalans, as well as by the international community (Costantino interview 03-12-2013). Secondly, it has taken a legislative step from the normative that blamed the female victim for provoking her own death and that saw VAW as something natural (Morales Trujillo 2011; REDNOVI interview 26-01-2014). If this has made any changes in practice concerning the “blame the victim mentality” will be further analyzed in the following sections. However, the legislative step has made that violence within the family declines in being considered private and unreachable for the purview of the State (Rodríguez Baldizón interview 17-12-2013). The approval of the law managed to get VAW to be included in public politics and inserted into the conception of what is public and concerns each and everyone (ibid). Thirdly and most important, it has started to change the consciousness of women who are aware of the law’s existence (Lemus B. interview 08-01-2014). Women who do not longer permit that institutions ignore their issues (Costantino interview 03-12-2013). “The existence of the law has enabled that some women survivors of violence are empowered and recognize that they have certain rights”⁶² (Lemus B. interview 08-01-2014).

Primarily, the main right that the law has illuminated many women with is “the right to have a life free of violence”⁶³ (Chanquín Miranda interview 08-01-2014). In other words, this means to have awareness that being exposed to violence is wrong, which in a way can be showed by denounces of violence. According to the General Attorney in Guatemala, VAW is now the crime that is reported second most frequently (REDNOVI interview 26-01-2014). In a document from the government of Guatemala, promoting the culture of denouncing remains a priority issue for the authorities of the Central American country (Guatemala.gob.gt 2013).

⁶⁰ Integrated Support Centres for Women Survivors of Violence

⁶¹ “una conquista histórica para las mujeres” (Chanquín Miranda interview 08-01-2014).

⁶² “La existencia de la ley, ha posibilitado que algunas mujeres sobrevivientes de violencia se empoderen y reconozcan que tienen ciertos derechos” (Lemus B. interview 08-01-2014).

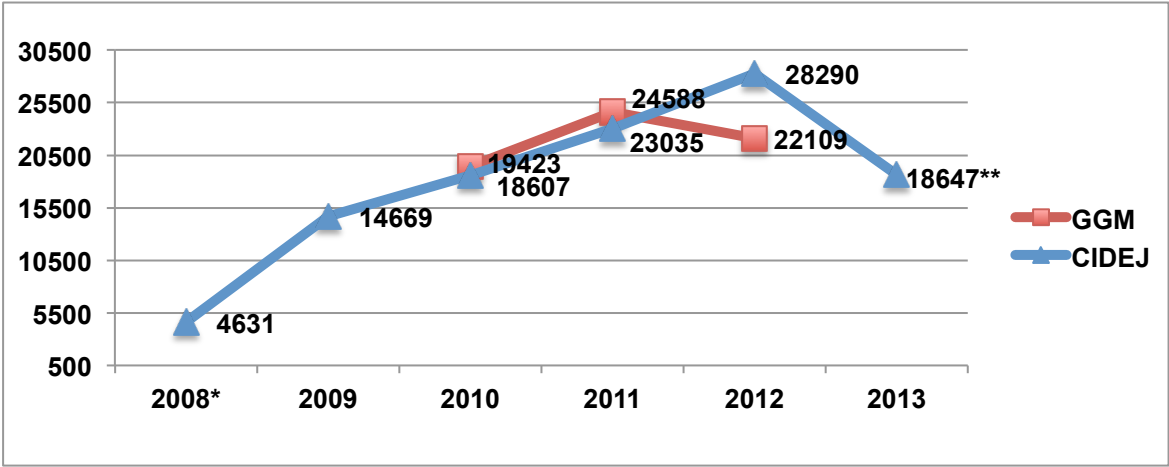
⁶³ “el derecho a una vida libre de violencia” (Chanquín Miranda interview 08-01-2014).

However, when the awareness creates hope for justice, and the process then gets delayed, it changes to a feeling of hopelessness (Lemus B. interview 08-01-2014). One of the findings with the law is that there are many women who give up the criminal proceedings (ibid). This will be further discussed in following sections.

5.1.1. DENOUNCES

The following section looks at the amount of denounces that different courts (including Specialized Courts) in Guatemala have received for crimes recognized in the law between 2008 and 2013. As mentioned in the METHODOLOGY, there are challenges in the collection and the evaluation of this type of data, which is visible in Guatemala. However, it is helpful to keep in mind, as Carlos Castresana Commissioner of CICIG pointed out: “under-reporting results from the existence of barriers, not from a lack of will on the part of the victims and their families” (Musalo, Pellegrin and Roberts 2010). However, available statistics in Guatemala indicate that the number of women who denounce abuse has increased vastly since the implementation of the law (see Chart 1.).

Chart 1. Received cases by Guatemala’s courts for crimes recognized by the law 2008-2013



Sources: GGM 2013a and CIDEJ 2013⁶⁴

The difference between the two sources in Chart 1 is that GGM and CIDEJ include different types of Courts that exist in Guatemala⁶⁵ and different types of violence⁶⁶. For example for

⁶⁴ GGM 2013a, data prepared by GGM with data from "Statistical Format Penal-2" for the Ordinary Courts and "Statistical Format Penal-2FEM/VCM" for Specialized Courts, provided by CENADOJ. GGM's data from the Peace Courts, the Ordinary Courts and the Specialized Courts for each year have been added by the author. CIDEJ 2013, Statistical format Penal-2. (considers both denounces from women and girls)

* The law was implemented in April and the amount is thus partial for the entire year of 2008.

** Data is from the 3rd. trimester of 2013 and thus partial since information was still entering.

⁶⁵ GGM does also include the cases received by the Specialized Courts for this type of violence.

2008, CIDEJ only counts two types of VAW and in 2011 and 2013 it counts with six, respectively eight types of violence. Nonetheless, the first conclusion drawn from this chart is that it indicates an increase in women who have reported abuse. This suggests that the law has empowered women with the knowledge that they have a right to struggle against violence and the awareness that it is possible to report it.

5.1.2. SENTENCES

In the following section, the amount of sentences dictated (in the different courts of Guatemala) for the crimes recognized in the law between 2008 and 2013 are presented. The sentences dictated within the Guatemalan Legal System between 2008 and 2013 are starting to rise as can be seen here under in Table 3. However not in the same pace as the denounces.

Table 3. Sentences dictated by the Guatemalan Legal System 2008-2012

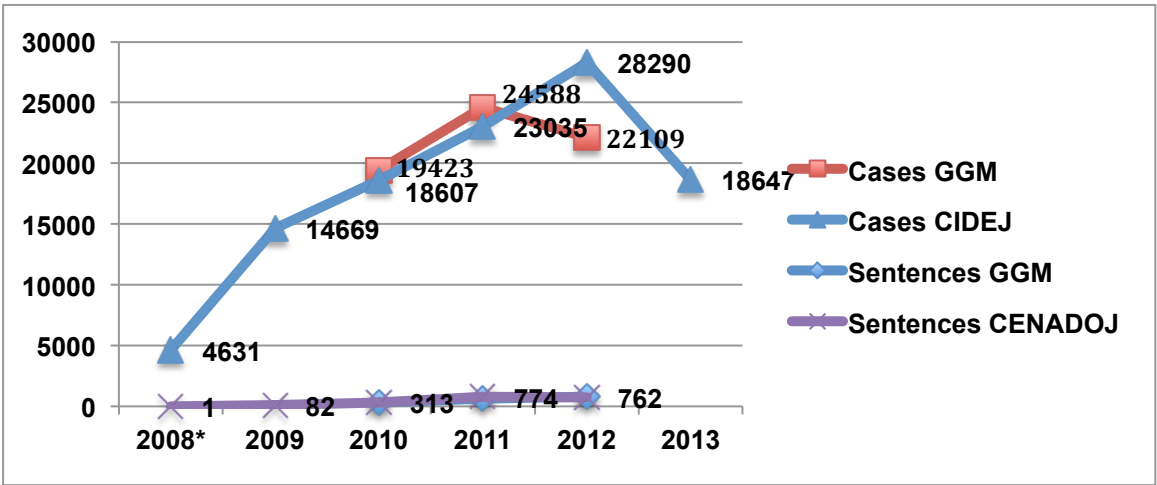
According to ↓	2008	2009	2010	2011	2012
GGM			314	659	776
CENADOJ	1	82	313	774	762

Sources: GGM 2013a and CENADOJ 2012⁶⁷

The law might have started to change women’s awareness, to know that they have the right to protection, but it does not seem to have had the same impact on Guatemala’s Legal System. Looking at a comparison between the amount of reports and the amount of sentences (see Chart 2 on the following page) the law risks remaining nothing but a symbolic empowerment for women.

⁶⁶ In the law five types of violence (excluding femicide) are defined; Violence against women; Economic violence; Physical violence; Psychological or Emotional violence; and Sexual violence (see Annex 1 Chapter 4).
⁶⁷ GGM 2013a, data prepared by GGM with data from "Statistical Format Penal-2" for the Ordinary Courts and "Statistical Format Penal-2FEM/VCM" for Specialized Courts, provided by CENADOJ. GGM's data from the Peace Courts, the Ordinary Courts and the Specialized Courts have been put together by the author. CENADOJ 2012, InfoEstadística 042, 043, 044. The amount of sentences between 2008-2010 are extracted from three different types of courts handling with, inter alia, VAW and femicides: the Courts of first criminal instances, drug-activity and crimes against the general public; the Tribunals of penal sentence, drug-activity and crimes against the general public; and Courts of first instances dealing with teenagers in conflict with the penal law. Statistics from the Specialized Courts for these type of violence were available in the same statistics for 2011 and 2012.

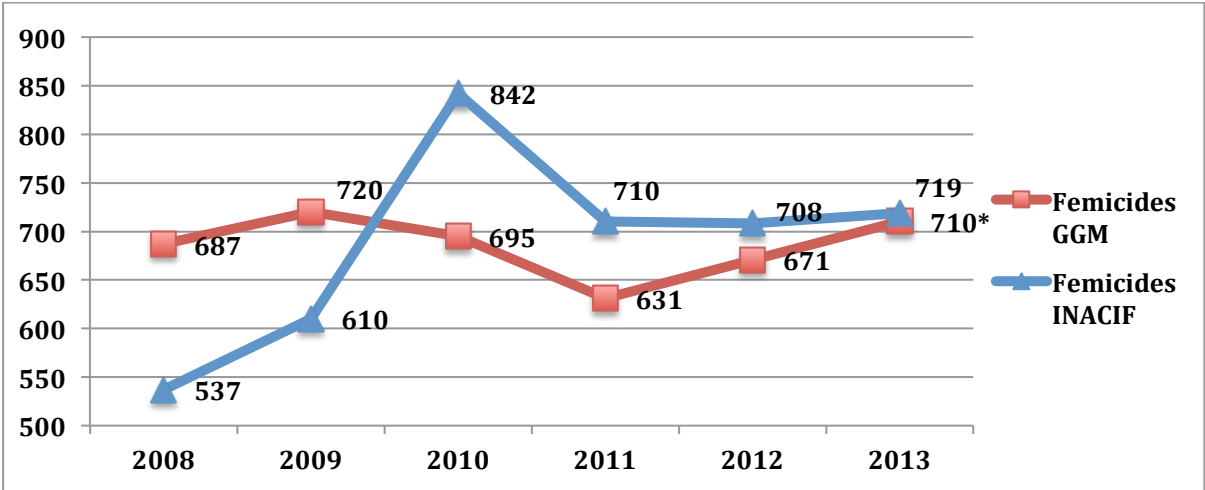
Chart 2. The amount of cases compared to the amount of sentences 2008-2013



5.1.3. FEMICIDIOS

A report from the GHRC (2009) stated, “The Femicide Law represents an important step in stemming the targeted and brutal murder of women” (GHRC 2009, p.1). Nonetheless, as of the year 2013, the femicide rate has remained the same and even increased during some years (see Chart 3).

Chart 3. Femicide rate in Guatemala 2008-2013



Sources: GGM 2013b; INACIF 2013⁶⁸

By the end of the year 2013, more than 700 women were murdered in a country of approximately 15 million inhabitants. This is almost 60 women every month; two women a

⁶⁸ GGM’s data from 2008-2011 is GMM’s elaborated data from PNC and CENADOJ (GGM2013b) and data from 2012-2013 was received by mail conversation with Chanquín Miranda (GGM 2013).
 * 710 femicides in GGM’s year 2013, is until November.

day. The average age of 72 percent of the women killed during 2013 were between 16 and 45 years (GGM 2013), which is the age that women are considered reproductive and are strongest to participate in the community or in the public sphere. Furthermore, the most outstanding is that almost all victims are killed by a firearm (INACIF 2013). According to Rodríguez Baldizón the militarization during the internal armed conflict and the culture of not fulfilling laws in Guatemala makes perpetrators aware of their possibilities to commit crimes against women without being sanctioned for it despite the new law (interview 17-12-13). Some scholars argue that it is the normalization of violence and rape during La Violencia that facilitates the brutal murder of women today (Sanford 2008; CEH cited in Carey and Torres 2010; Cházaro, Casey and Ruhl 2010). According to Alba Maldonado, Guatemala still needs to heal its wounds after the internal armed conflict in order to combat the culture of violence still existing (GHRC 2009). Until then, historical internalizations of gender roles and normalization of VAW will hardly disappear. Healing the wounds of the past could have been done if the state had followed the CEH's recommendation, to distribute the truth reports as widely as necessary to initiate a culture of dialogue in schools and universities (Morales Trujillo 2010). Other scholars argue that identifying La Violencia as the sole or primary catalyst of the gender-based violence ignores the greater historical trend of disregard for women's civil rights and VAW that dates back at least to the dictatorships of the early twentieth century (Carey and Torres 2010; Menjívar 2011).

It can also be argued that the law in certain ways follows patterns of traditional gender roles. While men are not mentioned directly in the law, by ascribing women a victim-role in need of protection, men are implicitly considered violent perpetrators. The law would thus confirm and contribute to the construction and reproduction of a hegemonic violent masculinity (Confortini 2006). Contribute to construct masculinity as violent could make men who are not, feeling condemned in advance. This could cause a frustration and a feeling of resistance towards the law, especially among men afraid of their privileges in patriarchy being threatened by this law. Moreover, according to REDNOVI, women's organizations that are working with the implementation of the law have begun to experience serious problems:

.../ currently we have serious problems and they have to do with the backlash that this government has given to the implementation of public policies on violence against women, we always welcome that others can be informed about this situation, unfortunately by defending the right of women to live free from violence, we are being persecuted, criminalized, illegitimated and brought before

the courts, that is why I say that the situation is complex now⁶⁹ (REDNOVI e-mail communication 01-02-2014).

Even the whole network of women's organizations, REDNOVI, was thrown out of the National Coordinator CONAPREVI the 23rd of November 2013 by the Government, and REDNOVI perceives it as part of the strategy to criminalize and silence REDNOVI for their insistent work to implement the law (REDNOVI e-mail communication 03-02-2014).

By going back to Galtung's theory on direct, structural and cultural violence, the law has not had the impact as to achieve its main purpose, to end direct VAW and its ultimate expression of femicides.

5.2. FACTORS THAT INFLUENCE THE IMPACT

The following sections will discuss more in-depth the possible factors that influence these findings in relation to the theoretical framework. However, it must be acknowledged that even though efforts have been made to delineate cultural and structural factors that legitimize and contribute to direct violence, it has been difficult to separate the different levels since they are closely interconnected in Guatemala.

5.2.1. PATRIARCHAL CULTURE

In this section some of the cultural factors found in Guatemala that legitimize the direct violence, and thus hinder a constructive implementation of the law, will be further discussed. According to Galtung, it is the cultural violence that makes direct and structural violence feel legitimate, by changing the morality of an act from wrong to right, or at least acceptable (Galtung 1990).

In a patriarchal society, the majority of the population accepts direct violence and discrimination against women:

Violence against women is a social illness that is found embedded in the roots of our society, a patriarchal society, a society where the domination of men and the subordination of women has conquered⁷⁰ (Rodríguez Baldizón interview 17-12-2013).

⁶⁹ /.../ en la actualidad si tenemos problemas graves y tienen que ver por el retroceso que este gobierno ha dado a la implementación de la política pública en materia de violencia contra las mujeres, siempre agradecemos se pueda informar a otras personas sobre esta situación, lamentablemente nosotras por defender el derecho de las mujeres a vivir libres de violencia estamos siendo perseguidas, criminalizadas, deslegetimadas y judicializadas, por ello te digo que las situación ahora es compleja (REDNOVI e-mail communication 01-02-2014).

⁷⁰ "La violencia en contra de la mujer es un mal social que se encuentra incrustado en las raíces de nuestra sociedad, una sociedad patriarcal, una sociedad en la que ha imperado la dominación del hombre y la subordinación de la mujer." (Rodríguez Baldizón interview 17-12-2013)

In Guatemala, gender roles are very visible: how a man should be, and the significance of being a woman (Costantino interview 03-12-2013). At the core of the role women play in the Guatemalan society, there is also an expressed “blame-the-victim” ingrained mentality (Barbosa interview 24-12-2013). A woman can for example be considered “a nobody” during the autopsy because she wore an umbilical piercing etc. (GHRC 2009), which means that the fashion of some young women, perceived as transgressing how the feminine gender “should behave”, is used as an excuse to not fulfil a correct investigation of many women’s murder. These attitudes do also affect the women’s families. According to Barbosa, there is still despite the law, an encompassing lack of respect for the victims’ and the families’ rights when it comes to these types of violence (interview 24-12-2013).

According to Costantino, the discrimination is also influenced by religious fundamentalists (Costantino interview 03-12-2013). Considering that the main religion in Guatemala is Roman Catholicism it is according to Guatemala’s Penal Code for example not legal for women to do an abortion, and the act can lead to three years in jail⁷¹ (Código Penal n.d.). Such a rule goes against the right of women’s freedom which is expressed in the present law, as well as to women’s Sexual and Reproductive Health and Rights (SRHR), which are stated in both CEDAW and the Convention of Belem do Pará (CEDAW n.d.; OAS n.d.). SRHR extend to the equal opportunities, rights and conditions of all people to be able to decide over their own bodies without coercion, violence or discrimination (MR n.d.). These patterns of patriarchal culture that see women as objects without human rights and own agency are continuously reproduced in Guatemala and permeate both media and education.

A report from 2008 estimated that 90 percent of over 3000 cases of violent deaths were depicted from a sensationalist perspective (GHRC 2009). To get a historical analysis of the processes through which media contributes to gender-based violence, see *Precursors to Femicide: Guatemalan Women in a Vortex of Violence* (Carey and Torres 2010). Today, five years after the law, femicide and VAW continues to rely on blood, gore, nudity and torture to sell to readers more interested in photos than analysis (Barbosa interview 24-12-2013; Menjívar interview 28-11-2013).

⁷¹ Guatemala’s Penal Code, Article 134 states, “The woman who causes the abortion or consents that another person causes it, shall be punished with imprisonment for one to three years. If she does it driven by motives that are closely related to her status, [that] it will undoubtedly produce psychic disturbance, the penalty will be six months to two years in prison” (Código Penal n.d., translated by the author).

The press, in print and virtually, needs to be less engaged in gore and be more ethically bound to defend women's rights and dignity publicly, in spite of what would be more profitable for the industry (Barbosa interview 24-12-2013).

In this way, Guatemalans who constantly re-view bodies of tortured women become bystanders to atrocity (Carey and Torres 2010). This imagery-normalization of the brutal murders contributes thus to create a 'compassion fatigue' – a public insensitivity.

According to several of the informants, the main approach to prevent gender-based violence is not solely through a law but through a multi-pronged approach, beginning with the education of children from an early age, to socialize them into gender equality (Menjívar interview 28-11-2013):

The emphasis of the law is on prosecution and criminal process, which is no doubt a major step towards combating violence against women, but is not paramount to prevent and educate about women's rights (Barbosa interview 24-12-2013).

Today, girls and boys grow up believing that a husband has a right to beat his wife (Video interview 2013). Domestic abuse is still so accepted and "hidden inside the four walls", that the government turns a blind eye, even to women in danger (ibid). Several denounces that should be considered as VAW are framed within the intra-family violence, which is still not considered a crime (REDNOVI interview 26-01-2014). It is preferred to resolve this violation of human rights by mediation and reconciliation, which makes several women remain without access to justice (ibid). There is still little education provided for primary prevention – to transform the sexist and patriarchal culture that permeates the subjectivities (Chanquín Miranda interview 08-01-2014). What is needed is a mentality shift in girls and boys from an early age, to deconstruct the stereotypes and sexual roles that have been constructed in persons through their homes (Rodríguez Baldizón interview 17-12-2013):

/.../ it should be built new patterns of social behaviour that safeguard and ensure respect for the human rights of people equally, and the consideration of women and men as beings who should be treated equally before the law and that should coexist on an equal basis of equal rights and opportunities⁷² (ibid).

However, not only children need awareness raising, the discrimination against women can be legitimized culturally but also manifest within the public sector who implement the law (Cosgrove interview 17-12-2013).

⁷² “/.../ se deben construir nuevos patrones de conducta social que salvaguarden y velen por el respeto de los derechos humanos de las personas por igual y de la consideración de la mujer y el hombre como seres que deben ser tratados de manera igual ante la ley y que deben convivir en pie de igualdad de derechos y oportunidades” (Rodríguez Baldizón interview 17-12-2013).

5.2.2. LACK OF RESOURCES AND AWARENESS RAISING

In the following section some of the structural factors found in Guatemala that hinder a constructive implementation of the law will be further discussed. According to Galtung, when the violence is “built into structure” it shows up as unequal power (Galtung 1969).

It was mentioned that the law outlined several measures to meet the obligations stated in the law, however according to the majority of the informants, numerous components of the law still need to be fully implemented. There is a need for more financial resources in the Legal System and in crime scene objective protocols to implement the law throughout the country for a more long-term implementation (Barbosa interview 24-12-2013; Cosgrove, interview 17-12-2013). According to Morales Trujillo (2011), there is still a lack of well functioning and well-trained Specialized Courts that can process the increasing number of denounces entering the Legal System (Morales Trujillo 2011; Rodríguez Baldizón interview 17-12-2013). There is also a lack of care services in many regions where women can get support, protection and justice, which ignores the diversity in the Guatemalan population and the monolingualism of many Mayan women (Morales Trujillo 2011). The financial and the awareness-raising aspects are discussed a bit more specifically hereinafter:

In Article 16 of the law, *it is obligation of the State to guarantee the access, the relevance, the quality and the financial resources, social and material, for the functioning of the CAIMUS*. Still, CAIMUS only exist in 7 departments of Guatemala's 22 departments and the Specialized Courts only operate in five (Chanquín Miranda interview 08-01-2014). In the bulletin: *Violence against women increase in the country: and the few responses from the state are being weakened*⁷³ (October 2013), GGM publicly requests a hearing to why the State has not fulfilled its agreement to provide the financial resources proposed for 2013. GGM coordinates five CAIMUS where more than 1900 women receive specialized integral support free of charge every month (GGM October 2013). Until recently, the CAIMUS have received financial support from the state but now the 1900 women survivors of violence risk not having this integral support due to the non-delivery of all resources allocated for 2013 (ibid). GGM recognizes the necessity of the State to *prevent* the violence, except they do not see how the State could do this by buying more weapons, but rather through political will to e.g. continue strengthening the already existing CAIMUS (ibid).

⁷³ Aumenta la violencia en contra de las mujeres en el país: y las pocas respuestas desde el estado se debilitan (GGM 2013c)

Similar patterns appear when looking at Article 18 *Training of officials by the State*. Much work remains in raising awareness among the very low levels of bureaucracy, as the officers who investigate the cases (Menjívar interview 28-11-2013). Often, failed judgments or prosecutions are affected by the subjectivities that still normalize VAW, which re-victimizes victims of femicide (family) and survivors of violence (Chanquín Miranda interview 08-01-2014). Some jurists also consider that a Specific Law for women is unnecessary because it already exists a Penal Code (ibid). They also use the juridical argument that the law contradicts the equality of sexes recognized in the Political Constitution of the Republic (Chanquín Miranda interview 08-01-2014). Then, there is still a resistance to apply the law leading to an ignorance of women's human rights and of gender conceptualizations, which prevents the right interpretation of the law (Morales Trujillo 2011). In theory, jurists must assume the fulfilment of the law and cannot ignore it, but in practice they can bring their prejudices and traditional stereotypes to the prosecutions (ibid). This attitude often discourages women from continuing the juridical process, as was previously mentioned (Morales Trujillo 2011; Lemus B. interview 08-01-2014).

According to several of the informants, there is a lack of political will to provide the necessary resources to handle the high level of complaint that exist every year since the entry into force of the law (Chanquín Miranda interview 08-01-2014). A first aspect concerning the statistics presented, is that they show a difficulty to get a reliable and clear overview of denounces, sentences and femicides occurred. According to Morales Trujillo (2011) having reliable data would make it possible to clarify how many women have died violently and the circumstances in which those crimes have occurred – and, therefore, to place greater emphasis on public policies to prevent femicides (Morales Trujillo 2010). According to her, by hindering a culture of reliable statistics state institutions show that they want to hide the reality of VAW (ibid). Since the ones who could hide this is not the perpetrators themselves, in fact, many female corpses are found in plastic bags on the streets easy to find (GGM 2013). The only ones who could try to hide this reality are state officials and actors in power of distributing information. It is evident that VAW in Guatemala is not just an individual problem but also something that permeates the culture and institutions. According to REDNOVI, due to the lack of political will on State level, all the sectors and institutions suffer from a lack of will, not only the Legal System, but also the security sector, the health sector, the education sector etc. (REDNOVI e-mail communication 01-02-2014).

In the THEORY, Table 2, number 6 it was mentioned that:

The subordination of women is worse within groups that are themselves oppressed. In such instances men are put in subordinate positions in relationship to other men, which slights his masculinity, and he seeks to restore it through sexual domination of women in his group (Fields 1985 cited in Fields 2013, p.3)

During the internal armed conflict, men reacted to sexual VAW in their community with a gesture of contempt and superiority to not admit their own shame. Today, even though the power relation between the indigenous population and the Ladino one has not been analyzed in depth in this thesis, there is another power relation worth discussing - the disparities of income distribution in Guatemala⁷⁴. According to Menjívar, Guatemala is one of the poorest countries in the hemisphere and in her book *Enduring Violence: Ladina Women's Lives in Guatemala* (2011) she argues that femicides should be seen in the light of *structural violence* that is expressed in gross inequalities embedded in social relations and institutions (Menjívar 2011). Could femicides then be considered an act of frustration from poor and thus financially oppressed men? In this case, the phenomenon leads back to the State again, since part of politics is the responsibility of redistributing incomes. The State of Guatemala, as most Latin American countries, has failed to perform a more fair income redistribution. According to Menjívar, the police and law enforcement agencies also need to start anew with better salaries and better education (Menjívar interview 28-11-2013).

The efforts that have been made have been great and the contributions have come from feminist women's organizations, but the State is the one that has not complied and has not taken responsibility for what it means to take care of, prevent, punish and eradicate violence against women⁷⁵ (REDNOVI interview 26-01-2014).

5.2.3. IMPUNITY

By presenting factors of cultural and structural violence that hinders a constructive implementation of the law, impunity for crimes committed against women is here presented as a consequence of both. Cultural violence as the patriarchy would make impunity for these crimes legitimate and accepted, and structural violence as lack of resources and debilitated institutions, would enable impunity to become the main outcome of the prosecutions.

⁷⁴ It has not been possible to analyze the characteristics of the Spanish colonization neither Guatemala's strategic geopolitical position for the global market of drugs and the "war on drugs" (Bullington and Block 1990) or the consequences of U.S. foreign policies and economic liberalization, so this will not be a discussion on how Guatemala stands in relation to other countries, but of the structural inequities within the country.

⁷⁵ Los esfuerzos que se han dado han sido grandes y los aportes han venido de las organizaciones de mujeres y feministas, pero el Estado es el que no ha cumplido y no ha asumido la responsabilidad de lo que significa atender, prevenir, sancionar y erradicar la violencia contra las mujeres (REDNOVI interview 26-01-2014)

The majority of these crimes in Guatemala are still left in impunity despite the existence of the law. There is an absence of general prevention, one of the purposes of the existence of the law, that makes people certain that they most likely will go unpunished for a crime (Rodríguez Baldizón interview 12-17-2013). According to REDNOVI, impunity is the lack of attention to the problem, which allows these serious acts against women to repeat (REDNOVI interview 26-01-2014). According to Menjívar, impunity in Guatemala goes hand in hand with corruption: that *if* there are charges, the perpetrators can buy their freedom (Menjívar interview 28-11-2013; Rodríguez Baldizón interview 17-12-2013). If state officials, as: the police, lawyers and prosecutors, are aware of this common juridical process, why would they bother taking charges from the beginning? As mentioned in the PREVIOUS RESEARCH, this is the historical result of/could lead to a “fraternity”: an unwritten pact of silence between perpetrators, both individual and institutional.

Furthermore, when there is a conviction the penitentiary system does not fulfill its mission of social reintegration (Rodríguez Baldizón interview 17-12-2013). This can be considered a negative rest from the internal armed conflict, when the Army of circa 40.000 men and the Civilian Defense Unit of circa one million men were trained to commit acts of gendered violence, and after the Peace Accords returned to the civil society with no services available to pave the transition from a wartime mentality (GHRC 2009).

6. CONCLUSIONS

In this thesis the impact of the *Law Against Femicides and Other Forms of Violence Against Women* (Decree 22-2008) in Guatemala has been evaluated. Additionally, some of the factors that have influenced that impact have been discussed. The main conclusion is that the law has had both a positive and a negative (or no) impact as to prevent femicides and VAW in Guatemala. The positive aspects mainly concern the symbolic meaning of the law, which gives a message to Guatemalan women and men, as well as to the international community, that Guatemala does not accept VAW. This message has assisted women to feel they are visible in front of authorities, since during the five years that the law has existed women who denounce abuse have increased. The law has also given the many feminist organizations a better instrument to defend women in danger of violence.

Nonetheless, it has also had a negative impact, or i.e. little impact, since the majority of the perpetrators remain without sentences for their crimes, which creates a feeling of hopelessness both for survivors of violence and for the feminist organizations working with

the law's implementation. Furthermore, the femicide rate has remained the same, or even increased in some years, after the adoption of the law. This outcome suggests that while it has affected several women's consciousness to not accept violence, it has not changed the perception within those who commit violence. The law has also followed patterns of traditional gender stereotypes, which contributes to the reproduction of a feminine victim in need of protection and a hegemonic violent masculinity.

Patriarchal patterns in the Guatemalan society are the cultural factors presented that have influenced an unsatisfactory impact of the law. Even though the law has taken a legislative step from the normative that blamed the female victim, VAW is still socially considered legitimate, especially within the family as something that should be taken care of "at home". Despite the law's existence for five years, women's bodies continue to be considered a container to throw anger, frustration, sex and violence on, legitimately. That is, VAW is not considered serious and is thus not actually prioritized on the political agenda. The patriarchal perspective permeates both children's upbringing and the media, which continues to depict women's dead bodies from a sensationalist perspective.

A lack of awareness of the unequal power relations can also be found in the structure. There is still a resistance to apply the law among some of the officials responsible for distributing justice. These leads to a continued ignorance of women's human rights and gender conceptualizations, which prevents a correct interpretation of the law. Furthermore, due to a lack of political will on State level, the Legal System and other relevant sectors have not been provided with the necessary resources to appropriately take care of female survivors of violence and the denounces of violence that enter the System every day. Not reaching a change in the state structure means that no long-term development has been made.

A patriarchal culture and a debilitated Legal System contribute to an environment of impunity for these crimes. The State's omission of such violence makes the State a perpetrator itself. Having both individual and institutional perpetrators leaves the main responsibility to NGO's and civil society to change current patterns of VAW.

The aim of this thesis is not to give normative recommendations. Nonetheless, it can be said that the law against VAW and femicides will not have a greater impact without an honest political will at a governmental level to implement a multi-strategy that starts to change the cultural and structural factors that legitimize and contribute to the discrimination of women

on all levels. Solely a law cannot change internalized attitudes to start to understand that women are equal contributors to the development of society.

6.1. FURTHER CONSIDERATIONS

The subject of VAW and femicides is still inadequately understood and more investigation is required to attain an in-depth understanding of the unequal power relations between women and men that fuel the murders of women. New investigations would arguably be more constructive if they collected data from boys' and men's perspective on gender-based violence, specially, before informing interventions related to behaviour-changes in this context (UN Women 2013). Simultaneously to forbid violence, it would be constructive to investigate the social ills that drive persons into violent behaviour and why penitentiary systems do not work with social reintegration. It would also be constructive to look at the education of children, is the notion of genders and their equal rights taught in schools etc.?

With some new statistics and equally helpful feminist professionals and scholars, this thesis could be replicated in Guatemala to better understand the law's impact in some time/years, i.e. if the factors that uphold gender-based violence have been reduced. This study could also be relevant for informing all countries' policy-making in this issue, even though different contexts need to be taken into consideration.

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ANNEXES

Annex 1.

**LAW AGAINST FEMICIDE AND OTHER FORMS OF VIOLENCE AGAINST WOMEN⁷⁶
DECREE NUMBER 22-2008**

THE CONGRESS OF THE REPUBLIC OF GUATEMALA

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Article 23. Transitory.

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⁷⁶ The translation has been made by the author.

THE ORIGINAL LAW IN SPANISH

2 Guatemala, MIÉRCOLES 7 de mayo 2008

DIARIO DE CENTRO AMÉRICA

NÚMERO 27

PALACIO NACIONAL: Guatemala, dos de mayo del año dos mil ocho.

PUBLIQUESE Y CUMPLASE



COLOM CABALLEROS

Alfredo Trinidad Velásquez
VICEPRESIDENTE
DE RELACIONES EXTERIORES
ENCARGADO DEL DESPACHO



Lic. Carlos Larios Ochoa
SECRETARIO GENERAL
DE LA PRESIDENCIA DE LA REPUBLICA

(E-342-2008)-7-mayo



CONGRESO DE LA REPÚBLICA DE GUATEMALA

DECRETO NÚMERO 22-2008

EL CONGRESO DE LA REPÚBLICA DE GUATEMALA

CONSIDERANDO:

Que la Constitución Política de la República establece que el Estado de Guatemala se organiza para proteger a las personas y a la familia, su fin supremo es la realización del bien común, además de proteger la vida humana desde su concepción, así como la integridad y la seguridad de las personas.

CONSIDERANDO:

Que Guatemala aprobó por medio del Decreto Ley Número 49-82 la Convención sobre la Eliminación de Todas las Formas de Discriminación Contra la Mujer, y a través del Decreto Número 69-94 la Convención Interamericana para Prevenir, Sancionar y Erradicar la Violencia contra la Mujer, y como Estado Parte se obligó a adoptar todas las medidas adecuadas para modificar o derogar leyes, reglamentos, usos y prácticas que constituyan discriminación contra la mujer, y emitir todas aquellas leyes que sean necesarias para tal fin.

CONSIDERANDO:

Que las mujeres guatemaltecas tienen derecho al reconocimiento, goce, ejercicio y protección de todos los derechos humanos y las libertades consagradas en la Constitución Política de la República e instrumentos internacionales en materia de derechos humanos, y que el problema de violencia y discriminación en contra de las mujeres, niñas y adolescentes que ha imperado en el país se ha agravado con el asesinato y la impunidad, debido a las relaciones desiguales de poder existentes entre hombres y mujeres, en el campo social, económico, jurídico, político, cultural y familiar, por lo que se hace necesario una ley de prevención y penalización.

POR TANTO:

En ejercicio de las atribuciones que le confiere la literal a) del artículo 171 de la Constitución Política de la República de Guatemala,

DECRETA:

La siguiente:

LEY CONTRA EL FEMICIDIO Y OTRAS FORMAS DE VIOLENCIA CONTRA LA MUJER

CAPÍTULO I
PARTE GENERAL

DISPOSICIONES GENERALES

Artículo 1. Objeto y fin de la ley. La presente ley tiene como objeto garantizar la vida, la libertad, la integridad, la dignidad, la protección y la igualdad de todas las mujeres ante la ley, y de la ley, particularmente cuando por condición de género, en las relaciones de poder o confianza, en el ámbito público o privado quien agreda, cometa en contra de ellas prácticas discriminatorias, de violencia física, psicológica, económica o de menosprecio a sus derechos.

El fin es promover e implementar disposiciones orientadas a la erradicación de la violencia física, psicológica, sexual, económica o cualquier tipo de coacción en contra de las mujeres, garantizándoles una vida libre de violencia, según lo estipulado en la Constitución Política de la República e instrumentos internacionales sobre derechos humanos de las mujeres ratificados por Guatemala.

Artículo 2. Aplicabilidad. Esta ley se aplicará cuando sea vulnerado el derecho de la mujer a una vida libre de violencia en sus diferentes manifestaciones, tanto en el ámbito público como en el privado.

CAPÍTULO II
DEFINICIONES

Artículo 3. Definiciones. Para los efectos de esta ley se entenderá por:

- Acceso a la información:** Es el derecho de la mujer víctima de violencia a recibir plena información y asesoramiento adecuado a su situación personal, a través de los servicios, organismos u oficinas que puedan disponer las instituciones competentes, tanto públicas como privadas. Dicha información comprenderá las medidas contempladas en esta ley, relativas a su protección y seguridad, y los derechos y ayudas previstos en la misma, así como la referente al lugar de prestación de los servicios de atención, emergencia, apoyo y recuperación integral.
- Ámbito privado:** Comprende las relaciones interpersonales domésticas, familiares o de confianza dentro de las cuales se cometen los hechos de violencia contra la mujer, cuando el agresor es el cónyuge, ex cónyuge, conviviente o ex conviviente, con quien haya la víctima procreado o no, el agresor fuere el novio o ex novio, o pariente de la víctima.

También se incluirán en este ámbito las relaciones entre el cónyuge, ex cónyuge, conviviente o ex conviviente, novio o ex novio de una mujer con las hijas de ésta.

- Ámbito público:** Comprende las relaciones interpersonales que tengan lugar en la comunidad y que incluyen el ámbito social, laboral, educativo, religioso o cualquier otro tipo de relación que no esté comprendido en el ámbito privado.
- Asistencia integral:** La mujer víctima de violencia, sus hijas e hijos, tienen derecho a servicios sociales de atención, de emergencia, de apoyo, de refugio, así como de recuperación. La atención multidisciplinaria implicará especialmente:

1. Atención médica y psicológica.

2. Apoyo social.

3. Seguimiento legal de las reclamaciones de los derechos de la mujer.

4. Apoyo a la formación e inserción laboral.

5. Asistencia de un intérprete.

- Femicidio:** Muerte violenta de una mujer, ocasionada en el contexto de las relaciones desiguales de poder entre hombres y mujeres, en ejercicio del poder de género en contra de las mujeres.
- Misoginia:** Odio, desprecio o subestimación a las mujeres por el solo hecho de serlo.
- Relaciones de poder:** Manifestaciones de control o dominio que conducen a la sumisión de la mujer y a la discriminación en su contra.
- Resarcimiento a la víctima:** Se entenderá por resarcimiento el conjunto de medidas tendientes a aproximar la situación de la víctima al estado en que se encontraría de no haberse producido el hecho delictivo.

El resarcimiento deberá caracterizarse por su integralidad y comprende además de indemnizaciones de carácter económico, todas aquellas medidas tendientes a dotar a la víctima de una reparación médica, psicológica, moral y social.

- Victima:** Es la mujer de cualquier edad a quien se le inflige cualquier tipo de violencia.
- Violencia contra la mujer:** Toda acción u omisión basada en la pertenencia al sexo femenino que tenga como resultado el daño inmediato o ulterior, sufrimiento físico, sexual, económico o psicológico para la mujer, así como las amenazas de tales actos, la coacción o la privación arbitraria de la libertad, tanto si se produce en el ámbito público como en el ámbito privado.
- Violencia económica:** Acciones u omisiones que repercuten en el uso, goce, disponibilidad o accesibilidad de una mujer a los bienes materiales que le pertenecen por derecho, por vínculo matrimonial o unión de hecho, por capacidad o por herencia, causándole deterioro, daño, transformación, sustracción, destrucción, retención o pérdida de objetos o bienes materiales propios o del grupo familiar, así como la retención de instrumentos de trabajo, documentos personales, bienes, valores, derechos o recursos económicos.
- Violencia física:** Acciones de agresión en las que se utiliza la fuerza corporal directa o por medio de cualquier objeto, arma o sustancia con la que se cause daño, sufrimiento físico, lesiones o enfermedad a una mujer.
- Violencia psicológica o emocional:** Acciones que pueden producir daño o sufrimiento psicológico o emocional a una mujer, a sus hijas o a sus hijos, así como las acciones, amenazas o violencia contra las hijas, los hijos u otros familiares hasta el cuarto grado de consanguinidad y segundo de afinidad de la víctima, en ambos casos con el objeto de intimidarla, menoscabar su autoestima o controlarla, la que sometida a ese clima emocional puede sufrir un progresivo debilitamiento psicológico con cuadros depresivos.
- Violencia sexual:** Acciones de violencia física o psicológica cuya finalidad es vulnerar la libertad e indemnidad sexual de la mujer, incluyendo la humillación sexual, la prostitución forzada y la denegación del derecho a hacer uso de métodos de planificación familiar, tanto naturales como artificiales, o a adoptar medidas de protección contra enfermedades de transmisión sexual.

CAPÍTULO III
MEDIDAS DE CARÁCTER PREVENTIVO

Artículo 4. Coordinación interinstitucional. El Estado de Guatemala, a través del órgano rector de las políticas relativas a la prevención y erradicación de la violencia contra la mujer, será responsable de la coordinación interinstitucional, la promoción y monitoreo de campañas de sensibilización y generación de espacios de discusión para la concertación e impulso de

pólizas públicas para la prevención de la violencia contra la mujer y del femicidio, las que se consideran de urgencia nacional y de interés social, en congruencia con los compromisos internacionales suscritos y ratificados en la materia.

CAPÍTULO IV DELITOS Y PENAS

Artículo 5. Acción pública. Los delitos tipificados en la presente ley son de acción pública.

Artículo 6. Femicidio. Comete el delito de femicidio quien, en el marco de las relaciones desiguales de poder entre hombres y mujeres, diere muerte a una mujer, por su condición de mujer, valiéndose de cualquiera de las siguientes circunstancias:

- Haber pretendido infructuosamente establecer o restablecer una relación de pareja o de intimidad con la víctima.
- Mantener en la época en que se perpetre el hecho, o haber mantenido con la víctima relaciones familiares, conyugales, de convivencia, de intimidad o noviazgo, amistad, compañerismo o relación laboral.
- Como resultado de la reiterada manifestación de violencia en contra de la víctima.
- Como resultado de ritos grupales usando o no armas de cualquier tipo.
- En menosprecio del cuerpo de la víctima para satisfacción de instintos sexuales, o cometiendo actos de mutilación genital o cualquier otro tipo de mutilación.
- Por misoginia.
- Cuando el hecho se cometa en presencia de las hijas o hijos de la víctima.
- Concurriendo cualquiera de las circunstancias de calificación contempladas en el artículo 132 del Código Penal.

La persona responsable de este delito será sancionada con pena de prisión de veinticinco a cincuenta años, y no podrá concedérsele la reducción de la pena por ningún motivo. Las personas procesadas por la comisión de este delito no podrán gozar de ninguna medida sustitutiva.

Artículo 7. Violencia contra la mujer. Comete el delito de violencia contra la mujer quien, en el ámbito público o privado, ejerza violencia física, sexual o psicológica, valiéndose de las siguientes circunstancias:

- Haber pretendido, en forma reiterada o continua, infructuosamente, establecer o restablecer una relación de pareja o de intimidad con la víctima.
- Mantener en la época en que se perpetre el hecho, o haber mantenido con la víctima relaciones familiares, conyugales, de convivencia, de intimidad o noviazgo, amistad, compañerismo o relación laboral, educativa o religiosa.
- Como resultado de ritos grupales usando o no armas de cualquier tipo.
- En menosprecio del cuerpo de la víctima para satisfacción de instintos sexuales, o cometiendo actos de mutilación genital.
- Por misoginia.

La persona responsable del delito de violencia física o sexual contra la mujer será sancionada con prisión de cinco a doce años, de acuerdo a la gravedad del delito, sin perjuicio de que los hechos constituyan otros delitos estipulados en leyes ordinarias.

La persona responsable del delito de violencia psicológica contra la mujer será sancionada con prisión de cinco a ocho años, de acuerdo a la gravedad del delito, sin perjuicio de que los hechos constituyan otros delitos estipulados en leyes ordinarias.

Artículo 8. Violencia económica. Comete el delito de violencia económica contra la mujer quien, dentro del ámbito público o privado, incurra en una conducta comprendida en cualquiera de los siguientes supuestos:

- Mencosabe, limite o restrinja la libre disposición de sus bienes o derechos patrimoniales o laborales.
- Obligue a la mujer a suscribir documentos que afecten, limiten, restrinjan su patrimonio o lo pongan en riesgo; o que lo eximan de responsabilidad económica, penal, civil o de cualquier otra naturaleza.
- Destruya u oculte documentos justificativos de dominio o de identificación personal, o bienes, objetos personales, instrumentos de trabajo que le sean indispensables para ejecutar sus actividades habituales.
- Somete la voluntad de la mujer por medio del abuso económico al no cubrir las necesidades básicas de ésta y la de sus hijas e hijos.
- Ejerza violencia psicológica, sexual o física sobre la mujer, con el fin de controlar los ingresos o el flujo de recursos monetarios que ingresan al hogar.

La persona responsable de este delito será sancionada con prisión de cinco a ocho años, sin perjuicio de que los hechos constituyan otros delitos estipulados en leyes ordinarias.

Artículo 9. Prohibición de causales de justificación. En los delitos tipificados contra la mujer no podrán invocarse costumbres o tradiciones culturales o religiosas como causal de justificación o de exculpación para perpetrar, infringir, consentir, promover, instigar o tolerar la violencia contra la mujer.

Con la sola denuncia del hecho de violencia en el ámbito privado, el órgano jurisdiccional que la conozca deberá dictar las medidas de seguridad a que se refiere el artículo 7 de la Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar, pudiéndose aplicar a la mujer que sea víctima de los delitos establecidos en la presente ley, aún cuando el agresor no sea su pariente.

Artículo 10. Circunstancias agravantes. Las circunstancias que agravan la violencia contra la mujer deben ser analizadas de acuerdo a lo siguiente:

- En relación a las circunstancias personales de la persona que agrede.

- En relación a las circunstancias personales de la víctima.
- En relación a las relaciones de poder existente entre la víctima y la persona que agrede.
- En relación al contexto del hecho violento y el daño producido a la víctima.
- En relación a los medios y mecanismos utilizados para perpetrar el hecho y al daño producido.

CAPÍTULO V REPARACIONES

Artículo 11. Resarcimiento a la víctima. La reparación a la víctima será proporcional al daño causado y al grado de culpabilidad del autor del delito. En ningún caso implicará un enriquecimiento sin causa de la víctima.

El resarcimiento podrá decretarse por los órganos de justicia que conozcan del caso concreto.

Cuando la víctima haya fallecido, el derecho a la reparación se extiende a sus sucesores, de acuerdo a lo establecido en el Código Civil y Código Procesal Penal.

Artículo 12. Responsabilidad del Estado. En cumplimiento a lo establecido en la Constitución Política de la República de Guatemala y en los convenios y tratados internacionales sobre derechos humanos aceptados y ratificados por el Estado de Guatemala, el Estado será solidariamente responsable por la acción u omisión en que incurran las funcionarias o funcionarios públicos que obstaculicen, retarden o nieguen el cumplimiento de las sanciones previstas en la presente ley, pudiendo ejercer contra éstas o éstos la acción de repetición si resultare condenado, sin perjuicio de las responsabilidades administrativas o civiles.

CAPÍTULO VI OBLIGACIONES DEL ESTADO

Artículo 13. Derechos de la víctima. Es obligación del Estado garantizar a la mujer que resulte víctima de cualquier forma de violencia, los siguientes derechos:

- Acceso a la información.
- Asistencia integral.

Los y las funcionarias que sin causas justificadas nieguen o retarden la entrega de información o la asistencia integral en perjuicio del proceso o de la víctima, se harán acreedores a medidas y sanciones laborales y administrativas, sin perjuicio de responsabilidades civiles o penales, según el caso.

Artículo 14. Fortalecimiento de las dependencias encargadas de la investigación criminal. Para el cumplimiento de las disposiciones contenidas en la presente ley, el Ministerio Público deberá crear la Fiscalía de Delitos contra la Vida e Integridad Física de la Mujer, especializada en la investigación de los delitos creados por esta ley, con los recursos presupuestarios, físicos, materiales, científicos y humanos que le permitan el cumplimiento de los fines de la misma.

Artículo 15. Creación de los órganos jurisdiccionales especializados. La Corte Suprema de Justicia implementará órganos jurisdiccionales especializados que deberán conocer de los delitos establecidos en la presente ley, organizando su funcionamiento en régimen de veinticuatro (24) horas, sin perjuicio de la competencia atribuida a los juzgados del ramo penal.

Artículo 16. Centros de Apoyo Integral para la Mujer Sobreviviente de Violencia. Es obligación del Estado garantizar el acceso, la pertinencia, la calidad y los recursos financieros, humanos y materiales, para el funcionamiento de los Centros de Apoyo Integral para la Mujer Sobreviviente de Violencia. Será la Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y en Contra de la Mujer -CONAPREVI- quien impulsará su creación y dará acompañamiento, asesoría y monitoreo a las organizaciones de mujeres, especializadas, que los administran.

Artículo 17. Fortalecimiento institucional. La Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y en Contra de la Mujer -CONAPREVI-, es el ente coordinador, asesor, impulsor de las políticas públicas relativas a reducir la violencia intrafamiliar y la violencia en contra de las mujeres.

Corresponde al Estado el fortalecimiento e institucionalización de las instancias ya creadas, para el abordaje de la problemática social de violencia contra la mujer, para asegurar la sostenibilidad de las mismas, entre ellas: la CONAPREVI, la Defensoría de la Mujer Indígena -DEM-, la Secretaría Presidencial de la Mujer -SEPREM-, así como del servicio de asistencia legal gratuita a víctimas que presta el Instituto de la Defensa Pública Penal. Asimismo, se garantizará el fortalecimiento de otras organizaciones no gubernamentales en igual sentido.

Artículo 18. Capacitación a funcionarios del Estado. En el marco de la ejecución del Plan Nacional de Prevención y Erradicación de la Violencia Intrafamiliar y Contra la Mujer -PLANONI-, a la Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y en Contra de la Mujer -CONAPREVI- y otras organizaciones no gubernamentales, les corresponde el asesoramiento, seguimiento y monitoreo de los procesos de formación y capacitación sobre violencia contra la mujer y con pertinencia étnico-cultural dirigidos a funcionarias y funcionarios públicos, con especial énfasis a las o los operadores de justicia.

Artículo 19. Asistencia legal a la víctima. El Estado tiene la obligación de brindar la asistencia legal en forma gratuita a la víctima o a sus familiares, debiendo proporcionarles los servicios de una abogada defensora pública o abogado defensor público, para garantizar el efectivo ejercicio de sus derechos.

Artículo 20. Sistema nacional de información sobre violencia en contra de la mujer. El Instituto Nacional de Estadística -INE- está obligado a generar, con la información que deben remitirle el Organismo Judicial, Ministerio Público, Procuraduría General de la Nación, Institución del Procurador de los Derechos Humanos, la Policía Nacional Civil, el Instituto de la Defensa Pública Penal, Bufetes Populares y cualquier otra institución que conozca de los delitos contemplados en la presente ley, indicadores e información estadística, debiendo crear un Sistema Nacional de Información sobre Violencia contra la Mujer. Las entidades referidas deberán implementar los mecanismos adecuados, de acuerdo a su régimen interno, para el cumplimiento de esta obligación.

Artículo 21. Asignaciones presupuestarias: El Ministerio de Finanzas Públicas deberá asignar los recursos dentro del Presupuesto de Ingresos y Egresos del Estado, para el cumplimiento de la presente ley, con relación a los siguientes aspectos:

- Creación de la Fiscalía de Delitos contra la Vida e Integridad Física de la Mujer.
- Fortalecimiento del Instituto Nacional de Ciencias Forenses -INACIF-.

- c) Creación de órganos jurisdiccionales especializados para el conocimiento de los delitos contra la vida e integridad física de la mujer.
- d) Fortalecimiento y adecuado funcionamiento de la Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y en Contra de la Mujer -CONAPREVI-.
- e) Implementación del Plan Nacional para la Prevención y la Erradicación de la Violencia Intrafamiliar y Contra la Mujer -PLANOMVI-.
- f) Fortalecimiento del servicio de protección a sujetos procesales y personas vinculadas a la administración de justicia penal.
- g) Fortalecimiento del Instituto de la Defensa Pública Penal para la prestación del servicio de asistencia legal gratuita.

**CAPÍTULO VII
DISPOSICIONES FINALES Y TRANSITORIAS**

Artículo 22. Transitorio. En tanto la Corte Suprema de Justicia implementa los órganos jurisdiccionales especializados a que se refiere el artículo 15 de la presente ley, se atenderá lo establecido en el Código Procesal Penal, Decreto Número 51-92 del Congreso de la República y sus reformas y la Ley del Organismo Judicial. Mientras se establecen los tribunales especializados, tendrán competencia para conocer en los casos de la presente ley, los que la Corte Suprema de Justicia determine.

Los órganos jurisdiccionales especializados a que se refiere el artículo 15 de la presente ley, deberán ser establecidos progresivamente dentro de los doce meses siguientes a la vigencia de esta ley, en toda la República.

Artículo 23. Transitorio. En tanto el Ministerio Público no haya implementado la Fiscalía de Delitos contra la Vida e Integridad Física de la Mujer prevista en el artículo 14 de la presente ley, el Fiscal General y Jefe del Ministerio Público deberá determinar, de acuerdo al régimen interno del Ministerio Público, qué fiscalías deben de conocer.

La fiscalía a la que se refiere el artículo 14 de la presente ley, deberá ser establecida dentro de los doce meses siguientes a la vigencia de esta ley.

Artículo 24. Se reforma el artículo 2 del Decreto Número 70-96, Ley para la Protección de Sujetos Procesales y Personas Vinculadas a la Administración de Justicia Penal, el cual queda redactado así:

"Artículo 2. Objeto. El servicio de protección tiene como objetivo esencial, proporcionar protección a funcionarios y empleados del Organismo Judicial, de las fuerzas de seguridad civil y del Ministerio Público, así como a testigos, peritos, consultores, querrelantes adhesivos, mujeres víctimas de violencia, sus hijas e hijos, así como otras personas que estén expuestas a riesgos por su intervención en procesos penales. También dará cobertura a periodistas que lo necesiten por encontrarse en riesgo, debido al cumplimiento de su función informativa."

Artículo 25. Supletoriedad. Son aplicables supletoriamente a esta ley las disposiciones del Decreto Número 17-73, Código Penal; Decreto Número 51-92, Código Procesal Penal; Decreto Número 2-89, Ley del Organismo Judicial; Decreto Número 97-96, Ley de Dignificación y Promoción Integral de la Mujer; Decreto Número 42-2001, Ley de Desarrollo Social; Decreto-Ley 106, Código Civil; Decreto-Ley 107, Código Procesal Civil y Mercantil, así como las modificaciones y reformas a todas las leyes antes señaladas.

Artículo 26. Fuentes de Interpretación. Constituyen fuentes de interpretación de esta ley lo establecido en la Constitución Política de la República de Guatemala y en los convenios y tratados internacionales sobre derechos humanos, aceptados y ratificados por el Estado de Guatemala. En particular, serán fuentes de interpretación de esta ley:


- a) La Convención Sobre la Eliminación de Todas las Formas de Discriminación Contra la Mujer.
- b) La Convención Interamericana para Prevenir, Sancionar y Erradicar la Violencia Contra la Mujer.


Artículo 27. Derogatoria. Se derogan todas las disposiciones legales o reglamentarias que se opongan o contravengan las normas contenidas en la presente ley.


Artículo 28. Vigencia. El presente Decreto entrará en vigencia ocho días después de su publicación en el Diario Oficial.


REMÍTASE AL ORGANISMO EJECUTIVO PARA SU SANCIÓN, PROMULGACIÓN Y PUBLICACIÓN.

EMITIDO EN EL PALACIO DEL ORGANISMO LEGISLATIVO, EN LA CIUDAD DE GUATEMALA, EL NUEVE DE ABRIL DE DOS MIL OCHO.


EDUARDO MEYER MALDONADO
 PRESIDENTE


JOSÉ ROBERTO ALEJOS CÁMARA
 SECRETARIO


ROSA ELVIRA ZAPETA OSORIO
 SECRETARIA

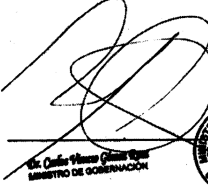

 CONGRESO DE LA REPÚBLICA
 GUATEMALA, C.A.


PALACIO NACIONAL: Guatemala, dos de mayo del año dos mil ocho.

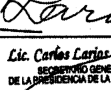
PUBLÍQUESE Y CÚPLASE


COLOM CABALLEROS




Lic. Carlos Larín Ochoa
 SECRETARIO GENERAL
 DE LA PRESIDENCIA DE LA REPUBLICA


 MINISTRO DE GOBIERNO Y JUSTICIA SOCIAL


 PRESIDENCIA DE LA REPUBLICA

(E-343-2008)-7-mayo

ORGANISMO EJECUTIVO



**MINISTERIO DE
CULTURA Y DEPORTES**

Acuérdase crear la Unidad Especial de Ejecución y de Coordinación de los Trabajos de Restauración del Real Palacio de los Capitanes Generales, la cual dependerá presupuestaria y jerárquicamente del Ministro de Cultura y Deportes.

ACUERDO MINISTERIAL NÚMERO 249-2008

Guatemala, 28 de abril de 2008

EL MINISTRO DE CULTURA Y DEPORTES

CONSIDERANDO:

Que de conformidad con la Constitución Política de la República, el Estado es el encargado de brindar atención especial para la Protección del Patrimonio Cultural en la Ciudad de la Antigua Guatemala, con el fin de preservar sus características y resguardar su valor histórico por haber sido declarada Patrimonio de la Humanidad.

CONSIDERANDO:

Que es urgente y necesaria la restauración del Real Palacio de los Capitanes Generales, ubicado en la Ciudad de La Antigua Guatemala, en virtud de los graves daños estructurales que amenazan su destrucción, y por ser uno de los monumentos históricos más importantes de Guatemala y un símbolo de nuestra identidad, por lo que se hace necesario crear una Unidad Especial Ejecutora que se encargue de ejecutar o de coordinar los trabajos correspondientes.

POR TANTO:

Con base en lo considerado y con fundamento en los artículos 57, 60, 63 y 194 incisos a) y f) de la Constitución Política de la República de Guatemala; 25 y 27 literales a) y m) del Decreto Número 114-97, Ley del Organismo Ejecutivo y 7 del Acuerdo Gubernativo Número 27-2008, Reglamento Orgánico Interno del Ministerio de Cultura y Deportes.

⁷⁷ The last column of the last page is the beginning of another law.

Annex 2.

ARTICLES RELEVANT FOR THE EVALUATION: CHAPTER I; ARTICLE 1 AND CHAPTER VI; ARTICLE 13 TO 21.

CHAPTER I GENERAL PART GENERAL PROVISIONS

Article 1. Objective and purpose of the law. The present law has as objective to guarantee the life, the liberty, the integrity, the dignity, the protection and the equality of all women before the law, and by the law /.../ The aim is to promote and implement measures aimed at the eradication of physical, psychological, sexual, economic violence or any form of coercion against women, ensuring them a life free of violence, as stipulated in the Political Constitution of the Republic and in international instruments on women's human rights ratified by Guatemala.

CHAPTER VI STATE OBLIGATIONS

Article 13. Rights of the victim. It is obligation of the State to guarantee to women that result victim of any form of violence, the following rights:

- a) Access to information.
- b) Integral assistance.

Article 14. Strengthening of the responsible units for the criminal investigation. To comply with the dispositions in the present law, the Attorney General shall create the Prosecutor for Crimes against the Life and Physical Integrity of Women, specialized in the investigation of these crimes created by this law /.../

Article 15. Creation of specialized courts. The Supreme Court of Justice will implement specialized courts that shall know the crimes established in the present law, organizing their functioning during 24 hours /.../

Article 16. Centers of Integral Support for Women Survivors of Violence. It is obligation of the State to guarantee the access, the relevance, the quality and the financial resources, social and material, for the functioning of the Centers. It will be the National Coordinator for the Prevention of Intra-familial Violence and Against Women -CONAPREVI- who will drive their creation /.../

Article 17. Institutional strengthening. /.../ It corresponds to the State the strengthening and institutionalization of the instances already created, for addressing the social problematic of violence against women, to ensure their sustainability, including: CONAPREVI, the Defender of Indigenous Women -DEMI-, the Presidential Secretariat for Women -SEPREM-, as with the service of free legal assistance to the victims provided by the Institute of Public Defense. /.../

Article 18. Training of officials by the State. In the framework of the implementation of the National Plan for the Prevention and Eradication of Domestic Violence and Against Women -PLANNOVI-, CONAPREVI and other NGOs, are entitled counseling, follow-up and monitoring in the processes of formation and training on violence against women and ethnic and cultural relevance directed at public officials /.../

Article 19. Legal assistance to the victim. The State has the obligation to provide legal assistance free of charge to the victims or their families, by providing them the services of a public lawyer, to ensure the effective exercise of their rights.

Article 20. National system of information on violence against women. The National Institute of Statistics -INE- is obliged to generate, with the information that they must remit to the Legal System, Attorney General, Institution of Ombudsman for Human Rights, the National Civil Police, the Institute for Public Defense and any other institution that knows about the crimes contemplated in the present law, indicators and statistical information, having to create a National System of Information on Violence against Women /.../

Article 21. Budgetary allocations: The Ministry of Finance shall allocate resources within the Budget of Revenues and Expenditures of the State, for the implementation of the present law, in relation to the following aspects:

- a) Creation of the Prosecutor for Crimes against the Life and Physical Integrity of Women.
- b) Strengthening the National Institute of Forensic Science -INACIF-.
- c) Creation of specialized courts to hear crimes against the life and physical integrity of women.
- d) Strengthening and proper functioning of the CONAPREVI.
- e) Implementation of PLANNOVI.
- f) Strengthening of the service of protection for procedural subjects and persons related to the administration of criminal justice.
- g) Strengthening of the Institute of Public Defense for the provision of legal assistance free of charge.

Source: See Annex 1.

Annex 3.

DIFFERENT FEMINIST SCHOOLS

Liberal feminism is based on the proposition that men and women are created equal and should therefore have equal opportunities. Society does not have to be completely restructured to achieve empowerment for women; instead, they find that removing discriminating legislation and institutions is the key to equality (Kronsell 2009).

Socialist feminism argues that sexism and capitalism are mutually supportive; that women's double labour, the unpaid in the household and the paid in the workforce serve patriarchy capitalism (Lindsey 2011). A humane socialist approach to feminism would require men to renounce their privileges as men (ibid.).

Radical feminism focuses on the patriarchy as the key site of domination and oppression. Women are by nature, or by virtue of being mothers and caretakers, morally superior to and more peaceful than men (Confortini 2006). As men are the problem, neither capitalism, nor socialism, or any other male-dominated system will solve the problem. Acknowledging the impossibility of removing sexism everywhere, they work locally to serve other women (Lindsey 2011).

Multicultural and Global Feminism challenges the Euro-American feminisms and points to the intersection of gender with race, class and issues related to the colonization and exploitation of women (Lindsey 2011). They look at the specific cultural elements and historical conditions that serve to maintain women's oppression (ibid.). For example in Latin America, military regimes have (had) specific patterns of punishment and sexual enslavement for women who oppose their regimes (Bunster-Bunalto 1993).⁷⁸

Post-structural feminism stresses the social construction of gender and gendered power relations, and argues that femininity and masculinity are shaped and produced in the social context in which we live (Kronsell 2009). The key to change is awareness of this and to question our historically shaped gender identities.⁷⁹

⁷⁸ The women who came together for the United Nations Conferences on Women are representative of the multicultural and global view (Lindsey 2011).

⁷⁹ For the scope of this thesis, it has not been possible to present all the different schools of feminism; there is also, inter alia Ecofeminism, which connects the oppression of women with the degradation of the ecosystem.

**Annex 4. UNITED NATIONS' INSTRUMENTS OF CONVENTIONS, POLICY
AND PRACTICE TO REACH WOMEN'S RIGHT TO A LIFE FREE FROM VIOLENCE**

<u>1945.</u>	the UN was founded and its Charter, Article 1. proclaims that one of the purposes is to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to, inter alia, sex.
<u>1946.</u>	the Commission on the Status of Women (CSW) was founded as a subcommission but granted quickly the status of full commission due to pressure from women activists. CSW proved that women's humanity was insufficient to guarantee the enjoyment of their internationally agreed rights and defined the guarantees of non-discrimination from a gender perspective.
<u>1952.</u>	the Convention on the Political Rights of Women was founded.
<u>1957.</u>	the Convention on the Nationality of Married Women
<u>1962.</u>	the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
<u>1967.</u>	the Declaration on the Elimination of Discrimination against Women
<u>1979.</u>	the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
<u>1982.</u>	the Committee on the Elimination of Discrimination against Women ⁸⁰ : general recommendations No. 12 and 19, violence against women
<u>1993.</u>	the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights
<u>1993.</u>	the Declaration on the Elimination of Violence against Women 48/104
<u>1995.</u>	Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women
<u>1997.</u>	General Assembly resolution 52/86 Crime prevention and criminal justice measures to eliminate violence against women
<u>2000.</u>	Security Council resolution 1325 On women and peace and security
<u>2003.</u>	General Assembly resolution 58/147 Elimination of domestic violence against women
<u>2005.</u>	Commission on Human Rights resolution Elimination of violence against women 2005/41
<u>2006.</u>	General Assembly resolution 61/143 Intensification of efforts to eliminate all forms of violence against women

Source: UN 2006; UN Women 2009

⁸⁰ The Committee on the Elimination of Discrimination against Women is an expert body established in 1982 and composed of 23 experts on women's issues from around the world. The Committee's mandate is to watch over the progress for women made in those countries that are the States parties to the 1979 Convention on the Elimination of All Forms of Discrimination against Women. A country becomes a State party by ratifying or acceding to the Convention and thereby accepting a legal obligation to counteract discrimination against women. The Committee monitors the implementation of national measures to fulfill this obligation.

Annex 5. PRINCIPLES THE UN SUGGESTS SHOULD FOLLOW LAWS

- Address violence against women as a form of gender-based discrimination, linked to other forms of oppression of women, and a violation of women's human rights
- Make clear that violence against women is unacceptable and that eliminating it is a public responsibility
- Monitor implementation of legal reforms to assess how well they are working in practice
- Keep legislation under constant review and continue to reform it in the light of new information and understanding
- Ensure that victims/survivors of violence are not "revictimized" through the legal process
- Promote women's agency and empower individual women who are victims/survivors of violence
- Promote women's safety in public spaces
- Take into account the differential impact of measures on women according to their race, class, ethnicity, religion, disability, culture, indigenous or migrant status, legal status, age or sexual orientation

Source: UN 2006, p.83



UNIVERSITY OF GOTHENBURG
MASTER THESIS IN GLOBAL STUDIES

Optional (please let me know if you want to be anonymous)

Name:

Profession:

In what way are you involved in this issue?:

1. Do you know how ("thanks to whom") the *Law against Femicide and Other Forms of Violence Against Women* (Decree No. 22-2008) was implemented in Guatemala? If yes, how?

Answer:

In your opinion,

2. Has the law had any impact, and if so, how?

Answer:

3. Which are the main factors against a constructive impact?

Answer:

4. What role, if any, has impunity played?

Answer:

5. Which would be the best ways to eradicate violence against women in Guatemala?

Answer:

Annex 7.

LIST OF INFORMANTS

INFORMANTS	DATE OF INTERVIEW	REASONS FOR INVOLVMENT IN THE ISSUE
<p>CECILIA MENJÍVAR</p> <p>Cowden Distinguished Professor. Associate Director, T Denny Sanford School of Social and Family Dynamics. Arizona State University</p>	28-11-2013	<p>Has researched the topic of violence in the lives of women in Guatemala.</p> <p>Author of: <i>Enduring Violence: Ladina Women's Lives in Guatemala</i> (2011)</p>
<p>EMILIA BARBOSA</p> <p>Higher Education Teacher and Researcher.</p>	24-12-2013	<p>Currently works with artistic and cultural representations of violence against women in contemporary Guatemala, including feminicide, and believe that it is vital to bring awareness and to inform the public about what is going on in order to bring change. Author of: <i>Regina José Galindo's Body Talk: Performing Feminicide and Violence against Women in 279 Golpes</i></p>
<p>KARLA R. LEMUS B.</p> <p>Psychologist</p>	08-01-2014	<p>Has worked for 26 years in the field. Currently works at GGM with training of staff at CAIMUS, with their: <i>Awareness Program, Training and Prevention</i></p> <p>Explains violence against women as a global problem and not exclusive to Guatemala.</p>
<p>MARA OLGA RODRÍGUEZ BALDIZÓN</p> <p>Lawyer and Advocate for Women's Human Rights</p>	17-12-2013	<p>Works in the feminist organization, Guatemala Foundation. The Foundation's primary purpose is the promotion of women's rights.</p>
<p>REDNOVI</p> <p>'Red de la No Violencia contra la Mujeres' (Network of Nonviolence Against Women) in Guatemala</p>	26-01-2014	<p>REDNOVI was established in 1991 after the brutal murder of the leader and human rights activist Dinora Pérez. The network brings together eight women's organizations</p>
<p>ROSELYN COSTANTINO</p> <p>Ph.D. Reseracher and Professor of Spanish & Women's Studies. Pennsylvania State University Altoona</p>	03-12-2013	<p>Has been involved in the issue since 2005, during her first trip to Guatemala. As an American she felt responsible for the suffering of not only the Guatemalan women, but for all indigenous people.</p> <p>Through research, and conferences that she has given and lectures she gives, and other political actions, she can advocate for the necessary changes.</p>
<p>SERENA COSGROVE</p> <p>Ph.D. Assistant Professor, Matteo Ricci College, Seattle University</p>	17-12-2013	<p>Took 10 of her students to Guatemala to carry out research about Guatemalan women's efforts to end violence against women.</p>
<p>VICTORIA NOEMÍ CHANQUÍN MIRANDA</p> <p>Sociologist</p>	08-01-2014	<p>Coordinator of GGM's Research Program</p>

INTERVIEWS

BARBOSA, EMILIA (INTERVIEW 24-12-2013)

1. Do you know how ("thanks to whom") the *Law against Femicide and Other Forms of Violence Against Women* (Decree No. 22-2008) was implemented in Guatemala? If yes, how?

Answer: According to RH Reality Check online,

<http://rhrealitycheck.org/article/2008/08/27/to-fight-femicide-guatemala-new-law-but-same-culture/>, "This initiative was possible due to the remarkable work done by all the female parliamentarians — 20 in total — who, regardless of their political party affiliation, came close and managed to get the support of 112 out of the 158 parliamentarians. " And then President Colón signed it and it was put into effect immediately after. However, the fact that this law was even put into place is the result of the bravery, hard work, and integrity of many people, as well as remarkable individuals such as Claudina Isabel' father as described by Victoria Sandford in her monograph, "From Genocide to Femicide," or Rody Alvarado's as documented by Karen Musalo, Elisabeth Pellegrin, and S. Shawn Roberts. [I am attaching these texts in case you don't have it yet]. Many community organizations, citizens associations and NGOs have also been instrumental in pushing this law into being with the Guatemalan Congress. Many more victims' family members brought femicide into plain sight, and a plethora of artists and activists expanded the horror through their work and the web for the rest of the world to see. Last, the press in Guatemala also helped, even though its representation of the horror is extremely problematic since mostly it focused on the gore and has arguably contributed to the desensitization of the public to this matter.

[Likewise with the recent trial of Efraín Ríos Montt, many people are to be given credit for their bravery, hard work, and integrity in bringing the genocider to face justice.]

In your opinion,

2. Has the law had any impact, and if so, how?

Answer: Arguably several components of the law still need to be fully implemented, developed, and put into action, as far as prosecution of femicide perpetrators. The Guatemalan culture of machismo and impunity will probably take longer to be eradicated and it will require the efforts of several key social agents and the public in general, which is still not happening in a continuous manner. Also, the emphasis of the law is on prosecution and criminal process, which is no doubt a major step towards combating violence against women, but is not paramount to prevent and educate about women rights and to combat Guatemala's culture of violence. A first conviction has been made, as documented by the Guatemala Human Rights Commission/USA, check

http://www.ghrc-usa.org/Publications/Femicide_Law_ProgressAgainstImpunity.pdf, but even so a lot more still has to happen in the near future to combat this issue.

3. Which are the main factors against a constructive impact?

Answer: Probably a lack of a real prosecution culture where agents of the law are objectively engaged in bringing perpetrators to justice and, in essence, to apply the law; a better support network for the victims' families; true reparation measures fully predicted in the legislative body; a mentality shift is necessary to go beyond the aforementioned Guatemalan culture of violence and impunity, which will never be achieved without the involvement of key social and administrative agents in tandem with the general public as far as education, prevention, and respect for women's rights and non-compliance with gender-based violence, more international support and pressure for the Guatemalan state to be accountable to the rule of

law and to upholding the law and reinforce it; and last the press, in print and virtually, needs to be less engaged in gore and be more ethically bound to defend women's rights and dignity publicly, in spite of what would be more profitable for the industry.

4. What role, if any, has impunity played?

Answer: Unfortunately, impunity still rules instead of the rule of law due to a multitude of factors ranging from lack of resources and procedural and crime scene objective protocol, which remains many times unobserved and unaccountable for, to a blame-the-victim ingrained mentality that is at the core of the role women play in Guatemalan society, also encompassing lack of respect for the victims' rights and support for their families, and an overall culture of violence that still lingers 17 years after the signing of the Peace Accords that ended the war.

5. Which would be the best ways to eradicate violence against women in Guatemala?

Answer: Quite frankly, I don't see this possibly happening in the near future and I believe it will require a lot of effort both in Guatemala, from all kinds of society's sectors, including regular citizens, the victims' families, the press, police and judicial forces, the government and congress, activists, artists, and members of organized communities, religious and cultural institutions, and many more, as well as from outside the country by the global community, including international organizations and NGOs. All awareness and education efforts are instrumental at this stage in changing the problem, and on a future step towards creating the structures that will effectively deal with it on the terrain. Ultimately, we're all accountable and we should all care about what happens to women in Guatemala.

CHANQUÍN MIRANDA, VICTORIA NOEMÍ (INTERVIEW 08-01-2014)

1. ¿Conoce cómo (“gracias a quien”) se implementó la Ley contra el Femicidio y otras Formas de Violencia Contra la Mujer (Decreto Número 22-2008) en Guatemala? Sí si, ¿cómo?

Respuesta: Fue gracias al esfuerzo sistemático del movimiento feminista y organizaciones de mujeres guatemaltecas que emergieron del seno del movimiento social y de derechos humanos en la década de los ochenta. Este esfuerzo se caracterizó por sentar bases con la creación de institucionalidad a favor de las mujeres, hablese de la Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y contra las Mujeres-CONAPREVI, la Secretaría Presidencial de la Mujer-SEPTEM. De esa cuenta, esta se convirtió en una lucha histórica realizando discusiones en torno a la problemática de la violencia contra las mujeres, cabildeo con diferentes bancadas del Congreso de la República, logrando así el posicionamiento de esta problemática en la agenda pública. Se participó en diferentes discusiones en torno a la construcción de proyectos de la ley para poder ser debatidos y discutidos, de esa cuenta se logró que la Ley contra el Femicidio recogiera los contenidos principales de los instrumentos internacionales que ya habían sido ratificados por el Estado guatemalteco.

Si bien en la década de los años noventa entró en vigencia la Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar o Ley VIF, las estadísticas que se empezaban a sistematizar daban cuenta que la violencia en el seno de la familia estaba direccionada hacia las mujeres de todas las edades, sin distinción de etnia, clase social, lugar de residencia; por tanto, el fenómeno debía problematizarse, visibilizarse y conceptualizar sobre violencia contra la mujer para poder proponer instrumentos que defiendan los derechos de las mujeres como un sector vulnerado socialmente y plenamente identificado.

En su opinión,

2. ¿Ha tenido algún impacto la ley y entonces en que forma?

Respuesta: La Ley contra el Femicidio es una conquista histórica para las mujeres, la misma está concebida como una acción positiva a favor de las mujeres, que persigue la defensa y restitución de los derechos de las mujeres, particularmente, el derecho a una vida libre de violencia. Concretamente busca protegernos contra abusos impensables y atrocidades en un contexto de relaciones desiguales de poder que es el sustrato que se intenta visibilizar y problematizar desde el feminismo.

En la Ley están contempladas una serie de medidas para coadyuvar en su correcta aplicación, entre ellas, la creación de los juzgados y tribunales especializados, así como fiscalías de la mujer, la sistematización de información estadística a través de un mecanismo que coordine interinstitucionalmente para recopilar la información y para hacerla pública, la administración por parte de organizaciones de mujeres especializadas de los centros de atención integral para mujeres sobrevivientes de violencia, denominados Caimus.

De este conjunto de instancias que la Ley manda que se generen, se ha avanzado aunque los esfuerzos todavía son insuficientes. Los juzgados y tribunales funcionan en 5 de 22 departamentos del país; las fiscalías de la mujer también funcionan sólo en algunos departamentos del país, los Caimus también existen sólo en 7 departamentos del país. El sistema nacional de información estadística sobre violencia contra las mujeres no ha logrado avanzar, pero eso no quiere decir que las instituciones productoras de información estadística en términos de denuncias, procesos penales y sentencias no hayan avanzado en este aspecto, entre ellas, la policía nacional civil-PNC, el ministerio público-MP, el instituto nacional de ciencias forenses-INACIF, el organismo judicial-OJ, el instituto de la defensa pública penal-IDPP, como los principales. La generación de estas estadísticas desde cada entidad (sin una coordinación para unificar un sistema estadístico) ha logrado visibilizar y dimensionar cuantitativa y geográficamente la problemática de VCM y las muertes violentas de mujeres.

Se ha avanzado en la generación de herramientas para la aplicación de la Ley con protocolos, algunas guías para mejorar la investigación criminal por femicidio. Sin embargo, falta mucho trabajo en la sensibilización de los funcionarios públicos porque muchas veces su trabajo en la persecución penal o en el fallo de las sentencias se ve afectado por esas subjetividades que naturalizan la violencia contra las mujeres, revictimizando a las víctimas de femicidio y sobrevivientes de VCM.

No se ha avanzado en los mecanismos de prevención primaria para lograr cambios para transformar la cultura patriarcal que permea la subjetividad, las prácticas machistas y el imaginario social de la población guatemalteca que naturaliza y normaliza la violencia contra las mujeres. En cuanto a la prevención secundaria, no se ha logrado que los Caimus se generalicen en los 22 departamentos del país para que las mujeres puedan contar con apoyo (asesoría legal, acompañamiento psicológico, apoyo social, atención médica) cuando deciden romper el silencio y buscar ayuda para ellas y sus hijos e hijas cuando están siendo sujetas a violencia.

3. Si no ha habido gran impacto ¿cuales son los factores en contra de ese impacto?

Respuesta: La Ley también ha tenido detractores, particularmente, posicionamientos por parte de juristas que consideran que una Ley Específica para las mujeres no es necesaria porque para eso existe el Código Penal, además utilizan el argumento jurídico de que la Ley contraviene la neutralidad de género y la igualdad reconocida en la Constitución Política de la República. Los que son funcionarios públicos deben asumir el cumplimiento de la Ley contra el Femicidio y no pueden alegar ignorancia sobre ella, pero en la práctica tienen el chance de interponer sus prejuicios y estereotipos tradicionales donde las mujeres seguimos en una posición de desventaja y subordinación. Esto en la implementación de la Ley, al momento de la investigación criminal y del fallo jurídico ha generado procesos que no estén bien

fundamentados conforme la Ley contra el Femicidio y sentencias absolutorias para agresores y victimarios, que si bien ha causado revuelo ante la opinión pública protagonizada por las organizaciones de mujeres que estamos en tema, no necesariamente revierte lo actuado.

Lo anterior impacta en los resultados hasta ahora obtenidos en la tipificación del delito de femicidio que muchas veces sigue siendo tipificado como asesinato o parricidio, o bien, la falta de reconocimiento en la violencia psicológica, los prejuicios ante la violencia sexual, la falta de prontitud en la resolución de los procesos por violencia económica.

Tampoco ha habido el impacto esperado en la reparación digna a las mujeres, aquí considero que los procedimientos no están claramente definidos todavía. Si bien está reglamentado en Ley, está planteado de manera ambigua y hace difícil que la reparación digna se haga realidad para las mujeres, más bien, se reduce a reparaciones meramente simbólicas.

4. Que rol, si alguno, ha jugado la impunidad?

Respuesta: Depende del concepto de impunidad al que te estés refiriendo, pero si éste lo circunscribimos a la efectividad en la aplicación de la Ley en los diferentes delitos que ésta reconoce, creo que hay un esfuerzo importante, pero que el mismo, no ha sido suficiente, dado la gran demanda y el nivel de denuncia que existe año con año desde la entrada en vigencia de la Ley contra el Femicidio. Tanto el Ministerio Público, como los juzgados y tribunales, no sólo los especializados sino los juzgados y tribunales ordinarios, de familia, de paz, se han visto rebasados sin poder brindar a las mujeres sobrevivientes de violencia y a las víctimas colaterales (familiares de las víctimas de femicidio) una respuesta pronta en el esclarecimiento de la verdad, la sanción con pertinencia, la ralentización de los procesos en todos los delitos es una constante, que muchas veces termina por defraudar y hacer desistir a las mujeres de continuar con los procesos, después de que les ha costado tanto tomar la decisión de accionar legalmente.

5. ¿Cuáles serían las mejores maneras de erradicar la violencia contra las mujeres en Guatemala?

Respuesta: En lo que NO se ha avanzado en Guatemala, es en la generación de políticas de prevención primaria y secundaria, si no se empieza a transformar la cultura sexista y machista que permea las subjetividades y las prácticas cotidianas de las ciudadanas y ciudadanos, la erradicación o al menos la minimización de la violencia sigue siendo una utopía. La ley no debe entenderse únicamente como un mecanismo de sanción sino también de persuasión para evitar seguir delinquir, lo que sí es cierto, es que cada vez más mujeres conocen que tienen derechos, aunque eso no implica que los asuman y los vivan en su cotidianidad.

COSGROVE, SERENA (INTERVIEW 17-12-2013)

1. Do you know how ("thanks to whom") the *Law against Femicide and Other Forms of Violence Against Women* (Decree No. 22-2008) was implemented in Guatemala? If yes, how?

Answer: Thanks to the hard work of many women's organizations keeping the pressure on as well as the commitment of Dr. Paz y Paz of the Attorney General's office.

In your opinion,

2. Have the law had any impact, and if so, how?

Answer: Yes, it has had a lot of impact. With a fair amount of international support, the femicide court has been created and is functioning in Guatemala City. Many government officials have been educated about the law and there are women's NGOs throughout the country working together to implement the law.

3. Which are the main factors against a constructive impact?

Answer: Discrimination against women at a cultural level as well as discrimination against women as manifest by individuals within the public sector who implement the law.

Also a culture of impunity may affect its constructive impact.

Also a lack of financial resources to implement the law throughout the country may affect its longterm implementation.

4. What role, if any, has impunity played?

Answer: I think it has a significant effect.

5. Which would be the best ways to eradicate violence against women in Guatemala?

Answer: Invest in women's civil society leadership and support women's NGOs throughout the country, not just in Guatemala City.

COSTANTINO, ROSELYN (INTERVIEW 03-12-2013)⁸¹

1. ¿Sabía usted que se ha implementó una *Ley Contra el Femicidio y otras Formas de Violencia Contra la Mujer* en Guatemala? (es el Decreto Número 22-2008)? Si la respuesta es afirmativa ¿Cómo es que usted esta enterado(a)?

Respuesta: Cuando estuve trabajando en Guatemala con varias organizaciones no gubernamentales (NGO) para víctimas de abuso sexual/doméstico.

En su opinión,

2. ¿Usted cree que la LCFFV ha tenido algún impacto, y en que forma?

Respuesta afirmativa:

a) Sí, en el sentido de que las mujeres ya no permiten que las instituciones ignoren su existencia.

b) Ha tenido un impacto en la conciencia de las mujeres y a trascendido en las nuevas generaciones de mujeres...en todas partes del país y en la sociedad en general.

c) Ahora existen recursos que no existían antes; por ejemplo, más centros de apoyo para mujeres abusadas; más reconocimiento en la historia del femicidio en el país por parte de los mismos guatemaltecos y de los EEUU, como también un reconocimiento por parte del resto del mundo.

d) No, en el sentido de que la impunidad es casi absoluta. La ley existe pero no se cumple, además no se brindan fondos para hacer los cambios sistémicos necesarios para que las mujeres vivan con algún sentido de respeto, seguridad y dignidad.

3. Si no ha habido un impacto ¿cuales son los factores que no lo han permitido?

Respuesta:

a) La falta de voluntad por parte de los hombres y algunas mujeres que controlan los sistemas de poder.

b) La falta de deseo de dejar a las mujeres participar al 100% en la vida social, económica y política.

c) Porque los hombres pueden matar sin consecuencias. Porque el miedo ha sido por siglos y sigue siendo un instrumento de control.

4. En su opinion ¿que rol, si ha habido alguno, ha jugado la impunidad?

⁸¹ Costantino has changed the formulation of the questions.

Respuesta: Pues, no sólo yo identifico la impunidad como el impedimento o el obstáculo principal en la falta de seguridad y justicia para las mujeres.

5. ¿Cuales serian las mejores maneras de erradicar la violencia contra las mujeres en Guatemala?

Respuesta:

a) Es complejo el problema y las causas, por ende, la respuesta o el remedio tiene que ser complejo.

b) La pobreza hay que remediar. Se necesita empleo para todos que lo quisieran.

c) Menos discriminación; menos influencia negativa de algunos religiosos fundamentalistas.

d) Cambio de modelos de género... cómo debe o tiene que ser un hombre; qué significa ser mujer.

e) Eliminar la impunidad. Punto.

LEMUS B., KARLA R. (INTERVIEW 08-01-2014)⁸²

1. ¿Conoce cómo (“gracias a quien”) se implementó la Ley contra el Femicidio y otras Formas de Violencia Contra la Mujer (Decreto Número 22-2008) en Guatemala? Sí si, ¿cómo?

Respuesta: Es importante tener conocimiento que la ley que fue ratificada no fue la propuesta original, este se titulaba ley marco de la violencia contra la mujer. La ley que fue ratificada fue la que se modifico y se consensó entre el congreso y el movimiento de mujeres.

En su opinión,

2. ¿Ha tenido algún impacto la ley y entonces en que forma?

Respuesta: Vicky te ha respondido en base a hechos concretos, es importante también conocer la perspectiva psicológica. La existencia de la ley, ha posibilitado que algunas mujeres sobrevivientes de violencia se empoderen y reconozcan que tienen ciertos derechos. Esto tiene un efecto tanto positivo como negativo dado a que crea la esperanza de justicia y esto se va retardando y creando un sentido de desesperanza. Unos de los hallazgos es que hay mujeres que desisten en sus procesos penales.

3. Si no ha habido gran impacto ¿cuales son los factores en contra de ese impacto?

Respuesta:

4. ¿Que rol, si alguno, ha jugado la impunidad?

Respuesta: Como bien te plantea Vicky el concepto de impunidad debe ser definido y clarificado. Dentro de la violencia contra la mujer hay un sentido de que el agresor es omnipotente, cuando los procesos penales se dificultan, cuando la ley no cumple con la justicia, en las mujeres sobrevivientes hay una percepción de impunidad, que refuerza la idea del agresor como omnipotente. Esto disminuye la creencia en sistema de justicia, creando con ello un sentido de vulnerabilidad que aumenta la impunidad de los agresores.

5. ¿Cuales serian las mejores maneras de erradicar la violencia contra las mujeres en Guatemala?

Respuesta:

⁸² Lemus B's answers need to be seen in combination with Chanquín Miranda's answers since they are additional comments re-sent afterwards. Both Lemus B. and Chanquín Miranda works for GGM.

MENJÍVAR, CECILIA (INTERVIEW 28-11-2013)

1. Do you know how ("thanks to whom") the *Law against Femicide and Other Forms of Violence Against Women* (Decree No. 22-2008) was implemented in Guatemala? If yes, how?

Answer: I am not sure, though the women's associations in Guatemala have been very active, in conjunction with outside support (mostly from European sources). It could be a response to outside pressure, as more people (mostly women's groups and/or development agencies) outside Guatemala learned about the feminicides.

In your opinion,

2. Have the law had any impact, and if so, how?

Answer: I don't think it has had much effect, as women continue being killed in Guatemala at about the same rate as before the law went into effect.

3. Which are the main factors against a constructive impact?

Answer: Corruption and lack of training (sensitivity training too) at the very low levels of the bureaucracy (e.g., the officers who investigate the cases).

4. What role, if any, has impunity played?

Answer: I think it goes hand in hand with corruption. Since perpetrators know that very few people are prosecuted or in jail for these murders and if there are charges they can buy their freedom, how will there be change even when there are laws supposedly in place to address these killings?

5. Which would be the best ways to eradicate violence against women in Guatemala?

Answer: I think it has to be a multi-pronged approach, beginning with the education of children from an early age, to socialize them into gender equality. The media need to change their messages too. The criminal justice system needs to be revamped. The police and law enforcement agencies need to start anew (with better salaries and better education). However, with drug trafficking so rampant at so many levels, I'm not sure what's possible now. There are glimpses of hope, and I know many Guatemalans are working toward a better, more just society. But it is not easy.

REDNOVI (INTERVIEW 26-01-2014)

1. ¿Conoce cómo ("gracias a quien") se adoptó la *Ley contra el Femicidio y otras Formas de Violencia Contra la Mujer* (Decreto Número 22-2008) en Guatemala? Sí si, ¿cómo?

Respuesta: La Ley contra el Femicidio otras formas de violencia contra la mujer, es producto las acciones emprendidas por las organizaciones de mujeres quienes han luchado para que el Estado de Guatemala reconociera que la violencia contra las mujeres es un problema de derechos humanos y que afecta a la sociedad en su conjunto.

Organizaciones de mujeres como Grupo Guatemalteco de Mujeres y la Red de la No Violencia contra las mujeres, emprendieron acciones para que conjuntamente con la Defensora de la Mujer de la Procuraduría de Derechos Humanos, se ratificara la Convención de Belém Do Pará, de esta cuenta se emite el Acuerdo Legislativo 69-94 que ratifica la Convención.

Desde ese momento, las organizaciones emprendieron acciones concretas hacia la emisión de una ley que aterrizará y concretará la Convención a la vida nacional, es decir se emitiera una Ley específica en materia de violencia contra las mujeres.

En 1996, lo que se obtuvo fue la Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar Decreto 97-96, sin embargo esta Ley no fue específica en violencia contra las mujeres como lo planteaba la convención, y quedó como una Ley neutral, sin embargo esta fue la ley que se comenzó a utilizar para la defensa de las mujeres.

Ante ello, las organizaciones llevaron a cabo diversas acciones de seguimiento, en el caso de la REDNOVI realizó una acción que se llamó: En la búsqueda de consensos para la implementación de la Ley de Violencia Intrafamiliar, lo que demostró la falta de implementación de la Ley de violencia intrafamiliar, ello permitió seguir demandando la elaboración de una Ley específica de violencia contra las mujeres.

Lográndose en el año 2000 la creación de la Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y contra las Mujeres -CONAPREVI- según lo establecido en el artículo 13 de la Ley de Violencia Intrafamiliar, esta instancia de Estado esta conformada por dos poderes de Estado y por sociedad civil, dejando a la REDNOVI, como representantes de las organizaciones de mujeres. Desde esa participación adentro de CONAPREVI y fuera de ella se hicieron diversas acciones que dieron como resultado la elaboración del PLANNOVI, que contempla cuatro áreas estratégicas, las cuales se ven reflejadas posteriormente en la Ley contra el femicidio.

Luego de ello, ya contando con la CONAPREVI y con lo que el PLANNOVI indicaba, se continuó en la búsqueda de la emisión de la Ley específica, para ello se hicieron varias propuestas iniciativas. En el 2007 las organizaciones de mujeres lograron concretar una propuesta consensuada que se denominó como "Ley Marco de Violencia contra las Mujeres", propuesta que se llevó al Congreso de la República, y tuvo una aceptación por parte de las y los legisladores.

En ese mismo año 2007, las organizaciones integrantes de la Agenda Política Mujeres en la Diversidad, desde donde GGM y la RENNOVI somos integrantes, elaboramos el documento llamado: Agenda Estratégica de las Mujeres Guatemaltecas 2008-2012, dentro de la cual se propuso que uno de los puntos que debía quedar en la agenda, era la aprobación de la Ley Marco de Violencia contra las Mujeres.

Esta Agenda fue firmada en el 2007 por los partidos políticos que estaban en la contienda electoral, dentro de ellos el partido de la UNE, quien en las votaciones del 2007 fueron electos. En el 2008 cuando toma posesión el Gobierno de la UNE, promovemos que se cumpliera a la Agenda Estratégica.

De esta cuenta en el 2008, se tienen las condiciones y la voluntad política del gobierno en turno y se promueve la elaboración de la Ley, a nivel del Congreso se elabora una propuesta la que no retomaba la Ley Marco, es por ello que las organizaciones hacen incidencia y se logra se retome la Ley Marco.

El Congreso llama a los mecanismos para el avance de las mujeres: CONAPREVI por ser el ente asesor, coordinador, impulsor de política pública en materia de violencia contra las mujeres, además invitaron a SEPREM y DEMI y otras instituciones.

Las organizaciones llevan a cabo un cabildeo intenso y aunque no fueron convocadas para estar dentro de las discusiones dentro del Congreso, las organizaciones estuvieron trabajando intensamente con asesores y diputadas y diputados, y con la CONAPREVI, logrando así la emisión del Decreto 22-2008 Ley contra el Femicidio y otras formas de Violencia contra la Mujer.

Esta ley contempló en espíritu y esencia la Ley Marco de Violencia contra las Mujeres, así como la estrategia que tenemos las organizaciones de mujeres, aunque a nivel de algunas funcionarias y funcionarios de instituciones no quieren reconocer los aportes dados por las organizaciones de mujeres, la muestra viva que estuvimos aportando es la misma Ley, por supuesto que siempre hay cosas que una hubiera querido que no quedaran así, pero lo que esta es lo que se pudo y lo que se logró con esa voluntad política que tuvieron Diputadas,

Diputados, funcionarias y funcionarios, con los aportes y conocimiento que aportaron las organizaciones de mujeres, así como el apoyo de medios de comunicación social, cooperación internacional y otros.

Hubieron muchas cosas después de la aprobación de la Ley, personas y organizaciones que se pronunciaron en contra, a nivel de los medios de comunicación pero que ahora, esta Ley es la que estas personas utilizan para la defensa de las mujeres. Y que se utilice la Ley para defender a las mujeres, eso es el mejor resultado que se tuvo de la emisión de la Ley contra el Femicidio, pues ese fue el fin que se persiguió desde el inicio.

En su opinión,

2. ¿Ha tenido algún impacto la ley y entonces en que forma?

Respuesta: La Ley ha tenido un impacto importante en Guatemala, antes de ella, la violencia contra las mujeres no era tipificada como un delito, no había una pena punitiva que la sancionara. Antes se hablaba de violencia intrafamiliar, pero la Ley para Prevenir, Sancionar y Erradicar la Violencia Intrafamiliar no es una Ley penal, es una Ley preventiva y que lo que más se ha utilizado son las medidas de protección.

La Ley contra el femicidio vino a cambiar un paradigma, pues un problema que era considerado como privado pasó a ser público en donde el Estado debe intervenir. Y ahora se crearon los delitos de violencia contra la mujer, violencia económica y femicidio, reconoce que es la misoginia y que es la violencia contra las mujeres. No ha sido fácil que los operadores de justicia entiendan todo esto, ha costado mucho pero hemos seguido haciendo todo lo posible para que la comprensión de la Ley se vaya generando a nivel institucional.

La Ley contra el femicidio retoma los preceptos en la Convención de Belém Do Pará, y lo que las feministas han posicionado en cuanto al abordaje de la violencia contra las mujeres.

A nivel general, se ha posicionado la violencia contra las mujeres como un problema, aunque la postura de gobierno actual, según sus pactos de gobierno, la violencia contra las mujeres se invisibiliza en la violencia intrafamiliar.

Ahora se tiene un modelo de justicia especializada en violencia contra las mujeres, de esta cuenta se cuentan con juzgados y tribunales con competencia en los delitos de femicidio y violencia contra la mujer, fiscalía de la mujer, modelo de atención integral en el MP, Centros de apoyo integral para mujeres sobrevivientes de violencia. Según información brindada por el MP, el segundo delito más denunciado en Guatemala es la Violencia contra las Mujeres, por lo que demuestra que este es un problema grave que debe atenderse.

Además ha venido a cambiar un imaginario social, en donde se consideró que la violencia contra las mujeres era natural y que solo se habla en medio de 4 paredes, sin que el Estado interviniera.

3. Si no ha habido gran impacto ¿cuáles son los factores en contra de ese impacto?

Respuesta: Un factor principal que ha influido es la percepción y concepción de lo que es la violencia contra las mujeres, los patrones sociales, culturales, patriarcales en la sociedad guatemalteca están bien arraigados, en tal sentido la implementación de la Ley se ha dado en contra corriente, contra estereotipos, contra concepciones personales particulares que se oponen a su implementación.

Otro factor que ha impedido avanzar ha sido la falta de asignación presupuestaria que se ha dado a la Ley contra el femicidio.

La oposición por parte de algunos sectores para que no se implemente

A nivel del sector de seguridad y justicia se cuenta con una institucionalidad débil, frágil, además de que el gobierno actual ha debilitado a los mecanismos para el avance de las mujeres.

Este gobierno no ha dado prioridad al abordaje de la violencia contra las mujeres, prueba de

ello es el desmantelamiento que le dieron a la CONAPREVI. Además no se está implementando el PLANNOVI, no se han fortalecido los Centros de Apoyo Integral para Mujeres sobrevivientes de violencia, no se ha implementado el sistema nacional de información sobre violencia contra las mujeres, existen fiscalías de la mujer y juzgados especializados pero no en todos los departamentos, por lo tanto existe un incumplimiento a la Ley contra el femicidio.

Los esfuerzos que se han dado han sido grandes y los aportes han venido de las organizaciones de mujeres y feministas, pero el Estado es el que no ha cumplido y no ha asumido la responsabilidad de lo que significa atender, prevenir, sancionar y erradicar la violencia contra las mujeres.

4. ¿Que rol, si alguno, ha jugado la impunidad?

Respuesta: Como ya se mencionó existe una debilidad institucional que se suma a la impunidad, pues muchas de las denuncias que debieron haberse considerado como violencia contra las mujeres, se continúan enmarcando en la violencia intrafamiliar, lo cual hace que muchas mujeres se queden sin respuesta efectiva, porque la violencia intrafamiliar no es un delito, por lo tanto no se investiga, por lo que las mujeres continúan sin acceso a la justicia.

Se continúa mediando, conciliando y desjudicializando la violencia contra las mujeres, pues se prefiere resolver de esta manera, una violación a los derechos humanos.

Las instituciones están rebasadas en cuando a la denuncia que se presenta, y no hay capacidad instalada, ello también tiene que ver con los pocos recursos que se destinan para la atención, prevención y sanción de esta violencia.

Aunque existan sentencias condenatorias, muchas de ellas son absolutorias o a razón de caución económica.

La falta de atención al problema, es impunidad, lo cual permite la repetición de estos hechos graves en contra de las mujeres.

El incremento de las muertes violentas de mujeres indica cómo el Estado no ha dado las respuestas efectivas para prevenir la violencia contra las mujeres.

5. ¿Cuáles serían las mejores maneras de erradicar la violencia contra las mujeres en Guatemala?

Respuesta: Se debe comprender la problemática de la violencia contra las mujeres, desde una mirada que integre todos los factores que vulnera esta violencia en las mujeres.

Implementar las leyes, política y plan que ya se cuenta en materia de violencia contra las mujeres, documentos que ya contienen un marco estratégico para la atención, prevención, sanción hacia la erradicación de la violencia contra las mujeres.

Fortalecimiento de los mecanismos para el avance de las mujeres, en especial a la CONAPREVI quien tiene como mandato asesorar, coordinar e impulsar las políticas públicas relativas en violencia contra las mujeres

Reconocer los avances que se han dado en materia de atención, prevención y sanción de la vcm.

Destinar recursos etiquetados para la atención, prevención y sanción de la vcm.

El Estado y en especial en la coyuntura actual, el gobierno debe reconocer los aportes que han dado las organizaciones de mujeres en cuanto al abordaje de la vcm, ello debido a que la vcm es un problema en donde la sociedad en su conjunto debe atender.

Se deben fortalecer las instituciones de seguridad y justicia, porque es importante que la justicia especializada este solo en un sector, todas las personas, funcionarios, operadores de seguridad y justicia y toda la población debe trabajar para que la vcm no sea considerada como natural y normal.

RODRÍGUEZ BALDIZÓN, MARA OLGA (INTERVIEW 17-12-2013)

1. ¿Conoce cómo (“gracias a quien”) se implementó la *Ley contra el Femicidio y otras Formas de Violencia Contra la Mujer* (Decreto Número 22-2008) en Guatemala? Sí si, ¿cómo?

Respuesta: El tema de gracias a quien se implementó la Ley es un poco difícil de determinar porque tenemos serios problemas con la implementación de la misma y además pues ésta debe ser implementada por los órganos gubernamentales que la misma menciona.

Ahora, con respecto al tema de gracias a quién se **creó** la Ley pues si se puede aseverar que las organizaciones de mujeres y de mujeres feministas de Guatemala tuvieron un gran papel para la creación de esta ley. Estas organizaciones y grupos de mujeres realizaron todo tipo de movilizaciones y acciones de incidencia política y cabildeo de manera pública y ante el Congreso de la República con el fin de que esta Ley fuera aprobada. Así mismo, recibieron el apoyo de la Diputada Delia Back y de la Diputada Mirza Arreaga (ésta última era presidenta de la Comisión de la Mujer del Congreso de la República) quienes prácticamente encerraron el la sesión de pleno a todas y todos los diputados hasta que se aprobara esta Ley en el año 2007.

Además, una acción que impulsó mucho las discusiones para la creación y aprobación de esta Ley, fue la realización de los Diálogos Interpalamentarios en el año 2005, los cuales se realizaron por iniciativa de la Fundación Guatemala, la Red de Investigadoras por la Vida y la Libertad de las Mujeres y la Comisión de la Mujer del Congreso de la República (Presidida en ese momento por la Diputada Mirza Arreaga) quienes lograron reunir a representantes del Parlamento de España, el de México (Marcela Lagarde y de los Ríos) y el de Guatemala, en el cual se discutió la creación de la Ley para el Acceso a una Vida Libre de Violencia de México y la tipificación del *feminicidio*, como lo llaman en ese país.

En su opinión,

2. ¿Ha tenido algún impacto la ley y entonces en que forma?

Respuesta: La ley si ha tenido un impacto positivo en el hecho de que la violencia en contra de la mujer ha sido visibilizada y además en hacer que la violencia en el ámbito doméstico deje de ser considerada dentro del *ámbito privado de la familia y fuera del ámbito de competencia del Estado* y se logró que se incluyera el tema en las políticas públicas y que se insertara en la concepción de lo que es público y que le concierne a todas y todos.

Sin embargo, la creación de la Ley no ha reducido los índices de violencia en contra de la mujer ni los femicidios y tampoco a logrado que se logren más sentencias condenatorias en contra de los agresores.

3. Si no ha habido gran impacto ¿cuales son los factores en contra de ese impacto?

Respuesta: En Guatemala ha habido mucho problema con la implementación de esta Ley y dentro de las causas de ésta problemática social están las siguientes (es un problema complejo que recordemos no tiene causas limitadas):

1. Más procesos penales dentro del Organismo Judicial de los que realmente puede procesar.
2. Un sistema de justicia corrupto y sin los recursos económicos y humanos necesarios para poder hacer realidad el acceso de las mujeres a la justicia.
3. La impunidad que reina en el país.
4. Una sociedad patriarcal que sigue naturalizando la violencia en contra de las mujeres.
5. Un sistema penitenciario que no cumple con su misión de la reinserción social.
6. La falta de recursos y de organismos que puedan velar por el correcto cumplimiento de la ley.

7. El escaso número de juzgados especializados en este tema con relación a la cantidad de casos que existen.
8. Un cuerpo policial con muchas deficiencias y sin sensibilidad ante este tema.
9. Un Ministerio Público que no cuenta con la tecnología ni los especialistas necesarios para poder investigar correctamente un delito de tal índole.
10. Entre otros.

4. ¿Que rol, si alguno, ha jugado la impunidad?

Respuesta: La impunidad ha sido una de las causas más fuertes para que la ley no se aplique correctamente y que los casos de violencia en contra de la mujer y de su expresión más despiadada, como lo es el femicidio, en lugar de disminuir aumenten. Lastimosamente, dado que las leyes en este país no se cumplen, los agresores consideran que pueden seguir cometiendo delitos en contra de las mujeres y que jamás serán sancionados por esto. La ausencia de prevención general, uno de los fines de la existencia de los delitos y de las penas, ocasiona que la gente no tema a una sanción en caso de cometer el delito sino que saben que lo más probable es que salgan impunes.

5. ¿Cuales serian las mejores maneras de erradicar la violencia contra las mujeres en Guatemala?

Respuesta: La violencia en contra de la mujer es un mal social que se encuentra incrustado en las raíces de nuestra sociedad, una sociedad patriarcal, una sociedad en la que ha imperado la dominación del hombre y la subordinación de la mujer. La discriminación que sufren las mujeres por el simple hecho de ser mujeres, se ve expresada cruelmente en la violencia en contra de la mujer, como una de sus manifestaciones. Así pues podemos ver que lo que debemos intentar cambiar son esas estructuras sociales y las mentalidades de hombres y mujeres en las cuales se deben deconstruir las situaciones que se han “naturalizado” como la violencia en contra de la mujer y se deben construir nuevos patrones de conducta social que salvaguarden y velen por el respeto de los derechos humanos de las personas por igual y de la consideración de la mujer y el hombre como seres que deben ser tratados de manera igual ante la ley y que deben convivir en pie de igualdad de derechos y oportunidades.

Esto podría lograrse por medio de talleres y programas de educación que deben iniciar desde una muy temprana edad a niñas y niños y que por medio de estos se vayan destruyendo los estereotipos y roles sexuales que se han construido en las personas desde sus hogares y construir estructuras mentales y accionarias en las cuales imperen la igualdad de derechos de hombres y mujeres y que no contengan elementos de subordinación de la mujer y la dominación del hombre.