

TOWARDS A HISTORICAL MATERIALIST ANALYSIS OF FEMICIDE IN POST-
CONFLICT GUATEMALA

By

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Abstract

Despite nearly twenty years of official peace in Guatemala since the signing of the 1996 Peace Accords, violence continues to remain a grave problem throughout the country. In particular, extreme forms of gender-based violence have been reportedly problematic over the past two decades, with a conversation on femicide, the targeted killing of women by men based on their gender, emerging in recent years between activists, politicians and practitioners alike. To respond to the crisis around femicide, in 2008, the Law on Femicide and Other Forms of Violence Against Women was passed by Guatemala's congress, mandating the creation of a specialized justice system to criminalize such acts.

Guatemala's legal innovations around femicidal violence is widely believed by many observers as a victory for human and women's rights defenders in the country. However, despite these legal interventions, femicidal violence has continued unabatedly in Guatemala.

In this thesis, I present a two-pronged argument. First, I will argue that the tensions inherent to neoliberalism in Guatemala create a landscape in which women are vulnerable to experiencing femicidal violence, beyond the scope explored by both the mainstream and critical literature, and moreover, beyond the scope of the Law on Femicide. Second, I posit that the Law on Femicide, which is inserted as a neutral, technical fix to the ongoing and pervasive issue of femicide and violence against women, depoliticizes femicide in Guatemala, removing it from neoliberal capitalist context and individualizing the responsibility of the crime to perpetrators, rather than the neoliberal state. Simultaneously, the rule of law as expressed through the Law on Femicide must be

understood in the context of the neoliberal landscape in Guatemala, in particular, in the context of neoliberalism's "crisis of social reproduction" (LeBaron and Roberts 2012, 26).

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Chapter One: Introduction

The 37-year long armed conflict and genocide that raged throughout Guatemala over the latter half of the twentieth century seems (1960-1996), in the wake of recent violence, far from over. Despite the restoration of peace and the signing of the Accords, Guatemala has been labeled “one of the most violent countries in the world officially in Peace” (PNUD in Godoy-Paiz 2008, 28). In the first five years following the signing of the 1996 Peace Accords alone, 20 943 murders were reported and registered by the authorities, classifying the situation as an “epidemic and public health concern” (Sanford 2008, 108).

While rates of reported violence soared since the signing of the 1996 Peace Accords, Guatemalan women in particular have experienced post-conflict violence in particularly brutal and cruel ways. “Indeed, the mortality rate of women in peacetime Guatemala today is reaching the very high levels of female mortality in the early 1980s at the height of the genocidal war that took 200 000 lives” (Sanford 2008, 105). Similarly, according to official statistics reported by Amnesty International, between 2010 and 2012, 1886 women were found violently murdered in Guatemala, and often having been raped and/or mutilated (Amnesty International 2013, np). Importantly, “[t]hese murders are carried out with such viciousness that it makes them stand out from other crimes” (Gasman quoted in UNFPA 2013, np). The endemic of these gendered murders both reported and unreported in Guatemala have, in the post-conflict era, been referred to as “femicide,” a term coined by Diana Russell in the 1970s, used to describe the targeted killings of women based on gender that are socially uncontested and embedded in patriarchal practices (Carey and Torres 2010, 143).

While not mutually exclusive, the key scholarly debates regarding femicide in Guatemala can be broadly situated in two main perspectives, or what I refer to here as mainstream and critical. To varying degrees, both perspectives acknowledge the role of a history of patriarchal violence and cultural norms as key causal factors in enabling femicide. Mainstream perspectives, rooted in liberal feminist and institutionalist assumptions, highlight a lack of institutional protections and judicial resources as key factors in allowing impunity and injustice in these cases (Sanford 2008; Torres 2008; Carey and Torres 2010; PCUSA 2013; Chazaro et.al. 2010; Velasco 2008). In addition, gang violence, particularly in the urban context, has been cited by mainstream perspectives as responsible for many of these deaths (Sanford 2008; Torres 2008; Carey and Torres 2010; PCUSA 2013; Chazaro et.al. 2010; Velasco 2008). Alternatively, critical perspectives introduced a rehistoricization of femicide as a phenomenon with roots deeper than institutional failure. Weissman has explored parallels with the Mexican case of Ciudad Juarez and the dispossession and gendered nature of neoliberalization in Guatemala (Weissman 2010). In addition, critical literature has attempted to rehistoricize femicide as a legacy stemming from colonial antecedents, further embedded by use of rape and sexual violence as weapons of war during the conflict and exacerbated by developments like the privatization of security in post-conflict Guatemala (Prieto-Carron et.al. 2007; Costantino 2006; Monarrez Fragoso 2010; Weissman 2010).

At present, however, Guatemalan women enjoy the greatest number of legal protections than at any other point in the country's history (Godoy Paz 2008, 32). In 1996, the Law to Prevent, Sanction, and Eradicate Interfamilial Violence was passed, followed by the Law on the Dignification and Integral Promotion of Women in 1999

reaffirming Guatemala's international legal commitments to alleviating gender-based violence (Godoy Paz 2008, 28). In April 2008, the Law on Femicide and Other Forms of Violence Against Women, or in Spanish, *Decreto 22-2008* (hereafter: Law on Femicide) was passed in Guatemala's Congress, making femicide and forms of physical, economic and psychological violence against women crimes under national law. Further, Article 15 of the Law on Femicide established an obligation for the creation of a number of specialized tribunals throughout the country (OJ 2010, 5).

Interestingly, little scholarship has focused on the developments surrounding the Law on Femicide in critical perspective in post-conflict, neoliberal Guatemala. Aldana's (2013) recent book highlighting both strengths and limitations in the implementation of the specialized justice system, and acknowledging the gendered dimensions of poverty and inequality in relation to violence. Similarly, England (2014) highlights the ways in which the Law on Femicide challenges Guatemala's patriarchal government and patriarchal structures in society that limit understandings of violence against women as normalized relations between men and women, discursively deconstructing the law (127). While both Aldana (2013) and England (2014) highlight limitations to the implementation of the law, neither of these perspectives challenge the Law on Femicide as a feature of neoliberalism, and how this shapes the Guatemalan experience of such violence.

Furthermore, while the passing of the Law on Femicide does represent a remarkable step in the recognition of women's rights in Guatemala, some studies have shown that cases of femicidal violence continue to rise (Amnesty International 2013, np). While femicidal violence is widespread throughout the country, the majority of the

decisions regarding legal transformations in this regard have been made in Guatemala City, where the specialized justice system is well established.

Moreover, not illustrated within debates in the literature on Guatemalan femicide, are the neoliberal capitalist shifts that occurred in the latter years of the conflict and on into the post-conflict years, which have shaped the material reality of life in Guatemala. As such, much of the literature in both mainstream and critical perspectives isolates femicide in a socio-cultural vacuum, neglecting the ways in which neoliberal capitalism may also have contributed to the tensions that enable femicide's pervasiveness in the post-conflict era. For instance, in the 1980s, General Rios Montt introduced land reform policies that dispossessed thousands of indigenous Mayan villagers in rural areas. This first wave of neoliberalization in Guatemala took place in the bloodiest decade of the conflict (Yates and Siegel 1983, np). The 1996 Peace Accords claimed to humanize neoliberal reforms in the context of "development", consisting of a Socio-Economic Accord that linked development to increased foreign investment (Short 2007, 195). Arguably, as I will show, these transformations of neoliberalization have sparked further dispossession of indigenous populations, increased migration towards urban areas in the post-conflict decades (where rates of violence, including gender-based violence are reported in higher numbers), greater gaps between wealthy and poor, and growth of precarious settlements and labour conditions.

This ultimately provokes the following questions – all of which drive my inquiry. How can the gaps in the literature on femicide be filled to identify and understand the tensions inherent to both post-conflict neoliberalism in Guatemala (1996 to present) and the expanding judicial landscape that offers a legal infrastructure to penalize crimes of

femicide? How does the Law on Femicide construct and define femicidal violence in neoliberal context? Further, why and how is femicide an articulation of the tensions inherent to neoliberal capitalism in Guatemala?

In addressing these questions, both theoretically and empirically, I develop the following two-pronged argument. First, I will argue that these tensions create a landscape in which women are vulnerable to experiencing femicidal violence, beyond the scope explored by both the mainstream and critical literature I identify. Second, I argue that the Law on Femicide, which is inserted as a neutral, technical fix to the ongoing and pervasive issue of femicide and violence against women, depoliticizes femicide in Guatemala, removing it from neoliberal capitalist context and individualizing the responsibility of the crime to perpetrators, rather than the neoliberal state.

Simultaneously, the rule of law as expressed through the Law on Femicide must be understood in the context of the neoliberal landscape in Guatemala, in particular, in context of neoliberalism's "crisis of social reproduction" (LeBaron and Roberts 2012, 26), which I define below.

The twofold nature of my argument will draw on an exploration of the gendered impacts of economic transformations marked by neoliberalism and the marketization of social reproduction, and secondly, the depoliticization and normalization of femicide through the implementation of the rule of law through the Law on Femicide. I will highlight the role of the neoliberal state and its connection to the rule of law, which I argue is a neoliberal feature that masks the tensions and "crisis" around social reproduction in post-conflict Guatemala. I will do so by drawing on a feminist historical

materialist framework, which I will develop in Chapter Three, and which I explain in the following section.

The toxic *mélange* of factors influencing living and working conditions in Guatemala influences social reproduction, which is defined by Bakker and Gill as being “...both a productive potential and a condition of existence for the expanded reproduction of capital and social formation” (Bakker and Gill 2003, 22-23). This definition highlights what the debates on femicide so lack: an understanding of how processes of neoliberal transformation (particularly in the context of post-conflict Guatemala) have created conditions of vulnerability and dispossession, that are also constitutive of a landscape of various forms of violence that affect women in particularly brutal ways. Incorporating the market into social reproduction produces tensions and inequalities (Gill and Roberts 2011, 168), I will demonstrate that it is impossible to isolate such tensions and inequality from Guatemala’s ongoing endemic of femicidal violence. Gill and Roberts (2011) refer to a crisis of social reproduction, which further builds on this notion. Indeed, “...the loosening of women’s dependence on men and the state has been met with an increasing dependence on the market: a market that is itself shaped by gendered assumptions, meanings and allocations of risk” (Gill and Roberts 2011, 166). As such, a “crisis of social reproduction” (Gill and Roberts 2011; LeBaron and Roberts 2012, 26) shapes and constructs the material conditions in which femicide occurs.

At the same time, the Law on Femicide, an example of the articulation of the rule of law depoliticizes femicide, removing such violence from neoliberal capitalist context. As Poulantzas articulates, capital accumulation is reproduced through the “repressive apparatus” of the state and the simultaneous “ideological hegemony of the dominant

class” (Carnoy 1984, 111). In this sense, the state reproduces and shapes the nature of class struggle to the exclusion of dominated groups (Carnoy 1984, 98). At the same time, the rule of law is constructed as a tool for generating social and economic progress (May 2012, 2). In looking at how the Law on Femicide acts as such a tool, it is important to also consider the ways in which it stands to represent the reproduction of dominant class ideas, and how it is positioned to exist as neutral, separate from the gendered dimensions of capitalist accumulation. Indeed, the Law on Femicide operates, as an example of the rule of law, through a “neutralization effect” and a “universalization effect” that reinforce the status quo (Bourdieu 1987, 820). Femicide thus appears to be a form of violence that exists as a disruption to the norm, or what Žižek terms “subjective violence” (Žižek 2008, pg): rather, it is contextual to the systemic violence of neoliberal capitalism in post-conflict Guatemala.

Chapter Outline and Methodology

My thesis will be divided into four main chapters following this introductory first chapter. In my second chapter, I will present a literature review on the representations of feminicidal violence in Guatemala, highlight debates around femicide as well as the key theoretical perspectives that I will engage with, and present as mainstream and critical. I will illustrate the gaps in this literature in terms of a historical materialist framework, and how this reading can further rehistoricize feminicidal violence in Guatemala.

My third chapter will present this theoretical approach, weaving a feminist historical materialist understanding of feminicidal violence in neoliberal Guatemala. I will highlight the key economic transformations that have occurred over the course of the

later years of the armed conflict, and how these changes have been solidified in the post-conflict political economic landscape. In particular, I will draw on Marx and Žižek to develop a foundation for understanding historical materialism in relation to violence. I will also draw on the gendered applications of this theoretical approach, by drawing on Federici, Fortunati, Bakker and Gill (2003), given the inherently gendered nature of femicidal violence. Further, I draw on Poulantzas and Bourdieu to develop this framework further, in a neoliberal context and in relation to the rule of law.

I will apply my feminist historical materialist critique to a mapping out of neoliberal legacies in Guatemala to provide historical context to the present situation of femicide in Guatemala in my Chapter Four. In my fifth chapter, I will apply this framework to my case study of the Law on Femicide. My information will be drawn from 5 weeks of field research in Guatemala City, during which I conducted semi-structured interviews with legal professionals working within the specialized justice system, related NGOs and activist groups, and consulted archives, libraries and statistical data available through government institutions and at the Universidad de San Carlos. Having worked previously in the capital, former contacts proved useful in snowballing and putting me in touch with additional contacts and organizations in the capital city.

Finally, my conclusion will draw together my findings, and I will conclude to problematize the depoliticization of femicide in post-conflict Guatemala. My feminist historical materialist analysis of these issues will provide new foundations for understanding femicidal violence, and my theoretical contribution to the literature will be reinforced by my own empirical fieldwork and case study on the recent Law on Femicide.

Given that the primary contribution I seek to make through this thesis is largely theoretical, I draw on a qualitative methodology rooted in my background in Political Science and Global Development Studies to make the links between the concepts and issues I identify. However, I also aim to develop an empirical contribution to the discussion on femicide in the literature, especially the Law on Femicide, in order to fill the gaps in the literature that I identify, and will explore in Chapter Two. As such, I will employ a mixed-methods approach to qualitative analysis, drawing on semi-structured interviews I conducted in Guatemala City in July-August, 2013 as well as drawing on statistical data to support interview conversations.

I conducted interviews with practitioners in the specialized justice system, NGO representatives working in the field of human and indigenous rights activism, anti-poverty activism, and women's rights activism, as well as activists involved in anti-capitalist struggles in the region around Guatemala City. I established contacts through a snow-balling technique, and drew on previous contacts I had made in 2012 as an Intern at the National Union of Guatemalan Women and at the University of San Carlos (USAC) to begin my research. Further, Guatemala City presents some of the highest rates of femicidal violence in the country. Guatemala City is also at the heart of the specialized justice system, and information is perhaps the most accessible in the capital city. Further, the social inequality observed in Guatemala City by interview informants presents an interesting case study for an exploration of the ways in social reproduction exists in crisis vis-à-vis femicidal violence.

Further, I will draw on statistical data collected at the National Institute of Statistics and studies made available through the USAC, particularly through the Centre

for Urban and Regional Studies (CEUR) located on the University's main campus in Guatemala City. In particular, I obtained statistics about the gendered dimensions of labour, unemployment, poverty in order to develop my analysis of social reproduction in Guatemala's post-context. I also obtained statistical data from the *Procurador de Derechos Humanos* (Human Rights Ombudsman in English, or PDH), particularly in terms of rates of femicide. Other statistics on femicide were obtained through the Tribunal for Femicide and Violence Against Women, located in Zone 10 of Guatemala City.

It is important to emphasize the limitations of statistical data made available, particularly in relation to femicide. As I discuss in Chapter Two, much of the data available on femicide is inconsistent; different government bodies and non-government bodies like the PDH compile statistics that differ greatly. Further, many of the statistics made available through the INE do not provide an explanation into how statistics were gathered. As such, interview conversations often support many of the issues to which the statistics point, and I will draw on these conversations to support my assertions. Ultimately, I will draw on this data not as the central crux of my thesis, but rather, to support the theoretical contribution I seek to make to the literature on femicide in Guatemala's post-conflict Guatemala.

Building on this theoretical framework, I will illustrate my case study. I will provide a history of the law's formation and its transformation since it came into effect. My case study will analyze the correlation between current rates of "femicide", rates of poverty, the commodification and subsequent crisis of social reproduction in Guatemala. I will apply the theoretical framework I have explored to this case study in order to

empirically and theoretically advance the discussion on femicide/feminicide in Guatemala in response to my research question and core hypothesis.

Chapter Two: Literature Review

Introduction

Peace in post-conflict Guatemala hinges on a paradox: on one hand, what has been praised as a widely comprehensive peace process by the UN, Western governments, and Guatemalan NGOs, has been instituted by the implementation of the 1996 Peace Accords, widely encompassing of indigenous rights, mechanisms for good governance and economic development, and inclusivity of women's rights. On the other hand, and in stark opposition to the liberal peace rhetoric of broadened and strengthened institutions, Guatemala has been labeled "one of the most violent countries in the world officially in Peace" (PNUD in Godoy-Paiz 2008, 28).

Women, in particular have experienced post-conflict violence in particularly brutal ways. Since the signing of the Peace Accords in 1996, literature about continuing human rights violations in Guatemala, particularly about gender based violence, has developed a key place in academic and political conversation regarding the post-conflict years. With 9.7 femicides per 100 000 people, the Small-Arms Survey ranks Guatemala third in the world for highest rates of violent deaths of women (Nowak 2012, 3).

Statistics presented by the Organismo Judicial (OJ) or Judiciary in English, reinforce this conjecture, arguing that violent deaths of women continually increased over the first decade of the new millennium (OJ 2012, 17). Nonetheless, gender-based violence has become increasingly visibilized by institutional development in Guatemala, particularly through the recent legislation of the Law on Femicide in 2008, and the broadening of a specialized legal system in the country, which criminalizes all forms of violence against

women and is celebrated as an innovative approach to dealing with this ongoing problem.¹

This chapter will map out the key developments in the literature on femicide in Guatemala, and how the concept has been transformed in recent years, particularly post-2000, when rising rates of femicide began to attract the attention of academics, activists and legal practitioners. Simultaneously, I will argue that the discussion on femicide – through literature and through law – is ahistorical and apolitical, neutralizing the rule of law and institutions, and failing to sufficiently interrogate the material contexts that create the conditions for femicide to occur.

The literature on femicide falls into two categories, which I will refer to as mainstream and critical; the former being grounded on liberal feminist and rights-based concepts geared towards addressing the problem, and the latter interrogating some of the political economic and historical antecedents of femicidal violence. In addition, the discussion on the work of practitioners developing policies to address femicide has also emerged, particularly after the 2008 Law on Femicide was passed. The discussion regarding the Law on Femicide can also be divided into these two camps of mainstream and critical; however, both perspectives are grounded in rights-based assumptions, which I uphold are problematic in understanding and addressing femicide.

In this chapter, I make three interconnected claims regarding the existing literature on femicide in Guatemala, to support my main argument. I argue that existing literature on femicide in Guatemala dehistoricizes and depoliticizes such violence as a

¹ While increasing the number of institutions that deal with justice for violence against women may itself mean that more cases of violence against women are reported, it has also been recognized that violence against women has worsened in the post-conflict years, particularly in urban areas (Interview I, Interview II)

symptom of impunity, a failure of the justice system in the context of hyper-masculine socio-cultural norms, and a characteristic of post-conflict violence. Moreover, I suggest that the literature on the Law on Femicide itself is also limited in scope. Because of the literature's failing to interrogate the antecedents of the law or explore femicide from a historical materialist lens, femicide has not been adequately situated within the fabric of a post-conflict neoliberal-led capitalism in Guatemala.

Seen from the above perspective, this chapter will be divided into three key sections. First, I will explore different meanings and uses of the word femicide and feminicide, which emphasize the role of individuals or the state, respectively, in facilitating this form of violence. These definitions also enable the depoliticization of femicide in different ways; the former, in rendering femicide a problem of the individual in society, and the latter in articulating that the state is too weak in its institutional capacities to deal with the issue of femicide, and must build better laws and institutions to remedy it.

Second, I will highlight the theoretical perspectives underpinning the academic study of femicide. In doing so, I will investigate both mainstream and critical literatures. Mainstream perspectives emphasize impunity, gang warfare and institutional failure as precursors and enablers of this violence; critical literature responds to these mainstream perspectives by attempting to incorporate an understanding of femicide as a political problem, and as a legacy of violence stemming from colonial antecedents and as a part of the post-conflict landscape. Importantly, none of these authors have critically interrogated the judicial response to mainstream calls for better institutions: the Law on Femicide. As I suggest later, a materialist perspective, which contextualizes social reality to political

economic conditions, better offers the opportunity to explore dimensions of social reproduction in relation to femicide, and works to fill this gap; I will elaborate this theoretical approach in Chapter Two.

My final section will explore how femicide has been shaped by the development of the Law on Femicide, and the academic discussion that has emerged since the law was passed. This section will also include statistical information on femicide, and I will point to how the law has influenced how these statistics are also defined and consequently depoliticized by the rule of law. Because the law and specialized justice system only recently emerged in 2008, few authors have explored how it shapes femicide in Guatemala, and do not sufficiently consider the role of the political economic landscape of the post-conflict neoliberal era in transforming gender-based violence in their analysis. The law itself can be framed as an expression of an institutionalist response to what a materialist analysis frames as a structural problem; this analysis demonstrates the limitations of current legal developments in dealing with rising rates of femicide in the toxic *mélange* of post-conflict neoliberal transformation, yet remains unexplored in the Guatemalan context.

Broadly speaking, the existing literature on femicide in Guatemala dehistoricizes and depoliticizes such violence as a symptom of impunity a failure of the justice system, contextual to hyper-masculine socio-cultural norms, and a characteristic of post-conflict violence. These neglects, as I note in the Introductory Chapter, lead to a partial understanding of femicide as a form of violence isolated in its own vacuum of impunity that can be remedied with better laws and institutions. By grounding my literature review

in these assertions, I will further demonstrate how femicide is depoliticized by these institutional developments in the chapters to follow.

Defining Femicide

“Femicide” is a blurry term, confused by academics, legal practitioners and activists, and used in varying contexts. In many cases, the use of the term takes the action out of political context, which assumes that such violence is apolitical and ahistorical. The term “femicide” is most often used to describe the most extreme cases of violence against women, which end in death. The term itself, coined by Diana Russell (1976) is used to describe the targeted killings of women that are socially uncontested and embedded in patriarchal practices (Carey and Torres 2010, 143; Ispanel Medinilla 2008, 9). Femicide establishes itself as an “alternative to the gender-neutral homicide” (Russell 1992, xiv), meaning it recognizes the gendered dimensions of murder, and seeks to differentiate between the murder of men and women in a patriarchal superstructure. Similarly, Caputi and Russell (1992) also define femicide as a form of “sexist terrorism”, extreme form of anti-women violence, which emerges in response to the emergence of feminism and challenges of male domination in society (17). They also point to how femicide is often either normalized or neutralized through jokes or culture (Caputi and Russell 1992, 19). Femicide is believed to exist as spousal, homophobic, racist and mass forms of violence, among others, and feminist scholars iterate the importance of highlighting the diverse experiences of women targeted as victims in this context (Radford 1992, 8).

Since Diana Russell first used the term at the 1976 International Tribunal on Crimes Against Women (Russell 1992, xiv), and despite a broad reluctance within feminist scholarship, which often silences femicide because of its finality (Radford 1992, 4-5), the term has become much more commonplace. For instance, the UNDP recognizes the term and defines femicide as the killing of women because of their gender (Madre 2012, 1). Other scholarship builds on Russell's foundation, and broadens the scope of femicide; indeed, Campbell and Runyan (1998) argue that all murders of women can be classified as femicides, though predominately focusing on intimate-partner cases (Russell 2001, 15). Throughout Central America and Mexico in particular, cases of violence against women like those that occurred in Ciudad Juarez following the implementation of NAFTA (Weissman 2010, 238), have thrust the term into academic conversation.

The use of the term, however, currently varies in the literature, and is not always used consistently. While Russell's original definition of femicide sought to politicize violence against women as contextual to patriarchy, at present, the usage of the term, and its counterpart, feminicide, is broad and lacks clear definition. The former is not always used in its original sense, and does not always incorporate the political dimensions and complicity of the state inherent to these actions. Rather than contending that state structures are patriarchal and thus enable femicide, and that femicide is a political issue rather than solely a social ill, "femicide" may be used to highlight a more individualized issue. As such, some authors use "feminicide" to incorporate a political understanding of violence against women into the term (Sanford 2008, 112). The role of politics in

enabling this form of violence, however, is articulated differently by liberal feminist and critical scholarship, which will be discussed later in this chapter.

In many cases, femicide perceived as being committed or planned by relatives or partners known to the victims (Prieto-Carron et.al. 2007, 28); "...domestic violence cannot be separated from femicides, especially in Nicaragua, where women are killed by their husbands and partners. In this sense, femicide can be considered as an extreme form of domestic violence that kills women" (D'Angelo quoted in Prieto-Carron et al 2007, 28). Other cases have been planned by partners or ex-partners of victims, or have been carried out as some form of revenge (Prieto-Carron et al 2007, 28). Others have asserted that the killings have been largely indiscriminate and killers' identities have remained protected by impunity and state indifference (Trujillo Morales 2010, 134). The *Fundacion Sobrevivientes*, one of the earliest organizations to offer services to victims of gender-based violence in Guatemala maintains that in these cases, the victim is known to the perpetrator (Prieto-Carron et al 2007, 28).

Ispanel Medinilla (2008) provides perhaps the most comprehensive explanation of femicide in the Guatemalan context. She argues that femicide can be described as the most extreme form of violence against women, which often follows other manifestations of such violence and as such does not occur in isolation from other gendered, violent acts (Ispanel Medinilla 2008, 10-11). Building off of work done by western feminist academics (Radford, 1992; Russell, 1992) she distinguishes between intimate, non-intimate and relational femicide, which pertains to cases occurring in familial contexts, indiscriminate situations, or by association, respectively (Ispanel Medinilla 2008, 10).

She also highlights in non-intimate cases, women are often sexually assaulted prior to being murdered (Ispanel Medinilla 2008, 10).

She also contextualizes femicide to Guatemala's contemporary history by distinguishing between femicide, feminicide as genocide, and feminicide. While femicide is solely a legal term, and in the Guatemalan context emerges from its use by the Law on Femicide, feminicide as genocide implies genocidal acts committed against women, often enabled through governments and legal structures, rooted in machismo, misogyny and legitimized by a sense of normalized violence against women in society. Importantly, feminicide as genocide is not widely used in other literature (Ispanel Medinilla 2008, 15). Femicide, alternatively, is typically only used in feminist and academic spaces, and articulates that political and legal structures enable this form of violence against women, along with social and cultural norms such as machismo and legacies of violence against women (Ispanel Medinilla 2008, 16).

Marcela Legarde is a key actor in the conversation on femicide in Mexico and Central America and president of the National Commission on Femicide in Mexico (Fregoso and Bejarano 2010, 16); she utilizes the term feminicide, and describes it as “the entirety of crime against humanity, including the murders, the kidnappings and the disappearances of girls and women within the frame of institutional breakdown. It involves a breach in the rule of law, which favors impunity” (Lagarde quoted in Fregoso and Bejarano 2010, 8). For Lagarde, feminicide is committed through the state; this definition, however, makes the ahistorical assumption that a breach in the rule of law is the problem for femicide, thereby neutralizing institutional changes in favour of ending impunity and building better laws.

Similarly, Ispanel Medinilla defines feminicide through the state impunity.

Indeed,

Femicidal violence has proliferated given the situation of gender inequality and men's power and control structure over women and girls that allows them to decide the moment of their death, motives used to justify assassination, violent acts exerted on the victim's body, familial relationship between victim and victimizer, lack of investigation or justice....and responsibility or complicity of the state (Lopez et.al. 2010, 158).

Traditionally gender-based violence has been isolated in the private realm; however, reconceptualizing femicide as a political act implies that it does not rest on either side of the public-private dichotomy, but rather encompasses both elements (Fregoso & Bejarano 2010, 11). Building on this, Sanford argues that feminicide can also be classified as a form of social cleansing, which instrumentalizes guaranteed impunity from the part of authorities, and seeks to create conditions of fear or intimidation among women (Sanford 2008, 110). As such, authors drawing on the term "feminicide" in the Guatemalan context, politicize femicide and depoliticize the institutionalist solutions for which they call.

Fregoso and Bejarano, in their key volume on feminicide in the Americas, situate the crime within a critical human rights perspective, arguing, along these lines, that both governments and non-governmental actors are responsible for the deaths (Fregoso and Bejarano 2010, 19). They argue that feminicide is both a public and private issue, and seek to break down this dichotomy, a blurriness they argue legitimizes the development of legal recourse for addressing these issues (Fregoso and Bejarano 2010, 11). Evidently, there is little agreement throughout the literature on the precise meaning of terms used to describe femicide; Fregoso and Bejarano, despite a more critical undertaking of the term, however, confine their definition to the rights-focused approach similar to Ispanel

Medinilla, Lagarde and Sanford, thereby neutralizing the rule of law and femicide in these cases.

While femicide is not a recent problem in Guatemala, it only entered into the country's legal vocabulary in 2008, with the passing of *Decreto 22-2008*, The Law on Femicide and Other Forms of Violence Against Women. The Law on Femicide uses the term femicide, which it defines as the "violent death of a woman, occurring in the context of unequal gender relations in the exercise of a gendered power over women by men" (Secretaria de la Mujer y Analisis de Genero 2012, 54).

For the purposes of this thesis, I will use the term employed by the law, femicide, given that the Spanish equivalent of this term is used at official levels in Guatemala. In using it, however, I do recognize that all murders of women in Guatemala are not necessarily encompassed by this term, which builds off of Russell's original, political definition. Given the scope of my thesis and work, however, I will only be able to draw on statistics as they are available; in many cases, statistics only represent female homicides, simply because of the blurriness of the term.

In using the term "femicide", I imply a context of murder committed within the scope of unequal, patriarchal gender relations, which I will show are exacerbated by neoliberalization, particularly in the post-conflict period. Moreover, femicide can occur in both public and private spaces, but I recognize the implication of the state in all forms of femicide. Given the scope of my thesis, I will not differentiate between cases of exaggerated domestic abuse that result in femicide and random acts of femicide, because my understanding of the term implies that all cases of femicide occur within a given material context. I reject the mainstream usage of the word femicide, which claims to

repoliticize these acts as contextual to state impunity or lack of judicial recourse. While my thesis aligns with authors like Weissman (2010) who employ a critical usage of the term femicide, I will employ “femicide” to avoid ambiguity with respect to the Guatemalan context. My thesis asserts that femicide is political, and suggests a repoliticization of femicide, by framing it through a material lens, and situating these acts in political economic context within the sphere of the neoliberal state. I will discuss the materialist angle I will pursue in my following, theory chapter.

Mainstream vs. Critical Responses to Femicide

Both mainstream and critical perspectives on femicide highlight its complexity, and offer a breadth of empirical data that enables some understanding of this problem. The literature, however, is muddied by the lack of consensus on how to define femicide. Furthermore, neither side of the literature interrogates the institutional transformations that have developed since 2008 in Guatemala from a materialist perspective. As such, both mainstream and critical literature accept the rights-based approach to dealing with femicide, which, as I illustrate in my later chapters, is problematic in that it ignores the material conditions that enable such violence, and merely places a legal bandaid on a continual problem in Guatemalan society.

Mainstream Liberal Feminist Perspectives on Femicide

Femicide’s place in mainstream liberal feminist academic literature has inspired legal transformations like the Law on Femicide. Much of the academic literature on femicide in Guatemala, however, lacks a theoretical foundation, offering depoliticized

solutions that neglect the complexities and contradictions inherent to them. The majority of the literature on femicide can be situated in the mainstream camp, which supports the legal developments without interrogating the material foundations of femicidal violence.

Mainstream perspectives on femicide in Guatemala can be described as rights-based, liberal feminist and institutionalist in nature. Broadly speaking, this means that they recognize a need for stronger institutions and a respect for existing laws in relation to violence against women. They call on the Guatemalan government to guarantee the respect for the human rights of women, and bring about an end to impunity that is blamed for these deaths. As I will demonstrate, effectively depoliticize the rule of law as a neutral force for overcoming violence against women in Guatemala. Typically, the term “femicide” is drawn on in this literature, although “feminicide” is also used in reference to the impunity associated with the present role of the state.

The literature in this camp highlights the role of impunity, and failures to preserve the rule of law in relation to women in terms of addressing femicide. Musalo et.al. articulates that there lacks a “price” to be paid for committing acts of femicide (Musalo et al 2010, 161). This harkens to the notion rooted in this paradigm, which seeks to explore “...how impunity makes the routine practice of violence possible” (Torres, 2008, 4).

Government impunity is part of the equation that enables femicide (Carrey Jr. and Torres 2010,160), which is an argument also made by Velasco (2008), who blames femicide’s escalation in recent years to impunity on the part of the government. She states, “Officials discount the severity of the femicide; they fail to conduct proper investigations and allow perpetrators to remain at large; and by omission and a system of impunity, the Guatemalan government is complicit in the terror” (Velasco 2008, 398). So

while the state is in part responsible for the rising numbers of femicide, it is only through its failure to hold perpetrators of these crimes accountable to the law (Velasco 2008, 399).

Velasco's recommendations, to condemn cases of femicide; create better guidelines for criminal investigations; develop a database for missing persons; implement legislation to complement international law; provide more adequate legal training to legal practitioners dealing with gender-based violence; and to create a no-tolerance policy towards impunity are somewhat dated, however, given the recent legal developments in Guatemala (Velasco 2008, 420-421). They do, however, parallel recommendations made by the UNHRC in 2012, which called for stronger government institutions, improved analysis of victims on the part of the National Forensic Institute, and affirmative action policies to be implemented, to name a few (UNHRC 2012, 34-35). The UNHRC did, however, remark on the need to protect indigenous women in particular in the study, and called for increased protection of rights and customs, language programming, cultural sensitivity and awareness (UNHRC 2012, 35). These recommendations nonetheless are echoed in their logic by Torres' assertion that violence against women is a costly endeavor for governments, which presupposes that providing mechanisms through which to address it enables governments to maximize gains (Torres 2008, 2).

Furthermore, she seeks to empower the very structures that she claims are inherent to enabling femicide; from this perspective, state structures and institutions are first portrayed as corrupt, and then neutralized by the presentation of potential solutions. This contradiction inherent to the logic presented by the liberal mainstream theory fails to

be addressed in the literature, offering superficial solutions to a problem rooted in the complex social-economic landscape of post-conflict Guatemala.

Drysdale Walsh argues that “Guatemala remains a “killer’s paradise” with one of the highest levels of homicides against women and one of the highest levels of impunity in the world” (Portenier 2007 in Drysdale Walsh 2008, 49). She argues that “developing countries are more likely to create and maintain specialized institutions when domestic and international political and legal frameworks make the state more vulnerable to women’s demands, and when civil society coordinates with the state and/or international organizations to take advantage of this political opportunity” (Drysdale Walsh 2008, 49). In this vein, she emphasizes the role that civil society must play in transforming legal institutions, in applying pressure against the State to act towards addressing and benefiting marginalized groups (in the Guatemalan case, women) (Drysdale Walsh 2008, 49-50). Institutional transformation is seen as a necessarily interactive process that involves a range of social actors, especially in the developing country context (53). She references the National Coordinator for the Prevention of Intrafamilial Violence and Violence Against Women (CONAPREVI), approved and created in 2000 and in 2001 respectively, as a prime example of how institutions can be constructed through lobbying of women’s groups, and can also be amenable to attracting foreign donor funding, and how these institutions can advance legislative change for addressing violence against women (60).

Importantly, liberal mainstream perspective blames cultural norms and historically entrenched practices of violence against women as key factors enabling femicide in Guatemala. During the colonial and post-colonial era, dating up until the

onset of the civil war, “The collusion of such state institutions as the courts and police with local cultural practices sustained violence in highly gendered ways” (Carrey Jr. and Torres 2010, 146). Carrey Jr. and Torres argue that violence is normalized in society by longstanding legacies of culturally acceptable violence, and by practices of violence exercised by militants during the armed conflict. Similarly, Torres (2008) notes that gang violence and impunity contribute to the seriousness of femicide in contemporary

Guatemala:

High rates of violence, however, are not directly associated with civil war legacies....the region’s differing textures and levels of violence might be derivative of the different way that conflicts were managed and “pacified” in the region. Increasing levels of violence might be indicative of a number of factors including the geopolitical role of the northern part of Central America for drug trafficking or the pervasiveness of impunity in the national legal systems (Torres 2008, 4).

Through these lenses, femicide is framed as a cultural problem stemming from a mentality that normalizes violence against women, and that can be remedied through governance mechanisms, such as the new Law on Femicide. While violence against women is normalized, and legacies of gendered violence committed during the armed conflict and genocide survive, blaming cultural values for femicide depoliticizes this form of violence and ignores the political economic factors that constitute the femicidal landscape of the post-conflict era.

Ultimately, the mainstream perspectives on femicide correlate with the discussion – both applauding and critiquing – the Law on Femicide. The liberal feminist perspective takes issue with the impunity and lack of resources it blames for much of the rising rates of femicide in recent years. While impunity does exist, and a lack of resources, despite new legislative changes in Guatemala, remains a problem, this one-dimensional form of

analysis ignores the material aspects of the Guatemalan context that impacts femicide, and that is addressed by more critical scholarship.

Critical Perspectives on Femicide: A Limited Materialist Analysis

Critical perspectives move beyond the rights-based discourses embedded in mainstream literature on femicide, and draw on material reality to situate femicide within political economic context. The critical perspectives, however, are limited in several ways. First, there is limited critical discussion on a materialist understanding in the Guatemalan context; rather, these authors cite the Mexican experience. Furthermore, these perspectives do not explore the implications of institutional developments that deal with addressing femicide. Critical authors do not interrogate the limitations of rights-based solutions in dealing with femicide. In failing to address these perspectives, they accept the rights-based solutions as unproblematic, thereby neutralizing the rule of law in this context.

Cobo (2011) offers a theoretical stance related to Iberian and the Latin American context. Similarly to Silvia Federici she argues that neoliberal economics, which privilege remunerated work, are patriarchal in relation to the gendered sexual division of labour in society (Cobo 2011, 14). Alongside gendered labour relations, neoliberalization breeds gender-based violence: “the reduction of the state undermines equality and creates new gendered forms of violence” (Cobo 2011, 156, my translation). This complements Mohanty’s (1997) observation that “almost total saturation of the processes of capitalist domination makes it hard to envision forms of feminist resistance which would make a real difference in the daily lives of poor women” (quoted in Weissman 2010, 240).

Furthermore, neoliberal globalization exacerbates social inequalities, and pits “winners” against “losers”, and women find themselves on the losing side (Cobo 2011, 133). “The segregation of women and men in the labour market, the precariousness of women’s labour rights, and the feminization of poverty, among other factors, are resounding effects of this marriage between capitalism and patriarchy” (Cobo 2011, 161, my translation). Cobo cites femicide in Mexico and Guatemala as examples of products of this marriage (Cobo 2011, 161).

There exists, nonetheless a serious gap in the critical literature regarding femicide in the Guatemalan context; much of the literature is situated in the Mexican context, particularly with reference to Ciudad Juarez, where thousands of femicides were committed at the dawn of NAFTA and in the shadows of precarious and exploitative labour conditions in factories located in the city. Critical feminist theorists have argued that “...the Ciudad Juarez murders are an extreme manifestation of the systemic patterns of abuse, harassment, and violence against women who work in maquilas – treatment that is attributable by product of the privileges and lack of regulation enjoyed by the investors who employ them under the North American Free Trade Agreement” (Arriola 2010, 28). This is elaborated further by Wright (2010), who incorporates a Marxist feminist angle to understanding femicide in Mexican context.

This is echoed by Arriola (2010), who argues “What is not a mystery is that incidents of domestic violence and femicide in Ciudad Juarez have risen in the wake of heavy industrialization along the border; that industrialization was a result of the signing of the 1993 North American Free Trade Agreement (NAFTA) between Mexico, the United States, and Canada” (25). Ciudad Juarez has become a microcosm for

understanding how transformations of global capitalism have implicated women in particularly violent ways. There is little discussion of global capitalism and femicide's rise in Guatemala, however.

Weissman also highlights some of the parallels between femicides that occurred in Ciudad Juarez, Mexico, and with those ongoing cases in Guatemala. While the political context differs slightly, given that post-conflict Guatemala remains highly militarized, "the economic transformation is similar: as in Juarez, Guatemala has adopted policies encouraging direct foreign investment and is home to many foreign-owned corporations" (Weissman 2010, 228). The working conditions, particularly in this neoliberalized context, created within this economic transformation are oppressive:

...current global economic policies that depend on the demise of the domestic economy, the consolidation of cheap labor, and the production of poverty...reflect an outcome with a long history of exploitation of the many for the benefit of the few...the murders of women illustrate the synthesis of abstract virtues such as free markets and efficiency with privatization and the abandonment of social welfare program results in despair and death (Weissman 2010, 230).

Transnational corporations, deregulation, privatization and other instruments that facilitate neoliberalization are complicit in creating the conditions in which femicide remains invisible. "Violence is perpetrated against women whose place in the hierarchy of market values renders them readily interchangeable cogs in the wheel of production" (Weissman 2010, 226). Women's lives as surplus become invisible in death.

Rodriguez develops the concept of the "femicide machine" to illustrate how legal action taken to remedy the cases of femicide in Ciudad Juarez between 2003-2005. He argues that such action shifts responsibility from the government into contradictory action plans that do not seek to resolve issues, but rather, simply manage the violent situations. "The result is that in the name of the law, the rule of law is made vulnerable

and justice is obstructed” (Rodriguez 2012, 78). Rodriguez also argues that although Mexico’s General Law on Women’s Access to a Violence Free Life passed in 2004, it has not alleviated the violence (Rodriguez 2012, 82). In this sense, Rodriguez’s analysis of the Mexican context is useful in broadening understanding for Guatemala’s own femicide problem.

More specifically to Guatemala, Costantino (2006) recognizes issues like impunity and institutional shortcomings as factors that enable femicide in Guatemala, but also introduces a contextualization of femicide within the political economic landscape of the country. She argues that the privatization of security throughout the country following the signing of the Peace Accords signifies a contributing factor for gender-based violence in the post-conflict era (Costantino 2006, 115). “The private and public security forces feed each other: the intense level of insecurity and crime goes unchecked – or worse, is fostered by the police, thus increasing demand for the National Security Force” (Costantino 2006, 116). In addition, Costantino situates femicide in Guatemala in the wake of the Central American Free Trade Agreement (CAFTA), which passed in 2005 despite widespread protests throughout Guatemala, which she argues is part of the neoliberal political economic landscape that “weighs in on a myriad of social issues” (Costantino 2006, 118). However, Costantino does not elaborate on this conjecture, leaving a gap in the literature that remains unaddressed.

Importantly, post-conflict violence in Guatemala is perpetrated “along a continuum from direct physical assault to symbolic violence and routinised everyday violence, including the chronic, historically embedded structural violence whose visibility is obscured by globalized hegemonies” (Scheper-Hughes & Bourgeois quoted

in Mouly 2011, 307). So while factors like historically, socially and politically entrenched patriarchy, impunity, corruption, and lack of police will to proceed with cases of femicide play into the landscape of this particular form of post-conflict violence, political economic conditions also impact the ways in which violence is experienced in Guatemala. Isolating these factors as either socially or historically entrenched ignores their political economic antecedents.

While the critical literature emphasizes these aspects, there is a glaring gap in this literature, which fails to conceptualize femicide as it is framed by the development of the Law on Femicide. Furthermore, these authors do not interrogate the institutionalist and rights-based approach of the mainstream literature and the policy transformations that have followed. This gap in the literature weakens the strength of the critical responses while simultaneously accepting the rights-based solutions to femicide that have emerged through law.

Overall, the critical literature builds off of the mainstream perspectives, offering a broader view of the context in which femicide occurs. Mainstream perspectives are isolated to looking at the problem and potential, rights-based solutions; simultaneously, critical perspectives broaden the scope of understanding why and how femicide occurs in Guatemala, but does not interrogate the institutional solutions that I have outlined. I will illustrate these transformations in my following section.

Practical Responses to Femicide

History of the Law on Femicide and its Critics

In Guatemala, on the national and institutional level, femicide has been constructed and defined through the legal infrastructure and the creation of its specialized justice system. The law represents a response by legislators, to the calls for stronger institutions, which is presented by liberal mainstream critiques of femicide. Improved legal infrastructure for dealing with femicide has been predominantly called for by mainstream perspectives; the law however, is framed as neutral, existing separately from capitalist society when in reality, the law stems from these existing patriarchal structures.

Broadly speaking, the Law on Femicide has not been subject to much academic conversation, beyond empirical explanation of the role the law plays in addressing femicide in Guatemala. Some criticisms have emerged, but predominantly within a rights-based framework that focuses on the limitations of the law in terms of the provision of women's human rights. These critiques are founded on the same assumptions that ground liberal mainstream feminist critiques: that the rule of law is neutral.

Women's rights and issues relating to violence against women have become increasingly visible in Guatemala following the signing of the Peace Accords in 1996, which signaled the advent for the creation of the *Foro Nacional de la Mujer* (National Women's Forum in English) in 1998, opening spaces for diverse women's groups and advocates to push for legislative changes (Gonzalez Saavedra and Gonzalez Rosales 2011, 43). Importantly, calls for the creation of the law brought together a number of different politicians and civil society actors varying in political perspectives and was brought forth after roughly a decade of conversation and cooperation, and particularly in the new millennium (Aldana 2013, 63-64). The law itself echoes Guatemala's

commitments to international institutions like CEDAW, and expands on human rights outlined in the Constitution of the Republic (GGM 2009, 6). This is rooted in rights-based mentality that seeks to improve women's access to human rights, echoing Nussbaum's (2000) linkage of the provision of individualized rights with human capabilities, particularly women's development: the provisioning women with a law to address violence against women ignores structural causes of femicide, and isolates it as a rights-based, rather than material issue.

The law itself evolved through a number of different initiatives presented in Guatemala's Congress², which were defended by legislators pointing to Guatemala's international commitments, as well as other laws protecting women from violence that had been passed since the signing of the Peace Accords (see Musalo et.al. 2010). In 2004, the Commission on Women in the Republic of Guatemala began to develop plans for a new law, which was then followed up through the creation of the Commission on Femicide during an inter-parliamentary meeting between Spanish, Mexican and Guatemalan legislators (Aldana 2013, 86).

The first initiative for the law, the *Iniciativa de Ley No. 3503, "Ley contra el femicidio"* (Bill No. 3503, Law against femicide), was then formally presented to the Guatemalan Congress in 2006, by the National Unity of Hope, along with a number of congressional representatives, and was then brought to the Commission for Human Rights of the Congress of the Republic of Guatemala (Aldana 2013, 73). Similarly, in February 2007, the *Iniciativa de Ley 3612, "Ley tutelar de derecho humano de mujer y una vida libre de violencia"* (Bill 3612, Law regarding women's human right to a life free from violence) was also presented (Aldana 2013, 73). *Iniciativa de Ley 3718* (Bill

² The Congress of Guatemala is the legislative branch of the government.

3718) sought to reinforce international commitments Guatemala had already made in terms of protecting women's rights, but in a national context. Finally, in 2008, *Iniciativa de Ley 3770, the Ley contra el femicidio y otras formas de violencia contra la mujer* (Bill 3770, Law against femicide and other forms of violence against women), was passed, recognizing the impacts of gendered power relations on violence against women, making femicide and other forms of physical, emotional and economic violence crimes before the law (Aldana 2013, 87).

The Law on Femicide was received by mixed reviews. The *Grupo Guatemalteco de Mujeres* (GGM) highlights how the law is an extension of other international and national legal norms in their published commentary on the articles constitutive of the Law on Femicide (GGM 2009). Building off of this foundation, the law itself represents a mainstream, liberal feminist perspective to dealing with cases of extreme violence against women. It is important to emphasize that the limited literature emerging on the Law on Femicide itself correlates with this perspective.

Although the Law on Femicide has been broadly praised as a strategy to address patriarchal violence in Guatemala society (Aldana 2013; GGM 2009; Musalo et.al. 2010; Organismo Judicial 2011), it also has been the subject of harsh criticism in Guatemala's Congress. In particular, in 2010-2011, the Constitutional Court reviewed the Law on Femicide for its alleged unconstitutionality; Congressman, Romeo Silverio Gonzaléz Barrios argued that the Law on Femicide infringed on the rights of men within the private realm of marriage (Constitutional Court 2011, 11). The attempt to erase the law ultimately failed, which is regarded as a victory for women's rights (Aldana 2013, 197-198). While the critique presented by Barrios is grounded in a misogynist understanding

of the roles of men and women in the family, the feminist response in preservation of the law only neutralized it.

Importantly, only 2% of perpetrators of femicide are actually convicted of their crime (Musalo et. al. 2010, 163). As such, other critiques of the law emerge from the perspective that it is insufficient in its scope, and simply needs to be better applied. This also neutralizes the law as a-political. Because the law creates a specialized judicial system, it is not apart of the regular justice system and creates administrative confusion for judicial practitioners (Musalo et.al. 2010, 195). As a result of this separation, the Law on Femicide is argued by some critics to appear more lenient, particularly in that it does not mandate a death penalty in the same manner as the Criminal Code for other crimes (Musalo et.al. 2010, 200). Other critics, particularly Claudia Paz y Paz and Norma Cruz, point out that misogyny remains misunderstood by practitioners, and is a social characteristic that is hard to investigate given how pervasive patriarchal attitudes are in Guatemala society. (Musalo et.al. 2010, 200). These critiques, however, do not stray from the rights-based mentality rooted in mainstream thought, which grounds the Law on Femicide as legitimate and neutral.

Godoy Paiz discusses some of the limitations of the law on femicide. She articulates that critics of the law illustrate that “while neoliberalism is premised on the freedom of contract, if the subjects of rights lack the conditions and resources to exercise their rights, freedom of contract does not truly constitute freedom”, given the social context of machismo in Guatemalan society (38-40). The law situates acts of femicide between victim and perpetrator, but Godoy-Paiz does not illustrate where the state fits into this dichotomy. Godoy-Paiz does highlight, however, how the law was predicated on

the existing legal system in Guatemala, a patriarchal and historically oppressive structure, and international legal conventions, which tend to homogenize women into a single group (41). For Godoy-Paiz, causes of femicide are multidimensional – social, cultural, historical and economic (39), and she recognizes the implications of local and broader power structures in shaping women’s lived experiences with violence, but she does not explain how these structures do so (42).

More recently, England (2014) develops a discursive analysis of the Law on Femicide to highlight how it deconstructs patriarchal framings of violence, broadening the scope of femicide and violence against women, and effectively challenging the normalization of such violence in Guatemalan society (127). She also argues that while the Law on Femicide highlights “...a less discriminatory definition of sex crimes...” there still remain barriers to fully implementing the legal possibilities for femicide (England 2014, 139). For instance, victims who report crimes face the danger of retribution are blamed for the violence themselves. Victims are thus often ashamed to come forward; as such, socially entrenched sexism prevents the Law on Femicide and other laws in Guatemala from being more effective, which has “...been ineffective in curbing sexual violence” (England 2014, 140).

Both sides of the criticism that have emerged against the Law on Femicide, on the basis of infringing on men’s rights as husbands or on the law’s insufficient scope are rooted in a rights-based framework. England’s (2014) analysis goes further to explore the discursive aspects of the law, but does not interrogate the rule of law as an institution, and how the Law on Femicide operates as a feature of neoliberalism. Indeed, these critiques themselves can be situated in a liberal paradigm, which considers the provision of

individual rights and the rule of law as fundamental pillars for non-violence, rather than exploring the material characteristics that constitute the landscape for such violence.

Measuring Femicide: Statistics and their Limitations

Statistics on femicide, in reality, are the product of the Law on Femicide: available statistics on femicide as defined by law can be sourced by the OJ based on the number of cases presented at the Tribunals; this data, however, only reflects cases that have been brought forth through the specialized justice system, and only those deaths which conform to the individualized, depoliticized definition asserted in the law. Ultimately then, the statistics that exist on femicide in Guatemala are confined to the parameters of the Law on Femicide, which is problematic in that femicide, in Guatemala, only exists through and within the law. This problematizes the collection of data on femicide.

While available statistics demonstrate that femicide is on the rise in Guatemala, there remain many gaps in statistical collection, and statistical collection is complicated by the blurriness of the definition and availability of resources to do so. Importantly, most statistics on femicide are in reality, statistics illustrating homicide rates of women. While homicides of women do not automatically equate to femicide, measuring these rates do illustrate the dangerous conditions in which women live in Guatemala and experience violence.

These statistics then, tend to homogenize all deaths of women.. Furthermore,

...the statistics available do not necessarily take into account the real magnitude of the problem, and there already exists a large gap in the identification and registration of violent acts committed against women in diverse social settings. Another problem is the fact that the institutions that register cases of

violence...do not necessarily correlate in terms of statistics; in the absence of a single code of statistical registration, this problem will remain difficult to resolve... (Saucedo Gonzalez 2013, 3, my translation)

While the recent law on femicide mandated for the creation of an institutional body, the *Sistema Nacional de Informacion sobre Violencia en Contra de la Mujer* (the National Information System on Violence Against Women in English) to collect and analyze statistics on cases of violence against women, including cases of femicide (Saucedo Gonzalez 2013, 3), the blurriness of the concept complicates the collection of statistics in these cases.

While this institution has not come into action, a number of key institutions address femicide in varying capacities, from offering support to victims to investigating cases; in particular, the *Instituto Nacional de Estadistica* (INE); the *Coordinadora Nacional para la Prevencion de la Violencia Intrafamiliar y contra las Mujeres* (CONAPREVI); the *Organismo Judicial* (OJ), which encompasses the Tribunals; the *Procurdaria de los Derechos Humanos* (PDH); the *Policia Nacional Civil* (PNC); the *Ministerio Publico* (MP); the *Instituto Nacional de Ciencias Forensicas* (INACIF) (Saucedo Gonzalez 2013, 8). There still exists, however, a serious fragmentation of registration of data and lack of inter-institutional coordination to produce and analyze data on femicide and violence against women (3-4). In addition, levels of femicide indicated are limited in that they only represent reported cases; while many cases go unreported, even fewer result in convictions. Statistics lump violent deaths of women together, without distinguishing femicides from homicides and alluding to the blurriness in defining the term.

Given the complexity of theoretical and societal complexity of femicide, it is difficult to measure. Nonetheless, available statistics do suggest the gravity of femicide and the proliferation in discussion surrounding the issue in recent years. According to the First Report (2012) conducted by the OJ on the Criminal Courts and Tribunals for Femicide Crimes and Other Forms of Violence Against Women, there has been a “sustainable increase in violent deaths of women at the national level from 2001 to 2011” (17). Statistics reported by the OJ demonstrate a rise in violent deaths between 2001-2009, which levels peaking in 2009 at 720 deaths (OJ 2012, 17).

The PNC and INACIF also have published statistics on female homicides, which correlate with some of those reported by the OJ (see figure 2.1). Between 2008-2012, rates of female homicides are shown to peak between 2009-2011. Interestingly, a decrease is reported in 2012 by both the PNC and INACIF. In 2012, a new research commission for femicide demonstrated that cases decreased by over 10%, at 524 violent deaths of women between January-October (new femicide research commission), but then increased in 2013 over the same period to 592 deaths. Broadly speaking, despite slight dips in femicide levels, femicide is perceived as a persistent problem that has worsened in the post-conflict context, particularly post-2000. Rates of violent deaths of women, perhaps the easiest indicator pointing to femicide, illustrate the precarious landscape for women in Guatemala. While these rates cannot possibly accurately measure femicide, given that misogyny and patriarchal oppression cannot be measured quantitatively, they do point to a general climate of danger for women in Guatemala.

Figure 2.1:**Homicide Rates Among Women in Guatemala, 2008-2012**

AÑO	2008	2009	2010	2011	2012*
Total homicides of women (PNC)	687	720	695	631	638
Total homicides of women (INACIF)	537	610	842	710	664
Total population of habitants in Guatemala (INE)	13,677,815	14,017,057	14,361,665	14,713,763	15,073,375
Rates of Homicides per 100 thousand of habitants (PNC)	5.02	5.14	4.84	4.29	4.23
Rates of Homicides per 100 thousand of habitants (INACIF)	3.93	4.35	5.86	4.83	4.41

Source: Informe 2: Femicidio en Guatemala, DMC Consultores (2012) (copyright permission pending)

Some of the highest rates of homicides of women are reported in the municipality of Guatemala, which is comprised of Guatemala City and the surrounding areas.

According to statistics compiled by the *Grupo de Apoyo Mutuo* (GAM) (2013) and acquired from INACIF, between January-July 2013, the municipality of Guatemala is reportedly the most violent in the country. In Guatemala City, precarious and

impoverished zones also report the highest rates of violence, in particular, Zones 18, 6, 7, 21 5, and 12 (GAM 2013). The regional department of Guatemala itself, however, ranks 6th in the country for violence, with a rate of 70 cases per 100 000. The majority of these cases occur in the commercial/service industry (GAM 2013). In the midst of these high levels of violence, it is no surprise that Guatemala was ranked 3rd by the PNC in 2011 for highest levels of femicide, and that cases of femicide were most prevalent in zones 18, 1, 12, 6, 7 and 5.

Conclusion

With a peace being largely symbolic in Guatemala, violence is still largely widespread throughout the country, particularly in a gender context, and the lessons learned through the peace process have been “bitter” if anything (Luciak and Olmos 2005, 215). Women have borne post-conflict violence in a particularly gendered way: from a gendered perspective, there is no post-conflict Guatemala, but rather, a war waged indiscriminately against its women.

Ultimately, while the literature on femicide and femicide in legal context in Guatemala highlights empirical data, and emphasizes historical and cultural context, there remains a significant gap in terms of articulating a deeper, materialist understanding of the post-conflict rise in femicidal violence in the Guatemalan context. Marx articulates, “The production of ideas, conceptions, of consciousness, is at first directly interwoven with the material activity and the material intercourse of men....” (Marx and Engels 2011, 13-14); however, the existing literature on femicide in Guatemala does not

adequately consider how material conditions shape social relations that can facilitate femicide, and how this is operationalized: through a crisis of social reproduction.

The mainstream response to this problem has been to call for stronger institutions, better laws and an end to corruption; now that these calls have been met, the critical literature, which has elaborated a materialist perspective fails to analyze these new changes. The analysis contained within my following chapter will suggest new avenues for understanding these developments, seeking to repoliticize femicide in post-conflict Guatemala.

**Chapter Three:
A Feminist Historical Materialist Approach for Understanding Femicide in Post-
Conflict Guatemala**

Introduction

Femicide in post-conflict Guatemala is broadly contextualized as a cultural issue, removed from deeper understanding and political economic context. As I discussed in Chapter Two, the current body of literature on femicide depoliticizes the problem, and is largely confined to the limitations of its rights-centered approach. The emphasis on factors like impunity and corruption as key causes of femicide, as well as the restoration of the rule of law and legal institutions as remedies for this issue, renders femicide a strictly social and cultural phenomenon.

My second chapter identified these glaring gaps in the literature focused on femicide in Guatemala. This third chapter will offer an alternative, historical materialist lens through which these issues can be viewed, and will illustrate how this framework better encompasses the complexities of the Guatemalan historical and political economic context. I situate historical materialism from a Marxist perspective, asserting that the processes of capital accumulation help shape, and in turn are shaped by, class relations in society. In particular, I will draw on Marx to establish this foundation. In my analysis, I will look at how neoliberal capitalist forms of accumulation create a landscape for extreme forms of gendered base violence; as such, I will draw on Žižek to articulate how the materiality of capitalism is also expressed through objective systemic violence. However, given that both Marx and Žižek present these concepts from a perspective of gender neutrality, I will fill this gap by incorporating a feminist historical materialist lens

into my framework, illustrating how social reproduction is shaped by capital accumulation and how this lends itself to violence.

Then, to situate my feminist historical materialist framework in neoliberalism, I will draw on an alternative Marxist understanding of the state and by extension the role of law as a mediating relation between subjective and objective systemic violence in neoliberal-led capitalism, as an inherently gendered process. In particular, I will draw on Bourdieu and Poulantzas to articulate these claims. This analysis enables an exploration of the intersectionalities between global economic hegemonies, local power structures and gender based violence in the post conflict context that moves beyond the largely liberal feminist, Institutional perspectives that dominate the discussion of femicide in Guatemala.

Importantly, violence is perpetrated “along a continuum from direct physical assault to symbolic violence and routinised everyday violence, including the chronic, historically embedded structural violence whose visibility is obscured by globalized hegemonies” (Scheper-Hughes & Bourgeois quoted in Mouly 2011, 307). So while factors like historically, socially and politically entrenched patriarchy, impunity, corruption, and lack of police will to proceed with cases of femicide play into the landscape of this particular form of post-conflict violence, capitalism and its material affects also impact the ways in which violence is experienced in Guatemala. Isolating these factors as either socially or historically entrenched ignores their political economic antecedents; as such, my feminist historical materialist perspective will serve to re-politicize the analysis of femicide in the Guatemalan post-conflict context.

In this chapter, I will develop my alternative, feminist historical materialist framework. I will illustrate how a feminist standpoint can be incorporated into this discussion, by working towards a feminist historical materialist framework. I will argue that my theoretical framework will enable a repoliticization of the Guatemalan conflict and post-conflict experience, in particular through a deneutralization of the rule of law and its imposition of neoliberal projects, rendering it fundamentally political. Further, I will draw on my theoretical framework to contextualize neoliberalism as both a political and gendered project. Ultimately, I will assert that the theoretical lens I am developing will fill some of the gaps in the literature on femicide in post-conflict Guatemala, and I will use this framework to repoliticize and rehistoricize femicide from a feminist historical materialist perspective that draws on Marx, Žižek, and Poulantzas as a foundation. While this chapter will present the theoretical framework I will draw on, my following chapter will draw on this perspective to frame contemporary Guatemalan history and provide historical context for my analysis of femicide itself. This chapter will outline in abstract terms my alternative theoretical framework, and my following chapter will provide a review of the history to complement this discussion.

I explore this deneutralization in more concrete and historical context in my following, shorter chapter, before proceeding onto my analysis of femicide and the rule of law in my fifth chapter. Ultimately, my framework will allow me to illustrate how extreme forms of gender-based violence over the conflict and post-conflict periods stems in part from the landscape of neoliberalism. In my following chapter, I will continue to elaborate this framework to illustrate how a rights-based approach to quelling post-conflict violence depoliticizes this issue, drawing on a critique of the rule of law from a

feminist historical materialist perspective. This will lay the groundwork for my analysis of the Law on Femicide in my fifth chapter.

Historical Materialist Approach to Subjective and Objective-Systemic Violence

There are different variations of historical materialism, but I will particularly draw on Marx and Žižek to lay the foundation for my analysis. I will draw on Marx's understanding of historical materialism in terms of conceptualizing the material affects of capitalism in terms of social relations. To allow for an understanding of how violence is shaped by capitalism, I will employ Žižek's concepts of structural and subjective violence, which build off of Marx's historical materialism. However, their analyses are flawed in that there is an inherent assumed gender neutrality, with which my project takes issue. I will thus incorporate a Marxist feminist critique of historical materialism, drawing on Harstock, Federici and Fortunati who illustrate how women experience the material realities of capital accumulation in particular, often violent and exploitative ways. This builds off of Marx and Žižek, and fills gaps necessary for exploring how femicide can be repoliticized later in my paper.

Understanding historical materialism from a Marxist perspective illuminates vital avenues for understanding neoliberal transformation in Guatemala, and implies an understanding that the broader, political economic context shapes material life and experience: human experience is shaped by its surrounding material conditions. By drawing on historical materialism in the context of my thesis, I am rooting my conceptions of this issue in traditional Marxist thought, and drawing on the work of contemporary scholars to better understand femicide in Guatemalan context.

In particular, Marx distinguishes his variant of historical materialism from other Hegelian materialist thought in his posthumously published Theses on Feuerbach. Importantly, he affirms that his theoretical standpoint is human society, recognizing the social production of institutions, and the “essence of man” lies within the “ensemble...of social relations” (Marx and Engels 2011, 198-199). Understanding human experience through this lens is a revolutionary perspective in that it is linked to social transformation: “the philosophers have only *interpreted* the world differently, the point is, to *change* it” (199).

In *The German Ideology*, Marx argues, “Life is not determined by consciousness, but consciousness by life” (Marx and Engels 2011, 15). Indeed, human consciousness is borne out of the social interactions inherent to historical relationships of human industry and exchange (Marx and Engels 2011, 18-19). In this vein, the productive forces of a given stage of development in a given society and the conditions of capital accumulation shape material experience, “...which, indeed, is modified by the new generation on the one hand, but also on the other prescribes for its conditions of life (Marx and Engels 2011, 29). Simply put, from a Marxist perspective, the conditions of politics, economics and social production, of social relations, are determined by material conditions; the materiality of capitalism is expressed through social relations.

Perhaps more specifically, it is the relations of production in society that shape political life. Indeed, it is useful to draw on Marx’s understanding of productive relations and the ownership of the means of production as they shape relations within a given society:

...the entire formation of the economic community...grows up out of the production relations themselves...It is always the direct relationship of the owners

of the conditions of production to the direct producers...which reveals...the hidden basis of the entire social structure, and with it the political form of the relation of sovereignty and dependence, in short the corresponding specific form of the state. (Marx, *Capital*, Vol. III, chapter 47 part 2)

As such, Marx argues the organization of the state evolves through civil society and the organization of the productive forces, industry and commerce (Marx and Engels 2011, 26). Institutions are shaped in correlation with the productive forces; the basis for social being is founded on the relationship between those that own the means of production, and those who produce.

Historical materialist understandings of the impacts of capitalism and political economic conditions on material life have evolved with Marx's historical materialism as a foundational base. As such, I will draw on the foundational principles of Marx's historical materialism, and elaborate them by drawing on other contemporary theorists in order to illustrate the linkages between neoliberalism and violence in Guatemalan context.

Although a critic of Marx's interpretation of consciousness and ideology³, Žižek draws on Marx to rehistoricize violent acts, which is particularly relevant in understanding how capitalism can create the conditions that enable violence in society. Žižek in particular articulates the complexities of violence in material context, and provides a Marxist approach to understanding how systemic violence occurs and is shaped through the social processes of capital accumulation. Žižek theorizes on different modes of violence, in particular, subjective, objective and systemic violence (Žižek 2008, 11). He argues that there are two key forms of violence: subjective and objective. Subjective violence is the violence that is visible, often sensationalized, and is assumed

³ See Žižek, S. (1989). *The Sublime Object of Ideology*. New York: Verso. P. 15-16.

by mainstream, liberal society to disrupt an assumed condition of normality. Subjective violence includes criminal acts, such as acts of femicide.

However, he asserts that what is assumed to be normal or neutral does not exist as such; he contrasts subjective violence with objective violence, which is either symbolic or systemic, the former expressed through language and the latter stemming from “the smooth functioning of our economic and political systems” (Žižek 2008, 1-2; Packman, year, 4). The two forms of typically invisible objective violence, symbolic (racism, hate speech, etc.) and systemic (structural violence imposed through structures of global capitalism, instigated through legal and state institutions and other formal structures that govern social relations) are the landscape of the perceived zero-level of violence.

Of particular interest to this thesis is the dialectic relationship between subjective and systemic violence in society. Žižek argues,

The catch is that subjective and objective violence cannot be perceived from the same standpoint: subjective violence is experienced as such against the background of a non-violent zero level. It is seen as a perturbation of the “normal,” peaceful state of things....Systemic violence...may be invisible, but it has to be taken into account if one is to make sense of what otherwise seem to be “irrational” explosions of subjective violence (Žižek 2008, 2)

As such, the sensationalizing of what is for Žižek subjective violence suggests the existence of a normalized and neutralized state of non-violence. Yet the caveat to this “zero level” violence expressed in media, through the law, and through other mediums is that it reinforces the dominant liberal paradigm. Subjective violence occurs within the landscape of the system, but that is not to assert that the capitalist system alone perpetuates subjective violence; rather, the relationship between these forms of violence is dialectical:

So Marx's...point is *that one cannot properly grasp ...the social reality of material production and social interaction....without the second*: it is the self-propelling metaphysical dance of capital that runs the show, that provides the key to real-life developments and catastrophes. Therein resides the fundamental systemic violence of capitalism (Žižek 2008, 12).

For Žižek, there is an inherent hypocrisy in the fight against subjective violence, particularly through the activism of liberal-leaning leftists, and the subsequent neutralization of this form of violence. Indeed, from this perspective, those who combat subjective violence simultaneously perpetuate systemic violence, feeding into the causation of subjective violent acts (Žižek 2008, 206). This cycle, then, reinforces the neutralization and depoliticization of subjective violence as occurring within the framework of a non-violent zero level, which, for Žižek simply does not exist in a capitalist system. Violence is, in a sense, self-perpetuating within the structures that encompass it.

For my theoretical framework, I draw from Žižek the materialist understanding of how capital accumulation is linked to systemic (or structural) violence, which is largely invisible. Indeed, by framing femicide as a subjective form of violence which occurs not as a disruption of the perceived normal, it is evident that the “normal” is not neutral, but rather, a context of violence that is shaped by the structures of capitalist accumulation; the visible manifestation of femicide as a form of subjective violence, is, through the lens of systemic violence a material expression of the exploitative structures that govern social relations under neoliberal capitalism in post-conflict Guatemala.

Žižek roots his understanding of violence on a Lacanian analysis, differentiating between the Real and reality, which broadens the scope of my use of historical materialism. Žižek articulates that reality is constituted by the actual social relations of

and between those involved in production, whereas “...the Real is the inexorable “abstract,” spectral logic of capital that determines what goes on in social reality.” (Žižek 2008, 13). He does not reject Marx; rather, he argues that abstraction between the Real and reality is greater in the contemporary context than in Marx’s time (Žižek 2008, 13).

The neutralization of the rule of law sustains and enables the reproduction of various forms of violence neoliberal capitalism. However, while a historical materialist understanding of the rule of law as a governing and institutional force behind capitalist development enables this understanding, the historical materialist approach is limited in its incorporation of a gendered perspective. Referring back to Žižek’s approach towards a materialist understanding of violence, violence against women is subjective, but it is structural, and it is the very structures that create patriarchal forms of violence against women.

Feminist Historical Materialism

Feminist historical materialist approaches build off of Marx’s foundation, and fill the gaps in terms of understanding how women experience materiality different than men. The literature I survey in Chapter Two highlights how women in Guatemala, particularly the post-conflict context, have been victim to extreme forms of violence against women, culminating in thousands of cases of femicide. The literature discusses concepts like machismo and masculinity, which are often blamed as one of the underlying causes of this violence. What the literature fails to consider, however, is how women’s roles in social relations of reproduction and in productive processes confront masculinity.

Marx offers a foundation for understanding how post-conflict economic transformation shapes social relations, whereas Žižek elaborates this in contemporary contexts of violence; this allows for a framing of femicide in political economic context. However, femicide is an extremely gendered form of violence, and both Marx and Žižek lack a gendered perspective in their analyses to adequately address this issue. Building on feminist historical materialist literature, particularly on relations of social reproduction, fills this gap.

In the literature on feminist historical materialism, Harstock (1983) contributes a key, feminist standpoint to Marx's historical materialism, arguing that the "sexual dimension of power implies a masculinity structured by violence and domination" (166). Indeed, this also is linked to Žižek's understanding of violence, particularly systemic violence, in that at times, the violence of masculinity remains unseen.

Harstock's feminist historical materialism also draws on the same logic used by Marx, in that she asserts that women's social experience is shaped by material conditions (Harstock 1983, 125). Building on a Marxian understanding of objectification, Harstock asserts that social relations influence women's lives in society and are determined by liberal, bourgeois interests. She argues that the affirmation of marketized social realities is produced through liberal institutions, which shape social relations, and structure human experience (Harstock 1983, 126). For Harstock, institutions are also a form of social relations (Harstock 1983, 128). In reading the rule of law from Harstock's feminist historical materialist critique, then, the law serves as an institution and social relation that informs women's lived realities, particularly those of vulnerability and precarious labour conditions, in society. I will explore the impacts of this further in my following chapter.

Conceptually, the feminist historical materialist perspective can highlight how communities of violence can be fostered through economic exchange and market relations. In the context of my thesis, these communities are fostered through the institutionalization of neoliberalization. As Harstock (1983) asserts,

The masculine gender carried by power intensifies the tensions for community and leads to the construction of an even more conflictual and false community than that formed by means of exchange. It is a community both in theory and in fact obsessed with revenge and structured by conquest and domination. The opposition of men to women and perhaps even to other men is not simply a transitory opposition of arbitrary interests, but an opposition resting on a deep going threat to existence...the community emerges only through conquest, struggle, and even the potential death of its members (177).

In the context of neoliberalization in Guatemala, macroeconomic policy solidifies these social divisions, exacerbating the opposition between men and women in society. This builds on Žižek's concept of systemic violence, where the structures of the political economic system reinforce and support the construction of violence, which in turn shapes the way subjective violence is experienced in society.

The notion of violence that evolves through these material conditions highlighted here correlates with Marx's concept of surplus population. As Marx (1976) articulates:

...if a surplus population of workers is a necessary product of accumulation or of the development of wealth on a capitalist basis, this surplus population also becomes, conversely, the lever of capitalist accumulation, indeed it becomes a condition for the existence of the capitalist mode of production. It forms a disposable reserve army, which belongs to capital just as absolutely as if the latter had bred it at its own cost. Independently of the limits of the actual increase of population, it creates a mass of human material always ready for exploitation by capital in the interests for capital's own changing valorization requirements (Marx 1976, 784)

The surplus population, for Marx, provides "unrestricted" labour power for capitalist production (Marx 1976, 788); the surplus population is subject to the ebbs and flows of capital (Marx 1976 532; 788). In contemporary context, this is also linked to what

Duffield (2007) refers to as “surplus life”: “A superfluous and potentially dangerous waste-life is continuously thrown off as markets are relentlessly made and remade in the endless search for progress” (11). Arguably, the lives of Guatemalan women are surplus in that they are, despite a transforming legal landscape, enveloped in “the juxtaposition of law and emergency, and the ability of a sovereign power to decide what threatens security and what does not, [which] has special significance for the dangerous life that is politically surplus” (Duffield 2007, 15).

The elimination of the surplus, from a feminist historical materialist perspective creates the conditions for patriarchal domination in post-conflict Guatemala, and operates within neoliberalization. Indeed,

Surplus life can be both economically and politically charged, the one superfluous to requirements, the other a threat to order. These forms of exception easily move in and out of each other... During times of emergency, however, all surplus life can become the ‘bare life’ of security existing beyond morality, religion and the law. It is a life that can be killed without murder being committed (Duffield 2007, 13).

Post-conflict Guatemala can be read as the state of exception here highlighted by Duffield, in which violence is still rampant and tensions still simmer. The targeted killing of women in Guatemala is representative of the elimination of ‘surplus life’ in post-conflict society, and the impunity, corruption and lack of judicial recourse surrounding these deaths can be contextualized to practices of emergency in the state of exception. Because the lives are considered surplus, femicide goes uninvestigated, despite the pleas of families and the transformation of new legal protections. In post-conflict Guatemala, the surplus lives of women - do not “belong to security” (Duffield 2007, 12).

Harstock emphasizes the importance of women’s material activity in society, in moving towards incorporating women’s activities into otherwise patriarchal political

economic structures (Harstock 1983, 304). A Marxist analysis of labour and capital accumulation, however is gender-blind. Indeed, as Fortunati reminds us,

...Marxian analysis describes only one half of the process of production – the production of commodities – and cannot be extended per se to cover reproduction; and furthermore, that an analysis of the entire cycle of production cannot be made until reproduction has been analyzed too. This latter analysis can only be made if Marxian categories are not used dogmatically and if they are combined with feminist criticism (Fortunati 1995, 10).

The concept of social reproduction has been explored widely throughout Marxist feminist literature. One of the key, foundational contributions lies in Fortunati's work, where she unites Marxism and feminist critique in *The Arcane of Reproduction*. Fortunati (1995) argues that the "freeing of labor power under capital" has very gendered impacts (13). She reminds us that for Marx, "the condition of exchange value is its measurement by labour time and hence living labour..." (Marx quoted in Fortunati 1995, 12). In a capitalist system, then, "labour power is the most precious commodity for capital not only because it is the only commodity capable of creating value during the process of production, but also because it reproduces itself as value within the process of reproduction." (Fortunati 1995, 12-13). While labour power has two functions for Fortunati – production and reproduction – a gendered division of labour makes that men are producers and women are reproducers (Fortunati 1995, 13). There also exists a "dual work relation" in that productive work is compensated, and reproductive work remains unpaid (Fortunati 1995, 16). As such, she argues that as capitalism expands, production and reproduction move in opposite directions (Fortunati 1995, 157). The production of surplus value, for Fortunati, relies on the drawing upon reproduction in surplus labour; indeed, "reproduction functions as another process of commodity production" (Fortunati 1995, 158). Importantly, the work required for reproduction is rendered invisible through

the “production and consumption of non-material use values” (Fortunati 1995, 160). Despite being invisible, it reflects what Žižek’s Lacanian analysis would term “reality” being masked by the Real: patriarchal institutions which compensate only wage labour, and thus enable and enforce the exploitation of women, of which the impacts are visible through the social inequality of labour.

This also reflects parallels with Dalla Costa’s key assertion that women, as housewives, and the unwaged work they perform are the foundation for capital accumulation (Mies 1998, 31). Further, the duality of social reproduction that Fortunati highlights allows for an elaboration of Dalla Costa’s argument that women are not solely oppressed, they are exploited through reproductive labour (Mies 1998, 31). Similarly, the “capitalist-patriarchy” argument is taken up by Mies (1998), who asserts that the system both oppresses and exploits women (37).

Similarly, Federici builds on Fortunati’s analysis in interpreting primitive accumulation and capitalist expansion from a gendered perspective. She asserts that with each phase of capitalist globalization, “the degradation of women are necessary for the existence of capitalism at all times” (Federici 2004, 13). Drawing on Fortunati’s analysis, she reemphasizes the “symbiotic relationship between waged-contractual labor and enslavement”, but also argues that women experience the impacts of this relationship in particularly brutal ways, through primitive accumulation as a dialectal process (Federici 2004, 17). Simultaneously, she incorporates the female body into her analysis:

...the conquest of the female body is still a precondition for the accumulation of labor and wealth, as demonstrated by the institutional investment in the development of new reproductive technologies that, more than ever, reduce women to wombs (Federici 2004, 17).

By drawing on this lens of analysis, Federici asserts that witch-hunting around the world, in both historical and contemporary form, is a manifestation of primitive accumulation and the poverty, social division and the privatization of land and resources (Federici 2004, 239).

While the work of Marxian feminists Fortunati and Federici, complemented by the analysis of eco-feminist Maria Mies, provides an excellent foundation for understanding the mechanics of reproduction as a necessary part to capital accumulation, their work lacks a more precise understanding of how neoliberal transformations in particular shape reproduction. Drawing on Marx and Žižek bolsters a feminist historical materialist analysis in terms of understanding violence against women in material context; however, understanding the mechanics of neoliberalism from a gendered perspective requires further exploration in this regard.

Neoliberalism and Social Reproduction

To situate social reproduction and violence in neoliberal context, I will define neoliberalism, and also explore how the neoliberal state and the rule of law reproduce neoliberal order. Importantly, as Carnoy (1984) illustrates, the role of the state has changed from Marx's time, from having little to a lot to do with regulating the means of production in society, thus shaping the nature of productive relations and their material impacts. Indeed, Carnoy (1984) observes that the role of the state has fundamentally differed in terms of controlling or shaping productive forces. Poulantzas develops a class-based understanding of the state as being formed by productive struggles within and without the state apparatus itself (Carnoy 1984, 98). This builds on the materialist

analysis I have developed thus far, especially in articulating class relations in this context.

This makes Poulantzas' framework particularly substantial to this analysis. Ultimately,

The State functions to organize dominant classes and reduce competition among them, while it increases competition among the dominated classes, isolating each member of the dominated classes into his or her individual space, but maintaining its legitimacy in the eyes of the dominated classes by claiming to be a unifying force and representing mass interests (Carnoy 1984, 103).

The state both produces and forms class struggle, without the inclusion of dominated classes. The exacerbation of social inequality to which Poulantzas refers harkens to Žižek's use of the Real vs. reality framework for violence, where "one can experience this gap...when one visits a country where life is obviously in shambles....However, the economist's report...informs us that the country's economic situation is "financially sound" – reality doesn't matter, what matters is the situation of capital..." (Žižek 2008, 13). Poulantzas' "unifying force" is Real, whereas the isolation of classes is a simultaneous reality.

Similarly, Poulantzas argues that the capitalist state plays an important role in the ideological and coercive aspects of reproducing capital accumulation (Carnoy 1984, 111). Drawing on Gramsci, he formulates a vision of the state as constituted by the "repressive apparatus" and the "ideological hegemony of the dominant class" (Carnoy 1984, 111). The conditions of capitalism and means of production are reproduced in light of class struggle between dominated and dominant classes (Carnoy 1984, 111). Understanding the materiality of the state and institutions in contemporary, neoliberal context opens up new avenues for understanding violence – particularly gendered violence in post-conflict Guatemala.

Understanding neoliberalism from a historical materialist perspective draws on Marx's foundation in contemporary context, and is a vital foundation for understanding the link between neoliberalism and violence against women. Soederberg (2010) highlights the characteristics of neoliberalism: "Key distinguishing features of neoliberalism are privatization, deregulation and liberalization...aimed at freeing the market from unnecessary government intervention" (16). In a neoliberal capitalist system, class struggle occurs within the contradictions inherent to the relations of production; the state exercises a "form of reactive mediation" which only serves to preserve the neoliberal order, often at the cost of growing poverty and inequality (Soederberg 2001, 63). A historical materialist framework allows for greater understanding in terms of the "material basis of human agency...influenced by, the processes and internal contradictions...in the accumulation of capital" (Soederberg 2010, 12). In the Guatemalan context, the reactive mediation came from authoritarian and military dictatorships, which promoted a Green Revolution and built off of the modernization foundation, implemented in the former half of the twentieth century.

Taylor (2006) weaves a comprehensive and key contribution in understanding neoliberalism in Latin American context, particularly in Chile under Pinochet and over the course of the 30 years that followed. Taylor (2006) highlights the normative assumptions that ground neoliberal policy:

At the heart of the social theory underlying neoliberalism is a specific normative vision of the efficiency and rationality of a society that reproduces itself solely through the mechanism of freely interacting individuals making private exchanges that together constitute the market. Markets are seen as natural, efficient and equilibrating forms of social interaction that express the highest form of social rationality. On this basis, neoliberal political practice represents a project of vigorous social engineering that intends to make this vision a reality by

eliminating social relationships that do not conform to the market model (Taylor 2006, 6).

Neoliberal reforms must therefore transform any institutions or govern any interactions that fall outside of these normative structures (Taylor 2006, 6). Taylor (2006) maps out neoliberal transformation in Chile, beginning with the authoritarian dictatorship under General Pinochet, which sought to alleviate economic crisis by bringing in neoliberal liberal restructuring and empowering the diplomacy role of markets in Chilean society (7). In the Chilean context, the expansion of commercial agriculture and subsequent rise of landowning elite class, as well as the growth of a bourgeois middle class, continuing from the nineteenth and into the twentieth century laid the foundation for the creation of social inequality, particularly between the elites and the working class (12-13).

Eventually, import substitution industrialization (ISI) was implemented for national development, which in turn empowered the creation of state institutions that exacerbated the contradictions of Chilean capitalism (16). National developmentalism ultimately failed in Chile, as a result of tensions and conflict as the country sought integration in global capitalism, which laid the foundation for neoliberal structural adjustment in the 1980s (28-29). Taylor's analysis is useful in drawing out the importance of the state in shaping these material transformations. These transformations were not unique to Chile, but rather contextual to a global wave of neoliberal transformation around the world.

As such, the feminist political economic discussion regarding social reproduction offers the means through which an engendering of the conversation on neoliberal transformation in Guatemala can be better explored. Simply put, "social reproduction refers to the processes involved in maintaining and producing people...and their labour

power on a daily and generational basis” (Bazanson and Luxton 2006, 3). Similarly, Katz (2001) argues that, from a Marxist perspective, social reproduction “...encompasses the reproduction of the labor force at a certain (and fluid) level of differentiation and expertise...not only are the material and social practices associated with its production historically and geographically specific, but its contours and requirements are the outcome of ongoing struggle” (Katz 2001, 711). In particular, women are saddled with the majority of responsibilities in terms of reproductive labour inherent to social reproduction (Katz 2001, 712). The social relations around women’s labour reflects the gendered nature of the systemic violence of exploitation.

Social reproduction is also characterized by political economic factors and cultural characteristics (Katz 2001, 712). In this vein, Katz (2001) draws on Bourdieu’s notion of the habitus (the constituency of cultural/social norms and practices that sustain social production and reproduction in its dominant form) to illustrate that some social relations in the sphere of social reproduction are naturalized (712).

In a neoliberal system, social reproduction is redistributed in such a way that it destabilizes the various gender and ethnic orders within society, in the spirit of a more marketized society (Bazanson and Luxton 2006, 5). This harkens to the experiences of women dominating the majority of workers in maquilas, lacking the ability to organize as well as labour protection. Where women work long hours, they automatically clash with social norms constructing women as submissive caregivers in the home; there then develops a double layer of vulnerability given that women experience precarious conditions in the workplace, and also in the home as they challenge social norms.

Further, in the context of globalization, the responsibility of the state is withdrawn from social reproduction, which necessarily must be accomplished (Katz 2001, 717). Drawing on work in the Sudan and in the US, Katz asserts that capitalist expansion reinforces the curtailing of state resources and the individualization of social reproduction, and reproduces “the very social relations and material forms that are so problematic” (Katz 2001, 718).

As Bezanson’s study of gender and household insecurity in 1990s in Ontario illustrates, “Neoliberal governments individualize problems in meeting standards of living” (198). Such an individualization of problems has particularly gendered impacts, given that women and men experience the impacts of neoliberalization in society differently: neoliberal restructuring is not a gender-neutral process, but rather, compounds existing gender roles within the sexual division of labour and other gendered assumptions in society (Bezanson 2006, 199). This builds off of what Elson (1998) suggests is the development of the role of the household in absorbing the shocks of economic adjustment (Elson 1998, 199; Bezanson 2006, 198)

While these foundational perspectives are key in understanding how Bakker and Gill (2003) develop a new ontology to analyze the transformations of global political economy in neoliberal context from a gendered perspective. Their lens is particularly pertinent to understanding the developments in post-conflict Guatemala. The cornerstone of this new ontology is social reproduction, which they define as “...both a productive potential and a condition of existence for the expanded reproduction of capital and social formation.” (Bakker and Gill 2003, 22-23). Through their definition of social reproduction, they seek to link “...different social forces and moments of transformation

in power, production and social reproduction” by drawing on a dialectical logic rooted in historical materialist thought (Bakker and Gill 2003, 22-23). They hypothesize that “there is an emerging contradiction between the global accumulation of capital and the provisioning of stable conditions for social reproduction” and “this situation is being locked in by neo-liberal new constitutional governance mechanisms, with damaging effects for the social production of the majority of the world’s population” (Bakker and Gill 2003, 27).

The historical structures of what they term “the new constitutionalism, disciplinary neoliberalism, shifting gender orders, the erosion of the family wage, and the feminization of survival” constitute the cornerstones to this new ontology, which looks at how social processes and ideas are increasingly commodified in society, and its gendered impacts (Bakker and Gill 2003, 18). Further, as LeBaron and Roberts (2012) articulate, a crisis of social reproduction is inherent to neoliberalism’s “scaling back and privatization of social provisioning and has intensified inequality” (26). Under neoliberalism, a crisis of social reproduction evolves, exposing inequalities that contribute to the precariousness of social life. Women, primary players in the social reproductive process, experience this precariousness in gendered ways; when they are forced to seek employment outside the home, this clashes with gender norms entrenched in society, exposing them to vulnerable conditions and even violence.

The new ontology articulated by Bakker and Gill is historical materialist, bringing together Marxian historical materialism, as well as the gendered critiques of Marx to illustrate how the material manifestations of neoliberal capitalism have particularly gendered impacts. Further, Bakker and Gill (2003) assert social relations are shaped

through human activity and interaction in society (22). Production and social reproduction are linked with social relations in a given historical context; indeed, in the Guatemalan context, this occurs against the backdrop of neoliberalism during the conflict, and a more humanized post-Washington consensus variant in the post-conflict years.

As Soederberg (2010) articulates, neoliberalism is neither static nor cohesive (16). Importantly, “[p]athways of neoliberalization...are never constructed on some tabula rasa: they are very much defined by the particular terrains of struggle that free-market reformers confront “domestically” (Peck 2010, 22). Neoliberalism must constantly shift and transform, as it does not “self reproduce” (Soederberg 2010, 16-17). Soederberg and Taylor both illustrate the dynamic nature of neoliberal transformation, while recognizing the role of the state reinforcing market interests, building off of a Marxist reading of historical materialism in neoliberal context.

Simultaneously, while Bakker and Gill’s new ontology illustrates how women experience social reproduction under neoliberalism, understanding the gendered impacts of neoliberalism in post-conflict Guatemala also requires an exploration of how neoliberalism is able to reproduce, through state and legal structures. In my final section, I will explore the role of the state and the rule of law in doing so, in enabling the existing divide between Žižek’s conception of the Real and reality, which, as we have seen, has violent and gendered implications.

Neoliberalism and the Rule of Law: Mediating Subjective and Systemic Violence

In looking at how neoliberalism is able to self-reproduce, an interrogation of the rule of law illuminates new avenues of understanding neoliberalism's mechanics. As much as this pertains to defining history, the ideas behind the institutions that govern and rule society are also informed and constructed through dominant class interests. Reading the law from a historical materialist perspective leaves room for further elaboration, however, particularly with regards to how the rule of law operates to neutralize itself and certain actors in society.

Simultaneously, drawing on these notions, the rule of law in the context of development – particularly market-led development - is subject to critique. Tamanaha (2011) argues that law and development in tandem operate through the implantation of western legal approaches in developing contexts (Tamanaha 2011, 211). These technical fixes have been largely unsuccessful (Tamanaha 2011, 209). The rule of law is connected to all aspects of society (Tamanaha 2011, 214). At the same time, in the context of development Tamanaha argues that law in development is a sort of “modernization theory redux”: “the rule of law is said to be essential for economic development and limiting government tyranny; and human rights are claimed to be universal...reality on the ground belied modernization theory decades ago. The same realities are revealed again today for the plain reason that economic, political and legal institutional arrangements taken from one society do not work the same way in another....” (Tamanaha 2011,215). The notion of a neutralized, technical fix in development is especially problematic, as it is expressed through law: law is hardly universal.

Situating this critique of the neutralization of the rule of law in society is rooted in the theoretical underpinnings of Pierre Bourdieu (1987). Bourdieu develops a particularly

pertinent analysis of the law and the juridical field, which fits with this Marxian analysis. Though not conventionally regarded as a Marxist, Bourdieu illustrates how the rule of law exists as part of a social field, which is defined by a sort of metaphorical, invisible magnetism which in turn affects the way social interactions and patterns of behavior occur (Terdiman 1987, 806). Bourdieu distances himself from a structuralist Marxian reading of ideology as “the opiate of the masses” (Marx quoted in Bourdieu 1987, 815); instead he argues that there exists an inherent “social basis” to the autonomy of ideologies, which in turn clashes with the base-superstructure concept that, he argues, confines law to the sphere of productive relations (Bourdieu 1987, 815). For Bourdieu, the juridical field is a “social universe” which is structured by both external power relations and its own internal logic (Bourdieu 1987, 816). As such, Bourdieu does not altogether reject the materialist understanding of institutions in society, nor a Marxian reading of ideology; rather, his understanding of the force of law incorporates material influences, and builds on this to also assert that social fields have their own internal factors that play a role in their so-called autonomy in society. This also complements feminist historical materialist approach as well, given that this illustrates how women are further isolated from power relations that claim to be neutral, that exist as Real, but separate from reality.

This so-called autonomy is central to Bourdieu’s conception of the field of law and for understanding how it operates on a political, social and economic level. At the crux of Bourdieu’s analysis lies the claim that legal culture – the internally defined rules, values, assumptions – is at the heart of the juridical field (Terdiman 1987, 806). The internal social, political, economic and linguistic elements that constitute the politics and

mechanisms of the legal field shape the way in which the rule of law behaves outside of the field of law itself (Terdiman 1987, 806-807). Building off of this, Bourdieu argues that the field of law and other social fields are connected, particularly in relation to the exercise of power in society; nonetheless, it is important to emphasize that for Bourdieu the law is its own, sometimes contested relationship to other social fields of power, such as the state (Terdiman 1987, 807-808).

The law, and those who practice its profession, appear autonomous as a social field, but Bourdieu argues that this is because the field of law's relation to other social fields of power is antagonistic or one of resistance (Terdiman 1987, 808). Indeed, within the juridical field, there exists a "monopoly of the right to determine the law" (Bourdieu 1987, 817). Indeed,

Bourdieu devotes particular attention to this special linguistic and social power of the law "to do things with words." Essential to that capacity-to the law's reproduction and continuation, to its legitimation in the eyes of those under its jurisdiction-is what Bourdieu terms the law's "power of form." This power inheres in the law's constitutive tendency to formalize and to codify everything which enters its field of vision (Terdiman 809).

By incorporating specific issues into the field of law, through language, problems are formalized in and through the language of the law. This imposes a hierarchy in the legal field; only those with access to the knowledge of operationalizing the legal language can achieve justice. Simultaneously, the judicial language used produces what Bourdieu refers to as the "neutralization effect" and the "universalization effect" (Bourdieu 1987, 820). If rules and regulations are constructed as neutral and universal by legal language, the autonomy that is attributed to the legal field is in fact contradicted by "The practical meaning of the law...[which is] only determined in the confrontation between different bodies moved by divergent specific interests" (Bourdieu 1987, 821).

Simultaneously, this means that there is an inherent division between those who can practice and understand the law and the legal profession, and the “lay people” who do not (Bourdieu 1987, 817). The division of juridical labour is often skewed, sometimes in the interests of those with more favourable power interests (Bourdieu 1987, 822).

Poulantzas (2014) articulates a similar notion in capitalist context:

...modern law expresses the capitalist relationship between power and knowledge, as it is condensed in capitalist intellectual labour: outside the law, individuals-subjects contain no knowledge or truth...Capitalist law thus gives expression to the process whereby the agents of production are entirely disposed of their ‘intellectual powers’ to the benefit of the dominant classes and of their state (89).

In the case of femicide, grief-stricken families of dead victims, or the prosecution, will advocate on behalf of these victims, against predominantly male perpetrators and defense attorneys in a largely patriarchal society. Furthermore, femicide in the Guatemalan context exists as it is only defined by and through the law; as such, it is constructed as a form of subjective violence existing as a disruption to the normal, drawing once again on Žižek. This division of juridical nature also makes it seem as though the law exists as independent or neutral; rather, external and internal power relations sustain the law as such.

In understanding how the law and the legal field operates, Bourdieu asserts that “Legal scholars...have an easy time convincing themselves that the law provides its own foundation, that it is based on a fundamental norm....such as the Constitution, from which all lower ranked norms are in turn deduced” (Bourdieu 1987, 819). In this sense, a parallel can be drawn with Bourdieu’s framing of such norms and what Bakker and Gill (2003) refer to as “new Constitutionalism” of neoliberalism:

The new, more liberal, much more integrated forms of law and regulation, for example, in the World Trade Organization, act as quasi-constitutional devices that intensify pressures (external disciplines) for adjustment of domestic systems and structures in accord with the categorical imperatives of economic globalization (30).

Similarly, Soederberg (2010) argues that neoliberalism constantly must be “relegitimized” in order to self-sustain (16-17); building on this argument, the rule of law can be situated in neoliberal context as a vector for reinforcing and sustaining neoliberal ideology. Further, this entrenches social divisions not only between class, but also between women, whose roles in social reproduction are consequently compromised by growing inequalities.

Simultaneously, in development and international relations, the rule of law is often seen as a force for bringing about social and economic progress and change (May 2012, 2). Indeed, May (2012) asserts that the rule of law is constructed as “the common sense of global politics (or, the legalisation of global politics)”, which is a vector for normative and productive transformation (3). He explores the rise of the rule of law in global politics, and states that in part, “The rise of the rule of law as norm and rhetoric could be directly (and simply) linked to the post-1989 (political) establishment of a single general (US inspired) development trajectory focused on democratisation [sic] and liberal market economy” (May 2012, 6). However, drawing on Bourdieu, the larger structural transformations of global politics are not the only factor shaping the rise of the rule of law as an international norm; while May does not disagree with what he terms the “functional reflection of larger structural developments”, like Bourdieu he also asserts that there are other aspects as well that contribute to the role of the rule of law more broadly speaking. If we draw on Bourdieu’s analysis, these other factors would include the internal mechanics and professionalization of law.

These arguments are rooted in Poulantzas' understanding of historical materialism, particularly regarding the role of the state to which I allude earlier. For Poulantzas, the state is characterized by a broader, more complex "class utilization of the state" (Poulantzas 2014, 13). For Poulantzas, political power and domination come through the state's "institutional materiality" (Poulantzas 2014, 14). He illustrates how, in the context of capitalist relations of production, the apparent separation between the state and the economy, is somewhat illusive, in that the state, in any historical stage, is not "external to the space of reproduction of capital" (Poulantzas 2014, 19). Capitalism is, for Poulantzas, non-linear and cannot be generalized to "buds" of historical steps (Poulantzas 2014, 21-22). Because social relations play such a central role in productive relations for Poulantzas, class relations are integral in the relations of production, and consequently, in the formation of state power (Poulantzas 2014, 27).

These critiques, and the role of the state and its institutions in neutralizing neoliberalism are rooted in Marx's historical materialism. Indeed,

"For Marx, the connection of the elements "division of labor" and "class rule," together with the state-based reproduction of these conditions, leads to the institution of specialized normative and regulative practices, of which the juridical apparatus becomes Marx's paradigmatic example" (Haug 2001, 71)

As such, state institutions play a vital role in reinforcing neoliberalism; from a Marxist perspective, the rule of law, particularly through the liberal peace accords of 1996 enables the regulation of capitalism in Guatemala, and empowers the state with the control over the means of production. In this vein, Bruff highlights the rise in what he terms "authoritarian neoliberalism" (Bruff 2014, 113); given the current landscape of neoliberal crisis, he argues that this new authoritarianism "can be observed in the reconfiguring of state and institutional power in an attempt to insulate certain policies and

institutional practices from social and political dissent” which serve to enable neoliberalism in an increasingly undemocratic form of state governance (Bruff 2014, 115-116). He also distinguishes his term from Gill’s (2008) “disciplinary neoliberalism” (in that where the former illustrates the use of law by the powerful he articulates that “any attempted reshaping of the legal framework is a multilinear, uneven, and contradictory process” (Bruff 2014, 116). In Guatemala’s context, neoliberalism has been both masked and justified by the Peace Accords as a legal institution. Understanding the role of state power in this way lays the foundation for understanding the rule of law, and builds on the feminist historical materialist framework I have outlined; this illustrates the mechanics of constructing the Real vis-à-vis a social reality that neutralizes gender and violence as subjective, rather than systemic.

Further, Poulantzas build on his historical materialist understanding of the state to argue that “law is an integral part of the repressive order and of the organization of violence” (Poulantzas 2014, 77). From this perspective, law is the code of organized public violence” (Poulantzas 2014, 77). The state perpetuates the opposition between rule of law and terror, which is illusory (Poulantzas 2014, 76); Poulantzas draws on the Weberian notion of the state as holding a monopoly over violence to assert that the state holds a “monopoly of war” (Poulantzas 2014, 77). The significance of this is that the state controls the institutionalization of legitimate violence; it “underlies the techniques of power and mechanisms of consent: it is inscribed in the web of disciplinary and ideological devices; and even when not directly exercised, it shapes the materiality of the social body upon which domination is brought to bear” (Poulantzas 2014, 81).

In the context of death, he illustrates a repressive role of the state, which “manages death” in various ways, including through the law (Poulantzas 2014, 82). Laws force witnesses to bear testimony, prohibits certain acts in society, requires certain behaviors of citizens, and is an integral part of the social order, which cannot exist without the law (Poulantzas 2014, 83). The “mechanisms of fear” are an aspect of repression, expressed through law (Poulantzas 2014, 83). Poulantzas articulates that the law creates consent among the subordinate classes. Indeed:

[Law] materializes the dominant ideology that enters into these devices... Through its discursiveness and characteristic texture, law-regulation obscures the politico-economic realities, tolerating structural lacunae and transposing these realities to the political arena by means of a peculiar mechanism of concealment-inversion. It thus gives expression to the imaginary ruling-class representation of social reality and power... The dominated classes encounter law not only as an occlusive barrier, but also as the reality which assigns the place they must occupy (Poulantzas 2014, 83).

As such, laws repress dominated classes, and also lay out the rights afforded to these groups. The interests of the dominant class, and the dominant class’ corresponding ideology shape these rights; simultaneously, the law “...has inscribed within it the material concessions imposed in the dominant classes by popular struggle” (Poulantzas 2014, 84).

In all of this, the state’s power hinges on a constructed binary of legality and illegality, of normal and abnormal from Žižek’s perspective; however, it operates through contradiction, and often transgressions against the law (Poulantzas 2014, 85). Drawing on Žižek’s concept of violence, these transgressions can be seen as systemic forms of exploitation occurring as a backdrop to subjective forms of violence, like femicide. The state also “takes precedence over law” (Poulantzas 2014, 85). In the contemporary, capitalist context, laws impose an individualization of illegality amongst a seemingly

homogenous population, where the law is framed and accepted as the highest, and most neutral authority (Poulantzas 2014, 87). Indeed, Poulantzas differentiates the role of the law in both pre-capitalist and capitalist contexts:

Juridical ideology written into law becomes the dominant area of ideology in a mode of production in which ideology no longer plays the dominant role. We must understand by this that the capitalist form of law comes to constitute the fundamental ideological mechanism from the moment that the extraction of surplus-labour (surplus-value) is activated by the very cycle of reproduction of capital...from the moment that the sub-symbolizations cementing the various territorial-personal links among social agents are uprooted and destroyed. The rule of capitalist law is grounded on the absence of other signifiers around it (Poulantzas 2014, 88).

This ultimately illustrates how the rule of law naturalizes neoliberalism through its apparent neutrality in society, although it represents the interests of dominant class. By applying this understanding to the feminist historical materialist framework I have woven, it is evident that the social relations that govern social reproduction are neutralized and reproduced through the rule of law and the neoliberal state, which, simultaneously both ground and enable extreme forms of violence against women.

Conclusion: Towards a Feminist Historical Materialist Understanding of Violence in Neoliberal-led Capitalism

Ultimately, this chapter has sought to articulate a feminist historical materialist framework that will fill the gaps in understanding how femicide is experienced in post-conflict Guatemala. Indeed, through my theoretical lens, I seek to articulate that political economic processes shape lived experiences. Specifically, it is the nature of the relations of production, and the ownership of the means of production, shape the nature of social relations in a capitalist system. I have also explored how neoliberalism in particular is a

statist project; indeed, through institutions like the rule of law, neoliberalism can be sustained and replicated.

At the same time, none of these processes and social relations are gender neutral. As I have highlighted through exploring Marxist understandings of social reproduction, relations of production are gendered; as such, the laws and institutions that reinforce the status quo, particularly in contemporary neoliberal Guatemala, are also gendered.

In my next chapter, I will map out the neoliberal antecedents that predate the emergence of the law on femicide, drawing on this framework to articulate how women are continually exposed to conditions of vulnerability and violence, that will only be further exacerbated through neoliberal restructuring and reinforcing.

Chapter Four:

Applying a Feminist Historical Materialist Understanding of Violence:

A Concrete Analysis of Neoliberalism in Guatemala

Introduction

In my previous chapter, I introduced an alternative framework for understanding how neoliberalism is a gendered process reinforced through the rule of law. This feminist historical materialist framework allows for a nuanced understanding of how violence can be shaped by the material conditions of capitalism, and how the rule of law reinforces the conditions that enable violence in a neoliberal context. Further, my framework highlights how neoliberalism is an inherently gendered process, and as such, changes in materiality are also gendered. Within this framework, violence acts as a physical expression of these material processes, and women experience these transformations differently from men.

In this chapter, I will briefly map out the legacies of neoliberal transformation in Guatemala. This will provide the necessary context for exploring how femicide is depoliticized by the rule of law, which I will elaborate upon in my fifth chapter. Given that the theoretical framework I have elaborated is grounded in historical materialism, the goal of this shorter chapter is to draw on this framework and provide historical context before developing my analysis of femicide in political economic context in my following chapter. I will show that over Guatemalan history, violence has been experienced in conjunction with economic transformation, moving towards neoliberalization, and reinforced by the rule of law.

Looking at the case of Guatemala over time, it is evident that the role of the colonial⁴ state, particularly the colonial state of the postcolonial period has grown to be increasingly in control over productive forces in Guatemalan society, particularly through its imposition of state terror over the conflict. In order to accommodate neoliberal interests, the Guatemalan experience is illustrative of a shift, from authoritative, violent and genocidal military dictatorships, who protected neoliberal land reform interests, towards a post-conflict era buttressed by human rights discourse that masks a liberal peace and post-Washington consensus neoliberal project. It is in this latter period within which the Law on Femicide is situated as a response to this problem.

There are parallels between the Chilean and the Guatemalan experiences of transitioning to neoliberalism. As I highlight in my previous chapter, Taylor (2006) highlights how strategies towards national developmentalism over the course of the 1920s and 1930s ultimately paved the way for economic crisis. In some ways, both Chile and Guatemala share common ground in the way military intervention has played a role in replacing governments in the name of economic and political transformation.

Way (2012) introduces a mapping of economic development in urban Guatemala over the course of the twentieth century, and like Chile, it reflects the contradictions that have come through modernization and capitalist projects. Importantly, much of Guatemalan colonial and postcolonial history is rooted in struggles over dispossession, resources and foreign investment that illustrate the violent nature and transformation of neoliberalization in Guatemala. Indeed, since colonial times, governance in Guatemala

⁴ I refer to the current Guatemalan state as colonial, given its propagation of Western democratic norms in a country where over half of the population identifies as being part of over twenty different indigenous groups. The official language of the state is Spanish, which is the colonial language of the elites. I use this term recognizing that Guatemala is an independent country, but with a history of internal colonialism that has been destructive towards indigenous livelihoods, culminating in an ongoing genocide.

has been structured around extracting the greatest value from the poor majority of the populations, namely indigenous peoples and others who live in the rural regions of Guatemala for the benefit of the ruling elite (Rudel 1981, 83). In Guatemala's context, the imposition of authoritarian market structures through the state is particularly evident throughout the twentieth century; this has evolved in contemporary context, which is masked by the rhetoric of liberal peace, security and development.

Pre-conflict Antecedents of Neoliberalization

Since 1871, Guatemala has been governed largely by a liberal, capitalist elite who established, at the end of the nineteenth century, a capitalist state geared towards the export of coffee (Grandin 2013, 61). This laid the foundations for capitalist development in the twentieth century, predominantly through the agro-export sector. However, it would be problematic to argue that the legacies of violence in Guatemala are a mere product of the dispossession that came with capitalist expansion; rather, as Grandin (2013) articulates, it was the state's reliance on terror to quell any revolutionary or labour-related uprising (58; 68). Indeed, Guatemalan elite governing officials prevented revolutionary sentiments from spreading at the outset of the Mexican Revolution through state repression, which set the stage for acts of state terror throughout the twentieth century (Grandin 2013, 58). This harkens to the theoretical framework I articulated in my previous chapter; indeed, similar to neoliberal legacies in post-conflict Guatemala, early capitalist expansion in post-independence Guatemala was protected and sustained by liberal claims of modernization, democracy, and state terror justified by state terror and the institutions it protected.

In the early decades of the twentieth century, Guatemalan politicians, largely representative of the ladino elite, pushed for modernization of industry (Way 2012, 5). The modernization projects of the early twentieth century sought to erase the diversity of indigeneity in Guatemala in favour of an elite, ladino manufactured national identity. Way (2012) argues that the 1920s-1940s were particularly formative in this regard, with the advent of a particular form of “reactionary modernism” that reinforced colonial racism which bound together developmentalism, modernization of technology, and this new national identity (3). As I will highlight in my next chapter, laws and institutions in Guatemala veer towards this homogenization of Guatemalan nationhood as reflected and articulated by the ladino elite.

The Great Depression brought for Guatemala a steep fall in the prices of world coffee, one of Guatemala’s key export commodities (Way 2012, 4). President Jorge Ubico, “quasi-fascist, statist, and paternalistic”, was elected in 1931 and subsequently sought to destroy a growing workers’ proletariat in urban areas of Guatemala (Way 2012, 4). His policies of agromodernism and modernization, bolstered by US support, laid the foundation for growing inequality, particularly between elite ladinos and indigenous Mayan people, the latter being incorporated into forced agricultural labour under the dictatorial police regime (Way 2012, 4). Ubico’s regime was built on the dispossession of indigenous traditional livelihoods, replacing them with large-scale plantations, providing negligible wages, and building Guatemalan capitalist expansion on a foundation of racialized exploitation (Way 2012, 37).

Ubico was ousted in 1944 with the advent of the Ten Years of Spring, a capitalist and modernist revolution that, despite instigating the growth of political and grassroots

groups and the rebirth of unions, also promoted modernization and top-down approaches to development, and, as Taylor observes in the Chilean case, represented a shift towards a national developmental model (Taylor 2006 28-29; Way 2012, 5). Indeed, the workers' proletariat played an integral role in shaping the 1944-1954 Revolution, particularly in that their use of "class justice" as a key discourse influenced guerrilla struggle and tension in Guatemala in the decades to follow (Way 2012, 21).

Simultaneously, throughout this struggle, Guatemala was incorporated into the Organization of American States in 1948 and there came a pressure from different state agencies to develop a "capital intensive agricultural economy that would demand far greater monetary inputs than the Guatemalan state, not to mention the Guatemalan campesino, could provide" (Way 2012, 61). Although Ubico had been removed from power, the CEPAL model of development took root, imposed "the modern banking system, the social security system, and the military structure" (Way 2012, 61). Not surprisingly, Guatemala became increasingly linked to American foreign business interests, particularly with the advent of institutions like Bretton Woods, the United Nations, the International Monetary Fund, and the global dominance of the American dollar, particularly during the latter half of the twentieth century (Way 2012, 61).

Arguably, transitions towards neoliberalization internationally predated the 1970s and 1980s in terms of the creation of foundations for neoliberal policies (Peck 2011, 20); Guatemala is no exception to this trend. Indeed, some of the class-oriented struggles that began to emerge during the Ten Years of Spring were crushed by a CIA-led coup in 1954, ousting democratically elected and socialist-leaning President Arbenz (Grandin et.al. 2011, 199). Importantly, the coup was organized in defense of the US-based United

Fruit Company interests in Guatemala, where the company itself owned much of the land and means of transportation, without paying any royalties to the government (Yakes and Siegel 1983, np). Arbenz had implemented a land reform program that redistributed much of the land to indigenous campesinos, but threatened US investments in the agro-business sector, bringing about the coup that overthrew the president (Lovell 1995, 30). The coup itself was initiated through the United Fruit Company's instrumental use of its ties in Washington: under the Cold War rhetoric of a communist scare through land redistribution programs, the coup was justified as necessary to bring peace to Guatemala (Lovell 1995, 31). The coup, however did the opposite: it ignited further tensions that resulted in the continuation of a civil war between state and guerrilla groups that raged until 1996.

Tensions during Guatemala's Civil War

Following the coup, military regimes that followed normalized the militarization of democracy seen throughout the twentieth century. The civil war that then emerged as part of the contestation over access to resources, and was fought between Marxist guerilla forces and the militarized State. The war itself began in 1960, shortly after the Ten Years of Spring, and lasted for 36 years (Chazaro et.al. 2010, 98). Numerous military dictators, particularly Colonel Castillo, General Ydigoras, Colonel Peralta, LIC Mendez Montenegro, General Arana, General Kjell, General Rios Montt, and General Mejia Victores over the course of the civil war, headed the state in collaboration with US foreign business interests (Yakes and Siegel 1983, np).

“In an important way, the events of the 1960s....signaled the point of no return for Guatemala, after which the state and its henchmen, with the support from the United States, committed mass terror to defend its interests” (Grandin et.al. 2011, 199-200). Scorched earth policies in the years that followed the coup aimed at targeting guerilla fighters who had risen in response to the overthrow of Arbenz. Ultimately these policies took the lives of 8000 civilians, a number massively disproportionate to that of 300 guerilla deaths (Grandin et.al. 2011, 199-200). Hundreds of thousands of people were displaced, tortured and/or killed during the conflict, the majority of whom were Mayan indigenous rural villagers whose communal land practices conflicted with foreign business interests (Weissman 2010, 229). The United Nations Truth Commission estimates much higher numbers, rising steeply during the 1980s, a period controversially referred to in Guatemala as a genocide. The Truth Commission estimates that over 200 000 were killed during this time, and that the state military employed “acts of genocide” to commit massacre against a rural Maya indigenous population (Menjivar, 2011). The latter half of the twentieth century in Guatemala has been irreversibly shaped by state oppression, arguably in the name of capitalist transformation.

Tensions continued to build across Guatemala in the 1960s and 1970s, as diverse guerrilla groups fought against the rise of state terror. Protests against deplorable working conditions and other labour issues occurred sporadically, one such example being the massacre of protesters at the Spanish embassy in February, 1980 (Way 2012, 140-141). The 1976 earthquake, occurring in the midst of global petroleum crisis exposed Guatemala to further social strife and union strikes against unfair labour conditions (May 2012, 115). Over the course of the rest of the 1970s and early 1980s, violence became

rampant throughout Guatemala, and eventually the military imposed increased terror, violence, genocide and total control in the guise of a “shallow democracy” devoted to the agroexport industry.

Way (2012) argues that although within the military hierarchy different officers fought to preserve protectionism under ISI policies, they were the “chosen executioners” of neoliberalism in Guatemala (125). Certainly, Generals Rios Montt and Mejia sought to quash Marxist-Leninist guerrilla fighters, largely unified under the banner of the URNG, and built up an export-oriented, non-traditional crop system through Guatemala’s genocidal Green Revolution (146). The Green Revolution sought to introduce non-traditional crops, for export; at the same time, policy makers attempted to divide communally-owned plots of land in rural areas into individual properties or large scale fincas. These policies were not new to Guatemala; indeed, indigenous Mayan people were forced to labour in large scale industrial fincas throughout the nineteenth and twentieth centuries, before the civil war had broken out (See: Grandin 2013; Way 2012)

Certainly, the gendered implications of the Green Revolution are notably marked. Indeed, much of the conflict, particularly the contestation over the 1980s, drew on violence against women as a weapon of war. Women - particularly indigenous women - caught between conflicting guerrillas and the state military were targeted by the latter in acts of violence and genocide. As Nelson (1999) observes, the wounded body has become a powerful symbol of Guatemalan identity (1-2). The gendered wounded body has a particular potency as well: women experienced violence in particularly gendered ways during the conflict. Women were targeted on the basis of their femininity: the

destruction of the female body during this period was symbolic of the destruction of indigenous land and territory, and vice versa.⁵

For instance, rape is estimated to be a factor in one sixth of all the killings that occurred during the armed conflict and genocide, despite the fact that more men were killed than women (Chazaro et.al. 2010, 100). The widespread use of sexual violence and rape as a weapon of war entrenched a normalization of gender-based violence and gender oppression in Guatemala. Indeed, the genocide that targeted Mayan highlanders drew on gendered forms of violence, which cemented existing patriarchal norms in Guatemalan society:

During the conflict, agents of the state...used sexual violence as a weapon of war systematically and with complete immunity...with women suffering 99 percent of the sexual violations....A generation of young men forcibly recruited into the army was indoctrinated in the use of sexual violence as a weapon...so widespread in the highland combat zones that...it would be difficult to find a Maya girl of eleven to fifteen who had not been raped (Chazaro et.al. 2010, 100).

Similarly, acts of violence committed against pregnant Mayan women during the 1980s illustrate how the genocidal acts that targeted the Mayan population were rooted in a targeted destruction of women and their reproductive roles.

Framing the Guatemalan experience of political economic transformation towards a post-conflict neoliberal order from a historical materialist perspective illuminates how these changes had impacts on material life in Guatemala. Indeed, state terror was used to reinforce political economic changes; with the advent of neoliberalism worldwide and in Guatemala, state terror and violence culminated in genocide. Visible shifts towards neoliberalism in Guatemala correlate with the bloodiest years of the conflict over the 1970s and 1980s. Similarly to some sentiments in Chile, socialist and Marxist guerrillas,

⁵ This notion stems from an analysis of communitarian feminism (Interview XII)

along with trade unionism and grassroots organizing reached a pinnacle in the late 1970s across Guatemala, around the time where the Guatemalan agroexport industry began to diversify into the export of non-traditional crops and proponents of this shift became more closely linked with the governing military elite (Way 2012, 127). It is important to link Guatemala's own "Green Revolution" transformation in terms of the introduction of non-traditional crops with the gendered acts of violence that ensued.

The Post-Conflict Years: (Neo)Liberal Peace

The Peace Accords have been widely praised by human rights organizations around the world for their inclusivity and rights-based discourse. The Peace Accords included particular stipulations for recognizing indigenous autonomy and rights, and were praised by international institutions as groundbreaking and precedent setting in the peace process (Short 2007, 1). Women's groups were also particularly involved in the signing of the Peace Accords, and the agreements brought about a number of developments for women's rights in Guatemala: "it called for gender equality in the receipt of education, land, credit and development aid, the elimination of discrimination against indigenous women, and support for gender equality in the home and workplace (de Alwis et.al. 2013, 187). The women's movement was particularly active at the dawn of the peace process, and women's concerns were, at least on paper, voiced in the process leading up to the signature of the Peace Accords (188).

However, although many of women's demands were voiced, they were not incorporated into the final version of the Accords (Luciak and Olmos 2005, 206). Indeed, women who had fought alongside the guerrillas confronted difficulties reintegrating into

a predominantly patriarchal society, and many of the guerrilla fighters viewed the Accords as a disappointment that disproportionately disadvantaged some to the benefit of the status quo (210).

Peck (2010) suggests a sort of Polanyian understanding to the mechanics of neoliberal transformation: a “roll-out” occurs as the costs of the roll-back take their toll on society, and austerity is replaced with a more humanistic face to capitalism, empowering non-State actors like NGOs to offer social services in the spirit of public-private relations (23). In the Guatemalan context, the “roll-out” occurred with the advent of the 1996 Peace Accords, which sought to remedy the violence and genocide that had occurred over the course of the 1980s. The Peace Accords ended, at least on paper, the civil war between the military and the state, recognized indigenous Mayan groups and their autonomy, and received widespread praise among members of the international diplomatic community (Short 2007, 1).

At the same time, the Socio-Economic Accords called for increased foreign investment as a means towards development; development became contingent on the presence of foreign multinationals in Guatemalan industries and manufacturing sectors (Short 2007, 195). As such, neoliberalization in Guatemalan context, particularly in the “roll-out” or Post-Washington consensus model “represents more than an attempt to remake the world in the image of markets...it represents a series of far-from-perfect attempts to wrestle with...the contradictions of governance in a malmarketized world” (Peck, 2010, 24).

Following the signature of the Peace Accords, and drawing on these legal documents as neutral, human-rights preserving institutions, the Guatemalan government

sought to reinforce the neoliberal project under the banner of development. For instance, President Arzu, who held the presidency from 1995-1999 worked towards developing the extractive economy so problematic and contested in Guatemala today through opening Guatemala up to foreign direct investment in mining and oil extractives (Solano 2013, 125-127). There have been numerous cases of women being subjected to extreme forms of sexual violence and targeted assassination attempts over contestation over these mining projects around the Guatemala City area, and in rural areas as well.

The impacts of neoliberalism in Guatemala have been devastating for the majority of the population – indigenous and ladino. For instance, “Guatemala’s indices of inequality rise year after year; currently it ranks 116 out of 169 countries on the Human Development Index...considerably below where it would be on a ranking of per capita income” (McAlister and Nelson 2013, 28). Benson et al. (2008) and Benson and Fischer (2009) develop a broader understanding of violence in post-conflict neoliberal Guatemala, illustrating how violence becomes individualized through neoliberalism and how violence is constructed as juvenile delinquency, or blamed as gang violence. However, violence in Guatemala’s post-conflict neoliberal context must be understood as a “symptom of structural conditions” (Benson and Fischer 2009, 164). Indeed,

Guatemala teaches us that the...neoliberalization of violence...does not entail the erosion of state power in a simple way. Rather, the reorganization of violence...plays to the state’s claim to sovereign power and the strategic promotion of an emergency mindset to shield the state’s lasting participation in and failure to ever redress violence against the “people.” Guatemala thus also teaches us that the measures implemented to bring about security are very different from those needed to achieve lasting peace (Benson and Fischer 2009, 166).

This problematizes apolitical understandings of violence by broadening the scope of how violence is understood, beyond individual perpetrators to the neoliberal state itself.

This perspective is gender neutral, however; the structural violence of neoliberalism has gendered impacts that affect women differently than men. With rising inequality, women in lower-income households and women migrating from rural areas to urban areas, face challenges in the sphere of social reproduction; indeed, they often enter the workforce to supplement family incomes, challenging gender stereotypes, and adding to the burden of unpaid and underpaid labour they perform.

Building on these transformations, CAFTA was implemented in June 2006, which “flooded the Guatemalan market with subsidized...US corn, seriously undermining local subsistence agriculture, just as a global financial crisis began to unfold...and rising energy and food prices steadily undermining food independence” (McAllister and Nelson 2013, 29). McAllister and Nelson (2013) refer to the graying of the neoliberal economy in Guatemala, rendered so through neoliberal policies implemented alongside Guatemala’s informal markets of narcotics and other black market goods.

This also harkens to Bruff’s (2014) analysis of authoritarian neoliberalism, which draws on institutions to reinforce neoliberal governance. Indeed, despite the rhetoric around human rights and peace, “Guatemala’s contemporary culture of development is characterized by the marginalization of the unions and the socialist left, teamed with the curtailing of state protectionism and social services” (Way 2012, 150). This reinforces the legitimacy of neoliberal changes in Guatemala. For instance, the *Coordinadora Nacional de Microempresas* (National Coordination of Micro-businesses or CONMIGUAT) emerged in 1997, but operates under the *Comité Coordinador de Empresarios de la Microempresa de la Region Central de America* (COCEMI), which actively silences

small-business owners by incorporating them into a system that favours large scale enterprise (150-151).

Guatemala also has a history of market informality that is, in part, rooted in the early years of national developmentalism in the region. Much of this market informality presents challenges for social reproduction; not only are women often forced into precarious modes of labour, but this work also adds to the burden of unpaid labour they perform. In 2000, patent protection laws over counterfeit American goods for sale in local markets, like those in Guatemala City were implemented (Way 2012, 176); these transformations protect large American businesses, but render work in these contexts precarious for locals, all under the banner of the rule of law, which again, privileges large-scale business in the name of social order and development. At the same time, the precariousness of the labour of vendors is matched by growing precarious labour sector in *maquilas*, or sweatshops, which began to boom in 1985 with the opening of Inexport in Guatemala City⁶, onwards into the 1990s and the post-conflict era.

Responding in part to the pressure of Ronald Reagan's Caribbean Basin Initiative to promote the sector, the Guatemalans followed up a series of investor-friendly laws in 1989 with the passage of legislation that ganted investors ten-year tax and customs exemptions. Export reassembly, meanwhile, was also being pushed by USAID; in 1990 it was providing over 80 percent of the funding for the Asociacion Gremial de Exportadores de Productos No Tradicionales...By 1992 there were 275 maquilas in Guatemala, exporting about \$350 million worth of Clothing to the United States and employing over 50 000 workers. Less than a decade later, early in the new millennium, nearly three times that number of people were working in maquilas (Way 2012, 191-192).

According to the *Observatorio del trabajo en la globalizacion* (Observatory of Work in Globalization in English, or OTG), as of June 2000, over 700 maquilas were registered under the Ministry of the Economy (OTG 2014, np). OTG (2014) also reports harsh

⁶ Garment-making maquiladora owned by American Henry Robbins Cohen (Way 2012, 191)

labour conditions of 12-16 hour workdays, lack of security and workplace safety measures, forced nightshifts, and physical abuse of workers in the maquilas. Organizing is met with violence, sometimes ending in death (Way 2012, 192).

Not surprisingly, much of the violence is gendered. Women comprise the majority of workers in the Guatemalan maquila sector, and are often targets of countless cases of sexual abuse (OTG 2014 np; Way 2012, 192). At the same time, migrants coming from rural areas to the city often find work in the maquilas, which offer precarious labour and perpetuates a cycle of poverty, where workers often make under 100 USD per month (192-193). With reference to Žižek, the case of precarious labour in the maquila sector in Guatemala reflects how subjective violence is enabled by structural violence inherent to the exploitation permitted of workers in this sector; further, it illustrates how both subjective and structural violence take on extreme gendered forms.

Peck and Tickell (2002) emphasize that neoliberalism is adaptable, transformative and, contrary to the rhetoric of its proponents, relies on the state to expand markets, impose austerity measures, and cut social services (380-381). They build a geographical understanding of neoliberalism, highlighting the transformative nature of neoliberalism and recognizing it as a process (Peck and Tickell 2002, 383). Neoliberalism has a diverse range of impacts and has evolved, from the more ideological and aggressive form under Reaganism and Thatcherism, to a humanized, normalized form characteristic of the post-Washington Consensus (Peck and Tickell 2002, 380, 384). Institutions and other forms of governance advance neoliberal agendas, contributing to the depoliticization of neoliberalism in the context of development (Peck and Tickell 2002, 384). As such, the links between the rising maquila and informal economy sector, and the different forms of

violence that ensue illustrate how, in neoliberal Guatemala, a landscape of violence is synonymous with labour conditions. Further, social services have been increasingly cut back since the advent of CAFTA in 2006, rendering women, who labour in these conditions, particularly exploited and vulnerable; women still bear the burden of reproductive labour and at the same time, confront machista stereotypes by entering a precarious workforce. Indeed, social reproduction becomes, for many women, an issue of life or death.

Perhaps to combat growing inequality, and notorious sweatshop labour conditions, the rise of NGO work in Guatemala, particularly in the post-conflict era, comes as a natural step in isolating responsibility for social welfare from the state. NGOs play an important role in fostering market-oriented values under the banner of promoting “development” in post-conflict Guatemala. The estimated over five-hundred NGOs in Guatemala, represent colonial interests, are rooted in Cold War development mentality, but, in some cases, can offer a means through which grassroots causes can gain political recognition (Way 2012, 186-87). Simultaneously, they also not only represent a paternalistic approach to improving livelihoods in Guatemala, but also remove from the State any responsibility for improving access to social welfare problems, and shifting this responsibility onto foreign good-doers.

Conclusion

It is clear, especially from a feminist historical materialist perspective, that neoliberalization is a dynamic process informed by the social conditions in a given context. For Guatemala, military regimes were replaced by the human rights discourse

rooted in the peace process, which acted to reaffirm neoliberal values under the guise of human rights and development (Short 2007, 195). In this sense, the mechanics of “roll back” neoliberalism represent the initial shock of neoliberalization, and its moves towards deregulation, democratization and devolution in society (ibid).

Despite official peace, post-conflict violence remains a widespread and seemingly intractable problem in Guatemala. For instance, in the first five years following the signing of the Peace Accords, under the leadership of President Arzu, broadly considered a defender of business interests in Guatemala, 20, 943 murders were reported and registered by the authorities, classifying the situation as an “epidemic and public health concern” (Sanford 2008, 108). Whereas the armed conflict and genocide occurred in predominantly rural areas, urban spaces have become increasingly volatile.

Simultaneously, as I noted in my second chapter, rates of violence against women have not diminished. Broadly speaking, violence, particularly gender-based violence has worsened in the post-conflict era (Menjivar, 2011). With 9.7 cases per 100 000 women, Guatemala has the 3rd highest number of femicides in the world (Nowak 2012, 2). Although homicides are more frequent, femicides are highly sexualized and meditated murders (Nowak 2012, 4).

Drawing on the historical context of Guatemala illuminates the backdrop for femicide as a growing problem in Guatemala. Using the framework I have articulated and armed with an understanding of this context, in my next chapter I will explore how femicide is increasingly depoliticized by the law on femicide in post-conflict Guatemala City.

Chapter Five:
Interrogating Neoliberal Law and Order:
Repoliticizing Femicide in Post Conflict Guatemala

Introduction

As I addressed in Chapter Four, the rhetoric of peace and development has masked, among other things, the signature of the Peace Accords, which Short (2007) asserts acted to reaffirm neoliberal capitalism in Guatemala. Not only do these developments reinforce social inequality, but they also have rendered women increasingly vulnerable in the post conflict era, given that women have been forced into precarious situations of labour and reproduction.

Drawing on my feminist historical materialist framework, I develop the following twofold argument. First, I suggest that the gendered dimensions of Guatemala's neoliberal landscape in feminist historical materialist context over both the conflict and post-conflict eras have contributed to the construction of the conditions that enable femicide to occur in such high numbers, which exists beyond the boundaries of the rule of law in its apparent neutrality. By this, I mean that the rule of law reflects the interests of the dominant class (for instance, the bureaucracy, politicians) operating as an entity that exists as above the state and politics (Bourdieu 1987, 817; Terdiman 1987, 807-808); rather, the rule of law reproduces the ideologies of the aforementioned dominant class (Poulantzas 2014, 76-77).

Further, the Law on Femicide acts to depoliticize femicide as it occurs in Guatemala's post-conflict neoliberal context: the Law on Femicide frames femicide, the

most extreme form of violence against women, as a subjective form of violence that occurs separately from the state and its institutions, rather than as an articulation of the gendered tensions of neoliberalism in post-conflict Guatemala. Femicide is framed subjectively, in that the law presents the underlying assumption that it disrupts a “zero-level” of violence (Žižek 2008, 1-2). Underlying the violent act of femicide itself, however, is the systemic aspect of femicide contextual to the conditions of vulnerability that women experience in Guatemala’s post-conflict neoliberal landscape. As such, the Law on Femicide effectively erases femicide as systemic violence, taking it out of political context.

The second related component of my argument is that we cannot deconstruct the seeming neutrality of the rule of law, and the Law of Femicide in particular, in a political and historical vacuum; but instead, the rule of law must be understood in the wider historical materialist context of Guatemala’s neoliberal landscape, especially the crisis of social reproduction. In what follows, I briefly unpack the meaning and significance of how the crisis of social reproduction and the rule of law are inextricably linked in grasping the power relations underpinning the Law of Femicide.

The crisis of social reproduction is a key neoliberal feature that helps explain the continuation of femicide in Guatemala. “At its most basic, [social reproduction] hinges upon the biological reproduction of the labor force, both generationally and on a daily basis, through the acquisition and distribution of the means of existence, including food, shelter, clothing, and health care” (Katz 2001, 711). Following LeBaron and Roberts (2012: 26), the “crisis in social reproduction” reflect the socio-economic inequalities that are brought about through neoliberal restructuring fundamentally alter the conditions of

social reproduction, which, as a result of the gendered nature of social reproductive work, exacerbates existing gender inequality. In Guatemala's post-conflict context, for instance, the evolving neoliberal restructuring of capitalist society has led to the conditions that enable femicide. Seen from this perspective, femicide must be understood as an articulation of the tensions and inequalities that are contextual to the post-conflict era, and are historically entrenched in the Guatemalan experience. The Law on Femicide and specialized justice system created through the law overlook this aspect of femicide, thereby neutralizing and depoliticizing the issue as a subjective, rather than systemic problem. By depoliticization, I refer to the ways in which the imposition of the Law on Femicide acts as a technical fix that treats femicide as an issue of law and order, above and outside of the (authoritarian) neoliberal state. In this sense, the Law on Femicide erases the neoliberal capitalist dimensions of femicide, in particular the gendered vulnerability of inequality, by creating a technical fix to what I argue is also a problem of Guatemala's post-conflict neoliberal capitalist experience. Moreover, the law seeks instead to penalize those who commit the crimes, rather than to prevent the crimes themselves from occurring.⁷

In relation to the neoliberal feature of the rule of law, it must be stressed that in making this argument, I take issue with the argument that femicide stems from legal impunity and corruption as highlighted by the mainstream literature (see Chapter Two).

⁷ It is important to add the caveat that in making this argument, I am not seeking to discredit the achievements of women's rights activists and *defensoras* (self-proclaimed defenders of human rights and justice), who have fought the battles to visibilize issues of violence against women in post-conflict Guatemala. Indeed, it would be disingenuous for my project to assert that the Law on Femicide is not an achievement for women's rights in the country. Certainly, the specialized justice system in Guatemala is illustrative of the (contested) recognition by Guatemala's Congress of femicide and other forms of violence against women, which, for countless organizations, activists, politicians, and especially for women is illustrative of great advances for women in Guatemalan society and their rights recognized by law.

In contrast to this dominant view, I suggest that femicide is an articulation of the conditions of inequality fostered by Guatemala's specific post-conflict neoliberal capitalist context. The Law on Femicide in practical context is reflective of the emphasis of global peacekeeping measures towards accountability, justice and transparency; but broadly speaking, these measures mask the insertion of a Post-Washington Consensus neoliberalism (see Chapter Four) that perpetuates the inequalities and vulnerabilities that make femicide an increasingly enduring endemic for Guatemalan women.

I develop this argument in four main sections. I begin the discussion, in Section One, by providing an overview of types of gendered violence in Guatemala. In Section Two, I will illustrate, drawing on my fieldwork, the context and gendered dimensions of social reproduction in Guatemala City, and use this to articulate the landscape in which femicide must be contextualized and understood. In Section Three, I will illustrate how femicide has been depoliticized through the rule of law, which serves to mediate between the subjective and systemic nature of femicide. Indeed, the ways through which femicide becomes neutralized through the rhetoric of law as apolitical and historical. In Section Four, I discuss the Standardization of Femicide Through Law and Neoliberal Forms of State Repression. In Section Five, I will briefly sum up the argument and provide concluding comments.

Categorizing Gender-Based Violence in Guatemala: A Brief Overview

The Law on Femicide constructs different categories for violence against women in Guatemala. For the purpose of this thesis, I will be referring to these forms of violence as they relate to the Law on Femicide. Article 6 defines Femicide as the murder of a

woman by a man in the context of unequal gender relations (Law on Femicide 2008, 7). The law also specifies in 6(a) and 6(b) that femicide may occur in the context of intimate partner relations between perpetrator and victim. 6(e) stipulates that femicide may be committed on the basis of “satisfaction of sexual instincts”, and may include acts of bodily mutilation, in particular female genital mutilation (Law on Femicide 2008, 7, my translation). Crimes of femicide result in a 50-year sentence with no chance of parole (Law on Femicide 2008, 7).

Alternatively, the much broader crime of Violence Against Women defined in Article 7 of the Law on Femicide (2008) includes any form of physical, psychological or sexual violence committed against women (Law on Femicide 2008, 8). Economic Violence, which is defined as the inhibiting of access for women to goods, services, rights, and employment in either private or public spaces, is outlined in Article 8 of the Law on Femicide (Law on Femicide 2008, 8). Economic violence may occur when women are prevented from accessing basic needs for their children, as well as being denied access to personal identification documentation, work tools, and any other items that are required for productive labour (Law on Femicide 2008, 8).

Overall, the law is, according to Article 18, part of the administration of the National Plan for Prevention of Interfamilial Violence against Women (PLANNOVI) and the National Coordination for the Prevention of Interfamilial Violence and Violence Against Women (CONAPREVI) (Law on Femicide 2008, 11), being part of an official strategy towards eradicating all forms of violence against women and femicide in Guatemala (11).

The Gendered Impacts of Neoliberalism and Poverty in Post-Conflict

Guatemala City

Guatemala's repressive history of capitalist development has reinforced particularly gendered dimensions, in particular patriarchal, state, familial and social structures, creating the conditions for violence against women to become so problematic in contemporary times. As I discuss in Chapter Four, capitalist, and more specifically neoliberal transformation in Guatemala has occurred through the reinforcing and consolidation of state power throughout the country's history. Femicide is constitutive of Guatemala's neoliberal landscape. The conditions of neoliberal capitalism have thrust many Guatemalan women into conditions of vulnerability, and have created a landscape that enables violence against women in the country. This landscape is characterized by "crisis of social reproduction", which, I mentioned above, impacts women in particular, given their predominantly active roles in reproduction and production. Guatemala's particular history illustrates how civil war, genocide and state terror have enforced neoliberal restructuring through state authoritarianism (Grandin 2013, 68-70), harkening to Bruff's "authoritarian neoliberalism" (Bruff 2014, 113) Given that the Guatemala City is the most densely populated part of Guatemala, and that it represents the administrative and political hub of the country, the tensions inherent to neoliberal change are particularly legible in this social space. Further, from a feminist historical materialist perspective, these changes are neither gender neutral nor separate from capitalist modes of production nor neoliberal forms of governance. Indeed, the vulnerability of post-conflict neoliberalism is felt in distinctly different ways between men and women.

The foundations of this kind of gendered vulnerability is linked to the tensions surrounding social reproduction, as I articulate in Chapter Three. Indeed, "...the processes involved in maintaining and producing people" (Bezanson and Luxton 2006, 3), are manifested tensions confronting women in under Guatemala's post-conflict neoliberal capitalism. Women, for instance, leave the traditional space of the home in search of employment, which clashes with machista gender norms (Interview II). Importantly, in this context, women bear the majority of reproductive labour associated with social reproduction, which enforces particular inequalities, such as a gendered division of labour, which is prominent in Guatemala's context (Katz 2001, 712; ENCOVI 2011; Interview VII).

Poverty⁸ in Guatemala City is reportedly a key issue affecting many families in the region, which contributes to the crisis in social reproduction that affects women in violent ways. Social inequality is exacerbated in conditions of poverty, which contributes to creating a landscape amenable to all forms of violence, but particularly violence against women, including femicide. In interviews, urban poverty was said to be an important factor defining the post-conflict context of Guatemala City, having increased over the last couple of decades (Interview I; Interview IV; Interview XV). The poverty that was highlighted in some of the interviews I conducted also creates conditions of vulnerability for women, which expose them to precarious environments conducive to violence like femicide (Interview XVI).

Indeed, statistics available through the 2011 ENCOVI study illustrate levels of poverty, and also show how unstable conditions are, though primarily on a national level.

The ENCOVI study also provides key definitions for understanding how poverty is measured in Guatemala. Poverty is defined, by the *Poverty and Development: A Departmental Focus* section of the ENCOVI study as the sum of extreme and non-extreme poverty (28). Extreme poverty is the “percentage relation between people who spend per capita below the extreme poverty line and the total population” (28, my translation). The line of extreme poverty is at Q.4,380 per year (28). Non-extreme poverty is defined as the “percentage of people whose spending per capita is between the lines of extreme poverty and general poverty” (28). The line of general poverty is at Q.9,030.93 (28).

For instance, while cases of extreme poverty are decreasing, cases of non-extreme poverty are on the rise, and the percentage of the population living above the poverty line is also decreasing after increasing in 2006. As such, total poverty in Guatemala is shown to decrease and then increase, leaving only 46.29% of the population above the poverty line in 2011 (See Figure 5.1). These statistics illustrate the broad trends around poverty in Guatemala, and illustrate the widespread trends around poverty, which has encouraged migration from rural areas to Guatemala City in the past, where opportunities for jobs and social services are believed to be more available (Interview XV).

Figure 4.1

(Poverty Rates in Guatemala, 2000-2011)

Year	Extreme Poverty (%)	Non-Extreme Poverty (%)	Total Poverty	Non-Poverty
2000	15.7	40.3	56.0	44.0
2006	15.2	35.8	51.0	49.0
2011	13.33	40.38	53.71	46.29

Source: INE, Memoria Laboral 2011 (copyright pending) (my translation)

While extreme poverty is decreasing, non-extreme poverty is on the rise, particularly in the years following the development of Guatemala's specialized justice system to deal with cases of violence against women, including femicide. Indeed, this trend correlates with the rising rates of femicide (see Figure 3.1 in Chapter Three), which peak post-2008, just as there is also a trend in increasing percentages of non-extreme poverty. While it is impossible to establish a direct link between rising rates of non-extreme poverty and increasing overall poverty with increasing cases of femicide, this does indicate the expansion of precarious living conditions (non-extreme poverty) amenable to fostering a landscape of violence against women.

Interestingly, however, the ENCOVI study reports that in the Department of Guatemala some of the highest levels of non-poverty are reported, as well as the lowest levels of cases of extreme poverty (ENCOVI 2011, 18). Further, Guatemala City itself, compared to other urban areas in the country appears to be doing well in the ENCOVI study, with the lowest level of total poverty in relation to other urban areas in the country (ENCOVI, *Pobreza y Desarrollo*, 2011, 28). The official statistics on poverty in Guatemala City frame the conditions as favourable relative to other areas in the country, which represents the clash between Real vs. reality to which Žižek alludes (Žižek 2008, 13).

Interview informants, however, argue differently, asserting that both gender and socio-economic inequality is a serious concern in Guatemala City that is directly linked to ongoing violence (Interview V; Interview VII; Interview XV; Interview XVI). Again, this harkens to Žižek's distinction between Real vs. reality, in that while economic

indicators may officially project notions of economic improvement, the conditions experienced in daily life often differ greatly; statistics on poverty do not reflect the “conditions of capital” (Žižek 2008, 13). Indeed, what this study fails to illustrate is the levels of inequality, which are reportedly rampant in areas like Guatemala City: interviewees described how one can drive from the “pompous city centre” to slums within 5 minutes (Interview V; Interview XV). Inequality creates the structures for systemic violence, and lays the foundation for physical violence (such as gender-based violence, including femicide). What appears as subjective violence, is linked to the systemic violence of inequality: in conditions of vulnerability brought on by socio-economic inequality, women often perform productive labour or engage in educational activities which clash with traditional gender norms surrounding women’s roles (and unpaid labour) in the household. This clash can expose women tensions that result in exacerbated conditions of violence against women (Interview II).

Importantly, a landscape of class-based discrimination has evolved over the post-conflict era; the 1996 Peace Accords established “codes of tolerance⁹” which, at least officially on paper, benefitted historically discriminated indigenous groups, whereas class-based discrimination has only been further entrenched in Guatemala City (Interview VII). In conditions of inequality, women are often driven to work outside the home, clashing with gender norms that state that they are to remain working within the household. In these cases they often find themselves working with little to no labour protections in precarious conditions, such as the infamous maquilas (or factories for

⁹ By codes of tolerance, the informant is referring to the participation and rights indigenous people in Guatemala enjoy as a result of shifting discourses of tolerance, multi-ethnicity and diversity, which are now constitutive of increased inclusion in various sectors in society. This is not to say that ethnic discrimination no longer exists in Guatemala; rather, this refers to the changes indigenous groups have experienced post-1996, and the politics of recognition surrounding these changes.

activities such as clothing manufacturing, typically run by a foreign company – See Way, 2012), by virtue of their social class and their gender (see Chapter Four; Interview II). Many of the victims of femicide, though not all, are faced with such a reality (Interview I).

Indeed, the conditions of poverty, whether extreme or non-extreme, create a landscape of vulnerability, which feeds into the violence that women experience in Guatemala City and throughout the country (Interview XV). Yet in the conditions of poverty and particularly inequality in Guatemala, and also to an extent in Guatemala City, the social reproduction, the “...distribution of the means of existence...” (Katz 2001, 711) is compromised by the material reality and inequalities of life under neoliberal capitalism. Life in conditions of non-extreme poverty also presents this challenge. In Guatemala City, what is observed is the stark levels of inequality between rich and poor, in both conditions of extreme and non-extreme poverty (Interview V). Inequality has also sparked gang violence and activity, which contributes to a broader landscape in which violence is much more commonplace (Interview II; Interview III).

Indeed, “Apart from the need to secure the means of existence, the production and reproduction of the labor force calls forth a range of cultural forms and practices that are also geographically and historically specific, including those associated with knowledge and learning, social justice and its apparatus, and the media” (Katz 2001, 711). In Guatemala City, the deterioration of cultural and historical practices surrounding social reproduction are transforming: where women take on both productive and reproductive tasks, they threaten traditional norms surrounding gender roles in the household and society, which exposes them to clashes with violence, often in the context of personal

relationships (Interview II).

Further, the comments regarding inequality in Guatemala made in interviews are supported by the fact that the country of Guatemala as a whole boasts some of the highest levels of inequality in Latin America and the Caribbean, with a GINI co-efficient of 0.59 (BCIE 2011, 4). Much of this is not only manifested between the stark divide between basic services available in rural and urban areas, but also within Guatemala City itself (Interview XV). Further, approximately one third of the entire population of the country lives in conditions of extreme poverty (BCIE 2011, 4), and 54.8% lives below the poverty line (BCIE 2011, 4). The poorest sectors of the population reap a mere 1% of the national income, whereas the wealthiest reap in 47.7% of the national income (BCIE 2011, 4).

While these statistics do not differentiate between men and women, women are often made most vulnerable in these conditions because of a “feminization of poverty” that feeds off of social norms and values about women’s roles in society (Interview XVI). This illustrates the gendered dimensions of social reproduction in neoliberal context: poverty is experienced in different ways by men and women, particularly in the context of social reproduction. Women who experience poverty have often little control over the household economic resources. As I highlight in Chapter Three, Katz (2001) argues that women are saddled with the majority of household reproductive labour (712). In the context of what Aldana terms the “feminization of poverty”, the relations around social reproduction are thrust into tension by virtue of gendered inequality in the household (Interview XVI). Further, women have lesser access to education, health care and social

services in relation to their male counterparts as a result of existing social norms, which I will discuss in the section on the commodification of social reproduction in this chapter.

Housing shortages also affect the most vulnerable sectors of society (BCIE 2011, 4). Part of this may be explained by the influx of migrations, which have been ongoing, particularly through the civil war and genocide, and most notably through the 1980s and 1990s (Herrera 2004, 75). Increased migration has, according to a representative from ISMUGUA, contributed to a lack of safe living areas, and a shift towards the expansion of precarious living settlements (Interview XV). Indeed, 36% of the migrant population lives in precarious settlements around the country, including in Guatemala City (Herrera 2004, 75). Further, the majority of migrants in the Metropolitan region are women: 56.8% are women, while 43.2% are men, although 52.1% of people born in the region are women and 47.9% are men (Herrera 2004, 75). This illustrates the concept of the “feminization of poverty”; further, this reflects the precariousness of life for women in these contexts, which often exposes women to conditions of violence in the home and in labour, particularly given the gendered dimensions of housing and migrations. Looking at the way the household absorbs the shocks of economic changes (Elson 1998, 199; Bezanson 2006, 186), particularly in the context of migration, women largely are affected, in greater proportion to men in similar situations. This constitutes a form of systemic violence against women, which characterizes the landscape in which femicide occurs. Ultimately, femicide is not the subjective violence that disrupts a non-violent norm; the “norm” is systemic violence against women. This norm combines the conditions of social (and gender) inequality inherent to neoliberal capitalism in post-conflict Guatemala, with the historical legacies of the past to create the landscape in

which femicide occurs. Femicide is not isolated to a vacuum; rather, cases of femicide are a historical part of the systemic violence of neoliberal-led capitalism in post-conflict Guatemala.

While Guatemala City is often perceived by incoming migrants to offer more opportunities for people, especially women in terms of employment, social services and education, obtaining safe living situations outside of precarious living settlements/slums is a challenge that remains under-addressed. (Interview XV). From a feminist historical materialist perspective, "...productive potential and...condition of existence for the expanded reproduction of capital and social formation" is thus compromised by the material conditions of life in Guatemala City (Bakker and Gill 2003, 22-23). Drawing on Bakker and Gill's (2003) new ontology for gendered dimensions of neoliberal transformation allows a more complete understanding of market-led restructuring in Guatemala City as being inherently gendered. Indeed, the growth of private enterprise and foreign investment through maquilas (see Chapter Four), serves to illustrate this conjecture.

The location of where femicides occur helps illustrate some of the nature of the crimes. According to the *Procurador de los Derechos Humanos* (PDH) (Office for the Human Rights Ombudsman in English), between January and June 2013, the highest number of homicides against women occurred in the municipality of Guatemala, totaling 31.72% of all cases (PDH 2013, 8). While these statistics do not differentiate between homicides and femicides, this does illustrate the number of cases of violence against women resulting in death as being disproportionately high in the area around Guatemala City. These statistics also match departmental statistics, where the Department of

Guatemala experienced 40.96% of homicides against women (PDH 2013, 9). The same collection of data illustrates that the majority of victims were unknown to the perpetrator in both cases of homicide and injury against women, totaling 42.67% of all cases (PDH 2013, 1). This is illustrative of the context of a landscape of violence that women experience in and around Guatemala City, which contributes to the facilitation of high rates of femicide in the area. Indeed, this is contextual to the landscape of systemic violence that grounds femicidal acts.

While statistics compiled by the PDH do not match those made available through the Organismo Judicial (OJ) (Judiciary in English) (See Chapter Two), the PDH compiled useful data in terms of looking at where cases of domestic violence against women have occurred within Guatemala City, by Zone number. Though not always the case, typically, cases of femicide occur in more precarious and lower-income zones (Interview III). The statistics available through the PDH reveal that in some of the more low-income neighborhoods, domestic violence is higher, suggesting a correlation between 28.17% of cases of domestic violence against women between January-June 2013 occurred in Zone 7; 9.86% cases in Zone 21; and 8.45% in Zone 1 as well as in Zone 6 and Zone 12 (PDH 2013 B, 7). These zones are anecdotally known to be precarious areas of the city, and Zone 12 also contains the University of San Carlos¹⁰.

Ultimately, the precariousness of life in Guatemala and in Guatemala City in particular, illustrates how systemic factors are in place to create conditions of vulnerability and violence that have particularly gendered impacts. From the perspective of the theoretical framework that I illustrate, the system in place lays the foundation for

¹⁰ Several cases reported of femicide involve university students who attended the USAC

systemic violence to occur, yet be mediated by its construction as a subjective form of violence. I will discuss this mediation later in Section Two.

The precarious living conditions in Guatemala City are a material reflection of the neoliberal transformations over the course of the twentieth century (see Chapter Four) particularly in how they have shaped precarious living conditions and how women experience this vulnerability. Indeed, with the foundations of a very gendered, systemic violence and inequality in place, it becomes impossible to isolate femicide in its own vacuum separate from these vulnerabilities. This is also articulated through the way labour is experienced, and the precariousness of social reproduction in Guatemala City.

Labour and Social Reproduction in Neoliberal-led Capitalism

Poverty and inequality impact the ways through which women engage with social reproduction. Indeed, many women have entered workplace environments to supplement the wages of male family members or provide a more substantive living for their families (Anonymous interview, August 19, 2013). This in turn clashes with existing gender norms about women's roles in society. From a feminist historical materialist standpoint examining social reproduction in neoliberal context, social reproduction is transformed so that it destabilizes traditionally upheld gender norms (Bezanson and Luxton 2006, 5).

In 2011, the Instituto Nacional de Estadística (INE) or National Institute for Statistics, released its study *Uso del Tiempo* (Use of Time) which was developed and included in the *Ecueta Nacional de Condiciones de Vida* (ENCOVI) or National Investigation of Living Conditions in English (INE 2011, 7). With a goal of promoting the development of legislation and political strategies that promote gender equality, this

document details the distribution of labour by time in various activities, particularly remunerated and non-remunerated labour performed by both men and women (INE 2011, 7).

The study affirms that women perform the majority of non-remunerated work across Guatemala; on a national level, men spend 2.6 hours daily on unpaid labour, while women perform unpaid labour for 6.3 hours (INE 2011, 10). The tasks related to non-remunerated work include domestic labour, such as cleaning, cooking, washing, childcare, laundry, and obtaining water (INE 2011, 24). Nationally, in Guatemala, 80% of male labour is remunerated, compared to just under 50% of women's labour being remunerated (INE 2011, 11). In the Urban Metropolitan Region, which encompasses Guatemala City, the numbers shift slightly; in this region 59.2% of women's labour is remunerated, slightly above average, whilst 77.2% of men's labour is remunerated (INE 2011, 20). However, even within this region women still labour longer days than men, and for less pay.¹¹

The gendered dimensions of the crisis of social reproduction in Guatemala is revealed through the division of paid and unpaid labour illustrates how many women often enter into conditions of economic dependency on their spouses; this is fostered through the unequal burdens of reproductive labour. Further, the gendered dimensions of migration in the urban area is also reflected in the fact that the majority of migrant women, 66%, work longer than 10 hours daily in reproductive and productive labour tasks (Herrera 2004, 78). Thelma Aldana, former President of the Guatemalan Supreme Court of Justice, highlights how the “feminization of poverty” contributes to the

¹¹ The difference between national levels and the percentages in the Urban Metropolitan Region may also be contextual to the fact that more resources and jobs are available in the urban area (Interview XV). In the context of social reproduction, however, this results in an added burden of responsibility for women.

construction of conditions that perpetuate violence against women (Interview XVI). Structural inequality between men and women, class-based discrimination, and precarious working and living conditions exacerbated by neoliberal capitalism contribute to this landscape (Interview XIV; Interview VII). Further, Aldana asserts that women do not always have access to the same kinds of education, health and other resources that their male counterparts have as a result of deeply entrenched social norms (Interview XVI). Indeed, Aldana's assertion is supported by the fact that while women enjoy equal rights on paper, the discrimination women face in labour environments still prevails. While violence against women is not confined to the poorest classes in society, and is one of the most frequently occurring crimes in Guatemala as a whole, poverty is still "intimately related with violence" from a gendered perspective (Interview XVI).

Unemployment in Guatemala is said to contribute to the precarious conditions of living in Guatemala. The 2011 ENCOVI study illustrates that in the Department of Guatemala, only 48% of the employable population is employed full time; a nearly equivalent 47.3% is underemployed, and unemployment is at 4.64%, one of the highest rates in the country (ENCOVI 2011, 17). Unemployment also contributes to household tensions that enable violence against women, which can culminate in acts of femicide (Interview XV).

Further, without access to formal employment, many are forced to enter the informal economy, in which 72% of Guatemala's labouring population works¹² (Way 2012, 76). The precariousness of labour in these settings, as I address in Chapter Four, creates conditions of vulnerability that are especially felt by women, who know few labour protections in these environments (Interview IX and Interview X). This harkens to

¹² According to data obtained in 2002.

Federici's analysis, the "symbiotic relationship between waged-contractual labor and enslavement" where women's reproductive roles define how they should produce (Federici 2004, 17). Women in conditions that force them to seek other work, often in precarious environments, do so and evoke a tension between clashing gender norms of reproductive and purely productive roles. This culminates in violence, as Federici explains; in the Guatemalan context, femicide is an articulation of this tension.

The Commodification of Social Reproduction: Cash Transfer Bonus Programs and Social Development

In Chapter Three, I highlight Bezanson's study of gender and household insecurity in Ontario which asserts that "Neoliberal governments individualize problems in meeting standards of living" (198). Here, a parallel is noted with the Guatemalan case. Under former President Arzu, who is currently Mayor of Guatemala City, the key legacy left was one of privatization of services, one which transformed the city into a "finca" or plantation (Interview XV). International aid has, moreover, been curtailed since the 1990s in favour of pro-business initiatives that exacerbate inequality; some of this is evident in the expansion of the transnational mining industry in Guatemala (Interview XV).

To remedy the tensions of post-conflict neoliberal development in Guatemala, the Ministry of Social Development was created in 2012 through *Decreto 1-2012* and under the leadership of President Otto Perez Molina to mitigate some of the issues surrounding poverty and inequality (MIDES 2014 *Quienes Somos*, np). The Ministry of Social Development states its commitment to improving socio-economic conditions for vulnerable sectors of Guatemalan population with an emphasis on human, economic and

socio-cultural rights (MIDES 2014 Quienes Somos, np). This commitment however, is illustrated through the state's implementation of policies that reflect a commodification of social reproduction in post-conflict Guatemala, or the ways in which the relations surrounding social reproduction are "reduced into objects (commodities) for sale and purchase within economic systems of market exchange" (Bakker and Gill 2003, 14).

In particular, the Ministry of Social Development administers a series of recent bonus programmes that essentially act as conditional cash transfers (CCTs) aimed at promoting inclusion of vulnerable sectors of society, which reflect how this commodification occurs in post-conflict neoliberal Guatemala and which I explain below. The programmes, *Mi Bono Seguro*, *Mi Bolsa Segura*, *Mi Comedor Seguro*, *Jovenes Protagonistas* and *Mi Beca Segura* are allegedly distributed to qualifying households for meeting various conditions (MIDES 2014, Quienes Somos). *Mi Bono Seguro* is a CCT aimed primarily at families in rural areas and offers compensation for use of approved medical facilities (MIDES 2014, Mi Bono Seguro). *Mi Bolsa Segura* targets urban families, and is a food hamper containing basic food staples (MIDES 2014, Mi Bolsa Segura). *Mi Comedor Seguro* provides meals for vulnerable individuals (MIDES 2014, Mi Comedor Seguro); *Jovenes Protagonistas* consists of after-school programming for school-aged children (Jovenes Protagonistas; and *Mi Beca Segura* is another CCT distributed on the condition of children's attendance in school (MIDES 2014, Mi Beca Segura).¹³

¹³ Importantly, the Ministry of Social Development is located in Guatemala City, which highlights its central role in the landscape of social development initiatives in the department and municipality surrounding the capital. While the bonus programmes are allegedly available to all areas of the country, it is important to note the centrality of the ministry in Guatemala City, as it is the key government strategy to address poverty in the country.

There are a number of issues surrounding the provision of bonuses to impoverished families, which were highlighted during interviews. Allegedly, bonuses have primarily been made available primarily to individuals supporting the current government under President Otto Perez Molina (Anonymous Interviews¹⁴). Further, bonuses are often given to men, rather than women, who maintain control over the funds that are obtained through the bonus programs (Anonymous Interviews). The lack of accountability mechanisms for the way in which the money is distributed feeds into existing gender norms and contributes to the ways in which women experience oppression, exclusion and economic dependence in Guatemala's post-conflict context of development (Anonymous Interview). Further, the bonuses and programmes offered by the Ministry of Social Development treat poverty as a gender-neutral issue, to be fixed by either fulfilling outdated strategies for development, such as meeting certain conditions or providing food aid. These programmes erase women and the gendered dimensions of poverty from state efforts to provide inclusion for the vulnerable, as stated by the Ministry of Social Development (MIDES 2014 *Quienes Somos*, np).

Despite the contemporary issues around gender-based violence in Guatemala, and femicide more specifically, the neoliberal state treats the conditions of vulnerability as a “zero-level” of violence or subjective form of violence itself, to be mediated with a bandaid fix of cash or food. Poverty and economic instability are framed from a rights-based perspective by the Ministry of Social Development; by providing either CCTs or food aid, these rights are then framed as attainable. The perspective assumed by the Ministry of Social Development assumes that by providing food or money to alleviate

¹⁴ In order to protect identity of those who described this practice, I have elected to keep the interview informants anonymous with regards to this specific information.

social ills (exacerbated by neoliberal capital accumulation), the rights of more vulnerable or impoverished sectors of the population will be fulfilled. Further, these programs impose an individualization of development, erasing the gendered dimensions of poverty and cramming poverty alleviation into the boundaries established by Guatemala's post-conflict neoliberal landscape. Further, the Ministry of Social Development sets itself up as a trustee to provide these rights, through the avenue of CCTs or food aid, linking the individualized responsibilities of economic development with human rights.

Simultaneously, violence, particularly violence against women, becomes isolated from poverty, because poverty itself is neutralized and depoliticized by these initiatives.

Further, the premise of cash transfers and bonus programs is rooted in a neoliberal framework for development, grounded in capital accumulation that occurs in the transfer of benefits. Evidently, these cash transfer and bonus programmes are also premised on the responsabilization and individualization aspects of neoliberalism. The bonus programs act as a technical fix to a systemic problem, and treat poverty as a subjective issue.

Finally, they illustrate the continual shift of the Guatemalan post-conflict experience towards a commodified form of social reproduction, both rooted in and exacerbated by market inequalities. The commodification of social reproduction in this way effectively neutralizes not only the issues women face in vulnerability, but the means through which poverty and vulnerability are framed in Guatemalan society. In Chapter Three, I discuss Poulantzas' articulation of how the capitalist state reproduces capital accumulation through ideological and coercive means, through the "repressive apparatus" of the state and the simultaneous "ideological hegemony of the dominant class" (Carnoy 1984, 111). In this sense, the state reproduces and shapes the nature of class struggle to the exclusion

of dominated groups (Carnoy 1984, 98). Simultaneously, the state-led development initiatives, which have been created by the Ministry of Social Development reflect precisely this union, neutralizing vulnerability and subsequently depoliticizing femicidal violence.

Soederberg (2001: 63) articulates that the state draws upon a “form of reactive mediation”: in Guatemala’s conflict experience, this has been through violence; in the post-conflict era, this mediation has come through the rule of law. Further, this mediation does not exist in isolation from gender relations in Guatemala: rather, it has continuous gendered impacts, which have contributed to the landscape of violence that has culminated in femicidal violence. The vulnerability that comes through poverty in Guatemala’s contemporary context has shaped this landscape.

This susceptibility is mediated through the rule of law, which serves to actively neutralize the ways femicide is experienced in Guatemala. Indeed, as LeBaron and Roberts (2012: 26) observe, “At the same time, the counterpart to the “downsizing” and reorganization of the social welfare sector of the state has been the “upsizing” of its carceral sector and the rise of increasingly coercive forms of power. These policies have also played an important role in mitigating the crisis in social reproduction”. In Guatemalan context, the transformation of the social welfare sector in recent years has been consolidated through the Law on Femicide.

Institutional Visibility and a “*Cultura de denuncia*”¹⁵:

Mediating the Subjective and Objective Violence of Femicide Through Law

¹⁵ A culture of denouncing/reporting crimes to authorities

An anonymous source from the Observatorio de Violencia Sexual y Femicidio en Guatemala asserts that objectively, violence against women is on the rise¹⁶ and has been throughout the post-conflict era (Interview C August 19, 2013). Cases of violence against women, particularly femicide, are “cruel”, especially in urban areas (Interview VII). Cases of dismembering, torture and other extreme forms of violence are often reported on the bodies of victims, which characterizes these crimes as distinct in the post-conflict era (Interview B, August 19, 2013). Indeed, Adelaida Herrera, Professor at the School of History at the University of San Carlos in Guatemala City asserts that the numbers are limited in how they reflect the conditions of violence against women in the region; rather, it is the ways in which crimes of femicide and extreme forms of violence against women are perpetrated that serve as a better illustration of the problem (Interview VII).

During my informal interviews, two other issues arose that remain largely silent in the literature on femicide in Guatemala. In particular, informants addressed the concept of increased visibility of women’s issues and violence against women in the post-conflict era (Interview I; Interview XII). Femicide and other forms of violence against women are now commonly discussed in Guatemalan society, and women are increasingly educated regarding their rights (Interview II). The Peace Accords are seen to have acted as a sort of vector for rendering visible women’s issues in political spaces, particularly because on paper, women participated in the negotiations (Interview I). Indeed, following the Peace Accords, Guatemala ratified a number of international accords and legal documents to ensure the protection of women from violence and discrimination, in particular, the

¹⁶ A key tension observed in the field in Guatemala was the conversation surrounding rising rates of femicide, to which I allude in Chapter One. I uphold that violence against women is increasingly problematic era, but is also shaped by the Law on Femicide and the access to justice available for victims in Guatemala City, Guatemala’s administrative and political hub.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Convention of Belem Do Para) (Secretaria de la Mujer 2012, 3-4). These international conventions played a key role in establishing both a foundation and a precedent for developing the Law on Femicide, and also were used in the battle over the constitutionality of the Law on Femicide, which emerged in 2011 and was subsequently defeated.

As such, because issues pertaining to violence against women are more visible through international and domestic legal transformations, they are thus increasingly a part of the legal apparatus and lexicon. Violence against women, including femicide, is increasingly recognized by both potential victims and the state as an institution, particularly through the implementation of the new justice system (Interview II; Interview III). As Adelaida Herrera observes, this visibility, coupled with the increasing access, speed and efficiency of social media and internet communications in Guatemala, renders the issue more commonly discussed (Interview VII).

The institutional visibility of femicide in Guatemala has contributed to a growing “*cultura de denuncia*”, which has evolved in the post-conflict era. Indeed, this may also contribute to the rising reported rates of femicide and violence against women in general (Interview III) The concept of the *cultura de denuncia* denotes that increasing numbers of victims report their crimes to public authorities, and also that the judicial infrastructure is in place to receive these offenses. The notion that more cases are being brought forth to the specialized justice system is often linked to the increasing numbers of cases of violence against women reported to authorities in Guatemala.

However, both the institutional visibility of violence against women and the *cultura de denuncia* are also linked to several tensions I discuss below, that remain silent in much of the conversation on femicide in Guatemala. On an empirical level, women, particularly in the urban context do have access to legal resources as well as support from organizations like the *Fundacion Sobrevivientes* (Survivors' Foundation in English) and the *Oficina de Atencion a la Victima* (Office for Attention to Victims in English), where crimes of violence against women can be reported and women can have access to emergency psychological and medical assistance. However, the institutional visibility and the *cultura de denuncia*, which render violence against women known to both victims and legislators, offers little for victims of femicide, the most extreme form of violence against women, given that the primary victim of these cases is already dead.

Indeed, within the scope of the law, femicide is incredibly difficult to prove: this is reflected by the ratio of reported cases versus the number of cases that proceed through the full trial, which is a mere 2% (Musalo et. al. 2010, 163). In order for a case of femicide to be defined as such under the law, the case must invoke unequal power relations between perpetrator and victim on the basis of gender, and must be committed by a male (Interview VI). Two informants highlighted a particular case where the victim was killed by another female hired by a man; this case, within the scope of the Law on Femicide thus enters a grey area between homicide and femicide (Interview IX; Interview X).

Similarly, as Ana Maria Rodriguez Cortez, Court Judge at the Tribunal for Femicide and Other Forms of Violence Against women observes, the challenge in proving these cases is present in their inherent finality, given that the primary victims are

already dead (Interview VI). She recalls one case in particular where the primary victim survived, and was able to testify how her former partner attempted to commit an act of femicide against her because of her request for child support payments (Interview VI). This case is a particular rarity, given that the attempted femicide was unsuccessful; the majority of cases do not present such clear evidence or testimony.

As such, it is difficult to assert how the *cultura de denuncia* and institutional visibility contribute to the rising rates of femicide. While these factors contribute to the ways in which violence against women are discussed and addressed in Guatemalan society, femicide still remains the elephant in the room. Indeed, most cases of femicide occur as an extreme form of spousal or ex-spousal violence; as such, femicides are often not an isolated incident of violence, but part of a “continuum” that progresses and ultimately culminates in death (Interview XII). This is not to argue that all cases of femicide are manifestations of ongoing domestic violence; however, an approximated 80% of femicide cases occur to married or separated women (Interview IV). This violence is also linked to conditions of socio-economic vulnerability and the crisis of social reproduction; for instance, most cases reported are often from lower middle class to lower-income/poor victims and perpetrators (Interview IV; Interviews VI). While femicide does occur in all socio-economic situations, the vulnerability of poverty is especially linked to femicidal violence through the precariousness of social reproduction in post-conflict neoliberal Guatemala City.

As such, the *cultura de denuncia* and institutional visibility around violence against women only seem to address cases of femicide after they occur, which leaves women in at risk situations especially vulnerable. Further, the specialized justice system

does not offer any programs beyond incarceration, which does not stop perpetrators from re-offending once they are released from custody (Interview VI); as such, while the links between the *cultura de denuncia* surrounding violence against women and the institutional visibility of women's issues may be present in terms of looking at how instances of violence against women evolve, it is problematic to make the assumption that these are key factors in rising cases of femicide. This reaffirms the assertion of an anonymous informant, upholding that femicide is objectively increasing, alongside the development of the *cultura de denuncia* and institutional visibility of violence against women in Guatemalan politics.

The concepts of institutional visibility and the *cultura de denuncia* also confront Žižek's notion of subjective and objective systemic violence. As I highlight in Chapter Three, Žižek distinguishes subjective violence as being the forms of violence that are visible in society, and are often sensationalized in media and other forms of communication. As Adelaida Herrera, a historian at the University of San Carlos in Guatemala City highlights, part of the reason that femicide is so prominent in academic and activist circles, is because of how easily information can be circulated through various means of internet communications (Interview VII).

As such, the way femicide is shaped through the law is particularly of interest to this thesis. Femicide exists through the law as a form of subjective violence: femicide is defined by the law as the killing of a woman by a man in the context of unequal gender relations (Law on Femicide, 2008). In Chapter Three, I discuss how subjective violence, from Žižek's perspective is considered to be a disruption to what is perceived as a normal lived reality. The "zero level" of violence is neutral, and is disrupted by acts of subjective

violence. In relation to the Law on Femicide, acts of femicide are portrayed as a disruption of a normal, neutral lived experience. The Law on Femicide assumes that conditions of equal power relations between men and women in Guatemalan society exist, and that when femicide occurs, it is only when this perceived sense of gender equality is disrupted. The act of femicide is contextualized only to the individual victim and perpetrator, and taken out of political and economic context by the Law on Femicide. Femicide disrupts equal gender relations; but despite the institutional visibility and *cultura de denuncia*, Guatemalan women live and experience rigid gender norms imposed by machismo in daily life.

Further, femicide is articulated by the law as distinct from economic, physical and psychological forms of violence against women, as well as crimes of sexual violence. It is isolated as its own crime, within its own bubble of disrupting normality. These forms of violence are also framed as subjective, in that they exist only as they are witnessed or perceived by society: through instances of rape, psychological torment, the withholding of funds from women, and other visible forms of violence. The Law on Femicide categorizes each of these crimes as distinct from each other and only as existing subjectively, drawing once again on Žižek's conception of subjective violence. At the same time, the Law on Femicide, as an example of how the rule of law is exercised as a feature of neoliberalism, constructs a zero-level of violence, in which crimes of femicide occur as a disruption of a non-violent norm. These crimes do not occur, however against a zero-level of violence, they occur within and through Guatemala's post-conflict neoliberal landscape, which I link to the perpetuation of a "crisis of social reproduction" (LeBaron and Roberts 2012, 26). Indeed, the tensions inherent to social reproduction,

gender and class-based inequality, and the instability and feminization of poverty I have identified shape this landscape as particularly precarious for women in Guatemala. In this sense, the Law on Femicide is a neoliberal feature that effectively erases the precariousness of social reproduction in Guatemala.

It is through the state-imposed subjectivity of forms of violence against women, in particular, femicide, that these acts become depoliticized. Because femicide is a disruption to the perceived normality of zero-level violence in Guatemala, the assumption exists through the law that attaining justice balances out the act itself. Femicide, by law can only occur in the context of unequal gender relations; consequently, the law implies that there exists an equality in terms of gender that serves as a reference point, the “zero level” of neutral, between the men and women in Guatemala affected by these acts. Further, because femicide is compartmentalized through the law, it is isolated from other forms of violence against women. These forms of violence also projected through the institution of the law as subjective, in that they occur not only in isolation from each other, but also from the socio-economic processes linked to the construction of vulnerability that forces women into precarious spaces that enable violence. I will discuss the conditions of vulnerability and the precariousness of social reproduction that are also contributing factors to femicide in Guatemala later in this chapter.

Standardization of Femicide Through Law and Neoliberal Forms of State Repression

Violence against women has been an ongoing problem throughout Guatemalan history, but is reported to be worst in recent years (see Chapter Two). In looking at the

contemporary neoliberal context of the crisis of social reproduction in Guatemala, it is clear that such violence does not occur in a vacuum; rather, women are experiencing such violence in a landscape of precariousness that facilitates extreme forms of violence such as femicide. In Guatemala, femicide officially exists only institutionally, being defined by and through the parameters of the Law on Femicide. This construction, as a form of subjective violence, is enforced through state repression. In the post-conflict era, activists (including groups like the UNAMG, *Fundacion Sobrevivientes*, the GAM, the GGM), academics (such as Marcela Largarde) and politicians (Thelma Aldana 2013; Claudia Paz y Paz, Yassmin Barrios) were given the political and institutional space, within the structure of the Guatemalan government, to draw attention to violence against women and femicide on a legislative front.¹⁷

However, as I discussed in Chapter Three, the limitations inherent to framing violence from a liberal institutionalist perspective are illustrative of femicide's continuous depoliticization in Guatemala. Very basically, the statist institutionalist space in Guatemala still bears considerable links to the military that was implicated in the use of sexual and gender-based violence as a weapon of genocidal war. For instance, the current President Otto Perez Molina was complicit in committing crimes of genocide during the civil war (Interview XII). Similarly, Claudia Paz y Paz, one of the key players in developing the Law on Femicide, and former Auditor General in Guatemala was pushed out of her post by the Supreme Court earlier in 2014, before her post reached its termination (Davis 2014, np). Likewise, in May 2013, former President and General Rios

¹⁷ As I articulate in Chapter 3, the Peace Accords did involve women in terms of the negotiating processes; as such, the institutional visibility of women's issues opened up a space for further discussion on issues pertaining to violence against women and femicide. The legitimacy of addressing violence against women through a statist framework was bolstered by the state's ratification of CEDAW and *Belam Do Para*.

Montt was tried and convicted of genocide, which occurred under his direction and military government during the civil war; yet, he was subsequently acquitted of all crimes based on a procedural error (Davis 2014, np). The links between the justice system and its institutions, which are assumed to be neutral in the development of the procedures concerning femicide and other forms of violence against women (including physical, sexual, economic and psychological forms of violence) are, from an empirical perspective in the service of an elite, which is a particularly militarized class in Guatemala. The militarized elite established a patriarchal domination through an authoritarian neoliberalism in the 1980s (see Chapter Four). During the post-conflict years, alternatively, President Molina and the militarized elite have consolidated their power by co-opting features of neoliberalism such as the rule of law as purveyors of human rights and human security.

Indeed, to combat the growing concern around femicide within academic and activist discussion, “the reaction of the state was to standardize or categorize these crimes” (Interview III). The law has emerged through the discussion surrounding the atrocities that have been committed against women, particularly in the post-conflict era. The state response has been to invest in developing and expanding the judicial infrastructure: yet the norms and legal categories created through the law also does not address the root causes of femicide, but seeks to punish individual actors for the crime (Interview III). Further, for some practitioners, the law is recognized as needing to be used as a last resort for action; rather, preventative mechanisms are ignored through the law and incarceration inevitably becomes the outcome (Interview VI). This reflects Tamanaha’s conceptualization of the rule of law as a neutral, technical fix to problems

encountered in development; the Law on Femicide is a case in point that illustrates this assertion, especially because it isolates femicide from other forms of violence against women, including economic violence. It implies a sense of neutrality to the restoration of justice in a liberal institutionalist sense, through the specialized justice system; however, even once “justice” is attained, the systems that perpetuate gender-based violence and ultimately culminate in femicide are left untouched.

In addition, the specialized justice system is arguably exhausted and not equipped or extensive enough to accommodate the high numbers of cases reported, given the limited numbers of practitioners and judges qualified to try and work through the specialized justice system (Interview V). The state response in this regard has been to expand the judicial system; in October 2012, for instance, the Tribunal de Segunda Instancia was established to specialize in femicide and sexual crimes (Interview XIII); similarly, in 2012 a specialized twenty-four hour tribunal was created to hear cases of violence against women as well (Interview XIII).

Importantly, as I discuss in Chapter Three, Poulantzas emphasizes both the “repressive apparatus” and the “ideological hegemony of the dominant class” (Carnoy 1984, 111). In this sense, the Law on Femicide reproduces the ideological norms of the repressive Guatemalan state and elites, effectively erasing any sort of political economic dimensions to femicide in relation to social reproduction; yet ironically, it is masked by the same rhetoric of the rule of law, which has reinforced the Peace Accords as a neutral process. As I illustrate in Chapter Four, the Peace Accords laid the foundation for a particular model of development, illustrating further the claim that “the rule of law is said to be essential for economic development and limiting government tyranny” (Tamanaha

2011, 215). Rather, the conditions through which the rule of law is exercised by powerful interests in the Guatemalan state draws on and reproduces the repression of the past. Through the creation of penal categories, for instance, the state exercises its own repression, a tool that I illustrate as being key to the consolidation of development and economic models throughout Guatemalan history in Chapter Four.

As such, the inherent repressive nature of the Law on Femicide masks the socio-economic antecedents of femicide. The “institutional materiality” of the state (Poulantzas 2014, 14) is manifested in how the state controls the institutionalization and definition of legitimate violence, which is also inherently connected to the state’s monopoly over the law (Poulantzas 2014, 81). The Guatemalan state, which simultaneously reinforces (authoritarian) neoliberalism, is central in “...the reconfiguring of state and institutional power in an attempt to insulate certain policies and institutional practices...” (Bruff 2014, 115-116). Indeed, the rule of law is framed as a sort of vector for social and economic progress (May 2012, 2); yet at the same time, the rule of law in capitalist context individualizes illegality amongst a homogenized population (Poulantzas 2014, 87). The rule of law is seen as the highest authority, framed as class neutral within the broader scope of society, but particularly from politicians, bureaucrats and ruling elites (Poulantzas 2014, 87); but, it is representative of the interests of the dominant class, and is sustained and reproduced through the state, which actively works to reproduce these interests. At the same time, the gendered and class-based inequalities inherent to neoliberal capitalism, which are reproduced by the rule of law, are also part of what constitutes the landscape in which femicide occurs in such high numbers.

In Chapter Three, I draw on Bourdieu to illustrate how the juridical field exists as its own “social universe” shaped by the logic of its inner workings and external power relations (Bourdieu 1987, 816). Indeed, the construction of juridical categories in the case of the Law on Femicide illustrates this claim in practical context, and complements my historical materialist framing. As I highlight in Chapter Three, Bourdieu’s conceptualization of the juridical field as a “social universe” shaped by its inherent, internal mechanics and the power relations that operate outside of it (such as class, gender relations, and the authoritarian neoliberal state) (Bourdieu 1987, 816); this builds on a Marxist understanding of neoliberal capitalism. Drawing on Bourdieu’s analysis, the Law on Femicide exists as above the state in its assumed neutrality, but in fact is shaped by its own contested relationship to the repressive state. As Bourdieu articulates, all social fields are connected; the Law on Femicide too is linked to the Guatemalan state and its legitimized repression upon which it relies and through which it is constructed.

Further, by constructing its own language and categories, the Law on Femicide inevitably constructs a system where only those who have access to the use and knowledge of legal language can have access to the means to fulfill justice. The division of juridical labour creates a hierarchy and is sustained by its own internal power relations, just as it is sustained by the external power relations of Guatemala’s post-conflict neoliberal state. These power relations enforce femicide as a form of subjective violence, erasing any form of systemic violence from its construction. At the same time, just as the Peace Accords justified a particular model of development in the name of peace, so too does the Law on Femicide: violence against women, under the law, exists in separation from any political economic links to neoliberalism, despite the evident links between

social reproduction in crisis and the growing epidemic of femicidal violence in Guatemala.

Simultaneously, the Law on Femicide serves as a vehicle of oppression over dominated classes: "...The dominated classes encounter law not only as an occlusive barrier, but also as the reality which assigns the place they must occupy" (Poulantzas 2014, 83). As I discuss in Chapter Three, law is a reflection of the ideological hegemony and repressive apparatus of the state; the Law on Femicide is no exception to this framing. Indeed, the Law on Femicide depoliticizes femicide by existing as neutral, or framing it as subjective violence, separate from gendered political economic processes of capital accumulation. It relies on the repressive mechanics of law as a bourgeois, isolating institution upheld through the rule of law's "neutralization effect" and "universalization effect" (Bourdieu 1987, 820).

The Law on Femicide ignores the socio-economic antecedents that contribute to femicide that are imposed by state: indeed, conditions of vulnerability that come through growing poverty in a post conflict era also contribute to the vulnerability that women experience in Guatemala's post-conflict neoliberal landscape. Indeed, the vulnerability of poverty exposes women in particular to the kinds of systemic violence that culminates in femicide, given that women experience poverty and vulnerability in ways that are different from their male counterparts. The conditions of poverty are not neutral, particularly from a gendered perspective, and neoliberal restructuring in Guatemala has fed into existing gender roles within society and the sexual division of labour, building off of Bezanson's (2006) articulation (199). Framing femicide in isolation from the political economic antecedents that create the conditions of vulnerability, to which I

allude earlier in this chapter, illustrates how femicide is actively depoliticized by the law. Femicide and violence against women are erased from the agenda for development through the commodification of social reproduction in post-conflict Guatemala.

Conclusion

Ultimately the political economic context in Guatemala is incredibly complex, and the contradictions and tensions inherent to the post-conflict era leave many women in conditions of vulnerability. The inequality, labour-related issues, poverty and commodification of social reproduction create a context of vulnerability that feeds into post-conflict violence. Femicide is articulated as a form of subjective violence through the law on femicide; however, the material conditions of neoliberal capitalism, built on the historically violent experience of neoliberal capitalism in Guatemala mean that femicide is not neutral, but occurs as an articulation of systemic characteristics of neoliberal capitalism.

The Law on Femicide depoliticizes the way femicide is experienced in Guatemala, and the way it is resolved. Indeed, the law is not neutral thing; but instead, is a feature of the relations of power underpinning neoliberal-led capitalism, and a technical fix to a problem that occurs as an articulation of systemic violence only exists as Žižek's notion of the Real, isolated from the historical power relations that constitute Guatemala's unequal post-conflict reality.

Conclusion:**Rethinking Femicide in Feminist Historical Materialist Context
and Directions for Further Research**

Throughout my thesis, I have contributed to the literature on femicide in Guatemala from a theoretical and empirical perspective. My thesis takes issue with the assumption that femicide is contextual to impunity or corruption in post-conflict Guatemala. While issues around impunity and corruption exist, it is important to note that Guatemalan women enjoy an immense amount of legal privileges, more than they ever have throughout Guatemalan history. My unique feminist historical materialist lens illuminates how the capitalist dimensions of femicide can be erased by class and gender ‘neutralizing’ institutions aimed at upholding the rule of law, particularly in neoliberal context. The cases of femicide in post-conflict Guatemala City illustrate the complexities inherent to this form of violence, and how indeed, femicide must be understood as an articulation of the complex socio-economic processes surrounding neoliberalism, which are further bolstered by the rule of law. The Law on Femicide, in effect, depoliticizes femicide in Guatemala, individualizing criminal responsibility and ignoring the systemic elements to what is perceived only subjectively as an extreme form of gender-based violence disrupting a non-violent norm. However, the non-violent norm does not exist: femicide exists as part of systemic violence as well.

By relating femicide to the context of social reproduction in Guatemala City, my project fills the gaps I identify in the literature in Chapter Two. In highlighting how femicide operates within Guatemala’s post-conflict neoliberal experience, I have shown how femicide is not merely a cultural or social issue; but it also intersects with the material dimensions and modes of governance in post-conflict Guatemala. In doing so, I

refute the call by mainstream scholars and practitioners for stronger laws and institutions to bring justice to victims; other institutions in Guatemala, such as the (authoritarian) neoliberal state and its various institutions (for instance, the Ministry of Social Development, the Peace Accords, the rule of law and justice system) have created, reinforced and enabled the material conditions of vulnerability in which femicide can remain such a problematic and pervasive issue. From this perspective, femicide is part of the systemic violence inherent to neoliberal capitalism in Guatemala's post-conflict experience, which remains ignored by the specialized justice system. Indeed, the specialized justice system works in tandem with the status quo to erase the capitalist dimensions of femicide in post-conflict Guatemala, shaped by class, patriarchal power and inequality.

Importantly, my aim has not been to discredit the hard-won struggle that has brought the specialized justice system to fruition; indeed, these are important, precedent-setting and groundbreaking accomplishments that can do the important work of bringing attention to the crisis of violence against women in Guatemala. Those who have fought for justice in the sphere of human rights, particularly women's rights, have been continually subject to threats, and often risk their own lives to engage in this struggle. Defensoras fighting for visibility, institutional space, and safety have accomplished incredible feats that should be celebrated on their own terms.

As such, legal transformations should be reflective of the hard-won struggle to visibilize these issues. The Law on Femicide, as I have shown, however, is a reflection of the status quo and of dominant class interests to maintain this status quo. Drawing on the theoretical perspective within which I situate my project, the law on femicide

depoliticizes femicide. Further, the Law on Femicide only seeks to punish perpetrators, rather than protect victims of femicidal violence. It only offers a means to punish those who instigate acts of femicide, rather than truly prevent and stop this violence from occurring.

Moreover, I focused my research on Guatemala City, given the availability of information, the centrality of the specialized justice system, and my own experience and connections in Guatemala City. However, femicide is most often explored in the literature in Guatemala City and in other urban centres, despite the fact that such violence also occurs in rural regions, enough to warrant the expansion of the specialized justice system into Huehuetenango, Quetzaltenango, and Alta Verapaz, covering the predominantly rural areas part of a region referred to as the poverty belt. In this sense, a “crisis of social reproduction” (LeBaron and Roberts 2012, 26) is perhaps even more prominent in these areas, and warrants further research, especially given the tensions inherent to social reproduction and the expansion of this specialized justice system in Guatemala. For instance, exploring the material conditions of life in these areas in relation to vulnerability and violence against women offers new avenues for research and developing the theoretical framework I have developed in this thesis.

Simultaneously, Guatemala’s history of racial and ethnic violence, as well as gender-based violence, intersects with the country’s violent history of economic transformation. Guatemala’s experience of capitalism has been inherently violent; simultaneously, capital accumulation in Guatemala has also had ethnic and gendered dimensions that are continually felt in the country’s post-conflict neoliberal economic era. My thesis has focused on the extreme gendered manifestations of violence in post-

conflict Guatemala City; however, one key area for further exploration is the ethnic dimensions of these processes which, given the scope of my project and the availability of information, I chose not to explore in depth in my investigations. Available statistics on femicide did not differentiate between ethnicity of cases reported. Further, the specialized tribunals operate in Spanish, despite the fact that over half of Guatemala's population is indigenous. Indeed Guatemala's diverse indigenous population, which accounts for 60% of the population, is the most vulnerable to poverty, a phenomenon seen particularly in rural regions (IWGIA 2014, np). As such, exploring the intersections between social reproduction and femicide in rural context, with particular focus on the ethnic dimensions of poverty in Guatemala can highlight how certain groups within Guatemalan society are silenced by projects like the Law on Femicide. The ethnic dimensions of femicide represents an avenue for further research in exploring the intersections of ethnicity, class, and gendered forms of oppression in relation to femicide in Guatemala. As such, I recognize the complexity of racism and femicide in Guatemala, and also recognize the limits to my own analysis in the context of this project.

The gendered articulation of systemic violence through neoliberal capitalism is not unique to Guatemala, however; similarly, as outgoing Special Rapporteur on the Rights of Indigenous people, James Anaya observed in his most recent country report, the "well-being gap between Aboriginal and non-Aboriginal people in Canada" is such that it leaves Aboriginal people, particularly women and girls, vulnerable to abuse and violence (Anaya 2014, 1). A similar problem was observed by SR Anaya as being prevalent among indigenous women in the United States of America as well (Anaya 2012, 10). In particular, the high rates of missing and murdered Aboriginal women in recent years have

signaled a crisis for violence against Aboriginal women (Mas 2014, np). Simultaneously, the colonial government has defended these allegations by highlighting the governing party's commitment to increased laws and an expanding judicial infrastructure for dealing with these forms of abuse (Mas 2014, np; CPC 2014, np).¹⁸ Further, the colonial government asserts that natural resource extraction projects will provide the necessary jobs and income to narrow the welfare gap between Aboriginal and non-Aboriginal people (Mas 2014, np). Interestingly, in the Canadian context, the tensions between socio-economic inequality, racism, colonialism and neoliberalism are often manifested in abuse and violence, which takes on a highly gendered form. The tensions between the rule of law, neoliberal capitalism, and violence against Aboriginal women illustrate another area for further research, in which the theoretical angle articulated in this project could illuminate further dimensions to these grave, ongoing issues. Ultimately, the power relations underpinning violence against Aboriginal women in Canada, and in other parts of the world as well, reflect some of the same tensions my project explores in the Guatemalan context of femicide.

Femicide continues to be a pervasive issue affecting all Guatemalan women, especially those living in conditions of vulnerability and inequality. Drawing on the theoretical and empirical contribution I seek to make through this project, I hope to highlight other ways to understand this problem, beyond the confines of institutions that limit a conceptualization of this complex and horrific ongoing problem.

¹⁸ The Conservative Party of Canada, who currently constitutes a majority government in the Canadian House of Commons operated in part, on a platform of tougher crime laws (CPC 2014, np).

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Appendix A
List of Semi-Structured Interviews

Interview #	Name of Informant	Organization	Role/Position in Organization	Date of Interview
Interview I	Irma Chacon	Fundacion Sobrevivientes (Survivors' Foundation)	Social Worker	August 6, 2013
Interview II	Erick Molina	Fundacion Sobrevivientes (Survivors' Foundation)	Lawyer	August 6, 2013
Interview III	Luisa Leiva	ICCPG	Legal Advisor	August 7, 2013
Interview IV	Claudia Maria Hernandez Cruz	Fundacion Sobrevivientes (Survivors' Foundation)	Executive Director	August 9, 2013
Interview V	Carlos Ramirez	Grupo de Apoyo Mutuo (Group for Mutual Support)	Lawyer	August 9, 2013
Interview VI	Ana Maria Rodriguez Cortez	Tribunal for Crimes of Femicide and Violence Against Women	Court Judge	August 13, 2013
Interview VII	Adelaida Hererra	School of History, University of San Carlos	Professor	August 16, 2013
Interview VIII	Evelyn Palma	Fundacion Sobrevivientes (Survivors' Foundation)	Psychologist	August 19, 2013
Interview IX	Anonymous	Convergencia de Mujeres	N/A	August 19, 2013
Interview X	Carmen Lopez	Convergencia de Mujeres	Representative	August 19, 2013
Interview XI	Alfredo Aguilar	Defenso de Derecho Penal	Lawyer	August 20, 2013
Interview XII	Lorena Cabnal	N/A	Communitarian Feminist, Activist and Social Organization	August 23, 2013
Interview XIII	Raquel Mendez	Tribunal de Segunda Instancia	Judge	August 26, 2013

		(Court of Appeals), Tribunal for Crimes of Femicide and Violence Against Women		
Interview XIV	Anonymous	Union Nacional de Mujeres Guatemaltecas (National Union of Guatemalan Women)	N/A	August 27, 2013
Interview XV	Elvira Sanchez	Institucion para la Superacion de la Miseria Urbana (Institute for Overcoming Urban Poverty)	Representative	August 27, 2013
Interview XVI	Thelma Aldana	Corte Suprema de Justicia (Supreme Court of Justice)	Judge, Former Supreme Court President, Current Attorney General	August 28, 2013

Appendix B
Ethics Approval



June 17, 2013

Miss Julia Hartviksen
Master's Student
Department of Global Development Studies
Queen's University
Kingston, ON K7L 3N6

GREB Ref #: GDEVS-028-13; Romeo # 6010167

Title: "GDEVS-028-13 Working title: Interrogating Post-Conflict Violence Against Women in Guatemala"

Dear Miss Hartviksen:

The General Research Ethics Board (GREB), by means of a delegated board review, has cleared your proposal entitled "**GDEVS-028-13 Working title: Interrogating Post-Conflict Violence Against Women in Guatemala**" for ethical compliance with the Tri-Council Guidelines (TCPS) and Queen's ethics policies. In accordance with the Tri-Council Guidelines (article D.1.6) and Senate Terms of Reference (article G), your project has been cleared for one year. At the end of each year, the GREB will ask if your project has been completed and if not, what changes have occurred or will occur in the next year.

You are reminded of your obligation to advise the GREB, with a copy to your unit REB, of any adverse event(s) that occur during this one year period (access this form at https://eservices.queensu.ca/romeo_researcher/ and click Events - GREB Adverse Event Report). An adverse event includes, but is not limited to, a complaint, a change or unexpected event that alters the level of risk for the researcher or participants or situation that requires a substantial change in approach to a participant(s). You are also advised that all adverse events must be reported to the GREB within 48 hours.

You are also reminded that all changes that might affect human participants must be cleared by the GREB. For example you must report changes to the level of risk, applicant characteristics, and implementation of new procedures. To make an amendment, access the application at https://eservices.queensu.ca/romeo_researcher/ and click Events - GREB Amendment to Approved Study Form. These changes will automatically be sent to the Ethics Coordinator, Gail Irving, at the Office of Research Services or irvingg@queensu.ca for further review and clearance by the GREB or GREB Chair.

On behalf of the General Research Ethics Board, I wish you continued success in

your research. Yours sincerely,

A handwritten signature in cursive script that reads "John D. Freeman".

John Freeman,
Ph.D. Professor and
Acting Chair

General Research
Ethics Board

cc: Dr. Susanne Soederberg, Faculty Supervisor
Dr. Marcus Taylor, Chair,
Unit REB