



Contested, Territorialized Masculinities, Gender Violence, and Legal Pluralism

Mam Female Refugees Seeking Gendered Justice in Guatemala
and the U.S.

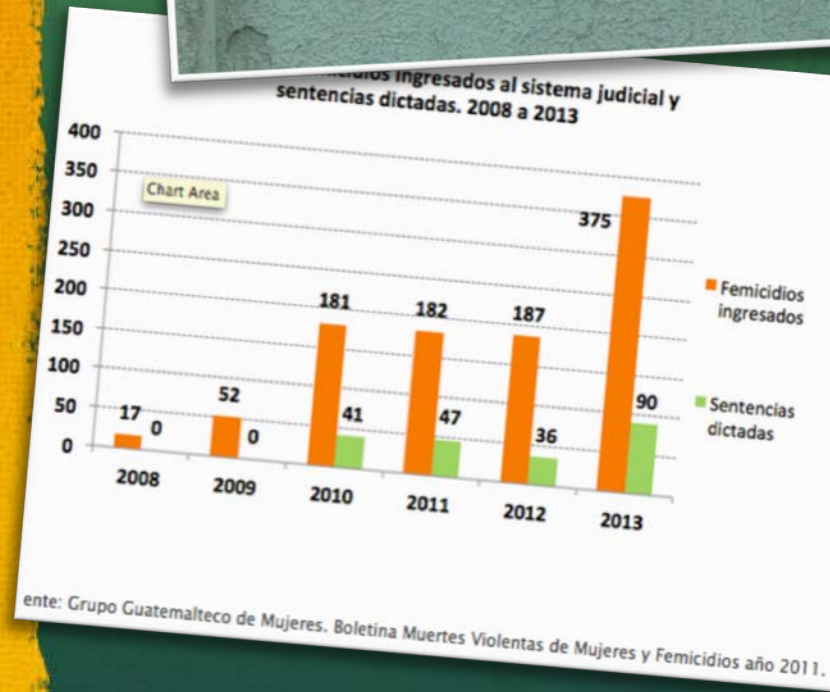
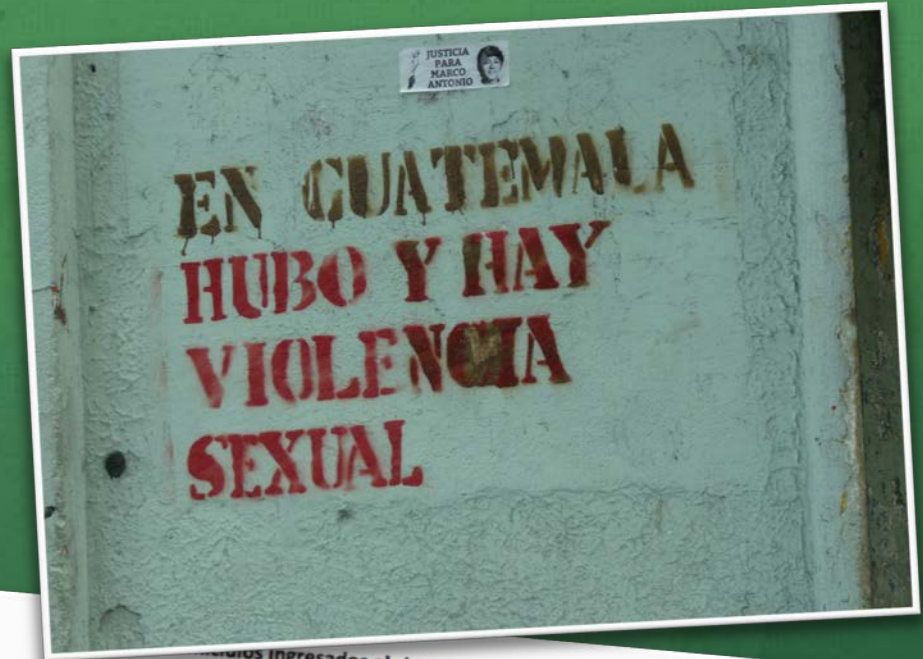
Lynn Stephen, Professor of Anthropology, University of Oregon

Key Questions

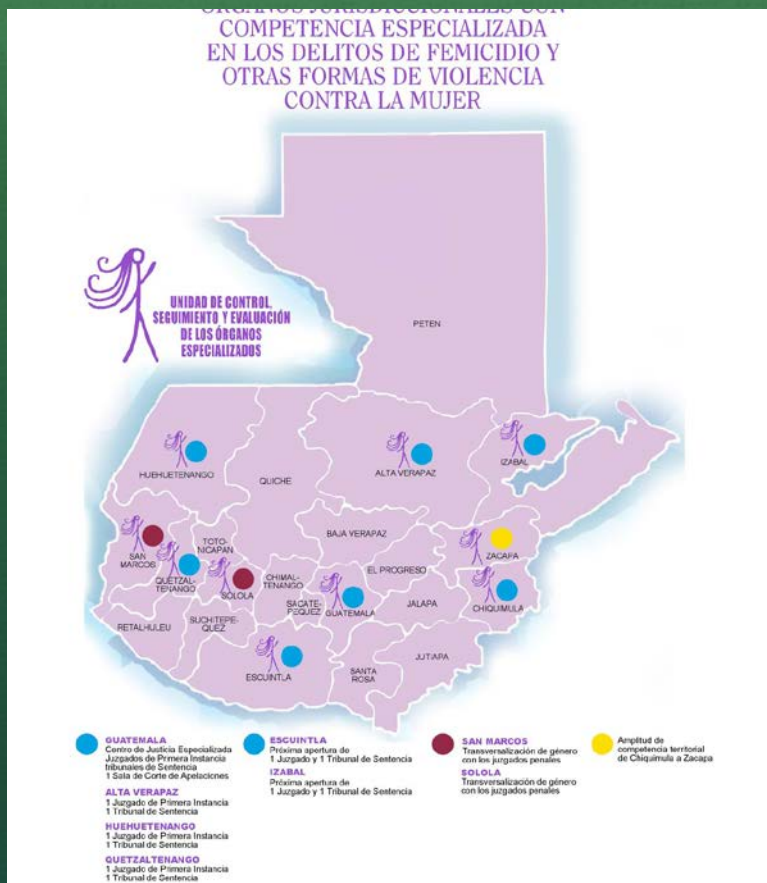
- What are the obstacles to indigenous women's access to gendered justice in Guatemala that result in their flight to the U.S. as refugees?
- How do territorialized, translocal/transborder contested masculinities inhibit women's access to gender justice in Guatemala, whether through customary indigenous legal systems, local justices of the peace, or specialized tribunals for femicide and gender violence?
- What are the obstacles for indigenous refugee women in seeking gendered asylum in U.S. immigration courts?
- What kind of training do U.S. asylum judges and court officials need to understand the context that indigenous women refugees are fleeing from?

Guatemala's Femicide and Domestic Violence Courts

2008 Law Against Femicide and Other Forms of Violence Against Women and specialized tribunals implemented in Guatemala since 2010 are dedicated to hearing cases of femicide, domestic violence, sexual violence, or other gendered forms of violence. They offer the possibility of justice for women who have been victims of violence.



Conviction Rates



- From June of 2013 until June of 2014, 3,539 cases entered into court proceedings with 71 percent or 2,548 of those occurring in the capital city of Guatemala. In the more outlying departments of Guatemala where a majority of women petitioning courts are likely to be indigenous, the number of cases heard is much lower during the same time period: 192 in Quetzaltenango (department is 51 percent indigenous) and 203 in Huehuetenango (department is 53 percent indigenous)
- The majority of the cases (80 percent) that went through complete trails resulted in 1,487 convictions and 407 acquittals, with an overall conviction rate of 79 percent for those cases that completed trials and 42 percent conviction rate of all cases that started court proceedings.

Gender Violence Complaints Increasing, Many Violent Deaths of Women Reported

In 2013, The National Statistics Institute (INE) together with the Presidential Secretariat of Women (Seprem) reported that during the period of 2008 to 2013 that 51, 525 complaints were received by the Federal Public Prosecutor's Office in relation to crimes covered by the 2008 Law Against Femicide and Other Forms of Violence Against Women.

(2008-2013) there were a total of 4,389 violent deaths of women reported, 1,008 or 22.9 percent of these murders became legal cases processed in different kinds of courts as femicides. Roughly 195 or 20 percent of those 1,008 cases tried as femicides resulted in sentencing



Changing the National Narrative on Racial/Ethnic/Gendered Violence

Recent court cases in 2016 such as that of Sepur Zarco where Supreme Court Judge Yasmin Barrios gave sentences totaling 360 years of imprisonment to two military commanders for sexual violence, sexual slavery and domestic slavery they forced on indigenous Quiche women 36 years ago, have also broadened the legal space for prosecuting gendered and racialized violence.

Human Rights activist Rosalina Tuyuc embraces a victim of sexual violence in court in Guatemala City, AP photo



Heriberto Valdez Asij, a military commissioner, received a sentence of 240 years. EPA photo



Ruta de denuncia en caso de violencia contra la mujer





Some women are accessing specialized justice for gendered violence, but not a majority, and not many indigenous women? Why?

What are the obstacles to access for most indigenous women, particularly those who are poor, live in marginalized rural areas, and who do not speak Spanish?

Mam women fleeing gendered violence: common elements

- First romantic relationship at a young age without support/information (14-16)
- Reside in very small, isolated rural community
- Mam speaker, monolingual
- Little to no formal education
- Survivor of domestic violence, rape, other forms of physical violence
- Death threats from perpetrator of domestic violence
- Assaulted or threatened assault by local gang members
- Active denial of support by local police, fear of local police, police collusion with perpetrators of violence
- Customary justice system non-effective
- Local Justice of the Peace suggests reconciliation in cases of domestic violence
- Extortion and/or kidnapping in Mexico by immigration officials and/or others
- Detention in U.S.
- Children left in Guatemala or only some brought to U.S.

I am a twenty-three year old indigenous woman. I only speak Mam and I grew up following the customs of the Mam people. I don't speak Spanish.

When I was 16, I started dating my boyfriend Carlos who was three months younger than me. After a while, my boyfriend Carlos asked permission father if we could live together in his house. His father accepted so I moved into Carlos' house

Later that year, Pedro who is a Mam indigenous man from my community and who was at that time was four years older than started approaching me and explained to me that Carlos was a child and he was not man enough for me.

In March of 2011 Carlos left for the United States. After Carlos left for the U.S., Pedro became more direct and he told me that he wanted to marry me. He promised me that he would take care of my son and me. He said he had the means to take care of me and that he would treat me with respect. I started believing him. At that time I wasn't sure what Pedro was doing for living. I knew that he was wearing blue clothes that meant that he was part of the Blue Gang.

At first everything was ok, but when he got me pregnant, little by little the problems began. Pedro began to drink alcohol and beat me. He wanted me to abort our child and he claimed that the baby I was pregnant with was not his baby. He left bruises on my mouth and my belly from hitting me. He treated me as if I was an animal. He would hit me wherever he wanted to.

I decided to come to the United States to live a life without fear of dying at the hands of my husband Pedro. I did not report any of this to the police, although I wanted to, because Pedro told me if I went to the police, he would kill my children, my parents, and me immediately

Teresa
Pérez,
recently
received
gender
asylum in
the U.S.



Contested Masculinities, Discourses of Security and Interlegalities: Todos Santos Cuchamatán

Todos Santos Cuchumatán



Cuchumatán, Huehuetenango, Guatemala





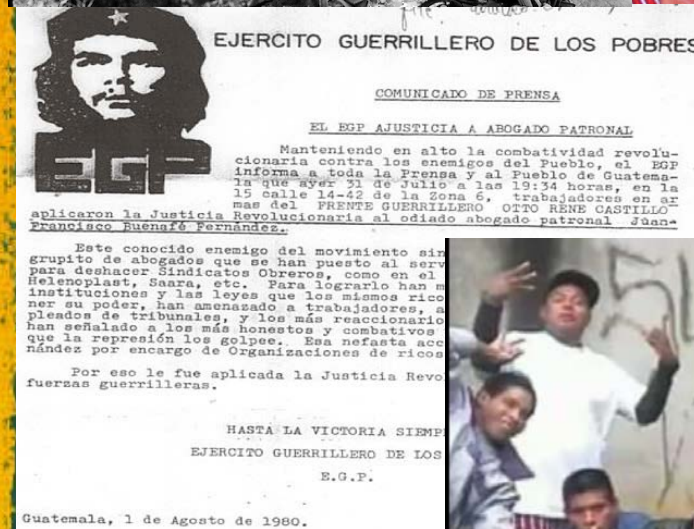
S SANTO JCHUMATAN





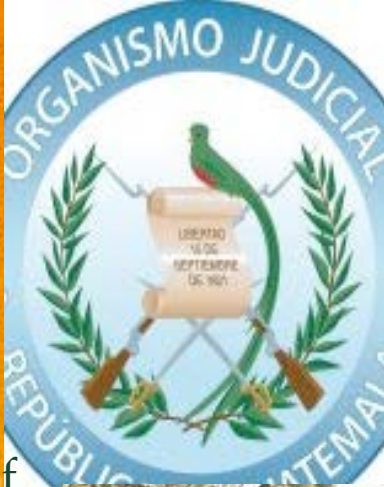
Histories of Militarization

- EGP occupation 1981. Military training for boys and men
- Guatemalan Army, 1982, occupation, homes burned, people killed, public torture and killing of dozens of men.
- Displacement to Mexico, other parts of Guatemala, mountains
- Patrullas de Autodefensa Civil (PACS) 1982-1996, 7?
- Policía Nacional Civil (1999-present)
- Comités de Seguridad, 2000-2016
- Red Gang, Blue Gang, mid-1990s to present



Histories of Justice Systems

- Customary Justice System of Mayores, Juezes
- Military commanders determined justice through PAC 1982-1996
- Juzgado de la Paz established in 1993
- Comité de Seguridad of Municipio become de facto justice system with cooperation from Alcalde
- DEMI office established in Hehuetenango in 1999



Territorialized, translocal/transborder contested masculinities

- The gendered occupation of territory identifies not only geographic space and specific places tied to the sacred local landscape, but also operates on the gendered bodies found within indigenous territories.
- Such threats are most often carried out by police or soldiers, but ten cases make reference to persecution by neighbors and local patrollers (i.e. people from seguridad).
- **Territorial control** by PNC: rape and attempted rape was a systematic form of intimidation used with impunity by PNC during the time period of 2000-2007. Other forms of intimidation used against women (and men) include severe beatings and death threats.



So what is it like? Well we all know one another. We know the people in the gangs and they know us. So if I am assigned to the security committee, what am I going to do with that person they complain about? I can't just go kill the person. We are all neighbors. We know one another. So what I would do is to go talk to them and say, "Don't do this. Leave this gang. Leave it alone. That way you will live in peace...but some of them don't listen. There were some people who I punished because they didn't understand that they needed to quit doing what they were doing. So what we would do is lock them up for some time so they would learn. We would shut them up or sometime we would put them in the water so that they would learn. Some of the would stop their activities because of this punishment. But others, would come after us and say, "Why did you punish me?" And so that is a problem now. I had to do this for many years and now they want to come after me.

Francisco, former
member of Comite de
Seguridad

Security through Paramilitarization of territory

Seguridad exercised control over the local judiciary, publically humiliated community members by dunking them in the fountain; and in short, brought back the kinds of 'forcivoluntary' paramilitarized forms that characterized the war years" (Burrell 2013:156). Sharp (2013) documents fathers having to flog their sons and engage in other forms of physical punishment to exercise authority over unruly youth. If they did not, the security committee would .

Competing Masculinities: Generational Differences

- Two local gangs that were scapegoats and criminalized in the past have escalated into more serious crimes such as extortion, kidnapping, rape and attempted rape that build on a pre-existing culture of hypermasculinity
- Security committees built a culture of masculine power that in many ways mirrors the kind of masculine power that PNC agents appear to have selectively exercised in the area through shootings, beatings, rape, and intimidation.



Defining masculinity through patrolling and controlling territory

- While the culture of masculinity promoted by seguridad is very different than that of local youth gangs, both are about defining masculinity through patrolling and controlling territory. Women figure as subordinate or even disposable parts of both cultures of masculinity.
- A national narrative fomented through a deliberate campaign to criminalize youth to justify re (para) militarization, played out in Todos Santos by what were non-criminal gangs later becoming more of the violent stereotypes they were earlier accused of. Women's and girls bodies became one of their terrains of rebellion and confrontation with an older generation invested in a culture of male security.



From Todos
santos
sureños de
por vida
youtube
video 2016



Clubs used by
seguridad in
Todos Santos,
photo by
Álvarez
Castañeda,
Andrés (



Where I lived, our territory is divided in two. On the one side in particular hamlets are the Blue gang members. In other hamlets are the Red gang members. They are enemies and often they fight and kill each other. Pedro was always wearing blue clothes and a handkerchief around his hand. He also used his fingers to show a sign, something kind of weird. I decided to come to the United States to live a life without fear of dying at the hands of my husband Pedro. Teresa Perez.

Division of Territory and Women's Bodies

First I paid someone who would take my turn on the security committee so I wouldn't have problems with the community. Then in 2015, the people from seguridad insisted that I had to take up this job and that I could not pay anyone to do it for me. I hid inside my house when they came knocking on my door. I didn't open it up. They broke down the door and confronted me. They beat me in the head, stomped on my feet and knocked me down. My daughter was so afraid that she fainted. I think that they did this on purpose because they know that my daughter is sick. A neighbor told me to go to the police to denounce what had happened. I went to the police (PNC) and they didn't do anything. They told me that this happened because I didn't take on the cargo in seguridad. I felt completely unprotected. The security people have power and if you don't obey them, then they will put you in jail and physically punish you until you do what they say. There is no way out. If you work with security, then the gangsters will attack you. And if you don't go with seguridad, then they will torture you until you accept their "invitation" No hay salida.

Demetria, whose husband fled, describing pressure from Comité de Seguridad. She recently received asylum in U.S.

There is violence here for women. They killed a girl. She was walking to school, but she never arrived. They found her raped and dead in the hamlet of Chicoy. They also found a handicapped person who had been killed there in Chicoy as well as a boy who was killed there.

Lynn: Why there in Chicoy?

Cristina: There is no PNC in Chicoy. A lot of families are afraid there.... You have to really watch what you wear because of the gangs. For example, if you are walking around with red shoes or a red sweater, they (the Blue gang) will tell you that you can't wear that. This happens in the center of town too.

The Blue gang is very aggressive with the men here. My brother was working. He wasn't afraid of the gangs and he didn't pay any attention to them. One day when he went to leave some food for people at the cooperative, there were some guys from the Blue Gang hanging out. They said he was in their territory. They wanted to stab him with a knife, but he ran away. They told him, "the next time we see you we are going to kill you." That is what finally pushed him to leave. He wanted to be a farmer, but he told me, "I am going to go. He left in July of last year in 2015.

Cristina, Todos Santos Cuchamatan

Structural obstacles to local gendered justice

- *Ethnic, Linguistic, and Racial Marginalization and Access to Specialized Courts*
- *Geographic Isolation and Reconciliation by Municipal Juezes de la Paz in Cases of Domestic Violence*
- *Police Corruption*



Questions for Access to Gender Justice for Guatemala Indigenous Refugee Women in the U.S.

- How should judges analyze cases where women are not legally married to their abusers, but are in domestic relationships?

- How do women demonstrate they are not able to separate from partners if those partners refuse to let them go and continue to send them threats through tranborder community networks?

- How do judges weigh the fact that Guatemala has strong laws against violence against women and even specialized courts, but such courts are inaccessible to many women?

- How do judges evaluate a reformed security system and the National Civil Police that does not respond to most women's complaints of violence?

- How can judges' own pre-conceived ideas about indigenous societies and indigenous women frame how much credibility they give to the testimonies of indigenous women giving testimony in their own languages in court?

- How do judges evaluate cases where women did not report their abuse in contexts where customary and local official justice systems are likely to counsel women to reconcile with their abusers?

Intersectional Gender Justice Training for U.S. Immigration Judges

- Specialized training for immigration judges on the continuum of violences that affect women coming from Guatemala and other Central American countries, the complexities of overlapping legal and security systems, and the persistence of competing cultures of masculinity that continue to bar indigenous and many other women from access to justice, even in the specialized courts for gender violence in Guatemala.
- Require that all judges who do hear cases asylum involving gendered violence go through the same time of systematic training that Guatemalan judges do who sit in specialized courts.

