An ad urges Guatemalans to report domestic violence.
(Photo by Orlando Sierra/AFP/Getty Images.)

HUMAN RIGHTS

Refuge From Femicide: Facing Gendered Violence in Guatemala

by Anthony Fontes

For 10 years, Rodi Alvarado's husband beat her mercilessly. He used his fists, his belt, his boots, his gun, his knife. He had been a soldier in the Guatemalan military during the country's long civil war, and he would taunt her during the beatings, bragging about having bayoneted babies and burned old people alive during his years in combat. The threat behind the verbal abuse was not lost on Alvarado. She was meant to understand that he would think nothing of killing her, too.

The Guatemalan police were no help. Alvarado went to them repeatedly, but their inaction only emboldened her husband. This is not unusual. The few statistics that are kept show that less than 2 percent of all reported incidents of abuse and murder of women are even investigated; far fewer are brought to court. So, in 1995, Alvarado gathered the courage and the resources to escape to the United States. She applied for and received asylum, only to have it reversed by the U.S. Board of Immigration Appeals four years later.

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It would take 10 more years and the personal intervention of three attorneys general under three separate presidents before she won final approval of her case in 2009. Her victory was highly publicized, garnering front page status in The New York Times. Her lawyer, Karen Musalo, reflected on the enormous importance of this precedent-setting case, telling The Times that Alvarado's search for refuge in the United States "has been the iconic case of domestic abuse as a basis for asylum."

Musalo, who is director of the Center for Gender and Refugee Studies at UC Hastings School of Law, has been involved with every aspect of Alvarado's journey through the U.S. asylum system. Prior to taking on Alvarado's case, she represented Central American refugees fleeing what she termed "traditional forms of political violence and repression" — victims of the civil wars in Guatemala and El Salvador. However, in the years following the signing of peace accords, Musalo and her colleagues found themselves representing a different kind of refugee — women fleeing alone or with their children to escape extreme forms of gender-based violence.

Domestic abuse has long been an issue in Central America — and in the rest of the world — but human rights advocates argue that the rising tide of violence against women in Guatemala goes beyond typical intra-familial conflict. In her talk for the Center for Latin American Studies, Musalo described the killing of Guatemalan women as "femicide," a term most famously employed to describe the legion of raped and mutilated female bodies found in the borderlands of Ciudad Juárez, Mexico. Rodi Alvarado was not simply fleeing an abusive husband, Musalo argued. She had escaped from institutional and societal prejudices that made safety impossible in her home country.

Femicide is a provocative term. It lifts the murder of women out of the mass of violent crime taking place in Guatemala and highlights its gendered aspect. For Musalo, the label is warranted. In her talk, she was at pains to describe how the violence from which Alvarado and others have fled is directly tied to their identity as women. While violent crime is endemic in postwar Guatemala — homicide rates swelled to around 38 per 100,000 in 2008 — Musalo echoed a growing chorus of voices concerned that the violence directed at women is qualitatively different from other types of violent crime. Many of the bodies of women found in garbage piles and back allies, in the trunks of cars and along the roadside, bear the tell-tale marks of rape and torture. The mutilation of sexual parts is common. Generally, the abuse perpetrated against these women before and after they are killed demonstrates a deep desire to destroy not only the victim's life but also her womanhood.

Who are the perpetrators of these crimes? Why are women the targets of such savage violence? According to Musalo, there are no clear answers to these questions. The Guatemalan government has neither the will nor the capacity to conduct thorough investigations into these killings. In an affidavit submitted in the Alvarado case, Guatemalan lawyer and human rights advocate Hilda Morales Trujillo attests that over 4,000 women were murdered between January 2000 and December 2008. However, she adds that "the absence of effective investigation and prosecution makes it impossible to determine the motive behind each of the killings."

In place of answers, several theories have been put forth to explain the femicides. None completely explains the rising death toll, but taken together, they provide a contextual understanding of why women have been targeted.

The most widely cited theory is that the violence is a legacy of Guatemala's three-decade civil war. The conflict peaked in the mid-1980s when the government employed scorched earth campaigns against indigenous Mayan communities and paramilitary death squads targeted suspected leftist sympathizers in urban areas. A 1996 UN report accused the Guatemalan military of attempting to commit genocide against its Mayan population and found the government responsible for more than 95 percent of the human rights abuses committed during the war. One aspect of the extreme violence that marked this era was the use of gender-based violence as a tool of terror. Noncombatant women were targeted for physical mutilation — the cutting off of breasts for example — and rape. The present-day violence against women is understood as the continued fall-out from the war. Alvarado's husband gloating over his civil war exploits provides a telling example of the continuum of violence in times of war and peace.

Another oft-cited explanation is Guatemala's deep and abiding gender inequality, which is normalized in both cultural and legal terms. Guatemala has always been a deeply patriarchal society that privileges men's authority over women in general and over their wives and children in particular. The 1998 Constitution, for example, explicitly sets forth the husband's rights as the legal head of his family. Furthermore, until the late 1980s, the criminal code treated violence between husband and wife as a private affair in which the law should not intervene; men could also avoid prosecution for rape if they married their victim, who could be as young as 12 years old. Such laws continue to contribute to the high level of impunity that marks Guatemalan society, especially in terms of how men are expected to treat women.

When killers, rapists and domestic abusers know that they have less than a 1 percent chance of being investigated for a crime, they need not fear punishment. Much of the blame for the legal system's incapacity to take on domestic violence has been heaped on the police and judiciary. Both are seen as weak and corrupt by Guatemalans and outside observers alike. Many people refuse to report crimes because to do so is automatically to make oneself a suspect. When a cadaver is found, too often the area isn't cordoned off, and the crime scene is quickly contaminated. The police and the prosecution often compete against each other, refusing to cooperate in an efficient manner. Furthermore, forensic crime investigation tools like DNA sampling, which are commonly used in the United States, are largely absent in Guatemala. The government simply does not have the capacity to employ such methods.

Civil society groups outraged by the government's inability to protect Guatemalan women have won some symbolic victories. The 1996 Constitution included provisions against intra-familial violence and introduced restraining orders into the penal code. Many judges, however, still believe it is "unconstitutional" for the government to intervene in a man's family affairs. There are other laws on the books that show at least a desire to stem the floodtide of abuse and murder: a 2008 law specifies a range of acts of violence against women as criminal and prohibits the invocation of "cultural relativism" as a means of defense, for example. Still, according to UN Special Rapporteur María Isabel Vélez Franco, the number of femicides has increased every year. Clearly, the toxic cocktail of impunity, extreme prejudice against women and the legacy of civil war violence will not be solved by written laws alone.

Photo by Eric Eisenberg/Associated Press.

Rody Alvarado listens as her attorney Karen Musalo explains that her asylum petition was granted.

Continuing femicides have far-reaching implications for the U.S. asylum system and Latin American societies. Both El Salvador and Honduras have murder rates higher than Guatemala's and have shown a rise in woman-killings over the last 10 years. And while Alvarado's recent victory in her asylum claim seems to show that the U.S. is becoming more open to providing refuge for victims of domestic abuse, exile abroad is hardly an ideal solution for most women. But what is the alternative? Rodi Alvarado summed it up starkly in a televised interview. Describing what it is like to live with such extreme daily violence, she said "*…empezamos a creer que sólo la muerte tiene la solución*." We begin to think that death is the only solution.

Karen Musalo is director of the Center for Gender and Refugee Studies at the University of California, Hastings College of the Law. She spoke for CLAS on Thursday, April 8, 2010.

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