

**Sexual violence as genocide against Indigenous peoples:
the case of Mayan women in Guatemala**

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Abstract

Sexual violence against Indigenous women is an attack on women and their ethnic group. It prevents births within the group and destroys their culture and social fabric, since women often transmit values within the community. International criminal tribunals have concluded that sexual violence constitutes both a war crime and a crime against humanity. When sexual violence is committed with the intent to destroy a targeted group (in whole or in part), can amount to genocide. Between 1981 and 1983, the State army killed at least 1,771 Mayan Ixil during the internal armed conflict (1960–1996). The domestic courts, in the landmark case against former head of State Ríos Montt, determined that the systematic sexual violence against Mayan women during that period amounted to genocide, as its purpose was to eradicate the “Ixil seed.” The Guatemalan Army destroyed Mayan sacred places, prohibited the celebration of Mayan ceremonies, and killed many Mayan spiritual guides. For Mayan women, rape and other forms of sexual violence suffered during the internal armed conflict not only brought about physical and mental harm; it also caused an energetic break with the environment, cosmos, and life, which implied their social and spiritual death (*susto*) and caused a cultural rupture of the community with long-lasting effects.

Sexual violence against Indigenous women is an attack on women and their ethnic group; it prevents births within the group and also destroys the culture and social fabric, since women often transmit values within the community. International criminal tribunals have concluded that sexual violence constitutes both a war crime and a crime against humanity. When sexual violence is committed with the intent to destroy a targeted group (in whole or in part), can amount to genocide. In Guatemala, during the internal armed conflict (1960–1996), the State army killed at least 1,771 Mayan Ixil between 1981 and 1983. The domestic courts, in the landmark case against former head of State Ríos Montt, determined that the systematic sexual violence against Mayan women during that period amounted to genocide, as its purpose was to eradicate the “Ixil seed.” The association of Indigenous people with the guerrillas led Mayans to stop wearing their traditional costumes and using their languages to avoid repression from the military. The Guatemalan Army destroyed Mayan sacred places, prohibited the celebration of Mayan ceremonies, and killed many Mayan spiritual guides. Their goal was to dismantle their religious practices, beliefs, and social claims to disrupt their social cohesion. For Mayan women, rape and other forms of sexual violence suffered during the internal armed conflict not only brought about physical and mental harm. It also caused an energetic break with the environment, cosmos, and life, which implied their social and spiritual death (*susto*) and caused a cultural rupture of the community with long lasting effects.

Sexual violence against Indigenous women

The systematic practice of sexual violence against women during wartime is not new. For instance, during World War II, rape and forced prostitution of women was common. About 200,000–400,000 “comfort women” were subjected to sexual slavery by the Japanese army, and more that 200,000 Bengali women were raped during the war of independence from

Pakistan (Weitsman 2008). Moreover, rape was also a widespread and systematic practice during the Rwandan genocide and the Balkans conflict in the 1990s. Historically, rape has been considered an “inevitable lesser evil” of wars, to the point that this serious violation has been equated with the looting of property, since both fall under “spoils of war.” Nevertheless, sexual violations against women acquire a collective character and humiliate an entire community. The shame of victimization may be far worse than the perpetration of the crime, as the identity of women is often inextricably linked to their relationship with men and hardly ever stands alone (Weitsman 2008, 564).

Guilt and stigma in the community often deter women from speaking out about their suffering gender-based violence. At the same time, their stories are silenced by society, which adopts a gender-neutral perspective in memory narratives (Fox 2019, 129). It has been especially through the struggle of women's movements that gender-specific violence has been visualized and described as a violation of women's human rights (CEH 1999, 2378). However, sexual violence during war and genocide continue to be marginalized in the aftermath of mass atrocities. Although women may be present in some post-conflict narratives, public stories of women's experiences of sexual violence during war are mostly invisible outside legal testimony and international tribunals (Fox 2019, 126). In Guatemala, the reports of different human rights organizations, the Catholic Church, and the Guatemalan Commission for Historical Clarification (CEH) contain hundreds of testimonies of the violence suffered during the internal armed conflict. However, there are few first-hand accounts of the state-sponsored rape in public testimonials expressed by the survivors themselves (Hastings 2002, 1154).

Aboriginal and Indigenous women and girls experience extremely high levels of violence (UNHRC 2012, 15) and have been victims of gender-based violence in armed conflicts in Colombia, Guatemala, Mexico, Nicaragua and Peru (Inter-Agency Support Group 2104).

Furthermore, gender-based violence was also present in colonial and postcolonial contexts, such as Australia (Tatz 2001), the United States (Smith 2005), and Canada (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019). In America, between 45 and 50 million women from more than 400 Indigenous groups—each with their own languages, world views and socio-political organizational structures—confront gender, ethnic, and socio-economic discrimination. In Guatemala, Indigenous women face social and political discrimination at all levels. They are disparagingly called *indias* (“Indian”) (Inter-American Commission 2007, 198).

As a consequence of this discrimination, Indigenous women do not believe in justice, since perpetrators often go unpunished for their crimes. The cosmovision of the Mayan culture is based on the harmonic relationship between people and their ancestral land. They conceive of individuals as part of the community, in communion with mother earth and the cosmos (Cochoy 2006). One of the symbols of the Mayan civilization is the corn, which represents their main food. Corn seed represents life, strength, and spiritual growth. The abrupt and violent ways in which land was damaged during the internal armed conflict in Guatemala destroyed the harmonic relationship of the Mayan people with the land, and this break persists today (Depuis 2005, 25). Thus, women and members of Indigenous communities face violent evictions over land disputes with transnational corporations, “which they connect to their experience of violence during the war and the loss of their husbands due to disputes over land” (Crosby, Lykes, and Caxaj 2016, 273).

Sexual violence as an act of genocide

In international law, rape and other forms of sexual violence can constitute a war crime, a crime against humanity, or genocide. The UN Security Council has recognized that sexual

violence primarily affects women and girls and is used as a wartime strategy to humiliate and dominate the members of a community or ethnic group (UN Security Council 2008). Thus, women and their bodies have been weaponized by the perpetrators as tools to commit genocide; they use of rape to affirm their power over the victims of a targeted group (Grigoryan 2015, 58). There is still a general perception that sexual violence during armed conflict is inevitable (Bergsmo, Skre, and Wood 2012) and incidental (Jarvis and Martin-Salgado 2103, 118). However, sexual violence is both an attack to women and an attack against the ethnic group (Short 2003, 504) because it prevents births within the group and inflicts serious bodily and mental harm on victims. The definition of genocide, often limited to mass killings, has been expanded to include colonial policies aimed at assimilating and annihilating Indigenous populations. In these campaigns, targeting victims in a gender-based manner destroys the very foundations of the groups as a social unit and has long-lasting effects on a group's social fabric (National Inquiry 2019, 8). Therefore, sexual violence, when employed as a genocidal strategy, is simultaneously an attack on the victim and on the existence, identity, and cohesiveness of the group (Global Justice Center 2018, 19). According to the Guatemalan courts, the sexual violence committed against Indigenous women undermined their identity. This harm went beyond an individual level and affected the whole community, because Mayan women are the symbols of cultural and spiritual transmission. Damaging their dignity implied harming the integrity of the Ixil ethnic group (Patterson 2018, 247).

In the 1990s, the use of sexual violence as a mass weapon of war in genocides committed against Muslim women in Bosnia and Tutsi women in Rwanda helped transform the social perception of sexual crimes (Joffily 2016, 171). The International Criminal Tribunal for former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR)—both created by the UN Security Council to end impunity of serious violations perpetrated in those

territories¹—led to a global paradigm shift (Askin 2013, 20) to bring the individuals responsible for these heinous crimes to justice. On the one hand, the ICTY case law contributed to acknowledging the seriousness of sexual violence during armed conflict by recognizing rape as torture in the *Kunarac* case² and establishing sexual violence as an element constitutive of enslavement, moving away from a traditional conception of slavery, normally linked to forced labor of men (Jarvis and Martin-Salgado 2013, 104). On the other hand, the ICTR in the landmark judgement *Akayesu* concluded that sexual violence was “a step in the process of the destruction of the Tutsi group- destruction of the spirit, of the will to live, and of life itself.”³ The Court also determined that the systematic rapes and other acts of sexual violence of Tutsi women resulted in physical and psychological harm, which constituted acts of genocide:

“With regard, particularly, to the acts described in... the Indictment, that is, rape and sexual violence, the Chamber wishes to underscore the fact that in its opinion, they constitute genocide in the same way as any other act as long as they were committed with the specific intent to destroy, in whole or in part, a particular group, targeted as such. Indeed, rape and sexual violence certainly constitute infliction of serious bodily and mental harm on the victims and are even, according to the Chamber, one of the worst ways of inflict harm on the victim as he or she suffers both bodily and mental harm.”⁴

In this regard, the ICTR helped broaden the conception of genocide by including sexual violence as an act of genocide when largely directed at female members of the targeted group (Global Justice Center 2018,18). Moreover, the adoption of the Statute for the establishment of a permanent International Criminal Court (ICC) in 1998 took a step further by recognizing

“rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” as a crime against humanity and a war crime.⁵ Therefore, in the 1990s, sexual violence ceased to be treated as “collateral damage” and started to be considered as a distinct crime, different from other forms of violence (Joffily 2016, 171). Furthermore, other internationalized criminal courts like the Special Court for Sierra Leone⁶ and the Extraordinary Chambers in the Courts of Cambodia⁷ contributed to the recognition that sexual violence is among the most serious crimes, by also considering forced marriage as an inhumane act amounting to crime against humanity. The Extraordinary Chambers in Cambodia determined that forced marriage was nationwide and victims were forced to enter into conjugal relationships in coercive circumstances. People were executed if they refused to marry, and there was an imposition of sexual relations aimed at forced procreation.

Destroying the spiritual, religious, and cultural identity of Mayan Peoples through sexual violence against women

Guatemala suffered an internal armed conflict between 1960 and 1996, leading to about 200,000 people dead and 45,000 disappeared. The peace process in Guatemala started in 1991 and resulted in the adoption of 12 agreements between the government of Guatemala and the *Unidad Revolucionaria Nacional Guatemalteca* (URNG) under the auspices of the United Nations. The peace process culminated in the signing of the *Firm and Lasting Peace Agreement* on December 29, 1996 in Guatemala City, ending 36 years of violence and conflict.

The Commission for Historical Clarification (CEH), established by the United Nations in 1994, determined that the State of Guatemala was responsible for 93% of the human rights violations committed during the internal armed conflict, and that 81% of these violations

occurred between 1981 and 1983, during the mandate of *de facto* head of state Ríos Montt (CEH 1999). Because of the Guatemalan Army's concept of the “internal enemy,” military operations were also extended to impact civilians who did not participate in the armed conflict. The military were responsible for “razing villages, indiscriminately killing the inhabitants of the communities for the fact of being suspected of belonging to or collaborating with the guerrillas, or of interfering in their military operations” (CEH 1999, para. 787–793). Thus, the “scorched earth” (*tierra arrasada*) strategy carried out by the Guatemalan Army became a mechanism of terror to inhibit the support of Indigenous communities for the guerrillas.

These acts were perpetrated with the intention of destroying totally or partially the population since “they were not isolated acts or excesses committed by troops out of control, nor the result of an eventual improvisation of a middle command of the army” (CEH 1999, para. 2398). Thus, the CEH concluded that State agents, within the framework of the counterinsurgent operations, carried out acts of genocide against the Mayan people, resulting in the killing of at least 1,771 Mayan Ixil under the Ríos Montt regime (CEH 1999, Vol. III 418–419). Likewise, rape was a widespread and systematic practice carried out by agents of the State within the framework of the counterinsurgency strategy, making it an effective weapon of terror (CEH 1999, para. 2351). The CEH estimated that 99% of women interviewed had suffered sexual violence during the internal armed conflict and registered 1,465 acts of sexual violence. Some 88.7% of the victims of sexual violence were Mayan women, 10.3% were *ladinas* (non-Indigenous) and 1% belonged to other groups (CEH 1999, para. 2388-2393). The CEH was one of the first truth commissions to highlight gendered violations instead of just including them as part of human rights violations in general (Rosser 2007, 397).

On May 10, 2013, the Guatemalan courts convicted Ríos Montt to 80 years in prison for genocide and crimes against humanity. The case became known as “The Genocide Trial,”

because it was the first time a former head of state was prosecuted for genocide by the domestic courts of their own country. However, because of the pressure of the economic and power elites, the judgment was annulled by the Guatemalan Constitutional Court 10 days after of its adoption, based on formal issues with the proceeding. The repeat of this trial commenced in 2017. Part of the hearings were held in Nebaj, one of the areas of the Ixil community affected by the genocide, about 225 km from Guatemala City, bringing the judicial process closer to the victims and the scene of the events. Ríos Montt died in April 2018 without finishing his trial. However, the Guatemalan courts unanimously determined, through a judgment on September 26, 2018, that there was genocide and crimes against humanity committed against the Ixil people by the Guatemalan Army between 1982 and 1983, while Ríos Montt was the *de facto* president of the country.

During the Genocide Trial, one of the major findings of the court was that sexual violence perpetrated against Mayan women was an act of genocide. It was not just “spoils of war,” but a deliberate and systematic attempt to break down the social fabric of Mayan people.⁸ The Court found that the State counterinsurgency strategy established in the 1982 Sofia Operation’s Plan not only envisioned the “extermination of subversive elements” but also established that “the lives of women and children should be respected, *as far as possible*” (Kemp 2014, 146), therefore leaving the civilian population unprotected. The victims’ testimonies during the Genocide Trial detailed how women were subjected to sexual slavery by being taken to military detachments, where they were imprisoned in holes. These women were visible to everyone and “were naked, without food, they were watered from above and were treated like real animals and they just came out of the hole to be raped”⁹ and afterwards they were returned to the hole. Indeed, it was determined that violence against women was committed not an “incidental excess,” but rather a systematic practice to destroy the Mayan Ixil

population and eradicate the “Ixil seed.” Women are in charge of reproducing and perpetuating the ethnic group, as well as of the Indigenous culture itself (Miguel et al. 2015, 73). Thus, sexual violence was part of the military strategy of the Guatemalan State. It gave a feeling of virility, cohesion, and power to the soldiers who exercised it, while destroying the long-term social fabric of the Mayan Ixil people. At the same time, it guaranteed the impunity of those who committed it, due to the taboo that usually surrounds this practice (Fulchiron 2016, 395).

The Inter-American Court of Human Rights is a human rights tribunal established in 1979 within the Organization of American States to interpret and apply the 1969 American Convention of Human Rights and other regional human rights treaties. It has dealt with numerous important cases related to massacres perpetrated in Guatemala during the internal armed conflict. In these cases, the Court highlighted the impact of sexual violence against Mayan women and the stigma they suffer from their own communities:

“Women who were subjected to sexual violence by State agents on the day of the massacre and who survived continue to suffer from such aggression. The rape of women was a state practice, executed in the context of massacres, aimed at destroying the dignity of women at the cultural, social, family, and individual levels. These women are perceived as stigmatized in their communities and have suffered from the presence of the perpetrators in the common areas of the municipality.”¹⁰

After the armed conflict, few Indigenous women victims of rape shared their pain with other women victims of the same violence, which contributed to their increasing isolation and feelings of guilt. Even the aggression suffered as such was not recognized. The concept of “rape” does not exist in Mayan languages, therefore victims used expressions such as “they

darkened my soul” or “they left the illness in all of my body and mind” to express the sexual violence they suffered (Crosby et al. 2011, 469). The Indigenous women who testified during the *Sepur Zarco* trial used the word *moxok* (which means “soiled” in the Q’eqchi language) to describe their rape, meaning that they lost the respect of their community (Patterson 2018, 241). In this case, two soldiers were convicted of crimes against humanity for subjecting eleven Q’eqchi Mayan women to sexual slavery between 1981 and 1983 at the Sepur Zarco military detachment in 2016. The use of euphemisms to refer to rape during the Genocide Trial was also common. Victims or witnesses used the words “pass” or “use” instead of raping (soldiers *passed* with them, *used* them). Very few identified rape as an aggressive act, which shows how the women were devalued (CEH 1999, para. 2381).

The systematic practice of sexual violence created a “cultural terror” for Indigenous women, who became dehumanized and delegitimized even by fellow community members (Crosby et al. 2016, 472). To generate terror, the military would leave evidence of sexual violence against women after they were slaughtered. The most usual form of evidence was nudity and the forced insertion of objects in the vagina of women or stakes stuck in their bellies (CEH 1999, 2412). Hence, the Guatemalan State perpetrated sexual offenses publicly and left permanent reminders of the violence on victims’ bodies, terrorizing the entire Mayan community (Leiby 2009, 461). The stigmatization, presence of the perpetrators in daily life, and persistent impunity prevented women from speaking out and telling the truth about the sexual violence they suffered during the armed conflict. Besides, Mayan survivors of rape during the war were accused of “having given themselves” to the Guatemalan Army and became traitors in their own group (Fulchiron 2016, 402). The stigma of Mayan women victims of sexual violence caused their family and community to reject them. Therefore, some of the survivors of sexual assaults moved to another community to avoid living the shame of being

marked as a “raped woman.” They had to overcome their fear of “being discovered” and the panic of others blaming them (CEH 1999, para. 2384).

The Guatemalan army associated guerrilla fighters with the Mayan population sheltered in the mountains during the armed conflict. This association justified the commission of genocide in the name of the counterinsurgency. Mayan women were attacked and raped in counterinsurgent operations because they were perceived as supporting the guerrillas, regardless of whether or not they had any connection with the revolutionary forces (Equipo de Estudios 2011, 149). Mayan languages and traditional outfits were the main “dangerous” signs they used to identify them. This made Mayans inhibit their use of Indigenous languages or other identifying elements, such as traditional costumes, to avoid backlash. Furthermore, women decided to cut their hair and not use their traditional costumes for fear of repression and to avoid being identified as Indigenous guerrillas (CEH 1999, para. 4396–4402). Different municipalities in Guatemala have distinct costumes, and just wearing a traditional costume during the armed conflict could lead to the death of Mayan people. As a result, the dispossession of these signs generated great pain and loss of identity references within the Indigenous community.

Sexual violence against women was exercised not only within the military detachments but also in public and in religious buildings occupied by the army during the armed conflict. The State also destroyed sacred and identity symbols and used Mayan historical and cultural names and symbols for other purposes. For instance, the military used the names of ceremonial and historical centers, mythical characters, and names of *Nahuales*—the historical and cultural spirits of the Mayan peoples—to name areas of military operations and army units (CEH 1999, para. 2913). Therefore, the State perverted Mayan religious symbols to reinforce enmity (Temoney 2016, 7) against Indigenous peoples and promote contempt for Mayan culture,

historical memory, identity references, and symbols that represent their common cultural ancestor (CEH 1999, para. 2914).

In the Mayan culture, Indigenous women transmit family and community culture, language, cosmovision, norms of life, and community relationships. As a result, there is a high symbolic value associated with them, and many comparisons can be made between Mayan women and Mother Earth (*madre tierra*). Thus, sexual violence against Indigenous women produces serious and complex consequences for survivors, destroying their identity, their ability to form relationships, and even their reproductive capacity. In the Mayan culture, women suffered from *susto* (“scare”) after the massacres of their husbands and their enslavement by the Guatemalan army. For the Q'eqchi community, this sickness entails the spirit of the person leaving the body of the person. They became very weak and needed treatments to rebalance the spirit and the body to become cured from *susto* (Patterson 2018, 249). Acts of sexual violence, combined with the perversion of religion in genocide, bring about a social and spiritual death and prevent the community's ability to reconstruct itself (Temoney 2016, 14). For Mayan women, rape caused a break in their energetic connection with the environment, cosmos, and life—the *susto* corporal manifestation of their death in life (Fulchiron 2016, 414). To recover from the *susto*, Mayan women needed space to speak and reintegrate all the spheres of life—the body, mind, energy, social status, and affective bonds—that had been shattered by their traumatic experience (Fulchiron 2016, 407).

Rapes of Mayan women were extremely and deliberately cruel. It was the objective of the military to perform an exemplary punishment, sowing terror over the Indigenous community. Moreover, the State army referred to Indigenous women as “meat” (CEH 1999, para. 2421), devaluating and degrading them. Greater dehumanization was evident in the bodies of naked women found mutilated with vaginal bleeding. This use of rape as “spectacle”

weakened the male population by destroying their ability to fight back, in addition to causing physical and emotional pain to women (Grigoryan 2015, 68). The combination of sexual violence and religion in a genocidal context entailed that “perpetrators target and intimately violate the human body as a means of physically, symbolically, and even cosmologically, reimagining and reconstructing the social and political order by destroying a perceived enemy” (Temoney 2016, 14). This extreme violence cut off ancestral and significant practices in the lives of Mayan people, transforming their social dynamics. The systematic sexual violence against Mayan women caused them to lose the respect from the community position they had, such as midwives, *aj'qijab'* (Mayan spiritual guide), and conflict mediators (Méndez Gutiérrez 2013, 56). Rebuilding the bonds of coexistence with nature and the cosmos, which had been broken by war and sexual violence, was key in the healing process necessary for Mayan women to reconstruct their lives (Fulchiron 2016, 414).

Conclusions

Sexual violence against women not only affects survivors physically and mentally. It also has a collective dimension that affects the whole ethnic group. In the case of Indigenous women, sexual violence also implies a social and spiritual death (*susto*). Rape and other forms of violence entail an energetic break with the environment, cosmos, and life. The culture of terror spread by the State army through acts of extreme violence against Mayan peoples led them to stop using their traditional costumes and language, which destroyed their social fabric and had long-term effects. Moreover, the use of religious buildings and perversion of symbols of the Mayan peoples by the army within the counterinsurgency created a cultural rift that endures today.

Giving visibility to sexual crimes during the armed conflict allowed Indigenous women to become aware of their seriousness and consider them as atrocious as extrajudicial executions and torture suffered by Mayan men. This awareness helped break the silence around these types of crimes (Soria 2014, 89). Furthermore, the finding in the Rios Montt trial—that sexual violence against Indigenous women during the internal armed conflict was a systematic practice constituting genocide—set a historical precedent for justice. It also enabled Mayan women from the Q'qchi and Achi ethnic groups to bring their cases before the domestic courts.

However, the social exclusion of Indigenous peoples in Guatemala persists. The problem is not only that Indigenous people cannot exercise their culture, but they are from a different ethnicity, speak different languages, and have different spiritual and religious beliefs. As a result, they do not enjoy the same social, economic and political rights that non-Indigenous people enjoy (UN Development Program 2005, 25). At the same time, Indigenous women experience systematic, gendered racist exclusion and othering in their everyday lives at the hands of state institutions who should be protecting them instead (Crosby et al. 2016, 269). Unfortunately, nowadays, sexual violence against Indigenous women is more related to land grabbing and extractive industry companies that use rape to terrorize Indigenous communities. This reflects continued violence against Indigenous women in the aftermath of conflict, and the need to address structural violence in transitional contexts to avoid undercutting women's socio-economic roles (Duggan et al. 2008, 209).

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1. The United Nations Security Council passed two resolutions from the ICTY and ICTR tribunals: *Resolution* 827 (May 25, 1993) and *Resolution* 955 (November 8, 1994).
2. Prosecutor v. Kunarac et al., IT-96-23 & IT-96-23/1-A (June 12, 2002), at 150.
3. Prosecutor v. Jean-Paul Akayesu, ICTR-96-4-T, (September 2, 1998), at 732.
4. Prosecutor v. Jean-Paul Akayesu, ICTR-96-4-T, (September 2, 1998), at 731.
5. Rome Statute of the International Criminal Court, UN Doc. A/CONF.183/9 (July 17, 1998), Article 7(1)(g); Article 8(2)(b)(xxii) and (e)(vi).
6. Prosecutor v. Brima, Kamara, and Kanu (AFRC Appeal judgment), SCSL-2004-16-A (February 22, 2008), at 190-202.
7. Case 002/2 against Nuon Chea and Khien Samphan (March 28, 2019), at 742.
8. High Risk Tribunal A, *Genocide and Crimes Against Humanity Judgment*, C-01076-2011-00015, Of. 2a. May 10, 2013).
9. High Risk Tribunal A, *Genocide and Crimes Against Humanity Judgment*, at 201.
10. Case of the Plan de Sánchez Massacre v. Guatemala, (November 19, 2004) (Reparations), at 49 (19).