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Indigenous Women's Bodies: Primer Territorio de Defensa

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INDIGENOUS WOMEN'S BODIES: PIMER TERRITORIO DE DEFENSA

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University of San Francisco
Master of Arts in International Studies

Indigenous Women's Bodies: *Primer Territorio de Defensa*

In Partial Fulfillment of the Requirements for the Degree

MASTER OF ARTS
in
INTERNATIONAL STUDIES

by **Ana Gabriela Ávalos Tizol**
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UNIVERSITY OF SAN FRANCISCO

Under the guidance and approval of the committee, and approval by all the members, this thesis project has been accepted in partial fulfillment of the requirements for the degree.

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Abstract

The teen pregnancy “epidemic” in Guatemala is a focal point when international and national NGOs demand that the government protect the civil and political rights of girls. In accordance, the state created laws (legal age for marriage - Ordinance 13-2017), implemented penal codes (statutory rape - Article 173) and created *Programa Vida* (conditional cash transfer of Q. 1,500 - \$200 every two months) to address this ‘epidemic.’ Yet, only sixty-one teen mothers were involved in the program by the first year in 2018, indicating its inaccessibility. This thesis proposes to challenge the dominant narrative on teenage pregnancies, which blames “Mayan cultural practices” for the high rate of teen pregnancies in indigenous communities, by analyzing the colonial roots of the problem and how ongoing colonial practices lead to the denial of indigenous women’s autonomy. I highlight the stories of five indigenous girls in Huehuetenango, who are survivors of sexual violence all below the age of fourteen, which resulted in them becoming mothers. The judiciary system is broken and allows sexual violence to exist and persist. On one hand, the state criminalizes young couples under the pretense that it protects the rights of girls thus allowing the state to legitimize its power to police indigenous girls’ bodies. On the other hand, the state does not acknowledge teenage pregnancies as a product of structural violence. This is problematic when teen mothers are the human face of poverty and the cycle never ends. Indigenous women and girls’ bodies have always been a battlefield, invaded, controlled and managed by the state. In addition, their bodies belong to their father, husband, and stranger but never to themselves. Their autonomy has always been denied. Therefore, it is imperative to further understand the geopolitical status of indigenous girls and women; which determines that their bodies are *el primer territorio de defensa* (the first territory to defend).

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Through this process, it has been evident that indeed, “it takes a village.” First of all, I would like to thank the five young mothers who taught me so much about resilience. Their stories changed my life in so many ways. I know this is just the beginning and hope to go back home to Guatemala and continue the work.

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¡Si Se Pudo!

Chapter One: Introduction

Since 2012, Guatemala has been in the eyes of national and international media due to having the highest rate of teenage pregnancies across Latin America (COHA, 2015). It has been said that 2015 was the year with the highest teenage pregnancies; 6,493 of girls between ages ten to fourteen. Overall, there were 97,444 pregnancies of girls between ages fifteen to nineteen. The narrative constructed around it were the same in the 1950s; that babies having babies reproduces the cycle of poverty. And currently, the “Mayan culture” is to blame for its ‘practices’ (Fusion, 2016). Due to international pressure, alliances among NGOs and governmental agencies were created—the Department of Health, Department of Civil Registry, Department of Education and national NGOs such Sexual and Reproductive Health Observatory (OSAR) and Children’s Rights Observatory (CIPRODINI)—denounces and monitors this “crisis.” Based on their reports, in 2015 to 2016, I noticed that four northwestern states had the highest number of pregnancies: Huehuetenango leads; Alta Verapaz is second, then San Marcos, and finally Quiché. Importantly, these states with the highest numbers of teenage pregnancies are mostly indigenous, rural and were key battlefields during the thirty-six-year civil war. Additionally, these states are part of what is known as the ‘Western Poverty Belt’ (COHA, 2015). What triggered my interest in this research is that these reports did not include the voice of young mothers, nor an analysis of their environment. They were simply reduced to numbers, their bodies politicized and dehumanized. Even though there is no exact number, most of these girls are indigenous, live in remote rural areas, illiterate, and extremely poor (OSAR, 2016).

The politicization of women’s bodies in the global south started in the 1950s. Black and indigenous women were blamed for the ‘overpopulation’ of their countries and consequently

increasing poverty (Hartmann, 1987). It created the narrative of “modern birth control” which means that a family will not have ten children or more but rather two or three. In the global north, this advantage helped white women specifically to pursue careers outside their homes. Yet women in the global south were blamed for perpetuating more poverty (Briggs, 2002: 74). Similarly, teenage pregnancies also were perceived as an ‘epidemic’ worldwide in the early 1950s because ‘babies [are] having babies’ (Luker, 1997: 7). Teenage pregnancies and theories on ‘overpopulation’ became topics of moral debate, but most importantly, economic concerns. Consequently, the war on poverty at that time became a war on the poor, women of color, and women from the global south. The stigmatization, animalization, and criminalization of women in the global south reproducing “like rabbits” (Hartmann, 1987) continues today.

Therefore, my first intent is to contextualize different forms of violence against indigenous women who have historically faced racism, sexism, and poverty (Cumes, 2012). Throughout history, indigenous people have been blamed for their impoverished situations, which results in being exploited. As for indigenous women, they are exploited in their workplace and confront sexual abuse (Casaús Arzú, 2002: 37). Indigenous women’s bodies have always been considered an open space to conquer, to invade and to violate; this has been common practice since colonization and it was legitimized further during the thirty-six-year civil war (Cabnal, 2012; Smith, 2015). In Guatemala, the human face of structural violence is a pregnant fourteen-year-old indigenous girl. My first argument is that indigenous girls in Guatemala have to face a myriad of different violent systems of oppression such as racism, poverty, sexism and economic inequality which thereby exposes young indigenous girls to physical and sexual assaults. Teen mothers do not reproduce the cycle of poverty, but rather are the result of the

environment in which indigenous women and girls have historically been placed (Cumes, 2012; Luker, 1997) which feeds the cycle of poverty.

Moreover, I will use Paul Farmer's definition of structural violence which claims to be "a broad rubric that includes a host of offensives against human dignity: extreme and relative poverty, social inequalities ranging from racism to gender inequality, and the more spectacular forms of violence that are uncontested human rights abuses, some of them punishment for efforts to escape structural violence..." (Farmer, 2004: 8). This approach will help to highlight the embeddedness of systems produced by the state that continues the marginalization of indigenous communities. All of the forms of violence coexist and feed each other by taking this approach, it will allow me to see that they are systemic violence. Also, this approach will prevent me from falling into the trap of cultural essentialism, as many politicians, NGOs, and the media have widely produced (Menjívar, 2011: 28).

In addition, it is important to analyze the double-standard of the Guatemalan state, which is both the executor of human rights as well as violator of human rights in indigenous communities (Stern-Patterson, 1997: 128). I will analyze the difference between nation and state and its role of policing women's bodies. The state has been an actor to perpetuate the narrative of women reproducing the 'nation' and is dependent on her to 'develop' the nation (Briggs, 2002: 75). This results in the state producing laws, reforms and programs to continue the politicization of women's bodies. In the case of Guatemala, new policies and reforms were created to protect the rights of young girls, and prevent them to become young mothers. Some of their reforms include sex education, access to birth control, the new legal age for marriage, and social programs to monitor and support existing teen mothers. For example, the creation the statutory

rape law in 2009 under Article 173 which says “when someone uses physical or psychological violence in order to have access to a young girl’s body who is below fourteen years old, it is automatically considered rape” (Guatemala Penal Code). This narrative, allows the state to portray itself as the savior. Like any other sovereign country, the state is responsible to protect the rights of its most ‘vulnerable’ citizens (i.e. children and women) against any ‘legitimate’ violence (Stern-Pattersson, 1997: 124). Therefore, I will use Rita Segato’s definition of rape which she calls “*Violación Cruenta*” [loosely translated as ‘bloody violation’] which is “the use and abuse of someone else’s body, without their participation with comparable intention and will” (Segato, 2003: 21-22). It is important to make this distinction because Article 173 criminalizes young couples and denies them autonomy over their bodies.

It was not until 2015 that the state of Guatemala started to talk about a legal age for marriage in its attempt to prevent teenage pregnancy. Prior to Ordinance 8-2015, girls as young as 14 years old and boys as young as 16 years old could get married with parental consent. But this Ordinance changed it to both young women and young men can have the permission to get married at 18 years old with no parental consent. The subliminal belief is that there is an age to ‘be ready’ to become sexually active. Therefore, young girls are not ‘developed’ enough to decide over their bodies. The roots of these beliefs can be traced back to the first Colonist and its religious beliefs based on sin and morality; which prohibits children outside of wedlock (Luker, 1997: 17). The legacy of the politicization of women’s bodies continues today because young couples and big families have existed in rural societies throughout history and around the world (Hartmann, 1987).

It is clear that in times of “crisis” the state can create policies and reforms but not address the real issues the state itself produces. There is a difference between bureaucracy and implementation; on paper, it looks amazing but its trickle-down effect is different. I will specifically analyze the gray areas of Guatemala’s laws and reforms based on *Programa Vida*, a social program created under the Department of Social Development in 2016. It aims to economically help these teen mothers by giving them economic aid. The requirements are: victim of sexual violence, under fourteen years old when she was raped, pregnant or already a mother as a result of rape, and proof of an indictment. The analysis of this program will allow expanding the conversation of teenage pregnancy by analyzing the embedeness of the state on this issue and how teenage mothers who are rape survivors between the ages of 10 to 14 navigate their situation and highlight their resilience.

I intend to contribute to the discussion on how the state “sees” certain things and bodies while it “does not see”¹ the structural violence which permeates in their daily life. I will argue that the lack of political will and the already existing structural violence imposed unwanted motherhood onto these young indigenous, rural, and poor *niñas madres* (young mothers). The violence that the state does not recognize such as poverty, racism, sexism, no access to higher education, no sex education, and no access to abortion only perpetuates inter-generational sexual violence and unwanted pregnancies. Additionally, I will argue that fighting for girls’ political rights is the first step but the real *lucha* (struggle) is to fight for their social and economic rights

¹ Smith, Andrea. *Not-Seeing: State Surveillance, Settler Colonialism, and Gender Violence. Feminist Surveillance Studies*, by Rachel E. Dubrofsky, Duke University Press, 2015., p, 25-26. Smith refers to the historical technique of colonial states have used to control indigenous communities, by “seeing” certain things/bodies to implement its power. Yet, at the same time the state can decide not to see in order to delegitimize its actions or lack of action.

(Farmer, 2004). In other words, access to healthcare and education is not enough if they are still marginalized for being indigenous and poor; which limits their access to live a decent life.

As mentioned, many NGOs already work to ensure civil rights of these young mothers, such as OSAR who is in the forefront of this movement. As an organization based in the capital, Guatemala City, they work closely with the government to pass new policies and to monitor policy implementation. Additionally, they provide social, legal and economic accompaniment to many indigenous teen mothers who are victims of rape. Furthermore, they also provide reports to highlight the need for new policies that protect and support these mothers. Therefore, I decided to intern with OSAR for the summer and learn more about current policies, and through my work with them, I came in contact with the young mothers they accompany. Lastly, I decided to focus in the western state of Huehuetenango since it is the state with the highest rate of teenage pregnancies and it is also part of the ‘poverty belt.’

Methodology

This research is based on the “study-up” approach; that is, I seek to study the “culture of power” and not the culture of poverty (Nader, 1972), nor the ‘Mayan culture’ on teenage pregnancies. In other words, I do not intend to study why teenage pregnancies persist in Mayan communities, but rather contextualize the struggle of five indigenous girls, survivors of rape, navigating poverty, shame, and the complex state bureaucracy. In addition, I use a feminist approach to highlight their stories prior to analyze their circumstances. Thus, I contend that indigenous communities have always been marginalized and alienated from basic rights, such as the right to survive (Farmer, 2004). Indigenous people in Guatemala are born, raised and die in poverty. This is evident when it is too easy to blame the individual for their choices. Therefore, when Congresswoman Montenegro argued that young girls ‘lose’ their opportunity for a better future (2018), in reality, they did not even have one in the first place. In cases involving rape, no one has a choice, and now as indigenous mothers, these girls’ choices are even more constrained. Even when the state tries to create programs to help these girls, the program requirements are usually too onerous for the victims to be able to access the services. I will analyze one of the state programs designed to provide services to young indigenous mothers, *Programa Vida*. By analyzing its purpose, its methods, its requirements, its process; it will ultimately enable me to analyze its efficiency. Therefore, I will analyze how the state surveils indigenous women’s bodies to expand its power through new laws, policies and programs. Yet, and the state absolves itself from its duties (Smith, 2015); by claiming that it is a ‘mutual responsibility’ when these young girls do not meet the requirements. Though most of these young mothers do not have the resources to navigate the bureaucratic labyrinth; leaving them in a state of limbo of injustice.

Although my intention is to “study up,” I center the stories of five young indigenous girls in the state of Huehuetenango. I do not want to continue their dehumanization, but rather to contextualize the injustice and different acts of violence they experience in their daily lives.

Fieldwork Design

In order to have a context on previous and current policies, I spent three months in Guatemala (June-August 2018) interning with Sexual and Reproductive Health Observatory (OSAR). Their work is supported by the Pan American Health Organization, United Nations Population Fund, and USAID. OSAR has two functions; their main function is to work closely with state entities to create coalitions and to monitor policy implementation that better serve girls and young women on sexual and reproductive health. Their second function is to provide educational, empowerment and accompaniment programs for youth. Their dual function was what made me contact them and request an internship. I knew that by interning with them, I would not only gain a better understanding of these young girls’ realities but also a much better understanding of the state. There is a difference between the written law and its implementation, and working at OSAR would enable me to understand the state’s functions and processes.

One of OSAR’s accompaniment programs, is *Consortio Ixoqib*²/ Ixoqib Project, a two-year project (2015-2018) to provide social, legal and economical accompaniment for young girls under fourteen years old and survivors of rape. This project, which receives financial support from the Norwegian Embassy³ in collaboration with *Centro de Paz Bárbara Ford*,

² ‘Ixoqib’ in the Mayan language K’iche means women.

³ Over the summer 2018, OSAR was concerned whether the Embassy would continue funding the project’s second cycle because of political conflict. President Jimmy Morales in early May 2018, prohibited the presence of Ambassador Anders Kompass. Speculations say that it was due to Kompass’ declaration in support of the CICIG

Asociación El Refugio de la Niñez, Fundación Sobrevivientes, and Organización Panamericana de Mercadeo Social (PASMO). It is centered on four pillars: 1) to provide social, legal, medical and economic accompaniment to young girls who are survivors of rape; 2) support ‘*Prevenir con Educación*’⁴, an intergovernmental amendment requiring the Ministry of Education (MINEDUC) to work closely with Ministry of Public Health and Social Care (MSPAS) to provide sexual and reproductive education in all educational levels; 3) coordinate ‘*Mesas Técnicas*’ (Executive Meetings), in these meetings, all active ministries, and civil society meet and update and commit to further actions aiming to prevent sexual violence against girls in the specific state; and 4) ‘*Empoderamiento de Niñas*’ (Empowering Girls Program), which aims to educate and develop young girls’ voices through workshops.⁵

My first month, I worked in OSAR headquarters in Guatemala City and learned more about current reforms, programs, and proposed laws. Then I spent a month and a half in Huehuetenango City, Huehuetenango. I chose that specific state because it has the highest rate of teen pregnancies. Prior to leaving for Guatemala, I planned to collect oral histories of teen mothers, ages ten to fourteen and not necessarily rape victims. However, due to the “Law Against Sexual Violence, Exploitation, and Human Trafficking Law”⁶, which prohibits the retraumatization of victims of sexual violence, and Article 173, I could not interview any young mother under the age of fourteen. First, I did not intend to interview teen mothers on the basis of sexual violence nor a specific age because I had planned to use the snowball sampling method.

(International Commission Against Impunity in Guatemala).

<https://www.guatevision.com/noticias/nacional/suecia-responde-a-jimmy-morales-por-expulsion-de-su-embajador/>

⁴ This convention requires MINEDUC to have a central role by providing the needed sexual and reproductive education. In my findings section I will explain in more detail about this convention.

⁵ Carolina, *Consortio Ixoqib* liaison in Huehuetenango.

⁶ Decree 9-2009 passed in 2009 along Article 173.

Gradually, I decided to let my research grow organically. I decided not to interview any teen mothers but rather observe five young mothers as part of *Consortio Ixoqib* and while working for OSAR, we scheduled visits to their homes.

Research Method

While in Huehuetenango, I work closely with OSAR/*Consortio Ixoqib*'s state liaison, Carolina and OSAR legal advisor, attorney Julia María. As I expected, my experience in Huehuetenango was more enriching than in Guatemala City. In Huehuetenango, I did various observations such as: observing court briefings⁷, executive meetings, OSAR's activities/relation in the community, and the home visits to these young mothers. Through these observations, I was able to analyze the dynamics between NGOs leaders, community leaders, *comadronas* (midwives) and local government on the topic of teenage pregnancies.

The last half of my time in Huehuetenango, I had the opportunity to accompany Carolina to her final home visit of five girl survivors of rape and beneficiaries of the first cycle of *Ixoqib* Project. These girls lived in different parts of the state, some of them an hour away from Huehuetenango City, and others more than five to seven hours away. The main two regions were the western and the northern regions and only a few hours away from the Mexican border. In our visits, Carolina was in control of the conversation, questions and further actions; I was there as an observer. My interest and frustration in these cases encouraged me to look further into this program and highlight these teen mothers' reality. Throughout these visits, I took note of their socio-economic situation, their frustrations, their shame, their happiness, their injustices and their

⁷ I attended to the Femicide and Violence Against Women judiciary court to better understand its process.

alternative source of survival. Therefore, Chapter Four is dedicated to contextualize the environment of the five indigenous girls, who live in a system that continues to perpetuate their living conditions of poverty which ultimately facilitates them to become victims of violence. In addition, to highlight the violence through shame and guilt projected on these girls by family members. This is important to me because I want to humanize them and make sure that they are not just statistics. Most of the five young girls are trying to move forward with their lives by going to school, finding a job, or finding ways to still enjoy their childhood. However, some of these girls have been pressured by their own families to contribute economically and even blame them for ‘getting’ the family into problems. Even when there is *Programa Vida*, which claims to help these mothers economically, the requirements are unattainable due to the lack of access to the justice system and to many other resources.

Lastly, in Chapter Five, I will analyze the state perspective on teenage pregnancies, and since all of these young mothers are currently fighting for justice have gone through the judiciary system, I was able to interview one judge from *Corte de Primer Instancia de La niñez y Adolescencia* (Court of the First Instance of Children and Adolescents), a public prosecutor (MP) in charge of their special unit called *Fiscalía de Adolescentes en Conflicto con la Ley Penal del Departamento* (Office of Adolescents in Conflict with the Criminal Law of the Department), Doña Juanita a *comadrona* (midwife) from *Asociación de Comadronas de Huehuetenango* (Midwife Association in Huehuetenango), and OSAR liaison/social worker. Also, and most importantly, I interviewed *Programa Vida* Huehuetenango coordinator, Karol. I interviewed her after my visits to all the girls, and that allowed me to ask specific questions to understand why all of them had not heard of the program, their outreach system, their requirements, as well as their

acceptance process. All my interviewees were above eighteen years old and signed a consent form. The purpose of these interviews is to have a better understanding of Guatemala's judiciary processes, how these people in power understand their role, and how much they understand teenage pregnancies.

Limitations

One of my biggest challenges was to let go of my previous research plan and let my research develop organically. Additionally, my very limited time did not allow me to build a rapport with women in Huehuetenango to let my snowball method develop. Even though I was in Guatemala for over three months, I was only in Huehuetenango for over a month and a half. In addition, the subject of my research was very delicate; I could not force them to talk about their lives. The fact that I am Guatemalan and indigenous helped me to have a cross-cultural perspective and to be able to read between the lines. Yet, it was necessary to have more information on the legal situation these five young girls were currently in. Also, I did face a language barrier because I do not speak Mam, Q'anjob'al nor Popti'. During our visits, Carolina had an interpreter who were either a nurse or nurse assistant from the area.

The limitations of this research are that I do not intend to analyze why pregnancies nor why young girls in Huehuetenango are subjected to rape. In addition, two of the five girls were raped by a family member, but I do not intend to analyze incest in indigenous communities either. But rather to analyze *Programa Vida* and to focus on a specific group of teen mothers who were victims of sexual violence and potential beneficiaries of the program. Also, I do not have the perspective of a recipient of this program to fully critique the 'benefits.' Lastly, since

my approach was only based on observations and information OSAR provided me in each case, it already limits me to have a thorough understanding of the challenges these mothers face on a daily and ongoing basis.

Historical Background

Some Guatemalans refer to their country as the “Land of the Eternal Spring” because it describes its many beauties: exotic fauna, lush mountains, pristine rivers, and diversity in its people. Today its population is about 17 million and indigenous people make up to 50 percent (Caxaj, 2013: 214). Indigenous people in Guatemala are mostly Mayan, but there are other indigenous groups such as Xinca and Garifuna. In the Mayan category, there are 22 ethnic groups with their own languages. However, Spanish is the national language and used in all governmental departments. Additionally, it is estimated that sixty percent of Guatemalans live in poverty, but 80 percent of indigenous people live poverty and over seventy-six live in rural areas (ElPeriodico, 2018). There are even states known as the ‘poverty belt’ consisting of northwestern states. Huehuetenango is one of these northern states where indigenous children are born in poverty, live in poverty and most likely will die in poverty. Also, more than 68 percent of children below six years old and 63 percent under eighteen years old live in poverty (COHA, 2015). According to the World Bank in 2014, 15 million inhabitants who are mostly indigenous and rural live on \$1.50 USD a day (World Bank, 2014).

In the early 1930s, Guatemala was known as a “Banana Republic” due to its massive exports of bananas by an American company— the United Fruit Company. At that time, dictator Jorge Ubico rented 70% of Guatemalan land to the American United Fruit Company in 1936; giving them a lease for 90 years; which they cultivated on 8% of the land (Galeano, 2003: 149). Consequently, the people most affected were indigenous communities because they did not have land to grow their own food in order to survive, and were subsequently forced into slave labor

conditions by working on *fincas*.⁸ In 1951, the most marginalized groups hoped for a better life which became a reality by democratically elected Jacobo Arbenz. He ran for president with the promise of Agrarian Reform Law⁹ passed in 1952 which benefited the poor, *campesino* and indigenous peoples (Méndez Doninelli, 2012). However, that was a threat to the American colonizers who were the United Fruit Company's shareholders. The United Fruit Company took advantage of Cold War politics to push their political agenda against the government of Jacobo Arbenz. The United States Congress approved to fund a coup d'état against Jacobo Arbenz in 1954 (Galeano, 2003: 150). The poor and indigenous' hopes were smashed which pushed them to form their own resistance group, *Ejército Guerrillero de los Pobres* (EGP - Guerrilla Army of the Poor). The U.S. Congress continued to fund the Guatemalan military, proclaimed itself the "savior and the defender" of democracy under the "communist threat" in Guatemala.

After the coup, "Juntas Militares" (Military Dictatorship) was created to govern Guatemala. In 1982, General Efraín Ríos Montt came to power and it is known that his dictatorship was the most bloody. Based on his action, his regime "focused on the elimination of the 'internal enemy.'" The internal enemy was an individual that the government determined as "undesirable" (Jordison, 2014: 70). This was an attack directly on the poor and indigenous people who fought back for their right to a decent life. Also, Ríos Montt continued his predecessor's policy "*Patrullas de Autodefensa Civil*" (PAC - Civil Defense Patrols) which meant the distribution of arms to civil men in rural areas with the goal of eliminating the enemy.

Additionally, in 1983 Ríos Montt created the federal program "*Frijoles por Fusiles*" [Beans for Guns], with the simple message: "if you are with us, we will feed you, and if you are not, we will

⁸ Fincas are ranches but its colonial legacy means the exploitation of indigenous labor.

⁹ Decree 900 - Agrarian Reform meant the distribution of unused land to thousands of families. Arbenz's goal was to move Guatemala's economy from feudalism to capitalism. (Glejjeses, 1991).

kill you” (Jordison, 2014: 71). In this case, Ríos Montt’s administration took advantage of the fact that most of the people barely made a living wage to survive. Also, he took advantage that most of these community members lived under fear, so of course, they had to take arms to show the state that they supported them, or they would be killed. Most of the time, the military would do public killings as a way to terrorize communities. In the same year, President Reagan asked the U.S. Congress to give Guatemala military aid, including, training of their military men and to provide military equipment which helped to expand state authoritarianism.

The violence ceased in 1994 but it wasn’t until 1996 under President Alvaro Arzu (1996-2000) that the Peace Agreements were signed by both the State of Guatemala and the main representatives of the leftist guerrillas. People around the world celebrated this as the end of the war and the beginning of peace. Yet the aftermath of this bloody civil war created deep wounds in Guatemala. It resulted in 200,000 people disappeared and murdered with most of them being indigenous people. Additionally, the state acknowledged that 83% of the violence during the civil war was committed by the Guatemalan military (Caxaj, 2014: 213).

For many Guatemalans, Guatemala is the “Land of the Eternal Amnesia”¹⁰ because the state continues to deny its institutionalized violence and attempt of genocide against indigenous people. Thirty years after the civil war, in 2013, General Ríos Montt was accused and charged of Genocide and Crimes Against Humanity from 1982-1983 in the Ixil highlands. Hundreds of indigenous people, men, and women, came forward to testify. This was a glorious moment

¹⁰ Indigenous group have always used the slang of “no podrán imponer amnesia en nuestra memoria colectiva” (They can never impose amnesia to our collective memory); referring to the state denial of its violence and genocide in the civil war.

Alvaro, Jorge. “Guatemala, el país de la eterna amnesia.” República News.

<https://republica.gt/2017/07/22/guatemala-el-pais-de-la-eterna-amnesia/>

This article, refers to political corruption and how politicians always find a way to get back to their positions of power even when they have committed a crime.

because for once, the justice system heard the demands of indigenous people. This trial lasted about two months, from March to May and it became well-known internationally because it was the first time in Latin America a trial of genocide was heard before a national court. Ríos Montt was sentenced to 80 years in prison (Brett, 2016: 294). Yet the state still denies any wrongdoing, hence its eternal amnesia.

Peace does not mean the absence of war. This trial was the beginning for hope, but it also meant the beginning of a potential nightmare for the Guatemalan aristocrats. Only a few days after the trial concluded, the verdict was overturned. The Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), the Association of Guatemalan Military Veterans (AVEMILGUA) and the Foundation Against Terrorism (FAT), who have always supported Ríos Montt gave a press conference claiming that there were ‘illegal proceedings’ and that the jury was biased (Brett, 2016: 280). Indigenous people did not see this as a defeat because genocide finally became a topic for everyone to talk about and Ríos Montt was sentenced. In 2018, Ríos Montt died in the comfort of his home at the age of ninety-two years old, and until this very day, people whose loved ones disappeared continue to cry-out for answers and justice. They are not at peace because they still want justice.

Three years after the genocide trial, the Sepur Zarco case brought to light how the state legitimized rape against indigenous women. In 2016, eleven courageous Q’echi women from the town Sepur Zarco took two military officers Esteelmer Reyes Girón and Heriberto Valdez Asij to court for the first time under the charges of sexual slavery. These women were individually raped, gang-raped, and used as domestic servants from 1982 to 1988 (UN Women, 2017). Again, it took them over thirty years to finally have their first hearing, and after 22 hearings the two

military officers were sentenced to 240 and 120 years of prison. (UN Women, 2017). These women collectively demonstrated their courage and persistence to keep fighting for justice, but most importantly to fight for their dignity. But why did it take them thirty years to seek justice even after the Peace Agreements? Why is the Guatemalan judiciary system so slow to provide justice to sexual violence victims and especially to indigenous women? Many indigenous women asked similar questions in order to highlight the complicity of the state (Cumes, 2016).

Indigenous communities have always been persecuted, terrorized and murdered. Indigenous women's bodies then became a territory to conquer, to invade and to violate; this has been common practice since colonization and it was legitimized further during the civil war. Also, this case brought into the public eye that for centuries Mayan women's bodies have always been disposable and that the state legitimized such violence. Rape in times of war is considered a tool of war but in the case of Rwanda and Guatemala, rape is also a tool of genocide (Cumes, 2016). Women have historically been perceived as the producers of future desirable citizens and during the 1980s, Guatemalan aristocrats believed that indigenous people were 'biologically inferior.' Additionally, the problem of the country is caused and produced by indigenous people and only exterminating them could be the solution (Casaús Arzú, 1992:50). Consequently, having control over [indigenous] women's bodies meant the reconstruction of a new nation (Briggs, 2002; Baines, 2003).

The absence of war does not mean peace. Daily, Guatemala rains bullets, tears, and blood. Thus, I suggest that Guatemala be known as the "Land of the Eternal Winter" because even after the Peace Agreements, violence against indigenous people continued. The most visible violence comes from the streets, but there is another type of violence that like a snowy blizzard,

it comes from everywhere and yet, the direction and duration are unclear. Throughout its history, Guatemala's systemic violence is not only legitimized, but it is also hidden and silenced. In 2015, Guatemalans took to the streets once again since the early 1950s. They demanded the impeachment of then President Otto Perez Molina who was a former military officer for crimes of corruption and money laundering. Right after Perez Molina's impeachment, Jimmy Morales became president even when most citizens demanded not to have the elections under scandals of corruptions. The elections had a low turnout, and Morales was elected by only 30% in his favor (Nómada, 2015). Right after his election, scandals of corruption and covert military support during his campaign became public. Since then, Guatemalans continue to fight and demand the resignation of their current president, Jimmy Morales, who is also accused of corruption and attacking Guatemalan sovereignty and democracy (BBC News, 2019).

These political movements against corruption have been predominantly urban/mestizo people from different social backgrounds; but ignoring the fact that indigenous people have been fighting for centuries against the corrupt state. The state still incarcerate¹¹ and murder indigenous leaders¹² for demanding their right to have autonomy over their land. The division of interest became clear during the rallies in 2016, mostly urban mestizos were rallying outside Congress; meanwhile, indigenous people were outside the Court rallying in support of the Sepur Zarco women.

¹¹ In 2016, seven indigenous Q'anjob'al leaders from the northern region of Huehuetenango were incarcerated for defending their communities against the invasion of a hydroelectric project (Nobel Women's Initiative, 202016).

¹² In 2018, more than 20 indigenous men and women activists were assassinated around the country (WashingtonTimes, 2018).

Chapter Two: Legislative Background

Since the categorization of teenage pregnancies as a state ‘crisis’, many policies have been created to decrease it. For the purpose of this research, it is important to analyze past legislative laws and its trickle-down effect. Teenage pregnancies have existed throughout the past for many reasons, and have always been seen as an ‘epidemic’ (Luker, 1997). Due to international (UN Women) and national pressure (*Observatorio en Salud Sexual y Reproductiva* [OSAR - Sexual and Reproductive Health Observatory]), the claim is that girls should enjoy their childhood by going to school and not by raising another child (UN Women, 2017). These NGOs and others demand that the state of Guatemala protect the rights of its youth; therefore the government has passed a number of legislative reforms to address the issue of teenage pregnancies. For example, under this ‘crisis’, they created a legal age for marriage because one did not previously exist. They believed that by doing such, it would discourage young people to start a family. For the longest time, girls below fourteen years old and boys below sixteen years old could get married with parental consent. This was not a legal age per se, it gave parents the power to decide if their children were ready to get married. But Ordinance 8-2015, passed in 2015 changed it to both young women and men to receive permission from the state to get married when they are eighteen years old with no parental consent. In order to legitimize the ordinance, it reiterated the ratification of CEDAW, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belém do Pará, ratified in 1995), the Convention on the Rights of the Child (ratified in 1990), and the internal Law for the

Integral Protection of Children and Adolescents (passed in 2003). In other words, the ordinance is the result of both international and constitutional obligations to citizens.

This ordinance was created with the goal to decrease teenage pregnancies, but it did not address that most people in Guatemala do not marry; often they live in civil unions [common law marriage] (Congresswoman Montenegro, 2018). When teenage pregnancy is discussed, the dominant narrative by politicians, judges, and other citizens is that teenage pregnancy is a product of “Mayan tradition” (Congresswoman Montenegro, 2018). Because there is the tendency to start a family at a young age, politicians claim that it is due to ‘lack of education’ or parents’ fault for ‘giving their daughters away’ (Congresswoman Montenegro, 2018) as a form of *machismo*. Therefore, these girls “lose their opportunity to a better future” (Congresswoman Montenegro, 2018). When in reality these young girls did not have an opportunity in the first place. They are indigenous, live in poverty, have no access to education and no access to healthcare. They have to work at a young age because they need to support their families. On one hand, it is important to acknowledge that indigenous parents do marry their daughters to an economically stable man in exchange for money, or the fact that they will have one less mouth to feed. Therefore, when one studies these kinds of practices, it is of great significance to also study structural violence, and not only within the interpersonal level because it is easy to fall into the trap of reinforcing cultural essentialism (Menjívar, 2011).

The racist comments or beliefs of non-indigenous Guatemalans reinforces cultural essentialism and at the same time, blame the families for their ‘backward’ thinking. On the other hand, yes, *machismo* does exist in indigenous communities but it exists in the *ladino* communities as well. It is evident that indigenous women experience *machismo* and its effect is

different from what *ladina* women experience; they are not only women but indigenous, *campesinas* (peasants) and poor (Stern-Pettersson, 1997). Consequently, it is crucial to study the positionality of indigenous women throughout Guatemala's racist and classist history in order to understand their reality (Cumes, 2016).

In addition, in times of 'crisis' the state is pressured to act and create policies, such as Ordinance 8-2015. Unfortunately, it is solely a response and not a real sustainable solution; it fails to address the structural issues at play. Additionally Ordinance 8-2015 had an exception, "under exceptions and well-founded reasons, a marriage of adolescents can be allowed" (Guatemala Civil Code). During my fieldwork, I was interested to find authorities that could explain this 'exception.' I proceeded by interviewing a prosecutor who works with youth in the criminal court (*Fiscalía de Adolescentes en Conflicto con la Ley Penal*, 2018) and a judge of the special courts that deals with any case regarding youth (*Juez de Primer Instancia de La niñez y Adolescencia*, 2018). They described it as an "already existing family unit" that supersedes other limitations under the constitution.¹³ In other words, if the young couple already has a family, i.e. children, marriage should be allowed. Ordinance 8-2015 denies them the right to marry; but under this exception, it is necessary to keep the family together. The difference between these two ordinances is that the previous one protects the family and not necessarily the rights of young girls.

However, the international pressure declared that this 'exception' violated the rights of girls claiming that young girls do not have the capacity or are 'ready' to make the choice (UN Women, 2017); let alone to become mothers. The hope behind this ordinance was that it would

¹³ (both judges interviewed)

decrease teenage pregnancies by delegitimizing young couples. Therefore, Ordinance 13-2017 canceled the exceptions in Ordinance 8-2015 because NGOs such as UN Women, OSAR and CIPRODENI argued that there are “no well-founded exceptions” for young girls to become wives, let alone mothers.¹⁴ Additionally, these NGOs demanded the government to implement its penal code Article 173 which was created in 2009 and it defines rape: “when someone uses physical or psychological violence in order to have access to a young girl’s body who is below fourteen years old, it is automatically considered rape. For this violation, the sentence can be from eight to twelve years of prison” (Guatemala Penal Code). In other words, the hope was that by delegitimizing young couples and criminalizing them, it would decrease teenage pregnancies. International NGOs also demanded the implementation of Article 173 Bis which is the aggravated crime of Article 173, when young girls get pregnant, the sentence can be the same (Guatemala Penal Code).

Clearly, this demonstrates a contradiction of policies. On one hand, Article 173 has existed since 2009 yet young couples have lived in civil unions [common law marriage] before and after 2009 because there was no legal age of marriage. On the other hand, Ordinance 13-2017 attempts to clear the gray area of the law by canceling the exceptions in Ordinance 8-2015, yet it has created more confusion around what could be considered ‘illicit marriage’ (Congresswoman Montenegro, 2018)¹⁵ versus a civil marriage. A civil marriage fits within the law and the ‘illicit’ marriage does not ‘respect’ the law. As previously mentioned, most of the

¹⁴ Soy502. “Congreso Prohíbe Matrimonio Entre Menores de Edad Sin Excepciones”

<https://www.prensalibre.com/guatemala/politica/congreso-prohibe-matrimonio-entre-menores-de-edad-sin-excepciones>

¹⁵ Congresswoman Montenegro is a proposed law presentation used ‘illicit marriage’ to refer to young couples that have married or live in civil unions regardless of the Ordinance. However, the fact that she uses that terminology already shows how in the eye of the state the young couple are criminals.

youth do not marry, they have civil unions [common law marriage] and the criminalization of young couples will not end teenage pregnancies. All of this is why Farmer criticizes the role of the state and human rights advocates. The contradiction of advocating for young girls' civil rights but advocating for their social and economic is as important because poverty affects their entire family and future. This dismisses the actual root of their situation. These girls are exposed to this environment not because their culture says so, but because under the economic situation they currently live; they have to find alternative ways to survive.

The narrative of these laws is that their existence will protect the rights of girls by preventing them to become young mothers. Consequently, both the state and NGOs needed to create a better way to 'monitor' the 'crisis' and to help young mothers. In order to be effective, a collaboration between different governmental departments and NGOs were created to have an effective '*ruta de denuncia*' (formal complaint route).¹⁶ This collaboration is between Secretariat Against Sexual Violence, Exploitation, and Trafficking in Persons (SVET), Ministry of Public Health and Social Care (MSPAS), Ministry of Education (MINEDUC), Ministry of Social Development (MIDES), Office of the Attorney General of the Nation (PGN), Public Prosecutor (MP), National Registry of Persons (RENAP), Sexual and Reproductive Health Observatory (OSAR), United Nations International Children's Emergency Fund (UNICEF) and United Nations Funds for Population Activities (UNPA). This route is divided into two phases: the first phase is called "immediate attention" which aims to provide rapid protection to the young mother. In most of the cases, if a fourteen-year-old or younger seeks health services or if she

¹⁶ OSAR, 2018

registers her newborn, the staff of those entities has the legal obligation to report it to PGN and MP to start the investigation.

Once the investigation is initiated, both PGN and MP will have to come up with a plan which aims to protect the young mother; whether she needs to be sent to a shelter or to a family member for temporary custody. As part of the plan, PGN and MP will decide what will be the next legal step. MP's initial investigation is to determine if the case is rape or statutory rape. In other words, the case can fit in the statutory rape based on age but if the young girl consented to be sexually active it is not statutory rape. In the case of rape, especially in cases of incest, the young girl is no longer safe at home and needs to be protected. Additionally, the case will be sent to a special court: *Corte de Primer Instancia de La niñez y Adolescencia* (Court of the First Instance of Children and Adolescents). Meanwhile, Ministry of Public Health and Social Care (MSPAS) and Ministry of Social Development (MIDES) will make sure the young girl and her baby receive the care they need, such as prenatal, labor and post-labor, regardless of the investigation stage.

The second phase is called "Educational follow-up and incorporation to social programs", where both the Ministry of Education (MINEDUC) and MIDES will continue to provide services to the young mother and her child. On one hand, MINEDUC will be in charge to make sure the young mother will be able to return to school. On the other hand, MIDES will make sure the young mother will be incorporated into one of their social programs, including *Programa Vida*.

Programa Vida

The responsibility of the Ministry of Social Development (MIDES) is to create economic and social programs to reach ‘the neediest around the country; those that live in poverty and extreme poverty. Its ultimate goal is to alleviate the pain and suffering caused by poverty.’¹⁷

MIDES’ social and economic programs include academic scholarships, employment scholarships, and *Programa Vida*. According to the Huehuetenango *Programa Vida* coordinator, Karol (2018), and as previously mentioned, under “*ruta de denuncia*” any entity that would make the initial report will have the responsibility to contact MIDES to help the young mother.

Programa Vida’s actual name is “*Niñas y Adolescentes Embarazadas o Madres Víctima de Violencia Sexual Menores de 14 Años*” (Pregnant Girls and Adolescent or Mothers Victim of Sexual Violence under age 14) created on August 21, 2017, under administrative agreement DS-68-2017¹⁸ by *Ministerio en Desarrollo Social* (MIDES). This specific program is only for young girls who are rape survivors under Article 173 and aims to help them economically. This program is a ‘*Transferencia Monetaria Condicionada*’ (TMC- Conditional Cash Transfer) of Q.1500 (\$194 US dollars) every two months which is Q.750 (\$97 US dollars) per month. In order for the young girl to receive this help, she needs parental guidance, as the parent or legal guardian is responsible for making sure the money covers the baby’s and mother’s needs.

It’s requirements are: application form known as ‘checklist’ form, copy of the *judicialización*¹⁹ (indictment) of the crime, copy of the parent/legal guardian’s identification card, copy of the birth certificate of the young girl, and of her newborn child, a copy of the

¹⁷ MIDES representative in Huehuetenango, 2018

¹⁸ *Programa Vida*’s state coordinator in Huehuetenango, 2018

¹⁹ I decided to keep the terminology in Spanish because it is the central part of my argument and because different people within MIDES understand it differently.

young mother's natal care (to prove that she sought health services during her pregnancy), copy of the newborn's vaccination card and if the application is approved, the young mother's parent/guardian will have to create '*consulta no monetaria*' (agreement form). Once all documents are collected, the packet is sent to the MIDES in Guatemala City and they make the decision.²⁰ The program is over a year old, but as of October 2018, there were only 61 young mothers enrolled in this program nationwide, even though between 2013 to 2018 there has been more than six thousand cases of teenage pregnancies throughout the country (Prensa Libre, 2018). Surprisingly by August 2018, not a single teen mother enrolled in this program from Huehuetenango, which among all the states, has the highest rate of teenage pregnancies.²¹

If *Programa Vida* is a program to help teen mothers in times of 'crisis' why does it take so long to help the most needed? As previously stated, Huehuetenango is the state with the highest rate of teenage pregnancies and one of the states with over seventy percent that live in poverty. Additionally, Huehuetenango has more than half of its population as indigenous (ElPeriodico, 2018). Are these teen mothers too young to wed or too indigenous to care? OSAR's director, Dr. Mirna Montenegro criticized MIDES' failure to support these mothers due to their bureaucratic requirement and the difference between theory and practice. In other words, on paper, this program is a great initiative but in practice, MIDES does not do enough to actually incorporate teen mothers into their program (Prensa Libre, 2018). MIDES' response was that most of the teen mothers do not meet the requirements which depend on "mutual responsibility" to meet all the requirements, such as that of the '*judicialización*' (Prensa Libre, 2018). This 'mutual responsibility' refers to the expectation of the victim to collaborate with law

²⁰ Programa Vida state coordinator

²¹ Programa Vida state coordinator

enforcement by reporting to the police and by continuing the investigation, which is under the requirement called '*judicialización*.' When I asked Huehuetenango state coordinator, Karol, what is '*judicialización*' she said that to her it means that the victim reported the crime to the police. However, at the end of the day, MIDES national office in Guatemala City says that '*judicialización*' is when the case is closed; meaning there is a conviction (2018). Sadly, it falls on the victim's shoulders to make sure justice prevails.

Literature Review

*Territorio Cuerpo-Tierra*²²:

In 2016, Fusion published a mini-documentary on teenage pregnancy in Guatemala. Fusion claimed that “the influence of the church and tradition Mayan culture matches the endless cycle of poverty, lack of sexual education and machismo culture; leaving many girls susceptible to rape and early pregnancy than in most other countries... with so many factors we found that no one institution seems to fully confront this disturbing culture epidemic.”²³ The perception of an ‘epidemic’ could be considered a disease and thereby have a cure. Additionally, Fusion calls this a ‘disturbing culture epidemic’; in cases like this, it is very easy to describe it as a cultural practice. Nonetheless, Lorena Cabnal, a Guatemalan indigenous Maya Q’eqchi’-Xinka, provides the framework ‘*Territorio Cuerpo-Tierra*’ to deeply analyze the politicization of indigenous women’s bodies not only outside their communities but also within (Cabnal, 2010). In other words, Cabnal argued that historically, indigenous women have struggled to gain the right to sovereignty over their own bodies. Indigenous women would constantly defend their bodies from violence by indigenous men, but also violence from outside. Therefore, indigenous women’s bodies became the first territory in dispute. Then, since 1492, indigenous women’s bodies like land, became open territories to colonize, resulting in the extermination of an entire community.

Historically, the rape of indigenous women became a colonial tool that was used during the thirty-six year civil war, as in the case of the Sepur Zarco women (Cumes, 2016). This tactic was used not only to destroy their bodies but ultimately their communities (Davis, 1972: 92). In

²² Body -Earth Territory - Community Feminist episteme based on indigenous women from Abya Yala (Latin America - Kuna language that means ‘Where blood flows’ by indigenous women from Bolivia and Guatemala.

²³ Fusion, 2016. <https://fusion.tv/video/204565/teenage-pregnancy-guatemala/>

other words, rape is not only a tool of war but also a tool of genocide (Cumes, 2016). Strictly speaking, when we isolate gendered violence in indigenous communities, and as an ‘indigenous problem’, it ignores the larger structural issues that expose the conditions of patriarchy and misogyny to flourish throughout society. This only continues the colonial legacy to see indigenous people as the problem. The epidemic of sexual violence against indigenous women existed prior to colonization (Cabal, 2010) but why does it persist even to this day? It is critical to highlight that sexual violence is a domestic one; if it happened in a closed space, it stays there. Even when it happened in an open space somehow stays in that space. Then it lives in the life of the victim, and if the victim seeks justice, it stays within the court walls, where the victim must relive the pain and the suffering. Even when sexual violence is public, it is so insidious that civil society consents to its existence (Roger, 2015) and minimizes its impact. Sexual violence like colonization is not just an event, it is a traumatic occurrence and its effects last a lifetime.

In 2015, Guatemala had the third highest rate of femicide in the region (TheGuardian, 2018); from 2014 to 2016, 8 out of 10 women were sexually violated (INE, 2017). In 2012, four thousand girls, ages ten to fourteen were pregnant and, twenty to thirty percent of them were raped by a family member (COHA, 2015). In Guatemala, I heard people blaming ‘Mayan cultural practices’ of marrying too young and having too many children; up to or more than ten. I also heard the belief that teenage pregnancies does not allow Guatemala to ‘develop’ (Congresswoman Montenegro, 2018). On one hand, culture is a fluid concept where knowledge and belonging is always being ‘negotiated, revised and reproduced by different forces.’ On the other hand, legislation is rigid because it ‘preserves a distinct social and moral order’ (Maoulidi, 2011). While I denounce sexual violence against indigenous girls and women in their

communities by indigenous men, I also hold the state responsible for its violent practices that oppresses indigenous communities and more specifically, indigenous women.

Throughout history, the state of Guatemala has made it and continues to make it clear that indigenous people are a threat and a problem to its expansion of power and that indigenous people should be eliminated. The project to eliminate, dispose and exploit indigenous land, resources and indigenous women's bodies is active to this very moment. Settler colonialism is to understand that colonization was not an event, colonists came to the Americas to take over and stay (Speed, 2017). Furthermore, it is important to understand and dismantle the state of Guatemala, not as an 'independent' state but as a settler colonial state that transformed itself into a nation and continues the project of dispossession and exploitation to further eliminate indigenous communities (Speed, 2017). And finally, it can be argued that the state of Guatemala is a neo-settler colonial state, that not only disposes indigenous people from their land for extractivist purposes, but also due to poverty makes indigenous people work on their stolen land for extractivist companies (Speed, 2017). As previously stated, if indigenous people rise and organize to defend their land, the state will not hesitate to eliminate them. For example, in 2018, more than 20 indigenous men and women activists were assassinated around the country (Washington Times, 2018). Importantly, both Cabnal and Speed will allow me to analyze violence within indigenous communities and hold the state accountable for the continuum of settler violence by "dispossession, appropriation, extraction and elimination of indigenous people" (Speed, 2017). Evidently, the role of the state has always been to legitimize sexual violence on indigenous women to further expand its colonial power. In other words, the thirty-six

year civil was the 20th century example of the elimination of indigenous people and even throughout the 21st century, indigenous people's right to survive is denied.

I will use Paul Farmer's analysis of structural violence to unpack the overall violence against indigenous communities, especially against indigenous women. Farmer defines structural violence as a "rubric that includes a host of offenses against human dignity: extreme and relative poverty, social inequalities ranging from racism to gender inequality, and the more spectacular forms of violence that are uncontested human rights abuses, some of them punishment for efforts to escape..." (Farmer, 2004: 8). In addition, I will use Cecilia Menjívar's framework to analyze Guatemalan violence as a culture that at times, manifests in the most interpersonal level which links to the broader structural/systematic violence (Menjívar, 2011). Thus, when discussing gender violence in Guatemala, and especially in indigenous communities, it is imperative to connect the insidious and ongoing effects of structural violence. Menjívar analyzes structural violence and how it affects people in different social positions. She explains structural violence is "the broader political economy [which] does not cause violence directly, but one must understand the extent to which it conditions structures within which people suffer and end up inflicting harm on one another and distorting social relations" (29-30). In other words, structural violence is a process and it affects people in every aspect of their lives, from poverty, to access to higher education and even spatial segregation (rural vs urban) and ethnicity. At the end of the day, the most affected by this type of violence have to fight for their own survival even if that means inflicting violence on another.

Both Cabnal and Menjívar, will allow me to hold indigenous people accountable for the violence within their communities and at the same time dismantle and avoid racial essentialism.

Importantly, sexism and patriarchy have always existed in Mayan communities but it is imperative to understand the entangled dynamics of both ‘ancestral patriarchy’ and ‘western patriarchy’ which also breeds on racism, and now neoliberalism (Cabnal, 2010; Speed, 2017). Currently, indigenous women are responsible to protect themselves and their daughters from sexual violence inside and outside their communities (body) but also responsible to survive poverty by defending their land (Earth). Thus, to highlight the current structural violence that indigenous women face for being women (patriarchy) but also for being indigenous (racism).

Surveillance/Citizenship

Similarly, Andrea Smith argues that in the context of gender violence in indigenous communities; settler colonial states consists on the strategy of surveillance. However, Smith argues that since settler colonialism and now colonial states, surveillance is not only ‘seeing’ but also ‘not seeing’ (2015). In other words, the state has the power to decide what/who to ‘see’/acknowledge and at the same time turn a blind eye/’not seeing’ certain things and bodies. This dual function only benefits the state, when the state ‘sees’ what it wants to see, it implements laws and therefore acts as the savior. This will allow the state to legitimize and expand its power. It is apparent, by ‘not-seeing’, the state de-legitimizes its role and responsibility and denies it is the potential perpetrator of violence. Smith says, “the colonial gaze that surveils native communities to monitor, measure, and account for their ‘dysfunctional’ behaviors conceals from view the settler colonial state that creates these conditions in the first place. A feminist surveillance studies focus on gendered colonial violence highlights that which cannot be seen -- indigenous disappearance” (2015). As previously discussed, throughout

history, the state of Guatemala is omniscient of the violence it has caused indigenous communities, as well as the extreme poverty indigenous communities currently live in, and the rise of gendered violence against indigenous women. Yet, the state of Guatemala declares teen pregnancies as a 'crisis' but does not acknowledge the fact that indigenous communities live in conditions of extreme poverty and remote rural areas where indigenous girls are exposed to violence. According to sociologist Kristin Luker, teenage pregnancies was categorized as an 'epidemic' in the 50s, a creation of the global north to the global south. This technique also racialized a community because it hypersexualized indigenous and black women for having 'too many' children which was believed it 'reproduced' overpopulation and thus, 'poverty' in the United States (1997). This ideology was reproduced throughout countries like Guatemala which blamed poor and indigenous women for reproducing poverty by having "too many" children.

It is imperative that a state takes responsibility for its citizens, but roots run deep and goes back to the Puritans, based on morality (Luker, 1997). Fusion's claim that the Catholic church has a role in teenage pregnancies is right. Historically, the church has always opposed abortion and even birth control under the claim that it is a woman's "divine" duty to procreate. And like the Church, the state 'sees' women's role to build a nation, i.e., give birth to new citizens (Briggs, 2006). Consequently, the state becomes the guardian and the moderator of who can be a 'desirable' citizen. The reason why the Puritans and the new states didn't want teen mothers to have children was because they were poor, unmarried and 'unprepared' to raise a child that could potentially contribute to the country (Luker, 1997). In the words of Frantz Fanon, "the 'native' is declared... not only the absence of values but also the negation of values. He is, dare we say it, the enemy of values" (2004: 6). Thus, the surveillance of the state in

indigenous communities through women's bodies, claiming that teenage pregnancies is an 'epidemic'/'cultural epidemic' allows the state to intervene and legitimize its power to govern (Smith, 2015).

Though, when the state consciously denies human resources to impoverished communities such as indigenous ones, teenage pregnancies of unmarried women and 'unprepared' (both economically and psychologically) will permit girls having babies and that 'produces' poverty. In 2015, there were over 100,000 pregnancies of women below twenty years old in Guatemala alone; sixty-two percent of these young mothers live in rural areas and over eighty percent of them are indigenous (ElPeriodico, 2018). This correlates with the data previously mentioned that indigenous children, born in rural areas, live in poverty, are raised in poverty and can potentially die in poverty (COHA, 2015). In other words, structural violence confines young girls to stay in the same environment where she is exposed to more violence. Undeniably, Guatemala has one of the highest rates of femicide in the world, and its gender-based judiciary system is broken (Torres, 2018). In addition, it took over thirty years for the *Sepur Zarco* women to seek justice because the state did not want to 'see' the crime committed by the state itself. Also, the forty-one young girls who were killed in a state-run shelter called *Hogar Seguro Virgen de la Asunción*, in Guatemala City, 2017. This was a state-run shelter where young girls should have been protected; instead they were killed (Torres, 2018) and the state has not investigated and adjudicated the crime, which shows that to the state, women's bodies are disposable. The killing of these young girls on International Women's Day sent a loud and clear message to all Guatemalan women: their bodies and lives are disposable.

The normalization and naturalization of violence against women (Menjívar, 2011) is ongoing, even when the state claims to be the guarantor of rights for young girls. Many who are victims and survivors of rape do not seek justice because the process is too confusing, complex and long. Therefore, the state can ‘see’ teenage pregnancy as an ‘epidemic’ to legitimize its power over the politicization of those bodies, yet it does ‘not see’ femicide nor sexual violence by having its judiciary system unreachable for many young indigenous, rural, and poor girls. The state de-legitimizes its role and leaves the responsibility to achieve justice to the victims themselves.

Ultimately, Smith claims that this dual function of colonial surveillance has a biopolitical effect (2015). Again, the state decides who is a desirable citizen and who can live. Consequently the state denies indigenous people the right to survive (Farmer, 2003), by denying their autonomy over their land, and indigenous women’s autonomy over their own bodies. It is important to problematize citizenship under a colonial state. The state is the apparatus that ensures legal protection and obligation (Butler and Spivak, 2015: 35). Hence, the nation-state is built by territorial boundaries (borders) and legislation to expel or suspend, include or exclude. As mentioned, colonization and nation building meant for indigenous peoples the dispossession of their resources to survive, and their displacement from their land to remote impoverished rural areas. Indigenous people have always been the enemy of the state because they are demonized and perceived as undesirable citizens; thus this justifies their exclusion. It is imperative to call to question the notion of the state; there are many ‘stateless’ people within a nation-state (Butler & Spivak, 2015). For example, while traveling through Barillas, Huehuetenango; *comadronas* declared that state jurisdiction did not exist there. There are no police stations which leaves the

people in the community to create their own armed force. They continued by sharing that even when they had law enforcement, the police did nothing and violence continued.²⁴ It is clear that if violence exists, it does not mean the absence of law (Schmidt Camacho, 2005), this shows the inability of the state to protect their citizens. Though the city of Barillas is not the only place in Guatemala that is ungovernable; according to UN there are large areas that are ungovernable (Torres, 2019) This is an example that the state can choose/‘see’ who it can give protection and to whom it is obligated to (Butler & Spivak, 2015). However, throughout the history of Guatemala it is evident that the settler colonial state of Guatemala would rather kill indigenous people than consider them as citizens and thus, owners of rights.

The situation of indigenous peoples in Guatemala has historically been not only about having their rights respected and represented in Guatemalan jurisprudence but also the struggle to gain full autonomy over their existence, their lives, and their land. In other words, indigenous people have never been considered citizens or even worthy of rights under citizenships. Thus, indigenous communities want to have their own political and economic autonomy. The need to defend indigenous people’s civil and political rights necessitates their autonomy to protect their people and land from the settler state of Guatemala. Similarly, many national NGOs like OSAR (Sexual and Reproductive Health Observatory) and international NGOs, focus on the political and civil rights of young girls to prevent them to become teen mothers. Therefore, we need to think beyond the political because it is clear that their social and economic rights also need protection; young girls have the right to survive (Farmer, 2004). As demonstrated, young indigenous girls still live in rural areas, in an environment that exposes them to much more

²⁴ While traveling with OSAR facilitating workshops with midwives; a group of them in Barrillas shared their current political situation.

violence. Also, as Cabnal demands indigenous communities to first be conscientious of the gendered violence permeated and committed by indigenous men (2010) because it is not enough to only protect land (*tierra*) when the bodies of indigenous women are still crucified by both indigenous men and the state.

Other indigenous communities like those of New Zealand, Hawaii and even many in the United States have tribal jurisprudence that guides and resolves many internal disputes. Indigenous people in Guatemala like many other countries in Latin America are not allowed to have authority, let alone autonomy within the settler colonial state. Mayan-Kaqchikel anthropologist Aura Estela Cumes depicts a case of sexual violence in an indigenous community in the state of San Marcos, that ultimately was prosecuted by “*Consejo Municipal de Alcaldes Comunitarios*” (Municipal Council of Community Mayors) of that specific community. Yet, *Fiscalía de Adolescentes en Conflicto con la Ley Penal* (Public Prosecutor of Adolescents in Conflict with the Criminal Law - MP) tried to overrule such a procedure by calling it ‘illegal’ (Cumes, 2018). Similar to Speed, Smith, and Cabnal, Cumes argues that there has been an ongoing “internal colonialism” through the Guatemalan jurisprudence consider as the ‘only and legitimate’ and thus, criminalizes indigenous authority by calling it ‘illegal’ and reduces it as “traditional practices” and not as a jurisprudence practice (Cumes, 2018).

Public Prosecutor (MP) officials and other governmental entities declared that the law “does not abide by indigenous practices” referring to the indictment by Municipal Council of Community Mayors. Thus, Cumes argues, “*Pensar en los pueblos sólo cómo folclor representa un caricaturización de su existencia en tanto sujetos políticos e históricos...:*” (To think of [indigenous] people just as folklore represents a caricature of their existence as political and

historical subjects). In other words, it is insulting and dehumanizing when state officials think of indigenous people as only ‘traditional’ and not as autonomous communities with their own jurisprudence. This case started as a case of rendering reparations to the victim of sexual assault but then became much larger discussion about indigenous people having the right to practice jurisprudence within their own communities. At the end, many government officials no longer worried about the sexual violence case, but rather about why indigenous authority implemented jurisprudence that was not deemed legal. Government institutions like Public Prosecutor (MP) claimed that only the state of Guatemala through its different institutions can exercise such power.

Lastly, due to the long history of violence by the state on indigenous communities, especially on indigenous women’s bodies; they do not feel safe in their communities nor outside. Being a woman in their communities portrays them as a target but being a rural, poor and indigenous woman in any other part of the country makes them larger targets as well (Stern, 1997). The intersectionality of their identity plays a huge factor because the kind of violence they experience is very different from non-indigenous women in Guatemala (Crenshaw 1993; Cabnal, 2010). Therefore, it is important to analyze what rape is and Rita Segato defines it as “the use and abuse of someone else’s body, without their participation with comparable intention and will” (Segato, 2010); this definition allows women to have autonomy over their bodies.

Chapter Three: Say Her Name²⁵

I chose this title to keep its essence of justice to the disposal of black women's bodies in the United States; but in this case, that of indigenous women and girl's bodies in Guatemala. I decided to have this chapter to humanize these young mothers; to highlight their stories and the structural violence and racist bureaucracy they live in. I do not want to continue their invisibility, but want their stories to be known²⁶. Therefore, this chapter aims to describe what I saw, to introduce and contextualize each case.

As mentioned, I worked in Guatemala City for a month where I would attend to legislative briefings where these mothers were the subject for discussion and reduced to number. I was able to meet five young mother survivors of sexual violence by working with Sexual and Reproductive Health Observatory (OSAR) in Huehuetenango through their *Consortio Ixoqib*. In order to be part of *Consortio Ixoqib*, every young girl was required to be under fourteen years old when they were raped. I had the privilege to meet five of them; all are mothers as a result of rape and, at the time of my research, only one perpetrator had been sentenced to prison. All of them are indigenous (Mam, Q'anjob'al and Popti'), monolingual, extremely poor, and five of them either never attended school or dropped out when they were raped.

Consortio Ixoqib's first two-year term was coming to an end, hence they chose to visit the girls who are beneficiaries of the program. The purpose of the home visits was to follow-up

²⁵ #SayHerName started as a hashtag in Twitter and eventually became a movement after the death of Sandra Bland in 2015. Bland was detained for failure to signal a lane change and three days later her body was found hanging in her jail cell in Texas. This movement came after the #BlackLivesMatter movement to highlight the criminalization and the killing of black people in the hands of police officers. But #SayHerName demanded to highlight the intersectionality of black women in the United States, this hashtag demanded to humanize Sandra Bland and any other black women killed by law enforcement and to demand justice. The entire country learned Bland's name and case.

²⁶ In order to protect their identities, I decided to change their names from their given names because I did not want them to be nameless.

on the well-being of each young mother and her baby, her support system, her needs and ultimately to see if state officers from any branches have helped them. In addition, for this visit OSAR decided to provide them a “*canasta basica*” (essential food basket) with the value of Q.500 (\$65); it included rice, beans, cooking oil, sugar, detergent, shampoo, feminine pads, and pasta. Additionally, in each visit, Carolina, OSAR/*Consortio Ixoqib* liaison and I also made a visit to the local MIDES office to pressure and provide documents to initiate the application process for these young mothers into *Programa Vida*. By the time of each visit, all five of them did not know about the existence of the program nor did they know how to apply. And due to lack of resources, they could not advocate for themselves. Therefore, before I continue to my analytical chapter, I want my readers to know about these five girls; to know their names, their stories, their injustices and their resilience; #SayHerName.

Jacqui

Jacqui (14) lives in a very small *pueblo*²⁷, near Colotenango which is an hour away from Huehuetenango City. She currently lives in her two-bedroom adobe house with her mother (31), her brother (16) and her daughter (1.5).

Jacqui was sexually assaulted by her biological father when she was twelve years old. According to Carolina, who has accompanied the case, Jacqui was already five months pregnant when she was “rescued.” Upon being “rescued,” Jacqui was taken to the nearest clinic, where the clinician asked Jacqui who the father of the baby was. As stipulated in the “*ruta de denuncia*” (formal complaint route) public workers have the legal obligation to report to the Office of the

²⁷ *Pueblo* is known as a rural town, and therefore I will use to differentiate from the actual semi-urban town, Colotenango.

Attorney General of the Nation (PGN) immediately. OSAR's first role was to provide transportation to PGN, and Public Prosecutor (MP), in order for them to conduct their first investigation. Carolina recalled that MP declared that they did not have funding to get a car to take its team. After the first investigation, they found out that Jacqui was raped by her biological father. However, Jacqui's mother did not want to accept nor report that her partner raped his own daughter. Consequently, PGN declared a "conflict of interest" when it came to Jacqui's safety; home was not a safe place for her. Jacqui then decided to move to her paternal grandmother's home. Both, PGN and MP did not approve of it since Jacqui would still be at risk whenever her father would visit his mother. Eventually, both PGN and OSAR took advantage that Jacqui had a hearing in Huehuetenango City, and took her against her will under the claim that it was for her own safety. Carolina shared the story proudly because she 'saved' this young girl. She even told me that the day Jacqui was taken away she slapped Carolina in the face and made everyone run after her because she did want to go with them. The whole time as I smiled back at Carolina, I could only think about how traumatic this must have been for Jacqui. On one hand, I understand why Carolina thinks this was a good action since Jacqui would not have done it by herself. On the other hand, I asked myself if there was a less traumatic option of rescue.

Jacqui was placed in a shelter called *Mujer de Proposito*, where she received both pre- and post-partum care, and where she remained for over a year and a half with her baby. Her 'rescue' meant that both she and the baby would be safe. Meanwhile, OSAR's role then became to provide social and economic support for Jacqui and her family. Like in many other cases, OSAR provides transportation for families to come to Huehuetenango City for their hearings and, if they come from far away, they even provide a hotel room. In this specific case, they

continued to visit Jacqui in the shelter and provided transportation for her family to visit.

Additionally, they provided transportation for Jacqui when she finally returned home; instead of putting her on public transportation, they hired a private car.

On August 7, 2018, with mixed emotions, I got into the car to meet this young mother. The hour long drive from the city to her town was beautiful; as you slowly drive away from the city, the scenery and people change. You see the tall mountains hugged by the fog, and right below them, you see indigenous people with their distinct and attractive maroon color; most of them working on their corn or coffee plantations. You also see people coming down from the mountains to the main freeway to take the bus to other cities such as Huehuetenango City.

As we approached Jacqui's house, we saw an elderly indigenous woman who signals "hi" to us and encourages us to proceed. Once outside the house, we called for Jacqui, and her mother came out with a toddler. Jacqui's mother, wearing her *quipil* and her *corte*, was short and had a very young face; she spoke very little Spanish so we relied on the interpreter. The interpreter asked her in Mam if she remembered Carolina and if Jacqui was at home. Then, Jacqui came out of the house and greeted everyone. Before starting with any questions, Carolina, the interpreter, the driver and I introduced ourselves. Jacqui does speak Spanish and was able to tell us that she is in fifth grade and while she goes to school, her mother takes care of her daughter. Then, Carolina asked what do they do for a living; both work in their small piece of land where they harvest corn and beans. Also, they both weave the traditional dress as a form of income. They make about Q.900 (little over \$100) for one piece but it takes them three months to finish. In other words, they make about Q.300 (approximately over \$35) per month.

Carolina then asked Jacqui to tell us what she likes about school, and Jacqui shared that she likes to read but has a hard time with math. But one of her teachers is really helping her catch up and she continues doing well in school. Carolina then asked if she could read something to us. She read to us a very short story in Spanish, and while she was reading, the baby girl kept bothering her. Jacqui's mother kept on calling the baby girl, so Jacqui could continue reading. The baby girl was very energetic and wanted the attention her mother was getting, but we all were focused on how Jacqui was doing. Jacqui like any other girl has a colorful smile. She is shy and timid; she covers her mouth every time she smiles, but she shared with us that she is excited to participate in a school parade for Independence Day. Then, Carolina asked her if she had an easy transition now that she is back in her community, Jacqui replied with a huge smile and she is happy she is back.

Lastly, Carolina asked Jacqui's mother if they are receiving any support from any institutions and if they have heard of MIDES' *Programa Vida*. Jacqui's mother responded that she did not know the existence of the program and no one else has visited them. Consequently, Carolina decided to go to MIDES' municipal office and ask them why Jacqui is not in their program. Jacqui met all the requirements, she was raped when she was twelve years old, she had a daughter over one-year-old, she continued her education, and most importantly, her case does fit in their '*judicialización*' (indictment) because her dad was sentenced to ten years in prison.

From the outside, MIDES municipal office in Colotenango City looked like a regular two-story home. There were only two workers in a very small office. One of the workers was indigenous, she was wearing her *quipil* and her *corte* and speaking Mam to a client. After she was done helping the señora, she recognized Carolina and knew why we had come to the office.

Apparently, they have tried to contact Jacqui's mother by calling her but she never picked up. They wanted Jacqui's mother to come to Colotenango City to sign forms for Jacqui's application to send to Guatemala City.

Carolina, did not hesitate and told the driver to go back to Jacqui's small town and bring them. Once both Jacqui and her mother were there, Carolina verified that they signed the application forms and even provided copies of the police report, and any other legal form to prove that she did meet the '*judicialización*' by proving that there was an indictment. Additionally, they asked for a copy of her and the baby's immunization record. Then, MIDES ask the recipient's parent to open a bank account in order for the recipient to receive the money. Jacqui's mother does not have a bank account and does not know how that works. Carolina, made sure she Jacqui and her mother got everything done. At the end of the day, I realized these governmental institutions are not as accessible for potential recipients; it falls on the victim's shoulders to advocate for herself.

Margarita

Margarita (18) lives in the outskirts of Santiago Chimaltenango City in a two bedroom adobe home, which she shares with her son (4) and her elderly grandmother (80). The house is on a small hill and from there, you can see other small homes down and around a hill.

On August 8, Carolina, the interpreter and I left Huehuetenango City early in the morning to visit Margarita. We got on the same freeway we took the day before, and after passing Colotenango, we took a rocky road towards the mountains. Later, I learned that Santiago Chimaltenango is a small city surrounded by mountains with very limited transportation from

there to Huehuetenango City. It took us about two hours by car to get to Santiago Chimaltenango and we had to ask where Margarita lived. Carolina had some directions to where she lived since she had not ever met Margarita before; another person from OSAR had worked on this case. Finally, we arrived to her house and this very tiny young woman came out wearing her black *corte* and vivid red *quipil*, with her a little boy. Margarita only spoke Mam, so Carolina relied on the interpreter. We gave her the basket of food we brought her, and helped her take them into her kitchen. Since it is a very small house, her kitchen is also her bedroom. And on the wall, they had pictures of Margarita's mom and her uncles.

After, we went outside her house and she gave us chairs to sit down. Meanwhile the interpreter asked her how she was doing and Margarita shared that she was okay. She shared that her mother passed away when she was eight years old and has depended on her grandmother and aunts for support. Margarita only finished first grade, so she does not know how to read and write. Currently, she does weaving and people know her work from word of mouth. So, people buy all the materials needed to weave a *corte* or a *quipil* and she only charges for her labor. Also, there are days she is hired to do people's clothes but she relies mostly on her weaving. Previously, Margarita worked as a maid which only earned Q500.00 (approximately \$66) per month. She did that for four months but quit because her grandmother could not continue helping by taking care of her son. Additionally, she shared that her grandmother often blames Margarita for putting the family in 'a situation' and that they already did not have enough to feed another mouth. Margarita's voice started to break as she shared with us the torment she lives with in her own home. She told us that it hurts how her grandmother blames her and constantly reminds her of the 'burden' the family carries.

In 2013, Margarita was raped when she was thirteen years old by a man who lived in her community but was originally from somewhere else. According to her police report, she named him and his brother but it is not clear if she was raped by both of them. Margarita's family decided to stop collaborating with further investigations and charges were dropped. No one was persecuted or detained. According to Margarita, her family did not want more trouble by continuing the investigation. OSAR was contacted in 2015, a few months after Margarita's baby was born and was asked to verify that Margarita registered her newborn with the National Registry of Persons (RENAP). OSAR was also asked to follow-up on Margarita's legal case and to work with Public Prosecutor (MP) and her family. However, Margarita said that she does not want to proceed with the investigation. What I understood is that Margarita is trying to continue with her life and leave what happened behind; even though her grandmother reminds her everyday of her situation. In other words, she did not have the choice to be sexually assaulted but now, she does have the choice to continue her life with her baby. Additionally, Margarita and her family fear repercussions for pursuing prosecution.

But before we left Santiago Chimaltenango, Carolina decided to visit MIDES and start Margarita's application for *Programa Vida*. We had to ask around the town where the office was, and I was surprised to find out that their office was a tiny room. There was only one official and he was working at his desk when we walked in. Carolina introduced us and explained why we were there. The official's response was very vague and basically said that it did not depend on him that Margarita gets into the program. We knew he was not the official who made those decisions, but he was in charge in preparing her application package to send to MIDES in Huehuetenango City, so they could send it to Guatemala City. Carolina, told him that OSAR

works closely with MIDES in Guatemala City and that OSAR will find out if Margarita's application got there. Carolina and I sensed that he did not want to go out of his way to help Margarita, therefore Carolina made that comment. Since, Margarita turned eighteen in July, 2018 MIDES needed a copy of her Identification Card. But, Margarita did not have one, so Carolina did not hesitate to make sure Margarita processed her ID before we left. We went to the National Registry of Persons (RENAP) to first get a copy of her birth certificate because Margarita did not have one, and that was necessary in order to file for her ID. Then we had to walk over to the nearest bank to pay for the ID fees and went back to RENAP to file for her ID. It would take her two months to finally get her ID, so we went back to MIDES to drop off a copy of the ID receipt.

After all of this, we all went to the park to have lunch. Margarita was very shy and modest, she did not want to accept lunch but was okay for her son to eat with us. Eventually, she agreed to have tamales with us. Then we took them home and told her to wait for MIDES and RENAP to contact her, and if she does not hear from them, she should go to their office. On our way back to Huehuetenango City, Carolina shared with me that her fear is that Margarita would not qualify for *Programa Vida* because she did not continue to collaborate with the Office of the Attorney General of the Nation (PGN) and Public Prosecutor (MP) to continue the investigation. According to both Carolina and attorney Julia Maria, MIDES considers '*judicialización*' as the full prosecution, starting with a police report to an indictment, like in the case of Jacqui. However, the judiciary system in Guatemala is very slow and most of the time, it takes about two years to reach an indictment. In this regard, the '*judicialización*' process furthers the violence against women.

Nonetheless, Margarita is trying to move on with her life and trying not to cause more ‘trouble’ for her family. It seems that MIDES does not take into account that these young mothers did not have a choice and if they chose to drop the charges, it is not because they did not want justice, they just wanted to move forward and move on with their lives. In comparison to Jacqui and due to age difference, Margarita fully understands that she cannot depend on her family because they all are trying to survive. Therefore, Margarita is struggling to survive by looking for employment so she can be able to provide for her son.

Angela

Angela (13) lives in a small *pueblo* called Chiquililá in the Ixtahuacan mountains. She lives with both parents, her older sister who also has a toddler son, a younger brother and sister, and Angela’s baby boy (2). Their small one room mud-made house sits on the top of the mountain while hidden by tall trees.

On August 9th, Carolina, the interpreter and I left Huehuetenango in the early morning. Carolina told us that this case is new to her and that it would be the first time OSAR makes a home visit. Therefore, Carolina needed the help of the interpreter to find an accessible way to get to the town and the day before she told the driver to get a pick-up because we were going to the mountains. We passed through Colotenango, and even the entrance to Santiago Chimaltenango, and we stopped at the entrance of San Pedro Necta to ask a local resident how to get to Chiquililá. It was a very rocky and steep road, the car even had a hard time to continue up. As we kept going, we would find more small homes, more roads and people walking up or down the mountain. Some of them, even asked for a ride, and that’s when I understood that they do not

have a mode of transportation. It felt like a labyrinth. I remember seeing plantations of corn and coffee, families working on the field and women weaving in their patio. At our first stop, we came across a group of men working on the road, the interpreter who speaks Mam asked how to get to Chiquililá.

Eventually, we came across a small elementary school. We had to stop and ask for more directions. Right outside the school, there were a group of men known as COCODE (Community Development Councils), which are in charge to work and protect their community. As we approached the school, the men came closer to the school's gates. Carolina and the driver suggested that the interpreter ask them for directions, so I volunteered to accompany the interpreter. They asked us who we were and what we were looking for and we told them we are from OSAR and we were making a home visit of one of our girls in Chiquililá. Then, Carolina called Angela's mother to tell her that we were lost and the mother offered to meet us on the way. We finally found the entrance to Chiquililá, and after fifteen minutes we see a woman carrying a baby on her back, sweating and out of breath.

She got in the car and guided us to her house. She told us that she walked for about thirty minutes. Once there, we gave them the basket and Carolina explained the purpose of the visit and all of us introduced ourselves. Carolina asked Angela how she was and her parents felt compelled to answer that question. Angela looked down at the floor when her mother described her as a bad mother that did not take care of her baby. She continued by complaining that Angela does not contribute at home with domestic duties nor work in the fields. They continued to share that Angela was eleven years old when her dad's cousin who was twice her age raped her. This cousin came to live with Angela's grandmother for more than six months, and Angela became

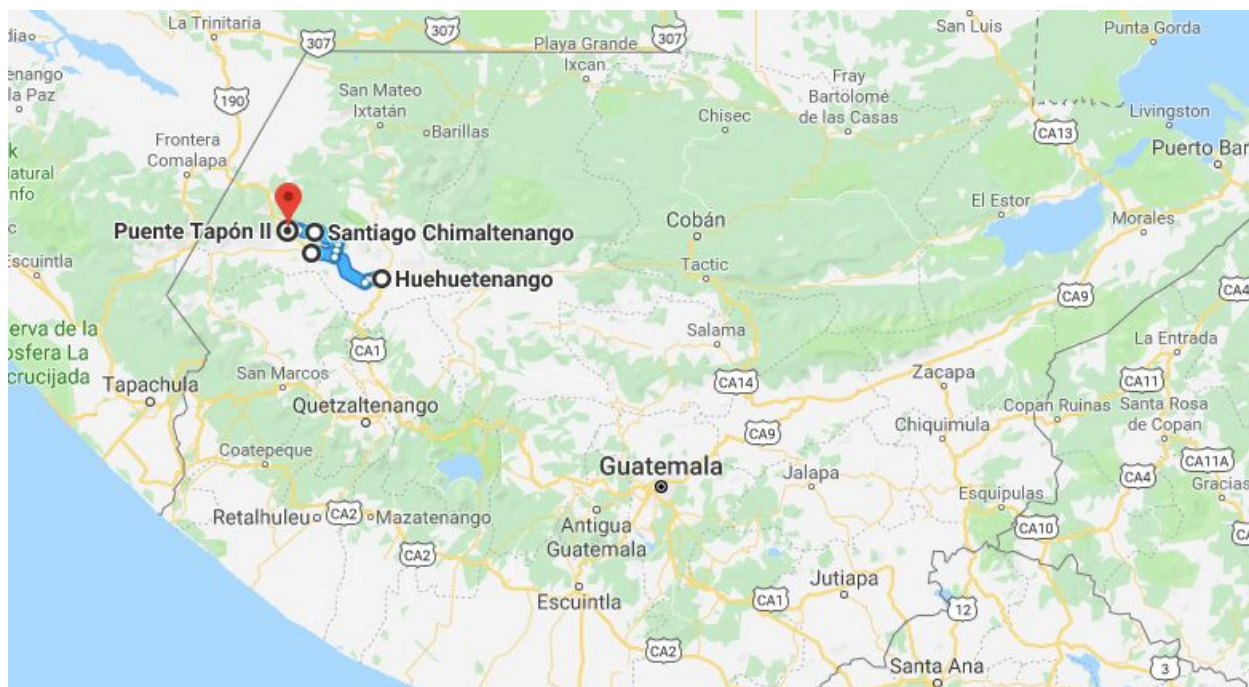
close to him. One day, Angela went to the river to do laundry and he went with her. After he raped her, he threatened her verbally to not to say anything to anyone, otherwise he would kill her family and burn their home. Angela's mother proceeded to tell us that Angela kept that secret to herself until she started to feel sick and show a bump. Angela's mother had some midwifery knowledge and checked her own daughter to verify what she most feared. Angela's mother decided to take her to the nearest health clinic to make sure Angela was pregnant. Once it was confirmed, Angela would not say who got her pregnant. Both parents initially thought that maybe a school teacher did it, they even went to the school to demand answers. But eventually, during a second medical visit, Angela confessed who assaulted her. Angela's parents confronted the cousin so he fled. He disappeared for a while and came back when Angela had her baby, and beat Angela's mother and Angela. This cousin came back to remind them that if they continue with the investigation, he would kill them. He knew that Angela's father was a seasonal migrant in the southern Mexican fincas and that Angela's older sister, a single mother works in the nearest city.

Throughout the whole time we were there, both parents dominated the conversation while Angela would only look down to the ground. Even when Carolina asked questions directly to Angela, she would not answer and the parents would take over. These parents were talking about her as if she was not in front of us. One time, her baby came to her and she had to breastfeed him. While feeding him, her expression was empty. Eventually, Carolina asked her a question regarding weaving since there was a weaving station by the *patio*; finally, Angela talked and said it was hers. The interpreter asked her what is she weaving, and Angela replied that she was making herself a blouse. In contrast to Jacqui's situation, Angela does not attend school and her

mother expected her to take care of the baby. It seemed that weaving was her escape from her situation.

Lastly, both parents complained that justice was inaccessible. There is a police report but Public Prosecutor (MP) had not visited them even once. The nurse that helped them to get Angela to disclose the rape offered to help them investigate and pressure the MP to do their job but they had to pay for her 'services.' They complained how difficult it was for them to go to Ixtahuacan City because it takes them over three hours to get there. Additionally, it cost money to take public transportation to the city. Also, they don't know how the system works. When Carolina told them that she will make a visit to MP and make sure Angela's case is not forgotten, they could not stop thanking us. Carolina also told them about *Programa Vida* and that Angela can potentially qualify.

At the end of this visit, I could only think of Angela. She did not ask to become a mother yet she is pressured to be 'a good mother.' However, I do understand her parents' frustration; they are extremely poor and do want justice for their daughter. But because of the lack of resources and accessibility, justice is not for them. In other words, it once again falls on the victim's family to pursue justice. Therefore, it was evident why they took out their frustration on Angela.



Google Maps, accessed August 10, 2018.²⁸

Andrea

Andrea (14) lives with her grandmother, aunt, uncle and her baby in a small *pueblo* called Coya, almost two hours away from San Miguel Acatan City. San Miguel Acatan is surrounded by mountains and the people speak a unique indigenous language, *Akateko*. Andrea's mother has lived in Mexico for the past five years. Andrea has rejected her mother's offer to move to Mexico many times. She has her grandmother, uncle and aunt supporting her at home taking care of her baby. Additionally, she is happy in her community because she was very involved in her church activities.

²⁸ Google could not read my coordinates on top of the mountain (Andrea) and that is why I chose Puente Tapon II as a reference. The white dot below Santiago Chimaltenango is Colotenango. Additionally, one can observe how far Huehuetenango is from Guatemala City.

On August 16, Carolina and I left Soloma²⁹ to visit Andrea. Carolina told me that OSAR had followed this case closely since Andrea was pregnant. Andrea was sexually assaulted when she was twelve years old by her stepfather's father. Andrea had complications during her pregnancy and was taken to a hospital in Huehuetenango City for better care. By bus, it would take over six hours to get to Huehuetenango from their town. Therefore, OSAR provided transportation for Andrea and her family. She was hospitalized but then taken to *Casa Materna*³⁰ in Huehuetenango City, where she stayed from September, 2017 to November, 2017. *Casa Maternas* aim is to provide a place for mothers who are close to their delivery date and who need monitoring. A perfect example is Andrea, she had pre- and post-partum care, something she would not have had back in her town. Additionally, her baby was in the intensive care for about a month, and Andrea could stay with her baby. Throughout this time, Carolina and attorney Julia Maria would visit and take care of Andrea and in Huehuetenango, where Andrea learned Spanish. OSAR provided pampers, milk and medicine for Andrea and her baby. Andrea's family would occasionally visit her, but due to work and distance, they were unable to visit more often. However, anytime they did visit her, OSAR paid for their transportation and even their hotel room. OSAR also paid for transportation to take her back to her community, and when she needed to travel to Huehuetenango City for any court date. As a result, there is an arrest warrant against Andrea's perpetrator but he had fled.

²⁹ Prior to the next two visits, I was traveling with other OSAR liaisons up to San Juan Ixcoy, Soloma, Santa Eulalia and Barrillas. We were holding meetings with *comadronas* (midwives) and health providers from the area. Topics included, teenage pregnancy, maternal death and *ruta de denuncia*. Most of teenage girls who do not have access or does not want to attend a clinic will use a *comadrona*. Therefore, *comadronas* have the legal responsibility to report to the police about any case of rape.

³⁰ *Casa Materna* (Maternal Home) are not hospitals nor are they hotels but they do have a nurse 24/7. However, some families of the pregnant girl are allowed to stay with her. These institutions came about after a coalition with the Ministry of Health, UNICEF, private donations, and NGOs like OSAR. In June, 2018 I was able to visit a *Casa Materna* en Salama, Baja Verapaz through OSAR. At this very specific *Casa Materna*, OSAR is one of the main founders and struggles to make end meets such as water and electricity.

By the time we visited her, she had been back in her community for almost a year and Andrea forgot most of her Spanish. Luckily, her aunt helped us translate when needed. Unfortunately, Andrea's grandmother was not present, visiting a family member in another town. Carolina asked Andrea who helps her, and she said that her mother sends her money, and her grandmother, uncle and aunt support her with the baby. Carolina then asked if she was back in school, and Andrea said she did not want to go. Carolina, later told me that Andrea has always disliked school. Carolina then asked Andrea if any other government agency has visited her, such as Public Prosecutor (MP) nor MIDES and she said no. Carolina asked if she have heard of *Programa Vida*; which Andrea also said no. Then Carolina promised Andrea that she will make sure she gets into the program. During the conversation, Andrea kept her baby by her side and breastfed him. She is very tiny and her baby was a big healthy one. She had the face of a young girl, but her hands look more of an older woman.

Before we left the area, we had to go to San Miguel Acatan town to visit the MIDES office of this community. I was surprised because it was already 2pm and the office was closed. Again, it was a very small room, with only one secretary. She knew about Andrea's case and kept repeating how fortunate and lucky Andrea is to have OSAR helping her. She shared that there so many other girls in the same situation but they do not have the resources to continue with the case. Carolina kept a personal file for each case, and was able to provide Andrea grandmother's copy of her ID, Andrea's birth certificate, a copy of the baby's birth certificate, and most importantly a copy of the police report and case number. The MIDES secretary was very happy Carolina was able to provide everything for Andrea's procedure to get into *Programa Vida*.

Andrea's case in contrast with Jacqui's case, one can conclude that Jacqui is having the opportunity to continue her life as a girl by attending school. But Andrea made the decision of not moving to Mexico with her mother and not attending school. At a very young age, Andrea had found her own way of surviving by relying on her family and by making her own decision; both for herself and her baby. Therefore, it is important to acknowledge that even though they have experienced the most violent act, and do have a constant reminder through their babies; most of these mothers can find ways to physically survive and also emotionally and psychologically.

Joanna

Joanna (16) lives in a rural *pueblo* forty-five minutes away from Jacaltenango City where they speak Popti.' Jacaltenango is almost six hours by bus to Huehuetenango City and it is a crosspoint for migrants. She lives with her parents but when they migrate to the South of Mexico or the South of Guatemala to the sugar plantation; Joanna then lives with her aunts who have a house right next to her. Joanna's family house is a one-bedroom made of wood and dirt-floor.

Joanna was fourteen years old when she was sexually assaulted near her home by a stranger. According to Carolina, Joanna told her family about what happened, and in order to prevent shame within her community, they kept her pregnancy a secret. They contacted a *comadrona* (midwife) from another *pueblo*, and Joanna never made a visit to the clinic. At seven months pregnant, Joanna had complications. Ultimately, her parents had to take Joanna to the health clinic in Jacaltenango, but because Joanna's twins were premature; she needed to go to Huehuetenango City which is five hours away. Joanna was admitted on March 2, 2018 and

stayed in *Casa Materna* until April 25, 2018. The clinic in Jacaltenango referred Joanna's case to OSAR, and so OSAR helped Joanna with social and economic accompaniment. OSAR paid for transportation when Joanna needed to be transferred to Huehuetenango City, where she stayed for over a month. Due to the complications and since Joanna's babies were premature, one twin survived only thirteen days, and the other, only lived about a month. OSAR, facilitated birth certificates and death certificates through National Registry of Persons (RENAP). Also, OSAR provided transportation for Joanna to go back to her community.

On August 17, OSAR made a home visit to Joanna. Our journey to her community was unique, on our way from Huehuetenango we got stopped three times by the police asking to see our Guatemalan I.D. Carolina then explained to me that it is a means to prevent migrants crossing the Mexico-Guatemala border. Once in Jacaltenango, Carolina invited the clinic outreach nurse and the nurse assistant to come with us. Additionally, Carolina invited a MIDES official from Jacaltenango to also come along. Both the nurse assistant and MIDES official were indigenous and could speak Popti' so Joanna's family were able to explain their situation. Carolina asked them if they want to continue the legal process, but Joanna's mother said that they do not have the money nor the time to attend to court briefings since it is all the way in Huehuetenango. Additionally, Joanna's mother said that the Guatemalan judiciary system takes so long because she never heard back from the court to schedule the initial investigation; and that her daughter would rather close that chapter of her life. Then Joanna said that she is happy that she could continue with her life now that her twins were dead. It was such an unexpected thing to hear but she had every right to feel that way. Joanna never attended school and could not afford

school, so she goes to workshops in her community center. According to both health clinic outreach and the nurse assistant, Joanna attends their health education workshops and festivities.

After we left Joanna's house, MIDES official said that Joanna could not qualify for *Programa Vida* because the family does not want to continue with the '*judicialización*' and because her twins are dead. By then, I could not stay quiet. I asked the official if the program aimed to help the victim or the victim's baby? He then said that unfortunately this help should be reparation to the victim/survivor. He continued to say that working for MIDES, he hears cases where people need all the help they can get, but it does not depend on him because the decision comes from Guatemala City. Also, he claimed to be aware that due to bureaucracy, people do not get the help they need.



Google Maps, accessed August 18, 2018.

Overall, each individual case had its uniqueness yet, its similarities. First, all of them are indigenous, live in rural areas, in extreme poverty, with little to no education, and four out of the five (Margarita, Angela, Andrea and Joanna) families do have a history of either migrating to Mexico or within Guatemala in search of work. Secondly, I realized that even with or without the assistance of MIDES in every young girl's case, four have found ways to make decisions vital to their survival; by continuing school, by looking for a job, participate in church and by attending events and workshops in her community. I dare to claim that Angela found her source of survival through weaving because due to the conditions she lives in; she cannot pursue something greater. For example, her family would not allow her to continue school, she cannot find a job because her parents want her to stay at home; she is basically incarcerated. Thirdly, all of them claimed of not knowing about the existence of *Programa Vida* or knowing how to apply. Through the visits to MIDES offices in different towns, it was evident that most of their offices lacked resources and that OSAR's role was to be a bridge between these young mothers and *Programa Vida*. The fact that they may find their own sources to survive, it is not to say that they do not need help. Again structural violence exposes indigenous girls to other kinds of violence. Therefore, #SayHerName so they are not just another statistical number.

Chapter Four: Turning the Gaze

Since 2013, teen mothers have been reduced to numbers, numbers that only appear on national and international news, as well as numbers that appear on proposed and existing legislation. To reiterate, the first goal of this thesis is to contextualize the realities of these young mothers by focusing on the five previously mentioned. These five girls did not choose to be mothers but also did not choose to be indigenous. Thus, indigenous women's bodies is a continued struggle of her dehumanization and the appropriation of her body; both by indigenous men and the colonial state. As previously stated, the colonial state surveils its citizens on 'seeing' and 'not seeing' (Smith, 2015) therefore, the second goal of this thesis is to analyze power (Nader, 1972) by returning the gaze back to the state. It is necessary to 'see' the state in being the absolute power to create and maintain social and moral order (Maoulidi, 2011). Consequently, it is important to analyze how the colonial state of Guatemala continues the project of settler colonialism and that includes the racist and sexist institutions that do not help young indigenous girls victims and survivors of rape. It is not enough to incarcerate perpetrators, but to dismantle the structural violence that not only exposes and but also allows sexual violence to exist and persist. Therefore, the state is the apparatus to institutionalize rape against indigenous women since 1492 which was rooted in anti-indigenous racism (Cabnal, 2012).

First, this chapter aims to analyze governmental institutions, its role, its power and its understanding of teenage pregnancies. Then, I will continue with my analysis of *Programa Vida* which aims to help young mothers and their babies to have more access to resources. But in order to qualify for *Programa Vida*, they have to meet the *judicialización* (indictment)

requirement, which is the biggest challenge for most of these young mothers because it expects them to meet the ‘mutual responsibility’ by continuing with their judiciary case.

When Carolina, OSAR liaison in Huehuetenango, visited these five young mothers, and I was only an observer; she asked: “Has any governmental entity visited?” and “Do you receive any financial help from MIDES?” All of them said that no government officials have visited them prior to our visit and that they did not know of the existence of *Programa Vida*. Their answer dismantles the structural violence and the political constructed to police indigenous women’s bodies but their actual lives do not matter. In order to understand how the judiciary system works, I interviewed a public prosecutor from *Fiscalía de Adolescentes en Conflicto con la Ley Penal* (Public Prosecutor of Adolescents in Conflict with the Criminal Law - MP) and judge Emilio from *Juez de Primera Instancia de La niñez y Adolescencia* (First Instance Court of Childhood and Adolescence in Conflict with the Criminal Law). These two government offices are the main apparatus that determines if sexual violence actually occurred, and how to ‘protect’ victims of sexual violence by sending them to shelters if they need to. These two departments are based in Huehuetenango City, are predominantly Spanish speaking and Mestizo. And the people in power of these departments are predominantly men and Mestizo. In addition, I interviewed Doña Juanita, a well-known *comadrona* (midwife) from *Asociación de Comadronas de Huehuetenango* (Midwife Association in Huehuetenango) who has practiced such work for the past forty years. As a *comadrona* her purpose is solely to serve women during labor, and she does not work for a health clinic or government office. Families trust *comadronas* because their services are affordable; these women go to the homes of the families which allows them to have

access to the dynamics within that household. During the interview, I asked questions about their job and about their own personal knowledge of the topic.

Secondly, this chapter aims to analyze the actual policy and implementation of *Programa Vida*. Therefore, I interviewed *Programa Vida* state coordinator. I also intended to learn how they personally understood the situation of teenage pregnancies, but most importantly, to understand their role of aiding young girl victims of sexual violence. Lastly, I interviewed OSAR's state liaison, Carolina, to understand OSAR's role as bridging resource for many young girls to achieve justice and access to public services, as well as their understanding of their knowledge on this topic. Even though the work OSAR does is much needed, they are also an apparatus that produces knowledge on teenage pregnancies; therefore, I wanted to understand their political agenda. Ultimately, these interviews allowed me to have access to their perceptions on teenage pregnancy, the legal process and their role.

'Manichean World'

*"The Manichaeism of the colonist produces a Manichaeism of the colonized. The theory of the 'absolute evil of the colonists' is in response to the theory of the 'absolute evil of the native'"*³¹

The project of settler colonialism continued by settler colonial states persists on the dichotomy of 'us' versus 'them.' As Fanon pointed out, this manichaeism of the colonist as 'good', 'superior', 'modern', and 'white'; reproduces the manichaeism of the colonized as 'bad', 'inferior', 'backward', and 'brown.' In other words, the manichaeism of the colonist exists when

³¹ Frantz, Fanon. 2005. "The Wretched of the Earth." Grove Press. P., 50.

they constantly demonize indigenous communities thus making it impossible not to internalize the demonization. In addition, this dichotomy validates the ‘absolute evil of the colonist [settler colonial state]’ believed to be the only way to fix the ‘indigenous problem.’ In the case of Guatemala, after more than twenty years of the civil war and years prior to Rios Montt’s dictatorship, Guatemalan aristocrats believed indigenous people were ‘biologically inferior’ and the problem of the country was caused and produced by indigenous people. Therefore, the extermination of indigenous communities was the solution (Casaús Arzú, 1992). Again, the demonization of indigenous people by settler colonial state is to justify the violent attempts to exterminate indigenous people in order to take their land and resources; but also to appropriate their bodies and labor (Speed, 2017).

The main argument of this thesis is that the demonization of indigenous young mothers today is a continuation of the techniques historically used to disenfranchise and render illicit indigenous peoples. The demonization of their bodies legitimizes the structural violence and even the policing of indigenous women’s bodies, and expands the settler colonial state’s power (Smith, 2015). It became evident on my third day as an intern with OSAR in Guatemala City. On June 7th, 2018, OSAR and other civil society organizations were invited to attend an event by Congresswoman Nineth Montenegro where she gave a presentation about her proposed legislation called “*Ley Para Prevenir, Sancionar y Erradicar El Matrimonio Y La Unión de Hecho De Niñas, Niños y Adolescentes*” (Law to Prevent, Punish and Eradicate Marriage and Civil Unions [common law marriage] of Girls, Boys and Adolescents). The main purpose of this law was to eradicate marriage and civil union of young girls below fourteen, purportedly to protect the civil and political rights of young girls.

Congressman Montenegro argued that even after Ordinance 13-2017, which established a legal age for marriage, girls younger than eighteen years old were still getting marry or in civil unions. Consequently, teenage pregnancies have not decreased. This policy proposed to categorize ‘illicit marriages/civil unions’ which aims to penalize parents, attorneys, and any official from the National Registry of Persons (RENAP) who allow children to marry under age. Any government official that did not report the certification of an ‘illicit marriage’ or if a young underage mother registers her child, RENAP has the duty to report to Public Prosecutor (MP) or face a fine of Q.10,000 (over \$1,000) and even disbarment. Additionally, Congresswoman Montenegro defended her proposed policy by arguing that this is needed to defend the political rights of girls, who ‘lose their opportunity to a better future’ when they become mothers. She also, argued that the country could not ‘develop’ because ‘children are having children’ which produces and continues the cycle of poverty. Consequently, the state creates a social and moral order (Maoulidi, 2011) by claiming that it is immoral to allow ‘children to have children, which ultimately deprives girls of an ‘opportunity to a better future.’ The reality is that most of these girls did not even have an opportunity in the first place.

The manichaeism of the settler colonial state, by declaring teenage pregnancies as immoral and declaring marriage/civil union [common law marriage] as ‘illicit’ allows the state to portray itself as the savior, ultimately, legitimizing its power (Smith, 2015). OSAR and the other organizations present, were worried that this policy is more punishment than ‘prevention’ because it can consequently push yong girls into hide their situation. One person shared that because of fear of the state criminalizing their parents or their partner, they ask grandparents of the newborn to register them as the parents. Furthermore, many young girls do not seek health

services because they fear such punishment or their families would be separated. This fear is caused by ‘*ruta de denuncia*’ (formal complaint route), which by law, any government official has the legal obligation to report any teen mother. After the report, Public Prosecutor (MP) would start the investigation but unfortunately justice is not easy to achieve in Guatemala; especially when the seeker is an indigenous girl. As previously stated, only two of the cases I observed--Jacqui and Andrea--have an indictment, out of the five. The other three would rather drop their cases because the judiciary system is inaccessible and it also takes time and money; things they could not afford.

In order to deepen my understanding of the judicial process, I conducted an interview with Jose, a public prosecutor from the *Fiscalía de Adolescentes en Conflicto con la Ley Penal* (Public Prosecutor of Adolescents in Conflict with the Criminal Law - MP). This specific department is in charge of investigations of violence against or by any adolescent below eighteen years old in the whole state of Huehuetenango. During this interview, I asked questions only related to teenage pregnancies to understand its processes better. Jose said that indeed there is a huge number of teen mothers between the ages of thirteen to seventeen years old. In accordance with Article 173, Jose says “eighty percent of the cases of teen mothers can be typified as sexual violation” by such penal code, yet they live together under [common law spouses].” I asked, how does he as a judge navigate these laws? He explained

“that ninety-five percent of these cases are indigenous from the Western and Northern Western region of the state... [and] according to the Kelsen Pyramid, the constitution overrules any civil code and the constitution protects the family. Additionally, Guatemala has ratified international conventions on the subject of human rights. One of them is Convention 169, where by the customs of the indigenous peoples of Mayan descent, they have that custom that they start living together as partners at an early age” (August, 2018).

In other words, this public prosecutor states that the constitution protects family which overrules Article 173, because young couples are in a common law marriage and have a family. He also states that ILO Convention 169 protects this practice as a 'Mayan' tradition.

Similarly, Judge Elias from '*Corte de Primer Instancia de La niñez y Adolescencia y Adolescentes en Conflicto con la Ley Penal*' (Court of First Instance of Children and Adolescents; and Adolescents in Conflict with the Criminal Law) claims that, "there are traditions that need to be respected and not changed." Judge Elias' example was, "I arrive in Santa Eulalia and see a woman pulling the horse and there is a man on the horse. But no one is going to change that, it is an important factor of the Mayan culture." he then continued; "A long time ago, an organization came to the [indigenous] communities and said, 'Here you have it, use it to protect yourself when you have sex [referring to the distribution of condoms]. I never agreed with that because it was to open the doors to girls and boys for saying, 'let's do it.'" I was shocked to hear that but not surprised. I was shocked because this is the judge that decides if a young girl needs protection from her family. This department is like juvenile court where youth who commit a crime are sent to receive help and not punishment. Additionally, this department provides protection to youth who are victims of crimes. The judge decides if another family member can have the custody of the young victim or sent to a shelter while the investigation continues. For example, he was the judge that looked at Jacqui's case and decided that she should go to a shelter due to 'conflict of interest' because her biological father raped her. Thus, I was shocked because in the hands of this man, many lives are placed and especially the lives of young girls. Yet this is his own personal beliefs which can potentially cloud his decisions.

Also, Judge Elias continued by providing an anecdote a friend of his told him. While visiting an indigenous community, “a young lady maybe around twenty-one years old asked me to dance. I was afraid because maybe her boyfriend was around. Then people told me that the young lady did not have a boyfriend and could not even get married because she was too old. [Judge speaking]. At the age of twenty-one is when young woman should think about marriage” (July, 2018). Here Judge Elias used it as an example to reemphasize his biased knowledge of so-called “Mayan behavior.” He clearly considered himself a ‘Mayan culture’ expert and the defender of such culture. He also cited ILO Convention 169 to legitimize teenage pregnancies as a Mayan tradition in their eyes. He argued that most of the teen mothers already live with a partner and thus the constitution of Guatemala states that family should be protected and ILO Convention protects the right to indigenous people to practice their tradition. When I challenged his ‘expertise’ by asking, “At what point does respect for Mayan cultural traditions come into conflict with the policies designed to protect the rights of young girls?” He contradicted his previous stance by arguing that there is a need for indigenous people to go through ‘acculturation’ to ultimately change those ‘backward’ traditions.

This is the perfect example on how the settler colonial state constructs its own manichaeism beliefs and at the same time, constructs the manichaeism of indigenous people. By using ILO Convention 169, the state legitimizes teenage pregnancies as a ‘cultural practice’ while at the same time, tries to criminalize young couples under the name of human rights. In other words, the state ‘sees’ teenage pregnancies as a violation of civil and political rights of young girls based on human rights rhetoric. This allows the state to legitimize its power to police indigenous women’s bodies (Smith, 2015). Though, the state does ‘not see’ teenage pregnancies

as a product of poverty because the majority of teen mothers are indigenous from rural areas throughout the country; and these communities live in poverty (ElPeriodico, 2018). Rather, the state ‘sees’ teenage pregnancies as a cultural practice to delegitimize its responsibility and its role (Smith, 2015). If the state were to address teenage pregnancy as a structural issue, it would necessarily have to implicate itself as a perpetrator. It was the first time I heard that ILO Convention 169 can be use as a legislation for such a ‘tradition.’ I always heard of indigenous communities in Guatemala using ILO Convention 169 to defend their autonomy for land when the settler colonial state of Guatemala dispossessed them of the little land they did have. However, the settler colonial state of Guatemala does not protect indigenous rights even under ILO Convention 169 because extractivist companies have constantly lied, hurt and even killed indigenous activists for defending their land.³²

Thus, it it imperative to go back to Cabnal’s analysis “*Territorio Cuerpo-Tierra*” to understand the interconnections of racism and patriarchy when it comes to indigenous women’s bodies as the first territory to violate and even eliminate (2015). According to Doña Juanita, a local *comadrona* (midwife) in Huehuetenango, in 2018 five young girls between the ages of eleven to seventeen were victims of sexual violence. The perpetrators are also young boys who would rather commit suicide instead of jail time. As for the young girls, most of the time their parents tended to kick them out for ‘getting’ the family into problems. Also, most of the time fathers would blame the mother for not ‘taking good care’ of their daughter. Consequently, Doña Juanita asks young girls if their parents treat them well because otherwise she would help them

³² Yagenova, Simona V., and RocÃo Garcia. “Indigenous People's Struggles Against Transnational Mining Companies in Guatemala: The Sipakapa People vs GoldCorp Mining Company., 2009” There is a long history where indigenous communities rights are violated and denied by the state and by the extractivist companies.

by referring their case to Court of First Instance of Children and Adolescents; and Adolescents in Conflict with the Criminal Law (August, 2018). As previously stated, indigenous communities use ILO Convention 169 to defend their land but violence against women perpetuated by indigenous men still persists in their communities. Young girls are raped by a neighbor, family member or a complete stranger and instead of receiving the help she needs, she is blamed and admonished for “getting the family into problems.” This was the case for Margarita and Angela whose relatives constantly remind them that they are responsible for adding another mouth to feed, when the family can barely make ends meet. It is necessary for indigenous communities, especially indigenous men to acknowledge their sexist behaviours otherwise violence will continue. Interestingly enough, on the one hand, indigenous communities use ILO Convention 169 to protect their land and thus, claim legitimacy over land. Yet on the other hand, the state used ILO Convention 169 to claim that teenage pregnancy is a Mayan tradition and to delegitimize its role and its implications on the issue.

As previously mentioned, Doña Juanita is a well-known *comadrona* in Huehuetenango, who has provided services for the past forty years to mostly rural indigenous families. She lives in Huehuetenango City and constantly travels around the state to most of the remote rural areas to provide her services. She shared that most indigenous men do not ‘allow’ their wives to go to a hospital because of *machismo*. If the indigenous man does allow her to go to a hospital, most of the mestizo/ladino doctors and nurses treat indigenous women inappropriately. For example, Doña Juanita accompanied an indigenous woman who was in labor for a day and she already had preeclampsia. Doña Juanita is one of the very few *comadronas* with access to a car and that is how she was able to get to very remote rural areas. She took the woman in her car and once at

the hospital, the doctors decided not to operate on her. Doña Juanita had to advocate for her by saying that she already was preeclamptic. Sadly, both baby and mother died soon thereafter. Doña Juanita claims that most of the time, doctors do not respect the dignity nor the existence of indigenous women; they just say “*desnudate María*”³³ [take off your clothes María] referring to indigenous woman. In that racist act, Doña Juanita intervened by asking the doctor, “why are you calling her María when you know that is not her name?” Another example, in early June, I accompanied OSAR to the Chejbal community in the northern part of Huehuetenango, where indigenous women claimed that they prefer a small community clinic in their communities because they cannot afford to travel to Jacaltenango. Also, because it can take up to an hour to get there and most of the doctors discriminate against them for being indigenous and for not speaking Spanish (June, 2018).

Consequently, indigenous women die due to patriarchy in their communities and by their husbands who do not believe their wives need go to a hospital. Also, they die due to racism rooted in structural violence; most of the hospitals are hours away from remote rural areas. Maternal death in Guatemala has increased in the last few years and most of the victims are indigenous girls and women. In 2017, there were fifty-six maternal deaths only in Huehuetenango alone. And by August 2018, there were forty-eight. Out of the forty-eight, thirty-five of them were indigenous women (OSAR presentation in Huehuetenango, August, 2018). However, teenage pregnancy is discussed first and then maternal death. The excuse I heard OSAR and other clinics use is that teen mothers die during labor because of their bodies

³³ María is a name but through time has become a slur to belittle indigenous women. Throughout the Americas, María is belief to be an indigenous name and therefore is used to homogenize all indigenous women.

are not ‘fully developed.’ Indigenous women are undervalued, disrespected and violated by indigenous men but also by the settler colonial state. In general, indigenous women tend to die younger than non-indigenous women; Guatemalan women’s life expectancy at birth is 65.8 years which is the lowest in all Central America and the Caribe. However, for indigenous women in Guatemala, their life expectancy is thirteen years shorter than the national number (Richardson, et al., 80).

In conclusion, indigenous women’s bodies are the battlefield of multiple violences that intersect/interconnect, such as racism and sexism. This is evident by the ‘ancestral patriarchy’ which allows indigenous men to have ownership to mandate and control indigenous women’s bodies (Cabnal, 2015). In contrast, ‘colonial patriarchy’ is rooted in racism that violates, monitors, and controls indigenous women’s bodies (Cabnal, 2015) not only by men but also by the settler colonial power (Speed, 2017). The examples of girls and women victims of sexual violence, to then, die during labor due to their partner/husband/father not ‘allowing’ them to seek a hospital, and to finally be subjected to racist doctors that disrespect the dignity of indigenous women. Ultimately, the bigger structural violence that creates the conditions for sexual and gendered violence to exist (Menjívar, 2011), and does not provide healthcare in remote rural areas where most of indigenous people live. Lastly, it is imperative to hold both indigenous men and their communities to ‘see’/acknowledge that gendered violence is an epidemic that affects the entire community. Until this can be ‘seen’ and acknowledged, only then can the community can provide security and stability. Also, to acknowledge that the settler colonial state has the ability to surveil indigenous communities by ‘seeing’ (Smith, 2015) teenage pregnancies as an ‘epidemic’, and as a ‘cultural tradition’ which only legitimize its power to govern indigenous

women's bodies, to ultimately, government indigenous communities. Meanwhile, a settler colonial state can opt 'not to see' maternal death and sexual violence as an epidemic in order to delegitimize its role and responsibility in such issues. Thus, the state would rather blame indigenous communities for its 'backwardness' than claim responsibility. Consequently, indigenous women have to create their alternative forms of survival.

Too Young to Wed or Too Indigenous to Care?

Back in 2014, the United Nations Population Fund (UNFPA) published a short documentary where it highlights the stories of seven young mothers. My first reaction was that young girls should have more opportunities than just staying at home and finding a husband. Then, in 2018 I stumbled onto the same documentary published by the international organization 'Too Young To Wed' as propaganda to fight against childhood marriages and forced motherhood. Two out of the seven young mothers were interviewed about their situation. One was fifteen years old and her baby was over a year. The other one was fourteen years old and her baby was a few months old. Both of them were indigenous, rural, and extremely poor. Also, both of them were or are in a relationship with a man older than themselves. By the second time when I saw it, I was more critical on how they portrayed these young mothers, as well as the way the doctors and nurses in the film referred to these mothers. These young mothers chose to become sexually active, they are not ignorant, they just wanted to have their own life within the limitations they live in. However, there are other young mothers like the five young mothers stated in this thesis, who did not choose to become sexually active nor mothers. Through my research, I learned that the state of Guatemala, together with international and national

organizations want to end childhood marriage and force motherhood, but does very little to help young mothers as victims of sexual violence. The dilemma is that they want to enforce statutory rape yet justice is inaccessible to victims of sexual violence.

This is a perfect example on how “purposeful gaze of the state on some things and peoples serves the purpose of simultaneously making some hypervisible through surveillance while making others invisible” (Smith, 2015: 25). In this case, the settler colonial state hypervisibilizes that teenage pregnancies is an ‘epidemic’ which proposes itself as the savior to implement its laws such as Civil Ordinance 13-2017 (legal age for marriage) and penal code Article 173 (statutory rape). Yet, gender violence is barely mentioned. Moreover, the state does not propose any improvements to their judiciary system. The Guatemalan judiciary system is broken; from 2000 to 2008 there “have been over eleven thousand women and girls were murdered in Guatemala” (Torres, 2019). Guatemala has one of the highest rates of femicide (UN Women), yet the state does ‘not see’ the problem because it would implicate the state and its weak judiciary system. For example, only two of the five young mothers I visited, had an investigation and an indictment (Jacqui and Andrea); two (Margarita and Joanna) did not want to continue their investigation because it takes long and cost too much money. Lastly, Angela’s parents want justice for their young daughter but the judiciary system is not accessible to them because they do not speak the dominant language. The bureaucracy is too complex and they do not have the economic means to take time-off from work and to pay for transportation.

The colonial state of Guatemala needs to acknowledge sexual violence as an epidemic and take the responsibility for not having an accessible judiciary system for women, let alone young girls. Most of its proposed laws and programs are to either punish or give aid, but does not

resolve the ‘epidemic.’ For example, the Ministry of Social Development (MIDES) have created “*Niñas y Adolescentes Embarazadas o Madres Víctima de Violencia Sexual Menores de 14 Años*” (Pregnant Girls and Adolescent or Mothers Victim of Sexual Violence under age 14) aka *Programa Vida* created on August 21, 2017. This program is specifically for young girls below fourteen years old, and thus, victims and survivors of rape. In other words, this program is based on the Civil Ordinance 13-2017 which declares that no person under eighteen years old can get married. Also, *Programa Vida* is based on penal code Article 173 which declare statutory rape: “when someone uses physical or psychological violence in order to have access to a young girl’s body who is below fourteen years old, is rape. (Guatemala Penal Code). This program is a ‘*Transferencia Monetaria Condicionada*’ (TMC- Conditional Cash Transfer) of Q.1500 (\$194 US dollars) every two months which is Q.750 (\$97 US dollars) per month. During its first year from 2017 to 2018, there were only sixty-one girls from these states: Alta Verapaz, Baja Verapaz, Chimaltenango, Chiquimula, Guatemala, Izabal, Jutiapa, Quetzaltenango, Quiché, Sacatepequez, Santa Rosa, Suchitepequez, and Zacapa. In a conference organized by MIDES to report its ‘advances’ early 2018, stated that by the end of the year they aim to incorporate nineteen more cases because they count with a budget of Q1 million and 800 thousand (\$240,000) for the year (MIDES, 2018).

All of this sounds like the state is providing an economic relief to young girls who did not choose to become mothers according to Article 173. Though, as previously mentioned, the public prosecutor said that most of the cases these mothers have consented to live with the partner under common law and for a family even at a young age. However, the young mothers I met did not consent to become sexually active, as Segato defines it as “the use and abuse of someone else’s

body, without their participation with comparable intention and will” (Segato, 2003). In other words, these five young mothers were sexually violated by their own family member or a stranger. Therefore these young mothers should qualify and receive the help of the state through *Programa Vida* but none of them knew about the existence of such program. In addition, these young mothers said that no other governmental institutions have ever visited since they either left the hospital or after they filed a police report. OSAR, through Carolina would inform the parents about the program, gather all documents and most importantly, visit the nearest MIDES office to notify them that there was a potential beneficiary. However, *Programa Vida*'s requirements are obstacles these young mothers have to overcome in order to receive this help. The biggest challenge is to fulfill the requirement of '*judicialización*' (indictment).

The process of *judicialización* depends on the Public Prosecutor (Ministerio Publico - MP) and it takes about a year to two years to have an indictment. Why should it depend on these girls to pursue justice? Is MIDES aware that the judiciary system is not accessible to indigenous, poor, rural girls? For example, the case of Angela, after almost two years since she reported to the police about her case, and MP as the investigation institution and still the investigation has not started. Both of her parents, want to know where the case is and how to proceed because they want justice. Even though, they are so poor and live on top of a mountain, they have paid a nurse from the clinic where Andrea received services to investigate their daughter's case because they do not know how the system works, nor speak Spanish, and cannot afford to travel to MP's office. Additionally, some of these girls would rather not pursue their case because lack of resources, and also because they also want to close that chapter of their life. For example Margarita and Joanna are so poor that they would rather look for a job or ways to continue with

their lives. Though, that does not mean they should not get the help nor receive justice.

Ultimately, the structural violence is not only racialized but also gendered; the 'state' is supposed to ensure legal protection but when it fails to do so, there are stateless people who cannot claim rights nor the state is interested on providing them (Butler & Spivak, 2015: 15).

Therefore, I want to further understand the mechanism of *Programa Vida*. Meanwhile, it took awhile for MIDES to get back to me with a date for the interview. And even when I got there, I had to wait an hour because the entire office went to celebrate someone's birthday. When they finally got back, they still made me wait longer because Karol (*Programa Vida* state coordinator) had to get 'permission' from MIDES' state director. It seemed that they were skeptical but finally I was able to interview Karol. Prior to the interview, Karol confessed that she worked at MIDES for only a year but in a different position. So, during the interview she was holding a *Programa Vida* manual, and if she did not know the answer, she would look it up in the manual.

According to Karol, hospitals/health clinics should inform young mothers who fit into the requirements about *Programa Vida*. However, there is no follow-up/referrals from the hospital to MIDES. In other words, if information is provided, it's up to the young mother to find out more information regarding such program. In other words, young mother survivors of sexual violence not only have to pursue justice but also find help; it's on the victim's shoulders to help herself. Besides the *judicialización* requirement, MIDES also requires: copy of parent/guardian's identification of the teen mom, copy of birth certificate of the young mother and her baby, copy of prenatal health records, copy of the baby's immunization records. After the package is completed, the young mother would take it to the nearest MIDES office in her community which

is then sent as a complete package to the MIDES in Huehuetenango City. From there, it is then sent to Guatemala City where the final decision is made. This is the so called ‘mutual responsibility’ which refers to the expectation of the victim to collaborate with law enforcement by reporting to the police. From there, the investigation continues which is under the requirement called ‘*judicialización*,’ but also gather all these documents.

Besides these ‘official’ requirements, MIDES also has a hidden requirement: being a mother. When OSAR and I visited Joanna, a MIDES representative of the nearest town came with us. I learned that Joanna lost her premature twins in less than a month after being born. According to the MIDES representative, it is most likely that Joanna does not qualify for *Programa Vida* because she lost her twins. So I asked Karol about such situations and she stated that is a ‘dilemma’ they currently have because there is only one case (Joanna’s) which MIDES from Huehuetenango City is unsure of whether she would qualify but hope that the MIDES office in Guatemala City will make the right decision. However, Karol expressed that the MIDES in Huehuetenango will make sure she qualifies for other programs. Also, the monetary subsidy is meant for the baby and not for the young girl; the victim. Consequently, *Programa Vida* also reinforces motherhood unto these girls. Again, Joanna was honest by stating that she is glad her babies died because it allows her to move on. But, MIDES is now telling her she cannot receive the help because she lost her twins. Karol smiling replied by saying that “*Programa Vida* is new and its constantly going through revisions” to justify such ‘dilemmas.’

In addition, by the time of the interview which was in September of 2018, Karol confirmed that there are no beneficiaries from the state of Huehuetenango. She must of seen the shock in my face because she automatically added that they do have twelve applicants and

hopefully by the beginning of 2019, those young mothers will be beneficiaries. Interestingly enough, the five young mothers we visited are part of that list. In addition, two other younger girls OSAR works with are on the list. Thus, it showed that the work of OSAR is imperative to make sure the gap between legislation and implementation is closed. Due to the fact that they do not have any beneficiary and only twelve potential applicants, I asked Karol if they do have an outreach program. She said that it is the health clinic responsibility to inform these young mothers about *Programa Vida*. Also, Karol confirmed that the biggest challenge these young mother face is that of obtaining their case number from Public Prosecutor's (MP) office. I asked if MIDES can request that information to MP so it would be easy for these young mother; she replied that "only the parents of the young girl should do that." It did not make sense to me because under '*ruta de denuncia*' (formal complaint route) there is an inter-institutional collaboration to submit a complaint to MP but not ask MP for their case number? MIDES' commitment should make *Programa Vida* accessible to these young mothers and not make it a marathon where mothers have to jump through hoops.

Meanwhile, indigenous communities do have their own ancestral authority that could provide easy access to justice and retribution instead of punishment; something many of these young girls survivors of rape have a hard time with state institutions. As previously mentioned, in June 10, 2012, an assembly was called to discuss the crime committed by an indigenous fourteen years old teen who sexually violated an indigenous ten year old girl. Parents of both teen and girl had to meet with committee, where the committee agreed that the girl "should be taken to a comadrona (midwife), a gynecologist, and a phycologist; as the first phase" (Cumes, 2018). Seven days later, the committee met again to discuss the possible resolution (indictment),

after having the report back from “the midwife and psychologist that the young girl is not pregnant and seems well” which they agreed that the teen’s ‘moral’ [retribution] should be “asking for forgiveness to the girl, her parents and his parents”. And, for ‘physical’, “the teen would receive twelve to twenty-five lashes.” Lastly, as for economic retributions, the parents of the teen would pay all medical fees and any other necessary expenses from six months to a year (Cumes, 2018). By June 27, parents of both teens: boy and girl agreed to accept the resolution proposed by the Municipal Council of Community Mayors according to Guatemalan Constitution Art. 66, 8, 518 and ILO Convention 169 (Cumes, 2018).

On one hand, this procedure would take one to two years if *Fiscalía de Adolescentes en Conflicto con la Ley Penal* (Public Prosecutor of Adolescents in Conflict with the Criminal Law - MP) does their actual work. But has proven in the cases of Margarita, and Angela, MP has not visited them over a year and thus their case is lost. On the other hand, the indigenous authority rather agreed to retributions which is more restorative than punishment; especially when the teen who was fourteen does not qualify under Article 173 (statutory rape) based on age because both the aggressor and victim are underage. While working for OSAR in Guatemala City, I asked one of OSAR worker what would happen if the aggressor is fourteen or younger? She jokingly said that it would mean “they rape each other” (June, 2018). In other words, the state of Guatemala ‘sees’ teenage pregnancy as an epidemic and therefore, the more penalties/punishments necessary to stop it. Yet, its laws and requirements have many loopholes and its government institutions’ lack of political will does not help any victim of sexual violence. Even when the indigenous authority tries to provide justice to indigenous families, the indigenous authority’s morale is questioned, and the legitimacy of its jurisprudence is reduced to

traditional practices rather than another organism that can provide accessibility to these families to justice. As, in the words of Frantz Fanon, project of colonialism states that “the ‘native’ is declared... not only the absence of values but also the negation of values. He is, dare we say it, the enemy of values” (2004: 6). In other words, indigenous communities are blamed for teenage pregnancies due to ‘their practices’ and the state considers itself as the protector of values through its jurisprudence. Though, continues to ‘not see’ its implication of the spread of violence against women, especially indigenous women. Also, does ‘not see’ the broken judiciary system that only creates more room for violence to exist and persist.

Lastly, as Cumes argues, “as in this community, throughout the country, the problem of violence against women must be systematically restated” (2018). Since abortion is illegal in Guatemala, victims and survivors of rape are forced to become mothers. Then when the state declares to ‘help’ teen mothers under *Programa Vida*, motherhood is a requirement. As previously mentioned, Joanna lost her twins and she could not qualify for *Programa Vida* because she was not a ‘mother.’ Ironically, the state blames teen mothers for making ‘poor’ choices and even blames them for reproducing poverty by having babies at such a young age. Therefore, violence against women is systematic and rooted in settler colonialism by denying women the right to choose if they want motherhood. Additionally, as much as MIDES can excuse its low number of recipients of such ‘new’ program, the reality is that there is lack of political will from all its branches, to actually help young mothers who need this help. In addition, Q.1500 (\$194) is not enough to make sure both mother and baby can survive in extreme poverty conditions. Last October, OSAR director, Dr. Mirna Montenegro criticized MIDES’ failure to support these mothers due to their bureaucratic requirements and the difference

between theory and practice; stating that MIDES only have 61 teen mothers when there are over 600,000 cases all over the country. MIDES' response was that most of the teen mothers do not meet the requirements which depend on "mutual responsibility" to meet all the requirements, such as that of the '*judicialización*' (Prensa Libre, 2018). In other words, *Programa Vida* in paper looks like a great initiative to help young mother, survivors of rape but accessibility to the different resources is an obstacle for these young mothers. Similarly to justice, *Programa Vida* cost money and time; which most of the families cannot afford.

Chapter Five: Conclusion

Indigenous women's bodies have historically been a battlefield in dispute. The settler colonial project has persisted throughout centuries embedded in patriarchy, racism, and neoliberalism (Speed, 2017). In other words, from raping the land by extractivist companies to the rape of girls as young as ten years old by a member of their own families or a stranger; perpetuates the settler colonial state to police young indigenous girls' bodies and force them to continue reproducing poverty as a continued cycle of oppression. Indigenous women cannot claim autonomy over their bodies; the bodies of indigenous women have historically been owned by her father, husband or any other man in their community. Additionally, historically the settler colonial state has used rape as a tool of war and rape of indigenous women is, according to Aura Cumes, a tool of genocide (Cumes, 2012). As such, indigenous women in Guatemala do not have rights to decide what is best for their bodies and they are frequently forced to give birth to unwanted babies because the church and the state made that decision without her consent.

The state and many NGOs have contributed to mainstream narrative that teenage pregnancy is an 'epidemic' or 'cultural practice' as well as categorizing young couples as 'illicit.' This narrative has been constructed not only by the state but also by civil society, including organizations like OSAR, UN Women Guatemala and many other organizations that seek to defend the "civil and political rights" of girls. As stated, 62 percent of these young mothers live in rural areas and over 80 percent of them are indigenous (ElPeriodico, 2018). Thus, teen mothers do not reproduce poverty; they are the face of poverty. Throughout this thesis, I went beyond by challenging the mainstream narrative on teenage pregnancy by analyzing systematic structural patterns. Thus, to analyze violence not as an individual action only, but as

an effect of violent systematic structures such as racism, sexism, and poverty. These structures allows the interpersonal violence to exist. This analysis prevented me from falling into cultural essentialism and allowed me to return the gaze back to the state (Menjívar, 2011). This is very imperative because the state has always singled out indigenous communities and in this case, reduced teen mothers as numbers and as incubators to reproduce more citizens (Briggs, 2006). All this eventually provides hands for cheap labor. By returning the gaze to the state it allowed me to analyze what the state ‘sees’ and ‘does not see’ (Smith, 2015) in its surveillance of indigenous women’s bodies. The settler colonial state of Guatemala does ‘see’ teenage pregnancies as an ‘epidemic’ and claims to protect the rights of young girls, but it does ‘not see’ the structural violence that keeps indigenous communities in poverty and consequently, in violence.

Also, the settler colonial state does ‘not see’ sexual violence as an ‘epidemic’ nor the fact that it's judiciary system is broken. *Programa Vida*, as an example of a state institution legitimizes its power to govern indigenous communities through their lens and no other. The settler colonial state requires most of these young survivors of sexual violence to comply with the “*judicialización*” criteria, which assumes they have the money to travel, to take time off from work and to have the patience to wait upwards of two years for their investigation to be concluded?. In Guatemala, justice has a price; it is not a right but a privilege that only those that have money and time can afford. Thus, the responsibility to fight for justice fails and ultimately falls on the shoulders’ of these young girls, who tragically have no one to turn to for help. And this more often results in their own families blaming the victim for ‘causing’ more problems. Therefore, most of these young girls have decided to drop the charges and not prolong the pain,

the shame, and the guilt. Perfect examples are the cases of Margarita and Joanna, who would rather look for jobs and activities to get involved in so they can continue to provide for themselves and for their families. Also in the case of Angela, her parents blame her for ‘causing’ problems and shame; but also realize they cannot afford justice. They know that justice is not for everyone, that justice is only for those who can afford it, who live in the cities, speak Spanish and have the luxury to travel. In other words, justice is only accessible to those that are urban, usually middle class Mestizo/Ladino citizens.

The work of OSAR is undeniably essential; they make sure these young mothers and survivors of sexual violence receive the help they need from government institutions. However, they cannot provide their services to every young teen mother/survivor of rape, because it is the state’s ultimate responsibility to make sure justice is accessible to every citizen. As Carolina said, “MP as an institution is weak and cases of sexual violence is not a priority... which limits access to justice” (August, 2018). Therefore OSAR becomes the “heavy” hand that pressures institutions such as MP and MIDES to make resources available to the most needy. Overall, it seems to me that the state of Guatemala has passed and approved policies and programs to ‘help’ young girls with the aim to stop the spread of teen pregnancies, while realizing that it looks nice on paper yet implementation is non-existent.

There should be a better protocol for these young mothers to access the different resources. First, Ministry of Social Development (MIDES) should have a team designated to do outreach and follow up with each case to makes sure young mothers learn more about the program. Second, accompany young mothers to the different institutions to gather all the documents required. Third, it is important that MIDES should have direct communication with

the Public Prosecutor's office (MP) to have access to their case/investigation number since most families struggle to obtain that piece of information. Also, since most of these departments already work together under '*ruta de denuncia*' (formal complaint route), they should have the same method to collaborate with the documents needed to enroll in such program. Fourth, MIDES should change the *judicialización* requirement by only requesting a copy of the police report and not an indictment. The Public Prosecutor (MP) is in charge of any crime investigation and does not take sexual violence cases as a priority, or the MP claims that due to lack of resources they cannot continue the investigation, therefore the indigenous tribal court needs to be an option. Like in the case cited by Aura Estela Cumes, the indigenous tribal assembly dealt with the crime and came up with reparations for the indigenous girl victim and restorative justice for the young indigenous teen. All of this happened within a month, which speaks to how accessible it is for the families. In the colonial settler state, most of these young mothers would rather drop their cases, not because they do not want justice but because in the judiciary system their cases are not a priority. Consequently, it takes longer than it should, leaving most of these girls in limbo when all they want is justice so they can close that chapter of their life. It should not fall on the girls' shoulder to pursue justice; the colonial state of Guatemala must acknowledge that their judiciary system is not designed to help nor incorporate indigenous people. Therefore, a tribal court is a necessity. This approach will allow indigenous communities need to add sexual violence to their political agenda as an issue that needs to be addressed in addition to the protection of land (Cabnal, 2015).

Also, MIDES should not require young girls survivors of sexual violence to be mothers in order to potentially qualify for this help. MIDES has to understand that what they are doing is

forcing motherhood as in the case of Joanna, who lost her twins. Yet, the state demonizes young mothers for their 'lack of readiness' to be young mothers. Lastly, there is a need to increase the amount of financial help because it is not enough for mothers that have to support themselves, their baby, and their families. Most of them live in extreme poverty and can barely make it to survive. They are already marginalized, exploited, and segregated that a few dollars is not enough to survive. Overall, *Programa Vida* 'aims' to help and support these mothers who are survivors and keep fighting to survive, but sadly there are only sixty-one teen mothers enrolled in the whole country. Right now, *Programa Vida* is merely a bandage to a whole larger structure that needs to be expanded so more young indigenous girls and mothers can ultimately have full autonomy over their bodies as well as the social, cultural, and economic entities that will finally recognize them as full human beings.

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