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LAS 200

Violence Against Women in Guatemala: Why courts and legislation aren't enough and the importance of educational and economic programs.

Violence against women (VAW) is a problem that plagues many countries and has been an issue governments have attempted to remedy for years. In the case of Guatemala, VAW is an extremely prominent issue with as of 2021, 600-700 women being killed a year (Beck & Stephens, 2021, pg. 2). Despite the fact that the introduction of legislation and specialized courts has greatly contributed to the prevention of VAW in Guatemala and the numbers of cases have been decreasing over time, I argue that this is not enough. Not only is VAW deeply embedded in the Guatemalan state making it impossible for legislation and courts alone to remedy the problem, but the courts and legislation are lacking effectiveness. To continue to reduce (VAW) there needs to be a shift in focus to programs supporting the economic independence and education of women. Increasing these opportunities can aid in a women's ability to escape the cycle of violence that many women in Guatemala are stuck in.

Before analyzing how VAW is embedded in the state and its institutions, how legislation and specialized courts have been ineffective, and why programs focusing on education and economic equality are essential to relieving VAW I want to provide some background on the current laws discussing VAW in Guatemala. In 2008 Guatemala passed the 'Law against Femicide and Other Forms of Violence against Women.' This law criminalized forms of VAW that included physical, psychological, sexual and economic violence. This law also established femicide (the killing of a woman just because they are a woman) as a crime that could be differentiated from and have a heavier sentence than traditional homicide. In addition to this

legislation creating criminal code for VAW, it established specialized courts dealing with femicide and VAW cases. These courts are called 'Femicide and Other Forms of Violence against Women Criminal Courts.' The legislation implemented various forms of feminist logic with the hopes of creating a law that was all encompassing of areas in which VAW could be perpetrated (Beck & Stephens, 2021, p. 10). In addition to the use of feminist logic in the legal text itself, there are also requirements for those participating in these specialized courts to be trained on issues pertaining to VAW. For example, they must know and understand what misogyny is and how it has played out in Guatemalan history, as well as provide special supports for the victims. These laws and practices in theory are great, but as I will discuss later, they are lacking in a practical sense. The lack of on the ground effectiveness that these laws have on top of the deeply embedded state perpetration of VAW, does not provide enough of a remedy to eradicate the issue and more needs to be done.

Between a coup and civil war violence plagued Guatemala for over 30 years. To understand how VAW is so embedded into the state and its institutions it is important to understand the violent history of the state. To begin with, the 1954 a coup was staged by right wing groups aided by the CIA to oust the democratically elected president of the time Jacobo Arbenz. This in turn put Colonel Carlos Castillo Armas into power. Castillo reversed much of the land reform put in place by Arbenz which greatly impacted many poor indigenous workers who relied on their land to feed their families and support themselves economically. After the coup civil war broke out in the country between left wing guerrilla groups and the states military creating immense amounts of violence that disproportionately affected rural indigenous people, specifically women. During this time the Guatemalan government under the rule of various military leaders disappeared thousands of young men and boys and sexually, physically, and

emotionally abused thousands of women. According to an article written by UN Women (a branch of the UN), “Guatemala’s civil war was not only one of the deadliest in the region, it also left behind a legacy of violence against women” (UN Women, 2018).

One case that exemplifies the kind of violence thousands of women faced at the hands of the Guatemalan military was that of the horrors that took place at the military base in Sepur Zarco. Sepur Zarco military base was set up as an outpost in 1982. Before the military base was set up Sepur Zarco was a small community of poor indigenous farmers who used the little land they had to sustain themselves and their families. When the military came everything changed for these families. According to Maria Ba Caal, a woman who lived in Sepur Zarco at the time, “They burned our house. We didn’t go to the Sepur military base (rest outpost) by choice...they forced us. They accused us of feeding the guerillas. But we didn’t know the guerillas” (UN Women, 2018). Maria’s story is very similar to many other women's stories who lived in the village at the time. The military came in and destroyed everything. Taking the men and boys and killing them and bringing the women back to the base with them. Back at the base these women were forced into sexual and domestic slavery. According to Doña Felisa, another woman who like Maria was enslaved at the base, “I was raped, along with my two daughters who were young married women then. Their husbands had left... We tried to escape, we sought shelter in abandoned houses, but the soldiers found us. My daughters were raped in front of me.” (UN Women, 2018). It is important to note that the atrocities that occurred at the Sepur Zarco military base were not a one off. Similar things happened to many women all over Guatemala at the hands of the military for over 30 years, as all forms of VAW became a normalized tactic used and encouraged by the state as a way to obtain information about the guerrilla groups. In the case of Sepur Zarco some justice has been served. In 2016, 15 survivors won the case they took to

international court five years earlier, which convicted two prominent military officers and granted reparations to the women. Despite the fact that there were high profile convictions in the Sepur Zarco case little justice has actually been served. According to many of the women who took their case to the court very few of the reparations they were promised have been met and many are still waiting to see justice play out in their own lives. The case of Sepur Zarco provides an example of how VAW was used as a tactic by the state for over 30 years during the conflict. Due to this legacy of 30 plus years of violence, VAW is so deeply embedded into the state that it is impossible for legislation and courts alone to remedy the issue as it is so intertwined with the state's identity.

In addition to VAW being so deeply embedded into the state and the states institutions in Guatemala, the effectiveness of current legislation and specialized courts are lacking. As I mentioned earlier the 2008 VAW law and the creation of specialized courts were big steps forward in helping prevent VAW, but in practice it is missing the mark. One of the main reasons why specialized courts have been relatively ineffective in preventing violence is because of the lack of continued government support. According to Erin Beck and Lynn Stephens who completed research analyzing the effectiveness of these courts, “Underfunding, understaffing, and shortages of logistical support characterize the daily reality of those working in Guatemala’s specialized VAW courts – evidence of the low priority assigned to gender-based violence by the central government” (Beck & Stephens, 2021, pg. 3). Due to the nature of VAW being so normalized by the state and used by the state as a weapon for over 30 years it is not surprising that there is a lack of governmental support and oversight in how these specialized courts function. Similar to what occurred in the Sepur Zarco case, many women who seek justice in these courts rarely feel justice in their everyday lives and the reparations they are promised go

overlooked more often than not. Due to the pressure that many of those who work in these specialized courts feel to put out as many verdicts as possible, much of the intersectionality of VAW goes overlooked despite the focus of these issues in the legislative text itself (Beck & Stephens, 2021, pp. 14-15).

In addition to the blatant lack of support from the Guatemalan government when it comes to the oversight of these courts and ensuring they function as they are supposed to, there is also an issue with the legal culture surrounding these courts and the issue of VAW in general. According to the research completed by Beck and Stephens, “specialized justice institutions were influenced by a legal culture focused on individual victims and individual restitution. This legal culture ignored the historical and current context in which gender-based violence was, and still is, embedded” (Beck & Stephens, 2021, p. 3). When the historical context of VAW is ignored, it prevents victims from receiving adequate justice. For many of the women that have faced violence and have the strength take their cases to court, a conviction is not enough specifically when it comes to intimate partner violence. Many women are economically dependent on their partners (which is another main issue that perpetrates VAW that I will discuss later). Due to this dependency, once their partners have been convicted, they are left with very few options on how to support themselves and their families. Even though this issue was addressed in the VAW law of 2008, little is done by the courts to remedy this through reparations even though they have the power to do so. The lack of government support and the legal culture focusing on a narrow form of justice has prevented specialized courts and legislation from addressing VAW completely. This ineffectiveness coupled with the deeply embedded nature of VAW in the state, demonstrates how legislation and courts alone are not enough to remedy the issue.

There are many other contributing factors that can help explain why VAW is such a severe problem in Guatemala outside of the reasons we have previously discussed. Two other important variables that play a role in causing VAW are economic imbalances and educational opportunities. In Guatemala women are both economically unequal to and are more likely to live in poverty than men as well as have less opportunity to attend school. According to scholars Corinne Ogrodnik and Silvia Borzutzky, “Data shows that 29.8 percent of women are poor while 24.6 percent of men are poor in Guatemala, and that women are poorer than men both when absolute and relative poverty measurements are used” (Ogrodnik and Borzutzky, 2011, pg. 58). Not only are women more likely to be in poverty than men but those who do work typically are not able to obtain jobs that pay as well as men due to the type of labor women are expected to do (ex. cleaning, cooking, and childcare). This lack of opportunity to obtain economic wealth and independence prevents many women from leaving abusive relationships, as they are completely reliant on the income of their partner to provide for themselves and their families. According to the World Bank, “Economic independence is reflected not only in a woman’s capacity to spend, save, acquire property and invest, but also in the freedom to get out of abusive domestic relationships” (World Bank, 2011).

In addition to many women not being able to be economically independent, women in Guatemala do not have the same educational opportunities as men. According to scholar Lizzy Tarallo who analyzed literacy statistics from World Bank data in 2018, “Male adult literacy stood at 86.8 percent in 2014, while that of females was only 76.3 percent (Tarallo, 2019, pg. 47). Women’s education is not prioritized by the state in Guatemala leaving many young girls left to marry young and become reliant on their husbands. This can create an atmosphere where intimate partner violence is common as many women do not have any other options that to stay

with their husbands despite the abuse. This is why I argue that the Guatemalan state needs to turn their focus to creating programs that help women gain economic independence and increase opportunities for education as these two areas help break the cycle of violence.

There are many examples across the world in which increasing education has helped women escape abuse and earn economic independence. An organization focused on this issue is the Central Asia Institute (CAI). The CAI is a non-profit organization that is run in the U.S and is working to help build and run schools in Pakistan, Afghanistan, and Tajikistan. According to their website they have started 400 initiatives and educated thousands of women (Central Asia Institute, 2017). Those at CAI have seen a real impact on what providing education to young girls can do in terms of helping them escape violence and gain economic independence. According to their observations, “When they (young girls) get an education, they have more options to make a living, contribute to the family income, and they spread their newly acquired knowledge throughout the family and community” (Central Asia Institute, 2017). CAI is a non-profit organization, but they have set up a system that has impacted thousands of young girls' lives. If the Guatemalan government can create a program like this, I truly believe it will have an immense impact on preventing VAW and re-writing the narrative of the states involvement in VAW in a way that the courts and legislation cannot.

VAW is a severe problem in Guatemala and despite the progress the state has made with passing legislation and creating specialized courts it truly is not enough. VAW has been characterized as normal in Guatemala and used has been used by the state as a weapon for over 30 years during the conflict. Due to the embedded nature of this violence, courts and legislation alone cannot remedy the issues, especially when they are underfunded, understaffed, and do not function as they are supposed to. To help prevent further VAW I believe that the Guatemalan

government needs to focus on programs that increase a women's ability to become educated and achieve economic independence as these are essential to fostering women empowerment which in turn allows for women to break the cycle of violence.

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