correspondents at large

Rape and Human Rights

JEAN FRANCO

ACCORDING TO THE REPORT OF THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS, RAPE IS THE LEAST CONDEMNED WAR CRIME (COOMARaswamy, *Further Promotion* 64n263). Although wartime rape was listed as a crime against humanity by the Nuremberg Military Tribunals and by the Geneva Conventions, it was not until 2001 that the International Criminal Tribunal for the former Yugoslavia identified rapists as war criminals. In that year the tribunal sentenced three men for violations of the laws or customs of war (torture, rape) and crimes against humanity (torture, rape) committed during the war in Bosnia during the 1993 takeover of Foca, where women were systematically raped and killed, the purpose being "to destroy an ethnic group by killing it, to prevent its reproduction or to disorganize it, removing it from its home soil."[1]

The atrocities committed in the former Yugloslavia were paralleled or even surpassed during the civil wars of the 1980s and 1990s in Peru and Guatemala, where army campaigns against insurgency overwhelmingly castigated the indigenous populations. In Peru seventy-five percent of the estimated sixty-nine thousand dead in the civil war were indigenous peoples. In Guatemala most of the estimated thirty thousand dead were Mayans. Rape in both countries was committed during massacres and interrogations. Despite the difficulty of getting women to speak of rape, the report of the Guatemalan Commission on Historical Clarification, *Guatemala, memoria del silencio* ("Guatemala, Memory of Silence"), counted 9,411 victims, about a third of whom were killed in massacres. The Peruvian report of the Commission on Truth and Reconciliation included a lengthy section on rape (*Informe*). While Guatemala had a history of state terror going back to the 1960s, most of the atrocities were committed during the campaigns of the early 1980s. In Peru, on the other hand, it was the democratically elected governments that declared the "state of exception" that gave the army and the police a free hand in their war against insurgency. Both reports document rapes committed by the insurgents, such as the Shining Path in Peru, although the majority were committed by the army and the police.

JEAN FRANCO is professor emerita of Columbia University. Her most recent publication is *The Decline and Fall of the Lettered City: Latin America and the Cold War* (Harvard UP, 2002). She is at present working on various aspects of rape.

© 2006 BY THE MODERN LANGUAGE ASSOCIATION OF AMERICA

https://doi.org/10.1632/pmla.2006.121.5.1662 Published online by Cambridge University Press

As in the former Yugoslavia, rape in Guatemala and Peru was a form of torture often accompanied by beatings, insults, and other humiliating treatment. Women were stripped naked. Sticks and guns were thrust into the vagina and anus of prisoners. In Peru captured women suspected of belonging to the Shining Path were given over to the troops as part of a system known as *pichonear* and were submitted to mass rape, often accompanied by other forms of degradation. In Guatemala women of all ages were raped, and fetuses were taken out of the wombs of pregnant women (*Guatemala* 3: 12–57). Some of the worst atrocities occurred during punitive massacres, when the armies entered villages, separating and executing the men and raping and then killing the widows. The perpetrators advertised a rape by placing a stick in the vagina of the mutilated corpse. Witnesses speak of soldiers lining up to rape and being ridiculed if they refused to go along. In Guatemala there were grotesque scenes in which captured women were forced to cook for the soldiers and dance to marimba music that accompanied the assaults. Gang rapes were common. Women often died when gang-raped, but even moribund they were not spared.

Given the overwhelming evidence, it is clear that rapes were not spontaneous but planned. Their deadly purpose was not only the abjection and humiliation of the victims but also the extermination of the seed. In Guatemala women's bodies were mutilated, especially the sexual organs and the breasts. During massacres, children were hurled against walls and thrown into mass graves. In both Peru and Guatemala women were raped in front of their husbands and children. What can account for this ferocity other than a "final solution"—that is, the destruction of the indigenous community? What makes these rapes different from those of Bosnia is that they were committed against the original inhabitants of the land, the conquered people of the Americas, who were now submitted to a second and even more brutal conquest.

This planned destruction of ethnic communities reversed a policy put in place by the Spanish administration of the colonies. After the conquest, the indigenous peoples were separated into communities that allowed them to preserve their dress, customs, and languages but that made them a pool of workers for the farms and plantations. This system endured until recently in many places. Rigoberta Menchú describes it in her well-known autobiography. The army campaigns were intended as a break with the past, with the aim of constituting the nation on a new basis. The Guatemalan army took on a role as "the builder of a new political order," and one of its documents envisaged the militarization of society (*Guatemala* 6: 73–86; my trans.). As the historian Greg Grandin has pointed out, the intention behind this vision was to clear the ground for nation building on new lines. Rape was not incidental to this process; it was a strategy intended to eliminate the very bodies responsible for continuity and survival.

Survivors find it hard to talk of rape. The ethnographer Kimberley Theidon, who investigated the effect of violence in the highlands of Peru, wrote that "if there is a theme capable of producing silence (*mudez*), it is rape" (109). *Guatemala, memoria del silencio* states that the "suffering of women, victims of rape, in the majority of cases is not known even to their families—sons, husbands, or fathers—and in those cases in which it is known to their community it is silenced or negated, a factor that demonstrates the feeling of extreme shame on the part of the survivors and the communities" (3: 21; my trans.). Rape is a violence against long-standing codes that relate a man's honor to the purity of his wife and daughters. Survivors of rape suffer a double injury, the physical harm of rape and the burden of shame and even guilt that falls on them alone. In both countries, those who were known to have borne children of rapists

https://doi.org/10.1632/pmla.2006.121.5.1662 Published online by Cambridge University Press

were isolated and rejected by their communities and their menfolk. Sometimes they left these children to die (Theidon 128).

Yet women did find ways to talk about rape in the many personal testimonies recorded by the truth commissions, although they often used euphemisms to do so. But what of those who cannot speak, the numerous dead whose mutilated bodies were left on roadsides or in fields, where they were picked by buzzards, or whose bodies simply "disappeared," making it impossible for the families to mourn? These were bodies relegated to the less than human. The president of the Peruvian Commission on Truth and Reconciliation, Solomon Lerner, described its report as a mandate on behalf of the absent and the forgotten of the nation. In her book *Precarious Life*, Judith Butler asks, in the light of recent global violence, "Who counts as human? Whose lives count as lives? And, finally, What *makes for a grievable life?*" (20). Though her questions are posed in a different political context, the silence and absence of the dead rape victims and the shame of the living are a devastating answer.

Notwithstanding the enormous body of evidence accumulated by the truth commissions, rape is still less visible than other war crimes. The trial of the Serbs in 2001 was described as a breakthrough, but in retrospect it stands out as an unusual event, an isolated instance. Only in 2006 did the International Symposium on Sexual Violence in Conflict and Beyond take place, in Brussels. On the agenda was the continuing strife in Colombia, about which in 2002 the special rapporteur on violence against women urged the armed factions to state publicly "that rape in the conduct of armed conflict constitutes a war crime and may constitute a crime against humanity under defined circumstances, and that anyone who commits rape will be brought to justice" (Coomaraswamy, *Integration* 25). While this call may seem a utopian aspiration, its very formulation in these terms is a significant acknowledgment of acts that all too often in the past have been considered the inevitable complement of war.

Note

1. Diken and Laustsen 115. International laws dealing with rape are included in article 27 of the fourth Geneva Convention and in a 1977 supplement to the Geneva Conventions, Protocol II. In the body of law from the Nuremberg tribunals, rape is listed in article 6 as a crime against humanity.

Works Cited

Butler, Judith. *Precarious Life: The Powers of Mourning and Violence*. Verso: London, 2004.

Coomaraswamy, Radhika. *Further Promotion and Encouragement of Human Rights and Fundamental Freedoms . . . : Alternative Approaches and Ways and Means within the United Nations System . . . : Preliminary Report Submitted by the Special Rapporteur on Violence against Women, Its Causes and Consequences. . . .* United Nations Commission on Human Rights. 50th sess. 22 Nov. 1994. E/CN.4/1995/42.

———. *Integration of the Human Rights of Women and the Gender Perspective: Violence against Women: Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences. . . .* United Nations Commission on Human Rights, 58th sess. 11 Mar. 2002. E/CN.4/2002/83/Add.3. *WomenWarPeace.org*. 14 July 2006 <http://www.womenwarpeace.org/colombia/docs/srvawvisit.pdf>.

Diken, Bülent, and Carsten Bagge Laustsen. "Becoming Abject: Rape as a Weapon of War." *Body and Society* 11.1 (2005): 111–28.

Grandin, Greg. "The Instruction of Great Catastrophe: Truth Commissions, National History, and State Formation in Argentina, Chile, and Guatemala." *American Historical Review* 110 (2005): 46–67. *History Cooperative*. 14 July 2006 <http://www.historycooperative.org/journals/ahr/110.1/grandin.html>.

Guatemala, memoria del silencio. Guatemala: Comisión para el Esclarecimiento Histórico, 1999.

Informe de la Comisión de la Verdad y Reconciliación [*Report of the Commission on Truth and Reconciliation*]. *Derechos Human Rights*. 14 July 2006 <http://www.derechos.org/nizkor/peru/libros/cv>.

Menchú, Rigoberta. *I, Rigoberta Menchú: An Indian Woman in Guatemala*. Ed. Elizabeth Burgos Debray. Trans. Ann Wright. London: Verso, 1984.

Theidon, Kimberly. *Entre prójimos. El conflicto armado interno y la política de la reconciliación en el Perú*. Lima: Instituto de Estudios Peruanos, 2004.

https://doi.org/10.1632/pmla.2006.121.5.1662 Published online by Cambridge University Press