

**THE PROMISE AND PERIL OF PRIMARY DOCUMENTS:
DOCUMENTING WARTIME SEXUAL VIOLENCE IN EL SALVADOR AND PERU¹**

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This article explores the methodological obstacles to research on wartime sexual violence and the extent to which they can be overcome with archival research. It discusses issues of concept formation, counting victims of human rights abuse, and coding violations. It compares figures from the final reports of the Truth Commissions in El Salvador and Peru, an analysis of their published materials, and an analysis of the primary documents and finds that (1) the number of reported cases of sexual violence varies significantly depending on the data source, (2) men were more often the targets of sexual violence than previously thought, and (3) sexual humiliation and sexual torture were common practices of the state armed forces during the conflicts.

Keywords: *sexual violence, rape, war, archives, Peru, El Salvador*

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INTRODUCTION

Accounts of wartime rape, sexual torture, forced impregnation, and sexual slavery have been reported in Liberia, Bosnia-Herzegovina, Rwanda, East Timor, Iraq, and Sierra Leone in the last ten years alone. Sexual violence is one of the most horrific and intimate forms of nonlethal violence during war. Victims of sexual violence may suffer chronic health problems, face social stigma and isolation, and often confront inordinate obstacles to obtaining justice and reparation. The urgency of documenting the occurrence and understanding the causes of wartime sexual violence should not be underestimated, as stories of such atrocities continue to surface in the Sudan, the Democratic Republic of Congo, and most recently, Libya.

Emerging research on the patterns and determinants of wartime sexual violence represents one of the most exciting developments in the political violence and human rights literatures. Scholars are making significant advancements in documenting the prevalence and patterns of sexual violence and identifying the determinants of its use in civil and international conflicts.² Employing different methodological approaches and research designs, they are developing new theories to explain individual, group and state, or conflict-level variation in sexual violence. However, research on wartime sexual violence is faced with unique practical, ethical and methodological obstacles. Using El Salvador and Peru as illustrative case studies, this article discusses the challenges of collecting and coding data on wartime sexual violence and offers suggestions for overcoming them. I argue that the methods employed to date by truth commissions, including in how cases of sexual violence are defined and counted, are too narrow, and may ultimately miss or misrepresent “the truth.”

This article is organized as follows. In the section below, I will provide a brief overview of the civil conflicts in El Salvador and Peru and the subsequent work of the Truth Commissions

² See Jeffrey Burds, “Sexual Violence in World War II< 1939-1945””, in *Politics & Society*, 2009 vol. 37, no. 1; Dara Cohen, “Evaluating the Causes of Sexual violence by Insurgents during Civil War: Cross-National Evidence (1980-1999)”, (paper presented at the annual meeting of the American Political Science Association, Boston, August 28–31, 2008); Elisabeth Wood, “Variation in Sexual Violence during War”, in *Politics & Society* 2006, vol. 34, no. 3, p.307–41; and Elisabeth Wood, “Armed Groups and Sexual Violence: When Is Wartime Rape Rare?”, in *Politics & Society*, 2009, vol. 37, no. 1.

in each country (abbreviated as CVES in El Salvador and CVR in Peru). I then discuss the four most common methodological obstacles confronted by scholars of political and sexual violence. I compare the figures on rape reported in the Commissions' final reports with those I have found after a careful reading of the final reports and published supplementary materials. I also compare these figures to those in my sample of the original testimonies from victims and witnesses of violence.³ Doing so provides a unique opportunity to examine the processes through which reports of human rights abuse are collected, information sorted, and statistics transmitted. I show that what we know about wartime violence depends greatly on the choices we make in designing our investigations. Specifically, I find that (1) the number of reported cases of sexual violence varies significantly depending on the data source, (2) men were more often the targets of sexual violence than previously thought, and (3) sexual humiliation and sexual torture were common practices of the state armed forces during the conflicts.

CIVIL WAR IN EL SALVADOR AND PERU

El Salvador

Emblematic of class-based conflicts, the Salvadoran civil war was rooted in long-standing economic and political divisions in society. For generations, a small elite class successfully marginalized the rural peasant population and monopolized the country's already limited arable land, such that 3 percent of all landowners controlled 56 percent of the country's arable land. Between 1961 and 1980, the rural landless grew from 11 to 51 percent.⁴ As a result, 76 percent of rural families lived in poverty; 55 percent lived in extreme poverty.⁵

³ The terms victim and perpetrator are used throughout to refer to attributions of identity at a particular moment in time as it relates to the violation of an individual's human rights. These identities are fluid and dynamic, as are the concepts of "innocence" and "guilt." The same individual that may at one moment be an agent of violence, and thus a perpetrator, can at another moment be a victim of human rights abuse. Particularly with regard to sexual violence, my use of the term "victim," is not intended to reinforce the stigma of an individual who has suffered sexual violence, nor is it to deny or minimize the agency, power and resistance of the person.

⁴ Tommie Sue Montgomery, *Revolution in El Salvador: From Civil Strife to Civil Peace*, Westview Press, Boulder, 1994, p. 23.

⁵ Elisabeth Wood, *Insurgent Collective Action and Civil War in El Salvador*, Cambridge University Press, NY, 2003, p. 24.

Rampant electoral fraud and political corruption signaled to those already beginning to organize in the 1970s that while occasional promissory carrots might be extended to abate discontent, there would be no restructuring of economic or political relations in El Salvador. The political opposition was systematically blocked from assuming power in 1972, 1974 and 1977.⁶ Those already frustrated by an economic system that promoted inequality were galvanized to support small guerrilla groups advocating the armed overthrow of the state. In 1980, five such groups unified under the umbrella of the *Frente Farabundo Martí para la Liberación Nacional* (FMLN, Farabundo Marti National Liberation Front).⁷

Marxist in ideological orientation, the FMLN had strong ties to the Communist governments in Russia and Cuba. The FMLN received a massive amount of international aid – arms, training and money – from abroad.⁸ Reflecting its varied composition, the FMLN employed a mix of military tactics and warfare strategies. This flexibility allowed it to respond quickly and effectively to different combat situations and ultimately contributed to its battlefield successes.⁹ After the failed 1981 “final offensive,” the FMLN shifted away from urban guerrilla warfare and retreated to the countryside where they prepared for a prolonged “people’s war.”

The military-led government, aided by millions of dollars in US assistance, carried out a policy of widespread repression to defeat the armed insurgency. Unable, and in some cases

⁶ In 1972, the *Unión Nacional de Oposición* (UNO, National Union of Opposition) candidate, José Napoléon Duarte, was prevented from assuming office by the military. Another UNO victory was blocked in 1974, when the government simply declared that the *Partido de Conciliación Nacional* (PCN, National Conciliation Party) had won.

Amidst accusations of fraud and violence against voters, the PCN candidate, General Carlos Humberto Romero assumed power as the president.

⁷ The five factions of the FMLN were: (1) the *Fuerzas Populares de Liberación Farabundo Martí* (FPL, Popular Liberation Forces Farabundo Martí), (2) the *Ejército Revolucionario del Pueblo* (ERP, People’s Revolutionary Army), (3) the *Resistencia Nacional* (RN, National Resistance), (4) the *Partido Revolucionario de los Trabajadores Centroamericanos* (PRTC, Revolutionary Part of Central American Workers), and (5) the *Partido Comunista de El Salvador* (PCS, Salvadoran Communist Party). The FMLN gets its namesake from Augustín Farabundo Martí who led a 1932 peasant uprising in El Salvador. The revolt was quickly and violently crushed by the state military under the direction of Maximiliano Hernandez.

⁸ The FMLN also had significant ties to the governments in Nicaragua and Vietnam. José Angel Moroni Bracamonte and David E. Spencer, *Strategy and Tactics of the Salvadoran FMLN Guerrillas: Last Battle of the Cold War, Blueprint for Future Conflicts*, Praeger Publishers, Westport, CT, 1995.

⁹ Bracamonte and Spencer, 1995, see *supra* note 8.

unwilling, to distinguish between FMLN combatants and its wide civilian support network, the armed forces disappeared or executed tens of thousands of civilians between 1979 and 1981 alone.¹⁰ Rather than weaken the rebels, the state's campaign of indiscriminate violence outraged local populations, providing a new pool of potential recruits and supporters for the FMLN.

The only significant shift in the state's counterinsurgency strategy came in 1984 after sustained US pressure on the armed forces to improve its human rights record. The Salvadoran government was forced to understand, after a visit by then Vice President George H. W. Bush, that the withdrawal of US military support, particularly air support, would almost certainly mean defeat. While the overall level of lethal violence declined, the armed forces' rapid reaction battalions continued to arbitrarily detain and torture those suspected of subversion.¹¹

Despite its repressive efforts, the armed forces were unable to militarily defeat the FMLN. Locked in a stalemate, the two sides began to negotiate a settlement in January 1990. Two years later, the FMLN and the Salvadoran government signed the Chapultepec peace accords, ending 12 years of civil war.

Peru

On May 17, 1980, a small group of armed persons broke into the local election board offices in Chuschi and burned the ballot boxes to be used the following day in the country's first democratic elections in twelve years. With this, the insurgent organization Sendero Luminoso (Shining Path) declared war against the Peruvian state and began the most violent period of conflict in the country's history.¹²

¹⁰ Mark Peceny and William D. Stanley, "Counterinsurgency in El Salvador", in *Politics and Society*, 2010 vol. 38, no. 1, p. 67-94.

¹¹ During this time, the state began to pursue social welfare programs, such as the construction of schools and medical facilities in areas where the FMLN boasted support. In comparison to its investment in violent repression, civic action programs of this sort were never a significant component of the state's counterinsurgency strategy.

¹² However flawed the democratic system may have been, between 1980 and 1992 the country held free local and national elections and enjoyed freedom of the press. The Shining Path never intended to inject itself into the existing political system, but rather to destroy it and create a new government in which Abimael Guzmán would exercise supreme authority. In addition to the Shining Path, the state faced a second opposition organization, the *Movimiento Revolucionario Túpac Amaru* (MRTA, Tupac Amaru Revolutionary Movement). The MRTA initiated its armed

Centered around a personality cult of leader Abimael Guzmán, the Shining Path combined the politico-military ideology of Mao Zedong and the Chinese Communist Party with the teachings of Guzmán and called for immediate action to overthrow the existing imperialist system of power and realize the revolution. Unlike other leftist rebel groups in Latin America, including the FMLN in El Salvador, the Shining Path did not accept violence as simply necessary, but celebrated its use.¹³ Common tactics employed by the group included sabotaging radio towers; bombing police stations, banks, and other commercial buildings; destroying electrical pylons; systematically killing local authorities and community leaders; and coercing the support of the civilian population (often using them as protective shields) through the threat and use of violence.

The initial response of the state was inadequate to confront the threat posed by the Shining Path. The armed group established itself in the southern Andes, a region of the country that historically has been ignored by government officials and institutions. The relative absence of authorities made it easier for the Shining Path to take control and more difficult for the state to gather intelligence on the movement. The state underestimated the strength of the guerrilla army and poorly understood its organizational versatility and military tactics.

Unable to distinguish between the civilian population and combatants who did not wear uniforms, the armed forces and the police responded with indiscriminate violence.¹⁴ This violence was not reducible to the excesses of a few individuals, but rather at certain times and places amounted to a generalized and systematic practice of illegal detention, often accompanied by torture during interrogations, extra judicial executions, and forced disappearance.¹⁵ As the

struggle against the state in 1984. The MRTA is responsible for less than 2 percent of human rights violations documented by the CVR, including its most famous act of violence, in which insurgents stormed the Japanese Embassy and held dozens of people hostage for months.

¹³ Gustavo Gorritti, *The Shining Path: A History of the Millenarian War in Peru*, University of North Carolina Press, Chapel Hill, 1998.

¹⁴ The police were the first sent in to respond to the security threat. Under the state of emergency, the police were subordinated to the armed forces and particularly to the political-military commands. As such, officers answered to military commanders and not to civilian authorities.

¹⁵ Ernesto de la Jara Basombrío, *Memoria y Batallas en Nombre de los Inocentes: Perú 1992-2001*, Instituto de Defensa Legal, Lima, Peru, 2001; Comisión para la Verdad y Reconciliación

police and armed forces acquired a better understanding of the Shining Path, it refined its strategy to include more targeted actions that distinguished among friendly, neutral, and enemy populations. This policy shift led to a reduction in abuses against the civilian population, even as the conflict continued to intensify.¹⁶

In 1992, the Dirección Nacional Contra El Terrorismo (National Anti-terrorism Police Task Force, DINCOTE) carried out intelligence operations which led to the capture of key leaders of the Shining Path, among them Guzmán. Internal fractures within the organization and the arrest of its principal leader dealt a significant blow to the armed opposition. While combatants continue to carry out subversive operations in the country, they are sporadic and small in scale.

While the civil wars in El Salvador and Peru are different in ways potentially significant to the comparative prevalence of wartime sexual violence, the present analysis focuses on how these crimes were reported.¹⁷ The following section discusses the availability of data on sexual violence in each conflict. It begins with a discussion of the reporting organizations in each country.

CONFRONTING THE PAST: TRUTH COMMISSIONS AND HUMAN RIGHTS NGOS

While there are several transitional justice mechanisms, the establishment of temporary investigative bodies known as truth commissions has become an increasingly popular choice for states moving from periods of violence conflict and authoritarian rule toward democracy.¹⁸

Below I will briefly describe the work of each commission (see Table 1 for a comparative overview of key characteristics).

(CVR), *Hatun Willakuy: Versión Abreviada del Informe Final de la Comisión de la Verdad y Reconciliación*, Comisión de Entrega de la Comisión de la Verdad y Reconciliación, Lima, Peru, 2004.

¹⁶ CVR, 2004, see *supra* note 15.

¹⁷ For a comparative analysis of the prevalence of wartime sexual violence in El Salvador and Peru, see Michele Leiby, *Why Soldiers Rape: Understanding the Causes of Wartime Sexual Violence in Latin America*, unpublished manuscript.

¹⁸ Among others, states in transition may offer reparations to the victims and their families; try those responsible for criminal acts in the national court system or establish a special war crimes tribunal; remove individuals, including members of the armed forces, judges, or political leaders, from their posts or offices; and may issue a formal national apology to those who suffered.

El Salvador

On January 16, 1992, the representatives of the Salvadoran government and the FMLN signed the Chapultepec Accords, ending 12 years of brutal violence and war. Both parties agreed to establish a truth commission, moderated by the United Nations, which would “investigat[e] serious acts of violence that have occurred since 1980 and whose impact on society urgently demands that the public should know the truth.”¹⁹ The *Comisión de la Verdad para El Salvador* (CVES) was also to issue recommendations to prevent future human rights abuses and to promote national reconciliation.²⁰

As a UN-sponsored truth commission, the executive committee was governed entirely by internationals.²¹ While all were well-respected leaders in their professions, the exclusion of national scholars and experts from the Salvadoran truth commission was a point of contention and sets it apart from its predecessors in Argentina and Chile as well as subsequent commissions in Guatemala and Peru. The decision was made in large part to guarantee the commission’s objectivity and impartiality and to overcome concerns that lingering insecurity would impede Salvadoran nationals’ ability to frankly investigate and publish findings on their country’s violent past. The CVES had an additional staff of 25 lawyers, sociologists and forensic scientists, but was still comparatively small in size for a truth commission.²²

The CVES was given six months (later extended to eight months) to complete its investigations and issue its final report. It began its work in July 1992. Announcements about the Commission’s work flooded radio, television and print media outlets, encouraging all individuals, groups and organizations with information on acts of violence to testify before the

¹⁹ Comisión de la Verdad para El Salvador (CVES), *From Madness to Hope: the 12-year War in El Salvador: Report on the Truth for El Salvador*, 1993, UNSC S/25500, p. 18, available at <http://www.usip.org/files/file/ElSalvador-Report.pdf>, last accessed on 02 May 2011. All Spanish texts were translated by the author.

²⁰ This was the first time the United Nations sponsored such a truth commission.

²¹ Belisario Betancur, a former President of Colombia, served as the Chairman with Reinaldo Figueredo Planchart, a former Foreign Minister of Venezuela and Thomas Buergenthal, a former Judge and President of the Inter-American Court of Human Rights, as members.

²² Priscilla Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity*, Routledge, New York, 2001.

Commission. Individuals could make statements at the Commission's main office in San Salvador or any one of its satellite offices, established in each department throughout the country. Individuals were reassured that all testimonies and procedures of the CVES were confidential. In the end, the Commission collected more than 2,000 testimonies detailing acts of violence against more than 7,000 victims and survivors.²³

In its final report, the CVES estimated that 75,000 people were killed during the civil war in El Salvador between 1980 and 1992. Between 1980 and 1983 state violence was widespread and less discriminate, targeting entire communities on the basis of suspected geographic proximity to rebel bases.²⁴ Thousands of peasants were massacred in the now well-known massacres at the Sumpul river in 1980, the Lempa river in 1981 and in El Mozote, Morazán in 1981. Lethal acts of violence began to decrease in 1984 when the US government threatened to terminate military aid if the country's human rights record did not improve. At the same time, however, less visible forms of violence, including arbitrary detention, torture and sexual violence continued.²⁵ Eighty-five percent of all of these acts of violence were attributed to state security agents; the FMLN was judged responsible for less than 5 percent of all human rights violations.²⁶

The truth commission in El Salvador did not investigate cases of sexual violence. It argued that because there was no evidence of orders or a policy of rape, such acts were apolitical,

²³ The Commission also relied on indirect sources of information from various international and domestic organizations, including the American Association for the Advancement of Science, Americas Watch, Amnesty International, the United Nations Working Group on Forced and Involuntary Disappearances, the *Comité de Familiares de Víctimas de las Violaciones de Derechos Humanos de El Salvador* "Marianella Garcia Villas, CODEFAM (Committee of Relatives of Victims of Human Rights Violations in El Salvador), the *Comisión de Derechos Humanos de El Salvador*, CDHES (Salvadoran Human Rights Commission), Tutela Legal, and Socorro Jurídico, the Salvadoran Armed Forces, and the FMLN (for a complete list see Appendix II, CVES, 1993). The testimonies it received from other indirect sources covers 18,462 unique events of violence and 18,455 individual victims. (CVES, 1993, p. 23 and 45, see *supra* note 19).

²⁴ Approximately 50 percent of the denunciations recorded by the CVES concerned human rights violations that occurred in 1980 and 1981; an additional 20 percent occurred in 1982 and 1983 (CVES, 1993, p. 37, see *supra* note 19).

²⁵ CVES, 1993, see *supra* note 19.

²⁶ CVES, 1993, see *supra* note 19.

interpersonal violence and as such did not fall within its mandate.²⁷ Because of this executive decision, the Commission did not define the parameters of sexual violence, and made no attempt to explain these violations in the narrative of its final report. This is true even for well-known cases where sexual violence was reported. In the case of four U.S. churchwomen who were kidnapped, raped and murdered in 1980 by the *Guardia Nacional* (GN, National Guard), the Commission reported, but did not investigate the motives behind, the rapes.²⁸ Another publicized case involved the kidnapping, torture and murder in 1982 of four Dutch journalists. In addition to other forms of torture and physical mutilation, the victims also endured trauma to their genitals, which was not reported in the Commission's final report.²⁹ The Commission's disparate reporting suggests it had an implicit working definition of sexual violence as the rape of women.

In the annex to its final report, the CVES published a list of victims of sexual violence based on its compilation of testimonies. Where permitted, the Commission documented the individual's name, the date and location of the human rights violation, the type of violation, including rape, and the suspected perpetrator group. Of the 7,357 cases recorded, only 270 (3.7 percent) included rape.³⁰ Not all victims were identified by name, to protect their wishes for anonymity. Based on those who were, it appears that the truth commission only identified cases of rape against women, and did not include sexual violence against men such as sexual torture.³¹ Moreover, the annex does not include demographic information on the victims, or contextual information on the crimes, such as how it unfolded, the sequencing of acts, who was present at the time, etc. Absent this data, it would be almost impossible to conduct a rigorous analysis on the motives of wartime sexual violence in El Salvador. Due to an agreement between the national

²⁷ Hayner, 2002, see *supra* note 22.

²⁸ CVES, 1993, see *supra* note 19.

²⁹ Gloria Valencia-Weber and Robert J. Weber, "El Salvador: Methods Used to Document Human Rights Violations", in *Human Rights Quarterly*, 1986, vol. 8 no. 4, p. 731-770; Dutch Ministry of Foreign Affairs, *Report of Dutch Government to Foreign Affairs Committee of the Lower House of the Dutch Legislature*, 14 April 1982.

³⁰ CVES, 1993, Appendix II, p. 8, see *supra* note 19.

³¹ There was one case of rape against an individual identified as male by his name.

government and the United Nations sealing the records of the CVES until 2042 (50 years after the completion of its work),³² it is not possible at this time to conduct an independent analysis of sexual violence using the commission's testimonies. Instead, data will be used from two non-governmental human rights organizations – *Socorro Jurídico Cristiano* (SJC, Christian Legal Aid) and *Tutela Legal del Arzobispado* (The Archbishop's Legal Aid). The CVES used the original testimonies collected by both organizations to supplement its own documentation and analysis.

SJC was founded in 1975 by the Archdiocese in San Salvador as a nongovernmental human rights group to provide social and legal aid to those in need. After the 1979 coup, Socorro's work focused on providing assistance to victims of political violence and documenting those abuses. It collected first-hand testimonies under oath from witnesses and victims of political violence, submitted habeas corpus petitions on all disappearances, and issued monthly statistical reports on the human rights situation in the country. After the murder of Archbishop Romero and the installation of Apostolic Administrator Arturo Rivera y Damas, disagreements emerged between the Archdiocese and SJC regarding the Archdiocese's suspicion of SJC's political bias and inattention to abuses perpetrated by the FMLN.³³ As a result, Tutela Legal was created in 1982 to replace SJC, which continued to operate and report on human rights issues outside the purview of the Archbishop's office.

Like its predecessor, Tutela Legal aimed to collect systematic information on the nature of violence and human rights abuses as a tool to wield pressure on those who were committing these abuses. Its methodology also mirrored that of SJC, but was expanded to include reporting

³² Access to documents of this nature, which include sensitive and private information on witnesses, victims and perpetrators of violent crimes, is often limited to protect those whose identity is contained within.

³³ The accusations of political bias against SJC were fair. As a matter of policy, Socorro did not report on abuses committed by the FMLN. However, subsequent investigations by independent nongovernmental organizations and the Truth Commission found that the FMLN was responsible for a small percentage (about 5 percent) of all human rights violations during the conflict.

on all abuses by all perpetrators where verification of the event was possible.³⁴ It dispatched teams (comprised mostly of lawyers and university students) to suspected sites of violence, including state prisons and military bases. Its investigators collected oral testimony from witnesses and victims of violence and their loved ones. Individuals interested in speaking with a representative from Tutela Legal could visit the main office, located in the chancery offices of the Archdiocese of San Salvador, or visit their local Catholic church, which would coordinate contact with the nearest representative or regional branch of Tutela Legal.³⁵

Despite significant opposition from the Salvadoran and American governments, Tutela Legal was considered by most international experts to be one of few credible sources of evidence on human rights violations in El Salvador.³⁶ The UN relied on and cited data collected by Tutela in its repeated resolutions condemning the government's violation of international human rights and humanitarian law and its apparent unwillingness to investigate and prosecute offenses perpetrated by the armed forces or paramilitary groups.

Examining the testimonies collected by Tutela Legal and SJC, reveals two primary patterns of sexual violence during the Salvadoran civil war: (1) the rape of women in rural communities by state forces before both the men and the women of the community were executed and (2) the rape, sexual humiliation and torture of political prisoners in state-run detention facilities. One hundred and twenty-three acts of sexual violence were recorded in the dataset and represented 1 percent of all human rights violations. The most frequently reported

³⁴ Valencia-Weber and Weber, 1986, see *supra* note 29.

³⁵ Lic. Ovidio Mauricio González. Personal Interview. March 19, 2009. All interviews were conducted in Spanish and subsequently translated.

³⁶ A prominent example of this disagreement is the case of the massacre of more than 500 civilians in El Mozote, Morazán. Even after mass graves of women, children and the elderly were discovered, the Salvadoran government, U.S. embassy and State Department contested reports by Tutela Legal describing the incident as a massacre, arguing instead that the deaths resulted from a battle between the state armed forces and rebels. The disagreement focuses on differing conceptions of "civilian" and "combatant" and how each is categorized under the concept of "victim." U.S. officials expressed particular concern over Tutela's treatment of civilian noncombatants who lived in close proximity to guerrilla camps (Valencia-Weber and Weber, 1986, see *supra* note 29). However, Article 13 of Protocol II of the Geneva Conventions clearly asserts that unless directly participating in hostilities, civilians cannot be attacked or targeted for violence (Geneva Conventions, Additional Protocol II, Article 13, 1949, available at <http://www1.umn.edu/humanrts/instreet/y6pagc.htm>, last accessed on 15 May 2011).

types of sexual violence were as follows: sexual humiliation (41 percent), rape and gang rape (24 percent), sexual torture (18 percent), attempted and threatened acts of sexual violence (12 percent) and sexual mutilation (4 percent). According to the reports, 53 percent of victims of sexual violence were men. This is the first time that a conflict has ever registered more male than female victims of sexual violence. Confirming the general asymmetry of violence during the war, the state was responsible for 96 percent of all sexual abuses. Finally, sexual violence was most frequent in San Salvador and Cuscatlán.³⁷

These data are limited in several respects and thus must be interpreted with caution until independent confirmation is possible. Tutela Legal and SJC collected denunciations of human rights violations *during* the conflict. Denunciations were typically filed within days of the event occurring. The case files of Tutela Legal and SJC read much like missing persons reports. At the time the deponent files the report, s/he has incomplete information on the event. “*My wife never returned home from work.*” “*We were on our way to school when some guys with guns jumped out of a car and grabbed my friend.*” The victim may later be released from prison or be found dead. However, unless this updated information is transmitted to the original reporting institution, the record of the event will remain incompletely coded as a kidnapping or arbitrary detention. As a result, particular *types* of violence – torture, sexual violence and extrajudicial execution – are probably under-represented.

While this method of contemporaneous data collection minimizes the effects of memory formation processes or memory loss that is inherent in post-hoc investigations, it may also severely limit who is willing to speak openly and what they are willing to divulge about their experiences. Many may deem it too dangerous to travel to a regional human rights office or to be seen speaking with foreign investigators, journalists or human rights activists. Because of the fluidity of battle lines in civil wars and the targeting of those attempting to document and report on war-related events, researchers, investigators and journalists often find themselves at similar

³⁷ The distribution of violations across departments is likely skewed towards San Salvador where most human rights organizations were based.

risk as the populations they are aiding.³⁸ Indicative of this climate of violence and fear, the armed forces required Tutela Legal's investigators to sign waivers of responsibility for their physical safety while operating in contested regions of the country.³⁹ As a result, both Tutela Legal and Socorro Jurídico often limited their investigations to urban areas where violence was less widespread.⁴⁰

Findings based on the data from Tutela Legal and SJC should be interpreted with caution. In particular, it would be inappropriate at this time to conclude that sexual violence was more prevalent in San Salvador than in other parts of the country or that sexual violence and torture comprised only 1 percent and 10 percent, respectively, of all human rights violations during the war. It is not likely, however, that the contemporaneous data collection procedures of Tutela Legal and SJC affected the relative likelihood of a particular *type* of sexual violence being reported. Nor is it likely that this process more adversely affected female victims than male victims of sexual violence.

Peru

The Peruvian government established the *Comisión para la Verdad y Reconciliación* (CVR) on June 4, 2001.⁴¹ It was modeled in part after the commission in El Salvador, but also

³⁸ The state carried out an explicit campaign of repression against journalists in El Salvador. The *Comité de Prensa de las Fuerzas Armadas de El Salvador*, COPREFA (Armed Forces Press Office) repeatedly threatened those who "distorted" the image of the Salvadoran state and government with "drastic measures." Journalists' names also figured prominently on death squad "hit lists" in the early 1980s (Valencia-Weber and Weber, 1986, see *supra* note 29).

³⁹ González, 2009, see *supra* note 35.

⁴⁰ Neither organization, for example, reported on key massacres in rural areas in the early 1980's because they were unable to obtain independent sworn testimony from eyewitnesses or individual victims at the time of their occurrence (Lic. Ovidio Mauricio González, Lic. Wilfredo Medrano and Hector Rivera, author interviews, 2009). In some cases, this is not just the result of widespread violence in the area, but also because the totality of the massacres left behind no survivors or witnesses to relate their experiences. After the signing of the peace accords, Tutela Legal and the Truth Commission conducted in-depth forensic investigations, including the exhumation of mass graves, of well-known massacres in rural zones. See, for instance, CVES, 1993, see *supra* note 19 and Tutela Legal, *El Mozote: Lucha por la Verdad y la Justicia: Masacre a la Inocencia*, Tutela Legal del Arzobispado de San Salvador, San Salvador, El Salvador, 2008.

⁴¹ Valentín Paniagua, "Creación de la Comisión de la Verdad en el Perú" (Creation of the Peruvian Truth Commission) Decreto Supremo No. 065-2001-PCM (Supreme Decree No. 065-2001-PCM), 02 June 2001, Lima, Peru.

drew lessons from previous commissions in Argentina, Chile, Guatemala and South Africa. The CVR learned from the successes and failures of these truth commissions, reflected in its decision to investigate a broad range of human rights violations and hold public hearings throughout the country.⁴²

The CVR was charged with “clarifying the process and facts [of what] occurred, as well as the corresponding responsibilities, not only of those who executed them, but also who ordered or tolerated them, while at the same time, proposing initiatives to strengthen peace and reconciliation among all Peruvians.”⁴³ This included investigating assassinations and massacres, forced disappearances, torture, sexual violence, forced recruitment, violence against children, and violations of the collective rights of indigenous peoples. To complete its work, the CVR was awarded a staff of more than five hundred people, including twelve Peruvian commissioners, and a budget of \$11 million. Although sizeable and comparatively well financed, the CVR had only twenty-four months to document twenty years of civil conflict and violence.⁴⁴

At regional offices throughout the country, members of the CVR team collected 16,917 testimonies from witnesses, victims and perpetrators of violence and approximately 1,700 photographs documenting individuals’ varied experiences during the war.⁴⁵ It held public

⁴² The truth commissions in Argentina, Chile, and Uruguay have been criticized for restricting their investigations to deaths (either extrajudicial executions or torture that results in death) and forced disappearances, a choice which underestimates the level and potentially mischaracterizes the nature of violence. In Uruguay, for example, the truth commission did not investigate illegal detentions, which was later discovered to be the most frequently experienced human rights violation. Conversely, the significant role of public hearings in South Africa’s Truth and Reconciliation Commission led to their inclusion in the Peruvian model (a first for Latin American truth commissions). For a list of recent truth commissions and a critical overview of their structure and efficacy, see Priscilla Hayner, “Truth Commissions: A Schematic Overview,” *International Review of the Red Cross* 88 no. 862 (2006): 295–310.

⁴³ Alejandro Toledo, “Creación de la Comisión de la Verdad en el Perú” (Creation of the Peruvian Truth Commission) Decreto Supremo No. 101-201-PCM (Supreme Decree No. 101-201-PCM), 31 August 2011, Lima, Peru.

⁴⁴ Hayner, 2006, see *supra* note 42.

⁴⁵ The Commission opened twenty-six regional offices. Each department had at least one office; Apurímac and Cusco each had two. The number of testimonies collected in each department are as follows: 5,313 Ayacucho; 1,444 Apurimac; 1,154 Huancavelica; 316 Cusco; 2,441 Huánuco; 209 Ucayali; 735 San Martín; 579 Puno; 2,308 Junin-Pasco; 1,174 Lima-Callao; 1,295 Other; see CVR, *Informe Final y Los Anexos de la Comisión para la Verdad y Reconciliación*, 2003, p. 382, available at <http://www.cverdad.org.pe>, last accessed 11 May 2011. Photographs were

hearings where survivors were invited to denounce the violence they experienced. The hearings, which were broadcast on national television and radio stations, covered 318 cases and 422 testimonies (see the Appendix for a detailed description of the CVR's work and the documents available at their documentation center in Lima, Peru). On August 28, 2003, the CVR released its twelve-volume final report. In it, the CVR estimated that 69,280 people were killed or disappeared during the conflict.⁴⁶ Violence was concentrated in the south-central region of the country, particularly in the department of Ayacucho where the Shining Path initiated the "people's war." Peasants who spoke indigenous languages, such as Quechua, Aymara and Asháninka and received little or no formal education, were disproportionately targeted for violence.⁴⁷ According to the CVR, while both the state and non-state armed actors perpetrated horrific acts of violence against the civilian population, more than half (54 percent) of all deaths and disappearances were attributed to the Shining Path.⁴⁸

Due largely to the advancements forged by the International Criminal Tribunals in the former Yugoslavia and Rwanda (established in 1993 and 1994, respectively), the CVR operated in a more gender-aware climate than the CVES in El Salvador and other similarly early truth commissions. At the urging of feminist scholars and activists in Peru, the CVR appointed a gender unit to investigate the varied roles and experiences of men and women during the civil conflict. They also lobbied to increase the overall gender consciousness within the Commission and in all of its work. While the unit's influence was limited, its work is best reflected in the CVR's final report, which includes a historical analysis of gender inequality in Peru, the role of women in civil society organizations and armed organizations, and the patterns of wartime sexual violence.⁴⁹

donated by individuals, community and social organizations, churches, and various state agencies. More than two hundred of these photographs are on display at the Museo de la Nación in Peru. The exhibition, entitled *Yuyanapaq: Para Recordar*, will be on display until 2011.

⁴⁶ CVR, 2004, p.17, see *supra* note 15.

⁴⁷ CVR, 2004, p. 21-23, see *supra* note 15.

⁴⁸ CVR, 2004, p. 18, see *supra* note 15.

⁴⁹ Julissa Mantilla. Personal Interview. February 5, 2009. See CVR, 2003, chap. 2 and 6; Narda Ayín Henríquez, *Cuestiones de Género y Poder en el Conflicto Armado en el Perú*, Concejo

Unlike the truth commission in El Salvador, the CVR interpreted sexual violence to fall within its mandate to investigate cases of torture, serious abuses and injuries, and other cases that constitute grave violations of human rights.⁵⁰ While defining sexual violence broadly to include such abuses as forced prostitution, forced marriage, sexual slavery, forced abortion, forced impregnation, rape and sexual torture, it investigated and reported only cases of rape and made only occasional references to these other forms of sexual abuse in its final report. The CVR found that rape was widespread, but accounted for 1.53 percent of all human rights violations registered. The majority of victims were young women (between the ages of 10 and 29), housewives, and peasants who spoke Quechua as their primary language and completed only primary-level education.⁵¹ Of the 538 documented cases, 527 (98 percent) were perpetrated against women and only 11 (2 percent) were perpetrated against men. Contrary to patterns of other forms of violence, the state was responsible for the overwhelming majority (83 percent) of sexual abuses, and 100 percent of sexual violence against men.⁵² Finally, the CVR found that sexual violence was most frequent in Ayacucho, Huancavelica, and Apurímac between 1984 and 1990.⁵³

Any large-scale human rights data collection program, like those described above in El Salvador and Peru, confronts numerous practical and methodological obstacles to its work. For example, because of time and resources constraints, only 70 percent of the testimonies received by the CVR were ever coded for nonlethal acts of violence and included in its final estimates. The testimonies themselves are complex and highly detailed, requiring time on the part of

Nacional de Ciencia, Tecnología e Innovación, Lima, Peru, 2006. In particular, the absence of a gender-sensitive approach within the national reparations program has been noted (for further discussion of the role of the gender unit within the CVR, see Henríquez, 2006).

⁵⁰ CVR, 2003, see *supra* note 45.

⁵¹ CVR, 2003, see *supra* note 45.

⁵² State security agents include the armed forces, police, civil defense organizations, and paramilitary groups. The Dirección Nacional Contra El Terrorismo and Sinchis counterterrorism forces within the National Police were singled out as particularly frequent perpetrators of sexual violence. Although sexual violence was prohibited by both the Shining Path and the Tupac Amaru Revolutionary Movement, the Commission found that both groups (the MRTA to a lesser degree) participated in the sexual victimization of the civilian population.

⁵³ CVR, 2003, see *supra* note 45.

interviewers, translators, coders and data entry staff. Often truth commissions overestimate the capacity of their research teams and underestimate the demand by the population to make denunciations.⁵⁴ The following section addresses additional obstacles faced by truth commissions or other investigative bodies when documenting and analyzing sexual violence in conflict situations.

	El Salvador		Peru
	CVES	Tutela Legal & SJC	CVR
Timing	Post-hoc, 9 months	Contemporaneous, duration of the civil war	Post-hoc, 25 months
Mandate	Investigate select crimes of a political nature between 1980-1991 Make binding recommendations to secure national peace and reconciliation	Document denunciations of human rights abuse	Investigate human rights abuses and violent attacks between 1980-2000
Resources	Entirely externally funded ⁵⁵	Predominantly internally funded	Predominantly internally funded
Sponsor	United Nations	Catholic Church	Peruvian Government
Staff	3 international commissioners, all men, appointed by Secretary General of UN	Between 12-25 local investigators, mostly lawyers and university students	12 Peruvian commissioners, 10 men and two women
Report	3 volumes, released March 15, 1993	None	10 volumes, released August 28, 2003
Treatment of Sexual Violence	None	No formal definition is provided, although documented cases span the full spectrum of sexual abuses	Sexual violence is defined broadly but investigation is limited to incidents of rape and gang rape
Limitations of the Data	Memory loss may limit/distort what individuals report Less accurate reporting of time and date when event occurred Less accurate reporting of location where event	Less complete coverage of violations that occur <i>after</i> initial capture	Memory loss may limit/distort what individuals report Less accurate reporting of time and date when event occurred Less accurate reporting of location where event

⁵⁴ David Sulmont, “Evaluación del Trabajo de Testimonios,” internal document of the Comisión Para la Verdad y Reconciliación, Document No. 140306, Centro de Información para la Memoria y los Derechos Humanos, Lima, Peru, 2002.

⁵⁵ A special \$2.5 million fund was administered by the UN. Funds were donated from willing members states, included the United States, the Netherlands, Norway and Sweden and other western European countries.

	occurred		occurred
Strengths of the Data	More complete oral histories of individuals' experiences during conflict	Very accurate reporting of time and date when event occurred Very accurate reporting of location where event occurred	More complete oral histories of individuals' experiences during conflict

Table 1 Comparison of Human Rights Reporting Institutions in El Salvador and Peru

DATA AVAILABILITY AND VICTIM UNDERREPORTING

The greatest impediment to advancements in our understanding of sexual violence is the absence of systematic data on its occurrence. The limitations of the data come from victims' reluctance to report sexual crimes as well as institutional decisions that lead to underreporting the true prevalence of sexual violence. The factors that lead to the relative (under)reporting of sexual violence vary over time and across societies and groups of people within those societies. As a result, caution should be taken when interpreting statistics on wartime sexual violence, as observed variation in its prevalence and patterns of perpetration may simply be the result of differential biases in its documentation.⁵⁶

Survivors of sexual violence, whether in conflict situations or in times of "peace," rarely report the offense to authorities. In the U.S., for instance, it is estimated that only 26 to 36 percent of all sexually motivated crimes are reported to the police.⁵⁷ Reporting sexual offenses varies greatly across countries and cultures, the sex of the victim, and the type of sexual crime. In

⁵⁶ In this chapter, I will make reference mostly to the factors that lead to the underreporting of wartime sexual violence. However, there are some who warn of the risk of over reporting that results from the misguided efforts of individuals who lodge false complaints of sexual violence or non-governmental organizations who misrepresent statistical evidence in order to raise international attention and resources to this humanitarian crisis (Evlan Isikozlu and Ananda S. Millard, "Wartime Rape and Post-Conflict Research", Bonn International Center for Conversion, Bonn, Germany, 2009. This study relies on the direct testimony of victim's and survivors of violence. I have never come across a case in either of the two research sites where the veracity of a victim's testimony of sexual violence has been called into question. It is conceivable that an individual could falsely claim to be the victim of rape (or any other human rights violation) if they believed that such a claim would result in their receipt of financial reparations. However, given the strong stigma of victims of sexual violence and the abundant evidence of victim's silence regarding these crimes, it is unlikely that there exist a significant number of false allegations in my dataset.

⁵⁷ Callie Marie Rennison, "Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000", Bureau of Justice Statistics, 2002, available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/rsarp00.pdf>, last accessed on 21 February 2010.

societies where patriarchal norms are particularly strong, survivors may be disinclined to report sexual offenses because they feel ashamed or fear being blamed, stigmatized and isolated from their community.⁵⁸ After being raped by a Lieutenant from the local military base, who she characterized as “crazy looking for women in the community,” one woman in Peru described her pain as follows: “... I was suffering and I wished the ground would open up and swallow me to end my embarrassment. Because of the shame, no one knows about this, only myself and my husband.”⁵⁹

In Peru, Andean culture is based on mutually supportive relationships and reciprocity. Couples’ social recognition or prestige within the community is relative to their combined contributions to community life. “In the Andean world, “being two” is part of what it means to be a community member and a peasant.”⁶⁰ One woman, married with six children, relates her experience and the trauma she suffered after discovering she was pregnant from her rapist:

A husband knows when he can get you pregnant and when he can’t. My period didn’t come and I said nothing until I told him and he was surprised because he had calculated the days. Weeping and in pain, I told him what happened and since then I have lived a terrible hell. Having been abused, my husband who was drinking all the time, insulted me, saying I was a whore.⁶¹

Similarly, another woman recounts how she was rejected and abandoned by her husband after he discovered she had been raped. The victim was raped in her home on multiple occasions by unknown armed men wearing ski masks. She never went to the police and did not report it to any human rights organizations out of fear that she or her family would suffer more. When her husband found out that she was pregnant as a result of the rapes, he left her. The victim describes

⁵⁸ While most discussions of rape statistics focus on the pervasive underreporting issue, it is also possible for false reports to be injected into the data. This is of greater concern in political conflicts where either side may encourage the intentional fabrication and reporting of abuses to human rights agencies to demonize their opposition. Because of the high costs to individuals and the stigma attached to rape victims, I do not expect this kind of over-counting to affect my data on sexual violence.

⁵⁹ Comisión para la Verdad y Reconciliación (CVR), *Collection of Individual Testimonies: No. 200920*, Centro de la Información para la Memoria Colectiva y los Derechos Humanos, Lima, Peru.

⁶⁰ CVR, 2003, Tomo VIII, p. 75, see *supra* note 45.

⁶¹ JL de Fernandez and C Wurst, “Sexual Violence against Women: Psycho-Juridical Approach”, in *Torture*, 2007, vol. 17 no. 2, p. 171.

how her family fell apart. Her husband remarried and abandoned her and their two children.⁶²

Similar norms governing gender and sexual relations can be found in El Salvador, where both men and women's beliefs regarding sexual violence are laced with moral judgment and prejudice. Victims are often blamed for conducting themselves in a way that put them at risk for sexual assault.⁶³ Although fictional in nature, the story told in "La Honra" accurately captures the attitudes that still dominate Salvadoran society today. In the story, a young peasant girl, Juanita was raped while bathing at a water hole near her home. She ran home, crying. When she told her father what happened, he lashes out at her with contempt and disgust: "why were you so stupid to have lost your honor; how could you lose the only valuable thing you had?"⁶⁴

Victims may also anticipate ineffective or unsupportive responses from the authorities. The police may be unable or unwilling to adequately protect victims of sexual violence and prosecute their offenders. This is of particular concern in conflict situations where state security agents bear responsibility for many sexual violations. In such cases, survivors may fear retributive violence if they report the crime and denounce the perpetrator.

One deponent in Peru recounts how she told the soldiers at the barracks about the rape of her cousin by members of the *Movimiento Revolucionario Túpac Amaru*, MRTA (Tupac Amaru Revolutionary Movement):

. . . . The soldiers told her that her cousin should come to the barracks to help them find the perpetrators. When she arrived, her hands and feet were tied. She was beaten and thrown on top of a desk and *offended* by one official and five soldiers. The deponent told her cousin that she shouldn't say anything to anyone about what happened.⁶⁵

A review of testimonies collected by the CVR in Peru revealed that 31 percent of all human rights violations had been reported to state security authorities or a human rights or assistance agency. While impossible to isolate the reporting rate of sexual crimes from other

⁶² CVR, *Collection of Individual Testimonies: No. 203354*, see *supra* note 59.

⁶³ Mo Hume, "It's as if You Don't Know, Because You Don't Do Anything About it": Gender and Violence in El Salvador", in *Environment and Urbanization*, 2004 vol. 16 no. 2, p. 63-72.

⁶⁴ Salarrué, *Cuentos de Barro*, Consejo Nacional para la Cultura y el Arte, San Salvador, El Salvador, 1999, p. 10.

⁶⁵ CVR, *Collection of Individual Testimonies: No. 300578*, see *supra* note 59. Italics were added.

human rights violations, I suspect it to be much less. The most commonly cited reasons for not denouncing a crime include: fear (76%), a sense of futility and disillusionment in the justice system (10%), because the individual did not know how (either due to age, literacy or unfamiliarity with the system) (9%), and a lack of resources (time and/or money) to travel to the appropriate institution (3%), etc.⁶⁶

Even if victims are willing to report acts of violence, war-torn societies may lack the necessary resources and infrastructure to do so. Roads and bridges may be destroyed, making travel more difficult. Hospitals, community organizations, and police stations may have been bombed, and personnel killed. Access to social services is not uniform within societies. Disadvantaged populations, whether based on socio-economic class, race, ethnicity or geography, often experience greater difficulty in accessing state institutions and services. As judicial and political authorities in El Salvador and Peru fled the violence in rural communities and relocated to departmental capitals, those without the resources to travel the hours or days necessary were left with no representation or contact with the state.

Individuals living in the most rural and isolated communities may have no awareness of the activities of aid organizations and/or possess intense skepticism and distrust of “outsiders.” This was a prominent concern of the truth commission in Peru. Before dispatching its teams of investigators, the CVR sent volunteers to outlying communities to establish a rapport with community members and familiarize them with the objectives and work of the truth commission.⁶⁷ To the extent that such subgroups within the population are affected by political and sexual violence differently, unequal access to reporting mechanisms may distort not only the overall level of violence reported, but also the types of violations and patterns of violence reported.

There are some measures that can be implemented to encourage victims of sexual violence

⁶⁶ The interview and information collection process for human rights organizations in El Salvador differed from those of the CVR in Peru. As a result, similar reporting statistics are not available in El Salvador.

⁶⁷ Emilio Salcedo. Personal Interview. January 27, 2009.

to come forward, such as guaranteeing victims' anonymity, creating special female police units to handle cases of sexual abuse, increasing protective services, and providing physical and mental health services to victims. For the most part, however, such initiatives are beyond the purview and capabilities of social science scholars. In the section below, I will discuss a number of decisions that researchers make, often without thoughtful consideration, and the consequences they have on data and findings on wartime sexual violence.

WHAT IS SEXUAL VIOLENCE: LEGAL STATUTES AND SOCIAL NORMS

Concept formation is central to the research process. It is inextricably linked to theory building, operationalization of variables, and measurement.⁶⁸ Despite this, social scientists often pay insufficient attention to conceptualization in their analyses. Studies of sexual violence are no exception. What is understood as sexual violence varies widely across ethnic, religious, and social groups. For example, not all societies recognize marital rape as a criminal offense. Cases where the victim does not show obvious signs of a violent attack, where the perpetrator did not use a weapon to coerce the victim, or where sexual violence is perpetrated to restore family honor may not be prosecuted.⁶⁹ How institutions and researchers define the parameters of sexual violence determines which offenses are "counted" and how statistics on their reported frequency should be interpreted.

How societies define and codify sexual offenses in national penal codes greatly determines how individuals conceptualize such acts and ultimately whether they are reported to the police.⁷⁰ In their 1980 study based on the U.S., Skelton and Burkhart found that the most significant factor affecting a victim's likelihood of reporting sexual abuse was whether s/he understood what happened to be a crime, an issue complicated by changing cultural norms and legal statutes of

⁶⁸ Gary Goertz, *Social Science Concepts: A User's Guide*, Princeton University Press, Princeton, 2005.

⁶⁹ Patricia D. Rozée, "Forbidden or Forgiven? Rape in Cross-Cultural Perspective", in *Psychology of Women Quarterly*, 1993, vol. 17 no. 1, p. 499-514.

⁷⁰ For example, both men and women will be less likely to report sexual assaults when by doing so they may risk criminal charges and punishment. In societies where adultery or engaging in same sex acts is illegal, male and female rape survivors may avoid reporting the crime when they fear they will be unable to demonstrate that they did not consent to the sex act, which is necessary to prove that they themselves did not break the law.

domestic and sexual violence. However, national laws do not affect only the victim's perceptions of sex relations and violence; they also shape the attitudes and beliefs of those who document and prosecute criminal offenses. In her study of wartime rape in Peru, Boesten found that legal codes strongly shaped the perceptions of the survivors of rape, their family members, and those working for the Truth Commission.⁷¹

The following excerpt from an interview by a CVR staff member discusses the case of Anna,* a fifteen-year-old girl raped by a soldier stationed at the military base in her community. At the behest of her mother, Anna later signed a contract saying that she had sexual relations with the soldier and that she would marry him. After subsequent sexual relations, Anna discovered she was pregnant and gave birth to the soldier's baby. The case is illustrative of the social, cultural, and legal understanding of rape, consent, and violence from the perspectives of Anna, her mother, the captain of the military base who arranged for the marriage contract, and the CVR interviewer.

Interviewer: So it is more probable that you, that your daughter who was born on 18 October was, well, was born as a result of the sexual relations that you had with your husband, with your consent, in January. That would make for the nine months, which it normally takes in pregnancy, is that not true *mamita*? When I took your declaration earlier, you did not tell me this. You said that as a result of the rape, you had a baby; that is what you said. And your daughter was not born as a result of this rape, as we were discussing earlier, rather, she was conceived later, when you had relations with your consent, when there was no violence, is that not true? So that means that there was no violence involved in conceiving your child, so why did you tell me that she was the product of violence?

Anna: But if it was not for this rape, I would not have had my daughter.⁷²

Signing the contract not only changes the social and legal understanding of any subsequent sexual relations Anna and the soldier had; it works retroactively as well to declare the original act legal and consensual in the eyes of the state and community. The sexual act that resulted in the birth of Anna's daughter was framed as consensual and nonviolent, despite the highly

⁷¹ Jelke Boesten, "Marrying Your Rapist: Domesticating War Crimes in Ayacucho, Peru" in Donna Pankhurst, ed. *Gendered Peace: Women's Search for Post-war Justice and Reconciliation*, Routledge Press, London, 2007.

* All names have been replaced.

⁷² CVR, 2003, p. 30-31, 402-403, see *supra* note 45.

coercive and violent context within which it occurred. It is clear from the excerpt above that human rights organizations, truth commissions, and international criminal tribunals cannot assume that their investigators share the same understanding of sexual violence.

At the time of Anna's case, the Peruvian Penal code allowed individuals accused of rape to avoid prosecution and punishment if they proposed to marry the victim.⁷³ In cases of gang rape, all of the alleged perpetrators would be exempt from punishment if the victim agreed to marry one of them.⁷⁴ In 1997 Congress repealed the law, but still maintained that criminal charges would be withdrawn if the issue was resolved "privately."⁷⁵ Subsequent testimonies collected by the CVR revealed individuals' uncertainty in identifying rape cases and reluctance to denounce them as crimes due to changes in national rape statutes.

El Salvador, on the other hand, has had a stable legal tradition with respect to rape and other sexual violence cases. Rape is defined as "any form of violence in which there was penetration of the vagina or anus by another person" and is punishable by 6 to 10 years in prison.⁷⁶ Other forms of sexual aggression that do not meet the requisites of rape are sanctioned with 3 to 6 years in prison.⁷⁷ Accordingly, victims of sexual violence in El Salvador may be more likely to view their experiences as criminal acts, to report them to the police, and seek judicial reparations than their counterparts in Peru, *ceteris paribus*.

In addition to the law, social and cultural norms, particularly regarding masculinity and heterosexuality, complicate the meaning of sexual violence. Men are less likely to report sexual violence and less likely to describe it as *sexual* violence if it threatens their identity as strong,

⁷³ Lucero B. Merino, *Matrimonio y Violación: El Debate del Artículo 178 del Código Penal Peruano*, Movimiento Manuela Ramos, Lima, Peru, 1997.

⁷⁴ Código Penal de Perú, Capítulo IX: Violación de la Libertad Sexual (Penal Code of Peru, Chapter IX: Rape and Sexual Freedom), Artículos 170-178.

⁷⁵ Lisa Sharlach, *Sexual Violence as Political Terror*, PhD diss., Department of Political Science, University of California, Davis, 2001.

⁷⁶ Código Penal de El Salvador (Penal Code of El Salvador), 1997.

⁷⁷ Código Penal de El Salvador (Penal Code of El Salvador), 1997. Prison terms for rape or other sexual crimes against a minor are longer.

capable, virile, heterosexual men.⁷⁸ “Societies’ constructs of masculinity play an important role in...non-reporting. Society often equates manhood with ‘the ability to exert power over others, especially through the use of force.’ Thus, victimization and masculinity may be considered incompatible in the belief that men cannot be victims.”⁷⁹ Moreover, there is what Sivakumaran calls the “taint” of homosexuality for the victims of male/male rape.⁸⁰ Victims of male/male rape often question their own sexuality after the assault. According to surveys cited by the author, victims of male/male rape often report wondering if they possessed a certain homosexual trait that attracted the perpetrator to them.⁸¹ Failure to recognize such cultural constructs of victimhood, masculinity and sexuality can result in the underreporting of sexual violence against men.⁸² Scholars and policy makers believe that the majority of victims of sexual violence are women and girls. However, the proportion of male to female victims can change according to how sexual violence is understood and recorded.

Confirming the finding that many men were subjected to sexual violence during the Salvadoran civil war, a survey of political prisoners at La Esperanza men’s prison (commonly

⁷⁸ The underreporting of male sexual violence may be further compounded in ethno-nationalist conflicts in which the power of the state is symbolically linked to images of the virility, power, and heterosexuality of its men. For instance, despite evidence of rape and castration of men in camps in the former Yugoslavia, the Croatian media reported only one story of male sexual violence – the rape of a Muslim man. There was no mention of Croatian men either having suffered sexual violence or having perpetrated it during the conflict. The image of a powerful and righteous state is defended through the denial or suppression of stories of Croatian men having been the object or perpetrator of sexual assault; Dubrakva Zarkov, “Sexual Violence and War in the Former Yugoslavia”, Speech made at the Cordaid Debate on Gender-based War Crimes: A Future after Humiliation, 11 January 2005, available at http://www.cordaid.nl/Overice/Extra_pop_up/Index.aspx?mid=9593&sid=292, last accessed 01 May 2011.

⁷⁹ Sandesh Sivakumaran, “Male/Male Rape and the ‘Taint’ of Homosexuality”, in *Human Rights Quarterly*, 2005, vol. 27 no. 4, p. 1289.

⁸⁰ Sivakumaran, 2005, p. 1289, see *supra* note 79.

⁸¹ Sivakumaran, 2005, see *supra* note 79.

⁸² See Augusta del Zotto and Adam Jones, “Male-on-Male Sexual Violence in Wartime: Human Rights’ Last Taboo?” *paper presented at the annual meeting of the International Studies Association*, New Orleans, LA. 23-27 March 2002. The authors examined the informational materials of 4,076 non-governmental organizations that address sexual violence in conflict situations and found 1.4 percent of the reports expressly framed the issue as one that affects only women and girls. An additional 25 percent of the organizational literature denied that sexual violence against men and boys was a problem. Only 3 percent of the materials specifically mentioned the experience of male victims and survivors of sexual violence.

known as La Mariona) revealed that 76 percent had suffered sexual abuse during their incarceration.⁸³ The study was carried out in 1986 by members of the non-governmental *Comisión de Derechos Humanos de El Salvador* (El Salvador Human Rights Commission) who were also being held at the prison on suspicion of committing subversive acts. The most commonly reported forms of sexual violence are as follows: forced nudity (58 percent), genital beatings (20 percent), electric torture (14 percent)⁸⁴, rape (0.5 percent) and threats of rape (15 percent).⁸⁵ Men were often kicked, punched or beaten on their testicles with guns or sticks as a form of punishment or coercion during detention and interrogation. While similar beatings on other parts of the body were a common experience in detention and reported as such by human rights groups, few activists, medical care providers or victims interpreted the specific genital attacks as *sexual* torture or assault.⁸⁶

The following case illustrates a common pattern of sexual torture against men in El Salvador. A young man, age 23, was waiting at a bus stop when an unmarked car pulled up and six armed men in civilian clothes approached him. They threatened to shoot him if he ran or made a scene. They pushed him into the car, blindfolded him and took him to what he later discovered was the *Polícia de Hacienda, PH* (Treasury Police) in San Salvador. While detained, the man was interrogated and tortured in an attempt to extract a confession of his affiliation with

⁸³ Most incidents of sexual violence occurred before the detainee was transferred to Mariona, while in the custody of state security agents. *Comisión de Derechos Humanos de El Salvador (CDHES), La Tortura Actual en El Salvador*, CDHES, San Salvador, El Salvador, 1986.

⁸⁴ Because the report does not differentiate between cases where electricity was applied to the genitalia and those where electricity was applied to the ears, fingertips, feet, etc, there is no way to know how many of these instances should be categorized as *sexual* torture.

⁸⁵ CDHES, 1986, see *supra* note 83.

⁸⁶ See Eric Stener Carlson, "The Hidden Prevalence of Male Sexual Assault during War: Observations of Blunt Trauma to the Male Genitals", in *British Journal of Criminology*, 2005, vol. 46 no. 1, p. 16-25. The author argues that victims' and researchers' reticence to categorize blunt trauma to the male genitalia as sexual torture is related to "peacetime" conceptions of similar episodes. He writes: "...being hit in the testicles during peacetime activities is generally considered a 'normal' occurrence. For example, men's testicles are hit in soccer, American football and in many other contact sports, where players are expected to 'take it like a man.' Some martial arts instructors even purposely hit their students in the testicles as a form of punishment, and some college fraternities have been known to pour hot wax on their pledges' testicles as a form of initiation. Furthermore, a woman kicking a man in the groin has become a stereotyped form of sexual rejection..." (Carlson, 2005, p. 20).

the guerrillas. He was forced to do exercises, beaten all over his body, including his testicles, until he passed out. The police doused him with cold water to revive him, and repeated the process. He was ultimately forced to sign blank papers (presumably a “confession” used as evidence of his guilt) and then transferred to Mariona prison.⁸⁷ From the case description, it appears that genital beatings were one of several repressive techniques used against suspected guerrillas and not necessarily distinct in motive. To determine if this is true of all forms of sexual violence perpetrated against both men and women throughout the civil war, researchers must distinguish sexual violations from other human rights abuses so that their patterns of perpetration may be compared and their distinct motivations (if any) identified.

Preliminary research evaluating both the published records as well as primary documents of the CVR reveals that the percentage of male victims of sexual violence in Peru is higher than commonly expected *and* higher than previously reported.⁸⁸ Rather than the 2 percent cited in the Commission’s final report, I found that 29 percent of events of sexual violence listed in the published annexes of the report included male victims.⁸⁹ My work in the archives, accessing the original victim and witness testimonies, similarly indicates that 29 percent of victims of sexual violence were men. One reason for the discrepancy between my and the CVR’s figures is our different conceptualization and operationalization of “sexual violence.” While defining sexual

⁸⁷ Tutela Legal, *Collection of Individual Testimonies: No. CV-3700*. (Boulder, CO: University of Colorado, Archives Department, ND).

⁸⁸ There was only one case of sexual violence against a man reported by the CVR. The case does not appear exceptional in any regard that would indicate its inclusion in the CVR’s database when similar violations were excluded. In this case, the victim describes how he was attacked two years after his father, sister and two others were killed by the military. He was at a party at a relative’s house and was intoxicated. The military arrived. They entered the house and captured the victim, putting a hood over his head and tying his hands behind his back. They detained him at a military base, where he was tortured for 10 days and violently raped (CVR, *Collection of Individual Testimonies: No. 407532 and 425187*, see *supra* note 59).

⁸⁹ Michele Leiby, “Wartime Sexual Violence in Guatemala and Peru”, in *International Studies Quarterly*, 2009, vol. 53 no. 2, p. 445-468. This study was conducted using the published annexes of the Truth Commission. They are available on the CVR’s website at <http://www.cverdad.org.pe>. The annexes provide very brief descriptions of cases presented to the Commission. I read each summary and collected data on events of sexual violence. An “event” can include multiple victims, violations and/or perpetrators. I recorded 695 events of sexual violence, and 913 individual sexual violations. Of the 695 events, 30 percent included male victims (25 percent of these included only male victims and 5 percent included both male and female victims).

violence broadly to include such abuses as forced prostitution, forced marriage, sexual slavery, forced abortion, forced impregnation, rape, and sexual torture, the CVR investigated and reported only cases of rape and made only occasional references to other forms of sexual violence in the narrative of its final report. As a result, the Commission overlooked the multiple ways in which men and women were sexually victimized. Examining the primary documents shows that the most frequent form of sexual abuse suffered by men was sexual humiliation (54 percent) followed by sexual torture (18 percent), sexual mutilation (13 percent), and rape (7 percent).⁹⁰

Security forces, for instance, often used electricity applied to the genitals to punish or elicit information or a confession from male detainees. Linking the testimonies with the CVR's database reveals that sexual torture against both men and women is often coded as torture.⁹¹ The rape of men is treated inconsistently— coded as either sexual violence or torture, and sometimes not recorded at all. Sexual violence perpetrated by non-state actors was also misleadingly documented. One tactic employed by the Shining Path to punish men suspected of betraying the revolution was to forcibly strip them in public and remove their testicles and/or penis. Failing to report such abuses as *sexual* violence, or failing to report them at all, misrepresents the nature and patterns of violence during the war.

Consider the following example. In February 1984, a group of thirty soldiers entered and searched the home of a suspected member of the Shining Path. While interrogating the suspect's grandmother, the soldiers severely beat her and burned her vagina and anus. They later poured kerosene on her body and set her on fire. The soldiers also beat and interrogated the suspect. They accused him of terrorism, stripped him, and cut off his penis.⁹² The CVR's database (herein referred to as BDCVR) captures the detention and torture of each victim. However,

⁹⁰ Of the cases of sexual torture against men, two-thirds are beatings of the victim's genitals, which some may argue should be excluded as a form of *sexual* torture and characterized as just torture. It is conceivable that the motive behind such abuse is to cause the victim pain, rather than to attack his sexual or gender identity.

⁹¹ Individual testimonies can be matched to observations in the database according to the testimony number, the event number, the observation number and the victim ID number.

⁹² CVR, *Collection of Individual Testimonies: No. 201444*, see *supra* note 59.

neither the sexual torture of the grandmother nor the mutilation of the grandson were recorded as sexual violence. Each act was coded as torture. I argue, however, that these forms of violence are qualitatively different from other forms of torture. They attack the victim's gender and sexual identity, cause deep physical and psychological scars, and degrade and humiliate the person in ways that beatings, water boarding, or other forms of torture do not. In addition to being used to punish or extract information from individuals, sexual torture also may be used explicitly and perhaps solely for the purpose of attacking and destroying the individual's sense of self as a man or woman, a father or mother, or a spouse.

A similar comparison of the primary and published records of the CVES, Tutela Legal or Socorro Jurídico is not possible because none of these institutions conducted an analysis of sexual violence during the war. However, it is unlikely that these institutions, working in a less gender-sensitive context, would have done a better job than that of the CVR in Peru.

Scholars of wartime sexual violence need to understand the legal statutes and socio-cultural norms regarding sexual abuse that operate within the country. They influence not only what survivors of sexual violence are willing to report to investigators, but *how* they report it as well. Care must also be taken to adequately train investigators so that their own perception and internalization of these norms does not interfere with taking a witness or survivor's statement.

BUILDING ON INTERNATIONAL HUMAN RIGHTS NORMS TO CREATE ANALYTICAL CONCEPTS

The academic literature has similarly struggled with conceptualizing and operationalizing sexual violence. Much of the literature either poorly specifies the dependent variable or limits it to rape and gang rape.⁹³ Green observes incidents of "collective rape," which she defines as "a pattern of sexual violence perpetrated on civilians by agents of the state or political civil

⁹³ Dara Kay Cohen, *Explaining Sexual Violence during Civil War*, PhD diss., Department of Political Science, Stanford University, 2010; Jennifer Green, *Collective Rape: A Cross-National Study of the Incidence and Perpetrators of Mass Political Sexual Violence, 1980-2003*, PhD diss., Department of Sociology, Ohio University, 2006; Sharlach, 2001, see *supra* note 75.

group.”⁹⁴ Sharlach uses rape and sexual violence interchangeably and defines them as “any sexual penetration of a female by a male (or with an object) that takes place without her consent.”⁹⁵ The dependent variable of her study, however, is a state’s “rape policy,” which can range from the state’s use of rape as an act of genocide, torture, or terror, to its failure to prosecute rape perpetrated by civilians, or the state’s due diligence in prosecuting and preventing rape.⁹⁶ While each author defines the dependent variable, these are concepts not easily operationalized or empirically measured. Moreover, they are limited to acts of penetrative rape, and in the latter case, only when perpetrated against a woman by a man. The decision to focus exclusively on cases of rape may be driven by the limitations of the data. While there exists ambiguity across and within societies about what constitutes rape, it is more easily identified than other forms of sexual violence.

Collecting data on the various forms of sexual violence requires corresponding definition and operationalization. Isolating the unique attributes of different sexual abuses is not easy. What constitutes sexual torture and how does it differ from sexual mutilation? Should forced nudity be considered sexual violence? These are questions without straightforward answers. The International Criminal Court (ICC) recognizes rape, sexual torture and mutilation, sexual slavery, enforced prostitution, enforced sterilization, and forced pregnancy in its definitions of sexual violence as a war crime and a crime against humanity. The ICC does not recognize sexual humiliation as a crime.⁹⁷

In the interest of creating social science concepts to be used in analyses of the underlying causes of wartime sexual abuse, I argue for a broader interpretation of sexual violence than is currently used by the ICC. Here, the term includes all forms of sexual violence recognized by the ICC, and adds sexual humiliation and sexual coercion. I hypothesize that armed groups that

⁹⁴ Green, 2006, p. ii, see *supra* note 93.

⁹⁵ Sharlach, 2001, p. 11, see *supra* note 75.

⁹⁶ Sharlach, 2001, p. 7-8, see *supra* note 75.

⁹⁷ International Criminal Court (ICC), *Rome Statute of the International Criminal Court, Part 2: Jurisdiction, Admissibility and Applicable Law*, Article 8(2) (e) (vi) (2000), available at http://www.un.org/law/icc/statute/99_corr/2.htm, last accessed 05 May 2011.

commit rape, mutilation, and other forms of sexual violence recognized by the ICC also will be inclined to use sexual humiliation and coercion.⁹⁸ Therefore, understanding the causes of one may help us to understand the causes of all forms of wartime sexual violence.⁹⁹ Collecting data on the varied forms of sexual violence and maintaining the disaggregation of these violations will allow researchers to examine additional hypotheses regarding the perpetration of sexual violence during war.

I adopt the ICC's definition of rape, as outlined in Article 8(2) (e) (vi) of the Rome Statute: "the invasion of the body of a person by conduct resulting in penetration, however, slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body."¹⁰⁰ Gang rape, then, is any rape perpetrated by more than one person.¹⁰¹

Although usually involving multiple and repeated rapes, sexual slavery and forced marriage are conceptually distinct. The ICC defines enslavement as "the exercise of any or all of the powers attaching to the right of ownership over a person," and includes "the exercise of such power in the course of trafficking persons, in particular women and children (ICC Rome Statute

⁹⁸ Some of the same causal processes, such as a disdain for women and societal disregard for their rights, could explain both armed groups' willingness to perpetrate rape and other forms of sexual violence on the "battlefield" and the forced sterilization of women by health care professionals, policymakers, and others in the health care community. Others, such as how these social norms are imbedded and transmitted through military institutions, and how state armed forces frame their national security and react to threats to it, are distinct and require separate analysis.

⁹⁹ It may be the case that even those forms of sexual violence recognized by the ICC – rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization, and mutilation – occur under different behavioral constraints and institutional contexts. Similarly, groups that engage in one or more of these abusive practices may not use them all.

¹⁰⁰ ICC, 2000, see *supra* note 97.

¹⁰¹ I only coded a rape as gang rape if it was clear from the testimony that more than one perpetrator actively participated in the rape of the victim. This includes cases where multiple, but an unspecified number of, persons committed the act: "Las terroristas me violaron/The terrorists raped me." Both the subject and the verb of the statement suggest more than one perpetrator participated in the rape. Testimonies of events involving more than one victim and violation are complex. Often the details of each case are lost or aggregated. Therefore, I only coded reports of multiple rapes against multiple victims by multiple perpetrators as gang rape if the testimony indicated more than one perpetrator was involved in each attack against each individual victim. The following hypothetical case would be recorded as rape, not gang rape: Los soldados abusaron varias mujeres de la comunidad/The soldiers raped various women in the community

Article 7 (2) (c) 2000). Sexual slavery is described as “when women and girls are kidnapped against their will and converted into the property of one or more people who demand sexual services from them, and often other forms of domestic service as well.”¹⁰² Forced marriage can take many different forms, including when fathers or other guardians give a woman to be married without her consent or ability to refuse. I included sexual slavery and forced marriage as a separate analytical category and assigned it a distinct code in the database. However, I found no reports of either crimes during the civil wars in either El Salvador or Peru.¹⁰³

Following the United Nations Special Rapporteur on Torture, I argue that any form of sexual violence that causes severe pain and suffering to the victim, whether physical or psychological, should be considered sexual torture. Sexual torture can, but does not always, result in permanent damage or scars that affect future sexual function. Beyond the physical pain inflicted, often the purpose of sexual torture is to attack and destroy an individual’s identity as a man/woman, sexual partner, parent, etc. It can be perpetrated during interrogation to intimidate or punish the victim, obtain information, or coerce a confession from the victim or a third party.¹⁰⁴ The Inter-American Commission of Human Rights (IACHR) further argued that in accordance with Article 5 of the Inter-American Convention on Human Rights, sexual offenses do not have to be perpetrated in official centers or institutions in order to be considered torture.

In the case of Fernando and Raquel Mejía versus the Republic of Peru, the IACHR found that the rape of individuals in their home by state security agents was an act of torture.¹⁰⁵ This decision was significant in recognizing the environment in which irregular and counterinsurgent conflicts are often fought. To create mutually exclusive categories of sexual violence, I use

¹⁰² Agnés Callamard, *Documentar las Violaciones de Derechos Humanos por los Agentes del Estado: Violencia Sexual*, Centro Internacional de Derechos Humanos y Desarrollo Democrático, Montreal, 2002.

¹⁰³ Chapter 2 of the CVR *Informe Final* discusses cases of sexual slavery and forced marriage perpetrated against the Asháninka, however, no such cases were found in the sample of testimonies included in this study.

¹⁰⁴ United Nations, *United Nations Document UN E/CN.4/1992/SR.21* United Nations, New York, 1999.

¹⁰⁵ Inter-American Commission on Human Rights (IACHR), *Informe N 5/96 Case 10.970 Fernando y Raquel Mejía vs. Peru*, IACHR, Washington, DC, 1999.

sexual torture to refer to those abuses that satisfy the criteria for torture, but which are not covered in the ICC's definition of rape.¹⁰⁶ This includes, but is not limited to, the application of electricity, beatings, or other injuries to the breasts, genitals, and in the case of pregnant women, the abdomen. These acts of violence need not result in permanent sexual dysfunction or even visible bruises or scars to constitute sexual torture. Physical assaults to the breasts or genitalia always involve an attack on the individual's sexual identity by imbedding within the psyche of the victim an association between sexuality and fear, pain and violence.¹⁰⁷

To the extent that they are targeted against different population groups and occur in contexts different from rape, excluding cases of sexual torture will result in our misunderstanding of the nature of wartime sexual violence. It may be, for instance, that rape is perpetrated more often while soldiers are dispatched in the field where supervising officers may have less control over their subordinate troops. Sexual torture (many forms of which are grotesquely elaborate and require access to specialized equipment) may be more common in detention facilities where perpetrators have more control over the environment and more time to plan and execute the crimes. Suggesting variation within the category of sexual violence, the CVR found that of the 118 individual testimonies collected from the Establecimiento Penal de Régimen Cerrado Especial de Mujeres de Chorrillos II (Women's Maximum Security Prison in Chorrillos) 96 inmates (81 percent) reported being the victims of sexual violence, but only 30 (25 percent) indicated rape as the offense.¹⁰⁸

Sexual mutilation, while similar, can be distinguished from sexual torture in that it involves the removal or permanent damage and scarring of reproductive organs, and may be accompanied by sterilization. In Peru, both the state armed forces and the Shining Path perpetrated sexual

¹⁰⁶ United Nations, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, United Nations, New York, 1994, available at <http://www.hrweb.org/legal/cat.html>, last accessed 25 February 2010.

¹⁰⁷ See Inger Agger and Søren Buus Jensen, "The Psychosexual Trauma of Torture" in John P. Wilson and Beverly Raphael, eds. *International Handbook of Traumatic Stress*, Plenum Press, New York, 1986; and Carlson, 2005, see *supra* note 86. State security agents have been reported to beat pregnant women's abdomens in order to induce labor or forcibly abort the fetus or otherwise damage the woman's reproductive organs.

¹⁰⁸ CVR, 2003, see *supra* note 45.

torture and mutilation. Moreover, these offenses followed different patterns of perpetration than rape. They were often carried out in public or during interrogation, targeted both men and women, and resulted in visible scars or signs of abuse, perhaps serving to terrorize others in the community.¹⁰⁹ The use of these offenses to send a message to a broader audience, combined with their brutality, warrants their treatment as a separate category of sexual violence.¹¹⁰

I define sexual humiliation as any offense of a sexual nature whose primary goal is to humiliate and debase the victim, but which does not use direct physical force and which does not result in physical injury. Examples of sexual humiliation include forcible or compulsory nudity, stripping or dancing naked in public, and mocking an individual's genitalia. In societies where nudity is not the norm, the naked body is imbued with gendered and sexed meanings, suggestive of an individual's sexual availability, promiscuity and vulnerability. Being stripped and forced to remain naked has the intention of not just subjecting an individual to the elements (cold, rain, etc), but of humiliating them, making them aware of their powerlessness and terrorizing them by provoking fears of an impending sexual assault. Examining the original testimonies collected by Tutela Legal and Socorro Jurídico reveals that sexual humiliation comprised 41 percent of all sexually-based offenses during the Salvadoran civil war. Similarly, examining the original testimonies collected by the CVR reveals that 33 percent of all sexual violations in Peru were sexual humiliation.

Sexual coercion involves the threat of sexual violence to pressure or force individuals to do something against their will, such as inform on the political activities of a neighbor or confess to committing a crime. According to these definitions, the following would be categorized as sexual coercion and sexual humiliation.

On November 24, 1987, 60 soldiers arrived by helicopter and detained three people in the community of Nuevo San Miguel, district of Japelacio, province of Moyobamba, department of San Martín. They gagged, bound and detained the

¹⁰⁹ Leiby, 2009, see *supra* note 89.

¹¹⁰ Publicity is not a characteristic unique to sexual mutilation. Rape and gang rape, sexual humiliation, and even sexual torture may, and often are, committed in public settings. In such cases, these other forms of sexual violence may also be used to terrorize entire families or communities, making their distinction from sexual mutilation less clear.

victims at the local school. The soldiers hung and beat the three men on their backs with the butts of their guns. The soldiers then brought the men's wives and children into the school, stripped them and threatened to burn them alive. The soldiers also threatened to "abuse" the wives. One of the victims' faces was cut four times. Later, they were taken to the military base in Moyobamba where they were given food and attended to by doctors. . . . They were then taken to the base in Tarapoto where they were accused of belonging to the PCP-SL (Partido Comunista del Peru-Sendero Luminoso, Community Party of Peru-Shining Path). Finally, they returned to Nuevo San Juan and were freed on November 28, 1987.¹¹¹

The case is more complex than its presentation in the CVR database, which reports the three male victims as having suffered detention and torture. The men were not only subject to hangings and beatings. The soldiers intentionally used the sexual victimization of their wives and children (by forcibly stripping them) *and* the threat of further sexual violence (suggested by the use of *abusar*), perhaps to coerce the men to comply with their orders, or simply to punish them for their suspected subversive affiliations.

This was also a common strategy used by security agents in El Salvador to manipulate the civilian population. In one case, uniformed soldiers from the 2nd Infantry Brigade stormed a village in Coatepeque, Santa Ana in 1990. They went first to the local agricultural cooperative, where they captured five men, and then began to raid each house and detain those found inside. The soldiers gathered the men of the community together in the street and told them that they would not detain or *touch* their women if they answered their questions and agreed to cooperate.¹¹² Threats of sexual violence against women may be particularly effective in coercing men to comply with the demands of their captors. Such threats attack a man's sense of self and expose his inability to protect "his" woman in times of war.

Recording realized, attempted, and threatened acts of sexual violence gives the researcher a larger sample of cases to analyze the repertoires of violence of armed actors. Understanding in what contexts armed forces threaten or attempt sexual violence and how or why they were unable or unwilling to carry it out provides insight into the underlying causes of wartime sexual violence.

¹¹¹ CVR, *Informe Final*, Case No. 1012572, see *supra* note 45.

¹¹² Tutela Legal, *Collection of Individual Testimonies: No. CV-7686*, see *supra* note 87.

Understanding how victims and reporting agencies conceptualize sexual violence is crucial to understand exactly what is captured in reported statistics on sexual violence and its use in war. I am proposing one model here with specific definitions for various forms of sexual abuse, including violations that have not been recognized by international law. While some may draw the lines in different places, it is important to clearly define our concepts and open a dialogue in which the academic and human rights communities can build a consensus regarding what constitutes sexual violence.

WHO COUNTS: ESTIMATING THE NUMBER OF SEXUAL VIOLENCE VICTIMS

After deciding what sexual violence is, human rights organizations and scholars must determine what constitutes a victim. One common point of disagreement is the treatment of anonymous or unnamed victims. Both the truth commissions in El Salvador and Peru only collected data on victims identifiable by first and last name.¹¹³ Including only named victims is a method commonly employed by large-scale database management projects. However, in studies and databases of sexual violence, there are likely to be numerous unnamed or unidentified victims. Because of the fear and stigma associated with being sexually violated, victims often report their attacks in the third person, as an event they witnessed or that happened to someone they know.

Despite, and perhaps due to, the reluctance of individuals to report personal sexual traumas, the CVR states that many of the testimonies it received make general reference to and provide stories of sexual abuse: “I heard that other girls had been raped, but not me.”¹¹⁴ Working with the archived testimonies, I have been able to identify 249 incidents of sexual violence that were not included in the CVR’s database because the victims’ full name was unknown or withheld (there were 222 unidentified victims of sexual violence, some of whom suffered more than one violation). The most frequent forms of sexual violence against unidentified victims

¹¹³ The annex to the CVES’ final report includes victims by their first and last name, as well as those who were identified only by their initials. However, the report does not include any information on victims who wished to remain completely anonymous or who could not be identified by the deponent.

¹¹⁴ CVR, *Collection of Individual Testimonies: No. 700021*, see *supra* note 59.

were rape and gang rape (56 percent), sexual humiliation (29 percent), and sexual torture, sexual mutilation and unspecified forms of sexual violence or the threat of sexual violence (5 percent each). Given the CVR's operationalization of sexual violence as rape or gang rape, it is not surprising that the latter cases were not captured in the database.

If events of violence including unnamed victims are qualitatively different from those where individuals can be identified, excluding anonymous accounts may underestimate a particular subgroup within the population of victims – those who have been attacked in the context of larger events of political violence where there were numerous victims. Massacres, battles between armed groups, or mass detentions are contexts particularly vulnerable to having “missing” victims of sexual violence. It may be the case that there are no surviving witnesses to the attack. Even if there are a few survivors, it may be that they do not know the names of everyone in the razed village. The massacre in El Mozote, Morazán in December 1981 is typical in this regard. The soldiers of the Atlacatl battalion separated the men from the women and the children of the community. The women were taken to the nearby hills where they were raped (perhaps gang raped) before all of the residents were systematically executed. The single witness to the event, Rufina Amaya Mírquez was 11 years old at the time of the attack. Until her recent death in 2007, Ms. Amaya repeatedly recounted the details of the massacre before the foreign media, heads of state and international human rights organizations. However, she did not know the number of women and girls who were raped, nor the names of all of those who were killed. It is common during community raids, massacres, and battles for there to be multiple, but an unspecified number of, unnamed victims. Excluding these cases from our analyses will bias our findings against identifying the patterns associated with mass, indiscriminate acts of violence.

Another illustrative case considers the use of sexual violence against fellow members of subversive organizations. Although officially prohibited, sexual violence, particularly forced marriage and sexual slavery, have been reported amongst the ranks of the Shining Path. Individuals sequestered or forcibly recruited by the Shining Path may have witnessed this violence and reported it to the CVR. Because it is a clandestine organization, little is known

about the identity of individual members. Witnesses can provide little, if any, information on the victims' names, ages, family members, or where they lived. Rather than excluding all victims of violence who belong or used to belong to subversive organizations, I treat them as "unnamed Shining Path" or "unnamed MRTA" and record as many details about the event as possible.

When the deponent does not provide a specific number or some other quantitative descriptor of the number of victims, I record two victim-violation observations. Often witnesses will refer to "many," "a lot," or even "everyone" being subjected to political violence during a particular event. Also likely are statements such as "among those killed, was my husband." In these cases we know that more than one person died, but exactly how many more is indeterminable. Erring on the side of conservative estimate, while again risking mischaracterizing the level and patterns of violence, is warranted since we can make no reasonable judgment of the number of victims. Employing this strategy, I have identified a minimum of 224 cases of sexual violence against unknown individuals.¹¹⁵

Adding unnamed victims to datasets of political violence introduces its own potential biases. In this case, there is a risk of distorting the patterns of violence by over counting cases that are duplicated within the dataset. Most cases are sufficiently unique to allow duplicate records to be matched and eliminated based on the context and description of the violation, the sequencing of events, and where and when the event occurred. However, this presumes that victims and witnesses remember accurately and similarly the events. Even if we accept this as true, the matching process is time-consuming, difficult and imperfect. There is an obvious trade-off when making the methodological decision to focus on both named and unnamed victims of violence. At the very least, full disclosure of these tradeoffs is warranted.

PRIORITIZATION OF HUMAN RIGHTS VIOLATIONS

Quantifying sexual violence, as well as other human rights violations, is no easy task. This is particularly true when victims suffer multiple or repeated violations. Much of the human rights

¹¹⁵ That there were only two unidentified victims of sexual violence in El Salvador is likely due to the nature of the data. The denunciation reports filed by Tutela Legal and SJC do not reflect complete conflict narratives such as those collected by the CVES or the CVR in Peru.

field employs a “one victim equals one violation equals one perpetrator” approach to recording abuses, but most cases of human rights abuse do not conform to such a narrow model.¹¹⁶ The single coded violation is usually the one implicitly judged to be most severe. Imposing this restriction distorts reality and limits our ability to examine variation in the repertoires of violence employed by different armed actors. Knowing whether sexual violence is perpetrated in combination with other forms of human rights abuse and the order in which these offenses are perpetrated is useful to understanding motive.

Using this model with its simplification of offenses and the coding of only the purportedly most important or severe violation creates a situation in which particular abuses are systematically excluded or underreported. Even when truth commissions do not employ this model, staff may nonetheless neglect to systematically investigate and document “lesser” offenses.

This is of concern not only because it underreports the level of sexual violence, but also because it rests on a presumed hierarchy of human rights violations. As Audre Lourde has said, “there is no hierarchy of oppressions.”¹¹⁷ Many victims appear to feel that sexual violence is not less severe than prolonged detention, beatings or even death. Because of the unique long-term effects of sexual violence – the potential for becoming pregnant, contracting a sexually transmitted disease, losing one’s spouse – victims sometimes report wishing they had not survived their attack. In one testimony, a young woman detained at a military base in Abancay, Peru tells how she witnessed a number of sexual attacks. She could hear the women screaming and begging to be killed.¹¹⁸ Another woman describing her own sexual abuse while in detention says, “I always thought to myself that rape was the worst thing that could happen to a woman, and if it happened at least I would be able to kill myself.”¹¹⁹ Cases like these, where survivors

¹¹⁶ Patrick Ball, *Who Did What to Whom?*, American Association for the Advancement of Science, Washington, DC, 1996.

¹¹⁷ Audre Lourde, *Homophobia and Education*, Council on Interracial Books for Children, New York, 1983.

¹¹⁸ CVR, *Collection of Individual Testimonies: No. 205316*, see *supra* note 59.

¹¹⁹ CVR, *Collection of Individual Testimonies: No. 700225*, see *supra* note 59.

report suffering deep depression or suicidal thoughts following a sexual attack, are not uncommon and suggest that for some, sexual violence is among the most destructive violence suffered by women and men in times of war. Recording only a single violation rather than the set of violations serves no analytical purpose in studies of the uses and causes of violence, and inevitably results in the loss of valuable data regarding the repertoires of violence.

LINGUISTIC AND CULTURAL VARIATION IN VICTIM REPORTING

By accessing the original testimonies, researchers can pay close attention to the nuances in the language used by victims in recounting violence and traumatic events. Victims may not use direct language when discussing human rights violations, particularly those of an intimate nature, or simply may not have the same concepts in their native tongue. In Quechua communities in Peru, survivors often spoke of *sassachacuy tiempu*, “the difficult times,” and the *llaki*, “grief and sorrow,” or *lukuyasca*, literally translated as the “craziness” that individuals suffered.¹²⁰

Reporting sexual violence is particularly affected by cultural norms regarding sexuality, purity and gender. In native communities, it may be considered highly inappropriate for women to talk about their bodies, sex or violence. As a result, women (and men) avoided the use of direct language to describe the assault. In El Salvador and Peru, the Spanish word for “to rape” (*violar*) was rarely used. Instead, roundabout phrases or words such as “they bothered me” (*molestar*, *fastidiar*), “they were with me” (*estar*), “they harassed me” (*acosar*), “they abused me” (*maltratar*), “they took me” (*sacar*), “they committed private crimes,” “they did ‘el largo’ to me,”¹²¹ “they took advantage of me” (*aprovechar*), “they touched me” (*tocar*), or “I surrendered” (*capitular*). The literal translation of these words and phrases may not point to acts of sexual abuse. However, by examining the context within which they appear, such as the removal of the

¹²⁰ Duncan Pedersen, Jacques Tremblay, Consuelo Errazuriz, and Jeffrey Gamarra, “The Sequelae of Political Violence: Assessing Trauma, Suffering and Dislocation in the Peruvian Highlands”, in *Social Science and Medicine*, April 2008, p. 1–13.

¹²¹ “El largo” refers to a process whereby soldiers rub their weapons against the body of the victim, who is often blindfolded to intensify the fear and anticipation of the violence, and then rape him/her with the weapon.

victim's clothing or indications of subsequent health problems, researchers can usually determine the intended meaning of the speaker.

For example, a woman in Ayacucho who was accused of participating in subversive activities was subjected to repeated detentions and torture. In 1984, she was detained and transferred to the military base in Cangallo. The soldiers asked her about her involvement in a previous attack that resulted in a number of deaths, including a few soldiers. She denied participating in or knowing anything about the event. She was later transferred to the *Policía Investigativa de Perú* (PIP; Peruvian Investigative Police), where she was repeatedly interrogated by an officer (identified by name). After being released, the officer continually broke into the woman's home, beating and "bothering" (from the verb *molestar*) her. As a result of these events, the victim reported to the Commission having chronic pain in her ovaries.¹²² Other women would describe their "condition as women" or their "dignity" or how a neighbor suddenly changed, became withdrawn, or had trouble with her husband. One woman simply said: "I didn't have the strength to defend myself and I was really affected."¹²³ Because these nuances will vary across countries and cultures, investigations of wartime sexual violence must be rooted in case-based knowledge and sufficient field experience at the research site.

CONSTRUCTING A NEW DATABASE ON WARTIME SEXUAL VIOLENCE IN EL SALVADOR AND PERU

Using the original denunciations collected by Tutela Legal and Socorro Jurídico Cristiano, I created a new dataset on sexual and other forms of political violence in El Salvador. I read all of the testimonies collected by Tutela Legal and those collected by SJC between 1978 and 1983. In total, this amounts to 60 boxes of records and includes approximately 8,000 unique testimonies.

Using the original testimonies of the CVR, I created a new dataset on political violence in Peru. The data set directly builds on the work done by the CVR, adding greater detail to its

¹²² CVR, *Collection of Individual Testimonies: No. 201476*, see *supra* note 59.

¹²³ CVR, *Collection of Individual Testimonies: No. 700906*, see *supra* note 59. Emphasis was added.

database on violent events. Cases that were previously not included in the CVR's database, either because they fall within the 5,000 testimonies that were not coded for nonlethal violence or because the victims were not identified by name, were added. Cases of sexual violence such as sexual torture that were overlooked or misrepresented in the CVR's work were also added. Reading almost 17,000 testimonies with great attention to detail and context would require far more time and resources than are available to the individual researcher. My database, therefore, is based on a random sample of approximately 2,500 testimonies. I sampled according to the event or case number (a number assigned at the time the case was entered into the CVR database), reading the testimonies for every tenth event. Since this captures only those cases that were originally included in the CVR's database, I then oversampled from the range of cases that Commission staff did not code for nonlethal acts of violence.

For all testimonies read, I included information on cases of detention, disappearance, extrajudicial execution, death as a result of armed combat, injury, forced recruitment, kidnapping, torture, and multiple forms of sexual violence, including rape and gang rape, sexual torture, sexual mutilation, sexual humiliation, sexual coercion, forced abortion, forced impregnation, sexual slavery, and a general category for unspecified forms of sexual violence. Additional details, such as descriptions of preceding events and the context in which the violence was perpetrated, were recorded for each case. I paid particular attention to such key facts as how the victim came to be targeted for violence, what he or she was doing at the time of the attack, who was present during the commission of the violence, and exactly where the violence was perpetrated. I documented whether the victim or his or her family or friends were previously targeted for violence. I also recorded language used by the perpetrators during the assault. Evidence of sexist or racist language can be particularly insightful in determining motive or demonstrating small-group norms regarding the use of violence.

To summarize, Table 2 presents descriptive statistics on wartime sexual violence in Peru and El Salvador according to the methods employed by the Truth and Reconciliation Commission, those found after reexamining the Commission's published documents with a

broader definition of sexual violence and a more inclusive counting of victims, and finally those found after accessing the primary documents and employing these same methodological guidelines.

EL SALVADOR		
CVES Final Report	Published Documents	Primary Documents
<ul style="list-style-type: none"> • 270 individual cases of rape (3.7% of all human rights violations) • 99% of victims were women; less than 1% of victims were men • 100% of cases of sexual violence were rape • 97% of cases of sexual violence were perpetrated by state armed forces 		<ul style="list-style-type: none"> • 123 cases of sexual violence • 45% of victims were women; 53% of victims were men; 2% of victims' gender was unreported • 41% of cases of sexual violence were sexual humiliation; 18% were sexual torture; 17% were rape; 12% were sexual coercion; 7% were gang rape
PERU		
CVR Final Report	Published Documents	Primary Documents
<ul style="list-style-type: none"> • 538 individual cases of rape (1.53% of all human rights violations) • 98% of victims were women; 2% of victims were men • 100% of cases of sexual violence were rape • 83% of sexual violence cases were perpetrated by state armed forces 	<ul style="list-style-type: none"> • 695 events of sexual violence • 71% included female victims; 24% included male victims; 5% included both male and female victims • 48% of events of sexual violence included rape; 22% sexual humiliation; 6% sexual torture 	<ul style="list-style-type: none"> • 800 cases of sexual violence • 67% of victims were women; 22% of victims were men; 10% of victims' gender was unreported • 40% of cases of sexual violence were rape; 27% sexual humiliation; 10% gang rape; 10% sexual torture; 5% sexual mutilation

Table 2 Comparison of Figures on Wartime Sexual Violence in El Salvador and Peru

NOTE: The unit of analysis in the CVR's final report and in the analysis of the primary documents is the victim-violation. In other words, a "case" is an observation of one human rights violation against one victim. In Leiby, 2009 the unit of analysis is a violent event. An event may include more than one victim, more than one type of violation, and more than one perpetrator. "Primary documents" refer to the original testimonies collected by the CVR in Peru and Tutela Legal and SJC in El Salvador.

Table 3 provides additional figures from the primary documents on the patterns of wartime sexual violence. It highlights the findings that men are more often the targets of sexual violence than previously reported and that, unlike women, men are more often the victims of sexual

humiliation, mutilation, and torture than rape or gang rape. Lastly, it reports the number and types of sexual violations suffered by unidentified victims.

EL SALVADOR		
Most Frequent Sexual Violations	Victim Gender & Most Frequent Sexual Violations	Unidentified Victims and Most Frequent Violations
<ul style="list-style-type: none"> • Sexual humiliation (40%) • Sexual torture (18%) • Rape (17%) • Sexual coercion (12%) • Gang Rape (7%) • Sexual mutilation (4%) 	<ul style="list-style-type: none"> • Women comprised 45% of victims of sexual violence <ul style="list-style-type: none"> ○ Rape and gang rape (53%) ○ Sexual humiliation (27%) ○ Sexual coercion (11%) ○ Sexual torture (4%) ○ Sexual mutilation (4%) • Men comprised 53% of victims of sexual violence¹²⁴ <ul style="list-style-type: none"> ○ Sexual humiliation (48%) ○ Sexual torture (24%) ○ Sexual coercion (13%) ○ Rape and gang rape (10%) ○ Sexual mutilation (6%) • Gender was unreported for 2% of victims of sexual violence 	<ul style="list-style-type: none"> • Only 2 cases of sexual violence against unidentified victims; both were cases of sexual humiliation
PERU		
Most Frequent Sexual Violations	Victim Gender & Most Frequent Sexual Violations	Unidentified Victims & Most Frequent Violations
<ul style="list-style-type: none"> • Rape (40%) • Sexual humiliation (27%) • Gang rape (10%) • Sexual torture (10%) • Sexual mutilation (5%) • Sexual coercion (5%) • Unspecified forms of sexual violence (3%) 	<ul style="list-style-type: none"> • Women comprised 67% of victims of sexual violence <ul style="list-style-type: none"> ○ Rape and gang rape (64%) ○ Sexual humiliation (15%) ○ Sexual torture (8%) ○ Sexual coercion and attempted sexual violence (8%) ○ Sexual mutilation (2%) • Men comprised 22% of victims of sexual violence <ul style="list-style-type: none"> ○ Sexual humiliation (46%) ○ Sexual mutilation (20%) ○ Sexual torture (15%) ○ Rape (15%) • Gender was unreported for 10% of victims of sexual violence 	<ul style="list-style-type: none"> • 249 cases of sexual violence against unidentified victims <ul style="list-style-type: none"> ○ Rape and gang rape (56%) ○ Sexual humiliation (29%) ○ Sexual torture (5%) ○ Threat of sexual violence (5%) ○ Unspecified forms of sexual violence (5%)

Table 3 New Findings on Wartime Sexual Violence in El Salvador and Peru from the Archives

CONCLUSION

There are a number of methodological obstacles researchers confront when analyzing political violence. Accurately capturing the historical record is no small feat. When focusing on

¹²⁴ If one were to exclude cases of sexual humiliation, the percentage of male victims of sexual violence would fall to 35 percent.

sexual violence in conflict situations, the obstacles become more frequent and complex.

Underreporting is so pervasive that statistically estimating the total number of victims is likely impossible.¹²⁵ As victims themselves are reluctant to report sexual abuse, we must be particularly careful to not “lose” their stories when recording, coding or manipulating the data.

In this article, I discussed four methodological decisions that researchers must make when collecting and reporting statistics on the occurrence of sexual violence. These include (1) how to define and measure sexual violence, (2) whether to include only named or both named and unnamed victims of sexual violence, (3) how to treat cases where victims suffer multiple forms of human rights abuse, and (4) how to treat ambiguous language in victims’ statements. Above, I argue for a broad definition of sexual violence, the disaggregated coding of all forms of sexual violence, the inclusion of unnamed victims, the creation of a victim-violation database that does not force the researcher to rank or limit human rights abuses, and special attention to be paid to the linguistic nuances in reporting sexual violence. There are trade-offs associated with each decision, and ultimately, how one proceeds depends on the individual researcher, the resources available to him or her, and the goals of the study.

Scholars are implementing innovative strategies and methods to document and analyze wartime sexual violence. In this article, I present an argument for the use of existing primary documents. Access to original sources allows researchers to choose their own parameters of study and make their own decisions regarding concept formation, measurement, the unit of analysis, and the construction of their database. Moreover, primary sources allow the researcher to do all of this without re-interviewing and potentially stigmatizing or re-traumatizing survivors and witnesses of political violence. My goal in writing this article is not only to increase awareness of two underutilized and extremely rich human rights archives, but also to demonstrate how the use of primary documents may aid researchers in overcoming some of the

¹²⁵ See Amelia Hoover, “Sexual Violence and ‘Variation in Covariation’”, paper presented at the Yale University Workshop on Wartime Sexual Violence, New Haven, CT, 2-4 November 2007 for a discussion of the possibilities of using multiple systems estimation for nonlethal acts of violence, including sexual violence.

Understanding and Proving International Sex Crimes
Morten Bergsmo, Alf Butenschøn Skre and Elisabeth J. Wood, eds.
2012. p315-366

methodological obstacles that plague the literature on wartime sexual violence.

APPENDIX

*Guide to Collections of Archived Human Rights Documents in El Salvador and Peru**

In 1997, Socorro Jurídico Cristiano and Tutela Legal gifted copies of the testimonies they collected to the University of Colorado, Boulder, which has since served as a secondary depository and safe house for the organizations' records. The collection includes 64 boxes of case files on victims and survivors of political violence. Each file contains a standardized in-take form used by staff to record demographic information on the individual making the statement and the victim, and contextual information on the incident being reported, the alleged perpetrators involved and any measures taken by those involved to file a criminal charge or denunciation regarding the case. Some files include additional information on the case, such as news reports, letters and petitions to the Supreme Court from the families of the victims, letters to state security agencies and the FMLN from Tutela Legal or SJC (acting on behalf of the victims and their loved ones) requesting information on the case, demanding the release of those captured, and/or demanding the prosecution of those involved in human rights violations, as well as responses to those letters from state security and judicial institutions.

The University also has the archived testimonies collected by the non-governmental Comisión de los Derechos Humanos de El Salvador. The collection includes the individual testimonies of witnesses and victims of violence during the civil war, as well as supplemental secondary materials gathered by the CDHES during their investigations between 1974 and 1992. Each case file contains biographical information about the victim, the date and place of the attack, the alleged perpetrator(s), and a narrative description of the circumstances surrounding the attack. There are 36 boxes of case files in the collection. In addition to the testimonial records of Tutela Legal, SJC and the CDHES, the University also holds archived materials from

* Special thanks to the dedicated staff of the University of Colorado at Boulder Archives Department and the Centro de Información para la Memoria Colectiva y los Derechos Humanos in Peru for the important work that they do in preserving the historical record so that we may never forget the extraordinary costs of civil war.

the National Security Archives in Washington, DC, and Amnesty International relevant to the war in El Salvador and the peace process.

Due to budgetary cutbacks, the collections remain in the original state as when they first arrived at the University. The contents of the collections has not been evaluated or systematically catalogued. The materials are not digitized. Particularly in the case of the National Security Archives materials and the SJC testimonies, there are a significant number of duplicated documents in the collections, which remain largely unorganized. Despite this, the wealth of information available and the knowledgeable staff make the Archives Department at the University of Colorado, Boulder an invaluable research site for scholars of the Salvadoran civil war.

The Centro de Información para la Memoria Colectiva y los Derechos Humanos (CIMCDH; The Center for Information on Collective Memory and Human Rights) in Lima holds the complete records of the Comisión para la Verdad y Reconciliación (CVR, Commission for Truth and Reconciliation), files from former district attorneys and special prosecutors, and files from the Defensoría del Pueblo (Office of the Ombudsman) and the human rights branch of the Ministerio Público (Public Prosecutor) of the Peruvian state. Among its primary sources are internal reports, memoranda, and photographs documenting the institutional history of the CVR and news articles and photojournalistic accounts of the conflict as it unfolded. In addition, the CIMCDH has a collection of approximately 3,500 secondary sources on topics related to human rights, political violence, and transitional justice in Peru, as well as other countries (pre-dominantly in Latin America). Included in this library are all the secondary materials the CVR used in conducting its analyses and writing the final report.

The gem of the archive, however, is the 16,917 testimonies collected by teams of investigators throughout the country, which document the most violent period in Peruvian history as seen through the eyes of its citizens. The testimony files are of tremendous value to scholars. Each file contains the original intake forms used by field workers to record demographic information on the interview, the deponent, and the victims and perpetrators of

violence. These forms are accompanied by a transcription of the deponent's statement describing the event. In addition, files may hold various supplemental documents such as pictures to identify victims who have disappeared or copies of previous denunciations filed by the victim's family.

In addition to victim and witness denunciations of violence, the Center also holds statements made to the Commission by alleged or confessed perpetrators. For the most part, these exist only in audio or video formats, and have not been transcribed. These interviews provide incredible insight into individuals' command posts throughout the war, military policy and operations, military training practices, and degrees of cooperation between branches of the state security apparatus, as well as officials' understanding of the nature of the opposition threat and prospects for a negotiated settlement to the conflict.

Staff at the Center can search the database of testimonies according to the name of the victim, the deponent (or person who gave the testimony), or the date or location of the violent event. This is an invaluable tool for researchers. For instance, someone interested in a particular region or community, such as Accomarca in Ayacucho, can ask the staff to search the database and pull all testimonies that discuss violence in Accomarca and/or all testimonies that were taken in Accomarca. More specifically, someone wanting to investigate the massacre in Accomarca on August 14, 1985, can ask the staff to search the database according to the location and date of the massacre. Unfortunately, the database is not searchable according to the type of violation coded by the Commission. However, because all of the testimonies have been digitalized, staff can conduct keyword searches to circumvent this setback. The latter scenario is in fact preferable for researchers who may be concerned about the criteria used to code human rights abuses, as I have discussed may be the case with sexual violence.