CHAPTER 1

Governing the Dead in Guatemala: Public Authority and Dead Bodies

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One day in 1995, toward the end of the civil war in Guatemala, an army patrol shot and killed a member of the guerrilla organization Unidad Revolucionaria Nacional de Guatemala in a skirmish close to the Mexican border. Following orders from the army command, the soldiers took the dead body to the nearest road, where local civilian authorities met them to perform a procedure called *levantamiento de cadaver* (“elevating the cadaver”). Under “normal” war conditions, the soldiers would have left or interred the *guerrillero* in the mountainous forest where he was killed, but in the context of ongoing peace negotiations, a signed accord on human rights, and the presence of a UN verification mission (MINUGUA), the army command insisted on following civilian peacetime procedures. The procedures and institutional responsibility had recently been revised, so the judge and his secretary muddled through the prescribed procedure while meticulously writing the *levantamiento* report, in four copies, on their portable typewriter. The report recorded witness testimonies and described the dead body, the belongings and clothing – in some detail including the color of the underpants – and the location where the body had been found. This was to allow for a postmortem identification of the dead person, as well as to help identify the cause and circumstances of his death.

When the judge had finalized the reporting, the soldiers took the dead *guerrillero* to the nearby village cemetery for interment. However, observers from MINUGUA who were present on the occasion overruled the local authorities with reference to Guatemalan law, according to which the body had to be taken to a morgue for autopsy. Since nobody else had a suitable vehicle for transporting the dead body, the judge ordered the present researcher to transport the *guerrillero* to the morgue, four hours’ drive away. After the
autopsy, the dead body would continue its journey to a designated cemetery and be buried in a grave marked XX, to indicate an unidentified dead body.

According to Guatemalan law, state officials are to perform this procedure every time a dead body is found under circumstances that may involve a suspicion of crime. If the homicide rates of the mid-2010s are used as an indicator, the levantamiento de cadaver was performed more than 100 times each week in Guatemala. In the context of the broader state machinery, the procedure is a minor detail but, because it is linked to issues of the legitimate use of armed force, justice, inheritance, and identity, it is an important detail. However, the procedure cannot be taken for granted. As this chapter shows, it has a history, and its performance depends on specific circumstances. This case from 1995 also pointed toward the future as some of the procedures regarding dead bodies were reformed following the end of the civil war.

My main interest here is to analyze how these procedures have developed as a contested part of the emerging modern state in Guatemala since the eighteenth century. The chapter focuses on the formative decades of the nineteenth century, when basic regulatory frameworks were put in place; the civil war in the late twentieth century as a period when state security forces became the main actor in transgressing state regulations regarding dead bodies; and the 2000s, which saw the most recent reforms of the state regulation of dead bodies.

Before following this historical trajectory, I shall briefly sketch the underlying approach to dead bodies as objects of political analysis that inform this study. As Verdery (1999), Lomnitz (2005), and others have reminded us, the ways in which dead bodies are dealt with is a deeply political issue. And, as Hertz ([1907] 1960) has also suggested, there is much variation in how (political) communities treat the dead bodies of friends, enemies, members, and nonmembers.

**Biopolitics, Necropolitics, and the Powers of the Dead**

As Foucault ([1997] 2003: 247) famously suggested, the modern state is a biopolitical state, focused on the improvement of life, while a “gradual disqualification of death” has taken place since the late eighteenth century. Then, death was a spectacular ceremony manifesting the transition from one power to another, from “the sovereign of this world” to “the sovereign of the next world.” Now, in contrast, death has become “something to be hidden away” (Foucault [1997] 2003: 247). The reason is the shift from the power of death (or of “sovereignty,” in Foucault’s terms) to the “power of life,” a shift that coincided with the emergence of clinical medicine and biomedicine. This permitted the constitution of life and death as biological processes to be governed (Rose 1999). As Foucault writes:

> now that power is decreasingly the power of the right to take life, and increasingly the right to intervene to make live … death becomes, insofar as it is the end of life, the term, the limit, or the end of power too. Death is outside the power relationship. In the right of sovereignty, death was the moment of the most obvious and most spectacular manifestation of the absolute power of the sovereign; death now becomes, in contrast, the moment when the individual escapes all power, falls back on himself and retreats, so to speak, into his own privacy. Power no longer recognizes death. Power literally ignores death. (Foucault [1997] 2003: 248)

Under the sign of biopolitics, death became a “scandal that we have been unable to prevent,” and which therefore had to be ignored, marginalized, and silenced (Aries [1977] 1981: 613). However, such silencing requires work or governance. Thus, modern states
tend to establish a range of laws, institutions, and codified practices to take control of the transition from life to death including the whereabouts of dead bodies in terms of their “proper disposal.” In many cases, state institutions have a limited reach or capacity, so either families have to deal with their dead on their own or state representatives have to negotiate regulation with other forms of authority, in particular religious ones. However, even though state entities, at will or by default, delegate specific responsibilities and faculties to private, social, and religious authorities, they usually claim the ultimate authority to define and to govern the dead within their jurisdiction through legislation and institutionalized procedures.

In this perspective, we may take issue with Foucault’s claim in the sense that the dead bodies, even in modern states, are still within the field of modern (bio)power. As can be seen in the case of Guatemala, much of the regulation of dead bodies has been developed in the name of public health. Dead bodies appear as dangerous matter that should be separated from the living in order to avoid the spread of disease.

However, dead bodies are more than just matter. They may be associated with what we could call the powers of the dead because of their particular qualities. Dead bodies have potentially disruptive effects for people, society, and political authority. They remind us that everybody is going to die and they articulate questions of ontology. The immanent decay of the body, as well as its ambiguous being – as both subject and object, pure and impure, and sacred and profane – endows the dead body with a curiously disturbing and affective sort of agency. As many anthropologists and other scholars have observed, dead bodies lend symbolic and political efficacy to rituals, a transformative effect that scholars describe in terms such as “alchemy” (Bloch 1982), “sacralization” (Kaufman and Morgan 2005), “transgression” (Taussig 2006), “catharsis” (Kristeva 1982), and “animation” (Verdery 1999). Across many approaches, dead bodies are associated with an excess of meaning and affect, as something that cannot entirely be controlled.

The materiality and the “thereness” of the dead body (Verdery 1999) marks its territorial location and demands some kind of action. Inaction – leaving the dead body exposed – can have effects that go beyond or against the control of the authorities. However, leaving the body can also be a politically efficacious statement in particular circumstances; for example, it may perform a crude political pedagogy, as Kernaghan (2009) has demonstrated in the case of Peru’s Shining Path. This Maoist movement left killed persons on the road with signs attached that signaled a new legal and political order. The bottom line is that the human remains and dead bodies, depending on the specific context, can be both a political asset and a liability, but the authority in charge cannot always control whether the dead body is one or the other. Fontein (2014) has given an example of this dilemma in his analysis of the leaking dead bodies that were found in an abandoned mineshaft in Zimbabwe. While Robert Mugabe’s party exposed the remains as a testimony of colonial violence, oppositional voices claimed that the remains, rather, belonged to victims of Mugabe’s own regime. Likewise, the decisions to disappear the dead body of Osama bin Laden in the Indian Ocean and of Muammar Gaddafi in the Libyan desert speak of this kind of uncertainty.

However, even dead bodies that are stripped of political significance – the “bare death” equivalent to Agamben’s “bare life” (Agamben 1998; O’Neill 2012) – produce senses and atmospheres of (dis)order, which are of significance for the production of authority. Willis (2015) gives an example from São Paulo, where the dead bodies of “killable” young and often black men in certain neighborhoods can lie in the street for a long time. People call them presunto (ham). The police are reluctant to pick up the dead, and families often do not dare to take action; when the police finally arrive, they undertake the levantamiento...
procedure hurriedly. These *presuntos* produce a sense of abandonment and that state security forces are not in charge in these districts.

Returning to Foucault’s juxtaposition of biopower and necropower (Mbembe 2003) and his observation that modern power ignores death, I would say that Mbembe and others have forcefully argued that necropower as the “old” form of sovereignty remains alive as a dark underside of modern political communities. However, these analyses focus on the killing (the necropolitical taking life) and the abandonment (the biopolitical letting die) rather than on the dead and dead bodies. In light of the aforementioned power of the dead, the question we have to take seriously is how dead bodies provide an opportunity for the performance of sovereignty in terms of their resistance and excessive qualities, and how this fits into Foucault’s conceptual distinction. One answer, following Dean (2004: 22), could be that the powers of life and death together “are constitutive of the sacred character of political community,” that it is the overlap, interrelation, and indistinction between the two that lie at the heart of modern sovereignty, and that our task is to “delineate the coordinates of this philosophical twilight zone.”

In an attempt to look at this twilight zone, the following sections explore the rationalities through which the relationship between the state and dead bodies has developed through the history of Guatemalan state formation. The data for this exploration were generated partly while living in the mid-1990s in the municipality of Nentón at the border with Mexico, and partly through archival research in 2009 in the library of the Corte Suprema de Justicia (Supreme Court) for documents going back to the 1830s, and in the Archivo General de Centro America (AGCA) for older sources. I mapped contemporary legislation on dead bodies in the Code of Public Health, the Civil Code, and the Code of Criminal Procedure, and traced their history backwards to the eighteenth and nineteenth centuries.

The Concept of the Cemetery and the Birth of the Guatemalan State

State formation in Central America has been described as primarily taking place in “the long nineteenth century,” which started in the late eighteenth century with the attempts of the Bourbon reforms to centralize and reform government. The introduction of the concept of the cemetery, influenced by European ideas about public health and airborne diseases, is a good example of continuities between colonial and postcolonial Guatemala. In 1789 the Spanish king stated the need to “establish a cemetery outside the *poblado* where everybody, without exception of any person, would be buried,” instead of burying the dead in or around churches, as had hitherto been practiced by the Catholic Church. The idea to separate the living from the dead (Ariès [1977] 1981) came after several centuries of conviviality under the tutelage of the Catholic Church. The church had spent much effort in appropriating and policing the afterlife in the popular imagination and in situating itself as the broker between life and death, in order to help the Indians “to die well” (Lomnitz 2005).

However, with the excess of dead bodies during epidemics, the governor of Cuba had urged the Spanish king to take up the issue, which he did after ensuring the church’s support. The 1789 warrant explains how, in the hot and humid climate, the corpses were “corrupted and impure,” and made churches almost impassable because of “bland and stinking graves inside [them].” In order to prevent this “considerable damage,” the governor suggested that the king introduce the new concept of the cemetery, so “convenient for the public health,” in places that had to be “well ventilated.” Thus, the warrant made implicit reference to the mid-eighteenth-century scientific discovery of airborne diseases (Ariès [1977] 1981).
In a Royal Warrant from 1804, the king turned the suggestion from 1789 into a “sovereign decision” to ban intramural burials. The highest authorities were asked to “let the priests understand the benefits that this will bring in support of the laudable aim of mine being nothing else than the maximum dignity [decoro] and decency of the temples, the public health that is of so much interest to me and the peoples themselves.” The warrant included a wonderfully detailed plan, which one of the ministers of the Council of the Indies had designed. It shows a rectangular cemetery with straight streets going from north to south and from east to west, tree-lined walls, a chapel, and an osario for the permanent disposal of bones in the center. Every dead body would have its own individual plot, thus breaking with previous practices of cramming the dead together in shallow graves.

The modern urban design and aesthetics of the plan would influence how cemeteries in Hispanic America would be constructed for the next 200 years. However, the concept and design of the cemetery was not readily accepted. It would take most of the nineteenth century before the cemetery became the common place of disposal of corpses in Guatemala (and elsewhere in Hispanic America), in particular outside of the capital. A number of repetitive and increasingly shrill royal warrants were issued in the years leading up to independence in 1821, which suggested that the political authorities were either unable or unwilling to translate the new concept into practice. There was resistance from the churches, which feared losing their income from burials, and from the elites who expected to be buried prominently inside the churches; however, there was also very strong resistance from the Amerindian population who resented being separated from their dead and leaving them without protection and ceremonial attention in faraway cemeteries.

Burials continued to be an explicitly political issue after independence. In 1822 the Liberal jefe político of Guatemala asked the city council to take action on the issue of cemeteries, worried that the concept of the cemetery, “for fear of the vulgar preoccupations of the People,” has been “buried in oblivion by those who most should take care of its implementation.” Nevertheless, the “vulgar preoccupations of the People” became even more pronounced after the Liberal government issued a law in 1831 prohibiting intramural burial yet again. In 1833 the government issued a regulation for the new public cemetery that opened in Guatemala City the same year to be managed by the church and the municipality.

In the early 1830s epidemics of cholera morbus and later smallpox hit Guatemala. The government responded by enforcing the law on cemeteries and decreeing cordons sanitaires, quarantines, and prohibitions on commerce, trees inside towns, drunkenness, vagrancy, among other things in an attempt to limit the spread of the epidemics. Because many of these decrees suggested that the Amerindian way of life was potentially dangerous and therefore inherently immoral (Grandin 2000), they led to popular uprisings in various provinces. Later described as the “funeral discontent,” these uprisings contributed to the fall of the Liberal government in 1838, when the Conservatives took over.

The new government recognized that the cemetery laws had played a role in the uprisings. In 1839 it issued a Legislative Order explaining that “not only has this innovation [of the cemetery] against the customs of the peoples and contributing to the funeral discontent caused the law to be regarded with repugnance but it has also not had any effect in the majority of the towns.” The order therefore gave a dispensation from the 1831 cemetery law until “cemeteries or Campos Santos are constructed that satisfy the desires of the peoples” and burials can take place “with proper decency.” Rafael Carrera, the leader of the revolts, immediately took advantage of the dispensation to have his mother exhumed and reburied in church, and many others followed.
Thus, cemeteries became a highly politicized issue in the nineteenth-century contest between Liberal and Conservative elites over how to structure and codify relations between the church and the emerging, independent state of Guatemala. The Conservatives wanted to hold onto many of the colonial orders and regulations, including the dominant position of the Catholic Church, whereas the Liberals, at least in principle, supported economic, political, and religious freedoms, as well as a more prominent role for the state in relation to the church.

In 1871 a new generation of Liberals under the generals García Granados and Ruffino Barrios took over the government after defeating the troops of the Conservatives. Only 135 days after taking office, the Granados government issued a decree that again prohibited burials within populated areas with reference to the 1831 decree. The decree withdrew the 1839 dispensation to bury corpses inside the towns that the Conservatives had issued, stating that “It is the duty of the authorities to ensure public health, which would suffer bad consequences from putrefying corpses.” The 1871 decree was still somewhat conciliatory toward the church in its suggestion that church and state share the revenue from burials, and that representatives of the government, municipalities, and the church share the responsibility of constructing cemeteries. However, after General Barrios became president, an almost passionate secularism replaced the conciliatory tone. In the 1879 decree on cemeteries, he blamed the Conservatives and the church for the sad situation of cemeteries in Guatemala: “since public sites of burial have not been subject to immediate inspection and administration by the civil authority, the cemeteries lack the necessary conditions for maintaining public health; inhumations and exhumations do not respect the rules of hygiene; and the majority of the cemeteries are left neglected.” Therefore, the president decreed that “the construction, administration, and inspection of cemeteries will be the exclusive responsibility of the municipal authority” and that “a special set of regulations will determine the bases for the administration, regulation, and good services of the cemeteries.” Thus, “by this decree of today, cemeteries have been secularized.”

In a sense, what started out as an issue of biopolitics, partly promoted from within the church, ended up being an essential part of the political struggle over the disposal of dead bodies between the church and the state. It is clear from the documents that control over dead bodies effectively became the monopoly of the state. It thus challenged the Catholic Church’s hold over the transition between life and death, which it had been struggling to achieve through 300 years of colonial rule (Lomnitz 2005). As we shall see, secularization also extended to the registration of births and deaths as the state took over the church’s role in the domain of population registers.

**Dead Bodies in the Grid of the State: The 1870s**

In the 1870s the Liberal government struggled to extend the state’s control over the (still poorly defined) Guatemalan territory. It managed to consolidate its control and started to develop the laws and institutions of a liberal, centralized, and secular state. Land and labor reforms created the conditions for a boom in coffee and other forms of export crops that would provide the revenue for the emerging state apparatus, including a professional army, roads, and the telegraph, which helped strengthen control from the capital. Regulations and procedures regarding dead bodies were part and parcel of this foundational period of state making, constituting a grid of governance that, at least in principle, left no dead body behind.
The three sets of regulation from the late 1870s have since been revised and amended, but basically they have marked how dead bodies were supposed to be governed in Guatemala until today, including legislation on cemeteries, death certificates, and the “first diligences” (which later became the levantamiento de cadaver procedure).

1 *The Civil Code* (1877). After an aborted attempt in the 1830s by the Liberals to import and adapt the civil register from New Orleans, the new generation of Liberals legislated for a secularized system of personal registration, which the Catholic Church had hitherto administered. This included the registration and certification of death by authorized entities. As the preamble remarks, the commission behind the code, like “legislators of the most civilized countries of the world,” proposed to create a civil register. The text diplomatically asserts that, while the parish books have been “very good, very convenient for purely ecclesiastical concerns, they cannot live up to the mentality [la mente] of the civil lawmaker.” The existing practice was insufficient because the parishes did not register data on many foreigners in Guatemala. Many of these foreigners were Protestants from Europe whom the government had invited to boost the national economy through export agriculture and, in general, to civilize (for which read “whiten”) the population. However, the Catholic Church did not register the births and deaths of these foreigners because it did not have any jurisdiction over the Protestant cemeteries: “the State needs to know who are citizens and who are foreigners” because “the Republic needs immigrants and opens its doors for foreigners of all creeds who wish to obtain a home [domicilio] or citizenship” in the country. Apart from secularizing population registers and introduce the death certificate, the Civil Code makes special provisions for unidentified corpses found outside populated areas or in abandoned houses. In these cases, the judicial authority or police chief are responsible for reporting any “signs of the diseased, of clothing, or of anything else that can help identify the corpse.” These provisions overlap with the “first diligences” in the Military Code.

2 *The Military Code* (1878). The preamble instructs military officers to assist in criminal cases in order to respond faster “to the exigencies of public service.” The code has a section on “first diligences” in cases when a dead body is found and where there is suspicion of a crime (sec. 125–166). This section was included in the Code of Criminal Procedure from 1898 and has retained its structure and main content until the present levantamiento de cadaver procedure. It delineates steps to establish the identity of the dead body by putting it on public display if necessary (and if possible, depending on its condition) and taking photographs. The code requires that an autopsy be performed if qualified personnel are available. In criminal cases, no body should be interred without an autopsy having first been performed, and if the body has already been interred, it has to be exhumed for an autopsy.

3 *The Regulation for Cemeteries* (1879). Based on the 1833 regulation for the cemetery of Guatemala City, the administration developed a new regulation and extended it to all towns in the country, with the municipality having sole responsibility for its management. While holding onto specifications regarding depths of, and distance between, the graves, the new regulation distinguished between different kinds and sizes of graves and their locations in the section for the poor, in the section with more expensive concrete niches above the ground, or in the section for the individual monuments of the rich. While the 1833 regulation emphasized that nothing should hinder the burial of a corpse, the 1879 version specified that it was the responsibility of the poorhouses or the municipality to cover the expense of the burial of the poor. Linking up with the
Civil Code, the regulation stated that burial could take place only after the death had been registered and certified by the authorities, and the name, date, sex, age, class (indio or español), occupation, neighborhood, as well as the location and class of the grave, inscribed in the cemetery’s Book of Inhumations. The authorities should be able to identify and locate every dead body in the cemetery. The regulation allowed exhumation after six years if the body was buried in concrete niches, or three years if it was buried in the soil, based on the estimated time for the body to reach the dry stage, as Hertz ([1907] 1960) would have it. This latter point underlines the argument, contra Foucault, that modern power does not quite end at death. Rather, the effects of modern power reach beyond death by regulating the disposal of every individual dead body, defining in which cases they can and should be cut up and examined by whom, and enabling the identification of every body until the bones are dry and can be returned to the family or transferred to the cemetery’s ossuary (osario).

Together, these regulations from 1877–1879 tie the dead into the same disciplinary grid as the living. Foucault (1977: 149) talks about this grid in terms of “cellular power” that “allows both the characterization of the individual as individual and the ordering of a given multiplicity,” in this case the national population. These “disciplinary tactics” (Foucault 1977: 149) that link the individual and the multitude in a spatial grid are the same that underpinned other laws from the same period, which provided for the nationalization, partitioning, and privatization of land, as well as the tracking of rural laborers who were equipped with individual “work books.” Think of the dead, the grid cemetery, and other regulations of dead bodies when reading the following quotation, in which Foucault explains how the disciplinary machinery “works space”:

first of all on the principle of elementary location or partitioning. Each individual has his own place; and each place its individual … One must eliminate the effects of imprecise distributions, the uncontrolled disappearances of individuals, their diffuse circulation … Its aim was to establish presences and absences, to know where and how to locate individuals, to set up useful communications, … to be able at each moment to supervise the conduct of each individual, to assess it, to judge it, to calculate its qualities or merits. It was a procedure, therefore, aimed at knowing, mastering and using. Discipline organizes an analytical space. (Foucault 1977: 143)

Thus, in terms of their recognition as a kind of person with an individual identity, the dead form part of the national political community that the Guatemalan state seeks to define and frame in the formative years of the late 1870s. The state was to leave no dead body behind, and, as developed in later legislation, wherever the dead may go, the administration was to register and authorize them, thus also making legible (Scott 1998) the lives of the dead.

**War and Transgression: The 1980s**

As we have seen, an elaborate state regulation of dead bodies had been in place for a long time when the civil war started in 1960, but the ability of local and central state institutions to enforce it had been limited mainly to urban areas. More importantly, however, the military and other state security institutions themselves became the principal violators of the very same regulations, including the proper disposal of bodies and issues such as the
mandatory autopsy. The development of a more respectful and individualistic attitude toward the dead during the nineteenth century was what made possible the dehumanizing and desecrating treatment of the dead that became widespread during the civil war, as O’Neill (2012) has argued.

Returning to the incident at the beginning of this chapter about the levantamiento de cadaver in 1995, it should be understood in the context of a period when dead bodies were often not treated according to the prescribed state procedures. Thus, at the height of the war, between 1981 and 1983, the municipality of Nentón where the guerrillero was shot was in a de facto state of exception, and more than 600 men, women, and children were killed (CEH 1999). The army killed more than 300 people in one massacre in 1982, where the victims’ dead bodies were half burned and left in the charred village. As documented by the truth commission (CEH 1999), as well as from my own interviews in the area, other dead bodies were dumped in rivers or ravines, left to rot in the center of villages or on the new road built under army protection, cut into pieces and buried on site, or hung in trees. Those who were taken to the army base for interrogation were often killed and dumped in mass graves, for example under the floor of the municipal church, where the army had its base for some time. While some of the bodies were thus displayed to convey messages of sovereignty to the population, dead bodies were generally not dealt with ritually in this period.

As a former mayor told me, the local administration did not perform the levantamiento de cadaver until the Human Rights Accord (1994) changed the situation: “You need witnesses, but who would want to testify? Who would you accuse? So you couldn’t file a report. We would inform the police who would notify the army … Many of the cadavers that we found in the river we could hardly collect. They were falling apart when we tried to remove them.” Yet, a certain ethos of public service and bureaucratic decorum around death survived. The municipal authorities registered 47 of the estimated 600 cases of violent death in 1981–1983, despite the fact that they had to flee the town and stay away for almost a year. While the administration did not undertake levantamientos, they still made entries in the municipal Libro de Defunciones (Book of Deaths) when somebody reported a death. The book was saved even though the guerrilla movement burned down the municipal office. Entries are basic, but they contain the name (or, in its absence, “XX”) and village of the deceased as well as the cause of death (suffocation, blank arms, bullets … or just “the armed conflict”). Some of the deaths were recorded days or months later.

While this procedural culture of death has animated many local representatives of the state, it has also shaped the expectations of the inhabitants to some extent. The Mayan population has had an ambiguous relationship with the state and its bureaucracy, treating it simultaneously as fetish and threat, but in several narratives of violent death in the villages that I have recorded, villagers expressed a sense of fear and abandonment when representatives of the state – or the church – did not take charge as expected. As reported elsewhere (CEH 1999), if they were to take charge of the burial and to perform the proper rituals, survivors were afraid that they would be associated with the dead and with whatever guilt they might have incurred.

After the civil war, the sites where the army and the civil patrols had disposed of the bodies of their victims became known as “clandestine cemeteries,” that is, sites of burial that were not officially designated by the state authorities. However, these sites also became the locus of governmental and intergovernmental legislation and procedure as exhumations took place in the aftermath of the war in the 1990s and 2000s, when there were several changes in the procedures and institutions around dead bodies.
**Dead Bodies in the Aftermath of War**

In 1995, when a Guatemalan police officer and I took the dead body of the *guerrillero* to the provincial capital of Huehuetenango, the morgue was a small, sad room next to the crumbling old hospital and close to the city’s first cemetery. The conditions under which the forensic personnel would have to perform the autopsy were “appalling,” as two experts from Americas Watch and Physicians for Human Rights stated after a visit to Guatemala in 1990. They had found “a profession [of forensic medicine] deeply demoralized after decades of military rule.” The personnel lacked proper training and equipment and were sometimes forced to perform autopsies at “a breakneck speed” (Americas Watch and Physicians for Human Rights 1991: 17).

Today some of these conditions have changed. In Huehuetenango there is a brand new morgue on the outskirts of the city in the premises of the National Institute of Forensic Sciences (INACIF). This institution was founded in 2006 to improve the expertise and facilities, independent of the military, of those who perform *levantamiento* procedures and autopsies. The formation of INACIF took place after 10–15 years of campaigning by Guatemalan and international human rights organizations. The Americas Watch mission marked a starting point in several ways. Apart from documenting the lamentable state of the medico-legal practice in Guatemala, the two forensic experts took part in one of the first official exhumations of victims of state repression, partly in order to support the incipient movement for exhumations in the country, and partly to prove the value and potentials of the forensic sciences. As a doctor in Guatemala City had suggested to them, “Forensic medicine in my country is like an embryo frozen in ice, waiting to be thawed” (Americas Watch and Physicians for Human Rights 1991: 20).

Indeed, the profession of forensic medicine did not feature in Guatemalan legislation before 1969. In the 1898 Code of Criminal Procedure, the departmental surgeon was responsible for autopsies and could undertake the autopsy only in the presence of a judge or the police. The state started regulating forensic medicine only in 1969. It stated that, as a minimum requirement, the doctor, apart from being Guatemalan and having a degree in medicine, should have studied, practiced, or “demonstrated some form of interest” in forensic medicine, thus acknowledging the lack of properly trained specialists. A revised version of the criminal code from the following year states that forensic doctors should undertake the autopsy, but confidence in the profession must have been limited, since the code states that they can be fined or imprisoned in cases of “disobedience.” The Americas Watch mission did not find evidence of a massive falsification of autopsy reports or of manipulation of forensic procedures, but these must have taken place.21

In the 1990s forensic activity was strictly confined to the morgue. The regulation emphasized that forensic personnel with access to the autopsy had the obligation to maintain “absolute secrecy regarding what happens in such acts or results from them.” After all, an autopsy is a desecration of the dead body.

However, forensics were also isolated from the work that state representatives carried out in the *levantamiento de cadaver*, as we saw at the beginning of this chapter. At the time, they had to stay in the morgue and to undertake the autopsy without the contextual and particular information they could have retrieved from the site. Forensic personnel had to rely on the very limited information they occasionally received from the scene through the judge, the police, or the firefighters who were present at the *levantamiento*. “In a way we work blindfolded,” a forensic doctor expressed to the Americas Watch team (American Watch 1991: 23).
Even though there was support for change among Guatemalan professionals and human rights organizations, it was very clearly international initiatives that influenced the direction of the changes. A few years before the Americas Watch mission, a group of lawyers and forensic experts related to the Minnesota Lawyers’ International Human Rights Committee wrote a document arguing for better legal and forensic procedures in cases of suspicious and unlawful death. In 1989 the United Nations General Assembly consecrated these principles and ideas in the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. With regard to the treatment of dead bodies, these principles contain a model protocol for autopsy, as well as one for disinterment and the analysis of skeletal remains.

Thus, in the aftermath of the civil war and the extreme numbers of extrajudicial killings in Guatemala, the forensic sciences received a boost in the 1990s and 2000s. This happened first in the context of nongovernmental organizations working in the ever increasing number of exhumations, such as Fundación de Antropología Forense de Guatemala, La Oficina de Derechos Humanos del Arzobispado de Guatemala, and Grupo de Apoyo Mutuo, but partly also, with some delay, in the public justice sector. This sector was under pressure as a result of soaring homicide rates and the fact that very few of the killers were being prosecuted and convicted. As a result, the government founded the National Institute for Forensic Sciences. This was an attempt to set up a purely scientific and technical entity that serviced but was institutionally independent of the judiciary, the police, and the public prosecutor’s office. The founding decree clearly states that it serves the good, the freedom, and the security of citizens. As the motto of the forensic institute in Guatemala and across the world says, *Hic gaudet mors sucurrere vitae* (Here death serves to rescue/secure life). Thus, in a way, forensic medicine helps turn attention away from the dead toward life, despite the fact that their practice in other contexts would be deemed a desecration and improper handling of corpses. Alongside the institutionalization of the forensic sciences in the public sector, a number of university courses have appeared, including the public University of San Carlos’s master in forensic sciences and several private university programs.

**Conclusions**

The laws, decrees, and regulations that have been identified here show how the regulation of dead bodies has formed part of the formation of a modern, liberal state in Guatemala. Writing the legal framework is in itself a performance that has produced the idea of a Guatemalan state forged in the image of progressive and enlightened liberal states of the nineteenth century. To the (sometimes limited) extent that state representatives have modeled their practice after the regulation, they have performed and produced the state in everyday life. Furthermore, the practice has produced the expectation, as I gathered from fieldwork, that the state takes responsibility for dead bodies in public spaces, or at least in contexts of violence and unpredictability.

The regulation of dead bodies has mostly followed a public health logic according to which dead bodies – in the wet stage at least – in the colonial period constituted polluting matter that threatened to desecrate churches (in the colonial version) and that in general threatened the good health of the population. Otherwise, dead bodies have been regulated according to a disciplinary logic that at once seeks to control and manage the totality of the national population as well as to keep track of every individual body, living or dead, within the territory. The texts mostly talk about dead bodies as “cadavers,” a dehumanizing and
objectifying term for the dead body that is going to be dissected. The root comes from the Latin *cadere*, meaning to fall, die, or perish. Against this background, we may interpret the *levantamiento de cadaver* procedure as a reversal of the Fall, an elevation in the sense that the procedure aims to provide the conditions for establishing the personal identity of the dead body, even if it is an effect of the totalizing aim of keeping track of every individual. This interpretation resonates with the idea that the modern cemetery dignifies the dead by giving an individual place to each and every individual, even the poor and even the dead *guerrillero*.

The importance of biopolitical rationality in the state’s regulation of dead bodies qualifies Foucault’s assertion that modern power stops at the limit of death (Foucault [1997] 2003), at least if we consider dead bodies as more than organic matter. Dead bodies are rather like Latourian actants that defy the human–nature boundary. They sometimes resist management by popping up and revealing secrets of the past when exhumed, for example; they are usually endowed with meaning as human beings; and they are somewhat humanized through burial regulations that individualize dead bodies. Nevertheless, it is more interesting to look at the twilight zone (Dean 2004) between bio- and necropower. The regulation and ideas of proper disposal of dead bodies is also the precondition for the necropolitical transgression of the very same rules and ideas by representatives of the state, as happened during the civil war in Guatemala. An additional example is the forensic institute where corpses are dissected/desecrated in the name of life.

The analysis also shows that state regulation has not emerged without contestation. A politics of dead bodies developed in particular in the first half of the nineteenth century, when the power of the state was not yet territorialized and centralized. In this period, ontological questions of the relationship between the living and the dead surfaced and merged with questions of which kind of authority should be in charge of the dead. While popular movements formed part of the “funeral discontent” of the 1830s, the 1990s and 2000s saw another contestation of the state and its regulation of dead bodies, when national and international organizations tried to hold the state to account for violations of state laws and human rights during the civil war. These postwar contestations led to reforms in the way the state apparatus deals with dead bodies, which seems to confirm Faust’s (2008) analysis. On the basis of her study of the US Civil War and its aftermath, she suggests that periods with a surplus of dead bodies are generative of institutions, legislation, procedures, and practices that circumscribe and contain the potentially disruptive effects of dead bodies and human remains.

Currently a different kind of contestation of the state’s regulation of dead bodies is taking place as drug cartels and gangs establish their own authority over dead bodies by displaying them in public spaces and by disappearing them in clandestine cemeteries. Thus, for example, in 2008 an armed clash between two drug cartels took place during a grand fiesta with cockfights and horse racing close to Nentón. Between 17 and 60 people died. Nobody knows precisely how many because, before the state authorities appeared to undertake the *levantamiento de cadaver*, local collaborators of one of the cartels had removed and buried many of the dead bodies. The state is not the only authority that is engaged in governing the dead in Guatemala.

Notes

3 Real Cedula Sobre el Etablcimiento de Cementerios Fuera de Poblado [Royal Warrant on the Establishment of Cemeteries outside of Settlements], March 27, 1789, Archivo General de Centro America (AGCA), A.1.2.4, leg. 2246, exp. 16218.
4 The First Provincial Council of Mexico, 1555, quoted in Lomnitz (2005).
5 Real Cedula, 15/05/1804, AGCA, A.1.1, leg. 218, exp. 5135.
6 See, e.g., Letter from the Mayor of Solola, 1814, AGCA, A1.1, leg. 6924, exp. 57.014.
7 Letter of April 30, 1822, AGCA, A.1.2, leg. 2215, exp. 15886, fol. 3.
8 Orden Legislativa [Legislative Order], October 25, 1839, AGCA, B12.6, leg. 212, exp. 4755.
10 Decreto 248, November 15, 1879, Leyes de Guatemala, tomo 2.
12 Código Civil 1877, libro I, sec. XXI.
14 It was integrated into the first Code of Criminal Procedure in 1898.
15 Decreto Gubernamental 248 (1879), Leyes de Guatemala, tomo II.
16 Author’s field notes, Nentón, June 2007.
17 See, e.g., MINUGUA (2000).
18 Decreto Gubernamental 551 (1898), Código de Procedimiento Penales [Code of Criminal Procedure], Art. 270. Recopilación de Leyes, tomo 16, 642.
19 Reglamento para Servicios Médicos Forenses [Regulations for Forensic Medical Services], 1969, art. 11.
20 Decreto Gubernamental 63 (1970), Código de Procedimiento Penal, art. 270, Recopilación de Leyes, tomo 90, 195.
21 For the case of Comandante Everardo from 1993 see Harbury (1997).
22 Reglamento para Servicios Médicos Forenses, 1969, art. 27.
24 Author’s interview with a member of the security committee of the Council of Development in Huehuetenango, June 13, 2012.

References


