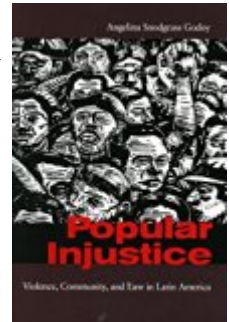


Angelina Snodgrass Godoy. *Popular Injustice: Violence, Community, and Law in Latin America.* Stanford: Stanford University Press, 2006. xvii + 233 pp. \$20.95, paper, ISBN 978-0-8047-5383-8.



Reviewed by Daniel Brinks

Published on H-Law (July, 2007)

In this compelling and disturbing book, Angelina Snodgrass Godoy offers a nuanced analysis of a phenomenon that strikes at the very heart of democracy: mass popular uprisings which often led to the violent murder of people suspected of usually relatively minor crimes in post-civil war, democratic Guatemala. According to the UN mission to Guatemala, nearly five hundred such events were recorded in Guatemala from 1996 to 2002, leading to the death of 235 people. The preferred lynching method in Guatemala is fire, rather than the rope: victims are doused in gasoline and burned alive. Often entire communities participate in elaborate ceremonies of public shaming and abuse before putting the suspected offender to death. The practice is not restricted to Guatemala, but seems especially prevalent there.

The lynchings Godoy describes raise the kind of fears discussed by Fareed Zakaria: fears of what might happen when popular sovereignty turns some measure of authority to "illiberal societies." [1] Godoy's book is richly ethnographic and theoretically informed, presenting in chilling detail and heartbreaking immediacy the depth of in-

humanity and the deep normative struggles of participants in these elaborate rituals of death and violence. Moreover, Godoy points out, lynchings are just one of a panoply of hyper-punitive crime control tactics championed by elected politicians and publics across Latin America. The book pointedly raises a question that has considerable currency: what does it take to establish a rights-observing democracy in societies stripped of their social capital by the physical violence of internal war and brutal atrocities, and by the structural violence of a modernity that promises but does not deliver a dignified existence?

The facile analysis from outside Latin America is that these are backward societies, simply unprepared for democracy, and that popular sovereignty in such a society is something to be feared rather than welcomed. The equally facile analysis from inside Latin America is that these societies are merely responding to the failure of the state to impose order, by availing themselves of self-help mechanisms. Godoy goes a step further, arguing that these lynchings are expressive acts undertaken by communities battered by

modernity. In her view, lynchings are attempts to send the state a message and simultaneously re-establish agency. They take place in communities thrown into a near perpetual state of fear and stripped of long term social cohesion by violence and neoliberal globalization. In her vision, these are not so much democracies to be feared, as democracies soaked in fear.

There is a recent quantitative analysis of this same phenomenon, which merits reading together with Godoy's. Carlos Mendoza, in a slim volume entitled *Absence of the State and Collective Violence in Mayan Lands* (2007), makes an important observation.[2] The presence of collective violence in a municipality, he notes, is associated (positively and significantly) with the presence of a majority indigenous population. Mendoza argues, rightly, that these are collective acts, and therefore that the communities that engage in them must retain the capacity for collective action. Indeed, he theorizes that it is precisely the higher capacity for collective action of indigenous societies that enables violent collective responses, in the absence of state-backed order. He points out, for example, that non-indigenous communities have fewer (collective) lynchings, but vastly more (individual) homicides--indeed, the homicide rate in indigenous municipalities in Guatemala is lower than that in the United States. He argues, therefore, that it is not anomie and the lack of cohesion that produce mass violence, but their opposites; and that their counterpart in non-indigenous communities is not resort to the criminal justice system, but murder pure and simple. For Mendoza lynchings are also expressive acts, but he sees them as a message to potential transgressors, rather than the state: behave or you will be burned alive.

But Godoy also notices something important, which is missing from the quantitative analysis. Much of the collective violence against individual transgressors is accompanied by violence against whatever state presence does exist. Thus lynch-

ings are accompanied by the destruction of municipal property, attacks on police or judicial officers, and so on. The justifications offered by community members tend in the same direction. The point seems to be not so much that the state is absent but that the state is against the local community; that the state is as much a problem as the individuals being punished. Even worse, the point seems to be that it is the "liberal constitutional" part of "liberal constitutional democracy" that is the problem.

In interviews, for example, respondents go beyond complaints about an "inefficient for all" criminal justice system. They assume that the system is efficient enough to release "criminals" from one day to the next, but that if they, honest citizens, should become entangled in it, the system would take three months to figure out what happened. Respondents complain that if a "criminal" is caught up in the justice system, human rights (laws *and* defenders) will come to the criminal's aid, but if a decent citizen is caught up in the same system, human rights will not be applied to them. They complain that "the law" commits an injury to the community when it releases someone against whom there is no proof, even as they insist that it would retain them when they are innocent. Respondents speak out in favor of political rights (the popular sovereignty component of democracy) but find that human rights and civil rights (the liberal, constitutional components of democracy) protect exactly the wrong people.

One gets the clear sense that, in the vision of many indigenous people, law and human rights *are* the enemy, that they are part and parcel of the injuries being inflicted on these communities. For many who worked for and believe in human rights as an essential component of a transition to democracy, this should come as a shock. It is a shock, moreover, that could be repeated across the continent. Godoy rightly presents lynchings as an integral part of the region-wide demand for more punitive and repressive means of policing

and crime control, on the one hand, and of the privatization of security services, on the other. Lynchings are the low-budget, bottom-up counterpart of the privatization of justice and security that, in its top-down incarnation, is represented by police violence and extrajudicial executions, private security forces, and gated neighborhoods. Mayan communities may not be able to afford private security guards with walkie-talkies and high caliber weapons, and they may not merit the permanent patrolling of their streets by a local police force, but they can afford one quetzal per family to buy gasoline. The resort to final solutions--death by burning--finds its echo in the increasing calls for a death penalty and harsher repressive measures by the police among the more affluent.

The origin of upper-class, state-oriented, *mano dura* policies lies in fear and the distrust of the long-term preventive and rehabilitative potential of governmental institutions of social control. Better to kill or incarcerate hundreds of innocent people than to suffer the ongoing epidemic of violence produced by weak courts and a weak police force, the reasoning goes.[3] The root of the lynching epidemic is fear and a lack of confidence in long-term preventive and rehabilitative social institutions of control. Better to burn a few relatively minor criminals than to suffer the ongoing epidemic of violence caused by the disintegration of community and family.

Godoy usefully discusses how this minimal level of cooperation comes about. She shows how distorted forms of social organization make possible short-term, episodic collective action of the kind that will suffice to carry out a lynching. Many of these organizations are, like the Civil Patrols, traceable back to paramilitary, state sponsored repression. And she shows how the dislocation of communities makes long term cooperation, of the form required to carry out less punitive and immediate forms of social control, much more difficult.

In this light, the association Mendoza notes, between an indigenous presence and collective violence, is not at all surprising. The Guatemalan civil war disproportionately targeted Mayan communities, and especially their leadership. Rural indigenous communities have also been deeply affected by economic pressures and changes. The state has always been the enemy for the indigenous people, and we should not expect that to change simply because it has been dressed up in the trappings of democracy. Godoy does an excellent job of tracing the history of violence and exclusion along with the current economic and cultural dislocation that afflicts rural indigenous communities in Guatemala. Moreover, there remain strong elements of social organization, some of them dominated by people with a history of repression under the military regime. All the conditions are there for collective violence to emerge.

Godoy notes that many of the lynchings target insiders, community members, and insists *these* lynchings are born of low *solidarity* (emphasis in original, p.118). On the one hand, this may understate the strength of Mendoza's central contention, i.e. that lynchings are acts of collective violence, requiring a great deal of coordination and solidarity to carry out and to protect the main perpetrators after the fact. But Godoy's analysis seems right on when she argues that these communities no longer have the social infrastructure to engage in other norm-based mechanisms of social control. Extended families, the ability to shame or exclude, the capacity to enforce norms of restitution and reconciliation, are all seriously weakened in the current neo-liberal environment, and the state cannot credibly claim to take their place. In this sense, Godoy's account is an interesting counterpart to Robert Ellickson's discussion of the kinds of social norms that are likely to emerge; he argued for utility maximizing norms in close communities.[4] Godoy shows that, when communities have neither the social infrastructure to sustain longer term mechanisms of social control based on socialization and public censure,

nor the effective state-based mechanisms required to enforce the law, destructive immediate forms of social control can emerge in their place.

Godoy argues convincingly and contrary to most popular prescriptions (including, for example, Mendoza's) that the answer is not (only) to strengthen the state, but to open up more space for indigenous law. For those who view lynchings as indicators of illiberal societies, the idea of delegating more authority to the local level will sound like exactly the wrong response. This is particularly true in the case of indigenous or customary legal practices, which are largely uncoded, difficult to supervise, evolving, and open-ended mechanisms of dispute resolution that give a lot of discretion to local power holders, sometimes at the expense of local subalterns.

Here is where Godoy's account feels somewhat incomplete. We could have heard more about the victims. She notes that they are usually members of the community and unexceptional demographically, so she quickly discounts the notion of lynchings as social control against subalterns. But there are tantalizing references in many of the lynchings to more political considerations in the selection of victims. And even in her account, victims are simply pawns in a political game by which the community seeks to reassert its own agency. Before we can feel completely comfortable turning more power over to local power holders, we would need some additional reassurance that this will not be used to perpetuate unequal and oppressive relations.

Indeed, we should not expect the fires of repression to forge tolerant liberal democrats in the Western European mold. Godoy recognizes this: "informal institutions are no different than any other; they cannot simply be plunked down in the ashes of genocide" (p.141). She also correctly shows the considerable continuity that lies behind the repression of the dictatorships of the 1970s and 1980s, and the repressive democracies of 1990s and 2000s. One constant is fear; once it was

fear of communism and insurgency, now it is fear of crime. Another constant is the presence of shadowy paramilitary organizations that act with the tacit or explicit complicity of the state, and that surely would remain important actors in any decentralized system of control.

What seems clear, in any event, is that these lynchings take place in communities that are driven by fear--fear of the state, fear of losing identity and community, fear of being engulfed by an epidemic of violent crime. They also take place not in a completely anomic and atomized environment, but at intermediate levels of social cohesion, in communities that retain some of the core norms that now feel threatened, but with an added repertoire of repressive practices and organizations acquired during the civil war. The solution is not a simple one, though it surely includes increasing the density and duration of social networks, educating away from the behaviors learned at the hands of genocidal military units, and relieving some of the fear. In the end, however, fear lies at the root of the problem. In a context of fear, neither popular sovereignty nor parchment barriers will protect civil liberties.

On this score, Godoy is perhaps too harsh on traditional human rights organizations. She details the strategic errors of many human rights NGOs that have made it easy for opportunistic politicians and common citizens to view them as the enemy, allied with criminals and other threats to the community. She argues, in essence, that they have done little to address the real fears of these communities. But she overstates their failure to produce coherent proposals on crime. Community policing has emerged more and more as the preferred alternative to *mano dura* among human rights groups, and more and more of them have been willing to mix and mingle with police reformers and anti-crime groups.

One other element would have made this book a more complete and satisfying account of contemporary lynching practices. From newspa-

per accounts and various reports, one gets the sense that lynchings are becoming more and more widespread in Latin America. One comparative chapter would have been a wonderful addition to the somewhat scanty description and classification of various types of lynchings. It also would have helped tease out what is idiosyncratic and what is common about the Guatemalan lynching epidemic. All in all, however, this is a highly satisfying book about a difficult and disturbing topic. It will be useful to anyone interested in forms of social control, inequality and the rule of law, the relationship between formal and informal institutions, the current state of democracy in Latin America, and the legacies of authoritarianism and civil war for emerging democracies everywhere.

Notes

[1]. Fareed Zakaria, "The Rise of Illiberal Democracy," *Foreign Affairs* 76, no. 6 (1997): 22-43.

[2]. Originally published as Carlos A. Mendoza, *Ausencia Del Estado Y Violencia Colectiva En Tierras Mayas*, Colección X Aniversario De La Paz En Guatemala (Guatemala: FLACSO, 2007).

[3]. See Daniel Brinks, *The Judicial Response to Police Violence in Latin America: Inequality and the Rule of Law* (New York: Cambridge University Press, forthcoming); and Mercedes Hinton, *The State on the Streets: Police and Politics in Argentina and Brazil* (London: Lynne Rienner Publishers, 2006).

[4]. Robert C. Ellickson, *Order without Law: How Neighbors Settle Disputes* (Cambridge: Harvard University Press, 1991).

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Citation: Daniel Brinks. Review of Godoy, Angelina Snodgrass. *Popular Injustice: Violence, Community, and Law in Latin America*. H-Law, H-Net Reviews. July, 2007.

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