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A Return of Knowledge

**- A Case Study of Honduran Women Subjected to
Domestic Violence**

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Abstract

This paper is a report from a Minor Field Study conducted in Santa Rosa de Copán, Honduras. I conducted semi-structured interviews with women subjected to domestic violence with the objective of finding out and highlighting their view on the problem of domestic violence, the Law against Domestic Violence and the institutions connected to it. I further conducted interviews with different professionals working at institutions related to the Law against Domestic Violence. In the analysis I use theories by Michel Foucault and Carol Smart as a frame when putting the view of the women against the power of the law and the work of the institutions in order to expose criticism based on the specific knowledges of the women concerned.

Keywords: Domestic Violence, Feminism, Honduras, Human Rights, Sociology of Law, Women's Rights,

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1. INTRODUCTION

1.1 Purpose of the Study

In the first of his “Two Lectures” Foucault speaks of “a return of knowledge”¹. The basic idea is that “it is not theory but life that matters, not knowledge but reality”². This return of knowledge derives from what Foucault believes to be an “insurrection of subjugated knowledges” - local, specific knowledge of people located low in the hierarchy and far from recognized science. It is through this knowledge that criticism rises and works.³

Three years ago I stayed in the village of Santa Rosa de Copán, Honduras, for a brief period. I visited the Public Family Counseling Department, read the Law against Domestic Violence, heard about the Family Court, Office of the Public Prosecutor and the Commissioner of Human Rights. I talked to the people working with the problem of domestic violence and I even got the privilege to follow some of the work of the Family Counseling. I went with the social worker on house visits and I got invited to reunions with a self-help group for battered women. I realized that the problem of domestic violence was big in Honduras, as it is everywhere as far as I know, and that the work against it had started relatively recently. I could of course see what I, from my point of view, considered to be deficiencies in the legal and social apparatus when it came to handling the problem of domestic violence. I also thought it to be confirmed by the women subjected to domestic violence I met that the help they were offered was not enough or not what they needed. The more I thought about it though, the more I realized that I didn't know what was lacking, where the supposedly good intentions of the state failed, and what precisely it was that the women subjected to domestic violence would need in order to be able to change their situation. Nor could any of the professionals I talked to explain it to me. The idea came to my head that what I should do was to ask the women themselves.

The objective of my field study was and is to listen to what women subjected to domestic violence have to say on the topic. What are their experiences, strategies, hopes and fears? Where do they think that domestic violence derives from and what would be needed to change the situation on the individual level and in the society as a whole? These are some of the questions that were on my mind when I returned to Honduras in 2002 to conduct a field study.

¹ Foucault in Gordon (ed.) (1980:81)

² Ibid.

³ Gordon (ed.) (1980:82)

Mulinari notes in her thesis that “The story-telling form and the personalized ways in which ethnographies are written may obscure the link between these stories and macropolitics.”⁴ In a later essay she further says that “ Qualitative research has been criticized for its inability to link the insight in everyday experiences with the structural and institutional mechanisms that define and frame everyday life. However, I also wish to tell and capture how the informants lead their lives, within and against these structures. [my translation]”⁵

Here I find the second part of my objective - to link the stories of the women and their different views on domestic violence to the view and work of the professionals, the legal system and the society. I do not expect to come up with The Solution, or even any solution, but hopefully to identify some constructive criticism based on the actual experiences of those affected rather than existing scientific or legal theories.

1.2 Outline

The paper begins with an introduction containing the purpose of the study, this short commentary on the structure of the paper and some background information on Honduras where the field study was conducted, including a few notes on the conditions for women in Honduras. I continue by accounting for choice and use of method. In this section the outline of the rest of the paper will also be described more in detail. The biggest part of the paper will be dedicated to the report on the field study. After that follows some theory where I account for the concepts and theories I will then use in the next part for analyzing the material from the field study.

1.3 Honduras

Honduras is the second largest country in Central America.⁶ The area used to be inhabited by various Indian groups and was the religious center of the Maya Indians. Columbus came to Honduras in 1502; the country became a Spanish colony in 1570 and declared its independence in 1821. For a brief period it was a part of the Central American Federation. The economy relied basically on silver and livestock but from the beginning of the 20th century the North American fruit companies gained more and more influence. Honduras is a banana republic in the real sense of the word and it has been shown throughout history, starting in 1907 when the US landed troops in Honduras during the war against Nicaragua to

⁴ Mulinari (1995:44)

⁵ Sjöberg (ed.) (1999:39)

⁶ Karlsson (ed.) (2002)

protect their own interests in the country. During the 20th century the politics in Honduras changed back and forth between harsh dictatorships and fragile “democracies”. Free elections were held again in 1980 and have been held every fourth year since. Honduras has continued to be one of the means for the US to fight socialism in Central America.

Today Honduras has a population of 6,6 million (year 2000) that is growing rapidly on an area of about one fourth of Sweden. The capital Tegucigalpa has about one million inhabitants and Santa Rosa de Copán, where I conducted my field study, has about 30 000 inhabitants. The official language is Spanish although English is first language in some parts of the country. In Honduras 90% of the population consists of mestizos (mixed Spanish and Indian origin) and you only find few indigenous, black or white people. The majority of the Hondurans are Catholics but different schools of Protestantism are growing. School is obligatory between ages 7 and 13 but many children only attend school for a few years if any and the literacy is about 74%. The constitution is based on division of power. Obligatory elections for president and National Congress (parliament) are held every fourth year. The judges of the Supreme Court, the highest legal instance, are elected by the National Congress. Corruption, unemployment (officially about 4%, but underemployment exceeds 35%), poverty and violence are some of the problems that are growing every day. Honduras was the country most severely affected by the hurricane Mitch in 1998. As a result the foreign debt increased and in 2001 it exceeded 4 billion US\$.

A Honduran woman is estimated to have an average of 4.9 children and to reach an age of 70 years.⁷ In 25 % of the Honduran families, the woman is the sole provider and caretaker. 32% of the Hondurans, men and women alike, are illiterate. Of the university students, about 40% are women. The population in working age is considered to be adults and children over the age of 10. In 1995 29% of the Honduran women were included in the labor force, i.e. worked or looked for work. For men, the corresponding number was 71%. Almost 70% of the women who work are found in the service sector, a majority of the men in agriculture. 46,3% of the women who have a job are under-employed, 42,9% work in the informal sector.

In the year 2001 the Special Office of the Public Prosecutor for Women⁸ received 2746 reports on domestic violence.⁹ More than half of the cases consist of a combination of physical and psychological violence and about one fourth of psychological violence. The

⁷ Mujeres en cifras

⁸ In Tegucigalpa and San Pedro Sula (second largest city)

⁹ Informe Anual de Labores 2001 Ministerio Publico

office presented 193 cases before the court, 248 verdicts of guilty were passed and 39 verdicts of not guilty.

2. METHODOLOGY

2.1 Foucault on Research

According to Foucault social life doesn't have a linear or evolutionary course of development.¹⁰ This means e.g. that he wants to avoid a causal line of inquiry. Foucault doesn't believe that the direction of change is heading towards a specific goal steered by human intentions and hence it is pointless to ask why a change occurred. Instead Foucault speaks of "conditions of possibility". He tries to find the specific and diverse circumstances, or rather combinations of circumstances in different areas of the social life that give rise to some outcome. The quest Foucault recommends he calls "genealogical inquiry".¹¹ The object of the genealogical inquiry is not to produce a homogeneous theory; in fact Foucault believes that the totalitarian theories have proved a hindrance to research since they generally aren't suitable, at least not in their entirety, for local research. Instead of descending upon a question from above with the help of a uniting theory he wishes to focus on local and disqualified knowledges. Foucault recommends us to "expose and specify the issue [...] against the institutions and against effects of the knowledge and power that invests scientific discourse."¹²

2.2 Feminist Research

"[F]eminism(...) **a**: the theory of the political, economic, and social equality of the sexes **b**: organized activity on behalf of women's rights and interests; *specific*: the 19th and 20th century movement seeking to remove restrictions that discriminate against women"¹³.

Women have always been present as objects of research in sociological studies.¹⁴ The problem has been that the researchers didn't just interpret and theorize "from above" about the lives of women, they also decided what parts of women's lives were of interest. Feminist

¹⁰ Hunt & Wickham (1994:6-7)

¹¹ Gordon (1980:80-87)

¹² Ibid:87

¹³ Gove (1961)

¹⁴ Sjöberg (ed.) (1999:37)

researchers started to construct alternative knowledges by using the everyday experiences of women and problemize the power-relations between men and women.¹⁵

The definitions of what feminist research is vary and so do the methods used by feminist researchers. Reinharz chooses in her book to “illustrate what feminist research *includes*”¹⁶ rather than what it is. To me feminist research is research about women, focused on the lives and experiences of women and based on a feminist conception of the world, i.e. that our society is patriarchal and that women as a group share experiences because they are women. Feminist method is when women themselves take an active part in the research process – problemizing, analyzing and defining their own experiences. It also means trying to minimize the power-relation between the researcher and the “subject of the study”.

2.3 The Field Study

”[W]omen’s oral history is a feminist encounter because it creates new material about women, validates women’s experience, enhances communication among women”¹⁷. I consider the purpose of my study to be feministic in that it is about women and founded in the experiences and views of women directly concerned with the topic. The main part of my field study consisted of semi-structured interviews where I prepared what topics to ask questions about but the interview itself decided what information came out and how. I have chosen this method because I think that it is appropriate for feminist research and that it answers well to my purpose. Open-ended questions allow the research to include a wide range of possible ideas and permit the interviewee to answer in her own words. Thereby it is her experiences and interpretations that set the tone of the research. The choice of method also suits Foucault’s views on research discussed above - alignment with a totalitarian theory can be avoided and instead it will be the local and specific knowledges that are brought forward.

Now, I said that my objective has been to listen to what women subjected to domestic violence have to say on the topic. I also of course have the aspiration to pass on to anyone interested in reading this paper what the women and the field study in general have taught me. And I think that it is important for me and the reader to remember that this is what I’m passing on: what I have heard, learned, understood, interpreted and not necessarily what the women said, meant or explained to me. In the purpose of the study and in the methods I have chosen lies that I have from the start given myself an impossible task to fully accomplish, I

¹⁵ Lundqvist & Mulinari (eds.) (1997:7)

¹⁶ Reinharz (1992:4)

¹⁷ Ibid:126

can only try to come as close to the objective as possible. My responsibility will be to first of all try to be as true as possible to the women I interviewed and secondly to account carefully for my choice of methodology and what consequences it has had.

One of the dangers with the method that I have chosen is that “oral histories (...) may encourage readers to view sociopolitical problems in individualistic terms.”¹⁸ In addition to the main part of my study, I also conducted interviews with professionals who in their line of work came in contact with the problem of domestic violence. Where it was possible I gathered statistics about number of cases handled etc. in order to learn more about the research area. This information will serve as a background to the stories told by the women and hopefully help to remind the reader and myself of “the bigger picture”.

I continue below by looking into some specific methodological problems that I came across.

2.3.1 Finding and Selecting Interviewees

One of the many reasons why I chose to conduct my study in Santa Rosa de Copán, Honduras, was that I had spent some time in the city in the year 2000. During my time there I had worked with the Public Family Counseling Department (Consejería de la Familia), a state run institution within the health-care system. I decided to find my interviewees through the Family Counseling. This would give me a number of advantages.

It would save me time, being able to relay on the contacts and confidence especially of the social worker at the Family Counseling. Since I wanted to conduct interviews with women who had actually had experiences of domestic violence, it would probably have been impossible for me to find the women myself.

The fact that the women were already in contact with the Family Counseling showed that they were at least to some extent willing to talk about their experiences. It also saved me from the difficult position of being the only person who knew about a problem and the feeling of having a responsibility to help. I did interview one woman not yet in contact with the Family Counseling. She contacted me herself after a reunion I had attended with a parents-group in a school. This interview made it obvious to me how much easier it was for me when the contact with the Family Counseling was already established.

Naturally, meeting the women through the Family Counseling also gave me disadvantages. They were all a relatively homogenous group of women. They all belonged to the lower

¹⁸ Reinharz (1992:137)

economic classes, since they had sought help at the public health-center and not at a private clinic. They all had the possibility of turning to the Family Counseling in a difficult situation, not being stopped by living too far away, being unaware of the existence of the Family Counseling, not being able / allowed to leave the house or whatever other reason other women in the same situation may have for not coming to the Family Counseling. Most of them also took part or had been part of self-help groups for battered women arranged by the social worker at the Family Counseling, which meant that they all had received somewhat similar information on the topic of domestic violence. I however don't see a problem in the selection of interviewees since the purpose of the study isn't to generalize, but on the contrary to specify the views of these women and make visible the "alternative knowledges"¹⁹ that can rise from their specific situation.

I was very careful to stress to the women I came in contact with that the interview was voluntary. No woman said no, but a few didn't show up when we had decided to meet. One woman said no when I asked if I could see her a second time. By the end I had interviewed nine women and this paper is based on a majority of the interviews. A few of the interviews I chose to exclude since the women in question didn't define themselves as subjected to domestic violence.

2.3.2 Where to Conduct the Interviews

One of the things I thought about when I was preparing the study was where to conduct the interviews. I thought about the office of the Family Counseling, a café or restaurant, my house/room wherever I was going to be staying and a lot of other alternatives which all had their advantages and disadvantages. Once I started talking to the women I realized there was really only one realistic alternative, and that was to meet the women in their own homes. In my view this was not a very good solution. It meant children, husbands, friends, relatives and neighbors would all know that I was there, regardless of how the women felt about this and how it might affect them. It also meant that any of this number of people could show up on the doorstep at any time during the interview. Some of my fears also came true but it was something that the women and I just had to deal with since they simply couldn't leave the house. Walking into the center of the town where I spent most of my days would take too much time from all the other things they had to do, taking a taxi costs too much, many of them had children they couldn't leave alone and some of them would get into trouble with husbands or neighbors if they were seen leaving the neighborhood. I found that the situation

¹⁹ see section 4.1.1 "Foucault: Power, Truth..." below

worked better than I had imagined apart from a few unfortunate incidents like when the son of one woman came into the house when his mother was crying. In general the women themselves seemed to be able to relax and when I asked them about the situation they had no objections.

2.3.3 Conducting the Interviews

I recorded the interviews I conducted after permission of the woman concerned. Every session started with that I explained what I was doing: that I was going to use what the woman told me in an academic paper, I explained who was going to receive a copy of the paper, and that I would make sure that no one could tell which woman had said what.

During the interviews I tried to be "interviewee-guided, which means focusing less on getting one's questions answered and more on understanding the interviewee."²⁰ I used my interview guide as just that: a guide, trying to cover all the main areas but without caring about the order or how much time was spent on each topic. Sometimes I would ask a question and the woman didn't answer, or started to speak of (what I saw as) something else. I didn't insist. Maybe the woman didn't want to answer, something that I wanted to respect, or maybe she just didn't have anything to say. Not answering or changing the subject can be an answer in itself.

A lot of times the woman would answer a short and theoretical question by telling a story about herself or someone else. This made the interviews long, and a lot of times seemingly "out of focus", but it gave me a better chance of understanding what the women meant and what angle of approach they considered to be relevant. It also reminded me not to see the women as solely "victims of domestic violence". They are whole individuals living whole lives with everything that goes with it and the interview, which was my focus, was just one moment in their lives.²¹

I noticed that we didn't always have the same notion of what things meant. In one situation I asked a woman if she was out a lot and she told me that she hardly ever left the house. By the end of the interview I tried to get a second appointment with her and it turned out to be almost impossible since she was going to be away working every day.

Some of the interviews were conducted under somewhat hard circumstances. One was conducted outside with children running around us playing, another one with a party going on next door, during one interview a cow came into the patio and the dog of the house went

²⁰ Reinharz (1992:24)

²¹ c.f. Mulinari (1995:44)

crazy, barking for almost an hour. It wasn't always easy to stay focused, neither for the woman nor for me.

2.3.4 Mental Stress

I realized already when I chose the topic and place for my study that this was probably going to be harder than I could ever imagine. I was right. I was in a foreign country with a culture, society and language that wasn't mine. I was far away from my own friends and family. I had chosen a topic of interest that touches the most inner and personal life, that provokes fear and rage and that I as a woman find disturbingly easy to relate to. Furthermore I had chosen a method of investigation that brought me close to the reality of the individual woman and confronted me with a whole range of difficult feelings²². And I had chosen to do this by myself. Had I been as alone as I officially was, I seriously don't think I would have managed. Ironically, it was the women themselves who proved to be my greatest support.

My reactions to the traumas of the women didn't just affect me, but naturally also the study. The women could probably sense my emotions and it might have affected how much or in what way they told me their stories. I know that I sometimes refrained from asking certain questions if I felt that answering might be too painful to her or to me. During the most emotionally hard interviews I found it hard to keep up the concentration and I noticed when I listened to the tapes afterwards that I sometimes asked similar questions more than once.

Listening to the tapes and transcribing proved a lot harder than I had thought. It made me very tired and therefore took a long time. Especially one of the interviews I felt a strong resistance to listen to and it turned out that I had actually forgotten most of what the woman had told me about the conditions she lived under. It was quite a shock hearing it again.

2.3.5 My Role

The relationship between the interviewees and myself was of course affected by the differences and similarities between our roles and experiences²³. We share our gender and the experience of being a woman brought us together in a lot of ways and was crucial for the contact we managed to establish. But I was still an alien, a visitor in their world. My own background as white, middle-class, from an industrialized country paved the way for problematic power relations where my ideal would have been a mutual, non-hierarchical meeting. Here I think that I was actually helped by my age and the fact that we communicated

²² see e.g. Reinharz (1992:34-36)

²³ see e.g. Mulinari (1995:44)

in a language that was their first but not mine. In a lot of ways I was treated as a younger sister or maybe a niece. Even with the women that are younger than I am, I felt and was treated like a younger and inexperienced person. But still of course they knew as well as I did that I was there to do a field study for my university studies and with a scholarship from Sida, a name they could see at posters on projects in the office of the Family Counseling. The fact that I could be associated with the Family Counseling might also have affected the interviews. The psychologist and social worker at the Family Counseling were in ways seen as authorities and the women were more or less familiar with the line of reasoning encouraged by them.

2.3.6 The Relationship Between Us

A lot can be said about getting to know the people involved in your study. One might argue that getting to know people before you interview them makes it easier to create a feeling of confidence or you could state the contrary: that being a stranger enables people to speak more freely since they don't have to consider personal feelings and relationships.²⁴ While conducting the study I didn't really feel that the choice of getting to know or not was mine. I liked many of the women I interviewed and they seemed enjoy spending time with me. They invited me to eat typical dishes, to come to the school and talk to the children, to visit a meeting with the parents-group at school and a number of other activities. I was happy to accept their invitations but even if I hadn't been I don't think that I could have said no. These women opened their hearts and lives to me and I couldn't very well refuse to give something little in return. I contacted the women because of their role as subjected to domestic violence, but that didn't mean that I wanted to deprive them of the chance of being whole persons to me.

2.3.7 My Influence on Their Reality

I was worried that the women might get problems if their partners and / or neighbors found out that they saw me. I wasn't sure how to handle this since it turned out the only place where I could see them was in their own homes. I was very careful to stress that the interview was voluntary. Two of the women I interviewed did appear to be nervous about people finding out that they saw me and who I was. One interview was conducted in an empty house with the shutters closed and another also with some secrecy. Most of the women though didn't seem to have any problem with others knowing. I met the partners of quite a few of the women. One of the women I interviewed told me that she had explained to her partner that she is an

²⁴ Reinharz (1992:26-27)

important person, that even people from other countries, people she doesn't know come to visit her, to help her and she can tell that they like her.

2.3.8 Background Material

In addition to the interviews with women subject to domestic violence, which constituted the main part of the study, I also collected material from a number of other places with the intention of using it as a background to the stories the women told me. I made interviews with the judge at the Family Court, public prosecutors, police officers, lawyers at the Human Rights Commissioner and a lot of other professionals. In every institution or organization I came across I also looked for brochures, reports and statistics. The result showed itself in overweight when checking in at the airport and a hard job deciding what information was relevant for this paper and what I should save for later assignments.

The letter of recommendation from Sida proved a great help in getting access to institutions and most people I talked to were very helpful. Language naturally turned out to be more of a problem here. Sometimes it was hard for me to understand the legal reasoning in Spanish and also a lot of times the person I spoke to assumed that I wouldn't understand and therefore simplified so much that the information lost a lot of its value. Luckily, exploring the strictly legal aspects of domestic violence was not my main purpose of the study. Apart from the questions on the work of the concerned institution I also asked the professionals I interviewed on their view on domestic violence in general and their view on the work of other institutions.

Finding statistics turned out to be another interesting challenge. The only institution that had developed statistics on cases of domestic violence was the Human Rights Commissioner. At the Office of the Public Prosecutor I wasn't allowed to look at their records but one of the prosecutors read out loud to me how many cases they had handled each month. The very helpful Family Judge asked me to come back in a week and had then put together²⁵ complete statistics for three years for me, including full names of all the victims and aggressors.

2.4 The Study

2.4.1 Arranging and Presenting the Field Study

Sometimes I've had problems hearing on the recordings of the interviews what the women said. Partly because of the language, I find it a lot easier to understand Spanish when I can see the person speaking, but also because of wind blowing in the microphone when the interview

²⁵ his secretaries that would be, not himself

was conducted outside or a dog barking and drowning the voices. Thanks to listening over and over again, remembering quite a lot from the time of the interviews and some help from Spanish-speaking friends I still think that I have managed to figure it all out. I'm sure I haven't missed anything crucial and there are just a few small sections that I might not want to give exact quotes of.

I think that it is important again to stress that what I heard or understood during the interviews might not always be what the women expressed or explained. Even regardless of the language difficulties my background is so different from theirs that it would be impossible for me to fully understand the reality they live in²⁶. The size of this paper doesn't allow me to use quotations from the interviews to the extent that I would have liked to but I will try to retell the stories and account for the opinions of the women as close to what they told me as I can. I have tried to minimize the misinterpretations simply by trying to interpret as little as possible. When summarizing the views of the women I have tried to use a language similar to that of the women. This means e.g. that some statements might not be very detailed or carefully explained but I wanted to avoid the inevitable interpretations that would result from elucidations made by me. Hopefully I will remember and it will be made obvious that the investigator is not the only one capable of doing analyses²⁷.

When reading through notes and transcriptions from the interviews I found a number of common themes that the women spoke of. I will present the interviews by using these as headlines. I have tried to include everything that the women commented on under each headline without emphasizing any view in particular. Further I have divided the headlines into two parts. The first part concerns the lives and experiences of the women. Under each headline in the first part I have included one or more quotes taken from the interviews. Since the choice of quotes is mine they should not be taken as a summary of the theme or an emphasis of most commonly expressed view, but merely as an example on how the woman herself expressed this particular experience, view or story. I would have liked to include more quotes, preferably I would have wanted to present the whole study with the words of the women instead of my summaries, but the size of this study hasn't permitted it.

The second part of the headlines includes the view of the women on domestic violence in general and the institutions working in relation to domestic violence. I will present this second part together with presenting the institutions and the views of the different people working

²⁶ see e.g. Reinharz (1992:25-26)

²⁷ see e.g. Mulinari (1995:41), Reinharz (1992:137)

there. The information on the institutions mainly derives from the interviews I conducted with concerned employees and partly from brochures and other material collected. Worth to point out is that the professionals differed quite a lot in what topics they found interesting and relevant to focus the interview on²⁸. Also the amount of material to be found on the work of the institutions differed. This means that the information I present on each institution isn't standardized. Angles might be less emphasized, or even lacking, in the account of certain institutions. Again, I have tried to reflect the way the interviewee spoke of the matters and saved my own interpretations for later.

2.4.2 Respecting the Secrecy

I told the women I interviewed that I was going to use what they told me in an academic paper and that I was going to send copies of the paper to different institutions and organizations in Honduras and Santa Rosa de Copán. I also told them that I was going to change their names and make sure that you couldn't tell which woman had said what and that I wasn't going to discuss what they had told me with the staff of the Family Counseling or anyone else. One woman who had a telephone helped me arrange meetings with a majority of the women I interviewed and the social worker helped me get in contact with quite a few women of which I ended up interviewing some but not all. Any of these people hence know more or less who I interviewed and might be able to extract personal information on others from my study, something that I felt I had to at least do my best to avoid. I have found it difficult to know how much I should leave out and how extensive my quotes should be in order to keep the secrecy but still give a clear picture of the views and experiences of the women. I hope that I have managed to keep a good balance between the two.

2.4.3 What I left out

In order to stick to the main purpose of the study I have been forced to leave out quite a few very interesting discussions.

I made interviews with doctors, nurses and administrative personnel at the hospital in Santa Rosa de Copán. I did this because to me the hospital is a obvious place to seek help if you've been subjugated to physical violence and I believed that possibly the hospital would have some sort of a strategy on how to attend to suspected cases of domestic violence. It turned out that the hospital had no strategy and the contact they might have with for example the Family Counseling depended totally on the individual nurses and doctors. This is of course in itself

²⁸ c.f.section 2.3.3 "Conducting the Interviews", second paragraph

interesting and important to mention, but the fact was also that none of the women I interviewed, or the professionals at other institutions, mentioned the hospital as a resource. Therefore I have decided to leave out the hospital from my study.

Many of the women I interviewed mentioned the church as a place to receive help if you are subjected to domestic violence. I have included in my study their views on this. I decided however not to interview anyone from the church since I wanted to keep my study focused on the women themselves and institutions that were more directly connected to the Law Against Domestic Violence.

One might argue that women's organizations would have had their obvious place in the background material but the situation was that there were no women's organizations whatsoever in Santa Rosa de Copán where I conducted the study. There are of course active women's organizations in Honduras. They are located mainly in the capital Tegucigalpa and the second largest city San Pedro Sula. They perform a tremendous work in favor of women's rights and some of my background material and statistics originate from them. They don't however have any direct impact in Santa Rosa de Copán or on the lives of the women I interviewed.

The Honduran Penal Code of course speaks of assault and battery and also of violence in the family. When a case of domestic violence is considered a crime under the Penal Code it is handed over from the Family Court to the Criminal Court. This happens when the victim's leisure takes more than 10 days to heal.²⁹ The Penal Code also speaks of psychological violence but no one mentions how to assess when this is a crime under the Penal Code. It would have been very interesting to look further into when the Law against Domestic Violence and the Penal Code are used, how they differ and how judges assess whether a case of domestic violence is a crime under the Penal Code or not. This would however have been a different study altogether and a very extensive one too. I mention the Penal Code when e.g. it came up in an interview but I'll leave it at that.

Noticeable might be that the only institution I refer to that doesn't have a representative in the list of interviews is the Family Counseling. I was supposed to do interviews both with the head of the department lic. Keila Mejía³⁰ and the social worker lic. Exely Santos but we never managed to find the time. This also showed to me that being too familiar with the people you wish to include in your study may be a problem. I knew both lic. Exely and lic. Keila fairly

²⁹ Interview lic. Ramon de Jesus Flores, Family Court

³⁰ lic. is short for Licenciado/a – a person with academic degree, licentiate

well since I had worked with them before and I actually felt kind of silly asking for a formal interview when I knew, and they knew, that we had talked many times before about more or less everything I wanted to know. I feel that something is lacking in the study when I don't have an interview with any of them, but I still don't think that it affects the study in any significant way.

2.4.4 Choice and Use of Theory

Foucault isn't a sociologist of law; neither does he speak specifically of the situation of women. I still decided to use his theories for my paper. Foucault's writings have had an enormous influence on sociological research and theory, not least when it comes to feminist researchers. I find that using his reasoning creates a very interesting angle on the topic of interest that I have chosen. I base the purpose of the study and the choice of methods on Foucault's view on social change and conditions of possibilities³¹. I will not use his "genealogical inquiry" in any strict sense; instead I keep it simple and find my starting point in the basic definitions made by Foucault on concepts like power, knowledge and discipline.³² By adapting his belief in alternative, subjugated knowledge and that it can create specific criticism, the views and experiences of the women I have interviewed will be given the leading role of this paper that I think they deserve and are entitled to.

I will however take it one step further by also applying the theories of Carol Smart from her book "Feminism and the Power of Law".³³ Smart starts off with Foucault and his concepts but reasons specifically on law and women's rights from a feminist point of view. I think that this angle is necessary to understand, if not 'why' the relationship between the women and the law is what it is, then maybe at least 'how' it works.³⁴

I have chosen to present the theories after presenting the field study. I think that the views of the women and the information on the institutions from the background material serve the purpose of the study best without a given theoretical framework. The theory will then be connected to the field study in the analysis.

2.4.5 Analyzing the Study

In my analysis I hope to make visible the critique that is raised by the women on how the problem of domestic violence is handled. I try to stay focused on the purpose of the study and

³¹ see section 2.1 "Foucault on Research"

³² e.g. Gordon (ed.) (1980)

³³ Smart (1989)

letting the voices of the women themselves and their examples on how power functions supply us with most of the analysis. My job will be to make their critique visible and clear by relating it to the background material and to the theory, or as Foucault put it, to “expose and specify the issue [...] against the institutions”.³⁵

The ideal for me would have been to keep myself and my opinions out of the analysis in order to truly give the right of definition to the women. I realized almost immediately that this would be impossible. First of all just as I with my background and experiences had an influence in the interview situation I am also present in the analysis. It is I choosing what consistencies and inconsistencies to highlight and it is my choice of theory that in parts serves as a frame of the analysis. Secondly I found it impossible to work with this study without getting involved, interested and agitated. I have formed one million opinions during the work with this paper and I can't refrain from putting at least some of them in there. They won't however take up even close to as much space as they could have. This is intentional from my side. I think, and I hope that the reader agrees, that the study stands well by itself. I wish that the reader would learn more from the analysis of the women than the selection of reflections presented by me in the analysis. But of course I also intend for the analysis to help the reader who doesn't have access to the full study material in clarifying, structuring and highlighting some conclusions that may be derived from the study.

It may be appropriate to mention some things that are not included in the analysis. This paper and the field study it is based on are to a high degree influenced by the reasoning of Foucault. This goes for the analysis as well, meaning that I do not seek reasons, intentions or directions.³⁶ I will not ask why the law was written the way it was, why the various professionals act the way they do or what the current situation will lead to in the future. My analysis focuses on the existing conditions at the time and place of the interviews and the possibilities that these local, specific conditions bring.

³⁴ see section 4.1.1 "Foucault: Power, Truth..."

³⁵ Gordon (1980:87)

³⁶ see section 2.1 "Foucault on Research"

3. STUDY

3.1 Experiences and Views of the Women

3.1.1 Short Introduction of the Women

The women I interviewed all lived in Santa Rosa de Copán, Honduras. Most of them were from the town and quite a few still lived in the area where they grew up. The ages differed, the youngest one I interviewed was still a teenager, the oldest in her fifties. Level of education varied from just a couple of years in school to having finished the obligatory six years. Many of the women started working in their early teens, either in helping their parents or in running errands, washing cars or suchlike things. Some of the women left their original family young and got married, one still lives with her original family, one has returned to her old home to care for her sick mother. All of the women have between two and six children, with one or several different men. What the women have in common is that they are or have been subjected to domestic violence by their partners. Some of the women are married to their partners, some are not. Some live with their partner, some do not. The partner of one woman is married to and lives with another woman. Some of the women are supported by their partner, others live with the partner but provide for the household and children more or less alone. Some of the partners in question are currently living with the woman but has left the home for periods, either to be away drinking with friends or because they have had another woman.

3.1.2 Their Own Upbringing, Childhood and Family

-Yo nunca tuve un contacto con mi papa porque yo a el tenia miedo. Y eso gran miedo que yo tenia cuando yo andaba de novio con este muchacho. -El mismo miedo? -El mismo miedo, que decia, que iba a ser igual a mi papa, de bolo.

-I never had contact with my father since I was scared of him. And this great fear I had when I went out with this guy. -The same fear? -The same fear, what did I say, that he was going to be the same as my father, a drunk.

About half of the women speak of being abused as children. Most of them have contact with their parents and/or siblings and sometimes receive practical help, such as babysitting, from them, but no one speaks of any original family member as their confidant. Many of the women left their original families young (age 14-19) and found a partner, one still lives with her parents and siblings, one has moved back home to care for her mother. Most of them

comment on the fact that their childhood has affected them: for example results of being abused or growing up without a mother.

3.1.3 Work and Activities Outside the Home

-No tiene trabajo? -Antes si. Trabajaba en un hotel de lavandera, en una lavanderia trabajaba yo. Antes de juntarme con el trabajé bastante allí, allí fue de donde yo sacaba el tocen de mis hijos, [...]. Ahora con estos otros tres [hijos] no he trabajado ni una vez. -Y porque dejó de trabajar? -Porque como ya en estos dias yo me junté con el, entonces tenia problemas tambien, porque el muy celoso. Entonces como allí era un hotel, de que llegaba medio mundo y entonces que me tocaba lavar ropa ajena de los que se hospedaban allí. Y entonces el como por los celos, que el siempre ha tenido, entonces no me dejaba, entonces yo lo que hize fue salirme del trabajo mejor, para estar con el porque no me dejaba en paz. No me dejaba en paz en la manera de que yo no tenia que hablarle a nadie. Porque el decia que si yo le hablaba a los hombres que no eran amigos si no que eran maridos. Entonces yo por no tener problemas con el yo lo que hize fue salirme del trabajo para estar en la casa. Fue cuando ya salí embarazada de la nina no he vuelto de trabajar. Lo que el sosten el lo ha llevado siempre.

-You don't have a job? -I used to. I worked in a hotel as a wash woman, in the Laundromat was where I worked. Before I met him I worked a lot there, that's where I got money for the children [...]. Now with the other three [children] I haven't worked once. -And why did you quit working? -Because in those days I met him, and then there were problems since he is very jealous. And since that was a hotel, a lot of people came there, and I had to wash the clothes of those staying there. And then because of the jealousy, that he has always felt, he didn't leave me, so then what I did was leave the job, to be with him, because he wouldn't leave me alone. He didn't leave me alone in the way that I wasn't allowed to talk to anybody. Because he said that if I talked to men, they weren't friends but boyfriends. So then in order to not get problems with him, what I did was leave the job to be at home. This was when I was pregnant with the girl, I haven't returned to work since. He has always paid allowance for the children.

-Una mujer casada y con hijos, le hace falta algo, no sé, trabajar, escribir, algun curso. Mantener la mente un poco ocupada en algo bueno, verdad? En algo que se aprovecha porque no puede estar solo en la casa.

-A married woman with children lacks something, I don't know, work, write, a course. Keep the mind a little occupied in something good, right? In something that lets you develop, because you can't just stay in the house.

Most of the women speak of their partners disliking them leaving the house. The most common reason is jealousy. Sometimes it's because the children are left alone. All of the women would like to work, half of them think that their partners wouldn't mind but it's hard

to combine work with taking care of children and household. The women that do work do so at home making bread or washing for other people. Almost all of the women visit their parents and sometimes friends. Usually it's ok as long as they don't leave the barrio³⁷. Some of the women speak of being nervous to be seen by neighbors or relatives outside of the barrio, because of the gossip that could create. Almost all of the women attend or have attended a self-help group for battered women, some go to parents meetings in school and some go to church every now and then.

3.1.4 Reason For Contacting the Family Counseling

-Ha tenido mucho contacto con la Consejería? -Tengo...o sea que yo primero fui como para ayudar a ...o sea que yo quedé mal de la muerte de mi mama ... o sea que yo visité a la licenciada. -La licenciada Lourdes? -Si, la psicologa. Yo la visité porque habia quedado mal de depresión. Y bueno aún no estoy curada de esto, yo sentía un miedo de estar aqui. Entonces me decia [una amiga] "vamos alla, alli donde la psicologa, a ver que nos dice". Ya despues que empezaron a hacer el grupo para los consejos de la relación, asi entonces yo asistí a la primer reunion.

-Have you had a lot of contact with the Family Counseling? -I have ... see, I first went to help... see, the death of my mother didn't leave me very well...see, I went to see the licentiate. -Licentiate Lourdes? -Yes, the psychologist. I visited her because I had fallen ill from depression. And well, I'm still not well from that, I was afraid to be at home. So [a friend] said to me "Let's go over there, to the psychologist, to see what she says". Later they started the advice-group on relationships, and then I assisted at the first meeting.

Only one of the women contacted the Family Counseling herself because she had problems with her partner. A few contacted the psychologist because they suffered from depressions and only later started talking about the abuse they have suffered and joined the self-help group for battered women. Some were invited to the self-help group by a friend.

3.1.5 The Violence They've Been Subjected To

-Nunca le habia pegado antes, antes que esa mujer? -No, nunca me habia pegado. Si tal vez asi un trompon, pero como me pegaba cuando ella no... me rebotaba en el suelo, me pegaba patadas en la cabeza y en el cuerpo. Y...o sea... asi nunca me habia pegado, hasta cuando anduvo con esa mujer.

-He had never hit you before, before that woman? -No, he had never hit me. Well, sometimes he might have smacked me, but the way he hit me while she no... he threw me to the ground and kicked me in the head and on the body. And ... see ... he had never hit me like that before, until he had that woman.

³⁷ approximately "neighborhood"

-Empezo a tratar a correrme, a decir me “vos no servís para nada, si no te vas vos me voy yo”, no venia a dormir en la casa

-He started to try to kick me out, to tell me “you aren’t good for anything, if you don’t go I’ll go”, he didn’t come home to sleep.

About half of the women have been subjected to physical violence on a regular basis. All of them have been subjected to psychological violence consisting in insults, degrading remarks and threats of different kinds: threats to leave her, to take her children away from her, to hit her even more or to kill her. A few have been threatened with weapons. All of them have had their freedom of movement restricted. One used to always be afraid of her partner getting mad if she made a mistake in the household, another tells of her partner beating her if she mentioned the fact that he was having an affair with another woman. Half of the women speak of having the most problems during the time that their partner had another woman. Some of the women have or have had problems with their partners not contributing economically to the household, one told of her partner selling things from the house, and one of the partner destroying furniture. Drinking is involved in about half the cases. One woman tells about her partner forcing her to have sexual relations regularly and another one about her partner getting angry and threatening to go to another woman when she doesn’t want to have sexual relations. One woman tells that her partner tried to hit her once but she kicked him out of bed and he hasn’t tried since.

3.1.6 Personal Consequences of the Violence

-Yo no digo nada para no seguir la guerra per todo eso a mi no se me olvida. No se me olvida porque yo vivo aqui con el pero, o sea me recuerdo que me pegaba, me recuerdo de que yo no mantengo dinero, a decir, como otras mujeres, que mantienen dinero para salir a pasear, que mantienen alguna ropa, cosas asi, yo no.

-I don’t say anything to not continue the war but I don’t forget all this. I don’t forget, because, I live here with him but, see, I remember that he hit me, I remember that I didn’t get any money, that is, like other women who get money to go out, that get some clothes, things like that, I didn’t get.

-Yo asi como he tenido problemas, digo yo, hasta mis hijos salen perjudicados. Porque los niños ya no pueden ver que yo tal vez juego con el, porque ya empiezan a llorar.

-Since I’ve had problems, I say, even my children are hurt. Because the children can’t see anymore when maybe I play with him, because they immediately start to cry.

-Me ponía a llorar. Lloraba bastante, yo lo recuerdo bien, los primeros cuatro años, si lloraba, con una media palabra [de el].

-I started to cry. I cried a lot, I remember it very well, the first four years I cried with just a little word [from him].

-En este tiempo yo sufrí bastante. Bastante, bastante. Esto es lo que me ha brinado a mí...o sea...digo yo cuando...todo de la depresión y todo eso. Por eso fue que me sucedió todo esto, que yo me acordaba cada rato y los problemas y ya un día que me tocó que tener todo esto adentro, entonces me enfermé.

-In this time I suffered a lot. A lot, a lot. This is what has given me...see...I say, when...all with the depression and everything. Because of that everything happened to me, that I remembered in every moment and the problems and one day I couldn't keep it all inside, and then I fell sick.

All of the women speak of that the violence has affected them and that it keeps affecting them even in the cases where the abuse has stopped. The symptoms they've noticed differ: depression, mood-swings, head-aches, low blood-pressure, loss of lust for sexual relations and one woman explains that she can't tell in the self-help group for battered women about the problems she has had because she starts to cry. Some of the women have stopped working, work with different things or refrained from getting a job in order not to get problems with their partners. One woman says that she doesn't think it's so hard anymore, she has got used to the problems but she still feels bad inside sometimes. Many of the women also speak of the effect the violence has had on the children. Two of the women talk about how they have been trying to protect the children from knowing what is going on so the children won't think badly of their father. One woman concludes that the way he treats her affects everything.

3.1.7 Leaving Him

-No me he salido de la casa todavía. Aunque estaba pensando en eso de que, decía yo hace poco, estaba pensando yo, decía yo alquilar un cuarto y salirme con los cipotes, va, salirme con los cipotes porque a veces tengo problemas así, problemas que a veces no hayo ni para donde agarrar. Entonces digo yo, salirme de mi ... la casa y trabajar yo de cualquier cosa, hacer algo de ventas, hacer algo de ventas y vender, irse los cuidando a ellos [los cipotes]. Pero no me hago mucho en valor porque como no tengo trabajo ahorita, digo yo, donde voy a sacar este pisto?

-I still haven't left. But I was thinking about this that, I said a little while ago, I was thinking, to rent a room and leave with the kids, right, leave with the kids because sometimes I have problems like that, problems that sometimes I can't seem to find my way out of. So then I say leave from my ... the house and work with whatever, do something in sales, do something in sales and sell, go and at the same time take care of them [the kids]. But I don't think about it too much since I don't have a job at the moment, I say, where would I get the money?

All of the women except one speak of leaving their partner. One has left her partner but came back again. For the women the two biggest reasons for not leaving their partner seem to be the children and not having anywhere to go. The latter often due to lack of money and the problems involved in trying to find a job. When it comes to the children the women speak of the children being used to live where they were born and the difficulties in growing up without a father. Some of the women speak of leaving him if the problems continue for too long or if they get worse again. One woman is afraid of what her partner might do to her if she leaves him.

3.1.8 Leaving Her

-Yo cuando el decia que se iba a ir, yo sentía miedo que el se fuera y yo me le incaba. Yo! Yo, como yo le habia puesto los cuernos a el. Yo me le incaba. “No te vaya” y me pegaba asi mire. Entonces [un pariente] me agarró y me decía “No le ruegue, dejale que se vaya, no le ruegue”. Entonces cuando el se queria ir yo me sentía a morir.

-When he said that he was going to go I got scared of that he would leave and I got on my knees. I! Like I had been the one who'd been unfaithful to him. I got on my knees. “Don't go” and he hit me like this. Then [a relative] grabbed me and said to me “Don't plead to him, let him go, don't plead to him”. When he wanted to leave I felt as if I was going to die.

-Cuando venia bolo me decia que lo dejara “que yo me voy”, y asi un monton de...como que estaba haciendo una comica le decia yo. “Esto es bien raro para mi”, le digo yo, “que piensas hacer con esas aparatos”, le decia yo, que se va a ir y no se va! Si se fuera pues, asunto arreglado le digo yo, que se vaya, miraver como hago para continuar mi vida. Pero eso de que solo ... eran como amenazas que el hacia para que yo le alcagueteara que el anduviera bebiendo.

-When he came home drunk he told me “I'm going” and a lot of ... like he was doing a comedy act I told him “This seems very strange to me”, I say “what are you going to do with this charade”, I told him, that he's going and then he doesn't go! If he went, well, case closed I say, he can go, let's see what I do to continue with my life. But this that it was just ... they were like threats that he made so I wouldn't complain about that he was going out drinking.

The views of the women on their partner leaving differs a lot - from wishing that the partner would leave to being afraid of it. Some of the women have had partners who have left them for a shorter or longer period of time; others haven't had the experience at all. Many of the women have experiences of their partners threatening to leave them. Some don't even mention it as a possibility.

3.1.9 Being Thrown Out

-Lo sentí bien en serio esa vez, lo que pasó entonces... Esa vez fue porque el me corrió. Entonces yo tomé la decisión de irme y la verdad es que yo me iba a ir a los derechos humanos.

-That time it felt very serious, what happened then... That time it was because he threw me out. So then I took the decision to leave and the truth is that I was going to go to the commissioner of human rights.

A few of the women have been thrown out of the house by their partners. One of them says that he can't do it again because now she would have nowhere to go. Another woman says that she wouldn't let her husband throw her out because she has fought as much as he has for their home and the children are the ones most entitled to it. So she'd stay with them and he'd have to leave himself if he wanted to get rid of her.

3.1.10 For the Children

-A veces los hijos lo hacen a uno de obligarse. De estar en que sea, con el papá o algo así, verdad. Pero como dicen de cabeza, los hombres no se merecen de algunos sacrificios pero por los hijos uno los hacen.

-Sometimes your children make you obligated, to whatever, with the father or something like that, right. But as they say, the men aren't worth the sacrifices but for the children you make them.

All of the women I spoke to have children of whom at least one is still living at home. Many of the women don't work or study, or work less than they would like to because they don't have anyone responsible to look after the children. A few of the women left their partners but returned for the sake of the children. It also becomes apparent in some of the interviews that it is important to the women that the children don't notice the problems their parents have.

Another common problem concerning the children is that the fathers don't help economically and / or practically in raising the children. One woman explains that she refrained from reporting the abuse of her husband because if things got worse in the long run it would be the children that suffered. One woman explains that if her partner tried to throw her out of the house she wouldn't leave because all the suffering they have gone through to build a home has affected the children the most and therefore they are most entitled to stay in the house. So if he wants to get rid of her he'll have to leave himself and she'll stay with her children.

3.1.11 Someone to Talk To

-Las experiencias de otras quienes han salido de esto, le ayudan a uno bastante.

-The experiences of other women who have gone through this help you a lot.

-Yo antes era bien así, en cualquiera confiaba. Y ahora he aprendido de que no puedo andar contando mis cosas a cualquier gente. Entonces me da un poquito de ... a veces yo me lo encierro. Ya tengo más o menos con quien ... ya sé yo con quien puedo y con quien no.

I used to be very much like that, I confided in whomever. And now I have learned that I can't go around telling my things to whomever. So it makes me a little ... sometimes I keep things inside. Now I know more or less in who ... now I know with whom I can and with whom I can't.

Only a few of the women have had someone to talk to during the time that they were subjected to violence. One woman tells that sometimes her neighbor would ask if she had problems with her partner and she would say that they had argued but not that he had hit her. All of the women speak of having few confidants, but most of them seem to rely very much on the ones they do have. Most of them don't confide in anyone from their own family. Almost all of the women discuss the problem of not being able to trust whoever and that people start to talk and gossip. A few of the women have stayed away from people and avoided going out for this reason. One woman tells that in the parents group in school the mothers sometimes joke about having to go home because their men will beat them if they return late. Many of the women also comment on the self-help group, that they can tell all their problems there and the importance of hearing about the experiences of other women.

3.1.12 If, When and Why the Situation Changed

-Hasta allí el cambió bastante porque en esa parte él ... bueno ahora ya él no ... maltratarme de esa vez no me ha vuelto a maltratar. No me ha ... no me insulta como lo hacía de primero. Él ha cambiado un poco en esa parte.

-Then he changed a lot because when it came to that ... well, now he doesn't ... abuse me in that way he hasn't done again. He hasn't ... he doesn't insult me like he did at first. In this respect he has changed a little.

Almost all of the women I interviewed had left their hardest times behind them. They all seem to have a pretty good idea of what they believe changed. The reasons differ: the partner changed after the police took him, the psychologist or the social worker at the Family Counseling talked to him and explained that he wasn't allowed to abuse her, he changed after that she left with her children or he drinks less.

Some of the women speak of their own change more than the change in him. That they feel more confident. The reasons for this differ as well: the self-help group helped to raise the self-esteem, knowing other women in the same situation gives you confidence that things can change and one woman simply decided that if things were going to change, she'd have to do it herself. One of the women hadn't seen any change and she didn't know how to make things change.

3.1.13 Change, Hope and Aspiration

-“Ya ves”, le digo yo, “he cambiado bastante” le digo yo. “Y todavía me falta, todavía”, le digo yo, [reímos] -A ver que va a pasar. -“A ver” le digo yo. “Ahora, usted tiene que anda”; así mire le digo yo, “tiene que andar con cuidado” le digo yo, porque mira que ... “a saber” le digo yo.

-“Now you see”, I say to him, “I’ve changed a lot” I say to him. “And I’m still changing”, I tell him.” [we laugh] -Who knows where this is going to end. -“We’ll see” I say to him. “Now you have to go”, like this see I tell him, “you have to watch your step” I say to him, because see that ... “who knows” I say to him.

Almost all of the women I interviewed have left their biggest problems behind them and are to at least some extent hopeful. Most of them notice a difference in themselves, that they aren't as afraid anymore of doing or saying something wrong, that they talk back when their partner say something they don't like, that they have managed to speak to their partner and make them be at home a little more or help some more with the children. Some of them also lead more active lives now, leaving the house some more. All of the women speak of work as an aspiration: finding a job or start working in something else. Many of them say that it would enable them to be more independent and that this is something important. Some of them express that they will start to work when the children get older. Many of them speak of not wanting more children because it would prevent them even longer from being able to start to work. A few of the women say that they would like to study and they seem hopeful that they will be able to. One woman wants to learn how to drive; she says it's good in cases of emergency. A few of the women don't see any change in their partners and don't know how they could make them change. One says that it's him that has problems and unless he wants to change no one can make him. She would like for him to see a psychologist. Almost all of the women seem to count with the possibility of maybe having to part from their partners some day.

3.1.14 If It Would Happen Again

-Otra vez iría usted a los derechos humanos o a la Consejería? -Cuando volviera a pasar algo igual dice usted? -Si. -Yo iría al juzgado de la familia. -Al juzgado? -Si. Directamente yo me iría a los derechos humanos y la Consejería, si no que algo más. Si, yo iría si volviera a pasar.

-Would you go to the commissioner of human rights or the family counseling again? -When something similar would happen again, you mean? -Yes -I'd go to the Family Court. -To the Court? -Yes. Immediately I would go to the commissioner of human rights and the family counseling, if not to more places. Yes, I would go if it happened again.

Some of the women mention the laws and the Family Counseling and says that if they had known about this before they don't know what would have happened, but now they do know and if they get the same kind of problems again they would report their partner, or leave him. One woman says that the problems mustn't come back because she would have nowhere to go. Another one says that her problems continue and she doesn't know what to do to change things.

3.2 Domestic Violence, the Law and Institutions Connected to It

3.2.1 Domestic Violence and Its Reasons

All of the professionals included in this study agreed that there is a lot of domestic violence in the society. There are of course many different explanations as to the reasons of domestic violence. Lic. Pineda at the Human Right Commissioner³⁸ thinks that violence comes from alcoholism, machismo, failure of men to take economic responsibility and lack of education and a human rights culture. Lic. Flores from the Family Court believes that the reasons are tradition, culture and the fact that the women are too dependent economically and emotionally. Lic. Mejía Vargas from the Police means that there is so much domestic violence because of the nature of men and because of the macho culture in the country. Another reason according to him is lack of education in general since in a majority of cases of domestic violence you find persons that have received a low level of school education. Martinez from the investigative police claims that the most common reason for the violence is the use of alcohol. Lic. Pineda adds that the consequences of domestic violence are disintegration of the family, suffering for the woman and abandoned children.

³⁸ see sections 3.2.6-10 for introductions of the institutions

Most of the women think that there is a lot of domestic violence around them. One woman explains that domestic violence is something that is considered normal, another one tells that sometimes they joke about it in the parents group in school. One woman says that she sees that every woman's situation is unique but almost no one is satisfied. Examples they give of what domestic violence is are beating, throwing the woman out of the house, insults, screaming or destroying or selling the furniture of the mutual home. One woman has never seen any physical violence.

Drinking and the partner having another woman seem to be considered common reasons for the violence. Other reasons may be jealousy, problems with the children, for example that the woman tries to stop the man from beating the children, or lack of care about the Lord. Some of the women also speak of lack of education and that the men feel safe because they think that the women won't report them, for the sake of the children or for some other reason. The men would need someone to tell them right from wrong and they would need therapy. One woman has heard that the women in Central America are very grateful and likes to suffer. She doesn't think that they like to suffer but they want to keep the things that are important to them, such as the love of their children and maybe their partner. All of the women talk about men as too macho. One explains that maybe the reasons for the amount of domestic violence lies in the culture, historically. Men set an example for their sons, or maybe it's the education in general in the homes that make them that way. She thinks that it used to be worse, she remembers the stories from her grandparents but she also says that this culture still prevails.

3.2.2 How to Handle Domestic Violence

Lic. Pineda from the Human Rights Commissioner believes that what would be needed in order to change the situation with domestic violence is to give information and education to men who abuse their partner and a strict application of the laws that exist to protect women.

Lic. Ventura at the Office of the Public Prosecutor tries to ask the judge to impose on the aggressor to go to the Family Counseling. Men find it embarrassing to go to counseling so then they will think twice before abusing their women again. He further says that in his experience the women who do present a report on domestic violence have suffered from the violence for many years and once they grow tired of it they present the report.

About half of the women speak of what women would need to handle domestic violence. The woman should seek help at the Family Counseling, join groups, and leave the man if it goes too far. A woman shouldn't try to endure because she will never be happy and it might just

get worse. She has to do something even if she's afraid of what the man might do. Another woman tells of someone she knows of who called the police but the man just came back when the police released him and all went back to the way it was. One woman explains that a lot of women don't move on and she thinks it's due to economical reasons or maybe because they lack education.

About half of the women also speak of what the men would need. Different explanations and suggestions came up; that the men lack someone to tell them right from wrong, that the men would need therapy or better education. One woman would like to see a president who created a law that would put a man in jail for beating his wife, until he regretted it and never would do it again. One woman concludes that you have to concentrate on the men, because women aren't like that.

3.2.3 Information on Domestic Violence

Lic. Ventura at the Office of the Public Prosecutors claim that the women in Santa Rosa de Copán are well educated on the subject of domestic violence but they still don't report it.

None of the women had received any information on domestic violence before they came in contact with the Family Counseling. One says that in general people know that there is a law against domestic violence but no one cares. One woman tells that since she has been in contact with the Family Counseling she has started to hear about domestic violence from other places, such as television and ads, as well.

3.2.4 “Primer Plan Nacional de Igualdad de Oportunidades 2002-2007”³⁹ – First National Plan of Equal Opportunities 2002-2007

The national plan of equal opportunities was elaborated through a participate process involving 36 governmental institutions and 62 organizations from the civil society with the purpose of fulfilling the regional and international commitments of the state of Honduras, such as from the UN Convention on the Elimination of All Forms of Discrimination against Women. The National Institute of Women⁴⁰ was created as well as the Public Family Counseling Department and the Special Office of the Public Prosecutor for Women. In the legal field the Law against Domestic Violence and the Law of Equal Opportunities for Women⁴¹ were issued. The Plan is an instrument that directs the prioritized actions towards

³⁹ Política Nacional de la Mujer

equal opportunities of women and men for a period of six years. The main responsibility for the work issued by the Plan will be taken by the state through the executive power.

There is of course a lot to say about the Plan. The strategies of implementation contain headlines like Sensitization of the Population, Further Education and Investigation, Decentralization, Participation of the Civil Society and Dialogue with the Women's Social Movement. But I will not have time or space here to explore the Plan any further. I simply conclude that I have found yet another area that would be interesting to look into.

3.2.5 “La Ley Contra Violencia Domestica”

The Law Against Domestic Violence

The Honduran National Congress passed the Law against Domestic Violence in September 1997 and it was enforced in February 1998.⁴² The law was created due to the struggle and lobbying by various women's organizations.

The law protects any woman exposed to physical, psychological, sexual or patrimonial violence not considered a crime under the Penal Code, by any man with whom she has or has had any relation with.⁴³ Physical violence is defined as an action that causes injury or depreciates the physical integrity of the woman. Psychological violence is any act with the purpose of degrading or controlling the actions, behavior, decisions etc of the woman by threats, manipulation, humiliation etc. Behavior that includes threats or intimidation and that affects the sexual integrity and right of self-determination of the woman is considered sexual violence. Lastly, patrimonial violence includes every violent act that causes damage on or loss of property of the woman or the nuclear family. Domestic violence can be reported to the police, the office of the public prosecutor or the Family Court. The process should be oral and free of charge for the woman and to ensure this, the law refers to institutions such as The Public Family Counseling Department and other governmental and non-governmental organizations.

According to the law there are a number of means of protection that can be applied in favor of the woman and other members of the family as soon as a report has been filed. The measures can be applied directly by a judge, or by the police or a prosecutor. In the latter cases the measures have to be ratified by a judge within 24 hours. Within, again, 24 hours of the

⁴⁰ Instituto Nacional de la Mujer (INAM)

⁴¹ La Ley de Igualdad de Oportunidades para la Mujer

⁴² Hagamos uso de la Ley Contra la Violencia Doméstica

⁴³ Ley Contra la Violencia Domestica

notification a hearing should be held by a judge in the presence of both the victim and the aggressor. The hearing will be considered valid with just the presence of the victim if the aggressor has been duly notified. The measures taken can last for a period of maximum four months. The perpetrator can be forbidden to enter the house he shares with the victim or visit other places where she frequently goes. The court can confiscate any weapons in the possession of the perpetrator. The court can also order the perpetrator to attend an institution/person/group in order for him to change his violent behavior or offer the woman some kind of emotional help and help to raise her self-esteem. In addition the court can order the perpetrator to pay an allowance for the woman and other members of the family or forbid him to sell or move any object of the mutual household. All of these precautions have the objective to enable the perpetrator and victim to live together without violence. Failure to conform to the measures will result in community service for 1-3 months as will reoccurrence of the act of violence even if the protective measures have been followed. If the violence continues still, the act will be considered a crime under the Penal Code article 179-A-B that speaks of violence in the family⁴⁴ and can result in imprisonment for between 1 and 4 years. Other interesting points in the law are for example that it stresses that NGO's should refer cases they come across to the public prosecutor, the police or a competent Court. The organizations can suggest what measures they find appropriate to apply, as can the woman herself or any other person familiar with the case. Among the rights of the victim one can note the right not to be confronted with the aggressor unless emotionally fit, which should be evaluated by a doctor or the Family Counseling. Also the Courts and governmental and non-governmental organizations should keep a register on cases and report every semester to the Women's Government Office⁴⁵.

Some of the women I interviewed knew from before that there was a law against domestic violence, some hadn't heard about it before they came in contact with the family counseling. One woman explains that she knew there was a law but she was always afraid to report since then everybody would know and she would feel ashamed. She was also afraid about what her partner would do to her if she reported him. One woman thinks that her partner stopped abusing her when he understood that he wasn't allowed to and another one thinks that her partner now treats her better because he is afraid to act the way he used to now that she knows about the law. A few of the women say that if they had known about the law when they had

⁴⁴ Violencia Intrafamiliar

⁴⁵ La Oficina Gubernamental de la Mujer

the most problems they would have reported their partners. One thinks that what the country would need is a president who created a law that would put a man in jail for beating his wife until he regretted it and never would do it again. One woman explains that when a woman is subjected to domestic violence and doesn't know about the law and other things like that she feels of less value than the man. She also says that before there was no law against domestic violence and the women just had to endure the situation. The culture from back then still prevails; they haven't gotten rid of that.

Most of the women speak of the fear of what the man might do if they present a report. One woman has heard of cases where women have reported their men. Those men have been real beasts that do what they want with the women and threaten to kill her when they get out of jail. Another tells of a case where the situation for the woman who had reported just got worse. But some of the women also think that it is good to report because sometimes it can change things for the better and maybe other men will see that they too can get reported and they'll learn. One woman says that hearing about other women who have reported and changed their situation has given her confidence that you can in fact change things. Some of the women talk about the shame involved in reporting, one woman calls it a scandal. One woman explains that people gossip about women who have reported and say that they are bad for sending their men to jail and failing in sustaining the household. The woman calls it subterfuge. She thinks that the women are brave and says that the people who talk that way don't know what it's like to suffer. They only see the good things like that the children have clothes but they don't see the bad things that happen inside the home. One woman explains that there are different places where you can present a report. It differs e.g. whether you're married or not. If you're married you can file for a divorce and there are places to do that. Most of the women say that they would report their partner were they to start beating them again.

3.2.6 “La Consejería de la Familia”

The Public Family Counseling Department

A Consejería de Familia is a governmental office for family counseling. The Family Counseling Departments are usually situated in Health Centers or Hospital. Each Family Counseling Department consists of a psychologist, a social worker and a lawyer. In 1998 there were 12 Family Counseling Departments in Honduras. The Law Against Domestic Violence refers to the Family Counseling for giving assistance to the persons affected by this

kind of violence, both the victim and the perpetrator. The Family Counseling will as an institution prevent domestic violence, give assistance, protect and help victims of any kind of domestic, inter-family violence.⁴⁶

The Family Counseling in Santa Rosa de Copán consists of one psychologist, one social worker and is operated by lic. Keila Mejía (regional psychologist). The main work of the Family Counseling in Santa Rosa de Copán is offering women exposed to domestic violence therapy with the psychologist. The social worker also makes home visits, arranges self-help groups for battered women and play-therapy groups for children with various kinds of problems. The responsibility of the Family Counseling is also spreading information about domestic violence and the work of the Family Counseling through seminars, schools, the Culture Center and media.

Almost all of the women I talked to referred to the Family Counseling as a place they would return to if they got problems again and that they would recommend it to other women subjected to domestic violence or with other kinds of problems. One woman says that a reason why women choose not to go to the Counseling is that they are afraid that their partners might find out. Two of the women spoke of the Family Counseling having helped in changing their relationship with their partners. One of them because the social worker spoke directly with her partner, the other one because she has told her partner everything that they have discussed in the self-help group for battered women. Some of the good things about the self-help group according to the women are that they explain things to you, they tell you of the experiences of other women, the social worker helps you to find everything out and you learn a lot.

With the Counseling the contact isn't just about domestic violence. In the self-help groups they also talk of other subject such as sex and diseases and some of the women also see the psychologist privately for other reasons.

Some of the women say that the Family Counseling has helped them on a personal level, e.g. that they don't fold in discussions like before, but they don't think that it has changed their partners in any way. One woman says that her partner would have needed the talks or therapy more than she did.

A problem that a few women discuss concerning the Family Counseling is the accessibility. It's hard to get an appointment with the psychologist and one woman tells that her partner got

⁴⁶ Ley contra la violencia doméstica con información adicional sobre las Consejerías de Familia

an appointment but the psychologist wasn't there and then he refused to go again. One woman suggests that since a lot of women are afraid of going to the Family Counseling it would help if someone would come with them and tell them that nothing was going to happen to them. This would also be good because they wouldn't be seen in the streets alone. Maybe someone could visit them regularly and tell them about the Family Counseling. But it would have to be someone professional, since they don't listen to just anyone. It's easier if someone knows so it would be good with someone professional around who could understand and maybe serve as a witness as well.

3.2.7 “El Comisionado de los Derechos Humanos”

The Human Rights Commissioner

The Human Rights Commissioner is a governmental organization funded in 1992 with the objective to function as ombudsman between the individual and public authorities in cases of human rights.⁴⁷ The only exception is cases of domestic violence where the Commissioner handles conflicts between individuals.

Eleven persons work for the Human Rights Commissioner in Santa Rosa de Copán.⁴⁸ Of those, four handle the reported cases. According to lic. Renée Pineda⁴⁹ they get about 30 cases a month of domestic violence. The statistics⁵⁰ developed by the Commissioner concerning January to November 15th 2001 shows 217 cases of domestic violence handled by the Commissioner, i.e. an average of about 21 cases per month. When it comes to domestic violence the majority of cases handled by the Commissioner are of economic violence⁵¹.⁵² This is not because this form of violence is more common than any other, but because of the fact that to the women the protection of the family is very important. According to the statistics about 60% of the cases of domestic violence handled by the commissioner concern economic violence, 20 % psychological violence and 17% physical violence. The rest of the cases consist in patrimonial violence. A lot of time the women do not return to the Commissioner after the first report.

⁴⁷ Interview lic. Rolando Milla Cardona, Human Rights Commissioner

⁴⁸ Interview Juan José Arrita Reyes, Human Rights Commissioner

⁴⁹ Interview lic. Renée Pineda, Human Rights Commissioner

⁵⁰ Informe Especial 2001

⁵¹ What people usually refer to when they speak of economical violence is failure to contribute economically to the household or pay allowance for the children.

⁵² Interview lic. Rolando Milla Cardona, Human Rights Commissioner

In cases concerning physical violence the Commissioner presents a report to the Family Court or the Police.⁵³ Lic. Pineda thinks that they hand over about 10-15 cases a month (according to the statistics the average would be about 3.5 cases of physical violence handled per month, 2 cases handed over to the Family Court, 1 to the police and 0.5 to another Court). Someone from the Commission accompanies the woman to the police. In cases of other types of domestic violence the Commissioner arranges a hearing between the aggressor and the victim. In cases of economic violence the Commission presents a report to the Family Court if the man continues to fail to provide economically. The commission always talks in person with the affected persons; they don't just give written information. They also send cases to the Family Counseling. After a case is closed or handed over the Commission starts an investigation on the result from the Family Judge and they make house visits to the victims to follow up on the help they have been given.

The Commissioner is aware of the fact that the work they do is not enough.⁵⁴ For example they don't have the capacity to make field investigations. What would also be needed is legal assistance to activate the measures of protection. The actors of the legal systems lack sensitivity for these questions and knowledge of the law. Further they do not prioritize these types of crimes. The Commissioner itself doesn't specialize in domestic violence, but has to handle all types of cases. The view of the Commissioner on the Family Counseling is that they do a relatively good job although it is limited.

Most of the women knew of the Human Rights Commissioner since before. One threatened her partner with going there but she never went since she was afraid. One woman did go to the Commissioner when her husband was abusing her. There they told her to send the man there but he didn't go. She got a second appointment for him but he still didn't go even though she gave him a note from the Commissioner, so then she didn't go back there either. Another woman who went to the Commissioner was recommended to go to the Family Counseling and the Family Court. She also got an appointment for her partner and he went there twice.

Problems that the women talk about concerning the commissioner are that they don't explain very well there, that you need to bring witnesses, make your husband go there and other things like that. Many of the women still say that if they would have problems again they would go to the Commissioner.

⁵³ Interview lic. Renée Pineda, Human Rights Commissioner

⁵⁴ Interview lic. Rolando Milla Cardona, Human Rights Commissioner

3.2.8 “El Juzgado de la Familia”

The Family Court

The Family Court consists of one Judge and administrative personnel.⁵⁵ The Court handles various cases of domestic violence presented by the police or the Commissioner of Human Rights. Almost no cases are finished, they disappear in transit. According to the Family Judge lic. Flores about 10 % of the couples don't even show up to the first hearing, 75% come to the first hearing and protective measures are imposed. The statistics developed by the Court on my request after the interview shows that the Court handled 141 cases of domestic violence in the year 2001. 80 hearings were celebrated, i.e. in 57% of the cases. Lic. Flores thinks that the protective measures function well in about 60% of the cases. A lot of the women start defending the aggressor during the process. Six to eight months later the problem of domestic violence is back. The women normally don't come back to the Family Court a second time.

60% of the cases handled are cases of physical violence according to lic. Flores, most of them under the influence of alcohol. The majority of the rest of the cases are economical violence. When the physical violence is heavy (in about half of the cases according to lic. Flores) the victim is sent to the hospital for a medical examination. If the injuries heal in less than 10 days it is a case of domestic violence. If the injuries turn out to be more serious than that, the Family Judge hands the case over to the Criminal Court.

The Family Judge holds a hearing with the parties of the case. Lic. Flores says that the hearing normally takes between 35-60 minutes and that he never takes any measures until he has succeeded in meeting both parties in order to prevent mistakes from being made. He can get the police to collect the aggressor if he doesn't show up at the hearing. It is also the duty of the police to hand cases over to the judge if the report is presented to them and to find witnesses for the process in the Family Court. The Law against domestic violence doesn't require witnesses for the Judge to initiate the process but you might come to the point where you need evidence.

The Family Court has a close relationship with the Family Counseling and lic. Flores sends people he thinks are worth the effort to them.⁵⁶ He tries to send both the aggressor and the

⁵⁵ Interviews lic. Ramon de Jesus Flores, Family Court

⁵⁶ "La gente que considero que vale la pena" Interview lic. Ramon de Jesus Flores, Family Court

victim to the Family Counseling, but the problem is, he claims, that the law doesn't give him jurisdiction to force anyone to go there.

What the Family Court would need the most is one or two social workers with the mission of making socio-economic investigations of the couples affected by domestic violence. The investigations would give the Judge more objective information which would help in imposing adequate measures of protection. Lic. Flores would also like to see some public lawyers assigned to representing the women and children.

Some of the women knew about the Family Court, some as a place where you can get help if you suffer from domestic violence, some as a place where you can get help to make the father of your children pay an allowance. One has gone there, but not for reasons of domestic violence. One got recommended to go to the Family Court but she never went. Some of the women say that they would go to the Family Court if they would get problems again. The problem with the Family Court is that you have to bring witnesses and things there. One woman says that her partner threatened her to bribe the Family Judge to give him the care of the children.

3.2.9 “La Policía”

The Police

In 2001 the police were presented with 145 reports on domestic violence⁵⁷. The victim may be the one to present the report, but usually a third person living with the victim such as a member of the family or a neighbor does it. In accordance with the law the police have to give immediate assistance to the woman. They detain the aggressor and take the woman aside, making a written report with all the details concerning the aggression and the woman signs it. The aggressor is detained for 24 hours and then the police arrange a hearing between the aggressor and the victim. There they can take the second step according to the law – protective measures, like banning the aggressor from coming close to the victim for a period up to two months. Normally all the protective measures are applied, what differs is for what amount of time. If the woman wants a period less than two months, the police approve. In cases of domestic violence the police are permitted to enter private property without permission. Once the police have held the hearing the report is filed and if the man gets reported a second time it is considered a criminal offence and the police hand the case over to the Family Court. In the year 2001 this happened in 9 cases.

⁵⁷ Interview lic. Mario Guillermo Mejia Vargas, The Police

All the police officers have received further education in the area of domestic violence. Police Inspector lic. Mejia Vargas says that the police officers in general take domestic violence seriously but he would still like to see a special unit within the police with special knowledge in the area. One of the things now lacking is a permanent supervision of whether the aggressor fulfils his duties according to the protective measures imposed.

In cases of domestic violence the process is very short since the police only have 24 hours to present the report to the prosecutor.⁵⁸ The police investigators handle a lot of cases of domestic violence. According to Martinez at the department of criminal investigations it is the most common type of crime and he thinks they get about 15-18 cases as an average per month. When Martinez searches the files for me he finds 31 cases between August 2001 and March 2002, i.e. an average of scarcely 4 cases per month. The officers have not been given any further education on the topic. The cases they get are from different women, some women come back but most do not.

Some of the women knew that you can contact the police if you have problems with domestic violence. A few tell stories of other women who have reported their partners to the police. One tells that the man just came back when the police released him and all went back to the way it was. Another one tells that a woman who reported her husband and other people spoke badly of her but she hadn't presented a 'serious' report. Now she has.

One woman tells of being abused by her partner in the street when a police car passed. The police officers took the man with them to the station. Half an hour later the police came back and brought the woman as well to the station. There they gave her information and an appointment the next day. She came back the next day and in front of her the head of police explained to her partner the things he can't do according to the law. The police officers asked the woman if she thought her partner should go to jail. In front of him she answered that she wanted him to be free. The police let him go and explained to him again what he can't do. In front of the police he said that he will not leave the woman alone since they have been together for many years. After this experience the man has changed a lot. The police held him for 24 hours and the woman explains that had she said that she thought that he should go to jail, they would have sent him to jail, but she also explains that his family has money and that they would have gotten him out. The woman also tells that she was very afraid of what would happen when he came back but now she doesn't have this fear anymore and if her partner were to hit her again she would report it to the police.

3.2.10 “La Fiscalía del Ministerio Publico”

Office of the Public Prosecutor

In the capital, Tegucigalpa, and the country’s second largest city San Pedro Sula they have “La Fiscalía Especial de la Mujer” – special office of the public prosecutor for women. The national plan of equal opportunities states that there should be a special office of the public prosecutor for women at least in the capital of every department⁵⁹. In some other cities around the country the office of the public prosecutor has one or more special prosecutors for women.⁶⁰

Seven prosecutors work in the Office of Public Prosecutors in Santa Rosa de Copán.⁶¹ Of those, one is a woman. They get very few cases of domestic violence. Prosecutor lic. Ventura reads from the files for me and concludes that the office handled 20 cases of domestic violence in the year 2001. 15 of those were reported to the office by the police. The Office of Public Prosecutors has requested to get a prosecutor specialized in crimes against women and children but so far all prosecutors handle all types of cases. The Office of Public Prosecutors has been given further education in various areas, between the years 1994-2000 with an emphasis on women and childhood. The Office of Public Prosecutors has 24 hours attention and is free of charge.

According to lic. Ventura the law differs between “violencia domestica” and “violencia intrafamiliar”. “Violencia domestica” may consist in psychological, economical, sexual or physical violence and is not a crime. The police may detain the aggressor for 24 hours. “Violencia intrafamiliar” consists of the same types of violence but to a higher degree or when the aggressor has been reported for domestic violence before. “Violencia intrafamiliar” may also include the children.

When a woman presents a report of domestic violence to the Office of Public Prosecutors, the prosecutor presents the accusation to the Family Court in co-ordination with the police. The prosecutor tries to accompany the woman to the Court but they are short of staff and don’t always have the time. The judge can impose protective measures or the prosecutor can impose provisional measures immediately and the judge ratifies or revokes them afterwards. Lic. Ventura has never heard of a case where the judge hasn’t ratified the measures that the

⁵⁸ Interview Jesus de Dios Martinez, The Police, Department of Criminal Investigations

⁵⁹ Política Nacional de la Mujer

⁶⁰ Informe Anual de Labores, 2001, Ministerio Publico

⁶¹ Interview lic. Milciades Ventura, Office of the Public Prosecutor

prosecutor has imposed. The only thing needed to impose protective measures is a report, you do not need evidence. The victim herself, or a third party can present the report. You cannot withdraw a report. After the judge has imposed the measures, the procedure follows to find evidence to declare the accused guilty or not guilty. As far as Lic. Ventura knows there are no punishments for domestic violence. Further he says that some men respect the protective measures imposed but there are no means to make sure that the aggressor fulfils his duties.

The Office of Public Prosecutors doesn't have any statistics on what happens to the cases after they have presented them at the Family Court. Lic. Ventura thinks that a lot of them never reach a verdict. The women usually do not come back to the Office of Public Prosecutors.

What the Office of Public Prosecutors tries to do is refer the women to the Family Counseling and ask the judge to impose on the aggressor to go there as well. Men find it embarrassing to go to counseling so then they will think twice before abusing their women again.

Lic. Ventura claims that women in Santa Rosa know about the Office of Public Prosecutors and the laws since the Office of Public Prosecutors has put an effort into getting publicity. They have put posters in banks and public offices.

Only one of the women mentions the Office of the Public Prosecutor. She says that she has heard about it after she came in contact with the Family Counseling.

3.2.11 Church, Religion and Faith

Other than the Family Counseling, that almost all of the women I interviewed were in contact with, the only alternative that most of the women spontaneously spoke of as where to receive help was in the church and through faith. One woman receives help from church with money for the children whose father don't pay an allowance and some of the women say that in church they teach of domestic violence and explain things just as in the self-help group. A few of the women also say that in some things only God and the church can help you. Many of the women refer to praying as something that helps them to change. Some of them also speak of having tried to get their partners to attend church and come closer to God but they hadn't succeeded so far. One woman says that the couples who do fine in their relationship do so because they're part of a group and in contact with God, this helps you a lot in order to be able to feel good in your marriage. Sometimes religion creates problems. One woman speaks of feeling a barrier between herself and her parents since they belong to different churches and another one explains that her partner have problems with faith because of the nature of the religious education he got as a child.

4. THEORY

4.1 Foucault

4.1.1 Power, Truth and Knowledge

Power, according to Foucault⁶², is not something that you either have, or not have. “Individuals are the vehicles of power, not its point of application”⁶³ he states and further says that power functions in the form of a chain and is “exercised through a net-like organization”. Nor is power per definition something repressive⁶⁴ or solely like a law that says no. Foucault doesn’t think that power would be accepted if it wasn’t also able to do good, to be productive. Power is something that exists and works in every social situation, be it in a productive or dominating way.⁶⁵ When trying to understand a situation we should explore what forms of power are present in the specific situation. We should try to find the techniques of power used, instead of focusing on the result of power by trying to divide it in legitimate and illegitimate power. Or put even more simple: we should “shift the “why” question to a “how” question”⁶⁶ in order to understand how power functions here and now. By performing an “ascending analysis of power”, starting from the extreme points of its exercise you can follow the chain of power and see how the mechanisms become colonized by more general mechanisms and by “forms of global domination”⁶⁷.

Our goal then will not be to fight against power itself⁶⁸, but to try to minimize the domination in the relationships of power where one of the parties’ “margin of liberty is extremely limited”⁶⁹. By looking at the mechanisms of power in seemingly neutral institutions and criticize them⁷⁰, we will unmask the political violence they exercise and then it will be possible to fight against them. Since power marginalizes and excludes we will always find the voices of the marginalized. It is the resistance that rises from them that Foucault exhorts us to listen to, since they are placed “right at the point where relations of power are exercised”⁷¹.

⁶² Hunt & Wickham (1994:15)

⁶³ Gordon (ed.) (1980:98)

⁶⁴ Gordon (ed.) (1980:119)

⁶⁵ Hunt & Wickham (1994:15-16)

⁶⁶ Rabinow (ed.) (1984:5-6)

⁶⁷ Gordon (ed.) (1980:99)

⁶⁸ Hindess (1996:104)

⁶⁹ Ibid:102

⁷⁰ Rabinow (ed.) (1980:6)

⁷¹ Gordon (ed.) (1980:142)

I also want to link this reasoning to that of truth and knowledge. According to Foucault knowledge is always connected to power in the way that power joins together with knowledge to form discourse.⁷² Discourse in its turn generates “regimes of truth”. Foucault claims that there are no such things as truth; instead truth is the tool and expression of power. Discourse however also has the power to unmask and change the relations of power. And again the way of resistance will be to listen to alternative knowledges.

4.1.2 State, Discipline, Governmentality and Normalization

In the analyses of power one has to look beyond the role of the state⁷³. Foucault doesn't suggest that the state is irrelevant, but that the power of the state is dependent on a number of other power relations to uphold the few great prohibition functions that creates its “meta-power”.

From the middle of the sixteenth century the role of the state changed.⁷⁴ From having been concerned with the nature of the state, territory and guarding the power of the ruler it expanded “to a broader and more detailed consideration of how to introduce economy and order”⁷⁵. Society became of political interest and the state now wanted to govern every aspect of social life: household, children, the family... According to Foucault discipline developed with the emergence of the humanist subjects and the view on the individual as a carrier of a soul and a consciousness.⁷⁶ Discipline “is always predicated on a claim to knowledge concerning the character of the human subject”⁷⁷. The human individual started to be considered a resource and possible to influence.⁷⁸ The new regime of power that emerged during this time Foucault calls “bio-power”. Bio-power is concerned with controlling the human body and does so in the form of “disciplinary technologies” through for example schools, hospitals and prisons. Successful governing also affects the behavior of people by making them, and giving them possibility to, “regulate their own behaviour”⁷⁹. Discipline “presupposes a tightly knit grid of material coercions rather than the physical existence of a sovereign.”⁸⁰ It works through normalization: discipline doesn't need to forbid, instead it

⁷² Hunt & Wickham (1994:11-14)

⁷³ Gordon (ed.) (1980:122)

⁷⁴ Rabinow (ed.) (1984:15-18)

⁷⁵ Ibid:15-18

⁷⁶ Hindess (1996:115)

⁷⁷ Ibid

⁷⁸ Ibid:105

⁷⁹ Ibid

⁸⁰ Gordon (ed.) (1980:104)

measures, classifies and hierarchise.⁸¹ It upholds itself through surveillance and often uses micro-penalties and rewards instead of punishment.⁸²

4.1.3 The Law

Foucault sees law as a form of negative power.⁸³ Law is according to him not a mask for power but a complex and partial tool that is much more than just an apparatus of prohibition. It “makes possible a mode of political and economic management which exploits the difference between legality and illegalities.” Law effectively claims to be a producer of truth in that it declares the guilt or innocence of people.⁸⁴ With the introduction of interchange between law and the “psych-sciences” the law has further widened its scope and people can be judged not only by what they have done, but also by what they are (e.g. the dangerous or sick person).

Law also functions as a system of universal norms, in contrast with discipline that is particular in its efforts to classify and measure. Sometimes discipline functions within the realm of the law, for example in the case of prisons located in the juridical framework but functioning through techniques of discipline. Discipline colonizes law, Foucault claims, introducing practices of observation and training, as in for example juvenile justice. In the disciplinary society discipline replaces law as the primary mode of government⁸⁵ and law will play a supportive role. The suggestion Foucault makes is that “one should try to locate power at the extreme points of its exercise, where it is always less legal in character.”⁸⁶

4.2 Smart

4.2.1 The Law

Smart⁸⁷ starts out her exploration of feminism and the power of law with Foucault and his view on some central concepts like truth, power and knowledge. She doesn't always agree with Foucault though. For example Smart thinks that even though discipline might come to colonize law, the influence of law is expanding rather than diminishing. She uses laws on childhood to illustrate this. As the sciences came to show the importance of children's health and education to the regulation of populations, the legal system extended its interest to include

⁸¹ Hunt & Wickham (1994:49-53)

⁸² Ibid:21

⁸³ Gordon (ed.) (1980:140-141)

⁸⁴ Hunt & Wickham (1994:42-56)

⁸⁵ Hunt & Wickham (1994:22)

⁸⁶ The History of Sexuality(1978) from Hunt & Wickham (1994:55)

matters such as age of consent and incest. The law claims, and is by others held to deliver truths and it thereby exercises power. Not only in the sense that the court has the power to judge a person guilty or innocent but the law also expresses its view on areas outside the legal framework, for example when issues of sexual morality are considered in rape cases. The law further exercises power by disqualifying the knowledge of others. In the court process the parties are legally represented and the lawyer “translates” the facts into legal relevancies and in the process excludes facts that doesn’t fit in the legal way of reasoning. The law is seen as existing outside society, judging and affecting, a sovereign with the power to give and take rights.

When it comes to feminism and law Smart for example concludes that the law, even laws on equal opportunities, rarely has anything at all to do with the lives of women.

4.2.2 Rights

The problem with legal rights is that they don’t solve the actual problem; they just define the problem as something that has a legal solution. This is simplifying the relation of power and gives the impression that the problem is solved. Another problem with rights is that they are concerned with social problems but it is up to the individual to prove that her rights have been violated. Legal rights only help the woman who takes the violation to court, and who wins the case. “The legal ‘remedy’ individualizes these social issues”⁸⁸ and gives the impression that the law can solve personal problems. In order for any deeper social change to occur a very vast number of women must first manage to prove that their rights have been violated. Smart also notices that rights of one person can be countered by competing rights of another. For example: the right of a woman not to be molested might be countered by the right of the man to live in his home. On the other hand, defining something as a right is a way of making it visible and legitimate. And without a doubt, even if rights may be poor protection, reducing the rights we do have would mean a loss of power and protection.

4.2.3 Using the Legal System

One problem for feminists when trying to use the law for changing the conditions for women is that their definitions of concepts, like for example “harm” or “coercion”, often differs from the definitions accepted by the legal system. Trying to use the law means giving the courts the power of definition and there is no guarantee that the outcome will be the intended. We also

⁸⁷ Smart (1989)

⁸⁸ Smart (1989:104)

have to consider, no matter how good the written law may be, the problems involved in having sexist courts and police officers handling the cases. Also, facts possible to rise in court might not be the facts most relevant from a feminist point of view to handle. It might for example be possible to find a legal way to deal with the problem of violent pornography, whilst one might argue that the much more wide spread “milder” forms of pornography, objectifying commercials and stereo-type images of women in soap operas actually cause more problems regarding the view on gender and sexuality in our society. Last, I think one important question Smart raises is whether it is justified to put our effort into trying to improve written law and make trial processes more tolerable for example for rape victims when the basic norms and values of the legal system remains?

4.2.4 Possible Attitudes to Take to the Law

After having stated that law is of questionable value for the feminist quest Smart underlines that she does not advocate total inactivity in the field. In the areas where legislation already exists we still have to address it in the legal terrain. Smart refers to the work of Stang Dahl from the University of Oslo⁸⁹ and suggests that feminists can encourage a greater reliance on customs from below and public opinions on what law should be and thereby give the experiences of actual women greater influence on the way law is implemented. And it is still possible to use the fact that law constitutes a discursive field to bring up alternative views on the agenda. New knowledge can derive from the law, if not directly through the legal system then for example through women’s groups working in connection to it. In general Smart seems to think that we should focus on law in practice rather than the written law and not forget that law in practice is often sited far away from lawyers and courtrooms: the laws that really affect the lives of women are more often implemented in government administration on for example social welfare. We can’t ignore the law and the power it has to define, but we must try to move past the urge to try to handle social problems through legal reforms.

5. ANALYSIS

5.1 Victimizing

I don’t think I need to speak at any length of the fact that the women in this study obviously don’t live in a society where men and women have equal opportunities. Just one example: it is apparent in the stories of the women that a man can leave the home, or throw his partner out,

⁸⁹ Smart(1989:23)

at any time and practically without consequences. It doesn't even have to mean that he loses his "right" to the woman. The woman can't leave, for practical or emotional reasons or for fear of the consequences, nor can she throw the man out even if she would want to. The women in this study lead their lives in a patriarchy and suffer all the consequences this implies. Still the first prejudice I had to rid myself of was the view on women subjected to domestic violence as helpless victims. As any human being they all have strengths and weaknesses, good days and bad days. Sometimes they find themselves in difficult and complex situations and they do their best to handle it, taking many different aspects into account. One woman considers what is best for the children and lets her partner come back home after he's had an affair with another woman but she also makes him sleep on the couch for three months. The same woman literally kicks her partner out of the bed when he tries to hit her. One woman explains that if her partner wants to get rid of her he has to leave because she's staying in the house with the children. Another one just laughs at her partner when he threatens to leave but never does.

I don't say this because I think that the responsibility for the situation lies with the women, that they are to blame for not handling it better or anything like that. But I believe it to be an insult to them to picture them as weak, when surviving under such hard circumstances. As discussed above⁹⁰ power isn't something that you either have or don't have, it's something that is present in every situation. And I believe that in order to find ways to handle the problem of domestic violence we need to examine the relations of power existing. We should concentrate on finding, with the help of themselves, how the women best can make use of the power they do have and how we can change the situations where their "margin of liberty is extremely limited"⁹¹.

5.2 Margin of Liberty

In the stories of the women you can find many different factors that seem to limit their "margin of liberty" to act constructively to protect themselves or change their situation. As Smart points out the factors with the greatest influence on the lives of women usually are situated far from the written law.⁹² One seems to be the lack of a supportive social network. Instead the networks around the women, in the form of neighbors or relatives, rather seem to function as agents of surveillance. There is for example a strong social norm of prioritizing

⁹⁰ see section 4.1.1 "Power, Truth ..."

⁹¹ Hindess (1996:102)

⁹² see section 4.2.4 The Law & Possible Attitudes ...

keeping the family together. The woman who in the eyes of others breaks against this rule will probably be made aware of the fact that she has crossed the line. Presenting a report is a scandal. The woman who reports her partner is bad. Several women expressly say that one of the reasons why they haven't reported is the shame involved in other people knowing. The result is isolated women who have to learn who they can talk to and who they can't, are afraid to be seen to far from home or avoid people totally - regulating their own behavior.⁹³ The lack of supportive social networks means lack of emotional support as well as practical in such as childcare or contacts to find a job. Also the limited freedom of movement will make it hard to have a regular job, get proper health care, and seek assistance from the Family Counseling, Commissioner of Human Rights, police, Family Court or any other institution. Most of the women don't even have the social support from their original families. Many of them moved away from home in their teens. In some of the cases the lack of support seems to be due to the problems they have with their partner – the woman can't talk to her parents or siblings about her partner since they don't approve of him.

The experiences some women had had of when the social network had functioned seemed to be important to them. A lot of the women talked of friends inviting them to come to the self-help group for battered women or telling them about the Family Counseling. Quite a few of the women express that the only confidant they have is one female friend and that the advice given by this special friend is highly valued. One woman expresses that it is important that the women help each other and also that it means a lot sharing experiences with other women.

The lack of public childcare, in the absence of social networks, seems to be one big reason for women not to work outside the home. And the women themselves express that work is something you need in order to develop and to be able to be independent, economically and emotionally. Several of the women even imply that they would have left their partners had they had a job to support themselves and the children. Even if a woman felt that she could handle both work and household it would be hard with the general working conditions in the country. One woman tells that she was offered a job but when she asked for Saturday afternoons and Sundays off to be able to help the children with their homework the job was given to someone else. What is then left for women with children is the informal sector where they can either work from the house or take the children with them if they are for example selling something in the streets. This is however not a very stable and secure way of life and personally I find it easy to understand that many women go to some lengths to avoid it.

⁹³ see section 4.1.2 State, Discipline...

One alternative way to handle being subjected to domestic violence is of course to break up with the man, by leaving him or throwing him out. Also here you can find many different factors, apart from the often very significant emotional ones, that make it very difficult. Besides the difficulties in finding a job to support yourself and the children and the massive social pressure of keeping the family together discussed above many of the women also refer to not having anywhere to go with their children if they were to leave their homes. Without personal contacts and supportive networks they might end up in the street without social security. There is no support to seek in the law for this solution to the problem of violence. The Law against Domestic violence and the protective measures it suggests have the objective to enable the perpetrator and victim to live together without violence.

5.3 Problems Involved in Using Legal Methods

I find in the interviews a number of problems, in addition to the above mentioned, involved in using the legal system to handle problems with domestic violence. Some of the women express that in order to seek help at the Human Rights Commissioner or the Family Court you must succeed in arranging a lot of things by yourself. For example you have to bring witnesses and make your partner go there as well. If this is correct, and then actually a problem in itself, or just a problem of insufficient information can be discussed. Both the public prosecutor and the family judge says that finding witnesses is something that the police should take care of. The fact that the woman has to make her partner come seems to be confirmed by both the Human Rights Commissioner and the Family Court. Whatever the case is the result is the same – the women refrain from turning to the legal system for aid.

Another problem in my view is that the professionals don't only as Smart suggests express their view on areas outside the legal framework, they even act outside of their competence, which should have a rather negative influence on the legal rights of the individual.⁹⁴ The family judge sends women that have been subjected to heavy physical violence to the hospital for a medical examination. My question would be what education a judge has to assess degree of physical injury. He also sends people he thinks are worth the effort to the Family Counseling and can thereby add psychology to medicine on his list of competence. The legal system indeed seems to have, or at least it exercises, the right to give judgment not only by what a person has done, but also by what she or he is.⁹⁵ Yet another example of professionals acting outside of their competence is the fact that the law says that a woman shouldn't be

⁹⁴ see section 4.2.1 "The Law"

confronted with the aggressor unless emotionally fit, which should be evaluated by a doctor or the Family Counseling. Still the police, public prosecutors and family judge all hold hearings with both parties present on a regular basis. The police impose protective measures and then file the report when the law clearly states that a judge has to be notified and the imposed protective measures ratified within 24 hours.

When listening to the women I came to the conclusion that domestic violence is something considered more or less normal in their lives.⁹⁶ Apart from the fact that some of them expressed this very clearly themselves many of them also made a difference between “smacking a little” and real physical abuse and between for example threatening them with what they’ll do if they’re caught talking to other men and insulting them every day. All of these examples I consider to be serious cases of abuse and maltreatment. The women obviously do not, and it seems that neither does the legal system. In addition to the arbitrary mode of actions of the professionals mentioned above the written law also measures and classifies, differing between more or less acceptable violence with one Law against Domestic Violence that concerns “milder” violence and then the inter-family violence considered a crime under the Penal Code.⁹⁷ What really seem to matter in the stories of the women though isn’t what the law says about violence, but what they themselves think, what the police, lawyers and judges think and what the people around them think. It’s all measured and classified into legality and illegalities⁹⁸ by the legal system and by the general view in the society (leaving it open which one has the greater influence over which). Consider the woman who explains that she has heard of women who have reported their partners and that the partners have been real beasts. Put that in relation to the fact that any of the women in this study could according to the law present a report and most of them could go much further than that. Everyone seems to agree that a lot of violence, in whatever form, is not accepted but a little bit it seems you have to count on. If we wish to use the legal system to fight the problem of domestic violence we must consider how violence as a concept is defined, how it is measured by the law, the legal system and in the social sphere and what consequences this has for the situation of women and their possibilities to find help.⁹⁹

⁹⁵ c.f. section 4.1.3 ”The Law”

⁹⁶ c.f. section 4.1.2 ”State, Discipline ...”

⁹⁷ c.f. *ibid*

⁹⁸ see section 4.1.3 ”The Law”

⁹⁹ c.f. section 4.2.3 ”Using the Legal System”

The fact that the family judge doesn't hold a hearing in cases of domestic violence unless both parties are present I consider a warning that rights can indeed be met by counter rights.¹⁰⁰ The judge obviously values the aggressor's right to express his point of view over the right of the woman to receive protection.

It is also apparent in some of the stories told by the women that there is a problem of confidence in the legal sphere. In the view of the women it is a possibility that a man sent to jail can pay his way out and it is possible for a man to bribe a judge to let him get custody of the children. The women also show a total lack of confidence in anyone being able to or wanting to protect them in case they do turn to the legal system. Almost all of them express fear of what the man might do if they present a report and they hear stories of women who have sent their partners to jail and the man threatens to kill her when he comes out. Both the public prosecutor and the police expresses that supervision on the fulfillment of the imposed protective measures is lacking. Almost all of the professionals from the different institutions tell that most cases disappear in transit and usually the women don't come back a second time. None of them seem to believe that the reason is that the violence has stopped.

Smart points out that even if a right exists in the written law, many individual women must succeed in legally proving that their rights have been violated before any deeper social change will occur.¹⁰¹ The testimonies of the women I interviewed seem to validate this. They speak of everyone knowing of the Law against Domestic Violence but not caring, the scandal involved in presenting a report and that maybe the men would be warned if more women reported.

One very clear indication on that the existing law against domestic violence isn't enough to handle the problem of domestic violence is provided by one of the women. She suggests, although well aware of the existence of the law, that what the country would need is a president who created a law that would put a man in jail for beating his wife, until he regretted it and never would do it again. I leave the question open on whether the problem lies in the written law or in law in practice. Lic. Pineda from the Human Right Commissioner seems to give his answer when saying that what would be needed to change the situation with domestic violence in the society is a strict application of the laws that exists to protect women.

The functioning of the Law against Domestic Violence within the legal system seems to imply a colonization of the law by discipline as discussed by Foucault.¹⁰² Just as in juvenile

¹⁰⁰ see section 4.2.2 "Rights"

¹⁰¹ see *ibid.*

¹⁰² see section 4.1.3 "The Law"

justice this law works more through techniques of discipline like measuring, classification and micro-punishments (such as being ordered to the shameful act of going to counseling) than through force. The Criminal Law on Inter-family violence plays a supportive role and can be used if the disciplinary control exercised by the Law against Domestic Violence isn't enough. On the other hand the Law against Domestic Violence also implies an expansion of the influence of the law as discussed by Smart.¹⁰³ Even if the law doesn't rely on the traditional methods of force it still extends the interest of the legal system to an area that used to be considered part of the private sphere.

5.4 Responsibility

One lasting impression I got from the interviews was that all the responsibility lies on the women. In general they are the ones to take care of the household and the children, always practically and a lot of times economically. They also have to keep the family together, for the sake of the children or because of the social pressure in the form of people gossiping. And in general this seems to be the responsibility of the woman regardless of how her partner behaves. The women also seem to feel that they have a responsibility to protect their children from noticing problems between the parents. One woman even says that she has refrained from reporting her partner because it might make the situation worse and next time maybe he'll beat her in front of the children. When it comes to domestic violence the women have to present the first report on domestic violence, report again if the protective measures imposed aren't respected, inform their partners of appointments at the institutions, report again if their is reoccurrence in the act of violence etc.

This is the impression from the stories of the women and it is to a great extent confirmed by the professionals at the institutions. Lic. Milla Cardona from the Commissioner of Human Rights explains that they don't have capacity to make field investigations and that legal assistance to activate the measures of protection is lacking. Lic. Flores at the Family Court tells that almost no cases of domestic violence are closed, instead they disappear in transmit and he believes that a lot of times six to eight months later the problem of domestic violence is back. He would like to see some public lawyers assigned to representing the women. According to lic. Mejía Vargas the police lack means to supervise whether the aggressor fulfils his duties according to the protective measures imposed and the public prosecutor don't always have the time to accompany the woman to the Family Court says lic. Milciades

¹⁰³ see section 4.2.1 "The Law"

Ventura. These conditions seem to be due to lack of resources for the institutions while others appear to be more conscious decisions made by the professionals. Like when the police according to one woman doesn't only, in accordance with the law, listens to her request on protective measures but seemingly gives her the right to make decisions on whether her partner is going to jail or not. Something that most certainly does not have any support in the law – neither letting / forcing the woman to make the decision, or the police (!) sentencing a man to prison. Lic. Mejía Vargas claims that the police always adjust the length of time protective measures are imposed after the wish of the woman and he also tells that the police only hands the case over to the judge when the aggressor has been reported a second time. Lic. Flores at the Family Court doesn't hold a hearing unless both parties are present, whilst the law clearly gives him jurisdiction to hold the hearing with only the victim present if the aggressor has been duly notified. He also claims to not have the jurisdiction to force a man to go to therapy at the Family Counseling while the law suggests this as one of the protective measures that can be imposed by a competent Judge - failure to conform to the protective measures can result in one to three months of community service.¹⁰⁴

It seems to me that all of the professionals have their own personal view on domestic violence and the relationship between men and women and that it's these personal views that many times affect how they choose to handle more than what the law actually tells them to do. I think that it is apparent that having professionals educated and trained in a patriarchal institution handling cases of domestic violence involves problems needed to handle on the level of law in practice regardless of what the written law says.¹⁰⁵ Lic. Mejía Vargas from the police claims that there is so much domestic violence because of the nature of men. If this kind of "truth" or "knowledge of human behavior" influences how he handles a case of domestic violence it could have far-reaching consequences for women in need of protection.¹⁰⁶ If nothing else it effectively gives the woman the responsibility to change things, since you can't very well try to change what is given by nature.

The result of these actions, or failures to act, by the institutions and professionals will be that the responsibility once again falls on the woman. If she wants the violence to stop she has to make sure that her partner comes to the hearing, that he voluntarily agrees to go to the Family Counseling, she will be the one taking the blame for whatever measures are imposed on the man to protect her against the violence. The written law may say differently but in reality the

¹⁰⁴ for more examples see also section 5.3 Problems Involved in Using Legal Methods

¹⁰⁵ c.f. section 4.2.3 Using the Legal System

¹⁰⁶ see section 4.1.1 "Power, Truth..." & 4.1.2 "State, Discipline..."

law in practice will not be of any help to a woman subjected to domestic violence unless she personally makes sure it does through every stage of the process.¹⁰⁷

I was happy to notice that the women themselves didn't seem to think that they were responsible for the situation. They spoke about as much about what they would need to be able to change their situations as about what the men would need to do. One woman expressly said that she can't change the situation any further since he is the one with the problem and he doesn't want to deal with it. A lot of ideas come up about the men needing someone to tell them right from wrong, a better education, therapy or why not a good fright. One woman concludes that you have to concentrate on the men, because women aren't like that. At the same time the women are aware of the fact that the change probably will not be initiated from elsewhere, as the woman who explains that her situation changed when she understood that if things were going to change, she'd have to do it herself.

5.5 Effects

All of the women conclude that the violence they have been subjected to, by partners as well as during the childhood, has affected them and their children a lot. In the cases where the violence has seized or lessened they will always live with the memories and the fear prevails of that maybe the problems will return. According to the women this also seems to be the case with the children, who e.g. can't see their parents playing without starting to cry. Quite a few of the women are also worried about what kind of relationships their daughters will have when they grow up and how their sons will treat their future partners. I noticed other consequences as well that the women didn't expressly say were due to the violence. One example is that about half of the women had had or wanted to have an operation to be sterilized. They expressed the importance of not having more children in order to be able to get a job and become more independent.

5.6 Ray of Hope

The only place to seek help that all of the women were positive to was the Family Counseling. This in itself is of course not very surprising since I mainly interviewed women who had or used to have regular contact with the Family Counseling. What I do think is interesting to highlight is what it is they appreciate with the Family Counseling and how they put it in relation to other institutions that also handle cases of domestic violence.

¹⁰⁷ c.f. section 4.2

First of all most of the women came in contact with the Family Counseling for other reasons than domestic violence. Since all of the women comment on the difficulties involved in seeking aid to change a situation of domestic violence maybe this is a more realistic approach to the problem of how to make the institutions available to the concerned women. Rather than to give them the whole responsibility and let them take the consequences of going looking for help it shouldn't be impossible to reach them where they are. Be it through the hospital, health center, school or church. Or why not right in the "barrios" where they live and work as one woman suggests. She believes that the presence of a professional in the barrio would make it easier for women to seek help since it might reduce the fear of the consequences that follows on presenting a report, they wouldn't have to be seen in the streets alone and the professionals could serve as reliable witnesses of the existing conditions. Both the Family Judge and the Human Rights Commissioner also expresses that they would like to have the resources to make field investigations, although they probably refer to once the woman has presented the report.

Also all of the women had found out about the Family Counseling and any other institution they knew about and / or had been in contact with, through personal contacts. Only one of the women was aware of the existence of written information, and she had seen this only after she had been in contact with the Family Counseling and already received some information.

Another thing that many of the women seem to appreciate is that once in contact with the Family Counseling, and especially when taking part in one of the self-help groups for battered women, they get information not only on domestic violence but on many other areas as well. Often, but not always, the topics are in some way related to domestic violence and regardless of which it seems that they cover many of the areas in the life of the women that the study shows are related to the problem of domestic violence, such as sexual relations and children. Since the women express that the violence they have been subjected to affects everything it seems logical and constructive to focus the help on more than just the isolated violent action.

Several women also expressed that it was easy to get help from the Family Counseling. The social worker helps you find everything out and you don't have to bring witnesses or make your partner go there. To some of the women the impression they have that you have to do or arrange all kinds of things to receive help from other institutions seems to be one of the major reasons for not contacting them. As well as the narrow focus of the law isn't enough to change the social situation for the women, accessibility in the form of 24-hour attention isn't

enough in order for the women to feel that they have the possibility to seek help from an institution.¹⁰⁸ Maybe it isn't even the most relevant factor.

I think it is suitable here to at least mention that the women also expressed some critique against the Family Counseling. Some women found that the contact with the Family Counseling had helped them personally to some extent but that it hadn't improved their relationship to their partner in any way. They thought that their partners would have been in greater need of education or therapy. A few women also commented on the fact that it was sometimes hard to get in contact with the Family Counseling and that this had a negative effect for example when the partner of one woman had agreed to go see the psychologist and they found the office empty.

The Law against Domestic Violence does get some positive judgements from the women as well. Several of the women speak of their partners changing when they got knowledge of the law and some of them believe that the situation in general in the country would change if more people knew about the law and if more women presented reports on domestic violence. It seems apparent to me that the law does serve an important purpose in making visible and legitimate the right of women not to be maltreated in their personal relationships.¹⁰⁹ Most of the women also seem to be positive to the existence of the institutions. Even the ones who criticize the work of the institutions say that they would turn to them if they were to get problems again. It seems to me like the institutions serve a purpose simply by giving women somewhere to turn to. One woman expresses that when you don't know about the law and such things you feel of less value. Some of the women mention the confidence they personally can get from hearing about just one case where a woman has presented a report and the outcome has been positive. This information, the experiences of other women, they have gotten mainly from the self-help group, which in itself is an indirect result of the Law against Domestic Violence through the creation of the Family Counseling. So even in cases where the law isn't directly helpful, or harmful for all that matters, to the women, its existence can still have an impact on their lives.¹¹⁰

¹⁰⁸ c.f. section 4.2.2 "Rights"

¹⁰⁹ c.f. *ibid.*

¹¹⁰ c.f. section 4.2.4 "Possible Attitudes..."

5.7 Some Final Remarks

Smart raises the question of whether it is justified to try to improve the written law when the basic norms and values of the legal system remain.¹¹¹ My answer to this question is yes. The laws serve a normative purpose in the society if nothing else. As long as the laws exist we have to try to improve them as well as their practice. But on two conditions. First of all that this isn't the only thing we do. The problem of domestic violence is a social and political one, existing, resulting from and affecting so many different areas and it can never be solved by using the legal system.¹¹² Law is, for better and for worse, a part of the society. It is not an autonomous agent and even though it exercises power to give and take legal rights this doesn't necessarily imply that the rights can be ensured in practice. Creating, or even implementing, a law against domestic violence doesn't solve the actual problem since law is just one agent that exercises power and also an agent with a narrow focus.¹¹³ As Foucault points out power is exercised through a net-like organization and in order to fight the problem of domestic violence we need to examine and criticize the mechanisms of power on every level, from the personal to the legal.¹¹⁴

The second condition is that at the same time it is important to make sure that women who do turn to the law get access to proper information not only on what the written law says but also on how the law functions in practice. It always has to be the choice of the individual woman if she is ready to go through a legal process with all it involves and take the consequences afterwards.

¹¹¹ see section 4.2.3 "Using the Legal System"

¹¹² c.f. section 4.2.2 "Rights" & 4.2.4 "Possible Attitudes ..."

¹¹³ c.f. section 4.2.3 "Using the Legal System"

¹¹⁴ see section 4.1.1 "Power, Truth ..."

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