

August 28, 2014

Dear Mr. Manning,

This letter is in response to your request for my opinion on the status of women in domestic relationships in El Salvador. You asked me to answer the following questions:

- (1) What is the cultural and sociological context of domestic relationships in El Salvador and women's role in those relationships?
- (2) How would Salvadoran society react to knowing that the male partner believed that the female partner was his personal property and as a result beat or sexually abused the female partner?
- (3) What would the Salvadoran government's official response be in a similar situation?
- (4) Would a woman who wanted to leave a domestic relationship against the will of her male partner actually be able to leave the relationship as a matter of sociological fact?

The following analysis expresses my opinion on these matters. I am a Professor in the School of Social and Family Dynamics at Arizona State University, an Affiliate at the Women's Studies Program at Arizona State University, and an Affiliate of the Department of Transborder, Latino/a & Chicano/a Studies. I was a Senior Fellow at the Immigration Policy Institute, American Immigration Council, in 2012-2013. There, I wrote a report on immigrant women as they go through the legalization process and I am currently a member of the National Academy of Sciences panel on immigrant integration. I am in charge of summarizing the most important sociological research about and from Central America that the Library of Congress publishes every two years. I teach courses on research methods, immigration and gender violence.

My doctoral dissertation was on the topic, "Salvadoran Migration to the U.S: The Dynamics of Social Networks in International Migration," and I have written a book on Salvadoran migration to the United States. I have written many articles on Salvadoran immigrant families, women and gender relations, and domestic violence. I co-edited a book on women and gender in Latin America and co-authored the chapter on migration, gender and family to be included in the Human Development Report for El Salvador, sponsored by the United Nations Development Programme. Most recently, I published a book, *Enduring Violence: Latina Women's Lives in Guatemala*, which is based on research I conducted in the region of Guatemala closest (geographically and socioculturally) to El Salvador.

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1. Cultural and Sociological Context of Domestic Relationships in El Salvador

Empirical evidence coupled with the legal framework applicable to domestic violence in El Salvador demonstrates that the country is extremely well aware of, yet broadly unable and unwilling to remedy, culturally ingrained violence against women in abusive domestic relationships. Data from the 2008 National Census of Family Health (FESAL-08) in El Salvador reported the following information:

“Of the women surveyed, 47 percent who were once married or who had lived with their partners reported suffering some form of violence during their marriages. Of the women who suffered abuse, 44 percent experienced verbal abuse, 24 percent experienced physical abuse and 12 percent experienced sexual abuse. 20 percent of the women surveyed had experienced some form of abuse in the last year. . . . The abused women reported that as a result of the violence they had pain in their head or in other parts of their body (76 percent), fears about future incidents of abuse (68 percent), or anxiety that prevented them from fulfilling certain obligations (66 percent). 37 percent reported that they were left with scars as a result of the violence.”

These data are entirely consistent with my own research and professional knowledge of the conditions in El Salvador. Violence has generally increased since the Peace Accords were signed in December 1991 and made effective in 1992. El Salvador is now ranked among the most violent countries in the world, with the second-highest homicide rate in the Western Hemisphere. The homicide rate there is roughly three times that of Mexico and 14 times that of the United States.

Violence against women, including domestic violence, has particularly increased over this time. For example, in the first five months in 2000, there were reports of approximately 41 women killed in femicide cases (the killing of females by males because they are female). According to a 2012 report by the organization Small Arms Survey, in 2011, 647 Salvadoran women were killed in femicide cases. These are only the reported cases, which are in all likelihood a significant underestimate of the actual femicide rate. This report states that with 12 femicides per 100,000 people, El Salvador is currently ranked as the country with the highest rate of femicides in the world.

The official rate of femicide between 2000-2011 ranged between 200 and more than 700 murdered women per year in El Salvador. These rates show a decade-long pattern of marked increases. The government of El Salvador has responded less than adequately and in fact may have exacerbated the problem, as I discuss below. The U.S. Department of State reported the 2012 conviction rate for domestic or intrafamilial violence as 1.5% in El Salvador (3367 cases and 51 convictions). The impunity with which El Salvador’s state institutions have reacted to the abuse, rape and killings of women serves to normalize violence and sends a message that the lives of women are expendable.

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2. Social Reaction to Domestic Violence in El Salvador

The United States Department of State 2012 Human Rights report on El Salvador concluded that violence against women, including domestic violence, was a widespread and serious problem. Laws against domestic violence were not well enforced, and cases were not effectively prosecuted. As the 2013 Human Rights report indicates, even though the law prohibits violence against women and there are penalties for a series of crimes against women, violence against women continues underreported as a widespread and serious problem. The report indicates that a large portion of the population considers domestic violence socially acceptable.

In my research examining Salvadoran communities in several cities in the United States—San Francisco, Phoenix, and Washington DC—the Salvadoran women indicated that they feel safer in the United States, that the laws in El Salvador against domestic violence do not exist or do not work, and that abuse in El Salvador is considered “normal.” They are able to make these comparisons only after they are in the United States, as in El Salvador many people do not imagine anything different from the normalization of abuse. At the same time, practically all Salvadoran men I asked about these issues said they have to be more careful with their behavior in the United States, because, as one told me: “Here these things are serious and if you only touch a woman you go to jail. You’re not in El Salvador anymore.”

Violence against women is so ingrained in El Salvador’s culture that family members and neighbors generally do not intervene to protect victims of abuse. Rather, it is more common for them to support the abuser and to think of these instances as normal within the context of marital relations. Women who attempt to complain or try to escape their abusers often face hostility from their own families, and are frequently consoled with stories of women suffering even worse abuse. They are advised that they should therefore not complain.

Most men and many women in El Salvador believe that domestic violence is normal; it is what men do. For instance, if a woman does not cook food that that husband finds tasty or does not serve him a dish just the way he likes it and the husband gets angry and hits her, this act is justified because the woman was not fulfilling expectations in the context of her marriage. The husband of a woman I interviewed had pulled the tablecloth from the table (with all the food and dishes) and thrown it to her because he found the food cold when he finally sat to eat. Thus, women must accept their role in the home, which includes accepting demands for sex and physical abuse. Women are treated as property, referred to using possessive pronouns, and when legally married instead of changing their last names to that of their husbands (as women sometimes do in other societies), in El Salvador it is customary to add the adjective “of” to indicate property (e.g., Maria “de” Perez is a woman married to a Perez). Thus, a married woman becomes “of” the husband through marriage—and she is thought of as property. This is because

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generations of women in El Salvador have suffered the same abuse and, as a result, believe this is simply part of a “normal” relationship so their daughters and granddaughters should not expect to live any differently.

Women in such circumstances suffer even worse consequences if they protest. If women attempt to escape and are caught, the abuse usually escalates because they dared to try to leave. The same is true of reporting the abuse. Such conduct is viewed as a challenge to the man’s power, and a violation of the cultural view that these are private matters between a man and woman. The result is often even-worse abuse so the man can re-impose his dominance.

Even the woman’s family members will often shun or punish her for breaking the cultural norm that she should accept her abuse as a “natural” part of the relationship. In my research I have come across cases of daughters desperately wanting to return to their parents’ home after suffering severe abuse at the hands but being told that they should go back because that is part and parcel of marriage. The mother of one of my study participants told her, “you wanted a husband, you got a husband, you must endure and don’t complain.” Thus, a woman will rationally see no benefit to reporting her abuse because her cries will likely fall on deaf ears and only enrage her abuser even more, as women in my research have indicated. For example, I know of a case in which a woman who escaped was found by her husband and forced to return. When she did return, her own mother held her down while her husband beat her with a stick to punish her for leaving.

Sometimes, women who speak up against domestic violence in El Salvador become targets for abuse themselves. There was an instance in which an activist against domestic violence was beaten and raped because of the work she does. Researchers working on a project sponsored by the Pan American Health Organization were unable to gather a group of 30 women to be interviewed about domestic violence; women were too afraid even to speak about the subject. This level of fear among women is only comparable to that experienced by many during the years of terror of the civil war, when people were afraid to speak up against the government. Those researchers were also unable to gather a group of men to discuss domestic violence; only 3 men showed up to a focus group discussion in which at least 30 were expected to participate.

In sum, Salvadoran society recognizes that domestic abuse is frequent and yet abets its persistent practice. The public is well aware that a discrete portion of the country’s female population experiences domestic violence. Deep-seated cultural norms assign these women in abusive relationships unequal status, granting the male partner impunity to engage in verbal, physical, and sexual violence.

3. Government Response to Domestic Violence

El Salvador’s government is becoming more aware of the problem of domestic violence,

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but there have not been the necessary accompanying cultural or institutional changes to address the problem effectively. Currently, the culture of violence and the subjugation of women are so ingrained that governmental efforts are simply cosmetic and have not succeeded in significantly reducing abuse. The government has not made much of an effort. Local government offices do not employ trained counselors or qualified officials to listen to complaints. Police are also not well trained in how to handle such matters. As a result, there are no real institutional or governmental resources that are available or effective in protecting women from domestic violence in El Salvador.

The United Nations' periodic review of compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) voiced concerns about pervasive violence against women in El Salvador at its session in November 2008. CEDAW also made recommendations on how to address the issue:

“[T]he Committee remains concerned at the high incidence of violence against women prevailing in the State party, notably intrafamily violence, sexual violence and abuse, rape and sexual harassment in schools and in the workplace. The Committee is also alarmed at the cases of extreme violence manifested by the murder of women motivated by gender-specific causes. Furthermore, the Committee is concerned at the weak implementation of existing provisions criminalizing violence against women, the insufficient investigations into reported cases and impunity enjoyed by perpetrators.

The Committee urges the State party to accord priority attention to the adoption of a comprehensive approach to address violence against women and girls, taking into account the Committee's general recommendation 19 on violence against women. [...] The Committee also calls on the State party to take measures to modify social and cultural attitudes which are the root causes of most forms of violence targeting women, in particular murders motivated by gender prejudice.”

The fact that the UN's periodic review of CEDAW memorialized these concerns reveals the current lack of governmental attention to domestic violence and the extent of the problem in El Salvador.

President Funes' administration responded by creating a series of programs through IDESMU (Instituto Salvadoreño de la Mujer) to raise awareness of domestic violence. Some of these programs are listed in the United States Department of State 2013 Human Rights report on El Salvador. As the report indicates, however, given the sociocultural context existing in the country, these efforts have remained minimally effective. Even though the government has increased mechanisms for reporting, and the number of reports has slightly increased, there is still an attitude that domestic violence is a private affair for a couple and that it is best to leave it to the couple to resolve.

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Even when cases are reported, a number of activists report that they are rarely investigated seriously, much less prosecuted (there is severe corruption and a general attitude that undermines prosecution). Lack of action creates a climate that is hostile to addressing the problem of domestic violence. The government's formal efforts (through laws, hotlines, creation of centers, training and awareness campaigns, etc.) are not favorable to altering in a significant way the everyday attitudes and culture of normalizing violence in the lives of women.

Nearly every country in Latin America created a law addressing intrafamilial violence in the 1990s, the majority of them following the 1994 creation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará). This regional convention establishes that violence against women constitutes a violation of human rights and calls for the establishment of mechanisms for protecting and defending women's rights in the public and private spheres.

In El Salvador, the Intrafamilial Violence Law (Ley Contra la Violencia Intrafamiliar) was passed in 1996. The law defines domestic violence broadly and is designed to prevent rather than punish physical and sexual violence, psychological violence (e.g., threats, intimidation, humiliation, isolation), and patrimonial violence (e.g., a man withholding assets or property, thereby imperiling proper care of the family). The primary mechanism of prevention under the law is for women to obtain an order of protection (i.e., a restraining order). In the best case scenario, a victim may receive an order of protection and compensation for her losses (such as payment for medical costs). Very few women are given protection orders, however, and it is rare that these are enforced. Women who take this route do so with the serious risk of angering an aggressor whom the police will not be able to stop from retaliating against her. It is also very possible that the man may bribe the police, given the high levels of corruption in the country.

The Intrafamilial Violence Law law does not function, in practice, to prevent domestic violence. The National Police and family judges, some of the authorities responsible for enforcing the law, have been criticized for their ineffectiveness and in some cases for siding with the aggressor rather than with the victim.

Article 200 of the Criminal Code provides for punishing acts of domestic violence. However, criminal prosecution can only take place under a narrow range of circumstances, such as the victim having severe injuries (like bruises that last five days or longer), or when the aggressor is a repeat offender. Some of these obstacles formalize gender biases that prevent justice-system agents from appropriately applying the law. There is also confusion about the law's applicability within the court system and judges rely on the Intrafamilial Violence Law instead of the Criminal Code in cases where both should apply. This contributes to a lack of punishment and impunity for aggressors.

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The most recent law addressing violence against women is the Special Integral Law for a Life Free of Violence for Women (Ley Especial Integral para una Vida Libre de Violencia para las Mujeres), passed in 2012. It mandates that the government systematically address various forms of violence against women. However, given the weak enforcement of existing laws and sustained practices within the police and judiciary that continue to blame women for violence committed against them, this law has not been implemented as written.

When applying these laws, police and courts most often encourage or pressure women to reunite and reconcile with their abusers through mediation at the expense of protecting women. For example, a women's advocate provides a detailed description of police failures to implement the Intrafamilial Violence Law:

“The [Intrafamilial Violence Law] requires the police to file an incident report with the court that includes the victim's testimony and relevant documents....However, instead of telling the victim about her rights, the police often interrogate the victim and blame her for the violence. Though the law requires the police to escort the victim home to retrieve documents for her case and to the hospital to receive medical treatment, this rarely occurs in practice because officers claim that there are no available vehicles or there is not enough money for gasoline. If these steps are not taken, it is unlikely that the case will end up in the court where the woman can obtain protective measures.”

Indeed, in El Salvador, mediation – a court-mediated attempt to reunite victims with their aggressors – is far more common than prosecution. This is commonly known as a “joke” among women in El Salvador and more often serves to reinforce the power of men in the household. Rather than men being punished for their abuse, the mediation process serves as a way of teaching women how to cope with an abusive man. América Romualdo provides an example of how mediation (which she calls “conciliation”) can endanger women:

“[S]ocial norms requiring women to submit to men often pressure victims to enter binding agreements that actually endanger them. Conciliation generally concludes only once the man finally promises to not commit further acts that were the basis for the requested conciliation. However, domestic violence is cyclical, and male aggressors rarely keep their promises. Despite this tendency, risk assessment to determine the likelihood of future abuse and violence is not part of the PGR [Procurator General of the Republic] conciliation process. Furthermore, the PGR operates with the mission of reconciling and uniting families. PGR officers thus confuse the [Intrafamilial Violence Law] mandate of ‘conciliation’ with a theory of ‘reconciliation.’ Instead of attempting to secure an agreement from the aggressor to desist with his abuse, PGR personnel often effectively pressure women to continue relationships with abusive partners.”

Most Latin American countries send offenders to civil or family courts rather than criminal ones. They insist on “reconciliation” or “mediation” as a first step in the legal

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proceedings, privileging the family unit over the rights of abused women. As one analyst has noted, proceeding in this fashion renaturalizes “domestic violence by implying that a couple can, or should, be reconciled even when one systematically abuses the other.”

A lawyer I met in the course of my research explained that even though the government has now created offices throughout the country with officers dedicated to take declarations of violence against women, these are not effective because the attitude and culture at large have remained unchanged. Thus, it is very rare for men in El Salvador to be arrested for allegations of domestic violence, and it is even rarer for such men to be prosecuted or jailed. Such cases are so few and uncommon that they are reported in local newspapers. During one of my research projects, I interviewed a Salvadoran woman in Phoenix, Arizona, who laughed when asked if she ever thought of calling the police about domestic violence. In her words, “The police? Who would think of calling the police back there [in El Salvador]? If you called them they’d think it’s a prank and they won’t even bother coming! No one does that. Everyone will laugh if a woman calls for help if her husband is beating her.”

The Salvadoran government is incapable, and in large measure unwilling, to take meaningful remedial action against domestic violence and its perpetrators.

4. Can a Woman in El Salvador Flee an Abusive Relationship?

Based on my knowledge of relevant country conditions, it is my opinion that if a domestic violence survivor returns to El Salvador, it is likely that her abuser will find her. El Salvador is a very small country. I wrote a book on the social networks of Salvadorans and learned through my research how extremely efficient informal networks of friends and family are in the dissemination of information. Word quickly spreads when a family member or friend returns to the country. It would be quite easy for an abuser to locate his ex-partner, even if she were to return to another city or another region of the country.

First, it would be almost impossible for a returning woman to find work, rent a dwelling, and establish herself in another city independently of her family because the country’s economy is unstable and weak and does not generate jobs that permit people to support themselves easily without the support of family (a recent World Bank report notes how seriously El Salvador was hit by the global economic crisis). And, second, social networks are wide and dense in this small country and everyone seems connected. Even bus drivers know who comes and goes to a town, and they can easily divulge the whereabouts of someone who is being sought, particularly if they are bribed. During the course of fieldwork I discovered how efficient bus drivers are at obtaining and disseminating information about their passengers, whom they tend to know. An unfamiliar face is quickly spotted.

Even after having been away for some time, a woman who was once her abuser’s partner

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is understood socially as never having extinguished his right to exercise dominance over her. The level of abuse will likely be worse than before. Abusive men are almost always furious at women who try to escape them. An abusive man “loses face” and his dignity when a woman dares to challenge his dominance, especially if the woman temporarily succeeds by leaving. But if the woman returns, she is made to “pay back” what she took from him, in order to restore his manhood. He will often punish her to the fullest extent he can. It is not uncommon for men to kill women who fled but returned. Severe beatings that can be fatal are often viewed culturally as justified because the woman “abandoned” the man and her children.

A survivor would not find protection or assistance. Commonly, the woman’s family and neighbors will not intervene because the socially accepted norm is that they are not to get involved in such matters. A woman is supposed to stay with her man and children and the customary reaction is that she deserves punishment if she abandoned them. Moreover, as outlined above, protection from the government simply cannot be relied upon.

Please feel free to contact me for any further consultation.



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