

# ACCESS TO JUSTICE AND THE RIGHT TO DEMOCRATIC PARTICIPATION OF VICTIMS OF DOMESTIC VIOLENCE. FROM NORMS TO EMPIRICS

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**Abstract:** This study employs a sociolegal approach to examine the relationship between access to justice and democratic participation by exploring both legal frameworks and the lived experiences of domestic violence victims. Analyzing international and domestic laws—including the legal empowerment approach—and conducting 54 in-depth interviews with victims, the research reveals that although progressive legal norms exist to promote participation in policy processes, these remain largely unknown and underutilized by the affected individuals. Instead, victims often engage in peer-to-peer legal empowerment, sharing rights information within their networks. The findings underscore the need for enhanced rights awareness campaigns and more accessible legal information to foster meaningful democratic engagement among vulnerable populations.

**Keywords:** Sociolegal studies, Access to justice, Legal empowerment, Democratic participation, Victims of domestic violence, In-depth interviews.

## 1. INTRODUCTION

Access to justice is a fundamental human right and serves as a vehicle through which individuals can assert other rights and freedoms (Lorenzetti, 2008). It is also a critical driver for achieving the Sustainable Development Goals (SDGs) by laying the foundation for democratic participation and accountability (Marotta, 2018). For instance, SDG 16 emphasizes the need to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable, and inclusive institutions at all levels,” highlighting access to justice as both a universal right and a key mechanism for societal progress.

When individuals have effective access to justice, they are empowered to engage with the state, demand the enforcement of their rights, and hold institutions accountable. In the context of SDG 5, for example, ensuring that women can live free from discrimination and violence hinges on both awareness of their rights and the availability of accessible legal frameworks. Here, the concept of legal empowerment becomes essential. As Bruce *et al.* (2007) argue, legal empowerment comprises three core elements: (i) empowering individuals to understand and claim their rights, (ii) developing a responsive system that facilitates these claims, and (iii) maintaining an inclusive judiciary. This approach not only enhances access to justice but also promotes active participation in democratic processes.

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Democratic participation itself is a fundamental right, providing formal channels through which individuals can influence public policy and hold the state accountable. However, merely having the right to participate is insufficient if individuals lack the rights awareness and empowerment needed to exercise that right effectively. This study adopts a broad definition of democratic participation, encompassing all opportunities for individuals to shape public policy.

The legal empowerment framework particularly recognizes the vulnerabilities faced by marginalized groups and advocates for mechanisms that enable these individuals to influence policies effectively (Bruce *et al.*, 2007). Previous studies have demonstrated that when vulnerable groups are legally empowered, they gain the “legal power” necessary to initiate change, and participation in public policy becomes feasible once individuals possess both the requisite understanding and the appropriate channels for engagement (Jablkowski, 2007)

In addressing issues of gender-based violence, the Convention on the Elimination of All Forms of Discrimination against Women frames violence against women as a discriminatory act rooted in historical power imbalances (CEDAW, 1981). The concept of gender discrimination is understood to be based on the historical unequal power relationship between men and women. This unequal relationship manifests itself within the family structure and beyond (e.g. in employment). Human rights treaties and domestic laws recognize the different forms in which gender violence can manifest itself (physical, psychological, and symbolic) and in different spheres of life (domestic, organizational, media, and employment). Legal discriminatory actions against women can be carried out through the law and the actions of providers, that is, through the passive or active response of the judicial system to domestic violence (General Secretariat Organization of American States, 2007, paras. 8–10). Domestic violence is a form of gender-based violence. The Argentine law 26485 on the rights of women to a life free of violence, in its article 6, defines domestic violence against women as a form of gender-based violence that is “perpetrated against women by a member of the family group, regardless of the physical space in which it takes place, and that damages the dignity, well-being, physical, psychological, sexual, economic or patrimonial integrity, freedom, including reproductive freedom and the right to the full development of women. The family group is understood to be that which arises from kinship by consanguinity or affinity, marriage, *de facto* unions, and partnerships or courtship. It includes current or terminated relationships in which cohabitation is not a prerequisite.” This is the definition that will be followed in this study.

By examining both legal provisions and empirical insights from interviews with domestic violence victims, this study explores how access to justice can enhance the democratic participation rights of these individuals. In doing so, it illuminates the pathways through which victims can engage in the policy process to address their needs and safeguard their rights.

## 2. METHODOLOGY

This study employs a case study design to explore how victims of domestic violence exercise their right to democratic participation through access to justice. The City of Buenos

Aires was selected as the case study site due to its recent judicial reforms and modern constitutional framework, which provide a unique context for examining legal empowerment.

The research utilizes a deductive–inductive approach based on the theoretical framework proposed by Bruce *et al.* (2007). Initially, the study applies established legal empowerment components to formulate theoretical expectations. It then adapts these expectations inductively by analyzing empirical data gathered from victims of domestic violence.

The applicable norms to the City of Buenos Aires were studied following the hierarchical structure incorporated by the National Constitution of Argentina (that is, 1<sup>st</sup> Constitutional law, 2<sup>nd</sup> Federal law, 3<sup>rd</sup> City law). Constitutional law includes the National Constitution of Argentina and international human rights treaties. The National Constitution gives the value premises under which Argentine society is formed. Human rights treaties, incorporated in the National Constitution in 1994, recognize and extend rights to the people (Gelli, 2004, pp. 591–597). The federal domain is represented primarily by law 26485 on the right of women to live free of violence. Law 26485 incorporates principles and standards set up by human rights treaties and offers a holistic approach to gender-based violence (Medina *et al.*, 2013).

Primary data were collected through 54 in-depth interviews conducted at the Public Prosecutor's Office of Buenos Aires (see Annex 1. Characteristics of the Sample). These interviews, undertaken between 2012 and 2014, were structured to capture both the legal experiences and personal perceptions of victims regarding their access to justice and subsequent participation in the policy process. To ensure the robustness of the findings, thirty-one victims were interviewed twice with a six-month interval between sessions. This design allowed for a deeper exploration of changes in participants' legal awareness and engagement over time.

Interviews were conducted using open-ended, non-leading questions to minimize bias and capture genuine insights. The discussions focused on how victims understood their legal rights, the information provided by legal organizations, and the extent to which they felt empowered to participate in democratic processes. The data were then analyzed using a content analysis approach (Bryman, 2012; Graham R Gibbs, 2013; Rubin & Rubin, 2012; Yin, 2009). NVivo software facilitated systematic coding of both pre-selected and emergent themes, enabling the identification of key patterns related to legal empowerment and democratic participation.

Overall, this mixed deductive–inductive approach provides a comprehensive understanding of both the normative and empirical dimensions of legal empowerment among victims of domestic violence, as well as insights into how legal organizations and public policies might be reformed to enhance democratic engagement.

### **3. THE RIGHT TO ACCESS TO JUSTICE AND TO DEMOCRATIC PARTICIPATION**

Legal empowerment is an approach to access to justice (Macdonald, Roderick A., 2010; Marotta, 2017), that focuses on enhancing individuals' capacities to actively

engage in conflict resolution and take control over issues affecting their lives (Van De Meene & Van Rooij, 2008, pp. 6–8). This approach is seen as a transformative pathway that strengthens individuals' agency, freedoms, and capacity to exercise their rights (Gramatikov & Porter, 2010). The legal empowerment approach to access to justice suggests that normative developments can mitigate barriers to community autonomy, self-reliance, and democratic participation (Friedmann, 1992). By addressing these barriers, legal empowerment contributes to an environment where individuals are better equipped to participate actively in policy processes. However, for meaningful participation to occur, norms must establish mechanisms that genuinely allow individuals to voice their concerns and influence decisions (Bruce *et al.*, 2007).

The theoretical framework proposed by Bruce *et al.* in 2007, presents a framework to measure legal empowerment, consisting of four interrelated components: rights enhancement, rights awareness, rights enablement, and rights enforcement. Rights enhancement pertains to developments in norms and legal organizations that provide vulnerable groups with channels to influence the policy process. Rights awareness encompasses the cognitive aspect of the framework, emphasizing the need for individuals seeking justice to recognize their rights and the means to exercise them; this is often seen as the “foundation of legal empowerment” (Bruce *et al.*, 2007). Rights enablement involves the mechanisms available for individuals to effectively utilize their rights, while rights enforcement examines the norms governing how these rights can be executed, including mechanisms for applying the norm to specific situations. The cyclical relationship among these components suggests that individuals who achieve legal empowerment are more likely to engage in democratic participation, potentially becoming active members of bottom-up movements and participating in policy. Consequently, the legal empowerment approach positions the right to democratic participation as a vital outcome, assuming that those who gain legal empowerment will tend to participate in the policy process (Bruce *et al.*, 2007).

Some argue that the concept of democracy can be coined back to ancient Greece times meaning “rule by the people” (Boryczka, 2008). In current times, democracies have “three basic political institutions: a national parliament composed of elected representatives, and popularly chosen local governments that were ultimately subordinate to the national government” (Dahl, 2020, p. 17). The democratic systems allow for power distribution reducing abuse and inviting for broader involvement. Hence, democratic governments have slowly opened their array of who can participate, making democratic participation more inclusive. As such, international and domestic laws acknowledge the possibility for different groups to participate and present different ways in which people can participate in policy decisions, besides the traditional way of delegation of power through the vote. For example, the Treaty of Lisbon enhances citizens' participation and protection for increased efficiency and transparency (*The Treaty of Lisbon | Fact Sheets on the European Union | European Parliament*, 2024).

Democratization also exists within different sectors in government. For example, the democratization of the judicial system has been essential for achieving equitable enforcement. For instance, gender quota laws and trial by jury, as established by the

Argentine and City constitutions, promoted diversity within the judicial system, thereby reflecting the varied interests of society (Medina, 2009). In addition, political parties serve as crucial intermediaries between the populace and power, providing opportunities for individuals to engage in the legislative process by presenting policy suggestions (Ley Orgánica de los Partidos Políticos, 1985).

The exercise of the right to access to justice and the right to democratic participation relies heavily on access to information and education, which cultivates awareness and can ignite a desire for social change through available democratic tools. The right to information is considered a needed tool for free participation in society (General Comment No. 13, 1999). Furthermore, this right is considered closely related to the recognition of other rights allowing people to make informed and free decisions in every sphere of life (Medina *et al.*, 2013, pp. 441–52). The right to education also plays a crucial role in fostering democratic participation by creating awareness and promoting critical minds (General Comment No. 13, 1999; La Nación, 2015). Education, recognized as an intrinsic human right by legal provisions, serves to exercise other rights. As such, the educational system plays a crucial role in fostering democratic values, equality, non-discrimination, and civic responsibility. These principles are reinforced by human rights treaties (Gelli, 2004, pp. 110–115).

Education empowers individuals to interpret and utilize information, which is critical for free societal participation (General Comment No. 13, 1999) and contributes to having an active citizenry to contribute to societal progress (Gelli, 2004, p. 441). The *right to information* is intrinsically linked to the right to education; only an informed individual can engage meaningfully in civic life. Within the legal empowerment framework, information is viewed as a catalyst for awareness and motivation to participate in social change. The principle of free association is pivotal in the legal empowerment approach, recognizing the importance of collective action among individuals with shared interests to drive democratic engagement. Freedom of expression facilitates democratic processes by promoting public debate on matters of interest and enabling citizens to critically evaluate different political options. Furthermore, federal measures have been implemented to enhance gender equality in democratic participation (General Secretariat Organization of American States, 2007, para. 115).

Ultimately, the guiding right to democratic participation signifies the opportunities provided by legal provisions for individuals to engage in the policy-making process. As noted by Bruce *et al.*, legal provisions must empower vulnerable groups to influence policy formulation, ensuring that their needs are reflected in legal frameworks. Participation in the policy process is contingent on individuals' understanding of their rights and access to channels for engagement. The subsequent analysis will explore the legal avenues available for victims to express their voices as integral members of society.

The inclusion of legal provisions and design of organizations to ensure democratic participation can lead to legal empowerment which manifests as an enhancement of autonomy in community decision-making, self-reliance, and social learning, ultimately resulting in participation in the policy process (Bruce *et al.*, 2007;



Marotta, 2017). Therefore, access to justice can offer mechanisms (through accurate laws and organizations) for individuals to express their voices and participate in the policy process (Bruce *et al.*, 2007). Moreover, laws that incorporate mechanisms for consulting people about their issues can mitigate obstacles to exercising rights, such as addressing gender inequality and biases, and ensuring the simplicity of legal terminology to enhance understanding among vulnerable groups (Bruce *et al.*, 2007, pp. 12, 20–21, 35; Van De Meene and Van Rooij, 2008, pp. 9–11; Macdonald, Roderick A., 2010, pp. 512–13). Additionally, norms that allow for active participation in legal proceedings can enhance individuals' chances of retaining "possession" of their conflicts and finding appropriate remedies (Christie, 1977, pp. 1–2). This emphasis on understanding rights, particularly through simplified legal terminology, is essential, given the documented relationship between comprehension and the ability to exercise rights (Bruce *et al.*, 2007, pp. 20–21, 35; Van De Meene and Van Rooij, 2008, pp. 9–11).

The American Declaration of the Rights and Duties of Man underscores the people's right to participate in the policymaking process, with direct communication with the government deemed essential. Traditionally, individuals engage in political processes by exercising their rights to vote, join political parties, assemble, and demonstrate (Gelli, 2004, p. 322). At an international level, the American Convention on Human Rights, "Pact of San José," reinforces citizens' rights to participate in governance, including the right to be elected and to vote freely (Article 23.1 and 1.c). The right to vote was first limited to men, and with time, this right has been democratized and extended to other groups. For example, New Zealand granted women the right to vote in 1893, becoming the first nation to do so (*World suffrage timeline*), and Argentina granted political rights to women in 1947. Affirmative actions has been another means to democratize the public policy process, and a number of constitutions further promotes equality through affirmative action (example, the Constitution of the United States, fourteenth amendment, and the Constitution of Argentina, art. 37) (Gelli, 2004, p. 956; Krstic, 1997).

In Argentina, several mechanisms have been introduced to strengthen democracy (Gelli, 2004, p. 728), including the ombudsman as a means for citizens to voice concerns, public hearings for community engagement, and the establishment of neighborhood booths to involve the community in public safety policies. The City Constitution of Buenos Aires, for example, advocates for "participatory democracy," mandating that all governmental acts be public (Constitución de La Ciudad, 1996, Article 1). The provisions at the city level offer additional avenues for citizens to engage politically, including the right to vote (art. 62), to form or join political parties (art. 61), to be elected (art. 61-62), and to hold representatives accountable (art. 67). Scholars argue that these provisions empower the electorate as a fourth branch of government (Gelli, 2004, p. 901). The City Constitution also adopts trial by jury, promoting an adversarial system (Arts. 13.3 and 81.2). However, criticisms arise regarding the Code of Criminal Procedure for Buenos Aires, which has yet to incorporate this mechanism, reflecting outdated and anti-democratic ideals (Cevasco, 2009, pp. 55–58), see Table 1. Summary Legal Mechanisms.

Table 1. Summary Legal Mechanisms

SUMMARY OF LEGAL MECHANISMS AVAILABLE FOR VICTIMS TO PARTICIPATE IN DEMOCRACY		
NATIONAL CONSTITUTION	CITY CONSTITUTION	LAW 26485
Right to Vote (Art 37)	Right to vote (Art 62)	The Right to Active participation in Legal Procedures (Art 16g)
Right to Constitute or be Part of a Political Party (Art 38)	Right to constitute or be part of a political party (Art 61)	
Right to Assemble and to Demonstrate (Art 14)	Right to be elected (Art 61-62)	
Semi-direct Participation (Art 39)	Political Rights and Citizenship Participation (Art 61)	
Popular Consultation (Art 40)	Right to Communicate, Request, Disseminate, and Receive Information Freely (Art 105)	
Principle of Publicity (Art 1)	Right to Expression (Art 12)	
Right of People to Teach and to Learn Art 14)	Recommend Communication between the Electorate and Public Administration (Art 19)	
Right to Information (Art 38, 43)	Hold the State Accountable (art 67)	
Right to Freely Associate (Art 14)	Right to present bills before the Buenos Aires Congress (Art 64)	
Right to Freedom of Expression (Art 14)	Right to be Called for Public Hearings to Debate Matters of General Interest (Art 66)	
Affirmative Actions (Art 37)	Mandatory Referendums in matters Related to the Sanction, Amendment, or Derogation of Provisions (Art 65)	
Hold the State Accountable (Art 59)		

The exercise of voting rights and participation in political parties, which was recognized in the Constitution of Argentina, represent foundational avenues for democratic engagement. The Constitution of the City of Buenos Aires, introduced various channels of participation, such as ombudsman services, public hearings, and digital platforms, which have expanded opportunities for civic participation (Quiroga Lavié, 1996). The ongoing democratization of the judicial system further ensures diverse representation in policymaking, reflecting society's varied interests. However, these advancements underscore the pressing need for an educational system that equips individuals with the skills necessary to navigate and utilize these channels effectively (Marotta, 2017).

#### **4. THE WAY VICTIMS OF DOMESTIC VIOLENCE WHO OBTAINED ACCESS TO JUSTICE EXERCISE THEIR RIGHT TO DEMOCRATIC PARTICIPATION**

From a sociolegal approach, it is interesting to understand how different people relate to their right to democratic participation. Hence, this study further explores how

victims of domestic violence who obtained access to justice exercise their right to democratic participation. This is under the assumption mentioned above that as people get to know the law (legal empower people) they will have more chances to participate in the policy process. It is worth mentioning that in Argentina, law 26485 on the rights of women to a life free of violence described new tendencies on holistic approaches, giving a comprehensive remedy to women. This law recognizes the need to inform victims of their rights within the legal process, thereby promoting active participation (Ley 26485, 2009, Article 16.g). Service providers are responsible for informing victims of their rights and available resources (art. 36). Such regulations are integral to the legal empowerment framework, as they can enhance participation among vulnerable groups. Awareness of rights and options may foster advocacy for change, although such forms of participation remain underutilized.

The laws in Argentina provide options for people to participate in the policy process and exercise democratic participation on their own initiative. However, the empirical evidence shows that those options are not regularly conceived by victims even once they obtain access to justice. Only one victim participated in the policy process because she was part of a political party. This victim had two unique characteristics if compared to other victims of the sample: she was a lawyer and her area of specialization was domestic violence. She worked with domestic violence cases every day and felt committed to her clients. She worked on a bill that recommended stronger criminal penalties for the violation of preventive measures and the creation of a Ministry for the Family. This victim had a good understanding of the problems, struggles, and risks victims face when they access to justice. The results of this study observed that understanding the topic and daily relation with a subject indeed enhances the possibilities of exercising the right to democratic participation.

Legal terminology appeared as an obstacle to understanding, and brochures or written information (for example, providers reading rights to victims) were not remembered by victims. However, it can be perceived that visual tools such as the reference to TV news with images instead of words were more appropriate for effective transmission of information (for example, “maquettes” to represent a scene in the legal procedure, short stories on paper or computers to represent a scene with tips on how to present a complaint and what to do from there).

Empirical evidence shows that even when not participating in the policy process, victims legally empower other victims. They become active members by creating awareness in other victims, and therefore, other forms of voluntary associations may occur. Sharing experiences of abuse with others seems to be an element that initiates a chain of recommendations and a feeling of non-isolation. Furthermore, victims mentioned during interviews a network of transmission of information. Some victims submitted their complaints because other victims recommended them to do so. Other victims started a chain by recommending to other victims to submit a complaint.

Most of these victims were recommended to submit a complaint in general, and those who specified the place, mention the police and the Office of Domestic Violence



(a legal organization created in 2006 meant to assist victims by offering an entrance to the judicial system with a holistic approach to violence) (*OVD - Oficina de Violencia Domestica*). Interestingly, the group who did not receive a recommendation to complain stated that if they encountered someone with the same situation, they would recommend they to submit either a complaint in general, to call the toll-free number 0800MUJER, or to go to the Office of Domestic Violence. Only one victim, who was a lawyer but not specialized in family law, said that she did not know what she would recommend to someone else, but mentioned that a friend who also suffered harassment consulted a judge and was told to *pose a (verbal) threat on him, but not to submit a complaint*. The judge mentioned to her that he was reluctant of the possibility of the police and the judicial system to contribute to the resolution of cases of harassment.

Legal documents record the social environment of victims to assess their vulnerability to being abused and indicate that all victims, except two, have support provided by others. These numbers might say something about the characteristics of victims who submit complaints: most have affectional support. Victims refer to social networks that know about the situation they are living in and that can assist them in case of need. These social networks encompassed family, friends, psychologists, lawyers, and/or colleagues. During the second interview, victims were asked again about their social networks with a question related to the extent they spoke to or received support from someone during the months between the first and second interviews. Victims expressed talking with colleagues about their complaints, building a new group of friends,<sup>2</sup> talking to former friends,<sup>3</sup> and talking to family members.<sup>4</sup> Therefore, there is evidence to state that those victims who access the Public Prosecutor's Office share information with their social network.

Victims also show themselves to be sensitive to what happened to other victims. They were asked what they learned or what surprised them the most from their first meeting at an access point (that is, the police station, Office of Domestic Violence, and Public Prosecutor's Office). Many who access through the Office of Domestic Violence mentioned that what surprised them the most was the number of women suffering the same problem. Victims recognized that as a learning experience. This sentiment may also result in participation in the policy process if those victims preserve their interest and find the opportunity to group and participate.

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<sup>2</sup> A Victim expresses talking to new friends who live in the same welfare shelter and who also experienced violence, V2, 007; another victim lives in a hotel and expresses that her neighbors help her as she helps them, they support each other, V2, 039.

<sup>3</sup> A Victim expresses having 2 friends in the province of Buenos Aires and that she spent Christmas with one of them, though the victim was evasive in answering why she went to her friend's house to spend Christmas. According to legal documents, the neighbor who was called to testify stated not wanting to get involved any more in the violence because the situation repeats over and over, V2, 027; and finally another victim explains how she re-established communication with her friends after the relationship with the accused ended, V2, 052.

<sup>4</sup> V2, 029 (receives help from her son); V2, 007 (talks with her father); V2, 006 (shares her problems with a brother in Paraguay, with the mother of her granddaughter, and with her 11-year-old granddaughter); V2, 052 (receives support from her mother).

The actions above mentioned are evidence of the enhancement of legal empowerment in victims and can have the potential to trigger participation in the policy process through voluntary associations. Nevertheless, no victim expressed a desire or even the contemplation of associating with other victims. One victim, however, expressed a general desire to work with other victims and to help them with their problems. There is a potential that these victims find their way to participate in the policy process if the compromise increases or if spaces that allow for and boost connections are provided (for example, an App). Technology can become the most effective and inclusive tool to facilitate the communication of legal organizations with people and of people with peers.

Sharing experiences with peers and learning about the struggles of others could be deemed as social rights awareness nourished by the actions of others. This can be concluded after understanding that victims perceived the waiting room as a space where they learned that other women face similar situations.<sup>5</sup> They expressed that in the waiting room, they realized that they were not the only ones encountering such a problem. Some victims even perceived a sense of belonging to a group and many victims mentioned how it surprised them to see the number of women in the waiting room. Therefore, the characteristics of the waiting room (that is, the peer-to-peer transfer of information or “the peer-to-peer legal empowerment”), seem to be another powerful tool to trigger democratic participation. Policy initiatives that create for victims a space of reunion, and reflection, and offer a chance to create a network, could enhance democratic participation through legal empowerment.

The social rejection of violence expressed by the media also showed itself to be part of the process of rights awareness. The social network of victims is also perceived as a transmitter of media information, legal information, and personal experiences. For example, a victim explained that she learned from her daughter that in Bolivia there were also demonstrations made by women requesting jail sentences for men who perform acts of physical violence. Another victim explained that her sister is a lawyer and explained her rights, though she still could not recall them. A different victim mentioned that nothing specifically surprised her about the meetings with legal organizations because two friends experienced a similar situation and shared with her the steps they followed and how they felt. Victims who received information via their social network were perceived more confident towards the legal procedure. As explained by a victim speaking about how her conversation with the ex-girlfriend of the accused reaffirmed her in the decision to submit the complaint,

*I cannot do this alone. I need a battalion of people behind me to help me, because one alone cannot do it. And the ex-girlfriend [of the accused] told me that I was right, that the only way to end a relationship with him was through this way [that is, referring to the complaint], right? Not by talking.*

Participation in the legal procedure is a sign of someone who is gaining legal empowerment. However, this study observed limited participation. Victims showed not to feel entitled to

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<sup>5</sup> The Office of Domestic Violence incorporated some innovative ideas in their waiting rooms (for example, a TV) and also considered including storytellers.

request action from the legal organizations. After victims submitted the complaint, they become passive and wait for the legal organization to call and instruct them on what to do. It was rare the case that a victim felt entitled to request for action. Only one female victim expressed walking to the civil court to request updates on her case, and the only male victim of the sample expressed doing walk-ins at the Public Prosecutor's Office to request updates. The lack of participation is linked to the lack of digestible information provided to victims regarding their role in the process.

These empirical observations on the lack of participation of victims in the legal procedure and in the policy process could be also explained by the role victims perceived as having in these processes. Victims were asked, during first interviews, an open-ended question to understand how they positioned themselves in the problem. For this purpose, they were asked on whom they thought the solution to their problem depended. The categories mentioned in Table 2 were identified in their answers.

Table 2. Solution to Problems

WHO DO YOU THINK THE SOLUTION OF YOUR PROBLEM DEPENDS ON?					
JUDICIAL SYSTEM	ME & ...	HIM	ME	JUDICIAL SYSTEM & ...	POLICY DESIGN
14	15	10	9	1	1

As reflected in Table 2, most victims, during the first interviews, believed that the solution to their problems to some extent depended on them ("Me and ..." and "Me"). Victims who stated that the solution solely depended on them ("Me") were followed in number by those who believed that the solution depended only on the judicial system ("Judicial System") and only on the accused ("Him"). Lastly, one victim believed that the solution to her problem depended on the judicial system and someone else ("Judicial System and ..."); while another victim believed that it depended on the way policies were designed ("Policy Design").

The victims who mentioned that the solution to their problems depended solely on themselves referred to the performance of activities to seek help such as materializing the initial motivation to act (that is, submitting complaints) and their capacity to keep up with the legal procedure, by responding to the different requirements of organizations. Some victims learned that it also helps to both control the emotional element by being less nervous and to make deeper decisions on the type of life they want to have *as hinted by my psychologist*. Another victim focused her answer on the accused, stating that it depended on her capacity to show the accused that her intentions were not to confront but to solve the problem.

Some victims were asked a closed-ended question during second interviews to determine to what extent they thought that what happened in their legal procedure up to that date depended exclusively on them. No victim perceived themselves as an important part of the legal procedure. Some stated that to some or to a large extent it depended on them, because they *dared* or *had the courage* to submit complaints and exteriorized

domestic violence. Other victims expressed that it depended on them to the extent that they had to perform what was needed and provide the needed information, some with the help of lawyers.

Several victims did not place themselves within the spectrum of factors responsible for the solution to their problems. This group were asked a follow-up question to understand how they perceived their role in the search for a solution to their problems. Some expressed roles that demanded personal action (for example, presenting complaints and visiting psychologists) and others expressed roles that demanded responding to requirements of the different organizations (for example, testify, present witnesses, participate in mediation, and transcribe text messages).

Submitting complaints and responding to requests by the judicial system (that is to say, participating) were by themselves acts that demanded legal empowerment. However, after this first action, even in cases where victims placed themselves as the main responsible parties for the solution to their problems, they tended to address that that responsibility was materialized by the event of submitting a complaint. None of them expressed moments in where they were participating in the process. Mostly, they remained passive after the submission of the complaint, transferring the ownership of the conflict to the legal organization.

One victim expressed that the solution to her problem depended on a change in the way in which policies are designed. She said that domestic violence policies needed to be strategically designed and implemented by the creation of a Ministry of the Family. The victim who brought the policy design factor is the lawyer—previously mentioned—who was a specialist in domestic violence cases and expressed her participation in a political party and in the development of a bill proposal to improve policies on domestic violence.

Some victims were asked (after six months) to what extent they felt in control of the legal procedure during those months. Some victims said they are handling the problems better and taking things one step at a time, while others felt in control because they are the *providers of information every time they* were called and because most of the actions depended on them. Another victim expressed being able to control her daily activities to protect herself (for example, being careful while on the street), and a different interviewee stated that she could not control the legal procedure at all because as a victim she was called mostly to check on how she was doing. These answers again show that victims do not feel entitled to participate in the legal procedure.

It can be deduced from the empirical evidence that victims use alternative forms of participation (for example, sharing information about resources). Fostering (and formalizing) these alternatives may contribute to their participation in the decision-making process. In this regard, further tools can be incorporated to translate the complexity of the law into tangible messages to enhance participation. Besides receiving information on the legal procedures to ensure participation, victims need to be given spaces composed of groups of victims who share experiences, based on the fact that victims demonstrate the ability to learn from peers, hence from a social network.

For example, blogs for victims to communicate anonymously and to schedule weekly meetings, where victims can freely participate, may promote the sharing of experiences and strategies undertaken.

This not only contributes to the legal empowerment of victims but might also trigger groups that may later participate in the policy process. Legal organizations can also contribute to the participation of victims in the policy process by fostering rights awareness. As such, Toronto has created a Witness and Victims Assistance Program and uses “maquettes” to train victims before mediation, hearings, or trials. With the “maquettes” providers recreate the real set-up, representing the physical space and the different actors and their functions that will be present during the actual event (Interview with Service Provider Canada, 2014). Also, Rotterdam, Sydney, Lima, Madrid, Delhi, are examples of cities that have released apps that are used by victims to report the location where they have been subject to sexual discrimination.<sup>6</sup>

In sum, norms have introduced a variety of forms of democratic participation, yet there are factors that need to be present for people to utilize these entitlements. This study conveys that the lack of exercise of the right to democratic participation is directly linked to reduced rights awareness and the need to increase the number of effective policies to enhance rights awareness in an inclusive manner (that is, in view of the characteristics of different individuals). This is shown by the empirical evidence that expresses a lack of understanding and participation of victims of domestic violence during their legal procedure. Additionally, this study supports that even when victims do not participate in the decision-making process at an organizational level, they do participate in the decision-making process of peers. Victims share, amongst themselves, information about their rights and about the legal organizations available to claim for rights. This result gives hints to believe that victims, with time, may become part of bottom-up movements, and through them, enforce their right to democratic participation making use of the new channels available in the norms. However, as of now, it is worth highlighting the need for the judicial system in collaboration with the executive and legislative branches, and the third sector, in implementing policies to enhance the rights awareness of those who have obtained access to justice and those in the search for justice.

## 5. CONCLUDING REMARKS

Democratic participation is an outcome of individuals who are legally empowered. Legally empowered people are assumed to increase their democratic participation when knowing the alternatives available to claim rights (Bruce *et al.*, 2007). This may eventually increase their chances to participate in bottom-up movements and engage in policy design. Appropriate mechanisms to enhance rights awareness are essential to contribute to the participation of the person who is facing the legal procedure, and to the social network of that person.

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<sup>6</sup> See for example, <https://www.plan.org.au/freetobe>, <https://mbomediawijs.nl/mediawijshheid-lessen/straatintimidatie/>.



The expansion of knowledge through the transmission of information loses its frontiers and this can be fostered with the implementation of spaces where people can meet. Legal organizations are important tools by which to make people aware of their rights by implementing proper communicational strategies. They have the means to promote rights awareness campaigns and the power to steer organizational cooperation. Therefore, legal organizations play a key role since they have the capacity to transfer information in an accurate manner to those who have obtained access to justice.

Legal organizations act as bridges for the norms and could be viewed as access points to gestate democratic participation by implementing the creation of spaces where people can gather and share information, experiences, and initiatives. Hence, even when there are recent norms to participate in the policy process, these norms remain largely unknown to and are not used by victims of domestic violence. However, victims of domestic violence share, amongst themselves, information about their rights and about the legal organizations available to claim for rights. There is a “peer-to-peer legal empowerment.” This peer-to-peer legal empowerment can derive from active democratic participation if public policies are implemented to foster a safe space for people to meet and direct channels where the state approaches people.

#### REFERENCE LIST

- American Convention on Human Rights, 123 (1978). [http://www.hrcr.org/docs/American\\_Convention/oashr.html](http://www.hrcr.org/docs/American_Convention/oashr.html).
- Boryczka, J. M. B. M. (2008). Democracy. In *The Oxford Encyclopedia Women in World History*. Oxford University Press. <https://www.oxfordreference.com/display/10.1093/acref/9780195148909.001.0001/acref-9780195148909-e-241>.
- Bruce, J. W., Garcia-Bolivar, O., Hanstad, T., Roth, M., Nielsen, R., Knox, A., & Schmidt, J. (2007, March). *Legal empowerment of the poor: From concepts to assessment*. U.S. Agency for International Development.
- Bryman, A. (2012). *Social Research Methods*. OUP Oxford.
- Cevasco, L. (2009). *Derecho procesal penal de la Ciudad Autónoma de Buenos Aires*. AD-HOC.
- Christie, N. (1977). Conflicts as property. *British Journal of Criminology*, 17, 1.
- Constitución de La Ciudad de Buenos Aires (1996). <http://www.legislatura.gov.ar/documentos/constituciones/constitucion-ciudad.pdf>.
- Convention on the Elimination of All Forms of Discrimination against Women, 13 (1981). <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.
- Dahl, R. A. (2020). *On Democracy*. Yale University Press.
- Friedmann, J. (1992). *Empowerment: The politics of an alternative development*. Blackwell. <http://books.google.nl/books?id=76VYGwAACAAJ>.
- Gelli, M. A. (2004). *Constitución de la nación argentina comentada y concordada* (2da Ed). La Ley.

- General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*. (1999, August 12). Refworld. <http://www.refworld.org/publisher,CESCR,GENERAL,,4538838c22,0.html>.
- General Secretariat Organization of American States. (2007). *Access to justice for women victims of violence in the americas* (OEA/Ser.L/V/II. Doc. 68). Organización de los Estados Americanos. Comisión Interamericana de Derechos Humanos.
- Graham R Gibbs. (2013, January 18). *How to do a Research Interview*. YouTube. [http://www.youtube.com/watch?v=9t-\\_hYjAKww&feature=youtuwe\\_gdata\\_player](http://www.youtube.com/watch?v=9t-_hYjAKww&feature=youtuwe_gdata_player).
- Gramatikov, M., & Porter, R. B. (2010). Yes, I can: Subjective legal empowerment. *Tilburg University*, 46.
- Jablkowski, R. L. (2007). Participación y ciudadanía: Implicaciones psicológicas en los procesos de participación. *Democracia participativa y desarrollo humano*, 2007, ISBN 978-84-9849-077-0, págs. 57-75, 57-75. <https://dialnet.unirioja.es/servlet/articulo?codigo=2502089>.
- Krstic, I. (1997). Affirmative Action in the United States and the European Union: Comparison and Analysis. *Facta Universitatis, Series: Law and Politics*, 1(7), 825-843.
- La Nación. (2015, February 8). *Educación, gran ausente de las campañas presidenciales*. <http://www.lanacion.com.ar/1815505-educacion-gran-ausente-de-las-campanas-presidenciales>.
- Ley de Protección Integral Para Prevenir, Sancionar y Erradicar La Violencia Contra Las Mujeres En Los Ámbitos En Que Desarrollen Sus Relaciones Interpersonales (2009). [http://www.infojus.gov.ar/legislacion/ley-nacional-26485-ley\\_proteccion\\_integral\\_para.htm?2](http://www.infojus.gov.ar/legislacion/ley-nacional-26485-ley_proteccion_integral_para.htm?2).
- Ley orgánica de los partidos político, Pub. L. No. 23.298 (1985). <http://infoleg.mecon.gov.ar/infolegInternet/anexos/20000-24999/23893/texact.htm>.
- Lorenzetti, R. (2008). Acceso a la justicia de los sectores vulnerables. In *Defensa pública: Garantía de acceso a la justicia* (pp. 61-74). La Ley.
- Macdonald, Roderick A. (2010). Access to civil justice. In *The Oxford Handbook of Empirical Legal Research* (pp. 492-521). Oxford University Press.
- Marotta, J. (2017). *Access to Justice and Legal Empowerment of Victims of Domestic Violence through Legal Organisations in the City of Buenos Aires: A Qualitative Empirical Legal Study* [Maastricht University / United Nations University]. [www.merit.unu.edu/training/theses/marotta\\_julieta.pdf](http://www.merit.unu.edu/training/theses/marotta_julieta.pdf).
- Marotta, J. (2018, April 4). Access to Justice: A Driver for the Sustainable Development Goals. *Maastricht University*. <https://www.maastrichtuniversity.nl/blog/2018/04/access-justice-driver-sustainable-development-goals-0>.
- Medina, G. (2009). El valor de las decisiones judiciales para evitar la violencia contra la mujer. Jurisprudencia de la Corte Interamericana de Derechos Humanos y Argentina sobre derechos humanos de las mujeres. *La Ley, DFyP 2009*(septiembre), 161.

- Medina, G., Yuba, G., & González Magaña, I. (2013). *Violencia de género y violencia doméstica* (1st ed.). Rubinzal - Culzoni Editores.
- OVD—Oficina de Violencia Domestica. (n.d.). Retrieved June 25, 2014, from <http://www.csjn.gov.ar/o vd/>.
- Quiroga Lavié, H. (1996). *Constitución de la Ciudad Autónoma de Buenos Aires comentada*. Rubinzal - Culzoni Editores.
- Rubin, H. J., & Rubin, I. S. (2012). *Qualitative Interviewing: The Art of Hearing Data*. SAGE Publications.
- The Treaty of Lisbon | Fact Sheets on the European Union | European Parliament*. (2024, March 31). <https://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon>.
- Van De Meene, I., & Van Rooij, B. (2008). *Access to justice and legal empowerment. Making the poor central in legal development co-operation*. Leiden University Press. [http://books.google.nl/books?id=U\\_U84FKFBBQC](http://books.google.nl/books?id=U_U84FKFBBQC).
- World suffrage timeline*. (n.d.). Retrieved November 4, 2024, from <https://nzhistory.govt.nz/politics/womens-suffrage/world-suffrage-timeline>.
- Yin, R. K. (2009). *Case study research design and methods* (Fourth Edition). Sage Publications, Inc.

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## Annex 1. Characteristics of the sample

GENDER	53 women
	1 man
AGE	Between 17 – 69 years old <sup>7</sup>
	Majority concentrated between 22 – 47 years old
INCOME	Employed $\geq$ 65%
	Retired or seasonal job $\geq$ 5%
	Without an income $\leq$ 30%
NATIONALITY	Argentinean = 84%
	Border countries = 16%
SOCIAL CONTEXT (1 OR MORE)	98%
EDUCATION	Primary incomplete $\geq$ 6% <sup>8</sup>
	Primary complete $\geq$ 12%
	High school incomplete $\geq$ 14%
	High school complete $\geq$ 20%
	Tertiary education incomplete $\geq$ 10%
	Tertiary education complete $\geq$ 10%
	University incomplete $\geq$ 16%
	University complete $\geq$ 8%
CHILDREN	80% <sup>9</sup>
MULTIPLE PROBLEMS	50% 1 <sup>st</sup> : economic problems (for example, employment, debts and credits, and housing) 2 <sup>nd</sup> : physical, psychological, and/or social problems

<sup>7</sup> The sample can be divided as follows: three victims are below 20 years of age (17-represented by her mother age 39-, 18, and 19). Thirteen victims are in their twenties (22 two, 23 two, 24, 25, 26 two, 28 two, 29 three). Thirteen victims are in their thirties (30 two, 31, 32 three, 36 two, 37, 38 two, and 39 two). Twelve victims are in their forties (40, 41, 42, 43 four, 44, 45, 46, 47, 49). Five victims are in their fifties (50, 52, 55, 57, and 59). Two victims are in their sixties (68 and 69). Six did not answer to the question.

<sup>8</sup> The sample can be divided as follows: unfinished primary education  $\geq$  6%; completed primary education  $\geq$  12%; unfinished secondary education  $\geq$  14%; finished secondary education  $\geq$  20%; unfinished tertiary education  $\geq$  10%; finished tertiary education  $\geq$  10%; unfinished university education  $\geq$  16%; finished university education  $\geq$  8%.

<sup>9</sup> The sample can be divided as follows: 27% have 1 child  $\leq$  57% have 2 children, 8% have 3 children,  $\leq$  3% have 5.3% have 7, and 3% have 9 children.