Female Victims of Intimate Partner Violence in Jujuy: the Needed Legislation and Assistance

Discrepancies between the victims’ needs and the enjoyed (legal) protection and assistance, taking the province of Jujuy as a case study

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Abstract

Although legislation and instruments exist on international, regional, national, and provincial level in order to protect women from violence and prevent, punish, and eradicate IPV, this violation of human rights continues to exist on a worldwide level. In order to prevent IPV from happening in the future, appropriate (legal) measures should be taken and the right assistance should be provided for. This master thesis will qualitatively research what kind of protection is delivered to victims of IPV and in how far they have access to it, taking the Argentinean province of Jujuy as a case study. Additionally, it will consider what type of protection is still needed for erasing this form of violence from the victim’s perspective. In order to gain insight into the protected rights and their accessibility, the Argentinean legislation on regional, national, and provincial level will be analyzed. In order to obtain knowledge about the victim’s perspective regarding the necessary protected rights, their accessibility, and the existing discrepancies, an analysis of 10 interviews with victims will be performed.
Table of Contents

List of Abbreviations .......................................................................................................................... 5

Chapter 1: Introduction ..................................................................................................................... 6
  1.1 The Case Study of San Salvador de Jujuy .................................................................................. 7
  1.2 The Working Definition of IPV ............................................................................................... 8
  1.3 The Aim of this Thesis .............................................................................................................. 9

Chapter 2: What does the phenomenon of Intimate Partner Violence include? ......................... 10
  2.1 The Four Main Types of Violence Constituting IPV ................................................................. 11
  2.2 The Five Typologies of IPV ..................................................................................................... 13
  2.3 The Structural and Personal Risk Factors for IPV ................................................................. 15
  2.4 The Consequences of IPV ...................................................................................................... 17

Chapter 3: Protection of Victims of IPV under the Argentinean Legislation ......................... 19
  3.1 Short Introduction into the functioning of the Argentinean Governmental and Legal System ...... 20
  3.2 Regional Legislation: Convención Interamericana para Prevenir, Sancionar y Erradicar la Violencia contra la Mujer ................................................................................................. 21
    3.3.1 Act 26.485 ............................................................................................................................. 26
      3.3.1.a The Legal Procedure ....................................................................................................... 29
    3.3.2 Act 24.417 ............................................................................................................................. 31
    3.3.3 The Criminal Code ............................................................................................................ 34
  3.4 Provincial Legislation: Decreto 2.965/2001 regulating Act 5.107 ............................................. 39

Chapter 4: An Analysis on the Victims’ Perceptions and Experiences .................................... 43
  4.1 Method ..................................................................................................................................... 43
    4.1.a The procedure ...................................................................................................................... 43
    4.1.b The sample ......................................................................................................................... 45
  4.2 The analyzed risk factors ......................................................................................................... 45
  4.3 Experienced IPV ....................................................................................................................... 49
4.4 The experienced consequences of IPV ................................................................. 51
4.5 Enjoyed assistance and the access thereto............................................................... 53
4.6 Other problematic issues ......................................................................................... 56
4.7 The victim’s perception on the needs ........................................................................ 58

Chapter 5: Discussion and Conclusion .........................................................................63

Chapter 6: Annex ........................................................................................................... 65

References .....................................................................................................................67
List of Abbreviations

CAIVIF  Centres of Integral Attention on Violence in the Family
CCV     Coercive Controlling Violence
CDC     Centers for Disease Control and Prevention
CIDDHU  International Clinic for the Defence of Human Rights
IPV     Intimate Partner Violence
MCV     Mutual Control Violence
OAS     Organization of American States
SCV     Situational Couple Violence
SIV     Separation-Instigated Violence
UN      United Nations
UNODC   United Nations Office on Drugs and Crime
VAW     Violence against Women
VR      Violent Resistance
WHO     World Health Organization
Chapter 1:

Introduction

Imagine that your partner does not allow you to go outside the house, beats you up, humiliates you or threatens that he will kill you in order to control you, or that he forces you to have sexual intercourse with him against your will. Such aspects are examples of acts which may be experienced by victims of Intimate Partner Violence (hereinafter referred to as IPV). Generally spoken, one of the main manifestations of violence against women (hereinafter referred to as VAW) includes such violence performed by the former or current male partner (WHO, 2002).

Although legislation and instruments exist on international, regional, national, and provincial level in order to protect women from violence and prevent, punish, and eradicate IPV, this violation of human rights continues to exist on a worldwide level. Furthermore, it is asserted that in Jujuy the number of these cases continues to increase and that the manifestations become increasingly intense and violent (as cited in Jujuy al Día, 2013). Obviously, it should be the other way around.

This master thesis will focus on what kind of protection is delivered to victims of IPV and in how far they have access to it, taking the Argentinean province of Jujuy as a case study. Additionally, it will consider what type of protection is still needed for erasing this form of violence from the victim’s perspective. In order to gain insight into the protected rights and their accessibility, the Argentinean legislation on regional (i.e. the Belém do Pará Convention), national (i.e. Act 26.485, Act 24.417 and the Criminal Code), and provincial level (Act 5.107 and Decree 2.965/2001) will be analyzed. In order to obtain knowledge about the victim’s perspective regarding the necessary protected rights, their accessibility, and the existing discrepancies, an analysis of the interviews with these victims will be performed. In the discussion, the legislation and the views of the victims will be compared in order to discover the gaps.
1.1 The Case Study of San Salvador de Jujuy

This province of San Salvador de Jujuy (i.e. Jujuy) has a total population of 673,307 people. 329,990 individuals are male and 343,317 of them are female (DIPPEC, 2010). Of the total population above the age of 10, including 548,572 individuals, 17,188 of them are illiterate; meaning a percentage of 3.1%. What is interesting here is that 11,784 of them are female and 5,404 are male (CENSO, 2010); indicating that there is a very big difference in the level of illiteracy between men and women. This is an important aspect to take into account when analyzing the access to legislation. Especially in cases of IPV, the ability to read and write is important for recruiting information on victim’s rights. Since it will help the victim in finding out where, how, and what rights and services to obtain on her own. In a situation where the female victims of IPV are illiterate, they will be more dependent upon their husband than women who are literate which is obviously not an ideal situation as the husband will do anything to control the victim.

In accordance to a report by CIDDHU: “in the province of Jujuy, the illiteracy rate among indigenous women is still two to three times higher than the national average and the Jujuy average for men” (CIDDHU, n.d.). This makes the indigenous women in Jujuy thus even more vulnerable to IPV besides being already vulnerable because of their indigenousness. This latter can be explained by the fact that indigenousness causes individuals to deal with difficulties and threats on a continuous basis including discrimination and exclusion on cultural, legal and institutional level, making it even more complicated to enjoy their rights (IWGIA, n.d.).

Besides this big difference in illiteracy among men and women, another reason why Jujuy is an interesting case study is that the cases of IPV continue to increase and only become more and more violent (as cited in Jujuy al Día, 2013). This indicates the need for improvement as it is obviously in contradiction with the aim to prevent, punish and erase IPV. Therefore, discovering existing discrepancies by help of this analysis could illustrate which changes are needed in order to combat IPV in Jujuy.
1.2. The Working Definition of IPV

An important aspect to start with in order to enable the reader to understand what IPV actually entails, is introducing the definition of it. The working definition of IPV in this thesis is derived from the definition of domestic violence against women in Article 6.a. of Act 26.485/2009. This is the national law of Argentina which protects women from violence in general. It defines domestic violence against women as:

“any action committed against women by a family member, independent of the place where it occurred, that harms the dignity; well-being; physical, psychological, sexual or economic integrity or patrimony; (reproductive) freedom; or the right to full development of women. The group of family members includes those who possess kinship via consanguinity or affinity, marriage, engagement, de facto unions, or partnership; including current or ended relationships, not requiring the condition of living together.”

Whereas the original legal definition applies to the whole group of family members, this thesis will only base itself on violence committed by the partner. Consequently, the used definition of IPV throughout this paper is as follows:

“any action committed against women by their (ex-) partner, independent of the place where it occurred, that harms the dignity; well-being; physical, psychological, sexual or economic integrity or patrimony; (reproductive) freedom; or the right to full development of women. One should be considered a partner when a relationship is established via marriage, engagement, de facto unions, or partnership; including current or ended relationships, not requiring the condition of living together.”

Besides this working definition, other important issues that should be taken into account in order to be able to prevent from future IPV include: at what point can an action be defined as violence? Which factors are to be taken into account? Does this depend on the social,
cultural or national norms in which it takes place? Or is there a Universal standard? What about the victim’s perception of violence? Some people may perceive certain behaviour to be violent while others do not. Cultural factors could be used to explain such differences.

1.3 The Aim of this Thesis

As mentioned, this thesis will try to find out what the discrepancies are between the protection enjoyed by the victims of IPV in Jujuy, and the protection actually needed by them. Each case of IPV is different due to the victim’s perspective and interpretation. Hence, it is essential to discover the gaps in order to see which improvements are to be made for fully covering the victim’s needs. Very often it is namely decided by higher authorities what kind of protection the victims need without even entering into a dialogue with them. Consequently, the protection as stated in the law, and the assistance provided for are based on speculations rather than practical experiences.

In order to investigate whether and what kinds of discrepancies exist, the main research question of this thesis is: “What discrepancies exist when comparing the rights of female IPV victims as stated in the Argentinean legislation, and the needed protection as perceived by themselves?” In addition, the question arises “What discrepancies exist between the protected rights and provided services as theoretically stated in the law, and the compliance and access thereto in practice?” This thesis tries to answer these questions by help of answering several sub-questions including: What does the phenomenon of IPV include?, What rights of the victims are protected under the law?, In how far are these accessible in practice?, and Which rights need to be protected from the victim’s perspective? Furthermore, the access to assistance and services and the enjoyment of these are important factors. In order to answer these questions, a qualitative literature research will be performed including an analysis of the applicable Argentinean legislation and of interviews held among female victims of IPV in the province of Jujuy.
Chapter 2:

What does the phenomenon of Intimate Partner Violence include?

In accordance to a report by the United Nations Office on Drugs and Crime (hereinafter referred to as UNODC), gender-based violence in general has developed itself into a public problem throughout the last 30 years. Consequently, it has become an important topic in politics worldwide (UNODC, 2011). The first time gender-based violence was considered to be in violation with human rights happened in the 1990s (Merry, 2009). Now it is one of the most important aspects in women’s human rights. Due to cultural, social and religious differences among countries and regions, various forms of gender-based violence exist. Furthermore, factors such as ethnicity, religion and age play a role in how the victims experience this type of violence. Consequently, it might be that similar forms of gender-based violence are experienced in a totally different way due to the factors mentioned (as cited in UNODC, 2011). These differences should be taken into account when establishing services and implementing legislation.

Gender-based violence includes VAW. In turn, VAW can be manifested in different ways\(^1\). IPV is one such manifestation and should be considered as the most extreme type (Jujuy al Día, 2013). It is increasingly considered as an important public health problem (WHO, 2002). According to the World Health Organization (hereinafter referred to as WHO) it includes “acts of physical aggression, psychological abuse, forced intercourse and other forms of sexual coercion, and various controlling behaviours such as isolating a person from family and friends or restricting access to information and assistance” (WHO, 2002). The severity and frequency in which IPV is performed may vary from one situation to another. Normally spoken, it occurs on a continuous basis. Such violence can start with one hit but eventually may result in chronic, severe battering (CDC, 2010). In some cases it even results in death.

As already implied, this paper will discuss IPV as a manifestation of VAW in the Argentinean legislation, taking the province of Jujuy as a case study. The fact that there will only

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\(^1\) In Argentina, the following manifestations are generally recognized: physical, sexual, symbolic, economic/patrimonial, and psychological violence (UNODC and ONU Mujeres, 2011).
be elaborated on female victims of IPV can be explained by the available data set which only includes interviews with women. Additionally, an article in the newspaper “Jujuy al Día” states that, only in the municipality of San Salvador de Jujuy, there were 1780 consultations on family violence and 846 registered cases of family violence in 2012 (Jujuy al Día, 2013). Almost all of those cases concerned family violence against women.

Moreover, the legislation analyzed focuses specifically on women, except for the legislation on provincial level. This one rather focuses on family violence in general and does not distinguish between genders.

### 2.1 The Four Main Types of Violence Constituting IPV

Whereas the Argentinean national legislation describes five types of VAW in general (i.e. physical, psychological, sexual, economic or patrimonial, and symbolic violence), Saltzman et al. (2002), distinguish between four main types of violence specifically constituting IPV.

The first one mentioned is physical violence. This type of violence is said to include “the intentional use of physical force with the potential for causing death, disability, injury, or harm.” It includes acts such as pushing, biting, choking, slapping, burning, using a weapon, and so forth.

The second category consists of sexual violence. This group can in itself be divided into three aspects. First of all, using physical force in order to make a person participating in a sexual act against her will, independent of whether the act is completed or not. Secondly, sexual violence is constituted when someone completes or tries to complete a sexual act on a person who is “unable to understand the nature or condition of the act, to decline participation, or to communicate unwillingness to engage in the sexual act, e.g., because of illness, disability, or the influence of alcohol or other drugs, or because of intimidation or pressure” (Saltzman et al., 2002). Thirdly, abusive sexual contact can be involved. This aspect is based on intentionally touching someone under the conditions as cited in the second aspect but it can also be constituted when a person intentionally touches someone against her will; being it directly or through the clothing (Saltzman et al., 2002).

Threats of physical or sexual violence form the third manifestation. They are established
via the use of words, gestures, or weapons in order to express the desire to kill, injure, disable, or physically harm the victim. The same means are used when threatening with sexual violence in order to make someone, who is unwilling or unable to consent, participate in (abusive) sexual actions (Saltzman et al., 2002).

The final category consists of psychological and emotional violence. Victims become traumatized by acts, threats of acts, or coercive tactics. This type of abuse may include among others, controlling behaviour, denying the victim access to friends and family but also to money or other basic resources, withholding information, deliberately humiliating and embarrassing the victim, and so forth. Whether these acts constitute psychological or emotional violence depends on the interpretation of the victim. In addition, the expert panel in the article by Saltzman et al. (2002) argues that psychological and emotional abuse shall only constitute an act of violence when prior\(^2\) physical or sexual violence, or the threat thereof, exist. In other words, psychological and emotional abuse shall not mean the same as psychological and emotional violence. Only the latter being types of violence constituting IPV.

Besides these types mentioned, stalking is often also considered to be an act of IPV (Saltzman, et al., 2002). Another type of violence which is often present in cases of IPV, and should therefore be introduced as well, is economic violence. Deriving from Article 5.4.of Act 26.485, the definition of economic violence as applicable to situations of IPV here includes “An act causing damages to the economic resources or patrimony of a woman via depriving her from her possession or property of goods; loss, theft, destruction, retention or incorrect distraction of objects, goods or values; limitation or control of her income; and limitation of economic resources aimed at covering the needs or the lack of essential means for living a dignified life.” As will become visible, this type of violence constituting to IPV is not explicitly criminalized in the Criminal Code even though it often plays an important role in situations of IPV.

\(^2\) “Prior” refers to a period of the last 12 months.
2.2 The Five Typologies of IPV

In addition to the types of violence described above, several typologies concerning IPV have been established throughout the years. Kelly and Johnson, in their latest research update, distinguished between five typologies. The formulation of these typologies is based on the presence or absence of control throughout a certain relationship, rather than on the frequency or seriousness of the violence.

As implied earlier, cases of IPV often result from an imbalance of power in relationships. Consequently, the husband (in this case) takes control over his wife. Hence, it is interesting to analyze how such controlling behaviour could manifest itself.

Keep in mind that physical violence, either performed by the perpetrator or by the victim, is present in all of the five typologies (Wangmann, 2011; Bogaerts, 2012). The typologies were developed with the aim to contribute to the establishment of more appropriate decision-making, sanctions, screening measures and procedures in court, and treatment and intervention programmes based on the specific types of IPV (Kelly & Johnson, 2008). This also explains why it is of importance to analyze these typologies in view of eventually discovering the appropriate protection measures for victims of IPV.

The first type of IPV is called Coercive Controlling Violence (CCV). This type is said to be the one most often referred to when talking about domestic violence (Wangmann, 2011). Besides that, Kelly & Johnson (2008) argue that agency settings (e.g. courts, shelters, hospitals, and so forth) most of the time receive victims who suffer from this type of violence. Men are mainly considered to be the perpetrators of this type of violence which they use in order to control their (female) partner (Kelly & Johnson, 2008). It includes for example intimidation, control, coercion, emotional abuse and so forth. As mentioned, all these factors are accompanied by physical violence (Kelly & Johnson, 2008).

Violent Resistance (VR) constitutes the second category. It is normally used as a reaction of the victim to Coercive Controlling Violence and hence, women are considered to be the main

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3 Formerly known as “Intimate Terrorism” (See Graham-Kevan and Archer, 2003; Johnson, 1995; and Wangmann, 2011;
perpetrators of this type of violence (Kelly & Johnson, 2008). Pence and das Dasgupta (2006) also call it resistive/reactive violence and state that the aim of it is to prevent from and/or escape future battering. Furthermore, the victim may consider it to be a form of self-protection (Pence & das Dasgupta, 2006).

Thirdly, Situational Couple Violence\(^4\) (SCV) is distinguished. It is said to be “the most common type of physical aggression in the general population of married spouses and cohabiting partners” (Kelly & Johnson, 2008). While performing this sort of violence, the perpetrator has no intention to exercise coercion or control over the other. Instead, Situational Couple Violence rather results from a certain escalating conflict or situation. Generally spoken, it is manifested to a lesser extent and does not occur on such a frequent basis. It relatively involves minor forms of violence when comparing it to Coercive Controlling Violence (Kelly & Johnson, 2008; Wangmann, 2011). Yet, it may also result in serious violence causing injury but this only happens for a small number. Still, it should not be considered as a minor form of CCV; it rather is a different type of IPV, constituted by other causes and consequences. Gender symmetry exists, meaning that both men and women are to be seen as perpetrators on an equal level (Kelly and Johnson, 2008).

The fourth possible manifestation of IPV is called Separation-Instigated Violence (SIV), referring to violence which results from traumatic experiences relating to the separation of the partners. No former history of violent behaviour exists; neither do violent actions persist after separation. It should rather be seen as violence constituted by unexpected and uncharacteristic behaviour of the perpetrator who did not perform prior violent behaviour. Think for example about throwing objects at the partner, assaulting him/her, destroying property and so forth (Kelly & Johnson, 2008). Such as in SCV, both men and women are likely to commit SIV on an equal level.

The final category includes Mutual Violent Control (MVC). As already indicated in its title, both spouses show violent and controlling behaviour in order to exercise control over the other (Johnson, 2006). Unfortunately, little is known about the phenomenon its features, frequencies, and consequences.

\(^4\) Formerly known as “Common Couple Violence” (Ibid.)
In sum it can thus be stated that Kelly and Johnson (2008) developed five typologies of IPV namely, Coercive Controlling Violence, Violent Resistance, Situational Couple Violence, Separation-Instigated Violence, and Mutual Violent Control. Each typology is based on the presence or absence of exercising control over the other partner throughout the relationship. In order to develop for example appropriate policies, screening measures and proceedings in court, and/or treatment and intervention programmes, distinguishing these five types of IPV is considered to be necessary and contributive (Kelly & Johnson, 2008). Applying these typologies to the situation in Jujuy, it appears that CCV is the most apparent in this case study. Sometimes it appeared out of the interviews that VR also took place.

2.3 Structural and Personal Risk Factors for IPV

Now the question remains, who fall victim to IPV and why? Although several risk factors are considered to increase the risk of falling victim to IPV, still there appears to be no agreement on which aspects significantly play a role and which do not. In order to provide the reader with somewhat more insight into the possible risk factors, those which seem to play a role, both on structural and personal level, will be discussed by help of different sources.

As alleged in Michalski (2005), research shows that social and demographic groups including “women, minority groups, younger individuals, those with less education, and those living in poverty or with low incomes” are at higher risk of becoming victims of IPV.

In addition, the Belém do Pará Convention calls its State Parties to pay special attention to women who suffer vulnerability due to such structural factors, including among others: their age, race or ethnic background, the deprivation of their freedom, their migrant or refugee status, as well as their socio-economic status and so forth.

The fact that the female gender in general is considered to be vulnerable is also emphasized in the Argentinean legislation, especially in the national instruments. Considering the Belem do Para Convention and the national Act 26.485, both are focused on “violence against women”. This is where the role of gender comes in. By excluding the male gender from the possibility to rely on these legal instruments when becoming a victim of (domestic)
violence, it is indirectly implied that they do not need such protection. Can this be explained by the idea that women are considered to be the most common victims of domestic violence instead of men? In turn, could this be a result of the reigning patriarchal views in Argentina including that men have the right to take control over their wife?

The provincial law 5.107 and the national Act 24.417 on the other hand, are not gender-based. They focus on provisions relating to domestic violence on family level in general. In my opinion this approach is the most preferable as there should be made no gender-based distinction in the enjoyment of victims’ rights; every human being should be treated equally at any time and any place. Still it can be argued that the reigning social idea that women are subordinated to men partly causes this gender-based focus in some applicable pieces of legislation. By removing these patriarchal views from the Argentinean society, the legislation could also be implemented in a rather general fashion.

Other structural risk factors as elaborated upon by the WHO concern risk environments. The WHO claims that women are especially prone to IPV when living in societies where explicit inequalities between men and women exist, even as fixed gender roles, cultural norms supporting a man’s right to treat his intimate partner violently, and where no appropriate policies exist in order to prevent from such violent behaviour (WHO, 2002). Moreover, Michalski (2005) argues that men behave more violent towards their female partner when they rely on patriarchal views, such as is the case in Jujuy (Jujuy al Día, 2013). These ideas include that men possess the right to control “their” women which results in attempts of “coercive control” (Johnson, 1995).

Besides the structural factors mentioned, aspects on a rather personal level can also play an important role. These include among others: the history of violence in the family of the perpetrator, employment problems (e.g. unemployment, dissatisfaction), inadequate coping strategies\(^5\), low self-esteem, drug or alcohol abuse and so forth (WHO, 2002; Alfredo Fellner et

\(^5\) Every individual deals differently with certain situations; hence, also with IPV. In order to avoid or diminish resulting psychological pain, human beings develop coping strategies as defense mechanisms. When these are developed in an inadequate way, they may not only be unhelpful, but also destructive and painful; not only for the victim herself but also for her social context. In turn, they may result in “stress-related injuries” (Mindful Occupation, 2012). How this is applicable to situations of IPV will become clear in Chapter 4.
According to the WHO, the issue whether excessive use of alcohol (or drugs) should be considered as a causal factor or as an excuse remains debatable (WHO, 2002).

In contradiction to what has been argued above, there exist others who argue that such findings on risk factors are inconsistent and that most of these social and demographic aspects are not always in correlation with IPV (Michalski, 2005). This might be true, but in my view such alleged inconsistencies can be ascribed to the fact that every case of IPV is different, which is also indicated by the interviewed victims. This can be explained by the influence of different risk factors as is already visible in the five typologies of IPV: they all depend on different causes and consequences. Furthermore, cultural and social norms and values play an important role in constituting IPV (think for example about patriarchal views), as well as the victims’ and perpetrators’ interpretation of the situation and their resulting behaviour. Taking all these factors together, the intersection of them explains why it is logical that such inconsistencies arise. Another factor which may explain these variations is the use of inappropriate or inconsistent measurements.

Practically spoken, it would be very helpful if there could be distinguished between particular risk factors applicable to cases of IPV in for example specific social groups, areas, or cultures. By doing so, it will become easier to develop appropriate policies and intervention programmes, such as was the aim of distinguishing between the five typologies of IPV. Due to the intersection between the factors it might be difficult to map concrete risk factors constituting IPV in specific cases. Nevertheless, by help of investigations on the causes, nature, severity and consequences of IPV, such as promoted in the Argentinean national law, more insight will be gained in the cases of IPV, which is necessary for designing appropriate measures and assistance.

### 2.4 The Consequences of IPV

Obviously, IPV may have several consequences for the surviving victims, their children and family, and the social network and community of the person suffering. This last section will close the chapter by discussing how dangerous this type of violence can be. For the sake of specification there will only be focused on the consequences for the direct female victims of
First of all, IPV can cause direct and indirect physical health problems both on the short and long term. Examples are: (immediate) physical injuries (e.g. bruises, knife wounds, headaches and so forth), gastrointestinal disorders, chronic pain syndromes, cardiovascular disease, and so forth (WHO, 2002; CDC, 2012).

In relation, IPV can cause problems concerning reproductive health, such as gynecological disorders, sexual dysfunction, premature labour and birth, unwanted pregnancy, as well as sexually transmitted diseases including HIV/AIDS.

Since physical violence is commonly combined with psychological and emotional abuse (Tjaden and Thoennes, 2000), physical health problems are often accompanied by mental health problems. They include among others: anxiety, depression, suicidal behaviour, sleep disturbances, symptoms of PTSD, and low self-esteem (CDC, 2010). Furthermore, victims may become socially isolated.

Such problems could again lead to economic consequences. They can for example influence the job performances of the victim (e.g. a decrease in her productivity) which in turn will affect her ability to continue her profession and eventually her financial income when she suffers job loss (JHSPH, 2007). Consequently, the woman becomes economically dependent on her husband, if he did not make her financially dependent already (e.g. by controlling her expenses or prohibiting her to work). Moreover, victims of IPV are said to participate in a higher number of surgeries, doctor visits, and hospital stays in comparison to women who did not experience any form of IPV (WHO, 2002). This obviously also involves higher costs for the victims, especially in case these are not covered by their insurance.

Finally, the most severe consequence that may result from IPV is death. According to the WHO, it appeared from research that of the female murder victims in general, 40 – 70% becomes victim of murder by their spouse or boyfriend as a result of a relationship including continuous abuse (WHO, 2002).

To what extent these consequences are taken into account when protecting victims by the law will become visible in the analysis of the Criminal Code.
Chapter 3:

Protection of Victims of IPV under the Argentinean Legislation

After having completed an analysis on the phenomenon of IPV, this chapter continues to elaborate on how victims of IPV are theoretically protected under Argentinean legislation. Again, IPV is to be understood here as:

“any action committed against women by their partner, independent of the place where it occurred, that harms the dignity; well-being; physical, psychological, sexual or economic integrity or patrimony; (reproductive) freedom; or the right to full development of women. One should be considered a partner when a relationship is established via marriage, engagement, de facto unions, or partnership; including current or ended relationships, not requiring the condition of living together.”

The following section will first elaborate on the functioning of the Argentinean governmental and legal system in order to explain the reader why and how certain provisions are implemented. Next, the applicable legislation on regional, national, and provincial level respectively will be structurally analyzed as well as the role of criminalization of IPV. Most probably there exist differences in the protection offered in theory and in practice. The aim of this paper is to discover these discrepancies.

What is furthermore noteworthy is that International legal instruments (e.g. UN Conventions and Treaties) will be left out in order to prevent the analysis of the legal protection to become too broad. Yet, international legislation will indirectly become incorporated by help of the Argentinean Constitution. Moreover, it should be emphasized that only the provisions relevant to the case study of Jujuy will be discussed.
3.1 Short Introduction into the functioning of the Argentinean Governmental and Legal System

The fact that every country acts and decides upon its own judicial system demands a short introduction into how the Argentinean governmental and subsequently its legal system functions. This explanation will contribute to the understanding of how and why the analyzed legislation is applied in such a way as to protect the victims of IPV.

It should first be stated that the democratic government of Argentina is based on three characteristics in the sense that it is representative, federal and republican. Its first characteristic, namely its representativeness, means that there is an indirect government by the people, which functions via elective representatives. Secondly, Argentina is a federal state. Hence, its dual system works as follows: in principle, the provinces are sovereign and can therefore impose mandates on the federal government. However, since they delegated the power to draft substantial laws to the federation, the latter institution is the one to draft the actual substantial laws (Monge Roffarello et al., 2006). The provinces themselves hold the power to draft procedural laws.

In general the provincial legislation shall not contradict the supreme legislation as will be described below. The third feature of the government (i.e. being republican) can be explained by stating that the representatives of the people are elected by the people themselves via voting. Furthermore, it includes that the government of Argentina adopted the system of the Trias Politica, leading to a separation of the executive, legislative, and judicial power. Besides that, Argentina has a written national Constitution. This latter aspect is very important in the light of analyzing the Argentinean legislation concerning IPV. Namely, the Constitution\(^6\) mandates in its Article 31 that the Constitution itself, the national laws as adopted by the Congress, and the international treaties shall prevail over other national laws. Consequently, the provincial authorities are obliged to act in accordance to this supreme legislation and shall not include any contradictory provisions in their provincial laws.

What is even more important in relation to this is the fact that Article 75.22 of the Argentinean Constitution determines that certain human rights treaties (i.a. the Universal

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\(^6\) Ley Nº 24.430 which dates from 1853 and was lastly amended on 15 December 1994
Declaration of Human Rights), possess constitutional hierarchy and should be considered as complementary to the rights and guarantees which are recognized in the Constitution. In theory, this enables the domestic courts to formulate their decisions directly based on these particular human rights treaties.

A last additional characteristic of the Argentinean legal system as appears from case law is that special legislation prevails over general legislation. This systematic principle thus determines how for example criminal law should be interpreted in order to correctly review a criminal act under the criminal law. Since there exists special legislation on VAW and family violence in Argentina, this feature should be taken into account when analyzing the Argentinean legislation.

### 3.2. Regional Legislation: Inter-American Convention in order to Prevent, Sanction, and Eradicate Violence against Women

Starting with the legislation on regional level, this concerns the “Inter-American Convention in order to Prevent, Sanction, and Eradicate Violence against Women” which is also known as the Belém do Pará Convention. Argentina signed up to it on 6 October 1994, and ratified the instrument on 4 September 1996 via Act Nº 24.632 (MESECVI & OAS, n.d., CEPAL, 2011). Consequently, the Convention obtained constitutional hierarchy on 11 April 2012 (Honorable Cámara de Diputados de la Nación, n.d.). From that moment on, domestic courts could thus directly rely on this present Convention when formulating their decisions. This indicates how important the Convention is not only on regional, but on national level as well. Having acquired constitutional hierarchy, this renders that national and provincial laws cannot be contrary to it.

Take into account that this Inter-American convention is based on VAW in general, while this thesis focuses on IPV in particular. Therefore, this present section will only elaborate on the provisions that are specifically relevant for this research in the light of IPV.

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7 As stated in the judgment of de “Cámara Federal de Apelaciones de San Martín” concerning the case “Recurso de Cámara Federal de Apelaciones de San Martín nº 3082 del 30 de Junio de 2005.”
8 As stated in the judgment of de “Cámara Federal de Apelaciones de San Martín” concerning the case “Recurso de Cámara Federal de Apelaciones de San Martín nº 3082 del 30 de Junio de 2005.”
9 Belém Do Pará being the city where this Convention has been adopted on 9 June 1994.
In the preamble of the Belém Do Pará Convention it is mentioned that the State Parties to it are convinced that adopting such a legal instrument on the prevention, punishment and eradication of all forms of VAW within the context of the OAS\(^\text{10}\), positively contributes to the protection of the women’s rights and the elimination of violent situations in which women could become involved.

Besides providing for a general definition of VAW including, “any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere”, Article 2 of the Convention distinguishes between three contexts in which it can be present. In all cases, VAW is to be understood as including physical, sexual, and psychological violence.

More in relation to IPV, it is stated in Article 2.a to occur “within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse.” Take into account that this citation refers to family violence in general and not IPV specifically.

Chapter II of this legal instrument lists the protected rights of female victims. In general, Article 3 grants all women the right to be free from violence in both public and private sphere. Being free from violence includes among others, as stated in Article 6, “a) the right of women to be free from all forms of discrimination; and b) the right of women to be valued and educated free from stereotyped patterns of behaviour and social and cultural practices based on concepts of inferiority or subordination.”

As illustrated, Article 6 states “to be free from violence includes, among others...” Paragraphs a) and b) thus determine the minimum standards to be respected. However, what else is there to be included besides what is mentioned in these paragraphs? Should State Parties decide upon such issues themselves? In case the answer is positive, this results in a big variety among the national determinations. Looking at all these factors, it appears to be difficult to formulate a universally valid definition of violence and its contents. Consequently, no structural universal guidelines can be established which are necessary in order to prevent, punish and

\(^{10}\) The Organization of American States.
eradicate IPV worldwide.

Moving on to Article 4, this section literally states that “every woman has the right to recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments.” Important ones to highlight here are the right to personal liberty and security; to have her life and her physical, mental and moral integrity respected; and her right to “simple and prompt recourse to a competent court for protection against acts that violate her rights.”

Yet, Article 4 is also based on the phrase “among others” which in my view does therefore not cover everything. Nevertheless, it is understandable that implementing a close enumeration of all rights to be included would be impossible as there are always exceptions. Instead, it should perhaps be questioned whether legislation alone suffices in order to fully protect victims and prevent IPV from happening in the future. There will be further elaborated on this notion in the final discussion.

Subsequently, the fact that these rights exist in theory does not have any value if they are not enforced in practice. In that case, they just remain black letters on paper and no more. In order to ensure that these rights do have a practical value, several duties are ascribed to the State Parties. Nevertheless, the fact that IPV still exists in nowadays society implies that practically speaking, there presently lacks sufficient and appropriate application of this legislation. Again, it can thus be questioned whether legislation alone suffices. Still, it is useful to analyze these duties of the States in order to discover where exactly the discrepancies exist.

Article 7 includes for example that State Parties should reject all sorts of VAW and agree to engage themselves in policies to prevent, punish and erase such violence. This all should be performed in an appropriate manner and without delay. Important provisions here include the application of “due diligence to prevent, investigate and impose penalties for violence against women”\(^\text{11}\); “include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt administrative measures where necessary”\(^\text{12}\); “adopt legal measures to require the

\(^{\text{11}}\) Belém do Pará Convention, Article 7.b.
\(^{\text{12}}\) Ibid. Article 7.c.
perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity or damages her property. Furthermore, they should take all appropriate measures in order to erase the persistence and tolerance of VAW. Whether Argentina succeeded in this will become clear in the section on the national legislation.

Article 7 also includes important provisions that rather concern the access to such protection. For example subparagraph f. mandates State Parties need to “establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures.” Furthermore, State Parties need to “establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies.” Whether Argentina established all this will be discussed in Chapter 3.

Article 8 touches upon the specific measures (including programmes) which are to be realized by the State Parties in a progressive manner. They include for example: raising awareness and observance on the right to be free from violence and have your human rights protected and respected; educational and training programmes on how to deal with, prevent, punish and erase VAW on governmental, private, administrative, police, and media level; changing social and cultural norms of behaviour of men and women (including the prevention of stereotyped roles for men and women justifying VAW); the provision of appropriate specialized services for victims of VAW (e.g. shelters, counseling services, etc.); the performance of proper research contributing to the implementation of necessary changes; and encouraging international cooperation in this field.

A group to which special attention needs to be paid in accordance to Article 9 of the Convention includes women who suffer vulnerability due to for example their age, race or ethnic background, the deprivation of their freedom, their migrant or refugee status, even as their socio-economic status and so forth. However, guidelines for providing such special

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13 Ibid. Article 7.d.
14 Ibid. Article 7.e.
15 Ibid. Article 7.g.
attention are not referred to. It can thus be assumed that it is up to the State Parties themselves how to interpret this and implement it in their domestic legislation which again creates difficulties and moves away from universal harmonization.

Looking at the protection mechanisms as provided for on Inter-American level, an important one includes that State Parties are not only obliged to elaborate in their national reports on the adopted measures in order to prevent and prohibit VAW and assist the victims of it, but also to report on difficulties observed in the application of such measures. Furthermore, factors which contribute to VAW are to be documented. Unfortunately, it often appears that the level of reporting is rather low or inappropriate due to reluctance by the states or difficulties in measuring and mapping the phenomenon of IPV.

Another protection mechanism, which is stated in Article 12, may be more effective. It namely allows individuals who are legally recognized in one or more member states of the OAS, to make an individual complaint against the state party when it did not act in compliance with Article 7 of the Belém Do Pará Convention.

As a result of the constitutional hierarchy obtained by the Convention, these two main monitoring mechanisms included in the Convention could be considered as alternative to the domestic Argentinean monitoring measures.

What furthermore should be mentioned is that the Convention emphasizes in its general provisions that in the situation where the domestic law of a State Party provides for equal or greater protection, safeguards, and guarantees of women’s rights in order to prevent and eradicate VAW, these shall never be limited by any feature as adopted in the Convention. In short, domestic legislation shall prevail over this particular Convention in case it is more favourable in the light of women’s rights.

After having analyzed the protected rights and the duties ascribed to the State Parties of the Belém do Pará Convention, it can be argued that in general the provisions leave very much room for interpretation. Starting with the words often used “among others”, this indicates that besides the aspects or groups mentioned, there still exist “others” who perhaps should be taken into consideration as well. However, which “others” are eligible for such protection is

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16 Ibid. Article 10
nowhere referred to and seems to depend upon the interpretation of the State Parties themselves. In a certain way they are thus competent (up to a certain extent) to decide to whom they grant what sort of protection and to whom not. Moreover, it is up to the State Parties to decide how to implement the Convention its mandates in their domestic legislation. This may lead to discrepancies when the State is reluctant or unable to adopt the provisions appropriately. How this is all regulated in national Argentinean legislation becomes clear in the following section. Again, remember that the Belém Do Pará Convention obtained constitutional hierarchy, meaning that the Convention itself can be applied as domestic law as well.


As mentioned in the former section, domestic law shall prevail over regional law in case it is more favourable in the light of granting prevention and protection towards female victims of IPV. In order to gain insight into how female victims of IPV are protected under domestic Argentinean legislation, this section analyzes the content of the national laws 26.485, 24.417, and the Criminal Code respectively.

3.3.1. Act 26.485

One of the ruling national laws applicable to situations of IPV is Act 26.485. The promulgation of this law, of which the full title is “Ley de Proteccion Integral para Prevenir, Sancionar y Erradicar la Violencia contra las Mujeres en los Ambitos en que Desarrollen sus Relaciones Interpersonales”\(^{17}\), took place in Buenos Aires on 1 April 2009 (Infoleg, n.d.). As already discussed, the working definition of this thesis is derived from the definition applicable to situations of IPV as included in this instrument namely:

> “any action committed against women by a family member, independent of the place where it occurred, that harms the dignity; well-being; physical, psychological, sexual or economic integrity or patrimony; (reproductive) freedom; or the right to full

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\(^{17}\) The literal English translation of this title is: “Law of Integral Protection in order to Prevent, Sanction and Eradicate Violence against Women and the Contexts in which their Interpersonal Relationships Develop.”
development of women. The group of family members includes those who possess kinship via consanguinity or affinity, marriage, engagement, de facto unions, or partnership; including current or ended relationships, not requiring the condition of living together."

The only difference is thus that the working definition is focused on violence committed by partners whereas Act 26.485 includes the family group in general. Comparing this to the applicable definition as derived from the Convention, namely violence occurring “within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse”, the following can be concluded. While Act 26.485 applies to “any act committed against women”, the Convention specifically focuses on acts of violence. Moreover, the definition in Act 26.485 is rather general while the one in the Convention is more specific, referring to acts such as rape, battery and sexual abuse.

Focussing again on Act 26.485 itself, another detected characteristic is that Article 5 distinguishes between five types of VAW in general namely, physical, psychological, sexual, economic or patrimonial and symbolic violence. The first four are types of violence included in the manifestation of IPV. The last one, symbolic violence, will only indirectly result in IPV. In other words, discrimination and stereotypes that follow from symbolic violence in turn can serve as reasons to constitute IPV. In how far these actions criminalized in the Criminal Code will become clear in section 3.2.3.

Article 2 of Act 26.485 presents the most important aims which, in relation to IPV, include promoting and guaranteeing among others, the right of women to live a life without violence; appropriate conditions to prevent, sanction, eradicate and raise awareness on the issue of discrimination and VAW in any of its manifestations and contexts; access to justice for female victims of violence; and integral assistance for women who suffer from violence, both in public and private sphere, in order to let them participate in programme activities aimed at women and/or violence specialized services. Such as the Belém do Pará Convention, this national legislation also hints at the link between discrimination and gender-based violence. By
aiming at the removal of the socio-cultural pattern which promotes and sustains gender inequality and relationships based on possessing power over women, Act 26.485 attempts to decrease the number of discrimination and the resulting situations of IPV.

Besides the rights mentioned in Article 2, Article 3 protects all the rights recognized in the Belém Do Pará Convention. This is logical in the sense that the Belém Do Pará Convention has obtained constitutional hierarchy. Special reference is made to among others the right to: “health, education and personal safety”, obtain appropriate advisory information”, “enjoy integral measures of assistance, protection and safety”, “free access to justice”, and “respectful treatment, avoiding any behavior, action, or omission that produces revictimization”.

Article 7 continues with the guiding precepts stating that the three powers of the State, being on national or provincial level, shall adopt the necessary means and endorse unconditional respect of the constitutional rights regarding equality between men and women in every single action they perform. Here again, the discrimination between men and women is emphasized.

In order to accomplish the aims of this piece of legislation, Article 7 includes eight guiding precepts to which the three powers of the State need to comply. The most important ones in relation to the protection\(^\text{18}\) of IPV include first of all, the elimination of discrimination against women and the unequal power relationships over them. Secondly, the adoption of measures trying to raise awareness among the society by promoting values of equality and criminalizing IPV. However, noteworthy is that IPV is not explicitly criminalized by the Argentinean Criminal Code, which thus leads to a discrepancy. This will be clarified in the analysis of the Criminal Code. Additionally, subparagraph h) states that all actions shall result in the implementation of the rights acknowledged in the Belém do Pará Convention. Lastly, Article 7 determines that the assistance provided to the victims shall be integral and timely delivered to women who suffer any type of violence. It shall grant them free, rapid, transparent, and effective access to services created for the purpose of eliminating IPV. Besides that, punishment and reeducation of the person committing IPV shall be promoted.

I would like to note here that reeducating the offender might be one of the most

\(^{18}\) The ones of importance concerning the services delivered to the victims of IPV will be discussed in Chapter 3.
important provisions in the whole process of preventing, punishing, and erasing IPV. Especially since often they do not want to participate voluntarily in therapy, such as indicated in the interviews. I believe that letting the perpetrator realize what damaging consequences his actions have had, and teaching him that it can never be justified, not even by social or cultural norms, is the starting point of prevention and subsequent protection. Letting such a person experience the harm he causes to others will hopefully stop him to continue his actions. Obviously, this is an ideal but if it works it will significantly decrease the number of IPV situations. When solving a problem, you need to start from the beginning. Hence, re-educating the offender should at least be considered as important as educating and training the authorities and staff.

A last critical note to be made on this domestic legislation concerns Article 11. This article orders the national State to implement the development of the mentioned urgent actions by help of the different Ministries and Secretaries of the national Executive Power, the provincial and municipal jurisdictions, universities and civil society organizations having competence in this field. The actions mentioned can really contribute to improving the protection delivered to victims of IPV if they are enforced. Yet, the provisions are mainly not of real coercive nature. They rather order the State to promote, recommend, or encourage these urgent actions. Argentina should for example promote policies in order to facilitate access to justice for women. However when such policies are only promoted but not officially implemented, the victims can still not rely on them. In that sense they are not protected by the law at all since they have no legal source to refer to. Besides that, the State is ordered to implement the development of such actions. However, in what time limit they should all be implemented is not mentioned which may lead to delay. These should be considered as another important discrepancy between the law in theory and the law in practice.

3.3.1.a The Legal Procedure
Having considered the above, it is additionally important to consider the legal procedure itself since this is eventually the way to obtain protection against IPV on individual level. First a distinction should be made between a formal complaint in which a person notifies the police or
judicial authorities about a possible crime (i.e. a “denuncia”) and a victim’s report of a particular occurrence to the police, which will not immediately be considered as a criminal act and for which no criminal investigation will be initiated (i.e. an “exposicion”). This latter is mostly common in cases of IPV; not because the victims themselves do not want to make a formal complaint, but rather because often the police does not take their cases seriously. As appeared from the interviews, one police officer even said to a victim that she just had go home and talk about it with her husband as it was a normal case. Receiving such a response does not sound very supportive for female victims to report their case to the police in the future.

One can question whether the issue that women arriving at the police station are not taken seriously can be ascribed to the fact that IPV is not explicitly criminalized in Jujuy. Adding the social view that women are subordinate to men, and that police officers are often male, diminishes the likelihood of police officers putting effort in turning the report into a formal complaint. Hence, victims also indicated that they would prefer female police officers to tell their story to as they would easier understand their situation.

Besides the right to issue a formal complaint for female victims in this case, article 24 also allows any person to report to the police in case the affected individual is disabled or cannot make the complaint herself due to her physical or psychological condition. Nevertheless, in situations of sexual abuse, the victim herself is the only one who can make a formal complaint. What is in any case noteworthy is that paragraph e) of Article 24 obliges every person who works in social, care, educational and health services, in both public and private sphere, taking via his/her profession notice of a female victim of violence always when such facts could constitute a crime, to report it to the police. However, Article 18 of this present law imposes the same mandate in cases of VAW even if the facts would not constitute a crime. In this, the present law is thus not fully consistent.

Formal complaints can be made in either verbal or written form. When it results in a legal procedure, this shall be an abbreviated one and for free. Furthermore, the identity of the complainant shall remain anonymous.

During the process, Article 16 obliges State Parties to grant women the right to among others, receive human treatment which avoids revictimization, to have her privacy protected,
and to receive urgent and preventive judicial protection in case any of the rights granted in Article 3 are jeopardized or violated.

As implied, in order to protect the victim at any time of the process, the judge may, at his own initiative or upon request, impose one or more preventive measures in accordance to the types and modalities of VAW as defined in Article 5 and 6 of this law. Such measures include among others, denying the alleged perpetrator to access the victim’s place of residence, work or school, or other places where the victim is commonly present; ordering the alleged author to cease disturbing or intimidating the woman directly or indirectly; and all other necessary means to guarantee the (domestic) security of the victim, stop the violent situation and avoid its possible repetition in any fashion. These measures are in line with the mandate of the Belém do Pará Convention to adopt legal measures requiring the offender to abstain from bringing the woman into a violent and dangerous situation.

In addition to the measures included in Article 26.a, there also exist urgent preventive measures which the judge may impose in cases of domestic violence against women. These are listed in Article 26.b. and include among others, bringing the woman back home in cases she left, after having excluded the alleged aggressor as well as prohibiting the alleged aggressor to take, destroy, hide or move any objects obtained via marriage or partnership.

When the alleged aggressor does not act in accordance to these preventive measures, the judge may, in conformation with Article 32 of the present law, alter them by for example extending them or ordering new measures.

A last general comment to be made on Act 26.485 is that it refers to Act 24.417 in its Article 42. This particular law offers protection against family violence and covers cases of domestic violence which are not explicitly included in Act 26.485. An analysis of this law will be provided for in the next section.

3.3.2. Act 24.417

As already mentioned, another relevant national piece of legislation is Act 24.417 which offers protection against family violence in general. It was sanctioned and promulgated in December 1994. Noteworthy is that this law mainly concerns the legal procedure of IPV cases. In other
words, this law appears to be only applicable when a case of IPV has been brought before the court.

The first article starts with ascribing persons who suffer injuries or physical or psychological maltreatment by any family member\textsuperscript{19} the right to make a formal complaint of such acts before the competent judge. This can be done both in verbal and written form. These formal complaints could be used to address the coordination of public and private services which aim to prevent and, where appropriate, exceed the causes of maltreatment, abuse, and all types of family violence. Furthermore, the victim may request to impose precautionary measures which will be further illustrated below.

Such as Act 26.485 and the Provincial law, Article 2 of this instrument obliges everyone who notices acts of domestic violence due to their profession (e.g. social and educational service providers, medics and so forth) to report such cases to the police.

When the submitted report becomes a formal complaint and results in a legal procedure, the competent judge may demand, via Article 3, a diagnosis of professionals from different disciplines in order to determine what physical and psychological harm has been done to the victim, how dangerous the situation is, and what the social and family context entail in that situation\textsuperscript{20}. As comparable to Article 26 of Act 26.485, the judge might consequently impose several precautionary measures. Such measures include for example excluding the accused from the dwelling where the family lives, or denying him access to the victim’s place of residence, place of work or school.

Additionally, Article 8 mandates that in case any criminal act, as included in the second book of the Penal Code, titles I, II, III, V y VI, and title V of chapter 1, is committed in a family group (even though constituted by de facto unions) that lives together, the judge may exclude the indicted person from home. This precautionary measure is only applicable when the circumstances of the case present good reasons to believe that the case will repeat itself. When the exclusion jeopardizes any obligations in relation to family assistance of the indicted person, the Advisor on Minors will intervene in order to cover all the necessities.

\textsuperscript{19} For the purpose of this law, a family member is to be understood as someone who became family via marriage or de facto unions.

\textsuperscript{20} Act 24.417, Article 3.
Based on the professional diagnosis as established by help of Article 3, the judge will, in accordance to Article 5, invite the parties and the public prosecutor to a mediation which encourages them and their families to participate in educational or therapeutic programmes. In relation, Article 6 regulates free psychological medical help to the accused and his family. These remedies should be considered as essential since it has been shown that many cases of violence result from inappropriate social norms and values (i.e. patriarchal views). By help of such educational and therapeutic programmes, these views can be changed and perpetrators can be made aware of the consequences which in turn might hopefully prevent them from constituting IPV in the future. As also appeared out of the interviews, many victims really attached value to such therapeutic programmes which helped them to understand the situation and provided them with skills to possibly prevent and deal with future violence. Unfortunately, husbands often refuse to participate.

As a concluding remark of this section, it should be stated that first of all, the fact that this law only applies to cases of IPV brought before the court denies protection to those victims who did not make such a formal complaint. Supposedly, a large group of victims can therefore not enjoy the protection as stated in the law. On the one hand, this may be explained by the fact that in case the police does not take the victim seriously (which quite commonly occurs) the complaint made by the victim remains to be an “exposición” and no legal procedure will be started. This in itself is already a reason for victims to not report their case. On the other hand, the victim may decide on purpose not to make a formal complaint due to for example fear of her husband; the fear that when she reports her situation to the police and her husband will become aware of this, he will abuse her even worse. This will hence also leave her without protection by this law.

In short, it can thus be concluded that victims can only enjoy protection by Act 24.417 when they make a formal complaint of their case. Otherwise, they need to rely on the Belém do Pará Convention, Act 26.485 or the Criminal Code which will be analyzed next.
3.3.3 The Criminal Code

The other piece of legislation on national level which should be taken into account, is the Criminal Code or otherwise called Act 11.179. Noteworthy is that nor IPV, neither VAW is explicitly criminalized by this Criminal Code; this source only criminalizes certain actions which indirectly may constitute IPV. Yet, the Belém do Pará Convention mandates that State Parties shall include penal norms in their domestic legislation which are necessary in order to prevent, punish and eradicate VAW\(^\text{21}\). Even though VAW includes IPV, if such actions are not explicitly criminalized, it also becomes difficult to explicitly penalize them. Therefore, actions constituting IPV can until currently only be punished indirectly via provisions that criminalize acts against persons, sexual integrity, freedom and threats. In other words, there exists a lack of compliance with the Convention’s order to include such necessary penal provisions on IPV in order to prevent it from occurring in the future.

Let me first repeat the content of the working definition of IPV as used here, namely:

“any action committed against women by their partner, independent of the place where it occurred, that harms the dignity; well-being; physical, psychological, sexual or economic integrity or patrimony; (reproductive) freedom; or the right to full development of women. One should be considered a partner when a relationship is established via marriage, engagement, de facto unions, or partnership; including current or ended relationships, not requiring the condition of living together.”

Based on this definition, the following analysis can be made, starting with the most severe consequence of IPV namely, murder. This crime is included in the category of “Crimes against Persons” and subsequently, “Crimes against Life”. As already implied, the WHO alleged that a significant number of women become victims of murder due to IPV. That is to say, of the female murder victims in general, 40 – 70% becomes victim of murder by their spouse or boyfriend as a result of a relationship including continuous abuse (WHO, 2002).

In relation to murder, there can also be thought of committing suicide by the victim.

\(^{21}\) Belém do Pará Convention, Article 7.c.
Imagine that women who have to reside in such miserable and violent situations of IPV, may arrive at a point where they rather put an end to their lives because they cannot handle the situation anymore. Although some women indicated in the interviews that they indeed wanted to commit suicide at a certain moment, no real cases of suicide were included. Therefore, this type of “murder” will not be further discussed here.

The basic sentence from which the judge derives his decision in murder cases is life sentence\(^{22}\). As usual, there also exist possible aggravating and mitigating circumstances which may affect the judgment. In relation to murder in the context of IPV, these are discussed in Article 80 of the Criminal Code.

First of all, when the criminal act is committed by a spouse, ex-spouse, or the person with whom the victim is or was in a relationship – living or not living together – the punishment will be more severe\(^{23}\). Secondly, the circumstances are aggravating when the purpose of the crime is to cause suffering to a person with whom the accused is or was in a relationship as described in the former aggravating situation. However when the accused executed the criminal act under emotionally violent and excusable circumstances, the imposed sentence will be less severe\(^{24}\). These same aggravating and mitigating circumstances apply to the criminalized injuries which will be discussed below.

In the Argentinean Criminal Code, injuries causing physical and psychological harm to the victim are criminalized under the heading “Crimes against Persons” as well. There can be distinguished between three gradations. First of all, there exist minor injuries which include those actions that harm someone’s body or health but which are not explicitly included in this particular Criminal Code. The second gradation concerns severe injuries as included in the second chapter of Title I. This section namely criminalizes injuries which result in permanent impairment of the health, in the sense of impairing an organ, a limb, resulting in permanent difficulties concerning the power of speech, or endangering the life of the injured, causing her to be unable to work for more than a month or causing a permanent damage to her face\(^{25}\).

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\(^{22}\) Argentinean Criminal Code, Article 80
\(^{23}\) Ibid., Article 92
\(^{24}\) Ibid., Article 93
\(^{25}\) Ibid., Article 90
Obviously, the punishment of the perpetrator in such cases will be higher. Thirdly, there can be distinguished between even more severe injuries that lead to mental or physical illness which certainly or very likely cannot be cured; permanently damage the capacity of the injured to work; or result in the loss of the power of speech, the reproductive capacity, the senses, or an organ, limb or the functioning of one or both of them. Actions causing such consequences again result in a higher sentence.

Subsequently, Title III of the Criminal Code criminalizes acts against sexual integrity. Article 119 protects the sexual integrity of someone in the following manner. It imposes a sentence of imprisonment on someone who sexually abuses an individual of any of the sexes when; he or she is minor than 13 years old; or when using violence, threats, abuse of a relationship of authority, power; or by taking advantage of the fact that the victim for whatever reason could not freely consent to the action. This latter can be explained by physical and psychological impediments such as mental disability or influence of drugs or alcohol.

Aggravating circumstances concerning this crime apply when the abuse - due to its duration or circumstances of its realization - resulted in: severe sexual submission injuring the victim, when there was physical contact in any sense, and when the abuse resulted in severe harm done to the physical and mental health of the victim.

What is interesting here is that the spouse or (ex-) partner is not specifically mentioned among the aggravating conditions whereas for example the ancestors and descendants are. In other words, even though marital rape is mentioned in the category “sexual” among the types of VAW as implemented in Article 5 of Act 26.485, it does not seem to be explicitly criminalized by the Criminal Code.

Another aspect lacking here, although relevant in cases of IPV, is the use of intimidation as an aggravating circumstance in general. Men often behave in an intimidating way in order to take control over their wives or make them perform or participate in actions they actually do not want to do (e.g. sexual intercourse). In that sense, women will thus also not voluntarily consent to such maltreatment, emphasizing the imbalance of power between the spouses. When intimidation is used in order to make someone do something against her will, this should

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26 Ibid., Article 91
be considered as an aggravating circumstance as well.

After having discussed crimes against sexual integrity, the next criminal act in relation to IPV is the one against freedom, which is criminalized in Article 141. It becomes established when a husband deprives his wife of her personal freedom as a result of his desire to control her and her behaviour. This can be explained by the patriarchal views as present in this case study. These ideas let men believe that they have the right to control their women, which may constitute an imbalance of power in their relationship. As a result of such subordination of women to men, the former are commonly deprived of their freedom.

A sentence of imprisonment will be imposed on a person who illegally deprives the personal freedom of someone else\(^{27}\). As determined in Article 142, the punishment will become more severe when violence or threats are involved, when it is committed for the purpose of religion or revenge, when among others the spouse is the perpetrator, when it results in severe harm done to the person or her health always when no other – more severe - crime is of importance, or when the deprivation of freedom lasts longer than one month.

A last crime included in the Criminal Code, which should be discussed, is the use of threats included in Article 149bis. As appeared out of the interviews, situations existed in which victims of IPV were threatened (e.g. with death) by their husbands. The Criminal Code criminalizes this in the sense that it imposes a sentence of imprisonment on a person who uses threats in order to frighten or intimidate someone else. The sentence will be higher when weapons are used or when the purpose of threatening is to oblige one to do, do not do, or tolerate something against her will.

A side note which should be made before moving on is that economic violence constituting IPV is lacking criminalization as indicated in Chapter 2. Even though Article 183 of the Criminal Code criminalizes damages by imposing a sentence of imprisonment on those who destroy, render useless, let disappear or commit any other action that damages a (personal) property which totally or partially belongs to someone else, it does not include the action of controlling or limiting someone’s economic resources or the deprivation thereof. Yet, this is what often happens in cases of IPV, namely that the husband makes his wife financially

\(^{27}\) Argentinean Criminal Code, Article 141
dependent by controlling her economic resources or not allowing her to work for example. The fact that this is not explicitly criminalized may be explained by the social norm that women are subordinated to men. Furthermore, it is difficult to control in how far women are made financially dependent. Nevertheless, economic resources are often indicated as important for victims in order to escape violent situations. Therefore, economic violence should be recognized as a crime as well.

As determined in Article 71 of the Criminal Code, all criminal acts shall be initiated de oficio\textsuperscript{28} except for those who depend on private instances or those who constitute private actions. These latter two namely require a formal complaint from the victim in order to start judicial investigations. From the actions related to IPV as discussed above, the ones that need a formal complaint in order to start a legal procedure include: minor injuries committed on purpose, the criminal act against sexual integrity\textsuperscript{29} – if it does not result in murder or injuries incorporated in Article 91\textsuperscript{30} of the Criminal Code – and private actions constituted by injuries or breaching the tasks of family assistance in case the victim was a spouse.

What became visible throughout this analysis, is that IPV is not explicitly criminalized by the Criminal Code. Only actions which are part of the concept of IPV are criminalized. Yet, the Belem do Para Convention orders every State Party to include the necessary penalties in their domestic legislation in order to sanction and prevent from future VAW (indirectly referring to IPV as a subcategory of VAW). Although it can be argued that IPV is thus indirectly criminalized in the Argentinean legislation, it would be more effective to recognize it as an explicit crime for the following reasons. As appears, IPV commonly occurs in the Jujuy society and situations even become worse. This cannot only be ascribed to the reigning patriarchal views among the society, but also to the fact that the police do not always take the reported cases seriously and act negligent. Could this in turn be explained by the fact that IPV is not explicitly criminalized? That they just do not care since it cannot be considered as an explicit crime? Or because the biggest amount of victims is female and it is considered to be “normal” that they are

\textsuperscript{28} De oficio means that no formal complaint is required in order to start the judicial investigation or procedure.

\textsuperscript{29} Argentinean Criminal Code, Article 119

\textsuperscript{30} This Article criminalizes injuries leading to mental or physical illness which certainly or very likely cannot be cured, which permanently damages the capacity of the injured to work, results in the loss of an organ, limb or the functioning of (one of) both, the power of speech, or the reproductive capacity.
subordinated to men? This cannot be alleged for certain but it would be a plausible argument.

In case these questions can be answered with “yes”, it implies the existence of a vicious circle namely: due to patriarchal views on society level and the fact that IPV is not explicitly criminalized, the police acts negligent. Consequently, when such cases are not taken seriously and are therefore not forwarded as a formal complaint, it seems as if IPV is also not taking place (while obviously everyone knows that it actually is but just ignores it). Thus, why criminalize something that “does not exist”? This line of thinking is problematic and should be broken.

Hence, IPV should be made undeniable by explicitly recognizing it as a crime which is essential and effective in order to simplify the sanctioning of it and to prevent it from happening in the future.

3.4. Provinicial Legislation: Decree 2.965/2001 regulating Act 5.107

As indicated, in the province of Jujuy, a provincial law is applicable as well, namely “Act 5.107”, which concerns “Integral Attention to Family Violence”. It dates from 22 December 1998 and is implemented and regulated by Decree 2.965/2001, dating from 5 March 2001. The Decree states in its second Article that the provincial state shall guarantee the full application of the terms of Act 5.107 strictly in accordance to the constitutional prescriptions mentioned.

Adopting Act 5.107, acts constituting family violence are to be understood as all maltreatment of physical and psychological health or violation of human rights, being minors or adults, including acts of sexual abuse, committed by family members linked by ties of consanguinity, kinship, or simple de facto unions, even though not living under the same roof, as well as the described acts exercised by guardians or custodians towards their pupils. Again, the present focus lies on IPV in particular.

In order to apply for protection by this law, victims of domestic violence can report their cases, in either written or verbal form, to the competent judiciary, the centres of integral attention on violence in the family (CAIVIF), the public defence in minority issues, and the public defence in general. Important is that in order to receive such complaints, the provincial police shall have officers who are trained in receiving, guiding and directing such complaints
which shall be forwarded to the Tribunals within 24 hours. As determined in Article 16, police officials are obliged to inform the victim about legal resources. Furthermore, this article states that in case the victim does not turn her report (“exposición”) into a formal complaint (“denuncia”), the police can still take measures in order to protect her psychological and physical integrity. However, in practice it turns out that only the judge can decide on this.

Other establishments in relation to the protection, as stated in Act 5.107, include first of all the creation of a Provincial Commission in order to provide for comprehensive attention to family violence aiming at designing and implementing social policies on prevention and protection offered to victims of domestic violence.

Another form of protection shall be offered by public and private agencies and community agencies which shall intervene in a coordinated and interdisciplinary manner, acting via a social network on containment, assistance and prevention of the phenomenon.

A difference between the definitions of the national and provincial legislation is that the latter is applicable to the whole family including both men and women which is in contradiction with the Belém do Pará and Act 26.485. As discussed, the feature of focusing on both men and women is more preferable in the sense that all human beings are treated equally in this way since there is no gender-based discrimination.

On the other hand, similarities with the analyzed legislation include that Article 15 of Act 5.107 also mandates everyone who notices an act of family violence when performing their (related) profession to report such acts to the police. Whereas the provincial police shall immediately forward the case to the competent judge when the committed act possibly constitutes a crime in the public sphere, the consent of the victim is needed for this when the act is committed in private sphere.

What is furthermore equivalent between the national and provincial legislation is that in accordance to Article 21 of Act 5.107, the judge may impose precautionary measures. Adapting Article 18, this can be done without having constituted a hearing first. Such measures include among others; excluding the person accused of domestic violence from the home; prohibiting the accused access to the place of residence of the victim or the places where the victim works.

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31 Ley 5.107., Article 3.
goes to school, performs recreation and so forth. At the same time, the judge may prohibit the accused to perform molesting or disrupting acts towards any of the family members cohabiting; or in case the victim is a minor, adolescent, elderly person, or disabled, there will be granted temporary protective custody to whom the judge considers being in need of that, always when this measure is necessary for the psycho-physical security of that person.

The duration of these measures will be decided upon by the judge in relation to background of what caused the violent situation. In case it appears out of the reports as described in Article 19 that the accused does not comply with the imposed measures, Article 22 states that the judge must, within the five following days, either decide whether to maintain the imposed injunctions, extend them with others, or command obligatory participation for the aggressor and the family in educative or therapeutic programmes for the period of time as determined in the professional reports32.

Despite what has been determined by Article 22, Article 23 provides for complementary injunctions that can be imposed based on the circumstances of the case. They include first of all, a judicial “warning” and secondly, the realization of performing community services during the weekends of which the conditions are stated in Article 23.

In short, it can be stated that the provisions in the provincial law are comparable to those in the national law. Main differences are that it also applies to abuse by guardians or custodians towards their pupils and that it is not gender-based but rather family based. The fact that the provincial legislation remains quite general can be ascribed to no explicit criminalization of IPV in the Criminal Code as illustrated above. Hence, no specific characteristics can be referred to when offering protection. Up till now, the only types of protection that are clearly determined are the precautionary measures that can be imposed.

In my opinion it would in general still be necessary to create (more) specific provisions and guidelines that offer protection in particular cases with the aim to cover discrepancies. It is understandable that doing so is difficult, but at this point the content of the protection remains to be rather vague. Entering into a dialogue with the victims will contribute to obtaining more

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32 In accordance to Article 19, judges may request special reports on the interaction of the family made professionals of different disciplines that describe the physical and psychological harm suffered by de victim, the dangerous situation, and the socio-economic means and context of the family.
insight in what sort of protection will be appropriate since the victims can tell their experiences from practice. This will also become visible when analyzing the interviews. Moreover, explicit criminalization of IPV in the Criminal Code would be helpful and actually obligatory as stated in Act 26.485. Yet, this has not been achieved.
Chapter 4: 

An Analysis on the Victims’ Perceptions and Experiences

As already mentioned, legislation and services in relation to IPV are most of the time implemented by higher authorities that do not have the same (practical) experience as the victims themselves. Hence, in order to be able to create appropriate provisions and assistance, the victims’ perceptions should be taken into account as well. They are namely the ones who live and experience the violent situations and thus, possess knowledge about what aspects are needed.

Therefore, this chapter is based on the experiences and perceptions of female victims of IPV as resulted from the conducted interviews. It includes an analysis of ten interviews with female victims of IPV in the province of Jujuy in Argentina. In order to discover any discrepancies, their perceptions are compared to the existing legislation and assistance and the access thereto.

To obtain a more concrete vision of what situations the victims have been gone through, several quotes that resulted from the interviews will be included. Take into account that the interviews were originally conducted in Spanish. Therefore, the quotes included are English translations. “I” refers to the interviewer and the victims are named by anonymous codes.

4.1 Method

4.1.a. The procedure
This qualitative research is based on semi-structured interviews. During the first part of these interviews, the victims were asked to tell about their personal experiences and secondly, they were requested to share their perception, opinion and ideas on violence. Out of all the conducted interviews, ten were elected for this thesis in order to acquire the minimum necessary information.

The preparation for the data analysis consisted of a list which distinguished between the
victim’s perspective and the legal perspective. The victim’s perspective included personal characteristics as well as the structural and personal risk factors (e.g. social norms and values, low self-esteem, etcetera). Secondly, it elaborated on the experienced IPV including the type of violence, the frequency, the typology and the consequences. Thirdly, the received help and assistance were researched as well as the extent to which the victims were informed about the existing service providers. Besides that, the victim’s rights and their accessibility (i.a. the legal procedure and the awareness of the existing rights) were investigated in comparison to the victim’s perception on the needed help, assistance and rights.

The legal perspective on the other hand, focused on the rights and duties included in the Belém do Pará Convention, National Act 26.485, National Act 24.417, the Criminal Code, and Provincial Act 5.107 regulated by Decree 2.965/2001 (as commented in section 3.4). This section first analyzed the rights as protected by the law; secondly, the duties of the state; thirdly, the specific “measures” to be (progressively) undertaken by Argentina; fourthly, the access to the protection of victim’s rights (i.e. the legal procedures); fifthly, the access to information on the victim’s rights on institutional level; sixthly, the access to help and assistance; and lastly, the reporting of IPV.

In order to obtain the relevant information on these aspects, the interviews were analyzed in Microsoft Word by help of track changes; distinguishing between the different categories. To each of the above mentioned categories, a different colour was assigned which eventually made it possible to trace back the distinct aspects and analyze their content.

In order to detect the similarities and differences in the experiences of the victims, every category and its characteristics were listed and possible exceptions were written down. This was necessary in order to ascertain that all relevant information would be included as on the one hand there were quite some similarities, but on the other hand there also existed several noteworthy deviations in their experiences. This made it sometimes difficult to obtain concrete numbers but where possible, the frequencies were translated into tables. These tables are attached in the annex. However, their content is elaborated on during this chapter. Take into account that the frequencies are based on a total number of only ten victims. Hence, the resulting percentages may be a bit misleading as they are based on a small sample size.
4.1.b. The sample

As indicated in Table I, the sample consisted of ten female IPV victims (N=10), who were all living in the province of Jujuy, Argentina. Whereas seven victims (70%) lived in an urban area (i.e. San Pedro, San Salvador, or Alto Comedero), three (30%) resided in a rural area. The limitation of including only female victims can be ascribed to the fact that the applicable legislation mainly focused on women as well.

Of those women, 70% belonged to the group of “young adulthood”, namely between 19 and 40 years old. The other three (30%) fell under the category of “middle adulthood”, that is from 40 until 65 years old (Cramer et al., 1997). A striking fact is that those seven women who became mother, were relatively young when their first child was born: the age ranges from 14 years until 21 years. Concerning their civil status, six victims were still married to their husband. However, three of them were not living together anymore. Furthermore, three women did not marry at all and one victim was in the process of divorce.

Despite the fact that 70% had a job (20% was not allowed to work by their husband), the women generally had a low level of education as well as a low social economic status. Those who were working earned a relatively low salary (e.g. one woman earned only 350 Euros a month). 40% of the victims indicated that they were economically dependent on their husband.

4.2 The analyzed risk factors

Considering the risk factors on structural level, the most prominent is obviously gender which is considered to be an explicit factor of vulnerability as also visible in the pieces of legislation especially drafted on VAW. In relation, it appeared that patriarchal views are highly present in Jujuy’s society as well as fixed gender roles. Not only do the victims themselves think they have to obey their husband, it commonly appeared that when the victim asked her family for help, it was told that it is “normal” that her husband uses violence in order to take control. There is nothing she could do about it since women should simply take the subordinated position and endure the violence. The police often responded in the same way.

Additionally, the presence of patriarchal views appears to be connected to the place of
residence. In rural areas, IPV may be considered as “normal” to an even higher extent as in the city. As argued by one victim, women from rural areas live up to their culture which teaches them to endure whatever the husband does to them. Sometimes, marriage is considered to be a “medicine” since the vow “until death do us part” becomes literally hoped for; dying seems to be the only way to escape the violent situation.

Continuing with the discussion on structural risk factors, data on the victim’s perspective concerning this issue was obtained by the following interview questions:

- “Do you think that violence against women occurs in all levels of society?”
- “Do you think that all victims have the same needs?”
- “Do you think that women who belong to disadvantaged groups or minorities (including racial minorities or religious minorities) have different needs than those women who do not belong to such minority groups?”

It resulted that all victims considered violence to be present in all levels of society, regardless of the social background, economic status etcetera.

EVVG1: “Yes there exist all types of violence in life. We as women always need to shut up, regardless of our religion or culture. I noticed that women are submitted to violence by men, and that men are always trying to dominate women. I experienced it as well. (...) Regardless of the social class or the good position people have, they suffer violence as well, a lot of times they just keep quiet. Most of the time this is because we feel ashamed. I think we as women are ashamed and therefore always keep quiet.”

Yet, when asking their opinion about the victim’s needs, 40% thought victims would have the same needs, the rest considered this not to be the case. In relation, 50% shared the opinion that “the disadvantaged” (i.e. minorities, indigenous people etcetera) have more difficulties with accessing the service providers because of for example lacking legal documents or experiencing discrimination. Hence, it could be concluded from this is that specific groups, such as mentioned in Article 9 of the Belém do Pará, are not necessarily more vulnerable to IPV

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33 EVVG7
(as it occurs on all levels in society), they just have different needs in order to overcome the situation.

On personal level, the main risk factors that appeared were first of all, inadequate coping strategies. To give an example, one victim experienced family violence during her childhood. Consequently, she considered such violence to be normal. Victims may have the perception that IPV is “normal” because they simply do not know any better or since they develop this coping strategy in order to block any psychological harm. One can imagine that enduring such violence by constantly telling yourself that what happens is “normal” will result in continuous exposure to IPV as no actions are taken in order to fight it. In most cases, the violence becomes even worse since victims are afraid to say something about it which provides the husband with an increased feeling of dominance. There even exist cases in which IPV results in death. This example shows how maladaptive coping strategies cause victims to be (increasingly) vulnerable on a continuous basis.

I: And you told me that the violence started early?

EVVG7: Yes, yes. Always, it was always there. However, I always considered it to be normal. Because in fact I come from quite a violent family, my parents.. or whoever, were fighting all the time, they fought, they insulted. It is something normal for me since I come from Bolivia, where it is even worse. I always experienced violence against women, but... (...) I lived like this... I don’t know. It appears that I got used to it. (...) I did not feel as if I as maltreated all the time. It just was like that.

The second personal risk factor is low self-esteem which can be perceived as a vicious circle. Due to the reigning patriarchal views, women feel subordinated which makes them feel insecure and inferior. Consequently, they are afraid to fight back and therefore remain quiet, resulting in even worse situations. They may even consider themselves to be responsible for the violent situation. One victim who was hit by her husband because she was half an hour late blamed herself for the violent situation34. Only after a while, when someone else told her that she was not guilty, she started to believe that it was indeed not right what happened.

34 EVVG8
A third common factor is alcohol abuse by the husband:

I: What happened? What has changed that made him violent?

EVVG5: He did not drink before.

Lastly, employment problems sometimes also played an important role. On the one hand, these may be influential since the husband is irritated by the fact that his wife does not work:

EVVG1: “During the time that I was not working he said to me ‘What the hell are you doing?’ he said. ‘Why are you not working? What are you doing?’ he said to me.”

Another victim told:

EVVG4: “I imagined how my father maltreated my mother, beat her and humiliated her since she did not work and did not have anything and... therefore, I did not want to dwell in the same conditions.”

On the other hand, there were also cases in which the husband did not allow his wife to work, which in turn made her financially dependent on her husband.

“I: You never worked?

EVVG8: No, I could not apply because the day I wanted to apply he beat me. He did not allow me, he told me not to work since teachers are like this and that, he mentioned a whole list. Therefore, he did not want me to work; I had to take care of the children and nothing more.”

However as several victims mentioned, economic resources are important in order to escape from the violent situation as it enables them to survive and take care of themselves and their children.

The fact that these risk factors do not only exist independently, but also intersect with each other, may lead to additional vulnerability among the victims possibly resulting in even worse situations of IPV.
4.3. Experienced IPV

Continuing with an even more important issue, namely the IPV experienced by the victims, the following results appeared\(^{35}\). Psychological violence was present in all cases (100%) (e.g. in the form of humiliation by asserting that women are worth nothing). To show some examples:

EVVG1: “The silly things he said to me; such as that I was a sick person, that I was a crazy person, that I was no woman for him, a lot of such things he said to me.”

EVVG7: “He always maltreated me. However, he did not beat me up. Rather, it was more psychological, as he insulted me. For example, he never called me by name since he created a nickname. He called me “dog” and things like that. He was very disrespectful. And when I said something, he yelled at me. Hence, in order to do not make him scream, I kept my mouth shut.”

The second type of violence experienced by 90% of the victims was physical violence which occurred in all gradations. To highlight two extreme cases:

- EVVG10: “He made me fall, took of his shoe and started to hit me on the head with his shoe. He never did this to me before, although he did beat my hands with a metal stick or my legs with a belt. But this time, I don’t know, he could not control himself anymore, I don’t know, I felt as if he was going to kill me.”

- EVVG8: “During these years he beat me, he always beat me. Each time it got worse. The last time he beat me was because I went to a meeting at school. I came home half an hour late, which was the reason why he beat me. (...) I came home half an hour late and therefore he beat me, but he was not drunk, he was sober. He beat me very bad, he dragged me along the ground, I was bleeding. He mostly hit my legs. Not my head, but my legs. He told me that he was going to kill me. He beat me so bad that I felt like it was going to be my last day.”

\(^{35}\) As also visible in Table II.
Furthermore, acts of stalking, threats of killing, and economic violence were present. The latter type of violence made women economically dependent on their husband (e.g. since she was not allowed to work).

Sexual violence was least reported. This could perhaps be explained by the fact that marital rape is not considered to be an explicit crime since it is “normal” that women adhere to the sexual desires of their husband. Additionally, the Criminal Code does not explicitly refer to sexual abuse committed by the spouse. This is probably a result of this existing subordinated position.

In all cases IPV occurred on a continuous basis. While 70% of the victims suffered IPV from the beginning, the other 30% experienced it after the birth of the (first) baby.

EVVG8: “And after that, when my daughter was born for 12 days, he beat me for the first time. He beat me very bad, he was drunk and it happened in my mother’s house. (...) I do not remember why, or what the excuse was, but he beat me badly and I remember that I fell while lifting the baby. As always, they ask for forgiveness. (...) Only after a short period of time, I was pregnant of the second baby. We went to live together. This year was horrible. He beat me whenever he wanted. Every weekend, he drunk and beat me. While I was pregnant he beat me, but not in my stomach. I remember that when I was pregnant he beat my legs. Neither my face in order to let no one notice that he beat me.”

Having generally discussed the experienced situations of IPV it can be concluded that the typology “Coercive Controlling Violence” was applicable to all cases. However, 50% of the victims also performed certain Violent Resistance out of self-defence. In one case this even caused IPV to stop\textsuperscript{36}. To provide for some illustrations:

EVVG2: “… I scratched it, I scratched his face in order to defend myself since he was choking me. Hence, since I was desperate, the first thing I did was scratching his face. The police told him that he could make a formal complaint against me as well because of me disfiguring his face.”

\textsuperscript{36} EVVG10
EVVG6: “I learned another thing, which enabled me to defend myself, I am very sharp in language. I did not attack him physically, I could pass by and make a comment in order to provoke him as he would allege right? But I hurt him, I know that I am very capable of hurting with using irony, not even insulting, but using irony, not even threatening, I use warnings, but this is the weapon I master against him.”

4.4 The experienced consequences of IPV

Elaborating on the actual consequences of IPV, it can be argued that besides social isolation, the main consequences for the victims of IPV were mental and physical health problems. To be more specific, all the victims experienced emotional damage in the sense that the situation of IPV mentally hurt them and was difficult to overcome. Furthermore, consequences such as anxiety, low self-esteem, loss of trust, and (social) isolation were highly present. To give some concrete examples:

- EVVG15: “You do not add any value. You are worthless. He always made me feel less. I lost my self-esteem. I wasn’t myself anymore. I lost all my values and principles, my dreams; they are all gone. My illusion to be a wife, or whatever, a good mother, I lost everything. It’s all gone, for a long time already.”

- EVVG10: “We always had problems and he always controlled me, always. No one, he did not want me to talk to anyone. Not even to girls, to women. He said “no” to me. “What do you have to talk about? (...) He did not want me to have friends.”

Other remarkable mental health problems among the victims concerned suicidal behaviour (experienced by 40%). As one victim told:

EVVG8: “The year passed by, it was horrible since I seriously wanted to die, I almost committed suicide. I already prepared everything to hang myself.”

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Since the subcategories of mental and physical health problems were so diverse, it was not feasible to devote a special table to this part. Instead, the most common consequences will be mentioned here.
Other feelings experienced included the fear to enter into a new relationship, feeling useless, ashamed, guilty, insecure, unprotected, as if not existing, having no rights and so forth. Focusing on the physical health problems, it can be argued that 90% suffered physical injuries (e.g. bruises, black eye, headaches, illness, pain throughout the whole body, not able to walk etcetera). Other apparent physical health problems included a hemorrhagic stroke, an even worse epileptic attack, neuropathic diabetes, and weight problems (one victim gained 10 kilogram in six months). The main economic consequence was monetary dependency on the husband and financial control.

EVVG6: “I do not know what paying bills is, because he gave me the 2,5 pesos I needed in order to travel with public transport; “you go and come back, in case you need to leave again you ask me for money once more”.

In two cases (20%), the husband did not allow his wife to work at all. As a result of these mentioned consequences, several victims left their husband, quit school, or demanded legal exclusion from home. One victim decided not to sleep in the same room with her husband anymore even though still married.

Besides these negative consequences, it was striking to see that some victims turned their miserable situation into positive actions or thoughts in order to deal with it. For example, some went back to school, left their husband and currently experience freedom which allows them to do what they want, or gained more self-respect in the sense that they do not keep their mouth shut anymore and stand up for themselves.

EVVG4: “Because of this, because of fearing this, that he would leave at a certain moment, I started to study. In order to ascertain that my children would not remain unprotected. (...) that they at least would have bread or food to eat.”

EVVG6:”I left, I left and obviously all the doors went open for me, as we talked about, I was free, in fact I was free. Before I needed to choose between him and other things and

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38 EVVG6
I always chose him above the other. Now I could in fact wake up and go to sleep whenever I wanted; in case I did not feel like cleaning, I did not clean, or at least there was no pressure, things like that.”

4.5 Enjoyed assistance and the access thereto

In order to overcome the situation, most victims sought assistance with several persons or institutions. However, sometimes it took very long before they asked for help: for one victim it took about 15 years\textsuperscript{39}, for another 18 years\textsuperscript{40}. Table III shows in how far specific persons or institutions were approached by the victims.

While some victims did not tell anything to their family at all, for others it was the first source of assistance. However, the family was not always supportive or responding. Sometimes it was even alleged that it was normal and that the victim just should accept and endure the situation. To give one concrete example:

EVVG15: “He tried to kill me with his shoe. I escaped the house and my mother said to me: ‘what is the problem child? It is his way of dealing with cases. The man is for the rest of your life’ she said. ‘But mother, he is beating me up, he tried to kill me, he abuses me when I do not want to be with him.’ ‘It is your husband. What are you going to say to the police? That your husband is raping you, is that what you are going to say? It is your husband. Your obligation is to endure it.’”

Not only the family, but also other persons or institutions, were unwilling to help. Especially the police left a negative impression among the victims since they did not let the victims make a formal complaint. Eventually, only 4 victims succeeded in making a formal complaint. 5 managed to make a statement. These numbers include two situations in which the victim made both a formal complaint and a statement. Others were not assisted at all.

\textsuperscript{39} EVVG5
\textsuperscript{40} EVVG8
EVVG10: “I never made a formal complaint. When I went, I told the officer that I wanted to make a formal complaint and he told me ‘no, no, no, we are not going to make a formal complaint, we are going to make a statement’.”

Reasons that appeared for not allowing the victims to make a formal complaint include for example, that their situation of IPV was “normal”. One victim told the police how her husband tried to kill her several times. He entered and choked her. He put a knife against her head. The police responded in the following way: “That is normal. Those are just problems between partners. If you want, you can solve this problem by talking to each other.”

In other cases, the victim was not taken seriously as expressed by questions or remarks such as “What did you do to him madam? What did you do that made him act in this way?” “If he beat you up, it must have been for some reason.”

Another striking reason the police gave for not assisting the victim was that the perpetrator was the boyfriend or husband. As victim EVVG10 experienced:

EVVG10: “Just when he was about to beat me up in the street, the police passed by. One of them asked her ‘Who is he?’ ‘My boyfriend’ ‘Ahh, in that case we cannot do anything’ the police said. From that moment on, I never made a formal complaint.”

One victim argued that the police simply treat you as they see you: “if they have a positive view about you, they treat you well, if they are negative about you, they treat you bad.” This obviously results in discrimination which is a violation of human rights.

These facts may explain why in general only a few formal complaints are made; not because the victims do not want to, but simply because the police do not let them which is obviously in contradiction with the law.

In case there were any legal consequences resulting from the complaint, the two measures which were mainly requested and/or imposed were exclusion from the place of residence and personal protection.

Besides the police, other service providers which did not provide for appropriate
assistance include psychologists and doctors who simply did not show up, were unwilling to help, to perform a medical investigation or to forward the case to the police. This latter is in violation with the obligation of professionals to report cases of IPV to the police in case they notice it via their job, as determined in the provincial law and the national acts 26.485 and 24.417.

One woman even became pregnant as a result of an inappropriate medical investigation and subsequent wrong (medical) treatment which clearly violates her rights and causes secondary victimization. Quoting from her story on the medical investigation:

EVVG15: “Eh... I did it, I left there and went to my.. I went home. They told me to wait for the other day, since the report was about to arrive.. And I was waiting (..) A month passed by. The report made in Jujuy arrived which requested me to call them and return for another medical inspection. Again, the upheaval began. And hence they made ... investigated me again and told me: ‘you are pregnant’. And I said: ‘no ... I cannot believe that.’

I: “They did not prescribe you the morning after pill or...?”

EVVG15: “No, nothing. They examined me. They had me there. And made a report. They sent me home. And suddenly they told me I was pregnant and I told them: ‘I do not want to have it. Help me, help me!’ I said to the doctor: take this baby away, I do not want to have it, doctor. I recently gave birth to my second child. Three I do not, I do not want. He raped me. That is not the same, I do not consider it to be the same’ and they told me: ‘because of your illness and everything we cannot do anything. If we cannot give you neither a medicine, nor an aspirin, because of your illness.. what could we do? Besides that, you are already entering the second month of your pregnancy...’

The court as well did not always provide for proper assistance which is illustrated by the fact that there was not always sincerely listened to the victims’ stories during the procedure. “For them it is just another case”

Furthermore, in some cases there existed delay in the

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44 EVVG8
process. This latter is in violation with Act 26.485 which grants victims the right to a rapid legal procedure.

4.6 Other problematic issues

Additional problematic issues experienced by the victims on society level entail general (gender) discrimination and the fact that society remains indifferent, mainly due to the macho culture which causes them to consider IPV to be “normal”. As illustrated above, victims often believe it is normal that their husband treats them violently or justify it by for example, the influence of alcohol. One victim did not even realize that she was living in such a violent situation because of childhood experiences, until therapy made her realize it. As long as such patriarchal views are accepted and adhered to amongst society, it will be difficult to erase IPV completely.

Issues about therapy and treatment are first of all related to the costs of the therapy: victims often give as a reason that they cannot participate in therapy because they cannot pay it. However, Article 6 of national Act 24.417 for example, grants the accused and his family members the right to follow psychological therapy for free. Although this Act appears to be only applicable to cases that entered the legal procedure, Article 7.c. of national Act 26.485 also orders the state to guarantee free access to integral and appropriate assistance for women who suffer any type of violence. These facts imply that either the victims lack such information, or that practical experiences contradict the law.

Another problematic issue arises when asking the victims about the accessibility and number of services that provide for assistance. As they indicate, therapy is mainly given on hours that are not feasible due to reasons of work or taking care of the children.

EVVG4: “There are so many people. Hence, when they ask for a consult, those who are mothers, they sometimes cannot come at the available hours, and when they do not offer other possibilities for having a consult, on other days for example, a lot of the women give up on it. From what I heard, I know this happens; they cannot handle it. Furthermore, there is no such psychological help as, maybe there is psychological help, but again they are not able to deal with or serve so many needs since nowadays, there
exist very many needs, there are a lot of needs, a lot of women.”

A solution to this could be to give therapy in the evening hours as well; both to make it more accessible and to cover the big amount of needed therapy.

Another reason victims give for not following therapy refers to the fact that the therapy is only accessible if both partners participate (this obviously refers to relationship therapy). Most of the time, husbands are indifferent or refuse to participate. A possible solution would be to make such therapy obligatory.

One can imagine that because of this lacking accessibility to assistance, victims are less likely to report their case or tell anyone about it. Furthermore, they often feel ashamed. Some even lied to the doctor about the cause of their physical injuries. One victim told:

EVVG8: “One time, I broke this arm. I went to the hospital and told a lie. I told them that I fell. That I slipped and I fell.”

I: “Did they help you? “

EVVG8: “They applied a cast. However, in reality he pushed me while beating me. Consequently, I broke my arm.”

Other reasons for not reporting include: the view that IPV is normal; feelings of anxiety or inferiority; the fact that the husband or one of his family works with the police; the children; empty promises of the husband; manipulation; or that they simply do not know where to go. Only one victim (10%) did not go to the police for the reason that she loved her husband. The other 90% did not talk about loving their husband at all. In those cases, it was rather the husband who told his wife that he loves her in order to manipulate her.

In relation, the most important reasons for victims to stay with their husband are financial problems, the children, the fear to be alone, promises by the husband that it will not happen again, and the feeling that they and their children are not protected anymore when they leave. The last two are remarkable.

First of all, it commonly occurs that the husband begs his wife to stay and promises that

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45 EVVG15
he will never do it again. However, most of the time the violence returns and the husband will make the same empty promises. When the women continue to believe in this and therefore stay, the circle of violence will never be broken.

EVVG3: “For a certain period of time, we were okay and I said let’s hope (it will stay like this). He changed or it all changed in a positive way, and he himself said ‘we are going to be okay, we are going to be better’ and hence... I started to believe in all this right? And it returned while I was pregnant of the second one. After he was born, his actions started again.”

Secondly, it is noteworthy that the victims feel unprotected in case their husband would leave. Apparently, they consider their husband to be a protective and important factor in the family, even though he behaves in a violent manner towards them and (probably) their children.

EVVG4: “I feel that if he leaves, I feel unprotected. (...) Concerning this protection, I feel insecure about staying alone (...) Perhaps, this only relates to the fear I have, and the fact that I hold on to him which causes that, that I cannot leave him.”

4.7 The victim’s perception on the needs

Although they cannot indicate an ideal solution for their specific situation:

- I: “What do you consider to be the ideal solution? As in, ‘this would be perfect’.”
  
  EVVG1: “I would like him to really change. However, I do not have a solution. As I said, I told the same to the psychologist, in relation to my problem. I do not have a solution.”

- EVVG4: “Up till now I have been searching for it. However, I did not find it yet.”

When asking the victims about their opinion on possible solutions to erase the phenomenon of IPV and improve the access to services, all victims felt the need to experience empathy and be listened to by the service providers and institutions on all levels. They wanted
to talk about their violent situation and raise their voice.

Another option indicated was separation or leaving, being it definitely or for a certain period of time; probably until the situation calmed down.

I: “Do you think that leaving is the solution?”

EVVG10: “What I thought and still think is that I should have left, because... (...) I wanted to leave for a certain period of time. Not for always, but just for two months for example.”

In relation to the service providers, the victims argued that in order to really understand the situation you first need to experience it yourself. Obviously, it is not possible to let all service providers experience a situation of IPV. Hence, the victims asserted that there need to be made improvements concerning the capacity and assistance provided for by these people and institutions. To give a concrete example:

EVVG1: “In the first place, I would like the police to really allow the victims to make formal complaints, and not only statements as they are doing now. On the other hand, when one approaches the tribunal, I would like them to focus on what the victims really want and what they are going to do. However, it would also be nice if the victims are accompanied, and if the judges really listen to the parties, since now I felt as if they did not listen to me.”

As argued, they should first of all start with improving the attention paid by treating the victims in a human way, sincerely paying attention to them, and trying to understand them. This can be done by talking and listening to them, really making the formal complaints, taking them serious, acting in a more thoughtful way\(^{46}\), providing them with the correct information (e.g. explaining the difference between a formal complaint and a statement\(^{47}\)), appropriately protecting and treating them when needed, etcetera.

\(^{46}\) EVVG7
\(^{47}\) I: “Did the police suggest to just make a statement or did you not want to make a formal complaint, how did it go?”
EVVG6: “Yes because I did not know the difference between a formal complaint and a statement”
As resulted from the interviews, 70% of the victims considered psychological treatment to really assisted victims in obtaining self-respect again and letting them realize what the value of reporting is.

Regarding the protection it was stated that there is the need for specific shelters or places where victims (especially mothers with children) can reside once a violent situation arises and until it calmed down.

I: “What do you think there could be improved concerning the existing services?”

EVVG8: “What I think is lacking is … for example when a woman is suffering violence, what I remember is that at such moments I did not know what to do. As in.. I left the house but where to go with the children? Being it a shelter. Something which belonged to.. I don’t know.. the government or I don’t know.”

In addition, financial resources are considered to be important. Since many victims are financially dependent on their husband, they regard monetary resources as contributive to escaping the violent situation; enabling them to take care of themselves and their children. Additionally, work will lead to some distraction of the situation.

EVVG15: “When listening to everyone who participates in the group, the economic aspect made them stay. There are no other reasons to stay. Although they want to leave the situation, the economic aspect leaves them no other choice than staying.”

I: “As if it obliges everyone?”

EVVG15: “Yes indeed. This is one factor, the other aspect which is highly influential, concerns the children.”

Other needs concern the access to information. As indicated by EVVG8, there is a lack of publicly available information on who to approach when becoming a victim of IPV. Often the victims do not know where or to whom to go in order to find protection and assistance. Flyers that include information on such service providers, or indicate a phone number of a “help desk”
(which shall exist in accordance to Article 9 of the provincial law\textsuperscript{48}) etcetera, should be distributed in for example, the police station, hospitals, or any other relevant institution. In short, there is a lack of information and communication on the access to help.

The last one to discuss is social and cultural transformation by help of re-education. This one should be seen as very important in situations of IPV in order to change the view that women are subordinated to men. As implied, patriarchal views, labeling women as inferior, play one of the main roles in causing IPV in Jujuy. They cause marginalization and exclusion of women which is obviously in violation with human rights.

Hence, such patriarchal views should be removed from society as well as the view that the victims should simply accept and endure the violence experienced. Obviously, this is easier said than done since these discriminatory perceptions already exist for centuries. However, every action will contribute to the final aim namely, sanctioning, preventing and erasing IPV.

Due to the fact that everyone ignores issues of IPV and considers it to be “ordinary”, the violence occurs on a continuous basis. Education should therefore be considered as a starting point in order to make both men and women aware of the fact that they are equal and that it is actually not normal to use violence in order to control the partner. In other words, “transformative equality” should be ensured. As explained by Fredman (2003), this includes:

“A restructuring [of] society so that it is no longer male-defined. Transformative requires a redistribution of power and resources and a change in the institutional structures which perpetuate women’s oppression. It requires a dismantling of the public-private divide and a reconstruction of the public world so that child-care and parenting are seen as valued common responsibilities of both parents and the community. It aims to facilitate the full expression of women’s capabilities and choices, and the full participation of women in society ... This shows that equality as transformation requires not just the removal of barriers, but also positive measures to bring about change.”

\textsuperscript{48} As Article 9 of the provincial law determines: “The Centers for Integral Attention on Family Violence shall be available uninterrupted; every day of the year, 24 hours a day via the emergency forces. In order to receive the corresponding formal complaints, a free telephone line shall be facilitated.
By teaching the perpetrator what the actual consequences of IPV are, what love and respect mean, and by teaching women how to deal with cases of violence, the number of IPV cases should at least become diminished.

It is important that such re-education already starts at an early age. Hence, not only parents and family, but also schools should teach their pupils that men and women are equal. This should be taught to them both in theory and in practice.

To mention some examples, such education of society could for example take place via reading about experiences of the victims. Making society aware of the consequences via this way provides people with insight into the severance of the problem. As still a lot of victims are ashamed or afraid to tell their experiences, and therefore do not make their cases known, others will not notice the problem. Starting to share stories will support others to tell their story as well. Such as several victims indicated, group talks helped them to understand and cope with IPV and gave them insight into the value of reporting it. These stories are important resources to learn from for the rest of society as well.

Furthermore, awareness campaigns should be established as well as distribution of information which is now highly lacking. Additionally, there should be training on institutional level (e.g. among the service providers) resulting in the capability to understand the victims and take them seriously.

Moreover, the provisions as stated in the law look nice on paper, but as long as they are not applied in practice, they are useless. Hence, they should be enforced to a higher extent. Another action which could contribute on legal level is the criminalization of IPV.

In order to map the content, specific causes of the problem, and implement appropriate measures and policies, it is necessary to collect and store reliable and essential data. Such data can in turn be used for finding solutions and cooperation not only on national, but also on international level, which is necessary in order to combat IPV worldwide.

Again, all these measures should be initiated from the victim’s perspective as they are the ones who experienced IPV in practice and hence know what will work and what will not.
Chapter 5: Discussion and Conclusion

Having analyzed the applicable legislation as well as the victim’s experiences, perspectives and needs, it is now time to draw conclusions on the main question of this thesis, namely: “What discrepancies exist when comparing the rights of female IPV victims as stated in the Argentinean legislation, and the needed protection as perceived by them?” Additionally, “What discrepancies exist between the protected rights and provided services as theoretically stated in the law, and the compliance and access thereto in practice?”

In relation to the first question, it can shortly be answered that the victims did not refer to the explicit need for certain rights. They rather indicated the necessary assistance and information for which there should be provided by (governmental) institutions and service providers. This conclusion indicates that legislation alone is thus not sufficient in order to solve the problem of IPV. However, one should not think legislation is therefore not important at all, as it certainly provides for a certain basis on which victims can rely. Therefore, it is important that the law becomes applied in practice as well, and does not only exist in theory which seems to be the case in Jujuy up till a certain extent. Certain victims’ rights have namely become severely violated. To mention a few: the right to be free from violence, to be free from all forms of discrimination; to obtain respectful treatment, avoiding any behaviour, action, or omission that produces revictimization and so forth.

In relation to the second question, it can be argued that besides these violated rights, there is not acted in accordance to the state’s duties that mandate for example, to adopt all necessary measures for erasing the persistence and tolerance of IPV as well the discrimination and imbalanced relationships of power between men and women.

Other actions that still lack performance are the change of the social and cultural norms of behaviour of men and women; raising awareness and observance on the right to be free from violence and have your human rights protected and respected; and providing for appropriate specialized services for victims of IPV. These were also mentioned among the lacking services as perceived by the victims. Furthermore, it often resulted that service providers did not comply with their legal obligation to report cases of IPV which they noticed.
via their profession, or that they did not provide the victims with the necessary information.

The main needs of the victims in order to improve the situation of IPV that resulted from the interviews include first of all, a listening ear that takes them seriously and shows empathy which is often not done; causing them to feel unprotected. In order to understand the victims and discover what their needs are, a dialogue should first be initiated. Since the victims themselves experienced IPV, they are the ones who will best understand situations of the other victims. Hence, a possible solution would be to let former victims lead for example therapy groups in order to share their experiences and lessons learned if they want. Moreover, when drafting legislation, the perceptions and experiences of the victims should be taken into account.

Additionally, it appeared that psychological therapy, being it on individual or group level, was one source of assistance considered to be very helpful for the victims. “It provided me with the feeling of protection, as he was not going to do anything against me.⁴⁹” Such help made them capable of dealing with the situation and receiving back their self-respect as a lot of victims suffered from a very low self-esteem. However, due to the fact that the hours on which therapy was given were often not feasible for the victims, or due to financial reasons, the victims were not always able to enjoy psychological therapy as they should.

Other important needs concern the distribution of appropriate and necessary information; protection provided by for example shelters, economic resources which enable them to be financially independent on their husband. The last one concerns re-education, not only for the perpetrator but also for the society as a whole. This is important as one of the main factors causing IPV in Jujuy is the presence of patriarchal views. As explained, these should be removed from society for which re-education can be highly contributive.

In sum, it can be argued that when looking at the indicated victim’s needs, they mainly concern the access to assistance and services rather than explicit rights. Therefore, it can be concluded that legislation alone is not sufficient to sanction, prevent and erase cases of IPV. Rather, in order to discover the needs and discrepancies, there should first be entered into a dialogue with the victims instead of imposing random provisions drafted by the authorities.

⁴⁹ EVVG8
Chapter 6: Annex

Table I. Personal Characteristics of the Victim

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<thead>
<tr>
<th>Civil Status</th>
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<tr>
<td>Married</td>
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<td>60</td>
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<tr>
<td>Not Married</td>
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<td>In Divorce</td>
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<tr>
<th>Age</th>
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<tr>
<td>Young Adulthood (19 – 40)</td>
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<td>70</td>
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<tr>
<td>Middle Adulthood (40 – 65)</td>
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<th>Place of Residence</th>
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<th>Mother</th>
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<tr>
<td>Working/Occupied</td>
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<td>70</td>
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<table>
<thead>
<tr>
<th>Mother</th>
<th>N</th>
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<tr>
<td>Economically dependent</td>
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Table II. Experienced IPV

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<th>Type of Violence</th>
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<td>90</td>
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<td>Economic</td>
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<td>Threats</td>
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<td>Stalking/Controlling</td>
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<th>Typology</th>
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<td>After she gave birth</td>
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Table III. Accessed Sources of Assistance

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<th>Source</th>
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<td>Statement only</td>
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<td>Both</td>
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<td>Psychologist</td>
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<td>Hospital</td>
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</tr>
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<td>Family</td>
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<td>Friends</td>
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<td>Priest</td>
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<tr>
<td>(Other) social workers</td>
<td>5</td>
<td>50</td>
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</table>
References

Argentinean Legislation


Books


Case Law


Conventions and Declarations


Interviews

- EVVG1. Interview PhD research L.P.A. Sosa. Modified on 16 June 2012.
- EVVG2. Interview PhD research L.P.A. Sosa. Modified on 26 June 2013
- EVVG3. Interview PhD research L.P.A. Sosa. Modified on 16 October 2012
- EVVG4. Interview PhD research L.P.A. Sosa. Modified on 19 June 2013
- EVVG5. Interview PhD research L.P.A. Sosa. Modified on 19 June 2013
- EVVG6. Interview PhD research L.P.A. Sosa. Modified on 30 June 2012
- EVVG7. Interview PhD research L.P.A. Sosa. Modified on 30 June 2012
- EVVG8. Interview PhD research L.P.A. Sosa. Modified on 4 July 2012
- EVVG10. Interview PhD research L.P.A. Sosa. Modified on 4 July 2012
- EVVG15. Interview PhD research L.P.A. Sosa. Modified on 7 July 2012

Online Articles and Reports


Online Newspaper Articles

PowerPoint Presentation

Provincial Documents

Published Articles
Websites