

AN ABSTRACT OF THE THESIS OF

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Title: The effects of procedural justice policies for the domestic violence courts in Recife, Brazil

Abstract approved:

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To combat violence against women, the Brazilian government enacted the Maria da Penha Law (MPL) in 2006 and established the domestic violence specialized courts. Based on the assumption that fair procedures enhance the legitimacy of legal authorities and may enhance victims' satisfaction and cooperation with prosecution, this research aims to analyze the presence of procedural justice elements within specialized courts in Recife, Brazil. Semi-structured interviews were conducted with fifteen professionals who work in Recife's network to combat domestic violence and the collected data was analyzed through thematic analysis. The codes were defined deductively, according to the existing literature on procedural justice framework. The procedural justice elements analyzed were: information, consistency, accuracy, status recognition and control. It was found that operational and structural changes and increments should take place in order to ensure perceptions of fairness within court processes: agencies do not share information and lack human and structural resources; victims are not informed of court processes and have little influence on them; service delivery is not specialized; disposition and execution of sentences are inconsistent. It is recommended that specialized courts: increase information sharing with other agents of the network to combat domestic violence; establish a victim advocacy program; separate protective measures from criminal charges; provide mandatory domestic violence training for court employees; and promote workshops for specialized court's judges in order to establish a consensual interpretation of the MPL.

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The effects of procedural justice policies for the domestic violence courts in Recife,
Brazil

by
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I understand that my thesis will become part of the permanent collection of Oregon State University libraries. My signature below authorizes release of my thesis to any reader upon request.

Mariana Fernandes da Cunha Loureiro Amorim, Author

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THE EFFECTS OF PROCEDURAL JUSTICE POLICIES FOR THE DOMESTIC VIOLENCE COURTS IN RECIFE, BRAZIL

1. INTRODUCTION

Domestic violence greatly affects women's lives by the means of fear, coercion, and deprivations, in addition to physical and mental harm (RWI, 2007). Besides the consequences for women's health and well-being, such violence has human and economic costs that affect the development of a nation in general (UN, 2006). Brazil ranks 7th amongst 84 countries in terms of violence against women (Waiselfisz, 2012). According to the Brazilian Unified Health System 65 percent of cases involving violence against women between 20 and 49 years of age were perpetrated by intimate partners (Waiselfisz, 2012).

Before the 1970s, domestic violence against women in Brazil was considered a man's right to "protect their honor" (Blay, 2003, p. 87-88). After Brazil's re-democratization in the 80s, the Brazilian feminist movement grew stronger with the slogan "those who love do not kill". In 1985 the first specialized police station for women¹ was created (Izumino, 2004). In 1988, the new Brazilian Constitution was enacted, creating a demand for new channels for accessing justice in a egalitarian way (Izumino, 2004; UNIFEM, 2006). In the 1990s, the debate regarding the criminalization of violence against women gained international attention and was addressed in world events and UN conferences, which treated the issue as a violation of human rights (Izumino, 2004; UNIFEM, 2006). In 1991 the women's movement in Brazil got its first significant judicial achievement: the Superior Court of Justice rejected the "honor defense" argument (UNIFEM, 2006).

Even though the feminist movement made a lot of progress on their agenda in the years after re-democratization, it was only in 2006 that the Brazilian Government enacted the Law 11.340/06, also known as the Maria da Penha² Law (MPL), which

¹ The specialized police stations were the first public policy to combat domestic violence in Brazil (Sadenberg, 2010). Until mid 90's they were the main institution responsible for mediating domestic violence conflicts (Debert & Oliveira, 2007; Izumino, 2004). These mediations occurred informally since most of the domestic violence denounces were not charged within the Legal System. After the police report was made, the offender was usually arrested for three days and educated about the criminality of his acts; Debert & Oliveira (2007) defend that these measure had a "reasonable preventive effect".

² Maria da Penha starred a symbolic case of domestic violence that gained international notoriety. Her husband tried to murder her twice in 1983. She survived, but his attempts resulted in irreversible damage to her health, such as paraplegia. The impunity of her husband made Maria da Penha struggle all her life for women's causes. Her initiatives, together with feminist movements, caught the attention of international organizations that started to

established unified measures and actions for civil and criminal cases related to domestic violence in Brazil (Brazil, 2006; Oliveira, 2009).

The MPL (2006) provided guidelines for the development of public policies regarding domestic violence, representing a shift from a consensual approach to a punitive approach to domestic violence. While the consensual approach focuses on family values and on keeping the family together, the punitive approach focuses on the victim's as an individual, on her rights, and on sanctions for the abuser (Brazil, 2006; Han, 2003; Sadenberg, 2010). Some of the MPL's aspects that represent this shift are the forbidding of pecuniary sentences; women can only drop charges if the case does not involve physical injuries; victims of domestic violence should be informed of procedural acts and accompanied by an attorney or public defender in all procedural acts; judges may decree preventive custody and determine the obligatory attendance of aggressors in recovery and re-education programs (Brasil, 2006; Dias, 2006; Sadenberg, 2010).

One of the most innovative and least studied institutions created by the MPL are the specialized courts of domestic and family violence against women³ (Dias, 2009). Judges in these courts address both criminal and civil issues related to the family, and are also responsible for the provision of urgent protective measures⁴ (Brasil, 2006; Sadenberg, 2010). The federal government indicates that these courts should have multidisciplinary staff including social workers and psychologists to inform judges and victims, and should work closely with other agencies in the network of services to support battered women (i.e. the specialized police stations for women, reference centers for assistance of women⁵, forensic institutes, health services, and shelters) (Brazil, 2008; NCJ, 2013).

Although the MPL is recognized as one of the three best practices regarding the combat of domestic violence by the United Nation Development Fund for Women

pressure the Brazilian government to adopt policies that prevent, combat, and punish this kinds of cases. Twenty-three years later, the struggle resulted in the enactment of the Maria da Penha Law (Brazil, 2006)

³ These courts' official names are *Courts of Domestic and Family Violence against Women*. Because in the literature these type of courts that address a specific crime are commonly called *specialized courts*, in this study I will also refer to them in general terms, as *specialized courts*.

⁴ The protective measures aim to prevent more serious offenses and to repair material damages. They are conceded prior to the penal proceedings and they can address directly the offender or the victim by, for example, suspending or restricting the right to carry a firearm, prohibiting defendant's contact with the victim, removing the defendant from the house, referring victims to programs for protection, shelters, or restituting goods substracted by the defendant to the victim (NCJ, 2013).

⁵ Reference centers are public agencies responsible for providing access to information, support and services to women in situation of violence.

(UNIFEM, 2006), Brazil's implementation of the law is represented by the lack of essential services, inefficiency of existing services, limited support and assistance that can be offered to victims, unpreparedness of staff, and lack of infra-structure and technological support (Agência Senado, 2012; Gomes et al, 2009; Oliveira, 2009; Passianato, 2009; RWI, 2007; Sadenberg, 2010; UN, 2008; Vasconcellos, 2012).

Pernambuco, the locus of this study, is one of the states greatly affected by domestic violence in Brazil, presenting the fifth highest rate of femicide – the killing of females by males because they are females⁶ - in the country (IPEA, 2013). Pernambuco's state office for the combat of violence against women requested this research project due to the challenges faced by professionals of Recife's Specialized Courts of Domestic and Family Violence Against Women (specialized courts) when trying to successfully complete criminal proceedings. Part of the challenges that Pernambuco faces is the high demand of services faced by the specialized courts. The state has seven specialized courts, two of which are located in its capital, Recife. Recife's two specialized courts for women have received considerable demand. According to Pernambuco's state office for women's issues, the seven courts accumulate around 50,000 open proceedings, but nearly 20,000 of those are concentrated in Recife's two courts⁷.

Inefficiency in the execution of domestic violence court processes is currently considered a major policy challenge by Pernambuco's policy makers in the state office of women's issues. According to the National Council of Justice, NCJ (2013), during a five month period in 2008, 75,829 domestic violence criminal cases were open in Brazil, however, only 1,801 cases -less than 3 percent- were successfully concluded. In Pernambuco, from 2007 to 2011, only 52 percent of all criminal and civil proceedings were concluded (NCJ, 2013); most of the terminated proceedings were of a criminal nature⁸ (Dias, 2009; Mello, Medeiros & Pacheco, 2013).

The present study tries to assess whether or not the specialized courts include dimensions of procedural justice. A previous study conducted in Recife's First Specialized Court concluded that court processes are not addressing victims' major

⁶ This definition was given by Diane Russell in 1992 on her book: *Femicide: The Politics of Woman Killing*.

⁷ These courts are named : First Specialized Court, which was created in 2007, and Second Specialized Court, which was created in 2010. There is no difference between these courts in terms of functions or number of employees. Recife is the only city in Pernambuco that has two courts because of the size of its population. The terms 'First' and 'Second' have no meaning other than to establish the order in which the courts were created.

⁸ A criminal process has to be terminated five years after it was opened, even if no disposition was reached on the case.

concerns (Melo & Pires, 2013). The current study will address the court process and its effects on victims' participation, cooperation, and satisfaction through the perspective of workers in the *network to combat domestic violence* - which is composed of two specialized courts, one specialized police station, and one reference center.

In order to perform the proposed evaluation, the researcher will employ the procedural justice framework. The procedural justice model assumes that fair procedures enhance the legitimacy of legal authorities and may enhance victims' satisfaction and compliance with the court system (Lind & Tyler, 1988; Paternoster et al, 1997; Thibaut & Walker, 1978; Tyler, 1990; Tyler, 2006; Tyler, 2012; Tyler & Lind 1992). Thus, instead of focusing on court disposition, recidivism rates, and social control effects established through the MPL, this research will focus on court processes and on what workers in the network to combat domestic violence see as challenges and where they see opportunities to be more effective. According to prior research, procedural justice models are considered inclusive, reintegrative, and noncrimogenic even in face of unfavorable outcomes (Paternoster et al, 1997). The contribution of the current research is to answer the following question: *What are the elements of procedural justice within domestic violence specialized courts in Recife, Brazil, according to the perspective of workers of Recife's network to combat domestic violence?*

This research address a number of significant gaps in the literature. It is the first to examine the specialized courts' processes established through the MPL in Brazil; it is also the first conducted about the court processes in Pernambuco; finally, this is the first study, to the researcher's knowledge, on procedural justice in which workers are interviewed instead of users⁹ of the criminal justice system. By interviewing wokers, the researcher will contribute to the understanding of procedural justice due to the fact that workers have more in-depth knowledge of court processes than users of the system. Besides, workers have accumulate, over the year, experience with several different users, and are able to speak to a general 'big picture' of users' demands regarding court processes. This study will allow the researcher to identify

⁹ For the purposes of this study, the term *workers* refers to the employees of Recife's network to combat domestic violence; the term *users* refers to victims and defendants who are served by this network. Because this study is not addressing the effects of procedural justice elements on offenders' perceptions of the court system, the term *users* will be considered interchangeable with the term *victims*.

procedural justice elements and their impacts in users as perceived by court employees. The analysis of court employees' perspectives will document the effects of procedural justice elements (i.e. representation, control, impartiality, consistency, information, accuracy, etc.) on victims' compliance with court processes and their willingness to report new cases of violence.

2. LITERATURE REVIEW

2.1 SPECIALIZED COURTS¹⁰

2.1.1. Specialized courts as a response to domestic violence

Although the physical manifestation of violence is the issue most commonly associated with domestic abuse, domestic violence can also occur through psychological, moral, patrimonial, or sexual abuse¹¹ (Brazil, 2006; Pernambuco, 2012). In fact, researchers have found that domestic violence typically occurs in a cyclical form that often begins with verbal and emotional abuse and escalates to sexual or physical forms of abuse. This abusive period is commonly followed by a conciliation phase, which is named the “honeymoon” period (Abdala et al, 2011; Han, 2003; Walker, 1979). The unique and cyclical nature of domestic abuse hinders the work of prosecutors since victims often become uncooperative with the process during the honeymoon phases (Dawson & Dinovitzer, 2001). Victims also face additional barriers leaving the relationship and cooperating with prosecution, such as concerns regarding children’s custody, lack of social support, financial dependency, low self-esteem, embarrassment, and physical isolation (Han, 2003; Scott & Kulseman, 2007; Trutty et al, 2008).

Even though there are many challenges related to the prosecution of domestic violence charges, domestic violence caseloads typically increase after the enactment of pro-arrest policies (Cahn & Lerman, 1991). Due to the higher arrest rates in domestic violence incidents, prosecutors and the courts have had to develop strategies to deal more effectively with these charges (Cahn & Lerman, 1991). One of the initiatives widely spread throughout North America since the 90’s is the use of specialized courts to address the unique characteristics of domestic violence (Cahn & Lerman, 1991; Gover, MacDonald, & Alpert, 2003), which could not be addressed by the traditional legal process (Dutton, Goodman & Bennett, 1999; Buzawa & Buzawa, 2003; Jordan, 2003).

¹⁰ Although, there is no comprehensive study about the real impacts of the law and the contributions of the domestic violence courts in Brazil, their scenario aligns with the reality of other countries (UN, 2008:44). Therefore, this study will rely on the literature produced regarding specialized domestic violence courts in North America, where extensive studies have been produced since 1990s.

¹¹ *Physical* abuse refers to any act against the woman’s physical well-being and health. *Psychological* abuse, on the other hand, refers to emotional harm caused to women. *Moral* abuse refers mainly to slander, which affects the victim’s dignity. *Patrimonial* abuse refers to any act that involves subtraction, withholding or destruction of the victim’s material goods and financial resources. Finally, *sexual* abuse refers to the attempt or act of sexual intercourse without the victim’s consent. (Pernambuco, 2011)

The specialized courts have been created in North America with the joint goals of holding offenders accountable and providing safety to victims (Trutty et al, 2008). Specialized courts generally coordinate the justice system responses to domestic violence, have specialized personnel to identify and track cases, collaborate with community agencies in order to monitor compliance with dispositions, and provide services to victims and offenders (Shepard, 1999; Hoffart & Clarke, 2004; Humphries, 2002; Karan, Keilitz, & Denaro, 1999; Trutty et al, 2008)

2.1.2. Vigorous prosecution and early intervention in domestic violence courts

Specialized courts act mainly through means of: i) early intervention for low risk offenders; or ii) vigorous prosecution for serious and/or repeat offenders. The early intervention strategy generally offers low-risk offenders with the opportunity to receive assistance and to be diverted from the criminal justice system (Gondolf, 2002; Healy & Smith, 1998). On the vigorous prosecution process, attorneys partner with the police and victims to ensure a strong prosecution effort (Trutty et al, 2008)¹².

Although some community stakeholders expressed concerns about the decriminalization of domestic assault charges within early intervention programs, studies have found that the early intervention model when compared with vigorous prosecution programs presented lower case processing time; higher levels of victim cooperation and satisfaction; higher levels of guilt pleas; faster referral and engagement on programs; and lower levels of recidivism rates (Hornick, Boyes, Tutty & White, 2008; Hoffart & Clarke, 2004; Moyer, 1999). Lewis et al (2000) infer that the better results presented by early intervention programs may be due to their alignment with victim's expectations. After all, victims access the legal system more to pursue services, protection and support than to punish their partners (Lewis et al, 2000).

Roberts (1996) found that most victims believe that vigorous prosecution will not meet their needs¹³. Whether individual women wanted prosecution depended on

¹² Because victims are often uncooperative, there is increasing interest in enhancing evidentiary procedures so that prosecutors have less dependence on victim participation (Watterndorf, 1996; Dawson & Dinovitzer, 2001). Watterndorf (1996) suggested some mechanisms for a 'victimless prosecution': taping recording spontaneous statements made by victims or witnesses to the police, securing a victim's statement, taking photographs and seizing other physical evidence, interviewing the accused perpetrator, interviewing witnesses, and securing any relevant medical records.

¹³ Even though many studies have found that women do not seek prosecution, there are women who want to pursue prosecution and punishment for the abuser (Fleury, 2002; Weisz et al, 2004; Weisz,

their situation and could change over time depending on considerations such as their safety; their partners' behavior; the extend of the abuse; their financial situation; their network of support; and their children (Brown, 2000; Bennett et al., 1999; Buzawa & Buzawa, 2003; Dutton et al, 1999; Goodman et al, 1999; Holder & Mayo, 2003; Lewis et al, 2000; Lyon, 2002; Weiss et al., 2004;).

Even though findings of victims' support for vigorous prosecution vary, lack of cooperation of victims and witnesses is a common challenge for the specialized courts when attempting to hold offenders accountable (Dawson & Dinovitzer 2001). Mandatory prosecution policies have been implemented to respond to this lack of cooperation (Ford, 2003), being justified by its general and specific deterrent effect (Cahn & Lerman, 1991; Davis & Smith, 1995; Flemming, 2002; Tolman and Wiesz, 1995), and by the assertion that such policies safeguard women from pressure and retaliation from their abusers (Russell & Ginn, 2001). However, mandatory prosecution does not necessarily meet the needs of the victims - it may disempower, re-victimize and possibly be unsafe¹⁴ for victims – and may even cause women to refuse to access or cooperate with the justice system (Brown, 2000; Cahn & Lerman 1991; Ford, 2003; MacLeod, 1995; Mills, 1998; Osthoff, 2002).

In fact, some researchers indicate that most women support mandatory charging and arrest policies – even though, generally, they found more support for mandatory arrest policies than for mandatory prosecution policies (Brown, 2000; Lyon, 2002; Martin, 1997; Prairie Research Associates, 1994; Roberts, 1996; Smith, 2001; Wilson, 1998). It seems that domestic violence victims desire a system that intervenes to stop the immediate violence while still valuing their opinion on whether or not their partner should be prosecuted (Brown, 2000; Buzawa et al, 2000; Ford, 1991; Holder & Mayo, 2003; Lewis et al., 2000; Roberts, 1996; Wilson, 1998). For this reason, authors such as Ursel (1998) and Hoyle and Sanders (2000) contend that the existence of alternatives to vigorous prosecution reduces women's reluctance to call police.

2002; Ford, 1991). Weisz (2002) attempted to identify the characteristics of victims most likely to favor prosecution: the abuse had been more severe in the past six months, their partner had been abusing them longer, the women thought that there was a high risk of future abuse, the abuser was using drugs or alcohol during the violent incidents and they were currently separated from the abuser.

¹⁴ There is a disagreement whether some practices of mandatory prosecution are safer or not for victims. Cahn and Lerman (1991) state the prosecutors implement practices that are coercive but safer for victims such as: subpoenaing victims so that it appeared to offenders that victims had no choice but to testify against them; taking responsibility for the decision to lay charges so that victims could claim they had no control over the charges laid; and by prosecuting without victim's testimony (Cahn and Lerman, 1991).

2.1.3 Victims' satisfaction with specialized courts

There is a growing belief that the justice system has to address victim's needs in order to effectively respond to domestic violence (Weisz, Black, & Nahan, 2005), and a growing number of studies that were conducted about victims' perceptions and experiences within the justice system (Lewis, Dobash, Dobash, & Cavanagh, 2000). Many studies have shown that domestic violence victims' satisfaction with prosecutors and judges was low, and more specifically, lower than their satisfaction with the police (Buzawa, et al., 2000; Finn, 2004; Fleury, 2002; Hotaling & Buzawa, 2003; Ptacek, 1999; Smith & Davis, 2004). Victims' concerns regarding prosecutors are generally related to not meeting them, having little time with them to get prepared to testify¹⁵, being unsatisfied with how they handle the court process and outcome, and seeing little consistency among different jurisdictions and prosecutors (Buzawa & Buzawa, 2003; Fleury, 2002; Hotaling & Buzawa, 2003; Lloyd, 2000; Prairie Research Associates, 1994; Roberts, 1996; Russell & Ginn, 2001). Regarding judges, studies have shown that it is important for domestic violence victims whether or not the judge was supportive and concerned or bureaucratic and uninterested (Gover et al, 2003; Ptacek, 1999; Steketee et al, 2000), and whether the victim feels comfortable or intimidated, 'dumb', 'stupid' and/or subordinate (Ptacek, 1999; Wittner, 1998).

Generally, victim satisfaction with specialized domestic violence courts is higher than traditional courts. One reason for this is that victims report receiving more information and attention from the prosecutors (Erez & Belknap, 1998; Gover et al, 2003; Moyer, 1999; Stekee et al, 2000). The literature review on specialized courts shows that they represent great progress for domestic violence victims, however, it also demonstrates that victims perceptions about court processes and outcomes are central to ensuring their cooperation, and that the court staff play an important role in constructing these perceptions. The next section will discuss victims and offenders

¹⁵Fleury (2002) found that women who spent more time with the prosecutor were more dissatisfied with the prosecutor's decision; it is inferred that they had little influence of the prosecutor's decision making process. The main conclusion to be drawn from this is that spending more time with the prosecutor will not automatically increase satisfaction, attention must be paid to the quality of the interaction. In Lewis et al.'s (2000) study, victims viewed prosecutors as the least helpful of the court personnel because they would not withdraw charges even when the woman was afraid of the abuser retaliating if the prosecution went ahead.

perceptions of procedural fairness and its implications for their compliance and satisfaction.

2.2 PROCEDURAL JUSTICE AND DOMESTIC VIOLENCE

2.2.1 The deterrence theory and domestic violence research

Modern penal policy seeks to understand crime and its control in a scientific, dispassionate manner focusing on effectiveness and cost (Freiberg, 2001). This focus on utilitarian aspects of the prosecution process such as deterrence and incapacitation has laid aside non-utilitarian aspects and abstract concepts such as ‘fairness’ and ‘justice’ (Garland, 1990). According to deterrence theory, human behavior is instrumental and guided by the premise that the greater the severity of the outcome, the greater the inhibition of subsequent wrongdoing. This inhibition can occur through what is called *specific deterrence* – in which the individual who is punished is deterred from future criminal acts – or through *general deterrence* – which refers to people who are deterred from criminal acts by seeing the punishment applied to others (Paternoster et al, 1997; Nagin, 1998). The deterrence model tries to establish sanctions and punishments in order to shape people’s behavior (Nagin, 1998).

A characteristic of studies that follow this instrumental approach is their focus on policy outcomes instead of processes. A famous example of a series of studies anchored in deterrence theory and focused on policy outcomes was the Minneapolis Domestic Violence Experiment and its replications. The Minneapolis Experiment led to the belief that the arrest of the offenders would deter future instances of spouse assault (Sherman & Berk, 1984; Sherman & Cohn, 1989). This study’s results encouraged a boom in mandatory arrest policies throughout United States (Paternoster et al, 1997). However, its replications did not confirm the initial findings; rather, their results ranged from arrest having no effect, to having a deterrent effect, and even to having an escalation effect (Berk et al, 1992; Durford, Huizinga & Elliot, 1990; Sherman & Smith et al, 1992; Sherman et al, 1991).

In post-hoc studies, researchers have found that being arrested affects suspects who had strong conventional social bounds -i.e. were employed or married- (Sherman et al, 1991; Sherman 1992; Sherman & Smith et al, 1992) differently from those who do not have these bounds (Pate & Hamilton, 1992). The deterrence theory was not able to provide a sound rationale for the variations on the deterrent effect of arrest (Dobash

& Dobash, 2000). This may be due to the fact that deterrence effects are in fact small in magnitude and are dependent on the *certainty* of punishment (Nagin, 1998; Nagin & Paternoster, 1991). If that is the case, a lot of costs associated with policing would be necessary in order to ensure this perception of certainty and to enforce the deterrent effect. The reality of many democratic societies, however, is to have low policing and surveillance – and therefore low perception of certainty of punishment. For these reasons, Tyler (1990; 2006) contends that it would be more effective to have strategies to deal with public compliance that are not dependent on fear of being caught and punished for wrongdoing.

Paternoster et al (1997) attempted to explain the variance in the replications of the Minneapolis study's deterrent effect by shifting attention from *outcomes* to *procedures*: "It is entirely possible that the *manner* in which sanctions are imposed has an independent and more powerful effect on spouse assault than the sanction outcome itself" (Paternoster et al, 1997, p. 165). In fact, Paternoster et al (1997) conducted a reanalysis of one of the replication experiments, the Milwaukee Domestic Violence experiment, and provide at least moderate support for the prediction that perceptions of procedural justice in domestic violence assaults are relevant determinants for future criminal conduct.

2.2.2 The procedural justice model

Paternoster et al's (1997) perspective is embraced by a social psychology tradition that argues that *perceived fair procedures* have much more impact on group conformity than *perceived fair outcomes* (Lind 1992; Lind & Tyler, 1988; Thibaut & Walker, 1978; Tyler, 1990; Tyler & Tyler, 2006). Within this tradition some authors argue that fair procedures should be adopted because they would result in fair outcomes (Thibaut & Walker, 1978); others argue that people *want* to be treated fairly independent of the outcomes being considered favorable or fair (Tyler, 2006).

This last position contends that when treated fairly by authorities during court processes, people will view the authority as *legitimate* and be more likely to obey group norms and to cooperate with the legal system – even when they conflict with their self-interest (Paternoster et al, 1997; Tyler, 1990; Tyler, 2006). According to Tyler (2006, 2012), in addition to legitimacy, people can cooperate with the judicial system based in a common perception of the *justice* or *morality* of the outcomes;

however, reaching consensus on these matters is harder than agreeing on what constitutes procedural fairness.¹⁶ The procedural justice model avoids the discussion of what would be the appropriate outcome and focuses on enhancing legitimacy of legal authorities through the establishment of fair processes and a respectful treatment.¹⁷ (Paternoster et al, 1997; Tyler, 2006; Tyler, 2012)

Procedural justice's characteristics become particularly relevant in understanding people's reactions to the court system not only because people generally perceive what constitutes fair treatment in similar ways (Tyler, 2012), but also because fair treatment seems to affect similarly *all* people involved with this system –i.e. there is no strong evidence that procedural justice's effects depend on the personal characteristics of suspects (Paternoster, 1997; Tyler & Huo, 2002).

“Being treated with respect, having one's side of the story listened to, the absence of bias, and other dimensions of procedural justice are predicted to lead to trust in authorities, a sense of belonging to the group, and, ultimately, obedience, regardless of one's gender, class, race, social position, or other personal characteristics. This prediction is predicated on the simple assumption that all people like to experience fair treatment. It is supported by the fact that previous social-psychological research in the procedural justice tradition has failed to identify a consistent personal characteristic that is related to the effect of fair treatment” (Paternoster, 1997, p. 174).

Empirical research supports this assertion. For example, Tyler and Huo (2002) demonstrated that the procedural justice approach is an equally strong predictor of behavior for minorities and the poor (those who are generally considered as less likely to buy into society's values).

According to prior research on the procedural justice model, there exist central elements of fair treatment within the judicial system that may affect victims' and offenders' interaction with the legal system.¹⁸

¹⁶ Reaching consensus on what would be an appropriate, fair or just outcome for domestic violence assaults seems to be a challenge for researchers. While some victims think that probation and treatment options are too lenient (Russell & Ginn, 2001), others think that mandatory treatment and rehabilitation are crucial (Ames & Dunham, 2002; Prairie Research Associates, 1994; Roberts, 1996; Russell, 2002; Wilson, 1998). While some pursue punishment (Fleury, 2002; Weisz et al, 2004; Weisz, 2002; Ford, 1991) others do not want their partners to go to jail (Roberts, 1996; Bennett et al, 1999).

¹⁷ Note that legitimacy is the property that a rule or authority has when others feel obligated to voluntarily defer to that rule or authority, and it is different than power – as noted by Weber (1968). For Tyler (2006) institutions become more powerful when they are considered legitimate.

¹⁸ It is important to notice that the categories, initially established by Leventhal and then further discussed by Tyler (1988) were not based on a strong theoretical tradition, nor were subject to empirical scrutiny; for these reasons, they are often regarded as not representative of the whole range of procedural concerns (Colquitt, 2001; Cropanzano & Greenberg, 1997; Lind & Tyler, 1988). These authors tried to explain why procedural justice matters rather than to clearly define it.

- i) *Representation* refers to the extent to which the party or parties to a dispute with legal authorities believe they had the opportunity to take part in the decision-making process (Lind et al, 1980; Tyler, Rasinski, & Spodick, 1985). Representation also allows a person to have a sense of being a full and valued member of the group (Leventhal, 1980; Orth 2002; Paternoster et al, 1997).
 - ii) *Consistency* in decision-making process refers to the similarity in treatment. People generally expect authorities to act consistently across persons and over time. People expect equal and invariant treatment (Leventhal, 1980; Orth 2002; Paternoster et al, 1997)
 - iii) *Impartiality* or *neutrality* refers to the suppression of biases regarding the parties in a dispute, regarding race, gender, age, sexual orientation, religion, etc., which can affect parties in a dispute (Leventhal, 1980; Orth 2002; Paternoster et al, 1997; Tyler and Lind, 1992).
 - iv) *Accuracy* of procedures refers to the ability that authorities have to make competent, high-quality decisions. Authorities are seen as accurate when they actively and publicly bring the problem to the light and attempt to solve it based on all relevant and factual information (Leventhal, 1980; Orth 2002; Paternoster et al, 1997; Lind & Tyler, 1988).
 - v) The *correctability* of a procedure consists of the existence of other, higher-level authorities to whom one can appeal the current decision, if one believes the decision is unfair or incorrect (Leventhal, 1980; Orth 2002; Paternoster et al, 1997).
 - iv) *Ethicality* refers to the compatibility of the decision with generally accepted ethical values (Leventhal, 1980; Orth 2002); Authors such as Tyler (1988) and Paternoster et al (1997) described ethicality as the politeness of professionals, as well as the demonstration of concerns for victims' rights.
 - vii) *Interactional justice* refers to the interpersonal aspect of the procedure and more specifically to the respectful and polite treatment of citizens involved in court processes (Orth 2002). This definition is similar to the definition of Ethicality given by Paternoster et al (1997) and Tyler (1988). Lind & Tyler (1988) stated that interactional justice conveys the impression that users are valuable members of the group, and that they possess dignity – this definition is similar to the one provided by Paternoster et al (1997) for the element of *representation*.
-

While Thibaut and Walker (1975) addressed procedural justice from the perspective of control over processes and decisions (i.e. voice, control, representation), Lind and Tyler (1988) addressed it from the relational perspective (i.e. status recognition, trust, impartiality) (Blader & Tyler, 2003). Because of this focus on relationships, there is also disagreement regarding whether procedural justice should be distinguished from interactional justice (Colquitt, 2001; Holmvall, 2001).

Tyler (1988) referred to the *relational concerns* as divided in three pieces: *neutrality* (authorities are perceived as impartial), *Trust* (authorities are seen as benevolent), and *status recognition* (authorities are seen as polite, respectful and as treating users with dignity).

Some authors in the organizational justice field also contend that interactional justice should be divided into *interpersonal justice* and *informational justice*. The first is close to Tyler's definition of status recognition, the second refers to the information available regarding processes and decisions (Colquitt, 2001). Blade and Tyler (2003) also discuss the importance of procedural justice information and state that information is necessary for users in order to evaluate decision making processes and outcomes.

2.2.3 Evidence that supports the use of the Procedural Justice Model

Consistent with the procedural justice model this study will rely on the following premises: a) authorities' actions affect one's perceptions of procedural fairness; b) procedural fairness affects perceptions of satisfaction with and legitimacy of authorities; c) procedural fairness is related to compliance with authorities decisions for offenders and also with future reporting for victims (Paternoster, 1997; Tyler, 2006).

Previous research supports these premises. Regarding the first premise, there is strong evidence indicating that authorities' actions affect one's perceptions of procedural fairness. Perceptions of procedural fairness can be enhanced by giving opportunities to victims and defendants to participate in the process before or after the sentencing (Lind & Tyler, 1988; Thibaut & Walker, 1975); by demonstrating impartiality, respectful treatment and access to an attorney (Casper et al; 1988; Tyler, 1990).

Regarding the second premise, researchers found compelling evidence regarding the effect of procedural fairness on offenders' satisfaction and perceptions of authorities' legitimacy (Casper et al, 1988; Lind, 1982; Tyler, 1984; Tyler et al, 1985; Tyler, Rasinski, and Griffin, 1986; Tyler, 1990). Aspects of procedural fairness such as the opportunity to participate and to be listened during the court processes was also found to affect victims' satisfaction (Gomes et al., 2009; Prairie Research Associates, 1994; Holder & Mayo, 2003; Russell, 2002; Wittner, 1998)¹⁹.

Finally, regarding the third premise, researchers have found evidence that the perceptions of procedural fairness are related to compliance with authority within civil processes (MacCoun et al, 1988; Lind et al, 1993) and within criminal processes²⁰ (Paternoster et al, 1997; Tyler, 1990). Paternoster (1997) found evidence that when police acted in a procedurally fair manner while arresting assault suspects, the rate of subsequent domestic violence was significantly lower than when they did not. Regarding victims' behavior, Han (2003) states that procedural justice elements such as representativeness, and voice during the process, result in increased willingness to voluntarily cooperate with the prosecution.

2.2.4. The effects of procedural justice model on victims

The effects of procedural justice on victims' behavior have been less studied than on offenders' compliance. However, the consequences of processes perceived as unfair may be as or even more harmful for victims than for offenders. Researchers have shown that, due to the nature of domestic violence assaults, victims of domestic violence are more likely to have poor social ties, low self-esteem and to be isolated (Han, 2003; Sandenberg et al, 2011). It is plausible to assume that unfair judicial processes can also further deteriorate victims' social ties in the same way research has found it does for offenders (Nagin & Patenoster, 1991; Orth, 2002; Paternoster & Iovanni, 1989; Sherman, 1993; Tyler, 1990), and thus create additional barriers for victims to leave the abusive relationship.

¹⁹ It is important to notice that these results are not consistent. Other studies, such as the one conducted by Erez and Belknap (1998), found disparities on women's expectation, including the desire for being subpoena, not being able to drop charges, not having responsibilities or participation

²⁰ Even though there are only few studies about procedural justice within the criminal context, previous research is consistence with procedural justice effects in a wide variety of contexts (i.e. organizational contexts) as affecting one's perceptions of legitimacy of authorities, commitment to organizational goals, views of political leaders, and trust in the government (Tyler and Lynd, 1992).

Several studies have found a relation between perceptions of procedural fairness and victims' willingness to report future incidents²¹ (Han, 2003; Orth, 2002). Some aspects of procedural justice that have been connected to victims' satisfaction and future reporting are reliability of court dates, support offered by the legal system, information given to victims, and whether or not the courts met victims' expectations (Trutty et al, 2008). Lack of procedural fairness can cause secondary victimization and influence not only future reporting but also a victim's self-esteem, faith in the future, satisfaction with the legal system, trust in the legal system, and faith in a just world (Orth, 2002; Tyler and Smith, 1998). Re-victimized victims also seem to be significantly more likely than others to say that they were not satisfied with the criminal justice system because it did not respond to their wishes (Fleury, 2002; Hoteling & Buzawa, 2003a; Lewis et al, 2000).

The procedural system can impact a victim's feelings, expectations, future reports of violence, and safety. Delays, for example, represent a procedural aspect that may affect victims in diverse ways. Delays in the process are problematic because they prohibit victims from moving on with their lives (MacLeod, 1995; Russell, 2002); increase women's anxiety during the process (Lewis et al, 2000); and increase the likelihood that they will drop charges due to pressure from the partner (Russell, 2002). MacLeod (1995) found that most women would rather not go through the full court process, even if that meant a lighter sentence for the perpetrator. Another major concern is safety: victims feel more unsafe while waiting for court dates (Bennett et al., 1999; Jaffe et al., 1991; Russell, 2002), and studies have found that they are likely to be threatened or re-victimized during this period (Finn, 2004; Jaffe et al, 1991). On the other hand, studies have shown that victims may be more satisfied and even cooperate more with prosecutors if they have the support of a victim advocate during the court processes. This victim advocate would help victims by providing emotional support and criminal justice information, as well as referral to appropriate services (Trutty et al, 2008).

Victims are more likely to cooperate and be satisfied with prosecution if they are in contact with a victim advocate who provides them with emotional support,

²¹ It is important to acknowledge that not only the outcomes or processes of the court, but also factors such as whether or not victims were financially tied to their abuser, were employed, and felt supported by their community were found to influence the would reuse the criminal justice system (Fleury-Steiner, Bybee, Sullivan, Belknap, & Melton, 2006). Besides, domestic violence victims are likely to enter the justice system more than once which makes the creation of incentives for reporting future abuse even more important (Han, 2003; Sadenberg et al 2011).

information, and appropriate referrals to community services (Campbell & Martin, 2001; Dawson & Dinovitzer, 2001; Hoffart & Clarke, 2004; Trutty et al, 2008; Whetstone, 2001; Weisz, 2004). Victim's advocates also increase overall satisfaction because they provide victims with more realistic expectations about court processes and outcomes, help victims to establish better interpersonal interactions with other court officials, feel less intimidated and victimized by the criminal justice system, and reduce the severity of stress symptoms (Buzawa & Buzawa, 2003; Campbel, 2006; Campbell & Martin, 2001).

Although many studies have found that women intended to contact the courts again if they suffer future abuse (Erez & Belknap, 1998; Lyon, 2002; Russell, 2002), Gillis et al. (2006) found that even if victims are satisfied with its outcomes, they may not intend to use the legal system again due to perception of procedural unfairness. In Pernambuco, Brazil, at least one study has pointed out that victims prefer to not report re-offenses due to lack of procedural justice (Medeiros & Mellos, 2013).

Procedural fairness may reduce the likelihood that one's contact with the criminal justice system will be a marginalizing or stigmatizing experience, or that it will produce negative feelings such as frustration or anger. Because of the great impacts that the lack or presence of procedural justice elements has on victims' behavior, this study will try to understand which of these elements are present in Recife's specialized courts.

3. METHODS

The present study is a qualitative case study of Recife's specialized domestic violence courts. Recife is the capital of the state of Pernambuco, the fifth-largest metropolitan area of Brazil, and the largest in the Brazilian northeast, having nearly four million inhabitants (IBGE, 2012).

Case studies are holistic and in-depth analyzes of persons, events, groups or systems by one or more method (Babbie, 2004; Berg, 2009). This particular case study of Recife's specialized courts is non-generalizable and aims at understanding a Recife's particular case because of its uniqueness (Creswell, 2007).

Recife's specialized courts were considered unique and chosen as the focus for this project because of the following features: i) Pernambuco has the fifth highest rate of femicide in Brazil (7.81 homicides for every 100,000 women) (Garcia et al, 2013) and, according to Pernambuco district attorney's office, about 70% of these homicides are perpetrated by intimate partners; ii) The services of the Pernambuco courts are in high demand from the female population - the average number of victims that accessed each specialized court in Pernambuco from 2007 to 2011 is about 56 percent higher than the national average (NCJ, 2013), and, according to Pernambuco state office for women's issues, Recife's two courts have to meet about 40 percent of this demand; iii) Pernambuco's state average of court productivity (which is calculated as the total number of cases divided by the total number of cases prosecuted and concluded), 52 percent, is lower than the national average for court productivity (58%); finally, iv) Pernambuco policy makers and other agents formed a committee in order to improve court processes and domestic violence victims' experiences within the judicial system in the state's capital, Recife. This research aims to contribute to this goal and was requested by Pernambuco's state office for the combat of violence against women. The importance of understanding the bottlenecks of Recife's specialized courts is that, even though the courts meet the nationally established standards, Pernambuco's policy makers believe that the unfair and inefficient judicial processes currently happening in the courts are creating a perception of impunity and reducing victim's willingness to collaborate with prosecution and to report new criminal actions.

Participants for this case study were selected using a non-probability purposive sampling technique, in which the researcher ensures that individuals with specific characteristics are included in the study (Berg, 2009). For this study, it was considered critical to interview representatives of all main professions, fields and agencies involved in the network to combat domestic violence in Recife. Respondents provided data on their perception of the functioning of the process as well as their impressions of the clients they interacted with that accessed the services²².

Professionals that work closely to the court system have a lot to contribute our understanding of court processes within Recife's specialized courts since they are the ones with more experience and a broader insight on the demands and challenges associated with serving victims of domestic violence. Most of studies that use the procedural justice framework base their analyses on interviews with victims or offender (Trutty et al, 2008). Even though victims would certainly be the best source to understand the effects of court processes and policies on perceptions about fairness, their input on actual challenges and potential changes to the system is limited. Victims have little or no understanding about *what*, *how* and *why* specific decisions are made within the courts. If we are to understand court processes and their potential to become more fair to victims based on what was found in previous literature, workers of the network to combat domestic violence are the best source of information.

The researcher tried to include professionals who interact with victims during different steps of the judicial process, and who had different functions in the process. The participants' information (such as name, position, e-mail or telephone number) was found in public records (i.e. official government websites, newspapers, and blogs). Judges, prosecutors, psychologists and social workers were contacted via telephone. The researcher explained the purpose of the research and tried to schedule an interview. Two of the human service providers in the specialized courts were not able to meet with the researcher, and one of the magistrates never returned the

²² A possible limitation of this approach is that employees might be wrong in their interpretation of victims' impressions. Data collection for the study of domestic violence phenomena is complex, and even when interviewing victimized women, researchers face challenges to ensure that the data collected is accurate. When researchers are aware of the domestic violence cycle, they are also aware of the high probability that victims will give misleading information. For example: Is it possible to assume that the violence has stopped when a victim affirms so? (Dobash & Dobash, 2000). Therefore, even though this research project does not include interviews with victims, it is believed that the interviewed professionals (such as psychologists or social workers) will be able to provide general information regarding the behavior of victims. These professionals will provide the researcher with a 'big picture' of victims' reactions and responses to court processes.

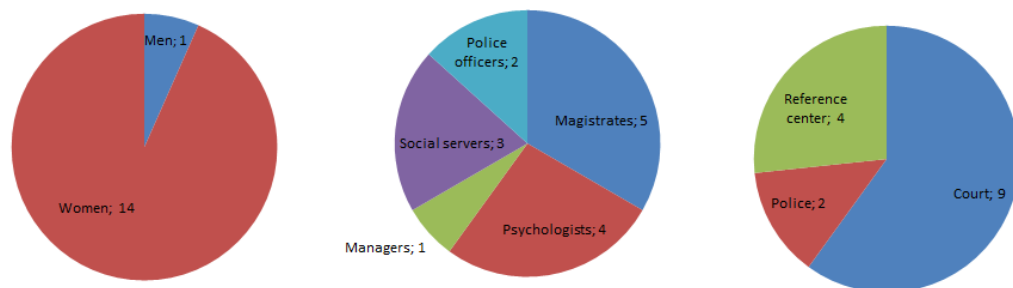
researcher's voice messages.

The process of selecting police officers for interviews was different. While the researcher tried to contact the totality of judges, prosecutors, psychologists and social workers involved in Recife's network to combat domestic violence, the researcher only tried to contact a third of the universe of police officers. Specifically, the police officers who have supervisory and administrative positions (and who are more frequently in contact with court officials) were the ones contacted via telephone. Only two police officers returned the researcher's calls and were available to meet for interviews. The number of police officers invited to participate in the study and interviewed was considerably smaller than other categories because they have little contact with victims once the court processes are initiated. Police officers are not expected to have any knowledge or familiarity with court processes. Since the focus of this work is procedural justice, interviews with police officers would have little effect on the findings and discussions resulting from this work.

The total number of interviewees was 15 and the response rate to participate in this study was of 83.3%. This sample that captures the majority of those working as public officials in the combatting of domestic violence in Recife except for police officers, as shown in Figure 1 below.

Employees of Recife's network to combat domestic violence ²³	Total number of employees	Number of employees invited to participate in this study	Number of interviewees	Response rate
Magistrates in the specialized courts²⁴	4	4	3	75%
Human services providers in the specialized courts	8	8	6	75%
Employees in the reference center	4	4	4	100%
Police officers	9	2	2	100%
--	25	18	15	83.3%

Interviewees' categorization according to gender, place of work and profession is demonstrated in the Figure 2 below.



²³ Even though the positions held by workers are displayed in the methodology section, they are not used in the analysis. The reason why they are displayed in the present section is to show that opinions of different employees, with different backgrounds and mindsets regarding court processes and their effects of victims' perceptions of procedural justice were collected. A diverse set of perspectives is considered fundamental if this research aims at addressing court processes holistically. Nevertheless, because of the small universe of interviewees, the identification of interviewees' position, place or nature of work would make them easily identifiable. This would conflict with the confidentiality agreement between the researcher and interviewees that was established prior to the interviews. In addition, an analysis of the different perspectives held by agents in different positions is outside the scope of this work. This work aims at identifying procedural justice elements within the specialized courts and producing a 'big picture' of what many of the interviewees perceived. Instead of analyzing the differences within the discourses produced by the workers from different workplaces or positions, this study focus on the similarities within their discourses.

²⁴ Administrative court staff was not included due to the little contact that they have with users of the judicial system. Defendant's and victim's attorneys were not interviewed because they are not full-time staff of Recife's network to combat domestic violence.

The method of data collection used to achieve the proposed goals was the semi-structured interviews. Semi-structured interviews employ an *interviewer guide* with default question phrasing and order, but this may be logically modified based on the natural flow of the conversation. The semi-structured interviews were performed with professionals of agencies in the network to combat to domestic violence (Robson, 2011).

The researcher explained the terms of participation on the research project and asked permission to record the interview. Interviews ranged in duration from 40 minutes to 90 minutes. The interview format contained six open-ended questions about the barriers and challenges that victims and professionals face within the judicial system, as well as their demands and expectations²⁵. The questions encouraged participants to reflect on their work, or their peers' work, and on their experience with victims. In all cases, the interviewees' reflections brought up elements of procedural justice that they considered relevant for the court's proper functioning. The researcher transcribed all the interviews and initiated the process of coding and analyzing the data through thematic analysis. Thematic analysis can be generally described as a process in which meaningful patterns are defined through the generation of themes, and in-depth revision of themes (Braun et al, 2006). Themes are ideas contained in sentences, paragraphs or even longer segments of the transcription. Codes are typically then developed to represent the identified themes, which become categories of analysis (Braun et al, 2006; Fereday & Muir-Cochrane, 2006). Analysis then primarily focuses on these codes (Guest, MacQueen, & Namey, 2012; Richardson, 1999).

In social research it is important to work in order to assess the *reliability* of the results. Reliability suggests that the same conclusions would have been drawn from the same data each time it is analyzed (Babbie, 2004). Reliability is one of the main concerns with thematic analysis because more it requires more interpretation when i) defining the codes and ii) applying the codes to segments of text than a word-based analysis²⁶ (Fereday & Muir-Cochrane, 2006). To avoid the first part of this issue (e.g.

²⁵ To see the interview questions, please refer to Appendix B.

²⁶ A manner to enhance reliability of this second aspect of the qualitative analysis would be through "cross checked" coding and analysis. This process is called *intercoder reliability*, which is indicated by the amount of agreement or correspondence among two or more coders (Neuendorf, 2002). However, because of the nature of a Master's thesis the data were coded and themes identified in the data by one person and the analysis then discussed

the creation of codes), this study follows a deductive approach to thematic analysis, using codes that were generated in the literature review.

The thematic analysis applied to this study followed a deductive approach, which means that this study is theory-driven and the analysis is limited to pre-determined frames (Crabtree, 1999). In this case, the procedural justice framework is used as a means of organizing the text for subsequent analysis and interpretation since the researcher determined a priori that the categories of analysis would be the elements of procedural justice as defined in the literature review (Paternoster, 1997; Tyler, 2006).

The categories of analysis were based on the elements of procedural justice as defined in the literature review (section 2.2.2). There are different categorizations and definitions of the elements of procedural justice, however for the purposes of analysis the researcher chose the categories and definitions that clearly did not overlap with others. The category 'Representation' (Tyler, Rasinski & Spodick, 1985; Lind et al, 1980; Paternoster et al, 1997; Leventhal, 1980; Orth, 2002) is complex and includes elements that overlap with 'Ethicality' (Leventhal, 1980; Orth, 2002) and Interpersonal Justice (Paternoster et al, 1997; Leventhal, 1980; Orth 2002; Lind & Tyler, 1988). Instead of using all of these categories, the researcher chose to use the elements 'Status of Recognition' (Tyler, 1994) and 'Control' (Thibaut & Walker, 1975), since they include the main elements of those three previous categories, but they are clearly defined and do not overlap.

Variables such as 'impartiality' and 'correctability' did not appear in the coding process. The first is due to the fact that workers cannot evaluate their own impartiality, their own 'efforts to be fair', without putting their jobs at risk (Lind & Tyler, 1988). In addition, spontaneous comments regarding impartiality during the interview referred to anecdotal stories, were not systematic, and therefore are not used for analysis. The second element, correctability, did not appear during the interviews because the MPL does not foresee the existence of other, higher-level authorities to whom victims or offenders can appeal the decision made in the specialized courts. The presence and access to such authorities is what is measured by the correctability element.

with a supervisor. This process allows for consistency in the method but fails to provide multiple perspectives (Fereday & Muir-Cochrane, 2006)

The categories used in this study are described in Figure 3 below²⁷:

Category	Definition
Access to Information	Whether workers of the network to combat domestic violence believe that the legal system provides enough information to users so that users make informed decisions about their participation in court processes
Control	Whether users, according to the perception of workers of the network to combat domestic violence, have opportunity to participate/ influence on the decision making process
Accuracy	Whether workers of the network to combat domestic violence believe that the court officials are able to make competent decisions. This will be measured through three themes ²⁸ : <ol style="list-style-type: none"> 1) Worker's access to factual information to make accurate decisions about processes and dispositions²⁹ 2) Worker's access to necessary resources to actively (and timely) work on dispositions 3) A disposition has to be effectively achieved
Status Recognition	Whether workers of the network to combat domestic violence believe that users are (and perceive to be) treated as valued members of the community
Consistency	Whether workers of the network to combat domestic violence believe the court system is providing similar treatment to all users across time

²⁷ For a full description of categories, themes and indicators, please refer to Appendix C.

²⁸ This element of procedural justice refers to outcomes of justice (i.e. the decision, the outcome of the court process). Since this is not the focus of this study, the researcher focused on the procedural elements, as indicated by the literature, which lead to accurate decisions. These elements were: worker's access to factual information; workers' efforts to publicly attempt to solve the issue; and workers' effectively reaching an outcome, a solution, a decision.

²⁹ It is important to notice that the category "Access to information" does not overlap with the sub-category "Worker's access to factual information to make accurate decisions about processes and dispositions". While the former refers to the access the *victims* have to information, the later refer to access that *workers* have to information. Victims access to information does not necessarily affect workers' decision-making process and, therefore, does not affect *Accuracy* of court processes.

4. RESULTS

4.1. ACCESS TO INFORMATION

This indicator measures whether workers of the network to combat domestic violence believe that the legal system provides enough information so that users can make informed decisions about their participation in court processes. The availability of information was deemed as essential to the establishment of procedural justice by Colquitt (2001).

Professionals believe that they do their best with the limited resources available in order to provide general information about court processes to victims. The police officers inform women about the services offered by the reference center, the location of the court, and the dates for workshops in which victims can learn about the judicial processes. These workshops are part of a project called ‘Pathways’ and are provided by the First Specialized Court of Recife. The workshops are offered every two weeks to women who cannot drop charges (i.e. women who reported physical assault). “They ask us about the process, when it will start, what will happen after that, and we explain [...] they ask us questions that seem silly to law officials, but that most people don’t know the answers to.” Even though there is this project in place, it just serves a small portion of the victims – the ones with charges of aggravated assault who voluntarily go to the court on the workshop date. The number of victims that voluntarily look for more assistance or information is minimal. This can be demonstrated by the fact that the specialized police station files charges for 35 to 45 victims per day, and directs all victims to the reference centers, but that reference centers only serves 30-40 new victims per month. “From the police, not all women [go to the reference center]. They start, from that point, to split into those who are certain of what they want, and those who have doubts...”

Even though the literature (Casper et al, 1988; Tyler, 1990) indicates that information is important for victims, there is no individual case management, and limited individualized information is available about court processes in Recife’s specialized courts. There is limited³⁰ individualized information available through the reference centers for those women who seek additional assistance. Women may also

³⁰ As it will be explained, the specialized court does not have a system to share information with reference centers and specialized police stations. Therefore, attorneys and social servers in the reference centers will normally not know much more about the court processes than the victim does at the moment she seeks assistance.

pursue information by contacting court officials. However, speaking to court officials is not an easy task: “Service provision at the reception counter is huge. Every day, there are a lot of people [there] to know about their processes, to know if there is a hearing scheduled, to say that they want to drop charges. We have to have two employees every day, just doing that.”

In this scenario, two thirds of participants believe that users are not sufficiently aware of judicial processes and institutions. Participants stated that: “the MPL is the most well-known law in Brazil. *I think [women] just don’t understand the [procedural] mechanisms of the law..* For example: some of them think [the abuser] will be arrested and won’t be released. However, for some charges it is allowed that [defendants] pay a bail and be released”; and “In reality, *women lack knowledge regarding the continuation of judicial processes in the courts.* They say ‘I looked for the police and they did nothing’, they are not aware that the process is still open and is being handled by court officials. [The police] represents just the entry point of the process, but [victims] don’t understand that”. As it can be seen, victims of domestic violence have little or no information about judicial processes, roles of law officials, and the specialized courts.

In addition, two thirds of interviewed workers believe that this lack of information leads to lack of satisfaction and that it is connected to feelings such as frustration, anger, anxiety and fear. “*The lack of knowledge and information caused women to fear [judicial processes] even more,* because they did not know what would happen to them or to the witnesses”; “*They still don’t understand the protective measures, how they work. This causes anxiety and distress*”; “Regarding the judicial system, that is victims’ main complaint: the anxiety, the distress..[they say:] ‘when is it going to happen? Is it going to work? Nothing is going to happen?’ *They don’t know*”; “*Women are so badly informed that they get angry and think we are corrupt*”.

Due to this lack of information, about half of the interviewed workers believe that women have unrealistic expectations about court processes and outcomes: “*Sometimes, women expect from [us] things that we cannot do. The lack of knowledge is a real challenge for us*”; “They sometimes have this idea that we can solve all their issues in a heartbeat, fast, and *we know this doesn’t happen in judicial processes; but they don’t know that!*”. Unrealistic expectations can reduce satisfaction, cooperation and create new challenges to move the prosecution process forward.

It is important to notice that increasing women's access to information will not necessarily increase their participation in the process. In fact, many workers affirmed that women do not request to participate actively in the process. "Women do not frequently say that they would like to have more participation. *I think this is a matter of being informed, really... of having access to it, you know? Knowing what is going on... otherwise.. well, they will feel intimidated regarding the judicial system.*"

4.2. CONSISTENCY

Consistent treatment means that users are to receive a similar treatment to other users and across time (Leventhal, 1980; Orth, 2002; Paternoster et al, 1997). For the purposes of this section, it is important to remember that the First and Second courts serve the same purpose and fall under the purview of the MPL. Recife only has two courts due to the high concentration of domestic violence cases in the city. Although workers believed that consistent treatment was implemented within each court, eight workers stated that there are inconsistencies between the treatments that victims receive in the First Specialized Court when compared with the Second Specialized court. Although the two courts are charged with doing the *same* thing, they have different standards for their processes (and outcomes). Therefore, they present inconsistencies.

While the First Specialized Court supervises the execution of sentence for offenders who were sentenced to community services, the Second Specialized Court delegates this task to a third agency specialized in alternative sentences, which is named GEPAIS. "In [the Second Specialized Court] every time a guy is sentenced, he is sent to GEPAIS, to participate in group meetings, he has to go there for 3 months"; "We [Second Specialized Court] used to follow up with some offenders during the probation period [...] we did that until 2010, but not anymore. The First Court still does this, I think"; "The First Specialized Court does its own work with abusers. [The Second Specialized Court] does not. This depends on the judge! In the Second Specialized Court this was not considered relevant – even though we proposed that at a time..."; "We [First Specialized Court] overview our offenders during the execution of sentences. We do not delegate this task to any other agency. I think that is why we are so successful and have such low recidivism rate here".

The inconsistencies regard not only the execution of sentences, but also the sentencing process itself. *“The workshops [offered by the First Specialized Court] are for abusers who were condemned. Since most of them are first time offenders, the incarceration sentence is substituted for community services and other alternative sentences, including participation in workshops offered by [the First Specialized Court]”*. In the Second Specialized Court, however, alternative sentences are not accepted as dispositions, even for first time offenders: *“I don’t give alternative sentences. The condition that the law imposes and that allows us to apply alternative sentences instead of incarceration is that there is no violence involved in the case [...] and also that the sentence is up to a certain number of years. In this situation, you can substitute incarceration for service provision to the community, etc [...]”*. However, the MPL is a law that protects women against domestic *violence*.... I am even uncomfortable to say that there is no violence involved in a domestic *violence* case!”. Although some variation in dispositions for different cases is expected, it seems that, even for cases with the same degree of severity and with similar offenders’ profile, the First and the Second court display fundamental differences on how the cases are handled. While the First Court applies alternative sentences, the Second Court applies sentences that restrict freedom.

Interviewees believe that many inconsistencies between courts come from the fact that the judges have a lot of decision-making power and do not necessarily agree on the specifics of the implementation of the MPL. *“I believe the implementation of the MPL should be much more severe than it currently is. That is what the State wants. But if, politically, things are sorted out, when we reach the ground level, the technicians act all completely different from each other. It all depends on the judge’s interpretation, completely”*; *“The judges are autonomous. There is nothing restricting their interpretation of the law and adoption of procedures”*.

The lack of consistency on which cases are prioritized, what dispositions can be applied, and how sentences are executed might greatly affect victims’ perceptions regarding procedural fairness – i.e. deterring victims from reporting future crimes. Part of the inconsistencies can be explained by two factors: i) the great discretion power given to judges and prosecutors, and ii) the room for interpretation left by the MPL. The following statement made by a court employee exemplify this issue: *“I am*

still learning. I may hold some position today, and then tomorrow I may learn some new piece of information and completely change my mind”.

4.3. ACCURACY

Accuracy of procedures refers to the ability that authorities have to make competent, high-quality decisions (Leventhal, 1980; Orth 2002; Paternoster et al, 1997; Lind & Tyler, 1988). Without referring to data on dispositions, this study will analyze whether workers in the network to combat domestic violence believe that the court officials are able to make competent decisions through three indicators: i) workers’ access to factual information to make accurate decisions about processes and dispositions; ii) workers’ access to necessary resources to actively (and timely) work on dispositions; iii) workers’ ability to effectively achieve a disposition .

Regarding the first point, workers access to factual information, about two thirds of the participants believe that their access to factual information was limited and that information sharing between agencies of the network to combat domestic violence should be improved. “When a woman comes [to the police station], we don’t know if her protective measure was granted or not. We don’t have access to this information online anymore. *The woman comes here and we cannot give her any information*”; “*professionals [of the reference centers] do not have access to what is going on in the courts. [They] only know about proceedings when the women bring summons, or when the procedural act is publicly available and information about it is posted online. [They] don’t have a system to share information with the court, and if the information is attained by the police, then [they] have to call them*”. As it can be seen, the lack of information sharing affects the ability that employees of the network to combat domestic violence have to inform victims. It may also affect the efficiency of processes: processes may be delayed, parallel processes may be opened, victims may have hearings with different judges for the same case, reports may be lost, new charges may not be added to ongoing cases: “The judicial system is not unified, sometimes the woman believes that when she makes a new report, the judge will be immediately aware of the new charges.. but it does not work this way. [...] these processes may have different hearings, different charges, maybe different judges, and different speeds [because of the lack of information sharing] [...]this all results in delays”.

Regarding the second indicator – worker’s access to the necessary resources in order to work on dispositions, twelve interviewed professionals believe that human capital is insufficient to deal with the amount of court processes. “*We have almost 8,000 open processes [in the First court] [...] nevertheless we have the same amount of staff of a court that only has 700 open processes*”; “We have a lot of peculiarities that the MPL imposes on us: the victim has to be subpoenaed in all procedural acts [...] *We need more people*”; “Our court’s needs cannot be based on traditional court’s needs. *That is not enough for us*”. Human capital is insufficient to keep up with the processes, according to interviewees, because the specialized courts have different (and more time-consuming) processes that require more staff than a traditional court.

The courts not only lack human resources but also physical infrastructure. About two thirds of the participants believe that the courts’ physical infrastructure is insufficient to accommodate the needs of employees in order to successfully perform their work. “If we are to have more employees, we need to have more space, this structure is just not enough, it is packed already. *We need more people, and we need a physical structure that is better than this*”. Because of the poor infrastructure, it is hard for attorneys to even meet with victims privately: “I don’t have a private space to talk to the victim or to the offender. I have to talk to them in a room full of staff working on other things, all this because *I have no other room available to work*”.

Regarding the third and final indicator, ability to reach a disposition, two thirds of participants believe that the system does not have the necessary structure to reach any disposition, whether accurate or not. This perception is enhanced due to the amount of accumulated processes in both courts: “Did you know that there was an increase in the homicide rates this year, in comparison with last year? This is because of the lack of court services and the bottleneck in court processes. *It is a ‘de-service’ that we are providing. Again, agencies are saturated [...] this ‘de-service’ to provide help is causing impunity, and perception of impunity*”. Not reaching dispositions is related with a perception of impunity; and, for many employees, it is also related with the recent increase in cases of domestic violence registered in Pernambuco.

Delays in court processes are part of the reason why the court officials cannot reach a disposition: “When we reach a disposition, we basically do not have cases of recidivism and the protective measures also work really well. However, *things frequently get lost on the way...*”. These delays are considered the major procedural

challenge by nearly all workers. It is also considered the major complaint by victims of domestic violence: “When women come here, they are in that situation for too long! They don’t want a solution for tomorrow, they want it for yesterday... and *they won’t get it today, or tomorrow, they won’t get it for a long time*”. It was clear that employees blamed the delays mainly on the lack of resources and, sometimes, on the bureaucracies established by the MPL: “The law determines that [the judge] should decree the protective measure in 48 hours, but [the judge] receives 200 requests per month, and has to listen to witnesses, to the victim, receive the police investigation, schedule audiences... *it is humanly impossible*”.

One of the main challenges created by the delays in the processes, for court officials, is that the more time women have to wait, the greater the likelihood that they will change their minds regarding the criminal charges: “*When it is time for a trial, the couple’s situation has already changed, time has passed*. Either they are together, or they don’t see each other anymore [...] many conflicts are completely solved by the protective measures, and there is no need for criminal proceedings anymore. We will still go on with the trial, but just because we need to. The victims often don’t need it anymore”. Therefore, delays can also hinder prosecution by reducing victims’ willingness to cooperate.

Nearly all workers believe that accuracy is not achieved due to lack of human capital, information sharing, physical structure and network of support. This characteristics are seen as leading to inefficient decision-making and inaccurate dispositions. Due to lack of information and resources, it is harder to reach an accurate disposition, or any disposition at all³¹.

4.4.STATUS RECOGNITION

Status recognition refers to the perception of authorities as polite, respectful and as treating users with dignity (Tyler, 1988). More importantly, it allows victims to feel like valued members of the group (Leventhal, 1980; Orth 2002; Paternoster et al, 1997). Previous studies conducted in specialized police stations in Brazil indicate that

³¹ It is important to notice that, even if the courts reach a disposition, the executive branch does not have the resources to implement the determined dispositions. “*There is this gap on services that is not within the judicial brand, but that affects our work*. We cannot determine that a offender has to go to a de-tox facility, for example, because these agencies are all packed. They cannot take another person”; “*We determine a disposition, and then when they get to the agency, there is no service available for them*”. This indicates that the challenges faced on the implementation of the MPL do not depend solely on policy changes within the court system.

victims of domestic violence do not feel respected by some agents of the network to combat domestic violence. A number of studies described lack of training to understand, respect, and work with victims as a major policy recommendation for specialized police stations (Abdala et al, 2011; Izumino, 2004; Pasianato, 2010; Sadenberg, 2011). Even though there is no comprehensive study on specialized courts, mistreatment of domestic violence victims may also be a reality within those institutions.

Status recognition is measured through employees' perception of the quality of interpersonal treatment during service provision. Improvement in sensitized service delivery is seen as related to victims' satisfaction and perception of status recognition. About two thirds of professionals believe the quality of sensitized service delivery improved after the implementation of the MPL. One agent stated: "The lack of preparedness to work with victims is an issue. We improved a lot on this matter, the agents are better prepared, they can receive and understand women's demands, and *victims feel more respected and satisfied*". Corroborating with this view, another agent affirmed that "Service delivery was much more complicated in the past. Today I see only few complaints about how victims are treated. *Victims normally say that [employees] were respectful, polite and careful with them*".

Nevertheless, about three quarters of participants noted that a lot of improvement and training is still needed if users are to be treated as valuable members of the community. One participant stated that "The victims' treatment is much better now than it was 10, 15 years ago... *there is much more that needs to be improved though*". A participant explained that: "The main issue is employees' awareness regarding the work with domestic violence victims. The [employee] has to have a different perception when [working with] these kind of cases, like a menacing case, which may seem small. Sometimes, the judge does not have it, the police officer does not have it, the attorney does not have it [this different perception]... *we have to offer training to all of them. That is the only way to improve [victims' treatment]*". As it can be seen, participants believe that the lack of specialized training for employees affects victims' perceptions of status recognition.

The need for training is exemplified by the fact that only one third of the respondents spontaneously indicated that *listening* is an important skill in the performance of their work. As indicated in the literature review, being listened to is an

important procedural quality for crime victims and specifically for domestic violence victims (Gomes et al, 2009; Thibaut and Walketr, 1975; Russell, 2002). The act of listening to victims is linked to victims' perception of status recognition, but also to the element of representation, ethicality and interactional justice (Lind et al, 1980; Leventhal, 1980; Paternoster et al, 1997).

4.5. CONTROL

Control refers to whether users, according to the perception of workers of the network to combat domestic violence, have the opportunity to participate in / influence the decision making process (Lind & Tyler, 1988). In this scenario, victims' expectations and opinions about processes and outcomes become relevant. Thirteen interviewed employees believe that victims pursue justice with the intention of being granted protection, and not to punish abusers. In addition, two thirds of the interviewees believe that victims want to participate in mediation and conciliation processes. "Some of them want to give up during the process because *they don't want to see their partners in jail*. They want [us] to interfere and change their behavior". Another employee stated that: "*They are really satisfied with the protective measure*. They don't want their husbands in jail, they want them to stop drinking, using drugs, hitting them".

However, the MPL does not give to victims the right to be granted protective measures without opening criminal cases against the offenders. An employee stated that "technically, [the protective measure and the criminal charge] have to be connected. Why would you need protection if there isn't a crime in place?". In addition to the law's restrictions, one third of the interviewed employees demonstrated that they do not feel obligated to meet victims' expectations regarding court processes or outcomes. A participant stated that: "I am not here to talk and ask 'what happened?'. Most of [the victims] want this. They don't want the father of their kids in jail [...] *but I am not here to say 'be nice to her', no! He drank? He hit her? He will be punished.* [...] When there is physical evidence, she cannot drop [the charges] anymore [...] I am not here to mediate a couples' relationship. *This is not a conciliation court*". Another participant stated that: "If the man attempted against [the victims'] life, *it does not matter at all if she wants him in jail or not, the State has other interests*, these are different things".

It is important to acknowledge that the employees that demonstrated lack of concern for victims' feelings and expectations were a minority (one third). Nevertheless, even the ones who are concerned with victims' expectations are limited in their action due to the restrictions and requirements of no-drop policies and mandatory minimum sentences imposed by the MPL.

Brazilian literature on domestic violence points out that victims react to such policies by creating *informal* ways of gaining control over court processes (Sadenberg, 2010). Six of interviewed workers stated that users can influence the decision making process through *active participation* or *abandonment*. The first way to do so is by actively looking for help: "If the defendant is incarcerated, the case is prioritized; also, *if the victim comes to the court and actively seeks help... if they come and say, 'for the love of God, please give me a protective measure, this is urgent', then she is prioritized*".

Another way to influence court processes is through abandonment of court processes : "Women can't drop the charges, but *they can abandon the process*"; "If women do not cooperate with us, it becomes hard to prioritize their cases amongst so many other cases, and her process will normally stop... it gets stuck". One employee explained that: "*Women can just not contribute to the process*. They may not bring witnesses, they may not go to the hospital for exams, they may not come back to the police station when they are required, they may even change their address so that we cannot subpoena her... some of them lie and change their stories, say that they fell from the stairs [...] these proceedings will have little chances of being successful, and to end up in a condemnatory sentence if the victim does not cooperate".

The MPL gives victims little formal control over the continuation or termination of court processes and their potential outcomes. In addition, a small, but still significant part of the court employees demonstrate that they do not deem victims' opinions as relevant, and to further reduce the opportunities for victims' formal control over court processes. Even though victims seem to have few opportunities to exercise formally established control over court processes, there is a tendency, established by both victims and employees, to use informal strategies of control. Informally, victims can either abandon their processes or actively contact employees in order to expedite their processes. There is no data available to analyze the impacts of such informal forms of control on victims' perceptions regarding

procedural justice. Nevertheless, it is possible to infer that the first informal strategy of control might cause an accumulation of open processes and inefficiency, while the second informal strategy of control might cause the perception of favoritism or inconsistency.

5. DISCUSSION

This research aimed at assessing the presence of procedural justice elements within Recife's specialized courts. The identification of court processes' elements that may be perceived as (un)fair by victims is relevant because these elements affect victims' cooperation with the prosecution, satisfaction with the legal system and willingness to report future crimes. Even though policy makers and judicial agents are worried that the inefficiency in court processes and the impunity of offenders are creating a des-incentive for victims to report domestic violence incidents and to cooperate with prosecution, this study cannot bring any light on these matters. There are many reasons why victimized women may decide to not cooperate with prosecution, to abandon a case, or to not report a new incident of violence. Many of these reasons cannot be controlled by court policies. Nevertheless, this study can bring some light on what courts can do to reduce at least one of the reasons why women would refrain from pursuing help through formal channels of access to justice: the perception of procedural unfairness.

Employees of Recife's network to combat domestic violence noted that five procedural justice elements have powerful effects on victims' perceptions of court processes, namely: status recognition, control, consistency, information, and accuracy. This section will discuss the potential effects of these procedural justice elements on domestic violence victims according to both the literature and the interviewees.

The effects of disrespectful treatment within the judicial system can be extremely harmful for victims (Casper et al, 1998; Han, 2003). Although many employees stated that the service delivery in the network to combat domestic violence has improved, anecdotal stories of mockery and discrimination against victims were reported. Professionals also stated that many court employees do not understand the domestic violence cycle and are not able to provide crisis response or specialized services.

On top of the lack of training and awareness regarding domestic violence, court employees have immense caseloads. Employees with an increased caseload reported experiencing distress and frustration, and did not have as much time to work with victims as they would like. Even though some employees recognized the importance of actively listening to victims, almost none claimed to have enough time to perform this task properly. These work conditions might also have negative impacts

on the relationship between victims and workers. Landau (1998) found that increased employees' case loads resulted in decreased victims' satisfaction with court processes, outcomes, and with the relationships established with court officials.

According to the procedural justice framework, perceived disrespectful treatment affects victims' perceptions of court officials as legitimate and can generate less voluntary cooperation with the judicial system (Casper et al, 1988; Tyler, 1999; Han, 2003). Even more worrisome, unfair judicial treatment (i.e. lack of voice, representativeness, control, and politeness during court processes) may trigger a re-victimization process, further deteriorate victims' social ties, and create additional barriers for victims who want to leave abusive relationships (Han, 2003; Orth, 2002; Sadenberg, 2011). It may also contribute to reducing victims' willingness to report future incidents (Gillis et al, 2006; Han, 2003; Orth, 2002). Victims' lack of willingness to report future incidents is seen as a result of their decreased self-esteem, faith in the future, satisfaction with the judicial system, and trust in the legal system and in the possibility of a just world (Orth, 2002; Tyler and Smith, 1998).

A third factor that affects the interaction between victims and employees of the network to combat domestic violence is that victims have little voice during the court processes. The MPL restricts victims' input on the process by establishing a no-drop mandatory policy. In addition, employees also seem to give victims little voice and control over court dispositions. Some employees explicitly affirmed that they are not concerned with victims' expectations regarding court outcomes.

The literature indicates two kinds of victims: those who seek protection (Lewis et al 2000; Roberts, 1996) and those who seek punishment (Fleury, 2002; Weisz et al, 2004). Recife's specialized courts, in spite of professionals' efforts to combat domestic violence, are apparently failing to meet the demands of both kinds of victims. It is possible to infer that both kinds of victims do not feel listened to and do not feel in control of the court processes. Victims who pursue protection have to go through a criminal process that they do not want in order to receive a protective measure order, while victims who pursue punishment have to wait a substantial amount of time and may never see their abusers in jail.

To make a victim go through a criminal process that she does not want may result in further victimization and possibly be unsafe (Brown, 2000; Ford, 1999). Domestic violence victims are traumatized and have lost their sense of control over

their lives. Mandatory prosecution contributes to this sense of loss of control and for this reason is considered re-victimizing and disempowering (Campbell & Martin, 2001). Mandatory prosecution is normally justified based on the fact that it solves the issue of victims not cooperating (Ford, 1999), and it establishes safeguards for victims (Russell & Ginn, 2001). In Recife, however, interviewees stated that women still do not cooperate³² and victims may actually be more unsafe due to the delays in the court processes.

In the case of victims who seek punishment, the delays are a major concern for the interviewed professionals mainly because a criminal process has to be terminated five years after it was opened, even if no disposition was reached on the case. Due to the amount of processes accumulated in Recife's courts, officials are struggling to meet the five-year deadline. Some employees expressed that the termination of processes and delays generates a perception of impunity and decreases the deterrence effect that the law was supposed to have³³. In parallel, it is possible to infer that the perception of impunity will have specific and general deterrence effects on victims' willingness to report future crimes.³⁴

The delay in the processes was described by employees in the network to combat domestic violence as frustrating and disempowering for victims, which has been confirmed by previous studies (MacLeod, 1995; Russell, 2002;). Interviewees also corroborate the literature by indicating that delays hinder prosecution efforts, since victims can change their minds about the prosecution or become uncooperative over time³⁵ (Dwason & Dinovitzer, 2001; Lewis et al, 2000; MacLeod, 1995; Russell, 2002). Delays in court processes put victims at risk of being threatened, intimidated or even re-victimized (Bennett et al, 1999; Russell, 2002).

Lack of information is another perceived cause of victims' lack of satisfaction and cooperation, and decreased level of trust in the criminal justice system (Russell,

³² The establishment of mandatory prosecution was not accompanied by the establishment of any measures that would oblige women to cooperate with the process; in some other mandatory policies, victimized women may even be charged if they refuse to cooperate. That is not the case in Brazil.

³³ Even though the lack of outcome is concerning, this analysis does not focus on outcomes of justice; therefore, this topic will not be further explored.

³⁴ This inference is corroborated by many employees' statements. An example follows: "If a woman sees that her neighbor [who reported a case to the police] received a lot of assistance, and was protected, she will think: 'I want that for me as well'. However, if her neighbor's situation does not get any better, or gets even worse, do you think she will come and report the abuse that she is suffering?"

³⁵ "Uncooperation" was described by employees as the *abandonment* of the court process. Since the victim cannot drop the charges, she stops giving information, attending to hearings, providing names of witnesses, and may even change her cellphone and residential address.

2002). Previous studies found that victims want information about their rights, processes and procedures, individual cases' status, community services and protective orders (Lyon, 2002; Weisz et al, 2004). Interviewees believe that the lack of information causes fear, frustration, anger, and unreal expectations. In Recife, women receive general information about services and processes in the police station during their first encounter with the judicial system. Monroe and Lyleorst (2010) found that during crisis moments, such as the moment in which women are reporting a domestic violence case, victims are not able to retain most of the information that is provided to them. In addition to verbal information, the police officers also offer fliers to victims, which contain written general information about court processes. Although written information is still valuable, Russell (2002) stated that women prefer to be informed about proceedings in person. In addition, Mello, Medeiros and Pachecho (2013) found that most victims of Recife's courts have low levels of education and may not be able to interpret the informative fliers distributed by the police. Although the informative workshops established by the First Court represent a improvement since they are given in person and after the crisis moment has passed, these workshops do not assist most of the victims.

A way to improve the level of information received by victims as well as the communication between victims and prosecutors is through the establishment of victim advocacy programs (Lyon, 2002). In the way that the system is currently set up, victims have no way to easily access individualized information about their cases. The lack of a victim advocacy program is related to victims' lower satisfaction, higher levels of distress, poor interpersonal relations with court staff, and unrealistic expectations (Trutty et al, 2008; Whetstone, 2001; Weisz, 2004; Campbell & Martin, 2001; Dawson & Dinovitzer, 2001; Hoffart & Clarke, 2004). All those characteristics were described in the interviews and deemed as problematic.

Another procedural justice element that plays an important role in victims' perceptions of fairness within the judicial system is consistency. As previously discussed, there are inconsistencies regarding processes and dispositions between the two specialized courts of Recife. Perceptions of inconsistency are related to lower levels of victims' satisfaction (Hotaling and Buzawa, 2003) and may also be related to lower levels of violence reported (Buzawa & Buzawa, 2003). After all, lack of

consistency makes it confusing for victims to decide whether to use the criminal justice system or not.

Finally, interviewees believe that there is a high correlation between the issues described above and operational inefficiency within the legal system (i.e. lack of information sharing, adequate information technology support, human capital and physical infrastructure). It is noticeable that many operational and structural changes and increments should take place in order to ensure a timely and accurate response to domestic violence charges. However, the quality of the service that court officials can provide to victims is not entirely dependent upon the judicial branch. In order to meet victims' needs, court processes and dispositions have to be supported by a network of services that are currently not available in Recife. Community resources are deemed as a crucial component of specialized courts in the literature primarily due to their potential to help victims overcome barriers to leave abusive relationships (Scott & Kulseman, 2007; Han, 2003; Trutty et al, 2008). It is not enough to push for transformations in court processes if there is no equivalent investment in appropriate services for victims and offenders. For this reason, a policy change that addresses the specialized courts should be created and implemented through a joint effort of the judicial and executive branches of Pernambuco state government.

6. CONCLUSIONS, LIMITATIONS AND FUTURE DIRECTIONS

The MPL represents a great progress for Brazilian victimized women even if the channels to access justice still need a great deal of improvement. It is not surprising that there is a steep learning curve and room for improvement following the implementation of a major policy. Nevertheless, Brazilian judicial agents are not saving efforts to learn the most of each courts' experiences. The National Council of Justice has established a national conference (FONAVIDE) in order to promote a conversation about potential improvements on the MPL's implementation. The Pernambuco State Office for Women's issues also formed a committee with a similar purpose, which requested the present study.

Systematic data collection for statistical analysis should be collected in order to monitor the courts' functioning, assess the need for potential improvements, and evaluate the impact on victims' and offenders' attitudes towards the judicial system and the MPL law in particular. Statistical analysis should be conducted to assess the potential effects of the specialized courts on victims and the relationship between non-cooperation and previous negative experiences within the court system.

As it can be seen, this case study is the first one conducted about Recife's specialized courts and it addresses only a small portion of the informational gap regarding these institutions. The present study had some limitations to the understanding of specialized courts' functioning: it did not include victims' opinions; it did not allow for comparison between workers of the network to combat domestic violence since they were all treated as one group; it did not allow for comparisons between the First and the Second specialized courts, which have different histories and cultures. Potential future studies that would complement the current research could address: victims' perspective of procedural fairness within the specialized courts; victims' and offenders' reactions to procedural policies specific to the First or Second court; and the difference in workers' perspectives regarding procedural justice according to their background, place of work and amount of contact with victims.

Despite the limitations with the current study it is clear that Pernambuco's policy makers are on the right track, and that they need to keep moving forward with their quest – even if they feel as if they are swimming upstream. The MPL has ambitious goals. It aims at changing the Brazilian sexist culture and historic judicial dispositions

(Abdala et al, 2011). The judicial system's limitations and gaps do not undermine the benefits that the MPL is bringing to women in Brazil and it is important to acknowledge that the combat to domestic violence does not depend solely on the legal system: "It is not only that Law that is responsible for reducing the rates of domestic violence... it is the whole society". Educational efforts for batterers, national campaigns to increase awareness, and adequate service provision are fundamental if the MPL is to achieve its goal: "The [cultural] change that the MPL promotes requires a lot of effort every single day. We need to work a lot still if we are to change women's status, the patriarchal perspective, to change the perception that women are not objects".

7. RECOMMENDATIONS

The lack of victims' *status recognition* has negative effects on victims' perception of procedural justice and is, according to the interviewees, highly correlated to lack of training and awareness about domestic violence. To address this issue, mandatory specialization training in victim advocacy, crisis response, and domestic violence for court officials who provide direct service to victims and offenders should be implemented.

Another procedural justice element that is lacking within the specialized courts is *consistency*. Each of Recife's specialized courts are consistent with a particular interpretation of the MPL. Even though there are national efforts to enact standard interpretations and processes regarding the MPL, these goals may only be achieved in the long term. In the mean time, Pernambuco agents should consider the establishment of workshops, seminars, and conferences to promote a conversation amongst local law officials, aiming at reaching a consensual interpretation of the MPL. Consensus should be reached regarding: i) potential dispositions; ii) the relationship between protective measures and criminal charges; iii) roles and responsibilities in the execution and monitoring of sentences.

Starting a conversation about the MPL's interpretation is important as the literature indicates that there should be consistency in court processes. This study, however, cannot reach any conclusion regarding *which* processes, dispositions, roles and responsibilities would bring the best results for Recife's specialized courts in terms of recidivism, deterrence, or even victims' satisfaction. Still, it is strongly recommended that the discussion regarding *what* processes should be adopted be based on empirical research and systematic data collected in Recife's specialized courts. For this reason, the judicial branch should encourage systematic data collection regarding demographic information, charges, civil and criminal processes, hearings, court dispositions, time spent in court processes, recidivism, and other relevant data. This data should be analyzed and used to inform future policy changes.

A third procedural justice element that was found meaningful in this study is the victims' *control* over court processes. The requirements of the MPL are part of the reason why women lack control over court processes. This study does not aim at making recommendations regarding the content of the MPL. Nevertheless, there are

matters of interpretation that can be discussed by law officials and may help to empower women. This empowerment is especially important when it comes to separate protective measures from criminal processes since this was found to be the topic in which the opinion of users and workers diverged the most. Therefore, it is recommended that agents of the network to combat domestic violence review the possibilities of separating the criminal processes from the protective measure processes in order to give victims more control over criminal charges that can be dropped³⁶. Recently, in 2014, for the first time, the Brazilian Superior Court of Justice³⁷ recognized the possibility of granting protective measures that are not attached to criminal proceedings; this creates room for the discussion of these matters in Recife and Pernambuco.

A fourth major challenge that was found in this research regards victims' access to individualized *information*. To address this issue, it is strongly recommended that agents in the network to combat domestic violence consider establishing a victim advocacy department as a cooperation effort; victim advocates would be able to provide not only information, but also emotional support to victims during court processes. The establishment of a victim advocacy program would not only improve victims' access to information, but potentially improve their perception regarding status recognition and also their cooperation with prosecution efforts.

The last procedural justice element analyzed in this study was *accuracy*. Law officials' efforts to reach an accurate decision seems to be hindered by lack of information sharing, lack of human capital, lack of physical infrastructure and also a lack of support network. To address *accuracy*, it is important to first enhance information sharing between agencies within the network to combat domestic violence, within legal parameters. This information sharing could occur through a digital information system³⁸ that will make i) information sharing and distribution less time consuming, and ii) facilitate court officials' access to relevant information such

³⁶ The only charges that are under the no-drop policies are the assault charges. A interviewee explained that some judges in other states in Brazil are already implementing protective measures that are not connected to criminal charges. No study has been conducted on the effect of these protective policies yet.

³⁷ This decision was made by the minister Luis Felipe Salomão. His goal was to expand victims' protection and to prevent future cases of domestic violence.

³⁸ Currently, the network to combat domestic violence does not have a unified digital information system. The information contained in the specialized courts' information systems is not shared with other agencies (not even with other criminal courts); In addition, many of the specialized court's processes are still not digitalized.

as cases opened in other courts, new police reports, or violation of protective measures.

Regarding the lack of resources, it is important that Pernambuco policy makers revise the standard size of specialized courts that was defined by the National Council of Justice (2013) and discuss the possibility of increasing the number of officials per court. There is an initial agreement among interviewees on the need to hire more officials, and more specifically, judges and court clerks. More importantly, it was noticed that there are not enough public attorneys to accompany victims during court processes, which is required by the MPL.

Some of the measures described above (i.e. victim advocacy programs, unified digital information system, increased human capital) might facilitate the attainment of accurate dispositions by reducing delays, increasing cooperation, and increasing information sharing. However, it is important to acknowledge that the success of the MPL does not depend solely on the judicial branch. Interviewees stated that, after a sentence is reached, there are not enough community resources to implement the judicial disposition. Some community resources that are lacking are: de-tox facilities, psychological assistance to victims, battered intervention programs, education opportunities for victimized women, workforce training programs, assistance to move from a neighborhood, childcare assistance, assistance to buy a new house, and confidential residence programs. For this reason, it is important that agents of Recife's network to combat domestic violence do not only focus their efforts on court processes. It is strongly recommended that the judicial and executive branch cooperate in order to increase or expand service provision for victims and defendants.

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APPENDICES

APPENDIX A: Introductory letter written by Director of Pernambuco State Office for Women's Issues and its translation



GOVERNO DO ESTADO DE PERNAMBUCO
Secretaria da Mulher

Recife, 06 de setembro de 2013.

CARTA DE APRESENTAÇÃO

Venho por meio desta carta apresentar Mariana Amorim, mestranda do programa de Public Policy na Oregon State University e pesquisadora do OSU Policy Analysis Laboratory. A fim de contribuir para a consolidação de políticas públicas que aumentem o acesso de mulheres vítimas de violência doméstica e familiar à Justiça, a Secretaria da Mulher de Pernambuco está apoiando o desenvolvimento da dissertação intitulada "Women's Courts in Pernambuco, Brazil: mapping challenges and finding opportunities". A pesquisa está sendo desenvolvida por Mariana sob a orientação do Professor Dr. Scott Akins, professor adjunto da College of Liberal Arts, Oregon State University.

A pesquisa vai analisar como os agentes da justiça criminal e do poder executivo estão colaborando para garantir a implementação efetiva das medidas descritas na Lei nº 11.340/2006 (Lei Maria da Penha), observando as políticas públicas, judiciais e organizacionais que estão contribuindo para os resultados encontrados nas Varas de Violência Doméstica e Familiar contra a Mulher, instaladas em Pernambuco. Finalmente, a pesquisa também visa trazer recomendações de melhores práticas aplicadas no Brasil e em outros países que possam ajudar a rede de atendimento às mulheres de Pernambuco, mais especificamente as varas especializadas, a melhorar ainda mais a sua atuação.

Por esse motivo, sua colaboração para a pesquisa é relevante para nós. Sua cooperação ao compartilhar informação com Mariana Amorim vai ajudá-la a ter uma visão mais completa do atual quadro em Pernambuco e a trazer resultados mais acurados para a Secretaria através de sua pesquisa. Os resultados finais da pesquisa serão entregues a Secretaria da Mulher de Pernambuco e disponibilizados em meios públicos.

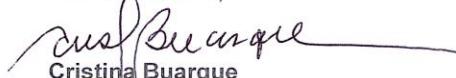
Para obter outras informações sobre a pesquisa, basta entrar em contato por meio dos endereços eletrônicos abaixo discriminados:

Pesquisadora: Mariana Amorim (marifclamorim@gmail.com)

Professor Orientador: Dr. Scott Akins (sakins@oregonstate.edu)

Diretora Geral de Enfrentamento da Violência de Gênero da Secretaria da Mulher de Pernambuco: Fábiana Lopes (fabia.lopes@secmulher.pe.gov.br)

Atenciosamente,


Cristina Buarque
Secretaria da Mulher de Pernambuco

Cristina Maria Buarque
Secretaria da Mulher

[Pernambuco State Government official logo]
 Pernambuco State Government
 State Office for Women's issues

Recife, September 6th, 2013.

INTRODUCTORY LETTER

This letter aims to introduce Mariana Amorim, student of the Masters of Public Policy Program of Oregon State University and researcher of the OSU Policy Analysis Laboratory. In order to contribute to the consolidation of public policies that enhance the access of women in situation of family and domestic violence to Justice, the Pernambuco State Office for Women's Issues is supporting the development of the thesis project entitled: "Women's Courts in Pernambuco, Brazil: mapping challenges and finding opportunities". The research is being developed by Mariana Amorim under the supervision of the Professor Scott Akins, PhD, professor of the College of Liberal Arts, Oregon State University.

The research will analyze how criminal justice agents and executive agents are collaborating in order to ensure the effective implementation of measures described in the 11.340/2006 law (Maria da Penha Law), observing public, judicial and organizational policies that are contributing for the outcomes of the Especial Courts for Domestic and Family Violence which were established in Pernambuco. Finally, the research also aims at bringing recommendations and best practices applied in Brazil and other countries that may contribute for improving the services of the network of services for women in Pernambuco, and more specifically of the Especial Courts.

For this reason, your collaboration for the research is relevant to us. Your cooperation by sharing information with Mariana Amorim will help her to have a more complete perspective of Pernambuco's current status, and to bring more accurate results for the State Office through her research. The final results of this research will be delivered to the State Office for Women's Issues and made available as public records.

In order to obtain information about the research, please contact via electronic mail the ones below:

Researcher: Mariana Amorim (marifclamorim@gmail.com)

Supervisor: Dr. Scott Akins (sakins@oregonstate.edu)

Director of the State Office for Combat of Gender Violence: Fábila Lopes
 (fabia.lopes@secmulher.pe.gov.br)

My regards,

[signature]

Cristina Buarque

Director of Pernambuco State Office for Women's Issues

[official stamp]

[State office's address]]

APPENDIX B: Structure of Interviews

- What the role of your organization within the network to combat domestic violence?
- What are the expectations and demands that women commonly have when they pursue your services?
- What are the challenges faced by women who try to access the rights foreseen in MPL?
- What are the court processes with which women are more (un)satisfied? Why?
- What are the challenges that employees [of the interviewees' organization] face in order to ensure the rights foreseen in MPL?
- Do you believe the network to combat domestic violence is been able to ensure the rights foreseen in MPL? Why (not)?

APPENDIX C: Compilation of codes and indicators

CATEGORIES	Themes	Indicators	N
Status recognition			15
	Users are to be treated as valued members of the community		15
		Workers believe that users are more satisfied with treatment received within the CJS after the implementation of MPL	5
		Workers acknowledge 'listening' as an important part of their work	5
		Workers believe that quality of service provision is related to amount of training	11
Control			
	Users should have opportunity to participate/ influence on the decision making process		14
		Workers believe that users prefer protection (protective measures) than punishment (prison for offenders)	13
		Workers believe that users prefer conciliation/mediation processes	10
		Workers stated that users can influence the decision making process through active participation or omission	6
		Workers do not feel obligated to meet user's expectations about processes or outcomes	5
Access to Information			
	Users should be able to make informed decisions about their participation		12
		Workers believe that users are not aware of judicial processes and institutions	10
		Workers believe that women have unreal expectations due to lack of information about judicial processes	8
		Workers stated that users have limited access to individualized information about court processes	8
		Workers believe that the small amount of information victims receive about the process contribute to their dissatisfaction with the CJS	10
Consistency			12
	Users are to receive a similar treatment to other users across time		12
		Workers reported inconsistencies on the disposition and execution of sentences	8
		Workers reported inconsistencies between policy makers' and technicians' beliefs regarding the judicial process	4
Accuracy			15
	Authorities are able to make competent and accurate decisions since they have access to factual accurate information and actively work on solutions		15
	(in order to measure this, I will use three indicators: access to information, resources to actively work on solutions, and effectively reaching a solution)		
	1) Worker's access to factual information to make accurate decisions about processes and dispositions		
		Workers perceive the need for more efficient information sharing among agencies	9
	2) Worker's access to necessary resources to actively (and timely) work on dispositions		
		Workers believe human capital is insufficient to deal with the amount of processes	12
		Workers believe physical structure is insufficient to accommodate the needs of MPL	9
		Workers believe the judicial system needs a network of support capable supporting the dispositions determined by the court	8
	3) A disposition has to be effectively achieved		

		Workers believe that protective measures have strong deterrent effect	13
		Workers believe the delays in processes are the major challenges faced by CJS	14
		Workers believe that the goals of MPL were not being met (no disposition is being reached)	10
		Workers perceive court processes as inefficient	14