

Legal Empowerment Experiences

from Latin America



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Introduction

Our world is profoundly unequal. Law has the power to advance equality: by protecting against abuse, and giving people a chance to shape their own lives. And yet the UN estimates that 4 billion people – the majority of people worldwide -- live outside the protection of the law. For them, law is an abstraction, or a threat, but not something they can use to exercise their basic rights. They are unfairly driven from their land, denied essential services, extorted by officials, excluded from society, and intimidated by violence.

When people understand the law and legal processes, they are able to protect their rights, seek redress when their rights are abused or ignored, and advocate for policies that work for the poor and marginalized, not just the rich and powerful. Yet, access to justice efforts continue to focus primarily on strengthening formal institutions and human rights strategies. This is not a viable solution. Strong, transparent, and accountable courts of law are important, but their impact is limited when people do not know why, when or how they should access them.

Across the globe, there are many organizations and practitioners working to give people the power to understand, use, and shape the law. The Global Legal Empowerment Network brings together about 1400 organizations and 5200 individuals, all dedicated to grassroots justice. We are building a vibrant community of practice that helps legal empowerment groups to more effectively collaborate, innovate, learn, and advocate.

We recognize that legal empowerment methodologies and priorities are not the same everywhere. They vary according to political and social context, the needs of particular communities, existing legal frameworks, and the human rights situation, among many other factors. One of the aims of the Global Legal Empowerment Network is to generate comparative learning and knowledge across regions, while strengthening ties within regions where common approaches and policy agendas exist.

To that end, the Network hosted a regional legal empowerment learning exchange in Buenos Aires, Argentina, in June 2017. Latin America offers a unique context for experimenting with legal empowerment strategies. Despite the fact that the constitutional and legal frameworks of many Latin American countries guarantee access to justice, 130 million people struggle with injustice and inequality in the form of chronic poverty and rampant disregard for human rights. In response, civil society, grassroots organizations, and public institutions across the continent are working to bring laws to life. Social movements are gaining an increasingly robust public voice; universities and CSOs are taking an active role in public matters, and citizens are demanding their rights and pushing for greater accountability and effectiveness of government institutions.

For our learning exchange, we convened 30 participants from 13 Latin American countries: representatives of organizations working to secure access to justice for migrants, women, and indigenous communities and other vulnerable groups. We came together with two goals in mind. First, we wanted to foster a space for participants to learn from each other about strategies for addressing common challenges. In doing so, we analyzed the particularities, opportunities, and challenges of legal empowerment in Latin America. Second, we wanted to look ahead; we collectively agreed on concrete steps to strengthen the legal empowerment movement in the region.

Participants debated and signed the *"Declaration of Villa Inflamable for Access to Justice and Legal Empowerment for All"*. Among other things, the declaration outlines concrete commitments for signatories, including: (1) To work together with people and communities to put the power of law in their hands. (2) To exchange information, experiences, knowledge and learning in an effort to bolster efforts deployed throughout the region that advance justice for vulnerable communities. (3) To carry out advocacy before public bodies – in all branches of government – for the implementation of policies that reduce barriers to the right to access justice in each of our countries. (4) To produce information about our practices, and to join efforts in evaluating legal empowerment policies implemented by our countries. A core element of that effort will be generating knowledge about the practices and experiences of legal empowerment practitioners in Latin America.

This publication represents an initial step toward this ambitious agenda. It leads the way toward a greater effort to generate robust knowledge about legal empowerment practices in Latin America, to promote a dialogue based on grassroots experiences, and to show evidence about how legal empowerment helps to foster access to justice. It is being supplemented by a series of Spanish-language webinars hosted by and for Latin American network members. Five webinars have already taken place, each building skills or advancing discussions around priority topic areas, such as the Sustainable Development Goals, or guidance for conducting legal needs research.

In the following pages, we offer five concrete experiences drawn from different countries in Latin America, presented in the voices of Network members. These case studies showcase diverse legal empowerment approaches taken up by civil society organizations and state institutions alike. They all demonstrate how putting the law in people's hands has contributed to improving lives and advancing justice.

The first case study, *"Community Defenders Organized for the Right to a Life Free of Violence,"* elaborates on a multi-disciplinary, multi-sectoral, and intercultural strategy for empowering Bolivian women to know their rights, change cultural mindsets, seek support in legal cases around gender-based violence, and become agents of change. In *"The Souza Ramos Favela: Defending the Right to Live in the City,"* a partnership between a Brazilian neighborhood association, pro bono lawyers, and a civil society organization leverages legal information to improve a community's land tenure, living conditions, and access to basic services. The next case study, *"PLP 2.0: Domestic Violence and the Popular Legal Promoters Support Network in the Restinga Neighborhood"* reveals how equipping a strong network of grassroots legal promoters with connections to public institutions and a well-designed mobile application can reduce gender-based violence in Brazilian communities. In our fourth case, *"Legal Empowerment as a Tool for Demanding Rights and Recognition in Labor Relations for Indigenous Workers on Coffee Farms in Costa Rica,"* workers' rights advocates and a popular legal education campaign in Costa Rica help indigenous laborers to file suit for employment violations for the first time. In a change of pace, we explore the dynamics of legal empowerment policies of the Argentine government in *"Legal Empowerment and State Legal Organizations In Light of the Voices of Domestic Violence Victims."* To conclude, we share the *"Declaration of Villa Inflamable for Access to Justice and Legal Empowerment for All"* to give a sense of the Global Legal Empowerment Network's next steps.

We hope these five courageous experiences inspire you to try new legal empowerment techniques, or to spread the word among those who might benefit from these stories. We look forward to rich discussions and collective action. As the *Declaration of Villa Inflamable* states: "Rights in the hands of the people. Justice for all!"

Community Defenders Organized for the Right to a Life Free from Violence

Fundación CONSTRUIR, Bolivia, 2017



Fundación CONSTRUIR is a nonprofit Bolivian civil society organization that develops activities relating to research, rights empowerment, communication, deliberation, monitoring and social advocacy for the purpose of strengthening access to justice and effective guardianship of the fundamental rights of vulnerable groups, especially women, indigenous populations, those of campesino origin, people deprived of freedom, children and adolescents.

In the scope of this work, Fundación CONSTRUIR promotes legal empowerment as a way to strengthen the leadership of groups in vulnerable situations, who after understanding their rights and the use of the legal tools for their enforcement, become change agents within their settings and communities.

Fundación CONSTRUIR promotes the following organizational goals:

1. Promote the empowerment of fundamental rights and champion their access and full exercise for all, without discrimination.
2. Contribute to strengthening access to justice through the creation of spaces for analysis, coordination, and advocacy by organized civil society.
3. Contribute to the prevention, punishment, and elimination of all forms of violence against women, children and adolescents, as well as encourage monitoring and social coordination for compliance with the rules, plans, policies and commitments assumed by the State.
4. Foster and support the process of building a plural justice system and the coordination of authorities of the ordinary jurisdiction system with authorities of the indigenous, native, campesino, and agro-environmental system in order to encourage effective protection and guardianship of fundamental rights.

5. Promote the defense and exercise of fundamental, cultural, and political rights, as well as the self-determination of peoples of indigenous and African descent.

Learn more about Fundación Construir at www.fundacionconstruir.org

Context

Bolivia currently has progressive legislation, a constitution that broadly recognizes human rights, observance of international treaties and conventions, and a set of standards that gradually have been shifting the national legal framework toward what is provided for in the State's political constitution. The constitutional regulatory framework recognizes and protects women's right to a life free of violence on five levels: as a system of government, as a founding value of the State, as an end, as a guarantee, and as a fundamental right.¹

Nevertheless, in practical terms, the gaps are still wide, especially in rural areas in which State services have little reach and coverage. The situation is worse in the case of indigenous and campesino women, who suffer triple discrimination in their rights, due to being women, indigenous, and living in remote areas.

The rates of violence against women in Bolivia are dramatic. It is estimated that at least 75% of women suffer or have suffered violence in the course of their lives. In rural areas this rate increases to 85%.² The percentages for violence are higher for women with low incomes and lower educational opportunities.

In spite of the regulatory advances in the area of protection of women's right to not suffer violence, the gaps in access to justice remain very wide due to multiple causes, among which is the coverage of the justice system, which reaches on average only 50% of the municipalities in the country.³

There are other local courts responsible for the provision of services to victims of violence,⁴ but their effectiveness encounters multiple barriers, among them, insufficient budgets--that do not allow for sufficient staff, infrastructure, and technology--gender bias, the absence of trained personnel, and the high turnover of workers, among others.

In this context, since its creation in 2009, Fundación CONSTRUIR has undertaken initiatives to contribute to the eradication of all forms of violence against women, beginning with leadership by women themselves in situations of violence, to promote and enforce their rights in mainly rural areas. The first experience in forming community defense offices ("*defensorías comunitarias*") to counter violence date to 2011, occurring within the framework of the project, "Strategies for the Prevention and Treatment of Gender-Based Violence." Its most

¹ With regard to internal legislation, there are five main laws of national scope related to the protection of women's right to not suffer violence: i) Law No. 348, the Comprehensive Law to Guarantee Women a Life Free from Violence, ii) Law No. 243, the Law Against Political Harassment and Violence Toward Women, iii) Law No. 045, the Law Against Racism and Any Form of Discrimination, iv) Law No. 263, the Comprehensive Law Against Trafficking and Smuggling of Persons, and vi) the Penal System Code.

² National Statistics Institute and Ministry of Justice, "Prevalence and Characteristics of Violence Toward Women," published in 2017, available online at <http://bit.ly/2h26CNS>

³ OACNUDH [Office of the United Nations High Commissioner for Human Rights] and the Vice-presidency of the Plurinational State, El Sistema Judicial Boliviano [The Bolivian Judicial System], published in 2017.

⁴ Among these services are: the Servicios Legales Integrales Municipales [Comprehensive Municipal Legal Services] (SLIM), the Fuerza Especial de Lucha Contra la Violencia [Special Force for the Fight Against Violence], which is a division that reports to the Bolivian police, and representatives of the health sector, among others.

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important element was the empowerment of indigenous and campesino women, who were linked in local violence-prevention networks in order to develop advocacy initiatives, promote leadership, raise awareness, and strengthen the capacities of those providing services.

On the basis of the success of the empowerment model employed between 2013 and 2014, Fundación CONSTRUIR promotes the project “Community Defenders and Access to Plural Justice” in four rural municipalities in Bolivia: Mizque (State of Cochabamba), San Buenaventura (State of La Paz), Challapata (State of Oruro) y Muyupampa (State of Chuquisaca).

The project was developed in an important context, given that in March 2013, the “Comprehensive Law to Guarantee Women a Life Free of Violence” was enacted. It recognizes the role of community promoters (*promotoras comunitarias*), who focus on promoting support for victims of violence with groups or networks of women who have survived it or find themselves fighting to overcome it. The law grants community promoters powers of advocacy and coordination of public services, and obliges the autonomous territorial entities (state and municipal governments) to work with them and support their training.



Case Study

The present case study is called, “Victoria Lopez: From Victim of Violence to Community Defender who Fights Against all Forms of Gender-Based Violence,” and is taken from the development of this project and experience in the Municipality of Mizque (Mizk’i), located in the state of Cochabamba.

This municipality has 26,900 inhabitants,⁵ of whom 97.87% identify themselves with the Quechua culture and 86.04% who identify the Quechua language as their primary language.⁶ The municipality has a judicial seat. However, the prosecutor assigned during the implementation period for this project was only present on Thursdays, a situation that made attending to the demands for justice of the population difficult.

⁵ According to data from the last population and dwelling census, conducted in the country in 2012.

⁶ Mizque Municipal Development Plan for 2007-2011.

According to the project's baseline data, violence against women has always existed in the mizqueña population, established as a normal, daily practice and part of the private sphere.⁷ As such, one of the main challenges of the project in this municipality was to question cultural ideas and practices related to women and gender-based violence.

1. The Actors, Methodology and Development of the Initiative

The model for the approach started with a process to generate involvement by key sectors—among them campesino federations and women leaders—beginning with workshops and interviews. The objective was to develop a strategic alliance with the parent entities of the campesino federations, so that they would organically assume the initiative and the gains would be sustainable.

In this way, an alliance was developed with the Federación de Mujeres Campesinas Bartolina Sisa (Federation of Campesino Women of Bartolina Sisa), who assumed the initiative and almost immediately formed the Red de Defensoras Comunitarias (Network of Community Defenders), a fact that distinguished this municipality from the rest in which the project intervened.

With empowerment materials designed in line with the specific needs of this municipality, legal empowerment workshops were developed in which the participants received information in their own language about violence against women, its present forms, the rules about their rights, tools for enforcement, participation and advocacy, among other elements. The workshops were based on strategies of “learning by doing” and “training the trainers.” In this way, in six phases the community defenders designed an approach plan oriented toward: i) development of training workshops, ii) support of women victims in the process of filing complaints and prosecution of their cases, iii) the formation of work networks with municipal and judicial providers, iv) registration of cases of violence in remote settings, v) advocacy processes to improve budgets and policies for responding to violence against women.

With the action plan finished, the Federación de Mujeres Campesinas Bartolina Sisa defined leadership in the structure of the community defender groups in order to carry the action plan forward. It established the twenty-first day of every month as a meeting date to share the progress of the plan and reinforce the action strategies.

The action plan also established a list of key actors to create the network necessary to advance toward the project's objectives, among them: i) the Central Provincial de Mujeres Campesinas (Provincial Campesino Women's Center) to broaden the range of women convened to form the community defense offices, ii) the Central Sindical Única de Trabajadores Campesinos (Single Trade Union Confederation of Campesino Workers) to eradicate the cultural practices of violence, iii) the health and education sectors to improve the reach of processes for raising awareness and attending to victims, iv) Municipal Services, with the goal of making the

⁷ Forty-five percent of the population surveyed in the initial research pointed to violence against women as a natural and acceptable fact within the private sphere. In this way, the initial project research indicated that the population of this municipality did not view violence against women as a problem that should be addressed and prioritized other needs, such as addressing poverty (72%), lack of safety for citizens (14%), unemployment (10%), access to water (3%), and education (1%).

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community defense offices a support arm of these public servants in the process of emotional sustain, assist in filing complaints, and prosecution of cases, alongside the judicial sector and its judges, prosecutors, and the police.

The approach to these sectors included sensitivity workshops, consciousness-raising campaigns, and social dialogues in order to reach a common agenda and work scope based on trust and the commitment to fight against all forms of violence toward women.

A protocol for intercultural coordination was created with the goal of strengthening access to justice and assistance to women victims of violence, one of the first in the country of its integrated nature, after passage of the Comprehensive Law to Guarantee Women a Life Free from Violence. The document was a model to be replicated in the rest of the municipalities in which the project worked and was popularized in other national work arenas with community promoters.

"To coordinate all the sectors, as an example, I have spoken with the health sector and have asked the doctor to explain to the community defenders what the doctors do, how they care for victims of violence. The women questioned and explained to the doctor what it is that they do to respond to victims of violence and how they could link their work."

- Statement from Corina Yañez, community promoter of the Mizque project

In this context, Victoria Lopez was identified. She had joined the organization some time ago and was encouraged to talk about her experience. She was a victim of marital violence and paradoxically, her husband was leader of the Sub Central de Campesinos de Mizque (Chapter Office of Campesinos of Mizque) in which he held the office of secretary of justice.

One of the first impactful actions of the group of defenders was to have Victoria Lopez's husband removed from his office with a Sub Central resolution that also obligated him to leave the marital home and desist from any act of hostility toward Victoria and her family.

In this context, the community defenders were winning over areas and becoming visible as a strong movement with the full capacity for advocacy and coordination at the local and state levels. One of the most important achievements in this regard was the removal of the head of the Servicios Legales Integrales Municipales (Comprehensive Municipal Legal Services, "SLIM"), because he was not sensitive, diligent, or warm in his treatment of women victims of violence. This effort included a massive mobilization of the group of community defenders as well as their participation in the selection of the new official, who in addition to speaking Quechua, had the necessary qualities for the job.

The community defenders created a joint-work agenda with SLIM that included monthly trips to remote communities to educate campesino women on their rights. This was done within a framework of "no violence" and services provided by the institutions called upon to intervene in the prevention and treatment of victims. In its 2014 planning, the municipality included a budget to support the mobilization of community defenders in this work and also to support the victims.

"As the municipal government, we are always giving them support, working through the defenders' office with the social worker, psychologist and legal defender. In terms of the budget, everything comes from the municipality."

- Statement of Jhony Pardo, Mayor of Mizque

"It's about working as one team. The community defenders are a warning light for us."

- Lawyer Jelitza Ballesterro, leader of the SLIM in Mizque

At the margins of the success of the work, the community defenders had to overcome various obstacles. One of the main ones was their families' support to coordinate family and work obligations with their work as community defenders. Thus, the family played an important role - in a positive way, with support and motivation for their work standing out in some cases, and in a negative way, with time restrictions on participating in workshops, developing legal rebuttals, and assisting women in violent situations. Faced with that, the community defenders developed ingenious strategies to allow them to overcome the adverse environment.

"When he orders me to buy any little thing, I escape from there to come. I don't say anything to him."

- Statement of a community defender, taken from the workshops

The community defenders played an important role in securing restraining orders and supporting victims when filing complaints and prosecuting their cases, with one of them acting as a witness in a case pursued by the Public Ministry.

Notable Results of the Project

- The community defenders were able to make the problems of violence against women and the support of the Sub Central Campesino office visible.
- The community defenders have made themselves a support arm of the institutions called upon to intervene in cases of violence, to the point where some victims seek them out to provide information. Similarly, campesino authorities have established a system to coordinate with community defenders to address crimes of violence, and through the community defenders, these cases are linked with service providers in the municipal and judicial sectors.

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Before, according to stories the leaders tell us, in earlier generations it was solved (the violence) in the community with a record, a fine, and there were some cases that didn't even come to the community's attention, because they were afraid the husband would find out and attack her even more."

- Statement from Milton Gonzales, leader of Sub Central de Campesinos de Mizque

- The community defenders brought their voices and votes to processes of intercultural dialogue. Said processes were established with the aim of creating mechanisms for cooperation and coordination between personnel of campesino courts and ordinary state courts, working within the framework of a plural justice system in their municipality. Initially, these processes were carried out without the presence of these women.

The roundtable discussions, with all the stakeholders, gave us the possibility to have a say as women. Men always say to us, 'why do the women go to the meeting, why don't they stay in the doors of their kitchens?', But at roundtables, we have made ourselves heard .

- Statement by Milton Gonzales, Leader of Sub Central de Campesinos de Mizque

- The community defenders successfully promoted the development and signing of a protocol for action and coordination in situations of violence toward women, with the participation of judges, the health sector, municipal government, Sub Central de Campesinos de Mizque, the police, Public Ministry, and the Federation of Women of Bartolina Sisa.
- The community defenders have become a model. They succeeded in breaking the barriers of distrust keeping victims from filing complaints against violence, and they have been legitimized as key actors in efforts for the prevention and fight against violence.

"What I have seen is that the people recognize and seek out the defenders."

- Lawyer Jelitza Ballesteros, leader of the SLIM de Mizque

Lessons Learned

- Creating environments of trust among the women, before the process of empowerment, is important. It encourages them to share their personal and family problems in the community, and from there, to create a strengthened work nucleus that together seeks solutions to improve the situation of women in the aforementioned settings.
- Creating empowerment processes for women in societies and spaces that are culturally patriarchal is complex. However, a strategy of promoting the participation of husbands was used. As a result, many of

them were sensitized and even committed to the project's efforts, supporting the process to create changes in mentality.

- Weak responses of the institutions preserve gaps in access to systems for treatment and access to justice for women in violent situations. Nonetheless, with the advocacy processes and employment of the legal tools provided, the community defenders have been able to create important achievements, among them, an increase in the budget to combat violence against women, inter-institutional coordination to improve services provided, and the support of local authorities for the sustainability the work.
- Development of processes that are appropriate to the specific context of each community and population, and the authorities' and leaders' appropriation of these processes, contribute to the success and reach of the outcomes sought. Success comes from supporting and assisting their work as change agents within their localities and contexts.

The Souza Ramos Favela: Defending the Right to Live in the City

TECHO, Brazil, 2017

TECHO has worked for 20 years in informal settlements in 19 Latin American countries, promoting community development, political involvement, social awareness and action through different initiatives launched in



conjunction with community and volunteer leadership. Its vision is to construct a just, egalitarian, integrated society without poverty in which everyone can fully exercise their rights and responsibilities and have opportunities to develop their capabilities.

In our work in the region, we contribute to strengthening community leadership by supporting the processes of social production of habitat that are constructed through daily actions. Twenty years of experience has required us to strengthen training, support in accessing information, and opportunities

present locally and nationally with regard to distinct issues linked to citizen participation, security in land tenure, lawsuits with public institutions, and access to legal help, among others.

Learn more about TECHO at: <http://www.techo.org/>

Context

Informal settlements are spaces undergoing daily violations of rights, principally those related to possession of the land, water, light, housing, health, and education, among others. Only when people know their rights, available tools, and how to exercise them will we be able to achieve real justice for everyone. This is why working for access to information and dissemination of knowledge is essential at the local, regional and national level.

The following case study concerns the struggle for land of the Souza Ramos settlement in San Pablo, Brazil. The case is relevant for our organization because TECHO-Brazil was able to take advantage of existing social and legal information from its research and put it towards community work and empowerment of leadership. These factors, in turn, ended up being essential to strengthening land protection, mainly from the standpoint of land tenure rights, citizen participation, and access to services.

1. Legal Framework:

Brazil's Federal Constitution, known as the "Citizen Constitution," passed in 1988 and is still in force. It guarantees the fundamental rights of Brazilian citizenry. In Article 7, it expressly recognizes the right to housing, and in Article 5, it recognizes the right to property (Paragraph XXII). It also anticipates that property should serve social functions (Paragraph XXIII), i.e., it prioritizes the collective need over the individual need. Additionally, in Article 182 and the following, it recognizes adverse possession, which allows any person who does not possess another property, and who peacefully occupies an urban area under 250 square meters for more than five years without opposition, the right to adverse possession of that property, in compliance with the social function of the property.

In spite of the guarantees safeguarded by the constitution, forced evictions occur regardless, without due respect for human rights. There are few legal rulings related to "irregular" land in favor of marginalized urban residents. However, prior to the support of the Souza Ramos case, a similar ruling was identified in the 18th Civil Court of the State of Parana, Appeal No. 917511-7, against Tecnicon Máquinas e Peças Industriais Ltda. The plaintiff filed a lawsuit for reinstatement against the community, stating that its property had been invaded by low-income people who could pose a risk to the local population. Faced with this, the community filed a prescription exception, stating that (i) the property had not been used during the past 10 years; (ii) they had been using the property without opposition; (iii) each family occupies an area of less than two-hundred fifty (250) square meters; (iv) the plaintiff has stopped paying taxes; and (v) there are no doubts regarding the occupied area, which exempts it from a survey by experts.

The court of first instance determined that the plaintiff did not have the right to reinstatement; people could not be evicted and had the right to start the adverse possession process. Disagreeing with the decision, the plaintiff appealed. The appeals court decided that removing the families was impractical, taking into account human dignity and the social function of the property, since those families had built houses and developed activities to sustain themselves in the region. Thus, on January 30, 2013, the appeal was denied and the families were allowed to remain on the land.

2. Institutional Framework

In Brazil, there exists a Law for Access to Public Information (No. 5228 of November 18, 2011). The government of the State of San Pablo has an integrated city information system for requests for public information. The community organizations with which we work in the informal settlements in Brazil generally make use of that public information with support from TECHO.

The present systems for legal protection to which those who live in informal settlements have access are the public defender's office, low-cost lawyers (who may work at public funds, NGO's, etc.) and private firms with lawyers who work pro bono. To file lawsuits, motions and claims in Brazil, one can also turn to the state public defender's offices and the Public Ministry.

3. Procedural Framework

Representation by lawyers is mandatory in the institutional civil legal process. The procedural system enables filing collective cases with the legal possibility of hearings, visits and testimony. In the Souza Ramos case, a hearing was held and two neighbors from the settlement provided testimony. Though the Brazilian legal system is biased against excluded communities, the public defenders' offices in some states are very committed to human rights.

Case Study

Actors

Community

Souza Ramos is a favela (informal settlement) in the east zone of San Pablo where 302 families live. The settlement was founded in 2002 by families that occupied a private parcel of land. At the time this assessment was done, the majority of the community had potable water and electric lighting services through irregular installations. They were not connected to the public sewage system, nor did they have paved streets or public spaces.



Some relevant data:

- 57% of the community of Souza Ramos is between 0 and 15 years of age, and 40% of those interviewed consider children to be the most vulnerable group in the community.
- 54% are women, 46% men.
- 47% of the population identify as mestizos, 28% as white, 20% as black, 1% as indigenous, and 4% as other.
- 67% identify their place of origin as San Pablo, 12% Bahia.
- 20% of the population does not know how to read or write.
- 21% of the dwellings are in bad condition.
- 40% spend more than one hour commuting to work.
- 50% of the men and 64% of the women who work do not have a contract.

- There are no public institutions working from the community.

TECHO

In 2013, TECHO-Brazil began its ongoing work to support the organization of the community with initiatives to improve quality of life for the community's families. One of the first actions taken was to conduct a community assessment that, among other topics, included determining the legal status of the land with public information. In that assessment, one of the most urgent problems identified was a legal process to reintegrate possession of the land, on-going since 2004, that threatened the peace and security of the families, because of the possibility of eviction from the land where they were living. Volunteers and professionals provided support and advice to the community in a continuous, organized way.

Experience and Results

1. The Joint Action for Rights in Souza Ramos:

To support the judicial process, volunteers from TECHO-Brazil's legal team met with the Souza Ramos residents to help them obtain information about the court case. Later, the organized neighbors activated various networks of contacts to find lawyers willing to work on the case pro bono.

When we held the meeting to explain the process, more than 30 neighbors came. They already had a lot of information about what was happening and only needed support to understand what to do with that information. When we finished the talk about the process, the neighbors went on to who would do what, guaranteeing in this way that no one would be evicted from their dwellings.

- Renata (volunteer)

TECHO participated in the spaces between the community leaders and lawyers, helping them fully own the legal issues they were experiencing. It is important to mention that before and during this support of the legal proceedings, some of the key leadership within the community had participated in various rights trainings facilitated by TECHO-Brazil, where topics linked to housing rights, the social function of property, and citizen participation were addressed. One of the community leaders, Everlane Menezes participated as a representative of her community in regional community leadership meetings that the organization held in Mexico City (2015) and Quito (2016). In the latter, Everlane was able to share her experience of the struggle for land, participating as part of the TECHO delegation in the third conference, the United Nations Conference on Housing and Sustainable Urban Development (Habitat 3).

The hearing was held in August 2015, 10 years after the start of the process. About 40 neighbors went by bus to show their presence at the opening of the forum, and two neighbors testified. The plaintiffs alleged in the trial that their property right originated from a bill of sale from 1989 that delimited in detail the area for which they hold property rights. They also stated that the land was not abandoned before the start of the occupation, and that adverse prescription of the land on the part of the residents of Souza Ramos could not be realized, since the occupation of the land concluded in 2005, a date that falls after the start of the proceeding (in 2004).

The community, working with the lawyer, alleged the following:

- The properties were clearly abandoned at the start of the occupation.
- The bill of sale is of no value, since it is not notarized.
- The area described in the bill of sale is inaccurate and different from that the defendants occupy; i.e., the plaintiffs do not have any right to the occupied land.
- More than 300 families have been living in this place for almost a decade. In that period, the plaintiffs maintained the land as abandoned and did not concern themselves with rectifying the situation.

2. Resolution of the Case

In the legal proceeding, it was resolved that the plaintiffs could not prove their right to the land for lack of: a) proof that they exercised possession of the land, b) expert evidence (which the plaintiffs were responsible to secure), c) receipts for payment of taxes on the land, and d) a detailed description of the land and a notarized registered bill of sale. Presented with this, the judge determined that all those who occupied the land since 1999 fulfilled the criteria to pursue a claim of adverse possession in a future case. This is because the term of the usucaption (5 years) is counted from the start of the legal action, which was in 2004.

Souza Ramos won the legal proceeding, obtaining the recognition of their rights to live on the land and avoid eviction. That facilitates acting on rights that had historically been denied them, such as access to water and legal household electricity. Out of a belief in community organization and recognition of the power they have as citizens, the neighbors association now faces the legal challenge of transitioning from the right of possession already recognized to full adverse possession of land.

The court's refusal to reintegrate possession of the property has been one of the great successes of the community in this time of working together. The community empowered itself not only from the processes, but also from the results of the trial, even celebrating it with fireworks. The community demonstrated in practice the importance of working in a network to support legal proceedings that recognize the rights of individuals who live in informal settlements.

It is important to emphasize that though the community achieved the right to remain in the area, it does not legalize the families' possession or grant them title to the properties. What was achieved in the case was the prevention of forced eviction by a private party, since there now exists a judgment determining that the families have the right to inhabit the area.

As such, the families that live in the community today are not legal owners of their land. For that, it would be necessary to initiate a claim of adverse possession, which requires many evidentiary documents and has a very high initial cost. The residents of Souza Ramos have decided to fight for the transformation of their habitat through access to services, but without pursuing a claim of adverse possession (usucaption).

Since that time, different projects have been developed with community leadership, focused on issues prioritized in the community participant assessment:

- **Citizen Participation:** creation of the “New Souza Ramos” neighbor association, which meets every Sunday to evaluate achievements and plan next steps.
- **Appropriation of the land and strengthening of the community identity:** numbering of houses and signs with the names of the streets and alleys painted on the facades of houses.
- **Habitat conditions:** construction of a community center, emergency dwellings, and arrangements with local governments (sub-prefecture level) and the companies for water (Sabesp) and electricity (Eletropaulo) for recognition of their rights.

I see the population more motivated to organize itself. TECHO was a turning point to kick-start ideas that we have considered and spoken about many times. We didn't know how to form an association--with the prefecture? Or with a notary?—and the TECHO volunteers shared all that information with us.

-Michel (Souza Ramos neighbor)

Participation by people was practically zero. After the successes, now about 20% of the people are participating, directly or indirectly.

-Francisco Goncalvez (Souza Ramos community leader)

Lessons Learned and Recommendations

Challenges:

- Legal information is not easily accessed.
- The judicial authorities lack of empathy for excluded populations. Information and exchanges of experience with communities are necessary.
- It is a challenge for the neighborhood association to continue working for recognition of the land.
- Finally, it is a regional challenge to strengthen rights training to allow communities to find information themselves about the processes for demanding rights from duty bearers.

Lessons learned:

- It is essential to have legal information about the settlements where we work.
- Working to empower neighbors is key to the sustainability of the process.
- It is important to work with tools and methodologies that simplify legal information.
- It is important to develop creative strategies so that the entire community, not just some parties, has clear information about the process and what is involved or not in obtaining results.
- Empowerment of neighbors in the process was key to achieving the outcome of the trial and fostering citizen participation in other community projects.
- It is important to coordinate with other actors with expertise in these areas.

PLP 2.0: Domestic Violence and the Popular Legal Promoters Support Network in the Restinga Neighborhood

Themis, Brazil, 2017



The organization Themis was formed against the backdrop of the redemocratization of Brazil, following the end of a military dictatorship. It embodied a desire to democratize knowledge about rights and access to justice. The lawyers who founded Themis took as their starting point feminist philosophy and critical legal theory. They believed that laws can create a space for resistance and transformation when they are perceived, shaped, and applied by civil society. They also believed that formal and constitutional equality between men and women

does not result in effective equality, especially since justice institutions reinforce gender discrimination when applying the law.

Accordingly, the mission of Themis is to defend women's rights and democratize access to justice in three main areas: gender-based violence, economic and social rights, and the right to safe abortions. These activities are carried out through three strategies:

1. Popular and Feminist Legal Education, primarily through "Promotoras Legales Populares" (Popular Legal Promoters or "PLP"s), who are community leaders trained in the human rights of women, who promote those rights in their communities;
2. Dialogue with jurists about the institutional mechanisms that preserve and further discrimination against women; introducing feminist theory in local legal debates, and proposing new ways to use of the law.
3. Strategic litigation at the national and international level.

Learn more about Themis at: www.themis.org.br

Context

More women die of domestic violence in Brazil than most countries in the world. Women are particularly vulnerable to domestic violence because it primarily occurs in the house, when they are alone with their partners or family members. Their communities rarely have knowledge of the situation, which is hidden because of shame. Often, relatives and close friends withdraw or are pushed away by the male partner. Thus, the way to

public care services becomes even more difficult and dark.

To compound the problem, the average response time of the Military Police in Porto Alegre to an emergency call for help is 45 minutes. This can vary from five minutes to an hour and a half, depending on the risk classification of the crime. In a situation of imminent femicide, minutes can determine the life or death of a woman. Lessons from different countries and contexts show that to resolve this problem, a combination of public policies and civil society mobilization is needed to break the cycle of isolation and aggression.

1. Legal Framework:

In 2006, the Maria da Penha Law was enacted, which created mechanisms to reduce domestic and family violence against women. Although we still have a system of justice that resists enforcing that law, and although the state has not enacted all the public policies envisaged by the legislation, this law continues to be the main mechanism protecting women victims of domestic violence.

Among the tools provided in the law, the best known and used are the emergency protective measures, which place restrictions on the offender, including:

- I. Suspension of possession, or restrictions on, carrying weapons;
- II. Restraint from the home, residence, or space shared with the offended party;
- III. Prohibition of certain behavior;
- IV. Restriction or suspension of visits with dependent minors, supervision by multidisciplinary care team or a similar service;
- V. Payment for temporary food or provisions.

The Brazilian Conselho Nacional de Justiça [National Council of Justice] estimates that in 2015 alone, at least 328,634 protection measures were ordered, 10% more than the number for the corresponding period in 2014. Even so, it's widely believed that protective measures are insufficient to guarantee protection of women facing femicide.

Case Study

Actors

Popular Legal Promoters

PLPs promote discussion and campaign for women's rights in their communities from a feminist and gender perspective; navigate claims of violation of women's rights; prevent violations by educating the community; promote rights through participation and representation in local bodies; and take on social control of specialized services for protection of women in violent situations, among other activities.

Themis has been training popular legal promoters for 24 years. In developing its training program, Themis was originally inspired by Latin American experiences with the legal training of women in the 1980s and 1990s. For implementation in Porto Alegre, the program was based on a methodology for access to horizontal and participatory justice, and implemented with a local organization named GEEMPA.

Themis has conducted seventeen training courses in Porto Alegre, training between 400 and 500 community leaders. In Brazil, 55 NGOs from all regions of the country were trained in the Themis methodology in 1998, 2000, 2003 and 2005. The training of PLPs currently involves the creation and institution of a public role for popular legal promoters – a political agent who acts directly to promote rights and the democratization of access to justice.

PLP training courses take place in strategically-identified areas, based on geographic criteria. Each selected area brings together various “barrios” (segregated neighborhoods) encompassing social teams and basic public services, such as regional administrative centers, health centers, police stations, public schools, etc. The purpose of the selection criteria is to place groups of PLPs in different areas of the city, where they have the possibility of acting in coordination with the greatest diversity of institutions in each area, making up a network for municipal action.

The selection of areas is above all driven by politics and strategy. The micro-political relationships of each neighborhood or area must be taken into account, while also comparing the broader political scenario of each city where the course is implemented. It is important to account for the future activity of the PLPs and the assurance of forming a network that disseminates information about women’s human rights. After defining the areas and their respective mapping, the content to be taught in the course workshops is defined.

Empowering women as PLPs has proven to be an effective way to combat disinformation about women’s rights and to expand acquired knowledge as a means of broadening access to justice. Through this approach, the path to confronting gender violence becomes easier and more accessible, as well as less lonely.

PLP 2.0

PLP 2.0 is a project that combines the work of PLPs, partnerships with institutions, and the use of technology in the form of a mobile telephone application that operates like a panic button for women in violent situations. The project grew out of a realization that PLPs are most effective when working in concert with others. Some cases require more than accurate information about access to state protection agencies. Such cases also require direct and effective police intervention in cases of emergency, as well as more intensive social control of specialized protection services for women in violent situations.

The PLP 2.0 project aims to increase the effectiveness of preventive protection measures, to decrease femicides and extreme aggression due to domestic and family violence, to provide a network for shelter and information exchange with female leaders of communities, and to offer a rapid connection to the police in case of emergency. PLP 2.0’s specific objectives are as follows:

1. Reduction in the response time of the military police in emergency cases;
2. Increased awareness and visibility of domestic violence cases, so that women are less isolated in these critical situations and able to break the cycle of aggression;
3. Creation of a network for information exchange and shelter among women in violent situations, the PLPs, the executive authority, and the judiciary;
4. Expanded access to the network serving women in violent situations;

5. Monitoring of public policies and the network serving women in violent situations;
6. Civil society participation in the fight against domestic violence, strengthening local leadership.

Experience and Results

How the PLP 2.0 App Works

The PLP 2.0 application is a key element of the project. To begin, it was necessary to sign an agreement with terms of cooperation among civil society, the State Court of Justice, the Secretariat of Public Safety, and the Military Police. To add a woman in a violent situation into the PLP 2.0 app, a judge must grant protective measures and analyze the existence of risks of physical injury or death. The woman must sign the Terms of Use and Responsibility and consent to be withdrawn from the system in cases of activating the emergency button three times falsely or without a reason.

After receiving the code that identifies her, the victim must download the application onto her smart phone and register herself. The whole procedure is done during a legal hearing with the help of judicial aides. After that time, in case of an emergency, the woman can reach the Military Police, who will make the complaint a top priority. Many stories recount how domestic and family violence were often treated with minor seriousness, resulting in a lengthier arrival time for the emergency vehicle. With the PLP 2.0 app, the police receive all the information about the protective measure, the name and location of the woman, mapped by GPS, and the name of the alleged aggressor. In addition, the application is able to record audio and images.

After the urgent response by the police, the authorities report the end of the incident to the app. Next, a notification is sent to nearby PLPs so that they can, for example, accompany the woman to the police station to record what happened, respond to legal concerns, and encourage her to keep seeking a life free of violence. Additionally, it is possible to report small incidents; all of the information collected is shared with the judiciary. In this way, the legal process is better informed about facts and evidence of violations of protective measures, in a quick and reliable way, thus guaranteeing fairer and well-founded decisions.

Rollout of the PLP 2.0 Project

The PLP 2.0 project was conceived of by Themis and the Geledés Instituto de la Mujer Negra [Geledes Institute for Black Women] to compete in Google's 2014 Social Impact Challenge. Geledés is an organization from Sao Paulo, created in 1988, and was one of the first organizations that replicated the Themis methodology for access to justice by training PLPs.

The proposal won by popular vote and received one million [Brazilian] reals for its implementation. From that point, the first step was the creation of a pilot technology project by Conceptu. In December 2014, the development of applications for Android and iOS was finalized.

The second step was the mapping of organizations that work with PLPs in Rio Grande do Sul and in Sao Paulo, two states in Brazil in which Themis was chosen to implement the pilot project. As Themis was working to develop technology and institutional alliances, it also focused on strengthening the PLP networks in Sao Paulo

Legal Empowerment Experiences from Latin America

and Rio Grande do Sul, where more than 100 women were informed about the project and indicated a willingness to actively participate. Themis held five seminars to publicize the project, assess the Brazilian context related to domestic violence and the care network, and established and strengthened alliances at the national level.

The third step was the signing of terms of cooperation in December 2014. The Judicial Authority and State Executive agreed to participate in the project and allowed access to their technological platforms to integrate the systems. PLP 2.0 was launched to the public for a trial period in December 2015.

During the trial period, the application was used by two women in violent domestic situations in the Grande Restinga area, which covers suburban favelas and neighborhoods in the periphery of Porto Alegre. The area was selected because it had a large number of active PLPs. The Restinga neighborhood emerged in the decade of the 1970s, the result of the relocation of poor families from the central area of the city of Porto Alegre. The area has 60,729 inhabitants, representing 4.31% of the population of the municipality. It lives amid constant conflict because of the war on drug trafficking, has low social indicators, and is one of the areas with the greatest presence of blacks.

In June 2016, the first two female victims of domestic violence registered for the application.

Later in 2016, the initiative was recognized by the Organization of American States as one of the three best initiatives using technology for the prevention and eradication of violence against women in Latin America. During this period, 18 women in violent situations directly benefited from the project, and seven PLPs acted in support of the users. Approximately 75 community leaders were trained in women's human rights and able to participate in the project.

Results

In the evaluation of the project, PLPs considered the idea excellent and believed that the PLP 2.0 app genuinely functioned as a tool to create links between PLPs and the users:

"With the application, she was able to get her life back, tend to her son, feel secure, and even to be with her family, because the aggressor also threatens her family. The aggressor makes threats to the family, doesn't respect anyone. We have already lost women who suffer threats and who have a protective measure on paper. This application brings a deeper security. The people are there in the neighborhood, the people live in the same community as the people who attend to those women. The protections that the PLPs cannot give, we are able to give them with this application." (PLP Carmen Lucia)

Nine women users were interviewed by the Themis technical team. Some of them related that they could return to doing tasks that were impeded before the violent situation.

"The app brought me security and gave me confidence, too. I feel safer because I know that the police will not delay in coming and helping me. If something happens, I can press the button, I can be anywhere because I have time, right? If I am in some closed space and he has come, there is time to press it. And I feel safer." (Dandara¹)

All the women state that they feel safer when using the app. According to them, the main reason is the likelihood that the police would arrive at their houses more quickly—which in fact happened in cases of emergency. Asked if they perceived any objective change in the behavior of the aggressor after having signed onto PLP 2.0, six out of nine of them affirmed that yes, especially in relation to the use of the application. This demonstrates that for some women, the protective measure on paper alone is not enough. Something more is needed to guarantee its effectiveness.

Experiences with the application also tell of changes due to the care and protection of the network. Dandara mentioned how she was ashamed before and she felt harassed until learning that the police stations have a duty to attend to her. When another user, Maria Felipa, was asked, “Did you perceive any change in behavior?” She answered as follows:

“In me. My behavior changed with him. He became aware of my change, my behavior at the time when I had the application, that I know is...for me, the application is as if I had a weapon in my hand. If I feel threatened, I am going to use this weapon against him. (...) The power that the application has isn’t just the application, but come from the people who have it.”

For Maria Felipa, the access and help of PLPs and guidance offered by the network were essential:

“So...I had the sense that when I got the application, I wasn’t feeling safer, but the application left me more secure, you understand? Because I knew that anything that he could do, I had the application to protect me, understand? It was as if they had given me an injection of courage, I can tell you...because we are still very submissive, no? (...) (Maria Felipa)

In the evaluation of their relationship with the PLP, the experiences related are positive. Users affirm having felt “very safe,” and allude in general to the importance of care, guidance and access to information:

“Yes, even more, I felt well protected...they come in my house, they ask me if everything is ok, they call sometimes and ask if everything is going well...very good!” (Zeferina)

Lessons Learned and Conclusions

Three years’ experience with the project has generated some lessons learned. The first and most relevant is that the project, which had an initial goal of acting as a tool to respond to emergency situations in the face of violence, ended up being a mechanism for prevention and inhibition of aggression toward women. This is because, according to the users’ evaluation, it made subjective protection possible; users feel safer because of the rapidity of the police response. They recovered a sense of safety that had disappeared from their lives after enduring violent situations. They gained the ability to go out and work, which also caused changes in the behavior of the aggressor. The users also felt less isolated, better informed about their rights, and protected by the leaders of their communities.

Legal Empowerment Experiences from Latin America

On the other hand, the project also inhibits new episodes of violence and represents a guarantee there will be no impunity in case of violation of the protection measures. This keeps violent men at a distance.

The work of the PLPs strengthens the network of state services available to women, whether they specialize in the protection of women or not. Their approach makes access to the network of state services easier.

Information about women's rights and the duties of the State empowers users so that they demand the appropriate care, breaking down the barriers imposed by gender, race and class discrimination.

The application was also developed to optimize use of public resources by offering a "panic button" at a much lower cost. The traditional panic button is a physical device with the exclusive function of calling the police in case of an emergency. In addition to being more discreet, the monthly cost of including up to 5,000 women in PLP 2.0 is the equivalent of the cost of supplying a panic button to 28 women.

Additionally, in speeding up the response of the police in the call center and pinpointing the exact location of the emergency situation, the app saves public expenditures involved in the implementation of such operations. Its preventive effect also conserves already scarce state resources, since it decreases the need to activate the emergency response of the military police.

Finally, it is worth emphasizing that while the application can be used as if it were the only strategy necessary for the eradication of violence against women, it is actually one tool out of many for achieving it. The work of PLPs is equally essential to implementing social control of state services.



Legal Empowerment as a Tool for Demanding Rights and Recognition in Labor Relations for Indigenous Workers on Coffee Farms in Costa Rica

Grupo de Monitoreo Independiente de El Salvador (GMIES), 2017



The Grupo de Monitoreo Independiente de El Salvador (GMIES) is an organization created in 1996 in the context of demanding rights for vulnerable populations of workers in the textile maquiladoras in Central America. Since its founding, it has promoted and defended the labor rights of workers who performed their labor activities in a situation of vulnerability and exclusion. The main beneficiaries are women, youth, migrants, the disabled, indigenous and refugees.

At this time, we are an organization that seeks to contribute to the economic and social development of the region by promoting the corporate social responsibility for national and international businesses; maintaining productive and dignified employment under fair labor standards; strengthening the institutions that administer justice and the legal empowerment of the workers; and promoting use of national and international mechanisms for the protection of human rights.

This monitoring and case management work has allowed evidence to be gathered of the serious rights violations suffered by Central American workers. Fortunately, GMIES is not alone. It coordinates with various social organizations experienced with working collaboratively in vulnerable sectors to develop a variety of actions to promote and defend human rights.

The activities are developed through:

1. Legal education through training and promotion of labor rights to vulnerable populations, workers' rights advocates and the government sector.
2. Dialogue and promotion of corporate social responsibility regarding respect for labor rights.
3. Assistance by way of strategic national and international litigation, analysis, and diagnosis of rights violation situations.
4. Formulation of legal reforms and legislative proposals in the labor area.

Legal Empowerment Experiences from Latin America

Context

Since 2009, GMIES has developed its legal education program through training and promotion of labor rights to vulnerable populations, specifically, training the beneficiary population as workers' rights advocates (*"promotores laborales"*). Working on the legal empowerment of our beneficiaries has proven to be an appropriate response to disinformation and rights violations. It also encourages spreading the knowledge acquired to others as a way of broadening access to justice. We must combat the normalization of labor rights violations and convert vulnerable people into agents who defend their rights.

In our experience, the vulnerability of the working population is increased by the absence of personal empowerment and by the failure to recognize themselves as subjects with rights, especially in the labor sphere. Vulnerable people generally think that their vulnerable condition excludes them from full enjoyment of their human rights, and this is what can change when the law is put in their hands. This is the case for migrants, refugees, youth, those with disabilities, etc.

Our goal is to change victims into agents of change of their own reality and that of others in similar situations. We try to convey in our trainings that all of us are faced by changing and unstable realities and contexts, but nevertheless, our rights are permanent and undeniable. This involves implementing processes to teach people and create confidence in their personal power, as a first step toward achieving full enjoyment of all their rights and freedoms proclaimed by all States, without making any distinction by race, color, sex, language, religion, political leaning, national or social origin, economic position, birth or any other condition.

With regard to case management, the approach may go from counseling to follow-up and supporting a case in administrative and legal courts. The option of international litigation is considered on a case by case basis.

The case presented here is an example of how our work uses legal empowerment for the creation and development of workers' rights advocates within migrant and indigenous workers on coffee farms in Costa Rica. This effort resulted in the first lawsuits for labor violations in courts by indigenous Panamanian workers, whose labor relationships were not recognized because they belonged to indigenous peoples.

Case Study

In 2007, the GMIES took its first steps in legal empowerment with the training of workers' rights advocates through so-called Labor Rights Centers (*"Centros de Derechos Laborales"* or CDLs) at the Central American regional level, directed specifically at defense of the worker population that could potentially be affected by the development of the Free Trade Treaty between the United States, Central America, and the Dominican Republic. The beneficiary population worked in various labor sectors, such as agricultural, textile/maquiladora, and the services industry. Gradually, others were included, such as the domestic and private security sectors. Countries such as Guatemala and Costa Rica began to reflect on the need to specifically address their indigenous populations, because of their great vulnerability.

Since 2012, GMIES, through its *Centros de Derechos Laborales* (CDL) project in Costa Rica, with financing from the Open Society Foundations, has coordinated with the Centro de Orientación Indígena (COI) (Indigenous Guidance Center), joining forces to work for the Ngobe Bugle indigenous people, originally from Panama, who migrate for work to coffee farms in the agricultural areas of Costa Rica. Despite the fact that this migratory and labor pattern has developed over decades—during which generations were born and live in Costa Rica—the Instituto de Café de Costa Rica (ICAFE) (Costa Rican Coffee Institute) maintains and defends “the absence of an employer-worker labor relationship between them (as employers) and their coffee-harvest workers of indigenous origin.” The basis of this problem lies in a resolution of the Administrative Dispute Court¹, in which it is stated that there is no labor relationship between the indigenous migrant workers and their employers, because it is an impersonal relationship. Nonetheless, inspections made by officials of the Costa Rican Social Security Fund have determined that a labor relationship exists, whereby these people must receive the corresponding social protections and the rest of their labor rights.

GMIES, CDL and COI have identified on various occasions the fulfillment of the three indispensable requirements that demonstrate a labor relationship between an employer and worker: personal provision of services, compensation (salary), and subordination.

Despite the fact that this vulnerable situation was revealed in academic research studies, mainly in the publications of FLACSO Costa Rica (Latin American School of Social Sciences—Costa Rica), it was only when GMIES began legal empowerment activities that some indigenous people were encouraged to file complaints and use the national justice system to reclaim their labor rights.

Over the course of a year, GMIES developed a process for trainings on labor rights, gender equity, and national and international mechanisms for the protection of human rights, among other topics. The methodology implemented involved popular education that was easily understood, and many of the materials were translated into the languages of the Gnome-Bugle populations. It was supported by the broadcast of a radio program about the human rights of the indigenous population, produced by the COI, and broadcast in Spanish and Gnome. In addition, the leaders’ participation was encouraged in dialogues with business owners, the government, and international organizations, as well as the exchange of experiences with other workers’ rights advocates in the region.

By 2015, there was already the first group of workers’ rights advocates of indigenous descent. And the first four labor cases by indigenous workers were created and brought before the Ministry of Work and legal bodies of Costa Rica.

The workers’ rights advocates from the indigenous community supported campaigns in favor of rights for indigenous workers, such as, “Labor Rights Don’t Have Borders” and, “Put Yourself in the Their Shoes,” developed by FLACSO Costa Rica in collaboration with social and governmental allies. Both campaigns extended as far as El Salvador and Belize.

One of the most important successes was the rise of leadership among the indigenous women, who began to push processes for defense and change in practices of discrimination on the basis of race, interculturality and sex, altering the reality of the indigenous Gnome-Bugle peoples, even in their territories.

Lessons Learned and Conclusion

This experience has left us with best practices and lessons learned. It has allowed us to gather evidence of the vulnerability of a sector of the population in the face of economic power. Additionally, it revealed the institutional weaknesses of a country in the face of economic sectors, in this case the Costa Rican coffee sector. It is concerning that confronted with so much evidence and so many violations of human rights, the judicial body of the Costa Rican Ministry of Work has not been able to reach a unanimous decision in favor of the labor relationship of indigenous coffee-harvest workers.

On the other hand, we have learned that the legal empowerment of an individual or a population involves not only conveying legal or technical knowledge, but also sharing life experiences and participating empathically and sincerely in the social and cultural realm. Without a doubt, we can affirm that it is we from the social organizations, who in our interactions with the people of the Gno-be-Bugle communities have learned the most and been shown examples of struggle. The Gno-be-Bugle, despite being immersed in a different and hostile culture with another language and in exploitative conditions, trust that the system of justice will someday do justice. They therefore continue teaching others everything they have learned and the importance of recognizing themselves as subjects with rights.

In 2017, migrant and indigenous workers' rights advocates, together with Costa Rican human rights defenders, formalized the Costa Rican CDL as a nonprofit association that promotes the labor rights of migrants and the indigenous. This marks a significant difference in comparison with other similar processes. The victims themselves have been transformed into defenders of human rights and workers' rights advocates, who will litigate and take appropriate actions to reclaim their rights.

Legal Empowerment and State Legal Organizations In Light of the Voices of Domestic Violence Victims

Public Prosecutor's Office, Argentina - Julieta Marota, 2017

About the Ministerio Público Fiscal

The MPF is a state legal organization with the power to receive and intervene in conflicts brought by the population. The MPF has functional autonomy and autarchy within the judicial system (Constitutional Convention 1996, Article 124). This functional autonomy allows it to create provisions to regulate its internal organization and functioning. The functional autarchy allows the MPF to adopt provisions, such as resolutions and acts of an administrative or financial nature. (Quiroga Lavié 1996, 354–55). The MPF improves the geographic and cultural relationship with the population it serves, allowing for the promotion of justice in defense of the legality of social interests (Constitutional Convention 1996 art 125). The final objective of the MPF is to act as a “helper” from the judicial system, satisfying the social interests.

Introduction

This analysis maintains that state legal organizations are capable of legally empowering the population through instituting policies that contribute to their “legal power” to resolve conflicts. This may happen even when the state legal organizations do not consider legal empowerment as a goal for achievement. In these cases, the State is considered an agent capable of implementing strategies that legally empower the population due to its provision of resources and social responsibility.

These statements are based on a qualitative, empirical legal study conducted with victims of domestic violence who gained access to a state legal organization, the Ministerio Público Fiscal (MPF) in the Autonomous City of Buenos Aires.⁸ The study concludes that victims who access MPF go through a process of empowerment before filing a complaint and, at the time of filing the complaint, recognize that they are capable of acting without the defendant. At the same time, the state legal organizations contribute to legal empowerment when they give the victims a real possibility of participating in the process of resolving the conflicts. Thus, it is necessary to trust that everyone is capable of making decisions when appropriate means are provided.

Previous studies on the subject have already called attention to the relationship between the organizations and legal empowerment. They indicate that the following organizational strategies contribute to legal empowerment:

- The creation and design of an organizational structure that improves access to justice (Van De Meene and Van Rooij 2008, 6–8, 10–11).

⁸ This article comes from the author's doctoral thesis and studies how access to justice legally empowers victims of domestic violence. Research carried out at the University of Maastricht / United Nations University-MERIT; it is available electronically and in English at www.merit.unu.edu/training/theses/marotta_julieta.pdf.

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- The development of a flexible structure to increase the likelihood that victims participate in the search for solutions (Van De Meene and Van Rooij 2008, 6–8, 10–11; Commission on Legal Empowerment of the Poor 2008, 5–6).
- The improvement of access points to state (legal) organizations to guarantee appropriate access to the judicial system and a real possibility of beginning to exercise rights (Van De Meene and Van Rooij 2008, 21–22).
- Cooperation between organizations (state and non-state), since cooperation contributes to the effectiveness of services provided (Van De Meene and Van Rooij 2008, 4–5; Golub 2010, 4–5).
- The implementation of strategies that contribute to the population's confidence in state organizations (Commission on Legal Empowerment of the Poor 2008, 44).
- The development of procedural rules to guarantee implementation of substantive standards by the organizations (Bruce et al. 2007, 13).
- The training of judicial employees to guarantee that vulnerable groups receive appropriate service (Bruce et al. 2007, 13; Bonnie 2012).
- The implementation of strategies to overcome the difficulties the population has in translating rules into concrete action (Burton 2008, 14).

Case Study

This case presents the results of an empirical legal work conducted in the MPF from 2011 to 2014. The study focuses on organizational strategies implemented by the MPF that contribute to legal empowerment of victims. This study is based on an analysis of documents and interviews conducted with actors who work in the MPF and with victims who access the MPF with a complaint that is categorized as domestic violence.⁹

This study focuses on the Secretaría General de Acceso a Justicia y Derechos Humanos (General Secretariat for Access to Justice and Human Rights), which forms part of the structure of the MPF. That secretariat responds to the Fiscalía General (General Prosecutor) and, during the research period, was composed of three divisions: (i) the Oficina de Asistencia a la Víctima y Testigo (OFAVyT) (Office of Victim and Witness Assistance) (ii) the Oficina Central Receptora de Denuncias (OCD) (Central Receiving Office for Complaints), and (iii) the Oficina de Acceso a Justicia (Office for Access to Justice), in charge of the Unidades de Orientación y Denuncia (UOD) (Orientation and Complaint Units).

This work presents an analysis of the interviews done with victims who accessed the MPF. The characteristics of the sample are described below:

⁹The analysis of interviews conducted between 2012 and 2013 is presented. The sample is composed of 54 victims who accessed the MPF with a complaint categorized by the MPF as domestic violence. The following crimes and contraventions belong to this category: simple threats (CPP, Art. 149 bis, paragraph 1), harassment and mistreatment (Contravention Code, article 52) and breach of family assistance duties (Law 13,944). Victims were interviewed twice, with an interval of six months, to capture the process of legal empowerment. Of the 54 victims who participated in the first interview, 31 were interviewed twice.

Gender	53 women
	1 man
Age	Between 17 – 69 years old
	Concentration between 22 – 47 years old
Income	Own income \geq 65%
	Retired or temporary work \geq 5%
	Without income \leq 30%
Social context (1 or more)	98%
Education	Primary incomplete \geq 6%
	Primary complete \geq 12%
	High school incomplete \geq 14%
	High school complete \geq 20%
	Tertiary education incomplete \geq 10%
	Tertiary education complete \geq 10%
	University incomplete \geq 16%
	University complete \geq 8%

Results

The MPF and the Standard

The MPF operates under a regulatory framework that has advanced significantly in the past years toward protection of the right of women to a life free of discrimination and violence, and toward protection of the rights of victims to access justice and obtain a solution to their conflicts. This advance is observed in the incorporation of: (i) international standards in the internal regulatory framework, (ii) special laws to protect the rights of women, and (iii) procedural laws that emphasize the rights of victims and incorporate aspects of the adversarial system.

Public officials consider the recent modifications to the regulatory framework essential to the design of the MPF. The Penal Procedural Code for Buenos Aires (PPC) is considered especially relevant, since it offers concrete guidelines for the design and performance of the activities of the MPF.

The PPC is considered relevant by the MPF interviewees, mainly because it introduces:

- Aspects of the adversarial system.
- Criminal mediation as an alternative mechanism for conflict resolution.
- Guidelines on how to consider the role of victims in the proceedings.

The Rules of Brasilia are seen as complementary to PPC, since they clarify what should be understood by “vulnerable groups” and offer recommendations about the type of assistance that should be provided to them.

The Law for Comprehensive Protection of Women (Law 26485) is considered uniquely relevant in the articles that provide concrete guidelines that help in operationalizing the public policies. Those articles that merely give definitions are not considered helpful, since they lack instructions or clear guidance for their implementation. The internal MPF resolutions are also considered relevant, since they provide specific guidelines about how to implement the different organizational strategies.

The MPF and its Public Policies

The incorporation of public policies to improve access to justice for the population has been on the agenda of MPF officials and has been a priority from 2007-2014. This is why the Secretaría General de Acceso a Justicia y Derechos Humanos (Secretary General of Access to Justice and Human Rights) was created: in order to coordinate the divisions in charge of channels of access to justice and assistance to the population. This secretariat is important for reaching the MPF's objectives and receives the largest percentage of economic and human resources.¹⁰

Public officials have introduced strategies to facilitate the population's access to the MPF. Among the main strategies are:

- The introduction of a decentralized organizational structure.¹¹
- The introduction of an electronic platform (through email or the MPF webpage), which allow the population to file complaints without needing to appear in person.
- The introduction of extended service hours (from 8:00 a.m. to 8:00 p.m.).¹²
- Improvement of the functioning of the free telephone line, allowing the population to communicate 24 hours a day, seven days a week.
- Elimination of court holidays.
- Creation of the OFAVyT, supporting the victims and witnesses throughout the proceedings with multidisciplinary assistance to treat the problem holistically.
- Use of alternative conflict resolution methods, granting a more flexible procedural framework that allows greater adaptation to the needs of victims.

Public officials of the MPF conceive of access to justice in a broad sense and implement policies aiming to improving ways of bringing legal options to the public. The objective is to reduce the *poverty of knowledge* about rights. Technology is the main tool that the MPF can use to simplify access to justice, because it has a wide reach and low cost.

Many of the MPF interviewees view conflicts, and the way the parties confront and try to solve their conflicts, as influenced by the culture in which they are immersed. The way of confronting conflicts is repeated from generation to generation and is encouraged by the level of stress the population currently confronts in Buenos Aires. It is observed thus, that public officials see the conflict as something dynamic and the alternative methods of conflict resolution as something that is adjusted to this dynamic. Including elements of restorative justice is considered a more appropriate adaption to that conflict dynamic, contributing to its effective resolution.

¹⁰ Approximately one-third of MPF's budget was allocated to this Secretariat.

¹¹ Thus, the traditional structure of the centralized organization waiting for the residents and their complaints is changes for a decentralized structure that approaches the population.

¹² It changes from the ordinary court hours of 7:30 a.m. to 1:30 p.m., to an extended schedule of 8:00 a.m. to 8:00 p.m.

The research observes potential limitations in the policies implemented by the MPF. Constant reference to the attorney general is observed. This association with a person carries a risk, since conflating public policies with a public official could lead to a lack of continuity in the policies implemented. The internal communication among the different judicial employees also carries limitations. The same occurs with the communication between the different state organizations created to assist the victims. The majority of the employees of the OFAVyT mention that the lack of communication and coordination of tasks between the different state organizations diminishes the quality of service and mentally saturates the victims. In this regard, mention is made of the lack of a “desire” to come to agreement and coordinate mechanisms for assistance, which is detrimental to those accessing justice.

The MPF publishes its internal resolutions and programs on its web page. This contributes to the population exercising its right to information and the transparency of management. At the same time, the organizational transparency offers the population tools to hold the public officials accountable. Only two of the 54 victims interviewed (a lawyer and a male victim) demanded responses from the state organization, while the rest of the victims passively waited for instructions.

The Victims and MPF

Victims who access justice have a high level of empowerment. The sample shows that in the majority of cases, the victims have education, their own income, and someone in their social sphere. The interviews reveal that the victims think that by filing a complaint, someone will resolve their problems. They quickly learn that they have entered onto an unexpected path with tasks to perform and options to be clarified. The victims do not understand the implications of a complaint and receive little assistance in the course of the proceedings to be able to participate. Lack of knowledge of the rules and judicial process leaves the victims without another option but to follow the instructions given by the employees.

Thus, victims are left in a vulnerable state when faced with effectively resolving their conflicts, because they are not able to participate in the solution. Legal empowerment is an approach to accessing justice that locates individuals as subjects capable of participating in the judicial process and enabled to exercise their capabilities in the process of resolving conflicts. Some of the initiatives introduced by the MPF could contribute, according to the interview results, to the legal empowerment of the victims who have accessed it. It is observed that:

- The victims demonstrate limitations in the degree to which they can retain the information provided during the meetings of the state (legal) organizations. As a consequence, during the judicial proceedings, the victims have difficulty in participating in making decisions.
- The victims are able to participate when they are presented limited, clear, simple options.
- The follow-up calls create a sense of peace and confidence in the victims. However, the excess of calls, created by the number of organizations intervening in a case without coordination, create mental saturation. The victims do not understand who is calling them and why.
- The victims follow the instructions given by the organizations without understanding the reasons. The lack of understanding results in the victims repeatedly missing appointments or going to places where they are sent.

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- The victims value the times when they talk and are heard, since it helps them have a greater awareness of the problem they are confronting. Holistic assistance leaves the victims with a sense of confidence and reaffirms the decision to have filed a complaint. The help granted by the offices of multidisciplinary assistance and participation in criminal mediation are noted in this regard.
- The majority of victims use police stations as the first point of access to justice. The new points of access, even when they have been visited and the experience has been positive, are not considered as the first option at the time of reporting again. Thus it is shown that training the population to communicate with a new organization requires time, even though a decentralized structure has been implemented.
- All the victims have told other victims (who still have not filed complaints) about the places where they can ask for help. Thus, empathy is observed toward the experiences of other victims.
- The victims often see the criminal case as the step that follows the civil complaint, since they receive calls from the MPF to continue with the complaints.

Recommendations

It is acknowledged that current advances in the regulatory framework and the state legal organizations contribute to providing legal empowerment to the victims who gain access to justice. Understanding the judicial process and their rights, however, appear as an essential tool for the victims' participation in the resolution of their conflicts. Thus, it is recommended:

- The implementation of strategies that contribute to treating the conflict holistically. The study found limitations in the rules and state legal organizations for resolving conflicts and the need to treat conflicts holistically, seeking assistance from other disciplines.
- Implementation of the techniques that contribute to legal empowerment through the implementation of effective ways for conveying information to the victims, trusting that every person is capable of making decisions when given appropriate means.
- Continual training of staff in order to assist efficiently, so that the victims understand the information received and do not limit themselves to following instructions.
- Training of the staff who receive complaints in the police stations in order to assure that the victims receive appropriate assistance. In its absence, the decentralization of the organizations is recommended, using the physical space of the police station.
- The incorporation of clear procedural rules that provide instructions for the implementation of the substantive standard. The procedure should, however, be flexible enough so staff can adapt it to the needs and timing of the parties.
- The victims should be given spaces where they can share their experiences, since they remember to a greater degree what they learn from their peers.
- Incorporation of the use of technology for the different organizations to receive communications and updates on developments and solutions that are attempted in cases of domestic violence. Lack of communication, it is observed, leads to duplication of efforts by organizations and mental saturation of the victims.

- Incorporation of novel tools and techniques by the state legal organizations, and in translating the complexity of the rules into tangible messages. This study finds that visual techniques have a greater impact than words.
- Incorporation of techniques to support victims who gain access to justice with remaining involved with their obligations and arranging a new life without the defendant. To that effect, the State must support the victims through limited assistance over time, to help them design and implement an action plan to move through the resolution of the conflict.

Conclusions

This study reflects how the regulatory framework and the state legal organizations can contribute to the legal empowerment of those who gain access to justice. An approach based on legal empowerment contributes to visualizing the tools that permit the victims to make decisions based on their possibilities and freedoms. In this context, the role of the organizations is reaffirmed as one of accompaniment, assistance and cooperation, but not one of leadership in making decisions for others. The incorporation of elements of legal empowerment by the organizations and the rules are justifiable, since they focus on the development of individual possibilities and freedoms for those who gain access to justice.

Legal empowerment requires a judicial system that can support parties on their path to resolving conflicts through information and assistance that allows them to exercise their rights. The way in which organizations write and design rules should no longer be an obstacle for the legal empowerment of those who access it. Promoting efficient ways so that the population knows its legal options (before, during, and after having accessed the organizations) is indispensable in order for the population to express itself on its own behalf. Legal empowerment is understood as a process of control over problems that affect the well-being of those who access justice. The State is thus a fundamental element in establishing public policies that grant an appropriate context that makes the process of legal empowerment possible.

Declaration of Villa Inflamable for Access to Justice and Legal Empowerment for All

Buenos Aires, Argentina, 2017

On June 24th, 2017 in Villa Inflamable, Avellaneda, Province of Buenos Aires, Argentina, during the “**Latin American Learning Exchange on Legal Empowerment**,” we gathered as representatives of regional, national, and international civil society organizations from 13 countries, all working with the most vulnerable communities to reverse violations of rights and structural discrimination.

Recognizing that joining efforts across Latin America will enable us to build our capacity and advocacy so as to realize the promise of equal justice for all, we agree to the following open declaration:

1. We affirm:

- That our countries have failed to reverse not only deep and structural inequalities, but also the injustices that affect vulnerable communities, including women, indigenous peoples, migrants and refugees, victims of racial discrimination, LGTBQI, those displaced or affected by environmental reasons, persons with disabilities, children and adolescents, and persons deprived of their liberty, among others.
- That a broad international consensus holds that access to justice is fundamental to the reversal of this state of affairs, as recognized by international instruments such as the American Convention on Human Rights, the Sustainable Development Goals (SDGs), the 100 Rules of Brasilia, among other human rights instruments that specifically protect vulnerable groups.
- That, despite this, barriers to accessing adequate and timely justice continue to take many forms, including geographic, symbolic, economic, structural, linguistic, cultural and institutional obstacles.
- That to reverse existing asymmetries in access to justice, commitment is required from the public sector, the private sector, civil society, academia and the international community, among others.
- That “top down” institutional reforms will not alone bring down these barriers. Rather, overcoming these obstacles requires that communities and victims take the lead in knowing, using, and shaping the law.
- That the organizations signing this declaration, alongside hundreds of other organizations, advocates, and civil society activists in our countries, are in a position to play a key role in accompanying, accelerating and encouraging community legal processes. In doing so, we contribute to and promote peaceful and inclusive societies, as well as support the institutional, cultural and economic changes that our countries must make in order to provide adequate, equitable, timely, high-quality, accessible and effective justice services.

2. We urge:

States – including local, subnational, and national governments-

- To guarantee all their inhabitants **the right to access to justice**, giving priority to the most disadvantaged groups, so they can reverse violations of their rights and resolve their legal needs.

- To this end, **to guarantee universal access to legal assistance** for the aforementioned groups. Legal assistance should be affordable, high-quality, independent and accompanied by interdisciplinary support. It should be available to all who need it, amplifying the coverage of public defense services and providing the requisite economic and technical resources.
- To **eliminate all existing barriers and asymmetries**, between the powerful and the rest of the population, so that the latter may access justice and judicial functions.
- To **generate exhaustive and rigorous diagnostics** on access to justice. This should be undertaken from a human rights perspective, accounting for elements of intersectionality, as well as the citizenry's perception of their rights and institutional systems. Such diagnostics should include clear indicators that can be used to measure progress relating to access to justice.
- **To systematize and provide detailed information**, in a complete, truthful, and timely manner, regarding the state of access to justice in each national and subnational area.
- To provide **legal education**, and to develop and support the capacity of communities to know and claim their rights, as well as to understand existing ways – or ways that should exist – to assert their rights.
- To deploy appropriate means to institutionalize **effective citizen participation** in public decision-making, including those of administrative, judicial, and parliamentary bodies.
- To implement **training policies** for legal operators, public officials, and magistrates on human rights, and to raise awareness about the legal problems facing vulnerable sectors of our societies.
- To ensure the **existence of adequate avenues** for the alternative resolution of conflicts and the channeling of extrajudicial or prejudicial claims, avoiding the judicialization of problems that can be solved by other means.
- To generate **suitable administrative procedures** – simple process and agile response – for those cases where the violations of rights are due to the action or omission of the State itself.
- To implement policies necessary to ensure that judicial processes, particularly collective ones or those addressing structural issues, have **adequate opportunities for participation, are resolved from a human rights perspective, and provide mechanisms for the effective enforcement of judgments**.
- **To protect against any threat and / or risk** to victims, as well as the defenders of these rights; **To guarantee the exercise of the right to protest and the freedom of expression and association**; And **to refrain from criminalizing** community leaders and human rights defenders.
- To implement policies **to decentralize the offices and services** of public institutions that are responsible for the protection of rights, including judicial ones, and bring them – not only geographically – closer to vulnerable communities.
- To generate in the judiciary the conditions for its **independence from political and economic influence**, eliminating interference in the resolution of conflicts, particularly in cases of human rights violations that require structural responses.
- To recognize and respect the the forms of organization, decisions, and system of values that communities – especially of original or ancestral peoples – seek to give themselves, in accordance with the **principles of legal pluralism**.
- To guarantee the right to **prior, free, informed, and culturally appropriate** consent of individuals and communities in those decisions that affect them.
- **To elaborate a plan for the implementation of Sustainable Development Goal 16**, which should be broadly participatory, especially promoting the active involvement of those who face territorial, linguistic,

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economic and cultural barriers to access to such forums. Likewise, the plan must have indicators of progress to identify progress in access to justice for vulnerable people.

To the regional organizations and international community,

- To **monitor** in each country the situation regarding access to justice, **and to strongly and decisively promote good practices around the issue.**
- To **support politically, technically and financially** the agenda for access to justice at the local, national, regional and international levels.
- To promote and monitor effective progress towards the adequate compliance, at the national and subnational levels, of **Sustainable Development Goal 16** and in particular Target 16.3. Also, to fully reform the present **system of indicators** – which is limited to monitoring the progress of States – ensuring that they are comprehensive in scope.

To the private sector,

- To ensure in its activities **respect for human rights and environmental law principles** and obligations and to comply with all international, national and subnational standards.
- To **respect the participation and decisions of communities** regarding the use of their territories; To contribute, and to refrain from causing damage to their quality of life.
- **Not to interfere or influence** public institutions.
- To **comply with state decisions** – legislative, judicial, and administrative – that apply to it.
- To **produce and provide information** about the activities the private sector carries out and their impact.
- To adapt its economic activities with a view to **achieving the Sustainable Development Goals.**

3. We promise:

- To **work together with people and communities to put their rights in their hands**, thereby promoting legal empowerment and strengthening processes for rights enforcement.
- To form the **Latin American Legal Empowerment Network**, to play an active role in it, and to promote the incorporation of new members who share the values and practices articulated.
- To **exchange information, experiences, knowledge and learning** to bolster efforts deployed throughout the region in pursuit of access to justice for vulnerable communities.
- To **carry out public campaigns** – and other forms of awareness raising – around the problems that affect the communities with which we work; To identify those responsible for the harm, and/or those who must prevent and / or repair them; And to show the progress and potential arising from legal empowerment efforts and the promotion of access to justice in aforementioned communities.
- To **produce information about our practices, and to join efforts in the socialization and evaluation of legal empowerment and access to justice policies** implemented by our countries.
- To carry out **advocacy** before public bodies – in all branches of government – for the implementation of policies that reduce limitations and barriers to the right to access justice in each of our countries; Also, to

carry out advocacy at the regional and global level, with the objective of obtaining an effective commitment from the international community on the issue of access to justice.

Rights in the hands of the people. Justice for all!

