



“It’s in the law”: An ethnographic account of the effects of the introduction of lay participation on judicial bureaucracies in Greater Buenos Aires

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Abstract

The province of Buenos Aires (Argentina) introduced its first criminal jury system in 2013. This article discusses the design and initial findings of an ethnographic research project looking at this legal innovation with particular attention to the effects of the introduction of new (lay) actors – and their practices, knowledges, experiences – to the criminal justice system, bringing to the analysis rules, spaces, temporalities and people that are bound by this phenomenon. Focusing on the initial stages of the process – the draw and summoning of prospective jurors and jury selection hearings –, we discuss how material and temporal constraints to fulfill the legal mandate of incorporating lay decision-makers give place to the reshaping and (re)creation of certain roles and positions within the bureaucratic structure. We argue that the jury has become

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a spectral presence that alters a myriad of existing practices, characters and responsibilities in the criminal justice of Buenos Aires that goes well beyond their verdicts.

Key words

Jury trials; lay participation; ethnography; criminal justice; Argentina

Resumen

En el año 2013 se estableció el juicio por jurados en la Provincia de Buenos Aires, Argentina. Este artículo provee una reflexión basada en el diseño y los primeros hallazgos de un proyecto de investigación etnográfica de largo plazo que indaga en los efectos de la incorporación al sistema de justicia penal de nuevos actores (no profesionales del derecho) con sus prácticas, saberes y experiencias, y que integra a su análisis la consideración de las normas, los espacios, las temporalidades y las personas que este fenómeno amalgama. Poniendo el foco en las etapas iniciales del juicio por jurado —las citaciones de candidatos a jurados y la audiencia de selección— buscamos discutir cómo ciertos roles y posiciones dentro de la estructura burocrática se redefinen y (re)crean a partir de condicionamientos materiales y temporales que se presentan al dar cumplimiento a la obligación legal de incorporar la participación ciudadana al proceso judicial. Nuestro argumento es que el jurado se ha vuelto una presencia inmaterial, etérea, que afecta y modifica una variedad de prácticas, piezas y responsabilidades dentro de la justicia penal de Buenos Aires, más allá de su función concreta de alcanzar un veredicto.

Palabras clave

Juicio por jurados; participación ciudadana; etnografía; justicia penal; Argentina

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1. Introduction: Crisis, distrust, and democratization of justice

Democratization of justice and citizen participation have been relevant axes in judicial reform, in turn a recurrent theme in Argentine and Latin America political agendas. Some of these reforms respond to a particular juncture and others to longer term needs, some aim at structural changes while others focus on specific proceedings and localized institutional practices, but all of them exist in a context of strong judicialization of social relations and state policies (Smulovitz 2010). In Argentina, such context has been germinating for more than three decades and responds to a combination of factors: the democratization process and restoration of the rule of law following the return to constitutional rule in 1983; the decline of socioeconomic conditions as a consequence of “structural adjustment” (austerity) policies that a subsequent growth period did not fully resolve; the blocking or *cul de sac* situation in traditional channels of representative democracy; the absence of adequate responses from the legislative and executive branches of government; and a reform of the National Constitution (1994) that expanded the catalogue of rights guaranteed by the state and introduced new tools for their protection, among others. All this laid bare the limitations of the justice system to deal with increasingly complex individual and collective demands. Commentators have described these limitations as a “representativity crisis” of the judiciary (Porterie and Romano 2018), a manifestation of profound distrust from the citizenry germane to that often discussed in relation to other political institutions, such as political parties (Mustapic 2002) and more recently, to state institutions in general (Gargarella 2021). Academic and conventional wisdom maintains that lay participation in decision-making may offer a partial remedy to these ailments, as it advances more democratic and legitimate judgments while contributing to the control of the power of the judiciary (Vidmar 2000, Gastil and Weiser 2006, Machura 2007, Dzur 2012, Hans *et al.* 2014, Bergoglio 2019, Marder 2022). Jury trials, in particular, are often presented as the most systematic modality for the incorporation of lay people to the judicial process.

The formation of the Argentine system of government was inspired on the United States’ federal organization and the country’s judicial system is divided into federal and provincial courts. The National Constitution establishes the issues that fall under the jurisdiction of federal tribunals, including the Supreme Court, the highest domestic court (Arts. 116 and 117). In addition, it places jury trials as the mechanism for the decision of ordinary criminal cases (Arts. 24, 75 inc. 12 y 118). While in the federal justice jury trials are yet to be regulated and implemented, several provinces have put them in practice. The 2004 expansion of the Province of Córdoba’s mixed tribunal (from a lay minority of two to three professional judges to a lay majority of eight lay persons to three professional judges) is often considered the key moment in the “wave of incorporation of the jury trials” in the country (Bergoglio *et al.* 2019). This continued with the provinces of Buenos Aires and Neuquén in 2013, Chaco in 2015, Río Negro in 2017, Mendoza and San Juan in 2018, Entre Ríos in 2019, Chubut in 2020 and Catamarca and the Autonomous City of Buenos Aires in 2021 all implementing criminal jury trials.¹ In December 2020

¹ Dates mentioned take into account the year laws were passed, not the effective implementation of jury trials in the provinces. Other provinces, like Salta and Santa Fe seem to be gearing towards passing criminal jury trial laws (Secretaría de Comunicación 2019, Asociación Argentina de Juicio por Jurados 2019).

Chaco became the first Latin American jurisdiction to introduce civil juries.² For its part, the Argentine Supreme Court has decided that provinces can legislate on the matter in a ruling that commentators have interpreted as a show of support for citizen participation in the administration of justice (Martín 2020; see Centro de Información Judicial 2019). Moreover, the executive branch of government has, for more than a decade and under administrations of different political orientations, formulated proposals to implement jury trials – most recently in the opening of the 2021 Congress sessions by former President Alberto Fernández (2019–2023)– but these are yet to transpire in actual reforms at the federal level.

This article discusses the design and initial findings of an ethnographic research project looking at the criminal jury trial of the Province of Buenos Aires as it unfolds in a concrete judicial location. In the next section we briefly describe our approach to the field of lay participation and how we have turned it into an object of inquiry. In the following section we provide an overview of debates on lay participation in judicial adjudication as a vehicle for broader political rationalities – such as democratisation and legitimisation of the courts system, in Argentina and beyond – and a short discussion of socio-legal research on jury trials, with especial attention to recent empirical elaboration on the subject in the country. We then return to the discussion of the methodological strategy followed by the project, describe the chosen research field, and explain how we believe that the situated and contextual approach that we propose will add to jury research and, more broadly, to the empirical study of courts. The piece continues with the analysis of some early findings from our fieldwork and concludes with reflections that summarize our elaborations on the subject and suggest further steps to orient our inquiry.

2. Lay participation in context

Our interest in studying the field of jury and lay participation in Argentina builds on our long term research projects on lay participation (Amietta 2016, 2019, 2020) and judicial bureaucracies (Barrera 2012, 2013, 2018), respectively, that converge on the importance of enquiring into the particular impact of concrete socio-legal practices to understand their effects (Valverde 2003). In this vein, we are interested in looking in depth into both the institutional schema and the everyday interactions generated by the incorporation to the spaces of courts of actors thus far alien to its daily routines and workings, bearers of forms of expression and practices, and discourses allegedly different from those of legal professionals. We ask what happens in this encounter of expert knowledges of judicial bureaucrats and the ‘common sense’ often attributed to lay citizens. What meanings are assigned to this innovation and the practices associated to it? How are these meanings reflected in the sets of ideas about participation, transparency and legitimacy that have shaped the political and academic discourse about juries and jurors? Accordingly, these classic assumptions about lay participation and its implications are for us artifacts to use as entry doors to immerse ourselves and relate to the field.

Our study puts in action innovative theoretical and methodological tools advanced in very rich anthropological and socio-legal literature (Riles 2001, 2011, Valverde 2003, Hetherington 2011, Hoag 2011, Hull 2012, Braveman *et al.* 2014, among others), where

² https://www.justiciachaco.gov.ar/index.php?action=of_juicio_por_jurados

we believe lies our contribution to jury research and to the empirical study of courts, in Argentina and beyond. These innovations are marked, first of all, by the conviction that in the analysis of state institutions and the production of knowledge on contemporary governmental processes it is necessary to de-centre the focus on the results and outcomes (in our case, of trials) to look instead (or in addition) at how such institutions get materialised in proceedings, relationships, discourses, practices and associations through which actors articulate their social world (Fassin 2003, Das 2004, Ong and Collier 2005, Sharma and Gupta 2006, Barrera 2012, Brunnegger and Faulk 2016). In this sense, the article contributes to discussions about the incorporation of democratising practices in criminal judicial processes through qualitative and ‘situated’ knowledge (Haraway 1988) on the institution of jury trials as it unfolds in a particular context. Such a perspective allows us to build bridges between the political dimension of the jury and discourses of legitimacy and democratisation associated to it, and the everyday practices generated once the innovation is brought to life in the courts (Amietta 2020).

Our research on lay participation and jury trials is designed as an ethnographic study, understanding ethnography as a conception and practice of knowledge that seeks to give an account of a particular cultural context making it intelligible to those who do not belong in it (Guber 2012). This perspective promotes the production of data that encompass both people’s words – uttered or written – and observable conducts (Taylor and Bogdan 2000). We adopt a broad view of ethnography and as a multi-method strategy that also welcomes elements of quantification of observed behaviours and the analysis of documents (Riles 2006, Muzzopappa and Villalta 2011). The methodological perspective of Science and Technology Studies and its stance on the processes and mechanisms of production and circulation of knowledges are also a lynchpin of our research design. We draw, in particular, on Bruno Latour’s study on the French Conseil d’Etat (2002) from an Actor Network Theory perspective. This shapes a style in our approximation to law and legal phenomena understood as a network in which legal acts and facts acquire meaning through their being linked to each other by norms and decisions, in coexistence with the physical space, habits and dress codes, information codes, institutions, and a myriad of other instruments produced in contexts conventionally understood as extra-judicial. In this way, the knowledge produced and circulated inside courts can be interpreted as part of a broader network of practices of knowledge formation, and not as an isolated result or product (e.g. a judicial decision), or the action of one or a few individuals (e.g. judges, jurors). Our research takes as a springboard the idea that the judicial process cannot be considered as a phenomenon that takes place within a given temporal and spatial frame (Garapon 1997), but in terms of heterogenous networks, which allows us to open the ‘black box’ of ‘the legal’ and analyse in detail its components – such as discourses, practices, texts, entities, actants – turning the analysis more complex and meticulous (Barrera and Latorre 2021).

Such a theoretical and methodological positioning makes it possible to shed light on connections between elements, actors and discourses that have so far remained artificially isolated as object of study in the different disciplines that produce knowledge on juries and lay participation – such as the legal framework, the macro-political discourses of reform, transparency, legitimacy and democratisation, and the everyday work of courts and those, professional or lay, who inhabit them. In this way, these entities are not alien to or independent from each other, but part of a network whose

form and content we aim at elucidating as part of the empirical challenge of the project. The tensions in certain judicial actors that must reaccommodate their functions and responsibilities while new figures emerge in the judicial context are examples of the phenomena that become visible under an examination of this style. Noticeably, even though these figures' roles are yet unregulated, they seem somehow to set and govern the actual contours of citizen 'participation' on the ground. This positioning also allows us to destabilise taken for granted assumptions about the nature of such encounters – for example, that ideas of justice of legal professionals and of lay people exist in two separate realms shaped by either the technicalities and practice of law or a common sense built upon everyday experiences outside the realm of official legal institutions (Amietta 2019, Fernández and Posas 2022). If we integrate these ideas as only a section of a fluid continuum of human and non-human actants that associate in ways that are always provisional and open to change, they then cease to be taken for granted to seamlessly become part of the empirical examination and, as such, open to challenge (Levi and Valverde 2008, Barrera 2018, Lombraña and Di Próspero 2019, Amietta 2019), ultimately providing a more accurate account of how citizen participation develops on the ground.

Lastly, an anchoring in the discrete context is indispensable to produce the situated knowledge that characterises our epistemological and methodological approach. The analysis needs to be inscribed in a local environment to allow for a neat, microscopic, detailed description of the conditions of production of jury trials. The context for the empirical grounding of the project is the Province of Buenos Aires; more concretely, one of its 20 Judicial Departments. The chosen department's jurisdiction covers a large urban area comprising five districts (sub-provincial political divisions) of Greater Buenos Aires and houses seven criminal trial courts.³

3. Overview of literature, background, and socio-legal research on lay participation

The recognition of the jury's status as a political institution (as much as a judicial one) is of course not novel, and appeared already in the acute observations of de Tocqueville on the democratising potential of this *civic school* that is staged in the encounter between judges and lay people (De Tocqueville 1839/2018). Classic and contemporary commentators of the English jury, main origin of contemporary models following its diffusion by the British and French empires (Park 2010), have agreed in this appreciation of the jury's eminently political nature: Blackstone called it the *sacred bulwark of a nation* (1768/2016), and Lord Devlin described it as a *lamp that shows that freedom lives*, 'more than an instrument for justice', and argued that its debilitation would be the sure second objective of any tyrant (after the dissolution of the parliament) (1956, 164).

The discussion of the democratic nature of the jury has certainly acquired new shades in light of the critical gaze posed over the professional justice in recent decades – partly but not only by critical socio-legal scholars. The jury is presented as an undoubtedly democratic institution, underpinned by a sort of 'legitimacy of proximity' (Porterie and Romano 2018, 25), and brings closer two extremes that state bureaucracy has dissociated: "individuals and their particular will and the citizenry with its general will" (Martini

³ The judicial department remains unnamed to help us protect participants' anonymity.

2016, 51). In Argentine constitutional theory there are arguments that support this idea. Gargarella (1996), for instance, claims that the implementation of jury trials constitutes an intermediate solution for the problem of the judicial review of laws: ‘The mere existence of the jurors tends to allow for an important coming together of justice and citizenry’ (Gargarella 1996). Or what Juliano called a *silver bridge* laid by society to the courts system.⁴ Citizen participation in the adjudication of criminal cases would then come to mitigate the criticism to the counter-majoritarian nature of the judicial branch of government, promoting ‘the understanding of the law and legal proceedings by the public, providing legitimacy to the penal system and to punitive institutions’ (Martini 2016). The presence of jurors, it is claimed, incorporates community values and understandings of justice to the workings of the courts system, allowing the defendant to be judged according to the points of view of their peers, which may differ from those of government officials (Bergoglio 2019). Legitimacy and citizen participation appear thus strongly associated. Jury trials as an institution are not exempt from the tensions between deliberation and inclusion in contemporary democracies. In this sense, it is common to find in jury literature calls for diverse juries which allow for participants from different backgrounds to deliberate based on their personal experiences and social perspectives and knowledge – resulting, assumedly, in verdicts that better reflect complex community perspectives (Hans *et al.* 2014).⁵

In the field of socio-legal studies, jury and lay participation research has been dominated by an interest in the decision-making processes of juries, mixed tribunals and similar institutional arrangements, and on the implications of these outcomes (Amietta 2016). Produced mostly in the Anglosphere – of strong influence in the Argentine legal doctrine on the matter – studies are focused on possible biases in juries’ deliberations and decisions, such as those related to race and ethnicity of either jurors, defendants or victims (Brewer *et al.* 2000, Garvey 2004, Sommers 2006, Offit 2021, Thomas 2010, Kovalev 2011), gender and sexual stereotypes (Ellison and Munro 2010), or political affiliation (Levine 1992, Anwar *et al.* 2019). Research has also looked at other factors that could influence the decisions of juries, such as judge instructions (Zander and Henderson 1993, Baguley *et al.* 2017), the complexity of questions (Thaman 2007), or jurors’ perceptions of the fairness of the applicable law (Hannaford-Agor and Hans 2003).

The field’s leaning towards concerns with jury decision-making has influenced also the prevailing methodological designs (Amietta 2019). Most research is based on statistical studies of aggregates of decisions and post-trial surveys, or in-depth analysis of simulated trials (Diamond and Rose 2005). A relatively small number of works has employed qualitative methodological designs. Harold Garfinkel coined the term “ethnomethodology” in his well-known study on juries – a critical by-product of the

⁴ Presentation at the panel “Juicio por jurados—oralidad, publicidad y participación ciudadana en los procesos de toma de decisión”, *Jornada Interdisciplinaria Acceso a la Justicia y participación ciudadana en el proceso judicial*. Escuela Interdisciplinaria de Altos Estudios Sociales (EIDAES), Universidad Nacional de San Martín, Buenos Aires, August 30, 2019.

⁵ In the Argentine case, several provinces, including Buenos Aires, have incorporated gender parity in jury selection, and Neuquén and Chaco have also passed provisions for the integration of juries with representatives of indigenous peoples when a member of one of these communities is involved in the process.

seminal Chicago Jury Project, the first large empirical study on the jury in the US (Broeder 1959). Conceiving the activity of a deliberating jury as "a method of social inquiry", Garfinkel (1967, 104) looked at the ways jurors modified their decision making processes from common sense, filtering the elements that were not relevant to the case. This ethnomethodological approach has been used by social scientists to explain ideas on justice as manifested by jurors in deliberations (Maynard and Manzo 1993). Due in part to difficulties and statutory limitations in certain jurisdictions to approach jurors for interviewing, only a small number of studies has featured in-depth interviewing with jurors as a method of enquiry. Research questions in these works surround the process and motivations for decisions and are often inspired by more critical interrogations, such as issues of race or gender inequalities or the meanings attributed by the actors to the particular juncture in which lay people become the vehicle for the most punitive hand of the state, in capital cases (Howarth 1994, Sarat 1995, Fleury-Steiner 2002, 2003, Fleury-Steiner and Argothy 2004).

Anthropological studies involving extensive immersive ethnographic work are very rare in the field of lay participation research. An exception is Ana Lúcia Pastore Schritzmeyer's study of the Brazilian *Tribunal do Juri*, conducted between 1997 a 2001 in Sao Paulo (2012). While resorting to interviews with jurors and judicial officials, the author privileges the ethnographic recording produced during the observation of hearings (*plenarios*) with juries in more than a hundred criminal courts. The focus on the hearing leads Schritzmeyer to organise the analysis on the basis of established analytical categories in anthropological theory such as game, ritual, drama and theatre, defined on the basis of the fieldwork data. More recently, Anna Offit's ethnographic work has rejuvenated an interest in alternative gazes and questions on lay participation in criminal trials (2018, 2021, 2022). Offit's work on the fading Norwegian jury system casts doubt on the emphasis put in comparative studies on the differences between mixed tribunals and all-layperson juries (2018), while her study of US Federal Prosecutors sheds light on the seemingly paradoxical influence of 'imagined' juries in prosecutorial decisions, even in the face of the declining use of actual jury trials (2022).

In Argentina, research on the still nascent institution in domestic courts is dominated by doctrinal legal analyses. Works from Ricardo Cavallero and Edmundo Hendler (1988), Julio Maier (2001), Alberto Binder (2002), Andrés Harfuch (2013), among other jurists, paved the way to a vast and rich literature that supports the work of lawyers, judicial officials and activists advocating for the incorporation and expansion of the criminal jury in Argentina. Organisations like the INECIP (Institute for Comparative Studies in Criminal and Social Sciences), the AAJJ (Argentine Association of Jury Trials), or the APP (Association of Penal Thought) have been instrumental to the revival of the jury through with both their activism and the production of academic and other dissemination literature (Bakrokar y Chizik 2016).

Empirical studies are, on the other hand, comparatively scarce. Among these contributions, there are a few mostly oriented to quantitative analyses of either jurors' surveys or case files and sentences. The reports by Córdoba's *Centro Judicial Ricardo Núñez* (Andruet *et al.* 2007, Tarditti and Ferrer 2016) provided quantitative overviews of the experience of mixed tribunals in the province, combining case file data with pre- and post-trial surveys with jurors. The volumes edited by Bergoglio and colleagues

(Bergoglio 2010, Bergoglio *et al.* 2019) based on longitudinal analysis of cases since the inception of the 2004 system, as well as population surveys, observation of trials and interviews with jurors, judicial officials and lawyers, are a good synthesis of socio-legal research conducted on Córdoba's mixed tribunals, the experience on which most extensive empirical research has been produced; including the long-term ethnographic study conducted by Amietta (2016, 2019, 2020) that combines observation of hearings and other courthouse routines with formal and informal interviews and documentary analysis.

Empirical research in other provinces is scarce, with notable exceptions like Valerie Hans's and INECIP's Neuquén study (Porterie *et al.* 2017, Romano *et al.* 2021). This research project looked at the country's first experience of classic 12-members criminal trials, combining post-trial surveys and focus groups with individuals who acted as jurors; semi-structured interviews with judges representatives of the public prosecution and lawyers; observation of 25 jury trials over a period of four years; and a quantitative profile of case files comprising information about participants, evidence produced, and outcomes. Findings reveal a generally positive experience from lay and professional actors, consistent with previous research on mixed tribunals in Córdoba (Tarditti and Ferrer 2016, Bergoglio 2019).

On the Buenos Aires experience, INECIP, an institution that has been actively involved in the incorporation of lay participation into the Buenos Aires' criminal justice produced a report on the infancy of the Buenos Aires system, looking at preconceptions and initial challenges on the basis of the first three years of the experience (Porterie and Romano 2018). They combined a quantitative overview of the cases in these first years with in-depth interviews and focus groups, mostly with legal professionals, with and without experience with jury trials, and observation of *voir dire* hearings. In line with work in other provinces, the report reaches auspicious conclusions on the democratising potential of the jury and its effects on the judiciary's institutional legitimacy. The Observatory of Jury Trials of the *Universidad Nacional del Sur* in Bahía Blanca has published a report focused on quantitative analyses of the outcomes of cases in early stages of the implementation (2016), a strategy reproduced more recently by Martín (2020), who relied on statistical data compiled by the Supreme Court of the Province of Buenos Aires to produce a report on jury trials in Buenos Aires pre-pandemic (2014-2019) for the laboratory of criminal processes of the *Universidad Nacional de José C. Paz*. For her part, building on a long-term ethnographic study of the workings of the criminal justice in the Province of Buenos Aires, anthropologist Josefina Martínez (2020) has drawn some preliminary reflections on her encounter with the incorporation and participation of the juries in her field research.

The next section presents an overview of the emergence of the phenomenon of lay participation in the Province of Buenos Aires and discusses the ways in which our study proposes to supplement this burgeoning literature with a socio-cultural exploration of lay participation in a concrete judicial setting.

4. Jury trials as concrete and situated practice

This article discusses the design of and initial findings from an ethnographic research project that looks at the implementation of jury trials in criminal adjudication in the

Province of Buenos Aires by focusing on one of its largest judicial departments. In addition to this, it was among the first ones to stage jury trials in the province, in March 2015, and remains one of the Departments with the highest number of jury trials (Poder Judicial de la Provincia de Buenos Aires 2023). Unlike many others from the most recent wave of diffusion of lay participation (Park 2010), the Buenos Aires system follows the 12-member lay-only model of the classic English jury, with a legal requirement of gender parity. The system is in place only for offences with a potential punishment of more than 15 years in prison, and the defendant can request a bench trial instead. Cases that would return a life imprisonment sentence require unanimity. All other guilty verdicts require a majority of ten, and four votes are sufficient for an acquittal. The jury is considered hung if none of these are achieved (Law 14543).

Data production is organised in the form of an intensive fieldwork (Rockwell 2008) in the spaces of work and intervention of the actors. The production and analysis of ethnographic materials, planned to take place over three periods totalling 22 months, includes participant observation, analysis of documentary sources, and interviews. This article relies on data produced during a first stage of exploratory data collection conducted in one year (from May 2002 to May 2023). To achieve direct exposure to the reality we account for, participant observation takes place in hearing rooms and other spaces in courthouses where jury trials take place, as well as in the offices of prosecutors and defence attorneys (public and private) where access is made possible. Documentary sources include, among others, legal and official documentation such as legislation, internal regulations of the judiciary and case files. Finally, in the search for experiential concepts (Agar 1980) that account for the way in which actors conceive, experience, and ascribe to terms, functions or situations, we are conducting a mix of semi-structured and unstructured interviews and engaging in formal and informal encounters and conversations. In the first exploratory stage of the fieldwork, we are conducting interviews with legal professionals who have taken part of trials with juries (including judges, public prosecutors, lawyers, court clerks and other courthouse employees), experts and pro-jury activists. Future fieldwork will also include interviews with individuals who have served as jurors as well as others with no knowledge or interest, but who have had an active part in jury trial cases in the district (for example, organisations of victims or relatives) and journalists.

In addition to its particular trajectory with jury trials, this judicial department is an adequate choice for the grounding of the fieldwork in light of its socio-demographic composition, which poses potential challenges to the political rationalities often attached to the innovation under study (democratization, legitimation, control of state institutions) and their discursive artifacts ("common sense", "ordinary people", "trial by peers", etc.). According to the final results of the 2022 National Census, the district is home to a total of 1,821,253 inhabitants (Instituto Nacional de Estadísticas y Censos – INDEC – 2023). The department's largest urban district has relatively high proportions of non-working population (children, teenagers, and senior citizens), of residents whose basic needs are not fully satisfied, of foreign residents, and higher than the average infant mortality – all in relation to the averages in Greater Buenos Aires (Bruno 2015). These figures somehow put into question the guarantee of an efficient justice system and highlight the need to put critical discussions on the democratizing potential of lay participation in the context of different dimensions of social inequality – not only

socioeconomic, but along lines of gender, ethnicity and disability integrated in a relation of intersectionality – as pointed out by feminist studies (Crenshaw 1991, Dhamoon 2010). Lastly, besides the conditions described above, this district has been chosen due to close existent professional and research links with members of the research team allowing for access and observation and interview opportunities.

5. Preliminary reflections in the field

Following a first stage of literature review and discussion of methodological design (including ethical implications) and negotiation of access, fieldwork for the project started in 2022. For this article, the authors have interviewed and engaged in conversations with thirteen participants (four judges, two court clerks, three public defendants, two prosecutors and a pro-jury activist). We reached two of these subjects first through previous contacts we had in the local legal academia, mostly criminologists and criminal law scholars with whom we had discussed our research project at its very early stage. These interviewees were eager to refer us to some colleagues as potential participants. Overall, our interlocutors were open to answering our questions and sharing their reflections on their experiences working with juries. And yet, with two of our participants, we even conducted follow-up interviews. Meanwhile, we had begun to attend and observe jury trial hearings, which also allowed us to approach new judicial agents. At the time this article was submitted for publication in early June 2023, we have observed six jury-selection hearings (a seventh one was cancelled), six trials, and one hearing where jurors received preliminary instructions. These were held in the same courtroom where all jury trial hearings take place – a single hearing room shared by the seven trial courts, totalling 21 judges (three judges per tribunal). The room follows a tightly organised agenda and needs to be booked with much anticipation, on occasions for up to a year in advance. The seven trial courts are not necessarily located in the same building. This means that some judges work in a different site to the one that hosts the hearing room and travel along with their court staff approximately two kilometres away to hold the trials, which requires extra work, for instance securing work and parking spaces. Dates of trials with juries are published on the website of the Supreme Court of the Province of Buenos Aires, in a section for the Central Office for Trials (*Oficina Central de Juicios*). Expected duration (averaging four days in 2022, according to the data available), tribunal and case number are also informed - although different case identification systems appear to coexist: those that are published in the agenda are given by the Court of Appeals of each judicial department, whereas the numbers with which the court trials get the case files are given by the Ministry of Public Prosecution (*Investigación Penal Preparatoria*). Besides this, each tribunal gives its cases a different number for internal identification purposes. The website is updated according to the information provided by the trial courts, which means the schedule is not entirely reliable and subject to change. Cancellations, as has been experienced by the research team already, are not uncommon and are often decided after the information is published, but the agenda tends to remain unamended. The average waiting time for a trial to be held following the referral by the investigating prosecutor is, for this judicial department, approximately two years, although the suspension of jury trials during the pandemic may have lengthened the waiting time.

The following sub-sections articulate some preliminary reflections upon the data recorded in these early ethnographic interventions:

5.1. Spectres of participation

One of the representations that attracted our attention in our first interviews was related to the ways in which our interlocutors refer to and, it could be said, use the jury as an entity in their narratives. This works independently of the participant's previous and current stances on jury trials. In words of a judge: "I wasn't either in favour or against. I have to do it, the law says it". Or as another judge stated: I had to apply the law. The same judge explained to us that despite the fact that he had experience in jury trial when he formerly clerked for a judge from another judicial department, he could not help but feeling nervous in conducting his first jury trial, which took place in the course of our fieldwork. However, it went so well that he was looking forward to the second.

That the jury plays a central role in the narratives of our participants may seem obvious and even senseless to point out, being this the central topic of our research. But what we did not anticipate – perhaps influenced by the project's initial presuppositions leaned towards thinking of this practice in terms of citizen participation and democratization of justice – is the way in which the jury keeps appearing as a spectre, in particular in courts agents' accounts. In the utterances of those who are in charge of the realisation of concrete jury trials, namely the presiding judges and their court personnel, the jury is talked about, used, and somehow reified as a spectre, a presence that oversees everything until the end of the judicial process: it organises work routines, creates subjectivities, sets goals to be achieved, acts as a source of awkwardness (and occasionally, of rejection).

Also interestingly, the image of the jury trial influences the way in which court agents give an account of other legal professionals' (public prosecutors and defence attorneys) legal skills and performances. Certainly, the jury is there demanding more preparation for the case and new and better skills (for example, on oral advocacy), and creating bigger workloads. As we were told by a judge, a poorly prepared case by the prosecutor "won't pass the filter of the jury", meaning that such a case will be likely to fail. Moreover, in this judge's view, the extra demands in terms of performance in hearings that the jury poses, may work as a new bargaining chip for defences, which by not renouncing to the jury are seen as sending a message to the prosecutor. During the hearings that we attended, we have been able to observe different strategies deployed by the parties to keep the jurors' attention up at different moments of the process. Although the analysis of these strategies or performances reaches beyond the scope of this article, one may anticipate that oral litigation before these courts does not follow a singular pattern: the same lawyer may shift from rational to emotional forms of speech and expression at different stages of the hearing, for example. In particular, we looked at jury selection hearings, attorney's opening remarks and closing arguments, as well as the mode in which they conduct witness examination and cross-examination.

The jury imposes new arrangements inside the courts even before the trial begins. This new order becomes the framework that supports and advances the making of actual trials, and it is operationalised by the judicial bureaucracy. Some judges, for example, following the draft for potential jury members, conduct hearings specifically to ensure

the defendant has been duly informed and really wants to be judged by a jury. Renouncing to being judged by a jury and having instead a bench trial is a right of the defendant,⁶ but we were told in our interviews that they suspect some counsels underestimate jury trials and poorly advise defendants about the complexity of facing a jury. “They [defendants] may not have understood”, we heard a couple of times. A judge went even further and stated: “their lawyer might have not explained to them; I have to make sure the defendant really wants a jury trial and knows what it means”.

This omnipresence of the jury and the readiness to speak that we have encountered among legal actors in our field resonates somehow with Anna Offit’s insight on how federal prosecutors in the US make decisions on the basis of what they imagine would be the reactions of (largely caricatured) hypothetical juries to the evidence and other circumstances of cases, even when the sustained decline of the use of the institution means they are highly unlikely to ever be heard by a ‘real’ jury (Offit 2022). The milieus are of course different. Offit’s research unfolds in a context where the jury trial system holds a long-standing tradition in judicial adjudication whereas in our field, lay participation is a novel legal arrangement yet.

Accordingly, as soon as field research began to progress, we have come out with the idea of judicial bureaucrats making sense of the arrival of the jury. They are trying, in words of Nayanika Mathur (2016), to make the actual contours and reach of this innovation clear and legible, what she describes as a work of translation “in the process of making a law real” (Mathur 2016, 2), not only through their practices to implement it that unfold in our spaces of observation but through their utterances in our conversations.

5.2. Material conditions and the temporality of trials

In these early instances of field observations and interviews what we also first encountered is the preoccupation of the actors for managing to form the jury. Certainly, material conditions for organising and carrying out of a trial by jury in this district encompass a multiplicity of aspects over the course of the process. However, concern about forming a jury panel governs our interlocutors’ narratives when they are asked about this type of process. This concern is epitomized in one judge’s statement “without a jury there is no trial” made in the course of an interview. But here we have observed circuits and institutional practices that come into play that do not seem to be the predictable ones in an institution such as the judiciary, organised under a bureaucratic rationality.

The challenge is not only the constitution of the jury – that is, completing the selection process with a full panel of candidates who have not been vetted by the parties – but also importantly, to first count on a sufficient number of candidates on the day of the jury selection hearing. The very organisation of this hearing (or *voir dire*) thus appears to the court staff in charge as one of the obstacles in the course of a race. An early hurdle is the very lack of a Central Juries Office (*Oficina Central de Jurados*) – an administrative office for which there were provisions in the legislation that established jury trials but is yet to be created. According to our interlocutors, this office should oversee the

⁶ Law 14543, Article 22 bis: “The defendant (...) shall be able to renounce to the integration of the tribunal with jurors”.

summoning of pre-selected candidates (48 according to the law, tribunals have now been authorised to summon up to 60)⁷ ahead of the hearing. In its absence, every tribunal must use its own resources to ensure the 48 candidates are present for the hearing. How is this achieved? Every tribunal has developed their own mode of intervention – moreover, this changes within tribunals, depending on the judge that is in charge of the trial. While officials repeatedly point out that this is not within the tribunals' remit, they describe this as a learning process through the years and hail the success in counting with a functional jury panel on the trial day as the result of personal effort and commitment on the part of the tribunal's clerks – “we do it *a pulmón* (by the sweat of brow)”, the interviewee, an experienced court clerk, concluded.

Every judicial department has its own notifications office, through which the candidates' summons are supposed to be posted. But, officials say, they cannot always be trusted to arrive or to do so on time, and occasionally they need to resort to the police to deliver the summons directly – “we know that's not what the police is for, but if we don't use them there's no jury trial”, the informant clarified. In this case, for confidentiality reasons, candidates receive a plain notification stating that they are expected to show up in a certain tribunal on a certain date and time and are not explained why they are being ordered to appear in court: “Imagine that the police turn up to your house with a judicial summons”. “Sometimes I wonder”, a court official continued, “if I'm not ruining these people's weekend”.

The same interviewee commented further on the challenge of notifying candidates: “Recently, I found out that a trial in other judicial department could not take place because there weren't enough candidates [at the selection hearing]” I asked them “How had you sent the summons? – Through the notifications office, they said – Ah no, you can't rely only on that! That's why we also send the summons with the police”. Occasionally, the participant continued, they would also take further precautions, like calling the candidates on the phone 48 hours before the hearing to remind them – a tactic that would appear excessive but is considered very successful. At the earliest stage of our fieldwork, we already experienced the cancellation of one jury selection hearing due to lack of sufficient candidates. Later on, another selection hearing was cancelled too because the summoned candidates that showed up in the court on the day that the hearing was scheduled did not reach the minimum for a jury empanelment.

An early conceptual implication that these complications make patent (further elaborations upon the development of our fieldwork and analysis notwithstanding) is the link between the temporality of the process and the material conditions for its realisation – a link best captured by Mariana Valverde's recent call for chronotopical understandings of socio-legal settings that fully account for their spatio-temporalities without assuming the primacy of either element (Valverde 2015). As soon as our visits to the courts increased to attend and observed trial hearings, we were presented with two representations of the trial by jury: there is the projected trial, as set out in the official agenda; and the possible trial, that may or may not result in a completed trial after the intervention of numerous other circumstances. We are not arguing that trials are not completed or do not come to an end. Our point is that between the projected — or rather,

⁷ This initial prospective list of candidates is digitally balloted from a longer list of individuals drafted from the electoral roll on a yearly basis by the Buenos Aires Supreme Court's Central Jury Office.

the scheduled — trial about which we can retrieve information from the judicial agenda and the one that we finally see, hear, attend and observe in the hearing room, there is a distance that is mediated by different modes of agency, not statutorily regulated, but that mark the progression of the process through new routines and practices that turn trials actual. Bureaucratic processes that take long and suffer delays come to no surprise, but they often retain a sense of progression. The complexity of the material conditions in the Buenos Aires judicial department of our study — limited space to undertake trials compounded by a yet imperfect set of mechanisms to summon potential jurors — directly affects the process's temporality and has the potential to thwart it entirely. In this sense, a public prosecutor describes how these conditions impacts directly upon her office's workload. However, she is already used to deal with these conditions: "This is what we have", she concluded after mentioning the efforts that carrying out jury trials demands from her and her office personnel. But, on the other hand, these conditions seem to keep alive the idea of jury trials as still a novel, perennially in-the-making practice, even when they have been performed for almost ten years in the district. "This is just the beginning", said a judge while recalling the material and intellectual efforts that the making of jury trials has demanded from him and his court's staff, but also to the work that remains to be done to make the system run properly. Also notably, both descriptions convey a very powerful sense of law making as a very concrete and material experience (Latour 2002).

5.3. Reshaping bureaucracies: Emerging new figures

Another theme emerging from our first instances of observation and interviews is the reorganisation of working routines in the courts in relation to jury trials. Workloads increase with these trials — as described before — which led to what one of our informants, a judge — described as "a behind-closed-doors reorganisation of the court". In the court of this interlocutor, roles have been assigned and work divided for a judge to have personnel available to work on the preparation of the trial by jury when one is forthcoming. This means some staff cease to do other daily tasks, plus working overtime and from home: "it is two months when that person is fully devoted to preparing the jury trial", a judge described.

This new routine has crafted new emerging figures. These are agents, not necessarily highly located in the judiciary's hierarchy, who have seen their work routines modified to become key in the preparation of jury trials. They are referred to by our informants as those who "are in charge and know everything you need to know". "This is the person you must speak with if it is about juries." The key role these figures play in the development of a jury trial becomes palpable to the researchers' gaze as early as the observation of a jury selection hearing. On different opportunities, we have seen court staff playing a supportive and yet substantial role in keeping the proceedings at ease, for instance by taking care of the jury's needs. On a particular occasion, we had noticed a court member who did not seem to be a high-ranking judicial officer although his movements and conversations during breaks showed that he was playing an important role in the development of the trial that we were observing. We then approached him to introduce our project and invite him for an interview, he replied that he was not a *funcionario judicial* (judicial civil servant) but only an employee, and would have to ask for the judge's authorisation.

According to what our interviews show, in the fulfilment of the daily tasks before and during jury trials these emerging figures seem to deploy an agency oriented to the aim of ensuring the conditions for the trials to take place. They write the summons and assist the presiding judges in hearings, but also make phone calls to remind potential candidates of hearings and explain them how the experience is – often with an emphasis on the personal benefits it will bring about and the contribution to the community they are about to make. They comfort people who are afraid of losing their jobs due to the absences for the trials and call their employers if necessary. This seems to emerge as a set of strategies destined to persuade candidates to participate and provide support – including emotional – from the preliminary instances. “You have to be on their backs”, a judge said. “People forget that they have been summoned, people also have their lives. I have a person for that, to support and contain them”.

Contrary to representations of a trial and the workings of a court as a set of preordained routines and internal proceedings that organise the judicial process, there is here an element of agency that becomes vital for the progression of trials. This evokes categories such as those of *street-level bureaucracies* in the work of authors as Lipsky (1980), where bureaucrats do not operate according to previously scripted routines but narrate their work based on their contact with users of state services and make decisions that are discretionary, subjective, and political (Lipsky 1980); a phenomenon that we have seen empirically explored in multiple settings, for example in Fassin’s (2003) ethnographies of benefits claimants in France. There is an emerging visible contrast between these figures and the judges in our initial observations and interviews. Presiding judges in jury trial display agency in a different fashion from the one they show in bench trials. They cannot ask questions and must remain as only a referee and guardian of due process throughout the trial – a role that is emphasised by officials in interviews and before the jurors. “I have had to learn how to behave as a jury trial judge” a judge explained to us. This is a very different role from the one I perform in bench trials”. “I am very much constrained in jury trials proceedings”. “I don’t even think of the result. Once the trial is done, I move forward”. Another judge said that he has to be very careful about his reactions when the prosecutors or defence attorneys conduct witness examination and cross-examination. He is aware of his behaviour may influence jurors. On the contrary, these new lower level figures are consistently praised for their active engagement with jurors, their commitment and sensitivity in dealing with the newcomers to the process.

5.4. *Crafting the jury: The selection hearing*

The observation of a particularly long and at times tense jury selection hearing shed some initial revelations on this stage of the trial and its importance not only to secure the formation of the panel (including the fulfilment of the gender parity requirement), but to put candidates at ease and provide the necessary conditions for them to perform. While most candidates answered the questions from the parties in good spirits, the objections of several candidates for their own participation were numerous – and so were the parties’ recusals, to the extent that, having the judge accepted many of them, the panel could not be formed and the trial was eventually suspended.

After intense questioning from a prosecutor in the *voir dire* stage of this particular hearing that we observed, a candidate made it clear how uneasy this was making him feel. He asked why they should be subject to such an interrogation about their lives when

they (the prospective jurors) had done nothing wrong. He added that if someone had done something wrong (“I don’t know what”, he clarified), that was another person, referring to the defendant. The judge responded in a firm but kind tone: “Parties must be sure, from your answers, that you are capable of judging in an impartial way the facts that we will be talking about. That you are ready to sit here, pay attention, and decide”. “But I don’t feel capable of judging anyone”, the candidate replied. “Who am I to decide if what that person did is right or wrong”. The judge replied: “Yes, you are capable of deciding upon the facts of the case, and that they would be twelve to think as a group”. She concluded that this was a matter of common sense.

This, occasionally arduous, work of containment and support is vital during the long hours that this preliminary hearing can last. Concerns are not always about the actual role as a juror. Candidates regularly express their preoccupation with losing their job or income for the trial days. The judge, in the hearing we observed, was equally reassuring and made notorious efforts to appease concerned candidates: this is a mandatory public service, they would receive an economic compensation for their participation, employers cannot take reprisals against or put any obstacles to a worker’s jury service. A clerk was very clear about being ready to speak with employers and warn them: “I have to make sure this person will be relaxed to think and decide. If they feel harassed by their employer they won’t be able to decide freely.” Some candidates also evaluate their participation in terms of cost-benefit. In a jury selection hearing, a freelance worker with no care duties who made a living betting online told the judge: “the remuneration you pay will never compensate what I make in three days”.

6. Concluding remarks: “It’s just the beginning”

This project emerges from a concern and interest with the exploration of the concrete conditions in which jury trials take place. In addition, it takes on the empirical vantage point of a relatively recent incorporation to a historically professional-only criminal justice system. The article started by showing the reader some of the debates that have shaped academic discussions on juries and lay participation as both political and judicial institutions, in Argentina and beyond. The preliminary findings, produced upon our recent entrance to the field and discussed in the second part of the paper, work also as an invitation to a different conceptual and methodological entry door to the topic, one that puts the emphasis on the local, concrete, situated materiality of the trial by jury.

At this stage of our fieldwork, we have put attention to the narratives of judicial bureaucrats involved in the making of jury trials. They have allowed us a first approach to the “behind the scene” of the public debate that one sees in the court’s hearing room, and importantly, to notice these subjects’ concerns about their carrying out this mode of criminal justice adjudication. At the same time, our early field explorations coincide with prospective jurors’ first steps into the realm of state criminal justice. In this sense, our shedding light on the observation of a concrete venue such as the jury selection instance may suggest a linear analysis that follows the iteration of the process. It is necessary, however, to clarify that we have started to sketch an argument by which we question the chronological temporality of jury trials, suggesting that such linear temporality is the product of practices, forms of agency, and material aspects that are not fixed. In addition to this, these findings are elaborated upon the situated reflection of our research subjects, which have oriented the observations in the field (Maurer 2005, Riles 2006). And as we

go further, and immerse ourselves in the field and explore our subjects' categories, reflections, and concerns, we find judges, court staff, legal experts and activists we have spoken with agreeing on one thing: the jury is here, and it is here to stay. This is less of a platitude than it may seem. In their narratives, it is here as a very tangible material force for some clerks whose routines have been dramatically altered and have refashioned themselves as experts in chasing up notifications, warning employers and comforting concerned jurors who fear for their livelihood or simply do not feel able to judge in the name of the state.

It is also here, in a less tangible but just as powerful way, as that reified spectre that has come to govern and reshape some of the interactions, skillsets and routines of legal professionals, often in ways that stretch well beyond the predictable workings of a bureaucracy organised according to legal-rational processes – while also laying bare the very material limitations of the institution to cope with its demands. "It is in the law", a judge said at a time defining her realm of professional belonging and opening up about her uneasiness with the demands of the new protagonist of criminal trials. It is certain and it is uneasy, as our interlocutors' accounts of the practices they perform to support actual jury trials made it clear, just as there are some incipient certainties amidst the daunting work of crafting an ethnographic understanding of the legal phenomenon as a culturally situated practice.

References

- Agar, M., 1980. *The Professional Stranger. An Informal Introduction to Ethnography*. New York: Academic Press.
- Amietta, S., 2016. *Governing lay participation: power, knowledge and legal consciousness in the making of Argentina's juror*. Unpublished PhD Thesis. University of Manchester.
- Amietta, S., 2019. Everyday Justice at the Courthouse? Scales of Governance of Lay Participation in Argentina's Criminal Justice. In: S. Brunnegger, ed., *Everyday Justice: Law, Ethnography and Context* [online]. Cambridge University Press, 161–181. Available at: <https://doi.org/10.1017/9781108763530.010>
- Amietta, S., 2020. In Ambiguous Times and Spaces: The Everyday Assemblage of Lay Participation to Argentine Courthouses. *Social & Legal Studies* [online], 30(4), 605–626. Available at: <https://doi.org/10.1177/0964663920957378>
- Andruet, A., Ferrer, C.F., and Crocchia, L., 2007. Jurados populares. *Gestión del sistema de Administración de Justicia y su impacto social*. Córdoba: Centro de Perfeccionamiento Ricardo Núñez.
- Anwar, S., Bayer, P., and Hjalmarsson, R., 2019. Politics in the Courtroom: Political Ideology and Jury Decision Making. *Journal of the European Economic Association* [online], 17(3), 834–875. Available at: <https://doi.org/10.1093/jeea/jvy013>
- Asociación Argentina de Juicio por Jurados (AAJJ), 2019. Santa Fe: Diputados dio media sanción de nuevo al juicio por jurados. AAJJ [online], 7 de noviembre. Available at: <http://www.juicioporjurados.org/2019/11/santa-fe-diputados-dio-nuevamente-media.html>

- Baguley, C.M., McKimmie, B.M., and Masser, B.M., 2017. Deconstructing the simplification of jury instructions: How simplifying the features of complexity affects jurors' application of instructions. *Law and Human Behavior* [online], 41(3), 284–304. Available at: <https://psycnet.apa.org/doi/10.1037/lhb0000234>
- Bakrokar, D., and Chizik, N.D., 2016. La evolución del jurado en la Argentina. In: G. Letner and L. Piñeyro, eds., *Juicio por jurados y procedimiento penal*. Buenos Aires: Jusbaire, 13–24.
- Barrera, L., 2012. *La Corte Suprema en escena. Una etnografía del mundo judicial*. Buenos Aires: Siglo XXI.
- Barrera, L., 2013. Performing the Court. Public Hearings and the Politics of Judicial Transparency in Argentina. *PoLAR: The Political and Legal Anthropology Review* [online], 36(2), 326–340. Available at: <https://doi.org/10.1111/plar.12032>
- Barrera, L., 2018. Gatekeeping: Documents, Legal Knowledge, and Judicial Authority in Contemporary Argentina. *PoLAR: Political and Legal Anthropology Review* [online], 41(1), 90–107. Available at: <https://doi.org/10.1111/plar.12242>
- Barrera, L., and Latorre, S., 2021. Actor Network Theory/Science and Technology Studies: tools for sociolegal analysis. In: M. Valverde et al., eds., *The Routledge Handbook of Law and Society* [online]. London: Routledge, 9–15. Available at: <https://doi.org/10.4324/9780429293306-1>
- Bergoglio, M.I., 2019. La participación popular en las decisiones judiciales y la legitimación del poder judicial frente a la opinión pública. In: M.I. Bergoglio, M.E. Gastiazoro and S. Viqueira, eds., *En el estrado: La consolidación de las estrategias participativas en la justicia penal*. Córdoba: Advocatus.
- Bergoglio, M.I., Gastiazoro, M.E., and Viqueira, S., eds, 2019. *En el Estrado. La consolidación de las estrategias participativas en la justicia penal*. Córdoba: Advocatus.
- Binder, A., 2002. La Reforma de la Justicia Penal: entre el corto y el largo plazo. *Sistemas Judiciales*, 3, 67–72.
- Blackstone, W., 2016. *Commentaries on the Laws of England*. Oxford University Press. (Originally published in 1765).
- Braverman, I., et al., 2014. *The Expanding Spaces of Law a Timely Legal Geography*. Redwood City: Stanford University Press.
- Brewer, N., Hupfeld, R., and Schmidt, C., 2000. How Evidence and Social Identity Interact to Affect Jurors' Judgments. *Law in Context*, 17(1), 130–47.
- Broeder, D., 1959. The University of Chicago Jury Project. *Nebraska Law Review*, 38(3), 744–760.
- Brunnegger, S., and Faulk, K., 2016. *A Sense of Justice: Legal Knowledge and Lived Experience in Latin America*. Redwood City: Stanford University Press.
- Bruno, M., 2015. La población del Conurbano en cifras. In: G. Kessler, ed., *Historia de la provincia de Buenos Aires. Tomo VI: El gran Buenos Aires*. Buenos Aires: Edhasa/UNIFE, 159–191.

- Cavallero, R., and Hendler, E., 1988. *Justicia y participación – el juicio por jurados en materia penal*. Buenos Aires: Universidad.
- Centro de Información Judicial, 2019. *La Corte Suprema de Justicia confirmó que es constitucional que las provincias establezcan el juicio por jurados para juzgar los delitos cometidos en su jurisdicción* [online]. 2 May. Available at: <https://www.cij.gov.ar/nota-34299-La-Corte-Suprema-de-Justicia-confirm--que-es-constitucional-que-las-provincias-establezcan-el-juicio-por-jurados-para-juzgar-los-delitos-cometidos-en-su-jurisdicci-n.html>
- Crenshaw, K., 1991. Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color. *Stanford Law Review* [online], 43(6), 1241–1299. Available at: <https://doi.org/10.2307/1229039>
- Das, V., 2004. The Signature of the State: The Paradox of Illegibility. In: V. Das and D. Poole, eds., *Anthropology in the Margins of the State*. Oxford: James Currey, 225–252.
- De Tocqueville, A., (with E. Nolla, ed.), 2018. *La democracia en América*. Trans.: E. Nolla. Madrid: Trotta. (Originally published in 1839).
- Devlin, P., 1956. *Trial by jury*. London: Stevens & Sons.
- Dhamoon, R., 2010. Considerations on Mainstreaming Intersectionality. *Political Research Quarterly* [online], 64(1), 230–243. Available at: <http://dx.doi.org/10.1177/1065912910379227>
- Diamond, S., and Rose, M., 2005. Real Juries. *Annual Review of Law and Social Science* [online], 1, 255–84. Available at: <https://doi.org/10.1146/annurev.lawsocsci.1.041604.120002>
- Dzur, A., 2012. *Punishment, Participatory Democracy and the Jury*. New York: Oxford University Press
- Ellison, L., and Munro, V., 2010. Getting to (Not) Guilty: Examining Jurors' Deliberative Processes in, and Beyond the Context of a Mock Rape Trial. *Legal Studies* [online], 30(1), 74–97. Available at: <https://doi.org/10.1111/j.1748-121X.2009.00141.x>
- Fassin, D., 2003. Gobernar por los cuerpos, políticas de reconocimiento hacia los pobres y los inmigrantes en Francia. *Cuadernos de Antropología Social*, 17, 49–78.
- Fernández García, M., and Posas Zubiría, M., 2022. *¿Será justicia? Un trabajo exploratorio de las representaciones discursivas de los jurados civiles en el marco del sistema de juicios por jurados en la Provincia de Buenos Aires*. Escuela Interdisciplinaria de Altos Estudios Sociales, Universidad Nacional de San Martín. Unpublished Dissertation in Sociology.
- Fleury-Steiner, B., 2002. Narratives of the death sentence: Toward a theory of legal narrativity. *Law & Society Review* [online], 36(3), 549–576. Available at: <https://doi.org/10.2307/1512162>
- Fleury-Steiner, B., 2003. Before or Against the Law? Citizens' Legal Beliefs and Experiences as Death Penalty Jurors. *Studies in Law, Politics and Society*, 27, 115–36.
-

- Garapon, A., 1997. *Bien juger. Essai sur le rituel judiciaire*. Paris: Odile Jacob.
- Garfinkel, H., 1967. *Studies in Ethnomethodology*. Englewood Cliffs: Prentice Hall.
- Gargarella, R., 1996. *La justicia frente al gobierno. Sobre el carácter contramayoritario del poder judicial*. Barcelona: Ariel.
- Gargarella, R., 2021. *El derecho como una conversación entre iguales. Qué hacer para que las democracias contemporáneas se abran —por fin— al diálogo ciudadano*. Buenos Aires: Siglo XXI.
- Garvey, S.P., 2004. Lifting the Veil on Punishment. *Buffalo Criminal Law Review* [online], 7(2). Available at: <https://doi.org/10.1525/nclr.2004.7.2.443>
- Guber, R., 2012. *La etnografía: Método, campo y reflexividad*. Buenos Aires: Siglo XXI.
- Hannaford-Agor, P., and Hans, V.P., 2003. Nullification at work? A glimpse from the National Center for State Courts study of hung juries. *Chicago-Kent Law Review*, 78, 1249–77.
- Hans, V.P., 2003. Introduction: Lay Participation in Legal Decision Making. *Law & Policy* [online], 25, 83–92. Available at: <https://doi.org/10.1046/j.1467-9930.2003.00141.x>
- Hans, V.P., Gastil, J., and Feller, T., 2014. Deliberative Democracy and the American Civil Jury. *Journal of empirical legal studies*, 11(4), 697–717.
- Haraway, D., 1988. Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective. *Feminist Studies* [online], 14(3), 575–599. Available at: <https://doi.org/10.2307/3178066>
- Harfuch, A., 2013. *Juicio por jurados en la provincia de Buenos Aires: ley provincial 14.543*. Buenos Aires: Ad-Hoc.
- Hetherington, K., 2011. *Guerrilla Auditors. The Politics of Transparency in Neoliberal Paraguay* [online]. Durham: Duke University Press. Available at: <https://doi.org/10.1515/9780822394266>
- Hoag, C., 2011. Assembling Partial Perspectives: Thoughts on the Anthropology of Bureaucracy. *PoLAR: The Political and Legal Anthropology Review*, 34(1), 81–94.
- Howarth, J., 1994. Deciding to Kill: Revealing the Gender in the Task Handed to Capital Jurors. *Wisconsin Law Review*, 1345–1424.
- Hull, M., 2012. *Government of Paper. The Materiality of Bureaucracy in Urban Pakistan* [online]. Oakland: University of California Press. Available at: <https://doi.org/10.1525/9780520951884>
- Instituto Nacional de Estadísticas y Censos (INDEC), 2023. *Censo Nacional de Población, Hogares y Viviendas 2022, Resultados definitivos. Indicadores demográficos por sexo y edad* [online]. November. Ciudad Autónoma de Buenos Aires: INDEC. Available at: https://censo.gob.ar/wp-content/uploads/2023/11/censo2022_indicadores_demograficos-1.pdf
- Kovalev, N., 2011. Jury Trials for Violent Hate Crimes in Russia: is Russian Justice only for Ethnic Russians. *Chicago-Kent Law Review*, 86(2), 669–736.

- Latour, B., 2002. *La Fabrique Du Droit. Une Ethnographie du Conseil d'État*. Paris: Découverte.
- Law 14543 of the Legislature of the Province of Buenos Aires (2013) [online]. Available at: <https://normas.gba.gob.ar/ar-b/ley/2013/14543/11299>
- Levi, R., and Valverde, M., 2008. Studying Law by Association: Bruno Latour Goes to the Conseil d'État. *Law & Social Inquiry*, 33(3), 805–825.
- Levine, J., 1992. *Juries and politics*. Pacific Groves: Brooks/Cole.
- Lipsky, M., 1980. *Dilemmas of the Individual in Public Services*. New York: Russell Sage Foundation.
- Lombrana, A., and Di Próspero, C., 2019. El Centro Universitario de San Martín (CUSAM) como proyecto educativo y territorial. *Prólogos, Revista de historia, política y sociedad* [online], 11, 12–2019. Available at: <http://hdl.handle.net/11336/159970>
- Machura, S., 2007. Lay Assessors of German Administrative Courts: Fairness, Power - Distance Orientation, and Deliberation Activity. *Journal of Empirical Legal Studies* [online], 4(2), 331–363. Available at: <https://doi.org/10.1111/j.1740-1461.2007.00091.x>
- Maier, J., 2001. *Juicio por jurados en el proceso penal*. Buenos Aires: Ad Hoc.
- Marder, N. S., 2022. *The Power of the Jury. Transforming Citizens into Jurors*. Cambridge University Press.
- Martín, A.N., 2020. *Procesos Penales. Programa de Estudios sobre Poder Judicial. Laboratorio de Estudios sobre Procesos Penales*. José C. Paz: EDUNPAZ.
- Martínez, M.J., 2020. El juicio por jurados en la provincia de Buenos Aires. Apuntes etnográficos de un campo reciente. *Cuestiones Criminales*, 3(5/6), 302–321.
- Martini, F.M., 2016. El juicio por jurados populares: la experiencia en la provincia de Neuquén. In: G. Leitner and L. Piñeyro, eds., *Juicio por jurados y procedimiento penal* [online]. Buenos Aires: Jusbaire. Available at: <https://doi.org/10.15210/cdl.v0i27.9237>
- Mathur, N., 2016. *Paper Tiger. Law, Bureaucracy and the Developmental State in Himalayan India*. Delhi: Cambridge University Press.
- Maurer, B., 2005. *Mutual Life, Limited: Islamic Banking, Alternative Currencies, Lateral Reason*. Princeton University Press.
- Maynard, D., and Manzo, J., 1993. On the Sociology of Justice: Theoretical Notes from an Actual Jury Deliberation. *Sociological Theory* [online], 11(2), 171–93. Available at: <https://doi.org/10.2307/202141>
- Mustapic, A.M., 2002. Argentina: la crisis de representación y los partidos políticos. *América Latina Hoy* [online], 32, 163–183. Available at: <https://doi.org/10.14201/alh.2398>
- Muzzopappa, E., and Villalta, C., 2011. Los documentos como campo. Reflexiones teórico-metodológicas sobre un enfoque etnográfico de archivos y documentos

- estatales. *Revista Colombiana de Antropología* [online], 47(1), 13–42. Available at: <https://doi.org/10.22380/2539472X.897>
- Offit, A., 2018. The Jury Is Out: An Ethnographic Study of Lay Participation in the Norwegian Legal System. *PoLAR: The Political and Legal Anthropology Review* [online], 41(2), 231–246. Available at: <https://doi.org/10.1111/plar.12268>
- Offit, A., 2021. Race-Conscious Jury Selection. *Ohio State Law Journal*, 82(2), 201–248.
- Offit, A., 2022. *The Imagined Juror. How Hypothetical Juries Influence Federal Prosecutors*. New York University Press.
- Ong, A., and Collier, S., eds., 2005. *Global Assamblages. Technology, politics and ethics as anthropological problems*. Oxford: Blackwell.
- Park, R., 2010. The Globalizing Jury Trial: lessons and insights from Korea. *American Journal of Comparative Law* [online], 3, 525–582. Available at: <https://doi.org/10.5131/ajcl.2009.0049>
- Poder Judicial de la Provincia de Buenos Aires, 2023. *Juicios por jurados: juicios realizados 2015–2022* [online]. 14 July. Available at: <https://www.scba.gov.ar/juiciosporjurados/archivos/Ley%2014543%20Juicios%20por%20Jurados.pdf>
- Porterie, S., and Romano, A., 2018. *El poder del jurado. Descubriendo el juicio por jurados en la Provincia de Buenos Aires*. Buenos Aires: INECIP.
- Porterie, S., Romano, A., and Hans, V., 2017. *Proyecto de investigación empírica sobre el juicio por jurados en Neuquén. Informe preliminar*. August. Cornell Law School/INECIP.
- Riles, A., 2001. *The Network Inside Out*. Ann Arbor: University of Michigan Press.
- Riles, A., ed., 2006. *Documents: Artifacts of Modern Knowledge*. Ann Arbor: University of Michigan Press.
- Riles, A., 2011. *Collateral Knowledge. Legal Reasoning in the Global Financial Market*. University of Chicago Press.
- Rockwell, E., 2008. Del campo al texto: dilemas del trabajo etnográfico. In: M.J. Jociles and A. Franzé, eds., *¿Es la escuela el problema? Perspectivas socioantropológicas de etnografía y educación*. Madrid: Trotta, 90–111.
- Romano, A., Porterie, S., and Hans, V., 2021. *El Jurado Neuquino. El comienzo del jurado clásico en la Argentina*. Buenos Aires: INECIP.
- Sarat, A., 1995. Violence, Representation, and Responsibility in Capital Trials: The View from the Jury. *Indiana Law Journal*, 70(4), 1103–1135.
- Schritzmeyer, A.L.P., 2012. *Jogo, ritual e teatro. Um estudo antropológico do Tribunal do Júri*. São Paulo: Terceiro Home.
- Secretaría de Comunicación, 2019. *El Poder Ejecutivo y la Corte de Justicia impulsan la implementación del juicio por jurados populares en la Provincia*. Gobierno de la Provincia de Salta [online], 9 September. Available at: <https://www.salta.gob.ar/prensa/noticias/el-poder-ejecutivo-y-la-corte-de-justicia>

[impulsan-la-implementacion-del-juicio-por-jurados-populares-en-la-provincia-66125](#)

- Sharma, A., and Gupta, A., 2006. *The Anthropology of the State: A Reader*. Malden: Blackwell.
- Smulovitz, C., 2010. Judicialization in Argentina: Legal Culture or Opportunities and Support Structures? In: J. Couso, A. Huneeus and R. Seider, eds., *Cultures of Legalities. Judicialization and Political Activism in Latin America* [online]. Cambridge University Press, 234–253. Available at: <https://doi.org/10.1017/CBO9780511730269.010>
- Sommers, S., 2006. On racial diversity and group decision making: identifying multiple effects of racial composition on jury deliberations. *Journal of Personality and Social Psychology* [online], 90(4), 597–612. Available at: <https://doi.org/10.1037/0022-3514.90.4.597>
- Steiner, B., and Argothy, V., 2004. Lethal' Borders 'Elucidating Jurors' Racialized Discipline to Punish in Latino Defendant Death Cases. *Punishment & Society* [online], 6(1), 67–84. Available at: <https://doi.org/10.1177/1462474504039092>
- Tarditti, A., and Ferrer, C., 2016. El juicio con jurados populares: a diez años de su aplicación en la provincia de Córdoba. In: A. Tarditti, ed., *Centro de Estudios y Proyectos Judiciales: A diez años de los jurados populares en el Poder Judicial de Córdoba*. Report. Investigaciones aplicadas en el ámbito del Poder Judicial de Córdoba III. Córdoba: Centro Judicial Ricardo Nuñez, 49–84.
- Taylor, S., and Bogdan, R., 2000. *Introducción a los métodos cualitativos*. Buenos Aires: Paidós.
- Thaman, S.C., 2007. The nullification of the Russian jury: lessons for jury-inspired reform in Eurasia and beyond. *Cornell International Law Journal* [online], 40(2), 355–428. Available at: <https://www.law.msu.ru/uploads/files/The%20Nullification%20of%20the%20Russian%20Jury.pdf>
- Thomas, C., 2010. Are juries fair? *Ministry of Justice Research Series* [online], 1/10. Available at: <https://www.justice.gov.uk/downloads/publications/research-and-analysis/moj-research/are-juries-fair-research.pdf>
- Valverde, M., 2003. *Law's Dream of a Common Knowledge*. Princeton University Press.
- Valverde, M., 2015. *Chronotopes of law: jurisdiction and scale* [online]. London: Routledge. Available at: <https://doi.org/10.4324/9781315881614>
- Vidmar, N., ed., 2000. *World Jury Systems*. New York: Oxford University Press.
- Zander, M., and Henderson, P., 1993. The Crown Court Study, Royal Commission on Criminal Justice, *Research Study No. 19*. London: HMSO.