

Interagency cooperation: Why is it needed?

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“Interagency cooperation to tackle high impact domestic abuse: Why is it needed and state of the art?”

- What is the specific wrong of (male heterosexual) partner violence?
- How does (male heterosexual) partner violence affect victims?
- What to do about partner violence?
- Why is interagency cooperation needed to tackle partner violence?

FRA project on “Justice for victims of violent crime”

- In-depth field research in 7 MS: 231 face-to-face interviews conducted in 2017 in Austria, France, Germany, Netherlands, Poland, Portugal, UK
- 148 expert interviews with practitioners
 - Staff of support services (35)
 - Lawyers advising victims (25)
 - Police (35)
 - Prosecutors and judges (53)
- 83 interviews with adult victims of violent crime,
 - Including 35 women as victims of partner violence
- 4 reports published on 25 April 2019:
 - Part I: “Victims’ rights as standards of criminal justice”
 - Part II: “Proceedings that do justice” (procedural justice)
 - Part III: “Sanctions that do justice” (outcome justice)
 - Part IV: “Women as victims of partner violence”



1. The specific wrong of male heterosexual partner violence



The criminal law basis of partner violence – Article 46a of the Istanbul Convention

“Parties shall take the necessary legislative [...] measures to ensure that the following circumstances, insofar as they do not already form part of the constituent elements of the offence, may [...] be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with this Convention:

a the offence was committed against a former or current spouse or partner [...].”

Criminal codes must

- either contain a specific offence of partner violence or
- define partner violence as an aggravating circumstance.

But why and under which conditions?

What is the specific, additional wrong of partner violence?

Traditional criminal offenses focus on single, isolated incidents and therefore do not capture the totality and reality of a relationship based on violence and control.

“I just started rambling a bit, how he did this and how he did that, and the Sheriff said, ‘Mrs. X, you cannot speak about anything other than the incident that you’re here for.’” (UKV2)

ECtHR: Valiulienė v. Lithuania, 26 March 2013

Partner violence as inhuman or degrading treatment (Art. 3 ECHR)

“55. [...] the Government noted that [...] the applicant had not been beaten with considerable force and the treatment inflicted had not resulted in a permanent injury. Accordingly, for the Government, “it could be said that the injuries sustained by the applicant had been of a merely trivial nature”.

68. [...] the Court considers that the five instances of ill-treatment stretched over a period of time. Accordingly, it will examine those acts as a continuing situation, which it finds to be an aggravating circumstance.

69. [...] the Court cannot turn a blind eye to the psychological aspect of the alleged ill-treatment. It observes that the applicant made credible assertions that over a certain period of time she had been exposed to threats to her physical integrity [...]. The Court acknowledges that psychological impact is an important aspect of the domestic violence. [...]

70. In the light of the foregoing, the Court considers that the ill-treatment of the applicant, which on five occasions caused her physical injuries, combined with her feelings of fear and helplessness, was sufficiently serious to reach the level of severity under Article 3 of the Convention [...].”

A victim's perspective: The actual problem – the constant fear one has

“In my opinion [...] one gets interviewed wrongly. The interview is always on times, days, the colour of the bruise, where he hit me, and it is not about the – in my opinion – most important aspect: the fear one has. [...] these generally frightening aspects were not considered enough [...]. The same concerns the break-in, which he attempted when I was staying at my friend's place. In the trial, only the damage of the door was an issue and not the fact that children were present, that my friend was scared and that I was scared. This did not matter to them, but only: ‘Did he manage to do it? No – ok, then it does not matter.’ But in my opinion, this is wrong, because, for me, there would not be a lot of difference between the way it was and if he had been able to enter the flat and become violent again. But it is always on facts, times, durations and it is not about the actual problem.” (Victim, AT)

To capture the wrong done to the victim, a more holistic and comprehensive definition is needed

Examples:

- Sweden: Gross violation of a woman's dignity (*Grov kvinnofridskränkning*)
- Austria: Offence of Continuous violence (*Fortgesetzte Gewaltausübung*)
- Domestic abuse (Scotland) act 2018: specific offence of "abusive behaviour in relation to a partner or ex-partner".
'Abusive behaviour' captures:
 - Behaviour that is violent, threatening or intimidating
 - Behaviour whose purpose is one of the following:
 - making a partner dependent or subordinate
 - isolating a partner from friends, relatives or other sources of support
 - controlling, regulating or monitoring a partner's day-to-day activities
 - depriving a partner of, or restricting, freedom of action
 - frightening, humiliating, degrading or punishing a partner.

In a case of male partner violence, the goal is not to enable the woman to live a life free from her partner's violence, but to live a life free ***from fear*** of her partner's violence.

Partner violence is discrimination = directed against a woman because she is a woman

- Partner violence is hate crime: violence motivated by discriminatory attitudes that reflect and reinforce a discriminatory (patriarchal) social structure.
- Partner violence sends a demeaning message, namely that the victim is victimised for who she is and that because of who she is her rights count less.

Short-comings in how criminal justice systems respond to partner violence

The way criminal justice systems deal with partner violence can fail to fully cover and acknowledge the wrong done to victims on two accounts:

- **Partner violence** is more than the sum of single violent acts, it is **constant intimidation, subjugation** and hence “**degrading treatment**”.
- **Partner violence is discrimination (gender-based).**

2. How are victims affected?

Particularly vulnerable victims of violence

Victims were divided into two groups.

The group of victims who experienced ‘subjugating’ violence (violence within relationships characterized by power imbalance) comprises:

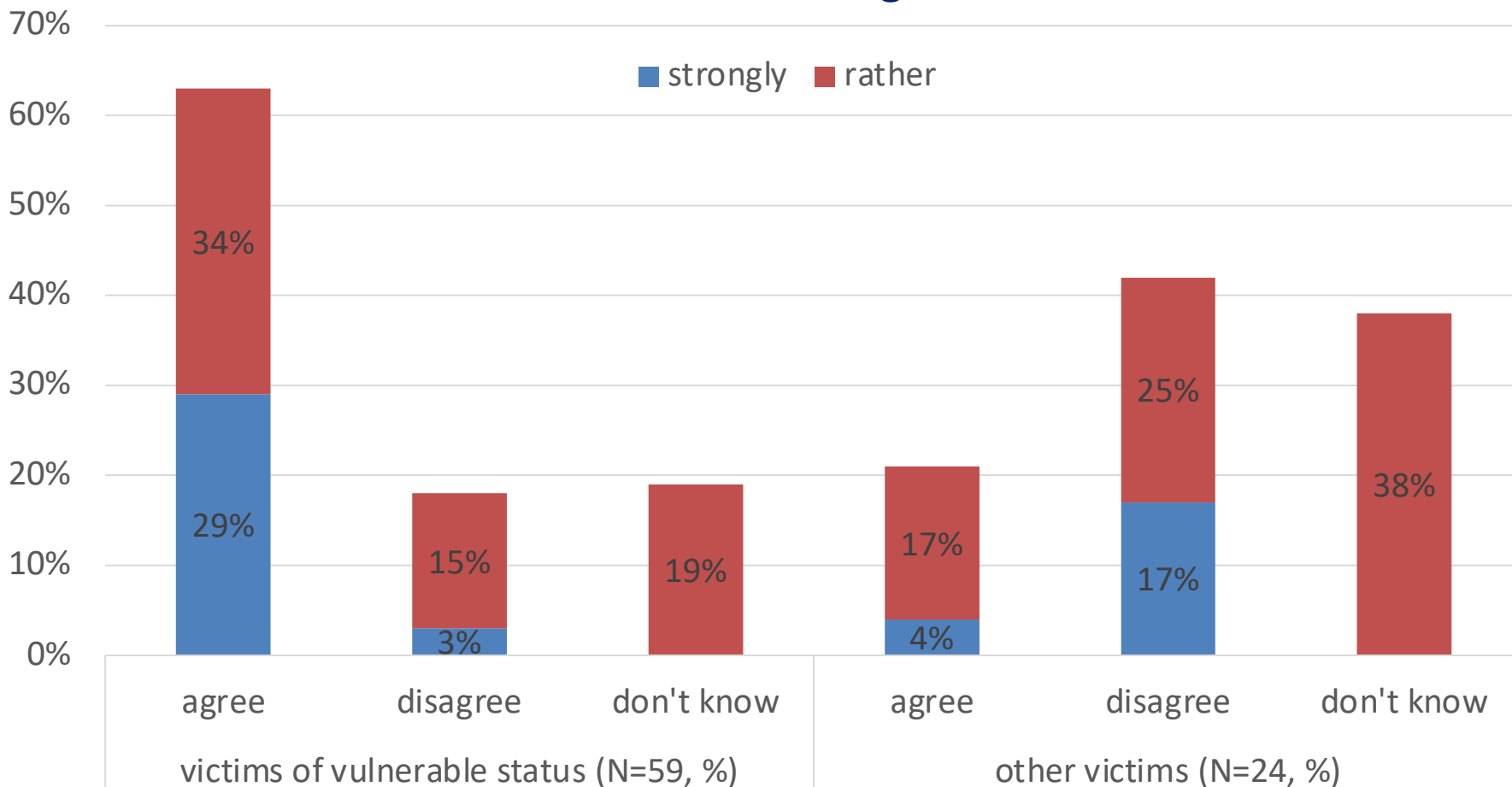
- 7 female victims of male sexual violence;
- ***35 female victims of male partner violence;***
- 15 male and 2 female victims of racist, xenophobic or homophobic violence; and
- 3 victims of abuse of power committed by law enforcement.

The remaining 24 victims – of assault, robbery, kidnapping, etc. – are referred to as ‘other victims.’

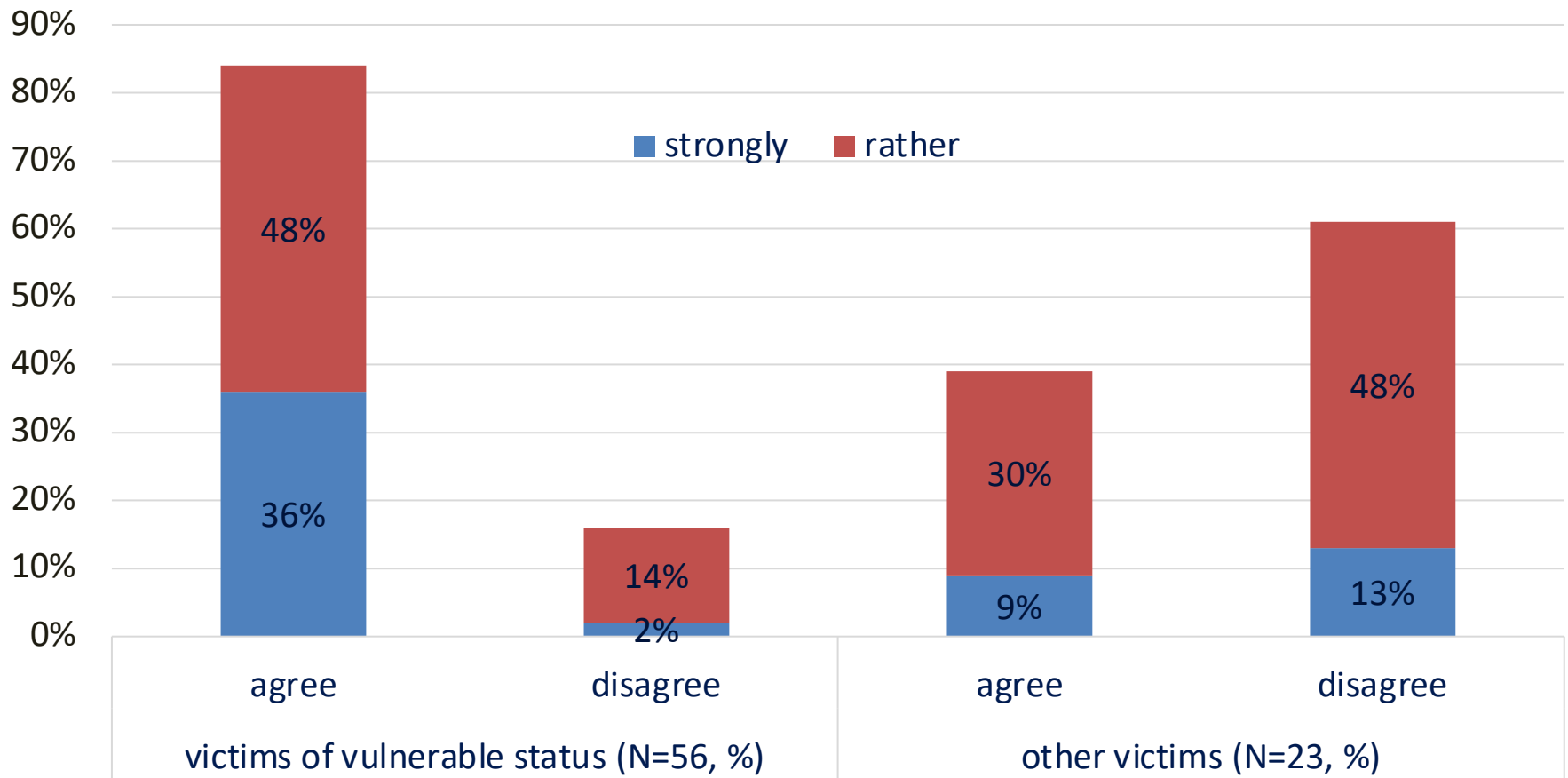
Compared to other victims, particularly vulnerable victims (including women as victims of partner violence) are more in need of protection and justice.

(Caveat: small sample sizes!)

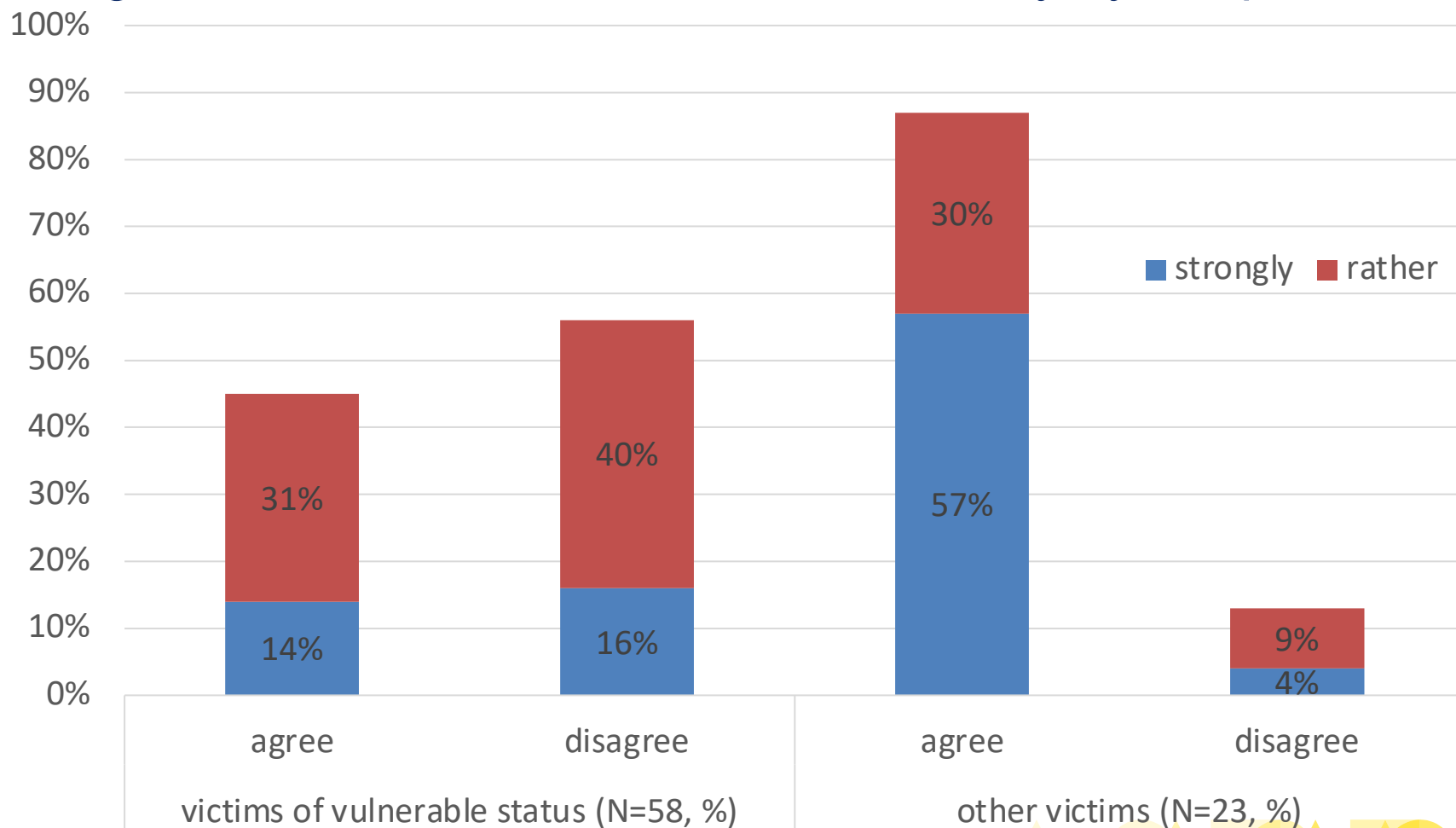
Victims agreeing/disagreeing with the statement that at times they experienced the offender's presence as intimidating



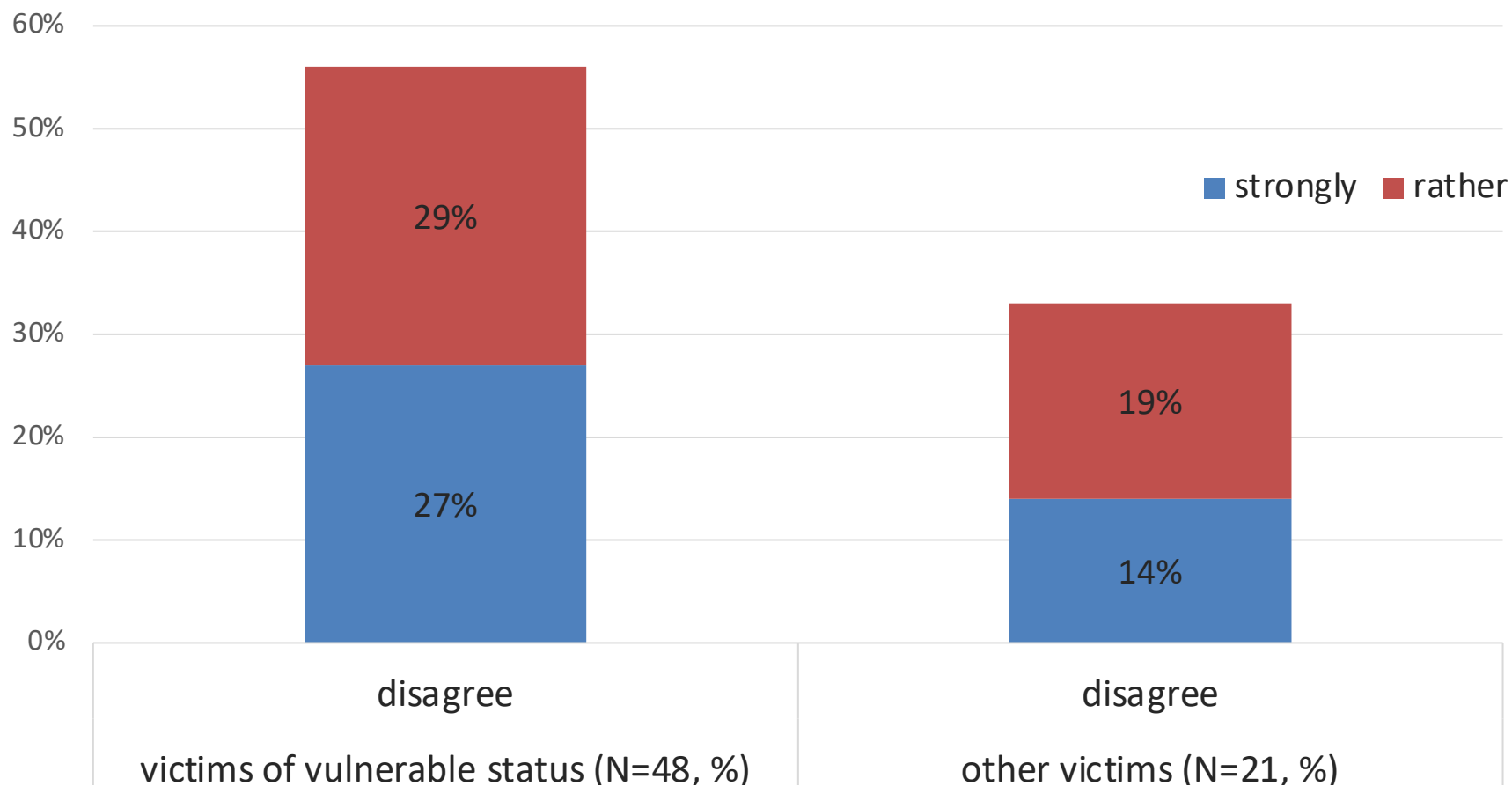
Victims agreeing/disagreeing with the statement that they would have liked to have more opportunities to participate in the proceedings



Victims agreeing/disagreeing with the statement that their rights and concerns were taken seriously by the police



Victims *disagreeing* with „Overall, the investigation and the following proceedings conveyed a strong message that justice is done“ (groups)



Conclusion

For particularly vulnerable victims more is at stake: For them, justice is not only about their rights but also about their status and recognition as a person and rights-holder (“dignity-” or “status-dimension” of crime victimisation).

3. What to do about male heterosexual partner violence?

What do we want to achieve?

- We want to make the rights of women as victims of partner violence effective.
- The victim has two rights:
 - Justice as reconstruction or rehabilitation: recognition of her rights violated by the offender and of her status as full member of the human family called into question by the offender.
 - Safety: Right to an autonomous life free from fear of her partner's violence; protection measures to the extent necessary.

**A comprehensive and holistic
approach is needed!**

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11. Close cooperation in implementing and continuously reviewing the common strategy

4. Why is interagency cooperation needed to tackle partner violence?

Interagency cooperation is necessary due to the number of actors/organisations involved, without which effective intervention would not be possible.

Cooperation, then. But how?

An intervention chain is more than the sum of single links of a chain. What is required:

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- Shared overall responsibility, joint evaluation of successes and failures



Thank you!

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