

Procedural Justice on Trial

A Critical Test of Perceived Procedural Justice From the
Perspective of Criminal Defendants

Lisa F. M. Ansems



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Chapter 1

General Introduction

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Putting Procedural Justice on Trial

This dissertation examines experiences and perceptions of defendants in criminal court hearings. One aspect of court hearings that defendants may focus on is how fairly they are being treated. For example, do they get sufficient opportunity to state their case? Are they being treated politely and with respect? And is their case dealt with in a careful way? In other words, defendants may be concerned with issues of perceived procedural justice (Lind & Tyler, 1988; Tyler & Lind, 1992). Perceptions of being treated fairly during decision-making procedures are associated with issues that are often considered important in the domain of law and society, such as outcome satisfaction, perceived legitimacy, and trust in legal authorities (e.g., Thibaut & Walker, 1975; Tyler, 2006; Tyler & Huo, 2002). These and other positive responses to perceived procedural justice have been referred to as the fair process effect (Folger, Rosenfield, Grove, & Corkran, 1979; Van den Bos, 2005, 2015).

One of the reasons criminal court hearings provide an interesting context for studying procedural justice perceptions and the fair process effect is that people involved in criminal cases risk fines, community service, and prison sentences, among other things. Some studies have found that, even in cases where the stakes are high, procedural justice matters to defendants (Casper, Tyler, & Fisher, 1988; Landis & Goodstein, 1986; Tyler, Casper, & Fisher, 1989). Others, however, have argued that in real-life contexts instead of laboratory settings, people are predominantly concerned with their outcomes rather than procedures or how they are being treated (Berrey, Hoffman, & Nielsen, 2012; Jenness & Calavita, 2018). Given the stakes involved in real-life courtroom contexts, studying procedural justice perceptions among defendants in criminal cases allows for a critical examination of the role of perceived procedural justice. This is my main aim in the current dissertation.

Specifically, I assess whether defendants in criminal cases care about procedural justice during their court hearings, what makes them feel treated fairly, and how they respond to experiences of fair and unfair treatment. In doing so, I adopt a critical approach. First, I use qualitative interviews to assess whether defendants refer to procedural justice issues themselves when asked about perceived fairness during their court hearings and, if so, which procedural justice components they put forward. Second, I use survey and experimental studies to examine whether the fair process effect is attenuated or even reversed when perceived procedural unfairness may have nice aspects, such that people react more favorably to procedures they perceive as *unfair* (Van den Bos, Bruins, Wilke, & Dronkert, 1999). Third, I assess how empirical insight into perceived procedural justice can be translated to the normative domain of law. I address these issues using a combination of qualitative and quantitative methods and by focusing on participants who tend to be underrepresented in the behavioral sciences literature. By critically examining the role of perceived procedural justice in these ways, the current dissertation puts procedural justice on trial.

Procedural Justice and the Fair Process Effect

The following sections discuss the concepts of procedural justice and the fair process effect in more detail. My aim here is not to provide an exhaustive overview of components of procedural justice, variables on which fair process effects have been found, and explanations for people's reactions to fair and unfair procedures. After all, there currently does not exist a list of agreed-upon procedural justice components that matter to all people in all contexts. Rather, the exact meaning of perceived procedural justice seems to vary depending on the situation (Grootelaar, 2018; Tyler, 1988). In addition, fair process effects have been found on many different variables, and various explanations may account for people's reactions to fair and unfair procedures (for reviews, see Brockner, Wiesenfeld, & Diekmann, 2009; Lind & Tyler, 1988; Tyler & Lind, 1992; Van den Bos, 2005). Thus, the following sections are intended merely to give the reader an impression of procedural justice components that often recur in the literature, the effects fair and unfair procedures can have on people's reactions, and potential explanations for these effects.

Perceiving Procedures as Fair

In this dissertation, I focus on people's *perceptions* of procedural fairness¹ in criminal court hearings. That is, rather than using doctrinal legal research methods to examine whether legal procedures meet standards laid down in legal statutes, case law, and unwritten legal principles, I empirically study the extent to which these procedures correspond with people's subjective ideas about fairness and justice. In line with, for example, studies on legal consciousness, I thus examine people's experiences and perceptions of law (Hertogh, 2018). While people's perceptions of procedural justice do not indicate whether procedures are fair from a purely legal point of view, these perceptions can have important implications for people's reactions. After all, "[i]f men define situations as real, they are real in their consequences" (Thomas & Thomas, 1928, p. 572).

As explained by Brockner and Wiesenfeld (1996), social scientists interested in issues of fairness and justice initially focused on distributive justice² (Homans, 1961). According to equity theory, for instance, people perceive outcomes as fair when the ratio of one's inputs and outputs matches the ratio of the inputs and outputs of others (Adams, 1965; Walster, Berscheid, & Walster, 1973). Other distributive justice rules that have been proposed include outcome distributions based on equality or need (Deutsch, 1985; Sampson, 1975). Later, researchers became interested in perceptions of procedural justice, shifting the focus from perceived outcome fairness to perceived fairness of the procedures that lead to these outcomes (Folger, 1977; Leventhal, 1980; Thibaut & Walker,

1 The terms "procedural justice" and "procedural fairness" are used as synonyms throughout this dissertation.

2 This dissertation uses the terms "distributive justice", "outcome justice", and "outcome fairness" interchangeably.

1975). A third wave of research then started examining perceptions of procedures and outcomes in a combined way, arguing that people's reactions to outcomes depend on how they perceive the procedures used, and vice versa. That is, people tend to respond more strongly to procedural justice when they perceive their outcomes as unfavorable, and tend to respond more strongly to outcome favorability when they perceive the procedures as unfair (Brockner & Wiesenfeld, 1996; Grootelaar, 2018).

The pioneering research on procedural justice by Thibaut and Walker (1975) could be viewed as still quite outcome-oriented. In their book, these authors examined people's perceptions of adversarial versus inquisitorial legal procedures, among other things. Specifically, they conducted a series of laboratory experiments involving undergraduates and law students who took part in simulated adjudication processes. In one of these experiments, participants in the adversarial condition chose their own lawyer to present their arguments, while for participants in the inquisitorial condition one lawyer presented the arguments of both parties to the dispute. The findings revealed that participants receiving the same outcome were more satisfied with the procedure and with the outcome, and rated the procedure and the outcome as fairer, in the adversarial condition as opposed to the inquisitorial condition. Thibaut and Walker explained these findings by pointing to the importance of control: When turning to a third party to resolve disputes, people want to retain some control over their outcomes or, when this is not possible, have indirect control over their outcomes by exerting control over the process. Thus, the view of mankind underlying Thibaut and Walker's explanation of procedural justice effects is that people are "fundamentally concerned with their own outcomes" (Lind & Tyler, 1988, p. 222; see also Tyler, 1989).

The idea of having some level of control over procedures and thus, indirectly, over outcomes can be recognized in other early procedural justice studies as well. For instance, Folger (1977) coined the term "voice" to refer to people's opportunities to express their opinions during decision-making procedures. He argued that whether or not people were allowed voice affected their feelings and actions regarding pay decisions. Leventhal's (1980) concept of "representativeness", too, coincides with notions of process control and outcome control. In addition, representativeness denotes the extent to which the concerns and values of subgroups affected by an authority's decision are represented in the decision-making procedure.

Over the years, researchers have advanced several additional components of procedural justice, sometimes referring to these as procedural justice rules (Cropanzano, Fortin, & Kirk, 2015; Leventhal, 1980), criteria (Tyler, 1988; Tyler & Lind, 1992), or antecedents (De Mesmaecker, 2014; Morgan, 2018). For instance, next to the notion of representativeness, Leventhal (1980) put forward consistency, bias suppression, accuracy of information, correctability, and ethicality as procedural justice components. Thus, he suggested that people are more likely to perceive procedures as fair if these procedures are applied consistently across persons and across time, if decision-makers are unbiased, if decisions are based on accurate information, if decisions can be appealed, and if procedures are in line with people's personal standards of morality. As pointed out by Lind and Tyler

(1988), Leventhal's procedural justice components were based mainly on his intuitions and speculations about what makes procedures fair, some of which have gained empirical support in later studies.

In addition to the perceived fairness of formal procedures, people's reactions are often affected by the perceived fairness of the way in which decision-making authorities interact with them (Blader & Tyler, 2003; Van den Bos, 2015). Focusing on the interactional aspects of procedures, Bies and Moag (1986) have emphasized the importance of truthfulness, respectful treatment, propriety of questions, and justification of decisions. Thus, these authors argued that people's fairness perceptions are enhanced if decision-makers are open and honest in their communications, treat people with respect and politeness, do not make improper comments, and adequately explain their decisions. In line with this, Tyler and Lind (1992) have pointed to the importance of standing: Authorities can communicate status recognition to people by treating them with respect, politeness, and dignity (see also Lind & Tyler, 1988; Tyler, 1989).

Trust in decision-making authorities' intentions to behave fairly has been proposed as a procedural justice component as well (Lind & Tyler, 1988; Tyler, 1989; Tyler & Lind, 1992), although others have argued that trust in authorities is a consequence rather than an antecedent of perceptions of procedural fairness (De Mesmaecker, 2014; Grootelaar, 2018; Morgan, 2018). Furthermore, people's procedural fairness perceptions have been assessed, for instance, by examining their perceptions of the decision-maker's competence or professionalism (Van den Bos, Van der Velden, & Lind, 2014) and the extent to which people's views and arguments are given due consideration (Lind & Tyler, 1988; Tyler & Lind, 1992; Van Lent et al., 2016). Taken together, procedural justice researchers have over time broadened their focus from issues of control to include a wide array of procedural justice components, ranging from formal aspects of procedures to issues of interpersonal treatment.

Reacting to Procedural Justice

As I mentioned earlier, perceptions of procedural justice are often associated with important other variables. Evidence for these fair process effects has been obtained in various contexts, including organizational settings (Brockner, 2010; Cropanzano & Ambrose, 2015; Kanfer, Sawyer, Earley, & Lind, 1987; Wiesenfeld, Brockner, & Thibault, 2000), the political arena (Rasinski, 1988; Tyler & Caine, 1981; Tyler & DeGoey, 1995) and the domain of law (Casper et al., 1988; Tyler, 1984, 1988, 1989, 2006; Tyler & Huo, 2002; Tyler et al., 1989). The current dissertation focuses on the legal context of criminal court hearings. I note here that perceived procedural justice and the fair process effect have also been examined in civil and administrative law contexts (Lind et al., 1990; Marseille, De Waard, & Laskewitz, 2015; Van den Bos et al., 2014; Van der Linden, 2010; Verkruijsen & Doornbos, 2014).

Within the field of criminal justice, procedural justice researchers have studied perceptions of victims (Laxminarayan & Pemberton, 2014; Van Camp, 2010; Wemmers, 1996), suspects

(Paternoster, Bachman, Brame, & Sherman, 1997), defendants (Casper et al., 1988; Tyler, 1984; Tyler, Rasinski, & Spodick, 1985; Tyler et al., 1989), and prisoners (Beijersbergen, 2014; Jackson, Tyler, Bradford, Taylor, & Shiner, 2010). In addition, researchers have examined perceptions of procedural fairness among a random sample of citizens who had recently been in contact with the police and courts (Tyler, 1988, 1989, 2006; Tyler & Huo, 2002). Procedural justice studies have obtained evidence for fair process effects on different variables that are often considered important in the domain of law and society (for reviews, see Lind & Tyler, 1988; Tyler & Lind, 1992).

For instance, several studies have found strong and positive associations between perceptions of procedural justice and people's outcome judgments (Casper et al., 1988; Thibaut & Walker, 1975; Twisk, Van Es, & Utermark, 2016). As mentioned before, participants in Thibaut and Walker's (1975) pioneering study were more satisfied with their outcomes and judged their outcomes as fairer in the adversarial condition, which provided higher process control than the inquisitorial condition. In a study by Casper et al. (1988) on perceptions of defendants in severe criminal cases, respondents were more satisfied with their case outcomes when they experienced higher levels of procedural justice. Similarly, Twisk et al. (2016) found a positive relationship between perceived procedural justice and outcome judgments in cases concerning minor offenses. These studies all controlled for actual case outcomes, which suggests that the positive association between perceived procedural justice and outcome judgments was not due to the actual outcomes of people's cases.

In line with these findings, other studies show that people who feel they have been treated with high procedural fairness report weaker intentions to protest against their outcomes, which in legal contexts may result in fewer appeals (Boekema, 2015; Lind, Kulik, Ambrose, & Park, 1993; Vermunt, Wit, Van den Bos, & Lind, 1996). For instance, Vermunt et al. (1996) conducted an experiment in which either a very inaccurate procedure or a slightly inaccurate procedure was used to determine participants' test scores. Their results showed that participants in the very inaccurate procedure condition reported higher protest intentions than participants in the slightly inaccurate procedure condition. Lind et al. (1993) focused on decisions by individuals and corporations in court-ordered arbitration cases to accept or reject arbitration awards and found that award acceptance was strongly related to litigants' perceptions of procedural justice, more so than subjective or objective measures of the award. In addition, Boekema's (2015) study on appeals in administrative law cases showed that, in addition to perceived outcome fairness, litigants' perceptions of procedural justice were associated with fewer appeals.

Perceived procedural fairness also tends to be associated with people's evaluations of decision-making authorities, for instance in terms of trust (Gau, 2010; Grootelaar & Van den Bos, 2018; Hough, Jackson, Bradford, Myhill, & Quinton, 2010; Hulst, Van den Bos, Akkermans, & Lind, 2017; Tyler, 2001). As noted by Grootelaar and Van den Bos (2018, p. 246), "[t]rust is often used as an umbrella term measuring different concepts". That is, some authors assess trust and confidence in legal authorities by asking participants merely about their approval or disapproval of the job courts are doing (Benesh & Howell,

2001) or by including items that seem to target procedural justice perceptions such as concern for people's needs, consideration of their views, and honesty or sincerity (Hulst, 2017; Tyler, 2001; Tyler & Huo, 2002). Instead, Grootelaar and Van den Bos (2018) assess trust in authorities more directly by using only terms like "trust" and "confidence" in their items.

What many studies on perceived procedural justice and trust in legal authorities have in common, despite these different operationalizations, is that they find strong relationships between procedural justice perceptions on the one hand and trust on the other hand. For example, Tyler (2001) reports several studies on trust and confidence in the police and courts showing that people's evaluations of these legal authorities largely depend on perceptions of procedural fairness. Gau (2010) assessed trust in the police in a longitudinal study and found that perceived procedural justice during citizens' contact with the police significantly predicted how much they trusted the police to make their communities safer. In addition, Benesh and Howell's (2001) study on confidence in local and state courts among people with and without recent court experience revealed that perceived procedural justice was associated with confidence in courts, with perceptions of courteous treatment being particularly important for court users. Studies on Dutch courtroom contexts, too, suggest strong relationships between perceived procedural justice and trust in judges (Grootelaar, 2018; Hulst et al., 2017).

One of the reasons why trust in legal authorities is often considered important is that trust shapes institutional legitimacy (Hough et al., 2010; Tyler & Huo, 2002). Some studies treat these concepts as overlapping, as they examine perceived legitimacy by including items on trust in authorities (Sunshine & Tyler, 2003) or examine trust and confidence by measuring perceptions of legitimacy (Sprott & Greene, 2010). Others view these concepts as related yet distinct (Hamm, Trinkner, & Carr, 2017; Jackson & Gau, 2016). In addition to trust in authorities, the perceived obligation to obey and moral alignment of citizens' and authorities' values are often seen as constituents of perceived legitimacy (Beetham, 1991; Tyler, 2006; Tyler & Huo, 2002; Tyler & Jackson, 2014). These approaches to legitimacy all focus on the empirical study of subjective perceptions of legitimacy and as such can be contrasted with normative approaches to legitimacy, which focus on the extent to which authorities or systems meet agreed objective criteria (Hough et al., 2010; Noyon, 2017).

Various studies have found associations between perceived legitimacy and procedural justice perceptions, with people viewing authorities as more legitimate when they feel they have been treated with higher levels of procedural fairness (for reviews, see Tyler, 2006; Tyler & Huo, 2002; Tyler & Lind, 1992). For instance, Tyler and Lind (1992) conclude that across a range of different contexts perceived procedural justice is strongly related to whether an authority is viewed as legitimate, much more so than outcome-related variables. Importantly, Tyler and Huo (2002) show that people's perceptions of procedural fairness are not only related to the perceived legitimacy of individual police officers and judges encountered in personal interactions, but also generalize to overall views of the legitimacy of the police and courts. In line with this, Hulst et al. (2017) found

that defendants in criminal cases who experienced higher levels of procedural justice during their court hearings assigned greater levels of legitimate power to judges in their country. Perceptions of procedural fairness have also been found to shape views on the legitimacy of the US police (Tyler & Fagan, 2008), Congress (Tyler, 1994) and Supreme Court (Tyler & Rasinski, 1991).

These positive associations between perceived procedural justice on the one hand and trust and perceived legitimacy of authorities on the other hand are relevant not only in themselves, but also because trust and legitimacy tend to be positively related to compliance with the law (Hough et al., 2010; Tyler, 2006; Tyler & Huo, 2002; Tyler, Sherman, Strang, Barnes, & Woods, 2007). For instance, Tyler's (2006) research among people who had recent experience with legal authorities revealed that procedural fairness perceptions were associated with higher levels of perceived legitimacy, which in turn were associated with higher levels of self-reported compliance. Similarly, Murphy, Bradford, and Jackson (2016) found an indirect effect of perceived procedural justice on self-reported compliance among tax offenders. Some studies that used actual crime and conviction rates rather than self-report measures of compliance also found relationships between procedural justice perceptions and compliance with the law. For example, Paternoster et al. (1997) showed that procedurally fair treatment of suspects of domestic violence by police officers resulted in fewer spousal assault incidents, and Beijersbergen, Dirkzwager, and Nieuwbeerta (2016) found that perceptions of procedural justice during imprisonment had a small but significant effect on reconviction rates.

Others, however, question or give nuance to the strength of the evidence for relationships between perceived procedural justice, legitimacy, and compliance behavior (Hertogh, 2015; Hertogh, Schudde, & Winter, 2014; McCarthy & Brunton-Smith, 2018; Nagin & Telep, 2017, 2020). Indeed, Nagin and Telep (2017, 2020) argue that the causal relationships proposed by procedural justice models have not been clearly established (see also Pina-Sánchez & Brunton-Smith, 2020). Furthermore, McCarthy and Brunton-Smith (2018) found significant associations between prisoners' perceptions of staff legitimacy and their intentions to desist from crime, but the association between legitimacy and actual post-release reoffending was more limited. In addition, Hertogh and colleagues' (Hertogh, 2015; Hertogh, Schudde, & Winter, 2014) research among Dutch traffic offenders revealed that perceived procedural justice and legitimacy were related to self-reported compliance, but this research found an association between legitimacy and actual compliance on only one measure of legitimacy. Thus, these latter studies both provide some support for the fair process effect and add important nuances to the debate.

Why People Care About Fair Procedures

The positive effects perceived procedural fairness generally has on people's reactions raises the question what causes these effects. In other words: Why do people care about

fair procedures? Several explanations have emerged in the literature (for reviews, see Cropanzano, Byrne, Bobocel, & Rupp, 2001; Van den Bos, 2005).

For instance, instrumental models suggest that people care about being treated fairly because fair procedures offer the best chance of receiving fair and favorable outcomes in the long run, even when current outcomes are not as hoped. Thibaut and Walker's (1978) theory of procedural justice can be viewed as instrumental, because these authors propose that fair procedures will promote distributive justice. In addition, procedural fairness may provide instrumental benefits and thus serve people's economic self-interest (Cropanzano et al., 2001; Wiesenfeld, Swann, Brockner, & Bartel, 2007). After all, procedures involving authorities who are neutral and take people's needs into account offer a greater chance of receiving favorable outcomes than do procedures employed by biased authorities who do not consider people's needs. Taken together, instrumental models view procedural fairness as a means to an end, with outcomes being people's main concern.

Other studies suggest that there is more to the fair process effect than people's desire for fair and favorable outcomes, however. For instance, relational models of procedural justice (Lind & Tyler, 1988; Tyler & Blader, 2000; Tyler & Lind, 1992) explain people's positive reactions to procedural fairness by pointing to the relational message conveyed by fair treatment (Blader & Tyler, 2015). Thus, according to the group value model (Lind & Tyler, 1988), procedures symbolize group values and as such tell people subjected to these procedures how they are viewed by the group. Being treated fairly communicates to people that they are valued members of society, which may have positive implications for their feelings of self-worth (see also Koper, Van Knippenberg, Bouhuijs, Vermunt, & Wilke, 1993). Related to this, the relational model of authority proposes that one of the reasons people care about their relations with authorities is that "authorities are generally viewed as speaking for the group" (Tyler & Lind, 1992, p. 164). The group engagement model extends these insights into an explanation of why procedural justice shapes cooperation in groups, suggesting that procedures shape people's social identities, which in turn shape their attitudes and behaviors (Tyler & Blader, 2000, 2003).

In addition, information about procedural fairness can serve an uncertainty-reducing purpose (Van den Bos, 2005). That is, people often depend on decision-making authorities for important outcomes, which leaves open the possibility of exploitation. To assess whether they can trust the authority in the case at hand, they may look to the way the authority treats them. Thus, perceived procedural justice may serve as a heuristic device that helps people determine whether a decision-making authority can be trusted (Lind et al., 1993; Van den Bos & Lind, 2002). Similarly, when people have difficulty judging whether their outcomes are fair – for instance, because they do not know the outcomes of others – they may rely on information that is available, particularly information about procedural justice (Van den Bos, Lind, Vermunt, & Wilke, 1997). Procedural information thus helps people in their sense-making activities in various settings (Brockner & Wiesenfeld, 1996; Van den Bos, 2015), including courtroom contexts (Hulst, 2017).

People may also value perceived procedural justice because treating people fairly is the right thing to do in itself. In other words, perceptions of procedural fairness may meet people's standards of morality (e.g., Cropanzano, Goldman, & Folger, 2003). This is in line with the argument by Lerner (1980) who believes concerns about justice are intrinsic, such that deservingness and justice independently motivate behavior (see also Tyler & Lind, 1992). Taking an integrative approach, Cropanzano et al. (2001) have combined the "moral virtues" explanation of the fair process effect with instrumental and relational models into a multiple needs model of justice.

Why Unfair Procedures Can Have Nice Aspects

It follows from the preceding sections that people often respond favorably to perceived procedural justice, and that multiple explanations may account for these reactions. Sometimes, however, people may respond more favorably to procedures they perceive as *unfair*. This counterintuitive argument builds on the finding that unfair procedures can have nice aspects, at least under some circumstances (Van den Bos et al., 1999). As a result, people's favorable reactions to perceived procedural justice may be attenuated, sometimes to the extent that the associations between procedural justice perceptions and other variables are no longer statistically significant, or these reactions may even be reversed, such that people respond more favorably to procedures they perceive as unfair than to procedures they perceive as fair (Brockner et al., 2009). Different explanations have been put forward for these attenuated or reversed fair process effects (for reviews, see Brockner et al., 2009; Desai, Sondak, & Diekmann, 2011).

For instance, an early explanation of people's adverse reactions to procedural fairness was proposed by Folger and colleagues (Folger, 1977; Folger et al., 1979). That is, when people feel they are being treated with high levels of procedural fairness during decision-making procedures, receiving a negative outcome may be particularly disappointing, which may result in greater discontent after fair as opposed to unfair procedures. This frustration effect (Folger et al., 1979) can be contrasted with the argument that perceived procedural justice functions as a cushion of support (Lind & Tyler, 1988) that ameliorates negative responses to unfavorable outcomes. Indeed, several studies suggest that people's positive responses to perceived procedural justice are even more pronounced when outcomes are perceived as unfavorable rather than favorable (Brockner & Wiesenfeld, 1996; Grootelaar, 2018).

In addition, Desai et al. (2011) point out that perceived procedural unfairness may be preferred over perceived procedural fairness by people who are more risk-seeking. Fair procedures make the future more predictable: When decisions are made haphazardly rather than on the basis of accurate information, for example, it will be more difficult to predict future outcomes (Brockner et al., 2009). While risk-averse people may be pleased with the uncertainty-reducing properties of fair procedures, risk-seeking people may not. In support of this line of reasoning, Desai et al. showed that risk-seeking people

who found themselves in uncertain contexts reacted less positively, and sometimes negatively, to perceived procedural fairness.

Another reason people may show a reduced preference for procedural justice relates to their need for self-verification. According to self-verification theory, people are motivated to maintain a coherent image of themselves, which helps to make sense of the world (Swann, 1983). Hence, they may respond more favorably to information that is consistent with their self-views than to information that is not. As I mentioned earlier, being treated fairly can enhance people's self-esteem, because fair treatment communicates to them that they are seen as valued members of the community (Koper et al., 1993; Lind & Tyler, 1988). For people with low self-esteem, perceived procedural justice may thus disconfirm their self-views, resulting in a reduced preference for procedural fairness (Brockner et al., 2009). Indeed, Wiesenfeld et al. (2007) found that people with high self-esteem showed higher organizational commitment when procedures were fair as opposed to unfair, whereas this effect was not statistically significant among people with low self-esteem.

People's need for self-enhancement, too, may produce attenuated or reversed fair process effects. That is, people generally want to feel good about themselves and protect their self-esteem (Leary & Terry, 2013; Sedikides, Gaertner, & Toguchi, 2003). When people perceive procedures as fair, they tend to view themselves as more personally responsible for their outcomes (Leung, Su, & Morris, 2001). Hence, when outcomes are negative, internal attributions triggered by perceived procedural fairness can threaten people's self-esteem (Weiner, 1985). In contrast, procedures that are perceived as *unfair* offer opportunities to attribute negative outcomes to external causes and keep one's self-esteem intact (Cohen, 1982). As a result, the fair process effect may be attenuated or reversed – especially when people feel strongly evaluated (Van den Bos et al., 1999), when unfavorable outcomes are psychologically more important (Brockner, De Cremer, Fishman, & Spiegel, 2008; Brockner et al., 2009), or when attributions of personal responsibility are salient (Holmvall & Bobocel, 2008).

The Current Research

The research discussed so far shows that perceived procedural justice can have positive effects on people's attitudes and behaviors, both in legal contexts and beyond (Lind & Tyler, 1988; Tyler & Lind, 1992). In addition, these fair process effects may sometimes be attenuated or even reversed because perceived procedural *unfairness* can have nice aspects – for instance, when people want to attribute negative outcomes to external causes (Brockner et al., 2009; Van den Bos et al., 1999). The current dissertation builds on these insights and subjects perceived procedural justice to a critical test by focusing not only on replications of the fair process effect but also, among other things, on its potential attenuation or reversal.

Subjecting perceived procedural justice to a critical test is important for various reasons, I think. For instance, from a Popperian perspective on science (Popper, 1959, 1963), studies finding fair process effects in contexts where these effects are less likely to emerge provide stronger evidence for the importance of perceived procedural justice than studies focusing on contexts in which one is more likely to obtain fair process effects. In addition, our understanding of psychological phenomena (such as the fair process effect) may be deepened by examining not only when they operate as intuitively anticipated, but also when they do not (see also Bobocel & Gosse, 2015).

Another reason it may be important to critically test the role of perceived procedural justice is that, in the Netherlands, legal scholars and practitioners seem to have embraced the notion of procedural fairness. That is, procedural justice and the fair process effect have been the focus of several Dutch research studies (e.g., Grootelaar, 2018; Hulst, 2017; Jacobs & Van Kampen, 2014; Twisk et al., 2016; Van den Bos et al., 2014; Van Lent et al., 2016; Van der Linden, Klijn, & Van Tulder, 2009; Verburg, 2019; Verkruijsen & Doornbos, 2014), are part of the educational program of universities as well as the Dutch judiciary and Public Prosecution Service, and are often met with enthusiasm by legal practitioners. In this light, it seems relevant to assess whether the positive effects of perceived procedural justice that are welcomed by so many may sometimes be attenuated or even reversed.

In addition to enthusiasm, procedural justice research has been met with criticism (see also Grootelaar, 2018). One of the reasons procedural justice studies have been criticized is their frequent use of laboratory experiments rather than a focus on real-life contexts, which raises the question whether people care about procedural justice when there are actual stakes involved. In these cases, people may care more about outcomes than about procedures, or they may not even distinguish between the two (Berrey et al., 2012; Jenness & Calavita, 2018). Thus, the relative importance of procedural justice versus outcome fairness may be questioned (Van Velthoven, 2011). In addition, some argue that procedural justice findings obtained in one context are too easily generalized to other settings, and that these findings alone provide an insufficient base for policy recommendations (Hayden & Anderson, 1979; Van Velthoven, 2012).

The current dissertation incorporates both perspectives on procedural justice research by studying perceived procedural fairness in a way that is both constructive and critical. For instance, two of the three empirical studies reported here focus on real-life court hearings with actual stakes. I examined procedural justice perceptions among defendants who appeared before a single judge. Defendants in these cases risk various conditional or unconditional sentences, including fines, community service, and imprisonment. One might assume, therefore, that they are mainly concerned with the outcomes of their cases rather than the way they are being treated in the context of these procedures. Thus, I argue that the criminal courtroom provides a suitable setting for subjecting procedural justice to a critical examination.

Furthermore, my empirical studies involved research participants who tend to be underrepresented in the behavioral sciences. That is, I focused on defendants in criminal cases (Chapters 2 and 3) and people with a non-western ethnic-cultural background³ (Chapters 3 and 4). Many studies in the behavioral sciences use samples that are Western, Educated, Industrialized, Rich, and Democratic (WEIRD), yielding findings that do not necessarily generalize to other contexts and other people (Henrich, Heine, & Norenzayan, 2010a, 2010b). Participants in my empirical studies, in contrast, often had a relatively low level of education and often did not belong to the dominant majority group in Dutch society. Thus, I examine whether findings regarding the importance of procedural fairness can be replicated among samples that differ from those frequently used in the behavioral sciences literature.

In addition, I included outcome judgments as a variable in my empirical studies by examining perceptions of both outcome favorability and outcome fairness. It is intuitive to assume that people involved in criminal court hearings care about the outcomes of their cases. Indeed, focusing merely on procedural fairness without examining outcome judgments would likely paint a flawed picture of how people experience their court hearings (Stitka, Winkust, & Hutchinson, 2003). Rather than examining whether people care more about procedural fairness than about their outcomes or vice versa (Berrey et al., 2012; Jenness & Calavita, 2018; Tyler & Lind, 1992; Van Velthoven, 2011), the current dissertation aims to assess whether (next to people's outcomes) procedural justice is a relevant concern for them. Hence, outcome judgments were a topic of the qualitative interviews presented in Chapter 2, and a potentially moderating variable in the survey and experimental studies reported in Chapters 3 and 4.

My survey and experimental studies also include perceived everyday discrimination (Chapter 3) and external attribution ratings (Chapter 4) as potentially moderating variables. The main aim of these studies was to examine whether the positive relationship between procedural justice and important other variables, such as trust in judges and intentions to protest against case outcomes, may be attenuated or even reversed when unfair procedures may have nice aspects (Brockner et al., 2009; Van den Bos et al., 1999). As mentioned earlier, I thus focused not only on replications of the fair process effect, but also on its potential attenuation or reversal. This is another way in which the current dissertation subjects procedural justice to a critical test.

I also note that I study procedural justice and the fair process effect with various types of research methods. As pointed out by Casper et al. (1988), some authors have wondered whether the importance of perceived procedural fairness may be an artifact of the methods employed in procedural justice studies. Using different kinds of research methods reduces the likelihood of this being the case and allows for triangulation

3 In this dissertation, the term “non-western ethnic-cultural background” refers to being born in a non-western country, which according to Statistics Netherlands (2018) refers to countries in Africa, Latin-America, and Asia (excluding Indonesia and Japan), or Turkey. I also use the term to refer to persons whose parents or other ancestors were born in a non-western country.

(Maxwell, 2013). Hence, acknowledging both the strengths and the weaknesses accompanying individual research methods, the current dissertation adopts a mixed-methods approach (Bryman, 2016). For instance, I combine qualitative interviews and a survey study among defendants involved in actual criminal cases with an experimental study that provides causal control to yield findings with reasonable levels of both internal and external validity (Bijleveld, 2013). Thus, with this dissertation I aim to provide an account of procedural justice that is as accurate as possible and that does not depend on the use of a specific research method.

Finally, this dissertation reports the findings of empirical, social-scientific research conducted in the context of criminal court hearings. As such, the studies presented here can be characterized as empirical legal research, in line with other “law and” approaches (Hulst, 2017). In the Dutch academic setting, much attention is given to empirical legal research and other interdisciplinary approaches to law (Grootelaar, 2017; Mak, 2017; Marseille, Smit, Akkermans, Bijleveld, & Malsch, 2020; Van den Bos, 2020). In this dissertation, I note that conducting such research comes with epistemological challenges. That is, empirical findings can have important practical implications, but one needs to recognize that empirical findings with regard to the way things *are* do not in themselves warrant normative conclusions about how things *ought* to be (Hume, Green, Grose, Smith, & Kemp, 1995). Similarly, empirical findings about components and effects of perceived procedural justice do not in themselves mean that, for instance, judges should try to enhance defendants’ perceptions of procedural fairness during their court hearings. Thus, this dissertation ends with a critical reflection on the question how my empirical findings regarding perceived procedural justice can be translated to the normative domain of law.

Study Overview

Now that I have explained the aim of this dissertation and how my empirical studies contribute to that aim, I will give an overview of the chapters that form the core of the dissertation by describing these empirical studies in more detail.

Procedural Justice in the Eyes of Defendants

As explained earlier, the procedural justice literature suggests that perceptions of procedural fairness can shape people’s reactions to a large extent. One might wonder, however, whether defendants involved in criminal cases refer to issues of procedural justice themselves when asked about perceived fairness during their court hearings. In addition, one might wonder which procedural justice components – if any – these defendants would mention. Speaking with defendants after their court hearings and asking them about their experiences could provide answers to these questions. Thus, in the study reported in Chapter 2 of this dissertation, I conducted qualitative interviews with 100 defendants in Dutch single judge criminal cases directly after their court hearings. With these interviews, I aimed to find out whether perceived procedural

justice is a relevant concern for defendants (in addition to the outcomes they receive) and what procedural justice exactly entails from their point of view.

Studying perceived procedural fairness with qualitative interviews provides an epistemological point of departure from the quantitative studies that dominate the field of procedural justice research. For instance, many studies have assessed the importance of procedural justice perceptions by examining whether these perceptions are significantly associated with relevant other variables (e.g., Casper et al., 1988; Grootelaar, 2018; Tyler, 1984). In my qualitative interviews, I took a different approach: I asked people whether they felt treated justly during their court hearings and then examined whether they referred to issues of procedural justice themselves. Because I interviewed defendants involved in real-life criminal cases, I was able to critically assess the importance of perceived procedural fairness in a context where people were likely to care about the outcomes they received. Hence, my qualitative interview study contributes to the ongoing debate over whether perceived procedural justice matters in cases involving real stakes (Berrey et al., 2012; Casper et al., 1988; Jenness & Calavita, 2018).

This study also assessed which procedural justice components (if any) respondents referred to when they talked about perceived fairness during their court hearings. Other procedural justice studies have sometimes examined what makes people feel treated fairly by looking at the individual contributions of procedural justice components to perceptions of fairness (Blader & Tyler, 2003; Tyler, 1988) or by asking people to prioritize components of procedural justice (Grootelaar, 2018). In addition, some authors have used qualitative interviews to assess what procedural justice entails according to the people involved. Nevertheless, these studies often include prompts on predetermined procedural justice components derived from the literature (De Mesmaecker, 2014; Morgan, 2018; Swaner, Ramdath, Martinez, Hahn, & Walker, 2018). Rather than inquiring about predetermined procedural justice components, in this study I assessed which components of procedural justice people referred to themselves.

To examine these issues, I conducted semi-structured interviews with 100 defendants in criminal cases who appeared before a single judge at the district court of the Mid-Netherlands in Utrecht. I wanted to interview respondents directly after their court hearings to capture their immediate reactions. Thus, I spent almost three months in the courtroom hallways, where I approached defendants to ask them if they would be willing to tell me about their experiences during their court hearings. If they agreed, I waited for these defendants to leave the room where the hearing took place and usually led them to a separate, closed room near the hallway to conduct the interview.

During these interviews, I inquired about a couple of topics, of which procedural justice was the most important one. Specifically, I asked respondents whether they thought they were treated justly during the court hearing. Depending on their answers, I then asked what made them feel treated in a just or unjust manner and what would have made them perceive things differently. I used follow-up questions about the procedural

justice components respondents mentioned to find out what these components exactly entailed in respondents' views and how respondents constructed their perceptions of these components. In this way, I aimed to really get a grip on their fairness perceptions. After literally transcribing the interviews, I conducted thematic analysis (Braun & Clarke, 2006), using the NVivo 11 Pro computer software package to code my data. Here, too, I adopted a bottom-up approach by deriving codes from the interview transcripts rather than using a predesigned coding scheme based on the procedural justice literature.

As reported in Chapter 2, I found that a majority of 76 respondents referred to issues of procedural justice themselves at some point during the interview. Twenty-four respondents initially did not refer to procedural justice issues themselves and, for instance, talked only about the outcomes of their cases. In such cases, I asked respondents how justly they felt they had been treated during the court hearing until the judge gave their judgment, or whether they could imagine something that would have made them feel treated *unjustly* during their court hearings. When asked these follow-up questions, an additional 21 respondents mentioned issues of procedural justice, leaving only three respondents who did not mention procedural justice issues at all during their interviews. This suggests, I think, that for many defendants perceived procedural justice is a relevant concern during their court hearings.

In addition to assessing the importance of perceived procedural justice in criminal cases, I wanted to find out what procedural justice exactly entails in the eyes of the people involved. By looking at how often procedural justice components were mentioned and how these components related to each other, I found six components to be at the core of respondents' procedural justice perceptions. These were (1) information on which decisions are based, (2) interpersonal treatment, (3) due consideration, (4) neutrality, (5) voice, and (6) accuracy. Although these procedural justice components largely correspond with the literature, respondents thus mentioned some components more often, and others less often, than the literature would suggest. For instance, respondents did not mention trust in decision-makers as a reason for feeling treated fairly, and consistency turned out to shape their fairness perceptions to a much smaller extent than suggested by the current literature. In contrast, perceived neutrality in particular appeared to play a central role in shaping respondents' perceptions of procedural justice. As I note in Chapter 2, this may be explained by the legal context of this study.

Taken together, my qualitative interview findings suggest that procedural fairness is a relevant concern for many defendants in criminal cases. These findings also provide a refined and bottom-up conceptualization of perceived procedural justice. This may be of interest for legal practitioners who aim to enhance perceptions of procedural fairness in the criminal courtroom. These findings may also be relevant for quantitative researchers who wonder which procedural justice components to use in their questionnaires and how to phrase items asking about these procedural justice components. Thus, quantitative studies can use these qualitative findings for their operationalizations of perceived procedural justice. In fact, this is exactly what I did in the survey study documented in Chapter 3.

Procedural Justice and Perceived Everyday Discrimination

Chapter 3 reports the findings of a survey study that I conducted among 198 defendants with a non-western background who were involved in Dutch single judge criminal cases. As explained above, my qualitative interview findings suggested that procedural justice is a relevant concern for many defendants. Qualitative interviews, however, are less suited for revealing associations between procedural justice perceptions and other variables, such as trust in judges. Quantitative studies, such as survey methods, are more apt in this regard. Thus, I went back to the courtroom hallways, where I spent almost another nine months to recruit defendants for participation in my research.

In addition to examining whether procedural justice perceptions are associated with other important variables, with this survey I wanted to subject perceived procedural justice to a critical test by involving moderating variables that might attenuate or even reverse these associations. Specifically, I assessed the potentially moderating role of perceived everyday discrimination and respondents' outcome judgments. Thus, I examined not only whether procedural justice perceptions are associated with other variables, such as respondents' trust in judges, but also whether these associations might be attenuated or even reversed depending on how much discrimination defendants experience in their daily lives and how positively or negatively they judge their case outcomes.

The line of reasoning underlying this study was that, in some circumstances, perceived procedural *unfairness* can have nice aspects (Van den Bos et al., 1999). As explained earlier, perceived procedural unfairness may sometimes be preferable in light of people's needs for self-verification and self-enhancement (Brockner et al., 2009). Self-verification theory suggests that people want to maintain coherent self-views (Swann, 1983). As a result, people may respond more favorably to events that confirm their self-image rather than distort it (Wiesenfeld et al., 2007). I argued that for defendants who experience a lot of discrimination in their daily lives, perceived procedural unfairness during their court hearings could be consistent with these other instances of unfair treatment. Hence, I suggested that for them, the associations between perceived procedural justice and other variables might be attenuated or even reversed.

In addition to this need for self-verification, people often want to feel good about themselves and protect their self-esteem (Leary & Terry, 2013; Sedikides et al., 2003). When people receive negative outcomes that they attribute to internal causes, this may harm their sense of self-worth (Weiner, 1985). Thus, they may look for opportunities to attribute negative outcomes to external causes (Cohen, 1982), especially when they feel strongly evaluated (Van den Bos et al., 1999). Because unfair procedures offer such external attribution opportunities, people may respond more favorably to procedures that they perceive as unfair (Brockner et al., 2003; Brockner et al., 2009; Van den Bos et al., 1999). I suggested that defendants who in their daily lives attribute negative events to discrimination (Crocker & Major, 1989; Major, 1994; Major, Quinton, & McCoy, 2002) might be particularly inclined to make external attributions for negative case outcomes during their court hearings. This is another reason I proposed that, for defendants with

relatively high levels of perceived everyday discrimination, the associations between perceived procedural justice and other variables might be attenuated or even reversed.

To examine these issues, I conducted a survey among 198 defendants with a non-western background who were involved in criminal court hearings before a single judge at the district court of the Mid-Netherlands. I focused on people with a non-western background because they may experience discrimination in their daily lives and may feel negatively evaluated by Dutch society (Huijnk & Andriessen, 2016), which could trigger an attenuation or reversal of the fair process effect (Van den Bos et al., 1999). The questionnaire inquired about perceived procedural justice, respondents' outcome judgments, intentions to protest against the judicial ruling, trust in Dutch judges, state self-esteem (that is, respondents' self-esteem at the moment they filled out the questionnaire), and perceived everyday discrimination.

Similar to my qualitative interview study, respondents participated in the research directly after their court hearings so that I could capture their immediate reactions. Usually, respondents were approached in the courtroom hallways while they were waiting for their court hearings to begin. Thus, a researcher came up to them, asking if they were about to have a hearing and whether they would be willing to fill out a questionnaire about their experiences afterwards. When respondents could not be recruited before the start of the court hearing – for instance, because they appeared at the court only very last minute or because they were consulting with their lawyers – they were approached upon leaving the room where the hearing was held.

The analyses revealed that perceptions of procedural justice were significantly associated with trust in judges, outcome judgments, protest intentions, and state self-esteem. That is, respondents who felt treated more fairly during their court hearings reported higher levels of trust in judges, judged their outcomes more positively, showed lower protest intentions, and displayed higher state self-esteem. In addition, the association between perceived procedural justice and trust in judges as well as the association between perceived procedural justice and protest intentions was significantly mediated by respondents' state self-esteem. Thus, respondents' procedural fairness perceptions were related to their levels of state self-esteem, which were in turn related to respondents' trust in judges and protest intentions. I did not find an attenuation or reversal of the associations between perceived procedural justice and the other variables depending on respondents' levels of perceived everyday discrimination or their outcome judgments.

As explained in Chapter 3, these findings have several implications. First, the associations between perceptions of procedural justice and other variables in this survey study provide support for the importance of perceived procedural justice among defendants involved in real-life criminal court hearings with actual outcomes at stake. Second, my findings help to explain why perceived procedural justice matters: In line with the group-value model of procedural justice (Lind & Tyler, 1988), the mediating role of state self-esteem suggests that one of the reasons defendants care about being treated fairly during their court hearings is that this communicates to them that they are valued

members of society. Third, the relationships between perceived procedural justice and other variables in this study were not attenuated or reversed depending on respondents' perceptions of everyday discrimination or their outcome judgments. The findings of this study thus suggest that, even when subjected to a critical test, perceived procedural justice matters to defendants during their court hearings.

Procedural Justice and External Attribution Ratings

In my final empirical study, presented in Chapter 4 of this dissertation, I wanted to examine the relationships between procedural justice and other variables with causal control. After all, survey studies can reveal associations between variables, but typically do not allow for claims about causality (Van den Bos, 2020). Experimental research, however, is very well-suited for establishing causal relationships (Bijleveld, 2013). Thus, I complemented my qualitative interviews and my survey research with a third study, which used an experimental design.

More specifically, I conducted an experiment among 239 citizens with a non-western background who imagined being the defendant in a single judge criminal case. Again, I aimed to subject procedural justice to a critical test by involving potentially moderating variables that might attenuate or even reverse the fair process effect, such that people react more favorably to procedures they perceive as *unfair*. Similar to my survey study, I focused on participants with a non-western background because they might feel negatively evaluated by Dutch society (Huijnk & Andriessen, 2016), which may cause the fair process effect to be attenuated or even reversed (Van den Bos et al., 1999).

Rather than using perceived everyday discrimination as a proxy for external attributions as I did in my survey study, the experimental study explicitly involved participants' external attribution ratings as a potentially moderating variable. Thus, I examined whether the fair process effect might be attenuated or even reversed among participants with relatively high external attribution ratings (that is, participants who strongly put the blame for their negative case outcomes on something other than themselves). I also assessed the potentially moderating role of participants' outcome judgments. Again, the underlying line of reasoning was that sometimes unfair procedures may have nice aspects, because they offer opportunities to attribute negative outcomes to external causes (Brockner et al., 2003; Van den Bos et al., 1999). Hence, I focused not only on replicating the fair process effect, but also on its potential attenuation or reversal (Brockner et al., 2009).

To test these ideas, I conducted an experiment among 239 citizens with a non-western background who were recruited at two shopping centers in Utrecht, the Netherlands. Thus, people passing through these shopping centers were approached by a research assistant, who explained that she was assisting with a study on what makes people feel treated fairly and justly, and asked whether they would be willing to fill out a short questionnaire. When people agreed, they were provided with additional information (for instance, regarding anonymity and confidentiality) and then participated in the study.

Participants read a scenario in which they were the defendant during a single judge criminal court hearing. Participants were randomly assigned to experimental conditions, such that half of them read about a court hearing that proceeded in a procedurally fair way and the other half read about a court hearing that proceeded in a procedurally unfair way. These scenarios focused on the core components of perceived procedural justice as revealed in my qualitative interview study. All participants in the experiment received a negative case outcome. After reading the scenario, participants indicated their levels of perceived procedural justice, outcome judgments, external attribution ratings, protest intentions, trust in judges, and the grade they gave their trust in judges.

The results showed that the procedure manipulation significantly affected participants' levels of trust in judges, the grade they gave their trust in judges, outcome judgments, and protest intentions. That is, participants in the fair procedure condition (as opposed to the unfair procedure condition) reported more trust in judges, gave their trust in judges a higher grade, judged their outcomes more positively, and were less inclined to protest against their outcomes. These main effects are important because they suggest that people, when faced with the same negative outcome, respond more favorably in case of fair procedures (see also Thibaut & Walker, 1975). These findings support results obtained in previous studies in legal contexts that found associations between procedural justice and other important variables (e.g., Casper et al., 1988; Grootelaar, 2018; Landis & Goodstein, 1986; Twisk et al., 2016).

In addition, I found a statistically significant interactive effect of procedural justice and external attribution ratings on trust in judges. That is, participants with relatively low external attribution ratings showed a fair process effect, such that they reported more trust in judges in the fair procedure condition as opposed to the unfair procedure condition. Among participants with relatively high external attribution ratings, however, the fair process effect was attenuated to such extent that it ceased to be statistically significant. Hence, participants with relatively high external attribution ratings reported similar levels of trust in judges in the fair procedure condition as they did in the unfair procedure condition.

These findings are in line with previous studies that found attenuated or reversed fair process effects (e.g., Brockner et al., 2008; Gilliland, 1994; Holmvall & Bobocel, 2008; Schroth & Shah, 2000; Van den Bos et al., 1999). My findings also add to these previous studies, because (1) I focused on participants who were generally non-WEIRD (Henrich et al., 2010a, 2010b), (2) I explicitly involved external attribution ratings as a potentially moderating variable, and (3) I examined the potential attenuation or reversal of the fair process effect in a novel, legally related context rather than organizational or performance-oriented settings. My findings thus suggest that in legal settings, too, attributional processes may moderate people's reactions to fair procedures.

This is interesting, I think, because it points to a potential boundary condition of the fair process effect. Overall, however, the results of this experimental study support the importance of procedural justice. Thus, in line with the findings of my other two studies,

the findings of my experimental study suggest that procedural justice matters in legally related contexts. At the end of Chapter 4, I express my hope that this experimental insight on the fair process effect and some of its potential boundary conditions will help to better understand people's reactions in the criminal courtroom.

Two Final Notes

With this Introduction, I have aimed to provide a bird's-eye view of my research and how it relates to the current literature on perceived procedural justice. Before we proceed to the remainder of this dissertation, two final notes are in order.

First, my empirical chapters are based on individual papers that can be read independently. As a result, there is some overlap between Chapters 2 to 4, for instance when presenting definitions or explaining the line of reasoning underlying the potential attenuation or reversal of the fair process effect.

Second, like previous studies on procedural justice in Dutch courtrooms (e.g., Grootelaar, 2018; Hulst, 2017), I have tried to both provide sufficient detail in my empirical studies and present my research in an accessible way. Thus, although parts of this dissertation may be somewhat technical for some readers, I hope my findings speak to different audiences ranging from interested laypeople to legal researchers, legal practitioners, and social scientists. In this way, the current dissertation will hopefully contribute to the ongoing dialogues between people with different backgrounds who are interested in issues of fairness and justice.

Chapter 2

Speaking of Justice: A Qualitative Interview Study on Perceived Procedural Justice Among Defendants in Dutch Criminal Cases

This chapter is based on: Ansems, L. F. M., Van den Bos, K., & Mak, E. (2020). Speaking of justice: A qualitative interview study on perceived procedural justice among defendants in Dutch criminal cases. *Law and Society Review*, 54, 643-678.

Author contributions: Lisa Ansems designed the study, including the topic list and the study's procedures, co-organized approval by the court, organized and liaised about ongoing data collection within the court, collected the data, analyzed the data, interpreted results, presented and reported the results to the court, and wrote the manuscript. Kees van den Bos provided conceptualization and theoretical input and aided in designing the study and topic list, co-organized approval by the court, provided conceptualization and theory used to integrate findings, co-interpreted results, and edited the manuscript. Elaine Mak provided input for the design and set-up of the study and commented on several drafts of the manuscript, including editing of the manuscript.

Abstract

Qualitative interviews with one hundred defendants in Dutch criminal cases examine whether perceived procedural justice is a relevant concern for defendants, and, if so, which procedural justice components they refer to. The study provides a point of epistemological departure from the quantitative studies dominating the field, as it assessed which components of procedural justice (if any) respondents put forward themselves rather than asking about predetermined procedural justice components. The large majority of respondents mentioned procedural justice issues themselves, and six components were at the core of their procedural justice perceptions: (1) information on which decisions are based, (2) interpersonal treatment, (3) due consideration, (4) neutrality, (5) voice, and (6) accuracy. Although these procedural justice components largely correspond with the literature, respondents thus mentioned some components more often, and others less often, than the literature would suggest. In particular, neutrality plays an important role in the Dutch legal context examined here.

Introduction

More than any other field of law, criminal law is characterized by the aim to shape people's behaviors through sanctions. This deterrence perspective can be contrasted with a social psychological perspective on legitimacy, which focuses on people's willingness to comply with the law because they trust legal authorities and perceive these authorities as legitimate (Tyler, 2006). Given the costs of maintaining social order merely through deterrence it has been argued that, to operate efficiently and effectively, state actors need citizens to trust them and perceive them as legitimate (Tyler, 1984, 2006; Tyler & Lind, 1992). Citizens' trust in the law, therefore, is a core issue in democratic states.

One way in which people come to trust the law and its authorities is by perceiving that these authorities treat them fairly. This experience of being treated in a fair way is referred to as perceived procedural justice (Lind & Tyler, 1988; Tyler & Lind, 1992). During the past four decades, many studies have demonstrated that perceived procedural justice is associated with important attitudes and behaviors, such as outcome satisfaction and acceptance, cooperation with authorities, trust and perceived legitimacy, and compliance with the law (e.g., Grootelaar, 2018; Hulst, 2017; Thibaut & Walker, 1975; Tyler, 2006; Tyler & Huo, 2002; Van den Bos, Van der Velden, & Lind, 2014). Taken together, these positive effects of perceived procedural justice are referred to as the fair process effect (Folger, Rosenfield, Grove, & Corkran, 1979; Van den Bos, 2015). Perceived procedural justice can thus help explain and understand people's attitudes and behaviors in legal contexts.

The importance people attach to fair and just procedures is especially striking given the extent to which self-interest and outcome-oriented models have dominated explanations of human behavior (Lind & Tyler, 1988; Miller, 1990). Indeed, outcomes are important to people, in terms of both outcome favorability and outcome fairness (e.g., Adams, 1965; Blau, 1964; Crosby, 1976; Walster, Berscheid, & Walster, 1973). Related to this, many procedural justice studies use experimental methods, such as the courtroom simulations used by Thibaut and Walker (1975) in their pioneering research. To assess whether procedural justice findings hold up in less artificial settings, it is important to study perceived procedural justice in real-life contexts, such as actual court hearings.

Some researchers indeed found evidence for the importance of perceived procedural justice in the real-life courtroom context of high stakes criminal cases (Casper, Tyler, & Fisher, 1988; Landis & Goodstein, 1986). They argue that the frequently demonstrated importance of perceived procedural justice is therefore probably not merely a result of using laboratory simulations. Others, however, suggested that in such real-life situations people care more about outcomes than about procedures or do not even distinguish between perceptions of procedural and outcome fairness (Berrey, Hoffman, & Nielsen, 2012; Jenness & Calavita, 2018).

This raises the question whether people, in important real-life contexts such as criminal court hearings, refer to issues of procedural justice when asked about perceived fairness

in these hearings. Is perceived procedural justice a relevant concern to defendants involved in such cases? This is the first main issue the current chapter addresses.

Another question worth examining is what procedural justice means from the viewpoint of people involved in legal procedures. Most procedural justice studies focus on the effects of perceived procedural justice, and when or why these effects occur, rather than examining what makes people perceive procedures as fair. Given the extent to which perceptions of procedural justice can explain people's attitudes and behaviors, it seems relevant to explore how people construct these perceptions.

Within the organizational justice domain, some researchers have examined what makes people view procedures as fair (e.g., Fortin, Nadisic, & Cuguero, 2010; Greenberg, 1986; Hollensbe, Khazanchi, & Masterson, 2008; Roth, 2006). In this regard, Bies and Moag (1986) emphasized the importance of interactional justice, which consists of truthfulness, justification, respect, and propriety of questions. Colquitt (2001) developed a measure of organizational justice subdivided into informational justice (truthfulness and justification), interpersonal justice (respect and propriety of questions), procedural justice (including voice, control, consistency, and ethicality), and distributive justice (see also Cropanzano & Ambrose, 2015).

The domain of organizational justice, however, differs in important ways from the legal domain which forms the context of the current chapter. For instance, legal cases often concern conflicts between two parties, such as two civil parties or an individual and the government. Organizational procedures often revolve around different issues, such as whether one gets hired or promoted or on which projects one gets to work. The type of authority (judge or employer) is another important difference between legal and organizational contexts.

Some studies have examined how people construct fairness perceptions in legal procedures (e.g., Grootelaar, 2018; Tyler, 1988). For instance, Grootelaar (2018) presented litigants with several procedural justice components and asked them to indicate which component they considered the most important during their court hearings. Tyler (1988) asked citizens to rate their experiences with the police and courts during the previous year in terms of several procedural justice components and then examined these components' independent contributions to citizens' perceptions of being treated fairly.

We argue that, in addition to such approaches, studies that inquire about perceived fairness in a more open way can yield important insights into what exactly makes people perceive procedures as fair. An example of a more open approach to studying fairness perceptions is the study by Finkel (2001), who asked participants to write down instances of unfairness which he analyzed to develop a typology of commonsense unfairness. Finkel, however, examined fairness perceptions among a more general audience without focusing on procedural justice in legal cases.

Within the legal context, some researchers have used qualitative interviews to explore in a more open way how people construct fairness perceptions. Such studies are relatively scarce, although their importance has been mentioned several times (e.g., Holtfreter, 2016; Tyler, 2014). Exceptions include the studies by De Mesmaecker (2014), Haller and Machura (1995), Jenness and Calavita (2018), Morgan (2018), and Swaner, Ramdath, Martinez, Hahn, and Walker (2018). Rather than starting with questions about predetermined procedural justice components, these researchers often allowed respondents to identify procedural justice components on their own first and then asked questions about predetermined components of procedural justice. For instance, De Mesmaecker began her interviews by asking respondents what they would start with when asked about their experiences, and at the end of each interview invited respondents to reflect out loud on questionnaire items about predetermined procedural justice components. Morgan, too, asked respondents what they would start with when asked about their experiences and asked general questions on each topic before prompting respondents on the remaining components of procedural justice.

Importantly, these studies often included such prompts on predetermined procedural justice components derived from the literature. Furthermore, these studies do not always ask respondents explicitly about perceived justice, inviting respondents to describe their perceptions and experiences in more general terms instead. While recognizing these studies' important contributions to procedural justice research, we argue that a qualitative interview study that starts with a clear question on perceived procedural justice, without inquiring about predetermined procedural justice components, has added value. Such an approach that does not impose preconceived conceptions on respondents (Silbey, 2005) is well suited to assess which components of procedural justice (if any) defendants in criminal cases come up with themselves. This is the second key issue the current chapter addresses.

The Current Research

To examine whether defendants in criminal cases refer to issues of procedural justice, and, if so, which procedural justice components they mention, we conducted qualitative interviews with 100 defendants in Dutch single judge criminal cases (*politierechterzaken*) directly after defendants' court hearings. Interviewing respondents directly after their court hearings enabled us to capture their immediate reactions. Rather than asking respondents about predetermined procedural justice components derived from the literature, we assessed which components of procedural justice (if any) they put forward themselves. We asked follow-up questions to find out what these procedural justice components entailed exactly in respondents' views and how respondents constructed their perceptions of these components.

Studying perceived procedural justice in this way is important for several reasons. For instance, this approach leaves open the possibility that procedural justice components mentioned frequently in the literature turn out to be less relevant to defendants (see also Finkel, 2001). Instead, respondents might be more concerned with other aspects of

fair treatment that have not been identified in the literature (Cropanzano, Fortin, & Kirk, 2015; Sheppard & Lewicki, 1987; Silbey, 2005).

Findings of previous qualitative studies support this line of reasoning. These studies tend to show that many procedural justice components used in quantitative research – such as neutrality, voice, and respect – correspond with procedural justice components mentioned by respondents (De Mesmaecker, 2014; Morgan, 2018; Swaner et al., 2018). Yet these studies also demonstrate the added value of adopting a more open approach to examining fairness perceptions. For instance, De Mesmaecker (2014) found that perceived procedural justice was an antecedent of trust rather than the other way around, although trust is often considered a procedural justice component (e.g., Lind & Tyler, 1988; Tyler, 1989). Conversely, case processing speed, the opposing party's behavior, and trial practices such as rising for the judge have been identified as new components of perceived procedural justice (De Mesmaecker, 2014; Morgan, 2018).

These findings illustrate how more open approaches enable researchers to identify new components of perceived procedural justice and to nuance the importance of previously identified components. Because we refrained from asking respondents about predetermined components of procedural justice, we argue that our interviews are well suited to assess whether components mentioned frequently in the literature are similarly relevant according to defendants.

In addition, by examining in how many different interviews each procedural justice component was put forward, our study yields insights into the importance of each component relative to the other components of procedural justice. Furthermore, by asking follow-up questions about the procedural justice components respondents mentioned, we gained a more concrete understanding of what these components entail exactly in the eyes of people involved in legal procedures (De Mesmaecker, 2014; Rupp, Shapiro, Folger, Skarlicki, & Shao, 2017). Taken together, our study provides a bottom-up and in-depth conceptualization of perceived procedural justice from the viewpoint of defendants in important criminal cases.

Research Context

Another reason why this chapter develops our thinking about procedural justice lies in the setting in which the study took place. Contrary to experimental designs, which make up a large part of procedural justice research (e.g., Morgan, 2018), our study examined fairness perceptions in a real-life courtroom context by interviewing defendants involved in actual criminal court hearings.

Furthermore, whereas most procedural justice studies are conducted in the United States, our study took place in a legal setting important to Dutch litigants. Many findings of international research on procedural justice have held up in the Dutch context. For instance, several Dutch studies found fair process effects (e.g., Grootelaar, 2018; Hulst, 2017; Van den Bos et al., 2014). When asked to prioritize procedural justice components,

Dutch litigants tend to perceive as important the same components as those used in the international literature (Grootelaar, 2018). That said, the extent to which procedural justice findings generalize across cultures remains subject to debate. For example, Van den Bos et al. (2010) found that research participants from the United States reacted differently to voice versus no-voice procedures than participants from the Netherlands. Hence, by examining perceived procedural justice in the Dutch legal context, the current study contributes to the cross-cultural body of knowledge on perceived procedural justice (see also Grootelaar, 2018).

Related to this, there are important differences between the Dutch legal system and the legal system of the United States (and other countries, for that matter). First, Dutch criminal proceedings take place largely “on paper”. That is, the emphasis is on the pretrial investigation rather than on court hearings, which generally last around 30 minutes in small criminal cases and 60-90 minutes in more severe ones. Second, the Dutch legal system does not have a plea-bargaining system like the US. Third, the administration of justice is entirely in the hands of professional judges; the Dutch legal system does not have bifurcated proceedings in which defendants’ guilt is determined by a jury and their sentences by a judge. Fourth, criminal court hearings in the Netherlands are less adversarial than in the US. That is, Dutch hearings involve an active role for judges and traditionally treat defendants as subject of the investigation, whereas the US legal system involves more passive judges and views the court hearing as a clash of parties. In sum, we aim to complement the current insights on perceived procedural justice with a qualitative interview study on the relevance and components of perceived procedural justice among defendants involved in Dutch criminal cases.

Method

Sample

Our sample consisted of defendants in single judge criminal cases handled by the district court of the Mid-Netherlands in Utrecht. We interviewed defendants between March 6 and June 14, 2017, after gaining the court’s permission to conduct the study. Single judge criminal cases concern criminal offenses of all kinds, such as assault, theft, insult, threat, destruction, drug offenses, and driving under the influence. The public prosecutor’s demand cannot exceed one year of imprisonment in these cases. Defendants are not obliged to attend their court hearings, nor are they required to be assisted by a lawyer. Court hearings in these cases usually last around 30 minutes, and judges generally deliver their judgments directly after the hearing.

We conducted 107 interviews with 108 defendants and eventually used 99 interviews with 100 defendants for data analysis.¹ Eight interviews were excluded because respondents answered questions very briefly or not at all or did not seem to adequately understand the interviewer (for instance, due to the defendant’s poor command of

1 Two codefendants were interviewed simultaneously.

Dutch). The amount of 100 respondents fit well with our aims to have a large sample and continue data collection until theoretical saturation occurred (Boeije, 2010), which turned out to be the case after around 90 interviews. We approached 338 defendants in total, so the response rate was 32.0%. We did not note any patterns in refusals in terms of, for instance, age, sex, and ethnic background.

Our final sample consisted of 84 men and 16 women, which reflects male defendants' predomination in Dutch criminal cases (Statistics Netherlands, 2019). Respondents' ages ranged from 19 to 71 years, with an average of 37.06 years ($SD = 13.38$). Their highest completed level of education varied between primary school (10 respondents), secondary school (33 respondents), senior secondary vocational education (37 respondents), higher professional education (10 respondents), and university (3 respondents). One respondent had not finished primary school. Twenty-nine respondents had a non-western ethnic background. A small majority of 54 respondents was represented by a lawyer during their court hearings. For 40 respondents, this court hearing was their first.²

Research Procedure

The first author approached defendants in the hallway of the district court of the Mid-Netherlands in Utrecht where the courtrooms are located to ask whether they were willing to talk about how they experienced their court hearings. Most respondents were recruited before their court hearings began. Our only inclusion criteria were the type of case (single judge criminal cases) and respondents' command of Dutch.

To minimize interviewer effects (Hulst, 2017), the interviewer dressed informally and mentioned her university affiliation only when respondents asked about this. Furthermore, at the start of each interview the interviewer emphasized her independence from the court and confidentiality and anonymity of the interviews. The interviews usually took place in a separate, closed room located near the hallway. The interviewer made sure not to signal any disapproval of respondents' answers and to avoid fancy language. She also avoided leading questions as much as possible, although she carefully used member checks during the interviews to verify whether she accurately understood participants (Boeije, 2010). Even though interviewer effects cannot be eliminated altogether, during data collection we gained the impression that our efforts in this regard were fruitful and that respondents trusted the interviewer. This impression was fueled by our observation that respondents put forward sensitive issues that displayed vulnerability, such as personal problems relating to money, relationships, and mental disorders (see also Jenness & Calavita, 2018).

The interviews took place directly after defendants' court hearings. At the start of each interview, the interviewer repeated that she studied how people experience their court

2 Three respondents did not indicate their age, six respondents did not indicate their highest completed level of education, and three respondents did not indicate whether they had had a previous court hearing.

hearings and clarified the interview topics and structure. Permission to record the interviews audio was granted by 91 respondents. During the eight interviews in which respondents did not give permission to record the interview, the interviewer took notes and extended these into complete reports directly after the interview to be able to properly use them for data analysis.

The interviews were semi-structured in nature: The order in which the questions from our interview instrument³ were posed as well as their phrasings were flexible and could be adapted to the flow of each individual interview (Boeijs, 2010). During these interviews, we inquired about a couple of topics, of which perceived procedural justice was the most important one.⁴ Hence, we aimed to discuss respondents' procedural justice perceptions as extensively as possible before moving on to the other interview topics.

To examine respondents' perceptions of procedural justice, we asked them whether they thought they were treated justly during the court hearing.⁵ Depending on respondents' answers to this question, we subsequently asked what made them feel treated in a just or unjust manner and what would have made them perceive things differently. In this way, we assessed what procedural justice components (if any) respondents came up with themselves, rather than limiting ourselves to questions addressing procedural justice components discerned in the literature. We then asked respondents follow-up questions about the procedural justice components they mentioned to find out what these components entailed exactly in respondents' views and how respondents constructed their perceptions of these components.

Furthermore, we inquired about perceived outcome justice,⁶ asking respondents how just they found their verdicts and why. We also assessed sample characteristics, including whether respondents were assisted by a lawyer and whether this was their first court hearing. The interviews ended with the question whether there were topics that had not been addressed during the interview which respondents deemed important to discuss.

The interviews lasted between 5 and 58 minutes with an average of 19.08 minutes ($SD = 10.51$). Many of our respondents answered our questions extensively without needing many probes. Others answered questions less extensively, sometimes even after having been asked follow-up questions. In either case, we made sure that the

3 The interview instrument is available from the first author on request.

4 The other topics discussed during our interviews were respondents' outcomes, the extent to which respondents felt evaluated during their court hearings, and respondents' trust in Dutch judges.

5 Some authors criticize procedural justice studies for using the words "fair" and "just" interchangeably (Cropanzano, Fortin, & Kirk, 2015; Finkel, 2001; Goldman & Cropanzano, 2015). During data collection we noticed that some respondents found the word "just" difficult to understand and use. Hence, when necessary we also incorporated "fair" in our interview questions. We use both terms as synonyms in the current chapter.

6 In this chapter, we use the terms outcome justice, outcome fairness, and distributive justice interchangeably.

interviewer was speaking as little as possible and tried to encourage respondents to speak as much as possible.

To aid data analysis, after each interview we wrote a memo for ourselves, summarizing the interview and documenting things that stood out. We also made notes of questions that turned out to be difficult or sensitive for respondents, of questions respondents did not want to answer, and of the impression respondents made. In addition, we kept more general memos integrating methodological and theoretical insights the individual interviews gave rise to.

Data Analysis

After literal transcription of the interviews, we conducted thematic analysis (Braun & Clarke, 2006). We used the NVivo 11 Pro computer software package to analyze and code our data. Rather than using a predesigned list of codes based on the procedural justice literature, we derived our codes from the interviews. Hence, we adopted a bottom-up approach to coding, inspired by grounded theory (Boeije, 2010; Corbin & Strauss, 2007; Willig, 2013).

We organized our codes into several folders corresponding with our interview topics, including perceived procedural justice and perceived outcome justice. In line with our bottom-up approach, we did not have fixed definitions of these concepts before conducting and analyzing the interviews. Based on insights that emerged during coding, combined with insights from procedural justice literature (e.g., Lind & Tyler, 1988; Tyler, 1989; Van den Bos, 2015), we defined the perceived procedural justice folder as “All text fragments dealing with how fairly and justly respondents feel they have been treated during the court hearing they just attended, which may concern procedural characteristics (for example, being allowed to speak) as well as the interpersonal treatment in the context of that procedure (for example, the judge acting in a friendly way).” Accordingly, in this chapter we define perceived procedural justice as the perception of being treated fairly and justly in terms of procedural characteristics, interpersonal treatment, or both. The phrase “feeling treated fairly” in our chapter thus refers to perceptions of procedural justice.

In this chapter, we also briefly discuss perceived outcome justice. We defined the outcome justice folder as “All text fragments dealing with how fair and just respondents consider the verdict the judge arrived at during the court hearing they just attended.” Like the perceived procedural justice folder, this folder was defined based on insights that emerged during coding, combined with insights from literature on distributive justice (e.g., Adams, 1965; Homans, 1961).

Data analysis proceeded in three stages. In the first stage, we adopted a highly detailed approach to coding, resulting in long lists of lower-level codes. Once all interviews had been coded this way, we performed a round of corrections, checking whether text fragments had been assigned to the correct folders and codes to diminish intrarater

inconsistencies. We note that we assigned text fragments as much as possible to only one code and assigned them to multiple codes only when indicated by the data. Hence, our codes were not always mutually exclusive (Braun & Clarke, 2006; Bryman, 2016; Willig, 2013). This fits the procedural justice context, as research suggests that components of procedural justice are positively correlated (Tyler, 1988).

In the second stage of data analysis, we integrated these codes into higher-order analytic categories by looking at similarities and differences between our codes. Where appropriate, we used “sensitizing concepts” (Boeije, 2010) based on procedural justice literature to formulate the overarching categories. These concepts did not have a fixed meaning at the beginning of our study; rather, their contents were specified during data analysis by looking at how respondents talked about them.

During the third and final stage of data analysis we examined potential relationships between our overarching codes through coding queries, which showed text fragments assigned to multiple codes. Examining these relationships, in addition to the number of different interviews in which each overarching code occurred, enabled us to identify core categories (Boeije, 2010; Cho & Lee, 2014). Throughout the coding process, we maintained a coding manual documenting how we dealt with difficult coding issues.⁷

After coding all interviews, we assessed interrater reliability (Bartholomew, Henderson, & Marcia, 2000; Boeije, 2010). In two rounds, we provided a second coder with a sample of text fragments from the interviews to assess the extent to which she assigned these text fragments to the same folders and codes as we did. In case of disagreement about how to code a text fragment, coders discussed their views. Coders agreed about the folders text fragments should be assigned to for 96.0% to 100% of the selected text fragments. Concerning the codes text fragments should be assigned to, coders initially agreed about 73.8% to 92.3% of the selected text fragments. After discussion, they reached 92.5% to 99.0% agreement on this issue.⁸ To us, these results indicate a sufficient degree of intersubjectivity of our coding scheme.

Results

This section starts with results regarding the two main issues this chapter focuses on: whether defendants in criminal cases refer to procedural justice themselves when asked about their fairness perceptions, and, if so, which components of procedural justice

7 The coding manual and code books (i.e., the lists of codes, including definitions of folders and codes, and examples of corresponding text fragments) are available from the first author on request.

8 We assessed interrater reliability by presenting the second coder with text fragments selected from both the perceived procedural justice folder and the trust in Dutch judges folder. The percentages of agreement reported in this section thus concern text fragments selected from both folders. We obtained similarly good levels of agreement between coders for text fragments selected from the perceived procedural justice folder alone.

they put forward. Next, we present tentative findings regarding relationships between procedural justice components. At the end of this section, we briefly present findings regarding respondents' perceptions of outcome fairness, the natural counterpart of perceived procedural justice.

Mentioning Procedural Justice

Our first aim was to examine whether defendants in criminal cases come up with issues of procedural justice themselves when asked about their fairness perceptions. We found that a majority of 76 respondents indeed came up with issues of procedural justice themselves, either directly in response to our opening question whether they thought they were treated justly during their court hearings or later in the interview. A few of them spontaneously mentioned positive effects of perceived procedural justice. For example, a defendant who received a €200 fine for shoplifting made a connection between perceived procedural justice and outcome acceptance:

At least the judge put effort into listening to my story and taking it into account. If he then decides differently (. . .) I think you can be a bit more at peace with it. Then you understand. (Respondent 91)

Another defendant, who had been sentenced to 30 hours of community service for driving with an invalid license, pointed out the positive influence fair treatment may have on compliance with the law:

I do not want to say that I will return to society in a bad way if the judge treats me badly, but it may help you to break the law less if you are treated in a positive way by the judge. (Respondent 99)

Similarly, a defendant who was sentenced to a community service of 40 hours for spitting in a police officer's face stated that punishments are often not effective, and that improvement and willingness to change also depend on how one has been treated by the judge and other organizations.

Twenty-four respondents initially did not mention issues of procedural justice and, for instance, talked only about the outcomes they received. Furthermore, a few respondents explicitly stated that they considered their outcomes the most important. We aimed to assess not only whether defendants come up with procedural justice issues themselves, but also which components of procedural justice they distinguish. As such, we tried to capture perceptions of procedural justice by asking respondents who initially addressed only their outcomes how justly they felt they had been treated during the court hearing until the judge gave their judgment. Alternatively, we asked respondents whether they could imagine something that would have made them feel treated *unjustly* during their court hearings. This fits with the suggestion reported by Martin, Scully, and Levitt (1990, p. 288) that people "may find it difficult to conceive of justice, conceptualizing it only as the absence of injustice". When asked these follow-

up questions, an additional 21 respondents mentioned procedural justice components, leaving only three respondents who did not mention issues of procedural justice at any point during the interview.

Procedural Justice Components

Next to examining whether defendants in criminal cases come up with issues of procedural justice themselves when asked about perceived fairness, we aimed to get a better grip on the concept by asking respondents what made them feel treated justly or unjustly and examining which components of procedural justice they put forward in response. The most frequently mentioned components were (1) information on which decisions are based, (2) interpersonal treatment, (3) due consideration, (4) neutrality, (5) voice, and (6) accuracy. To a lesser extent, respondents mentioned provision of information, assistance, sincerity, competence, formal aspects of procedural justice, and consistency. We now describe these procedural justice components consecutively.

Information on Which Decisions Are Based

Several respondents mentioned their statements (not) carrying weight in judges' and prosecutors' considerations about what judgment to impose or demand as a reason for feeling treated (un)fairly. They spoke of the judge "doing something" (or: "doing nothing") with their statements, which impression they relatively often derived from the eventual judgment or the explanation thereof. One respondent explained the importance of having effective input by stating:

I have put forward so many things. [It is] as if they do not matter. Hence, as if I do not matter (. . .) I might as well not have been there (. . .) (Respondent 61)

Respondents' remarks about judges and prosecutors taking into account things put forward by defendants concern the information on which these authorities base their decisions. In line with this, many respondents talked about judges and prosecutors taking into account certain types of information in their judgments or demanded sentences. This mainly concerned information about defendants' personal circumstances, the consequences certain sentences would have, defendants' criminal record or the lack thereof, and background situations of crimes. These issues were either put forward by defendants themselves or judges and prosecutors could take these issues into account without defendants mentioning them. Respondents derived their perceptions of such information (not) being taken into account, too, from the sentences eventually imposed or demanded and the explanations thereof. For instance, one respondent felt like the judge did not take into account the reasons for committing the crime, because "had they done so, I would have gotten [only] a conditional sentence" (Respondent 76).

Several other respondents spoke more generally about the completeness and correctness of the information on which judges and prosecutors based their decisions. Respondents sometimes related such impressions to whether the judge asked questions about the reasons for committing their crimes or their situations rather than looking solely at the

case file. Other behaviors respondents mentioned in this regard were the prosecutor taking the effort of calling the defendant's therapist to ask some questions and the judge staying the proceedings to further examine witnesses. One respondent explained that he felt like the judge looked at the complete picture, because the judge closely examined each statement:

The judge discussed everything step by step, every statement, and asked me all kinds of things. So he did want to get a complete picture. He did not immediately draw a conclusion, like: "Oh, this [i.e., the other person's statement] is unreliable". He wanted to know why it would be unreliable, who could invalidate that statement, and which other statement or statements contradicted that statement. (Respondent 68)

We integrated all these remarks into the overarching code "information on which decisions are based", defined as "All text fragments dealing with the information based on which judges and/or prosecutors arrive at their decision (such as the judgment or demanded sentence), which concerns relevance of information (that is, taking into account all relevant information and leaving out irrelevant information) as well as completeness and correctness of that information, and partly concerns information put forward by defendants or their lawyers/supervisors." This theme recurred in more than half of the interviews (56 interviews) and thus seems very important in shaping defendants' fairness perceptions.

Interpersonal Treatment

Forty-three respondents mentioned aspects of the way in which the judge and the public prosecutor interacted with them as a reason for feeling treated fairly or unfairly during their court hearings. We integrated their statements into the overarching code "interpersonal treatment", defined as "All text fragments dealing with the way in which interview respondents feel treated by the judge and/or the public prosecutor and/or their lawyers, that is, the interaction between (one of) them and the defendant or "how one behaves towards the defendant", and similar statements, such as statements concerning an (in)formal atmosphere during the court hearing, and (not) showing involvement or empathy."

Respondents mainly talked about interpersonal treatment in terms of judges and prosecutors acting in a nice or friendly way, putting themselves in the defendant's position, and being strict, calm, or accusatory. Some respondents talked about judges and prosecutors treating defendants in a humane or personal way, and being respectful, polite, involved, angry, or acting with disdain. A few respondents mentioned being taken seriously and the judge or prosecutor (not) kicking someone who is already down. One respondent explained:

To me, the most important thing, yeah, is that everyone treats the others like they want to be treated themselves (. . .) I attend [my court hearing], so, yeah,

then you need to treat me with respect (. . .) In any event, let me finish my story (. . .). That is the least you can do. (Respondent 87)

Similarly, another respondent related being treated with respect to being able to tell her side of the story, stating that she felt treated respectfully because she was allowed to give her opinion about what happened. Other behaviors mentioned in the context of respectful treatment were offering a glass of water when respondents got emotional and the way they were addressed. Related to this, one respondent explained that he valued the judge treating him in a personal way especially because court hearings can be very stressful if one has not had many previous court hearings. A few other respondents, too, felt treated fairly because they were treated in a personal way rather than as “another case number”.

Due Consideration

Respondents’ statements about the judge and public prosecutor listening to defendants’ stories, discussing their lawyers’ arguments, and summarizing what defendants said were integrated into the overarching code “due consideration”. This was defined as “All text fragments dealing with the judge and/or prosecutor (not) listening and/or paying (in)sufficient attention to the defendants’ or their lawyers’ stories, and similar statements, such as summarizing defendants’ or their lawyers’ stories (which yields the impression that the judge apparently listened and understood the story adequately).” Hence, whereas interpersonal treatment refers to the quality of the interactions between judges or prosecutors and defendants, due consideration focuses on the extent to which defendants feel judges or prosecutors listened to defendants’ stories. Mentioned by 41 respondents, due consideration, too, recurred in many of our interviews.

Some respondents felt like the judge listened to them to some extent, but insufficiently. They indicated that judges and prosecutors do not “truly” listen but only superficially, that they do not think about what defendants put forward, or only hear and repeat defendants’ words without doing anything with it. In contrast, many others were satisfied or even positively surprised by how well judges and prosecutors listened to them. Respondents indicated that they felt like the judge listened to them because they made eye contact with them or their lawyers, took sufficient time to listen, let respondents finish their stories without interrupting them, and when explaining the judgment mentioned things respondents had put forward. Other behaviors which made some respondents feel they were being listened to were nodding, taking notes, summarizing respondents’ stories, and having full attention for respondents while they were speaking without doing other things in the meantime. For instance, one respondent explained:

Respondent: While I was talking, then... He was not doing other things or something like that. Of course he has this computer, but he really looked me in the eyes, he really listened to what I said, and I think these people [i.e., judges and public prosecutors] have to deal with all these small cases the entire day, so I could imagine them being like: Yeah, another case like this, let’s get this over and

done with. But they really, yeah, listened to my side of the story, precisely by not getting it over and done with (. . .). They really looked me in the eyes and really listened, while nodding, so it was not like he was doing other things while I was trying to explain my side, you know.

Interviewer: They really paid attention.

Respondent: Yeah, exactly, I really had their attention, so that was quite pleasant.
(Respondent 53)

Additionally, some defendants based their impressions of (not) having been listened to on the eventual sentence demanded by the public prosecutor or imposed by the judge. For instance, if prosecutors changed the demanded sentence after hearing the defendant, or if judges, after defendants told their stories, deviated from the sentence demanded by the prosecutor, respondents viewed this as a sign that they had been listened to:

Interviewer: And what makes you say like: I feel like I have indeed been listened to? How did you notice that (. . .)?

Respondent: Well, there was... Because the judge lowered the public prosecutor's – is that how you call it? – demand a little. (Respondent 100)

Another respondent, however, explicitly separated these perceptions, stating that the judge had really listened to his personal situation, even though in the end the judgment did not reflect this.

Neutrality

Thirty-nine respondents put forward neutrality as a reason for feeling treated fairly or unfairly. On the basis of the interviews, we defined this overarching code as “All text fragments dealing with the judge and/or the public prosecutor being (not) neutral, which may concern impartiality, independence, objectivity, lack of prejudice, and similar statements, such as statements regarding seeing, hearing and weighing two sides, the judge arriving at their own judgment separately from the prosecutor, or the prosecutor being allowed to speak longer than the defendant.” Subcodes within the overarching code “neutrality” were lack of prejudice, seeing both sides of the story, independence, impartiality, and objectivity.

Because respondents mentioned lack of prejudice far more frequently than the other subcodes, this seems the most important aspect of neutrality. Respondents relatively often talked about prejudice based on the case file, including the defendant's criminal record, which some of them inferred from their criminal record being emphasized during their court hearings. Some respondents inferred their perceptions of prejudice (or the lack thereof) from the verdict demanded by the public prosecutor or imposed by the judge – for instance, if the prosecutor demanded a disproportionately high sentence or, on the contrary, asked for acquittal due to unreliable evidence:

He [i.e., the judge] also, for example, addressed that unreliable statement, like: Hey, yeah, I see three different things written down here, you know, so he addressed it himself, like: There is something written down there that is not entirely correct (. . .) [A]nd (. . .) the public prosecutor (. . .) [He] also just [said] like: Yeah, this is... Seems unreliable and I also [demand] acquittal, so he went... Eventually went a bit to the defendant's side, so to say (. . .) So yeah, I found that (. . .) just [i.e., fair], you know, like: Yeah, you do not get that label immediately. He could have maintained like: Something happened here and I can just stick with this even though he [i.e., the one who filed the police report] says a couple of diverging things, like: He must have done it. (Respondent 68)

Others based such impressions on the course of events during their court hearings, such as being allowed to voice their opinions and tell their stories, the judge carefully examining their cases (e.g., by asking many follow-up questions or suspending the court hearing), and pointing to unreliable evidence. One defendant explained how being truly listened to fostered impressions of the judge being unprejudiced:

He [i.e., the judge] listens to you, he summarizes, and he subsequently asks follow-up questions, and that is... You can use this as a technique to make someone feel he is being heard, but with him I truly had the impression that he was listening to me, to my story, because he repeated what I said so often, and asked so many follow-up questions based on what I said, which made me think: Okay, you are really listening to what I am saying instead of already having made up your mind. (Respondent 8)

Next to perceptions of prejudice, several respondents talked about neutrality in terms of seeing both sides of the story and weighing both the public prosecutor's and the defendant's account. A small number of respondents explicitly referred to this aspect of neutrality using the Dutch translation of the legal term *audi alteram partem*. According to one respondent this legal principle was not reflected by the actual course of the proceedings, as it would require the public prosecutor and the defendant sitting next to each other in front of the judge, whereas in fact both the prosecutor and the judge sat opposite the defendant:

It is very simple. There are two parties who disagree with each other. The Public Prosecution Service thinks I am guilty – well, I do not. Then you should be sitting opposite each other, and the judge can hear the story from both sides. (...) You enter the room and then there are already two persons waiting for you, and you are like: What to think of this? (Respondent 67)

Some respondents talked about neutrality in terms of judicial independence. One respondent used this term explicitly; the others spoke of the judge "arriving at their own judgment" separately from the public prosecutor or, on the contrary, judges and prosecutors "being one", always having the same opinion, and cooperating. For instance, one respondent viewed the judge as not forming his own judgment, as he seemed to be

listening more to the public prosecutor without adequately discussing the arguments put forward by the defendant's lawyer.

Some other respondents referred to impartiality, which according to one defendant is already noticeable directly at the beginning of the court hearing. A small number of respondents derived their impressions of partiality or impartiality from the imposed sentence. More often, however, they based such impressions on the course of events during the court hearing. For instance, one respondent mentioned that the judge listened to his statements, summarized them, and asked follow-up questions. Further signs of impartiality were the judge or prosecutor taking into account defendants' statements as well as their prospects and their lack of a criminal record. A few respondents mentioned the judge noticing inconsistencies in the victim's statements and leaving out unreliable evidence. Others referred to the way the judge or prosecutor interacted with them, inferring impartiality from calm and polite interactions without disdain or angeriness.

A final aspect of neutrality, mentioned by some respondents, was objectivity. A few respondents talked about objectivity in terms of basing things on facts rather than simply accepting someone else's statements as the truth and not giving subjective opinions by, for instance, expressing disbelief of the defendant's statements. A small number of respondents inferred subjectivity from certain phrasings, such as "we deem your story implausible" or the public prosecutor talking about "this type of cases" and "this type of situations".

We note that respondents' remarks about neutrality did not always concern *judicial* neutrality. Respondents also talked about the public prosecutor's objectivity (or subjectivity), impartiality (or partiality), absence (or presence) of prejudice, or the prosecutor seeing only one side of the story. Around one third of text fragments coded within the overarching code "neutrality" included statements about the public prosecutor. A few respondents connected a perceived lack of neutrality to the prosecutor's role in criminal cases and expressed their understanding in light thereof. The public prosecutor's role was discussed in many interviews (three times more often than the role of the judge), both within and outside the context of neutrality. For instance, respondents stated that "of course" prosecutors try to get a conviction and the highest possible sentence, aim to achieve their targets, and help victims. One defendant compared prosecutors' strategies to negotiation tactics, as he had the impression that prosecutors assume they will not completely have their way and therefore demand disproportionately high sentences.

Voice

Thirty-two respondents mentioned being able to voice their opinions and related experiences as reasons for feeling treated fairly. Some of them mentioned defendants' opportunity to have the last word. We integrated respondents' remarks about these issues into the overarching code "voice", defined as "All text fragments dealing with respondents (and/or their lawyers or supervisors) (not) getting the opportunity to speak or (not) being able to tell their stories, and similar statements, such as statements

concerning (not) being allowed to finish one's story, and a (potential) witness for the defense not having been heard."

Respondents considered voice important for several reasons. A small number of respondents addressed the positive influence defendants' stories may have on judicial decisions directly. Some others emphasized that defendants should be able to explain why certain things happened and give nuances, and that judges should not base their decisions solely on the case file. In line with this, according to one respondent judges can only take correct decisions if they offer defendants the opportunity to tell their side of the story, because every story has multiple sides.

Perceptions of being able to sufficiently voice one's opinions and tell one's story were fostered by the judge repeatedly asking what defendants thought about things, enabling them to react to what was being said, and granting them sufficient time in this regard. Not being interrupted was mentioned relatively frequently as well. Conversely, a small number of respondents inferred a lack of voice from the judge limiting their speaking time and not allowing them to elaborate on things they considered relevant, such as violence on the victim's part. One defendant felt he was not given sufficient opportunity to explain things, because the judge asked "multiple choice" type of questions, rushed through the court hearing, and did not offer him the last word.

Accuracy

Twenty-five respondents mentioned judges and public prosecutors acting in an accurate way, which resulted in the overarching code "accuracy". We defined this code as "All text fragments dealing with the judge and/or the public prosecutor (not) treating the case with care, and similar statements, such as (not) taking the time during the court hearing, (not) asking questions, (not) taking a close look at the case, (not) being adequately prepared, the court hearing being sloppy, and the judge determining the amount of the injured party's compensation in an imprecise way."

Several respondents talked about judges or prosecutors taking the time during the court hearing. Very few respondents felt like the judge rushed through the court hearing trying merely to reduce the pile of case files or considered the amount of time scheduled for the court hearing insufficient. In contrast, some others felt like the judge took elaborate time for the court hearing. A couple of respondents talked about preparation, stating that judges or prosecutors seemed well-prepared as they discussed information from the case file, or ill-prepared as, for instance, they did not notice mistakes in the police investigation. Several respondents related accuracy to whether judges and prosecutors asked questions and follow-up questions. Some others talked about judges and prosecutors taking a close look at the case (or refraining from doing so). One respondent explained:

Respondent: I think that both the public prosecutor and the judge (. . .) looked at the complete situation, and not just at what was presented to them in the case file,

but asked follow-up questions to me personally. Things about, you know, (. . .) how are you doing now, what happened afterwards [i.e., after the crime] (. . .)

Interviewer: And that (. . .) they looked beyond [the case file] (. . .), how did you notice that, that they... Because they asked follow-up questions, you said?

Respondent: Especially asking follow-up questions. And asking targeted questions, too. That is how I noticed.

Interviewer: And what do you mean by targeted questions?

Respondent: Well, for example... I indicated that I have a different view on life now. Well, why do you have a different view on life? And what caused that? (. . .) They try to get at the core. (Respondent 54)

Other Procedural Justice Components

In addition to the procedural justice components elaborated upon so far, respondents mentioned – to a lesser extent – other procedural issues that made them feel treated fairly or unfairly. For instance, we integrated remarks of 18 respondents into the overarching code “provision of information”, defined as “All text fragments dealing with information directed towards the defendant by the judge, the public prosecutor, and/or the lawyer, and the clearness, comprehensibility, and directness of that information, which concerns (for instance) statements about the judge explaining certain terms or the course of the proceedings, (not) talking around things, using difficult words, and the defendant’s opportunity to ask questions.” Most of these respondents mentioned providing explanations and referred to the judge or prosecutor explaining difficult terminology, explaining the exact procedure during the court hearing, explaining steps to be taken afterwards, and giving reasons for the sentences they demanded or imposed. Some respondents mentioned judges, prosecutors, and lawyers talking in a clear and to-the-point manner without talking around things or going into too much detail. A few respondents talked about using either difficult or easily understandable words, especially in light of some defendants’ low level of education. A few others mentioned leaving room for questions by the defendant.

Next to provision of information, 12 respondents mentioned assistance by a lawyer or by another kind of counsellor as a reason for feeling treated fairly during their court hearings. We integrated their comments into the overarching code “assistance”, conceived of as “All text fragments dealing with (not) being assisted by a lawyer or supervisor, and – in case of assistance – interview respondents’ opinions about this assistance, such as lawyers or supervisors doing the talking, helping the defendant, defending the defendant, making an effort, providing (mental) support, and/or being legally skilled.” A small number of respondents stated that lawyers know how to talk to judges and prosecutors, have legal expertise, and maintain sufficient distance to adequately voice counterarguments. A few respondents noted that lawyers voice the defendants’ interests, try to reduce the sentence, and provide support. One respondent indicated that defendants do not

necessarily benefit from having a lawyer, as in his experience lawyers working pro bono are paid insufficiently to really make an effort and win cases less often.

Eight respondents discussed judges' and public prosecutors' sincerity. We defined this overarching code as "All text fragments dealing with the judge and/or the public prosecutor (not) being sincere, and similar statements, such as the public prosecutor trying to deceive or influence the judge, the judge constructing the sentence in an improper way, and the (in)existence of hidden accusations or facts." A few respondents mentioned sincerity literally, stating that the judge and public prosecutor did their jobs in a sincere way without dishonesty. They derived such impressions from the imposed or demanded sentence (which they considered not unnecessarily severe and as intended to help the defendant) or from the judge asking many questions, which yielded the impression that they acted in a very accurate way and tried to get a complete picture. The others talked about sincerity more indirectly – for instance, in terms of "hidden accusations" or the prosecutor trying to "deceive" the judge by painting an inaccurate picture of the context of the crime and exaggerating the defendant's criminal record without mentioning that these crimes occurred a very long time ago.

In addition, eight respondents mentioned competence in the context of their fairness perceptions. We defined this overarching code as "All text fragments dealing with (in)competence (that is, (in)capability) of the judge and/or the public prosecutor and/or the lawyer, and similar statements, such as statements concerning knowledge, expertise and professionalism (or, conversely, amateurism)." A small number of respondents felt like judges do not adequately understand people with disorders like ADHD and borderline or younger people. In contrast, another respondent considered judges highly knowledgeable given their extensive legal education. Some respondents talked about the judge and prosecutor being professional. They inferred professionalism from various behaviors, such as being to-the-point, polite, and friendly.

Another component of fair treatment discussed by eight respondents concerned formal aspects of procedural justice. We defined the resulting overarching code "formal aspects" as "All text fragments dealing with fixed characteristics of criminal court hearings, such as the fact that the injured party in some cases has a right to speak and that decisions can be appealed, and statements regarding the court hearing (not) proceeding in accordance with what interview respondents think are fixed characteristics of that procedure (that is, the court hearing proceeding "the way it is supposed to")." A few respondents mentioned specific characteristics of the procedure, referring to the opportunity to appeal against the judgment or the injured party's right to speak. Some other respondents stated more generally that "everything proceeded in the way it was supposed to" and indicated, for instance, that everything happened accordance with the rules, that they were able to voice and defend their own perspectives, and that they got the last word at the end of the court hearing.

The final procedural justice component respondents mentioned was consistency in the sense of equal treatment. We conceived of this overarching code as "All text fragments

dealing with (not) being treated in the same way as other defendants (which does not concern being treated in the same way as the public prosecutor).” Hence, we use the term “consistency” to denote defendants being subjected to the same *procedures* rather than defendants receiving the same *outcomes* as other defendants in similar cases. This procedural justice component was mentioned by only two respondents. One of them felt treated fairly because “just like anyone else” he got the time to tell his side of the story without being interrupted. The other respondent stated that defendants with a criminal record are treated differently from first offenders, which he inferred from the sentences being imposed.

Relationships Among Procedural Justice Components

So far, we have focused on the separate procedural justice components mentioned by our respondents. Nevertheless, the descriptions of the individual components of procedural justice suggest that many of these components may be interrelated. For example, one defendant perceived the judge as not coming to his own judgment independently from the public prosecutor, as he listened more to what the prosecutor said than to the arguments put forward by the defendant’s lawyer, which he barely discussed (codes: “neutrality” and “due consideration”). Another defendant perceived the judge as impartial, as she interacted with him in a calm and polite way (codes: “neutrality” and “interpersonal treatment”). Hence, respondents often seem to derive perceptions of one procedural justice component from another component of procedural justice. In other words, we found indications for potential relationships between procedural justice components.

We mainly found such indications for potential relationships between six components of perceived procedural justice: information on which decisions are based, interpersonal treatment, due consideration, neutrality, voice, and accuracy. Those are also the procedural justice components our respondents mentioned most frequently. Based on both findings combined, we consider these six components as the core components of perceived procedural justice. Our findings regarding potential relationships between procedural justice components and the distinction between core components and other components of perceived procedural justice are illustrated in Figure 2.1:

Figure 2.1. Model of Perceived Procedural Justice Among Defendants in Criminal Cases

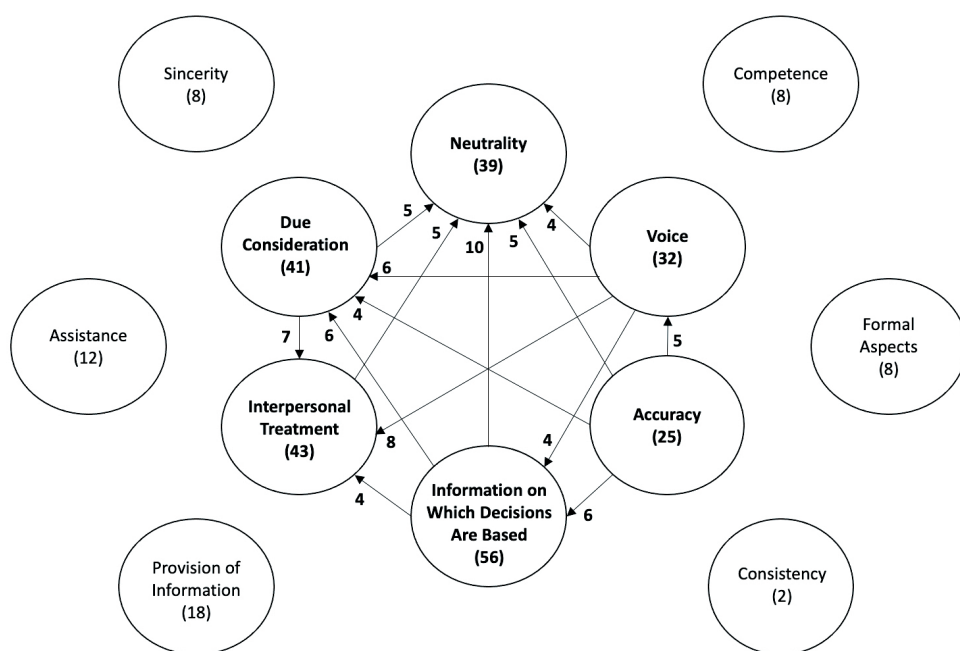


Figure 2.1. Procedural justice components and potential relationships between them. The core components of perceived procedural justice are depicted in bold. Bracketed numbers indicate the number of respondents by whom each component was mentioned. Potential relationships between procedural justice components are represented by arrows accompanied by numbers indicating in how many different interviews indications for these relationships were found. Only the most important relationships between procedural justice components are shown. Relationships that were found less frequently than the ones depicted here have been omitted.

We hasten to note that our findings regarding potential relationships between procedural justice components are tentative, as each relationship was found in only a limited number of interviews. We will come back to this issue in the Discussion of this chapter.

Outcome Justice

As is clear from the preceding section, respondents quite regularly inferred their perceptions of procedural justice from the outcomes they received. For instance, respondents partly derived their perception that certain information had been taken into account or that the judge listened to them (or not) from the sentence eventually imposed.

Vice versa, around one fourth of all respondents we asked about perceived outcome justice referred to procedural aspects. That is, when asked how just they considered their verdicts, respondents relatively frequently mentioned procedural aspects as reasons for viewing their outcomes as fair or unfair. The procedural aspect that respondents put forward by far most often concerned the judge taking into account certain information,

such as respondents' personal circumstances or situations and the backstory to their offenses. One respondent explained:

I would have considered community service as just, too, but [when] I (. . .) heard (. . .) how long that (. . .) will be a note [on your criminal record] I consider it even more just [that they imposed only a fine], because they really looked at my situation as well. They really took into account, well, who I am and what I want and what I did not do [i.e., no previous offenses], so to say. (Respondent 53)

Other, far less frequently mentioned procedural aspects which respondents put forward as reasons for considering their outcomes as fair or unfair were the way judges interacted with them, the extent to which they were listened to, judges' expertise, and the accuracy of the proceedings. For example, after having been asked why he found the verdict in his case fair, one respondent stated:

Well, because they listened to my story (. . .) and yeah, these people studied law for six years (. . .) so they are the experts, so, yeah. And like I said: They listened to my story, even though I did not have a lawyer. (Respondent 101)

Hence, respondents quite regularly inferred their procedural justice perceptions from the outcomes they received or, conversely, inferred their perceptions of outcome fairness from procedural aspects of their court hearings. In a small number of interviews, however, respondents clearly separated procedures and outcomes to a large extent. For example, one respondent felt treated fairly by the judge because he listened to her story and took her story into account. Nevertheless, she considered the verdict unfair, because she was convicted while she viewed herself as innocent. Conversely, another respondent was acquitted but barely discussed this positive outcome during the interview, talking almost exclusively about how prejudiced the judge seemed.

Discussion

In this study, we conducted qualitative interviews with 100 defendants in single judge criminal cases that serve an important role in the Dutch legal system. Rather than asking respondents about predetermined procedural justice components derived from the literature, we assessed whether they put forward issues of procedural justice themselves, and, if so, which procedural justice components they came up with. Seventy-six respondents mentioned issues of procedural justice themselves at some point during the interview, leaving 21 respondents who mentioned procedural justice issues when asked specific follow-up questions, and only three respondents who did not mention procedural justice issues at any point during the interview. Six procedural justice components were at the core of defendants' fairness perceptions: (1) information on which decisions are based, (2) interpersonal treatment, (3) due consideration, (4) neutrality, (5) voice, and (6) accuracy.

We thus studied perceived procedural justice in the real-life courtroom context of Dutch criminal court hearings. Our qualitative interview study provides a point of epistemological departure from the quantitative studies that dominate the field, which impose top-down operationalizations of procedural justice on participants. The current study thereby helps restore methodological balance in the field of procedural justice research. Moreover, by examining which procedural justice components respondents put forward themselves, asking follow-up questions to study these components in more detail, and adopting a thorough approach to data analysis, our study provides important insights into what exactly perceived procedural justice entails from the viewpoint of defendants in criminal cases.

Fairness in the Eyes of Defendants

The procedural justice components our respondents put forward largely support the current literature, as all of these components can to some extent be recognized in relevant previous studies (e.g., Grootelaar, 2018; Leventhal, 1980; Lind & Tyler, 1988; Tyler, 1988). Voice, due consideration, and neutrality are frequently used in the literature on perceived procedural justice (e.g., Lind & Tyler, 1988; Tyler, 2006). Interpersonal treatment is often discussed in terms of politeness and respect (e.g., Tyler & Lind, 1992; Van den Bos et al., 2014). Accuracy is used in the procedural justice literature, too – for instance, by asking respondents whether the judge took enough time to consider their case carefully (Tyler, 1984) or by manipulating the number of test items research participants thought were graded to determine their outcomes (Van den Bos, Bruins, Wilke, & Dronkert, 1999).

We note that many of the procedural justice components our respondents mentioned are shared with the concept of organizational justice. For instance, voice and respect are frequently used in the organizational justice literature (e.g., Colquitt, 2001; Folger, 1977). Provision of information, one of the other procedural justice components our respondents put forward, encompasses Bies' and Moag's (1986) concept of justification, which refers to providing explanations for decisions. Similarly, our category sincerity corresponds with these authors' concept of truthfulness. Taken together, the procedural justice components our respondents put forward are largely in line with the current literature. Our qualitative interviews thus provide support for commonly used survey items measuring perceived procedural justice.

That said, our respondents mentioned some procedural justice components more often, and others less often, than the current literature would suggest. For instance, trust in the decision maker – that is, “the extent to which the authority is seen as trustworthy” (Tyler & Lind, 1992, p. 142) – is often considered an important component of perceived procedural justice. Our respondents, however, did not mention trust in judges and public prosecutors as a reason for feeling treated fairly. Hence, like the qualitative studies by De Mesmaecker (2014) and Morgan (2018), our study thus does not provide support for regarding trust as a procedural justice component.

Furthermore, consistency in the sense of equal treatment across defendants turned out to shape our respondents' fairness perceptions to a much smaller extent than suggested by the current literature. Several studies found consistency to be one of the most important procedural justice components (Barrett-Howard & Tyler, 1986; Fry & Chaney, 1981 as cited in Tyler, 1988; Fry & Leventhal, 1979 as cited in Tyler, 1988; Greenberg, 1986; Sheppard & Lewicki, 1987). Our results are in line with those reported by Tyler (1988), who found no significant relationship between consistency and overall evaluations of procedural fairness, and results reported by Grootelaar (2018), who found that only 3.8% of her respondents prioritized equal treatment as a procedural justice component. Tyler's (1988) explanation might apply to many of our respondents too: People often lack information on how others in similar situations are treated and are therefore not well able to assess treatment consistency. We suggest that this may be why people indicate that they consider equal treatment important when asked to rate the importance of procedural justice components on Likert scales – as Barrett-Howard and Tyler (1986) did – but do not tend to put forward consistency themselves when asked whether they felt treated fairly and why.

Conversely, information on which decisions are based was mentioned very often by our respondents. This procedural justice component partially corresponds with Leventhal's (1980) concept of accuracy, which denotes relying on accurate information, and representativeness, which includes taking into account affected parties' interests (see also Rupp et al., 2017). These issues played a much larger role in our interviews than indicated by the procedural justice literature, which usually emphasizes other aspects of perceived procedural justice. We think this is an important contribution of our study, because it proffers new aspects of fair treatment that should be considered when studying perceived procedural justice.

Likewise, many of our respondents mentioned interpersonal treatment as a reason for feeling treated fairly. In the literature, being treated with respect is often put forward as a key component of perceived procedural justice (e.g., Swaner et al., 2018; Tyler, 1989). Respectful treatment as such was mentioned by only a handful of our respondents. Several respondents, however, mentioned aspects of interpersonal treatment that are closely related to being treated with respect, such as being treated politely, humanely, and being taken seriously. Hence, respect and related issues indeed seem relevant in shaping people's procedural justice perceptions. At the same time, our interviews indicate that other aspects of interpersonal treatment are relevant as well. For instance, the judge and prosecutor being friendly, putting themselves in defendants' shoes, and acting calmly were all mentioned more often than respect or related aspects of interpersonal treatment. This is another way in which the current study improves our understanding of what procedural justice entails exactly in the eyes of the people involved.

Neutrality, too, was a relevant factor shaping respondents' perceptions of procedural justice. As in Morgan's (2018) study, this procedural justice component was put forward by many of our respondents. In addition, all other core components seem partially instrumental to neutrality. That is, these other procedural justice components may be

important in part because they yield the impression that the authorities are neutral. For instance, respondents sometimes derived impressions of neutrality from the information on which decisions were based or from their perception that they were able to voice their opinions. This is illustrated in Figure 2.1: All arrows indicating potential relationships between procedural justice components point to neutrality. Hence, neutrality might be the common factor binding the other core components of procedural justice together. Future studies could further examine the importance of neutrality in shaping perceptions of procedural justice in legal settings.

For now, we note that one explanation why neutrality might be so important is the legal context of our study. After all, neutrality is a central notion in the law (e.g., Article 6 of the European Convention on Human Rights). Having one's case tried by an independent, impartial, and unprejudiced judge is key to justice in legal contexts. Neutrality also matters in other settings such as work organizations (e.g., Cropanzano & Ambrose, 2015), but is arguably less typical for such settings than for the courtroom context. In line with this, organizational justice studies often focus on voice (Cropanzano et al., 2015) rather than neutrality. Since many procedural justice studies concern organizational settings, this may explain why in our study neutrality is even more important than indicated by much of the literature.

Procedures and Outcomes

As described earlier, our respondents quite regularly inferred their perceptions of procedural justice from the outcomes they received. Vice versa, several respondents referred to procedural aspects when asked about perceived outcome justice. Hence, to some extent, perceptions of procedures and outcomes seem interwoven (see also Jenness & Calavita, 2018). More concretely, our findings suggest a fair process effect of procedural fairness on outcome fairness (e.g., Folger et al., 1979) as well as a fair outcome effect of outcome fairness on procedural fairness (e.g., Van den Bos, 1999), although more experimental research is needed to corroborate this. Our findings are also in line with studies showing positive associations between perceived procedural justice and perceived outcome justice (e.g., Grootelaar, 2018; Tyler, 1984).

At the same time, many of our respondents inferred their procedural justice perceptions from the course of events during the proceedings rather than from the outcomes they received. For instance, although some respondents based their impressions of due consideration on their outcomes, others based such impressions on whether judges and prosecutors made eye contact with respondents and refrained from interrupting them. Conversely, as in Morgan's (2018) study, procedural aspects were far from the only reason respondents mentioned for perceiving their outcomes as fair or unfair. Our findings thus suggest that procedural justice and outcome justice are distinct not only conceptually (Brockner, Wiesenfeld, & Diekmann, 2009), but also empirically (see also Haller & Machura, 1995).

Limitations

We believe our qualitative interview findings make important contributions to the field of procedural justice research. Of course, our qualitative approach also brings with it certain limitations. One of these is the inherently subjective nature of qualitative research (Maxwell, 2013; Simon Thomas, 2017). Although we believe our reliability checks indicated a sufficient degree of intersubjectivity of our coding scheme, the current study could definitely benefit from follow-up research with different interviewers and different coders.

Another limitation that comes with our qualitative approach lies in the extent to which qualitative research can robustly show relationships between procedural justice components. As noted earlier, each potential relationship was found in only a limited number of interviews. Our findings regarding potential relationships between procedural justice components are therefore tentative. We believe they are important, however, because they indicate how the different components of perceived procedural justice may fit together for respondents. Furthermore, the relationships we found are supported by other studies (De Mesmaecker, 2014; Grootelaar, 2018; Tyler, 1988). Still, follow-up studies that preferably use experimental designs are needed to substantiate these indications of potential relationships between procedural justice components.

Another limitation of our study is the degree to which our findings can be generalized. Given our relatively large sample size, at least for qualitative purposes, and the level of sufficient saturation we obtained with the sample, we believe generalizability is less problematic in our study than is usually the case in qualitative research (Maxwell, 2013). That said, we were able to interview only defendants who decided to attend their court hearings and were not incarcerated, which may have resulted in selection effects. Furthermore, it would be relevant to explore whether our findings generalize to other contexts, such as cases of very severe criminal offenses or litigants in other kinds of legal cases, like those involved in administrative or civil law cases.

Related to this issue of generalizability, our response rate was acceptable but suboptimal and lower than the response rate obtained in, for example, the study by Jenness and Calavita (2018). Therefore, we cannot rule out nonresponse bias. For instance, although our sample included many respondents who indicated they were (partly) dissatisfied with their outcomes, it is possible that defendants who were dissatisfied may have been less willing to participate in the interviews.

We also recognize the relatively short duration of our interviews compared to other qualitative interview studies (e.g., De Mesmaecker, 2014; Morgan, 2018). Interviewing respondents directly after their court hearings meant not only that their experiences were fresh and minimally influenced by discussions with others, but also that our respondents had less time to be interviewed than, for instance, incarcerated defendants (Morgan, 2018). Therefore, rather than starting the interviews with several more general questions, in our interviews we immediately zoomed in on perceived procedural justice.

We aimed to discuss perceived procedural justice as extensively as possible before moving on to the other interview topics and skipped these other topics if needed. Nevertheless, longer interviews may have yielded more information regarding respondents' procedural justice perceptions.

Implications

Despite these limitations, we think the current study makes several important contributions to procedural justice theory and legal practice. For instance, our finding that the large majority of our respondents mentioned procedural justice issues themselves suggests that perceived procedural justice is a relevant concern for many defendants. This provides additional support for findings of other procedural justice studies, which usually assess the importance of perceived procedural justice by examining how it is associated with relevant dependent variables (e.g., Casper et al., 1988; Grootelaar, 2018; Tyler, 1984). The large number of respondents who referred to perceived procedural justice is especially striking given the real-life courtroom context of our study, in which respondents risked fines, community service, and prison sentences.

Furthermore, by examining which procedural justice components defendants came up with themselves rather than asking them about predetermined components derived from the literature, our study provides a refined, bottom-up conceptualization of perceived procedural justice. Future quantitative studies on perceived procedural justice, especially in the context of criminal justice, could use our findings for their operationalizations of this concept. For instance, they may consider leaving out questions about consistency and focus on the information on which decisions are based and neutrality. Our study also provides suggestions for how to phrase items targeting these components. For example, interpersonal treatment can be assessed by asking respondents not only about respectful treatment, but also about how friendly and calm the authorities were and whether they put themselves in respondents' shoes. In addition, future studies might include items on public prosecutors' behaviors, as our study suggests these shape defendants' fairness perceptions as well.

Finally, our findings provide tools for judges and prosecutors who aim to enhance defendants' perceptions of procedural justice. After all, the current study shows which procedural justice components defendants refer to most often when asked about perceived fairness and which concrete behaviors may enhance defendants' perceptions of these components. Of course, our findings regarding concrete behaviors that foster procedural justice perceptions among defendants are tentative, as the relationship between concrete judicial behaviors on the one hand and defendants' procedural justice perceptions on the other hand is far from straightforward (Beier, Eib, Oehmann, Fiedler, & Fiedler, 2014). Nevertheless, especially after further examination by future studies, these insights could be helpful for individual judges and prosecutors as well as judicial training centers.

Coda

Fairness and justice are central concerns in human life, and what they entail exactly has been reflected on by philosophers, legal scholars, and social psychologists, among others. The current study takes part in this by adopting the perspective of defendants in criminal cases, showing whether and how they refer to issues of perceived procedural fairness when they are speaking of justice.

Chapter 3

A Critical Test of Perceived Procedural Justice Among Defendants With a Non-Western Background Involved in Dutch Criminal Cases

This chapter is based on a manuscript submitted for publication by Lisa Ansems, Kees van den Bos, and Elaine Mak.

Author contributions: Lisa Ansems designed the study, including the questionnaire and the study's procedures, organized approval by the court, organized and liaised about ongoing data collection within the court, collected most of the data and directed data collection by a research assistant, analyzed the data, interpreted results, and wrote the manuscript. Kees van den Bos provided conceptualization and theoretical input and aided in designing the study and questionnaire, provided conceptualization and theory used to integrate findings, co-interpreted results, and edited the manuscript. Elaine Mak provided input for the design and set-up of the study and commented on several drafts of the manuscript, including editing of the manuscript.

Abstract

We examine whether perceptions of procedural justice among one hundred ninety-eight defendants with a non-western background involved in Dutch criminal court hearings are associated with their trust in judges and their intentions to protest against the judicial ruling, among other variables. Building on earlier research in work settings and laboratory studies, we also assess whether these associations are attenuated or even reversed depending on respondents' outcome judgments and their perceptions of everyday discrimination. Perceived procedural justice was significantly associated with trust in judges and protest intentions, and these associations were mediated by state self-esteem. These associations were not moderated by outcome judgments and perceived everyday discrimination. Our findings support the importance of perceived procedural justice, even when it is subjected to a critical test.

Introduction

Fair and just procedures are key aspects of law. When studying procedural justice, legal scholars tend to focus on the extent to which legal procedures meet standards laid down in legal statutes, case law, and unwritten legal principles. In contrast, social psychologists empirically study the extent to which legal procedures correspond with citizens' ideas about fairness and justice. These experiences of being treated fairly by decision-making authorities are referred to as perceived procedural justice (Lind & Tyler, 1988; Tyler & Lind, 1992).

People who perceive procedures as fair tend to be more satisfied with the outcomes of their cases and more inclined to accept those outcomes (Lind, Kulik, Ambrose, & De Vera Park, 1993; Thibaut & Walker, 1975; Van den Bos, Van der Velden, & Lind, 2014). They also tend to report higher levels of self-esteem and trust in judges (Grootelaar, 2018; Koper, Van Knippenberg, Bouhuijs, Vermunt, & Wilke, 1993; Sedikides, Hart, & De Cremer, 2008). Other important attitudes and behaviors associated with perceived procedural justice are perceived legitimacy, cooperation with legal authorities, and compliance with the law (Paternoster, Brame, Bachman, & Sherman, 1997; Tyler, 2006; Tyler & Huo, 2002). Such favorable responses to perceived procedural justice are generally referred to as the fair process effect (Folger, Rosenfield, Grove, & Corkran, 1979; Van den Bos, 2015).

The current study examines whether these associations hold in the real-life courtroom context of Dutch criminal cases, assessing how defendants respond to perceptions of procedural fairness. The stakes in these cases can be relatively high (Grootelaar, 2018), with defendants risking sentences ranging from fines to community service and imprisonment. Some authors question the importance of procedural justice perceptions in actual legal procedures, arguing that litigants are more concerned with outcomes than with procedures or that they do not distinguish between the two (Berrey, Hoffman, & Nielsen, 2012; Jenness & Calavita, 2018). In contrast, others have found that perceived procedural justice matters even in high stakes cases (Casper, Tyler, & Fisher, 1988; Landis & Goodstein, 1986). To shed further light on this issue, we examine whether defendants with higher levels of perceived procedural justice report more trust in judges, more positive outcome judgments, fewer intentions to protest against their outcomes, and higher state self-esteem (Hypothesis 1).

People's favorable responses to perceived procedural justice can be explained by both instrumental considerations and self-relevant processes. That is, people care about fair procedures giving them some level of process control (Thibaut & Walker, 1975) not only because such procedures may yield beneficial outcomes, but also because being treated fairly communicates to people that they are valued members of society (Lind & Tyler, 1988). As a result, people's self-esteem may be threatened or boosted depending on whether they feel treated fairly (see also Brockner & Wiesenfeld, 1996). Indeed, several studies provide support for the importance of self-esteem in explaining people's responses to perceived procedural justice (Sedikides et al., 2008; Vermunt, Van Knippenberg, Van Knippenberg, & Blaauw, 2001; Wiesenfeld, Brockner, & Thibault, 2000). In line with this,

we hypothesize that the associations between perceived procedural justice and trust in judges, outcome judgments, and protest intentions will be mediated by respondents' state self-esteem (Hypothesis 2).

Outcome judgments, too, may shape reactions to perceived procedural justice. That is, people's responses to perceived procedural fairness may be moderated by how they evaluate their outcomes. Aggregating the results of 45 previous studies, Brockner and Wiesenfeld (1996) suggest that people tend to react more strongly to perceived procedural justice when they consider their outcomes unfavorable. Vice versa, reactions to perceived procedural justice may be less strong in the face of favorable outcomes. In line with this, we expect that the associations between perceived procedural justice and trust in judges, protest intentions, and state self-esteem will be moderated by respondents' outcome judgments, such that these associations are weaker when respondents judge their outcomes more positively (Hypothesis 3).

We further expect that people's psychological motives of self-verification and self-enhancement may play a role in the courtroom context of our study. Self-verification theory suggests that people are motivated to maintain a coherent image of themselves, which helps to make sense of the world (Swann, 1983). As a result, people respond more favorably to events that confirm their self-image rather than distort it. Indeed, Wiesenfeld, Swann, Brockner, and Bartel (2007) found that perceived procedural justice was positively related to organizational commitment among participants with higher self-esteem, while this relationship was not significant among participants with lower self-esteem. The authors explain this elimination of the fair process effect by pointing out that, for participants with lower self-esteem, being treated fairly was inconsistent with participants' self-views.

In addition to this need for self-verification, people generally want to feel good about themselves (Leary & Terry, 2013). When people perceive procedures as fair, they are more likely to view themselves as personally responsible for their outcomes and thus make more internal attributions (Brockner, Wiesenfeld, & Diekmann, 2009; Leung, Su, & Morris, 2001). Unfavorable outcomes may then harm their self-esteem (Weiner, 1985). In contrast, procedures that people perceive as unfair offer external attribution opportunities. That is, people may maintain their self-esteem by attributing negative outcomes to the perceived unfairness of procedures rather than to themselves. Hence, for people who receive negative outcomes unfair procedures can have nice aspects, at least under some circumstances (Van den Bos, Bruins, Wilke, & Dronkert, 1999).

This line of reasoning is supported by empirical studies described by Brockner et al. (2009). These studies show that the positive association between perceived procedural justice and self-esteem may be attenuated, eliminated, or even reversed when outcomes are perceived as unfavorable in work contexts. Van den Bos et al. (1999) also found a reversal of the fair process effect in the face of unfavorable outcomes manipulated in laboratory experiments. In their study, the reversal was triggered by the strength of the evaluative context: Participants who felt strongly evaluated during the decision-making

procedure reported lower protest intentions when they perceived the procedure as unfair rather than fair.

Similar processes may play a role among people who experience discrimination in their daily lives. For instance, Major and Townsend (2012) argue that experiences of discrimination may or may not be in line with one's beliefs about how status differences in society can be explained. That is, experiencing discrimination confirms the worldview of people who believe status differences are the result of prejudice and discrimination rather than individual merit, while not experiencing discrimination refutes their worldview and may result in feelings of anxiety and lowered self-esteem (Major, Kaiser, O'Brien, & McCoy, 2007). People may thus respond more favorably to experiences that are in themselves negative yet correspond with their views of the world.

Self-enhancement motives, too, seem to play a role in shaping reactions to discrimination. Perceived discrimination can lead to various problems, including stress and reduced psychological well-being (Major, Quinton, & McCoy, 2002). At the same time, experiencing discrimination may enable people to maintain their self-esteem, as it reduces their sense of personal responsibility and deservingness of negative outcomes (Crocker & Major, 1989; Major, 1994). Hence, attributing negative events to discrimination rather than one's personal qualities is a coping strategy people can use to counter the negative impact these events may otherwise have on their self-esteem (Major et al., 2002).

As far as we know, these ideas have not been examined in empirical legal studies. The present study, therefore, takes these insights to the legal arena. Specifically, we surveyed defendants with a non-western ethnic-cultural background¹ who were involved in Dutch criminal cases. These defendants may feel negatively evaluated by society and may experience discrimination in their daily lives (e.g., Huijnk & Andriessen, 2016). Perceptions of procedural unfairness during their court hearings could be consistent with these other instances of unfair treatment. In addition, defendants may look for opportunities to attribute negative case outcomes to external causes. Defendants who experience a lot of everyday discrimination could be particularly inclined to look for such external attribution opportunities, as in their daily lives they may often (rightly) attribute negative events to discrimination. Because perceived procedural unfairness offers these external attribution opportunities (Van den Bos et al., 1999), defendants may respond more favorably to procedures they perceive as less fair.

Following this line of reasoning, Hypothesis 4 predicts a two-way interaction between perceived everyday discrimination and perceived procedural justice, such that the associations between perceived procedural justice and our other variables (i.e., trust

1 In this chapter, a "non-western ethnic-cultural background" refers to being born in a non-western country, which according to Statistics Netherlands (2018) refers to countries in Africa, Latin-America, and Asia (excluding Indonesia and Japan), or Turkey. We also use the term to refer to persons whose parents or other ancestors were born in a non-western country. We included these latter respondents in our sample because they, too, might experience discrimination in their daily lives due to their ethnic-cultural background.

in judges, outcome judgments, protest intentions, and state self-esteem) will be attenuated – possibly to the extent that these associations are no longer statistically significant – or even reversed when respondents experience relatively high levels of everyday discrimination. We expect to observe this attenuation or reversal particularly in case of negative outcome judgments. Therefore, Hypothesis 5 predicts a three-way interaction between outcome judgments, perceived everyday discrimination, and perceived procedural justice, such that the two-way interaction between perceived everyday discrimination and perceived procedural justice will be more pronounced when respondents judge their outcomes negatively.

We further argue that perceived everyday discrimination may affect not only people's reactions to perceived procedural fairness, but also the perception of procedural fairness itself. That is, people may be motivated to perceive procedures as unfair when procedural unfairness corresponds with their worldview and when they are looking for external attribution opportunities. In line with this, Lilly and Wipawayangkool (2018) showed that external self-serving bias and self-threat following unfavorable outcomes are negatively related to procedural justice perceptions. The authors argue that levels of self-threat and external self-serving bias following negative decision outcomes may be particularly high among people who feel undervalued by society, which may include people belonging to ethnic minorities.

Applying these insights to the courtroom context of our study, we hypothesize that defendants who experience more discrimination in their daily lives will report lower levels of perceived procedural justice during their court hearings (Hypothesis 6). Again, this association may be particularly strong when respondents perceive their outcomes as negative, because negative outcomes may trigger people to look for external attribution opportunities such as unfair procedures. Hence, Hypothesis 7 examines whether the negative association between perceived everyday discrimination and perceived procedural justice is more pronounced among defendants who judge their outcomes negatively.

The Current Research

To assess these hypotheses, we conducted a face-to-face survey among 198 defendants with a non-western ethnic-cultural background involved in Dutch criminal cases. These defendants were accused of misdemeanors and appeared before a single judge. We conducted our survey directly after respondents' court hearings in the courtroom hallways to capture their immediate reactions. We assessed respondents' procedural justice perceptions during their court hearings, their outcome judgments, levels of perceived everyday discrimination, trust in Dutch judges, protest intentions, and state self-esteem.

By including perceived everyday discrimination and outcome judgments as potentially moderating variables, our study helps to refine current insights on perceived procedural justice. That is, we examine not only the possible robustness of associations with

perceived procedural justice, but also the potential attenuation or reversal of these associations among respondents with relatively high levels of perceived everyday discrimination and relatively negative outcome judgments. Examining when fairness perceptions may operate in a way that differs from what one might intuitively expect deepens our understanding of perceived procedural justice (see also Brockner et al., 2009). After all, to fully understand psychological phenomena it is important to study not only when they operate as intuitively anticipated, but also when they do not.

In studying these issues, we take insights regarding self-verification and self-enhancement obtained in studies on organizational justice (e.g., Brockner et al., 2009) and discrimination (e.g., Major et al., 2002; Major & Townsend, 2012) and apply these insights to the legal context of criminal court hearings. Because we connect different literatures and apply them to a novel context, our hypotheses involving perceived everyday discrimination are explorative. Examining these hypotheses will complement current insights on perceived procedural justice in criminal courtrooms (e.g., Casper et al., 1988; Morgan, 2018; Swaner, Ramdath, Martinez, Hahn, & Walker, 2018; Tyler, 1984, 1988), as we study whether defendants' reactions to perceived procedural fairness are moderated by experiences of everyday discrimination and outcome judgments.

We also note that, because of our focus on defendants with a non-western ethnic-cultural background, our study sheds light on experiences of a relatively underinvestigated research population. Contrary to research participants in many other procedural justice studies, respondents in the current study are generally non-WEIRD (Western, Educated, Industrialized, Rich, and Democratic; Henrich, Heine, & Norenzayan, 2010a, 2010b). In addition, our study takes place against a background of national and international attention for issues of diversity and discrimination. Our findings may thus be of interest to researchers as well as policymakers and society at large.

Research Context

We study perceptions and experiences of defendants who appeared before the single judge division. In the Dutch court system, single judges handle relatively simple criminal cases in which the sentence demanded by the public prosecutor does not exceed one year of imprisonment. Typical cases handled by single judges include theft, simple assault, and traffic offenses such as driving under the influence. Defendants can be represented by a lawyer or they can choose to defend themselves. Usually, single judge criminal court hearings last around 30 minutes and judges render a verdict directly afterwards.

Relatively many defendants in Dutch criminal cases have a non-western ethnic-cultural background. People with a Moroccan or Antillean background in particular are overrepresented in Dutch crime statistics, which could be due partly to negative stereotypes and ethnic profiling (Huijnk & Andriessen, 2016). Discrimination may play a role in Dutch society more broadly, too, as several studies show that people with a non-western migration background report relatively high levels of perceived discrimination

(Andriessen et al., 2020; Huijnk & Andriessen, 2016; Huijnk, Dagevos, Gijsberts, & Andriessen, 2015).

Indeed, there are signs that Dutch people with a migration background are sometimes discriminated in important life domains. For instance, a large-scale field experiment by Thijssen, Coenders, and Lancee (2019) showed that the chances of receiving a positive response to job applications are significantly smaller for applicants with a migration background compared to equally qualified applicants without a migration background. The multicultural aspects of Dutch society are a frequent topic of fierce political debate as well.

Against this background, the present study explores whether experiences of everyday discrimination may moderate how defendants with a non-western ethnic-cultural background involved in Dutch criminal cases react to perceived procedural justice during their court hearings. We thus conducted our study outside work settings and the psychological laboratory in a real-life courtroom context, focusing on defendants with diverse ethnic-cultural backgrounds who might respond differently to perceived procedural justice. In this way, we critically examine the role of perceived procedural justice in criminal court hearings.

Method

Sample

Our sample consisted of 198 defendants with a non-western ethnic-cultural background who appeared before a single judge at the criminal court of the Mid-Netherlands in Utrecht ($N = 190$; 96.0% of the sample), Lelystad ($N = 6$; 3.0% of the sample), and Almere ($N = 2$; 1.0% of the sample). As is the case in the general population of defendants in Dutch criminal cases (Statistics Netherlands, 2020), most of our respondents were men (178 respondents, 90.4% of the sample) and some were women (19 respondents, 9.6% of the sample). Respondents were between 18 and 66 years old and had an average age of 30.10 ($SD = 10.75$). Their highest completed level of education varied between primary school (14 respondents, 7.4% of the sample), secondary school (81 respondents, 42.6% of the sample), secondary vocational education (62 respondents, 32.6% of the sample), higher professional education (24 respondents, 12.6% of the sample), and university (six respondents, 3.2% of the sample). Three respondents indicated that they had had a different kind of education: special-needs education (one respondent, 0.5% of the sample) or no completed level of education at all (two respondents, 1.1% of the sample).

Many of our respondents had a Moroccan background (85 respondents, 42.9% of the sample). Others had a Surinam (25 respondents, 12.6% of the sample), Turkish (20 respondents, 10.1% of the sample), or Antillean background (12 respondents, 6.1% of the sample). These are the four largest non-western ethnic-cultural groups in the Netherlands (Andriessen et al., 2020). Fifty-eight respondents (29.3% of the sample) indicated they had a different ethnic-cultural background, such as Somalian (eight

respondents, 4.0% of the sample), Iraqi (seven respondents, 3.5% of the sample), or Afghan (five respondents, 2.5% of the sample).

Respondents were suspected of different kinds of offenses, including assault or violence (57 respondents, 30.0% of the sample), theft, embezzlement, fencing, or breaking and entering (45 respondents, 23.7% of the sample), and traffic offenses such as driving under the influence (43 respondents, 22.6% of the sample). Other offenses included threatening someone (19 respondents, 10.0% of the sample), drug offenses (17 respondents, 8.9% of the sample), insulting someone (13 respondents, 6.8% of the sample), destruction (12 respondents, 6.3% of the sample), and scam or fraud (five respondents, 2.6% of the sample).

In our sample, we included only respondents who had received the outcome of their case. The large majority of our respondents were convicted during their court hearings and received a sentence or measure (152 respondents, 79.2% of the sample). Others indicated that they were acquitted (26 respondents, 13.5% of the sample), that they had been found guilty without imposition of a sanction or measure (13 respondents, 6.8% of the sample), or that they were discharged from further prosecution (two respondents, 1.0% of the sample). Most convicted respondents were sentenced to community service (108 respondents, 65.1% of the sample), had to pay a fine (51 respondents, 30.7% of the sample), or received a prison sentence (27 respondents, 16.3% of the sample). These sentences could be conditional or unconditional.

During their court hearings, most respondents were assisted by either a lawyer (136 respondents, 70.1% of the sample) or someone else (five respondents, 2.6% of the sample). The others did not have legal assistance (53 respondents, 27.3% of the sample). Sixty-nine respondents (35.0% of the sample) had not had a previous hearing before a criminal court, while others had appeared before a criminal court once (48 respondents, 24.4% of the sample), two to ten times (66 respondents, 33.5% of the sample), or more than ten times before (14 respondents, 7.1% of the sample).

Of the 447 eligible defendants we approached, 210 defendants filled out our questionnaire, which resulted in a response rate of 47.0%. After filtering out the questionnaires that did not indicate the respondent's ethnic-cultural background or that had a very large number of missing values, we were able to use 198 questionnaires for our analyses. We thus met the minimum number of respondents required to achieve sufficient statistical power of .80 (Cohen, Cohen, West, & Aiken, 2003). After all, the results of an a priori G*Power analysis (Faul, Erdfelder, Lang, & Buchner, 2007) showed that with $\alpha = .05$ and a relatively small effect size ($f^2 = .04$) of the two-way interaction between perceived everyday discrimination and perceived procedural justice, at least 191 respondents were needed.

Research Procedure

After gaining the court's permission to conduct the study, we collected data between January 21, 2019 and October 15, 2019. Except for the summer break, the first author

went to the court almost every day during this period to collect data. Among the causes for the relatively long duration of data collection were our focus on defendants with a non-western ethnic-cultural background, the fact that many defendants did not appear for their court hearings, and some defendants' poor command of Dutch.

The first author approached defendants in the court hallway to ask whether they were willing to participate in a study about how fairly and justly they felt they were treated during their court hearings, indicating that they would be thanked for their participation with a chocolate bar. Seventeen respondents (8.6% of the sample) were approached by a research assistant. Respondents were approached before the start of their court hearings as much as possible. When this was not possible – for instance, because they appeared for their court hearings only very last minute or because they were consulting with their lawyers – respondents were approached immediately after their court hearings.

Most respondents completed the questionnaire directly. Six respondents (3.0% of the sample) filled it out at home and sent it to us in an envelope with prepaid postage stamps. The respondents who filled out the questionnaire directly often did so themselves, while 25 respondents (12.8% of the sample) preferred having the questions read out loud by the researcher. Before respondents filled out the questionnaire, we explained that the research focused on persons who were born in a different country and persons whose parents or other ancestors were born in a different country. In addition, we told respondents that participation was voluntary and anonymous, and that the research was conducted independently of the court and the Public Prosecution Service.

After they completed the questionnaire, we thanked respondents for their participation and offered to send them a summary of our research results, which we sent to interested respondents later. During the entire period of data collection, we kept an extensive logbook detailing relevant background information to the research, such as information obtained through informal conversations with defendants and defense lawyers.

Measures

Our main variables were perceived procedural justice, outcome judgments, perceived everyday discrimination, trust in Dutch judges, protest intentions, and state self-esteem. The questionnaire started with those variables relating to the court hearing (perceived procedural justice, outcome judgments, protest intentions, and trust in Dutch judges) and then assessed variables targeting respondents' perceptions more generally (state self-esteem and perceived everyday discrimination).²

2 Because we report all measures used in our questionnaire, we note that we also measured respondents' external attribution ratings and the extent to which they identified with their ethnic-cultural subgroup. We included the items on subgroup identification in our questionnaire for potential additional analyses, which in the end we did not perform. The items we used to measure respondents' external attribution ratings yielded a very low Cronbach's alpha ($\alpha = .17$). Hence, we decided to drop these variables from the current chapter. Complete details and results are available on request.

We measured perceived procedural justice with a 6-item scale based on the findings of our recent qualitative interview study among 100 defendants in Dutch criminal cases (Ansems, Van den Bos, & Mak, 2020a). Specifically, we asked respondents to indicate, on a Likert scale from 1 (*totally disagree*) to 7 (*totally agree*), to what extent they agreed with the following six statements: “During the court hearing, I was treated in a pleasant way”, “During the court hearing, I was treated in an unprejudiced manner”, “During the court hearing, I was sufficiently able to tell my side of the story”, “During the court hearing, my side of the story was listened to”, “During the court hearing, everything important has been taken into account”, and “During the court hearing, my case was treated in a careful manner”. Together, these items formed a reliable scale ($\alpha = .82$) on which higher scores reflect higher levels of perceived procedural justice. Therefore, we report the results of our analyses without the additional 11 items measuring respondents’ procedural justice perceptions, which we included in our questionnaire in case the 6-item scale would turn out to be unreliable.³

We also assessed respondents’ outcome judgments. Our outcome judgments scale was largely based on previous research in a similar context (Grootelaar & Van den Bos, 2018) and consisted of six items: “I find this ruling fair”, “I find this ruling favorable”, “I am satisfied with the judge’s ruling”, “I find this ruling just”, “The judge’s ruling has positive consequences for me”, and “I agree with the judge’s ruling”. Again, respondents indicated on a scale from 1 to 7 to what extent they agreed with these statements, and for each respondent we took the average of their scores on these items to calculate their scores on our outcome judgments scale ($\alpha = .97$). Higher scores on this scale indicate that respondents judged their outcomes more positively.

We examined perceived everyday discrimination with the 10-item version of the everyday discrimination scale (Williams, Yu, Jackson, & Anderson, 1997; Williams et al., 2008). We asked respondents to indicate on a scale from 1 (*never*) to 6 (*almost every day*) how often they encountered the following events in their daily lives: “In my day-to-day life, I am treated with less courtesy than other people are”, “In my day-to-day life, I am treated with less respect than other people are”, “In my day-to-day life, I receive poorer service than other people at restaurants or stores”, “In my day-to-day life, people act as if they think I am not smart”, “In my day-to-day life, people act as if they are afraid of me”, “In my day-to-day life, people act as if they think I am dishonest”, “In my day-to-day life, people act as if they are better than I am”, “In my day-to-day life, I am called names or insulted”, “In my day-to-day life, I am threatened or harassed”, and “In my day-to-day life, I am followed around in stores”. Together, these items formed a reliable perceived everyday discrimination scale ($\alpha = .91$). Higher scores on this scale reflect higher levels of perceived everyday discrimination. In addition, respondents who answered “a few times a year” (score 3 on the 6-point scale) or more often to at least one question were asked to indicate what they thought was the main reason for these experiences: their gender,

3 We conducted all analyses involving perceived procedural justice with both this 6-item scale and the entire 17-item scale. When these analyses yielded different results, this is noted at footnotes in the Results section of this chapter.

their age, their religion, their ethnic-cultural background, their level of education, their level of income, and/or some other reason (which they could then write down). In this way, we assessed perceived grounds of discrimination.

We solicited their trust in Dutch judges with items that target this construct in a way that we deemed as direct and straightforward as possible (see also Grootelaar & Van den Bos, 2018). Specifically, we asked respondents to indicate on a scale from 1 (*totally disagree*) to 7 (*totally agree*) to what extent they agreed with the following five statements: “I have faith in Dutch judges”, “I deem Dutch judges trustworthy”, “I trust Dutch judges”, “I do not trust Dutch judges” (reverse-coded), and “I feel like Dutch judges cannot be trusted” (reverse-coded). Respondents’ answers on these items were averaged into a reliable trust in Dutch judges scale ($\alpha = .90$) on which higher scores reflect higher levels of trust. We also included an additional sixth item asking respondents to express their trust in Dutch judges with a grade between 1 (*lowest*) and 10 (*highest*).

Following Stahl, Vermunt, and Ellemers (2008) we assessed protest intentions by asking respondents to indicate on a scale from 1 (*not at all*) to 7 (*very much*) to what extent they would like to criticize the ruling and to what extent they would like to protest against the ruling. Respondents’ answers on these two items were averaged into a reliable protest intentions scale ($\alpha = .85$). Higher scores on this scale represent stronger protest intentions.

Finally, to measure respondents’ state self-esteem at the moment they filled out our questionnaire we adapted Rosenberg’s (1965) global self-esteem scale to measure state global self-esteem. Hence, respondents were asked to indicate on a scale from 1 (*totally disagree*) to 7 (*totally agree*) to what extent they agreed with the following ten statements: “Now, at this moment, I am satisfied with myself”, “Now, at this moment, I think I am no good at all” (reverse-coded), “Now, at this moment, I feel that I have a number of good qualities”, “Now, at this moment, I am able to do things as well as most other people”, “Now, at this moment, I feel like I do not have much to be proud of” (reverse-coded), “Now, at this moment, I feel useless” (reverse-coded), “Now, at this moment, I feel that I am a person of worth, at least on an equal plane with others”, “Now, at this moment, I wish I could have more respect for myself” (reverse-coded), “Now, at this moment, I feel like I am a failure” (reverse-coded), and “Now, at this moment, I take a positive attitude toward myself”. Respondents’ answers on these items were averaged into a reliable state self-esteem scale ($\alpha = .83$) on which higher scores reflect higher state self-esteem.

We also assessed relevant background variables, asking respondents to indicate whether they had legal assistance during their court hearings, their number of previous court hearings before a criminal judge, their highest completed level of education, their gender,

and their age. At the end of the questionnaire, respondents could write down remarks or issues they deemed important that had not been the subject of our questions.⁴

Results

Descriptive Statistics and Bivariate Correlations

Table 3.1 presents means, standard deviations, and bivariate correlations for our main variables and background variables (see page 76).

Background Variables

Table 3.1 shows that there were statistically significant relationships between some of our background variables and our main variables. Having legal assistance was associated with perceived procedural justice and the grades respondents gave their trust in judges. That is, respondents who had legal assistance during their court hearings showed lower levels of perceived procedural justice ($b = -.53$, $\beta = -.19$, $t(192) = -2.65$, $p < .01$) and gave their trust in judges lower grades ($b = -.77$, $\beta = -.17$, $t(180) = -2.26$, $p < .05$). The number of previous court hearings was also associated with trust in judges. Respondents with more previous court hearings reported less trust in judges ($b = -.23$, $\beta = -.15$, $t(194) = -2.09$, $p < .05$) and gave their trust in judges lower grades ($b = -.36$, $\beta = -.18$, $t(183) = -2.46$, $p < .05$). Finally, age was associated with trust in judges and protest intentions, such that older respondents reported more trust in judges ($b = .03$, $\beta = .17$, $t(192) = 2.42$, $p < .05$) and lower protest intentions ($b = -.03$, $\beta = -.15$, $t(193) = -2.07$, $p < .05$).

Reacting to Procedural Justice

To examine Hypothesis 1, we regressed trust, outcome judgments, protest intentions, and state self-esteem on perceived procedural justice, using linear regression analyses. The results of these analyses showed a statistically significant positive association between perceived procedural justice and trust in judges ($b = .61$, $\beta = .50$, $t(195) = 8.05$, $p < .001$) and between perceived procedural justice and the grades respondents gave their trust in judges ($b = .76$, $\beta = .47$, $t(184) = 7.15$, $p < .001$). In addition, procedural justice perceptions were positively related to respondents' outcome judgments ($b = 1.01$, $\beta = .59$, $t(196) = 10.23$, $p < .001$) and were negatively related to protest intentions ($b = -.72$, $\beta = -.45$, $t(196) = -7.05$, $p < .001$). We also found a positive association between perceived procedural justice and respondents' state self-esteem ($b = .16$, $\beta = .19$, $t(195) = 2.71$, $p < .01$). Hence, respondents with higher levels of perceived procedural justice showed more trust in judges, judged their outcomes more positively, showed lower protest

4 There were missing values for perceived ground of discrimination (51 missing values), trust in judges (one missing value), grade for trust in judges (12 missing values), and self-esteem (one missing value). There were also some missing values for gender (one missing value), age (three missing values), highest completed level of education (eight missing values), offense (eight missing values), type of verdict (six missing values), sentence received (32 missing values), legal assistance (four missing values), and number of previous court hearings (one missing value).

intentions, and reported higher state self-esteem. Our first hypothesis was thus supported by the results of these analyses.

We assessed Hypothesis 2 by conducting mediation analyses using the PROCESS v3.4 macro designed by Hayes (2017). We inserted perceived procedural justice as an independent variable, state self-esteem as a mediator variable, and trust in judges, outcome judgments, and protest intentions as successive dependent variables. These analyses showed that the association between perceived procedural justice and trust in judges was mediated by respondents' state self-esteem ($b = .04$, bootstrapped 95% CI .003, .090). This represents a relatively small effect ($\beta = .03$, bootstrapped 95% CI .003, .072). The association between perceived procedural justice and protest intentions, too, was mediated by respondents' state self-esteem to a small extent ($b = -.06$, bootstrapped 95% CI -.131, -.007, $\beta = -.04$, bootstrapped 95% CI -.082, -.005). We did not find significant mediation effects of state self-esteem on the grades respondents gave their trust in judges and on respondents' outcome judgments. Thus, the second hypothesis was only partially supported.

Adding Outcome Judgments

To study Hypotheses 3 to 5, we performed hierarchical regression analyses. We entered legal assistance, number of previous court hearings, and age in Step 1 to control for the effects of these background variables. Main effects were entered in Step 2, two-way interactions were entered in Step 3, and three-way interactions were entered in Step 4. All continuous independent variables (including quasi-interval variables) were standardized before being entered into the equation. When reporting the results of these hierarchical regression analyses, we focus on the last step in the analysis that significantly added to the amount of explained variance in the dependent variables in our regression equations.

We examined Hypothesis 3 by entering the relevant background variables in Step 1 of the hierarchical regression analysis, perceived procedural justice and outcome judgments in Step 2, and the interaction between perceived procedural justice and outcome judgments in Step 3. Table 3.2 (see page 77) shows that trust in judges was positively associated with respondents' procedural justice perceptions ($b = .58$, $\beta = .37$, $t(183) = 4.91$, $p < .001$) as well as respondents' outcome judgments ($b = .34$, $\beta = .22$, $t(183) = 2.94$, $p < .01$). In addition, trust in judges was positively associated with respondents' ages ($b = .22$, $\beta = .14$, $t(183) = 2.34$, $p < .05$) and was negatively associated with number of previous court hearings ($b = -.20$, $\beta = -.13$, $t(183) = -2.09$, $p < .05$).

Hence, respondents who felt treated more fairly during their court hearings, respondents who judged their outcomes more positively, and respondents who were older displayed more trust in judges, whereas trust in judges was lower among respondents with more previous court hearings. Together, the variables entered in Step 2 of the analysis explained 31.9% of the variation in respondents' trust in judges. The interaction between

outcome judgments and perceived procedural justice was not statistically significant ($b = -.02$, $\beta = -.01$, $t(182) = -.14$, $p = .89$).

The grades respondents gave their trust in judges, too, were positively related to respondents' procedural justice perceptions ($b = .68$, $\beta = .32$, $t(173) = 3.89$, $p < .001$) and respondents' outcome judgments ($b = .40$, $\beta = .19$, $t(173) = 2.40$, $p < .05$), and were negatively related to their number of previous court hearings ($b = -.35$, $\beta = -.17$, $t(173) = -2.58$, $p < .05$). Thus, respondents who felt treated more fairly during their court hearings, respondents who judged their outcomes more positively, and respondents with fewer previous court hearings gave their trust in judges a higher grade. Together, the variables entered in Step 2 of the analysis explained 25.9% of the variation in the grades respondents gave their trust in judges. The interaction between outcome judgments and perceived procedural justice was again not statistically significant ($b = -.16$, $\beta = -.07$, $t(172) = -1.01$, $p = .31$).

We observed a similar pattern of results for our other variables. That is, respondents' protest intentions were negatively associated with their procedural justice perceptions ($b = -.31$, $\beta = -.15$, $t(184) = -2.09$, $p < .05$) and outcome judgments ($b = -.101$, $\beta = -.50$, $t(184) = -7.02$, $p < .001$). Respondents' state self-esteem was marginally significantly associated with respondents' perceptions of procedural justice ($b = .19$, $\beta = .18$, $t(183) = 1.96$, $p = .05$) and number of previous court hearings ($b = -.14$, $\beta = -.13$, $t(183) = -1.74$, $p = .08$).

Hence, respondents who felt treated more fairly during their court hearings showed lower protest intentions and tended to display higher state self-esteem. Respondents who judged their outcomes more positively, too, showed lower protest intentions. Finally, respondents with more previous court hearings tended to report lower state self-esteem. For none of our variables, the association with perceived procedural justice was moderated by respondents' outcome judgments. Thus, the third hypothesis was not supported.⁵

Adding Perceived Everyday Discrimination

To assess Hypothesis 4, we entered the relevant background variables in Step 1 of the hierarchical regression analysis, perceived everyday discrimination and perceived procedural justice in Step 2, and the interaction between perceived everyday discrimination and perceived procedural justice in Step 3. As shown in Table 3.3 (see page 78), we found a positive association between age and trust in judges ($b = .20$, $\beta = .13$, $t(183) = 2.11$, $p < .05$), a positive association between perceived procedural justice and trust in judges ($b = .75$, $\beta = .48$, $t(183) = 7.94$, $p < .001$), and a negative

5 Entering the entire 17-item perceived procedural justice scale into the regression equation rather than the 6-item scale yielded slightly different results as to the main effects reported here, but yielded the same (nonsignificant) result regarding the interaction between outcome judgments and perceived procedural justice.

association between perceived everyday discrimination and trust in judges ($b = -.33$, $\beta = -.22$, $t(183) = -3.56$, $p < .001$).

Hence, older respondents, respondents who perceived higher levels of procedural justice during their court hearings, and respondents who experienced less discrimination in their daily lives reported more trust in judges. Together, the variables entered in Step 2 of the analysis explained 33.3% of the variance in trust in judges. The interaction between perceived everyday discrimination and perceived procedural justice was not statistically significant ($b = .11$, $\beta = .07$, $t(182) = 1.14$, $p = .26$).

We found similar results for the grades respondents gave their trust in judges. The number of previous court hearings was negatively related to the grades respondents gave their trust in judges ($b = -.29$, $\beta = -.14$, $t(173) = -2.19$, $p < .05$), as was perceived everyday discrimination ($b = -.34$, $\beta = -.16$, $t(173) = -2.46$, $p < .05$). Perceived procedural justice was positively related to the grades respondents gave their trust in judges ($b = .90$, $\beta = .42$, $t(173) = 6.42$, $p < .001$).

In other words, respondents with fewer previous court hearings, respondents who experienced less discrimination in their daily lives, and respondents who perceived higher levels of procedural justice during their court hearings gave their trust in judges higher grades. Together, the variables entered in Step 2 of the analysis explained 26.1% of the variation in the grades respondents gave their trust in judges. Again, the interaction between perceived everyday discrimination and perceived procedural justice was not statistically significant ($b = .03$, $\beta = .02$, $t(172) = .23$, $p = .82$).

In fact, we did not find a statistically significant interaction between perceived everyday discrimination and perceived procedural justice on any of our other variables. We did find significant main effects of perceived procedural justice, sometimes in addition to significant main effects of perceived everyday discrimination. For instance, perceived procedural justice was positively associated with respondents' outcome judgments ($b = 1.29$, $\beta = .58$, $t(184) = 9.58$, $p < .001$). Protest intentions were negatively associated with respondents' procedural justice perceptions ($b = -.88$, $\beta = -.43$, $t(184) = -6.68$, $p < .001$) and were positively associated with respondents' experiences of everyday discrimination ($b = .48$, $\beta = .24$, $t(184) = 3.71$, $p < .001$). In addition, respondents' state self-esteem was positively related to perceived procedural justice ($b = .23$, $\beta = .21$, $t(183) = 2.92$, $p < .01$) and was negatively related to perceived everyday discrimination ($b = -.19$, $\beta = -.17$, $t(183) = -2.43$, $p < .05$).

Hence, respondents who perceived higher levels of procedural justice during their court hearings judged their outcomes more positively, showed lower protest intentions, and displayed higher state self-esteem. In contrast, respondents who experienced more discrimination in their daily lives showed more protest intentions and displayed lower state self-esteem. Respondents' reactions to perceived procedural justice during their court hearings were not moderated by their experiences of everyday discrimination. Thus, our fourth hypothesis was not supported.

To examine Hypothesis 5, we added respondents' outcome judgments to the equation. Hence, after entering the relevant background variables in Step 1 of the hierarchical regression analysis, we added outcome judgments, perceived everyday discrimination, and perceived procedural justice in Step 2, the two-way interactions between these three variables in Step 3, and the three-way interaction in Step 4. As shown in Table 3.4 (see page 79), trust in judges was positively related to respondents' procedural justice perceptions ($b = .58$, $\beta = .37$, $t(182) = 5.06$, $p < .001$) and respondents' outcome judgments ($b = .30$, $\beta = .19$, $t(182) = 2.64$, $p < .01$) and was negatively related to perceptions of everyday discrimination ($b = -.30$, $\beta = -.20$, $t(182) = -3.31$, $p < .01$). In addition, we found a significant positive association between age and trust in judges ($b = .19$, $\beta = .12$, $t(182) = 2.05$, $p < .05$) and a marginally significant negative association between the number of previous court hearings and trust in judges ($b = -.16$, $\beta = -.11$, $t(182) = -1.77$, $p = .08$).

In other words, respondents who perceived higher levels of procedural justice during their court hearings, respondents who judged their outcomes more positively, and older respondents reported more trust in judges. Conversely, trust in judges was lower among respondents who experienced more everyday discrimination and among respondents with a larger number of previous court hearings. Together, the variables entered in Step 2 of the analysis explained 35.4% of the variance in trust in judges. As shown in Table 3.4, we did not find any statistically significant interaction effects.

We found a similar pattern of results for the grades respondents gave their trust in judges. That is, these grades were positively associated with respondents' procedural justice perceptions ($b = .68$, $\beta = .32$, $t(172) = 3.96$, $p < .001$) and respondents' outcome judgments ($b = .35$, $\beta = .17$, $t(172) = 2.09$, $p < .05$). Conversely, the grades respondents gave their trust in judges were negatively associated with experiences of everyday discrimination ($b = -.30$, $\beta = -.14$, $t(172) = -2.17$, $p < .05$) and respondents' number of previous court hearings ($b = -.31$, $\beta = -.15$, $t(172) = -2.35$, $p < .05$).

Respondents who felt treated more fairly during their court hearings and respondents who judged their outcomes more positively thus gave their trust in judges higher grades, whereas grades were lower among respondents who experienced more discrimination in their daily lives and among respondents with a larger number of previous court hearings. Together, the variables entered in Step 2 of the analysis explained 27.5% of the variation in the grades respondents gave their trust in judges. Again, we did not find any statistically significant interaction effects.

This pattern of results did not change when we replaced trust in judges and the grades respondents gave their trust in judges by our other variables. We thus found several significant main effects, but no significant interactions. For instance, perceived procedural justice was negatively associated with protest intentions ($b = -.31$, $\beta = -.15$, $t(183) = -2.17$, $p < .05$), as were outcome judgments ($b = -.96$, $\beta = -.48$, $t(183) = -6.79$, $p < .001$), while the association between perceived everyday discrimination and protest intentions was positive ($b = .39$, $\beta = .19$, $t(183) = 3.35$, $p < .01$). In addition, respondents' state self-esteem was positively related to their perceptions of procedural justice

($b = .19$, $\beta = .18$, $t(182) = 1.99$, $p < .05$) and was negatively related to perceived everyday discrimination ($b = -.18$, $\beta = -.17$, $t(182) = -2.34$, $p < .05$).

Hence, respondents who perceived higher levels of procedural justice during their court hearings showed lower protest intentions and displayed higher state self-esteem. Respondents who judged their outcomes more positively, too, showed lower protest intentions. In contrast, respondents who experienced more discrimination in their daily lives displayed more protest intentions and lower state self-esteem. None of the associations between these variables and perceived procedural justice were significantly moderated by respondents' outcome judgments and their experiences of everyday discrimination. Hence, the fifth hypothesis was not supported.⁶

Perceiving Procedural Justice

We studied Hypothesis 6 by regressing perceived procedural justice on perceived everyday discrimination using a simple linear regression analysis. We did not find a statistically significant association between respondents' experiences of everyday discrimination and respondents' perceptions of procedural justice during their court hearings ($b = -.07$, $\beta = -.06$, $t(196) = -.84$, $p = .40$). The sixth hypothesis was thus not supported.

Finally, to assess Hypothesis 7, we performed a hierarchical regression analysis in which legal assistance, number of previous court hearings, and age were entered in Step 1, outcome judgments and perceived everyday discrimination were added in Step 2, and the interaction between outcome judgments and perceived everyday discrimination was added in Step 3. Again, all continuous independent variables (including quasi-interval variables) were standardized before being entered into the regression equation, and we focus on the last step of the analysis that significantly added to the amount of explained variance in perceived procedural justice. The results of this analysis showed that respondents' procedural justice perceptions were positively associated with respondents' outcome judgments ($b = .71$, $\beta = .57$, $t(184) = 9.58$, $p < .001$) and were negatively associated with legal assistance ($b = -.38$, $\beta = -.14$, $t(184) = -2.29$, $p < .05$).

Respondents who judged their outcomes more positively thus felt treated more fairly during their court hearings, and respondents who were assisted during their court hearings felt treated less fairly. Together, the variables entered in Step 2 of the analysis explained 34.4% of the variation in respondents' procedural justice perceptions. We found no significant interaction between perceived everyday discrimination and outcome judgments ($b = -.04$, $\beta = -.04$, $t(183) = -.60$, $p = .55$). Hence, the seventh hypothesis was not supported.

6 Entering the entire 17-item perceived procedural justice scale into the regression equation rather than the 6-item scale yielded slightly different results as to the main effects, but yielded the same (nonsignificant) result regarding the interactions reported here.

Discussion

The present study critically examines the role of perceived procedural justice, and other important variables, in Dutch criminal court hearings. That is, we surveyed actual defendants in real-life criminal cases to examine whether some of these defendants may respond less favorably to perceived procedural fairness during their court hearings because of self-verification and self-enhancement processes.

We think the message of what we learn from the reported findings is two-fold. One, perceived procedural justice matters. That is, our findings revealed robust associations between perceived procedural justice and trust in judges, outcome judgments, and protest intentions. The associations between procedural justice perceptions and trust in judges and protest intentions were mediated by respondents' state self-esteem.

Two, processes of self-verification and self-enhancement did not have the effects found by studies conducted in organizational contexts or lab settings. That is, outcome judgments and perceptions of everyday discrimination did not significantly moderate the associations between perceived procedural justice, on the one hand, and trust in judges and protest intentions, on the other hand. In what follows, we deepen these conclusions. We then discuss the limitations of the present study, suggestions for future research that follow from these limitations, and practical implications of our findings.

The Importance of Fair Procedures

We found associations between perceived procedural justice and trust in judges, outcome judgments, protest intentions, and state self-esteem. More specifically, respondents who felt treated more fairly during their court hearings reported higher levels of trust in judges, judged their outcomes more positively, showed lower protest intentions, and displayed higher state self-esteem. These favorable reactions indicate that, even in the real-life courtroom context of our study in which respondents risked actual sentences, respondents cared not only about their outcomes, but also about the way they were treated during their court hearings. This supports the argument by Casper et al. (1988) that the positive associations between perceived procedural justice and other important variables represent real-world phenomena that can also be observed outside the artificial settings of psychological laboratories.

Our findings also help to explain why perceived procedural justice matters to defendants in criminal cases. After all, the association between perceived procedural justice and trust in judges as well as the association between perceived procedural justice and protest intentions were mediated by respondents' state self-esteem. That is, respondents' levels of perceived procedural justice were related to their levels of state self-esteem, which were in turn related to respondents' trust in judges and protest intentions. Our findings thus provide support for the group-value model of perceived procedural justice, which proposes that people care about being treated fairly by authorities because this communicates to them that they are valued members of society (Lind & Tyler, 1988).

We also examined whether the associations between perceived procedural justice and trust in judges, protest intentions, and state self-esteem were moderated by experiences of everyday discrimination and outcome judgments. None of the interactions we examined were statistically significant. In addition, neither the association between perceived everyday discrimination and perceived procedural justice nor the interactive effect of outcome judgments and perceived everyday discrimination on respondents' procedural justice perceptions yielded significant results.

The lack of a statistically significant interaction between perceived everyday discrimination and perceived procedural justice suggests that the associations between perceived procedural justice and our other variables were not attenuated or reversed depending on respondents' experiences of everyday discrimination. Instead, these associations remained intact regardless of the extent to which respondents experienced discrimination in their daily lives. This might be interpreted as an indication of the robustness of the fair process effect. These findings also fit with other studies, which show that people belonging to ethnic minorities respond equally favorably to perceived procedural justice as do people from majority groups (Higgins & Jordan, 2005; Johnson et al., 2017; Sunshine & Tyler, 2003; Tyler, 2001).

Different Cases and Contexts

Other possible explanations for the lack of significant interaction effects relate to the type of cases we examined and the context of our study. That is, we expected that respondents who experienced relatively high levels of everyday discrimination and received negative case outcomes might respond less favorably to perceived procedural justice during their court hearings, as perceived procedural fairness would not offer external attribution opportunities that could help them to maintain their self-esteem. Studies finding such an attenuation or reversal of the fair process effect have been conducted mostly in organizational and performance-oriented settings (e.g., Brockner et al., 2009; Van den Bos et al., 1999). In these settings, adverse outcomes are likely to threaten people's self-esteem and thus make them look for external attribution opportunities.

In the courtroom context of the current study, negative case outcomes may not have posed a similar threat to respondents' sense of self-worth. From a legal point of view, being convicted of a criminal offense communicates to defendants that they did something wrong, but whether this threatens defendants' self-esteem and prompts them to look for external attribution opportunities remains a question for empirical investigation. Hence, the nonsignificant three-way interaction might be explained by the legal context of our study. This indicates, we think, that more research is needed into the operations of self-verification and self-enhancement processes in relevant legal contexts, such as criminal court hearings.

Similarly, the interaction between outcome judgments and perceived procedural justice has generally been found in work contexts or in other settings with different types of respondents than we examined in the current study (for an overview, see Brockner

& Wiesenfeld, 1996). Previous studies examining perceptions of actual defendants in criminal cases (Grootelaar & Van den Bos, 2018) or undergraduates putting themselves in the position of defendants (Walker, LaTour, Lind, & Thibaut, 1974) did not find an interaction effect between outcomes and procedural justice as found in organizational contexts and laboratory settings. Our findings thus provide further support for the argument by Grootelaar and Van den Bos (2018) that the type of case may play an important role in shaping people's reactions to perceived procedural justice and outcome favorability in legal contexts.

Conflicting Psychological Processes

Another explanation for not finding interactive effects of outcome judgments, perceived everyday discrimination, and perceived procedural justice might be that conflicting psychological processes are at work. That is, the self-verification and self-enhancement processes underlying the attenuation or reversal of the fair process effect in other studies may play a role in the courtroom context of our study, but their effects may have been canceled out or overruled by other psychological processes (see also Brockner et al., 2009).

For instance, defendants who experience much discrimination in their daily lives may be pleasantly surprised by how fairly they feel treated during their court hearings, leading them to respond even *more* favorably to perceived procedural justice than defendants who experience little everyday discrimination. In the current chapter, we explored whether defendants who experience much discrimination in their daily lives might respond *less* favorably to perceived procedural justice, because feeling treated fairly would not be in line with their worldview. These potential moderating effects of perceived everyday discrimination may have canceled each other out, resulting in nonsignificance of the interaction effect.

Defendants' desire for fair treatment may also simply have overruled their self-verification and self-enhancement motives. After all, perceived procedural justice may be desirable for various instrumental and noninstrumental reasons. These beneficial aspects of perceived procedural justice may have been stronger than defendants' self-verification and self-enhancement motives, resulting in favorable responses to procedures that defendants perceive as fair rather than unfair.

Levels of Perceived Everyday Discrimination

Respondents' relatively low levels of perceived everyday discrimination ($M = 2.48$, $SD = 1.16$, measured on a 6-point scale) may be relevant as well. After all, respondents who scored one standard deviation above the mean level of perceived everyday discrimination (that is, a score of 3.64) encountered negative treatment between a few times a year (score 3) and a few times a month (score 4). These experiences of discrimination may not have been sufficiently frequent to make defendants respond favorably to perceived procedural unfairness during their court hearings for self-verification and self-enhancement reasons.

Hence, we recommend that future studies examining these issues use samples in which levels of perceived everyday discrimination are likely to be higher.

Despite the inherent difficulties in interpreting null results, the overall picture that emerges from the current study is that we did not find evidence for an attenuation or reversal of the associations between perceived procedural justice and important other variables. That is, these associations remained intact when we involved perceived everyday discrimination and outcome judgments as potential moderators. When critically assessing the role of perceived procedural justice in this way, we thus found such associations even among respondents who might be expected to respond less favorably to perceptions of procedural fairness.

Limitations

An engaging aspect of our study, we think, is that we were able to study perceptions of actual defendants in single judge criminal cases after a nine-month period of data collection at the district court of the Mid-Netherlands. The flip side of this approach is that our sample is sufficiently large, yet smaller than we would have wanted ideally. For instance, a larger sample would have enabled us to examine the three-way interaction between outcome judgments, perceived everyday discrimination, and perceived procedural justice in a more robust way. Hence, future studies with larger samples are needed to better understand the issues examined in the current chapter.

We also note that we conducted our study at only one court and included only single judge criminal cases. Furthermore, the first author – who collected the bulk of the data – is a Caucasian and university-based researcher. As a result, interviewer effects may have played a role in our study. For instance, respondents may have concealed their levels of distrust in Dutch judges, as they may have considered the researcher as belonging to their outgroup (Hulst, 2017). Thus, we propose that it is important to replicate our study in other courts with different researchers and different types of court cases.

Finally, the correlational design of this study does not allow for conclusions about any causal relationships between our variables. Studies using experimental control can clarify issues of causality and are therefore a viable avenue for future research into the issues examined here.

Practical Implications

While recognizing these limitations, we think the findings of our study can have some important practical implications. After all, our study shows that higher levels of perceived procedural justice are associated with more trust in judges and lower protest intentions. Hence, our findings can be relevant for policymakers at the courts and individual judges who aim to increase people's trust in judges and decrease the number of appeals.

Trust in judges is an issue that has the Dutch judiciary's continuous attention. Although the level of trust in the Dutch judiciary is relatively high compared to trust in other Dutch governmental institutions and judiciaries in other European countries (Bovens, 2020; Den Ridder, Miltenburg, Huijnk, & Van Rijnberk, 2019), safeguarding trust in judges is considered important (Grimmelikhuijsen, 2018). Our study shows that promoting perceptions of procedural justice can play an important role in this regard. This is relevant not only with a view to maintaining and possibly increasing trust in judges as an end in itself, but also because trust in judges is related to other important attitudes and behaviors, such as perceived legitimacy and compliance with the law (Grootelaar & Van den Bos, 2018).

Our finding that perceived procedural justice is negatively associated with protest intentions can be of interest to legal policymakers and judges as well. Although reporting protest intentions is not the same as actually appealing a verdict, the two are likely to be related. It is noteworthy in this regard that more than 90% of appeals to criminal verdicts are initiated by defendants (Croes, 2016). Promoting perceptions of procedural justice among defendants could therefore be a way to decrease the number of appeals and the social costs associated therewith. These social costs may concern not only financial costs but also costs in terms of quality of adjudication, as judges' workload is considered a threat for impartial adjudication by one out of five Dutch judges (Weijers, 2019).

Coda

The current study set out with a critical eye to examine the role of perceived procedural justice in Dutch criminal cases among defendants with a non-western ethnic-cultural background. We noted several issues and topics in the research literature that suggested that the importance of perceived procedural justice may be questioned in this important context among these non-WEIRD respondents. In contrast to these suggestions, our findings showed clear associations between perceived procedural justice and trust in judges, outcome judgments, and protest intentions. Furthermore, some of these associations were mediated by state self-esteem. Our results thus indicate that, even when subjected to a critical test, perceived procedural justice matters in the real-life context of Dutch criminal court hearings.

Table 3.1

Means, Standard Deviations, and Correlations for the Main Variables and Background Variables

Variable	M	SD	1	2	3	4	5	6	7	8	9	10	11	12
1. Procedural Justice	5.38	1.27	-											
2. Outcome Judgments	4.55	2.18	.59***	-										
3. Discrimination	2.48	1.16	-.06	-.12	-									
4. Protest Intentions	3.31	2.02	-.45***	-.60***	.26***	-								
5. Trust in Judges	5.09	1.55	.50***	.42***	-.28***	-.34***	-							
6. Trust in Judges Grade	6.83	2.06	.47***	.40***	-.22**	-.34***	.79***	-						
7. Self-Esteem	5.62	1.09	.19**	.16*	-.22**	-.28***	.26***	.15*	-					
8. Legal Assistance (0 = no, 1 = yes)	-	-	-.19***	-.06	.07	.05	-.14	-.17*	.00	-				
9. Previous Hearings	2.14	1.00	-.06	.02	.11	-.03	-.15*	-.18*	-.13	.11	-			
10. Level of Education	5.37	2.26	-.05	-.11	-.08	.05	.02	.02	-.01	-.01	-.33***	-		
11. Gender (0 = female, 1 = male)	-	-	-.03	-.11	.05	.06	-.05	.03	-.04	-.09	.17*	-.02	-	
12. Age	30.10	10.75	.10	.10	-.10	-.15*	.17*	.14	.02	-.14	.11	-.19*	-.06	-

Note. * $p < .05$ ** $p < .01$ *** $p < .001$. Number of previous court hearings was measured on a 5-point scale (1 = zero, 2 = one, 3 = two to ten, 4 = eleven to twenty, 5 = more than 20). Highest completed level of education was measured on a 9-point scale, ranging from primary school (coded as 1) to university (coded as 9). Perceived grounds for discrimination included respondents' ethnic-cultural background (N = 93; 63.3% of the sample), religion (N = 56; 38.1% of the sample), gender (N = 25; 17.0% of the sample), age (N = 21; 14.3% of the sample), level of income (N = 17; 11.6% of the sample), and level of education (N = 17; 11.6% of the sample).

Table 3.2

Regression Results for Procedural Justice, Outcome Judgments, and Their Interaction on Trust in Judges

Variable	Step 1	95% CI	Step 2	95% CI	Step 3	95% CI
Legal Assistance (0 = no, 1 = yes)	-.37 (-.11)	-.86, .12	-.12 (-.03)	-.54, .30	-.12 (-.04)	-.54, .31
Previous Hearings	-.21 (-.14)	-.43, .01	-.20 (-.13) *	-.38, -.01	-.20 (-.13) *	-.38, -.01
Age	.28 (.18) *	.06, .50	.22 (.14) *	.04, .41	.22 (.15) *	.03, .41
Procedural Justice			.58 (.37) ***	.34, .81	.57 (.37) ***	.33, .81
Outcome Judgments			.34 (.22) **	.11, .56	.34 (.22) **	.11, .56
Outcome Judgments x Procedural Justice					-.02 (-.01)	-.23, .20
<i>df</i>	3		5		6	
<i>F</i>	4.31 **		18.59 ***		15.42 ***	
<i>F</i> Change	4.31 **		37.47 ***		.02	
<i>R</i> ²	.07		.34		.34	
Adjusted <i>R</i> ²	.05		.32		.32	

Note. * $p < .05$ ** $p < .01$ *** $p < .001$. Unstandardized regression weights (*bs*) are accompanied by bracketed standardized regression weights (*betas*). Number of previous court hearings was measured on a 5-point scale (1 = zero, 2 = one, 3 = two to ten, 4 = eleven to twenty, 5 = more than 20).

Table 3.3

Regression Results for Procedural Justice, Discrimination, and Their Interaction on Trust in Judges

Variable	Step 1	95% CI	Step 2	95% CI	Step 3	95% CI
Legal Assistance (0 = no, 1 = yes)	-.37 (-.11)	-.86, .12	-.05 (-.02)	-.47, .36	-.04 (-.01)	-.45, .38
Previous Hearings	-.21 (-.14)	-.43, .01	-.14 (-.09)	-.33, .04	-.14 (-.09)	-.32, .05
Age	.28 (.18) *	.06, .50	.20 (.13) *	.01, .38	.19 (.13) *	.01, .38
Procedural Justice			.75 (.48) ***	.57, .94	.76 (.49) ***	.57, .95
Discrimination			-.33 (-.22) ***	-.51, -.15	-.35 (-.23) ***	-.53, -.16
Discrimination x Procedural Justice					.11 (.07)	-.08, .30
df	3		5		6	
F	4.31 **		19.75 ***		16.70 ***	
F Change	4.31 **		40.17 ***		1.29	
R ²	.07		.35		.36	
Adjusted R ²	.05		.33		.33	

Note. * $p < .05$ ** $p < .01$ *** $p < .001$. Unstandardized regression weights (bs) are accompanied by bracketed standardized regression weights (betas). Number of previous court hearings was measured on a 5-point scale (1 = zero, 2 = one, 3 = two to ten, 4 = eleven to twenty, 5 = more than 20).

Table 3.4
Regression Results for Procedural Justice, Discrimination, Outcome Judgments, and Their Interactions on Trust in Judges

Variable	Step 1	95% CI	Step 2	95% CI	Step 3	95% CI	Step 4	95% CI
Legal Assistance (0 = no, 1 = yes)	-.37 (-.11)	-.86, .12	-.09 (-.03)	-.50, .32	-.08 (-.02)	-.49, .34	-.08 (-.02)	-.49, .34
Previous Hearings	-.21 (-.14)	-.43, .01	-.16 (-.11)	-.34, .02	-.16 (-.10)	-.34, .03	-.16 (-.10)	-.34, .03
Age	.28 (.18) *	.06, .50	.19 (.12) *	.01, .37	.18 (.12)	-.00, .37	.18 (.12)	-.01, .37
Procedural Justice			.58 (.37) ***	.35, .80	.58 (.38) ***	.35, .82	.59 (.38) ***	.35, .83
Discrimination			-.30 (-.20) **	-.48, -.12	-.32 (-.21) **	-.51, -.13	-.34 (-.23) **	-.58, -.11
Outcome Judgments			.30 (.19) **	.08, .52	.29 (.19) *	.07, .51	.29 (.19) *	.07, .52
Discrimination x Procedural Justice					.09 (.06)	-.14, .32	.11 (.07)	-.14, .35
Outcome Judgments x Procedural Justice					-.01 (-.01)	-.22, .20	-.01 (-.01)	-.22, .20
Discrimination x Outcome Judgments					.02 (.01)	-.20, .23	.01 (.00)	-.22, .23
Outcome Judgments x Discrimination x Procedural Justice							.04 (.03)	-.19, .27
<i>df</i>	3		6		9		10	
<i>F</i>	4.31 **		18.16 ***		12.12 ***		10.87 ***	
<i>F</i> Change	4.31 **		29.99 ***		.40		.12	
<i>R</i> ²	.07		.37		.38		.38	
Adjusted <i>R</i> ²	.05		.35		.35		.34	

Note. * $p < .05$ ** $p < .01$ *** $p < .001$. Unstandardized regression weights (*bs*) are accompanied by bracketed standardized regression weights (*betas*). Number of previous court hearings was measured on a 5-point scale (1 = zero, 2 = one, 3 = two to ten, 4 = eleven to twenty, 5 = more than 20).

Experimental Insight Into the Fair Process Effect and Its Boundary Conditions: External Attributions May Moderate Reactions to Procedural Justice

This chapter is based on a manuscript submitted for publication by Lisa Ansems, Kees van den Bos, and Elaine Mak.

Author contributions: Lisa Ansems designed the study, including stimulus materials and procedures, supervised data collection by a research assistant, analyzed the data, interpreted results, and wrote the manuscript. Kees van den Bos provided conceptualization and theoretical input and aided in designing the study and stimulus materials, provided conceptualization and theory used to integrate findings, co-interpreted results, and edited the manuscript. Elaine Mak provided input for the design and set-up of the study and commented on several drafts of the manuscript, including editing of the manuscript.

Abstract

In the domain of law and society, perceived procedural justice is often assumed to have a positive effect on people's reactions. Here, we both reveal support for this assumption and point to potential boundary conditions of the effect. In our experimental study, two hundred thirty-nine participants imagined being the defendant during a criminal court hearing that used either a fair or an unfair procedure. Following the experience of a fair as opposed to an unfair procedure, participants showed more trust in judges, among other things. Importantly, the effect of the procedure manipulation on trust in judges attenuated, indeed ceased to be statistically significant, when participants reported relatively high external attribution ratings. These findings point to the possibility that attributional processes can moderate people's responses to procedural justice in legally related contexts.

Introduction

Criminal justice is a frequent subject of debate both in Dutch society and beyond. Part of the debate concerns the issue of sentencing and the question whether criminal sentences are sufficiently severe. Studies on perceived procedural justice (Lind & Tyler, 1988; Tyler & Lind, 1992) suggest that, in addition to sentences, criminal procedures and how people perceive these are important as well. That is, when people feel treated fairly by legal authorities during decision-making procedures, they tend to be more satisfied with the outcomes of their cases, more inclined to accept these outcomes, and more trustful towards decision-making authorities (Grootelaar, 2018; Hulst, 2017; Thibaut & Walker, 1975; Van den Bos, Van der Velden, & Lind, 2014). These and other positive effects of perceived procedural justice on people's reactions are referred to as the fair process effect (Folger, Rosenfield, Grove, & Corkran, 1979; Van den Bos, 2015).

To gain a better understanding of the fair process effect, many researchers have focused on the question in which circumstances the fair process effect is likely to be more pronounced. For instance, Brockner and Wiesenfeld (1996) aggregated findings of 45 previous studies and found that people tend to react more strongly to perceived procedural justice when they consider their outcomes unfavorable. Other studies suggest that perceived procedural justice has stronger effects when people find themselves in situations of uncertainty (Van den Bos, 2001) and that people react more strongly to voice versus no-voice procedures when they feel inhibited (Hulst, 2017).

The current study takes a different approach. That is, rather than focusing on situations in which the positive effects of perceived procedural justice are likely to be stronger, we examine when these effects may be attenuated or even reversed. Previous studies in organizational, performance-oriented, or laboratory settings have sometimes found evidence for such a moderation of the fair process effect (for overviews, see Brockner, Wiesenfeld, & Diekmann, 2009; Desai, Sondak, & Diekmann, 2011). We take these earlier findings as our point of departure and examine whether they can be replicated in a different context. That is, we conducted an experimental study in the Netherlands among 239 participants who were asked to imagine that they were the defendant during a criminal court hearing that used either a fair or an unfair procedure. We also involved potentially moderating variables that may make the fair process effect less likely to emerge (Brockner et al., 2009; Van den Bos, Bruins, Wilke, & Dronkert, 1999). In this way, our study enhances current insights into the fair process effect as well as some of its potential boundary conditions.

Procedural Unfairness as an External Attribution Opportunity

One explanation for the potential attenuation or reversal of the fair process effect relates to people's need to feel good about themselves and to protect their self-esteem (Leary & Terry, 2013; Sedikides, Gaertner, & Toguchi, 2003). When people receive negative outcomes that they attribute to internal causes, this may threaten their self-esteem (Weiner, 1985). To preserve their self-esteem, people may look for

opportunities to attribute negative outcomes to external causes rather than their own behaviors or capabilities (Cohen, 1982). Unfair procedures offer such external attribution opportunities, whereas fair procedures are likely to trigger internal attributions (Brockner et al., 2003; Leung, Su, & Morris, 2001). In other words, sometimes unfair procedures have nice aspects (Van den Bos et al., 1999), which may result in an attenuation or reversal of the fair process effect (Brockner et al., 2009).

This line of reasoning is supported by a few empirical studies. For instance, Gilliland (1994) studied the interactive effects of procedures and outcomes in a laboratory experiment concerning employee selection. Participants who were selected showed a fair process effect, such that procedural justice had a positive effect on self-efficacy. For rejected participants, however, procedural justice negatively impacted self-efficacy. Similarly, Schroth and Shah (2000) examined the interaction between procedures and outcomes in an experimental design that varied whether participants would have been hired based on their performance on a managerial assessment task. These authors also conducted a field study that assessed students' perceptions of procedural justice and outcome justice in the context of their midterm examinations. The findings of both studies suggested a positive impact of procedural justice on self-esteem when outcomes were positive, and a negative impact of procedural justice on self-esteem when outcomes were negative. Brockner et al. (2003), too, found an interaction between procedures and outcomes in laboratory settings as well as real-life work contexts. In addition, their study offered empirical evidence for the attributional processes assumed to underlie this interaction effect.

Some studies have examined when these interactive effects of procedures and outcomes are particularly likely to occur. For example, Brockner, De Cremer, Fishman, and Spiegel (2008) found that procedural justice was more likely to be inversely related to participants' self-evaluations after negative outcomes when participants were more prevention focused, meaning that they attached greater psychological significance to negative outcomes. In addition, Holmvall and Bobocel (2008) found that people responded more negatively to unfavorable outcomes following fair procedures when they were higher in independent (rather than interdependent) self-construal.

Importantly, Holmvall and Bobocel (2008) found this reversed fair process effect not only on self-esteem, but also on measures of perceived outcome fairness and outcome satisfaction. Van den Bos et al. (1999) also found a reversed fair process effect on measures other than participants' self-esteem in three experimental studies. That is, participants reported lower outcome judgments (Experiments 1 and 2) and stronger intentions to protest against their outcomes (Experiment 3) following accurate rather than inaccurate procedures when they felt strongly evaluated. Van den Bos et al. explain these effects by referring to attribution-seeking processes: When people feel strongly evaluated, they may search for opportunities to attribute negative outcomes to external causes. Because unfair procedures offer such external attribution opportunities, people may respond more positively to procedural unfairness. Taken together, these and other

studies show that, under certain conditions, the fair process effect may be moderated by people's external attributions (Brockner et al., 2009).

The Current Research

The present study builds on these earlier findings and aims to extend them to a novel context, involving both outcome judgments and external attribution ratings as potentially moderating variables. More specifically, we conducted an experimental study in the Netherlands among 239 participants with a non-western ethnic-cultural background¹, who read a scenario in which they were the defendant during a criminal court hearing before a single judge. We conducted our study among people with a non-western ethnic-cultural background because some of them may feel evaluated by Dutch society, and feeling evaluated can play an important role in the attributional processes studied here (Van den Bos et al., 1999).

In our experiment, we manipulated procedural justice by means of random allocation to conditions, such that one half of the participants read about a procedure that was fair and the other half of the participants read about a procedure that was unfair. All participants received the same negative case outcome (that is, a fine of 400 Euros). We then assessed participants' perceptions of procedural justice, outcome judgments, external attribution ratings, intentions to protest against the judicial ruling, trust in judges, and the grade participants gave their trust in judges, among other things.

By examining the fair process effect as well as its potential attenuation or reversal, we subject procedural justice to a critical test. Our study differs from previous research that found attenuated or reversed fair process effects in several ways. First, we focus on participants that are generally non-WEIRD (Western, Educated, Industrialized, Rich, and Democratic; Henrich, Heine, & Norenzayan, 2010a, 2010b). Our sample thus differs from samples used in the laboratory experiments that make up a large part of the relevant procedural justice literature (e.g., Gilliland, 1994; Holmvall & Bobocel, 2008; Van den Bos et al., 1999). Second, our study explicitly involves external attribution ratings as a potentially moderating variable. Other studies examining the potential attenuation or reversal of the fair process effect often assume that attributional processes play a role, but do not include attributions as a variable in their analyses (e.g., Brockner et al., 2008; Holmvall & Bobocel, 2008; Schroth & Shah, 2000). Third, we examine the potential moderation (attenuation or reversal) of the fair process effect in a novel context, focusing on legal procedures rather than treatment in organizational or performance-oriented settings (e.g., Brockner et al., 2003; Schroth & Shah, 2000; Van den Bos et al., 1999).

1 As in one of our previous studies (Ansems, Van den Bos, & Mak, 2020b), the term "non-western ethnic-cultural background" refers to being born in a non-western country, which according to Statistics Netherlands (2018) refers to countries in Africa, Latin-America, and Asia (excluding Indonesia and Japan), or Turkey. We also use the term to refer to persons whose parents or other ancestors were born in a non-western country.

To test our ideas, we formulated three hypotheses. First, we assess whether we can observe the fair process effects that have been found in previous procedural justice studies (e.g., Lind & Tyler, 1988; Thibaut & Walker, 1975; Van den Bos, 2015). Thus, Hypothesis 1 predicts that the procedure manipulation will have a positive effect on participants' trust in judges, the grade participants give their trust in judges, and participants' outcome judgments, and a negative effect on participants' protest intentions.

Second, we assess the potential interaction between external attribution ratings and the procedure manipulation. Specifically, Hypothesis 2 predicts a fair process effect when people's external attribution ratings are relatively low, such that the procedure manipulation positively affects trust in judges, the grade participants give their trust in judges, and outcome judgments, and negatively affects protest intentions. Based on previous work (e.g., Brockner et al., 2009; Van den Bos et al., 1999), Hypothesis 2 predicts that these effects of the procedure manipulation may be moderated by participants' attributions, such that the fair process effect is attenuated or even reversed when external attribution ratings are relatively high.

Third, we examine whether there is an interaction between the procedure manipulation and outcome judgments. Brockner and Wiesenfeld (1996) propose that interactive effects of procedural justice and outcome favorability can be explained by sense-making processes. That is, receiving negative outcomes may prompt people to examine what caused these outcomes and hence pay more attention to procedural fairness. As a result, the fair process effect may be more pronounced when outcomes are unfavorable. In addition, receiving negative outcomes may make people look for external attribution opportunities to protect their self-esteem (Cohen, 1982). Because unfair procedures offer such external attribution opportunities and can thus have nice aspects, the fair process effect may be attenuated or even reversed (Brockner et al., 2009; Van den Bos et al., 1999). Aggregating these insights, Hypothesis 3 examines whether the fair process effect is moderated (strengthened, attenuated, or reversed) when people judge their outcomes negatively.

Research Context

The scenarios we used in this study focused on a criminal court hearing before a single judge. In the Dutch legal context, single judges (instead of a three-judge panel) handle criminal cases in which the public prosecutor demands a maximum of one-year imprisonment. Single judges can impose fines, community service, or prison sentences, among other things, and these sentences can be conditional or unconditional. Cases typically handled by single judges include assault, theft, insult, threat, destruction, drug offenses, and driving under the influence. Defendants can choose to be assisted by a criminal defense lawyer during the proceedings. Rather than viewing the court hearing as a clash of parties before a passive judge, as is the case in more adversarial systems, the Dutch legal system treats defendants as subject of the investigation and involves an active role for judges. In addition, Dutch court hearings involve only professional judges and thus do not have bifurcated proceedings in which juries determine defendants' guilt

and judges decide on sentences. Court hearings before a single judge usually last around 30 minutes, and judgments are mostly delivered directly afterwards (Ansems, Van den Bos, & Mak, 2020a, 2020b).

Our research participants were people with a non-western ethnic-cultural background. The Netherlands is a multicultural society, the four largest groups with a non-western ethnic-cultural background being people with a Turkish, Moroccan, Surinam, or Antillean background (Andriessen et al., 2020). Because the public image of people with a non-western background is often quite negative and is also experienced as such by those with a non-western background (Andriessen et al., 2020; Huijnk & Andriessen, 2016), some of these people may feel negatively evaluated by Dutch society. This may trigger the attributional processes that we study in the current chapter and that may attenuate or reverse reactions to procedural justice.

Method

Participants and Design

Our sample consisted of 239 persons with a non-western ethnic-cultural background who were approached between September 9 and October 10, 2019 at two shopping centers in the city of Utrecht, the Netherlands to participate in our study. Of these participants, 130 (54.4% of the sample) were men and 109 (45.6% of the sample) were women. Participants were between 18 and 68 years old, with a mean age of 31.46 ($SD = 11.78$). Their highest completed levels of education ranged from no education at all (three participants, 1.3% of the sample) via primary school (seven participants, 2.9% of the sample), secondary school (65 participants, 27.3% of the sample), secondary vocational education (84 participants, 35.3% of the sample), and higher professional education (55 participants, 23.1% of the sample) to university (22 participants, 9.2% of the sample). Two participants (0.8% of the sample) indicated that they had a different kind of highest completed level of education.

Participants also indicated whether they had a Moroccan (98 participants, 41.0% of the sample), Surinam (52 participants, 21.8% of the sample), Turkish (40 participants, 16.7% of the sample), Antillean (12 participants, 5.0% of the sample), or other ethnic-cultural background (43 participants, 18.0% of the sample). These other ethnic-cultural backgrounds included Afghanistan (seven participants, 2.9% of the sample), Somalia (four participants, 1.7% of the sample), Iraq (three participants, 1.3% of the sample), and Iran (three participants, 1.3% of the sample).

Eighty-nine participants (37.4% of the sample) had experienced an actual hearing at a criminal court. Because we did not want to make participants potentially feel stigmatized, we did not ask them whether they were defendants during these court hearings. Therefore, this number may include participants who experienced court hearings as defendants, as victims, as part of the audience, or in their professional capacities.

In the experiment, participants read a scenario in which they were the defendant during a criminal court hearing that progressed in either a fair or an unfair way. Participants were randomly assigned to one of these two conditions. After reading the scenario, participants were asked to indicate their perceptions of procedural justice during the court hearing, their judgments of the outcome they received in the scenario (which was held constant across conditions), the extent to which they made external attributions with regard to what happened in the scenario, the extent to which they wanted to protest against their outcomes, their levels of trust in Dutch judges, and the grade they gave their trust in Dutch judges. The text of the scenarios was based on findings of our recent qualitative interview study in which we interviewed 100 defendants in criminal cases to examine what makes them feel treated fairly during their court hearings (Ansems et al., 2020a). The measures following the scenario were based on earlier research, which also treated trust in judges as a main dependent variable (see, e.g., Grootelaar & Van den Bos, 2018; Hulst, 2017).

Our research assistant approached 873 persons to participate in the study, 253 of whom agreed to do so. This resulted in a response rate of 29.0%. Filtering out questionnaires of persons who turned out to have a western ethnic-cultural background, who did not indicate their ethnic-cultural background, who turned out to be younger than 18 years, or who skipped a large number of questions left 239 questionnaires to be used for our analyses. With this number of participants, we were able to test our hypotheses with sufficient statistical power. After all, an a priori G*Power analysis (Faul, Erdfelder, Lang, & Buchner, 2007) indicated that, to achieve statistical power of .80 (Cohen, Cohen, West, & Aiken, 2003), with $\alpha = .05$ and a relatively small effect size ($f^2 = .04$) of the two-way interaction between external attribution ratings and the procedure manipulation, we needed at least 191 participants.²

Experimental Procedure

When approaching potential participants, our research assistant explained that she was assisting with a study on what makes people feel treated fairly and justly, and asked whether they would be willing to fill out a short questionnaire. When people agreed, she provided additional information about the study, indicating that participation consisted of reading a short story about a hypothetical court hearing and answering questions about that court hearing as well as some other topics. She also explained that only people with a non-western ethnic-cultural background were eligible for participation in the study. In addition, participants were notified that their participation was on a voluntary basis and that their answers would be treated confidentially and anonymously.

2 In our analyses, we also tested whether there was a significant three-way interaction between outcome judgments, external attribution ratings, and the procedure manipulation. These analyses were conducted for exploratory purposes only, however, and are not reported in the current chapter. After all, a power analysis (Faul et al., 2007) showed that, to achieve sufficient statistical power of .80 (Cohen et al., 2003), with $\alpha = .05$ and a relatively small effect size ($f^2 = .02$) of the three-way interaction, at least 387 research participants were needed. Complete details and results are available with the first author on request.

After agreeing to participate, participants were asked to carefully read the following scenario and imagine that they were part of it:

For some time now, you have been having a conflict with your neighbors. They make so much noise that it makes you lose sleep at night. Talking it through with the neighbors has not worked. A couple of months ago, you were unable to control yourself during an argument in which you severely offended your neighbors. Your neighbors filed a charge of insult against you at the police station.

Today, you have to appear before the criminal law division of the court in Utrecht. You enter the courtroom and take a seat. You are sitting opposite to a judge. Next to the judge are the public prosecutor and a court official who takes notes during the court hearing.

The judge checks your personal information. He informs you that you have the right to remain silent. The public prosecutor then tells you that you are charged with insult. The judge asks you to tell what happened.

Then the experimental manipulation was introduced. That is, for participants in the fair condition ($N = 118$, 49.4% of the sample), the scenario continued as follows:

You notice that the judge gives you a lot of time to tell your side of the story. The judge does not interrupt you. He listens attentively to what you are saying. As a result, your impression is that the judge had not already made up his mind about your case beforehand. The judge seems to be really trying to get a good idea of what happened exactly. For example, he asks a lot of questions. The conflict with your neighbors about the noise, and how this has lasted for several years, is discussed as well. The judge comes across as friendly.

Participants in the unfair condition ($N = 121$, 50.6% of the sample) read the following:

You notice that the judge gives you only very little time to tell your side of the story. The judge interrupts you a couple of times. He does not seem to listen attentively to what you are saying. As a result, your impression is that the judge had already made up his mind about your case beforehand. The judge does not seem to be really trying to get a good idea of what happened exactly. For example, he asks very few questions. The conflict with your neighbors about the noise, and how this has lasted for several years, is not discussed either. The judge comes across as unfriendly.

After reading this part, for both groups the scenario continued as follows:

Then, the public prosecutor is allowed to speak. She presents the evidence against you and demands that you pay a fine of 450 Euros. You are allowed to respond to this. You reply by saying that you think this is a way too harsh penalty for a charge

of insult. In addition, it is hard for you to come up with this amount of money. The public prosecutor is then allowed to speak once more. She sticks to the fine she demanded. After you have received a final opportunity to say something, the judge puts forward his verdict.

Participants in the fair condition then read:

The judge explains that he is taking into account your side of the story. He understands that you were angry at your neighbors because of the noise that they were making. Nevertheless, he deems a sentence warranted.

Participants in the unfair condition read the following:

The judge shortly explains that he deems a sentence warranted.

For all participants, the scenario ended in the same way:

The judge therefore sentences you to pay a fine of 400 Euros. You are disappointed about this verdict. You still think this sentence is too harsh. You had expected a less severe sentence. The judge explains that you can appeal this verdict. This ends your trial. You leave the courtroom.

After reading the scenario, participants answered questions regarding our main and background variables. Upon completing the questionnaire, they were thanked and given a small token of appreciation. We also offered participants to send them a summary of the research results if they were interested. During data collection, our research assistant kept a logbook detailing relevant information, including participants' oral comments on the questionnaire.

Measures

All measures were assessed on 7-point scales (1 = *completely disagree*, 7 = *completely agree*) unless indicated otherwise. Our measures of perceived procedural justice, outcome judgments, and external attribution ratings were partially based on research by Van den Bos et al. (1999, Experiments 2 and 3). To assess perceived procedural justice, we asked participants to indicate to what extent they agreed with the following three statements: "I think the procedure that has been followed during the court hearing is fair", "I think the procedure that has been followed during the court hearing is just", and "I think the procedure that has been followed during the court hearing is justified". Together, these items formed a reliable perceived procedural justice scale ($\alpha = .92$), with higher scores reflecting higher levels of perceived procedural justice.

To measure participants' outcome judgments, we asked them to indicate to what extent they agreed with the following three statements about the judge's ruling: "I think this ruling is fair", "I think this ruling is just", and "I am satisfied with this ruling". Answers

to these questions were averaged to form a reliable outcome judgments scale ($\alpha = .92$), with higher scores indicating that participants judged their outcomes more positively.

We also assessed the extent to which participants made external attributions. We asked them to indicate to what extent they agreed with the following six statements: “I got this ruling because of myself” (reverse-coded), “I got this ruling because of my own behavior” (reverse-coded), “I got this ruling because of something outside of myself”, “I got this ruling because of something other than my own behavior”, “I got this ruling because of how the court hearing progressed”, and “I got this ruling because of how I was treated during the court hearing”. Averaging participants’ answers to these questions yielded a scale with sufficient reliability for our theory-testing purposes ($\alpha = .60$; see Cramwinckel, Van Dijk, Scheepers, & Van den Bos, 2013; Nunnally & Bernstein, 1994). Higher scores on this scale indicate higher external attribution ratings.³

Following Stahl, Vermunt, and Ellemers (2008) and Van den Bos et al. (1999, Experiment 3), we measured participants’ protest intentions by asking them the following two questions: “To what extent would you want to criticize the ruling?” and “To what extent would you want to protest against the ruling?” (1 = *not at all*, 7 = *very much*). These items formed a reliable protest intentions scale ($\alpha = .87$), with higher scores reflecting stronger intentions to protest against the judge’s ruling.

Building on Grootelaar and Van den Bos (2018), who aimed to assess levels of trust as directly as possible (see also Grootelaar, 2018), we solicited participants’ trust in Dutch judges by asking them to indicate to what extent they agreed with the following three statements: “I have faith in Dutch judges”, “I think Dutch judges are trustworthy”, and “I feel that Dutch judges cannot be trusted” (reverse-coded). Together, participants’ answers to these questions formed a reliable trust in judges scale ($\alpha = .85$). Higher scores on this scale reflect higher levels of trust in Dutch judges. In addition, we asked participants to express their trust in Dutch judges with a report grade from 1 (*lowest*) to 10 (*highest*), in conformity with the grading system used at Dutch schools.

Finally, we examined several background variables, asking participants whether they had ever experienced an actual hearing at a criminal court, and asking them to indicate their highest completed level of education, their gender, their ethnic-cultural background or origins, and their age. At the end of the questionnaire, there was room for participants to

3 We report all measures in our study and thus note that we also included perceived everyday discrimination in our questionnaire to serve as a possible proxy for external attribution ratings. Perceived everyday discrimination and external attribution ratings were, however, only marginally significantly correlated in the current study ($r = .12$, $p = .08$). Therefore, we included perceived everyday discrimination in our analyses for exploratory purposes only and do not report the results here. Complete details and results are available from the first author on request.

write down remarks or issues they considered important and that had not been assessed by means of our questions.⁴

Results

This section first reports the results of our manipulation check and the main effects of the procedure manipulation on participants' trust in judges, the grade they gave their trust in judges, outcome judgments, and protest intentions. We then describe the results of the analyses testing whether participants' external attribution ratings and the procedure manipulation were interactively associated with our dependent variables. Finally, we assess the interaction between the procedure manipulation and outcome judgments.⁵

Manipulation Check

To check if the manipulation that varied whether participants read the fair scenario or the unfair scenario affected perceived procedural justice among our participants, we performed a General Linear Model (GLM) analysis with the procedure manipulation as a dichotomous independent variable and perceived procedural justice as a dependent variable. Indeed, we found a statistically significant main effect of the procedure manipulation, $F(1, 231) = 60.88, p < .001, \eta_p^2 = .21$, with participants in the fair condition reporting higher levels of perceived procedural justice ($M = 4.28, SD = 2.03$) than participants in the unfair condition ($M = 2.45, SD = 1.52$).⁶

Main Effects of the Procedure Manipulation

To assess whether our dependent variables were affected by the procedure manipulation, we performed four separate GLM analyses with the procedure manipulation as a dichotomous independent variable and trust in judges, the grade participants gave their trust in judges, outcome judgments, and protest intentions as dependent variables.

4 There were missing values for external attribution ratings (one missing value), protest intentions (one missing value), trust in judges (three missing values), grade for trust in judges (20 missing values), having experienced an actual court hearing (one missing value), highest completed level of education (one missing value), and age (three missing values).

5 To detect outliers in our main analysis – that is, the main effect of the procedure manipulation on participants' trust in judges – we examined Cook's distance (Cohen et al., 2003; Cook, 1977). This revealed that six participants had Cook's distance scores more than 3 *SDs* above the mean ($M = .0043, SD = .0054$). These participants were excluded from all analyses reported in the Results and Discussion sections of this chapter (see also Cramwinckel et al., 2013; Van den Bos, Brockner, Van den Oudenalder, Kamble, & Nasabi, 2013). When analyses including these six participants yielded different results, this is noted in footnotes.

6 Please note that, strictly speaking, these conditions should be referred to as the "more fair" and "less fair" conditions. After all, the average score of participants in the fair condition ($M = 4.28, SD = 2.03$) is not far from the middle of the 7-point perceived procedural justice scale (i.e., score 4). Indeed, a one-sample *t* test showed that the average score of participants in the fair condition did not significantly deviate from 4, $t(111) = 1.44, p = .15, d = .14$. For reasons of simplicity, however, we refer to the experimental conditions as the "fair" and "unfair" conditions.

These analyses revealed a significant effect of the procedure manipulation on trust in judges, $F(1, 228) = 6.22, p < .05, \eta_p^2 = .03$, with participants in the fair condition reporting higher levels of trust in judges ($M = 4.91, SD = 1.40$) than participants in the unfair condition ($M = 4.42, SD = 1.60$). Participants in the fair condition also gave their trust in judges a higher grade ($M = 6.75, SD = 1.61$) than participants in the unfair condition ($M = 6.10, SD = 1.90$), $F(1, 211) = 7.10, p < .01, \eta_p^2 = .03$.⁷

We also found a significant effect of the procedure manipulation on participants' outcome judgments, $F(1, 231) = 10.80, p < .01, \eta_p^2 = .05$. That is, participants judged their outcomes more positively in the fair condition ($M = 2.89, SD = 1.81$) than in the unfair condition ($M = 2.17, SD = 1.53$).

Furthermore, participants in the fair condition showed significantly lower protest intentions ($M = 4.69, SD = 1.81$) than participants in the unfair condition ($M = 5.43, SD = 1.74$), $F(1, 230) = 10.23, p < .01, \eta_p^2 = .04$. These results support our first hypothesis, which predicted that the procedure manipulation would positively affect trust in judges, the grade participants gave their trust in judges, and outcome judgments, and would negatively affect protest intentions.

External Attributions

We assessed Hypotheses 2 and 3 by conducting GLM analyses with the procedure manipulation as a dichotomous independent variable and external attribution ratings and outcome judgments as continuous (quasi-interval) independent variables. These continuous independent variables were standardized before being entered into the analyses.

To examine Hypothesis 2, we performed a GLM analysis with the procedure manipulation and external attribution ratings as independent variables and trust in judges as a dependent variable. This analysis yielded a significant main effect of the procedure manipulation, $F(1, 225) = 5.91, p < .05, \eta_p^2 = .03$, no statistically significant main effect of external attribution ratings, $F(1, 225) = .16, p = .69, \eta_p^2 = .00$, and a significant interaction between external attribution ratings and the procedure manipulation, $F(1, 225) = 5.12, p < .05, \eta_p^2 = .02$. The main effect of the procedure manipulation indicated that participants in the fair condition reported more trust in judges ($M = 4.91, SD = 1.40$) than participants in the unfair condition ($M = 4.43, SD = 1.60$). The nonsignificant main effect of external attribution ratings indicated that external attribution ratings were not significantly associated with trust in judges.

We interpreted the interaction effect by assessing the simple effect of the procedure manipulation at different levels of participants' external attribution ratings. The effect of

7 When we performed these analyses while including the six outliers, we did not find a significant effect of the procedure manipulation on trust in judges, $F(1, 234) = 1.99, p = .16, \eta_p^2 = .01$, nor on the grade participants gave their trust in judges, $F(1, 217) = 2.23, p = .14, \eta_p^2 = .01$.

the procedure manipulation was statistically significant when external attribution ratings were relatively low (i.e., estimated at 1 *SD* below the mean⁸), such that participants in the fair condition reported more trust in judges ($M = 5.05, SE = .17$) than participants in the unfair condition ($M = 4.08, SE = .24$), $F(1, 225) = 10.95, p < .01, \eta_p^2 = .05$. In contrast, when external attribution ratings were relatively high (i.e., estimated at 1 *SD* above the mean), the effect of the procedure manipulation was no longer statistically significant, $F(1, 225) = .01, p = .91, \eta_p^2 = .00$, with participants in the fair condition reporting a similar level of trust in judges ($M = 4.66, SE = .23$) as participants in the unfair condition ($M = 4.63, SE = .17$). Figure 4.1 illustrates the interaction effect.

Figure 4.1. Trust in Judges, the Procedure Manipulation, and External Attribution Ratings

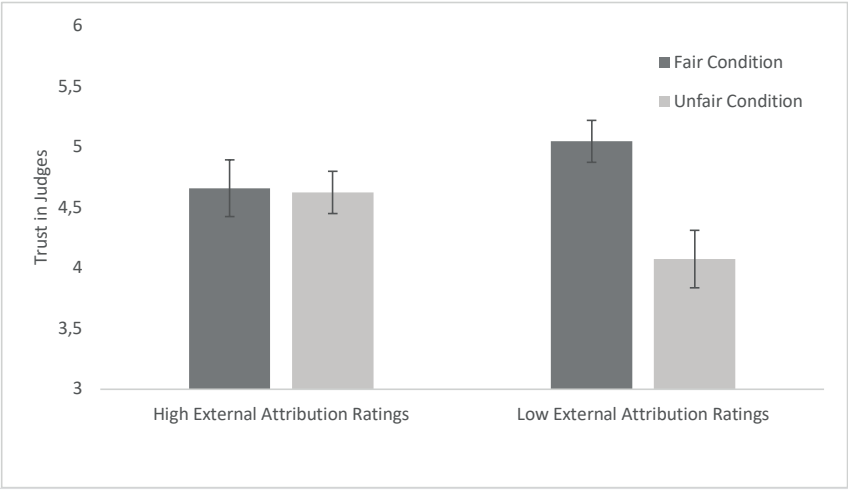


Figure 4.1. Trust in judges as a function of the procedure manipulation (fair condition versus unfair condition) and external attribution ratings estimated at 1 *SD* above the mean (relatively high external attribution ratings) and at 1 *SD* below the mean (relatively low external attribution ratings). Trust in judges was measured on a 7-point scale with higher scores indicating higher levels of trust in judges. Error bars represent standard errors.

These findings indicate that we observed a fair process effect when external attribution ratings were relatively low: When participants reported relatively low external attribution ratings, they showed more trust in judges in the fair condition than in the unfair condition. This effect was not statistically significant when external attribution ratings were relatively high. That is, when participants reported relatively high external attribution ratings, they showed similar levels of trust in judges in the fair condition as they did in the unfair condition.

To gain a more complete understanding of the interaction between external attribution ratings and the procedure manipulation, we also assessed the association between

8 Participants showed a mean score of 4.01 on the 7-point scale that measured their external attributions ($SD = 1.19$).

external attribution ratings and trust in judges in the fair condition and in the unfair condition separately. In the fair condition, the association between external attribution ratings and trust in judges was not statistically significant ($b = -.19$, $\beta = -.14$, $t(109) = -1.46$, $p = .15$). The association between external attribution ratings and trust in judges was marginally significant in the unfair condition ($b = .28$, $\beta = .16$, $t(116) = 1.73$, $p = .09$).⁹

Next, we conducted a GLM analysis with the procedure manipulation and external attribution ratings as independent variables and the grade participants gave their trust in judges as a dependent variable. This yielded a marginally significant main effect of the procedure manipulation, $F(1, 208) = 3.44$, $p = .07$, $\eta_p^2 = .02$, a marginally significant main effect of external attribution ratings, $F(1, 208) = 2.77$, $p < .10$, $\eta_p^2 = .01$, and a nonsignificant interaction between external attribution ratings and the procedure manipulation, $F(1, 208) = 1.22$, $p = .27$, $\eta_p^2 = .01$. The marginally significant main effect of the procedure manipulation suggested that participants gave their trust in judges a somewhat higher grade when they were in the fair condition ($M = 6.75$, $SD = 1.61$) than when they were in the unfair condition ($M = 6.15$, $SD = 1.85$). The marginally significant main effect of external attribution ratings suggested that participants who reported higher external attribution ratings gave their trust in judges a somewhat lower grade. The nonsignificant interaction effect indicated that the procedure manipulation and external attribution ratings were not jointly associated with the grade participants gave their trust in judges.

We also conducted a GLM analysis with the procedure manipulation and external attribution ratings as independent variables and outcome judgments as a dependent variable. We found a significant main effect of the procedure manipulation, $F(1, 228) = 4.44$, $p < .05$, $\eta_p^2 = .02$, a significant main effect of external attribution ratings, $F(1, 228) = 14.16$, $p < .001$, $\eta_p^2 = .06$, and no significant interaction between external attribution ratings and the procedure manipulation, $F(1, 228) = .12$, $p = .73$, $\eta_p^2 = .00$. The main effect of the procedure manipulation showed that participants judged their outcomes more positively in the fair condition ($M = 2.89$, $SD = 1.81$) than in the unfair condition ($M = 2.18$, $SD = 1.53$). The main effect of external attribution ratings indicated that participants who reported higher external attribution ratings judged their outcomes less positively. The nonsignificant interaction effect showed that the procedure manipulation and external attribution ratings were not associated with outcome judgments in a combined way.

9 We conducted three additional analyses to better understand the joint effect of the procedure manipulation and external attribution ratings on trust in judges. First, we performed a GLM analysis with the procedure manipulation as a dichotomous independent variable and external attribution ratings as a dependent variable. This yielded a significant effect of the procedure manipulation on participants' external attribution ratings, $F(1, 230) = 20.20$, $p < .001$, $\eta_p^2 = .08$, with participants reporting lower external attribution ratings in the fair condition ($M = 3.65$, $SD = 1.20$) than in the unfair condition ($M = 4.33$, $SD = 1.10$). Furthermore, a regression analysis with external attribution ratings as an independent variable and perceived procedural justice as a continuous (quasi-interval) dependent variable revealed a significant negative association between external attribution ratings and procedural justice perceptions ($b = -.52$, $\beta = -.31$, $t(230) = -4.95$, $p < .001$). In addition, a mediation analysis using the PROCESS v3.4 macro designed by Hayes (2017) showed that external attribution ratings did not mediate the effect of the procedure manipulation on trust in judges ($b = -.02$, bootstrapped 95% CI = -.148, .118).

Finally, we performed a GLM analysis with the procedure manipulation and external attribution ratings as independent variables and protest intentions as a dependent variable. Again, we found a significant main effect of the procedure manipulation, $F(1, 228) = 4.78, p < .05, \eta_p^2 = .02$, a significant main effect of external attribution ratings, $F(1, 228) = 10.83, p < .01, \eta_p^2 = .05$, and no significant interaction between external attribution ratings and the procedure manipulation, $F(1, 228) = .18, p = .67, \eta_p^2 = .00$. The main effect of the procedure manipulation indicated that participants showed lower protest intentions in the fair condition ($M = 4.69, SD = 1.81$) than in the unfair condition ($M = 5.43, SD = 1.74$). The main effect of external attribution ratings indicated that participants showed more protest intentions when they reported higher external attribution ratings. The nonsignificant interaction effect showed that the procedure manipulation and external attribution ratings were not jointly associated with participants' protest intentions.

We thus obtained partial support for our second hypothesis, which predicted that the effect of the procedure manipulation on trust in judges, the grade participants gave their trust in judges, outcome judgments, and protest intentions would be attenuated or even reversed when external attribution ratings were relatively high. That is, our analyses did not yield an interactive effect of external attribution ratings and the procedure manipulation on the grade participants gave their trust in judges, participants' outcome judgments, and their protest intentions. We did find an interactive effect of external attribution ratings and the procedure manipulation on participants' trust in judges. Specifically, our analyses revealed a significant positive effect of the procedure manipulation on trust in judges when participants reported relatively low external attribution ratings, while this effect ceased to be significant when external attribution ratings were relatively high.¹⁰

Outcome Judgments

To examine Hypothesis 3, we performed a GLM analysis with the procedure manipulation and outcome judgments as independent variables and trust in judges as a dependent variable. We found a significant main effect of outcome judgments, $F(1, 226) = 7.08, p < .01, \eta_p^2 = .03$, a marginally significant main effect of the procedure manipulation, $F(1, 226) = 3.56, p = .06, \eta_p^2 = .02$, and no statistically significant interaction between outcome judgments and the procedure manipulation, $F(1, 226) = .27, p = .60, \eta_p^2 = .00$. The main effect of outcome judgments showed that participants who judged their outcomes more positively reported more trust in judges. The marginally significant

10 When we performed these analyses while including the six outliers, this yielded partly different results. That is, we did not find a significant main effect of the procedure manipulation on trust in judges, $F(1, 231) = 1.69, p = .20, \eta_p^2 = .01$. The effect of external attribution ratings on trust in judges was marginally significant in both the fair condition ($b = -.27, \beta = -.17, t(115) = -1.83, p = .07$) and the unfair condition ($b = .27, \beta = .16, t(116) = 1.73, p = .09$). In addition, the main effect of the procedure manipulation on the grade participants gave their trust in judges ceased to be marginally significant, $F(1, 214) = .52, p = .47, \eta_p^2 = .00$. We found a marginally significant effect of the procedure manipulation on outcome judgments, $F(1, 234) = 3.69, p = .06, \eta_p^2 = .02$, and on protest intentions, $F(1, 234) = 3.74, p = .05, \eta_p^2 = .01$.

effect of the procedure manipulation on trust in judges suggested that participants in the fair condition reported somewhat higher levels of trust in judges ($M = 4.91$, $SD = 1.40$) than participants in the unfair condition ($M = 4.42$, $SD = 1.60$). The nonsignificant interaction effect indicated that the procedure manipulation and outcome judgments were not associated with trust in judges in a combined way.

We also conducted a GLM analysis with the procedure manipulation and outcome judgments as independent variables and the grade participants gave their trust in judges as a dependent variable. This analysis yielded a significant main effect of outcome judgments, $F(1, 209) = 9.50$, $p < .01$, $\eta_p^2 = .04$, a significant main effect of the procedure manipulation, $F(1, 209) = 3.93$, $p < .05$, $\eta_p^2 = .02$, and no significant interaction effect, $F(1, 209) = .37$, $p = .54$, $\eta_p^2 = .00$. The main effect of outcome judgments showed that participants who judged their outcomes more positively gave their trust in judges a higher grade. Furthermore, the main effect of the procedure manipulation showed that participants gave their trust in judges a higher grade in the fair condition ($M = 6.75$, $SD = 1.61$) than in the unfair condition ($M = 6.10$, $SD = 1.90$). The nonsignificant interaction between the procedure manipulation and outcome judgments indicated that these variables were not jointly associated with the grade participants gave their trust in judges.

Finally, we conducted a GLM analysis with the procedure manipulation and outcome judgments as independent variables and protest intentions as a dependent variable. This analysis revealed a significant main effect of outcome judgments, $F(1, 228) = 41.49$, $p < .001$, $\eta_p^2 = .15$, a significant main effect of the procedure manipulation, $F(1, 228) = 4.17$, $p < .05$, $\eta_p^2 = .02$, and no significant interaction between outcome judgments and the procedure manipulation, $F(1, 228) = .81$, $p = .37$, $\eta_p^2 = .00$. The main effect of outcome judgments indicated that participants who judged their outcomes more positively reported lower protest intentions. In addition, the main effect of the procedure manipulation showed that participants in the fair condition expressed lower protest intentions ($M = 4.69$, $SD = 1.81$) than participants in the unfair condition ($M = 5.43$, $SD = 1.74$). Again, the nonsignificant interaction effect showed that the procedure manipulation and outcome judgments were not jointly associated with participants' protest intentions. In other words, none of our dependent variables showed the two-way interaction between the procedure manipulation and outcome judgments that we explored with our third hypothesis.¹¹

11 When we performed these analyses while including the six outliers, we did not find a significant main effect of the procedure manipulation on trust in judges, $F(1, 232) = .69$, $p = .41$, $\eta_p^2 = .00$, nor on the grade participants gave their trust in judges, $F(1, 215) = .79$, $p = .38$, $\eta_p^2 = .00$. The main effect of the procedure manipulation on protest intentions was marginally significant, $F(1, 234) = 3.54$, $p = .06$, $\eta_p^2 = .02$.

Discussion

In this study, we assessed participants' reactions to procedural justice. In addition to examining the fair process effect that is widely assumed in the domain of law and society, we examined its potential attenuation or even reversal by involving moderating variables. Our results show that we successfully manipulated procedural justice by asking participants to read a scenario in which they were the defendant in a criminal court hearing that progressed in either a fair or an unfair way. This procedure manipulation had statistically significant effects on participants' trust in judges, the grade they gave their trust in judges, participants' outcome judgments, and their protest intentions. That is, participants reported more trust in judges, gave their trust in judges a higher grade, judged their outcomes more positively, and were less inclined to protest against the judicial ruling in the fair condition than in the unfair condition. The effect of the procedure manipulation on trust in judges was significantly moderated by participants' external attributions, such that we found a fair process effect among participants with relatively low external attribution ratings, while this effect was attenuated, in fact was not statistically significant, among participants whose external attribution ratings were relatively high.

The main effects of the procedure manipulation found in this study are important because they suggest that people, when faced with the same negative outcome, report more trust in judges, give their trust in judges a higher grade, judge their outcomes more positively, and are less inclined to protest against judicial rulings in case of fair procedures. Experimental designs such as the one used in our study, which vary procedural justice but keep the outcome constant (in this case: a fine of 400 Euros), can be a powerful way of uncovering such fair process effects. In addition, we found these effects among research participants who are generally non-WEIRD (Henrich et al., 2010a, 2010b) and are therefore underrepresented in many procedural justice studies. In these ways, our findings provide further support for results obtained in previous studies in legal contexts that found associations between procedural justice and other important variables (e.g., Casper, Tyler, & Fisher, 1988; Grootelaar, 2018; Landis & Goodstein, 1986; Thibaut & Walker, 1975; Twisk, Van Es, & Utermark, 2016).

As predicted by our second hypothesis, the effect of the procedure manipulation on trust in judges was moderated by participants' external attribution ratings. That is, we found a positive effect of the procedure manipulation on trust in judges among participants with relatively low external attribution ratings, while this effect ceased to be statistically significant when external attribution ratings were relatively high. In other words, the fair process effect was attenuated among participants with relatively high external attribution ratings to such extent that the effect was no longer statistically significant.

These findings fit with the line of reasoning presented at the beginning of this chapter. That is, people may sometimes want to attribute negative outcomes to external causes to preserve their self-esteem (Cohen, 1982). Since unfair procedures offer such external attribution opportunities, people may respond more positively to procedural unfairness,

yielding an attenuation or even reversal of the fair process effect (e.g., Brockner et al., 2009; Van den Bos et al., 1999). Thus, our finding that the fair process effect was not statistically significant among participants with relatively high external attribution ratings may indicate that participants who wanted to attribute their outcomes to external causes responded less positively to the fair procedure condition, because the fair procedure did not offer them the external attribution opportunities they desired. In this way, people's desire to protect their self-esteem when faced with negative outcomes may account for the interaction between external attribution ratings and the procedure manipulation observed in the current study.

Our findings regarding the interactive effect of external attribution ratings and the procedure manipulation are important because they provide further insight into potential boundary conditions of the fair process effect. For instance, other studies often assume that attributional processes may underlie the attenuation or reversal of the fair process effect rather than explicitly including attributions as a variable in their analyses (for an exception, see Brockner et al., 2003). Because our analyses involved participants' external attribution ratings as a potentially moderating variable, our study provides direct empirical support for this suggestion.

Furthermore, our study extends previous findings regarding participants' attenuated preference for fair procedures to a novel context. That is, rather than examining the potential attenuation or reversal of the fair process effect in organizational, performance-oriented, or laboratory contexts (e.g., Brockner et al., 2003; Schroth & Shah, 2000; Van den Bos et al., 1999), we assessed these issues in a legally related setting. After all, participants imagined being the defendant in a criminal court hearing during which they were treated fairly or unfairly. Our findings thus suggest that in legal settings, too, attributional processes may moderate people's reactions to fair procedures. In our study, this moderation entailed an attenuation (rather than a reversal) of the fair process effect to the extent that the effect was no longer statistically significant. Future studies using different methods and different research participants could examine whether, in legal contexts, the fair process effect may be reversed when external attribution ratings are high.

One of the reasons the interaction effect we found in the current study is interesting, we think, is that intergroup dynamics may play a role in the context of court hearings in general and criminal court hearings in particular. That is, some defendants may be sensitive to the fact that, for them, the judge represents an outgroup (Hornsey & Esposo, 2009; Hornsey & Imani, 2004). The current study may thus advance our thinking about people's attenuated preference for fair procedures in contexts that involve intergroup dynamics, which can shape people's reactions to procedural justice to an important extent (Smith, Tyler, Huo, Ortiz, & Lind, 1998).

Finally, we note that we did not find an interactive effect of the procedure manipulation and outcome judgments, as explored by our third hypothesis. This might be explained by the scenarios used in our study, which focused on criminal court hearings. After all,

Grootelaar and Van den Bos (2018) found an interactive effect of outcome favorability and perceived procedural justice in Dutch motoring fine cases, but not in single judge criminal cases. They write that whether this interaction can be observed may thus depend on the type of legal case examined. The nonsignificant interaction between outcome judgments and procedural justice, as in one of our other studies (Ansems et al., 2020b), supports their suggestion.

Limitations

The present study has some limitations that one should keep in mind when interpreting the results and designing future research that may follow from the study presented here. First, because we studied people's responses to fair and unfair procedures with experimental control, we are able to make claims regarding causality that could not have been made based on qualitative or correlational studies. At the same time, our study design has several correlational aspects, because we manipulated only the fairness of the procedure. Future studies could consider manipulating other aspects of (hypothetical) court hearings as well, such as outcome favorability or external attribution ratings. For instance, studies could try to influence participants' external attribution ratings by manipulating the strength of the evaluative context (Innes & Young, 1975; Van den Bos et al., 1999). Such follow-up studies would facilitate causal claims beyond the effect of the procedure manipulation only.

A second limitation of the current study is its use of scenarios, which provide less external validity than studies that ask people about their experiences and perceptions during actual court hearings with real stakes (e.g., Casper et al., 1988; Grootelaar, 2018; Hulst, 2017). Indeed, the lack of real interaction with a judge may be why the relationships between procedural justice and trust in judges in our study are not as strong as those found in studies involving real-life court hearings (e.g., Ansems et al., 2020b). Although the effects of the procedure manipulation on our other variables suggest that we were able to achieve a reasonable level of experimental realism (Van den Bos, 2020), future studies could assess the robustness of our results by using a different methodological approach that preferably involves defendants in actual court hearings.

Third, we manipulated procedural justice by varying whether participants read the fair scenario or the unfair scenario. These scenarios were based on findings of our recent study which examined what makes defendants in criminal cases feel treated fairly during their court hearings (Ansems et al., 2020a). Future research may examine whether manipulations focusing on other aspects of procedures or focusing on a single procedural aspect yield attenuated or reversed fair process effects.

Fourth, although the scale we used to measure participants' external attribution ratings showed sufficient reliability for theory-testing purposes (Nunnally & Bernstein, 1994), one should take care when applying these insights to important legal contexts. Follow-up research could examine how external attribution ratings can be assessed in a more reliable manner in the context of criminal court hearings. For example, one might

consider measuring only external attribution ratings rather than also including reverse-coded items measuring internal attributions as in the current study, because both types of attributions do not necessarily rule out one another (e.g., Brockner et al., 2003; Major, Quinton, & McCoy, 2002).

Fifth, we note that the interactive effect of the procedure manipulation and external attribution ratings was statistically significant only on participants' trust in judges. Hence, our findings regarding the attenuation of the fair process effect should be interpreted with caution. Follow-up research is needed to assess whether our results can be replicated and whether procedural justice and external attributions interactively affect other variables as well.

Coda

The present study shows that procedural justice has effects on relevant other variables, such as trust in judges and intentions to protest against judicial rulings. These effects were not attenuated or reversed depending on participants' outcome judgments. We did find an attenuation of the positive effect of procedural justice on trust in judges among participants with relatively high external attribution ratings to such extent that the effect was no longer statistically significant. This is an interesting finding, because it reveals a potential boundary condition of the fair process effect. Overall, however, our results point to the importance of procedural justice. Thus, our study suggests that procedural fairness matters when people are responding to legally relevant stimulus materials. We hope that our experimental insight into the fair process effect, and some of its potential boundary conditions, will help to better understand people's reactions to criminal procedures.

Chapter 5

Empirical Discussion

Author contributions: Solo-authored by Lisa Ansems with helpful comments and editing from Kees van den Bos and Elaine Mak.

Synthesizing the Empirical Studies

Thibaut, Walker, and their colleagues have proposed that people's satisfaction with outcomes can be significantly enhanced without changing anything about the outcomes themselves, as long as people perceive the procedures leading to those outcomes as fair (Thibaut & Walker, 1975; Walker, LaTour, Lind, & Thibaut, 1974). It was this intriguing suggestion that sparked my interest in perceived procedural justice. It made me wonder whether perceptions of procedural fairness would also matter to defendants involved in real-life criminal cases and whether they, too, would show such fair process effects (Folger, Rosenfield, Grove, & Corkran, 1979). I also wondered whether procedures that are perceived as *unfair* rather than fair might sometimes have nice aspects for defendants – for instance, because unfair procedures offer opportunities to put the blame for negative case outcomes somewhere else (Van den Bos, Bruins, Wilke, & Dronkert, 1999).

These questions were the driving force behind the research reported in the current dissertation. I aimed to provide answers to these questions by conducting three empirical legal studies: qualitative interviews with criminal defendants, a survey among criminal defendants, and an experiment among citizens who imagined being the defendant during a criminal court hearing. The overarching aim of these studies was to subject perceived procedural justice to a critical test. Thus, two of my studies focused on the real-life context of criminal court hearings, which is different from procedural justice research conducted in laboratory settings (e.g., Folger, 1977; Thibaut & Walker, 1975; Van den Bos, 2001). People involved in actual criminal cases might be merely or predominantly concerned with outcomes rather than procedures. In addition, my research focused on participants who tend to be underrepresented in the behavioral sciences, and involved potentially moderating variables that may make the fair process effect less likely to occur.

In the preceding chapters, I have presented my empirical studies and their findings. The current chapter provides a synthesis by summarizing the main findings of the individual studies and reflecting on their collective scientific implications, the mixed-methods approach I used, the limitations of my studies, and suggestions for future research in this field. When discussing the implications of my research, I focus on its implications in the domain of social science. Because I think the translation of empirical findings to the normative domain of law deserves a separate discussion, I address the possible implications for legal practice in the next chapter.

A Critical Test of Procedural Justice: Main Findings

As I noted earlier, procedural justice studies have been met with both enthusiasm and criticism. Many researchers and practitioners in the Netherlands, among other countries, have embraced the notion of perceived procedural fairness, making it a frequent topic of scientific study and of the education of both students and legal professionals (e.g., Jacobs & Van Kampen, 2014; Twisk, Van Es, & Utermark, 2016; Van den Bos, Van der Velden, & Lind, 2014; Van Lent et al., 2016; Van der Linden, Klijn, & Van Tulder, 2009;

Verburg, 2019). Others have challenged procedural justice research, questioning the conclusions drawn from laboratory simulations, the causal relationship between perceived procedural justice and other variables, and the importance of procedural justice perceptions relative to outcome concerns (e.g., Anderson & Hayden, 1981; Berrey, Hoffman, & Nielsen, 2012; Hayden & Anderson, 1979; Jenness & Calavita, 2018; Nagin & Telep, 2017, 2020; Pina-Sánchez & Brunton-Smith, 2020; Van Velthoven, 2011). The current dissertation incorporates both perspectives by adopting an approach that is constructive as well as critical. Specifically, I assessed the importance of perceived procedural justice in three separate yet related studies involving qualitative interviews, a survey, and an experiment.

Qualitative Interviews

Chapter 2 reported the findings of qualitative interviews among 100 defendants in Dutch criminal cases that examined (1) whether defendants refer to procedural justice themselves when asked about perceived fairness during their court hearings, and (2) if so, which components of procedural justice they mention. A majority of 76 respondents referred to procedural justice issues themselves at some point during the interview, leaving 24 respondents who initially did not mention procedural justice issues themselves. These respondents talked, for instance, only about the outcomes of their cases. After being asked follow-up questions that assessed how justly they felt they had been treated during the court hearing until the judge gave their judgment, or whether they could imagine something that would have made them feel treated *unjustly* during their court hearings, an additional 21 respondents mentioned issues of procedural justice. Hence, only three respondents did not mention procedural justice issues at all during their interviews.

In addition, I wanted to find out what procedural fairness exactly entails according to the defendants involved. To that end, I assessed which components of procedural justice respondents referred to themselves rather than inquiring about predetermined procedural justice components. I found six interrelated components to be at the core of respondents' procedural justice perceptions: (1) information on which decisions are based, (2) interpersonal treatment, (3) due consideration, (4) neutrality, (5) voice, and (6) accuracy. In particular, perceived neutrality appeared to play a central role in the courtroom context examined in this study.

Survey

In Chapter 3, I presented the results of a survey among 198 criminal defendants with a non-western ethnic-cultural background who participated in the study directly after their court hearings. I focused on respondents with a non-western background because they may experience discrimination in their daily lives and may feel negatively evaluated by Dutch society (Huijnk & Andriessen, 2016), which can play an important role in attenuating or reversing the fair process effect (Van den Bos et al., 1999). After all, when people feel strongly evaluated and they receive a negative outcome, they may look for

opportunities to attribute the outcome to an external cause (Cohen, 1982; Van den Bos et al., 1999). Because unfair procedures offer such external attribution opportunities, people may respond more favorably to perceived procedural unfairness (Brockner et al., 2003; Brockner, Wiesenfeld, & Diekmann, 2009; Van den Bos et al., 1999). I also suggested that defendants who attribute negative occurrences to discrimination in their daily lives (Crocker & Major, 1989; Major, 1994; Major, Quinton, & McCoy, 2002) might be particularly inclined to make external attributions upon receiving negative outcomes during their court hearings.

Hence, I examined the potentially moderating role of respondents' outcome judgments and their levels of perceived everyday discrimination. That is, I assessed whether the associations between perceived procedural justice and other variables, such as trust in judges, might be attenuated or even reversed depending on how positively or negatively respondents judged their outcomes and how much discrimination they experienced in their daily lives. The analyses showed that perceived procedural justice was significantly associated with respondents' trust in judges, outcome judgments, intentions to protest against their outcomes, and state self-esteem (that is, self-esteem at the moment of filling out the questionnaire). I did not find an attenuation or reversal of the associations between perceived procedural justice and other variables depending on respondents' perceptions of everyday discrimination or their outcome judgments. Thus, these associations remained intact regardless of how much discrimination respondents experienced in their daily lives and how positively or negatively they judged their outcomes.

Experiment

My third study, reported in Chapter 4 of the dissertation, involved an experiment among 239 shopping citizens with a non-western ethnic-cultural background who imagined being the defendant during a criminal court hearing. In the experiment, I manipulated procedural justice by letting participants read a scenario in which they were treated either fairly or unfairly. Again, I wanted to subject procedural justice to a critical test by involving potentially moderating variables that might attenuate or even reverse the fair process effect. As in my survey study, the underlying line of reasoning was that unfair procedures can sometimes have nice aspects, because they offer opportunities to blame negative outcomes on external causes (Brockner et al., 2003; Van den Bos et al., 1999). Thus, the experiment examined whether the fair process effect might be attenuated or even reversed among participants who strongly put the blame for their negative case outcomes on something other than themselves. I also assessed whether the fair process effect might be attenuated or reversed depending on participants' outcome judgments.

I found that participants in the fair procedure condition reported significantly more trust in judges, gave their trust in judges a higher grade, judged their outcomes more positively, and were less inclined to protest against their outcomes than participants in the unfair procedure condition. These fair process effects were not attenuated or reversed depending on participants' outcome judgments. I did find a statistically significant interactive effect of the procedure manipulation and external attribution

ratings on participants' trust in judges. That is, I observed a fair process effect among participants who showed relatively low external attribution ratings, such that they reported higher levels of trust in judges in the fair procedure condition as opposed to the unfair procedure condition. Among participants with relatively high external attribution ratings, however, I found an attenuation of the fair process effect to such extent that it was no longer statistically significant. In these ways, the experiment provided insight on the fair process effect as well as some of its potential boundary conditions.

Scientific Implications

The findings of these empirical studies have several possible scientific implications, which I have broken down into the following areas of content. First, I discuss what my findings reveal about the importance of perceived procedural justice and the meaning of this concept in the eyes of defendants in criminal cases. I then address the relationship between perceived procedural justice and trust in judges, and, subsequently, what my findings imply for the debate on the relative importance of procedures and outcomes. Finally, I explain what these findings suggest about the importance of people's self-relevant concerns in shaping responses to perceived procedural justice, and how our insight into this issue can be further enhanced.

The Importance of Perceived Procedural Justice

The overarching aim of the current dissertation was to critically assess the importance of perceived procedural justice. Thus, I examined whether perceived procedural justice is a relevant concern in the contexts examined here by assessing whether defendants referred to procedural justice issues themselves during my qualitative interviews (Chapter 2), whether perceptions of procedural justice were significantly associated with relevant other variables in my survey study (Chapter 3), and whether the procedure manipulation had a significant effect on relevant other variables in my experiment (Chapter 4).

As explained earlier, the large majority of respondents in the qualitative interview study referred to issues of procedural justice themselves at some point during the interview. The question with which these interviews started – that is, whether respondents felt treated fairly during their court hearings – left open the possibility to talk only about case outcomes for respondents who did not care about perceived procedural fairness. Indeed, several respondents initially did not mention perceptions of procedural justice and, for example, talked only about their outcomes. In such cases, I asked specific follow-up questions, resulting in an additional 21 respondents who referred to issues of procedural justice and leaving only three respondents who did not mention procedural justice perceptions at all during the interview. This suggests that, for many defendants, procedural fairness is a relevant concern during their court hearings.

This finding is supported by the results of the survey and the experiment. The survey study, which I also conducted in the real-life context of Dutch criminal court hearings, revealed statistically significant associations between perceived procedural justice and important other variables, such that respondents who reported higher levels of perceived procedural fairness showed higher levels of trust in judges, more positive outcome judgments, lower protest intentions, and higher state self-esteem. The experiment backed up the survey findings with causal control: I found a fair process effect of the procedure manipulation on trust in judges, the grade participants gave their trust in judges, outcome judgments, and protest intentions. Thus, both studies showed statistically significant relationships between procedural fairness and relevant other variables, suggesting again that perceived procedural justice matters.

Furthermore, in line with my aim to subject procedural justice to a critical test, both the survey and the experiment involved potentially moderating variables that might attenuate or reverse these relationships. In the survey study, the associations between perceived procedural justice and other variables were not attenuated or reversed depending on respondents' outcome judgments or their levels of perceived everyday discrimination. Thus, perceived procedural justice mattered regardless of how positively or negatively respondents judged their outcomes or how much discrimination they experienced in their daily lives.

The experiment did reveal a significant effect of one of the moderating variables. That is, for participants with relatively high external attribution ratings, the positive effect of the procedure manipulation on trust in judges was attenuated to the extent that it ceased to be statistically significant. This is an interesting finding, because it highlights a potential boundary condition of the fair process effect: Procedural fairness may not have its usual positive effect when people's external attribution ratings are relatively high. I will reflect on this in more detail below. For now, I note that the attenuation of the fair process effect occurred on only one variable (that is, trust in judges) and in only one of my studies (that is, the experiment). Hence, the overall picture emerging from the three studies is that perceived procedural justice matters, even when it is subjected to a critical test. My findings thus provide further support for other studies that point to the importance procedural justice perceptions in legal contexts (e.g., Casper, Tyler, & Fisher, 1988; Grootelaar, 2018; Hulst, 2017; Thibaut & Walker, 1975; Tyler, 1984, 1988, 2006; Tyler & Huo, 2002).

The Meaning of Perceived Procedural Justice

My qualitative interviews assessed not only whether defendants referred to issues of procedural justice themselves when asked about perceived fairness during their court hearings, but also which components of procedural fairness they mentioned. Careful and detailed analysis of the interview data revealed which components of procedural justice were at the core of respondents' fairness perceptions. In this way, the interview findings offer a refined and bottom-up conceptualization of perceived procedural justice. Such enhanced insight into the meaning of this core concept is relevant not only in itself, but

also because it may inform future operationalizations of perceived procedural fairness in quantitative studies.

Another reason I think these interview findings provide a relevant contribution to the current procedural justice literature is that, sometimes, studies tend to lump together procedural justice components. For example, honesty is sometimes considered an aspect of neutrality (Tyler & Lind, 1992) yet also closely assimilates truthfulness, which is treated as a separate factor influencing fairness judgments by Bies and Moag (1986). In addition, Tyler and Lind (1992) view trust as a procedural justice component and use ethicality in their operationalizations of this construct, whereas at other times ethicality is seen as a separate component of procedural fairness (Leventhal, 1980) or is measured by assessing politeness and concern for rights (Tyler, 2006).

Of course, one should not overdo it and artificially pull apart procedural justice components that are virtually the same. Indeed, Tyler (1988, p. 123) notes that components of procedural justice “generally have a positive, overlapping quality” (see also Grootelaar, 2018). This is supported by my qualitative interview findings, which tentatively suggest relationships between procedural justice components. At the same time, I think being precise about these issues is relevant. After all, more fine-grained insight into the meaning of perceived procedural justice may further the validity of procedural justice measurements and may be helpful for legal practitioners who aim to enhance perceptions of procedural fairness. Thus, I disentangled respondents’ procedural fairness perceptions during the interviews, which resulted in a long list of codes in the first stage of data analysis. In the second stage, I examined differences and similarities between these codes to arrive at overarching categories (Willig, 2013), which eventually yielded six core components of perceived procedural justice.

Of these six core components, I think three stand out quite prominently. First, perceived neutrality appears to play a central role in the criminal courtroom context examined here. This procedural justice component was mentioned in 39 interviews, and all other core components seemed to be partially instrumental to perceptions of neutrality. Thus, in my qualitative interview study, neutrality was even more important than indicated by much of the literature. The importance of neutrality in the current study may be explained by the courtroom setting of my research in general, and my focus on criminal cases in particular.

For instance, Tyler (1984) conducted his research in a similar courtroom context and found that lack of bias and taking the time to carefully consider the case were the most important components of perceived procedural fairness. In line with this, it has been suggested that lack of bias is more important in formal courtroom contexts than in less formal settings, such as settings involving police-citizen contact (Barrett-Howard & Tyler, 1986; Tyler, 1988, 2006). This may explain why Tyler (1994) found that neutrality mattered more in a managerial context as opposed to a legal setting: The large majority of contacts between citizens and legal authorities in that study concerned police-citizen interactions rather than contacts with the courts. This suggests that the importance of

neutrality in my interview study may be explained by my focus on the formal context of court hearings.

More speculatively, my focus on criminal cases may explain why perceived neutrality played a central role in respondents' fairness perceptions. Defendants in Dutch criminal cases find themselves sitting across a public prosecutor who represents the powerful workings of the Public Prosecution Service. Both the judge and the public prosecutor are governmental bodies, and both are sitting opposite the defendant in the Dutch courtroom setting. In such situations, perceiving the judge as impartial and independent may be particularly important (see also Grootelaar, 2018). In addition, being accused of having committed a criminal offense may make defendants particularly attentive to whether the judge is unprejudiced and has not already made up his or her mind. These aspects of neutrality and their centrality to the law – as expressed by a blindfolded Lady Justice, whose statue stands right outside the courthouse where the interviews took place – may be something defendants are very aware of.

A second core component of perceived procedural fairness that I highlight here is the information on which decisions are based. This procedural justice component recurred in more than half of the interviews (56 interviews) and thus seems very important in shaping defendants' fairness perceptions, more so than indicated by the current literature. For instance, many respondents talked about the judge or prosecutor taking into account information respondents considered relevant, such as information regarding their personal circumstances or the consequences certain sentences would have. This supports Tyler's (1984) finding that important correlates of perceived procedural fairness among defendants in traffic and misdemeanor cases were defendants' perceptions of whether the judge had enough information to take a decision and took the evidence into account.

Although these procedural justice components can have a direct impact on the outcomes of defendants' cases and might thus be interpreted as support for instrumental models of procedural justice, my finding that 43 respondents referred to interpersonal treatment (see also Bies & Moag, 1986) as a procedural justice component suggests otherwise. This third core component of procedural fairness suggests that instrumental models are not the only explanation for the importance of perceived procedural justice in the context examined here, and that they may not even be the most important one. After all, there is no clear link between issues of interpersonal treatment, such as friendly and respectful interactions, and case outcomes. Rather, the finding that many respondents referred to interpersonal treatment may be interpreted as support for relational models of procedural justice, which propose that people care about being treated fairly because this communicates to them that they are a valued member of society (Lind & Tyler, 1988; Tyler & Lind, 1992).

The Relationship Between Perceived Procedural Justice and Trust in Judges

An issue which pertains to both the importance of perceived procedural justice and its meaning is the relationship between perceived procedural justice and trust in judges. I included trust in judges as an important variable in the current dissertation because, as I noted earlier, this is a core issue in democratic states, and maintaining public trust is often considered important by legal practitioners (see also Chapter 6). In addition, trust is a concept that research participants often find relatively easy to use and understand, and that embodies both thoughts and feelings. Trust can thus be a relevant focus of procedural justice studies, such as the ones presented here.

Yet, procedural justice studies differ in how they incorporate and operationalize trust in their research designs. Some studies measure trust in legal authorities by including items that seem to target procedural justice perceptions such as concern for people's needs, consideration of their views, and honesty or sincerity (Hulst, 2017; Tyler, 2001; Tyler & Huo, 2002). Instead, following Grootelaar (2018), the empirical studies reported in the current dissertation measured trust in a way that is as direct and straightforward as possible, using only terms like "faith", "trustworthy", and "trust". Such clean measurement of trust fits my aim to subject procedural justice to a critical test. After all, had I used perceived procedural justice as an independent variable and trust in judges as a dependent variable while assessing trust with procedural justice resembling items, I might have overestimated the association between these variables.

In line with the findings reported by Grootelaar (2018), the results of my survey showed that perceptions of procedural fairness are associated with trust in judges, even when the operationalizations of these concepts do not overlap. The results of my experiment clarify the direction of causality, indicating that procedural justice affects trust. After all, I found a statistically significant main effect of the procedure manipulation on participants' trust in judges, with participants in the fair procedure condition reporting higher levels of trust than those in the unfair procedure condition. Hence, my findings provide support for viewing perceptions of procedural justice as an antecedent of trust in legal authorities (see also, e.g., Grootelaar, 2018; Hough et al., 2010; Hulst, 2017; Tyler, 2001).

Others, however, have treated trust as an antecedent of perceived procedural justice, measuring people's procedural fairness perceptions by assessing their trust in authorities' benevolence or motives (e.g., Tyler, 1989; Tyler & Lind, 1992). Thus, studies sometimes use trust in their operationalizations of perceived procedural fairness. This conception of perceived procedural justice is not supported by the findings of my qualitative interview study. That is, my interview respondents did not mention trust as a reason for feeling treated justly or unjustly during their court hearings. A few respondents did mention judges' and public prosecutors' sincerity ($N = 8$), which resembles these authorities' motives and benevolence, but they did not refer to trust in this context.

Hence, in line with previous qualitative studies (De Mesmaecker, 2014; Morgan, 2018), (part of) my findings suggest that perceived procedural justice should be treated as an antecedent of trust rather than the other way around. In these ways, the studies reported in the current dissertation extend the findings by Grootelaar (2018) by providing further conceptual clarity regarding the relationship between perceived procedural justice and trust in judges.

The Debate on the Relative Importance of Procedures and Outcomes

One of the ways in which the current dissertation subjects perceived procedural justice to a critical test is by examining its importance in a context in which people are likely to care about the outcomes they receive. That is, two of my empirical studies focused on the real-life context of Dutch criminal court hearings, which is different from procedural justice research conducted in laboratory settings (e.g., Folger, 1977; Thibaut & Walker, 1975; Van den Bos, 2001). After all, defendants in my studies risked conditional or unconditional fines, community service, and prison sentences. One may wonder whether in such contexts people are concerned with issues of procedural fairness rather than being concerned only with their case outcomes.

A *homo economicus* view of mankind would point in the latter direction, proposing that people are fundamentally self-interested and focus on maximizing their profits. In line with this, some argue that “what each side wants in a fair legal system is not an unbiased process (as the procedural justice literature suggests) but one that benefits their own side” (Berrey et al., 2012, p. 4), or that people’s concern with their outcomes is so dominant “that procedural dimensions are largely subordinate to it” (Jenness & Calavita, 2018, p. 67). Others, however, emphasize the importance of perceived procedural justice over perceptions of outcome favorability, suggesting that people are particularly concerned with issues of treatment fairness (e.g., Tyler, 1984, 2006; Tyler & Lind, 1992).

My aim in the current dissertation was not to assess whether perceived procedural justice matters more than outcome judgments or vice versa. Rather, I wanted to examine whether perceptions of procedural justice, in addition to case outcomes, are a relevant concern for defendants in criminal court hearings. As I already explained, my findings suggest that perceived procedural fairness indeed matters, even in these cases involving real stakes. After all, the large majority of defendants referred to issues of procedural justice themselves when asked about perceived fairness during their court hearings (Chapter 2), and perceptions of procedural fairness were statistically significantly associated with important other variables, such as trust in judges and protest intentions (Chapters 3 and 4). Thus, my findings are in line with the argument by Miller (1999) that we should not overestimate the importance of self-interest as a motivational force driving people’s attitudes and behaviors.

This does not mean, of course, that outcomes were not important to participants in my studies (see also Grootelaar, 2018; Tyler, 1984). In addition to issues of procedural justice, interview respondents talked about their outcomes when asked about perceived

fairness during their court hearings, and they partly based their perceptions of procedural fairness on outcome information. Furthermore, outcome judgments were significantly associated with most dependent variables in my survey, sometimes more strongly than perceived procedural justice (that is, when the dependent variable was protest intentions) and at other times less strongly so (for instance, when the dependent variable was trust in judges). Finally, in addition to the effects of the procedure manipulation, outcome judgments had important effects in the experiment. Taken together, my findings suggest that both perceived procedural justice and outcome judgments matter in the contexts examined here. Thus, even when real stakes are involved, people care not only about their outcomes but also about being treated in a procedurally fair way.

The Role of Self-Relevant Concerns

A final contribution of my findings is that they point to the importance of the “self” in shaping responses to perceived procedural justice (Sedikides, Hart, & De Cremer, 2008). That is, people’s self-relevant concerns appear to play a role in the issues examined here. For instance, my survey findings showed that perceptions of procedural fairness were often significantly associated with respondents’ state self-esteem, and that state self-esteem to some extent mediated the association between perceived procedural justice and trust in judges as well as the association between perceived procedural justice and protest intentions. This suggests that state self-esteem partly explains respondents’ positive responses to perceptions of procedural fairness. These findings are in line with other studies, which reveal fair process effects of procedural justice on people’s self-esteem (Koper, Van Knippenberg, Bouhuijs, Vermunt, & Wilke, 1993) and which propose that procedural justice matters because being treated fairly communicates to people that they are valued group members (Lind & Tyler, 1988; Tyler & Lind, 1992).

Furthermore, my experiment revealed that the effect of the procedure manipulation on trust in judges was significantly moderated by participants’ external attribution ratings. That is, I found that participants with relatively low external attribution ratings showed a statistically significant fair process effect, such that they reported higher levels of trust in judges in the fair procedure condition as opposed to the unfair procedure condition. Among participants with relatively high external attribution ratings, however, the fair process effect was attenuated to such extent that it was no longer statistically significant. Thus, participants in the fair procedure condition and those in the unfair procedure condition reported similar levels of trust in judges.

These findings are in line with what I predicted based on the relevant literature. That is, I expected the fair process effect to be attenuated or even reversed among participants with relatively high external attribution ratings, because for them unfair procedures would offer the external attribution opportunities they desired (Brockner et al., 2009; Van den Bos et al., 1999). After all, receiving negative outcomes may threaten people’s self-esteem when they attribute those outcomes to internal causes (Weiner, 1985), leading them to look for ways to blame their outcomes on something other than themselves (Cohen, 1982). Because unfair procedures offer external attribution opportunities that

fair procedures do not (Brockner et al., 2003; Leung, Su, & Morris, 2001), people may respond more favorably to perceived procedural *unfairness*, resulting in an attenuation or even a reversal of the fair process effect (Brockner et al., 2009; Van den Bos et al., 1999). This is another way in which people's self-relevant concerns can shape their reactions to perceived procedural justice which I examined in the current dissertation.

My finding that the fair process effect was indeed attenuated among participants with relatively high external attribution ratings is important, because it points to a potential boundary condition of the fair process effect. To provide a better understanding of this attenuation and to offer directions for follow-up studies, I will reflect on this finding in some more detail below. Before doing so, however, I re-emphasize that the attenuation of the fair process effect occurred on only one variable (that is, trust in judges) and in only one of my studies (that is, the experiment). Because it cannot be ruled out that this finding is a false positive, it is important to interpret this finding with caution and examine whether it can be replicated in follow-up research.

One issue that future studies could address is the type of context in which potential attenuations or reversals of the fair process effect occur. An interesting aspect of the attenuation observed in the current dissertation is that the experiment focused on a legally-related context. After all, I asked participants to read a scenario in which they were the defendant in a criminal court hearing during which they were treated either fairly or unfairly. In contrast, earlier studies have obtained attenuations or reversals of the fair process effect in organizational, performance-oriented, or laboratory settings (for reviews, see Bobocel & Gosse, 2015; Brockner et al., 2009). This might explain why the evidence for an attenuated fair process effect obtained in the current research was only tentative: Attenuated or reversed fair process effects may be more likely to occur in settings that focus on issues of achievement than in legally-related settings.

This fits with results reported by Holmvall and Bobocel (2008) showing a reversed fair process effect among people with a stronger independent self-construal, who based their self-identity on achievement. In addition, Schroth and Shah (2000) point to the achievement context of their study, which revealed a reversal of the fair process effect among research participants who supposedly would not have been hired for a job based on their performance on a managerial assessment task. Van den Bos et al. (1999) address this issue as well. They refer to the apparent discrepancy between, on the one hand, research which suggests that unfair procedures harm people's self-esteem because they communicate that people are not seen as valued members of the community (Tyler & DeGoey, 1995) and on the other hand research which suggests that unfair procedures protect people's self-esteem because they offer external attribution opportunities (Gilliland, 1994). Building on earlier work by Cropanzano and Greenberg (1997), Van den Bos et al. (p. 333) propose that these perspectives may be united by looking at "what information procedures and outcomes are communicating or what information people have been focusing on": Reversed fair process effects may be more likely to occur when people focus on ability and skill rather than issues of personal dignity.

In line with this, Cropanzano, Byrne, Bobocel, and Rupp (2001; see also Brockner, 2010) explain that there is no discrepancy between studies finding reversed fair process effects, which suggest that procedural fairness may harm people's self-esteem (Gilliland, 1994; Van den Bos et al., 1999; see also Ployhart, Ryan, & Bennett, 1999), and relational models of procedural justice, which suggest that people's self-esteem is boosted by perceptions of procedural fairness (Lind & Tyler, 1988; Tyler & Lind, 1992). According to Cropanzano et al., perceived procedural justice usually promotes people's self-worth (e.g., Koper et al., 1993), except when procedural fairness forces people to make internal attributions for negative outcomes and thus threatens their self-esteem. Hence, in both situations, "the ultimate goal is to maintain positive self-regard" (Cropanzano et al., 2001, p. 178).

A second issue follow-up research on attenuated and reversed fair process effects could focus on is the extent to which people's self-relevant processes are triggered when they receive negative case outcomes (see also Brockner, 2002). Van den Bos et al. (1999, Experiment 3) found that it was the extent to which participants felt evaluated which triggered a reversal of the fair process effect: Participants in the weak evaluative context condition reported lower protest intentions after a fair as opposed to an unfair procedure, whereas among participants in the strong evaluative context condition this fair process effect was reversed. Building on these findings, one of the reasons I focused on the criminal courtroom context in the current dissertation is that I expected this to be a potentially strong evaluative context for defendants. After all, during criminal court hearings a defendant's allegedly blameful behavior is critically assessed by a judge, and defendants may be found guilty and punished for their wrongdoing.

When I explored this issue during my qualitative interviews, however, feeling strongly evaluated did not appear to be a highly relevant concern for many defendants. It is unclear whether defendants indeed often do not feel strongly evaluated during their court hearings, or whether they may have found this difficult to admit or put into words. Future studies could try to get more grip on these issues. Do criminal defendants care about what judges think of them? Do negative case outcomes threaten defendants' self-esteem? This might also depend on the way in which legal authorities interact with defendants in the courtroom in terms of interpersonal treatment. Indeed, my survey findings showed a statistically significant correlation between outcome judgments and state self-esteem ($r = .19, p < .01$, see Table 3.1), indicating that respondents' state self-esteem was lower when they judged their outcomes more negatively, yet this association disappeared when perceived procedural justice and background variables entered the analysis. Follow-up studies might further clarify if and when negative case outcomes may threaten defendants' self-esteem.

A third issue that future studies could address is whether and how ingroup-outgroup distinctions may play a role in attenuating or reversing the fair process effect. Previous research suggests that intergroup dynamics can indeed shape people's reactions to procedural justice to an important extent, such that the fair process effect may be reversed when the authority is perceived to belong to an outgroup (Smith, Tyler, Huo, Ortiz, & Lind, 1998). In the context of the current dissertation, judges may have been

considered as outgroup members by some of the research participants. For example, contrary to many of my research participants, Dutch judges are highly educated, earn an above-average wage, and are often Caucasian. Judges' worlds often differ from those of defendants in criminal cases, which may result in perceived differences not only from the perspective of judges themselves (Van den Bos, Ansems, Schiffelers, Kerssies, & Lindeman, 2021) but also from the perspective of defendants.

When people perceive the judge as belonging to their ingroup, it might go one of two ways, I think. First, people who consider the judge as an ingroup member may care a lot about what this judge thinks of them, and thus respond strongly to whether they are being treated fairly. Vice versa, people who consider the judge as an outgroup member may care less about what this judge thinks of them, and thus respond less positively to perceived procedural fairness. This would be in line with the group value model of perceived procedural justice and the findings reported by Smith et al. (1998). Second, for people who consider the judge as an ingroup member and thus care a lot about what this judge thinks of them, receiving a negative case outcome may pose a greater threat to their self-esteem. Hence, they may look for external attribution opportunities, resulting in a potential attenuation or reversal of the fair process effect (Brockner et al., 2009; Van den Bos et al., 1999).

Taken together, follow-up research could enhance our insight into at least three issues: (1) whether attenuated or reversed fair process effects occur in contexts that are less focused on issues of achievement, such as courtroom contexts, (2) whether courtroom settings are perceived as a strong evaluative context in which receiving negative outcomes may threaten people's self-esteem, and (3) whether and how ingroup-outgroup distinctions play a role in this regard. Concretely, future studies could for example focus on cases concerning driving under the influence or on more severe criminal cases, which in the Netherlands are heard by a three-judge panel. Driving under the influence is an offense that is likely committed by people with all kinds of socioeconomic (including educational) and ethnic-cultural backgrounds (e.g., Rovers, 1999), who may be more likely to perceive the judge as belonging to their ingroup. Alternatively, more severe criminal cases concern heavier accusations and may result in more severe sentences, which may pose a larger threat to people's self-esteem. Such research efforts could provide a better understanding of how self-relevant concerns may shape people's reactions to perceived procedural justice.

A Mixed-Methods Approach

The implications discussed above flow from the combination of the qualitative interviews, the survey, and the experiment which I conducted in the context of the current dissertation. Thus, I used different social science research methods to study perceived procedural justice in the context of criminal court hearings. Social psychology, the field in which procedural justice research originated, has traditionally involved the frequent use of laboratory experiments to study phenomena of interest (Van den Bos,

2020) and is sometimes skeptical of non-experimental research designs (Lind & Tyler, 1992). Experimental designs, including field experiments, are sometimes used within the field of empirical legal research as well (Hulst, 2017; Van den Bos & Hulst, 2016).

A key asset of experimental designs is the internal validity of the findings they yield (Van den Bos, 2020). Laboratory experiments in particular offer highly controlled environments that allow researchers to manipulate variables and randomly assign research participants to experimental conditions. When there are statistically significant differences in the scores on a dependent variable between participants in different experimental conditions, this indicates that there is a causal effect (Bijleveld, 2013). This ability to make claims about causality is what distinguishes experimental research from many other methods of social science research.

To gain a more complete understanding of a research topic of interest, however, it can be very useful to combine different methods and thus adopt a mixed-methods approach (Bryman, 2016; Van den Bos, 2020). In this way, the strengths of each individual method are utilized, and their weaknesses are counterbalanced by the others. When results obtained through one type of method are supported by results of another study in which a different method is used, one gains confidence in the validity of the findings. Thus, mixed-methods research facilitates triangulation of findings and the achievement of convergent validity (Maxwell, 2013; Robbennolt, 2002).

For these reasons, the studies reported in the current dissertation employed different types of methods. My qualitative interviews, which yielded more than 500 pages of transcriptions, provided in-depth and bottom-up insight into whether procedural justice is a relevant concern for criminal defendants and what procedural justice entails from their perspective. Yet, an issue that merits attention is the inherent subjectivity in interpreting qualitative data (Simon Thomas, 2017). To address this issue, I provided a second coder with a sample of text fragments from the interviews and assessed the extent to which she assigned these text fragments to the same folders and codes as I did. The results of this interrater reliability check (Bartholomew, Henderson, & Marcia, 2000; Boeije, 2010) indicated a sufficient degree of intersubjectivity of my coding scheme.

Another way in which I addressed this issue is by conducting two quantitative studies. For instance, I conducted a survey among defendants with a non-western background to examine whether and how their perceptions of procedural justice were associated with relevant other variables, such as trust in judges and protest intentions. An important aspect of both the survey and the interviews is that they focused on the real-life context of criminal court hearings, thus yielding findings with strong external validity (Van den Bos, 2020). Neither method, however, allows for claims regarding causality of the relationships observed. This lack of internal validity was counteracted by the experiment, in which participants read a scenario that varied whether they were treated either fairly or unfairly. Thus, where the experiment counteracted the lower levels of internal validity obtained in the interviews and survey, these latter two methods yielded levels of external validity not offered by the experiment.

Hence, the different studies I conducted each have their own strengths and compensate for each other's weaknesses. Importantly, they all point to the importance of perceived procedural justice. For instance, perceptions of procedural fairness were not only mentioned by defendants themselves during the qualitative interviews, but were also significantly associated with important other variables in the survey, and had significant effects in the experiment. In addition, the experiment used the core components of perceived procedural justice revealed by the qualitative interviews in its scenarios. The manipulation check showed that this manipulation of procedural justice was statistically significant, which provides further support for the core procedural justice components revealed by the interviews. In these ways, the individual studies reported in the current dissertation are not only complementary, but also corroborate each other's findings.

Limitations and Future Research Directions

By adopting this mixed-methods approach, I was able to overcome some of the limitations of my individual studies. Some remaining limitations need to be kept in mind, however, which may serve as a point of departure for future research on the issues examined here. Specifically, these limitations concern the ability to establish relationships between different procedural justice components, potential interviewer effects and the use of self-reports, the sample sizes obtained in my studies, limitations pertaining to potentially moderating variables, participants' responses to the research instruments, and the generalizability of my findings. I will now discuss these in more detail.

Relationships Between Procedural Justice Components

In line with findings by De Mesmaecker (2014) and Tyler (1988), my qualitative interview findings tentatively suggest relationships between core components of perceived procedural justice. That is, respondents often seemed to derive perceptions of one procedural justice component from another component of procedural justice. These relationships are important, I think, because they indicate how the different components of perceived procedural fairness may fit together for people. At the same time, these findings are tentative, because each relationship was found in only a limited number of interviews.

Quantitative approaches are more apt for robustly establishing relationships between different variables. My survey provides some support for these relationships between the core procedural justice components because they collectively formed a reliable scale of perceived procedural justice ($\alpha = .82$). As noted earlier, however, neither qualitative interviews nor survey research can establish causality. Hence, follow-up studies that preferably use experimental designs are needed to view whether these relationships and their directions hold. In particular, future research could assess whether the other core components are indeed partly instrumental to perceptions of neutrality, which is an important suggestion flowing from my qualitative interview findings.

Interviewer Effects and Self-Reports

Furthermore, interviewer effects may have played a role in the studies reported here. That is, it cannot be ruled out that participants were influenced by who was conducting the research. For instance, previous research suggests that participants may be less likely to reveal distrust in judges when they consider the researcher as belonging to their outgroup (Hulst, 2017). That said, the face-to-face nature of data collection in my studies also had important advantages, because it provided relevant background information to the research and enabled research participants to ask for clarifications when necessary.

A related issue is the use of participants' self-reported perceptions and attitudes in my studies. That is, participants may have answered questions in socially desirable ways, although I aimed to minimize this by emphasizing the anonymity and confidentiality of the research. In the qualitative interviews and the survey study, for example, defendants might have pretended to be innocent whereas in fact they were guilty. In those cases, it is conceivable that the outcome judgments defendants reported were more negative than how they actually felt about the outcomes of their cases. Indeed, the fact that the defendant is the only one who really knows whether or not they committed the crime is one of the particularities that comes with examining perceived procedural justice in the real-life context of criminal court hearings.

One may also wonder to what extent people's self-reported perceptions and attitudes translate into behaviors in legal contexts, such as appeals (Boekema, 2015) or compliance with the law (Beijersbergen, Dirkzwager, & Nieuwbeerta, 2016; Paternoster, Bachman, Brame, & Sherman, 1997). My studies did not assess participants' self-reported behaviors nor their actual behaviors as derived from, for example, data bases containing reconviction rates. Future research on the issues examined here could, for instance, include both self-reported and officially registered reoffending in their analyses, as is already being done by some authors (Hertogh, 2015; Hertogh, Schudde, & Winter, 2014; Tyler, Sherman, Strang, Barnes, & Woods, 2007; Yasrebi-de Kom, Dirkzwager, Van der Laan, & Nieuwbeerta, 2020).

Sample Sizes

I also note here that the sample used in my qualitative interview study was relatively large, at least for qualitative purposes, yet the samples in the survey study and the experiment were smaller than I would have wanted ideally. Quantitative studies need to have sufficient statistical power (Faul, Erdfelder, Lang, & Buchner, 2007) to robustly detect relationships between variables. To achieve adequate statistical power, studies need sufficiently large samples.

I worked hard to recruit as many research participants as possible, especially in the context of my survey study, for which I spent almost nine months in the courtroom hallways. My power analyses revealed that the samples of both the survey and the experiment were sufficiently large to detect the two-way interactions of interest

(that is, the interaction between perceived procedural justice and perceived everyday discrimination in the survey, and the interaction between the procedure manipulation and external attribution ratings in the experiment). Nevertheless, future studies on the issues examined here would ideally have larger samples, in particular to assess three-way interactions involving participants' outcome judgments as well.

Getting a Grip on Moderating Variables

The aim of the studies reported in this dissertation was to subject perceived procedural justice to a critical test by, among other things, examining whether the associations between procedural fairness and relevant dependent variables might be moderated by other variables, such that these associations are attenuated or even reversed. In the course of the research process, I involved different potentially moderating variables in my research instruments. For instance, during the qualitative interviews I assessed whether respondents felt strongly evaluated during their court hearings. After all, previous research suggests that the strength of the evaluative context can play an important role in attenuating or reversing the fair process effect (Van den Bos et al., 1999). As noted earlier, however, the results did not clearly indicate that criminal court hearings were perceived as a strong evaluative context by many respondents.

Therefore, I did not explicitly involve this variable in my quantitative studies. Rather, these studies focused on people with a non-western ethnic-cultural background. After all, some of these people may feel negatively evaluated by Dutch society, because the public image of people with a non-western background is often quite negative and is also experienced as such by those with a non-western background (Andriessen et al., 2020). In addition, at least some of these people may experience a lot of discrimination in their daily lives (Huijnk & Andriessen, 2016). I reasoned that people who experience a lot of everyday discrimination might be particularly inclined to look for external attribution opportunities during court hearings, as in their daily lives they may often (rightly) attribute negative events to discrimination. Thus, I included perceived everyday discrimination in my survey to serve as a possible proxy for external attribution ratings. Yet, respondents' perceptions of everyday discrimination did not moderate their responses to perceived procedural justice either.

In this regard, it is relevant to reflect on how I measured perceived everyday discrimination. People perceive events as discriminatory when they encounter negative unjust treatment that they attribute not to their personal deficiencies but to prejudice and stereotypes about their group (Andriessen et al., 2020; Major et al., 2002). Relatively many of my survey respondents ($N = 51$; 25.8% of the sample) did not indicate the perceived ground for discrimination. Hence, it cannot be ruled out that some respondents may have been uncertain about the causes for their discriminatory treatment (Major et al., 2002) or may have made internal attributions. To avoid underpowered analyses, I retained respondents in my analyses regardless of whether respondents indicated a perceived ground for discrimination. To measure perceptions of discrimination more accurately, future studies with sufficiently large datasets might consider using respondents' scores

on the perceived everyday discrimination scale only if respondents indicated a perceived discrimination ground.

Another potential explanation for the lack of a statistically significant interaction between perceived procedural justice and perceptions of everyday discrimination is that respondents' levels of perceived everyday discrimination were relatively low, as described in Chapter 3. Hence, these experiences of discrimination may not have been sufficiently frequent to trigger an attenuation or reversal of the fair process effect. I would like to note, however, that this of course does not mean that discrimination of ethnic-cultural minorities is not a problem in Dutch society – it certainly is (e.g., College voor de Rechten van de Mens, 2016; Thijssen, Coenders, & Lancee, 2019). Rather, the relatively low levels of perceived everyday discrimination in my survey study may have resulted, for instance, from the scale I used to measure perceptions of discrimination (Williams, Yu, Jackson, & Anderson, 1997; Williams et al., 2008) which differs from items used in other Dutch research on perceived discrimination (Andriessen et al., 2020).

In addition to perceived everyday discrimination, I involved respondents' external attribution ratings as a potentially moderating variable in the survey. Because the items measuring external attribution ratings did not yield a sufficiently reliable scale ($\alpha = .17$), I excluded this variable from my analyses. In the experiment, the items with which I assessed external attribution ratings did yield a sufficiently reliable scale for theory-testing purposes ($\alpha = .60$; see Cramwinckel, Van Dijk, Scheepers, & Van den Bos, 2013; Nunally & Bernstein, 1994). The experiment also assessed perceived everyday discrimination as a possible proxy for external attribution ratings, but I excluded this variable from the analyses because its correlation with external attribution ratings was only marginally significant ($r = .12, p = .08$).

As discussed earlier, participants' external attributions indeed moderated the fair process effect in the way I expected. Follow-up studies intended to replicate this finding could examine how external attribution ratings can be assessed more reliably in the context of criminal court hearings. One issue that these studies could take into account is that, based on the line of reasoning presented here, outcomes need to be perceived as negative to trigger external attribution-seeking processes. Even though many defendants are convicted during their court hearings, they may not necessarily report negative outcome judgments – for instance, because their outcomes are unfavorable but not as bad as expected.

Indeed, respondents' scores on the 7-point outcome judgments scale in my survey study were not particularly low ($M = 4.66, SD = 2.18$), even though the large majority indicated that they were convicted and had received a sanction or measure (152 respondents, 79.2% of the sample). This might explain why I found a significant interaction effect only in the experiment, in which all participants supposedly received a negative case outcome. Hence, the higher likelihood of negative outcome judgments could be another reason to focus on more severe criminal cases in follow-up research.

Participants' Responses to Research Instruments

The fact that I found a significant interaction effect only in the experiment, in which all participants supposedly received a negative case outcome, touches upon the issue of experimental realism. To enhance the external validity of experimental findings, it is important that the experiment is engaging and immersive to participants, and that it triggers psychological processes similar to those occurring in real life (Brewer, 2000; Wilson, Aronson, & Carlsmith, 2010).¹ One could think of this as being captured by a good book or, related to courtroom settings, being familiarized with the contextual information judges take into account when arriving at their rulings (Van der Maden, Malsch, & De Keijser, 2017).

Indeed, the scenarios used in my experiment appeared to be quite real and involving to research participants: Not only had relatively many of them experienced an actual hearing at a criminal court (89 participants, 37.4% of the sample), they also often indicated that they found the experiment interesting to participate in, and stuck around after filling out the questionnaire to talk about their experiences and views of the criminal justice system. Still, it might be useful to replicate this research with experiments that are not scenario-based – for instance, by having participants play the defendant in a simulated court hearing (e.g., Thibaut & Walker, 1975).

The level of experimental realism achieved in the current dissertation relates to the broader issue of how participants in my studies responded to the research instruments used. Overall, the interview questions (Chapter 2) and the items used in the survey and the experiment (Chapters 3 and 4) were easy to understand for participants. Some interview respondents found the word “fair” easier to use and understand than “just”, and some survey respondents had difficulty with understanding the term “unprejudiced”. I used these insights in my follow-up studies by including both “fair” and “just” in the survey and the experiment, and describing prejudice in the scenarios rather than using this term explicitly. In fact, the abovementioned risk of interviewer effects notwithstanding, being able to catch participants’ immediate reactions to the research instruments used is one of the assets of face-to-face data collection as employed in the current dissertation.

Generalizability

A final point that I would like to address here concerns the generalizability of my findings. That is, I conducted my research at one court in one city in the Netherlands, focusing on one type of court hearings. Hence, an interesting question is whether the findings reported here may also be observed in different cultures, in different types of contexts, and among different persons.

1 This is why the scenarios used in the experiment involved a fine of 400 Euros, which is larger than the amount indicated by the relevant legal guidelines. A relatively large fine, however, is more likely to be perceived as negative by research participants and is thus more likely to trigger the external attribution-seeking processes of interest, and that is why we chose to present the fine of 400 Euros in our stimulus materials.

First, with respect to the cross-cultural generalizability of my findings (Henrich, Heine, & Norenzayan, 2010a, 2010b), I note that countries may differ on important cultural dimensions (Hofstede, 2001). Lind and Tyler (1988) discuss previous research which suggests that important findings of procedural justice studies are fairly constant across cultures (see also Lind, Tyler, & Huo, 1997). That said, cultural differences may to some extent moderate people's reactions to perceptions of procedural fairness. For instance, whether a country is characterized by a more masculine or more feminine culture (Van den Bos et al., 2010) and higher or lower power distance (Van den Bos, Brockner, Van den Oudenaider, Kamble, & Nasabi, 2013) may, sometimes in combination with other variables, affect how people respond to voice versus no-voice procedures. As noted earlier, the current dissertation contributes to the debate about the cross-cultural generalizability of procedural justice findings by examining perceived procedural fairness and the way people respond to this in the Dutch legal context (see also Grootelaar, 2018).

Second, regarding the generalizability of my findings across different types of contexts, it is important to point out that I focused on perceived procedural justice during single judge criminal court hearings. Studies conducted in other contexts, such as organizational or political settings, have obtained evidence for fair process effects as well (Cropanzano & Ambrose, 2015; Kanfer, Sawyer, Earley, & Lind, 1987; Rasinski, 1988; Tyler & Caine, 1981; Tyler & DeGoey, 1995; Wiesenfeld, Brockner, & Thibault, 2000). The same applies to studies involving civil and administrative law cases (Hulst, 2017; Grootelaar, 2018; Lind et al., 1990; Van den Bos et al., 2014). In addition, Casper et al. (1988) found evidence for the importance of perceived procedural justice in cases regarding more serious crimes than those involved in the current dissertation. This is in line with the finding by Grootelaar (2018) that the association between perceived procedural justice and trust in judges is stronger when people consider their outcomes more important.

At the same time, I think it would be interesting to see whether my findings regarding the importance and particularly the meaning of perceived procedural fairness can be replicated in other types of contexts. For instance, studies focusing on more severe criminal cases than the ones involved in the current dissertation could provide further evidence on the importance of perceived procedural fairness when stakes are high. In addition, previous research suggests that what procedural fairness exactly entails in the eyes of the people involved to some extent depends on the context examined (Tyler, 1988). For example, people involved in different types of legal cases prioritize different components of procedural justice (Grootelaar, 2018). The meaning of perceived procedural fairness may also vary according to the type of contact involved, such as police-citizen interactions or interactions in courtroom contexts (Tyler, 2006) and whether or not these interactions involve disputes (Tyler, 1989).

Thus, although the same procedural justice components often recur in different studies – which indicates a certain consensus among researchers about what perceived procedural justice generally entails – the exact meaning of this concept to some extent appears to differ across contexts (Lind & Tyler, 1988). I think this emphasizes the importance of conducting context-specific research on what makes people perceive

procedures as fair, as I did in the current dissertation. It also emphasizes the importance of replicating my research in different settings to see whether and how the meaning or perceived procedural justice changes. Follow-up studies in the legal arena could, for instance, focus on other settings than court hearings. After all, not every case is brought to trial, and defendants might prioritize different procedural justice components during other stages of the criminal justice process.

A third aspect of the generalizability of my findings concerns generalizability across persons. In the qualitative interviews and the survey study, for example, I was able to include only defendants who appeared before their court hearings, who were not incarcerated, and who were willing to participate in my research. Because these respondents may differ from other defendants in single judge criminal cases, potential selection effects cannot be ruled out. For instance, it is conceivable that respondents who received more favorable outcomes were more willing to participate in the research. I aimed to minimize this possibility, however, by approaching defendants as much as possible before the start of their court hearings.

Furthermore, the survey and the experiment focused on research participants with a non-western ethnic-cultural background, which was broadly defined and included the “third generation”. Previous research suggests that the meaning of perceived procedural justice does not vary depending on whether or not the people involved belong to an ethnic minority (Tyler, 1988, 2006), and that significant associations between procedural fairness perceptions and other relevant variables are found among ethnic minority members as well (Sunshine & Tyler, 2003; Tyler & Huo, 2002). This is supported by my own findings, the only exception being the attenuated fair process effect on trust in judges among participants with relatively high external attribution ratings as found in the experiment.

I also did not notice apparent differences between respondents with a western background or a non-western background when examining what perceived procedural fairness exactly entails with my qualitative interviews. This does not imply, however, that people’s ethnic-cultural backgrounds are not relevant in this regard. For example, what people perceive as respectful interactions in courtroom contexts may differ depending on their cultural norms (Van Rossum, 2007). Follow-up research on perceived procedural justice that focuses specifically on these issues might reveal interesting differences in this respect.

Finally, I note that I collected my data in the city of Utrecht, the Netherlands. The population composition elsewhere may be different, for instance with regard to people’s specific ethnic-cultural backgrounds. This, too, may have implications for the generalizability of my findings. Taken together, the limitations addressed in this section hopefully invite other researchers to conduct follow-up studies focusing on different cultures, contexts, and research participants to add to the insights obtained by the empirical studies reported here.

Coda

Using qualitative interviews, a survey, and an experiment, this dissertation critically examined the role of perceived procedural justice from the perspective of defendants in Dutch criminal court hearings. My findings show that perceptions of procedural fairness matter: The large majority of interview respondents referred to issues of procedural justice themselves when asked about perceived fairness during their court hearings, and procedural justice perceptions were statistically significantly associated with relevant other variables, such as protest intentions and trust in judges. These associations were not attenuated or reversed depending on participants' outcome judgments or their levels of perceived everyday discrimination. The experiment did reveal an attenuation of the effect of the procedure manipulation on trust in judges among participants with relatively high external attribution ratings, which points to a potential boundary condition of the fair process effect that merits further investigation in future studies. Overall, however, procedural justice stands the test. In addition, the qualitative interview findings provide a refined and bottom-up conceptualization of procedural fairness from the perspective of criminal defendants.

Thus, the research reported here enhances our scientific insight into the importance and meaning of perceived procedural justice in the context of criminal court hearings. In addition, these findings may be of interest to legal practitioners, such as judges and public prosecutors, who aim to enhance defendants' perceptions of procedural fairness. The practical implications of my findings as well as the broader issue of how results of empirical research relate to the normative domain of law are addressed in the next and final chapter of this dissertation.

Chapter 6

Normative Discussion

Author contributions: Solo-authored by Lisa Ansems with helpful comments and editing from Kees van den Bos and Elaine Mak.

From Empirical Findings to the Normative Domain of Law

In this dissertation, I empirically examined perceived procedural justice in the context of Dutch criminal court hearings from the perspective of defendants. Thus, I studied the social psychological notion of procedural justice in a legal context. As my research progressed, I noticed various differences between social psychology and law as scientific disciplines. One of these concerns their different stances toward normativity. As noted by Taekema (2018, p. 13), “[f]or most social scientists, normativity is a problematic part of scholarship.” This is in line with my observation that social scientists tend to emphasize the importance of staying close to one’s data and tend to be quite reluctant to draw normative inferences from their empirical findings.

Legal scholars who learn about findings of empirical legal research, however, are often very interested in hearing what these findings may imply for the normative domain of law. This may be due partly to the close connection between legal science and legal education, on the one hand, and legal practice on the other hand (Vick, 2004). In addition, legal research often evaluates the law in light of normative bases rather than being purely descriptive (Curry-Sumner, Kristen, Van der Linden-Smith, & Tigchelaar, 2010; Taekema, 2018). Thus, because social scientists do not always translate their findings into concrete legal steps (Samen Sterker, 2019), their contributions may end right where things get particularly interesting for lawyers.

The current chapter aims to bridge this divide. Continuing the constructive critical approach adopted in the previous chapters, I reflect on the question of how empirical, social-scientific findings can be translated to the normative domain of law (see also Mertz, 2008). In doing so, I address the fact-value gap – that is, the notion that an “is” does not imply an “ought” (Hume, Green, Grose, Smith, & Kemp, 1995). Rather than providing a full-blown epistemological discussion on this issue, I put forward my ideas on how empirical legal researchers could deal with it, taking my own findings regarding perceived procedural justice as an example.¹ Thus, after discussing the possible practical implications of my findings in the first part of this chapter, in the second part I describe the challenges posed by the fact-value gap and provide suggestions for how they might be overcome.

Possible Implications for Legal Practice

As explained earlier, an important overarching aim of the current dissertation was to subject perceived procedural justice to a critical test. Thus, I examined whether defendants in criminal cases referred to issues of procedural justice themselves when asked about perceived fairness during their court hearings (Chapter 2) and whether perceptions of procedural justice were significantly related to important other variables,

1 For a more detailed discussion of the fact-value distinction and related issues, see Taekema, Van Klink, and De Been (2016) and the 2015 *Erasmus Law Review* special issues on incorporating insights from non-legal disciplines into legal research (Volume 8, Issues 2 and 3).

taking into account the possibility that sometimes *unfair* procedures may have nice aspects (Chapters 3 and 4; see also Van den Bos, Bruins, Wilke, & Dronkert, 1999). I found that, even when it is subjected to a critical test, perceived procedural justice certainly matters and that six components are at the core of defendants' perceptions of procedural fairness: (1) information on which decisions are based, (2) interpersonal treatment, (3) due consideration, (4) neutrality, (5) voice, and (6) accuracy.

Thus, my findings suggest that it can be relevant for legal practitioners to try to enhance defendants' procedural justice perceptions. My findings also provide indications for how this might be achieved by showing which procedural justice components defendants put forward (see Chapter 2 for a detailed discussion of these components). As mentioned by Van Velthoven (2012), knowing which aspects of procedures enhance people's perceptions of procedural fairness is an important prerequisite for translating empirical findings on procedural justice into policy implications.

For instance, legal practitioners who aim to enhance perceptions of procedural fairness would do well to focus on conveying neutrality, because perceived neutrality appeared to play a key role in shaping defendants' fairness perceptions. Defendants referred most often to judges and public prosecutors being unprejudiced. They also mentioned judges' and/or prosecutors' ability to see both sides of the story and their independence, impartiality, and objectivity. My findings indicate that behaviors fostering these impressions include allowing defendants to voice their opinions, truly listening to their stories, and asking many follow-up questions. In addition, defendants referred to judges and prosecutors taking into account relevant information (for instance, regarding a defendant's prospects) and engaging in calm and polite interactions without disdain or anger.

Judges and public prosecutors can also enhance defendants' procedural justice perceptions by communicating on which information they base their decisions. In particular, defendants mentioned the judge and prosecutor taking into account relevant information – for instance, information regarding a defendant's personal circumstances or the consequences certain sentences would have. Defendants also referred to completeness and correctness of information, and to legal authorities taking their statements into account. Here, the explanation of decisions plays an important role. Thus, although explaining decisions as such was referred to less often as a reason for feeling treated fairly than the above-mentioned procedural justice components, such explanations can be an effective way of communicating to defendants that relevant information has been taken into account.

Interpersonal treatment also played an important role in shaping defendants' perceptions of procedural justice. In particular, defendants referred to judges and public prosecutors coming across as nice and friendly, putting themselves in the defendant's position, and acting calmly. Being strict or accusatory, in contrast, made defendants evaluate their interactions with judges and public prosecutors more negatively. Importantly, my finding that many defendants referred to interpersonal treatment as a reason for feeling treated

fairly or unfairly suggests that judges and prosecutors who aim to enhance perceptions of procedural justice need to focus on the way in which they interact with defendants rather than focusing solely on formal procedures (see also Bies & Moag, 1986; Van den Bos, 2015).

Other issues legal practitioners could focus on are voice, due consideration, and accuracy. That is, my findings indicate that defendants' procedural fairness perceptions can be enhanced by giving them the opportunity to voice their opinions, letting them finish their stories, allowing them to react to what is being said, and granting them sufficient time in this regard. Listening to what defendants have to say (demonstrated, for instance, through eye contact), discussing their arguments, and summarizing their stories may foster procedural justice perceptions as well. In addition, legal practitioners can convey accuracy by treating the case with care, taking sufficient time during the court hearing, asking questions, and showing that they prepared for the case by discussing information from the case file.

In addition to these six core components of perceived procedural justice, defendants referred to provision of information, assistance, sincerity, competence, formal aspects of procedural justice, and consistency as reasons for feeling treated fairly. Together, these procedural justice components indicate what legal practitioners could focus on when they aim to enhance defendants' fairness perceptions.

Furthermore, my findings suggest that focusing on one procedural justice component (for instance, voice) may also enhance defendants' perceptions of other procedural justice components (for instance, neutrality), because I found indications for relationships between the core components of procedural justice. Thus, while it may be ambitious to try to maximize all these components at the same time (Tyler, 1988), it seems well possible for judges and prosecutors to promote different aspects of perceived procedural justice simultaneously. The findings reported in the current dissertation provide indications for how this may be achieved.

The Fact-Value Gap: Challenges for Empirical Legal Research

So far, I have discussed the possible practical implications of my empirical findings – that is, how my findings may be useful for legal practitioners who aim to enhance defendants' perceptions of procedural justice. Here I explain why these findings cannot be directly translated into recommendations for legal practice, addressing the fact-value gap and placing it in the context of developments regarding empirical legal research in the Netherlands. Subsequently, I put forward my ideas on how the fact-value gap can be dealt with, pointing to the importance of being aware of the gap and suggesting ways in which it may be bridged.

A Matter of Translation

The empirical findings discussed in the previous section could be translated to the normative domain of law in a couple of ways. For instance, components of perceived procedural justice may be incorporated into the professional education of legal practitioners by offering training and workshops. In the United States, for example, such training is given to the police and court professionals, and the Dutch judicial training center pays attention to insights on perceived procedural justice as well.² In addition, one could think of using these procedural justice components to complement relevant instruments of soft law, such as the professional standards for criminal law judges. One might also wonder whether these insights could be used to complement the formal provisions laid down in the Dutch Code of Criminal Procedure (CCP) or, at an even higher level, Article 6 of the European Convention on Human Rights (ECHR).

Of course, these instruments already contain standards of fair treatment, and these legal standards show overlap with components of perceived procedural fairness as revealed by social psychological research. For instance, Article 6 ECHR provides the right to a fair trial and includes safeguards regarding independence and impartiality, the presumption of innocence, legal assistance, and the examination of witnesses. In addition, the Dutch CCP prescribes that judges give reasons for decisions and it contains a defendant's right to have the last word, among other things. Furthermore, the professional standards for criminal law judges prescribe that judges engage in respectful interactions with defendants, take them seriously, and make sure they feel heard. I note that my aim here is not to draw a full comparison between legal and empirical notions of procedural fairness, but rather to illustrate that they are overlapping.

An interesting question, however, is what the implications should be if there were important discrepancies in this regard (see also Giesen, 2015). Not many lawyers would argue that, if the law contained standards of procedural justice that do not or only very slightly shape defendants' perceptions of procedural fairness, those standards should be discarded. Vice versa, if components of perceived procedural justice were absent from the law, would this mean the law should be adjusted? And what if one thinks through the attenuated or even reversed fair process effects sometimes found in empirical studies, which indicate that people do not always respond favorably to perceived procedural justice – would that mean that in those cases legal practitioners should not aim to enhance perceptions of procedural fairness?

These questions show that it can be difficult to directly translate empirical findings to the normative domain of law.³ If the law provides standards of procedural justice that do not seem to play a large role in shaping defendants' fairness perceptions, there can

2 See www.courtinnovation.org, www.law.yale.edu/justice-collaboratory, and www.ssr.nl; see also Grootelaar, Hulst, and Van den Bos (2019).

3 A similar "incorporation problem" plays a role in the translation of normative-theoretical (for instance, philosophical) insights to the domain of law (see Taekema & Van der Burg, 2015a, 2015b).

still be very good reasons for maintaining them. For instance, legal standards may offer safeguards of which defendants might not always be aware they are important (Lind & Tyler, 1988; Tyler, 2006). Vice versa, if defendants' fairness perceptions are shaped by procedural justice components that are not reflected in the law, this does not in itself mean that the law should be changed to incorporate them. After all, that would imply a normative evaluation of the desirability of enhancing defendants' procedural justice perceptions that does not directly flow from empirical findings. This relates to the distinction between facts and values or the is-ought problem mentioned earlier (Hume et al., 1995; see also Taekema & Van Klink, 2011).

The notion that empirical data do not dictate normative decisions, including those made by lawyers (Verheij, 2020), is particularly relevant in the context of empirical legal research. This type of research has been getting a lot of attention in Dutch academia in recent years (Grootelaar, 2017; Marseille, Smit, Akkermans, Bijleveld, & Malsch, 2020) and has become one of the focal points of Dutch law faculties (Samen Sterker, 2019). Empirical and interdisciplinary approaches to law are certainly not new, however, given the legal realism movement in the United States, the existence of various "law and" approaches, and the fields of criminology and legal sociology (Grootelaar, 2018; Leeuw, 2015; Vranken, 2010). Empirical legal research has also been linked to the notion of the T-shaped lawyer (Mak, 2017), which is based on the idea that contemporary problems require legal professionals with some expertise in areas outside the law. Although its findings are not always optimally utilized by legal practice (Marseille et al., 2020; Sagana & Van Toor, 2020), empirical legal research thus seems to be getting increasingly popular. This makes it even more relevant, I think, to reflect on the fact-value gap and how this might be dealt with (see also Leeuw, 2015).

Being Aware of the Gap

My main point in this chapter is that it is important to be aware of the fact-value gap. That is, I think it is important to realize that empirical findings as such do not yield normative conclusions. In line with this, Lawless, Robbennolt, and Ulen (2010, p. 21) note that "[w]hile it is true that empirical evidence frequently provides us with crucial insights into important public policy issues on which there are deeply opposing normative views, (...) such issues may ultimately turn on normative issues that cannot be answered by empirical research."

Thus, the finding that defendants' fairness perceptions are shaped by certain components of procedures does not in itself imply that judges and prosecutors should focus on those components or that these components should have a more prominent place in their professional education or codes of conduct. Nevertheless, theories concerning perceived procedural justice are said to have become increasingly normative in their applications, at least in the Netherlands (Doornbos, 2017; Verkruijsen & Doornbos, 2014). Rather than being used merely to explain people's reactions to procedures, findings from empirical procedural justice studies thus to some extent seem to be applied prescriptively in legal practice.

Of course, the extent to which the fact-value gap is something to take into account may depend on the concrete research at hand. For example, purely fundamental research intended only to increase our knowledge on certain subjects is not oriented toward practical applications and, hence, is less concerned with the question of what can or should be done with the research findings. In addition, the fact-value gap may be less relevant for studies focusing on subjects with relatively uncontested normative aspects.

When the fact-value gap is more relevant, however, I think we need to take it into account and thus avoid treating empirical findings as if they directly yield normative conclusions. There are at least two reasons why this is important.

First, every empirical study has its limitations (Lawless et al., 2010), such as those flowing from the method or research design used or the context examined. This makes it difficult to base normative conclusions on a single study, or at least not without many words of caution. Rather, multiple studies that preferably use different types of methods and examine different contexts are needed to provide an empirical basis that is sufficiently robust (see also Giesen, 2015; Robbenolt, 2002). For instance, Van den Berghe (2020) points to different problems with the available economic evidence in the context of competition law, as a result of which empirical evidence does not automatically lead to legal improvements. With regard to research on perceived procedural justice it is relevant to note that, since the 1970s, many studies involving different methods and contexts have found evidence for people's favorable reactions to procedures they perceive as fair, yielding a quite robust empirical basis (for reviews, see Lind & Tyler, 1988; Tyler & Lind, 1992; Van den Bos, 2015).

Second, if multiple normative perspectives on the subject are conceivable, the step from empirical findings to normative conclusions gets more difficult. The possibility of alternative normative stances may not always be immediately obvious. For instance, with regard to research on perceived procedural justice and the favorable responses this may yield, it seems natural to infer that legal authorities should try to enhance people's perceptions of procedural fairness. Whether this is perceived as desirable, however, depends on how one conceives of legal professionals' tasks, among other things. Enhancing perceptions of procedural justice fits well with the idea that the legal system should be responsive (Nonet & Selznick, 2001) to people's expectations, but may be less compatible with stricter interpretations that conceive of the judicial task as the mere application of legal rules and procedures (see also Allewijn, 2016; Scheltema, 2015).

There are various other considerations that may be relevant when assessing the desirability of enhancing perceptions of procedural fairness, as I discuss below. For now, I intend merely to illustrate that the step from empirical findings to normative conclusions is not always as straightforward as one might think. In line with this, several authors emphasize that findings from research on perceived procedural justice cannot be readily converted into policy (Anderson & Hayden, 1981; Geeraets & Veraart, 2017; Hayden & Anderson, 1979; Van Velthoven, 2012). This is acknowledged by Lind and Tyler (1988, p. 127; see also Tyler, 2006), who note that policy-makers need to weigh "the

magnitude and importance of each benefit and deficit, subjective and objective, of the procedure” and that findings regarding people’s fairness perceptions cannot be the sole consideration in this regard.

In short, I argue that it is important for empirical legal researchers to “mind the gap” (Grootelaar, 2018, p. 137) and avoid presenting policy implications or recommendations as flowing directly from their empirical findings. This does not mean that researchers should not point to the potential practical relevance of their findings. Rather, I think it is important to be aware that these empirical findings about what “is” do not themselves yield normative implications about how things “ought” to be, and to take this into account when displaying one’s research results. This is what I aimed to do when discussing the possible implications of my qualitative interview study (Chapter 2) and survey study (Chapter 3): I pointed out how my findings regarding the associations between perceived procedural justice and other variables could be relevant for legal practice, and how my findings regarding procedural justice components could be helpful for legal practitioners who want to enhance defendants’ perceptions of procedural fairness, without stating anything about whether they should do so.

Bridging the Gap

In addition to being aware of the gap between facts and values, some might want to take this one step further and try to bridge it. How to get from empirical findings to normative conclusions about what should be done with them? Within the context of empirical legal research, some authors have examined this issue (e.g., Bouwman, 2020; Giesen, 2015; Leeuw, 2015). Here, I suggest that the translation of empirical findings into normative conclusions needs to be (1) explicit and (2) underpinned by arguments. I illustrate this by taking empirical findings of procedural justice research as an example.

First, I think it is important to be explicit about where the reporting of empirical findings ends and potential normative reflections on these findings begin. In this way, one avoids the impression that normative conclusions flow directly from the empirical findings, as discussed earlier. An example of a procedural justice study which clearly separates empirical and normative issues is the research by Hulst (2017). She found that people respond less strongly to perceived procedural fairness when they feel disinhibited rather than inhibited, which suggests that fair process effects occur because court hearings trigger sense-making processes during which people rely on their perceptions of procedural fairness. When reflecting on her findings, Hulst emphasized that these findings do not imply “that disinhibition or inhibition is normatively right or recommendable”, but rather provide novel insight into why perceived procedural justice matters in courtroom contexts (p. 145).

Hence, researchers can choose to refrain from reflecting on their empirical findings from a normative perspective. If they do provide such normative reflections, I think it is important to do so explicitly, such that it is clear what can be concluded from the research empirically and how this may be interpreted normatively. This is the approach I take

in the current dissertation: By adding a normative discussion chapter to the preceding five empirical chapters, I explicitly indicate where normative reflections on my empirical findings start. Thus, I aim to discuss my findings from both an empirical and a normative perspective without blurring the distinction between the two.

Second, I propose that relevant arguments need to be addressed if the fact-value gap is to be bridged. This involves explicating normative premises (Taekema, 2018; Van Klink & Poort, 2013) and weighing arguments and possible counterarguments (Bouwman, 2020; Giesen, 2015; Smits, 2015; Van Klink & Poort, 2013; Vranken, 2011). Below, I illustrate this by focusing on perceived procedural justice. Thus, I address reasons for endorsing the enhancement of procedural fairness perceptions as well as potential reasons for exercising some restraint in this regard. Rather than aiming to provide an exhaustive list of possible arguments and discussing them all in detail, the following sections succinctly address various insights and considerations that have recurred in the literature.

Perceived Procedural Justice: Reasons for Endorsement

An obvious reason why one could want to enhance people's perceptions of procedural justice is that procedural justice perceptions tend to be associated with variables that are often considered relevant in the legal domain, such as people's intentions to protest against their outcomes, trust in legal authorities, perceived legitimacy, and compliance with the law (e.g., Tyler, 2006; Tyler & Huo, 2002; Van den Bos, Van der Velden, & Lind, 2014; Vermunt, Wit, Van den Bos, & Lind, 1996; see also the findings reported in Chapters 3 and 4 of the current dissertation).

The finding that higher levels of perceived procedural justice are associated with lower protest intentions (e.g., Vermunt et al., 1996) can be interesting for legal professionals and policymakers because protest intentions are likely to be to some extent related to filing an appeal. Indeed, Boekema (2015) found a statistically significant association between perceptions of procedural fairness and appeals in administrative law cases, although this association was less strong than the association between appeals and perceptions of outcome fairness. As I noted in Chapter 3, enhancing perceived procedural justice could thus be a way to decrease the number of appeals and the social costs they entail.

In addition, promoting perceived procedural fairness may be considered desirable in light of its associations with trust in legal authorities and perceptions of legitimacy (e.g., Lind & Tyler, 1988; Tyler & Huo, 2002; Tyler & Lind, 1992). These are issues that have the Dutch judiciary's ongoing attention, as expressed recently by the newly instated president of the Dutch Supreme Court. In her inaugural address, she focused on the importance of maintaining and improving trust in the judiciary and referred to social scientific research on people's fairness perceptions in this context.⁴ Indeed, safeguarding trust in judges is often considered an essential component of the rule of law (see also Brems & Lavrysen, 2013; Grimmlikhuijsen, 2018). Although in the Netherlands trust

4 The inaugural address is available at www.hogeraad.nl.

in the judiciary is relatively high compared to other institutions and other European countries (Bovens, 2020), one could argue that there is still room for improvement, with 71% of society scoring 6 or higher on a 10-point scale (Den Ridder, Miltenburg, Huijnk, & Van Rijnberk, 2019).

Related to this, it has been noted that judicial authority is no longer a given: Rather than deriving individual authority from the authority of the judiciary as an institution, individual judges today can gain authority through the ways in which they interact with litigants (Verburg, 2015; see also Mak, 2020). Here, too, perceived procedural justice can play an important role. After all, several studies have found positive associations between perceived procedural justice and perceived legitimacy of authorities, such that people are more likely to perceive authorities as legitimate when they feel that these authorities treat them fairly (for reviews, see Lind & Tyler, 1988; Tyler & Lind, 1992).

Furthermore, some studies suggest that perceptions of procedural fairness and the enhanced levels of perceived legitimacy associated herewith are related to compliance with the law and reoffending rates (Paternoster, Bachman, Brame, & Sherman, 1997; Tyler, 2006; Tyler, Sherman, Strang, Barnes, & Woods, 2007), although these relationships have been questioned or nuanced by others (Hertogh, 2015; Nagin & Telep, 2017, 2020). Promoting perceptions of procedural fairness may thus play a role in preventing crime, which is often considered an important aim of the criminal justice system. As Tyler (2006) points out, states need people to comply with the law in order to function effectively, and such compliance may be enhanced more efficiently through a focus on perceived procedural justice rather than by focusing on deterrence (see also Tyler & Huo, 2002; Tyler & Lind, 1992).

In addition to these favorable effects of perceived procedural justice, one could consider it desirable to enhance people's procedural fairness perceptions because this fits well with the notion of responsive law (see also Verburg, 2019). After all, responsiveness involves being sensitive to societal expectations, among other things (De Jong, 2020). Thus, rather than a sole focus on the correct application of legal rules and procedures, being responsive means listening to what citizens have to say, being interested in their arguments, and taking them seriously (Allewijn, 2016; Scheltema, 2015). Scheltema states that such responsiveness is becoming increasingly important for government to function properly. Although not used explicitly, the notion of responsiveness can also be recognized in the outlook on the year 2020 formulated by the Dutch Council for the Judiciary, which expressed the aim to connect closely with people's sense of justice and the needs and problems of society (Van Dijk, Van Amelsfort-van der Kam, Bauw, & Teurlings, 2010). A similar concern with litigants' perceptions can be inferred from the customer evaluation surveys (*klantwaarderingsonderzoeken*) that are carried out every three years among court users.

It has also been argued that concern with people's perceptions of procedural justice fits with the notion of democracy. For instance, Lind and Tyler (1988) write that one of the reasons fairness perceptions are important is that people's procedural preferences

should be a consideration in the design of any democratic institution. They refer to Sarat (1975, p. 430), who states that “[i]t would be strange, indeed, to call a legal system democratic if its procedures and operations were generally at odds with the values, preferences, or desires of the citizens over a long period of time.”

Finally, it could be argued that having people feel treated fairly has value in itself and that decision-makers “are morally obligated to treat [decision] recipients in a humane, respectful manner” (Brockner & Wiesenfeld, 1996, p. 193). This is in line with the argument by Nagin and Telep (2017, 2020), who question the effect of people’s fairness perceptions on compliance with the law yet emphasize the value of procedural justice in its own right. Lilly and Wipawayangkool (2018), too, point to ethical and moral reasons to support the importance of perceived procedural fairness. Enhancing defendants’ procedural justice perceptions also fits with the virtue-ethical approach proposed by Van Domselaar (2015; see also Verburg, 2019). According to this perspective, judges need a “six-pack of judicial virtues” and “civic friendship” to realize moral quality of adjudication (Van Domselaar, 2015, p. 46). These judicial virtues entail that judges take people’s interests seriously, have an impartial and independent attitude, and act in accordance with the idea of equal respect – aspects which closely resemble components of perceived procedural justice.

Perceived Procedural Justice: Reasons for Restraint

Taken together, there are various reasons – both practical and principled – why enhancing people’s perceptions of procedural justice can be considered desirable, as suggested by the preceding section. There may also be reasons, however, for exercising some restraint in embracing the findings of research on perceived procedural justice and using them prescriptively.

Some authors argue, for instance, that too much of a focus on people’s perceptions of procedural fairness may distract from other relevant issues. In this regard, Doornbos (2017) notes that although she does not doubt the importance of perceived procedural justice, the emphasis placed on it draws attention away from bigger societal problems, such as the uneven distribution of outcomes in administrative law cases. In a similar vein, Brockner, Wiesenfeld, and Diekmann (2009) explain that lower protest intentions resulting from perceived procedural justice could prevent people from taking action against objectively unfair outcomes, which would violate ethical standards. Hence, they argue, future research on perceived procedural justice may benefit from including prescriptive elements rather than taking a merely descriptive approach.

Related to this, some authors point to the possibility of what has been termed “false consciousness” or “hollow justice” (e.g., Lind & Tyler, 1988; MacCoun, 2005; Tyler & Lind, 1992). These notions refer to the manipulative and strategic use of perceived procedural justice by decision-making authorities. Thus, instead of actually treating people fairly, decision-makers might sometimes be more concerned with appearing to be fair so that they can avoid addressing substantive issues, such as the unequal

distribution of outcomes (MacCoun, 2005). Lind et al. (1990), too, note that people's reliance on subjective impressions of procedural justice rather than objective features of litigation makes them susceptible to being misled, such that they might be satisfied with less than they deserve.

Because of this possibility of false consciousness, Lind and Tyler (1988) argue that "people's feelings about fairness should not be uncritically accepted as the key input into normative evaluations of institutions" (p. 4). In later work, too, Tyler (2006) has pointed to the potential dangers to the public that accompany the procedural justice perspective. Sarat (1993), however, criticizes this work for not engaging in an interdisciplinary debate that includes normative reflections on the potential misuse by authorities of empirical findings on perceived procedural justice. Hence, according to Sarat, these dangers need to be critically reflected upon rather than merely being pointed out.

The need for critical reflection on findings of empirical research on procedural justice has been emphasized by Van den Berge (2020) as well. In addition to the possible strategic and instrumental use of these insights by authorities, he perceives a tension between tailor-made approaches that fit with perceived procedural justice and the legal values of equality, legal certainty, and objectivity. Geeraets and Veraart (2017), too, point out that people's preferences may not always be compatible with the normative bases of a legal system. For instance, when discussing research on the victim impact statement and victims' perceptions of procedural fairness, they argue that these perceptions need to be considered in light of principles of criminal law, such as the presumption of innocence. They also note that empirical insight into victims' procedural justice perceptions can be only partially relevant for issues concerning the fairness of procedures to all parties. In line with this, one could wonder whether perceived fairness from the perspective of one side to a legal dispute may sometimes collide with fairness perceptions of the other side or those of outsiders (see also Noyon, 2017).

Furthermore, as noted earlier, whether enhancing people's perceptions of procedural fairness is considered something that legal systems should focus on depends on one's view on law. That is, promoting perceptions of procedural justice may fit well with the notion of responsive law, but may fit less well with the notion of autonomous law (Nonet & Selznick, 2001). After all, autonomous law is concerned mainly with the correct application of legal rules and procedures, and uses lawfulness rather than fairness as a yardstick (see also Allewijn, 2016). From this perspective, what matters is not so much whether people perceive procedures as fair, but whether these procedures meet relevant legal standards.

Finally, in a more practical sense, one might argue that enhancing people's perceptions of procedural justice takes time and may thus come with a price tag. For instance, allowing people sufficient time to voice their opinions and truly listening to their stories might take up much of the time allotted for court hearings, which is sometimes scarce already. Indeed, one could perceive letting defendants elaborate on aspects of their cases they consider important, even when these are not relevant from a legal perspective, to be

at odds with “the legal system’s need to dispose of problems efficiently” (Tyler, 2006, p. 156).

Revisiting the Arguments

The preceding sections suggest that, in addition to various possible reasons one might want to enhance people’s perceptions of procedural fairness, there may also be reasons for exercising some restraint in this regard. I think it is important to keep these reasons in mind. For example, I think researchers and practitioners need to be aware that there are of course other relevant issues, next to perceived procedural justice, that deserve attention. Furthermore, when translating empirical insights regarding perceived procedural fairness to the normative domain of law, it is relevant to consider how these insights relate to legal and other values and whether there may be any tensions in this regard.

There are also ways in which some of the above-mentioned reasons for restraint in enhancing people’s procedural justice perceptions may be counterargued. For instance, concerning the possibility of false consciousness, Lind and Tyler (1988) point out that the manipulative and strategic use of perceived procedural justice tends to backfire when people detect that they are being deceived. Thus, these authors “suspect that in many instances sham procedures carry the seeds of their own destruction and that they seldom accomplish the ends they seek to achieve” (p. 202). In line with this, during my own qualitative interviews respondents sometimes referred to sincerity or the lack thereof as a reason for feeling treated fairly or unfairly, which indicates attentiveness to whether authorities are true in their efforts to treat people in a fair way.

In addition, in the context of procedural justice and policing, Hough, Jackson, and Bradford (2016) point to the role of training and professional development: Professionals could be educated not only about how to effectively adopt procedural justice approaches, but also about the “boundary between courteous sincerity and manipulation which should not be crossed” (p. 288). Hence, while the potential abuse of insights regarding perceived procedural justice is something to be aware of, such efforts to deceive people may often be detected, and the danger of authorities engaging in such efforts may be mitigated through professional education.

Furthermore, concerning the possibility that perceptions of procedural fairness keep people from protesting against objectively unfair outcomes, it is relevant to note that perceived procedural justice is not likely to be the sole factor of importance in this regard. For instance, the results of my survey (Chapter 3) and experiment (Chapter 4) show that research participants’ outcome judgments were associated with protest intentions more strongly than were their perceptions of procedural fairness. In line with this, Boekema (2015) found that the association between perceived procedural justice and appeals in administrative law cases was less strong than the association between appeals and perceived outcome fairness.

One could also argue that procedures characterized by procedural justice enhancing factors such as accuracy, neutrality, and information on which decisions are based (see Chapter 2), are more likely to yield objectively fair outcomes than are inaccurate procedures led by biased decision-makers who do not take into account all relevant information (see also Brenninkmeijer, 2009). Indeed, the relationship between procedural justice and distributive justice has been described as one of mutual strengthening rather than trade-offs (Brems & Lavrysen, 2013). Thus, enhancing people's perceptions of procedural fairness and reaching objectively fair outcomes may very well go hand in hand.

As touched upon earlier, another possible reason for restraint in embracing empirical findings of procedural justice research and applying them prescriptively is that the fairness perceptions of one side to a legal conflict may collide with the fairness perceptions of others. I suspect this is not necessarily a matter of trade-offs either, given the importance of neutrality in shaping people's fairness perceptions as indicated by my qualitative interviews and other studies (e.g., Tyler, 1989; Tyler & Lind, 1992). For instance, giving one side to the conflict many opportunities to voice their opinions and listening to their stories may not be perceived as problematic by the other side as long as they, too, receive such treatment. This might be difficult in the context of single judge criminal court hearings, however, given their focus on the defendant rather than the victim, who is not a party to the proceedings in the Dutch legal system and who does not always have the right to speak. Thus, the extent to which perceptions of procedural fairness among different actors are compatible is an empirical question that could provide an interesting direction for future research.

I also note here that the image of judges as concerned merely with the correct application of legal rules and procedures rather than also being responsive to people's needs and expectations – which could include their perceptions of fairness – does not seem to fit well with recent developments in the Netherlands. In line with the notion of responsive law, various initiatives that focus on fast, accessible, and problem-oriented judging have been developed to address people's needs.⁵ I think such attempts at responsiveness, when taking proper account of the values embedded in the law, can add to the quality of the legal system. Of course, the correct application of legal rules and procedures is of continuing importance, and attention for problem-solving should not distract from the law's value-expressive function (e.g., Van Domselaar, 2020). Similarly, Nonet and Selznick (2001) note that responsive law “brings larger institutional competencies to the quest for justice” yet also involves risks by “giving up at least some of its earlier, well-tested institutional defenses” (pp. 116-117). Legal practitioners thus need to strike a balance, I think, between responsive and autonomous approaches to dispute resolution (see also Allewijn, 2016).

A final reason for exercising some restraint in the prescriptive application of insights from procedural justice research concerns the possible costs associated with enhancing

5 See, for instance, www.rechtspraak.nl.

people's perceptions of procedural fairness (Van Velthoven, 2012). In line with Verburg (2019), I think these costs do not necessarily have to be high (see also Brockner & Wiesenfeld, 1996). Here, too, explanations might play an important role. For instance, if defendants go into too much detail when telling their side of the story, they might still feel treated fairly upon being limited in their speaking time if judges respectfully explain why this is necessary. In addition, if perceived procedural fairness is associated with fewer appeals and less reoffending (e.g., Boekema, 2015; Murphy, Bradford, & Jackson, 2016), this may reduce societal costs. The balance between economic costs and benefits associated with enhancing people's perceptions of procedural fairness is likely to be a complex issue, which might be clarified by future studies.

As mentioned before, a full and in-depth consideration of all possible arguments regarding the desirability of enhancing people's procedural justice perceptions is beyond my scope here. Taking together the considerations presented in the current section and the two preceding sections, however, I think there are good reasons for enhancing defendants' perceptions of procedural fairness during their court hearings. As discussed above, there are also possible reasons for exercising some restraint in this regard. Although these potential reasons for restraint can be partially counterargued, I think it is relevant to keep them in mind when translating empirical insights on perceived procedural justice to the normative domain of law.

Furthermore, I think this translation may best be achieved by incorporating empirical insights on perceived procedural justice into the professional education of legal practitioners, as is already being done to some extent, rather than into provisions of law. After all, many components of perceived procedural justice can already be seen in the law, and the soft skills these procedural justice components require arguably best lend themselves to be part of educational programs.

The procedural justice components revealed by the qualitative interviews reported in Chapter 2 of this dissertation may provide important input in this regard, at least in the field of criminal law. These components are quite robust, I think, in part because they were supported by the survey and the experiment (as explained in the Empirical Discussion chapter) and because they largely correspond with insights obtained in previous procedural justice studies. That said, and taking into account what I mentioned earlier, it would be good to see if follow-up studies can replicate my findings regarding the components of perceived procedural fairness.

In line with this, some of the arguments put forward in the preceding sections need further examination and reflection, particularly through an interdisciplinary approach. This applies to the economic argument regarding the potential costs and benefits of enhancing perceptions of procedural fairness as well as more principled considerations regarding, for instance, autonomous and responsive conceptions of law or the potential tension between components of perceived procedural justice and relevant legal values. There may also be additional reasons for enhancing perceptions of procedural fairness or exercising some restraint that I have not discussed here which deserve attention.

This points to the importance of connecting different approaches to law (e.g., philosophical, doctrinal, and social-scientific; Taekema, 2020; Van der Burg, 2017) and collaborations between legal scholars and social scientists (see also Geeraets & Veraart, 2017). In my view, legal research focusing on doctrinal and philosophical issues is relevant in itself for answering legal and normative questions, and may be enriched by adding an empirical dimension which focuses on law in action – for instance, by examining how law is experienced (Ansems, 2019; see also Van den Bos, 2014). Similarly, empirical research is relevant in itself because of its potential scientific implications, and may be enriched by reflecting on them from a normative perspective. According to Van den Bos (2020), such normative reflections are indispensable when interpreting the results of empirical legal research.

The importance of “[s]triking a proper balance between normative and social science perspectives” has been emphasized within the particular context of research on perceived procedural justice and legitimacy as well (Tyler, 2006, p. 287). In the current dissertation, I aimed to do this by combining mixed-methods research on perceived procedural justice with subsequent normative reflections on the empirical findings. Thus, I aimed to connect empirical research on procedural justice with the normative domain of law.

Concluding Remarks

Empirical legal research can be a relevant addition to research focusing on law in the books, because empirical findings can inform and underpin the law (Grootelaar, 2018; Van den Bos, 2014). For instance, empirical studies can improve our insight into the effects of law, how law is experienced, and whether the assumptions underlying law are empirically valid (Bouwman, 2020). When conducting empirical legal research, however, I think it is important to be aware of what these empirical findings do and do not communicate. In other words, one needs to be aware of the fact-value gap. The empirical finding that certain procedural justice components make people perceive procedures as fair, for example, does not in itself imply that these components should be enhanced. As explained in this chapter, I think it is important to keep this distinction between facts and values in mind, and make sure this is also apparent from the presentation of research findings.

One might even take this a step further and try to bridge the fact-value gap. This can be done, I think, by being explicit about where the presentation of empirical findings ends and where normative reflections start, and by discussing various arguments and counterarguments. For instance, the preceding sections discussed several arguments for promoting defendants’ perceptions of procedural fairness as well as potential reasons for exercising some restraint in this regard. As mentioned earlier, a review of these arguments to me indicates that there are good reasons for enhancing perceived procedural justice, and that there are also some reasons for restraint which are relevant to keep in mind when doing so. Further empirical research and normative reflections

can deepen our insight into these and other potentially relevant issues regarding the translation of empirical findings on perceived procedural fairness to the normative domain of law. Thus, I hope that the discussion in the current chapter, and indeed my entire dissertation, invites future interdisciplinary efforts to enhance our empirical and normative insights into procedural justice in criminal law and beyond.

Addendum

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Dutch Summary | Nederlandse samenvatting

Procedurele rechtvaardigheid kritisch getoetst

Deze dissertatie gaat over ervaren procedurele rechtvaardigheid vanuit het perspectief van verdachten in strafzaken. Ik richt me in dit onderzoek dus op de perceptie van verdachten dat zij tijdens hun rechtszittingen eerlijk en rechtvaardig worden behandeld. Ervaren procedurele rechtvaardigheid hangt blijkens eerder onderzoek samen met variabelen die in het juridische en maatschappelijke domein vaak belangrijk worden gevonden, zoals uitkomsttevredenheid, ervaren legitimiteit, en vertrouwen in juridische autoriteiten. Dergelijke positieve reacties op ervaren procedurele rechtvaardigheid worden in de literatuur aangeduid als het eerlijkproceseffect.

Ik onderwerp ervaren procedurele rechtvaardigheid aan een kritische toets in drie empirisch-juridische deelstudies: (1) kwalitatieve interviews met verdachten, (2) een survey onder verdachten, en (3) een experiment onder winkelend publiek dat zich inleefde in de positie van de verdachte tijdens een strafzitting. In de kwalitatieve interviews onderzoek ik of respondenten uit zichzelf aspecten van procedurele rechtvaardigheid noemen en, zo ja, welke aspecten. In de survey en het experiment onderzoek ik de mogelijkheid dat *on*rechtvaardige procedures soms prettige aspecten kunnen hebben, doordat deze de mogelijkheid bieden om negatieve uitkomsten toe te schrijven aan externe oorzaken. Twee van deze deelstudies richten zich dus op de context van echte strafzittingen, waarin (anders dan in laboratoriumonderzoek) voor onderzoeksdeelnemers veel op het spel kan staan. Hieronder licht ik mijn drie deelstudies en hun belangrijkste bevindingen nader toe.

Procedurele rechtvaardigheid door de ogen van verdachten

In Hoofdstuk 2 beschrijf ik de bevindingen van de kwalitatieve interviews die ik hield met 100 verdachten in Nederlandse politierechterzaken, waarmee ik onderzoek (1) of verdachten zelf aspecten van procedurele rechtvaardigheid noemen wanneer zij worden gevraagd naar ervaren rechtvaardigheid tijdens hun zittingen, en (2) zo ja, welke aspecten. De meerderheid van de geïnterviewde verdachten – 76 respondenten – noemde op enig moment tijdens het interview uit zichzelf aspecten van procedurele rechtvaardigheid. Vierentwintig respondenten noemden in eerste instantie geen aspecten van procedurele rechtvaardigheid. Zij spraken bijvoorbeeld enkel over de uitkomsten van hun rechtszaken. Na vervolgvragen over hoe rechtvaardig zij zich tijdens de zitting behandeld voelden totdat de rechter uitspraak deed en of zij zich iets konden voorstellen waardoor ze zich *on*rechtvaardig behandeld zouden hebben gevoeld tijdens de zitting, noemden 21 respondenten alsnog aspecten van procedurele rechtvaardigheid. Slechts

3 respondenten noemden in het geheel geen aspecten van procedurele rechtvaardigheid tijdens de interviews. Dit wijst erop dat ervaren procedurele rechtvaardigheid tijdens de zitting er voor veel verdachten toe doet.

Ook wilde ik met deze interviews achterhalen wat procedurele rechtvaardigheid volgens verdachten precies inhoudt. Om die reden bekeek ik welke aspecten van procedurele rechtvaardigheid respondenten zelf noemden in plaats van te vragen naar vooraf bepaalde aspecten van procedurele rechtvaardigheid. Zes onderling verband houdende kerncomponenten bleken ten grondslag te liggen aan de door respondenten ervaren procedurele rechtvaardigheid: (1) informatie waarop beslissingen zijn gebaseerd, (2) bejegening, (3) de perceptie dat er met aandacht naar het verhaal van de verdachte is geluisterd (*due consideration*), (4) neutraliteit, (5) de perceptie dat de verdachte zijn of haar verhaal heeft kunnen vertellen (*voice*), en (6) zorgvuldigheid. In het bijzonder bleek ervaren neutraliteit een centrale rol te spelen in de rechtbankcontext waarop deze interviewstudie zich richtte.

Procedurele rechtvaardigheid en ervaren discriminatie

Hoofdstuk 3 beschrijft de resultaten van een survey onder 198 verdachten met een niet-westerse etnisch-culturele achtergrond. Zij namen direct na afloop van hun politierechterzittingen aan het onderzoek deel. Het onderzoek richtte zich op respondenten met een niet-westerse achtergrond, omdat zij mogelijk discriminatie ervaren in hun dagelijks leven en zich mogelijk negatief beoordeeld voelen in de Nederlandse samenleving (Huijnk & Andriessen, 2016). Dit kan een belangrijke rol spelen bij het afzwakken of omkeren van het eerlijkproceseffect (Van den Bos, Bruins, Wilke, & Dronkert, 1999). Wanneer mensen zich sterk beoordeeld voelen en een negatieve uitkomst ontvangen, kunnen zij op zoek gaan naar mogelijkheden om deze uitkomst aan een externe oorzaak toe te schrijven (Cohen, 1982; Van den Bos et al., 1999). Aangezien onrechtvaardige procedures mogelijkheden bieden voor het maken van dergelijke externe attributies, kunnen mensen positiever reageren op ervaren procedurele onrechtvaardigheid (Brockner et al., 2003; Brockner, Wiesenfeld, & Diekmann, 2009; Van den Bos et al., 1999). In dit hoofdstuk ga ik ook in op de mogelijkheid dat verdachten die in hun dagelijks leven negatieve gebeurtenissen toeschrijven aan discriminatie (Crocker & Major, 1989; Major, 1994; Major, Quinton, & McCoy, 2002) ook externe attributies zouden kunnen maken wanneer zij negatieve uitkomsten ontvangen tijdens hun rechtszittingen.

Om deze redenen onderzocht ik de mogelijk modererende rol van de uitkomstoordelen van respondenten en ervaren discriminatie in het dagelijks leven. Dat wil zeggen dat ik bekeek of de verbanden tussen ervaren procedurele rechtvaardigheid en andere variabelen, zoals vertrouwen in Nederlandse rechters, werden afgezwakt of zelfs omgekeerd afhankelijk van hoe positief of negatief respondenten oordeelden over hun uitkomsten en hoeveel discriminatie zij ervaren in hun dagelijks leven. De analyses lieten zien dat ervaren procedurele rechtvaardigheid significant samenhangt met vertrouwen

in rechters, uitkomstoordelen, intenties om tegen de uitkomst te protesteren, en eigenwaarde op het moment van het invullen van de vragenlijst. Ik vond geen afzwakking of omkering van deze verbanden tussen ervaren procedurele rechtvaardigheid en andere variabelen afhankelijk van ervaren discriminatie en uitkomstoordelen. Met andere woorden: deze verbanden bleven overeind, onafhankelijk van de mate waarin respondenten in hun dagelijks leven discriminatie ervaren en onafhankelijk van hoe positief of negatief zij over hun uitkomsten oordeelden.

Procedurele rechtvaardigheid en externe attributies

Mijn derde studie, die ik beschrijf in Hoofdstuk 4 van deze dissertatie, betrof een experiment onder 239 winkelende burgers met een niet-westerse etnisch-culturele achtergrond. Zij leefden zich in in de positie van de verdachte tijdens een politierechterzitting. In dit experiment werd procedurele rechtvaardigheid gemanipuleerd door onderzoeksdeelnemers een scenario te laten lezen waarin zij ofwel rechtvaardig ofwel onrechtvaardig werden behandeld. Ook hier was het doel om procedurele rechtvaardigheid kritisch te toetsen door potentieel modererende variabelen bij het onderzoek te betrekken die het eerlijkproceseffect zouden kunnen afzwakken of zelfs omkeren. Net als in mijn surveystudie was de onderliggende redenering dat *onrechtvaardige* procedures soms prettige aspecten kunnen hebben, doordat zij mogelijkheden bieden om negatieve uitkomsten toe te schrijven aan externe oorzaken (Brockner et al., 2003; Van den Bos et al., 1999). Daarom bekeek ik in het experiment of het eerlijkproceseffect zich wellicht afgezwakt of zelfs omgekeerd voordeed bij onderzoeksdeelnemers die in sterke mate externe attributies maakten voor hun negatieve uitkomsten en dus deze uitkomsten toeschreven aan iets anders dan aan henzelf. Ook bekeek ik of het eerlijkproceseffect wellicht werd afgezwakt of omgekeerd afhankelijk van hoe onderzoeksdeelnemers oordeelden over hun uitkomsten.

De resultaten lieten zien dat onderzoeksdeelnemers in de rechtvaardige conditie significant meer vertrouwen rapporteerden in rechters, hun vertrouwen in rechters een hoger cijfer gaven, positiever oordeelden over hun uitkomsten, en minder geneigd waren tegen hun uitkomsten te protesteren dan onderzoeksdeelnemers in de onrechtvaardige conditie. Deze effecten werden niet afgezwakt of omgekeerd afhankelijk van de uitkomstoordelen van onderzoeksdeelnemers. Wel vond ik een statistisch significant interactie-effect van de proceduremanipulatie en externe attributies op vertrouwen in rechters. Dat wil zeggen: ik vond een eerlijkproceseffect bij onderzoeksdeelnemers die in relatief lage mate externe attributies maakten. Zij rapporteerden meer vertrouwen in rechters in de rechtvaardige conditie dan in de onrechtvaardige conditie. Bij onderzoeksdeelnemers die in relatief hoge mate externe attributies maakten, vond ik echter een zodanige afzwakking van het eerlijkproceseffect dat dit effect niet langer statistisch significant was. Zodoende bood het experiment inzicht in zowel het eerlijkproceseffect als enkele mogelijke grenzen daarvan.

Empirische en normatieve reflecties

Samen tonen deze drie deelstudies de relevantie van ervaren procedurele rechtvaardigheid aan. De meerderheid van de geïnterviewde verdachten noemde op enig moment tijdens het interview uit zichzelf aspecten van procedurele rechtvaardigheid. In de surveystudie bleek ervaren procedurele rechtvaardigheid statistisch significant samen te hangen met belangrijke andere variabelen, zoals uitkomsttevredenheid, protestintenties, en vertrouwen in rechters. Het experiment liet met causale controle hetzelfde zien. Een afzwakking van het eerlijkproceseffect deed zich voor op slechts één variabele (vertrouwen in rechters) en in slechts één van de deelstudies (het experiment). Dit afgezwakte eerlijkproceseffect is een interessante bevinding, die aandacht verdient in nader onderzoek. Het overkoepelende beeld dat uit de drie deelstudies oprijst is echter dat ervaren procedurele rechtvaardigheid ertoe doet, ook wanneer dit kritisch wordt getoetst. In Hoofdstuk 5 ga ik nader in op de wetenschappelijke implicaties van deze en andere belangrijke bevindingen van het onderzoek, de kracht van het combineren van verschillende typen methoden, de beperkingen van mijn empirische studies en suggesties voor vervolgonderzoek.

Tot slot voorzie ik in Hoofdstuk 6 mijn bevindingen van normatieve reflecties. Een van de epistemologische uitdagingen die het doen van empirisch-juridisch onderzoek met zich meebrengt, is de vertaling van empirische bevindingen naar het normatieve domein van het recht. In dit afsluitende hoofdstuk betoog ik dat het belangrijk is zich te realiseren dat empirische bevindingen op zichzelf niet tot normatieve conclusies kunnen leiden. Verder suggereer ik dat deze kloof tussen feit en norm kan worden overbrugd door expliciet te zijn over waar de weergave van empirische bevindingen eindigt en normatieve duiding daarvan begint, en door relevante argumenten op een rij te zetten en af te wegen. Dit maak ik concreet door in te gaan op zowel argumenten voor het bevorderen van ervaren procedurele rechtvaardigheid als mogelijke kanttekeningen daarbij. Ik concludeer dat er goede redenen zijn om ervaren procedurele rechtvaardigheid te bevorderen en dat het belangrijk is om daarbij tegelijkertijd de geschetste kanttekeningen in gedachten te houden. Nader interdisciplinair onderzoek kan ons inzicht in empirische en normatieve aspecten van procedurele rechtvaardigheid in het strafrecht en daarbuiten vergroten.

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About the Author

Lisa Ansems (1992) obtained her degrees as Bachelor of Laws and Master of Laws at Utrecht University (both *cum laude*). During her studies, the Legal Research Master in particular, Lisa got increasingly interested in the empirical study of criminal law next to the study of law in the books. She conducted empirical research in the context of both her study program and her work as a student assistant. In addition, she worked as a court clerk at the criminal law section of the district court of the Mid-Netherlands in Lelystad and was an intern at the criminal law section of Cleerdin & Hamer Advocaten, a law firm located in Almere. Together with Kees van den Bos, Lisa developed a research proposal that provided the basis for the research reported in this dissertation, for which the Dutch Research Council (NWO) awarded a Research Talent Grant. During her time as a PhD candidate at the Mouton Center for Rule of Law and Administration of Justice, Lisa presented her research at various national and international conferences, taught guest lectures, and co-authored a research report on class justice in the Dutch criminal justice system. She currently works as a postdoctoral researcher at Leiden University, focusing on the theme of institutions for conflict resolution.

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