



The interaction of criminal procedure and outcome

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ABSTRACT

Procedural quality is an important aspect of crime victims' experiences in criminal proceedings and consists of different dimensions. Two of these dimensions are procedural justice (voice) and interpersonal justice (respectful treatment). Social psychological research has suggested that both voice and respectful treatment are moderated by the impact of outcomes of justice procedures on individuals' reactions. To add to this research, we extend this assertion to the criminal justice context, examining the interaction between the assessment of procedural quality and outcome favorability with victim's trust in the legal system and self-esteem. Hierarchical regression analyses reveal that voice, respectful treatment and outcome favorability are predictive of trust in the legal system and self-esteem. Further investigation reveals that being treated with respect is only related to trust in the legal system when outcome favorability is high.

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1. Introduction

It is well-established that participants in justice procedures not only value the outcome of the procedure, but that aspects of the procedure are also an important factor (Leventhal, 1980; Lind & Tyler, 1988; Thibaut & Walker, 1975; Tyler, 1988). In particular, procedural justice, the extent to which the decision-making process is based on fair behaviors (Lind & Tyler, 1988), and interpersonal justice, the extent to which people are treated with dignity and respect during the procedure, have been shown to impact people's assessments of justice processes (Bies & Moag, 1986). The importance of procedural justice, 'voice', and interpersonal justice, 'respectful treatment', have also been demonstrated for victims of crime in their assessment of criminal justice processes (Orth, 2002; Wemmers, Van der Leeden, & Steensma, 1995). Moreover, the significance of these concepts is reflected in both national and international victims' rights mechanisms, for example the U.N. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. The underlying notion of these measures is that the (positive) experience of a fair process – which may be achieved through victim assistance – may undo the negative assessment of an unfavorable outcome – which is beyond the remit of victim assistance providers (Groenhuijsen & Letschert, 2008).

1.1. Victims' justice judgments

Outcome favorability or outcome satisfaction is undeniably an important part of victims' justice judgments (Elliott, Thomas, & Ogloff,

2011; Orth, 2002). Outcome favorability refers to the extent to which an individual feels he or she has been benefited by a decision.² The outcome may be favorable to the victim in different ways. It may deter the offender from committing further harm against the victim (Labriola, Rempel, & Davis, 2008), may provide compensation (Erez & Bienkowska, 1993) or public recognition of victim status, and may satisfy one's sense of retribution by punishing the offender (Vidmar & Miller, 1980).

In addition to the outcome, the quality of the procedure may also impact justice judgments. Two well-established conceptualizations related to procedural quality are procedural justice and interpersonal justice. Both concepts have been observed in research examining crime victims (Elliott et al., 2011; Erez & Bienkowska, 1993; Erez & Tontodonato, 1992; Shapland, Willmore, & Duff, 1985; Wemmers et al., 1995). First, procedural justice refers to the extent that the outcome was derived using fair procedures (Lind & Tyler, 1988). A key concept in the literature is voice, where the theory of procedural justice holds that by providing victims with the opportunity to voice their concerns and express wishes with regard to decision-making, they are more likely to be satisfied and view the procedure as fair (Sumner, 1987; Wemmers, 1995). In fact, an abundance of research indicates that victims' grievances with the criminal justice system are often the result of their lack of involvement and standing (Erez & Bienkowska, 1993; Shapland et al., 1985; Wemmers et al., 1995).

Second, interpersonal justice refers to the treatment given to individuals in conflict resolution procedures. Individuals should be treated with politeness, respect and propriety (Bies & Moag, 1986; Colquitt,

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² For a more in-depth discussion regarding the terminology, see Brockner & Wiesenfeld, 1996. The authors discuss the difference between outcome fairness and outcome valence, and how outcome favorability is an appropriate term for capturing both concepts. For the purpose of the present research, we use the term outcome favorability.

2001). Groenhuijsen (2005) argued that this is the most fundamental victim right, while disrespectful treatment is one of the main sources of secondary victimization (Ullman, 1996).

Much debate has occurred within the organizational justice literature – where many of the conceptualizations of these theories originated – regarding the construction of the procedural justice model (Colquitt, 2001). Some researchers have considered interpersonal justice to be part of procedural justice, while others have combined sub variants of the theories due to high correlations. Though past conceptualizations have primarily been conducted outside of the criminal justice context, Wemmers et al. (1995) found support for a two-factor model of procedural justice, including aspects of interpersonal justice. Respect and neutrality made up the notion of procedural justice, with the opportunity to make wishes known actually being part of respectful treatment. Though this research finds support for an integrated model, research exists that has examined procedural and interpersonal justice as distinct concepts. While the former refers to as an appraisal of the formal aspects of the procedure, the latter refers to an assessment of interpersonal treatment. The current article adopts this perspective of two distinct concepts.

1.2. Interaction effects

The impact of procedural quality and outcome favorability, though different, cannot be examined in isolation from one another (Brockner & Wiesenfeld, 1996). A positive evaluation of procedural elements may cushion a negative assessment of the outcome and vice versa (Lind & Tyler, 1988). Even when the stakes involved in legal proceedings are high, procedural quality has been found to be a significant factor in people's justice judgments (Lind & Tyler, 1988). However, the impact of procedural elements and outcome favorability on victims' experiences may be contingent on each other (Brockner & Wiesenfeld, 1996). To elaborate, the influence of voice and respect on reactions to a decision may be dependent on the level of outcome favorability: only with a sufficient level of outcome favorability will procedural elements impact the experience of justice.

Brockner and Wiesenfeld (1996) conducted a review of interaction effects including 45 independent samples. The dependent variables, often referred to as 'individual reactions,' include people's cognitive, affective and behavioral reactions to a decision. More specifically, these reactions have focused on, for example, satisfaction, institutional commitment, or beliefs about authorities. The review indicated that two patterns often emerge when exploring interaction effects. First, procedural justice has a greater association with individuals' reactions when outcome favorability is low. Second, outcome favorability has a stronger association with individuals' reactions when procedural justice is low.

It is unclear whether Brockner and Wiesenfeld's findings may be generalized to victims' experiences in criminal justice. Their review did not include any studies evaluating this particular group. Using findings from non-victims, in for instance tort law and organizational justice processes as a base for statements about victims of crime neglects the fact that both the criminal justice setting and the peculiar position of victims within these processes may be different. In addition, the victimization experience itself may influence the way justice is experienced. Consequences such as anger (Riggs, Dancu, Gershuny, Greenberg, & Foa, 1992), post-traumatic stress disorder (Lens, Pemberton, & Groenhuijsen, 2010), a loss of sense or self or safety (Frieze, Hymer, & Greenberg, 1987), self-blame (Baker & Peterson, 1977) and increased fear of crime (Weinrath & Gartrell, 1996) may, in different ways, impact victims justice preferences related to interpersonal and procedural justice. As a result, even a fair procedure may not always counteract an unfavorable outcome, as such an outcome may significantly affect the overall well-being of victims (Orth, 2002).

Previous research on the victim's legal experience has often focused on satisfaction (Elliott et al., 2011; Shapland et al., 1985). The measure for satisfaction, however, is often operationalized differently among studies and does not provide consistent results (Laxminarayan, Bosmans, Porter, & Sosa, 2012). Furthermore, satisfaction is a rather obscure term, requiring the need for more substantive measures.

To overcome the difficulties involved with using satisfaction as an outcome variable, this study reviews the impact of the criminal justice process on victims' self-esteem and trust in the legal system. The former relates to the impact of the process on the way victims perceive themselves, while the latter relates to the way victims perceive the legitimacy of the criminal justice process (Tyler & Huo, 2002).

First, self-esteem is often injured by the initial criminal victimization (Resick, 1987). Self-esteem is a global evaluation of one's own worth (Baumeister, 1998) and is influenced by social context, including attitudes and opinions of authority figures. The criminal justice system may be one means of improving or hindering a psychological change in one's self-esteem (Orth, 2002). Past research, though again largely outside the criminal justice context, has examined the association between procedural justice and self-esteem. This research presupposes that fair procedures communicate identity-relevant information, which may include perceptions of self-worth as a result of value by authority figures (Koper, Van Knippenberg, Bouhuijs, Vermunt, & Wilke, 1993; Tyler, DeGoey, & Smith, 1986). Research has even looked at the interaction on procedural justice and outcome satisfaction on self-esteem, finding that fairness of procedures predicted self-esteem, but depended on outcome favorability (Schroth & Shah, 2000). Moreover, there has been a focus on self-esteem and responsiveness to procedural justice (De Cremer & Sedikides, 2005). Such research argues that self-esteem may play a moderating role on justice evaluations, where people with low self-esteem (high self-uncertainty) would be more likely to rely on procedural information as it helps to counter insecurities about identity and organizational standing.

Second, research on trust in the legal system is a popular area, though the majority of research appears to be conducted with the general population (Sherman, 2002; Tyler, 2006) rather than victims more specifically. Higher trust and confidence has repercussions on the cooperation of victims with the criminal justice system (Tyler, 2006). This in turn reflects the likelihood that victims will turn to the criminal justice system in the future. The procedural justice model of legitimacy, strongly linked to the concept of trust, is linked to public judgments of the fairness of procedures, where police who exercise their authority in a fair manner are viewed as legitimate (Sunshine & Tyler, 2003). Such thinking follows from the relational model of authority (Tyler & Lind, 1992), where perceptions of fairness based on relational criteria (including interpersonal treatment, participation, neutrality and trustworthiness) shape the perceived legitimacy of legal authorities. Other research has found that unfair and disrespectful treatment leads to perceptions of less legitimate legal institutions (Tyler, 2006). Moreover, procedural justice in terms of treatment by legal officials affects level of trust in government.

Moreover, negative impacts on self-esteem and trust in the law are viewed as elements of secondary victimization (see Orth, 2002). This refers to re-victimization due to societal responses to the initial victimization (e.g., victim blame or disrespect by criminal justice authorities) (Montada, 1994; Orth, 2002). Examining these variables is therefore useful in understanding the extent to which secondary victimization occurs, which is relevant for the further development of criminal justice policy intended to reduce or mitigate this phenomenon. Many studies already exist that examine the effect of contact with the criminal justice system on psychological difficulties, finding positive effects (Cluss, Boughton, Frank, Stewart, & West, 1983), no effects (Orth & Maercker, 2004) and negative effects

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