Interacting with Procedural Justice in Courts

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Interacting with Procedural Justice in Courts

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(met een samenvatting in het Nederlands)

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te Zwolle

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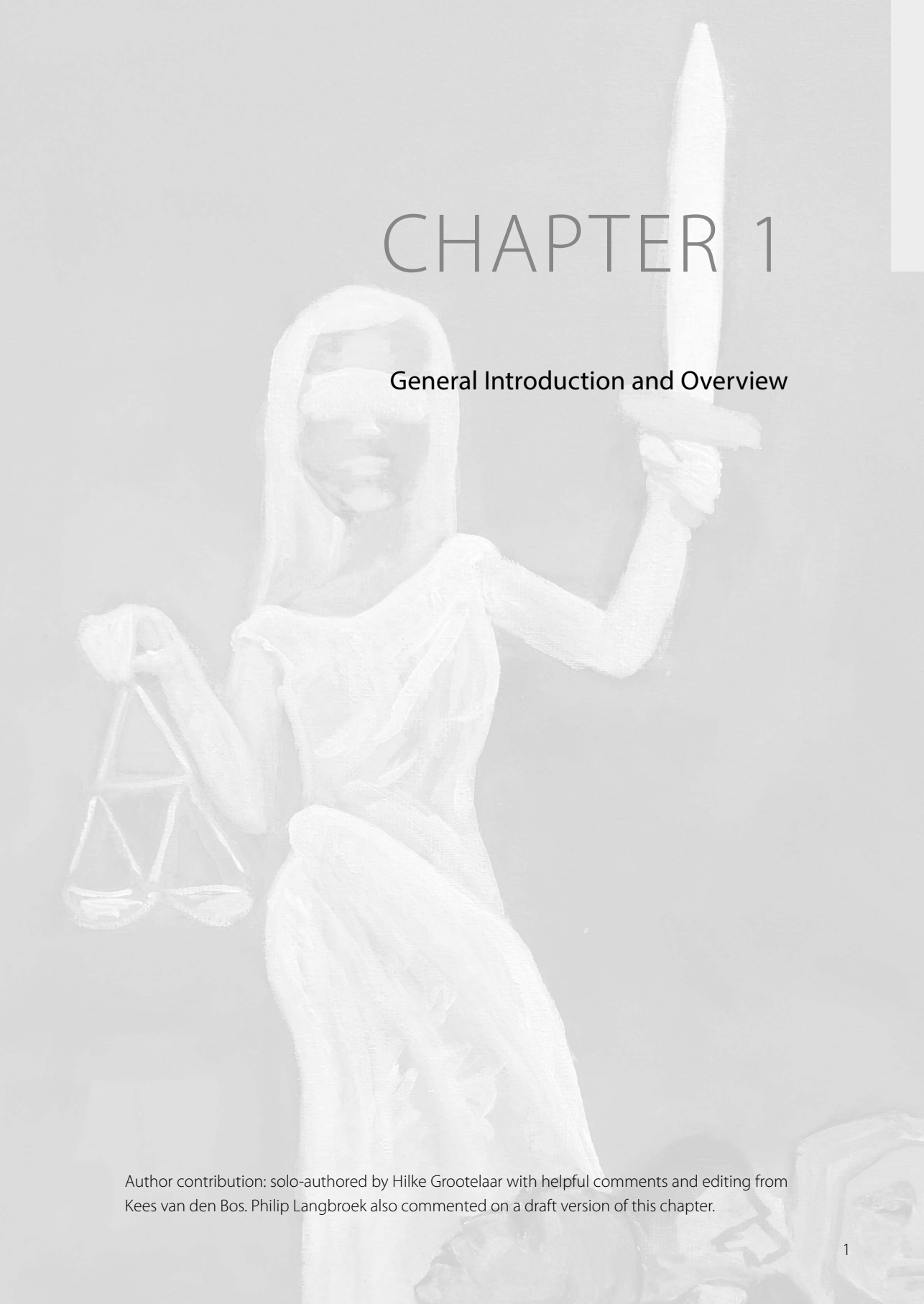
TABLE OF CONTENTS

Chapter 1	General Introduction and Overview	1
Chapter 2	How Litigants in Dutch Courtrooms Come to Trust Judges: The Role of Perceived Procedural Justice, Outcome Favorability, and Other Socio-Legal Moderators	27
Chapter 3	Trust in Criminal Justice Institutions: The Role of Procedural Justice among Citizens Who Appeal a Decision Not to Prosecute	59
Chapter 4	Perspectives of Litigants and Judges on Court Procedures: Insights from Multilevel Analyses and Prioritized Procedural Justice Components	87
Chapter 5	General Discussion	119
Addendum	References	147
	Dutch Summary | Nederlandse samenvatting	165
	Encore | Toegift	169
	Acknowledgements | Dankwoord	172
	About the Author	181

CHAPTER 1

General Introduction and Overview



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WORLDS APART

On one of the many Fridays in 2015 when I was conducting fieldwork in the courthouse, I was spending my entire day in the draughty and busy hallway near the courtrooms, in order to be able to ask litigants involved in law cases to participate in my study. One of these litigants was involved in an administrative law case, and had a dispute with the Education Executive Agency (DUO) concerning a maintenance grant.[1] The litigant started filling out the questionnaire, but paused deliberately when faced with the statement "The judge who handles my case is impartial". "You know what, I just do not believe the judge is impartial. This lady from the Education Executive Agency has been inside the courtroom twice this afternoon. She probably knows the judge and he will know her. She could even leave her suitcase and jacket inside between the hearings!" the litigant said.

Eighteen months later, I was sitting in the exact same hallway waiting together with several litigants for their court hearing to begin. This time, the representative of a housing association in one of the landlord-tenant cases of my third study[2] became interested in my research. He said: "Are you joining us inside when the court hearing will start? You should do that! And please, pay attention to the judge's neutrality. I can tell you right now what will happen inside. The judge is going to help the tenant, and in doing so, he is going way too far. Stop it! That is not your task as a judge! Apparently, the judge has a feeling of justice when siding with the tenant".

These two snapshots from my fieldwork in the district court of the Mid-Netherlands illustrate the separate worlds of lawyers and laypeople. For judges, the actual court hearing starts when litigants enter the courtroom and sit down. But for these litigants, the court hearing starts when they enter the court building, pass the security gates, and look for the right courtroom in the maze of corridors. Whereas I assume for now that the judges in both cases acted in accordance with the law and legal principles of impartiality, the litigants in these two cases had a totally different perception of the judge's impartiality. The first example demonstrates that it can be something small, such as a government authority's representative's suitcase or jacket left in the courtroom that influences how neutral litigants perceive the judge. It is conceivable that laypeople, who are unaware of the ins and outs of the constitutional separation of powers, feel that government authorities and the judge are one and the same. After all, to them they are both representatives of the state, right? The second example shows that the judge who compensates for the inequality between the parties by helping the weaker party should be aware of the unintended effects on how the stronger party perceives his neutrality. Thus, although the rule of law suggests a focus on the neutrality of procedures and

1 Case 145, Study 1.
2 Case 7, Study 3.

the impartiality of judges, even in such procedures people may be strongly affected by their views about the particular authority with whom they are dealing (Tyler, 1997). I will take these separate worlds of lawyers and laypeople as a starting point to introduce my research here.

Interactions with Procedural Justice

I decided to share these two experiences of myself as an empirical researcher in the court because they are perfect illustrations of the three messages I want to convey with this dissertation.

The first message is that the interaction between a litigant and a judge in the courtroom is open to multiple interpretations. What is important is that this interaction is governed by formal procedures. These formal procedures have been established in the first place as a guarantee for citizens: procedural rules enable parties involved in legal proceedings to exercise their substantive rights, and allow for opportunities to obtain justice. Procedures are crucial constraints on the power of those who govern and are a vital source of protection for the dignity and autonomy of those who are governed (Rubin, 2003). Thus, whenever a citizen is involved in an interaction with the state through one of its institutions, there is an entitlement to be treated fairly, and, therefore, according to fair procedures (Galligan, 1996).

Notwithstanding the importance of procedures, the judge-litigant interaction is often largely social in nature. That is, once the legal authorities enact a formal procedure, it is an interpersonal process that those involved evaluate in terms of perceived procedural justice (Bies & Moag, 1986; Greenberg, 1993; Tyler & Bies, 1990). Rules may be the core business of our rule of law; human interactions are the core business of our society. Litigants are influenced by the judge's conduct during the enactment of the procedure (Bies & Moag, 1986), and not so much by the formal procedure as such. Thus, I argue in this dissertation that the interplay between judges and litigants during court hearings is primarily a social interaction governed by fair procedures.

The second message I intend to convey is that these two important actors in the legal system, judges and litigants, have a different view of what makes a procedure fair. This is partly due to the fact that lawyers tend to focus on the normative question of what a fair procedure *should be*, while laypeople answer the question of what it *is* that makes a procedure fair. Furthermore, lawyers and laypeople have different views when they answer the question of what a fair procedure entails. Lawyers tend to focus on the law and its principles when answering this question, whereas laypeople focus on human interaction, and more specifically on the way they were treated by important others. I will argue that these perspectives of fair procedures, though different, find common ground, and that it is important to examine the way they may interact with each other.

The third message is that it is important to carry out empirical research in the complex and precarious context of the law. As the two illustrations suggest, litigants' definition of justice may be much broader than the legal one, and may include several issues that are not typically addressed by legal authorities. Justice is not only determined by the interpretation of legal doctrines by legal scholars and judges, who tell people what a just solution to their problem is. Justice also develops from the concerns, needs, and values of people who bring their problems to the legal system (Tyler, 1997). Empirical research, then, is an instrument to determine what these concerns, needs, and values of litigants are, and what these litigants perceive as just and fair. I will argue in this dissertation that empirical research is a helpful instrument to examine how the different perspectives of fair procedures interact.

In sum, the three messages that I intend to convey in this dissertation involve (a) the interaction between judges and litigants, (b) the interaction between different perspectives of fair procedures, and (c) the interaction between law and empirical research. In the remainder of this introductory chapter, I intend to elaborate on the different perspectives of fair procedures. After explaining how these perspectives find common ground, and how empirical research can be of assistance in this respect, I will introduce the empirical studies that form the heart of the present dissertation.

PERSPECTIVES OF FAIR PROCEDURES

Questions regarding fair procedures arise in various areas of daily life. They pervade modern society. Not only state-citizen interactions, but minor everyday activities such as buying groceries involve procedural justice too (Bayles, 1990). Much has been written about procedures and procedural fairness not only by lawyers but also by social scientists and political theorists. As such, the number of scientific disciplines concerned with research on justice has barely been equaled by other subjects (Mikula, 1980). In answering the question what makes a procedure fair, I would like to distinguish between two perspectives that I consider important for the subject of this dissertation. These perspectives coincide with what I term the normative perspective and the perceived perspective of procedural justice.

Normative Perspective of Procedural Justice

From a normative or more legal point of view, justice is the abstract goal and ideal of the law which contains all kinds of values such as equity and equality (Barendrecht, 1992). The normative perspective of justice distinguishes between distributive justice, which concerns the fair allocation of burdens and benefits (i.e., giving people what is due to them), and procedural justice, which concerns the way in which this allocation takes place (i.e., the way in which you give people what is due to them) (Bayles, 1990).

Distributive justice is determined by substantive law, which comprises the substantive body of rules and values that govern how we live together in our society, how we organize human behavior, and how people should behave in social terms. Procedural justice is determined by procedural law: the rules that explain how to abide by substantive rules, and how to resolve disputes about the correct application of these rules in specific cases (Witteveen, 2001).

Procedural justice plays a central role in the law (Bayles, 1990). Without procedures, the law and legal institutions would fail in their purpose to achieve justice (Galligan, 1996). Two approaches dominate the normative perspective of procedural justice. Whereas one approach coincides with the comprehensive theories formulated by legal scholars about procedural justice reconciling economic, social, and political concerns,[3] the other refers to procedural fairness[4] or procedural due process[5] as a constitutional right to a fair legal proceeding in any given context (Hollander-Blumoff, 2011). For the matter of this dissertation, I will only elaborate on the latter approach here.

What criteria does the normative perspective use to assess whether a procedure is fair? The legal principle of procedural fairness carries with it ideas such as equity and reasonableness (Grossi, 2017). In other words, the question of what constitutes procedural justice, is strongly associated with values that are considered to be important in a legal system, such as legal certainty, equity, and equality. Galligan (1996) created a framework in which the normative perspective of procedural justice and its relationship to these values can be understood. In his view, the normative function of procedures is to give effect to values in legal procedures. Fair procedures are those procedures that lead to fair treatment according to authoritative legal standards. This means that legal procedures are fair when they serve to realize fair treatment of those affected. *Audi et alteram partem* or hearing both sides, and allowing a person to be assisted by legal counsel can be considered to be fair only if we first know the standards by which to make these assessments. These authoritative legal standards, in turn, are based on values which are considered to be important in the relevant rule of law (Galligan, 1996).

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3 The volume of these theories on procedural justice is too large to cite all of them here. See, for example, Rawls (1992), Solum (2004), and for a comprehensive overview of multiple theories on justice, Sandel (2007).

4 The terms "procedural justice" and "procedural fairness" are used interchangeably in this dissertation.

5 Galligan (1996) clearly explains the main differences between "procedural fairness" and its common-law equivalent "due process". Due process clearly has American connotations with its origins in the early common-law tradition. Both due process and procedural fairness make reference to specific legal doctrines about procedures within a jurisdiction. The difference is that for American lawyers, the primary source of their procedural doctrines is the Constitution with its general provisions requiring due process of law, and its more specific doctrines such as the right to a trial by jury and the right to counsel. Parallels can be drawn with the doctrines of procedural fairness emerging under Article 6 of the European Convention on Human Rights.

Although it has been argued that any system must be built on the principle of procedural fairness because it is "a bedrock feature of our legal system" (Hollander-Blumoff, 2011, p. 140), and "the fountain from which all procedural rules and doctrines flourish" (Grossi, 2017, p. 156), societies differ in their normative perspective of procedural justice. This means that the authoritative legal standards of fair treatment, and the procedures considered most suitable for applying them, will be different (Galligan, 1996). There are, however, normative procedural fairness principles that go beyond conceptions of one society. These fairness principles can be drawn from human rights statements, constitutions and case law, and concern principles such as impartiality, consistency, and the opportunity to be heard. Article 6 of the European Convention on Human Rights (ECHR), for example, includes a number of universal values and safeguards which constitute fair procedures. Article 6 ECHR is the source of safeguards for a fair process.[6] These safeguards do not only focus on the importance of a fair outcome but protect a number of values such as accessibility, legal certainty, and judicial independence; all of which are aspects of a fair procedure (Van Schaick, 2017).

Jurisdictions too, differ in their normative perspective of procedural justice. A good example here is the somewhat controversial question of whether the adversarial nature of procedures in common law is to be preferred in terms of fairness over the more inquisitorial nature of procedures in civil law. From a normative stance, one could say that they each serve to reach correct outcomes. However, the real debate when comparing these two procedures is not about which procedure will lead to more correct outcomes, but rather what values are relevant: an equal contest and autonomy of parties in adversarial procedures, or the importance of centralized control and unrestricted investigation by the magistrate and judge in inquisitorial procedures. The real difference between these two traditions then is which values prevail, and what standards of fair treatment derived from these values should govern the trial (Galligan, 1996).

These are just some of the aspects of the normative perspective of procedural justice, which is of course richer and more refined than I can discuss here. However, the general point is clear, I hope: Procedural justice is essential to the law. Procedures are instrumental to standards of fair treatment. The values that are considered to be important in a particular jurisdiction or rule of law provide the basis for these standards of fair treatment. This means that, from a normative point of view, procedures are fair to the extent that they lead to the proper application of the standards of fair treatment

6 I frequently refer to Article 6 ECHR in this chapter because a general right to a fair trial is not yet included in the Dutch Constitution. The legislative proposal to include this right in the Dutch Constitution (no. 34.517), which requires a constitutional amendment, is widely supported. In fact, in May 2017, a substantial majority of the Dutch House of Representatives consented to include the right to a fair trial in the Constitution, and in February 2018, the majority of the Senate consented with a constitutional amendment in first reading as well, which in my view demonstrates the importance of this general right to a fair procedure.

based on values which are to be considered important in a legal system, jurisdiction or society.

Perceived Perspective of Procedural Justice

From a perceived, or more social psychological perspective, fair procedures are those procedures which are perceived to be fair. The term "perceived" refers to people's subjective perceptions. In other words, what is fair is "in the eye of the beholder" (Lind, Ambrose, De Vera Park, & Kulik, 1990). Because of this subjective experience, it might even be more appropriate to speak of "fairness" instead of "justice". People find it easier to indicate what they perceive as fair than what they perceive as just (Van den Bos & Lind, 2002). Procedural justice is not just a cognitive judgment, but also a human experience that is heavily affective in nature (Tyler & Bies, 1990). Fairness perceptions strongly influence thoughts, feelings, and behaviors of most people in many settings (Tyler & Smith, 1998).

The literature on perceived procedural justice emerged from the pioneering research of John Thibaut, a professor in social psychology, and Laurens Walker, a law professor, both fascinated by the fundamental question: What procedures are just? Inspired by the somewhat controversial differences between inquisitorial and adversarial law systems, they decided to join forces, and made a fully interdisciplinary attempt to integrate knowledge of the fields of law and social psychology. In a systematic set of experiments, they compared the adversarial procedure of common-law countries with the inquisitorial procedure of civil-law countries by exposing law students to a simulated court trial in which they manipulated the opportunity participants had to choose their own lawyer. The findings of these experiments revealed that participants in the adversarial condition, in which students had chosen their own lawyer who defended their interests before the judge, rated the procedure as fairer, and the verdict as more satisfactory, regardless of whether they had won or lost the case (Lind, Thibaut & Walker, 1976; Walker, LaTour, Lind, & Thibaut, 1974). Thibaut and Walker (1975) argued that the adversarial procedure, which limits third-party control and allows process control for the parties involved, constituted a fair procedure.

Thus, process control appeared to be one of the criteria people use to assess the fairness of legal procedures. In the research that followed after this fruitful socio-legal enterprise of Thibaut and Walker, Folger (1977) shifted the focus from the concept of process control to the concept of "voice". He examined whether people had an opportunity to voice their opinion in the decision-making procedure. Likewise, Leventhal (1980) suggested that many additional factors influence people's perceptions of procedural justice, and posited that procedures are considered as fair if they are implemented (a) with the interests of all concerned parties represented, (b) consistently, (c) without self-

interest, (d) on the basis of accurate information, (e) with opportunities to correct the decision, and (f) in accordance with moral and ethical standards.

Although the type of decision-making process and procedural considerations are important in understanding people's reactions to fairness, in most people's minds, procedural justice means more than the formal procedures used to resolve disputes. People's judgments of procedural justice are also influenced by the quality of the interpersonal treatment they receive from authorities, and whether the authority properly complied with the formal procedure (Tyler & Bies, 1990). Consequently, people use interactional considerations such as respectful and polite treatment as criteria to evaluate the fairness of procedures (Bies & Shapiro, 1987). Therefore, I use a distinction here between formal and informal perceived procedural justice (Hollander-Blumoff, 2011). The formal component of perceived procedural justice, as I conceive it, refers to how fair people perceive the formal procedures used in courtrooms. The informal component of perceived procedural justice concerns the enactment of these procedures and the fairness of the way people have been treated.[7]

Since its original genesis in the legal arena, the study of procedural justice has expanded to include informal and formal decision-making procedures in work organizations (Folger & Greenberg, 1985; Folger & Konovsky, 1989), and political processes (Tyler, Rasinski, & McGraw, 1985; Rasinski & Tyler, 1986). The range of studies on procedural justice in legal settings has expanded considerably as well (Casper, 1978; Casper, Tyler, & Fisher, 1988; Tyler, 1984; Tyler & Folger, 1980; Hough, Jackson, Bradford, & Myhill, 2010; Sunshine & Tyler, 2003). In these legal settings, citizens interacting with legal authorities such as the police or courts are often asked whether they have had the opportunity voice their opinion, and whether they have been treated in a fair and respectful manner by a neutral authority (Bradford, 2011; Skogan, Van Craen, & Hennessy, 2015; Tyler, 2007; Wemmers, 1996).

From a perceived perspective, procedures are fair when people perceive them as fair. That is, when people have the perception that they are treated fairly and that the procedures are enacted in a just manner. Thus, perceived procedural justice does not only concern the formal procedures that have been followed, but also *how* these procedures have been enacted by important authorities. There are several criteria that people who interact with legal authorities use to form the judgment on whether they have been

7 Whereas in organizational and interpersonal contexts, perceived procedural justice may predominantly entail the informal fairness of the way people are treated (Van den Bos, 2005, 2015), due to its formal qualities, perceived procedural justice in legal contexts may also include the fairness and justice of formal procedures that are used in a legal system (Thibaut & Walker, 1975; Van den Bos, in press). Following Thibaut and Walker (1975), I place both the formal and the informal aspects that I distinguish here under the umbrella term "perceived procedural justice." As such, I do not incorporate notions or labels such as "interactional justice" (Bies & Moag, 1986) or "interpersonal and informational justice" (Greenberg, 1993; Colquitt, 2001).

treated in a fair manner (for an overview, see Grootelaar, Hulst, & Van den Bos, in press). For the matter of this dissertation, I consider it particularly important that litigants can voice their opinion, that a competent, professional and impartial judge listens seriously to them, and that litigants are treated in a fair and just manner in the same way as others, with politeness and respect, by a judge who has carefully studied their case.

FINDING COMMON GROUND

Both the normative and the perceived perspective of procedural justice aim to answer the question what constitutes a fair procedure. The differences are in the standards or criteria they use to answer this question. Whereas the normative perspective uses the values underlying a legal system and the authoritative legal standards of fair treatment derived from them, the perceived perspective focuses on subjective perceptions of real litigants involved in a legal procedure to answer the question what makes a procedure fair.

Observing these differences is not to say that the two perspectives do not share any common ground. I will argue here that the normative and perceived perspectives are related, and that it is important to pay attention to the way they may interact when studying fair procedures. I will elaborate on this argument by making use of Schuyt's (1983) view on the legal system.

Schuyt (1983) proposes the legal system as a triangle consisting of three separate elements. The first element is the abstract set of rules, norms, and principles, known as the ideal element. The ideal element is a "system of meaning" (*betekenissysteem)* which refers to the rules, norms, and principles that give meaning to the multiple reality of human behavior. This abstract system of rules has a symbolic function in organizing, structuring, and interrelating certain societal phenomena, thereby giving them meaning and sense. The second element is the operational element that consists of all the organizations and institutions with legal authorities and officials working there. These officials are the people whom we decided to allow to apply and interpret the rules, thereby letting them fulfill key positions in our legal system. The third element is the total of concrete decisions and actions (*handelingen*), both of legal authorities and members of society, and is known as the actual element.

These elements, though different in their nature, are interrelated. The first and third elements are the most closely related. An ideal system of meaning cannot exist without concrete events that give the system substance, and actual events cannot exist without a system of rules that shapes them. The operational element is an intermediary between the two other elements. After all, we need real people functioning at key positions in the legal system who give the concrete actions and decisions their meaning and

sense (Galligan, 2007; Schuyt, 1983). Concrete behavioral actions (third element) are interpreted by legal authorities (second element) who make use of their legal system of meaning which consists of rules, principles, and norms (first element).

For a better understanding of how the normative and perceived perspectives of fair procedures interact, it is important to note here that the third element's concrete decisions and actions are susceptible to multiple interpretations: the legal system of meaning determines only the legal or normative dimension of these actions. The rules and procedures that constitute the ideal element do not mirror something that really exists, but rather represent our ideas about how something should be (Schuyt, 1983). Other systems of meaning, however, give another sense and meaning to the exact same actions. It is therefore important to acknowledge that actions are not only interpreted by lawyers working in legal institutions, but that laypeople give meaning to the same actions as well. I argue here that laypeople are important actors in our legal system, and that it is valuable to pay attention to their system of meaning too. Figure 1.1 illustrates what Schuyt's (1983) classic triangle (in bold, consisting of elements I, II, and III) would look like when complemented with the subjective system of meaning that laypeople use when interpreting actions.

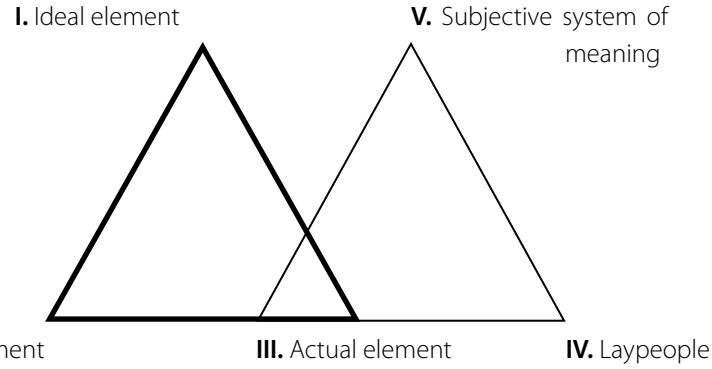


Figure 1.1 *Adjustment of Schuyt's (1983) triangle as representation of the legal system*

Figure 1.1 shows that the concrete actions and decisions that constitute the actual element (III) are susceptible to interpretations of different actors in our legal system (II and IV) using different systems of meaning (I and V). The enactment of formal procedures by judges and the procedural treatment of litigants during the court hearing is a perfect example of such a concrete action. The court hearing is the moment that rules and formal legal procedures are translated into actual actions of judges and members of society. Both judges and litigants give their own interpretations to these actions using their own system of meaning. This means that the court hearing functions as a suitable research context to study the way that the normative perspective and the perceived

perspective of fair procedures interact, because doing research on court hearings involves examining the playing field of all elements displayed in Figure 1.1.

The Importance of the Court Hearing

The court hearing serves a special purpose in legal proceedings. From a normative perspective, the right to a public hearing is a fundamental principle of procedural law, anchored in Article 6 ECHR. An oral hearing is regarded as an important aspect of the quality of the judicial decision.[8] Judges usually take a decision after the court hearing has taken place, making it the last chance in the legal proceedings for parties to present any matters that judges have to take into consideration when making their decision. From a perceived perspective, one of the most important functions of the court hearing for litigants is to have their day in court (Casper, 1978). Although parties have several opportunities to bring their views to the attention of the courts in writing, the court hearing is the only moment they can actually argue their case before a real judge (Marseille, 2009). The court hearing functions as a forum for litigants to voice their opinions, and can contribute to positive perceptions of procedural justice (Eshuis, 2009). Hence, both perspectives on fair procedures find common ground in the importance they attach to the court hearing in legal proceedings.

Both parties and judges are bound by certain procedural rules during the hearing. One may think, for example, of the set times and formal moments that parties can have their say. Litigants in such a setting are tremendously aware of the importance of following these procedures (Lerner & Whitehead, 1980). For both judges and litigants, it is important that these procedures are fair. It is therefore helpful that principles that determine what these procedures should look like are enshrined in law and regulations. Article 6 ECHR guarantees the right to a fair trial, which implies that litigants involved in legal proceedings are entitled to a fair court hearing by an independent and impartial judge. These are not only paper safeguards, but require concrete actions or the omission of concrete actions (Brenninkmeijer, 2007).

Challenging, then, is that the law does not prescribe what concrete actions are necessary to contribute to a fair court hearing. Article 6 ECHR is largely determined by the article's so-called "principle" character (Brenninkmeijer, 2009). In case law, the concept of a fair trial was further developed on the basis of some principles laid down in Article 6 ECHR. Judges typically have considerable discretionary authority in the way that they interpret these principles, and therefore in how they thus enact formal procedures that should result in a fair trial. If we were to sit in different courtrooms and watch different judges,

8 See for example ECLI:NL:HR:2014:3076, NJ 2015/181, in which the Dutch Supreme Court (*Hoge Raad*) emphasized the importance of the oral hearing by deciding that for civil-law cases, except some exceptional cases, the decision should be taken by the same judge as the judge who conducted the oral hearing.

we would probably see that judges conduct court hearings in different ways (Tyler & Bies, 1990).

In my view, the perceived perspective of procedural justice can be of great help here. Perceived procedural justice may function as a useful vantage point for judges in answering the question of what the enactment of a fair procedure should look like, and which concrete actions contribute to a fair procedure. Judges and other legal authorities may therefore benefit from broadening their normative perspective of fair procedures with insights derived from the perceived perspective of fair procedures.

Let me briefly illustrate this with an example. From a normative stance, *audi et alteram partem* or hearing both sides is the core value of procedural justice (Solum, 2004), and probably the most fundamental and familiar value that plays a role during the court hearing (Verburg & Schueler, 2014). The principle can be reduced to parties having the right to present their arguments and respond to each other. But parties do not only want to be subjected to a procedure of hearing both sides. They want the judge to really listen to their story. The judge should explicitly show that he has received and understood the litigant's message (Brenninkmeijer, 2007). Indeed, a court hearing that only serves to "let parties have their say", is only a formality, not a full-fledged court hearing (De Bock, 2015). Assuming that strict adherence to formal procedural justice results in satisfied litigants who are convinced that you have acted fairly is oversimplifying the complex interplay of factors involved in a legal procedure (Landls & Goodstein, 1986). An often-quoted maxim is therefore that justice should not only be done, but should also be seen to be done.[9]

In sum, the normative and perceived perspectives of fair procedures, though different, are related, meaning that the two perspectives find common ground in the importance they both assign to the court hearing. Accordingly, using court hearings as a research context enhances our understanding of how the normative perspective and perceived perspective of fair procedures interact. With this dissertation, I aim to broaden the normative perspective of fair procedures by doing empirical legal research on perceived procedural justice.

THE INTERACTION BETWEEN EMPIRICAL RESEARCH AND THE LAW

It is tempting for each academic and scientific discipline to believe that their perspective has a unique hold on the truth. For knowledge gaps to be bridged, however, it is essential that all those involved have "academic and scientific humility", by which I mean that each discipline must recognize that it sees only part of the full picture and that there

9 This aphorism comes from Lord Chief Justice Hewart (1924) in the leading English case on impartiality, *R v Sussex Justices, Ex parte McCarthy.*

are other equally legitimate if rather different perspectives on the truth (Canter, 2008).[10] After all, perspectives are just the lenses through which we see reality. Thus, looking at specific legal rules and procedures through the lens of perceived procedural justice provides legal scholars with a more comprehensive view of reality.

It goes without saying that the law benefits from the extra-legal insights stemming from other disciplines, such as psychology, sociology, and economics, as demonstrated by the numerous "Law and" movements (Rubin, 1997). After all, law is a human endeavor (Finkel, 2001). The legal system consists of rules that are in fact written human interaction. This means that scholars who study the law, in fact, study human interaction. Consequently, extra-legal knowledge borrowed from other disciplines helps them to fully understand the mechanisms underlying human behavior. Furthermore, combining an internal legal doctrinal perspective with external perspectives, an endeavor often referred to as interdisciplinarity, yields new knowledge and thoughts on how to organize legal rules and procedures as well as on our thinking about public-policy issues (Giesen, 2015a).

Interdisciplinarity requires a level of interaction that moves those whose training is steeped in the culture of law schools and legal practice beyond their particular professional understanding (Weinstein, 1999). That is, it involves interaction of traditional methods of legal research with the methods and techniques of other disciplines, which are often empirically oriented (Vick, 2004). Although the levels of intensity with which legal scholars conduct interdisciplinary research range from mutual inspiration to full integration (Nissani, 1995; Taekema & Van Klink, 2011), I signal a growing, albeit not undisputed, trend in the legal discipline to consider findings from empirical studies conducted in the legal domain, to which I will refer here as "empirical legal research".[11]

Although empirical legal research may be called a "buzzword" (Blocq & Van der Woude, 2017), and some even speak of "the empirical revolution in law" (Ho & Kramer, 2013), it is by no means a fad (Grootelaar, 2017). In fact, the empirical study of the law has a long history (Kritzer, 2009), and is rooted in a diversity of disciplines, such as legal realism, sociology of law ("Law and Society") and criminology (Leeuw, 2015). Nonetheless, while the mode of research itself may not be new, the legal academy appears to be increasingly aware of the need to consume and employ empirical studies to buttress their normative and descriptive claims. This recent growth of empirical legal research is fueled by the great range of issues considered by legal scholars, interdisciplinary research

10 I was inspired by Canter (2008), who used the term "professional humility" as a prerequisite for lawyers and psychologists who want to bridge the gap between law and psychology.

11 I decided to use the term "empirical legal research", not Empirical Legal Studies (ELS), because the latter has a certain connotation. The US-founded ELS is highly practice-driven and considerably focuses on statistical analyses of data sets and databases, thereby being more quantitative than law and society research (Van Dijck, 2016). I believe empirical research in the context of the law to be much broader, including a variety of methods (Grootelaar, 2017). Analyzing legislative proposals and counting case law, for example, can be part of empirical legal research too (Grootelaar & Van den Bos, 2015).

collaborations, and relevant legal data becoming more accessible (Heise, 2002). And of course, the immediate appeal of empirical studies of legal phenomena to research funders also helped spark the call for more empirical research by law departments.

A positive side effect of this increased attention for and visibility of empirical legal research, in my view, is that lawyers critically reflect on how this type of research relates to what we call doctrinal legal research, which makes them more consistent and transparent in their writings about the research methodology they use (Grootelaar, 2017). This might be useful, not in the last place because of the ongoing debate on law as a scientific discipline (Stolker, 2003; 2014, Ulen, 2002), which concentrates on legal methodology, or rather the proclaimed lack thereof (Crijns, Giesen, & Voermans, in press).

Tensions and Trade-offs

In any discussion of the relevance and usefulness of empirical research in the law, the persistent tension between methods of social science and theory, goals, and settings of the law is addressed (Robbennolt, 2002). There are a number of methodological approaches to address research questions that have relevance for the law, all with their own advantages and limitations. I will briefly elaborate on the methodological choices I made in designing the empirical studies that form the heart of this dissertation.

Empirical legal researchers ought to be concerned with several different aspects of research. An important concern for example is whether the measures used to quantify (legal) concepts are sufficient to capture the construct at issue. With regard to this issue of construct validity (Cook & Campbell, 1979), I used multi-item scales that I adapted to the courtroom-specific context to measure the core concepts of my studies. For example, I measured perceived procedural justice by building on earlier work, and by including statements on the judge's impartiality and competence because I considered these especially important in the courtroom-context of my studies. Furthermore, when designing my questionnaires, I tried to immerse myself in the perceptional world of my respondents. As part of pilot-testing for my first study, I spent afternoons at the court attending court hearings, talking to litigants, and observing their interaction with their lawyers. I noticed that litigants not only differed in their level of education, and language proficiency, but also in their emotional state of mind and personal involvement in their case. For this reason, in order to elicit useful information from my respondents, I avoided jargon, abbreviations, and complicated words. In addition to this, I presented the questionnaire to judges involved in different types of law cases to make sure that the words I used were clear. I believe this contributed to the design of a questionnaire with items that looked subjectively valid and meaningful to the litigants in the court (i.e., face validity, Brewer, 2000; Smith, 1981).

Another concern that impacts how empirical research is used in law refers to the trade-off between the ability to control and manipulate variables that are of interest and the degree to which the research setting reflects the relevant legal conditions (Robbennolt, 2002). This tension has implications for the degree to which causal inferences can be drawn about relationships between variables (i.e., internal validity, Cook & Campbell, 1979), and the degree to which research findings can be generalized to persons, times, and settings beyond those regarding which the research was conducted (i.e., external validity, Cook & Campbell, 1979).

In the studies that I present in this dissertation, I conducted survey research in relevant courtroom contexts among actual court litigants. In designing these studies, I selected court cases that were particularly well-suited to test my hypotheses, and which I could easily get a grip on. Specifically, I focused on court cases which were by no means the most complex ones (meaning the most intricate legal puzzles), but which truly mattered for the litigants involved. Litigants involved in these cases were preoccupied with the question whether they would receive social benefits the following month, whether they could stay in their rental house in spite of payment arrears, and whether they would be sentenced or not by the criminal law court. My research design therefore aimed to obtain external validity of my findings at the expense of internal validity. This means that the real-life context of my studies makes the results to some extent generalizable for other litigants and legal settings, but makes it impossible to draw causal inferences by randomly assigning actual respondents to conditions of fair and unfair treatment by an actual judge.

Even from these brief illustrations, it should be clear that any individual empirical legal study will inevitably have some drawbacks as well as some advantages. I elaborated on these methodological choices not only because they reveal the challenges empirical legal researchers face when conducting legally relevant research in an often-complex real-life context, but also because I believe that it is of great importance that legal consumers of empirical data engage in a more systematic and critical consideration of these tensions and trade-offs. After all, a basic preparation in empirical research methods is essential to gain any nuanced understanding of the implications of methodological choices (Robbennolt, 2002). With this dissertation, I hope to add to the numerous books published on empirical legal research (see, e.g., Cane & Kritzer, 2010; Epstein & Martin, 2014; Lawless, Robbennolt, & Ulen, 2010; Leeuw, & Schmeets, 2016; Van Boom, Desmet, & Mascini, in press) that make law students, law professors, lawyers, judges, and practitioners better equipped critical consumers of empirical research in law. If, in addition to becoming more sophisticated consumers, lawyers also become adept producers of empirical research themselves, so much the better.

THE CURRENT DISSERTATION: A CRITICAL EXAMINATION OF PERCEIVED PROCEDURAL JUSTICE IN LEGAL CONTEXTS

Reading the foregoing sections may have given you the impression that lawyers may indeed benefit from broadening their normative view on procedures with insights derived from empirical research on perceived procedural justice. After all, who can be against fair treatment of citizens? Folger (1984, p. ix) has even noted that "the importance of justice cannot be overstated", and Bora (1995, p. 187) stated that "no one will reject the principle of procedural justice, every person will consider it worthy". It is my view that in order to hold such statements to be true, and to fully embrace perceived procedural justice in the legal field, we need to subject the issue to critical examination. Therefore, I will take a Popperian approach to science in this dissertation. That is, I believe that all theories and laws must be open to criticism. After all, it is easy to obtain confirmation of nearly every theory, if we look for confirmation. Scientists pass on theories, but also pass on critical attitudes towards them (Popper, 1963).

Thus, I adopted a critical attitude towards insights derived from research on perceived procedural justice. This means that I will challenge the importance of procedural justice by studying how people respond to the issue in a real-life context in combination with issues that are also potentially important. More specifically, I will make use of relatively non-invasive research methods that fit quantitative survey practices which are common in the field of perceived procedural justice, and I will add to these practices by using a research design in which I examine perceived procedural justice (I) in relation to outcome concerns, (II) in contexts of prevalent distrust where people have a lot at stake, and (III) in relationship to proactive perceptions of procedural justice.

Procedural Justice: Panacea or Polemic?

I am not the first legal scholar who argues that we may benefit from broadening our normative perspective of fair procedures with empirical research on perceived procedural justice. Several researchers have attempted to clarify normative issues by using empirical research methods (Darley, Fulero, Haney, & Tyler, 2002; Thibaut & Walker, 1975; Thibaut & Walker, 1978), and by reconciling normative and descriptive approaches to procedural fairness (Tyler & Jost, 2007).

With regard to the specific courtroom context of this dissertation, some legal scholars have argued that normativity and empirics become entangled because the principles embodied in Article 6 ECHR are closely related to perceived procedural justice criteria (Brems & Lavrysen, 2013; Brenninkmeijer, 2009; Doornbos, 2017; Giesen, 2015b). Indeed, research on perceived procedural justice teaches us that many fairness criteria play a

role in the day-by-day application of procedural law, and may therefore function as useful benchmarks in the judge's pursuit of a fair procedure (Giesen, 2015b).

Lawyers and policy makers in the field seem to embrace research on perceived procedural justice (Hagan & Hans, 2017). Judges and court personnel are more and more interested in how litigants experience their day in court and whether litigants feel proceedings have been fair. Legal professionals acknowledge that treating people fairly encourages decision acceptance and leads to positive views about the legal system (Tyler, 2007). Procedural justice is sometimes called "the key ingredient for public satisfaction", and some even suggest that judges have embodied the concepts of procedural fairness in their everyday lives (Burke & Leben, 2007). The fair process effect (Folger, Rosenfield, Grove, & Corkran, 1979; Van den Bos, 2005; 2015) and other important implications of treating people fairly have not remained unnoticed among lawyers and policy makers.[12]

Although some lawyers and legal scholars seem to view the perceived procedural justice paradigm as a panacea, its welcoming in the legal field has been debated and contested as well (Bora, 1995; Hayden & Anderson, 1979; Sarat, 1993). Some researchers regret the lack of systematic variation in procedural justice studies (Silbey, 2005). Others have criticized the strength of the evidence in support of predictions of procedural justice research, such as the often hypothesized "Procedural Justice Model" (Tyler, 1990; 2003) which refers to the causal linkage between procedurally fair treatment and compliance with the law (Augustyn, 2015; Eshuis, 2009; Hertogh, 2015; McEwan & Maiman, 1984; Nagin & Telep, 2017; Tyler & Jackson, 2013; Slocum, Wiley, & Esbensen, 2016). Some researchers contrast the fair process effect that being treated fairly leads to various kinds of positive reactions (Van den Bos, Bruins, Wilke, & Dronkert, 1999). Indeed, people may even respond negatively to positive experiences of procedural justice (Murphy & Cherney, 2011). Fagan and Piquero (2007), for example, found that fair and respectful treatment by judges actually predicted more involvement in violent offences. Furthermore, little acknowledgment is given to conditions under which procedural justice has been shown not to mitigate the effects of outcome favorability (Rupp, Shapiro, Folger, Skarlicki, & Shao, 2017).

The relative importance of procedural justice for legal practitioners has been questioned as well (Doornbos, 2017; Van Velthoven, 2011). Some lawyers have been found to be

12 See, for example, the Criminal Court Practice Guide at www.courtinnovation.org, designed by a group of court leaders and experts in criminal justice from across the United States who joined forces to examine strategies to increase public trust in the court system. They aimed to generate a concrete set of evidence-informed, recommended practices that criminal court professionals can implement to promote the perception of fairness. Another example is the Fair Tracks Program initiated by the Dutch Ministry of the Interior and Kingdom Relations, which encourages public officials to have a direct and personal telephone call with the citizen who has lodged a complaint or submitted an objection or who is about to receive a negative decision, and which evaluated how citizens experienced the informal approach, especially in terms of perceived procedural justice (Van den Bos, Van der Velden, & Lind, 2014).

especially skeptical about procedural justice if high outcomes are at stake (Lind & Tyler, 1988; Haller, & Machura, 1995), and some judges have been found to believe that litigants do not pay very much attention to procedures as long as the outcomes in their case are positive (Tyler, 1984). There are, indeed, situations in which people become more or less concerned with procedural justice issues (Hulst, 2017). Research among serious crime victims has shown, for example, that respectful treatment is only related to confidence in the legal system when outcomes are favorable to litigants (Laminarayan & Pemberton, 2014).

In sum, procedural justice research, although powerful, may be limited in scope because of its predominant focus on fair process effects, thereby neglecting other factors or contexts that can have significant influence on our beliefs about the courts (Smith, 2007). To critically examine its importance in real-life legal settings such as courtrooms, it is necessary to take a wider view of the concept of perceived procedural justice together with other potentially important factors. Furthermore, empirical knowledge about the effects of procedural justice still gives little guidance for judicial policy making (Hayden & Anderson, 1979; Nagin & Telep, 2017; Van Velthoven, 2012). More in-depth research into the importance of procedural justice therefore seems highly desirable (Van Velthoven, 2011; Verschoof, 2014).

With this dissertation, I respond to both the growing enthusiasm *and* the criticism offered by legal scholars and practitioners. Whereas the legal domain seems to extol the virtues of procedural justice, I challenge the extent to which procedural justice is universally valued. I aim at critically examining the question whether perceived procedural justice really matters in the Dutch legal context, and if it does matter, how and when it matters. Accordingly, I challenge the importance of perceived procedural justice by studying how fairness perceptions of Dutch litigants interact with issues that are also important, such as (I) outcome concerns (II) contexts of prevalent distrust, and (III) judges' perspectives of procedural justice. As such, my courtroom studies involve the interaction between (a) judges and litigants (b) different perspectives on fair procedures, and (c) law and empirical research.

The Relationship between Procedural Justice and Trust

To test the central premise of this dissertation that perceived procedural justice matters, I explored how it impacts litigants' trust in judges. Of course, I could have chosen other important dependent variables as well. Many eminent studies in the field of procedural justice focused on compliance, acceptance, and obedience for example (e.g., Lind, Kulik, Ambrose, & De Vera Park, 1993; Sunshine & Tyler, 2003; Tyler, 2006), and some studies even included actual behavior instead of beliefs and evaluations (Hertogh, 2015; Paternoster, Brame, Bachman, & Sherman, 1997). Why does this dissertation place people's evaluations of trust at the center of attention?

Especially in the legal context of this dissertation, where the court is a last resort to obtain justice, citizens are highly dependent on judges. Their fate lies in the judge's hands. Furthermore, the legal professionals working in courts have considerable discretion in what they decide, and how they reach decisions. If these institutions are not trusted by the citizens they serve, they are unable to function properly (Grimmelikhuijsen, 2012). Being trusted by citizens who believe that you are reliable and legitimate is therefore important. Legal institutions need citizens' trust to operate effectively (Tyler, 2006), and many authorities are therefore justifiably concerned with the public's confidence in their performance.

Trust in legal institutions is a not fully understood issue. A detailed inspection suggests that survey studies on trust in legal institutions show a mixed picture (Griffiths, 2011). Whereas some studies try to appease us with the message that courts are still the most trusted branch of government (NCSC, 2015), other studies suggest that the justice system is rarely among the most trusted institutions in a country (Van de Walle & Raine, 2008). Yet another set of studies note that trust in judges tends to decrease when confidence in other institutions is shrinking. In other words, trust in judges seems to fluctuate in more or less the same way as the public's confidence in other societal institutions does (Arends & Schmeets, 2015). This means that the same negative and positive images of the judiciary recur with varying degrees of forcefulness across the surveys (Griffiths, 2011; Rottman & Tomkins, 1999).

Furthermore, another, more conceptual, reason why I focus on trust is because the relationship between procedural justice and trust seems to be more ambiguous than is often realized. Studies on procedural justice and trust in legal authorities present different models with contrasting relationships between the two: some studies treat trust as an antecedent of procedural justice (Tyler & Huo, 2002, Jackson & Bradford 2010; Hough, Jackson, Bradford, Myhill, & Quinton, 2010; Gau, 2010; Murphy, Mazerolle & Bennett, 2014), other studies view trust as the result of procedural justice (Tyler & Blader, 2000; Tyler & Lind, 1992; Lind et al. 1993; Van der Walle, 2009), and a third class of studies propose that procedural justice and trust cannot really be distinguished from each other (Johnson, Maguire, & Kuhns, 2014; Tyler & Huo, 2002). Clarifying these conceptual boundaries and studying in detail the relationship between procedural justice and trust is an important purpose of this dissertation. Therefore, the hypothesized relationship between perceived procedural justice and trust in legal institutions forms the core of each of my studies.

Procedures and Outcomes

One important goal of this dissertation is to challenge the concept of procedural justice by studying how people respond to the issue in combination with other potentially important issues. Theory and research in the field of justice have long dealt

with instrumental issues, such as the effects on individuals of the outcome associated with their relationships or encounters with authorities. Of course, citizen-authority relationships involve more than procedures only. Outcomes have been found to influence how litigants evaluate their interaction with the government (Katz, Gutek, Kahn, & Barton, 1975), and in discussions of public trust in the courts, discontent with the courts is often assumed to be linked to the outcomes delivered by the court (Tyler, 2001). Legal scholars tend to adhere to the view that outcomes drive legal behavior, legal judgments, and evaluations of the legal system (MacCoun, 2005). For judges and lawyers, for example, the single most difficult concept to accept is that most people care more about procedural justice than they do about winning or losing the relevant case (Burke, 2009). After all, as rational human beings we want to maximize our own material interests, don't we?

For a full understanding of perceived procedural justice, I will therefore examine the issue in close relation to its natural counterpart: outcome favorability. The socio-psychological concept of outcome favorability refers to both the perceived fairness (the extent to which someone believes the decision is fair), and the perceived valence (the extent to which someone is benefitted by the decision) of the outcome received (Brockner & Wiesenfeld, 1996).

When I started with my first study on procedural justice, I saw a challenge in studying the concept of procedural justice in a context where there is much at stake for the people concerned, and where, as a consequence, outcome concerns are likely to matter. Therefore, I conducted an empirical study among real litigants with real problems and high stakes, regarding whom we can assume that receiving a favorable decision from the judge is of great importance. The fact that judges often have to provide litigants with unfavorable outcomes which are perceived to be unfair and undesirable makes it even more relevant to study the importance of both procedures and outcomes in one study.

Chapter 2 reports the findings of my first study, which I conducted among litigants who appeared at court hearings at the district court of the Mid-Netherlands. These litigants appeared in three types of law cases: in cases concerning motoring fines, in administrative administrative law cases, and in criminal law cases. I approached litigants while they were waiting in the hallway of the court building for their court hearing to begin. Litigants who agreed to participate, filled out the pre-hearing questionnaire prior to the court hearing that measured their state of mind, what was at stake for them, and how they coped with emotional uncertainty. The post-hearing questionnaire was filled out when respondents left the courtroom after they had appeared before the judge and measured respondents' perceived procedural justice, outcome favorability, and trust in judges.

What I argue in Chapter 2 is that the effects of procedural justice and outcome favorability are not merely additive, but that they interact, in that the impact of perceived procedural justice depends on how favorable people perceive their outcome. Or, to phrase this process x outcome interaction effect differently (Brockner & Wiesenfeld, 1996): Perceived procedural justice can attenuate the negative impact of unfavorable decisions often given by judges in courtrooms. I further suggest that other important outcome-related variables, such as outcome importance and outcome information moderate the hypothesized relationship between procedural justice and trust in judges. For example, I argue that when people have a lot at stake, they care even more about the way they are treated by important legal institutions. The study reported in Chapter 2 aims to shed light on the empirical relationships between procedural justice and trust in judges, the interaction effect between procedural justice and outcome favorability on trust in judges, and the moderating effects other important socio-legal variables may have on these relationships.

The findings reported in Chapter 2 first of all support the existence of the often-theorized relationship between procedural justice and trust in judges in a real-life courtroom context: Litigants who were treated fairly were more likely to trust the judge who handled their case. The real-life courtroom context of this study enabled me to further examine this important relationship in relation to outcome-related variables, and other interesting courtroom-specific characteristics. I found that the positive relationship between procedural justice and trust in judges was more pronounced when litigants perceived their outcome as unfavorable, when litigants had a lot at stake, and when litigants had prior court experience.

Litigants did care about being treated fairly when outcomes were favorable, and they cared even more about a fair treatment when outcomes were unfavorable. The findings suggest that procedural justice cushions or counteracts the negative effect of unfavorable outcomes (Kwong & Leung, 2002; Lind & Tyler, 1988). Furthermore, being treated fairly by the judge continued to be important for those litigants who already knew the outcome. This indicates that having information about the outcome does not necessarily influence the weight people attach to the fairness of the procedure. In Chapter 2, I speculate on possible explanations for these findings.

Taken together, with my first empirical study I tried to enhance our understanding of how litigants come to trust judges, and which role both procedural and outcome concerns play when litigants form these trust judgments. More specifically, I aimed to better understand how and when procedural justice and outcome favorability matter both separately and in an interactive sense. The findings of my first study are useful not only for theory building. In Chapter 2, I emphasize that judges who daily encounter litigants in all kinds of law cases, can benefit from these results as well. After all, for these judges it is relevant to know under which conditions high procedural justice can

attenuate the negative impact of the unfavorable decisions with which they often have to disappoint litigants.

Procedural Justice and Prevalent Distrust

Another way to critically examine the importance of perceived procedural justice is studying the concept in a context where distrust in the law and the legal system is prevalent: in a context where citizens do not enter the court as "blank pages" but instead have been disappointed in their interaction with important legal authorities and dissatisfied with the decisions taken by them. This is often the case in situations in which the legal authority had considerable discretion in what and how to decide. Those situations mark the dependency relationship between citizen and state, in which fair procedures are of particular importance (Galligan, 1996; Rubin, 2003).

The start of a criminal procedure is one of the most serious and stressful state-citizen interactions (Casper, 1978). The criminal justice system is the official mechanism through which a democratic government maintains power and control over its citizens, and being involved in a criminal trial equates experiencing one of the most severe consequences of state-citizen interactions (Landls & Goodstein, 1986). Furthermore, many actors in the criminal justice system have considerable discretion in what and how they decide. It has been argued that using these discretionary procedures that characterize the day-to-day functioning of the criminal justice system may threaten its very existence by creating perceptions of unfairness and injustice (Landls & Goodstein, 1986). Indeed, many scholars have suggested that reducing or eliminating the discretion that legal authorities have will increase litigants' sense of fair treatment (see e.g. Frankel, 1973; Von Hirsch, 1976).

Public prosecutors usually have considerable discretion with regard to the question whether or not they decide to charge defendants with a crime, notwithstanding easily demonstrable guilt. By not charging a defendant, these prosecutors find the alleged victim to not have been the victim of a criminal act, which may cause difficulties resulting from differences in perceptions between the alleged victims and the authorities (Joutsen, 1984). After all, these alleged victims consider themselves victimized by a crime, which is not considered to be a crime or is not brought to court by the prosecutor. Furthermore, when prosecutors decide not to prosecute a criminal offence, alleged victims are virtually refused any opportunity to participate in a criminal procedure. As a consequence, they may hold a negative view of the legal authorities involved, resulting in low levels of trust in the criminal justice system. These negative experiences with the criminal justice system may in turn strengthen the perception of being treated unfairly during future state-citizen interactions (Casper, 1978).

Although prosecutorial discretion is necessary because it allocates scarce prosecutorial resources and allows for leniency, it places prosecutors in a powerful position in many criminal justice systems. Like many other jurisdictions, the Dutch criminal law system balances this far-reaching prosecutorial discretion by offering alleged victims an opportunity to request the initiation of a prosecution or to appeal a prosecutorial decision not to bring charges. More specifically, alleged victims can commence the so-called "Article 12 proceedings" which allows them to file a complaint with the court of appeal against the public prosecutor's decision not to prosecute.

Chapter 3 reports the findings of a study that was conducted among alleged victims who started the Article 12 proceedings. These "complainants" received a baseline questionnaire which measured their motives for starting the Article 12 proceedings and their levels of trust in criminal justice institutions at that moment, and a main questionnaire eight months later, which measured the way the court of appeal handled their complaint.

In Chapter 3, I argue that being treated fairly by the court of appeal during the Article 12 proceedings plays an important role in shaping judgments of trust in criminal justice institutions. More specifically, I argue that a fair treatment during the Article 12 proceedings will promote higher levels of trust in the criminal law court, the Public Prosecution Service, and the criminal justice system.

Because the aim of this dissertation is to critically examine the importance of perceived procedural justice, and building on my first empirical study, Chapter 3 takes the role of outcome concerns into consideration. This seems to be of particular relevance in a context where 75% of the complaints do not result in the offence becoming the subject of criminal prosecution, so citizens generally do not get the outcome they desire. Furthermore, the Article 12 proceedings are a last resort for citizens to exercise their rights and correct the system. This means that appealing a prosecutorial decision is often the last legal remedy to exercise one's supposed rights, and a last chance to reach a fair and favorable decision.

In this context of prevalent distrust where there is a lot at stake for complainants in terms of outcome concerns, I found a strong overall impact of perceived procedural justice: high levels of perceived procedural justice during the Article 12 proceedings led to higher levels of trust in the prosecution, in judges and in the criminal law system as such. These perceptions of procedural justice were more strongly related to trust in these institutions than concerns of outcome fairness and outcome favorability. This is not to say that outcomes were unimportant in my study, but rather that procedural justice judgments made a significant contribution to complainants' trust judgments beyond outcome concerns.

Furthermore, the findings presented in Chapter 3 reveal that the influence of perceived procedural justice on trust judgments continued to be important when complainants' baseline levels of trust in criminal justice institutions were taken into consideration: although I found trust in criminal justice institutions measured at the beginning of the Article 12 proceedings to contribute to their trust judgments eight months later, these baseline levels of trust were less strongly associated with trust ratings than complainants' perceptions of procedural justice during the handling of their case. Chapter 3 therefore discusses the importance of being heard during the Article 12 proceedings.

Perspectives and Procedural Justice

One of the purposes of this dissertation is to get better grip on the way the normative and perceived perspectives of fair procedures interact. With reference to Schuyt's (1983) triangle, I conceptually elaborated on the common ground that judges and litigants may find in their interpretations of the same court hearing. It is interesting to empirically examine whether or not these interpretations are indeed related.

A large number of studies on perceived procedural justice in the legal domain typically qualify as reactive studies, as they focus on how the receiver's judgments of justice affect attitudes, behavior, and decisions (e.g. Tyler, 2003, 2006; Tyler & Huo, 2002). Less frequently studied is its proactive counterpart: the actor's perspective of fair procedures. I argue in Chapter 4 that to fully understand procedural justice in the courtroom, we need to take a two-sided approach and examine how judges and litigants perceive the same interaction.

In Chapter 4, I will conceptually and empirically link the judges' and the litigants' perspective of procedural justice. By proposing a conceptual model on the empirical relationships between these two perspectives, I will argue that judges' perceptions of the degree of procedural justice given to litigants during the court hearing (i.e., proactive procedural justice) are related to litigants' perceptions of the degree of procedural justice received during the court hearing (i.e., perceived procedural justice). Based on my first courtroom study described in Chapter 2, I further believe that the meaning of procedural justice for both judges and litigants may be influenced by what is at stake for people when they enter the courtroom. When outcomes are considered to be more important, litigants will probably pay more attention to how fairly they are treated by important legal authorities (Tyler, 1988). The more people have at stake, the more they may care about the way they are treated by important legal authorities. I expect the same reasoning to hold true for judges. When they consider outcomes to be more important for litigants, judges will probably pay more care to how fairly they treat these litigants. Moreover, judges are probably able to give a more or less accurate estimation of the outcome importance for litigants. For this reason, I argue that the level of importance litigants their outcomes (i.e., perceived outcome importance) is related to

the level of importance that judges attach to litigants' outcomes (i.e., proactive outcome importance).

Chapter 4 reports the findings of my third empirical study on procedural justice. Building on the research strategy of my first study, litigants were approached in the hallway of the court building while they were waiting for their court hearing to begin. These litigants were involved in bankruptcy cases, landlord-tenant cases, and administrative-law cases. They filled out both a pre-hearing and a post-hearing questionnaire. Furthermore, I asked the judges involved in the exact same cases to participate in my study. The pre-hearing questionnaire was filled out prior to the court hearing and asked judges what they thought was at stake for the litigants involved. The post-hearing questionnaire was filled out directly after litigants left the courtroom, and measured judges' perceptions of procedural justice, i.e., the degree of procedural justice they thought that they had given to litigants.

The findings reported in Chapter 4 partly support the conceptual model I proposed. I found that when litigants perceived their outcome as more important, judges also tended to perceive litigants' outcome in the specific case as more important. I further found that judges scored themselves higher on the proactive procedural justice scale when they perceived litigants' outcome to be more important. Interestingly, these proactive procedural justice perceptions of judges, in turn, were not related to how fair litigants perceived these judges. In Chapter 4, I discuss potential explanations for these findings, such as the difference in perceptual focus, perhaps even creating two psychologically different realities.

Because I wanted to understand how the judges' and the litigants' perspectives of justice may be related, I zoomed in on specific procedural justice components as well. After they had filled out statements on procedural justice, I asked both judges and litigants what they considered to be the most important procedural justice component. The findings reported in Chapter 4 reveal the context and perspective depending nature of these procedural justice components. I found that the type of law case in which litigants were involved influenced what procedural justice component they considered to be most important, and that judges considered other components to be important than litigants did.

One of the most notable implications of the findings reported in Chapter 4 is that they offer empirical evidence for the fact that litigants' and judges' evaluations of the same court hearing are, while different, to some extent related. Furthermore, the findings reveal the relevance of broadening the central focus in procedural justice research on differences between litigants and cases with a new focus on the systematic differences that may exist between judges who adjudicate these cases. In sum, Chapter 4 offers a better understanding of both litigants' and judges' perspectives of procedural justice.

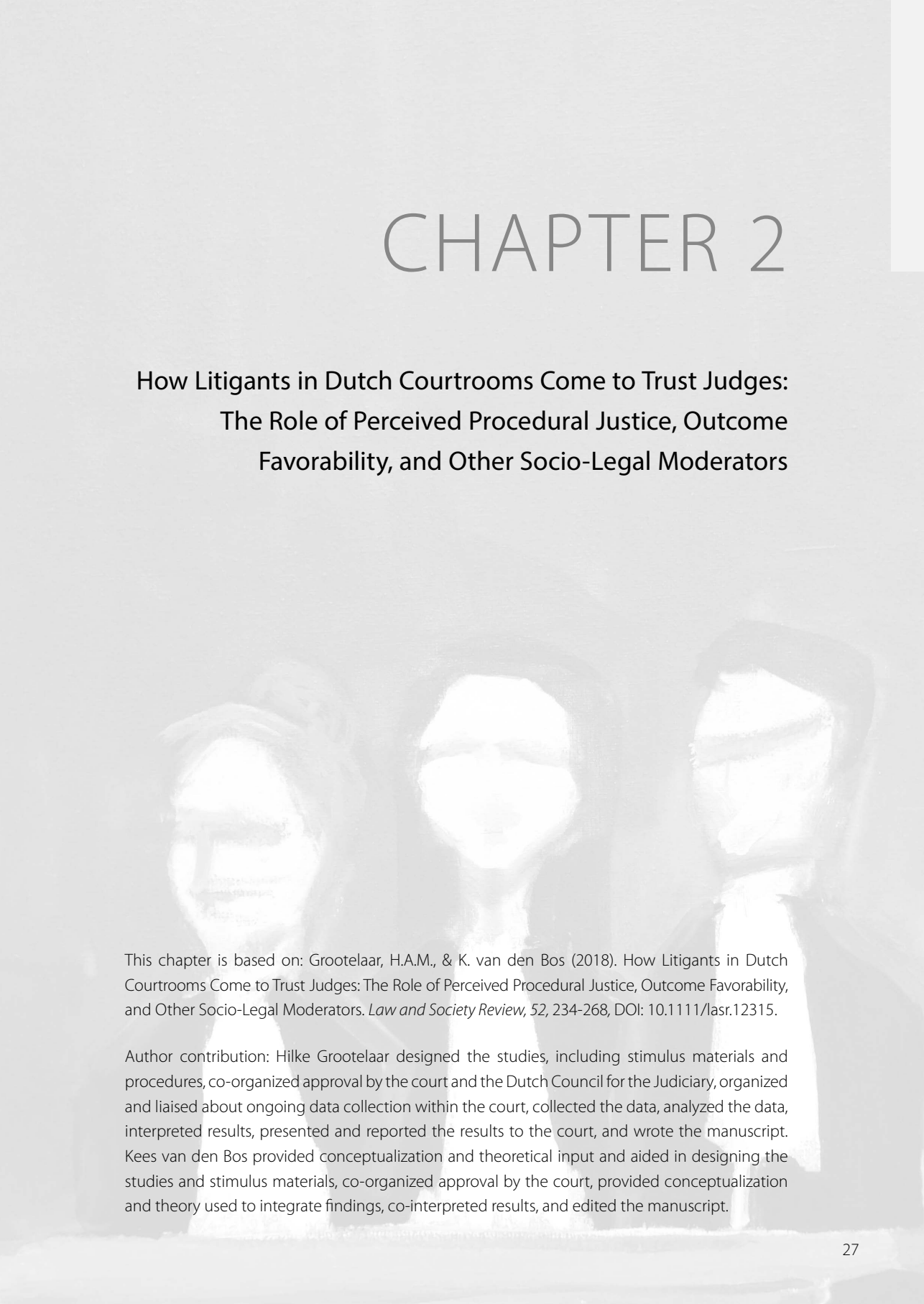
CONCLUDING WORDS

With this dissertation, I aim to broaden the normative perspective of fair procedures by doing empirical research on perceived procedural justice. More specifically, I aim to challenge the importance of perceived procedural justice in a context that serves a special purpose in legal proceedings. To this end, I critically examine the question whether perceived procedural justice matters during court hearings, and if it does matter, how and when it matters, by studying how litigants respond to the issue in combination with outcome concerns (Chapter 2), and prevalent distrust (Chapter 3). To further understand procedural justice in the courtroom, I examine how litigants' perceptions of procedural justice are related to their proactive counterpart (Chapter 4). All this will hopefully help me to get better grip on the way the normative and perceived perspectives of fair procedures may interact.

After the description of my empirical studies in the following three chapters, I will reflect on the findings and discuss their implications and limitations in Chapter 5. Please note that Chapters 2 to 4 have been written as independent research articles, so there may be some overlap between the different chapters. Also, because this is an empirical legal dissertation, I will take a different and perhaps less conventional approach. In each empirical chapter, I will give a detailed description of the methods used and analyses performed. Consequently, some parts of this dissertation may be quite technical. I have done my utmost in this general introductory chapter, and in the empirical chapters that will follow, to introduce the content of my empirical studies to broad audiences, including legal doctrinal scholars. I hope that I have been successful in this respect. In closing, I hope you will enjoy reading about this research as much as I have enjoyed conducting it.

CHAPTER 2

How Litigants in Dutch Courtrooms Come to Trust Judges: The Role of Perceived Procedural Justice, Outcome Favorability, and Other Socio-Legal Moderators



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Author contribution: Hilke Grootelaar designed the studies, including stimulus materials and procedures, co-organized approval by the court and the Dutch Council for the Judiciary, 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 studies and stimulus materials, co-organized approval by the court, provided conceptualization and theory used to integrate findings, co-interpreted results, and edited the manuscript.

ABSTRACT

This chapter examines the hypothesis that litigants' perceived procedural justice is positively associated with their trust in judges. We argue that although this association might seem quite robust, it can vary across contexts. In particular, we suggest that the nature and magnitude of the association between procedural justice and trust in judges depends on outcome concerns, and other socio-legal moderators such as outcome importance and prior court experience. We tested our predictions in three different types of law cases among 483 litigants at court hearings of the district court of the Mid-Netherlands. As predicted, our results indicate that perceived procedural justice was positively associated with trust in judges when outcomes were relatively favorable, and that this association was even stronger when outcomes were relatively unfavorable. The courtroom context studied here enabled us to explore how other socio-legal variables moderated these relationships.

INTRODUCTION

Judicial dispute resolution is an aspect of our legal system that matters a great deal to citizens involved in disputes. Judges are important representatives of societal institutions that need citizens' trust to operate effectively (Tyler, 2006). They are therefore justifiably concerned with the public's confidence in their functioning. In the current chapter, we examine how people come to trust judges and provide support for the idea that trust in judges is elicited by litigants' experience of procedural justice.

We studied the procedural justice-trust relationship among real litigants involved in actual cases at real court hearings. These litigants had real outcomes at stake such as traffic fines, and imprisonments, and were understandably preoccupied with issues such as whether they would receive social benefits the next month or whether they would be sentenced by the criminal law judge. We will argue that these outcome concerns can influence the role perceived procedural justice plays when litigants form their judgments of trust in judges. More specifically, we believe that whether people benefit from the judge's decision (i.e., outcome favorability) and what people have at stake (i.e., outcome importance) moderate the proposed relationship between perceived procedural justice and trust in judges.

We conducted our study in the Netherlands, a country that is relatively understudied in the international research literature on law and society. After all, many or most studies on perceived procedural justice and trust in law have been done in the United States. By studying Dutch court hearings, our study adds to the debated cross-cultural generality of procedural justice findings (Brockner et al., 2001; Kidder & Muller, 1991; Lind, Tyler, & Huo, 1997). Van den Bos et al. (2010), for example, found meaningful cross-cultural differences in reactions to perceived procedural justice between participants from the United States and the Netherlands, revealing that being better off than others is a norm that tends to be more salient in the US than in the Netherlands (see also Hofstede, 1998). Social comparisons, such as being better off than others, play an important role in how people respond to their outcomes (Adams, 1965; Van den Bos, Peters, Bobocel, & Ybema., 2006), which raises the question of whether outcome favorability will moderate the association between perceived procedural justice and trust in judges, as has been suggested on the basis of studies done in organizational and other contexts (for overviews, see Brockner, 2010; Brockner & Wiesenfeld, 1996).

In three different types of law cases among 483 litigants at court hearings of the district court of the Mid-Netherlands, we aim to better understand how and when procedural justice and outcome concerns matter both separately and in an interactive sense. We extend the current knowledge in three ways. First, we provide support for the existence of a positive relationship between procedural justice and trust in judges in a real-life courtroom context in the Netherlands. Second, we demonstrate how important socio-

legal variables, in particular outcome-related variables such as outcome favorability and outcome importance, might moderate this relationship. Third, in addition to providing empirical insight about the relationships between procedural justice, trust in judges, and outcome concerns, we aim to conceptually clarify how to measure these concepts in real-life courtroom settings.

Trust in Judges

Trust in legal authorities such as the police and the courts is important, in part because it results in public cooperation with these authorities and builds institutional legitimacy and compliance with the law (Tyler & Huo, 2002; Tyler & Jackson, 2014). Legal authorities are justifiably concerned with the public's confidence in their functioning and compliance with their decisions. In the United States, for example, the National Center for State Courts (NCSC) frequently carries out nationwide surveys to measure public confidence and trust in the courts (NCSC, 2005, 2015). The European Social Survey (ESS) reveals the variation in trust in justice and legitimacy of justice institutions across Europe (see Jackson et al., 2011). The Dutch judiciary, too, is paying more attention to people's trust in judges, due to the turbulent times of waning legitimate power, reflected by an increasing number of requests for a judge to be removed, the public's growing attention for judicial errors, negative publicity in the media, and the growth of so-called political processes (Bokhorst & Witteveen, 2013).

Our understanding of trust in legal institutions is currently mixed. In some studies, the public has a moderate amount of trust in judges, which appeases us with the message that courts are still the most trusted branch of government, even though certain members of society currently tend to express less confidence in them (NCSC, 2015). In other studies, the public in several countries has been slowly losing confidence in the justice system, which suggests that the justice system is not often among the most trusted institutions in a country (Van de Walle & Raine, 2008). In yet other studies, the public's trust in judges seems to fluctuate in more or less the same way as the public's confidence in other societal institutions does, tending to decrease when confidence in those institutions is shrinking (Arends & Schmeets, 2015). Thus, the same negative and positive images of the judiciary recur with varying degrees of forcefulness in the different studies (Rottman & Tomkins, 1999). Furthermore, some studies measure "trust" in a rather general way and do not say much about what it exactly means for individuals to trust judges with whom they are confronted in court (Griffiths, 2011). In short, trust in judges is not fully understood. Our study will add to our understanding of how litigants come to trust judges by measuring it as precisely as possible directly after litigants have entered the courtroom with items that we believe are valid and meaningful to the litigants and hence have appropriate levels of face validity (Brewer, 2000).

Perceived Procedural Justice

People react more positively toward decision-making authorities when they perceive a decision-making process as fairer. Procedural fairness has been found to be related to various human reactions such as voluntarily acceptance of authorities' decisions and commitment to groups, organizations, and society (Tyler, Boeckmann, Smith, & Huo, 1997). In legal contexts, procedural justice judgments are strongly associated with acceptance of court-ordered arbitration awards (Lind, et al., 1993), obedience to laws (Tyler, 2006), and outcome satisfaction (Casper, Tyler, & Fisher, 1988). It is therefore likely that treating citizens fairly positively affects their evaluations of and the amount of trust they place in legal authorities. Therefore, Hypothesis 1 predicts that perceived procedural justice will be positively associated with trust in judges in our study among litigants in Dutch courtrooms.

Outcome Concerns

Although procedural justice is valued by citizens who interact with authorities, citizen-authority interactions involve more than procedures only. Thus, we aim to both provide support for Hypothesis 1 and to qualify the hypothesis in various ways.

One way in which we want to qualify Hypothesis 1 is by noting that outcomes matter too. We therefore want to link how litigants evaluate legal authorities to outcome concerns as well. Theory and research have long focused on instrumental issues, such as the effects on individuals of the outcomes associated with their relationships or encounters. Outcomes may influence attitudes toward leaders (Michener & Lawler, 1975) and trust in government (Katz et al., 1975). Moreover, in discussions about public trust in the courts, discontent with the courts is linked to instrumental concerns about the outcomes delivered by the court (Tyler, 2001).

As Casper et al. (1988) stated: "One does not have to be much of an economist to believe that whether litigants win or lose their cases powerfully affects their sense that their interests and concerns have been dealt with appropriately" (p. 485). Not only economists, but also legal scholars tend to adhere to the view that outcomes drive legal behavior, legal judgments, and evaluations of the legal system (MacCoun, 2005). It does seem plausible that litigants whose liberty, money, or driving license is truly at stake might be primarily concerned with their own self-interest and therefore the outcome of the case (Casper et al., 1988).

In our study, we focus on the combined effects of both litigants' perceived procedural justice and their outcome concerns and examine how the effects of the one depend on the effects of the other. Therefore, we will examine how three outcome variables can moderate the relationship between procedural justice and trust in judges.

Outcome Favorability

We believe that the favorability of the outcomes that litigants receive from the court matters for the relationship between procedural justice and trust in judges. Not only being fairly treated by judges, but also perceiving the final decision taken by these judges as favorable determines how litigants evaluate their day in court. The more litigants benefit from a court decision, the more positively they will feel about the judge who handled their case, and the less impact procedural justice concerns will have on their evaluation of the judge.

The effects of both outcomes and procedures are often considered in the same study. In some studies, perceived procedural justice and outcome favorability independently affect attitudes toward received outcomes, judges, and courts (Casper et al.,1988; Thibaut & Walker, 1975; Tyler, 1984) whereas in other studies, perceived procedural justice seems to be a more important determinant of evaluations of institutions than outcomes (Benesh & Howell, 2001; Tyler, 2006).

We propose that the effects of procedural justice and outcome favorability are not merely additive, but that they interact with each other, in that the impact of perceived procedural justice depends on how favorably people perceive their outcome. Or, to phrase this process x outcome interaction effect differently (Brockner & Wiesenfeld, 1996), perceived procedural justice can attenuate the negative impact of unfavorable decisions often made by judges in courtrooms. Therefore, Hypothesis 2 proposes that outcome favorability will moderate the relationship between procedural justice and trust in judges, such that procedural justice will be positively associated with trust in judges when outcomes are relatively favorable, and that this association will be even stronger when outcomes are relatively unfavorable.

Outcome Importance

What people have at stake when they enter the courtroom may influence how perceived procedural justice impacts their trust in judges as well. Procedural concerns seem to be less potent factors psychologically when serious outcomes like imprisonments are at stake than when less serious outcomes are at stake (Lind & Tyler, 1988). However, procedures are still important when outcomes are serious, such as in felony cases (Casper et al., 1988), divorce cases (Benesh & Howell, 2001), and domestic violence cases (Paternoster, Brame, Bachman, & Sherman, 1997).

It is conceivable that outcome importance influences the meaning of procedural justice (Tyler, 1988). When people have a lot at stake, they may care even more about the way they are treated by the legal institutions that ultimately judge their case. Thus, Hypothesis 3 proposes that outcome importance moderates the positive relationship between

procedural justice and trust, such that this relationship will be more pronounced when outcomes are relatively important to litigants.

We believe that outcome importance may also moderate the interactive relationship between procedural justice and outcome favorability. After all, in response to events that are unexpected or negative (Fiske & Taylor, 1991), people are likely to interpret what is going on and seek information that helps them to interpret the situation. In those situations, external cues that address their informational needs are particularly influential (Brockner & Wiesenfeld 1996). Thus, when outcomes are unfavorable, procedural justice may have high informational value. This informational value may be even stronger when unfavorable outcomes are perceived to be important for the litigants. In other words, the more there is at stake, the more likely people are to figure out what is going on and seek information during their courtroom hearing. In those circumstances, information about how fair litigants are treated by the judge can greatly impact their trust judgments.

Thus, Hypothesis 4 predicts that perceived outcome importance moderates the interactive relationship between procedural justice and outcome favorability on trust in judges: When litigants have relatively much at stake, the interaction effect between procedural justice and outcome favorability will be more pronounced.

Outcome Information

People may evaluate procedures in light of the outcomes they produce: knowing the outcome may influence the way people judge the fairness of the procedure. For example, defendants with more certainty about their outcome tend to be more likely to view their treatment as fair than those who have experienced less certainty (Landls & Goodstein, 1986). Prior knowledge about the outcome may not necessarily change the meaning people attribute to the way they were treated, but it may change the weight people place on their procedural justice judgments when evaluating the decision makers (Tyler, 1996). When people know that the outcome of a procedure is favorable before they evaluate that procedure, their judgments about procedural fairness have less impact on their support for the decision maker. Indeed, the order in which information about procedures and outcomes is received matters, and concerns about procedural justice may be more important when people are informed about the procedure first, and about the outcome later (Van den Bos, Lind, Vermunt, & Wilke, 1997).

Hypothesis 5 proposes that outcome information moderates how much perceived procedural justice influences trust in judges, such that litigants rely more heavily on procedural justice as a basis for forming trust judgments when information about the outcome is not yet available.

How Litigants Enter the Courtroom

We expect the way in which litigants enter the courtroom to play an important role in how they perceive the fairness of their treatment during their court hearing as well. After all, having your day in court is a serious and often stressful event (Casper, 1978), which can lead to litigants being nervous and tense. Litigants usually perceive their day in court as an important and emotional day. Furthermore, litigants need to go through the metal detectors, look for the right courtroom in the maze of hallways and stairs, and then start waiting for their court hearing to begin, which makes coming to court often perceived as unpleasant and complicated.

As a consequence, the state of mind in which litigants find themselves at the time the court hearing starts might influence the way litigants perceive what happens within the courtroom. This is obviously difficult to examine unambiguously, and there are countless criteria that qualify for litigants' state of mind during their day in court. We decided to work with two variables which we considered to be appropriate indicators for how litigants enter the courtroom.

In particular, we argue that having your day in court can be an emotional event for litigants. Not knowing what to expect, whether you will be asked questions, and what the judge will decide may evoke feelings of uncertainty. We believe that how litigants emotionally respond to uncertainty plays an important role in our courtroom study. We know that uncertainty enhances concerns for fairness, and especially procedural fairness (Van den Bos & Lind, 2002). Thus, uncertainty, and especially people's affective or emotional responses to experiences of personal uncertainty (Van den Bos, 2007), may heighten the influence of litigants' experiences, such as how they experience procedural justice. We also know that the fair process effect is more pronounced when uncertainty is relatively high (Van den Bos & Lind, 2002). Thus, the more uncertain people are, the more procedural justice perceptions will be enhanced. Hypothesis 6 predicts that litigants' emotional responses to uncertainty moderates the positive relationship between procedural justice and trust, such that this relationship will be more pronounced when litigants respond relatively emotionally to uncertainty.

We further argue that having earlier courtroom experiences may moderate the effects proposed here. We think that having your day in court may be perceived differently when you have been to the court several times before. Having seen the court building before, knowing what to expect from court hearings and judges, and knowing what is expected from you might influence how much impact their perceptions of procedural justice have for litigants' judgments of trust. Court experience may be a locus of comparison for litigants (Casper et al., 1988), such that they will compare the court hearing with the previous time they came to court. Litigants who do not have prior court experience may be more like a blank page, interpreting what happens without any references or

expectations. Indeed, the consistency over time rule prescribes that people want the same procedural rules to be applied at different times (Leventhal, 1980). These reflections aside, at the start of our project we were not sure what to expect of the possible role of earlier court experiences and whether this would moderate the relationship between procedural justice and trust in judges. We thus assessed the possible moderating role of litigants' prior court experience in an explorative way.

THE CURRENT RESEARCH

Taken together, we examine in this chapter how procedural justice is associated with trust in judges, and how this relationship is influenced by outcome concerns and by how litigants enter the courtroom. Thus, our study aims to shed light on the empirical relationships between procedural justice and trust in judges (Hypothesis 1), the interaction effect between procedural justice and outcome favorability on trust in judges (Hypothesis 2), and the moderating effects of outcome importance, outcome information, emotional uncertainty, and prior court experience on these relationships (Hypotheses 3-6). In addition, our research intends to clarify the question of how to measure procedural justice, outcome favorability, and trust in judges.

Our study has been conducted in the context of real litigants with real problems in real courts. Many procedural justice studies have been conducted using laboratory simulations, typically with undergraduate students as participants. Adult litigants involved in real law cases may have different values, different expectations about the procedures and outcomes, and different attitudes towards our legal system than participants in the lab (Casper et al, 1988). Other procedural justice studies have been conducted in organizational settings where other concerns might be at stake than in the legal contexts we studied here (Brockner, 2010). It is thus important to examine the role of procedures and outcomes in how people come to trust judges in the context of Dutch courtrooms in order to assess whether these variables hold up as well as in laboratory or organizational studies, conducted mainly in the United States.

In order to examine whether the five socio-legal variables we distinguished will moderate our first hypothesis that procedural justice is positively related to trust in judges, we used the opportunities the courtroom context of our research offered us and conducted our study by distinguishing between differing types of law cases. Each type of law case can differ with regard to the type of litigant involved (i.e. educational level, income level, and social class), whether these litigants have legal assistance and prior court experience, and what is at stake for these litigants. Furthermore, each type of law case has its own setting and atmosphere (Green. Sprott, Madon, & Jung, 2010). Because we do not know what to expect with regard to the influence of these courtroom differences on our proposed relationships, we refrain from developing specific hypotheses on how and

in which ways the type of law case may moderate the proposed relationships, and we will explore in our analyses what possible moderating effects of type of law case can be reliably observed in the data we report here.

Within this real-life courtroom context of our study, we argue that perceived procedural justice is positively related to trust in judges. Procedural justice in courtroom settings is often measured by using items adapted from existing procedural justice scales (e.g., Peterson-Badali et al., 2007) or by using a combination of the criteria mentioned before (Cheng, 2017). Although we can conclude that the results of studies that have explored the criteria of procedural justice converge considerably, there is still not one widely accepted scale of procedural justice in courtrooms or other legal contexts.

Supported by Lind and Tyler (1988), who tried to spur researchers to undertake careful measurement of procedural justice perceptions, we put forward a scale of procedural justice that could be used in a meaningful way in the court cases studied in our project and that we hope can serve as an impetus for the future investigation of procedural justice in court settings. We measured perceived procedural justice both in terms of "fairness" and "justice" (Lind et al., 1993), and by using several criteria we consider suitable in courtroom settings.

We further argue that outcome concerns should be taken into consideration when examining the association between procedural justice and trust. How should we measure these concerns? Outcome perceptions typically take one of two forms: some studies examined the effects of "outcome fairness" (Lind et al., 1990; McEwen & Maiman, 1984), whereas a larger number of studies looked at the effects of "outcome favorability" (Lind & Lissak, 1985; Lind et al., 1993).

Brockner and Wiesenfeld (1996) used the term outcome favorability to describe a construct that captures both outcome fairness (i.e., the extent to which people perceive the outcome as fair) and outcome valence (i.e., the extent to which people believe they materially benefit from the decision). According to these authors, outcome fairness and outcome valence are two conceptually separate constructs which are not identical, but do overlap considerably. Brockner and Wiesenfeld argued convincingly that it is desirable to focus on the convergence rather than on the divergence between the two concepts.

In the current study, we will follow this line of reasoning and work with a concept of outcome favorability which entails both outcome valence and outcome fairness. Additionally, we will test whether splitting this variable into two different constructs (outcome fairness versus outcome valence) affects the results.

METHOD

Respondents

Our sample of 483 litigants consisted of 335 men (69.4%) and 148 women (30.6%). Respondents' ages varied between 18 and 82 years with an average of 44.39 years (*SD* = 14.55). Respondents' highest education attained varied between primary school (15 respondents, 3.1% of the sample), secondary school (116 respondents, 24% of the sample), senior secondary vocational school (87 respondents, 18% of the sample), higher professional education (118 respondents, 24.4% of the sample), and university (72 respondents, 14.9% of the sample). Seventy-five respondents (15.5% of the sample) did not state their educational level. The average net income per month of the 387 respondents who filled out their income level was between one and one and a half times the modal wage in the Netherlands.

Research Procedure

Litigants who were scheduled to appear at a court hearing in a particular courtroom at a particular time between August 11 and December 22, 2015 were approached while they were waiting in the hallway of the court building for their court hearing to begin. Litigants were asked to participate in a study about their evaluations of their courtroom experience and were informed that their identities would remain anonymous, data would be reported in aggregate only, the study was being conducted independently from the court, and only researchers at the university responsible for conducting the study would have access to the data. All in all, of the 827 litigants approached, 483 agreed to participate, resulting in a 58.4% response rate.

The pre-hearing questionnaire was filled out prior to the court hearing and asked respondents their state of mind, what they had at stake, and how they coped with emotional uncertainty. The post-hearing questionnaire was filled out when respondents left the courtroom after they had appeared before the judge and measured respondents perceived procedural justice, outcome favorability, and trust in judges.[1] Respondents were also asked for demographical information, including age, gender, income, and educational level.

1 We report all measures in our study, so we note that we used 20 items in the post-hearing questionnaire measuring other reactions, such as litigants' willingness to accept the court's decision, litigants' trust in the Dutch judiciary, and the perceived social distance to judges. These items were measured after the variables reported here, were included for exploratory purposes, and did not affect the effects reported here. We asked respondents whether they wanted to give their phone number, so that we could call them after some time in order to ask how they felt about the law cases. Those respondents who did give their phone number on a voluntary basis were called two weeks after they received the judge's decision (N = 199). During that telephone interview, respondents were interviewed on the same variables as measured with the post-hearing questionnaire. This telephone questionnaire was included for exploratory purposes and did not affect the effects reported. All questionnaires were conducted in Dutch and the stimulus materials are available on request.

After filling out the questionnaires, respondents were informed that they could give their e-mail address if they wanted to be informed of the results of our study. One month after we completed the final analyses, we debriefed these respondents by sending them an e-mail summarizing our results. We gained permission to conduct the study by both the district court of the Mid-Netherlands and the Dutch Council for the Judiciary.

Respondents were involved in three types of cases. In cases concerning motoring fines (N = 163), respondents had been imposed administrative fines with the amount of money depending on the seriousness of the traffic offence, ranging from €23 (approximately 26 USD) for illegal parking to €400 (approximately 445 USD) for not possessing an insurance certificate. Litigants appealed these administrative fines and gave an oral explanation of their appeal during the court hearing in the presence of a public prosecutor. In these cases, it is often a citizen's word against a policeman's, and the policeman's word outweighs the citizen's when the subdistrict court judge has to take a decision. Litigants in these cases rarely have legal assistance, and most of them defend themselves.

In criminal cases before the single judge (N = 148), respondents were suspected of misdemeanors, such as theft, threats, or fraud. Single judges cannot impose more severe sentences than fines, community punishments, and imprisonments which last no longer than six months. During the court hearing, respondents either defended themselves against the charges of the public prosecutor, or were defended by their criminal defense lawyer.

In administrative law cases (N = 172), respondents applied for judicial review of decisions made by administrative authorities. These cases concerned predominantly social security issues such as social benefits, social support and tax surcharges. The court hearing is often used by the judge to ask questions to both the representative of the administrative authority and the respondent, whether or not represented by a lawyer. The administrative law judge can declare appeals well-founded, unfounded, or inadmissible. Administrative law judges usually decide cases in a written judgment six weeks after the court hearing has taken place.

Therefore, not all 483 respondents completed all items in our questionnaire. At the time of filling out the post-hearing questionnaire, 186 respondents – predominantly in administrative law cases – had not been informed of the outcome of their case yet. Nevertheless, the majority of the respondents (N = 297) had been informed of the outcome of their case. Due to missing values within this subsample, analyses including

outcome favorability were performed with 241 respondents.[2] The full sample of 483 respondents was used for analyses reported here that did not include outcome favorability.

Main Variables

Trust in judges. Trust is often used as an umbrella term measuring different concepts. In their study on confidence in both state and local courts, for example, Benesh and Howell (2001) measured confidence by only asking respondents for their approval of how the courts were doing their jobs. They did not use terms like "trust" or "confidence" in any of the items they asked respondents to fill out. The same situation occurred in Sprott and Green's (2010) study on trust and confidence in the courts. Instead of measuring trust and confidence, they measured legitimacy, using items on people's obedience to the law, the fair treatment of honest court employees and people's support for decisions made by the court. Indeed, a close reading of the specific items used in previous research on trust in legal authorities suggests that sometimes procedural justice items are used to measure trust (Sunshine & Tyler, 2003). For example, Tyler and Huo (2002) assessed people's motive-based trust in authorities by asking respondents, among other things, the extent to which they agreed that the authority considered their views and tried to take their needs into account. These items resemble procedural justice enhancing factors, such as voice and due consideration to a great extent, although they are seen and treated as measures of trust in research. We seek to address this issue by assessing trust in judges as directly and precisely as possible, by using words like "trust," "reliability," or "confidence" in the items we used. We assessed litigants' trust in judges as directly and precisely as possible by asking them to indicate their level of agreement with the following 6 statements: "I have confidence in this judge," "This judge is someone I trust," "I find this judge reliable," "I do not trust this judge," "I am confident that the judge has taken the right decision," and "I have the feeling that I cannot trust this judge." If necessary, items were reverse scored. Higher scores on the scale reflect a higher degree of trust in judges. The items demonstrated strong internal consistency ($\alpha = .92$). An Exploratory Factor Analysis (EFA) using Maximum Likelihood (ML) extraction and orthogonal rotation was conducted to assess the degree to which the items loaded together. The results of this analysis showed that the six items loaded on a single component ($\lambda = 4.40$; loadings > .60). Therefore, the items were averaged to yield a trust in judges scale.

2 So, in fact, these 241 respondents completed all items on both procedural justice, outcome favorability and trust in judges. A post-hoc G*power analysis (Faul, Erdfelder, Lang, & Buchner, 2007) indicated that with $\alpha = .05$, and a medium average effect size ($f = .24$, Cohen 1992), the sample of this study has an average statistical power of .93 to detect the predicted main effects of procedural justice, outcome favorability, and the interaction effect between the two, which was deemed sufficient for the current purposes.

Procedural justice. Our measure of perceived procedural justice is based on earlier literature (Lind & Tyler, 1988; Van den Bos et al., 2014) and asked respondents to indicate to what extent they agreed with the following 11 statements: "I was treated in a fair manner," "I was treated in a polite manner," "The judge was impartial," "I was able to voice my opinions," "My opinion was seriously listened to," "I was treated in a just manner," "I was treated with respect," "The judge has carefully studied my case," "The judge who handled my case was competent," "I believe the judge has treated me in the same way as others," and "The judge who handled my case was professional." All responses in our study were measured using 7-point Likert-type scales (1 = *strongly disagree*, 7 = *strongly agree*). Cronbach's alpha showed the procedural justice items had strong internal consistency ($\alpha = .94$). EFA revealed that the items loaded on 1 factor ($\lambda = 6.97$; loadings > .70). Accordingly, the items were averaged to construct a procedural justice scale with higher scores indicating more positive evaluations of procedural justice.

Because we aimed to address the conceptual issue of what exactly constitutes trust and what constitutes procedural justice, we used confirmatory factor analysis (CFA) to test if two latent variables would account for the items used to measure both concepts. Two models were investigated: a single-factor model that treated all procedural justice and trust items as indicators of a single latent variable (χ^2 (117, $N = 395$) = 891.85, $p < .00001$; CFI = 0.96; SRMR = 0.070; RMSEA = 0.13) and a two-factor model that distinguished procedural justice from trust. The two-factor model had a better fit than the one-factor model ($\Delta\chi^2$ (1) = 510.4, $p < .0001$). It should be noted that in both the single-factor and the two-factor model we allowed covariation between the errors of two items for procedural justice, and covariation between the errors of two items for trust, to improve the model fit. The final measurement model fit the data well (χ^2 (116, $N = 395$) = 381.45, $p < .00001$; CFI = 0.98; SRMR = 0.05; RMSEA = 0.08). In this model, the correlation between both latent variables was $\rho = .79$, $p < .001$.

Socio-Legal Variables

Outcome favorability. In line with Brockner and Wiesenfeld (1996), we measured perceived outcome favorability by asking respondents to indicate to what extent they agreed with the following statements: "I find this a favorable decision," "The outcome in the case is positive to me," "I agree with the judge's decision," "I find this outcome fair," "I have the feeling I won this case," "This outcome makes me happy," and "I find this outcome just." Because the Cronbach's alpha was high ($\alpha = .97$) and EFA revealed that the items loaded

on one factor (λ = 6.01; loadings > .85), the items were averaged to form an outcome favorability scale with higher scores indicating more favorable outcomes.[3]

Outcome importance. To assess what litigants had at stake before entering the court room, we constructed a 4-item scale with items inspired by Brockner (2010) consisting of the following statements: "The outcome in the case is very important to me," "There is a lot at stake in this case for me," "My financial well-being depends on the outcome in this case," and "The outcome is important for me in order to move on with my life." Because the Cronbach's alpha was high (α = .87), and EFA revealed that the items loaded on one factor (λ = 2.89; loadings > .70), items were averaged to yield an outcome importance scale with higher scores indicating more at stake for the litigant.

Outcome information. We dummy coded whether respondents had outcome information at the time they filled out the questionnaire directly after the court hearing took place.

Emotional response to uncertainty. To assess how litigants emotionally responded to uncertainty (Van den Bos & Lind, 2009), we used the Emotional Responses to Uncertainty scale developed by Greco and Roger (2001). We chose those 10 of the 15 items that we considered most relevant for the current purposes. Specifically, respondents were asked to indicate their level of agreement with the following statements: "I get worried when a situation is uncertain," "Uncertainty frightens me," "When uncertain about what to do next, I tend to feel lost," "When I can't clearly discern situations, I get apprehensive," "Facing uncertainty is a nerve wracking experience," "I get really anxious if I don't know what someone thinks of me," "When I'm not certain about someone's intentions toward me, I often become upset or angry," "When the future is uncertain, I generally expect the worst to happen," "When a situation is unclear, it makes me feel angry," and "I tend to give up easily when I don't clearly understand a situation." EFA revealed an acceptable loading on one factor (λ = 5.53; loadings > .45). We averaged the items into an emotional uncertainty scale. The items demonstrated strong internal consistency (α = .91).

Prior court experience. We assessed whether litigants had prior court experience by asking them to respond to the following statement with "yes" or "no": "This is the first time in my life that I have come to court with a law case."

We also assessed several background variables. Respondents were asked to indicate their gender, age, education, income, and whether they had legal assistance.

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3 We re-tested all analyses reported by using both outcome valence and outcome fairness separately. These analyses did not show different results than the ones presented in our results section. We interpret this as support of Brockner and Wiesenfeld's (1996) line of reasoning that the concept of outcome favorability entails both outcome valence and outcome fairness and can be used as such.

RESULTS

Descriptive Statistics and Correlations

Bivariate correlations and descriptive statistics including means and standard deviations for our main variables, socio-legal variables, and background variables are presented in Table 2.1.

Table 2.1 *Means, Standard Deviations, and Correlations for the Main Variables and Socio-Legal Variables*

Variable	*M*	*SD*	1	2	3	4	5	6	7	8	9	10	11	12
1. Trust in Judges	5.31	1.31	-											
2. Procedural Justice	5.57	1.13	.76**	-										
3. Outcome Favorability	4.16	1.97	.62**	.56**	-									
4. Outcome Importance	4.58	1.73	.01	.09	.11	-								
5. Outcome Information (0 = ***no***, 1 = ***yes***)	-	-	.00	.10	.04	.25**	-							
6. Emotional Uncertainty	3.47	1.30	-.07	.00	.05	.47**	.11*	-						
7. Court experience (0 = ***no***, 1 = ***yes***)	-	-	-.12*	-.11*	-.05	.08	.01	-.01	-					
8. Educational level	2.41	1.27	.02	.00	-.08	-.28**	.06	-.28**	-.06	-				
9. Age	44.39	14.55	.11*	.10*	-.06	-.10	.17**	-.04	.10*	.09	-			
10. Income	6.30	2.52	.06	.05	-.03	-.38**	-.02	-.34**	.04	.36**	.22**	-		
11. Gender (0 = ***female***, 1 = ***male***)	-	-	.07	.09	-.02	.18**	.13**	.18**	-.20**	.03	-.04	-.22**	-	
12. Legal assistance (0 = ***no***, 1 = ***yes***)	-	-	-.07	-.02	.06	.42**	.22**	.26**	.08	-.18**	-.22**	-.28**	.08	-

Note: * p < .05 ** p < .01

Background Variables

Table 2.1 shows that there was no statistically significant association between gender, income, educational level, legal assistance and our main variables procedural justice and trust in judges. Therefore, none of these background variables were included in the analyses. We did find a statistically significant relationship between age and trust in judges, indicating that older respondents were more likely than younger respondents to trust the judge who handled their case ($\beta = .11$, $t = 2.13$, $p < .05$), and between age and procedural justice, indicating that older respondents were more likely than younger respondents to perceive higher levels of procedural justice ($\beta = .10$, $t = 2.00$, $p < .05$). Because adding age as a variable to the analyses did not influence the main effects and interaction effects reported here and did not alter the interpretation of these effects, we decided to leave this variable out of the analyses and the following presentation of our findings.

Testing our Hypotheses

We used multiple regression analyses for analyses that involved solely continuous variables. Following Cohen, Cohen, West, and Aiken (2003), all predicting variables were centered before being entered into the regression analyses containing interactions. We used General Linear Model (GLM) analyses when analyzing effects of both categorical and continuous independent variables (see, e.g., Tatsuoka, 1988).

Procedural Justice

To test Hypothesis 1, we regressed trust in judges on procedural justice. The regression analysis revealed a strong statistically significant relationship between perceived procedural justice and trust in judges ($b = .85$, $\beta = .76$, $t\,(393) = 22.88$, $p < .001$). In other words, those who perceived higher levels of procedural justice also stated that they had higher levels of trust in the judge who handled their case. This finding supports our first hypothesis that litigants' perceptions of procedural justice are positively associated with their trust judges.

Outcome Favorability

To test Hypothesis 2, we performed a multiple regression analysis in which our main and interaction variables were entered stepwise. Table 2.2 shows the results of this analysis.

Table 2.2. *Summary of Stepwise Regression Analysis for Variables Predicting Trust in Judges*

Variable		B	SE B	β	VIF
Step 1	Procedural Justice	.82	.045	.77***	1.00
Step 2	Procedural Justice	.68	.051	.63***	1.46
	Outcome Favorability	.16	.033	.24***	1.46
Step 3	Procedural Justice	.63	.054	.58***	1.66
	Outcome Favorability	.18	.032	.26***	1.48
	Procedural Justice x Outcome Favorability Interaction	-.06	.023	-.11**	1.15

Note: R^2_{adj} *= .59 for Step 1;* R^2_{adj} *= .62 for Step 2;* R^2_{adj} *= .63 for Step 3; ** p < .01; *** p < .001.*

When considered together, procedural justice and outcome favorability predicted 62.6% of the variation in trust in judges (R^2 = .63 for Step 2 in Table 2). The main effects in Step 2 showed that procedural justice predicted 39.8% of the variance of trust in judges (β = .63, *t* = 13.17, *p* < .001) while outcome favorability predicted 5.8% of the variance of trust in judges (β = .24, *t* = 5.02, *p* < .001). So, in fact, these results suggest that outcomes do matter in our study, but that procedural justice matters more.

Table 2.2 further shows a statistically significant interaction effect of procedural justice and outcome favorability on trust in judges (*b* = -.06, β = -.11, *t* (237) = -2.71, *p* < .001). This effect is illustrated in Figure 2.1.

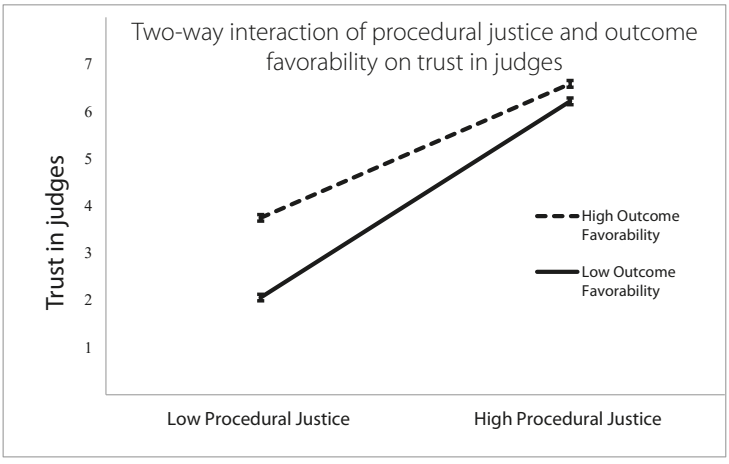

Figure 2.1. *Litigants' trust in judges as a function of litigants' perceptions of procedural justice being relatively low (-1 SD) and relatively high (+1 SD) and their perceptions of the outcome being relatively unfavorable (-1 SD) and relatively favorable (+1 SD). Scores are on 7-point scales with higher values indicating higher levels of trust in judges. Error bars represent standard errors of the mean.*

Testing for relevant simple slopes (Cohen et al., 2003) showed that procedural justice was significantly related to trust in judges ($b = .51$, $\beta = .44$, $t\ (237) = 6.17$, $p < .001$) when outcomes were relatively favorable, that is, when respondents' scores were estimated to be 1 standard deviation above the mean of outcome favorability (+1 *SD*). This association was even stronger ($b = .75$, $\beta = .65$, $t\ (237) = 9.02$, $p < .01$) when outcomes were relatively unfavorable, that is, when respondents' scores were estimated to be 1 standard deviation below the mean of outcome favorability (-1 SD). In other words, the positive relationship between outcome favorability and trust in judges was more pronounced when respondents perceived relatively low levels of procedural justice (-1 SD, $b = .24$, $\beta = .38$, $t\ (237) = 5.44$, $p < .001$) than when they perceived relatively high levels of procedural justice (+ 1 SD, $b = .11$, $\beta = .17$, $t\ (237) = 2.25$, $p < .05$). These findings are consistent with our second hypothesis and indicate that perceived outcome favorability moderated the positive relationship between perceived procedural justice and trust in judges in ways that were predicted by our line of reasoning.

Outcome Importance

To test Hypothesis 3, we added the outcome importance scale and all interactions to the regression analysis. This revealed, in addition to the main effects of procedural justice and outcome favorability on trust in judges, a main effect of outcome importance on trust in judges ($b = -.10$, $\beta = -.12$, $t\ (215) = -2.62$, $p < .01$), a statistically significant two-way interaction between procedural justice and outcome importance ($b = .11$, $\beta = .17$, $t\ (215) = 3.33$, $p < .01$), and a statistically significant three-way interaction between procedural justice, outcome favorability, and outcome importance ($b = .04$, $\beta = .14$, $t\ (215) = 2.80$, $p < .01$). The main effect of outcome importance suggested that trust ratings were lower when outcomes were relatively more important.

Simple slope analyses probing the two-way interaction between procedural justice and outcome importance showed that for respondents for whom there was relatively much at stake (+ 1 SD), perceived procedural justice was associated with trust in judges ($b = .36$, $\beta = .31$, $t\ (215) = 5.10$, $p < .001$). For respondents who had relatively less at stake (-1 SD), the slope was not statistically significant, indicating that for those respondents there was no statistically significant association between procedural justice and trust in judges ($b = -.02$, $\beta = -.02$, $t\ (215) = -.29$, $p = .77$). These findings support our third hypothesis that the relationship between procedural justice and trust in judges is more pronounced when outcomes are relatively important to litigants.

To interpret the three-way interaction, we calculated the simple two-way interactions between procedural justice and outcome favorability at high and low levels of outcome importance. These calculations revealed that the two-way interaction between procedural justice and outcome favorability was only significant when the respondents' score was estimated to be 1 standard deviation below the mean of outcome importance

(- 1 SD, b = -.11, β = -.20, t (215) = -3.96, p < .001), and not statistically significant when the scores were estimated to be 1 standard deviation above the mean of outcome importance (+ 1 SD, b = .03, β = .05, t (215) = .62, p = .54).

Simple slope analyses were used to interpret these simple interactions between procedural justice and outcome favorability. These simple slopes are illustrated in Figure 2. When outcome importance was low (-1 SD, Figure 2.2A), procedural justice was positively associated with trust in judges (b = .65, β = .57, t (215) = 6.03, p < .001) when outcomes were relatively favorable (+ 1 SD), and this association was even stronger (b = 1.09, β = .95, t (215) = 9.92, p < .001) when outcomes were relatively unfavorable (-1 SD). When outcome importance was high (+ 1 SD, Figure 2.2B), the positive relationship between procedural justice and trust in judges was strongly pronounced both when outcomes were relatively favorable (+ 1 SD, b = .92, β = .87, t (215) = 8.18, p < .001) and relatively unfavorable (-1 SD, b = .82, β = .71, t (215) = 10.51, p < .001). These findings do not support our fourth hypothesis because they do not indicate that the interaction effect between procedural justice and outcome favorability was more pronounced when litigants had relatively more at stake.

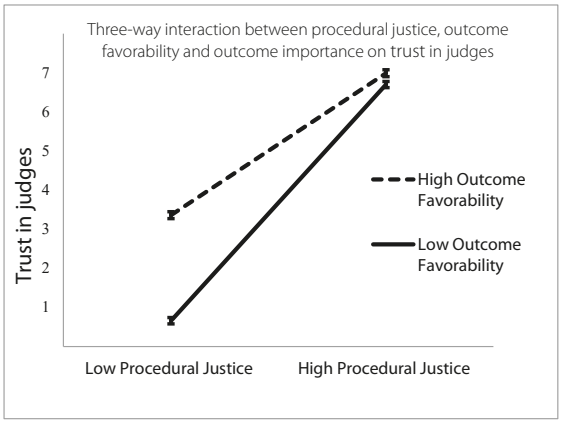

Figure 2.2A. Litigants' trust in judges as a function of litigants' perceptions of procedural justice being relatively low (-1 SD) and relatively high (+1 SD) and their perceptions of the outcome being relatively unfavorable (-1 SD) and relatively favorable (+1 SD) when outcome importance is relatively low (- 1 SD). Scores are on 7-point scales with higher values indicating higher levels of trust in judges. Error bars represent standard errors of the mean.

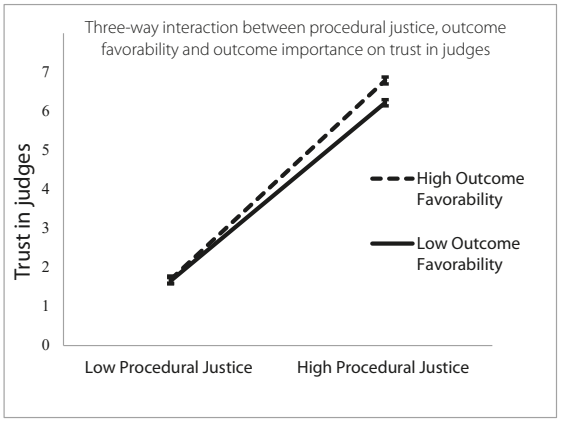

Figure 2.2B. Litigants' trust in judges as a function of litigants' perceptions of procedural justice being relatively low (-1 SD) and relatively high (+1 SD) and their perceptions of the outcome being relatively unfavorable (-1 SD) and relatively favorable (+1 SD) when outcome importance is relatively high (+ 1 SD). Scores are on 7-point scales with higher values indicating higher levels of trust in judges. Error bars represent stand errors of the mean.

Outcome Information

To test Hypothesis 5, we added trust in judges as a dependent variable, outcome information as a categorical independent variable, procedural justice as a continuous independent variable, and the interactions between the independent variables to the GLM analysis. This analysis revealed a statistically significant main effect of outcome information on trust in judges, $F(1, 391) = 5.60$, $p < .05$, $\eta_p^2 = .01$, in addition to the main effect of procedural justice. Because the interaction effect between outcome information and procedural justice was not significant, we found no support for our fifth hypothesis that outcome information would moderate the positive relationship between procedural justice and trust in judges. Indeed, when we looked at the regression analyses of procedural justice on trust in judges for both litigants with outcome information ($b = .85$, $\beta = .77$, $t(242) = 18.92$, $p < .001$) and without outcome information ($b = .91$, $\beta = .73$, $t(151) = 12.96$, $p < .001$), we saw only a minor difference in weight, which was not statistically significant.

Emotional Responses to Uncertainty

To test Hypothesis 6, we put the Emotional Responses to Uncertainty scale, the procedural justice scale, and all interactions in a regression analysis. This analysis revealed only a significant main effect of procedural justice on trust in judges. Because the interaction effect between emotional responses to uncertainty and procedural justice was only marginally significant ($b = .06$, $\beta = .06$, $t(346) = 1.90$, $p = .06$), we found no support for our sixth hypothesis that how litigants emotionally respond to uncertainty would moderate the positive relationship between procedural justice and trust in judges.

Prior Court Experience

To examine the possible role of prior court experience, we used a GLM analysis in which we added trust in judges as a dependent variable, prior court experience as a categorical independent variable, procedural justice as a continuous independent variable, and the interactions between the independent variables. This analysis revealed a statistically significant main effect of prior court experience on trust in judges: $F(1, 379) = 5.00$, $p < .05$, $\eta p2 = .01$, in addition to the main effect of procedural justice. We also found a statistically significant interaction effect between prior court experience and procedural justice: $F(1, 379) = 14.75$, $p < .001$, $\eta p2 = .04$.

Simple slope analyses probing the two-way interaction between procedural justice and prior court experience showed that for respondents without prior court experience, perceived procedural justice was associated with trust in judges ($b = .65$, $\beta = .60$, $t(150) = 9.13$, $p < .001$). For respondents with prior court experience, this relationship was even more pronounced ($b = .96$, $\beta = .83$, $t(228) = 22.18$, $p < .001$). These findings indicate that the positive relationship between procedural justice and trust in judges was more

pronounced when litigants had been to the court before. We will elaborate on this finding in the Discussion.

Type of Law Case

Respondents appeared in three types of cases. Although we refrained from making specific hypotheses on the role of the type of law case in our study, we explored what possible moderating effects of the type of law case could be observed reliably in our data. As a result, we conducted several GLM analyses in which we added type of law case as a categorical variable to our continuous independent variables, other categorical variables, and all interactions.

First of all, the type of law case did not moderate Hypothesis 1. We found a strong statistically significant positive relationship between procedural justice and trust in judges in both motoring fine cases (b = .82, β = .77, t (137) = 13.90, p < .001), criminal law cases (b = .85, β = .76, t (106) = 12.18, p < .001), and administrative law cases (b = .97, β = .75, t (146) = 13.52, p < .001).

Secondly, the type of law case did moderate Hypothesis 2 and moderated the interactive relationship between procedural justice and outcome favorability on trust in judges. We found a statistically significant three-way interaction effect between procedural justice, outcome favorability, and type of law case on trust in judges, F(2, 229) = 8.07, p < .001, η_p^2 = .07. Regression analyses for each type of case separately revealed a statistically significant interaction effect between procedural justice and outcome favorability in cases concerning motoring fines only (b = -.14, β = -.27, t = -4.80, p < .001). Simple slope analyses probing this effect showed that the simple interaction effect between procedural justice and outcome favorability in cases concerning motoring fines took the same form as the interaction effect illustrated in Figure 1. Procedural justice was positively related to trust in judges when outcomes were relatively favorable (+1 SD, b = .20, β = .17, t (107) = 2.00, p < .05), and this association was much stronger when outcomes were relatively unfavorable (-1 SD, b = .80, β = .70, t (107) = 7.78, p < .001).

The number of respondents involved in administrative law cases who received their outcome directly at the court hearing was too low to reliably calculate the effects, both when respondents were interviewed right after their court hearing,[4] and two weeks after they received the outcome in their case.[5] The procedural justice by outcome favorability interaction effect was not statistically significant for criminal law cases (b = .05, β = .09, t = 1.32, p = .19). Thus, the type of law case in which respondents were involved moderated the interactive relationship between outcome favorability and procedural justice, revealing only a statistically significant interaction effect in motoring fine cases.

The GLM analyses further revealed that the moderating effect of outcome importance on the procedural justice x outcome favorability interaction as proposed with Hypothesis 4 was no longer significant when we controlled for type of law case. In the Discussion, we will return to this observation. The GLM analyses did not reveal other moderating effects of the type of law case on any of our other hypotheses.

DISCUSSION

Our research contributes to the study of procedural justice and trust in judges in several ways. First, we provide evidence for the presence of a positive relationship between procedural justice and trust in judges in a real-life courtroom context. Second, we demonstrate how outcome favorability, outcome importance, and prior court experience can moderate this relationship. Third, in addition to providing empirical insight about the relationships between procedural justice, outcome concerns, and trust in judges, we conceptually clarify how to measure these concepts in real-life courtroom settings. Taken together, these findings provide insights into how litigants come to trust judges after their courtroom hearings.

The Procedural Justice x Outcome Favorability Interaction in Courtroom Settings

We found a statistically significant interaction between procedural justice and outcome favorability on trust in judges across the three different types of cases studied here, indicating that procedural justice is positively associated with trust in judges when outcomes are relatively favorable, and that this association is even stronger when outcomes are relatively unfavorable. Although these findings suggest that Brockner and Wiesenfeld's (1996) procedural justice- x outcome favorability interaction effect exists in real-life courtroom contexts, we note that the interaction effect explained only 1% of the variance in trust in judges, while the main effects of procedural justice and outcome favorability explained 62.6% of the variance in trust in judges (see Table 2). Thus, the interaction effect is important in the legal domain, but is certainly not the only or even the most important driver of citizens' trust in judges.

The interactive relationship between procedural justice and outcome favorability is important because it may provide insight into the mechanisms through which each of these variables affect people's beliefs and behaviors. What does the fact that procedural justice matters more when outcomes are less favorable tell us about why procedural justice matters in the first place?

Although different psychological processes may account for the interaction effect, Brockner and Wiesenfeld (1996) speculated that all reflect people trying to make sense of what is going on in their environments (see also Van den Bos, 2015). Furthermore, we

assume such "sense-making processes" are elicited by the negativity or unexpectedness of unfavorable events and/or unfairness. Unfavorable outcomes, for example, may lead people to scrutinize the procedures that gave rise to those outcomes, thereby increasing the impact of procedural justice on their reactions (Brockner & Wiesenfeld, 1996). In other words, when people try to make sense of what is going on, such as in the courtroom hearing in which they find themselves, external cues that address their informational needs are particularly influential. When procedures are unfair, outcome favorability may have high informational value, and when outcomes are unfavorable, procedural justice information is important. This sense-making analysis of the interaction effect may be particularly important in courtroom settings in which judges often provide litigants with undesired and unfavorable outcomes, such as finding suspects guilty and declaring appeals unfounded. Thus, trying to make sense of what is going in court hearings in which decisions are made about your case can be assumed to be an pivotal psychological process among many litigants. Of course, this is not to suggest that sense-making is the only basis through which procedural justice exerts influence. Therefore, we encourage future researchers to look for theoretical support for sense-making moderators within real-life contexts.

Furthermore, the courtroom context of our study enabled us to examine on an exploratory basis whether the interaction effect did indeed vary across contexts. If we look at each type of case separately, the procedural justice x outcome favorability interaction effect was only statistically significant in motoring fine cases. The procedural justice-outcome favorability interaction effect was not statistically significant in criminal law cases, and too few respondents filled out the questionnaire to reliably analyze administrative law cases.

We are unable to state with certainty why the interaction effect was absent in criminal law cases. An explanation could be that the punitive character of criminal law cases makes litigants in these kinds of cases feel strongly evaluated. Being evaluated by important others such as a judge is an event that may make litigants feel uncertain about themselves and try to make sense of what is happening (Van den Bos & Lind, 2002). In these circumstances, information about whether they are treated fairly or unfairly by judges, who are important representatives of society, can be of great value to litigants. As a result, outcome favorability may matter less when litigants make inferences about a judge's trustworthiness, which may explain why the relationship between procedural justice and trust in judges was strongly pronounced in criminal law cases.

Thus, although we provide evidence for the procedural justice x outcome favorability effect in the legal domain, our results suggest that the effect may depend on the type of law case litigants are involved in. We recommend that this issue be further explored in future studies that examine in detail the robustness of the interaction effect in other courtroom contexts.

The Role of Socio-Legal Moderators

In addition to the moderating influence of outcome favorability on the relationship between procedural justice and trust in judges, we found both outcome importance and prior court experience to moderate this relationship as well. These findings suggest that procedural justice matters more when litigants have more at stake and when they have prior court experience.

Contrary to our expectations, outcome information did not moderate the positive relationship between procedural justice and trust in judges. This suggests that prior knowledge about the outcome did not change the weight our litigants placed on their procedural justice perceptions when forming judgments about trust. Our results showed that if litigants knew that the outcome of a procedure was favorable before they evaluated that procedure, their judgments about procedural fairness had only slightly less impact on their trust in judges than when litigants did not know the favorability of the outcome. This difference was not significant.

We expected uncertainty, and especially litigants' emotional response to uncertainty to heighten the influence of perceived procedural justice. The interaction effect between our measure of emotional uncertainty and perceived procedural justice was marginally significant only ($p = .06$), indicating that the association between procedural justice and trust in judges was somewhat stronger when emotional uncertainty was relatively high as opposed to relatively low. The "marginally significant" quality of this relationship indicates that this relationship should be treated with caution until further research shows more robust evidence for this pattern. Future research may want to check whether Greco and Roger's (2001) Emotional Response to Uncertainty Scale that we used in this study is an appropriate measure of litigants' uncertainty *at the moment* they enter the courtroom. In fact, this scale measures how people respond *in general* to uncertain situations, which may have accounted for the marginally significant moderating effect of uncertainty. For example, according to De Cremer et al. (2010), the interactive relationship between procedural justice and outcome favorability was more pronounced when people's uncertainty about their standing as organizational members was high, but they used different operationalizations of uncertainty about their standing. Thus, we encourage future researchers to examine how the interaction effect between procedural justice and outcome favorability might be moderated by how uncertain litigants feel by using a better operationalization of uncertainty within a courtroom context.

We also note here that exploring the possible role of prior court experience indicated that how the litigants of the present sample entered the courtroom influenced their reactions. That is, we found that the procedural justice-trust relationship was more pronounced when our litigants had prior court experience. We speculate that this

finding makes sense in light of Leventhal's (1980) consistency over time rule, which suggests that litigants refer to their prior court experiences when assessing the way they are treated by the judge. In other words, having prior court experiences may create a basis on which to evaluate the current encounter of procedural fairness and the associated trust judgments.

The current findings regarding prior court experience become more important when they are contrasted with views that are more closely linked to how litigants evaluate legal authorities, especially under conditions of uncertainty in procedural justice. The absence of prior court experience may instigate higher levels of uncertainty among the litigants involved. If this assumption is warranted then one would expect a stronger relationship between procedural justice and trust in judges when there is no prior court experience (see, e.g., Van den Bos & Lind, 2002). On the other hand, going to court for the first time may create too many uncertainties for litigants to be able to meaningfully interpret what is going on. Future research is clearly warranted to sort these and other possible implications that may follow from the findings presented here.

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The Use of Different Types of Law Cases

This study's design, and more specifically our focus on the moderating effects of socio-legal variables that we wanted to differentiate, prompted us to use three different types of law cases. We had no concrete expectations of what the differences between these law cases would be in our data, or what type of law case would be an indicator of. That said, we do have some indication that the type of law case might help explain some of our unanticipated findings.

For example, we observed an outcome importance x procedural justice x outcome favorability interaction effect, indicating that the procedural justice x outcome favorability interaction was statistically significant when litigants perceived their outcomes as relatively unimportant. The procedural justice x outcome favorability interaction was not statistically significant when outcomes were judged as relatively important.

One possible explanation for this unexpected finding could be that the moderating influence of our outcome importance variable was due to the type of law case. In many of our analyses, controlling for type of law case did not yield different results. However, when we examined both three-way interactions between type of case x procedural justice x outcome favorability and outcome importance x procedural justice x outcome favorability simultaneously we found that the former effect was statistically significant ($p < .001$) whereas the latter effect was not ($p > .22$).

The fact that outcome importance and type of law case are indeed related ($r = .59$, $p < .001$), still leaves unanswered the question of why the interaction between procedural justice and outcome favorability was more likely to be significant when outcomes were seen as less important. One possibility is that outcome information is less complex to interpret when the stakes are low and when outcomes are relatively unimportant for litigants. After all, it may be easier for litigants to interpret the traffic fine that they will need to pay or not in motoring fine cases, than to interpret the verdict in criminal cases which may involve more complex information about fines, community service, imprisonment, or a combination of these measures. Indeed, post-hoc probing of the outcome importance scores shows that litigants in criminal law cases thought the outcome in their case was more important ($M = 4.91$, $SD = 1.51$) than litigants involved in motoring fine cases ($M = 3.19$, $SD = 1.36$), $F(1, 446) = 92.13$, $p < .001$, $\eta_p^2 = .17$.

We further assume that information that is harder to interpret is less likely to interact with other variables present in the situation, such as perceived procedural fairness, and that procedural justice information may be easier for litigants to interpret than outcome information (Van den Bos & Lind, 2002). Thus, because litigants in high stakes cases are dealing with outcomes which are difficult to interpret, they rely on procedural justice information when making inferences about the judge's trustworthiness. Outcome favorability may not have a moderating effect on the positive relationship between procedural justice and trust in judges in those cases. More research is needed to examine these assumptions in detail.

This all suggests that type of law case may play a crucial role in how litigants respond to issues of procedural justice, outcome favorability, and the socio-legal moderators we distinguished. If this suggestion has merit then it implies that future research should focus on differences between different law cases and the psychological processes and concepts associated with these differences. Types of law cases do not only differ with

regard to the type of litigants involved and the setting and atmosphere during the court hearing, but also with regard to, for example, the opposing parties involved (e.g. a governmental institution or a family member). We expect such differences to have psychological consequences, which are worth examining in future studies.

Limitations

In the current chapter, we provide support for the idea that trust in judges is determined by someone's experience of procedural justice. The relationship between procedural justice and trust in legal authorities seems to depend more on context than is often realized in the research literature. For example, studies on procedural justice and trust in legal authorities present different models with contrasting relationships between the two such that some studies treated trust as an antecedent of procedural justice (Lind et al. 1993; Tyler & Blader, 2000; Tyler & Lind, 1992; Van de Walle, 2009), while other studies viewed trust as the result of procedural justice (Jackson & Bradford 2010; Tyler & Huo, 2002), and a third class of studies proposed that procedural justice and trust cannot really be distinguished from each other. Johnson et al. (2014), for example, found that procedural justice and institutional trust overlapped heavily and collapsed these variables into one variable that they term "trust and procedural justice."

Although we found a strong statistically significant relationship between perceived procedural justice and trust in judges across our three types of law cases, we acknowledge that these data are correlational, and any inferred causality must be regarded as tentative at best. This said, we nevertheless argue that the findings reported above remarkably converge with previous experiments on the fair process effect in which one can be considerably more confident about the direction of causality (for overviews, see, e.g., Lind & Tyler, 1988; Van den Bos, 2005).

Future research, for instance in different legal systems and that includes other measures that may reveal more in-depth insight into the issues revealed here or research that uses field experiments (when possible) in other courtroom contexts is needed to test the reasoning underlying this study. We hope that the line of reasoning proposed here and the measures we developed to test this line of reasoning may be useful there.

In essence, this is a procedural justice chapter, in which we were primarily interested in the relationship between perceived procedural justice and trust in judges, and how outcome concerns and how litigants entered the courtroom influenced this relationship. We refrained from testing associations between outcome favorability and socio-legal moderators or other complex associations, such as four-way interactions between our main variables and our socio-legal variables. Those analyses would not have been reliable given our sample size.

Although 129 respondents involved in motoring fine cases and 139 respondents involved in criminal law cases had heard the outcome before they filled out the post-hearing questionnaire, we acknowledge that our study involves 143 respondents involved in administrative law cases who had not. Yet we can benefit from this circumstance by comparing the procedural justice and trust judgments of these litigants in administrative law cases at two moments: before they received their outcome and after they received their outcome. Preliminary comparisons between our two measuring moments showed that perceived procedural justice decreased significantly after litigants in administrative law cases heard the outcome in their case, $F(1, 71) = 11.25$, $p < .01$, $\eta_p^2 = .14$, indicating that the level of procedural justice was higher ($M = 5.81$, $SD = .84$) before litigants had heard the outcome than after ($M = 5.45$, $SD = .91$).

Policy Implications

Understanding under what conditions procedural justice matters to litigants is useful not only for theory building. Judges, who encounter litigants in all kinds of law cases daily, can benefit from these results too. Judges who handle minor cases have been found to believe that litigants do not pay attention to procedures as long as the outcomes in their cases are positive (Tyler, 1984). Our findings showed the contrary. Litigants did care about procedural justice when outcomes were favorable, and they cared even more about procedural justice when outcomes were unfavorable. Furthermore, the fact that we did not find outcome information to moderate the relationship between procedural justice and trust in judges suggests that knowing the outcome does not necessarily influence the weight people put on the fairness of the procedure. Being treated fairly by the judge continued to be important for those litigants who already knew their outcome.

It is important to know when perceived procedural justice is strongly associated with trust in judges and under which conditions high procedural justice can attenuate the negative impact of unfavorable decisions often made by judges in courtrooms. This compensatory effect of procedural justice entails that procedural justice can counteract or cushion the negative effect of unfavorable outcomes (Kwong & Leung, 2002). In other words, authorities such as judges, who often have to disappoint litigants with undesirable and unfavorable outcomes, should ensure that procedural justice is maintained in order to reduce negative reactions to these outcomes.

Conclusions

By using the district court of the Mid-Netherlands as our research location, we expanded the study of trust in judges internationally, and we extended the literature on procedural justice, outcome favorability, and their interaction. One of the most notable implications of the findings thus reported is that they offer further empirical evidence for the

importance of perceived procedural justice in real-life courtroom settings. We found that litigants who perceive the judge's treatment as fair are more likely to trust judges. This finding is robust across all three types of law cases studied here. This is an important finding, in part because trust builds the legitimacy of legal authorities in our society and is associated with law-abiding behavior. We also found that the positive relationship between procedural justice and trust in judges was more pronounced when outcomes were unfavorable, when litigants had a lot at stake, and when litigants had prior court experience.

Our findings show the importance of doing law and society research among actual litigants in different law cases. In short, the findings presented here have revealed evidence for the moderating role of outcome concerns, the association between procedural justice, and trust in judges. The limitations of the current research notwithstanding, we think it is safe to conclude that this paper helps us to better understand how litigants in Dutch courtrooms come to trust judges.

CHAPTER 3

Trust in Criminal Justice Institutions: The Role of Procedural Justice among Citizens Who Appeal a Decision Not to Prosecute

This chapter is based on: Grootelaar, H.A.M., Van den Bos, K., Lipman, S.A., & Versteegt, L. (2018). Trust in Criminal Justice Institutions: The Role of Procedural Justice among Citizens Who Appeal a Decision Not to Prosecute. Manuscript submitted for publication.

Author contribution: This study was conducted as part of a joint research project which was conducted on behalf of the Research and Documentation Centre (WODC) of the Dutch Ministry of Justice in cooperation with Dr. Leonie van Lent, Prof. Dr. Miranda Boone, and Lisa Ansems LL.M, who were responsible for the qualitative part of the research project. The findings of this research project were reported in Van Lent, L., Boone, M., Van den Bos, K., with the cooperation of Ansems, L. F. M., Lipman, S. A., & Versteegt, L., *Klachten tegen niet-vervolging (artikel 12 Sv-procedure)*. Utrecht University, August 2016.

Hilke Grootelaar analyzed the data, interpreted the results, and is the main author. Kees van den Bos designed the studies, including stimulus materials and procedures, organized the approval by the court of appeals and the Dutch Council for the Judiciary, organized and liaised about ongoing data collection, directed data-collection by assistants, provided conceptualization, co-interpreted results, and edited the manuscript.

ABSTRACT

There are many reasons why people's trust in institutions such as the prosecution and criminal law courts is critical to the functioning of the criminal justice system. Trust in criminal justice professionals enables victims to cooperate with prosecuting institutions, which contributes, in turn, to the effectiveness of the criminal justice system. Prosecutors often use their discretionary authority, and decide not to prosecute defendants. This chapter focuses on the trust judgments of citizens who appeal a prosecutorial decision not to prosecute. We examined whether being treated fairly during the handling of the appeal was positively associated with trust in the prosecution, judges, and the criminal justice system. We tested our prediction among complainants who had filed a complaint against the decision not to prosecute with one of the four courts of appeal in the Netherlands. Results indicate that perceived procedural justice is more strongly related to trust in criminal justice institutions than concerns of outcome favorability and outcome fairness.

The Importance of Trust in Criminal Justice Institutions

There are many reasons why trust in criminal justice institutions is critical to the functioning of the criminal justice system. Hough, Jackson, Bradford, and Myhill (2010) argue that public trust in policing is needed because it may result in public cooperation with justice, but more importantly because it builds institutional legitimacy, public compliance with the law, and commitment to the rule of law. High levels of trust in criminal justice institutions also contribute to the effectiveness of agencies in the criminal justice system (Farrell, Pennington, & Cronin, 2013).

Institutions such as the police, the prosecution, and criminal law courts work cooperatively together with a shared purpose to maintain social order. These institutions create and enforce laws and regulations that shape public conduct (Tyler, Braga, Fagan, Meares, Sampson, & Winship, 2007). The police normally investigate offences, which are prosecuted by the prosecution. When prosecuted, the criminal court ultimately assesses the provability and the punishability of these offences, and the blameworthiness of the defendant.

Most crimes come to the attention of the police as a result of a report from victims or witnesses (Roberts, 2004). If these victims or witnesses have little confidence in the responsiveness of criminal justice institutions, they are unlikely to report crimes. With the large number of crimes that go unreported each year, successful prosecution highly depends on victim participation and public cooperation. Victims and witnesses will only cooperate with the police and prosecutors if they have confidence in the justice system, and if they trust the specific criminal justice professionals with whom they are in contact (Roberts, 2004).

Prosecutorial Charging Discretion

However, not all criminal offences reported by victims or witnesses are taken to court. Because of their considerable charging discretion, prosecutors may decide not to charge defendants with a crime, notwithstanding easily demonstrable guilt. Prosecutors may have several kinds of reasons to decide not to prosecute a criminal offence (Bowers, 2010): legal reasons (i.e., evidentiary support for a certain charge), administrative reasons (i.e., strategic priorities and limitations), and equitable reasons (i.e., blameworthiness of the prospective defendant).

Although prosecutorial discretion is necessary because it allocates sparse prosecutorial resources and allows for leniency, it places prosecutors in a powerful position in many criminal justice systems. Prosecutorial discretion yields difficulties resulting from differences in perception when, for example, prosecuting authorities find the alleged victim not to have been the victim of a criminal act (Joutsen, 1984). Furthermore, institutionally motivated administrative concerns such as efficient and objective

processing of multiple cases sometimes take priority over victims' personal and emotional needs (Goodrum, 2013). In short, prosecutors may have a far-reaching discretion not to prosecute. Therefore, there are several jurisdictions that aim to counterbalance this discretion by enabling alleged victims or other directly interested parties to formally request the initiation of prosecution, or appeal a prosecutorial decision not to bring charges (for an overview, see Joutsen, 1984).

Perceived Procedural Justice

A key concern of citizens in contact with societal authorities is the recognition of their citizens' rights (Tyler & Folger, 1980). This recognition tells people something about their position in society and the value that is attached to their membership of society (Tyler & Lind, 1992). It can be assumed that when criminal justice authorities, as representatives of the state, treat people in a fair manner, they reaffirm a sense of societal membership among citizens (Murphy & Brakworth, 2014) and give them the feeling of being a full-fledged member of society (Tyler & Lind, 1992). More specifically, many studies have shown that victims wish to be treated fairly by criminal justice authorities (Herman, 2005; Wemmers 1995). Decades of research on victims' needs has led to the general understanding that victims want to be heard, compensated, and acknowledged (Ten Boom & Kuijpers, 2012). Recognition and respectful treatment by criminal justice authorities is one of the most important victims' needs (Pemberton, 2009).

It is well conceivable that alleged victims perceive a prosecutorial decision not to charge alleged defendants with crimes as unfair because these victims are refused virtually any opportunity to participate in criminal proceedings. For this reason, appealing the prosecutorial decision not to bring charges can provide citizens with an important opportunity to actively contribute to the settlement of cases through judicial channels, and to meet their need for satisfaction (Cleiren, 2008). Being given an opportunity to appeal this prosecutorial decision not to charge is of great importance with regard to the recognition of the interests of the alleged victims. These interests do not only concern recognition and satisfaction through the prosecution itself, but also acquisition of the legal status as a victim, enabling the victims to exercise their rights in criminal proceedings, such as obtaining compensation and exercising the right to speak. In the present chapter, we assume that a legal remedy to appeal the decision not to prosecute offers the alleged victims a procedural forum to voice their opinions (Kool, 2013) and gives them the feeling that their case is given serious attention (Tyler, 1989).

Thus, we propose that being fairly treated is very important for those citizens who appeal a prosecutorial decision not to charge alleged defendants. Procedural justice research has shown that being treated fairly by criminal justice authorities is important because it does not only result in recognition and standing, but also in support for authorities and satisfaction with their performance (Tyler, 1990). In the present chapter,

we aim to subject these insights about fair treatment to a critical test by examining the influence of perceived procedural justice in a context in which there is a lot at stake for citizens in terms of outcome concerns. After all, appealing a prosecutorial decision is often the last legal remedy to exercise one's rights, and the last chance to reach a fair and favorable decision. We believe that instrumental concerns such as damage compensation, restoration of harm, and retribution also play an important role within these legal proceedings. For example, it is likely that citizens appeal the decision not to prosecute because they want the defendant to be convicted, and themselves to be materially compensated. In other words, there may be good reasons to expect that when appealing decisions not to prosecute, the alleged victims are strongly interested in the outcome they will receive from the court of appeal. To test this notion and other issues, our study compares the roles of both outcome concerns and procedural concerns and examines what it is that matters most in trust assessments of citizens who appeal the prosecutorial decision not to prosecute.

RESEARCH CONTEXT

We studied the influence of perceived procedural justice in the specific context of Dutch citizens who counterbalance the discretionary power of the Dutch Pubic Prosecution Service. Interestingly, the wide discretion that the Dutch prosecution has in deciding on scope, depth, and commitment of the investigation as well as whether or not to prosecute is rather unique when viewed from a comparative-law perspective (Cleiren, 2008). The Dutch Public Prosecution Service has a strong position when it comes to the prosecution of criminal offences. This position is further strengthened by the so-called discretionary principle applicable in the Netherlands, which determines that alleged defendants are prosecuted only if it is in the public interest.

This exceptionally wide discretion of the Dutch prosecution is counterbalanced by Article 12 of the Dutch Code of Criminal Procedure. This procedure for so-called "Article 12 proceedings" stipulates that a directly interested person can file a written complaint with the court of appeal against this decision not to prosecute. The court of appeal can declare this complaint inadmissible or unfounded without further investigation. If the court of appeal finds the complaint admissible, complainants receive a notice to appear in court, because no substantive decision can be made without hearing complainants. The court of appeal then decides whether prosecution in a criminal court should take place. Both evidentiary feasibility (whether there is sufficient evidence to prove the criminal offence conclusively) and the principle of prosecutorial discretion (whether prosecution can be dispensed with because of public interest reasons) play a role in this decision.

In the last fifteen years, the number of complaints in the Netherlands has increased by 155%, from 2000 complaints in 2005 up to 3100 complaints in 2015. Article 12 proceedings are a last resort for citizens to exercise their right and correct the system. By appealing the decision not to prosecute, directly interested persons such as victims can achieve that the offence will still become the subject of criminal prosecution. Article 12 proceedings are the only control mechanism and formal correction on the prosecutor's refusal to bring individual cases to court.

Only a total of 9% of the complaints filed between 2000 and 2015 were declared well-founded, whereas 68% were rejected, and 8% were declared as inadmissible by the court of appeal (De Meijer, Simmelink, Willemsen, Korf, & Benschop, 2017). If the court of appeal rejects the complaint or declares it inadmissible, the legal obligation to hear complainants may be waived. This means that in more than 75% of the appeals, filing a complaint does not yield a favorable decision for the alleged victims, meaning that the crime is not prosecuted in court, nor does it yield an opportunity to voice one's opinions during a hearing before the court of appeal.

THE CURRENT RESEARCH

Our study aims at critically examining the role that perceived procedural justice plays in the context of the Dutch Article 12 proceedings that victims can use to appeal the prosecutorial decision not to prosecute. In this interesting context of alleged victims who have exhausted the last legal remedy left to challenge a prosecutorial decision on their case, we aim to examine the influence of perceived procedural justice on trust in criminal justice institutions while also taking into consideration victims' outcome concerns, as some may argue that such concerns may impact victims' trust more strongly than procedural justice concerns (Jasso, 1994; 1999; Sabbagh, Dar, & Resh, 1994; Shapiro & Brett, 2005).

Citizens' trust in criminal justice institutions is critical to citizens' cooperation with justice, their compliance with the law, and their commitment to the rule of law. Much research has focused on public attitudes towards the legitimacy of the criminal justice system (for an overview, see Tyler, 2009). Findings in this literature show that trust in, and legitimacy of, the criminal justice system as such is often related to trust in specific criminal justice authorities (De Keijser & Elffers, 2009; Hough, Jackson, Bradford, Myhill, & Quinton, 2010). The criminal justice system indeed is interdependent and fragmented and relies on specific institutions, such as the police, the prosecution service, and the courts (Neubauer & Fradella, 2015). Although separate, these institutions are related because they cooperate in maintaining social order. We believe that in particular the prosecution, who decides not to prosecute, and the court of appeal, who decides on complainants' appeal, play an important role together with the criminal justice system as

such when it comes to complainants' perceptions of trust in the context of Dutch Article 12 proceedings. As such, we will focus on these specific criminal justice institutions in this chapter.

Research has shown that fair treatment by authorities promotes all kinds of positive reactions, such as citizens' cooperation (Sunshine & Tyler, 2003), compliance with the law (Tyler & Lind, 1992; Tyler & Huo, 2002), satisfaction with the criminal justice system (Laxminarayan, Bosmans, Porter, & Sosa, 2013), and trust in legal authorities (Murphy, Mazerolle, & Bennett, 2014; Tyler, 2001). We therefore propose that perceived procedural justice will be positively associated with trust in the prosecution, trust in criminal law judges, and trust in the criminal justice system in our study among Dutch complainants. Fair treatment during Article 12 proceedings will promote higher levels of trust in these justice institutions.

Notwithstanding the importance of fair procedures, previous research has shown the importance of outcome concerns such as material compensation, safety, restoration of harm, and retribution for victims in criminal justice contexts (Laxminarayan, 2012; Pemberton, 2009). These concerns might play an important role in the context of Article 12 proceedings too. Victimological research has often utilized a division between procedural concerns and outcome concerns (Landls & Goodstein, 1986). Both a fair and respectful treatment and desired outcomes are a necessity for effective justice (Hough, Ruuskanen, & Jokinen, 2011). This means that if we want to critically test the importance of perceived procedural justice, we should take the role of outcome fairness and outcome favorability into consideration.

Only a small part of the complaints against a decision not to prosecute are declared well-founded, resulting in more than 75% of the complaints that do not lead the offence to become the subject of criminal prosecution. This means that citizens who appeal the prosecutorial decision often do not get the outcome they want or expect to receive. Especially because Article 12 proceedings are virtually the last resort for citizens to effectuate their rights and appeal the prosecutorial decision because all legal remedies have been exhausted, it is presumed that such a decision delivered by the court of appeal will be perceived as unfair and unfavorable, and will play an important role in complainants' trust judgments on criminal justice institutions.

Having said this, we believe that being treated fairly by important criminal justice institutions matters more to the complainants involved. Indeed, previous research has shown that procedural concerns are a more important determinant of evaluations of institutions than instrumental concerns (Benesh & Howell, 2001; Tyler, Casper, & Fisher, 1989). For that reason, we propose that perceived procedural justice will be more strongly related to trust in the prosecution, criminal law judges, and the criminal justice system than concerns of outcome favorability and outcome fairness.

In addition to procedural and outcome concerns of justice, Lind (1994) marks another form of justice, which can be conceived as a general concern of justice. This form of justice relates to people's feeling of being solidly entrenched in society, assuring that government power is not going to be used against them. This general concern of justice is more of a personal impression of justice which tells people something about their relationship to authorities, and whether the situation as such is seen as fair. We believe that such a general concern of justice might be important for complainants' trust in criminal justice institutions too. For this reason, we will measure this general concern of justice and explore whether it is reliably related to trust in criminal justice institutions.

The main emphasis of this chapter is therefore on how people perceive Article 12 proceedings. With our main questionnaire, we measured perceptions of procedural justice, outcome fairness, outcome favorability, and general concerns of justice eight months after complainants had appealed the prosecutorial decision. This means that this questionnaire measured the level of fairness that people experienced, how favorable and fair they perceive the court's decision they received, and what their general concern of justice was at the moment that their legal proceedings were pending.

In our study, we also take into consideration which role these procedural justice and outcome concerns played at the moment that complainants commenced Article 12 proceedings. To study this issue, we also worked with a baseline questionnaire, measuring complainants' motives for commencing Article 12 proceedings. We believe that taking these motives into account is interesting for several reasons. Hollander-Blumoff and Tyler (2008), for example, distinguish between instrumental motivations and fairness motivations. These authors argue that when people bring a dispute to the legal system for resolution and start interacting with the legal system, they deeply care about the fairness of the process that is used to resolve their dispute, separately and apart from their interest in achieving favorable outcomes. Miller and Ratner (1998), too, argue that the role of self-interest concerns, such as material outcomes, is not as great as many formal theories assume. Furthermore, they demonstrated the disparity between motivational drives and actual attitudes and behavior, and showed that people's belief in the power of self-interest concerns, such as achieving favorable outcomes, leads them to overestimate its impact on actual attitudes and behaviors. In other words, the role of instrumental concerns is often not as great as many assume.

In sum, the main purpose of our study is to test the prediction that procedural justice plays an important role in shaping of trust in important criminal justice institutions. We propose that being treated fairly by important criminal justice institutions matters more to the complainants involved than the fairness or favorability of the outcomes they receive. Our main questionnaire was intended to obtain data which will help to test our prediction. Another purpose of our study is to explore the motives that people have to commence legal proceedings, and whether these motives affect the actual experiences

people have when Article 12 proceedings are pending. We measured these motives with our baseline questionnaire.

METHOD

Research Procedure

In consultation with four courts of appeal in the Netherlands,[1] we sent 150 baseline questionnaires (T_0) to each court of appeal, resulting in a total of 750 questionnaires. These questionnaires were provided to the courts of appeal together with stamped reply envelopes. The courts of appeal included these questionnaires with a written notification of receipt of the complaint to the complainants who filed their complaint between January and June 2015. Complainants were informed that their identities would remain anonymous, that data would be reported in aggregate only, that the study was conducted independently from the Dutch Judiciary and the Public Prosecution Service, and that only researchers at the university responsible for conducting the study would have access to the data.

All in all, of the 750 baseline questionnaires that had been sent out by the courts to potential respondents, 260 complainants replied and agreed to participate, resulting in a 34.67% response rate. These respondents were fairly evenly distributed over the court of appeal in Amsterdam (40 respondents, 27%), Arnhem (67 respondents, 45%), Leeuwarden (58 respondents, 39%), Den Bosch (54 respondents, 36%), and The Hague (30 respondents, 25%).[2]

After filling out the baseline questionnaire, respondents were informed that they could give their address if they were willing to answer our main questionnaire (T_1) on the way the court of appeal had handled their complaint. Because courts of appeal strive to decide on these complaints within 6 months after receipt, the main questionnaire was sent eight months after respondents had received the baseline questionnaire. Of the 260 respondents who replied to the baseline questionnaire, 211 (81.15%) indicated their intention to answer the main questionnaire. Of these 211 respondents, 109 respondents eventually filled out the main questionnaire, resulting in a 51.65% response rate.[3]

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1 There are four courts of appeal in the Netherlands. The Arnhem-Leeuwarden court of appeal has a separate hearing location in both Arnhem and Leeuwarden. We conducted our studies at both locations.

2 These are percentages of the total number of 150 questionnaires sent per court.

3 A post-hoc G*power analysis (Faul, Erdfelder, Lang, & Buchner, 2007) indicated that with $\alpha = .05$, and a medium average effect size ($f = .15$, Cohen, 1988), the sample of this study ($N = 109$) has an average statistical power of .94 to detect the predicted main effects of procedural justice, outcome fairness, outcome favorability, and general justice, which was deemed sufficient for the current purposes.

Respondents

Our final T_1 sample of 109 respondents consisted of 77 men (71%) and 31 women (28%). One respondent (1%) did not state their sex. Respondents' ages varied from 16 to 87 with an average of 53.45 years (*SD* = 14.60). Respondents' highest education completed varied from primary school (4 respondents, 4% of the sample), junior secondary vocational school (15 respondents, 14% of the sample), senior secondary vocational or general school (35 respondents, 32% of the sample), to higher professional education or university (49 respondents, 45% of the sample). Three respondents (3% of the sample) reported having completed different types of education, such as vocational certificates. Three respondents (3% of the sample) did not state their educational level.

Respondents' complaints were related to several criminal offences. By using various categories, we asked respondents to indicate how the offence was best described. One of the categories enabled respondents to give their own description, if not included in the categories yet. Many respondents indicated multiple categories. Most criminal offences were related to maltreatment and violence (40 respondents, 37%). Other commonly indicated categories were threat (32 respondents, 29%) and theft (26 respondents, 24%). Part of the respondents (34 respondents, 22%) gave their own description of the complaint, in which they mentioned unlawful entry of a dwelling, defamation, slander, discrimination, forgery of documents, and embezzlement.

The majority of the respondents indicated that they were involved in Article 12 proceedings as a victim (96 respondents, 88%). A minority indicated that they represented the victim (14 respondents, 13%). Some respondents indicated to be both victim and representative of the victim. Four respondents (4%) indicated to be involved in Article 12 proceedings in a different capacity, such as a parent or a guardian.

The majority of respondents (91, 84%) had no prior experience with Article 12 proceedings. Of the 17 respondents who had prior experience with Article 12 proceedings, the majority (10 respondents, 59%) had commenced Article 12 proceedings once before.

T_1 Measures

The *main questionnaire* measured respondents' opinions on how their case was treated during Article 12 proceedings at T_1.[4] This main questionnaire was sent eight months after complainants had received the baseline questionnaire at T_0.

4 Since we report on all measurements in our study, we should note that we used 52 items in the main questionnaire measuring other reactions, such as information provision by the court of appeal, and perceived social distance to criminal justice institutions. These items were measured prior to the variables reported here, were included for exploratory purposes, did not affect the effects reported here, and are available on request.

Procedural justice at T_1. We asked respondents to indicate whether and how much they agreed with the following eight statements regarding fairness during the handling of their case: "I could voice my opinions," "My opinion was taken seriously," "My opinion was carefully noted," "There was sincere attention for my story," "I was treated in a fair manner," "I was treated in a just manner," "I was treated in a polite manner," and "I was treated with respect."[5] Reliability analysis showed that the perceived procedural justice items had strong internal consistency (α = .97). Exploratory Factor Analysis (EFA) using Maximum Likelihood (ML) extraction (Kim & Mueller, 1977) revealed that these items loaded on one factor (λ = 6.50, loadings > .75). We averaged the items into a perceived procedural justice scale.

Outcome fairness at T_1. Respondents were asked to indicate whether and how much they agreed with the following statements: "I achieved a just outcome" and "I achieved a fair outcome". The Spearman-Brown statistic, which is viewed as the most appropriate reliability coefficient for a two-item scale (Eisinga, Te Grotenhuis, & Pelzer, 2013), showed that the items were substantially correlated (r_s = .94, p < .001). The items were averaged to form an outcome fairness scale.

Outcome favorability at T_1. Respondents were asked to indicate whether and how much they agreed with the following statements: "I achieved an outcome which is favorable to me" and "I was awarded compensation". These two items were correlated significantly (r_s = .62, p < .001) and were averaged to form an outcome favorability scale.[6]

General justice at T_1. We measured respondents' perceptions of general justice by asking them to indicate whether and how much they agreed with the following two statements: "Justice has been done regarding the reason I had to file a complaint against the decision not to prosecute" and "The injustice that constituted the reason for

5 This means that for our analyses involving perceptions of procedural justice, we used the items that concern the fairness perceived by respondents during the handling of their case (that is the period between filing the complaint not to prosecute and eight months later). Because of the relatively large number of appeals that do not lead to an actual court hearing, we did not focus our main analyses on the fairness perceived by respondents during the actual court hearing. The same goes for outcome concerns. Despite the court of appeal's ambition to decide cases within six months, we expected that the court of appeal had not yet decided eight months after complainants had commenced proceedings (and this indeed proved to be the case). For this reason, our items concern the fairness and favorability of the outcome achieved after eight months, regardless of whether complainants had received the actual court's decision yet.

6 Some studies examined the effects of outcome fairness and outcome favorability separately (Lind, Kanfer, & Earley, 1990; McEwen & Maiman, 1984; Tyler, Huo, & Lind, 1999), whereas other studies looked at the effects of outcome favorability as a construct that captures both outcome fairness and outcome valence (Brockner & Wiesenfeld, 1996). Exploratory Factor Analysis (EFA) using Maximum Likelihood (ML) extraction revealed that our items on outcome fairness and outcome favorability loaded on one factor (λ = 3.05; loadings > .35). Reliability analysis showed that the four items had strong internal consistency (α = .89). We re-tested all analyses reported using the 4-item outcome favorability scale. These analyses did not show different results than the ones presented in our results section.

my complaint has been restored". Because the items were reliably correlated (r_s = .76, p < .001), the items were averaged to form an outcome favorability as a motive scale.

Trust in the Dutch Public Prosecution Service at T_1. Trust appears to be a complex, multifaceted concept with cognitive, emotional, and behavioral components that all operate at both the interpersonal and the institutional level. We therefore measured trust in the criminal justice institutions that interested us (trust in the Dutch Public Prosecution Service, Dutch judges, and the Dutch criminal justice system) by using a multi-item scale that consisted of items based on a literature review (Grimmelikhuijsen & Knies, 2017; Mayer, Davis, & Schoorman, 1995; Tyler, 2001; Tyler & Huo, 2002). Specifically, to assess respondents' trust in the Dutch Public Prosecution Service, respondents were asked to indicate their level of agreement with the following six statements: "I have confidence in the Public Prosecution Service," "The Public Prosecution Service protects victims' rights in a good way,""I am confident that the Public Prosecution Service does the right thing," "The Public Prosecution Service is impartial," "The Public Prosecution Service acts with due care" and "The Public Prosecution Service treats people in a good way". The items demonstrated strong internal consistency (α = .94). EFA with ML extraction also revealed that the six items loaded on a single component (λ = 4.77; loadings > .70) and, therefore, were averaged to yield a Trust in the Public Prosecution Service scale.

Trust in Dutch judges at T_1. We measured trust in Dutch judges by asking respondents to what extent they agreed with the following six statements: "I have confidence in Dutch judges," "Judges protect victims' rights in a good way," "I am confident that Dutch judges do the right thing," "Dutch judges are impartial," "Dutch judges act with due care" and "Dutch judges treat people in a good way." The items demonstrated strong internal consistency (α = .96). EFA with ML extraction also showed that the six items loaded on a single component (λ = 4.95; loadings > .80) and, therefore, were averaged to yield a Trust in Dutch Judges scale.

Trust in the Dutch criminal justice system at T_1. We measured trust in the Dutch criminal justice system by asking respondents to indicate their level of agreement with the following six statements: "I have confidence in the Dutch criminal justice system," "The Dutch criminal justice system protects victims' rights in a good way,""I am confident that the Dutch criminal justice system does the right thing,""The Dutch criminal justice system is impartial,""People working in the Dutch criminal justice system act with due care" and "People working in the Dutch criminal justice system treat people in a good way." The items demonstrated strong internal consistency (α = .93). EFA with ML extraction also indicated that the six items loaded on a single component (λ = 4.51; loadings > .70) and, therefore, were averaged to yield a Trust in the Dutch Criminal Justice System scale.

T_0 Measures

With the *baseline questionnaire* measured at T_0 we assessed respondents' motives for commencing Article 12 proceedings directly after they filed their complaint.[7]

Procedural justice as a motive at T_0. Based on our analysis of the literature on procedural justice (Leventhal, 1980; Lind & Tyler, 1988; Moorman, 1991), we measured how important perceived procedural justice was for respondents by 4 asking them to indicate whether and how much they agreed with the following eight statements as a response to the question why respondents commenced Article 12 proceedings: "Because I want to voice my opinions," "Because I want my opinion to be taken seriously," "Because I want my opinion to be carefully noted," "Because I want sincere attention for my story," "Because I want to be treated in a fair manner," "Because I want to be treated in a just manner," "Because I want to be treated in a polite manner," and "Because I want to be treated with respect". All responses in our study were measured using 7-point Likert-type scales (1 = *strongly disagree*, 7 = *strongly agree*). Reliability analysis showed the expected procedural justice items had strong internal consistency ($\alpha = .92$). EFA with ML extraction showed acceptable loadings on one factor ($\lambda = 5.24$; loadings > .70). Accordingly, the items were averaged to construct a Procedural Justice as a Motive scale.

Outcome fairness as a motive at T_0. To assess how important outcome fairness was for respondents in commencing Article 12 proceedings, we used two items inspired by Lind, Kanfer, and Earley (1990) and McEwen and Maiman (1984). Respondents were asked to indicate whether and how much they agreed with the following statements in response to the question why they had commenced Article 12 proceedings: "Because I want to achieve a just outcome" and "Because I want the outcome to be fair". Because the items were reliably correlated ($r_s = .71$, $p < .001$), the items were averaged to form an Outcome Fairness as a Motive scale.

Outcome favorability as a motive at T_0. To assess how important outcome favorability was for respondents in commencing Article 12 proceedings, we used an item inspired by Tyler, Huo, and Lind (1999), and an item on damage compensation, which we considered to be important in the specific context of Dutch Article 12 proceedings. Specifically, respondents were asked to indicate whether and how much they agreed with the following statements in response to the question why they had commenced Article 12 proceedings: "Because I want to achieve an outcome which is favorable for me" and "Because I want to be awarded compensation". Because the items were significantly

7 Since we report on all measurements in our study, we should note that we used 11 items in the baseline questionnaire measuring other reactions, such as the degree to which complainants felt informed by the police, and felt that the prosecution had explained to them why they decided not to prosecute. These items were measured after the variables reported here, were included for exploratory purposes, did not affect the effects reported here, and are available on request.

correlated (r_s = .63, p < .001), the items were averaged to form an Outcome Favorability as a Motive scale.

General justice as a motive at T_0. To assess how important a general concern of justice was for respondents in commencing Article 12 proceedings, we asked them to indicate whether and how much they agreed with the following two statements inspired by Lind (1994) in response to the question why respondents had commenced Article 12 proceedings: "Because no justice will be done if prosecution does not take place," "Because what happened is unjust and the situation should be restored." Because the items were significantly correlated (r_s = .40, p < .001), the items were averaged to form a General Justice as a Motive scale.

Trust in criminal justice institutions at T_0. We measured trust in the Public Prosecution Service, trust in Dutch judges, and trust in the criminal justice system by using the exact same multi-item measures as those used in the baseline questionnaire. The items used again demonstrated strong internal consistency and loaded on a single component in EFAs with ML extraction for trust in the Dutch Prosecution Service (α = .93, λ = 4.49; loadings > .75), trust in Dutch judges (α = .97, λ = 5.15; loadings > .85), and trust in the Dutch criminal justice system (α = .93, λ = 4.46; loadings > .60).

RESULTS

Descriptive Statistics and Correlations at T_1

Bivariate correlations and descriptive statistics including means and standard deviations for procedural justice, outcome fairness, outcome favorability, general justice, our trust in criminal justice institutions variables, and background variables measured by the main questionnaire are presented in Table 3.1. Because adding our background variables to the analyses together with the main variables did not influence the main effects reported here, we decided to exclude these variables from the analyses and the following presentation of our findings to enhance interpretation of the findings presented.

Table 3.1
Means, Standard Deviations, and Correlations for the Main Variables (T_1)

Variable	*M*	*SD*	1	2	3	4	5	6	7	8	9	10	11	12	13
1. Procedural Justice	3.33	2.03	-												
2. Outcome Fairness	2.05	1.96	.63**	-											
3. Outcome Favorability	1.52	1.11	.53**	.77**	-										
4. General Justice	2.00	1.72	.59**	.77**	.71**	-									
5. Trust in the Prosecution	2.36	1.48	.77**	.59**	.54**	.69**	-								
6. Trust in Judges	3.30	1.71	.68**	.53**	.48**	.62**	.78**	-							
7. Trust in the Criminal Justice System	2.72	1.49	.65**	.52**	.48**	.57**	.78**	.78**	-						
8. Age	53.45	14.60	-.15	-.23*	.16	-.15	-.28*	-.15	-.19	-					
9. Educational Level	3.30	.88	.12	.18	.16	.10	.04	-.22*	.13	.05	-				
10. Gender (**0** = *No*, **1** = *Yes*)	-	-	.18	.07	-.05	.01	.13	.10	-.04	-.17**	.01	-			
11. Prior Experience (**0** = *No*, **1** = *Yes*)	-	-	-.24*	-.12	-.04	-.09	-.17	-.15	-.18	.09	.09	-.05	-		
12. Court Hearing (**0** = *No*, **1** = *Yes*)	-	-	.36**	.11	.20	.14	.18	.11	.08	.14	-.08	.12	-.01	-	
13. Court Decision (**0** = *No*, **1** = *Yes*)	-	-	.16	.22*	.08	.17	.19	.12	.16	.01	-.01	-.09	.11	.13	-

Note. * p < .05 ** p < .01.

Main Analyses of T_1 Data

As Table 3.1 shows, all four forms of justice were positively correlated with trust in criminal justice institutions. To test our prediction that perceived procedural justice would be positively associated with trust in the criminal justice institutions, we performed single regression analyses. These analyses revealed strong statistically significant relationships between perceived procedural justice and trust in the prosecution ($b = .56$, $\beta = .77$, $t\,(80) = 10.82$, $p < .001$), judges ($b = .58$, $\beta = .68$, $t\,(83) = 8.43$, $p < .001$), and the criminal justice system ($b = .47$, $\beta = .65$, $t\,(80) = 7.56$, $p < .001$), indicating that those who perceived higher levels of procedural justice also stated that they had higher levels of trust in the criminal justice institutions.

To test our prediction that procedural justice would be more strongly related to trust in criminal justice institutions than concerns of outcome fairness and outcome favorability, we performed usefulness analyses involving hierarchical multiple regression (Darlington, 1968). To understand the unique contribution of procedural justice to trust in the criminal justice institutions, we first entered the other three variables (outcome favorability, outcome fairness, and general justice) in the regression analysis, and then in a next step procedural justice. The increment in variance explained between the steps represents the independent contribution – the usefulness – of perceived procedural justice in explaining variation in trust in criminal justice institutions. Similar analyses were performed to determine the unique contribution of outcome favorability, outcome fairness, and general justice. This means that each time, we first entered the other three variables in a regression analysis, and then in a next step the variable whose unique contribution to trust in criminal justice institutions we wanted to understand. Table 3.2 shows the results of these usefulness analyses.

Table 3.2 *Unique Contribution of Separate Forms of Justice*

	Trust in the Prosecution			*Trust in Judges*			*Trust in the Criminal Justice System*		
	β	B (SE)	R^2	β	B (SE)	R^2	β	B (SE)	R^2
Procedural justice	.58***	.44 (.07)	.18***	.49***	.42 (.09)	.13***	.47***	.35 (.09)	.12***
Outcome fairness	-.17	-.13 (.10)	.01	-.15	-.14 (.16)	.00	-.09	-.07 (.14)	-.01
Outcome favorability	.02	.03 (.15)	.00	-.03	-.05 (.22)	.00	.05	.06 (.20)	-.01
General concern of justice	.43**	.37 (.12)	.05**	.46*	.45 (.19)	.04*	.31	.26 (.17)	.01

Note. Entries in Column 1 and Columns 2 are the standardized and unstandardized regression coefficients for an equation including all variables. Standard errors are in parentheses. Entries in Column 3 are the increments in the adjusted square of the multiple correlation coefficient for variables entered singly.
* p < .05 ** p < .01 *** p < .001.

Table 3.2 shows that perceived procedural justice is positively associated with respondents' trust in the prosecution ($b = .44$, $\beta = .58$, $t\,(73) = 6.08$, $p < .001$), judges ($b = .42$, $\beta = .49$, $t\,(76) = 4.44$, $p < .001$), and the criminal justice system ($b = .35$, $\beta = .47$, $t\,(73) = 3.98$, $p < .001$). Outcome fairness and outcome favorability do not uniquely contribute to trust in the criminal justice institutions. Table 3.2 shows that respondents' trust in the prosecution, judges and the criminal law system is more strongly influenced by their procedural fairness judgments than their judgments on outcome fairness and outcome favorability.

General concerns of justice, too, are positively associated with respondents' trust in the prosecution ($b = .37$, $\beta = .43$, $t\,(73) = 3.20$, $p < .01$), and judges ($b = .45$, $\beta = .46$, $t\,(76) = 2.39$, $p < .05$). However, as Table 3.2 shows, procedural justice is more strongly related to trust in the prosecution, criminal law judges, and the criminal justice system than concerns of general justice. This means that although general concerns of justice significantly contribute to trust in the prosecution and trust in criminal law judges as well, perceived procedural justice makes a stronger unique contribution to respondents' trust in the prosecution ($\Delta R^2 = .18$, $p < .001$), judges ($\Delta R^2 = .13$, $p < .001$), and the criminal justice system ($\Delta R^2 = .12$, $p < .001$) beyond concerns of outcome fairness, outcome favorability, and general justice.

Figure 3.1 illustrates the unique contribution of perceived procedural justice to trust in criminal justice institutions beyond concerns of outcome fairness, outcome favorability, and general justice.

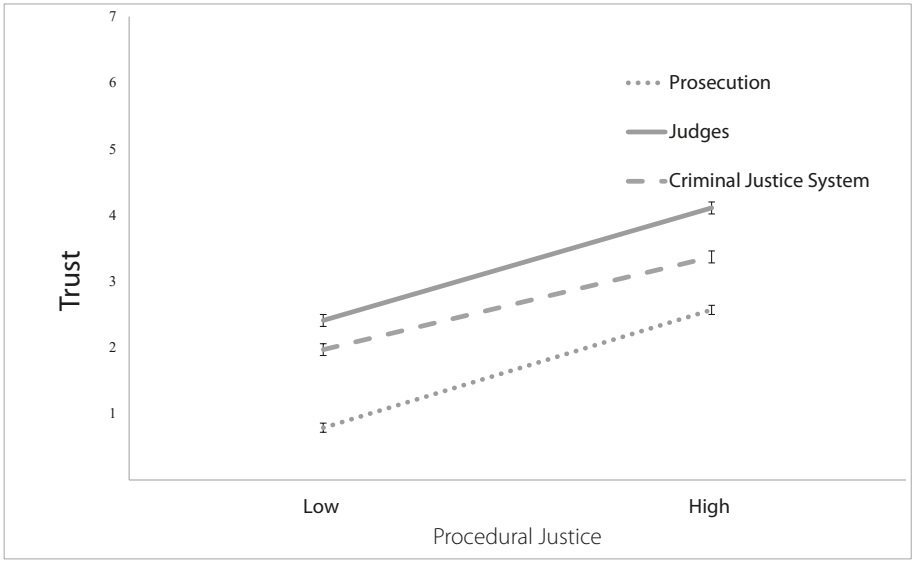


Figure 3.1. *Respondents' evaluations of criminal justice institutions as a function of their perceptions of procedural justice being relatively low (-1 SD) and relatively high (+1 SD).*

Figure 3.1 shows the positive relationship between perceived procedural justice and trust in criminal justice institutions, and distinguishes between those respondents who were estimated to score 1 standard deviation below the mean of procedural justice (-1 SD) and those who were estimated to score 1 standard deviation above the mean of procedural justice (+1 SD). Respondents who perceived a relatively unfair treatment (-1 SD) scored relatively low on their trust in the prosecution, judges, and the criminal justice system. Respondents who perceived a relatively fair treatment (+1 SD) scored significantly higher on their trust in the prosecution, judges, and the criminal justice system.

Descriptive Statistics and Correlations at T_0

Bivariate correlations and descriptive statistics including means and standard deviations for procedural justice, outcome fairness, outcome favorability, and general justice as motives for commencing Article 12 proceedings, our own trust in criminal justice institutions variables, and background variables measured by the baseline questionnaire, are presented in Table 3.3.

Table 3.3
Means, Standard Deviations, and Correlations for the Main Variables (T0)

Variable	*M*	*SD*	1	2	3	4	5	6	7	8	9	10	11
1. Procedural Justice as a motive	6.09	1.24	-										
2. Outcome Fairness as a motive	6.65	.90	.57**	-									
3. Outcome Favorability as a motive	4.58	2.05	.44**	.24**	-								
4. General Justice as a motive	6.54	.99	.38**	.63**	.18**	-							
5. Trust in the Prosecution	3.00	1.60	-.05	-.07	-.13*	-.17**	-						
6. Trust in Judges	4.38	1.66	-.10	-.09	-.20**	-.04	.57**	-					
7. Trust in the Criminal Justice System	3.65	1.50	.-.09	-.09	-.13*	-.10	.65**	.77**	-				
8. Age	49.27	14.05	.33	.02	.03	.06	-.12	-.13*	-.06	-			
9. Educational Level	3.24	.88	-.16**	-.03	-.07	-.01	-.14*	.01	-.01	.05	-		
10. Gender (**1** = ***Male***, **2** = ***Female***)	-	-	.07	.02	.09	-.05	.08	-.01	.01	-.17**	.01	-	
11. Prior Experience (**0** = ***No***, **1** = ***Yes***)	-	-	-.17**	-.28**	-.03	-.11	-.07	-.08	-.09	.09	.09	-.05	-

Note. * p < .05 ** p < .01.

As Table 3.3 shows, respondents scored higher on their trust in criminal justice institutions in the baseline measurement than in the main measurement. The differences between our measurements at the main level and baseline level differ significantly with regard to respondents' trust in judges, $F(1, 84) = 32.22$, $p < .001$, $\eta_p^2 = .28$, trust in the prosecution, $F(1, 83) = 12.86$, $p < .01$, $\eta_p^2 = .13$, and trust in the criminal justice system, $F(1, 83) = 44.36$, $p < .001$, $\eta_p^2 = .35$.

We tested whether the motives respondents had at T_0 for commencing Article 12 proceedings differed significantly from each other. We found that procedural justice as a motive differed significantly from outcome fairness as a motive, $F(1, 254) = 8.75$, $p < .001$, $\eta_p^2 = .32$, outcome favorability as a motive, $F(1, 253) = 2.86$, $p < .001$, $\eta_p^2 = .19$, and general justice as a motive, $F(1, 254) = 4.04$, $p < .001$, $\eta_p^2 = .14$, indicating that respondents scored significantly higher on outcome fairness and general justice than on procedural justice as a motive for commencing Article 12 proceedings. Respondents scored significantly lower on outcome favorability as a motive, indicating that achieving a favorable outcome mattered less to them than being treated fairly as a motive for commencing Article 12 proceedings.

Additional Analyses at T_0 and T_1

In order to determine whether respondents' motives for commencing Article 12 proceedings measured by the baseline questionnaire influenced the unique contribution of perceived procedural justice, we performed additional analyses to control for these motives. For this purpose, we performed usefulness analyses again. Table 3.4 shows the results of these analyses.

Table 3.4
Unique Contribution of Separate Forms of Justice, Controlled for Respondents' Motives at T_0

	Trust in the Prosecution			*Trust in Judges*			*Trust in the Criminal Justice System*		
	β	B (SE)	R^2	β	B (SE)	R^2	β	B (SE)	R^2
Procedural justice	.56***	.42 (.07)	.17***	.49***	.42 (.10)	.13***	.48***	.35 (.09)	.12***
Outcome Fairness	-.23	-.17 (.11)	.01	-.18	-.16 (.17)	.00	-.08	-.06 (.15)	-.01
Outcome Favorability	.04	.05 (.15)	-.01	-.03	.05 (.23)	-.01	.05	.07 (.20)	-.01
General Justice	.49**	.42 (.12)	.06**	.47*	.46 (.20)	.03*	.30	.25 (.18)	.01

Note. Entries in Column 1 and Column 2 are the standardized and unstandardized regression coefficients for an equation including all variables. Standard errors are in parentheses. Entries in Column 3 are the increments in the adjusted square of the multiple correlation coefficient for variables entered singly.
* p < .05 ** p < .01 *** p < .001.

Table 3.4 shows that the unique contributions of separate forms of justice remain virtually the same when respondents' motives for commencing Article 12 proceedings are included in the analyses. Thus, the positive unique contribution of perceived procedural justice is maintained for respondents' trust in the prosecution ($\Delta R^2 = .17, p < .001$), judges ($\Delta R^2 = .13, p < .001$), and the criminal justice system ($\Delta R^2 = .12, p < .001$) beyond concerns of outcome fairness, outcome favorability, and general justice, and beyond respondents' motives for commencing Article 12 proceedings. The unique contribution of perceived general justice is, though relatively smaller than the contribution of perceived procedural justice, maintained for respondents' trust in the prosecution ($\Delta R^2 = .06, p < .01$), and judges ($\Delta R^2 = .03, p < .05$) too. This indicates that the influence of perceived procedural justice on respondents' trust judgments is not subjected to how important respondents seemed to find fair treatment and restoration of justice as motives for commencing Article 12 proceedings.

Measuring trust in criminal justice institutions at two measurement moments enabled us to examine whether respondents' trust in criminal justice institutions judgments measured with the baseline questionnaire influenced the association between perceived procedural justice and trust ratings as shown in Figure 3.1. Therefore, we performed additional analyses in which we controlled for the T_0 trust judgments. Table 3.5 shows the results of these analyses.

Table 3.5
Unique Contribution of Separate Forms of Justice, Controlled for Respondents' Trust Judgments at T_0

	Trust in the Prosecution			*Trust in Criminal Judges*			*Trust in the Justice System*		
	β	B (SE)	R^2	β	B (SE)	R^2	β	B (SE)	R^2
Trust Judgment at T_0	.22**	.20 (.07)	.04**	.33	.34 (.08)	.11***	.49	.53 (.08)	.22***
Procedural Justice	.54***	.39 (.07)	.16***	.41***	.35 (.09)	.10***	.34**	.25 (.07)	.06**
Outcome Fairness	-.22	-.16 (.10)	.01	-.20	-.19 (.14)	.01	-.25	-.19 (.11)	.01
Outcome Favorability	.01	-.01 (.14)	.00	-.03	-.04 (.20)	.00	.14	.18 (.16)	.00
General Justice	.47***	.40 (.11)	.06***	.47**	.47 (.17)	.04**	.36*	.30 (.14)	.02*

Note. Entries in Column 1 and Column 2 are the standardized and unstandardized regression coefficients for an equation including all variables. Standard errors are in parentheses. Entries in Column 3 are the increments in the adjusted square of the multiple correlation coefficient for variables entered singly.
* p < .05 ** p < .01 *** p < .001.

Table 3.5 shows that respondents' trust in the prosecution, judges, and the criminal justice system measured at the baseline level (T_0) uniquely contributes to their trust in the prosecution ($\beta = .22, t\ (71) = 3.06, p < .01$), judges ($\beta = .33, t\ (74) = 4.18, p < .001$), and criminal-justice system ($\beta = .49, t\ (70) = 6.40, p < .001$) eight months later ($T_1$). The

unique contributions of separate forms of justice were still present when respondents' trust judgments measured by the baseline questionnaire were included in the analyses.

Perceived procedural justice positively contributed to trust in the prosecution (ΔR^2 = .16, $p < .001$), judges (ΔR^2 = .10, $p < .001$), and the criminal justice system (ΔR^2 = .06, $p < .001$). General justice, too, positively contributed to trust in the prosecution (ΔR^2 = .06, $p < .001$), and judges (ΔR^2 = .04, $p < .01$). Moreover, when we controlled for the trust judgments measured at T_0, general justice positively contributed to trust in the criminal justice system at T_1 (ΔR^2 = .02, $p < .05$).

Thus, although respondents' trust in criminal justice institutions at the beginning of Article 12 proceedings significantly contributes to their trust judgments measured eight months later, perceived procedural justice positively contributed to respondents' trust in the prosecution (ΔR^2 = .16, $p < .001$), judges (ΔR^2 = .10, $p < .001$), and the criminal justice system (ΔR^2 = .06, $p < .01$) beyond concerns of outcome fairness, outcome favorability, and general justice, and beyond respondents' trust judgments measured at the baseline level. This indicates that respondents' perceptions of having been treated fairly continue to be important, although their judgments on trust in criminal justice institutions at the moment they commenced Article 12 proceedings matter as well. However, these baseline-level trust judgments were less strongly associated with trust ratings than respondents' concerns of procedural and general justice.

DISCUSSION

The criminal justice system is an important formal mechanism through which democratic governments control their citizens. Discretionary power used during the day-to-day functioning of the criminal justice system may threaten its very existence by creating perceptions of unfairness and injustice as experienced by these citizens (Landls & Goodstein, 1986). It is therefore of great importance that citizens have confidence in the functioning of the criminal justice system as such, and in the system's professional representatives with whom they interact. Our study makes several useful contributions to the study of trust in criminal justice institutions by focusing on the specific context of complainants who have appealed against a discretionary decision not to prosecute an alleged defendant for a criminal offence, at four courts of appeal in the Netherlands.

We proposed that fair treatment during Article 12 proceedings promotes higher levels of trust in criminal justice institutions, and that perceived procedural justice is more strongly related to trust in these institutions than concerns of outcome fairness and outcome favorability. Our findings support these predictions, and imply a strong overall impact of procedural justice. High levels of perceived procedural justice produced higher levels of trust in the prosecution, in judges and in the criminal justice system

as such. Furthermore, our study showed that the influence of perceived procedural justice on trust judgments is not subject to how important complainants seemed to find procedural justice and outcome concerns as motives for commencing Article 12 proceedings.

Limitations

It is important to note that alleged victims who commence Article 12 proceedings represent a minority of the victims who come into contact with the criminal justice system. Consequently, the findings of this study may not generalize to the majority of criminal justice victims in general. We are aware of the fact that we studied a relatively narrow population of complainants. We believe, however, that it is important to study the influence of perceived procedural justice in a context where citizens are dissatisfied with the legal system and distrust important legal institutions.

Furthermore, it is important to consider the low response rates of both the main questionnaire (52%) and the baseline questionnaire (35%), and the potential selection effects that this may have caused. We should note that the baseline questionnaires were sent out by the courts, and we cannot be sure whether these questionnaires reached all our potential respondents. Furthermore, although it is conceivable that the group of respondents that answered our main questionnaire may deviate from the population of complainants, our comparisons of the baseline and main sample revealed no significant differences between the two. Gender, educational level, and former experience did not differ significantly between the respondents who filled out the main questionnaire and those who did not. Of course, this does not rule out the possibility that this sample was biased with regard to the way they were treated by legal institutions. The 52% response rate resulted in a main sample of 109 respondents. Although this sample is not ideal, power analysis showed that this sample is sufficient to reliably interpret the results of our analyses (see Footnote 18).

Although we found a strong statistically significant relationship between perceived procedural justice and trust in criminal justice institutions, beyond other forms of justice and beyond baseline trust ratings measured at the beginning of Article 12 proceedings, we acknowledge that these data are correlational, and any inferred causality must be avoided or treated with caution, and regarded as tentative at best.

Studies on procedural justice and trust in legal authorities present different models with contrasting relationships between the two, where some studies treated trust as an antecedent of procedural justice (Lind et al. 1993; Tyler & Blader, 2000; Tyler & Lind, 1992; Van de Walle, 2009), and other studies viewed trust as the result of procedural justice (Gau, 2010; Hough, Jackson, Bradford, Myhill, & Quinton, 2010; Jackson & Bradford 2010; Murphy, Mazerolle & Bennett, 2014; Tyler & Huo, 2002). One interesting

aspect of our study is that we measured trust in criminal justice institutions both at the beginning of the proceedings, and eight months later, which allowed us to explore both the influence of trust in the prosecution measured by the baseline questionnaire on perceived procedural justice measured by the main questionnaire ($\beta = .22$, $t\ (85) = 2.05$, $p < .05$), and the influence of perceived procedural justice measured on trust in the prosecution, both measured by the main questionnaire ($\beta = .77$, $t\ (80) = 10.82$, $p < .001$). These findings support the idea that procedural justice is an antecedent of trust. A note of caution is due here, since the eight months between the two measurements might cause interpretation flaws.

The Overestimated Role of Instrumental Concerns

In this study, we examined the role that procedural and outcome concerns played both as perceptions, after people had gone through legal proceedings and interacted with criminal justice institutions, and as motives, when people had decided to commence legal proceedings. We did so in a context in which we expected outcome concerns to be of great importance for the respondents involved. After all, the Dutch Article 12 proceedings are the last legal resort that complainants can use to claim damage compensation, restoration of harm, and retribution. It is, therefore, the last chance to secure their own interests. On top of this, more than 75% of the complaints fail to ensure that the offence becomes the subject of criminal prosecution, which can be a disappointing and unfavorable result for the alleged victims involved.

Interestingly, our study qualified the expected role of instrumental concerns in two important ways. We found concerns about the favorability of outcomes to be less important than we expected, both in people's motives for commencing legal proceedings, and in people's judgments of trust in important criminal justice institutions.

First of all, when we inspected complainants' motives to commence Article 12 proceedings, we found that concerns of outcome fairness and general justice seemed to be the most important motives for commencing Article 12 proceedings. Respondents presented the lowest score on outcome favorability as a motive, indicating that achieving a favorable outcome mattered less to them than being treated fairly as a motive for commencing Article 12 proceedings. These findings challenge the premise that what drives people is not to achieve favorable outcomes and to maximize their own gain, but rather to achieve a fair and just outcome and to restore justice.

Secondly, neither the fairness nor the favorability of the outcome played a significant role in respondents' trust judgments during the main measurement. Our results show that it is both the perception of being treated fairly, and the general perception that justice will be done, that make a unique contribution to how complainants' evaluate the criminal justice institutions. This means that the impact of instrumental concerns on

complainants' actual attitudes and judgments is not as great as instrumental theories would predict.

These results can be interpreted in the light of what Miller (1999) calls the powerful myth of the self-interest motive. With this phrase Miller refers to people's overemphasis of the belief in self-interest concerns as drivers of their motivated behavior. As a result, Miller (1999; Miller & Ratner, 1998) argues, people overestimate the impact of self-interest concerns (such as how favorable their outcomes are) on their actual attitudes and behaviors. Our results indeed are in line with the view that people overestimate the influence of outcome concerns on behavior and attitudes: although our respondents considered outcome fairness as the most important motive for commencing the complaints procedure (as shown in the baseline questionnaire findings at T_0), they cared more strongly about the fairness of the procedure than about the outcomes yielded by that procedure when they evaluated their trust in criminal justice institutions (as revealed in the main questionnaire findings at T_1). These findings should be interpreted with caution, of course, partly because half of our respondents had not yet received the court's decision at the time of our main measurement.

Declining Trust in Criminal Justice Institutions

Working with both a main questionnaire and a baseline questionnaire enabled us to measure complainants' trust in the criminal justice institutions both at the moment that complainants commence legal proceedings, and eight months later when they actually interacted with the legal system. Our analyses demonstrated that complainants' trust in the prosecution, in judges, and in the criminal justice system was relatively low, both in the baseline measurement and in the main measurement. Complainants' trust ratings did not improve during the eight months after Article 12 proceedings took place. Furthermore, we found that trust in criminal justice institutions at the beginning of Article 12 proceedings significantly contributed to their trust judgments measured eight months later. These baseline trust judgments however, were less strongly associated with trust ratings than respondents' perceptions of procedural justice during the handling of their case.

Although the decrease of complainants' trust in criminal justice institutions was not substantial, it was statistically significant. Furthermore, we found a significant positive influence of perceived procedural justice on the relatively low evaluations at the time of the main measurement. These findings suggest that when important criminal justice professionals act in a procedurally fair way, they gain more trust. Complainants' level of trust was considerably higher when complainants perceived relatively fair treatment compared to when complainants perceived relatively unfair treatment. Figure 3.1 illustrates this mitigating effect of perceived procedural justice.

The relatively low levels of trust in criminal justice institutions at both measurement levels are remarkable, since Article 12 proceedings were created to give alleged victims the opportunity to voice their opinions and strengthen their trust in the criminal justice system (Schalken, 2004). The very long lead time of Article 12 proceedings may have had an impact on the relatively low levels of trust in criminal justice institutions. Complainants went through a whole legal trajectory, and needed to wait more than six months for the court to decide on their complaint. This mere fact may have had an impact on complainants' dissatisfaction with the system, and may have lowered their levels of trust in criminal justice institutions.

The Importance of Being Heard

When the Dutch procedure for Article 12 proceedings was revised in 1985 to improve legal safeguards, the Dutch Minister of Justice stated that the procedure had to be extended because the complainant should be enabled to feel that justice was being done (Schalken, 2004). As a result, no substantive decisions could be made without hearing complainants because they must at least be enabled to feel that their case is being dealt with seriously.

Because we anticipated that less than half of the respondents who filled out the main questionnaire would indicate that a court hearing had taken place, in which they had been heard as complainant (47 respondents, 43%), we developed robust items which encompassed fair treatment during the handling of their case, i.e. the period between filing the appeal against the decision not to prosecute and eight months later, and not the fairness perceived by respondents during the court hearing. Yet we can benefit from the fact that 62 respondents (57%) had not yet been heard at a court hearing, by comparing the procedural justice assessments of both groups. We found a statistically significant relationship between having had a court hearing and perceived procedural justice ($\beta = .36$, $t\ (88) = 3.55$, $p < .01$). Respondents who had been heard at a court hearing were more likely to perceive their treatment as fair ($M = 4.05$, $SD = 1.98$) than respondents who had not been heard at a court hearing yet ($M = 2.62$, $SD = 1.84$), $F(1, 87) = 12.95$, $p < .01$, $\eta_p^2 = .13$.

We used eight different items to construct a reliable and robust perceived procedural justice scale to measure whether people felt that they had been treated fairly. The fact that being heard at a court hearing significantly contributed to respondents' feeling of being treated fairly suggests that being able to voice their opinion, and their opinion being taken seriously is of great importance for respondents. Indeed, beyond respondents' feeling of being treated in a fair and just manner, we found the highest correlations between respondents' ratings of whether there had been sincere attention for their story, whether their opinion was carefully noted, and whether their opinion was

taken seriously and their overall trust in the prosecution ($r > .70$, $p < .001$), judges ($r > .60$, $p < .001$), and the criminal justice system ($r > .60$, $p < .001$).

Due to efficiency considerations it is understandable that courts of appeal do not give all alleged victims the opportunity to voice their opinion at a court hearing. However, looking at it from a perceived procedural justice perspective, hearing all complainants at court hearings would help complainants feel that they have been treated fairly by criminal justice professionals and would help strengthen their levels of trust in criminal justice institutions.

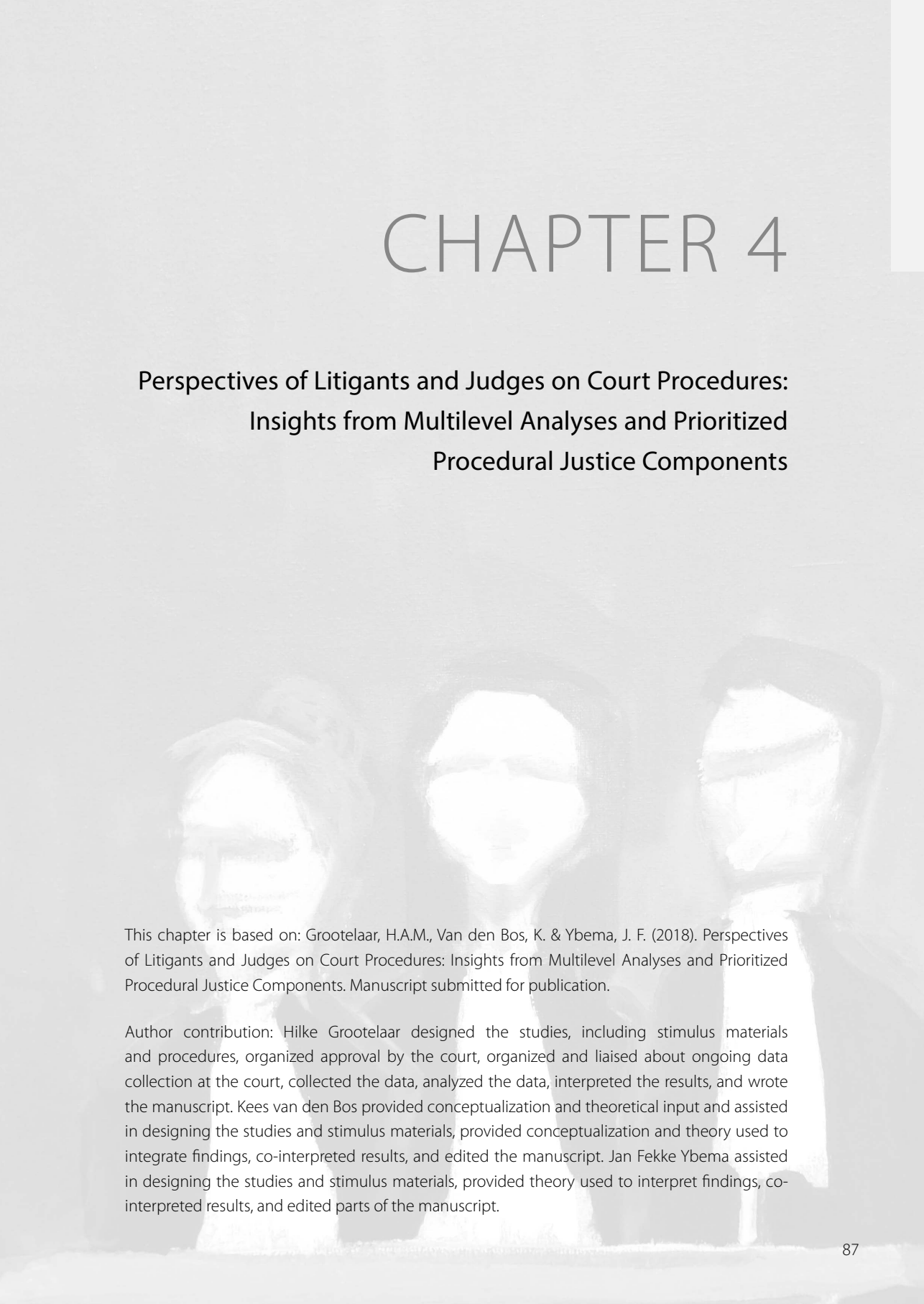
Conclusions

This study aimed to critically test the influence of perceived procedural justice on trust in criminal justice institutions in the context of alleged victims who have exhausted the last legal remedy left to challenge a prosecutorial decision on their case. One of the most notable implications of the findings reported here is that they offer further empirical evidence for the importance of perceived procedural justice for people's trust in criminal justice institutions.

We found that complainants who perceive their treatment during Article 12 proceedings as fair are more likely to trust the prosecution, criminal law judges, and the criminal justice system. Our study does not suggest that outcomes are unimportant, but rather that procedural justice judgments make a significant contribution to people's trust judgments beyond judgments of outcome fairness and favorability.

CHAPTER 4

Perspectives of Litigants and Judges on Court Procedures: Insights from Multilevel Analyses and Prioritized Procedural Justice Components



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Author contribution: Hilke Grootelaar designed the studies, including stimulus materials and procedures, organized approval by the court, organized and liaised about ongoing data collection at the court, collected the data, analyzed the data, interpreted the results, and wrote the manuscript. Kees van den Bos provided conceptualization and theoretical input and assisted in designing the studies and stimulus materials, provided conceptualization and theory used to integrate findings, co-interpreted results, and edited the manuscript. Jan Fekke Ybema assisted in designing the studies and stimulus materials, provided theory used to interpret findings, co-interpreted results, and edited parts of the manuscript.

ABSTRACT

Most studies on procedural justice in the legal system take the perspective of litigants on procedural justice as their starting point. In-depth understanding of how judges view the fairness of their own behavior, and whether and how this relates to perceptions of procedural justice by litigants, has been lacking. Our aim is to fill this void. This chapter examines several hypotheses regarding the relationship between "proactive" and "reactive" perceptions of procedural justice. Judges and litigants involved in law cases in the district court of the Mid-Netherlands were asked to assess both the importance of the outcome and the fairness of the court procedure in which they were involved. Both types of respondents were also asked which procedural justice component they considered to be the most important during the court hearing. Multilevel analyses reveal that litigants' and judges' evaluations of the same court hearing are, while different, to some extent related. Judges systematically differed in how important they regarded litigants' outcomes, and how fairly they perceived their own behavior towards these litigants. Results further indicate that how respondents prioritize procedural justice components depends on the courtroom context, and on the perspective of who is evaluating procedural justice.

The traditional concern of judges, and the goal emphasized in their legal education is the correct application of the law to particular legal disputes, in such a way that people are provided with a forum where they can obtain justice (Tyler, 2007). One of the key responsibilities associated with being a judge is making decisions that are fair and just, while simultaneously treating litigants in a fair and just manner. The extent to which judges use fair procedures when making decisions is critical to people taking their case to court. The numerous positive effects of treating people fairly have received considerable attention in the research field of procedural justice (for an overview, see Lind & Tyler, 1988).

Judges and court staff are becoming more and more interested in how litigants experience their day in court and whether litigants feel proceedings have been fair. This is partly due to organizations such as the Center for Court Innovation and the American Judges Association, which have been key players in the procedural justice movement. Legal professionals acknowledge that treating people fairly encourages decision acceptance and leads to positive views about the legal system (Tyler, 2007), but also that providing people with a sense of procedural fairness may have value in itself. A sense of procedural fairness, for example, influences litigants' notions of self-worth and status recognition (Lind & Tyler, 1988). Some even suggest that judges have embodied the concepts of procedural fairness in their everyday lives (Burke & Leben, 2007).

Despite the increasing attention for the perceived perspective of procedural justice in the legal field and legal profession, far too little attention has been paid to the level of fairness that judges themselves see in their own behavior towards litigants. Although procedural justice has been the subject of several courtroom studies, most of these studies examined fairness perceptions of court litigants, and focused on the aspects of the judge's treatment that contributed to these fairness perceptions (Casper, Tyler, & Fisher, 1988; Lind, 1990; Tyler, 1984, Tyler & Huo, 2002). In other words, these studies take the perspective of citizens on procedural justice as their starting point.

Proactive Procedural Justice

But what about the perspective of judges on procedural justice? Do judges perceive their own actions during a court hearing as fair? Which aspects of the way they treat litigants do they consider to be the most important? In-depth understanding of how judges view and interpret the fairness of their own behavior has been lacking. Our study aims to fill this information gap. Our aim is to complement the procedural justice paradigm by including not only citizens' reactive perspective but also judges' proactive perspective of procedural justice.

Greenberg (1987) was the first to make a distinction between "reactive" and "proactive" theories of distributive and procedural justice in his conceptual paper on taxonomies

of organizational justice theories. The large number of studies on perceived procedural justice in the legal domain typically qualify as reactive studies, as they focus on how people's justice judgments affect attitudes, behavior, and decisions (Lind, Kulik, Ambrose, & De Vera Park, 1993; Tyler, 2003, 2006; Tyler & Huo, 2002). Less frequently studied has been its proactive counterpart, in which an actor's perspective of fair procedures is adopted.

Although some procedural justice studies conducted in the legal field focused on the question of how authorities can be encouraged to incorporate the principles of procedural justice in their interactions with citizens (Skogan, Van Craen, & Hennessy, 2015; Van Craen & Skogan, 2017), these studies did not examine how fair these legal authorities perceive their own actions to be when they interact with citizens. Exceptions are the studies of Machura (2001, 2003, 2007), in which lay assessors were questioned about the fairness of the trial in which they were involved. Machura examined how lay assessors perceived the way professional judges treated the parties involved and found that these lay assessors employed the same criteria for fair treatment as these parties.

Although procedural justice studies frequently examined how justice receivers perceive *the way they have been treated* (Van den Bos, 2005, 2015), there is only limited knowledge on how justice actors perceive *the way they treat* justice receivers. Our aim is to complement the reviewed literature by including both a litigants' perspective and a judges' perspective of justice in our study.

In doing so, we will conceptually and empirically link these two perspectives: we assume that an actor's initiating action, such as fostering justice, is closely related to a receiver's reciprocating response (Cropanzano, Anthony, Daniels, & Hall, 2017). We propose that judges' perceptions of the degree of procedural justice given to litigants during the court hearing (i.e., proactive procedural justice) are related to litigants' perceptions of the degree of procedural justice received during the court hearing (i.e., perceived procedural justice). We further believe that the meaning of procedural justice for both judges and litigants may be influenced by what people have at stake when they enter the courtroom (Grootelaar & Van den Bos, in press). This means that when outcomes are considered to be more important, litigants will probably pay more attention to how fairly they have been treated by important legal authorities (Tyler, 1988). The more people have at stake, the more they may care about the way they are treated by important legal authorities. We expect the same reasoning to hold true for judges. When they consider outcomes to be more important for litigants, judges will probably pay more attention to how fair they treat these litigants. Moreover, judges are probably able to give a more or less accurate estimate of the importance of the outcome for litigants. We therefore argue that how important litigants perceive their outcomes to be (i.e., perceived outcome importance) is related to how important judges perceive litigants' outcomes to be (i.e., proactive outcome importance).

One of the reasons why we believe it is important to add a proactive perspective to the study of procedural justice in courtrooms, is that if we were to sit in different courtrooms and watch different judges, we may well see that these judges run their courtrooms in different ways (Tyler & Bies, 1990). Judges may differ in how they perceive what litigants have at stake, and how procedurally fair they perceive their own behavior. As a consequence, focusing only on the perceptions of litigants at the level of individual cases would yield an incomplete picture. For instance, procedural justice perceptions of litigants involved in law cases that have all been adjudicated by the same judge may be similar to each other, because it is the same judge who is evaluated by the litigants. This raises the question whether all variation in perceived procedural justice can be explained at case level. Although much may be learned by examining the variation across cases in our variables, it is also necessary to explore the influence of the fact that these cases have been adjudicated by different judges. Multilevel analyses of case and judge variations in outcome importance and procedural justice provide an opportunity to test the empirical relationships that we propose at two levels: the level of individual law cases, and the aggregate level of judges adjudicating these cases (Enders & Tofighi, 2007; Hox, 2010).

Procedural Justice Components

The purpose of our study is to increase our understanding of the possible relationship between proactive and reactive perspectives on procedural justice. One way to do so is by testing the proposed relationships between procedural justice and outcome importance at two levels with multilevel analyses, as we explained above. Another way to do so, is by zooming in on the question what both judges and litigants consider to be the most important procedural justice component during the court hearing, and looking for differences and similarities in both answers to this question regarding prioritized procedural justice components.

Some procedural justice studies contain concrete recommendations for judges on how to promote procedural justice components such as voice, respect, and neutrality (e.g., Brems & Lavrysen, 2013; MacKenzie, 2016; Tyler, 2007), suggesting that those are the components judges should focus on during the court hearing. It remains unclear, however, whether these components are indeed always perceived as the most important ones by litigants. It has been found, for example, that citizens who dealt with the court were more concerned with issues of decision quality, bias, and correctability when compared to citizens dealing with the police (Tyler, 1988). Furthermore, Bennett-Howard and Tyler (1986), who examined situational variations in the importance attached to procedural justice criteria, found that bias suppression, accuracy, consistency, and representation are less important in informal situations than in formal situations, such as courtroom hearings. These findings suggest that the question of what is the most important procedural fairness component might be context related. Procedural justice

criteria are not necessarily weighed equally in people's assessments, but will vary as a function of the contexts (Bobocel & Gosse, 2015).

Building on this insight, we argue that the importance of procedural justice components in our study not only depends on the courtroom-specific context of each case, but also on the perspective of who is evaluating procedural justice. For example, Tyler, Callahan, and Frost (2007) distinguish between the quality of decision-making, which refers to elements of legal procedure such as neutrality and consistency of rule application, and quality of interpersonal treatment, which refers to aspects such as politeness, and dignity. This distinction may be of particular importance in the courtroom context of our study in which we involve both the perspectives of legal experts and of laypeople. Because of their professional legal background, judges may attach more importance to components referring to the quality of decision-making such as impartiality, and consistency. One may question whether the judge's neutrality, and consistent rule application is indeed what matters most to litigants, who will probably care more about a respectful treatment (Tyler, 2007).

Therefore, we aim to further elaborate on the context and perspective determining the meaning of procedural justice components in our courtroom study by asking both judges and litigants what they perceive as the most important component of procedural justice during the court hearing, and by comparing these prioritized procedural justice components with each other.

THE CURRENT RESEARCH

Taken together, in this chapter we examine how reactive perspectives on procedural justice are associated with proactive perspectives on procedural justice by taking a multilevel analytic approach and by introducing an approach focusing on prioritized procedural justice components.

The main purpose of our study is to test the empirical relationships between perceived outcome importance, proactive outcome importance, proactive procedural justice, and perceived procedural justice. We try to connect these empirical relationships in a conceptual model, which eventually aims to explain how litigants in our study come to trust judges. Testing the empirical relationships that follow from our model may provide valuable information with regard to the question of how to link proactive and reactive perspectives on procedural justice in the legal domain. This serves to offer new insights to help address the existing procedural justice framework's limitations. We will now elaborate on our model by starting with the most distant variable in the model (perceived outcome importance), and work towards the most proximal variable (trust in judges).

We included outcome importance in our conceptual model because we believe that when outcomes are considered to be more important, litigants will probably pay more attention to the level of fairness with which they are treated by important legal authorities. We argue that judges, too, will pay more attention to how fairly they treat litigants when they consider the outcome to be important for these litigants. Judges are experienced and trained professionals who will be able to make a good estimate of the characteristics of each case. As such, we believe that judges are able to reasonably estimate what litigants have at stake. Therefore, Hypothesis 1 proposes that perceived outcome importance will be positively associated with proactive outcome importance. When litigants perceive their outcome as relatively important, judges will also regard the outcome to be relatively important for the litigant.

For this reason, we argue that when outcomes become more important for litigants, issues of fair treatment become more important. We expect judges to anticipate this, and pay more attention to how fairly they treat litigants for whom they believe there is much at stake. For example, when a judge knows that there is much at stake for a specific litigant, he or she may give this litigant relatively great opportunity to voice his or her opinion on the case during the court hearing. Hypothesis 2 therefore proposes that proactive outcome importance will be positively related to proactive procedural justice. When judges regard the outcome as relatively important for the litigant, they will also perceive their own treatment of the litigant as relatively fair.

We expect the degree to which judges perceive themselves as acting in a fair manner, in turn, to be related to how fairly litigants' feel treated by these judges. We do not argue that these two procedural justice constructs are empirically identical, but we assume that they will tend to be correlated. Hypothesis 3 therefore proposes that proactive procedural justice is positively related to perceived procedural justice. When judges have the perception that they treated litigants more fairly, litigants will also perceive how the judge treated them as more fair.

Although our conceptual focus is on the relationship between proactive and reactive perspectives, we also acknowledge that litigants' perceptions of procedural justice are crucial in their own right. The well-known and often-studied positive influence of perceived procedural justice on a variety of people's reactions (for an overview, see Lind & Tyler, 1988) suggests that treating litigants fairly positively affects their evaluations of the legal authorities with whom they interact. Building on this insight, we believe that being treated fairly positively affects how much trust litigants place in judges. Therefore, Hypothesis 4 predicts that perceived procedural justice will be positively associated with trust in judges. Litigants who perceive higher levels of procedural justice will also perceive higher levels of trust in judges.

Furthermore, we believe this positive relationship between procedural justice and trust in judges to be more pronounced in high-stake cases in which litigants have the perception that there is much at stake. After all, we proposed that what people have at stake when they enter the courtroom influences the meaning of perceived procedural justice. It can therefore be argued that perceived procedural justice has a stronger impact on trust in judges when litigants perceive their outcome as important. Hypothesis 5 proposes that the positive relationship between perceived procedural justice and trust in judges will be moderated by perceived outcome importance, in such a way that this relationship is more pronounced when outcomes are relatively important to litigants.

In sum, we propose that how important litigants perceive their outcomes is related to how important judges perceive litigants' outcomes, which in turn influences how fairly they treat these litigants. We further propose that how fair judges perceive the way they treat litigants is positively related to perceived procedural justice, which in turn affects litigants' trust in judges.

We will test our hypotheses in the context of Dutch courtrooms with litigants involved in different types of law cases. Conducting our study in this real-life courtroom context entails all kinds of courtroom characteristics that may influence the variables we distinguish in our model. As a consequence, we will explore the possible effects of these contextual factors on our main variables.

Another purpose of our study is to compare the proactive and reactive perspectives on procedural justice, and explore the context and perspective determining the meaning of procedural justice components. We asked both litigants and judges to prioritize procedural justice components, and compared these components with each other. This enabled us to take a detailed look at what it is during the court hearing that both litigants and judges consider to be the most important aspect of fair treatment, and provided us with information on potential similarities and differences in perspectives on justice between judges and litigants among different types of law cases.

METHOD

Respondents

Respondents were both litigants and judges involved in the same court hearing at the district court of the Mid-Netherlands. Our sample of 207 litigants consisted of 104 men (50.2%) and 91 women (44%). Twelve respondents (5.8%) did not state their gender. Respondents' ages varied from 22 to 78 years with an average of 45.87 years ($SD = 13.24$). Respondents' highest education completed varied from primary school (11 respondents, 5.3%), secondary school (48 respondents, 23.2%), senior secondary vocational school (57 respondents, 28.5%), higher professional education (39 respondents, 18.8%), to

university (24 respondents, 11.6%). Twenty-six respondents (12.6%) did not state their educational level. The average net income per month of the 172 respondents who filled out their income level was somewhat below the modal wage in the Netherlands, which is about €2152 (USD 2500) net.

Our sample of 38 judges consisted of 9 men (23.7%) and 29 women (76.9%). Ten of these judges (26.3%) adjudicated landlord-tenant cases. Eight of these judges (21.1%) adjudicated bankruptcy cases. Twenty of these judges (52.6%) adjudicated administrative law cases. The judges involved in our study had adjudicated an average of 3 cases. Three judges had adjudicated only 1 case in our study. Because the team of bankruptcy judges was relatively small, 4 judges involved in bankruptcy cases had adjudicated more than 10 cases. We gained permission to conduct the study from the district court of the Mid-Netherlands.

Research Procedure

All litigants who were scheduled to appear at a court hearing in a particular courtroom at a particular time between February 2 and June 14, 2017 were approached while they were waiting in the hallway of the court building for their court hearing to begin. Litigants were asked to participate in a study about their courtroom evaluations and were informed that their identities would remain anonymous, data would be reported in aggregate only, that the study was conducted independently from the court, and that only researchers at the university responsible for conducting the study would have access to the data. All in all, of the 286 litigants approached, 207 agreed to participate, resulting in a 72.4% response rate.

The pre-hearing questionnaire was filled out prior to the court hearing and asked respondents what they had at stake. The post-hearing questionnaire was filled out when respondents left the courtroom after they had appeared before the judge, and measured how fairly respondents felt that they had been treated by the judge and how much trust they had in judges.[1] Respondents were also asked for personal information, including age, gender, income, and educational level. After filling out the questionnaires, respondents were informed that they could give their e-mail address if they wanted to be informed of the results of our study. One month after we completed the final analyses, we debriefed these respondents by sending them an e-mail summarizing our results.

1 Since we report on all measurements in our study, we should note that we used 18 items in the post-hearing questionnaire measuring other reactions, such as litigants' willingness to accept the court's decision, and litigants' trust in the Dutch judiciary. These items were measured after the variables reported here, were included for exploratory purposes, and did not affect the findings reported here. All questionnaires were conducted in Dutch and the stimulus materials are available on request.

The judges who were asked to participate in our study were informed that data would be reported anonymously and in aggregate only. The judges involved in the 207 cases of this study all agreed to participate, resulting in a 100% response rate.[2] The pre-hearing questionnaire was filled out prior to the court hearing and asked judges what they thought was at stake for the litigants involved. The post-hearing questionnaire was filled out directly after litigants left the courtroom, and measured perceptions of procedural justice, i.e. the degree of procedural justice judges thought that they had given to litigants.

Respondents were involved in three types of cases. In bankruptcy cases (N = 78), litigants were ordered to appear before the district court for a court hearing as they had requested a court decision allowing them access to a legal regime of debt adjustment of natural persons under the Dutch Bankruptcy Act. On the basis of this act, judges can only approve the petition for access to the debt-adjustment regime if the judge has come to believe that this individual debtor has entered his or her debts in "good faith" and that this individual debtor can be trusted to successfully fulfill the terms of a debt-repayment plan over a period of years. In order to earn this fresh start of debt relief, the individual is required to devote all of their disposable income to repayment of creditors and to make their best efforts to pay off as much of the debts as possible over a three-to-five-year period. Litigants in bankruptcy cases are often assisted by a social worker or a community-care worker.

In landlord-tenant cases (N = 33), tenants were ordered to appear before the district court for a court hearing as their landlord wished to terminate the tenancy agreement, but they did not agree. The judge then needed to decide whether there were payment arrears and whether the amount justified termination of the tenancy agreement. In general, it is assumed that there must be a minimum of three months of delay in payment. During the court hearing, the judge investigated the possibilities to settle the dispute between tenant and landlord. Litigants in tenancy cases often defend themselves.

In administrative law cases (N = 96), litigants applied for a judicial review of decisions made by administrative authorities. These cases predominantly concerned social security issues such as social benefits, social support, and tax surcharges. The court hearing in these types of cases is often used by the judge to ask questions to both the representative of the administrative authority and the respondent, sometimes represented by a lawyer. The administrative law judge can declare appeals well-founded, unfounded, or inadmissible.

2 Of the 207 questionnaires, a total of 199 was filled out by the judges (96.1%). Eight questionnaires were not filled out because the relevant judge was ill, was replaced, or had forgotten to fill out the questionnaire.

In all three types of law cases, judges can decide to give an oral verdict at the end of the court hearing. When they do not give an oral verdict, judges in the bankruptcy court decide cases within eight days after the court hearing has taken place. Subdistrict-court judges decide landlord-tenant cases in a written judgment two to four weeks after the court hearing has taken place. Administrative law judges usually decide cases in a written judgment six weeks after the court hearing has taken place.

Perceptions of Litigants

Perceived outcome importance. To assess what litigants had at stake before entering the courtroom, we constructed a 4-item scale with items inspired by Brockner (2010) and Tyler (1987) consisting of the following statements: "The outcome in this case is very important to me, " "There is a lot at stake in this case for me," "My financial well-being depends on the outcome in this case," and "The outcome is important for me in order to move on with my life." All responses in our study were measured using 7-point Likert-type scales (1 = *strongly disagree*, 7 = *strongly agree*). Cronbach's alpha was high ($\alpha = .89$). An Exploratory Factor Analysis (EFA) using Maximum Likelihood (ML) extraction and orthogonal rotation revealed that the items loaded on one factor ($\lambda = 3.02$; loadings > .70), items were averaged to yield an outcome importance scale with higher scores indicating more at stake for the litigant.

Perceived procedural justice. Our measure of perceived procedural justice was based on earlier literature (Grootelaar & Van den Bos, 2018; Lind & Tyler, 1988; Lind et al., 1993; Van den Bos, Van der Velden, & Lind, 2014) and asked respondents to indicate to what extent they agreed with the following 11 statements: "I was treated in a fair manner," "I was treated in a polite manner," "The judge was impartial," "I was able to voice my opinions," "My opinion was seriously listened to," "I was treated in a just manner," "I was treated with respect," "The judge has carefully studied my case," "The judge who handled my case was competent," "I believe the judge has treated me in the same way as others," and "The judge who handled my case was professional." Cronbach's alpha showed that the procedural justice items had strong internal consistency ($\alpha = .95$). EFA with ML extraction was conducted to assess the degree to which the items loaded together. The results showed that the items loaded on 1 factor ($\lambda = 7.53$; loadings > .70). Accordingly, the items were averaged to construct a procedural justice scale with higher scores indicating more positive evaluations of procedural justice.

Prioritized procedural justice component. Directly after litigants had filled out the abovementioned 11 procedural justice statements, we asked them to indicate which of the procedural justice statements they perceived to be the most important one during the court hearing.

Trust in judges. We assessed litigants' trust in judges as directly and precisely as possible by asking them to indicate their level of agreement with the following six statements: "I have confidence in this judge," "This judge is someone I trust," "I find this judge reliable," "I do not trust this judge," "I am confident that the judge has taken the right decision," and "I have the feeling that I cannot trust this judge." If necessary, items were reverse scored. Higher scores on the scale reflect a higher degree of trust in judges. The items demonstrated strong internal consistency ($\alpha = .90$). EFA also revealed that the six items loaded on a single component ($\lambda = 4.06$; loadings > .50) and, therefore, were averaged to yield a trust in judges scale.

We also assessed two types of background variables. First, we measured whether or not people had legal assistance and had former court experience. Second, demographic characteristics were assessed. Respondents were asked to indicate their gender, age, education, and income.

Perceptions of Judges

Proactive outcome importance. We asked judges to assess what they thought that litigants had at stake before entering the courtroom. Inspired by Flynn and Brockner (2003), who also included the giver's and receiver's perspective in their study, we used the same items as presented to litigants, and rewrote them for judges. We constructed a 4-item scale consisting of the following statements: "The outcome in this case is very important to the litigant,"[3] "There is a lot at stake in this case for the litigant," "The litigant's financial well-being depends on the outcome of this case," and "The outcome is important for the litigant in order to move on with his or her life." Again, all responses were measured using 7-point Likert-type scales (1 = *strongly disagree*, 7 = *strongly agree*). Cronbach's alpha was high ($\alpha = .89$). EFA revealed that the items loaded on one factor ($\lambda = 3.10$; loadings > .70), and items were averaged to yield a proactive outcome importance scale with higher scores indicating more at stake for the litigant.

Proactive procedural justice. We asked judges about the degree of procedural justice given to litigants during the court hearing. Our measure of proactive procedural justice largely reflected the perceived procedural justice measure: we rewrote the perceived procedural justice items to match the judge's perspective (Flynn & Brockner, 2003). We explicitly instructed judges that these items concerned the way they behaved themselves, and that these items did not concern how they thought that their behavior was perceived by litigants. We asked the judges to indicate the extent to which they

3 We use the overarching term "litigant" here. However, we ensured that each judge received a tailor-made questionnaire in which the right terminology for their specific type of law case was used. Litigants in landlord-tenant cases are summoned by the landlord to appear in court, and are therefore called "defendants." In bankruptcy cases, litigants themselves request access to a legal regime of debt adjustment and are therefore called "applicants." In administrative law cases, litigants themselves apply for judicial review of decisions made by administrative authorities, and are therefore called "claimants."

agreed with the following 11 statements: "I have the feeling that I treated the litigant in a fair manner," "I treated the litigant in a polite manner," "I have the impression that I acted impartially," "I made sure that the litigant could voice his or her opinions," "I seriously listened to the litigant's opinion," "I believe that I treated the litigant in a just manner," "I treated the litigant with respect," "I carefully studied the litigant's case," "I handled the case in a competent way," "I believe that I treated the litigant in the same way as others," and "I acted in a professional way." Cronbach's alpha showed the procedural justice items had strong internal consistency ($\alpha = .95$). EFA with ML extraction was conducted to assess the degree to which the items loaded together. The results showed that the items loaded on 1 factor ($\lambda = 7.41$; loadings > .60). Accordingly, the items were averaged to construct a proactive procedural justice scale with higher scores indicating more positive perceptions of proactive procedural justice.

Prioritized proactive procedural justice component. Directly after judges filled out the abovementioned 11 proactive procedural justice statements, we asked them to indicate which of the procedural justice statements they perceived to be the most important one during the court hearing.

Statistical Analyses

The litigants that participated in our study were involved in 207 law cases, which were adjudicated by a total of 38 judges. This means that the cases in our research were nested within judge levels. As a consequence, our observations at case level may not be completely independent. Similarities in perceptions of litigants among cases that were all adjudicated by the same judge are likely to occur. As a result, the variation in variables measured in cases adjudicated by the same judge (i.e., within-judges) will be lower than the variation in variables measured in cases adjudicated by different judges (i.e., between-judges). Furthermore, although much may be learned by examining within-judge variation in our proactive variables, it is also necessary to explore the influence of these variables at judge-level, by aggregating our variables across cases. For example, judges may differ in how they perceive what litigants have at stake, and how procedurally fair they perceive their own behavior. For this reason, the nested nature of our data enabled us to test our hypotheses in *two ways:* at case-level and at judge-level.

The data were analyzed using multilevel analysis in SPSS 24, with the Mixed Model procedure, using Maximum Likelihood estimation. For each variable in the study, the Intraclass Correlation (ICC) was computed. The ICC indicates the proportion of the variance explained by the nested structure of our data. A high ICC shows that there are differences in the level of a variable between judges.

In our model, all independent variables were divided into a judge-level variable and a case-level variable (Enders & Tofighi, 2007). The judge-level variables were the average

values of the variables for each judge and were grand-mean centered, meaning that the overall mean was subtracted in such a way that the average across all respondents was 0. The case-level variables consisted of the remaining variance of the original variables within each judge, and were centered around the mean for the judge (Enders & Tofighi, 2007).

We tested our conceptual model by a hierarchical regression in the multilevel analysis, in which we entered the variables step-by-step, starting with the first variable in the model (perceived outcome importance), and working towards the end (trust in judges). First, for each variable in the study, the ICC was computed by estimating the random variance in the intercept, i.e., the between-judge variance in the variable (Model 1). In Model 2, perceived outcome importance (both at judge-level and at case-level) was entered into the regression. In Model 3, proactive outcome importance (both at judge-level and at case-level) was entered into the regression. In Model 4, proactive procedural justice (both at judge-level and at case-level) was entered into the regression. In Model 5, perceived procedural justice (both at judge-level and at case-level) was entered into the regression. In Model 6 the interaction between outcome importance and perceived procedural justice (both at judge-level and at case-level) was entered into the regression. Only when the fit of the model improved by an additional step in the regression, was the contribution of the added predictors considered.

RESULTS

Multilevel Analyses

To check the proportion of variance explained by the nested structure of our data, we computed the ICCs of all variables in our study. For trust in judges, the ICC was .10, indicating that 10% of the variance in trust in judges systematically varied between judges. For perceived procedural justice, the ICC was .14, showing that 14% of the variance in perceived procedural justice systematically varied between judges. For outcome importance, the ICC was .04, showing that 4% of the variance in outcome importance systematically varied between judges. These ICCs were not significant, indicating that the majority of the variance in these variables was between cases within judges. This means, for instance, that the fact that some litigants trusted the judge more than other litigants, is due to the differences between cases within judges, and not so much due to the differences between judges.

The ICCs for our proactive variables were significant. For proactive outcome importance, the ICC was .46, showing that 46% of the variance in outcome importance as perceived by the judge systematically varied between judges. This means that some judges are more likely to perceive litigant's outcome to be important than others, but that still the

majority of variance in proactive outcome importance is between cases within judges. This means that how judges score on the proactive outcome importance scale is partly due to how important they consider the outcome to be for litigants on average, and partly due to the importance of the specific case. In other words: how important judges considered the outcome for litigants partly reflects the differences between specific cases and not between judges.

The ICC of proactive procedural justice was .68, showing that 68% of the variance in proactive procedural justice systematically varied between judges. This means that the majority of variance in proactive procedural justice is between judges, and to a lesser extent between cases within judges. In other words, the variance in proactive procedural justice largely reflects the differences between judges in how fairly they perceive how they treated litigants rather than differences between cases within these judges. This means that how judges score on the proactive procedural justice scale is mostly due to how fair they perceive themselves on average, regardless of the specific law case in which they are involved.

The ICCs thus revealed that, to different degrees, part of the variance of our variables is explained by the nested structure of our data. To do justice to this nested structure, we divided all independent variables into a judge-level variable and a case-level variable. After doing so, we tested the conceptual model step-by-step in multilevel analyses in which we added both judge-level and case-level variables. Tables 4.1 to 4.5 show the results of these multilevel analyses.

Table 4.1. *Multilevel Regression Analysis of Proactive Outcome Importance*

Case-level	**Model 1**		**Model 2**	
Intercept	5.76	***	5.78	***
Perceived Outcome Importance			.11	*
Judge-level				
Perceived Outcome Importance			.54	**
Fit (-2 log L)	449.51		435.02	
Δ fit			14.87	***
Df			2	
Variance				
Random intercept (judge-level)	0.40	**	0.38	*
Residual (case-level)	0.55	***	0.52	***
ICC	.46			
Explained variance	0%		13%	

Note: * $p < .05$; ** $p < .01$; *** $p < .001$. Unstandardized regression weights are presented.

Table 4.1 shows the results for proactive outcome importance. We found a statistically significant relationship between case-level perceived outcome importance and proactive outcome importance (b = .11, p < .05). This indicated that when litigants perceived their outcome in the specific law case as more important, judges also tended to perceive litigants' outcome as more important. We further found a statistically significant relationship between judge-level perceived outcome importance and proactive outcome importance (b = .54, p < .01), indicating that judges considered the litigants' outcomes as more important when the litigants in their cases on average considered their outcomes as more important. In other words, both the average outcome importance in their cases, and the outcome importance in a specific case as perceived by the litigants influenced how important judges scored their cases to be on the proactive outcome importance scale. These findings support Hypothesis 1. Outcome importance as perceived by litigants was positively associated with how important judges thought the outcome would be for the litigant. When litigants perceived their outcome as relatively important, judges also regarded the outcome as relatively important for the litigant.

Table 4.2. *Multilevel Regression Analysis of Proactive Procedural Justice*

Case-level	**Model 1**		**Model 2**		**Model 3**	
Intercept	6.16	***	6.17	***	6.17	***
Perceived Outcome Importance			.01		.00	
Proactive Outcome Importance					.07	*
Judge-level						
Perceived Outcome Importance			.12		.03	
Proactive Outcome Importance					.19	*
Fit (-2 log L)	156.88		155.50		146.54	
Δ fit			1.38		12.96	*
Df			2		2	
Variance						
Random intercept (judge-level)	0.19	***	0.18	***	0.16	***
Residual (case-level)	0.09	***	0.09	***	0.09	***
ICC	.68					
Explained variance	0%		4%		11%	

Note: * p < .05; ** p < .01; *** p < .001. Unstandardized regression weights are presented.

Table 4.2 shows the results for proactive procedural justice. Neither case-level perceived outcome importance nor judge-level perceived outcome importance in Model 2 contributed to the regression of proactive procedural justice. Adding proactive outcome importance in Model 3 showed that both case-level proactive outcome importance

(b = .07, p < .05) and judge-level proactive outcome importance (b = .19, p < .05) were significantly related to proactive procedural justice.

The positive relationship between case-level proactive outcome importance and proactive procedural justice indicates that judges regarded themselves especially fair if they regarded the outcome as more important for a specific litigant. In addition, the judge-level relationship with proactive outcome importance shows that judges who regarded litigants' outcomes on average as more important perceived themselves as treating litigants more fairly. In other words, the fact that judges scored their own behavior as relatively high on the proactive procedural justice scale is not only influenced by how important they perceive the outcome for a specific litigant, but also by the fact that some judges perceive litigants' outcomes on average as important. These findings are consistent with Hypothesis 2. Proactive outcome importance was positively related to proactive procedural justice. When judges regarded the outcome as relatively important for the litigant, they also perceived their own treatment of the litigant as relatively fair.

Table 4.3. *Multilevel Regression Analysis of Perceived Procedural Justice*

Case-level	**Model 1**		**Model 2**		**Model 3**		**Model 4**	
Intercept	5.87	***	5.87	***	5.88	***	5.87	***
Perceived Outcome Importance			.30	***	.32	***	.31	***
Proactive Outcome Importance					-.09		-.11	
Proactive Procedural Justice							.35	
Judge-level								
Perceived Outcome importance			.23		.11		.12	
Proactive Outcome Importance					.27		.34	*
Proactive Procedural Justice							-.29	
Fit (-2 log L)	479.23		455.54		451.12		447.94	
Δ fit			23.69	***	4.42		3.18	
Df			2		2		2	
Variance								
Random intercept (judge-level)	0.15		0.15		0.14		0.12	
Residual (case-level)	0.99	***	0.85	***	0.83	***	0.82	***
ICC	.14							
Explained variance	0%		12%		12%		18%	

Note: * p < .05; ** p < .01; *** p < .001. Unstandardized regression weights are presented.

Table 4.3 shows the results for perceived procedural justice. Case-level perceived outcome importance contributed significantly to the regression of perceived procedural justice in Model 2 (b = .30, p < .001), Model 3 (b = .32, p < .001), and Model 4 (b = .31,

$p < .001$). These findings indicate that litigants who perceived their outcome in the specific case as more important, were more likely to perceive the way they were treated by the judge as fair.

Adding proactive outcome importance in Model 3 showed that neither case-level nor judge-level proactive outcome importance was significantly related to perceived procedural justice. After adding proactive procedural justice in Model 4, judge-level proactive outcome importance was significantly related to perceived procedural justice ($b = .34$, $p < .05$).This indicates that judges who perceived the outcome on average to be more important for litigants, were more likely to be perceived as fairly by litigants. Adding proactive procedural justice in Model 4, contrary to our expectations, showed no statistically significant relationship between proactive procedural justice and perceived procedural justice. Apparently, whether judges considered themselves as acting particularly procedurally fairly or not in a specific case was unrelated to how fairly litigants perceived they had been treated by the judge. This means that we did not find support for Hypothesis 3 that proactive procedural justice was positively related to perceived procedural justice. Perceived procedural justice could not be explained by how fair judges estimated their own behavior.

Table 4.4. *Multilevel Regression Analysis of Trust in Judges*

Case-level	**Model 1**		**Model 2**		**Model 3**		**Model 4**		**Model 5**	
Intercept	5.73	***	5.74	***	5.74	***	5.74	***	5.76	***
Perceived Outcome Importance			.15	*	.15	*	.15	*	-.09	
Proactive Outcome Importance					.01		.01		.05	
Proactive Procedural Justice							-.05		-.14	
Perceived Procedural Justice									.74	***
Judge-level										
Perceived Outcome Importance			.32	*	.19		.19		.12	
Proactive Outcome Importance					.28	*	.35	*	.09	
Proactive Procedural Justice							-.22		-.01	
Perceived Procedural Justice									.76	***
Fit (-2 log L)	456.29		447.39		443.20		442.14		335.47	
Δ fit			8.90	***	4.19		1.06		106.67	***
Df			2		2		2		2	
Variance										
Random intercept (judge-level)	0.12		0.08		0.06		0.05		0.00	
Residual (case-level)	1.04	***	1.01	***	0.99	***	0.99	***	0.52	***
ICC	.10									
Explained variance	0%		6%		9%		10%		55%	

Note: * p < .05; ** p < .01; *** p < .001. Unstandardized regression weights are presented.

Table 4.4 shows the results for trust in judges. Case-level perceived outcome importance in Model 2 contributed significantly to the regression of trust in judges ($b = .15$, $p < .05$), indicating that litigants who perceive their outcome in the specific case as more important, are more likely to trust judges. Judge-level perceived outcome importance in Model 2 also contributed significantly to the regression of trust in judges ($b = .32$, $p < .05$), indicating that judges with cases that on average are considered to be more important by litigants are more trusted by these litigants. This indicates that litigants who perceived their outcome as more important, were more likely to trust judges.

Adding proactive outcome importance in Model 3 showed that judge-level proactive outcome importance was significantly related to trust in judges ($b = .28$, $p < .05$). This finding indicates that judges who on average considered litigants' outcomes to be more important, were more likely to be trusted by litigants. This relationship remained significant when proactive procedural justice was added in Model 4 ($b = .35$, $p < .05$).

Adding perceived procedural justice in Model 5 shows a statistically significant relationship between case-level perceived procedural justice and trust in judges ($b = .74$, $p < .001$). Litigants who perceived higher levels of procedural justice in their specific case also stated that they had higher levels of trust in the judge who handled their case. We also found a statistically significant relationship between judge-level perceived procedural justice and trust in judges ($b = .76$, $p < .001$). This indicates that judges who on average are perceived as procedurally fair by litigants are more trusted by these litigants. These findings are consistent with our Hypothesis 4. Perceived procedural justice is positively associated with trust in judges. After controlling for perceived procedural justice, the relationships of perceived outcome importance and proactive outcome importance with trust in judges were no longer significant.

Table 4.5. *Multilevel Regression Analysis of Trust in Judges*

Case-level	**Model 1**		**Model 2**		**Model 3**		**Model 4**		**Model 5**		**Model 6**	
Intercept	5.73	***	5.74	***	5.74	***	5.74	***	5.76	***	5.73	***
Perceived Outcome Importance			.15	*	.15	*	.15	*	-.09		-.11	
Proactive Outcome Importance					.01		.01		.05		.08	
Proactive Procedural Justice							-.05		-.14		-.11	
Perceived Procedural Justice									.74	***	.73	***
Outcome Importance * PPJ											-.02	
Judge-level												
Perceived Outcome Importance			.32	*	.19		.19		.12		.11	
Proactive Outcome Importance					.28	*	.35	**	.09		.06	
Proactive Procedural Justice							-.22		-.01		.02	
Perceived Procedural Justice									.76		.79	***
Outcome Importance * PPJ											.42	
Fit (-2 log L)	456.29		447.39		443.20		442.14		335.47		332.03	
Δ fit			8.90	***	4.19		1.06		106.67	***	3.44	
Df			2		2		2		2		2	
Variance												
Random intercept (judge-level)	0.12		0.08		0.06		0.05		0.00		0.00	
Residual (case-level)	1.04	***	1.01	***	0.99	***	0.99	***	0.52	***	0.51	***
ICC	.10											
Explained variance	0%		6%		9%		10%		55%		56%	

Note: * $p < .05$; ** $p < .01$; *** $p < .001$. Unstandardized regression weights are presented.

Table 4.5 shows the results for trust in judges with Model 6, where the interaction between outcome importance and perceived procedural justice was included. The interaction term in Model 6 was not significant. This means that we did not find support for our Hypothesis 5. The positive relationship between perceived procedural justice and trust in judges was not moderated by perceived outcome importance.

Exploring the Role of Contextual Factors

We explored the role of contextual factors in our conceptual model. This means that we tested whether litigants' age, gender, educational level, income level, legal assistance, and prior court experience, and the judge's gender influenced our main variables.

Multilevel analyses revealed a statistically significant relationship between type of law case and perceived outcome importance, $F(2, 181) = 9.87$, $p < .001$, $\eta_p^2 = .06$. Inspecting each type of case separately revealed significant differences in perceived outcome importance between litigants involved in landlord-tenant cases ($M = 6.21$, $SD = 0.66$), bankruptcy cases ($M = 6.43$, $SD = 1.19$), and administrative law cases ($M = 5.55$, $SD = 1.48$). We further found a statistically significant relationship between type of law case and proactive outcome importance, $F(2, 24.7) = 8.83$, $p < .01$, $\eta_p^2 = .08$. Inspecting each type of case separately revealed significant differences in proactive outcome importance between judges involved in landlord-tenant cases ($M = 5.87$, $SD = 1.01$), bankruptcy cases ($M = 6.30$, $SD = 0.67$), and administrative law cases ($M = 5.35$, $SD = 1.15$).

Furthermore, litigants' educational level was negatively related to perceived outcome importance ($b = -.11$, $p < .01$), indicating that litigants with a lower educational level were more likely to perceive the outcome in their case as important. Litigants' income level was also negatively related to outcome importance ($b = -.19$, $p < .01$), indicating that litigants with a lower income were more likely to perceive the outcome in their case as important. It is conceivable that litigants' educational level and income level are interrelated, and that these characteristics have something to do with the type of law case in which litigants are involved. After all, different types of litigants may be involved in bankruptcy cases than in administrative law cases or landlord-tenant cases. Indeed, correlational analyses revealed that litigants' educational level correlated with litigants' income level ($r = .27$, $p < .001$), and with the type of law case in which they were involved ($r = .21$, $p < .01$).

Multilevel analyses revealed a significant relationship between judges' gender and trust in judges ($b = .59$, $p < .01$). Testing for significant differences revealed that litigants involved in cases adjudicated by a male judge were more likely to trust judges ($M = 6.17$, $SD = 0.97$) than those involved in cases adjudicated by a female judge ($M = 5.57$, $SD = 1.06$), $F(1, 181) = 11.74$, $p < .01$, $\eta_p^2 = .06$. Multilevel analyses further revealed that the judges' gender was positively related to how important litigants perceive the outcome

in their case ($b = .57$, $p < .05$). This indicated that litigants involved in cases adjudicated by a male judge were more likely to perceive their outcome as important ($M = 6.38$, $SD = 1.04$) than those involved in cases adjudicated by a female judge ($M = 5.83$, $SD = 1.42$), $F(1, 179) = 6.45$, $p < .05$, $\eta_p^2 = .04$. This finding may be explained by the fact that the judges' gender depended on the type of law case, X^2 ($df = 2$, $N = 38$) = 8.53, $p < .05$). Inspecting each type of law case separately revealed that 92.7% of the administrative law cases, in which litigants perceived their outcome less important compared to landlord-tenant cases and bankruptcy cases, were adjudicated by a female judge. This finding may explain why cases adjudicated by female judges are perceived to be less important.

Legal assistance was positively related to perceived outcome importance ($b = .41$, $p < .05$). When litigants perceived their outcome as more important ($M = 6.18$, $SD = 1.15$), they were more likely to have legal assistance than when litigants perceived their outcome as less important ($M = 5.78$, $SD = 1.51$), $F(1, 180) = 3.97$, $p < .05$, $\eta_p^2 = .02$. In addition, multilevel analyses revealed a statistically significant relationship between legal assistance and proactive procedural justice ($b = -.13$, $p < .05$). When litigants had no legal assistance, judges scored themselves significantly higher on the proactive procedural justice scale ($M = 6.36$, $SD = 0.53$) than when litigants did have legal assistance ($M = 6.08$, $SD = 0.53$), $F(1, 186) = 12.89$, $p < .001$, $\eta_p^2 = .07$.

We found no statistically significant relationship between the court-specific variables and perceived procedural justice. Apparently, the extent to which litigants perceived to have been treated fairly was unrelated to these contextual variables in our study.

Prioritized Procedural Justice Components

We compared how both litigants and judges prioritized the procedural justice components that played a role during the court hearing. Table 4.6 shows the scores of both litigants' and judges' measurements of prioritized procedural justice components.

Table 4.6. *Prioritized Procedural Justice Components*

Prioritized Perceived Procedural Justice Component	*M*	*SD*	%	Prioritized Proactive Procedural Justice Component	*M*	*SD*	%
I was treated in a fair manner	5.69	1.47	14.3	I have the feeling that I treated the litigant in a fair manner	6.17	0.73	6.6
I was treated in a polite manner	6.07	1.27	2.7	I treated the litigant in a polite manner	6.25	0.58	6.0
The judge was impartial	5.56	1.59	9.3	I have the impression that I acted impartially	6.11	0.71	1.3
I was able to voice my opinions	6.14	1.04	8.2	I made sure that the litigant could voice his or her opinions	6.28	0.68	21.2
My opinion was seriously I istened to	6.19	1.05	12.6	I seriously listened to the litigant's opinion	6.23	0.75	33.8
I was treated in a just manner	5.80	1.36	12.6	I think that I treated the litigant in a just manner	6.17	0.71	11.3
I was treated with respect	6.20	1.00	9.3	I treated the litigant with respect	6.30	0.52	5.3
The judge has carefully studied my case	5.94	1.23	12.6	I carefully studied the litigant's case	6.26	0.58	5.3
The judge who handled my case was competent	5.90	1.23	7.7	I handled the case in a competent way	6.15	0.67	4.6
I believe the judge has treated me in the same way as others	5.94	1.15	3.8	I believe that I treated the litigant in the same way as others	6.07	0.86	1.3
The judge who handled my case was professional.	6.06	1.21	6.6	I acted in a professional way	6.22	0.64	3.3

Table 4.6 shows that there are some striking differences between what litigants and judges considered to be the most important procedural justice component.

First of all, most litigants (14.3%) considered the component of having been treated in a fair manner as the most important component of perceived procedural justice. Most judges (33.8%) considered the component of having taken the litigant's opinion seriously as the most important component of proactive procedural justice.

The greatest difference between judges and litigants is found in this "due-consideration" component. Whereas 12.6% of the litigants found it most important that their opinion was taken seriously, more than double the percentage of judges (33.8%) found this the most important procedural justice component. The same goes for the related "voice" component. Again, 8.2% of the litigants found this the most important component, whereas 21.2% of the judges found making sure that litigants could voice their opinions the most important component.

What is further remarkable, is the relatively big difference regarding the judges' impartiality: 9.3% of the litigants found the element of the judge being impartial to be the most important component. Only 1.3% of the judges found acting impartially to be

the most important. Comparing the mean scores on this procedural justice component further revealed that judges scored their own impartiality significantly higher ($M = 6.11$, $SD = 0.72$) than litigants did ($M = 5.60$, SD 1.56), $F(1, 181) = 14.96$, $p < .001$, $\eta_p^2 = .08$.

Another remarkable difference is that 12.6% of the litigants considered the judge carefully studying their case as the most important component, whereas only 5.3% of the judges considered this the most important component. Again, comparing the mean scores revealed that judges scored significantly higher ($M = 6.26$, $SD = 0.59$) than litigants did ($M = 5.92$, $SD = 1.24$), $F(1, 183) = 11.56$, $p < .001$, $\eta_p^2 = .06$.

Table 4.6 further shows that there is also some overlap between the reactive and proactive prioritized procedural justice components. For example, relatively few litigants (3.8%) and judges (1.3%) considered the judge having treated litigants in the same way as others as the most important component. Furthermore, almost the same percentage of litigants (12.6%) and judges (11.3%) found litigants being treated in a just manner as the most important component.

We also found that which procedural justice component both litigants and judges prioritized, depended on the type of law case in which they were involved. Interestingly, in bankruptcy cases, most litigants (17.1%) considered being treated respectfully by the judge as most the important component. Remarkably, only 5.9% of the bankruptcy judges considered this component to be the most important. In landlord-tenant cases, most litigants found being treated in a fair (20.7%), and just (20.7%) manner important. Most judges (40%) in these cases considered listening to litigants' opinions as the most important. In administrative law cases, litigants found it equally important that the judge had listened to their opinion (14.5%), and that they were treated in a just manner (14.5%). Administrative law judges again considered listening to litigants' opinion to be the most important component (32%). This means that what people consider to be the most important procedural justice component indeed seems to depend on context. We will elaborate on this in the Discussion.

DISCUSSION

Our research makes several contributions to the study of procedural justice in the legal domain. First, we supplemented the reactive procedural justice paradigm by adding a legal actor's perspective on justice. Second, we tried to link these reactive and proactive perspectives on procedural justice in a conceptual model by testing the empirical relationships between our variables with multilevel analyses. Third, we further elaborated on the context and perspective determining the meaning of procedural justice by examining which component matters most when both judges and litigants evaluate the same court hearing.

Broadening the Procedural Justice Paradigm

Procedural justice research has largely taken a one-sided perspective on the dynamics of social relationships by focusing on one actor's role only (Korsgaard, Roberson, & Rymph, 1988; Luo, 2005). Procedural justice studies in the legal field mostly used only one data source, such as subjective ratings of court litigants (Beier, Eib, Oehmann, Fiedler, & Fiedler, 2014). In this study, we sought to extend procedural justice research by taking a two-sided perspective: our study used a multisource approach to analyze the relationship between proactive and reactive justice by measuring both judges' and litigants' perceptions of procedural justice as well as the differences in these justice perceptions.

One of the ways in which we supplemented the body of research on procedural justice, is by conducting multilevel analyses. Because the 207 law cases in our research were adjudicated by different judges, these cases were nested within judge levels. As a consequence, analyzing our observations at case-level only would yield an incomplete picture of our data because cases adjudicated by the same judge (i.e. within-judges) may be more similar than cases adjudicated by different judges (i.e., between-judges). Therefore, we used multilevel analyses to examine relationships between variables measured at different levels. To this end, we tested our hypotheses in two ways: both at case-level and at judge-level.

These multilevel analyses provided us with important insights. First of all, the ICC of proactive outcome importance indicated that judges systematically differ in how important they considered litigants' outcome, although the majority of variance in proactive outcome importance is between cases within judges. In other words, how important judges considered the outcome to be for litigants partly reflected the differences between the specific cases.

Interestingly, we did not find the same results with regard to how our judges scored on the proactive procedural justice scale. That is, we found that the majority of variance in proactive procedural justice is between judges, and not between cases within judges. This means that the variance in proactive procedural justice largely reflects the differences between judges in the level of fairness they perceived in their own treatment of litigants rather than differences between cases within these judges. In other words, some judges scored their own behavior higher than other judges on the proactive procedural justice scale, regardless of the law case in which they were involved.

This means that judges systematically differed in how important they regarded litigants' outcomes to be, and how fair they perceived their own behavior towards these litigants. This indicates that how judges scored on proactive outcome importance and on proactive procedural justice partly reflected the differences between specific cases and

partly their average individual perspective. However, for proactive procedural justice the differences between specific cases were less pronounced than the individual differences between judges in how fair they on average perceived their own behavior towards litigants.

These insights are important because almost without exception, procedural justice researchers in the legal domain have adopted a reactive perspective, focusing on variance between litigants and cases (Casper, Tyler, & Fisher, 1988; Hough, Jackson, Bradford, Myhill, & Quinton, 2010; Tyler, 2006; Tyler & Huo, 2002). Our findings show that this research benefits from focusing on variance between judges as well: testing hypotheses at a higher level of the data structure may provide new directions for building models of fair treatment.

Linking Proactive and Reactive Procedural Justice

With the conceptual model we presented in this chapter, we tried to link the reactive perspectives of litigants to their proactive counterparts. We proposed that judges' proactive procedural justice perceptions were influenced by their proactive outcome importance perceptions, which in turn were related to litigants' outcome importance perceptions. Indeed, we found that when litigants perceived their outcome as more important, judges also tended to perceive litigants' outcome in the specific case as more important. We further found that judges scored themselves higher on the proactive procedural justice scale when they perceived litigants' outcome to be more important. Judges who perceived litigants' outcomes as important on average, perceived their own treatment of litigants as more fair. Moreover, these perceptions of how fair they treated litigants were also influenced by how important they perceived the outcome for a litigant to be in a specific case.

Furthermore, we predicted that these proactive procedural justice perceptions would be related to reactive perceptions of procedural justice. A potentially very interesting deviation from our predictions is the absence of this positive relationship between proactive and reactive procedural justice. In this study, how fair judges perceived their own behavior was not related to how fair litigants perceived these judges. This finding may seem counter-intuitive as one would expect that judges' evaluations of how fair they treated litigants, as trained legal professionals with court experience, would reflect litigants' evaluations of the same interaction. This is further supported by the finding that there was a significant relationship between litigants' perceptions of outcome importance and judges' perceptions of outcome importance, suggesting that judges can reasonably estimate what was at stake for the litigants involved. As the high ICC of proactive procedural justice and the low ICC of perceived procedural justice already indicated, however, judges systematically differed in the level at which they scored themselves on the proactive procedural justice scale, whereas the majority of the

variance in perceived procedural justice was explained between cases within judges. This may be an important reason why proactive and reactive procedural justice were unrelated in our study.

We further emphasize that individual perceptions of procedural justice are the product of a complex and nuanced psychological process, and not just the outcome of a one-time application of the procedural justice criteria (Rupp, Shapiro, Folger, Skarlicki, & Shao, 2017). In other words, the fact that judges scored themselves relatively high on proactive procedural justice criteria and that litigants perceived the way they were treated as relatively fair does not mean that these two perceptions of the same interaction are empirically correlated concepts.

Furthermore, the perceptual focus of litigants and judges may be different, perhaps even creating two psychologically different realities. It seems possible that judges' psychological distance from the case affects their perceptions of the court hearing in that they perceive the hearing as more decontextualized and abstract than litigants do (Liberman & Trope, 1998; Liberman, Trope, & Stephan, 2007; Trope & Liberman, 2003). For example, research has shown that attorneys view court procedures as fairer than members of the public because for them procedures are not as much a critical point of attention as they are for the public (Rottman, 2007). Instead, attorneys and judges have found that they pay more attention to outcome concerns (Heuer, 2005; Rottman, 2005). After all, judges are trained to focus primarily on the relevant legal issues and to provide fair outcomes (Burke & Leben, 2007).

We found perceived outcome importance to play a more important role in our conceptual model than we initially proposed. That is, perceived outcome importance was not only, as expected, related to proactive outcome importance, but also contributed significantly to both perceived procedural justice and trust in judges. Although we did not find support for our hypothesis that perceived outcome importance would moderate the positive relationship between procedural justice and trust in judges, we found that litigants who perceived their outcome in the specific case as more important, were more likely to perceive their treatment as fair, and in turn have higher levels of trust in judges. Future research could serve to examine this possible implication of our study and see whether the effects of perceived outcome importance replicate in other legal contexts and other courtrooms with different litigants and judges as research participants.

The Differential Importance of Procedural Justice Components

In their critical analysis of theory, research, and measurement of procedural justice, Rupp et al. (2017) noted that there has been surprisingly little research on the validity of the proposed procedural justice criteria and the conditions in which certain criteria are more or less important. We tried to fill this gap by elaborating on the context and perspective

determining the meaning of procedural justice components in our courtroom study. Examining the variation in the meaning of procedural justice across settings is important because it addresses the universality of fair procedures (Barrett-Howard & Tyler, 1986).

Our findings suggest that although judges and litigants used the same standard to evaluate the fairness of the procedure, they disagreed about what was most important in that procedure. This is in line with research suggesting that the meaning of justice will vary depending on the nature of the dispute or allocation involved (Barrett-Howard & Tyler, 1986).

We found that the type of law case in which litigants were involved influenced what procedural justice component they considered to be most important. For example, litigants who were involved in bankruptcy cases found a respectful treatment to be the most important procedural justice component. This may be unsurprising, since the judge has to approve these litigants' access to the debt-adjustment regime. This can be a stressful and shameful event for litigants, in which they wish to be treated with respect. After all, being treated politely with dignity and respect implies that the judge has respect for one's rights and status in society, and reaffirms one's standing in the community. Disrespectful treatment communicates marginality (Tyler, 1997). This may be of particular importance for litigants involved in bankruptcy cases who may feel disregarded in society.

The judge's neutrality, on the other hand, played a less important role for these litigants. Only 4.2% considered this to be the most important, whereas 10% of the litigants in landlord-tenant cases, and 13.3% of the litigants in administrative law cases found this the most important component. This can be explained by the fact that in the latter two types of cases, two parties are involved, which makes it more important for the judge to be impartial, and the judge is perceived to be a neutral decision-maker. Bankruptcy cases concern the interaction between a single judge and a single litigant only, which probably makes the judge's impartiality less important.

Although our findings support the view that procedural justice components are positively interrelated criteria, they suggest that litigants do find some components more important than others. Indeed, our findings seem to point to the conclusion that people do not have one particular idea of a fair process that they apply on all occasions (Tyler, 1988). Instead, they are concerned with different procedural justice components under different circumstances. This is not to suggest that judges should focus on the single most important component only. However, since not all procedural justice criteria can be maximized at one time (Tyler, 1988), it may be useful to know what matters most for the litigants involved.

The meaning of procedural justice components also depends on perspective: we found that judges consider other components to be the most important than litigants do. This finding is consistent with Sheppard and Lewicki's (1987) earlier findings that fairness criteria most important to parties are affected by the nature of organizational roles of parties. Tyler (1997) also emphasized that litigants may have a very different perspective of legal procedures than lawyers and judges.

More than half of the judges involved in our study considered voice and due consideration to be the most important components of procedural justice. When speculating on explanations for this, it is important to note that litigants' participation in legal proceedings is embedded in rule of law principles such as the equality of arms, and therefore probably a constant concern for judges. After all, the law and due process principles determine that each litigant should get a reasonable chance to voice his side of the story. Furthermore, it could well be true that the well-known implications of the voice effect (Folger, 1977; Lind, Kanfer, & Earley, 1990; Thibaut & Walker, 1978) have not remained unnoticed among Dutch judges. Since the Dutch judiciary paid considerable attention to the social psychological insights on procedural justice at conferences and in training programs, it is understandable that judges are informed about the importance of voice and due consideration for litigants involved in a court hearing.

Only few judges prioritized their own impartiality and a careful study of the case, whereas a larger percentage of litigants seemed to find these components the most important ones. The fact that judges do not consider their own neutrality as the most important component is relatively unexpected if we look at the procedural justice literature, which emphasizes that people bring their disputes to the court because they value judges as neutral decision makers (Tyler, 2007). This may have something to do with the fact that judges, as legal professionals, take a careful preparation of the case and their acting as impartial decision-makers for granted because of their professional values, expertise, and training. For litigants, as laypeople, these components are not that obvious or easily taken for granted.

Limitations

Doing research in this relatively undiscovered subfield of proactive procedural justice in the legal context inherently brings along important limitations. First of all, it was challenging how to precisely measure proactive procedural justice. Because we were not aware of other studies that examined how legal authorities assess the fairness of their own actions, we decided to develop our own proactive procedural justice scale: we adjusted the frequently used perceived procedural justice items to the specific courtroom context of our study, taking the judge's perspective as a reference point and reflecting the litigants' items (Flynn & Brockner, 2003). Of course, self-report questionnaires are one of the most widely used methods of collecting data in a real-life

research context. As with all subjective perceptions used in social-science studies that work with self-reporting, our results may be threatened by a reference bias indicating that the judges in our study used differing standards of comparison.

Furthermore, we suppose that especially judges may have answered our questionnaires in a socially acceptable manner. Our results indeed show that judges scored relatively high on the proactive procedural justice measure ($M = 6.21$, $SD = 0.55$). None of the judges scored lower than 4 on our 7-point Likert scales. One important situational variable that tends to activate a person's concern about fairness is the individual's social role. Persons such as judges are expected to behave fairly and to be concerned about being fair, and it is their job to see that fair procedures are followed (Leventhal, Karuza, & Fry, 1980). It is therefore unsurprising that the judges in our study unanimously scored themselves high on the procedural justice scale. This is an important issue for further research on authorities' perceptions of procedural justice.

The primary focus of our study was both judges' and litigants' perceptions of procedural justice and outcome importance. Although we did measure outcome favorability, we refrained from testing associations between outcome favorability, procedural justice and trust in judges. Due to the fact that not all judges in our study had given an oral verdict during the court hearing, which resulted in a high number of missing values on outcome favorability, we were not able to test those associations in a reliable manner. Future research may zoom in more specifically on the role of outcome favorability in this research context, using more robust outcome information.

Implications

From a theoretical standpoint, examining the relationship between proactive and reactive procedural justice assessed at the same measurement moment can provide a new direction for building models of fair treatment. One interpretation of our data is that how judges reflect on their own actions and how fair litigants perceive the same actions to be do not always correspond. This is interesting, because it involves two individuals who, although independently from each other, evaluate the same court hearing. Of course, justice is in the eye of the beholder (Lind et al., 1990) but that does not mean that there are two separate versions of the same reality. After all, our research showed that judges' and litigants' perspectives are related when it comes to outcome importance. This means that to develop a full and more detailed picture of how these two perspectives are related, additional research will be needed. We believe that the joint examination of proactive and reactive perspectives on justice may help to refine research on procedural justice in the legal field.

From a practical standpoint, the findings of this study suggest that judges and litigants might often find themselves in some disagreement about the fairness of court procedures,

with judges perceiving the procedures differently than litigants. It is important not to overstate the magnitude of this difference: Both groups of respondents were strong in their endorsement of the fairness of court procedures. There are, however, some subtle differences in what matters most for the litigant or the judge involved. Judges must be aware of the dissonance that may exist between how they view the court hearing and how the litigant before them views it. Our findings help judges to tailor their actions to the context of the expectations of the litigant involved in the specific court hearing.

Gaining insight into the differences between lay and expert justice judgments also has practical importance because these differences reveal areas in which expert-designed procedures may fail to meet with approval on the part of laypeople using the procedure (Lind et al., 1990). Judge-litigant differences in procedural justice have important implications for the operation of court procedures and for innovations in existing procedures.

The fact that we conducted our study in a real-life courtroom context enabled us to explore the role of contextual factors such as legal assistance, and type of law case on the variables in our model. Although it may not come as a surprise that educational level, income, and type of law case are related variables, including contextual factors yielded some surprising results as well. For example, we found the judge's gender to be related to litigants' trust in judges. Furthermore, whether litigants had legal assistance seemed to influence how judges scored their own behavior on the proactive procedural justice scale. These interesting findings may deserve more attention in further work. Despite the limitations of doing correlational field research, future research may benefit from this type of research by including these contextual factors and examining their influence on the relationships studied.

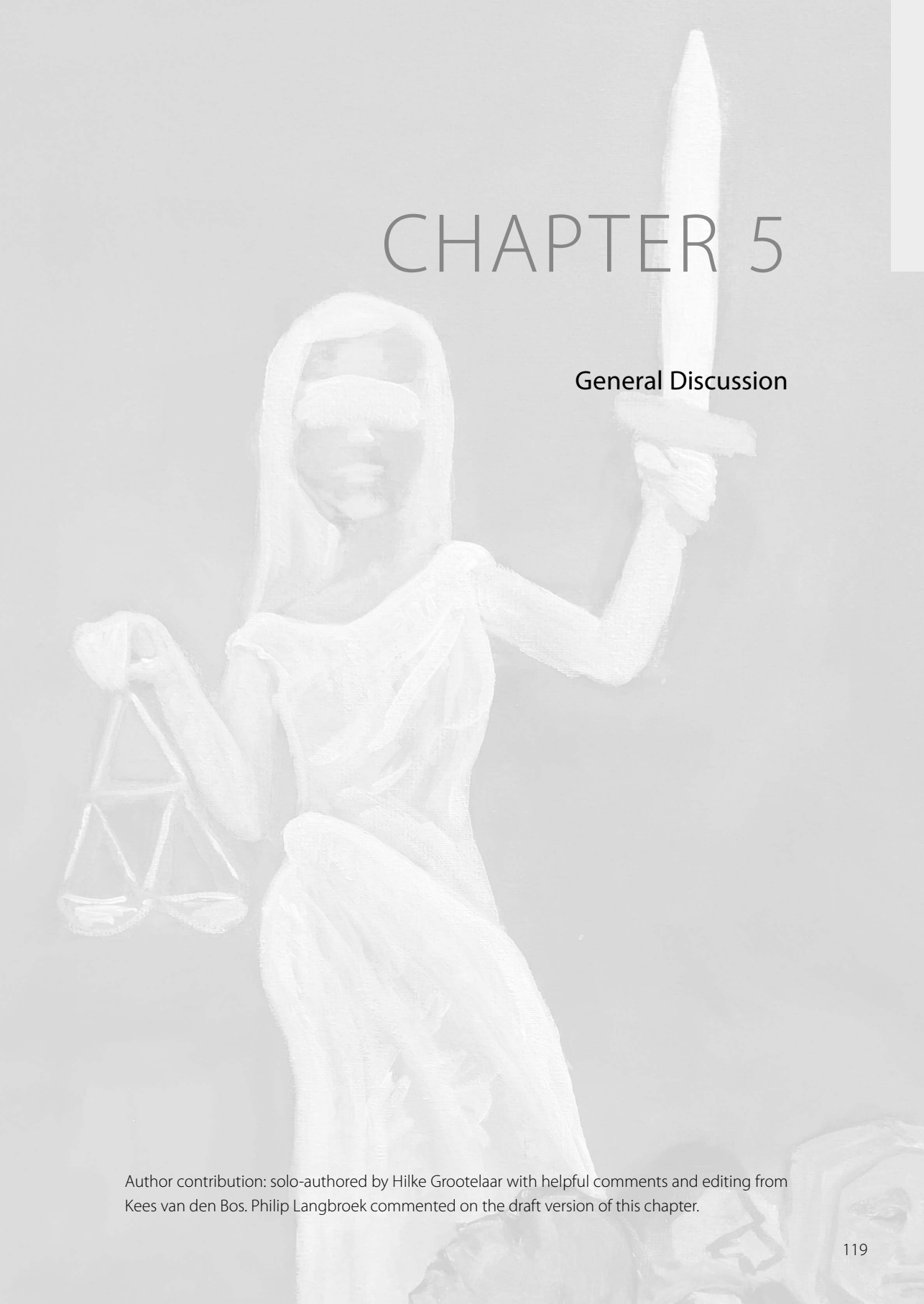
Conclusions

By combining and comparing the perspectives of litigants and legal authorities on the same court hearing, we extended the literature on procedural justice. One of the most notable implications of the findings reported here is that they offer empirical support for the notion that litigants' and judges' evaluations of the same court hearing are, while different, to some extent related. We further found that both context and perspective determine which procedural justice components are considered to be the most important ones during the court hearing. This chapter shows the importance of conducting multilevel analyses in a law and society context. In short, the findings presented here have revealed the relevance of broadening the central focus in procedural justice research on differences between litigants and cases with a new focus on the systematic differences that may exist between judges who adjudicate these cases. In spite of the limitations of the current research, we think it is safe to conclude

that this chapter helps to better understand both litigants' and judges' perspectives on procedural justice.

CHAPTER 5

General Discussion



Author contribution: solo-authored by Hilke Grootelaar with helpful comments and editing from Kees van den Bos. Philip Langbroek commented on the draft version of this chapter.

The aim of this dissertation was to study and possibly challenge the importance of perceived procedural justice during court hearings. To this end, I critically examined the question whether perceived procedural justice really mattered in the Dutch legal context. And if it did matter, the aim was to examine how and when it mattered. By conducting empirical research in real-life legal settings, I studied how fairness perceptions of Dutch litigants interacted with issues that are also important in the courtroom context of my studies. By doing so, I hope to have broadened the normative perspective of fair procedures by presenting some empirical insights into the perceived perspective of procedural justice.

Specifically, in the present dissertation, I presented three empirical studies. These studies are, though different in design, closely related. They all studied the importance of procedural justice in real-life courtroom contexts by critically examining the presumption that being treated fairly by important legal institutions was positively related to the trust that people have in these institutions. In each study, this hypothesized relationship between perceived procedural justice and trust was subjected to a detailed inspection by taking into consideration the moderating effects of outcome concerns and socio-legal variables (Chapter 2), the baseline levels of people's trust in criminal justice institutions when initial attempts to bring their cases to court have been rejected (Chapter 3), and the judge's proactive perspective of procedural justice (Chapter 4). Before elaborating on what we can learn from these studies, I will start with an overview of the different findings presented in the empirical chapters of this dissertation.

The Procedural Justice x Outcome Favorability Interaction

In Chapter 2, I examined perceptions of both procedural justice and outcome favorability among litigants involved in motoring fine cases, administrative law cases, and criminal law cases. Although I found procedural justice and outcome favorability to matter separately, procedural justice seemed to matter more when litigants had formed their trust judgments. In Chapter 2, I argued that procedural justice and outcome favorability are not merely additive, but that they interact, meaning that the impact of perceived procedural justice on trust in judges depends on how favorable people perceive their outcome to be. Indeed, I found procedural justice and outcome favorability to matter in an interactive sense: the positive relationship between procedural justice and trust in judges was pronounced when litigants perceived their outcome as favorable, and was even more pronounced when litigants perceived their outcome as unfavorable. I found this interaction effect to be significant in all types of law cases. Furthermore, I demonstrated in Chapter 2 how important socio-legal variables, such as outcome importance and prior court experience, moderated the relationship between procedural justice and trust in judges: I found procedural justice to matter more when litigants had more at stake, and when litigants had prior court experience. Taken together, the findings reported in Chapter 2 revealed procedural justice's profound influence on litigants' trust

judgments, and the findings revealed how and when being treated fairly mattered by demonstrating the way in which other important socio-legal variables moderated the robust relationship between procedural justice and trust in judges.

Interactions with Procedural Justice in Contexts of Prevailing Distrust

In Chapter 3, I critically examined the importance of perceived procedural justice by studying the concept in a context where distrust in the legal system prevailed. After all, complainants who commence Article 12 proceedings have virtually been refused the opportunity to participate in a criminal procedure, and may hold a negative view of the legal authorities involved. I studied the levels of trust in criminal justice institutions among complainants who have been confronted with the prosecutor's decision not to prosecute the crime they reported, and who have exhausted the last legal remedy left to challenge an authority's decision on their case. Using both a baseline questionnaire and a main questionnaire, I assessed which role procedural justice and outcome concerns played both at the moment that complainants commenced the Article 12 proceedings, and eight months later. I argued that being treated fairly by the criminal law judge during Article 12 proceedings was of particular importance for alleged victims who had challenged a prosecutorial decision not to charge alleged defendants, and promoted higher levels of trust in the criminal law court, the Public Prosecution Service, and the criminal justice system. The findings reported in Chapter 3 supported this line of reasoning. Furthermore, they demonstrated the unique contribution of perceived procedural justice to trust in criminal justice institutions beyond concerns of outcome fairness, outcome favorability, and general justice, and beyond respondents' trust judgments measured at the baseline level. Interestingly, my study showed that the influence of perceived procedural justice on trust judgments is not subjected to how important complainants seemed to find procedural justice and outcome concerns as motives for commencing the Article 12 proceedings. In addition, I found a mitigating effect of perceived procedural justice on trust in criminal justice institutions, indicating that complainants' level of trust was considerably higher when they perceived relatively fair treatment compared to when they perceived relatively unfair treatment.

Interacting Perspectives on Procedural Justice

In Chapters 2 and 3, I took the litigant's perceived perspective of procedural justice as a starting point. To fully understand procedural justice in the courtroom, however, I took a two-sided approach in Chapter 4, and examined how both judges and litigants perceived the same interaction. Using multilevel analyses, I tried to link litigants' reactive perspectives on procedural justice to their proactive counterparts. That is, I argued that how fairly judges believed they had treated litigants (i.e. proactive procedural justice) would be influenced by how important judges perceived these litigants' outcomes to be (i.e. proactive outcome importance), which in turn would be related

to how important litigants themselves perceived their outcomes to be (i.e. perceived outcome importance). The findings reported in Chapter 4 support this line of reasoning. Interestingly, proactive procedural justice was not found to be related to reactive procedural justice, i.e., to how fair litigants perceived the judges' behavior. To improve our understanding of the proposed relationship between proactive and reactive perspectives on procedural justice, I zoomed in on the question what both judges and litigants considered to be the most important procedural justice components during the court hearing, and found some interesting differences and similarities in how both actors prioritize these components. These findings point out the context dependency of procedural justice components.

ACADEMIC CONTRIBUTIONS

Taken together, the empirical findings in this dissertation provide insight into how litigants in Dutch courtrooms come to trust judges, and what the importance of perceived procedural justice is when litigants form these trust judgments. The research described in this dissertation builds on and extends literature on perceived procedural justice (e.g., Casper, Tyler, & Fisher, 1988; Lind, 1990; Tyler, 1984; Tyler & Huo, 2002). I will address the most important academic contributions of my work below.

Procedural Justice and Trust

An important contribution of the findings reported in my three empirical chapters is that they offer further empirical evidence for the often-theorized link between procedural justice and trust in legal institutions in real-life courtroom hearings: I found that litigants who perceived their treatment to be fair were more likely to trust judges, and that complainants involved in Article 12 proceedings who perceived the handling of their case to be fair were more likely to trust the prosecution, criminal law judges, and the criminal justice system. These are important findings, in part because trust builds institutional legitimacy, and public compliance with the law (Tyler, 2006; Tyler & Huo, 2002; Tyler & Jackson, 2014), and high levels of trust contribute to the effectiveness of criminal justice institutions (Farrell, Pennington, & Cronin, 2013). Litigants often perceive judges as important representatives of their society. Trusting important societal institutions with whom someone interacts, reflects one of the basic aspects of human nature (Lind, 1995).

The positive relationship between procedural justice and trust in legal institutions is robust across all types of law cases studied in this dissertation. For example, the findings of my second study reported in Chapter 3 reveal that even for complainants who coped with relatively high levels of distrust in criminal justice institutions when they commenced Article 12 proceedings, the level of trust in these institutions was

considerably higher when they perceived relatively fair treatment compared to when they perceived relatively unfair treatment. These findings suggest that in contexts where distrust prevails, or in contexts where people receive relatively unfavorable outcomes, perceived procedural justice is especially important because of its mitigating effect.

One of the aims of this dissertation was to clarify the conceptual relationship between procedural justice and trust in judges. Accordingly, I addressed the issue of what exactly constitutes trust and what constitutes procedural justice. In all studies of my dissertation, I assessed trust in legal institutions with relatively direct measures by using words such as "trust" and "confidence" in the items used. In Chapter 2, I presented the results of analyses that ensure discriminant validity between the correlated procedural justice and trust in judges scales, and demonstrated that two latent variables accounted for the items used to measure both the concept of procedural justice and trust in judges. In addition, I included Variance Inflation Factors (VIF) in the regression analyses presented in Table 2.2 to assure the absence of harmful multicollinearity. Taken together, these analyses further support the idea that trust and procedural justice are, though related, distinct concepts.

In addition, in Chapter 3, I tried to clarify the conceptual relationship between the two concepts by measuring trust at two measurement moments. I examined both the influence of baseline trust on procedural justice, and the influence of procedural justice on trust measured with the main questionnaire, and found support for the idea that procedural justice is an antecedent of trust. Together, my findings provide support for the notion that perceived procedural justice plays an important role in people's trust in legal institutions, which corresponds with the conceptualization of procedural justice and trust as proposed by the prominent theoretical frameworks (Haas, Van Craen, Skogan, & Fleitas, 2015), and converges remarkably with previous experiments on the fair process effect (for overviews, see e.g. Lind & Tyler, 1988; Van den Bos, 2005).

Outcome Concerns

Another contribution of my work is that I examined the importance of procedural justice in close relationship with its natural counterpart: outcome concerns. Earlier work in the field of justice often focused on the conceptual and empirical distinctions between outcomes or procedures, and on how procedural justice and outcome favorability independently affected people's reactions (see, for example, Greenberg, 1978; Tyler, 1984; Tyler, 2006; Tyler & Huo, 2002). In accordance with the work of Brockner and Wiesenfeld (1996), I contrasted this either-or dichotomy by taking an integrative approach. That is, in all chapters of this dissertation, I examined the role that procedural justice played for the litigants involved in my studies in combination with outcome concerns. The findings reported in my empirical chapters demonstrated the relevance of incorporating outcome concerns and procedural justice in the same analyses.

In Chapter 2, I found both procedural justice and outcome favorability to predict variation in trust in judges. Importantly, when considered together, I found that outcomes do matter, but that perceived procedural justice matters more when litigants have come to trust judges. In other words, once procedural justice is taken into account, there is little independent effect of outcome favorability involved. This result does not correspond with the view sometimes found among legal scholars, that it are outcomes that primarily drive legal behavior, legal judgments, and evaluations of the legal system (MacCoun, 2005). Furthermore, I found that procedural justice mattered more for litigants when outcomes were perceived as unfavorable and important. In Chapter 3, I found outcome fairness to be the most important motive for commencing legal proceedings. Outcome favorability, in contrast, was found to matter the least. Neither fairness nor favorability of the outcome, however, turned out to play a significant role in respondents' trust in criminal justice institutions. In Chapter 4, I found that litigants who perceived their outcome as more important, were more likely to perceive their treatment as fair, and in turn to have higher levels of trust in judges. Judges, too, assessed their own behavior as fairer when they considered there to be much at stake for the litigants involved. These findings contrast with earlier work arguing that procedural concerns may be less potent factors psychologically when serious outcomes are at stake (Heinz, 1985; Lind & Tyler, 1988, p. 74).

Taken together, my studies suggest that both procedural justice and outcome concerns affect litigants' judgments of trust in legal institutions, and that we should no longer study these concepts in isolation. My research marks the relevance of taking both procedures and outcomes into consideration when examining court procedures. My findings do not suggest that litigants are indifferent to the favorability or the fairness of their outcomes; outcome does matter. But the additional contribution of fair treatment by a legal authority matters as well, and often matters a lot.

Thus, the findings reported in this dissertation challenge the premise that what drives people is not just the wish to achieve favorable outcomes and maximize their own gain, but rather to be treated fairly by important legal authorities such as judges. The discovery that people sometimes care more about the way they are treated by the judge than about winning or losing a particular case has been called "counter-intuitive" and even "wrong-headed" (Burke, 2009), but may be interpreted in the light of what Miller (1999) calls the powerful myth of the self-interest motive. With this phrase, Miller refers to peoples' overemphasis of the belief in self-interest concerns as drivers of their motivated behavior. As a result, Miller (1999; Miller & Ratner, 1998) argues, people overestimate the impact of self-interest concerns (such as how favorable their outcomes are) on their actual attitudes and behaviors.

This means that the findings reported in this dissertation touch on how we look at people, i.e., the "man views" we hold. More specifically, the findings indicate that the

"man views" of the *homo juridicus* and *homo economicus* often held by lawyers and the government, which refer to rational human beings who act righteously and maximize their material interests, do not adequately describe human behavior. Indeed, one might be attracted to the idea that outcomes deeply matter, and procedures do not (Solum, 2004). The findings described in this dissertation reveal, however, that human beings have a social nature, and seem to attach great importance to being treated in a fair manner with respect by an important societal authority.

A Multilevel Perspective of Procedural Justice

One of the most notable contributions to the existing procedural justice paradigm is my focus on proactive procedural justice in Chapter 4. By including the judges' own perspectives on the fairness of the way they treat litigants, I have greatly extended earlier work on procedural justice in legal settings that predominantly focused on the way these litigants reacted to fair treatment. The methodological contribution of my pioneering study on proactive procedural justice in the courtroom context as described in Chapter 4 provides insight into the way that proactive procedural justice in the courts can be conceptualized and operationalized. Furthermore, multilevel analyses of case and judge variations in my variables allowed me to test the empirical relationships I proposed at two levels: the level of individual cases, and the aggregate level of judges adjudicating these cases.

In Chapter 4, I argued that focusing only on the perceptions of litigants at the level of individual cases would yield an incomplete picture because it assumes that all variation in perceived procedural justice can be explained at case level. The law cases studied, however, were adjudicated by different judges, making it worthwhile to explore the potential differences between variation in variables measured in cases adjudicated by the same judge (i.e., within-judges), and variation in variables measured in cases adjudicated by different judges (i.e., between-judges). For instance, procedural justice perceptions of litigants involved in law cases that have all been adjudicated by the same judge may be similar to each other, because each time it is the same judge that is evaluated by the litigants.

The multilevel analyses I conducted provided me with important insights. First of all, I found judges to systematically differ in how important they considered litigants' outcome to be, and how fair they perceived their own behavior towards these litigants. More specifically, how judges scored themselves on the proactive procedural justice scale largely reflected the individual differences between judges in how fair they on average perceived their own behavior towards litigants, regardless of the specific law case in which they were involved. These insights are important because almost without exception, procedural justice researchers in the legal domain have adopted a reactive perspective, focusing on variance between litigants and cases (Casper, Tyler, & Fisher,

1988; Hough, Jackson, Bradford, Myhill, & Quinton, 2010; Tyler, 2006; Tyler & Huo, 2002). Taken together, my findings show that judges' scores on proactive variables partly reflect the differences between specific cases and partly their average individual perspective, indicating that the procedural justice paradigm may benefit from focusing on variance between judges within cases as well.

CONTRIBUTIONS TO THE LEGAL FIELD

Although it is beyond the scope of the current dissertation to examine what legal procedures should look like in order to foster perceptions of justice by litigants, it may be helpful to illustrate how my conclusions about the nature of perceived procedural justice in courtroom settings may be used by legal practitioners working in the legal field.

Trusting Judges in Turbulent Times

One important contribution of this dissertation to the legal field is that it provides the Dutch judiciary with greater insights into how litigants come to trust judges. The importance of trust in judges can hardly be overestimated, and the judiciary has a societal duty to maintain the public's confidence in its functioning (Grootelaar & Van den Bos, 2016). The importance of trust in judges has become even more important in these turbulent times of waning legitimate power, reflected by an increasing number of challenges of judges (*wrakingsverzoeken*), the public's growing attention for judicial errors, negative publicity in the media, and the growth of so-called political processes (Bokhorst & Witteveen, 2013). I believe that, in these situations, the sole focus on "law on the books" no longer suffices and needs to be complemented by insights from "law in action", such as the empirical findings presented here. Judges, who are often blamed of hiding themselves in their ivory towers, benefit from studies on how the law works in action. Furthermore, empirical research on how laypeople perceive the way that judges enact formal procedures during the court hearing helps judges to broaden their normative system of meaning (*betekenissysteem*), with insights into laypeople's subjective system of meaning (Schuyt, 1983). This broadening gives judges more insight into the societal context in which they adjudicate cases, and makes them, after all, more responsive judges (Huls, 2000).

This dissertation has some positive implications with regard to trust in judges. It suggests that litigants' trust in judges, who are important representatives of the state, can be increased under circumstances in which litigants do not receive favorable outcomes: procedural justice is likely to matter when judges are unable to deliver favorable outcomes. This indicates that the use of fair procedures acts as a "cushion of support"

(Tyler, 1997). Fair procedures give those who do not receive their desired outcome another basis for positive feelings about their experience with the legal system.

The findings presented in this dissertation further suggest that perceived procedural justice matters when litigants consider their outcome as relatively important, and that it can have a mitigating effect in situations where litigants cope with low levels of trust in the law and the legal system. This means that legal authorities such as judges, who often have to disappoint litigants with unfavorable outcomes or have to adjudicate in contexts of prevalent distrust in the legal system, should ensure that procedural justice is maintained in order to reduce negative reactions.

Magic Procedural Justice Tap

What should judges do then, to foster perceptions of procedural justice? Verburg and Schueler (2014) stated that "If one could see right into the heart of a judge, one would probably see that judge strongly wishing for some kind of magic tap, he could simply open, so all parties can quench their thirst for procedural justice" (p. 62). On the basis of my research findings, I cannot tell what such a universal, always applicable tap should look like. What I can do, is explain which components I used to measure perceived procedural justice in this dissertation, and which components seem to matter for the litigants involved in my studies. This is not to say of course, that other components do not play a role in people's perceptions of procedural justice.[1] In addition, individuals may define these procedural justice enhancing components differently. While one person may find one set of behaviors respectful and polite, another might find those same behaviors brusque (Hollander-Blumoff, 2011). After all, cultural factors and individual characteristics play a role in how individuals define these components.

The detailed inspection of the prioritized procedural justice components in Chapter 4 first of all revealed that it is not just about letting people have their say, or about pleasing them during the court hearing. In contrast, these findings demonstrated that litigants find it important to be treated in a fair and just manner, and that the judge carefully studied their case. I measured how fairly litigants felt treated by the judge by both asking them in a direct way how "fair" and "just" the manner was they were treated, and in an indirect way how impartial, competent, and professional the judge was, whether

1 One concern worth raising – although its full consideration is beyond my scope here – is the extent to which the items that I used to measure perceived procedural justice shape litigants' perceptions of what procedural justice looks like. My research suggests that people's subjective perceptions are indeed shaped by the criteria I used, but this does not mean that there are no other criteria, not measured here, that might play a role in procedural justice judgments (Silbey, 2005). For example, Rupp et al. (2017) give an overview of other scales used to measure justice, with some of them more dominantly used than others. Furthermore, the use of other research methods may yield different criteria. Ansems, Van den Bos, & Mak (in preparation), for example, conducted qualitative interviews in which they asked litigants in the court what made them perceive their court hearings as fair or not fair, using open-ended questions.

the judge had listened to their opinion, and whether the judge had treated them in the same way as others.

My findings do not suggest that judges should focus on the single most important component only, because the items I used were strongly related. Indeed, people may not be too concerned about the differentiation between procedural justice criteria, but they rather tend to react to general impressions of whether they have been treated fairly (Lind, 2001). However, since not all procedural justice criteria can be maximized at once (Tyler, 1988), it may still be useful to know what matters most for the litigants involved. Furthermore, it has been found that procedural justice criteria are not necessarily weighed equally in people's assessment, and vary as a function of contexts (Bobocel & Gosse, 2015; Leventhal, 1980). The findings of Chapter 3 supported this line of reasoning, and revealed that components of voice and due consideration were of particular importance for complainants involved in Article 12 proceedings.

Chapter 4 addressed the context dependency of procedural justice components. I found, for example, that being treated politely and respectfully mattered especially to litigants involved in bankruptcy cases. This suggests that respectful treatment is of particular importance in cases where litigants already feel disregarded by society. After all, the judge has to approve litigants' access to debt adjustment, which can be a shameful event for litigants. This might be something judges should be more aware of. Especially because only few judges in these cases considered respectful treatment to be the most important procedural justice enhancing component.

Furthermore, litigants in administrative law cases considered the judge's neutrality to be more important than litigants involved in other types of law cases, which in my view is understandable, of course. As I illustrated by the examples that I started Chapter 1 with, it is conceivable that laypeople who do not know the ins and outs of the constitutional separation of powers have the feeling that government authorities and the judge collude. In these situations, judges may want to pay extra attention to how neutral they are perceived to be by litigants.

Judicial Behavior

Now that we know which criteria people use to evaluate fair treatment, how should judges behave to enhance these criteria? Some scholars and legal practitioners have speculated which specific judicial actions contribute to perceptions of procedural justice (Beier, Eib, Oehmann, Fiedler, & Fiedler, 2014; Grootelaar, Waterbolk, & Winkels, 2014; Van der Linden, Klijn, & Van Tulder, 2009; Verburg & Schueler, 2014), suggesting that concrete actions such as active listening, paraphrasing, and summarizing may foster litigants' perceptions of voice and neutrality. In addition, Van der Linden, Klijn, and Van Tulder (2009) found interrupting litigants to be negatively related to a respectful treatment.

Relating actual treatment to perceptions of procedural justice, however, is not that straightforward as the limited evidence on this link suggests (Nagin & Telep, 2017). Beier et al. (2014), for example, observed several judicial actions, among which the expression of active-listening signals such as eye contact, nodding, and paraphrasing. They did not find significant relationships between judicial behavior and perceptions of procedural justice, suggesting that defendants involved in criminal trials did not base their justice judgments on the judge's behavior and the actual treatment in the court.

Although it is difficult to do controlled, double-blind studies in the courtroom to produce specific measurements of the effects of non-verbal behavior (Burke & Leben, 2007), the legal community, and judges in particular, would absolutely benefit from more systematic insight into the link between judicial behavior and perceptions of procedural justice. If we know more about the practices that are found to lead to consistently high procedural justice perceptions across a range of the population, we may naturally be more positive about adopting these practices too (Hollander-Blumoff, 2011).

Such insights would be useful, not in the last place because the findings presented in this dissertation demonstrate the absence of a positive relationship between proactive and reactive perceptions of judges: how fair judges perceived their own behavior to be was not related to how fair litigants perceived these judges. I believe that it is important that judges are aware of the dissonance that may exist between litigants' interpretation and their own interpretation of the exact same court hearing.

In sum, there are multiple ways in which the legal field may benefit from empirical studies on procedural justice like the ones I conducted in this dissertation. Although I acknowledge that there is still a lot for future research to address, we now know that perceived procedural justice is by no means something we should take for granted. After all, my studies demonstrated the conditions under which it may be more and less pronounced. Judges ought to be aware of the fact that procedural justice perceptions may be shaped at relatively little additional cost or effort. After all, they often cannot affect *what* they decide (i.e., the legal outcome), but they can affect *how* they decide (i.e., procedural justice).

METHODOLOGICAL REFLECTIONS

This General Discussion offers me the opportunity to critically reflect on my own research practices. As you may have noted while reading Chapters 2-4, I worked with commonly used quantitative research methods: I conducted correlational survey research. I used various techniques to analyze my data: multiple regression and General Linear Model analyses to study the relationships between procedural justice, socio-legal variables, and trust in judges in Chapter 2; usefulness analyses involving hierarchical multiple

regression to understand the unique contribution of procedural justice to trust in criminal justice institutions in Chapter 3; and multi-level analyses to test the relationship between reactive and proactive procedural justice at two levels in Chapter 4.

Doing research in real-life courtroom contexts has several advantages, as well as some disadvantages. After all, utilizing empirical research means that tradeoffs need to be made (Robbennolt, 2002). Indeed, in designing my studies, I made some important choices which inevitably affected the interpretation of my results.

Correlation Does not Imply Causation

First of all, I acknowledge that my data are correlational, and any inferred causality must be avoided or treated with caution and regarded as tentative at best. The correlational nature of my findings limits what we can learn in terms of causal relationships between the concepts that form the heart of this dissertation. It was my explicit choice, however, to conduct survey research in relevant courtroom contexts among actual court litigants with items that looked subjectively valid and meaningful to them. The levels of "face validity" (Brewer, 2000; Smith, 1981) therefore gained support, I believe, to yield research contexts and research designs presented in this dissertation that make sense to lawyers and legal scholars. In addition, this design allowed me to determine whether there is a relationship between two variables without having to randomly assign respondents to conditions of fair and unfair treatment, which would be a daunting and unethical task in a real-life courtroom context. The fact that the positive relationship between procedural justice and trust in legal institutions was found in all types of law cases that I studied here supports the robustness of this relationship. This result remarkably converges with findings of previous experiments on the fair process effect in which one may be considerably more confident about the causal direction (for overviews, see e.g. Lind & Tyler, 1988; Van den Bos, 2005). I would welcome future research that strives to conduct empirical studies in the legal arena using multiple methods, multiple samples, and multiple measures, thus converging on an understanding of the effects of procedural justice (i.e. convergent validity, Robbennolt, 2002). If correlational studies can find an association between procedural justice and trust in real-life cases, and experimental studies can isolate this effect in controlled settings, greater confidence in the results is justified.

Correlational field research can have important advantages compared to the laboratory studies often used to document the fair process effect (see e.g. Lind, Kanfer, & Earley, 1990; Van den Bos, Lind, Vermunt, & Wilke, 1997). My field studies on procedural justice in the court aimed to obtain greater external validity because they were conducted in a real-life research setting among litigants in areas of law that really mattered to the litigants involved. This setting, in contrast to many social-science studies, was no

oversimplified, or decomposed model of the social environment (Leventhal, Karuza, & Fry, 1980).

Furthermore, unlike experimentally manipulated simplifications of fair process effects in which often one process characteristic, such as voice, was manipulated (Lind, Kanfer, & Earley, 1990; Thibaut & Walker, 1975), correlational methods contribute to measurement validation by developing standard measuring methods for complex concepts such as procedural justice (Rupp et al., 2017). As such, the procedural justice field may benefit from the contextualization of the procedural justice criteria I presented in this dissertation, and the conditions in which I found certain criteria to be more or less important. After all, there is no clear consensus on what procedural justice is, and what the exact set of criteria used to assess procedural justice is (Rupp et al., 2017).

Measurement Challenges

One of the aims of this dissertation was to conceptually clarify how to measure important concepts such as perceived procedural justice, outcome favorability, and trust in judges in real-life courtroom settings. More specifically, supported by Lind and Tyler (1988), who tried to spur researchers to perform careful and contextualized measurement of procedural justice perceptions, I presented a face-valid scale of procedural justice that could be used in a meaningful way in the court cases studied in my research and that I hope can serve as impetus for the future study of procedural justice in court settings. My measures of perceived procedural justice contain both direct items, and indirect items that ask about criteria thought to underpin procedural justice: my measures comprise terms such as "fairness" and "justice" to directly measure procedural justice, but also less frequently used items on the judge's competence and professionalism which seemed to be of particular importance in the courtroom context of my studies (Marseille, De Waard, Tollenaar, Laskewitz, & Boxum, 2015; Van den Bos, Van der Velden, & Lind, 2014), and multiple items on voice and due consideration which seemed to be particularly relevant during Article 12 proceedings (Kool, 2013). I believe that using items that tap specific dimensions of litigant perceptions of procedural fairness provides a strong index of procedural justice (Casper, Tyler, & Fisher, 1988).

Having said this, doing research in real-life courtroom contexts also entails measurement challenges. It has been argued before that the way people assess outcome fairness and favorability is complex and strongly depends on context (Barendrecht & Gramatikov, 2010). Unlike lawyers, litigants often do not know how to assess whether the outcome received is fair and favorable. Whereas lawyers are used to look at case law to see what authorities have decided in similar cases, ordinary citizens may not know how to interpret legal decisions on their cases, or lack any knowledge of what has been decided in similar cases (Solum, 2004; Van den Bos & Brenninkmeijer, 2012), and find themselves confronted with information uncertainty. Taking into consideration the debate on what

exactly constitutes outcome favorability (see for example Skitka, Winquist, & Hutchinson, 2003), I used a comprehensive measure of litigants' perceptions of outcome favorability which entails both outcome valence and outcome fairness (Brockner & Wiesenfeld, 1996).

Furthermore, not all respondents involved in my studies had received the judge's decision yet when they had to fill out my questionnaires. In my first study, one-third of the respondents, primarily involved in administrative law cases, had not heard the outcome in their case when they had to fill out my questionnaire. However, I could benefit from this circumstance by comparing the procedural justice and trust judgments of these litigants at two moments: when they had not received their outcome yet and when they had received their outcome. Preliminary comparisons between these two measuring moments showed a statistically significant decrease of perceived procedural justice after litigants heard the outcome in their case, indicating that the level of procedural justice was higher when litigants had not heard the outcome than when they had heard the outcome. In my second study and third study, I anticipated that respondents might not have received an outcome yet. In Chapter 3 my items concerned a more general measure of the fairness and favorability of the outcome achieved after 8 months, regardless of whether complainants had received the actual court's decision yet. In Chapter 4, I measured the expected outcome favorability in cases in which the litigant had not received an outcome yet.

Self-report Caveats

In addition to these measurement challenges concerning outcome concerns, I faced some challenges with regard to the proactive variables I used in Chapter 4. Doing pioneering research in the relatively undiscovered subfield of proactive procedural justice in the courtroom context made it a challenging task how to precisely measure proactive procedural justice. Inspired by Flynn and Brockner (2003), who also included the giver's and receiver's perspective in their study in an organizational context, I used the same items as presented to litigants in my study, and rewrote them so that they fitted the judges' perspective. I explicitly instructed judges that these items concerned the way they behaved themselves, and that these items did not concern how they thought that their behavior was perceived by litigants. The results reported in Chapter 4 revealed that judges scored unanimously high on the proactive procedural justice measure, which may indicate some serious threats to construct validity. That is, the concept that the measure of proactive procedural justice intended to be tested may not have been tested in the most meaningful way. Judges may have interpreted the items used differently from what I intended them to mean.

The ambiguity in judges' answers to the proactive procedural justice measure may also have something to do with the use of self-report measuring in my study. Of course,

self-report questionnaires are one of the most widely used methods of collecting data in a real-life research context. As with all subjective perceptions used in social-science studies that work with self-reporting, my results may be threatened by a reference bias indicating, for example, that the judges in my study used differing standards of comparison. Furthermore, the judges in Chapter 4 may have answered my questionnaires in a socially acceptable manner. After all, they are expected to behave fairly and to be concerned about being fair, and it is their job to see that fair procedures are followed (Leventhal, Karuza, & Fry, 1980). As a consequence, the judges may have filled out the proactive procedural justice scale in a social desirable way by indicating that they always treated litigants fairly, because they feel the urge to do so.

Future research may want to rephrase the items I used to measure proactive procedural justice in such a way that judges interpret them as how they believe that their behavior will be perceived by litigants. For example, the item "I treated the litigant with respect" will be rephrased as "The litigant will have the perception that he/she is treated with respect". This may have implications for the way in which proactive and reactive perspectives on procedural justice are related too: using the rephrased items may reveal a significant positive relationship between proactive and reactive perceptions on justice, because the judges are asked to immerse themselves in the perceptional world of litigants.

Another concern with regard to self-report measures used in this dissertation, is their correspondence to actual attitudes and behavior. As explained in Chapter 1, I had theoretical, conceptual and practical reasons to choose trust in legal institutions as a dependent variable in my studies. This is not to say, however, that examining the impact of perceived procedural justice and outcome concerns on other dependent variables, such as acceptance of and compliance with the judge's decision, is not important. Indeed, focusing on such dependent variables in future research might make it possible to start including operationalizations that measure actual behavior in a straightforward manner, for example by using objective measurements of appeal percentages (Boekema, 2015) or recidivism rates (Hertogh, 2015). However, such measurements are not without limitations either, and may in fact entail more error variance than is often realized. For example, various extraneous factors such as pay inability, the nature of the offense, and individual characteristics complicate determining the impact of procedurally fair treatment on people's compliance behavior (Eshuis 2011; Nagin & Telep, 2017; Van Velthoven & Terpstra, 2014). Although opinions about legal institutions, procedures and rules are more straightforward to elicit through closed-ended questionnaires than actual behavior, future research on perceived procedural justice should not be entirely based on self-reporting, and ideally includes actual evidence about people's behavior too.

All this illustrates that understanding perceptions in general, and perceptions of justice in particular can be complicated, in part because these perceptions can be biased

in important ways (Van den Bos, in press). Indeed, what is fair is really in the eye of the beholder. However, when these perceptions are deeply felt as real and genuine, they sometimes tend to have real consequences (Thomas & Thomas, 1928). In sum, self-reports of perceptions, behavior, and thoughts are often illuminating, may be the appropriate method for certain topics, and are sometimes all that is possible (Baumeister, Vohs, & Funder, 2007).

Robustness and Power

Not all effects reported in the empirical chapters of my dissertation are equally strong, and some are even non-significant. For example, in Chapter 2, I did not find the interaction effect between procedural justice and outcome favorability to be statistically significant in criminal law cases: the positive relationship between procedural justice and trust in judges was not more pronounced when litigants in criminal law cases perceived their outcome as unfavorable. I am unable to state with certainty why the interaction effect was absent in criminal law cases, but a reason could be that outcome favorability mattered less in making inferences about the judge's trustworthiness because these litigants felt strongly evaluated due to the punitive character of criminal law cases. After all, in these highly evaluative contexts, litigants want to make sense of what is happening, and are found to pay more attention to whether or not they were treated fairly by judges (Hulst, 2017).

The moderating effect of outcome importance on the relationship between procedural justice and trust in judges I found in Chapter 2, was absent in Chapter 4. Perceived procedural justice had a stronger impact on trust in judges when litigants in my first study perceived their outcome as important. Although perceived outcome importance did not have a moderating effect on procedural justice in trust in my third study, I found it to play a more important role in my conceptual model than I had initially expected: perceived outcome importance did contribute significantly to both perceived procedural justice and trust in judges. I found that litigants who perceived their outcome in the specific case as more important, were more likely to perceive their treatment as fair, and in turn have higher levels of trust in judges.

These examples demonstrate the inconclusiveness of some of my findings for the contested existence of the procedure x outcome interaction effect in legal settings (Laxminarayan & Pemberton, 2014; Walker, LaTour, Lind, & Thibaut, 1974), and the difficulty of drawing firm conclusions about the robustness of the moderating effect of socio-legal variables. I might have needed a larger sample of respondents to have sufficient power to detect these moderating effects for each type of case separately, or a larger sample of respondents receiving a decision to detect the moderating effects of outcome concerns on the hypothesized relationship between procedural justice and trust. However, these examples support the Popperian approach I took in this

dissertation by demonstrating that disconfirming evidence can be particularly powerful too, because it refutes hypotheses proposed earlier (Popper, 1959).

THE PERKS OF EMPIRICAL LEGAL RESEARCH

In spite of the important limitations I presented here, this dissertation illustrates my willingness as a legal scholar to observe the law in action by more accurately understanding and interpreting social-science knowledge in a legal context, and by comprehending and explaining justice perceptions of important actors in our legal system. Despite the achievements and growing impact of empirical legal research, writing a dissertation in this field is not very common yet (Elbers, 2015; Tijssen, 2009). This might have something to do with the fact that a shift of emphasis from the study of legal doctrine to a study of the actual operation of a legal institution may be a difficult shift for lawyers to make. After all, lawyers are trained to understand substantive law, and it may not be easy for them to make the courtroom the center of their study (Arnold, 1932), let alone using quantitative research methods. Indeed, *Iudex non calculat* (Lawyers do not calculate) is a famous dictum among European lawyers. For many legal scholars, empirical legal research still remains a "black box" (Van Boom, Desmet, & Mascini, in press). By providing lawyers with some insights on the possibilities and limitations of empirical legal research, I hope to have demonstrated that it is neither a threat to what legal scholars are used to do, nor something legal scholars should fear or avoid (Crijns, Voermans & Giesen, in press).

Instead, I believe that my dissertation has demonstrated that empirical legal research is something that some legal scholars may want to embrace because it complements their finding of truth. My empirical studies on procedural justice in real-life courtroom settings provide a more comprehensive and realistic view on what fair procedures in the legal domain entail by revealing what citizens, for whom legal procedures have been established in the first place, consider as fair. Furthermore, my empirical findings enrich the man views of the *homo juridicus* and *homo economicus* by pointing out the overestimated role of outcome concerns: human beings seem to attach great importance to a fair and respectful treatment by an important legal authority, beyond concerns of outcome favorability.

While I therefore strongly encourage legal scholars to conduct empirical research when they want to understand the law in its social context or as a particular domain of social interaction, I acknowledge at the same time the great challenges these legal scholars interested in empirical research might face. I will highlight two of them here, and address how legal scholars, and law schools in particular, can respond to them. The first challenge is a methodological one, the second a translational one.

The Legal Empirical Equipment Case

The first challenge concerns the question whether legal scholars have enough training in empirical research for a nuanced understanding of its implications, which is partly due to their unfamiliarity with and the inconvenience of the use of empirical research methods, and their uncertainty about the final contributions of empirical findings to the law (Schuck, 1989). Law schools can respond to this challenge in multiple ways.

Because our students and researchers need at least some knowledge of the basic dimensions and principles of empirical research in law, incorporating courses on empirical methodology into the current law school curriculum has become highly desirable. We need properly trained empirical legal researchers to build on existing achievements and meet future demands for interdisciplinary research. Globalization, technological advances, demographic change, environmental challenges, new modes of communication, and threats to security are just some of the challenges our world is facing (Genn, Partington, & Wheeler, 2006). These challenges raise new types of legal questions, and new ways of approaching them. An answer to these challenges is given by the way we equip our current generation of law students, who are tomorrow's lawyers. The professional of the future will operate in an expanding and rapidly changing society which asks for a T-shaped lawyer with interdisciplinary competences (Snoep, Croiset van Uchelen, Rijlaarsdam, Ulrici, & Visser, 2014). To make our students more self-aware and context-aware, we need to complement the study of positive law with critical reflection from different perspectives (Mak, 2017). This makes it essential to teach courses on extralegal disciplines and their empirical research methods.

In addition, we should not only teach our students the subject of empirical legal research, but we should also let them participate actively in the empirical legal research projects we run. Such initiatives produce beautiful collaborations between law students and legal scholars, which are still relatively rare at law schools. The experiences in other disciplines such as medicine and psychology, where collaborative work among students and researchers is common, demonstrate that this can be mutually beneficial. By giving law students the opportunity to cooperate in empirical field studies on important legal issues, we provide them with useful knowledge of the law in action and with valuable research skills. Students eager to learn empirical skills, in turn, can be of invaluable help for legal scholars in obtaining powerful datasets, which can be a quite intense and time-consuming task.

Another way to face the methodological challenge I presented here, is to further encourage legal scholars in their interdisciplinary collaborations. There are great opportunities for legal scholars to collaborate with colleagues across other disciplines in order to contribute to major contemporary societal issues (Genn, Partington, & Wheeler, 2006). Social scientists, who lack the specialized legal training that their legal fellows

might fruitfully bring to bear on empirical research, benefit from this collaboration as well (Schuck, 1989). Whereas legal scholars may overlook the fact that the legal system is composed not just of rules and structures but of real people engaged in real disputes, psychology may undervalue the importance of specific legal structures and their philosophical meaning (Hollander-Blumoff, 2011).

It is important, of course, that the academic preconditions, such as the department's rewards system and tenure-track requirements, enable and facilitate legal scholars to be really engaged in such interdisciplinary research collaborations. The existence of interdisciplinary research centers and journals in which interdisciplinary work can be published, such as *Law and Human Behavior* and *Law and Society Review*, are great examples of such facilitating and encouraging preconditions.

Mind the Gap

The second challenge worth raising – although its full consideration is beyond my scope here – is of a translational nature (Leeuw, 2015), and concerns the degree to which empirical research can help to answer normative questions specific to law. Much has been written about this gap between facts and values (see e.g. Engel, 2008; Mertz, 2008; Twining, 2009). After all, the relationship between normativity and empirics is by no means crystal clear (Smits, 2015). Several legal scholars have pointed at the limited capacity of empirical research to answer normative questions (Giesen, 2015a; Hayden & Anderson, 1979). They argue for example that results obtained in empirical studies rarely fully settle a legal issue (Vick, 2004). Indeed, empirical research is not suited to answer all normative questions. After all, empirical research is an incremental and ongoing process, not necessarily aimed at reaching definite answers to normative questions (Lawless, Robbennolt, & Ulen, 2010).

At the same time, a purely normative perspective has its limitations too. Some legal scholars stated that doctrinal legal research sometimes turns out to be a conduit for expressing personal opinions of legal scholars, especially if normative underpinnings or assumptions are not made explicit (Van Boom, Desmet, & Mascini, in press). Posner (1986) explained that "Lawyers, including judges and law professors, have been lazy about subjecting their hunches – which in honesty we should admit are little better than prejudices – to systematic empirical testing" (p. 367). Walker (1988) added to this that the legal system should no longer tolerate a lack of empirical testing when it aspires to change its rules and procedures. Indeed, evaluating legal doctrines or institutional practices on the basis of little more than "the author's credo elaborately disguised as theory" (Schuck, 1989, p. 327) is completely different than using normative stances in writing about the nature or aspiration of the law.

As we all know, the relationship between empirics and normativity is a tough nut to crack. It is likely that *the* solution to *the* gap between facts and values does not exist (Leeuw, 2015). Having said this, I believe that empirical legal research has the enriching potential to inform, underpin, and sometimes debunk normative assumptions made in law. Furthermore, empirical research has the ability to change how lawyers approach legal problems (Lawless, Robbennolt, & Ulen, 2010). The added value of empirical research for the law's normative perspective ranges from purely informational to sometimes determinative, all depending on the issue at hand. For example, the perceived perspective of procedural justice may help to inform the debate on why we ought to care about fair process in the first place (Hollander- Blumoff, 2011), and may even be used to underpin important procedural reforms. But this does not mean that we should immediately reform our legal procedures when we discover that the majority of litigants perceives them as unfair. After all, this is an issue where normative values, constitutional roots, costs and benefits, and concerns of efficiency play a role too. However, as Giesen (2015a) states: "Ignoring empirical insights might well be worse than using them, because we should not close our eyes to reality" (p. 3). Indeed, empirical data on litigants' perceptions of unfairness may provide us with crucial insights into the drawbacks of our procedures, and can fuel fundamental changes (Barendrecht & Klijn, 2004).

In sum, empirical legal research is often contrasted with traditional black-letter or legal doctrinal research (Vick, 2004). People are likely to think in "either-or" dichotomies. I strongly advocate "and-and" reasoning (Grootelaar, 2017): I believe that empirical research can help substantiate normative claims, and supplement or nuance the existing legal modes of thinking. This goes beyond empirical fact-checking, as it enables a deeper understanding of not just the bare facts, but also of the underlying mechanisms of legal interaction (Van Boom, Desmet, & Mascini, in press). Empirical legal research, however, can never fully replace the essentially normative perspective of law and the legal system. The social and behavioral sciences, in turn, may benefit from normative insights, legal frameworks and the careful analysis of texts and documents conducted by lawyers (Van den Bos, 2014). Empirical legal research and the law therefore interact: they communicate, reciprocally influence each other, and benefit from each other's insights.

FUTURE DIRECTIONS

The Courtroom Context of this Dissertation

Perhaps the most obvious difference between lawyers and social scientists is that the law focuses on the case at hand, emphasizing the particularities of the individuals involved (Canter, 2008). Social scientists, in contrast, are comfortable with aggregating

these cases when looking for relationships between variables (Ellsworth & Mauro, 1998). In other words, even though different types of law cases are in fact intrinsically different in character, when it comes to the use of empirics, they are rather similar (Crijns, Giesen, & Voermans, in press). A criticism frequently directed at empirical researchers is that they reduce the complexity of legal issues (Wulf, 2015). Indeed, empirical researchers who study litigants' perceptions of fair treatment in the legal system usually focus on people's general perceptions rather than examining the specific effects of particular rules or procedures, despite the fact that general perceptions of fairness are likely to be a product of the cumulative impacts of these specific effects (Hollander-Blumoff, 2011).

Being a lawyer myself, I was naturally aware of the fact that lawyers reason on a case-by-case basis, looking for ways to distinguish a case from apparently similar cases. For this reason, although my primary focus was to test the robustness of the relationships between the main variables in my studies, I certainly paid attention to the contextual influence of the differences between the types of law cases from which I collected my data. Both in Chapter 2 and in Chapter 4, I explored the role of what I term courtroom-specific characteristics, such as prior court experience, and legal assistance. The findings of these exploratory analyses yielded some interesting insights. For example, I found the procedural justice-trust link to be more pronounced when litigants had had prior court experience, which suggests that litigants make references to their previous court experiences when assessing the way they are treated by the judge. Furthermore, I found the judge's gender and trust in judges to be related, indicating that litigants involved in cases adjudicated by a male judge were more likely to trust judges than those involved in cases adjudicated by a female judge. An important future direction should therefore be to make more extensive and systematic use of the courtroom-specific context in which empirical studies on procedural justice are carried out.

Another meaningful avenue for future research would be to involve different types of law cases than the ones I used in this dissertation. What the cases I selected had in common, is that they all involved interaction between a single judge and a single litigant, often in the presence of a professional such as a public prosecutor, or the representative of the administrative authority. To thoroughly understand my hypothesized relationships, I explicitly chose to include cases in which the litigant had no personal relationship with the other party. Furthermore, I did not include cases in which multiple judges were involved because I wanted to assess perceptions of procedural justice as purely as possible.

Now that my research on these relatively simple cases has yielded some robust findings on the relationships between procedural justice, outcome concerns, and trust in legal institutions, future research should definitely study more complex cases that involve threefold interaction between multiple litigants and a judge or multiple judges and a litigant. Future research should also consider the study of civil law cases in which the

interpersonal relationships between family members, neighbors or colleagues are involved. I would propose that these kinds of relationships may cause more emotional nuisance, which makes it interesting to study litigants' fair-treatment perceptions. After all, each type of law case has its own setting and atmosphere (Green, Sprott, Madon, & Jung, 2010), and the psychological processes involved in different types of law cases may well vary between cases, partly because different types of litigants tend to be involved in the different cases and because different legal issues are at stake (Van den Bos, in press).

Procedural Justice in the Courtroom and Beyond

In the introductory chapter of this dissertation, I argued that the courtroom would be a suitable research context for my studies, because the normative and perceived perspective on fair procedures find common ground in the importance attached to court hearings. This is not to say, however, that procedural justice is not important during other phases of legal proceedings, such as the pre-hearing stages (De Bock, 2015; Den Tonkelaar, 2015; De Waard, 2011), or in other dispute-resolution procedures (Lind et al., 1990; MacCoun, Lind, Hensler, Bryant, & Ebener, 1988; Wissler, 1995). After all, the number of lawsuits that actually go to court is relatively small (Van Erp & Klein Haarhuis, 2006). Having said this, I have some suggestions that future research in the legal field could focus on and that build on and extend the courtroom context of my studies.

As explained in Chapter 1, having their day in court is of tremendous value for litigants because the courtroom functions as a forum to advocate their case before a real judge. The court hearing is the moment that litigants form their perceptions of fair treatment. The court hearing, however, is only a fraction of the entire legal proceeding that litigants go through. How long do litigants' perceptions of fair treatment last after the court hearing has taken place? This question becomes even more significant when we consider the long lead times many courts currently experience. After all, if it takes long before judicial decisions are taken, they lose effectiveness and trigger feelings of frustration, and dissatisfaction among litigants because they are uncertain about their legal position (De Bock, 2015). Future research should consider longitudinal studies on perceptions of procedural justice that involve possible moderating effects of the duration of procedures. Such studies will increase our understanding of the robustness of the fair process effect and its practical implications for the legal field.

Furthermore, future research may want to address the discrepancy that can exist between fostering perceptions of procedural justice at the court hearing, and writing a legally sound decision afterwards (Verburg & Schueler, 2014). This discrepancy causes some judges to fear that the positive effects of treating litigants fairly will not last when they receive the written outcome in which they read – often in intricate legal mumbo-jumbo – that they lost the case (Verburg, 2013). My preliminary comparisons in the

administrative law cases described in Chapter 2 suggest that this fear may be well-founded: I found a statistically significant decrease of perceived procedural justice after litigants heard the outcome of their case. I assume that predictability and explanation play an important role here. I would propose that managing litigants' expectations by taking into consideration the unfavorable decision during the court hearing has a positive effect on the lasting of their procedural justice perceptions after the court hearing. Future research could examine more closely the discrepancy between the actual court hearing and the legal decision taken afterwards, and more specifically the role perceived procedural justice plays therein.

Another future research direction related to this issue, is to examine how the written decision can foster or sustain perceptions of procedural justice. After all, information communicated verbally rather than in writing has been found to be more effective in enhancing fairness perceptions (Konovsky, 2000; Shapiro, Buttner, & Barry, 1994). I would expect that several procedural justice enhancing criteria that are considered to be important during the court hearing play an important role for litigants' justice perceptions when they read the judge's written decision too. After all, having had the possibility to voice your opinion, to which a neutral judge has paid due consideration and respect, needs to be reflected in the decision too. Would it help then, to explicitly reflect litigants' opinion in his or her own words in this decision? I assume that written decisions that in an understandable manner explain why and how judges have come to their decisions contribute to the lasting effect of the fair process effect, and help to bridge the perceived gap between what has happened during the court hearing and what has been written down in the legal decision in terms of fairness.

Interacting Perspectives on Procedural Justice

Finally, an important future research direction may be to further examine the perspectives of different legal actors on perceived procedural justice, and their mutual relationships. Justice literature has long taken a one-sided view of the dynamics of social exchange relationships by focusing on one actor's role only (Korsgaard, Roberson, & Rymph, 1988), and most studies on perceived procedural justice in the legal domain focus on how people react to fair treatment. (e.g., Tyler, 2003, 2006; Tyler & Huo, 2002). I emphasized that its proactive counterpart is less frequently studied. Consequently, the study I described in Chapter 4 is definitely my most pioneering one.

There are several relationships that might exist between litigants' perceptions and judges' perceptions of the same court hearing. It is in precisely this sort of situation, when several different conclusions appear theoretically reasonable, that empirical research can be most useful in testing which of the competing conclusions are in line with actual behavior and perceptions (Walker, Lind, & Thibaut, 1979). I hope that the conceptual model I described in Chapter 4 increases our understanding of the potential

relationship that exists between perspectives on justice by providing several testable hypotheses on the relationship between reactive and proactive variables. Of course, more research is needed to further test and develop the model I proposed. However, if the model holds up in future research this could elaborate and refine the existing procedural justice paradigm.

Not only the judge's perspective, but also the attorney's perspective of procedural justice has been largely ignored in studies in the field of procedural justice. Understandably, researchers have been more concerned with the effects of litigants' perceptions of procedural justice than those of the far smaller group of attorneys involved in dispute resolution (Hollander-Blumoff, 2011). However, a close look at how fair these "repeat players" perceive the court hearing to be may yield interesting insights into the dynamics of procedural justice, and generate new information on what factors affect fairness judgments (Lind et al., 1990). Importantly, attorneys may play an important translational role in how laypeople perceive what has happened during the court hearing. Therefore, it would be interesting for future research to examine how this translational role moderates litigants' perceptions of procedural justice.

The one-sided focus on litigants may result in another group of repeat players also being disregarded: the representatives of corporate organizations in civil law cases and government authorities in administrative law cases. Although there is no reason to believe that a professional representative would not experience some procedural justice effects based on his perceptions of how fairly the organization has been treated by the judge, the procedural justice effects may be narrower and more constrained because there are many other individuals in the organization that will also form an opinion about the outcome (Hollander-Blumoff, 2011). Lind et al. (1993) tested the frequently heard assumption that professional representatives care more about outcome concerns than individuals, and found that corporate representatives involved in court-annexed arbitrations did not systematically differ from individuals in the way procedural justice judgments affected their actions. If this finding holds up for corporate litigants involved in courtrooms too, it would suggest that these actors are no less affected by fundamental social psychological processes than individuals (Lind et al., 1993). For this reason, including professional repeat players in future studies enriches our view on the role that procedures and outcomes play for the actors involved in the legal system.

In sum, I believe that the procedural justice paradigm might benefit from researchers who take a two-sided or even a many-sided approach to perceptions of justice, by linking proactive concerns to reactive concerns, by including the perspectives of both professional experts such as attorneys and laypeople involved in the same court hearing, or by comparing the procedural justice judgments of individuals with those of professional representatives of private corporations or government authorities.

CONCLUDING REMARKS

I started the introductory chapter of this dissertation with two personal experiences as an empirical legal researcher because these experiences highlight the separated worlds of lawyers and laypeople. With the research presented in this dissertation, I hope to have moved a few steps towards bridging these worlds, which I perceived as a daunting and intellectually challenging task. Like lenses through which we look at the world, perspectives shape how lawyers and laypeople look at the law, legal proceedings, and justice. Empirical research is warranted to examine how the perceived perspective of procedural justice may enrich our understanding of fair procedures, and broadens our legal horizons. By doing empirical research in real-life courtroom contexts, I attempted to resolve to some extent the thorny issue of how perceived understanding of procedural justice informs the normative principles and practice of our legal system.

ADDENDUM

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DUTCH SUMMARY | NEDERLANDSE SAMENVATTING

ENCORE | TOEGIFT

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ABOUT THE AUTHOR

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In dit juridisch-empirische proefschrift onderzoek ik het belang van het sociaal-psychologische concept "ervaren procedurele rechtvaardigheid" in een juridische context: de rechtbank. Ervaren procedurele rechtvaardigheid gaat, in tegenstelling tot wat juristen verstaan onder procedurele rechtvaardigheid, over de subjectieve indruk die mensen zich vormen van de eerlijkheid en rechtvaardigheid van de procedure en van hoe ze behandeld worden tijdens die procedure. Ik heb het belang van ervaren procedurele rechtvaardigheid aan een kritische toets onderworpen door te onderzoeken of eerlijk en rechtvaardig behandeld worden door de rechter er daadwerkelijk toe doet voor rechtzoekenden. Dit heb ik gedaan in drie verschillende kwantitatieve studies.

Twee studies heb ik uitgevoerd in de rechtbank Midden-Nederland in vijf verschillende typen rechtszaken en één studie heb ik uitgevoerd bij de vier Nederlandse gerechtshoven waar klagers een procedure op grond van artikel 12 Strafvordering (Sv) kunnen instellen als zij worden geconfronteerd met een beslissing tot niet-vervolging. In deze drie empirische studies heb ik onderzocht of rechtzoekenden de behandeling van hun zaak bij de rechter als eerlijk ervaren. Dit heb ik onderzocht in combinatie met zaken die ik óók van groot belang achtte voor deze rechtzoekenden, zoals de vraag of zij van de rechter een gunstige of ongunstige uitspraak hebben ontvangen en de vraag wat er voor deze rechtzoekenden op het spel stond. In alle drie de studies stond de veronderstelling centraal dat wanneer rechtzoekenden hun behandeling bij de rechter eerlijk vonden, zij eerder geneigd waren om de rechter te vertrouwen. Met mijn onderzoek hoop ik het normatief-juridische perspectief op hoe eerlijke procedures *behoren te zijn* te verbreden met empirische inzichten in wat mensen als eerlijk *ervaren* binnen een juridische context. Ik zal nu kort op mijn drie empirische studies ingaan.

Procedures en uitkomsten

Omdat een belangrijk doel van dit proefschrift was om te onderzoeken in hoeverre ervaren procedurele rechtvaardigheid er daadwerkelijk toe doet, heb ik het concept onderzocht in samenspel met zijn natuurlijke tegenhanger: het sociaalpsychologische concept "uitkomstgunstigheid". Immers, het is goed voor te stellen dat de manier waarop rechtzoekenden de rechter en de rechtbank evalueren grotendeels wordt beïnvloed door de vraag wat zij op het spel hebben staan en of zij van mening zijn dat zij een gunstige uitkomst van de rechter hebben ontvangen. In Mulderzaken (waar het ging om verkeersboetes), bestuursrechtzaken (waar het voornamelijk ging over sociale zekerheden zoals uitkeringen en belastingen) en politierechterzaken (waar het ging om overtredingen en minder ernstige misdrijven) heb ik daarom onderzocht welke rol

zowel ervaren procedurele rechtvaardigheid als uitkomstgunstigheid speelde voor het vertrouwen dat rechtzoekenden hadden in de rechter die hun zaak behandelde.

In mijn tweede hoofdstuk laat ik zien dat er een sterke positieve relatie bestaat tussen ervaren procedurele rechtvaardigheid en vertrouwen in de rechter. Dat wil zeggen dat rechtzoekenden die zich eerlijk behandeld voelden door de rechter, eerder geneigd waren om deze rechter te vertrouwen. De relatie tussen ervaren procedurele rechtvaardigheid en vertrouwen in de rechter was aanwezig wanneer rechtzoekenden hun uitkomst gunstig vonden en deze relatie was nog sterker wanneer rechtzoekenden hun uitkomst ongunstig vonden. Dit betekent dat ervaren procedurele rechtvaardigheid en uitkomstgunstigheid met elkaar interacteren: de invloed van de één is afhankelijk van de invloed van de ander. Juist als mensen de uitkomst ongunstig vonden, hechtten zij nog meer belang aan een eerlijke behandeling. Verder laat ik in mijn tweede hoofdstuk zien dat er een aantal factoren zijn, zoals het belang van de uitkomst en de proceservaring van rechtzoekenden, die de relatie tussen ervaren procedurele rechtvaardigheid en vertrouwen kunnen modereren. Zo doet ervaren procedurele rechtvaardigheid er meer toe wanneer er voor rechtzoekenden meer op het spel staat en wanneer zij al eens eerder met een zaak bij de rechter waren geweest.

Ervaren procedurele rechtvaardigheid en een veel voorkomend wantrouwen in het strafrechtsysteem

Een andere manier om het belang van ervaren procedurele rechtvaardigheid kritisch te onderzoeken is door het concept te bestuderen in een context waar wantrouwen in het recht en het rechtssysteem veel voorkomt. Dat is het geval in een context waar burgers geen "ongeschreven blad" zijn, maar al eens eerder teleurgesteld zijn in hun interactie met juridische autoriteiten en de beslissingen die zij hebben genomen. Dit is onder meer het geval tijdens de procedure op grond van artikel 12 Sv. Immers, klagers die een dergelijke procedure starten, worden ermee geconfronteerd dat het Openbaar Ministerie heeft besloten hun zaak niet aan de strafrechter voor te leggen. Hierdoor wordt hen een strafrechtproces in hun zaak onthouden en kan er bij hen een negatief beeld van juridische autoriteiten bestaan.

In het derde hoofdstuk behandel ik de rol die procedures en uitkomsten spelen voor artikel-12-Sv-klagers, zowel op het moment dat zij zo een procedure starten, als acht maanden later. In dit hoofdstuk laat ik zien dat ervaren procedurele rechtvaardigheid een unieke bijdrage levert aan het vertrouwen dat deze klagers hebben in strafrechtinstituties. Deze invloed van ervaren procedurele rechtvaardigheid op het vertrouwen in het Openbaar Ministerie, in de strafrechter en in het strafrechtsysteem als geheel blijft bestaan wanneer we de vertrouwensoordelen van klagers *aan het begin* van de procedure meenemen in onze analyses. Hoewel het vertrouwen dat klagers aan het begin van de procedure hebben in de strafrechtsinstituties voor een deel

beïnvloedt wat hun vertrouwen in deze instituties acht maanden later is, speelt ook hun rechtvaardigheidsoordeel voor dit vertrouwen een belangrijke rol. Daarnaast vond ik een verzachtend effect van ervaren procedurele rechtvaardigheid op vertrouwen in de drie strafrechtelijke instituties. Het vertrouwen van klagers in het Openbaar Ministerie, de strafrechter en het strafrechtsysteem was aanzienlijk hoger wanneer zij de behandeling relatief eerlijk vonden in vergelijking tot wanneer zij de behandeling relatief oneerlijk vonden.

Proactieve en reactieve procedurele rechtvaardigheid

Veel van de onderzoeken naar ervaren procedurele rechtvaardigheid in het juridische domein gaan over "reactieve procedurele rechtvaardigheid". In deze onderzoeken staat centraal hoe rechtzoekenden reageren op een eerlijke behandeling. Minder vaak onderzocht is het perspectief van diegene die procedurele rechtvaardigheid probeert te geven; ook wel "proactieve procedurele rechtvaardigheid" genoemd. Omdat ik in dit proefschrift meer grip wilde krijgen op het concept ervaren procedurele rechtvaardigheid in een juridische context, heb ik zowel het perspectief van rechtzoekenden ("reactief") als van rechters ("proactief") hierop onderzocht. Dit heb ik gedaan onder rechters en rechtzoekenden die betrokken waren in bestuursrechtzaken, schuldsaneringszaken en huurzaken.

In mijn vierde hoofdstuk verbind ik deze reactieve en proactieve perspectieven op ervaren procedurele rechtvaardigheid zowel conceptueel als empirisch aan elkaar. In dit hoofdstuk laat ik zien dat de mate waarin rechters dachten dat zij rechtzoekenden eerlijk behandelden, wordt beïnvloed door wat rechters dachten dat er voor rechtzoekenden op het spel stond. Rechters die dachten dat er voor rechtzoekenden veel op het spel stond, scoorden zichzelf hoger op de procedurele rechtvaardigheidsschaal. Dit heb ik vervolgens gerelateerd aan wat rechtzoekenden zelf dachten dat er op het spel stond. Dat wil zeggen, als rechtzoekenden vonden dat er voor hen veel op het spel stond, bleek dat ook de rechters in diezelfde zaken inschatten dat er voor rechtzoekenden veel op het spel stond.

Opvallend genoeg bleek proactieve procedurele rechtvaardigheid niet gerelateerd te zijn aan reactieve procedurele rechtvaardigheid. Wanneer rechters dachten dat zij rechtzoekenden eerlijk behandelden, was dit niet gerelateerd aan de mate waarin diezelfde rechtzoekenden vonden dat zij door rechters eerlijk waren behandeld.

Daarnaast zoom ik in mijn vierde hoofdstuk verder in op de vraag wat zowel rechtzoekenden als rechters het belangrijkste component van ervaren procedurele rechtvaardigheid vonden. Zo laat Tabel 4.6 zien dat meer dan de helft van de rechters dacht dat het belangrijkste was dat rechtzoekenden hun mening konden geven en dat zij serieus naar die mening luisterden. Rechtzoekenden vonden dit ook belangrijk,

maar hechtten ook veel belang aan een rechter die hun zaak zorgvuldig voorbereidde en aan een eerlijke en rechtvaardige behandeling in het algemeen. De gevonden overeenkomsten en verschillen laten zien dat het antwoord op deze vraag onder meer afhankelijk is het type rechtszaak waarin rechter en rechtzoekende zijn betrokken. Zo hechtten rechtzoekenden in bestuursrechtzaken, waar de overheid hun wederpartij is, begrijpelijkerwijs veel waarde aan de onpartijdigheid van de rechter, terwijl dit in schuldsaneringszaken zonder wederpartij veel minder van belang werd geacht.

Samenvattend heb ik in dit proefschrift onderzocht wat het belang van ervaren procedurele rechtvaardigheid is voor Nederlandse rechtzoekenden die waren betrokken in verschillende typen rechtszaken. In alle drie de studies bleek sprake te zijn van een significante positieve relatie tussen ervaren procedurele rechtvaardigheid en vertrouwen in juridische instituties. Ervaren procedurele rechtvaardigheid bleef bovendien sterk bijdragen aan het vertrouwensoordeel van rechtzoekenden wanneer zij uitkomsten ontvingen die zij ongunstig vonden en wanneer zij een wantrouwende houding hadden tegenover juridische instituties. Uit het derde onderzoek blijkt hoe lastig het is voor de "gever" van procedurele rechtvaardigheid, de rechter, om in te schatten wat ertoe doet en wanneer het als eerlijk voelt voor "de ontvanger", namelijk de rechtzoekende. Met dit juridisch-empirische proefschrift laat ik zowel het belang van ervaren procedurele rechtvaardigheid in de rechtbank als de meerwaarde van empirisch onderzoek in de uitdagende en complexe context van het recht zien.

ENCORE | TOEGIFT

Als sluitstuk van dit proefschrift zou ik graag een aantal van mijn reflecties op mijn werk als empirisch onderzoeker in de rechtbank met de lezer willen delen.

Met moeite rondkomen van een bijstandsuitkering terwijl je drie jonge kinderen grootbrengt. Je sociale huurwoning worden uitgezet omdat je al drie maanden de huur niet meer kunt betalen en de incassokosten van de deurwaarder inmiddels al oplopen tot €2000,00. Bij de rechter smeken om toelating tot de schuldsanering, omdat er dan eindelijk een einde wordt gemaakt aan al die schuldeisers die rammelen aan je deur… Dit zijn stuk voor stuk situaties waarbij ik me helemaal niets kan voorstellen. En toch komen er dagelijks honderden Nederlanders met dit soort problemen bij de rechter. De dagen die ik als beginnend onderzoeker doorbreng in de rechtbank leveren mij niet alleen nieuwe data voor mijn promotieonderzoek, maar vooral inzicht in een andere, onvoorstelbare wereld op. Ze halen mij uit mijn comfortabele bubbel.

"Weet je wat het is? Ik wil berecht worden door mensen die weten wat wij doormaken. Nu beslist een rechter die geen idee heeft over ons. Niemand die boven het gemiddelde verdient, kan zich inleven in mensen die in armoede leven. Mensen begrijpen het niet als je eten moet stelen voor je gezin. Die rechter trekt straks de deur achter zich dicht en gaat gewoon weer naar zijn mooie huis en gezin, net als jij." Ik ben er even stil van. Hij heeft namelijk gelijk. Dat weet hij. En dat weet ik. Ik probeer nonchalant naar hem te glimlachen. Hij glimlacht terug.

Aan het woord is Dyllison. Samen met zijn broertje Giovanni moest hij verschijnen bij de politierechter omdat ze zich verzet hebben tegen een aanhouding door de politie. Had ik hier op hun plek gezeten als ik mij verzet had tegen de politie? Ik denk het niet. Dyllison heeft namelijk een kleurtje, rijdt sinds zijn 23e in een auto van een halve ton, woont in de Utrechtse volkswijk Sterrenwijk, is een bekende van de politie (of zoals hij zelf zegt: de politie is een goede kennis van hem) en is zeker niet op zijn mondje gevallen. Ook ik ben niet op mijn mondje gevallen, maar ik ben blank, rijd geen auto van een halve ton, woon in de binnenstad en heb geen strafblad.

Dit is niet alleen een kwestie van huidskleur of etnische profilering door de politie. Dyllison's blanke equivalent Jeffrey gebeurt hetzelfde. Het gaat om een fundamentele kloof in onze samenleving, die mij sinds mijn veldwerk in de rechtbank pijnlijk duidelijk is geworden.

Sinds 1 februari zit ik weer iedere dag in de publieke wachtruimte van de rechtbank, wachtend op mensen die voor de rechter moeten verschijnen, die ik vervolgens overval met de vraag of ze voor mij een vragenlijst over hun vertrouwen in de Nederlandse rechtspraak willen invullen. Natuurlijk maak ik geen onderscheid des persoons – dat zou methodologisch ook onethisch zijn – en spreek ik iedereen aan. Maar ik zal niet ontkennen dat ik een knoop in mijn maag krijg als ik op een boomlange kerel met een opgeschoren kapsel en meerdere tatoeages moet afstappen. Stom is dat, want als ik eenmaal die drempel over ben, blijkt hij ontzettend aardig te zijn. "*Tuurlijk meissie, as ik jou daarmee kan helpuh dan doet ik dat"* zegt hij met plat Utrechtse tongval.

Voor mij zijn deze ontmoetingen keer op keer een confrontatie met mijn eigen vooroordelen. Waarom haal ik opgelucht adem als mijn potentiële respondent een overhemd draagt? Het antwoord is heel simpel: hij is er één zoals ik. Ik zal niet ontkennen dat ik zelfs een keer twijfelachtig gevraagd heb: "*Eh, klopt het dat jij als verdachte naar de politierechter komt?*" Waarom zou deze keurige student eigenlijk niet iemand mishandeld kunnen hebben na wat biertjes met zijn dispuut in de stad? De vraag of hij eigenlijk wel verdachte is, komt niet eens in mij op als ik op Dyllison en zijn broer afstap. Sterker nog, ik heb er sowieso weinig fiducie in dat Dyllison mee wil werken aan mijn onderzoek. Ik had de hoop eigenlijk al opgegeven.

Gelukkig heb ik dat niet gedaan. Volstrekt onverwacht en geheel in tegenstelling tot mijn gemiddelde respondent, die zo snel mogelijk "*een peukie wil doen*" en vragen klakkeloos overslaat, vult Dyllison de vragenlijst consciëntieus in. "*Mag ik je nog wat meegeven? Je onderzoek klopt niet. Wil jij wel echt weten hoe wij over dit alles denken als je zulke gesloten vragen stelt?"* Hij snijdt een terecht punt aan. Het manco van een kwantitatief onderzoek is natuurlijk de relatieve oppervlakkigheid van mijn resultaten. Hoe moet ik die straks duiden? Wat betekent het eigenlijk als iemand als Dyllison zich onrechtvaardig behandeld voelt door de rechter? "*Terecht punt*", stel ik, en in een veertig minuten durend gesprek vertelt hij me van alles over zijn leven. Over hoe trots hij is op het feit dat hij zijn hand nooit heeft moeten ophouden bij de overheid, over hoe het was om vroeger in armoede te leven en hoe het voor hem voelt om voortdurend te worden aangehouden door de politie op verdenking van drugsbezit of diefstal. Ik leg hem uit dat ik het niet heel gek vind dat de politie twee jongens van in de twintig met een strafblad in een peperdure auto aanhoudt. Wat doen ze eigenlijk voor de kost? Weer die veelzeggende grijns op hun gezicht. "*We werken voor onszelf, weetje. Ik zit in het vastgoed en hij zit in de auto's*". Oké, helder. Ik weet even genoeg.

Duidelijk wordt dat we elkaars taal niet spreken. Ik begrijp hun wereld niet, maar zij de mijne ook allerminst. Hoezo heb ik nog geen koophuis? Hoezo rijd ik geen dikke auto? En hoezo kies ik ervoor om iedere dag tegen een universiteitsloontje respondenten te smeken om hun medewerking? Aan het einde van de dag verdienen Dyllison en Giovanni meer dan de rechter en ik bij elkaar. Ze lachen. Dan kunnen de rechter en

ik nog wel zo 'hooggeleerd' zijn, maar wie het laatst lacht, lacht het best. Ik overweeg of ik ze zal uitleggen dat geld natuurlijk niet de enige drijfveer in het leven is. Maar ik besluit niet te beginnen over zaken als intellectuele uitdaging, zelfontplooiing en de waardevolle bijdrage die je kunt leveren aan de maatschappij.

Zelfontplooiing staat bovenaan in de piramide van Maslow. Hier streeft men pas naar als lagere behoeften zoals eten, huisvesting en comfort zijn bevredigd. Het gaat bij het verschil in werelden tussen Dyllison en mij niet alleen om waarden en normen, maar ook om kansen. Kansen die ik wel heb gehad en die zij nooit zullen hebben. Het gaat volgens hen om 'leven versus overleven'. "*Jij bent zeker van een rijke komaf?*" eindigen ze het gesprek. Ze verwachten niet eens een antwoord en staan op. Ik weet niet goed wat ik moet zeggen. Mijn vader zat inderdaad niet in de gevangenis sinds mijn zesde, mijn moeder had geen drie banen tegelijk om ons te onderhouden en ik heb het geluk gehad zowel de basisschool, middelbare school en universiteit af te kunnen maken. En nu heb ik het voorrecht een promotieonderzoek te mogen doen! Ik realiseer me hoe rijk ik eigenlijk ben. "*Dat kun je wel zeggen*" mompel ik. Maar de jongens zijn al vertrokken.

ACKNOWLEDGEMENTS | DANKWOORD

"*Life is like riding a bicycle. In order to keep your balance, you must keep moving.*"
– Albert Einstein.

Naast het schrijven van dit proefschrift, zat ik de afgelopen jaren regelmatig op de wielrenfiets. En telkens weer, als ik met harde tegenwind een ritje maakte of een berg beklom, maakte ik in gedachten de parallel met het schrijven van mijn proefschrift. Want net als op de fiets, heb je tijdens het schrijven van een proefschrift soms wind mee en soms wind tegen. En hoe zwaar het beklimmen van een berg ook is, het genot van het dalen doet je gelijk weer vergeten hoe zwaar de klim naar de top eigenlijk was. Soms voel je je behoorlijk een *chasse patate,* soms hang je aan het elastiek bij je promotor. Meestal kachel je gestaag een heel stuk door en op sommige momenten is het keihard stoempen. Je tracht voortdurend koers te houden en op sommige momenten ben je optimaal in vorm. Net als bij een toertocht gaat het bij het schrijven van een proefschrift niet alleen om het behalen van de eindstreep. Veel belangrijker zijn de vele kilometers in een prachtige omgeving die je daar naartoe leiden. Ook tijdens het schrijven van mijn proefschrift genoot ik van de weg naar de eindstreep en van alle prachtige projecten waarin ik mocht samenwerken met inspirerende mensen.

"Hoe sterk is de eenzame fietser die krom gebogen over zijn stuur tegen de wind / zichzelf een weg baant?" (De Groot, 1973). Op deze plek wil ik graag de mensen bedanken die de afgelopen jaren deel uitmaakten van mijn omgeving en een stukje met mij mee hebben gefietst. In het bijzonder wil ik hen bedanken die mij zo fijn uit de wind hebben gehouden.

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ABOUT THE AUTHOR &

CURRICULUM VITAE

Hilke Grootelaar was born on February 4, 1989 in Zwolle, the Netherlands. After graduating from secondary school in 2007, she moved to Utrecht to study at the Utrecht School of Governance. In 2008, Hilke started studying at the Utrecht School of Law. During these two Bachelor programs, she followed social policy courses at Lunds Universitet in Sweden and set up a research project with the University of Witwatersrand in Johannesburg, South Africa. After obtaining her degrees as Bachelor of Arts in Public Administration and Organizational Science and as Bachelor of Law, in 2012 Hilke obtained her *cum laude* Master's degree in Legal Research. During this two-year research program at Utrecht University, she conducted empirical research on judicial behavior in post-defense hearings and on result-oriented behavior among public prosecutors. These inspirational research projects formed the basis of her interest in empirical research. As a student, Hilke worked as an intern at the Research and Strategy Department of the Dutch Council for the Judiciary, as a student assistant for the Montaigne Centre for Judicial Administration and Conflict Resolution, and as a court clerk at the Administrative Law Department of the district court of the Mid-Netherlands. In 2014, with two fellow students, Hilke was nominated for the Katadreuffe prize for students "full of *karakter*" studying at Utrecht University's School of Law.

After her graduation, Hilke started as a PhD Candidate at the Montaigne Centre for Judicial Administration and Conflict Resolution on a three-year PhD project supervised by Professor of Social Psychology and Empirical Legal Science Kees van den Bos and Professor of Justice Administration and Judicial Organisation Philip Langbroek. The results of this project are presented in this dissertation. For her first paper, which she presented at the European Group of Public Administration (EGPA) Conference in 2016, she won the Best Paper Award of the EGPA Behavioral Public Administration Group. As a lecturer, Hilke was involved in the courses Foundations of Law, Sociology of Law, and Methodology Round Table. During her PhD, Hilke was a member of the Law, Economics and Governance PhD Council and of the Law, Economics and Governance Faculty Council. In addition, Hilke gave multiple workshops and lectures on socio-scientific man views, procedural justice and trust for external parties such as ministries, courts and law firms.

With her colleagues Marij Swinkels and Elena Valbusa, Hilke initiated the InclUUsion project at Utrecht University, which aims at giving refugee students the opportunity to participate for free in all kinds of courses offered by Utrecht University. Since its start in September 2016, almost 300 refugee students have participated in more than 100 courses. Hilke and her colleagues won the Law, Economics and Governance Faculty's Societal Impact Price of 2016 for their project. Hilke is now member of InclUUsion's Advisory Board.

Since December 2017, Hilke has been working as a postdoctoral researcher at the Montaigne Centre for Judicial Administration and Conflict Resolution on an interdisciplinary research project on constitutional dialogues and feedback loops between courts and legislators. In this project she continues to conduct empirical research on legal phenomena, attempting to bridge the gap between l*aw in the books* and *law in action*. In addition, she works as editorial secretary at the Dutch journal *Recht der Werkelijkheid* of the Association for the Socio-scientific Study of the Law. Study of the Law (VSR), gives training in presenting and debating skills, and is an active member of the Progressive Liberal Democrats (D66).

Hilke enjoys living life to the fullest and spends her time outside the office as much as possible together with friends and family, and being outside to go skiing, race cycling, hiking, or running.

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