

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

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

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

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citizens to trust them and perceive them as legitimate (Tyler 1984, 2006; Tyler and Lind 1992). Citizens' trust in the law, therefore, is a core issue in democratic states.

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

The importance people attach to fair and just procedures is especially striking given the extent to which self-interest and outcome-oriented models have dominated explanations of human behavior (Lind and Tyler 1988; Miller 1999). Indeed, outcomes are important to people, in terms of both outcome favorability and outcome fairness (e.g., Adams 1965; Blau 1964; Crosby 1976; Walster et al. 1973). Related to this, many procedural justice studies use experimental methods, such as the courtroom simulations used by Thibaut and Walker (1975) in their pioneering research. To assess whether procedural justice findings hold up in less artificial settings, it is important to study perceived procedural justice in real-life contexts, such as actual court hearings.

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

This raises the question whether people, in important real-life contexts such as criminal court hearings, refer to issues of procedural justice when asked about perceived fairness in these hearings. Is perceived procedural justice a relevant concern to defendants involved in such cases? This is the first main issue the current paper addresses.

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

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

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

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

We argue that, in addition to such approaches, studies that inquire about perceived fairness in a more open way can yield important insights into what exactly makes people perceive procedures as fair. An example of a more open approach to studying fairness perceptions is the study by Finkel (2001), who asked participants to write down instances of unfairness which he analyzed to develop a typology of commonsense unfairness. Finkel,

however, examined fairness perceptions among a more general audience without focusing on procedural justice in legal cases.

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

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

### **1.1 The Current Research**

To examine whether defendants in criminal cases refer to issues of procedural justice, and, if so, which procedural justice components they mention, we conducted qualitative interviews with one hundred defendants in Dutch single judge criminal cases (*politierechterzaken*) directly after defendants' court hearings. Interviewing respondents directly after their court hearings enabled us

to capture their immediate reactions. Rather than asking respondents about predetermined procedural justice components derived from the literature, we assessed which components of procedural justice (if any) they put forward themselves. We asked follow-up questions to find out what these procedural justice components entailed exactly in respondents' views and how respondents constructed their perceptions of these components.

Studying perceived procedural justice in this way is important for several reasons. For instance, this approach leaves open the possibility that procedural justice components mentioned frequently in the literature turn out to be less relevant to defendants (see also Finkel 2001). Instead, respondents might be more concerned with other aspects of fair treatment that have not been identified in the literature (Cropanzano et al. 2015; Sheppard and Lewicki 1987; Silbey 2005).

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

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

In addition, by examining in how many different interviews each procedural justice component was put forward, our study yields insights into the importance of each component relative to the other components of procedural justice. Furthermore, by asking follow-up questions about the procedural justice components respondents mentioned, we gained a more concrete understanding of what these components entail exactly in the eyes of people involved in legal procedures (De Mesmaecker 2014; Rupp

et al. 2017). Taken together, our study provides a bottom-up and in-depth conceptualization of perceived procedural justice from the viewpoint of defendants in important criminal cases.

## **1.2 Research Context**

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

Furthermore, whereas most procedural justice studies are conducted in the US, our study took place in a legal setting important to Dutch litigants. Many findings of international research on procedural justice have held up in the Dutch context. For instance, several Dutch studies found fair process effects (e.g., Hulst 2017; Van den Bos et al. 2014). When asked to prioritize procedural justice components, Dutch litigants tend to perceive as important the same components as those used in the international literature (Grootelaar 2018). That said, the extent to which procedural justice findings generalize across cultures remains subject to debate. For example, Van den Bos et al. (2010) found that research participants from the US reacted differently to voice versus no-voice procedures than participants from the Netherlands. Hence, by examining perceived procedural justice in the Dutch legal context, the current study contributes to the cross-cultural body of knowledge on perceived procedural justice (see also Grootelaar 2018).

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

procedural justice with a qualitative interview study on the relevance and components of perceived procedural justice among defendants involved in Dutch criminal cases.

## 2. Method

### 2.1 Sample

Our sample consisted of defendants in single judge criminal cases handled by the district court of the Mid-Netherlands in Utrecht. We interviewed defendants between March 6 and June 14, 2017, after gaining the court's permission to conduct the study. Single judge criminal cases concern criminal offenses of all kinds, such as assault, theft, insult, threat, destruction, drug offenses, and driving under the influence. The public prosecutor's demand cannot exceed 1 year of imprisonment in these cases. Defendants are not obliged to attend their court hearings, nor are they required to be assisted by a lawyer. Court hearings in these cases usually last around 30 minutes, and judges generally deliver their judgments directly after the hearing.

We conducted 107 interviews with 108 defendants and eventually used 99 interviews with 100 defendants for data analysis.<sup>1</sup> Eight interviews were excluded because respondents answered questions very briefly or not at all or did not seem to adequately understand the interviewer (for instance, due to the defendant's poor command of Dutch). The amount of one hundred respondents fit well with our aims to have a large sample and continue data collection until theoretical saturation occurred (Boeije 2010), which turned out to be the case after around ninety interviews. We approached 338 defendants in total, so the response rate was 32.0 percent. We did not note any patterns in refusals in terms of, for instance, age, sex, and ethnic background.

Our final sample consisted of eighty-four men and sixteen women, which reflects male defendants' predomination in Dutch criminal cases (Statistics Netherlands 2019). Respondents' ages ranged from 19 to 71 years, with an average of 37.06 years (standard deviation [sd] = 13.38). Their highest completed level of education varied between primary school (10 respondents), secondary school (33 respondents), senior secondary vocational education (37 respondents), higher professional education (10 respondents), and university (3 respondents). One respondent had not finished primary school. Twenty-nine respondents had a non-western ethnic background. A small majority of fifty-four

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<sup>1</sup>Two codefendants were interviewed simultaneously.



respondents was represented by a lawyer during their court hearings. For forty respondents, this court hearing was their first.<sup>2</sup>

## **2.2 Research Procedure**

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

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

The interviews took place directly after defendants' court hearings. At the start of each interview, the interviewer repeated that she studied how people experience their court hearings and clarified the interview topics and structure. Permission to record the interviews audio was granted by ninety-one respondents. During the eight interviews in which respondents did not give permission to record the interview, the interviewer took notes and extended these into complete reports directly after the interview to be able to properly use them for data analysis.

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



The interviews were semi-structured in nature: The order in which the questions from our interview instrument<sup>3</sup> were posed as well as their phrasings were flexible and could be adapted to the flow of each individual interview (Boeije 2010). During these interviews, we inquired about a couple of topics, of which perceived procedural justice was the most important one.<sup>4</sup> Hence, we aimed to discuss respondents' procedural justice perceptions as extensively as possible before moving on to the other interview topics.

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

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

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

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<sup>3</sup>The interview instrument is available from the first author on request.

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

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

<sup>6</sup>In this paper, we use the terms outcome justice, outcome fairness, and distributive justice interchangeably.

made sure that the interviewer was speaking as little as possible and tried to encourage respondents to speak as much as possible.

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

### **2.3 Data Analysis**

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

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

In this paper, we also briefly discuss perceived outcome justice. We defined the outcome justice folder as “All text fragments dealing with how fair and just respondents consider the judgment the judge arrived at during the court hearing they just attended.” Like the perceived procedural justice folder, this folder was defined based on insights that emerged during coding, combined

with insights from literature on distributive justice (e.g., Adams 1965; Homans 1961).

Data analysis proceeded in three stages. In the first stage, we adopted a highly detailed approach to coding, resulting in long lists of lower-level codes. Once all interviews had been coded this way, we performed a round of corrections, checking whether text fragments had been assigned to the correct folders and codes to diminish intrarater inconsistencies. We note that we assigned text fragments as much as possible to only one code and assigned them to multiple codes only when indicated by the data. Hence, our codes were not always mutually exclusive (Braun and Clarke 2006; Bryman 2016; Willig 2013). This fits the procedural justice context, as research suggests that components of procedural justice are positively correlated (Tyler 1988).

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

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

After coding all interviews, we assessed interrater reliability (Bartholomew et al. 2000; Boeije 2010). In two rounds, we provided a second coder with a sample of text fragments from the interviews to assess the extent to which she assigned these text fragments to the same folders and codes as we did. In case of disagreement about how to code a text fragment, coders discussed their views. Coders agreed about the folders text fragments should be assigned to for 96.0 percent to 100 percent of the selected text fragments. Concerning the codes text fragments should be assigned to, coders initially agreed about 73.8–92.3 percent of the selected text fragments. After discussion, they reached

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

92.5–99.0 percent agreement on this issue.<sup>8</sup> To us, these results indicate a sufficient degree of intersubjectivity of our coding scheme.

### **3. Results**

This section starts with results regarding the two main issues this paper focuses on: Whether defendants in criminal cases refer to procedural justice themselves when asked about their fairness perceptions, and, if so, which components of procedural justice they put forward. Next, we present tentative findings regarding relationships between procedural justice components. At the end of this section, we briefly present findings regarding respondents' perceptions of outcome fairness, the natural counterpart of perceived procedural justice.

#### **3.1 Mentioning Procedural Justice**

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

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

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

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

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

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

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

### 3.2 Procedural Justice Components

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

### ***3.2.1 Information on Which Decisions Are Based***

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

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

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

Several other respondents spoke more generally about the completeness and correctness of the information on which judges and prosecutors based their decisions. Respondents sometimes related such impressions to whether the judge asked questions about the reasons for committing their crimes or their situations rather than looking solely at the case file. Other behaviors respondents mentioned in this regard were the prosecutor taking the effort of calling the defendant's therapist to ask some questions and the judge staying the proceedings to further examine witnesses. One respondent explained that he felt like the judge looked at the complete picture, because the judge closely examined each statement:

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

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

### ***3.2.2 Interpersonal Treatment***

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

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

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



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

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

### **3.2.3 *Due Consideration***

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

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

for respondents while they were speaking without doing other things in the meantime. For instance, one respondent explained:

*Respondent:* While I was talking, then... He was not doing other things or something like that. Of course he has this computer, but he really looked me in the eyes, he really listened to what I said, and I think these people [i.e., judges and public prosecutors] have to deal with all these small cases the entire day, so I could imagine them being like: Yeah, another case like this, let's get this over and done with. But they really, yeah, listened to my side of the story, precisely by not getting it over and done with (...). They really looked me in the eyes and really listened, while nodding, so it was not like he was doing other things while I was trying to explain my side, you know.

*Interviewer:* They really paid attention.

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

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

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

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

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

### 3.2.4 *Neutrality*

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

prejudice, seeing both sides of the story, independence, impartiality, and objectivity.

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

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

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

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

Next to perceptions of prejudice, several respondents talked about neutrality in terms of seeing both sides of the story and

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

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

Some respondents talked about neutrality in terms of judicial independence. One respondent used this term explicitly; the others spoke of the judge “arriving at their own judgment” separately from the public prosecutor or, on the contrary, judges and prosecutors “being one”, always having the same opinion, and cooperating. For instance, one respondent viewed the judge as not forming his own judgment, as he seemed to be listening more to the public prosecutor without adequately discussing the arguments put forward by the defendant's lawyer.

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

A final aspect of neutrality, mentioned by some respondents, was objectivity. A few respondents talked about objectivity in terms of basing things on facts rather than simply accepting someone else's statements as the truth and not giving subjective opinions by, for instance, expressing disbelief of the defendant's statements. A small number of respondents inferred subjectivity from certain

phrasings, such as “we deem your story implausible” or the public prosecutor talking about “this type of cases” and “this type of situations.”

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

### **3.2.5 Voice**

Thirty-two respondents mentioned being able to voice their opinions and related experiences as reasons for feeling treated fairly. Some of them mentioned defendants’ opportunity to have the last word. We integrated respondents’ remarks about these issues into the overarching code “voice,” defined as “All text fragments dealing with respondents (and/or their lawyers or supervisors) (not) getting the opportunity to speak or (not) being able to tell their stories, and similar statements, such as statements concerning (not) being allowed to finish one’s story, and a (potential) witness for the defense not having been heard.”

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

Perceptions of being able to sufficiently voice one’s opinions and tell one’s story were fostered by the judge repeatedly asking what defendants thought about things, enabling them to react to what was being said, and granting them sufficient time in this

regard. Not being interrupted was mentioned relatively frequently as well. Conversely, a small number of respondents inferred a lack of voice from the judge limiting their speaking time and not allowing them to elaborate on things they considered relevant, such as violence on the victim's part. One defendant felt he was not given sufficient opportunity to explain things, because the judge asked "multiple choice" type of questions, rushed through the court hearing, and did not offer him the last word.

### 3.2.6 Accuracy

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

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

*Respondent:* I think that both the public prosecutor and the judge (...) looked at the complete situation, and not just at what was presented to them in the case file, but asked follow-up questions to me personally. Things about, you know, (...) how are you doing now, what happened afterwards [i.e., after the crime] (...)

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

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

*Interviewer:* And what do you mean by targeted questions?

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

### **3.2.7 Other Procedural Justice Components**

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

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



experience lawyers working pro bono are paid insufficiently to really make an effort and win cases less often.

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

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

Another component of fair treatment discussed by eight respondents concerned formal aspects of procedural justice. We defined the resulting overarching code "formal aspects" as "All text fragments dealing with fixed characteristics of criminal court hearings, such as the fact that the injured party in some cases has a right to speak and that decisions can be appealed, and statements regarding the court hearing (not) proceeding in accordance with what interview respondents think are fixed characteristics of that procedure (i.e., the court hearing proceeding 'the way it is supposed to')." A few respondents mentioned specific characteristics of the procedure, referring to the opportunity to appeal against the judgment or the injured party's right to

speak. Some other respondents stated more generally that “everything proceeded in the way it was supposed to” and indicated, for instance, that everything happened in accordance with the rules, that they were able to voice and defend their own perspectives, and that they got the last word at the end of the court hearing.

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

### ***3.2.8 Relationships Among Procedural Justice Components***

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

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

components and other components of perceived procedural justice are illustrated in Figure 1.

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

### 3.3 Outcome Justice

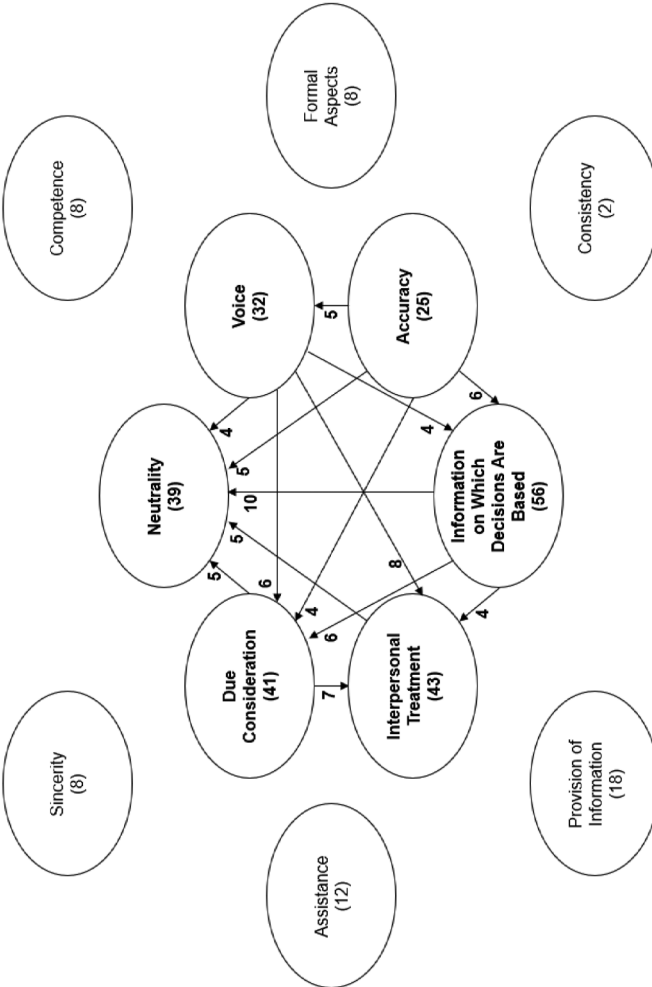
As is clear from the preceding section, respondents quite regularly inferred their perceptions of procedural justice from the outcomes they received. For instance, respondents partly derived their perception that certain information had been taken into account or that the judge listened to them (or not)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

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

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

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

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



**Figure 1. Model of Perceived Procedural Justice Among Defendants in Criminal Cases.** *Note:* Procedural justice components and potential relationships between them. The core components of perceived procedural justice are depicted in bold. Bracketed numbers indicate the number of respondents by whom each component was mentioned. Potential relationships between procedural justice components are represented by arrows accompanied by numbers indicating in how many different interviews indications for these relationships were found. Only the most important relationships between procedural justice components are shown. Relationships that were found less frequently than the ones depicted here have been omitted.

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

#### 4. Discussion

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

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

#### **4.1 Fairness in the Eyes of Defendants**

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

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

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

Furthermore, consistency in the sense of equal treatment across defendants turned out to shape our respondents' fairness perceptions to a much smaller extent than suggested by the current literature. Several studies found consistency to be one of the most important procedural justice components (Barrett-Howard and Tyler 1986; Fry and Chaney 1981 as cited in Tyler 1988; Fry

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

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

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



Neutrality, too, was a relevant factor shaping respondents' perceptions of procedural justice. As in Morgan's (2018) study, this procedural justice component was put forward by many of our respondents. In addition, all other core components seem partially instrumental to neutrality. That is, these other procedural justice components may be important in part because they yield the impression that the authorities are neutral. For instance, respondents sometimes derived impressions of neutrality from the information on which decisions were based or from their perception that they were able to voice their opinions. This is illustrated in Figure 1: All arrows indicating potential relationships between procedural justice components point to neutrality. Hence, neutrality might be the common factor binding the other core components of procedural justice together. Future studies could further examine the importance of neutrality in shaping perceptions of procedural justice in legal settings.

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

## **4.2 Procedures and Outcomes**

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

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

### 4.3 Limitations

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

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

Another limitation of our study is the degree to which our findings can be generalized. Given our relatively large sample size, at least for qualitative purposes, and the level of sufficient saturation we obtained with the sample, we believe generalizability is less problematic in our study than is usually the case in qualitative research (Maxwell 2013). That said, we were able to interview only defendants who decided to attend their court hearings and

were not incarcerated, which may have resulted in selection effects. Furthermore, it would be relevant to explore whether our findings generalize to other contexts, such as cases of very severe criminal offenses or litigants in other kinds of legal cases, like those involved in administrative or civil law cases.

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

We also recognize the relatively short duration of our interviews compared to other qualitative interview studies (e.g., De Mesmaecker 2014; Morgan 2018). Interviewing respondents directly after their court hearings meant not only that their experiences were fresh and minimally influenced by discussions with others, but also that our respondents had less time to be interviewed than, for instance, incarcerated defendants (Morgan 2018). Therefore, rather than starting the interviews with several more general questions, in our interviews we immediately zoomed in on perceived procedural justice. We aimed to discuss perceived procedural justice as extensively as possible before moving on to the other interview topics and skipped these other topics if needed. Nevertheless, longer interviews might have yielded more information regarding respondents' procedural justice perceptions.

#### **4.4 Implications**

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

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

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

#### 4.5 Coda

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

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