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On the Role of Perceived Procedural Justice in Citizens' Reactions to Government Decisions and the Handling of Conflicts

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Introduction

In this paper we propose an integrative approach to citizen-government interactions during government decision making and the handling of conflicts, tying together social psychological perspectives on how citizens process information about trust and legitimacy and insights from administrative law and theories of public governance concerning judicial administration and conflict resolution. Our approach focuses on how citizens come to trust their government and accept governmental decisions. The empirical findings that we present provide evidence for the importance of perceived procedural justice in this process.

We study the aforementioned issues by examining several hundred cases in which citizens who were about to receive a negative decision or who were in conflict with government agencies were contacted in an 'informal' way by Dutch public officials as part of the Fair Tracks project.¹ Fair Tracks is a policy and research programme run by the Dutch Ministry of the Interior and Kingdom Relations. This constitutes a new approach to making decisions and handling conflicts. Unlike more traditional, formal, and mostly written ways of making administrative decisions and handling complaints or objections, in the Fair Tracks programme the public official engages in a direct and interpersonal conversation with the citizen who has filed a complaint or an objection or who is about to receive a negative decision. The public official typically does so by phone, preferably within 2-10 days after receiving the complaint or objection or when a public official is about to make a negative decision. The purpose of the open communication that follows is to discuss together what the problem is (focusing on the facts, emotions, and interests involved) and how the citizen's problem can best be handled (pursuing a solution-driven approach).

In the current paper, we conceptually and empirically ground the hypothesis that perceived procedural justice may explain how citizens perceive and react to the informal way of making decisions and handling citizen-government conflicts in the Fair Tracks project. To this end, our paper provides a thorough and usable conceptualization of perceived procedural justice. Building on a condensed

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1 Also known as 'the Informal Proactive Approach Model'; in Dutch '*Prettig contact met de overheid*'.

operationalization of this conceptualization, our empirical, quantitative findings show that when citizens felt they had been treated with respect by the public official who was handling their cases, when they felt they had been treated in a polite manner, and when they could voice their opinions to the public official this led to a reliable perception of procedural justice. Our findings further indicate that in the informal procedure most public officials were able to enact *high* levels of perceived procedural justice and some of the public officials were even able to initiate interpersonal interactions that were perceived as having *very high* levels of procedural justice by the citizens involved.

With increasing levels of perceived procedural justice citizens were more satisfied about the outcome reached during the conversation with the public official. Higher levels of perceived procedural justice also were associated with higher levels of trust in mutual compliance with the outcome that was reached. Furthermore, when citizens involved experienced higher levels of procedural justice they trusted the government more and solutions were more quickly reached between them and the public official. In line with what would be expected on the basis of modern psychological justice theories, these effects were there when decisions were perceived as advantageous by citizens and were even stronger when decisions were perceived as disadvantageous by the citizens involved.

In addition, we also provide some data on how citizens evaluate administrative review procedures from the Dutch tax office. These findings indicate that perceived procedural justice has similar kinds of effects when administrative review procedures are executed in a more traditional, 'formal' way. That is, even during a more formal execution of the procedures, when citizens felt they had experienced fair treatment, they were more satisfied with the outcome obtained. This suggests that perceptions of procedural justice are important for not only the new, informal interventions and interactions between government officials and citizens, but for more traditional, 'formal' administrative review procedures as well.²

In what follows, we provide, first, a policy background of the Fair Tracks programme, then a conceptual analysis of perceived procedural justice as we conceive and operationalize it here, next an analysis of empirical findings obtained thus far, and finally a discussion of the implications and limitations of the conceptual and empirical analyses presented here as well as things that need to be sorted out in future developments of the programme reviewed. In some respects the empirical findings that we will present extend beyond the study of law into the analysis of how people perceive their experiences with legal and administrative processes, but our discussion will also focus on the legal implications that follow from these findings and what lawyers can learn from them.

1. Background

This article advances the view that citizens are more inclined to trust the government and its institutions if they feel that their decisions are fair and just. This effect is clearly discernible when the decisions favour the citizen and even more so when they do not. The way in which citizens experience justice is a contributing factor not only in the acceptance of government decisions but also in the legitimacy of government as a whole. Extensive behavioural research on the psychology of how procedural justice is experienced provides a large body of knowledge and findings about how people form opinions on justice in general. Unfortunately, so far, these insights and their potential uses have gone relatively unnoticed within the domain of government and administrative law.

2 We note explicitly that the General Administrative Law Act (*Algemene wet bestuursrecht*, Awb) intentionally provides room for informal contact and interactions between public officials and citizens. Furthermore, the law has a number of provisions to ensure that the government does not misuse its powers and cannot put aside a complaint or objection against a decision (e.g., the government has to provide a hearing when citizens want that). The law also includes provisions to make sure that cases are looked at seriously and are handled professionally and neutrally (e.g., the government official handling a complaint or objection cannot be the one who made the decision in the first instance). The law never intended these procedures to be formal and mostly written executed procedures. On the contrary, informal interventions and a solution-driven approach was intended by the General Administrative Law Act. This noted, what is quite common in the *execution* of the General Administrative Law Act is that lawyers do not informally contact citizens but limit themselves to executing the few legal provisions in the law such as sending out written letters upon receiving complaints or objections. Thus, in practice (but certainly not out of principle), the *execution* of procedures following the General Administrative Law Act tends to be more formal than the direct and explicitly interpersonal interactions employed during the Fair Tracks programme. This is an important reason why we sometimes refer to the execution of procedures of the General Administrative Law as being more formal than the explicitly informal treatment employed during the Fair Tracks programme.

Democratic societies cannot function without a legitimate government. Governments nowadays, however, risk losing touch with parts if not all of society as they introduce unpopular measures in order to deal with issues such as financial and economic crises. Furthermore, trust in government may decline. Accordingly, legitimacy has become even more important in the public acceptance of government actions. The Dutch government, having noted increasingly louder signals that the legitimacy of its actions is no longer taken for granted, has pushed legitimacy higher up the political agenda and commissioned a number of studies to ascertain the underlying causes of this situation and determine the current state of affairs. The government is also looking for ways to strengthen its legitimacy.³ The potential role that perceived procedural justice can play in enhancing the legitimacy and public acceptance of government decisions has been relatively unexplored so far.

One of the most important roles of government and its institutions is to promote the general interest and to do so in fair and acceptable ways. For an important part they do this by making decisions that establish the legal position of one or more persons. The general interest is best promoted when these decisions not only comply with the law but also do justice to the interests in question and are accepted by the general public. Marseille, Tolsma, and De Graaf argue therefore that government decisions, such as official decisions, decisions regarding applications, or decisions on objections or complaints, have two aims: (1) a substantive aim, whereby the interests in question are served as fairly as possible within the confines of the rules and regulations; (2) a procedural aim, whereby the procedure for applications, objections or complaints not only ensures that the interests in question are justly and fairly served but also that the substantive outcome is accepted.⁴

The perception of justice in government decisions is a strong factor in determining the legitimacy of government actions.⁵ If citizens experience fair and just treatment, the government will forfeit some of its legitimacy. If citizens feel they are being treated unfairly by the government, serious negative consequences can ensue. They will lose faith in key institutions and may engage in mass protests to force social reforms or even a regime change.⁶ Thus, one key idea that will be explored in this article is that efforts to enhance the legitimacy of government actions should attend to citizens' perceptions of justice.

The third evaluation of the General Administrative Law Act⁷ focused for the first time on the way citizens perceive and experience administrative review and complaint procedures.⁸ An important conclusion was that people in general prefer informal procedures with more opportunities for direct interpersonal contact compared to the customary procedures which tend to be more formal and involve primarily written communication. This conclusion converges with what can be learned from the psychological literature on perceived justice. In particular, the literature on perceived procedural justice suggests that (1) people want to be listened to and to be given an opportunity to state their case; to set out their arguments to an objection board or a judge; (2) they want to be able to exercise some influence on the content of the procedure (e.g., by submitting arguments or evidence); (3) they want to be kept informed of the procedure, the individual steps, and the reasons for the final decision; and (4) they want to be treated correctly and with respect (e.g., by officials who are honest, open, polite). Based on these research findings several recommendations were put forward, including an emphasis on behavioural surveys to test the legislator's assumptions of how best to deal with citizen-government conflicts and other issues of administrative law.

Following these recommendations, the Dutch Cabinet launched two projects.⁹ One research project examined how citizens experience the traditional, formal execution of administrative review

3 F. Hendriks et al., *Legitimiteitsmonitor democratisch bestuur*, 2011.

4 A.T. Marseille et al., *Prettig contact met de overheid 3: Juridische handreiking informele aanpak*, 2011.

5 T.R. Tyler, *Why do people obey the law? Procedural justice, legitimacy, and compliance*, 1990.

6 T.R. Tyler & Y.J. Huo, *Trust in the law: Encouraging public cooperation with the police and courts*, 2002. B. Klandermans, *The social psychology of protest*, 1997. L. Layendecker, *Orde, verandering, ongelijkheid: Een inleiding tot de geschiedenis van de sociologie*, 1981.

7 Evaluation Commission Awb III, *Derde evaluatie van de Algemene wet bestuursrecht: Toepassing en effecten van de Awb 2002-2006*, 2007.

8 M.T.A.B. Laemers et al., *Awb-procedures vanuit het gezichtspunt van de burger: Stand van zaken in theorie en eerder onderzoek*, 2007. H.B. Winter et al., *Klagen bij bestuursorganen: Evaluatieonderzoek naar de klachtbehandeling door bestuursorganen*, 2007.

9 See the Cabinet's response to the third evaluation of the Awb, *Kamerstukken II 2009/2010*, 29 279, no. 111 of 28 May 2010. These two projects differ not only in their design and approach but also in the way the data were analysed. As a result, the conclusions are not consistent at all levels, an issue addressed in the meta-analysis by M. Herweijer & J.R. Lunsing, *Hoe beleven burgers de bezwaarprocedure? Meta-evaluatie beleving door burgers van bezwaar*, 2011.

procedures following the General Administrative Law Act.¹⁰ To this end, an inventory was drawn up of citizens' experiences of these procedures and the underlying determinants. Many of the procedures related to municipal decisions, but some concerned primary decisions by the Social Insurance Bank (*Sociale Verzekeringsbank*), the Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen*), and the Labour Inspectorate (*Inspectie SZW*). The other project was the Fair Tracks project, which is the focus of the current article. This project launched in 2008 by the Ministry of the Interior involved the introduction of informal interventions and interactions in primary decision-making processes and administrative review procedures in a total of 22 pilot projects and 21 government agencies and concerning 16 different administrative domains. The Fair Tracks programme was developed as an action research project that explores the possibilities and effects of informal interventions and interpersonal interactions regarding applications, viewpoints, complaints, and objections.¹¹ The programme also included data collection about relevant aspects for organizations adopting the Fair Tracks programme, the effects at case level (such as handling time, the number and types of interventions), and how citizens experienced the informal approach. The current article focuses on the latter aspect of the empirical data collected: how citizens experienced the informal approach, especially in terms of perceived procedural justice.¹²

In this article the terms 'standard' or 'formal' procedure or approach and 'informal' approach are applied in accordance with the definitions provided by Marseille, Tolsma, and De Graaf.¹³ In the 'formal' approach, also known as the 'standard procedure,' applications, viewpoints, objections, and complaints that are received by administrative bodies are processed solely in accordance with the provisions of the General Administrative Law Act. The execution of this procedure is rather formal and takes place mostly in writing.¹⁴

In the 'informal approach,' public officials do not automatically and solely restrict themselves to a formal execution of the statutory provisions, but try first to determine through interpersonal contact what the nature is of the question or what the problem is behind the application, viewpoint, objection, or complaint, and how these issues can best be addressed. In the informal approach, the public official generally makes a fast (preferably within 2-10 days) and interpersonal telephone contact with the citizen(s) concerned and inquires about the question or problem in an open conversation with ample room for the facts, emotions, and interests involved. From a solution-driven perspective the public official then discusses together with the citizen what the citizen wants to achieve and the different ways in which the citizen's problem can be addressed given the available procedures. The option is then selected that is considered to be the best suitable one for this particular case (taking all circumstances into consideration, explaining the limitations present, and considering what the citizen wants to achieve through these procedures). As the problems that lie at the heart of applications, viewpoints, objections, and complaints are many and various, the informal approach employs a wide repertoire of methods to achieve its aim, which is to resolve disputes. The parties then discuss different ways in which the problem can be addressed and select the option considered to offer the best solution for the problem at hand. As the problems that lie at the heart of applications, viewpoints, objections and complaints are many and various, the informal approach employs a wide repertoire of methods to achieve its aim, which is to resolve disputes.

Our hypothesis in this article is that the Fair Tracks programme works effectively as a process because of the high levels of procedural justice experienced in the informal interaction between public officials and citizens. The concept of perceived procedural justice is therefore key and stands at the centre of both the conceptual and empirical analyses presented in this article. It is to these analyses that we now turn.

10 B.W.N. de Waard (ed.), *Ervaringen met bezwaar: Onderzoek naar de ervaringen van burgers met de bezwaarschriftprocedure uit de Algemene wet bestuursrecht*, 2011.

11 L. van der Velden et al., *Prettig contact met de overheid 2: Eindrapportage pioniertraject mediationvaardigheden – resultaten, analyses & aanbevelingen*, 2010.

12 For a description of the organizational and case-level findings, please see Van der Velden et al. 2010, *supra* note 11.

13 Marseille et al. 2011, *supra* note 4.

14 Again, please note that this statement refers to how the General Administrative Law Act tends to be *executed* in practice. The statement does not imply that informal citizen-government interactions could not be part of how this law could be executed. We again note explicitly that informal citizen-government interactions intentionally were designed to be part of the General Administrative Law Act.

2. Conceptual analysis

2.1. People as sense-makers

Much of what any democratic government does is aimed at understanding what people want and trying to influence people's behaviours in ways that are beneficial to both the citizens involved and society at large. Knowledge and insights from behavioural scientists are essential, therefore, if the government is to have a good insight into people's preferences and steer people's behaviour in benign ways. However, when governments devise policies and actions they depend largely on the knowledge and insights of economists and lawyers. Hence, their vision of the citizen is limited. Economists are inclined to assume that people act in their own individual interests and are intent on maximizing their own personal gains. Lawyers, in our view, tend to assume that citizens are led by rules and regulations and that they are cognisant of and interested in statutory texts and legislation and respond primarily to sanctions. The image derived from these two visions is of an intelligent being – inclined towards development – who acts rationally but is primarily intent on pursuing his or her own ends. Modern behavioural scientists (including social psychologists) would criticize this description of the drivers of human behaviour for not being adequate because the choices that people make are not always rational. This observation, when valid, implies that economic, legal, and other disciplines which are based on assumptions of rationality fall short when they attempt to explain and predict human behaviour.¹⁵

An alternative vision that is of value, and that is supported by research in psychology and the social sciences, is to view people as sense-makers.¹⁶ This view notes that modern citizens want to make sense of the world around them.¹⁷ People therefore seek and collect information – preferably personal information or at least information with a personal tint. As social beings, people find it easy to form opinions about other people. They pay heed, often unconsciously, to what others do. They decide whether a politician or public official deserves respect by observing how that person behaves and by looking up and processing the available information on him or her. This processing of information is not always active or intentional. Active search behaviour is cognitively taxing and does occur fairly regularly, but many citizens apply less strenuous tactics in their quest for knowledge. After all, if we were to process systematically and in detail all the information that comes our way, we could no longer function in society. Furthermore, there clearly are moments when we cannot get hold of information that we want, particularly on government matters. For example, most citizens find it difficult to judge an outcome such as a government decision on its merits or to work out whether they are eligible for a licence, a grant, a social benefit, and so on, because they have little or no knowledge of how the authority in question has dealt with similar cases or the reasons for its decisions.¹⁸

Citizens will form impressions of how government agencies administer justice in circumstances where they do not have enough information to make a balanced objective judgement. This has deep implications for the opinions themselves. In the case of citizen-government conflicts or other interactions with government, what citizens want to know is whether they can trust the government. But for them there is no easy answer to this question. There is often no directly available information on the trustworthiness of government agencies and their representatives. As a result, people resort to sources that are available. Quite often they turn to subjective justice.¹⁹

Thus, most citizens will form opinions of the government and its actions on the basis of their interactions with representatives of one or more government institutions. Their experience of procedural justice in these interactions with the government officials they encounter will then feed into the psychological process that shapes their opinions of the outcome derived from that interaction and their

15 See, for example, W.L. Tiemeijer et al. (eds.), *De menselijke beslisser: Over de psychologie van keuze en gedrag*, 2009.

16 K. van den Bos, *Vertrouwen in de overheid: Wanneer hebben burgers het, wanneer hebben ze het niet, en wanneer weten ze niet of de overheid te vertrouwen is?*, 2011.

17 K. van den Bos, 'Making sense of life: The existential self trying to deal with personal uncertainty', 2009 *Psychological Inquiry* 20, pp. 197-217.

18 K. van den Bos, & E.A. Lind, 'Uncertainty management by means of fairness judgments', in M.P. Zanna (ed.), *Advances in experimental social psychology*, 2002, Vol. 34, pp. 1-60.

19 K. van den Bos et al., 'When do we need procedural fairness? The role of trust in authority', 1998 *Journal of Personality and Social Psychology* 75, pp. 1449-1458.

trust in government.²⁰ To put it differently, on the basis of previous research we expected that if citizens think that the procedure is fair and just, they will be more likely to interpret resulting outcomes as fair and just and the government as trustworthy. Conversely, if they think that the procedure has been unfair and unjust, they will interpret outcomes and government more negatively.

2.2. Conceptualization of perceived procedural justice

Because we assume that perceived procedural justice helps people to make sense of their lives and their interactions with government, it is worth taking some time to consider how we conceptualize the notion of perceived procedural justice. First of all, note that we focus on justice as perceived by the citizen. This conceptualization of perceived justice stands in contrast with a focus on what one could call 'objective' or 'objectivized' justice. These latter concepts embrace a notion of justice that is based on normative considerations.²¹ These normative considerations relate to justice as envisaged in the societal and legal justice system. This is an intentional form of justice laid down by the legislator. 'Objective' or 'objectivized' justice is therefore commonly used to design societally institutionalized justice standards and rules. Laws are enacted to express, for example, what are deemed to be just penalties – including maximum sentences – for specific misdemeanours or crimes. The notion of what constitutes a just penalty, thus enshrined in law, is a legally 'objective' or 'objectivized' reality. A penalty that exceeds the maximum sentence is therefore objectively (i.e., legally) unjust. But this article does *not* focus on these institutionalized forms of justice; it focuses on justice as perceived by the citizen. So we will not be exploring the philosophical or semantic aspects of 'objective' or 'objectivized' justice. Neither will we ask whether these citizen impressions reflect notions of justice as the legislator intends. Rather, it is perceived justice that we focus on here, and in particular *perceived procedural justice*, a term used in psychological research which relates to people's perceptions of fairness in how they are being treated.

Specifically, we will focus on the question whether and to what extent citizens feel they are being treated fairly and justly by the government, for example in informal interactions with public officials but also in formal dealings with government. Hence, procedural justice, as we (and others in the psychological and social sciences) use the term, relates to the perceived justness and fairness of official procedures and how a government institution has acted when applying them. Attention to how official procedures are implemented and, more generally, how fairly or unfairly people are treated by government, is an important element in the psychological process through which people perceive procedural justice. Indeed, in our view, the quality of interpersonal treatment is often more important than the way formal procedures are regulated.²² In the eyes of the citizen procedural justice amounts to a lot more than formal rules and procedures; it is also about how the government body, particularly the public official, applies these procedures in the interaction with the citizen, which is why perceived procedural justice sometimes is referred to as 'treatment fairness'.²³

This interactional part of procedural justice converges to some extent with the concept of 'interactional justice' one sometimes finds in the scientific literature.²⁴ In our view, the distinction between procedural and interactional justice is an analytical distinction that does not always work in practice and is not always apparent in the way people perceive things, so we will focus on perceived procedural justice as defined here and pay appropriate attention to the relationship between these perceptions and how citizens view the fairness of their outcomes.

We also note that the term perceived 'justice' is not always 100% correct as people's judgments may reflect more readily perceptions not only or primarily on justice, but also on fairness. Citizens sometimes

20 Van den Bos et al. 1998, supra note 19. Van den Bos 2011, supra note 16.

21 For more information on the relationship between objective, normative, and experienced notions of justice, see, e.g., T.L. Beauchamp, *Philosophical ethics: An introduction to moral philosophy*, 2001.

22 K. van den Bos, 'Humans making sense of alarming conditions: Psychological insight into the fair process effect', in M.L. Ambrose & R.S. Cropanzano (eds.), *Oxford handbook of justice in work organizations*, in press.

23 E.A. Lind et al., 'The social construction of Injustice: Fairness judgments in response to own and others' unfair treatment by authorities', 1998 *Organizational Behavior and Human Decision Processes* 75, pp. 1-22. K. van den Bos, & E.A. Lind, 'The psychology of own versus others' treatment: Self-oriented and other-oriented effects on perceptions of procedural justice', 2001 *Personality and Social Psychology Bulletin* 27, pp. 1324-1333.

24 J.A. Colquitt, 'On the dimensionality of organizational justice: A construct validation of a measure', 2001 *Journal of Applied Psychology* 86, pp. 386-400.

find it easier to say whether they believe a specific outcome or procedure was fair than whether it was legally just.²⁵ Thus, although the terms ‘procedural fairness’ and ‘procedural justice’ are nearly always used interchangeably in the literature, theoretically it might be possible to make distinctions between these two notions. In this article, however, we are not concerned with such distinctions, and will – unless explicitly stated otherwise – use the two labels as synonyms.²⁶

A key issue for scientists and for those who would make use of the science is how perceived procedural justice is measured. Currently there is no single widely accepted scale of procedural justice. However, the research literature makes it clear that the experience of procedural justice is improved to the extent that citizens feel that their arguments are seriously listened to and that they are treated politely and with respect. Citizens are quick to notice if they are not being taken seriously, so this is an important component of the experience of procedural justice.²⁷ Specifically, on the basis of various sources in the scientific literature,²⁸ we propose that perceived procedural justice in the context of the informal or formal execution of decision-making or conflict-handling procedures can be accurately measured by asking citizens to indicate whether and how much they agreed with the following statements: ‘I am treated in a polite manner’, ‘I was treated with respect’, ‘I was able to voice my opinions’, ‘My opinion was seriously listened to’, ‘I am treated in a just manner’, ‘I am treated fairly’, ‘The public officials whom I interacted with were competent’, and ‘The public officials whom I dealt with were professional.’ We return to these statements in the discussion of the empirical analyses presented in this paper.

2.3. *The fair process effect*

Importantly, there is a large body of research which shows that people’s thoughts, feelings, attitudes, and behaviours are strongly influenced by their perceptions of justice.²⁹ This scientific literature forms the background for our expectation that when citizens experience an interaction with the government or a public official as procedurally fair, they will respond more positively as a result. For instance, they are more likely to feel happier about their dealings with the official, accept the decisions, trust the government and respect its legitimacy.³⁰

Fair process effects were first identified in joint research by social psychologist John Thibaut and legal scholar Laurens Walker. The current article fits into this tradition in the social psychology of the law and human behaviour.³¹ Building on the pioneering research of Thibaut, Walker and their associates, many studies have shown that when people feel they have been treated fairly, they exhibit all sorts of positive responses. For instance, they feel stronger ties with the institutions in question. Conflicts are easier to avoid or to resolve after fair treatment and people are willing to accept the decisions of authorities.³²

25 Van den Bos & Lind 2002, supra note 18.

26 K. van den Bos, *Procedural justice and conflict*, 1996.

27 R. Folger et al., ‘Effects of “voice” and peer opinions on responses to inequity’, 1979 *Journal of Personality and Social Psychology* 37, pp. 2253-2261. T.R. Tyler, ‘Conditions Leading to value-expressive effects in judgments of procedural justice: A test of four models’, 1987 *Journal of Personality and Social Psychology* 52, pp. 333-344.

28 K. van den Bos, ‘What is responsible for the fair process effect?’, in J. Greenberg & J.A. Colquitt (eds.), *Handbook of organizational justice: Fundamental questions about fairness in the workplace*, 2005, pp. 273-300. G.S. Leventhal, ‘What should be done with equity theory? New approaches to the study of fairness in social relationships’, in K.J. Gergen et al. (eds.), *Social exchange: Advances in theory and research*, 1980, pp. 27-54. E.A. Lind & T.R. Tyler, *The social psychology of procedural justice*, 1988. R.H. Moorman, ‘Relationship between organizational justice and organizational citizenship behaviors: Do fairness perceptions influence employee citizenship?’, 1991 *Journal of Applied Psychology* 76, pp. 845-855.

29 Van den Bos 2005, supra note 28. Lind & Tyler 1988, supra note 28.

30 Van den Bos 2011, supra note 16.

31 J. Thibaut & L. Walker, *Procedural justice: A psychological analysis*, 1975. J. Thibaut & L. Walker, ‘A theory of procedure’, 1978 *California Law Review* 66, pp. 541-566. L. Walker et al., ‘Reactions of participants and observers to modes of adjudication’, 1974 *Journal of Applied Social Psychology* 4, pp. 295-310. L. Walker et al., ‘The relation between procedural and distributive justice’, 1979 *Virginia Law Review* 65, pp. 1401-1420.

32 D.R. Bobocel et al., ‘Managerial accounts and fairness perceptions in conflict resolution: Differentiating the effects of minimizing responsibility and providing justification’, 1998 *Basic and Applied Social Psychology* 20, pp. 133-143. R. Folger & M. Konovsky, ‘Effects of procedural and distributive justice on reactions to pay raise decisions’, 1989 *Academy of Management Journal* 32, pp. 115-130. Y.J. Huo et al., ‘Superordinate identification, subgroup identification, and justice concerns: Is separatism the problem; is assimilation the answer?’, 1996 *Psychological Science* 7, pp. 40-45. M.A. Korsgaard et al., ‘Building commitment, attachment, and trust in strategic decision-making teams: The role of procedural justice’, 1995 *Academy of Management Journal* 38, pp. 60-84. D.B. McFarlin & P.D. Sweeney, ‘Distributive and procedural justice as predictors of satisfaction with personal and organizational outcomes’, 1992 *Academy of Management Journal* 35, pp. 626-637.

Conversely, people who feel they have been treated unfairly are far less cooperative, they are more likely to complain or to resort to legal action to try to prove their case, or to behave in an anti-social manner.³³ Fair process effects are discernible in, for example, the courtroom, interactions between the police and the public, the responses to political leaders, and citizens' opinions on government policy.³⁴ Thus, robust fair process effects have been found in research that has applied different methods, used different research participants, and on different human reactions. This conclusion is important for the current article as it grounds our prediction of fair process effects in informal interactions between public officials and Dutch citizens.

2.4. Procedural justice and outcome concerns

Various studies have suggested that in the Netherlands citizen satisfaction with the formal, legal, and usually written execution of procedures for the handling of complaints or objections is very low.³⁵ Given that only 20-30 percent of the total number of administrative review and appeal procedures against government decisions are granted, it is reasonable to infer that the government's scope to improve this situation is somewhat limited. One might conceivably assume that the decisive factor in citizen satisfaction is the outcome of the procedure, that people will only accept decisions more if they win more. However, numerous scientific studies show that what matters most to people is just and fair treatment; or in more technical terms, procedural rather than distributive justice.

For example, because information about outcomes is usually difficult to interpret (perhaps because the citizen is unfamiliar with the jurisprudence)³⁶ or is not available after the procedural information,³⁷ a fair process effect often occurs. This effect occurs so frequently and so strongly because distributive justice is often very difficult to interpret. This finding might seem at odds with intuitions about the importance of outcomes for satisfaction, but we know from detailed research that people tend to overestimate the importance of outcomes in their own responses and those of others.³⁸

It should also be stressed that procedural justice usually turns out to be more important in negative than in positive decisions or outcomes.³⁹ Negative decisions appear to matter more to people and therefore make a deeper psychological impact – which makes respectful treatment even more necessary. Thus, while the fair process effect tends to be apparent when decisions or outcomes are positive or favourable to recipients of the procedures and outcomes, it tends to impact reactions even stronger when decisions or outcomes are negative or unfavourable to the recipients.

33 J. Greenberg, 'Stealing in the name of justice: Informational and interpersonal moderators of theft reactions to underpayment inequity', 1993 *Organizational Behavior and Human Decision Processes* 54, pp. 81-103. J. Greenberg, 'A social influence model of employee theft: Beyond the fraud triangle', in R.J. Lewicki et al. (eds.), *Research on negotiation in organizations*, 1997, Vol. 6, pp. 29-52. J. Greenberg & E.A. Lind, 'The pursuit of organizational justice: From conceptualization to implication to application', in C.L. Cooper & E.A. Locke (eds.), *I/O Psychology: What we know about theory and practice*, 2000, pp. 72-105. E.A. Lind, 'Fairness heuristic theory: Justice judgments as pivotal cognitions in organizational relations', in J. Greenberg & R. Cropanzano (eds.), *Advances in organizational behavior*, 2001, pp. 56-88. E.A. Lind et al., 'The winding road from employee to complainant: Situational and psychological determinants of wrongful termination claims', 2000 *Administrative Science Quarterly* 45, pp. 557-590.

34 E.A. Lind, *Arbitrating high-stakes cases: An evaluation of court-annexed arbitration in a United States district court*, 1990. E.A. Lind et al., 'Individual and corporate dispute resolution: Using procedural fairness as a decision heuristic', 1993 *Administrative Science Quarterly* 38, pp. 224-251. E.A. Lind et al., 'Procedure and outcome effects on reactions to adjudicated resolution of conflicts of interest', 1980 *Journal of Personality and Social Psychology* 39, pp. 643-653. T.R. Tyler, 'The role of perceived injustice in defendants' evaluations of their courtroom experience', 1984 *Law and Society Review* 18, pp. 51-74. T.R. Tyler & A. Caine, 'The influence of outcomes and procedures on satisfaction with formal leaders', 1981 *Journal of Personality and Social Psychology* 41, pp. 642-655. T.R. Tyler & P. DeGoeij, 'Collective restraint in social dilemmas: Procedural justice and social identification effects on support for authorities', 1995 *Journal of Personality and Social Psychology* 69, pp. 482-497. T.R. Tyler & R. Folger, 'Distributional and procedural aspects of satisfaction with citizen-police encounters', 1980 *Basic and Applied Social Psychology* 1, pp. 281-292. T.R. Tyler et al., 'The influence of perceived injustice on the endorsement of political leaders', 1985 *Journal of Applied Social Psychology* 15, pp. 700-725.

35 As indicated, for example, by an average satisfaction score of 4.7 on a 10-point scale. De Waard 2011, supra note 10. Herweijer & Lusing 2011, supra note 9. TNS NIPO, *Onderzoeken naar de kwaliteit van overheidsdienstverlening*, 2008, 2009, 2010, and 2013. Winter et al. 2007, supra note 8.

36 K. van den Bos et al., 'How do I judge my outcome when I do not know the outcome of others? The psychology of the fair process effect', 1997 *Journal of Personality and Social Psychology* 72, pp. 1034-1046.

37 E.A. Lind et al., 'Primacy effects in justice judgments: Testing predictions from fairness heuristic theory', 2001 *Organizational Behavior and Human Decision Processes* 85, pp. 189-210.

38 D.T. Miller, 'The norm of self-interest', 1999 *American Psychologist* 54, pp. 1053-1060.

39 J. Brockner & B.M. Wiesenfeld, 'An integrative framework for explaining reactions to decisions: Interactive effects of outcomes and procedures', 1996 *Psychological Bulletin* 120, pp. 189-208.

We return to this when we present our empirical analyses. Here we note that justice helps people to cope with disquieting situations. Managers and policy makers sometimes seem to regard justice as a sort of luxury that cannot be granted to employees or members of the public when a reorganization is needed or the economy is underperforming. Research has shown, however, that it is precisely in disquieting situations that people respond most vigorously to a lack of perceived procedural justice; and that is the last thing that managers or policy makers want.⁴⁰ All of this suggests that the process envisaged here might be less self-evident than one might initially suppose.

2.5. Perceptions and self-interest concerns

This paper argues that proper care and attention should be devoted to the experience of procedural justice in the interaction between government institutions and citizens. As a result, it lays a strong emphasis on the perception of citizens. But is this justified? We think that there are good reasons to state that most Dutch citizens are happy to fit in with society.⁴¹ Naturally there are people who pursue their own interests. This noted, a representative sample of the Dutch population found that 21.3% of the respondents had individualistic characteristics and 7.5% were actually competitive, but the value orientation of the majority of the Dutch population appears to be prosocial: 71.2% in the sample. Slightly different percentages have been found in other studies⁴² but they still clearly show that most members of the Dutch population are well disposed towards others.⁴³

This is not, of course, tantamount to saying that selfishness, personal interests and material issues play no role at all. Of course they do, but less than is usually assumed. Research findings indicate that people overestimate the importance of material outcomes in their own and other people's responses.⁴⁴ This is another reason why procedural justice often figures so strongly in explaining people's responses, especially immediate responses. Most people correct the initial, self-centred response.⁴⁵

Of course there will always be people who are intent on pursuing their own interests, but they are in a minority. The government must be alert to a possible knock-on negativity effect: The negative behaviour of a minority should not colour the ideas of what makes people 'tick'. Lawyers in administrative or criminal law who frequently encounter complaints or objections and serious misdemeanours may be more inclined to overestimate the percentage of people with individualistic or self-centred tendencies. The prosocial majority may come into less contact with the justice system and therefore be less noticed. This does not, of course, detract from the need for legal sanctions to be imposed on those who misuse these administrative procedures or violate the law. Despite the key role we hypothesize that the experience of procedural justice plays, sanctions are essential in society when serious legal violations need be punished. We return to the perception of procedures and outcomes among citizens and public officials in the next section in which we present our empirical analyses.

3. Empirical analysis

3.1. Perception of procedural justice

Our main respondents were citizens of the Netherlands who had taken part in the Fair Tracks programme and, as a result, had been contacted by a public official or public official in the informal way the programme advocates.⁴⁶ After their interaction with the public official(s) involved, citizens were interviewed over the

40 K. van den Bos, *De sociale drie-eenheid: Sociale wetenschappen, sociale psychologie, sociale rechtvaardigheid*, 2002.

41 P.A.M. van Lange et al., 'Development of prosocial, individualistic, and competitive orientations: Theory and preliminary evidence', 1997 *Journal of Personality and Social Psychology* 73, pp. 733-746.

42 E. van Dijk et al., 'Social value orientation and the strategic use of fairness in ultimatum bargaining', 2004 *Journal of Experimental Social Psychology* 40, pp. 697-707.

43 K. van den Bos et al., 'On the benign qualities of behavioral disinhibition: Because of the prosocial nature of people, behavioral disinhibition can weaken pleasure with getting more than you deserve', 2011 *Journal of Personality and Social Psychology* 101, pp. 791-811.

44 Miller 1999, supra note 38.

45 K. van den Bos et al., 'On preferences and doing the right thing: Satisfaction with advantageous inequity when cognitive processing is limited', 2006 *Journal of Experimental Social Psychology* 42, pp. 273-289.

46 A complete description of the programme can be found in M.C. Euwema et al., *Prettig contact met de overheid 1: Praktische handreiking voor het inzetten van mediationvaardigheden*, 2009.

telephone or completed a form that was sent to them about several aspects of this interaction.⁴⁷ To assess procedural justice as experienced by the citizens, three key components of perceived procedural justice were measured. Specifically, the citizens were asked to respond to the following statements about their interaction with the public official(s): 'I was treated in a polite manner,' 'I was treated with respect,' and 'I was able to voice my opinions.' Respondents were asked to rate the statements on a 5-point scale, in which 1 stood for *fully disagree* and 5 for *fully agree*. A total of 464 citizens successfully completed the three items.⁴⁸ The responses to the three statements were averaged to yield a reliable scale of perceived procedural justice.⁴⁹

Overall the survey showed that the citizens experienced a high degree of procedural justice, yielding an average score of 4.39 on the 5-point scale with a relatively small standard deviation.⁵⁰ Notably, 91.8% of the citizens experienced the interaction with the public official as fair and honest (indicated by an average score of 4 or higher). In other words, the vast majority of the citizens experienced a high level of procedural justice. In fact, 38.8% of the citizens awarded 5 points, the highest score, for all three statements, indicating that these respondents perceived a *very high* level of procedural justice. Furthermore, 53.0% awarded an average score of 4 or higher (but not 5), suggesting that they perceived a *high* level of procedural justice. We shall return to this later. Only 1.2% gave ratings of perceived procedural justice lower than the midpoint (3) on the scale. It may therefore be concluded that in general citizens who took part in the Fair Tracks programme felt that they experienced a high level of procedural justice in their informal interactions with the public officials.

3.2. Fair process effects

Another research question that we had was whether citizens' perceptions of procedural justice were meaningfully associated with (at least some of) their other reactions to the process. In other words, we wanted to see whether there were fair process effects in the reactions of citizens to their Fair Tracks programme experience. This proved to be the case.

One indication of a fair process effect was found on citizens' ratings of *outcome satisfaction*. Outcome satisfaction was measured with the responses to the statements: 'I am satisfied with the outcome,' 'The case was solved in a satisfactory manner' and 'I am satisfied with the agreements we made.'⁵¹ Results indicated that the more positive citizens' ratings of procedural justice, the more satisfied they were with the outcome obtained in the interaction with the public official.⁵²

Our results also showed that the more positive their rating of procedural justice, the more trust the citizens had that the outcome would be adhered to.⁵³ *Trust in adherence to outcomes* was measured with responses to three statements: 'I am confident that the agreements will be adhered to,' 'I am convinced that our agreements will be respected' and 'I believe that we will all adhere to the agreements.'⁵⁴

We also found that higher levels of perceived procedural justice were associated with higher levels of trust in the contact with public officials or government agencies.⁵⁵ Specifically, our measure of *trust in government* assessed citizens' responses to two statements: 'I feel that the contact has improved' and 'I expect us to get on better together in the future.'⁵⁶ Figure 1 on page 23 shows the results of the fair

47 The complete questionnaires and full information on the design of the research can be found in Van der Velden et al. 2010, supra note 11.

48 Please note that there are quite a lot of missing values in the data reported, indicating that at least some of the questions had been left unanswered by some or several of the respondents interviewed. The statistical tests reported take into account this missing value issue and hence involve different numbers of respondents in the various analyses reported, explaining the differences in degrees of freedom reported. The results reported are statistically sound and we only conducted tests that are statistically reliable or meaningful. For example, we did not perform analyses across groups of respondents that were too small.

49 To assess how internally consistent respondents' answers to the three items were we calculated Cronbach's α . This is a measure commonly used as an important indication of the reliability of a certain set of items. Values of .70 or higher are generally accepted as indications of reliable measurement. The three procedural justice items yielded a Cronbach's α of .88 in the current sample.

50 The standard deviation (*SD*), a measure of how much variation from the mean there was in the ratings, was 0.61.

51 Answers were measured on 5-point scales (1 = *fully disagree*, 5 = *fully agree*) and were internally consistent (Cronbach's α = .93).

52 The measure of association between these two measures, called a 'Beta' (β) was 0.37. This value met standards of statistical significance (in this case $p < .001$).

53 $\beta = 0.45$, $p < .001$.

54 Answers were measured on 5-point scales (1 = *fully disagree*, 5 = *fully agree*) and were internally consistent (Cronbach's α = .95).

55 $\beta = 0.41$, $p < .001$.

56 Answers were measured on 5-point scales (1 = *fully disagree*, 5 = *fully agree*) and were internally consistent (Cronbach's α = .88).

process effects discussed so far as a function of citizens having experienced ‘moderately high’⁵⁷ or ‘very high’⁵⁸ levels of perceived procedural justice when interacting with public officials in the Fair Tracks programme.⁵⁹

A meaningful indication of a fair process effect was also found on a 10-point *report* scale commonly used to report school grades in the Netherlands. This scale ranges from 1 to 10. Scores of 5 or lower on this scale are indicative of ‘do not pass’ grades, a 6 stands for ‘passed barely’, 7 for ‘passed clearly’, 8 stands for a ‘good’ grade, 9 for a ‘very good’ grade, and 10 for an ‘excellent’ grade. We asked our respondents to use this report scale when answering the question ‘What score would you give for the handling of this case?’ Higher levels of procedural justice were associated with higher report scores for the handling of a case.⁶⁰ Specifically, citizens who experienced ‘moderately high’ levels of procedural justice⁶¹ awarded the handling of their case a 6+ on the 10-point report scale.⁶² Citizens who experienced ‘very high’ levels of procedural justice⁶³ awarded the handling of their case an 8-.⁶⁴ Figure 2 on page 23 shows this fair process effect on respondents’ report scores.

We also found evidence that perceptions of procedural justice were not only associated with more positive attitudes on the part of the citizens; perceived procedural justice also correlated significantly with whether or not a case was resolved during the interaction with the public official. That is, higher levels of perceived procedural justice were associated significantly with the probability that cases were objectively solved.⁶⁵ Figure 3 on page 24 shows this fair process effect on objective outcomes.⁶⁶

Another way to gain a deeper insight into the fair process effect on the resolution of cases involves two other findings that have emerged from the analyses: (1) cases that went through the Fair Tracks programme had a very commendable 72.1% overall resolution rate; (2) when citizens experienced very high levels of procedural justice this rate jumped to an even higher 83.7%.⁶⁷

These findings suggest that careful attention to procedural justice in interactions with citizens can lead to satisfactory resolutions for all parties at an early stage. This noted, we wish to reiterate that the data are correlational, so it cannot be ruled out that the perception of procedural justice is influenced by a resolved or unresolved case instead of the other way around. Theoretically, such an effect is less common than the one studied here.⁶⁸ Empirically, we shall show that experienced outcomes had less influence on the citizen’s response than perceived procedural justice did. This issue is discussed in the next section. There we also note that it may be even more productive and interesting to explore the combined influence of procedures and outcomes on citizen responses.⁶⁹

57 That is, citizens whose score was estimated to be 1 standard deviation below the mean of perceived procedural justice (-1 *SD*). This is a common way in social science research to look at respondents who are relatively low on a rating scale.

58 That is, citizens whose score was estimated to be 1 standard deviation above the mean (+1 *SD*). This is a conventional way to look at those who are relatively high on a rating scale.

59 The labels ‘moderately high’ and ‘very high’ levels of perceived procedural justice are used in Figure 1 and elsewhere in this article because on average citizens experienced high levels of perceived procedural justice in their interactions with public officials. Thus, when analyses refer to citizens who awarded a relatively high score for procedural justice (+1 *SD*) they mean citizens who experienced *very high* levels of perceived procedural justice. The responses for citizens who awarded a relatively low score for procedural justice (-1 *SD*) are labelled here as having experienced *moderately high* levels of perceived procedural justice.

60 $\beta = 0.51, p < .001$.

61 -1 *SD*.

62 Mean (*M*) estimated in regression calculations = 6.20.

63 +1 *SD*.

64 $M = 7.91$.

65 The significance of this effect was calculated by means of calculating the *F* value in an analysis of variance and comparing this effect (which in this case turned out to be ‘5.57’) and the corresponding degrees of freedom (in this case ‘1’ for the effect term and ‘371’ for the error term) to conventional levels of statistical significance (in this case smaller than .01). The result was a significant effect, expressed in this case as follows: $F(1, 371) = 5.57, p < .01$.

66 It should be noted that whether or not a case is resolved can have different legal meanings and cannot always be interpreted in a straightforward manner. For example, sometimes compromise is not the best solution and a higher-level decision is required, so no resolution during the Fair Tracks programme is not necessarily a bad thing. In this paper a case is considered resolved or unresolved on the basis of the definition in Van der Velden et al. 2010, *supra* note 11. For a discussion of different legal meanings and interpretations, please see A.T. Marseille et al., *Prettig contact met de overheid 5: Juridische kwaliteit van de informele aanpak beoordeeld*, 2013.

67 ‘Very high levels of procedural justice’ are defined here as those scoring a mean rating of 5.0 on the procedural justice scale ($M = 5.0$).

68 Van den Bos 2005, *supra* note 28.

69 J. Brockner, *A contemporary look at organizational justice: Multiplying insult times injury*, 2010.

3.3. Procedures and outcomes

One question that is frequently raised in debates about what drives human reactions and human behaviour is whether procedural justice is really important in explaining people's reactions or whether it might be more fruitful to focus on outcomes instead. The scientific literature on this issue indicates that it is seldom the case that outcomes are the sole drivers of attitudes and behaviour.⁷⁰ Indeed, frequently the experience of procedural justice has a deeper impact on people than the outcome of a case.⁷¹ Another, related, question is whether procedural justice matters much when outcomes are negative or unfavourable. Would it not be reasonable to expect procedural justice to be important when outcomes are positive or favourable and much less important or perhaps virtually unimportant when they are not? Sometimes this indeed might be the case,⁷² but a much more extensive literature indicates that process matters a great deal when outcomes are unfavourable to the person making the judgment.⁷³ Indeed, the research literature shows that procedural justice is important when outcomes are favourable and even more important when outcomes are unfavourable.⁷⁴

The data from the Fair Tracks programme correspond (at least to some extent) with these general findings from the research literature. For example, Figure 4 on page 24 shows the relationship between the experience of procedural justice and objective outcomes (whether or not the case was resolved during the informal contact with the government agency). Procedural justice and outcome concerns both emerge as key factors in driving the report scores that citizens awarded for the handling of their cases. The effect of outcome was statistically significant,⁷⁵ but the effect of procedural justice was almost twice as strong.⁷⁶ So, outcomes matter, but procedural justice matters even more.

Figure 4 also shows the relevance of the combination of procedural justice and outcome concerns. In the terminology of research methods, a significant 'interaction effect' between perceived procedural justice and whether or not cases were resolved was found on citizens' report scores.⁷⁷ This effect showed that procedural justice was important when cases were resolved.⁷⁸ That is, when cases were resolved the government scored a 7- for handling the case⁷⁹ when there was a 'moderately high' level of perceived procedural justice⁸⁰ and scored an 8+⁸¹ when there was a 'very high' level of perceived procedural justice.⁸² Perhaps even more importantly, procedural justice mattered even more when cases were unresolved.⁸³ The difference in the rating score between procedural justice that was to be perceived as 'moderately high' and procedural justice that was experienced as 'very high' was then even greater. Indeed, the score accorded to the government and the public official then leapt from a 5- in case of a 'moderately high' level of perceived procedural justice⁸⁴ to a 7+ in case of a 'very high' level of perceived procedural justice.⁸⁵

There is an important point to make here: When cases were unresolved and perceived procedural justice was very high, the mean score for the government and the public official was as high as the mean score for a resolved case that was combined with only a moderately high level of perceived procedural justice (approximately 7+ or 7-). So, in case of very high levels of procedural justice, unresolved cases can still yield a positive report score. Best of all, of course, is a very high level of procedural justice combined

70 Lind & Tyler 1988, *supra* note 28. Miller 1999, *supra* note 38.

71 For a further explanation see Van den Bos et al. 1997, *supra* note 36.

72 Cf. B.J.C. van Velthoven, 'Over het relatieve belang van een eerlijke procedure: Procedurele en distributieve rechtvaardigheid in Nederland', 2011 *Rechtsgeleerd Magazijn Themis* 172, pp. 7-16.

73 Brockner 2010, *supra* note 69.

74 Brockner & Wiesenfeld 1996, *supra* note 39.

75 $F(1, 285) = 41.07, p < .001, \eta_p^2 = .13$.

76 $F(1, 285) = 77.40, p < .001, \eta_p^2 = .21$. For a comparison of the strengths of the different effects compare the effect sizes of the respective test. These effect sizes are expressed here in partial eta-squared values (η_p^2), a standard metric for the power of association between two variables.

77 $F(1, 285) = 6.57, p < .02$.

78 $\beta = 0.45, p < .001$.

79 $M = 6.74$.

80 $-1 SD$.

81 $M = 8.10$.

82 $+1 SD$.

83 $B = 0.53, p < .001$. For a comparison of the strengths of the different effects, compare the regression weights of the respective tests. These are expressed in Beta values (β 's).

84 $M = 4.85$.

85 $M = 7.33$.

with a resolved case; then the report score equalled a ‘good’ report score, as indicated by a mean score of 8+ in these cases.

As we consider these findings it is helpful to know that on average citizens found an outcome more favourable when a case was resolved than when it was not resolved. That is, resolved cases in informal interactions yielded higher levels of citizen satisfaction⁸⁶ than did unresolved cases.⁸⁷ This is a strong effect.⁸⁸ It is also an important effect as it suggests that the citizen sees a case that is not resolved (and is referred to the formal channels) as less favourable than a case that is resolved in an informal context. That is why we think it is reasonable to label resolved and unresolved outcomes as favourable and unfavourable, respectively. This also makes it possible to interpret the findings reported in Figure 4 as showing the relative impact of perceived procedural fairness under favourable and unfavourable outcomes. Viewed from this perspective our data suggest that, when trying to understand citizens’ reactions, perceived procedural justice matters in case of favourable outcomes and it matters even more in case of unfavourable outcomes.⁸⁹ This interpretation of our findings fits the work on interaction effects between procedural justice and outcome favourability concerns as described extensively in the work by Brockner.⁹⁰

In addition, there is evidence that the findings involving perceived procedural justice and outcome concerns as reported in Figure 4 are seen in other reactions on the part of the citizens interviewed. For example, we see the same pattern of findings when we look at subjective evaluations of the outcome instead of the objective measure of whether the case was resolved. Subjective outcome evaluations were measured by asking citizens to indicate whether they thought ‘the problem is resolved’.⁹¹ In statistical terms, we obtained a significant interaction effect between (the standardized variables of) perceived procedural justice and subjective outcome evaluations on citizens’ report scores.⁹² This pattern of findings is illustrated in Figure 5 on page 25, which again shows that procedural justice exerts an important influence on the score citizens awarded for the handling of a case which they feel has been resolved⁹³ and exerted an even more important influence when citizens felt that their case was not or only partly resolved.⁹⁴ In the event of an unresolved problem, a very high level of perceived procedural justice pushed up the government’s score from a 5.5⁹⁵ to a 7+,⁹⁶ about the same score that was awarded for a resolved problem and a moderately high level of procedural justice.⁹⁷ The best result was found for a resolved problem and a very high level of perceived procedural justice (a score of 8+).⁹⁸ Figure 5 replicates Figure 4 in an important respect. Furthermore, taken together, Figures 4 and 5 point to the existence of a strong convergence between the outcomes as perceived by citizens and the objective outcomes in the cases researched here.

To summarize, the findings reported here are in line with the international research literature.⁹⁹ Our findings, like those other studies, also contest the notion that favourable outcomes are what matters most to people. This latter notion carries a lot of weight in some academic disciplines (such as economics) and in the minds of some laypeople, but there is solid evidence to suggest that this notion is in fact a myth.¹⁰⁰ The findings reported here also emphasize the importance of procedurally fair interactions with citizens. Higher levels of procedural justice in government-citizen interactions have positive effects on both subjective outcomes (as experienced by the citizen) and objective outcomes (whether a case or a problem is resolved or not). With respect to both subjective reactions and objective outcomes, procedural justice is important when cases are resolved and even more important when they are not resolved.

86 $M = 3.92$. Standard error (SE) = 0.06.

87 $M = 2.51$. Standard error (SE) = 0.15.

88 $F(1, 331) = 89.56, p < .001, \eta_p^2 = .21$.

89 Again, for information on the legal details, please consult Marseille et al. 2013, supra note 66.

90 Brockner 2010, supra note 69. Brockner & Wiesenfeld 1996, supra note 39.

91 This question was answered on a 5-point scale (1 = *fully disagree*, 5 = *fully agree*).

92 $\beta = -0.11, p < .01$.

93 $\beta = 0.31, p < .001$.

94 $\beta = 0.49, p < .001$.

95 $M = 5.51$.

96 $M = 7.19$.

97 $M = 7.26$.

98 $M = 8.33$.

99 Brockner 2010, supra note 69. Brockner & Wiesenfeld 1996, supra note 39.

100 Miller 1999, supra note 38.

3.4. Procedural justice in primary decision-making processes versus objection procedures

One crucial question is whether the findings reported here differ according to the type of case. Not enough questions were asked nor were enough data collected to address the many different kinds of cases that are of interest to legal professionals and others.¹⁰¹ Accordingly, we deemed the statistical analyses looking at very specific case types to be unfeasible or unreliable. In the future, as more data are collected, it will be possible to draw further conclusions.

What can be reliably analysed at present is the relative strength of the fair process effect in primary decision-making processes as opposed to objection procedures. When we compared the extent to which perceived procedural justice influenced the report score that people gave to the handling of the case, we found a 'marginally significant' interaction effect.¹⁰² Figure 6 on page 25 illustrates the findings and shows that procedural justice is important (it influences the score people award for the handling of a case) in both primary decision-making processes and objection procedures. The effect of procedural justice appears somewhat stronger for the former¹⁰³ than the latter.¹⁰⁴

The relatively low number of respondents for primary decision-making processes and the marginally significant statistical results call for tentativeness when drawing conclusions from this finding and this finding is clouded further because most of the primary decision-making processes involved negative outcomes (e.g., denial of a licence) and because the informal approach was applied in the contact with the citizen before any outcome was known while the objections procedure of course followed an initial outcome. More robust data and a clearer understanding of how to interpret the differences between the two situations are clearly needed. That said, the fact that the primary decision-making processes appeared to involve negative outcomes and slightly stronger fair process effects (see Figure 6) fits in with the literature¹⁰⁵ and the findings from Figures 4 and 5, all of which suggest that procedural justice has a deeper impact when outcomes are negative.

3.5. Procedural justice with and without an informal fair tracks approach

Another important question is whether procedural justice is only or primarily relevant when citizens are contacted by public officials within the informal Fair Tracks approach and perhaps is less relevant or even irrelevant in other settings. The data reported thus far cannot answer this question since all the respondents in that data set were approached by public officials who were participating in the Fair Tracks programme. The Tax Authority (*Belastingdienst*), however, collected data from citizens who were telephoned by tax officials within the context of the informal Fair Tracks programme and also obtained data from citizens who did not participate in the Fair Tracks programme but were part of the traditional, formal execution of administrative review procedures by the Tax Authority. Using the data set from the Tax Authority we can answer the question whether procedural justice was more important when people were approached by tax officials in the context of the Fair Tracks programme or were engaged as part of the traditional, formal execution of administrative procedures by public officials from the Tax Authority.

The Tax Authority used different statements to measure the experience of procedural justice than the items which we relied upon thus far. Specifically, citizens were asked to respond to the following statements about their interactions with the public official(s): 'The official treated me in a polite manner', 'The official listened carefully to my concerns', and 'The official engaged with me and looked for a solution'. A total of 228 citizens successfully completed the three items.¹⁰⁶ The responses were again measured on

101 Cf. Marseille et al. 2013, supra note 66. See A.T. Marseille, *7 Eyeopeners en 3 open vragen*. Paper presented at the symposium entitled 'De informele aanpak in de bezwaarprocedure' at the Vereniging JuristenRijk, 2011.

102 $F(1, 333) = 3.58, p < .06$. Here we adhere to the (not undisputed) convention to label effects as 'statistically significant' when p values obtained from statistical analyses are smaller than .05, and as 'marginally significant' when p values are equal to or greater than .05 but smaller than .10.

103 $\eta_p^2 = .46$.

104 $\eta_p^2 = .18$.

105 Brockner 2010, supra note 69.

106 Again, there are quite a lot of missing values in the data reported, which should be taken into account when interpreting the findings reported, and which was taken into consideration when running the analyses reported.

a 5-point scale¹⁰⁷ and proved to be internally consistent.¹⁰⁸ The responses to the three statements were averaged to yield a reliable scale of perceived procedural justice. Again, on average, the citizens appeared to experience high levels of procedural justice.¹⁰⁹

Those who were telephoned by a tax official within the context of the Fair Tracks Approach did not in fact experience a higher degree of procedural justice than those who did not engage in the informal Fair Tracks Approach but participated in formally executed administrative review procedures instead.¹¹⁰ When inspecting how respondents scored on the question 'I am satisfied with the outcome' we found that both citizens who had participated in the informal Fair Tracks programme and those who had participated in formal procedures were more satisfied about the outcome if they perceived procedural justice to be higher.¹¹¹ Furthermore, the test of whether the impact of perceived procedural justice on outcome satisfaction was different when citizens had participated in the informal Fair Tracks programme or in traditional procedures yielded a marginally significant result.¹¹² This is shown in Figure 7 on page 26. The interaction effect portrayed in Figure 7 suggests that perceived procedural justice matters when citizens were contacted in the informal Fair Tracks programme.¹¹³ Perceived procedural justice matters even more when citizens did not participate in the Fair Tracks programme but were engaged as part of the traditional, formal execution of administrative review procedures.¹¹⁴

The marginally significant interaction effect illustrated in Figure 7 should be interpreted with caution, also because it was found on one single item of outcome satisfaction only. This noted, if the effect were replicated and found to be robust in future studies, it would indicate that the strong effects of the experience of procedural justice that were found in the informal setting of the Fair Tracks programme (see 3.1 to 3.4) are even stronger in more official or formal settings. It would be worthwhile to follow up this suggestion with additional research.

3.6. Discrepancy between perceptions of citizens and public officials

Psychological analyses of interactions between citizens and the government or public officials tend to focus on the opinions and perceptions of the players involved. This study is no exception. In such studies it is important to ask to what extent perceptions and opinions relate to the objective situation and how far the opinions of the various players overlap. Specifically, in the original data set of 464 main respondents, we not only had data from the citizens as to how they perceived the handling of their case, we also asked the same questions to the public officials handling the cases and interacting with the citizen respondents. When we compared the answers of citizens and public officials about their perceptions of procedural justice we found that citizens and public officials estimated the level of procedural justice in their interactions in the same positive manner. In other words, there were no statistically significant differences between citizens and public officials in their perceptions of how just the interaction between them was.¹¹⁵ This noted, when we compared whether citizens and public officials thought that the case had been resolved during their interaction in the Fair Tracks programme, we found that public officials were more often inclined than citizens to believe that the case had been resolved.¹¹⁶ Figure 8 on page 26 shows these effects.

Earlier we noted that there was no strong evidence for the existence of an overlap between the citizens' subjective opinion of outcomes and the objective outcomes of cases.¹¹⁷ This sheds an interesting light on the discrepancy in outcome judgments between the public officials and citizens shown in Figure 8 as this discrepancy may indicate that the public officials overestimated the success of the resolution of the case. Further attention should be paid to this possibility in the training sessions for the Fair Tracks

107 1 = *fully disagree*, 5 = *fully agree*.

108 Cronbach's $\alpha = .87$.

109 $M = 4.43$, $SD = .62$.

110 $F(1, 226) = 1.79$, $p > .18$.

111 What is commonly called the 'main effect' of procedure was statistically significant in a general linear model analysis, $F(1, 224) = 49.12$, $p < .001$.

112 The test for the interaction effect yielded the following result: $F(1, 224) = 2.79$, $p < .10$.

113 $\beta = 0.38$, $p < .001$.

114 $\beta = 0.54$, $p < .001$.

115 $F(1, 330) = 0.18$, $p > .67$.

116 $F(1, 305) = 17.51$, $p < .001$.

117 See 3.3.

programme. With respect to the issue of perceived procedural justice, there do not seem to be strong biases by the citizens involved, when compared with the perceptions of procedural justice by the public officials handling their cases. Furthermore, both citizens and public officials had positive to very positive opinions of procedural justice, attesting to the polite and respectful interactions that took place in the Fair Tracks programme.

3.7. Other findings

Various other analyses were conducted besides the ones reported in previous sections. Some of them are now discussed here. One important question was whether demographic characteristics of the public officials affected the interactions with the citizens. This did not appear to be the case. For example, whether the official was male or female did not lead to a greater or lesser degree of procedural justice.¹¹⁸ The gender of the official also had no influence on the report score awarded by citizens for the handling of cases¹¹⁹ or on whether a case or problem was or was not resolved.¹²⁰ The age of the official also had no influence on the degree of procedural justice experienced by citizens.¹²¹ Citizens did not award a different score as a function of the age of the official.¹²² Similarly, the age of the official was not related to whether or not a case was resolved.¹²³

A potentially interesting educational difference that could be compared in a meaningful way was whether or not the official had a law degree.¹²⁴ Out of all the public officials involved, 54.4% had a law degree and 45.6% had not. Whether or not an official had a law degree had no influence on the level of procedural justice experienced by citizens in their interaction with the official.¹²⁵ Nor did it have an effect on the score they awarded for the handling of their case.¹²⁶ And there were no differences between lawyers and non-lawyers when it came to whether or not a case or problem was resolved.¹²⁷ Thus, neither gender, nor age, nor a law degree of the officials had an effect on citizens' perceptions of procedural justice, the score awarded by citizens for the handling of a case, or whether or not a case was resolved.

Further research should focus on the factors that would enable officials to move from 'high' or 'moderately high' levels of perceived procedural justice to a 'very high' score in terms of the procedural justice experienced during their interaction with citizens. Close attention should be paid to the organizational and legal context in which these kinds of informal government-citizen interactions take place.

An important question is whether the findings reported here differ according to the domain that the cases fell under, that is, building and housing, tax, law enforcement, tax corrections, public works, personnel, public issues, spatial development, social issues, grants, compensation, permits, welfare, the Social Support Act (*Wet maatschappelijke ondersteuning*), and the Employment and Social Assistance Act (*Wet werk en bijstand*). The data collected so far do not include enough cases or respondents to warrant reliable conclusions on possible differences in these domains or how they are affected by procedural justice. When more data have been assembled it will be possible to determine the existence of any differences between them. It will also be possible to explore important and interesting but subtle legal distinctions that will have to be implemented in the Fair Tracks programme.¹²⁸ At present, due to insufficient numbers of questions and respondents, it is not possible to test these differences in a statistically reliable way.

Finally, the type of intervention carried out by public officials can be subdivided into telephone contact alone (more than 70% of cases) and telephone contact plus informal person-to-person consultations with officials and citizens such as when the official goes to the citizen's home or business and continues

118 $F(1, 279) = 1.69, p > .19$.

119 $F(1, 223) = 0.16, p > .68$.

120 $\chi^2(df = 1, N = 663) = 0.09, p > .80$.

121 $\beta = -0.01, p > .89$.

122 $\beta = 0.04, p > .54$.

123 $F(1, 662) = 0.31, p > .58$.

124 Comparisons between other educational categories did not yield reliable comparisons, usually because of a shortage of respondents in the categories.

125 $F(1, 278) = 0.01, p > .92$.

126 $F(1, 222) = 2.63, p > .10$.

127 $\chi^2(df = 1, N = 662) = 0.36, p > .55$.

128 See Marseille et al. 2011, supra note 4 and Marseille et al. 2013, supra note 66.

the discussion there. The different types of interventions had no significant effect on the experience of procedural justice,¹²⁹ the report score,¹³⁰ or whether or not the problem was resolved.¹³¹

4. Discussion

4.1. Conclusions

The empirical findings reviewed here show that perceptions of procedural justice can be assessed reliably by asking citizens in surveys whether they were treated in polite and respectful manners by public officials and whether they could voice their opinions in their interactions with these officials. Furthermore, we found that the vast majority of citizens who were informally approached in the context of the Fair Tracks programme felt that the procedure had been just. We also saw that with increasing levels of perceived procedural justice citizens' reactions were even more positive. For instance, the experience of procedural justice was positively associated with enhanced citizen satisfaction with the outcomes obtained from the informal interaction with public officials. The results also show that citizens award higher scores for interaction with the government when they feel they have been treated in a very good manner. And when perceptions of procedural justice among citizens were higher they also had more confidence that the government agency would stand by the agreement and they trusted the government more.

Citizens' perceptions of procedural justice were not dissimilar to those of the public officials who handled their cases, suggesting that the citizens' justice judgments were not unrealistic or biased. Moreover, the experience of procedural justice did more than influence the perceptions of citizens, it also was associated with the enhanced probability of cases actually being resolved.¹³² We also found that perceived procedural justice matters not only in the context of the informal approach to governmental decision making and the handling of conflicts exemplified by the Fair Tracks programme, but perceived justice mattered also when citizens were engaged as part of the traditional, formal execution of administrative procedures by public officials. Thus, we can conclude that experienced procedural justice matters in both the formal and informal contexts studied. All this supports a core notion of the current article, namely that a government that treats its citizens fairly and with respect enjoys more trust and public confidence in its decisions.

These findings support what the international scientific literature had led us to expect.¹³³ They also contest some of the scepticism about procedural justice that was expressed when the concept was first introduced¹³⁴ and still is present to some extent.¹³⁵ Of course, a critical attitude or even scepticism are valuable assets in science and scientific research, but the international scientific literature together with the empirical findings described here have built up a strong case for our assertion that the experience of procedural justice is important to citizens and that it can strengthen trust in the government by increasing acceptance and enhancing legitimacy. The experience of procedural justice therefore merits the attention of every modern democratic government.

In line with the international scientific literature, our findings further show that favourable outcomes in primary decision-making cases and objection cases were important to citizens. However, fair and respectful treatment or experienced procedural justice was more important than outcome considerations. Perceived procedural justice was important to citizens when the outcomes of cases were favourable to them, and the experience of procedural justice was even more important when citizens viewed outcomes as unfavourable. Specifically, the government failed in the eyes of the citizen when the process leading to unfavourable or disappointing outcomes was only moderately fair and just, but it was awarded a high report score when unfavourable or disappointing outcomes had been reached in a very

129 $F(1, 277) = 0.66, p > .41$.

130 $F(1, 220) = 0.77, p > .38$.

131 $\chi^2(df = 1, N = 719) = 0.26, p > .66$. Other intervention categories did not cover enough cases to warrant reliable conclusions.

132 For a discussion of important legal issues regarding 'resolved' and 'unresolved' cases, see Marseille et al. 2013, supra note 66.

133 Brockner, 2010, supra note 69. Brockner & Wiesenfeld 1996, supra note 39. Lind & Tyler 1988, supra note 28. Tyler 1990, supra note 5.

134 R.M. Hayden & J.K. Andersen, 'On the evaluation of procedural systems in laboratory experiments: A critique of Thibaut and Walker', 1979 *Law and Human Behavior* 3, pp. 21-38.

135 Van Velthoven 2011, supra note 72. B.J.C. van Velthoven, 'Empirische kennis over de effecten van procedurele rechtvaardigheid geeft vooralsnog weinig houvast voor justitiële beleidsvorming', 2012 *Rechtsgeleerd Magazijn Themis* 173, pp. 182-184.

fair and just manner. It appears therefore that procedural justice matters when outcomes are positive in the eyes of citizens, but it matters even more when outcomes are negative as most of the cases handled in the primary decision-making phase consisted of negative decisions.

There was also some evidence that the strong effects of the experience of procedural justice that were found in the informal setting of the Fair Tracks programme are even stronger for more official or formal settings, a finding that fits the perspective that procedural justice is important when things are 'hunky-dory' and matters even more when things get 'tough'.¹³⁶ Our finding that primary decision-making processes were judged more negatively in general and yielded (somewhat) stronger fair process effects than objection procedures is also congruent with the idea that procedural justice has a stronger impact when outcomes are negative.

The 'interaction effects' examined here suggest that rather than trying to determine whether either procedural fairness or outcome concerns matter more to citizens, it makes much more sense to ask how the combination of the two variables affect what citizens think and do. More generally, rather than pursuing a quest for what the most important variable is, we note that it is typically much more meaningful to look at the combination of two (or more) variables and to assess what effect this combination has on people's reactions than only looking at the effects of one variable at a time. This brings us to a discussion of key implications as well as important limitations of the findings reviewed here.

4.2. Limitations

Limitations of the current empirical findings that need comment include issues raised by missing values in our data set, the correlational quality of the data, the sample of variables and effects that have been reported, and the relatively short 3-item measure of the procedural justice measure that we used. Because of the many missing values present in the current data, our research results should be interpreted cautiously and future research should attempt to prevent this problem. Furthermore, the data reported here are mainly correlational. That is, we observed how, for example, perceived justice and report scores varied together, rather than creating different levels of perceived fairness to examine how this subsequently led to different report scores. Therefore, there is a need for caution in interpreting our findings as strong evidence of perceived justice *causing* specific reactions. Further research (for example, with longitudinal or experimental methods) is needed before binding causal conclusions can be drawn. This caution applies especially to the 'fair process effects' we studied here.¹³⁷ We also note that many variables were assessed in the evaluation of the Fair Tracks programme¹³⁸ and that we focused on only some variables in the current review of empirical findings. Various other analyses were conducted besides the ones reported here. Clearly, we have found promising results, but more research and more powerful data sets are needed to get an indication of the robustness of the effects reported.

It would be useful if future measurements of perceived procedural justice would expand upon our 3-item measure with items assessing: (1) the degree to which citizens feel that due consideration was given to their views, and addressing directly how (2) fairly and (3) justly they feel they were treated by the public officials during the informal contact, and whether they experienced these officials as (4) competent and (5) professional. The resulting 8-item measurement of perceived procedural justice would yield a more robust assessment of the experience of procedural justice, which could give a clearer insight (with more statistical power) into how the experience of procedural justice influences the perceptions of citizens and how this relates to objective aspects associated with that (such as whether or not a case or problem is resolved during citizen-government interactions). It would then be possible to speak with greater certainty about the different responses to various population groups. This was infeasible with a measurement containing only three items and the limited data collected so far.

136 Brockner 2010, *supra* note 69. Van den Bos 2002, *supra* note 40.

137 The issue here is one that will be familiar to those who saw the emerging debate in the last century over the links between smoking and cancer. Observing a correlation between smoking rates and the likelihood of lung cancer provides a presumption, but not hard scientific evidence, that smoking causes cancer. It took these data, *in conjunction with* animal studies showing that rats exposed to tobacco smoke were more likely to develop cancer than those who were not so exposed, to show that smoking *causes* cancer. Our research here is like the human epidemiological studies in showing correlation but not causation. Fortunately we have laboratory studies, and some studies in government settings (e.g., Lind et al. 1993, *supra* note 34) with actual experimental manipulations to complement our findings.

138 For a complete description, see Van der Velden et al. 2010, *supra* note 11.

Along these lines, we suggest that future research examines more systematically whether the experience of procedural justice derives from different elements and components that make up the experience or whether citizens form a global impression of fair and unfair treatment. The first perspective, focusing on different components of perceived justice, has been advocated in the scientific literature for some time now.¹³⁹ The second perspective, global justice, has been relatively understudied.¹⁴⁰ This noted, an important observation is that the current literature does not provide a single widely accepted scale of procedural justice. Perhaps more global impressions may more accurately reflect what is on citizens' minds and the measurement of perceived procedural justice could focus on these impressions contextualized for the different government-citizen interactions and other settings in which treatment fairness is experienced.¹⁴¹

Future research should also aim to include more items to measure the other reactions studied here. For instance, trust in government was measured here with two items only, and in retrospect it would have been good to measure this important concept related to the legitimacy of governmental decision-making and citizen-government conflicts in a more fine-grained fashion.

We note that most public officials who participated in the Fair Tracks programme did so on a voluntarily basis. For a few participation was mandatory because their department head or supervisor had decided that they should participate as they were part of a team that was appointed to participate in the Fair Tracks programme. Public officials within the tax office data set all took part on a mandatory basis. It would be interesting to examine in future research whether voluntary or mandatory participation affects the level of enthusiasm with which officials participate in the programme and whether this level of enthusiasm influences the behaviour of public officials which in turn affects the perceptions of the citizens involved. The current data do not allow these interesting questions to be answered nor do we have systematic evidence for differences in personality traits or other differences among the public officials moderating the fair process effects and other findings reported here.

We also note that the Fair Tracks programme conclusions¹⁴² are the result of a dynamic process with 21 participating government institutions and about 120 public officials. These results are therefore not necessarily representative of what will be seen with a nationwide implementation within all of the millions of decision-making and conflict handling procedures that all Dutch government institutions (1500 in total) deal with.¹⁴³ We therefore cannot state with certainty that the findings reported here extend beyond the public officials who were part of our current data sets or the government institutions in which those officials operated and the procedures used by the officials and institutions. The basic processes and effects we found are quite similar to those seen across a variety of different legal procedures and populations in a number of different countries, however, so we hypothesize that similar findings will be seen in a wider roll-out of the programme.

Another issue that we would like to discuss explicitly is the possibility that well-educated or eloquent citizens or better negotiators can perhaps fare better in the Fair Tracks programme and hence perhaps yield better final outcomes. We cannot definitely rule out these possibilities. This noted, the Fair Tracks programme is set up in such a way that a public official seeking to enhance perceived procedural justice during administrative procedures seeks personal contact and investigates what the problem or question of the citizen is, by asking a variety of questions with an open mind and interested attitude. The public official discusses with the citizen how his or her problem can best be handled, given the possible procedures at hand and the legal boundaries that are in place. The official investigates with the citizen what is and what is not possible. If done competently, this should not require the citizen to excel in negotiation skills in order to make a deal.

Furthermore, one could argue that interacting on the phone probably requires less cognitive skills and less specialized education than would engaging oneself (or through one's lawyer) in written formal

139 See, for example, Colquitt 2001, *supra* note 24.

140 E.A. Lind, *The fairness heuristic: Rationality and 'relationality' in procedural evaluations*. Paper presented at The Fourth International Conference of the Society for the Advancement of Socio-Economics, 1992.

141 Lind & Tyler 1988, *supra* note 28.

142 As reported in Van der Velden et al. 2010, *supra* note 11.

143 Herweijer & Lunsing 2011, *supra* note 9.

legal procedures. An advantage of contacting citizens by phone is that the public official can adjust the discourse to the level of the citizens involved and provide as much explanation or information that the citizen needs. Moreover, when public officials encounter citizens who were not intellectually at a level that allowed them to understand or participate in the Fair Tracks programme, the public officials made sure that these citizens sought help from a family member, a professional, or somebody else. It is also important to note that when legal scholars looked into the legal quality and lawfulness of the outcomes reached in cases that were handled in the Fair Tracks programme there was no evidence that certain citizens received an outcome that was more (or less) than what they were entitled to. In fact, in 427 cases that were handled through the informal approach advocated by the Fair Tracks programme there was no evidence that outcomes were not lawful or did not meet the required legal quality.¹⁴⁴

Finally, we note that when a public official is thinking of making a negative decision this means that the public official involved concludes on the basis of the information that he or she has and the rules and regulations that apply that the application submitted by the citizen probably has to be denied. The public official then contacts the citizen and checks whether all relevant information is present and correct, informs the citizen of the proposed decision, and if possible explores together with the citizen what solutions, given the limitations and governing rules and regulations, are possible. In some cases the public official is limited to communicating bad news, but even in such cases the person's perception of the rejection, and what it means for him or her when the requested provision cannot be granted, is also explored. Unwarranted raising of citizens' expectations must be avoided.¹⁴⁵ Preventing the communication from being perceived as insincere and not really concerned with hearing the citizen's point of view is another key issue here, in part because citizens tend to be quite good in differentiating 'pseudo-participation' from genuine interest in their perspectives and concerns.¹⁴⁶

4.3. Implications

Besides noting the limitations of the current findings, we also want to point out the strengths of the current data, the new insights that follow from the new, informal approach to governmental decision making and the handling of citizen-government conflicts, and the important role that experienced procedural justice has in these decisions and the resolution of these conflicts. In this regard we note that the findings presented fit the perspective that humans are information-oriented beings who use perceptions of procedural justice to make sense of what is going on in their environments and to determine whether they can trust government and other authorities in society.¹⁴⁷ Many implications that we discuss below follow from the fair process effects we reported in this article.¹⁴⁸

Following the evidence we report for the role that perceived procedural justice plays in the Fair Tracks programme, we think it would be wise to review the current training programmes for public officials in order to verify whether these training programmes pay enough attention to bringing about interactions with citizens that focus on fair, just, and respectful treatment, in which genuine attention is paid to the opinions and arguments of citizens in a professional and competent manner. If, as this paper suggests, the perceived procedural justice component is the foundation of the success of the Fair Tracks programme, it would make sense to sharpen the focus of the training programmes on attention for procedural justice and how to transfer this knowledge into the application of the enhancement of procedural justice within

144 See Marseille et al. 2013, supra note 66.

145 S.A. Stouffer et al., *The American soldier: Adjustment during Army life*, 1949.

146 J. Greenberg, 'Looking fair vs. being fair: Managing impressions of organizational justice', in L. L. Cummings & B. M. Staw (eds.), *Research in organizational behavior*, 1990, Vol. 12, pp. 111-157.

147 Van den Bos 2009, supra note 17. Van den Bos 2011, supra note 16. K. van den Bos & E.A. Lind, 'The social psychology of fairness and the regulation of personal uncertainty', in R.M. Arkin et al. (eds.), *Handbook of the uncertain self*, 2009, pp. 122-141. K. van den Bos & E.A. Lind, 'On sense-making reactions and public inhibition of benign social motives: An appraisal model of prosocial behavior', in J.M. Olson & M.P. Zanna (eds.), *Advances in experimental social psychology*, 2013, Vol. 48, pp. 1-58.

148 It is our impression that the issue of perceived procedural justice can be interpreted quite differently by different legal scholars. For example, some seem to focus on the fair process effect, others focus more on relational motives being addressed by procedural justice perceptions, while still others focus on fairness experiences when participation in decision making is or is not allowed and whether 'quality of treatment' versus 'quality of decision making' is an important distinction in this respect, and there are also some that seem to treat perceived procedural justice as an alternative to 'normal law' such as normal practices in standard legal procedures. In the present article we are predominantly oriented to the fair process effects we found in our empirical data and we note the implications this may have for other issues when appropriate.

the different contexts and organisations (with consideration for the rules, regulations, and differences in organisational culture that public officials encounter in their daily practices) for various different government domains. Paying explicit attention to the statutory regulations and the legal context within which the discussion or interaction with the citizen takes place is pivotal. Therefore, perhaps training in informal communication skills that is geared specifically to procedural justice issues as well as the legal context of the informal contact will deliver the best results in terms of how the contact is experienced by citizens and officials and its effectiveness in achieving or facilitating a solution for the problem.

Building on the insights discussed in this article we argue that in order to find out how people experience the effects of procedural justice in legal processes regulated by the General Administrative Law Act, a lot more is needed than merely knowing whether the law has been correctly administered.¹⁴⁹ For example, every decision-making and complaint procedure in the General Administrative Law Act has provisions which confer a right to be heard. But these provisions have little meaning if they are observed in the letter and not the spirit of allowing people to be heard. That is, the independent objections advisory boards set up by municipal councils to fulfil these provisions actually may fail to make people feel that they have indeed been heard. This is usually because the hearing is perceived as formal with a strong focus on the legality of the decision and this may not connect with the needs of the parties concerned.¹⁵⁰

We are concerned about the tendency among lawyers and legal scholars to see procedural criteria as means to achieving good distributive justice; a view that, as noted by Schuurmans and Verburg, can lead to misconceptions regarding procedural justice.¹⁵¹ Schuurmans and Verburg contend that lawyers fear that too strong an emphasis on procedural justice may lead to a formally correct, but nonetheless pointless song and dance around chanceless cases that do not have a strong chance of winning. The authors conclude that the question whether the citizen perceives the procedure as fair is important and represents a value in itself, in combination with valuing that the outcome should also be fair in more objective terms. This resonates with our emphasis on studying the ‘interaction effects’ of procedural justice and outcome concerns rather than the effects of only one or the other.

Rather than thinking of procedures as simply a means to an end, we see from our data – and from many other empirical studies of reactions to legal experiences – that the perceptions that procedures engender are more appropriately viewed as an end in themselves. The fact that time and again we see attitudes such as evaluations of the court and behaviours such as acceptance of decisions depend on not just the outcome but instead on the outcome *and* the procedure should serve as a caution against too much focus on outcomes. It is worth remembering that for many citizens involved in these sorts of encounters there is as much information to be gleaned from how they were treated as there is to be had from what material outcome they received from the process. Indeed, some scholars have suggested,¹⁵² the perceptions of the procedure may be seen as more diagnostic of how the state treats its citizens than is a single outcome.

Of course, procedures also need to meet legal standards in order to assure substantive justice, so ideally we must seek procedures that both *are* fair (from a legal point of view) and *are seen* as fair (from a citizens’ point of view). As indicated earlier, the term ‘procedural justice’, as we use it here, refers to the levels of fairness and justice experienced by citizens in their dealings with government institutions, including informal and formal interactions with public officials. Thus, this paper is explicitly concerned with citizens’ perceptions of fairness and justice and not the more ‘objective’ justice that is enshrined in legislation and enforced through legal decisions. Legal processes are observed and experienced by citizens in a specific way that can be (and have been) studied scientifically. The subjective experience of justice influences the acceptance of administrative decisions and the legitimacy of the government. This paper does not aim to determine what counts as just in a legal sense, nor whether justice can ever really

149 A.F.M. Brenninkmeijer, ‘Dejuridiseren’, *NJBblog*, January 6, 2011. Found at <<http://njbblog.nl/2011/01/06/dejuridiseren/>>. A.F.M. Brenninkmeijer & A.T. Marseille, ‘Meer succes met de informele aanpak van bezwaarschriften’, 2011 *Nederlands Juristenblad*, no. 30, pp. 2010-2016.

150 De Waard 2011, supra note 10. A. Schwartz, *De adviescommissie in bezwaar: Inrichting van de bezwaarprocedure bij gemeenten*, 2010. Herweijer & Lunsing 2011, supra note 9.

151 Y.E. Schuurmans & D.A. Verburg, ‘Bestuursrechtelijk bewijsrecht in de jaren ’10: Opklaringen in het hele land’, 2012 *JBplus*, no. 2, pp. 117-138.

152 See, for example, Lind & Tyler 1988, supra note 28.

be objective. The primary aim of our paper was to gain a deeper insight into the process of observation and interpretation that leads Dutch citizens to conclude that they have or have not received fair and just treatment from the government.

We note explicitly that although our behavioural analysis of procedural justice deviates in important ways from a legal analysis with its emphasis on legislation, regulations, and conceptual distinctions, the notion of perceived justice does not undermine or detract from the need for decisions by government authorities or courts. There is no necessary conflict between normative fair process and experienced fair process.¹⁵³ The legality of these normative criteria is, of course, important and it is certainly not our place to call them into question here.

Although it is possible to make some connections between perceived procedural justice and the normative criteria for a fair process, lawyers should not falsely assume that a procedure that meets all of the normative criteria for procedural justice will always be perceived to be fair.¹⁵⁴ This is an important caveat that resembles our notion that people may form relatively global impressions of treatment fairness. Citizens may not be too concerned about the technical differentiation between the components of procedural justice (voice, due consideration, consistency, accuracy, etc.) or about whether the formal procedures have been correctly applied, but rather they are reacting to general impressions as to whether they have been treated fairly and respectfully.¹⁵⁵ As a result, perceptions of fairness, justness, and legitimacy can be intertwined in the mind of the citizens and may be far less differentiated than some behavioural and legal scholars have proposed.¹⁵⁶

This proposition does not imply that various factors cannot influence perceptions of procedural justice, as research has shown conclusively that a person's perception of procedural justice may be influenced by a number of different factors.¹⁵⁷ Thus, it is important, amongst other things, that people are accurately informed about the procedures and interpersonal treatments they experience. Furthermore, they want to be treated in the same way as they were treated in the past (consistency through time) or as they think other people are treated (consistency between persons). One very relevant procedural element is whether people feel that they have been able to voice their opinions on the way decisions are taken (participation in decision making) and that sufficient attention is paid to each side, including their own (the principle of due consideration).¹⁵⁸ Citizens want to feel that serious notice is being taken of his or her views. Most people can resign themselves to not getting what they want, but they do need to feel that they have been listened to.¹⁵⁹ Special efforts must therefore be made to avoid false impressions of fair procedures, in part because people are quite good at detecting false attempts to create procedural fairness.¹⁶⁰

4.4. Coda

The present article indicates the important role that experienced procedural justice may have in the acceptance of governmental decisions and the resolution of citizen-government conflicts that use the informal approach adopted by the Fair Tracks programme. Perceived procedural justice was also found to be important during the more formal execution of governmental decisions and the more formal ways of handling citizen-government conflicts. These empirical findings adhere to the view that perceived procedural justice is one important way that people use to make sense of their lives and to get an indication whether they can trust the government and view government actions as legitimate and acceptable. The empirical findings also fit our integrative account of citizen-government interactions, bridging social psychological perspectives on perceived fairness, trust, and legitimacy with theories of administrative

153 See also Marseille et al. 2013, supra note 66.

154 A.F.M. Brenninkmeijer, 'Een eerlijk proces', 2009 *Nederlands Juristenblad*, no. 32, pp. 2050-2056.

155 Lind 2001, supra note 33. Van den Bos, supra note 22.

156 See, for example, Colquitt 2001, supra note 24.

157 N.J. Finkel, *Not fair! The typology of commonsense unfairness*, 2001. Leventhal 1980, supra note 28. Lind & Tyler 1988, supra note 28. Moorman 1991, supra note 28. Van den Bos 2005, supra note 28. K. van den Bos, 'Procedurale rechtvaardigheid: Beleving bij burgers en implicaties voor het openbaar bestuur', in A.F.M. Brenninkmeijer et al. (eds.), *Werken aan behoorlijkheid: De Nationale ombudsman in zijn context*, 2007, pp. 183-198. K. van den Bos et al., 'The consistency rule and the voice effect: The influence of expectations on procedural fairness judgements and performance', 1996 *European Journal of Social Psychology* 26, pp. 411-428.

158 Tyler 1987, supra note 27.

159 A.F.M. Brenninkmeijer, *Fair governance: A question of lawfulness and proper conduct*. Van Slingelandt lecture, 2006.

160 Greenberg 1990, supra note 146.

law, judicial administration, and public governance. Our conceptual and empirical analyses as well as the substantial literature on experienced fairness in public contexts show that the level of justness and fairness experienced in interactions with public officials plays a major role in the way citizens respond. Thus, the opinions that citizens form about procedural justice or treatment fairness can be a decisive factor in whether they trust the government and accept its actions. We hope that the empirical findings reviewed in this article provide impetus to behaviourally science-based government policy decision making and the recognition of the important role that perceived procedural justice can have in the handling of citizen-government conflicts and other citizen-government interactions. ¶

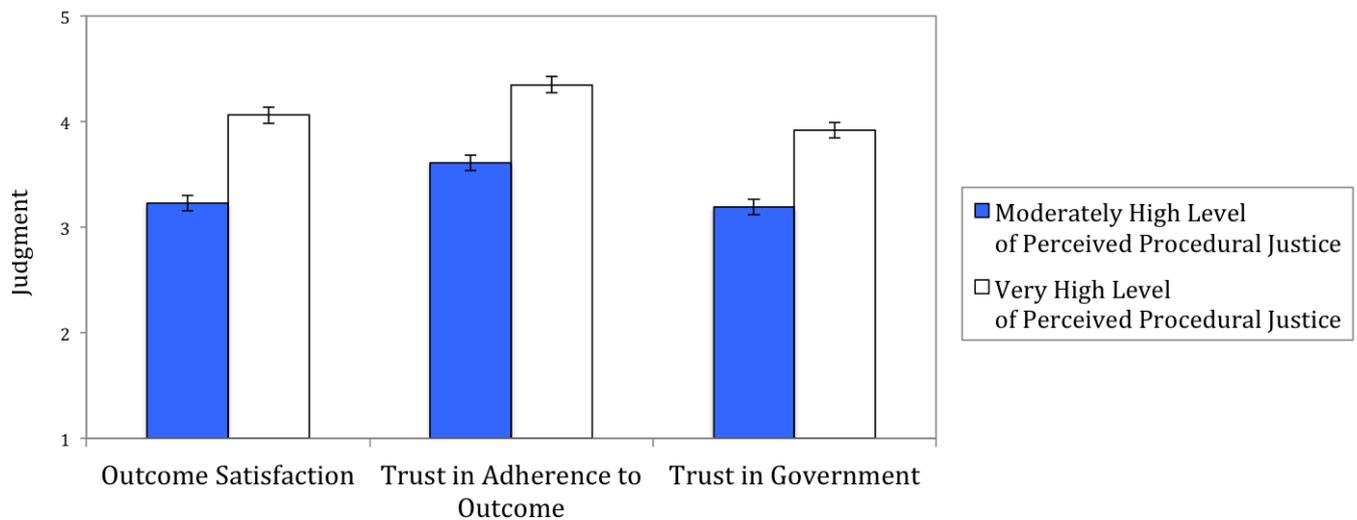


Figure 1. Citizens' satisfaction with outcomes, trust in adherence to the outcomes, and trust in the government as a function of their perceptions of procedural justice (moderately high level [-1 SD] versus very high level [+1 SD]). Judgments are on 5-points scales with higher values indicating higher levels of satisfaction or trust. Error bars represent standard errors of the mean.

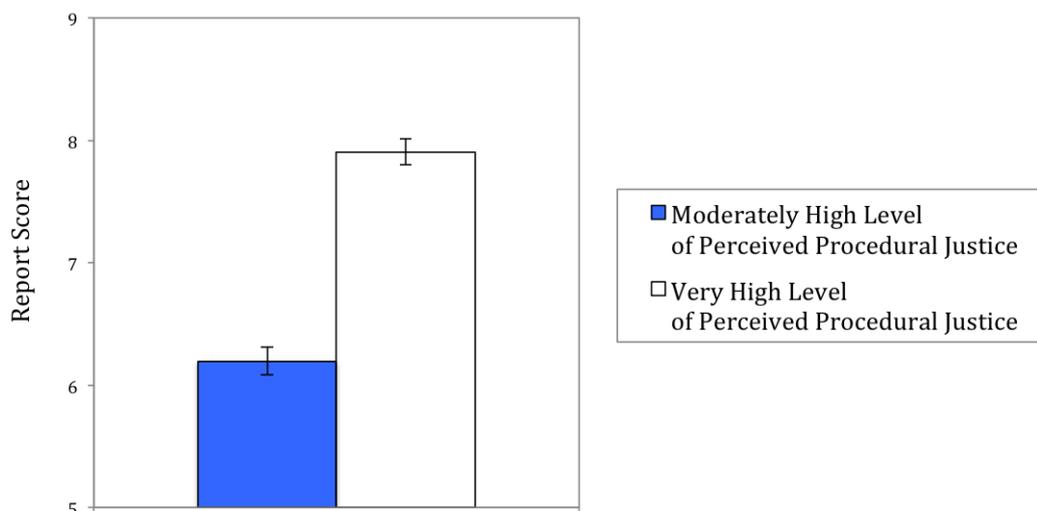


Figure 2. Report scores awarded by citizens for the handling of their cases as a function of their perceptions of procedural justice (moderately high level [-1 SD] versus very high level [+1 SD]). Scores are on 10-point scales with higher values indicating higher scores of how the case was handled. Error bars represent standard errors of the mean.

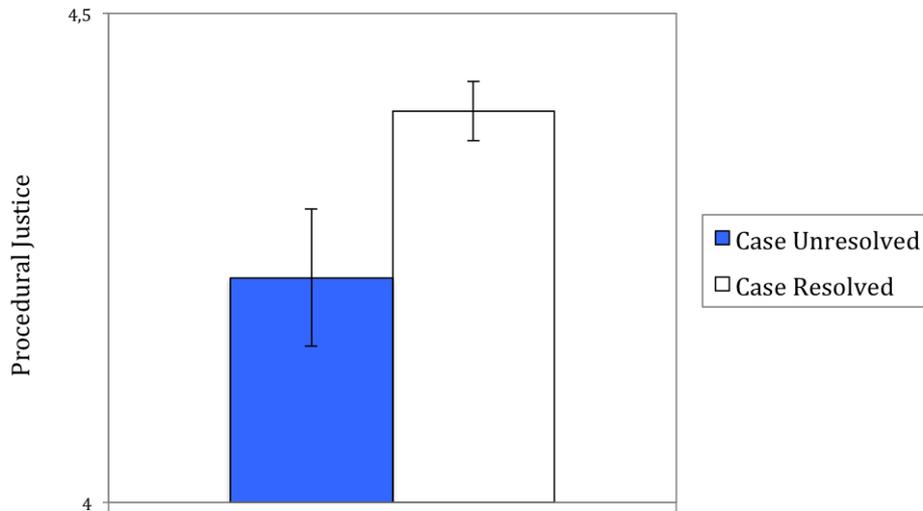


Figure 3. Number of resolved cases compared with unresolved cases in relation to increasing levels of perceived procedural justice. Procedural justice judgments are on 5-points scales with higher values indicating higher levels of perceived procedural justice. Error bars represent standard errors of the mean.

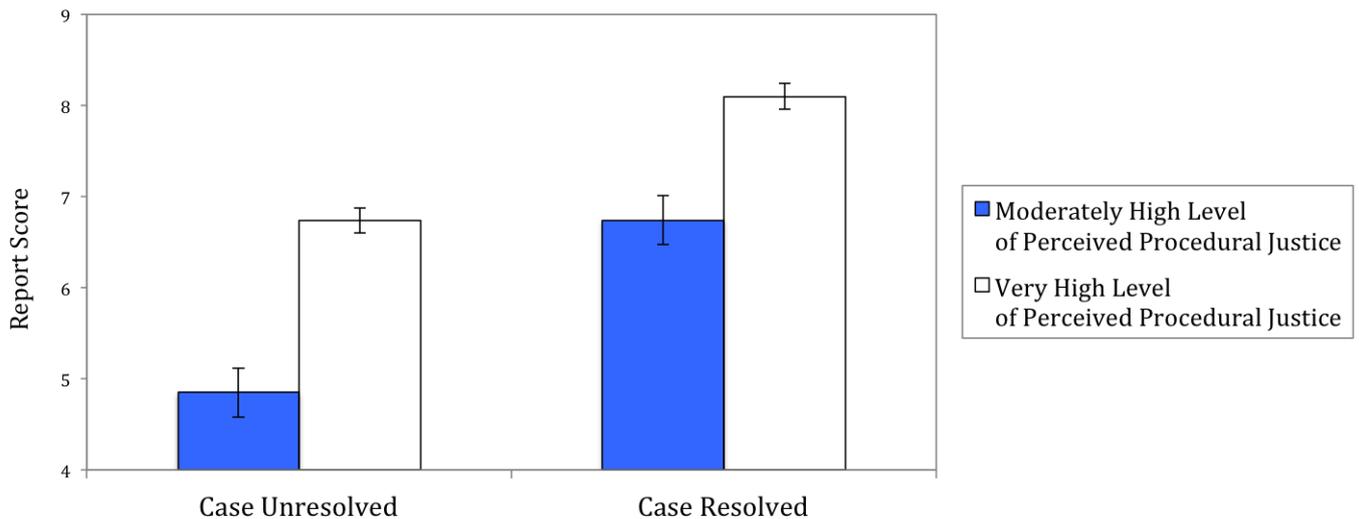


Figure 4. Report scores awarded by citizens for the handling of their case as a function of their perceptions of procedural justice (moderately high level [-1 SD] versus very high level [+1 SD]) and whether the case was unresolved or resolved. Scores are on 10-point scales with higher values indicating higher scores of how the case was handled. Error bars represent standard errors of the mean.

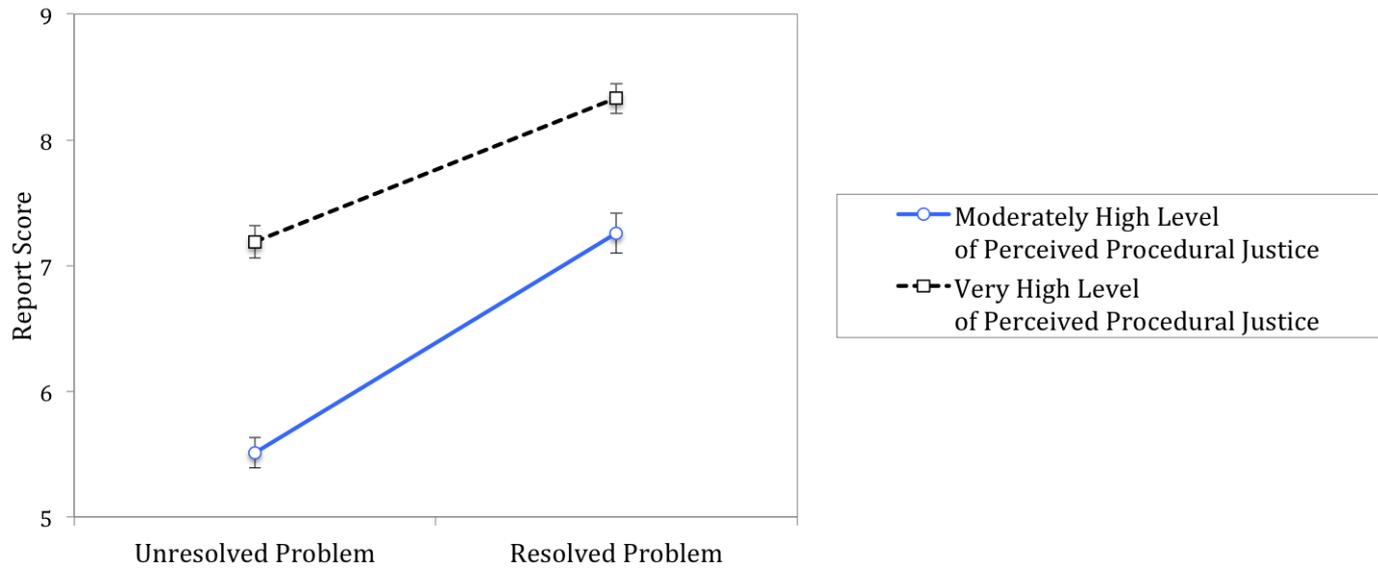


Figure 5. Report scores awarded by citizens for the handling of their case as a function of their perceptions of procedural justice (moderately high level [-1 SD] versus very high level [+1 SD]) and their perceptions whether the problem was resolved or not (estimated at -1 SD and +1 SD). Scores are on 10-point scales with higher values indicating higher scores of how the case was handled. Error bars represent standard errors of the mean.

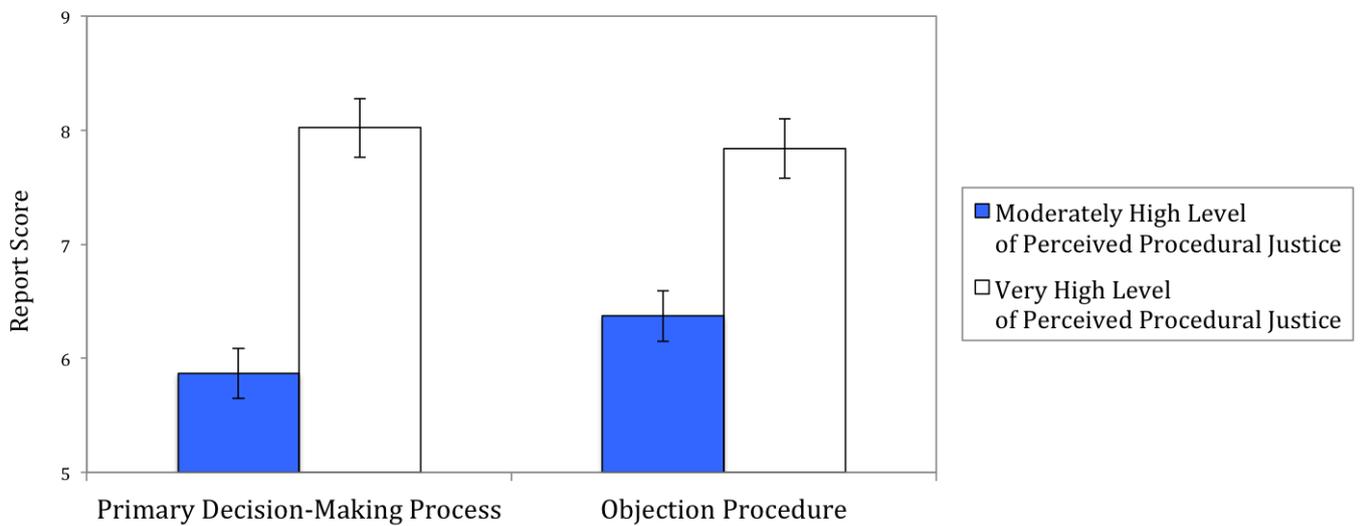


Figure 6. Report scores awarded by citizens for the handling of their case as a function of their perceptions of procedural justice (moderately high level [-1 SD] versus very high level [+1 SD]) and the phase in which the case was handled (primary decision-making process versus objection procedure). Scores are on 10-point scales with higher values indicating higher scores of how the case was handled. Error bars represent standard errors of the mean.

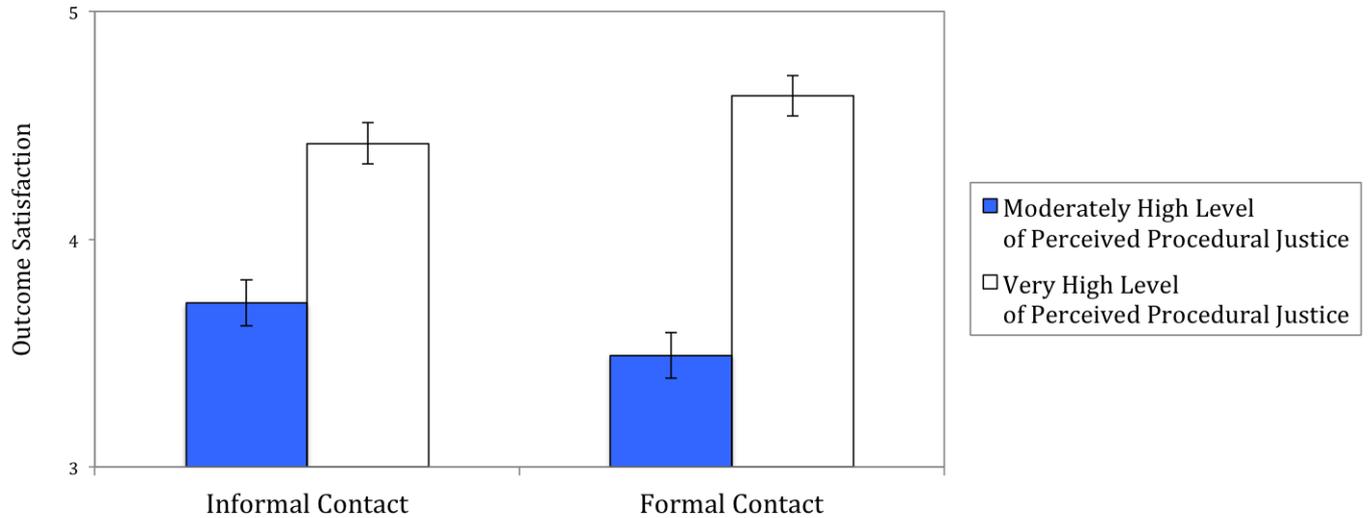


Figure 7. Citizen satisfaction with outcomes as a function of experienced procedural justice (moderately high level [-1 SD] versus very high level [+1 SD]) and informal contact within the Fair Tracks programme or formal contact within regular, formal procedures. Scores are on 5-point scales with higher values indicating higher scores of outcome satisfaction. Error bars represent standard errors of the mean.

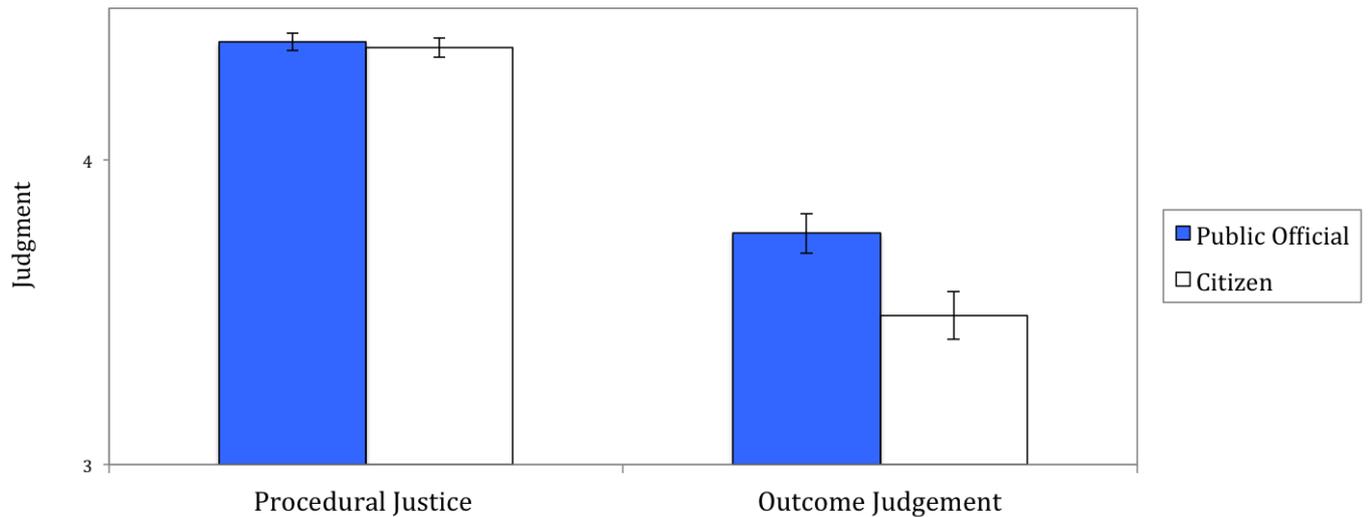


Figure 8. Citizens' and public officials' perceptions of procedural justice and judgments of whether cases were resolved or not. Scores are on 5-point scales with higher values indicating higher levels of perceived procedural justice or more positive judgments that a case or problem was resolved. Error bars represent standard errors of the mean.