

Procedural Justice at German Courts as Seen by Defendants and Juvenile Prisoners

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The article summarizes German research on procedural and distributive justice at criminal courts. The first German field studies addressing these topics are presented. Procedural justice characteristics like neutrality, courtesy, equal consideration of evidence, voice, and fairness of procedural rules are relevant for Germans. A study on juvenile prisoners shows no support for equity theory and some for the Group Value model. Lay assessors receive positive evaluations by juvenile prisoners.

KEY WORDS: perceived fairness; procedural justice; equity theory; juvenile prisoners; defendants; criminal court.

Not the mere outcome of a distribution process, but the evaluation of the outcome and of the procedure leading to it as just or unjust are decisive for the acceptance of the decision by the affected person. They are also important for the way the person thinks about the acting institutions and authorities. Procedural justice is often more important than distributive justice. This is the thesis of a part of the latest empirical social psychological research on justice (Tyler and Lind, 1992, p. 140; Lind *et al.*, 1993, p. 226; Lind, 1994). Mainly American scholars have examined the relevance of outcome, distributive justice, and procedural justice for several social areas. They have found changing combinations of weights for these factors. (For an overview see Lind and Tyler, 1988, Tyler and Lind, 1992, or Röhl, 1993.) Little is known on the relevance of fairness evaluations in citizens' encoun-

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ters with German legal authorities. German lawyers emphasize the instrumental role of the procedure. They are especially skeptical about procedural justice, if high sentences are at the stake.

In this paper, an attempt is made to summarize some studies on procedural justice and related topics as seen by German defendants and prisoners. Especially, two field studies are introduced, which the authors conducted separately. These seem to be the first German contributions to the debate on procedural and distributive justice at criminal courts. Some provisional information is available on an ongoing project of defendants at lower criminal courts, using results from the open questions of interviews conducted until November 1993. The older study from 1987 (Haller, 1987; Haller *et al.*, in press) was on juvenile prisoners. For these people, confrontation with the court has a serious effect. They are a hard test for the procedural justice hypothesis, which holds procedural justice as more influential than distributive justice or pure outcome. All German research introduced was done in West Germany.

DIFFERENT CONCEPTS ON CONCERNS OF AFFECTED PERSONS

Several social psychological concepts compete in explaining the behavior of people confronted with distribution situations. The best-known explanation is based on the *homo oeconomicus* model of man. People are interested primarily in the outcome. They want to gain their own profit. The procedure leading to the decision is only an instrument to this end. A claim for distributive justice is just a masquerade for demanding one's own benefit (Schwinger's, 1980, critique on the equity theory). Procedural justice is interpreted in the same way, if considered at all. The equity theory (Adams, 1965; Walster *et al.*, 1978) can be identified with this pattern of explanation. It is as well for example Luhmann's (1975) assumption in *Legitimation by Procedure*. Specific to the equity theory is to base people's distributive justice concerns on an evaluation and a comparison of one's own contributions and outcomes versus the contributions and outcomes of other persons. Critics of the equity theory emphasized former expectations as criteria for distributive justice evaluations (e.g., Folger, 1986, pp. 147 ff.). Other theorists hold the view that individuals also judge considering social norms, e.g., for groups (Berger *et al.*, 1972).

By this, a second type of explanation is already touched. Here, distributive justice is perceived as a value in itself. Shared social values demand that one realize patterns of distributive justice, even at the cost of personal disadvantage. Procedural justice again is seen as instrumental.

People value procedures because of their ability to reach distributive justice.

Many approaches share the assumption that an independent evaluation criterion preexists in a distribution situation. But this basic idea has become increasingly unreliable. People in a distribution situation often do not have the same criteria, and even more, they are insecure about criteria, or the existing criteria are too abstract for the case. The only way out for them may be the use of a fair procedure in order to come to appropriate criteria and/or a fair decision (for an overview see Röhl, 1993, pp. 21-25).

The mere succession of events gives a hint that procedural justice can be to some degree a factor independent of outcome and outcome fairness (Landis and Goodstein, 1986, p. 682). People can have an opinion about the procedure before the decision is reached.

Up to now, procedure has been seen only as an instrument for the exaggeration of personal benefits or for the realization of a more complex distributive justice pattern. In contrast, procedures can be comprehended as more existential for the affected individuals. People want to be treated with respect for their own personal dignity, especially if they are confronted with authorities, or if the situation is of importance. According to the group value model (Tyler, 1990, pp. 173-175; Tyler and Lind, 1992, pp. 139-143), individuals try to maintain membership in groups, they adopt the group values, and procedures show them their standing in the groups. Whereas receiving a disadvantage and thinking that it was an unfair distribution is normally more or less tolerable, unfair procedures are intolerable, because unfair procedures mean reiterated injustice (Tyler, 1990, p. 174). According to the group value model, procedures are symbols of group values (Tyler and Lind, 1992, p. 140). A "fairness heuristic" (Lind *et al.*, 1993, p. 225 ff.; Lind, 1994) in which procedural fairness tends to be more decisive than distributive fairness is used to evaluate and react to the behavior of authorities. Procedures unfair in the eyes of members threaten the existence of the group, or in other words, the social system. At the system level, a discrepancy between the values given to the members and the consequences of applied procedures undermines stability and legitimacy.

FORMER EMPIRICAL RESEARCH IN GERMANY

Few German empirical studies have addressed questions of procedural justice at criminal court from the affected person's perspective. Three older publications are important in this context.

Only very briefly, Kühling (1970, p. 270 ff.) reported interviews with juveniles in a juvenile prison. Asked about their impressions of their judge,

the juveniles characterized him as "fair," "understanding," "biased, influenced by others," or "too severe, too hard." A second interview study (Eilsberger, 1969) was made with 34 juveniles in juvenile prison. A majority of the juveniles complained about a lack of understanding, many about the scolding and shouting of the judge, and a third about hindrance of their defense (p. 307, 309 ff.). However, 50% answered "yes" when asked about the fairness of the court trial (p. 312 ff.). Forty-one percent called the fairness in question. Most of these, wrote Eilsberger (1969, p. 313), were critical because they felt sentenced not only for the actual offense which brought them to court.

In an experiment, Tausch and Langer (1971, p. 292 ff.) confronted young prisoners, students of psychology, and junior lawyers with statements of judges derived from trial communication with defendants in criminal cases. Among the three groups there existed a common emotional evaluation of these statements. The judges' statements expressed among others esteem, positive attention, and encouragement, or scant regard, reserved rebuff, and disheartenment (Tausch and Langer, 1971, p. 286 ff.). This joint reaction of different groups supports the Group Value theory in its assumption of widely shared social criteria for the behavior of authorities (Tyler and Lind, 1992, pp. 140-143).

All three studies suggest that Germans confronted with criminal court also care about aspects of procedural justice. Unfortunately, these publications did not address the topics of the later empirical justice research in detail. In the meantime, new generations of judges and defendants meet in the courts, and the (West) German society has lost much of its former authoritarian characteristics. Additional research is needed.

LOWER CRIMINAL COURTS: JUSTICE AND LEGITIMACY

To test the explanations of experiences with courts as provided by outcome level and distributive and procedural justice approaches, defendants at five German lower criminal courts in the cities of Bochum, Dortmund, Essen, Herne, and Recklinghausen were investigated in an ongoing research project. Respondents were defendants of German nationality having to appear before the single judge. These people were accused of traffic offenses and other criminal offenses expected to result in a fine or imprisonment of no longer than two years. To give a clear picture, it has to be noted that most people are fined, receive probation or lose their driver's license. Only a small number go to prison. The traffic offense defendants are usually "ordinary citizens," and even the people accused of criminal offenses are in the majority not "outlaws." The experiences with the state

these people gain at court are assumed to tell something about the social relation between state and citizen. As in Tyler's *Why People Obey The Law* (1990), the outcome and justice topic are connected with the question of legitimacy. Legitimacy is a feeling of obligation to follow the order and the authorities (Weber, 1973, p. 470; Weber, 1980, p. 16). Related are the prestige of and the trust in law, courts, and judges (Tyler, 1990, p. 28). Belief in legitimacy and individual experiences in the process influence each other. This has methodological consequences.

Methods

To distinguish expectations and evaluations defendants had before the trial, and those that reflect their experience at court, a pre-post design was used. Respondents were interviewed before and after their trial. In this way, changes in attitudes can be attributed to the process. Practical reasons led to the decision to employ telephone interviews. The questionnaire contains mainly closed questions, which usually allow for the selection from a scale of four alternatives. Some questions are open. For example, respondents can talk about what should and should not happen at court. These questions indicate what aspects of court process defendants themselves consider.

The protection of personal data gathered by any public authority is a political topic of some relevance in Germany. In contrast to American researchers (e.g., Valente and Mace, 1993), it is almost impossible in Germany to get defendants' addresses from the court records. Instead, defendants receive with their summons a letter, an agreement form, and an envelope. Only if they decide to participate and send their agreement is notice taken of them. Having to appear before criminal court evokes unpleasant feelings like fear and shame for many people. Therefore the rate of reply was extremely low, delaying completion of the survey until now (November 1993).

Measured are the following variables or types of variables: sociodemographic data (e.g., age, sex, income); general opinions on law and on courts; general opinions on the appropriate court with regard of, e.g., procedural and distributive justice; anticipations of what will happen if they appear (or appear again) at court; wishes and fears with regard to the process; kind of offense; if there has already been an order of summary punishment; kind of sentence (fine, probation, imprisonment, suspension of driver's license, not guilty) or an other outcome; opportunity to avoid a process; satisfaction with and fairness of procedure and outcome; outcome relative to expectations and to outcomes of others, generally or specifically;

importance of outcome, procedural, and distributive justice; evaluations of procedural and distributive justice; disappointment; several variables on the behavior of the judge and his evaluation by the defendant; behavior of the lawyer and the public prosecutor and their evaluation by the defendant; personal influence on the sentence and on the way evidence is presented; experience with trials (e.g., as plaintiff, defendant, witness); and additionally several other variables.

Preliminary Findings

Since the interviews are ongoing, only some preliminary findings can be reported. A first difficulty was the formulation of a question for procedural justice that cannot be confused with distributive justice. In the pretest, respondents claimed that the questions are often repeated. An adequate formulation was found by introducing procedural justice questions with "in spite of the sentence." It is assumed that a better distinction can be reached between procedural and distributive justice than in previous studies.

Even though it is not yet possible to give exact figures, it appears that many defendants distinguish between outcome, outcome fairness, and procedural fairness. There are persons who have lost their case but still hold a favorable attitude to law, courts, judges, lawyers, and public prosecutors, and who believe they have experienced a fair procedure and received a fair sentence.

Defendants with and without court experience seem to differ in their expectations before the hearing. Newcomers often have little information about the court situation.

One objection to empirical justice research with *closed* questions might be that a perspective, which they do not share, is suggested to interviewees. In fact, when people are allowed to talk freely, they also mention aspects of procedural justice as they mention concerns about the absolute outcome. In the defendants' study, they are asked "How should the trial go to be ideal for you?" and "What should not happen under any circumstances in the trial?" prior to the process. "Acquittal" is the most frequent answer to the first question and it becomes obvious, that the defendants are worrying about the sentence. Several defendants hoped for a low sentence or suspension. Nevertheless, many talk about characteristics of fair process as mentioned in the American literature (e.g., Tyler and Lind, 1992). They want the court to take enough time, to hear the defendant's version of what happened, to be well prepared but not biased, and to give them a feeling of fair treatment. In addition, some are afraid of exposure to friends, relatives, and other spectators, being confronted with

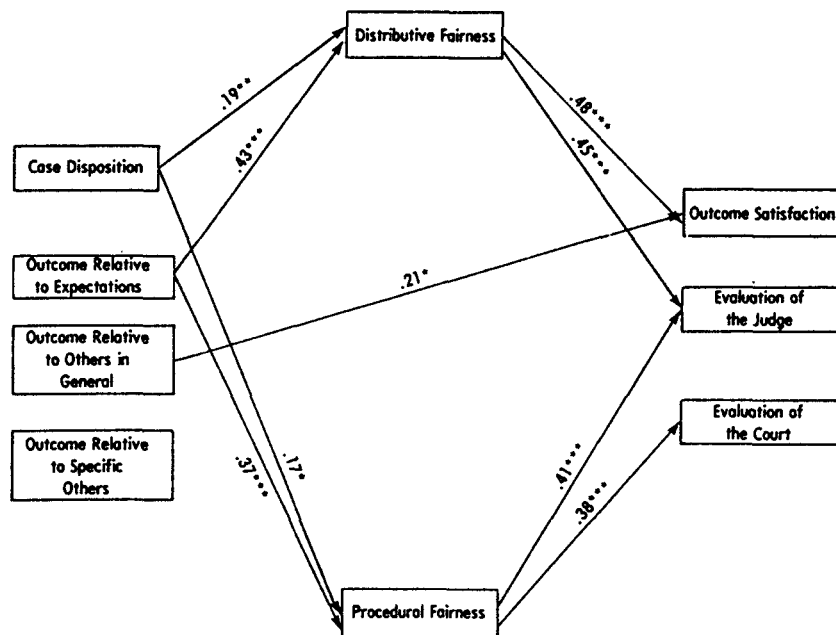
enemies they fought against, or of lying witnesses. These statements mainly reflect the antecedents of procedural justice judgments as described by Tyler and Lind (1992; Lind, 1994): standing (as a respected group member), trust (in the benevolence of the authority), neutrality (of the authority), and voice (to influence the decision). After their trial, defendants are asked to characterize the judge in their own words. Again, answers focus on the sentence as such and on procedural justice in the four dimensions mentioned above. The outcome relative to an independent criterion (e.g., the outcome received by other persons — equity theory) is hardly ever mentioned.

SENTENCE AND PROCEDURAL JUSTICE AS SEEN BY JUVENILE PRISONERS

In 1986, juvenile prisoners were interviewed to test Tyler's (1984) findings in "The Role of Perceived Injustice in Defendants' Evaluations of their Courtroom Experience" (Haller, 1987). Outcome level variables, distributive and procedural fairness were used as explaining variables for three dependent variables: outcome satisfaction, evaluation of courts, and evaluation of the judge. Tyler's path model (see Fig. 1) shows the direct and indirect effects that Tyler hypothesized (Tyler, 1984, p. 67). Tyler's respondents were defendants at lower criminal and at traffic court, only cautiously comparable with a sample of juvenile prison inmates.

Methods

One hundred twenty juvenile prisoners in the juvenile prison of Rockenberg (province Hesse/Germany) completed written interviews with closed questions. The juveniles, ages between 18 and 21 years, participated voluntarily. The core of questions was built by translation of Tyler's questions in his 1984 study. Interested readers can find information about the wording in Tyler's article (and in Tyler and Lind, 1992, p. 76). The questions on procedural justice, on sentence in relation to others generally, and on evaluation of courts were altered: "How fair did you find the process, by which your sentence has been reached?" "In comparison with how hard others are punished for the same deed, my sentence is better/worse than that of most." "How just do you assess the German courts in general?" In the evaluation-of-judge scale, a question on the juvenile's sympathy for the judge replaced an overall rating of the fairness of the judge as one of six items.



(Entries are beta weights, * $p < .05$, ** $p < .01$, *** $p < .001$.)

Fig. 1. Direct and indirect outcome influences.

Except the question on absolute sentence level (outcome level), questions had a 9-point-rating scale with contradictory poles (e.g., *very fair* and *very unfair*).

Some variables have to be explained further. There had been questions on absolute outcome level, on outcome level compared with own expectations, and on outcome level compared with others. All three variables are also combined into one general outcome level variable. The variable "evaluation of the judge" is composed of answers on several questions: satisfaction with the way the case was handled, fairness of behavior, sense of duty, courtesy, and honesty of the judge, and finally, sympathy of the juvenile for the judge.

Some questions on the role of lay assessors were added to Tyler's concept. Of the 120 juveniles, 115 completed these five questions. First, they had to assess the amount of influence lay assessors had. Then they were asked about the consequences on the process resulting from the participation of lay assessors. Four ratings had been given: The sentence is

more just or more unjust, the juvenile can be more or less satisfied with the sentence, the evidence has been considered more or less carefully, and the court has been more or less biased.

RESULTS

The juveniles had been sentenced to between 6 months and 8 years of imprisonment. The mean penalty was 2½ years. Only 7% received the expected penalty. Forty-three percent had a better and 50% a worse penalty than expected. Compared to others with similar cases, 13% believed that they were punished about the same, 43% harder, and 40% less.

Only 3% of the juveniles found their sentence very fair, but 17% found it very unfair. Thirty-five percent thought of their sentence as more fair, 51% as more unfair. (The formulation "more" comprises those who rated above (or under) 5 on the 9-point scale.) Only 5% responded that their process was very fair; for 13% it was very unfair; 23% were undecided; 34% said more fair; 43% more unfair.

Asked for their satisfaction with the sentence, 12% were very satisfied and 23% very unsatisfied. Thirty-four percent answered more satisfied; the others stated they were more unsatisfied.

The German courts were rated as very fair by 9%, but very unfair by 25%. Of the prisoners, 22% held the opinion that the courts were more fair; 53% held the opinion of more unfair.

Forty-three percent of juveniles valued their judge more positive, 56% more negative. Negative ratings resulted especially from the following answers: With regard to sympathy, 53% of the juveniles felt more negative, 14% chose the highest rating for having no sympathy; half of the prisoners experienced the judge's behavior as more unfair, 14% as very unfair; 13% rated the judge as very impolite, in sum 32% as more impolite; half of the respondents were more unsatisfied with the way the judge handled their case.

On the other hand, answers to the six questions showed that many juvenile prisoners valued their judge positively. Majorities said he was more honest (53%) and followed his duties ("more," 50%).

The mean value of the combined variable "evaluation of the judge" was 5.02, the middle of the 9-point scale. Similarly, the means of nearly all variables came near the middle of the scale. Moderate negative trends are shown only by the variables evaluation of courts ($\bar{x} = 6.08$), outcome satisfaction ($\bar{x} = 5.68$), and distributive justice ($\bar{x} = 5.59$). Relations between the variables are shown in Table I (Haller, 1987).

The absolute outcome level as well as the relative outcome levels are clearly set apart from procedural and distributive fairness. However, both fairness variables are not fully independent. The mean correlation of the integrated outcome and the integrated fairness variables is $r = .38$, $p \leq 0.001$.

No significant relation could be found with absolute outcome level on the one hand, and evaluation of courts, procedural fairness, and outcome satisfaction on the other. In addition, correlations of absolute outcome level with evaluations of distributive fairness and judge are low. Much higher are the correlations with outcome level relative to expectations (exception: evaluation of courts). Of all outcome variables, outcome relative to expectations had the highest correlation to the combined fairness variables. Outcome relative to others also had a stronger relation to fairness than absolute outcome.

Outcome satisfaction seems to be related much more closely with the combined fairness variables than with the combined outcome level variable. Influences on evaluation of the judge show the same pattern, but weaker. No significant correlations exist between the evaluation of courts and all other variables.

Results of a multiple regression analysis are noted in Table II (Haller, 1987). Outcome satisfaction is connected especially with outcome level relative to expectations and procedural justice, but the most with the expectations variable. That is the reason why the explained variance of outcome satisfaction is higher for the combined outcome level variable than for the combined fairness measure.

Tyler (1984) found that fairness evaluations had more impact on how affected persons think of courts and of judges than did outcome evaluations. Only in the case of evaluation of the judge does the German data correspond to this, but the level of explanation is low for all independent variables. Procedural justice shows the only significant beta weight. No significant beta weights are found for the evaluation of courts. There seems to be no influence of the surveyed outcome and fairness evaluations.

Do prisoners with long sentences differ from those with short sentences? Table III (Haller, 1987) shows the results of a mean value difference test between the third of respondents with the lowest (6 to 20 months) and the third of respondents with the highest (36 to 96 months) sentences. Both groups showed significant differences with regard to distributive fairness, outcome satisfaction, and evaluation of the judge. Juveniles with lower sentences valued them better. Exceptions are the evaluation of courts and procedural fairness where no significant differences were found. An additional test for the half of respondents with sentences under the mean sentence and the half with sentences above confirmed this pattern. But

Table I. Correlation Analysis^a

	Outcome level			Fairness			Evaluation of the judge	Evaluation of the courts	Total for outcome level variables
	Absolute	Relative to expectations	Relative to others	Distributive	Procedural	Satisfaction			
Outcome level									
Absolute	—								
Relative to expectations	.23 ^c	—							
Relative to others	.15	.58 ^d	—						
Fairness									
Distributive fairness	.26 ^c	.65 ^d	.46 ^d	—					
Procedural fairness	.13	.48 ^d	.31 ^d	.46 ^d	—				
Outcome satisfaction	.17	.76 ^d	.54 ^d	.62 ^d	.60 ^d	—			
Evaluation of the judge	.22 ^d	.43 ^d	.31 ^d	.36 ^d	.45 ^d	.53 ^d	—		
Evaluation of the courts	.09	.08	.07	.11	.13	.17	.15	—	
Total for outcome level variables	.96 ^d	.46 ^d	.37 ^d	.40 ^d	.23 ^c	.36 ^d	.32 ^d	.10	—
Total for fairness variables	.23 ^c	.67 ^d	.46 ^d	.86 ^d	.84 ^d	.71 ^d	.47 ^d	.14	.38 ^d

^aAll entries are Pearson correlations.

^b $p \leq 0.05$.

^c $p \leq 0.01$.

^d $p \leq 0.001$.

Table II. Regression Analysis^a

	Outcome satisfaction			Evaluation of the judge			Evaluation of the courts		
	Beta (1)	B(SE) (2)	R ² (3)	Beta (1)	B(SE) (2)	R ² (3)	Beta (1)	B(SE) (2)	R ² (3)
Outcome level									
Absolute	-.03	-.0004(.001)	.02	.12	.01(.00)	.05	.06	.00(.01)	.01
Relative to expectations	.48	.47(.08) ^b	.57 ^b	.20	.13(.08)	.18	.03	-.02(.11)	.0035
Relative to others	.12	.13(.07)	.28 ^b	.07	.05(.07)	.09	.02	.02(.10)	.0035
Total for outcome level variables	—	—	.58 ^b	—	—	.19 ^b	—	—	.01
Fairness									
Distributive	.14	.16(.09) ^b	.38 ^b	.02	.02(.09)	.12 ^b	.05	.05(.12)	.003
Procedural	.27	.33(.08) ^b	.35 ^b	.31	.27(.08)	.20 ^b	.11	.12(.11)	.01
Total for fairness variables	—	—	.50 ^b	—	—	.22 ^b	—	—	.004
Total for all variables	—	—	.66 ^b	—	—	.25 ^b	—	—	.02

^aEntries in columns 1 and 2 are the standardized and unstandardized regression coefficients for an equation including all variables. Numbers in parentheses are the standard error of the regression coefficient. Entries in column 3 are the adjusted square of the multiple correlation coefficient for variables entered singly or as a group.

^b $p \leq 0.001$.

Table III. Comparison of Respondents with High and Low Sentences

Variable ^a	No. of cases	\bar{x}	SD	SE	F	Pooled variance		
						Two-tailed prob.	t value	df
						Estimate two-tailed prob.		
Distributive fairness								
Group 1	39	4.59	2.44	.39				
Group 2	44	6.34	2.25	.34	1.17	0.61	-3.40	0.001 ^c
Procedural fairness								
Group 1	39	4.69	2.61	.42				
Group 2	44	5.73	2.16	.33	1.47	0.22	-1.97	0.052
Outcome satisfaction								
Group 1	39	4.74	2.85	.46				
Group 2	44	6.39	2.70	.41	1.12	0.71	-2.69	0.009 ^b
Evaluation of the judge								
Group 1	39	4.33	1.99	.32				
Group 2	44	5.83	1.52	.23	1.72	0.09	-3.90	0.000 ^f
Evaluation of the courts								
Group 1	39	6.15	2.15	.34				
Group 2	44	6.30	2.34	.35	1.19	0.59	-2.29	0.776

^aGroup 1: The third of respondents with the lowest sentences; Group 2: The third of respondents with the highest sentences.

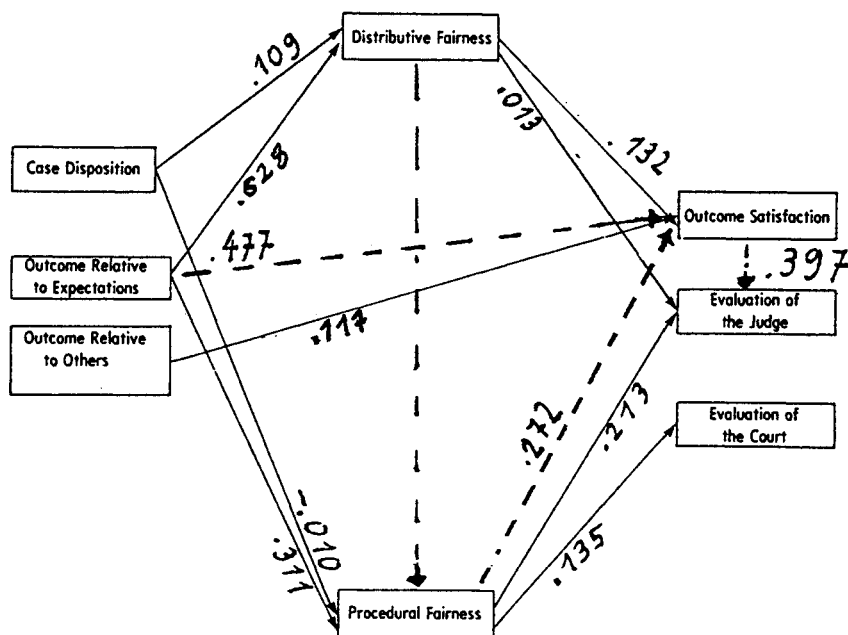
^b $p \leq 0.01$.

^c $p \leq 0.001$.

now the group difference for procedural fairness was also significant. Taken together, results in Table I and Table III indicate diminishing fairness evaluations as absolute outcome increases, but the relations of fairness evaluations with relative outcome levels are stronger. Finally, with a look at Table II, it has to be pointed out, that the determination coefficients of the combined outcome level ($R^2 = .19$) and the combined fairness evaluations ($R^2 = .22$) with evaluation of judge do not deviate much. The same pattern is shown with their influence on outcome satisfaction ($R^2 = .58$ and $R^2 = .50$). Outcome considerations are not predominant (Haller, 1987).

Tyler's path model (Fig. 1) for his data on defendants at misdemeanor and traffic court in Evanston, Illinois, was proven (Haller, 1987) for the German data using the statistical program LISREL. LISREL tests a proposed system of hypotheses as a whole, the quality of the test is determined by the quality of the underlying assumptions on causality (Backhaus *et al.*, 1990, pp. 225, 230 ff.). The model does not fit for the German juvenile prisoners' data. But, LISREL can also be used to explore a modified model; manipulability increases rapidly with the modified model (p. 311). Several modifications were tried and finally a model (see Fig. 2) with a probability level of .70 was found (Haller, 1987). Four paths are contained in addition to those of Tyler: from outcome relative to expectations and from procedural justice to outcome satisfaction, from outcome satisfaction to evaluation of the judge, and from distributive justice to procedural justice. Because of methodological problems, one has to be skeptical about the model. To test this hypothetical model with another data set does not lead any further because of the low explanation for evaluation of judge and courts derived from the independent variables surveyed. Either more explanatory variables have to be added, or there has to be a concentration on outcome satisfaction only.

What constitutes procedural justice? Several characteristics of a court procedure assumed to influence procedural justice were investigated (Haller, 1987). These characteristics have also been surveyed by Tyler (1984, p. 68). Among these was the perceived opportunity to present one's own version of the deed to the court. Of the juveniles 48% answered more positively and 42% more negatively. Whether the court had enough information was answered more positively by 51% and more negatively by 32%. Forty-three percent rated the time the court took to consider the case more positively and again 43% more negatively. Whether the court took the evidence into account was seen more positive by 46% and more negative by 34%. Only 27% were more positive on the question, whether the court weighed the evidence equally for both sides, whereas 46% were more negative. Forty-five percent saw the court as more biased and only 35% as more unbiased.



(Entries are beta weights)

Fig. 2. Hypothetical model for Haller's data.

Table IV. Additional Influences on the Evaluation of Fairness of Sentence and Procedure^a

	Fairness of sentence	Procedural fairness
Opportunity to present own version	.326 ^d	.349 ^d
Court		
Enough information	.361 ^d	.383 ^d
Time to consider	.305 ^d	.371 ^d
Biased	-.206 ^b	-.007
Took evidence into account	.269 ^c	.342 ^d
Weighed evidence equally	.198 ^b	.387 ^d
Fairness of rules	.304 ^d	.363 ^d

^aEntries are Pearson correlation coefficients.

^b $p \leq 0.05$.

^c $p \leq 0.01$.

^d $p \leq 0.001$.

Table IV shows the relations of these characteristics of procedure to distributive fairness and procedural fairness. The strength of relations is on a low and moderate level. Both fairness evaluations are related to the opportunity to present one's own version of the deed, the perceived information of court, and the time the court took to consider the case. If the court took the evidence into account, and if it weighed the evidence equally for both sides, influenced comparably strong procedural justice evaluations and had a lesser correlation with the opinion on distributive fairness. No relation could be found between perceived bias of the court and procedural justice. (Lind, 1994, reported a study on arbitration with no relation between these, too. The pattern is unusual, but not unique.) Bias of the court and distributive justice had a low negative correlation.

Finally, some questions aimed at an evaluation of the procedural justice of the type of process. Perceived fairness of the rules of court procedure is related comparably strongly to procedural and distributive fairness, as indicated in Table IV (Haller, 1987). Of the juveniles 37% rated the rules as more fair, 42% as more unfair. Additional data are available for the special type of court, the juvenile court with lay assessors. Nearly all the respondents (115 of 120) rated the influence lay assessors had on their process. Table V shows the relations. Although the juveniles had no unambiguous opinion on the influence of lay assessors with regard to the sentence, they attributed positive impact on distributive and procedural fairness to them. Moderately significant relations to procedural justice exist with their perceived influence on the fairness of sentence, sentence satisfaction, consideration of evidence, and bias of court. The participation of lay assessors enhanced feelings of procedural justice. From that point of view, this type of court seems appropriate for these juvenile cases.

Table V. Perceived Influences of Lay Assessors and the Evaluation of Fairness of Sentence and Procedure^a

	Fairness of sentence	Procedural fairness
Influence of Lay Assessors on		
Sentence	.103	.071
Fairness of sentence	.151 ^b	.334 ^d
Sentence satisfaction	.448 ^d	.293 ^d
Taking evidence into account	.287 ^d	.338 ^d
Bias of court	.139	.210 ^c

^aEntries are Kendall correlation coefficients.

^b $p \leq 0.05$.

^c $p \leq 0.01$.

^d $p \leq 0.001$.

DISCUSSION

The mean correlation between outcome level and fairness variables is $r = .38$, $p \leq 0.001$, indicating a moderate interdependence. As severity of sentence increases, fairness evaluations decrease. But fairness stays a relevant factor of its own. The factor on which fairness evaluations depend most strongly is the outcome relative to former expectations. Procedural and distributive fairness evaluations correlate with $r = .46$, $p \leq 0.001$, not as much as in Tyler's 1984 study ($r = .77$, $p \leq 0.001$) and the survey of Landis and Goodstein (1986, p. 693) on American adult prisoners ($r = .65$, $p \leq 0.001$). In contrast to Tyler's (1984) results, evaluation of the judge was much less influenced by outcome level and fairness evaluations ($R^2 = .25$), and no influence on evaluation of courts worth mentioning could be found. But the German results do not contradict Tyler's generally (Haller, 1987). Subjective procedural and distributive justice are also relevant in Germany.

Landis and Goodstein (1986, p. 701) identified procedural justice as by far the most important factor for perceived fairness of sentence. The German finding on the role of procedural justice was the opposite for outcome satisfaction. In both studies, the impact of outcome level relative to others was stronger than the impact of absolute outcome level. Similar to the German case, Casper *et al.* (1988, p. 495) noted an advantageous or disadvantageous sentence and perceived distributive and procedural fairness as determinants for outcome satisfaction. Their study was on convicted defendants. The opinion on judges held by these has been centrally influenced by perceived procedural fairness (Tyler *et al.*, 1988, p. 12 ff.). Evaluations were also formed by attitudes on the political system and the justice personnel prior to the criminal procedure (p. 13). Only a pre-post design study can prove this for a German setting.

The evaluation of the judge by the losing party does not, as Luhmann argued (1975, p. 111 ff.), depend primarily on the outcome of procedure. Evaluation of the judge and the courts as well as outcome satisfaction are not only a consequence of winning or losing or of outcome level. Empirical research on justice, if it takes procedural justice into account, questions fundamentally the predominance of the *homo oeconomicus* as an explanatory pattern (Tyler, 1990, pp. 171-178; Tyler and Lind, 1992; Landis and Goodstein, 1986, p. 705).

The relevance of being treated with respect for one's own dignity, detailed by the factors influencing procedural justice evaluations, especially the opportunity to present an own version of what happened, seem to support the group value model. Procedural justice also had the relatively strongest influence on the evaluation of the judge. On the other hand, pro-

cedural justice, as measured in the German juvenile prisoners study, could explain nearly nothing of the evaluation of the courts, contrary to the model. So there is an ambivalent result regarding the group value model. A possible explanation might be that former opinions on courts were not altered by a single experience. Juveniles usually are not sent to jail for their first offenses. Thus, the latest trial is only one of several court experiences. The respondents might have also been influenced by stereotypes of their social backgrounds. A second explanation might be that juvenile prisoners had been interviewed regardless of how much time had passed since their trial. Other factors could have changed attitudes toward courts in general, whereas the image of the judge, the person presiding at their own case, remained. It has to be noticed, that the group value theory especially assumes experiences in encounters with persons to be remembered. This had been the case.

The German data confirm theories including a comparison with internal or external references for outcomes (Haller, 1987), if they do not claim them to be the predominant factors. The equity theory fails to explain the data because outcome relative to others clearly had a minor or no significant influence on the evaluations of fairness, courts, and judges, and on outcome satisfaction. These results are contrary to the predictions of equity theorists.

Absolute and relative outcome level, procedural and distributive fairness, investigated in the manner mentioned above, did not contribute much to the explanation of the evaluation of the judge ($R^2 = .25$). Additional influences have to be surveyed, e.g., between outcome satisfaction and evaluation of the judge there was a relation of similar intensity ($r^2 = .28$). It remains unclear which factors other than the examined outcome and fairness variables influenced outcome satisfaction (Haller, 1987). As mentioned, no significant relations were found with evaluations of the courts. The additional factors analyzed by the German defendants study introduced above or analyzed by Casper *et al.* (1988) possibly contribute to an even better understanding.

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