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Journal Article

http://eprints.bbk.ac.uk/5039

Version: Accepted (Refereed)

Citation:

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Publisher Version

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Researching trust in the police and trust in justice: A UK perspective

Mike Hough

Abstract

This paper describes the immediate and more distant origins of a programme of comparative research that is examining cross-national variations in public trust in justice and in the police. The programme is built around a module of the fifth European Social Survey, and evolved from a study funded by the European Commission. The paper describes the conceptual framework within which we are operating – developed in large measure from theories of procedural justice. It reviews some of the methodological issues raised by the use of sample surveys to research issues of public trust in the police, public perceptions of institutional legitimacy and compliance with the law. Finally it gives a flavour of some of the early findings emerging from the programme.

Key words: Trust in police; police legitimacy; procedural justice; European Social Survey

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Introduction

I have had a long-standing interest in police research, and much of this has focussed directly or tangentially on issues relating to trust and confidence. At the time of writing, I was coming to the end of a project funded by the European Commission on measuring public trust in criminal justice. The project, which has a strong policing focus, has accumulated comparable survey data on public trust in justice in Bulgaria, the Czech Republic, England & Wales, France, Italy and Lithuania. This project had fed into a further and more extensive piece of comparative research, which used the European Social Survey (ESS) to explore variations in public trust in policing and the courts across 28 countries. We shall test various hypotheses derived from procedural justice theory (see below) about the factors that shape public perceptions of institutional legitimacy and public commitment to the rule of law. My colleagues on the ESS project and I are planning to extend and internationalise this work, with surveys in progress, planning or in aspiration in Australia, Chile, Japan and South Africa. This paper aims to describe the immediate and more distant stimuli that led to this programme of research, describes the conceptual framework within which we are operating and reviews some of the methodological issues raised by the programme.

Origins in research on policing and on public attitudes to punishment

My first significant policing research project was carried out in the late 1970s at the Home Office, and I am not sure if it should be a source of concern or reassurance that many of my current research preoccupations continue to reflect that study in a fairly direct way. My remit was to see how the – then cutting-edge – technology of computer-aided despatch being developed for Strathclyde Police (a Scottish police force including the Glasgow conurbation) could be exploited to provide useful management information. It turned out that the technology was almost completely ignored by police managers. In explaining this, I argued that the definitions of policing objectives proposed by the information technologists were impoverished and reductionist, failing to take into account that police work is to do with the exercise of power:

"Issues about the maintenance of authority and the exercise of power are central in assessing police performance."   (Hough, 1980: 354)

The technologists had designed their systems to support a 'rational deterrent' crime-fighting model of policing to which police managers formally assented – even if they knew at an intuitive level that this was not what police was really about. The end result was that the tools designed for them *looked* useful, but actually had little relevance to police management.

I returned to this theme two decades later, when my research centre was funded to conduct a replication of – or at least a sequel to – the well-known (1983) study by David Smith and colleagues of policing in London. The main research problem that we wanted to address was the clear decline in public ratings of the police, which had been sharpest in the second half of the 1990s when crime in London was falling most steeply. The answer that we offered (FitzGerald et al, 2002) was that the government's New Public Management approach to the governance of public services had imposed on the police a set of overly-simple performance targets that had distorted police practice, demoralised the workforce and alienated the police from their public. "Only what gets counted gets done" was a persistent complaint from both front-line staff and middle managers, who felt that real policing was being displaced by activities designed simply to hit targets. These targets were premised on policing as a crime-fighting activity that relied on strategies designed to secure instrumental compliance – something that was only a faint reflection of reality. Our main conclusions were that:

- The London police needed to achieve a better balance between 'crime fighting' objectives and the equally important ones of 'peace keeping' and 'order maintenance if it was to retain the consent of Londoners.
- They needed to find ways of managing performance that place greater emphasis of achieving professional standards and less emphasis on hitting numerical targets.
- The legacy of discrimination and over-policing continued to overshadow the MPS's relations with black people and the police needed to guard against the risk of similar tensions arising with other groups.

The analysis in our policy report deployed concepts such as trust and consent, but only later were the findings presented explicitly within a procedural justice framework. For example:

> My hope is that if politicians accord more importance to the legitimacy of institutions of social control, these institutions will treat citizens with more respect and dignity than they do when pursuing the narrower remit of crime control. (Hough, 2007).

If my policing research drew me steadily towards issues of public confidence, trust and commitment to the rule of law, originally unrelated research on public attitudes to crime and punishment also pointed in the same direction. Early work on the British Crime Survey (eg Hough and Mayhew, 1985; Hough and Moxon, 1986) indicated that the public were not as punitive as had previously been thought; nor were victims notably vindictive towards 'their' offenders. This research prompted an extensive programme of research into attitudes to punishment (eg Hough, 1996; Hough and Roberts, 1998, 1999, Roberts et al, 2002; Roberts and Hough, 2003) which showed on the one hand extensive cynicism about sentencers and sentencing, and on the other, a set of sentencing preferences that did not seem to be significantly out of line with actual practice. The resolution of this paradox was to be found in levels of public ignorance about court practice: most people tended to overestimate the lenience of current sentencing practice. This research, especially those parts of it done under contract to the British Home Office, was politically influential, encouraging politicians and their officials in the Home Office to take more seriously issues of public confidence in the courts. At the time, we failed to make any real connection with the growing body of work in the United States on theories of normative compliance, though with the wisdom of hindsight, we clearly should have done so.

A conceptual framework for examining trust in justice: theories of normative compliance

Classical criminology and common-sense thinking about crime tend to appeal to a simple model of crime control in which:

- people are rational-economic calculators in deciding whether to break the law;

- a deterrent threat is the main weapon in the armoury of criminal justice;
- offenders – and thus crime rates – are responsive primarily to the risk of punishment, which can vary on dimensions of certainty, severity and celerity;
- increasing the severity of sentencing, and extending the reach of enforcement strategies, are therefore seen as sensible responses to crime; and,
- offender rights tend to be seen as a constraint on effective crime control.

More subtle models of crime control recognise that formal criminal justice is only one of many systems of social control, most of which have a significant normative dimension. People choose not to offend out of moral or ethical considerations, and not – generally – through a calculation of self-interest. Criminology has given insufficient attention to questions about why people comply with the law, and too much attention to questions about why people break the law (cf Bottoms, 2001). The imbalance is important, because questions about reasons for law-breaking tend – not inevitably but because of the political climate in which policy is developed – to yield answers framed within the boundaries of the simple crime control model described above, finding solutions to crime control that are designed to secure *instrumental compliance.*

Questions about compliance, by contrast, yield answers that recognise the interplay between formal and informal systems of social control, and in particular the normative dimensions in people's orientation to the law. Normative compliance with the law occurs when people feel a moral or ethical obligation or commitment to do so. Theories of normative compliance posit a range of mechanisms by which people acquire – or lose – norms of acceptable behaviour.

It is helpful to think of a broad family of compliance theories which can be traced back to Durkheimian and Weberian thinking about the roots of social order. There are two distinct sides to the family. On the one hand, there has been increasing (or perhaps, more accurately, rediscovered) interest over the last two decades in the relationship between 'political economy' (cf Reiner, 2007), which trace the connections between the social distribution of wealth and attachment to – or detachment from – social norms. The emergence of neo-liberal economic policies is obviously implicated in the renewed academic interest. The idea that high levels of income inequality fuel crime is almost a criminological truism, with a long sociological pedigree

in strain theory. Theories of institutional anomie (cf Messner and Rosenfeld, 2001, 2010) serve as good current variants on this line of thought. According to these, rapid transitions towards the values of free-market economies can unbalance and weaken traditional normative systems of social control. Over the last two decades, establishing the relationships between forms of inequality and detachment from social norms has become less a matter of speculative sociology and increasingly an empirical issue. There is a growing body of comparative research looking at relationships between economic inequality, trust in institutions and crime rates (eg Lappi-Seppälä, 2011; Cavadino and Dignan, 2005).

On the other hand, there are compliance theories about the impact on societal norms of the institutions of formal social control, such as the work of Robinson and Darley, and that of Tom Tyler. Thus Robinson and Darley (1997) argue that if the law's potential for building a moral consensus is to be exploited, the sentence of the court must be aligned at least to some degree with public sentiments. If Robinson and Darley argue the need for judicial *outcomes* to be aligned with public values, Tyler (eg 2006, 2010, 2011) emphasises the need for justice institutions to pursue fair and respectful *processes* as the surest strategies for building trust in justice, and thus institutional legitimacy and compliance with the law. This is the central hypothesis in procedural justice theory.

The two broad families of compliance theory – with their different emphasis on securing social justice and a fair system of justice – are obviously compatible. Social justice and fairness in the justice system are both likely to be preconditions for a well-regulated society. However, only the second family, and within this, procedural justice theories in particular, carries direct implications for policy and practice within policing and criminal justice. Many criminologists would like to see the crime-preventive dividend of a fairer distribution of income and wealth, but for police chiefs and for politicians with explicit responsibility for crime control, and, these arguments are inevitably subsidiary to ones about what they should do in the 'here and now' of improving systems of justice.

Procedural justice theories
Procedural justice theories are especially useful in making sense of issues around trust in the police, beliefs about police legitimacy and public compiance and cooperation with the law.

Legitimacy is a central concept here. There are two uses of the term. Political philosophers often talk of political systems as achieving legitimacy when they meet various agreed objective criteria, to do with acceptance of democratic norms and observance of human rights. Assessments of this sort also involve subjective judgements, of course, about the nature of the 'good or just society.' But there is a separate set of questions about the ability of a criminal justice system to command legitimacy in the eyes of the public - whether the *policed* see the *police* as legitimate. These questions are open and empirical, and require examination of public attitudes, values, behaviours and beliefs.

Perceived legitimacy exists when the policed regard the authorities as having earned an entitlement to command, creating in themselves an obligation to obey the police. If people willingly offer their obedience to systems of authority that command legitimacy, questions about the 'drivers' of legitimacy become of central policy importance. Procedural justice theories propose that perceived legitimacy flows from public trust in institutions; and that public trust is at least in part a function of the quality of treatment that the public receive from justice officials. Thus if the police treat people fairly and respectfully, and if this treatment is aligned with public perceptions of morality, they will be regarded as having legitimate authority, and will be better able to command compliance and cooperation.

Penal populism and procedural justice

It is a straightforward enough idea that people are more likely to comply with the criminal law, and with law officers, when these are seen to be fair and even-handed. In reality however, many developed countries have seen a progressive toughening up of their criminal justice policies, and a growing political impatience with what is seen as a debilitating culture of human rights. There has been a marked coarsening of political and media discourse about crime and justice (cf Lappi-Seppala, 2011). It seems fairly clear that there are structural pressures on politicians – which are intense in some forms of 'adversarial' two-party democracies – to offer tough, no-nonsense, populist solutions to crime problems. The difficulty with this is that no-nonsense solutions often tend to be genuinely nonsensical, premised on the faulty assumption that persistent offenders adopt the form of *homo economicus,* fine-tuning their criminal behaviour in the face of varying levels of deterrent threat. Criminal justice politicians risk getting trapped within these over-

simplified economic theories of instrumental compliance. This is not to argue that instrumental strategies for securing compliance are redundant; but to place them as the centrepiece of justice policy is a fundamental misjudgement.

Procedural justice theorists (eg Tyler, 2009, 2010) argue that strategies of instrumental compliance are costly and ineffective. The argument is that motive-based, voluntary self-regulation based on perceptions of the legitimacy of the law is more effective, more economical and more durable over time. According to the procedural justice perspective people are willing to accept decisions and outcomes that they do not regard as being in their personal best interests – provided that they consider justice institutions and officials to be wielding legitimate authority. This points to the possibility of creating a system of social control which is based upon the willing consent and cooperation of citizens, rather than upon the threat of punishment. If such a vision is to be even partly achieved, it will be important to nudge political and public debate towards a greater appreciation of the normative dimension in regulating behaviour. For liberally minded reformers a particular attraction of procedural justice theories are that they promise to resolve the tension that is often thought to exist between effective crime control and the respecting of people's rights[i]. They point to the conclusion that fair, respectful and legal behaviour on the part of justice officials is not only ethically desirable, but is a prerequisite for effective justice.

Researching trust in justice

Theories of normative compliance concern the processes by which social structures or individuals inculcate in people a sense of moral obligation. These are subtle processes, and social research is often crude – especially when it relies on quantitative methods. It is reasonable to ask whether the available research methods are sufficiently sensitive to handle this level of complexity. The focus of this paper is on theories that explain the impact of institutional behaviour – and the behaviour of the police in particular – on compliance. First, however, let us briefly consider those compliance theories that argue that particular forms of economic and social structure support or compromise normative compliance.

These are typical theories about country-level (or possibly, in federal systems, state-level) socio-economic structure – for example that countries with high levels of income inequality – will have high levels of crime. The basic idea is perfectly testable through comparative research: increasingly there is now 'good enough' cross-national data on crime, and rather better statistics on income inequality. In principle, at least, multivariate modelling can be carried out to test for the presence or absence of the proposed relationship, other things being equal. In practice, it is still difficult to establish a comparative database with sufficient observation points and sufficient variables to allow a clear picture to emerge (cf Dignan and Cavadino, 2005; Wilkinson and Pickett, 2009; Lappi-Seppälä, 2011). There appears to be an inequality effect, albeit with exceptions, and mediated by other factors. Whether one can put to empirical test the social-psychological theories implicit in such hypotheses is another matter; it is probably more of an interpretative art than a social science to construct explanations about the impact on people's moral values of prolonged exposure to materially competitive societies where the rules of the game are rigged in favour of particular groups. Nevertheless there is obviously a role here for qualitative, ethnographic research.

Researching the other side of the family of compliance theories – relating institutional behaviour to normative compliance – also poses a number of serious challenges. In general terms, these theories propose relationships between:

- the behaviour of criminal justice institutions or agents
- the ways that this behaviour is perceived on ethical and moral dimensions
- the ways that these perceptions shape public perceptions of legitimacy
- the ways that perceived legitimacy affects compliance and cooperation with the law.

Research that tests for these relationships has to overcome two sets of significant problem: those of measurement, on the one hand, and problems of causal inference, on the other. Added to these are additional questions about the 'reach' of surveys – whether one can generalise from surveys of the general public to groups who are heavily involved in criminality – and more specific ones about achieving genuine comparability in cross-cultural comparative research.

Problems of measurement

Anyone wishing to examine public trust in the police and its correlates necessarily has to engage in some way with public opinion, and thus, pretty much inevitably, with survey research. It is reasonable to ask whether quantitative surveys are sensitive enough to capture the phenomena under examination. Have we really identified meaningful latent constructs such as trust in police fairness; are we seriously claiming to be able to measure these constructs by the construction of scales that combine responses to very limited sets of attitudinal items[ii]? And if attitudinal measurement poses challenges, can self-reported measures of law-breaking *really* be treated as valid indictors of preparedness to break the law?

These are fair questions to ask. The best response, to my mind, is to acknowledge that quantitative sample surveys are indeed crude and reductionist, and that to recognise that construction of theories *ex post facto* from descriptive surveys would be highly questionable in this field. However, the situation is very different if one sets out to test a set of hypotheses specified in advance; and if the relationships that we expect to emerge do indeed turn out to exist, this should actually give us some confidence in our conclusions. To use the terminology of information theory, our measures are likely to have a high ratio of *noise* to *signal*; if despite this, the research still presents a coherent signal, then it can be treated as reasonable evidence.

Problems in attributing causality

Even if we succeed in establishing a correlation between, say trust in the police and perceptions of legitimacy, how can we make any claims about the direction of causality? Is it not always possible to construct an alternative account of the relationship? For example, one might argue that people who are disposed to comply with authority would inevitably say that they trusted the police, and that it is naïve to infer from surveys that trust in the police engenders compliance. These problems are at their most acute with cross-sectional 'snapshot' surveys, of course. There are three possible responses to critiques of this sort. First one can make *some* inferences about cause and effect from the relative strength of associations found for different variables in whatever form of multivariate modelling one applies to the analysis. Secondly, as with problems of measurement discussed above, research that is designed as theory-testing, examining

hypotheses that are specified in advance, is generally more persuasive than the sort of abstracted empiricism that finds explanations for data patterns after the event. Finally, of course, one needs to apply research designs that make causal attribution easier. Thus it may be possible to exploit the longitudinal nature of panel surveys; or one may be able to move from observational research designs to experimental ones.

Problems of research 'reach'

Much criminological research involves study of hard-to-reach groups; the survey methods typically used to test hypotheses such as those derived from procedural justice theory involve the easy-to-reach – sample of the general adult population. One might argue that 95% of the population are subject to mechanism of normative compliance; but that the study of criminology involves precisely about the 5% with a long history of non-compliance in relation to parents, teachers, social workers, youth justice workers and police. For this small group, the argument would run, no amount of procedural fairness on the part of police will return them to the fold.

There is some force in this argument, in that social and economically marginalised young men and the group least well-represented in population surveys. On the other hand, there are studies of offender populations that demonstrate very clearly that fair treatment is important to them and is related to compliance with authority. The best example is to be found in the work of Liebling and colleagues (2010), whose work demonstrates that fair and respectful treatment of prisoners by staff leads to a safer and more orderly regime. Other work, such as Paternoster et al., 1997, has also identified procedural fairness on the part of police officers when making arrests as a factor predicting reduced recidivism. More generally, Sherman (1993) proposed his defiance theory whereby deterrent strategies could prove counterproductive when applied in procedurally unfair ways.

It is important not to over-claim, of course. There are people whose offending is heavily entrenched, and it is fanciful to propose that they will abandon a life of crime after exposure to respectful, polite and procedurally correct policing. Obviously there is a need for some realism: people who become heavily entrenched in various forms of law-breaking will probably be totally inured to attempts to rekindle in them norm-based motivations to comply with the law. But it

does seem plausible that such people's pathways into offending might have been accelerated or obstructed by different styles of policing at earlier stages in their lives.

Cross-cultural comparability

Finally, given that comparative research is likely to prove an increasingly important tool in understanding the processes of normative compliance, there are questions to be asked about the possibility of genuinely comparable surveys carried out in different languages in different cultures. When Country A scores higher on trust in policing than Country B, several things may explain this. There may simply be differences in levels of trust – because Country A is more trusting or enjoys better policing; the two countries may differ in their preparedness to articulate trust; or there may be differences in the concept of trust; or the translators may have selected terms for 'trust' that are no precisely equivalent. (These problems exist even in comparative surveys using a single language: remember that 'quite good' in the US is a lot better than 'quite good' in the UK.) Undoubtedly there are risks of this sort in cross-cultural research. There are two possible responses. First, there are methodologies to ensure that questionnaires in different languages are functionally equivalent, such as translation followed by back-translation (where the translated version is translated back into the source language by another translator.) Secondly, one should take great care not to over-interpret the findings from a single study. Theory-testing is a cumulative process, and it is simply unrealistic to expect a single study – even when conducted on a large scale – to offer definitive and unequivocal answers to all the research questions that it has set itself.

Euro-Justis and the European Social Survey (ESS) 'trust in justice'module

At this point in the paper the reader probably needs a little more information about our EU Euro-Justis project and the ESS module on trust in justice. The European Commission provided €1.5m funding for the Euro-Justis project under its Socio-Economic Sciences and Humanities Programme of the 7th Framework Programme for Research programme. The proposal that we submitted had technical and political dimensions to it. The former involved the design of a set of indicators that would allow members states to measure trust in (criminal) justice. The latter

involved the exploration – and promotion – of procedural justice ideas. Proposals for the programme are selected against criteria of scientific quality, assessed by peer review, and thus it is impossible to say whether our political agenda was in any sense supported by the relevant policy directorates in the Commission – or whether it simply scored very highly on review criteria. Whatever the case, we found ourselves with a well-resourced project to develop a suite of survey indicators, that were theoretically firmly grounded. We had resources to run quantitative pilot surveys using our indicators, but these were limited in terms of sample sizes and in terms of geographic coverage.

A significant outcome of the Euro-Justis project was a successful bid to the ESS for space in its fifth sweep, conducted in 2010. The ESS, conducted with support from the EU but with fieldwork funded by individual member-states, consisted of a core questionnaire and variable modules. Academic researchers are invited to bid for space in these modules, and we were well placed to develop a bid. Out of a field of sixteen, ours and one other succeeded, and a sub-group of the Euro-Justis team spent much of 2010 refining the Euro-Justis suite of questions into a 45-item module on trust in justice (see Jackson et al., 2011). Bearing in mind that the core questionnaire already included *some* items of attitudes to justice, and others on social and institutional trust, we shall end up with the equivalent of a bespoke survey that would take 30-35 minutes to administer, carried out to high standards in at least 28 European countries. At the time of writing data were due to be available in the Autumn of 2011. The total sample will include around 40,000 adults, and to conduct a free-standing survey of this sort would require funding of several million Euros. The point here is that we have been fortunate enough to find ourselves with the opportunity to design a comparative research project on a scale which is very rare in Europe.

The module was designed specifically to test procedural justice hypotheses about the linkages between trust in the police and the courts, perceptions of legitimacy, perceptions of the risks of sanction, self-reported offending, and preparedness to cooperate with justice officials. Each concept is operationalized by constructing scales, usually derived from three attitudinal items. Thus for example, the questionnaire contains three attitudinal items on trust in police effectiveness, three on trust in police fairness and three on beliefs that the police share

community values; then there are sets of questions covering police legitimacy; equivalent questions are asked about the courts; self-report offending items are asked, and so on. Preliminary analysis of the data from the Euro-Justis pilots, which include all the ESS questions, show that the various items usually combine well into scales, as intended. When available the ESS data will be analysed using multi-level modelling techniques, in which the survey data are combined with country-level data on factors such as levels of wealth, levels of income inequality, levels of social mobility, investment in policing, use of imprisonment, the prevalence of corruption in justice and so on. In other words, we shall have a dataset that will permit the testing of a range of hypotheses drawn from both sides of the family of compliance theories discussed above. The key dependent variables in these analyses will be measures of compliance with the law, and cooperation with the law (the latter including measures such as the preparedness to report crime); however, we also plan to model the drivers of public punitivity.

Some preliminary findings

We are able to present some preliminary findings that relate to the UK, because the National Policing Improvement Agency (NPIA) recently fielded some of the core ESS questions on public trust and police legitimacy in a representative sample-survey of England and Wales. The survey allows us to test what relationships exist between measures of public trust in the police, measures of perceived legitimacy and people's self-reported compliance with the law and cooperation with the police. Figure 1 summarises the findings (which were originally reported in Hough et al., 2010).

Figure 1: Public trust and police legitimacy in England and Wales
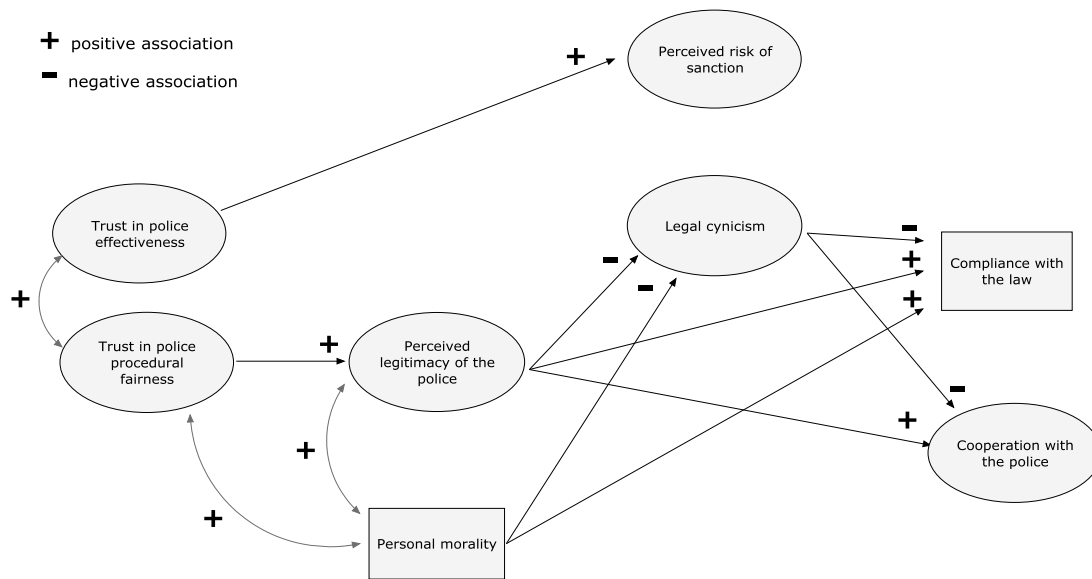
First, consider the distinction between instrumental and normative compliance. The instrumental route to compliance is where people comply with the law because the police present a powerful risk of sanction and punishment. By contrast, the normative route is where people comply with the law not out of fear of punishment but because they feel they ought to. Here, the NPIA data are unequivocal: while trust in police effectiveness is an important predictor of people's sense of the risk of sanction, the perceived risk of sanction is not a significant factor in compliance with the law. Thus the NPIA survey does not offer support for the simple deterrence-based models of crime control outlined above. This suggests that deterrence is not the quickest route to securing compliance.

Second, trust in the police was an extremely powerful predictor of perceived legitimacy. The experience of procedural fairness fosters in people feelings of motive-based trust in (and shared group membership with) the authority concerned – that both it and they are 'on the same side.' The manner in which people – as members of social groups – are treated by those in authority communicates information to them about their status within those groups. When police provide individuals with appropriate status information (through fair procedures), they are more likely to

feel a sense of obligation to the police and more likely to feel aligned with the ethical and moral framework they believe the police to embody. That is, they are more likely to perceive the police to be legitimate.

Third, police legitimacy is a powerful predictor of compliance, even holding constant personal morality. Importantly, a good deal of this statistical effect is mediated through legal cynicism. The ways in which the police wield their authority in part generates their perceived legitimacy, and if they treat people unfairly, legitimacy suffers and people become cynical about human nature and legal systems of justice. This then leads them to view certain laws and social norms as not personally binding.

Finally, public cooperation with the police was also strongly predicted by legal cynicism, perceived police legitimacy and personal morality. Such cooperation is for the police just as important an outcome of legitimacy as is the perceived obligation to obey and compliance with the law. Without the cooperation of the public policing in developed democracies would become essentially unworkable. Acts of cooperation may also serve to cement the relationship between police and public and promote the view that addressing crime is a collaborative process, and not just about delivering services.

It remains to be seen whether the ESS yields results that are so consistent with procedural justice theory. The most likely outcome is that in some countries, the predicted relationships will prove to be strong, whilst in others they will not. Analysis of the Euro-Justis pilot data has not to date yielded such a clear-cut picture as the NPIA data, though analysis continues.

Political take-up of procedural justice thinking in the UK

Procedural justice thinking has achieved considerable traction in the United States over the last decade and a half. Has there been an equivalent take-up in the UK? The short answer must be, "Only obliquely, and to a much lesser extent". The New Labour administration placed progressive emphasis on improving public confidence in justice from 1997 until 2010, when it

lost power. I have argued elsewhere (Hough, 2007) that ideas of trust, legitimacy and compliance partly underpinned this policy, but they lay submerged in policy debate. Politicians and senior police found it easier to talk about building public confidence as a route to securing public cooperation in 'the fight against crime'. (New Labour rhetoric often deployed the idea of the 'law-abiding majority' standing shoulder to shoulder with government in this fight, wrongly presupposing that everyone except a small minority of "criminals" comply unproblematically with the law.)

Senior officials in the Home Office and Ministry of Justice are certainly familiar with the ideas and terminology of procedural justice, but it is probably fair to say that they have not found (or been offered) the right vocabulary for presenting procedural justice ideas to their political masters for use in the overheated and over-simplified political debate about crime and punishment. A polysyllabic word such as legitimacy has very little political utility. On the other hand some key institutions have engaged much more explicitly with procedural justice ideas. The clearest example is the National Police Improvement Agency, which commissioned the survey whose headline results are reported above[iii]. The Metropolitan Police Service has also shown considerable interest, and this is reflected in its strategic research programme (see Stanko et al., this volume). HM Inspectorate of Constabulary has also proved responsive to procedural justice thinking.

It is possible that we are now at a turning point, for two reasons. First, at a time of deep cuts to public expenditure procedural justice thinking offers the prospect of ways of improving police effectiveness without extensive investment. Secondly, it is possible that the lessons learnt in the Afghanistan and Iraq wars about the counterproductive effects of the deployment of overwhelming force in foreign policy may spill over into domestic policing policy. Two preconditions have to be met before the new coalition government is likely to adopt procedural justice thinking. First, they will need to package these ideas in ways that make them distinctively different from the previous administration's policies on public confidence. And second, they need to find a way out of the *cul de sac* into which they have backed themselves about human rights, whereby rights, at least as they apply to offenders, are seen as a needless imposition by judges in thrall to European conventions.

Challenges for this research agenda

Perhaps the most challenging issue for criminology in this area is to achieve a degree of integration in the two forms of compliance theory that I identified at the start of this paper. What are the relative weights that should be attached to social justice and fair systems of justice in building and retaining normative commitment? Is social justice (or perceived social justice) a precondition for building the legitimacy of the institutions of justice? Or can the police and other part of the justice system manage to command legitimacy even in societies that have very extensive social and economic inequality?

Focussing more sharply on procedural justice theories, several questions pose themselves. First, how robust is the conceptual distinction between fair processes and fair outcomes? Should not fair procedures generally guarantee fair outcomes? Obviously these are to some extent empirical questions, but (consistent with Robinson and Darley's work), it seems intuitively clear that damage will be done to the legitimacy of justice when there is a widespread perception that the courts are too lenient – even if the process by which this happens are procedurally beyond challenge. Secondly, how culturally universal are the relationships that have been traced by Anglo-American research between trust, legitimacy and compliance? We expect to find extensive consistency across countries and cultures, but there may well be a requirement for a basic level of competence (or effectiveness) in justice and a basic level of freedom from corruption before this occurs. Finally, it is worth remembering that those of us in developed economies live in times marked by extraordinarily high levels of civility and cooperation. Procedural justice theories involve the fine-tuning of the processes by which normative commitment to standards of legality and civility is maintained. This enterprise could, of course, lose its relevance entirely if factors such as climate change and growing ideological conflict rob us of the stability to which we are accustomed.

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Notes

[i] For more radically minded reformers, of course, procedural justice approaches to crime control may appear a threat, in the sense that they may be construed as promoting false consciousness amongst the victims of economic inequality, that make their relative disadvantage more tolerable.

[ii] Problems of this sort are at their most evident in studies of subjective well-being. It is remarkable that people are prepared to answer questions such as, ''All things considered, how satisfied are you with your life as a whole these days? (http://www.esds.ac.uk/international/resources/wellbeing.asp)

[iii] Though the NPIA is scheduled to be disbanded as part of public spending cuts.