

**PERCEPTIONS OF JUSTICE AMONG MINORITY
CULTURES: IMPLICATIONS FOR YOUTH JUSTICE
CONFERENCING**

Diane Sivasubramaniam, PhD Student
School of Psychology, University of New South Wales

and

Jane Goodman-Delahunty, Associate Professor
School of Psychology, University of New South Wales

*Paper presented at the
Juvenile Justice: From Lessons of the Past to a Road Map for the Future Conference
convened by the Australian Institute of Criminology
in conjunction with the NSW Department of Juvenile Justice
and held in Sydney, 1-2 December 2003*

This paper examines ways in which people may perceive fairness in the legal system, focusing on cross-cultural differences. The effects of these factors on the way in which young people may perceive fairness in different models of Youth Justice Conferencing is reviewed.

Perceptions of Fairness

Numerous psychological studies have outlined the importance of perceptions of fairness of legal procedures, in encouraging people to willingly comply with the law. When people perceive legal procedures as fair, they are more likely to perceive legal authorities as legitimate. This, in turn, leads to higher compliance with the law, and higher levels of public co-operation with legal authorities (Sunshine & Tyler, 2003). It is, therefore, important to consider factors that influence perceptions of fairness in the legal system.

Power-Distance

Recent research has demonstrated the impact of various individual difference dimensions on people's decisions about fairness. Power-distance is one such dimension (Tyler, Lind & Huo, 2000). Power-distance refers to the distance people believe to be appropriate between authorities and subordinates. People high on power-distance tend to believe that there should be an extensive distance between authorities and their subordinates. In contrast, people low on power-distance tend to believe that there should be little distance between authorities and their subordinates (Hofstede, 1980).

There are cross-cultural variations in power-distance; power-distance tends to be high in cultures that measure high on Collectivism, and power-distance tends to be low in cultures that measure high on Individualism (Triandis, Bontempo, Villareal, Asai & Lucca, 1988).

While power-distance emerged as early as 1980, it has been a relatively robust construct in the literature. Hofstede and Pederson (2000; cited in Robert, Probst, Martocchio, Drasgow & Lawler, 2000) argued that the relative standings of cultures on the Hofstede variables have been generally stable over time. However, while power-distance varies across cultures, it also varies within cultures, and so does not align perfectly with cultural divisions. More recent investigations of power-distance have tended to focus on power-distance as an individual difference variable (Triandis et al., 1988). One very useful attribute of power-distance is that it takes into account the degree to which individuals identify with cultural values. The cultural values with which we are most concerned in this paper are those pertinent to conflict resolution.

Power-Distance and Perceptions of Fairness

Previous research demonstrated that power-distance affects the degree to which people emphasise procedural or distributive justice concerns. People can evaluate fairness according to procedural justice concerns; that is, they evaluate the way in which they are treated by authorities during the conflict resolution process. People can also evaluate fairness according to distributive justice concerns; that is, they evaluate the degree to which they receive favourable or desired outcomes.

It has been found that people low on power-distance tend to place greater weight on procedural justice concerns than they do on distributive justice concerns, and people high on power-distance tend to show the opposite pattern of results (Tyler, Lind & Huo, 2000). In outlining their Group Value Model, Tyler et al. (2000) argue that beliefs about the appropriate distance between authorities and their subordinates should shape the nature of people's relationship with authorities. Put another way, people care more strongly about their treatment by authorities when they feel that they should have personalised connections with those authorities.

When people make judgments about procedural fairness, it has been found that three “relational” variables appear to structure the influence of procedural justice judgments (Tyler & Lind, 1992). That is, when reacting to third party intervention (e.g., by a judge, arbitrator, mediator, or conciliator), people evaluate how they have been treated by the authorities, by considering the “relational” issues of:

- neutrality
- trustworthiness, and
- respect for their rights.

When high power-distance participants make judgments about procedural fairness, they place particular emphasis on the relational variable of trust in the independent third party (Tyler et al., 2000).

Thus, it is important to consider the way in which people react when the relational variable of trust is violated.

Bias and Perceptions of Fairness

A study conducted in North America investigated the effect of trust on perceptions of fairness in dispute resolution procedures (Lind & Lissak, 1985). When an apparently biased arbitrator was introduced into an otherwise fair procedure, this led to a qualitative change in the way in which participants evaluated the procedure.

Those seeing the apparent bias situation withheld judgment of the procedure until they had learned the outcome, and they then interpreted the apparent bias in terms of its effect on the decision made by the arbitrator (in terms of the outcome of the procedure). If the arbitrator appeared biased and the verdict was not in the participant’s favour, perceptions of fairness of the procedure were attenuated. Participants saw the procedure as being vulnerable to this threat of bias, and therefore judged the procedure to be less fair than they did in a condition where there was no apparent bias. However, if the arbitrator appeared biased and the verdict was in the participant’s favour, it was found that perceptions of fairness of the procedure are enhanced. Participants in that condition saw the procedure as robust enough to overcome the threat of bias, and they therefore judged the procedure to be more fair than they did in a condition where there was no apparent bias. A trust x outcome interaction was found: the fairness perceptions of participants in the bias situation depended upon both trust in the arbitrator and favourability of the outcome (Lind & Lissak, 1985).

Bias, Perceptions of Fairness and Power-distance

While we can assume that many participants in the study conducted by Lind & Lissak (1985) would have been low power-distance, a unique feature of the present research is that it examines the way in which participants with different power-distance values react to these bias and outcome manipulations.

Given the importance that high power-distance people arguably assign to trust in the independent third party, this study examined whether apparent bias would lead them to view the procedure:

- As completely corrupted, producing a main effect for trust? (This would indicate that they regard the procedure as unfair because of the importance of the trust variable, regardless of the outcome.)
- In a similar way to the participants in the Lind and Lissak study, producing a trust x outcome interaction? (This would indicate that their decisions about fairness are conditional on both trust in the independent third party and on the outcome.)
- Completely in light of its outcome, producing a main effect for outcome? (This would reflect the increased emphasis on distributive fairness for high power-distance participants.)

The foregoing psychological literature suggests that there may be differences between high and low power-distance participants in the way that their fairness perceptions are affected by the belief that the independent third party is biased against them. This study examined the possibility that, in a situation of perceived bias, the pattern of results for the procedural justice judgments of high power-distance participants would differ from that of low power-distance participants.

Study: Screening Process

The study was conducted in the School of Psychology at the University of New South Wales. Stage one of the study was a screening procedure to identify high and low power-distance participants. At the beginning of 2003, questionnaires containing the power-distance scale used by Tyler, Lind and Huo (2000) were distributed to first-year psychology students.

The six power-distance items were scored on a scale from -1 to 7, and the power-distance score for each respondent was the mean of the six items. Mean power-distance scores for respondents ranged from 0.33 to 6.83. Participants who scored in the highest 1/3 of power-distance values from the returned questionnaires were classified as high power-distance, and those who scored in the lowest 1/3 of power-distance values were classified as low power-distance. Therefore the range of scores for low power-distance participants (the lowest 150 respondents) was 0.33 to 2.5; the range of scores for high power-distance participants (the highest 150 respondents) was 3.5 to 6.83.

Respondents in the high and low power-distance categories were contacted by the experimenter and asked to participate in the testing phase of the study.

Due to low numbers of first-year participants available at the time of testing, additional participants were recruited by the experimenter. Participants under 30 years of age, who were naïve to the nature of the study, and whose power-distance scores fell within the ranges identified above as high and low power-distance, were eligible for testing.

Study: Testing Process

The testing phase of the study was essentially a replication of Lind and Lissak's (1985) study, in which bias and outcome were manipulated, in order to examine their effects on perceptions of procedural fairness. Therefore, we introduced an apparently biased arbitrator into an otherwise fair procedure, and measured participants' subsequent judgments of procedural and distributive fairness.

On arrival at the experimental room, participants were asked to read a transcript of a fictional negligent driving case¹, and imagine themselves as the defendant. This study was conducted as a between-subjects design, with participants randomly allocated to one of four conditions:

- Bias, Guilty condition
- Bias, Not Guilty condition
- No Bias, Guilty condition, and
- No Bias, Not Guilty condition

¹ The trial transcript was written by the experimenter. It was reviewed by a number of lawyers, to ensure consistency with evidentiary rules, and also to try to make the transcript a realistic depiction of a court case. I would like to acknowledge the kind contributions of Associate Professor Sandra Egger, of the UNSW Faculty of Law, Jane Sanders, of the Shopfront Youth Legal Centre, Mark Marien, the Director of the Criminal Law Review Division of the Attorney General's Department, and Kate Williams, a Barrister from Selbourne Chambers in Sydney, all of whom read and reviewed the transcript. They were extremely generous with their time and I am very grateful for their help.

Bias was established by indicating a friendly relationship between the magistrate and the prosecuting attorney, implying that the magistrate favoured the prosecution. In the No Bias conditions, there were no such indications. In the Guilty conditions, the magistrate delivered a Guilty verdict at the end of the trial, and in the Not Guilty conditions, the magistrate delivered a Not Guilty verdict at the end of the trial. All other aspects of the trial transcript were identical in the four conditions.

Our study, however, sought to examine the effects of power-distance, in addition to bias and outcome, on perceptions of procedural fairness. Therefore, in our study, participants' power-distance scores were also considered as grouping variables, to examine differences in the way in which high and low power-distance participants responded to the bias and outcome manipulations.

Once participants had read the trial transcript, they were asked to complete the dependent measures. These included three questions about the fairness of, satisfaction with, and trust in the procedure; there were four questions asking about fairness of, satisfaction with, and trust in the verdict, and the degree to which the verdict was deserved. The procedural justice index was the mean of participants' responses to the three questions relating to procedural justice, and the distributive justice index was the mean of participants' responses to the four questions relating to the verdict. Participants responded to each question on a Likert-type scale ranging from 1 to 9, with endpoint anchors.

Sample

Preliminary analyses of data from the first 24 participants are presented herein. Mean age of participants was 22.4, with ages ranging from 17 to 29. Sixteen participants were low power-distance (10 females, 6 males). Eight participants were high power-distance (3 females, 5 males). All manipulation checks confirmed that the experimental manipulations were effective.

Because of the low numbers of participants, to date there are few statistically significant results, but a number of interesting patterns in the data have begun to emerge.

Preliminary Results

The procedural justice index (the mean of the three dependant variables relating to perceived procedural justice) produced a significant main effect for Guilt ($p=0.038$). It would appear that, overall, participants are regarding the procedure as less fair if they receive a Guilty verdict than if they receive a Not Guilty verdict.

Another result, approaching statistical significance ($p=0.053$), is a power-distance x bias interaction. This suggests that the procedural justice judgments of the high power-distance participants may be affected by the bias manipulation more than those of the low power-distance participants.

Participants' ratings of the fairness of the procedure produced a significant interaction for power-distance and bias ($p=0.019$). This, too, indicates that the procedural fairness judgment of high power-distance participants is affected by the bias manipulation more than that of low power-distance participants.

Participants' ratings of their trust in the procedure did not reveal any statistically significant effects. However, patterns in the data seem to indicate some difference between high and low power-distance participants in the way that the bias manipulation affects their trust in the procedure. Similar patterns can be seen when participants are asked to rate their satisfaction with the procedure.

The distributive justice index (the mean of the four dependant variables relating to the verdict) produced an overall significant main effect for guilt ($p=0.000$). This indicates that participants view the Guilty verdict as less fair than the Not Guilty verdict.

The power-distance x outcome interaction for the distributive justice index is approaching statistical significance ($p=0.085$). It appears that low power-distance participants are affected more by the outcome manipulation than are high power-distance participants.

Implications of Findings

As noted above, the significant findings of the study are limited at this point by low numbers of participants. However, several patterns of interest are apparent. In particular:

- Low power-distance participants are more affected by outcome than are high power-distance participants. This is consistent with the findings of Lind and Lissak (1985), that low power-distance participants will consider outcome when making decisions about fairness.
- High power-distance participants are more affected by the bias manipulation than are low power-distance participants. This is consistent with the findings of Tyler, Lind and Huo (2000), suggesting that high power-distance participants differ from low power-distance participants in the emphasis that they place on trust in the independent third party. Specifically, the findings of this study indicate that the concerns of high power-distance people regarding bias are important for their overall procedural justice judgments.

Importantly, we are seeing some evidence that there are differences between high and low power-distance people in the way that their fairness perceptions are affected by the belief that the independent third party is biased against them.

Implications for Youth Justice Conferencing

Conferencing models in Australia can be divided into two broad categories: police-convened and civilian-convened models. New South Wales, for example, operates a civilian-convened conferencing scheme, whereas the RISE project (Reintegrative Shaming Experiment) operated a police-convened conferencing scheme in the Australian Capital Territory (Daly & Hayes, 2001).

When examining people's judgements about fairness in conference procedures, it is important to consider the issues reviewed above: trust, power-distance, and outcome.

Trust: Perceptions of Police

A number of researchers have examined young people's perceptions of the trustworthiness of police. In a study by Collins, Noble, Poynting and Tabar (2002), 380 adults and 445 youth from non-English speaking backgrounds were surveyed. 62.8% of youth surveyed thought that police targeted certain groups of young people. Asian, Lebanese, Middle Eastern and Pacific Islander youth were identified as groups perceived to suffer police harassment in the Sydney area.

Earlier in 2003, we examined two factors related to the question of perceived police bias. The first was whether this result generalised to minority youth in Sydney, outside the sample used by Collins et al. (2002), and the second was the degree to which minority youth felt that the police were biased against their own particular ethnic group. The main findings of this study with regard to perceived police bias were:

- 63.1% of participants in our sample reported that they believed that police “pick on” certain groups of young people. This was a similar level of perceived bias as was observed in the Collins sample.
- When participants were asked about the degree to which they perceive police bias against their own particular ethnic group, estimates by Caucasians were significantly lower (6%) than those by non-Caucasians (All Others: 27%). Asians perceived significantly more police bias against them (35%) than did non-Asian Australians and Caucasians combined (7%).

Power-distance: Differences Between Groups

Our study also examined whether power-distance varied among different ethnic groups in Sydney. The main findings of this study with regard to power-distance were:

- Young people in different ethnic groups within Australia have different power-distance values. Participants who described themselves as Australian had significantly lower power-distance scores ($M=2.8$) than those who described themselves as Chinese ($M=3.5$).
- Among Chinese participants, a significant negative correlation was found between power-distance scores and number of years spent in Australia.

Summary of Important Findings

The earlier study demonstrated that different power-distance scores can be observed among different ethnic groups within Australia, and that young people of some minority groups do not have a high level of trust in police.

In addition, previous research and the study outlined earlier, indicate that high and low power-distance participants differ in the way that their fairness perceptions are affected by the belief that an independent third party is biased against them.

Implications for Police-Convended Models of Conferencing

The evidence reviewed above has important implications for police-convended conferences.

There are power-distance differences that exist within societies. Power-distance is a variable that has important cultural implications for the way in which people perceive fairness and make fairness judgments. One of these implications involves the importance of the relational variable of trust. Police convenors and civilian convenors may be perceived very differently by ethnic minority youth because of this trust variable. This, in turn, has implications for the way in which the fairness of the conference procedure itself is perceived. When people perceive legal procedures to be fair, this increases compliance with the law, and public co-operation with legal authorities. Therefore, the issues of power-distance and perceptions of police trustworthiness must be considered, when making decisions about the appropriate conferencing models to be implemented in multicultural societies.

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