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Compliance With the Law and Cooperation Through Police Legitimacy. An empirical study of the procedural justice model of police legitimacy in Austria

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An empirical study of the procedural justice model of police legitimacy in Austria

The question of whether a strict sanctions policy can actually reduce the crime rate of a country comes up time and again in the current discussion about criminal policy. One model, originally from the United States, suggests that crime can be prevented if people are subjected to social control through attachment and normative identification with the police as state authority: the procedural justice model of police legitimacy. The assumptions of the model were examined in the article presented here using empirical data from Austria. The findings show that the legal behaviour of citizens depends substantially on the procedural justice practiced by the police.

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1. WHY DO PEOPLE ABIDE BY THE LAW?

"Since a single violation defeats the state's aim of protection, the state really does need everyone's compliance" (Greenawalt 1989, 170).

People generally abide by laws and regulations enacted by the state in which they live. Nevertheless, compliance with the law and, moreover, the cooperation of citizens with the executive authorities of a state can never be taken for granted, not even in a democracy (Rhode/Bennis 2006, 215). At the same time, it is essential for the functioning of a state that its citizens abide by the law. The authorities of a state will always endeavour to ensure that the population follows the rules and laws and that as few people as possible commit criminal offences. While a dictatorship seeks to enforce compliance with its established norms through coercion and violence, a democracy is built on citizens who participate in political practice, respect the law and follow the rules derived from it (Meyer 2011, 10). Democracy is not only dependent on mere compliance with the rules, which can be enforced by outside pressure, but also by the fact that the political system is recognised by the population and there is a moral consensus between citizens and government (Schliesky 2004, 171 ff).

Why, however, do people abide by the law at all? Why is it that the majority of a state's citizens do not commit criminal offences and not only agree with the state's rules and regulations, but also pay deference to state authorities such as the police and cooperate with them? State criminal sanctions have long been considered the most effective means of preventing potential offenders from committing a crime. This approach follows a utilitarian view of crime. People decide whether to commit criminal offences or not, and they link this decision to an individual cost-benefit calculation (Albrecht 2013, 788).

Penal sanctions are designed to keep the expected costs high enough that people choose not to commit crime out of fear of these costs. Among theories of crime, this assumption is known as the "deterrence theory". However, many empirical studies have shown that punishments, or punishments alone, do not produce the desired effect of a low crime rate (Meyer 2011, 27 ff). Critics of the deterrence theory argue that a democratic system cannot function if it only influences its population by manipulating the expected costs and benefits. The state would be forced to constantly create benefits or exert pressure to control its citizens' behaviour. Such a system poses an ongoing threat of unbalance and instability (Tyler 2006, 22).

While the deterrence theory relies on threats of punishment and prosecution to ensure that the population abides by existing laws and cooperates with the police, the "control theories" claim that crime can be prevented by subjecting people to social control through attachment and normative identification with state authorities. This assumption is also based on the model of police legitimacy, originating in the USA, which states that citizens who are able to identify with the values and norms of the police and are convinced of their legitimacy abide voluntarily by applicable laws and cooperate with state authorities. Police legitimacy is explained by the "procedural justice theory": when people feel they are being treated fairly and respectfully by state authorities and institutions, they then also identify with them and exhibit behavioural patterns that benefit the state, i.e. compliance with the law and cooperation (Tyler 2006, 5).

2. THE PROCEDURAL JUSTICE MODEL OF POLICE LEGITIMACY

The "procedural justice model of police legitimacy"[1] states that citizens treated with fairness, honesty and respect by state authorities are not only more willing to cooperate with the authorities, but will also accept their decisions and obey instructions.

In the study presented here, legitimacy is considered from a sociological perspective. Legitimacy refers to the belief in the lawfulness of a ruling power or the recognition of a political order (Habermas 1973, 39). Police legitimacy must be differentiated from this definition; this refers expressly to the recognition of the police as an executive agency of the state and differs from the more generally defined state legitimacy. Based on Beetham (Beetham 1991), police legitimacy has thus far been conceptualised in most of the research on procedural justice using three criteria: police legality, normative identification with the values of the police and citizens' expressed consent (ibid). This three-criteria model was abandoned in the present study in favour of a one-criterion model (Jackson et al. 2015), in which legitimacy is mapped with the factors of police legality and normative identification[2] as one dimension. In addition, diverging models were examined to enable the comparison of the various theoretical models for procedural justice and police legitimacy.

The works of Tom Tyler (Tyler 1990) represent pioneering research into the correlation between procedural justice, police legitimacy and the factors of compliance with the law and cooperation. Tyler examined the correlation between the normative support of the legal authorities (police and courts) and compliance with the law by means of an empirical study in Chicago. He analysed the motivation of compliance with the law and differentiated between instrumental (deterrence through punishment) and normative influences. He found that when citizens are convinced of the legitimacy of the police and the courts,

their willingness to behave in accordance with the law increases, thus emphasising the importance of normative values (ibid, 64). On the basis of Kohn Thibaut and Laurens Walker (Thibaut/Walker 1975), Tyler came to the conclusion that the sense of justice of the parties involved depends less on the outcome of a trial or a police interaction (justice of the outcome), but rather on how this outcome was arrived at (procedural justice). Procedural justice, applied to the police, means that police officers can raise their public image and justify their authority through fair and respectful treatment of citizens (Bradford et al. 2014, 82). There is now a growing body of empirical evidence that procedural justice is one of the key factors[3] which ultimately increases the likelihood of compliance with the law and cooperation (e.g. Hough et al. 2013a; Jackson et al. 2012; Reisig et al. 2013; Sunshine/Tyler 2003; Tyler 1990; Tyler/Fagan 2008; Tyler/Huo 2002; Tyler/Jackson 2013).

Then, research in this area was long restricted to the US and the Americas; Jonathon Jackson, Mike Hough, Stephan Farral, Jan de Keijser and Kauo Aromaa designed a questionnaire for the fifth round of the European Social Survey (ESS)[4], which can be used, inter alia, to examine the relationship between procedural justice and police legitimacy in Europe (Jackson et al. 2008).

Jackson and colleagues assumed that police procedural justice is one of the key prerequisites for police legitimacy. "Fair and respectful treatment of the public by the police seems likely to be the fastest route to improved legitimacy, from the perspective of the policed" (Hough et al. 2013a, 349).

Thus, when people feel that the police are treating them fairly and respectfully, they are more likely to be convinced of the legitimacy of the police itself and of police actions and decisions. This belief also increases the likelihood that people will behave in a lawful and cooperative manner, because they then accept decisions even if they are not in their favour as long as they believe they have been made lawfully (Tyler 1990).

The appearance and actions of police officers communicate a message to the public which, as long as it engenders truth and justice, can help people respect the law and take social responsibility. By making just decisions and treating citizens fairly and respectfully, police officers themselves can help ensure that people abide by the laws they are responsible for enforcing. This positive way of combatting crime can, in the long term, save police resources used for enforcing the law through investigation, prosecution and legal proceedings (Myhill/Quinton 2011, 5). Following the assumptions of the procedural justice model of police legitimacy, it should therefore be in the interest of a state to increase the legitimacy of the police in order to act preventatively rather than threaten people with punishments. The work presented here examines this approach for this first time with data from Austria. Austria could not be taken into account in previous studies (Hough et al. 2013a; id. 2013b; id. 2013c) as Austrian data were only released at the end of 2015.

3. EXAMINATION OF THE PROCEDURAL JUSTICE MODEL OF POLICE LEGITIMACY IN AUSTRIA

The procedural justice model of police legitimacy examined in this study is mainly based on Tyler (Tyler 1990) and on studies and theories on police legitimacy that have already been carried out (Beetham 1991; Bottoms/Tankebe 2012; Bradford et al. 2014; Gau 2013; Gilley 2006; Hough/Maffei 2013; Jackson et al. 2013a; id. 2013c;

id. 2013d; Reisig et al. 2013; Sunshine/ Tyler 2003; Tankebe 2013; Tyler 1990; id. 1997; Tyler/Huo 2002; Tyler/Fagan 2008; Tyler/Jackson 2013), but especially on Hough et al. (Hough et al. 2013b, 345). In the sense of Jackson et al. (Jackson et al. 2015), recent work on conceptualising police legitimacy has tested the one-criterion model of police legitimacy. This one-criterion model differs from the model of Hough et al. (Hough et al. 2013; Jackson et al. 2015), especially when dealing with the consent factor of the duty of obedience[5]. The present study examines not only the correlation between police legitimacy and compliance with the law and cooperation, but also that between legitimacy and the duty of obedience. Unlike with Tankebe (Tankebe 2013), procedural justice, distributive justice and effectiveness were not used to operationalise legitimacy, as it was assumed that these factors increase the probability of legitimacy but do not constitute it (Hough et al. 2013, 333). The three factors of procedural justice, distributive justice and effectiveness were examined for their correlation with political legitimacy; procedural justice was assumed to have the highest correlation. It also examined how a positive contact experience with the police affects perceived distributional and procedural justice as well as effectiveness.

The data used come from the fifth round of the European Social Survey (ESS) and were prepared in the SPSS Amos statistical program[6] with the help of the questionnaire model developed by Hough et al. (Hough et al. 2013a). A total of 2,259 valid interviews were conducted in Austria and used for the evaluation. The model tested in the present study drew on a group of respondents who had had contact with the police during the last two years. This group consists of 659 respondents. The PAPI[7] and face-to-face interviews took place between May and October 2013 on behalf of the Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection under the guidance of IPR survey research in Vienna (European Social Survey 2012).

The models were designed and evaluated with the SPSS Amos statistical program. Initially, a confirmatory factor analysis (CFA) of all constructs used in the study was carried out. The measurement models used underwent a quality inspection using CFA. Based on the results of the CFA, the theoretical (structural) models to be calculated were modified accordingly, if necessary.

Various model variants of the procedural justice model of police legitimacy were calculated following the CFA. The two control variables of personal morality and sanction risk were added to one model in order to investigate their influence on compliance with the law and cooperation. In another model, the selection of cases was limited to male participants of between 21 and 59 years of age.

The following model variants were tested:
a) The one-criterion model without control variables (one-criterion model I).
b) The one-criterion model with the control variables of personal morality and sanction risk (one-criterion model II).
c) Selection of cases reduced to male participants between 21 and 59 years of age (one-criterion model III).

The testing of the one-criterion model was gradual and attention was paid to the development of the goodness of fit. The main model is shown in Figure 1 (see page 59).

The one-criterion model treats normative identification and police legality as a common factor (Jackson et al 2015, 142), while the criterion of consent is conceptualised as a result and not as a sign of police legitimacy (Tankebe 2013, 105). The theoretical

reasoning leading to the conception of consent not being conceptualised in the sense of Beetham (Beetham 1991) as a sign of police legitimacy is based on the fact that the criterion of consent was not recognised in the sense of Beetham in the 5th round of the ESS. By consent, Beetham understands actions which proved that the population voluntarily agrees with state rule. Thus, in the case of police legitimacy, these should be actions that stand for the voluntary approval of police authority. The use of the original items generated in the ESS surveys to measure this consent (that is the items that met the duty of obedience criterion in this study) was abandoned.[8] Beetham's (Beetham 1991) conceptualisation of consent to state rule would have to be adapted to consent to police authority, which is not possible to do satisfactorily with the data from the ESS study used in this work. However, it was assumed that the constructs of normative identification and police legality items adequately reflect the dimension of police legitimacy. Police legitimacy no longer consists of two or three different dimensions here, but rather represents one dimension. The main argument for the one-criterion model is that the conceptualisation and operationalisation of the concept factor, which according to Beetham (ibid), comprises a part of legitimacy, is disputed, and no satisfactory solution for uniform conceptualisation or operationalisation has been found thus far.

The aim of the study was to examine the correlation between police legitimacy and compliance with the law and cooperation. The central research questions of the study, based on previous research on procedural justice and police legitimacy, were as follows. What is the correlation between procedural justice and police legitimacy? What is the correlation between police legitimacy and compliance with the law and cooperation?

The structural equation analysis is based on the theoretical and logical formulation of a structural model. The preceding remarks on the correlation between the dimensions of police trust (effectiveness, procedural and distributive justice), police legitimacy, duty of obedience, compliance with the law and cooperation can be clarified by the following hypotheses:

▶ H1: The more positively experiences with the police are evaluated, the higher procedural justice is assessed.
▶ H2: The higher the perceived procedural justice, the higher police legitimacy is assessed.
▶ H3: The higher police legitimacy is assessed, the higher the self-reported compliance with the law.
▶ H4: The higher police legitimacy is assessed, the higher the self-reported cooperation.
▶ H5: There is a positive correlation between police legitimacy and duty of obedience.

4. FINDINGS OF THE STUDY IN AUSTRIA

The findings of the estimated structural equation models provided evidence for the previously established hypotheses. Positive experiences with the police lead to a higher assessment of procedural justice
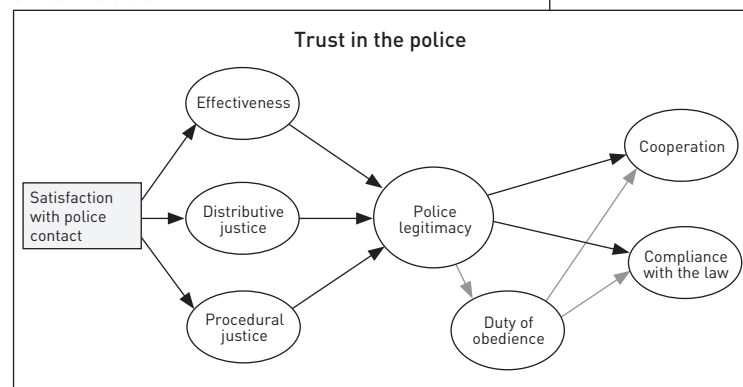
Source: Antensteiner

Figure 1: The one-criterion model of procedural justice/police legitimacy

and the more highly procedural justice is rated, the more likely it is that the police will be considered legitimate. Persons concerned who rate police legitimacy as high are more likely to abide by the law and cooperate with the police.

One exception is the one-criterion model that takes into account two additional control variables, namely sanction risk and personal morality. This model provides no certitude for the hypothesis that police legitimacy increases the likelihood of compliance with the law and cooperation. This model was rejected since the addition of control variables to the one-criterion model leads to poorer model quality on the whole, and the control variables therefore do not contribute to the explanation of the dependent factors of compliance with the law and cooperation.

In the case of the two remaining models included in this work, it was found that there is a significant positive correlation between satisfaction with police contact and the factors of police trust as well as between procedural justice and police legitimacy. While the impact of the perceived effectiveness of policing on police legitimacy remains low in all models, procedural justice consistently demonstrates the strongest impact on police legitimacy. The way in which police officers approach the population is more important for assessing police legitimacy than the perceived effectiveness of policing and also more important than perceived distributive justice. There is a weak correlation between distributive justice and police legitimacy compared with the correlation between procedural justice and police legitimacy. Distributive justice is understood to mean that police officers treat all people equally, while procedural justice means that police officers carry out official acts fairly and transparently, so that the persons concerned agree with the outcome of the

official act, regardless of whether it was in their favour or not.

Particularly in the case of the one-criterion model, where the sample was reduced to participants who statistically commit more frequent offences[9], it became apparent that the assessment of police legitimacy influences whether or not citizens behave in a law-abiding or cooperative manner. The effects of police legitimacy on self-reported compliance with the law increased following the case selection. The model described is shown in Figure 2 (see page 61).

The selection of cases in which only male participants between the ages of 21 and 59 were taken into account mainly shows more significant correlations between legitimacy and compliance with the law. In particular, the regression weighting of police legitimacy on traffic offences shows a strong, significant relationship with .42***. The impact of satisfaction with police contact on the trust in police factors remains the same for all correspondents compared to the one-criteria model I. Even the strong, positive correlation between procedural justice and distributive justice and police legitimacy or police legitimacy and the duty of obedience remains the same. Overall, the one-criterion model III shows similar results to the one-criterion model I, which considers both genders. The decisive difference lies in the correlations between police legitimacy and the legal behaviour of the respondents (.42*** traffic offences, .16* insurance fraud and .25* receiving stolen goods), which are higher compared with the one-criterion model (.24***, .14*** and .17***).

What is critical to consider here is the operationalisation of compliance with the law, which should measure the self-reported legal behaviour of the respondents.

The operationalisation used in this work was adopted from Jackson et al. (Jackson et al. 2008), who developed the questionnaire for the 5th round of the ESS survey. Respondents were asked how often they had committed the following offences in the past five years: receiving stolen goods, insurance fraud and traffic violations. This operationalisation appears problematic for various reasons. Given that the model is intended to be valid for a number of European countries with different laws and different criminal policies, these violations are too specific. In addition, offences that correspond to the criminal offence of receiving stolen goods or insurance fraud were not committed much in Austria (Bundesministerium für Inneres 2014).[10] The findings presented suggest that the previous operationalisation of compliance with the law using the three offences of receiving stolen goods, insurance and traffic offences proves unsuitable. The flawed operationalisation was also apparent in the review of the quality of the measurement model. The poor values meant that compliance with the law could not be treated as the only factor. The three offences relating to compliance with the law had to be integrated individually into the model.

Police legitimacy, however, had the strongest impact in the model on the duty of obedience. As already stated, the present work is based on Tankebe (Tankebe 2013) and addresses the duty of obedience as a result of and not part of police legitimacy. The assumption that citizens are more willing to comply unconditionally with the police instructions if they are convinced of the legitimacy of the police was confirmed by the high impact of police legitimacy on the duty of obedience. This conceptualisation of the duty of obedience as a result of police legitimacy differs from the view of Jackson et al. (Jackson et al. 2013a; id. 2013c; id. 2013d), where the perceived

duty of obedience is a feature of police legitimacy. Conceptualisation according to Jackson et al. (ibid) would mean that "obedient" citizens are a sign of legitimacy and not the consequence of it.

The findings of this study confirm the conclusion drawn by Tyler in his study on procedural justice theory. "The key implication of the Chicago study is that normative issues matter" (Tyler 1990, 178). People abide by laws because they believe it is right to abide by those laws. Their perception is influenced by their own experiences with the police. Positive experiences with the police foster trust and lead to the police being perceived as legitimate. However, given the background of Tyler's conceptualisation of the respondents' perceived duty of obedience as part of police legitimacy (ibid, 45 f), the findings in this paper may only be compared with some reservations. The main problem of studies on the procedural justice model of police legitimacy still lies in insufficient comparability due to the lack of uniform conceptualisation and operationalisation of the central factor of police legitimacy.

The study findings show that procedural justice has a significant impact on the perception of police legitimacy. Police officers can increase the public's trust in
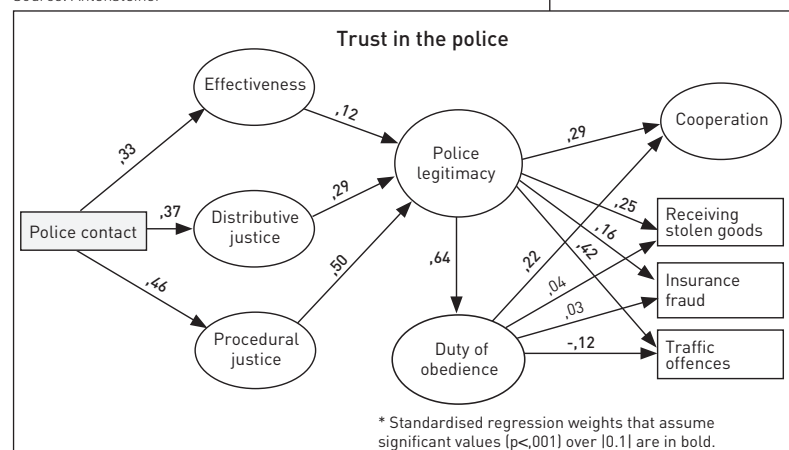
Source: Antensteiner

Figure 2: One-criterion model III

the police by ensuring with appropriate behaviour that the police are perceived positively. Greater trust in the police leads to a higher assessment of police legitimacy. A recommendation for the consideration of procedural justice in the training of police officers can be derived from this. Instead of threats of sanctions and coercion, police officers can increase cooperation, compliance with the law and obedience to the police if they are trained in the application of procedural justice. In addition, the standardisation of the individual terms, their significance and their operationalisation should be addressed in future research on the relationship between procedural justice and police legitimacy.

[1] *The model presented and examined in the present work is explicitly called the "procedural justice model of police legitimacy" in order to avoid the likelihood of confusion with the theory of procedural justice in justice research and within legal process research.*

[2] *The factors of legality and normative identification have been combined into one common criterion (Jackson et al. 2015, 142).*

[3] *Not only procedural justice but also distributive justice and the effectiveness of policing are important factors that influence police legitimacy.*

[4] *The European Social Survey is an academically driven survey that has been conducting Europewide interviews since 2001 under the guidance of the City, University of London (and other partner institutions) (http://www.europeansocialsurvey.org/about/country/germany/index.html).*

[5] *The criterion of consent is integrated into the model as a result of police legitimacy, but is not treated as part of police legitimacy, as in Hough et al. 2013 and Jackson et al. 2015.*

[6] *SPSS Amos refers to statistics and analysis software from the software company IBM. SPSS stands for the Statistical Package of the Social Sciences statistics software.*

[7] *PAPI stands for Paper and Pencil Interview, a personal survey using a paper questionnaire.*

[8] *The consent variable has been described in most studies as duty of obedience. In order to measure these variables, the following statements on approval probability were queried in* the 5th *round of the ESS: Duty to: back decisions made by police, even if disagree/Duty to: do what police say, even when don't understand or agree/Duty to: do what police say even if treated badly. All three questions seemed appropriate to measure approval.*

[9] *Men between the ages of 21 and 59 are most likely to commit crimes which can be assigned to the criminal offences of receiving stolen goods and insurance fraud (Statistik Austria 2016).*

[10] *Transport statistics broken down by gender and age were not determined for Austria (written notification on 30 April 2015 by the Austrian Federal Ministry of the Interior, Directorate General for Public Security, Traffic Service of the Federal Police – Department II/12).*

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