

# WHAT FAIRNESS MEANS TO CRIME VICTIMS: A SOCIAL PSYCHOLOGICAL PERSPECTIVE ON VICTIM-OFFENDER MEDIATION

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While victims are often considered the forgotten party in the criminal justice system, restorative justice has emerged as a new approach that includes victims by making them part of the legal response to crime. Based on interviews with victims who were invited to participate in a victim-offender mediation program, the present study examines victims' procedural justice judgements. The theoretical framework for the study is based on the procedural justice theory (Lind & Tyler, 1988; Tyler, 2003). Victims seek more than merely an opportunity to express themselves. It is not enough that victims can make demands; they also want their voices to be heard. This paper closes with a discussion of the implications of the findings.

Victims have been referred to as the “forgotten party” in the criminal justice system (Viano, 1978). Studies have repeatedly shown that victims seek recognition and want to be included in the criminal justice system (Baril, Durand, Cousineau, & Gravel, 1983; Kelly & Erez, 1997; Shapland, Willmore, & Duff, 1985; Wemmers, 1996). Excluded from any formal role in the proceedings other than that of witness, victims are often left feeling frustrated with the criminal justice system and do not sense that justice has been done.

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Victims often report a sense of secondary victimisation or the second wound, which refers to the enhanced suffering resulting from insensitive reactions of others, particularly the criminal justice system (Maguire, 1991; Symonds, 1980).

The absence of any formal recognition of victims in the criminal justice system has prompted some authors to argue that victims are better off staying out of the conventional criminal justice system and should instead use alternatives such as civil legal procedures or restorative justice programs such as victim-offender mediation (Langevin, 2002; Roach, 1999). These alternative procedures allow victims to make demands and give them veto power. For example, during mediation victims are able to confront their offender and can accept or reject any offer of reparation.

One alternative sanction is victim-offender mediation is an alternative sanction. In Canada, it is offered to young offenders as a form of diversion, redirecting their cases from the youth courts. If a juvenile has committed a minor offence and pleads guilty to the offence, the youth can be offered an alternative sanction. Mediation is a voluntary program; the youth may accept or reject the offer to partake in mediation. If the offender accepts, the victim is then contacted by phone and invited to participate in mediation. There are generally two types of victim-offender mediation: direct and indirect. Direct mediation, which is the more common of the two types, involves a face-to-face meeting between the youth and the victim, and is mediated by one or two project workers. During mediation, both the victims and offenders have the opportunity to ask questions, provide explanations, and express their sentiments. The objective of the meeting is to reach an agreement, which is not limited and may involve anything from financial reparation to an apology by the offender. Either party can accept or reject any offer. If an agreement is not reached, mediation is stopped and the youth receives another sanction, such as community service. The second type of mediation, indirect mediation, is less common in North America (Wemmers & Canuto, 2002). It does not involve a face-to-face meeting between the victim and offender. Instead, the

mediator acts as a go-between, communicating with the victim and the offender separately. It is a practical alternative if there is any reason the victim does not wish to meet the offender.

While victim-offender mediation gives victims an active role, it also places a burden of responsibility on them. Many studies suggest that when victims indicate a desire to participate in the criminal justice system, they do not necessarily mean an active participation but rather a passive participation (Kilchling, 1995; Shapland, et al., 1985; Wemmers, 1996). Victim advocates have expressed concern that extrajudicial programs like victim-offender mediation, in which victims confront their offenders, may enhance the fear and stress suffered by victims and hence constitute a secondary victimisation (Côté & Laroche, 2002; Wemmers & Canuto, 2002;). Restorative justice initiatives have not evolved from victim services but instead from offender services, much like probation. Hence, there is concern that these programs, much like the criminal justice system, simply use victims to meet crime control objectives (Wemmers, 2002).

The importance of victim satisfaction with the justice system cannot be overstated. Victimization surveys show that most crimes go unreported with only a minority of victims actually reporting criminal acts to the police (Eijken, 1994; Geis, 1990; Van Kesteren, Mayhew, & Nieuwbeerta, 2001). For example, in Canada only one out of every three victims contacted the police following their victimization (Besserer & Trainor, 2000). Victims' negative experiences in the justice system are an important source of dissatisfaction with the system. Crime victims tend to have less positive attitudes towards the police than non-victims (Van Dijk, 1999), and show similar levels of satisfaction with the police as people who have stopped by the police (Tufts, 2000). Furthermore, victim dissatisfaction with the criminal justice system is associated with a reduced willingness to report future crime to the police (Shapland, et al., 1985; Van der Vijver, 1993). It is important to understand why victims are dissatisfied and what they seek in the justice system in order to curb secondary victimisation by the system and enhance victim cooperation.

Since the 1960s, social psychologists have asked the question, what is justice? The early literature in this area focused on the fairness of outcomes or distributive justice (Adams, 1965; Walster, Walster, & Berscheid, 1973). In other words, victims' judgments of fairness were presumed to be based on the outcomes or sentences imposed upon offenders. However, in the 1970s, Thibaut and Walker (1975) introduced the concept of procedural justice. They argued that while outcomes were important, the manner in which they were reached was especially important (Thibaut & Walker, 1975). More recently, Van den Bos and his colleagues (Van den Bos & Lind, 2002; Van den Bos, Lind & Wilke, 2001) have demonstrated that while both procedural and distributive justice are important, what occurs first is imperative and people typically receive procedural information before they know the outcome. When procedural information precedes outcome information it has a stronger impact on the individual's overall fairness judgement than does distributive justice.

Lind and Van den Bos (2002; Van den Bos & Lind, 2002) have tried to explain why people value fairness. They argue that fairness is primarily about the management of uncertainty; when people are confronted with uncertainty in their environment, they turn to their impressions of fair treatment to help them decide how to react. In other words, fairness becomes especially important when people are faced with uncertainty. Crime victims are confronted with a great deal of uncertainty following their victimization, which may cause them to question their basic beliefs about the world (Lerner, 1980). Victims are often uncertain about the criminal justice process, what will happen with their case, and what role they will play (Baril, et al., 1983; Shapland, et al., 1985). Victims have no formal control over the criminal justice process and according to Lind and Van den Bos (2002) uncertainty is increased in situations where people feel that they are not in control. Victims may also be uncertain and fearful about the reaction of their offender, whom they may fear will seek revenge. As they are confronted with a great deal of uncertainty, fairness may be particularly important to crime victims.

In the early studies of procedural justice, Thibaut and Walker (1975) identified two determinants of procedural justice: process control and decision control. Process control refers to whether or not parties are able to present information throughout the decision-making process. Later, this was referred to as “voice” (Folger, 1977) and since that time voice has been identified as one of the most stable findings in procedural justice research (Van den Bos, 1996). Decision control refers to whether or not parties have control over the outcome. In other words, do they have the veto power to accept or refuse decisions made by a third-party? When parties are allowed to have input, they view the procedure as fair. Based on this model, victim-offender mediation, which allows victims to present their views and gives them veto power over any offer made by the offender, should be viewed as fair.

In later procedural justice studies, Tyler and Lind (1992) developed what they called the Relational Model of procedural justice. In their view, procedural justice has a normative value instead of an instrumental value, meaning that procedural justice has a value in itself. They emphasize the quality of the interactions between individuals and organizations like the criminal justice system. Departing from Thibaut and Walker’s (1975) original theory, neither process control nor decision control are included in Tyler and Lind’s (1992) model. Instead, they identify three determinants of procedural justice: trust; standing and neutrality. Trust is directed at the individual’s concern about an authority’s intentions (e.g. is the authority trying to do right?). Standing is defined in terms of being treated with dignity and respect and showing regard for the rights of the individual. When people are treated with dignity and respect they feel like valued members of society and feel good about themselves. Neutrality refers to honesty, the absence of bias, and making informed decisions based on the facts of the case. People want authorities, such as the police and judges, to be impartial and free from any bias. Based on this model, victims’ procedural justice judgements will be based on the quality of the interaction with project-workers within the criminal justice system, regardless of whether or not they feel they had any control over the outcome.

While Tyler and Lind's (1992) Relational Model is based on empirical research, none of their research dealt explicitly with crime victims. However, Wemmers (1996) examined the meaning of fairness for victims of crime in the conventional criminal justice system and used procedural justice as the theoretical framework. Her model explicitly includes process control, or voice, and is based on the two factors of neutrality and respect. According to Wemmers (1996), neutrality is based on victims' perceptions that authorities were impartial, honest, and made informed decisions based on the facts of the case. Respect refers to the quality of the interpersonal treatment that occurs between crime victims and criminal justice authorities. It includes whether or not victims were treated in a friendly manner, whether they were given an opportunity to express themselves (voice), and whether or not authorities showed an interest in the victim and took their concerns into consideration. These findings suggest that the quality of the interaction between victims and criminal justice authorities is essential for positive procedural justice judgements.

Further research by Tyler (1997; 2000) has identified another set of determinants of procedural justice. As in the Relational Model, Tyler (2000) identifies neutrality and trust as important determinants of procedural justice. However, in order to emphasize the quality of the interaction, standing is replaced by two separate factors, participation and respect. Participation is a derivative of voice or process control, first identified by Thibaut and Walker (1975). According to Tyler (2000) "people feel more fairly treated when they are given an opportunity to make arguments about what should be done to resolve a problem or conflict" (p. 121). Tyler (2000) suggests that when parties are given an active role they will feel that the procedure was just. Respect focuses on the interpersonal treatment of parties by authorities (Tyler, 1997). When people are treated with dignity and respect, they are more likely to report that they have been treated fairly. Based on this model, the active role given to victims during victim-offender mediation, along with the respectful treatment by criminal justice project workers should enhance victims' perceptions of fairness.

More recently, Tyler (2003) has identified trust as a factor that is separate from but closely intertwined with procedural justice. Similarly, Van den Bos and Lind (2002) argue that the trustworthiness of authorities is separate from procedural justice. They view trustworthiness as a factor contributing to uncertainty. When people have information about the trustworthiness of an authority, they are faced with less uncertainty and procedural justice is less salient. Tyler (2003) uses the term motive-based trust in order to reflect the perceived motives of the decision-maker and whether they appear to be acting in good faith. Procedural justice judgements, Tyler (2003) argues, are based on the quality of decision-making and the quality of treatment by authorities. The quality of decision-making reflects the neutrality of the decision-maker, while the quality of the treatment is determined by whether the individual was treated with dignity and respect. Tyler's (2003) two-factor model resembles the model by Wemmers (1996) in that it also emphasizes the quality of interpersonal treatment in procedural justice judgements.

Another possible determinant of procedural justice is the quantity of time invested in participants. Lind and Van den Bos (2002) argue that fair procedures will cost more than fair outcomes because of the extra time and effort they require in terms of listening and providing information to those involved. Time is a rare commodity within organizations and they fear that time restraints may jeopardize fair procedures. This raises the question of whether a qualitatively good interaction is necessarily a time consuming interaction in terms of the number of contacts with victims.

The above literature highlights four possible determinants of procedural justice judgements, namely, voice, respect, trust, and neutrality. In addition, a fifth possible determinant, specified by Lind and Van Bos (2002) is the amount of time invested in communicating with the victim. These factors reflect the quality of the interaction and the quality of decision-making. The present study is not intended to be a test of any of the above models of procedural justice. Rather, it is our intention to use the theoretical

framework offered by procedural justice to better understand victims' evaluations of mediation.

Based on the literature regarding restorative justice and victimology, it is important to examine whether victims' evaluations of procedure are based on their ability to play an active role and make demands, or whether they simply seek passive participation through consultation and information. Of further significance is assessing which variables impact victims' procedural justice judgements and determining the relative importance of voice, respect, neutrality, and trust. We hypothesize that victims consider the process of mediation fair not because it allows them to make demands but because it offers them recognition and respect through consultation. Furthermore, an important facet from an organizational point of view is whether fair procedures are necessarily time-consuming. Hence, we will also examine the quality and quantity of time to decipher which is most important to victims.

## METHOD

### *Participants*

The present study is based on interviews with crime victims who were invited to participate in the victim-offender mediation program for young offenders run by a community-based organization in a large metropolitan city. This mediation program has existed since 1997, first as an experimental project and since 2002, as part of a structural agreement with the government. During the period of our study, which spanned from 1997 to June 2002, Youth Protection Services selected cases for mediation. Selection was based on offence and offender characteristics, such as the seriousness of the offence and the offender's record. A project worker then met with the offender to assess his/her suitability for the program. Offenders who were not found suitable for mediation were offered alternative sanction, such as community service. Offenders considered unsuitable for mediation included those who did not acknowledge responsibility for their actions. It should be noted that accepting responsibility is not the same as pleading guilty.

The selection criterion for inclusion in the study was that the victim be an individual rather than an organization. Both victims who refused to participate in mediation as well as those who had accepted the offer to participate in the project were included in the sample. In the period between 1997 and June 2002, data was available for 225 victims. Victims were first sent a letter, which explained the nature of the study and invited them to participate. However, as only 5% of the sample responded to this invitation, the decision was made to have project workers contact victims by phone and invite them to participate in the study. If victims agreed their name and phone number were given to the researchers. If they refused they were excluded from the study.

Of the 225 victims in the original sample, 115 (51%) could not be reached. They had either moved, changed their phone number, or the data in their file was incomplete. Particularly in the early years of the project, data in victim's files was often scanty and not systematic. In addition, four victims had to be excluded from the study either due to death (1) or were unable to communicate in either English or French (3). Of the remaining 106 victims who were contacted, 47 (44%) refused to participate in the study. Hence, 59 interviews with victims were finally completed. This is 56% of all the victims who were reached and 26% of the victims in the original sample.

Of the 59 victims who were interviewed, 13 declined the invitation to participate in mediation, 7 had participated in indirect mediation and the remaining 39 had participated in direct mediation. The victims vary in terms of age and type of victimisation. The youngest victim at the time of the offence was 12 and the oldest was 82. The median age was 33 years. In regard to type of victimisation, 54% were victims of personal crimes, namely assault (46%); robbery (5%) or threats (3%). The remaining 46% of the sample were victims of property crimes: theft (20%); theft of a motor vehicle (12%) and vandalism (10%).

### *Materials*

The questionnaire used in this study consisted of four parts. The first section consisted of questions that were asked of all

victims who were initially contacted by a project worker. All victims were asked these questions regardless of whether or not they agreed to participate in mediation. Section two consisted of questions specifically for victims who participated in direct mediation. Section three consisted of questions for victims who had participated in indirect mediation. The fourth and final section contained a number of questions regarding victims' attitudes and was intended for all respondents.

In accordance with previous research on procedural justice (Lind & Tyler, 1988; Tyler & Lind, 1992; Van den Bos & Lind, 2002) victims' procedural justice judgements were measured using two questions: Did you find the process fair? Are you satisfied with the procedure followed in your case?

As was pointed out earlier, there are two different views on voice in the literature. One is that victims simply seek recognition through the ability to express themselves. The second view, popular among restorative justice advocates, is that victims seek control and want to make demands. We have included both approaches in our concept of voice and have included the following variables in our analysis: Do you think that you were sufficiently able to make yourself heard in the handling of your case? During the initial contact with the project worker, did you have sufficient opportunity to express yourself? Were you able to make demands? Did you feel hindered in making all the demands that you wished to make?

Respect, or interactional fairness, as it is referred to by Lind and Van den Bos (2002), was measured using a number of different variables that reflect the quality of the interpersonal interactions experienced by the victims, namely: How were you were treated by the first person who contacted you regarding the program? How did you find the preparatory contact(s)? Did the mediator respect your position? Did you obtain the information that you desired during your contacts or meetings with the project worker? Do you feel that you were adequately informed about what you could expect by the project worker(s)?

Trust refers to the perceived motives of the third-party or the mediator. Trust was measured using three questions: Did you have faith or trust in the mediator? Did you feel safe before the meeting? Did you feel understood by the project worker? Neutrality was defined using two questions: Was the mediator(s) neutral? Was the mediator(s) more favourable towards either you or the offender?

## RESULTS

Before presenting the findings, it is important to put the sample into context and address the question of representativeness of the sample. To begin with, the sample is not representative of all crime victims as only victims who were invited to participate in mediation were included. The selection criteria used by the youth workers to select potential cases for mediation impose definite limits on the sample, which included only victims of young offenders, offences of minor to moderate seriousness, and offenders with few prior offences. It may well be that victims of adult offenders or victims of more serious offences would respond differently.

A second question with respect to the representativeness of the sample is whether or not it is representative of the population of victims who participated in the mediation project since 1997. Using the statistics from the program we were able to compare our sample to the population of victims contacted for mediation on the following variables: gender of the victim, offence, and participation in mediation.

Within the population of all victims invited to participate in the project since 1997, 41% were female and 58% were male. In comparison, 48% of the victims in our sample were female and 53% were male. Regarding the offence, in the population, 56% were victims of personal crimes and 44% were victims of crimes against property. In our sample, we found similar percentages with 54% victims of personal crimes and 46% victims of property crimes. Finally, within the population, 48% of victims participated in mediation, 13% participated in indirect mediation and 39%

refused to participate in mediation. In our sample, the percentage of victims who participated in mediation is higher than in the population, with a 66% participation rate. Victims who refused to participate in mediation are relatively under-represented in our sample (22%). The percentage of victims in our sample who participated in indirect mediation is comparable to that in the population (12% vs.13%). In conclusion, the sample is representative of the population of victims included in the project with respect to victim gender and offence type but victims who participated in mediation are over-represented in the sample.

The first question addressed was how victims judge the treatment they received. Victims' procedural justice judgements were based on their responses to two questions regarding the perceived fairness of the process and their satisfaction with the procedures that followed. These two variables were combined to create a scale for procedural justice. The reliability of this scale is high ( $\alpha = .8152$ ). The frequency distribution for the variable procedural justice is presented in Table 1. The results show that victims' procedural justice judgements are not normally distributed and that most respondents (64%) feel that the procedures were very fair.

**Table 1**  
**Frequency distribution of victims' procedural justice judgements**

Value	Frequency	Valid Percentage
Very fair	35	64
Fair	4	7
Not fair / not unfair	2	4
Unfair	1	2
Very unfair	13	24
Total	55	100

Missing = 4

The next question addressed was when do victims feel that the process was fair? Based on the research literature on procedural justice, four factors were considered in the analysis:

voice, respect, trust, and neutrality. As a first step, the strength of the relationship between the possible determinants of each factor and procedural justice judgements was tested using Chi-square. This nonparametric test was chosen as the preferred method of analysis because of the skewed data. However, because the chi-square test is not reliable when there are less than five observations per cell, the number of response categories was collapsed for each of the variables.

The first factor examined was voice, or the ability to express one's views. The relationship between the four possible determinants of voice that were included in the study (to be heard, to express one's self, to make demands, to feel hindered in making demands) and procedural justice judgements are presented in Tables 2 through 5.

**Table 2**  
**The relationship between victims feeling that they were heard and their procedural justice judgements. (n=59)**

	Procedural Justice		
Were heard	Fair	Not fair	Total
Yes	34	1	35
No	4	15	19
	38	16	54

Missing= 5, Chi-square = 34.196, df = 1,  $p < 0.01$

**Table 3**  
**The relationship between victims' ability to express themselves and their procedural justice judgements. (n=52<sup>1</sup>)**

	Procedural Justice		
Express themselves	Fair	Not fair	Total
Yes	30	6	36
No	6	8	14
	36	14	50

Missing = 2, Chi-square = 8.192, df = 1,  $p < 0.01$

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<sup>1</sup> Seven victims who were not contacted by phone but by mail were not asked this question.

**Table 4**  
**The relationship between victims' ability to make demands during mediation and their procedural justice judgements. (n=46)**

	Procedural Justice		Total
	Fair	Not fair	
Could make demands			
Yes	32	9	41
No	3	0	3
	35	9	44

Missing= 2, Chi-square = 0.828, df = 1, p = .363

**Table 5**  
**The relationship between victims feeling hindered in making demands during the mediation session and their procedural justice judgements. (n=46)**

	Procedural Justice		Total
	Fair	Not fair	
Hindered			
No	33	1	34
Yes	2	8	10
	35	9	44

Missing= 2, Chi-square = 28.201, df = 1, p < 0.01

The results presented in Tables 2 through 5 indicate that only three of the four possible determinants studied were significantly related to victims' procedural justice judgements. Interestingly, whether or not victims were able to make demands during mediation was not significantly related to their fairness judgements. Indeed, most victims felt that they had been able to make demands. However, being able to make demands and feeling hindered in making demands appear to be two very different concepts. Victims may be able to make demands but still feel hindered in making certain demands, the latter of which was important in their evaluations of the fairness of the mediation process (Chi-square = 28.201, df = 1, p < 0.01). Significant relationships were also found when victims felt that they had been heard (Chi-square = 34.196, df = 1, p < 0.01) and when they had been able to express themselves (Chi-square = 8.192, df = 1, p < 0.01).

Next, the relationship between respect and procedural justice judgements was examined using five possible determinants of respect (first contact, preparatory contacts, obtained desired information, adequately informed, mediator behaved respectful). Once again, the chi-squared test was used. The results are presented in Tables 6 through 10.

**Table 6**  
**The relationship between victims' evaluations of their first contact with project workers and their procedural justice judgements. (n=54)**

	Procedural Justice		Total
	Fair	Not fair	
First contact			
Very good	34	3	37
Not very good	2	9	11
	36	12	50

Missing = 4, Chi-square = 24.570, df = 1,  $p < 0.01$

**Table 7**  
**The relationship between victims' evaluations of the preparatory contacts and their procedural justice judgements. (n=46)**

	Procedural Justice		Total
	Fair	Not fair	
Preparatory contacts			
Very good	27	5	32
Not very good	9	4	13
	36	9	45

Missing = 1, Chi-square = 1.325, df = 1,  $p = .250$

**Table 8**  
**The relationship between victims obtaining the information they desired and their procedural justice judgements. (n=39)**

	Procedural Justice		Total
	Fair	Not fair	
Obtained desired information			
Yes	30	5	35
Not	0	4	4
	30	9	39

Chi-square = 14.857, df = 1,  $p < 0.01$

**Table 9**  
**The relationship between victims feeling adequately informed and their procedural justice judgements. (n=46)**

Adequately informed	Procedural Justice		Total
	Fair	Not fair	
Yes	31	3	34
No	4	6	10
	35	9	44

Missing =2, Chi-square = 12.438, df = 1,  $p < 0.01$

**Table 10**  
**The relationship between victims belief that the mediator had been respectful towards them and their procedural justice judgements. (n=46)**

Mediator respectful	Procedural Justice		Total
	Fair	Not fair	
Yes	34	1	35
Not	1	7	8
	35	8	43

Missing =3: Chi-square = 30.807, df = 1,  $p < 0.01$

Four of the five predictor variables are significantly correlated with victim' procedural justice judgements. Victims' evaluation of how they were treated by the project workers during the preparatory meetings was the only factor not significantly related to their fairness judgements. However, victims' evaluations of their first contact with project workers were related to the procedural justice judgements, suggesting that first impressions are imperative. Also, whether they obtained the information they desired (Chi-square = 14,857, df = 1,  $p < 0.01$ ) and whether they were adequately informed about the project (Chi-square = 12.438, df = 1,  $p < 0.01$ ) were both significantly related to their fairness judgements. Finally, how they were treated by the mediator was significantly related to their fairness judgements (Chi-square = 30.807, df = 1,  $p < 0.01$ ).

The relationship between the three possible determinants of trust (whether they had faith in the mediator, whether they felt safe, and whether they felt understood by the

project worker) and procedural justice was then examined. The results are presented in Tables 11 through 13.

**Table 11**

**The relationship between whether victims had faith in the mediator them and their procedural justice judgements. (n=46)**

	Procedural Justice		
Faith in mediator	Fair	Not fair	Total
Yes	35	1	36
No	0	7	7
	35	8	43

Missing=3, Chi-square = 36.580, df = 1, p < 0.01

**Table 12**

**The relationship between whether victims felt safe prior to the mediation session and their procedural justice judgements. (n=39)**

	Procedural Justice		
Felt safe	Fair	Not fair	Total
Yes	30	6	36
No	3	0	3
	33	6	39

Chi-square = 0.591, df = 1, p = .442

**Table 13**

**The relationship between whether victims felt understood by the project worker and their procedural justice judgements.(n=39)**

	Procedural Justice		
Felt understood	Fair	Not fair	Total
Yes	28	3	31
No	2	4	6
	30	7	37

Missing=2, Chi-square = 10.643, df = 1, p < 0.01

The results show that two of the three variables were significantly related to victims' procedural justice judgements. Victims who said that they did not have faith in the mediator were less likely to judge the procedure as fair than those who did have

faith in the mediator (Chi-square = 36.580,  $df=1$ ,  $p < 0.01$ ). While victims who felt understood were more likely to judge the procedure as fair than those who did not feel understood (Chi-square = 10.643,  $df=1$ ,  $p < 0.01$ ), two of the four cells of the Chi-square test have an expected frequency of less than five observations, which brings into question the reliability of this test. Only three victims said that they did not feel safe prior to the mediation sessions, yet all three felt that the procedure was fair. Whether victims felt safe prior to mediation was not related to their feelings of fairness.

Next, the factor of neutrality was addressed. Here two possible determinants were examined: whether the mediator was neutral and whether the mediator favoured one party over the other. The results are presented in Tables 14 and 15. Both variables were significantly related to victims' procedural justice judgements.

**Table 14**  
**The relationship between whether victims felt the mediator was neutral and their procedural justice judgements. (n=46)**

	Procedural Justice		
Mediator neutral	Fair	Not fair	Total
Yes	33	3	36
Not	2	4	6
	35	7	42

Missing = 4, Chi-square = 12.600,  $df = 1$ ,  $p < 0.01$

**Table 15**  
**The relationship between whether victims felt the mediator was biased and their procedural justice judgements. (n=46)**

	Procedural Justice		
Mediator biased	Fair	Not fair	Total
Yes	36	5	41
No	0	4	4
	36	9	45

Missing = 1, Chi-square = 17.1771,  $df = 1$ ,  $p < 0.01$

*Regression Analysis*

Multiple regression analysis shows the degree to which the variance in victims' procedural justice judgements can be forecast by the predictor variables. In order to find out the relative importance of voice, respect, neutrality, and trust in determining victims' procedural justice judgements, step-wise regression analysis was carried out. Step-wise regression was chosen because of the relatively strong relationships between the predictor variables. See Table 16 for the correlations between variables. Step-wise regression uses the semi-partial correlations with the criterion and corrects for that portion of the variance which can be predicted by the other predictor variables.

Before conducting the regression, however, multi-item scales were created for voice, respect, trust, and neutrality. Voice was created using two items: whether the victim felt that he/she had been heard and whether or not he/she felt hindered in making demands. The resulting scale was very reliable ( $\alpha=0.8625$ ). Two variables not included are whether the victim could make demands, which was found not to be related to victims' fairness judgements, and whether the victim had been able to express him/herself. The latter variable is significantly related to procedural justice, however, including it in the scale reduced the scale's reliability ( $\alpha=0.6850$ ).

The variable respect was created using four items: victims' evaluations of how they were treated at their first contact with project workers, whether they obtained all the information they desired, whether they had been adequately informed, and how respectful the mediator had treated them. The resulting scale was very reliable ( $\alpha = 0.7901$ ). A fifth element, namely victims' evaluations of how they had been treated during the preparatory meeting, was not included in the scale as it was not significantly related to procedural justice and its inclusion would have decreased the scale's reliability ( $\alpha = 0.6945$ ).

Trust was based on the combination of two items: whether victims felt understood by the mediator, and whether they had faith in the mediator. The resulting scale was very reliable ( $\alpha =$

0.7679). A scale for neutrality was created by combining the two items of neutrality of the mediator and absence of bias. These two items resulted in a very reliable scale ( $\alpha = 0.9708$ ). Table 17 provides an overview of the means and standard deviation for each of the variables included in the regression.

In order to get an idea of the relative importance of voice, respect, trust, and neutrality in relation to victims' procedural justice judgements, step-wise regression was carried out using these four variables as independent variables and procedural justice as the dependant variable. In order to control for background variables, the respondent's age and gender were also included in the analysis. In a first step, voice is included in the regression equation ( $R\text{-squared} = .816$ ;  $p < 0.01$ ) and is able to explain 81% of the variance in victims' procedural justice judgements. In a second step, the variable trust is included in the regression equation and combined with voice, these two variables are able to explain 88% of the variance in victims' procedural justice judgements ( $R\text{-squared} = .886$ ;  $p < 0.01$ ). The remaining variables, respect and neutrality, as well as the background variables were not included in the regression equation.

#### *Amount of Contact*

In order to examine Lind and Van den Bos' (2002) assertion that fair procedures may be more time consuming, the amount of contact was also examined in relation to victims' qualitative appraisals of their interactions. Specifically, victims were asked if they had many contacts with project workers leading up to a possible mediation. The results are presented in Table 18.

**Table 18**  
**The relationship between number of contacts with project workers and victims' procedural justice judgements. (n=46)**

Many contacts	Procedural Justice		Total
	Fair	Not fair	
Yes	26	8	34
No	9	1	10
	35	9	44

Missing =2, Chi-square = .869, df = 1, p = .351

The number of contacts victims had with workers was not related to their fairness judgements. Victims who had many contacts with the project workers were more likely to believe that they had been adequately informed about what to expect (chi-sq = 5.481, df = 1, p=0.019). However, they were not more likely to feel that they obtained the information they desired (chi-sq = .592, df=1, p = .442) or that they were heard (chi-sq = .422, df = 1, p = .516). It appears that the quality of the interaction, and not the quantity, is most important for victims' procedural justice judgements.

### DISCUSSION

This study examined the circumstances in which victims feel that they are treated fairly. The findings show victims desire more than the ability to make demands. Most victims in the sample said that they had been able to make demands, but what mattered most was that they felt they were heard and were not hindered in making demands. The findings seem to support the point of view, which is commonly found in the victimological literature, that victims seek recognition by expressing their point of view and having their point of view taken into consideration (Kilchling, 1995; Shapland, et al., 1985; Wemmers, 1996). The findings suggest that voice is not just about expressing one's needs but also, and perhaps more importantly, about being heard.

Regarding the determinants of procedural justice judgements, clearly the present study, which is based on post-test data only, does not provide a test of the different models developed by Lind & Tyler (1988), Tyler (2003), Tyler & Lind (1992), and Wemmers (1996). The results of the regression analysis show that victims' procedural justice judgements are largely determined by the amount of voice victims feel that they have in the process as well as their trust in authorities. The process of mediation was viewed as fair when victims felt that they were sufficiently able to make their point of view heard, when they did not feel hindered in making certain demands, when they felt understood by the mediator, and when they had faith in the mediator. In contrast, when victims felt that they had not been able to make themselves

heard, felt hindered in making demands, felt misunderstood by the mediator, and had little faith in him/her, they were more likely to feel that the process was unfair.

The variables of respect and neutrality were not included in the regression equation. However, we cannot conclude that these variables are not important as they are both strongly correlated with procedural justice. The predictor variables are all highly inter-correlated, and while they are strongly related to procedural justice, they add little to the equation in terms of predictive power.

Taken together, the results from the regression analysis and the chi-squared analyses suggest that victims find mediation fair because it offers them recognition and respect through consultation, not because it allows them to make demands. These findings seem to contradict certain advocates of restorative justice, such as Fattah (2001) and Roach (1999), who argue that restorative justice appeals to victims' sense of fairness because it allows them to make demands. Beyond making demands, the quality of interaction with project workers is important to victims' perceptions of fairness. The present findings suggest that the ongoing legal debate about victim participation in the rights of the accused (see Ashworth, 2000 and Roach, 1999) may be superfluous. The way in which outcomes are received is important to victims (Wemmers, 1996), and in order to be fair, procedures must include victims while being impartial and free from bias.

With respect to mediation programs, the findings suggest that the contact between project workers and victims is key. It is not enough that programs offer victims input; the quality of the interaction with project workers has a significant impact on victims' procedural justice judgements. From the very first contact, project workers have to develop a good rapport with the victim. They must allow the victim sufficient opportunity to express him/herself, give the victim the feeling that he/she has been heard, and communicate that they understand their point of view. They must establish a sense of trust between the victim and themselves, while remaining neutral and impartial. These findings underscore the importance of proper training for project workers.

From a managerial perspective, the finding that qualitatively positive interactions are not synonymous with time-consuming interactions is of great importance. Lind and Van den Bos (2002) expressed concern that time constraints may be a major impediment to procedural justice in organizational settings. However, the present study shows that victims' evaluations of the quality of the interpersonal interactions with project workers are not systematically related to the number of contacts. The number of contacts between victims and project workers was not correlated with their procedural justice judgements. Victims who had several contacts with project workers were, however, more likely to feel that they had been adequately informed. The lack of relationship between number of contacts and procedural justice judgements suggests that criminal justice professionals can invest in fairness at relatively little cost in terms of human resources; thus, time constraints should not impeded procedural justice.

In return for their investment in procedural fairness, criminal justice professionals can reap many benefits. Tyler and Huo (2002) argue that perceptions of fairness are vital to securing confidence and cooperation with the criminal justice system. Research shows that victim collaboration with the justice system is low and victims who have previously had negative experiences with the justice system are less likely to report future criminal acts to the police (Besserer and Trainor, 2000; Shapland, et al., 1985; Van Dijk, 1999). By treating victims with respect and recognition, programs like victim-offender mediation can enhance victims' faith in the criminal justice system and their willingness to collaborate with authorities.

Moreover, because they appeal to victims' sense of justice, procedures that allow victims to be heard can effectively reduce the risk of secondary victimisation. Insensitive reactions by authorities to victims can augment the victim's suffering (Maguire, 1991). Several authors have criticized the conventional criminal justice system because of its failure to provide victims with a formal role other than that of a witness (Fattah, 2001; Langevin 2002; Roach, 1999; Shapland, et al., 1985). Providing that project workers are able to develop a good rapport with the victim, victim-

offender mediation can provide victims' with the recognition and respect that they seek to restore their sense of justice and reduce their suffering (Wemmers and Cyr, 2005).

There are noteworthy limitations to this study. It was based on a small sample and therefore the findings cannot be generalized to victims in general. The study needs to be replicated, using a larger and more diverse sample. Furthermore, the overrepresentation of victims who participated in mediation may have affected the results. Further research, which addresses the limitations of the present study, is needed before conclusions can be drawn about victims in general.

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## ANNEX

**Tabel 16**  
**Correlation matrix for all of the variables in the Regression Analysis**

<i>Variable</i>	Procedural Justice	Voice	Respect	Trust	Neutrality	Age	Gender
Procedural Justice	1	0.851*	.690*	.161	.108	.110	-.095
Voice		1	.598*	.051	.013	.265	-.007
Respect			1	.803*	.671*	.146	.160
Trust				1	.918*	.009	.023
Neutrality					1	.025	-.015
Age						1	.062
Gender							1

\*= Correlation is significant at the 0.01 level

**Table 17**  
**Mean and standard deviation for each of the variables in the regression analysis**

<i>Variable</i>	<i>Mean</i>	<i>Standard Deviation</i>
Procedural Justice	2.54	0.879
Voice	1.69	0.902
Respect	1.09	0.311
Trust	0.915	0.925
Neutrality	1.01	0.605
Age	35.5	19.98
Gender	1.52	0.504