

Does Interpersonal Justice Influence Crime Victims Willingness to Engage with the Kenya Criminal Justice System?

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Abstract: There is considerable evidence in procedurally policing research that indicated procedural justice is important in fostering crime victims' satisfaction with the police. More recently some scholars have extended the examination of procedural justice and its influence on victims' engagement with the criminal justice system. Although they have examined one segment of procedural policing, that is informational justice. The study extends the research that has been conducted in this area by examining the role that interpersonal justice plays in fostering victims' future engagement with the criminal justice system. The current study utilized survey data collected from 82 crime victims to show whether interpersonal justice impacts victims' willingness to engage with the Kenya criminal justice system.

Keywords: crime victims, criminal justice system, engage, informational justice, interpersonal justice, procedural justice, willingness.

1. INTRODUCTION

In common law crime victims were a vital element in bringing their perpetrators to justice by conducting their own investigations and arguing their own cases or by hiring someone to investigate and prosecute for them (Katherine, 2008). The arrangement was truly a 'Victim justice system' (Doerner & Lab, 2012). Later on there was a distinction between offenses against the social order (crimes) and offenses between individuals (civil wrongs) which brought a distinction between civil law and criminal law. Thus, victims could pursue money for damages from their perpetrators in the civil justice system, while in the context of the criminal justice system their role was reduced to serving as witnesses for the state (American Bar Association [ABA], 2006). In this regard the formal system of justice (criminal justice) brought about a problem – the victim got left out (Doerner & Lab, 2012).

Research indicate that victims of crime play a crucial role in the criminal justice system as they report victimization, provide investigative leads and are relied by prosecution as witness to the state. Globally the victims of crime are gaining recognition as key players within the realm of criminal justice system, without the victims much crime would remain unknown while many criminal investigations and prosecutions would collapse. Recently, Doerner & Lab (2008) observe, there is a shift toward more victim participation in the justice process and victims are gaining needs and rights that restore them to greater prominence in the criminal justice system globally. Although, Rodgers and Naughton (2011) posit that crime victims have not been incorporated into the justice process at all and advocate for the authorities, policy makers and scholars to explore the relationship between the crime victim and the justice system. In Kenya, Bowry (2011) claims that victims of crime are faced with great hurdles in their attempt to access justice, for instance reporting any crime to any police department is time consuming while the process of making statements is equally cumbersome. However, this opinion is based on anecdotal evidence and as such remains hugely contested. However, Mwai and Mogambi (2016) offers empirical evidence that indicated victims of crime are treated with informational injustices while in the Kenya

criminal justice system. For instance, victims felt inadequately informed as to when the suspect was released on bail, on the nature and progress of criminal investigations and on the time and place of court proceedings and changes made to the original schedule.

To date much of victimological research globally has concentrated on the aspect of victim satisfaction with the criminal justice system. Although Laxminarayan, Bosmans, Porter & Sosa (2013) observe that these studies laid down the groundwork for later theoretical conceptualization regarding, for example, procedural justice in the realm of criminal justice system. The concept of procedural justice as used in the literature regards a phenomenon that describes the fairness of the process by which decisions are made by authorities as opposed to distributive justice that is the fairness of the decisions themselves (Elliott, Thomas & Ogloff, 2012). It has since been established that aspects such as interpersonal treatment, participation, compensation, and retribution are associated with satisfactory justice. Studies have also established that people value fair procedures other than favorable outcomes (Elliott et al, 2012). These studies show that if the procedures are fair, views of legitimacy increase (Mastrocinque & Mc Dowall, 2015). This in turn results in more positive perceptions of the authorities and greater willingness to offer assistance and cooperation to them (Sunshine & Tyler, 2003). Although, these studies have been largely police focused.

In Kenya there is limited research on whether these aspects of justice have influence on future willingness of the victims' engagement with the criminal justice system. One study though conducted by Mwai and Mogambi (2016) has explored the relationship between informational justice and victims' willingness to engage with the Kenya criminal justice system. However, to the author's knowledge no research in Kenya has explored the relationship between interpersonal justice and victims' willingness to engage with the criminal justice system in the future. Procedural justice within the realm of criminal justice system has been found to be crucial in influencing cooperation of victims of crime. Thus if victims of crime feel treated procedurally fairly they are likely to cooperate with the criminal justice actors. There is also additional benefit of treating victims with procedural justice. Elliott, Thomas, and Ogloff (2013:1) found that validation of victimization experiences by the police via procedural justice was beneficial in addressing the negative psychological consequences of crime by giving victims "a sense of closure, empowerment, and making them feel safer". This additional benefit is the very aspect that makes victims to engage or cooperate with the criminal justice actors in the future. Additionally, early studies conducted on Dutch victims found that being treated with dignity and respect was of particular importance to victims of crime (Murphy & Barkworth, 2014).

Therefore, given the number of crime that go unreported annually, and non cooperation of victims with the prosecution and the courts widely reported amid the overreliance of the Kenya criminal justice on victims, it's sensible to explore what the criminal justice system should do to encourage victims of crime to engage with the justice system. This paper specifically explores how crime victims are treated with interpersonal justice and the role that interpersonal justice can play in fostering victims' willingness to engage with the Kenya criminal justice system. Engagement with the criminal justice system denotes a variety of behaviors such as contacting police officers to report crime, giving police officers investigative leads, appearing as witness for the state among others. It is hoped that doing so will provide more insights into the current state of knowledge on procedural justice and victims' willingness to participate in the criminal justice system.

2. BODY

Literature that has examined victim satisfaction has found a number of factors to be influential, including voice (Erez & Tontodonato, 1992; Laxminarayan, 2012) information (Johnson, 2007), respect (Brandl & Horvath, 1991), and compensation (Erez & Bienkowska, 1993). More recently, Laxminarayan, Bosmans, Porter and Sosa (2013) have distinguished between procedure and outcome aspects of the justice process. Some research indicate that treatment of crime victims and their participation role in the justice process is also considered to be important just as is the case to outcome of the legal proceedings (Laxminarayan et al., 2013). Even research in social, legal, and organizational settings has demonstrated that people place a significant value on the fairness of the process by which outcomes are achieved (MacCoun, 2005). Consequently, the procedural aspects of justice are considered more crucial than outcomes generated by the procedures.

Emerging from recent research on the quality of procedural dimension of justice within the realm of the criminal justice system is a framework that distinguishes between procedural justice and interactional justice. While procedural justice refers to the perceived fairness of the procedures used to obtain a given outcome (Lind & Tyler, 1988); interactional justice refers to elements of procedure that relates to the quality of the relationships between the parties (victim and criminal justice authorities) (Laxminarayan, 2012). As far as interactional justice is concerned a further distinction has emerged that distinguishes between interpersonal and informational justice (Laxminarayan et al., 2013). The present investigation focuses on interpersonal justice. Interpersonal justice refers to the level of respect and propriety shown toward victims (Laxminarayan et al, 2013). Under the United Nations Declaration of basic principles of justice for victims of crime and abuse of power, principle four advocates that victims of crime should be treated with compassion and respect for their dignity (United Nations, 1985). Indeed research indicate that people who are suffering or are under stress appear to have a special need for close, supportive interactions with others (Silver, Wortman, & Crofton, 1990). Close emotional ties can provide victims with the necessary emotional support and as Waller (2011) notes, victims of crime need to work through the shock and confusion of their sudden and arbitrary victimization and a good way for them to process some of these jumbled reactions is to have a sympathetic and understanding person listen to them.

There is considerable evidence that emotional support following victimization is positively associated with mental and physical health (Cohen & Wills, 1985). Close emotional ties may provide feedback that the person is valued and thereby help restore the victim's self-esteem (Waller, 2011). Practically speaking, officials who appear to be interested in what the victims say, take time to listen to them and seem to take them seriously promote emotional feelings of satisfaction to victims (Shapland, Willmore & Duff, 1985). In the last three decades, accommodations such as fairness, respect, and dignity for victims have been included in discussion about the purpose of the criminal justice system globally (Cellini, 1997). Chandek and Porter (2005) while assessing the conduct of police to victims included aspects such as being understanding, respectful and concerned in their discussions. They found that victims were dissatisfied by the emotional support they got from the police. The present study therefore incorporates all aspects from both studies while stretching the scope to include judicial officers. Therefore, the major determinants of emotional ties in the criminal justice system are whether the officials' conducts are; courteous/respectful, understanding, concerned, listening and seriousness offered to crime victims.

As noted more recently by Murphy & Barkworth (2014), people care about procedural justice during encounters with authorities because it conveys messages about one's standing within society. Murphy & Barkworth (2014) noted that procedural justice facilitates allegiance to a group norms and cooperation with group authorities because when people feel they are treated with procedural justice by a significant group representative, their self-worth is bolstered and their value and attachment to society is reaffirmed. It therefore follows that the contrary holds true, that unfair treatment results in negative attitudes or promotes resentful feelings which facilitates non cooperation. Indeed, procedural justice has been found to enhance identification with groups, and as a result a predictor of compliant behavior. There are studies that have supported these assertions, for example, Tankebe (2013) revealed that victims of crime in London were more willing to cooperate with police when they viewed police as treating citizens in a procedurally fair way. Murphy & Barkworth (2014) conducted a study to assess the victim willingness to report crime to police and established a positive relationship between procedural justice and willingness to report crime.

Although these early studies did study procedural justice and its influences, aspects of procedural justices were not broken down. In other words these studies adopted an aggregate measure of procedural justice and which could be subject to shadowing effect, indicating there could be one particular aspect of procedural aspect that victims of crime are concern and which influences their future engagement with the police and which is not identified by the aggregate measure. Consequently this may obscure important subtleties between different aspects of procedural justice in the final results. For instance, Mwai and Mogambi (2016) explored the role of one aspect of procedural justice (informational justice) and its influence on victims' engagement with the Kenya criminal justice system. Final results indicated that victims of crime received informational injustices from the criminal justice system actors. Additionally, a statistically significant relationship between informational justice of crime victims and future willingness to engage with the Kenya criminal justice system was established. Thus, informational injustice negatively influenced victims' future engagement with the criminal justice system.

Research on interpersonal justice in the context of Kenya criminal justice system has yet to take root, although as mentioned in the preceding paragraph Mwai and Mogambi (2016) explored the role of informational justice and its influence on victims' willingness to engage with the Kenyan criminal justice system. Final results indicated a statistically significant relationship between the two variables. Additionally, some western studies have found a relationship between procedural justice and willingness of victims to report crime in the context of policing. To the author's knowledge no research has explored the impact of interpersonal justice on the willingness of victims to engage with the Kenya criminal justice system.

If victims always express a need to be treated with emotional justice and the criminal justice system treats them with emotional injustice, then we can say that victims are treated with indignity and as a result treated unfairly. This can hugely result in dissatisfaction with the criminal justice system. Therefore, with crime victims reported to play a vital role in the criminal justice system and given the apparent underreporting of crimes and non cooperation with the system its prudent to investigate the role of interpersonal justice in enhancing victims willingness to engage with the Kenya criminal justice system after victimization.

Little existing research examines victims' perceptions on procedural justice in the criminal justice system. Research that does study victims' perceptions on procedural justice has focused on their evaluations of specific types of system actors, for instance the police. As noted earlier, the study is concern with interpersonal justice as a sub set of procedural justice but extends the scope of actors to include the police, prosecutors and judicial personnel. Therefore, the present investigation aims to extend existing research in this area. First, the study aims to explore how victims in the Kenya criminal justice system are treated as far as interpersonal justice is concern. Second, it aims to explore the impact of interpersonal justice on the willingness of victims to engage with the Kenya criminal justice system in the future.

3. METHOD

The study utilized descriptive survey data. The target population for the study constituted a total of 262 crime victims with ongoing cases from September 2011 to September 2013 in the four court stations in Kirinyaga County namely; Kerugoya, Baricho, Gichugu and Wanguru and who were classified according to the victim typology namely; property crime victims and assault crime victim. The population was drawn from the criminal registers and compared with the population obtained from the prosecution registers, this was done for clarity. They had participated in the criminal justice system and were required to draw upon the experiences to participate in the study. A total population of 30 actors in the criminal justice system namely; prosecutors, magistrates and court clerks was drawn from the four court stations. They had interacted with the crime victims and were required to draw upon such interactions to participate in the study. Therefore the total population for the study was 292 respondents.

A sample of 94 crime victims (36% of the total study population) was randomly selected out of which 82 filled and returned questionnaire. According to Kerlinger (1986), 10 per cents to 30 per cents is a fair representative sample from which findings can be drawn about a given population, for a better representation sample a high percentage was sought. Stratified random sampling was used to ensure that the researcher selected sample elements in proportion to their actual number in the overall sampling frame. Simple random sampling was employed to select an appropriate sample from the identified strata. Purposive sampling technique was used to select key informants consisting of; prosecutors, magistrates and court clerks. Thus the researcher ensured that only those cases with relevant knowledge, relevant to the objective of the study were included in the sample. Therefore, a total sample size of 8 (27%) of key informants were obtained.

There were two main concepts of interest in the present study: interpersonal justice and self reported willingness to engage with the criminal justice system (questions used are presented in the appendix). Interpersonal justice scale was constructed utilizing items measured on a 1 (strongly disagree) to 5 (strongly agree) Likert scale. Interpersonal justice was measured with a 5-item scale; items were derived from the literature review. As far as willingness to engage with the criminal justice system was concern, 3 items were constructed. The engagement items were each measured on a 1 (very unlikely) to 5 (very likely) scale. A higher score indicates a greater willingness to engage with the criminal justice system. The instruments used in data collection were tested to establish their validity and reliability. The objective of the pilot study was to ensure there was no ambiguity in the questions and to check the reliability of the questionnaire. Interview schedules were also utilized.

Quantitative data was analyzed using descriptive statistics and inferential statistics, the Pearson's Product Moment Correlation Coefficients were used to determine the strength of relationship between interpersonal justice and victims' willingness to engage with the Kenya criminal justice system in future. In order to achieve this objective all items that were used to measure interpersonal justice were transformed to one single variable namely, interpersonal justice for ease of analysis. To measure willingness to engage with the Kenya criminal justice system all three items were all transformed into a single variable – willingness to engage for ease of analysis. Qualitative data from interviews were analyzed through narratives of cases in order to get in-depth information on the general experience of crime victims in Kenya criminal justice system. Therefore, the researcher used explanatory notes (analysis) as he collected and transcribed the data. Finally, two of the essential principles of ethical conduct – informed consent and protection of anonymity and confidentiality remained a priority.

4. RESULTS

Table 1: Emotional treatment of crime victims in the Kenya Criminal Justice System

Items	Mean rate
Victims who felt the police and court officials were respectful	2.407317
Victims who felt the police and court officials were understanding	1.902439
Victims who felt the police and court officials were concerned	2.597561
Victims who felt the police and court officials were listening	3.109756
Victims who felt the police and court officials took them seriously	1.926829
Average mean rating	2.3887804

To determine interpersonal justice accorded to crime victims in the Kenya criminal justice system, victims were asked whether they felt the police, prosecutors and court officials were; respectful, understanding, concerned, listening and whether they felt to have been taken seriously. Table 1 indicates the mean rates generated from each pre-developed question. In order to generate the mean rates the researcher run a mean score tabulation of all the pre-determined responses in all pre-developed questions. A mean rate of 1 indicates that the respondents received very unfair treatment; a mean rate of 2 indicates that the respondents received unfair treatment while a mean rate of 3 and 4 indicates that the respondents received fair and very fair treatment respectively.

As to whether the crime victims felt the police and court officials were respectful, mean rating computation generated a mean score of 2.407317. This meant that crime victims disagreed to have had the police and court official respect them. The study also sought to determine whether the police and court officials were understanding, on running a mean rating analysis a mean score of 1.902439 was obtained, indicating indeed crime victims strongly disagreed to have had the police and court officials exhibit such conduct. The respondents when responding to the question as to whether they felt the police and court officials were concerned, a mean score of 2.597561 was generated, suggesting that crime victims somewhat disagreed to have had the police and court officials exhibit such conduct. As to whether crime victims felt the police and court officials were listening, a mean score of 3.109756 was obtained meaning that the respondents agreed that they were indeed listened to by the police and court officials. The study also sought to determine whether crime victims felt they were taken seriously by the police and court officials, when a mean rating computation was run a mean score of 1.926829 was obtained indicating that crime victims strongly disagreed to having the police and court officials exhibit such behavior.

It was determined that crime victims received interpersonal injustice or mistreatment from the police, prosecutor and court officials while in the criminal justice system, this is because, while responding to questions presented to crime victims in a Likert scale on whether they felt the police and court officials were respectful, understanding, concerned, listening and whether they were taken seriously an average mean rating of 2.3887804 was obtained confirming that crime victims received poor treatment from police and court officials. This kind of interpersonal mistreatment is reflected in one scenario the researcher witnessed in a court room.

In one case that the researcher witnessed, that of Susan, not her real name, she appears to deliver her testimony and tries to lament about the manner in which the accused person has being mocking her, it's shocking what she gets from the

magistrate. The magistrate replies, “*Msichana hio ni fitina unaleta*” meaning young lady you’re bringing enmity. Immediately the lady breaks into tears.

Table 2: Likelihood of crime victims’ willingness to engage with the Kenya criminal justice system

Items	Mean rate
Likely to report a similar crime in the future	2.512195
Likely to assist the police in investigations	2.256098
Likely to assist the courts through testifying	2.219512
Average mean rating	2.329268

The findings in table 2 reveal that crime victims were unwilling to engage with the criminal justice system in future. This is so because while responding to pre developed questions presented to crime victims in a Likert scale on whether they were likely to report a similar crime, assist the police in investigations and assist courts through testifying in the future a mean rating of 2.329268 was obtained.

The victims seem to be frustrated by the system and this could be the reason they are reluctant to engage with the system in future – they learn that although they had gone there to discharge a civic duty, the system neglects their emotional needs. In fact, crime victims’ reluctance to become involved in the Kenya criminal justice system is reaching epidemic heights. System personnel whined that victims and citizens are growing increasingly apathetic towards the system for no reason; this is confirmed by one of the key informant’s views.

There is an emerging trend where citizens are avoiding reporting crime incidents. **Key informant**

However, such depiction is difficult to concede, a substitute narrative arising from the analysis is that victims have grown disillusioned and are rebelling against further abuse. Because of maltreatment by the Kenya criminal justice system they are making a very premeditated and rational decision to detour the criminal justice system. This is given credence by analysis from one of the respondent.

The way police handle victims is heartless and hence I don’t think I can report in the future. **Crime victim**

Table 3: Pearson Correlation Coefficient for the impact interpersonal justice on crime victims’ willingness to engage with criminal justice system

		Interpersonal justice	Engagement willingness
Interpersonal justice	Pearson Correlation	1	.299**
	Sig. (2-tailed)		.006
	N	82	82
Engagement willingness	Pearson Correlation	.299**	1
	Sig. (2-tailed)	.006	
	N	82	82

** . Correlation is significant at the .01 level (2-tailed).
 * . Correlation is significant at the .05 level (2-tailed).

Findings in table 3 reveal a statistically significant relationship between perceived interpersonal justice of crime victims and willingness to engage with the Kenya criminal justice system ($r=0.299$; $P<.05$). This means that interpersonal justice such as being respectful, understanding, concerned, listening and taking victims seriously influence the victims’ willingness on engaging with the Kenya criminal justice system in the future.

In the aftermath of a crime, the degree and quality of emotional support received by the victim is of particular importance to their subsequent adjustment and the way they perceive the justice system. Crime victims may grow very sensitive to behavior they perceive as unsympathetic or uncaring and may take the perceived unresponsiveness of the system very personally leading to far and wide reaching consequences to the operation of the criminal justice. This is confirmed by one case that the researcher witnessed.

In the case of 'Susan' discussed earlier, after the court session, the researcher tried to establish contact with her and she was quick to reply, "I will fill in the questionnaire but not now, why don't you pick your questionnaire tomorrow" after three days the researcher made contact with her and as a conversation began the researcher said, sorry for the other day in court, you were too emotional. She replied "actually it was so overwhelming for me; I thought I was helping the court only for the magistrate to turn his back on me. The accused has not stopped mocking me and now he is telling everyone in the village how I was rubbished off by the magistrate. I will never go to court again; in fact I want the matter to come to an end now so that I can resume my normal duties."

5. DISCUSSION

Findings from the study indicate that crime victims in the Kenya criminal justice system received interpersonal injustice. Research indicate that people who are suffering or under stress such as crime victims appear to have a special need for close and supportive interactions with others they come into contact with as it provides a platform for their recovery process. However, in the current criminal justice system they appear deprived. Crime victims as they navigate the criminal justice process they encounter numerous contacts with various actors such as the police, prosecutors, court clerks and magistrates. It is expected that such contacts should yield supportive interactions in which actors become sensitive to the emotional needs of the crime victims. At least by offering emotional needs actors provide a foundation upon which crime victims can absorb the shock and confusion of their arbitrary criminal victimization, thereby enhancing their emotional and physical wellbeing. Apparently as things appear to be, victims in the Kenya criminal justice system continue to experience secondary victimization. Results indicate that out of the five variables used to measure interpersonal justice, victims only felt listened to by the police and judicial officers. These findings are in agreement with the findings of Chandek and Porter (2005) who also found out criminal justice personnel was incapable of providing emotional needs to crime victims. Failure to provide such needs leaves the crime victims re-victimized, thus impacting on their mental and physical wellbeing.

Findings further indicate that crime victims are reluctant to engage with the Kenya criminal justice system in the future given the interpersonal injustice they receive from the actors. Because of the negative feelings and distress that they experience after criminal victimization, crime victims appear to be in need of supportive interaction which provide them with emotional and physical wellbeing. Interestingly, supportive interactions from the actors in the criminal justice system also conveys the social standing of crime victims in the society, which in effects enhances cooperation with society norms and values. As noted by Murphy and Barkworth (2014:181) when people feel they are treated with procedural justice by an important group representative, their self-worth is bolstered and their value and attachment to society is reaffirmed which in turn encourages allegiance to group norms and cooperation with group authorities. On the contrary, unfair treatment, signals marginality and exclusion leading to formation of negative attitudes about the authority that treats them poorly or expression of resistance toward the authority, being unwilling to assist or cooperate with them (Murphy & Barkworth, 2014:181).

Research that has evaluated the impact of procedural justice on cooperation has largely focused on interactions with the police (Mastrocinque & Mc Dowall, 2015). Although the scope of the current research extended to cover other criminal justice actors while exploring one aspect of procedural justice (interpersonal justice), previous research on procedural justice supports the findings. For instance, Murphy & Barkworth (2014) established a positive relationship between procedural justice and willingness to report crime which also supports the findings. A study conducted by Tankebe (2013) also revealed that victims of crime in London were more willing to cooperate with police when they viewed police as treating citizens in a procedurally fair way. Additionally Mwai and Mogambi (2016) found that victims of crime in Kenya were unwilling to cooperate with the criminal justice actors when they perceived to have been treated with informational injustice. Therefore, from the findings it's clear that interpersonal justice is crucial in determining victims' willingness to engage with the criminal justice system.

6. CONCLUSION

The findings have been in a position to reveal that crime victims receive interpersonal injustice and that perception about interpersonal justice influences victims' willingness to engage with the criminal justice system in the future. It has also been shown that although applicable to general victims, the evaluations apply in the Kenya criminal justice system. Therefore, there is the need for the Kenya criminal justice personnel to treat crime victims with interpersonal justice by showing respect to the victims. At least the police and judicial officials should exhibit behavior that shows that they are

concerned, understanding, respectful, and above all should take victims seriously. This general conclusion should be approached carefully; it is important to note that the current study used the traditional approach by examining victims as a homogeneous group and as such is not context specific. Future research could build on the current research by addressing several methodological issues. First, it would be interesting to understand whether perceptions about interpersonal justice and its impact on the willingness to engage with the criminal justice system is context specific (depending on victimization, say for example, assault and property victimization) and specific to systems actors (say for example; police, prosecutors and judicial personnel). It would also be interesting to find out whether the findings would apply to other counties in Kenya. It's imperative to note that the scope of the current study was to provide a broad outlook of victims' perceptions on interpersonal justice and its impact on their willingness to engage with the Kenya criminal justice system and as such, those issues were not within the scope of the study. The study recommends that authorities in the Kenya criminal justice system should consider treating crime victims with interpersonal justice. To achieve this, the authorities should roll up a campaign to sensitize their personnel on the emotional needs of the crime victims and how best they can meet such needs by exhibiting behavior that indicates that they are concerned, respectful, understanding and appear to take crime victims seriously.

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