

Any discussion of “conceptualizing justice” requires some evaluation of the outcomes produced by the system. If our justice system routinely did not produce outcomes that are, at the very least, satisfactory to our society, then we could not call our system “just.” In a perfect world, our society might wish for objectively correct outcomes as the prime indication of the degree of justice afforded by the system. However, in the real world, the “best” outcome in an objective sense may frequently be debatable and, more importantly for scholars studying the justice system, this outcome is often exceptionally difficult to measure. For example, in the case of jury verdicts at trial, a court observer or researcher may not be capable of discerning whether a particular defendant is truly “guilty” of the crime charged. While the search for truth is clearly important, another important measure of justice can be found in society’s evaluations of the functioning of the justice system.

These evaluations may take a variety of forms. As such, they also relate to a number of different topics which can be measured by scholars seeking to evaluate the degree of “justice” provided by a justice system. Despite the importance of understanding the degree of “justice” perceived by individuals, however, the public’s evaluations of the justice system are too frequently understudied. Perhaps this is due to the inherently interdisciplinary nature of these studies; in order to examine these questions, researchers must possess the skills of a survey or experimental researcher in addition to possessing legal expertise. Particularly with respect to legal topics, comparatively few researchers have elected to study opinion about legal policy and processes, but rather have opted to study the underlying policy and processes themselves.

One reason that the public’s views of the criminal justice system are so important is that these views influence the legitimacy of the justice system over time. Legitimacy is not just an abstract or utopian concept, but rather has been linked concretely to a willingness (or lack

thereof) to obey the law (Tyler, 2004). Numerous additional studies have also supported this link. (Engel, 2005; Paternoster, Brame, Bachman, & Sherman, 1996; Sunshine & Tyler, 2003a, 2003b; Tyler, 2001, 2005, 2006; Tyler & Folger, 1980; Tyler & Huo, 2002; Tyler & Wakslak, 2004). In this way, perceptions of justice directly influence the degree of order within a society (Tyler 2004), including the ability of police to provide effective protection and the degree of respect accorded judicial decisions (Tyler, 2001). Thus, legitimacy provides a necessary foundation for the health of the rule of law within a society. For these reasons, an understanding of how the public interacts with and understands the justice system is crucial. As a result, while it is clearly important to conceptualize justice in a theoretical manner and through the evaluation of outcomes, “justice” may also be tangibly studied through the development of research on individual and expert perceptions of the system.

Since public and expert opinion is diverse, this area of research can and should take a variety of forms. Within the studies of legitimacy, for example, the concept of legitimacy has been presented as an overall index consisting of a variety of different considerations, such as the degree to which the public respects the institutions of justice, the degree to which the public believes that these institutions make good decisions, and the degree to which these institutions exhibit respect for individual rights (Reisig, Bratton & Gertz, 2007). The examination of these and other questions related to the public’s assessment of justice institutions and processes are crucial to understanding what it means for a justice system to provide “justice,” particularly since the public is ultimately to be served by the system.

The occurrence of a crisis which holds implications for conceptions of rights may present a particularly crucial time for researchers wishing to conceptualize justice because it is in a crisis that the commitments and priorities of the public change rapidly. For example, many have speculated that the tragedies of 9/11 not only greatly altered substantive legal policy in the U.S.,

but also impacted the public's views about the proper role of the courts and the appropriate scope and importance of civil liberties guarantees. Though many legal scholars have studied and debated post-9/11 civil liberties in a substantive sense, comparatively few have examined these questions in the context of how the crises altered the public's views of the justice system and of the continuing importance of rights to our definition of "justice" (Merola, 2010, 2008). A larger effort to systematically examine the manner in which crises or other critical issues may influence the public's conceptions of justice is needed.

While the 9/11 example is one of extreme change, less intense societal changes also ripe for scholarly examination. For example, since the use of new technologies may greatly influence the manner in which the public interacts with justice processes and institutions, these changes are important topics of study. An illustration of this may be seen in policing. Currently, police agencies are adopting and disseminating license plate recognition technology ("LPR") at a very high rate and for a variety of functions (Lum & Merola, 2010). LPR technology allows for the police to collect data from all (or very nearly all) cars passing each deployed LPR unit, including the vehicle's license plate number and the date, time and location of the observation. With increased usage of this technology and capabilities for data storage, the police may eventually develop the capacity for more generalized surveillance of the public through the use of stored LPR data to recreate the activities of individuals.

These technological developments may result in important implications for the privacy of individuals and, as a result, for the legitimacy of the police in the eyes of the public (IACP, 2009; Hubbard, 2008). While the provision of justice in this case may certainly be measured by "outcomes" (or the number of stolen vehicles recovered or other crimes solved by police through the use of LPR data), criminologists cannot possess a full understanding of the implications of

LPR without examining how this technology's use impacts public perceptions of police legitimacy, respect for individual rights, and even police-community relations. Thus, a survey on this topic reveals that the majority of residents in one community would support some, but not all uses of LPR data, despite the fact that the technology has the potential to reduce crime (thereby producing what may be seen as "better" police outcomes). Rather, this result suggests that members of this community seem to be indicating that "better" outcomes may not always be worth the tradeoff of allowing the police to possess a more generalized surveillance capability. Sometimes a community may view a particular tactic or procedure as "unjust," even if it leads to more effective outcomes. Moreover, a related point has been suggested by the literature on procedural justice, namely that perceptions of justice are often influenced by the fairness of processes and procedures in the eyes of the public and sometimes may be less dependent upon outcomes or other factors (Tyler, 2004).

Of course, the discussion above of crises or alterations within our society is not meant to suggest that these changes represent the only occasions when the study of public opinion is important to understanding justice. Rather, the continuing evaluation of our justice processes and institutions is important. For example, this can be seen through the literature related to judicial diversity. The research demonstrates that the bench is not diversifying as quickly as other parts of our society changing; as a result, no stark change is seen (Merola & Gould, 2009; Lawyer's Committee, 2005). In this case, though, the public's recognition of the need for a diverse judiciary may have changed over time. Indeed, scholars have argued that it is crucially important to court legitimacy and also to notions of equality for parties coming before a court to see a court which reflects the whole of society. However, in order to understand these questions, scholars must examine public opinion in these areas.

In addition to examining the opinions of the general public, a greater effort to understand expert opinion is needed. Public opinion scholars tell us that expert communities play a central role in shaping the development of policy and also in influencing the views of the general public (Zaller, 1992). In fact, very little scholarly research currently examines the opinions of legal or other criminal justice professionals, even with respect to vital legal questions. To relate this point to the previous examples provided, almost no work has investigated the extent to which the terror crisis has prompted changes in the legal or criminal justice community's conceptions of civil liberties or even in their views of effective terror policy (Merola, 2010). Likewise, to date, few researchers have rigorously evaluated the views of experts with respect to new technologies, such as LPR, even when these technologies have widespread implications for fundamental rights, such as privacy (Lum & Merola, 2010). This is also the case in the area of judicial diversity (Merola & Gould, 2010).

Finally, it is also important for researchers to evaluate the role of the media in influencing the public's evaluations of the criminal justice system. Since relatively few individuals have prolonged direct experiences with courts or other criminal justice actors, the public's knowledge and expectations of justice are highly influenced by secondhand, mediated experiences. Even fictional programming has been shown to significantly impact its audiences' belief systems. Further, the information conveyed in news reports influences individuals to an even greater extent, because it is easy to believe that one possesses the equivalent of first-hand knowledge after viewing live pictures of events (Neuman, Just, & Crigler, 1992). Integrating an understanding of media within the study of justice requires scholars to possess even more of an interdisciplinary focus; however, this is crucial to developing a comprehensive theory of how justice evolves in the minds of those ultimately served by the system, the public.

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