

Thesis

Uncovering the Potential of Community-Based Restorative Justice in Reducing Perceived Discrimination: Insights from 'Wijkrechtspraak op Zuid'



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Abstract

The Dutch criminal justice system, while designed to be fair and impartial, is often perceived as discriminatory among people with a migration background. Previous studies have indicated that community-based restorative justice programmes may contribute to reducing inequalities, which may also influence perceptions of fairness. Through a case-study, the impact of the ‘Wijkrechtspraak op Zuid’ programme on perceived ethnic discrimination among defendants with a migration background is explored, compared to traditional justice. General observations, next to interviews with defendants and key informants, have led to the understanding that high accessibility, reintegrative shaming while community-oriented parties are present, and a lower perceived power-distance and social distance, play a mediating role in the relationship between actual discrimination and perceived discrimination. Moreover, these aspects and the overall presence of community-based restorative justice may also directly contribute to perceived fairness, diminishing perceived discrimination as well. However, external factors like spill-over effects involving the external attribution of negative experiences in other public domains, may also influence perceptions. In conclusion, community-based restorative justice shows promise in reducing perceived discrimination in court proceedings, but it should not be considered a panacea due to the need for further comprehensive research regarding perceptions of discrimination and the potential enhancements within Wijkrechtspraak op Zuid.

Key words: community-based restorative justice, criminal justice system, perceived discrimination

1. Introduction

The criminal justice system is an essential component of society as it aims to maintain law and order by ensuring that those who violate the law are held accountable for their actions (Mayeux, 2018). Van Kempen (2009) argues that the Dutch criminal justice system is designed to be fair, impartial, and transparent with a focus on protecting public safety and ensuring that justice is served. However, several studies have highlighted that people with a migration background, especially those who reside in socially and economically disadvantaged areas, often perceive criminal justice processes and outcomes as unequal and discriminatory (Light & Wermink, 2020; Woolard et al., 2008). ‘Perceived discrimination’ refers to the subjective experience of individuals who feel that they have been treated unfairly based on characteristics such as ethnicity, class, or gender (Taylor et al., 1994).

In addition, Van Houdt (2014) and Unnever (2019) state that there is an overrepresentation of people with a migration background in the Dutch criminal justice system. Light and Wermink (2020) also contend that the Dutch criminal justice system demonstrates a pattern of cumulative ethnic selectivity. Such selectivity could be the result of various underlying causes, such as taste-based discrimination, statistical discrimination, or institutional discrimination, which may lead to perceived discrimination (Pincus, 1996). Moreover, other factors, such as negative past experiences with the criminal justice system for example, may also contribute to perceptions of discrimination (Tyler, 2006).

There is evidence to suggest that community-based restorative justice may be effective at reducing inequalities while increasing perceptions of fairness (Daly, 2000; Sivasubramaniam & Goodman-Delahunty, 2006). One initiative that could thus be relevant to address the issues of actual selectivity and perceived discrimination in the criminal justice system in the Netherlands is ‘Wijkrechtspraak op Zuid’ (Community Justice in the South). The programme involves a community-based restorative justice approach to resolving conflicts in the Rotterdam South district (Androff, 2012; Simon Thomas, 2022), which is partly known for its ethnically diverse population and high levels of crime (Visser et al., 2015). It focuses on restoring relationships, repairing harm, and involving the community rather than resolving conflicts through traditional legal processes (Wijkrechtspraak op Zuid, n.d.). Wijkrechtspraak seeks to achieve sustainable resolutions for residents with problems across different life domains through a coordinated approach. However, such restorative justice programmes in the Netherlands are still under development. Hence, effects and future directions are interesting to explore (Van der Kraats, 2019), leading to the following research question:

“How does the community-based restorative justice programme ‘Wijkrechtspraak op Zuid’ influence perceived ethnic discrimination within court proceedings among defendants with a migration background, compared to traditional justice?”

The research question is divided into two sub-questions:

1. According to general observations, as well as interviews with defendants and professionals, do defendants perceive discrimination within regular court hearings and/or Wijkrechtspraak op Zuid hearings, and if so, what are the underlying factors contributing to their perception of discrimination?
2. Is there any empirical evidence that the Wijkrechtspraak op Zuid programme reduces perceived discrimination among defendants with a migration background, and if so, what mechanisms contribute to this impact?

The aim of this research is to explore the impact and implications of the ‘Wijkrechtspraak op Zuid’ programme on perceived discrimination within court proceedings among defendants with a migration background. This case study investigated their experiences through explorative observations of court hearings and interviews with defendants with a migration background. Given the limited and hard-to-reach population, additional information was obtained through interviews with informants who are professionals in the field with proximity to defendants. This was a necessary approach to achieve a more comprehensive understanding of the topic being investigated. ‘Wijkrechtspraak op Zuid’ is chosen as strategic and critical case study, as it illuminates the social structures and dynamics of the criminal justice system that are being examined, and the findings could provide insights for similar programmes elsewhere in the Netherlands, as well as abroad (Burawoy, 2005).

The research question is scientifically relevant, because it can be examined in the field of ‘professional sociology’ and ‘policy sociology’ (Burawoy, 2005). The relevance of the question from a professional sociological perspective lies in its potential to gain more knowledge in the fields of sociology and criminology about this topic (Engbersen et al., 2007). Despite suggestions from studies that restorative justice may be effective in advancing equal treatment of different groups in society, while creating positive experiences among participants (Clear, 2018; Sivasubramaniam & Goodman-Delahunty, 2006), it remains unclear how it influences perceptions of discrimination, which are the underlying mechanisms involved, and whether it applies to the Wijkrechtspraak op Zuid programme. Hence, more research is needed in this area (Van der Kraats, 2019; Zehr, 2015). Concerning policy sociology, *Wetenschappelijk*

Onderzoek- en Documentatiecentrum (WODC) (2022) aims to study the causes of the cumulative overrepresentation of groups with a migration background in the Dutch criminal justice system, and what policy could be developed to counteract problematic selectivity in the settlement of crime. According to Andriesssen et al. (2020), one quarter of the Dutch population has experienced discrimination in 2020, with the majority of incidents being based on ethnic background, manifested in the form of unequal treatment in many public areas. So far, limited attention has been paid to the matter of perceived discrimination in the criminal justice system, especially within courts (Leerkes et al., 2019; Peirone et al., 2017; Rocque, 2011). By identifying the factors that contribute to perceived discrimination, this question can provide valuable insights for the policy design and implementation of community-based restorative justice programmes. Lastly, research agency Significant has evaluated the Wijkrechtspraak op Zuid pilot from 2020 until 2022, with surveys among professionals. However, the lack of experiences from participants and in-depth interviews with professionals, also in comparison to traditional justice experiences, hampers the understanding of the effectiveness of the policy (Jongebreur & Onstenk, 2022; WODC, 2022).

This thesis will proceed by a theoretical framework on perceived discrimination in criminal justice processes. The methodology section will address aspects including the data collection method and the sample. Subsequently, the results will present the findings of the case study. Finally, the conclusion and discussion part will answer the research question. This section will also include acknowledgment of limitations and recommendations for future research, as well as practical suggestions for Wijkrechtspraak op Zuid.

2. Theoretical framework

2.1 Actual discrimination and perceived discrimination

Discrimination refers to the unfair or unequal treatment of individuals or groups based on certain personal characteristics, such as race, ethnicity, gender, religion, and sexual orientation (Klepper et al., 1983). In the criminal justice system, discrimination involves biased treatment or unfair practices. This can appear in different forms, including but not limited to ethnic profiling, discriminatory sentencing, and unequal access to legal representation (Klepper et al., 1983). There are several theories that present underlying causes such as ‘taste-based discrimination’, ‘institutional discrimination’, and ‘statistical discrimination’ (Pincus, 1996; Small & Pager, 2020). These types of discrimination can manifest either through intentional

and regulated expressions, indicating explicit biases, or through unconsciously held prejudices known as implicit biases (Daumeyer et al., 2019).

‘Taste-based discrimination’ refers to the personal biases and prejudices of individuals that can lead to discriminatory behaviour towards others (Guryan & Charles, 2013). It is often rooted in cultural beliefs and reinforced by social networks (Small & Pager, 2020). According to Pincus (1996), discrimination is deeply embedded within the structures of institutions, even when taste-based discrimination is not present. ‘Institutional discrimination’ refers to policies, practices, and norms within institutions that create unequal outcomes for certain groups (Pincus, 1996). Small and Pager (2020) argue that this leads to a differential treatment based on characteristics such as colour, ethnicity, and class in public domains. Lastly, ‘statistical discrimination’ is based on generalisations and stereotypes of groups of people derived from common patterns or statistical data, instead of focusing on individuals and their behaviour (Guryan & Charles, 2013). The authors recognise statistical discrimination as a result of limited information, emphasising the importance of balancing effective law enforcement and fair treatment (Guryan & Charles, 2013).

This thesis will focus on perceived ‘ethnic discrimination’ among adults with a migration background. Both ethnicity and race are social constructs and are dependent on social-cultural contextual factors, while often being understood as conjoining concepts (Spencer, 2014). In that line of thinking, ethnic discrimination can be defined as a broad concept that includes discriminatory practices because of nationality, alleged race, skin colour, descent, country of origin or ethnic origin (Brondolo et al., 2005; Crengle et al., 2012). For example, research has shown that ‘ethnic profiling’ can disproportionately target individuals with certain ethnic or racial backgrounds, religions, or nationalities, often related to migration backgrounds (van der Leun & van der Woude, 2011). This can lead to higher rates of arrest and conviction for these groups, even if they have not engaged in criminal activity at higher rates than other groups (Leerkes et al., 2019). Moreover, Light and Wermink (2020) found that Dutch judges impose longer prison sentences on suspects with a migration background for certain offenses than on suspects without a migration background. Unnever (2019) explains that the overrepresentation of citizens with a migration background in the criminal justice system is also partially due to socioeconomic factors and the lack of access to resources or opportunities, so discrimination is often a combination of root causes and may be linked to other types, such as class discrimination (Reiman, 1980).

Pager and Shepherd (2008) explain that taste-based discrimination, statistical discrimination, and institutional discrimination as forms of ‘actual’ discrimination contribute

to perceptions of discrimination among members of marginalised groups, as they may experience negative treatment due to their group membership. Besides the exposure to actual discrimination, external factors like negative perceptions of past experiences or a lack of trust in the criminal justice system may also result in perceived discrimination (Diehl & Liebau, 2017). These factors influence external ‘attributional processes’, which involve subjectively interpreting situations and attributing causes or blame to factors beyond individuals themselves (Tyler, 2006). The concept ‘perceived discrimination’ refers to individuals' perception of negative attitude, judgement, or unfair treatment due to their specific characteristics such as gender, race, ethnicity, and social-economic status (Diehl & Liebau, 2017). In the criminal justice system, it pertains to an individual's subjective experience of being treated unjustly due to those characteristics. It entails perceived discrimination during the justice processes, as well as the outcomes (Taylor et al., 1994). The authors argue that perceptions of discrimination can have significant effects on both individuals and institutions, even if they do not accurately reflect reality. These perceptions may lead to feelings of powerlessness and distrust regarding institutions and may discourage people from engaging with the justice system (Andriessen et al., 2020).

2.2 Traditional justice and restorative justice

The ‘administration of justice’ is a process by which society seeks to promote social harmony and prevent and resolve conflicts through the use of legal mechanisms, such as the courts and law enforcement agencies (Pound, 1913). It embodies civil law, criminal law, and administrative law (Terrill, 2015). This thesis will mainly focus on criminal law. ‘Criminal justice’ can be defined as "the process of responding to criminal behaviour in a way that upholds the law and protects the rights of individuals" (Vogler, 2016, p. 2). The criminal justice system encompasses various stages, beginning with the investigation and arrest of a suspect by the police, followed by prosecution by the Public Prosecution Service, and culminating in the sentencing stage where the judge renders a verdict, which may involve a punishment (Audenaert & de Bondt, 2022). The latter two stages predominantly take place within court proceedings, which is why this thesis focuses on this aspect. Rychlak (1990) explains that there are different purposes of punishment. ‘Retribution’ is the idea that the punishment should be proportionate to the severity of the crime. This often leads to harsh punishment. ‘Rehabilitation’ is less focused on harsh penalties and is aimed to reform the offender so that they can reintegrate into society. ‘Deterrence’ includes the prevention of committing crimes by the offender, as well as by other people. Lastly, ‘restoration’ repairs the harm caused by the offense and restores the

relationship between the offender and the victim, and between the offender and society. Restoration may include community service, mediation, or other forms of restorative justice (Rychlak, 1990). According to Terrill (2015), the Dutch criminal justice system is often progressive with its focus on rehabilitation. However, it is not without flaws. Terrill (2015) argues that the poor treatment of migrants and discriminatory policies also characterises the Dutch criminal justice system.

According to Daly (2000), one of the ways to combat inequalities in the justice systems could be 'restorative justice'. Nowadays, in the *penal states* that the modern welfare states often have become, there is a great focus on ethnic conflict and *crimmigration*, which means the criminalisation of immigrants (Beckett & Evans, 2015; Schinkel, 2009). Critics state that the traditional system is too punitive rather than rehabilitative, often leading to disparities due to biases, while it is not sufficiently accountable and visible to the public (Mayeux, 2018). Therefore, advocates for reform are calling for a shift away from traditional punishment-oriented approaches, towards a community-based approach that focuses on restoration (Daly, 2000; London, 2003). The aim of restorative justice is to provide a more holistic and constructive approach to justice that addresses the root causes of criminal behaviour and seeks to repair harm, promote accountability and rehabilitation, and to provide a platform for communities to engage in meaningful dialogue (Daly, 2000). The origins of restorative justice can be traced back to the Maori population of New Zealand with their tradition of peace-making circles to resolve disputes (Daly, 2002). Similarly, Native Americans also used dialogues within communities to settle conflicts. After scholars explored these alternative approaches to justice, the modern restorative justice movement emerged in the late 20th century (Hirsch et al., 2004).

'Community justice' is strongly linked to restorative justice, and it involves a process similar to traditional court proceedings, in which community members are often selected to serve as judges or mediators (Clear, 2018). It has proven to strengthen an active cooperation between parties in a neighbourhood, leading to more trust and less stigmatisation (Clear, 2018). Nicholl (1999) argues that that restorative justice and community justice can complement each other and that combining them could lead to more effective justice systems. Considering existing theories, *Wijkrechtspraak op Zuid* can be defined as 'community-based restorative justice', because it is an example of restoring relationships as a purpose of punishment (Rychlak, 1990), as well as a bottom-up approach in which community-oriented parties are involved (Clear, 2018). Projects very similar to *Wijkrechtspraak op Zuid* can also be found in Ireland and the United States among others, where they are also called community-based restorative justice (Androff, 2012; McGrattan, 2010).

2.3 Impact restorative justice on perceived discrimination

When analysing the relationship between criminal justice processes and perceived discrimination, community justice and restorative justice programmes have the potential to address social inequalities in contexts where traditional justice systems have been criticised for perpetuating these inequalities (Daly, 2000, van der Kraats, 2019). The positive impacts on equal treatment may reduce perceived discrimination (Daly, 2000; Pranis, 2001). The expected underlying mechanisms of the relationship can be differentiated into the type of shaming, accessibility, and power-distance. It is plausible that these factors mediate the relationship between actual discrimination in the form of taste-based, statistical, and institutional discrimination, and perceived discrimination in the restorative justice processes. Additionally, as mentioned before, perceived discrimination may also be the result of external factors outside of the specific context (Tyler, 2006). These expectations may apply to perceived discrimination during the process and in the outcomes of the justice processes.

First, the way in which people are punished may affect whether they perceive discrimination. Braithwaite (1989) refers to the concepts of ‘stigmatic shaming’ and ‘reintegrative shaming’. Whereas traditional justice may focus on stigmatisation and labelling defendants with stereotypes as a way of excluding them from society (Beckett & Evans, 2015), Hirsch et al. (2004) state that reintegrative shaming is a theoretical foundation of restorative justice. It refers to a form of social control that seeks to reintegrate offenders rather than simply punishing them (Braithwaite, 1989). By addressing the harm caused by crime and by restoring relationships, offenders are shamed in a way that emphasises their wrongdoing without completely ostracising them from society (Braithwaite, 1989). According to Braithwaite (1989), reintegrative shaming also leads to more equitable outcomes in the criminal justice system. Although existing literature does not state a specific relationship with perceived discrimination, it could be expected that people experience less discrimination when they are judged on their behaviour, rather than based on stereotypes originating from for example ‘statistical discrimination’. Thus, the type of shaming could be considered as a underlying mechanism in the relationship being analysed.

Regarding accessibility, McBride (2009) states that removing barriers to access justice for migrants has effects on their perceptions of equal justice. "The difficulties that migrants face in accessing justice can be linked to the discrimination and exclusion that they experience in wider society" (McBride, 2009, p. 3). Van der Kraats (2019) also argues that increasing access leads to fewer feelings of exclusion. This may for example reduce ‘institutional discrimination’ as the barriers to enter restorative justice are lowered and the structures of the justice programme

are adjusted to the social-cultural context (Daly, 2000), rather than merely exerting traditional institutional justice practices which could entail inherent discriminatory practices.

Sivasubramaniam and Goodman-Delahunty (2006) also note that perceived power-distance can influence experiences of defendants. ‘Power-distance’ refers to the degree to which individuals within an organisation accept and expect unequal distribution of power. The authors state that restorative justice implies lower power-distance, because facilitators actively strive to establish an environment that promotes equal participation in dialogues, including marginalised groups. This may improve the perceptions of defendants regarding fair treatment as the space to exploit power is minimised (Sivasubramaniam & Goodman-Delahunty, 2006). It is likely that reduced perceived power-distance could for example contribute to less ‘taste-based discrimination’. Diminishing vertical relationships may result in more contact and less prejudices according to the contact theory (Pettigrew & Tropp, 2006). In turn, this decreasing actual discrimination may also cause defendants to perceive less discrimination.

Overall, based on existing literature, it is possible that the Wijkrechtspraak op Zuid programme could decrease perceived discrimination among defendants. Taste-based, institutional, and statistical discrimination may be less common, also due to mediating factors such as the type of shaming, power-distance, and accessibility. The forms of discrimination are possibly intertwined, meaning that each mechanism may have an impact on multiple forms simultaneously, or it may vary depending on the situation. However, external factors such as past experiences or distrust may influence perceived discrimination directly through attributional processes (Diehl & Liebau, 2017). The expectations are displayed in a conceptual model (figure 2.4). But, since this thesis comprises an explorative study, the exact concepts and relationships were redefined afterwards (see figure 4.4).

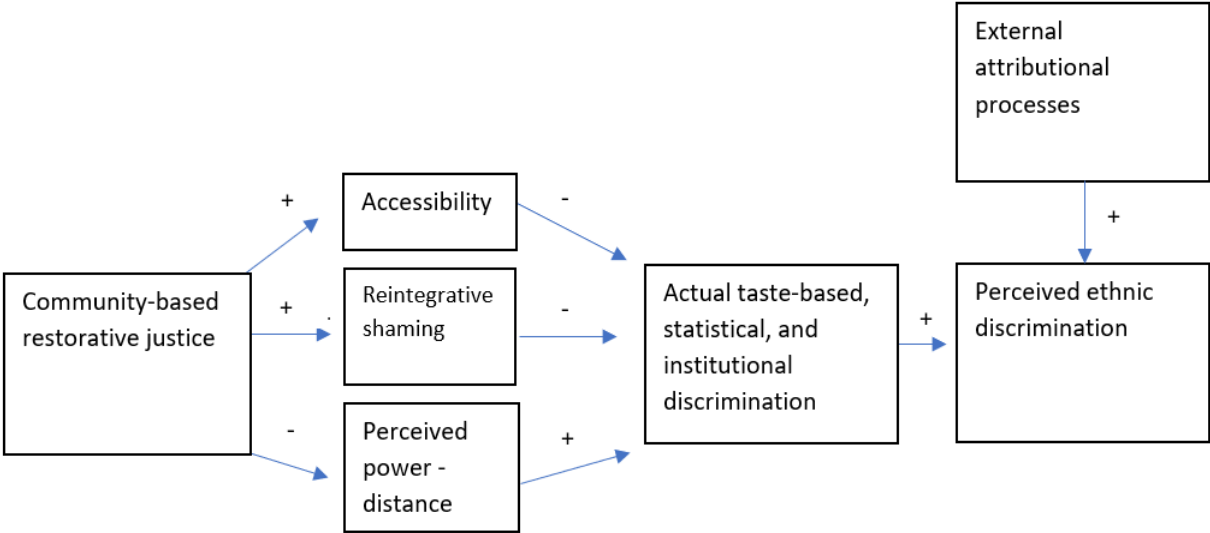


Figure 2.4

3. Methodology

3.1 Research design

The research design of this study is a qualitative case study, focusing on a single, in-depth case: the Wijkrechtspraak op Zuid programme. This design is appropriate for this study, because it gathers data for a detailed understanding on the perspectives of the participants, and how these perceptions are shaped by contexts in which they occur (Fusch et al., 2017). As the restorative justice programmes in the Netherlands are still under development, the research strategy is explorative.

3.2 Data collection methods

In this study, a mixed-method approach was used, combining general observations and in-depth interviews. To clarify, the main approach to measure perceived discrimination involved interviews with defendants with a migration background. However, due to the small population size and the fact that respondents were difficult to reach, this study also relies on key informants (such as involved societal organisations, programme managers, and the judiciary). Key informant interviews (KII's) can provide important perspectives on a particular topic, especially when the topic is complex, sensitive, or difficult to access (Kumar, 1989). These professionals often have insights into the perceptions under investigation because they are in close contact with the defendants. For example, Veling et al. (2008) have used informants as well to partly make sense of perceived discrimination among ethnic minorities. This thesis entails 3 semi-structured interviews with defendants and 13 semi-structured interviews with professionals in the field. Moreover, 7 of the informant interviews were conducted in collaborative fieldwork with two other students and professors from the Erasmus University Rotterdam. The topic list in the Appendix was used as guideline together with probing questions, which varied depending on the type of respondent.

Besides that, observations were conducted during 14 court hearings of the Wijkrechtspraak op Zuid programme, to create a general impression of the process and to cautiously analyse possible behaviour that indicated perceived discrimination. To make scientific comparisons, 8 traditional court hearings with similar levels of case severity were also observed. By reviewing previous research (Rap and Weijers, 2014; United Nations, 2011), an observation scheme was designed (see Appendix 6.2).

3.3 Sample

Purposeful sampling and snowball sampling were used to select respondents (Creswell & Poth, 2018). Inclusion criteria entail that (1) participants, self-identifying as having a migration background, should be adult defendants who were involved in the Wijkrechtspraak process and whose cases have already been resolved or completed. While the sample was not intentionally designed to include participants who had experience in both Wijkrechtspraak and regular court proceedings, it happened by chance that the defendants possessed this dual experience. (2) OR participants who are professionals, closely involved in the Wijkrechtspraak process and have knowledge on the experiences of defendants.

Exclusion criteria are that (1) participants are unwilling to share their perspectives on perceived discrimination, and professionals who are unfamiliar with Wijkrechtspraak in Rotterdam (2) participants who are unable to communicate in Dutch or English (Randolph, 2009). The list of respondents can be found in Appendix 6.1.

3.4 Operationalisation and data analysis

To empirically test the theory, measurable theoretical concepts were developed, guided by existing literature. This is achieved by developing an interview topic list and an observation scheme, both included in the Appendix. The data collected through observations and interviews was analysed through coding in Atlas.TI. The sensitising concepts from the literature provided a flexible starting point for analysis and concept-driven coding generated theories from the data (Creswell & Poth, 2018). The analysis process involved an iterative approach, continually revisiting the data to refine and confirm the findings. During the coding process, next to the indicators from the conceptual model, emerging inductive codes have led to a better understanding of the operationalising of the concepts, resulting in a revised conceptual model (figure 4.4).

3.6 Ethical considerations

Prior to conducting the interviews, the participants provided their informed consent by committing verbally. The research employed a strict protocol to maintain anonymity, by removal of any identifying information from interview transcripts, so the respondents' identities cannot be linked to their interview quotes. After the end of the study, the gathered audio data has been appropriately disposed of, while the transcripts were retained. It was also important to consider potential power dynamics between the researcher and participants, particularly given the vulnerable position of defendants. To mitigate these concerns, interviews were conducted

in comfortable environments, while being aware of the potential psychological impact of the interviews. Also, it was essential to maintain a non-judgmental approach during the interview to ensure that participants felt comfortable sharing their thoughts. Regarding the observations, it is possible that the individuals under observation may have displayed socially desirable behaviour while potentially experiencing contrasting emotions or thoughts. This may have produced a discrepancy in the findings.

3.7 Validity and reliability

The triangulation of interviews and observations contribute to internal validity. Although no explicit perceptions of discrimination were observed during the hearings, the observations played a role in substantiating the emerging mechanisms. Also, creating a climate for open interview conversations, and posing questions in various ways, were strategies to deal with social desirability of answers. In addition, carefully selecting informants and analysing patterns to see whether the data is coherent, contributes to the internal validity. However, the researcher cannot be certain that contextual factors outside of the data collection are not of influence on the relationship between the variables, which could diminish the internal validity (Homburg et al., 2012). Regarding external validity, the findings of this critical case study may be generalised to other restorative justice programmes as Wijkrechtspraak op Zuid has been previously evaluated and because these programmes contain conceptual similarities. However, regarding the representativity of the research population, due to the small sample of defendants, while partly being dependent on snowball sampling, the selected respondents might be from the same network. This may also limit the theoretical generalisability (Creswell & Poth, 2018). It could be that the respondents do not reflect the whole research population, including people being the farthest removed from the legal system due to certain negative experiences. However, this thesis does not only consist of information about a select, eloquent group of suspects, as the informants also possess information about the entire research population.

In this study, the reliability of the results is high, as a topic list and an observation scheme were used. However, a limitation of conducting some interviews together with other students and adjusting the conversations to the type of respondent, is a less consistent list of questions, which affects the repeatability. Also, a lower reliability is inherent in qualitative research, due to subjective assumptions and biases of the researcher, so reflection on the positionality of the researcher is necessary to minimise this. However, removing all biases is unrealistic (Creswell & Poth, 2018).

4. Results

This section will present the findings regarding the research question, by identifying the key themes that emerged from the data collection. By observing court hearings of Wijkrechtspraak op Zuid and regular court hearings, no explicit expressions of actual or perceived discrimination could be observed. So, if discrimination does occur, it would likely be implicit. Therefore, the observations mainly served as general impressions of Wijkrechtspraak op Zuid, as well as substantiation of interview patterns regarding the underlying mechanisms that impact perceived discrimination. The results will be presented according to the sub-questions.

4.1 Wijkrechtspraak op Zuid – general observations

The courtroom of Wijkrechtspraak op Zuid is located in an old school building where activities like sewing are simultaneously taking place. The courtroom setting could be considered more informal than in regular court. There is no police present, and the Persian carpets give a cosy feeling when you enter the room. During the hearings observed, returning patterns were notable. First, the process takes much longer than in the traditional court. Additionally, the judges also frequently ask the defendant whether they comprehend what is expected from them. By fostering more horizontal dialogues, the judiciary, the defendant, occasionally the victim, and community-oriented parties like the probation service and neighbourhood teams, can contribute to the conversation. Also, reintegrative shaming could be observed in every hearing, by taking personal circumstances into account. Sometimes, defendants appeared to be frustrated with the outcome, but in many cases, they expressed their willingness to cooperate. Defendant 2: “Although appearing in court is never a good experience, I guess the process gave me a reality check and a small step in the right direction”.

4.2 Perceived discrimination within court proceedings in Rotterdam

To answer the first sub-question, this part will explicate experiences with perceived ethnic discrimination within court proceedings of regular court processes in Rotterdam and/or Wijkrechtspraak op Zuid.

General patterns

The defendants that were interviewed could compare their experiences regarding ethnic discrimination within Wijkrechtspraak and traditional court processes. Perceptions of discrimination were mentioned regarding both the process and outcomes. A significant finding is that perceptions of discrimination, as reported by both defendants and informants, were

primarily associated with regular court proceedings, and there seemed to be no occurrence of perceived discrimination within *Wijkrechtspreek op Zuid* processes. These perceptions, however, were not always attributable to clear causes of direct discrimination. Furthermore, despite that informants often noted that discrimination has a strong subjective component, some informants inferred certain experiences from defendants. However, the informants expressed varying opinions on whether discrimination is present. Informants who are more distanced from defendants such as judges or programme managers, felt that it rarely or never happens that people expressly state that they feel discriminated, nor do they see any major inequalities in treatment of people with a migration background. The Public Prosecutor and lawyers however could imagine that people with a migration background sometimes experience perceived ethnic discrimination. On the other hand, informants who are further removed from the judiciary or have greater (non-hierarchical) proximity to the defendants, such as NGOs or local parties, had heard more stories regarding perceived ethnic discrimination. Also, interestingly, informants from the judiciary or Public Prosecution Service stated that they themselves do not differentiate in treatment regarding different groups in society, but the perceptions of defendants sometimes seemed to differ. Defendant 3: “I think [the judge] may have already made up her mind a bit when she saw me”. This discrepancy may be due to the fact that perceived discrimination is a subjective experience and cannot always be traced back to actual discrimination.

An interview, as well as written communication with an NGO pointed out that it does not receive many complaints about perceived discrimination in the criminal justice system. However, a majority of the complaints that the organisation does receive, is based on ethnic discrimination. This includes perceived prejudices from for example judges based on race, colour, and certain accents in the Dutch language. Nevertheless, the respondent explains that these experiences are hard to translate to exact data, as many people hesitate to report their discrimination experience, because they might not be aware of the possibilities to report, or due to a lack of confidence in institutions to solve their complaints. Informant 3: “The numbers only reflect the tip of the iceberg”. Besides that, most informants and defendants mention perceived ethnic discrimination, but it can be cautiously concluded that if discrimination in the criminal justice system is perceived, it could potentially be a combination of different types of discrimination, as these may be considered inherently intertwined. For example, a language barrier may be connected to someone’s ethnical background, as well as more disadvantaged socio-economic positions, or as informant 3 explains: “The inequality of opportunity to get certain jobs or education caused by living in Rotterdam South and growing up in poverty”.

Taste-based, statistical, and institutional discrimination

In line with previous studies, it was found that actual discrimination most certainly contributes to perceptions about discrimination. Based on direct experiences from defendants, as well as stories about perceived discrimination from informants, examples from interviews show how certain behavioural, statistical, or institutional patterns in the criminal justice system contribute to perceived discrimination among defendants. However, it is important to note that it is difficult to differentiate these forms of actual discrimination clearly, because they could reinforce each other, as informant 4 explains during the interview. Also, defendants and informants seem to contradict each other on some points as to the extent to which discrimination within court proceedings is present.

Regarding taste-based discrimination, many respondents agreed that discrimination sometimes happens due to explicit or implicit prejudices. As informant 1 explains: “completely removing personal judgements is difficult, because all judges are also just people”. Informant 7 support this and adds that discrimination stems from fear of the unknown. Some of the respondents considered it plausible that judges or public prosecutors take personal preferences into account in their judgements, also unintentional, referring to implicit biases. On the other hand, several informants do not reckon that personal feelings are taken into consideration when passing judgements in court. Informant 4 adds that it is hard to know, because there is still little research done on the freedom of decision-making from judges. Defendant 1 explained that he had an experience in a regular court hearing where he felt a personal disliking from the judge towards him. He explained that the judge did not really know him. “Maybe he already had judgements, also because of my darker skin colour”. However, the respondent was not completely sure whether it really felt discriminatory, as he feels that everyone naturally has opinions about certain groups of people, which also relates to statistical discrimination. This uncertainty regarding the presence of discrimination highlights the subjectivity of experiences.

Informant 8 explained that he could imagine that in regular hearings, where there is no interdisciplinary discussion about the defendant beforehand and little time, judges may use stereotypes more in their judgements instead of personal circumstances. Some respondents also agree that this statistical discrimination would be even more likely when defendants are not showing up in court, making it easier to appeal on little knowledge, including prejudices about groups where the defendant seems to be a part of. Defendant 3 mentioned that during a hearing in the regular court in Rotterdam, the respondent felt like the judge already had prejudices on the basis of their religion. Informant 9 points to this as well, by saying that the respondent sometimes hears stories about people feeling judged by institutions like the court based on

certain group characteristics. However, other informants claim that groups in society are not viewed differently when assessing cases, because that would be unethical. Informant 6: “My experience is that the Public Prosecution Service and the court naturally treat everyone equally.”

Regarding institutional discrimination, the defendants that were interviewed all stated that they believe that there exists some sort of inherent discrimination in the Dutch criminal justice system. Defendant 2 explained that despite not having direct experiences with discrimination in court, “there is a certain discrimination in the system against me as an Antillean guy”. He understands the aim of Wijkrechtspraak, by catering different groups in society, but he argued that: “they will never really get it”. He attributed this mistrust to broken promises by the government and police regarding housing and safety issues. He explained that this is not due to certain specific discriminatory experiences that he had during hearings, but more as a result of low trust he has in “the system”. Informant 2 empathised with these sentiments, having heard similar experiences from several clients who already had a low level of trust in the government, resulting in indifference and a belief in unequal treatment in court. This pertains to ‘spill-over effects’ of lack of confidence or negative past experiences in several public domains, denoting that perceived discrimination within court hearings cannot always be traced back to actions or procedures of the judiciary, but may also be related to experiences in other domains. So, this concerns external attributional processes, influencing perceived discrimination directly. Respondents further highlighted that inequality within the justice system can lead to harsher punishments for individuals with a migration background. According to informant 4, certain measures such as risk taxation instruments which focus on specific neighbourhoods could possibly contribute to unequal treatment, when they are applied incorrectly. When using indicators like ethnic or socio-economic backgrounds to link interventions concerning criminal behaviour in particular neighbourhoods, statistical and institutional discrimination may arise. However, the respondent recognised the importance of targeting specific neighbourhoods, as in the case of Wijkrechtspraak, to address multiple problems collectively. However, besides these views on institutional discrimination, other respondents do not think institutionalised unequal treatment exists inherently within the criminal justice system.

4.3 Impact Wijkrechtspraak op Zuid on perceived discrimination

To answer the second sub-question, different mechanisms will be discussed that explore the relationship between Wijkrechtspraak op Zuid processes and the impact on perceived ethnic discrimination. The accessibility of Wijkrechtspraak op Zuid, the type of shaming together with the presence of community-oriented parties, and the amount of perceived power-distance and social distance affect this relationship. On the one hand, this relationship is mediated by the actual discrimination in court processes, on the other hand this relationship is directly influenced by the factor of perceived fairness. These connections are graphically displayed in the revised conceptual model in figure 4.4.

It is interesting to notice that when perceived discrimination is touched upon in interviews, some respondents mention that have not examined the impacts of Wijkrechtspraak op Zuid from this perspective yet. However, many respondents emphasise the relevance of this research. Informant 5 even says: “your topic triggers me to take action on discussing prejudices”. The respondent explains that there is no research done on the experiences of people with a migration background within Wijkrechtspraak so far. Furthermore, several informants could imagine that Wijkrechtspraak op Zuid might have effects on the level of perceived discrimination among defendants. Informant 7 explains that “equal treatment also means that you consider that people are not equal in starting position”, and that this type of justice could help to create understanding for personal circumstances. A common phrase in interviews is that defendants “feel more heard” in the Wijkrechtspraak processes. Again, this applies to both perceptions during the processes as well as the outcomes of the court hearings. Informant 3: “I also think that this plays a very important role in whether something can succeed or not. That the defendant feels heard. That they do not have the feeling that they are another number that have to come to court”.

Accessibility

Every respondent pointed out that accessibility contributes to positive experiences with Wijkrechtspraak op Zuid. Informant 9: “Actually, the judge goes to the neighbourhood instead of the other way around”. None of the interviewed defendants really hesitated before going. This was due to lower or no public transportation costs, as well as the fact that the building feels more well-known. Defendant 2: “the other [regular] court was a really safely secured building which kind of made me feel like a criminal immediately when I walked in”. This also relates to stigmatic shaming. Informant 2 mentions that a client of him went to school in the building of

Wijkrechtspraak op Zuid, and he noticed how that made the client more relaxed. According to informant 6, defendants also like the fact that bystanders do not necessarily know that someone is entering the building for Wijkrechtspraak, because several activities take place in the building. Moreover, the type of shaming and accessibility as mechanisms are also connected. Informant 3: “when showing up, they get judged more on their behaviour instead of standardised norms for punishments”. The respondent explains that standardised punishments could possibly lead to unequal treatment for some people. Especially when hearings are not accessible, defendants do not have the chance to illustrate their personal circumstances. So, the fact that hearings are accessible, may strengthen the possibility of reintegrative punishments as type of shaming. However, even though the turn-out is often lower in regular justice, it is still not ideal within Wijkrechtspraak. According to informants, not showing up often occurs when suspects “do not want to be found” anyway. Several respondents state that the accessibility could really be improved. The respondents mention that dealing with language barriers, as well as the diversity and cultural sensitivity of the court could still need some work. Defendant 2: “[lower turn-out] is due to the gap between the ‘people on the street’ and the ‘system’ that will never go away”.

Regarding the relationship with actual discrimination, higher accessibility has the potential to, for example, diminish institutional discrimination. When defendants show up to Wijkrechtspraak processes, they are treated with consideration for their personal background. It yields a distinctive approach to punishment, often resulting in less severe outcomes. Consequently, despite the interconnection of punishment norms and guidelines within institutions, there exists greater space for reintegrative forms of punishment. This approach emphasises tailor-made punishments, rather than imposing penalties that may perpetuate unequal treatment due to varying starting points of individuals.

Reintegrative shaming and the presence of community-oriented parties

This mechanism aligns with the overarching reintegrative purpose of the Wijkrechtspraak op Zuid process. The findings have led to a nuance regarding the type of shaming concept as mentioned in the theoretical framework, because the evidence shows it occurs together with the presence of community-oriented parties. These are parties that are established in a top-down manner but are locally embedded to represent the interests of community members and to support them, such as neighbourhood teams or reintegration agencies. Many respondents underline that these parties can help with obtaining background information about an individual, in order to give reintegrative punishments. During the observations, this pattern was

also notable. The interviewed defendants seemed to appreciate that the parties, such as the probation service and the neighbourhood team, were present. For example, they were confident that these parties could help the defendants to express their feelings. This contributes to the experience of “feeling heard”. Defendant 1: “I knew *name* already from the neighbourhood team. I thought it was nice that she was there and that she participated in the conversation [...]”. Many informants substantiate this line of reasoning. However, several respondents also explain that cooperation from the defendant is very important to create tailor-made punishments. A judge explains: “based on the causes of behaviour that are discovered, the punishments are often also streamlined”. The observations also underline this pattern. Respondents such as lawyers feel that this reintegrative purpose is also expressed in more conditional sentences. Other respondents also stated that judges are more lenient in Wijkrechtspraak cases and that there are more harsh punishments in regular court cases. The defendants confirmed this pattern. However, the good intentions of sustainable solutions could also still fail in court, when defendants appear unwilling to seek help. Some respondents, such as informant 12, questioned whether Wijkrechtspraak is a sustainable solution or merely a soft approach, in which defendants are almost forced to cooperate in return for less harsh punishment. On the other hand, informant 2 explained the effectiveness of reintegrative punishments “[...] otherwise, when you treat people like a beast, you get a beast in return”.

Evidence demonstrates that, although it is difficult to prove whether there are discriminatory punishments inherent in criminal justice institutions, tailor-made and reintegrative punishments ensure that in the event of unequal treatment of different groups, deviating from the punishment’s guidelines could contribute to solving this issue, diminishing possible institutional discrimination. Moreover, according to several respondents, focusing on discovering behavioural causes and personal circumstances, instead of considering stereotypes of ethnic groups in the types of shaming, may for example also lead to less statistical discrimination.

Perceived power-distance and social distance

The findings indicate that next to perceived power-distance, perceived social distance is also an important factor influencing the amount of perceived discrimination. This refers to the perceived psychological and emotional proximity between defendants and the judiciary. There is less space to exploit power and the increased contact promotes understanding among different social groups. So, the minimised perceived vertical and horizontal distance may interconnectedly reduce prejudices together. This goes hand in hand with the length of the

hearings. When more time is taken for a defendant, it fosters greater mutual contact, and the court proceedings are experienced as less hierarchical. The observations underscore the equalised, more horizontal conversations during the hearings. This leads to a reduced perception of power-distance and social distance among defendants. According to informant 3, this also allows for more alignment regarding sentencing: "As a result, you are less likely to inadvertently bring certain biases along." In this way, this mechanism further enhances the likelihood of reintegrative sentences being issued. Defendant 3 stated: "They actually talked with me instead of just about me." Informant 1 supports this: "You really engage in a conversation with each other, and it does not go over someone's head or make them feel sidelined, which often happens in regular judiciary, to be honest." This contributes to feeling heard as a defendant. In traditional justice, shorter hearings and a greater perceived distances prevail. According to respondents, this contributes to negative experiences and even distrust regarding equal treatment. However, the results indicate that a certain degree of perceived power-distance is inevitable, as expressed by defendant 1: "there will always be distance between 'the formal justice process' and 'real people and their daily problems.'" Some informants also acknowledge the importance of maintaining this power-distance, as justice in the form of retribution still needs to be served. However, other informants express a desire to further reduce the perceived power-distance by promoting more roundtable conversations, to enhance the positive experiences of defendants.

The results cautiously indicate that this aspect may for example help to reduce taste-based discrimination. Some respondents could imagine that when you engage in longer, more horizontal conversations with someone, it may reduce certain biases, if any exist. However, several other respondents also highlight the difficulty of being certain about this, as one cannot look inside someone's mind. A judge also explains that he uses the fact that defendants perceive less power-distance and social distance to engage more with the defendant, in order to be more reflective about possible biases which he may have. According to this respondent, certain ethnic-cultural backgrounds could affect behaviour, so it is important to consider the variety of backgrounds to create understanding and diminish taste-based discrimination. However, other respondents emphasise that it is hard to erase prejudices.

Perceived fairness

As mentioned before, next to actual discrimination being a mediating factor to perceived discrimination, perceived fairness in the context of Wijkrechtspraak op Zuid is found to also contribute directly to reducing perceived ethnic discrimination. While some informants stated

that actual discrimination is not present in the criminal justice system, they acknowledged how the presence of Wijkrechtspraak op Zuid contributes to more positive experiences. Also, other respondents claimed that actual discrimination may never be completely eradicated. However, they emphasised that the overshadowing effect of the aspects of Wijkrechtspraak could outweigh its presence, by fostering a feeling of equitable treatment. And, thereby inherently diminishing the perception of discrimination, even if actual discrimination still exists to some extent. This pattern is also evident from the interviews with defendants who may not have had direct experiences with actual discrimination in Wijkrechtspraak op Zuid, but felt that the process and outcomes were fair, which enhanced their positive experiences in comparison to regular court proceedings. Defendant 1 for example, thought it concerned a fair punishment “[...] not really to punish me, but to get me back on track”. Moreover, the aspects like accessible hearings, could lead to the expectations of fair treatment among defendants. The interviews with defendants showed that a high level of perceived fairness is often associated with a low level of perceived discrimination in these court proceedings. Informants support this by stating that while they may not all directly hear about perceptions of discrimination, they consistently hear positive accounts, also regarding perceived fairness and the sense of equal treatment. Informant 9: “The fact that a court is present in the neighbourhood might already lead to trust in equitable processes and outcomes”. Multiple respondents also emphasised that even though Wijkrechtspraak op Zuid was not specifically designed to address fair treatment and thereby reduce perceived discrimination, it can certainly contribute to these outcomes.

Revised conceptual framework

Figure 4.4 shows the revised conceptual framework based on the data collection. In general, there are no direct experiences with perceived discrimination within Wijkrechtspraak op Zuid that stem from the interviews. On the contrary, there is more evidence about perceived discrimination in regular courts. This difference may be partly assigned to three mechanisms: accessibility, reintegrative shaming while community-oriented parties are present, and a lower perceived power-distance and social distance. Higher accessibility and less perceived power-distance and social distance, also strengthen the possibility of reintegrative punishments as a type of shaming. These mechanisms could function as a mediating factor to diminish the amount of actual taste-based, statistical, and institutional discrimination, which also affects the amount of perceived discrimination. The distinction of forms of actual discrimination is not clearly demarcated in the model due to their interrelated nature. Moreover, the presence and the aspects of Wijkrechtspraak could also contribute directly to perceived fairness which in turn leads to less perceived discrimination. However, other factors relating to external attributional processes and spill-over effects of negative experiences in other public domains are also found to be of potential influence. In both latter cases, actual discrimination in court hearings might not be dominantly influential on perceived discrimination or it may not be present.

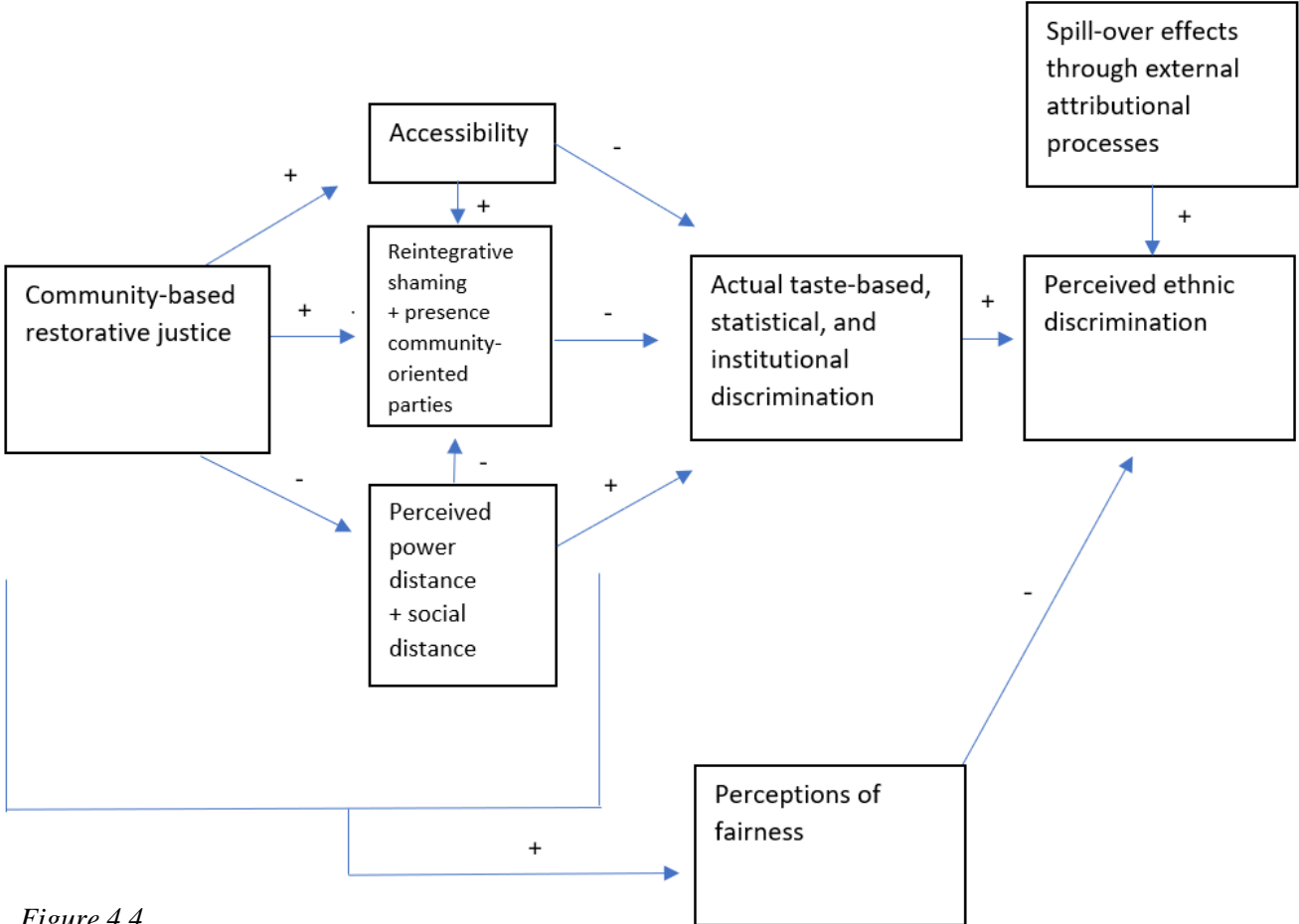


Figure 4.4

5.1 Conclusion

The Dutch criminal justice system, while designed to be fair and impartial, is not immune to biases and prejudices that permeate society (Van der Leun & Van der Woude, 2011; Light & Wermink, 2020). According to Woolard et al. (2008), citizens with a migration background frequently perceive criminal justice processes and outcomes as discriminatory. Several researchers like Pincus (1996) explain that this is due to various underlying causes, for example taste-based discrimination, statistical discrimination or institutional discrimination that could intendedly or unintendedly perpetuate perceived ethnic discrimination (Pager & Shepherd, 2008). However, there has been a lack of scientific understanding regarding the perceptions of discrimination within Dutch court processes up until now (Leerkes et al., 2019; Peirone et al., 2017). Evidence from previous studies suggests that community-based restorative justice, focused on restoration as a type of punishment while involving community-oriented parties, may contribute to equal treatment (Daly, 2000), also influencing the perceptions of discrimination among defendants. The aim of Wijkrechtspraak op Zuid, with its focus on citizens in Rotterdam South with problems in multiple areas of life, is to create integrated solutions to help people participate again in society (Wijkrechtspraak Rotterdam Zuid, n.d.). To explore the possible effects of this programme, the following research question was asked: “How does the community-based restorative justice programme ‘Wijkrechtspraak op Zuid’ influence perceived ethnic discrimination within court proceedings among defendants with a migration background, compared to traditional justice?” To achieve the aim of this critical case study, interviews were conducted with both defendants who had attended Wijkrechtspraak processes, as well as regular court processes in Rotterdam, and informants with proximity to the processes and experiences of the defendants. Moreover, observations were used to create general impressions of the court hearings, while substantiating the patterns emerging from the interviews.

Regarding perceived ethnic discrimination within both types of court processes in Rotterdam, some informants never heard stories about perceived discrimination in the criminal justice system, nor did they see any major inequalities in treatment of people with a migration background. Other respondents explained how taste-based, statistical, and institutional discrimination influences perceived ethnic discrimination among defendants in regular courts in Rotterdam. On the contrary, there is no evidence about experiences with perceived discrimination within Wijkrechtspraak op Zuid. It can be concluded that certain aspects of this community-based restorative justice process contribute to this. The accessibility of Wijkrechtspraak processes, the type of shaming together with the presence of community-

oriented parties, and the amount of perceived power-distance and social distance affect this relationship. For this last mechanism, longer hearings are a prerequisite. Moreover, the accessibility and the combination of perceived power-distance and social distance, reinforce reintegrative punishments as the type of shaming. This is also attributable to the fact that this covers the general purpose of Wijkrechtspraak op Zuid. On the one hand, the investigated relationship is mediated by the actual discrimination in court processes. When actual discrimination is diminished or eradicated due to these mechanisms, this will positively influence the amount of perceived discrimination. On the other hand, Wijkrechtspraak op Zuid could also contribute directly to perceived fairness, which results in less perceived discrimination, also when actual discrimination is not present. Lastly, external factors such as past experiences or spill-over effects of a lack of confidence in other public domains may also influence perceived discrimination through attributional processes. It is necessary to mention again that defendants and informants seem to contradict each other on some points as to the extent to which discrimination within court hearings is present at all.

Concluding, as thesis statement it is justifiable to assert that community-based restorative justice programmes may have positive effects on reducing perceived discrimination within prosecution and sentencing stages of the criminal justice system. Providing that the following aspects are implemented and accomplished in the court proceedings: high accessibility, low perceived power-distance and social distance along with longer hearings, and the presence of community-oriented parties to create reintegrative punishments, this may lead to less inequalities in several forms of actual discrimination, as well as more perceived fairness. Both pathways lead to less perceived discrimination. However, external factors, independent of community-based restorative justice programmes, may also directly influence perceived discrimination through attributional processes.

Implications

This thesis contributes to the scientific field of sociology and criminology to gain more knowledge about the topic of perceived discrimination, as perceived discrimination partly appeared to depend on how the criminal justice system is organised. Furthermore, this thesis served to reinforce the ‘theoretical integration’ of mechanisms of restorative justice outlined in existing literature. Moreover, refinement and new additions to these factors mentioned in the revised conceptual model, demonstrates ‘theoretical proliferation’, as core ideas were applied to a new empirical domain (Wagner, 2007). Furthermore, these findings contribute to the policy aim to explore interventions to counteract problematic selectivity and perceived discrimination

(WODC, 2022). Reducing perceived discrimination is important for trust and engagement with the criminal justice system (Andriessen et al., 2020). In addition to previous research and evaluations, this study provides valuable insights based on interviews with informants and defendants, also in comparison to their experiences with regular courts in Rotterdam. This adds to the understanding of the effectiveness of the policy of Wijkrechtspraak op Zuid.

5.2 Limitations and recommendations

As mentioned in the introduction and in the methods section, given the limited and hard-to-reach population size of defendants, additional information was gathered by conducting interviews with key informants who are professionals in the field and have close connections to the defendants. Based on this study, one should be cautious about drawing conclusions regarding experiences from all people who have been defendants in Wijkrechtspraak processes. Given the subjective nature of experiences regarding discrimination, drawing comprehensive and in-depth conclusions would require further extensive research. Additionally, it is necessary to say that discrimination and selectivity in court processes, are naturally sensitive topics. Some informants appeared to be reluctant to delve deeply into the subject, perhaps due to the perception that their professional roles restrict them from expressing experiences that they have heard, or due to limited information they have from defendants, because defendants may have restrained themselves as a result of potential power dynamics. According to several respondents, more research is needed on perceived discrimination within court proceedings, especially because reporting barriers exist regarding experienced discrimination, which poses limitations concerning the obtaining of data (Andriessen et al., 2020). Regarding recommendations for future research, longer fieldwork is needed to create more trust and connections with a larger group of defendants. Also, although drawing firm conclusions based on observations were difficult, refining observation methods may potentially provide a substantiating contribution in the future once again. Furthermore, gaining more knowledge on for example the aforementioned trust levels, spill-over effects, or other external factors independent of Wijkrechtspraak op Zuid that influence the relationship, will improve the validity of the findings. This also applies to investigating other forms of discrimination, such as class discrimination and disability discrimination. Also, interviewing separate defendants from regular court hearings could contribute to understanding the comparisons of experiences. Moreover, investigating and comparing community-based restorative justice programmes in

different cities in the Netherlands, could give rise to an even better comprehension of the potential policies to counteract inequalities in the justice system.

Practical recommendations Wijkrechtspraak op Zuid

To explore avenues for practical improvements, there could be increased attention to potential inequalities and selectivity in court proceedings. Various respondents point out that accommodating differences of diverse backgrounds by creating a cultural-sensitive approach is important to enhance positive experiences among defendants. This could be done by raising awareness through training programmes for the judiciary and other parties involved, to attain understanding of the experiences of defendants with a migration background. Moreover, by placing greater emphasis on addressing low literacy levels throughout the entirety of the process, and by fostering a diverse environment regarding job positions within the court, respondents indicated that this would make defendants feel more heard and acknowledged. These strategies could also lead to for example higher accessibility and may diminish or eradicate actual discrimination, leading to less perceived discrimination.

With reference to accessibility, despite the higher turn-out than in regular courts, more effort could be made to increase accessibility, as this is found to be an important measure to bridge the gap between marginalised groups and the judiciary, and to reduce perceived discrimination. To engage juveniles and to create attention for the programme among citizens, which are currently seen as challenges according to informants, utilising social media platforms, for instance, could be effective. However, some respondents state that many citizens of Rotterdam South are primarily focused on survival in their daily lives, which is why they are not concerned with such matters. It is precisely this vulnerability that makes it a challenging target audience, hindering perfect accessibility.

Regarding perceived power-distance, there are also still possibilities to maximise the results. While some respondents argue that there should be no role confusion when justice is being served, the findings also show that perceived power-distance could potentially be diminished with different seating arrangements for example, to minimise physical distance in the court room. Despite the need for a certain power-distance and formal atmosphere in court, promoting roundtable discussions could contribute to reducing perceived power-distance and social distance, which might reduce (perceptions of) discrimination.

Lastly, increasing the bottom-up involvement of community members instead of merely engaging community-oriented parties, will draw more on the ‘community-based’ part of this type of justice. In addition to criminal cases, more civil cases could be included as well, where

citizens could serve as supporting or mediating roles. Collaborating with local communities might create less social distance to the judiciary, which may contribute to more trust, transparency, and perceived fairness among community members in Rotterdam South. Future research could investigate whether this in turn leads to less perceived discrimination.

Altogether, while considering the limitations and recommendations mentioned above, the community-based restorative justice programme 'Wijkrechtspraak op Zuid' emerges as a positive influence on defendants' experiences, including perceptions of discrimination, when compared to regular court proceedings. Nevertheless, the success of Wijkrechtspraak op Zuid depends on various factors, including adequate resources, community engagement, and ongoing evaluation. While Wijkrechtspraak op Zuid might be a valuable approach in addressing problems regarding problematic selectivity and perceived ethnic discrimination, it should not be considered a panacea due to need for future research and practical enhancements, as well as the inherent complexity of challenges within Rotterdam South. Community-based restorative justice, however, represents a positive step forward. By acknowledging diverse starting points within society and striving for equity, Wijkrechtspraak op Zuid contributes to perceptions of equal treatment, fostering an environment where defendants feel heard.

6. Appendix

6.1 List of respondents

This entails the list of the 13 informants and 3 defendants that were interviewed (in randomised order).

- Defendant 1
- Defendant 2
- Defendant 3
- Lawyer 1 (*together with 2 students and 1 professor*)
- Lawyer 2 (*together with 2 students*)
- Public Prosecutor
- Policy Officer Amnesty International (*together with 1 student and 1 professor*)
- Programme manager Wijkrechtspraak op Zuid (*together with 2 students*)
- District Police Officer (*together with 1 student*)
- Policy employee Radar
- Employee Zorg & Veiligheidshuis (*together with 2 students*)
- Stadsmarinier (district security director)
- Judge 1
- Judge 2 (*together with 1 student*)
- Project leader Wijkrechtspraak op Zuid (*together with 2 students*)
- Journalist news site in Rotterdam/researcher Wijkrechtspraak op Zuid

6.2 Observation scheme

Category	Explanation	Observation
Case information	<ul style="list-style-type: none"> - Type of case - Nature of the offense - Details of the case - What are the consequences/kind of punishment? - How long did the hearing take? 	
Subject information	Information about the actors/parties that are present.	
Communication from the court Underlying factors to take into account: <ul style="list-style-type: none"> - stigmatic shaming - reintegrative shaming 	<ul style="list-style-type: none"> - How does the judge communicate with the offender in general? - What is the general atmosphere of the court communication? 	

<p>- taste-based, institutional and statistical discrimination</p>	<ul style="list-style-type: none"> - Do the judge or the Public Prosecutor make use of stereotypes/generalisations when talking to the defendant? - Does the judge or the Public Prosecutor treat the defendant on the basis of their behaviour without references to their ethnic/racial background? - Does the judge or the Public Prosecutor make discriminatory statements towards the defendant? - If so, what seem to be the underlying reasons for that (own judgement/preference, stereotypes/statistics, the way the court process is structured). - Is the court hearing formally/top-down structured or is there room for open conversations/questions in between? (<i>power-distance</i>). 	
<p>Defendant behaviour General behaviour + Indicators for perceived discrimination or not</p>	<ul style="list-style-type: none"> - How does the defendant behave before, during and after the hearing: differences? → body language → verbal cues - Does the defendant tell their opinion about the justice process? - Does the defendant say something about the accessibility of the process? - How does he/she respond to what the judge tells him? - Does the defendant express certain 	

	<p>emotions/frustrations which might indicate feelings of discrimination?</p> <ul style="list-style-type: none"> - Does the defendant express that they do not feel heard? 	
Behaviour other parties (lawyers/social workers etc.)	General relevant behaviour observations from the present parties.	
Context	<p>Describing the atmosphere in the room</p> <ul style="list-style-type: none"> - Do people talk to each other in an informal or formal way? - Is there a hostile atmosphere? - Is there a friendly atmosphere? 	
Emerging other factors	Unexpected other factors relevant for the study.	

Topic lists interviews including examples of questions

6.3 Topic list interviews - defendants

- [Introducing myself and the research topic shortly]
- Asking informed consent + permission to record the interview.

Background information

- Introduction (providing information that they feel comfortable with like name, age, job, ...)
- Can you tell me when you got in touch with Wijkrechtspraak op Zuid?
- What kind of offense/violation of law did it concern?
- Was that your first time?

Experiences Wijkrechtspraak op Zuid

- Can you describe your experience with the 'Wijkrechtspraak op Zuid' programme?
- Did you already know the programme or parties that were involved in the hearing?
- Did you hesitate before going? What made you go to the court hearing?
- Can you describe the court hearing itself from start to end?
- Which parties were involved?
- Can you describe (the type of) punishment?

- Did you agree with the evidence presented and the punishment?
- Did you feel like you could tell your side of the story?
- How did you feel about the hearing in general? How was the atmosphere?
- Did you ever had to appear in the traditional court in Rotterdam? If so, did you notice any similarities or differences in general with the Wijkrechtspraak op Zuid process? → elaborate.

Perceived ethnic discrimination

- Did you perceive the Wijkrechtspraak court hearing as fair/equal? If not, why?
- How would you describe the behaviour from de judges or other parties towards you?
 - how did you see the judge/prosecutor in terms of power or authority?
 - did you feel that you could ask questions in between?
 - was there room for an open conversation or was it more formally, distantly structured?
- Did you experience unfair treatment or discrimination in the Wijkrechtspraak op Zuid court hearing?
- How important is it for you to feel that you are being treated fairly in the court hearing process?
- Have you ever felt that you were treated unfairly or experienced any form of discrimination during a court hearing? Can you describe the situation?
 - If yes:
 - Do you feel that your ethnicity has ever played a role in your treatment during the court hearing? Or other factors?
 - Do you think the discrimination was based on personal preferences/prejudices from the court (taste based)
 - Do you think the discrimination had to do with statistical general stereotypes?
 - Do you think discrimination is inherent in the Dutch court system processes when passing judgement?
 - What would you like to see as changes in the criminal justice system to reduce the impact of ethnic discrimination? (For example with regard to the behaviour/role of judges/lawyers?)

Relationship Wijkrechtspraak op Zuid & perceived discrimination

Coming back to the relevant aspects of Wijkrechtspraak op Zuid that were mentioned (such as accessibility, power-distance, type of shaming and maybe more).

→ asking follow up questions when needed

- How do those factors contribute to your experienced feelings of discrimination in a positive or negative way?
- Are you generally positive about the Wijkrechtspraak op Zuid process (due to this factors)
- Are there other specific factors/parts of the Wijkrechtspraak that contributed to that experience?

Is there anything else you would like to add or share about your experiences with the criminal justice system/the court hearing?

6.4 Topic list interviews – professionals (key informants) related to Wijkrechtspraak op Zuid

When conducting the interviews, these set of questions were not followed in a structured way but merely function as a tool to go more in depth when needed.

- [Introducing myself and the research topic shortly]
- Asking informed consent + permission to record the interview.

Background information

- Can you introduce yourself? (Name, age, job and function)
- How does your job relate to the Wijkrechtspraak op Zuid programme?
- Can you describe your role in the programme?
- Can you describe your first experience with the programme?

Rotterdam Zuid & justice

- General image of the neighbourhood and criminal behaviour in Rotterdam South
- Challenges with regard to justice in Rotterdam (South)

Experiences Wijkrechtspraak op Zuid

- How do you think that participants experience the programme?/Have you ever heard experiences?
- Have you heard comparisons in experiences with the traditional court in Rotterdam?
- Can you describe the court hearing itself from start to end?
- Which parties are involved?
- Can you describe the type of punishment that is often given? (harsh or rehabilitative)
- Do you feel like the defendant can tell their side of the story?
- How do you feel about the hearing in general? How is the atmosphere?

Perceived ethnic discrimination

- Do you perceive the court hearing as fair/equal?
- How would you describe the behaviour from de judges or other parties towards the defendant?
- In your experience, how does this restorative justice programme impact the treatment of participants with a migration background in the court hearing process?
- Do you reckon it is important for defendants to be treated fairly in the court hearing process?
- Have you ever heard stories of people who were treated unfairly or experienced any form of discrimination during a court hearing (also traditional hearings)? Can you describe the situation?
- How often do you hear stories about perceived/experienced discrimination in the criminal justice system? (can also be in the traditional court)
- On the basis of which characteristics do you think those people were discriminated?
- Do you think the discrimination was based on personal preferences/prejudices from the court (taste based)
- Do you think the discrimination had to do with statistical general stereotypes?
- Do you think discrimination is inherent in the Dutch court system processes when passing judgement?

Relationship community restorative justice programme & perceived discrimination

- Which aspects of Wijkrechtspraak op Zuid affect the experiences of defendants? (such as accessibility, power-distance, type of shaming and maybe more).
- How do you think those factors contribute to people's experienced feelings of discrimination?
- Do you think the experiences of participants of the Wijkrechtspraak op Zuid programme differ from people who are part of traditional court processes? Have you heard stories about comparisons?
- Have you seen any changes in the perception of equal treatment or ethnic discrimination among participants with a migration background who have participated in the programme?

Future directions

- In your opinion, what are the most effective ways to address issues of ethnic discrimination in the criminal justice system?
- How do you think the Wijkrechtspraak op Zuid programme could be improved to better address perceived ethnic discrimination in criminal justice processes among participants with a migration background?
- Do you have any recommendations for future research on this topic?

Is there anything else you would like to add or share about your experiences with the criminal justice system and the Wijkrechtspraak op Zuid programme?

6.4 Joint topic list professionals related to Wijkrechtspraak op Zuid

This is a topic list in cooperation with two other master students, conducting their research about a similar research topic, but instead of focusing on perceived discrimination they focus on trust in institutions, and collective efficacy. Depending on the type of respondent, the questions may differ, and this topic list leaves space for open questions and probing.

- Introduction + background information person X
→ how does his/her job relate to the Wijkrechtspraak op Zuid programme
- Background information Rotterdam Zuid from their perspective
→ challenges in the neighbourhood with regard to justice
- Cooperation/conflicts neighbourhood
→ present parties
- Trust in institutions/trust in the justice system
- "Buurtrechtbanken" in comparison with traditional justice processes
- Possible (Spill-over) effects of (positive) experiences from Wijkrechtspraak on the neighbourhood
- Perceived fairness & discrimination (stories from defendants)
→ kinds of discrimination (institutional, statistical, taste-based)
- Future directions Wijkrechtspraak op Zuid
→ recommendations, improvements

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