

# Victim Willingness to Engage with the Kenya Criminal Justice System: Does Informational Justice Matter?

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**Abstract:** Previous research on procedural policing in the west has found procedural justice to be imperative in fostering victims' satisfaction with the police. There is also evidence that aspects of procedural justice impact on the willingness of victims to engage with the police and also affects the perceptions about police legitimacy. However, what remains unexplored is whether aspects of procedural justice such as perceptions of informational justice impacts victims' willingness to engage with the criminal justice system. The study sought to examine the perceptions of informational justice among victims in Kenya criminal justice system and establish whether such perceptions affect victims' willingness to engage with the Kenya criminal justice system. The current study utilizes survey data collected from 82 crime victims to show whether informational justice impacts victims' willingness to engage with the Kenya criminal justice system.

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

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## 1. INTRODUCTION

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

Much of western research implicitly indicates that crime victims play a vital role in the criminal justice system. For example, they are relied upon to report victimization, assist in investigations and act as witnesses for the state. Indeed, Hoyle and Zedner (2007) contend that victim is fast becoming accepted as a key player in the criminal justice. And as Doerner & Lab (2008) observe, there is a shift toward more victim participation in the justice process and victims are gaining needs and rights that restore them to greater prominence in the criminal justice system globally. However, Rodgers and Naughton (2011) posit that crime victims have not been incorporated into the justice process at all and advocate for the authorities, policy makers and scholars to critically examine the relationship between the crime victim and the justice system. In Kenyan scenario, Bowry (2011) claims that victims of crime are faced with great hurdles in their attempt to access justice. For instance, reporting any crime to any police department is time consuming while the process of making statements is equally cumbersome. However, this opinion seems to be based on anecdotal evidence.

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

One drawback of these studies is the failure to explore whether these aspects of justice have influence on future willingness of the victims' engagement with the entire criminal justice system. Further, these studies don't account for situational differences. To the authors knowledge no research in Kenya has explored this phenomenon. With large number of crimes going unreported and non cooperation of victims with the prosecution and the courts widely reported (Bowry, 2011) amid the overreliance of the Kenya criminal justice on victims, it's prudent to explore what the criminal justice system should do to encourage victims of crime to engage with the justice system. Using survey research design, this paper specifically explores how crime victims are treated and the role that informational justice can play in fostering victims' willingness to engage with the criminal justice system. It is expected that doing so will provide more insights into the current state of knowledge on procedural justice and victims' willingness to participate in the criminal justice system.

## 2. BODY

Scholars who have examined victim satisfaction have found a number of factors to be influential, including voice (Erez & Tontodonato, 1992; Laxminarayan, 2012) information (Johnson, 2007), respect (Brandl & Horvath, 1991), and compensation (Erez & Bienkowska, 1993). As noted recently by Laxminarayan, Bosmans, Porter & Sosa (2013), emerging from these and previous studies is a framework that distinguishes between the procedure and outcome of the justice process. Indeed, process-outcome division of the criminal justice system is not a new one (Landls & Goodstein, 1986). In this regard, treatment of crime victims and their participation role is also considered to be important just as is the case to outcome of the legal proceedings (Laxminarayan et al., 2013). Indeed, much of research in social, legal, and organisational settings has demonstrated that people place a significant value on the fairness of the process by which outcomes are achieved (MacCoun, 2005). Thus, procedural justice is considered to be more important than the outcome generated by the procedures.

In the discussions about the quality of procedural dimension of justice within the realm of the criminal justice system, a framework has emerged that distinguishes between procedural justice and interactional justice. Procedural justice refers to the perceived fairness of the procedures used to obtain a given outcome (Lind & Tyler, 1988) while interactional justice is an element of procedure that relates to the quality of the relationships between the parties (Laxminarayan, 2012), in this case, the victim and criminal justice authorities. A distinction was later made in the latter justice dimension between interpersonal and informational justice (Laxminarayan et al., 2013).

The present investigation focuses on informational justice and as Laxminarayan et al noted, informational justice refers to the extent to which individuals are provided with explanations about the procedure, informed of the progress and facts of their case, and referred to available sources of support. According to Waller (2011) victims of crime wish to be informed of their role and scope and progress of the proceedings and also want to gain information and understanding about the wide range of intimidating issues with which they are suddenly faced with. Notification and explanation of procedures are some of the ways that can be used to achieve the victims' need for information within the criminal justice system.

Davis & Mulford (2008) observed that victims want to stay apprised of events in their cases right away from the commencement of their case to the end. Notification is important for victims at various steps in the criminal justice process and as (Maguire, 1985) noted, victims often need advice on crime prevention and information about police progress in investigations. If an offender has been arrested, victims' wish to be kept informed by the police and the

criminal justice authorities on the course of the criminal proceedings (Shapland, Willmore, & Duff, 1985; Smale, 1977; Kilchling, 1995). Victims may also need to be notified about the time and place of court proceedings and any changes made to originally scheduled proceedings.

But victims may also need additional information concerning the release of the suspect. Indeed, Davis & Mulford, (2008) noted that victims also wish to be notified if the offender is released from custody at the end of a criminal sentence. Waller (2011) adds that victims want to be notified of key events that happen days, weeks, months, and even years after they are victimized. They want this information to be clear, concise, and user-friendly. Resick, (1987) noted that victims also need accurate information regarding procedures and the likely timetable for the steps in the prosecution of cases. If the victim has to appear as a witness, then victims often wish to be informed of the court procedures and always express the desire for legal advice (Maguire, 1985). This need for information has been described by Shapland, Willmore, & Duff (1985) as a need for a respected and acknowledged role in the criminal justice system.

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

Research on procedural justice and more specifically informational justice in the context of Kenya criminal justice system has not been explored, although some western studies have found a relationship between procedural justice and willingness of victims to report crime in the context of policing. To the author's knowledge no research has explored the impact of informational justice on the willingness of victims to engage with the criminal justice system. If victims always express a need to be kept informed of all events in their cases from the start to the end and the criminal justice system informs them of what it deems necessary, then we can say that victims are dehumanized and as a result treated unfairly. This can hugely result in dissatisfaction with the criminal justice system. O' Grady, Waldon, Carlson, Streed & Cannizzora (1992) stressed that one sources of legitimacy is client satisfaction and can be achieved through keeping the client informed. They further observed that satisfied clients are more willing to cooperate with the courts hence engaging more with its personnel. Therefore, with crime victims reported to play a vital role in the criminal justice system and given the apparent underreporting of crimes and non cooperation with the system its prudent to investigate the role of informational justice in enhancing victims willingness to engage with the Kenya criminal justice system after victimization.

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

### **3. METHOD**

The study utilizes descriptive survey data. The target population for the study constituted a total of 262 crime victims with ongoing cases from September 2011 to September 2013 in the four court stations Kirinyaga County namely; Kerugoya, Baricho, Gichugu and Wanguru and who were classified according to the victim typology namely; property crime victims and assault crime victim. The population was drawn from the criminal registers and compared with the population

obtained from the prosecution registers, this was done for clarity. They had participated in the criminal justice system and were required to draw upon their experiences to participate in the study. A total population of 30 actors in the criminal justice system namely; prosecutors, magistrates and court clerks was drawn from the four court stations. They had interacted with the crime victims and were required to draw upon such interactions to participate in the study. Therefore the total population for the study was 292 respondents.

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

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

Quantitative data was analyzed using descriptive statistics and inferential statistics, the Pearson’s Product Moment Correlation Coefficients were used to determine the strength of relationship between informational justice and victims’ willingness to engage with the Kenya criminal justice system in future. In order to achieve this objective all items that were used to measure interpersonal justice were transformed to one single variable namely, interpersonal justice for ease of analysis. To measure willingness to engage all three items were all transformed into a single variable – willingness to engage for ease of analysis. Finally, two of the essential principles of ethical conduct – informed consent and protection of anonymity and confidentiality remained a priority.

#### 4. RESULTS

**Table I: Informational treatment of crime victims in the Kenya Criminal Justice System**

Items	Mean rate
Victims who felt they were adequately notified that the suspect was arrested	3.317073
Victims who felt they were adequately notified that the suspect was released on bail or bond	1.792683
Victims who felt they were adequately notified on the progress of criminal investigations	1.853659
Victims who felt they were adequately notified that they were to appear as a witness	4.134146
Victims who felt they were adequately notified on the time and place of court proceedings and changes made to the original schedule	2.621951
<b>Average mean rating</b>	<b>2.7439024</b>

To determine the informational justice accorded to victims in the Kenya criminal justice, victims were asked whether they felt to have adequately been notified when the suspect was arrested, when the suspect was released, on the progress of the criminal investigation, that they were to appear as witness and on when and where to appear as witness. Table 1 indicates the mean rates generated from each pre-developed question. In order to generate the mean rates the researcher run a mean score tabulation of all the pre-determined responses in all pre-developed questions. A mean rate of 1 indicates that the respondents received very unfair treatment; a mean rate of 2 indicates that the respondents received unfair treatment while a mean rate of 3 and 4 indicates that the respondents received fair and very unfair treatment respectively.

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It was established that crime victims felt adequately notified when the suspect was arrested and when they were to appear as witnesses, this is so because when mean ratings were computed a mean score of 3.317073 (agreed) and 4.134146 (strongly disagreed) was obtained respectively.

However, crime victims disagreed regarding whether they had been adequately notified when the suspect was released from custody, as to the overall progress of the criminal investigations and to the time and place of court proceedings and any changes made to the original schedule. This is confirmed through the mean rating computation and the mean score generated; 1.792683 (strongly disagreed), 1.853659 (strongly disagreed) and 2.621951 (disagreed) respectively a strong indication that when such information was set to benefit the crime victims, respondents felt it was not adequately forthcoming. This is given for instance credence by the comments from three respondents as shown below.

I only saw the suspect a day after he was arrested and I was upset because I was not informed that he was released, secondly I was not adequately informed of the changes made to the original hearing schedule, I only came here to realize the case was not ongoing. **Crime victim**

I travelled all the way from Kitale which is approximately 600 kilometers to give oral evidence on my case; however on reaching here I was informed the case was not ongoing. Am very upset because I used more than 3000 Kenyan Shillings to travel this far. **Crime Victim**

I used my money to facilitate the suspect’s arrest and then he was released without my knowledge, I should be informed that he has been released because of some reasons such as bail. **Crime victim**

It was determined that crime victims experienced informational injustice or mistreatment, this is because, while responding to questions presented to victims in a Likert scale on whether they felt that they were notified when the suspect was arrested, when the suspect was released, on the progress of the criminal investigation, that they were to appear as witness and on when and where to appear as witness an average mean rating of 2.7439024 was obtained.

**Table II: Likelihood of crime victims’ future involvement in the Kenya criminal justice system**

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

The findings in table 2 reveal that crime victims were unlikely to engage with the criminal justice system in future following the informational justice that they received. This is so because while responding to statements presented to crime victims in a Likert scale on whether they were likely to report a similar crime, assist the police in investigations and assist courts through testifying in the future a mean rating of 2.329268 was obtained. The victims seem to be frustrated by the system and this could be the reason they are reluctant to engage with the system in future – they learn that although they had gone there to discharge a civic duty, the system takes undue advantage of their goodwill. Crime victims’ reluctance to become involved in the Kenya criminal justice system is reaching epidemic heights. System personnel whined that victims and citizens are growing increasingly apathetic towards the system for no reason; this is confirmed by one of the key informant’s views.

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

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

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

I paid for medical fees, transport for the witnesses and police officers and copies of P3 forms so I feel I should be refunded the amount by the government. Without money it seems you can’t get justice, that’s why some victims may not

report crime this is so because I recall the one who took me to the hospital was recently assaulted and never reported because when he saw the treatment I got he opted not to report. **Crime victim**

At times I feel if the act is not grievous, I may opt not to report because of the costs I incurred. **Crime victim**

The findings in table 3 reveal a statistically significant relationship between informational justice of crime victims and future willingness to engage with the Kenya criminal justice system ( $r=0.265$ ;  $P < .05$ ). This means that informational justice aspects such as informing the crime victims whether the suspect has been arrested and released from custody after arrest, on the overall progress of the criminal investigation, whether they will appear as witness, time and place of court proceedings and any changes made to original schedule proceedings influence victims’ attitude towards engaging with the Kenya criminal justice system in the future. This is given credence by the analysis from the respondents.

It would be very good if am informed of what is going on in my case, because when you know the suspect has been released you will be in a position to take precautions concerning the suspect’s operations, for instance you can avoid certain routes and social facilities. **Crime victim**

If police and court officials could be more transparent and informative concerning victims’ cases then they can receive appropriate cooperation. **Crime victim**

**Table III: Pearson Correlation Coefficient for the impact of Informational justice on crime victims’ future engagement with the criminal justice system**

		Informational justice	Future engagement
Informational justice	Pearson Correlation	1	.265*
	Sig. (2-tailed)		.016
	N	82	82
Future engagement	Pearson Correlation	.265*	1
	Sig. (2-tailed)	.016	
	N	82	82
**. Correlation is significant at the .01 level (2tailed).			
*. Correlation is significant at the .05 level (2-tailed).			

### 5. DISCUSSION

Findings of the study indicate that crime victims feel that they received informational injustice in the Kenya criminal justice system. Although crime victims have a significant interest in simply being informed of any of the proceedings and developments as they happen, in the current system they felt adequately notified when the suspect was arrested and when they were to appear as witnesses. This means that the criminal justice authorities only kept the crime victim adequately informed only when they were set to benefit from them. This is probably because when the suspect has being arrested, the crime victims need to positively identify the suspect to the police not forgetting that crime victims are also crucial in giving eyewitness accounts in the courts and that is why they felt they were kept adequately informed that they were to appear as witness. However, they felt inadequately notified when suspect was released from custody, as to the overall progress of the criminal investigations and to the time and place of court proceedings and any changes made to the original schedule. From the analysis, the victim is simply used by the prosecution to help reach its goal. This finding is in agreement with the findings of Merideth (2009) who also found out that after victims report crime, rarely are they informed of any proceedings unless they are needed as witness.

Findings further indicate that crime victims are unwilling to engage with the system given the informational injustice that they receive. As noted earlier, victims of crime have a significant interest in simply being informed. This is so because they are interested parties but too often in the current system, after reporting a crime, victims feel inadequately informed of anything that follows – release of a suspect after arrest, on criminal investigations, hearing/prosecution and even change of trial date and venue. Failure to adequately inform the crime victims has adverse and lethal implications in the Kenya criminal justice system as they are reluctant to engage with the system in the future, this is as observed from the findings.

Research that has evaluated the impact of procedural justice on cooperation has largely focused on interactions with the police (Mastrocinque & Mc Dowall, 2015). Although the scope of the current study extends to cover more officials in the criminal justice other than the police and more specifically in evaluating the impact of informational justice, previous research on procedural policing supports current findings. Murphy & Barkworth (2014) established a positive relationship between procedural justice and willingness to report crime also supports the findings. A study conducted by Tankebe (2013) also revealed that victims of crime in London were more willing to cooperate with police when they viewed police as treating citizens in a procedurally fair way. The findings clearly demonstrate that informational justice matters for predicting victims' willingness to engage with the Kenya criminal justice system.

## 6. CONCLUSION

The findings have been in a position to reveal that crime victims receive informational mistreatment or injustices and that perception about informational justice influences victims willingness to engage with the criminal justice system in the future. It has also been shown for the first time in literature, although applicable to general victims, the evaluations apply in the Kenya criminal justice system. Therefore, there is the need for the Kenya criminal justice personnel to treat crime victims with informational justice by provide sufficient information to victims. This general conclusion should be approached cautiously; it is important to note that the current study used the traditional approach by examining victims as a homogeneous group and as such is not context specific. However, the present study should be taken as a first step towards understanding the victims' perceptions of informational justice and how such perceptions impact their willingness to engage with the Kenya criminal justice system.

Future research could build on the current research by addressing several issues. First, it would be interesting to understand whether perceptions about information justice and its impact on the willingness to engage with the system is context specific (depending on victimization, say for example, assault and property victimization) and specific to systems actors (say for example; police, prosecutors and judicial personnel). It would also be interesting to find out whether the findings would apply to other counties in Kenya. It's imperative to note that the scope of the current study was to provide a broad outlook of victims' perceptions on informational justice and its impact on their willingness to engage with the Kenya criminal justice system and as such, those issues were not within the radius of the study.

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**APPENDIX****Informational Justice:**

IJ1. I feel to have being notified adequately and on time when the suspect was arrested.

IJ2. I feel to have being notified adequately and on time when the suspect was released from custody after arrest, such as on bail.

IJ3. I feel to have being notified adequately and on time on the overall progress of the criminal investigations.

IJ4. I feel to have being notified adequately and on time that I was to appear as a witness.

IJ5. I feel to have being notified adequately and on time on time and place of court proceedings and any changes made to original schedule proceedings.

**Criminal justice system engagement:**

Given the treatment I received from the criminal justice system....

CJSE 1. I feel likely to report a similar crime in the future.

CJSE 2. I feel likely to assist the police in investigation.

CJSE 3. I feel likely to assist the courts through testifying

**What else do you have to add about your general experience with the criminal justice agencies?**