Detection, detention, deportation : criminal justice and migration control through the lens of crimmigration

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5 Border policing, procedural justice and belonging

The legitimacy of (cr)immigration controls in border areas[1]

5.1 INTRODUCTION

Borders have always been important markers of inclusion and exclusion, defining both national sovereignty and the boundaries of belonging (Villegas, 2015). However, in recent decades the nature and meaning of the border has undergone significant changes, so that the traditional notion of a border guard standing at a demarcated line to check every traveller is no longer the only accurate depiction. Instead, the monitoring of movement no longer exclusively occurs at national borders, but equally at various sites inside sovereign territories (Pallitto & Heyman, 2008).The contemporary border is delocalised and can be better understood through the notion of 'bordering' (Muller, 2010). Driven by techniques of identification and surveillance, states increasingly rely on practices of internal border control (Lyon, 2007). In this way the relationship between borders and territory has disappeared, or diminished at least, although in recent years there has been a renewed focus on actual physical borders and a proliferation of high fences, walls and barbed wire.

This is particularly true in Europe. As the continent has seen its internal borders disappearing following the implementation of the Schengen agreement coupled with the freedom of movement for everybody holding European citizenship, states have started to seek other ways to control unwanted mobility (Van der Woude and Van Berlo, 2015). While passport controls are no longer employed at the intra-Schengen State borders, identity and security checks carried out by law enforcement agencies in 20 km zones around these former physical borders mean that the border is in other ways still very much present (Atget, 2008; Brouwer, Van der Woude, & Van der Leun, 2018; Casella Colombeau, 2017). Although many of these bordering practices were first and foremost administrative, Aas (2011) notes that they are often carried out by police forces or incorporate various crime-fighting objectives.

What is crucial about these new 'borders', is that they are not encountered in the same way by everyone. The border only materialises for people whose citizenship is questioned or who are otherwise deemed a risk, making questions of identity particularly salient (Blackwood, Hopkins, & Reicher, 2015;

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Shamir, 2005). Various studies have highlighted how contemporary bordering practices result in 'social sorting' processes (Lyon, 2007) that are frequently shaped by the merging of crime control and migration control – also referred to as crimmigration control (Aas, 2011; Stumpf, 2006). According to Aas (2011), the distinction between what she refers to as 'bona fide travellers' and 'crimmigrant others' is not only based on citizenship, but also on alleged criminal status. This makes the border encounter an important moment for questioning someone's membership or ascribing one disreputable, dangerous or criminal identities (Muller, 2010; Villegas, 2015). This can be experienced as a form of 'identity misrecognition' and seriously challenge people's ability to exercise their 'everyday citizenship' (Blackwood et al., 2015).

Despite ample attention for these social sorting practices of current border regimes (Lyon, 2007; Pickering & Ham, 2013), the perceptions of individuals that are subjected to them have so far received little empirical attention. This omission is remarkable, given the importance of such perceptions for the legitimacy of bordering practices. According to procedural justice theory, legitimacy in criminal justice contexts is primarily the result of the perceived fairness of procedures (Tyler, 2003). A central component in this body of literature is the notion of shared group membership and the importance of social identity for legitimacy judgments (Bradford, 2014). Whereas a wealth of research on procedural justice has focussed on experiences with the police, there are good reasons to assume that it holds equal relevance for border policing actors (Hasisi & Weisburd, 2011). But whereas the police has important self-interests for treating citizens in a fair and respectful manner – as good relationships with the community are essential for their cooperation and thus an effective policing model (Bradford, Hohl, Jackson, & MacQueen, 2015; Sunshine & Tyler, 2003) – this seems to be less the case for border policing organisations. After all, these generally do not work in and with communities – except the communities that live in the border area where these controls take place. In general, the relationship between citizens and border police officers is primarily based on the former wanting something from the latter – in practice entrance into territory –, thus creating a power imbalance. Litmanovitz and Montgomery (2015) therefore argue that it is important to take into account officers' perceptions of procedural justice and legitimacy.

This article examines both officers' perceptions and the experiences of people that are stopped in the context of the Dutch 'Mobile Security Monitor' (MSM), a form of border policing in the border areas of the Netherlands with neighbouring Belgium and Germany. Although the internal borders in the Schengen area are no longer supposed to be enforced, article 23 of the SBC does allow Member States to carry out security checks in border areas, if these do not have an effect equivalent to border control. In the Netherlands, these selective security checks are carried out by the Royal Netherlands Marechaussee (RNM), a military police force that performs both civic and military duties. Although the original aim of the MSM was the prevention of illegal entry

and stay, over time this expanded to include human smuggling and identity fraud (Van der Woude & Brouwer, 2017). People can therefore be stopped for suspected illegal stay as well as involvement in criminal activities. The MSM is a highly discretionary proactive instrument, as a stop does not require a reasonable suspicion of illegal stay or criminal activity. This raises the question how officers' themselves understand procedural fairness and legitimacy and how these controls are perceived by the different groups of people that are subjected to them.

5.2 LEGITIMACY, PROCEDURAL JUSTICE AND BELONGING

Policing studies generally maintain that legitimacy is formed through two separate but interrelated components: The perceived effectiveness of the police and its operations and the way police officers treat the people they encounter while performing their duties (Sunshine & Tyler, 2003; Tyler, 2003; Tyler & Wakslak, 2004). According to procedural justice theory, experiencing fair treatment by the police is the strongest predictor of police legitimacy. Procedural justice is usually seen to incorporate the fairness of the decisions made by officers and the quality of treatment during an interaction (Sunshine & Tyler, 2003). When the police is seen as neutral, polite and respectful they will be considered legitimate in the public's view (Bradford, Murphy, & Jackson, 2014; Tyler, 2003; Tyler & Wakslak, 2004). Research suggests that procedural fairness is especially important for people in the case of police-initiated contact (Hunold, Oberwittler, & Lukas, 2016).

The *Group Value Model* (GVM) of procedural justice theory is based on the idea that police officers are representatives of the social majority group and their actions reflect broader community outlooks (Jackson & Bradford, 2009). As such, they play a key role in communicating messages of belonging and non-belonging, with serious membership implications for those who are deemed disrespectable and branded as outsiders (Waddington, 1999). Although most studies have focussed on the regular police, it seems likely that this might be equally relevant for border policing officers. After all, borders are key spaces for issues of citizenship and identity, with passport controls as a crucial tool for detecting those who do not belong (Lyon, 2007).

According to the GVM, people care so much about the way they are treated by the police because it says something about how the police views them (Bradford, 2014). Experiencing fair processes and being treated with respect signals inclusion and strengthens the attachment to the group (Antrobus, Bradford, Murphy, & Sargeant, 2015; Blader & Tyler, 2009). Unfair policing, on the other hand, communicates exclusion and may signal that one is not considered a bona fide group member (Sunshine & Tyler, 2003). People react strongly to police actions they perceive as unfair because it challenges their feelings of belonging to the social group the police is seen to represent

(Bradford et al., 2015). This means that people's level of social identification with the authorities will influence the extent to which procedural justice has an effect on legitimacy. Especially people with strong feelings of belonging to a social group will value their status within this group and therefore care more about being treated in a fair manner by authorities (Antrobus et al., 2015). In contrast, in interactions with authorities that represent a group someone does not care about, these relational considerations will be less relevant in predicting attitudes towards authorities and instrumental concerns will be more important (Murphy, Sargeant, & Cherney, 2015). Accordingly, what factors are most crucial in determining the perceived legitimacy of the police might differ greatly according to the ethnic or social group one belongs too (Bradford et al., 2015).

Two recent studies show that judgments about whether certain police conduct is considered to be 'fair' indeed depends to a great extent on social, contextual and background factors (Radburn, Stott, Bradford, & Robinson, 2016; Waddington, Williams, Wright, & Newburn, 2015). Research suggests that ethnic minority group members are generally more likely to perceive they are being treated in an unfair manner and that the feeling of being profiled plays a crucial role in their legitimacy judgments (Tyler, 2005; Weitzer & Tuch, 2002). Especially being subjected to stop-and-search controls in the context of pro-active policing activities elicit complaints (Hunold et al., 2016). In their study on profiling and police legitimacy, Tyler and Wakslak (2004) showed that whereas white people often believed profiling to be a legitimate form of neutrally fighting crime and to be justified by general policing goals, minorities more frequently believed this to be the result of prejudice on behalf of police officers. Such findings have not been limited to policing studies: In their study of security screening processes in an Israeli airport, Hasisi and Weisburd (2011) found that Arab passengers perceived these processes as less legitimate than Jews and this was mainly due to the perception of being profiled and other treatment-related elements.

Most research on procedural justice and police legitimacy has focused on the experiences and perceptions of citizens, somewhat neglecting the perceptions of police officers (Mastrofski, Jonathan-Zamir, Moyal, & Willis, 2016). This is unfortunate, because the way officers see and understand procedurally fair treatment is equally important (Litmanovitz & Montgomery, 2015). Officers clearly do not treat every citizen in the exact same way and there are thus differences in the extent to which police-citizen encounters are characterised by procedural justice. Research suggests that disrespectful behaviour of citizens results in less procedural justice, because officers perceive these people as less deserving of procedurally fair treatment (Mastrofski et al., 2016; Pickett & Ryon, 2017). Particularly relevant for this study, Litmanovitz and Montgomery (2015) found that Israeli border guards experienced a high level of social distance between themselves and Arab citizens they policed, meaning they saw them as less worthy of procedural justice. This suggests that police officers

are less likely to treat people in a procedurally just way when they do not consider them to be part of their own group.

5.3 Methodology

For this paper we have adopted a qualitative approach, using fieldwork observations of MSM controls and semi-structured interviews or surveys with people who have been stopped. Data was collected between November 2013 and March 2015 in the context of a larger research project on discretionary decision-making and legitimacy in Dutch border areas. The overarching aim of this research project was to examine the culture, decisions and practices of border policing officers and to assess the legitimacy of both the MSM and the RNM (Van der Woude, Brouwer, & Dekkers, 2016).

Whereas qualitative methods have been regularly used to study legitimacy in prison settings (Crewe, 2011; Liebling, 2004), it has only been scarcely employed for studies on police legitimacy (for important recent exceptions see Davies, Meliala, & Buttle, 2016; Harkin, 2015a). There are nonetheless several advantages to such an approach. As Harkin (2015a) claims, it can offer insights and complexities that are left largely untouched by more quantitative survey-based approaches, including rationales behind judgments about police legitimacy. Furthermore, Jonathan-Zamir, Mastrofski & Moyal (2013, p. 846) argue that researchers should examine procedural justice through direct observations in natural settings in order to incorporate "other useful viewpoints such as those of the police or a third party." Because we draw on interviews with both officers of the RNM and people who have been stopped, in combination with observational study, we have been able to incorporate various perspectives and gather relatively 'thick' data.

5.3.1 Observational and focus group data

Three trained observers – one senior researcher and two PhD-students – spent a combined total of 800 hours observing MSM controls, always in pairs. Usually RNM motor drivers stood just after the border, selected 'interesting' vehicles and then directed these to a control location further inland, where other officers carried out the actual control by checking the identity papers of the stopped persons. We systematically collected data on 330 stopped vehicles, by filling in standardised forms detailing the process and interaction. Observations were combined with brief conversations and on-site informal 'interviews' and discussions with officers: non-structured talks that naturally occurred during observations and were particularly suitable to capture border policing culture. Individual field notes were drawn up at the end of each shift by both researchers, giving the opportunity to cross-check certain observations. Besides

participant observation, thirteen focus group discussions were organised with street-level officers to cross-check our findings from the observations and further discuss a number of issues. Both field notes and transcripts were afterwards systematically analysed with AtlasTi, coding them according to the various themes associated with the sub-questions of the larger research project.

5.3.2 Survey data

During the actual controls one researcher would focus on the characteristics of the vehicle and persons and reasons for the stop, while the other asked people if they were willing to participate in an academic study. Vehicles were approached while RNM officers were checking the papers, as at this time there was usually no interaction between the officers and the stopped persons. RNM officers also agreed to give the researcher space to conduct the interview. The researcher was clearly distinguishable from RNM officers and always stressed before an interview that he or she did not work for the RNM but was part of an independent academic research team. He or she also emphasised that all information would be treated anonymously and confidentially. Depending on the origin of the vehicles' license plate and the language proficiency of the researcher, people were approached in Dutch, English, French or German. When feasible the interview was conducted orally, sometimes resulting in lively conversations. To also include people that did speak any of these languages, a survey was designed and translated into eleven different languages.[2] When a language barrier stood in the way of an oral interview, this survey was handed to the respondent in his or her preferred language. This greatly enhanced the number of respondents, including groups otherwise completely missed, but it inevitably led to more basic information.

The survey contained a set of open questions about people's perceptions regarding the fact that they had been stopped, why they thought they had been stopped, whether they trusted the RNM officers had done the right thing and if the reason for the stop had been explained to them. We also asked people's country of birth, the country of birth of both their parents and, in order to capture their own sense of social identity, to what ethnic or national group they felt they belonged most. To measure legitimacy, we included two sets of five-point Likert-type scale ranging from 1 (strongly disagree) to 5

2 The survey was translated into Albanian, Bulgarian, German, French, Hungarian, Italian, Polish, Romanian, Russian, Spanish and Czech. We want to thank Rogier Vijverberg for his assistance with designing the survey and thank the following persons for the translations: Andrea Varga, Benjamin Kiebeler, Magdalena Szmidt, Ekaterina Kopylova, Francesco Cacciola, Sarah Castéran, Theodora Petrova, Bogdan Popescu, Silvia Rodriguez Rivero, Marie Skálová, Burbuqe Thaci and Luca Valente.

(strongly agree). The first set of five statements focussed on the perceived effectiveness and acceptability of the instrument, while the second set of four questions focussed on treatment by the officers.[3] For the analysis of these statements we only used the surveys that responded to all statements in the concerned set.

5.3.3 Respondents

A total of 167 respondents were interviewed or filled out a survey. Not all surveys were filled out completely and respondents often provided relatively short answers. Table 5.1 shows the breakdown of the surveys and interviews per language. The language of the survey or interview does not necessarily equate the nationality of the respondent. However, the most common languages roughly correspond with data we collected about the nationality of people who were stopped, with the exception of Belgium, which is divided here between French and Dutch-speaking respondents.

As we are primarily interested in seeing if there were any differences depending on people's ethnic and national background, we categorised the survey results in three groups: 'non-Dutch citizens', 'Dutch majority citizens' and 'Dutch ethnic minority citizens'. Non-Dutch citizens (N=127) are neither born in the Netherlands nor have any of their parents born in the Netherlands. Except for seven Belgian and two Suriname respondents, none of these respondents spoke Dutch. Dutch citizens (N=40), on the other hand, are either born in the Netherlands themselves, have at least one parent born in the Netherlands or were born abroad to non-Dutch parents but identified themselves nonetheless primarily as Dutch (often because they have been living in the Netherlands since a very long time and might even hold Dutch citizenship). All these respondents spoke Dutch. In order to make a distinction between majority group members and ethnic minority group members, we looked at the country of birth of the parents. When a respondent was born in the Netherlands to two Dutch-born parents, we classified him or her as majority group member (N=13). When at least one of the parents was born abroad, we classified the person as an ethnic minority (N=21).[4] There were six Dutch-speaking respondents we did not collect any of this data on; these are left out of the analysis.

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3 This set also consisted of five statements, but one of these was about the duration of the control. Because this has little to do with treatment by officers, we have left it out in our analyses for this article.

4 This classification is not entirely unproblematic, as this can include non-visible ethnic minorities (for example someone born to a German mother and Dutch father). However, all these respondents had a non-western background.

Language	*Number*
Dutch	50
German	32
French	23
Polish	16
Romanian	12
English	8
Russian	6
Bulgarian	5
Hungarian	4
Czech	4
Spanish	3
Albanian	2
Italian	2
Total	167

Table 5.1 Number of surveys filled out per language

5.4 DECISION-MAKING, TREATMENT AND OFFICER PERCEPTIONS OF PROCEDURAL JUSTICE

The MSM is an ambiguous instrument, combining migration control with elements of crime control. Originally designed as an instrument to combat illegal entry and stay, since 2006 the official aim includes human smuggling and identity fraud. Around the same time an unofficial name change took place from Mobile Alien Monitor to Mobile Security Monitor, with the abbreviation staying the same in Dutch. As RNM officers hold regular police powers, in practice the controls are based on both suspicion of illegal stay and criminal activity (Brouwer et al, 2018; Van der Woude & Brouwer, 2017). This reflects Shamir's (2005, p. 214) claim that the policing of mobility is based on "'paradigm of suspicion' that constructs individuals and often whole groups as having suspect identities related to the risks of immigration, crime and terrorism, (…) each on its own account and often coupled with one another."

As noted above, fair decision-making is a core element of procedural justice. In the context of stop-and-search activities, the feeling of having been unfairly profiled is particularly crucial. One of the most important decisions during the MSM is the decision to stop someone for a control and RNM officers have a considerable amount of discretionary freedom in doing this. Although there is a smart camera system in place that can read license plates of vehicles, in practice this is barely used (Dekkers, Van der Woude, & Van der Leun, 2016). Instead, officers largely rely on their own judgments in selecting interesting vehicles.

Elsewhere we have shown in more detail how officers use their discretion and make decisions regarding who to stop (Brouwer et al, 2018). They often rely on various indicators to determine whether a vehicle is of interest, but ethnic, national and racial categories play a particular dominant role. These differ, however, depending on whether a stop is based on possible illegal stay or criminal activity. Because the primary aim of the MSM, as laid down in article 50 of the Aliens Act and article 4.17a of the Aliens Decree, is migration control, officers had to detect potential unauthorised migrants. To that end, they tried to see whether passengers had a 'foreign appearance'. Skin colour was an important part of this, as officers regularly implied that being Dutch primarily meant being white. According to one officer:

> "Look, we are here in the context of the Aliens Act. Dutch people are by nature white – of course there are also non-white Dutch people – but you do take that into account. Belgians as well. So if a car with a Belgian license plate passes the border here, and it has a couple of non-white people in it, it means that is an indicator."

Officers did not see this as discrimination, but rather as a logical consequence of their specific task of preventing illegal migration. At the same time, they also frequently stopped vehicles for crime-related reasons. In these cases they strongly relied on the license plates of vehicles – as an indicator for nationality – to check primarily Eastern European vehicles. Although these people are EU citizens and should therefore enjoy freedom of movement within the Schengen area, they were thus frequently stopped on the basis of potential criminal activity. Besides Eastern European nationals, RNM officers also focused on Northern African ethnic minorities in relation to criminal activities. Officers generally did not perceive such decisions to be unfair, as they, according to them, were based on "experience and intelligence."

Besides fair decisions, quality of interpersonal treatment is another core element of procedural justice. Almost all RNM officers stressed the importance of treating the persons they encounter during controls in a respectful and friendly manner. As one officer explained, "if you treat people with respect, you will also get respect in return." They often described this with the official term 'hostmanship', which means making people feel welcome through a friendly and understanding approach. Many RNM officers work at Schiphol International Airport, where they are the first point of contact for people coming to the Netherlands. During their formation they are therefore trained in friendly and respectful interactions. Although the MSM is a significantly different setting than border policing work at the airport, many officers nonetheless invoked the principle of hostmanship when talking about the way they approached people. As a more senior officer explained:

> "We try to treat people as humans, not as criminals. They are after all only stopped for a control and are not considered criminals until something is actually found.

The fact that 90% of the people have done nothing wrong is a good reason to treat everybody in a good way."

Some officers suggested that especially more experienced officers are capable of approaching people in such a manner. For example, one officer stated during a focus group that mainly younger colleagues tended to act in a somewhat authoritarian manner. He furthermore argued that with a few senior officers on the control location, the whole atmosphere during a control was more calm, something confirmed by our own observations. More generally, the vast majority of interactions we observed went in a relatively calm and friendly manner.

5.5 Perceptions of those policed and differences between social groups

As noted above, we categorised the survey results in three different groups. Our results show that whereas non-Dutch citizens and Dutch majority citizens were generally very positive about both the RNM and the MSM, ethnic minority citizens were much more critical.

5.5.1 Perceptions of non-Dutch citizens

The majority of the respondents were non-Dutch citizens, with no apparent link to the Netherlands (N=127). Most of these people indicated their national-

N=72 (Average 3.77)	*1*	*2*	*3*	*4*	*5*	*Average*
I have confidence that these stops will prevent illegal migration	6 (8.3)	11 (15.3)	10 (13.9)	22 (30.6)	23 (31.9)	3,63
I have confidence that these stops will prevent crime	6 (8.3)	11 (15.3)	10 (13.9)	23 (31.9)	22 (30.6)	3,61
This is an acceptable measure to prevent illegal migration	3 (4.2)	7 (9.7)	10 (13.9)	28 (38.9)	24 (33.3)	3,88
This is an acceptable measure to prevent crime	4 (5.6)	8 (11.1)	8 (11.1)	27 (37.5)	25 (34.7)	3,85
In general, I am positive about this measure	4 (5.6)	9 (12.5)	14 (19.4)	20 (27.8)	25 (34.7)	3,74

Table 5.2 Non-Dutch citizens on instrument – N (%)[5]

5 For all tables, the scores are 1 = strong disagree; 2 = disagree; 3 = neutral; 4 = agree; 5 = strongly agree.

ity as the main social group they belonged to, although three respondents primarily adhered to a common European identity. The survey results show that the vast majority of this group perceive the MSM controls as not at all problematic, or even positive (see table 5.2). This is not surprising: since these people essentially identify themselves as foreigners, the fact that they have been stopped merely confirms their own identity.

Most people were rather indifferent about the fact that they had been stopped, giving statements as "it is normal when one is entering another country" and "it is necessary to perform identity checks on the foreigners entering the Netherlands." Even other EU citizens, who enjoy the fundamental right to freedom of movement within the Schengen zone, did not seem to find it problematic that their trip was temporarily halted. Cherney and Murphy (2011) argue that procedural justice can only be successful if the laws the police are seen to enforce are perceived as legitimate. The fact that European citizens were positive about the MSM and the RNM therefore suggests they did not perceive this form of border policing in the supposedly borderless Schengen area as problematic.

As can be seen in table 5.3, most non-Dutch respondents were also very positive about the treatment they received, indicating that they found the RNM officers friendly and professional. This might have been influenced by their experiences with border policing officers in their own and other countries. Griffiths (2018) argues that Polish migrants in the UK hold favourable attitudes about the local police, because they compare them with the perceived corrupt police in Poland.

N=82 (Average 4.03)	*1*	*2*	*3*	*4*	*5*	*Average*
During this stop the officer(s) treated me with respect	1 (1.2)	2 (2.4)	6 (7.3)	21 (25.6)	52 (63.4)	4,47
The officer(s) listened to me during this stop	1 (1.2)	2 (2.4)	14 (17.1)	23 (28.1)	42 (51.2)	4,25
During this stop the officer(s) talked to me in a way I could understand	1 (1.2)	4 (4.9)	6 (7.3)	21 (25.6)	50 (61)	4,40
I felt intimidated during this stop[6]	3 (3.7)	8 (9.8)	16 (19.5)	18 (22)	37 (45.1)	3,98

Table 5.3 Non-Dutch citizens on treatment – N (%)

6 Because this statement is negatively formulated the scores have been reversed for consistency.

When asked why they thought they had been stopped, a lot of people answered with responses such as "routine check" or "control". This suggests they did not really care about why they had been stopped. Although most respondents in this group thought they had been stopped because of their foreign license plate or their foreign appearance, they did not necessarily see this as problematic (N=47). Only four people explicitly said they believed they had been stopped because of their skin colour: two Dutch-speaking Belgian respondents and two Dutch-speaking Surinamese respondents. These respondents were also the most critical in this group.

41 persons indicated that they did not know why they had been stopped. These respondents also sometimes mentioned that they had not committed any offense – such as speeding – and that there had thus not been a good reason to stop them. While some respondents were aware that the MSM is primarily a form of immigration control, others thought it was a traffic control or had to do with crime control; various respondents also referred to RNM as police officers. This suggests that at least some of the respondents were confused about the exact nature and primary aim of the MSM.

5.5.2 Perceptions of Dutch majority citizens

Thirteen Dutch respondents were part of the majority group. As can be seen in table 5.4, Dutch majority citizens were generally very positive about the MSM as an instrument. Among the five respondents who were slightly less positive about the effectivity of the MSM (but still gave an average score between three and four), three of them motivated this by saying that criminals would not be caught this way and that more controls are needed for it to really have an effect. Largely positive interactions with the RNM officers meant that all respondents in this group were also very positive about their treatment by the RNM officers, as can be seen in table 5.5. Only one person gave an average score below 4.25, which seemed primarily motivated by the lack of explanation about the reason of the control.

Some of these respondents indicated they found it annoying they had been stopped, but most said they understood these controls took place, or even stated that it was very good. Several respondents believed they had been stopped because they were driving a car with a foreign license plate, while one person thought the reason had been that his passenger was a foreigner (Egyptian) and had a dark skin. However, in none of these cases did this have consequences for respondents' legitimacy judgments. Instead, the only mild form of criticism among this group of respondents was a lack of clarity about the reason for the stop: some of the respondents did not fully understand the purpose of the controls and felt they had been wrongly stopped.

N=12 (Average 3.85)	*1*	*2*	*3*	*4*	*5*	*Average*
I have confidence that these stops will prevent illegal migration	1 (8.3)	1 (8.3)	4 (33.3)	5 (41.7)	1 (8.3)	3,33
I have confidence that these stops will prevent crime	0 (0)	3 (25)	1 (8.3)	4 (33.3)	4 (33.3)	3,75
This is an acceptable measure to prevent illegal migration	0 (0)	1 (8.3)	2 (16.7)	4 (33.3)	5 (41.7)	4,08
This is an acceptable measure to prevent crime	0 (0)	1 (8.3)	1 (8.3)	6 (50)	4 (33.3)	4,08
In general, I am positive about this measure	1 (8.3)	0 (0)	2 (16.7)	4 (33.3)	5 (41.7)	4

Table 5.4 Dutch majority citizens on instrument – N (%)

N=13 (Average 4.58)	*1*	*2*	*3*	*4*	*5*	*Average*
During this stop the officer(s) treated me with respect	0 (0)	0 (0)	1 (7.7)	3 (23.1)	9 (69.2)	4.62
The officer(s) listened to me during this stop	0 (0)	0 (0)	1 (7.7)	5 (38.5)	7 (53.8)	4.46
During this stop the officer(s) talked to me in a way I could understand	0 (0)	0 (0)	0 (0)	7 (53.8)	6 (46.2)	4.46
I felt intimidated during this stop[7]	0 (0)	0 (0)	1 (7.7)	1 (7.7)	11 (84.6)	4.77

Table 5.5 Dutch majority citizens on treatment – N (%)

5.5.3 Perceptions of ethnic minority Dutch citizens

Twenty-one respondents were Dutch citizens who were either born abroad themselves or had at least one parent born outside the Netherlands.[8] Most

7 Because this statement is negatively formulated the scores have been reversed for consistency.

8 The most common foreign backgrounds were Morocco (6), Turkey (4), Iraq (3) and Suriname (2)Three of these have relatively large populations in the Netherlands. Turkish and Moroccan populations formed when people from these countries migrated to the Netherlands

of these respondents (16) identified themselves primarily as Dutch. Two respondents indicated they felt they belonged to two ethnic or national groups (including Dutch), one respondent felt primarily Turkish, one respondent primarily Arabic and one person did not answer this question.

Out of these twenty-one respondents, thirteen believed they had been stopped because of their skin colour or 'foreign appearance'. For example, one woman said that when she saw the RNM officer on his motor coming in front of her car, the first thing she thought was: 'of course we are getting stopped, I am in the car with a Moroccan and a Turk'. Another respondent said in response to the question why he thought he had been stopped: "Because I am a foreigner, like all persons that I have seen being stopped." As can be seen in table 5.6, this group was on average more critical about the instrument than the other two groups.

N=18 (Average 2.98)	*1*	*2*	*3*	*4*	*5*	*Average*
I have confidence that these stops will prevent illegal migration	3 (16.7)	2 (11.1)	6 (33.3)	3 (16.7)	4 (22.2)	3,17
I have confidence that these stops will prevent crime	6 (33.3)	2 (11.1)	5 (27.8)	2 (11.1)	3 (16.7)	2,67
This is an acceptable measure to prevent illegal migration	4 (22.2)	2 (11.1)	5 (27.8)	2 (11.1)	5 (27.8)	3,11
This is an acceptable measure to prevent crime	5 (27.8)	2 (11.1)	5 (27.8)	3 (16.7)	3 (16.7)	2,83
In general, I am positive about this measure	5 (27.8)	2 (11.1)	2 (11.1)	4 (22.2)	5 (27.8)	3,11

Table 5.6 Dutch ethnic minority citizens on instrument – N (%)

Eight respondents were particularly critical about the MSM, with an average score below 3. Five of them indicated they thought they had been stopped because of their skin colour or because they were 'foreigners', while the other three said they had no idea. A few respondents were also critical about the treatment they received by RNM officers, although not as much as about the instrument (see table 5.7).

N=21 (Average 3.74)	*1*	*2*	*3*	*4*	*5*	*Average*
During this stop the officer(s) treated me with respect	1 (4.8)	1 (4.8)	2 (9.5)	7 (33.3)	11 (47.6)	4,14
The officer(s) listened to me during this stop	2 (9.5)	1 (4.8)	4 (19)	8 (38.1)	6 (28.6)	3,71
During this stop the officer(s) talked to me in a way I could understand	3 (14.3)	2 (9.5)	1 (4.8)	8 (38.1)	7 (33.3)	3,67
I felt intimidated during this stop[9]	4 (19)	3 (14.3)	4 (19)	2 (9.5)	8 (38.1)	3,33

Table 5.7 Dutch ethnic minority citizens on treatment – N (%)

Only three respondents were overall very negative about their treatment by the officers. Here too the feeling of having been stopped because of a 'foreign appearance' was often brought up in explanations. As a Kenyan-born respondent said:

> "I would like to know why they are selective on skin colour. I am slightly intimidated, noticed that the car of a friend before me was not being stopped and then saw a motor driver carefully scrutinising my car. That was an unpleasant moment, I knew then that I would be stopped: five black men in a car, come on!"

Besides the feeling of having been stopped because of a 'foreign appearance', another important factor behind negative perceptions seemed to be the lack of clarity about what these controls were for and what the reason for the stop was. The most critical respondents all stated that the purpose of the control was not explained to them and that they felt they had been stopped because of their appearance. As one Dutch respondent with a Moroccan background elaborated:

> "This motor driver comes up next to you and you immediately think, 'what have I done wrong?' Then more generally, they are not polite, curtly and do not explain anything. Look, now I am with a friend who understands I have done nothing, but imagine I am with my girlfriend or family. They immediately ask all kinds of annoying questions."

as 'guest workers' in the 1960s and 1970s, while Suriname is a former Dutch colony. The other backgrounds were Algeria, Angola, Egypt, Kenya, Sri Lanka and Syria.

9 Because this statement is negatively formulated the scores have been reversed for consistency.

His passenger then added:

> "Look around you, madam. There are only foreigners here, black people. They let the Dutch ones just pass."

This last statement is particularly telling. Despite the fact that both men were born in the Netherlands and Dutch citizens, they referred to the 'Dutch ones' as other people who were not being stopped. Conversely, the people who were stopped were all 'foreigners, black people'. Other Dutch ethnic minority citizens equally referred to themselves as 'foreigners'. This seems to suggest that these respondents interpret these stops as confirming that only white people can pass as being Dutch. Although they self-identify as being Dutch, the controls signal to them that they are not necessarily seen as such by the RNM.

Following the procedural justice framework, it is these kinds of experiences that seem most damaging for the legitimacy of the MSM and the RNM. When people felt they had been stopped because of their supposed foreign appearance and received no satisfying explanation about the aim of the control or the reason for the stop, they were generally most critical about the MSM and – to a lesser extent – their treatment by the RNM. These experiences occur mainly among Dutch ethnic minority group members who identify themselves as Dutch. As can be seen in figure 5.1, this results in substantial differences regarding overall satisfaction between the three groups.

There was thus considerable ambivalence among the people who were stopped during the MSM, with different perceptions of fairness seeming to stem for an important part from people's social identity. Although people identifying as non-Dutch regularly believed they were stopped because they were foreign, they did not perceive this as unfair. Dutch majority citizens frequently believed that officers had made a mistake in stopping them and therefore did not perceive this as unfair or challenging their identity. Both these groups were also positive about the treatment they received from the RNM, resulting in overall high legitimacy scores. This was different for Dutch citizens who belonged to an ethnic minority. Many of these respondents believed they had been stopped because of their 'foreign appearance' and thus their skin colour, even though they identified as Dutch. Although this group was not outspokenly negative about the way they were treated during the stop, this form of identity misrecognition meant these respondents saw the RNM and the MSM as less legitimate than the other two groups.

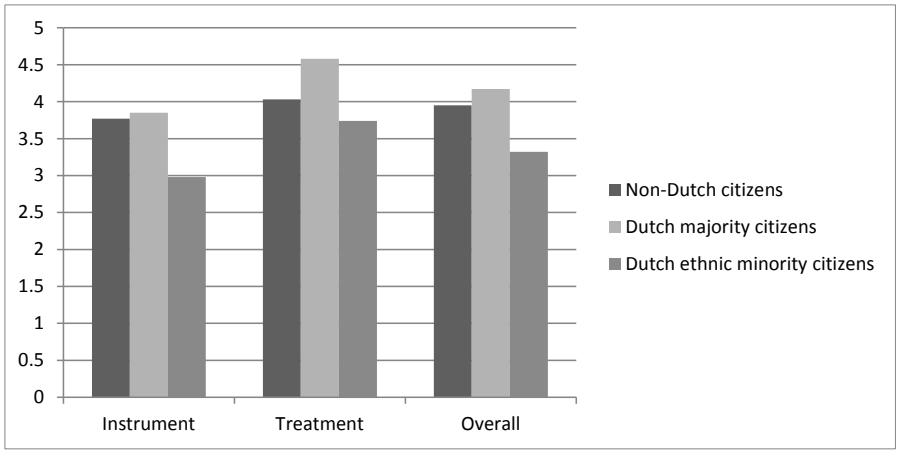

Figure 5.1 Average scores per group

5.6 CONFLICTING PERCEPTIONS OF PROCEDURAL FAIRNESS

Our results suggest that the feeling of having been stopped on the basis of one's skin colour, in combination with a lack of explanations about the aim of the MSM and the reason somebody has been stopped, are crucial factors in negative judgments regarding the legitimacy of the MSM and the RNM. RNM officers were mostly aware that explaining the aim of the MSM and the reasons behind a stop could help reducing negative responses from citizens. According to one of them:

> "Look, what I think we do well is that, immediately when a car arrives, we say who we are and what we do. This way people know what it is and this often creates much more understanding."

We indeed noticed during the observations that officers usually shortly stated that it was an ID-control at the onset of a check. Out of 224 stops that we recorded this type of observational data on, officers stated 183 times that this was an identification-control conducted by the RNM. Yet, as one officer indicated, a lot of people did not hear this. Furthermore, we noticed that these short statements were often quite unclear or not in a language people could be expected to understand. Indeed, more than half of our respondents said it had not been explained to them why they had been stopped; many people thought it was a 'general control'. While it could be expected that language barriers are an important explanation for this, our results show that Dutch people say slightly more often that the reason of the control was not explained to them. Moreover, the brief statement that it was an id-control was not always satisfactory to respondents:

> "They didn't say anything at all. They only said 'control, ID'. Not explained why, very bad."

Such explanations seem particularly important given the ambiguous nature of the MSM. It is an instrument for both immigration control and limited forms of crime control, carried out by a military police organisation; many respondents referred to the RNM as 'the police'. When people feel they have been stopped because of their 'foreign appearance', it requires more detailed explaining why people have been stopped – especially in light of non-discrimination provisions that prohibit profiling on the basis of ethnicity or skin colour only. Such explanations can furthermore make it easier for people to understand why they have been stopped and might help to increase acceptance. Various officers stated that when they were honest about the selection decision and carefully explained the aim of the control, people could even understand they had been stopped because of their 'foreign appearance'. For example, one Dutch respondent with a Moroccan background said he believed he had been stopped because he "looked foreign, Moroccan". He furthermore stated that officers had explained to him that it was an immigration control and that he therefore understood that only 'foreigners' were stopped. Although he was critical about the effectiveness of the MSM in preventing crime, he did think it could help in preventing illegal migration. He was generally positive about the MSM and said that he did not mind that he had been stopped because it gave him a safe feeling.

At the same time, it is important to acknowledge that such explanations can also increase the dissatisfaction of people who have been stopped. As one respondent answered to the question what he thought about the fact that he had been stopped:

> "Racist. I understand that it is an immigration control, but I have a Dutch license plate."

For officers, the fact that they were conducting migration controls meant that it was logical to take a person's skin colour into consideration in their selection decisions. Although most officers stressed the importance of explaining the task of the RNM and the aim of the MSM, some also expressed frustration about how in their experience primarily black people were very quick to accuse them of racism. This sometimes caused annoyance among officers, who were less willing to explain their actions when they immediately faced accusations of racism or discrimination. As one of them explained:

> "On the one hand I think to myself, 'what are you complaining about?' I am here for a specific piece of legislation and you may not like that, that is all fine, I will try to explain that. (…) But I do think to myself, you could also do some research yourself. I mean, the police do their controls, we do controls, tax inspectors do

> their controls (…) we are all busy with things, and just because I am wearing a blue uniform I would have to explain each time why I decided to stop you."

Various officers indicated that especially Dutch persons were outspokenly critical when they were stopped. They explained this through Dutch culture, which they perceived as very assertive, and the fact that Schengen has become normalised for Dutch people. One officer did not understand complaints from Dutch citizens who believed they had been stopped because an officer perceived them as foreigner.

> "You often hear that they go completely out of their mind, get completely furious, give a Dutch identity card and say: 'you stop me because I am foreigner!' Why? You have a Dutch identity card, don't make such a fuss."

This comment is particularly illustrating for the different viewpoints of officers and some Dutch ethnic minorities who are stopped during the MSM. This is perhaps not entirely unsurprising, as past research has shown that power-holders and majority group members can downplay negative experiences of minority group members (Blackwood, 2015). Most officers perceived the impact of a control limited; they commonly reasoned that when everything is in order a person can leave quickly and that the interference and inconvenience is therefore very minimal. What they failed to acknowledge in this way, is that the very fact that somebody has been selected for a control can be perceived as communicating that he or she is not regarded as full citizen. Being selected for a pro-active immigration control in what someone perceives to be 'his' or 'her' country can constitute an important form of identity misrecognition, no matter how brief the actual interaction is. Our results suggest that explaining the aim of the controls and reason behind a stop can at least diminish these feelings.

5.7 Conclusion and discussion

In this article we have looked at the experiences and perceptions of people who have been stopped in the context of the Mobile Security Monitor, a form of internal border policing in the border areas of the Netherlands. Furthermore, we have explored officers' perceptions of the necessity and 'deservedness' of procedural justice and legitimacy. Our findings suggest that non-Dutch persons who have been stopped in the context of the MSM mostly do not perceive this as problematic. These people generally felt they had been treated in a fair manner and did not find they had been unjustifiably selected for an immigration control: after all, they *are* foreigners who want to visit the Netherlands. Even though within the Schengen area borders are no longer supposed to be enforced, very few people contested the authority of the RNM to carry out border policing activities, and this included European citizens. Whereas under

EU-law all European citizens ought to be treated equally and without discrimination, most of these people might not think of themselves as equally entitled to free entry into the Netherlands as Dutch citizens.

Among Dutch citizens who were stopped there was a clear distinction between majority group members and ethnic minority group members. Majority group members were generally very positive about both the instrument and the RNM officers, while minority group members were considerably more critical about both the MSM and the RNM officers. One explanation for this might be that marginalised people feel less sure about their place in society and therefore care a great deal about the status that is being communicated by fair treatment at the hand of authorities (Antrobus et al., 2015). For example, Blackwood (2015) claims that especially minority group members care about what other groups think about them, and that they look in particular to authorities as representatives of the wider social group. Most ethnic minority respondents identified themselves as primarily being Dutch and felt they had been stopped because of their skin colour or because of their 'foreign appearance'. Several of them also stated it had not been explained to them what the aim of these controls was or why they were stopped.

Although most respondents did not explicitly address it as such, these judgements seem to be linked to people's social identification, as primarily people who felt they belonged to the same social group as RNM officers seemed to care about the identity-related information that is communicated through the decisions of these officers. Whereas sentiments about being stopped on the bases of 'foreignness' and a lack of clarity about the aim of the controls and the reason for a stop were also present among non-Dutch citizens and Dutch majority group members, this did not translate in equally negative judgments about the legitimacy of the MSM or the RNM.

While officers generally stressed the importance of a procedurally fair treatment – and most interactions were indeed rather friendly and calm – they also sometimes expressed frustration about being easily accused of discrimination and the need to explain the reasons for selecting a vehicle. This seemed to be the result of a perception that the impact of a stop is very limited. Moreover, officers did not perceive their selection decisions as unfair. Although they acknowledged to rely on skin colour as an important indicator of foreignness, they believed this was a logical consequence of their focus on migration control. Furthermore, reliance on certain ethnic and national categories was primarily based on experience and intelligence. In other words: In their eyes this was a form of justified profiling. This points to fundamental differences between citizens and officers regarding the fairness of decisions and highlights the importance of taking into account the perceptions of both sides to better understand issues of procedural justice and legitimacy. It also lays bare the problematic nature of these pro-active and selective forms of border policing, especially when they intersect with crime control. Decisions to stop can be based on both the expectation of illegal entry or suspicion of

criminal activity and for the people who have been stopped the exact reason is often unclear. This increases the chance that bona fide Dutch citizens with a migrant background are being stopped, while for them it is unclear why exactly they have been selected.

The question is what these findings mean for the legitimacy of the MSM and the RNM. Harkin (2015a) points out that procedural justice theory fails to account for the broad support for the police that often exists among large parts of the population in spite of scandals or unfair treatment. In line with Waddington (1999) he argues that as long as unfairness is directed at people belonging to excluded groups – such as migrants or ethnic minorities – this might not necessarily result in diminished legitimacy among the majority population (see also Radburn et al., 2016). Although a few people felt they had been treated unfairly during the MSM, most people did not see these controls as problematic. This is likely to be the same among the majority Dutch population that is never stopped in the context of the MSM. Moreover, unlike the regular police, border policing agencies generally rely much less on the explicit cooperation of citizens. As such, there seem to be little incentives for the RNM to appreciate the negative experiences of certain ethnic minorities (Cf. Blackwood, 2015). Why, then, is it nonetheless important to address these concerns, besides the notion that everyone should have the right to be treated fairly and with respect (Murphy et al., 2015)?

Another model of procedural justice theory can help to formulate an answer. The *Group Engagement Model (GEM)* shares several similarities with the GVM, but differs in some other aspects. The core idea of this model is that people are more likely to cooperate with authorities they identify with (Madon, Murphy, & Cherney, 2017). Strongly relying on social interactionist and labelling theories, the model furthermore stresses that authorities can actually *shape* social identities (Blader & Tyler, 2009; Bradford et al., 2015, 2014). Especially in Europe's contemporary multicultural societies, where ethnic minorities' sense of belonging is increasingly being questioned, identity-related information from authorities might be important.

In a recent study, Bradford, Murphy and Jackson (2014) showed that procedurally just policing can increase a sense of national identity and stimulate feelings of societal inclusion. Conversely, perceptions of unfairness can lead to diminishing levels of group identification. Referring specifically to racial profiling as an important example, Tyler and Blader (2003, p. 358) argue that "experiencing stereotyping and prejudice within the groups that people belong to is damaging to their sense of self, which may in turn lead them to maintain a psychological distance between their identity and group membership." In this regard Harkin (2015b, p. 48) draws attention to "intimidating or embarrassing activity such as stop-and-search" that "communicate and promote exclusion, alienation and disenfranchisement of individuals or groups from mainstream society" and "may stigmatize, deprive or at least erode groups of their social reputation." In such cases not only people's

respectability and their position as law-abiding citizen is at stake, but their very status of full citizen (Bradford et al., 2014).

Experiencing unfair treatment might thus lead to a diminishing sense of belonging and feelings of disengagement from the subordinate group. This might not only have serious psychological consequences for the individual involved and lead to a reluctance to engage with members of the group the authorities represent, but can also decrease legitimacy and ultimately make it less likely for people to cooperate with authorities in the future (Madon et al., 2017). Especially when unfair treatment is experienced on numerous occasions and by different actors, this might lead to diminishing levels of trust and further marginalisation (Blackwood, 2015). This suggests that in order to evaluate the activities of contemporary border policing actors it is necessary to move beyond broad majority support and place more emphasis on the viewpoints of minorities that are actually subjected to these powers.