Summary

A key characteristic of the law and legal authorities is that they claim the authority to speak on behalf of all of society and use their authority to direct the behavior of others. Why are legal authorities such as judges entitled to tell other people what to do? Traditionally, the focus within the legal discipline is inward on the normative question whether legal decisions are legitimate and thus ought to be obeyed. And when law and policy makers look outward on those who are the target of the influence of the law, they often implicitly assume that people can be motivated to follow the law by the use of monetary sanctions or incentives. Elaborating such normative and economic perspectives, in this thesis I adopt a social theory perspective on why people view societal authorities and institutions as entitled to be obeyed.

Specifically, I focus on two important issues that are related to whether people voluntarily accept the law and legal decisions, namely whether they have trust in the system's judges and whether they assign legitimate power to those judges. To this end I studied how people who participate as litigants or defendants in court hearings actually experience those hearings and how they come to trust judges following those experiences. I also studied how people in the street evaluate judges and other societal authorities. The study of these issues is important, I argue, because trust is at the core of what makes and breaks cooperative relationships. Moreover, trust in law and society (and the associated construct of legitimacy) plays a crucial role in people's generalized, long-term deference to law and society. In this thesis I aim to advance the understanding of how litigants and members of the general public come to trust important legal actors and institutions empowered to enforce the law. In studying this issue, I developed a series of experimental legal studies on perceived procedural justice and trust in law and society. The experiments are arranged in two parts in this thesis. Each part consists of two empirical chapters.

Part 1 - On Why Procedural Justice Matters in Legal Settings

What I do in the first part of the dissertation is to critically examine whether the experience of being treated fairly and justly genuinely matters in legal contexts such as court hearings. And if these experiences of procedural justice would happen to be truly important in legal contexts, to examine why that would be the case. This is important because ever since the concept of procedural justice was coined in the interface of social psychology and law, the concept and the way it has been studied have been criticized. In fact, this is still going on.

Previous studies on procedural justice in actual legal settings have in common that they tended to rely on correlational and qualitative research methods, and mostly used telephone interviews in which respondents were asked about personal interactions with
legal authorities in the past or about hypothetical interactions. What we can learn from these earlier studies about the meaning and direction of any links between procedural justice and people's reactions is limited by their correlational or qualitative quality and retrospective methods of data collection.

In my courtroom studies, I extend previous research in legal settings by using experimental methods and directly interview actual litigants who walked in and out off the courtroom about their experiences with and their trust in the court system (Chapters 2 and 5). Given obvious ethical barriers, I could not experimentally control how fairly or unfairly actual litigants were treated by judges handling their court case. Still, by using advanced methodology in important field settings I attempted to make progress to one of the important goals that I had with this thesis, namely to truly understand whether, and if so why, procedural justice really matters in legal settings such as court hearings.

What I argue in Chapter 2 is that procedural justice matters in legal settings such as court hearings because of what is happening psychologically to people in these settings. In particular, I suggest that people will often feel evaluated in legal contexts. And I further note that when people must appear at court hearings they will try to understand what is going on in their court hearings and whether they can trust and find legitimacy in the system's judges. To do this, people will inhibit ongoing action as this will allow them to pay close attention to what is going on in the courtroom. Thus, I argue that an important psychological system, the behavioral inhibition system, is likely to be activated when people appear at court hearings.

In Chapter 2, I report the findings of two courtroom experiments that examine the implications of this line of reasoning. To this end, I studied the normal conditions under which litigants react to court hearings. And I compared these normal or neutral control conditions with conditions in which I experimentally weakened the presumed activation of the behavioral inhibition system. I did this in order to explore how actual court litigants respond to court hearings and what the role of perceived procedural justice is in how litigants come to trust judges and assign legitimate power to those judges.

In particular, Study 2.1 was conducted among individuals who appeared at court hearings following their petition for a court ruling on the basis of the Dutch Bankruptcy Act allowing them access to a legal solution to their debt burden (Wet Schuldsanering Natuurlijke Personen). Study 2.2 was conducted among defendants who appeared at criminal court hearings because they were accused of having committed criminal infractions under Dutch criminal law. In both courtroom experiments, participating litigants were randomly assigned to either control or experimental conditions. That is, half of the litigants entered their court hearing in the way they normally do (default
condition, Study 2.1) or answered three neutral brief, open-ended questions before they entered their court hearings (control condition, Study 2.2). The other half of the litigants answered three brief, open-ended questions before they entered their court hearings that reminded them about having acted without behavioral inhibitions, an experimental manipulation which had been shown to deactivate people's behavioral inhibition system.

I found that litigants' ratings of trust in judges and the legitimacy they assigned to those judges were strongly and reliably associated with perceived procedural justice in the control conditions which resembled the default setting in which the court hearings normally take place (Study 2.1) and when neutral control questions were used (Study 2.2). Importantly, in both studies, I also observed that following the experimental manipulation that has been shown to weaken the psychological reaction in question, the associations of procedural justice with trust in judges (Study 2.1) and legitimate power assigned to judges (Study 2.2) reliably weakened and were not statistically significant.

Thus, in the experiments presented in Chapter 2 I attempted to reveal an important reason why litigants are influenced by procedural justice in court hearings. Findings support my reasoning that procedural justice is important in the evaluative context of court hearings. As a result of this context, people's behaviors tend to be inhibited and perceived procedural justice is used to make sense of the court hearings at hand and the salient persons in these hearings. These findings fit with a larger understanding that perceived procedural justice is important to people because it helps them to make sense of what is going on in their surroundings (in this case the courtroom and the legal system) and it develops this growing literature by pinpointing at a potentially important psychological system that is activated when people appear at court hearings.

The basic pattern of findings of Chapter 2 among court litigants is consistent with findings in Chapter 3. As such, Chapter 3 serves to back-up and extend the findings reported in Chapter 2. That is, Studies 3.1 and 3.2 extended on Chapter 2 by investigating whether not weakening but in fact strengthening the behavioral inhibition system leads to enhanced reactions to fair and unfair procedures. The scenario experiments presented in Chapter 3 were conducted in non-courtroom settings, but the scenario quality of the experiments allowed me to study the causal effect of important elements of procedural justice on people's reactions by experimentally varying whether participants receive an opportunity to voice their opinions or are being withheld such an opportunity. Findings obtained from these experimental studies showed that people reacted even more strongly (in terms of people's procedural justice judgments) to receiving voice or no voice in the experimental conditions in which participants' behavioral inhibition system was assumed to be enhanced compared to the control conditions in which
this psychological system was not strengthened. These findings further supported my reasoning that procedural justice has a sturdy effect on people's reactions when they are in a state of behavioral inhibition.

Thus, the experimental legal studies presented in Part 1 of this thesis (Chapters 2 and 3) both replicated and weakened the link between procedural justice and trust and legitimacy ratings by weakening a relevant psychological system in the courtroom experiments of Chapter 2, and strengthened the responses to experimental variations in procedural justice by strengthening this psychological system in Chapter 3. As such, taken together, one could say that I was able to turn the knobs of perceived procedural justice and the associated human reactions to this issue of fair process. Perhaps even more importantly, the findings presented in the first part of this thesis suggest that in normal, default conditions the experience of procedural justice matters in court hearings and other legally relevant contexts for trust and legitimate power ratings of the system's judges. My findings show why this link normally exists in legal settings such as court hearings. Moreover, the time frame and exact ways of operationalizing the manipulations in my field experiments may contribute to the robustness of priming studies and other studies that rely on experimental manipulation.

Part 2 - Social Distance to Law and Society

Pretesting for the studies included in the first part of this thesis inspired me for the research on distance to law and society included in the second part of the thesis. That is, when pilot-testing for a first courtroom study in which I surveyed court litigants' views on and experiences with judges, I got the impression that some litigants saw me (the interviewer) as belonging to the same social category as judges. This made me wonder: Would they tell me their honest opinions when they were discontended with the legal and/or societal systems?

My impression was backed up by Henrich, Heine, and Norenzayan (2010) who had raised the issue that scientific knowledge about human psychology and behavior is largely based on findings from a narrow and unrepresentative subpopulation of Western, Educated, Industrialized, Rich and Democratic (WEIRD) subjects, often college students. Extending on the observation of WEIRD participants by Henrich et al, in Chapter 4 of this dissertation I argue that studies on trust in law and society may be missing crucial patterns of participant reactions because participants are tested by WEIRD interviewers.

Field experiments presented in Chapter 4 that were designed specifically to test this assumption show that when answering questionnaires on degree of trust in law and society as given to them by interviewers presenting themselves as coming from Law Schools, lower educated people indicated that they hold high levels of trust in Dutch
judges. That pattern replicates a finding that is often seen in trust surveys. Yet, when the same interviewer presented herself as coming from a lower educated background, participants reported much less trust in judges. Similar effects were found among female Muslims who indicated higher trust in Dutch society when interviewed by an interviewer who was not wearing a headscarf as opposed to was wearing a headscarf.

Furthermore, when returning their questionnaires, lower educated participants in Studies 4.1 and 4.2 spontaneously told the community college interviewer that judges are very different from themselves. Related to this, female Muslim participants in Study 4.3 spontaneously told the head-scarf wearing interviewer that it is simply not right how the Dutch police treat male Moroccans in their neighborhood. These types of statements were not conveyed toward the interviewers from the status quo and the nation’s majority group (university and non-headscarf interviewers). To me this strengthens my impression that for researchers who come from the status quo or majority groups it is easy to miss important reactions of people who are not part of the societal status quo and who participate relatively little in social science studies or trust research.

The findings of Studies 4.1, 4.2 and 4.3 supported my reasoning that lower levels of trust in law and society will go unnoticed when trust surveys are conducted by interviewers with a WEIRD background. The organizational affiliation and group identity of interviewers was found to affect trust reporting among understudied participants such as those with lower education or female Muslims. The scientific insights developed in Chapter 4 may have important implications for the methodology of studies on trust in law and society and the conceptual conclusions that are based on these studies (cf. the stable and relatively high degree of public trust in the judiciary often seen in national and international reports on public trust in law and society). As such, the insights developed in this thesis may inform the practice of trust survey and political opinion poll research. It may be helpful especially in times of societal polarization that the experimental manipulations developed in Chapter 4 represent a novel way to detect concealed levels of distrust or discontent against mainstream institutions and society at large.

Extending on the research presented in Chapter 4 that indicated that lower educated people perceive social distance to judges and hold low trust in the system’s judges, Chapter 5 explores how litigants’ social distance to judges plays a role in the courtroom. This is important at a time of polarization within societies and discontent among groups of lower educated citizens against the establishment. Using a controlled courtroom study among actual litigants in civil-law court cases, Chapter 5 examines how litigants’ perceived social distance to judges is related to whether they see judges as legitimate power holders. In line with findings of Chapter 4, the results of Chapter 5 revealed that
when litigants experienced higher levels of social distance to judges this was associated with lower levels of legitimate power assigned to the system’s judges.

In line with my main prediction, I observed that especially for litigants with more social distance to judges their perceptions of how fair and just they were treated in their court hearing was strongly linked with whether they saw judges as legitimate power holders. In contrast, for litigants with low social distance to judges, the link between perceived procedural justice and legitimate power assigned to judges weakened and was nonsignificant. As such, the study presented in Chapter 5 may serve as a starting point for future research on how issues of social distance and societal polarization may play a role in courtroom contexts.

In conclusion

The sixth and final chapter of my thesis puts the findings presented into context. Strengths and limitations of the findings and lines of reasoning are discussed. One of the things that I put forward in Chapter 6 is that my research findings support the notion that litigants who appear at court hearings want to understand how they are regarded by an important authority who represents society. The empirical evidence obtained from my pioneering studies helps to understand the important role of perceived procedural justice in effectively building litigants’ trust in legal power holders and the system and legitimate power assigned to the system. Based on these insights I posit that distance in functional social roles are a given and that reducing distance per se is not what is relevant here. What is relevant is procedural justice: that professional, competent legal decision-makers treat litigants as full-fledged members of the community. My experimental approach to empirical legal studies has shown that perceived procedural justice can effectively promote trust in law and society. Findings also showed an important reason why distrust against mainstream institutions tends to go unnoticed in trust surveys.

I think that it is warranted to argue that my thesis puts forward a new man view that may well be different from the implicit standard man view in law that humans know and follow the law, or can be motivated to follow the law by the use of sanctions or incentives. In my research, I have tried to elaborate on this by focusing on relevant psychological processes that play a role in trust in law and society and the associated construct of legitimacy. My behavioral science-based findings enhance the understanding of what motivates people to voluntarily defer to authorities and institutions empowered to enforce the law. As such, I hope that my experimental legal studies on perceived procedural justice and trust in law and society contribute to a more realistic, modern behavioral science-based man view in the study and practice of law.