**From Empirical Findings to the Normative Domain of Law**

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One of the epistemological challenges that come with conducting empirical legal research is to translate empirical findings to the normative domain of law. The current chapter reflects on this issue, taking my empirical legal research on perceived procedural justice from the perspective of criminal defendants as a point of reference. When studying this social psychological notion of procedural justice in a legal context, I noticed that social scientists and legal scholars seem to adopt different stances toward normativity. While social scientists tend to be quite reluctant to draw normative inferences from their empirical findings, legal scholars who learn about findings of empirical legal research are often very interested in hearing what these findings may imply for the normative domain of law. Thus, because social scientists do not always translate their findings into concrete legal steps, their contributions may end right where things get particularly interesting for lawyers. The current chapter aims to bridge this divide. In doing so, I address the fact-value gap – that is, the notion that an “is”does not imply an “ought”– and put forward my ideas on how empirical legal researchers could deal with it. My main point is that it is important to be aware that empirical findings about how things are do not in themselves lead to normative conclusions about how things ought to be, and to make sure the presentation of research findings reflects this. I also argue that, if researchers want to bridge the gap, they can do so by (1) being explicit about where the discussion of empirical findings ends and normative reflections begin, and (2) discussing and weighing relevant arguments. To make this more concrete, I discuss several reasons for endorsing the enhancement of procedural fairness perceptions as well as potential reasons for restraint. I conclude that there are good reasons for enhancing perceived procedural justice, and that there are also some reasons for restraint which are relevant to keep in mind when doing so. Further empirical research and normative reflections can deepen our insight into these and other potentially relevant issues regarding the translation of empirical findings on perceived procedural fairness to the normative domain of law.

1. This contribution is the final chapter of my dissertation (*Procedural justice on trial: A critical test of perceived procedural justice from the perspective of criminal defendants*) which I will defend in September 2021. The chapter was solo-authored with helpful comments and editing by Kees van den Bos and Elaine Mak. [↑](#footnote-ref-1)