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Russian Cultural Factors Related To Perceived Criminal Procedure Fairness: The Juxtaposition Of Policy And Practice

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RUSSIAN CULTURAL FACTORS RELATED TO PERCEIVED CRIMINAL
PROCEDURE FAIRNESS: THE JUXTAPOSITION OF POLICY AND PRACTICE

by

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ABSTRACT

The purpose of this study is to investigate the relationship between the Russian culture and citizens' perceived fairness of the new Criminal Procedural Code of Russia of 2001 (CPC of 2001). The CPC of 2001 is a key policy in the Russian criminal law reform with the purpose of implementing adversarial procedure elements in Russia. The existing literature has documented the lack of public support along with observed violations of the CPC's major provisions which as made this an important area for study. It is theorized that the apparent contradiction between the underlying values of the Russian culture, and CPC's adversarial procedure that reflects anti-cultural values, are responsible for the lack of substantial public support and acceptance of the CPC of 2001.

The theory of motivational values developed by Schwartz (1990) is used as a framework to examine the Russian culture. Damaska's (1986) theory of procedural models is used to examine the adversarial elements of the new CPC of 2001. The group-value theory of fairness is employed to examine the relationships between Russian cultural values and the public opinion about the criminal procedural law (Lind & Tyler, 1988).

The study used a multi-stage stratified random sample of 1,588 Russian residents to explore the relationship between the culture and the perceived fairness of the CPC of 2001. The sample is representative of the Russian Federation population. The data is analyzed through four structural-equation models, a set of non-parametric tests, and descriptive statistical analysis.

The findings of this thesis confirmed that cultural values in Russia are predominantly collective. On average, 69% of Russian respondents reported that collective values play a

very important role in their life. The type of prevailing values was dependent on the demographic characteristics of the sample: age, gender, place of residence, level of education, marital status, and household income. It was found that the majority of Russian citizens believe that the inquisitional criminal procedure is an ideal of fair law. On average, 72% supported the inquisitorial procedural model in Russia. Unlike the adversarial procedure, the inquisitorial procedural model is not based on competition between the equal parties of prosecution and defense. Instead, it is viewed as a cooperative process between the judge, prosecutor and defense in their inquiry into the circumstances of the case. The adversarial procedural model was not supported by most citizens. Only 33.5% reported that the adversarial procedural model can be considered fair.

The study corroborated that the new CPC was not fully supported by the majority of respondents. An average of 27.5% of respondents in Russia reported that the CPC of 2001 is a fair law, in comparison to 72.5% who think that the CPC of 2001 is unfair. The findings validated that the CPC of 2001's inclusion of adversarial procedural elements contradict key values of the contemporary Russian culture.

It is concluded that the CPC of 2001 should be reformed to facilitate citizen acceptance. Greater acceptance will support the attempt to advance the democratization of the criminal process through increased civil rights while simultaneously enhancing positive social control. It is proposed that the planned policy reforms that contain additional elements of the adversarial criminal procedure be introduced in a phased manner. It is also recommended that the adversarial procedure values should be publicized through public awareness educational programs. The data analysis also

suggests that confounding factors such as citizen distrust of the criminal justice institutions can contribute to problems associated with acceptance of the criminal law reform. The research model developed for this study can be used to examine policies related to criminal law reform in other former Soviet Union countries.

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CPC of 1961 Criminal Procedural Code of Russian Federation adopted in 1961

CPC of 2001 Criminal Procedural Code of Russian Federation adopted in 2001

WVS   World Value Survey

I. INTRODUCTION

1. Russian Criminal Procedure Reform: The Influence of Soviet and Post-Soviet Traditions

1.1. Soviet Criminal Procedure

Criminal law in the Russian Federation during the last fifteen years has experienced drastic changes. In this period, the field of criminal procedural law was transformed from an authoritarian inquisitorial model into a quasi-democratic model that contained dominant adversarial elements.

The Soviet criminal law was initially introduced by promulgation of the Leading Principles of Criminal Legislation in 1919. Later, it was developed, shaped and formulated by the adoption of several Codes of Criminal Procedure of the Russian Soviet Federalist Socialist Republic (RSFSR)[1] in 1922, 1923, and 1961 (Gordone, 1976; McCain, 1982; Osakwe, 1976). During the forty year period from 1961 until 2000, the Code of Criminal Procedure of 1961[2] was reformed by numerous amendments while retaining the core spirit of the Soviet criminal law (Osakwe, 1983).

The major difference between the Soviet and American criminal procedure was that the "Soviet inquisitorial system is not a duel between the adversary counsels, but rather is a tripartite search for the *objective* truth, as opposed to the *legal*[3] truth. All

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[1] - RSFSR stands for Russian Soviet Federal Socialist Republic is a formal name of Russia within the Soviet Union.
[2] -in this text is abridged as CPC of 1961
[3] -The term "objective truth" in Soviet criminal procedure means the exact coordination between the established facts and reality. It is often compared to the term "legal truth" which refers to the facts that are accepted as evidence for judicial consideration.

major participants in the process – the judges as well as counsels for both prosecution and defense – cooperate in this search" (Osakwe, 1976, p. 260).

The other important feature of the Soviet criminal procedure can be found in the emphasis that Soviet law placed on the pre-trial investigation compared to the trial stage (Berman, 1950). "The presumption of the impartiality of the pre-trial investigation, implicit in the inquisitorial process, renders the judicial hearing less a full blown trial in the Anglo-American tradition than a judicial review of the results of the criminal investigation" (Huskey, 1986).

The Soviet criminal process also differed from the Anglo-American model because it was structured around the event (a crime) and not a person (a defendant) (Berman, 1950). The inquisitional model centered on events and a subsequent series of inquires into the circumstances of the crime that did not focus on the rights of the defendant (Gordone, 1980). These principles of the Soviet criminal process fit into the traditional inquisitorial model which was common for all Continental law legal systems (Fletcher, 1968; Ginsburg, 1968; Lapenna, 1961).

The other characteristics of the Soviet criminal process pertained only to the Soviet system of law. These characteristics can be attributed to the authoritarian nature of the Soviet political regime that used criminal process as a tool of political oppression. The features included the absence of jury trials, control of the pre-trial detention decision by the prosecution, the limited nature of the double jeopardy principle, the non-participation of defense counsel in the pre-trial investigation, and the accusatorial function of the judge.

Juries were not part of the Soviet criminal trial process. Instead, cases were adjudicated by a three-judge court that consisted of two lay assessors and a professional judge (the CPC of 1961, Article 43). The lay assessors shared equal rights with the professional judge and participated in collective decision-making about the facts. The purpose of having lay assessors was similar to having jury trial. They were needed to inject the element of democratic participation in the administration of Soviet criminal justice. However, unlike the role of jurors in a jury trial, lay assessors were not trusted to make sentencing decisions on their own. For that purpose, a professional judge was included in the panel.

Under these conditions, lay assessors were losing their independence and often followed the lead of professional judge (Hazard, 1950). Research showed that lay jurors, who were mostly uneducated or retired individuals, provided no input about criminal court decisions the during the Soviet time (Novik, 2004).

The prosecutor's right to grant permission for pre-trial detention was one of the most notorious and discussed feature of the Soviet criminal law (G. B. Smith, 1996). The prosecutor in Soviet system (procurator) was considered not only a prosecuting counsel, but also a "supervisor of legality" in the entire criminal justice system. Therefore, the procurator was entitled to give the investigator permission to detain the suspect or accused (Berman, 1950; Morgan, 1962). This was mainly done to "prevent the loss of the evidence that may be used in the prosecutor's case" (the CPC of 1961, Article 49). The pre-trial detention period was limited by the CPC of 1961 to nine months and the prosecutor was the only one who can grant a detention continuance (CPC, 1961, Article 34). Authorizing the prosecutor to control the pre-trial detention

led to a situation where a majority of defendants in the Soviet Union were detained before the trial (Foglesong, 1996; Kahn, 2002). The prosecutors also had an excellent opportunity to influence the accused in order to get a conviction (Osakwe, 1976). Extended pre-trial detention often was used as a leverage to get a confession from the accused (Thaman, 1995).

The prohibition of double jeopardy had limited application in the Soviet criminal law. The Soviet law protected the accused from being *convicted* twice, not from being *tried* twice for the same offense (Kahn, 2002). This definition played a crucial role in limiting the scope of the double jeopardy protection under the Soviet law. CPC Article 325 of 1961 allowed the prosecutor to appeal an acquittal court verdict (Savitsky, 1979). In such a case the acquitted person can be tried twice for the same offense but not be convicted twice (Lapenna, 1961).

In the Soviet criminal process, as in any inquisitorial model, the defense counsel had no authority to participate in the pre-trial investigation conducted by the prosecutor (Berman, 1972). While other countries of the Continental system (e.g. France, Austria, and Germany) allowed limited participation of defense counsel during the pre-trial investigation in the early 20th century, Soviet criminal law remained rigid. The defense counsel was not allowed to participate until the investigation was over (Feldbrugge, 1993; Huskey, 1986). The defense counsel had virtually no legal tools to conduct an independent investigation, and the decision to admit any evidence during the pre-trial investigation was subject to the prosecutorial and state investigator's approval (Berman, 1972; Osakwe, 1976). It created an

opportunity for both investigative and prosecutorial misconduct and significantly limited the exercise of the defendant's right to counsel (Hazard, 1950; Kahn, 2002).

Whereas the inquisitorial model gave an active role to the trial judge, the Soviet criminal procedure extended the judicial authority even further (Berman, 1950). Soviet trial judges were actively interrogating and calling witnesses during the trial. The judge also had the right to order a new investigation of the case if the current indictment was deficient or if the evidence of guilt were insufficient (Berman, 1972). This led to a situation where judges no longer remained impartial and detached, but instead were involved in the prosecutorial functions of the process (Osakwe, 1983).

Providing the trial judge with this authority was perceived as one of the mechanisms created to fight crime and not an institution with the goal of protecting human rights (Allen, 1993). It also discouraged prosecutorial professionalism by deferring their responsibilities to the judge, and provided grounds for post-trial prosecutorial appeal of unfavorable decisions. In case of an unfavorable decision, the prosecutor blamed the judge of wrongdoing and used it as a ground for appeal. The Soviet prosecutors were heavily relying on professional judges to perform the prosecutorial functions and very often were merely present at the trial without participating in it (Severance, 2002).

This brief overview of the Soviet criminal law illustrates that the Soviet Union's criminal procedure was influenced by the two main factors. One was a historical predisposition toward the inquisitorial model of the Continental law and the other authoritarian elements inculcated by the Soviet regime (Boylan, 1998a). The Soviet criminal procedure was not only an effective system created to combat crime in the

USSR, but also a mechanism of political oppression that often was unfair and abusive (Hazard, 1950; Kahn, 2002).

Therefore, by the early 1990s, when the Soviet political regime lost its ideological strength and political power, it was evident that the Soviet criminal procedure was in need of serious changes (Novik, 2004; Severance, 2002; Solomon, 1992).

1.2 Criminal Procedure in the Post-Soviet Period

A new Code of Criminal Procedure[4] was adopted in 2001 and intended to change the authoritarian tendencies of the Soviet-era criminal law. Even before the CPC of 2001 adoption, legal scholars agreed that the reforms would lean towards the Continental model of criminal procedure. Some adversarial elements would be adopted as was previously done by countries like France and Austria (Allen, 1993). The new reform document (the CPC of 2001) is in many ways a compromise. It was an attempt to placate the old conservative school of thought advocating a minimal change in the system and liberal democrats, who supported reforms that would produce a process based on a full adversarial procedure (Solomon, 2005).

The new Russian criminal procedure is a mixed version combining elements of the inquisitorial and adversarial models. The preliminary investigation stage retains its predominantly inquisitorial features, whereas the judicial proceedings became more adversarial "in a sense of strengthening contentiousness, dispositiveness, legal formalism, and protection of the rights and freedoms of man and citizen" (Butler, 2003, p. 255).

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[4] The English translation of the Russian Code of Criminal Procedure of 2001 is cited from the article by Orland (2002).

In 1993 the jury trial was introduced in Russia; however, its application was limited to nine regions in the country[5] and jury trials accounted for less than 2% of all trials in 1995 (Boylan, 1998a; Orland, 2002). From 1993 until 2003 jury trials were conducted using the old criminal procedure where the judge was an active interrogator and the defense counsel did not have equal procedural rights (Boylan, 1998b; Ma, 1998; Thaman, 1995, 1999). The new CPC of 2001 abolished lay assessors' panels and introduced a fully adversarial procedure for jury trials. The procedure for the bench trials remained virtually the same as it was during the Soviet era and has less adversarial features. In the opinion of many researchers, the introduction of jury trials is one of the first effective steps in democratization of the Russian criminal law (Il'ukhin, 2003). However, this influence is limited since jury trials are only available for felony cases (Orland, 2002).

The CPC of 2001 made a very large step forward in protecting the rights and freedoms of the accused. It eliminated the power of the prosecutor to order pre-trail detention, as well as the power to conduct searches and seizures (Article 92(3), the CPC of 2001). The new CPC of 2001 complies with the requirement of the Russian Constitution (1993) and declares that no accused may be held in custody before trial other than by order of a court (Solomon, 2005). A court order is also necessary for such measures as opening private correspondence, recording a telephone conversation, and eavesdropping of other digital communication (V. V. Fillipov, 2003; Muniz, 2004).

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[5] - the Russian Federation consists of 89 regions

The new Code of Criminal Procedure significantly increases the rights of the defendant during the pre-trial stage of a preliminary investigation. The stage of preliminary investigation in Russia commences with the official decision to initiate the investigation. The decision is made by a prosecutor and does not require a suspect. The sole fact that a crime has been committed is enough to initiate the preliminary investigation. An arrest is usually made in the process of the preliminary investigation when the state investigator has developed some evidentiary basis for supporting an arrest.

The defense counsel should be present in the process from the moment of arrest or from the moment when the criminal procedure affects the defendant's rights. In many cases, the preliminary investigation does not require the defendant's arrest (Jordan, 2005). The state investigator can file criminal charges in the course of an investigation and choose to release the defendant on his own recognizance. The defense counsel also gains the right to collect and present the evidence to the investigator and the court (Articles 53 and 86, the CPC of 2001). However, the investigator is still the one who controls the admissibility of the evidence collected by the defense counsel in the pre-trial stage of the process (Solomon, 2005).

The function of the trial judge in the revised Russian criminal procedure has changed drastically since the judge is no longer performing prosecutorial functions (Article 236, the CPC of 2001). Now, the court is not concerned with indictment quality and has no obligation to refer the case for additional preliminary investigation (Butler, 2003). Instead the judge is viewed as an impartial and neutral magistrate. According to the principles of the new CPC (Article 15) "…court is not an agency of

criminal prosecution and does not act on the side of the accusation or side of the defense" (Orland, 2002, p. 114).

An entirely new concept introduced in the revised Russian criminal procedure is the idea of plea bargaining. A series of articles from Chapter 40 of CPC of 2001 introduced a "…special procedure for making a court decision if the accused agrees with the charge brought against him" (Orland, 2002, p. 138). In a way, this procedure resembles plea-bargaining found in the Anglo-American legal systems. The procedural complexity is reduced due to the voluntary admission of guilt by the accused. But it is different from the adversarial plea bargaining, because it does not allow opposing counsels to control the criminal charges.

The ability of the parties to influence the criminal charges and facts of crime is a foreign idea for the inquisitorial process (Diehm, 2001). The prosecutor can not allow the defendant to plea to a lesser included offense. The defendant can only plea to the exact charges presented in the indictment. The plea to a lesser included offense is treated as a new criminal charge and requires the case to be remanded for an additional preliminary investigation. The idea of lesser included offenses is also not available in the Russian criminal law. The defendant is charged with one and only one crime. Under these conditions, leniency at sentencing and a quick case disposition become the only incentives for the quasi-plea bargaining (Orland, 2002). This quasi-plea bargaining procedure can only be used for misdemeanors and minor crimes.

In summary, the Code of Criminal Procedure of 2001 brought important changes to the Russian criminal process. It introduced a number of adversarial elements to the

pre-trial investigation. The procedural reform removed many procedures that were previously associated with prosecutorial or investigative misconduct that violated human rights. The CPC of 2001 entirely restructures the nature of the trial stage by eliminating most of its inquisitorial tendencies (Muniz, 2004). At the same time, as a compromise policy, it retains some features of the old Soviet system: the violation of the double jeopardy rule is one such feature.

2. Purpose of the Study and Statement the Research Problem
2.1. Public Disapproval of Criminal Law Reforms

While the international legal scholars view the reforms of the Russian criminal procedure in a positive way (Jordan, 2005; Novik, 2004; Solomon, 2005), the residents of the Russian Federation are not so enthusiastic. Sociological polls repeatedly show that Russian citizens have neither any knowledge, nor respect or trust for the new criminal justice system.

The survey conducted in 2001 by the ROMIR indicated that 39% of respondents in a national representative sample never heard about the presumption of innocence and 11% answered that they did not know what it is (ROMIR, 2001). In the group of respondents > 40 years old the lack of awareness was even higher (44% and 12% respectively). ROMIR reported that when conducting the survey, they not only asked about the presumption of innocence, but also explained what the legal principle meant

A 2005 national survey revealed that 65% of respondents considered that the duty of the defense counsel is not only to protect the rights of the accused, but also to care about the public interest in the case (Zircon, 2005). Only 22% of respondents said that

protection of the defendant's rights is the only duty of the defense counsel. The same survey showed that 18% of respondents still think there are situations when defendants should be refused the right to defense counsel. One of the situations was the commission of a heinous crime. Almost a quarter of the respondents in the Zircon study (24%) believed the defense counsel should only defend the accused in cases when the prosecution was unfair and should not assist with a defense if the charges were perceived to be valid (Zircon, 2005).

It is obvious from these findings that most Russian citizens view the primary function of the defense counsel is to defend an accused person that is innocent. Only 60% of respondents indicated that an adversarial representation of evidence assists a trial judge to make the right decision. Study reported that 21.5% of respondents believed that such competition is not helpful for the judge (Zircon, 2005).

A study conducted by VCIOM in 1997 and 2001 showed that only 42% of respondents considered that the jury trial is a fair way to resolve a criminal case (Petrova, 2001). Only 27% of respondents could adequately explain what a jury trial is. Results show that 11% of respondents thought that there is no difference between the lay assessors' panels from the Soviet era and jury trials now available in modern Russia (Petrova, 2001). Anecdotally, 2% of respondent believed that the jury trial is a civil union for professional lawyers. Only 12% of respondents described the jury trial as a positive change. Also, 5% considered the jury trial the worst way of resolving a case and 3% said they don't want to have jury trials in their regions. The majority of respondents (75%) simply couldn't answer this question (Petrova, 2001).

A 2002 ROMIR survey found that 52% of respondents did not believe the Supreme Court, State Attorney's Office, or any other institutions of the criminal justice system were honest. Only 10 % expressed trust in the Supreme Court and 6% said they trust the State Attorney's Office (ROMIR, 2005a). The other survey conducted by ROMIR in 2005 indicated that only 5% of all respondents trusted law enforcement agencies in the national sample (ROMIR, 2005b).

Finally, when Russian citizens were asked by the survey company FOM if they supported the Code of Criminal Procedure of 2001 more than half answered no (52%).(FOM, 2003). Many respondents (43%) didn't know about the new law or didn't know about the major changes or differences created by the CPC of 2001 (FOM, 2003).

2.2. An Examination of the Relationships between Citizen Disapproval and Criminal Law Reforms

There are several schools of thought that attempt to explain the current public disapproval of the criminal justice reforms in Russia. Some of these theories were never empirically tested and others failed to explain a significant part of the variation in public disapproval.

The first group of research attributes public disapproval to the poor legal quality of the 2001 Code of Criminal Procedure (the CPC of 2001). They point out that since the CPC of 2001 was a compromise policy it inherited several features from the Soviet era that are inconsistent with the new modern elements of the revised Russian law (Azarov, 2003). Some researchers discuss that the CPC of 2001 has contradicting

provisions between different stages of the process (Averchenko, 2002; Lupinskaya, 2002). Even within one stage of the process some studies found irresolvable disagreements of law pertaining to the different actors in the process (Babushkin, 1897; Grankin, 2003; Lukaschev, 2002). Legal scholars have suggested the new law's poor quality produced problems during implementation. These problems later caused dissatisfaction and disappointment among legal professionals and citizens that participated in the new process (Baranov, 2002; Zscherebyatev, 2004). No empirical research was conducted in Russia to test the relationship between the CPC's poor quality and participant experiences to determine public attitudes related to the law's fairness.

The second group of studies explained public dissatisfaction with the CPC of 2001 by examining organizational issues related to the law's implementation. Some authors stated that poor funding and organization of the criminal justice system during the transformational decade beginning in 1990, combined with abuse of power by the criminal justice professionals, led to many implementation errors (Gracheva, 2002; Vitsin, 2001).

Reforms of both political and economic regimes in post-Soviet Russia caused major increases in crime rates which in turn overloaded the unprepared criminal justice system. As a result, for almost two years[6] the criminal justice system was paralyzed under the burden of new rules and a high volume of criminal cases (Boikov, 2002; Demichev, 2002). Consequently, many unprofessional participants of

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[6] - The CPC was adopted in 2001, but the implementation of many sections of the Code was delayed until 2002 and 2003 by presidential decree. Several sections of the CPC were delayed until 2006 and 2010.

the process (witnesses, defendants, and victims) blamed the CPC of 2001 as the main reason for the destabilization of the criminal justice system (Komarovskii, 2003). Only one qualitative work was done to explore the correlations of poor funding, public attitudes, and the new law. The study compared four regions with small, medium, and large budgets allocated for the criminal law reform and measured public attitudes toward the criminal justice system in those regions (Novik, 2004). The study found no difference between the public acceptance of criminal procedural reform in Russia and the amount of funding allocated for it in each region.

A third group of studies argued that while poor legal quality and implementation issues may have played a role in the public disapproval of the criminal law reforms, there are other reasons. This line of research suggested the major reason for public disapproval is the contradiction between the current Russian culture and the ideas of the adversarial elements implemented in the CPC of 2001 (Mishailovskaya, 2002; Rudnev, 2002). This argument is not new and was initially raised more than 100 years ago. Then, the Russian Empire was reforming its criminal justice system during the early and mid-1800s (Babushkin, 1897; Gessen, 1905). Some authors doubted that the jury trials could be successful at that time due to the "…special Russian spirit of collaboration and non-combating" (M. A. Fillipov, 1871-1875; Sergeevskii, 1875).

Almost the identical argument was made in 2001, when the current jury trial experiment was evaluated by both lawyers and social psychologists (Tarasov, 2001). As a general statement this principle was first mentioned in the textbook of criminal

sociology[7]. The following is a translation from the Ferry's textbook: "the criminal law reforms can only be successful, when culture of the nation is in consistence with the new laws" (Ferry, 1908, p. 124). A serious drawback of this argument is that no empirical evidence is available that establishes a relationship between current Russian culture and the public disproval of recent criminal law reforms. This is one of the primary objectives of this study. I will examine the relationships between contemporary Russian culture and public reaction to certain aspects of the 2001 criminal procedure reforms. These reforms were intended to increase basic human rights by adding Western style adversarial legal procedures to Russian criminal procedural law.

2.3. Purpose of the Study and Research Question

The overall purpose of this study is to examine the relationships between elements of Russian culture and public attitudes about the criminal law reforms implemented by the new Code of Criminal Procedure in 2001. It is impossible to examine all the concepts of culture and the public attitudes about the criminal law reform in one study. Therefore, this work will focus on several measurable concepts that are capable of providing an increased understanding related to how contemporary Russian culture may impact public attitudes about the recent reforms of the CPC of 2001.

Cultural values play a crucial role in the formation of public attitudes. In any society there are distinguishing differences between dominant values of the general population and divergent sub-groups values. For the purpose of this study it is

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[7] -the term "criminal sociology" was used during the 19th century in Russia. It is an old-fashioned name for modern criminology.

important to examine the prevailing values of contemporary Russian society to understand their nature, scope, and potential impact on the acceptance of democratic ideals in the post-Soviet period.

Public support can be measured in various ways for different public polices. When measuring the public support of a new procedure, a common factor to examine is the perception fairness. Without knowledge about the procedural reform outcomes, judgments about its fairness can serve as a proxy measure. The proxy can be used to measure public approval of the new procedural law. This research will use the perception of fairness related to the criminal procedure reforms contained in major provisions of the CPC of 2001 that mandated new legal adversarial elements for the criminal procedure.

Reform of the criminal procedure introduced by the CPC of 2001 addressed many parts of the criminal procedural law. The focus of this study is on five dimensions of the reform. Indicators of these dimensions were used to measure public attitudes about the legal reform. The dimensions included the goal of the criminal procedure, the type of the criminal prosecution, the role of the judge, and prosecutor, and the level of governmental regulation within the criminal justice system.

Therefore, this study will look at cultural values that were prevailing in Russian society at the time of the reform. Then, those values will be examined to more fully understand any relationships with citizen attitudes about fairness regarding the major characteristics of the. The study will examine whether different types of cultural values are correlated with the judgment of fairness about particular elements of the criminal procedural law. The major goal of the study is to determine any relationships

contemporary Russian cultural values have with the public perception of fairness about the CPC of 2001. If relationships are found, then what are the nature and extent of these and potential reform impacts?

3. Study Context and Approach

3.1. Concepts of Interest

3.1.1 Cultural Values

To address the research problem certain cultural values will used as independent variables selected through a theoretical framework guided by the literature. Culture is in many ways ambiguous and one of the most debated concepts in social science. Also, there is very little agreement on the components of culture. In this study culture is understood as "a social heritage of a people – those learned patterns of thinking, feeling, and acting transmitted from one generation to the next including the embodiment of these patterns in the material items"(Hofstede & Hofstede, 2005).

In sociology and criminal justice, culture is mostly conceptualized through its non-material abstract creations, such as values, beliefs, symbols, norms, customs, and institutional arrangements (Jenkins, 2002). While different researchers list different elements of non-material culture, almost all of them agree that values can be considered central and one of the most essential manifestations of the culture (Hofstede, 2001; Inglehart, 2003; Rokeach, 1976).

Because values are considered the key element of the culture, in this study they are chosen to represent the essence of the Russian culture. Values are stable beliefs about the most essential elements of human behavior. They guide the selection, or

evaluation, of social behavior and have a relative independence (abstractness) from the social context (Schwartz, 1995). Therefore, it is reasonable to assume that values could be the most important factor influencing citizen attitudes about the fairness of the criminal procedure.

However, even the categories of cultural values are a too broad to be included in the study. The literature provides a number of value types, which can be used to examine the culture. From this set, two classifications are usually distinguished. These two classifications are content-based and motivation-based values. Because this research seeks to contribute to a relatively broad area of knowledge, and is not concentrated on a particular realm of the societal life, it is logical to employ the motivational typology of values in this study. Motivation-based values are universal and can be better suited for broad public policy research (Schwartz & Bilsky, 1987).

According to the theory of motivation-based values, national values are divided into three main types regardless of the social content. Depending on the direction of the subject's interest, theorists recognize purely individual, purely collective, and mixed types of values. Table 1 depicts the categorized values (Putnam, 2002; Schwartz, 1992). This classification will be used in the study to measure the concept of cultural values. A detailed theoretical framework and discussion of each of the value types is presented in the next chapter.

Table 1. Motivation-based values by Schwartz

Individualistic	Collective
Self-direction	Benevolence
Power	Tradition
Achievement	Conformity
Stimulation	-

3.1.2. The Judgment of Fairness

According to the group-value theory used in this study, legal procedure needs to be constructed so that the majority of its outcomes, despite contextual differences in the individual cases, are viewed by the interested parties and society as fair (Tschentscher, 1997). The interested parties are all participants of the criminal procedure that are directly involved in the process, which include a judge, defendant, defense counsel, prosecutor, victim, witnesses, and in some cases jurors.

When a legal procedure is perceived to be fair it is more likely to be accepted by society as a legitimate resolution of the original conflict (crime). For criminal justice, this means that criminal procedures must guarantee that the majority of outcomes (sentences or verdicts) are considered fair by those involved in the process as well as the broader society.

Research on the group-value theory suggested that the judgment of fairness is closely related to the culture and ethnicity of individuals. People tend to view procedure as fair when it is consistent with their group-shared values (Benjamin, 1975; Bos, Wilke, & Lind, 1998; Cohn, White, & Sanders, 2000; LaTour, 1978; LaTour, Houlden, Walker, & Thibaut, 1976b; Lind & Earley, 1992; Lind, Tyler, & Huo, 1997). Thus, the judgment of fairness is a value-expressive statement that connects the concept of cultural values to the criminal procedure. In its essence, the

judgment of fairness is a belief that stems from the shared values of society to guide social compliance pertaining to particular laws.

The group-value theory of judgment states that when a person makes a judgment, a comparison is made between existing reality and with the generic "ideal" criteria (Bos, Wilke, & Lind, 1998). The criterion of "ideal law" is a result of the personal socialization process and thus is grounded in the culturally inherited values. Here, to understand how public attitudes are formed about the fairness of existing criminal laws, it is required that measurements are made about the societal ideal of a fair criminal procedure. Consequently, this study will be dealing with both the ideal and existing criminal procedure.

3.1.3. Procedural Models

To embrace the entire realm of criminal procedure, legal scholars developed models of criminal procedure that distinguish several of the most important characteristics of the procedure within each country. The most common distinguishing factors in the criminal law are the adversarial and inquisitorial criminal procedures (David & Brierley, 1978).

Previous classifications of criminal procedural models used only one criterion to distinguish between the adversarial and inquisitorial models (such as control over the process by the prosecutor and defense counsel (Griffiths, 1970; Parker, 1968; Thibaut & Walker, 1978). This study is based on the complex theory of criminal procedural models presented by Damaska (1986). It treats the criminal law as a system with goals, means, an environment, and rules. When using this systematic approach, each

adversarial and inquisitorial system is described through the sets of criteria including the goal of criminal procedure, type of the prosecution, status of the judge, prosecutor and defendant, and the level of the governmental regulation.

A comparative analysis was done related to the criminal procedural codes in France, Russia, Germany, USA, and Great Britain. The relevant literature about the criminal procedures of these countries revealed the following generic features of the adversarial and inquisitorial criminal procedural models shown below in Table 2 (Damaska, 1986; Dervieux, 2002; Goldstein, 1974; Langbein, 1977; Spader, 1999):

Table 2. Summary of Damaska's theory of procedural models

System element/ Law family	Anglo-American law family Adversarial criminal procedure	Romano-German law family Non-adversarial criminal procedure
Goal of criminal procedure	Conflict-resolution	Policy implementation
Type of prosecution	Accusatorial public prosecution	Inquisitorial public prosecution
Status of major participants in the process	Passive judge/ active prosecutor and defendant	Active judge/passive prosecutor and defendant
Level of state regulation	Low	High

These generic features will be used in this study to measure the judgment of fairness about the ideal adversarial and inquisitorial models.

3.2. Conceptual Relationships and the Formulation of Research Hypotheses

Previous criminal procedure research related to the correlation of culture and fairness suggested the following: individuals with prevailing individualistic values view the adversarial procedure as fair whereas the individuals with prevailing collective values view the inquisitorial procedure as fair (Barrett-Howard & Tyler, 1986; Bos, Lind, Vermunt, & Wilke, 1997; Brockner, Chen, Mannix, Leung, &

Skarlicki, 2000; Folger, 1977; Gibson, 1989; Landis & Goodstein, 1986; Lerner & Whitehead, 1980; Lind & Lissak, 1985; MacCoun & Tyler, 1988).

Within the framework presented here, the conceptual model for the hypotheses can be depicted as:
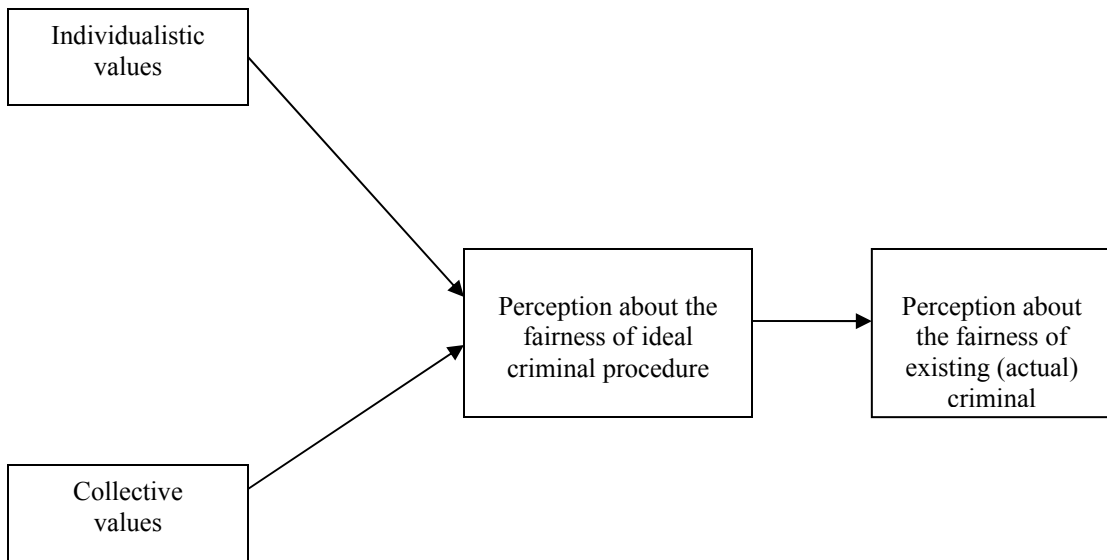
Figure 1. Conceptual research model

3.3. Scope and Approach of the Study

This study investigates the cultural values of Russian society and its relationships to the ideal and existing criminal procedural models. Therefore, to answer the existing research question, it is reasonable to adopt a *correlational-predictive approach* as a basis for the research methodology (Bernard, 2000; Blalock & Blalock, 1968; Sproull, 1995). The primary strategy will include the identification of the statistically significant relationships among the study variables.

The approach here is to measure the set of motivation-based cultural values of the Russian Federation population and public perceptions of fairness about the ideal procedural models and existing criminal law. Since it is impossible to implement a true experimental design, a non-experimental survey design will be used. The study has a national scope and the results can be generalized to the entire population of Russian Federation.

4. Importance of the Study

Little is known about the problems related to the acceptance of the new criminal procedure in Russia. Acceptance is critical to facilitate democratization and to expand the rule of law. This study will look at the perceived fairness of new criminal procedure in Russia, which is known to have a direct impact on the citizens' compliance with law, and its' acceptance (Lind & Tyler, 1988). While the compliance and public acceptance is not the only necessary conditions of the legal policy implementation, they both play a critical role.

The discovery of new knowledge about perceived fairness can contribute to the successful implementation of the new criminal procedure. This study will produce knowledge that can be used by policymakers to address issues regarding the implementation and acceptance of the criminal code by citizens and officials alike.

The study will be helpful to more fully understand how the cultural characteristics impact the acceptance o the new CPC in the Russia Federation and similar transitional societies. The relationship between contemporary prevailing cultural values and the ideal criminal procedures will also be examined to predict citizen

acceptance of policy reforms. The study will also explore the link between the public perceptions about the ideal criminal law and assessments of fairness related to the existing criminal procedure. Another aspect of the study is to gain a better understanding of the relationships between demographic characteristics of society and the public acceptance of new criminal procedure.

5. Summary and Organization of the Study

The introductory chapter described how criminal procedural law in Russia evolved during the Soviet era and how it was recently changed by the adoption of the CPC of 2001. This chapter also elaborates on the problem associated with public disapproval of new changes in Russian criminal procedural law and discusses the possible reasons for such attitudes.

This study asserts that cultural values, and their inconsistencies with the newly implemented criminal procedure, are one of the reasons for public dissatisfaction with the criminal procedural reforms. To accomplish this, the concepts of individualistic and cultural values, judgment of fairness and inquisitorial and adversarial criminal procedural models are used. Chapter 2 provides an overview of both theoretical and empirical literature related to the topics of cultural values, judgment of fairness, and criminal procedure models. Chapter 3 describes the overall research design including the operationalization of the study variables, instrument's construction and testing, sampling methodology, data collection procedures, analytical model, and statistical methods and standards. Chapter 4 provides findings from both the descriptive and regression analysis conducted to test the hypothetical relations. A discussion and

conclusions are contained in Chapter 5 along with the study's limitations. Finally,

policy related issues are discussed along with the implications for further research.

II. LITERATURE REVIEW AND DEVELOPMENT OF THEORETICAL FRAMEWORK

In formulating the research hypotheses for this study, multiple theoretical concepts were used from three distinct areas of social science: the consensus-functional approach of general sociology, the group-value theory and motivational values' theory of social psychology, and the legal model approach of criminal jurisprudence.

1. Theoretical Framework

1.1. Structural Functionalism

This study is based on Durkheim's theory of structural functionalism. More specifically, the study examines the acceptance of recent changes in the Russian law regarding criminal procedure. Durkheim posited that society's laws will reflect the prevailing cultural values that are derived through a consensus of the society. This notion of a normally functioning society, that includes the foregoing elements, is known as the school of structural-functionalism and was derived from Durkheim's famous work "The division of labor in society" (1964).

1.1.1. Sociological Understand of Law in Structural-Functional Tradition

Structural functionalism is one of the oldest sociological schools examining the relationships between law and society. It analyzes law, including the criminal procedure, in terms of social structure, institutional functions, and normative

expectations. Durkheim considered procedural law as a part of the cooperative law with "restitutive" sanctions that do:

> …not necessary imply suffering for the agent, but consists only of the return of things as they were, in the reestablishment of troubled relations to their normal state, whether the incriminated act is restored by force to the type of whence it deviated, or in annulled, that is deprived of all social value" (1964, p. 69).

Social relationships pertaining to the procedural law express, according to Durkheim, an organic solidarity, which results from the division of social labor (Durkheim, 1964). By solidarity Durkheim meant the manner in which the modern society was integrated and given a sense of unity despite the growing diversity, changeability, and complexity (Cotterrell, 2006).

Further evolution of the structural-functional school developed an understanding of law as a social subsystem within the system of society that governs social behavior as a part of social control mechanism (Parsons, 1980). Structural-functionalism views law, as an interconnected societal structure (namely a societal subsystem) with four structural components: values, norms, roles, and collectivities (Evan, 1980). These components play a crucial role in fulfilling the purpose of any social subsystem that is responding to the functional imperatives or social needs of society.

The function of the law, according to the early notion of the structural-functionalism, resembles a role like the nervous system plays in the organism. That is, "…the regulation of the different functions of the body in such a way as to make them harmonized" (Durkheim, 1964, p. 128). The institution of the criminal law, as a part of society, carries not only a specific function of the formal regulation of human

behavior, but also a more generic integrative function of adjusting, coordinating, and facilitating the interchanges among the subsystems of society (Parsons, 2002).

Neo structural- functionalism[8], by professor Luhmann, suggests that society and law have a reciprocal functioning mechanism rather than just a simple one-way functional relationship between the system and its elements.

The legal system fulfills a function for the society – that is "serves" society – but also that the legal system participates in society's construction of reality, so that in the law, as everywhere in society, the ordinary meanings of words can and must be presupposed" (Luhmann, 1989, p. 139).

According to the autopoiesis theory of law developed by Luhmann, the key function of law is to stabilize the normative expectations communicated within the society, during periods of unorganized growth of normative expectations, in the form of conventions, customs and other elements. "The law cannot guarantee, of course that their expectation will not be disappointed. But it can guarantee that they can be maintained, as expectations, even in case of disappointment, and that one can know this and communicate in advance" (Luhmann, 2004, p. 143).

Luhmann's idea of shared expectation is grounded in the Durkheim's understanding of society as "a more or less organized totality of beliefs and sentiments common to all the members of the group" (Durkheim, 1964, p. 129). Values are a necessary element of almost all structural-functional theories of law, and therefore, the understanding of law in these theories is almost always twofold.

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[8] - the term used in the literature to describe Niklas Luhmann's autopoiesis theory of law as a theory grounded in the structural-functional approach, but deviated from its original meaning (Trevino, 1998).

In each of the social institutions or subsystems of a society – be it the family, religion, the economy, the educational system, the legal system – there are dominant values guiding the respective norms, roles, and organizational components of each of these structures"(Evan, 1990, p. 57).

Structural functionalism usually distinguishes between the "positive law" as a set of norms currently existing in the society, and the "natural law" as a set of underlying values or normative expectations expressed in the legal regulations[9]. One of the most prominent theses of the structural-functional school is an idea that positive and natural law (i.e. legal norms and underlying values) should be coherent in order for the society to function normally. Parson saw the manifestation of this natural law in the emergence of the "general legal system" that cuts across all traditional special statutes and provides a universal system of rights and obligations (Cotterrell, 2006).

In the modern sociology of law these two concepts are often referred to as "ideal and actual law" (MacCormick, 1997). Ideal and actual law may not be completely identical, as the neo-structural functionalism now accepts (Luhmann, 2004), but they should be consistent with each other.

At the normative level of analysis law entails a "double institutionalization" of the values and norms embedded in other subsystems of a society. In performing this reinforcement function, law develops 'cultural linkages' with other subsystems, thus contributing to the degree of normative integration" (Evan, 1980, p. 140).

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[9] - in the theory of the legal functioning by Adam Podgorecki such expectations are called "intuitive law" (Podgorecki, 1974)

Thus, the structural-functional theory portrays law as a part of a larger social system, whose function is to produce the normative regulation of social behavior in accordance with the underlying values or normative expectations of society.

1.1.2. General Culture and Legal Ideology in the Light of the Structural Functional Tradition

The underlying values of positive law, according to structural functionalism, should be expressed in a subsystem of the society. Such a subsystem has been termed as "legal culture" in modern notions about the sociology of law.

Culture in general, and legal culture in particular, is one of the most ambiguous terms of modern sociology. According to Friedman, the conception of legal culture includes among other things "ideas, attitudes, values and beliefs that people hold about the legal system" (1991, p. 530). Criticisms of the legal culture concept arise from the fact that it lacks both theoretical and methodological value (Cotterrell, 2006; Nelken, 1997). Several studies point out that legal culture is an immeasurable and imprecise concept that includes a number of socially heterogeneous elements. However, even such criticisms admit that "patterns of thought and beliefs about the legal ideas" exist as a social phenomenon (Cotterrell, 1997, p. 14).

This cultural aggregate was termed legal ideology in the modern sociology of law and is recognized as one of the elements within the legal culture (Cotterrell, 2006)[10]. Here, in this study, the perceptions about the ideal criminal procedure will be examined which can clearly be classified as a legal ideology. The term legal ideology

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[10] - Subsequently, the term "legal ideology" is a reference to the aggregate of abstract ideas about the "ideal law"

emphasizes the link between the social control and the groups of beliefs. It presents a theoretical framework for the comparative legal research because "…it explores the mechanism by which law exerts influence in, or translates and thereby helps reinforce, wider structures of values, beliefs and understandings" (Cotterrell, 2006, p. 90). Ideology, in its sociological meaning, has a function of justifying, or criticizing the value and norm preferences, that have been expressed at every point of action that occurs in the social system (Barber, 1971).

This understanding of legal culture imminently leads to the conclusion that legal ideology has a connection with another subsystem, namely the "general" culture of society. In the structural functionalism tradition, legal ideology is a subsystem, a "cultural aggregate", within the larger system of culture (Cotterrell, 1997). Such a subsystem performs a function necessary for the larger system – culture -- and also serves as a connecting element between the subsystems of culture and law. Therefore, when studying criminal procedural law in the structural functional tradition, it is important to explore the connection between the general culture and the legal ideology:

 It is difficult to imagine any extensive project of comparing legal cultures, which did not also show the way they were directly and indirectly shaped by a larger political, economic, and intellectual aspects of the culture of which they formed a part (Nelken, 1997, p. 71).

Logically, the structural sociological analysis predicts that while the strength of connection between the legal ideology and general culture may differ from country to country, it is impossible to imagine that no connection exists. Even, when the link

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between two phenomena is not evident, structural functionalism states that general culture is expressed in the institutional structure of society (courts & law enforcement agencies) and thus, influences the legal ideology indirectly (Pennisi, 1997).

Values are discussed in this section as part of the legal subsystem. They are expressed in the subsystem of legal ideology and how these values are integrated into the general culture of societal system. In respect to the research question, the concept of legal ideology will be used to understand what type of criminal procedure people perceive as representing ideal fairness and how general cultural values influence these views.

1.1.3. Value Consensus and Social Equilibrium

The notion of value consensus is one of the key elements of the structural functional sociological theory. In the structural functional literature, value consensus is mostly understood as either a shared endorsement of values by the population and awareness of this endorsement by the others, or as a moral commitment to the existing structures by the people (Trevino, 1998; Williams, 1971).

The value consensus conception of structural functionalism is related to the idea of organic solidarity by Durkheim (1964) and is used to show both structural and functional connections among the different subsystems of the society. While in the early studies the value consensus was posited as an absolute consensus among all participants, in the latest structural sociological works it is viewed as a set of consensus layers: consensuses of high values, norms, and specifications (Mayhew, 1971; Reichley, 2001). The most resistant to change, and yet the most important for

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the social system, is consensus of the high-order values because only this type of consensus (according to the structural-functional theory) leads to the desired state of society – a society of social equilibrium.

The social equilibrium exists among all subsystems of society, which is based on the shared value consensus. And it is an ultimate goal of society according to the structural functional paradigm. The function of the social control mechanisms, including the criminal law and procedure, serves as a defense of, and restoration of, societal equilibrium from deviations in functions and structure.

However, the relationship between the value system and law can also be viewed differently: in order for the legal system to function properly, it needs to be supported by the shared values of individuals.

It may become evident that prominence of and the integrity of a legal system as a mechanism of social control is partly a function of a certain type of social equilibrium. Law flourishes particularly in a society, in which the most fundamental questions of social values are not currently at issue or agitation (Parsons, 1980, p. 67).

The previous discussion about the function of law, legal ideology, and general culture with the notion of value consensus and social equilibrium served to establish a conceptual logic. If follows that from the structural functional perspective, law as a social system, functions as a vehicle for the restoration and protection of social equilibrium. This function is supported through the coherence of values expressed in the actual law with the underlying values of legal ideology. The values of legal ideology, on the other hand, transpire from the more general cultural system, because

these values are a part of the general system. The structural functionalism perspective maintains that three major concepts of this research are all interconnected through the meaning of value consensus and functions to sustain the social equilibrium in the society as its desired and normal state. The three concepts are: the actual law, values of the legal ideology, and general values.

1.1.4. Legal Transplants and the Logic of Structural Functionalism

The idea of legal transplants comes from a broad spectrum of socio-legal sciences concerned with the social change within society. In the most general sense, the legal transplant is nothing, but borrowing a foreign legal idea or norm that is currently non-existent in the society-recipient (Ajani, 1995; Watson, 1995). In relationship to the study's research question, CPC of 2001 can be viewed as a legal transplant, and thus is relevant to the discussion and application of structural functional sociology to the notion of legal transplants.

While most researchers agree that legal transplants existed in legal history, they differ drastically on the assessment of their efficiency. One group of studies concluded that law is an autonomous system and therefore legal transplants can be effectively used in cultures that are different from the culture of the "donor" (Watson, 1995, 1996). "The development of the civil law is the result of "purely legal history", and can be explained "without reference to social political, or economic, factors" (Ewald, 1995, p. 491). These studies suggested that social change occurs from changes in the law and from the consequent change in the culture's legal elites. By "legal elites" these studies refer to the views of the law held by the ruling class,

judges, and lawyers. In postulating this thesis, these studies denied that the general culture of *demos* has anything to do with the acceptance of law. The term "culture of *demos"* was in reference to the views on law exhibited by the general population of a country.

Others argue that law is not an independent system of society, and is simply reflecting the changes occurring in the social, cultural and political systems of society. This notion is termed "mirror theories." "Nothing in the law is autonomous; rather, law is a mirror of society, and every aspect of the law is molded by economy and society" (Friedman, 1985, p. 595). Mirror theories question the value of legal transplants, by pointing out that without changes in social, cultural, and political spheres, newly transplanted law will be rejected as a foreign object within the society (Legrand, 2001). "One consequence of law's embeddedness in the legal culture, is that legal transplants are, strictly speaking impossible – law's capacity as a directive instrument, a technique for steering social change, seems dramatically scaled down" (Cotterrell, 2006, p. 103).

The structural functionalism tradition is taking, in some degree, a middle ground in the debate on primacy, autonomy of law, and legal transplants. It assumes that law, as part of a larger social system, is not completely independent, but instead functionally interconnected with political, cultural, and economical subsystems. However, it also assumes some autonomy of legal system and does not diminish its function to mirroring, or reflecting on other subsystems of society.

Structural functionalism approaches the problem of legal transplants from the position of value consensus and social equilibrium. It argues that, when a legal

transplant from a different culture is being adopted in the recipient society, its underlying values can collide with the pre-existing values. "A group or society seeing itself in terms of community of beliefs may resist any significant reshaping through imported law associated with fundamentally different values or beliefs" (Cotterrell, 2006, p. 123).

The value contradiction necessary violates the social equilibrium established in the society, and triggers the mechanism of social adaptation that protects it. To restore the social equilibrium society will have to adjust the legal transplant to the underlying values of society. Because values are much more stable structures within cultural system, the possibility that a legal transplant can bring the social change without support from the other subsystem usually is considered very low. "By itself a law usually has little effect if it not the cap of a much deeper and further-reaching socio-economic change" (Waelde & Gunderson, 1994, p. 377).

The neo-structural functionalism complicates this "clean" explanation by exploring the fact that a modern legal transplant is not simply a borrowed norm or rule of behavior. Instead, it is an adaptation of the underlying idea of a foreign law through the creation of a new norm within the recipient society. This new law is already altered from its original form through the process of adaptation. Then it is being interpreted during the implementation process, which at the end creates a quite different meaning as communicated through the legal transplant. "As it is known, even in countries sharing the same fundamental "legal culture", identical laws, adopted as a result of transplant, generate in the long run, different interpretations" (Ajani, 1995, p. 116).

Thus, neo-structural functionalism, views the process of legal transplantation as "a diffusion of the legal ideas, rather then the imposition of the legal norms" (Shelley, 1996, p. 265). However, while neo-structural functionalism deviates from the mechanical understanding of legal transplantation, it retains the key features of the structural functional notion about the importance of value consensus between the new law and socio-cultural subsystems of the society (Podgorecki, 1996).

1.1.5. Implications of Structural Functionalism for the Research Question

Structural functionalists have agreed that in relationship to the post-Soviet system most of the social change came from the need of economic and political reforms, but the legal culture played a critical role in the transformation of society (Ajani, 1995). Following the logic of structural functionalism, legal transplants in former U.S.S.R countries should adjust to the new demands from both political and economic systems. They should also harmonize the population's resistance to changes in the legal culture. When the social equilibrium among the three will be restored, the post-Communist societies will achieve effective systems of social control and regulation (Waelde & Gunderson, 1994).

The CPC of 2001 brings a number of previously unknown ideas to the criminal procedure of Russia and is a legal transplant. It was initiated by demands from the international community and under the pressure of internal economic changes. The legal ideology and culture of the population, shaped by more than 70 years of the Soviet criminal law, reacted with dissatisfaction and through ignorance. Under the premises of structural functionalism, it is reasonable to assume that underlying values

expressed in the new code and the existing legal culture will produce societal conflict. This conflict caused the new law to lose its power as a regulative mechanism and significantly diminished its efficiency as a tool of social control.

The previous discussion resumes this study's overall theoretical explanation of why public dissatisfaction with the CPC of 2001 maybe understood through conflict with the societal value consensus within the contemporary Russian culture, its legal ideology, and the reform values.

1.2. Theories of Human and Motivational Values

The theory of motivational values, borrowed from social psychology. will explain what role values play in the structure of culture as a social system, and which type of values are more suitable for this study.

1.2.1. Values in the Structure of General Culture

The theory of human values developed by Rokeach (1973), the antecedent and the foundation of motivational values theory, defines cultural value as one of the most important elements of culture together with attitudes and beliefs. "Value is the ontological foundation of constitutive culture" (Grunberg, 2000, p. 58). A value is "a type of belief, centrally located within one's belief system, about how one ought, or ought not to behave, or about end-state existence worth or not worth attaining" (Rokeach, 1976, p. 124).

Value is a product of internal and external socialization of an individual within a given culture and society, and is integrated into a hierarchical structure called "value

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system or value orientation" (Bok, 2002). Despite the individual differences, values of a particular group of people always represent some "sameness", determined by the mechanism of what is socially desirable and undesirable (Rokeach, 1976). The overall function of a social value is to serve as a multifaceted standard that guides human conduct in a variety of ways (Rokeach, 1973).

There are three key features of human values that are important for this study's research question. First, values, unlike attitudes and other cultural artifacts, are stable and centrally located beliefs. While Rokeach admits that value change is possible, he argues that the major feature of any true value is endurance (Rokeach, 1976). Because of its stability and influence through the socialization process within a culture, values can and often serve as the only quintessential element of culture. Thus, these important characteristics of values provide a reliable source of societal examination.

Second, unlike attitudes and interests, values have a quality of abstraction that "transcends objects and situations whereas an attitude is focused on some specific object or situation" (Rokeach, 1973, p. 18). This feature of transcendence allows values to be a valid predictor of "gross" social behavior, which constitutes the third most important feature of human values. This research intends to explain public dissatisfaction with the new Criminal Procedural Code (CPC) of 2001 in Russia through the conflict of general culture, legal ideology, and new law. Therefore it is logical that human values, as central and abstract beliefs, should be used as a major concept defining the culture's characteristics to frame this research. The legal culture

in this study is understood as views and feelings about the law held by the population of a country or members of a large social group.

1.2.2. Motivational Values Theory

The literature about human values has produced numerous value classifications along with various instruments for measuring values. Previous research has distinguished between terminal and instrumental values, values of social institutions, common or universal values, and content specifics values (Grunberg, 2000; Pomeroy, 2005; Rokeach, 1976; Strauss, 1999). The motivational values theory was chosen as a logical framework for this study. The theory was developed by Schwartz on the basis of Rokeach's (1973) understanding of human values and Parsons's (1987) notion of structural functionalism.

The theory of motivational values asserts that values have a universal content common in any culture. According to this theory, any universal value content expresses specific motivational concern, such a motivation to a self-direction or gaining more power (Schwartz, 1992). The motivational concerns of any group of human beings are related to one of the three types of universal human requirements: biological-based needs of an organism, social interaction requirements for interpersonal coordination, and social institutions' necessary to ensure the group's welfare and survival (Schwartz & Bilsky, 1987).

These needs represent three major issues that are shared by all humans. These group issues that must be addressed are: relationships between an individual and the group, responsible behavior that will preserve the social fabric, and human

relationships with the natural and social world (Schwartz, 1999). Through the process

of socialization, individuals learned these values that express universal needs required

to achieve satisfactory functioning as both individuals and a group.

Schwartz referred to ten major value concepts as "value domains" that represent

alternative resolutions to each of the universal human requirements described above.

These ten value concepts include self-direction, stimulation, hedonism, achievement,

power, security, conformity, tradition, spirituality, benevolence and universalism

(Schwartz, 1992). They are major motivational values that are represented in human

beings through a number of different sub-values. When looking at the direction of

motivational values among a group and an individual, these ten value domains can be

grouped into larger theoretical constructs – individualistic, collective, and mixed

values (Schwartz, 1999). Table 3 and the diagram in Figure 2 are adopted from

Schwartz (1992) to provide an enhanced illustration of motivational values theory:

Figure 2. Schwartz's motivational theory diagram

Table 3. Universal domains of values and single values representing it according to motivational theory by Schwartz

Value domain	Definition	Single values representing it
Power	Social status and prestige, control or dominance over people and resources	Social power Authority Wealth
Achievement	Personal success through demonstrating competence according o social standards	Successful Capable Ambitious Influential
Hedonism	Pleasure and sensuous gratification for oneself	Pleasure Enjoying life
Stimulation	Excitement, novelty, and challenge in life	Daring A varied life An exciting life
Universalism	Understanding, appreciation, tolerance, and protection for the welfare of all people and for nature	Broadminded Social justice Equality A world peace A world of beauty Protecting the environment
Benevolence	Preservation an enhancement of the welfare of people with whom one is in frequent personal contact	Helpful Honest Forgiving Loyal Responsible True friendship
Tradition	Respect, commitment, and acceptance of the customs and ideas that traditional culture or religion provide	Humble Accepting my portion of life Devout Respect for tradition
Conformity	Restrain of actions, inclinations, and impulses likely to upset or harm others and violate social expectations or norms	Politeness Self-discipline Honoring parents and elders
Self-direction	Independent thought and action-choosing, creation, exploring	Creativity Freedom Independent Curious Choosing own goals Intelligent
Security	Safety, harmony, and stability of society, or relationships and of self	Family Security National security Moderate Protect public image

The rationale for selecting the theory of motivational values from other theories of classification here in this study is based on the following five elements. First, the

theory of motivational values represents values as universal cultural domains; they are applicable to all societies and all situations. Motivational values can be used for any social institution or specific social structure; therefore, they can be used to represent the most general culture of the group.

Second, Schwartz's theory of values emphasizes the motivational content of value and not its cognitive or affective elements. Because of this motivational emphasis, values can be closer predictors of behavior than values that are content-specific or those of social institutions. Empirical studies show that motivational values can accurately predict both attitudes and behavior (Devos, Spini, & Schwartz, 2002; Sagiv & Schwartz, 1995, 2000; Schwartz, 1995; Schwartz, 1996; Schwartz, Sagiv, & Boehnke, 2000).

Third, motivational theory represents one of the most comprehensive classifications of values. It contains ten domains and more than 50 indicators. Several studies of culturally diverse populations failed to find any additional value domains that should be included in the classification system (Sagiv & Schwartz, 1995; Schwartz & Rubel, 2005).

Fourth, motivational values theory not only has a structural grouping of larger and smaller concepts, but also provides a directional dynamic of values. It identifies that value domains of universalism and benevolence are directed toward the "self-transcendence" concept. The value domain of self-direction, stimulation and hedonism are targeted toward openness to change. Hedonism, achievement, and power are directed toward the self-enhancement concept. Conformity, tradition, and security are directed toward the conservation concept (Schwartz, 1995). The

directional dynamic of motivational values provides the ability to establish the direction of relationships among the general culture, legal ideology, and actual law, rather than simply state the existence of such relationships.

Fifth, the motivational value theory, and its related measurement instrument, has proven to be highly valid and reliable tools for the examination of national values across the globe. By 2005 Schwartz's value questionnaire had been used in 47 countries with more than 200 samples drawn from students, teachers, and the general population (Schwartz & Rubel, 2005).

In summary, the theory of motivational values is one of the most commonly used, universal, comprehensive, and reliable theories that provides a method to establish the potential direction of relationships among the general culture, legal ideology, and actual law.

1.2.3. Theory of Motivational Values and National Character

Now, it is beneficial to discuss how the theory of motivational values relates to the notion of national character. The research questions in this study examine Russian culture and its values which are directly related to the national character of Russia. Therefore, a sufficient understanding of how the theory of motivational values frames this area is important.

The concept of national character was developed in the early 1940s by a group of social anthropologists (Bateson, 1942; Klineberg, 1944). By the notion of national character, the literature distinguishes a type of personality traits pertaining to a

particular nation as the result of experiencing specific historical, cultural and geographic circumstances (Mead, 1961).

The idea of national character was seriously criticized by the advocates of structural functionalism. Parsons, in response to a writing by David Riesman on the matter of American national character, suggested that much better results can be achieved through the study of socially shared values pertaining to the nation, rather than examining the personal traits of national characters (Parsons & White, 1961). In the best traditions of structural functionalism, Parsons asserts that a value system is institutionalized in the structure of the society. Through the processes of formal and informal socialization, this value system is communicated to each and every individual within the nation, which causes a majority of its members share some distinct values (Parsons & White, 1961).

The motivational value theory of Schwartz is based on the premises of structural functionalism. It shares the understanding of national values as the preferences of individuals that have resulted from socialization in similar conditions. "The explicit and implicit value emphasis that characterize national culture are imparted to societal members through everyday exposure to customs, laws, norms, scripts, and organizational practices that are shaped by and express the prevailing cultural values of a nation" (Schwartz, 1999, p. 25).

The tradition of structural functionalism is followed here in this study. The prevailing set of cultural attributes common to the members of Russian society as a result of their shared experiences and socialization process is discussed. The purpose of the study is not to study national Russian character per se. The primary goal is not

to examine links between the national Russian character, legal ideology, and actual law. Instead this area serves as a necessary contextual component of the study's framework.

1.3. Group Value Theory of Procedural Fairness

The group value theory of procedural fairness, as discussed bellow, will explain why the judgment of fairness should be used as a main criterion when exploring the relationships among the general culture, legal ideology, and actual law.

Group value theory of procedural justice is a social psychological theory developed by Allan Lind and Tom Tyler in the late 1980s based on the premises of structural functionalism (1988). The theory asserts that procedure is an important part of a social group that regulates members' behavior through the attachment of legitimacy to the authority: "Group procedures specify the authority relations and the formal and informal social processes that regulate much of the group's activity. Just as the group identity defines the external features of the group, the procedure defines the internal features of the group" (Lind & Tyler, 1988, p. 230).

Following the logic of structural functionalism and its idea of value consensus, the group value theory states that procedures of the social group need to reflect on the core values of the group's members (Casper, Tyler, & Fisher, 1988). Any decision that is made based on such procedures would be necessary viewed as fair, if the individual who is making the judgment has the same core values as the procedure itself (Rasinski, 1987).

On the other hand, the results of a decision made on the basis of procedure that is not in the accordance with the individual's core values will cause the individual to judge the decision as unfair (Lind, 2002). In the process of judging individuals compare the procedure in question with the standards of justice and such standards are based on the values of the individual (Lind et al., 1990). To explain this phenomenon Tyler wrote: "Successful procedural justice strategy often depends on having common agreement regarding the meaning of fair procedure" (1994, p. 828). When the underlying values of procedure are aligned with the prevailing values of the group, the later is functioning properly (Lind & Earley, 1992).

The judgment of fairness is closely related to the group's identity. Group value theory suggests that when a person decides about unfairness of a decision made under a certain procedure, the individual also makes a conclusion about their inclusion or exclusion from the social group (Lerner & Whitehead, 1980; Tyler, Degoey, & Smith, 1996). The feeling of exclusion can be temporary, or it can take a path of social alienation. The alienation, on the other hand, can cause the member of the group to deny their group identity. It can also force an individual change their group identity by switching to another group that has values closer to their own. Consequently, the person's values would then be reflected by a different procedure rather than the one considered unfair (Lind & Tyler, 1988).

Values result from the person's socialization experience. Improper socialization is a reason why an individual may find a decision based on the procedure unfair. The improper socialization prevents the individual from accepting the shared societal values. The result is the individual will be excluded from the realm of a social group.

"Legitimacy of the system based on the assumed fairness resulting from formal rationality of criminal justice procedure is somehow maintained through forces other than personal experience, like educational institutions and media" (Landis & Goodstein, 1986, p. 676). It is a function of society to organize both formal and informal processes of socialization for its members in a way that diverse normative expectations can be integrated in a procedure for future conflict resolutions (Bora, 1997).

There are three major implications of this study from the group value theory of procedural justice. First, it is important that the group value theory emphasizes that the judgment of fairness is a *value-expressive attitude* (Murray, Haddock, & Zanna, 1996). When a member of a social group produces a judgment about the fairness of a decision made under a certain procedure, the member is expressing agreement or disagreement with the underlying values of this procedure (Lind & Tyler, 1988).

Second, from the empirical studies that are based on the group value theory, one can conclude that judgment of fairness is the best criterion to assess the effectiveness and the public support for a procedure (Barrett-Howard & Tyler, 1986; Bos, Lind, Vermunt, & Wilke, 1997; Bos, Vermunt, & Wilke, 1997; Bos, Wilke, & Lind, 1998; Bos, Wilke, Lind, & Vermunt, 1998; Mead, 1961). The group value theory explains that in the absence of information about a particular case, people use procedural fairness as a proxy for interpersonal trust. Fairness is then used to guide decisions about their subsequent behavior and if it will be in a cooperative fashion in accordance with the social situations (Lind, 2001; Sunshine & Tyler, 2003). The reason for the "proxy" function of procedural fairness as the group value theory posits

is that a person often uses third-party knowledge, and the collective experience of others, to decide about fairness. The external knowledge and experience is combined with their own to form the final decision experience (van den Bos & Lind, 2001).

Third, group value theory states that judgments about procedural justice are one of the most important predictors of social cooperative behavior. The judgment outcome is directly related to subsequent compliance with the law and public support for the institution (Caldeira & Gibson, 1992; Folger & Konovsky, 1989). Social group inclusion results when a person accepts a decision as being procedurally fair. This individual is then more likely to behave in a socially cooperative manner and express satisfaction with procedural outcomes (MacCoun & Tyler, 1988; Mondak, 1993). Empirical studies have demonstrated that the frequency of rule violations increase when individuals consider the rule based procedure unfair (Kray & Lind, 2002).

When applied to legal procedural rules, group value theory produces the following conclusion: public support and compliance with a new procedural law strongly depends on the perceptions of its fairness. In order to achieve the perception of fairness and facilitate compliance the procedure has to reflect the prevailing values in society. "To be a truly democratic legal system, procedure should follow values and preferences from majority of people… Disconnect with values in newly adopted procedure produces greater dissatisfaction with legal system in general and the new law in particular" (Tyler, 1997, p. 885).

For the study's research question the implications are that the best way to explore the relationships among the cultural values, legal ideology, and actual procedural law

is to study the judgment of fairness about ideal and actual law. The Russian society, as a social group, needs to have its core values reflected in both legal ideology and actual law. If the legal ideology and the actual procedural law (the CPC of 2001) are in accord with the prevailing values of Russian society, the majority will find the law fair. If the actual laws are expressing the values that are foreign to the majority, then such laws would be viewed as unfair. As a result of the judgment of unfairness, people will draw a conclusion about exclusion from the social group and will not behave in a socially cooperative manner. In other words, they will not comply with the law if they judge it to be unfair.

1.4. Criminal Procedural Models

The intention of this research is to study the entire Russian criminal procedural system. The objective is not to examine one major rule or idea, but rather look at the CPC of 2001 as a system. The criminal procedure consists of hundreds of rules and thousands of pages. This makes the task of empirical social research on the entire criminal procedure almost impossible. A remedy for this problem is to apply the concept of the procedural model to the examination of the Russian criminal law. The criminal procedural model is a theoretical concept that distinguishes the most important features and underlying ideas of each type of criminal procedure. These features pertaining to a particular model then can be reflected in certain proceedings. A study of such rules can be considered a holistic study of the criminal procedural system. In this section, the theoretical models of criminal procedure that exist in the

literature will be discussed followed by a justification for choosing the model of criminal procedure developed by Damaska (1986).

1.4.1. Previous Research on Criminal Procedural Models

Comparative legal research traditionally utilizes the law family category (law tradition) as a historically specific but a theoretically abstract and convenient scheme for developing a better understanding of foreign legal experience (David & Brierley, 1978; Derret, 1968; Merryman, 1969). Anglo-American and Romano-German families are two of the most widely used legal categories in comparative law including research in comparative criminal procedure (Ebbe, 2000; Kagan, 1955; Reichel, 2002). The variety of existing criminal justice systems is usually reduced in legal research to several abstract procedural types. The most common abstract types are adversarial and inquisitorial criminal procedures representing Anglo-American and Romano-German law families accordingly (Langbein, 1977; Watkin, 1999).

Despite confusion with the terms "adversarial" and "inquisitorial"[11] there is a conventional agreement in the general legal scholarship about the meaning of these procedural types. The adversarial criminal procedure is usually identified as a scheme of jurisprudence where justice is provided by litigations between parties who assert contradictory positions during the trial (Carlson, 1999). The inquisitorial system is typically understood as a method of legal practice where process is structured around the centralized search for evidence by the judge or other state officials (Samaha & Dobson, 2005; Steury & Frank, 1996). These definitions are widely used in

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[11] - Spader D.J. in his article lists four pairs of different names for legal traditions used interchangeably in the current academic literature (1999).

textbooks (Hemphill, 1978; McConville & Wilson, 2002; Scheb, 2007), socio-legal research (Austin, Williams, Worchel, Wentzel, & Siegel, 1981; Benjamin, 1975; LaTour, 1978; Leung & Lind, 1986; Lind, Erickson, Friedland, & Dickenberger, 1978), and comparative law inquiries (Landsman, 1984) However, they are criticized for their oversimplification and descriptive nature (Damaska, 1973; Walker, LaTour, Lind, & Thibaut, 1974).

The definition of adversarial procedure concentrates solely on the explanation of adversarity principle and description of the parties. Portrayal of the inquisitorial system refers only to the type of prosecution and concentrates on the active judicial role. Thus, these definitions provide poor sources for comprehending the underlying values of each procedure which is critical for valid comparative legal research.

To examine the most significant features of the adversarial and inquisitorial process, while avoiding a simple descriptive analysis, several authors employed a method of theoretical procedural models (Damaska, 1975; Damaska, 1986; Griffiths, 1970; Parker, 1968; Thibaut & Walker, 1978). The first attempt to examine different criminal procedures as theoretical models, and the values supporting these models, was undertaken by Herbert Parker (1968). He distinguished two opposite poles of criminal justice administration. The first was the "Due process model" which promotes the protection of an accused individual's rights as the primarily task of criminal procedure. The second was distinguished as the "Crime Control" model which emphasizes the repression of criminal conduct as the most important function of the criminal process (Parker, 1968).

Parker makes a clear connection between the function of criminal procedure (crime control or due process) and support for the adversary principle. He indirectly suggested that the inquisitorial process of Romano-German law family can be explored within the crime control model, while the due process models can be used for understanding the adversarial criminal procedure of Anglo-American law tradition (Seltzer, Lyman, Ehrlich, & Gunther, 1974). Parker's models were seriously criticized for being non-procedural models. One said the models were just statements of government goals (Arenella, 1996). Another claimed the models exaggerated the conflict based relationship between the state and defendant ("battle model" argument by Griffith (1970)). Some felt that Parker's models were contrasting the incomparable procedural aims (Goldstein, 1974) and providing the unrealistic state policy goals (Damaska, 1973).

In 1970 Griffiths elaborated new criminal procedure models: the battle and family criminal process models. While Parker's procedural theory was based on the traditional understanding of the relationships between the state and defendant which are conflicting interests, Griffiths's model was founded on the mutual supportive and reconcilable interests between the state and defendant's interests of rehabilitation and societal stability (Griffiths, 1970). The "Family model" of criminal procedure was built on the Parker's ideas and logically inherited some of the Parker's models pitfalls: it was primarily ideological rather than a procedural theoretical construction built on the sole criterion of state-criminal relationship and had little connection with the reality of the justice administration (Arenella, 1996).

In 1978, Thibaut and Walker provided psychological insight to the dispute resolution systems including criminal procedure. They distinguished between the conflict of interest and cognitive conflict in the context of dispute. They proposed that in systems where conflict of interest prevails, the main objective for resolution is "justice" and in systems where cognitive conflict is primarily, the main objective for resolution is "truth" (Thibaut & Walker, 1978). It was also stated that there is a connection between the type of the state power (autocratic and democratic) and the choice of objective (truth or justice) (Thibaut & Walker, 1978). Parker and Walker's models put more stress on such procedural characteristics such as an active or passive decision maker and control over the process by the parties. They expressed less interest in an ideological contrasting like Parker's and Griffiths models (Thibaut & Walker, 1978).

Due to their practical nature, truth and justice models were used in numerous empirical research works to examine satisfaction with justice outcome and the possibility of reaching "truth" (Austin, Williams, Worchel, Wentzel, & Siegel, 1981; Benjamin, 1975; LaTour, 1978; LaTour, Houlden, Walker, & Thibaut, 1976a; Leung & Lind, 1986; Lind, Erickson, Friedland, & Dickenberger, 1978; Thibaut & Walker, 1978). Despite of its wide use, "truth" and "justice" models were seriously criticized from both theoretical and empirical prospective. Concentration on general dispute resolutions rather than a judicial process resulted in the emphasis placed only on the interpersonal conflicts and was considered as one of the serious disadvantages of truth and justice models. It becomes especially important when the truth and justice models

are applied to the criminal procedure. In this case the conflict is between the individual and the state (society).

The other problem with the truth and justice models involves the terminology question. It can be argued that any judicial system is built to provide justice, thus when contrasting "truth" and "justice" as alternative goals, some authors suggest that some judicial systems were built to be unjust. In the models by Parker and Griffiths, the truth and justice models share one common disadvantage and that is they rely on a single criterion for developing the comprehensive procedural models.

One of the most elaborate models of criminal procedure that copes with most of the problems of he previous models was proposed by Damaska (1975). Originally he differentiates between two models of criminal procedure: hierarchical and coordinate models. They are based on the structure of authority in the state (Damaska, 1975). The hierarchical model represents organization of judicial power with central decision-making and values of certainty and rigid ordering. The coordinate model was described as a judicial authority with centrifugal decision-making and values of mild ordering and flexible rules (Damaska, 1975).

In his later research Damaska (1986) supplements the criteria of authority structure by using a criterion of a state type. He makes a distinction between a proactive and reactive state. The goal of proactive state in the criminal process is "implementation of the state policy." The proactive state is contrasted with the *laissez faire* (reactive) state which has a main function in the criminal procedure of creating a framework for societal conflict resolution (Damaska, 1986). In Damaska's latest work he described four possible models of criminal procedure: the hierarchical model of

proactive state, the hierarchical model of laissez faire state, a coordinate model of proactive state, and coordinate state of *laissez faire* government (1986). Damaska provides convincing theoretical arguments for his models illustrating how each of the criterion influences the procedural features of each model and support examples of real world justice systems (1986).

Nevertheless, some critique of Damaska's models arises from the nature of his classification criterion. The organization of judicial power according to Damaska's description reflects the general principles of law families and is not a unique feature of the criminal process. The hierarchical organization of judicial power corresponds to the legal principle of codified law that can be found in every Continental law system. The flexible rules and centrifugal decision-making in the coordinate organization of judicial power is a mere consequence of the case law principle that can be found in every common law system (David & Brierley, 1978; Langbein, 1977; Merryman, 1969; Watkin, 1999).

Thus, the procedural differences of coordinate and hierarchical models can be attributed to the specific methods of each family of law and not to a criminal procedure. More important, the type of state structure has a direct effect on the organization of judicial power (Alford & Friedland, 1985; Bartelson, 2001; De Jasay, 1985; Hall & Ikenberry, 1989). Therefore, two criteria that Damaska uses for his model classifications are not completely independent. Proactive states tend to have a hierarchical organization of judicial power and reactive states are more likely to employ the coordinate models of judicial authorities. As a result, two of the four models (hierarchical model of reactive state and coordinate model of proactive state)

may have some internal contradictions. Not surprisingly, Damaska provides no examples of real world criminal procedures that fit the two models described above (Damaska, 1986).

1.4.2. Application of Damaska's Theory to the Criminal Procedure

Notwithstanding the shortcomings of Damaska's general theory of procedure, several studies applied his conceptualization of justice to the field of criminal procedure and developed detailed theoretical models of adversarial and inquisitorial procedures (Semukhina, 2001; Stoiko, 2006). The inquisitorial model of criminal procedure was based on Damaska's hierarchical model of the proactive state (inquisitorial model), while the model of the adversarial criminal procedure was built upon Damaska's coordinate model of the reactive state.

These models are theoretical and represent the most extreme and "pure" versions of adversarial and inquisitorial procedures. As with any theoretical constructions, these exact models of criminal procedure do not exist in real life. Most countries in the world have mixed models that embrace the elements of both adversarial and inquisitorial theoretical procedures. Some countries have historic predispositions toward one of the models, but even those countries include some elements of both models.

The literature on the law families and criminal procedure agrees that Great Britain and its former colonies, such as the U.S.A., Australia, New Zealand, and part of Canada have a historic tendency toward the adversarial theoretical model of criminal procedure (David & Brierley, 1978). Countries of Continental Europe including

France, Germany, Italy, and Spain have a historic inclination toward the inquisitorial theoretical model.

The discussion below will outline the major features of the theoretical models of adversarial and inquisitorial criminal procedures. These features are based on the notion that any normative regulations, such as Damaska's criminal procedural models, can be viewed as a system. To illustrate these theoretical features, some examples from the existing criminal law of Great Britain, U.S.A., France, Germany and Russia will be used. The use of these examples at no point is suggesting these countries have purely adversarial or inquisitorial criminal procedures. Instead, the criminal procedure of each country is treated as a unique set of rules from both theoretical models which are being adjusted to the needs and historic development of the country.

Applying the system theory to Damaska's models distinguished four major elements of any criminal procedure: the system's goal (ultimate purpose of system's activity); the system's function (a moving force that initiates and defines the direction of the movement); major agents, and the distribution of power among the agents (Bausch, 2001; Stein, 1974). Transferred to distinct legal categories, these features represent four main criteria for the procedural model construction. Those are the goal of the procedure, the type of criminal prosecution, the status of the judge and the parties in the process, and the level of the state regulation.

1.4.2.1. Goals of Criminal Procedure

The goal of criminal procedure is the most important criterion for the theoretical model construction. It defines the essence of the system and makes other elements of the system correspond with the stated goal.

There is an agreement in the literature about the ultimate results of almost any modern criminal justice process. This includes conviction and punishment of those who are guilty and acquittal of the innocent (Ebbe, 2000). However, there is difference of opinion about what is a fair way of reaching these ultimate ends. The legal literature suggests there are at least two groups of competing goals of criminal procedure that are associated with the existing procedural practices of the two largest families of law.

The first goal refers to a resolution of the conflict produced by a crime. Criminal procedure provides a legal framework for the victim, offender, and society to resolve and mitigate the harmful consequences of breaking the law. Such resolution can take different forms in each particular example of the actual criminal law (Spader, 1999; Walker, Lind, & Thibaut, 1979). The second alternative goal of the criminal procedure can be described as the uniform implementation of sentencing policies that are based on the offense (Arenella, 1996; Landsman, 1984; Thibaut & Walker, 1978).

The major differences between these goals reflect the nature of the theoretical adversarial and inquisitorial processes (Damaska, 1986). The adversarial process is based on the competition of two equal agents in the system, the prosecution and defense (Wigmore, 1940). These agents have contradicting and competing interests in

the process. They both collect the information about the crime and compete in front of the judge to prove their version of the story (Sevilla, 1998). Their competition is regulated by the legal framework of evidentiary law. The judge is charged with the duty to ensure both the prosecution and defense complies with the rules (McConville & Wilson, 2002).

The essence of the theoretical inquisitorial process is very different. It includes cooperation between the agents of the process and not a competition (Langbein, 1977). There is only one participant in the process who collects the information about the crime. This agent has to act neutrally and distance himself from the interests of prosecution and defense (Luban, 1983). All the power of the state is vested in this agent and neither prosecution nor defense has the right to influence the inquiry. The circumstances of the crime are also established within the legal framework of evidentiary law. These circumstances become a basis for the implementation of the public policy prescribing punishment (Damaska, 1973).

The existence of plea bargaining can be the best example that demonstrates differences of the adversarial and inquisitorial goals. The countries of Continental Europe that historically were inclined toward the theoretical model of inquisitorial process didn't adhere to plea-bargaining. However, this practice is widely accepted in Great Britain, the U.S.A., and some parts of Canada. These countries demonstrate a historic predisposition toward the theoretical adversarial model (Dervieux, 2002).

The criminal case can be resolved as a result of plea-bargaining when the interests of the adversarial parties are reconciled by agreement (Hemphill, 1978). This reconciliation has to follow established rules which often referred to as conditions of

the valid plea (Scheb, 2007). An establishment of the factual basis for the plea is one these conditions. The function of the judge is to verify that conditions of the valid plea are not violated before the case reaches final disposition. The facts, upon which the judge accepts the plea, are those that both the prosecution and defense agree upon in the course of the plea-negotiation (Samaha & Dobson, 2005). The appropriate sentence is applied on the basis of these stipulated facts along with a recommendation from the prosecutor (Schulhofer, 1992).

The nature of theoretical inquisitorial procedure prevents any plea-negotiation. The independent government appointed agent that conducts an examination of the crime and its facts can not be influenced by the defense or prosecution (Merryman, 1969). The agreement of prosecution and defense upon the circumstances of the crime has no influence on this independent investigator (Landis & Goodstein, 1986). The governmental policy governing prosecution should be applied uniformly to each defendant in the inquisitorial procedure. The prosecution is required to make recommendations based on the circumstances established by the investigator. Thus, the theoretical inquisitorial criminal procedure provides no incentive to the prosecution and defense to participate in reconciliation of their interests. Instead, it suggests that both parties should rely on the results and decisions made by the independent investigator (Damaska, 1986).

1.4.2.2. Type of Criminal Prosecution

The main vehicle of criminal procedure in the theoretical adversarial and inquisitorial procedural models is the criminal prosecution. This function is used to

initiate the system's activity and to define its main direction (trial, plea, reduced penal mode, and special proceedings) (Sigler, 1979). Because this role is so important, the type of criminal procedure depends on the goal of the justice model. While numerous studies were conducted about the typology of criminal prosecution, few attempts were made to explore the connection between the prosecution type and the procedural goal.

The literature about the history of the criminal process gives examples of different criminal prosecution types: public and private prosecution, accusatorial and inquisitorial prosecution, and main and supplementary prosecution. History provides clear evidence that only public prosecution consistently plays a mainstream role in the modern societies (P. Howard, 1929). There is no conventional agreement regarding the preferences for accusatorial or inquisitorial types of prosecutorial proceedings. In the context of theoretical procedural models, the accusatorial type of prosecution is usually described as the primary process in the theoretical adversarial procedure (Hay, 1983). The inquisitorial type of prosecution is mainly associated with the theoretical inquisitorial procedure (Derret, 1968).

The accusatorial procedure, considered one of the oldest forms of prosecution, is based on a conflict between the offender and victim. The function of the primitive accusatorial prosecution was to provide a normative framework for the victim's complaint brought against the offender (Sebba, 1982). The later developments of accusatorial prosecution shifted the primary responsibility for accusation from the victim to any member of society and altered the private nature of accusation (P. Howard, 1929).

The evolution of procedural functions required the participation of professional advocates for the prosecution to collect evidence and present it to the fact finder (Langbein, 2003). Creation of the state attorney's office in the United States and the public prosecutor's office in Great Britain transformed the private nature of the victim-offender conflict in accusatorial prosecutions into the advocate-mediated public dispute (P. Howard, 1930; Nissman & Hagen, 1982). The interest of the victim to condemn the offender was gradually suppressed by the interest of society to protect its safety and accordingly punish the perpetrator (Hay, 1983).

The main theoretical features of accusatorial prosecution stem from its historic background. The accusatorial prosecution, as it is clear from its name, is the prosecution of the criminal allegations. The main functions of the accusatorial prosecutor are to file the criminal charges, support them in court by the evidence, and seek the appropriate punishment if the perpetrator is found guilty (P. Howard, 1930). Thus, in the theoretical adversarial model the accusatorial prosecutor has a strong adversarial interest. Because criminal accusation is the only function of the accusatorial prosecution, the prosecutor has discretionary control over the criminal proceedings. This discretion includes the ability to file or drop criminal charges along with the discretion of plea-bargaining in most cases (Nissman & Hagen, 1982). The accusatorial process is driven by the criminal charges. Without a defendant there is no need to initiate the prosecution. In theory, without the person, there is no accusatorial type of prosecution (Landsman, 1984).

The high level of discretion and the adversarial interest of the accusatorial prosecutor are the features that coordinate with the goal of the theoretical adversarial

model. Only the prosecution driven by a criminal charge against a specific individual can initially pursue the purpose of conflict-resolution (Stoiko, 2006).

According to the theory of procedural models, the inquisitorial prosecution is understood as a method of initiating criminal procedure by the state as the result of a crime but not from the complaint of a victim (Damaska, 1986). The inquisitorial prosecution is initiated by the investigation of the crime by a neutral official that represents the court (Merryman, 1969). The features of the theoretical inquisitorial prosecution reflect its historical development.

"*Processus per inquistionem*" was originally established by the Canon law in the early 13th century for prosecuting special crimes in ecclesiastic courts in Europe (Esmein, Garraud, & Mittermaier, 1913). The historical evolution of a secular inquisition in the 13-14th centuries removed the notion of the private victim-offender conflict from the context of the prosecution. It introduced the idea of a prosecutorial proceeding that was a function of the church and later a function of the state (C. Howard, 1958; Watkin, 1999). Because the state prosecution was acting *ex officio* in the inquisitorial process, it did not act as an advocate and possessed no adversarial interest (Garner, 1916; Langbein, 1977). Instead, the inquisitorial prosecutor proceeded as a government official functioning primarily on behalf of the state (Ashworth, 1986; Sessar, 1979).

The intervention of government authority in the victim-offender conflict was justified by a new understanding of a crime as an action violating state sovereignty at first, and then as in the interests of safety and victims (Damaska, 1986; Sebba, 1982).

Later, in the 18th and 19th centuries with the idea of popular sovereignty[12], the priority of the state's interest in the crime was diminished but not completely excluded (Ashworth, 1986).

The absence of the adversarial interest in the theoretical inquisitorial prosecution serves the goal of the inquisitorial model. The uniform application of the governmental policy of punishment requires no competition between the prosecution and defense (Damaska, 1986). Instead, it requires the examination of the facts by the neutral state official. Because there is no opportunity for negotiation between the prosecution and defense in the theoretical inquisitorial model, the inquisitorial prosecutor has little discretion over the matters of the criminal proceeding (Dervieux, 2002). Only a new inquiry into the facts of the crime can serve as a basis for dropping the charges or changing the sentencing recommendations.

1.4.2.3. The Procedural Role of the Judge and the Parties in the Case

Theoretically a different level of procedural activity is assigned to the judge in adversarial and inquisitorial criminal procedures. The main values of an adversarial judge are neutrality and impartiality. This is a passive role pertaining to the critical decision-making in the process (Goldstein, 1981). The judge in the theoretical inquisitorial procedure is charged with the duty to explore the facts of the crime and therefore enjoys a certain level of involvement in fact finding and procedural regulation (Garner, 1916).

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[12] - here popular sovereignty is understood in Montesquieu's way as: people are the source of the state's power

The function of the trial judge in both adversarial and inquisitorial theoretical models can be divided into twp roles. One is related to fact finding activities, and the other is executing procedural judicial functions that influence the criminal charges. Fact-finding judicial functions are usually related to the authority of the judge to call and question the witnesses, the authority to determine the order of evidence presentation, the authority to regulate the witness cross-examination, and examinations of the evidence (Derret, 1968). Judicial functions related to the criminal charges refer to the judicial power to initiate, change, or terminate the criminal charges or the process itself (Miller & Remington, 1969). This group of judicial functions includes the discretion to grant a motion to withdraw or dismiss the charges, to approve the plea agreements, to change the charges, and the ability of the judge to initiate a new criminal procedure.

In theory, the status of the adversarial judge can be described as judicial passivity. Because theoretical adversarial procedure is a competition between equal adversarial parties, the judge plays a role of a neutral arbiter, whose duties include supervision over the process to ensure compliance by the various parties (Goldstein, 1981). The judge in the theoretical adversarial process is required to be neutral and detached from the adversarial interests of the parties. The judicial status is aligned with both the procedural goal of conflict resolution and the accusatorial type of prosecution in the theoretical adversarial model (Stoiko, 2006).

The theoretical inquisitorial model provides the judge with a completely different status. The inquisitorial judge is required to be active in both fact-finding and managing the criminal charges (Garner, 1916). Because the theoretical inquisitorial

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process is a tripartite cooperation between the prosecution, defense, and the judge to find the facts of the crime, the active judicial status does not violate the balance between the parties (Juy-Birmann, 2002). This judicial activity in theory corresponds to the inquisitorial type of prosecution and the policy implementation goal of the theoretical inquisitorial procedure (Langbein, 1977).

One of the most fundamental powers common to both the adversarial and inquisitorial theoretical models is the prosecutor's authority to dismiss the criminal charges (*nolle prosequi)*. In Great Britain and the U.S.A. the criminal procedural law bans the judge from involvement in the process of filing criminal charges. Also, in Great Britain and the United States, criminal law provides a judge with no right to disapprove a recommendation for a *nolle prosequi*[13] from the public prosecutor (Devlin, 1960; Goldstein, 1974; P. Howard, 1930).

This constraint on judicial power allows a judge to remain neutral and provides the parties with the exclusive ability to terminate the procedure initiated by the complainant (Miller & Remington, 1969). In France and Germany, the criminal law provides the investigating judge with the unconditional power to dismiss the charges during the official preliminary investigation and some authority for the trial judge to decline the prosecutorial request for dismissal (Garner, 1916; Langbein, 1977). In this situation, when the factual basis of the case doesn't support the prosecutorial decision to dismiss charges, the judge is executing an obligation to attain the truth by any means available (Damaska, 1986).

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[13] The first American decision Commonwealth vs. Wheeler in 1806 declare that judge has no right or interest in interfering with prosecutor's discretion to terminate the *nolle prosequi* process. This limitation was confirmed by McCarthy v U.S. 394 U.S. 459,467, (1966); Boykin v Alabama, 359 U.S.238 (1969) and Federal Rules of criminal procedure (rule II (d)).

The other key difference between the active inquisitorial and passive adversarial judges can be found when one compares the right of the judges to call the witness. In Great Britain and the U.S.A., the criminal procedure provides parties with the full opportunity to collect evidence in support of their interests and, offers almost no foundation for the judge to call witnesses without consent of both parties [14] (Pattenden, 1982). Such an action of the judge seriously jeopardizes the principle of judicial neutrality in the adversarial system and interferes with the parties' opportunity for conflict self-regulation (Samaha & Dobson, 2005).

In Germany and Russia, because of the required judicial duty to pursue the inquiry into the circumstances of the case, the trial judge not only has a right, but also a duty to call witnesses if such testimony can complete or supplement the discovery of facts (Garner, 1916; Langbein, 1977). The investigative judge in France, due to the nature of its main function and obligation to establish the truth, has unconditional rights to call witnesses while investigating the case (Ingraham, 1987).

The role of prosecution and defense is derivative in both theoretical models from the status of the judge. In the theoretical adversarial model, the judge has a passive role and the prosecution and defense enjoy an active status. In theoretical inquisitorial model, the judge enjoys an active status, and the prosecution and defense are seriously restricted in their roles (Stoiko, 2006).

The theoretical adversarial model is driven by a competition between the prosecution and defense. That is why they have exclusive rights to collect and present

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[14] - In R. v. Baldwin British court of appeal said that judge's discretion to call a witness should be exercised sparingly and rarely. In Titheradge v. R. the British High Court denied the judge's right to call witness without consent of defense and prosecution.

evidence, file motions to suppress evidence, examine and cross-examine evidence during the trial, and be involved in negotiations (Burns, 1999).

In the theoretical inquisitorial model, the main role of the prosecution and defense is to assist the active judge with the factual inquiry pertaining to the crime Their rights to collect and present evidence, to file motions to suppress evidence, or to examine evidence during the trial are not exclusive. The inquisitorial judge enjoys these rights too (Damaska, 1986).

In France and Russia, the prosecution and defense have limited rights to collect evidence outside the official investigation performed by the instructional judge or investigator. They have to file a motion in front of the judge or investigator to pursue the evidence collection (Dervieux, 2002; Garner, 1916). In Great Britain and the U.S.A., the prosecution and defense can collect any materials or information related to the crime, and they have a right to present it in front of the judge. The question of whether these materials will become evidence in the case is decided based on rules of admissibility (Hemphill, 1978; Ingraham, 1987).

1.4.2.4. Levels of State Control

As with any artificial system, the normative system provides some agents with tools for regulating the activity of the others (Bausch, 2001). In both theoretical models the state is considered the controlling force of the criminal procedure, and some parts of the process are regulated more heavily then the others (Alford & Friedland, 1985; Bartelson, 2001; Hall & Ikenberry, 1989). The level of state control

in both theoretical models corresponds with the other elements, including the goal, the type of the prosecution, and the status of the judge and the parties.

In the theoretical adversarial model, the level of state control can be described as low (Pattenden, 1982). It does not mean, however, that the state has no control over the criminal procedure in the theoretical adversarial model. It means that because the theoretical adversarial process is driven by the adversarial interests of the parties, it relies in some cases on parties to self-regulate their actions (Schulhofer, 1988). In the theoretical inquisitorial model, the state has to provide a much higher level of control because there are no conflicting interests that can act as a balancing force in the process (Ingraham, 1987).

Historically, the inquisitorial process is a written process, where compliance with the written forms is highly respected (Watkin, 1999). The adversarial procedure is historically based on the oral presentation of the evidence by competing parties in front of the judge (Merryman, 1969).

In the theoretical inquisitorial model, the agent that inquires into the circumstances of the crime at the beginning of the process is charged with no adversarial interest. As an officer of the court, this agent is not only examining the circumstances of the case, but also creating the admissible evidence in a written form. The evidence is collected centrally in the special "dossiers" that later are transferred to the court (Merryman, 1969; Mueller & Le Poole-Griffiths, 1969). Because there is no prosecutor or defense counsel who can challenge the collection of this evidence and its inclusion in the dossiers, the state has to provide detailed and strict regulations

governing how such an inquiry can be conducted (David & Brierley, 1978). These regulations come with the written forms and pages of instructions.

In the theoretical adversarial procedure, there is no need for such detailed regulations and written forms. The admission of the evidence occurs openly in court where both the prosecution and defense can challenge the evidence that does not comply with the standards of admissibility (Burns, 1999). In such a case, the state relies on the adversarial interests of both parties to control the quality of the evidence that is presented in the case. The theory of procedure calls this an example of self-regulation in the adversarial process, though the judge has the ultimate authority to admit or deny the evidence (Burns, 1999).

The other important element of state control is related to the status of the victim in the process. In the theoretical inquisitorial process, a person who suffered from the crime is considered a special participant in the case. The victim of the crime receives the official status of victim only after the neutral investigating judge or official rules on this matter (Christie, 1977; Esmein, Garraud, & Mittermaier, 1913; Garner, 1916). Again, because there are no adversarial parties present at this stage, the neutral "inquirer" has full discretion (Christie, 1977). To avoid the arbitrary decisions from an investigative judge or official, the state is forced to provide very detailed and strict rules about who can be considered a crime victim (Juy-Birmann, 2002).

In the theoretical adversarial procedure, the crime victim is treated as a witness for the prosecution (Langbein, 2003). This person usually does not have special status in the process. In the theoretical adversarial model the defense can challenge the testimony of the victim by cross-examination (McConville & Wilson, 2002). The

normal riles regarding witness testimony can serve as a self-regulatory mechanism (Mueller & Le Poole-Griffiths, 1969).

In the criminal procedural law of France, Germany and Russia, one can find rules of high state control. One rule relates to expert testimony as the evidence in the criminal case. The expert testimony is usually presented in a written form during the investigation conducted by the instructional judge or official. In order to prevent the testimony of an unqualified expert, the criminal procedural law in these countries instructs the investigating judge or official on standards of expert qualification. It is a duty of the judge or official to establish the qualification and to document it in the special written forms. The expert testimony can be considered in those cases as evidence for the defense or prosecution, or both. Only under exceptional circumstances can a second expert be allowed to testify on the same matter during the trial.

In Great Britain and the U.S.A., the criminal law also provides regulations about expert qualification. However, these regulations are used by the adversarial parties when one of them is challenging the qualification of the witness. There are no written forms, and the judge makes the final decision whether or not to qualify the witness as an expert based on the party's motions (Reichel, 2002; Steury & Frank, 1996; Wigmore, 1940). Again, the criminal procedural law relies on the adversarial interest of the parties to present evidence to the judge regarding the expert's credibility (C. Howard, 1958; Juy-Birmann, 2002; Langbein, 1977; Merryman, 1969). In such situations, no special regulation is needed to encourage the parties to challenge the expert.

1.4.3. Conclusions on the Procedural Models

A summary of the foregoing discussion about the elements of theoretical criminal procedures are presented in Table 2 on page 21. In this research, the constructs of the ideal fairness of adversarial and inquisitorial models will be based on the features of the theoretical models discussed above. The research questions of this study will be explored in part by asking the respondents if the theoretical models can be considered the ideal of fairness for the criminal procedure. The specific procedures described earlier in this section are used as the indicators to measure the theoretical models of adversarial and inquisitorial procedures. The examples from the criminal law of Great Britain, the U.S.A., France, and Germany were used as illustrative materials only. No specific examples of law from these countries are employed to measure the constructs of the ideal fairness of the adversarial or inquisitorial procedural models.

1.5. An Explanation of the Conceptualized Relationships

In previous sections public disapproval of the CPC of 2001 was discussed. This discussion is the basis for explaining the inconsistencies in the relationships between the culture, legal ideology, and actual CPC of 2001. Motivational values (individualistic and collective) are used as the best representatives of the national culture.

A variety of criminal procedural laws were examined, and it was concluded that the use of either the adversarial or inquisitorial theoretical models is an appropriate method to represent the ideal organization of the criminal procedural aspects of the

justice system. Now, the relationships between the concepts of cultural values and the fairness of theoretical procedural models will be discussed.

In the theoretical literature, both legal and psychological, researchers argue that societies with prevailing individualistic values should support the adversarial theoretical model with its associated procedures as fair and equitable (Hofstede, 2001; Landsman, 1984). Societies with prevailing collective values should find the inquisitorial model more attractive and fair (Hofstede, 1984; Landsman, 1984). Empirical research supports these assumptions and routinely suggests that individuals from countries with prevailing collective values (e.g. Japan) will consider the inquisitorial procedure fair, while the representatives of individualistic culture (e.g. Americans) will find the adversarial procedural model fair.

The logic of these theoretical and empirical studies can be summarized as follows. The main feature of the theoretical adversarial procedure where the participants take an active role and exert substantial control over the process should appeal to certain groups. These groups consist of individuals in a culture where self-direction, independence, social power, and achievement are important virtues. This also corresponds to the reactive state that can usually be found in societies with predominantly individualistic values. The term "reactive state" is used in political science to describe a state which main disposition is to "merely provide a framework for the social interaction" (Damaska, 1986, p. 71). Such a state is often referred as minimalist government whose functions are to protect the order in the society and to provide a forum for resolution of those disputes that cannot be settled by citizens themselves (Damaska, 1986).

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The key characteristics of the theoretical inquisitorial process are passive participants willing to submit to control by a third party and a proactive state. Proactive state is an opposite to the concept of reactive state. It "espouses and strives toward the comprehensive theory of good life, and tries to use it as a basis for a conceptually encompassing program of material and moral betterment of its citizens" (Damaska, 1986, p. 80) These characteristics combine together with the major values of a collective culture which according to the theory of motivational values are the respect for tradition, conformism, and self-control. It is asserted theoretically that the understanding of justice in cultures with individualistic values is always related to the competition of equal and independent individuals. In theory, in collectivistic societies, a harmony and justice can be achieved when a legitimate authority uniformly imposes rulings based on the facts of the crime, and participants of the conflict behave in a cooperative manner to examine these facts.

2. Critique of Previous Studies on Cultural Values and the Fairness of Law

Various studies were conducted over the last 40 years in order to empirically examine procedural justice fairness and its relationship to culture. Most of these studies were social psychological experiments examining the mechanism of how people draw conclusions about procedural justice in different settings with a small number of participants. While the legacy of these studies is important, most have serious limitations (Austin, Williams, Worchel, Wentzel, & Siegel, 1981; Barrett-Howard & Tyler, 1986; Benjamin, 1975; Casper, Tyler, & Fisher, 1988; Cohen, 1985; Earley & Lind, 1987; Folger & Konovsky, 1989; Friedland, Thibaut, & Walker,

1973; Gibson, 1991; Huo, Smith, Tyler, & Lind, 1996; Kray & Lind, 2002; LaTour, 1978; LaTour, Houlden, Walker, & Thibaut, 1976a, 1976b; Leung & Lind, 1986; Lind, 1980; Lind, Erickson, Friedland, & Dickenberger, 1978; Lind, Huo, & Tyler, 1994; Lind, Kanfer, & Earley, 1990; Lind, Kray, & Thompson, 2001; Lind & Lissak, 1985; Lind, Lissak, & Conlon, 1983; Lind et al., 1990; MacCoun & Tyler, 1988; Musante, Gilbert, & Thibaut, 1983; Rasinski, 1987; Sheppard, 1985; H. Smith, Tyler, Huo, Ortiz, & Lind, 1998; Sunshine & Tyler, 2003; Thibaut, Walker, LaTour, & Houlden, 1974; Tyler, 1987, 1988, 1989, 1994; Tyler & Caine, 1981; Tyler, Lind, Ohbuchi, Sugawara, & Huo, 1998; Tyler & McGraw, 1986; Tyler, Rasinski, & McGraw, 1985; Tyler & Weber, 1982; van den Bos, 2001; van den Bos & Lind, 2001; van den Bos, Wilke, & Lind, 1998; Walker, LaTour, Lind, & Thibaut, 1974; Walker, Lind, & Thibaut, 1979).

First, a significant drawback results from the fact that the researchers often study all types of that include criminal, civil, or other conflict related procedures in one experiment. Usually they define it broadly as the "conflict resolutions" procedures and include both legal and extra-legal procedures in their work. As a result of this approach, the main features of the procedures are simplified and over-generalized. While claiming to study the effect of the procedural models, the authors often employ only one procedural element such as the order in which the evidence is presented to make their conclusion about the whole procedural system (Austin, Williams, Worchel, Wentzel, & Siegel, 1981; Earley & Lind, 1987; LaTour, 1978; LaTour, Houlden, Walker, & Thibaut, 1976b; Sheppard, 1985; Thibaut, Walker, LaTour, & Houlden, 1974; Tyler, 1987, 1994; Walker, LaTour, Lind, & Thibaut, 1974).

Even when only legal procedures are examined, most researchers follow the highly acknowledged work by Thilbaut and Walker (Benjiamin, 1975; Cohen, 1985; Leung & Lind, 1986; Lind, 1980; Lind, Erickson, Friedland, & Dickenberger, 1978; Lind, Lissak, & Conlon, 1983). The single difference is the matter of the "voice" of the parties.   This work was seriously criticized in the legal field as an oversimplification of the legal process and cultural bias toward the adversarial model (Damaska, 1975). However, this criticism was never taken into account by any of those that based their work on the Thilbaut and Walker study (1974). No comprehensive models of procedure were suggested by these researchers for further study.

Second, the choice of participants was a limitation of the previous studies. The majority of studies only interest themselves with individuals participating in the procedure or having direct observation. While judgments of participants and direct observers are valuable, opinions of general populations about procedure can provide more general and important implications. It can give recommendations about how to improve the process outcome satisfaction in existing legal settings. It also can suggest what type of criminal procedural will receive better public support if the cultural characteristics of the society are known (Barrett-Howard & Tyler, 1986; Landis & Goodstein, 1986; LaTour, 1978; Lind, 1980; Lind, Greenberg, Scott, & Welchans, 2000; Lind, Lissak, & Conlon, 1983; Lind et al., 1990; Musante, Gilbert, & Thibaut, 1983; Tyler, 1988; Tyler, Rasinski, & McGraw, 1985; van den Bos, Vermunt, & Wilke, 1997; van den Bos, Wilke, & Lind, 1998).

The third limitation relates only to research examining cultural differences in the judgment of fairness. The conclusions about national preferences of procedures are usually drawn in these studies based on non-representative samples based on small numbers of foreign students. Students as a specific group of participants selected in a non-randomized manner by university professors cannot be generalized as national values. As a result, their conclusions about preferences for one procedure over another can hardly be represented as an indicator of the influence of a national culture on the judgment of fairness (Benjiamin, 1975; Brockner, Chen, Mannix, Leung, & Skarlicki, 2000; Earley & Lind, 1987; Huo, Smith, Tyler, & Lind, 1996; LaTour, 1978; LaTour, Houlden, Walker, & Thibaut, 1976b; Leung & Lind, 1986; Lind, Kanfer, & Earley, 1990; Musante, Gilbert, & Thibaut, 1983; H. Smith, Tyler, Huo, Ortiz, & Lind, 1998)

Fourth, researchers in previous studies are using descriptions of particular cases in order to measure the judgment of fairness. In many cases there is little or no controlling mechanism to isolate the effect of particular case settings (type of crime, defendant, type of social institution) in order to understand the nature of the fairness judgment. Studies also failed to account for the fact that different social institutions play a different role and have different interpretations within different cultures (for example, meaning of court, work, or even conflict itself) (Austin, Williams, Worchel, Wentzel, & Siegel, 1981; Barrett-Howard & Tyler, 1986; Cohn, White, & Sanders, 2000; Earley & Lind, 1987; Folger, 1977; LaTour, 1978; LaTour, Houlden, Walker, & Thibaut, 1976b; Leung & Lind, 1986; Rasinski, 1987; Tyler & Caine, 1981).

3. Research Hypotheses of This Study

From the discussion on structural functionalism it is suggested that public disapproval of the CPC of 2001 can be explained by inner-conflict values persistent in the Russian culture, its legal ideology, and the main elements of the CPC of 2001.

The theory of motivational values served to establish a framework to understand and interpret the general culture through a system of motivational cultural domains called "individualistic and collective values".

The group-value theory of procedural justice explained that the best way to examine the conflict among the culture and main elements of the procedure is to study the judgment of fairness that is a contrast between the ideal and actual law.

The theory of procedural models clarified that theoretical procedural models (adversarial and inquisitorial) can be used to holistically examine the notion of ideal procedural law and the actual procedural law (the CPC of 2001 in this case).

The legal and psychological literature suggested that societies with prevailing individualistic values consider theoretical adversarial procedure fair. The literature also implied that societies with predominant collective values view theoretical inquisitorial model as fair. Based on this synopsis of the literature review, the following research hypotheses are proposed:

1.   Those that hold predominantly individualistic values will perceive the adversarial procedural model as ideal and fair;

2.   Those that hold predominantly collective values will perceive the inquisitorial procedural model as ideal and fair;

3.   Those who support the adversarial procedural model will view the CPC of 2001 as fair;

4.   Those who support the inquisitorial procedural model will view the CPC of 2001 as unfair.

In addition, several propositions that are assumptions of the study will also be tested:

1. The majority of those surveyed will hold predominantly collective values;

2. The majority of those surveyed will consider the inquisitorial procedural model an ideal of fairness;

3. The majority of those surveyed will consider the CPC of 2001 unfair.

III. METHODOLOGY

1. Overall Research Design

The overall research methodology for the research hypotheses is based on the predictive-correlational approach. The theoretical constructs "collective values" and "individualistic values" are used as predictors for the theoretical constructs "ideal fairness of the adversarial procedural model", "ideal fairness of the inquisitorial procedural model", and "fairness of the actual procedural model.[15]" The hypotheses were tested for co-relational and directional statistical significance among the constructs.

Because all five concepts in the study are theoretical constructs rather than direct empirical observations, they were treated as latent variables and measured through a set of indicators. The indicators represent single variables that can be used to measure latent constructs using the theoretical frameworks presented in Chapter II.

The predictive-correlational approach was implemented through a survey research design. The research hypotheses were tested by the measurement instrument consisting of a questionnaire that was specifically designed for this study. The first part of the questionnaire was adopted from an instrument developed by Schwartz (1995) to measure cultural values of different nations. The second part of the questionnaire concerning the items used to measure the judgment of fairness about the ideal and actual procedural models was developed specifically for this study.

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[15] - The variables "fairness of actual procedural model" refers in this research to the major provisions of the CPC of 2001.

Because the instrument was originally developed in English language, a double-blinded translation was used to ensure the accuracy of translation into Russian. The discrepancies found during the double-blind translation were reviewed and the revised instrument was tested by a second translation series.

The translated questionnaire was then tested by cognitive interviews. The interviewers used a special form of structured in-depth interviews originally used by the developers of the survey instrument. The format was designed to test the quality of survey items and also the reliability and validity of the entire instrument. In addition, the instrument was tested in two separate pilot studies to improve the quality of each item. Samples of pilot studies included students from universities and the general population.

Because the study is examining cultural values and attitudes about fairness of the entire Russian population, a nation-wide representative sample was drawn to administer final survey (two pilots were used prior to the final). Due to the complexity of issues related to the judgment of procedural model fairness, the survey was administered via face-to-face structured interviews. The administration of the survey was completed by multiple interviewers simultaneously within a period of two weeks. Instructions were provided to the interviewers to ensure standardized administration.

Data from interviews were collected by each interviewer separately and then merged into one data-file. Structural-equation modeling (SEM) was employed to test the research hypotheses. Descriptive statistics was used to test the research propositions for this study. Descriptive statistical analysis was performed using the

SPSS application for statistics and hypotheses were tested using the AMOS and EQS software.

According to the rules of the SEM, confirmatory factor analysis (CFA) was first conducted to test if all five theoretical constructs were successfully measured by the proposed indicators. After that, the structural models were used to test if there were statically significant correlations among the theoretical constructs and if such correlations were directional as predicted by research hypotheses.

2. Operationalization and Measurement of the Study Variables

This section discusses how each theoretical construct was operationalized in the study and provides the operational definition for each construct indicator. After that, a discussion follows pertaining to how each indicator was measured in the instrument according to its operational definitions.

2.1. Cultural Values

The study employs two major concepts "individualistic values" and "collective values" adopted from the Schwartz (1995) theory of motivational values to examine the concept of cultural values. The research follows his operational definitions and measurement approach for these theoretical constructs.

2.1.1. Operationalization

The Schwartz theory defines cultural values as "socially imposed and individually selected stable preferences that guide individual's behavior" (1992, p. 2). Collective

values, according to Schwartz's theory are oriented to regulate the individual's behavior toward the social group. The individualistic values, on the other hand, are abstract principles that guide human behavior in the direction of the individual's well-being. This work uses Schwartz's operational definitions of individualistic and collective values. Individualistic values are people's preference of self-orientation as a guiding principle in their life, whereas collective values are preferences for societal or group orientation as a guiding principle in their life (S. Schwartz, 1992). Each theoretical construct consists of a number of smaller included theoretical elements. The construct "individualistic values" includes motivational values of "stimulation", "self-direction", "achievement", and "power." The construct "collective values" includes motivational values of "tradition", "benevolence", and "conformity." Each of these seven motivational values is a value index measured through a set of particular individual indicators. In Table 4 below a summary of the operational definitions for each theoretical construct, elements of theoretical constructs, and individual values used in this study is provided

Table 4. Operational definitions for the variables of cultural values

Variable symbol	Variable title	Operational definition
ξ8	Individualistic values	People's preference of self-orientation as a guiding principle in their life
ξ1	Stimulation values	People's preference of novelty, excitement and challenge as a guiding principle in the life. Index consists of following items: en exciting life value, daring value, varied life value.
X 1.1	Exciting life	Importance of exciting life to a respondent as a guiding principle of his or her life
X 1.2.	Daring	Importance of daring to a respondent as a guiding principle of his or her life.
X 1.3.	Varied life	Importance of varied life to a respondent as a guiding principle of his or her life.
ξ2	Self direction values	Self-direction is people's' preference of independence, choice of their actions, creation and exploring. Index consists of the following items: freedom value, creativity value, independent value, curious value and choosing own goals value.
X 2.1	Freedom	Importance of freedom to a respondent as a guiding principle of his or her life.
X 2.2	Creativity	Importance of creativity to a respondent as a guiding principle of his or her life.
X 2.3	Independence	Importance of independence to a respondent as a guiding principle of his or her life.
X 2.4	Curiosity	Importance of curiosity to a respondent as a guiding principle of his or her life.
X 2.5	Choose their own life goals	Importance of having ability to choose their own life goals to a respondent as a guiding principle of his or her life.
ξ3	Achievement values	Achievement is people's preference of personal success through demonstrating competence according to social standards. Index consists of success value, the capability or competency value, ambitiousness values and influence value.
X 3.1	Successful	Importance of being successful to a respondent as a guiding principle of his or her life.
X 3.2	Capable	Importance of being capable to a respondent as a guiding principle of his or her life.
X 3.3	Ambitious	Importance of being ambitious to a respondent as a guiding principle of his or her life.
X 3.4	Influential	Importance of being influential to a respondent as a guiding principle of his or her life.
ξ4	Power values	Power is people's preference of social status and prestige, control or dominance over people and resources. Index consists of social power value, authority value and wealth value.
X 4.1	Social power	Importance of having social power to a respondent as a guiding principle of his or her life
X 4.2	Authority	Importance of having authority to a respondent as a guiding principle of his or her life
X 4.3	Wealth	Importance of being wealthy to a respondent as a guiding principle of his or her life

Variable symbol	Variable title	Operational definition
ξ9	Collective values	People's preference for societal or group orientation as a guiding principle in their life.
ξ5	Tradition values	People's preference to respect, commitment and acceptance of the customs and ideas of traditional culture and or religion. Index consists of humbleness value, accepting my portion of life value, devoutness value, respect to tradition value and moderation value.
X 5.1	Humble	Importance of being humble to a respondent as a guiding principle of his or her life
X 5.2	Accepting life	Importance of accepting their portion of life to a respondent as a guiding principle of his or her life
X 5.3	Devout	Importance of being devout power to a respondent as a guiding principle of his or her life
X 5.4	Respect for tradition or customs	Importance of respecting traditions or customs to a respondent as a guiding principle of his or her life
X 5.5	Moderate	Importance of being moderate to a respondent as a guiding principle of his or her life
ξ6	Conformity values	Conformity is people's preference to retain actions, inclinations and impulses likely to upset or harm others and violate expectations or norms. Index consists of politeness value, obedience value, self discipline value, and honoring parents and elders value.
X 6.1	Politeness	Importance of being polite to a respondent as a guiding principle of his or her life
X 6.2	Obedience	Importance of being obedient to a respondent as a guiding principle of his or her life
X 6.3	Self-discipline	Importance of self-discipline to a respondent as a guiding principle of his or her life
X 6.4	Honoring parents or elderly	Importance of honoring parents or elderly to a respondent as a guiding principle of his or her life
ξ7	Benevolence values	Benevolence is people's preference of preservations and enhancement of the welfare of people's with whom one is in frequent personal contact. Index consists of helpfulness value, honesty value, forgiveness value, loyalty value and responsibility value.
X 7.1	Forgiving	Importance of being forgiving to a respondent as a guiding principle of his or her life
X 7.2	Honest	Importance of being honest to a respondent as a guiding principle of his or her life
X 7.3	Helpful to the others	Importance of being helpful to a respondent as a guiding principle of his or her life
X 7.4	Loyal	Importance of being loyal to a respondent as a guiding principle of his or her life
X 7.5	Responsible	Importance of being responsible to a respondent as a guiding principle of his or her life

2.1.2. Measurement

Table 4 includes the 29 single value indicators and their operational definitions used in the survey instrument to measure the theoretical constructs of collective and individual values. Social research (Abramson & Inglehart, 1995) develops three main approaches to measure values. According to the first approach, the respondents have been directly asked if a verbal expression of a value (linguistic label) is considered a value in their life. In the second approach, cultural values or its consequence, are expressed in a general statement and the respondent is asked about their agreement or disagreement with the statement. In the third approach, the instrument provides a person with a problematic situation and requires a judgment response that is based on the expressed value.

All three ways of measuring have their drawbacks. The direct questioning approach requires certainty in the verbal labels of the values and increases the threat of intentional or unintentional biases due to the social desirability of particular values. General statements expressing the value in the second approach can be interpreted in more than one way which decreases the validity of the measurement. The problem-solving method allows for the avoidance of intentional bias due to social desirability. It can introduce additional variation due to the differences in the scenario interpretation and may significantly increase the length of questionnaire.

The questionnaire used for this study used the method of direct questioning. It used the criteria of "value importance" to measure the constructs of cultural values.

To compensate for the problem of an uncertain verbal value label, synonymous verbal labels were used to facilitate item clarity.

Based on the empirical studies of Schwartz (1995, 1996), only indicators that have high factor loadings and high reliability, were used in the questionnaire. For that reason from 56 indicators tested by Schwartz, only 29 values that exhibited high factor loadings and reliability were selected (Schwartz, 1992; Schwartz, 1992; Schwartz, 1995; Schwartz, 1996; Schwartz, 1999; Schwartz & Bilsky, 1987; Schwartz & Bilsky, 1990; Schwartz & Huismans, 1995; Schwartz & Rubel, 2005; Schwartz, Sagiv, & Boehnke, 2000).

Research on the human values measurement suggests (Abramson & Inglehart, 1995) that high-point scales are necessary to measure the full variability of attitudes about human values. Here, the original 9-point scale developed by Schwartz (1992) was adopted. This allows for the validation of this scale against the studies conducted by Schwartz in 1995, 1996 and 2000.

Table 5 provides a summary of how each of the 29 single value indicators was measured in the survey. Each item was measured through the same question: "Using the scale on this card please rate the following values as a guiding principle in your life. I will read the main value first and then provide you with additional meaning of the same value." The following card was shown to the respondent:

Card A

The values that the interviewer is reading to you are:

of supreme importance	very important			important			not important	opposed to my views
7	6	5	4	3	2	1	0	-1

Figure 3. Survey response Card A

Table 5, below, depicts the main and alternate meanings of the values adopted from Schwartz (1992). These were presented to the respondent with the main meaning (printed in capital letters):

Table 5. Measurement strategy for the variables of cultural values

Variable symbol	Variable title	Item in the survey
X 1.1	Exciting life	AN EXCITING LIFE (stimulating experiences)
X 1.2.	Daring	DARING (seeking adventure, risk)
X 1.3.	Varied life	A VARIED LIFE (filled with challenge, novelty and change)
X 2.1	Freedom	FREEDOM (freedom of action and thought)
X 2.2	Creativity	CREATIVITY (uniqueness, imagination)
X 2.3	Independency	INDEPENDENT (self-reliant, self-sufficient)
X 2.4	Curiosity	CURIOUS (interested in everything, exploring)
X 2.5	Choose their own life goals	CHOOSING OWN GOALS (choosing own purposes)
X 3.1	Successful	SUCCESFUL (achieving goals)
X 3.2	Capable	CAPABLE (competent, effective, efficient)
X 3.3	Ambitious	AMBITIOUS (hardworking, aspiring)
X 3.4	Influential	INFLUENTIAL (having impact on people's and events)
X 4.1	Social power	SOCIAL POWER (control over others, dominance)
X 4.2	Authority	AUTHORITY (the right to lead or command)
X 4.3	Wealth	WEALTH (material possessions, money)
X 5.1	Humble	HUMBLE (modest, self-effacing)
X 5.2	Accepting life	ACCEPTING MY POTION OF LIFE (submitting to life circumstances)
X 5.3	Devout	DEVOUT (holding to religious faith and belief)
X 5.4	Respect for tradition or customs	RESPECT FOR TRADITION (preservation of time-honored customs)
X 5.5	Moderate	MODERATE (avoiding extremes of feelings or actions)
X 6.1	Politeness	POLITENESS (courtesy, good manners)
X 6.2	Obedience	OBEDIENT (dutiful, meeting obligations)
X 6.3	Self-discipline	SELF-DISCIPLINE (self-restraint, resistance to temptation)
X 6.4	Honoring parents or elderly	HONORING OF PARENTS AND ELDERS (showing respect)
X 7.1	Forgiving	FORGIVING (willing to pardon others)
X 7.2	Honest	HONEST (genuine, sincere)
X 7.3	Helpful to the others	HELPFUL (working for the welfare of others)
X 7.4	Loyal	LOYAL (faithful to my friends, group)
X 7.5	Responsible	RESPONSIBLE (dependable, reliable)

2.2. Fairness of the Ideal and Actual Procedural Models

2.2.1. Ideal Fairness of Adversarial and Inquisitorial Criminal Procedural Models

2.2.1.1. Operationalization

Two variables that refer to the domain of legal ideology were used in the research hypotheses: ideal fairness of the adversarial procedural model and the ideal fairness of inquisitorial procedural model. As the concept of legal ideology implies, these two variables represent attitudes about the ideally fair procedure. According to the theory of group value justice, both variables represent the value-expressive attitudes resulting from a shared value consensus. Thus, for the purposes of this research, the theoretical construct "ideal fairness of the adversarial procedural model" is the extent a person, based on shared social consensus, agrees the adversarial criminal procedure is an ideal of fairness. Correspondingly, the theoretical construct "ideal fairness of the inquisitorial procedural model" is operationalized as the extent a person, based on the shared social consensus, agrees that the inquisitorial criminal procedure is an ideal of fairness.

Both inquisitorial and adversarial criminal procedures are theoretical constructs that consist of five major elements according to Damaska's theory (1986). The ideal fairness of each procedural model is represented by five variables. These variables measure the ideal fairness of the procedural goal, the type of prosecution, the status of a judge, the status of the parties, and the level of state regulation in the process. Based on the legal characteristics of each feature discussed above, Table 6 (below)

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summarizes the operational definitions for each of ten measurable variables related to

the ideal fairness:

Table 6. Operation definitions for the variables of ideal fairness of criminal procedural models

Variable symbol	Variable title	Operational definition
Y 1.1	Ideal fairness of inquisitorial criminal procedure goal	Extent, to which a person, based on the shared social consensus, agrees that the system, which primarily goal is the uniform application of the government policy on punishment based on the sole investigation from the independent inquirer, is an ideal of fairness
Y 1.2	Ideal fairness of inquisitorial criminal prosecution	Extent, to which a person, based on the shared social consensus, agrees that the system, in which criminal prosecution is a function of the state executed primarily in the interest of government by the appointed official, is an ideal of fairness
Y 1.3	Ideal fairness of judicial activity	Extent, to which a person, based on the shared social consensus, agrees that the system, in which a trial judge should be active in gathering evidence and establishing the facts of the crime, is an ideal of fairness.
Y 1.4	Ideal fairness of parties' passivity	Extent, to which a person, based on the shared social consensus, agrees that the system, in which the prosecution and defense should NOT be active in gathering evidence and managing the subject of the lawsuit, is an ideal of fairness.
Y1.5	Ideal fairness of high state regulation level	Extent, to which a person, based on the shared social consensus, agrees that the system, in which participants need to be regulated by the state in their decisions of gathering evidence and managing the subject of the lawsuit, is an ideal of fairness
Y 2.1	Ideal fairness of adversarial criminal procedure goal	Extent, to which a person, based on the shared social consensus, agrees that the system, which primarily goal is as negotiation of criminal charges and punishment based on the available evidence from the prosecution and defense, is an ideal of fairness
Y2.2	Ideal fairness of adversarial criminal prosecution	Extent, to which a person based on the shared social consensus, agrees that the system, in which criminal prosecution is a function of the government executed in the interest of public by an attorney hired by the taxpayers, is an ideal of fairness
Y2.3	Ideal fairness of judicial passivity	Extent, to which a person, based on the shared social consensus, agrees that the system, in which a trial judge should NOT be active in gathering the evidence and establishing the truth, is an ideal of fairness.
Y2.4	Ideal fairness of parties' activity	Extent, to which a person based on the shared social consensus, agrees that the system, in which prosecution and defense should be active in gathering evidence and managing the subject of the lawsuit, is an ideal of fairness.
Y2.5	Ideal fairness of low state regulation level	Extent, to which a person based on the shared social consensus, agrees that the system, in which participants need to be self-regulated in their decisions of gathering evidence and managing the subject of the lawsuit, is an ideal of fairness

2.2.1.2. Measurement

The literature suggested only two ways of measuring the judgment of fairness. The first is a direct question that solicits the judgment and the second is the situation-based question that requires an expression of the judgment (Abramson & Inglehart, 1995; Bond, Kwok, & Schwartz, 1992). Both methods have methodological problems. The situation-based method requires control of the contextual variation and lengthy interviews. The direct questioning can result responses that are considered to be socially acceptable (or desirable) and do not reflect the true judgment.

For the purpose of this research, the method of direct questioning was found more suitable. The five elements of procedural models were already complex enough. Blending such questions in the context of particular situation can make the task of a respondent nearly impossible. Special items were included in the survey instrument to control for the social desirability issue inevitably caused by the direct questioning approach. Selected items of social desirability scale are discussed in the Section 3.2 of this chapter.

Each question measuring the ideal fairness of the five major elements of procedural models had an introductory statement that explains the question context. This format reduces the question's complexity and is consistent with recommendations from the survey methodology literature. Each item for variables about ideal fairness was measured through a question that started with: *"Thinking about an IDEAL criminal justice system…"* After that, the respondent was offered

two optional statements describing one of the five elements of the ideal adversarial and inquisitorial models.

The respondent was provided with the Card B scaling the answers for the questions. The card is presented in Figure 4. The scale is symmetrical and does not include a neutral option. If the respondent insisted, the interviewer recorded the "Don't know" option for an answer.

Card B					
Completely fair	Fair	Somehow fair	Somehow unfair	Unfair	Completely unfair
6	5	4	3	2	1

Figure 4. Survey response Card B

As a result of the previous discussion on the five major elements of procedural models, the following procedures seen in Table 7 below were chosen to represent the elements of ideal fair procedural models:

Table 7. Proceedings representing the elements of theoretical procedural models

Procedural element	Proceedings representing it in the survey
Goal of procedure	Who establishes the facts of the crime in the court
Type and nature of prosecution	Who determines what crime is and who determines who should be released from the punishment
Role of judge	Is asking questions during the trial permissible?
Role of attorneys	Nolle prosequi (dropping criminal charges)
Level of regulation	Entering additional evidence into the trial

Table 8, below, summarizes how each of ten variables of the ideal fairness that was measured in the survey instrument:

Table 8. Measurement strategy for the variables of ideal fairness of criminal procedural models

Vari-able symbol	Variable title	Introductory statement and question	Item in the survey
Y 1.1	Ideal fairness of inquisitorial criminal procedure goal	To impose punishment on the criminals, the court needs to establish facts of the crime. Modern law gives us two main ways to do it: Thinking about an IDEAL criminal justice system in your opinion, assess both ways of establishing facts of the crime, using the scale from the card	First way: A judge is the person who establishes the facts in the trial. The judge does it on the basis of the evidences that are provided by the prosecutor and defense counsel.
Y 2.1	Ideal fairness of adversarial criminal procedure goal		Second way: The prosecutor and defense counsel bring their evidence to the court and decide together what the facts of the case are. The judge supervises them in this process
Y 1.2	Ideal fairness of inquisitorial criminal prosecution	The right to prosecute criminals includes the ability to decide what crime is and what categories of people can be prosecuted. Modern law gives us two main ways to do it: Thinking about an IDEAL criminal justice system in your opinion, assess both ways of prosecuting criminals, using scale from the card	First way: Government should decide what the crime is and what categories of people can be prosecuted, and police, state attorneys, and courts should execute such decisions
Y2.2	Ideal fairness of adversarial criminal prosecution		Second way: People of the country (e.g. Russia) should decide what crime is and what categories of people can be prosecuted, and the government (police, state attorneys and judges) should execute such decisions.
Y 1.3	Ideal fairness of judicial activity	During the trial the main information about the crime can be received from a witness through their interrogation. Modern law gives us two main ways to do it: Thinking about an IDEAL criminal justice system, in your opinion assess both ways of calling a witness to the stand and witness' interrogation, using scale from the Card	First way: Judges should ask a witness questions on their own initiative and should call the witness ignored by both prosecution and defense if this is necessary for establishing the truth about the crime
Y2.3	Ideal fairness of judicial passivity		Second way: Judges should only supervise how prosecutor and defense counsel question a witness and should resolve legal disputes between parties related to the witness' interrogation.
Y 1.4	Ideal fairness of parties' passivity	When no evidence of the crime can be found the prosecutor makes a decision about dropping criminal charges. When criminal charges are dropped, they cannot be reinstated unless some new evidence will appear before the prosecutor. Modern law gives us two main ways to do it: Thinking about an IDEAL criminal justice system in your opinion, assess both ways of dropping criminal charges, using scale from the card	First way: Public prosecutor should not be completely independent in her decisions to drop criminal charges, and this decision can be challenged by the judge or other government official
Y2.4	Ideal fairness of parties' activity		Second way: Public prosecutor should be completely independent when decide to drop criminal charges and his decision cannot be challenged by the judge or other government official

Variable symbol	Variable title	Introductory statement and question	Item in the survey
Y1.5	Ideal fairness of high state regulation level	*When new evidence is being discovered by one of the parties, it needs to be introduced to the trial by a special regulation.*	First way: Parties introduce new evidence after filling up a special form and by permission of the judge
Y2.5	Ideal fairness of low state regulation level	*Modern law gives us two main ways to do it:* *Thinking about an IDEAL criminal justice system in your opinion, assess both ways of dropping criminal charges, using scale from the card*	Second way: Parties introduce new evidence if no objection from the adversary party is raised.

The ability "to decide what crime is" appears confusing to English readers, however, Russian respondents understand this means if the act being considered is a crime or not.

2.2.2. Fairness of Actual Criminal Procedure

2.2.2.1. Operationalization

The judgment of fairness about the actual law is a value-expressive attitude about the fairness of the newly adopted CPC of 2001 and its main features. Its definition follows the same theoretical explanation as the operational definitions for the ideal fairness of procedural models. "The fairness of actual criminal procedure" is understood as the extent to which a person based on shared social consensus, agrees that the existing criminal procedure is generally fair. In respect to the research question, the existing criminal procedure is reflected in the newly adopted CPC of 2001. The same Damaska's (1986) model that used the five major elements was applied to this theoretical construct. Thus, the fairness of the actual criminal procedure is represented by the following single variables: the fairness of actual

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criminal procedural goal; the fairness of actual type of criminal prosecution; the fairness of actual judicial role; the fairness of actual parties' role, and the fairness of actual level of regulation. Table 9 summarizes the operational definitions for each of the five listed variables:

Table 9. Operation definitions for the variable "fairness of actual criminal procedure"

Variable symbol	Variable title	Operational definition
Y6	Fairness of actual criminal procedural goal	Extent, to which a person based on the shared social consensus, agrees that the existing in Russia goal of criminal procedure constitutes generally fair system
Y7	Fairness of actual type of criminal prosecution	Extent, to which a person based on the shared social consensus, agrees that existing in Russia type of prosecution constitutes generally fair system
Y8	Fairness of actual judicial role	Extent, to which a person based on the shared social consensus, agrees that existing in Russia level of judicial activity constitutes generally fair system
Y9	Fairness of actual parties' role	Extent, to which a person based on the shared social consensus, agrees that existing in Russia level of parties' activity constitutes generally fair system
Y10	Fairness actual level of regulation	Extent, to which a person based on the shared social consensus, agrees that existing in Russia level of state regulation constitutes generally fair system

2.2.2.2. Measurement

The method used to measure of the variables about fairness of the actual criminal procedure in Russia follows the same logic as the one used for the ideal fair procedures. It was measured directly through a set of questions with one for each of the five elements of the procedure. The questions were measured on the same scale as the previous set of variables to make the results compatible. The following Card C presented in Figure 5 was used during the interview of respondents on these questions.

Card C					
Completely fair	Fair	Somehow fair	Somehow unfair	Unfair	Completely unfair
6	5	4	3	2	1

Figure 5. Survey response Card C

Because specific proceedings were previously used to measure the ideal fairness variable, different procedures were used to measure the fairness of the actual procedure. The change was made to avoid the "copy effect"[16] that can often occur when the items in the survey are similar. The following Table 10 summarizes the proceedings used in the instrument:

Table 10. Proceeding representing the elements of actual criminal procedure

Procedural element	Proceeding representing it in the survey
Goal of procedure	Quasi plea-bargaining procedure
Type and nature of prosecution	Reconciliation between the victim and the offender as a ground for termination the proceeding
Role of judge	Remanding the case for additional investigation by a judge
Role of attorneys	Exclusion of evidence by the initiative of the parties
Level of regulation	Entering additional evidence into the trial

It was assumed the respondent had no previous knowledge about the actual criminal procedure in Russia. The survey items first had a statement explaining the new features of law followed by a question inquiring about assess to the fairness of the explained law. The following Table 11 summarizes how each of the five variables was measured in the survey instrument:

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[16] - "copy effect" is an effect when respondents are answering similar questions in the survey instrument according to their previous answers in the same instrument.

Table 11. Measurement strategy for the variable of fairness of actual criminal procedure

Variable symbol	Variable title	Introductory statement	Item in the survey or questions
Y6	Fairness of actual criminal procedural goal	*According to the existing criminal procedural law in Russia if a defendant pleads guilty to the charges filled by a prosecutor, the court can eliminate the trial stage and proceed to the sentencing.*	*Using provided scale in the card please tell us, do you think that such law is fair?*
Y7	Fairness of actual type of criminal prosecution	*According to the existing criminal procedural law in Russia, if victim is reconciled with the offender on the misdemeanor crime, the criminal charges have to be dropped.*	*Using provided scale in the card please tell us, do you think that such position of Russian criminal law is fair?*
Y8	Fairness of actual judicial role	*According to the existing criminal procedural law in Russia, if new circumstances are being discovered during the trial, the judge doesn't have a right to remand the case for an additional investigation. This can be done only by the motion from a party.*	*Using provided scale in the card please tell us, do you think that such law is fair?*
Y9	Fairness of actual parties' role	*According to the existing criminal procedural law in Russia, only parties can file the motion to exclude inadmissible evidence.*	*Using provided scale in the card please tell us, do you think that such law is fair?*
Y10	Fairness actual level of regulation	*According to the existing criminal procedural law in Russia, parties can introduce new evidence after filling out a special form and only after the permission by the judge*	*Using provided scale in the card please tell us, do you think that law is fair?*

2.3. Control Variables

2.3.1. Operationalization

The literature suggests that relationships between the cultural values and the judgment of fairness should be controlled for socio-economic status and previous personal experience (Folger & Konovsky, 1989; Leung & Lind, 1986; Lind, 1980; Schwartz, 1995; Schwartz & Rubel, 2005; H. Smith, Tyler, Huo, Ortiz, & Lind, 1998). In this study, five control variables were used: age, gender, educational level

of the respondent, professional experience with the criminal justice, and previous

participation in criminal justice proceedings. Table 12 that follows represents the

operational definitions for control variables:

Table 12. Operational definitions for control variables

Variable symbol	Variable title	Operational definition
X14	Age	Biological age of the respondent
X15	Gender	Biological gender of the respondent
X16	Education	Level of the respondent's education
X17	Place of residence	The predominant place of residence (urban or rural area)
X18	Household income	Total monthly income of all members leaving within one household
X19	Marital status	Whether the respondent was married, single or widowed
X20	Employment status	Whether the respondents is working or not
X21	Family size	The number of children under the age of 18 living in one household and the number of their parents

2.3.2. Measurement

The measurement of the socioeconomic control variables was adopted from the

previous surveys controlling for the relationships among cultural values and the

judgment of fairness (Folger & Konovsky, 1989; Leung & Lind, 1986; Lind, 1980;

Schwartz, 1995; Schwartz & Rubel, 2005; H. Smith, Tyler, Huo, Ortiz, & Lind,

1998).

Table 13. Measurement strategy for control variables

Variable symbol	Variable title	Item in the survey
X14	Age	"Based on the categories in the card, please tell me, which age group you are in:"
X15	Gender	"Please indicate your gender"
X16	Education	"Based on the categories provided in the card what is the highest educational level that you have attained?"
X17	Place of residence	"Based on the categories provided in the card what is your place of primary residence?
X18	Household income	"Based on the categories provided in the card what is the total monthly income of your household including all its members?"
X19	Marital status	"Based in the categories provided in the card what is your martial status?"
X20	Work status	Based on the categories provided in the card what is your employments status?
X21	Family size	"Based on the categories provided in the card how many people are currently living with you including your blood and in-law relatives?"

The following cards (D through J) were used to record the answers for control variables:

Card D

You age group is:

18-24   25-34   35-44   44-65   65+

Figure 6. Survey response Card D

Card E
Your highest level of education is:

☐ Some high school but didn't graduate
☐ Complete high school
☐ Some college but didn't graduate
☐ Bachelor degree
☐ Graduate degree

Figure 7. Survey response Card E

Card F
Please tell us about your marital status

Married	Civil union	Divorced	Widowed	Single
1	2	3	4	5

Figure 8. Survey response Card F

Card G
Please tell us how many people are currently residing in your household?
This includes your children, parents, sibling, in-laws and other relatives.

1	2	3	4	5	6	7 or more
☐	☐	☐	☐	☐	☐	☐

Figure 9. Survey response Card G

Card H
Please, tell us about the monthly total income of your household, including the income of all its members

Bellow 2000	2001-4000	4001-6000	6001-8000	8001-10000	10001-15000	15001-20000	20001-30000	30001-40000	40001-50000	Above 50000
☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Figure 10. Survey response Card H

Figure 11. Survey response Card I

Figure 12. Survey response Card J

3. Measurement Instrument

In the previous section of this work, the measurement strategy for each variable was described. This chapter introduces the measurement instrument and describes how it was designed, tested, and revised. For the purpose of this research, a new survey instrument was created and contains 47 items. Twenty-nine of the items are related to the cultural values variable, ten items are related to the judgment of fairness

variables (both ideal and actual law), three special methodological items[17], and five items related to the control variables.

3.1. General Design and Layout

The data for this research was collected via face-to-face structured interviews because the items related to the fairness of criminal procedure tend to be complicated. Therefore, the instrument was designed for oral presentation to reduce confusion and increase response validity.

The methodological literature shows that structured interviews with various scales should be done using printed cards. The cards contain the scale and a list of questions presented to the respondent by the interviewer. The set of cards with scales used for each variable was shown earlier in Figures 6-12. For the dichotomous questions, no printed cards were designed. The questions with similar scales were presented together to avoid confusion and increase the level of comprehension.

First, a respondent was presented with questions about the cultural values. This group of questions was structured as a one-line question, not a sentence, and designed to facilitate understanding. The questions on cultural values were presented in a random way. Variables measuring the same theoretical construct were presented separately from one another. This was done to avoid a "pattern problem" which is known to bias responses when the participant is aligning answers with answers that were previously given in the same instrument.

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[17] - The special methodological items include the social desirability scale and items identifying each interviewer. For details please see a section 3.2 of this chapter

The second group of questions presented during the interview was the items measuring deal fairness. These questions were complex and required full concentration from the respondents. They were presented as soon as the respondent was prepared for the interview, but before reaching a state of fatigue. Each question had a two-fold statement related to the adversarial and inquisitorial models. To avoid "pattern bias" in this situation, some questions were presented the statement about adversarial model as the first option, and some presented as a second choice.

The third group of questions presented was related to the fairness of the actual criminal procedure in Russia. These questions have the same measurement scale and for the respondent clarity.

The last group of questions presented was the control variables and special items. These were socio-economic items and questions about experience with the criminal justice system. These questions were easy to comprehend and recommended to be given last when the respondents' attention was diverted after answering the previous difficult items.

Because most of the information in the instrument was presented orally, no pre-testing was done regarding the design and layout of the questions themselves. The questions for the interviewer were printed on plain white paper with a simple font and design. The interviewers were given a simple paper-based table to record the respondent's answers. The questions were numbered in the table and the answers were recorded correspondingly.

The content validity of the instrument was examined through a series of consultations with subject matter experts of the criminal procedure. The construct

validity for all latent variables was determined on the basis of factor loadings using the pilot studies' results. For the all latent variables including "collective values", "individualistic values", "ideal fairness of inquisitorial procedural model", "ideal fairness of adversarial procedural model", and the fairness of actual criminal model" the internal reliability was measured through the set of Cronbach Alfa coefficients and Rho estimates.

3.2. Special Survey Items

This measurement instrument had two groups of special survey items that were included only for methodological reasons, and not to measure the variables of research: the social desirability scale and the inter-class reliability item. Both were included to address potential problems with internal validity.

The social desirability is a known tendency of individuals to provide answers in accordance with the social expectations and norms regardless of their personal opinion. It represents a large concern of this measurement instrument because almost all questions in the survey are asked in a direct manner. To control for this bias, a social desirability scale developed by Crowne and Marlowe (1980) was included in the instrument. The social desirability scale was developed to identify socially desirable answers as possible outliers. The questions from the scale were asking about the features that are normal for every person, but which can be perceived negatively by the society. People who tend to give socially desirable answers usually have tendency to hide such features due to the social pressure.

The original scale by Crowne and Marlowe consisted of 20 items. However, the inclusion of all 20 items in this survey instrument could unnecessarily complicate the interview process and increase its length. To avoid the problem, there of the most widely used items from the social desirability scale were selected and included for the screening purposes. These items are summarized in the following Table 14.

Table 14. Measurement strategy for the social desirability items

Type of negative psychological trait	Item in the survey
Absence of universal helpfulness	I never hesitate to go out of my way to help someone in trouble
Absence of universal sympathy	I have never intensively dislike anyone
Public display of negative emotions due to circumstances	I sometimes feel resentful when I don't get my way

Respondents were asked to agree or disagree with the statement to the social desirability items. According to the methodology proposed by Crowne and Marlowe (1980), if a respondent provides positive answers for the first two items, and a negative answer for the third item, there is a high probability that the respondent is giving socially desirable answers for the entire survey. To avoid this problem, the respondents with these response items were excluded from the sample.

The second methodological item included in the survey is the information about the interviewer. Because the measurement instrument was presented orally by 122 different interviewers, there is a possibility of a bias due to the personality of specific interviewer. To control for such bias, each interviewer was given an ID that was included in the recorded answer sheets. In this way the bias from a particular interviewer can be detected later by measuring the inter-class reliability of the instrument.

3.3. Instrument Translation

The original survey instrument for this study was developed in English and the survey respondents were only Russian speakers. To avoid the linguistic bias due to the process of translation, this study used a double-blind translation method. First, the English-language version of the instrument had been translated into Russian by an independent interpreter. Then, the newly received Russian version was translated back to the English language by a different interpreter. After that, the original English version and the new English version were compared for possible discrepancies.

Comparison of two versions revealed at least two major discrepancies in the survey items. The translation of the terms "daring" and "curiosity" both received a negative connotation when being translated into Russian. A consultation with a Russian linguist clarified additional synonymous words that were used instead of the original translation. A second double-blind translation, performed by two different interpreters, revealed no serious discrepancies in the English versions of the instrument. This translation was used further in pre-testing and data collection.

3.4. Pre-Testing

3.4.1. Cognitive Interviews

3.4.1.1. Methodology

The measurement instrument consisted of a number of heterogeneous judgments about the values and fairness. It was important to understand the in-depth mechanism of respondents' comprehension and answer retrieval in order to improve the quality of

the instrument. For that purpose, series of cognitive interviews with the incorporated elements of behavioral coding (temporal indicators and concurrent protocols) were assumed to be the best way of conducting the pre-testing of the instrument. Cognitive interviews examine the respondent's understanding of the instrument by observing the respondent's behavior when answering to the instrument items.

A non-random sample of eleven Russian-speaking individuals was selected from a pool of international students listed in the Eastern European Linkage Institute (COHPA, UCF). Students were recruited and voluntary consent was received. The sample consisted of four male and seven female students from UCF ranging in age from 21 to 30 years old. Three out of eleven of the students that were interviewed were speaking Russian as a second language. Interviews were conducted between November 11th and the 25th in 2004.

The two major methods of conducting cognitive interviews are think-aloud and directed probing. The literature on cognitive interviews (Drennan, 2003; Jobe & Mingay, 1989; Willis, 1994; Collins, 2003; Miller, 2003) emphasizes that there is no ideal method of conducting cognitive interview since both existing techniques have their own drawbacks. The think-aloud method allows person to speak freely without influencing the thought process and provides a lot of irrelevant information. The directed probing provides an interviewer with more concentrated information, but influences the way that the respondent is thinking. To avoid the problems associated with both methods the cognitive sample interviews the sample was divided into two groups. One group (five individuals) was presented with the think-aloud option only,

and another group answered the series of probes. The probes were traditionally classified as following:

- ✓ General probe – to understand the mechanism of answering the question
- ✓ Comprehension probe – to see how a question, phrase from the question' or an instruction to the questions was understood.
- ✓ Confidence probe – to understand how confident the respondent is about the answer
- ✓ Scale probe – to see how a created scale is fitted for the answer of a particular respondent
- ✓ Social desirability probe – to understand the level of the item's socially desirability.

In the second group every question was accompanied by the comprehension and general probe. Confidence probes were utilized in some particular questions and in case of every prompt or very slow answer. Scale probes were applied only to the new type of scales and question formats. Social desirability probes were only utilized with the questions targeted to identify socially desirable answers.

Two indicators were used to analyze the temporal information in the interview protocols. These were the response latency for individual questions and response time per interview. Both temporal factors were used for the second group of interviews because the think-aloud technique doesn't permit to measure the temporal structure of an actual response.

The response latency is considered a useful temporal indicator that can provide a researcher with a signal about a problematic question. The response latency is

understood as a period of time from the point of reading or listening to the question up to the response time. The time latency shows the time that a respondent spends understanding and formulating the answer to the question. For the purpose of this study, the response latency was calculated for each type of the questions and statistical outliers were identified.

The response time was calculated as a period of time spent by a respondent when answering a question excluding the time for reading or listening to the question. The response time indicates the time when respondents formulate the answer to the question and the respond. An average time per type of question and for the whole questionnaire was calculated.

Based on the methodology provided by Bassili and Scott (1996) for the time latency statistics, the significant increases of the time latency were also estimated. The increase in the time latency can be considered significant, if the time period from reading the question to beginning the response increases by 30%, 50% or 100% compare to the average time for all respondents calculated for this question. These increases may be considered indicators of small, mild and serious problems in the comprehension or answer retrieval.

According to the methodology developed by Bolton (1993) the concurrent verbal and non-verbal protocols (phrases, words and, pauses) were also identified and coded while the respondents were formatting their answers. This procedure was done to complement the information on possible cognitive problems with the instrument. The following coding themes were utilized for the main verbal concurrent protocols: request to repeat the questions or instruction, forgetting the question or instruction,

confidence issues, problems with retrieving or formatting the answer ("I can not formulate an answer for this question"), and issues with knowledge ("don't know"). In addition to that, three themes for classifying the main non-verbal protocols for the data coding were employed: questions (the respondent asked a question), broken response utterance, and unintelligible response utterance.

3.4.1.2. Results

For the purposes of pre-testing the instrument was dived into three parts that are items on cultural values, idea fairness, and fairness of the actual law. The items were numbered sequentially. Section 1 contained items 1 through 29 measuring cultural values. Section 2 contained items 30 to 34 measuring ideal fairness. Section 3 contained items 35 to 39 measuring fairness of the actual law. The items for control variables and the social desirability scale were not tested by the cognitive interviews due to time constraints.

Several lexical problems with questions related to cultural values in the cognitive interviews were discovered. The first and most frequent problem was related to the multiple meanings that respondents assigned to capitalized words that were describing the meaning of the values. Among the most problematic words were the following: MODERATE; CAPABLE, AND INFLUENTIAL. Even though additional words were used to clarify the meaning of capitalized words, the respondents routinely reported completely different semantics for these words. For instance, the verbal label INFLUENTAL was interpreted as someone who has influential personal or political connections and thus is "above the law." This negative connotation was

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far from the positive meaning of qualified and skillful employee that was assumed in the study for this label. In these situations, because the main labels played a tremendous validity role in the instrument, a list of synonyms for the problematic labels had to be generated from the existing dictionary of synonymous. Words from the list had to be tested for equality of meanings through a pilot study and the most consistent meanings of the words replaced the ambiguous verbal labels.

Questions on cultural values were constructed from the capitalized word indicating the main meaning of the value and additional verbal clues (words that were placed in parenthesis to clarify the meaning of the main word). The interviews revealed a different pattern of comprehension logic among the respondents related to these two parts. Some respondents were evaluating both main and additional words when answering the question. The other respondents refer to the additional words only in cases of confusion. The logic of the instrument developers was to use additional words to clarify the meaning of the main verbal clues, but not supersede it. In this case it was reasonable to include additional instructions for a respondent when answering such questions. The instruction referred the respondent to the words in the parenthesis only if the meaning of the main word was not clear.

Pre-testing techniques for questions on cultural values revealed that respondents in general had no problems with the 9-point mixed-word scale. Respondents accurately indicated the differences between the verbally described and non-described scaled items (e.g. scale items 7, 6 and 5, 4) and had no selection problems. A few respondents, who also revealed a low confidence in their answers, preferred to have a

6-point scale rather then a 9-point scale. As a result, recommendations were made to make no changes to the scale for questions on cultural values.

Questions related to the criminal procedure showed the most serious problems with statement comprehension. The time of latency increased two times for every question and the concurrent verbal protocols indicated serious confusion about question comprehension. The respondents exhibited considerable confusion, when encountered with the special criminal procedure terminology. However, when probed, respondents revealed the ability to understand the meaning of the statements and distinguish between the fair and unfair ones. From the probes it was evident that some simple explanation of the scenario as well as the exclusion of any special terms was needed. Based on these findings, the questions about ideal fairness and of the actual law were restructured in the following way. First, a short simple introductory statement was made explaining the scenario then the question was asked whether the legal statement presented in the introduction was fair.

The example of the question revision is presented below:

Original question:

Thinking about a FAIR criminal justice system in your opinion what should be the purpose of a criminal trial?

1) The purpose of a criminal trial should be to impose punishments on criminals based on the established truth about the crime

2) The purpose of a criminal trial should be to negotiate possible punishment based on the available evidence from the prosecution and defense sides

Revised question:

To impose punishment on the criminals, a court needs to establish the facts of the crime. Modern law gives us two main ways to do it. Thinking about IDEAL criminal justice system, in your opinion, assess both ways of establishing facts of the crime. First way: The judge is the person who establishes the facts in the trial. He or she does it on the basis of the evidence that is provided by the prosecutor and defense counsel.

Second way: The prosecutor and defense counsels bring their evidence to the court and decide together what the facts of the case are. The judge supervises them in this process.

Cognitive interviews also revealed the need to remove all legal terms and jargons from the questions to make the comprehension of the instrument easier. Such terms as "parties", "remand", "suppressing evidence", "presiding judge" and others were removed or replaced by more general and simple terms such as "defense counsel", "prosecutor" "judge", and "send case back for the new investigation".

Pre-survey interviews provided a few indications of the scaled item problems used for the questions about ideal fairness and of the actual law. No respondents indicated preferences for the 5-point scale and few respondents acknowledged the need for a longer scale for these question. No change in the scale was performed based on results of the cognitive interview.

Results of the temporal indicators statistics are presented in Table 15 (page 115), Tables 16 and 17 (page 116). Table 15 shows the average response latency for six interviews in the second group of respondents. Table 15 also provides the information

about the increases of the response latency for particular questions compared to the average for each section. From this data, it may be concluded that some problems of comprehension occurred for questions 4, 11, 13, 16, 17, and 21 (cultural values items). The most serious comprehension issues were expected for the questions about ideal fairness and fairness of the actual law (questions 30 to 39).

Table 15. Response latency and increase in response time

# of interview	Average minutes per question for each section			Increase (particular questions)		
	Sec 1	Sec 2	Sec 3	30%	50%	100%
1	1.12	0.56	2.06	Q11	-	Q 30
2	3.21	3.07	5.59	Q4,Q13, Q17	Q36, Q34,Q35	Q31,Q32, Q 39
3	1.56	1.02	2.13	Q13	Q31,Q34	-
4	1.34	1.20	1.57	Q21	-	-
5	2.05	2.16	2.45	-	Q32,Q30	Q33,Q35
6	1.11	1.19	1.55	Q33	Q21,Q25	-

Results on the coding of concurrent protocols are presented in Tables 15 and 16. Results on the concurrent protocols are consistent with the data received from probing and temporal indicators. From section 1, only questions 8, 11, and 21 revealed some issues in comprehension and confidence. Much larger problems were disclosed in the questions from sections 2 and 3. All questions of section 2 on the variables about ideal fairness (Qs 29-34) caused numerous problems for respondents on both the meaning and task performance. One question from section 3 on the fairness of the actual law (Q 35) faced uncertainty in answers from respondents.

Table 16. Concurrent verbal protocols

# of interview	Repetition	forget	confidence	can't say	don't know
1	Q21, Q32,	-	Q31, Q33,Q34	Q11	Q31,Q32
2	Q34,Q35	Q 32	Q14, Q16		Q34,Q35
3	-	-	Q34	Q31	Q33
4	-	-	Q33	-	Q21,
5	-	-	Q33, Q21,Q34	-	-
6	Q31	Q35	Q21	-	Q 8

Table 17. Concurrent non-verbal protocoles

# of interview	Questions	Broken utterances	Unintelligible utterances
1	Q21,Q22	Q11	-
2	Q24	Q22	Q4
3	Q21,Q13	Q23	-
4	-	-	-
5	Q21,22,24	-	Q13
6	-	Q21,Q22	-

3.4.2. First Pilot Study

The first pilot study was done to test the content, concurrent, and construct validity and reliability of the instrument. The new semantic labels, suggested as a result of the cognitive interviews for the cultural values items, were also tested.

The first pilot study was conducted July through August of 2005 using a sample of 130 students from Tomsk (N = 90) and Volgograd[18] (N = 40). Students were selected non-randomly because results of this pilot study were not intended to be generalizable. The data was collected using paper-based questionnaires and entered into the SPSS data files.

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[18] - Tomsk and Volgograd are two Russian cities located in Western Siberia and Southern Russia.

3.4.3. Second Pilot Study

The second pilot study was conducted in December of 2005 using a quota sampling from Tomsk and Volgograd residents (N = 370). The sample was non-randomly constructed and based on the quotas of age, gender, and the level of education. The information about quotas was taken from official statistics reports about the Russian population in 2004. The quotas used for the sample construction are presented in the Table 18. The quota sample was drawn to mimic the expected sample for the main study, and not intended to be generalizable due to the non-random nature of sampling.

The quota sampling in the second pilot study resulted in an increase of the variance among variables and provided additional information about the measurement issues. The second pilot study tested the main instrument developed in the course of the cognitive interviews and additional indicators included in the instrument due to the previous problems in the first pilot study. The findings from the second pilot provided a foundation for the final modification of the instrument prior to the main data collection process.

Table 18. Quotas of Russian population in 2004 according to the official report by the Department of Statistics, Russian Federation

Age group	Percentage of people in the group	Male to female ratio	Percentage of people with college education	Other levels of education
15-19	11	51/49	0	100
20-24	10	51/49	12	78
25-29	10	50/50	20	80
30-34	8	50/50	20	80
35-39	8	49/51	20	80
40-44	10	48/52	20	80
45-49	9	47/53	20	80
50-54	8	46/54	20	80
55-59	6	44/56	22	78
60-64	5	40/60	16	84
65-69	6	38/62	14	86
70 and higher	9	30/70	8	92

4. Sampling and Study Population

4.1. Subjects of Study Population

The research population for this study consisted of all native speaking Russian individuals over 18 years, and who predominantly (see below) legally reside on the territory of Russian Federation. The unit of analysis was the individual respondent.

Native speaking Russian residents of Russia referred to members of ethnic groups officially residing in the Russian Federation after the dissolution of USSR in 1991[19]. Temporary visitors of Russia, even if they spoke the Russian language as one of the native languages, were not included in the research population. Also illegal aliens, who reside in Russia without official registration, were not included in the research population. "Predominantly" was used as legally defined in the Tax Code of Russian

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[19] -this includes Russians and 47 other ethnic groups, territories of whom were officially included in the "Russian Federation" as of 1991. Ethnic groups that were part of Russia prior to 1991 and terminated their memberships in Russian Federation on 1991 were no longer considered members of the research population

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Federation, article 265: a person who cumulatively resides on the territory of Russian Federation not less then 260 days per one calendar year. The research subjects had to reach their 18th birthday at the time of the interview to be considered a member of the research population. The screening questions were used in the beginning of each interview to select the appropriate research subjects from the pool of potential candidates.

4.2. Sample Size

The sample size used for this study is equal to 1600 individuals. The sample size was estimated using a 95% confidence level, 5% sampling error, a medium size effect, 0.8 statistical power, and a known study population size of 142,800.00 as reported in the 2006 Russian Official Census data (Sproull, 1995). The choice of statistical analysis method (structural equation modeling) and the total number of variables (forty-four) were also taken in to account. The literature suggested the use of at least ten cases per parameter to ensure a sufficient level of statistical power in the SEM research (Bentler, 2004). Holster's Critical N (CN) is also employed to evaluate the adequacy of the sample size for the structural model used (Maruyama, 1998).

4.3. Sampling Methodology

For the purposes of this study a random stratified cluster multistage sampling method was used. This sampling technique was employed to produce a representative sample of the entire adult Russian population.

In the first stage of sampling, clusters of regions of the Russian Federation were being randomly selected. In 2007 Russia consisted of 89 regions including those that are called "republics, areas and federal cities." According to Russian federal law the 89 regions are geographically grouped into the larger fractions called "federal circuits." There are seven federal circuits in Russia. To do the sampling selection, regions within each of seven federal circuits were grouped into the clusters. These clusters were organized based on the following known characteristics of the regions:

1. climate conditions

2. the density of population

3. the proportion of urban to rural population

4. the average level of income per capita

5. the level of transportation infrastructure development

6. the type of industry developed in the region

All 89 regions were grouped into 44 relatively homogenous clusters within seven federal districts. From the list 22 clusters were randomly selected for the sampling. These clusters consisted of 50 regions of Russia.

In the second stage of sampling the cities, towns, and villages were selected from the clustered regions. The following strata were developed: super-large cities with population over one million people; large cities with population from 500 to 999 thousand people; middle-sized cities with populations between100 to 499 thousand people; towns and villages with a population of less than 100 thousand people. From each of 22 selected clusters at least one, and no more than four cities, towns, or villages were randomly selected for each of the five strata. The overall number of

cities, towns, or villages selected in this stage within each circuit, and within each stratum, was controlled for the known distribution of the population in the Russian Federation. The number of cities, towns, and villages selected from each circuit reflected the overall density of the population in each region. Highly populated circuits like the Central, Volga, and Southern[20] had high numbers of cities, towns, and villages sampled. The de-populated circuits such as North-Western and Far East circuits[21] received the smallest number of selected cities, towns, and villages. The strata "villages" and "small cities" received the largest number of selected items, because according to the Russian Census data, 26.6% and 26.2% of Russian population respectively was living in the villages and small cities. Only 11% and 9.8% of Russian population were living in the super-large and large cities respectively, therefore these strata received the smallest number of selected items. The number of villages was over-represented to exclude the possibility of under-sampling in a small geographic location (within one-two blocks).

Table 19. Number of cities, towns, and villages selected in each circuit

Circuits/Strata	Over 1 million of people	500-999 thousand of people	100-499 thousand of people	Less than 100 thousand of people	Villages	Total
Central	1	2	6	5	5	19
North-West	2	0	3	3	4	9
Volga	5	5	4	3	6	22
Southern	2	1	5	4	6	18
Ural	2	1	2	3	2	10
Siberian	2	2	4	3	4	15
Far East	0	2	2	2	2	8
Total	14	13	26	23	29	101

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[20] - over 90% of regions within these circuits have population over 3 million people according to Russian censor data for 2006

[21] - over 90% of regions within these circuits have population ranging from 500 thousand people to 1 million people according to Russian censor data for 2006

In the third stage of the sampling, the election districts were selected from the list of cities, towns, and villages. The election districts are official territorial divisions of Russia within particular city, towns, and villages that are being used to organize all local and federal elections. Each election district has an identification number and a known number of registered voters. The number of registered voters per election district usually ranges from 100 to 1000 people. The election districts were randomly selected with the probability proportionate to the number of registered voters. In each selected city, town, and village three election districts were sampled. In villages with less than three election districts, all available districts were included in the sampling. Thus, on the third stage, the sample consisted of 289 election circuits.

In the fourth stage of sampling, the household registered with each election district were selected. This selection was done by a simple random method where each household had an equal probability of being selected in the sample. Due to a possible non-response, the actual number of households selected was 25% higher then the sample size. The total number of selected household on this stage was 2000.

In the fifth stage of the sampling, the individual respondents were being selected within the household. The selection was done using the quota requirements contained in the task list for each participating interviewer. The quotas were constructed based on the age and gender parameters. The known age and gender distribution within each region was employed to create the quota task for each interviewer. The interviewer was not allowed to interview more than one person from each household, and was allowed to use no more than three households from one building.

4.4. Sampling Frame

Different sampling frames were used in each of the five stages of sampling selection. For the first stage of sampling the list of 89 regions in Russia listed in the Russian Constitution of 1993 was used. For the second stage of sampling, the official list of cities, towns, and villages within the region registered by the regional administration for 2006 was used. The data regarding the size of the population within each city, town, and village was taken from the 2006 Russian Census Data collected by Federal Agency of State Statistics of Russia (RAS, 2006). For the third sampling stage the official list of election districts registered within each city, town, and village by the Central Election Commission of Russia was used. In the fourth stage of sampling multiple sampling frames were used for each election district. In each district the official list of registered households was used. In the fifth stage of sampling the list of household members, who were currently considered registered voters with the election district, was used. This list was constructed by each interviewer after the particular households had been selected. The registered voters in Russia are citizens that are 18 years old at the time of registration with the election district.

5. Survey Administration and Data Collection
5.1. Instructions for the Interviewers

Because the data was collected by 120 personal interviews a special Instructions Manual was developed to ensure the uniformity and reliability of the measurement

process. The manual was distributed two weeks prior to the data collection process. It included the following major instructions.

All interviewers should begin their interview by screening the respondent for eligibility. Though all registered voters were supposed to be at least 18 years old, the interviewers were responsible to ensure the participant was at least 18 years old before the interview.

The interviewers were required to contact each household a minimum of three times, if necessary, to increase the chance of contacting the participant. The additional contact attempts were to be done at different times to increase the chances for a contact.

The interviewers were discouraged from telling the respondent about the option of "don't know" answers. If the respondent hesitated to answer the questions then the interviewer repeated the question in exactly the same way as it was written. If after the repetition the respondents still hesitated to provide an answer it was recorded as a "don't know."

The interviewers were not allowed to give any additional explanation or interpretation of the question other than re-reading the question itself. Any questions from the respondents had to be addressed in this way.

The answer sheet had always remained in possession of the interviewer. At no point could the interviewer allow the respondent to record their answers on the response sheet. All questions were to be read by interviewer and no questions could be read directly by the respondent.

All items of the instrument should be answered or marked as "don't know." If one or more answers were left blank the interview was considered invalid and should be re-done with a different respondent.

5.2. Data Collection Procedures

Data was collected via personal interviews conducted from July 15th to August 1st of 2006. There were 120 interviewers and each one was responsible for 13 or 14 interviews.

Data was entered manually onto the paper answer-sheets during the field work. The answer sheets were sent to Moscow where the data was entered in a SPSS data file. Auditing for data entry errors was done for 15% of the data. The data collection validity process was performed as well. Validity was ensured through a random audit of the individual interviewers, validation of the strata and quota proportions of the sample, and reports by the interviewers about the data collection process.

The random audit of individual interviewers was done by re-visiting from 20 to 50% of all respondents interviewed. The data received was also validated against the known parameters of strata and quotas. This includes known the proportion of gender, age and population density in the urban and rural areas.

5.3. Human Participants' Protection

The research instrument, including the Russian translation of the questionnaire used, was submitted to the Institutional Review Board and approved. The IRB approval is available in Appendix A.

All interviews were anonymous and no personal identifiable information was collected during the interview. Each interviewer was given a coded identification number. The verbal consent script (approved by the Institutional Review Board at the University of Central Florida) was read by the interviewer to each respondent. Respondents were also informed that they would receive no compensation and would not have opportunity to receive the results of this research project.

6. Statistical Method

6.1. Choice of Statistical Method and Software Used

Structural-equation modeling (SEM) was selected to test the research hypotheses and perform the quantitative analysis. The research propositions were evaluated by use of descriptive statistics of central tendency. The choice of statistical method was selected to properly to support the research design that incorporates latent variables (measured through various indicators) that are interrelated. Structural equation modeling is a multivariate technique appropriate for use in non-experimental samples impacted by a complex set of interrelated variables (Wan, 2002). The other choice of statistical method would be multivariate regressions requiring the reduction of indicators to simple indexes. This choice would have limitations. When reducing indicators into simple indexes, a significant amount of variability can be lost compared to the factor analysis method used in SEM.

The loss of variability can increase the probability of committing a Type I error. Another serious problem that can be avoided by using SEM regards the covariation independent variables in the study. In this study the variables "collective values" and

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"individualistic values" are proven to have inverse correlations in prior research. Such covariations can significantly limit the ability of multivariate regression analysis. In addition, SEM accounts for the measurement errors associated with each indicator and permits improving the research model by reducing the covariation errors, residuals, latent variables, and indicators. The multivariate regression analysis lacks all these tools.

To perform the structural equation modeling two software packages were used: AMOS 7 (SPSS, 2007) and EQS 6.1. While both packages performing SEM, they differ in the model fit parameters and methods of calculating the covariance and variance matrices. The results of analysis performed by two different packages were compared to confirm and ensure the validity of results.

6.2. Standards of Data Analysis

The data analysis was performed using conventional standards of statistical analysis for SEM presented in Table 20 on page 128 (Bentler, 2004; Byrne, 2001; Maruyama, 1998).

Table 20. Conventional standards of statistical analysis

Measure	Estimation approach	Range
Chi-square	Significance of discrepancies between observed and predicted relationships among measures	The discrepancy should be minimal
Likelihood ratio (CMIN/F)	Sample covariance sample is drawn from the population characterized by the hypothesized covariance matrix	< 4.0 suggests a good fit
Goodness of fit index (GFI)	The amount of variance and covariance suggested by the model	> 0.95 suggests good fit
Adjusted good of fitness (AGFI)	Goodness of fit taking into account the degrees of freedom	> 0.90 suggests good fit
Bentler-Bonett normed fit index (BBNFI)	Reflects the proportion by which the researcher's model improves fit compared to the null model	> 0.95 suggests good fit
Bentler Comparative Fit Index (CFI)	Compares the existing model fit with a null model which assumes the latent variables in the model are uncorrelated (the "independence model").	> 0.95 suggests good fit
Tucker Lewis Index (TLI)	Compares alternative models	> 0.90 suggests good fit
Normed Fit Index (NFI)	Compares best fitting and worst fitting (null) models	> 0.90 suggests good fit
Root Mean Square Error of Approximation (RMSEA)	Adequacy of model based on population discrepancy as related to degrees of freedom	< 0.05 suggests good fit
Probability (p)	Tests the null hypothesis that the RMSEA is ≤ 0.05	<0.05 suggests a close model fit
Hoelter's critical N (CN)	Evaluates the sample size to determine the largest sample, which is adequate to accept the hypothesis that the model is correct using Chi-square	> 200
Convergence criterion	Evaluates absolute differences of parameter estimates between two iterations that allow model to converge	< 0.001
Mardia's coefficient	Estimates the multivariate kurtosis of population	-3 to 3 suggests multivariate normality of population
Cronbach Alpha coefficient	Measures how well a set of indicators measures a single uni-dimensional latent construct	>.700 indicates good internal reliability

7. Analytical Model

This section represents a brief description of the relationships among the study variables and provides a visual depiction for each measurement and structural model that was employed in the course of SEM.

7.1. Measurement Model for Cultural Values Variables

According to the study's research hypotheses, exogenous latent variables of this study are the latent constructs named "individualistic values" and "collective values." Using the theory of motivational values by Schwartz (1992), the concepts of "individualistic values" and "collective values" were measured through a set of four and three variables respectively. The latent variable "collective values" was measured through the variables "tradition", "benevolence" and "conformity." The latent variable "individualistic values" was measured by the variables "stimulation", "self-orientation", "achievement", and "power." Each of these seven variables consisted of a set of indicators. For details on the measurement approach for these variables please see the Section 2.1.2 of this chapter.

In recent work by Schwartz (Schwartz & Boehnke, 2004) confirmatory factor analysis is suggested as the most adequate way to measure the motivational values concept. For the purpose of this research, the following second-order confirmatory factor analysis model was developed to measure the motivational values concept. The latent second-order constructs "individualistic values" and "collective values" were measured through the first-order latent constructs "stimulation", "self-orientation",

"achievement", "power", "tradition", "conformity" and "benevolence." The first-order constructs were measured through a set of 29 observable indicators represented by variables x1.1 through x.7.5. The second-order latent exogenous variables were expected to covary. According to the theoretical foundation of this research, the variable "collective values" was expected to have strong negative (inverse) covariation with the variable "individualistic values." The following Figure 13 on page 131 represents the measurement model for constructs "individualistic values" and "collective values."
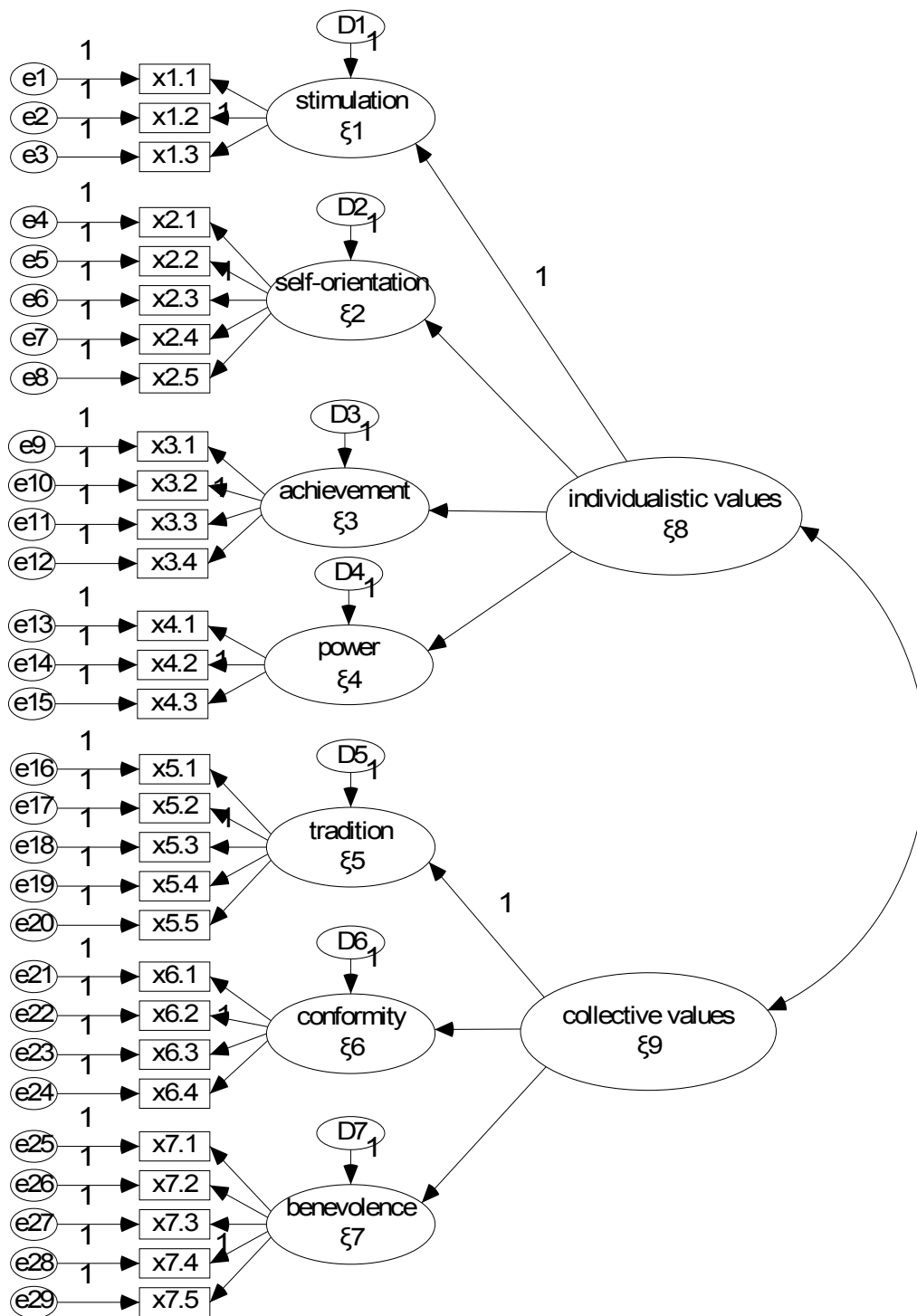
Figure 13. Measurement model for latent variables "collective values" and "individualistic values"

7.2. Measurement Model for Ideal Criminal Procedural Models

Based on the research hypotheses in this study, the two endogenous latent variables related to the notion of the ideal criminal procedural model, are called "ideal fairness of adversarial procedural model" and "ideal fairness of inquisitorial procedural model." Each of the two variables was measured as a first-order model through a set of five indicators. The indicators represented in each case the elements of the procedural models developed on the basis of Damaska's theory of procedure (1986). The indicators for the latent construct "the ideal of inquisitorial procedural model" are labeled Y 1.1 through Y 1.5. The indicators for the latent construct "the ideal fairness of adversarial procedural model" are labeled as Y2.1 through Y2.5. The operational definitions and measurement strategy for all ten indicators are previously presented in the Section 2.2.1.2 of this chapter. The following Figure 14 on page 133 represents the measurement model for constructs "ideal fairness of inquisitorial model" and "ideal fairness of adversarial model."
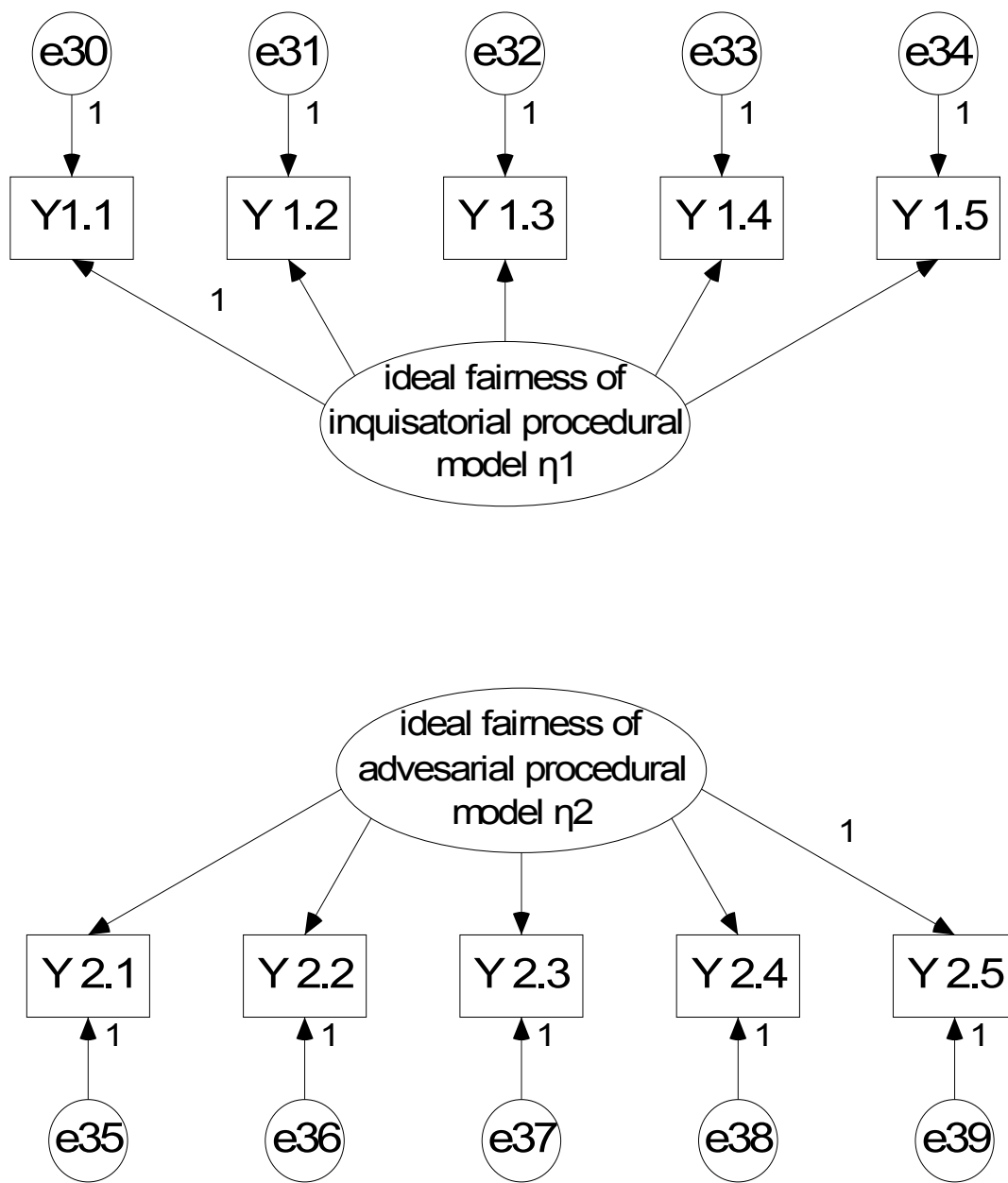
Figure 14. Measurement model for the latent variables "ideal fairness of inquisitorial model" and "ideal fairness of adversarial model"

7.3. Measurement Model for Fairness of Actual Criminal Procedure

The study's research hypotheses posit the endogenous latent variable related to the fairness of the existing Russian law is "fairness of actual criminal procedure." It

was also being measured as the first-order model with five indicators. The indicators represent elements of the actual criminal procedure, based on Damaska's theory of procedural model (1986). The indicators are labeled Y6 to Y10. The operational definitions and measurement strategy for all five indicators are previously presented in this chapter. The following Figure 15 represents the measurement model for latent construct "fairness of actual criminal procedure".
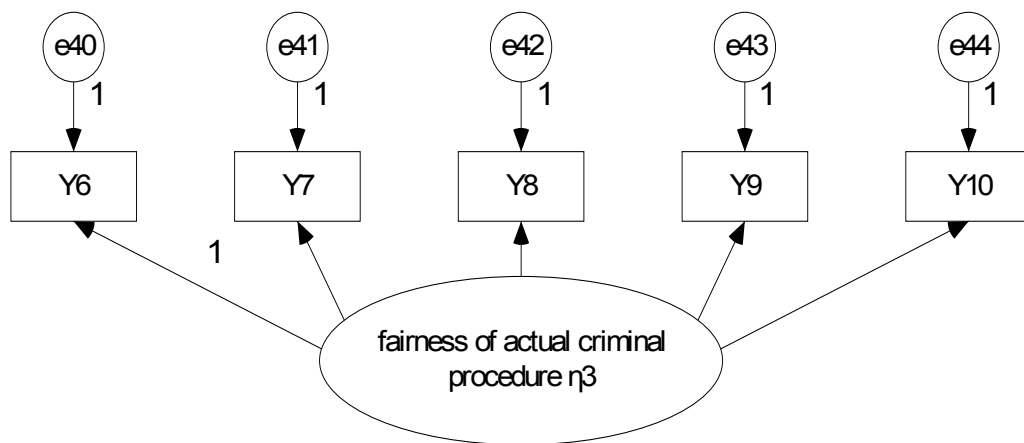
Figure 15. Measurement model for the latent variable "fairness of actual criminal procedure"

7.4. Structural Models

Structural models for this study represent the four major hypothesized relations among latent exogenous and endogenous variables measured through the models presented above.

7.4.1. Structural Model for Hypothesis I

The first research hypothesis of this study is: "The adversarial procedural model is an ideal of fairness for people who hold predominantly individualistic values." It

asserts that the latent exogenous variable "individualistic values" will have a positive

relationship with the latent endogenous variable "ideal fairness of adversarial model."

Figure 16 shown on the following page represents the SEM structural model for this
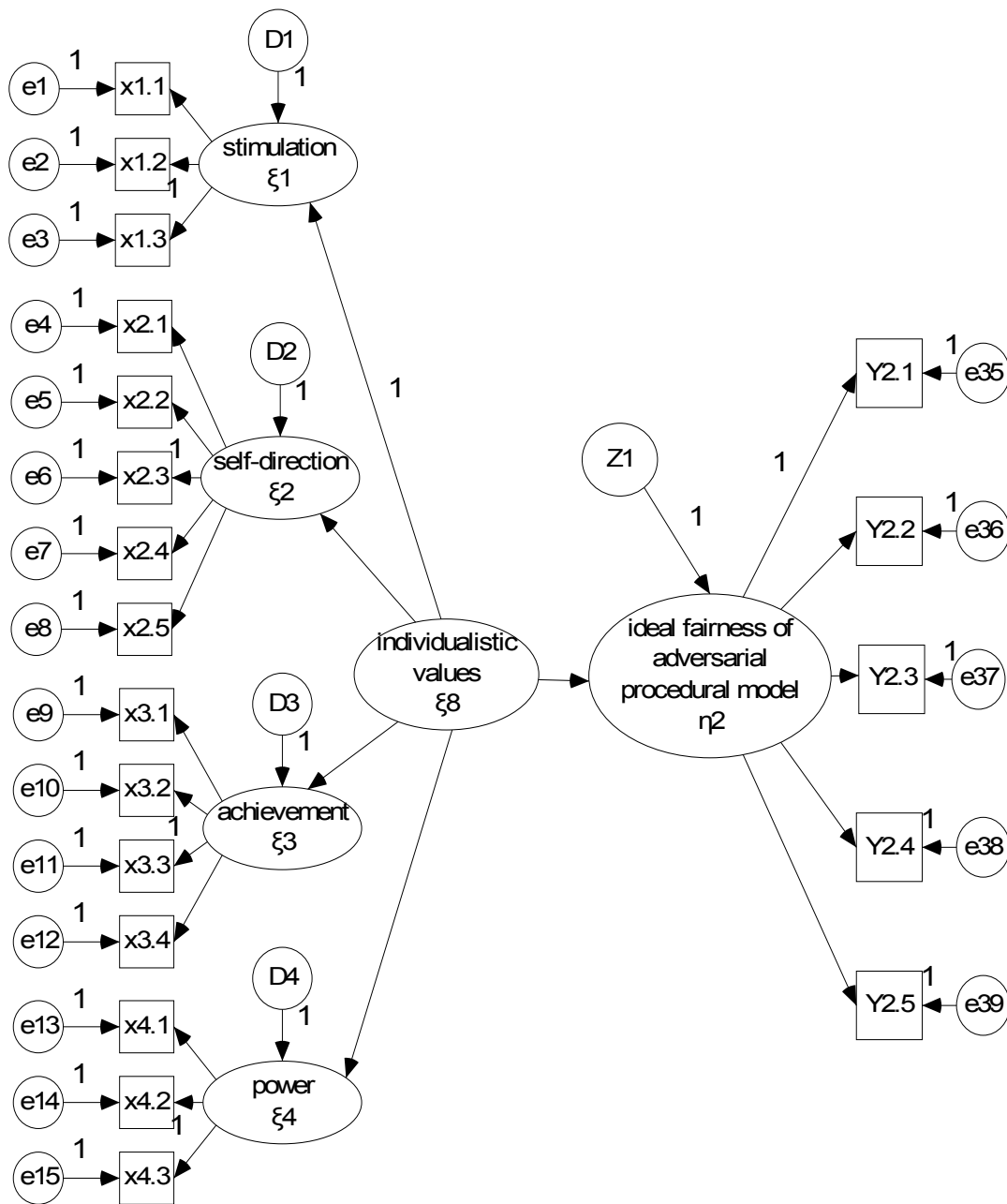
hypothesis.

Figure 16. Structural model for Hypothesis I

7.4.2. Structural Model for Hypothesis II

The second research hypothesis for this study is: "The inquisitorial procedural model is an ideal of fairness for people who hold predominantly collective values." It

asserts that the latent exogenous variable "collective values" has positive relationships with the latent endogenous variable "ideal fairness of adversarial model." Figure 17, below, represents the SEM structural model for this hypothesis.
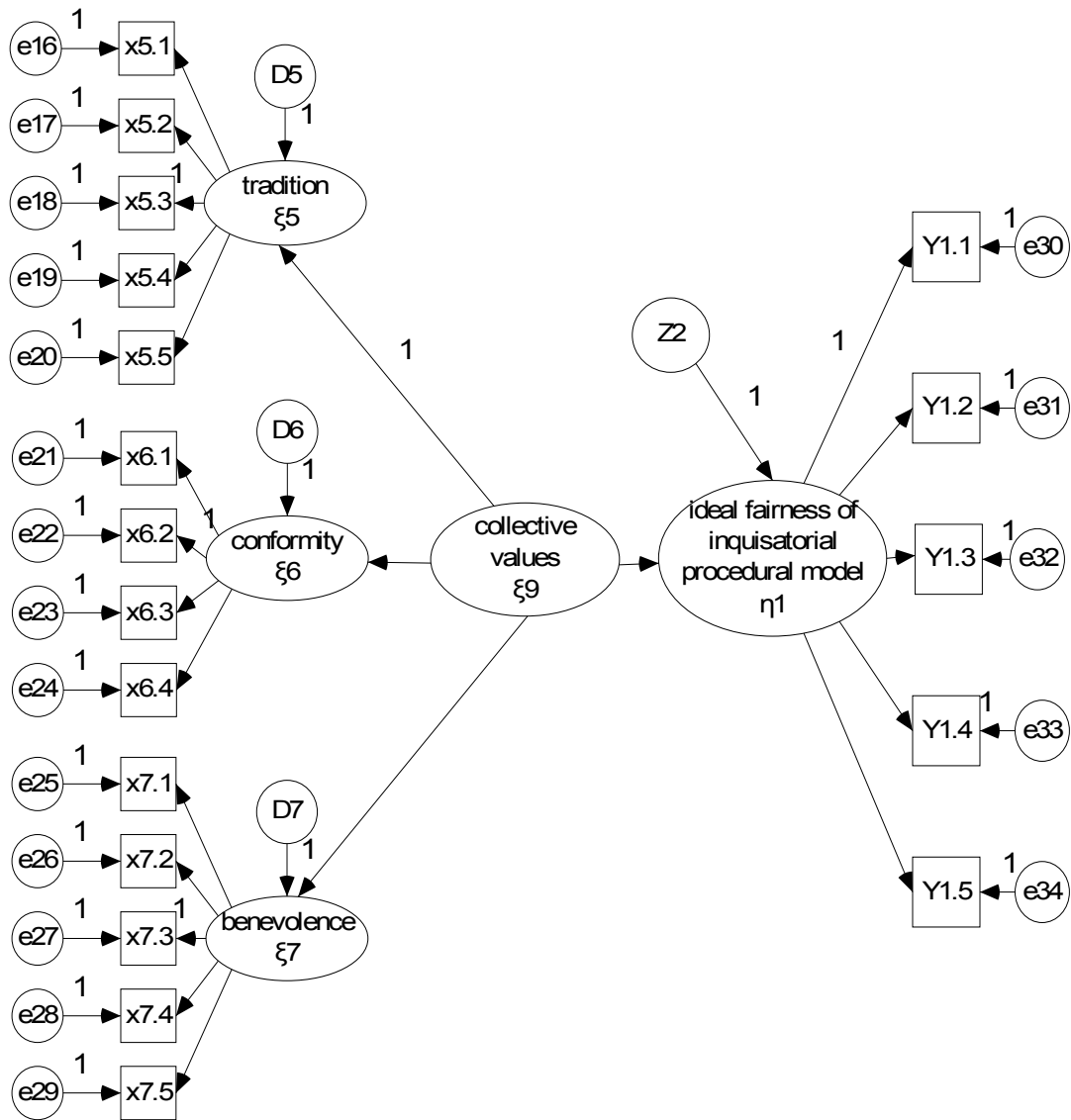
Figure 17. Structural model for Hypothesis II

7.4.3. Structural Model for Hypothesis III

The study's third hypothesis is: "People who view the adversarial procedural model as an ideal of fairness find the new Russian CPC of 2001 fair." It asserts that the latent endogenous variable "ideal fairness of adversarial model" has positive relations with the latent endogenous variable "fairness of actual criminal procedure." In Figure 18 below, the SEM structural model for this hypothesis is shown.
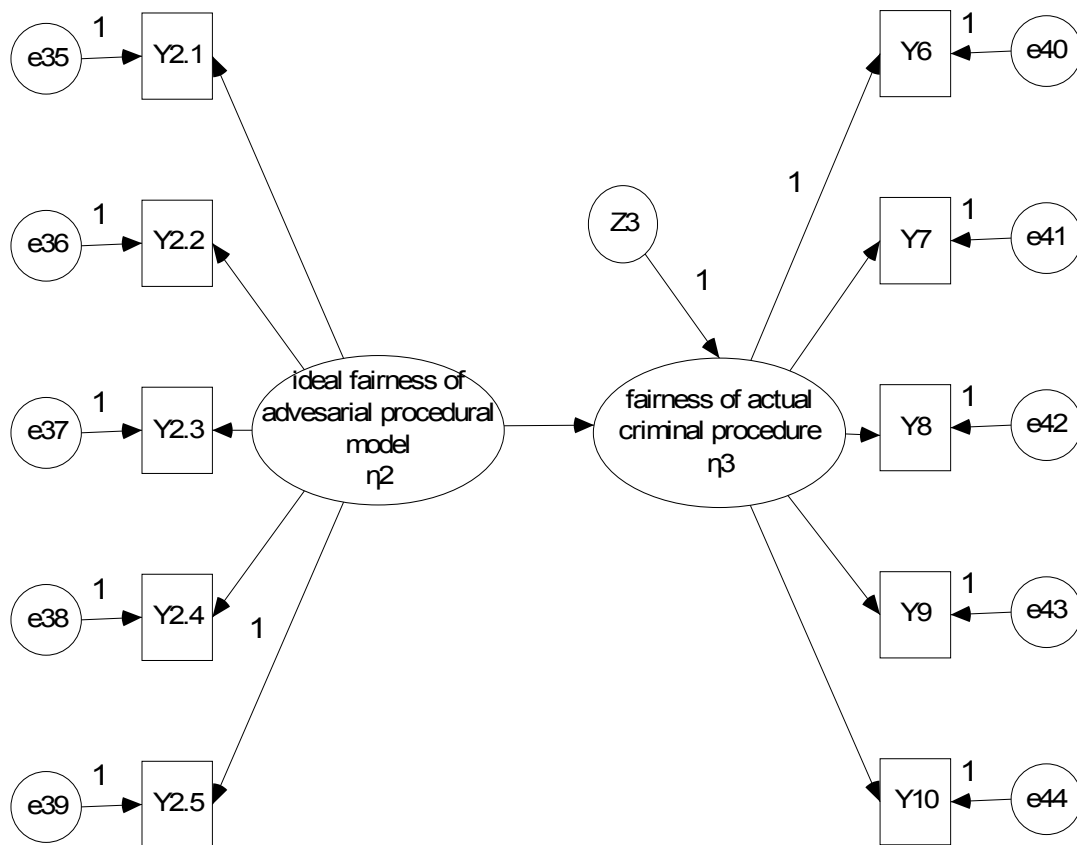
Figure 18. Structural model for Hypothesis III

7.4.4. Structural Model for Hypothesis IV

The fourth and final hypothesis for this study is: "People who view the inquisitorial procedural model as an ideal of fairness find the new Russian CPC of

2001 unfair." It asserts that the latent endogenous variable "ideal fairness of inquisitorial model" has a negative relationship with the latent endogenous variable "fairness of actual criminal procedure." Figure 19, shown below, represents the SEM structural model for this hypothesis.
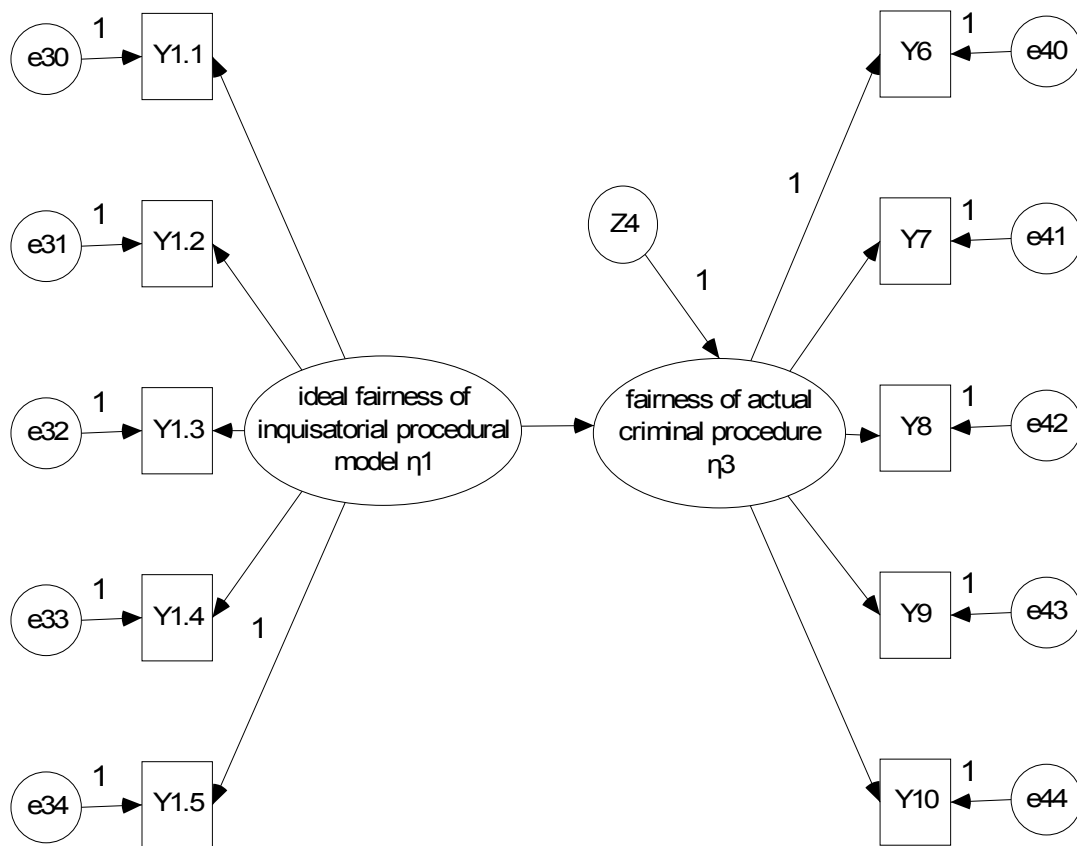
Figure 19. Structural model for Hypothesis IV

IV. ANALYSIS AND FINDINGS

1. Preliminary Analysis

1.1. Sample Characteristics

This section provides comparative statistics on the study sample and research population. The comparison indicates how accurate the sampling selection was, and how generalizable the results of this study are. The Russian Federation population parameters were taken from the official Census statistics conducted by the Russian State Statistical Agency. The official statistics was calculated for the adult population only (residents of Russia over 18 years old). The parameters of the study sample include the typical socio-economic characteristics: age, gender, educational level, household income, and place of residence. When available, the sample parameters were taken from the 2006 Census. The level of education data was only available for 2002 and place of residence was only available for 2005.

Table 21. Distribution of population's residence in Russia: study sample and official Census statistics

Place of residence	Sample frequency	Official statistics frequency
Urban	73.2%	73%
Rural	26.8%	27%

Table 22. Gender distribution in the Russian population: study sample and official Census statistics

Gender distribution	Sample frequency	Official statistics frequency
Male	45.3%	46.4%
Female	54.7%	53.6%

Table 23. Age distribution in the Russian population: study sample and official Census statistics

Age groups	Sample frequency	Official statistics frequency
18-24	14.6%	12.9%
25-34	18%	21.3%
35-44	19.3%	17.4%
45-59	25.4%	26.7%
60+	22%	21.7%

Table 24. Educational level of the Russian population: study sample and official Census statistics

Educational levels	Sample frequency	Official statistics frequency
University and higher	17.5%	16.1%
University 3 years	5%	3.1%
Special secondary	47.5%	56.2%
8th grade school	21%	15%
Incomplete school	9%	9.6%

Table 25. Household income in Russia: study sample and official Census statistics

Monthly income level	Sample frequency	Official statistics frequency
Under 2000 rub	3.2%	7.6%
2000-4000 rub	11.2%	9.4%
4001-6000 rub	22%	23.6%
6001-8000 rub	11.4%	14.9%
8001-12000 rub	19%	19.7
Over 12000 rub	24.9%	26.4

The analysis of results presented in Tables 21 through 25 revealed that the study sample and research population do not have serious discrepancies in the major socio-economic parameters. The differences between the sample and population parameters do not exceed 5% which indicates an acceptable level of the sample's representativeness. Larger differences in the education level categories of (8% for secondary education level, and 7% on 8th grade level) can be explained by the different time periods of data collection. It is possible to assume that the educational data from 2002 is no longer accurate in representing the distribution of the actual research population. In summary, this section shows that the study sample is

accurately representative of the research population. Therefore, the findings of this study can be generalized to the Russian Federation.

1.2. Univariate and Multivariate Normality

The assumption of multivariate normality is important when conducting SEM. The violation of multivariate normality can result in poor performance of the Chi-Square statistics used to evaluate the model fit (Bentler, 2004). While there are several ways to estimate the multivariate normality of a sample, the Mardia's normalized multivariate kurtosis is proven to be one of the most simple and reliable ways available from the EQS software package (Rencher, 1995). A separate SEM model was created for each research hypotheses and multivariate kurtosis was measured for each model. Mardia-based kappa for elliptical theory of kurtosis was also estimated.

Table 26. Multivariate normality estimates

Hypothesis	Criterion	Mardia's normalized multivariate kurtosis	Mardia-based kappa
Hypothesis I	$\geq$ -4.0 $\leq$ 4.0	286.0228	.9678
Hypothesis II	$\geq$ -4.0 $\leq$ 4.0	357.2245	1.2693
Hypothesis III	$\geq$ -4.0 $\leq$ 4.0	656.4916	4.2536
Hypothesis IV	$\geq$ -4.0 $\leq$ 4.0	654.7712	4.2425

The results presented in Table 26 indicate the data does not have multivariate normality. The values of Mardia's normalized multivariate kurtosis estimates were much higher than the accepted criterion. This suggests the data exhibits a strong positive kurtosis. The Maximum Likelihood (ML) method, used as a default for the computation of the latent variables coefficients in SEM requires an assumption of

multivariate normality (Byrne, 2001). When this assumption is violated, the estimates of Chi-Square are no longer reliable and the model fit statistics can no longer be trusted (Maruyama, 1998; Meijer, 1998).

In such situations the literature suggests to use a method that does not require an assumption of multivariate normality. Among such methods available in the software packages of AMOS and EQS are generally weighted least squares method, diagonally weighted least squares method, asymptotic distribution-free method, elliptical general least squares method, elliptical general least squares method, elliptical reweighed least square method, heterogeneous kurtosis general least square method, heterogeneous kurtosis general least squares method, and heterogeneous kurtosis reweighed least square method. With large samples (over 1000 observations) the asymptotic distribution-free method exhibits robust Chi-Square statistics in the case of serious multivariate kurtosis violations compared to the weighted least square and the diagonally weighted least squares methods (Meijer, 1998). This method is available in AMOS software package.

The EQS application provides families of elliptical and heterogeneous kurtosis methods to compensate for the non-normally distributed data. The elliptical methods of estimation can be used only for the data that have features of elliptically kurtosis. The elliptically kurtosis of data means that the bell-shaped distribution has heavier or lighter tails than the normal distribution curve. The Mardia-based kappa is used as an estimator of elliptical distribution (Bentler, 2004). Table 26 (page 142) shows that for hypotheses I and II, the data can be considered elliptically distributed, however for hypotheses III and IV, the Mardia-based kappa is slightly higher then allowed.

The elliptical theory also assumes the data is symmetrically distributed (no or little skewness) and that all variables have homogeneous kurtosis.

The results shown in Table 27 indicate that variables of this study have a different level and direction of kurtosis. This does not allow the use of the elliptical theory method for the latent variables computation of coefficients. Instead, the method of heterogeneous kurtosis (HK) estimations can be used in such a situation (Bentler, 2004). From two methods of HK available in the EQS software package, the reweighed least square method has been proven to mitigate for the influence of outliers which is important for the data set with a high multivariate non-normality (Bjorck, 1996). Therefore, from nine methods available for performing the SEM on non-normally distributed data, the following two were used in this study: the asymptotic free-distribution method (AFD) for analysis by AMOS software, and heterogeneous kurtosis reweighed least squares method (HKRLS) for analysis by EQS software.

Table 27. Univariate normality estimates

Variable label	Variable title	Skewness	Std. error of skewness	Kurtosis	Std. error of kurtosis
X1.1	*Exiting life*	*-.528*	*.061*	*-.986*	*.123*
X1.2	Daring	-.302	.061	-1.106	.123
X1.3	Varied life	-.439	.061	-.997	.123
X2.1	Freedom	-.801	.061	-.424	.123
X2.2	Creativity	-.519	.061	-.809	.123
X2.3	Independency	-.871	.061	-.355	.123
X2.4	Curiosity	-.716	.061	-.444	.123
X2.5	Choose their own life goals	-.518	.061	-.756	.123
X3.1	Successful	-.552	.061	-.853	.123
X3.2	Capable	-.874	.061	-.371	.123
X3.3	Ambitious	-.429	.061	-1.131	.123
X3.4	Influential	-.250	.061	-1.186	.123
X4.1	Social power	-.150	.061	-1.118	.123
X4.2	Authority	-.274	.061	-1.155	.123
X4.3	Wealth	-.564	.061	-.723	.123
X5.1	Humble	-.656	.061	-.272	.123
X5.2	Accepting life	-.615	.061	-.447	.123
X5.3	Devout	-.308	.061	-.941	.123
X5.4	Respect tradition/customs	-.984	.061	.390	.123
X5.5	Moderate	-.759	.061	.122	.123
X6.1	Politeness	-1.244	.061	1.091	.123
X6.2	Obedience	-1.002	.061	.458	.123
X6.3	Self-discipline	-.964	.061	.342	.123
X6.4	Honoring parents/elderly	-1.859	.061	3.196	.123
X7.1	Forgiving	-1.549	.061	2.049	.123
X7.2	Honest	-1.016	.061	.622	.123
X7.3	Helpful to the others	-1.194	.061	.962	.123
X7.4	Loyal	-1.477	.061	1.573	.123
X7.5	Responsible	-1.412	.061	1.691	.123
Y1.1	Fairness of inquisitorial criminal procedure goal	-.776	.061	-.338	.123
Y1.2	Fairness of inquisitorial criminal prosecution	.473	.061	-.908	.123
Y1.3	Fairness of judicial activity	-.538	.061	-.873	.123
Y1.4	Fairness of parties' passivity	.767	.061	-.832	.123
Y1.5	Fairness of high state regulation level	-.636	.061	-.677	.123
Y2.1	Fairness of adversarial criminal procedure goal	.702	.061	-.711	.123
Y2.2	Fairness of adversarial criminal prosecution	-.655	.061	-.641	.123
Y2.3	Fairness of judicial passivity	.713	.061	-.696	.123
Y2.4	Fairness of parties' activity	-.588	.061	-.777	.123
Y2.5	Fairness of low state regulation level	.792	.061	-.623	.123
Y6	Fairness of current criminal procedure goal	.825	.061	-.495	.123
Y7	Fairness of existing criminal prosecution	.620	.061	-.821	.123

Variable label	Variable title	Skewness	Std. error of skewness	Kurtosis	Std. error of kurtosis
Y8	Fairness of existing judicial activity	.428	.061	-1.182	.123
Y9	Fairness of parties' existing activity	.556	.061	-1.009	.123
Y10	Fairness existing state regulation level	.737	.061	-.704	.123

1.3. Social Desirability Results

To avoid the effect of social desirability, three items from the Crowne and Marlowe (1980) social desirability scale were included in the instrument. For details on this methodology please refer to chapter III, section 3.2. Cases that exhibit extreme levels of socially desirable answers were excluded to avoid data biases and potential outliers. These exclusion criteria were the following answer combinations: 9-1-9; 9-2-9; 9-1-8, 8-1-9. Social desirability used an agreement scale of 1 to 9. The answers coded as "1" refer to a complete disagreement, and answers coded as "9" refer to a complete agreement. One question on the scale was measuring the reverse social desirability feature. From the sample of 1600 observations, 12 cases where excluded on the basis of social desirability which led to the final sample of 1,588 cases.

1.4. Reliability Analysis

In this study three different scales were used: the cultural values scale, the ideal fairness of inquisitorial and adversarial criminal procedural models scale, and the fairness of the actual procedural model scale. For each of these scales the following reliability coefficients were estimated: Cronbach Alpha and Bentler's rho. Both

estimates reflect on the internal consistency of the scales. Bentler's rho is specifically based on the latent variable model that it measures (Bentler, 2004).

Table 28. Reliability estimates

Scale title	Criteria	Cronbach Alpha	Bentler's Rho
Cultural values	≥.750	.873	.900
Ideal fairness of models	≥.750	.700	.964
Actual fairness of models	≥.750	.948	.944

Table 28 reveals the results on the reliability estimates for all three scales. The overall findings suggest that all three scales have high internal reliability. The scale on the ideal of fairness showed smaller values of reliability on the generic Cronbach Alfa; however, the model-specific rho indicates a high value of reliability. The estimation of scale reliability shows that all three scales developed for this study are highly reliable and do not require additional modifications.

2. Descriptive Analysis

Descriptive statistic analysis was used examine the research assumptions related to the latent variables of cultural values, ideal fairness, and fairness of the actual model.

2.1. Cultural Values

The first research assumption of this study is: "The majority of Russian residents hold predominantly collective values." It is based on the previous studies of cultural values in Russia that consistently show that the majority of Russian population is collectively- oriented (Hofstede & Hofstede, 2005; Inglehart, 2003).

Table 29. Descriptive statistics for latent variables collective and individualistic values

Variable label	Variable title	Range	Sum	Mean	Std. error mean	Std. deviation
X1.1	Exiting life	8	8445	5.32	.061	2.445
X1.2	Daring	8	7918	4.99	.059	2.351
X1.3	Varied life	8	8336	5.25	.058	2.320
X2.1	Freedom	8	9174	5.78	.055	2.201
X2.2	Creativity	8	8435	5.31	.057	2.257
X2.3	Independency	8	9383	5.91	.055	2.196
X2.4	Curiosity	8	8961	5.64	.054	2.149
X2.5	Choose their own life goals	8	8436	5.31	.055	2.173
X3.1	Successful	8	8399	5.29	.057	2.267
X3.2	Capable	8	9262	5.83	.057	2.264
X3.3	Ambitious	8	8071	5.08	.062	2.480
X3.4	Influential	8	7272	4.58	.063	2.495
X4.1	Social power	8	7373	4.64	.059	2.356
X4.2	Authority	8	7260	4.57	.063	2.508
X4.3	Wealth	8	8782	5.53	.054	2.144
X5.1	Humble	8	9041	5.69	.050	1.973
X5.2	Accepting life	8	8814	5.55	.052	2.076
X5.3	Devout	8	7959	5.01	.057	2.255
X5.4	Respect tradition/customs	8	9646	6.07	.047	1.876
X5.5	Moderate	8	9274	5.84	.046	1.836
X6.1	Politeness	8	10232	6.44	.044	1.750
X6.2	Obedience	8	9726	6.12	.046	1.837
X6.3	Self-discipline	8	9720	6.12	.046	1.829
X6.4	Honoring parents/elderly	8	10913	6.87	.042	1.684
X7.1	Forgiving	8	10525	6.63	.044	1.770
X7.2	Honest	8	9860	6.21	.045	1.780
X7.3	Helpful to the others	8	9706	6.11	.047	1.862
X7.4	Loyal	8	10366	6.53	.047	1.864
X7.5	Responsible	8	10355	6.52	.043	1.719

Some explanation of Schwartz's scale is needed prior to the discussion of descriptive analysis. The scale of motivational values consists of 9 points ranging from 8 to 0. The categories of answers are distributed as following: 8-6 – values are very important; 5-3- values are somewhat important, 2-1 –values are not important; and 0 – values are contradicting the views of a respondent. The scale is asymmetrical

where only 3 categories of answers refereed to the negative assessment values. The other 6 provide positive answers for the values importance.

The asymmetrical scale was developed by Schwartz specifically to cope with the underlying problem of social desirability found by research on human values (1996). In his early studies Schwartz (1990) found that symmetrical scales are not reliable when measuring cultural values. Respondents tend to over-estimate the importance of values in their life (Rokeach, 1976). Because value has a positive connotation, only a few respondents can resist the social pressure of marking all the values as important (Abramson & Inglehart, 1995; Pomeroy, 2005). In his methodology, Schwartz recommends that only answers marked as "very important" should be considered an indication of strong cultural preferences (Schwartz, 1995). This analysis follows his recommendations.

Table 29 (page 148) shows that means for the indicators representing collective values (variables X5.1 through X7.5) are higher then the means for indicators representing the individualistic values (variables X1.1 through X4.3). The average mean for variables X1.1 through X4.3 was equal to 5.25, while the average mean for variables X5.1 through X7.5 was equal to 6.1. This suggests the data provided weak support for the first research assumption of this study. The difference between two means is not very large. The mean equal to 5.25 for variables X1.1 through X4.3 implies that an average Russian resident feels that individualistic values are somewhat important in his life. At the same time, the mean equal to 6.1 for variables X5.1 through X7.5 suggests that the average Russian resident feels that collective values are very important in his life.

Table 30. Frequency distribution for variables collective and individualistic values

Variable label	Variable title	Very important	Somewhat important	Not important	Contradict my views
X1.1	Exiting life	55.1%	27.9%	15.4%	1.6%
X1.2	Daring	46.7%	34.1%	18%	1.2%
X1.3	Varied life	51.6%	31.6%	16%	0.8%
X2.1	Freedom	63.4%	25.3%	10.4%	0.9%
X2.2	Creativity	52.5%	32.4%	13.9	1.1%
X2.3	Independency	65.1%	24.4%	9.6	0.8%
X2.4	Curiosity	58.9%	30.2%	9.9%	1%
X2.5	Choose their own life goals	52.2%	34.5%	12.7%	0.6%
X3.1	Successful	54.9	29.7%	15%	0.4%
X3.2	Capable	64.8%	19.4%	10.6%	1.3%
X3.3	Ambitious	51.6%	27.8%	19%	1.6
X3.4	Influential	42.5%	31.8%	20.6%	5.1%
X4.1	Social power	39.6%	37.6%	21.2%	1.6%
X4.2	Authority	42.4%	32.3%	19.4%	5.9%
X4.3	Wealth	56%	32.1%	11.4%	0.4%
X5.1	Humble	56.6%	35.6%	7.2%	0.4%
X5.2	Accepting life	55.4%	35%	8.7%	0.9%
X5.3	Devout	45.1%	38.8%	15%	1.1%
X5.4	Respect tradition/customs	68.3%	25.9	5.4%	0.4%
X5.5	Moderate	61.6%	33.3%	4.5%	0.6%
X6.1	Politeness	75.6	20.2%	4.1%	0.1%
X6.2	Obedience	69.5	24.9%	5.4%	0.2%
X6.3	Self-discipline	68.9%	26%	4.9%	0.2%
X6.4	Honoring parents/elderly	83.9%	12.7%	3%	0.4%
X7.1	Forgiving	80.1%	15.8%	3.5%	0.6%
X7.2	Honest	69.2%	26.2%	4.4%	0.2%
X7.3	Helpful to the others	70.6%	22.5%	6.3%	0.6%
X7.4	Loyal	78.4%	15.8%	5.6%	0.2%
X7.5	Responsible	78.1%	17.4	4.2%	0.3%

Table 30 also provides weak support for the first research assumption. The average for the "very important" response for variables X1.1 through X 4.3 (self-direction, power, stimulation, and achievement) was 53% and the "very important" answers ranged from 39.6% to 64.8%. In comparison, the "very important" answers for variables X5.1 through X 7.5 (tradition, benevolence and conformity) range from 45.1% to 83.9%. An average, 69% of the Russian residents found collective values

very important. The difference between the groups of "very important" answers for collective values and individualistic is 16%.

The proportion of answers on "contradicting my views" group also indicates a weak tendency toward collective values. The average number of Russian residents that have views that contradict individualistic values are higher then those who oppose collective values. For variables X1.1 through X4.1 measuring individualistic values, the "contradicting my values" responses ranged from 0.4% to 5.9% and the average is 1.6%. These respondents believe that individualistic values are contradicting their views. For collective values (variables X5.1 through X7.5) the similar answers ranged from 0.2% to 1.1% with an average of 0.4%. For comparison, an average of 0.4% of the respondents believed that collective values contradict their views and an average of 1.6% thought individualistic values contradict their views. These findings indicate that the preference of collective over the individualistic values in Russia is not as strong as it was stated by the previous literature (Hofstede & Hofstede, 2005; Inglehart, 2003).

With the mean equal to 5 on the nine-point scale and with the half of the population supporting this group of values, one can assume that individualistic values are gaining popularity among the Russian residents. While the findings of the study show a weak tendency of respondents to support collective values, it should also be noted there is support for individualistic values as well.

The literature on cultural values (Hofstede, 2001; Inglehart, 2003) suggested that cultural values are strongly dependent on the demographic characteristics of population. To test if the cultural values measured here have a significant relationship

with the various demographic characteristics, a series of Kruskal-Wallis tests were performed. This non-parametric test is used to measure relationships among the variables with more then two groups (Norusis, 2000). The non-normal distribution of this data was the reason that a non-parametric test was chosen over ANOVA.

Table 31. Asymptotic significance for Kruskal-Wallis tests on cultural values variables

Vari-able label	Variable title	Age	Gender	Edu-cation	Marital status	Resi-dence	Family size	Income	Work status
X1.1	Exiting life	.000	.003	.000	.000	.001	.000	.000	.000
X1.2	Daring	.000	.000	.000	.000	.051	.000	.000	.000
X1.3	Varied life	.000	.007	.000	.000	.000	.000	.000	.000
X2.1	Freedom	.000	.001	.000	.000	.000	.000	.000	.000
X2.2	Creativity	.000	.950	.000	.000	.000	.000	.000	.000
X2.3	Independent	.000	.004	.000	.000	.000	.000	.000	.000
X2.4	Curiosity	.003	.997	.000	.000	.015	.007	.000	.003
X2.5	Choose their own life goals	.000	.947	.000	.000	.000	.002	.000	.000
X3.1	Successful	.000	.361	.000	.000	.013	.000	.000	.000
X3.2	Capable	.000	.340	.000	.000	.000	.000	.000	.000
X3.3	Ambitious	.000	.001	.000	.000	.000	.000	.000	.000
X3.4	Influential	.000	.014	.000	.000	.000	.000	.000	.000
X4.1	Social power	.000	.000	.000	.000	.000	.000	.000	.000
X4.2	Authority	.000	.002	.000	.000	.000	.000	.000	.000
X4.3	Wealth	.000	.030	.000	.000	.000	.000	.000	.000
X5.1	Humble	.034	.000	.086	.032	.002	.492	.214	.034
X5.2	Accepting life	.000	.000	.034	.000	.631	.003	.226	.000
X5.3	Devout	.000	.000	.289	.000	.001	.000	.050	.000
X5.4	Respect tradition/ Customs	.000	.008	.090	.000	.000	.362	.501	.000
X5.5	Moderate	.107	.054	.017	.000	.136	.005	.578	.107
X6.1	Politeness	.926	.000	.001	.434	.000	.572	.029	.926
X6.2	Obedience	.205	.010	.015	.000	.001	.049	.011	.205
X6.3	Self-discipline	.462	.004	.004	.008	.099	.456	.190	.462
X6.4	Honoring parents/ elderly	.082	.000	.120	.243	.007	.152	.144	.082
X7.1	Forgiving	.019	.000	.041	.012	.139	.085	.138	.019
X7.2	Honest	.000	.001	.001	.000	.247	.036	.054	.000
X7.3	Helpful to the others	.938	.105	.119	.481	.261	.968	.297	.938
X7.4	Loyal	.004	.185	.034	.149	.014	.197	.043	.004
X7.5	Responsible	.065	.024	.000	.001	.017	.095	.005	.065

The results shown in Table 31 suggest variables related to cultural values variables have relationships with the demographic characteristics of age, gender, level of education, marital status, family size, household income, and the status of employment. The only variable that did not show statistically significant relationship with any of the demographic characteristics was X7.3 (the value of being helpful to the others). The variables (X7.1; X7.5; X7.2; X5.1; X 5.5; X 6.4) exhibit significant relationships only with some demographic characteristics. Variables pertaining to the level of education and gender have the highest number of statistically significant relationships. Those are related to 26 cultural values out of 29. These findings suggest that demographic characteristic play an important role in distribution of cultural values.

Table 32. The ranks of Kruskal-Wallis test for individualistic values by "age" variable

Age	X1.1	X1.2	X1.3	X2.1	X2.2	X2.3	X2.4	X2.5
18-24	1007.25	973.63	1008.87	932.17	877.33	922.63	852.41	850.96
25-34	924.53	893.59	913.55	921.45	875.04	887.30	865.99	874.45
35-44	835.33	828.22	824.71	852.11	861.58	823.79	809.14	839.36
45-59	761.63	764.61	742.43	752.94	767.05	777.92	776.96	788.84
60 +	544.66	595.76	583.88	594.24	645.35	624.42	703.84	658.04
Age	X3.1	X3.2	X3.3	X3.4	X4.1	X4.2	X4.3	
18-24	942.64	931.00	1011.89	929.68	899.49	922.08	944.07	
25-34	925.29	918.52	959.43	907.28	873.12	902.93	940.77	
35-44	850.60	840.62	883.88	874.75	806.90	838.57	883.91	
45-59	744.21	777.30	735.01	777.99	795.75	786.87	751.05	
60 +	595.28	579.26	501.62	559.02	645.94	588.88	544.90	

Table 33.The ranks of Kruskal-Wallis test for collective values by "age" variable

Age	X5.1	X5.2	X5.3	X5.4	X5.5	X6.1	X6.2	X6.3
18-24	672.44	704.54	656.93	695.26	680.60	772.52	660.94	710.38
25-34	755.92	732.99	722.44	706.69	740.09	818.01	738.44	771.24
35-44	783.53	762.24	745.28	765.34	788.74	770.49	791.15	796.07
45-59	829.60	790.06	784.67	787.55	813.52	791.50	814.59	814.62
60 +	878.86	939.63	1001.85	967.71	900.24	814.62	911.78	846.70
Age	*X6.4*	*X7.1*	*X7.2*	*X7.3*	*X7.4*	*X7.5*		
18-24	741.86	715.57	708.71	825.01	826.34	790.87		
25-34	782.43	786.79	753.89	848.20	798.22	858.44		
35-44	782.76	775.06	769.68	740.61	732.67	827.71		
45-59	794.74	800.58	784.02	781.96	775.04	782.88		
60 +	850.40	864.82	920.21	790.79	845.60	729.35		

The results presented in Table 32 (page 153) indicate that the dimension of individualistic values has a clear and directional relationship with age. The ranks of individualistic values are higher for the groups of younger respondents and are lower for the older groups. This indicates that individualistic values have an inverse relationship with age. The younger groups of respondents (18 to 24 and 25 to 35) tend to have more individualistic values than the older groups. The findings presented in Table 33 indicate that the collective values rankings of have a direct and positive relationship with age. As age increased the support of collective values also increased. The older groups of respondents (45 to 59 and > 60) tended to have more collective values than younger groups. These findings are consistent with the theory of cultural values presented by Schwartz (1995) and the previous research on Russian cultural values (Inglehart, 2003).

2.2. Ideal Fairness of Inquisitorial and Adversarial Criminal Models

The second research assumption asserts the majority of Russian residents consider the inquisitorial procedural model an ideal of fairness. It is based on the previously discussed assumption that Russian residents have a strong collective culture and on the theory that states that individuals with collective values will find the inquisitorial procedural model fair.

Table 34. Descriptive statistics for variables ideal fairness of adversarial and inquisitorial models

Variable label	Variable title	Range	Sum	Mean	Std. error mean	Std. deviation
Y1.1	Fairness of inquisitorial criminal procedure goal	6	6961	4.38	.038	1.513
Y1.2	Fairness of inquisitorial criminal prosecution	6	4418	2.78	.038	1.527
Y1.3	Fairness of judicial activity	6	5524	3.48	.034	1.362
Y1.4	Fairness of parties' passivity	6	3427	2.16	.035	1.384
Y1.5	Fairness of high state regulation level	6	6237	3.93	.036	1.434
Y2.1	Fairness of adversarial criminal procedure goal	6	3878	2.44	.035	1.412
Y2.2	Fairness of adversarial criminal prosecution	6	6266	3.95	.036	1.429
Y2.3	Fairness of judicial passivity	6	3868	2.44	.035	1.413
Y2.4	Fairness of parties' activity	6	6638	4.18	.036	1.422
Y2.5	Fairness of low state regulation level	6	4367	2.75	.034	1.362

Table 34 shows that means for variables that measured the ideal fairness of the inquisitorial procedural model (Y1.1 through Y1.5) ranged from 2.78 to 4.38. The average mean for variables Y1.1 through Y1.5 is equal 3.4 which implies that respondents reported the inquisitorial procedure as being "somewhat unfair", or "somewhat fair." The mean for variables Y2.1 through Y2.5 is ranging between 2.75

to 4.18. The average mean for variables Y2.1 through Y2.5 is equal 3.1, which implies that respondents perceived the adversarial procedure as "somewhat unfair" or "somewhat fair." From these findings it is difficult to assess whether the second research assumption in this study can be supported by the data.

Table 35. Frequency table for variables ideal fairness of adversarial and inquisitorial models

Variable label	Variable title	Completely fair	Somehow fair and/fair	Somehow unfair and unfair	Completely unfair
Y1.1	Fairness of inquisitorial criminal procedure goal	29.1%	47.5	16.5%	6.9%
Y1.2	Fairness of inquisitorial criminal prosecution	0.1%	53.8%	31.1%	14%
Y1.3	Fairness of judicial activity	29.1	47.7%	16.4%	6.8%
Y1.4	Fairness of parties' passivity	29.5%	47.8%	16.1%	6.7%
Y1.5	Fairness of high state regulation level	29.2%	47.1%	22.6%	1.1%
Y2.1	Fairness of adversarial criminal procedure goal	11%	28.9%	40.1%	25.8%
Y2.2	Fairness of adversarial criminal prosecution	0.5%	23.8%	25.1%	50.6%
Y2.3	Fairness of judicial passivity	5.8%	29.1%	39.7%	25.5%
Y2.4	Fairness of parties' activity	5.7%	28.7%	39.8%	25.8%
Y2.5	Fairness of low state regulation level	5.9%	28.5%	64.6%	0.9%

Results from the frequency distributions presented in Table 35 on give a better idea about the respondent's preferences. The Table 35 shows that an average of 23.4% of the respondents consider the inquisitorial procedural model an ideal of fairness (variables Y1.1 through Y1.5) compared to an average of 5.8% for respondents (variables Y2.1 through Y2.5) who think the adversarial procedure is an ideal of fairness. The exception is variables Y1.2 and Y2.2, which produced unusually low results for the groups of "completely fair" answers. Combining results

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from the groups of "completely fair", "somewhat fair" and "fair" answers for variables Y1.1 through Y1.5 from Table 32, one can see that an average of 72% of the respondents considered the inquisitorial procedure ideally fair.

A comparison with the adversarial model (variables Y2.1 through Y2.5) shows the combination of "completely fair" and "somewhat fair" and "far" answers produces an average of 33.5%. The sum of the answers for the categories "completely unfair" and "somewhat unfair" and "unfair" for the variables Y1.1 through Y1.5 yield an average of 23%. The combination of categories "completely unfair" and "somewhat unfair" and "unfair" for the variables Y2.1 through Y2.5 averaged 67.5%. These findings provide a basis to support the second research assumption that respondents consider the inquisitorial model as an ideal of fairness. It should be noted here that the adversarial procedural model received support from about one-third of all survey respondents. This suggests that public support for the adversarial ideas of criminal procedure is developing in transitional Russia.

Table 36 on page 159 depicts the results of the non-parametric Kruskal-Wallis tests, which examined the relationships among the indicators for ideal fairness of the adversarial and inquisitorial models along with the demographic characteristics of the sample. Findings show that the judgment of ideal fairness is independent from the five demographic variables including age, marital status, place of residence, family size, and work status. The variable gender has only one statistically significant relation with variable Y1.5 (level of state regulation in inquisitorial procedural model). The examination of ranks for the variable Y1.5 shows that female respondents have higher ranks (816) then the make respondents (767). This indicates

that female respondents more often view the high level of state regulation in the criminal procedure as fair, more sop than male respondents. The level of the respondent's education has statistically significant relationships with four out five indicators for the variable "ideal fairness of the inquisitorial procedural model". However, the rankings do not allow a direction to be determined among the relationships of the variables. The variable of household income has a statistically significant relationship with the three indicators of the variable "ideal fairness of adversarial procedure" (Y2.1, Y2.4 and Y2.5). The examination of rankings shows that people with lower incomes (below 15,000 rubles per month) have higher ranks (the average equaled 750 rubles per month), than respondents with higher incomes. Ranks for the respondents with monthly incomes ranging from 15,001 rubles per month and higher averaged 650. This suggests that wealthy respondents are less likely to find the adversarial procedural model ideally fair. However, this findings need to be taken with some caution. There are several outliers in the ranks of non-parametric tests that do not follow the common direction.

Table 36. Asymptotic significance for Kruskal-Wallis tests on variables "ideal fairness of adversarial and inquisitorial criminal procedure

Vari-able label	Variable title	Age	Gender	Educa tion	Marital status	Resi-dence	Family size	Income	Work status
Y1.1	Fairness of inquisitorial criminal procedure goal	.972	.111	.038*	.530	.923	.270	.772	.452
Y1.2	Fairness of inquisitorial criminal prosecution	.944	.074	.016*	.462	.904	.501	.584	.796
Y1.3	Fairness of judicial activity	.987	.089	.006*	.623	.847	.557	.464	.975
Y1.4	Fairness of parties' passivity	.947	.073	.015*	.551	.804	.455	.811	.800
Y1.5	Fairness of high state regulation level	.737	.032*	.067	.556	.961	.656	.294	.791
Y2.1	Fairness of adversarial criminal procedure goal	.879	.940	.406	.649	.551	.672	.018*	.984
Y2.2	Fairness of adversarial criminal prosecution	.404	.619	.518	.965	.280	.981	.084	.713
Y2.3	Fairness of judicial passivity	.935	.700	.395	.665	.561	.760	.072	.988
Y2.4	Fairness of parties' activity	.954	.986	.540	.678	.635	.726	.030*	.975
Y2.5	Fairness of low state regulation level	.915	.985	.358	.571	.342	.572	.053*	.522

*- test is statistically significant at 0.05 level

2.3. Fairness of Actual Law

The final research assumption of this study asserts the majority of Russian residents consider the CPC of 2001 unfair. In this context, the variable measuring the fairness of the actual law represents the main provision of the criminal code reform. This assumption is based on the previous empirical studies conducted about public support of the new Russian law (Averchenko, 2002; Baranov, 2002).

Table 37. Descriptive statistics for variable "fairness of actual criminal procedure"

Variable label	Variable title	Range	Sum	Mean	Std. error mean	Std. deviation
Y6	Fairness of current criminal procedure goal	6	2783	1.75	.034	1.351
Y7	Fairness of existing criminal prosecution	6	4422	2.78	.036	1.435
Y8	Fairness of existing judicial activity	6	4961	3.12	.040	1.606
Y9	Fairness of parties' existing activity	6	4080	2.57	.040	1.605
Y10	Fairness existing state regulation level	6	3703	2.33	.034	1.356

Table 37 indicates the means of the variables Y6 through Y10 that measure the fairness of the actual law ranged from 1.75 to 3.12. The average of means for variables Y6 through Y 10 is 2.51. This suggests that respondents view fairness of actual procedure as unfair.

Table 38. Frequency table for variable "fairness of actual criminal procedure"

Variable label	Variable title	Completely fair	Somehow fair and fair	Somehow unfair and unfair	Completely unfair
Y6	Fairness of current criminal procedure goal	0.3%	16.5%	32.2%	50.9%
Y7	Fairness of existing criminal prosecution	5.6%	31.2%	38%	25.2%
Y8	Fairness of existing judicial activity	11.5%	25.5%	39%	24%
Y9	Fairness of parties' existing activity	11.3%	18.8%	44.8%	25.1%
Y10	Fairness existing state regulation level	0.2%	17%	32.5%	50.3%

Table 38 offers evidence that the provisions of the CPC of 2001 are not fully supported in Russia. Only 5.8% of respondents consider the CPC of 2001 as "completely fair". The proportion of respondents who think the new criminal procedural law is either "somewhat fair" or "fair" has an average of 21.8%. Combining the "completely fair", "somewhat fair" and fair" answers for variables Y6 through Y10, public support for the reform has an average of 27.5%. At the same time, 35% of respondents believe that CPC of 2001 is completely an unfair law. Almost the same number of people (an average of 37%) considered the reform as either "somewhat unfair" or "unfair." Combining the two answer categories an average of 72.5% of the respondents does not view the CPC of 2001 as fair.

Thus, results from the descriptive analysis support the final research proposition of this study. The majority of the respondents reported the CPC of 2001 is unfair.

Results presented in Table 39 on page 163 demonstrate that only one demographic variable had a statistically significant relationship with indicators measuring the variable "fairness of actual criminal procedural model". Four variables

(Y6, Y7, Y9 and Y10) show statistically significant relationships with variable of household income. The indicators for the variable of the fairness of actual criminal procedure are independent from other seven demographic variables. These variables included age, gender, level of education, martial status, place of residence and employment status. The examination of ranks for the variable "household income" provides no clear evidence about the directionality of these relationships.

Table 39. Asymptotic significance for Kruskal-Wallis tests on variable "fairness of actual criminal procedure"

Vari-able label	Variable title	Age	Gender	Education	Marital status	Residence	Family size	Income	Work status
Y1.1	Fairness of inquisitorial criminal procedure goal	.917	.988	.453	.552	.103	.521	.007*	.719
Y1.2	Fairness of inquisitorial criminal prosecution	.979	.835	.577	.306	.468	.594	.021*	.927
Y1.3	Fairness of judicial activity	.871	.664	.594	.165	.645	.897	.060	.706
Y1.4	Fairness of parties' passivity	.890	.334	.673	.338	.452	.441	.041*	.994
Y1.5	Fairness of high state regulation level	.888	.990	.636	.534	.286	.590	.035*	.939
Y2.1	Fairness of adversarial criminal procedure goal	.917	.988	.453	.552	.103	.521	.007*	.719
Y2.2	Fairness of adversarial criminal prosecution	.979	.835	.577	.306	.468	.594	.021*	.927
Y2.3	Fairness of judicial passivity	.871	.664	.594	.165	.645	.897	.060	.706
Y2.4	Fairness of parties' activity	.890	.334	.673	.338	.452	.441	.041*	.994
Y2.5	Fairness of low state regulation level	.888	.990	.636	.534	.286	.590	.035*	.939

*- test is statistically significant at 0.05 level

3. Confirmatory Factor Analysis

Confirmatory factor analysis (CFA) used in this study to evaluate if the major research variables are adequately measured through the models described in chapter III , Sections 7, subsections 7.1 through 7.3.

3.1. Cultural Values

Figure 20 demonstrates the original measurement model for the variables of cultural values. This model was subject to a CFA by the AMOS and EQS applications and the results are presented in Table 40. The AMOS used the ADF method, and EQS employed the HKRLS method. For details on these methods please refer to the Section 1.2 of this chapter.
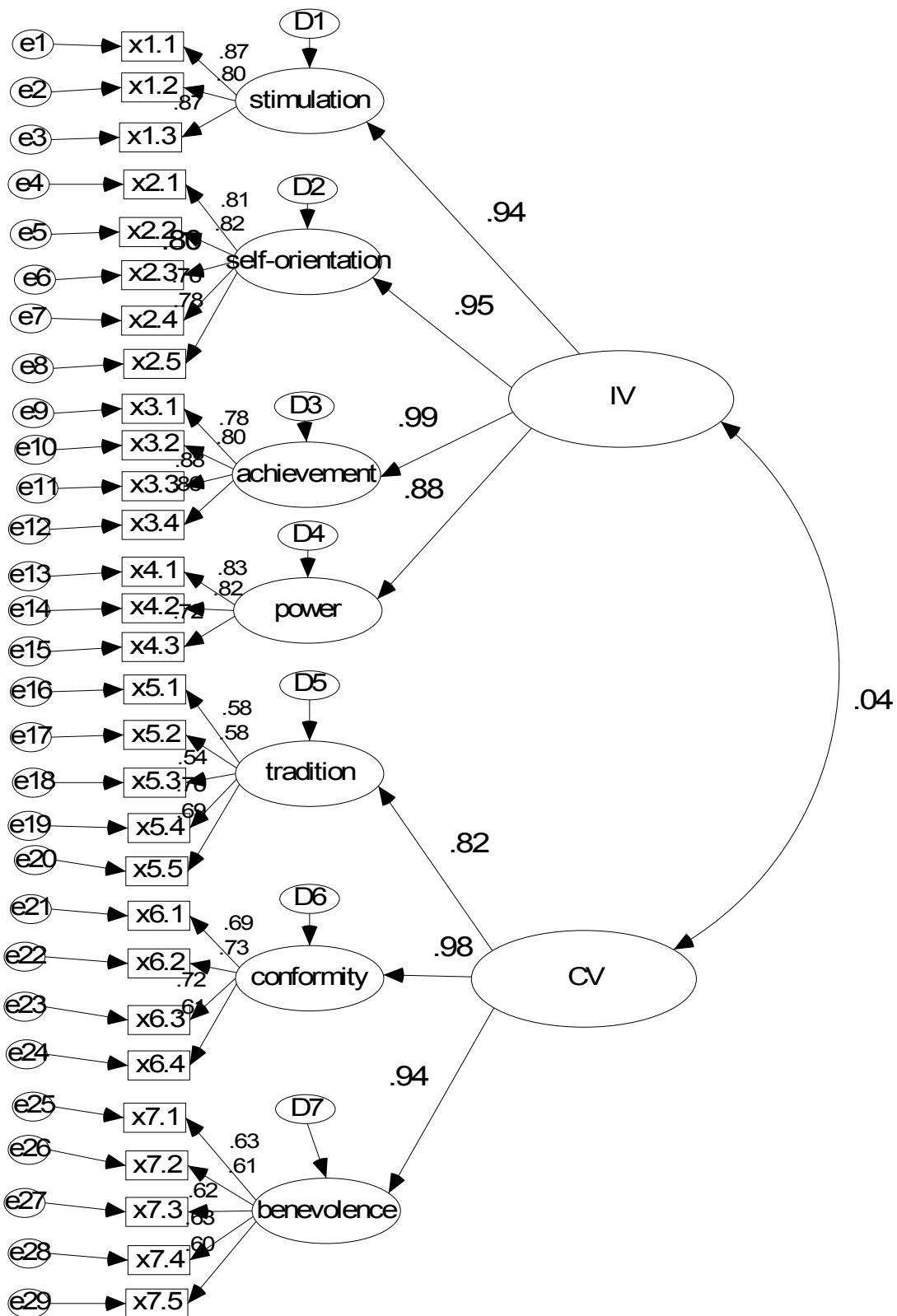
Figure 20. Original measurement model for variables collective and individualistic values

Critical ratios (CR) for the regressions in Table 40 on page 167 demonstrate significant relationship (CR$\geq$ 1.96; p $\leq$ .05) for all observed variables. Standardized factor loadings are high for all variables except X5.1 through X5.5, and X7.1 through X7.5. These indicators demonstrate medium factor loadings. All factor loadings for the second-order model are high and have statistically significant loadings which indicate the adequacy of the multiple-order measurement model.

The theorized co-variation between the individualistic and collective values is not confirmed in the model estimated by AMOS. The CR is not significant, and the direction of co-variation is not negative as expected. The EQS model resulted in a statistically significant co-variation for the variables related to collective and individualistic values and also estimated a negative co-variation. Except for this case, both software packages computed very similar results for all factor loadings in this measurement model. The discrepancies were minimal and ranged from 0.01 to 0.1 for each factor loading.

Table 40. Parameter estimates for original measurement model on collective and individualistic values

Indicator	Original model – AMOS				Original model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
X1.1←stimulation	1.059	.870*	.018	56.964	1.025	.818*	.023	44.704
X1.2←stimulation	.943	.801*	.020	46.626	.901	.738*	.023	39.358
X1.3←stimulation	1	.872*	-	-	1	.835*	-	-
X2.1←self-orientation	1.013	.805*	.024	46.626	1.002	.756*	.030	33.926
X2.2←self-orientation	1.060	.822*	.025	42.576	1.021	.748*	.030	34.084
X2.3←self-orientation	1	.802*	-	-	1	.762*	-	-
X2.4←self-orientation	.909	.759*	.023	39.587	.927	.716*	.029	31.913
X2.5←self-orientation	.971	.779*	.025	39.548	.943	.722*	.029	32.713
X3.1←achievement	.804	.782*	.017	46.540	.827	.754*	.021	39.932
X3.2←achievement	.813	.804*	.018	44.880	.774	.713*	.021	36.741
X3.3←achievement	1	.877*	-	-	1	.827*	-	-
X3.4←achievement	.963	.857*	.020	49.184	.879	.714*	.023	37.666
X4.1←power	1.302	.835*	.038	34.489	1.327	.787*	.044	30.201
X4.2←power	1.341	.822*	.043	31.464	1.398	.775*	.047	29.986
X4.3←power	1	.720*	-	-		.657*	-	-
X5.1←tradition	.904	.579*	.051	17.687	.999	.559*	.065	15.296
X5.2←tradition	.978	.578*	.054	18.084	1.031	.539*	.068	15.109
X5.3←tradition	1	.536*	-	-	1	.485*	-	-
X5.4←tradition	1.091	.765*	.051	21.430	1.089	.631*	.067	16.360
X5.5←tradition	1.004	.686*	.051	19.804	1.113	.661*	.066	16.749
X6.1←conformity	.903	.686*	.036	24.969	.981	.688*	.047	20.656
X6.2←conformity	.991	.730*	.034	28.879	1.095	.721*	.051	21.523
X6.3←conformity	1	.722*	-	-	1	.663*	-	-
X6.4←conformity	.715	.611*	.034	21.073	.825	.596*	.047	17.699
X7.1←benevolence	1.136	.692*	.069	16.575	1.236	.653*	.082	15.165
X7.2←benevolence	1.144	.613*	.073	15.713	1.025	.536*	.074	13.797
X7.3←benevolence	1.085	.622*	.056	19.310	1.149	.584*	.080	14.426
X7.4←benevolence	1.155	.634*	.062	18.607	1.139	.574*	.081	14.077
X7.5←benevolence	1	.598*	-	-	1	.545*	-	-
Stimulation←IV	.894	.941*	.018	48.626	.896	.906*	.024	37.110
Self-orientation←IV	.773	.946*	.019	39.768	.744	.875*	.023	32.635
Achievement←IV	1	.991*	-	-	1	.943*	-	-
Power←IV	.612	.880*	.019	31.444	.577	.792*	.022	26.143
Tradition←CV	.774	.820*	.043	17.859	.724	.799*	.050	14.376
Conformity←CV	1	.977*	-	-	1	.989*	-	-
Benevolence←CV	.675	.942*	.038	17.853	.689	.884*	.048	14.290
CV← →IV	.084	.035	.062	1.350	.180	.077*	-.065	-2.751

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
CV- collective values; IV – individualistic values

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The goodness-of-fit statistics for the original measurement model are provided in Table 42 on page 172. The findings show that while the factor loadings are high and significant, the overall fit of the measurement model requires some improvement. The CMIN/DF value exceeds 4.0, which indicates an inadequate fit. To revise this model, the measurement errors are allowed to be correlated, if the modification index in AMOS and Lagrange multiplier test in EQS is elevated. The modification indices were elevated for the following measurement errors: E2, E9, E10, E13, E17-E19, E21, E23, E24, E28 and E29. The revised model is presented in Figure 21.
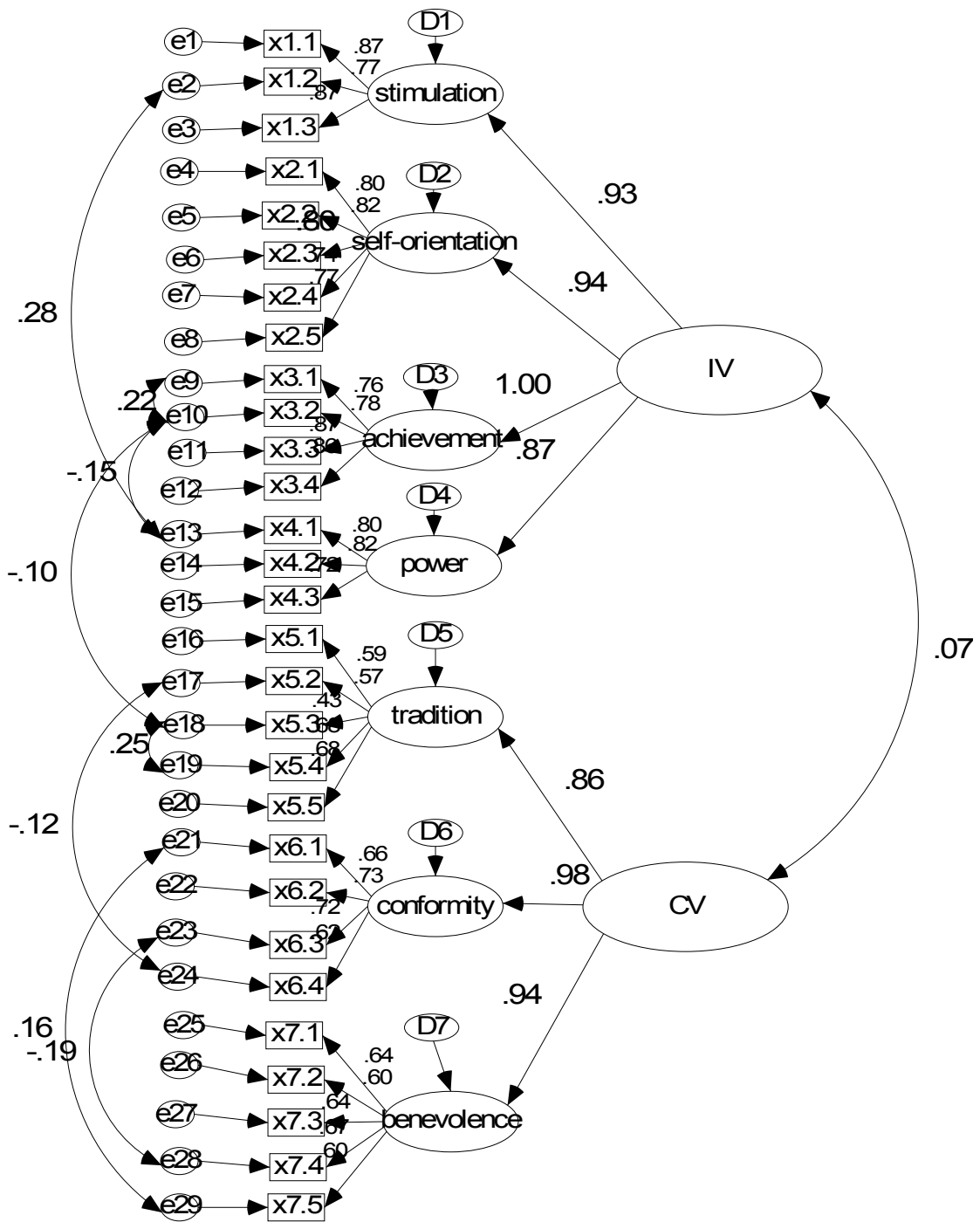
Figure 21. Revised measurement model for variables collective and individualistic values

Table 41 represents parameter estimates of the revised measurement model pertaining to the variables of collective and individualistic values. Nine pairs of covariances were added to the model in order to improve the goodness-of-fit statistics. A comparison of the results in Tables 40 and 41 shows very little change in the factor loadings between the original and revised models. The only factor that decreased its factor loading by more than 0.2 was variable X5.3. All critical ratios remained statistically significant after the revision which suggests that the measurement model is stable, and that the factor loading estimates are independent from the measurement errors co-variation.

Table 41. Parameter estimates for revised measurement model on collective and individualistic values

Indicator	Revised model - AMOS				Revised model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
X1.1←stimulation	1.050	.869*	.019	55.330	1.025	.819*	.023	44.633
X1.2←stimulation	.916	.775*	.021	44.628	.895	.735*	.023	39.127
X1.3←stimulation	1	.867*	-	-	1	.836*	-	-
X2.1←self-direction	1.026	.805*	.024	42.683	1.001	.756*	.030	33.900
X2.2←self-direction	1.058	.819*	.025	41.842	1.019	.747*	.030	34.027
X2.3←self-direction	1	.799*	-	-	1	.762*	-	-
X2.4←self-direction	.891	.743*	.023	38.397	.925	.716*	.029	31.877
X2.5←self-direction	.976	.774*	.025	39.106	.942	.722*	.029	32.697
X3.1←achievement	.784	.757*	.018	43.794	32.69	.742*	.021	39.068
X3.2←achievement	.807	.782*	.019	43200	.757	.700*	.021	35.655
X3.3←achievement	1	.875*	-	-	1	.830*	-	-
X3.4←achievement	.973	.856*	.020	48.234	.884	.721*	.023	38.160
X4.1←power	1.254	.796*	.037	33.526	1.304	.781*	.043	30.254
X4.2←power	1.330	.815*	.043	30.891	1.383	.771*	.046	30.032
X4.3←power	1	.721*	-	-	1	.661*	-	-
X5.1←tradition	1.179	.592*	.068	14.051	1.127	.565*	.079	14.211
X5.2←tradition	1.209	.569*	.018	14.849	1.129	.538*	.081	13.911
X5.3←tradition	1	.428*	-	-	1	.439*	-	-
X5.4←tradition	1.229	.676*	.068	18.051	1.103	.583*	.067	16.503
X5.5←tradition	1.227	.676*	.077	15.835	1.247	.671*	.082	15.269
X6.1←conformity	.848	.656*	.035	24.273	.960	.675*	.047	20.509
X6.2←conformity	.979	.727*	.034	28.893	1.079	.715*	.050	21.573
X6.3←conformity	1	.722*	-	-	1	.668*	-	-
X6.4←conformity	.728	.618*	.034	21.498	.826	.602*	.046	17.914
X7.1←benevolence	1.119	.639*	.064	17.414	1.264	.650*	.085	14.828
X7.2←benevolence	1.083	.602*	.067	16.199	1.053	.536*	.078	13.579
X7.3←benevolence	1.075	.635*	.053	20.155	1.187	.587*	.084	14.204
X7.4←benevolence	1.207	.669*	.062	19.624	1.202	.589*	.086	13.959
X7.5←benevolence	1	.589*	-	-	1	.531*	-	-
Stimulation←IV	.882	.933*	.019	46.007	.877	.896*	.024	36.955
Self-orientation←IV	.767	.941*	.020	38.972	.730	.868*	.022	32.488
Achievement←IV	1	.998*	-	-	1	.951*	-	-
Power←IV	.609	.872*	.020	30.989	.582	.803*	.022	26.578
Tradition←CV	.639	.857*	.043	14.924	.672	.824*	.051	13.610
Conformity←CV	1	.983*	-	-	1	.994*	-	-
Benevolence←CV	.681	.941*	.037	18.530	.665	.886*	.047	14.117
CV← →IV	.162	.067*	.024	2.552	-.180	.145*	.066	-2.706
E9← →E10	.390	.390*	.064	6.006	.351	.185*	.065	5.402
E10← →E13	-.269	-.269*	.055	-4.872	-.271	-.075*	.060	-4.540
E2← →E13	.537	.537*	.062	8.705	.404	-.115*	.060	6.767
E10← →E18	-.239	-.239*	.064	-.3727	.434	-.128*	.059	7.308
E18← →E19	.571	.571*	.081	7.016	.681	-.187*	.087	7.834
E17← →E24	-.221	-.221*	.049	-4.537	-.445	.218*	.076	-5.867
E21← →E29	.223	.223*	.046	4.798	.298	.158*	.065	4.570
E23← →E28	-.257	-.257*	0.47	-5.510	-.272	-.131*	.069	-3.962

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
CV- collective values; IV – individualistic values

Table 42 provides findings about goodness-of-fit statistics for the revised measurement model about cultural values. The results show that the revised model has an improved fit compare to the original measurement model. The likelihood ratio decreased to about 4.0 as did RMSEA. The fit indices calculated by both AMOS and EQS exhibit an increase over the original model. The overall goodness-of-fit for the revised measurement model on the variables of collective and individualistic values can be considered adequate but not excellent.

Table 42. Goodness of fit indices for measurement model on collective and individualistic values

Index	Criterion	AMOS		EQS	
		Original	Revised	Original	Revised
Chi-square (x^2)	Low	1763.227	1510.241	3390.489	3016.702
Degrees of freedom (df)	≥ 0.0	369	361	369	361
Probability	≥ 0.05	.000	.000	.000	.000
Likelihood Ratio (x^2/df)	<4.0	4.778	4.183		
Goodness of Fit Index (GFI)	>.95	.857	.878		
Adjusted GFI (AGFI)	>.90	.832	.853		
Tucker-Lewis Index (TLI)	>.90	.708	.754		
Normed Fit Index (NFI)	>.90	.689	.733		
Bentler-Bonett Normed Fit Index (BBNFI)	>.95			.950	.955
Comparative Fit Index (CFI)	>.95			.955	.960
Root Mean Square Error of Approximation (RMSEA)	$\leq.05$	.049	.045		
Hoelter's Critical N (CN)	>200	374	427		

3.2. Ideal Fairness of Inquisitorial and Adversarial Procedural Models

Figure 22 represents the original measurement model for the variables of the ideal fairness of inquisitorial and the adversarial procedural models. This model was evaluated using CFA by both AMOS and EQS and results are presented in Table 43. The AMOS software used the ADF method and EQS software employed the HKRLS method. For details on these methods please refer to Section 1.2 of this chapter.

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Critical ratios (CR) for regressions in Table 43 demonstrated a significant relationship (CR≥ 1.96; p ≤ .05) for all observed variables. The factor loadings are high for all indicators measuring latent variables about ideal fairness of both the adversarial and inquisitorial criminal procedural models. The models computed by AMOS and EQS have little discrepancies in the factor loadings. The theorized negative co-variation between the latent variables of ideal fairness of adversarial and inquisitorial criminal procedural models is confirmed by both AMOS and EQS calculations. The co-variation is statistically significant at .05 level, and its factor loading has medium strength.
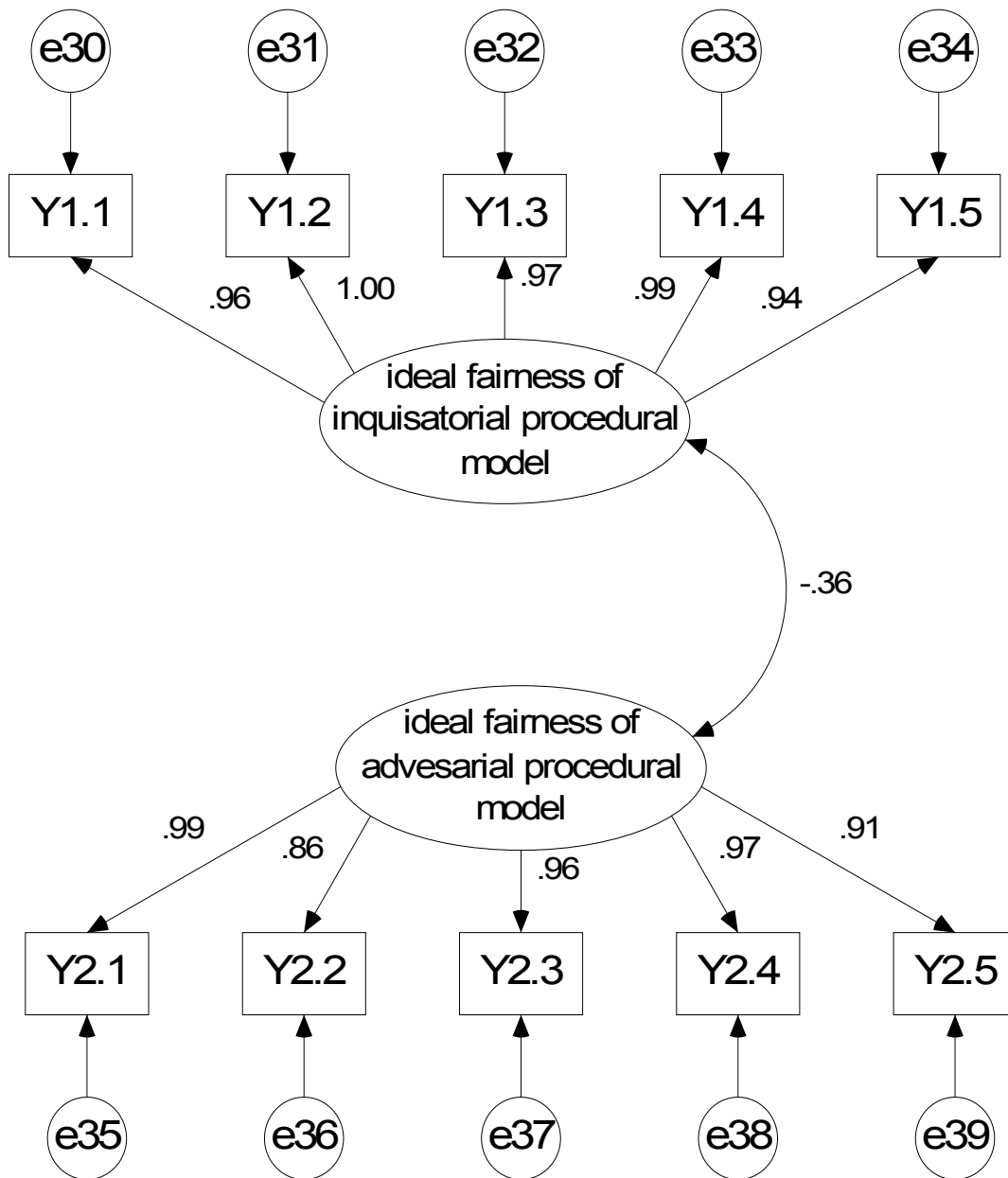
Figure 22. Original measurement model for variables on ideal fairness of inquisitorial and adversarial models

Table 43. Parameter estimates for original measurement model on ideal fairness of inquisitorial and adversarial models

Indicator	Original model – AMOS				Original model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
Y1.1←IFIPM	1	.959*	-	-	1	.955*	-	-
Y1.2←IFIPM	.987	.998*	.008	126.079	.941	.996*	.008	122.472
Y1.3←IFIPM	.995	.972*	.010	95.403	.956	.962*	.009	104.908
Y1.4←IFIPM	1.000	.986*	.008	121.344	.974	.984*	.008	121.360
Y1.5←IFIPM	.966	.938*	.013	72.895	.907	.918*	.011	84.559
Y2.1←IFAPM	1.230	.986*	.018	69.612	1.230	.978*	.015	81.190
Y2.2←IFAPM	.985	.856*	.020	48.907	.979	.858*	.017	58.590
Y2.3←IFAPM	1.107	.961*	.017	65.280	1.117	.958*	.014	77.375
Y2.4←IFAPM	1.109	.968*	.015	71.560	1.120	.962*	.014	78.368
Y2.5←IFAPM	1	.910*	-	-	1	.892*	-	-
IFIPM←→IFAPM	-.560	-.362*	.046	-12.045	-.705	-.406*	.042	-16.950

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
IFIPM – ideal fairness of inquisitorial procedural model, IFAPM – ideal fairness of adversarial procedural model

Table 45 on page 178 provides goodness-of-fit statistics for the original measurement model on the variables of ideal fairness for both the adversarial and inquisitorial criminal procedural models. The findings show that while the factor loadings are high and significant, the overall fit of the measurement model requires some improvement. The CMIN/DF value exceeds 4.0, which indicates an inadequate fit. To revise this model, the measurement errors are allowed to be correlated, if the modification index in AMOS and Lagrange multiplier test in EQS is elevated. The modification indices were elevated for the following measurement errors: E30 and E31. The revised model is presented in Figure 23.
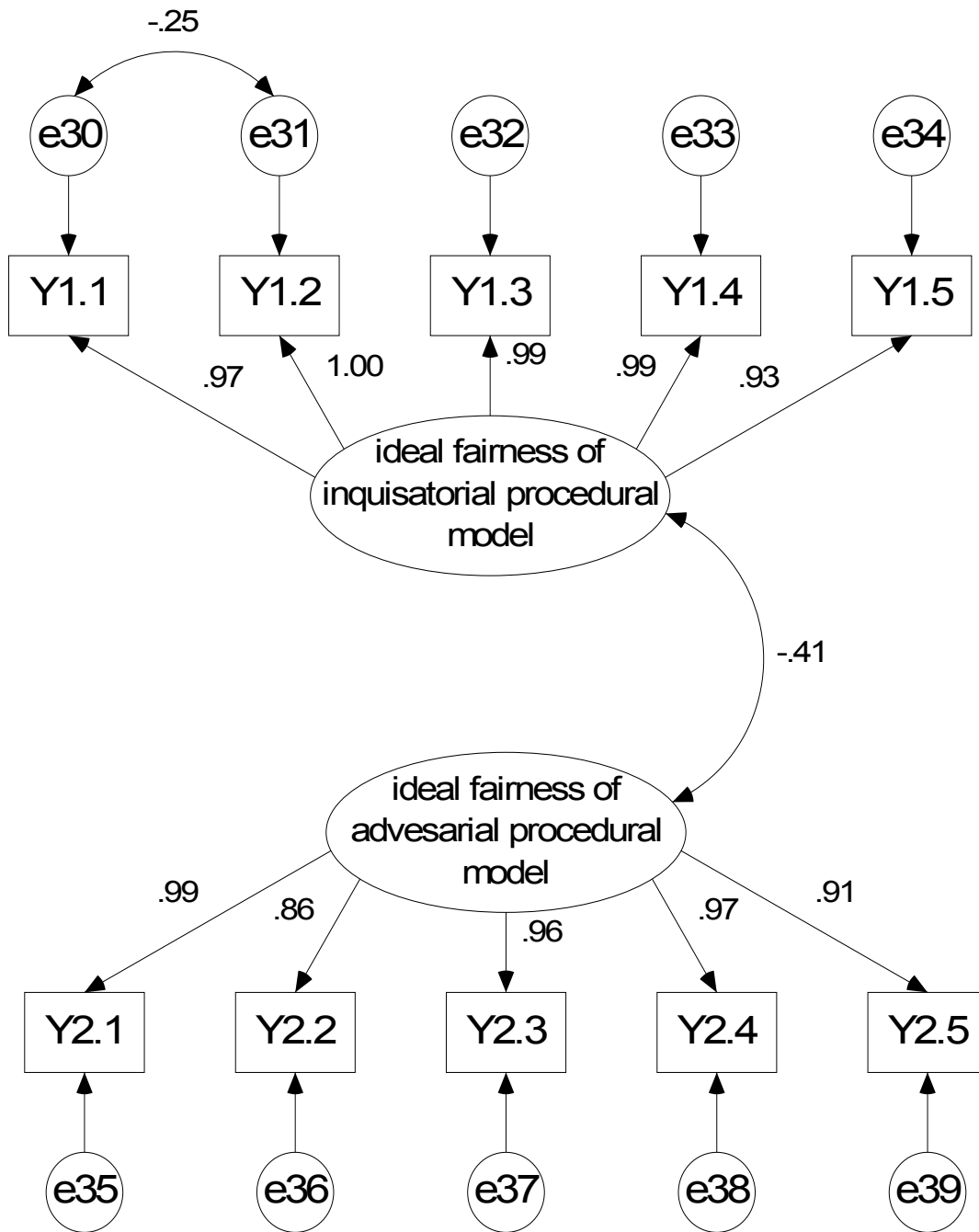
Figure 23. Revised measurement model for variables of ideal fairness of inquisitorial and adversarial models

Table 44 presents parameter estimates for the revised measurement model about the ideal fairness of both the adversarial and inquisitorial criminal procedures. Only one pair of covariances was added to the model in order to improve the goodness-of-fit statistics. The comparisons of results in Tables 39 and 40 show very little change in the factor loadings between the original and revised models. Overall, the factor loadings increased for all indicators after the model was revised. The co-variation between the two latent variables improved by .05 in AMOS model, but did not change in the EQS model. All critical ratios remained statistically significant after the revision which suggests that the measurement model is stable and that the factor loading estimates are independent from the measurement errors co-variation.

Table 44. Parameter estimates for revised measurement model on ideal fairness of inquisitorial and adversarial models

Indicator	Revised model – AMOS				Revised model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
Y1.1←IFIPM	1	.972*	-	-	1	.958*	-	-
Y1.2←IFIPM	.973	.997*	.009	104.820	.935	.997*	.008	119.976
Y1.3←IFIPM	.969	.985*	.010	99.863	.949	.961*	.009	104.489
Y1.4←IFIPM	.968	.988*	.008	119.249	.967	.983*	.008	121.049
Y1.5←IFIPM	.916	.934*	.013	69.648	.900	.918*	.011	84.289
Y2.1←IFAPM	1.224	.987*	.017	70.706	1.230	.978*	.015	81.201
Y2.2←IFAPM	.976	.959*	.019	50.079	.979	.858*	.017	58.597
Y2.3←IFAPM	1.103	.963*	.017	65.000	1.117	.958*	.014	77.370
Y2.4←IFAPM	1.105	.969*	.016	71.251	1.120	.962*	.014	78.368
Y2.5←IFAPM	1	.914*	-	-	1	.892*	-	-
IFIPM←→IFAPM	-.710	-.409*	.052	13.634	-.712	-.406*	.042	-16.973
E30←→E31	.-009	-.252*	.001	7.742	-.011	-.239*	.003	-3.819

Note: * - correlations are significant at 0.05 level
IFIPM – ideal fairness of inquisitorial procedural model, IFAPM – ideal fairness of adversarial procedural model
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio

Table 45 provides findings about the goodness-of-fit statistics for the revised measurement model about the variables of ideal fairness for both the inquisitorial and adversarial criminal procedural models. The results show that the revised model has

improved fit, compared to the original measurement model. The Chi-Square values decreased for the revised model in both AMOS and EQS computations. The likelihood ratio decreased to a 3.007 level and so does the RMSEA. The fit indices calculated by both AMOS and EQS exhibit an increase over the original model. The Hoelter's Critical N (CN) also increased for the revised model. The overall goodness-of-fit for the revised measurement model for the ideal fairness variables for both the adversarial and inquisitorial criminal procedural models can were excellent.

Table 45. Goodness of fit indices for measurement model on ideal fairness of inquisitorial and adversarial criminal procedural models

Index	Criterion	AMOS		EQS	
		Original	Revised	Original	Revised
Chi-square (x²)	Low	147.854	99.231	211.967	135.79246
Degrees of freedom (df)	≥ 0.0	34	33	34	33
Probability	≥ 0.05	.000	.000		
Likelihood Ratio (x²/df)	<4.0	4.349	3.007		
Goodness of Fit Index (GFI)	>.95	.965	.976		
Adjusted GFI (AGFI)	>.90	.943	.961		
Tucker-Lewis Index (TLI)	>.90	.953	.972		
Normed Fit Index (NFI)	>.90	.954	.969		
Bentler-Bonett Normed Fit Index (BBNFI)	>.95			.995	.995
Comparative Fit Index (CFI)	>.95			.996	.996
Root Mean Square Error of Approximation (RMSEA)	$\leq .05$	.046	.036		
Hoelter's Critical N (CN) @.05	>200	522	759		

3.3. Fairness of Actual Criminal Procedural Model

Figure 24 presents the original measurement model for the variable about fairness of actual procedural model. This model was subject to a CFA by both AMOS and EQS and results are presented in Table 46. The AMOS used the ADF method and EQS used the d HKRLS method. For details on these methods please refer to Section 1.2 in this Chapter.

Critical ratios (CR) for the regressions in Table 46 demonstrated significant relationships (CR≥ 1.96; p ≤ .05) for all observed variables. The factor loadings are high for all indicators that measured the latent variable of fairness about the actual criminal procedural model. The models computed by AMOS and EQS have little discrepancies in the factor loadings.

Table 46. Parameter estimates for original measurement model on fairness of actual procedure

Indicator	Original model – AMOS				Original model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
Y6←FACPM	.973	.954*	.010	97.965	.973	.958*	.008	120.715
Y7←FACPM	.997	.908*	.015	68.383	.995	.920*	.010	95.038
Y8←FACPM	1.205	.873*	.023	52.904	.990	.810*	.016	61.655
Y9←FACPM	1.194	.858*	.024	49.263	.966	.786*	.017	56.939
Y10←FACPM	1	.983*	-	-	1	.980*	-	-

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
FACP – fairness of actual criminal procedural model

Table 48 on page 182 provides goodness-of-fit statistics for the original measurement model for the variable of fairness about the actual procedural model. The findings show that while the factor loadings are high and significant, the overall fit of the measurement model required some improvement. In the original model the Chi-Square statistics is high and the CMIN/DF value exceeded 4.0, which indicated an inadequate fit. To revise this model, the measurement errors were allowed to be correlated, if the modification index in AMOS and Lagrange multiplier test in EQS was elevated. The modification indices were elevated for the following measurement errors: E42 and E43. The revised model is presented in Figure 25.
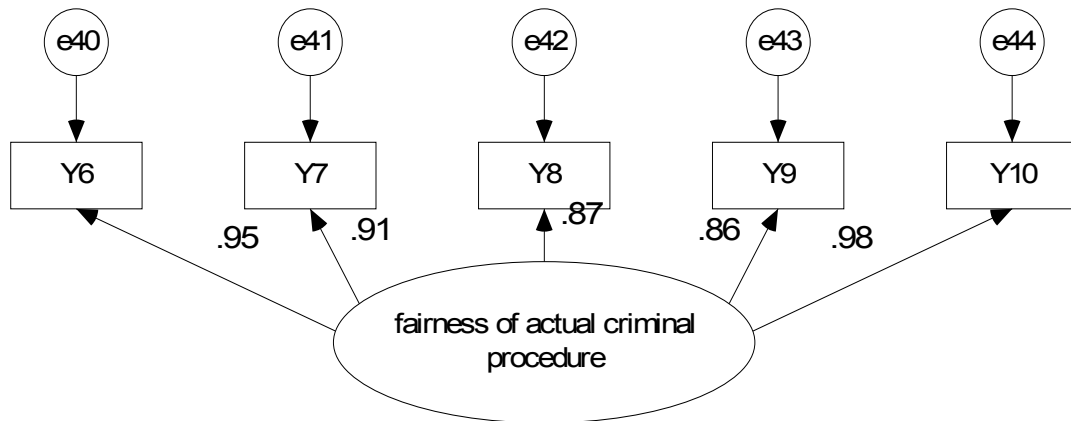
Figure 24. Original measurement model on fairness of actual criminal procedure

Table 47 presents parameter estimates for the revised measurement model about the variable of fairness of the actual criminal procedural model. Only one pair of covariances was added to the model in order to improve the goodness of fit statistics. The comparison of the results in Tables 46 and 47 shows very little change in the factor loadings of the original and revised models. The factor loadings decreased slightly for all indicators after the model was revised. All factor loadings remain high and all critical ratios remained statistically significant after the revision which suggests the measurement model is stable. The results also confirm the factor loading estimates are independent from the measurement co-variation errors.
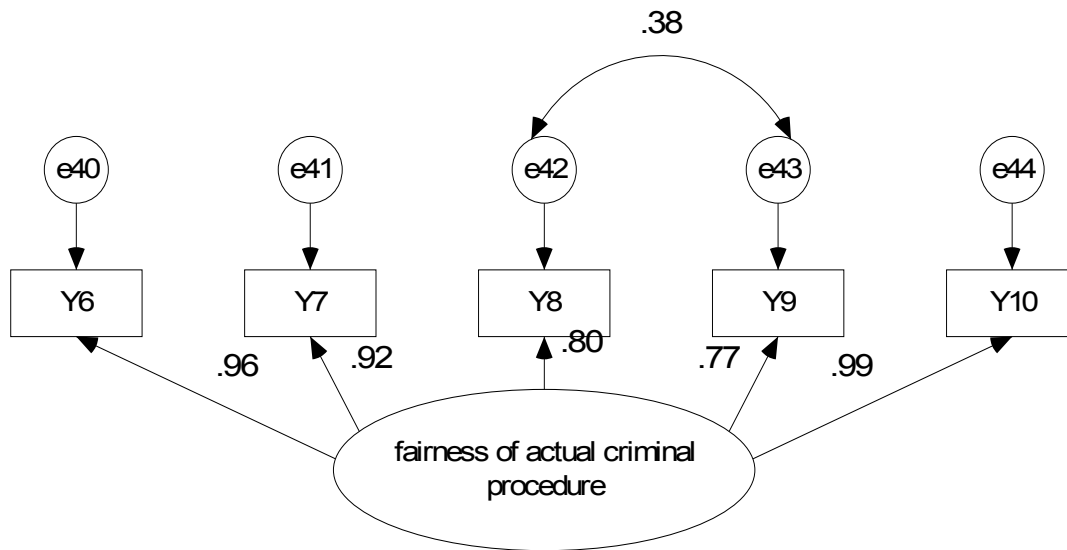
Figure 25. Revised measurement model on fairness of actual criminal procedure

Table 47. Parameter estimates for revised measurement model on fairness of actual criminal procedure

Indicator	Revised model – AMOS				Revised model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
Y6←FACPM	.968	.962*	.009	107.085	.970	.958*	.008	121.727
Y7←FACPM	.985	.920*	.013	76.519	.991	.920*	.010	95.433
Y8←FACPM	.952	.797*	.027	34.979	.963	.798*	.016	59.562
Y9←FACPM	.917	.767*	.029	31.523	.926	.769*	.017	53.886
Y10←FACPM	1	.989*	-	-	1	.983*	-	-
E42←→E43	.379	.380*	.033	11.330	.364	.367*	.022	16.631

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
FACP – fairness of actual criminal procedural model

Table 48 depicts findings related to the goodness-of-fit statistics for the revised measurement model about the fairness variable of the actual criminal procedure. The results show that overall the revised model had an improved fit compared to the original measurement model. The Chi-Square values decreased for revised model in both the AMOS and EQS computations. The likelihood ratio decreased to 2.402

compared to over 18 in the original model. The value of RMSEA also decreased to an

acceptable level of .030. The fit indices calculated by both AMOS and EQS exhibited

an increase over the original model. The Hoelter's Critical N (CN) significantly

increased for the revised model. The overall goodness-of-fit for the revised

measurement model for the fairness variable of the actual criminal procedure was

excellent.

Table 48. Goodness of fit indices for measurement model on fairness of actual criminal procedure

Index	Criterion	AMOS		EQS	
		Original	Revised	Original	Revised
Chi-square (x^2)	Low	94.368	9.609	335.152	10.675
Degrees of freedom (df)	≥ 0.0	5	4	5	4
Probability	≥ 0.05	.000	.048	.000	.030
Likelihood Ratio (x^2/df)	<4.0	18.874	2.402		
Goodness of Fit Index (GFI)	>.95	.965	.996		
Adjusted GFI (AGFI)	>.90	.896	.987		
Tucker-Lewis Index (TLI)	>.90	.915	.993		
Normed Fit Index (NFI)	>.90	.955	.995		
Bentler-Bonett Normed Fit Index (BBNFI)	>.95			.976	.999
Comparative Fit Index (CFI)	>.95			.977	1.00
Root Mean Square Error of Approximation (RMSEA)	$\leq .05$	.106	.030		
Hoelter's Critical N (CN) @.05	>200	187	1567		

4. Structural Models and Hypotheses Testing

4.1. Hypothesis I

The first hypothesis asserting that the adversarial procedural model is an ideal of

fairness for people, who hold predominantly individualistic values, was tested by the
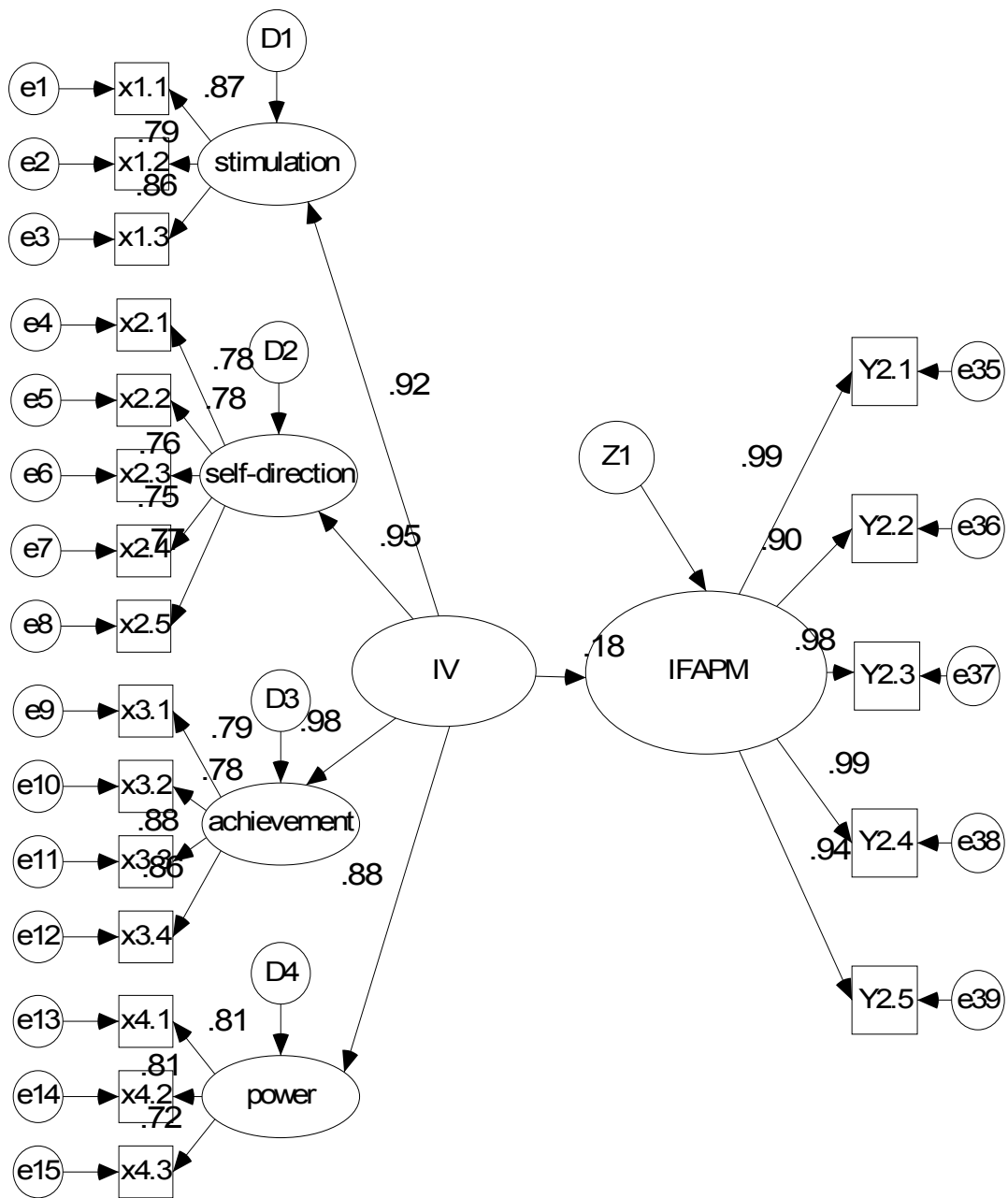
structural model presented in Figure 26.

Figure 26. Original structural-equation model for Hypothesis I

Table 49 presents parameter estimates in the original structural model that tested hypothesis I. The hypothesized relationship between the latent variables "individualistic values" and "ideal fairness of adversarial procedural model" resulted in a statistically significant relationship in both models computed by AMOS and

EQS. However, the strength of the hypothesized relationship is low. The squared correlation for AMOS model is equal to .034 and .047 for the EQS model. Therefore, only 3% to 4% of the exogenous variable "ideal fairness of adversarial procedural model" was explained by the endogenous variable "individualistic values".

Table 49. Parameter estimates for original structural model for Hypothesis I

Indicator	Original model – AMOS				Original model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
X1.1←stimulation	1.072	.872*	.022	47.825	1.026	.819*	.023	44.830
X1.2←stimulation	.930	.786*	.023	40.830	.903	.738*	.023	39.406
X1.3←stimulation	1	.859*	-	-	1	.835*	-	-
X2.1←self-direction	1.052	.785*	.030	35.435	1.004	.756*	.030	33.936
X2.2←self-direction	1.060	.779*	.030	34.981	1.027	.748*	.030	33.753
X2.3←self-direction	1	.760*	-	-	1	.761*	-	-
X2.4←self-direction	.958	.750*	.029	32.784	.929	.716*	.029	31.918
X2.5←self-direction	1.020	.770*	.031	32.440	.948	.722*	.029	32.488
X3.1←achievement	.818	.789*	.019	43.627	.825	.754*	.021	39.641
X3.2←achievement	.811	.783*	.021	37.896	.769	.713*	.022	35.403
X3.3←achievement	1	.878*	-	-	1	.827*	-	-
X3.4←achievement	.970	.864*	.022		.880	.713*	.023	37.591
X4.1←power	1.251	.809*	.041	30.346	1.343	.789*	.045	29.930
X4.2←power	1.291	.807*	.045	28.451	1.408	.775*	.048	29.629
X4.3←power	1	.721*	-	-	1	.656*	-	-
Stimulation←IV	1	.924*	-	-	.904	.910*	.024	37.126
Self-orientation ←IV	.847	.955*	.026	33.133	.744	.878*	.023	31.705
Achievement←IV	1.140	.978*	.027	42.169	1	.939*	-	-
Power←IV	.724	.884*	.027	26.830	.574	.790*	.022	25.853
Y2.1←IFAPM	1	.986*	-	-	1.233	.979*	.015	81.008
Y2.2←IFAPM	.803	.895*	.011	72.208	.982	.860*	.017	58.580
Y2.3←IFAPM	.904	.975*	.006	157.208	1.115	.958*	.014	77.080
Y2.4←IFAPM	.918	.991*	.005	188.592	1.119	.962*	.014	78.057
Y2.5←IFAPM	.838	.944*	.009	90.801	1	.892*	-	-
IV→ IFAPM	**.156**	**.184***	**.020**	**7.828**	**.136**	**.217***	**.014**	**9.625**

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
IV- individualistic values; IFAPM – ideal fairness of adversarial procedural model

Goodness-of-fit statistics for the original model for Hypothesis I are presented in Table 51 on page 187. Findings show that the original model's fit was inadequate and required an improvement. The Chi-Square statistics for the original model are high and the CMIN/DF ratio exceeded the 4.0. To revise this model, the measurement

errors were allowed to be correlated if the modification index in AMOS and Lagrange

multiplier test in EQS is elevated. The modification indices were elevated for the

following measurement errors: E7, E8, and E10-E15. The revised model is presented

in Figure 27.

Table 50. Parameter estimates for revised structural model for Hypothesis I

Indicator	Revised model – AMOS				Revised model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
X1.1←stimulation	1.070	.873*	.023	46.924	1.040	.830*	.023	45.785
X1.2←stimulation	.924	.784*	.023	39.685	.898	.736*	.023	39.317
X1.3←stimulation	1	.854*	-	-	1	.834*	-	-
X2.1←self-direction	1.038	.796*	.030	35.146	1.010	.767*	.029	34.916
X2.2←self-direction	1.047	.790*	.030	35.146	1.025	.753*	.030	34.382
X2.3←self-direction	1	.773*	-	-	1	.767*	-	-
X2.4←self-direction	.906	.727*	.029	31.326	.893	.694*	.029	30.981
X2.5←self-direction	.962	.744*	.031	30.990	.908	.696*	.029	31.532
X3.1←achievement	.812	.782*	.020	41.049	.802	.746*	.021	39.121
X3.2←achievement	.864	.820*	.023	38.002	.853	.804*	.024	35.654
X3.3←achievement	1	.885*	-	-	1	.847*	-	-
X3.4←achievement	.836	.724*	.024	35.453	.815	.692*	.023	36.216
X4.1←power	1.227	.825*	.046	27.963	1.335	.791*	.045	29.444
X4.2←power	1.245	.758*	.048	25.927	1.369	.763*	.045	29.005
X4.3←power	1	.713*	-	-	1	.658*	-	-
Stimulation←IV	1	.929*	-	-	1	.929*	-	-
Self-direction←IV	.871	.956*	.027	32.749	.948	.917*	.025	37.499
Achievement←IV	1.104	.947*	.027	40.893	.802	.900*	.024	32.936
Power←IV	.635	.785*	.027	23.328	.547	.735*	.022	24.534
Y2.1←IFAPM	1	.985*	-	-	1	.979*	-	-
Y2.2←IFAPM	.808	.893*	.011	70.680	.797	.860*	.011	72.945
Y2.3←IFAPM	.908	.979*	.006	152.674	.905	.958*	.007	120.902
Y2.4←IFAPM	.918	.991*	.005	182.718	.908	.962*	.007	124.380
Y2.5←IFAPM	.840	.941*	.009	88.491	.812	.892*	.010	81.045
IV→IFAPM	**.152**	**.185***	**.020**	**7.514**	**.172**	**.218***	**.018**	**9.739**
E7←→E8	.461	.232*	.076	6.068	.537	.225*	.064	8.401
E12←→E14	1.590	.605*	.122	13.080	1.930	.658*	.087	22.101
E13←→E12	.816	.381*	.106	7.666	1.113	.426*	.077	14.392
E15←→E12	.458	.190*	.093	4.901	.491	.170*	.073	6.731
E10←→E12	-.315	-.148*	.072	-4.394	-.518	-.217*	.063	-8.213
E11←→E10	-.441	-.316*	.078	-5.690	-.704	-.401*	.067	-10.472

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR –
critical ratio
IV- individualistic values; IFAPM – ideal fairness of adversarial procedural model

Parameter estimates for the revised structural model for Hypothesis I are presented in Table 50. The hypothesized relationship between the latent variables "individualistic values" and "ideal fairness of the adversarial procedural model" remains statistically significant while the strength of the correlation practically did not change.
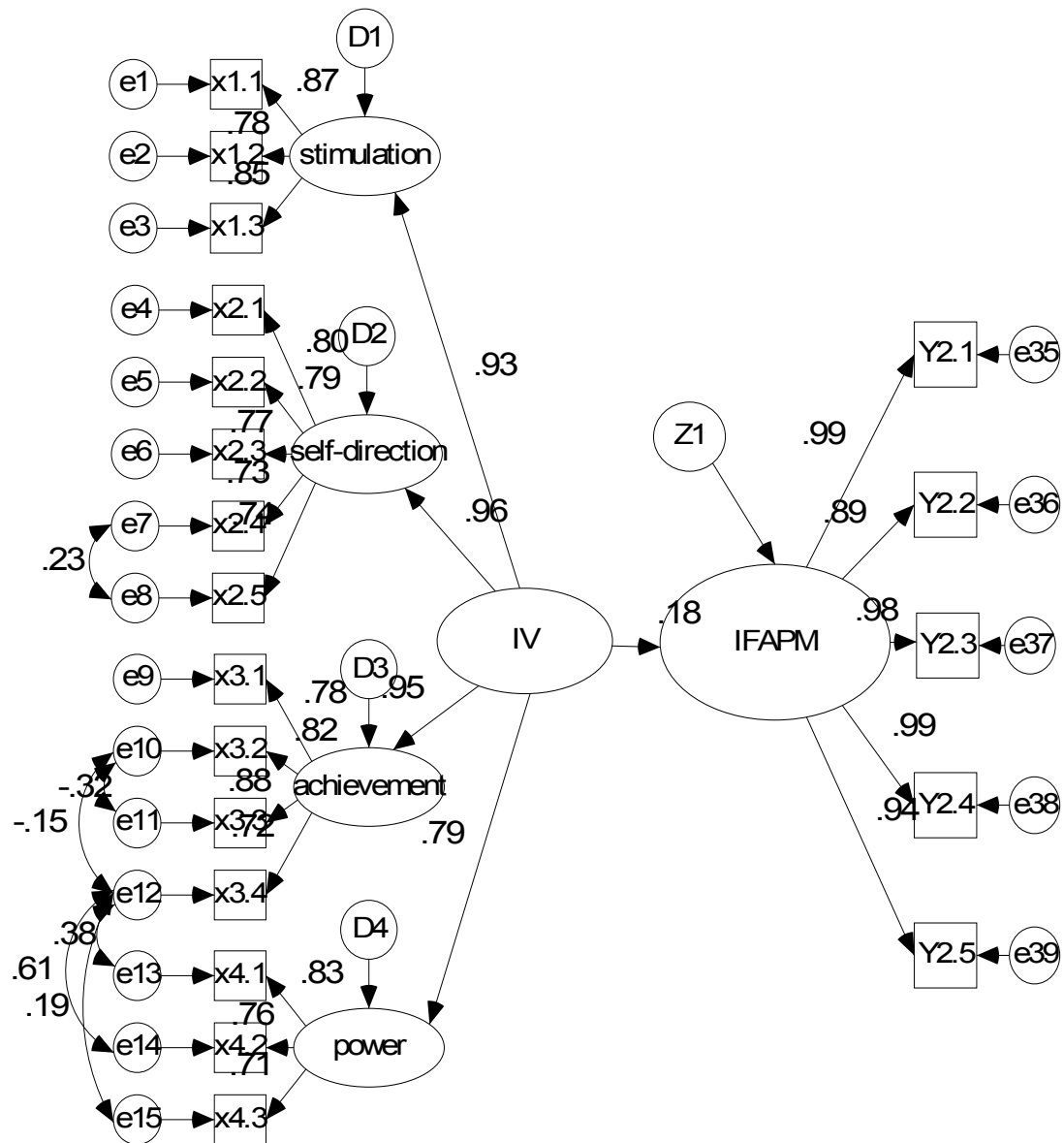

Figure 27. Revised structural-equation model for Hypothesis I

Goodness-of-fit statistics for the revised structural model for Hypothesis I are presented in the Table 51. A comparison of statistics from the original and revised models in Table 49 and Table 50 shows that the revised structural model has a significantly better fit. The values of Chi-Square decreased for both models computed by AMOS and EQS and the value of CMIN/DF is within the ±4.00 range. The RMSEA value also decreased for the revised model and values of all fit indices improved compared to the values of the fit indices for the original model. Results presented in the Table 51 show the revised structural model for Hypothesis I has an excellent fit.

Table 51. Goodness-of-fit statistics on structural model for Hypothesis I

Index	Criterion	AMOS		EQS	
		Original	Revised	Original	Revised
Chi-square (x^2)	Low	803.582	560.332	1818.7166	1003.094
Degrees of freedom (df)	≥ 0.0	165	159	165	159
Probability	≥ 0.05	.000	.000	.000	.000
Likelihood Ratio (x^2/df)	<4.0	4.870	3.524		
Goodness of Fit Index (GFI)	>.95	.914	.940		
Adjusted GFI (AGFI)	>.90	.891	.921		
Tucker-Lewis Index (TLI)	>.90	.848	.901		
Normed Fit Index (NFI)	>.90	.840	.889		
Bentler-Bonett Normed Fit Index (BBNFI)	>.95			.970	.986
Comparative Fit Index (CFI)	>.95			.973	.988
Root Mean Square Error of Approximation (RMSEA)	$\leq.05$	.049	.040		
Hoelter's Critical N (CN) @.05	>200	388	537		

4.2. Hypothesis II

The second hypothesis asserting that the inquisitorial procedural model is an ideal of fairness for people who hold predominantly collective values was tested by the structural model presented in Figure 28.
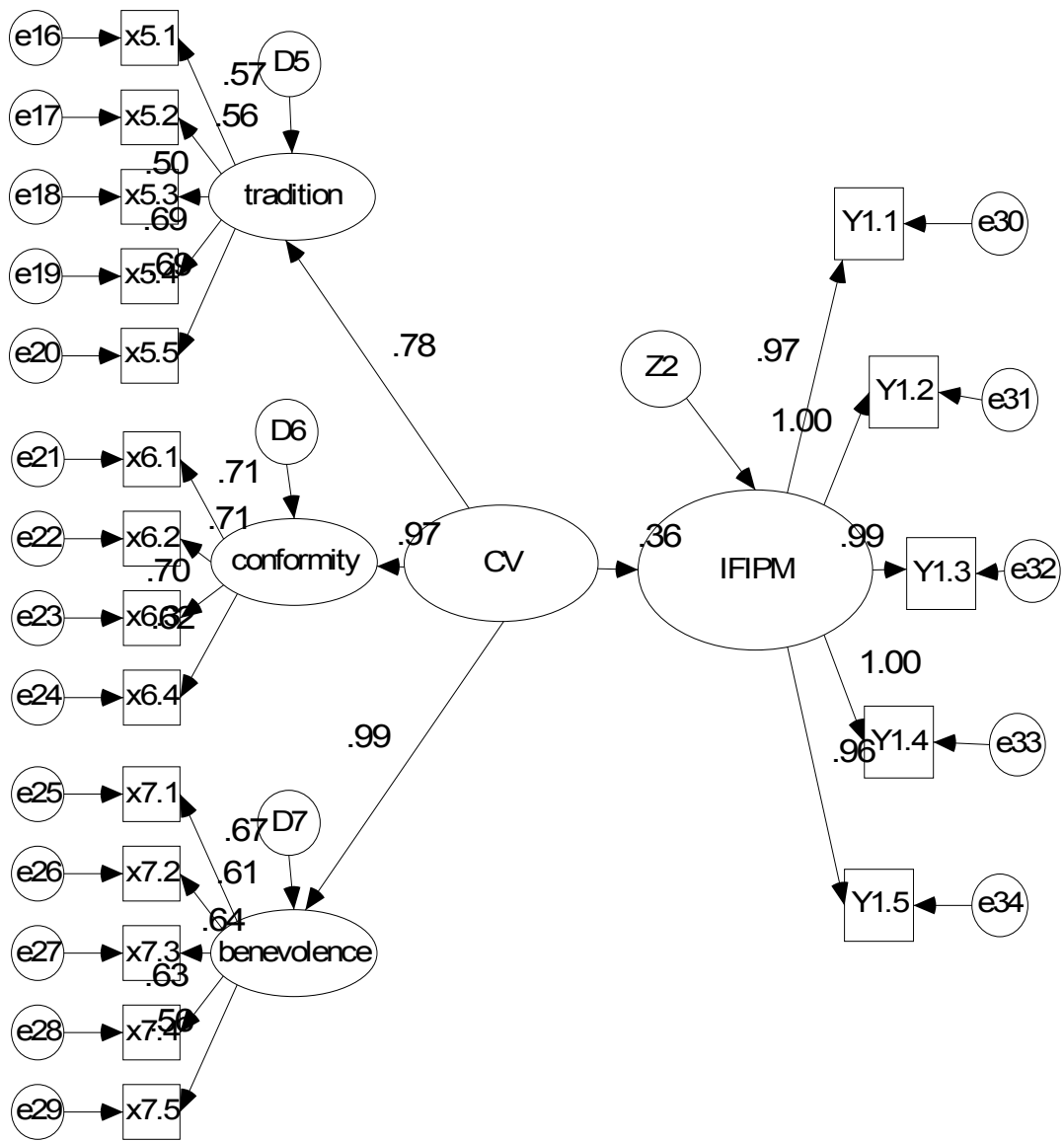
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Figure 28. Original structural-equation model for Hypothesis II

Table 52 presents parameter estimates for the structural model testing Hypothesis II. The hypothesized relationship between the latent variables "collective values" and "ideal fairness of inquisitorial procedural model" was proven to have statistically significant relationships in both models computed by AMOS and EQS methods. The strength of the hypothesized relationship is medium and the standardized regression

coefficient is equal to .365 for the AMOS model and .410 EQS. Therefore the 16% to 17% of variation within the endogenous variable "ideal fairness of inquisitorial procedural model" was explained by the exogenous variable "collective values".

Table 52. Parameter estimates for original structural model for Hypothesis II

Indicator	Original model – AMOS				Original model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
X5.1←tradition	.960	.574*	.065	14.840	1.007	.554*	.066	15.289
X5.2←tradition	1.024	.561*	.065	15.791	1.051	.544*	.069	15.177
X5.3←tradition	1	.499*	-	-	1	.481*	-	-
X5.4←tradition	1.088	.683*	.059	18.311	1.082	.625*	.066	16.271
X5.5←tradition	1.077	.691*	.064	16.959	1.115	.658*	.067	16.684
X6.1←conformity	.955	.708*	.042	22.535	.993	.686*	.048	20.514
X6.2←conformity	1	.713*	-	-	1.112	.719*	.052	21.331
X6.3←conformity	.971	.696*	.042	23.379	1	.654*	-	-
X6.4←conformity	.742	.620*	.040	18.528	.843	.601*	.047	17.842
X7.1←benevolence	1.083	.667*	.063	17.130	1.059	.648*	.063	16.763
X7.2←benevolence	1.066	.611*	.070	15.288	.885	.535*	.059	14.980
X7.3←benevolence	1	.638*	-	-	1	.587*	-	-
X7.4←benevolence	1.031	.626*	.049	21.071	.982	.572*	.064	15.380
X7.5←benevolence	.824	.562*	.049	16.720	.862	.544*	.058	14.758
Tradition←CV	1	.784*	-	-	1	.796*	-	-
Conformity←CV	1.364	.970*	.086	15.800	.756	.958*	.052	14.618
Benevolence←CV	1.124	.990*	.085	13.193	.870	.918*	.054	15.975
Y1.1←IFIPM	1	.968*	-	-	1	.954*	-	-
Y1.2←IFIPM	.986	.998*	.006	171.590	.941	.996*	.006	157.834
Y1.3←IFIPM	1	.990*	.005	185.737	.958	.962*	.009	110.958
Y1.4←IFIPM	1.007	.999*	.006	179.316	.976	.984*	.008	128.891
Y1.5←IFIPM	.977	.962*	.011	92.291	.908	.919*	.010	90.105
CV→IFIPM	**.554**	**.365***	**.053**	**10.523**	**.513**	**.410***	**.037**	**13.702**

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
CV- collective values; IFIPM – ideal fairness of inquisitorial procedural model

Goodness-of-fit statistics for the original structural model for Hypothesis II are presented in Table 54 on page 192. Findings show that the original structural model did not have an adequate fit with the data. The Chi-Square statistics were high, and the CMIN/DF ratio exceeded the ±4.00 range. To revise this model, the measurement errors are allowed to be correlated if the modification index in AMOS and Lagrange multiplier test in EQS is elevated. The modification indices were elevated for the

following measurement errors: E17, E21, E24, E26, and E28-E31. The revised model

is presented in Figure 29

Table 53. Parameter estimates for revised structural model for Hypothesis II

Indicator	Revised model – AMOS				Revised model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
X5.1←tradition	1.001	.581*	.064	15.601	1.007	.552*	.066	15.230
X5.2←tradition	1.027	.559*	.063	16.323	1.037	.538*	.069	15.074
X5.3←tradition	1	.498*	-	-	1	.479*	-	-
X5.4←tradition	1.126	.697*	.059	19.058	1.084	.624*	.067	16.211
X5.5←tradition	1.092	.686*	.062	17.533	1.111	.654*	.067	16.596
X6.1←conformity	.916	.688*	.041	22.147	.971	.675*	.048	20.425
X6.2←conformity	1	.710*	-	-	1.102	.718*	.051	21.577
X6.3←conformity	.982	.706*	.041	24.226	1	.659*	-	-
X6.4←conformity	.750	.616*	.039	19.022	.841	.607*	.046	18.133
X7.1←benevolence	1.182	.678*	.071	16.621	1.181	.654*	.076	15.490
X7.2←benevolence	1.173	.626*	.078	15.079	1.060	.580*	.073	14.532
X7.3←benevolence	1	.540*	-	-	1	.526*	-	-
X7.4←benevolence	1.042	.541*	.052	19.935	.977	.514*	.058	16.832
X7.5←benevolence	.969	.584*	.060	16.271	.968	.552*	.071	13.694
Tradition←CV	1	.803*	-	-	1	.812*	-	-
Conformity←CV	1.357	.961*	.083	16.319	.706	.961*	.051	14.817
Benevolence←CV	1.019	.963*	.076	12.976	.785	.930*	.053	14.916
Y1.1←IFIPM	1	.985*	-	-	1	.958*	-	-
Y1.2←IFIPM	.937	.998*	.007	127.173	.937	.997*	.006	154.205
Y1.3←IFIPM	.966	.991*	.006	149.280	.952	.961*	.009	110.885
Y1.4←IFIPM	.974	1.00*	.006	159.325	.970	.983*	.008	129.048
Y1.5←IFIPM	.935	.962*	.011	84.848	.902	.918*	.010	90.094
CV→IFIPM	**.659**	**.409***	**.057**	**11.583**	**.507**	**.406***	**.037**	**13.748**
E30 ←→E31	-.008	-.374*	.001	-8.011	-.011	-.238*	.003	-3.834
E26←→E29	-.321	-.195*	.062	-.5.203	-.413	-.199*	.070	-5.868
E26←→E28	-.156	-.079*	.069	-2.280	-.161	-.069*	.070	-2.300
E27←→E28	.802	.380*	.097	8.243	.987	.398*	.088	11.223
E17←→E24	-.204	-.125*	.057	-4.234	-.427	-.183*	.074	-5.741
E21←→E29	.234	.161*	.058	4.056	.247	.135*	.065	3.822

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
CV- collective values; IFIPM – ideal fairness of inquisitorial procedural model

Parameter estimates for the revised structural model for Hypothesis II are

presented in Table 53. The hypothesized relationship between the latent variables

"collective values" and "ideal fairness of inquisitorial procedural model" remained

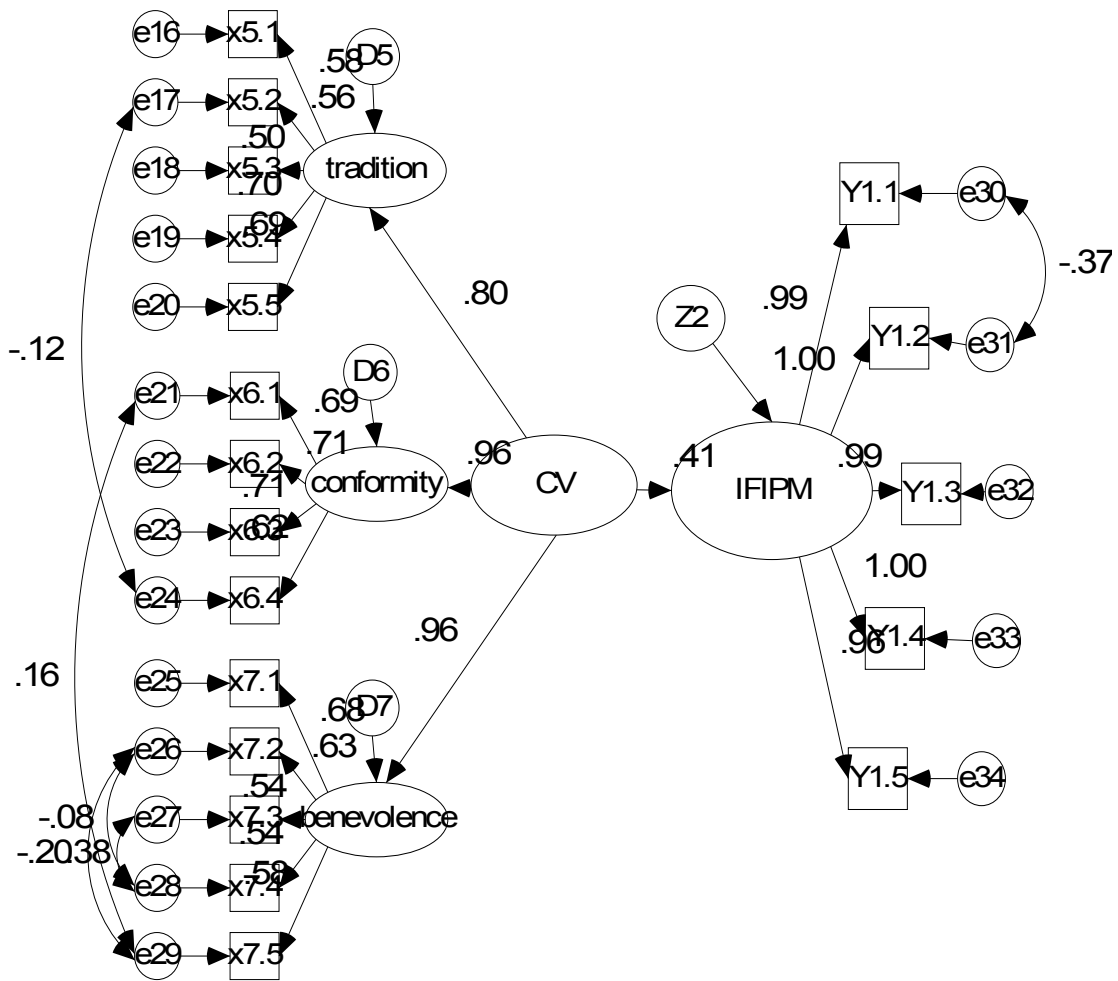statistically significant, while the strength of the correlation insignificantly decreased.

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Figure 29. Revised structural-equation model for Hypothesis II

Table 54 provides goodness-of-fit statistics for the revised structural model for Hypothesis II. A comparison of statistics for the original and revised models in Table 52 and Table 53 shows that the revised structural model had a better fit. The value of Chi-Square for both models computed by AMOS and EQS decreased in the revised model. The revised model's CMIN/DF ratio is within the accepted range of ± 4.00. The value of RMSEA decreased for the revised model and values of all fit indices improved. Results presented in the Table 54 suggest that the revised structural model for Hypothesis II had an excellent fit.

Table 54. Goodness of fit statistics for structural model for Hypothesis II

Index	Criterion	AMOS		EQS	
		Original	Revised	Original	Revised
Chi-square (x²)	Low	617.572	418.926	790.010	491.943
Degrees of freedom (df)	≥ 0.0	148	142	148	142
Probability	≥ 0.05	.000	.000	.000	.000
Likelihood Ratio (x²/df)	<4.0	4.139	2.950		
Goodness of Fit Index (GFI)	>.95	.894	.927		
Adjusted GFI (AGFI)	>.90	.864	.903		
Tucker-Lewis Index (TLI)	>.90	.800	.876		
Normed Fit Index (NFI)	>.90	.786	.854		
Bentler-Bonett Normed Fit Index (BBNFI)	>.95			.978	.986
Comparative Fit Index (CFI)	>.95			.982	.990
Root Mean Square Error of Approximation (RMSEA)	$\leq .05$	.044	.035		
Hoelter's Critical N (CN) @.05	>200	460	.648		

4.3. Hypothesis III

The third hypothesis asserting that people, who view the adversarial procedural model as an ideal of fairness and perceive the new Russian CPC of 2001 as fair, was tested by structural question model presented in Figure 30.

Table 55 provides parameter estimates for the original structural model for Hypothesis III. The hypothesized relationship between the latent variables "ideal fairness of adversarial procedural model" and "fairness of actual criminal procedural model" were found to be statistically significant at the $p \leq .05$ level. The strength of the relationship is very high and the standardized regression coefficient is equal to .99 for AMOS model and 1.00 for the EQS model.
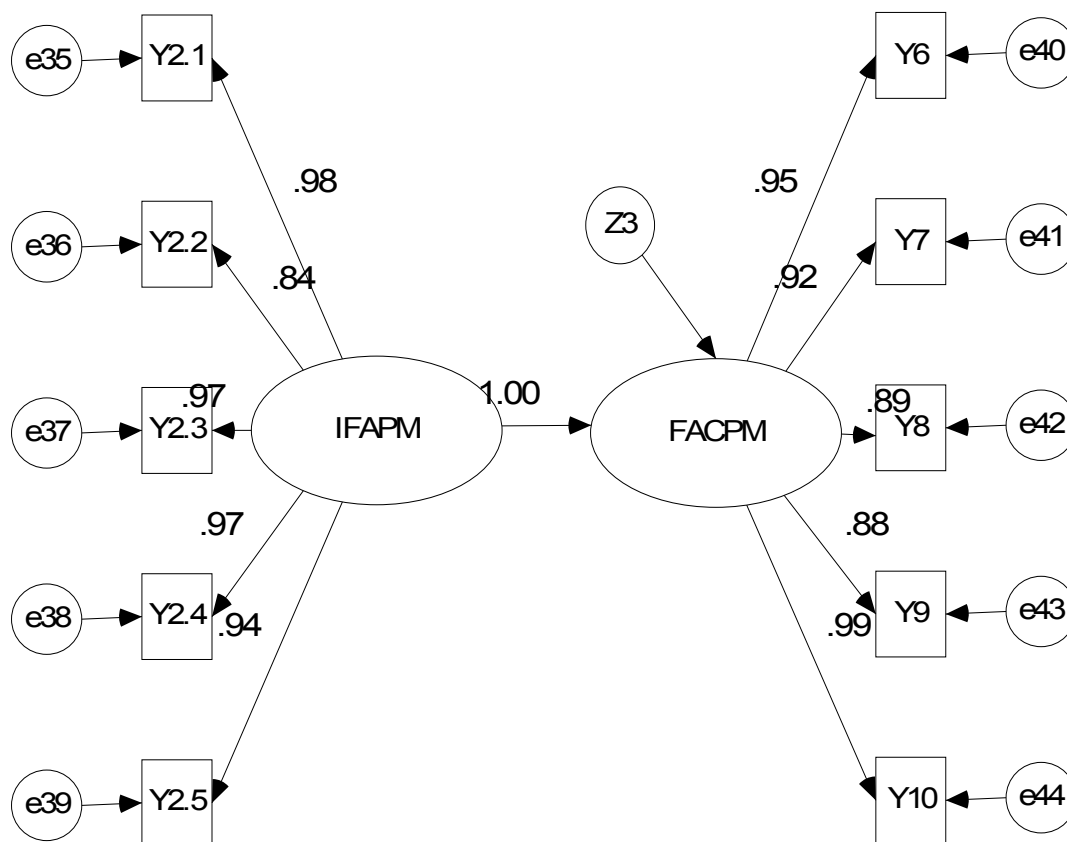
Figure 30.Original structural-equation model for Hypothesis III

Table 55.Parameter estimates for original structural model for Hypothesis III

Indicator	Original model – AMOS				Original model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
Y2.1←IFAPM	1.211	.981*	.015	80.087	1.242	.982*	.015	84.920
Y2.2←IFAPM	.924	.839*	.019	48.047	.975	.859*	.016	59.599
Y2.3←IFAPM	1.077	.970*	.014	79.447	1.111	.955*	.014	78.074
Y2.4←IFAPM	1.085	.973*	.013	80.941	1.116	.955*	.014	78.298
Y2.5←IFAPM	1	.939*	-	-	1	.895*	-	-
Y6←FACPM	1	.954*	-	-	1	.954*	-	-
Y7←FACPM	.034	.919*	.014	76.065	1.038	.926*	.012	87.995
Y8←FACPM	1.274	.889*	.021	60.279	1.026	.809*	.017	58.640
Y9←FACPM	1.272	.884*	.022	57.655	1.008	.792*	.018	56.015
Y10←FACPM	1.045	.994*	.008	125.009	1.032	.979*	.009	119.400
IFAPM→FACPM	**1.017**	**.999***	**.013**	**77.187**	**1.059**	**1.00***	**.014**	**77.257**

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
IFAPM – ideal fairness of adversarial procedural model; FACPM – fairness of actual criminal procedural model

Goodness-of-fit statistics for the original structural model for Hypothesis III is presented in Table 57 on page 196Findings show that the original structural model on Hypothesis III had an inadequate fit. The values of Chi-Square statistics for both AMOS and EQS models were high. The CMIN/DF ratio for the original model exceeded the accepted ±4.00 range. The value of RMSEA was also higher than the accepted .05 level which suggests a discrepancy between the model and data. To revise the model the measurement errors are allowed to be correlated, if the modification index in AMOS and Lagrange multiplier test in EQS is elevated. The measurement indices were elevated for the following measurement errors: E35, E36, E39, and E42-E44. The revised model is presented in Figure 31.
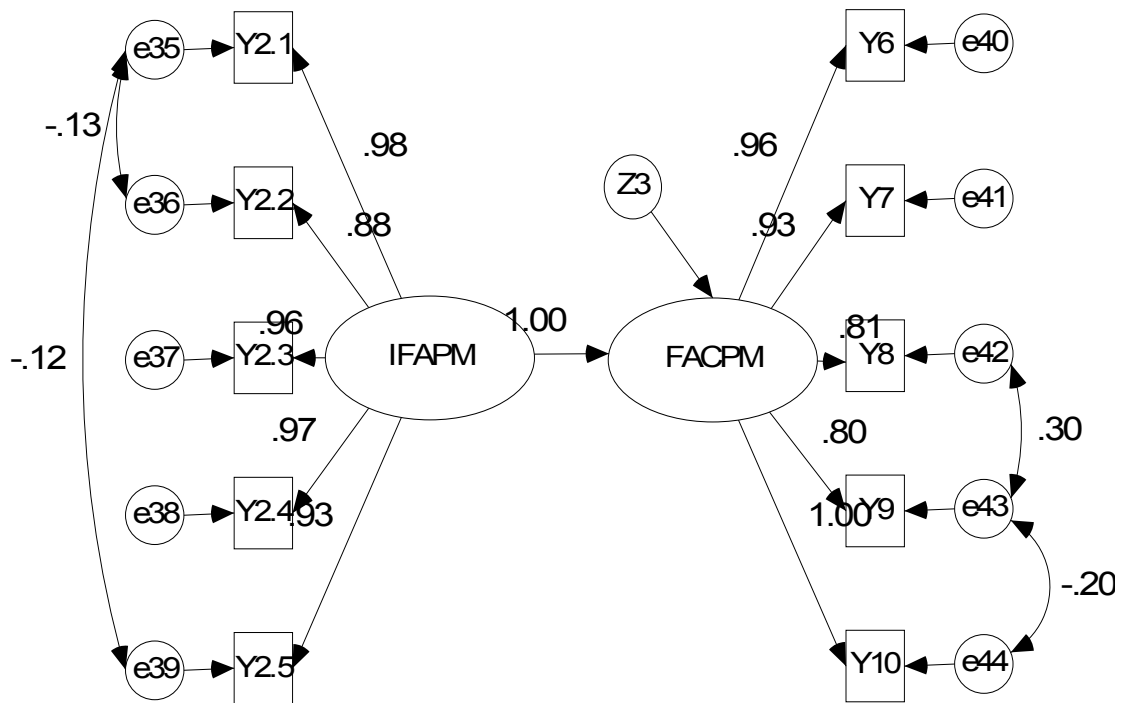
Figure 31. Revised structural-equation model for Hypothesis III

Table 56 provides parameter estimates for the revised structural model for Hypothesis III. The hypothesized relationships between the latent variables "ideal fairness of adversarial procedural model" and "fairness of actual criminal procedural model" remain statistically significant and strong.

Table 56. Parameter estimates for revised structural model for Hypothesis III

Indicator	Revised model – AMOS				Revised model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
Y2.1←IFAPM	1.203	.982*	.016	77.269	1.228	.984*	.015	81.756
Y2.2←IFAPM	1.001	.883*	.017	57.617	.970	.862*	.016	60.066
Y2.3←IFAPM	1.073	.958*	.014	74.038	1.096	.954*	.014	78.942
Y2.4←IFAPM	1.084	.967*	.014	79.193	1.102	.955*	.014	79.365
Y2.5←IFAPM	1	.931*	-	-	1	.901*	-	-
Y6←FACPM	1	.962*	-	-	1	.954*	-	-
Y7←FACPM	1.022	.926*	.013	81.342	1.037	.926*	.012	88.104
Y8←FACPM	1.025	.811*	.028	36.002	1.011	.804*	.017	57.791
Y9←FACPM	1.015	.903*	.031	32.875	.985	.787*	.018	55.015
Y10←FACPM	1.041	.996*	.008	131.816	1.033	.980*	.009	120.379
IFAPM→FACPM	**1.034**	**.999***	**.014**	**74.538**	**1.046**	**.999***	**.013**	**78.035**
E42←→E43	.262	.304*	.029	9.063	.316	.334*	.020	15.546
E43←→E44	-.022	-.197*	.005	-4.688	-.041	-.155*	.006	-6.604
E39←→E35	-.015	-.117*	.004	-3.541	-.034	-.209*	.005	-7.374
E35←→E36	-.023	-.125*	004	-5.302	-.015	-.081*	.005	-2.960

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
IFAPM – ideal fairness of adversarial procedural model; FACPM – fairness of actual criminal procedural model

Goodness-of-fit statistics for the revised structural model for Hypothesis III is presented in Table 57. Findings show that the revised structural model for Hypothesis III exhibited a significantly better fit. The values of Chi-Square decreased for both models computed by AMOS and EQS. The CMIN/DF value for the revised model is within the accepted ±4.00 range. The value of RMSEA also approached the accepted range of .05. All values of fit indices increased for both revised models computed by AMOS and EQS. The revised structural model for Hypothesis III had an excellent fit.

Table 57. Goodness of fit statistics for structural model for Hypothesis III

Index	Criterion	AMOS		EQS	
		Original	Revised	Original	Revised
Chi-square (x^2)	Low	215.557	106.088	633.982	230.416
Degrees of freedom (df)	≥ 0.0	34	30	34	30
Probability	≥ 0.05	.000	.000	.000	.000
Likelihood Ratio (x^2/df)	<4.0	6.340	3.536		
Goodness of Fit Index (GFI)	>.95	.969	.985		
Adjusted GFI (AGFI)	>.90	.950	.972		
Tucker-Lewis Index (TLI)	>90	.947	.975		
Normed Fit Index (NFI)	>90	.953	.977		
Bentler-Bonett Normed Fit Index (BBNFI)	>95			.991	.997
Comparative Fit Index (CFI)	>95			.991	.997
Root Mean Square Error of Approximation (RMSEA)	$\leq.05$	.058	.040		
Hoelter's Critical N (CN) @.05	>200	358	655		

4.4. Hypothesis IV

The final hypothesis that asserted people who view the inquisitorial procedural model as an ideal of fairness will find the new Russian CPC of 2001 unfair was tested by the structural model presented in Figure 32.

The parameter estimates for the original structural model for Hypothesis IV are presented in Table 58. The hypothesized relationships between the latent variable "ideal fairness of inquisitorial procedural model" and the "fairness of ideal criminal procedural model" were found to be statistically significant. As predicted by the theory, the latent variables had inverse relationships and medium strength. The standardized regression coefficient is equal to -.315 for the AMOS model and -.422 for the EQS model.

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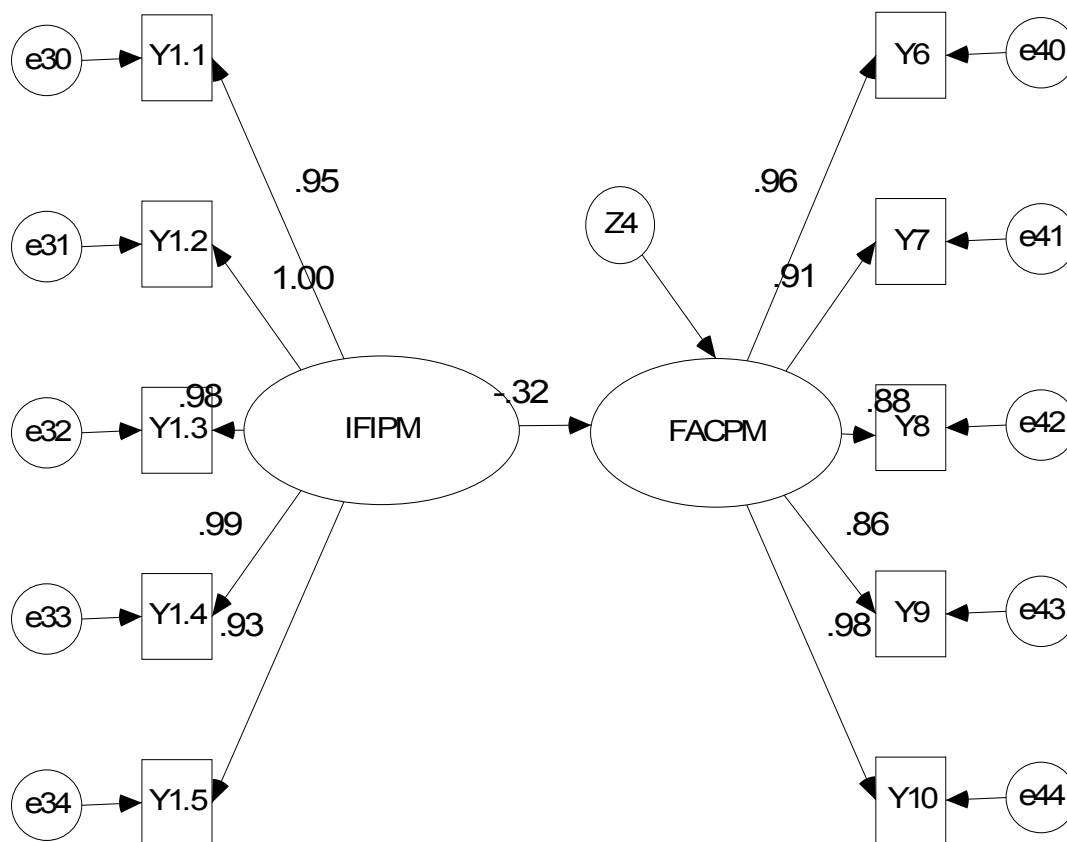
Figure 32. Original structural-equation model for Hypothesis IV

Table 58. Parameter estimates for original structural model for Hypothesis IV

Indicator	Original model – AMOS				Original model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
Y1.1←IFIPM	1.043	.955	.014	72.800	1.100	.954	.013	84.393
Y1.2←IFIPM	1.032	.998	.013	79.440	1.038	.996	.010	105.179
Y1.3←IFIPM	1.042	.978	.015	69.131	1.055	.962	.012	90.818
Y1.4←IFIPM	1.055	.994	.013	78.349	1.075	.984	.011	100.304
Y1.5←IFIPM	1	.927	-	-	1	.918	-	-
Y6←FACPM	1	.958	-	-	1	.958	-	-
Y7←FACPM	1.027	.908	.016	66.165	1.023	.920	.012	85.729
Y8←FACPM	1.246	.878	.023	54.713	1.013	.807	.018	57.545
Y9←FACPM	1.225	.858	.025	49.701	.986	.783	.018	53.982
Y10←FACPM	1.030	.985	.009	116.854	1.031	.981	.009	120.960
IFIPM→FACPM	**-.292**	**-.315**	**.023**	**-12.710**	**-.422**	**-.426**	**.020**	**-21.056**

Note: * - correlations are significant at 0.05 level

UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio

IFIPM – ideal fairness of inquisitorial procedural model; FACPM – fairness of actual criminal procedural model

Goodness-of-fit statistics for the original structural model for Hypothesis IV is presented in Table 60 on page 200. Findings show the original structural model for Hypothesis IV did not have an adequate fit. The value of CMIN/DF exceeded the accepted ± 4.00 range. The value of RMSEA was also higher than the accepted .05 level which suggests discrepancies between the model and data. To revise this model, the measurement errors are allowed to be correlated, if the modification index in AMOS and Lagrange multiplier test in EQS is elevated. The modification indices were elevated for the following measurement errors: E30, E33, E42 and E43. The revised model is presented in Figure 33.
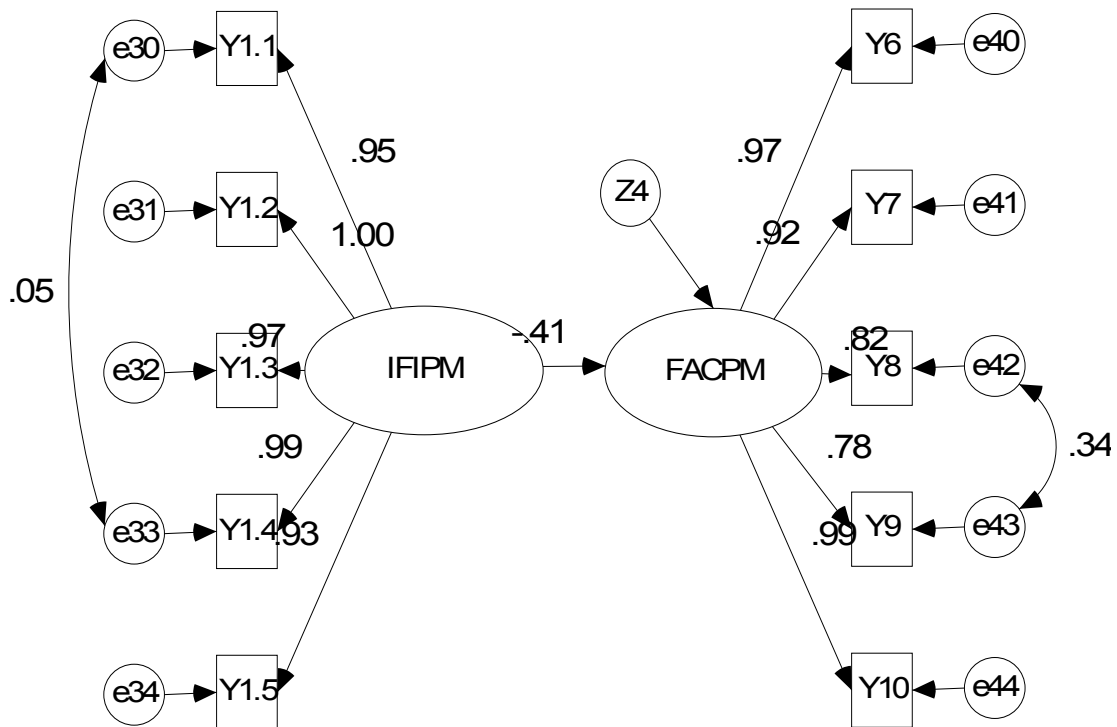
Figure 33. Revised structural-equation model for Hypothesis IV

Parameter estimates for the revised structural model for Hypothesis IV are presented in Table 59. The hypothesized relationships between the latent variables "ideal fairness of inquisitorial procedural model" and "fairness of actual criminal procedural model" remained statistically significant. The standardized regression coefficients slightly increased for both models computed by AMOS and EQS.

Table 59. Parameter estimates for revised structural model for Hypothesis IV

Indicator	Revised model – AMOS				Revised model- EQS			
	UFL	SFL	SE	CR	UFL	SFL	SE	CR
Y1.1←IFIPM	1.044	.953	.014	75.504	1.103	.953	.013	83.876
Y1.2←IFIPM	1.029	.998	.013	82.007	1.040	.996	.010	105.207
Y1.3←IFIPM	1.036	.974	.014	71.766	1.055	.961	.012	90.798
Y1.4←IFIPM	1.053	.993	.013	80.745	1.077	.984	.011	99.707
Y1.5←IFIPM	1	.933	-	-	1	.918	-	-
Y6←FACPM	1	.969	-	-	1	.958	-	-
Y7←FACPM	1.015	.918	.014	73.010	1.022	.920	.022	85.334
Y8←FACPM	1.034	.820	.029	36.125	.988	.796	.018	55.654
Y9←FACPM	.987	.782	.031	31.580	.947	.765	.019	51.183
Y10←FACPM	1.028	.989	.007	137.484	1.034	.983	.008	121.790
IFIPM→FACPM	**-.410**	**-411**	**.024**	**-16.975**	**-.428**	**-.431**	**.020**	**-21.350**
E43←→E42	.309	.339	.003	9.303	.368	.369	.022	16.763
E33←→E30	.003	.052	.001	2.933	.009	.079	.003	2.648

Note: * - correlations are significant at 0.05 level
UFL – unstandardized factor loadings; SFL – standardized factor loading; SE – standard error; CR – critical ratio
IFIPM – ideal fairness of inquisitorial procedural model; FACPM – fairness of actual criminal procedural model

Goodness-of-fit statistics for the revised structural model for Hypothesis IV are presented in Table 60. The findings revealed the revised structural model for Hypothesis IV exhibited a better fit than the original model. The value of Chi-Square decreased for both revised AMOS and EQS models. The value of CMIN/DF is within the accepted ± 4.00 range. The value of RMSEA decreased and is below the .05 criterion. All fit indices in both revised models increased compared to the fit indices

for the original model. The revised structural model for Hypothesis IV had an excellent data fit.

Table 60. Goodness-of-fit statistics for structural model for Hypothesis IV

Index	Criterion	AMOS		EQS	
		Original	Revised	Original	Revised
Chi-square (x²)	Low	174.633	114.512	487.006	127.255
Degrees of freedom (df)	≥ 0.0	34	32	34	32
Probability	≥ 0.05	.000	.000	.000	.000
Likelihood Ratio (x²/df)	<4.0	5.136	3.579		
Goodness of Fit Index (GFI)	>.95	.962	.975		
Adjusted GFI (AGFI)	>.90	.938	.957		
Tucker-Lewis Index (TLI)	>90	.949	.968		
Normed Fit Index (NFI)	>90	.953	.969		
Bentler-Bonett Normed Fit Index (BBNFI)	>95			.987	.997
Comparative Fit Index (CFI)	>95			.988	.998
Root Mean Square Error of Approximation (RMSEA)	$\leq.05$	.051	.040		
Hoelter's Critical N (CN) @.05	>200	442	641		

4.5. Hypotheses Testing

Four research hypotheses were proposed by this study. Based on the preceding findings all four hypotheses were supported.

1. The adversarial procedural model is an ideal of fairness for people who hold predominantly individualistic values. The hypothesis is supported with standardized regression coefficients of .185 (AMOS) and .218 (EQS). The correlation is weak but statistically significant.

2. The inquisitorial procedural model is an ideal of fairness for people who hold predominantly collective values. The hypothesis was supported with standardized regression coefficients of .409 (AMOS) .406 (EQS). The correlation has medium strength.

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3. People who view the adversarial procedural model as an ideal of fairness find the CPC of 2001 fair. The hypothesis is supported with standardized regression coefficient of .999 (AMOS) and .999 (EQS). The correlation is strong.

4. People who view the inquisitorial procedural model as an ideal of fairness find the CPC of 2001 unfair. The hypothesis is supported with standardized regression of -.411 (AMOS) and -.431(EQS). The correlation has medium strength.

V. DISCUSSION, LIMITATIONS, IMPLICATIONS, AND CONCLUSION

1. Discussion

1.1. Cultural Values of Russian Society

The research design of this thesis uses the theory of motivational values by Schwartz to measure the concept of cultural values within Russian society (1995). Seven universal domains of cultural values were used in this study. They represent seven major motives of human behavior according to the theory by Schwartz (1990). The universal domains of tradition, benevolence and conformity constitute the concept of collective values. The individualistic values concept consists of self-direction, stimulation, power and achievement domains. Each domain is measured through a set of indicators. In total, there are 29 indicators used in this study. The research proposition suggests that Russian society has retained a predominantly collective culture and was confirmed through a descriptive data analysis

The findings of this study confirmed that Schwartz's (1992) motivational theory of human values is used here to explain the cultural values of societal groups. The data supported the notion that indices of single cultural values can be grouped into the universal domains such as values of tradition or self-direction. CFA results demonstrated that different domains of cultural values can be collapsed into two larger value groups labeled as individualistic and collective cultural values.

Universal domains of collective values such as tradition, benevolence, and conformity, are considered very important by the majority of Russian respondents.

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However, it was also determined by this study that domains of individualistic values such as power, self-direction, stimulation, and achievement, are becoming more prevalent in contemporary Russia than previously reported in the literature (Hofstede, 2001). The analysis confirmed that while older generations of indigenous Russians exhibited strong preferences for collective values the younger generation demonstrated preferences for individualistic values.

These findings are somewhat consistent with previous studies of Russian cultural values. The study by Hofstede (2001) used a scale that ranged from zero to one-hundred to measure individualism and reported Russia scored 39. For comparison, the U.S.A. scored 91 and Great Britain 89 in 1988. At the same time, findings from the World Value Survey (WVS)[22] indicated some development of individualistic features in Russia as early as 1995.

The WVS data analyzed by Abramson and Inglehart revealed that Russians want to have more impact on their government and want to live in a less impersonal society (1995). These findings were interpreted by Inglehart as signs of post-materialism and deviations from the collectivity (Inglehart, 2003). The WVS study found the primary goal for Russian respondents (63.8%) in 1995 was to maintain national social order. This national primary goal attitude decreased by 7% in 1999 (WVS, 2007). On the other hand, the number of people who thought that more individual emphasis was needed increased from 1995 to 1999 by 3% (WVS, 2007). Though these studies

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[22] - The World Value Survey (WVS) is a research project commissioned by UN in the late 1970s. Its main purpose is to collect cultural values from all countries in the world. The data are available free of charge for anybody at the project's web-site. The first round of WVS was conducted in Russia in 1990. Data are being collected every five years. The next round of data collection in Russia is scheduled for 2010.

cannot be directly compared to the results of this thesis, they provide indirect evidence of Russian societal trends concerning attitudes bout collectivism and individualism. The differences are too small to indicate the trend; however in combination with future findings of WVS they can be used to track the changes in Russian culture.

The public support for collective values in Russia is not homogeneous. Findings of this thesis demonstrate that universal domains of conformity, benevolence and tradition have different levels of public support in Russia. The domain of benevolence is measured through the values of "forgiving", "loyal", "honest", "helpful to others", and "responsible". The average mean of these five indicators was higher than the average mean for any other indicators of collective values. On average, 75% of respondents reported that these indicators play a very important role in their life. The domain of tradition was measured through the values of "humble", "devout", respect for traditions and customs" and "moderation". The average mean of these five indicators was the lower than the average mean for any other indicators of collective values. On average, only 57.5% of respondents reported that these indicators play a very important role in their life.

The growing support for the individualistic values in Russian culture was also uneven. Results of the data analysis also show that universal domains of power, achievement, self-direction and stimulation have different levels of public support. The domain of power was measured through the values of "social power", "wealth" and "authority" The average mean of these three indicators was lower than for any other indicators of individualistic values. An average of 46% of Russians reported

that these values play a very important role in their life. The universal domain of self-direction was measured through the values of "freedom", "creativity", "independency", "choosing own goals" and "curiosity". The average mean for these five indicators was the highest among all indicators used to measure collective values. An average of 58.5% of respondents reported that these values play a very important role in their life. The theory of motivational values concurs with these results (Schwartz, 1996). It asserts that for every given society, there will be a different level of support for each universal domain of culture (Schwartz, 1990). These findings represent unique characteristics of Russian society.

Currently, over 65% of the Russian population is > 35 years old. These are people who were socialized and educated in the Soviet era where the regime inculcated collective values. From this perspective, it is understandable why contemporary Russian culture has retained a penchant for collectivism. It is also logical to conclude that new generations that are not influenced by previous Soviet values, but instead are being socialized in an open-market democratized setting will adopt individualistic values. This shift from collective to individualistic values is a known phenomenon experienced by many modern societies and is described by anthropologists as the major cultural shift of the 20th century (Inglehart, 2003).

It is also important to note that this study's findings do not support an idea that individualistic and collective values are two mutually exclusive groups of human preferences. It may look paradoxical from the point of formal logic, that collective and individualistic values are often equally embraced by one individual. Human

nature is complex and includes rational and emotive elements which allow each individual to be a unique collection of contradicting values.

The theory of motivational values asserts that the concepts of collective and individualistic values should have some kind of inverse relationship (Schwartz, 1990). The previous application of the motivational values theory in countries like Israel and Germany demonstrated that individualistic and collective values are negatively covariated (Schwartz, 2004). However, the results of this thesis did not support this suggestion. There was no inverse covariation between the latent variables of collective and individualistic values.

Even within one domain of values such as benevolence or power, each society has individual values that have a greater importance than others. These preferences are based on historical societal experiences and can be shaped by climate, language, and other external factors. Researchers conducted a historic analysis of Russian folklore, fairytales, legends, emblems, and icons to determine cultural values that retain their importance throughout the history of Russia (Khramov, 2004; Ponomarev, 1999). Based on this historical evidence, the following features of Russian culture were distinguished: loyalty to family and friends, forgiveness, a major emphasis on customs, traditions, superstitions, and the importance of being reserved in the presence of strangers. Also, some anthropological analysis revealed that people, who were seeking control and power in Russia, were very often depicted in the folklore as cruel and abusive despots. These studies suggested that Russian historic experience provided negative connotations for the values of responsibility and control (Schadge, 1997; Seliverstov, 1997).

When the foregoing characteristics are compared with this study's findings, similarities become evident. Values of "loyalty", "honoring tradition and elderly", and "self-control" received higher scores than other collective values. In the set of individualistic values, the indicators "influential" and "social control" had significantly lower means than other individualistic values. This can be interpreted as a manifestation of Russian cultural features. While contemporary Russian society is in a rapid transition from the old to the new, from a socialist to capitalist structure, social change comes more slowly. The younger members of the new Russian Federation are exhibiting individualistic values traits while the older members are retaining the collective cultural norms they inherited from the Soviet era.

There are other important factors that have impacted Russian cultural values. The recent conditions and events in Russia can be related to an emphasis of particular values despite the overall tendency toward collective values. When the Soviet Union collapsed about 17 years ago, it created a period of drastic economic changes which direct and often severe negative impact for the socio-economic status for most of the citizens. The most recent Russian census (RAS, 2006) reported that about 40% of the population now has household incomes of 6,000 rubles per month (about $240 U.S. dollars), or less[23]. The average Russian household consists of four members: two adults and two children (RAS, 2006). This suggested that approximately 40% of Russian residents have a monthly income of 1,500 rubles per month per person (about $60 U.S. dollars), or less. Therefore, official statistics indicates that 40% of the population is living bellow the poverty level. Consequently, it is likely that the high

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[23] - In 2007 the official cost of living in Russia was 2,000 rubles per month per person.

level of ratings for the value "wealth" seen in this study (88%) may be substantially influenced by the poor economic status for many respondents and is not indicative of their individualistic tendencies.

Another example of how recent events in the country may impact the value preferences in this study is the value of "freedom." In the findings in this study, 65% of respondents perceived freedom as very important which follows the trend found in the 1992 the World Values Survey where 95% of all Russians viewed freedom as very important. This change in the value preference from 1992 to 2006 can be explained by the political turmoil and resultant changes in Russia. In 1992, Russia was beginning a transformation from an authoritarian government to a democratic model. Liberty and freedom were still scarce but highly desired. In the early 2000s, "too much freedom" was blamed for the chaotic economic and political problems in Russia during the mid-1990s. This more than likely dropped the value of freedom for both individualistically and collectively oriented respondents.

In summary, part of the study's findings shows that Russian society has retained dominant collective oriented cultural values. This will most likely change once the post-Soviet generations become a majority in the country. The conclusions about the collective orientation in Russia should be taken with some caution. Historical values, recent economic and political changes combined with socialization process need to be taken into account in respect to collective preferences in Russia.

1.2. Ideal Fairness of the Adversarial and Inquisitorial Procedural Models and the Actual Fairness of Law

The research design of this thesis used Damaska's theory of procedural models to examine the concepts of adversarial and inquisitorial criminal procedures (Damaska, 1986). Damaska's theory asserts that five theoretical elements of procedure can be used to describe any criminal procedure. The elements are: goals of procedure, type of prosecution, status of the judge and the parties, and the level of state regulation.

Using these elements, two theoretical models of adversarial and inquisitorial procedures was described. These theoretical procedures were used to examine what type of criminal procedural law Russian respondents consider an ideal of fairness. In theory, unlike the adversarial procedure, the inquisitorial procedural model is not based on competition between the equal parties of prosecution and defense. Instead, it is viewed as a cooperative process between the judge, prosecutor and defense in their inquiry into the circumstances of the case. The research proposition of this thesis was that Russian respondents will exhibit a tendency to prefer the theoretical inquisitorial procedure.

The same five elements of procedural models were also employed to describe the major provisions of the CPC of 2001. This is a key policy in the Russian criminal law reform with the purpose of implementing adversarial procedure elements in Russia. The research proposition of this thesis was that Russian residents will not consider the CPC of 2001 a fair law.

The theory of group fairness is used in the research design of this thesis to explain why public opinion about fairness of the CPC of 2001 is so important (Lind & Tyler,

1988). This theory suggests that fairness is the main criterion for assessment of procedural laws in the society. It implies that when members of society consider the procedural law unfair, they will not support or comply with the law.

The premises of structural-functionalism were used as an overall theoretical framework for the research questions in this thesis. Structural-functionalism asserts that social consensus among members is necessary for the normal functioning of society. It also suggests that a social equilibrium is needed between the sub-systems of society such as culture and law. It is theorized that the apparent contradiction between the underlying values of the Russian culture and the CPC of 2001's adversarial procedure that reflects anti-cultural values, are responsible for the lack of substantial public support and acceptance.

A finding of the study was that Russia has a strong consensus about the type of ideal law required for the criminal justice system. The majority in Russia supports the notion of an inquisitorial criminal procedure. The strong role of the centralized fact-finder in the inquisitorial process appeals to most Russians more than the adversarial model that espouses a de-centralized competitive process.

The support for the inquisitorial model was not found to be homogeneous. The variable on the inquisitorial type of prosecution received an unusual distribution of responses. The inquisitorial prosecution was described as a situation where the government, and not the people, was responsible for determining what behavior should be labeled as criminal and whether mentally ill or juvenile offenders can be prosecuted as criminals. The other four items that measured the fairness of the inquisitorial model had very different distribution of responses. Only 54% of

respondents agreed that the government should determine what a crime is and who the criminals are. This was a comparatively low response for an item related to support of the inquisitorial procedure. The other four inquisitional support items revealed an agreement average of 75%.

Public support of the adversarial procedure was also mixed across the different survey items. The item about the procedural goal that asked if the truth should be discovered by a single authorized fact-finder or by two independent adversaries had an unusual distribution of answers. Almost 40% of all respondents agreed that an adversarial process of seeking the truth was preferable compare to the inquisitorial one. The other items about the adversarial procedure averaged a 30% rate of support. These findings are indicative of the trend where support of the inquisitorial procedure is still predominating in Russia and the support for the adversarial system is increasing.

The responses for support of the inquisitorial or adversarial models were independent of almost all demographic characteristics of the study sample. Age, gender, marital status, and place of residence did not show any significant statistical relationships with items on the adversarial and inquisitorial procedural models. The only two characteristics that have statistically significant relationships with support for the two different models were the level of education and the household income. However, it was not possible to determine the direction of the relationships. In the light of the findings that all cultural values have statistically significant relationships with all demographic characteristics, these conclusions can suggest that factors other

then cultural values are responsible for shaping variables in support of the adversarial and inquisitorial models.

Similar to the situation with cultural values, support for the inquisitorial and adversarial models was also not mutually exclusive. Many respondents showed support for both, or rejected both criminal procedure models. For example, 54% of respondents were "for" and 46% were "against" the inquisitorial type of prosecution. However, 24% were "for" and 76% were "against" supporting the adversarial type of prosecution. The possible explanations of this phenomenon include irrational choices, a misunderstanding of the questions, or unknown confounding variables that would explain the differences. Without further examination, it is difficult to speculate what is the exact reason for such discrepancies.

Results also confirmed that most Russian residents do not support the new CPC of 2001 that introduced adversarial components to both the pre-trial and trial stages. The analysis found that respondents reported procedure reforms were unfair. This attitude is strong among the different demographic groups. Based on the theory of procedural justice (Lind & Tyler, 1988), findings suggest that the Russian respondents who find CPC of 2001 unfair will not comply with the policy or accept it. The majority of Russian residents need to view the reform as fair law in order to increase its public acceptance.

Different provisions of the CPC of 2001 received different level of public disapproval. The item that measured support of judicial passivity (the inability of the judge to remand the case for additional investigation) had a 37% of approval rate. The other elements of procedure, such as the type of the prosecution, the status of the

parties, and the levels of state control received an average of about 30% approval. This may be connected to the very infamous reputation that judicial remand received in the pre-reforming years in Russia. During the Soviet era the judicial remands had high rates and were mainly used to cover up for the poor preliminary investigation. They also were one of the major reasons of lengthy pre-trial detention periods (Babushkin, 1897). It may also indicate that more Russian citizens support the idea of a neutral and detached judge.

Nevertheless, findings indicated there is an apparent contradiction between the law that most Russians consider ideal and the current criminal law. If the premises of structural-functionalism are applied in an attempt to explain the contradiction, then social equilibrium is directly violated in the society and interferes with the mechanisms of normal social control functionality.

The preferences of the ideal law exhibited by many Russians are, to some degree, a result of the underlying societal cultural values. The regression analysis shows the variable of collective values explains 16% to 17% of variance within the variable "ideal fairness of inquisitorial procedural model." At the same time, only 3% to 4% of variance within the variable "ideal fairness of adversarial procedural model" can be explained by the variable individualistic values. The analysis suggests that Russian society is experiencing substantial conflict between its underlying values and views about the ideal law and the 2001 criminal law policy reforms. Again, following the structural-functional approach, this study assumes that relationships between the culture and law are reciprocal. When the culture and law are in contradiction, it is reasonable to suggest that the mutual change is required to restore the equilibrium.

This study suggests that the adversarial changes proposed by the new CPC of 2001 are too drastic for older Russians socialized during the Soviet era. Based on the findings of this study, it is reasonable to suggest that a mild compromise between the elements of the old code and some elements of the adversarial procedure could find more public support among the current population of Russia. Some steps in this direction were already made by President Putin who, in 2002, decided to delay the implementation of jury trials and some other provisions of the CPC of 2001 (Komarovskii, 2003). A phased implementation of such features, as requiring a warrant for arrest issued by a judge or plea-bargaining, would probably find more public acceptance and understanding than the abrupt introduction of these new ideas in 2001.

It is possible that revolutionary changes toward an adversarial process planned for implementation in the near future may experience the same results as the CPC of 2001. This possibility can be applied to the amendments of the CPC that allow a defense counsel to collect evidence, the new rules of discovery, and the reduction of bench trials. These amendments are currently being considered by the Russian Parliament as additional reforms to add more features of the adversarial process to the criminal procedural process. The studies conduced by Zircon in 2006 provide some support for this suggestions. The survey conducted among defense counsels showed that only 34% of them think that the right to collect evidence by the defense counsel is necessary for a fair procedure (Zircon, 2006). The study conducted by FOM in 2005 demonstrated that a majority of Russians (68%) do not think that reducing the bench trials and providing the right to a jury trial for all defendants is a good idea.

Meanwhile, the "degree of adversarity" from the CPC of 2001 is already being alleviated by the Russian legal elites. Societal members such as the Russian legal elites (judges, prosecutors, and lawyers) view, from their cultural context, some features of the CPC of 2001 reform related to increasing adversarial procedural elements as problematic. That is why it is not surprising to see that criminal justice practitioners basically informally bend the rules of CPC of 2001 to mitigate the existing conflict.

The literature reported that many regional judges routinely rubber-stamped the warrants for arrests and seizures, after they were reviewed by the local prosecutors (Gracheva, 2002). Studies revealed that even after the new law was implemented investigators routinely rejected the right of defense counsel representation during the first interrogation of the defendant (Girko, 2004). Many other violations can be observed as the evidence of the resistance and rejection of new criminal procedure policy by both criminal justice practitioners and citizens (Il'ukhin, 2003).

It should be noted that not only the law needs to be changed to restore the equilibrium in the Russian society, but also the culture requires a gradual change. Of course the perfect equilibrium is a utopia, but it is a desirable condition. As discussed earlier, younger generations of Russians now espouse individualistic rather than collective values, while older citizens retain collective views. A potential approach to harmonize the criminal procedure transition is through media awareness. The media could be used to inform those who resist the new policies that it is the best interest of the society as a whole. Media awareness can facilitate a shift in cultural values about what may be viewed by some as radical and deleterious changes in the criminal law.

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When the CPC of 2001 was adopted no attempts were made to explain its major provisions to citizens.

The language of the CPC of 2001 is complex and confusing. The literature reports that Russian citizens still don't understand the differences and concepts between jurors of their peers and Soviet jurors (FOM, 2003). They also know very little about their rights during the preliminary investigation and trial and consequently do not use the services of defense attorneys (Zircon, 2005). This misunderstanding causes citizens to consider the rights and freedoms provided by the CPC of 2001 as a way of letting criminals go unpunished rather then a useful mechanism to enhance personal human rights and self-protection (Azarov, 2003). They also see it as privileges for the rich because only 10% of all Russian defendants are being represented by the private defense counsels (Bozschev, 2004).

It is also necessary to say, other than the CPC of 2001 is viewed by many Russians as an unfair law, there are a number of other explanations why the criminal law reform in Russia is unsuccessful. One is related to the question of institutional trust. Criminal justice institutions in Russia that include the court, prosecutor's office, and police, have experienced serious problems with public trust during the last two decades (ROMIR, 2005a). This problem has been caused by a systematic abuse of institutional power and discretion since the demise of the Soviet Union (Demichev, 2002). It is tenable to conclude this is why many respondents stated that it is not fair for a judge to issue an arrest warrant. It is likely they are simply expressing their overall distrust of the judges and courts.

The same may be true regarding the question of the application of *nolle prosequi.* The fact that Russian respondents don't want the prosecutor to have the ability to make independent decisions to dismiss the criminal charges may indicate they have even less trust for the prosecutor's office than the court.

Problems related to the perception of unfair procedures and institutional distrust is confounding issues for the reforms of the CPC of 2001. An examination of these two dimensions would help to determine which of the two has the stronger public influence about the CPC of 2001. It is feasible that that unfair procedures used by these institutions are influencing the overall public trust as was discovered in some U.S. studies (Caldeira & Gibson, 1992).

Also, it is important to note the condition of social equilibrium praised by the proponents of the structural-functionalism does not imply that perceptions about the ideal law, and the actual law of the society, should be equivalent. Thus, it is very reasonable to expect that some discrepancies will always exist even in the most balanced societies. The criminal justice system does not function only on the premise of fairness. Other more practical considerations such as limited resources or political matters are taken in account.

A good example of this is the use of plea negotiations. This study found that 0.3% of the respondents thought that the plea negotiation procedure is fair. More then half of all respondents (51%) said that it is a completely unfair procedure. This does not stop the Russian criminal justice system, however, from actively engaging in plea negotiations. Official statistics from the Russian Supreme Court showed that from 2002 to 2005, the number of cases disposed by plea negotiations increased by 25%

(Birukov, 2005). It is evident, that despite public disapproval the Russian criminal justice finds it necessary to use plea bargaining as a method to save time and money in the light of the increasing number of criminal cases. This study does not suggest that the CPC of 2001 should rely entirely on public perceptions about the ideal fairness of criminal procedure. It does suggest that when the discrepancies between the ideal law and actual law are large as shown in this study, then problems with some of the legal reforms are unavoidable.

2. Limitations

This study has provided new empirical knowledge regarding the status of the CPC of 2001 reforms. The support for the reform was not found to be supported by the majority of citizens. The limitations of this study result from both theoretical and methodological issues and will be discussed below.

The motivational values theory developed by Schwartz (1995) was used in this study to explain and measure the general culture of Russian society. Originally, Schwartz (1992) developed ten motivational values domains as tradition, conformity, benevolence, power, stimulation, self-direction, achievement, security, hedonism, and universalism. This study only used seven of the domains. The hedonism values domain was excluded because it was contextual irrelevant to the issues of criminal procedure. The domains of security and universalism did not show high reliability measurements in the cross-cultural studies by Schwartz (2005) and were also excluded.

The ideal fairness of the adversarial and inquisitorial criminal procedural models was explained and measured here through a theoretical framework of procedural models developed by Damaska (1986). He identified five major elements of the criminal procedure that included the goal of procedure, the type of prosecution, the status of the parties, the judge, and the level of state regulation. According to Damaska's theory, a number of different proceedings in the adversarial and inquisitorial models are associated with each of these five elements. Here, only one proceeding was associated with each of the five elements for the two procedural models. Damaska's theory did not provide any guidelines for selecting the best proceedings to represent the features of the adversarial and inquisitorial models. This choice was made based on the interviews with criminal justice experts and the literature analysis. Only procedures that were highly associated in the literature with each element were selected (Hemphill, 1978; C. Howard, 1958; Il'ukhin, 2003; Jacoby, 1980; Landsman, 1984; Langbein, 1977; MacCormick, 1997). Therefore, the impact of particular procedure selection on results of this study was minimized.

The same can be said about the CPC of 2001. The reformed criminal procedure contains more than 400 articles and thousands of provisions. In order to represent the essence of the reform, only five proceedings were selected. While the Damaska's theory was used to guide this selection process there were no absolute criteria for the choices. Again, the expert interviews were used to justify the selection of the proceedings. Also, the second pilot study included ten different procedures from the CPC of 2001 to test if the choice of the proceeding has an impact on the research questions. Findings of the second pilot study revealed which proceedings have the

highest construct validity. They were chosen for the main data collection. Therefore, the impact of particular procedure selection on results of this study was minimized.

The theory of group-value fairness emphasizes that the mechanism related to judgment of fairness is very complex. In this study respondents were asked to recall their judgments about the fairness of the ideal criminal law and the actual criminal law. The questionnaire did not provide the respondents with any context for these questions. They were not given a situation with a particular crime and they were not asked to assume a particular role in this process. Though it was a deliberate choice in the attempt to avoid contextual contamination, it also poses some respondent comprehension risk for these items. The overall number of "don't know" answers for the adversarial and inquisitorial procedures category and the fairness of CPC of 2001 were below 5%. This is a normal proportion for missing answers (Blalock & Blalock, 1968).

The same did not hold true for the category of respondents with less then a high school education. The number of "don't know" answers increased to almost 10%. This may suggest that less educated respondents were experiencing problems understanding the complex questions of law without having a specific context. The "don't know" answers were substituted in the analysis by the median values for each variable. This is a standard practice for the unusable data (Sproull, 1995). It is likely that the absence of context in these questions had some impact on the overall results of this study. However, the influence is believed to be minimal because the category of respondents with less then school diploma was only 9%.

As the preliminary analysis indicated the study's data did not have the characteristics of either multivariate or the univariate normality. All variables of this study exhibited strong positive and negative kurtosis. This was a major reason why the methods of ADS and HKRLS were employed in the data analysis. Both methods provide robust results for the Chi-Square statistics when conditions of the multivariate kurtosis are violated. The method of HKRLS also implies the data's distribution is symmetrical and not skewed. This was not always the case with the data here. Out of the 45 variables used for the calculations of SEM, 14 exhibited mild skewing of the data. The ADS method does not require non-skewness from the data distribution.

The literature suggests that a mild violation of skewness does not have a significant effect on the methods of HKRLS (Meijer, 1998). The literature does not exclude the possibility of some effect on the Chi-Square statistics. The violations of normality usually tend to increase the Chi-Square statistics and force additional model revisions than normally necessary (Byrne, 2001). The indirect evidence of this effect can be found when comparing the goodness-of-fit statistics estimated by the methods of ADS and HKRLS. Here, the method of HKRLS always resulted in a larger numbers of Chi-Square statistics, which can indicate the effect of skewness. Therefore, the results from the HKRLS method should be taken with some caution.

The final limitation of this study is related to the demographic characteristics collected for the sample which were only used in the descriptive statistical analysis and in the non-parametric Kruskal-Wallis tests. None of the seven demographic variables were employed in the models calculated by SEM. The demographic

characteristics were measured as either dichotomous or categorical variables. In order to subject these variables to CFA, the polychoric correlations had to be calculated. Such calculation required more degrees of freedom that the study sample could provide (Bentler, 2004). Also, the use of the HKRLS methods with polychoric correlations is prohibited in the EQS application and the AMOS method does not perform the polychoric correlations at all. Thus, it was methodologically impossible to include the demographic characteristics in the SEM models. This had some effect on the findings of this study. The use of demographic controls could possibly change the strength of the found relations, or even influence their statistical significance. However, the probability of this is low. The non-parametric statistics found that variables of ideal fairness of adversarial and inquisitorial procedural models and the fairness of actual criminal procedure were independent from demographic characteristic. There were no single demographic variable that have statistically relationships with all indicators of any dependent latent variables. This suggested the probability of research questions being influenced by the absence of demographic controls is insignificant.

3. Implications for Future Research

While this study was exploring the reasons for public disapproval of the CPC of 2001, it also simultaneously created additional research questions. Two different approaches can be taken to explore and develop the future impact of legal policy reforms that incorporate elements that are radically different from those of the past.

The first approach is to apply a similar model to legal reforms in other countries. The model developed here is not unique to Russia. The theory of motivational values here is universal and can measure structure and conditions of culture in any society. Previous research by Schwartz (1996) proved that the theory of motivational values can be successfully applied to more then 50 countries all over the world. The theory of procedural models developed by Damaska (1986) is also general and was applied to six different countries from Europe and North America.

The only country-specific element in the model is the variables measuring the features of the new legal elements related to the features of the CPC of 2001. This element needs to be adjusted for every country and every legal idea that is being tested. Once this is done, the model can be reused numerous times for the different countries and different procedural legal reforms. During the last ten years, in countries of the former Soviet Union twelve new codes of the criminal procedure were adopted. Almost all can be considered a radical departure from the previous legal system because each one borrowed adversarial ideas European and U.S. law. There is no reason to suggest that this tendency will not change. At the same time, research also show that a majority of these legal innovations have experienced some problems during implementation (Torkunov, 2006; Waelde & Gunderson, 1994).

Nevertheless, such expansion has it own limitations. Because the proposed model is based on the criteria of fairness, it is only applicable to the procedural laws. The legal reforms in the areas of substantive law would require a different criterion to assess public acceptance.

A second approach designed to take advantage of this study's findings is to look at the other factors that shape public opinion about the ideal criminal procedure. This study found that public views about the ideal law of criminal procedure had a strong influence regarding attitudes about the actual law's fairness.

Here, it was also concluded that while cultural values are playing a role in shaping public opinion about the ideal criminal law, there are other factors in these relationships. One suggestion was made earlier, was to look at the matter of institutional trust. A determination should be made about the relationship of trust in relationship to attitudes about the ideal criminal law. It is also possible to look at the elements of the culture, other then cultural values, and try to explain what role those play in forming the public opinion on the ideal criminal law. This can include religious beliefs, attitudes toward particular institution or social matter, philosophical positions and other opinions.

Other possibilities related to this research are almost unlimited. There is also a potential of examining the influence of the mass media on the public opinion regarding what the ideal criminal procedure is. The historic roots of public opinion about the ideal law may also be used. Studying public views about the essence of the ideal criminal procedure most likely will require an extended instrument with more then just five elements of the procedure. It is also possible to place survey items in a framed context to avoid some of the limitations of this study. Research about the additional determinants of public attitudes about the ideal criminal law can be continued in Russia or expanded to the other countries of the former Soviet Union.

4. Conclusions

The following are key highlights and summaries of the study:

1. Russia remains a country with predominately collective culture. The values of tradition, benevolence, and conformity play an important role in the everyday life of the average Russian citizen. Particular single values such as "forgiveness", "loyalty", and "honoring parents and the elderly", have a higher priority in the structure of Russian culture due to its history, political, and economic events.

2. Support for the motivational domains of individualistic values such as power, achievement, self-direction, and stimulation is growing in Russia. These values are found to be very important for those less than 25 years old. They currently constitute 13% of Russian population.

3. Ideas presented by the theoretical inquisitorial procedural model were perceived by majority (72%) of the respondents as ideal and fair. This included the perception that a single governmental fact-finder is a better way to discover the truth in a criminal case as opposed to the multi-party adversarial process.

4. Ideas presented by the theoretical adversarial model were perceived by a minority of respondents (33.5%) as ideal and fair. This support is found to be growing compare to the findings provided by previous research.

5. The new CPC of 2001 adopted adversarial elements that were radical departures from the previous Soviet inquisitional system. The pubic support

was found to be relatively weak (27.5%) and CPC of 2001 is viewed by the majority (72.5%) as an unfair law.

6. Based on the theory of group-value fairness this thesis suggested that the perception of the CPC of 2001 as unfair causes violations and non-compliance from both citizens and criminal justice practitioners.

7. There is an evident contradiction between the public perception of the ideal criminal procedures and the CPC of 2001 reforms.

8. The public perception about the ideal criminal procedure is, in part, determined by the underlying collective values of the Russian culture. The collective values were able to explain 17% of variance in the question why the respondents choose the inquisitorial procedural model over the adversarial one.

9. The underlying ideas of the adversarial elements embedded in the CPC of 2001 contradict the major values of the Russian culture. According to the premises of structural-functionalism, this contradiction violates the social equilibrium and prevents the criminal procedural law from normal functioning.

10. It is recommended that both the culture and the existing criminal law should be changed to avoid a further imbalance in the Russian society.

11. The implementation of the adversarial reform amendments should be incremental. Abrupt introduction of new adversarial ideas will make the contradiction even more evident and will cause further violations of law.

12. It is also suggested that public citizen awareness and education campaigns should be undertaken to inform the citizens about the nature and value of the adversarial procedure. This is necessary to alter the predominantly collectivistic culture of the Russian society. The underlying values and the benefits of the new law need to be explained to criminal justice practitioners and citizens alike.

13. The study calls for further research on factors that shape the public perceptions about the ideal law of criminal procedure. The cultural values were proven to play a limited role in this process. The most likely factor that requires additional investigation is the matter of institutional trust. The perceived unfairness of procedures can induce a crisis of institutional distrust crisis. It also can be responsible for respondent choices about the ideal criminal procedural model

14. The research model used in this study has a potential for further research. Without significant changes it can be applied to other legal reforms in the realm of criminal procedure in countries of the former Soviet Union.

APPENDIX A: IRB APPROVAL

University of **Central Florida**

Office of Research & Commercialization

May 16, 2006

Olga B. Semoukhina
12142 Pepperdine Place
Orlando, FL 32826

Dear Ms. Semoukhina:

The University of Central Florida's Institutional Review Board (IRB) received your protocol IRB #06-3505 entitled **"Cultural values and fair criminal procedure. Part 2. Main Study.."** The IRB Chair reviewed the study on 5/12/2006 and did not have any concerns with the proposed project. The Chair has indicated that under federal regulations (Category #2, research involving the use of educational tests, survey or interview procedures, or the observation of public behavior, so long as confidentiality is maintained) this research is **exempt** from further review by our IRB, so an approval is not applicable and a renewal within one year is not required.

Please accept our best wishes for the success of your endeavors. Should you have any questions, please do not hesitate to call me at 407-823-2901.

Cordially,

Barbara Ward

Barbara Ward, CIM
UCF IRB Coordinator
(IRB00001138, FWA00000351, Exp. 5/13/07)

Copies: IRB File
    K. Michael Reynolds, Ph.D.

BW:jm

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APPENDIX B: RESEARCH INSTRUMENT

Жизненные ценности и
справедливая система уголовного правосудия

2006

I. В первой секции опросника мы хотели бы задать Вам несколько вопросов относительно Ваших жизненных ценностей.

Пожалуйста, определите, насколько данные жизненные ценности, важны для Вас в качестве руководящих принципов в Вашей жизни:

Ценности	*7* имеют наиваж-нейшее значение	*6* очень важны	*5*	*4*	*3* важны	*2*	*1*	*0* не важны	*-1* противо-речат моим принципам
Увлекательная жизнь (вести жизнь, наполнен-ную нескучными делами и нтерес-ным опытом)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Смелость, храб-рость (поиск при-ключение, риск)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Разнообразная жизнь (жизнь, наполненная но-визной, измене-ниями и испыта-ниями)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Успешность (достижение своих целей)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Быть способ-ным (быть компетентным, быть профессио-налом высокого класса, работа которого нужна предприятию, обществу)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Стремление к карьерному росту (стремле-ние к профес-сиональным дос-тижениям, чес-толюбие)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Быть влиятель-ным (иметь вли-яние на людей в силу своего авто-ритета, профес-сионализма, по-ложения)	☐	☐	☐	☐	☐	☐	☐	☐	☐

Ценности	7 имеют наиважнейшее значение	6 очень важны	5	4	3 важны	2	1	0 не важны	-1 противоречат моим принципам
Свобода (свобода мыслей и действий)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Творчество (воображение, индивидуальность)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Независимость (уверенность в своих силах, самостоятельность)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Любознательность (любопытность, интересующийся всем, пробующий)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Возможность выбирать свои цели в жизни независимо от мнения других	☐	☐	☐	☐	☐	☐	☐	☐	☐
Скромность, сдержанность, ненавязчивость	☐	☐	☐	☐	☐	☐	☐	☐	☐
Принятие своей доли в жизни (принимать жизненные обстоятельства такими, какие они есть)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Религиозность (придерживаться религиозных взглядов и верований)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Уважение традиций (сохранение освященных веками традиций обычаев)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Умеренность (избежание крайностей в действиях или чувствах)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Преданность (верный своим друзьям, родителям)	☐	☐	☐	☐	☐	☐	☐	☐	☐

Ценности	7 *имеют наиваж-нейшее значение*	6 *очень важны*	5	4	3 *важны*	2	1	0 *не важны*	-1 *противо-речат моим принципам*
Власть (иметь контроль над другими людьми доминировать среди группы людей)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Авторитет (право быть лидером и требовать подчинения себе)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Богатство (наличие материальных ценностей, деньги)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Ответственность (заслуживающий доверия, надежный)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Хорошо воспитанный (вежливый, хорошие манеры)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Послушание (послушный долгу, выполняющий обязательства)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Самодисциплина (самоограничение, сопротивление искушению)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Уважение старших и родителей (оказывать уважение)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Быть полезным (помогающий другим людям)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Честность (искренность, неподдельность)	☐	☐	☐	☐	☐	☐	☐	☐	☐
Быть прощающим (готовый простить других)	☐	☐	☐	☐	☐	☐	☐	☐	☐

II. *В этой части опросника мы хотим задать Вам вопросы о справедливости существующих на настоящий момент уголовно-процессуальных законов*

1) Согласно существующим уголовно-процессуальным законам в Российской Федерации, в случае если обвиняемый согласен с предъявленным обвинением, и преступление, которое он совершил, не является тяжким, то суд не должен проводить полное судебное заседание и устанавливать все факты дела. В таком случае суд может сразу перейти к назначению наказания.

Скажите, считаете ли вы такое положение закона **справедливым**?

Абсолютно справедливо	*Справедливо*	*В какой-то мере справделиво*	*В какой-то мере несправедливо*	*Не - справедливо*	*Абсолютно не- справедливо*
☐	☐	☐	☐	☐	☐

2) Согласно существующим уголовно-процессуальным законам, в Российской Федерации, если потерпевший примирился с обвиняемым, и преступление, которое он совершил. не является тяжким, то уголовное преследование может быть прекращено на основании этого примирения, и дальнейшее расследование проводиться не будет.

Скажите, считаете ли вы такое положение закона **справедливым**?

Абсолютно справедливо	*Справедливо*	*В какой-то мере справделиво*	*В какой-то мере несправедливо*	*Не - справедливо*	*Абсолютно не- справедливо*
☐	☐	☐	☐	☐	☐

3) Согласно существующим уголовно-процессуальным законам в Российской Федерации, позиция профессионального судьи в суде отностиельно ограничена. Это означает в частности, что если в процессе суда выяснится что необходимо провести дополнительное расследование вновь открывшихся фактов, судья не может отправить дела на дополнительное расследование самостоятельно. Он должен подождать, пока прокурор или адвокат не потребуют этого. Если такие требования не были предъявлены, то судья обязан рассмотреть дело на основании тех доказательств, что уже имеются.

Скажите, считаете ли вы такое положение закона **справедливым**?

Абсолютно справедливо	*Справедливо*	*В какой-то мере справделиво*	*В какой-то мере несправедливо*	*Не - справедливо*	*Абсолютно не- справедливо*
☐	☐	☐	☐	☐	☐

4) Согласно существующим уголовно-процессуальным законам в Российской Федерации, прокурор и адвокат имеют относиельно активную позицию в суде. Это означает, например, что адвокат и прокурор сами решают, какие доказательства необходимо исключить как незаконные перед судебным заседанием. Суд не может по собственной инициативе исключать доказательства, даже если для судьи очевидно, что эти доказательства получены незаконным путем.

Скажите, считаете ли вы такое положение закона **справедливым**?

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не-справедливо
☐	☐	☐	☐	☐	☐

5) Согласно существующим уголовно-процессуальным законам в Российской Федерации, каждый этап уголовного расследования и суда регулируется государством посредством специальным процессуальных форм и правил. Это означает, что прокурор и адвокат могут делать только то, что прямо указано в законе и не могут осуществлять действия, которые не облечены в процессуальную форму.

Скажите, считаете ли вы такое положение закона **справедливым**?

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не-справедливо
☐	☐	☐	☐	☐	☐

III. В этой секции вопросника мы хотели бы спросить Вас о том, какую систему уголовного правосудия Вы считаете справедливой (в идеале)

1) Для того чтобы назначить наказание для осужденных, суд должен установить факты преступления.

Современное право предлагает два основных способа установление фактов преступления в суде.

Если говорить об **идеальной справедливой** системе уголовного правосудия, как Вы считаете, насколько справедлив каждый из двух предложенных способов?

1. Первый способ: Судья устанавливает факты преступления. Он делает это на основе данных предоставленных прокурором и адвокатом

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не-справедливо
☐	☐	☐	☐	☐	☐

2. Второй способ: Прокурор и адвокат предоставляют доказательства в суд и совместно договариваются о том, что произошло во время преступления. Судья надзирает за законностью этого процесса.

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не-справедливо
☐	☐	☐	☐	☐	☐

2) Право уголовного преследования включает в себя право определять, что является уголовным преступлением и право решать, кто может быть обвинен в уголовном преступлении, а кто не может быть осужден за преступление. Современный закон предлагает два основных способа определения, что такое право уголовного преследования.

Если говорить об **идеальной справедливой** системе уголовного правосудия, как Вы считаете, насколько справедлив каждый из двух предложенных способов?

1. Первый способ: Граждане России должны решать, какие действия являются преступлением, и кто может быть обвинен в преступлении, а органы власти (милиция, прокуратура и суды) должны исполнять эти решения.

Абсолютно справедливо	*Справедливо*	*В какой-то мере справделиво*	*В какой-то мере несправедливо*	*Не - справедливо*	*Абсолютно не-справедливо*
☐	☐	☐	☐	☐	☐

2. Второй способ: Государство должно решать, какие действия являются преступлением и кто может быть обвинен в преступлении и органы власти (милиция, прокуратура и суды) должны исполнять эти решения.

Абсолютно справедливо	*Справедливо*	*В какой-то мере справделиво*	*В какой-то мере несправедливо*	*Не - справедливо*	*Абсолютно не-справедливо*
☐	☐	☐	☐	☐	☐

3) Во время судебного рассмотрения информация по делу может быть получена от свидетелей во время их судебного допроса.

Современное право предлагает два основных способа проведения судебного допроса свидетеля

Если говорить об **идеальной справедливой** системе уголовного правосудия, как Вы считаете, насколько справедлив каждый из двух предложенных способов?

1. Первый способ: Судья должен иметь право задавать вопросы свидетелям по собственной инициативе, а также самостоятельно вызывать свидетелей в суд в интересах правосудия, даже в случае если прокурор и адвокат об этом не ходатайствовали.

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не-справедливо
☐	☐	☐	☐	☐	☐

2. Второй способ: Во время судебного допроса судья должен только наблюдать за законностью того, как прокурор и адвокат допрашивают свидетелей и разрешать юридические споры между ними, связанные с допросом конкретного свидетеля

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не-справедливо
☐	☐	☐	☐	☐	☐

4) Когда у прокурора нет доказательств вины в отношении кого-либо, он должен официально снять обвинения, предъявленные этому человеку. Если эти обвинения сняты, то дело в отношении этого лица прекращено, и новые обвинения тому же человеку можно предъявить только в случае, если получены новые доказательства, которые ранее следствию были недоступны.

Современное право предлагает два основных способа, как прокурор может снять обвинения и прекратить дело в отношении конкретного человека.

Если говорить об **идеальной справедливой** системе уголовного правосудия, как Вы считаете, насколько справедлив каждый из двух предложенных способов?

1. Первый способ: Государственный прокурор должен быть полностью независим в своем решении прекратить уголовное дело.

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не-справедливо
☐	☐	☐	☐	☐	☐

2. Второй способ: Государственный прокурор может прекратить уголовное дело только после одобрения судьи.

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не-справедливо
☐	☐	☐	☐	☐	☐

5) Для того чтобы проводить судебное заседание, необходимо собрать доказательства вины и невиновности. Этот процесс очень важен и поэтому должен быть урегулирован правом.

Современное право предлагает два основных способа, каким образом можно урегулировать процесс собирания доказательств

Если говорить об **идеальной справедливой** системе уголовного правосудия, как Вы считаете, насколько справедлив каждый из двух предложенных способов?

1. Первый способ: государство регулирует сбор доказательств при помощи специальных форм. Должностное лицо, отвественное за сбор доказательств, закрепляет полученную информацию в формах. Только те доказательства, которые закреплены в специальных формах, могут быть представлены в суд.

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не- справедливо
☐	☐	☐	☐	☐	☐

2. Второй способ: Прокурор и адвокат собирают всю информацию, которую они считают доказательствами, и представляют ее в суд. В суде адвокат и прокурор решают, что будет доказательсвом, а суд следит за тем, чтобы этот процесс происходил законно.

Абсолютно справедливо	Справедливо	В какой-то мере справделиво	В какой-то мере несправедливо	Не - справедливо	Абсолютно не- справедливо
☐	☐	☐	☐	☐	☐

IV. В заключение мы хотели бы задать Вам несколько общих вопросов:

1) Пожалуйста, укажите Ваш пол:

☐ мужской ☐ женский

2) Пожалуйста укажите Вашу возрастную группу

18-24	25-34	35-44	45-65	66+
☐	☐	☐	☐	☐

3) Пожалуйста, укажите Ваш уровень образования:

☐ Без образования
☐ 9 классов
☐ 11 классов
☐ среднее профессиональное/техническое образование
☐ незаконченное высшее
☐ высшее
☐ кандидат наук
☐ доктор наук

4) Пожалуйста укажите Ваше семейное положение

☐ женат или замужем
☐ состоите в гражданском браке
☐ разведен (а)
☐ вдовец или вдова
☐ холост или не замужем

5) Пожалуйста укажите сколько людей состоящих в родственных с Вами отношениях проживает в настоящее время с Вами, включая Ваших детей, родителей, родственников со стороны мужа или жены, братьев и сестер?

☐ 0
☐ 1
☐ 2
☐ 3
☐ 4
☐ 5
☐ 6
☐ 7 и более

6) Пожалуйста укажите каков Ваш примерный месячный доход на семью?

- ☐ до 2000 рублей
- ☐ 2001-4000 рублей
- ☐ 4001-6000
- ☐ 6001-8000
- ☐ 8001-10000
- ☐ 10001-15000
- ☐ 15001-20000
- ☐ 20001-30000
- ☐ 30001-40000
- ☐ 40001-50000
- ☐ более 50000
- ☐ не знаю
- ☐ не буду говорить

7) Пожалуйста укажите работаете ли Вы?

- ☐ да, на полный рабочий день
- ☐ да, частичный рабочий день
- ☐ нет

8) Пожалуйста укажите, где Вы постоянно проживаете?

- ☐ в городе с населением более 1 млн человек
- ☐ в городе с населением от 500 тыс до 1 млн человек
- ☐ в городе с населением от 100 тыс до 500 тыс человек
- ☐ в городе с началением до 100 тыс человек
- ☐ в сельской местности

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