**Ben Bradford, Aziz Huq, Jonathan Jackson,
Benjamin Roberts**

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What Price Fairness when Security is at Stake? Police Legitimacy in South Africa

*Ben Bradford, Centre for Criminology, University of Oxford, UK*
*Aziz Huq, Law School, University of Chicago*
*Jonathan Jackson, Methodology Institute and Mannheim Centre for Criminology, LSE, UK*
*Benjamin Roberts, Human Sciences Research Council, South Africa*

## Abstract

The legitimacy of legal authorities – particularly the police – is central to the state's ability to function in a normatively justifiable and effective manner. Studies, mostly conducted in the US and UK, regularly find that procedural justice is the most important antecedent of police legitimacy, with judgements about other aspects of its behaviour – notably, its effectiveness – appearing less relevant. But this idea has received only sporadic testing in less cohesive societies where social order is more tenuous, resources to sustain it scarcer, and where the position of the police is less secure. This paper considers whether the link between process fairness and legitimacy holds in the challenging context of present day South Africa. In a high crime and socially divided society do people still emphasise procedural fairness, or are they more interested in instrumental effectiveness? How is the legitimacy of the police influenced by the wider problems faced by the South African state? We find procedural fairness judgements play a key role, but also that South Africans place greater emphasis on police effectiveness (and concerns about crime). We also find that police legitimacy is associated with citizens' judgements about the wider success and trustworthiness of the state. This opens up new directions for legitimacy research in the context of policing and criminal justice.

*Key words: public confidence; trust; legitimacy; cooperation; contact with the police*

On what basis is the legitimacy of state institutions established and reproduced in divided, unequal, violent and fearful societies? The challenges of such conditions are powerfully exemplified in the context of policing in present-day South Africa. In this country of some 49 million inhabitants, approximately 50 murders, 100 rapes, 400 armed burglaries and 500 violent assaults were reported each day in 2011 (Economist 2011). The response of many middle and upper class South Africans to these high crime rates has been to opt out of the public order maintenance system in favour of private security firms. Some less wealthy South Africans have turned to vigilante organizations to replace seemingly absent policing (Bearak 2009; Abrahamson & Williams 2008; Baker 2004). The net result of these trends is a highly uneven distribution of policing resources and physical security as rich and poor alike turn away from the police.

Despite efforts at promoting social cohesion and ubiquitous references to the 'Rainbow Nation,' South Africa is a quintessentially divided society, characterized by the existence of numerous conflict groups. Significant numbers of citizens believe their social identities, cultural values, or material interests are in conflict with those of others around them (Nordlinger 1972: 7; Lustik 1979). Divided societies face distinctive problems in maintaining public order and security against crime (Bayley 2006; Weitzer 1995), with police activities struggling to cohere around commonly accepted means and ends. To compound the problem – and despite commendable strides in the provision of basic services – many South Africans still do not have access to proper sanitation and decent housing, and concerns are being raised over the maintenance and quality of pre-existing infrastructure and the affordability of services (Hemson & O'Donovan 2006; Eales 2011). Over-arching goals of human security are pursued under conditions of tight fiscal constraint and institutional instability – and despite the advent of democracy, the social position of the police in South Africa appears fragile and contested.

This paper aims to contribute to our understanding of the dynamics of legitimacy under conditions of deep social, political, and economic strain. Police legitimacy is an especially important facet of the wider legitimacy of the state because a legitimate police force can rely on high levels of public cooperation, a pre-requisite for effective crime control. Police legitimacy has also been linked to compliance with the law and other 'pro-social' behaviours (Tyler and Huo 2002; Tyler 2006a, 2006b, 2007; Murphy *et al.,* 2009; Murphy & Cherney, 2012; Jackson *et al.* 2012a, 2012b). In contexts where police legitimacy is low, officers are less able to rely on the cooperation of citizens and normative commitment to the law is weaker.

This study is guided by two key propositions. The first is that police legitimacy depends on the behaviour of police officers, and particularly the ways in which they wield their power. Studies in the US, UK and Australia – relatively stable and wealthy, albeit diverse, societies where the police are a well-established component of democratic governance – have established that fairness judgements are far stronger predictors of legitimacy than are assessments of effectiveness (Tyler and Huo 2002; Hough et al. 2010; Huq et al. 2011b; Jackson et al. 2012; Hinds and Murphy 2007). Yet, this 'procedural justice effect' has received only sporadic testing in less cohesive societies where social order is more tenuous, resources to sustain it scarcer, and where the position of the police is less secure (for exceptions see Tankebe, 2010; Kochel *et al.,* 2011). The second proposition is that police legitimacy is influenced by social and political context. The police may be associated not only with immediate security concerns but with a wider failure by the state to provide for its citizens. Equally, police legitimacy may be undermined by the social strain created by conflict between divergent social groups and a pervasive sense of danger, encompassing worry about crime as well as a wider sense of social threat.

We draw in this paper on the South African Social Attitudes Survey (SASAS), an annual national survey conducted by the Human Sciences Research Council (HSRC), South Africa's statutory research agency. Exploring the presence and strength of procedural justice effects, we contrast these with concerns about the effectiveness of the police in dealing with crime and disorder. We also add explanatory variables representing a range of further factors that may predict police legitimacy. In addition to experiences of crime, we add to our model measures of social strain wrought by xenophobia and intergroup conflict, as well as public judgements about the performance and trustworthiness of the state in a wider sense. On the one hand, then, this study extends the procedural justice model into a to-date underexplored context. But on the other hand, the study also assesses the strength of any procedural justice effect in comparison with crime and security concerns,

while simultaneously recognizing the possibility that police legitimacy is not free-standing but tied to wider social processes and state legitimacy.

Parts I and II first survey existing empirical evidence for the procedural justice model of policing before moving on to consider its portability into the South African setting. Details on the context of policing in South Africa and potential implications for the foundations of police legitimacy are discussed. Part III details the methodology of the South African Social Attitudes Survey and our analysis. Part IV presents the results of that analysis. Part V discusses those results.

## I.     Policing, procedural justice and legitimacy in South Africa

Tyler's procedural justice model was developed in part to test the hypothesis that compliance with the law is shaped by evaluations of the fairness of legal authorities. Numerous studies have demonstrated that individuals are concerned with whether decisions are made through fair procedures and whether people are treated respectfully and with dignity, and that such concerns influence their behaviours in relation to law and the police (Sunshine and Tyler 2003; Tyler 2006a, 2006b; Tyler & Fagan 2008; Tyler & Huo 2002). These studies typically identify a two-stage mechanism linking procedural justice to compliance and cooperation. First, procedural justice enhances public trust in the police, a sense of shared purpose and belonging, and, in turn, police legitimacy. Legitimacy is defined as "a belief" that induces people "to feel personally obligated to defer" to authorities (Tyler 2006a: 376), although recent work (Jackson *et al.,* 2012a, 2012b) has extended the definition to include not just authorization (obligation) but also endorsement (moral alignment). Police legitimacy is formed via normative judgments about its behaviour and is instantiated by recognition and justification of the mutual duties and responsibilities of citizens and state actors. Second, legitimacy motivates compliance with the law and voluntary public cooperation with law enforcement efforts.

In this paper we confine our interest to the antecedents of legitimacy. Previous work in the US and UK has established that the empirical or substantive legitimacy of the police is in these contexts founded most importantly in trust judgements concerning the fairness of its behaviour. When people trust the police to be just, decent and respectful they are more likely to hold the police legitimate. Judgements about the effectiveness of the police are, by contrast, frequently found to be less important predictors of legitimacy (Jackson *et al.,* 2012; Sunshine & Tyler, 2003; Tyler, 2006b).

However, empirical investigations of procedural justice and legitimacy outside of Europe and North America remain rare. Those that do exist report inconsistent results, with procedural justice effects identified by some (e.g. Tankebe 2009; Kochel et al. 2011), but not others (e.g. Brockner et al. 2001; Tankebe 2010). This suggests that the transcultural portability of procedural justice is not limitless, or is at least in question. Under some cultural or socioeconomic conditions the strength of procedural justice effects may fade. A key initial contribution of this paper is therefore to investigate the strength of any link between procedural justice and legitimacy in a novel context.

Beyond the basic issue of portability, there are context-specific reasons to question whether procedural justice mechanisms pertain in South Africa. With a handful of exceptions, procedural justice effects have been identified in relatively wealthy societies with stable and well-established police services and generally Peelian policing ideologies (Tonry 2007). These societies, usually those that Manning (2010) labels "AADP" (Anglo-American Democratic Policing) countries, also have what are by global standards ample order-maintenance resources. By contrast, societies with widespread social and economic inequality, such as South Africa, often have fewer resources, more substantial problems of criminality and private violence, and orientations toward policing that may not necessarily stress the need for close affective links between police and public. We explore below some of the ways in which policing in South Africa parallels or diverges from its AADP counterparts. We also sketch possible implications for the way police legitimacy is constructed and sustained.

*Effectiveness as a tool of legitimation*

A threshold difference between the South African and AADP contexts is that police effectiveness may be a more important predictor of police legitimacy in the former case. One factor suggesting this is the history of policing in South Africa and the ways in which attempts to legitimise the current police service have played out. In AADP countries, police draw on relatively deep, long-standing wells of public support to maintain what might be termed a baseline of legitimacy (Loader and Mulcahy 2003; Reiner 2010). By contrast, the apartheid-era police were *never* considered legitimate by the majority

of South Africans. During apartheid the South African Police's (SAP's) crime control duties were cut-across by its role in maintaining and protecting the regime (Cawthra 1993; Shaw 2002; Altbeker 2007). Legitimacy was severely contested and effectively absent in many parts of the country (Minnaar 2010; Steinberg 2011a).

Post-apartheid governments have attempted to address the ensuing legitimacy deficit (Shaw 2002), instigating organizational change policies have tended to aim toward a generally pro-active, community policing model (Steinberg 2011b) for the renamed South African Police *Service* (SAPS), an organization that folded the police, the armed wings of various resistance movements and the police forces of the former homeland states into one organization. Indeed, police legitimacy was identified as a key goal in a 1998 White Paper, which envisaged "a partnership between the police and communities" to deliver security (Minnaar 2009: 28). A central element of attempts to legitimate the new South African police has been the idea that the police can secure the safety and security of citizens. Yet this security has proved elusive. Recorded crime rose after the establishment of democratic government, and, despite a reduction in some categories of violent crime over the last decade, other forms of offending have increased (Burger *et al.* 2010).

The basic effectiveness – or not – of the police in fighting crime is thus a central issue in South Africa and, moreover, government and police seem to have uniformly over-promised and under-delivered in regard to the police's ability to 'deliver' (Leggett 2002). The SAPS has been continuously presented as the answer to crime, and there have been repeated attempts to import the latest crime control models from Anglo-American police departments and academics (Steinberg 2011b). A discourse of effectiveness was prevalent throughout the period in which overall crime rose and has continued as it has fallen. This led to the re-emergence of paramilitary style policing around the year 2000, and culminated in 2009 with President Zuma insisting the police were a 'force', not a 'service' (Bruce 2011; Legget 2006), a shift in language justified by an alleged need to communicate to criminals that the state was not soft on crime (Burger 2009).

This discursive emphasis on (brute) effectiveness in South Africa may have had an important symbolic influence on public perceptions, resulting in a much stronger link between effectiveness and legitimacy than is usually found in AADP countries. We might further expect that high crime rates, including one of the highest recorded murder rates in the world, simply render the effectiveness of police more salient to citizens. Recent perceived improvements in security and declines in certain crime rates have not changed the basic fact that this is a high crime society. 'Crime-talk' (Sassoon 1995) remains pervasive (Roberts 2010, 2012), perennially revolving around the failure of police and the state to protect citizen from violent crime. In such conditions it would perhaps be surprising not to find a stronger link between perceived effectiveness and legitimacy in South Africa than in other, less fraught, contexts.

*Police corruption*

Long-standing issues of corruption have run alongside – and undermined – attempts at legitimating the South African police. Police malpractice has been a major concern in recent years as high profile scandals reached the very top of the SAPS while also appearing to reach right down through the ranks (Burger 2011), and there is an entrenched public perception that the SAPS is corrupt (Mattes 2006; Faull 2010; Newham and Faull 2011). Many citizens report direct personal experience of police corruption, for example via petty roadside incidents, but also extending to acts of robbery, torture and sexual harassment (Faull 2010: 39). In South Africa, as elsewhere, we would expect corruption to undermine trust, damage affective links between police and citizen, and reduce legitimacy. What is perhaps less clear is the extent to which perceptions of corruption 'drown out' consideration of other aspects of police behaviour, and it is to these we now turn.

*Everyday policing*

Despite its local specificity, policing in South Africa often resembles the practice as found in many other places: mundane encounters between officers and citizens, form-filling, and routine patrols (Steinberg 2008; Altbeker 2005). Studies in AADP countries consistently find strong links between personal contact with officers, trust and legitimacy (Skogan 2006; Bradford et al. 2009; Jackson et al. 2012a; Myhill and Bradford 2011), and in South Africa as elsewhere encounters between police and

citizen may provide a key moment in which trust is formed – or undermined – and legitimacy judgements made.

Such encounters often have negative outcomes, and many people in South Africa report extremely negative experiences of police activity. In particular, relations between the police and young men from the townships, immigrants and particularly undocumented foreigners are often tense (Marks 2005; Crush 2001, Masuku 2006; Landau 2006; Crush and Dodson 2007; Neocosmos 2008), and rape victims and other vulnerable groups also report dissatisfaction (Rauch 1996; Vetten 2011, Flick 2006; Richter 2008). As in any policing context, if people feel unfairly targeted, or that they are not receiving an adequate level of service, then the legitimacy of the police will likely suffer. By contrast, Kynoch (2003) reports perceptions that SAPS officers are more approachable and respectful than their apartheid predecessors and that people expect the police to serve all citizens rather than narrow sectional interests. South Africans may at least be open to positive experiences of encounters with police.

Tensions between police and public may have been compounded by the apparent shift toward 'strong-arm' paramilitary policing in recent years. This turn may not, however, be uniformly unpopular, notwithstanding its resonance with apartheid. Studies reveal considerable public support for aggressive policing tactics that, it seems, at least convey the impression of a police presence (Newham and Faull 2011). At the same time those on the receiving end of such contacts report discontent because they feel unfairly treated (Leggett 2006; Samara 2010). SAPS activity elicits heterogeneous and even conflicting public judgments, with some welcoming aggressive policing styles at the same time as others react against them. It would be surprising if these factors had no effect on public trust in the police and the legitimacy granted to it. They must also be situated, however, in the broader social and institutional context factors that may also shape police legitimacy.

## II.    Police legitimacy in wider context

Police legitimacy may be influenced by social, economic and political processes that extend far beyond the immediate realm of crime and (dis)order (Manning 2010), and given its history, such 'external' pressures may be particularly important in South Africa. As described above, the illegitimacy of the apartheid state appears to have both influenced policy efforts to legitimise the SAPS and perhaps been a cause of their relative lack of success (Steinberg 2011b). While a full consideration of all possible external influences on police legitimacy is beyond the scope of this paper, the SASAS allows consideration of three potentially important factors.

First, motive-based trust and identification with a superordinate group have been identified as pre-conditions for legitimacy (Tyler & Blader 2000). The legitimacy of a group authority such as the police rests in part on a sense of shared group membership among those it governs, and on the idea that they and it share some set of normatively justifiable means and ends (Jackson *et al.* 2012b). In the South African context group identity – and the strain created by social conflict – may have had corrosive effects on individual's legitimacy judgments. National institutions such as the police cannot be assumed to be 'transcendent' objects of identification: policing may bear a charged social meaning that renders the idea it represents a generally shared social order problematic. To take an obvious example, as in any country, some South Africans feel threatened by a variety of racial, ethnic and other out groups – whites may be fearful of the black majority, while black South Africans may resent the continued economic and social advantages enjoyed by many of their white counterparts. Feeing that other racial groups pose a threat will undermine people's sense that they share a social group with those that threaten them; it may also undermine their sense that the police, as a 'prototypical group representative' (Sunshine and Tyler 2003), represents a social group all can belong to.

Second, and relatedly, the salience of crime as an issue in South Africa and the social divisions fostered by extreme inequality and the legacy of apartheid have, along with other factors, catalyzed alarming displays of xenophobia. 'Foreigners', immigrants from other Sub-Saharan African countries but also internal migrants, are blamed for many social ills, including crime (Steinberg 2011c). The legitimacy of the police may be caught up in species of social strain that produce and are reproduced by this xenophobia. In terms of the central aim of this paper, the procedural justice of the police may be simply irrelevant in social settings characterised by xenophobia and other forms of intergroup conflict. Indeed, it may even be that some want to police to be *unfair* to denigrated out-groups.

Third, the legitimacy of the police – 'the state on the streets' (Hinton 2006) – may be influenced by state activities that are seemingly far removed from its immediate remit. Police are sanctioned by the state (Manning 2010: 34), and the legitimacy of the police turns not only on public assessment of how it behaves but also on the extent to which it is authorised (Zelditch 2001) by the government, the judiciary and other state actors. In a country such as South Africa the ability of the state to authorise the police may well be in question. Widespread evidence of high-level political corruption (often linked to the police), for example, may not only undermine trust in the government but also weaken its ability to authorise the activities – and status – of the police. The difficulties encountered by the post-Apartheid state in addressing backlogs in the provision and maintenance of basic services may further undermine police legitimacy: put bluntly, when people do not have running water, or are forced to use unenclosed 'street toilets' (Times Live 2011), their sense that *any* state agency can legitimately represent their interests may be undermined. Furthermore, there have been large protests in recent years due to dissatisfaction with household service provision, access and quality. Public Order Police (POP) units have played a key role in monitoring and quelling these mass actions, and there have been a number of instances of police brutality. Such events may have strengthened associations between policing and failures in service provision.

**Conceptual model and research hypotheses**
To summarise, it remains an open and empirical question whether individuals in a society such as contemporary South Africa employ normative judgments about fair process when orienting themselves toward the police. Many factors may crowd out fairness judgements, including concerns about effectiveness or corruption, the sheer scale of the crime problem, the social strain wrought by historic and contemporary racial and inter-group divisions, and the association of the police with a historically oppressive and currently underperforming state. These factors are graphically represented in Figure 1, and they can explicated in terms five hypotheses about the antecedents of police legitimacy in the South African context.

*Figure 1 near here*

First, in line with earlier enquiries into the formation of police legitimacy, we expect that police legitimacy in South Africa will be based in an important sense on trust judgements concerning the police (Jackson *et al.* 2012; Tyler, 2006a, 2006b). A central question for this study is whether trust in police fairness or trust in police effectivenessg is the most important predictor of legitimacy.

Second, and again in line with earlier studies, we expect that experiences of policing will influence legitimacy, and that trust in fairness and effectiveness will play key mediating roles. We hypothesize that a sense of unfairness and inefficiency arising from awareness of corruption and experiences of police mistreatment or failure will affect, or inform, individual's legitimacy judgements.

Third, the salience of crime in South Africa will have implications for police legitimacy. All else equal, we expect that the links between crime concerns, trust and legitimacy will be stronger in South Africa than usually seems to be the case in AADP countries.

Fourth, police legitimacy will be affected by the social strains generated in an often fearful and divided society. When people feel threatened by other racial groups and when they are caught up in anti-immigrant sentiment, they may blame the police for failing to protect them from these perceived dangers; they may indeed believe the police are implicated in them. We therefore expect perceptions of social threat, and expressions of xenophobia, to influence both trust and police legitimacy.

Fifth, we hypothesize that the legitimacy of the public police will be influenced by assessments of the state writ large. In particular, when the government is seen as failing to provide basic services for citizens, or as untrustworthy, we hypothesize that its ability to authorise the police will be undermined and police legitimacy will suffer as a result.

*Omissions from this study*
There are two important omissions from this study that we should recognize at the outset. The first is the take-up of private security provision. Many wealthier South Africans 'opt out' of the state system

of social order maintenance through the purchase of private security; their more impoverished counterparts sometimes turn to vigilante organizations (Marks & Wood 2010; Samara 2010; Shaw 2002). The provision of security in South Africa is thus no longer exclusively (or even centrally) associated with the state (Singh 2008), and private networks defined by solidarity group, residence, or economic class are important alternatives for many South Africans. These networks are often heterogeneous, context specific, and fluid (Benit-Gbaffou 2006).

Such developments are almost by definition associated with mistrust and an absence of legitimacy. Yet the turn to non-state policing, in as much as it is due to disappointment with the public police, may be primarily a *result* of low police legitimacy rather than its cause (although, of course, some sort of feedback loop between the two seems likely). Due to this uncertainty we do not include measures of private policing in the model presented below.

The second omission is consideration of race or ethnicity. The influence of race and ethnicity on trust and police legitimacy in the South African context is likely to be extremely complex and, deservedly, the subject of another paper. The purpose of the current study is rather to sketch out the place of procedural justice in South African's judgements about the police and compare this 'driver' of police legitimacy with other, possibly competing, factors.

### III.     Data and Methods

This study draws on data from the 2010 round of the SASAS, a repeated cross-sectional survey conducted annually by HSRC. The survey round consisted of a nationally representative probability sample of 3,183 South African adults aged 16 years and over living in private households (see Table 1 for the sample structure). Each SASAS round of interviewing consists of a sub-sample of 500 Population Census enumeration areas, stratified by province, geographical sub-type and majority population group. The SASAS aims to provide a long-term account of change in public values and the social fabric of modern South Africa. In addition to a core module that monitors change and continuity in a variety of socio-economic and socio-political variables, each survey round accommodates rotating modules on specific themes, with the intention of providing detailed attitudinal evidence to inform policy and academic debate. Given the importance of issues of crime and policing in South African society, permission was secured to field police-related questions from the Trust in Criminal Justice module designed by the Eurojustis consortium and included in the fifth round of the European Social Survey in 2010/11.

*Table 1 near here*

*Measures*
A wide range of measures were used to address the issues at hand. Latent variable modelling (confirmatory factor analysis in the package Mplus 6.11) was used to estimate all latent variables in the analysis, utilising Full Information Maximum Likelihood estimation to deal with item non-response. We describe below the measures used in the final analysis (Appendix Table 1 shows full question wordings and factor loadings from a confirmatory factor analysis that modelled the latent constructs of interest).

*Police legitimacy*
Legitimacy was measured by two distinct constructs. The first assessed respondents' self-assessed '*duty to obey*' police directives. This is an aspect of legitimacy matches closely the one used in the Tyler literature. It taps into the notion that an authority is legitimate when people defer to because they believe they should (rather than because, for example, they feel they will be sanctioned if they do not). The second construct assesses respondent's sense of '*moral alignment with police*'. This variable taps into a notion of legitimacy developed by the political scientist David Beetham (1991; see also Bottoms and Tankebe 2012; Jackson et al. 2011, 2012a, 2012b). Beetham argues that legitimacy cannot only be about obedience and the consent of citizens but must also encompass the justification of authority by those subject to it. Based most importantly in a sense that the police operate according to a shared set of general values and principles, the justification of police authority is here measured by questions such as 'The police generally have the same sense of right and wrong as I do'. These

items are assumed to indicate whether or not people believe the police are policing according to a shared vision of appropriate social order. At the bivariate level these two components of legitimacy were moderately strongly correlated (r=.29 – see Appendix Table 2).

*Trust in the police*

We included two measures of trust in the police (see Jackson et al. 2012a, 2012b for a discussion). The first assessed respondent's trust in the *procedural fairness of the police*, and included items tapping into assessments of officer's respectfulness, impartiality, and willingness to engage in dialogue. The second assessed trust in the *effectiveness of the police* in terms of preventing crime, catching criminals, and arriving quickly when called. These assessments or perceptions are labelled trust judgements not least because most people will have little clear idea about, for example, how effective the police 'really are' in dealing with crime. Rather, answers given in sample surveys such as the SASAS tap into respondent's underlying trust in the police rather than an accurate assessment of specific aspects of its behaviour (although they of course draw on any information provided to them by personal or vicarious experience when forming their views).

*Experiences of policing*

Unlike many of the other measures used in this study, experiences of the police were represented in the final model by observed (single item) indicators only. Two dummy variables represented *satisfactory* and *unsatisfactory contact* with the police, while a third variable assessed views on *police corruption*. Respondents were asked 'How often would you say that the police in South Africa take bribes?', with answers on a 11-point scale. This was entered in the final model as a continuous variable.

*Experiences of crime*

SASAS respondent's experiences of crime were represented by two measures. The first was a latent variable representing the extent of their *worry about crime*. This includes items assessing worry about being burgled or being violently attacked: specifically, the frequency with which they worry and the impact of this worry on their quality of life (Roberts 2010; Jackson & Kuha 2012). The second was a dummy variable indicating whether the respondent or a member of their household had been a *victim* of a burglary or assault in the last five years.

*Social Strain*

Two latent variables were included in the model in order to assess the impact of what we characterised above as 'social strain' on the legitimacy of the police. The first was a measure of *group threat* that tapped into fears that other racial groups are trying to get ahead at the expense of the respondent's own, by, for example, excluding members of their group from positions of power and responsibility or by undermining their traditions and values. The second latent variable assessed the extent of respondents' *anti-immigrant sentiment*. It combined answers to a series of questions probing assessments of, on the one hand, the 'threat' immigrants pose to South African society, and, on the other, the contribution immigrants might make.

*Trust in government*

Opinions of the government and assessments of its performance were represented by two latent variables. The first tapped into a general sense of *trust in government*; different indicators assessed the extent individual's trusted different institutions of government and politics. The second latent variable accessed respondents satisfaction with the way government was handling service provision in their neighbourhood. Measures of satisfaction with basic services (water, electricity, refuse collection) were used to construct a measure of satisfaction with *provision of services*.

## IV. Results

Structural equation modelling was used to assess the relationships between police legitimacy, trust in the police and the four other groups of variables outlined above (Figure 2 – note that the model controlled for age, gender and race). Before we turn to the details it is important to note that, consistent with the most general theme of Tyler's procedural justice framework, trust judgements

played a key role in the model. As specified, the statistical effects on legitimacy of many of the other variables in the model were mediated by assessments of police effectiveness and police procedural justice – in other words much of the legitimacy granted to the police is held to flow from trust in its fairness and efficacy. Importantly, however, the model does not assume this is always the case. Direct paths were allowed to legitimacy from the assessments of the government and state and the social threat variables. The model therefore proposes that the legitimacy of the police does not only stem from assessments of and trust in its own behaviour, but instead is embedded in a more complex set of social processes mediating between citizen and institution.

To aid explanation, results from the model are broken down into five sections, covering each of the key relationships in turn.

***Figure 2 near here***

*Associations between trust and legitimacy*
As predicted by the procedural justice model, fairness was linked with legitimacy. There was a statistically significant association, of moderate size, between trust in the fairness of police and a sense of moral alignment with it. By contrast, there was no association between procedural fairness and a sense of duty to obey. Yet, trust in police effectiveness was a far stronger predictor of legitimacy than is usually the case in studies using US or UK data (e.g. Jackson et al. 2012). Assessments of police effectiveness were strongly predictive of both components of legitimacy, particularly moral alignment. It seems that when South Africans feel the police are ineffective in dealing with crime, this is correlated with a weaker sense that police share their own values and priorities, and a weaker sense of duty to obey officer's instructions. In sum, in South Africa the legitimacy of the police seems to be more strongly affected by judgements about its effectiveness, even though fairness still plays a role.

*Experiences of policing*
The associations between experiences of policing, trust and legitimacy echo those identified in other contexts. Consider recent personal contact with officers. Unsatisfactory personal contact was associated with lower trust in both fairness and effectiveness; satisfactory contacts were associated with higher scores on both these variables. Studies conducted elsewhere have tended to find a strong asymmetry in these associations, with unsatisfactory contact having a strong negative effect on trust but satisfactory contact having only a weak positive effect (Skogan 2006; but see Myhill and Bradford 2011; Tyler and Fagan 2008 for evidence of greater symmetry). In the SASAS, however, the association between contact judgements and trust in police procedural fairness was almost exactly symmetrical ($\beta$ = -14 for unsatisfactory and $\beta$ = .13 for satisfactory contact). There was less symmetry in the case of trust in police effectiveness, but even here positive contact appeared to have a significant positive effect on opinions. Other South African studies report similar findings (e.g. O'Donovan 2007). It may be that people in South Africa are more 'open' to positive experiences of policing, perhaps because they expect less of them (Reisig and Stroshine Chandek 2001).

There was less symmetry in the indirect statistical effects of contact on legitimacy, although satisfactory contacts retained a significant positive effect. The indirect effect of satisfactory contact on moral identification was .08, and to duty to obey it was .03; the equivalent paths from unsatisfactory contact were -.14 and -.07 respectively ($p<.05$ in each case). What the police do in South Africa – as elsewhere – predicts the legitimacy granted to it, and it is contacts judged negatively by members of the public that, in particular, explain variation in their legitimacy judgements.

Finally, and as expected, perceptions of police corruption had a strong, negative effect on judgements about fairness and effectiveness, and, through these, legitimacy. The indirect statistical effect of perceptions of bribery on moral identification was -.25 ($p<.05$), while the indirect effect on duty to obey was -.12 ($p<.05$).

*Experiences of crime*
As predicted higher levels of worry about crime and the experience of victimisation were associated with lower levels of trust in both effectiveness and fairness, and, through these, with lower levels of legitimacy. The total indirect statistical effect of worry about crime on moral identification was -.12,

and on duty to obey it was -.05; for victimisation the indirect effects were -.09 and -.05, respectively (all coefficients significant at the 5 per cent level). In contrast to some AADP studies (e.g. Jackson and Bradford 2009), public trust and the legitimacy of the police in South Africa are predicted by perceptions and experiences of crime (cf. Sindall *et al.* 2012).

*Social strain, trust and police legitimacy*
We found that our measures of 'social strain' had significant, although only moderate to weak, conditional associations with both trust in the police and its legitimacy.

The associations with trust were entirely negative. Higher levels of perceived group threat were associated with lower levels of trust in both fairness and effectiveness; while anti-immigrant sentiment predicted lower trust in police effectiveness. It seems that when South Africans feel threatened by other social groups their evaluative and affective links with the police are undermined. Some may blame it for allowing denigrated out groups to 'get ahead', or for allowing them to commit crime. Others, of course, may associate the police *with* an oppositional group.[1]

Conditioning on the trust associations, the picture in relation to legitimacy was more complex. While anti-immigrant sentiment was weakly *negatively* predictive of moral alignment (but not perceived duty to obey), group threat was *positively* predictive of both components of legitimacy. Taking into account both direct and indirect (via the trust variables) paths from the social strain variables to legitimacy, we found that anti-immigrant sentiment had a total (statistical) effect on moral identification of -.09 (p<.05) – the total effect of duty to obey was a non-significant .02. The total effects of social threat on legitimacy were not significant in either case. Detailed consideration of these complex associations is outside the scope of this paper. It may be, however, that those who perceive higher levels of group threat also tend to have a more authoritarian mind set that motivates them to legitimate authorities such as the police, thus cancelling out any damage to legitimacy via decreased trust. Whatever the precise mechanism behind these positive associations, they serve as a reminder that the legitimacy of the police may be simultaneously challenged and reinforced by a range of possibly conflicting currents in public opinion.

*Trust in government and police legitimacy*
Finally, measures of trust in government and evaluation of its performance both had significant positive associations with police legitimacy. Generalized trust in government was associated with a sense of moral alignment with the police, but not with perceived duty to obey officers. Conversely, satisfaction with basic service provision was associated with duty to obey but not moral alignment. General trust in the institutions of government may encourage a sense that specific agencies operate according to acceptable moral rules; satisfaction with service provision, on the other hand, may generate a belief that the state is fulfilling its side of the social contract, activating a reciprocal duty to defer to its representatives. The statistical effects of these variables on legitimacy were not large but, notwithstanding, they demonstrate that opinions of the police may indeed be shaped by wider assessments of government and state.

## V. Discussion and conclusion
The most important purpose of the model shown in Figure 2 was to test the question posed by this paper's title. Is procedural justice predictive of police legitimacy in South Africa, as it is in the US, UK, and elsewhere? Or is the perceived effectiveness of the police, rooted in anxieties and experiences of crime, more important? We find that trust in both police procedural justice and efficacy is correlated to police legitimacy. Judging the police to be procedurally fair was associated with stronger moral alignment with it. Yet, procedural justice is a less important predictor of legitimacy than in AADP countries, while effectiveness appears to be a stronger predictor of legitimacy than studies conducted in those countries usually find (e.g. Jackson *et al.* 2012a; Tyler and

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[1] Note that, as measured, social threat is 'contentless' – it could be coming from any source and be (subjectively) directed for any reason. In reality, people from some social groups or backgrounds are likely to feel much more threatened than others, and police legitimacy might be influenced by subjective and objective group relationships in a highly complex manner. The relationship between this type of variable and police legitimacy would be a fruitful aim for future research; we address here simply the possibility of such associations.

Huo 2002). In South Africa, then, while fairness is important, effectiveness appears to be more so. This point is underlined by the associations between experiences of crime and trust in fairness and effectiveness, and legitimacy, which, again, are stronger than those usually identified in AADP countries.

Why do South Africans place more emphasis than their US or UK counterparts on police effectiveness and crime concerns when forming legitimacy judgements? After all, people in AADP countries also tend to believe crime is a significant problem in their societies (Roberts and Hough 2005). One reason may be that the basic social utility of police is more in doubt in South Africa than in AADP countries. Post-apartheid attempts at legitimating the police were derailed by, among other things, rapid increases in recorded crime, and the large take-up of private security services and instances of vigilante action serve to underline the question mark that seems to hang over the SAPS. Under such conditions people may draw more heavily on their assessments of the effectiveness of the public police when forming their legitimacy judgements (and when they perceive it to be ineffective they may turn to alternative security providers, further undermining its already fragile position). In AADP countries, by contrast, the essential social utility of the police is often taken as a given. People's response to perceived crime problems is often not to blame the public police, nor to turn to alternative providers of policing services, but to call for a greater level of intervention *from* the police (Girling *et al.* 2000). It may be that a baseline assumption of police efficacy in AADP countries opens up a greater space for procedural justice judgements while at the same time dampening variation in legitimacy linked to effectiveness judgements.

Yet procedural justice did explain variation in legitimacy, and, importantly, personal experiences of police and perceptions of corruption were associated with trust in procedural justice and legitimacy. SASAS respondents did appear to care about the fairness of police actions. They also appeared sensitive to the way they were treated by officers; the statistical effects of contact experiences on perceptions of effectiveness were furthermore less asymmetrical than often appears the case elsewhere. Reasons for this may relate again to the precarious position of the public police in South Africa: citizens use their encounters with officers to test it in an active sense, reacting strongly to both negative *and* positive experiences.

Finally, the SASAS data confirm that the legitimacy of the police is linked to wider social and political factors. While the relationship between the two measures of 'social strain' and legitimacy was contradictory and ultimately relatively weak, there were clear links between appraisals of the government and police legitimacy, suggesting that the authority of the police is not grounded solely in citizen's perceptions of its behaviour. When the government's trustworthiness and performance is in doubt, police legitimacy may also suffer (the ability of other state actors to sanction and validate the police may be weakened when their own performance is in question). The position of the police within broader societal structures, and its relationships with other state agencies, may have important implications for the extent of the legitimacy it is able to command. This is unlikely to be an issue only in South Africa; however, the link between the police and other elements of the state may be particularly salient here given the history of apartheid and the current level of debate and contest about the performance of the state and its ability to provide, in a basic sense, for its citizens.

Naturally, this study has a number of limitations. We omitted consideration of private policing and the effects of race, leaving these to latter, more detailed research. Equally, the nature of the SASAS, a cross-sectional, 'snap-shot', public opinion survey, means that we were unable to either uncover causal effects or to move beyond public trust and attitudes toward, for example, assessment of the objective effectiveness of the police or actual behaviours of citizens that may reproduce, or undermine, its legitimacy. In comparison to such factors our aim was rather modest – to uncover and attempt to explain a set of associations in the SASAS data that, we hope, will serve as a springboard for future research.

**Conclusion**
In a recent paper Steinberg argued that police authority and civilian compliance in post-apartheid Johannesburg would be best secured by refocusing police activity on two core functions: 'effectively investigating violent crime and providing rapid and fair interventions whenever citizens call for help in emergencies' (2011a: 1). Data from the SASAS provide strong support for this contention. We found that the legitimacy of the police had a range of important antecedents, but we also identified

strong associations between personal contact with officers, assessments of fairness and effectiveness, and legitimacy. As elsewhere, perceptions of police fairness are an important influence on South African's legitimacy judgements. Yet here, unlike other contexts, the links between concerns about crime, effectiveness and legitimacy appear especially strong.

Our results do, however, also suggest that the performance of the police may be important in a wider sense than Steinberg suggests. Perceptions of bribery were associated with both trust and legitimacy, confirming that the SAPS needs to 'clean up its act' in relation to corruption (Mattes 2006). Our measures of contact covered a broad range of encounters with officers, not simply emergency responses, and personal contact had significant associations with both trust and legitimacy. In this, as in other ways, the situation of policing in South Africa is broadly similar to that elsewhere. Personal experience matters and, arguably, mundane encounters between police and public and people's assessments of the probity of the police offer the best chance for improving legitimacy – and the most significant risks of further undermining it.

Such opportunities and risks are salient because the legitimacy of the police is a vital element of the wider legitimacy of democratic states. Not only are police empowered to use force against citizens, but police legitimacy has been linked with compliance with the law and a wider set of 'pro-social' behaviours. Understanding the antecedents of police legitimacy is therefore vital. This study has shown that, even in a high-crime country such as South Africa, citizens attend not only to the effectiveness of the police but also to its fairness. For South African policy makers and, perhaps, their counterparts elsewhere, the message is clear – the imperative to address citizen's concerns about crime should not be implemented at the expense of efforts to improve the more affective aspects of its behaviour and links with citizens. Yet here, unlike some other countries, it appears that the legitimacy of the police *is* seriously undermined by perceptions that it is ineffective in the 'fight against crime'. The trick will be addressing such concerns without recourse to policing styles that are experienced as unfair and which create further divisions between citizen and state.

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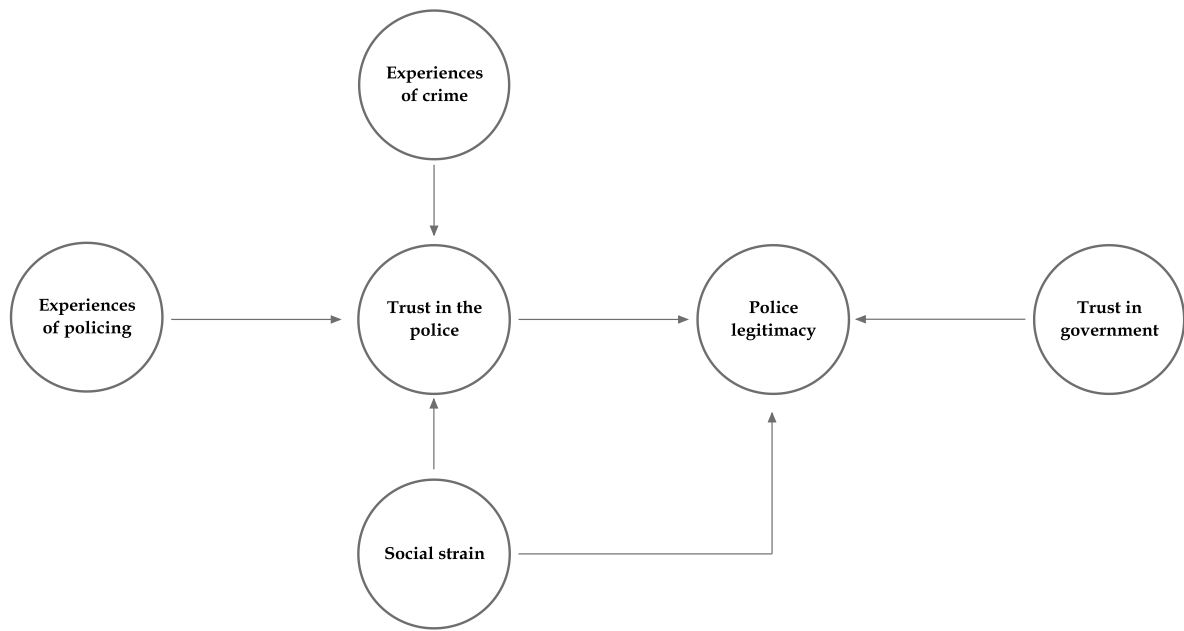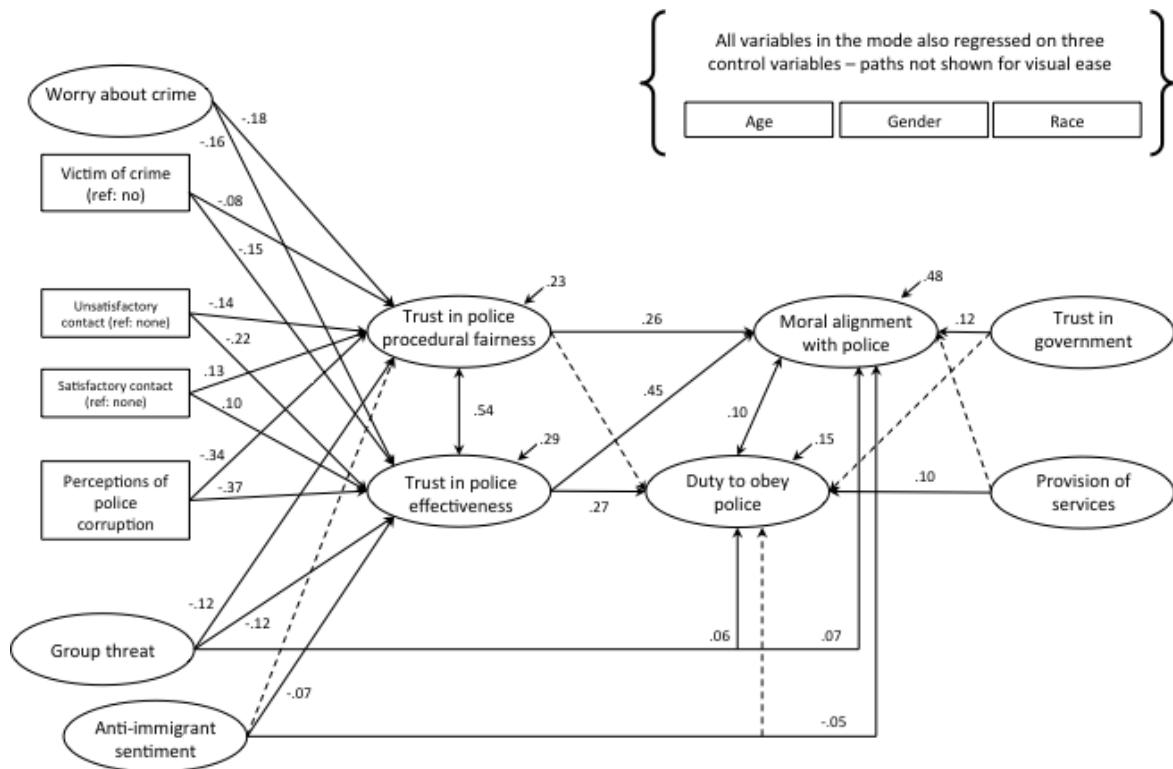
**Table 1: Structure of the sample**

Percentages

| Gender | | Educational attainment | |
|---|---|---|---|
| Female | 40 | No schooling | *4* |
| Male | 60 | Primary | *15* |
| | | Grades 8-11 or equivalent | *34* |
| **Age** | | Matric or equivalent | *32* |
| 16-24 | 19 | Tertiary | *13* |
| 25-34 | 22 | Other/Don't know | *1* |
| 35-44 | 21 | | |
| | | **Monthly household income** | |
| 45-54 | 16 | R1,000 or less | *12* |
| 55-64 | 12 | R1,001 to R2,000 | *20* |
| 65-74 | 7 | R2,001 to R3,000 | *9* |
| 75 and over | 3 | R,3001 to R5,000 | *8* |
| | | R5,001 to R10,000 | *11* |
| **Race** | | Over R5,000 | *12* |
| Black African | 57 | Refused/Don't know | *27* |
| Coloured | 18 | | |
| Indian or Asian | 11 | **Employment status** | |
| White | 14 | Full time | *28* |
| | | Part-time | *7* |
| | | Unemployed | *30* |
| **Area type** | | Pensioner | *14* |
| Urban, formal | 63 | 'Housewife' | *8* |
| Urban, informal settlement | 9 | Student | *9* |
| Tribal area | 19 | Other | *4* |
| Rural, formal settlement | 9 | | |

Unweighted n = 3,182

**Figure 1: Conceptual Model**

**Figure 2: Police legitimacy in South Africa**



All variables in the mode also regressed on three control variables – paths not shown for visual ease

| Age | Gender | Race |

Chi-Square=4816.6; df=743; p<.00005
RMSEA=.04; CFI=.96; TLI=.95

Notes: All latent variables scored such that high equals more. Dotted lines show paths allowed in the final model that were not significant at the 5 per cent level. Standardized regression coefficients. All exogenous latent variables allowed to co-vary.
*Source: South African Social Attitudes Survey 2010*

Appendix Table 1:
**Results from simultaneous confirmatory factor analysis**

| | Factor loadings |
|---|---|
| **Trust in police procedural justice** (4-point scales) | |
| How often would you say the police generally treat people in South Africa with respect? | 0.90 |
| How often would you say that the police make fair, impartial decisions in the cases they deal with? | 0.88 |
| How often would you say the police generally explain their decisions and actions? | 0.67 |
| **Trust in police effectiveness** (11-point anchored scales) | |
| How successful do you think the police are at preventing crimes where violence is used or threatened? | 0.81 |
| How successful do you think the police are at catching people who commit house burglaries? | 0.80 |
| If the police were called (to a violent crime or house burglary) how quickly do you think they would arrive? | 0.52 |
| **Duty to obey police** (11-point anchored scales) | |
| To what extent is it your duty to support the decisions made by the police even when you disagree with them? | 0.86 |
| To what extent is it your duty to do what the police tell you even if you don't understand or agree with the reasons? | 0.83 |
| To what extent is it your duty to do what the police tell you to do, even if you don't like how they treat you? | 0.85 |
| **Moral alignment with police** (5-point scales) | |
| The police stand up for values that are important to people like me | 0.76 |
| I generally support how the police usually act | 0.80 |
| **Worry about crime** | |
| How often do you worry about your home being burgled? (4-point scale) | 0.91 |
| Does worry about your home being burgled have a serious effect on your quality of life, some, or no effect? (3-point scale) | 0.92 |
| How often do you worry about becoming a victim of violent crime? (4-point scale) | 0.91 |
| Does worry about violent crime have a serious effect on your quality of life, some, or no effect? (3-point scale) | 0.91 |
| **Satisfaction with services** (5-point scales) | |
| How satisfied are you with the way that the government is handling the following matters in your neighbourhood? | |
| Supply of water and sanitation | 0.51 |
| Providing electricity | 0.58 |
| Removal of refuse | 0.43 |
| Access to health care | 0.78 |
| **Trust in government** (5-point scales) | |
| Indicate the extent to which you trust or distrust the following institutions in South Africa at present | |
| National government | 0.72 |
| Parliament | 0.65 |
| Local government | 0.74 |
| Political parties | 0.68 |
| Politicians | 0.69 |
| **Group threat** (5-point scales) | |
| People of other race groups in South Africa are trying to get ahead economically at the expense of my group | 0.68 |
| People of other race groups in South Africa try to exclude members of my group from positions of power and responsibility | 0.61 |
| The traditions and values that are important to people of my race are under threat | 0.73 |
| Other race groups in South Africa will never understand what members of my group are like | 0.71 |
| **Anti-immigrant sentiment** (5-point scales) | |
| Immigrants increase crime rates | 0.74 |
| Immigrants are generally good for South Africa's economy (reversed) | 0.74 |
| Immigrants take jobs away from people who were born in South Africa | 0.67 |
| Immigrants make South Africa more open to new ideas and cultures (reversed) | 0.69 |
| Immigrants bring disease to South Africa | 0.66 |
| Immigrants bring skills that are needed in South Africa | 0.72 |
| | |
| Fit statistics | |
| Chi-square | 3654.9 |
| Degress of freedome | 485 |
| P-value | <0.00005 |
| RMSEA | 0.05 |
| TLI | 0.97 |
| CFI | 0.96 |

*Source: South African Social Attitudes Survey 2010*

**Appendix Table 2:**
**Correlations between latent variables**

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|---|
| Police procedural justice | 1 | | | | | | | | |
| Police effectiveness | 0.67 | 1 | | | | | | | |
| Duty to obey police | 0.26 | 0.30 | 1 | | | | | | |
| Moral alignment with police | 0.58 | 0.64 | 0.29 | 1 | | | | | |
| Worry about crime | -0.22 | -0.27 | -0.04 | -0.15 | 1 | | | | |
| Satisfaction with services | 0.23 | 0.17 | 0.20 | 0.20 | -0.11 | 1 | | | |
| Trust in government | 0.23 | 0.34 | 0.11 | 0.36 | -0.22 | 0.37 | 1 | | |
| Group threat | -0.14 | -0.15 | 0.01 | -0.05 | 0.05 | -0.13 | -0.14 | 1 | |
| Anti-immigrant sentiment | -0.07 | -0.13 | 0.00 | -0.11 | 0.03 | -0.12 | -0.18 | 0.28 | 1 |

*Source: South African Social Attitudes Survey 2010*