

A THEORY OF RELATIONAL JUSTICE – ASIAN CRIMINOLOGY'S APPROACH TO DECOLONIZING CRIMINOLOGY

Jianhong Liu
Distinguished Professor
Faculty of Law
University of Macau

https://www.researchgate.net/profile/Jianhong_Liu2

Outline

- Theory building under western centric paradigm
 - *Diversity as obstacle for generalization*
 - *Diversity around the world*
- Approaches in decolonization
- Asian criminology and approach to theory building
- Relational justice theory
 - *Contrasting ideal types*
 - *Causal processes*

Background

- Criminology has a Western-centric and colonialist bias
- The rise of Asian criminology and Southern criminology
- Ethnocentrism excludes non-Western scholarship (Carrington, 2017; Moosavi 2019; etc.).
- Well-established calls to decolonize criminology
- Call for decolonizing social science
- Asian criminology and southern criminology: paradigm shifts

Absence of a General Criminal Justice Theory and Colonization of Knowledge

- An outstanding disciplinary deficiency is the absence of a highly general criminal justice theory.
- In Criminal Justice programs, theory, by default, refers to theories of criminology
- In the academic criminal justice program, “teaching theory” is about teaching criminology theory

Diversity in Criminal Justice Research

- The Criminal justice discipline originated, and has since been involved, in institutions of criminal justice and policy primarily in the United States, UK, or Europe.
- The discipline has produced a large number of observational, descriptive, and evaluation studies, and mini theories with limited generalizations.
- Diversities: diverse observations, descriptive, evaluation studies, topics institutions, localities, mini theories, knowledge with limited scope.
- Theorists wonder how can they cut across these diverse descriptive and studies to produce a unified explanation applicable to each important aspect of criminal justice.

Western Literature and Efforts in Building Criminal Justice Theories

Hagan categorized the specific theories and research based on either consensus or conflict theory. He noted the limitations of having only two predominant theories of criminal justice available. (Hagan, 2015).

Bernard and Engel used dependent variables, as well as corresponding independent variable, to classify research topics (Bernard and Engel 2001).

Peter b. Kraska identified and classified criminal justice work and literature into eight theoretical orientations targeting criminal justice phenomena. (Kraska, 2004).

Maguire and Duffee (2015) proposed classifications to summarize existing theoretical work, building further along the summarization and classification approach.

Western Literature and Efforts in Building Criminal Justice Theories

Herbert Packer (1964, 1968) proposed two models of the criminal justice process, the “crime control” and “due process” models. Packer defined that the theory is based on upholding the American Constitution and its value, he limited the theory’s scope to American contexts.

Donald Black proposed a social legal theory. He formulated the theory to address the question of “the variation of law across social space”. Black contends that “law is a quantitative variable,” that “varies across societies, regions, communities, neighborhoods, families, and relationships of every kind” (Donald Black, 1976:p3). Despite his claim that the theory is universal, in fact it is confined to the Western context. It is based on largely his observation and understanding of conflicting perspectives in American socio-legal processes.

Western Literature and Efforts in Building Criminal Justice Theories

- Despite differences in specific methodology of thinking, these various efforts share one essence in common: they all try to build a new theory based on some type of summarization or categorization of existing descriptive, evaluative, specific, or small scope “theories” based on the existing literature.
- All these theorists are dissatisfied with the level of generalization of their theories.
- The current approaches follow the convention of building new knowledge based on old knowledge from the West; however, this approach is inherently limited by the boundaries of Western-centric literature.

Summary of Theory Building Literature

- Theory building has not achieved a highly generalized theory.
- Major difficulty that theory building has is dealing with diversity
- Summarization and categorization are the primary approaches to theory building
- Lack of recognition of the limitation of a western-centric paradigm
- The theories have not considered vast diversities globally and how to build vast diversity into the theory given the Western centric paradigm.

The Challenge of Diversity Around the World

- Greater diversity exists beyond Western countries
- There are 195 countries with countless and distinct criminal justice systems, across time and space
- The vast variations in cultures and social systems are well-informed by empirical evidence, and important contemporary social theories (Samuel Huntington (1996), Clash of civilization theory; Immanuel Wallerstein (1979), World system theories, ...)

Diversity of Non-western Systems

- Each criminal justice system is built in a specific cultural, political, economic and social setting.
- Must understand the philosophy, tradition, culture, and ideologies to work with non-Western systems (Liu, 2016).
 - *Why due process is not a significant part of the system in Iran and Pakistan*
 - *Method of incarceration is incompatible within the indigenous systems of community justice in Africa.*
 - *Japanese do not comprehend the sense and sensibilities of the Second Amendment and gun control in America.*

Challenge of Diversity to Theory Building Under the Western-centric Paradigm

- Within a global scope, the existing approach faces great challenges (Liu, 2009; Liu, 2017)
 - Western centric paradigm limits theorists' purview to western reality and literature
 - Literature is predominantly confined to a local and western-centric scope
- No theory explicitly builds a sharp contrast between West and East
- If confined within the western-centric paradigm, there will be no hope to achieve truly highly generalized theories across countries and cultures.

Approaches to Decolonizing Criminology

- There are currently two approaches to knowledge decolonization in criminology (Liu et al., 2022)
- One, “representation approach”.
 - *Recognizing group stratification. Stresses under-representation of marginalized and ignored groups and gives them greater attention; stresses the importance of representing their knowledge in criminology.*
- Two, Asian paradigm’s approach.
 - *Endorse the importance of seeking generalized knowledge.*
 - *Endorse the importance of diversity and representation of marginalized knowledge in non-West or the global South*
 - *However, most importantly, the approach stresses the central importance of non-western knowledge in providing insights to achieve discovery of a higher-level of generalized knowledge, in which western-centric knowledge is only a special case of criminology knowledge*

Representation Approach

- The understanding of the nature of decolonization as a group stratification issue (Carrington et al., 2019)
- Views western-centrism and colonization as a representation problem (Liu, 2021)
- Identifies the central and fundamental problem as the unequal representation problem for different groups (Liu, 2016)
- The group ID are various: geographic units and locations, such as countries, colonies; imperialist; gender; culture; race; language, etc.
- The solution is opposing hegemony of privileged groups, rebalancing the inequality towards marginalized groups. In this group approach scholarship, democracy is stressed as the means of achieving this (Carrington et al., 2019; Wu et al., 2023).

Difficulties with Representation Approach

- Difficulties with identifying groups: how many and how detailed groups should be identified (Asia, east Asia, Confucianism, Africa, Gender, race, cultures? There will be endless number of groups to represented?) (Liu, 2017)
- In what way? (nationality or location of the scholar? Topics?)
- Not being representative? Speak on behalf of whom?
--- *Is Australia “South”?*
- Occidentalism. Such a view may overly glorify non-Western and dismiss Western criminology (Carrington et al., 2019). This implies favoring “Asian centric?”, “Southern centric?”
- Imperialist attitude that seeks to silence scholarship that is considered illegitimate (Moosavi, 2018).
- Difficulties with Generalization: To what extent is the discovery and knowledge from a particular group and situation useful or helpful in a different context and situation?

Insights from Asian Criminology

- Decolonization expands the scope of diverse realities and literature, thus is a source for high-level generalization spanning across counties and contexts
- Decolonization encourages discovery and deeper understanding of information and literature and from marginalized and ignored groups. This information can stimulate creative thinking to form new and powerful concepts and explanations
- Decolonization encourages thought outside the box of western literature, allowing innovative theories with a global reach (Zhuo et al., 2023)
- Asian criminology establishes a paradigm shift from Western centric paradigm to a more inclusive and global paradigm (Carrington et al., 2019; Liu, 2016)
- I define Asian criminology as the study of topics in crime and justice in the Asian context (Liu, 2009; 2017; 2018)

Asian Criminology's Strategies for Knowledge Decolonization

- Engage with western scholars by offering innovative knowledge and correcting bias in western centric theory (Shuai & Liu, 2023)
- Including in decolonization discourse, a toolbox using language and methods that western scholars and are familiar with
- Linking Western criminology with non-Western criminology; or linking North with South. (Sandra Walklate 2016; Belknap, 2016; Liu 2017, 2018)
 - *We discover and create new knowledge linked with but go beyond existing work in Western literature*
 - *We adopt essential language, concepts, and methodological tools discovered and developed in Western literature*

Paradigm Shift to Asian Paradigm: Approach to Theory Building

- Diversity and generalization across cultures
- Inclusive: links East with West, expand West to Asia and global
- Take Insights from Asia and marginalized contexts.
- Modeling the sharp contrast between West and East
- Logical approach: ideal types and models, contrast in variation models
- Essential concepts causal processes penetrating levels of subjects

Building the Theory of Relational Justice

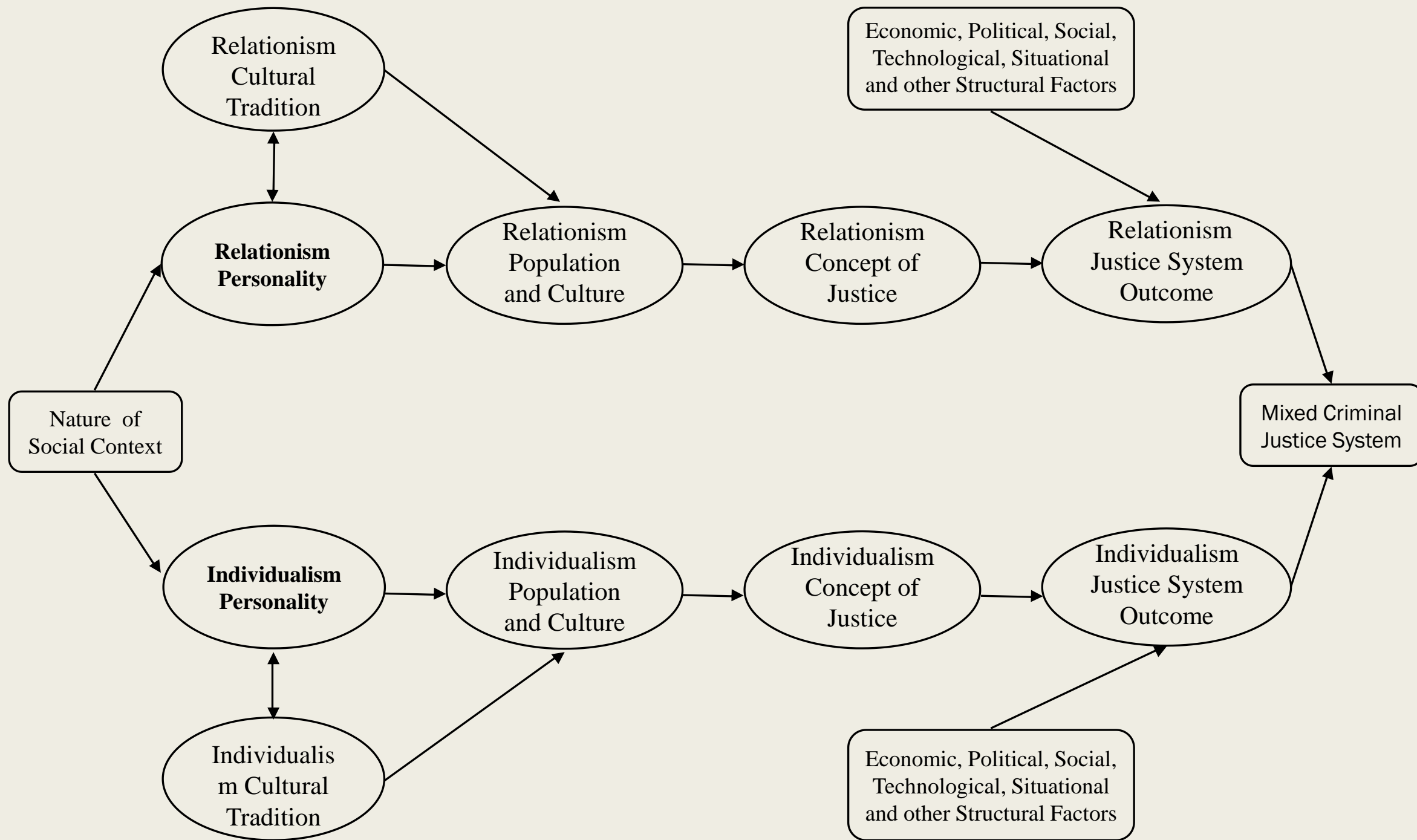
- Extending purviews from West to East (paradigm shift)
- Abstracting ideal types from West and East (Asian) observations and literature (Liu et al., 2013).
- Constructing five pairs of contrasting concepts. (using Western analogy as reference point)
 - The first pair of contrasting concepts forms the source of explanation for the chain of causal processes. The pair of explanatory concepts are relationism and individualism.
 - The second pair of contrasting concepts are Relationism population and individualism population.
 - The third pair of contrasting concepts are relationism culture and individualism culture. Each is formed from their cultural tradition and produced by and producing relationism population and individualism population.
 - The fourth pair of contrasting concepts are relational justice vs. individualism justice concepts
 - The fifth pair are legal embodiments of their concept of justice. This pair of constructions conceptualize the essence of West and Asian (East) criminal justice system
- The concepts are cross disciplines.

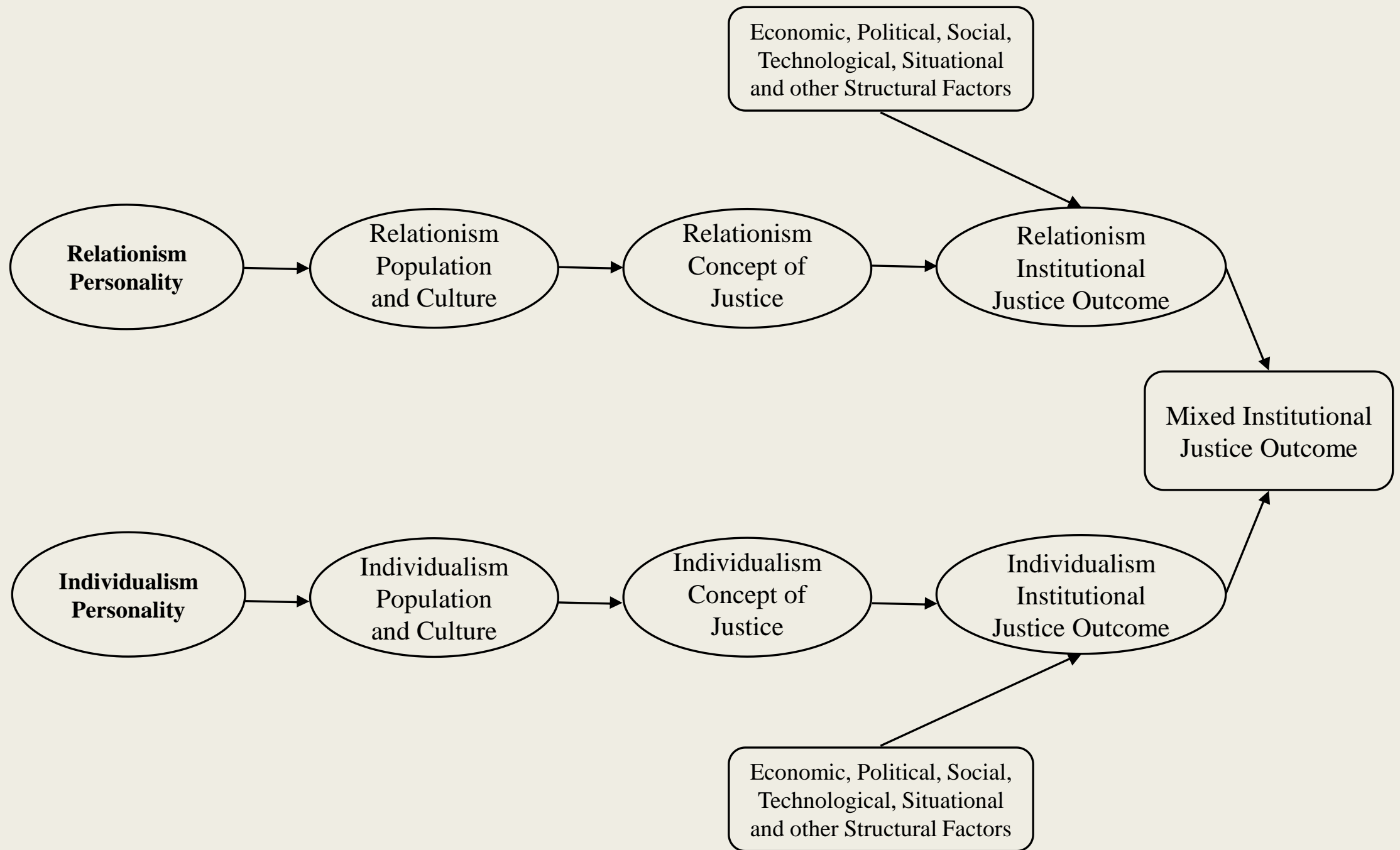
Individualistic Criminal Justice and Relational Justice

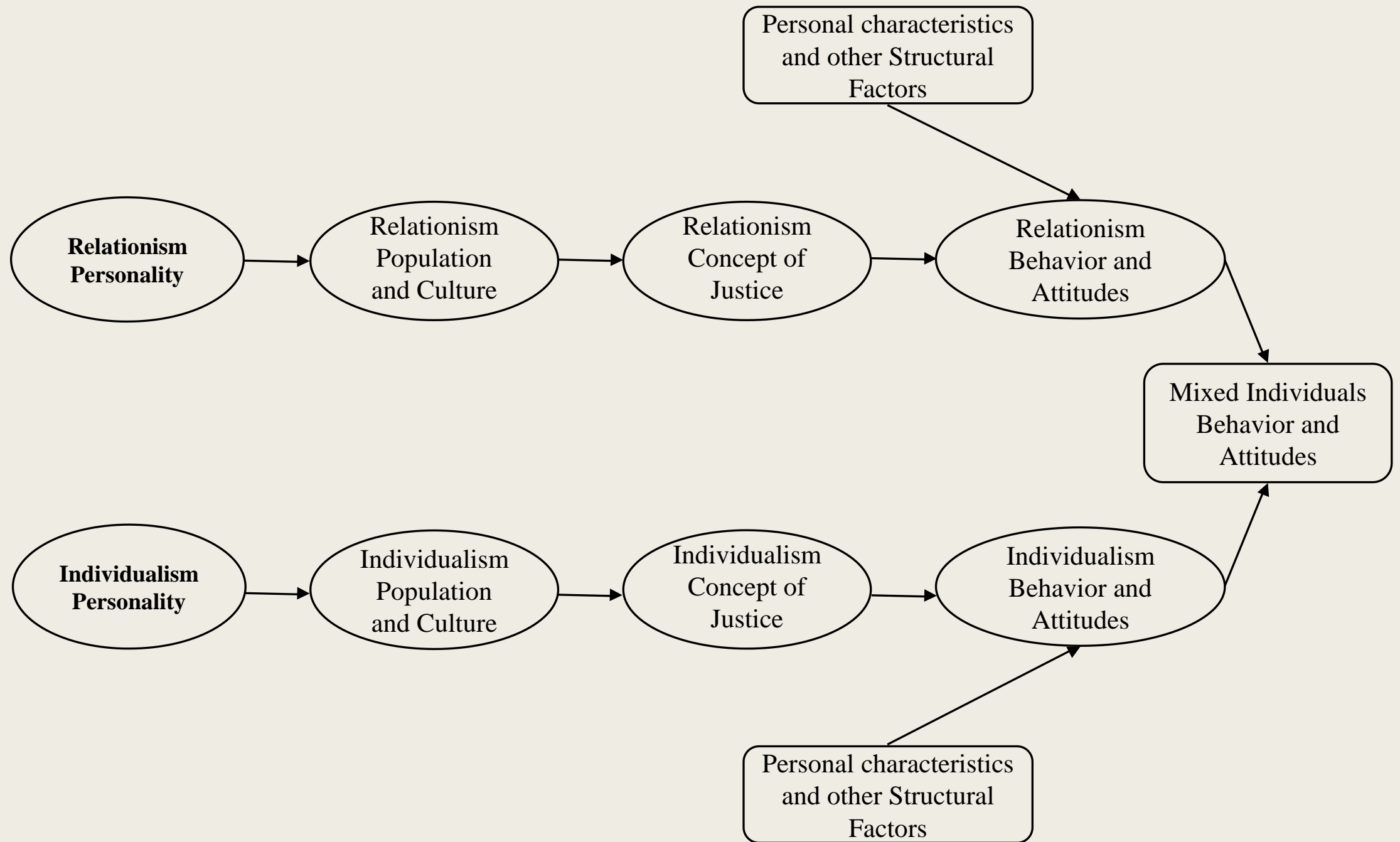
- Relational justice represents the paradigm shift from existing Western justice features, to a more inclusive justice (Liu, 2016).
- Individualistic justice and relational justice are ideal types not found in the real world (Liu, 2017; Liu & Palermo, 2009).
- US criminal systems contains more elements of the individualistic justice model (Liu, 2016; Zhang et al., 1996).
- Asian criminal justice systems and non-Western system contains more elements of relational justice model (Liu, 2016; Liu, 2017).
- Individualistic Justice and relational justice endorse very different concepts of crime and justice (Liu, 2004b; 2018; Liu & Liu, 2018). The contracting concepts are embodied in law and other mechanisms (Liu, 2004a).

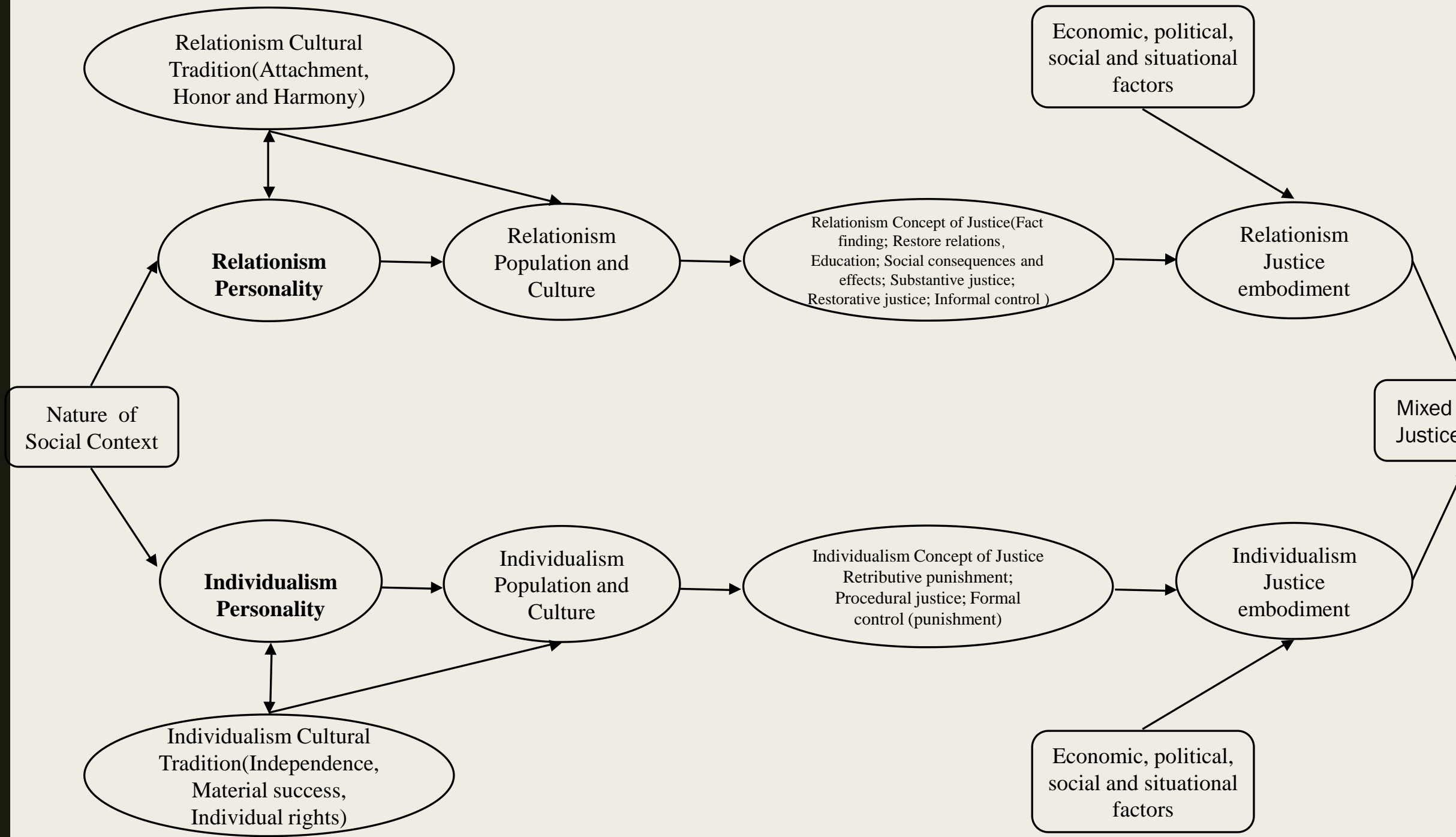
Individualistic Criminal Justice and Relational Justice

- In law, we concern legally protected interests. The difference here is, What are the Greater interests? For example, Collective order or individuals' rights?
- For the same interest, the different justice systems may give different emphasis.
- The theory is constructed to be comprehensive, there will be many possible “dependent variables” depending on the topic you are studying.
- For simplicity, we start at the source of influences to explain the theory at the system/macro level first, then show a diagram at institutional level, as well as the individual level. The source of explanation is relationism vs. individualism



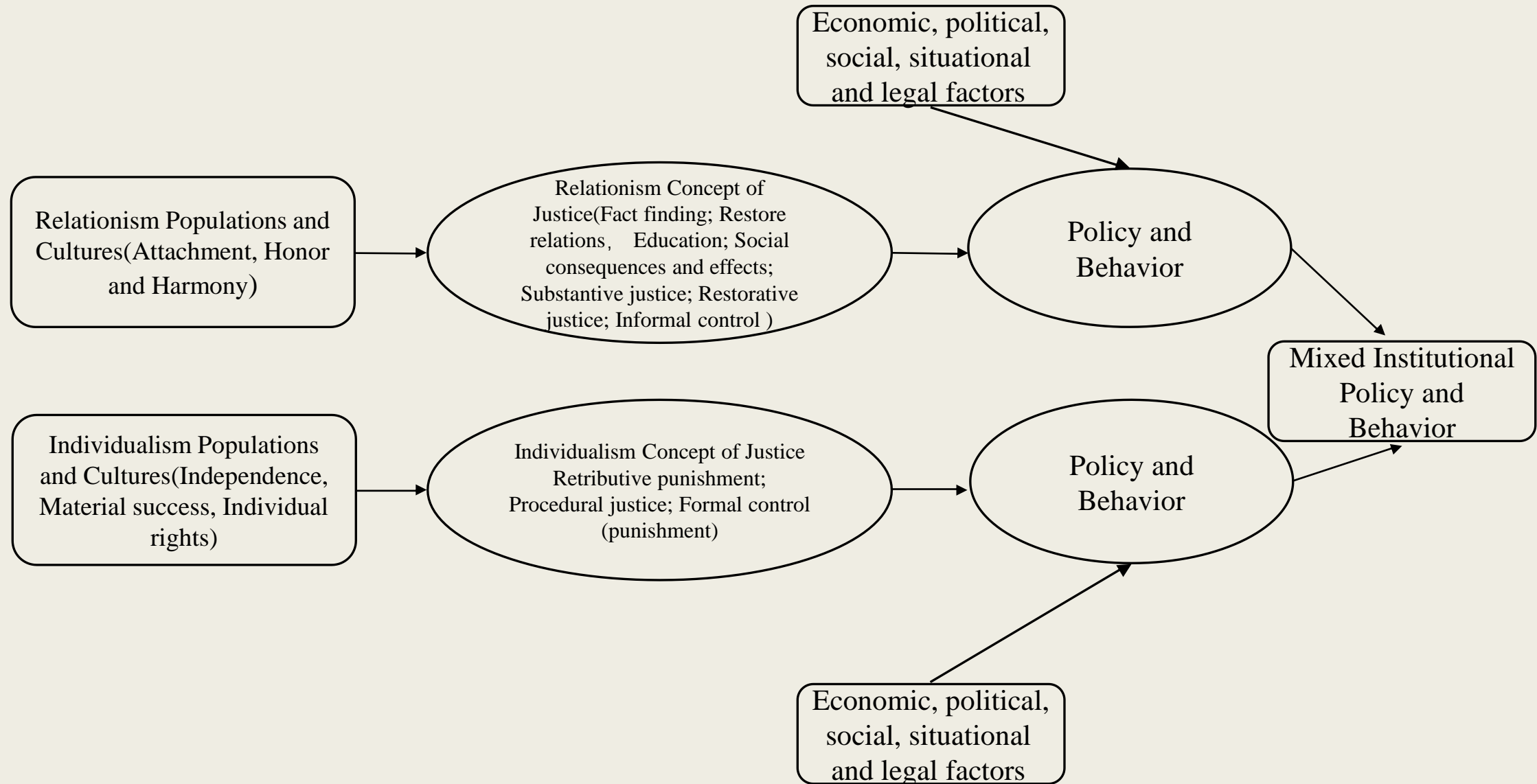






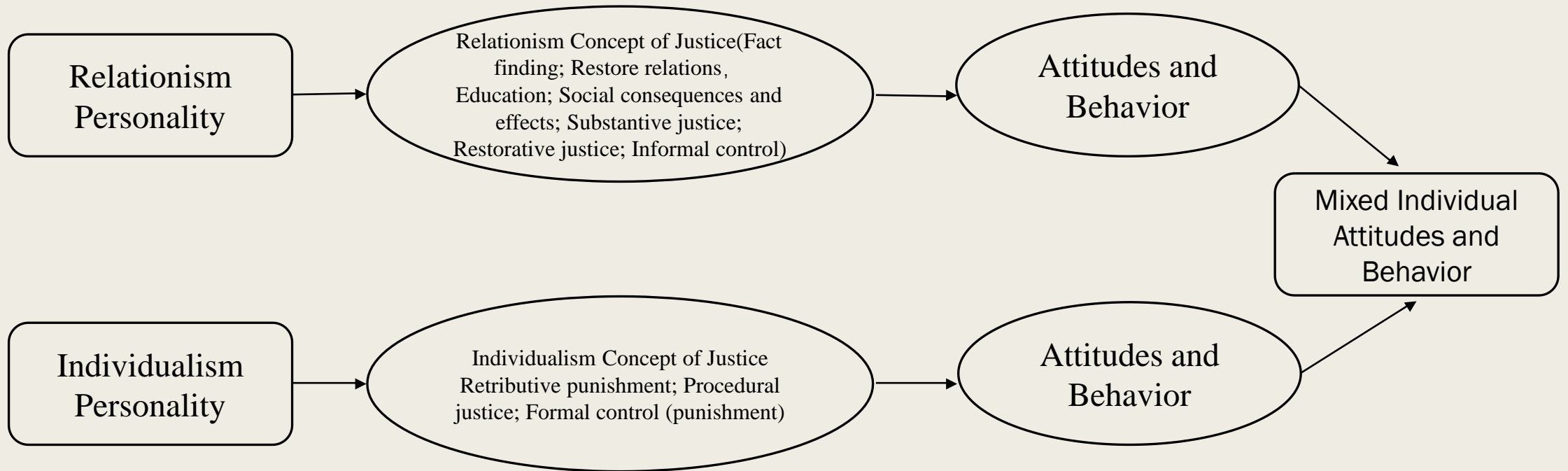
Theory of Relational Justice

Institutional Level Model



Theory of Relational Justice

Individual Level Model



The Concepts of Relationism

- Relationism is personality traits, created by the interactions of relationistic bio-psycho inheritable factors interacting with relationistic culture in the environment of child development and socialization.
- Relationism is manifested (measured) with need and desire for emotional relations with family, friends, and community.

The Concept of Individualism

- Individualism is personality traits, created by the interactions of individualistic bio-psycho inheritable factors interacting with individualism culture in the environment of child development and socialization
- Individualism is manifested (measured) with need and desire for independence, self-interests)

Relationism and Individualism Populations and Cultures

- **Relationism population** is aggregation of relationist personalities
- **Relationism culture** is a culture that values relation, order, morality honor; and holistic thinking style.
- **Individualism population** is aggregation of Individualist personalities
- **Individualism culture** is the culture that values individual's rights, independence, individual freedom, materialistic success, analytical thinking style.
- The causal processes producing individualistic and relational justice are supported and driven by the underlying demands from the respective populations and their cultures.

Relational Justice Concept and Its Embodiment

1. Crime is harm to relations, order, and morality (over personal interests)
2. Justice should resume relations, order, and morality. (Mediation; informal procedures, social consequences)
3. Punishment has educational functions (confession significantly reduce punishment)
4. Seeking truth over formality. (no presumption of guilt or innocence)
5. Holistic approach (consider all aspects of relations and approaches)

Individualism Justice Concept and Its Embodiment

1. Crime as harm to individual's interest (protected by law)
2. Justice centers on suspects' rights (Due process)
3. Justice is punitive. (punishment centered legal decision).
4. Truth obeys rights protection (only consider court admitted evidence)
5. Conflict approach (adversarial process)

Primary Propositions for Relational Justice at Macro Level

- **Relationism personality traits** (relations with family, friends, and collectives)
- -> aggregation into **relationist population and culture** (relation, order, morality honor; and holistic thinking style)
- -> (demand) **relationist concept of justice and its embodiment** (crime as harm to relations, order, and morality; Mediation; and punishment has educational function; seeking truth over formality; holistic approach)
- -> **many other embodiments** in law and informal mechanism (truth over procedure; role of victim and their interests, public/collective's interests; social consequences; no presumption of guilt or innocence, “admit guilt, accept punishment, and reduced punishment”; “Gongxu liangzhu” less individual rights of various types)

Primary Propositions for Individualistic Justice at Macro Level

- **Individualism (personality traits)** (Independence, self interests, self center)
- **-> aggregation into individualist culture** (individual's rights, independence, individual freedom, materialistic success, analytical thinking style.
- **-> (demand) individualist concept of justice and its embodiment** (crime as harm to individual's interest protected by law; due process and rights centered procedure; punishment centered decision, conflict approach)
- **-> many other embodiments in law and other mechanisms** (pre assumption of innocence, only accept admitted evidence; double jeopardy; little victims' role and rights.)

Economic, Political, Social, and Situation Influences

- Economic, social, political, and situations influences on justice are control variables in the main theory proposition.
- Situation influences represent major events.

Mixed Model Represents Reality

- In reality, the **mix** of different proportions of these sides defines the real composition and embodiment of the law and other mechanisms.
- The relative proportion of relationism population vs. individualism population influence the strength of the demands by each culture's values -> proportion of contrasting concepts of justice and its embodiment in law and other mechanisms.

Changing Trends and Processes

- The change in the proportion of relationism vs. individualism population (over time and space) will change the mix of contrasting outcome of the causal processes.
- Colonization leads to expansion of individualism over relationism over time and space (Carrington et al., 2019; Liu et al., 2017).
- Globalization has resulted in more of spread of individualism into relationism countries. (Carrington et al., 2019; Liu, 2016)

Institutional Level Propositions

- Population and culture -> concept of justice -> embodiment in institutional policy and behavior.
- **For example**, differences in police policy on arrest, use of force, detection, and service.
 - Control variables or competing hypotheses: legal, organizational, and community.
 - these can be mediating or conditioning variables for the explanatory variable.
 - Explanatory variable: concept of justice

Individual Level Propositions

- Relationism and individualism personality -> concept of justice -> attitudes and behavior.
- For example, differences in police behavior in arrest, use of force, detection, and service.
 - control variables or competing hypotheses: individual, situational.
 - Also control variable at institutional level in the case of multilevel analyses: legal, organizational, and community
 - These can also be mediating or conditioning variables for the explanatory variable.
 - Explanatory variable: individualism and relationism personality, and concept of justice

Conclusion and Discussion

- Inclusive Approach to decolonization: representation and insights from contexts.
- Role and scope of generalization in knowledge.
- Relational Justice Theory and legal embodiments

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