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Willmott, Dominic, Boduszek, Daniel and Booth, Nigel


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A Latent Profile Analysis of Juror Decision Making:
The Predictive Ability of Psychological Constructs upon Verdict Outcome.

Dominic Willmott, Prof. Daniel Boduszek & Nigel Booth
University of Huddersfield - England

Dominic.Willmott@hud.ac.uk
Rape & The English CJS

Ministry of Justice (2015)

34,741 Cases Recorded by Police

3,851 Cases Proceeded to Court Stage

1,297 Cases – Defendant Convicted

3% of cases reported

4% of cases reported

UK Home Office estimates: 60,000 – 95,000 Rapes per year
1. Decision to Report
Victim may never report - e.g. relationship to offender, fear disbelief, "re-raped"

2. Investigation Stage
Suspect never detected, police drop due to lack of evidence or victim withdraws

3. Discontinuation by Prosecutors
CPS decide not enough evidence to secure conviction, e.g. consent contested or victim not considered credible

4. Trial
Judge dismiss or more likely jury decide Not Guilty
12 Lay Jurors make verdict decisions in isolation.

Judges role: provide legal directions only.

Eligibility Criteria

Inc. criteria:
- 18-75 & registered voter

Exc. criteria:
- Serious mental health issues / Criminal convictions
- Criminal Justice Act, 1988
- Pre-trial Questioning or Peremptory Challenges
- Local electoral register
- Criminal Justice Act, 1988
- No Pre-trial Questioning or Peremptory Challenges
- Criminal Justice Act, 1988
- Local electoral register
- No Pre-trial Questioning or Peremptory Challenges
- Criminal Justice Act, 1988
- Local electoral register

No Justification for verdict required.

So Jury Decision Making must work just fine then...

Jury Trials – E&W

Jury prohibited from discussing case post-trial – Contempt of Court Act, 1981
Jury Bias Research

Pre-Trial Publicity = Trial by Media

External Bias Effects

- CSI Effect
- Attractiveness
- Evidence
- Level of Eye Contact
- Pre-Trial Publicity

Attractive = Truthful (exception Fraud)

Attractive

"There would be blood if he'd done it"

"She could barely look at him, she's lying"

Assumption that jurors process cases in rational & unbiased manner largely inaccurate

"Please disregard that last statement"

Daftary-Kapur et al. (2010)
However the role of Implicit bias deriving from individual juror characteristics and psychological constructs—less well documented—deriving from individual jurors form different conclusions despite hearing the same testimony in a case, evidence. Research has produced mixed findings of a relationship between the person you are and the verdict decision individuals make. However as Ellsworth (1993) points out—where individual jurors form dominant theory maintains the strength of the case and sway of the evidence to have the greatest effect upon verdict inclinations (Pennington and Hastie, 1992).
Juror Characteristics & Decisions

Demographics
Age, Gender, SES, Race, Occupation
- mixed findings
- Older Males - More Conviction Prone
- High RMA (Dinos et al, 2014)

Broad Personality Characteristics
- High Authoritarianism
- Just World Beliefs
- Internal locus of control
- Directly related to crime - thought to be greatest predictor of verdict preferences

Crime Specific Attitudes
- N.G. verdicts (Lieberman and Sales, 2007)
- Greater likelihood of Conviction

However, despite some support, overall personality characteristics and demographics appear inconsistent & weak predictors of verdict outcome
Present Rationale

Constructs examined in past research generally favour examining broad world views and neglect intuitively important aspects of JDM.

E.g.

- Emotional Responsiveness & Empathic understanding
- Desire to be in control, ability to manipulate others & egocentricity
- Need for peer acceptance, inclusion & self-esteem

Most research conducted in North American context – few explorations within legislatively restrictive English context.

Explorations of JDM often significantly lacking in Ecological Validity. Written format, too brief. Far removed from trial context / environment conducted.

- E.G.
Study Aims

To investigate if there is any relationship between psychological traits, crime specific attitudes and jury decision making, within rape trials;

1. Whether there is **any relationship between** the dimensions of **Psychopathy, Rape Attitudes, and Self-Esteem**, with **jurors initial verdict decisions**.

2. Where a relationship exists, is this consistent **post deliberation**.
Live Trial Simulation

Participants

- Systematic Random Sample
  - Age range 18 – 73 \((M = 45.00, SD = 15.75)\)
  - 51% females & 49% males

- N = 108 (9 x 12 person jury panels)

Methods

- Jury Eligibility Assessed
- Electoral Role – Random Comp Generation
Methods

Measures – Completed upon arrival

- Verdict Decision Sheet 1 A 2
- Psychopathic Personality Traits Scale (PPTS) – Boduszczak et al (2016)
- Self Esteem Scale – Rosenberg (1989)

Measures – Completed Post-trial

- Verdict Decision Sheet 1 & 2
- Psychopathic Personality Traits Scale (PPTS) – Boduszczak et al (2016)
- Demographic Questionnaire
Methods

Trial Simulation Procedure

- Live trial re-enactment (Lawyers / Actors)
- Based on genuine case - Evidentially neutral content
- Jurors observed trial in mock courtroom – 1 full day
- Instructions given by the Judge
- Pre-deliberation verdict decision
- Deliberate as group
- Post-deliberation verdict decision

Trial Simulation Procedure
<table>
<thead>
<tr>
<th>Acquaintance Rape Case</th>
<th>Guilty</th>
<th>Not Guilty</th>
<th>Guilty</th>
<th>Not Guilty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual Verdict Decision 1</td>
<td>14.1%</td>
<td>85.9%</td>
<td>21.2%</td>
<td>78.8%</td>
</tr>
<tr>
<td>Individual Verdict Decision 2</td>
<td>N = 4 (31.9%) - Thought defendant to be Not Guilty but voted G.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>N = 9 (69%) - Thought defendant to be Guilty but voted N.G.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Worryingly – 92% of those who changed stated they voted for a verdict other than the one they actually believed. 13% of jurors changed verdict decision after exposure to deliberation.

Table 1. Individual Juror Decisions Pre and Post Deliberation

Descriptive Results
Analysis - Inferential

Binary Logistic Regression

| Model | AIC | BIC | SSA-BIC | LRT | p | p
<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>1 class</td>
<td>2061.84</td>
<td>2066.35</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>2 class</td>
<td>2023.19</td>
<td>2030.51</td>
<td>43.93</td>
<td>&lt; .001</td>
<td>.850</td>
<td>.876</td>
</tr>
<tr>
<td>3 class</td>
<td>2005.32</td>
<td>2011.70</td>
<td>27.60</td>
<td>.034</td>
<td>.746</td>
<td>.746</td>
</tr>
<tr>
<td>4 class</td>
<td>1992.37</td>
<td>2001.57</td>
<td>15.70</td>
<td>.158</td>
<td>.876</td>
<td>.876</td>
</tr>
</tbody>
</table>

Note: AIC = Akaike information criterion; BIC = Bayesian information criterion; SSA-BIC = sample size adjusted BIC; LRT = Lo-Mendell-Rubin's adjusted likelihood ratio test.

Table 1: Fit indices for the Latent Profile Analysis of the Four Psychopathy Factors of PPTS

Latent Profile Analysis

Verdict Outcome → Verdict Outcome → Non-Sig. Predictor → Sig. Predictor → AMNISA → Self Esteem

Binary Logistic Regression

Analyses - Inferential
Key finding - This was consistent both pre-deliberation & post-deliberation evidence of 3 distinct PPTS profiles within juror population.

Subsequent MLR - displayed Class 3, sig. more likely to return NG verdict than Class 1

Class 1

Class 2

Class 3

Sample Psychopathy in Live Trial Latent Profile Analysis Plot of

Figure 1.

Analysis - LPA
Evidence of relationship between psychological constructs and verdict outcome draws into question CJS practices e.g. how impartial are jurors really? The need to overhaul legislative restrictions to allow for greater questioning of both victims & defendants predispose them towards certain verdicts. Possibility making a case for screening out jurors whose characteristics predispose them towards certain verdicts. Future research: Test the effect upon verdicts when screening techniques employed. Main outcome & objective: Ensure jury trials & verdict decisions are fair for both victims & defendants. Main outcome & objective – Evidence of relationship between psychological constructs and verdict outcome, how impartial are jurors really? does the predictive relationship hold up in other cases, homicide / DV? Implications & Applications: Test the effect upon verdicts when screening techniques employed.
References
Only a 37% chance of being convicted if plead NC and opt for trial by jury

- Around 2 in 3
  - 1,423 Not Guilty Verdict Returned

- Around 1 in 3
  - 834 Guilty Verdict Returned

- 2,257 Tried before a Jury (E.G. NG Plea)