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

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Rape & The English CJS

Ministry Of Justice (2015)

UK Home Office estimates: 60,000 – 95,000 Rapes per year

34,741 Cases Recorded by Police

3,851 Cases Proceeded to Court Stage
< 11% of total reported

1,297 Cases – Defendant Convicted
< 4% of cases reported

60,000 – 95,000 Rapes per year
Rape Attrition

1. Decision to Report
   - Victim may never report - e.g. relationship to offender, fear disbelief, "rape"

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

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 or Not Guilty
Jury Trials

- 12 Lay Jurors make verdict decisions in isolation
- Judges role: provide legal directions only
- 12 Lay Jurors make verdict decisions in isolation

Eligibility Criteria
- Inc. criteria: 18-75 & registered voter
- Exc. criteria: serious mental health issues / criminal convictions

Randomly Selected
- Local electoral register
- No Pre-Trial Questioning or Peremptory Challenges
- Criminal Justice Act, 1988
- Contempt of Court Act, 1981

Jury prohibited from discussing case post-trial

No Justification for verdict required

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

Pre-Trial Publicity = Trial by Media

External Bias Effects

CSI Effect

Attractiveness

Witness

Evidence

Indisissible

Attractive = Truthful (exception Fraud)

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

"Please disregard that last statement"

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

"Attractive = Truthful"

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

"She'd done it"
However the role of implicit bias deriving from individual juror characteristics and psychological constructs—less well documented—

Research has produced mixed findings of a relationship between the person you are and the verdict decision individuals make. While evidence alone is unlikely to be the main factor impacting verdict choices, different conclusions despite hearing the same testimony in a case, evidence to have the greatest effect upon verdict inclinations (Pennington and Hastie, 1992),

However, as Ellsworth (1993) points out, where individual jurors form different conclusions despite hearing the same testimony in a case, evidence alone is unlikely to be the main factor impacting verdict choices. The 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).

However, as Ellsworth (1993) points out, where individual jurors form different conclusions despite hearing the same testimony in a case, evidence alone is unlikely to be the main factor impacting verdict choices. The 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).
Demographics appear inconsistent & weak predictors of verdict outcome. However, despite some support, overall personality characteristics and crime-specific attitudes are directly related to crime-thought to be greatest predictor of verdict preferences. High RMA (Dinos et al., 2014) N.G verdicts.

- High RMA
- Greater likelihood of conviction
- Just World Beliefs
- Internal locus of control
- High Authoritarianism

Demographics:
- Older, males
- Age, gender, SES, Race, Occupation - mixed findings

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

- 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, far removed from trial context / environment conducted. Explorations of JDM often significantly lacking in Ecological Validity.

- Written format too brief
- Exp. G.
Study Aims

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

2. Whether a relationship exists, is this consistent post deliberation.

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

Live Trial Simulation

Participants

- Jury Eligibility Assessed
- Electoral Role – Random Comp Generation
- 51% females & 49% males
- Age Range 18 – 73 (M = 45.00, SD = 15.75)
- Systematic Random Sample
- \( N = 108 \) (9 x 12 person jury panels)
Methods

Measures – Completed upon arrival

- Verdict Decision Sheet 1 & 2
- Completed Post-trial
- Self Esteem Scale – Rosenberg (1989)
- Acceptance of Modern Myths About Sexual Aggression Scale (AMMSA) – Greger et al. (2007)
- Psychopathic Personality Traits Scale (PPTS) – Boduszek et al. (2016)
- Demographics 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 1. Individual Juror Decisions Pre and Post Deliberation

<table>
<thead>
<tr>
<th>Individual Verdict Decision 1</th>
<th>Individual Verdict Decision 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guilty</td>
<td>Guilty</td>
</tr>
<tr>
<td>G</td>
<td>N.G.</td>
</tr>
<tr>
<td>N.G.</td>
<td>N.G.</td>
</tr>
<tr>
<td>N = 6 (69%)</td>
<td>N = 3 (31%)</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
  - N = 4 (31%) – Thought defendant to be Not Guilty but voted G.
  - N = 9 (69%) – Thought defendant to be Guilty but voted N.G.

Descriptive Results
### Analysis

#### Inferential

<table>
<thead>
<tr>
<th>Model</th>
<th>Entropy</th>
<th>p</th>
<th>LRT</th>
<th>SSA-BIC</th>
<th>BIC</th>
<th>AIC</th>
<th>AIC = Akaike information criterion; BIC = Bayesian information criterion; SSA-BIC = sample size adjusted BIC; LRT = Lo-Mendell-Rubin's adjusted likelihood ratio test.</th>
</tr>
</thead>
<tbody>
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<td>N/A</td>
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<td>N/A</td>
<td>1.878</td>
<td>0.034</td>
<td>&lt; .001</td>
<td>1 class</td>
<td></td>
</tr>
</tbody>
</table>

Table 1: Fit indices for the latent profile analysis of the four Psychopathy Factors of PPTS

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**Latent Profile Analysis**

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

**Binary Logistic Regression**

**Analyses - Inferential**
Figure 1. Latent Profile Analysis Plot of Psychopathy in Live Trial Sample

Evidence of 3 distinct PPTS profiles within juror population

Key finding - This was consistent both pre-deliberation & post-deliberation

Subsequent MLR – Displayed Class 3, significantly more likely to return NG verdict than Class 1

Class 1

Class 2

Class 3
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, jurors whose characteristics predispose them towards certain verdicts is highlighted. Possibility making a case for 'screening out' jurors whose characteristics predispose them towards certain verdicts is highlighted.

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. Implications & Applications: Does the predictive relationship hold up in other cases, homicide/DV? Main Outcome & Objective - Ensure jury trials & verdicts are fair for both victims & defendants. Possibility making a case for 'screening out' jurors whose characteristics predispose them towards certain verdicts is highlighted. The need to overhaul legislative restrictions to allow for greater questioning of jurors.

Implications & Applications: Does the predictive relationship hold up in other cases, homicide/DV?


Only a 37% chance of being convicted if plead NG 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)

Ministry Of Justice (2015)