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Juries in Rape Trials

Balanced or Biased? **Nigel Booth, Dominic Willmott** and **Daniel Boduszek** write

The most comprehensive mock trial research project on juror attitudes in rape cases has recently called into question the traditional perception of a criminal trial, that juries reach impartial verdicts based on a balanced assessment of the evidence. It will be recalled that in the UK no inquiries are permitted of jury verdicts, and the jury do not give reasons for their verdicts. The integrity of the jury's decision-making process is presumed; to think otherwise is to undermine the system itself. But is the system working? Is it even capable of working? The new research, carried out by Psychologists Dominic Willmott and Professor Daniel Boduszek at the University of Huddersfield, and underpinned by legal guidance from criminal barrister Nigel Booth at St John's Buildings in Manchester, suggests that we are right to be asking such awkward questions.

Jury Research

Jury research, primarily from the United States, has been arguing for some time now that the personal characteristics of jurors may have a bearing on the verdicts they return. Age, racial and gender considerations, for example, have all been shown to have some influence on verdicts. Juror attitudes to certain aspects of a case may even allow us to predict juror decisions - irrespective of the actual evidence that may be produced at trial.

However, the Huddersfield research did something new. Selecting people at random from the electoral roll, researchers sent out mock summonses to members of the public inviting them to come and sit on a jury and hear a criminal trial. Nine mock juries were assembled, and nine verdicts ultimately taken. The jurors were told that the trial was based on a real case. The trial was conducted, and presided over, by criminal barristers of many years' standing. It proceeded exactly as a criminal trial would, with exhibits produced appropriately and with university postgraduates of

law playing the roles of court ushers, clerk etc. The summing up followed the guidance in the Crown Court Compendium. The case chosen was one falling into the category that might be called "acquaintance rape" with little evidence outside that of the complainant and the defendant.

The real difference with the project, though, was that the jurors were subjected to comprehensive psychological profiling including assessments of their attitudes and personalities. The aim was to see whether we could shed light on the process of decision-making. Were verdicts arrived at after a balanced appraisal of the evidence? To what extent if at all, did existing and identified attitudes play a part?

Analytical Scrutiny

There were nine Not Guilty verdicts; in and of itself, this outcome tells us little if anything. The project was about fairness of approach, not trial outcome. The interesting part comes in the advanced analytical scrutiny of the decision-making process.

There was substantial evidence found of high levels of rape bias, strongly suggesting that preconceived prejudices surrounding the issue of rape tend to have a significantly greater influence on the fairness of the trial than had previously been thought.

The full research will be published in Winter/Spring, but it has so far revealed some startling results.

Before deliberation, individual jurors with personal experience of sexual victimisation were four times more likely to convict. Other experiences were also shown to have a significant impact on an individual's decision.

For example, men tended to side with the defendant's account, while women more often identified with the female complainant. Not guilty verdicts were also more likely to be delivered by lesser-educated individuals as well as jurors from ethnic minorities



who identified as Black and Asian.

And what about after deliberation? The essence of jury deliberations, of course, is that there is give and take. We understand that to mean that there is an exchange of views as the members of the jury work together to reach a common consensus framed around the burden and standard of proof, such consensus reflecting the view of the local community that they represent.

The research project found that among all those individuals with the identified existing biases, 13% of them changed their mind after deliberation.

With deliberation having been shown to change the minds of little more than one in 10 jurors, the impact of these preconceptions is especially significant. While it is difficult to draw a direct link between the findings of this research and miscarriages of justice when it comes to rape cases, these results would suggest there is a greater risk of an incorrect result as a result of a biased panel of jurors.

For years Judges in the UK have been warning juries in rape cases against stereotyped thinking, but these directions appear to be having limited if any real effect.

The research suggests that a vetting system for juries should be considered in order to assess the extent to which the psycho-social make-up of individual jurors is predisposing

them towards particular verdict decisions. This may be the most effective way to reduce existing bias in jurors.

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