

Effects of Racial Bias and Instructional Incomprehension on Death Penalty Outcomes

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INTRODUCTION

- Racial bias in the capital punishment system has been brought to light for decades (Applegate et al., 1993; Lynch & Haney, 2000; Shaked-Schroer et al., 2008; Schweizer, 2013).
- Progress is not prolific regarding this problem, and the evidence of such human injustices should be elucidated until change does occur.
- African-Americans make up 13.6% of the US population yet account for 42% of the population on death row (Snell, 2011; Schweizer, 2013).
- Disparities in how jurors respond to mitigating evidence accounts for part of the ongoing injustices.
- Do racial characteristics of defendants on death row have an impact on whether jurors properly weigh aggravating factors with mitigating evidence?
- Research indicates that variance in how mitigating evidence is used accounts for a more than 20% increase in death sentences on Black defendants than White (Applegate et al., 1993; Lynch & Haney, 2000; Shaked-Schroer et al., 2008).

INTRODUCTION (CONT.)

- This literature review has not found evidence to support progress made to reduce racial disparities in capital punishment (Shaked-Schroer et al., 2008; Sommers & Ellsworth, 2001; Trahan & Laird, 2018).
- In contrast, attribution error remains vigorous in death penalty decision-making where jurors (mostly Whites and some Blacks) hold Blacks more responsible than Whites for their alleged crimes (Trahan & Laird, 2018).

50 YEARS OF EVIDENCE

- Research has indicated that jurors in the capital punishment system over-punish Black defendants and undervalue Black victims (Gov. Accounting Office, 1990).
- Furman vs. Georgia (1972) found that the death penalty process was arbitrary in nature.
- Additionally, Gregg vs. Georgia (1976) criticized capital juries as unguided and indicated that their discretion could result in reckless outcomes.
- In 1976, the Supreme Court approved new statutes regarding capital punishment that limited the control of the capital jury.



50 YEARS - NO PROGRESS

- Lynch and Haney (2000) examined race in the context of a simulated death penalty trial in which the criterion variables were life in prison or death.
- The researchers found interrelated effects of 'instructional incomprehension' and race which resulted in significant effects on the outcomes of choosing death or life in prison.
- Disparities were most significant in cross-racial conditions in which the victim was White and the defendant Black.
- Shaked-Schroer and colleagues (2008) and Trahan and Laird (2018) were more recent attempts to examine racial disparities in penalty-phase decision-making.

(Cont.) 50 YEARS - NO PROGRESS

- However, their research supports Lynch and Haney's (2000) findings that predominantly White respondents are influenced by defendant's racial characteristics when interpreting life-or-death mitigating evidence.
- More specifically, Trahan and Laird (2018) asked participants if racial injustices of Black Americans were due to personal or structural limitations. All three models showed that participants were more likely to choose a death outcome when they attributed inequality to perceived personal and general deficiencies in Blacks.
- The participants were less likely to choose the death penalty when they attributed racial inequalities to disadvantages in the system.

Conclusion

Such results demonstrate the lack of progress in overcoming an underlying 'attribution error' in which Whites and some Blacks blame Black Americans for perceived limitations. These were issues realized in the early 1970s when cases such as Furman vs. Georgia (1972) and Gregg vs. Georgia (1976) aimed to reduce unguided decision-making in the capital juror system. Twenty-five years later, Lynch and Haney (2000) illuminated how the problem of jurors ignoring mitigating evidence (especially regarding Black defendants) was worse than ever. And now 40 years later (Trahan & Laird, 2018; Schweizer, 2013) there is ample evidence to support racial disparities and biases in the capital punishment system, and little evidence to support progress toward justice and equality.