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Race, Ethnicity, and Culture in Jury Decision Making

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Abstract

This article reviews a growing body of social science research indicating that race, ethnicity, and culture can influence the judgments and behaviors of juries. The first section addresses research on jury bias, which shows that jurors often make harsher judgments of defendants from other racial and ethnic groups and are more likely to give death sentences in cases involving Black or Latino defendants and White victims. However, these effects are moderated by several factors related to the trial parties, context, and crime. Further, juror bias often involves subtle or implicit psychological processes that can be difficult to recognize and correct. The second section discusses research conceptualizing jurors as agentic forces whose judgments and behaviors may reflect their racial, ethnic, and cultural backgrounds. This work shows that jurors' backgrounds may influence their reactions to defendants, trial judgments, and deliberation behaviors. The final section offers recommendations for future research in these areas.

INTRODUCTION

Recent high-profile cases have brought national and international attention to the influence of race and ethnicity on people's experiences with the criminal justice and legal systems. For example, in February 2012, George Zimmerman, a man with a White father and a Peruvian mother, approached a Black teenager named Trayvon Martin because he thought the teen looked "suspicious" while walking in his neighborhood wearing a hoodie. During the ensuing confrontation, Zimmerman shot and killed the unarmed teenager. In July 2013, a jury of five White women and one Puerto Rican woman acquitted Zimmerman of both second-degree murder and manslaughter (Alvarez & Buckley 2013). In August 2014, another unarmed Black teenager, Michael Brown, was shot and killed by a White police officer named Darren Wilson following a confrontation through the window of Wilson's police car. Brown walked away from the vehicle; however, Wilson pursued him and fired ten shots after Brown turned back toward him (Bosman et al. 2014). A grand jury consisting of nine White and three Black individuals failed to indict Wilson on a range of murder and manslaughter charges (Davey & Bosman 2014).

These two cases, and many others like them, are seen by many people as evidence of pervasive bias against Blacks and other racial and ethnic minorities in the criminal justice and legal systems. In their aftermath, there have been widespread protests and several social media campaigns, including #BlackLivesMatter and #CrimingWhileWhite, aimed at drawing attention to police brutality against minorities as well as disparities in legal outcomes based on defendant and victim race. One reason that these cases may have resonated to such a great extent is that they are concrete instantiations of broader patterns of racial disparities. For example, in the United States, the rate of incarceration per capita is 6.4 times higher for Black men and 2.6 times higher for Latino men than for White men (Glaze 2011). Racial and ethnic minorities also are disproportionately more likely to die in police custody (Burch 2011).

These cases and statistics clearly raise many important questions about the influence of race and ethnicity on police behavior and legal outcomes. Although these questions can be meaningfully engaged from several perspectives, a critical approach involves empirical social science research. Social science research can help us to go beyond individual cases to determine the nature and scope of racial bias. It provides a rich set of theoretical frameworks for understanding the psychological, sociological, and cultural processes that facilitate bias and enables us to develop and test potentially effective interventions for reducing discrimination. Not surprisingly, there is a considerable body of research by psychologists, sociologists, criminal justice scholars, and other social scientists investigating the effects of race and ethnicity in criminal justice and legal contexts, and this work has grown substantially in quantity, scope, and sophistication over the past decade.

This article focuses on questions raised by the lack of legal sanctions for the killers of Trayvon Martin and Michael Brown. Specifically, the article examines how race, ethnicity, and culture influence jury decision making, addressing how the race and ethnicity of defendants and victims influence trial outcomes as well as how the demographic characteristics of individual jurors and the racial composition of juries may affect their judgments and behaviors. Research about the influence of race and ethnicity in other areas of the criminal justice and legal process, including the issue of whether police officers are more likely to use deadly force against racial and ethnic minorities, is beyond the scope of this article; interested readers are directed to reviews by Correll et al. (2014) and Hunt (2015).

In the following section, I discuss research on the influence of defendant race and ethnicity on jury verdicts and other relevant judgments in both capital and noncapital cases. I focus on research published within the past 10 years and emphasize work that provides insight into the processes that underlie juror bias and factors that moderate the influence of race on jurors' judgments. Next,

I discuss jury composition and the ways in which the racial, ethnic, and cultural backgrounds of jurors can influence their judgments and interactions. Finally, I discuss important directions for future research on race, ethnicity, culture, and jury decision making.

HOW DO DEFENDANT RACE AND ETHNICITY INFLUENCE JURY DECISION MAKING?

Research on the influence of race and ethnicity on jury decision making generally relies on two research strategies. In experimental research, mock jurors read or watch a simulated trial in which the race or ethnicity of the defendant and perhaps a potential moderator (e.g., a particular piece of evidence) are manipulated across conditions, but all other elements of the case are held constant. After completing the trial and, in some cases, deliberating, mock jurors render verdicts and make other judgments about the case. Comparisons across conditions reveal whether the defendant's race or ethnicity influenced jurors' decisions. In contrast, archival research involves the analysis of actual case outcomes. Researchers identify all cases that are relevant to their study based on factors such as jurisdiction, time frame, and nature of the case. They then code a large number of characteristics for each trial, including defendant race or ethnicity, other defendant characteristics, attributes of the case, and outcomes. Statistical analyses are conducted to determine whether case outcomes are significantly influenced by the race or ethnicity of the defendant or other parties (e.g., victim, jurors), even when other relevant factors are controlled. Both empirical and archival research methods have strengths and weaknesses (Devine 2012), but together, they provide converging evidence that race and ethnicity influence jury decisions and trial outcomes.

Juror Bias in Noncapital Cases

Dozens of experimental studies have been conducted to examine the influence of defendant race and ethnicity, usually conceptualized as Black versus White, on noncapital juror decision making. Over the past decade, two meta-analyses have provided quantitative syntheses of this research. Both meta-analyses conceptualize racial bias as jurors making harsher judgments about defendants from different racial or ethnic groups (i.e., outgroup members) or, conversely, more favorable judgments for defendants from the same racial or ethnic group (i.e., ingroup members). This pattern often is referred to as the similarity-leniency effect (Kerr et al. 1995). In general, both meta-analyses provide support for this pattern of bias. Mitchell et al. (2005) found a small but significant overall effect ($d = 0.09$) in which mock jurors are more likely to make guilty verdicts when defendants belong to a different racial group. Likewise, jurors recommend harsher sentences for other-race defendants ($d = 0.18$), although it is important to note that jurors are not responsible for sentencing in most jurisdictions. For both types of judgments, the similarity-leniency effect is stronger for Black participants than for White participants. A more recent meta-analysis by Devine & Caughlin (2014) found small but significant similarity-leniency effects in the verdicts of White jurors evaluating Latino (versus White) defendants ($d = 0.22$) and Black jurors evaluating White (versus Black) defendants ($d = 0.26$). However, there was not a significant effect for White jurors evaluating Black (versus White) defendants, which is discussed further below.

Although the majority of studies on jury bias rely on Black versus White comparisons, several studies have examined bias against Latino defendants, and a few studies have focused on other groups. This research suggests that bias against Latino defendants may depend on socioeconomic status (SES), with greater bias against Latinos from low-SES than high-SES backgrounds (Espinoza & Willis-Esqueda 2008, Willis-Esqueda et al. 2008). Canadian jurors are more likely to view a defendant as guilty when he is depicted as Aboriginal rather than White or Black (Clow

et al. 2013, Maeder & Burdett 2013). However, the only two studies on bias against Middle Eastern and Arab defendants (Adams et al. 2011, Maeder et al. 2012) have inconsistent findings, and there is almost no research examining the influence of defendants' cultural background on juror decision making. Thus, there is a need to expand the range of target groups used in research on juror bias.

Another limitation of the current literature is that there is almost no archival research on racial and ethnic disparities in conviction rates for noncapital cases; in other words, there is little research about the judgments of jurors in actual trials that do not involve the death penalty. Among the few exceptions, a study comparing trial outcomes for Latino and White felony defendants in El Paso, Texas, did not find ethnic differences in conviction rates; however, consistent with the similarity-leniency effect, White defendants received harsher sentences when their juries had higher proportions of Latino (i.e., outgroup) jurors (Daudistel et al. 1999). Similarly, two studies have shown that Black defendants are more likely to be convicted when juries have higher proportions of White and Latino jurors (Bradbury & Williams 2012, Williams & Burek 2008). A survey of jurors in criminal trials in four metropolitan areas found patterns consistent with the similarity-leniency effect for pre-deliberation but not post-deliberation judgments (Garvey et al. 2004). Specifically, Black jurors were less likely than White or Latino jurors to vote guilty on initial ballots in cases involving minority defendants; however, this pattern was largely driven by a tendency for Black jurors in Washington, DC, to vote not guilty in cases involving Black defendants and drug charges, suggesting that the influence of defendant race may vary across contexts. Thus, jurors' verdicts in noncapital cases show patterns of bias that are generally similar to experimental findings, but the evidence is extremely limited.

Juror Bias in Capital Cases

Although cases involving capital punishment are relatively rare, they have attracted a great deal of research attention owing to the severe and irreversible nature of death sentences. This research provides strong evidence, using both archival and experimental methods, for racial and ethnic bias in jury decision making. Rigorous archival studies have been conducted in several jurisdictions to determine whether defendant and/or victim race and ethnicity influence death sentencing after statistically controlling for numerous variables related to the crime, defendant, victim, and case context. Across studies, the most common pattern of results is that jurors are more likely to give the death penalty in cases in which Black defendants are accused of killing White victims. This pattern has been replicated in several studies over the past decade, including analyses of cases in Arkansas (Baldus et al. 2009), Delaware (Johnson et al. 2012), Louisiana (Pierce & Radelet 2011), Maryland (Paternoster & Brame 2008), North Carolina (Unah 2009), and South Carolina (Songer & Unah 2006). Likewise, Latinos accused of killing White victims are disproportionately likely to receive the death penalty (Thomson 1997), although there is less research examining this group. The consistent finding that jurors are more likely to impose the death penalty when victims are White suggests that, in addition to influencing views of criminal defendants, racial prejudice influences the perceived value of the lives and well-being of victims.

One limitation of archival research on death penalty judgments is that disparities may reflect biases in prosecutors' charging decisions as well as in jurors' judgments. In fact, research shows that prosecutors are more likely to seek the death penalty when defendants are Black or Latino and victims are White (e.g., Keil & Vito 2006, Lee 2007, Paternoster & Brame 2008). However, experimental studies provide converging evidence that jurors' judgments in death penalty cases are influenced by race. Mock jurors are more likely to recommend death sentences for Black than for White defendants, with especially high levels of death sentences in cases involving Black

defendants and White victims (Lynch & Haney 2000, 2009; Shaked-Schroer et al. 2008). These biases are stronger following deliberation and among jurors who do not fully comprehend judicial instructions for sentencing (Lynch & Haney 2000, 2009); notably, given the complexity of judicial instructions in capital cases, low levels of comprehension may be quite common. In addition, both experimental (Lynch & Haney 2009) and archival (Bowers et al. 2001) research indicates that racial bias in death sentencing is stronger among White male jurors. For example, an analysis of 340 capital trials revealed that Black defendants are 41% more likely to receive the death penalty when juries include five or more White men (Bowers et al. 2001).

Integrating and Explaining the Findings

Integrating these streams of research, it is clear that the race and ethnicity of defendants, victims, and jurors can impact the outcomes of criminal trials. There is, however, some variability in the specific patterns of bias that are found in noncapital and capital cases. In noncapital cases, jurors tend to show a similarity-lenient effect, making harsher judgments for defendants from racial or ethnic groups that differ from their own. In contrast, research on capital cases shows a stronger influence of victim race, with jurors being more likely to recommend the death penalty when Black or Latino defendants are accused of killing White victims. However, the tendency for White men to show greater bias against Black defendants in capital cases suggests that the similarity-lenient effect may occur in those cases as well (see below for other explanations).

There are several reasons why findings may vary across noncapital and capital cases. Research on the two types of cases tends to focus on different outcomes: verdicts for noncapital cases and sentences for capital cases. There may be differences in the ways that race-based stereotypes and prejudice influence inferences about guilt versus decisions about appropriate punishments once guilt is determined. Further, jurors may subjectively reflect on the value of the victim's life when deciding whether a death sentence is appropriate; thus, it is not surprising that victim race has a stronger influence on capital sentencing than on noncapital verdicts. Another difference involves the nature of the crimes. Death-eligible cases tend to involve violent, interpersonal crimes, which are stereotypically associated with Blacks and Latinos; as a result, jurors may make harsher judgments against defendants from those groups (e.g., Skorinko & Spellman 2013; see next section). Finally, there are often differences in the analytic approaches used in research on noncapital and capital cases. Recent meta-analyses focused primarily on noncapital cases (Devine & Caughlin 2014, Mitchell et al. 2005) have defined juror bias as more negative judgments of other-race defendants (i.e., as an interaction between defendant race and juror race); in contrast, research on death penalty judgments tends to examine the overall (i.e., main) effects of defendant and victim race, as well as interactions between them. As a result, the effects themselves are not always directly comparable across streams of research.

A key question involves findings for White jurors. In experimental research, the overall tendency for White mock jurors to discriminate against Black defendants is small and sometimes nonsignificant; in contrast, in capital cases, White men tend to show the greatest bias. There are several potential ways to think about this difference. White mock jurors in experimental studies may be more hesitant to make negative judgments about Black defendants due to concerns about being seen as prejudiced. As social norms continue to change, being seen as prejudiced has become increasingly undesirable; thus, most White people strive to appear fair and unbiased, especially when others are present and when there are not race-neutral justifications for negative judgments (Gaertner & Dovidio 1986, Pearson et al. 2009). Given the salience of anti-Black racism and the knowledge that they are participating in research, White mock jurors may be less willing to make negative trial judgments for Black defendants than for Latino defendants. By contrast, the severity

of the crimes in death penalty cases may facilitate the expression of bias by providing ostensibly nonracial reasons for recommending harsher punishments for Black (and Latino) defendants.

In addition, two methodological issues are important to consider. First, research on death penalty decision making shows that racial biases in sentencing recommendations are stronger in White men—but not White women (Bowers et al. 2001, Lynch & Haney 2009). Thus, effect sizes for White mock jurors in experimental studies may be smaller because they aggregate the responses of men and women, and women tend to be overrepresented in psychological research samples. Second, it is important to be cautious when interpreting aggregate effect sizes in these meta-analyses because they collapse over a range of experimental manipulations, many of which may be deliberately intended to increase or reduce racial bias. For example, a study may have a small overall effect size that actually reflects one condition in which jurors showed considerable bias and another condition in which they showed no bias or even the reverse pattern. Given the heterogeneity of study characteristics, it is critical to examine factors that may moderate juror bias.

Moderators of Juror Bias

Although it is valuable to know how much racial and ethnic bias tends to occur in jury decision making, it may be even more important to understand when and why it occurs. Identifying factors that increase or decrease the likelihood of juror bias (i.e., moderators) and psychological and social processes that underlie such bias (i.e., mediators) is necessary for scholars and policy makers to develop effective interventions to reduce bias in jurors' judgments and promote fair trial outcomes.

There are several moderators of bias in jury decision making, indicating that the degree to which race and ethnicity influence jurors' judgments can vary substantially depending on the characteristics of the jurors and other people involved in the case, the nature of the case, and the context of the trial judgments. First, although popular discourse and scholarly research tend to focus on defendant race, biases in jury decision making often occur in response to the interaction of races among trial parties, not the race of a single party. As discussed above, jurors tend to make more lenient judgments of same-race defendants and harsher judgments of other-race defendants (Devine & Caughlin 2014, Mitchell et al. 2005). Likewise, defendants are more likely to be convicted (Bradbury & Williams 2012, Williams & Burek 2008) and receive harsh sentences, including the death penalty (Baldus et al. 2001, Bowers et al. 2001, Daudistel et al. 1999), when juries have greater numbers of outgroup members. Jurors also tend to make harsher trial judgments when victims are White, especially in cases where the defendant is a racial or ethnic minority (e.g., Baldus & Woodworth 2003, Mazzella & Feingold 1994). The race and ethnicity of other trial parties can affect the expression of bias as well; for example, jurors may have more negative reactions to Mexican American defendants when they are represented by Mexican American (i.e., ingroup) attorneys (Espinoza & Willis-Esqueda 2008). Likewise, reflecting the concept of intersectionality, juror bias may depend on interactions between race/ethnicity and other social categories. As mentioned earlier, bias against Latino defendants tends to be stronger when they also belong to low-SES groups (Espinoza & Willis-Esqueda 2008, 2015; Willis-Esqueda et al. 2008). Similarly, a Canadian study found that gang membership leads to more negative judgments of a Black defendant, but not a White defendant; unexpectedly, gang affiliation is associated with more lenient judgments of an Aboriginal defendant (Maeder & Burdett 2013).

In addition, certain individual differences can predict jurors' likelihood of engaging in racial bias. Jurors with higher levels of racial prejudice tend to make more negative judgments about Black defendants, although sometimes prejudice interacts with other factors related to the trial or judgment context (e.g., Cohn et al. 2009, Dovidio et al. 1997). A related individual difference involves social dominance orientation (SDO). Jurors who are high in SDO believe that inequalities

across social groups in terms of power and resources are acceptable, and they tend to hold beliefs that justify such inequalities; not surprisingly, these jurors tend to show greater bias against Black defendants (Kemmelmeyer 2005). In contrast, jurors who are low in SDO have more egalitarian beliefs and tend to question disparities across groups; these individuals may make judgments that actually favor Black defendants.

With respect to the nature of the crime, an important factor involves the type of offense. Jurors are more likely to render guilty verdicts and recommend harsh sentences when defendants are accused of committing crimes that are stereotypically associated with their racial or ethnic group. For example, guilt and sentencing judgments tend to be higher when White defendants are accused of crimes such as embezzlement and fraud and Black defendants are accused of violent crimes and theft (Jones & Kaplan 2003, Skorinko & Spellman 2013). The effects of crime stereotypicality may be especially strong for serious and violent crimes (Skorinko & Spellman 2013).

Moderating factors related to trial context often involve the salience of race. According to Aversive Racism Theory (Gaertner & Dovidio 1986, Pearson et al. 2009), in contemporary society, most individuals believe that it is important to be egalitarian, so they try to avoid bias when they are aware of the potential influence of race. However, because most people have at least some negative associations with Black people (Fiske & Tablante 2015), they are likely to engage in bias when they are unaware of the potential influence of race, when there are seemingly valid, nonracial justifications for negative outcomes, and/or when they are making less thoughtful judgments (Pearson et al. 2009). This analysis suggests, somewhat counterintuitively, that jurors may show less bias when race is salient in a criminal trial because they will be more likely to guard against the influence of prejudice. Consistent with this argument, several studies (Cohn et al. 2009, Sommers & Ellsworth 2000, 2001; cf. Elek & Hannaford-Agor 2014) have found that, when criminal trials are racially charged or include allegations of discrimination, White jurors make similar judgments about Black and White defendants. In contrast, when race is not salient, they are more likely to convict Black defendants.

Finally, racial bias can be reduced by providing jurors with clear instructions for decision making (e.g., Pfeifer & Bernstein 2003, Shaked-Schroer et al. 2008); these instructions may reduce the ambiguity of the task, as well as remind jurors of the importance of making unbiased judgments that are based on the evidence. In a similar vein, lowering the cognitive demands on jurors may help them to avoid the influence of prejudice (Kleider et al. 2012).

Processes Involved in Juror Bias

Several psychological processes have been found to contribute to racial and ethnic biases in jury decision making. Before discussing this research, it is important to distinguish between three broad mechanisms for bias. Stereotyping occurs when judgments are influenced by beliefs about the characteristics of people in a particular category (e.g., racial group). In contrast, prejudice involves negative attitudes or evaluations (e.g., feelings of dislike) toward a social category. Although stereotyping and prejudice are related, they are distinct processes (Stangor & Schaller 1996); for example, someone may have a positive attitude toward Latinos but still believe they are likely to engage in crime. A third process, known as ingroup favoritism (or ingroup bias), occurs when people make more positive judgments about individuals who belong to the same social category simply because of shared group membership (Brewer 1999).

One mechanism by which race can influence jurors' judgments involves biases in attributions, that is, explanations about the causes of behaviors. When perceivers make internal attributions, they infer that behaviors are caused by stable, dispositional factors; in contrast, when they make external attributions, they assume that behaviors reflect unstable, situational factors. Jurors are

more likely to make external attributions for criminal behavior by ingroup defendants but internal attributions for the same behavior in outgroup defendants (Sommers & Ellsworth 2000). For example, White jurors may attribute a petty crime committed by a White juvenile to “succumbing to peer pressure in the moment,” whereas a Black juvenile engaging in the same act “is destructive and defiant” (Rattan et al. 2012). Accordingly, outgroup defendants may be seen as more blameworthy and culpable for their acts (Rattan et al. 2012, Willis-Esqueda et al. 2008), leading to more negative trial judgments. Jurors are especially likely to make internal attributions when a criminal act is stereotypically associated with a defendant’s racial or ethnic group (Jones & Kaplan 2003).

Discrimination in trial outcomes also may reflect biased interpretation and selective use of evidence. Jurors are more likely to interpret ambiguous evidence as being indicative of guilt when a suspect has darker skin (Levinson & Young 2010), and White jurors may view prosecution witnesses as being more credible in cases involving Black defendants (Abshire & Bornstein 2003). Jurors also may be more likely to remember and use incriminating evidence in cases involving minority or outgroup defendants. For example, jurors may remember more aggressive actions that occurred during an altercation—and misremember additional acts of aggressions that did not actually occur—when a defendant is Black rather than White (Levinson 2007). White jurors also are more likely to consider damaging inadmissible evidence when a defendant is Black than when he is White (Hodson et al. 2005). In contrast, jurors may give less weight to exculpatory evidence when defendants are minorities or outgroup members. For instance, in the sentencing phase of capital cases involving Black defendants and/or White victims, White jurors tend to be less influenced by mitigating evidence (i.e., evidence suggesting the death penalty is inappropriate), particularly if they have lower comprehension of sentencing instructions (Baldus et al. 1998; Lynch & Haney 2000, 2009). Likewise, weak mitigating evidence has a more negative impact on White jurors’ death penalty recommendations when defendants are Latinos from low-SES backgrounds than when defendants are Latinos from high-SES backgrounds or Whites from any SES background (Espinoza & Willis-Esqueda 2015).

However, racial biases do not always negatively affect jurors’ processing of evidence. For example, jurors may actually be more influenced by character evidence when it is inconsistent with stereotypes for a defendant’s racial group because it seems novel and informative (Maeder & Hunt 2011). There also is some evidence that jurors may give more attention and scrutiny to evidence when a defendant is accused of a stereotypical crime (McKimmie et al. 2013, Sargent & Bradfield 2004), but findings are mixed, with one study showing that jurors are more likely to request additional evidence when a crime is stereotype-inconsistent (Jones & Kaplan 2003).

Recent research reveals that jurors often may be influenced by implicit biases against minority defendants (for a review, see Kang et al. 2012). Implicit psychological processes, including prejudice and stereotyping, occur without awareness and/or intention by perceivers; for example, stereotypes or prejudiced reactions may be automatically activated by race-relevant cues, even in individuals who consider themselves to be unbiased (for a review, see Lane et al. 2007). Implicit processes can be distinguished from explicit processes, which tend to be more deliberate and controllable. The pervasive tendency to show ingroup favoritism by making more lenient judgments of ingroup defendants is likely to be an implicit process (e.g., Ashburn-Nardo et al. 2001). Jurors also may be influenced by implicit racial stereotypes in which Black and other minority defendants are seen as dangerous and likely to engage in criminal behavior (e.g., Eberhardt et al. 2004, Levinson et al. 2010). For example, an analysis of capital cases in Philadelphia found that, in cases involving Black defendants and White victims, jurors were more likely to give death sentences when defendants had a more stereotypically Black appearance based on hair, skin tone, and facial features (Eberhardt et al. 2006). In addition, jurors may be influenced by implicit prejudice against Black people,

including beliefs that their lives are less valuable than the lives of White people. Implicit prejudice against Black people, as well as automatic associations between “Black” and “guilty,” are associated with beliefs that the evidence against a Black defendant is strong (Levinson et al. 2010), and implicit associations between race and the value of life predict a greater likelihood of giving death sentences to Black defendants in capital cases (Levinson et al. 2014). Implicit bias also may be primed by subtle references to racial stereotypes by attorneys (Johnson 1993), by pretrial publicity describing Black defendants with dehumanizing ape imagery (Goff et al. 2008), or even by judicial instructions about the presumption of innocence (Young et al. 2014).

In sum, racial and ethnic discrimination in jury decision making may involve several psychological processes, including attributions, biased interpretations and use of evidence, and both explicit and implicit stereotyping and prejudice. Importantly, these processes tend to be subtle, if not wholly implicit, making them difficult for jurors to recognize and control. As a result, jurors’ subjective experience may be that they based their trial judgments on the evidence presented and therefore made fair, justifiable decisions. Thus, although there clearly are some instances in which jurors, particularly individuals with high levels of racial prejudice, engage in deliberate and overt discrimination, the subtle nature of most contemporary juror bias may make it more challenging to design effective interventions; this issue is discussed further in the section on future directions.

HOW DO RACE AND ETHNICITY INFLUENCE JURY PARTICIPATION AND BEHAVIOR?

This section shifts from focusing on race and ethnicity as target variables that affect the outcomes of defendants to examining race, ethnicity, and culture as subject variables that may influence individuals’ approach to jury service. To date, research on jury decision making has primarily used the target approach, examining how judgments of defendants are influenced by their race and ethnicity and considering juror race and ethnicity primarily as a moderator of those effects. Relatively few studies have used the subject approach, considering jurors as actors in their own right whose behaviors and decisions may reflect their racial, ethnic, and cultural backgrounds. In this section, I review research and theory suggesting that jurors’ backgrounds may influence their deliberation behaviors, reactions to defendants, and other judgment processes. However, before discussing those issues, I briefly review research showing how racial and ethnic minorities may be prevented from participating in jury service because of discrimination in the jury selection process.

Jury Selection as a Barrier to the Participation of Racial and Ethnic Minorities

As part of the *voir dire* (jury selection) process, attorneys are allowed to use peremptory challenges to exclude a limited number of venire (jury pool) members whom they believe will not be sympathetic to their case. A long-standing concern is that attorneys will use those challenges in a discriminatory manner to prevent racial and ethnic minorities from serving on juries. Race-based peremptory challenges may reflect fears by attorneys that minority jurors will automatically vote to acquit minority defendants; they also may be based on stereotypes about what members of different racial and ethnic groups will be like as jurors (e.g., that Black jurors will question the testimony of police officers; Sommers & Norton 2008). However, in *Batson v. Kentucky* (1986) and subsequent cases (e.g., *Edmonson v. Leesville Concrete Co.* 1991, *Miller-El v. Dretke* 2005, *Snyder v. Louisiana* 2007), the Supreme Court has held that basing peremptory challenges on race violates the Equal Protection Clause and has created a process by which defendants can try to establish that peremptory challenges are impermissibly based on race. The central issue in a *Batson* challenge is

whether an attorney can provide a justification for excusing a particular juror that is accepted as race neutral by the trial judge.

Despite the prohibition on race-based peremptory challenges, there is considerable evidence that they continue to be used in a discriminatory manner. Prosecutors may use peremptory challenges to systematically excuse Black potential jurors, especially in cases involving Black defendants (Baldus et al. 2001, Clark et al. 2007, Equal Justice Initiat. 2010). Although defense attorneys may show the reverse pattern (i.e., striking more White potential jurors), the fact that racial and ethnic minorities are underrepresented in most jury pools (Hannaford-Agor & Waters 2011) means that prosecutorial peremptory challenges may eliminate most or all minority venire members. For example, in some counties in the southern United States, virtually no Black individuals are selected for jury service, commonly leading to unrepresentative juries (Equal Justice Initiat. 2010). Moreover, analyses of *Batson* challenges reveal that, in the majority of cases, trial judges accept the rationales offered by prosecutors as being race neutral (Gabbidon et al. 2008), in part, because attorneys are able to easily generate ostensibly neutral explanations for challenging Black jurors (Sommers & Norton 2007).

Another way in which the jury selection process may pose a barrier to the participation of racial and ethnic minorities involves death qualification. In *Wainwright v. Witt* (1985), the Supreme Court held that, in capital cases, potential jurors who are so strongly opposed to the death penalty that it would affect their performance on a jury should be excused for cause. Blacks and other racial and ethnic minorities tend to have more negative attitudes toward the death penalty than do White people; therefore, they are more likely to be excused from capital juries (e.g., Summers et al. 2010).

Discrimination against racial and ethnic minorities in the jury selection process has many negative consequences. It denies members of these groups the opportunity to participate in the legal system and diminishes public confidence in the jury system (e.g., Fukurai & Krooth 2003). In addition, systematically excluding racial and ethnic minorities leads to more biased juries (e.g., Levinson et al. 2014) and can influence the outcomes of trials; for example, in capital cases, Black defendants are 34% more likely to receive a death sentence when juries contain no Black men (Bowers et al. 2001). Further, the presence of racial and ethnic minorities actually can improve the quality of jury deliberation, as discussed in the next section.

How Race, Ethnicity, and Culture Relate to Deliberation

Many arguments can be made for the importance of diverse juries. When jury members come from a variety of backgrounds, they are likely to have a broader range of views and experiences and be more representative of their communities. In *Peters v. Kiff* (1972, pp. 503–4), the Supreme Court stated that, “When any large and identifiable segment of the community is excluded from jury service, the effect is to remove from the jury room qualities of human nature and varieties of human experience. . . that may have unsuspected importance in any case that may be presented.” In addition, the presence of racial and ethnic minority jurors may sensitize other jurors to the potential for prejudice (Sommers & Adekanmbi 2008) and decrease the chances that attorneys or other legal professionals will engage in stereotypical arguments or other subtle expressions of prejudice (Fukurai & Krooth 2003).

Research by Sommers (2006) provides empirical evidence for some of these assertions. In the study, the racial composition of six-person juries was experimentally manipulated, such that some juries included six White individuals and other juries contained four White and two Black individuals. Participants heard a criminal trial involving a Black defendant and then deliberated.

Compared with all-White juries, the diverse juries discussed the case longer, considered more of the evidence, and were more accurate in their discussion of that evidence. Further, the diverse juries were more likely to discuss the potential influence of the defendant's race on the case. Importantly, these differences reflected the contributions of both Black and White participants, indicating that jury diversity has a positive impact on White jurors.

However, participation in deliberation may be influenced by jurors' racial and ethnic background, as well as their cultural values and practices. There is evidence suggesting that jurors from at least some racial and ethnic minority groups may speak less than White jurors during deliberations. For example, preliminary results from the Arizona Jury Project indicate that racial and ethnic minorities speak an average of 867 fewer words during deliberation than do White jurors (Rose & Diamond 2008). Likewise, a survey of former jurors by Hunt (2014) found that Asian and East Indian jurors report lower levels of communication and participation during deliberation than do White and Black jurors, and Latino jurors report lower levels of participation than do Whites. Another survey (Cornwell & Hans 2011) also found that Asian Americans, especially women, report the lowest levels of jury participation, but, in that study, Black jurors had the highest levels of self-reported participation, followed by Whites and Latinos.

Racial and ethnic variability in deliberation behavior may reflect differences in cultural values and practices. People from individualist (e.g., Western) cultural backgrounds tend to have independent self-construals; they value personal autonomy and expression and are more likely to engage in direct communication behaviors, such as sharing their opinions even when others may disagree. In contrast, people from collectivist (e.g., Asian) cultural backgrounds are more likely to have interdependent self-construals and prioritize social harmony; thus, they may be more likely to use indirect communication strategies or even remain silent during contentious discussions (Gudykunst et al. 1996, Markus & Kitayama 1991). Consistent with this analysis, Hunt (2014) found that White and Latino jurors have higher levels of independent self-construal and direct communication style than do Asian and East Indian jurors. Black jurors also report greater independent self-construal than do Asian and East Indian jurors, but they prefer less direct communication than do White jurors. Further, there was support for a serial mediational model in which juror race and ethnicity predict independent self-construal, which in turn predicts direct communication style, which finally predicts communication and participation during deliberation. Thus, cultural values and practices may contribute to systematic differences in the communication behaviors of jurors, leading jurors from certain backgrounds to speak more during deliberation and potentially have a greater influence on trial outcomes.

How Race, Ethnicity, and Culture Relate to Judgments about Defendants

In a similar vein, the racial, ethnic, and cultural backgrounds of jurors may influence their beliefs, values, and judgment strategies in ways that can impact trial decisions. For example, Blacks and Latinos tend to have more negative attitudes about the criminal justice and legal systems than do Whites; they are more likely to believe that the police engage in racial profiling and excessive use of force (e.g., Reitzel et al. 2004, Weitzer & Tuch 2005) and to question the fairness of court procedures and outcomes, especially for racial and ethnic minorities (e.g., Rottman et al. 2003, Sun & Wu 2006). These views may influence decisions made by Black and Latino jurors. Sommers & Adeganmbi (2008) argue that the stronger similarity-leniency effect found for Black versus White mock jurors partially reflects the tendency for Blacks to be sensitive to the possibility of institutional discrimination against minority defendants and adjust their judgments accordingly.

Likewise, emotional and empathic reactions to the defendant may explain some of the differences found between Black and White jurors in death penalty cases. Post-trial interviews of capital jurors show that White jurors, especially men, are more likely to have negative views of defendants, seeing them as vicious and dangerous individuals who made their victims suffer (Bowers et al. 2001). Further, compared with Black jurors, White jurors are more likely to experience anger and less likely to report empathy toward the defendant (Garvey 2000). In contrast, Black male jurors are substantially more likely than other jurors to characterize the defendant as “a good person who got off on the wrong foot,” to see likable qualities, and to believe that the defendant is remorseful (Bowers et al. 2001, Garvey 2000). These differences in reactions to the defendant may lead Black jurors to give more weight to mitigating evidence (Baldus et al. 1998; Lynch & Haney 2000, 2009) and to cast votes against the death penalty that may influence the ultimate jury verdict (Bowers et al. 2001, Eisenberg et al. 2001; see Garvey et al. 2004 for similar findings in noncapital cases).

In sum, the research discussed in this section indicates that jurors from racial and ethnic minority groups may differ from White jurors in their interpretations of trial evidence and reactions to defendants, leading to differences in their verdict and sentencing preferences. Moreover, diverse juries engage in longer and higher-quality deliberations than do all-White juries, despite the possibility of lower participation by jurors from certain racial, ethnic, or cultural backgrounds. Given these patterns, the fact that racial and ethnic minorities are disproportionately likely to be excluded from jury service because of race-based peremptory challenges, death qualification, and other issues related to the construction and administration of jury pools (Fukurai & Krooth 2003) is deeply troubling, with the potential to negatively impact the quality and fairness of trial outcomes and violate the rights of both defendants and potential jurors.

FUTURE DIRECTIONS

As seen in this review, research in the social sciences provides a rich understanding of many of the ways in which race, ethnicity, and culture influence jury decision making. However, there is a need for additional research to expand our current knowledge, clarify some inconsistent findings, and address questions that, to date, have received little empirical attention. In this section, I discuss some specific issues that should be examined in future research; for a fuller discussion of these issues, see Hunt (in press).

Expanding Beyond Black and White Defendants

To date, most research on racial and ethnic bias in jury decision making has compared judgments and outcomes in cases involving Black versus White defendants. Although there are many reasons for researchers to be concerned about discrimination against Black people, including their historical oppression and evidence of ongoing discrimination in other areas of the criminal justice and legal process (e.g., disparities in incarceration; Glaze 2011), developing a fuller understanding of racial and ethnic bias in jury decision making requires greater examination of other groups. Different racial and ethnic groups are stereotypically associated with unique attributes and often elicit specific emotional reactions from dominant group members (Fiske et al. 2002); as a result, both the nature and the magnitude of bias in jury decision making may differ substantially across target groups. For example, in contrast to the negative stereotypes associated with Blacks and Latinos, Asian Americans tend to be seen as a “model minority” that is hardworking, intelligent, and high achieving, although interpersonally cold (Chao et al. 2013). Given these associations, one would expect much less bias in trial outcomes for Asian defendants, although the similar-leniency

effect still may occur. Although there is little research on jury bias against Asians, sentencing data indicate that Asian defendants are actually less likely to receive sentences involving incarceration than are White, Black, or Latino defendants, even when factors such as crime severity and criminal history are controlled (Johnson & Betsinger 2009).

Thus, it is critical to expand the range of racial and ethnic groups examined in jury research, as well as to examine how defendants' cultural backgrounds may influence jurors' judgments. Moreover, researchers must pay more attention to intersectionality, that is, the ways in which people's outcomes and experiences depend on the interplay of different social categories. The impact of a defendant's race, ethnicity, or culture may vary based on factors such as gender, SES, religion, and sexual orientation (e.g., Willis-Esqueda et al. 2008). Likewise, defendant race and ethnicity may interact with the race and ethnicity of other parties, including victims, attorneys, and jurors (e.g., Baldus & Woodworth 2003, Espinoza & Willis-Esqueda 2008). In real life, race, ethnicity, and culture do not occur in isolation; hence, researchers must examine more potential interactions instead of focusing so strongly on main effects.

Expanding Research on Subject Effects and Culture

As seen in this review, the majority of the existing literature has examined race and ethnicity as target variables that influence jury judgments and trial outcomes. There is a strong need for more research in which race, ethnicity, and culture are treated as subject variables, that is, research considering jurors as agentic forces whose judgments, behaviors, and approaches to jury service are influenced in part by their racial, ethnic, and cultural backgrounds. Given evidence that important beliefs and attitudes (e.g., confidence in the legal system, support for the death penalty) as well as actual bias in jury decision making vary across members of different racial and ethnic groups, it is critical to develop a fuller understanding of the ways that individuals' backgrounds relate to their performance as jurors.

There is a particularly strong need for research on culture, as the existing literature has barely scratched the surface of its potential influence on jury decision making. As discussed earlier, initial evidence suggests that jurors' cultural orientations are associated with their deliberation behavior (e.g., Hunt 2014). Although there is not yet empirical research, it is likely that jurors' cultural backgrounds also may influence their trial judgments. For example, basic psychological research shows that culture influences the attributions that perceivers make about others' behavior. People from individualist cultures tend to make internal attributions that explain behavior in terms of personal dispositions rather than situational forces. In contrast, people from collectivist cultures are more likely to make external attributions because they are more sensitive to situational influences on behavior (Morris & Peng 1994). This pattern suggests that jurors from individualist backgrounds may be more likely than jurors from collectivist backgrounds to infer that defendants intended to commit illegal acts, resulting in higher judgments of criminal responsibility or liability in civil trials (Levinson & Peng 2004). Likewise, in tort cases, beliefs about what constitutes an injury, who is responsible for causing it, and whether and how it should be remedied can vary across cultures; for example, individuals from Thai backgrounds may blame an injury on bad karma, fate, or the negligence of the victim, and thus not believe it requires a legal remedy (Engel 2010). Beliefs about what constitutes moral and immoral behavior also can vary across cultures (Graham et al. 2011), potentially leading jurors from different backgrounds to react differently to certain types of crimes. For example, jurors from collectivist cultures may make more negative judgments about defendants who are accused of crimes such as drug dealing that can negatively affect the broader community (Levinson & Peng 2004). Given these and other possibilities, exploring the influence of culture on jury decision making is likely to be a rich and fruitful direction for future research.

Expanding the Range of Cases

The vast majority of research on racial and ethnic biases in jury decision making has examined criminal cases. This emphasis may reflect the severity of the potential outcomes associated with criminal cases (e.g., loss of liberty) as well as the nature of racial and ethnic stereotypes (i.e., associations between minority individuals and criminal behavior). However, it is important for researchers to expand their work to examine potential biases in other jury contexts. In particular, more research should examine how race and ethnicity influence judgments in civil cases. Jurors' reactions to both plaintiffs and defendants in civil trials may be influenced by their race, ethnicity, or culture. Stereotypical inferences about a plaintiff or defendant may influence jurors' judgments about issues such as negligence or harm, as well as their beliefs about whether the evidence meets the standard of proof for a case (Kang et al. 2012). Likewise, jurors may be influenced by racial biases when making damage awards; for example, one study found that White jurors awarded lower damages in a sexual harassment trial when plaintiffs and defendants were depicted as Black rather than White (Bothwell et al. 2006). In addition, the similarity-leniency effect found in criminal cases also may be found in civil cases; Schwartz & Hunt (2011) found that, in a sexual harassment trial, Latino/a mock jurors were more likely than European American mock jurors to return verdicts in favor of a Latina plaintiff.

Another important direction involves grand jury decision making. Grand juries are groups of citizens who decide whether prosecutors have enough evidence to indict a defendant on a particular set of charges. Recently, questions about the influence of race on grand jury judgments have been raised by the Michael Brown and Eric Garner cases, in which grand juries failed to indict White police officers who killed unarmed Black suspects (Davey & Bosman 2014, Goodman & Baker 2014). To date, little research has examined how grand juries reach their judgments, likely owing to their closed proceedings. Grand jury proceedings are directed by prosecutors rather than judges and may differ from regular trials in meaningful ways (e.g., fewer witnesses, lack of cross-examination, use of probable cause standard) that could affect the likelihood of jurors making biased judgments. Thus, both civil cases and grand jury proceedings are important, understudied contexts that present ample opportunities to expand our understanding of the influence of race, ethnicity, and culture on jury decision making.

Greater Emphasis on Underlying Processes and Theoretical Development

In the literature, there often is a tendency to focus on moderators of jury bias (e.g., contextual variables) rather than mediators and underlying processes; thus, another important direction for future research involves greater emphasis on the psychological and social processes that lead to discriminatory trial outcomes. In particular, there should be more research on implicit biases in jury decision making. As discussed earlier, implicit prejudice and stereotyping can have negative effects on evaluations of evidence and important trial judgments without the intention or even awareness of the decision maker (Kang et al. 2012). More research is needed to explore other ways that implicit biases may impact jury decision making. In addition, there should be more research examining jurors' attempts to engage in correction processes when they suspect that their trial judgments may be influenced by prejudice (Wegener et al. 2000).

There also is a need to develop more integrative theoretical models to account for the often complex and interactive effects of race, ethnicity, and culture on jury decision making. Although most individual studies on jury bias are guided by theories from social or cognitive psychology or sociology, there currently is not a larger theory that can provide an overarching explanatory

framework about when, how, and to what extent race and ethnicity are likely to influence jurors' judgments. Such a model can help integrate existing findings, so that commonalities can be seen across studies that may, on their surface, appear inconsistent. In addition, better theories can generate predictions for future research and help guide the development of interventions to reduce bias.

Development of Interventions

Finally, scholars should expand work on potential interventions to reduce the influence of race and ethnicity on judgments of defendants and to promote the full participation of jurors from all backgrounds. Research discussed in this review provides insights into possible interventions; for example, increasing jury diversity (Sommers 2006) and the salience of racial bias (Sommers & Ellsworth 2001) should lead to more fair trial outcomes. In addition, social psychological research offers strategies for reducing bias that may be applied to legal contexts, such as exposing jurors to positive, counterstereotypical examples of racial and ethnic minorities (Kang et al. 2012).

There also are some preliminary interventions aimed directly at reducing jury bias. One strategy involves asking potential jurors to consider how racial biases might influence their judgments before the start of a trial (i.e., during jury selection). This kind of reflection can counter jurors' assumption that they are free from bias and help them to guard against the influence of race during the decision making process (Schuller et al. 2009). Another approach involves educating jurors about the nature of implicit bias. For example, Judge Mark Bennett provides jurors with a brief overview of research on implicit bias, then asks them to take a pledge to avoid being influenced by implicit bias in the course of jury service (Kang et al. 2012). A variant on this approach involves warning jurors about the potential for implicit bias through specially designed jury instructions (Elek & Hannaford-Agor 2014). Judges may be more receptive to these kinds of interventions if they too have been educated about implicit bias, for example, through training by the National Center for State Courts (Casey et al. 2012). All of these interventions are promising strategies for reducing the influence of race and ethnicity on jury decision making that should be investigated further.

CONCLUSION

Racial and ethnic bias in the jury process can change the course of individual lives, diminish confidence in the justice system, and have profound effects on society. This review provides evidence that race, ethnicity, and culture continue to have powerful effects on jury decision making. From a target perspective, the race and ethnicity of defendants, victims, and other trial parties can influence jurors' judgments about evidence, verdicts, and even decisions about whether to impose the death penalty. From a subject perspective, jurors from different racial, ethnic, and cultural backgrounds may have unique attitudes, beliefs, and values that may influence their trial judgments and approaches to jury service. Notably, both types of effects are complex, moderated by a range of factors, and mediated by several mechanisms, including implicit processes that may be challenging to recognize and avoid. The current literature provides an increasingly sophisticated basis for understanding how race, ethnicity, and culture influence jury decision making, as well as promising interventions for reducing bias, but there still are gaps in our knowledge. By expanding research and theoretical development on race, ethnicity, culture, and jury decision making, scholars can contribute to the process of making the Fourteenth Amendment guarantee of equality before the law into a reality.

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