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CULTURAL AND SEXUAL DIFFERENCES ON THE JUDGMENT OF CRIMINAL OFFENSES: A REPLICATION STUDY OF THE MEASUREMENT OF DELINQUENCY

MARLENE HSU*

In 1964, Sellin and Wolfgang¹ proposed a new method of measuring criminality by using a differential weighting of the seriousness of criminal offenses. They believe that there is a quantitative aspect of criminality which is measurable by ratings, and that the scores of ratings represent an underlying value judgment of a community. This rating of the seriousness of criminal offenses, they claim, makes possible meaningful quantitative comparisons of the crime rates in different times and places. By asking raters, including college students, policemen and judges in Philadelphia, to judge the seriousness of some criminal offenses, Sellin and Wolfgang were able to construct a seriousness scale which they believe reflects fairly universal attitudes toward criminal acts, especially in the Western cultures.

Since the Sellin and Wolfgang publication, many replication studies² have followed to explore the validity of their hypothesis. Akman and Normandeau³ first tested this hypothesis in Canada and produced results almost in total agreement with the original study. Velez-Diaz and Megargee⁴ later expanded the testing cross-culturally in a Latin country. By recruiting raters with different characteristics than those in the Philadelphia study these two, as well as other replication studies, have substantiated the Sellin-Wolfgang hypotheses in different cultures and in various classes. They have also touched upon some important problems

concerning value judgments, such as factors or conditions affecting different value systems. So far most follow-up studies have used male subjects as raters, reflecting the belief that the decision making and power structure is primarily dominated by the male. Moreover, no replication, so far as we know, was tested in an Oriental culture. The present study is therefore intended to introduce two new dimensions into the theory of measurement of delinquency pioneered by Sellin and Wolfgang. Their study was replicated in Taiwan using a group of female raters to re-examine their hypotheses cross-sexually and cross-culturally.

THE PILOT STUDY AND THE HYPOTHESES

The method used in the original study was to present different criminal offense descriptions to a group of raters for their judgment on the seriousness of each offense in comparison with a standard (least obnoxious) violation of the law. For instance, an offense where "An offender inflicts injury on a victim. The victim dies from the injury" was to be compared with an act where "An offender steals an unlocked car and returns it undamaged to the place where it was stolen." Based on each rater's judgment, a scale was constructed composed of the mean values of the scores by which each offense was judged. From a list of 141 offenses, and on the basis of their numeral experiments, Sellin and Wolfgang derived a list of fourteen index offenses which they suggest should be used in future study. They hypothesized that these fourteen index offenses, when used in a replication, would have the same ratios of score values as those in their original study. Specifically, they hypothesized that the scale values for offenses in a replication would be represented by" (1) a slope not significantly different from those in our study or (2) a straight line when plotted on semilogarithmic paper."⁵

These two mathematical relationships have been tested and validated in the Canadian study. Ak-

⁵ T. SELLIN & M. WOLFGANG, *supra* note 1, at 322.

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¹ T. SELLIN & M. WOLFGANG, *THE MEASUREMENT OF DELINQUENCY* (1964).

² See Akman & Normandeau, *Toward the Measurement of Criminality of Canada*, 1 ACTA CRIMINOLOGICA 135 (1968); Kelly & Winslow, *Seriousness of Delinquency: An Alternative Perspective*, 10 BRIT. J. CRIM. 124 (1970); Normandeau, *The Measurement of Delinquency in Montreal*, 57 J. CRIM. L.C. & P.S. 172 (1966); Rose, *Concerning the Measurement of Delinquency*, 6 BRIT. J. CRIM. 414 (1966); Velez-Diaz & Megargee, *An Investigation of Differences in Value Judgments Between Youthful Offenders and Nonoffenders in Puerto Rico*, 61 J. CRIM. L.C. & P.S. 549 (1971).

³ Akman & Normandeau, *supra* note 2.

⁴ Velez-Diaz & Megargee, *supra* note 2.

man and Normandeau restate the two hypotheses as follows: (1) the maximum claim: a similarity of slopes, and (2) the minimum claim: a similarity of shapes.⁶ The minimum claim states that the ratio change of the replication scale will be strongly correlated with that of the Philadelphia scale, and that there will be a linear relationship (least-square line) when the two scales are plotted against each other on log-log paper. The maximum claim, on the other hand, further assumes the existence of an identical ratio change in the two scales compared, *i.e.* when the two scales are plotted against each other, the slope of the least-square line will be around 1.

METHOD

The fourteen index offenses were translated into Chinese and given to Chinese subjects for their ratings. The method of rating is that of a psychophysical scale.⁷ The subjects were asked to rate the seriousness of each and every offense in comparison to the standard act, which was assigned a score of 10. The final results and data are presented in terms of the geometric means of the score of each offense.⁸ The order of the fourteen index offenses was randomized for the subjects.

Following are the fourteen index offenses and changes made in the process of translation. First, the descriptions of the offenses:⁹

- A. *Without breaking into or entering* a building and with no one else present, an offender takes property worth \$5.
- B. *Without breaking into or entering* a building and with no one else present, an offender takes property worth \$20.
- C. *Without breaking into or entering* a building and with no one present, an offender takes property worth \$50.
- D. *Without breaking into or entering* a building and with no one present, an offender takes property worth \$1000.
- E. *Without breaking into or entering* a building and with no one present, an offender takes property worth \$5000.

⁶ Akman & Normandeau, *supra* note 2.

⁷ T. SELLIN & M. WOLFGANG, *supra* note 1, ch. 16.

⁸ The formula for the Geometric mean:

$$G = \sqrt[n]{X_1 X_2 X_3 X_4 \dots X_n}$$

where X represents the scores given by the raters.

⁹ T. SELLIN & M. WOLFGANG, *supra* note 1, at 397-98.

- F. An offender *breaks into* a building and with no one else present takes property worth \$5.
- G. An offender *without a weapon* threatens to harm a victim unless the victim gives him money. The offender takes the victim's money (\$5) and leaves without harming the victim.
- H. An offender *with a weapon* threatens to harm a victim unless the victim gives him money. The offender takes the victim's money (\$5) and leaves without harming the victim.
- I. An offender inflicts injury on a victim. The victim *dies* from the injury.
- J. An offender inflicts injury on a victim. The victim is treated by a physician *and* his injuries require him to be hospitalized.
- K. An offender inflicts injury on a victim. The victim is treated by a physician *but* his injuries do *not* require him to be hospitalized.
- L. An offender shoves (or pushes) a victim. The victim does *not* require any medical treatment.
- M. An offender forces a female to submit to sexual intercourse. No other physical injury is inflicted.
- N. An offender takes an automobile which is recovered undamaged.

The following changes were made in translating the above descriptions into Chinese:

(1) Officially, one U.S. dollar equals forty Taiwan yuans. In terms of purchasing power, however, the ratio is about one to ten. This is a rough estimate based on the investigator's personal experiences while living in both countries for extended periods of time. Careful observations led to the judgment that the official ratio cannot be considered to be an accurate reflection of the current rapid growth in Taiwan's economic conditions. Therefore, the monetary value of the property offenses was actually ten times its equivalent in U.S. dollars. Thus a \$5 theft is translated into a 50 yuan theft; \$20 into 200 yuans; and so on.

(2) Auto theft was replaced by motorcycle theft. The automobile is not yet a common transportation in Taiwan, and, because of its scarcity and high price, Chinese raters would judge auto theft to be a much more serious offense than would Americans. On the other hand, due to the rapid development in the motorcycle industry, and because of moderate prices, the motorcycle has become a very popular vehicle on the island.

(3) Chinese criminal law, unlike that of the United States, does not differentiate between larceny and burglary. According to Chinese law,

TABLE 1

COMPARISON OF THE FOURTEEN INDEX OFFENSES
JUDGED BY TAIWAN AND PHILADELPHIA
MALE STUDENTS

Offense Descriptions	Taiwan	Philadelphia
A	21.66	22.09
B	25.16	27.77
C	27.16	32.31
D	35.21	52.99
E	38.53	69.13
F	40.40	40.62
G	44.58	52.25
H	67.50	86.33
I	130.40	449.20
J	47.90	115.60
K	28.36	69.20
L	16.40	22.50
M	66.71	186.30
N	22.94	27.19

$r = .95$

$b = .60$

larceny is theft committed either within or without a building, and burglary is treated as one kind of aggravated larceny. Only when the entry into the building is by force or at night does a theft become aggravated larceny. Therefore in the Chinese questionnaire, only "without breaking into" is emphasized in offenses A through E.

(4) The standard violation in the original instructions is "joy-riding" and reads as follows: "The offender steals an unlocked car and returns it undamaged to the place where it was stolen." In the Chinese questionnaire the word "car" was replaced with "bicycle".

In addition to the questionnaire, each subject was given an instruction sheet which contains the Chinese version of those instructions used by Sellin and Wolfgang.¹⁰

SUBJECTS

The subjects were composed of three male groups and one female group. In terms of occupation, the subjects comprised three groups: students, policemen and judges. The student group was composed of 239 men and 60 women enrolled at the National Taiwan University in the spring of 1968. Their academic backgrounds ranged from sociology, political science and law to business administration.

¹⁰ *Id.* at 254-55.

The group of policemen, 248 in total, were recruited from various barracks in the Taipei Police Department. The judges were from the Taipei District Court.

The tests were administered to the student group in a class-room setting. The questionnaires were mailed with pre-addressed return envelopes to the subjects of the other two groups. The return rates for these latter two groups were 80% for the police and 40% for the judges.¹¹

FINDINGS

I. Cultural Difference and the maximum/minimum claim:

To test the two hypotheses about the similarity of slopes and shapes, the scores of the Chinese male students were compared with those in the original study as shown in Table 1.

On the basis of Pearson's correlation coefficient and the beta weight of the least-square line, it is clear that the minimum claim of the similarity of shapes is valid in an Oriental culture, but that the maximum claim of the similarity of slopes is questionable. As shown in Table 1, the comparison of slopes results in $b = .60$, which is far from 1. In other words, the rate of ratio change in the two scales is different rather than identical. It seems that the hypothesis of similarity of slopes should be qualified. The fact that it was applicable to the Canadian scale may be due to the geographical proximity of Canada and the U.S. and the generally similar cultural backgrounds and systems. This suggests that when distance is lengthened and cultural systems are very different, as is the case here, people would be expected to judge the seriousness of crime at quite different rates.

On the other hand, although the hypothesis of similarity of slopes was not supported by our cross-cultural data, it nevertheless holds intra-culturally for three groups of Chinese male raters. As shown on Table 2, the three groups have high correlations and the beta values are all clustered around 1.

SEXUAL DIFFERENCE AND THE JUDGEMENT OF CRIMINALITY

Sexual difference in value judgement is more prominent than cultural difference. While cross-culturally there is at least a similarity of shapes

¹¹ The data were collected during the summer of 1968 with the assistance of the staff at the Law Department, National Taiwan University Taipei, Taiwan.

between Chinese and Philadelphia male subjects, there lacks even this similarity of shapes between Chinese males and females. As shown on Table 3, the r and the b of the fourteen index offenses judged by the two sexes are .84 and .86 respectively. This means as far as Chinese females are concerned, their criteria of seriousness differ from that of the male in general, whether of the East or of the West. In the eyes of the female subjects rape, rather than death, was judged to be the most serious offense. This unexpected, but very interesting, finding presents more problems than answers. To explore this sexual difference further, we look for other

TABLE 2
COMPARISON OF THE FOURTEEN INDEX OFFENSES JUDGED BY CHINESE MALES

Offense Descriptions	Male Students	Police	Judges
A	21.66	20.65	16.74
B	25.16	23.70	20.19
C	27.16	25.15	24.80
D	35.21	31.43	27.70
E	38.53	40.37	32.83
F	40.40	35.45	30.84
G	44.58	39.67	41.33
H	67.50	68.44	68.48
I	130.40	88.70	93.73
J	47.90	33.30	33.97
K	28.36	17.15	22.95
L	16.40	9.85	15.56
M	66.71	52.20	69.48
N	22.94	23.10	20.41

(1) Correlation coefficient matrix

	students	judges	policemen
students	X		
judges	.95	X	
policemen	.95	.91	X

(2) Beta weight matrix

	students	judges	policemen
students	X		
judges	.97	X	
policemen	.92	.96	X

TABLE 3
COMPARISON OF THE FOURTEEN INDEX OFFENSES JUDGED BY CHINESE MALE AND FEMALE STUDENTS

Offense Descriptions	Chinese Males	Chinese Females
A	21.66	21.54
B	25.16	27.53
C	27.16	19.50
D	35.21	41.19
E	38.53	45.51
F	40.40	35.97
G	44.58	33.03
H	67.50	56.74
I (death)	130.40	96.36
J	47.90	48.85
K	28.36	33.53
L	16.40	19.62
M (rape)	66.71	108.20
N	22.94	19.13

r = .84
b = .86

TABLE 4
COMPARISON OF THE FOURTEEN INDEX OFFENSES JUDGED BY CANADIAN MALE AND FEMALE STUDENTS

Offense Descriptions	Canadian Males	Canadian Females
A	5.06	6.06
B	8.65	9.85
C	11.41	12.76
D	26.08	26.79
E	35.28	33.81
F	13.06	13.73
G	19.84	19.21
H	33.91	26.73
I (death)	214.90	154.20
J	45.88	52.42
K	29.28	35.33
L	8.95	13.53
M (rape)	75.23	92.15
N	10.55	11.06

r = .93
b = 1.09

replication studies which also report data on female raters. The Canadian data¹², as presented on Table 4, show that although there is not much difference between Canadian males and females, the latter

¹² Akman & Normandeau, *supra* note 2.

TABLE 5
COMPARISON OF THE FOURTEEN INDEX OFFENSES
JUDGED BY TAIWAN AND CANADIAN
FEMALE STUDENTS

Offense Descriptions	Taiwan	Canada
A	21.54	6.06
B	27.53	9.85
C	29.50	12.76
D	41.19	26.79
E	45.51	33.81
F	35.97	13.73
G	33.03	19.21
H	56.74	26.75
I	96.36	154.20
J	48.85	52.42
K	33.53	35.33
L	19.62	13.53
M	108.20	92.15
N	19.13	11.06

$r = .90$

$b = .53$

nevertheless judged rape as being more serious than the former group did. So it appears that women and men perceive the crime of rape from different angles, but the degree of difference varies in different cultures.

To see if there is any similarity between Chinese and Canadian females, we further analyze the scores of these two groups. Looking at the r and the b in Table 5, it again indicates that cross-culturally there is no similarity of slopes ($b = .53$), although the scores of the Chinese and Canadian females are closely correlated with each other ($r = .90$).

DISCUSSION

In stating their two hypotheses, Sellin and Wolfgang have cautioned that the scale values in quite different cultures might not conform to their expectations.¹³ The present study shows that this indeed is the case. The fact that the slope of the Taiwan scale differs significantly from those in their study points out two things: (1) culture is a significant factor in affecting value judgments, and (2) there is a need to find a crime measurement in addition to the existing crime statistics based on the legal classification. Because legal labels focus mainly on the criminal act rather than

on the community's attitudes and judgments, they are unable to reflect the varying degrees of seriousness of the criminal offenses judged by people in different times and places. It is necessary to have a crime index that would take this kind of difference into consideration, particularly in the area of international crime statistics.

The difference between Chinese male and female raters indicates that sex also plays an important role in forming an individual's value judgment. That this sexual difference occurs most clearly in the Orient, and less so in the Occident, might be due to the fact that sexual difference is more prominent in less industrialized societies such as Taiwan, where modern technical and social changes have not yet swept away the traditional ways of life. As a recent anthropological study of the family life in one of the Taiwanese communities indicates, this male-female dichotomy is still quite clear in the Oriental social relations and moralities.¹⁴ Therefore, the resemblance of the Canadian female and male raters might be interpreted in terms of the development of a unisexual morality in the West, especially in North America.

When the seriousness of a criminal act is understood as the harmful consequence of the offense, this sexual difference might be related to the personal fear of the consequence of the criminal act. Throughout the Chinese history, the consequence of rape for the female has been extremely grave, sometimes even worse than death. It has been documented that Chinese women were expected to resort to self-destruction if sexually molested.¹⁵ If a woman could not or did not follow this prescription, she was regarded as having greatly sinned and was thus a shame to her family and community. Under such circumstances, life became so miserable as to be worse than death. This morality was deeply rooted in the Chinese culture, and it still manifests itself in some ways and in varying degrees in Taiwan.¹⁶ Therefore, it might be said that the value judgments of our female subjects, to a large extent, reflect the historical and social backgrounds in which they have been socialized.

If sex does make a difference in value judgment, what could this mean to the presently male-dom-

¹⁴ M. WOLF, *THE HOUSE OF LIM* (1968).

¹⁵ For an enlightened, historical treatment of Chinese sexual morality, see A. LEE, *SUGGESTED ANSWERS TO THE QUO VADIS OF CHINESE THOUGHT* (1968).

¹⁶ *Id.*

¹³ T. SELLIN & M. WOLFGANG, *supra* note 1, at 322.

inated judicial system? Could we expect to find a different sentencing practice were more women given the chance to sit on the bench? If judgment of the seriousness of criminality depends on the personal fear or personal evaluation of the consequences of the criminal act, would not women

judge certain crimes, particularly crimes against the person, to be more serious because women are usually weaker physically? As we said earlier, the unexpected differential sexual response presents more questions than answers, and such questions need to be examined in future studies