

Factors Affecting Impression Formation by Juries in Criminal Trials
and some applications to other fields of communication science

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SCOPE

- Focus on **pre-deliberation** impression formation
- Significance to and **criminal justice** and **human rights**
- **Stylistic** and other **non-content based** influences
- The process nature of impression formation:
 - Communication ->> Impressions ->> Outcomes
- Effects of **form and style** on impressions (sometimes) outweigh effects of content of message
- **Other applications** beyond the criminal trial context
- **Modeling for Optimum Quality:**
 - Towards a quality control template for impression formation
 - Best practice indicators

Rights to Due Process, Procedural Fairness and Natural Justice

- Rights of defendants, victims and witnesses can be compromised unintentionally in the course of criminal trials
- Universal Declaration of Human Rights (UDHR)
 - Article 7: equal protection before the Law
 - Article 10: fair, impartial, independent hearings
 - Article 11: presumption of innocence.

Impression Formation Dynamics

- Risk of perception distortions
 - Content-related influences
 - Form-based and stylistic influences
- Management of risks by maximising quality of impression formation by jurors as
 - decision makers
 - stakeholders
- Continuous improvement in forensic communication practices to help lay jurors

Some Influence Variables

- My jury project:
 - Data obtained from
 - Jurors (comparative impact of form and content on them)
 - Advocates (comparative use of content and style when appearing)
 - Non-content-based influences of form and style > content
- Non-content-based effects
 - Flamboyance, gestures etc
- Perceived gaps in case presented



Data gathered from jurors

- Simple 0-10 scale seeking perceived influences of factors as seen by jurors themselves
- Measured against professional advocates' insights into influences of same factors
- Non-content based influences
 - eg confidence, hand gestures, body language
- Other influences
 - eg content of evidence, witness sequencing, expert seniority, peer pressure within jury etc

Overview of Results

- Some jurors reported
 - non-content based and other influences were much more powerful than content of evidence in shaping their impressions during the trial
 - The theatrics of advocates was very effective
 - The sequencing of witnesses had high impact
 - When they perceived a gap in the information they “just made it up”.
- Advocate insights were consistent with juror reports.

IMPRESSIONS: information exchange and processing

- Impression generation
 - content of message (including storytelling strategies eg sequencing)
 - stylistic qualities of message (including storytelling techniques eg drama and theatre)
 - dynamic processes of information receipt and processing
- Contexts
 - assessing likelihood of:
 - an accused having behaved as alleged in the charge(s)
 - the evidence being given by a witness being reliable and accurate
 - Assessing the strength of expert witness testimony
 - (sometimes) assessing tendency to:
 - Behave in the manner alleged (in the case of an accused)
 - Give truthful or untruthful evidence (in the case of a witness)

Impression Formation

- Impression formation is process-based
- Raw materials for impression production
 - Content-based raw materials
 - witness testimony and exhibits
 - expert opinions
 - Form-based and stylistic raw materials
 - demeanour, confidence, witness sequencing etc
 - theatrics, flamboyance, dress, speed, facial expressions, body language etc
- Dynamic influences that shape the process include
 - Primacy
 - Central / peripheral pathways
 - Gap filling

EXPERT INFLUENCE

- Special kinds of primacy
- Qualifications and perceived expert status
- Reasoning processes in reaching assessment
- Relevant experience-based expertise
 - Actual
 - Perceived
- White coat syndrome / CSI Effect
 - Suspension of critical analysis by jurors in trials

Impression Management for Better Case Management

- Strategies
 - to help manage attributions influencing primacy
 - for managing central-peripheral gateways
 - for early identification of perceived gaps in case
- Tools
 - pre-communication consultation with jurors
 - single issue-focus tactics eg rhetorical questions
 - gap-filling management techniques eg juror opportunities to ask questions less formally

Application to Sentencing: Predicting Dangerous Behaviour

- Traditional methods not always optimal
- Actuarial prediction of dangerousness can help reduce the effect of perception distortions in relation to assessing an offenders'
 - capability for harm
 - willingness to harm
 - intent to harm

Scope for Application beyond Jury Trials:

- Advertising/sales talks
- Political speeches and “spin”
- Protective Litigation
 - Apprehended Personal Violence Order (APVO) applications involve evidence from person in need of protection (PINOP)
 - Evidence from PINOP actually fearing:
 - assault or harm to person
 - harassment or other interference

Mediation of APVO disputes

- Demonstrating impact of the past
- Communicating common ground between PINOP and defendant
- Illustrating mutually shared features of the way forward
- Acknowledging joint ownership of solution.



Applications to Conflict Resolution between States:

- Peace making
- Peace enforcement
- Peace building
- Peace keeping
- Peace Journalism
- Global Justice Solutions
 - Human Rights governance
 - International criminal justice
 - Conflict as an automatically consultative process



Best Practice Indicators for Criminal and Social Justice

- Quality improvement in impression formation processes
- Consultative development of communication practices and procedures based on:
 - Audience information reception and processing needs
 - Minimising risks of perception distortions
- Contexts
 - Interpersonal
 - Criminal behaviour
 - Bullying
 - Inter-organisational
 - State/nation on state /nation

Conclusion

- Form and style can influence impressions as much as content
- Jury impression formation is a quality production process
- Workable systems can be developed for optimising case presentation to juries:
 - Primacy management
 - Emphasis on central route information processing
 - Gap filling management tools
- Commonality of application to:
 - Sentencing / future predictions
 - Mediating and protecting
 - Individuals (APVOs, bullying etc)
 - groups /states (peace building)
 - Other communication contexts beyond law.



Questions

