

MACS 30200 Problem Set 1 - Part 2

Critique a computational research paper

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1. Research question and the data used

This critical review is based on the paper *Performing Authority: Communicating Judicial Decisions in Lower Criminal Courts* by Roach Anleu, Sharyn and Mack, Kathy (2015). As stated in the paper, the key research question is “*whether sentencing decisions are communicated in distinct ways*”. More specifically, the authors state that their paper investigates “*how magistrates perform their authority in the face-to-face delivery of decisions, particularly to the defendant*”. Moreover, they propose two hypotheses. The first one is that “*communicating sentencing decisions will entail judicial behaviours that exhibit some engagement with the person being sentenced and will not rely entirely on a detached impersonal model of judicial authority*”. Another hypothesis is that “*other non-trial decisions in criminal cases (such as adjournments or bail) will entail more routine communication and less personal engagement than sentencing decisions*”.

The paper used data from a national court observation study of criminal cases in Australian lower courts. As described in the paper, the primary data was collected by two researchers who conducted the observations across different courts using pre-printed templates to record information about each defendant’s case (called as “matter” in the paper). After discussing and resolving any differences in their coding and classifications for each matter, the researchers produced a single code sheet per matter. Therefore, the unit of data collection was the matter and the data covered a total of 1,287 matters across Australian lower courts (30 different court sessions and 20 different locations) and 27 magistrates. Besides, the data were supplemented with the information such as defendants’ demographics and offence categories, obtained from court records.

2. Theory and type of the paper

The main reference of the paper is Max Weber’s theory of authority, which explicitly ties authority to legitimacy and recognizes that achieving authority requires ‘the belief in legitimacy’. The authors also mention the conventional model of judicial authority in the

adversarial legal system, which emphasizes “*impersonality and dispassion as central to neutrality*” so that judicial officers can perform authority with impartial detached adjudication. However, this may result in the marginalisation of the defendants and an alienating experience for the defendants (Baldwin and McConville 1977; Emerson 1983), inducing a challenge for judicial officers to perform authority by cultivating the necessary belief in legitimacy. Therefore, one possible improvement is to communicate decisions face to face. Nevertheless, the face-to-face interaction with a defendant will itself affect the magistrate’s communication of judicial decisions. Hence, the authors introduce the concept of procedural justice which can “*bridge the challenge face-to-face encounters create for conventional detached adjudication*”.

From my perspective, the paper could be treated as a combination of descriptive study and identification exercise. Firstly, it provided some descriptive statistics of the matters, for instance, the percentage of matters involving in a sentencing decision and the percentage of sentences with penalty of a fine. After that, the paper attempted to identify the relationship between type of decision and magistrates’ communication characteristics.

3. Computational methods and results

As mentioned before, the paper presents several descriptive statistics about the data. For example, 26% of the observed matters involved a sentencing decisions and 74% of the sentencing decisions imposed a fine, which was the most common penalty in the observed matters. Additionally, the authors employ χ^2 tests to explore differences between decision types (sentencing and non-sentencing decisions) with regard to how often magistrates looked at and/or spoke to defendants. The authors find that magistrates are more likely to look at and/or speak directly to the defendants when delivering sentencing decisions than other decisions. The relation between the type of decision being communicated and the magistrate looking at ($\chi^2 = 74.415$, $df = 1$, $p \leq 0.001$) and/or speaking to ($\chi^2 = 98.849$, $df = 1$, $p \leq 0.001$) the defendant is statistically significant and positive. Besides, χ^2 tests and descriptive statistics are also adopted to identify different structures of magistrates’ communication between the sentencing and non-sentencing decisions. It is presented in the paper that magistrates give the decision with little or no explanation in 78% of non-sentencing decisions while they summarize issues and then give the decision in 67% sentencing decisions.

In terms of the results shown in the paper, the authors conclude that sentencing decisions are communicated in a distinct way. When delivering sentencing decisions, magistrates are statistically more likely to look at and/or speak directly to the defendant and more frequently state reasons. This demonstrates that performing judicial authority relies on more than formal markers of judicial authority, especially in delivering sentencing decisions.

4. Two suggestions

My first suggestion is that the authors could explore differences in magistrates’ communication behaviors within each group (sentencing or non-sentencing decisions) by using the information of defendants’ demographics and offence types. Although mentioning that they obtained this information from the courts, the authors seemed to do nothing with this data.

Presumably, they could extend their study by investigating whether magistrates' communication behaviors vary in terms of defendants' gender, age, race or offence types.

My second suggestion is that the reliability of their results could be improved if they have additional observers to collect data. As mentioned in the paper, nearly all the data was collected by the two authors themselves. Although we fully trust their academic attainment, there is the possibility that the coding and classifications they recorded for each matter were quite similar as they are in the same field. Therefore, they could collect more reliable data if they have other scholars in different fields as additional observers.

References

Baldwin, John, and Michael McConville. *Negotiated justice: Pressures to plead guilty*. London: Martin Robertson, 1977.

Emerson, Robert M. "Holistic effects in social control decision-making." *Law and Society Review* (1983): 425-455.

Roach Anleu, Sharyn, and Kathy Mack. "Performing authority: Communicating judicial decisions in lower criminal courts." *Journal of Sociology* 51, no. 4 (2015): 1052-1069.