Critical review computational approach to answering research question

Performing Authority: Communicating Judicial Decisions in Lower Criminal Courts[1]

(a) State the research question of your assigned paper.

The research question of this paper is how magistrates communicate their decisions in criminal matters in open court in distinct ways to perform judicial authority and enhance legitimacy.

(b) What data did the paper use?

The paper used data from a national court observation study of criminal cases in Australian lower courts, with a focus on the actual working practices of magistrates in court as they communicate diverse decisions to various audiences, most particularly to the person facing criminal charges.

More specifically, the researchers collected information relating to the defendant, his/her offences, legal representation, the magistrate's interaction (including whether the magistrate looks at and/or speaks directly to the defendant, the magistrate's ordering of the decision and the reasons, and how these encounters are affected by the presence of a legal representative), and information for decisions and outcome from observation, and information including defendants' demographic data and offence categories from court records.

The total number of matters observed and coded was 1,287. 27 different magistrates (or more than six per cent of all Australian magistrates) were observed conducting a general criminal list in 30 different court sessions in 20 different locations (including all capital cities, five suburban and four regional locations). As a group, the magistrates observed closely match the gender, age and years as a magistrate distribution of the Australian magistracy as a whole.

(c) What theory did the paper reference in order to interpret the data? (Note: it is possible that the paper has no reference to theory.)

The paper referenced theory 'the belief in legitimacy' (Weber, 1978: 213; Galligan, 2010: 986), 'interaction order' (Goffman 1983: 8, [1967] 1982; Roach Anleu and Mack 2005; Rock 1991), 'procedural justice' (Tyler 2003: 297; also see Casper et al. 1988), 'face-work' (Goffman [1967] 1982; Qi 2011: 280), and 'routine case' (Emerson 1983: 426) in order to interpret the data.

(d) Was your assigned paper a descriptive study, an identification exercise, a numerical solution to system of equations study, or some combination of the three? (These are the three classifications we discussed in class.)

The paper is a combination of a descriptive study, an identification exercise, and a numerical solution to system of equations study.

It is a descriptive study because it draws on prior observational studies of courtroom behavior and practice (Bogoch 1999; Drew and Atkinson 1979; Drew and Heritage 1992; Lynch 1997) and highlights the unexplained magistrates' strategies in engagement with the defendant.

It is an identification exercise because it investigates the relationship between magistrates' strategies of delivering decisions in criminal matters with the type of decision and the presence or absence of legal representatives.

It is a numerical solution to system of equations study because it conducted a computational analysis to examine the elements other than the conventional enactment bounded by legal norms and procedures and delineated professional roles that needed to complement the Weberian model of formal legal authority.

(e) What computational methods did this paper use to answer the research question? What was their result or answer to the question?

The paper simply did statistical analysis including chi-square tests on the data set to answer the research question.

The paper concluded that other than relying on the conventional model of legal authority that emphasizes impersonality and formal legal rules, judicial officers also might seek to accomplish legitimacy by a more engaged, personal encounter with the defendant, such as looking at and speaking to the defendants, delivering decisions along with reasons, and magistrates exhibit a greater degree of engagement with the defendant when delivering sentencing decisions than other decisions.

More specifically, when delivering sentencing decisions, the magistrates very frequently look and speak directly to the defendant and more frequently state reasons, and they also summarize issues and then gives

the decision in approximately three-quarters of all sentencing decisions when the defense representative is present compared with just over half when the defense representative is absent. When delivering other decisions, magistrates look at and speak to defendants much less often, especially if the defendant is legally represented and over three-quarters of these decisions are given without elaboration or reasons either before or after the decision.

(f) Think of yourself as an academic referee. Give two suggestions to the author(s) of your assigned paper of things the authors might do to improve their results or strengthen their evidence for the answer to the question.

First, considering the fact that legal representatives are more usually present in more serious matters, we should be aware that the seriousness of the matters is correlated with the presence or absence of the legal representatives. Moreover, the seriousness of the matters may also be correlated with the type of decision. In this case, the magistrates might perform more engagement with the defendants in more serious matters. Therefore, I suggest that the researchers should take this lurking variable into consideration and classify the matters according to its seriousness before conducting any analysis.

Second, when analyzing the communication strategies, we should consider that the magistrates have different habits of communication and himself/herself may also obtain different habits during daily conversation and orally delivering decisions. On the one hand, the researchers compared the communication habits of magistrates in conversational convention with that in decisions delivering, however, the magistrates might have different decision delivering habits which means overall, their behaviors might be different from the daily conversations. Therefore, they might be not frequently looking at and speaking to the defendant, instead, it is just their way of delivering the decision. On the other hand, we should be more cautious grouping all the magistrates and calculate the ratio in each category since everyone has different preference of delivering decisions. Rather, we better calculate the percentage of each magistrate's behaviors in each category first, and then do the aggregation and analysis. For example, we should calculate the ratio of the frequency of one magistrate looking at defendant when delivering sentencing decisions out of the frequency he/she looking at the defendant when delivering other decisions and then sum the ratio of every magistrate in the dataset.