

## VIVIDNESS IN JUDGEMENTS OF GUILT<sup>1</sup>

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*Summary.*—This study investigated the vividness variable in legal decision-making. It was hypothesised that different verdicts regarding the same legal case can be obtained by simply varying the vividness of phrases, without changing any probative element. 53 participants read Original (26) or Vivid (27) versions of testimonies to a homicide case, then made a decision as to the defendant's guilt. Results support the hypothesis: participants' judgements significantly differ between the two conditions; that is, participants who read the Original version consider the homicide as unintentional while participants who read the Vivid one are not able to choose between intentional or unintentional homicide. Therefore we can infer that vividness influenced the process by which guilt is attributed.

Within the literature on judicial reasoning, studies about disparities in sentencing (Catellani, 1992) have investigated which factors lead different judges to pass different verdicts on similar cases. Some researchers, like Hogarth (1971) and McKelvie (2002), have argued that verdicts are influenced by variables such as norms, sociocultural context, by the judge's personal characteristics, decisional abilities, the offender's employment status, the attractiveness of the defendant, and the sex of judge and victim. According to Wagenaar (1994, 1995), in the judicial field some "anomalies" can occur without relevant evidence; for example, it can happen that a defendant is accused on the basis of the prosecution's "reasonable" story or that a deposition of just one witness is considered evidence in spite of other witnesses providing contrary evidence.

Reyes, Thompson, and Bower (1980) studied the influence of vivid information on the attribution of guilt. Those authors referred to *vividness* as words or phrases that are concrete and evoke vivid imagery, which are better remembered than abstract and plain words. In a task that required a decision by a mock jury, half of the sample read a Vivid version of the prosecution and a Plain description of the defence in a court case involving drunk driving, while the others read a Vivid version of the defence and a Plain version of the prosecution. Results showed that, after two days, vividness significantly influenced the attribution of the defendant's liability on the accident. Their judgements tended to vary according to the contents of the Vivid ver-

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sion, the defendant being judged guilty in one condition and innocent in the other. In this research the results are accounted for by Availability Heuristic (Kahneman & Tversky, 1982; Tversky & Kahneman, 1990), according to which people tend to estimate the frequency or the probability of an event on the basis of characteristics that facilitate recall. On the other hand, Shedler and Manis (1986) in a research that reviewed Reyes, *et al.* (1980), using a causal modeling technique, argued that vividness affects both memory and judgements but separately, that is, the judgement effect is not causally dependent on the memory effect. To these authors availability does not serve as a mediator for the effects of vividness on social judgements.

On the basis of these results, we decided to study one of the aspects that can influence the decisions about guilt, that is, vividness. We define a description of an event vivid when it consists of vivid concrete words (see Paivio, 1971) which can help the imaginability of that event. Using the original description of a legal case, we created a new, vivid description of it, without changing any probative element. According to our idea, we predicted people would judge guilt differently based on the original versus the vivid description.

#### METHOD

In a pilot phase participants were 20 students (12 women and 8 men, *M* age = 23.7 yr.) from the University of Bologna, Department of Psychology.

We used a case reported by a jurist of an actual homicide. We constructed two versions of it: an Original Version, from the real testimonies provided in the trial, and a Vivid Version, in which the original testimonies were manipulated by changing the linguistic form of some descriptive elements to enhance imaginability. We only manipulated elements which did not constitute a proof value, that is, elements which were not probative. Moreover, to avoid the possibility of changing or introducing any probative element, we modified eye-witnesses' testimonies but not those of the experts and protagonists. For example, the testimony of a maid in the Original version was: "the only thing I could hear before the shots was Mr. Bergozzi shouting: 'Do not doing it!!!' I run to the living room and I found Mrs. Giulia and her mother bent on Mr. Bergozzi who was lying on the floor and wounded." While in the Vivid version it was: "I could not hear anything of their conversation, but suddenly I heard a shout of Mr. Bergozzi: 'Do not doing it!!!' After that I heard a shot and then another one and, even though terrified, I run to the living room. The scene was horrible: Mr. Bergozzi was lying on the floor. There was some blood spread on the floor. Mrs. Giulia was bent on him, and Mrs. Bergozzi was near her."

The two versions were submitted in counterbalanced order. To be sure that the difference between the two versions lay only in their vividness, at

the end of each story we asked participants to rate the Arousal (How much did the story impress you?), Emotion (How unpleasant was the story to you?), and Imaginability (How easy to image was the story to you?) aspects of the two versions on three scales anchored by 1: not at all and 9: very strongly.

A one-way analysis of variance performed on each scale showed a significant difference only on the Imaginability scale ( $F_{1,19} = 7.68, p < .05$ ; *Ms*: Original 6.6, Vivid 7.1). These data confirm that the Vivid version was correctly constructed: it was easier to imagine than the Original one.

In an experimental phase participants were 53 students (34 women, 19 men, *M* age = 26.8 yr.) who did not take part in the preliminary phase from the University of Bologna. Participants were randomly assigned to one of the two conditions, Original Version ( $n = 26$ ) and Vivid Version ( $n = 27$ ).

Participants read the testimonies of one of the two versions, and their task was to decide if the homicide described in the story was a murder or an accident, rating their judgements: "Guilty," "Not guilty," and, in case they were not able to make a decision, "I do not have enough information." No time limit was given.

A Chi-square test performed on response frequencies for the Original (6 "Guilty," 16 "Not Guilty," and 4 "I do not have enough information") vs the Vivid (15 "Guilty," 10 "Not Guilty," and 2 "I do not have enough information") version showed a significant difference ( $\chi^2 = 11.92, p < .05$ ). A Cochran *Q* test on the response frequency showed significant differences within each experimental condition (Original Version,  $Q_2 = 9.54, p < .01$ ; Vivid Version,  $Q_2 = 9.56, p < .01$ ). In Original Version condition, a paired comparison between choices showed a significant difference between Guilty and Not Guilty choices (23% vs 62%,  $Q_1 = 4.54, p < .05$ ), while in the Vivid condition no significant difference was found (56% vs 37%,  $p > .05$ ). The answer, "I do not have enough information," was chosen by 15% and 7% participants, respectively, of the Original and Vivid conditions.

### *Conclusion*

This research investigated the effect of vividness in naïve participants' judgement of guilt. We hypothesised that different verdicts regarding the same legal case could be found by simply varying the vividness of the descriptions. Analysis showed participants' judgements significantly differed between the two conditions, which supports our hypothesis that the two versions, equal in all features but vividness, produced different judgements.

The analysis performed within the two conditions indicates that, while participants who read the Original Version tended to judge the homicide as unintentional, those who read the Vivid one were not able to choose between intentional or unintentional homicide. The vivid testimonies presum-

ably led participants to image a more vivid story (compared to the other participants who read the original version) and consequently to a different interpretation of the events. This story, which was more available in memory and more imaginable, had a significant effect on participants' judgements.

Thus the extralegal variable of vividness, in addition to norms, sociocultural context, and the judge's personal characteristics and decisional abilities (Hogarth, 1971), can influence the assessment of guilt. These results could be interesting for understanding some mistakes that can occur in such trials in which a jury can be made up mostly of common people. Anyway, it is worthy to underline that this study analyzes only one aspect of what happens in a courtroom. Moreover, we must consider that this work does not involve legal experts who may be less affected by such nonprobative aspects. For this reason, it would be interesting to investigate further the vividness variable using an expert sample, e.g., court judges.

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