

**THE ROLE OF CULTURE IN INSANITY DEFENSE VERDICTS:
DO CHINESE HAVE A DIFFERENT CONCEPTUALIZATION
AND RENDER DIFFERENT VERDICTS
IN THE INSANITY DEFENSE CASES**

by

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ABSTRACT

This is the first study that compares Chinese and Caucasians' attitude, perception, and verdict on insanity defense cases. A pilot study was conducted to choose one case scenario that best captured the cultural difference in verdicts and to make sure that the participants (especially Chinese) understand the study materials. In the pilot study, each participant received a package of a biographical sheet, an attitude questionnaire, and four case scenarios, which contains either an in-group or out-group condition. In the study proper, 169 Simon Fraser University undergraduates (78 Caucasians, and 91 Chinese) completed the study package, which included a biographical sheet, an attitude questionnaire and the spousal-abuse case scenario (in-group or out-group condition). Chinese were found to hold more negative attitudes toward the insanity defense; there was, however, no cultural difference in the pattern of verdicts in both in-group and out-group conditions. Factors that led to their verdict were also explored.

DEDICATION

This thesis is dedicated to my parents and my two wonderful brothers, Joseph and Erik.

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INTRODUCTION

History of Insanity Defense in Canada and United States

Even though the term *insanity defense* has existed in the legal system for a long time, controversies, misconceptions and negative attitudes surrounding the term continue to persist (e.g., Skeem & Golding, 2000). Do negative attitudes and misconceptions affect the verdicts of juries when the insanity defense is raised? Different standards and rules of an insanity defense have been developed in addressing the inadequacy of the existing rules (Finkel, Shaw, Bercaw, & Koch, 1985).

The history of Canadian law on mentally disordered offenders can be traced back to the case of *Rex v. Hadfield* (1800). The case led to the enactment of Criminal Lunatics Act in 1800 (Schneider, Glancy, Bradfor, & Seibenmorgen, 2000). The provisions of that Act were later adopted by Canada as its first Criminal Code of 1892. By 1894, Canada adopted the M'Naghten standard in the insanity cases and it remained unchanged for almost a century (Ogloff & Whitemore, 2001; Ogloff, Eaves, & Roesch, 2000). The M'Naghten standard indicates that:

To establish a defense on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know what he was doing was wrong (Borum, 2003, p. 196).

In 1991, the insanity defense was challenged. The *R. v. Swain* case (1991) served as an impetus for the reforms of the Canadian law on mentally disordered offenders and Bill C-30 was passed and implemented in 1992. Swain was charged with

assault causing bodily harm after an attack on his wife and infant child. The insanity defense was raised against his wish and he was found Not Guilty by Reason of Insanity (NGRI) and taken into custody automatically. His Counsel appealed the decision by stating that the provision under which Swain was held was unconstitutional. The Supreme Court has concluded that the lack of procedural safeguards in s.614, which stated as follows:

Where the accused is found to have been insane at the time the offense was committed, the court, judge, or provisional court judge before whom the trial is held shall order that he be kept in strict custody in the place and in manner that the court, judge or provincial court judge directs, until the pleasure of the lieutenant governor of the province is known.

has violated the Charter of right because it deprived an accused of liberty without a hearing as to his or her present dangerousness and because it provided for arbitrary detention by applying automatically and without regard to the circumstances of the particular accused (Grant, 1997; Wilson, 1992). The court has ordered that the procedural guidelines and limits on the length of detention have to be established (Wilson, 1992).

Under Bill C-30, the term NGRI was changed to Not Criminally Responsible on the account of Mental Disorder (NCRMD). The standard of NCRMD, as set out in Section 16.01 of the *Tremeeear's Criminal Code*, is as follows: No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong (NCRMD, 2002, §16 C-34). Under Bill C-30, different dispositions of the defense (i.e., absolute discharge, conditional discharge, and detained in custody) are entailed (Lymburner & Roesch, 1999).

In the United States, the “wild beast” test (i.e., a man would be relieved of criminal responsibility if he is “totally deprived of his understanding and memory, and doth not know what he is doing, no more than an infant, a brute, or a wild beast”) (Bercaw, & Koch, 1985; Finkel, Shaw, Ogloff, Eaves, & Roesch, 2000; *Rex v. Arnold*, 1724, pp. 764-765) had survived for 100 years before the M’Naghten rule set the grounds for the insanity defense (Zapf, Golding, & Roesch, in press). Even though the M’Naghten rule was the most commonly used insanity defense standard in the United States (Miller, 1992; Ogloff, Eaves, & Roesch, 2000), it was criticized due to its narrow focus on the cognitive component (i.e., the defendant’s thinking). More specifically, the cognitive components usually involve considering whether the defendant “know” the “nature and quality of the act he was doing” or whether the defendant knew that “what he was doing was wrong.” (Ogloff, Eaves, & Roesch). As a result, different rules (e.g., M’Naghten plus the irresistible impulse test) emerged to complement the narrow scope of the M’Naghten rule (Zapf, Golding, & Roesch, in press). Those rules included the volitional component, which emphasized aspects of control and will (Miller, 1992). To further broaden the M’Naghten’s concept of mental illness (Ogloff, Eaves, & Roesch, 2000), the *Durham* product rule (“an accused is not criminally responsible if his unlawful act was the product of a mental disease or defect”) was later introduced; however, criticisms about its inadequately defined terms ensued (Finkel et al., 1985; Ogloff, Eaves, & Roesch, 2000; Roesch, Viljoen, & Hui, 2004; Zapf, Golding, & Roesch, in press). The American Law Institute’s Model Penal Code (ALI, 1962) was then formulated to include both cognitive and volitional elements. The Insanity Defense Reform Act (IDRA, 1984) was later passed to narrow the language of the American Law Institute standard (ALI, 1962) by eliminating the volitional component (Golding, Skeem, Roesch,

& Zapf, 1999), which assimilated the M'Naghten rule and focused purely on cognitive component (Ogloff, Eaves, & Roesch, 2000).

Besides the different rules that were formulated to decide whether someone should be found Not Guilty By Reason of Insanity (NGRI), the Guilty but Mentally Ill (GBMI) was introduced in the United States. GBMI, while recognizes the influence of mentally ill, holds the defendant accountable for one's act (Ogloff, Eaves, & Roesch, 2000). In summary, the focus of the insanity standards had been and still is the cognitive component in Canada; while in the States, the focus varies (from cognitive component to volitional component to both cognitive and volitional components) according to different rules. Besides, there is a uniform code that applies in all provinces in Canada, while US law varies from state to state (Ogloff, Roberts, & Roesch, 1993).

Research on Mock Jurors' Verdicts

When different standards of an insanity defense are adopted, there is an expectation that the number of insanity defense cases and the number of Not Guilty by Reason of Insanity (NGRI) verdicts will be affected (Finkel et al., 1985). However, findings about the effectiveness of standards of insanity defense were inconsistent. Factors other than standards of insanity defense were found to influence mock jurors' decisions. Studies have identified a number of factors that affect mock jurors' verdict on insanity defense cases. These factors include the nature of mental disorder (Roberts, Golding, & Fincham, 1987), beliefs in due process of law, crime control orientation (Poulson & Braithwaite, 1997), race of defendants and mock jurors (Myglynn, Megas, & Benson, 1976; Poulson, 1990; Towers, McGinley, & Pasework, 1992), planfulness of the crime (Roberts & Golding, 1991), availability of a third option (e.g., Guilty but Mentally Ill,

Finkel & Duff, 1989; Roberts et al., 1987), bizarreness of the crime (Robert et al., 1987), religious commitment (Updike & Shaw, 1995), gender of the defendants (Finkel et al., 1985; Poulson, 1990), opinions or attitude on insanity defense (Roberts & Golding, 1991), attitudes about the death penalty (Poulson & Wuensch, 1997), evaluation of expert testimony (i.e., perceiving the defendant or prosecution's expert testimony more favorably or accurately) (Poulson & Wuensch, 1997) and belief in rehabilitation of mental illness (Poulson, Braithwaite, Brondino, & Wuensch, 1997; Poulson, Brondino, Brown, & Braithwaite, 1998). More specifically, some studies found that mock jurors who favored the death penalty (Poulson et al., 1998) held more negative attitudes toward insanity defense, were more crime control oriented (Poulson & Wuensch, 1997), and were more likely to find the defendant guilty rather than NGRI. Female mock jurors were also found to be more likely to render guilty verdicts to female defendants (Finkel et al., 1985).

Other studies (e.g., Poulson & Wuensch, 1997; Poulson et al., 1998; Updike & Shaw, 1995) suggested that instead of looking at different factors individually, those factors should be viewed as inter-related. For example, mock jurors who opposed the death penalty were more willing to recognize the influence of mental illness on criminal wrongdoing, as a result, were more likely to render NGRI verdict (Poulson & Wuensch, 1997). Likewise, mock jurors who had a negative attitude toward insanity defense or had a favor toward death penalty were more likely to favor the prosecution's expert witnesses, which would then significantly influence the mock jurors' verdict. Poulson and colleagues (1998) have also found that evaluation of defendant's mental status (e.g., mock jurors' beliefs in the genuineness of a defendant's mental illness, the plausibility of that mental illness in reducing the defendant's capacity to be aware of the crime he or

she committed or to be aware that the crime he or she committed was wrong) was the most important factor in the determination of a verdict. However, the evaluation of the mental status was significantly influenced by mock jurors' attitudes toward the death penalty and insanity defense, which would also influence mock jurors' evaluation of evidence.

The impact of the above factors on mock jurors' verdicts was not conclusive though. Ellsworth, Bukaty, Cowan, and Thompson (1984) showed that the mock jurors' attitude was only relevant in selection of verdicts in certain insanity cases, i.e., the cases in which the defendant suffered from nonorganic disorders, such as schizophrenia. Similarly, Updike and Shaw (1995) have found that religious commitment was a more important factor in cases of psychologically oriented disorders such as stress disorders.

Other studies have found factors that did not seem to influence mock juror's verdicts. Finkel and colleagues (1985) and Finkel and Handel (1988) investigated the impacts of the change of the standards of insanity defense and the absence of instruction on mock juror's verdict. Finkel and colleagues in their study (1985) used six standards of the insanity defense (i.e., the M'Naghten, the American Law Institute, the Wild beast, the M'Naghten plus the irresistible impulse test, the Durham, and the Disability of Mind doctrine). Mock jurors who received different rules rendered similar pattern of verdict (i.e., the ratios of guilty and NGRI verdict in the five scenarios were not significantly different across six rules). Also, Finkel and Handel (1988) found that the presence of instruction did not affect mock juror's verdict. The no-instruction group (the group who did not receive any instruction in evaluating the case) did not differ from the instruction group (the group who received any one of the six rules on insanity defense) in terms of their verdict. The above findings were also replicated in Ogloff's study (1991),

which indicated that mock jurors use their intuition (i.e., what they think to be relevant) instead of the legal standard of the insanity defense to evaluate insanity cases. In addition, burden and standard of proof (i.e., whether the burden is on defendant or persecutory party or the state) (Poulson & Braithwaite, 1997), knowledge of mental illness (Finkel & Handel, 1988), presence of expert witness testimony conclusion (Poulson & Braithwaite, 1997), and the detail of psychological testimony (Poulson & Braithwaite, 1997) were found not to affect mock jurors' verdict. Furthermore, even though Roberts et al. (1987) demonstrated that the nature of mental illness (e.g., schizophrenic defendants were seen as less criminally responsible than the personality disordered defendants) affects mock juror's verdict, other studies (e.g., Finkel et al., 1985) found that the cause of the mental illness did not predict mock juror's verdict.

In conclusion, mock jurors' verdicts in the insanity defense cases are not at all indiscriminant and simple (Lymburner & Roesch, 1999). None of the above factors is sufficient in predicting mock juror's verdict and their importance vary across cases. Lymburner and Roesch (1999), however, have suggested agreements in two areas: the jurors' decisions are 1) not impacted by the specific insanity standards, and 2) impacted by their own attitudes toward the insanity defense, their religious beliefs, and their political ideology, especially in certain cases, e.g., psychologically oriented disorders. As Finkel and Handel (1988) concluded: "there is no natural tendency to contemplate these cases as acts of madness, some jurors see madness, others "see" sanity" (p. 76).

Almost all research on insanity defense has been done using Caucasian samples, generalizability of those findings to other cultural groups (e.g., Chinese) is questionable. Numerous studies have identified differences in both cultural conceptualization (including expression and perception) of mental illness (e.g., Ganesan,

Fine, & Lin, 1989; Hirai & Clum, 2000; Sue & McKinney, 1975) and cultural causal attribution in social and nonsocial events (e.g., Lee, Hallahan, & Herzog, 1996; Morris & Peng, 1994; Peng & Knowles, 2003). The fact that the evaluation of mental illness and the evaluation of defendant's control over one's action (e.g., Poulson et al., 1998) are two important determinants in juror's verdict, cultural difference in insanity defense verdicts is expected.

Cultural Differences in Expression of Mental Illness

Compared to Caucasians, Asians show a different pattern in their expression of mental health status. Asians were found to be more reluctant to disclose their mental health status (Shin, 2002; Zhang et al., 1998), and there is a different help-seeking pattern in the Asian group (Ganesan et al., 1989; Li & Browne, 2000; Lin & Lin, 1981; Shin, 2002). More specifically, Asians, when they have mental health problems, try exclusive intrafamilial coping. If that does not work, they will include certain trusted outsiders to aid with coping. Only when those resources are exhausted, will they consult with outside aid agencies, physicians, or psychiatrists. If none of the above works, hospitalization may be considered, but this option raised concerns about scapegoating and rejection in the person's family and community. Studies by Ganesan and colleagues (1989) and Zhang, Snowden, and Sue (1998) also indicated that Asians underutilize mental health services, regardless of whether these services are psychiatric or medical. Asians tend to drop out earlier (Sue & McKinney, 1975) and Chinese were found to be less satisfied with health care they received in Canada (Armstrong & Swatzman, 1999).

The difference in Chinese expression of mental illness are closely linked to the social stigma that is attached to mental illness in the Chinese culture, the relation-

oriented nature of the Asian culture, the ideologies that are adopted in the Asian culture, and Chinese conceptualization of mental illness.

Even though the stigma of mental illness exists in every culture, stigma of mental illness is more pervasive and has a social implication in the Asian culture (Fabrega, 2001). Due to the relation-oriented nature of the Asian culture, the stigma of mental illness is not confined to the patient alone, it extends to the entire family (Ganesan et al., 1989). It follows that a family member's mental illness will lead to the entire family's "collective loss of faces" and shame (Fabrega, 2001; Ju-Kang, 1985; Kuo, 1983). One's mental illness will also affect the marriageability of the siblings because of the role of heredity implicated in mental illness (Fabrega, 2001; Ganesan et al., 1989). As a result, Asian groups tend to conceal mental illness and avoid mental health services whenever possible.

In Asian groups, due to its collective nature, the emphasis is on the "universe self" (the group) rather than on the "ego self" (an individual) (Ryan, 1985). Since psychiatric disorders have been seen as disruptive to the system or the "universe self" (Cheung, 1989), Asians will be more likely to repress their mental health problems and underutilize the mental services.

Also, two of the most influential ideologies in the Asian culture, i.e., Confucianism and Buddhism, play very important roles in cultural expression and belief of mental illness. The teachings and maxims of Confucianism and Buddhism partly explain the unique pattern of expressing mental health status and the underutilization of mental health services in the Asian community. For example, Confucian teachings emphasize self-control (Chung, 1992), especially emotional control, as self-control is important in maintaining the harmony and peacefulness of the "universe self" or the system (Ryan,

1985). Besides, according to the Confucian's doctrine of mean, in the context of emotion, it is not desirable to have extreme emotions, e.g., depression (Gabrenya & Hwang, 1996). Moreover, Buddhism relies on the doctrine of impermanence (Engler, 1998; Rosenberg & Guy, 2000), which means that nothing remains the same forever - everything (including suffering) is in an impermanent state. Complaints of mental illness, especially of psychological symptoms, are seen as inappropriate, and demonstrating the lack of endurance and incompetence (Rosenberg & Guy, 2000).

In contrast to the mind-body dualism found in the Western cultures, Asian cultures emphasize mind-body fusion (Parker et al., 2001; Ryan, 1985): physiological and psychological systems are seen as interrelated. Asians believe more strongly in non-biological causes of illness (Armstrong & Swartzman, 1999). Sickness (physical or mental) is believed to be closely related to the state of blood and qi (vital energy) in a stream or organ that was close to the site of the perceived abnormality. For example, the heart is related to anxiety and sadness (Cheung, 1989), the spleen is related to melancholia (Young, 1997), the lungs are related to worry, sorrow, and low spirits and the kidney to fear and energy (Won and Kim, 1973). Due to the stigma attached to mental illness and the fact that Asians believe psychological symptoms signal a disruption or imbalance in the physiological system, complaints of physical symptoms are more prevalent in Asian group (Fabrega, 2001; Li & Browne, 2000). In addition, mental illness is not seen as different from other medical illness and thus it does not need special forms of treatment in the Chinese population.

Cultural Differences in Perception of Mental Illness

In addition to the findings on cultural differences in the expression of mental illness, some studies have identified differences in cultural perception of mental illness. Asians perceived mentally ill patients as dangerous (Whaley, 1997), poor at social and interpersonal relationships and incurable (Hirai & Clum, 2000). Two studies (Fan, 1999; Shokoohi-Yekta & Retish, 1991) have used the Opinion About Mental Illness Scale to assess the attitude of Asians, Australians, and Chinese Americans toward mentally ill patients and have found comparable results. Both studies have shown that Asian, Australians, and Chinese Americans, compared to their Anglo Australian and Anglo American counterparts, have significantly higher scores on the social restrictiveness and interpersonal etiology and authoritarianism subscales. More specifically, Asians or Chinese tend to restrict people with mental illness, to hold more stigmatized attitudes toward people with mental illness, to regard the mentally ill patient as different from and inferior to normal people and to see mental illness as a result of interpersonal conflicts. The security reason (i.e., to protect the public or society from the mentally ill group) rather than the belief in rehabilitation of mental illness appears to explain Asian's urge to confine the mentally ill. In sum, these negative attitudes and beliefs toward mental illness and its rehabilitation in the Chinese culture are expected to influence Chinese attitudes and judgments on insanity defense cases.

Insanity Defense in the Chinese Legal System

Besides possible different conceptualizations of mental illness in the Asian population, there is some evidence showing that Chinese deal with mental issues

differently in the legal context. Despite a long history (5000 years) in Chinese culture, a formal legal system was not developed until 1947 (Chia et al., 1998). Han Feizi (280-233 B.C.) was the first person who mentioned mental illness in the context of law “psychotics cannot escape from punishment according to the law” (Liu, 1981, p. 429). Ng (1990) also delineated the authoritarian attitude adopted in the Qing dynasty in punishing and confining mentally ill offender. Historically, concerns centered on controlling and confining the mentally ill patients in order to protect the society, which preceded the freedom of an individual (Pearson, 1992). In the current Article 15 of the Chinese Criminal Code states as follow:

A mental patient who caused harmful results when in a situation of being unable to understand or control his actions does not bear criminal responsibility. However, *his family members or guardians should be instructed to keep close watch over him and give him medical treatment.* A patient of intermittent insanity who committed offenses when he was sane should bear criminal responsibility. A drunker person who committed offences should bear criminal responsibility. (Leng & Chiu, 1985)

As we can see, the Chinese legal system has comparable rules as the Canadian legal system in insanity defense cases. That is, a mentally ill offender is defined as not guilty if he or she was suffering from mental illness at the time of the offense which impairs one’s ability to make rational decision and to control one’s behavior (Kuo, 1983; Pearson, 1992). The Chinese court, however, takes into account factors such as the family’s willingness to take care the patient, and the current “community atmosphere” when deciding the verdict and consequence of a defendant (Pearson, 1992). For example, patients are less likely to be released during the time of political unrest. Besides focusing on the “case factors,” Chinese tends to also focus on external factors (e.g., familial support) in rendering verdicts.

Some Chinese moral ethics, which existed for such a long period of time, might exert social pressures to influence the judge in imposing heavier penalty in some cases (Kuo, 1983). There is a tendency for the Chinese court to implement more severe punishment if the perpetrator and victim are closely related, especially family members (Lin & Rin, 1975); while Cirincione, Steadman, and McGreevy (1995) have found that defendants in the States were more likely to be acquitted if they committed crimes (other than murder cases) against the ones they were related. Chinese perception of self and their perception on self-other boundary can partly explain why harsher punishment was implemented in cases where the perpetrator and victim are closely related.

Numerous studies have repeatedly found cultural differences on the definition of self and on the perception of in-group-out group boundary (Ho et al., 2001; Morris & Peng, 1994). Self in the West is generally identified as a separate entity, an autonomous unit, whereas in Chinese culture, an individual is not autonomous; an individual is closely connected to others (i.e., self is not distinct from others, Ho et al., 2001). The cultural notion of interconnectedness between self and others could find its roots from Taoism and Confucianism, both of which recognize the interdependence of self and the hierarchical ordered of relationships based on generational rank, gender, and social status (Chiu, 1989; Chiu, 1991; Ho et al., 2001; Joy, 2001).

The in-group members in Chinese culture are usually more closely connected than we commonly see in the Western in-group (Chia et al., 1998) partly because of the specificity and impermeability of the in-group's boundaries (Triandis, 1989; Wheeler, Reis, & Bond, 1989). The interest and welfare of the in-group are more important than one's interest (Chia et al., 1998; Joy, 2001). It is relatively important for Chinese to accommodate the in-groups' needs (e.g., family) and to fulfill their role obligations (Su et

al., 1999) rather than to satisfy their own needs. As we can see, in Chinese culture, relationship predominates (Ho et al., 2001). Action that clearly destabilizes the harmony of relationship (e.g., murder of one's family member) is heavily censured and usually receives more severe punishment compared to cases in which victim and perpetrator are strangers.

Furthermore, in traditional Chinese law, punishment was extremely harsh if one violated the role expectation prescribed by their social roles. According to traditional Chinese value system, filial piety (Wu-Lun) needs to be closely adhered to (Ho et al., 2001). The five stable relationships are father-son, husband-wife, elder-younger, emperor-subject, and friend-friend. Different obligations and expectations are inferred from each relationship. A person's action and behavior must be consistent with his or her assigned role in each type of relationship (Su et al., 1999). For example, seniors are expected to be benevolent to the juniors, who are expected to respect the seniors (Chiu, 1991). In the legal context, hierarchical concept of relationship is an important determinant of the verdict (Lin & Rin, 1975) and justice judgment (Chiu, 1991). Verdicts were very different in cases of murdering one's parents compared to cases of murdering one's offspring. Punishments were harsher in the former case because the social relationship is hierarchically ordered in Chinese culture (i.e., parents are at a higher rank than children, Chiu, 1991; Lin & Rin, 1975). For example, the punishment for a son who had injured his father was death, even if the injury was unintentional. In contrast, an individual could be excused for a crime if it was committed to enforce assigned role behavior, such as killing an unfilial son (Su et al., 1999). Due to the emphasis of hierarchy in relationships and the social self in the Chinese culture, it is expected that

Chinese mock jurors would be more likely to render guilty verdict and impose harsher disposition for the defendant when the defendant and victim are closely related. .

Cultural Differences in Casual Attribution

In addition, numerous studies (e.g., Choi et al., 2003; Lee, Hallahan, & Herzog, 1996; Menon, Morris, Chiu, & Hong, 1999; Morris & Peng, 1994; Peng & Knowles, 2003) found that Western group favor more internal/dispositional explanation for an act while Chinese, besides using dispositional explanation, prefer external/contextual explanation. Studies have also found the same pattern in causal attribution of crime (Morris & Peng, 1994). In addition to perceiving the personal responsibility of the offender in the crime, Chinese participants (Chiu, 1992; Morris & Peng, 1994) see the responsibility to be shared and collective (e.g., offender's family member or boss) but not diffused (i.e., offender is not less responsible for his action). In traditional Chinese system, other family members are expected to take care of and to monitor their mentally ill family member (e.g., Pearson, 1992; Su et al., 1999); family members are expected to share responsibility for crimes committed by mentally ill member (Fabrega, 2001). As a result, Chinese participants were more likely to blame the defendant and his or her family members while Western group, who tend to focus on the individual was more likely to blame only the defendant. The two cultural groups are, therefore, expected to have different conceptualizations on the insanity defense case and to elicit different factors in supporting their verdicts.

Study Design

Studies have found differences in the cultural perception and expression of mental illness and their conceptualization of insanity case in the legal context. The current study was designed to determine whether Chinese and Caucasians differ in their attitude and verdicts toward insanity defense. A 2 (Chinese and Caucasians) X 2 (in-group, i.e., the victim and the defendant are closely related, versus out-group condition, i.e., the defendant does not know the victim) between subjects design was employed. Since the gender of the mock jurors and the SES of the defendant were found to predict mock jurors' verdict, in the current study, both the mock jurors' gender and their SES will be taken into account for data analyses.

A pilot study was conducted to examine the validity and utility of the study materials (which included a biographical sheet, an attitude questionnaire, and four case scenarios, which involved mental illnesses that ranged from psychogenic to organic based). Due to the limitation of resources, one case scenario (out of four) that best depicted the cultural difference in verdict was selected from the pilot study. In the study proper, the same biographical sheet and attitude questionnaire were presented. The one case scenario employed in the study proper contained a murder case and the victim was either the daughter of the defendant (i.e., in-group condition) or she was the daughter of one of the guests in the party (i.e., out-group condition). The participants were required to render a verdict and list the factors that impact their decision.

Hypotheses

Based on the literature reviewed, three main hypotheses were proposed. First, Chinese participants are expected to hold more negative attitudes toward the insanity defense. Second, Chinese participants, compared to Caucasian participants, are expected to render a harsher verdict (i.e., Guilty verdict) and impose a harsher punishment (e.g., imprisonment) on the defendant, especially in the in-group case scenario. Third, the Chinese participants are expected to attribute the responsibility to group rather than individuals and elicit more factors, in particular more situational factors (e.g., the defendant's living status and social network), that are considered to be relevant in their verdict.

PILOT STUDY

Purpose of the Pilot Study

A pilot study was carried out to address the possible limitations of the proposed study. Research on the insanity defense has relied mostly on Western participants, and most of the measures and scenarios developed in the research have only been used in the Western group. Those measures (e.g., Skeem Eno-Louden, and Evans's measure of attitudes toward the insanity defense, 2004) and scenarios might be limited in their application on Chinese groups. The pilot study was, therefore, conducted to validate their use with a Chinese sample. Participants in the pilot study were asked for their comments on a questionnaire (see Appendix A). Since "insanity defense" might be a relatively new term for many Chinese, a definition of insanity defense was provided and participants were asked for their comments on the definition (e.g., how clear is the provided definition; No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong (NCRMD, 2002, §16 C-34)). The pilot study was also conducted to select a case that appeared to best capture cultural differences in verdicts.

Method

Participants

Eleven Simon Fraser University undergraduates (four Asians, six Caucasians and one participant of mixed descent) were recruited for the pilot study. Since a large Chinese sample was needed for the proposed study, it would be difficult to recruit a sufficient number of Chinese participants from a community sample of juror eligible individuals. An undergraduate sample was, therefore, recruited in the current study despite the problem of generalizability of the results to other population, e.g., older adults. There is also a concern of grouping participants from Hong Kong, China and Taiwan into the Chinese group since people from these areas have very different experiences and backgrounds. However, numerous studies (e.g., Chiu, 1991) have found that despite the rapid modernization in Hong Kong and Taiwan (Chiu, 1989; Chiu, 1991), Hong Kong and Taiwan Chinese adopt a traditional Chinese value system. Western participants were recruited in the current study because previous research has found differences in Chinese and Caucasian groups' perception and expression of mental illness. The current study was conducted to explore if the difference holds in the legal context.

Materials

Biographical Sheet.

Data on participants' age, gender, ethnic background, birthplace, socioeconomic status (SES), religion, first language, college major and minor, amount of contact of

mental illness and belief in rehabilitation of mental illness were collected (see Appendix B).

Venireperson's Attitude Toward the Insanity Defense (Skeem, Eno-Louden, & Evans, 2004).

A 19-item scale ranging from 1 (*strongly disagree*) to 7 (*strongly agree*) was administered. It includes items like, "I believe that all human beings know what they are doing and have the power to control themselves." The scale consists two subscales, i.e., the strict liability and the injustice and danger subscales. The last three questions (i.e., items 20-22) asked about participants' personal feeling toward insanity defense. The revised version of the Venireperson's attitude questionnaire regarding the insanity defense was selected for the current study. Even though the measure's application in the Chinese population is questionable (only 1% of the sample recruited in developing the measure was Asian), the participants did not seem to have problems understanding the items in the questionnaire. Also, the measure was selected for the current study because it was the first measure for which psychometric properties were systematically studied and no other attitude measures were developed specifically for the Chinese population. The revised version of the measure has a fair (Strict liability, $\alpha = .68$) to good (Injustice and danger, $\alpha = 0.88$) internal consistency. The scale was also found to correlate more highly with the convergent measures than with the divergent measures. The strict liability subscale and the total scale were found to strongly predict venirepersons' case judgments. Moreover, the measure showed significant improvement in prediction of verdicts. The scale was also cross-validated using a sample from a different geographical region, and comparable results on the scale's psychometric

properties were found. The Canadian definition of NCRMD was included in the instruction of the questionnaire.

Scenarios.

Adopted from Finkel et al.'s (1985) study, four cases were presented in the pilot study. Those cases were selected because they ranged from psychogenic to organic-oriented mental illnesses, as Finkel (1985) has suggested. The four scenarios are the following: epilepsy case (Case A), Chronic Alcoholic case (Case B), Paranoid Schizophrenic case (Case C) and Stress induced case (Case D). In the pilot study, there were two conditions in each case scenario: the in-group and the out-group conditions. In the in-group condition, the victim and the defendant have a close relationship and the victim is either higher-ranked or lower-ranked when compared with the defendant (i.e., the victim is the father (higher-ranked), mother (higher-ranked), son (lower-ranked), or daughter (lower-ranked) of the defendant); while in the out-group condition, the victim and the defendant are strangers (e.g., the victim is a guest or a waiter at the party). All cases followed the same concluding circumstances as follows (Finkel & Handel, 1988): all featured the defendant at a party where the host displayed a pistol; an argument then erupted (not involving the defendant), and the pistol fell to the floor, all the defendants picked up the pistol and fired, and in all of the cases the victim was shot and killed.

Standards of Insanity Defense.

Six different rules of insanity defense were used in Finkel et al.'s (1985) study. However, those rules were based on the American law. In the current study, since a Canadian sample was recruited, Not Criminally Responsible by Reason of Mental

Disorder (NCRMD) instead of NGRI is more applicable. Other reasons for applying NCRMD in the study are that NCRMD does not seem to deviate much from some of the NGRI standards of insanity defense (e.g., M'Naghten), which have a pure focus on the cognitive component, and that Finkel and others (1985, 1989) and Ogloff (1991) have found that mock jurors' verdicts were not different whether they were given any instruction or standards to follow. Therefore, using the Canadian rule of insanity defense in the current study seems appropriate.

Questions about the Consequence of the Defendants.

Some of the questions from Finkel and Duff's (1989) study were asked after each verdict:

1. Should the defendant be set free, imprisoned, committed to a psychiatric hospital, some combination of the former, or a different choice entirely?
2. (Follow the imprisoned option) If you, as the judge, were to set a prison sentence for the defendant, how long (in years) will you set the prison sentence?
3. (Follow the psychiatric hospital option) If you, as the judge, were to set the time that the defendant should stay in hospital, how long (in years) do you think the defendant should stay in hospital?

In addition to the above questions, we were interested in knowing (Finkel & Handel, 1988):

1. How confident are you in your decision?
2. How likely do you think the mental problem affects the offender's behavior?
3. List the reasons for your verdict.

4. For you to reach the opposite verdict from the one you did, what would have to change?
5. What other factors that you think might be important in determining your verdict but were not provided in the case?

At the end of the study, participants were asked to rate the cases on the psychogenic-organic scale (i.e., rating the cases from organic-oriented to psychogenic-oriented).

Design and Procedure

Participants were given a consent form which indicated that they were required to provide some personal information, to rate on a questionnaire, to read four scenarios and to make some judgments based on the scenarios. Each participant was given a package, which contained the following materials: a biographical information sheet, Skeem, Eno-Louden, and Evans' Attitude Questionnaire (2004), and four case scenarios. The participants were asked to complete the package in the following order: 1. Biographical sheet, 2. Attitude Questionnaire, 3. Case Scenarios. An interview regarding their comments on the study (e.g., how much did the defendant-victim relationship affect your verdict) was conducted at the end (Appendix A).

The writer coded the three open-ended questions followed each case scenario (i.e., Q1. List the reasons for your verdict. Q2. For you to reach the opposite verdict from the one you did, what would have to change? Q3. What other factors that you think might be important in determining your verdict but were not provided in the case?) and counted the number of times each participant mentioned the following five factors: symptoms (e.g., the defendant displayed sleep-walking symptoms), relationship (e.g.,

the defendant has no support network), contextual factors (e.g., environment of the party), psychiatric treatment (e.g., the defendant is not receiving any psychological treatment), and motive (e.g., the defendant has no motive to shoot the victim). Open-ended questions were coded according to the above five factors because they were the most frequently mentioned factors in the open-ended questions in the pilot study. However, some factors were not coded or were coded as “others” in both the pilot and the actual studies and they were not included in the data analyses. The above five factors were then categorized into external (which included relationship, contextual factors, and psychiatric treatment) and internal (which included symptoms and motive) factors.

Instruction.

Adopting from the instruction presented in Finkel and Duff (1989), each participant was given the following instruction at the beginning of the study:

We have been conducting a number of studies concerning insanity and insanity defenses, and how ordinary citizens view these matters. Since jurors (ordinary citizens) typically decide such cases, the perspective of the juror seems critically important in understanding why a particular verdict is reached. In this study, we ask you to play the part of a juror.

Results of the Pilot Study

A t-test analysis was conducted to compare group differences in attitudes toward the insanity defense. The Asian group was found to hold more negative attitudes ($M=87.0$, $SD=5.7$) toward the insanity defense when compared to the Caucasian group ($M=54.2$, $SD=26.3$), $t(9) = -2.953$, $p < 0.05$. Chi-square analyses were carried out to determine whether there was any cultural difference in the ratios of Guilty vs. NCRMD

verdicts and in the ratios of dispositions participants imposed on the defendants. No significant cultural differences in ratios of verdicts (Guilty versus NCRMD) and dispositions were found in all four case scenarios. The two cultural groups rendered comparable verdicts across four case scenarios. However, the spousal abuse out-group condition had the largest Cramer V (i.e., 0.667) among all cases. The finding suggested that the spousal abuse out-group condition best captured the cultural difference in verdicts and it led to the selection of the spousal abuse case for the study proper.

Eight multivariate analyses (two conditions by four case scenarios) were carried out and no cultural difference was found on the number of internal (which included the symptoms and motive factors) and external (which included the relationship, contextual factors, and psychiatric treatment factors) factors participants listed in the three open-ended questions. In addition, a Chi-square analysis found no cultural difference in the ratios of verdicts rendered in both higher-ranked (e.g., a condition in which the father is a victim) and lower-ranked (e.g., a condition in which the son is a victim) conditions.

The brief interview at the end of the pilot study indicated that the participants had no problems understanding the items on the Attitude Questionnaire and the case scenarios. The Chinese participants, however, seemed to have problems in understanding the terms *psychogenic* and *organic* oriented disorders and in rating the case scenarios according to the psychogenic-organic scale. On one hand, the problem that the Chinese sample experienced might partly be due to their unfamiliarity of those terms. On the other hand, this finding was consistent with the concept of mind-body fusion that is prevalent in the Chinese culture, which made it difficult to categorize disorders on such a scale. Considering that the Chinese participants had problems in rating the mental illnesses on the psychogenic-organic scale and that only a small

number of participants were recruited in the pilot study, no data analysis was carried out to explore if the nature of the mental illness influence the mock jurors' verdicts.

STUDY PROPER

Method

Participants

One hundred and eighty six Simon Fraser Undergraduates were recruited for the study proper. Seventeen participants' data were discarded in the current analysis because seven of them have mixed ethnic backgrounds and 10 either did not indicate their SES or did not render a verdict. For the remaining 169 participants, 24 were Caucasian male, 54 were Caucasian female, 37 were Chinese male, and 54 were Chinese female in the study. Among the 78 Caucasians, seven categorized themselves as high SES, 70 categorized themselves as middle SES, and there was one categorized as low SES. Among 91 Chinese, two categorized themselves as high SES, 82 categorized themselves as middle SES, and seven categorized themselves as low SES. Chi-square analysis indicated that there was no significant cultural difference in terms of participants' socioeconomic status. Regarding their religions, 13 Caucasians are Catholics, 24 are Christians and 41 have either no or other religions; whereas 10 Chinese are Catholics, 19 are Christians, 10 believe in Buddhism, and 52 have either no or other religions. Even though there was a significant cultural difference in terms of types of the religions they believed in, a Chi-square analysis found no cultural difference in terms of their religious affiliation (i.e., participants who have indicated a religion). More specifically, 55.1% of Caucasian participants and 44.0% of Chinese participants were categorized as religiously affiliated. Lastly, 79.5% (62 out of 78) Caucasian participants

and 52.7% (48 out of 91) Chinese participants mentioned contact with mental illness; and 70.5% (55 out of 78) Caucasian participants and 41.8% (38 out of 91) Chinese participants indicated a belief in rehabilitation of mental illness. The significant cultural difference regarding the amount of contact with mental illness (i.e., Chinese participants had less contact with mental illness) and belief in rehabilitation of mental illness (i.e., Chinese participants were less likely to believe in rehabilitation of mental illness) confirmed the help-seeking pattern (e.g., they try exclusive intrafamilial coping) and perception of mental illness (e.g., they tend to believe that mental illness is incurable) in the Chinese group.

Materials

Biographical Sheet.

Similar to the pilot study, the following information, such as participants' age, gender, birthplace, socioeconomic status (SES), religion, first language, college major and minor, amount of contact of mental illness and belief in rehabilitation of mental illness, were collected (see Appendix A).

Venireperson's Attitude Toward the Insanity Defense (Skeem, Eno-Louden, & Evans, 2004).

The same attitude questionnaire adopted in the pilot study was used in the study proper.

Case Scenario.

Adopted from Finkel and colleagues' study (1985), the modified spousal abuse case scenario was selected from the pilot study (see Appendix C). Defense and prosecution summaries (see Appendix D) were presented after the case scenario. Both defense and prosecution summaries were not based on real case; rather they were constructed to be identical in most ways. Each participant received either an in-group (i.e., the victim is the defendant's daughter) or out-group condition (i.e., the victim is the daughter of one of the guests in the party). In determining the relationship between the victim and the defendant in the in-group condition, we wanted a "pure" in-group member. Being the abuser in the relation, the victim's husband was not the "pure" in-group member. The defendant's daughter was selected as the victim in the in-group condition due to the following reasons. First, the couple has three children and it makes their appearance in the party sensible. Second, the fact that the defendant was dragged to the party, their children could be easily added to the scenario (i.e., being dragged to the party) without making much changes to it. Third, mother-daughter relationship was not mentioned in the Chinese's Wu-Lun, and it would give the participants more freedom in determining the expected roles and responsibility in such relationship and in determining the verdict and punishment. The case's concluding circumstances are as follows (Finkel & Handel, 1988): the defendant at a party where the host displayed a pistol, an argument then erupted (not involving the defendant), and the pistol fell to the floor, the defendant picked up the pistol and fired, and the victim was shot and killed.

Design and Procedures

Similar to the pilot study, the following procedures were carried out in the study proper. Participants received a consent form which indicated that they were required to provide some personal information, to rate on a questionnaire, to read a case scenario and to make some judgments based on the scenario. Participants were given a package, in which they were asked to complete the materials in the following order: 1. Biographical sheet, 2. Venireperson's attitude toward the insanity defense (Skeem, Eno-Louden, & Eaves, 2004), and 3. The modified spousal abuse case (Finkel et al., 1985). After reading the case scenario, the participants were asked to render a verdict (guilty versus NCRMD), to rate how likely the mental illness affected the defendant's behaviors, to answer three questions regarding their verdict (i.e., list the reasons for your verdict; For you to reach the opposite verdict from the one you did, what would have to change? What other factors do you think might be important in determining your verdict but were not provided in the case?), and lastly, to select a disposition (i.e., imprisoned, absolute discharge, conditional discharge, detained in a custody or in a hospital, and something different entirely) for the defendant. All packages were divided into four piles (i.e., Caucasian females, Caucasian males, Chinese females, and Chinese males), with each pile alternated with in-group and out-group conditions. There were 16 Chinese males, 25 Chinese females, 12 Caucasian males, and 28 Caucasian females in the in-group condition; while there were 21 Chinese males, 29 Chinese females, 12 Caucasian males, and 26 Caucasian females in the out-group condition.

Instruction.

Each participant was given the following instruction (which was a modified version of the instructions presented in Finkel and Duff's study, 1989) at the beginning of the study:

We are conducting a study concerning criminal responsibility in Canadian courts, and how ordinary citizens view this legal option. Since jurors (ordinary citizens) typically decide such cases, the perspective of the juror seems critically important in understanding why a particular verdict is reached. In this study, we ask you to play the part of a juror.

Participants were then provided with the Canadian Criminal Code definition of NCRMD and manslaughter and the consequences of defendant in each case.

Inter-rater Reliability.

Two Simon Fraser University undergraduate students, who were blind to the ethnicity of the participants, coded the three open-ended questions (i.e., Q1. List the reasons for your verdict. Q2. For you to reach the opposite verdict from the one you did, what would have to change? Q3. What other factors that you think might be important in determining your verdict but were not provided in the case?). Before the raters coded the questions independently, they coded the first 10 packages with the writer. Inconsistency of the coding and questions on the criteria of coding were addressed. The raters were asked to count how many times each participant has mentioned the following factors: 1. symptoms (e.g., the defendant displayed sleep-walking symptoms), 2. relationship (e.g., the defendant has no support network), 3. contextual factors (e.g., there was an argument in the party), 4. psychiatric treatment (e.g., the defendant is not receiving any psychological treatment), and 5. motive (e.g., the defendant has no motive to shoot her daughter). Interrater reliability on the sum of the number of internal (i.e., symptoms and

motives factors) and external factors (i.e., relationship, contextual factor, and treatment factors) in each question was calculated by using two-way random effects model of intraclass correlation (absolute agreement). The Intraclass correlation coefficients are shown in Table 1.

Table 1:

The Intraclass Correlation Coefficient in Coding Internal and External Factors.

	Internal factors	External factors
Question 1	0.87	0.86
Question 2	0.72	0.85
Question 3	0.68	0.81

The Intraclass correlation coefficients ranged from 0.68 (interrater reliability for coding of internal factors in question 3, i.e., factors that were missing from the case scenario but were considered as important in their judgments) to 0.87 (interrater reliability for coding of internal factors for question 1, i.e., factors that led to the verdict).

Results

Attitudes toward Insanity Defense

A t-test analysis was conducted to compare the two cultural groups' attitudes toward the insanity defense. The Chinese group was found to hold more negative attitudes ($M = 76.24$, $SD = 17.10$) toward the insanity defense when compared to the Caucasian group ($M = 63.26$, $SD = 14.98$), $t(167) = -4.931$, $p < .05$. A 2-way ANOVA (gender by ethnic background, with total score on attitude questionnaire as dependent

variable) was also conducted to compare males and females' attitude toward the insanity defense. Data showed that males ($M = 72.64$, $SD = 16.79$) did not differ from females ($M = 68.90$, $SD = 17.38$) in terms of their attitude toward insanity defense ($\eta^2 = 0.006$) and there was no gender by ethnic background interaction effect ($\eta^2 = 0.007$) found on the attitude toward insanity defense.

Mock Jurors' Verdicts

We were also interested in finding out if there is any cultural difference in verdicts in the spousal-abuse case. The proportion of guilty verdict in each cultural group across the two conditions was shown in Table 2.

Table 2:

Proportion of Guilty Verdict: Ethnic Backgrounds (Caucasian vs. Chinese) by Conditions (In-group vs. Out-group).

	Caucasians	Chinese	Difference in proportion guilty verdict
In-group	19 (47.5%)	16 (39.0%)	8.5%
Out-group	17 (44.7%)	18 (36.0%)	8.7%

For the Caucasian participants, 47.5% of them rendered a guilty verdict in the in-group condition, while 44.7% of them rendered a guilty verdict in the out-group condition. For the Chinese participants, 39.0% of them rendered a guilty verdict in the in-group condition; while 36.0% of them rendered a guilty verdict in the out-group condition. A Chi-square analysis was carried out to determine whether the ratios of verdicts were

significantly different between the two cultural groups. No significant cultural difference was found in the ratios of verdicts in both in-group and out-group conditions. The cultural difference in the proportion of guilty verdict was 8.5% in the in-group condition, while the cultural difference in the proportion of guilty verdict was 8.7% in the out-group conditions.

Impact of Other Factors on Mock Jurors' Verdicts

In addition, since factors such as the SES of defendant and the gender of mock jurors were found to have influence on participants' verdict, a binary logistic regression analysis (forward conditional) was conducted to explore if the SES, gender, ethnicity and religious affiliation of the mock jurors and the conditions (i.e., in-group versus out-group) predicted the mock jurors' verdicts in the current study. Mock jurors' SES was the only factor that was found to be useful in predicting their verdicts. The odds of NCRMD verdict was decreased by a factor of 24 when the mock jurors' SES was high (using low SES as the reference). It should be noted that knowing that the participants categorized themselves as middle SES did not increase the predictive ability. Only high or low SES were predictive of participants' verdict, and only a small number of participants categorized themselves as high (nine participants) and low (nine participants) SES in the current study.

The Three Open-Ended Questions

Previous studies and a review (e.g., Lymburner & Roesch, 1997; Poulson et al., 1998, Poulson & Wuensch, 1997) indicated that negative attitude toward insanity defense is related to more guilty verdict and vice versa. In the current study, even

though Chinese participants were found to hold more negative attitudes toward insanity defense, the pattern of verdicts rendered in both cultural groups were not significantly different. Factors that participants have listed to support and explain their verdict were explored to try to explain the discrepancy between attitude toward insanity defense and the verdict. Six multivariate analyses (three open-ended questions by two conditions) were conducted to compare the two cultural groups' responses to the three questions that addressed the reasons of their verdict (which asked the participants to list the factors that support their verdict; factors that are important but are missing from the case, and factors that would need to be changed in order for them to render opposite verdict). There was no significant cultural difference in the number of internal and external factors listed in all three questions, irrespective of the conditions (the six η^2 .were smaller than 0.05)

Cultural Difference on Defendant's Dispositions

In addition, a Chi-square analysis was carried out to explore if there was any difference with regard to the dispositions each cultural group imposed on the defendant. Results showed that the ratios of dispositions chosen by both cultural groups (Cramer V = 0.15 in the in-group condition, Cramer V = 0.22 in the out-group condition) were not significantly different.

DISCUSSION

In the present study, the Chinese group was expected to hold more negative attitudes toward the insanity defense, which was measured by the Venireperson's Attitude Toward the Insanity Defense Scale (Skeem et al., 2004). The results of the current study confirmed this hypothesis. That is, the Chinese group, compared to the Caucasian sample, was found to hold more negative attitudes toward the insanity defense.

The more negative attitude toward insanity defense was also expected (as have been shown in other studies, e.g., Poulson & Wuensch, 1997) to be related to more guilty verdicts in the Chinese group. The current study, however, did not show any significant cultural difference with regard to the pattern of verdicts in both in-group and out-group conditions. Indeed, the analyses showed a pattern that was opposite to what we have expected in our original hypothesis. That is, the Chinese participants were more likely to render a NCRMD verdict (61.0% in the in-group condition, and 64.0% in the out-group condition) instead of guilty verdicts in both in-group and out-group conditions.

Pearson's correlation analyses were conducted to determine the relationship between participants' attitude toward the insanity defense and their verdict in the current study. A significant negative correlation was found in both cultural groups, $r = -0.408$ in the Caucasian group, and $r = -0.273$ in the Chinese group. That is, a more negative attitude toward the insanity defense (i.e., a higher score on the attitude questionnaire) was associated with a less lenient verdict (i.e., Guilty verdict, which had lower score on the coding). The results indicated that even though attitude was related to verdicts in

both cultural groups in the expected direction, factors other than attitude are related to the participants' verdict.

One of the factors that might contribute to the unexpected pattern of verdicts in the Chinese sample was Chinese's perception of incarceration. Chinese see the experience of incarceration in one's lifetime as equally bad as being placed in hell after death. This perception can be partly explained by the fact that Chinese emphasize more on Li (moral) than law in punishment. The fact that someone is punished and being placed in jail has more implication on the wrongdoers's morality rather than the wrongful acts (Leng & Chiu, 1985). The use of highly moralistic words such as "heinous" or "monstrous" in describing offenses and the implication of incarceration on the wrongdoer's morality might increase the threshold of Chinese participants in rendering guilty verdicts and explain the more NCRMD verdicts in the current study.

Previous research (Choi et al., 2003; Menon, Morris, Chiu, & Hong, 1999) has indicated that Chinese preferred external attribution when they make decision; while Caucasians favored dispositional/internal attribution. In addition, Oscar and Walter (1999) found that persons who used more dispositional attributions (i.e., Caucasian participants) were more likely to predict more negative and less positive behavior from the target than persons who attributed the act to situational factors (i.e., Chinese participants). As a result, even though Chinese were found to hold more negative attitudes toward the insanity defense, their likelihood to make more external attribution and hence more likely to predict positive behaviors from the defendant might lessen their negative attitude; while the Caucasian participants' likelihood to use more dispositional attribution and hence more likely to predict negative behaviors from the defendant might

offset their less negative attitude toward the insanity defense. The above pattern might partly explain the insignificant finding in the ratios of verdict.

Further analyses were, therefore, carried out to explore the factors that the two groups have considered in rendering their verdict. However, there were no significant cultural differences on the number of external and internal factors that were listed to support and explain participants' verdicts.

Also, the fact that the spousal abuse case scenario contained some apparent external factors (e.g., lack of social support) might make it easier for the Caucasian participants to make external attribution, which might then explain the insignificant cultural difference in terms of the external attributions.

In addition, the case scenario presented in the current study did not provide details on factors such as the defendant's psychological profile, the defendant's background, and the defendant's relationship with her husband, which the participants might consider to be important in making their decisions. Analyses were carried out to compare the number of internal and external factors that the two cultural groups considered to be important but were missing from the scenario and no significant cultural difference was found.

The above insignificant findings could partly be explained by the fact that most participants completed the study in one hour and that the questions were open-ended. Participants might not have enough time to seriously consider and list all factors that they considered to be important.

Due to the more negative attitudes that Chinese hold toward the insanity defense and mental illness and their urge to confine mentally ill population, they were expected to impose harsher punishment on the defendant. Data in the current study, however,

showed no cultural difference in the pattern of the dispositions they imposed on the defendant. Oscar and Walter (1999) found that persons (i.e., the Western group) who use more dispositional attributions are more likely to predict more negative and less positive behavior from the target than persons who attributed act to situational factors (i.e., the Chinese group). The comparable urge to confine and detain defendants in both cultural groups might be due to different reasons, e.g., Chinese participants' negative attitude toward insanity defense and Western participants' perception of the stability of defendant's disposition (Zhang, Guan, Zhou, & Lu, 2003).

In general, the fact that the more negative attitudes toward the insanity defense in the Chinese group did not result in more guilty verdicts and harsher consequences for the defendant could be further explained by the following factors. First, only one case scenario was selected in the current study, so the insignificant finding was limited to the selected case scenario. Previous studies, however, have found that negative attitudes toward the insanity defense were more predictive of mock jurors' verdicts in cases in which the defendant suffered from a nonorganic disorder (e.g., Ellsworth, Bukaty, Cowan, & Thompson, 1984). Even though most mental disorders have organic and psychological attributions, the spousal abuse case scenario that we presented in our current study is mostly seen as a nonorganic disorder. As a result, compared to other organic disorder cases, the negative attitude toward insanity defense should be more predictive of mock jurors' verdict in the selected case. Other factors are needed to explain the findings.

Second, ecological validity was questionable in the current study. Some essential elements, such as expert testimony summary and a psychological profile of the defendant, were missing from the case scenario. Some studies (e.g., Poulson &

Braithwaite, 1997), however, have found that those essential elements did not seem to impact jurors' verdict. Also, the fact that the verdict was predeliberation (i.e., there was no discussion among participants before verdicts was rendered) might further decrease the ecological validity of the study. Due to the questionable ecological validity of the study, participants might not be as serious as they will be in real insanity cases and it might partly explain the insignificant findings.

Third, there is a possibility that the Chinese mock jurors rendered more NCRMD verdicts because the defense summary was seen as more convincing to them. This explanation does not seem to be very plausible because the defense and prosecution summaries (Appendix D) were constructed to be identical in most ways in order to minimize any confounding variables.

Lastly, the attitude questionnaire has never been used in the Chinese population, and the relationship between attitudes toward insanity defense and Chinese jurors' verdict has not yet been studied. Even though a significant negative correlation was found between attitude and verdict in the Chinese group, the correlation showed that mock jurors' verdicts were accounted by factors other than mock jurors' attitudes toward insanity defense. Previous studies have also indicated that jurors' decisions are far from simple and direct (see Lymburner & Roesch, 1999 for a review). Elements that the Chinese sample considered to be important in decision-making might be different from the Caucasian sample. As a result, more studies are needed to explore the validity of the attitude questionnaire in the Chinese sample before it is used in the Chinese population.

LIMITATIONS AND FUTURE DIRECTIONS

There are some limitations in the current study. First, as mentioned earlier, since the study materials (which included the attitude questionnaire and the case scenario) have never been used in the Chinese population, their application in the Chinese population is questionable. A pilot study, however, was conducted to ensure that the participants understood the study materials and appropriate changes were made to questions that were unclear.

Second, only one case scenario was presented in the current study, so the findings in the study were limited to the one case scenario. Studies that employ different case scenarios are needed in order to make more definitive and general conclusions. Also, as only an undergraduate sample was recruited in the study, the findings cannot be generalized to the general population. Furthermore, in each condition, the victim was either the defendant's daughter (in the in-group condition) or the daughter of a guest in the party (in the out-group condition), so the results of the current study cannot be generalized to other defendant-victim relationships.

Third, as mentioned in the discussion section, the ecological validity of the current study was questionable (e.g., the predeliberation verdict, the defense and prosecution summaries were not based on a real case). Due to the nature of the study, there was no consequence attached to the mock jurors' decisions. The mock jurors might recognize that their decisions would not affect an actual defendant, so their decisions might not be the same as the decisions they would make in real court cases (Poulson, 1990). Research, however, has shown that the decision made by different samples of mock jurors was consistent. For example, Bornstein (1999) reviewed studies

that recruited different samples of jurors and that used different media of presentation. The findings were not significantly different among different juror samples or different trial media.

Fourthly, religious commitment was found to be predictive of mock jurors' verdict (Urdike & Shaw, 1995). In our current study, religious affiliation (i.e., participants who have indicated a religion) rather than religious commitment (i.e., participants who are committed to their religions) was measured in the current study. Religious affiliation, when compared with religious commitment, is a more inclusive measure (i.e., more participants would be categorized as religiously affiliated). The heterogeneous sample identified as religiously affiliated might increase the within-group variation, which might then partly explain why religious affiliation was not found to be predictive of mock jurors' verdict. In addition, instead of using objective measure, such as education, parents' occupation and annual family income, as an indicator of participants' SES, subjective measure was employed in the current study (i.e., participants were asked to categorize themselves into high, middle, or low SES). Objective measures were not used in the current study because the most commonly used socioeconomic indices are outdated and a study review (Liu et al., 2004) has indicated that subjective measures (e.g., one's perception of available resources and opportunities) were better predictor than objective measures in some cases. The fact that the perception of one's SES was shown to be predictive of participants' verdicts suggested that one's self-identity and self-perception might be important in predicting one's verdict in insanity defense cases.

Lastly, Chinese's acculturation level has been found to influence their help-seeking behaviors for mental illness and their perception and expression on mental illness (e.g., Kung, 2003; Ying & Miller, 1992). Similarly, our Chinese sample's

acculturation level might also influence their decisions in the simulated case. Without measuring the acculturation level and the fact that the Chinese group was probably heterogeneous might partly explain the insignificant findings in the current study.

This is the first study that compares Chinese and Caucasians' attitudes and decisions regarding insanity defense cases. Future studies should employ different case scenarios (e.g., epileptic and depression cases) and other presentation media (e.g., videotapes) to replicate or refute the current findings. Future studies should also include an acculturation scale and explore if and how acculturation plays a role in Chinese mock jurors' decision in insanity defense cases.

The attitude questionnaire's validity and application in the Chinese population is another important question that needs to be addressed in future studies. If our current findings are replicated (e.g., the attitude questionnaire toward insanity defense is limited in its ability to predict Chinese jurors' verdicts), refinement or modification of the attitude questionnaires might be necessary before it is used in the Chinese population. For example, including factors, such as availability of family support, in the original questionnaire might increase its utility in the Chinese population.

Due to the limited duration of our study, it is also recommended that in addition to the open-ended questions, the participants be given choices (close-ended questions) in answering the questions regarding the factors that they considered to be important in their decision-making.

IMPLICATIONS OF THE CURRENT STUDY

The current study suggested that Chinese's negative attitudes toward mental illness held in the legal context, i.e., the Chinese group held a more negative attitude toward insanity defense when compared with the Caucasian group. The findings, however, indicated that negative attitudes did not necessarily relate to harsher verdict and harsher punishment for the defendant. The less than perfect correlation between participants' attitude toward insanity defense and their verdict showed that other factors (e.g., case evidence) are important and may override the impact of participants' attitude. In summary, even though mock jurors' attitudes toward insanity defense is useful in predicting their verdict, mock jurors' decisions are far from simple and indiscriminant in both cultural groups (Lymburner & Roesch, 1999).

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APPENDICES

Appendix A: Brief interview

Race of the participant:

Brief interview:

How did you find about the study? Was there anything that you found unclear from the study?

Have you heard of insanity defense before? How much do you know about it?

Did the cases make sense to you? Did you find them hard to understand? Which one(s)?

Any information that you might find it helpful in making your decision but was missing from the case scenarios? Factors that might affect your decision?

Did (and how did) the defendant-victim's relationship affect your decision?

Did you make your decision according to the Canadian rule? Was your definition of insanity different from what was being described in the study? Was the definition of NCRMD clear to you?

Will you find it easier to answer the open-ended questions in your first language (Chinese population)?

Were the questions clear to you?

Did you find it hard to rate on psychogenic versus organic scale?

Any comments on the attitude questionnaires? Was there any item that you found it unclear? How well did they understand the items?

Any other comments on the study?

Appendix B: Biographical Sheet

Age

Gender

Ethnic background

If you were not born in Canada, where did you come from? How long have you been staying in Canada?

Socioeconomic status (High, middle, low)

Religion

First language

Major and minor at SFU

Amount of contact of mental illness (e.g., Have you or people around you had any contact of mental illness? How much do you know of mental illness?)

How much do you believe in rehabilitation?

Appendix C:

In-group and Out-group case Scenarios

Case Scenario (in-group condition):

Mrs. X has been married for 12 years and has three children. For the last 8 years, she had been supporting the family. She was also subjected to physical and verbal abuse from her husband during this period. Daily degradations and beatings occurred. Attempts to divorce, leave, improve her life, and calls to the police produced greater violence and no relief or protection. Mrs. X had no family or friends to turn to. After a particularly savage beating, Mr. X dragged Mrs. X and their daughter to a party. Those at the party describe her as distant, "as though she was sleepwalking." At the party, the host displayed a pistol; an argument then erupted (not involving the defendant), the pistol fell to the floor. Mrs. X picked up the gun in a mechanical fashion, and with a far-away expression on her face, turned and fired at her daughter. Her daughter was shot and killed. Mrs. X entered a plea of NCRMD.

Mrs. X was charged with manslaughter (which involves objective foreseeability of the risk of the bodily harm that is neither trivial nor transitory, in the context of the dangerous act), which carries a possible sentence up to a life sentence.

Case Scenario (out-group condition):

Mrs. X has been married for 12 years and has three children. For the last 8 years, she had been supporting the family. She was also subjected to physical and verbal abuse from her husband during this period. Daily degradations and beatings occurred. Attempts to divorce, leave, improve her life, and calls to the police produced greater violence and no relief or protection. Mrs. X had no family or friends to turn to. After a particularly savage beating, Mr. X dragged Mrs. X and their daughter to a party. Those at the party describe her as distant, "as though she was sleepwalking." At the party, the host displayed a pistol; an argument then erupted (not involving the defendant), the pistol fell to the floor. Mrs. X picked up the gun in a mechanical fashion, and with a far-away expression on her face, turned and fired at a guest's daughter. The guest's daughter was shot and killed. Mrs. X entered a plea of NCRMD.

Mrs. X was charged with manslaughter (which involves objective foreseeability of the risk of the bodily harm that is neither trivial nor transitory, in the context of the dangerous act), which carries a possible sentence up to a life sentence.

Appendix D:

Prosecution and Defense Summaries

Defendant's daughter: in-group condition

Prosecution: Being the victim of the long-term, severe abuse, Mrs. X has been suppressing/internalizing her anger. The beating by her husband before the party, the display of the pistol and the argument at the party triggered her thoughts of the murder. She picked up the pistol and fired at the crowd randomly to vent her anger. In the incident, she knew that the shot could cause harm and she was reckless of the consequence. There was no clear sign of mental illness during the time of the crime and there was no evidence of past psychiatric history. It is clear that Mrs. X was in the right state of mind during the time of the offence. She was capable of appreciating the nature of the act and knowing that it was wrong at the time of the crime and she should be held morally responsible for the offence.

Defence: The long-term and severe abuse by her husband caused major psychological and physical harm. The beating by her husband before the party, the display of the pistol and the argument during the party further deteriorated her mental state. She picked up the pistol and fired randomly at the crowd. In the incident, Mrs. X had no idea of what she did. At the time of the crime, she was suffering from dissociation, which involves symptoms such as detachment from one's own action and detachment from the self and the environment. It is clear that she was not in the right state of mind during the time of the offence. She was incapable of appreciating the nature and quality of the act and knowing that it was wrong at the time of the crime and she should not be held morally responsible for the offence.

Daughter of a guest in the party: out-group condition

Prosecution: Being the victim of long-term, severe abuse, Mrs. X has been suppressing/ internalizing her anger. The beating by her husband before the party, the display of the pistol and the argument triggered her thoughts of the murder. She picked up the pistol and fired at the crowd randomly to vent her anger. In the incident, she knew that the shot could cause harm and she was reckless of the consequence. There was no clear sign of mental illness during the time of the crime and there was no evidence of past psychiatric history. It is clear that Mrs. X was in the right state of mind during the time of the offence. She was capable of appreciating the nature of the act and knowing that it as wrong at the time of the crime and she should be held morally responsible for the offence.

Defence: The long-term and severe abuse by her husband caused major psychological and physical harms. The beating by her husband before the party, the display of the pistol and the argument during the party further deteriorated her mental state. She picked up the pistol and fired randomly at the crowd. In the incident, Mrs. X has no idea of what she did. At the time of the crime, she was suffering from dissociation, which involves symptoms such as detachment from one's own action and detachment from the self and the environment. It is clear that she was not in the right state of mind during the

time of the offence. She was incapable of appreciating the nature and quality of the act and knowing that it was wrong at the time of the crime and she should not be held morally responsible for the offence.