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## Justice versus vengeance: motives underlying punitive judgements

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### Abstract

The present study was designed to address the question of whether justice and vengeance motives can be differentiated and clearly delineated within the judicial process. The study used a multi-stage approach in the development of the Justice-Vengeance Scale. Exploratory factor analysis (102 males, 118 females) and confirmatory factor analysis (123 males, 200 females) yielded a four-factor multi-dimensional measure that differentiates between attitudes toward justice and vengeance, as well as between different dimensions underlying these motives (vengeance-sentence, vengeance-emotion, justice-fairness, justice-legal). The implications and utility of the Justice-Vengeance scale in future research are discussed. © 2002 Elsevier Science Ltd. All rights reserved.

*Keywords:* Justice motive; Vengeance motive; Punitive judgements; Decision-making; Sentencing; Scale development

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The criminal justice system in Australia, like its counterpart in the United States of America, is a system of retributive justice. The system is based on the belief that justice is accomplished through the allocation of blame, and the administration of punishment (Price, 1997). Retributive justice does not distinguish justice-motivated punishment from vengeance-motivated punishment, and likely, confuses the issues of vengeance and justice. As such, the “State” may rationalize the most severe punishment meted out to offenders by simply labelling the action “justice.” Given the possible overlap between, and the confusion over, justice and vengeance motives for punishment, a number of important questions can be asked. First, what is the primary underlying intent of jurors in their decision-making—justice or vengeance? And second, can the justice and vengeance motives of jurors be clearly delineated? The present study has been designed to answer these questions.

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## **1. Justice**

Past research has shown that respondents, asked why they supported capital punishment or life imprisonment for particularly serious and heinous crimes, typically and vehemently replied that they wanted to see that justice was served (Heim, 1997; McGarrell & Sandys, 1996). Such commentary typifies the need to achieve and/or to restore inequity bred by perceived injustice. But what is “justice”? According to some social-psychological theorists, people perceive justice as equity—the distribution of rewards/punishments in proportion to individuals’ contributions/offences (Walster, Walster, & Berscheid, 1978). Such a view places justice on a scale of “deservingness” where people get what they deserve, and where good is rewarded and evil punished (Lerner, 1980). Within the context of crime and punishment then, punishment is considered to be not only a core requirement within the criminal justice system, but that for justice to be served, the severity of the punishment must be appropriately calibrated to meet the severity of the crime (Freedman, 1997; Hamilton & Rotkin, 1979). Such a process does not necessarily involve affect and it is basically rational in its intent.

While the demand for justice is viewed as vital, so is the need to ensure that the process by which the defendant is judged and sentenced is both fair and just. Defendants require and are entitled to a fair jury trial that is conducted following strict legal guidelines and relevant precedents, as well as a presentation of the evidence from both the prosecution and the defense (Costanzo & Peterson, 1994; Freedman, 1997; Luginbuhl & Middendorf, 1988; White, 1987). Where appropriate, mitigating circumstances of the case, or factors that lessen the culpability of the defendant, are presented to the jury. Lastly, aggravating circumstances, that is, factors that exacerbate the seriousness of a particular crime, such as an act of rape perpetrated before the murder, are given to the jury for consideration (Goodpaster, 1983; Luginbuhl & Middendorf, 1988). These types of measures are to guarantee that justice is served, by ensuring that both the process by which the defendant is judged, and if found guilty, the severity of the sentence imposed, are fair and just.

## **2. Vengeance**

It can be argued that vengeance is an equally justifiable goal of punishment (Peters, 1998). According to Wasserstrom (1978), a retributive theory of punishment represents the common assertion that punishment is a convicted offender’s ‘just’ desert. The theory involves at least three identified factors. First, a person may be punished only if he or she has committed the crime voluntarily. Second, the punishment must match the wickedness of the crime. Lastly, the justification for punishing someone is that the return of suffering for moral evil is itself just and morally right. Wasserstrom (1978) placed greatest importance on the second and third factors of the theory. This intimation that a criminal deserves to pay for his or her wrongdoing is a sentiment shared by those who espouse justice as the basis for punishment (Brownlee, McGraw, & Vest, 1997; Callahan, 1995). However, unlike justice, the desire for vengeance-driven punishment is personal. Its purpose is not to restore equity but to give the avenger relief from a feeling of discomfort (often anger). It is not necessarily rational (Stuckless & Gornson, 1992).

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