GCAL Jury Symposium March 2010 – Draft Themes

Our two-day symposium will bring together academics at the forefront of jury research in the UK to

- disseminate new results,
- forge new collaborative links and
- identify new avenues for research into this fascinating area of the criminal justice system.

Papers and discussions could be centred around the following themes:

A. The Jury and “The Law” (including judges and lawyers!)

- The right to elect a trial by jury, access to justice
- Unanimous v majority verdicts
- Juries and the third verdict (not proven)
- Judge v jury decisions (do juries make “better” decisions? Are juries too expensive? What is judgment by peers?)
- What is reasonable doubt? In Scotland, a jury consists of 15 members. If 8 find in favour of guilt and 7 not guilty, the verdict is one of guilt—is this ratio (of 8/15) really beyond ‘reasonable’ doubt.
- Judicial directions and perceptions (separation of law and facts, differences in judicial approach)
- Judicial directions. How do juries perceive the judge, how important is it? Many appeals relate to directions. Perhaps juries respond more to emotion and base decisions on morality/‘gut instinct’ rather than actual, formal law. If this is the case then arguably the boundaries between morality and law are different in a jury trial than one which simply takes place in front of a judge. Raises Natural law/positive law discussion.
- The value of legal reasoning. Is this something inherently more fair or just than social/non-legal reasoning, born out of discussion or personal experience? (Jurisprudential).
- Juries and ‘rogue’ verdicts (decisions contrary to the law as it stands). Increasingly relevant in terrorism cases, given post-2001 legislation. I.e. political potential in juries. Is it less transparent than when judges make political decisions of that nature — Trident Missile case?
- Language of legal professionals, linguistic strategies in jury instruction

B. The Jury, the Accused and the Complainer

- Juries and specific issues (eg sexual assault, crimes against children, female complainers)
- Emotion and the jury. Responses to emotional/vulnerable witnesses. Vulnerable Witnesses Act - some witnesses will give evidence by video link (is it easier to lie via video link?) How do the jury respond to a witness they do not see face to face?
- Discrimination against ethnic minority defendants
- Language of legal professionals, linguistic strategies in witness examination
- Evidence in rape trials; effect of complainer and accused on jury decisions
C. The Jury and the Witnesses

- Juries and expert evidence (can juries be taught? Should juries be taught? Perceptions of expert qualifications, presentation style etc? Effect of having opposing experts? Effect of having unopposed experts? CSI effect and jury expectations.)
- Juries and complex cases (can juries retain enough? Should juries be expected to? Are cases becoming more complex?)
- Jury perception of eyewitnesses
- Jury bias
- Jury recall, memory, cognition
- Narrative and paradigmatic modes of discourse

D. The Jury and its Jurors

- Jury size (Scotland’s 15 v England’s 12 v smaller juries of 6 or so)
- Jury selection (who are our jurors? Comparison of UK, USA selection, picking a “good” jury? Juror diversity and participation)
- Jury decision-making processes / mechanics of deliberation (Are juries biased? Are juries capable? What is a “good” jury?)
- New generation jurors (exemptions and exclusions, learning styles)
- ‘Peacocking’ in the jury room- the effect/potential effect of dominant jurors. (Subtle) Persuasion of more submissive characters. Practical reasons (want to go home), or human nature elements (ie certain people being easily persuaded/influenced).
- How do juries make decisions? Legal decision making c.f. routine decision-making. Social psychology of legal disputes.

E. The Jury and External Influences

- No official direction ever given to jury about what they can and cannot discuss in private. Legal powers seem to refuse to comment on this. The effect on the accused in terms of due process/right to a fair trial?
- Media coverage of certain offences
- Access to external information
- World jury systems and things we can learn via comparisons

F. The Jury and the Future

- History/symbolism of juries
- Research outlook (how should juries be researched? How are we researching them? What are the gaps in jury research in the UK, Scotland?)