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## Abstract Thinking Reduces Conservatives' Prejudice Against Stigmatized Groups

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The “American Dilemma” is . . . the ever-raging conflict between, on the one hand, the valuations preserved on the general plane which we shall call the “American Creed,” where the American thinks, talks, and acts under the influence of high national and Christian precepts, and, on the other hand, the valuations on specific planes of individual and group living, where . . . consideration of community prestige and conformity; group prejudice against particular persons or types of people; and all sorts of miscellaneous wants, impulses, and habits dominate his outlook.

—Myrdal (1944, p. xliii)

**I**N HIS INFLUENTIAL STUDY of American race relations in the 1940s, Swedish economist Gunnar Myrdal identified a fundamental “American dilemma”—a conflict between two planes of existence in American society at that time. On the general, more abstract plane, the American Creed of fairness and equality was promoted and cherished. On the more concrete, day-to-day plane, however, many individuals in the 1940s overtly expressed biases and prejudice that conflicted with these abstract values.

Overt expressions of bias toward racial minorities are no longer tolerated as they were during the time of Myrdal’s writings (Schuman, Steeh, Bobo, & Krysan, 1997), which perhaps has resolved, or at least diminished, the conflict between the societal treatment of racial out-groups and the abstract value of fairness. However, this conflict likely remains in many Americans’ attitudes toward certain individuals, such as gay men and lesbians and members of religious out-groups (e.g., atheists and Muslims), who are perceived as being nonnormative, or deviating from Judeo-Christian values, and thus are often the targets of overt discrimination (Edgell, Gerteis, & Hartmann, 2006; Hebl, Foster, Mannix, & Dovidio, 2002; Herek, 2000). This conflict may be especially pronounced among political conservatives, who advocate for Judeo-Christian values to have public and national precedence (Republican National Committee, n.d.). We investigated how abstract and concrete mind-sets can differentially affect concerns about fairness and thereby influence prejudice toward members of nonnormative groups (specifically, gay men, lesbians, Muslims, and atheists) among political conservatives and liberals.

Members of nonnormative groups in the United States commonly face challenges—particularly from politically

conservative people—to achieving equal rights and privileges. For example, gay men and lesbians are currently denied the right to marry in most states and face overt discrimination from employers, politicians, and religious leaders, especially those who are politically conservative (Herek, 2000). In a survey having a nationally representative sample (Nisbet & Shanahan, 2004), more than half of the respondents thought that the rights of Muslim Americans should be restricted, a trend that was largely driven by politically conservative and highly religious respondents. Public-opinion polls have also revealed an ideological divide with respect to the acceptance of atheists: In one recent poll, only 14% of Republicans (vs. 44% of Democrats) said they would be willing to vote for a well-qualified, party-nominated presidential candidate who was an atheist (Pew Research Center, 2007).

We propose that the discrepancy between the abstract value of fairness and a bias against certain nonnormative groups, a conflict that is more pronounced among political conservatives than among liberals, may be moderated by the mind-set that people adopt when thinking about these groups. In the present research, we used construal-level theory to examine how two different mind-sets (or “planes”)—abstract and concrete—might influence conservatives’ feelings toward nonnormative groups. A large body of research has shown that people can perceive objects, events, and individuals in either concrete (low-level) or abstract (high-level) terms (for a review, see Trope & Liberman, 2010; see also Vallacher & Wegner, 1989). These perspectives are called “construal levels” and are described in a body of research called “construal-level theory”. Construal level has a strong influence on people’s judgments, attitudes, and behaviors, from feature perceptions and morality judgments to self-control and social perceptions (Eyal, Liberman, & Trope, 2008; Fujita, Trope, Liberman, & Levin-Sagi, 2006; Trope & Liberman, 2000).

In the research reported here, we investigated whether construal level can influence perceptions and attitudes toward not only objects, events, and individuals, but also groups (see also Levy, Freitas, & Salovey, 2002). We hypothesized that abstract thinking, insofar as it is related to Myrdal’s (1944) “general plane,” should lead to a reduction of prejudice, particularly prejudice toward nonnormative out-groups, because people whose construal level is more abstract should be more likely to operate under the broad societal values of fairness and justice. This hypothesis is consistent with work by Eyal et al. (2008), who found that participants who thought abstractly rather than concretely were more likely to apply their moral principles in judgments of others’ actions. Additionally, Torelli and Kaikati (2009) demonstrated that values were a stronger predictor of judgments and behaviors when people were thinking more abstractly.

In three experiments, we investigated whether thinking abstractly (vs. concretely) can increase positive feelings toward nonnormative groups (gay men, lesbians, Muslims, and atheists)—groups that experience overt prejudice that is antithetical to the value of fairness, or the “American Creed.” Moreover, because more conservative individuals show greater explicit bias toward nonnormative groups and thus exhibit

greater conflict between their concrete feelings about members of these groups and the more abstract principles of equality and fairness, we hypothesized that the predicted effect of abstract thinking on bias against nonnormative groups would be stronger for conservatives than for liberals. In our first two studies, we examined how construal level—either characteristic (Study 1) or induced (Study 2)—related to both conservatives’ and liberals’ explicit feelings toward a variety of social groups. In Study 3, we manipulated participants’ mind-sets and tested whether the societal value of fairness is indeed a mediator of the effects of construal level on bias.

## Study 1

In Study 1, we investigated whether individual differences in mindset level (abstract vs. concrete), assessed with Vallacher and Wegner’s (1989) Behavioral Identification Form, were related to differences in prejudice toward nonnormative social groups. We measured feelings toward different social groups using feeling thermometers, which have been shown to be reliable and precise measures of feelings toward various groups (Alwin, 1997). Our focus was on participants’ feelings toward four nonnormative groups (gay men, lesbians, Muslims, and atheists), but we also assessed feelings toward racial-ethnic minority groups (Blacks, Latinos) and dominant groups (Whites, Christians). We predicted that more politically conservative participants would display more negative feelings toward the nonnormative groups, which would be in line with results from prior research (Nosek, Banaji, & Jost, 2009), but that this effect would be moderated by individual differences in mindset level. Specifically, we expected that conservatives would have less negative feelings toward nonnormative groups if they characteristically adopted a more abstract mind-set. We expected that mind-set would have no such effect on feelings toward racial-ethnic minority groups (because they are legally guaranteed equal rights and because the American Creed is more commonly perceived to apply to them than to nonnormative groups) or toward dominant groups. Because liberals tend to support equal rights for non-normative groups, and thus should not experience a conflict between their abstract values and feelings toward these groups, we did not expect mind-set to affect their responses.

## Method

**Participants.** Sixty-three participants (35 women) were recruited online and took part in this study in exchange for a chance to win a gift certificate.

**Procedure.** We assessed participants’ mind-sets using Vallacher and Wegner’s (1989) Behavioral Identification Form, which asks participants to make a dichotomous choice whether actions are best described in concrete or abstract terms. Participants were given ten different actions, such as “pushing a doorbell”, and then asked whether they were best described concretely (“moving a finger”) or abstractly (“seeing if someone is home”). For each participant, we used the proportion of actions described as abstract (vs. concrete) as our measure of mind-set.

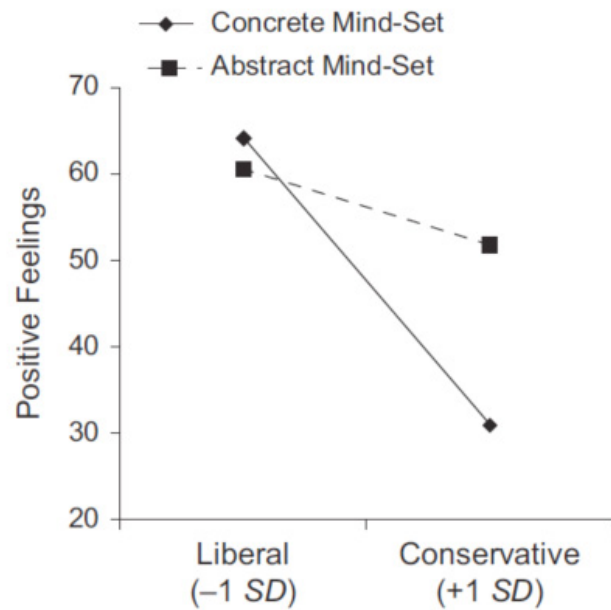
Participants then rated eight groups, using two feeling

thermometers one assessing warmth and the other assessing liking. Participants were asked to use a sliding scale to indicate their feelings toward each group, on a range from 0 – 100. The warmth and liking ratings for each group were highly correlated, we therefore averaged the two ratings to create a score for feelings toward each group. Using this measure, we computed ratings for (a) nonnormative groups (lesbians, atheists, gay men, and Muslims), (b) racial-ethnic minority groups (Blacks and Latinos), and (c) dominant groups (Whites and Christians). Finally, participants responded to demographic questions and rated their political orientation on a scale from 1 (very liberal) to 6 (very conservative; see Jost, Federico, & Napier, 2009).

### Results and Discussion

To test our main predictions, we conducted three linear regressions predicting feelings toward (a) nonnormative groups, (b) racial-ethnic minority groups, and (c) dominant groups; abstract mind-set (centered), political orientation (centered), and the interaction of political orientation and mind-set were entered as independent variables (for specific statistics, see appendix). As predicted, conservatives were less warm toward nonnormative groups than liberals (by about 7.5 points out of 100). However, political orientation interacted with mind-set level (abstract or concrete, see Fig. 1 below). For liberals, there was no relationship between how abstractly they were thinking and their feelings toward nonnormative groups. However, for conservatives, there was a significant relationship. Conservatives who were thinking concretely felt less positively about nonnormative groups than conservatives who were thinking abstractly. For conservatives, the difference between concrete and abstract thinkers was about 35 points out of 100 (see Fig 1 below). Looking at it another way, among concrete thinkers we observed the predicted difference between liberals and conservative, such that concrete thinking liberals felt more positively toward nonnormative groups than concrete thinking conservatives. Among abstract thinkers, there was no difference between liberals and conservatives in feelings toward nonnormative groups. As predicted, there was no interaction

of political orientation and mind-set level on feelings toward racial minorities or dominant groups.



The results from Study 1 are thus in line with our hypothesis that conservatives' prejudice against nonnormative groups is reduced when they think abstractly as opposed to concretely. Indeed, there was no difference in bias at all between liberals and conservatives with abstract mind-sets. It does not seem to be the case that liberals are chronically more likely to think in abstract terms and that this accounts for their lower levels of prejudice. In fact, there was a relatively weak but reliable correlation between mind-set and political orientation, such that more conservative participants tended to endorse more abstract descriptions of actions on the Behavioral Identification Form<sup>11</sup>. In our two next studies, we sought to replicate our results from Study 1 using established experimental manipulations of mind-set level.

### Study 2

In Study 2, we induced abstract or concrete mindsets via a why/how paradigm in which participants must give increasingly concrete (subordinate) or abstract (superordinate) reasons for engaging in a certain behavior (Freitas, Gollwitzer, & Trope, 2004; Fujita et al., 2006; Ledgerwood, Trope, & Chaiken, 2010). Participants were asked to think about the issue of maintaining good physical health and to explain either why they would do so (abstract construal) or how they would do so (concrete construal). We assessed participants' political orientation and their feelings about the same nonnormative, racial-ethnic, and dominant groups that were used in Study 1. We predicted that more conservative participants would display less positive feelings toward nonnormative groups, but that this effect would be less pronounced in the abstract-construal condition than in the concrete-construal condition.

### Method

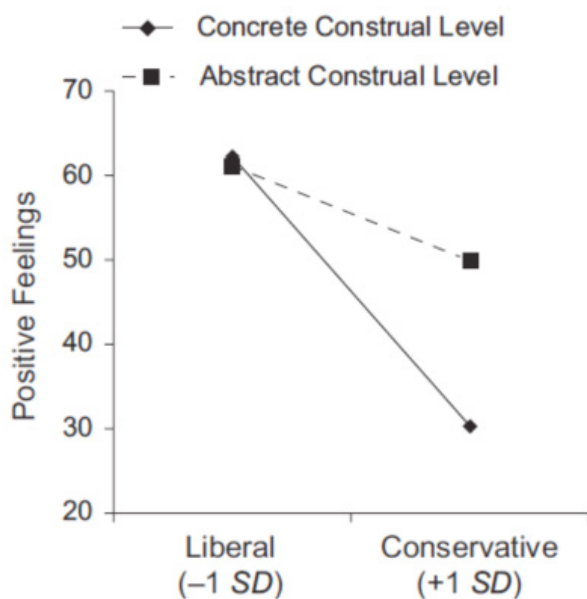
**Participants.** Sixty-four participants (34 women) were recruited online and took part in this study in exchange for a chance to win a gift certificate.

**Procedure.** Participants reported their political orientation and were then randomly assigned to construal condition and asked to fill out a ladder questionnaire about good physical health. In the abstract condition, participants started at the bottom of the ladder and moved up, generating increasingly abstract (superordinate) answers to the question of why they would maintain good physical health; in the concrete condition, they moved down the ladder, generating increasingly concrete (subordinate) answers to the question of how they would maintain good physical health (Freitas et al., 2004; Fujita et al., 2006). Following this manipulation, participants used feeling thermometers to rate their feelings of warmth and liking

toward the same eight groups used in Study 1. The warmth and liking ratings for each group were highly correlated, so we again averaged them to create measures of positive feelings toward nonnormative groups, racial-ethnic minorities, and dominant groups.

### Results and Discussion

Results supported our findings from Study 1. We found that manipulating participants' construal level had an impact on their feelings toward nonnormative groups, but only for those who were political conservative (see Fig. 2 below). More specifically, liberal participants felt relatively positive toward nonnormative groups regardless of their mindset (abstract or concrete). On the other hand, conservatives were more positive toward nonnormative groups when they were thinking abstractly (vs. concretely). Put another way, among the participants who were induced to think concretely, liberals felt more positive toward nonnormative groups than conservatives. Among those who were induced to think abstractly, there was no difference between liberals and conservatives in their feelings toward nonnormative groups (for specific statistics, please see the appendix).



Results from our first two studies offer convergent support for the hypothesis that for politically conservative individuals, thinking with an abstract mind-set rather than a concrete mind-set can reduce expressed prejudice toward people who are viewed as somehow "deviant" from prototypical Americans. In both studies, there was no effect of construal level on feelings toward racial-ethnic minorities or feelings toward dominant groups. This finding is consistent with our conjecture that the endorsement of overt prejudice and discrimination toward nonnormative groups creates a dilemma by conflicting with the American ideal of promoting fairness and equality.

In our final study, we examined the process underlying the effects that emerged in our first two studies by manipulating

construal level and assessing concerns about fairness as well as feelings toward nonnormative groups. We hypothesized that abstract thinking would bring the value of fairness to the forefront of participants' minds and thereby reduce prejudice, particularly prejudice toward groups that are perceived as deviant and that are not consistently included in the American Creed of fairness for all.

### Study 3

Past research has demonstrated that emphasizing moral ideals such as fairness can serve as a means of improving intergroup relations (Does, Derks, & Ellemers, 2011). We hypothesized that the effect of mindset on expressed prejudice that we found in our first two studies was due to a shift in the salience of central values. We reasoned that when thinking on an abstract (as opposed to concrete) level, people should be more likely to rely on broad-based moral principles such as fairness (Graham, Haidt, & Nosek, 2009). In Study 3, we tested this hypothesis by examining how construal level influenced participants' concerns about fairness and whether shifts in the salience of values accounted for (i.e., mediated) changes in feelings toward nonnormative groups.

### Method

**Participants.** One hundred sixty-eight participants (106 women) were recruited online and took part in this study in exchange for a chance to win a gift certificate.

**Procedure.** Participants completed a construal-level priming manipulation (developed by Fujita et al., 2006) in which they were randomly presented with 20 words, 5 at a time. Participants assigned to the concrete condition were asked to generate a subordinate exemplar for each word by answering the question, "An example of \_\_\_\_\_ is what?" They were told to fill in the blank with each of the words presented and then answer the question for that word. For example, if one of the words presented was dog, participants could answer "poodle" (a type of dog) or even "Odie" (a specific name for a dog). Participants in the abstract condition were asked to generate a superordinate category label for each word by answering the question "\_\_\_\_\_ is an example of what?" (again, filling in the blank with each of the words presented). For example, if one of the words presented was dog, participants could answer "pet" or "animal."

Participants responded to four items from the Moral Foundations Questionnaire (Graham et al., 2009) that assessed concerns about fairness (e.g., "Justice is the most important requirement for a society"). Participants used feeling thermometers to rate their feelings of warmth and liking toward the nonnormative groups, racial-ethnic minorities, and dominant groups. Finally, participants answered a variety of demographic questions, including an item measuring political orientation.

### Results

As in the first two studies, the construal level manipulation had an effect on conservatives. While the manipulation had no effect on liberals, conservatives who were induced to think

abstractly rated their feelings toward the nonnormative groups about 10.5 points higher than conservatives induced to think concretely (see appendix for specific statistics).

We next tested whether differences in the salience of the moral value of fairness could statistically account for the relationship between construal level and positive feelings. We evaluated whether fairness caused (i.e., mediated) the relationship between construal condition and positive feelings for conservative participants. The results support our predictions: Among conservatives, abstract (as opposed to concrete) thinking significantly increased endorsement of fairness, which had a significant direct effect on feelings toward the nonnormative groups. The indirect effect of construal level on positive feelings through fairness was significant<sup>[2]</sup>; in other words, conservatives increased tolerance toward non-normative groups was due to their increased concerns about fairness when thinking abstractly as opposed to concretely.

## Summary and Implications

Results from our three studies indicate that straightforward interventions aimed at changing people's mindsets may be effective for improving their attitudes, at least temporarily, toward highly stigmatized social groups. Across three studies, we found that adopting an abstract mindset heightened conservatives' tolerance for groups that are perceived as deviating from Judeo-Christian values (gay men, lesbians, Muslims, and atheists). Among participants who adopted a concrete mindset, conservatives were less tolerant of these nonnormative groups than liberals were, but political orientation did not have a reliable effect on tolerance among participants who adopted an abstract mindset. Attitudes toward racial out-groups and dominant groups (e.g., Whites, Christians) were unaffected by construal level.

We found that the effect of abstract thinking on prejudice was mediated by an increase in concerns about fairness. This research suggests that abstract thinking can reduce partisan differences insofar as everyone—conservatives and liberals alike—cares about fairness on some level. Thus, although many Americans may react to gay men and lesbians with disgust (Inbar, Pizarro, Knobe & Bloom, 2009) or view atheists and Muslims as socially, or even physically, threatening (Edgell et al., 2006), enduring concerns about justice and fairness can perhaps mitigate discriminatory responses toward members of these groups.

Though we did not conduct this research with the courtroom in mind, we believe this research could have some important applications in that realm. It suggests that when jurors immerse themselves in the myriad of details and specific, concrete

information about a case, they might lose sight of the larger picture and care less about justice in general. Additionally, the current studies may provide a relatively low-effort and innocuous way to reduce jurors' prejudice toward certain clients. Though we do not know for sure that the reduction in prejudice we found would lead to less discriminatory decisions, our findings at least suggest that lawyers who are representing nonnormative clients (gay men, atheists, Muslims, etc.) might be able to reduce the amount of bias in the jury toward these clients through prompting the jury to think "big picture," that is, to think abstractly (rather than concretely).

However, we do not think that abstract thinking is a tool that will always reduce bias in the jury. For example, we did not find that construal level had an impact on attitudes toward racial minorities. Additionally, though it is still an open question, it is unclear whether abstract thinking would improve attitudes toward people accused of child molestation or other heinous crimes. In fact, taking into account the results from Study 3, we would not expect abstract thinking to improve attitudes because negative attitudes toward these groups are generally perceived as being fair and legitimate (and so there is not a dilemma between the concrete prejudices and the abstract value of fairness). In fact, some construal level literature would suggest that in these cases, abstract thinking might exacerbate moral blame (Eyal, Liberman, & Trope, 2008).

More generally, we believe that the research on construal level theory could have important implications in the courtroom above and beyond the specific findings of the current research. A large body of literature in this area has highlighted the fact that the level on which people construe the world has large downstream implications on their attitudes and judgments (Trope & Liberman, 2010; Ledgerwood, Trope, & Chaiken, 2010). For example, abstract construal causes people make dispositional judgments of actions, whereas concrete construal causes them to take the situation more into account (Nussbaum, Trope, & Liberman, 2003).

In conclusion, our results from three studies provide converging evidence that adopting an abstract mindset (as opposed to a concrete mindset) can reduce expressions of prejudice toward nonnormative groups, primarily among people who are politically conservative. Study 3 directly demonstrated that the influence of abstract construal on bias is mediated by an increase in the salience of concerns about fairness. Overall, this research brings construal-level theory to bear on the investigation of prejudice and opens several avenues for future endeavors to understand how mindset level might be important in the courtroom. ©

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[1]  $r(60) = .27$ ,  $p = .03$

[2]  $b = 4.62$ ,  $SE = 2.48$ ,  $p < .05$

## Appendix

### Statistics for Study 1:

To test our main predictions, we conducted three linear regressions predicting feelings toward (a) nonnormative groups, (b) racial-ethnic minority groups, and (c) dominant groups; abstract mind-set (centered), political orientation (centered), and the interaction of political orientation and mind-set were entered as independent variables. The model predicting feelings toward nonnormative groups yielded the predicted main effect of political orientation; participants who were more liberal, on averaged, scored about 7.5 points higher on positive feelings toward these groups,  $b = -7.53$ ,  $SE = 2.04$ ,  $p < .001$ . This effect was qualified by the predicted Mind-Set  $\times$  Political Orientation interaction,  $b = 16.88$ ,  $SE = 6.89$ ,  $p = .02$  (see Fig. 1 below).

In probing this interaction, we find that mindset did not affect positive feelings toward nonnormative groups among liberals (1 SD below the mean political-orientation score),  $b = -11.45$ ,  $SE = 15.48$ ,  $p = .46$  (see Fig. 1). However, mindset did affect conservatives (1 SD above the mean political-orientation score). Conservatives who had more abstract mind-sets, as compared to concrete mind-sets, were over 35 points higher on positive feelings toward these nonnormative groups,  $b = 35.49$ ,  $SE = 13.44$ ,  $p = .01$ .

Thinking about it another way, among the concrete thinkers (1 SD below the mean Behavioral Identification Form score), there was a significant relationship between political orientation and feelings toward nonnormative groups; liberals reported more positive feelings toward these groups than conservatives did,  $b = -11.92$ ,  $SE = 2.99$ ,  $p < .001$ . Among abstract thinkers (1 SD above the mean Behavioral Identification Form score), however, there was no relationship between ideology and intolerance,  $b = -3.14$ ,  $SE = 2.63$ ,  $p = .24$ .

Analyses of feelings toward racial-ethnic minority groups revealed only a marginally significant effect of political orientation; more conservative participants had less positive

feelings toward racial-ethnic minorities,  $b = -3.59$ ,  $SE = 2.04$ ,  $p = .08$ . The Mind-Set  $\times$  Political Orientation interaction was not significant,  $p = .53$ ; in other words, the mindset manipulation did not affect conservatives' view of minority groups. Also, more conservative participants felt more positively toward dominant groups,  $b = 4.64$ ,  $SE = 1.84$ ,  $p = .02$ . Again, the Mind-Set  $\times$  Political Orientation interaction was not significant,  $p = .35$ . Thus, as expected, construal level affected only feelings toward the nonnormative groups.

Although, on average, the nonnormative groups were rated somewhat more negatively than the racial-ethnic minority groups were (a result consistent with findings from surveys of representative samples), as predicted, mind-set exclusively moderated feelings toward nonnormative groups, rather than reducing negative feelings toward out-groups in general. That is, feeling-thermometer ratings for gay men and lesbians were comparable to those for Blacks and Latinos, but participants' feelings about gay men and lesbians displayed the expected Mind-Set  $\times$  Political Orientation interaction ( $ps < .01$ ), whereas their feelings about Blacks ( $p = .44$ ) and Latinos ( $p = .43$ ) did not.


### Statistics for Study 2:

We found the expected main effect of political orientation on feelings toward nonnormative groups, such that conservative participants were about 11 points lower on positive feelings toward these groups than liberal participants did,  $b = -11.06$ ,  $SE = 2.47$ ,  $p < .001$ . This effect, again, was dependent on mind-set,  $b = 7.18$ ,  $SE = 3.41$ ,  $p = .04$ . Specifically, in the concrete condition, political orientation was significantly related to feelings toward the nonnormative groups, such that more conservative participants showed less positive feelings toward these groups,  $b = -11.06$ ,  $SE = 2.47$ ,  $p < .001$ . In the abstract condition, this difference was significantly reduced (from 11 points to about 4 points), and no longer reliably different from zero,  $b = -3.88$ ,  $SE = 2.36$ ,  $p = .11$ . Examined another

way, results showed that conservatives were almost 15 points more positive toward the nonnormative groups when thinking abstractly than when thinking concretely,  $b = 14.74$ ,  $SE = 6.97$ ,  $p = .04$ , whereas liberals expressed the same level of positive feelings in the two conditions,  $b = -5.95$ ,  $SE = 6.89$ ,  $p = .39$ .

As in Study 1, there were no effects of construal on feelings toward the racial-ethnic minority groups or dominant groups. More conservative participants reported somewhat less positive feelings toward racial-ethnic minorities,  $b = -3.39$ ,  $SE = 2.37$ ,  $p = .16$ , and more positive feelings toward dominant groups,  $b = 3.71$ ,  $SE = 1.95$ ,  $p = .06$ .

### Statistics for Study 3:

There was a main effect of political orientation, such that more conservative participants showed less positive feelings (in terms of about 9 points) toward the nonnormative groups,  $b = -9.27$ ,  $SE = 1.37$ ,  $p < .001$ . This effect was qualified by a marginally significant Mindset  $\times$  Political Orientation interaction,  $b = 3.45$ ,  $SE = 1.92$ ,  $p = .07$ . Political orientation was a stronger predictor of positive feelings in the concrete condition,  $b = -9.27$ ,  $SE = 1.37$ ,  $p < .001$ , than in the abstract condition,  $b = -5.81$ ,  $SE = 1.35$ ,  $p < .001$ ). Conservatives' feelings toward the nonnormative groups were about 10.5 points more positive in the abstract condition than in the concrete condition,  $b = 10.47$ ,  $SE = 4.12$ ,  $p = .01$ . There was no effect of construal level on liberals' feelings toward these groups,  $b = 0.04$ ,  $SE = 4.02$ ,  $p = .99$ . 

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### Charli Morris responds:

#### **Pardon Me, Counselor, You've Got A Bit of Bias on Your Shirt: Flipping the Script on the Role of Prejudice in the Courtroom**

We spend a lot of our practice time thinking about how jurors' bias and prejudice will affect their judgment of our clients, our cases and the evidence. We study the bias, attempt to eliminate it with peremptory strikes, and find strategies to address it. Luguri, et al. acknowledge that certain aspects of their research may prove useful to our assessment of jurors whose bias can negatively affect their judgments at trial.

But attorneys bring bias to the courtroom too. It colors your judgment of your clients, the witnesses, and your potential jurors. So let's flip the script and focus on what happens if we don't check our own prejudice at the door before jury selection begins.

I've written before about the importance of approaching voir dire with more than strikes in mind. When you focus exclusively on areas of bias, you unnecessarily alienate prospective jurors with pointed questions and a defensive posture. Jurors know when you don't like or trust them and the feeling becomes mutual. It even has the potential to spread to jurors who are otherwise neutral – the ones you mistakenly ignore because

they aren't on your profile (good or bad) – and their worst fears and beliefs about lawyers are realized as they watch you wrestle to remove anyone who dares to think differently from your point of view.

For these and other reasons I encourage attorneys to spend equal amounts of time covering the areas of agreement between what jurors already believe and what you will tell them. Beyond the benefit of establishing rapport at the earliest stage of trial, you can be much more persuasive if you are able to connect the life experience of jurors directly to your theory of the case in opening statement, direct and cross examinations, and closing argument.

To do that you have to recognize that your own bias may be getting in the way of making a genuine (and purposeful) connection with people who will be on your jury after all of the strikes are made.

### How Does it Work?

Let's deal with just one finding in the research that may have some impact on attorney success in the courtroom: namely, that Conservatives who think more abstractly have stronger positive feelings about "non-normative groups." We can think of these "non-normative" folks more broadly as "outsiders," if you will. You know who they are: people who just don't fit your profile of acceptable, agreeable jurors who are likely to identify with your "insider" clients who happen to be White, Judeo-Christian business owners (for example). And go ahead: be honest enough to count yourself among the Conservative thinkers because there is no question that description fits a sizable number of attorneys and our clients who read *The Jury Expert*.

So what does the research suggest about what will happen if you bring your bias and your prejudice to the jury selection process? Evidence of your own bias may be apparent in the questions you are asking.

#### **Let's use a hypothetical case:**

An attorney represents a law enforcement officer in a products liability case involving claims about a defective handgun. He hires me to develop the jury selection strategy and prepare voir dire questions that are designed to identify strikes and advance our themes for the case. As I draft voir dire, he tells me that we need to ask people (or have the judge ask) if they have ever been arrested. He says he is looking to eliminate anyone who might be "anti-cop." This, to me, is a perfect example of concrete thinking about voir dire: a question that can be answered simply yes or no to determine whether someone fits a strike profile.

And even though I understand why he might want to know if prospective jurors have ever been arrested – or more specifically anti-cop – that degree of specificity would most certainly create an atmosphere of "us" against "them" that is completely unrelated to what we believe to be the most important issue in the case. The truth is, this hypothetical civil lawsuit isn't about cops and robbers or "good guys" versus "bad guys." It is, rather, about a product that is dangerously defective for all gun owners.



We don't want or need to call attention with our voir dire strategy to the fact that his client is a law enforcement officer if what we really want people to understand is that the product is dangerous no matter which side of the law you might be on. The concept of "safe for all users" is abstract, (as in "justice for all"). So we could first ask people about their gun ownership experience and have jurors tell us why they think it is important for the people who manufacture guns to make guns as safe as possible for even the most experienced users.

In addition to identifying the people who might be "anti-cop" because of a concrete and specific experience (being arrested), we can also use a more abstract question as a test of what potential jurors think and feel about our better view of the case. Some may say – in response to our abstract question – that there really is no way to make an inherently dangerous product "safe" for all users and we can exercise our strikes wisely against those who do. In this way we haven't lost an opportunity to identify strikes even as we open up the dialogue to more abstract ways of thinking.

In fact, when you prime jurors with both types of questions you are also engaging in both types of thinking. You may have seen before my suggestions to [structure voir dire questions that go from personal experience to shared beliefs](#). As a practical matter, this is the best way to get around an objection from the other side because you start the conversation with a juror who has responded to a direct and specific question. I have also argued that it is important not to toss around questions that merely suggest vague notions of "justice" and "equality" without connecting that to something more specific in your case, because often those attitudes prove to be a mile wide but only an inch deep. But, perhaps, I was also onto something the authors identify as "construal-level theory." In practice, we want the best of both worlds.

In a breach of contract case, for example, consider the sequence of questions below and notice that it goes from (concrete) experience to (abstract) attitude:

- Raise your hand if you have ever been responsible for coming up – or complying – with the terms of a written contract.
- Tell us about that.
- Why is it important that both parties should agree to – and abide by – the terms of the contract?
- Are there ever any exceptions? Why or why not?

Using a combination of concrete and abstract questions and engaging in your own abstract thinking will allow you (Conservative and Liberal lawyers alike) to be more open to the answers you get, and less likely to allow bias or prejudice to interfere with your judgment about prospective jurors. 19

James McGee is a trial consultant based in New York City. He is also a graduate student at Columbia University and a graduate fellow of the Advanced Consortium on Cooperation, Conflict, and Complexity at The Earth Institute.

### James McGee responds:

"A fox should not be on the jury at a goose's trial"

– Thomas Fuller

### The Challenges of Juror Bias

One of the greatest challenges that trial consultants face in their daily practice is the assessment of potential juror bias. It is a force that can have profound effects on the outcome of a trial, shaping the ways jurors perceive and process information, and how they make decisions based on that information. The voir dire process was designed to mitigate its influence, but every seated juror is left with some degree of bias. It is simply an aspect of how the human mind works.

Juror bias is often hidden from direct observation. From the limitations of jurors' own self-awareness, to the social desirability effects of giving one's opinion in front of a courtroom filled with people, to the so-called "stealth jurors," who may purposefully misstate their beliefs to secure a seat on the jury, there are many reasons why bias can be difficult to detect. Biases that are subject to strong social norms, such as some types of intergroup bias, are particularly prone to conscious suppression. It requires a skilled, experienced trial consultant to aid the trial team in understanding what biases may be present in potential jurors and the myriad ways they can influence a case.

One reason juror bias is so challenging to manage is its complexity. While biases can sometimes predict behavior, observable behavior during jury selection does not necessarily predict bias. Frequently, bias can lead to surprising outcomes. Different target groups, different contexts, and different mindsets can elicit very different responses. In some cases, as the authors of this article suggest, conflict between the accepted societal treatment of certain outgroups and more abstract values of fairness may contribute to the multifaceted nature of bias.

### Construal Level Theory as a Lens

In making sense of potential juror bias, these findings suggest that construal-level theory (CLT) is a valuable tool for trial consultants. It is well-supported by experimental evidence in a variety of contexts and has increasingly broad-reaching implications. Fundamentally, CLT predicts specific relationships between the ways we think and what we think. Specifically, it links psychological distance with abstraction. As we think about things with greater psychological distance, whether that distance is physical, temporal, or social, we tend to think in higher levels of abstraction (Trope & Liberman, 2010). Research on its applications suggests that CLT can help to predict how people make decisions, how they deal with risk, and how they negotiate (Fiedler, 2007).

## The Findings and Their Implications

In this article, authors Luguri, Napier, and Dovidio have investigated an application of construal level theory by examining the relationship between abstract thinking and bias. Not only does this research further elucidate the nature of prejudice, but it also gives applied researchers and trial consultants a predictive association between an ideological group, a mindset, and a specific kind of bias.

First, let us examine what the authors did not find, as negative results can be just as telling as the positive ones. As the authors of this article show across several studies, there is evidence that feelings toward racial-ethnic minorities and dominant groups are unrelated to political ideology and unaffected by mind-set. In line with previous research, these data suggest that some biases are relatively persistent and pervasive (e.g., prejudice regarding the elderly; see Cuddy, Norton, & Fiske, 2005). This is an important consideration for jury trials. It suggests that the sole defense against some sorts of bias may be the jury selection process. Little hope remains for dealing with these biases during the trial. This may have been the kind of bias to which Clarence Darrow was referring when he famously wrote, "Never forget, almost every case has been won or lost when the jury is sworn."

Next, the findings suggest that political ideology can be a powerful predictor of how people think. From these results, we see that conservatives' feelings toward nonnormative groups are closely tied to their characteristic construal level, or mind-set, whereas liberals do not show the same relationship. Liberals demonstrate more positive feelings toward nonnormative groups regardless of their mindset. These results are in keeping with previous research by Jonathan Haidt and his colleagues showing that liberals and conservatives think and make judgments differently (for an example, see Graham, Haidt, & Nosek, 2009). Thus, trial consultants have two more variables – political ideology and mind-set – to consider for juror questionnaires and during voir dire, especially when their clients are representing members of a nonnormative group. These factors may also play a role in the alliances that can be expected to form within the jury if some jurors are members of such groups.

As critical as jury selection is to every trial, this article furthers the case that the trial consultant's work must not end there. It suggests that effective trial strategy may be able to further reduce juror bias. The findings of this research lend empirical support to the notion that some biases, for some people, can be changed. Conservative individuals' prejudice against stigmatized outgroups is one type of bias that can be mitigated by manipulating construal level. The authors were able to perform this manipulation using brief sets of questions: a series of superordinate why questions to cue abstract thinking, and a series of subordinate how questions to cue concrete thinking. Thus, it may also be possible to induce jurors to adopt a more abstract or concrete construal level, at least temporarily, during a trial. Of course, there are many practical limitations during a trial. By nature, witness testimony and the presentation of evidence tend to be detail-rich, which could impede jurors' ability to consider the case in abstract terms.

Nevertheless, opening and closing arguments often include rhetorical questions for the jury to consider. Such questions could be modified with an eye on their potential influence on juror mind-set.

The authors leave us with an important caveat. Referring to research by Nussbaum, Trope, and Liberman (2003), it is noted that construal level is also associated with the tendency to make dispositional versus situational attributions. Abstract thinking leads to more dispositional judgments, while concrete thinking leads to more situational judgments. Here, we can know a conflict may arise if, for example, the goal is to reduce prejudice while also encouraging situational judgments. Abstract thinking may encourage the former and interfere with the latter.

## Take Away Points

How can we implement this new information in our daily practice? First, we should be aware that certain kinds of biases are less malleable than others and are best dealt with during jury selection. Second, we can be mindful of the relationship between the variables presented here during jury selection. In the absence of information on a juror's characteristic mindset, liberal jurors have a higher baseline level of positive feelings toward nonnormative groups. This may influence their reactions to litigants, witnesses, and even other jurors. Third, we can recommend case strategies that provide the greatest opportunity to mitigate any potential remaining bias, particularly among more conservative jurors, by cuing abstract thinking, perhaps through a series of superordinate why questions. This may encourage jurors to focus on fairness when rendering decisions about members of nonnormative groups.

The results of this work also inspire many further questions about the mechanism behind the effects demonstrated here. For example, what factors other than construal level can influence fairness salience, and what are some of the other downstream effects of increased fairness salience? I look forward to more research in this field to provide some of the answers. ☪

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