

The Dangers of Disgust in the Courtroom

BY PASCALE SOPHIE RUSSELL AND ROGER GINER-SOROLLA

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Are emotions useful within the courtroom? This is a question that has attracted research interest in recent years (see Maroney, 2006 for a review). Our research cumulatively shows that it depends on which specific emotions you are talking about. Across a series of social psychological experiments we have found support for the unreasoning disgust hypothesis: that disgust, more so, than anger can have an irrational and inflexible influence on our moral judgments. Our research shows that if people feel disgust they are less likely to take into account mitigating circumstances, and even consider why they felt disgust in the first place; thus, it is a hard emotion to argue against, in comparison to anger. Because disgust can lead to negative moral judgments, but doesn't seem sensitive to reasoning and mitigation, we believe it will tend to impede fair and just legal judgments. So, if it is desirable for judges and jurors to consider the current circumstances (e.g., extenuating circumstances) then appeals to moral disgust within the courtroom should be avoided.

Supporting Research

Previous research supports the distinction that we make between anger and disgust as potential courtroom influences. Even though both anger and disgust are other-condemning emotions (Haidt, 2003), meaning they are often used to express moral disapproval, there are key differences between them. Research has shown that anger depends on numerous contextual factors: whether harmful actions have occurred, whether justice has been served, and who is to blame (Gutierrez & Giner-Sorolla, 2007;

Goldberg, Lerner, & Tetlock, 1999). These cues can influence whether or not anger is experienced in the first place, its intensity and likely behavioral responses. On the other hand, disgust is less concerned with current circumstances. In fact, researchers have struggled to define any rational or situation-specific appraisals which trigger disgust; disgust seems to be learned as a way to evaluate certain kinds of things or sensations (Ortony, Clore & Collins, 1988). Therefore, disgust is activated by the simple detection of a disgusting object, such as the categorical judgment of whether or not a sex act is taboo.

Disgustingness can also spread by contagion from a thing considered to be disgusting, whether or not harm is probable (Rozin, Millman, & Nemeroff, 1986). Rozin and colleagues' line of research found that disgustingness can spread by mere association through the laws of contact and similarity, and that it is difficult if not impossible to reverse these disgust-based judgments with rational considerations. For example, people will avoid eating chocolate in the shape of feces despite knowing what the object actually is. Similarly, research on consumer behavior has shown that a disgusting object, such as a packaged sanitary pad, can lead to objects that are placed in the same shopping basket to be less valued, despite there being no direct contact (Moralez & Fitzsimons, 2007). Other research has also shown that disgust can operate without one's awareness (Schnall, Haidt, Clore & Jordan 2008; Wheatley & Haidt, 2005); for example, Schnall et al. (2008) have shown that a subtle disgust influence, such as exposure to a disgusting smell, can make individuals' moral judgments more severe. Based on these findings, we had reasons to believe that disgust is an irrational emotion that is unconcerned with the current context.

Findings for Unreasoning Disgust Hypothesis

Our research to date, comparing anger and disgust, has focused on two parts of the experiences of these emotions. First, why people feel anger or disgust and how these emotions can be modified; and second, whether people can justify why they feel anger versus disgust in the first place.

Circumstantial cues. We have found that feelings of anger, but not disgust, respond to the important and legally relevant cues of harm and intentionality (Russell & Giner-Sorolla, 2011a). Within this experiment participants first read a vignette that described a scientist who cloned meat, in which we manipulated 1) whether or not the meat was from human cells, constituting cannibalism (taboo), 2) whether or not someone else ate the meat without knowing what it was (harm others), and 3) whether the scientist knew the true nature of the meat, or believed it was beef due to someone else's error (intent). Participants then filled out measures that assessed their emotions and evaluations of the vignette, such as whether they thought the action was actually harmful. We found that the intensity of anger was influenced by our manipulations of harm and intent, while the intensity of disgust was only influenced by whether or not the act violated the taboo of cannibalism. Additionally, we found that relevant evaluations of the situation could fully account for the relationship between the influencing factors (harm, intent) and anger, but evaluations could not fully account for the relationship between disgust and the taboo manipulation. This suggests that disgust is more likely to follow from a categorical judgment rather than from evaluations of legally relevant circumstances.

Flexibility. Extending this initial experiment, we have found that disgust is less responsive to

any changes in circumstance than anger, demonstrating its inflexibility (Russell & Giner-Sorolla, 2011b). We carried out this additional research because we wanted to give individuals the best opportunity to come up with potential mitigating factors, instead of manipulating theoretically relevant variables within a vignette. Also, we wanted to measure judgments at multiple time points, to see if people could actually change their opinions when considering their own most powerful mitigating circumstances.

Within this experiment participants first read a scenario that either described a harm/fairness-based or taboo-based moral violation, which occurred in two types of settings. We used these types of violations because past research has shown that harm and fairness are more likely to elicit anger, while purity norms are more likely to elicit disgust (e.g., Gutierrez & Giner-Sorolla, 2007; Horberg, Oveis, Keltner & Cohen, 2009; Rozin, Lowery, Imada, & Haidt, 1999). Therefore, participants were randomly assigned to one of four scenarios in which an individual did one of the following acts: kick a dog, eat a dog, rights-based sexual violation (in an exploitive relationship), or norm-based sexual violation (in a relationship with large age difference, 20 versus 76 years old). After reading one of the four scenarios participants filled in measures of whether or not they thought the act was wrong and the emotions they felt in response to the act. Participants were then asked to list things that they thought could change their opinion of the act and were given the opportunity to fill in the original measures again imagining that the changes had come about.

We found that levels of disgust did not change after participants generated potential circumstances, but anger did. Importantly, there were no significant differences in the amount or type of things that participants thought could change their mind between the different stories. Thus, the difference in the change of anger and disgust could not be attributed to differences in the things that individuals listed within the conditions. We also found that feelings of anger, not disgust, predicted any change in evaluations of the wrongness of the act. Thus, anger is likely to change whether or not someone thinks an act is right or wrong. In conclusion, this experiment indicates that first impressions are likely to stick when they are based on feelings of disgust. On the other hand, anger is more likely to be a facilitating force in changing opinions, and it seems to be more responsive to the current context.

We think that our findings regarding the potential flexibility of anger versus disgust are especially relevant for the courtroom because individuals that are present within a courtroom setting are first informed of the nature of the charges and are then asked to consider mitigating circumstances surrounding the case. Our research shows that disgust more so than anger is likely to hinder this process. For example, in cases in which someone is accused of sexually abusing a minor we would suspect that people would find it difficult to overcome the influences of disgust, ignoring mitigating circumstances, because disgust is so often associated with this sexual behavior. In comparison, if someone is accused of verbal abuse it is more likely that anger but not disgust will be influential, which may elicit the desire to focus on the current case and to respond to appropriate mitigating circumstances. Thus, based on this finding it may be important to inform jurors and judges prior to a case about this potential influence of disgust, and to consider evidence or argumentation based on physical and moral disgust as especially potentially prejudicial, if it is desirable to avoid this influence.

Justifiability. Finally, we have found that people struggle to justify why they feel disgust in the first place, in particular in reaction to non-normative sexual behaviors, such as pedophilia and prostitution (Russell & Giner-Sorolla, 2011c.) When justifying disgust persons are more likely to give

statements like “They are just gross,” instead of giving external reasons that go beyond their subjective feeling. Thus, people do not normally feel the need to justify why they feel disgust, probably because they feel that others agree with them. It is only when reasons for moral disgust are made available – for example, “because they violate rules of society” – that people endorse them in support of this emotion. These studies suggest another potential danger of disgust being elicited in the courtroom: people find it difficult to access reasons for why they feel disgust. This is likely to make disgust difficult to argue against and unlikely to motivate open discussions. For example, if someone feels disgust toward a sexual crime, they are likely to focus on their disgust and use this emotion as a basis for their judgment, which also elicits the assumption that others must agree with them. It is easy to see the role that this finding can have in the context of jury deliberations; if one or more individuals feel disgust it will be hard to get them to justify why they feel disgust in a way that is useful to facilitating open discussions. This may create unnecessary divisions amongst members of the jury.

So, how can the potential negative influences of disgust be avoided?

Our research paints a pretty bleak picture for disgust as a moral emotion in legal contexts. We have shown that disgust is not likely to support the open-mindedness that the legal process demands, due to its inflexibility. We have also demonstrated that disgust does not respond to specific principles that should be currently important to law and justice, such as blameworthiness, intentionality, and harm. Instead, it responds to principles that modern-day jurisprudence considers less important, such as sexual chastity and abnormality. For example, in most Western societies, age of sexual consent laws were originally used to protect female chastity, focusing on the importance of purity and withdrawing their protection from girls who had prior sexual experience (Oberman, 1994). However, more modern rationales for sexual consent legislation aim to protect young individuals of any gender from harm (Horvath & Giner-Sorolla, 2007).

In order to avoid the negative influences of disgust, we would suggest not triggering disgust in the first place whenever possible. Once disgust is present it is very difficult to reverse. In fact, research suggests that disgust must go through a lengthy unlearning process (Rozin, 2008) because unlike anger it does not respond to situational cues. This suggests a prejudicial influence of anything that triggers disgust within the courtroom. Salerno and Bottoms (2009) highlight a distinction that is made between probative and prejudicial influences within the courtroom, in which probative evidence provides unique information about harm, and does not have an irrelevant influence on individuals’ emotions (e.g., jurors, judges, etc.). Factors that arouse disgust are more likely to be extra-judicial and trigger a prejudicial influence, while anger is more likely to follow from the determination of harm and injustice (Alicke, 2000); thus, being more likely to be probative. Previous research has focused on the influence that emotions such as anger, empathy and sympathy can have on judges and jurors (see Kerr, 2009; Salerno & Bottoms, 2009 for a review), but little attention has been paid to the separate role of disgust, as distinct from other emotions. With the recent surge in research that focuses on the influence that emotions can have in legal contexts, we believe it is essential that more attention be paid to the prejudicial influence that disgust can have.

To avoid prejudicial impact, we would advise steering clear of descriptions that can elicit disgust, such as graphic details about sexual behavior, including pictures and verbal descriptions. For example, Kerr's study (as cited in Kerr, 2009) has shown that including a detailed account and gruesome pictures of a heinous crime directly influenced mock jurors' emotions. It was found that males were directly influenced by these pictures due to heightened anger, in that the additional details led to higher conviction rates, while women were less influenced. Interestingly, anecdotal evidence within this research suggested that some participants were more likely to show avoidance behaviors, such as looking away from the photos, which suggests that they may have experienced disgust. Previous research has also shown that women are more disgust sensitive than men (Haidt, McCauley & Rozin, 1994), and the gore pictures used are also likely to trigger disgust (Rozin, Haidt & McCauley 2000). Thus, even though disgust was not directly measured, this research provides initial evidence that anger versus disgust differentially influences our ability to process gruesome evidence.

While arguments about a crime's harmfulness, intentionality or unjustness appeal to the emotion of moral anger, the relatively reasonable nature of moral anger means that it can at least respond to counterarguments; disgust, however, seems not to heed contrary evidence. For example, as shown by the literature on contagion effects, even purification tactics cannot reverse disgust intuitions, it has been found that people are unwilling to drink juice that has come in to contact with a sterilized cockroach, and refuse to wear a sweater that has been worn by someone evil, despite being cleaned by various means (e.g. boiling, burning, deodorizing, etc). Additionally, people admitted that they could not explain their behaviors (Rozin, Millman & Nemeroff, 1986; Nemeroff & Rozin, 1994). Related to this topic, these findings stress just how important it is that jury members avoid media influences during a trial because disgust is often elicited through this information. For example, when newspapers report on sexual crimes cases there are normally a fair amount of comments from individuals expressing their shock and disgust. After all, disgust grabs attention and sells newspapers (or increasingly these days, page clicks).

If there is a situation in which anger and disgust are likely to co-occur, or anger is likely to be the primary emotion, we would recommend focusing on aspects of the case that relate to anger, such as blameworthiness and intent. For instance, in a rape case it would be best to focus on presenting evidence that shows concretely whether or not the sexual behavior was consensual because anger is more likely to focus people's attention on blame and harm. Additionally, it may be beneficial to inform jurors of the potential influence of disgust before the case begins and take them through appropriate training to avoid disgust. So far, we do not have empirical evidence of whether or not this is effective, and what kind of training is necessary, but this is a point for future investigation, since research has shown that highlighting the potential influence of emotions can sometimes backfire depending on how this influence is described (Kerr, 2009). Another option that may be more suitable is to inform judges of the prejudicial influences of disgust, since research has suggested that judges are capable of overriding the prejudicial influences of emotions, showing a form of desensitization to them (Salerno & Bottoms, 2009).

Our overall recommendation based on our findings, and initial research on the role of emotions in legal contexts generally would be that individuals should take care in ensuring that disgust does not slip into the courtroom unnecessarily because once it is present it is likely to hinder fair and just legal judgments.

References

- Alicke, M. D. (2000). Culpable Control and the Psychology of Blame. *Psychological Bulletin*, 126, 556-574.
- Goldberg, J.H., Lerner, J.S., & Tetlock, P.E. (1999). Rage and reason: the psychology of the intuitive prosecutor. *European Journal of Social Psychology*, 29, 781-795.
- Gutierrez, R. & Giner-Sorolla, R. (2007). Anger, disgust, and presumption of harm as reactions to taboo-breaking behaviors. *Emotion*, 7, 853-868.
- Haidt, J. (2003). The moral emotions. In R.J Davidson, K.R. Scherer, & H. H Goldsmith, *Handbook of affective sciences* (pp. 852-870). Oxford: Oxford University Press.
- Haidt, J., McCauley, C., & Rozin, P. (1994). Individual differences in sensitivity to disgust: A scale sampling seven domains of disgust elicitors. *Personality and Individual Differences*, 16, 701-713.
- Horberg, E.J., Oveis, C., Keltner, D. & Cohen, A.B. (2009). Disgust and the moralization of purity. *Journal of Personality and Social Psychology*, 97, 963-976.
- Horvath, M. A. H., & Giner-Sorolla, R. (2007). Below the age of consent: Influences on moral and legal judgements of adult-adolescent sexual relationships. *Journal of Applied Social Psychology*, 37, 2980-3009.
- Kerr. (2009). Explorations in juror emotion and juror judgment. In B.H. Bornstein & R.L. Wiener (eds.). *Emotion and the Law: Psychological Perspectives. 56th Nebraska Symposium on Motivation* (pp. 97-132). Nebraska: University of Nebraska Press.
- Maroney, T. A. (2006). Law and emotion: A proposed taxonomy of an emerging field. *Law and Human Behavior*, 30, 119-142.
- Nemeroff, C. & Rozin, P. (1994). The contagion concept in adult thinking in the United States: Transmission of germs and interpersonal influence. *Ethos*, 22, 158-186.
- Oberman, M. (1994). Turning girls into women: Re-evaluating modern statutory rape law. *The Journal of Criminal Law & Criminology*, 85, 15-79.
- Ortony, A., Clore, G. L., & Collins, A. (1988). *The cognitive structure of emotions*. Cambridge: Cambridge University Press.

- Rozin, P. (2008). Hedonic adaptation: Specific habituation to disgust/ death elicitors as a result of dissecting a cadaver. *Judgment and Decision Making*, 3, 191-194.
- Rozin, P., Haidt, J., & McCauley, C. R. (2000). Disgust. In M. Lewis & J. Haviland (eds.). *Handbook of emotions, second edition* (pp. 637-653). New York: Guilford.
- Rozin, P., Lowery, L., Imada, S., & Haidt, J. (1999). The CAD hypothesis: A mapping between three moral emotions (contempt, anger, disgust) and three moral codes (community, autonomy, divinity). *Journal of Personality and Social Psychology*, 76, 574-586.
- Rozin, P., Millman, L. & Nemeroff, C. (1986). Operation of the laws of sympathetic magic in disgust and other domains. *Journal of Personality and Social Psychology*, 50, 703-712.
- Russell, P.S., & Giner-Sorolla, R. (2011a). Moral anger, but not moral disgust, responds to intentionality. *Emotion*, 11, 233-240 .
- Russell, P.S., & Giner-Sorolla, R. (2011b). Moral anger is more flexible than moral disgust. *Social Psychological and Personality Science*, 2, 360-364.
- Russell, P.S., & Giner-Sorolla, R. (2011c). Social justifications for moral emotions: When reasons for disgust are less elaborated than for anger. *Emotion*, 11, 637-640.
- Salerno, J.M., & Bottoms, B.L. (2009). Emotional evidence and jurors' judgments: the promise of neuroscience for informing psychology and law. *Behavioral Sciences and the Law*, 27, 273-296.
- Schnall, S., Haidt, J., Clore, G.L., & Jordan, A.H. (2008). Disgust as embodied moral judgment. *Personality and Social Psychology Bulletin*, 34, 1096-1109.
- Wheatley, T., & Haidt, J. (2005). Hypnotic disgust makes moral judgments more severe. *Psychological Science*, 16, 780-784.

We asked three trial consultants to comment on this article. On the following pages, Pete Rowland, Tara Trask and Dennis Elias offer their thoughts.

Disgust and Anger: Applicable trial strategy or wishful thinking? Response to Russell and Giner-Sorolla

BY PETE ROWLAND

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The authors draw a potentially useful distinction between two concepts – disgust and anger – that are often used interchangeably. As explained by the authors, this distinction is potentially important in the litigation settings for two reasons.

First, unlike anger, disgust is impervious to rational, evidence-based argument, which makes it much more dangerous to the litigant at whom it is directed. This characteristic is, of course, important to keep in mind when we are evaluating the prospects for some criminal defendants or the potential exposure of a civil defendant.

Second, based on the numerous examples given by the authors – e.g., cannibalism – disgust typically derives from deeply ingrained, widely shared social norms that may be so pervasive as to sometimes make their presence in the jury box unavoidable. Indeed, as the authors point out, many targets of disgust relate to social norms that define a behavior as disgusting *ipso facto* and render the disgusted juror unable to explain *why* the act in question – e.g., incest – is disgusting. (Socrates had great fun with this in Plato's Republic.)

As is often the case with academic research, the weaknesses of the piece relate to external validity in the context of U.S. jury trials. To some degree, external validity problems are inevitable when pen and ink experiments emphasizing internal validity (usually with student subjects) are applied to real-world jury settings. However, they are potentially serious and practitioners must be mindful of them. One need look no further than the Casey Anthony trial for an example of a jury trial in which real-world advocacy and adherence to instructions (that to my knowledge included no reference or caution regarding “disgust”) seem to have overcome disgust-evoking behavior on the part of the defendant.

I believe the most serious external validity problems here can be organized under one of two overlapping limitations – *scope of applicability and applicability of recommendations*.

Scope. To my mind (with the caveat that the vast majority of my experience is in civil cases) the least serious limitation has to do with reminding ourselves that, while many high-profile cases may include disgust-evoking behaviors, most cases, especially civil cases, in the US do not include disgusting behaviors as defined by the authors. By contrast, many cases, civil and criminal, evoke anger and blame as defined by the authors and others. Thus, as practitioners we must be careful not

to confuse the exception with the rule and frame a dispute as a “disgust” case inappropriately.

Recommendations. A second, more serious limitation, has to do with application of the authors’ recommendations to US jury trial settings. An easy example has to do with the authors’ advice that appeals to disgust – e.g., pictures that may trigger disgust – should be avoided. This advice is consistent with their finding that disgust is impervious to rational appeals related to, for example, mitigating circumstances. However, this recommendation has extremely limited applicability in our adversarial setting where one party wants the disgust-evoking material admitted for precisely the same reasons the authors advise us to avoid it. For example, it is hard to imagine a judge excluding evidence of defendant’s disgust-evoking behavior in the Anthony trial. Thus, this recommendation may be more akin to wistful thinking than a realistic trial strategy. And in rare civil disputes with disgust-evoking behaviors at issue, the disgusting behavior is typically at the core of the case and unlikely to be excluded, especially in a case that includes claims for punitive damages.

These external-validity limitations notwithstanding, the authors’ distinctions and findings are important, with immediate applicability for some cases. Moreover and more importantly, as this research program expands it may refine the concept in ways that expand the current boundaries of applicability.

Tort Reform: Morality, Frivolity, Anger and Disgust Response to Russell and Giner-Sorolla

BY TARA TRASK

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I read with great interest “The Dangers of Disgust in the Courtroom” by Pascale Sophie Russell and Roger Giner-Sorolla. As trial consultants, it is our job to do the best we can with the facts we have in any given case. It is always useful – and also a bit disturbing – to learn about particular issues over which we may have little or no influence even employing our best psychological and communication based skills. Facing disgust in the courtroom, according to the authors is one of those areas.

Determining pre-conceived notions and strongly entrenched biases is part of our job in jury selection. Ferreting out biases that may be difficult if not impossible to change is certainly important. The authors make a strong argument for their *unreasoning disgust hypothesis* that “disgust, more so than anger can have an irrational and inflexible influence on our moral judgments”. Additionally, the fact that “disgust is less concerned with current circumstances” and more likely to be activated as a “categorical judgment rather than from evaluations of legally relevant circumstances” is instructive to us as practitioners in the courtroom.

As a consultant who does mostly civil work, I find this research relevant to my everyday practice in a unique way when I consider the places where I have seen “disgust” in play. The issue of what actually constitutes disgust is one of interest to me, as I see potential jurors displaying disgust in interesting arenas, most notably, disgust toward a plaintiff for bringing a “frivolous lawsuit”. I have witnessed many jurors indicating not merely a moral anger at a plaintiff for bringing suit, but moral disgust. The authors’ research is useful. As a practitioner, if I can distinguish between moral anger and moral disgust (and I have seen both on this topic), that is helpful to me. Clearly the authors’ research indicates that one juror might be swayed by reasonable arguments and specifics to a particular case. A juror who demonstrates moral disgust cannot be swayed by reasonable arguments or circumstances specific to that case. That juror will make categorical arguments along the lines of plaintiff morally bankrupt and never move from there.

I think the shifting of the tort reform argument in the media to one of morality is important here and I have seen so many prospective and mock jurors frame the issue of bringing a lawsuit as one of a moral issue that I cannot ignore it as a practitioner. The research undertaken by the authors is important and should be considered not just literally, but also in other contexts.

Br'er Rabbit and Tar Baby *Response to Russell and Giner-Sorolla*

BY DENNIS ELIAS

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“ Br'er Fox went ter wuk en got 'im some tar, en mix it wid some turkentime, en fix up a contrapshun w'at he call a Tar-Baby, en he tuck dish yer Tar-Baby en he sot 'er in de big road, en den he lay off in de bushes fer to see what de news wuz gwine ter be....

“Brer Rabbit keep on axin' 'im, en de Tar-Baby, she keep on sayin' nothin', twel present'y Brer Rabbit draw back wid his fis', he did, en blip he tuck 'er side er de head. Right dar's whar he broke his merlasses jug. His fis' stuck, en he can't pull loose. De tar hilt 'im. But Tar-Baby, she stay still, en Brer Fox, he lay low...

‘Howdy, Br'er Rabbit,’ sez Br'er Fox, sezee. ‘You look sorter stuck up dis mawnin’,’ sezee, en den he rolled on de groun', en laft en laft twel he couldn't laff no mo'. ‘I speck you'll take dinner wid me dis time, Br'er Rabbit. I done laid in some calamus root, en I ain't gwineter take no skuse,’ sez Br'er Fox, sezee.”

From the Tales of Uncle Remus

Disgust is one hot sticky mess. Whether you are Br'er Rabbit or Br'er Fox, should this “tar baby” characterize the emotional moralization response of the jurors to your case, once they swing; you are stuck. Disgust short-circuits reasoning and the mitigating influences of context or situation. You can't argue with revulsion. Disgust is an emotion made to stick. You might like that; it might not depending upon the way disgust splashes on your case facts and theories.

Prior researchers thought that moral judgments were based on higher order cognitive thought processes. This newer view of moral judgment highlights how certain emotions feed into intuitions or predetermined readiness regarding what's right and what's wrong that figure prominently in a moral judgment. Distinct emotions such as anger and disgust, can amplify the importance of different moral domains during moral judgment. This process is known as a moralization.

Russell and Giner-Sorolla, among others, find essential differences between the “other condemning” emotions of anger and disgust as they are expressive of moral disapproval. Anger is driven by contextual factors and environmental cues which influence felt intensity and effects upon behavior and judgment. Conversely, disgust seems devoid of rational or situation specific cognitions which trigger the affect. Like the famed Supreme Court Justice who quipped about pornography, “We (jurors) know what's disgusting when we see/smell/hear/feel it”.

For instance, if an individual appraises a negative event (e.g., child abuse) to be controlled by

other individuals (e.g., parents), she will experience disgust. If, however, she appraises the event to be controlled by the situation (e.g., drug addicted parents), she will still experience revulsion. There are no appraisals that mitigate the revulsion, even if it is understood rationally that this is a deranged situation. There are no reasoned mitigations. Yuck is yuck; it's visceral rather than rational. You can't talk someone out of being revolted.

"The Foundations of Morality": The theory was first developed from a review of thinking about morality and cross-cultural research on virtues (reported in Haidt & Joseph, 2004) and then later defined by Jonathan Haidt and Jesse Graham of the University of Virginia (Social Justice Research, 2007). They suggest that human beings have five natural tendencies, or intuitions, through which they instinctively develop moral values that drive judgments. These intuitions are the same always and everywhere. However people don't necessarily possess them in equal doses. What's more, cultural and other circumstances influence just what kinds of moral values may develop within each of five areas for a given individual.

The Five Foundations:

1. *Harm/care, related to our long evolution as mammals with attachment systems and an ability to feel (and dislike) the pain of others. This foundation underlies virtues of kindness, gentleness, and nurturance.*
2. *Fairness/reciprocity, related to the evolutionary process of reciprocal altruism. This foundation generates ideas of justice, rights, and autonomy.*
3. *In-group/loyalty, related to our long history as tribal creatures able to form shifting coalitions. This foundation underlies virtues of patriotism and self-sacrifice for the group. It is active anytime people feel that it's "one for all, and all for one."*
4. *Authority/respect, shaped by our long primate history of hierarchical social interactions. This foundation underlies virtues of leadership and followership, including deference to legitimate authority and respect for traditions.*
5. *Purity/sanctity, shaped by the psychology of disgust and contamination. This foundation underlies religious notions of striving to live in an elevated, less carnal, nobler way. It underlies the widespread idea that the body is a temple which can be desecrated by immoral activities and contaminants (an idea not unique to religious traditions).*

Link to YourMorals.org for a self rating on the Five Foundations

Cultural and genetic traits have some impact on an individual's expression of the Five Foundations. For example, having a Liberal or Conservative bent seems to determine which of the moral tools are emphasized and how they are applied. People who identified themselves as liberals attached great weight to the two moral systems protective of individuals – those of Harm and Justice. But liberals assigned much less importance to the three moral systems that protect the group, Loyalty, Authority and Purity. Conservatives typically place value on all five moral systems but they assigned less weight than liberals to the moralities protective of individuals.

For a revealing discussion of the moral reasoning difference between Liberals and Conservatives useful for case conception as well as voir dire/jury selection see: Haidt, J., & Graham, J. (2007) "*When morality opposes justice: Conservatives have moral intuitions that liberals may not recognize.*" See also: [TED video, Haidt](#).

Disgust arises as a specific visceral moral evaluation that indicates a violation of Purity, the fifth of the Five Foundations. The kinds of things that arouse disgust are appraisals of contamination, impurity, or potential degradation. Emerging from an ancient protective distaste for the eating or touching things likely to make you sick or die; disgust evolved into an emotion that functions to guard

the body and soul from contamination, impurity and degradation. Disgust is extremely easy to elicit. All you really have to do is to show a picture of a pool of vomit or a zombie eating fresh human flesh and you will see and hear a full-blown disgust reaction from the audience. Just like the flight or flight syndrome (see a wolf and run like hell), the ability to make an adaptive and immediate non-cognitive determination that that something could contaminate you has a lot going for it.

Lakoff has written about embodied cognition and embodied mind theory (Lakoff & Johnson (1980), Lakoff (1987), Lakoff & Turner (1989), Lakoff & Johnson (1999), Lakoff & Nunez 2000), and that the nature of the human mind is largely determined by the form/function of the human body; that all aspects of cognition, such as ideas, thoughts, concepts and categories are shaped by aspects of the body. Visceral aversion evolves to visceral moralization.

Core disgust is revulsion elicited by noxious objects, such as soft body products or offensive odors. Characterized predominantly by unpleasant sensory experiences, core disgust elicitors bear a minimal explicit association with conceptions of morality (good versus bad).

Animal nature disgust is triggered by activities that remind people of their animal origins, such as certain sexual or eating habits. Interpersonal disgust is elicited by the prospect of contact with strangers, evildoers, or diseased persons. Finally, socio-moral disgust is revulsion evoked by people who commit vulgar violations against others, such as child abuse or incest. However elicited, disgust motivates people to reject anything perceived as likely to contaminate the self physically or spiritually or to threaten their status as civilized human beings. In this way, disgust signals the “badness” of impurity and, by extension, the “goodness” of purity.

Implications of Moral Disgust in the Courtroom

Pretrial Jury Research

1. Test the case elements, narrative, facts, relationships, character descriptions of the parties and witnesses for mock juror reactions and characterization consistent with disgust.
2. Listen for metaphors and analogies describing violation of norms of purity. Observe to see if there's any consistency the demographic or values based trends among the jurors in expressing disgust.
3. Experiment with sequencing of disgust features within your case for optimal outcome. Prime disgust by the use of suggestion, metaphors, analogies and framing prior to carrying out the required moral judgment. Olfactory language, metaphors or analogies are particularly powerful. Mitigate the effects of disgust by emphasizing the similarities between the plaintiff/defendant in the jurors.
4. Assess how “same as” or “different from” your client or witnesses are perceived from the prevalent cultural group.
5. Assess whether a behavior was seen as morally right or wrong by looking at the characterizations of the actor's intentions.
6. Assess compensation/punishment by noting the mock jurors' interest in and characterization of outcomes, even if an outcome was accidental. Outcome drives compensation and punishment.
7. Explore with mock jurors, after their verdict and deliberation, which scenarios they imagine may assist them in mitigating the effects of disgust.

Voir Dire/ Jury Selection

1. Use a short juror questionnaire to assess disgust sensitivity. If you can't do that then at least apply the variables below.

2. Demographic variables may be used, as conservatives are, on average, more disgust sensitive as are lower income individuals. The demographic predictions are statistically reliable but caution should be used when inferring disgust sensitivity from any demographics.
3. Listen for language, analogies and metaphors as well as facial expression and nonverbal behavior consistent with disgust.
4. Ask open-ended questions regarding social issues of the day, e.g., illegal immigration, abortion, same-sex marriage, taxes, social programs, labor unions, the U.S. debt limit, etc. depending on the side of your advocacy you may want or not want people who are particularly prone to disgust.
5. Listen for people who claim to be disgusted with lawyers, the legal system, defendants, criminals, or plaintiffs in general, such as implications of greediness or being somehow immoral simply for filing a lawsuit.

Witness Preparation

1. For the plaintiff or criminal defendant: Emphasize the similarities between the individual, their personal, family and cultural practices and values and the members of the jury and their American culture and values.
2. For the civil defendant or prosecution: Emphasize the risk of contagion, chaos and calamity should this foreign, exotic, norm violating, greedy, grasping, dirty, wild, outlaw behavior or individual prevail or profit.

In Trial

1. If you want jurors to judge innocuous actions harshly or you want to drive home the point about 'bad' behavior – use subtly disgusting analogies, metaphors or expressions. You want to tie 'disgust' to the other side. Quietly. Subtly. Let jurors think it was their own reaction.
2. Disgust may not be where you want your jurors to land. An angry juror is more likely to take action to fix the situation.
3. Maybe you do want them to be disgusted. A disgusted juror/jury is more likely to entrench and stay stuck. A disgusted juror is less likely to consider context or circumstances that could mitigate. Consider the quality of the mitigating circumstances.
4. Once disgusted you are not prone to become tolerant. If, on the other hand, your disgust morphs into anger over that disgusting behavior – you are likely primed to act in the deliberation room.
5. Show the jurors that the harm caused was unavoidable or even better was brought on by the irresponsibility of the plaintiff. On the other hand, show the jurors that the pain inflicted on your client was 'intentional', jurors may have a stronger moralizing response to it.
6. Your goal may be to simply light the fire of moral indignation in the minds of the jurors.
 - i. For the plaintiff, you want to answer both aspects of the common juror refrain "it may be legal but it sure isn't right". Show them it isn't right. Show them it isn't legal. Lead them beyond contempt... to disgust.
 - ii. For the defendant, you want to answer both aspects of the common juror refrain "it may be legal but it sure isn't right". Show them that you follow the rules and that this at worst was an accident, but you shouldn't be held responsible for the unforeseeable consequences of what happened to this strange person who was irresponsible themselves. Suits like this hurt everyone, cost everyone money and are part of the defiled and broken system. Anyone who would do something like this is gaming the system and wants to be unjustly enriched. They should never prevail. Help them beyond contempt... to disgust.