

**MOCK JURORS' ATTITUDES
TOWARD ABORIGINAL DEFENDANTS:
A SYMBOLIC RACISM APPROACH**

by

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B.A. (Honors), University of Alberta, 2000

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ABSTRACT

The purposes of this study were to investigate: (1) whether mock jurors would discriminate against an Aboriginal defendant in a criminal murder trial, and (2) whether, if such discrimination was evident, it could be moderated by symbolic racism or jury instructions. A community sample from the British Columbia lower mainland read a trial vignette in which the defendant's race (Aboriginal or Non-Aboriginal) and jury instructions (given or not given) were systematically varied, and rated how guilty they believed the defendant was. No effects on guilt ratings were observed for the defendant's race or jury instructions, but a significant interaction was observed between the defendant's race and scores on 1 of the 2 factors comprising the symbolic racism scale. This finding suggests that future research on juror prejudice against Canadian Aboriginals using more ecologically valid methods is merited, and that symbolic racism theory provides a useful theoretical foundation for such inquiries.

Keywords: Aboriginals, racism, prejudice, Canada

DEDICATION

To Grant,
for believing in me in those (rare?) times I lost faith in myself.

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INTRODUCTION

Canadian courts have recognized that racial prejudice can affect a criminal defendant's right to a fair and impartial tribunal guaranteed by the Canadian Charter of Rights and Freedoms (1982) (*R v. Williams*, 1996; Rose & Ogloff, 2002). In *R. v. Williams* (1996) the Supreme Court of Canada held that, in cases where a realistic potential for racial prejudice against an Aboriginal defendant exists, potential jurors could be questioned about such racial prejudice and excluded from the jury pool if the trial judge determines that he or she will not be able to set aside this prejudice in carrying out the role of trier of fact. Although Canadian courts are increasingly allowing challenges for cause on the grounds of potential racial prejudice (Rose & Ogloff, 2002), the extent to which such prejudice may influence jury decision-making has received very little empirical study.

Race and Jury Decision-Making Research

American Research Prior to 1990

Unlike the Canadian experience, a long line of research developed in the United States prior to 1990 that investigated the impact of defendant's race on the decisions of jurors in criminal trials. Most of this research has used the mock juror paradigm (e.g., Field, 1979; Gleason & Harris, 1975; Gordon, 1990; 1993; Klein & Creech, 1982; Ugwuegbu, 1979), in which participants are exposed to the evidence in a criminal trial (usually by reading a trial summary, but occasionally via audio- or video-tape

presentations of simulated trials) in which the race of the defendant (and sometimes other variables within the trial as well) is manipulated and participants make decisions regarding the guilt/culpability of the defendant. The majority of this work has investigated whether Caucasian mock jurors will discriminate against African American defendants relative to defendants of European descent. These studies were primarily atheoretical, in that they did not make theory-based predictions or utilize extant theories of prejudice or racism to interpret their results.

In a 1994 meta-analysis of 29 studies (most performed prior to 1990) examining the effects of race on mock-juror decisions, Mazzella and Feingold (1994) found no overall main effect of race (African American or Caucasian) on mock jurors' guilt judgments, but that race did interact with several other variables (such as type of crime and various victim characteristics) in influencing guilt judgments. However, in a meta-analysis of 14 studies, Sweeney and Haney (1992) found that the defendant's race (African American or Caucasian) did have a small biasing effect against African American offenders on mock jurors' sentencing decisions. Mitchell, Haw, Pfeifer, & Meissner (2005), in a recent meta-analysis of 34 studies, found a small, but significant negatively biasing effect for the defendant's race, although this effect was strongest when African American participants were judging a Caucasian defendant and when community as opposed to student samples were used.

Modern Racism & American Jury Decision-Making Studies

Theory should play an important role in the study of social behavior. Without a theory as to why psychosocial phenomena occur, only very limited strategies will be available to reduce negative or undesirable behavior. In the context of jury decision-

making studies for instance, if we know only that jurors *do* discriminate against a defendant on legally irrelevant grounds, but we do not understand *why* this is the case, it will be very difficult to remedy juror biases. However, earlier research into the effects of race on jury decision-making generally did not incorporate theories of prejudice into their designs. More recently (i.e., after approximately 1990), several researchers in the US and Canada have used theories of racial prejudice in interpreting the results of their mock juror studies and (to a much lesser extent) have incorporated theoretical approaches to racial prejudice into their experimental designs. One theory that has been particularly dominant in this respect (e.g., Hill & Pfeifer, 1992; Johnson, Whitestone, Jackson, & Gatto, 1995; Pfeifer & Bernstein, 2003; Pfeifer & Ogloff, 1991; 2003; Sommers & Ellsworth, 2000; 2003) is the “modern racism” perspective (McConahay, 1986).

Modern racism and other so called “new racism” theories¹ developed as attempts to explain the empirical findings of several social science researchers that “old-fashioned racism” (characterized by beliefs in the inherent racial superiority of Caucasians over African Americans and open support for public policies of racial segregation) decreased dramatically during the 1970s in America, but that many Americans, although endorsing racial equality as a principle, continued to oppose efforts to increase substantive equality in America such as affirmative action programs (Schuman, Steeh, & Bobo, 1985), and continued to display anti-Black affect in social psychological investigations of prejudice (McConahay, 1986). The new racism theories explain this apparent paradox by arguing that prejudice against African Americans still exists in America, but is expressed in different, subtler forms (McConahay, Hardee, & Batts, 1981).

¹ Other “new racism” theories include “aversive racism”, (Gaertner & Dovidio, 1986), “subtle prejudice” (Pettigrew & Meertens, 1995), “racial ambivalence” (Katz, Wackenhut, & Hass, 1986), and “realistic group conflict” (Bobo, 1988). A review of these theories would be beyond the scope of this thesis.

According to the theory, “modern racists” are characterized by beliefs that: (1) discrimination against African Americans no longer exists, (2) African Americans are pushing too hard and too fast for sociopolitical progress and are using unfair tactics to achieve this progress, and, (3) African Americans are receiving special privileges that they have not earned (McConahay, 1986). The theory holds that modern racists will express egalitarian values when directly asked, but will also harbor negative beliefs and affect toward African Americans. It predicts that modern racists will discriminate against African Americans in contexts where non-racist attributions can be made for what is truly racial discrimination, such as: (1) where there is *ideological ambiguity* (e.g., “I voted against him because he was too liberal, not because he was Black”), (2) where there is *situational ambiguity* (i.e., situations where a non-racial explanation exists for discriminatory behavior), (3) in *unstructured* or *norm-less situations* where there are no anchors for decision-making or appropriate behavior, or, (4) in *situations where race is not particularly salient* (an example of a situation high in racial salience was the O.J. Simpson trial in which race was explicitly made an issue by the defense attorney), and therefore discriminatory decisions are not as obviously race-related (McConahay, 1986). The Modern Racism Scale (MRS; McConahay, Hardee, & Batts, 1981) was specifically designed to measure modern racism, and was also thought, at the time, to be a less reactive measure of racial prejudice than other scales being used for this purpose (McConahay, 1986).

Several researchers investigating racial prejudice in mock juror decision-making have used modern racism as an explanation for their findings. For instance, Pfeifer and Ogloff (1991) found that Caucasian undergraduates acting as mock jurors discriminated

against a African American defendant only when not given judicial instructions that emphasized the need to be free from sympathy or prejudice and explained the meaning of the 'reasonable doubt' standard of guilt. They concluded that modern racism theory could account for their findings in that judicial instructions provided a structure for decision-making and norms for appropriate (i.e., non-discriminatory) behavior.

In a similar study, Hill and Pfeifer (1992) provided four levels of judicial instruction that varied in ambiguity, and found that Caucasian undergraduate mock jurors demonstrated in-group favoritism toward a Caucasian defendant only in the most ambiguous condition. Again, by arguing that unambiguous jury instructions introduced structure and anti-discriminatory norms into mock juror's decision-making processes that were not present in more ambiguous instructions, they also interpreted these results as supporting modern racism theory.

Two other American mock-juror studies have used modern racism as an explanation for their findings. Johnson et al. (1995) found that Caucasian undergraduate mock jurors failed to disregard inadmissible inculpatory evidence (i.e., evidence of guilt) only in the case of an African American defendant (as opposed to a Caucasian defendant), and concluded that these results were consistent with modern racism theory in that the inadmissible evidence provided sufficient situational ambiguity for participants to make discriminatory decisions (i.e., high guilt scores given to the Black defendant could be justified on nonracial bases such as preventing a guilty person from going free). Additionally, Sommers and Ellsworth (2000; 2001) manipulated the salience of race in a series of trial vignettes and found that undergraduates discriminated against an African American defendant only when race was not salient. They also interpreted this finding as

consistent with modern racism theory, as the theory predicts that discriminatory decisions will occur more often in situations where race is not salient (and therefore less obviously race-related) than when race is salient.

Only one published study could be located that incorporated a direct measure of modern racism into a mock juror study (Dean, Holliday-Wayne, Mack, & Thomas, 2000). These researchers administered the Modern Racism Scale (MRS) to a sample of university undergraduates with the prediction that MRS scores would moderate guilt ratings. Specifically, they predicted that participants scoring high on the scale would judge an African American defendant more harshly than a Caucasian defendant, and that participants scoring low on the MRS would not demonstrate this pattern of discrimination. This modern racism hypothesis was not supported. The authors suggested that this was due to the reactivity of the MRS, and that the MRS items have become outdated since they were first introduced in the 1980s (a topic I will discuss further below).

In summary, several mock juror studies have used modern racism as an explanation for experimental results. However, only one study has incorporated a measure of modern racism and made specific predictions based on this measure. This study failed to support modern racism as a predictor of racial discrimination in a mock juror paradigm.

Canadian Research on Race and Jury Decision-Making

Research on the impact of race on mock juror decision-making has a very limited history in Canada. Only three published studies of this kind could be found that were conducted in Canada using Canadian samples (Bagby, Parker, Rector, & Kalemba, 1994;

Bagby & Rector, 1992; Pfeifer & Ogloff, 2003), and only one of these studies investigated whether non-Aboriginal mock jurors would discriminate against defendants of Aboriginal descent (Pfeifer and Ogloff, 2003). These researchers also used modern racism to explain why Caucasian undergraduates at a Saskatchewan university discriminated against defendants of Aboriginal and French ancestry in a mock sexual assault trial only when they were not given jury instructions (again, as was the case in Hill and Pfeifer (1992) and Pfeifer and Ogloff (1991), by arguing that jury instructions provide structure for decision-making). The paucity of research on this issue is surprising given that a good deal of research indicates negative stereotyping of and prejudice against Aboriginals to be quite prevalent in Canada (as discussed below), and that Canadian courts have expressed considerable concern over the impact that racism may have on the rights of Aboriginal defendants to a fair and impartial tribunal (*R v Williams*, 1996, SCC).

Research on Euro-Canadian and Aboriginal Inter-Group Relations

Negative Stereotyping of Aboriginal Canadians

The term “stereotype” is used by social psychologists to describe peoples’ beliefs about social groups. Thus, stereotypes are the cognitive components of inter-group antagonism (Taylor, Peplau, & Sears, 1997). Research conducted on inter-group relations between Canadians of Aboriginal and non-Aboriginal descent in the 1970s and early 1980s focused primarily on the nature of what Haddock et al. (1994) refer to as ‘trait-laden stereotypes’, that is, the trait-based beliefs held about Aboriginals by ethnic majority groups. For example, Kirby and Gardner (1973) asked a sample of Ontario residents to rate their beliefs about Aboriginal Canadians on a series of semantic differential items, and found that non-Aboriginal Canadians, “...tended to perceive

Canadian Indians as poor, ignorant, primitive, dirty, unscientific, stupid, unemotional, dishonest, unpleasant, disloyal, and undependable” (pp. 134-5). Mackie (1974; 1981), in an Alberta community sample, used semantic differential items and an open-ended stereotype elicitation procedure to measure stereotypic beliefs about Aboriginals, and found that “the perception of Indians which emerges is an overwhelmingly negative image of an ostracized group that neither shares the work or success values of the surrounding society nor receives its material rewards. The open-ended descriptions also emphasized their lack of commitment to striving, their poverty, low level of education, and rejection by outsiders” (Mackie, 1981, p. 42). Berry, Kalin and Taylor (1977), in a large-scale national survey, found that ‘less clean’, ‘less wealthy’, and ‘less hardworking’ were the most widely held beliefs held about Canadian Aboriginals. Additionally, Gibbins and Ponting (1977) (using a structured interview) described the most frequently reported belief about Aboriginals (held by 33% of their prairie sample and 17% of their non-prairie sample) to be that Aboriginals have ‘personality deficiencies’ relative to non-Aboriginals, including laziness, lack of initiative, and lack of ambition. Additionally, they found that many non-Aboriginal participants believed that Aboriginal Canadians have only themselves to blame for myriad social problems affecting them. More recent studies (Corenblum & Stephan, 2001; Haddock et al., 1994; Pfeifer & Ogloff, 2003) suggest that the contents of these stereotypes have not changed substantially over the years.

Prejudice against Aboriginal Canadians

Attitudes are the evaluative component of inter-group antagonism and, when negative in nature, these evaluations are called prejudice (Taylor et al., 1997). Research indicates that, as a group, Canadian Aboriginals are evaluated quite poorly compared to

many other ethnic groups. For instance, Esses, Haddock, and Zanna (1993) and Bell, Esses, & Maio (1996) found that undergraduates in Ontario held the most negative attitudes toward Aboriginal, Arab, and Pakistani Canadians out of all ethnic groups discussed, and, in a national telephone survey, Berry and Kalin (1995) found that Aboriginal Canadians were evaluated more poorly than Canadians of European ancestry, but more favorably than Canadians of Asian, Arab, or African descent. Ponting and Gibbins (1980; 1990) concluded that the Canadian majority is sympathetic toward Aboriginal peoples because of the economic and social problems they face, but, at the same time, oppose policies such as Aboriginal self-government and land claims that give Aboriginal groups special status. Langford and Ponting (1992) investigated why the Canadian majority are apathetic toward or oppose policies that assist Aboriginal peoples. In testing a series of structural equation models, they found that a moderate proportion of the variance in attitudes on these issues could be accounted for by prejudice against Aboriginals, conservative economic values, and perceived group conflict, that is, the belief that Aboriginals receive favorable treatment from government that results in a concomitant neglect of non-Aboriginal Canadians' needs.

The Role of Symbolic Beliefs in Predicting Attitudes toward Aboriginal Canadians

More recent scholarship has focused less on describing attitudes toward Aboriginals and more on developing and testing theoretical models of how stereotypes and affect each contribute to predicting overall evaluations toward Aboriginals. Esses and her colleagues, in a series of studies (Donakowski & Esses, 1996; Esses et al., 1993; Haddock et al., 1994), tested a 'multi-component model' of inter-group attitudes toward Aboriginals that theorizes attitudes to be derived from both affective responses toward

and cognitive beliefs about Aboriginals. The model breaks the cognitive component into two subcomponents: (1) trait-laden stereotypes, or beliefs about the traits common to members of the out-group and, (2) “symbolic beliefs”, or beliefs that the out-group threatens values or customs important to the in-group such as the protestant work ethic or individualism. In two separate tests of the model with Ontario undergraduate samples, affect (i.e., feelings about Aboriginals) and symbolic beliefs were independently and moderately predictive of attitudes, but trait-laden stereotypes were not (Esses et al., 1993; Haddock et al., 1994).

Corenblum and Stephan (2001) also tested the extent to which symbolic beliefs predict attitudes toward Aboriginal Canadians in a sample of undergraduates attending a Manitoba university. Similar to Esses et al.’s (1993) conceptualization of symbolic beliefs, they conceptualized “symbolic threats” as “...perceived group differences in worldviews of in-group and out-group members. Relevant dimensions of difference include morals, values, standards, beliefs, and attitudes” (p. 253). In a series of regression analyses, they found that symbolic threats were directly, moderately, and independently related to attitudes.

Summary of Euro-Canadian and Aboriginal Canadian Inter-Group Relations

In summary, the little research that has investigated the attitudes of Euro-Canadians toward Aboriginal Canadians has been conducted primarily in Ontario and the Prairie provinces, and, although somewhat dated, they demonstrate that numerous negative stereotypes about Aboriginals were prevalent in these areas (Berry et al., 1977; Gibbins & Ponting, 1977; Kirby & Gardner, 1973; Mackie, 1974, 1981). Few studies have addressed regional differences in stereotypes and attitudes, but those that have (e.g.,

Gibbins & Ponting, 1977, Ponting, 1990; Ponting & Gibbins, 1980), have found that regional disparities do exist. Unfortunately, their comparisons were only made between the Prairie Provinces and the rest of Canada, and provide little insight into other potential regional differences, such as those in British Columbia.

More recent research has found that attitudes toward Aboriginals are quite negative, as they are consistently evaluated less favorably than members of most other ethnic groups in Canada (Bell et al., 1996; Berry & Kalin, 1995; Esses et al., 1993). Some predictors of these attitudes have been established, including symbolic beliefs/symbolic threats (Corenblum & Stephan, 2001; Esses et al., 1993; Haddock et al., 1994) negative affect toward Aboriginals (Corenblum & Stephan, 2001; Esses et al., 1993; Haddock et al., 1994; Langford & Ponting, 1992) perceived group conflict (Langford & Pointing, 1992), and economic conservatism (Langford & Pointing, 1992). Interestingly, trait-laden stereotypes did not predict attitudes toward Aboriginals in any of the studies that included them as predictor variables.

Symbolic Racism

Recently, researchers and commentators has suggested that, although the MRS was designed as a subtle measure of prejudice and was “modern” at the time of its construction in the mid 1980s, its validity may have waned since then, as items become outdated and anti-racist social norms make most Caucasians wish to appear unprejudiced (Henry & Sears, 2002; Kunda, 1999; Mingetz, 2004). The MRS has failed to predict racist attitudes in several recent studies (e.g., Fazio, Jackson, Dunton, & Williams, 1995; Mingetz, 2004), and correlates modestly with social desirability measures (Mingetz, 2004). As mentioned previously, Dean et al. (2000) postulated this as an explanation for

the MRS's failure to moderate mock jurors' guilt ratings in their research. Kunda (1999), in a review of more recent studies using the MRS (e.g., Devine, 1989; Fazio et. al, 1995), concluded that the MRS no can no longer distinguish between racist and non-racist individuals, primarily because people no longer see the items as subtle and tailor their self-presentation accordingly.

Henry and Sears designed the Symbolic Racism 2000 scale (SR2K; 2002) in part to remedy the validity problems with the MRS by updating MRS items. Symbolic racism theory is conceptually similar to modern racism (Henry & Sears, 2002; Sears & Henry, 2003; Sears & Henry, 2005), and captures four themes similar to the tenets of modern racism: (1) the belief that racism against African Americans no longer exists, (2) the belief African Americans' lack of progress is due to their lack of work ethic, (3) they make excessive demands, and, (4) they have gotten more than they deserve. Symbolic racism is theorized to be a 'blend' of negative affect and conservative values (Henry & Sears, 2002). The 'symbolic' aspect of the theory refers to the notion that prejudice is directed toward African Americans as an 'abstract collectivity' (Sears & Henry, 2003, p. 260) rather than toward individuals, and that it is also rooted in the belief that the out-group violates values and norms that are cherished by the in-group (such as individualism and personal work ethic). Thus, symbolic racism is conceptually both affective and cognitive in nature.

I chose symbolic racism as a theoretical framework in understanding prejudice against Aboriginal Canadians for several reasons. First, it is conceptually very similar to modern racism, a theory that many applied social psychologists are utilizing as an explanatory tool for the findings of their mock jury studies of racial discrimination.

However, the SR2K has updated items that are thought to be less reactive than those on the MRS (Henry & Sears, 2002), and therefore addresses the numerous criticisms of the MRS as being outdated.

Second, its symbolic nature is related to several theories and empirical findings regarding non-Aboriginal Canadians' attitudes toward Aboriginal Canadians. As Corenblum and Stephan (2001) note, their concept of symbolic threat is closely related to symbolic racism. Both constructs focus on the affective and cognitive response of in-groups when the out-group is perceived to violate norms and values cherished by the in-group. Indeed, these authors concluded that their results, "...strongly support theories of symbolic racism" (p. 262). Esses and her colleagues also describe similarities between their concept of symbolic beliefs and symbolic racism, although they distinguish symbolic beliefs from symbolic racism on the basis that symbolic beliefs are purely cognitive in nature (Esses et al., 1993), while symbolic racism is theorized to capture both cognitive and affective components of inter-group antagonism (Sears & Henry, 2003; 2005). Additionally, the symbolic racism construct encapsulates some of the extant negative stereotypes toward Canadian Aboriginals that researchers such as Langford and Ponting (1992), Mackie (1974), and Gibbins and Ponting (1977) have reported (e.g., that they do not share the work or success values held by most Canadians and that they lack ambition). Furthermore, it is purported to capture conservative values, which Langford and Ponting (1992) found predicted negative attitudes toward Aboriginals.

Third, Henry and Sears (2002) themselves suggest that measures of "explicit prejudice" (i.e., measures that reflect deliberate conscious thought, as opposed to implicit

measures that tap unconscious reactions (Dovidio, Kawakami, & Beach, 2001)) such as the SR2K may predict deliberative decisions such as jury verdicts.

Overview of Design & Hypotheses

The primary purpose of this study was to investigate whether potential jurors would discriminate against an Aboriginal defendant in a fabricated vignette that provided evidence in a criminal murder trial. Secondary purposes were to determine whether, if such discrimination was evident, it could be: (1) moderated by the construct of symbolic racism² and, (2) reduced by providing jury instructions. To this end, participants read criminal case vignettes in which the race of the defendant and jury instructions were manipulated, and rated the guilt of the accused on 7-point Likert-type and dichotomous (guilty/not guilty) scales. A community sample was chosen over an undergraduate sample because sampling from a community population would produce a group of participants more similar to jury members. In summary, the study was a 2 (race of defendant: Aboriginal versus Euro-Canadian) x 2 (jury instructions: given versus not given), “experimental personality design” (West, Aiken & Krull, 1996) with symbolic racism scores serving as a non-manipulated individual difference predictor.

It was hypothesized that Aboriginal defendants would receive higher guilt ratings and be found guilty more often than Euro-Canadian defendants (i.e., a main effect for the race of defendant manipulation). Additionally, it was predicted that symbolic racism scores would moderate any observed discrimination against the Aboriginal defendant (i.e., a defendant’s race x symbolic racism interaction). Specifically, participants higher

² A moderational rather than mediational prediction was made because symbolic racism is conceptualized as an individual difference construct.

in symbolic racism were expected to discriminate against an Aboriginal defendant by finding him guiltier than the Euro-Canadian defendant, while those lower in symbolic racism were expected to find the Aboriginal and Euro-Canadian defendant guilty to approximately the same degree. Finally, based on the work of Hill and Pfeifer (1992) and Pfeifer and Ogloff (1991, 2003), it was predicted that prejudice against an Aboriginal defendant would be reduced by jury instructions (a defendant's race x jury instructions interaction).

METHOD

Participants

Ninety-nine Canadian citizens of jury-eligible age (56 women and 43 men) were recruited from a shopping mall in the Greater Vancouver area, and were given a small monetary remuneration for participating. Participants ranged from 19 to 86 years of age ($M = 38.8$, $Med = 37$, $SD = 16.8$), and the age distribution was positively skewed. As a proxy measure of ethnicity, participants were asked what languages they spoke at home. The vast majority of participants ($n = 92$) reported English to be the only language they spoke at home, while 3 participants spoke English plus an additional language at home, and 4 participants spoke only a language other than English at home. No participants reported speaking a First Nations language at home.

Materials, Measures, & Procedure

Participants read a vignette (of approximately 500 words, depending on the experimental condition) describing evidence in a murder case in which the defendant was charged with the first-degree murder of his sister's boyfriend. The race of the defendant and jury instructions were manipulated within this vignette, while all other information was held constant across conditions. Participants were randomly assigned to the race and jury instruction conditions. Information was presented in a witness-by-witness format, and the order of this information was also held constant across experimental conditions (see Appendix A for a copy of this vignette). A female research assistant gave each

participant a testing booklet that contained the materials for this study plus a series of vignettes and related questions for another, unrelated study (investigating lay peoples' understanding of social science research relevant to the law). Participants were told that the materials in the testing booklet were for several different research projects.

Evidence

Attempts were made to present evidence that was ambiguous in nature, i.e., that could reasonably support the accused's guilt or innocence. In the vignette, the investigating police officer testified that a racquetball racquet had been found in the home of the accused five days after the murder, that the shape and size of this racquet was consistent with the victim's wounds, and that the accused's fingerprints and microscopic samples of the victim's skin were found on it. The purpose of the remainder of the vignette was to provide realistic detail about the crime and some extremely weak circumstantial evidence (including motive) without swaying the evidence for or against the accused. Attempts were made to control the general likeability of the defendant and the race of the victim was not mentioned. All of this non-manipulated information was kept constant across conditions. A copy of this vignette is provided in Appendix A.

The ambiguity of the evidence was checked in a pilot sample of 15 undergraduate students (9 females, 6 males; aged 19-36, mean age = 22.4 years, $SD = 4.3$ years) who were asked to rate the strength of the evidence against the accused on a 7-point Likert-type scale ranging from 1 (very weak) to 7 (very strong). The mean strength of evidence rating was 4.2 ($SD = 1.4$), with a the 95% confidence interval ranging from 3.5 to 4.9, suggesting that the evidence was indeed ambiguous. Additionally, to confirm the ambiguity of the evidence in the research sample, participants also rated the strength of

the evidence against the accused using this same item and scale. This item was placed immediately after the dependent measures in attempts to reduce its influence on responses to the dependent measures.

Race Manipulation & Manipulation Check

To manipulate the race of the defendant, approximately half the sample (i.e., those in the Euro-Canadian defendant condition) read about a defendant named “Bob Campbell,” who was described as being of European descent and as, “a janitor in an office building”. The other half of the sample (i.e., participants in the Aboriginal condition) read about a defendant named “Jim Cardinal,” who was described as being of Aboriginal descent, and as an, “janitor in the office building of his Native Band Council.” The effectiveness of this manipulation was checked by asking participants to choose the defendant’s race from among four options provided in a multiple-choice response format (choosing from among Caucasian/White, Asian, Aboriginal/First Nations, or African Canadian).

Attention/Comprehension Check

Participants were also asked what the victim’s name was. The purpose of this items was twofold: (1) it was a distracter item to reduce participants’ suspicions that the defendant’s race was the primary variable of interest, and, (2) to determine whether participants were attending to and comprehending the information in the vignette. Participants also answered this question in a multiple-choice response format, and could choose one of three enumerated options. These manipulation check and attention/comprehension check items were both placed after the dependent measures so

as not to influence participants' responses to the dependent measures. A copy of the race manipulation check item and the attention/comprehension check item are provided in Appendix A.

Judicial Instruction Manipulation

To manipulate judicial instructions, half the vignettes concluded with abbreviated versions of standard reasonable doubt instructions, adapted from the Canadian Criminal Jury Instructions (CRIMJI; Ferguson & Bouck, 2002). These jury instructions explained the need to examine evidence without sympathy or prejudice and the burden and standard of proof. A copy of these instructions is provided in Appendix B.

Symbolic Racism Measure

A modified version of the Symbolic Racism Scale 2000 (SR2K; Henry & Sears, 2002) was used to measure symbolic racism. The unmodified SR2K was originally designed as a 16-item scale using a 4-point Likert-type response format. SR2K items are balanced for the direction that indicates negative attitudes, and higher total scores indicate more negative attitudes. In keeping with the four theoretical domains of symbolic racism (described in the introductory section), the scale is purported to measure four different aspects/themes of symbolic racism including: (1) work ethic and responsibility for outcomes, (2) excessive demands, (3) denial of continuing discrimination, and, (4) undeserved advantage. Based on the psychometric properties of the 16 items in their normative data, Henry & Sears (2002) recommended excluding 8 of the 16 items and using an 8-item scale as the final measure, with this abbreviated version also containing items from all four theoretical aspects of symbolic racism.

The original SR2K has been administered in both large university undergraduate and community normative samples in the United States, and has demonstrated good psychometric properties when used to measure attitudes towards African Americans. For instance, Henry and Sears (2002) reported internal consistency reliabilities of .77 and .78 in two randomly selected community samples of Caucasian respondents, and three exploratory factor analyses have produced two single-factor solutions and one highly correlated two-factor solution ($r = .49$; Henry & Sears, 2002). Part-whole correlations ranged from .26 to .68 and were quite stable across these samples. Also, the SR2K strongly predicted racial policy preferences such as support for affirmative action policies and support for a fictitious African American political candidate (Henry & Sears, 2002).

The original 8-item scale was modified in this study to measure symbolic racism against Aboriginals by replacing the term “Black” with “Aboriginal” and by adding two additional, non-scored items³ so the scale fit better into the overall data collection protocol. A copy of the modified version of this scale is in Appendix C. To encourage honest responding, participants were assured that responses would be kept confidential and completely anonymous, and testing conditions were kept as private as possible (that is, materials were completed away from the researchers and participants were asked to refrain from conversing with other people while completing them).

Dependent Measures & Procedure

Participants in all conditions first read the vignette. They were then asked to rate how guilty they believed the defendant to be on a Likert-type rating scale ranging from 1

³ The two non-scoring items were: “there are times when a trial judge should take an offender’s Aboriginal status into account when making sentencing decisions” and “the over-representation of Aboriginals in prisons is a major social problem in Canada today.”

(not guilty) to 7 (extremely guilty), and then whether they would convict this person of murder (yes/no). They then completed the manipulation and attention/comprehension check items. They then completed the SR2K (Modified) approximately one third of the way through the entire research protocol (so the SR2K (Modified) would not influence responses on the dependent variables).

RESULTS

Manipulation and Data Checks

Race Manipulation Check

To check the effectiveness of the race manipulation, participants were asked to identify the race of the defendant from among four possible choices (Caucasian/White, Asian, Aboriginal/First Nations, or African-Canadian). Ninety-two participants (92.9% of the sample) correctly identified the race of the target defendant from the other three options. Four participants (4% of the sample) answered the manipulation check incorrectly and their data were therefore excluded from hypothesis tests. Three participants (3% of the sample) did not respond to this item. Their data were included in hypothesis tests. These errors were evenly spread across experimental conditions.

Check on the Ambiguity of Evidence

To ensure that the evidence against the accused was perceived to be ambiguous, i.e., that it could reasonably support guilt or innocence, participants were asked to rate the strength of the evidence against the accused on a 7-pt Likert-type scale ranging from 1 (very weak) to 7 (very strong). Responses on this scale were normally distributed, with a mean in the overall research sample of 4.1 ($SD = 1.8$; 95% confidence interval ranged from 3.8 to 4.5), indicating that the evidence was indeed perceived to be ambiguous.

Attention/Comprehension Check

Ninety-four participants (94.9% of the sample) correctly identified the name of the victim from amongst three available choices, indicating that the vast majority of participants were attending to and comprehending the information in the vignette. Only two participants answered this question incorrectly, and these two participants also answered the race manipulation check item incorrectly. Their data were therefore excluded from hypothesis tests. Three participants did not respond to this item. Their data were included in hypothesis tests.

Psychometric Properties of the SR2K (Modified)

Normative Sample

Because the SR2K (Modified) was modified for this study, was used to measure symbolic racism directed against a target group for which it was not originally designed, and was used in a different cultural milieu than those represented in the original SR2K normative groups, the internal structure and psychometric properties of the SR2K (Modified) were calculated using data from a normative sample of 365 additional participants from two additional shopping malls in the British Columbia lower mainland involved in another study (investigating lay peoples' understanding of social science evidence relevant to the law). The two samples (i.e., the non-research, normative sample of 365 participants and the research sample of 99 participants) were highly similar in terms of age, gender, and primary language spoken, as shown in Table 1, below.

Table 1: Demographic comparisons of SR2K (Modified) normative and research samples.

	Age		Gender		% speaking only English at home
	Range	<i>M (SD)</i>	% male	% female	
Research sample (<i>n</i> =99)	19 - 86	38.8 (16.8)	43.4	56.6	92.9
Non-research sample (<i>n</i> =362)	19 - 87	38.2 (16.1)	46.2	53.8	82.0

Treatment of Missing Data

Three hundred and thirty seven (92.3%) of the 365 participants in the SR2K normative sample had complete data on the SR2K (Modified) scale, while 28 (7.7%) were missing data on at least 1 item. Profiles of missing data were created for each of these 28 participants and no patterns in missing data were apparent (that is, data appeared to be missing randomly). Stepwise regression models⁴ were generated to impute the missing values for the 25 (6.8%) participants who were missing data on only 1 item on the scale. Participants who were missing more than one item on the scale (*n* = 3) were not included in the following psychometric analyses of the SR2K (Modified), leaving a total non-research normative sample of *N* = 362.

⁴ Adjusted R^2 values for these stepwise regression models ranged from .15 to .37, and all provided incremental predictive accuracy over using the mean as a replacement value.

Exploratory Factor Analysis

A principal components analysis was conducted on item data from the normative sample to determine whether the internal structure of the SR2K (Modified) was consistent with either the single factor solutions or the highly correlated two-factor solution found by its authors in their exploratory analysis of their normative sample data (Henry & Sears, 2002).

The sample covariance matrix was subjected to principal axis factoring (PAF), and two factors were extracted⁵ based on the “minimum eigenvalue of one” criterion (Kaiser, 1970). The first factor (eigenvalue = 2.5) accounted for 35.3% of the variance at extraction and the second factor (eigenvalue = 1.0), accounted for 14.1% of the variance at extraction. To make the extracted solution more interpretable, it was rotated both orthogonally (using a Varimax rotation) and obliquely (using an Oblimin rotation with delta set at 0). Because the observed correlation between the two factors was .45 and it provided the simplest structure (i.e., it was the solution that had the lowest number of cross-loadings), the oblique rotation was deemed most interpretable. Table 2 presents the factor loadings (from the pattern matrix) and communality estimates for variables in the Oblimin two-factor solution. As an interpretive aid, a description of the aspect of symbolic racism each item is thought to tap is included in Table 2 as well.

⁵ Maximum likelihood and generalized least squares extractions were also performed, but PAF resulted in the most interpretable solution (i.e., the solution with the simplest structure of factor loadings). Additionally, as Henry and Sears (2002) used PAF in factor analyzing their normative data, PAF was preferred to increase comparability of results.

Table 2: Factor loadings and communalities for oblimin two-factor solution for the SR2K (Modified) (N=362).

Item	Factor Loadings		Communality
	Factor I ($\lambda = 2.7$)	Factor II ($\lambda = 1.0$)	
1. It is really a matter of some people not trying hard enough; if Aboriginals would only try harder they could be just as well off as everyone else (<i>work ethic theme</i>)	.73		.53
2. Many other minorities overcame prejudice and worked their way up; Aboriginals should do the same (<i>work ethic theme</i>)	.82		.57
3. Aboriginal leaders have been trying to push too fast in terms of their progress (<i>excessive demands theme</i>)	.45		.22
4. Discrimination against Aboriginals is no longer a problem (<i>denial of continuing discrimination theme</i>)	.25	.21	.16
5. Over the past few years, Aboriginals have gotten less than they deserve* (<i>undeserved advantage theme</i>)	.24	.41	.31
6. The little discrimination against Aboriginals in Canada today should not limit their chances to get ahead (<i>denial of continuing discrimination theme</i>)	.47		.25
7. Over the past few years, Aboriginals have received more economically than they deserve (<i>undeserved advantage theme</i>)	.55	.21	.45
8. Generations of discrimination have created conditions that make it difficult for Aboriginals to work their way out of the lower socioeconomic group* (<i>denial of continuing discrimination theme</i>)		.63	.36

Note. λ = eigenvalue; * = reverse scored item. Loadings greater than .40 are in boldface and loadings less than .10 are omitted. The correlation between factors was .45.

Following the recommendations of Tabachnick and Fidell (1996), loadings of .40 or greater were interpreted. Five of the eight items (i.e., items 1, 2, 3, 6, and 7) loaded higher than .40 on Factor I alone, item 4 did not load well on either factor, while items 5 and 8 loaded solidly on Factor II. Factor interpretation will be discussed further in the discussion section.

Descriptive Statistics and Psychometric Properties for the SR2K (Modified)

Scores on the eight SR2K (Modified) items were summed together to create a single unweighted composite score with a potential range of 8 to 32. In the normative sample of 362 participants, composite scores were normally distributed, and ranged from 8 to 32, with a mean of 20.2 (*median* = 20.0, *SD* = 4.4). Scale reliability was estimated using Cronbach's alpha, which was .76 for the entire normative sample, indicating good reliability (Robinson, Shaver, & Wrightsman, 1991; Nunnally, 1978). Inter-item correlations ranged from .05 to .48, with an average inter-item correlation of .25. Corrected part-whole correlations ranged from .34 to .56. In the research sample ($n = 99$) composite scores were reasonably normally distributed, and ranged from 8 to 30 with a mean of 19.2 (*median* = 19.0, *SD* = 5.3). Cronbach's alpha within this sample was .80, indicating good reliability (Robinson, Shaver, & Wrightsman, 1991; Nunnally, 1978).

Overall, all these psychometric indices suggested that the psychometric properties of the SR2K (Modified) are similar to those reported by Henry and Sears (2002) in their normative samples. In 2 of 3 normative samples, the authors of the SR2K found a one factor solution when using principal axis factoring and, in the other normative sample they found a two factor solution with a correlation between the factors of $r = .49$. Similar results to Henry and Sears' two-factor solution were found in the current sample.

However, because Factor II only had an eigenvalue of 1.0 and only two items loaded on it, it was difficult to determine whether a one or two-factor solution should be preferred (i.e., whether Factor II was reliable).

Descriptive statistics, item inter-correlations, and item-total correlations for the seven retained SR2K (Modified) items are presented for both the larger normative sample of 362 and the research sample of 99 in Appendix D. Overall, the means and standard deviations of the research sample were very similar to those of the overall normative sample.

Tests of a Priori Hypotheses

Continuous Guilt Ratings

Data from four participants who answered the race manipulation check incorrectly were excluded from hypothesis tests. Additionally, three participants did not provide a rating on the 7-pt guilt dependent variable. Thus, data from 92 participants were included in these analyses. Guilt ratings approximated a normal distribution within all experimental conditions, with some small deviations from normality in some conditions (a finding to be expected in smaller samples), and ranged from 1 to 7 with a mean rating of 4.1 ($SD = 1.6$).

Because one of the independent variables (the SR2K Modified) was continuous in nature, and several problems are associated with categorizing inherently continuous data such as a loss of statistical power (Cohen, 1983), potential for spurious statistical significance (Maxwell & Delany, 1993), and difficulty comparing results across studies (Pedhazur, 1997), a moderated multiple regression technique (MMR; Cohen, Cohen, West, & Aiken, 2003; West et al., 1996) was used to test hypotheses on continuous guilt

ratings. SR2K (Modified) scores were centered and the dichotomous manipulated variables (i.e., defendant's race and jury instructions) were coded using ANOVA effect coding. Because unequal cell sizes in the design were products of procedural irregularities (i.e., loss of participants due to incorrect manipulation check responses and missing responses on the dependent variable) rather than representing actual proportions in the larger population, unweighted effect coding and Type III sum of squares were used, as recommended by Pedhazur (1997) and West, Aiken, and Krull (1996).

In a procedure analogous to a complete factorial ANOVA, all independent variables and their possible interactions were simultaneously entered as predictors into a multiple regression equation predicting guilt ratings. The omnibus test of the model was not statistically significant, $R^2 = .03$ ($SE = 1.6$), $F(7, 84) = .36$, $p = .92$. Furthermore, none of the hypothesized effects were statistically significant. Results of this analysis are presented in Table 3, below.

Table 3: Results of MMR analysis for independent variables predicting guilt ratings ($n = 92$).

Predictor	<i>b</i>	SE_b	<i>t</i>	<i>p</i>
Defendant's race (D)	.07	.18	.4	.7
Jury instructions (I)	.07	.18	.4	.7
SR2K (Modified) (SR)	.02	.04	.5	.6
D x I	.07	.18	.4	.7
D x SR	-.01	.04	.1	.9
I x SR	.02	.04	.6	.6
D x I x SR	.06	.04	1.4	.2

Note. Hypothesized effects are in boldface.

Dichotomous Conviction Ratings

In addition to the four participants who answered the race manipulation check item incorrectly, four participants did not respond to the dichotomous conviction variable. Thus, data from the remaining 91 participants were included in these analyses. The base rate of conviction was 30.8% (i.e., 28 of the 91 participants indicated they would convict the defendant). A direct binary logistic regression was performed in which all independent variables were dummy coded and, along with all their possible interactions, were simultaneously entered as predictors into a logistic regression equation predicting convictions. A test of the full model against a constant-only model was not statistically significant, $\chi^2 (7, N = 91) = 1.14, p = .99$, suggesting that as a set, the predictors could not differentiate convictions from not guilty verdicts. Furthermore, none of the predicted main effects or interactions were statistically significant. Results of this analysis are presented in Table 4, below.

Table 4: Direct binary logistic regression predicting convictions ($n = 92$).

Predictor	b	SE_b	Wald Statistic (p)
Defendant's race (D)	-1.03	2.58	.16 (.69)
Jury instructions (I)	.72	2.55	.08 (.78)
SR2K (Modified) (SR)	.01	.11	.01 (.93)
D x I	.92	3.78	.06 (.81)
D x SR	.04	.14	.08 (.78)
I x SR	-.06	.14	.15 (.70)
D x I x SR	-.02	.22	.01 (.66)

Note. Hypothesized effects are in boldface.

Hypothesis Testing using SR2K (Modified) 2-Factor Model

Because the factor analysis of the SR2K (Modified) suggested the instrument was composed of two highly correlated factors, hypothesis tests were also performed using these separate factors. To this end, scores on items loading primarily on Factor I (i.e., items 1, 2, 3, 4, 6, and 7) were summed together to form a “Factor I” composite score, while scores on items loading primarily on Factor II (i.e., items 5 and 8) were summed together to form a “Factor II” composite score.

Continuous Guilt Ratings

MMR was again used to predict 7-point guilt ratings. This time, two separate regression equations were estimated, using Factor I and Factor II of the SR2K (Modified), respectively, along with other independent variables and their interactions. The results of these analyses are presented in Table 5, below.

Table 5: Separate MMR analysis predicting guilt ratings ($n = 92$) using SR2K (Modified) Factor I and Factor II composite scores.

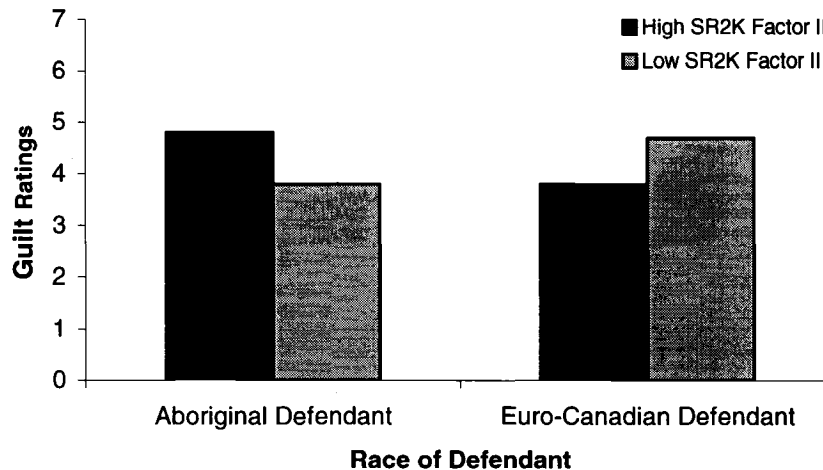
Predictor	Using SR2K (Modified) Factor I Composite Score				Using SR2K (Modified) Factor II Composite Score			
	<i>b</i>	<i>SE_b</i>	<i>t</i>	<i>p</i>	<i>b</i>	<i>SE_b</i>	<i>t</i>	<i>p</i>
Defendant's race (D)	.08	.18	.44	.66	.04	.17	.24	.81
Jury instructions (I)	.08	.18	.48	.63	.07	.17	.38	.71
SR2K (Modified) (SR)	.02	.05	.52	.59	.09	.13	.70	.49
D x I	.06	.18	.35	.73	.13	.17	.78	.44
D x SR	.01	.05	.32	.75	.30	.13	2.3	.02
I x SR	-.02	.05	-.51	.61	.17	.13	1.3	.18
D x I x SR	.06	.05	1.31	.19	.26	.13	2.0	.05

Note. Hypothesized effects are in boldface.

None of the main or interaction effects were significant when only Factor I of the SR2K (Modified) was included in the regression equation. However, when Factor II of the SR2K (Modified) was used, the defendant race x SR2K (Modified) interaction was statistically significant ($b = .30$; $t = 2.3$, $p < .05$, $f^2 = .03$). This interaction appears to be qualified by a significant three-way interaction between the defendant's race, symbolic racism scores, and jury instructions ($b = .26$, $t = 2.0$, $p = .05$).

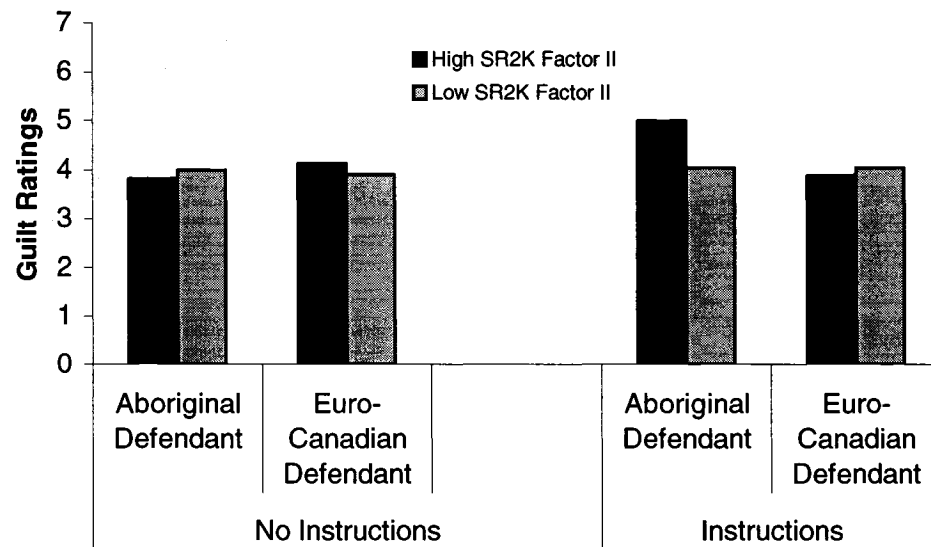
To interpret the defendant race x SR2K (Modified) interaction, procedures provided by Aiken and West (1991) were followed. Specifically, the race of the defendant was dummy coded (with "Euro-Canadian" coded as "0" and "Aboriginal" coded as "1"). SR2K (Modified) Factor II composite scores were centered and two separate regression equations were estimated. One equation represented "high" scores on SR2K (Modified) Factor II composite scores (i.e., scores one standard deviation above the mean) while the other represented "low" scores (i.e., scores one standard deviation below the mean). This approach allowed for testing of the effect of defendant's race manipulation (i.e., the simple slopes) among participants scoring high and low on Factor II composite scores (and is therefore analogous to simple effects tests in factorial analyses of variance). Figure 1, below, presents a plot of mean guilt ratings for participants scoring high and low in symbolic racism by the two race conditions. The defendant race effect (i.e., simple slope) was not statistically significant for participants scoring higher ($b = -.15$, $SE_b = .13$, $t = 1.1$, $p = .27$) or lower ($b = -.16$, $SE_b = .13$, $t = 1.4$, $p = .21$) on the SR2K (Modified) Factor II composite.

Figure 1: Interaction effect of defendant's race and SR2K (Modified) Factor II composite scores on guilt ratings.



Due to the highly complex nature of using Aiken and West's (1999) post-hoc MMR procedures to probe the three-way interaction between the defendant's race, SR2K (Modified) Factor II composite scores and jury instructions, a plot of this interaction was approximated using median splits of SR2K (Modified) scores. When these median splits were performed, the number of participants in each condition ranged from a low of 4 (in the Aboriginal defendant/high SR2K (Modified) Factor II composite score/instructions-provided condition) to a high of 19 (in the Aboriginal defendant/low SR2K (Modified) Factor II composite score/instructions-provided condition). This plot is presented in Figure 2, below.

Figure 2: Interaction effect of defendant's race, SR2K (Modified) Factor II composite scores, and jury instructions on guilt ratings.



Dichotomous Conviction Ratings

To determine whether predictions regarding conviction ratings would be supporting when the SR2K (Modified) was divided into Factor I and Factor II composite scores, two direct binary logistic regression equations were estimated in which all independent variables were dummy coded and, along with all their possible interactions, were simultaneously entered as predictors into a logistic regression equation predicting convictions. Tests of both of these full models against constant-only models were not statistically significant, $ps = .96$ and $.94$ for Factor I and II composite scores, respectively. Furthermore, none of the coefficients associated with the hypothesized effects (i.e., Wald statistics) were statistically significant.

DISCUSSION

Evaluation of Hypotheses

Hypothesis 1: Discrimination against the Aboriginal Defendant

The primary goal of this study was to determine, using a mock-jury paradigm, whether non-Aboriginal members of the general community in the lower mainland of British Columbia would discriminate against a criminal defendant of Aboriginal descent relative to a defendant of European decent. Decades of work on the part of social psychologists such as Bell et al. (1996), Corenblum and Stephan (2001), Haddock et al. (1994), Esses et al. (1993), and sociologists such as Mackie (1974; 1981) and Gibbins and Ponting (1986; 1990) have clearly established that stereotyping of and prejudice against Aboriginal peoples has been and still is apparent in Canadian society, particularly in the Prairie region (i.e., Alberta, Manitoba, and Saskatchewan). Although few studies of this nature have been done in British Columbia specifically, it was expected on the basis of this prior research that discrimination against an Aboriginal defendant would be apparent in this study. However, statistical testing failed to support this hypothesis using both continuous ratings of guilt and convictions as dependent measures.

There are several possible explanations for a failure to find this effect. First, it is possible that any main effect for the defendant's race was completely qualified by its crossover interaction with symbolic racism. This explanation hinges on the reliability of the interaction effect, in particular, whether the Factor II composite score on the SR2K

(Modified) is actually measuring symbolic racism. The nature of this interaction and its reliability will be discussed further below.

Second, it is possible that the attitudes of non-Aboriginal Canadians in British Columbia's lower mainland are not as negative toward Canadians of Aboriginal descent as are those of other non-Aboriginal Canadians in other regions of Canada, and, therefore, that this population will not discriminate against Aboriginal defendants when given the opportunity to do so in the context of a mock-juror study. As previously mentioned, none of the studies I reviewed specifically investigated the attitudes of British Columbians. Most studies of this nature took place in the Prairie region (e.g., Corenblum & Stephan, 2001; Mackie, 1974; 1981; Ponting & Gibbins, 1986; 1990), or in Ontario (e.g., Bell et al., 1996; Esses et al., 1993; Haddock et al., 1994; Kirby & Gardner, 1973). Berry and Kalin (1995) and Berry et al. (1977) did report results of a national survey, but only discussed regional differences between Quebec and the rest of Canada. Gibbins and Ponting (1977) found that attitudes toward Aboriginals were more negative in the Prairie region than the rest of Canada as a whole, but also aggregated results from the rest of the country and made no mention of British Columbia specifically.

Third, the race manipulation may have been too strong and reactive. Participants were specifically informed in the vignette that the defendant was of either Aboriginal or European descent, and, in the Aboriginal defendant conditions, participants were also told that he "works as a janitor in the office building of his native band council" (while those in the Euro-Canadian defendant conditions were told he "worked in an office building"). Thus, some participants may have realized that race was a variable of interest and modified their responses in a desire to appear non-prejudiced (particularly in the

Aboriginal conditions). This sensitivity to the race manipulation may have been particularly acute in British Columbia, where recent high-profile treaty negotiations have engaged the media and regional politicians in the province in a debate over Aboriginal rights (Rossiter & Wood, 2005).

Fourth, and related to the both the strength of the manipulation and the attitudes of British Columbians, people in the lower mainland may be generally more motivated to control their prejudices than residents of other areas in Canada (such as the Prairie Region). Both Devine and her colleagues (Devine, Plant, Amodio, Harmon-Jones, & Vance, 2002; Plant, Devine, & Brazy, 2003; Plant & Devine, 1998) and Dunton and Fazio (1997) have studied the concept of motivation to control prejudice (MCP). These researchers conceptualize MCP as a particular form of social desirability, and believe it to be an individual difference construct. Furthermore, they theorize that MCP can have *external sources*, that is, social pressures to appear non-prejudiced and “politically correct,” or *internal sources*, which Dunton and Fazio eloquently describe as, “...emanating from a sincere distaste for any negative reaction that was automatically evoked upon encountering a Black individual” (1995, p. 317). Both groups of researchers have found that MCP can moderate expressions of explicit racism. British Columbia’s lower mainland (particularly the Greater Vancouver Regional District) has a reputation for being “liberal” in socio-political orientation, and it is certainly possible that many residents of this area feel the need to inhibit any expressions of racial animosity they may feel.

Finally, there is the possibility that there was insufficient statistical power to find effects in the research sample that are, in reality, present in the larger population. In the

case of the continuous guilt ratings in this sample, an argument can be made that the inability to find an effect was not due to lack of statistical power. Although it is very difficult to calculate the power of statistical tests in a MMR analysis (Aiken & West, 1991), the standard errors associated with the effects were quite small, suggesting that the test was reasonably powerful. This same argument cannot be made with respect to the statistical testing of the dichotomous conviction variable, however. The standard errors in this analysis were quite large. As Aldrich and Nelson (1984) point out, larger samples are required in testing logistic regression coefficients than for linear regression coefficients.

Hypothesis 2: Race and Symbolic Racism would Interact

The second hypothesis in this study was that the race of the defendant and symbolic racism would interact in predicting participants' guilt ratings and verdicts. Specifically, it was expected that participants scoring higher on symbolic racism against Aboriginals would discriminate against an Aboriginal defendant to a greater extent than participants scoring lower on the measure. This hypothesis was based on research showing that theories highly similar to symbolic racism predict Canadians' attitudes toward Aboriginals, including Corenblum and Stephan's symbolic threat theory (2001) and Esses et al.'s symbolic beliefs (1993). Also, symbolic racism, as a measure of explicit prejudice, is more likely to predict deliberative decisions such as jury verdicts (Dovidio et al., 2001). Furthermore, the concept of modern racism has been used as an explanatory tool by several researchers engaged in this type of jury research (e.g., Johnson et al., 1995; Pfeifer & Ogloff, 2003; Sommers and Ellsworth, 2000; 2001), but, due to recent criticism of the MRS as being outdated and reactive, and the contention of Henry and

Sears (2002) that the SR2K is a more subtle measure of modern racism than the MRS, the SR2K was seen to be a better measurement choice than the MRS.

This hypothesis received only partial support. When all eight SR2K (Modified) items were summed together into one composite score, no race of defendant x SR2K (Modified) interaction was observed on either continuous guilt ratings or dichotomous verdicts. Because a factor analysis of the SR2K (Modified) indicated the instrument contained two factors (inter-factor $r = .45$), separate analyses were done using composite scores obtained by summing items that loaded primarily on Factor I (i.e., items 1, 2, 3, 4, 6, and 7) and Factor II (i.e., items 5 and 8). A significant interaction was then found between race and the SR2K Factor II composite score on continuous guilt ratings only (no such interaction was found using dichotomous verdicts). Only a small effect size was associated with this interaction ($f^2 = .03$), indicating that it accounted for little variance in guilt ratings. Regarding the reliability of the race x SR2K (Modified) interaction effect, Aiken and West (1991) note that unreliability of measurement decreases the likelihood of finding significant effects in regression. Taking into consideration that a composite of only *two items* (with a reliability of only .56) was able to predict continuous guilt ratings (in interaction with the defendant's race), the interaction effect would likely only be stronger if additional effective items of a similar nature were added to increase the reliability of measurement.

Although this effect was small, attempts were made to understand its nature. The responses of participants rating the Aboriginal defendant were as predicted (i.e., those higher in symbolic racism rated the Aboriginal defendant more harshly than they did the Euro-Canadian defendant). Interestingly, the responses of participants rating the Euro-

Canadian defendant were not quite as predicted. Specifically, they rated the Euro-Canadian defendant slightly more harshly than the Aboriginal defendant. However, these patterns should not be over-interpreted, as post-hoc testing of the interaction revealed that the simple slopes representing the effect of the race manipulation (analogous to simple slope tests in factorial ANOVA) were not statistically significant among either participants scoring higher or lower on Factor II composite scores.

If one accepts that Factor II composite scores are actually measuring symbolic racism, these findings provide some support for both the racial discrimination and the symbolic racism hypotheses. This result begs the question of what Factor II is tapping that Factor I is not. Factor I obviously represents the dominant construct being tapped by the instrument, as 6 of the 8 items loaded on it and it accounted for far more variance upon extraction than did Factor II. However, Factor I failed to predict guilt ratings in any manner, while Factor II did so in interaction with the race manipulation. Looking at the four theoretical aspects of symbolic racism discussed by Henry and Sears (2002), it is apparent that items 5 and 8 (which loaded on Factor II) do not share a common theme. Item 5 (“over the past few years, Aboriginals have gotten less than they deserve”) is meant to tap undeserved advantage, while item 8 (“generations of discrimination have created conditions that make it difficult for Aboriginals to work their way out of the lower socioeconomic group”) is meant to tap denial of continuing discrimination.

Although their factor analyses were performed on longer versions of the SR2K, Henry and Sears (2002) also found a two-factor solution with a high factor inter-correlation ($r = .49$) in 1 of their 3 normative samples (a community sample from Los Angeles, California; single-factor solutions were found in the other 2 normative samples).

Additionally, items 5 and 8 (along with several other items) also loaded far more solidly on Henry and Sears' Factor II than they did on Factor I. They posited two potential explanations for this. First, they suggested that items with the "undeserved advantage" and "denial of continuing discrimination" themes both located responsibility for African American's situation *outside* the individual, that is, in the structural aspects of society, while other items were *individualistic* (e.g., work ethic themed items such as, "If Blacks would only try harder they could be just as well off as everyone else"). However, in the present study three other items with these two themes were included on the SR2K (Modified) and only loaded very weakly on Factor II (i.e., less than .25). Therefore, this seems an unlikely explanation.

Henry and Sears considered the differences between these two factors to be "...of secondary substantive importance" (2002, p. 266). However, in this study the second factor actually predicted discrimination, demonstrating that these differences (at least in the context in which the instrument was used in this study) may actually be of importance -- although not necessarily of substantive importance. Henry and Sears' (2002) second explanation for the existence of two factors was a procedural, as opposed to substantive, one. They noted that most of the items loading on Factor II were reverse-coded, that is, the direction that reflected "agreement" on most of the items was reversed on these two items (usually this is done in an attempt to detect so-called "yea-" or "nay-saying" participants who tend to respond positively or negatively to all questions). This explanation seems to better explain the factor structure found in the current study. Items 5 and 8 were the only reverse coded items on the SR2K (Modified) and also the only items to load reliably on Factor II. One can speculate that the reverse coded items required

more cognitive processing than the other items, and therefore placed an additional cognitive load on participants. This cognitive load may have prevented them from responding in a socially desirable manner, while responses to the other items may simply reflect social desirability arising from a motivation to appear non-prejudiced. Thus, these two items may be the only two items on the SR2K (Modified) that really tapped symbolic racism. Although speculative at best, this possibility, if true, would explain why only Factor II composite scores interacted with the race manipulation in predicting guilt ratings.

Hypothesis 3: Jury Instructions would reduce Observed Discrimination

Pfeiffer and Ogloff (2003) found that giving Saskatchewan undergraduate students jury instructions decreased the likelihood that they would discriminate against a Canadian Aboriginal defendant. Therefore, it was expected discrimination observed in this study would be reduced when participants were given jury instructions (i.e., a race by jury instructions interaction). There was no support for this hypothesis in the current study. The only discrimination observed was in the interaction between the defendant's race and SR2K (Modified) Factor II composite scores. While this interaction was qualified by a marginally significant interaction between the defendant's race, the SR2K (Modified) Factor II composite, and jury instructions ($p = .05$), interactions of this order are very difficult to interpret in samples of this size. However, the jury instructions used in this study were, by necessity, briefer than those used by Pfeiffer and Ogloff, and this certainly could have reduced their impact on participant's behavior.

Non-Hypothesized Interaction Between Race, SR, and Jury Instructions

Although a three-way interaction between defendant's race, symbolic racism, and jury instructions was not specifically predicted, such an interaction was observed. Theoretically it is logical to expect such an interaction, not because symbolic racists and non-racists have hypothetically different psychological responses to the jury instructions per se, but because of their differential guilt ratings and differential responses to jury instructions. That is, participants scoring low in symbolic racism would not be expected to present with any race bias to be decreased by jury instructions, while participants scoring high in symbolic racism would. However, as is evident from Figure 2, the observed pattern of interaction did not follow this pattern. In fact, the interaction seemed primarily due to participants high in symbolic racism rating the Aboriginal defendant *more* guilty in the instruction condition. However, given that only 4 participants were located with the Aboriginal defendant/high symbolic racism/jury instructions cell, I believe this interaction is likely spurious.

Limitations and Implications of this Study

Some support was found for the contention that non-Aboriginal mock jurors who score higher in symbolic racism will discriminate against an Aboriginal defendant compared to a defendant of European descent, even under the same evidentiary conditions. Additionally, those higher in symbolic racism appear to find an Aboriginal defendant more guilty than do mock jurors scoring lower in symbolic racism under the same evidentiary circumstances. However, much more study is needed to address the ecological validity problems and methodological limitations of this study before any

practical recommendations could be made for the legal system on the basis of this finding.

Ecological Validity Concerns

The first set of limitations arises from the fact that the mock juror paradigm differs in many material respects from a real trial experience. Unlike our counterparts in the United States, Canadian researchers have no ability to question actual jury members about their decision-making (because section 649 of the *Criminal Code* makes it an offence for anyone to disclose any information relating to the proceedings of the jury during deliberation). This, combined with the fact that people often lack insight on their own decision-making processes, requires that we must use jury simulations in our research, which can never attain the full ecological validity of a real trial (Konecni & Ebbesen, 1979).

Simulations can, however, range in their realism. In this study evidence was provided in summary written form only, whereas a trial allows the jury to view actual witnesses and attempt to assess their demeanor and credibility, and listen to arguments made by counsel during their closing statements. Rose (2003) argues that the use of short vignettes inflates mock juror biases by giving them less information about the case than they would receive at trial. He believes this leads mock jurors to over-rely on the non-relevant (e.g., racial) information simply because it is some of the only information they receive, not because they find it inherently persuasive. Attempts were made in this study to provide sufficient evidence so that participants would not be forced to rely on non-legally relevant evidence such as race in making their decisions (see Appendix A for a

copy of the vignette used in this study). However, the extent to which this strategy succeeded cannot be tested empirically.

Another related criticism of mock jury research is that mock jurors lack the motivation that actual jurors presumably feel to make proper, well-reasoned decisions. Would real-life jurors, even those high in symbolic racism, be less likely to discriminate when they hold the fate of a real accused in their hands? Interestingly, researchers have found that high accuracy motivation actually hinders accuracy in complex decision-making tasks (Pelham & Neter, 1995). However, to my knowledge these findings have not been investigated in the context of jury decision-making.

Additionally, mock jurors in this study did not deliberate. In terms of legal theory, deliberation is meant to be an antidote to numerous jury biases, including racial prejudice. In a recent comprehensive review, Devine, Clayton, Dunford, Seying, and Pryce (2001) concluded that the initial majority opinion of a jury tends to be the final verdict in most cases, particularly if that majority is two-thirds or more. They qualify this by reference to MacCoun and Kerr's (1998) findings of "asymmetrical leniency," whereby pro-conviction majorities (defined as two thirds agreement) only tend to convict approximately 67% of the time, while 94% of pro-acquittal majorities end up acquitting. However, in comparing laboratory and real-life studies, Devine et al. concluded that the leniency bias observed in MacCoun and Kerr's research is likely weaker in actual juries. Thus, the effect of deliberation on any one juror's pre-deliberation racial biases will depend, among other things, the number of jurors who share that bias.

Other Limitations

Another reason to refrain from applying these results to the legal system is that hypotheses could only be properly tested using continuous guilt ratings. The dichotomous conviction variable was the more legally-relevant dependent measure, as it required participants to make an actual determination of guilt or innocence (Pfeiffer & Ogloff, 1991). Furthermore, a meta-analysis of American mock juror studies indicates that less discrimination is apparent when verdicts, rather than continuous guilt ratings, are used as dependent variables (Mitchell et al., 2005). However, due to the sample size in this study, the effect of race and symbolic racism on verdict could not be properly tested.

Furthermore, it cannot be said with certainty that the construct measured by the items loading on Factor II of the SR2K (Modified) is actually symbolic racism, although given that it predicted guilt in the hypothesized manner, it is difficult to conceive of what else it might measure. Finally, as previously mentioned, it is impossible to determine the reactivity of the SR2K (modified) and the reactivity of the race manipulation.

Suggestions for Future Research

Future use of the SR2K Scale in this Context

The SR2K (Modified)'s freedom from social desirability should be established before being used in a similar context. The finding that most of the items on the SR2K (Modified) loaded on a factor that did not predict discrimination is some indication that the scale may not be as subtle or non-reactive as its authors believe it to be. Social desirability is a potential problem for all so-called "explicit" racism measures (or indeed for any measure trying to tap attitudes and beliefs about socially sensitive subjects), because of the high motivation to appear non-prejudiced inherent in such situations

(Fazio & Olson, 1993). Furthermore, some have suggested that the motivation to appear non-prejudiced is a trait variable in that some people's *self-concept* may be threatened by making explicit admissions about their prejudice (Gaertner & Dovidio, 1986). If this were the case, the validity of explicit prejudice scales filled out even in private testing conditions would be compromised.

The Strength of Race Manipulations in Written Stimuli

When manipulating race in written stimuli (whether in the context of a mock-jury study or not), researchers must consider the strength of their race manipulations carefully. As Pezhazur and Schmelkin (1991) note, what is a 'strong' or 'weak' manipulation can depend on the context in which it is made (such as who the participants are, the sensitivity of the subject matter, the experimental condition they are in, etc). In the context of race, which is a particularly sensitive topic in modern society, a manipulation that is too strong can be highly reactive, whereas one that is too subtle will go unnoticed by participants. Currently, researchers are using a broad range of strategies to manipulate race in written stimulus materials. At the subtler end of the spectrum, Jordan, Spencer, and Zanna (2005) effectively manipulated race by simply varying the last name of a hypothetical student (named "Proudfoot" in their Aboriginal conditions and "Pride" in their non-Aboriginal conditions). Other researchers have embedded the target character's race/ethnicity within a general physical and/or demographic description (e.g., Johnson et al., 1995; Sommers & Ellsworth, 2000; 2001), while others did not report how they manipulated race (e.g., Dean et al., 2000; Hill & Pfeifer, 1992; Pfeifer & Ogloff, 1991; 2003)

In this study race was manipulated by embedding the information within other demographic and social information about the defendant. This manipulation may have been too strong, particularly in the sociopolitical context of British Columbia, where treaty negotiations and Aboriginal rights litigation are highly salient. However, there is no way of testing whether this is the case. This ambiguity could have been avoided by testing the strength of race manipulations in a pilot study and including a no race condition against which participants' reactions could have been evaluated.

Conclusion

Despite the limitations I have described, the current results provide reasonable grounds for believing that further investigation of prejudice against Aboriginal defendants is warranted in this population. In the light of Pfeifer and Ogloff's (2003) findings that such discrimination was evident in a Saskatchewan undergraduate sample (albeit only on continuous, non-legal measures of guilt), this study adds additional evidence to the notion that, similar to the American experience, race may play a role in jury decisions in Canada. Furthermore, symbolic racism, although obviously not the only contributor to such discrimination, seems to be a fruitful theoretical foundation upon which to base further inquiry of this kind. Researchers can look to this work as a justification for investing further resources into testing these hypotheses in a more ecologically valid manner. Eventually, if replicated, symbolic racism theory could provide legal practitioners with some insights and guidance on how to question potential jurors during challenges for cause.

APPENDICES

Appendix A: Trial Vignette and Race Manipulation and Attention / Comprehension Checks

Vignette

Jim Cardinal [*Robert Campbell*] was charged with the murder of 37 year-old Matthew P. on or about January 12, 2001 in Vancouver, British Columbia. At the trial the coroner, Dr. Markham, testified that she has been a medical doctor for the past 10 years. She stated that the cause of death was a single blow to the head with a blunt object and estimated that the time of death to be between 6 and 11 pm on January 12, 2001.

Officer Hannah, the investigating officer, testified that he has been a police officer for the past 6 years. He testified that police found the victim's body in the victim's home after his mother filed a missing person's report. Officer Hannah also testified that there was no evidence of forced entry. Officer Hannah stated that he arrested Mr. Cardinal [*Mr. Campbell*] on January 28, 2001 and interrogated him for about 2 hours at that time. Officer Hannah also testified that Mr. Cardinal [*Mr. Campbell*] seemed very upset during the interrogation and insisted several times that he did not kill the victim.

Officer Hannah testified that the police found a racquetball racquet in Mr. Cardinal's [*Mr. Campbell*] home 5 days after the murder occurred. When asked by the Crown attorney whether this racquet could have been the murder weapon, Dr. Markham testified that it precisely matched the shape and size of the victim's wounds and that microscopic samples of the victim's skin were found on it.

Mr. Cardinal [*Mr. Campbell*] is 30-years-old, is of Aboriginal [*European*] descent, and works as a janitor in the office building of his native band council [*an office building*]. He testified that he and the victim had been friends since high school, where they took several classes together. The victim had recently been in a long-term relationship with Mr. Cardinal's [*Mr. Campbell*] sister. Mr. Cardinal [*Mr. Campbell*] testified that his sister came to his house about a month ago with some bruises on her arms and, although she refused to discuss what had happened, he suspected that Matthew had done it. Mr. Cardinal [*Mr. Campbell*] testified that this made him angry, but that he did not kill the victim. He stated that he was alone at home the entire night of the murder, that he does not remember anyone visiting him or telephoning him, and that he did not make any telephone calls that evening. Telephone records obtained from Telus indicated that no incoming or outgoing telephone calls were made to or from Mr. Cardinal's [*Mr. Campbell's*] number on the evening of January 12, 2001.

Mr. Cardinal's [*Mr. Campbell's*] sister testified that she had been romantically involved with the victim for the past 2 years and that they often got into "screaming matches." She stated that they did not live together at any point during that relationship, but she often spent the night at his apartment. The defense attorney asked her if the victim had caused her injuries the night that she went to her brother's house. She stated that they had gotten into a big fight and she started "freaking out." She testified that the victim grabbed her arms to stop her from hitting him. When the attorney asked her whether Mr. Cardinal [*Mr. Campbell*] thought that the victim had hurt her she responded that she didn't know what he thought.

Attention / Comprehension Check

What was the victim's name? (circle response)

1. Andrew W.
2. Matthew P.
3. Don R.
4. Grant B.

Race Manipulation Check

What is Jim Cardinal's ethnicity (i.e., race)? (circle response)

1. Caucasian / White
2. Asian
3. Aboriginal / 1st Nations
4. African Canadian

Appendix B: Jury Instructions

The trial judge gave the following instructions to the jury. Please use them when making your decisions:

You are to presume that the accused is innocent. You may only find him guilty after you consider all the evidence and you are satisfied that the Crown has proved its case beyond a reasonable doubt. A reasonable doubt is not an imaginary or frivolous doubt. It must not be based on sympathy or prejudice. Rather, it is based on reason and common sense. It must logically come from the evidence or lack of evidence.

Appendix C: **Symbolic Racism 2000 Scale** **(Henry & Sears, 2002) - Modified Version**

INSTRUCTIONS: Using the scale below, circle the number after the statement that best reflects your level of agreement or disagreement with each statement.

Strongly Disagree 1	Disagree Somewhat 2	Agree Somewhat 3	Strongly Agree 4
<hr/>			
1.	It is really a matter of some people not trying hard enough: if Aboriginals would only try harder they could be just as well off as everyone else.		
1	2	3	4
* 1.	There are times when a trial judge should take an offender's Aboriginal status into account when making sentencing decisions.		
1	2	3	4
2.	Many other minorities overcame prejudice and worked their way up: Aboriginals should do the same.		
1	2	3	4
3.	Aboriginal leaders have been trying to push too fast in terms of their progress.		
1	2	3	4
4.	Discrimination against Aboriginals is no longer a problem.		
1	2	3	4
5.	Over the past few years, Aboriginals have gotten less than they deserve ^a .		
1	2	3	4
* 5.	The over-representation of Aboriginals in prisons is a major social problem in Canada today.		
1	2	3	4
6.	The little discrimination against Aboriginals in Canada today does not limit their chances to get ahead.		
1	2	3	4
7.	Over the past few years, Aboriginals have gotten more economically than they deserve.		
1	2	3	4
8.	Generations of discrimination have created conditions that make it difficult for Aboriginals to work their way out of the lower socioeconomic group. ^a		
1	2	3	4

* = Non-scored items included so scale fit better into the overall data collection protocol.

^a = Reverse-scored item

Appendix D: SR2K (Modified) Item Statistics

SR2K (Modified) item means, standard deviations, item inter-correlations, and corrected item-total correlations in the normative ($N = 362$) and research samples ($N = 99$).^a

SR2K (Modified) Item	<i>M</i>	<i>SD</i>	Item- Total <i>r</i>	1	2	3	4	5	6	7
1. It is really a matter of some people not trying hard enough; if Aboriginals would only try harder they could be just as well off as everyone else	2.6 (2.6)	1.0 (1.0)	.51 (.67)							
2. Many other minorities overcame prejudice and worked their way up; Aboriginals should do the same	3.0 (2.9)	.9 (1.0)	.44 (.63)	.48 (.68)						
3. Aboriginal leaders have been trying to push too fast in terms of their progress	2.4 (2.1)	.9 (.9)	.37 (.40)	.26 (.30)	.29 (.33)					
4. Discrimination against Aboriginals is no longer a problem	1.8 (1.6)	.9 (.8)	.34 (.42)	.23 (.27)	.07 (.32)	.27 (.29)				
5. Over the past few years, Aboriginals have gotten less than they deserve	2.8 (2.8)	.9 (1.0)	.38 (.56)	.22 (.45)	.24 (.40)	.12* (.23)	.15 (.27)			
6. The little discrimination against Aboriginals in Canada today should not limit their chances to get ahead	2.9 (2.6)	.9 (1.0)	.36 (.60)	.24 (.45)	.29 (.47)	.20 (.33)	.20 (.30)	.16 (.35)		
7. Over the past few years, Aboriginals have received more economically than they deserve	2.5 (2.4)	1.0 (1.0)	.56 (.70)	.37 (.56)	.33 (.52)	.35 (.32)	.28 (.36)	.32 (.59)	.29 (.46)	
8. Generations of discrimination have created conditions that make it difficult for Aboriginals to work their way out of the lower socioeconomic group	2.2 (2.2)	1.0 (1.0)	.36 (.45)	.27 (.40)	.11 (.25)	.05 (.04)	.23 (.28)	.38 (.39)	.15 (.44)	.31 (.37)

Notes. ^a Statistics for the research sample are in parentheses. All item-total correlations were corrected and statistically significant at $p < .001$ after controlling for familywise error with Bonferroni corrections. * All item inter-correlations with the exception of * were statistically significant at $\alpha = .05$ after controlling for familywise error with Bonferroni corrections.

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