New study offers clues to origin of laws

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Speculation about where laws come from ranges from crediting judges and legal scholars to God.

However new research co-authored by a University of Central Florida researcher and appearing in the journal *Nature Human Behaviour* today offers evidence that criminal laws come from an intuitive and shared,

universal sense of justice that humans possess.

"We sometimes think of the law as this completely rational enterprise that is the result of wise experts sitting around a table and working from logical principles," says Carlton Patrick, an assistant professor in the University of Central Florida's Department of Legal Studies and study co-author. "And instead, what this study suggests is that these intuitions that people tend to share about justice may be the things that are becoming institutionalized."

Patrick and Daniel Sznycer, an assistant professor of psychology at the University of Montreal and the study's lead author, made the finding by comparing modern and ancient people's sense of whether a punishment fits a crime.

And while previous studies have examined people's intuitions about justice, this is the first one that compared them across thousands of years.

Using participants from the United States and India, the researchers had people rate offenses from one of three legal codes: the Laws of Eshnunna, Sumerian laws from nearly 3,800 years ago; the Tang Code, Chinese laws from nearly 1,400 years ago; and the Criminal Code of Pennsylvania, which reflects modern U.S. laws.

Participants were shown the offenses, but not the punishments that the law established.

The crimes ranged from ancient offenses, such as not keeping an ox in check, which caused a person to be gored, to modern ones, such as assault.

Some participants were asked to determine the appropriate fines for

each offense, while others were asked to determine prison sentences.

The researchers found that the more seriously modern people judged a crime to be, the higher the actual legal punishment for the crime.

This was despite participants living in different countries and legal codes that were separated by thousands of years.

"The match between participants' intuitions and ancient laws was notable," Sznycer says.

"Criminal laws, like the writing that supports those laws, are cultural inventions: present in some societies, absent in others," he says. "However, this new research adds empirical weight to the possibility that the capacity to make laws—the brain mechanisms that appraise offenses and generate justice intuitions—are universal, and a part of human nature."

Patrick says the study is an important step in helping to demystify the origin of laws.

"I think what this study does is lead us into the black box a little bit," he says. "It removes one layer of the shroud of mystery that surrounds the lawmaking process, and it also gets us closer to understanding why we sometimes feel that something's wrong, even when we can't explain why."

More information: The origins of criminal law, *Nature Human Behaviour* (2020). DOI: 10.1038/s41562-020-0827-8 , nature.com/articles/s41562-020-0827-8

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