

# Explaining Asymmetries Between Statistical and Individualized Evidence

Renee Jorgensen Bolinger

## 1 Motivating the Asymmetry

### THE CASES

- ◇ Prison Yard<sup>1</sup>
  - (a) One hundred prisoners exercise in the prison yard. Ninety-nine prisoners together initiate a premeditated attack on a guard. Security footage reveals one prisoner standing against the wall refusing to participate. There is no evidence indicating who refused to participate. Alex is being prosecuted for the assault, on the grounds that we know he was one of the prisoners in the yard, and therefore we can be 99% confident that he participated in the assault.
  - (b) One prisoner attacks a guard, and there's an eyewitness whom you know to be accurate 85% of the time. Alex is being prosecuted on the grounds that the eyewitness testifies that Alex was the assailant.
- ◇ Robbery: There has been a robbery, and the evidence so far renders us certain that either Alex (a tall man), or Bernard (a short man), was the perpetrator. We are given one more piece of evidence:
  - (a) In the region where the robbery occurred, 92% of robberies are committed by tall men.
  - (b) An eyewitness testifies that the robber was a tall man, and we know that eyewitness testimony under similar conditions is accurate 80% of the time.
- ◇ Storefront: A storefront was vandalized in the night, and security footage shows that the vandal was a paper-delivery boy. Alex delivers papers in that area.
  - (a) Alex is responsible for 80% of the paper deliveries in the area of the storefront.
  - (b) When apprehended in the area, Alex was wearing the armband of the gang that claimed responsibility for the attack.

### THE JUDGMENTS

Let P be the proposition that 'Alex is guilty':

1. In the (a) case, our evidence yields a higher probability for P than in the (b) case.
2. In the (a) case, our evidence does not suffice for conviction.
3. In the (b) case, our evidence does suffice for conviction.

### FIXED POINTS

- (i) if P then we should convict and won't wrong Alex
- (ii) It is pro tanto wrong for us to convict Alex if P is false
- (iii) (ii) is true because of the harm/wrong done to Alex if we convict when P is false
- (iv) in fact, P is false

<sup>1</sup>Nesson, 'Reasonable Doubt and Permissive Inferences' 1979

## 2 A Suggestive Parallel

- ◇ Cosmos Club: The night before he is to be presented with the Presidential Medal of Freedom, John Hope Franklin hosts a celebratory dinner party at the Cosmos Club. While walking through the club, a woman sees him, calls him over, and, presenting her coat check ticket, orders him to bring her coat. Her inference is based on the fact that<sup>2</sup>
  - (a) Franklin is a black man, and *all* other black men in the club are attendants.
  - (b) Franklin is wearing a staff uniform.

### MY DIAGNOSIS OF COSMOS CLUB<sup>3</sup>

1. the costs of error affect whether the agent's evidence is adequate to ground epistemic permission
2. there are greater costs in the a-case: inferences based on generalizations (like a-cases) risk *wronging* the subject of belief in ways not risked by inferences based on the subject's own behavior

**Rational Settling:** It is rationally permissible for S to settle that P only if the information in  $Cr_s(\neg P)$  isn't valuable enough to justify the cognitive costs of retaining it: when  $Cr_s(P)$  is resilient and practically adequate for all her anticipatable P-dependent decisions.

## 3 The Application to Institutional Cases

### DIAGNOSIS

1. Credences based solely on statistical evidence are often less resilient than those based on other evidence.
2. the evidence in the (a) cases raises the stakes by introducing new costs: exposing A and the members of the reference class to disproportionate risk of false conviction.
3. the connection between the evidence and Alex in the (b) cases lowers the stakes by reducing Alex's standing to complain against suffering a P-based error.

So, given RATIONAL SETTLING, it is easier for non-statistical evidence to make it permissible to settle that P, *but not because of any defect with the contents of statistical evidence.*

<sup>2</sup>Gendler 2011, 'The Epistemic Costs of Implicit Bias', *Philosophical Studies*

<sup>3</sup>Bolinger 2018, 'The Rational Impermissibility of Accepting (some) Racial Generalizations', *Synthese*