

Personal Values

An Important Element in the Diversity Debate

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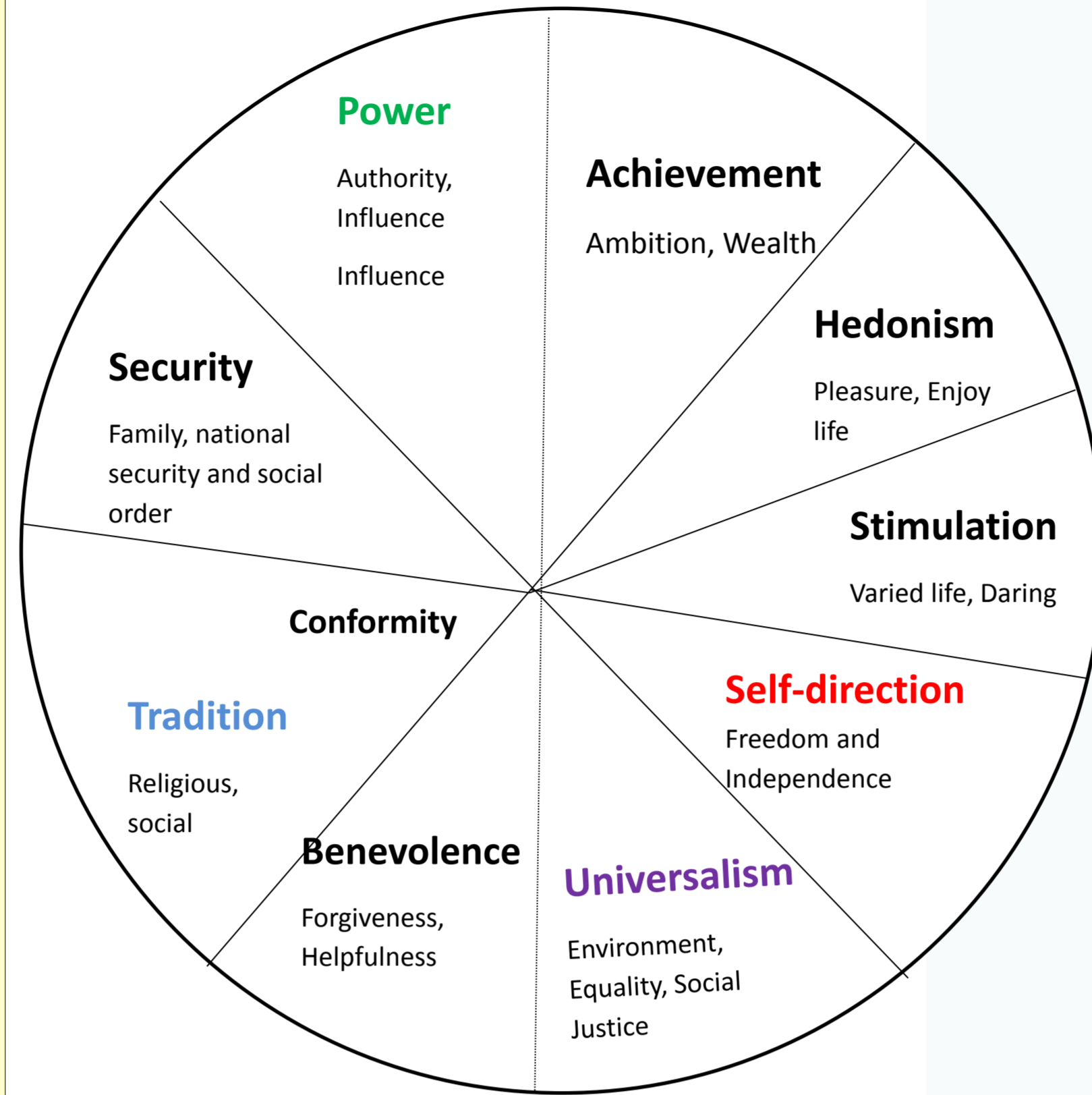
The Diversity Debate

The problem:

In 2012, 3575 judges of which 22.6% women and 4.2% Black or Minority Ethnic. In contrast the UK population is 49% female and 8% BME.

Why do we want a more diverse judiciary?

- 1) **Equality:** In a democratic society, all sections of society should have the opportunity to participate in governance.
- 2) **Legitimacy:** Diversity enhances democratic legitimacy.
- 3) **Public confidence:** Users need to feel they are being judged by representatives of the society in which they belong.
- 4) **Best candidates:** Lack of diversity means that the best judicial candidates may not make it to the bench.
- 5) **Different voices and unique perspectives:** It is argued that judges from different backgrounds bring different perspectives to the decision making process.



Why personal values?

Personal values play a central role in decision making.

Psychologists define *personal values* as enduring beliefs that a specific mode of conduct is personally or socially preferable to an opposite or converse mode of conduct.

Personal values are formed by life-experiences and influenced by demographic variables.

Extra-legal factors which have been implicated in judicial decision making including ideology and activism are underpinned by *personal values*.

Schwartz model of values: Ten values which relates values to an overarching motivation.

Values on opposing sides of the circle cannot be held in equal regard.

Part I : Do Supreme Court Justices express different values?

Content analysis of the judicial opinions was carried out using Nvivo and a value coding scheme developed on 18 cases which divided the Supreme Court. 2,932 paragraphs were coded which contained 1,181 value coded sections.

The key values

Universalism: The goal is understanding, tolerance and protection of the welfare of all people. In judicial opinions it would include affirmation of principles of equality and protection of the vulnerable in society.

Tradition: The motivational goal is respect and acceptance of the customs and ideas that one's culture or religion impose on an individual. In judicial opinions it would include affirmation of cultural, legal and religious traditions.

Self-direction: The goal is freedom and independence of thought and action. In judicial opinions it would include affirmation of liberty and autonomy.

Power: The goal is control over others. In judicial opinions it would include affirmation of the power of governing bodies.

Universalists

↑ Universalism ↓ Tradition



Espouse values encompassed in **universalism** significantly more than average.

Espouse values encompassed in **tradition** significantly less than average.

Traditionalists

↑ Tradition ↓ Universalism

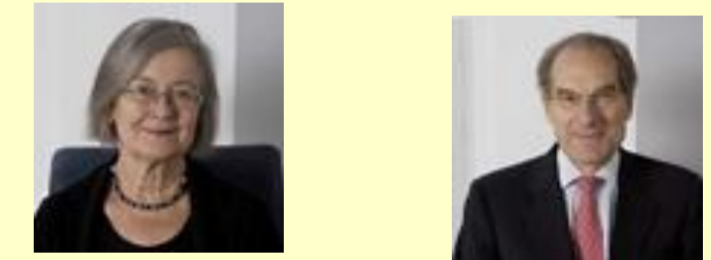


Espouse values encompassed in **tradition** significantly more than average.

Espouse values encompassed in **universalism** significantly less than average.

Self-directionists

↑ Self-direction ↓ Power



Espouse values encompassed in **self-direction** significantly more than average.

Espouse values encompassed in **power** significantly less than average.

Part II: Do Supreme Court Justices expressing similar values reach similar decisions ?

Hypothesis: The hypothesis is that Supreme Court Justices expressing the same values will reach similar decisions and those who express opposing values will infrequently reach similar decisions. Consensus was assessed in a further 16 Supreme Court Cases in which Judicial opinion was divided.

Universalists



There is a **87% consensus** reached between these Supreme Court Justices.

Traditionalists



There is a **61% consensus** in the decisions reached between these Supreme Court Justices.

Self-directionists



There is a **75% consensus** in the decisions reached between these Supreme Court Justices.

25%

Only 25% consensus between Supreme Court Justices with opposing values.

Conclusions

- Personal values reflect demographics and individual life experiences and play a significant role in decision making.
- Content analysis of judicial opinions revealed Supreme Court Justices espouse different values.
- Supreme Court Justices who espouse similar values reach similar decisions. In contrast, those espousing opposing values are less likely to reach similar decisions.
- Personal values should be considered in debates surrounding judicial diversity.