

Le biais de rétrospective* et la loi *revue de littérature*

*hindsight bias

§1 Présentation du problème étudié

- *Qu'est-ce que le biais de rétrospective ?
Donnez un exemple.*

§2 Implications pour la loi

- Fischhoff suggérerait que le déterminisme insidieux se manifestait dans les attributions de responsabilité dans les accidents.
- Depuis, de nombreux chercheurs ont montré que le biais de rétrospective avaient de nombreuses conséquences dans le domaine légal.

Exercice

Des résumés de recherches ayant été conduites sont présentés en anglais. Pour chaque étude, déterminez le thème de l'étude, les VI, VD, et les résultats obtenus

Hastie, Schkade et Payne (1999)

- An experiment was conducted to investigate whether hindsight bias influences an important class of legal decisions—civil jurors' judgments of liability for punitive damages. Jury-eligible citizens were shown a videotaped summary of the circumstances surrounding an environmental damage lawsuit. Some subjects were presented a foresight perspective and asked to judge whether or not a railroad should comply with an order to stop operations on a section of track that had been declared hazardous. Other subjects were asked to judge whether the railroad was liable for punitive damages after an accident occurred. Three independent variables were manipulated: temporal perspective with one third of the subjects assessing risks in foresight and two thirds assessing risks in hindsight; subject role with one half of the subjects asked to assume the role of a juror rendering a verdict and one half the role of a citizen whose personal opinion was solicited; and, in the hindsight conditions only, the amount of damage (\$240,000 vs. \$24,000,000) caused by the accident. Almost all measures of participants' judgments and thoughts about the case showed dramatic foresight-hindsight differences. The participants' role had an effect on some measures; for example, participants in the juror role exhibited slightly smaller hindsight effects when judging liability than did those in the citizen role. The magnitude of the damage caused by the accident had no effects on any measures.

Kamin & Rachlinski (1995)

- Participants in three conditions (foresight, hindsight, and a modified hindsight condition designed to ameliorate the hindsight effect) assessed whether a municipality should take or have taken, precautions to protect a riparian property owner from flood damage. In the foresight condition, participants reviewed evidence in the context of an administrative hearing. Hindsight participants reviewed parallel materials in the context of a trial. Three quarters of the participants in foresight concluded that a flood was too unlikely to justify further precautions--a decision that a majority of the participants in hindsight found to be negligent. Participants in hindsight also gave higher estimates for the probability of the disaster occurring. The debiasing procedure failed to produce any significant differences from the regular hindsight condition. The results suggest that absent an effective debiasing technique, risk assessments made in foresight will be judged harshly in hindsight.

LaBine et LaBine, 1996

- Examined the hindsight bias in determinations of negligence in Tarasoff-type cases. The sample of 297 community residents was asked to read clinical case scenarios involving treatment of potentially dangerous patients. Scenarios varied by outcome: (1) the patient became violent, (2) the patient did not become violent, and (3) no outcome was specified. Respondents rated the foreseeability of violence, the reasonableness of therapist actions, and negligence. It was hypothesized that respondents who were informed that the patient became violent would be more likely to find the therapist negligent than respondents in the other two outcome conditions. Findings supported this, and respondents in the violent outcome condition rated the violence as more foreseeable and therapist actions as less reasonable. Implications for mental health and legal professionals are discussed and future research ideas are suggested.