

The impact of gender and race in criminal courts



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Abstract

The authors of “ Interactive Effects of Characteristics of Defendant and Mock Juror on U. S. Participants ’ Judgment and Sentencing Recommendations” measured the interactions between mock jurors and defendants. They wanted to research the correlations between the defendant’s attractiveness, and the juror’s gender, and the defendant’s race and the juror’s race. The reasoning behind such studies was to examine if a defendant’s race or attractiveness, had an influence on the juror’s verdicts, or recommendation of harsher punishments. The authors used the crime of Negligent Homicide as it is not stereotypically associated with any particular ethnic or racial group (Gordon, 1993). The authors formed two hypotheses for this study:

Hypothesis 1: The attractiveness of the female defendant accused of negligent homicide interacts with participant gender, so that the male participants show a stronger reverse ALE than do the female participants (Abwender, Hough, 1999).

Hypothesis 2: Defendant race interacts with participant race so that Black participants will show a stronger in-group favorability bias compared to White participants (Abwender, Hough, 1999).

Keywords: Mock juror, same-group favorability, bias, ALE, sentencing, race, female, male.

The Impact of Gender and Race in Criminal Courts

Jurors are expected, by the court of law, to not judge by race or gender. However, authors D. Abwender and K. Hough (1999) found interactions

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between genders and races are affected in their study. There were unstable judgment choices with jurors on whether to be lenient or show harshness depending on either the gender, attractiveness or race of the defendant. One could assume that defendants who seem to be less attractive, are often targeted and receive harsher punishment. While in some cases that may be true, it also depends on the type of crime that has been committed.

Abwender, Hough (1999) found that attractive defendants appear to have an advantage for crimes such as rape, robbery, and other offenses. And for crimes such as swindle and negligent homicide, attractive defendants are often given harsher sentences because they are said to have used their attractiveness to their advantage (Abwender, Hough 1999). The crime(s) that a defendant commits are often compared to the crimes that are common among their race. For example: if a black defendant is being charged with armed robbery, and that crime is most common for black defendants, jurors tend to give harsher punishment. Jurors are inclined to assume that this particular race will commit a crime similar to this in the future since it is common among their race.

Handing down guilty verdicts because of a crime that is common among one's race is racial bias. A defendant should not be punished harshly because of what is common within his/her racial group. This explains why more minorities are arrested and given longer sentences for crimes that another group would receive less time for if any at all. If a white defendant were to commit armed robbery, he/she is more likely rather than less likely, to receive leniency from jurors because that crime is less common among

their group. When you add attractiveness as a factor to either group, some aspects of punishment are subject to change.

There have been many researchers that investigated the attractiveness leniency effect (ALE) towards defendants but did not research further on how the juror's characteristics attribute to it (Abewender, Hough 1999). For example, in a jury simulation review article, researchers Weiten and Diamond (1979) were most interested in the jurors and their pragmatic approach pertaining to their job function. This particular jury simulation was different from the mock juror's research by Abewender and Hough. Weiten, Diamond (1979) stated that the main reasoning in their article was to find out if the jury simulation (mock trial) would draw a close correlation with real jury functioning as opposed to further researching the defendant's influence. Weiten and Diamond (1979), had a different approach for their research. They purposely disordered the personal characteristics of the defendant then had the participants evaluate the defendants on an evaluative scale. An evaluative scale, in research, allows participants to assign value to the answer of their choice. An example being 1= no attraction and 10= very attractive, also known as a Likert-type scale. To be able to gather proper data, all aspects should be measured.

With the outcome of the evaluative scale results, it showed that a defendant's race, socioeconomic status, sex, and race, are only marginally important (Weiten, Hough, 1979). These results are in contrast with the results in Abwender, Hough (1999). Abwender, Hough (1999) stated that race did affect jurors' decisions. They also concluded that the type of crime

committed had an effect. There was only one particular crime given in the vignette (Abwender, Hough, 1979) which was a negligent homicide.

Participants

To find participants for this research, researchers sought individuals who were part of the Ronald E. McNair Post-Baccalaureate Achievement programs (Abwender, Hough, 1999). The program is offered to students that come from backgrounds of low income, first-generation, and minorities. The researchers chose this program on the basis that it would give them a large percentage of minorities to choose from to be part of the study, given that most minorities come from low-income backgrounds and are first-generation college students. Twenty-three of the students self-identified as Asian or Native-American, so the researchers chose to eliminate those individuals to maintain sample consistency (Abwender, Hough, 1999).

Method

After narrowing down to 207 participants, all were sent a demographic background investigation questionnaire to collect further information on each participant. The participants were asked questions about their age, primary racial background to provide consistency about ethnicity, gender, and questions about academics and class standing. After the questionnaires were completed and returned the case scenario, also known as a vignette, was given to the participants. The brief vignette was about a 25-year-old woman who was pulled over by the police for reckless driving. The officer knew she was intoxicated and chose not to arrest her but instead, arranged for her a ride home in a taxi. Shortly after, the woman exited the cab

returning to her vehicle to resume her drive home again, in the process hitting and killing a pedestrian.

Each participant was given a different version of the vignette, varying only in the description of the defendant's attractiveness (attractive or unattractive) and the defendant's race (black or white). The nature of the crime and all other facts in the vignette were the same. If the race of the defendant were the same in all versions of the vignettes, the results would not be reliable given that it would lack participant-race and defendant-race data.

The dependent variables that were set to be measured were the recommended sentence and the impression of guilt (Abwender, Hough, 1999). Participants were then given the instructions to rate the defendant on a Likert-type scale about the defendant's intoxication at the time of the incidence, defendant's likability, defendant's attractiveness, and their level of responsibility at the time of the incident (Abwender, Hough, 1999). The participants were also asked if they know anyone that has hit a pedestrian while driving drunk or have known anyone who was struck by a drunk driver. The reason behind this tactic is to make sure all participants can be impartial. The researchers collected responses from the participants to the particular vignette they obtained of the defendant and measured the possible outcomes of same-group favorability as well as racial bias.

Attractiveness leniency effect

The vignette that described the defendant as attractive, both male and female participants did rate her as more attractive than that of the unattractive female defendant (Abwender, Hough, 1999). The results

provided evidence that the defendant's race, participant gender, and race variables, did not influence the perception of attractiveness (Abwender, Hough, 1999). As a result, there was a substantial interaction between participant gender and defendant attractiveness. The effect of participant gender and defendant attractiveness was measured on two dependent variables; the impression of guilt and the recommended sentence. The men surprisingly recommended longer sentences for attractive females instead of attractive females. The female participants, in contrast, recommended longer sentences for the unattractive male defendants and shorter sentences for the attractive defendants. Female participants also showed leniency to attractive female defendants. The effect of defendant attractiveness was more significant with female participants than male.

Defendant and juror race effect

The defendant and juror race effect resulted in some same-group favorability with black participants and black defendants (Abwender, Hough, 1999).

Often it's hard for minorities to be impartial because of all the racial discrimination they face throughout life, when they are put into a position of authority, they show favorability towards their race. Caucasians don't face racial discrimination as consistently as minority races thus, they are more inclined to be impartial. Abwender, Hough (1999) stated that black participants gave higher guilt ratings to Caucasians than to their race. Hispanics gave higher guilt ratings to Blacks than Caucasians while white participants gave almost equal guilt ratings to both White and Black defendants.

Discussion

The results of this experiment supported the two hypotheses only to some extent. For each hypothesis, unexpected results were found. Females showed a greater ALE effect towards defendants compared to male participants. Black and the Hispanic participants showed greater leniency toward the Black and the White defendants, respectively (Abwender, Hough, 1999).

This study's results could help defense attorneys in crafting a jury. They could use studies such as this to determine the right ratio of men and women, as well as the race of the jury that would be needed to reach a favorable outcome. This research was done some time ago, and it should be re-visited by a new researcher using secondary-data. A new study would provide current data given that the perception of racial discrimination is at an all-time high in this era due to the rise of social media and higher technology cell phones.

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