"Woman is man's best friend and her own worst enemy": jury bias

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"Woman is Man’s Best Friend and Her Own Worst Enemy":

Jury Bias

The Supreme Court recently ruled that no jury could be chosen on the basis of sex. This study was conducted to determine whether jury biases exist in the sentencing of murder cases. It was therefore hypothesized that women would judge female murderers more severely than their male counterpart. The severity of sentences were determined by the participants’ marks on a severity of sentence scale. These participants evaluated both domestic and mutilation murder cases, each of which varied in the gender of the accused. Using a 2X2 ANOVA in the evaluation of the results, no significant differences were found between the participants’ ratings of the two genders. Yet, in support of previous results, females were found to rate mutilation murders significantly more severe. These results could be used during jury selection to minimize jury bias by excluding biased individuals from the jury, thus protecting the right to a fair trial.

The United States Supreme Court recently ruled, in a six to three decision, that juror selection based on gender was unconstitutional. This judgment was elicited following numerous debates concerning gender bias in the jury box. The ruling of a jury exists as a collaboration of the opinions and decisions of twelve individuals chosen to act as the jurors for a particular case. In addition to gender of the juror, it was found that the jurors’ decisions were influenced by such factors as severity of the crime (Hendrick & Shaffer, 1975), pretrial publicity (Riedel, 1993), moral reasoning (Arbuthnot, 1983), gender of the accused (Goodman, Loftus, Miller, & Green, 1991), as well as various other characteristics of both the defendant and the victim (McKelvie, Mitchell, Arnott, & Sullivan, 1993). Controversial factors and biases such as these have been used by lawyers during jury selection to rule out certain potential jurors, thereby determining the composition of the jury box. It was, therefore, this final composition of the jury which, in part, governed the fate of the accused.

Hendrick and Shaffer (1975), found that the number of murderers as well as mutilation of the victims affected simulated jurors’ decisions. It was found that a murder which was followed by mutilation yielded a prison sentence of roughly fifty years more than when mutilation did not accompany the murder. The type and severity of the crime, therefore, was shown to play a consequential role in the outcome of a case. In conjunction, it was discovered that five murderers involved in a mutilation crime were given a harsher sentence than a single individual committing the same crime. From these results, it was evident that factors other than the physical evidence within the case itself have had an influence on the jurors, thereby impacting the judgment rulings. Other such influential factors were not limited to the number of accused, but extend into the frame of mind of the accused, the moral reasoning of the jury, and possibly even gender of the juror.
A second study (Arbuthnot, 1983) established that differences in moral reasoning abilities influence jury decisions. These influences resulted from differences in reasoning skills, motivation, and awareness of facts at various moral stages. Arbuthnot (1983) went on to suggest that juries are not likely to contain a high proportion of morally principled jurors, despite the fact that principled jurors were favored due to their higher ideals of responsibility and disregard for irrelevant information. Considering that juries, on average, lacked morally principled individuals, those individuals who were selected as jurors have a greater probability of being susceptible to biases, such as gender, that may influence their judgment.

Evidence suggested that males and females responded differently to circumstance presented prior to and during a trial (Riedel, 1993). Not only did Riedel (1993) find that women delivered "guilty" verdicts more often than men after exposure to damaging pretrial publicity against the accused, but also that women, playing the role of judge, rendered significantly longer sentences than men, and finally that women overall expressed more confidence regarding the correctness of her decisions than do men. If women were more easily biased by pretrial publicity against the defendant, this could signify that women may have been more open to suggestive factors such as gender of the accused as well.

In reference to an earlier study (Hall, Howard, & Boezio, 1986), Riedel (1993) reported that masculine subjects repeatedly responded in a more rape-supportive fashion that did feminine subjects, and that male sex-type individuals were less likely to render verdicts of "guilty" to a male defendant charged with rape due to a male's excessive "tolerance" of rape behavior. Considering men have biases such as this toward the male sex, is it not possible that women also have biases toward the female sex in general? These female biases toward other females, may lead a female to judge her own sex more harshly. In conclusion, Riedel (1993) indicates that it is important to study the way gender and other influences interact with judicial processes.

Goldberg (1968) conducted a study in which both genders judged non-sexual stereotyped manuscripts. Both genders judged identiclle manuscripts with one exception; the author's gender had been varied. In his study, Goldberg found that women graded male authors more positively than the alleged female authors. However, when this study was repeated by Levenson et al. (1974) it was found that no differences existed across genders.

In addition, McKelvie et al. (1993) determined that characteristics of both the offenders and the victims were another form of bias amongst jurors in the severity of punishment. In murder cases, the gender of both the victim and assailant were found to influence the harshness of the verdict. The results showed that jurors issued a longer sentence to males who killed other males than to males who killed females. Contradictory to the initial hypothesis of McKelvie et al., the findings suggested that gender did have an impact on the jury when the sentence of an accused was determined.

Stewart (1985, as cited by McKelvie et al., 1993), found that attractive offenders were treated more leniently than unattractive offenders. If such superficial factors as attractiveness have been used as a basis for judgment in cases, the possibility of such an influential component as gender, of both the juror and the defendant, having been a source of bias exist as well.

Gender bias was shown to be a determinant in the outcome of a number of court cases. Although the gender of the jurors and the gender of the accused were evaluated as biases on the severity of sentencing separately, the present study was the first to evaluate the interaction between these two variables on the severity of a murderer's punishment. This connection was created by analyzing the effects of male and female jurors on their sentencing of both male and female accused murderers. Considering not only the wide range of influence that gender plays in society, but also the many sources of bias in the judicial system, it was only reasonable that the cultural influences on gender lent to biases in the gender interactions between jurors and the accused. The present study hypothesized that women are less sympathetic to female murderers than to their male counterparts committing the same crime. It is possible that if this study proved that gender demonstrated an effect on the severity of a criminal's sentence, the sex of potential jurors may become a basis for juror selection in the future.
METHODS

Participants:

Fifty-four individuals from the University of the South acted as participants in this study. These students were a sample of individuals enrolled in an introductory Biology course. The sample was randomly chosen by announcing within the Biology class the opportunity for participation, and accepting those Biology students who volunteered. The participants therefore, ranging in age from 18-22, included fifteen males and thirty-nine females. This sample, representative of the entire college population, was predominately comprised of Caucasian individuals (72% Caucasian, 2% African American, 2% Hispanic, and 27% unspecified) from an middle to upper-class socioeconomic background.

The individuals, although informed that the present study investigated the severity of sentencing in actual murder cases, were not told the existent objective of the study, as it would have influenced their responses and diminished the accuracy of the results. Each participant was required to sign a participant consent form to insure that the individuals were aware of the confidentiality of their responses, as well as, their voluntary participation (i.e., that they may withdraw from the study at any time). In addition, each participant was individually debriefed as to the actual purpose of the study, the true identity of each convicted murderer, and the overall results of the study upon its completion.

Materials:

Two separate murder case vignettes, taken from Gregg Manning’s web page on the Internet (1998), were used for this study. The first of the two was committed by a male, while the second was committed by a female. These two murder descriptions were combined to form one of the packets used during the study (see Appendix B). The second packet (see Appendix C) used was composed of the same two cases, but with the gender of the murderers changed from the original (i.e., the male in the first case was changed to a female and the female in the second case was changed to a male). On the bottom of every case, the student was given a line on which to mark the severity of sentence that each prospective murderer should receive. One spectrum of the line symbolized the most severe punishment, while the opposite spectrum represented the lightest sentence possible for the defendant. Each set of packets contained a consent form (see Appendix A) which the participants were required to fill out and sign. Three demographic questions were included on this consent form.

Procedures:

During the closing of a Biology session, the students were informed of the present study, and asked for his/her participation. The potential participants were told, “This study is comparing the severity of sentencing for two authentic murder cases.” The two different packet sets were passed out to the class. Both sets contained one murder case committed by a male and one murder case committed by a female. The cases in each set of packets were identical in content, with the only exception being the gender of the murderers, which was switched in forms A and forms B. These two sets of test packets were shuffled so that forms A and forms B were placed in a random order. Upon receiving the packet, these individuals were asked to read and sign the consent form, and to fill out their the demographic questions present on the front sheet of the packet, including their phone numbers. The individuals were then instructed not to converse with any other student around them during the duration of the testing. After each signed the consent form and fully understood its content, they were instructed to flip to the next two pages, read each case description carefully and simply mark on the line provided, using an X, how severe the sentencing should be for the individual in question. When the participants completed the packet, they were asked to place the forms on the back table as they exited. In addition, the individuals were reminded that there is no need to place their name on either of the murder case forms.

Due to time constraints, as well as the students’ desires to learn the outcome of the study, each student was individually telephoned for debriefing only upon completion of the data analysis. During the debriefing, participants were asked if they felt that there was any alternate purpose for the study. This question not only allowed the students a chance to figure out for themselves the actual purpose of the research,
but also gave the experimenter a method of gradually and gently informing the participant of this study's objective. Within each debriefing session, the variables which were actually being studied, the factual identity of both the gender of the murderer and the results of the authentic trial, as well as, the results of the present study were revealed to the participant. In conjunction with this debriefing, the students were offered an opportunity to ask any questions concerning the study itself or their participation in the study.

The distance from the left spectrum of the severity of sentence scale to the mark of severity indicated by each participant was measured and recorded. The parameters of this measure were zero to 10.5. This length was established as the severity of sentence for these murderer. These results were then analyzed using a 2 X 2 ANOVA, an analysis of variance test for significance.

RESULTS

The gender of the simulated juror (i.e. the participants) was not found to be a significant indicator of the severity of the sentence when rating either a male or female suspected murderer (F(1,50)=.769, p=.385). Not only were male participant found to judge both males and females more severe, but also, as indicated by Figure 1., a substantial difference was found between the male participants' mean severity score for the male murderers, 9.1, and the female murderers, 8.5. Conversely, the female participants' mean severity scores for the male and female murderers were found to be the same, 8.3.
In addition, a significant difference was found between the female participants' severity ratings of the murders with mutilation versus the severity ratings of the domestic murders, \( t(38) = 5.42, \ p < .0005 \). When female participants rated male murderers there was a significance found between the two kinds of murders committed, \( t(5), p < .02 \). In addition, a significant difference was found between the type of case (\( t(5), p < .0005 \)) when the female participants rated female murderers. The mean severity score for domestic and mutilation for female participants was 7 and 9.6, respectively. On the contrary, as seen in Figure 2., men did not rate the two cases significantly different, \( t(14) = 1.75, \ p > .05 \). The male participants’ mean severity scores were 8.2 and 9.3, for domestic and mutilation murder respectively.

![Gender of Participants](image)

The data for three of the participants were discarded during the calculations of the results. The responses given by these individuals were not able to be interpreted, Åas he or she did not follow the given directions.

**DISCUSSION**

Contrary to the existent hypothesis, the results of this study indicate that females are not found to sentence other females with a greater severity. Therefore, no significant differences exist between female participants' ratings of male versus female murderers. As a result, the data suggests that gender of the murderer seems to play no role in deciding the severity of the sentences in courtroom cases, thereby upholding the decision made by the Supreme Court.

Although the original hypothesis is not supported by the findings, the data yield a significant, yet serendipitous, result. Females are shown to give a significantly more severe punishment in mutilation murders when in comparison with domestic murders. This finding suggests that women look more at facts within the case itself (i.e., how and where the murder was committed) more so than gender of the accused or possible other variables. On the other hand, males did not have a significant difference when rating the two murder cases.

Although the results of the present study contradict the results found within a previous
study (Goldberg, 1968), certain methodological similarities exist between the two cases. For example, both studies judge an ambiguous situation. Likewise, the differences between the gender of the participants and the gender of the judged are investigated in both studies. Certain discrepancies are found in the results of the present study when in comparison with Goldberg's (1968) findings. In the present study, women do not produce more severe rating other women, as in the Goldberg (1968) study, which notes that the literary critics rated the same gender more harsh.

However, in the replication study of Goldberg's (1968) experiment by Levenson (1974) antithesis results are discovered. In this study (Levenson, 1974) no gender bias is found in the evaluation of the manuscripts. Levenson's (1974) findings, therefore, coincide with the results of the present study, in which no gender biases are found.

In contrast to the results of the present study, Hendrick and Shaffer (1975) found that mutilation crimes receive longer sentences than do other murders. However, the results of the present study signify that only female jurors significantly rate mutilation more severely than other murders (i.e. domestic murders). There was no significant difference between the male jurors' sentences for the domestic and the mutilation murders. The present study also shows that gender of the murderer or the juror has no effect on the jurors' verdict. Therefore, gender is not an influential factor in the verdict of the jurors.

In addition, Goodman et al. (1991) found that males were given a higher monetary damage than similar female criminals. In contrast, the results of the present study show that no significant difference exists between the sentences given to male and female murderers, thereby establishing that gender is not a significant area of jury bias.

There are several methodological limitations within the present study. The sample size consists of only fifty-four individuals. This number is too small to obtain significantly reliable results, or to generalize to a larger population. Likewise, males are not represented equally among the participants, accounting for only 27.7% of the participants. As a result, no significance is found within the results of the male participants. The participants are also similar in age, ethnicity and socioeconomic background, which is not generalizable to a broader population. Modifying these areas would increase the reliability of the data, as well as, increase the generalizability of the results.

A second restriction to the method of this study is the low degree of mundane realism. In a real court room situation many other influences are present. For example, the stress of working and debating with other jurors can contribute to biases in the verdict. In addition, the participants may not be supplied with the amount of evidence given to make a valid verdict in an actual court case. This study does not present the simulated jurors with an existing individual as the accused murderer, nor is a picture of the accused provided. Having a tangible image of the individual whom is being prosecuted, as in a court room trial, may very well have influenced the decisions of the jurors as well.

Despite these potential flaws, certain precautions are taken to strengthen the accuracy of this study's results. The purpose of the present study is not transparent. Therefore, the probability of having participants respond in a socially desirable manner is greatly reduced. Social desirability, or the Hawthorne effect, decrease the reliability of the results by causing participants to respond not how they believe, but how they think the researcher wants them to believe. In this study, students are simply told that the study was comparing the severity of sentencing for two murder cases. These participants are not informed that the his or her gender, as well as, the gender of the murderer are the actual dependent variables within the study. Also, the cases that are used in no way indicate the actual purpose of the study.

An additional strength to the present study is that the present study is the only research which investigates the relationship and interaction between both the gender of the juror and the gender of murderers. This method determines if significant differences exist between not one, but any of these variables. Furthermore, the present study is capable of generalizing to other university students of similar age. Individuals that are beyond the age bracket used in this experiment may be influenced by other factors such as marital concern, household income, children, etc.

Likewise, the present study is achieved with minimal if any deception. This study is done in
light of the ethical standards presented by the American Psychological Association. Only one instance of passive deception is used during the course of the study. The participants are informed that each of the cases that he or she reads is an actual murder case. The murder cases are modified slightly to account for changes in time and the names of the convicted murderers. Upon debriefing the participants, each is fully informed of these modifications.

Also, by shuffling the two sets of packets before each are distributed, the participants are randomly assigned to two groups. This random assignment of students ensures that the results are not due to the type case alone, but are a consequence of the variations in gender among the murderers. Such a safeguard increases the reliability and internal validity of the data.

The results of this study suggest that the basis of severity sentencing for females is the type of murder case in question, while the focus for male jurors is the gender of the murderer. In accordance with these results, it is possible that the focus of this study should have been the gender bias among male jurors and not the bias among female jurors. These serendipitous results suggest that further studies should be done to evaluate the reliability of these findings. There are at least three possible studies which may result from the findings of this study: a replication of the present study utilizing a more heterogeneous population, the gender bias that males exhibit against other males, as well as the bias present within different types of murders. The results of this study may be used in the process of juror selection during trials, as a means of minimizing jury bias and excluding those potential jurors that may come into a case with predispositions intact. These modifications to juror selection may help to protect the guaranteed right to a fair trial.

REFERENCES


APPENDIX A
Consent Form

I, __________________________ (please print name), hereby give my consent to participate in the study performed at The University of the South on the specified date, __________. I understand that I will not be informed to the purpose of the study until after my participation is complete, at which time I will be fully debriefed, and have the option of being contacted at a future date to discover the results of the study. I further understand that I am capable of terminating my participation in this study at any time. Furthermore, upon signing this form, I was instructed that any information or opinion I express will be kept confidential, unless I grant specific permission for my name to be released in conjunction with the material.

Signature:

________________________

Please answer the following:

Male / Female? ____________

Age? ____________

Ethnicity (optional)? ____________
APPENDIX B

Case 1:
Elizabeth Barney was a 27-year-old wealthy socialite who had separated from her husband and was living in a house in fashionable Knightbridge. On May 31, 1982 she telephoned her doctor telling him that a 'terrible accident' had happened. She sounded very worked up and agitated. When the doctor arrived at the house, the body of 24-year-old Michael Scott Stephen was lying at the bottom of the stairs. The doctor could see that he had been shot at close range in the chest. The police were called and beside the body they found a .32 Smith & Wesson revolver with two empty chambers.

The neighbors had been awoken by a fight between the couple shortly after the pair had arrived home, rather the worse for wear, following a party at the Cafe de Paris. The neighbors reported that they had heard Mrs. Barney shout, I will shoot you. This was followed by one or more shots. Mrs. Barney told the police that a quarrel had indeed happened between her and Michael Stephen. She also stated that this was a common occurrence, a statement that the neighbors agreed with. Mrs. Barney went on to say that during the argument she had threatened suicide if he left her and that they had struggled and the gun had gone off accidentally as they fought.

She was arrested and charged with murder on June 3, 1983. Her lawyer was able to point out to the jury that the gun had no safety catch and demonstrated that the gun only took a very light pull to fire. This, he insisted, made it an obvious case of accidental death. A bullet hole in the bedroom wall of the house, with no bullet was brought up. Along with testimony from the witnesses who stated that Mrs. Barney had, on another occasion, fired at Stephen, from the street, into an open window.

Mark an "X" on the line below corresponding to the severity of the sentence for this individual. If no sentence should be appointed leave the line blank.

Less Severe

Most Severe

Allowed By Law

APPENDIX B- CONTINUED

Case 2:
Jacob Harwood was born in 1960 into a wealthy family who ensured that he had the best. As a young boy, he was given all the advantages in life and received a good education. Quite unexpectedly when he was seventeen, he stole equivalent to $10,000 from his father and ran away to London where for the next three years he kept himself by petty theft.

Tiring of this, wanting the better things in life, he decided to become a highwayman. For the next three years he moved around the country 'living in all, manner of excess. In 1982, he robbed the home of Andrew Burroughs. When confronted by one of the Burroughs' daughters and told by her that she would be able to recognize him again he attacked and murdered her, cutting her body into pieces. To complete the act, he then killed Mr. Burroughs and his wife. His two accomplices were astonished and horrified by his actions.

A short while after making their getaway, the two accomplices made an anonymous phone call tipping off police as to the whereabouts of Jacob.

Mark an "X" on the line below corresponding to the severity of the sentence for this individual. If no sentence should be appointed leave the line blank.

Less Severe

Most Severe

Allowed By Law

APPENDIX C

Case 1:
Jeff Barney was a 27-year-old wealthy socialite who had separated from his wife and was living in a house in fashionable Knightbridge. On May 31, 1982 he telephoned his doctor telling that a 'terrible accident' had happened. He sounded very worked up and agitated. When the doctor arrived at the house, the body of 24-year-old Elizabeth Stephen was lying at the bottom of the stairs. The doctor could see that she had been shot at close range in the chest. The police were called and beside the body they found a .32 Smith & Wesson revolver with two empty chambers.

The neighbors had been awoken by a fight between the couple shortly after the pair had arrived home, rather the worse for wear, follow-
ing a party at the Cafe de Paris. The neighbors reported that they had heard Mr. Barney shout, I will shoot you. This was followed by one or more shots. Mr. Barney told police that a quarrel had indeed happened between him and Elizabeth. He also stated that this was a common occurrence, a statement the neighbors agreed with. Mr. Barney went on to say that during the argument, he had threatened suicide if she left him and that they had struggled and the gun had gone off accidentally as they fought.

He was arrested and charged with murder on June 3, 1983. His lawyer was able to point out to the jury that the gun had no safety catch, and demonstrated that the gun only took a very light pull to fire. This, he insisted, made it an obvious case for accidental death. A bullet hole in the bedroom wall of the house, with no bullet was brought up. Along with testimony from witnesses who stated that Mr. Barney had, on another occasion, fired at Elizabeth, from a street into an open window.

Mark an “X” on the line below corresponding to the severity of the sentence for this individual. If no sentence should be appointed leave the line blank.

Less __________________________ Most Severe
Severe ________________________ Allowed by Law

APPENDIX C- CONTINUED

Case 2:

Julie Harwood was born in 1960 into a wealthy family who ensured that she had the best. As a young girl, she was given all the advantages in life and received a good education. Quite unexpectedly, when she was seventeen, she stole equivalent to $10,000 from her father and ran away to London where for the next three years she kept herself by petty theft.

Tiring of this wanting the better things in life she decided to become a highwayman. For the next three years, she moved around the country ‘living in all manner of excess.’ In 1982 she was living and working in Shropshire. Aided by two accomplices, she robbed the home of Andrew Burroughs. When confronted by one of Burroughs’ daughters who told her that she would be able to recognize Julie again. Julie attacked and murdered her, cutting her body into pieces. To complete the act, she then killed Mr. Burroughs and his wife. Her two accomplices were astonished and horrified at her actions.

A short while after their getaway, the two accomplices made an anonymous phone call tipping off the police to the whereabouts of Julie.

Mark an “X” on the line below corresponding to the severity of the sentence for this individual. If no sentence should be appointed leave the line blank.

Less __________________________ Most Severe
Severe ________________________ Allowed by Law