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Effects of Juror and Expert Witness Gender on Jurors’ Perceptions of an Expert Witness

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ABSTRACT

This study examined the effects of juror and expert witness gender on jurors’ perceptions of an expert witness. Undergraduate psychology students completed the Bem Sex Role Inventory and then read an edited trial transcript of an armed robbery case. The trial transcript contained expert testimony from a polygraph examiner. In half of the transcripts the expert was male and in the other half the expert was female. Subjects were then asked to render a verdict and answer questions about their perceptions of the witnesses and the trial. No significant effects were found in either the verdicts or the questionnaire responses regarding the expert witness’s credibility. The results of this study suggest that expert witness and juror gender do not have a major effect on the jurors’ perception of the expert witness. However, these results may be limited because the subjects were all university students of a similar socioeconomic stratum.

INTRODUCTION

Juries are one of the most important parts of western legal systems. The decisions juries make have lasting impacts on the defendants, victims, and the community as a whole. In discussing the importance of the voire dire process, Fahringer (1980) stated that jury selection was the most important part of any criminal trial. Having a sympathetic jury may improve the chances of winning a case. Given their importance, it is not surprising that juries have been the topic of a considerable amount of scientific study.

Most jury studies have focused on jury decision making. Researchers have examined the factors influencing jury verdicts, and both evidence and extralegal factors have been reported as having an influence on a juror’s decisions (Visher, 1987). These extralegal factors include such things as the perceived character of the victim and defendant. For example, a sexual assault victim’s extramarital sexual behavior and her perceived carelessness could weaken the prosecution’s case and influence the jurors’ judgments of the defendant.

Other studies have investigated how attitudes and interpersonal factors of jurors might have an impact on their verdicts (Boyll, 1991). One attitude that appears important is authoritarianism. Authoritarians identify with law and order and the rules of society and they may be more likely to accept the prosecutor’s case. Others hold the just world attitude. These individuals believe that life is fair and just and that people get what they deserve; bad things only happen to bad people. In personal injury and product liability cases, people who hold the just world attitude are more likely to side with the defense and award smaller monetary damages.

In addition, the use of an expert witness has been found to influence a juror’s decisions. Wells (1986) reported that mock jurors exposed to expert witness testimony concerning eyewitness accuracy were less likely to render a guilty verdict. Similarly, effects have been found in research that assessed expert testimony by an economist and juror determinations of damages and awards in civil lawsuits (Raitz, Greene, Goodman, & Loftus, 1990). Subjects in that study were assigned to one of three conditions. Jurors in the first condition received no information from an expert witness. Jurors in the second condition were exposed to information from an expert witness for the prosecution. The third condition involved the testimony of an expert witness for the prosecution and an expert for the defense. The authors reported that jurors in either expert witness condition awarded higher monetary damages than jurors in the no expert condition (Raitz et al., 1990).

Loftus (1980) reported a study on the impact of expert testimony about the
unreliability of eyewitness identification. She reported that expert testimony concerning eyewitness identification had an influence on jury behavior. It was suggested that expert testimony caused jurors to spend more time discussing and scrutinizing the eyewitness testimony. As a result, reasonable doubt about the defendant's guilt may have been raised.

The knowledge that expert witnesses affect juror decision making has led to another issue: The characteristics of an expert witness that may have an impact on jurors. Boyll (1991) states that appearance, credibility, likability, believability and persuasiveness of a witness can have an impact on jurors. He also pointed out that people are more likely to believe someone they find to be honest and credible. Boyll asserted that credibility is based upon competence, expertise, trustworthiness and dynamism.

The credibility of a source is also dependent upon the perception that the source possesses proper knowledge and does not appear to be biased (Hass, 1981). Individuals view a highly credible source as less likely to be incorrect. Therefore, the information presented by a highly credible source may not be examined as closely as it would be if it were presented by a source of low credibility.

Given that the credibility of an expert witness may be an important factor in juror's decision making, one reasonable question is: What makes one expert seem more credible than others? Anecdotal reports by attorneys seem to indicate that there is an unwritten rule that it is better to employ a male expert witness for a majority of cases.

Traditionally men have been viewed as aggressive, independent, unemotional, objective, dominant, active, competitive, logical, worldly, skilled in business, adventurous, self-confident, and ambitious (Harriman, 1985). On the other hand, Harriman reported that women have been viewed as talkative, gentle, tactful, religious, quiet, empathetic, aesthetic, and expressive. These characteristics may preclude women from being perceived as credible, competent, trustworthy, and dynamic.

Furthermore, Harriman (1985) stated that expert power is mainly a masculine trait, used more often by men than women. While men are more likely to be in expert positions, women who use expert power are often perceived as aggressive and out of role. However, exceptions have been noted in areas traditionally considered the proper domain of female expertise, such as child rearing or cooking (Harriman, 1985).

Similarly, Centers, Raven, & Rodrigues (1971), reported that men are more likely to be used in expert positions in our society. Moreover, the use of expert power is seen as out of role for women. For example, Centers et al. reported that wives observed their husbands using expert power much more than husbands saw their wives using it.

Past research with men and women in management has shown that, although there is no significant difference in competence between men and women, there is a difference in the way female performance is perceived and evaluated. Women are evaluated with more emphasis being placed on gender than actual performance (Harriman, 1985). In addition to less favorable evaluations in the workplace, clinicians use criteria less favorable to women in evaluations of the mental health (Broverman, Broverman, Clarkson, Rosenkrantz, & Vogel, 1970). That is, the traditional sex-role stereotypes that are so pervasive in our culture are seen as a sign of a healthy adult by many clinicians. Thus, a woman who takes on traditional male sex-role stereotypes would likely be considered unhealthy by some mental health professionals.

Gender role stereotypes have been found to affect perceptions of female university professors as well. Stereotypically-male behavior is much more congruent with the expectations of a university professor than female-stereotypical behavior. Female professors are often viewed as being of a lesser status, and as a result they are not often viewed as legitimate holders of authority (Richardson, Cook, Statham, 1983). The rightful possession of authority may require the adoption of masculine sex-
typed styles of interaction. That may in turn lead to societal resentment and punishment of women who exert authority (Kanter, 1977).

Women also lack political power (Frieze, Parsons, Johnson, Ruble, & Zellman, 1978). Customarily, politics has been a male-dominated profession. Traditional female stereotypes are not characteristics deemed essential for a political career. Many women who have entered politics have done so on the shirttails of their husband. Furthermore, many female politicians have filled the role of a deceased husband (Frieze et al. 1978).

Broverman et al. (1972) have also pointed out that women are sometimes perceived as less competent, less independent, and less objective than men. She suggests that women are put in a double bind since different standards exist for women than for adults in general. Adults are expected to be independent and able to take care of themselves. However, women who are very independent and can take care of themselves may be seen as unfeminine and, as such, in deviation from society's prescribed standards for women's behavior.

In the late 1960's Horner (1969) expressed concern that sex role stereotyping could dampen the development of men and women into their full potential. Later, Bern (1975) stated that sex role differentiation "has long since outlived its usefulness and ... it now serves only to prevent both men and women from developing as full and complete human beings" (p. 634). Bem suggested that individuals should instead be androgynous. She described an androgynous individual as someone who possesses masculine traits and feminine traits depending upon the situation (Bem, 1975). Androgynous individuals, compared to sex-typed individuals, are described as having a broader repertoire of behaviors. Moreover, they are able to adapt their behaviors to the situation, even if that means the behavior might be considered inappropriate for the sex type (Harriman, 1985).

Central to the present thesis is the belief that expert witnesses do affect a juror's decisions and that women, in many situations, are viewed as less competent and credible. It is also believed that androgynous individuals will view men and women as equally competent. No previous research has investigated the effects the gender of an expert witness has on juror's decisions. This study was conducted to determine if there is a difference in how jurors assign credibility to female expert witnesses compared to male expert witnesses. It was hypothesized that the male expert witness would be perceived as more credible than the female expert witness. Additionally, it was hypothesized that androgynous jurors would view both male and female experts as equally credible.

**METHOD**

**Subjects**

One hundred undergraduate students (50 female) from the University of North Dakota participated in exchange for course credit. Subjects ranged in age from 18 to 42, M = 21 years. Each of the subjects were randomly assigned to one condition of the experiment, with the constraint that 50% of the subjects in each condition were female.

**Procedure**

The design of the present experiment was a 2 (Gender of the Subject) X 2 (Gender of the Expert) factorial. Subjects were recruited by signing up for an appointment in the psychology department. Subjects were tested in groups of about 10 subjects, but no deliberations or discussions of the case between subjects were allowed. When subjects arrived for their appointments, they were asked to complete consent forms. Subjects were then asked to fill out the Bem Sex Role Inventory (Bem, 1975). They were then presented with an edited transcript of an armed robbery trial that had been used in other research (Cutler, Penrod, & Dexter, 1990). The transcript contained testimony from a number of witnesses, including a victim/eyewitness. The transcript information had been tested in an earlier
The study by Honts & Devitt (1992). In the absence of expert testimony, the transcript produced about fifty percent guilty verdicts in a sample from this same subject population. For the present study, the testimony of an expert witness for the defense was added to the transcript. For half of the subjects the expert was a male and for the other half the expert was a female. The expert gave testimony that he or she had conducted a polygraph examination of the defendant, and the defendant had passed the examination. Previous research (Honts & Devitt, 1992) indicated that the introduction of this testimony by a male expert witness produced a small but significant shift in guilt ratings in favor of the defendant.

After reading the transcript, subjects were asked to fill out a questionnaire. This questionnaire had been developed in earlier research (Honts & Devitt, 1992), and it asked the subjects to render a verdict regarding the defendant's guilt. The questionnaire also asked subjects to rate their confidence in their verdicts on a 7-point scale (1 = not at all confident). Subjects also rated their certainty that the subject was guilty on a 7-point scale (1 = not at all certain). Finally, the subjects rated the influence of the testimony of each witnesses on their verdicts on a 7-point scale (1= not at all influential).

RESULTS

Fifty-six of the subjects in the study found the defendant guilty, and 44 of the subjects found the defendant not guilty. There were no effects of either the subjects' or the expert witness's gender on the verdicts rendered. A gender of the subject X gender of the expert ANOVA was conducted to assess the credibility and influence ratings of the expert witness and the certainty of defendant guilt. No significant effects were found by those analyses. The mean and standard deviations for the critical items from the questionnaire are shown in Table 1.

Correlational analyses were used to explore the possibility that the scores on the Bern Sex Role Inventory (Bern, 1975) were able to predict credibility assessments of the expert witness. No significant correlations were found.

A power analysis of the present study was conducted using the procedures described by Kraemer and Thiemann (1987). The power analysis indicated that there was a 90% chance of finding a difference of one standard deviation if there had been such an effect of the independent variables in these data. The power analysis further indicated that there was a 70% chance of finding a true effect of .75 standard deviation, and a 40% chance of finding a true effect of .50 standard deviation. Thus, in the believability ratings of the expert witness, we would have had a 90% chance of finding a true effect of 1.5 units on the 7-point scale, a 70% chance of finding a 1.125 unit effect, and a 40% chance of finding a .75 unit true effect of the independent variables, if they existed. These results suggest that the present study was powerful enough to have a good probability of finding any effects of practical importance of the gender of the subjects and/or the expert witness.
DISCUSSION

The results of the present study indicate that the female expert witness was perceived to be as credible as the male expert. Thus, the present results go against the broad belief that women are viewed as inferior to men. These findings suggest that, although women may be viewed as less credible than men in some situations, this may not be true for expert witnesses.

However, there are several caveats to consider in evaluating this study. Although some research (Cutler et al., 1990) has indicated negligible differences between actual jury pools and college students, the fact remains that all the mock jurors in this study were college students. Perhaps college students are more open than the average citizen to women having professional jobs and being competent at those jobs. The young age and relatively high level of education of subjects may be one reason that males and females were perceived as equally credible. Another consideration is that college students in the 1990's may be more open to women in expert roles because they may have been raised in families with working mothers. Broverman et al. (1972) have speculated that people whose mothers work are in contact with women as professionals and they may be more likely to view women as competent working individuals (Broverman et al., 1972).

Although the jurors were not specifically asked about the criteria they used in evaluating the experts, they may have evaluated them primarily on their credentials. Gender may simply have not been an important factor. The results may also indicate that society is breaking down some of the old stereotypes about women, especially the notion that women are less competent than men.

The results of this study may have implications for attorneys who follow the unwritten rule that it is better to have a male expert in most situations. These attorneys should now be more willing to use female experts. However, if they do use a female expert they may want to choose a young expert. This study should also be encouraging to women, especially women who are expert witnesses. It may put them at ease to know that their gender is not a strike against them before they enter the

There is a need for more research on how gender affects jurors' perceptions. Specifically, the present study needs to be replicated with older jurors and with jurors from a variety of levels of socioeconomic strata.

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Author Notes

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