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“Judging a Book by Its Cover”: A Legal Psychological Review on Target’s Physical Appearance and Legal Decisions

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Abstract

More often than not, people automatically make guilty inferences from physical appearance despite little evidence for their accuracy. This has usually been extended to the criminal justice system. Wrongful convictions have therefore not been uncommon in our society and people who are culpable are sometimes exonerated. Sometimes it is not until innocent persons have finished their sentence or executed before their innocence is known. Research in legal psychology has thus, usually focused on physical characteristics and its impact on trustworthiness, and guilty decisions and severity of sentences. This paper systematically reviewed studies on the influence of physical characteristics on legal decisions so far. In addition, some recommendations have been proposed for further research based on gaps identified from our analysis.

Keywords: Legal Decisions; Physical Appearance; Guilty; Offender; Victim; Suspect; Legal Psychology.

Introduction

Issues about ‘appearance versus the reality’ seem to permeate various issues of human lives. These have been crucial in philosophical studies, legal system, political decisions, and even in the business world. For example, facial appearance predicts decision makings including decisions on whom to vote for during presidential and parliamentary elections (Todorov, Mandisodza, Goren, & Hall, 2005). This can have many implications on lifelong developments and socioeconomic growth.

As it can be inferred, some electorates choose to vote for an aspirant not necessarily because of their workable policies but rather, their colour, on how handsome or beautiful in appearance the aspirant is.

This tendency has usually not been different from our criminal justice system. In the dissemination of justice, judges are expected not to be biased but fair in their decisions. Verdicts are to be reached based on the case presented and the supporting evidence in the quest for justice and fairness. To avoid wrongful convictions, judges are expected to arrive at legal decisions after they have been convinced beyond all reasonable doubts. The price of risking wrongful conviction is too socially high. When people who are culpable are exonerated, their presence in society could increase crime levels. Such wrongful convictions could also pose a damaging effect on the innocent person, legal system and a nation as a whole. However, in the courtroom setting there are extra-legal variables that have been found to play a key role in credibility and guilt decisions (Blair, Judd, & Chapleau, 2009). Such variables do not only influence guilt decisions but it has also been suggested to affect the severity of sentence as well (Abwender, & Hought, 2001). Such variables include characteristics and physical appearance of the victim (Vrij, & Firmin, 2001) and the defendant (Korva, Porter, O'Connor, Shaw, & ten Brinke, 2013).

The possible impact of such variables has implication on justice, peace and regional security as wrongful convictions would exonerate criminals who could pose a danger to the populace while innocent people will be convicted. The influence of such variables in the legal setting is therefore a problem that calls for attention. As national and international bodies seek to establish peace and promote justice, it becomes necessary to strengthen the legal system as a conduit for freedom, justice and peace. Hence, an investigation into extra-legal variables that could influence decision making will be a step in the right direction.

Theories on Physical Appearance and Legal Decision Making

Among the influential models that have sought to explain the influence of physical characteristics on legal decision making is the Dangerous Decisions Theory propounded by Porter and ten Brinke (2009). According to this model, intuitively evaluating the trustworthiness of a defendant based on facial appearance can bias jurors' interpretation of subsequent information about the defendant.

Another model that has been most significant in this area is the Elaboration Likelihood Model. Propounded by Petty and Cacioppo (1986), this model posits that some level of evaluation occurs when information is presented to someone. Thus, the level of evaluation (on a continuum from low to high) that they engage in will determine how they will be persuaded. From this model therefore, jurors and judges engage in this form of evaluation and their guilt or sentencing decisions will be based on the evaluation of how they think about the defendant, victim or even the witness.

The Culpable Control Model by Alicke (2000) also offers explanation on legal decision making by looking at the psychological processes people go through in making evaluations for accepting responsibility as well as blame. Thus, people evaluate whether a person was negligent in causing harm and also assess the situational factors that could account for the action.

Method

Materials

The major sources for this article are recent peer reviewed studies on physical appearance and legal decision making issues ranging from 2000 to 2013.

Methods

The authors of this article used a systematic review method to analyse the current trend in research and to make suggestions for future studies.

Discussion

Previous studies have subsequently sought to study the role such extra-legal variables play in credibility, guilt and sentencing decisions. In a study investigating the role individual differences play on the intuitive examinations of facial trustworthiness, it was found that the evaluation of character partly based on facial appearance, have an interactive effect with attitudes and biases in shaping the assessment of evidence. Although this study did not record any gender effect, it

however only looked at how the facial appearance of the defendant can influence legal decisions (Korva et al., 2013). An important factor overlooked in this study was the exact role facial appearance of defendant and victim can also play in legal decision making.

Another study worth analysing examined the interactive effect between juror's gender and attractiveness of defendant. This study also revealed that, unlike an attractive female defendant, unattractive female defendant received severe sentence from female jurors. However, an opposite tendency was observed for male jurors. They also found that more leniencies were shown to black defendant by black jurors whilst an opposite trend was shown by Hispanics while white jurors were not racially motivated in their sentencing (Abwender, & Hought (2001). This study however sampled only university students as mock jurors. Hence, this composition of jurors was not representative of a jury true which is usually composed of people with diverse educational background as well as age.

In some cases, physical appearance like facial attractiveness and baby-faced features of inmates did not affect the severity of sentences given them. Such result was identified in a study done by Blair, Judd and Chapleau (2004). It was also found that when given equivalent criminal histories, judge will pass the same sentence on black and white inmates. Within each race however, they found that inmates having more Afrocentric features received sentences that were harsher than those with less Afrocentric features. This study however only used male inmates between the ages of 18 – 24. This study recruited only 69 participants as mock jurors. Apart from the sample size in the study being small, the participants were all also college students. The selection of mock jurors was thus, not heterogeneous; taking into consideration the age and educational background of the participants. Again, images of defendant used in this study were people already trialled and sentenced by the court. They were for that reason inmates of a prison already. This perception alone could possibly have a psychological impression on the legal decisions made by the mock jurors in the study. One may probe for a possible bias which may arise with the idea of passing a new verdict on an already established "guilty verdict previously taken" by a competent court of jurisdiction.

As a complement to the above issues, Schvey, Puhl, Levandoski, and Brownell (2013) sampled 471 participants as mock jurors in their study that examined the influence of the weight of defendant on mock jurors' perceptions of guilt. Paralleled with lean female defendants, female defendants who are obese are judged to be guiltier by male judges. Among female judges however, the study found that, they were not biased by female defendant's body weight in their perception of guilt. This study is however limited as digital alteration software was used to create obese versions of male and female participants. The authors could have rather used real pictures of obese participants. Similar to Abwender and Hought (2001), participants for this study were made up of only university students thereby limiting the generalizability of the findings. Jurors in our law courts are made up of people from diverse educational background, age, discipline etc. Hence, using only university students as mock juror is not an adequate representation of real jurors. Also, the researchers were only focused on the weight of the defendant and did not consider facial attractiveness which could have made their findings more comprehensive.

It is noteworthy that cognitive distortions in the form of myths and prejudices can influence the relationship between physical characteristics and legal decision making. Virj et al. (2001) examined the beneficial effect of the attractiveness of defendants and victims in a rape case. They found that among those who endorse rape myths, there is a favourable attitude towards attractive defendants. It was also revealed in this study that compared with males, females would demonstrate a more favourable attitude towards the victim of rape. This study however also sampled university students like other previous studies. Likewise, the authors in this study were interested in physical attractiveness and how it influenced impression formation and not necessarily legal decision making. Thus, the authors did not consider the verdict that could be passed on the defendant after participants have formed their impressions.

From the review, facial attractiveness and baby-face features influenced the severity of sentencing decisions. This result was identified in a study by Blair et al. (2009) which sought to look at the influence of physical attractiveness on sentence decisions. This study also found that people with Afrocentric facial features (either black or white) receive severe prison sentences than those without such features. This study however only used undergraduates as participants, hence limiting the external validity of the findings. Similarly, the participants were only made to make

sentencing decisions and did not make decisions of 'guilty' or 'not guilty', though decisions on guilt should have preceded sentencing decisions. As a consequence, since they were made to give sentencing decisions without first allowing them to decide whether defendants were guilty or not, participants will be more likely forced to impose a sentence. Their sentence imposition may however not necessarily mean they are in favour of a guilty verdict but rather due to the lack of opportunity to declare a guilty verdict.

Similarly, Eberhardt, Davies, Purdie-Vaughns, and Johnson, (2006) only focused on how physical appearance of defendant impacts on death sentence decisions only and neglected the impact on decisions of 'guilty' or 'not guilty'. This study investigated the extent at which a defendant who is perceived as having a black appearance would receive a death sentence. They found out that a defendant who is stereotypically perceived to be black is more likely to receive a death sentence. Apart from the above limitation, only college students were sampled just like previous studies despite the fact that the study also focused on the impact of race and not physical attractiveness.

Conclusion

Legal decision making forms an important foundation for the administration of freedom, justice, security and peace. The need to develop a good sense of trust in our existing global legal structures depends on the ability of our judiciary apparatus to make valid and reliable decisions. In simple terms, a law court should be able to determine the 'guilty party' as guilty and the 'non guilty party' as not guilty.

Wrongful convictions of persons have been observed in our world since time immemorial. Studies in legal psychology have identified physical characteristics of persons to have a significant impression on the trustworthiness, guilty decisions and severity of sentences. Whenever this occurs, the conceivable impression of such wrongful convictions would exonerate criminals who could pose a danger to the populace while convict innocent people.

Although the study reviewed very valuable papers in this area, some gaps have been discussed to help future studies do a more comprehensive job on the theme.

Suggestions for Future Studies

Future research can look at building on the physical appearance and legal decision literature as some previous studies (eg. Korva et al., 2013) have usually focussed on the physical appearance of defendants. Consequently, such studies may intend to build upon this by adding the physical appearance of defendant as well as victim. This may be done by exploring how each of these (appearance of defendant and victim) affect legal decision making and how they can interact to affect decision making in the court room.

Furthermore, some of these studies (eg. Blair et al., 2009; Schvey et al., 2013) conducted in this area used college students as their mock jurors. Future studies can benefit from a sampling frame of people with diverse demographic characteristics. Consequently, mock jurors should be sampled from heterogeneous backgrounds to be able to simulate a true one.

An important factor to consider is that some of the studies reviewed have either looked at only the impact of physical appearance on impression (Vrij, & Firmin, 2001) or sentencing decisions (Blair et al., 2009). A number of the studies did not consider how the physical appearance can impact decisions of 'guilty' or 'not guilty'. This gap may be filled by extending the line of research to explore whether physical appearance can impact not only sentencing decisions but also decisions of 'guilty' or 'not guilty'.

A striking observation is that, some of the studies reviewed on physical appearance and legal decisions took on 'unidirectional relationship' [i.e. exploring the influence of physical appearance on legal decision making]. There is also a possible tendency that the appearance of suspects influences judge's perception in as much as the perception influences the suspect's behaviour. Such evidence had been highlighted by Sommerville and Decety (2006). A 'bi-directional relationship' as suggested in the concept of 'embodied cognition' (Wilson, 2002) may be considered by future studies. This postulates that cognitive processes have a strong relationship with the body's interaction and also with the environment.

Finally, future studies should also test for mechanism, mediators and moderators across and within cultures. This will help provide a comprehensive understanding of these variables among cultures.

Conflict of Interest Statement

The authors declare that they do not have any conflict of interest.

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