

EFFECT OF MOCK JUROR GENDER ON THE JUDGMENT OF CHILD SEXUAL ABUSE

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Abstract

Sexual violence is a major public health issue today, especially when it involves children, for whom the consequences on development are major. This study is inspired by Pettalia et al.'s (2017) work, as it examines the influence of the juror's gender on the assessment of the defendant's guilt and the testimony of a minor who has been the victim of sexual violence. It extends that study by analyzing the effect of the victim's age, and the type of sexual assault (Sexual Assault involving Touching – CSAT or Sexual Assault involving Penetration) on the judgment. Participants were 388 students (121 men, 267 women; $M = 20.54$, $SD = 1.87$) at a French University. They read a fictional account of a child abuse case, involving a young girl who is questioned by the police about the abuse she has been victim of. She describes what her aggressor (her 44-year-old stepfather) did to her while her mother was out working. The accusation involved either CSAT or CSAP, not punished the same way under the French Penal Code. Participants then completed a self-report questionnaire about the seriousness of the act, the guilt of the defendant, and the plausibility of the victim's testimony. In line with previous studies, results showed that sexual assault involving penetration was considered more severe than touching and to have more repercussions on the victim's development. The victim's age also influenced the participants' assessment, particularly regarding her honesty and the gravity of the act; adolescents were considered more reliable than children. However, this study revealed differences arising from the juror's gender; women were more likely than men to assess the defendant negatively and were generally more pro-victim. The major finding is the difference between men and women in relation to the type of abuse; women tended to differentiate less between the two types of abuse than men in terms of seriousness of the act and the honesty of the victim. In terms of application, these findings may be interesting for prosecutors, raising their awareness of the potential biases and attitudes of jurors, and enabling them to limit the effect of judgment bias in these cases that have major consequences on young victims.

Keywords: *Child abuse case, mock juror's assessment, judgment, sexual abuse, type of abuse.*

1. Introduction

In 2021, there was a 33% increase in reports of sexual violence in France (Service Statistique Ministériel de la Sécurité Intérieure, 2022). This figure does not necessarily represent the increase in actual cases of sexual violence, but rather the upsurge of confessions that have occurred in recent months, especially on social networks, with an increasing number of testimonies of adults who were victims of sexual violence during their childhood or adolescence and who want to relieve themselves of the burden of silence.

Sexual assault on minors is an important concern today, as we know the repercussions these assaults may have on their development. This kind of assault is defined under French law as follows: "The use of violence, constraint, threat or surprise by an adult to sexually assault a person under 15 years of age" (French Penal Code, Article 227-25). According to Wolfe (2007), 50% of children who have been sexually abused have Post-Traumatic Stress Disorder (PTSD). Vila (2006) identified three major repercussions on children: intellectual inhibition, emotional blunting and detachment from interests and relationships.

Another aspect of research has been to identify the factors that may influence the way these assaults are judged. Sabatier and Schadron (2010) found that two types of factors are involved when making a judgment: judicial factors, including facts or evidence, and extra-judicial factors, including the juror's gender, the type of abuse, and the victim's age. Pettalia et al. (2017) focused on the latter type. They found that gender was a significant factor, women jurors tending to be more empathic with the victim than men and more severe with the defendant, which is in line with previous research showing that women are more likely to find the defendant culpable than men (Rogers & Davies, 2007; Devine & Caughlin, 2014). To date, few studies have been conducted specifically on the judgment of sexual abuse of minors.

2. Aims

The purpose of this research, inspired by Pettalia et al. (2017), is therefore to extend previous work on the extra-judicial variables that could influence the judgment of sexual violence against minors, with the aim of providing key information to judges in order to overcome judgment biases.

This research extends Pettalia et al.'s (2017) study, which examined the distinction between different kinds of abuse (physical, emotional, sexual and negligence). In the present study, we focus on sexual abuse, which was found to be the most severe offense in their study. We examine two specific types of sexual abuse: touching and rape. Unlike rape, touching does not involve penetration. We thus differentiate between Child Sexual Abuse involving Touching (CSA-T) and Child Sexual Abuse involving Penetration (CSA-P).

In line with the findings of Pettalia et al. (2017), we expected to find a difference between the judgments made by men and women (H1). Secondly, in line with Devine and Caughlin (2014) who found a relationship between the juror's gender and the judgment of guilt, we expected that women would be more likely to consider the perpetrator guilty (H2). Extending Pettalia et al.'s (2017) work, we differentiated between two types of sexual abuse (CSA-T versus CSA-P), hypothesizing that the perpetrator would be judged less severely in the CSA-T scenario than the CSA-P scenario, as penetration is perceived to be more harmful (Fergusson & Mullen, 1999) (H3). There is no scientific consensus on the influence of the victim's age on judgment, but we hypothesized that the testimony of an adolescent would be considered less reliable than that of a child, in accordance with some studies (Bottoms et al., 2014; Graham et al., 2007) (H4).

3. Methods

As in Pettalia et al.'s (2017) study, our sample comprised young adults (*mean age* = 20.54 years, *SD* = 1.87). Participants were 388 students at a French University (267 women, 121 men). They answered a questionnaire independently online, via Sphinx, in April 2020. They were randomly allocated one of four scenarios. Each scenario described a fictional child abuse case, involving a young girl who was abused by her stepfather (44 years old) at home while her mother was out working. The scenario was based on the most typical features of accusations of sexual violence involving minors. For example, Wolfe (2007) showed that 6- to 10-year-old girls are those who are most at risk of being abused by a sexual aggressor, mainly a man (Bouhet et al., 2007), who is known by the victim in 75 to 90% of cases (Finkelhor et al., 1990). In each scenario, we manipulated the age of the victim (8 or 15 years old) and the type of abuse (CSA-T or CSA-P), and we noted whether the juror (i.e. the participant) was a woman or a man. Therefore, we used a 2 (participant's gender: woman, man) x 2 (type of sexual abuse suffered by the victim: CSA-T, CSA-P) x 2 (victim's age: 8 or 15 years old) factorial design.

The first items of the questionnaire were designed to ensure the participants understood the situation. Next, they were asked their opinion about the act, the victim, and the perpetrator, rating items on a 7-point Likert scale, ranging from 1 (Not at all) to 7 (Totally). They were asked specifically about the victim's honesty, the plausibility of her testimony, the seriousness of the act, and the guilt of the perpetrator. We carried out a multivariate ANOVA and correlation analysis (Bravais Pearson) using Statistica (version 13.3).

4. Results

4.1. Participants' gender

The ANOVA indicated that women were more inclined than men to consider the victim's testimony to be reliable, $F(1, 380) = 17.23$; $p = .001$ (Women: $M = 6.13$; $SD = .05$; Men: $M = 5.70$; $SD = .08$), and they were also more likely to believe in the honesty of the victim, $F(1, 380) = 5.27$; $p = .02$ (Women: $M = 6.11$; $SD = .06$; Men: $M = 5.84$; $SD = .10$).

4.2. Type of abuse

Child Sexual Abuse involving Touching (CSA-T) was considered less serious by men ($M = 6.40$; $SD = .07$) than women ($M = 6.73$; $SD = .05$) $F(1, 380) = 6.19$, $p = .01$, whereas there was no significant difference between the judgment of men and women on abuse involving penetration (CSA-P). Statistics also indicated an interaction between the participant's gender and the type of abuse concerning the honesty of the victim, $F(1, 380) = 4.10$; $p = .04$; women's judgment did not differ between CSA-T ($M = 6.13$; $SD = .09$) and CSA-P ($M = 6.09$; $SD = .09$), whereas men considered the victim to be more honest in the CSA-P scenario ($M = 6.06$; $SD = 0.15$) than the CSA-T scenario ($M = 5.62$; $SD = 0.13$).

4.3. Victim's age

Participants considered that the assault was more serious when the victim was younger, $F(1, 380) = 6.95$, $p = .001$ (8-year-old: $M = 6.83$, $SD = .04$; 15-year-old: $M = 6.66$, $SD = .05$). They also thought that younger victims were more honest, $F(1, 380) = 12.57$; $p = .001$ (8-year-old: $M = 6.19$; $SD = .08$; 15-year-old: $M = 5.76$; $SD = .09$).

4.4. Guilt of the perpetrator

All the participants found the perpetrator guilty, $F(1, 380) = 0.34$; $p = .56$. ($M = 6.94$; $SD = 0.05$).

5. Discussion

In line with the findings of Pettalia et al. (2017), the present study found that the participants' gender influenced their judgment in child abuse cases. Compared to men, women tended to be more pro-victim, and to judge the perpetrator more harshly. This study extended the earlier findings by showing that judgments differed according to the type of offence (CSA-T vs CSA-P). The most interesting finding concerns the interaction between these two variables, as women and men judged the two types of abuse differently. Women were less likely than men to differentiate between the two types of abuse in terms of the seriousness of the act and the victim's honesty. This could be explained by the fact that women may feel more personally involved in this type of abuse, whatever the act (touching or rape); statistics show that more women than men experience sexual abuse: 14% of women report having been sexually abused, compared to 4% of men (Hamel et al., 2016). Likewise, a recent Asian study (Shi & Zheng, 2020) revealed that women are less tolerant of sexual harassment than men, and several meta-analyses found that more women than men report that they have been sexually assaulted (Pereda et al., 2009; Stoltenborgh et al., 2011).

Concerning the age of the victim, the results reveal that this influenced the participants' judgment. Previous studies divided victims into different age groups, which could explain the disparity between their results. In future research, it would be interesting to vary the age of the victim in the scenarios, as the age range chosen could bias the results.

Finally, concerning the guilt of the perpetrator, it is possible that the form of the question may have constituted a bias, as participants had to make a yes/no judgment without the possibility of nuancing their response. However, in real-life judgments of sexual violence, the answer is not always so simple. It would therefore be interesting in future research to provide a different response format, to enable a more nuanced response.

6. Conclusion

The issue of sexual violence, especially against minors, is a topical issue, not because it is new, but because of heightened awareness. The results of this study confirm and highlight the existence of judgment biases in sexual violence cases. These findings are important because awareness of the potential biases and attitudes of jurors would help overcome judgment bias in these cases. It would be interesting in future studies to introduce different age groups of victims in order to examine the effect of this variable

on judgments. This would allow us to identify which factors influence the way these cases are judged and how these change across the lifespan.

The results of the present study provide the basis for future work. For example, it would be interesting to study other factors about the victim (...) or the persecutor (e.g. religion, social status, history of abuse), in order to extend analysis of the biases that may influence judgment of these cases.

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