Impact of Disease Model of Addiction on Judgements of Criminal Responsibility: Pivotal Role of Perceived Choice

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Debates continue over whether the prevailing neuroscientific model of addiction as a brain disease informs questions around moral and criminal responsibility, but little empirical work has been conducted with those tasked to address this question in practical terms on a daily basis. We have explored this point over two studies, respectively sampling 110 and 276 Magistrates active in the UK. In the first study we asked them to consider a criminal sentencing scenario in which evidence of a defendant's brain damage and impaired impulse control was presented. This neurological damage was attributed to either a (fictional) disease or to addiction. When the same neuropsychiatric profile resulted from disease, rather than heroin use and addiction, custodial sentences were significantly reduced. The pivotal factor denying addiction the mitigating power of disease was perceived choice in the initial acquisition; removing choice from addiction dramatically increased the odds of sentence reduction, while attaching choice to disease tended to aggravate or reverse earlier leniency. The second study presented another criminal sentencing scenario in which the defendant exhibited similar neurological impairment, but additionally included 'mixed' aetiologies in which either disease led to addiction or addiction led to disease. Our results confirm the dramatic effect which the aetiology of impairment can have on judgements of criminal responsibility, whilst moreover give suggestion that drug-use tips the balance in favour of the punitive element when weighing criminal sentencing decisions.