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How does sentencing impact minority communities across the United States

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Determining a sentence can seal the fate of an individual for the rest of their life. For those who are of the minorities or present as anything racially and ethnically other than white can face a battle in the United States court system. Even though sentencing can be swift, it comes with both the emotional preparation leading up to that very moment can be difficult. Sentencing does not only occur in the adult system, but the juvenile system as well. Children who cannot conceptualize the judicial system are now being put at risk. Their future now lies within the courts and what the judge decides. The following frameworks embody a statistical measure that convey the importance of change “*RACIAL, ETHNIC, AND GENDER DISPARITIES IN SENTENCING: EVIDENCE FROM THE U.S. FEDERAL COURTS** (DAVID B. MUSTARD.)”, “*Mandatory Sentencing Laws: Undermining the Effectiveness of Determinate Sentencing Reform* (Gary T. Lowenthal.)”, “*Probation and Parole Corrections in the Community* (Howard Abadinsky.) ”and “*The Sociology of Sentencing: Reconceptualizing Decision Making Processes and Outcomes* (Daniel P. Mears).” Laws are rigid and must be followed by judges when determining sentencing; however, consideration should be appointed as each case varies just as the law does. This situation now poses the question: How does race and gender affect sentencing and incarceration rates? It is not just race and gender alone, other factors include education and a low socio-economic background. By taking a different approach to the United States criminal justice system, sentencing can be redetermined and focused on improving those who are incarcerated.

The way in which the political body creates sentences Nuance vs. General Determinate sentencing seeks to rid nuance from a circumstance.

The United States throughout its history has always acted as the leading force of violence against disenfranchised groups, enabling hate groups to commit atrocities through the lens of

established supremacy built towards white people, and more specifically white men. The various extensions, and branches of the government are filled with belligerent hate that has been grafted into these stations of the government since their very creation. The unfair practice of how sentences are determined within the court system can generally be described as either recognizing nuance, or ignoring it: “While determinate sentencing statutes seek proportionality by balancing multiple factors, mandatory sentencing statutes generally provide that when a specified circumstance exists in connection with the commission of a crime (1) the court must sentence the defendant to prison and (2) the duration of the defendant’s incarceration will be substantially longer than it would have been in the absence of the circumstance.” (Page 64, paragraph 2 , lines 3-6) The government’s implementation of sentencing legislation takes one of two forms, the first being “determinate sentencing” which attempts to make the sentencing process for crimes person specific and analyze the nuance of circumstances in an attempt at reforming the legal process to rid it of unwanted disparity. The second form that sentencing legislature takes is that of “mandatory punishment” statutes that establish a precedent of a minimum sentence for all crimes committed be a requirement that is to be met during the legal sentencing in a government that has disproportionately targeted groups of disenfranchised people throughout its history is proof of how the long-standing tropes of racism, and misogyny have shaped the United States perspective on what a fair trial is: “If the trend toward superimposing severe mandatory sentencing on guideline systems is not reversed, it may destroy consistency and proportionality in punishment” ... “Most jurisdictions have abandoned rehabilitation.” (Page 65, paragraph 2, lines 4-6, Page 63, paragraph 2, line 4) The legislature being placed into legal proceedings veers more in the direction of applying a mandatory minimum punishment to all crimes committed makes the very nature that our criminal justice

system acts on a vengeful one, without the desire, nor capability of offering rehabilitation to those that enter the system, furthermore the nature of overly severe sentencing on crimes is by its very nature unjust as a result of the fact that no sentence you receive will be one that accurately fits the crime that was committed, it turns those that commit offenses into examples.

Disparities within sentencing minorities as a whole (United States Sentencing Commission)

The “Sentencing Reform Act” (SRA) was implemented to eliminate the intolerance of race, ethnicity, and gender from sentence length involved in legal disputes, or crimes being committed. Despite such implementations the rampant effect of racism within the criminal justice system was still massive and depicted disparities in sentencing against any non-white, non-male group of people within America: “Celesta Albonetti examined the drug offenders from 1991–92 and concluded that their sentencing is linked not only to offense-related variables but also to defendant characteristics such as ethnicity, gender, educational level, and noncitizenship, which the guide-lines specify as legally irrelevant.” (Page 287, Paragraph 1, lines 1-5) Despite the implementation of guidelines which attempted to resolve the issue of prejudice being used in court sentencing, nothing truly changed, and the race, ethnicity, gender, and other differences continued to be a factor in unfair sentencing despite the fact that the guideline openly stated that said differences are irrelevant in reference to legal proceedings, and subsequent sentencing. The creation of the SRA guidelines were done so with the intention of removing discrimination from the government's court sentencing, but had an adverse reaction: “The loss of judicial discretion raised the cost of punishment by nearly 5 percent of the total imprisonment cost of federal offenders.” ... “They also argued that constraining judicial sentencing discretion through the SRA diminished judges’ ability to render just decisions in individual cases with unique circumstances, and they supported reforms to provide judges with greater flexibility in guideline

departures (Page 287, paragraph 1, lines 12-13, 18-21). In an attempt to evade the SRA's guidelines while no-longer being afforded complete discretion, judges increased overall sentencing in all cases as a way of covering up accusations of being impartial during the sentencing. Furthermore, the groups in power seeking the ability to openly use race, gender, and ethnicity as a driving tool in unfair sentencing, doubled down attempting to cite how the lack of discretion afforded to judges ever since the SRA damaged their ability to rule in cases properly sighting the implementations as "constraints" rather than the want for fair and just trials as afforded to all people in the constitution.

A Sociological Perspective to Analyzing Sentencing and Its Impact on Society.

The societal view associated with court sentencing is derived from an adherence to strict analytical data, that closes its heart to reason. This outdated mindset lacks the framework to include nuance, and recognize outside circumstances as having an effect on individuals lives, and therefore changing their collective experiences as a whole. This societal view is derived from how research is conducted on the topic, and the dissociation of someone's personal experiences impacting the life that they lead: "Sentencing research often has relied on limited conceptualizations and contextualizations of dependent variables." ... "sentence length, or sentence type and length viewed as distinct outcomes, where, in each instance, little consideration is given to the context within which sentencing occurs." (Page 671, paragraph 2, lines 1-2, lines 5-8 Mears P. Daniel) This problem is further ignored despite its existence on the macro level in which entire communities suffer hardships in the forms of social stratification based on race, ethnicity, gender, economic standing, and more. The inability to consider personal experiences when rendering a judgement on someone, while being willing to criticize the personal choices of said person is the dehumanization of people with real lived experiences. The

strict adherence to empirical data when judging the choices of another is destructive, and negligent in the face of historical acts of social stratification, and outlying circumstances that have affected the lives of the disenfranchised: “This analytical framework forces consideration about the overall context within which sentencing decisions are made.” ... “Researchers will be able to discern better the weaknesses and strengths of their own or other’s research, including discrimination between basic, and superficial causes.” (Page 680, paragraph 3, lines 5-6, lines 9-12 Mears P. Daniel). The inclusion of new forms of research allow for perspectives to develop that recognize struggles that are not recorded in conventional empirical data that outdated theories implore when considering the severity of sentencing in our criminal justice system. The societal benefits, and outcomes of determining sentences in the light of outlying circumstances, in correspondence, and not solely based on the crime committed makes way for progressive conversations to be had in regards to the reality of systemic inequality that exist within our society as a whole.

An evaluation of sentencing using: Probation and Parole Corrections in the Community by Howard Abadinsky by using Chapter 4.

Dr Howard Abadkinsky, a professor at St John’s University published a book titled “*Probation and Parole: Corrections in the Community*” emphasizing the importance of rehabilitation to help those who are incarcerated as an alternative to prison or jail. The book begins with a detailed background to the history and administration of parole, both probation and parole in criminal justice/juvenile justice; research on the future of probation and parole. Chapter 4 focuses on 3 topics: Pretrial Services, Sentencing, and the Pre Sentencing Report of a case. In addition to the pretrial services, judges and other court officials can also consider present risk assessments. A common way to assess risks is to use the Risk-Needs Analysis (RNA). This kind

of analysis will review criminal history, education, employment record, family/marital history, alcohol and drug problems, mental health and community ties. According to Adbadkinsky, “The importance of pretrial service is to support the defendant with release eligibility, consider adjudication programs i.e., drug or other treatment programs (Adbadkinsky, Page 90.)” In order to complete the report officials must use a risk-needs analysis which is tied to the defendant’s criminal history, education, employment records, family and marital status, alcohol and drug problems, attitude or orientation, emotional and personal attributes. While this analysis may seem holistic on the surface, it fails to evaluate the disparities that minorities face when it comes to criminal records and education. A lack of education is a product of systemic racism and fails to take into consideration how inclusive it can be for minorities. There is a lack of opportunities for those who do not have connections or family members who have experience being successful. Furthermore, the stereotypes that surround minorities both men and women, such as “The Angry Black Women”, “Spicy Latina”, or “Black men are too aggressive or lazy.” These stereotypes are incredibly harmful because they are rooted in racism and hatred. A relevant towards a pre sentencing report also known as PSI. For example, “After the conviction of a defendant and before the sentencing hearing, a judge may (depending on the circumstances and the statutes of the jurisdiction) order a PSI that traditionally has reflected a positivist view of interest in the offender (not just the offense)(Adbadkinsky, Page 94.)” A positivist view does not consider the many factors that go into someone committing a crime e.g., mental state or where they are currently at in life. This certainly is not stating that there can be no law and order in the United States. It is about understanding the deep rooted, systematic issues that are plaguing communities and throwing them into prison. To further condemn the PSI “Some critics maintain that many judges do not even read the PSI report, whereas others carefully select passages

critical of the defendant to justify their sentences. (Adbadkinsky, Page 106).” If the judges are not reading the PSI’s then it should be done away with altogether.

For those who have been subjected to the criminal justice system of the United States it is evident that there is bias when sentencing individuals after a trial. Although judges are told to make decisions in “good faith” their own judgement can even be disrupted. Condemning these kinds of practices can be helpful towards reestablishing the standard of how judges evaluate pre sentencing reports. Lessening the bias can contribute to a more holistic approach towards sentencing and the impact on the defendant. Change has to be done on both a micro and macro level in order to see results. The United States laws affect all of us. Allowing the stereotypes to continue confirms the idea of minority communities and will create further problems because there is an inadequate way of addressing systemic issues.

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