National College of Ireland

Cillian Fowley

18724059

Justice for All; an experimental examination of sentencing disparities among Irish law students

Supervisor: Dr Fearghal O'Brien

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Name: Cillian Fowley

Student Number: 18724059

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Abstract

Sentencing disparities within judicial systems across the globe are present, with ethnic and racial minority status being posited as a significant predictor of harsher punishment within any legal system. The current study sought to examine the relationship between defendant ethnicity within an Irish context and sentence length within a simulated juror setting, while also exploring the effect that juror demographic characteristics could have on sentence length. Additionally, this study wishes to explore potential discriminatory sentencing biases against the Travelling community in a simulated setting. This paper also analyses the effect that gender, age and amount of legal education could have on sentence length. A total of 126 participants took part within the study, acting as simulated jurors in a fictional dangerous driving case. A two-way between groups ANOVA was conducted to explore the results of the study and found that defendant ethnicity was not a significant predictor of increased sentence length, as with age and legal education. Gender was a significant predictor, with female jurors being more lenient than male jurors in the African Origin test condition. Defendant ethnicity is not dismissed as a significant predictor of sentence length however, as outgroup biases were not satisfactorily measured; implications for future research and public policy are discussed.

Introduction

Over-representation of minorities in prison systems

Globally, ethnic and racial minorities are consistently over represented in their respective prison systems, from Australian Aboriginal communities (Cunneen, 2006) to African Americans (Tonry, 1994). One potential explanation for this global phenomenon is the consistent relationship between poverty and minorities (Piazza, 2011) and the role poverty plays in criminal behaviour (Pare & Felson, 2014). While studies have shown that racial or ethnic minorities are significantly more likely to experience poverty, with 32% of African American children living in poverty compared to 11% of white children (Dreyer, 2020), poverty alone does not explain the raw disparity among minority groups and the majority when it comes to incarceration. Rehavi et al (2014) found that African Americans receive 10% longer sentences compared to comparable white detainees, and that the likelihood of a African American detainee facing a charge is 1.75 times higher than those of white detainees. This shows that there are other mechanisms at work other than mere economic equality. Couple this with the fact that ethnic minorities feel disproportionately persecuted in Britain (Clancy et al., 2001), The United States (Brunson, 2007) and China (Sun et al., 2013), it becomes clear then that biases must be playing a significant role in the interaction between judicial systems across the globe and ethnic minorities and may be the source of ethnic and racial overrepresentation in judicial systems worldwide.

Implicit racial bias

Bias is defined by seeing a group or subgroup of people as lesser than oneself. Bias is a relatively well known concept in modern society, especially with regards to specific subtypes of bias, such as homophobia, racism and xenophobia. Everyone, regardless of age or personality, would like to be seen as free from such biases. In spite of this, bias rears its head

in almost every aspect of modern society. It seems a contradiction then to strive for an equal

society while also perpetuating inequality; however this contradiction is not due to bias itself,

but due to implicit bias. While most of polite society openly accepts all no matter where they

are from or whom they love, it is that internal contradiction between what we openly espouse

and what we feel on a more instinctual level that gives rise to systemic oppression in an open

society.

A popular way to measure Implicit bias, is through the Implicit Association Test (IAT) by

comparing 2 target concepts with either a positive or negative attitude. Biases are measured

through response speed, as congruent concepts and attitudes are faster than incongruent

concepts and attitudes (Greenwald et al., 1998). Implicit biases can exist in the absence of

explicit biases, as shown by Greenwald & Krieger (2006) wherein 20% of participants had no

explicit outgroup bias yet 64% showed outgroup bias through the IAT. It is important to note

that there are criticisms of the IAT; however critique of the IAT is largely focused on the

interpretation and assumptions regarding research using the test (Blanton et al., 2007), not the

measure itself. There are suggestions however that the IAT does not measure implicit

attitudes in and of itself, however research suggest that the IAT is a valid method to assess

the strength and direction of implicit prejudice and stereotypes (Gawronski, 2002).

Implicit bias in spite of its subconscious nature can have a tangible impact on our actions.

Teachers have been shown to exhibit explicit bias in their dealings with African American

Children in the United States (McIntosh et al., 2014). The causal relationship between

implicit bias and more actionable biases is not certain, but it is likely to be a significant

contributing factor to various disparities that exist in the American school system with

regards to punishment (McCarthy & Hoge, 1987; Morris & Perry, 2016). Additionally,

discrimination that could be due to implicit biases has been found among medical staff

(Peterson et al., 2004), patients (Penner et al., 2009; Fitzgerald & Hurst, 2017) and among the

American police force (Legewie, 2016; Stewart et al., 2009). Within an Irish context, anti-immigrant, racial and ethnic biases are prevalent (Lentin 2007; Hainsworth, 1998), especially against the Travelling community (Mac Laughlin, 1999; Mac Laughlin; 1998; Fanning, 2018).

Bias within the Justice System

Despite claims of a fair and impartial justice system, there is evidence to suggest that the American judicial system and the actors within it exhibit implicit racial and implicit ethnic bias (Smith & Levinson, 2011; Smith et al., 2014). Studies measuring discriminatory sentencing procedures on the basis of implicit bias have shown that offenders who belong to an outgroup, either along racial or ethnic lines, would be vulnerable to discriminatory sentencing severity (Kang et al., 2011; Peterson, 2017; Wu, 2016; Smith & Levinson, 2011). The role of sentencing discretion has a significant impact on the interplay between unconscious bias and explicit action as this discretion allows sentencing disparities between an in group and an outgroup to occur (Bushway & Piehl, 2001; Hart, 2004). This is shown in the tendency for judges of the same race as the offender to be more lenient with said offender as opposed to an offender of a different race (Chew & Kelley, 2012). In addition to bias within the judge, it has also been shown that juror race and defendant race can also have effects on how they deliberate (King, 1993; Maeder & Yamamoto, 2019). In a similar vein, defendant race plays a role in whether a defendant would be sentenced to death for a crime (Lynch & Haney, 2009). This discrimination is unfortunately a widespread phenomenon affecting racial, cultural and ethnic minorities across the globe (Jackson, 2014; Hook, 2009; McVeigh, 2008).

While it is suggested that implicit bias exists within the judicial system, as studies have examined and confirmed its presence (Levinson et al., 2017; Weinberg & Nielson, 2011),

there are other factors which may also play a role in judicial decision making (King, 1993).

Marinescu (2011) found that judges were less likely to rule in favour of claimants who were

suffering severe economic hardship. Similar findings were also found in the case of child

custody cases (Neitz 2013). Another source of disparity within the judicial system is gender.

Daly (1989) found that male judges were more likely to be lenient towards female

defendants, and give them shorter sentences in comparison to their male counterparts. Bindler

& Hjalmarsson (2020) points towards paternal attitudes towards women as a potential source

for this difference. Additionally, the type of crime may create disparities between ethnic or

racial groups (Munoz & Sapp, 2003), alongside criminal history (Franklin & Henry, 2020).

While all of these factors play a significant role in sentencing disparities and discriminatory

practices within a judicial system, race and ethnicity are the dominant characteristics that can

predict sentencing disparities (Kovera, 2019). However, all of these factors play a role in an

unfortunate phenomenon (Hunt, 2015). Racial and ethnic sentencing disparities could also be

due to the concept of threat perception due to racial threat theory (Feldmeyer & Ulmer, 2011;

Wang & Mears, 2010).

Simulated Juror

Attempts to manipulate and examine this phenomenon have largely utilised the

simulated juror method. The simulated juror method presents a fictional or real case,

complete with any information that a juror may need to make a decision, to a participant who

acts as said juror while manipulating certain aspects of interest and measuring any disparities

that may occur as a result of these manipulations. The simulated juror method is a valid test,

however simulated juries are more likely to be lenient, and are prone to construct validity

errors (Keller & Weiner, 2011). Landy and Aronson (1969) pioneered this simulated juror

method in their study into how attractiveness affects juror leniency. A subsequent study

performed by Gray & Ashmore (1976) expanded the subject of study to socioeconomic

factors, race and religion and they found that race and religion were significant sources of disparity. Religion has been shown to be a significant predictor in sentencing severity in a mock jury (Miller et al., 2011), but only if the religion of the defendant is different to the religion of the juror (Kerr et al., 1995). A much more significant predictor of sentencing disparity within a mock sentencing procedure is race. Within simulated sentencing procedures jurors consistently and repeatedly enforce harsher punishments on defendants who are of a different race to themselves (Gordon et al., 1988; Kemmelmeier, 2005; Ugwuegbu, 1979) which unfortunately reflects the real world experiences of ethnic minorities within the judiciary. The simulated juror method has been a matter of scrutiny, and due to its reflection of real world findings it can be viewed as a relatively accurate tool to measure sentencing disparities. However, it is not free from critique. Weitenj & Diamond (1979) examined potential shortcomings of the simulated juror technique and found that, while it can be a useful tool to examine discriminatory sentencing practices, it does not offer an explanation for these discriminatory sentencing procedures. Another concern regarding simulated juror studies is their use of student populations instead of nonstudent populations. In spite of this, a meta-analysis performed by Bornstein et al (2017) showed that variance between student and non-student simulated juror studies was negligible.

Separate and independent from racial implicit bias and its role in potential sentencing discrimination, there are numerous other factors that may influence the severity of a sentence given by a juror. Higgins et al (2007) show that juror age may play a role in the surety of a verdict given in a simulated sentencing procedure, however this finding may be due to differences in sentence type given by older jurors in comparison to younger jurors (Mossiere & Dalby, 2008). Additionally, juror gender is a significant predictor of sentence length with males being more likely to give longer sentences over females, irrespective of defendant gender (Duke & Desforges, 2007).

The Current Study

The current literature regarding the topic of sentencing disparity along racial and ethnic lines is undeniably extensive, yet relatively little research has been conducted outside of the United States. There are grounds to believe that implicit racial bias is a cross-cultural phenomenon (Smith-McLallen et al., 2006), alongside an endemic bias against ethnic minorities (Weldon, 2006). As these two concepts are likely to be factors within discriminatory sentencing practices and procedures against racial and ethnic minorities, this presents the possibility that these discriminatory sentencing practices could be occurring within Ireland. As of now, there is a significant gap in the literature surrounding the topic of discriminatory sentencing practices against racial and ethnic minorities within an Irish context. There is however evidence that these practices do exist. Non-Irish nationals are statistically overrepresented in the Irish prison system based off of data provided by the Irish Prison Service (Brandon & O'Connell, 2018) alongside a similar overrepresentation of the Irish Traveller ethnic group (Mac Gabhann, 2011). In addition to this, the Irish judicial system in particular allows an exceptionally broad and diverse range of sentences for a given crime (Maguire, 2010). It is possible that sentencing discretion and implicit racial and ethnic biases within sentencing procedures could be creating and perpetuating these overrepresentations. Additionally, the Travelling community as a cultural and ethnic minority within Ireland is subject to higher levels of poverty, discrimination and lower life expectancies according to the Irish Central Statistics Office. The current study aims to explore this relationship through utilising the simulated juror method and examining sentencing disparities between three specific test conditions. Each test condition will contain a defendant from one of three ethnic backgrounds. These ethnic backgrounds will be a non-Traveller Irish national, an Irish Traveller and an African origin non-Irish national. The simulated juror will be allowed a large margin of discretion, so as to replicate a real judge and

any disparities between each of the three test conditions, or lack thereof will be examined.

This study will help to address the significant gap in literature surrounding the potential for

sentencing disparities in an Irish context and bring prior extensive research conducted in the

United States to an entirely different and novel cultural context, and allow us to examine any

potential biases that the Travelling community may experience in the Irish criminal justice

system. Additionally, this study will examine the interactive effects that juror characteristics,

be that age, gender or legal education will have on sentence lengths between each of the

defendant ethnicities.

Hypothesis 1: Defendant ethnicity will have a significant effect on sentence length.

Hypothesis 2: Juror gender will have a significant effect on sentence length.

Hypothesis 3: Juror legal education will have no significant effect on sentence length.

Hypothesis 4: Juror age will have no significant effect on sentence length

Methods

Participants

The research sample consisted of 126 participants. Participants were recruited through

a hybrid voluntary response sampling method and purposive sampling method. Participants

were recruited via social media, such as Facebook groups for various Irish Universities.

Additionally, participants who have experience with law were recruited through various Irish

University's law specific social media, as well as through direct contact with the Irish law

society. This hybrid approach ensures that participants would have a wide range of verdicts,

and appropriate data analysis could be conducted. In line with appropriate ethical

considerations, participants were required to be 18 years or older in order to participate. They

were also required to provide informed consent prior to submitting the questionnaire. Due to

the deception that was employed, additional efforts were included in order to ensure informed

consent, such as a detailed debriefing sheet. Demographic information was collected,

however it was limited to age, gender and level of legal education. This demographic

information would allow a deep analysis between the interactions between these variables

and sentencing length. No identifying information was collected over the course of the study,

so as to ensure compliance with GDPR guidelines. Within the study there were 59 males

(46.8%), 65 females (51.6%) and two participants who identify as other (1.6%).

Materials

The study was formulated within Google Forms, an online survey builder. Within the

questionnaire, demographic questions were administered at the beginning of the

questionnaire. Participants were required to give their age (in years), their gender (male,

female or other) and their level of legal education (currently studying law or a law related

field, obtained a qualification in law or a law related field or neither of the above). After this

the participant would then choose between three options, either question a, question b, or

question c. This would determine what case vignette the participant was assigned.

Sentence Length is the primary scale used within this study, and serves as the basis

of the research question. The procedure and scale itself is an adapted version of the

sentencing procedure utilised by Abwender & Hough (2001) and Friend & Vinson (1974).

Participants are presented with a simple scale which spans between the maximum punishment

for a given crime, and the minimum punishment for the same crime. The scale in use for this

particular study is adapted and calibrated for Irish law and is a 6 point scale wherein each

ascending number is an additional month of imprisonment. Additionally, due to the minimum

punishment being a monetary fine, 0 months was given as the minimum.

Procedure

All data was gathered through online interaction through various methods, ranging

from social media groups to law societies. All data was gathered using an anonymous

questionnaire which was distributed by the researcher via Google link. Should the participant

decide to participate in the questionnaire they could freely open the link and be greeted with

an information sheet. This information sheet provided instructions and important details

regarding the study, including that the participant would be asked to do, what the study was

examining, how long the study would take as well as alerting the participant to how their data

would be anonymous and warning them of potentially upsetting content within the study. The

stated purpose of the study is left deliberately vague, that being that the purpose of the study

is to examine a simulated sentencing procedure. This deception is necessary, and will be

explained to the participant in detail within the debriefing sheet. The information sheet also

listed exclusion criteria, such as those who are over the age of 85, suffering from a serious

diagnosed mental illness or people who are currently in receipt of voluntary or emergency

state aid. The participant would then have to check a box that they read and understood the

above information, that they were over the age of 18 and that they consent to participation in

the study. See Appendix A

The participant would then have to give some basic, non-identifying demographic

information. This information was restricted to gender (separated into male, female and other

for ease of analysis), age given in years, and level of legal education (either currently

studying law, obtained a law qualification, or neither). See Appendix B

After the demographic questionnaire was completed, the participant is asked to select between three case vignettes; A, B or C. Independent of their selection, the participant is then presented with a case vignette describing a dangerous driving incident adapted from Abwender & Hough (2001). In the vignette a short fictional story of John Smith, convicted for dangerous driving and the events that led to that conviction. Within the vignette, John Smith's story was consistent across all three options, that being that he was driving home from a Christmas party and was stopped by a garda. John was tested for alcohol and tested over the legal limit by a slight margin, and the garda on compassionate grounds declined to arrest the offender for driving under the influence and arranged a taxi to take him home. The offender then attempts to drive away, and over the course of the ensuing pursuit collided with a pedestrian causing serious injury. Additional information was also given about the offender, such as his lack of previous criminal record. The participant would then, based on the vignette offered to them, choose an appropriate punishment for the offender, based off of Irish criminal law. This sentence was given on a 7 point scale ranging from a fine of 5000 euro, being the lowest punishment and 6 months of imprisonment being the highest.

The details of the case vignette and levels of punishment were constant across vignettes A, B and C, however the ethnicity of the offender was different. In case vignette A, the participant is described as a man originally from Kildare, in vignette B the offender is described as someone who belongs to the Traveller community, and finally in vignette C, the offender is an individual of African Origin, originally from Kenya. See Appendix C.

After selecting a sentence, the participant could then submit their response. Should they choose to do so, they would be met with a debriefing sheet which contains important information. This debriefing sheet highlights the deception that occurred over the course of the study, that being the withholding of the true purpose of the study, why this deception was necessary and finally the true objective of the study. The participant is also informed that they

cannot retract their responses at this point, however they are given the researchers email address in order for any questions to be answered. Additionally, advice to visit Mental Health Ireland's website is given should they suffer any distress over the course of the study. See Appendix D for the full debriefing sheet.

Results

Descriptive Statistics

Basic descriptive statistics were performed. Frequency analyses were conducted for gender and level of legal education. Total sample size of the study was 126. The sample consisted of 59 males (47.6%) and 65 females (52.4%). 74 participants have no experience in law or a law related study (58.1%), 52 participants are currently studying law (41.9%) and no participants have a qualification in law, or a law related field. Frequency analyses was conducted for offender identity chosen, and is reported in table 1 Descriptive analyses were conducted for age and sentence length variables, presented in table 2. Preliminary analyses were performed on the continuous variables within the data set. Results indicate that all continuous variables follow the assumption of normality and were normally distributed. Histograms are presented in Appendix E.

Table 1: *Frequency statistics for offender identity, N =124*

Offender Identity	Frequency	Percentage
Non-Traveller Irish	34	27.4
Traveller	54	43.5
African Origin	36	29

Table 2: *Descriptive statistics for age and sentence length, N = 124*

	Mean (95% CI)	Median	SD	Range
Age	22.92 (21.58, 24.26)	20	7.56	42
Sentence Length	4.08 (3.65, 4.51)	6	2.4	6

Inferential statistics

Preliminary analyses were conducted to ensure no violation of the assumptions of normality, linearity and homoscedasticity. All data was normally distributed, thus parametric analyses were possible.

A two-way between groups ANOVA was conducted to explore the impact of gender, amount of legal education and defendant ethnicity on sentence lengths controlled for age. Participants were divided into groups depending on defendant ethnicity (Non-Traveller Irish, Traveller, African Origin) and amount of legal education (none, currently studying, degree and above). Age groups were not created.

The Interaction effect between amount of legal education and gender was not significant (F (1, 123) = 2.59, p = .110, η^2 = .02). There was no significant interaction effect between amount of legal education and defendant ethnicity (F (2, 123) = 2.14, p = .122, η^2 = .04. There was a statistically significant main effect for age (F (1, 123) = 4.83, p = .03, η^2 = .04. There was no statistically significant main effect for amount of legal education (F (1, 123) = 1.91, p = .17, η^2 = .02) and defendant ethnicity (F (2, 123) = .34, p = .713, η^2 = .01) respectively. There was a significant interaction effect between gender and defendant

ethnicity (F (2, 123) = 4.49, p = .013, η^2= .08). This interaction effect was examined through splitting the data set by defendant ethnicity. A two-war between groups ANOVA was conducted to explore the effect that gender had on sentence length within each defendant condition. Corrected model is given for age, gender and amount of legal education. See table 3. Histogram showing the direction of the relationship between gender, defendant ethnicity and sentence length is given in Appendix E.

Table 3: *Fixed effects ANOVA result using sentence length as the criterion*

Predictor	Sum of Squares	*df*	Mean Square	*F*	*p*	$\boldsymbol{\eta^2}$
Non-Traveller*Corrected_ Model	59.25	4	14.81	3.14	.029	.3
Non-Traveller*Gender	9.9	1	9.9	2.12	.156	.07
Traveller*Corrected_Model	31.23	4	7.81	1.49	.222	.11
Traveller*Gender	5.62	1	5.62	1.1	.307	.02
African_Origin*Corrected_Model	56.17	4	14	2.6	.055	.25
African_Origin*Gender	43.2	1	43.2	8	.008	.21

The relationship between age and sentence length was examined through a bivariate correlation analysis. There was a weak positive correlation between age and sentence length (r = .15 [95% CI = .02, .26], n = 123) however, unlike within the previous two-way between groups ANOVA analysis, it did not reach statistical significance (p = .091). The results of the bivariate correlation analysis indicate that age and sentence length share approximately 2.25% of the variance in common. Results indicate that age is not a significant factor in sentence length however age is positively correlated with increased sentence length.

Discussion

The current study aimed to explore the association between defendant ethnicity and sentence length through a simulated juror setting within a novel Irish context, with secondary variables such as gender, amount of legal education and age and their interaction with sentence length also being examined. This study brings previous research to a unique Irish cultural context, and sought to show that, in a simulated sentencing procedure, variables outside of the control of the defendant can affect the severity and length of their sentence. As of publication, the current study is the first of its kind within Ireland.

The primary hypothesis of the study, that being that defendant ethnicity would have a significant impact on the length of sentence given was not supported. There was no statistically significant effect between defendant ethnicity (Non-Traveller Irish, Traveller and African Origin) and sentence length. Amount of legal education was not a statistically significant predictor of sentencing length, but did have a small effect size on sentence length was observed. Juror age was a significant predictor of sentencing length, however upon further analysis, the statistical significance of the relationship deteriorated and age was only weakly positively correlated with sentence length. Juror gender and defendant ethnicity had a significant interaction effect on sentencing severity and further analysis indicates that female jurors are statistically more likely to give lower sentences to the African Origin test condition. No other statistically significant relationships were observed.

The main purpose of the study was to examine the effect that defendant ethnicity would have on sentence length. This relationship within this study was non-significant, which would seemingly go against previous research examining the relationship between defendant ethnicity and sentencing severity (Steffensmeier & Demuth, 2000; Holmes et al., 1993). However this is not necessarily the case. While the current study did not find any significant

effect of defendant ethnicity on sentence severity, it is important to note the differences

between the current study and previous research that may be the source of this incongruence.

First of these differences is the obvious change in the social context. Racial/ Ethnic diversity

within the wider social context plays an interactive role within sentencing disparities (Ulmer

& Johnson, 2004) and this wider social context is radically different within an Irish context

than within an American context. Feldmeyer & Ulmer (2011) examine the specific

relationship between sentencing severity against a minority and the proportion said minority

accounts for within the wider population, that being proportion is inversely correlated with

sentencing severity. The difference in wider demographic proportions could, at least in part,

be responsible for the non-significant relationship between defendant ethnicity and sentence

length. Another potential reason for this departure from previous literature is the differences

in methodology between this study and previous research. Abwender & Hough (2001), the

study upon which the current study is based off of, discussed and measured the interaction

between race of the juror, race of the defendant and their effect on sentence length, such that

in-group, out-group effects were accurately measured. This resulted in in-group favourability

and out-group discrimination being accurately examined. This was not replicated within the

current study as juror ethnicity was not measured. As such these in-group/ out-group biases

could not be measured, which inadvertently results in the homogenisation of any results that

may have indicated the existence of these biases within sentencing length. This indicates that,

despite the current study's results surrounding ethnicity and sentencing severity standing in

contradiction to previous research, this contradiction may actually illuminate and reinforce

the results of previous research.

Amount of legal education and its relationship with sentence length was non-

significant. This result was largely expected, due to previous research that has examined

simulated sentencing disparities given by law students and non-student populations

(Bornstein et al., 2017). The current study differs from previous research primarily due to the differences in variables, as in participants were not categorised through a binary student/non-student analysis. Instead, participants were categorised through levels of legal education. This study unfortunately replicated issues found in previous attempts to examine the relationship between education and sentencing length in a mock juror study, this issue being the selection bias and sampling biases that are present within a study largely focused on a university level cohort (Abwender & Hough, 2001).

There was no statistically significant effect of gender on sentencing length within the current study. This supports previous research that explore the effects that juror gender has on sentencing verdicts (Fischer, 1997), however contradicts research that has focused on the role that gender plays within child sexual assault cases (Quas et al., 2002; Golding et al., 2007). These findings are explained through gender differences in empathy, pro-woman beliefs and belief in children in general (Bottoms et al., 2014). The current study indicated however, that these gender differences do not affect sentencing verdicts in cases that do not involve child sexual assault.

There was a statistically significant interaction effect between gender, defendant ethnicity and sentencing length. Gender differences were non-significant for the Non-traveller and Traveller test conditions, however for the African origin test condition, female participants were on average more lenient than their male counterparts. This finding was unexpected, however it supports previous research that suggest that male jurors are more open to racial biases against an out-group within their sentencing compared to female jurors (Wuensch et al., 2002). The gender interaction with defendant ethnicity and sentencing length could, in part, be explained through gender differences in evolutionary social biases, that being the differences in attitudes towards an outgroup between males and females (Navarrete et al., 2010)

Results of the current study indicate that age is not a significant predictor of increased sentencing length. The role that juror age plays within the criminal justice system is a sparse field, but the findings of this study do not support previous research, specifically with regards to research that suggests that older jurors are significantly more likely to convict (Anwar et al., 2014). It is important to note a key weakness of the current study with regards to examining age and sentencing length, this being the demographics of the current study. This issue is exemplified in the fact that only 7 participants were above the age of 40, while 110 participants were under the age of 30. This heavily skews the results of the study, and as such findings regarding age and sentencing length lack generalisability.

Implications

This study is focused on a relatively delicate topic that has a concrete and real effect on wider society, that topic of course being the potential prevalence of racial and ethnic bias within Irish society and potentially the Irish legal system. This naturally has theoretical and practical implications for further research. This study shows how important it is to examine potential disparities within the judicial process, bringing previous literature to a novel Irish context. This study demonstrates that factors outside of the defendants control can have significant effects on the length of sentence given to the defendant. Gender specifically was found to be a significant predictor of sentence length when interacting with defendant ethnicity. This supports previous research that suggests that males are more likely to engage in discriminatory sentencing practices in comparison to females, especially with regards to racial and ethnic biases. This has implications in jury selection when cases are brought against an ethnic or racial minority, as male jurors may give longer sentences than female jurors. As such, gender diverse juries are in the best interest of both gender equality and the defendant and this should be reflected in public policy.

The primary aim of the study was to examine if defendant ethnicity had a significant impact on sentence length, and to see if the Traveller ethnic group were subject to the same outgroup biases that were shown in previous literature with regards to African Americans. While this study failed to find a statistically significant effect, it is important to note why no effect was found. A likely reason that no effect was found is due to the lack of measurement of the ethnicity of the juror, and the lack of establishment of an in-group, outgroup within the study. This alone has implications for the wider world, as such that it may be important to analyse the ethnic composition of a jury in cases trying a person belonging to an ethnic minority. Previous research suggests that outgroup bias against an ethnic minority defendant is only present when the ethnicity of the jury and the defendant are different. While the current study did not find any significant relationship between defendant ethnicity and increased sentence length, it does not discount the possibility that this finding was due to not measuring the ethnicity of the "jury". As such, implications of the study in this regard are such that jury ethnicity must be measured in addition to defendant ethnicity, both in future research and potentially within the legal system to avoid the threat of outgroup biases weighing on the decision making process of the jury.

Implications for public policy are focused on carefully examining juror characteristics in order to minimise potential sentencing variations in an effort to maintain fairness within the judicial system. Additionally, a framework to eliminate or minimise the ability for variances to be present within sentencing procedures that are based off of juror and defendant characteristics should be discussed.

Strengths and Limitations

Examining biases within the judicial process is largely done through two primary methods; through measuring and comparing real world sentences given across a specific

target of study, or through a controlled simulated juror procedure. The former method usually

involves creating a specific defendant profile around a given crime, and variations in

sentences can be detected through analysing aggregate differences between variables, such as

gender, defendant ethnicity, age et al. Through this method, a wide sample size can be

created and interpretations can easily be generated through simple statistical analyses, such as

the relationship between gender and race on sentencing length (Farrell, 2004). An advantage

of this method is naturally the non-theoretical nature of the data and the implications that

arise from this. However, this advantage is also a weakness, as there is very little scientific

control for the data. The second method, of which the current study utilised, is the simulated

juror method. This method focuses not on measuring real world data, but by creating a

controlled environment where variables can be manipulated without changing the entire case.

As such, a strength of this method over the previous methodology is the controlled and

scientific nature of manipulating a specific variable, and the ability to replicate specific

studies in the future without a dramatic change in the dataset that occurs over time, as is the

case with the previous method. This strength can also be viewed as a weakness, as such that

the scientific nature and environment that the simulated juror method creates does not reflect

the real world experience of being in a jury, and thus may lack generalisability.

The current study has several significant strengths. First of which is the relatively

large sample size (n = 126) which allows a good amount of generalisability to the wider Irish

population. A second strength is the measurement of demographic variables, such as age,

gender and amount of legal education. This measurement of demographic variables allows an

in-depth analysis of the factors that could influence sentence length given across each of the

defendant conditions.

Thirdly, a significant strength of this study is with regards to its methodology.

Methodological processes within the current study were constant across each defendant, the

only variances between each participant's experiences with the current study was the ethnicity of the defendant, which was desired. This ensures that a concrete causal relationship between defendant characteristics and sentence length could be inferred based solely on the responses that each juror gave, while also allowing direct relationships between juror demographic characteristics and sentence length given to be inferred. This methodology is also a strength as it ensures the replicability of the study in the future, should a review be required. Additionally, researcher influence and potential bias that can occur as a result of said involvement was limited due to the lack of personal involvement with any participant.

A weakness of this study is the lack of measurement of the juror's ethnicity. This unfortunately was an oversight on the part of the researcher, and made it impossible to measure ethnic outgroup bias as it is impossible to separate jurors along ethnic lines. Future research would benefit from including a question designed to determine the ethnic composition of the simulated jury, and analyse sentence lengths through the incongruent ethnic groupings between the defendant and the juror.

Regrettably, a significant weakness to the simulated juror method, as utilised within the current study, is its relative lack of real world applicability. This lack of validity is present in the sterile nature of the current study, and indeed in most simulated juror studies. It is impossible to replicate the various facets of a real court-room in a study such as this, as the emotionality and atmosphere of a criminal trial are simply not present (Konečni et al, 1996). This unfortunate reality severely limits the application of the current study and as such limits the applicability and strength of the study. Future research utilising the simulated juror method should keep this in mind, as there are always factors that are present within a courtroom that cannot be replicated within studies such as the current study.

Conclusion

This current study is the first of its kind within an Irish context, bringing the research of Abwender & Hough and Landy & Aronson to a novel societal context. The current study sought to examine the relationship between defendant ethnicity (Non-traveller Irish, Traveller and African Origin) and sentence length in a simulated juror context, where the only variables were participant demographics and defendant ethnicity. In relation to the defendant ethnicity and sentence length, the current study found no significant relationship across all participants, however this could be due to a lack of measurement of juror ethnicity. With regards to age and amount of legal education there were no significant effects on sentence length given to the defendant across each of the defendant conditions. There was however a significant interaction effect observed between gender and defendant ethnicity and, upon further examination, it was shown that females give more lenient sentences to the African Origin test condition in comparison to males. Findings show the importance of examining juror characteristics in a critical light, especially with regards to examining potential sentencing disparities within an Irish context. Further research is required to examine the effect that juror ethnicity has on sentence length to a given defendant, and to examine aggregate judicial data within the Irish legal system to investigate the real world implications of the current study.

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Appendices

Appendix A – *Consent Sheet of the study*

Study of Simulated Sentencing Procedures

It is important that you read and fully understand this information.

Instructions
You have chosen to take part in a study that will examine a simulated sentencing procedure. Within this study you will be asked to examine a fictional criminal case, complete with a detailed description of what the offender did. You will be asked to select a judgement from several options that you feel would be most appropriate. Please use your best judgement and answer honestly.

It is estimated that the study should take no longer than 15 minutes to complete in order to ensure an accurate judgement.

THERE IS A RISK OF PSYCHOLOGICAL DISTRESS AS THE SIMULATED CASE COULD TRIGGER NEGATIVE EMOTIONS. If you or someone you know have been involved in a traffic accident resulting in serious injury please be advised that this study may cause distress and you are under no obligation to complete this study.

Data Collection
Your data will be stored anonymously, no identifiable information is given to the researcher and as such, you cannot retract your data post submission of this study. At any point prior to submitting your study responses in the debriefing section you can retract consent by closing this study. Your data will not be recorded should you choose to leave.

Your data will be stored digitally in a password protected folder. Data will not be shared with anyone other than the researcher and their supervisor. Data will be used to generate graphs based on your responses and statistical analyses will be ran through SPSS.

This study should not be completed by people who are over the age of 85, suffering from a serious diagnosed mental illness or people who are currently in receipt of voluntary or emergency state aid

Have you read and understood the above information? *

☐ Yes

Are you over the age of 18? *

☐ Yes

Do you consent to participation in this study? *

☐ Yes

Appendix B – *Demographic information collection*

Demographic Information

I identify as... *

○ Male

○ Female

○ Other

How old are you? *

Your answer

What level of education do you have in law, or a law related field of study? *

○ Currently studying law, or a law related field

○ Obtained a qualification in law, or a law related field (bachelor degree, higher diploma, master's or other qualification)

○ Neither of the above

Appendix C – *Case Vignette*

Simulated Sentencing Scenario

The offender, John Smith, of the address =xxxxxxx= has been convicted by court of law of dangerous driving.

▉▉▉▉▉▉▉▉▉▉▉▉▉ was driving home from a Christmas party when he was stopped by a garda. John was tested for alcohol and tested over the legal limit by a slight margin. The garda, on compassionate grounds declined to bring John to the local Garda station and instead called him a taxi as it was Christmas.

Prior to the taxi arriving, the Garda returned to his vehicle, wherein John attempted to drive away.

The Garda officer was unable to stop John and during the pursuit John collided with a pedestrian and caused serious injury to the pedestrian.

John has been charged and convicted with dangerous driving and has been in custody since the incident.

He has no prior criminal record

Based on the information given to you, please select a sentence you believe would be most appropriate for John Smith. *

- ○ Maximum fine (5000 euro)
- ○ 1 month imprisonment
- ○ 2 months imprisonment
- ○ 3 months imprisonment
- ○ 4 months imprisonment
- ○ 5 months imprisonment
- ○ 6 months imprisonment

blacked out section differs between which case vignette was chosen. The options are

A – John Smith, originally from Kildare

B – John Smith, who belongs to the Traveller community

C – John Smith, originally from Nakuru, Kenya

Appendix D – *Debriefing Sheet*

Thank you for your participation, however it is important to read the following

The study you have just completed involved an aspect of deception

The goal of this study was to examine sentencing disparities in a simulated sentencing procedure

This was achieved by having 3 different John Smiths, each with different cultural and ethnic backgrounds, and measuring any variations in sentencing severity given by you, the participant between all three Johns. In order for your judgement to be as natural as possible there had to be some deception however efforts were made to reduce the severity of said deception.

This study is the first of its kind in Ireland and is based off of similar studies that were conducted in the United States.
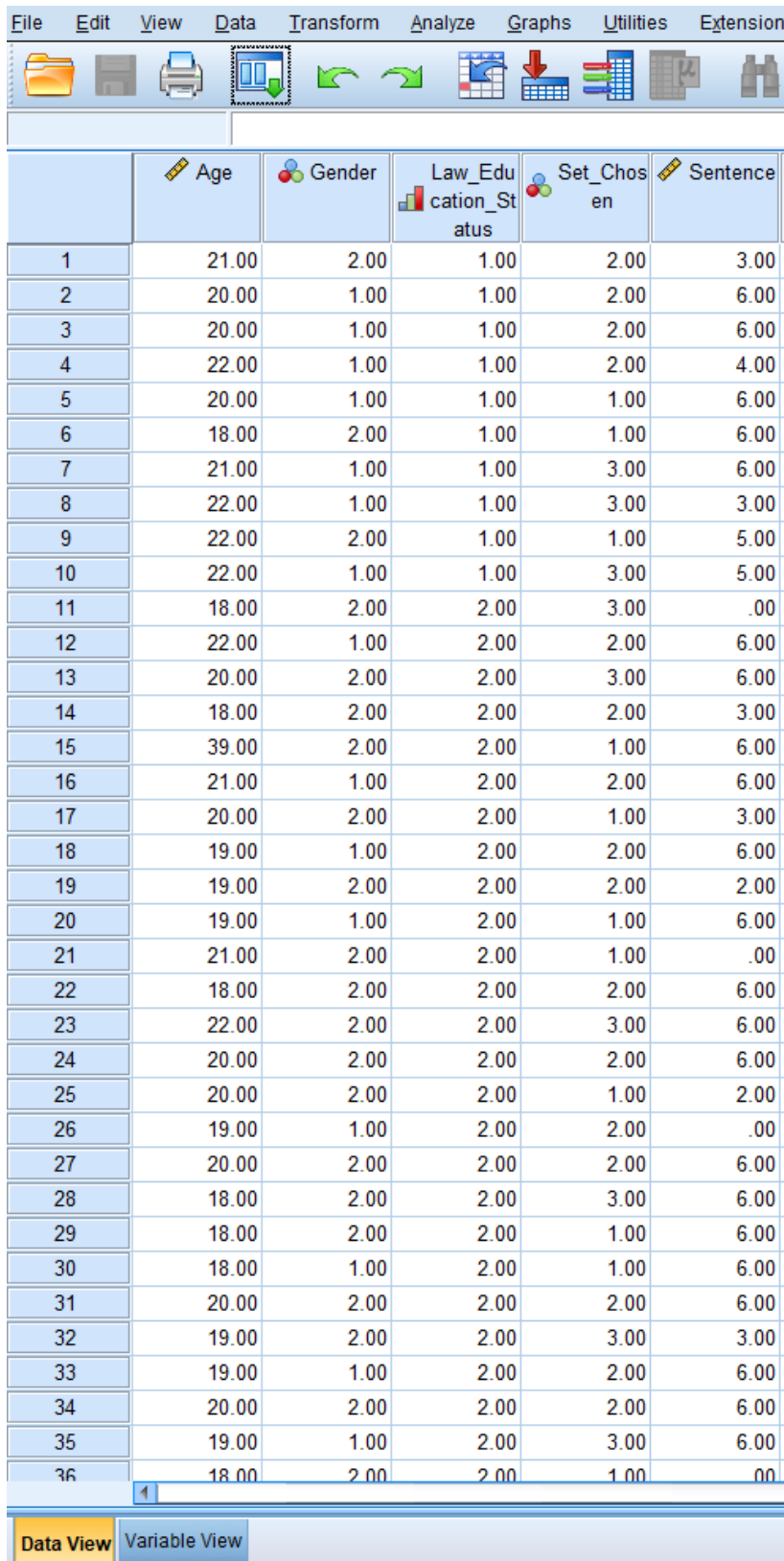
As mentioned before due to the nature of the data collected in this study, it is impossible for you to retract your responses, however should you have any questions regarding how your data will be used, why deception was necessary, or would like to learn more about the current study please feel free to contact me via email at x18724059@student.ncirl.ie

If you have suffered any distress due to this study or the use of deception please visit Mental Health Ireland's website. They offer a multitude of services that may help.

Finally I would like to thank you again for taking part in this study

Appendix E – *Histogram showing the directionality of the relationship between gender and defendant ethnicity on sentence length*
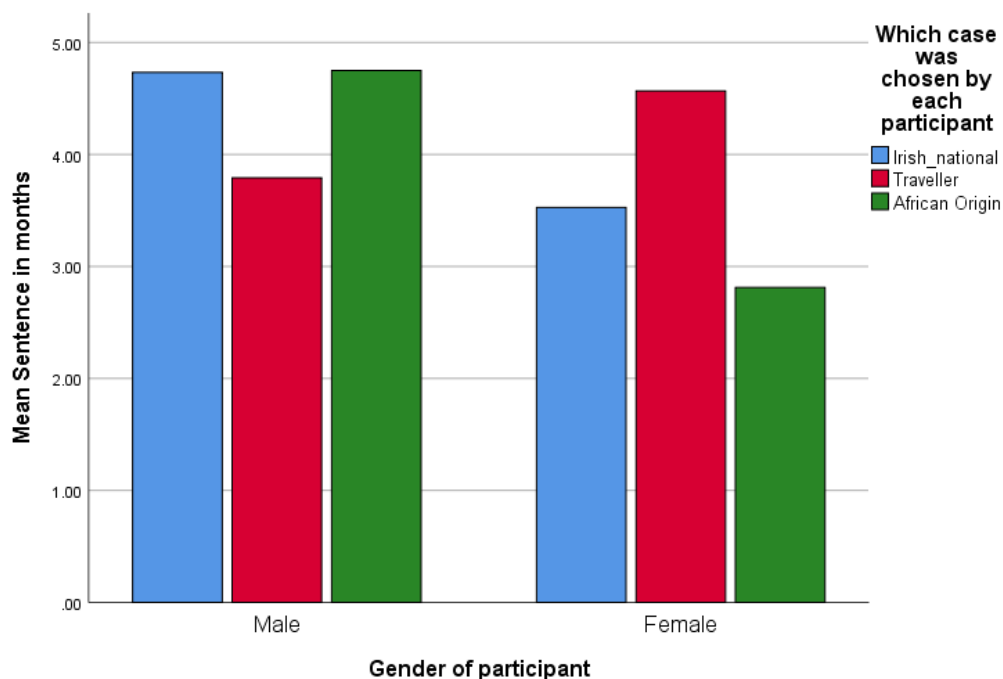
Appendix F – *Proof of data set, full data set can be requested from the researcher.*

File	Edit	View	Data	Transform	Analyze	Graphs	Utilities	Extension

	Age	Gender	Law_Education_Status	Set_Chosen	Sentence
1	21.00	2.00	1.00	2.00	3.00
2	20.00	1.00	1.00	2.00	6.00
3	20.00	1.00	1.00	2.00	6.00
4	22.00	1.00	1.00	2.00	4.00
5	20.00	1.00	1.00	1.00	6.00
6	18.00	2.00	1.00	1.00	6.00
7	21.00	1.00	1.00	3.00	6.00
8	22.00	1.00	1.00	3.00	3.00
9	22.00	2.00	1.00	1.00	5.00
10	22.00	1.00	1.00	3.00	5.00
11	18.00	2.00	2.00	3.00	.00
12	22.00	1.00	2.00	2.00	6.00
13	20.00	2.00	2.00	3.00	6.00
14	18.00	2.00	2.00	2.00	3.00
15	39.00	2.00	2.00	1.00	6.00
16	21.00	1.00	2.00	2.00	6.00
17	20.00	2.00	2.00	1.00	3.00
18	19.00	1.00	2.00	2.00	6.00
19	19.00	2.00	2.00	2.00	2.00
20	19.00	1.00	2.00	1.00	6.00
21	21.00	2.00	2.00	1.00	.00
22	18.00	2.00	2.00	2.00	6.00
23	22.00	2.00	2.00	3.00	6.00
24	20.00	2.00	2.00	2.00	6.00
25	20.00	2.00	2.00	1.00	2.00
26	19.00	1.00	2.00	2.00	.00
27	20.00	2.00	2.00	2.00	6.00
28	18.00	2.00	2.00	3.00	6.00
29	18.00	2.00	2.00	1.00	6.00
30	18.00	1.00	2.00	1.00	6.00
31	20.00	2.00	2.00	2.00	6.00
32	19.00	2.00	2.00	3.00	3.00
33	19.00	1.00	2.00	2.00	6.00
34	20.00	2.00	2.00	2.00	6.00
35	19.00	1.00	2.00	3.00	6.00
36	18.00	2.00	2.00	1.00	.00

Data View   Variable View

Appendix G – *Proof of data analysis, full SPSS output can be requested from researcher*

➡ Univariate Analysis of Variance

[DataSet1] C:\Users\Cillian\Desktop\FYP Dataset.sav

Between-Subjects Factors

		Value Label	N
Gender of participant	1.00	Male	59
	2.00	Female	65
	3.00	Other	2
Amount of legal education	1.00	None	74
	2.00	Currently_Stu dying	52
Which case was chosen by each participant	1.00	Irish_national	34
	2.00	Traveller	56
	3.00	African Origin	36

Tests of Between-Subjects Effects

Dependent Variable: Sentence in months

Source	Type III Sum of Squares	df	Mean Square	F	Sig.
Corrected Model	149.711[a]	13	11.516	2.245	.012
Intercept	65.386	1	65.386	12.744	.001
Age	28.088	1	28.088	5.474	.021
Gender	23.221	2	11.611	2.263	.109
Law_Education_Status	10.150	1	10.150	1.978	.162
Set_Chosen	3.483	2	1.742	.339	.713
Gender * Law_Education_Status	13.277	1	13.277	2.588	.111
Gender * Set_Chosen	45.705	2	22.852	4.454	.014
Law_Education_Status * Set_Chosen	20.831	2	10.415	2.030	.136
Gender * Law_Education_Status * Set_Chosen	22.102	2	11.051	2.154	.121
Error	574.646	112	5.131		
Total	2813.000	126			
Corrected Total	724.357	125			

a. R Squared = .207 (Adjusted R Squared = .115)