



Problem

Data

Analysis

Discussion

ESC 17th Annual Conference

Sentencing Disparities in the Crown Court: Look at the Judge, not the Court

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Studying Consistency in Sentencing

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- Most jurisdictions across the world uphold the principle of consistency in sentencing
- Many of them have actively sought to minimise unwarranted disparities through sentencing guidelines



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- Most jurisdictions across the world uphold the principle of consistency in sentencing
- Many of them have actively sought to minimise unwarranted disparities through sentencing guidelines
- The real extent of the problem, however, is not clear
- Sentence consistency is not an easy concept to measure and the necessary data is often unavailable



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- Most jurisdictions are reticent of disclosing data that could be used to identify the sentencing judge
- As a result many studies have had to rely on the analysis of between court disparities



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- Most jurisdictions are reticent of disclosing data that could be used to identify the sentencing judge
- As a result many studies have had to rely on the analysis of between court disparities
- This is problematic for two reasons:
 - Underestimates the true extent of the problem
 - Masks its causes
- Future breakthroughs on this topic depend heavily on having access to judge data

Data Scrapping Sentence Transcripts

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- After failing repeatedly at obtaining judge data through formal channels I decided to take the problem into my own hands
- www.thelawpages.com, a commercial website, which uploads official sentence transcripts regularly
- These transcripts contain information about the characteristics of the offence, the offender, the court, and the judge
- We used a data scrapping algorithm to open and scan them sequentially



Sample

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- We managed to pull a dataset of 19,183 cases sentenced in England and Wales from 2005 to 2017
- For the analysis we used a smaller sample of 7,221 violent offences sentenced to prison in the Crown Court from 2007 to 2017



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- We managed to pull a dataset of 19,183 cases sentenced in England and Wales from 2005 to 2017
- For the analysis we used a smaller sample of 7,221 violent offences sentenced to prison in the Crown Court from 2007 to 2017
- Most variables used were taken directly from the transcript (e.g. sentence outcome, type of offence, etc.)
- Others such as the gender of the judge, or their title were subsequently coded using their full name



Model

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- Our analysis focuses on disparities in the duration of custodial sentences
- Cases sentenced to life were considered right-censored with the mandatory minimum as the last observed point
- Accelerated failure time Weibull models were used to account for the right-censoring and non-normality in the response



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- Since some judges move across courts there are judge-court cross-classifications in the hierarchical structure of the data
- Three different random effects were specified



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- Three different random effects were specified
- Given the complexity of the model we used Bayesian statistics and the software WinBUGS



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empty model:

$$\log(T) = (\beta_1 + v_1)X_1 + (\beta_2 + v_2)X_2 + v_3 + \frac{1}{p}\epsilon$$

$$v_j \sim N(0, \sigma_j)$$

$$\epsilon \sim \text{extreme value distribution}$$



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full model:

$$\log(T) = (\beta_1 + v_1)X_1 + (\beta_2 + v_2)X_2 + \beta_l X_l + v_3 + \frac{1}{p}\epsilon$$



Findings

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- Between court disparities are negligible, especially after controlling for case characteristics
- Between judge disparities are much more relevant
- Judges moving across courts seems to process a more heterogeneous caseload than those staying in the same court
- However the former do so more consistently than the latter
- Lastly, High Court judges seem to sentence more harshly than circuit judges, which in turn are harsher than recorders



Discussion

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- High internal validity, low external validity
- Important contributions to the Criminal Justice literature
- Important lessons for the England and Wales Sentencing Council
- This study needs to be replicated using all the cases sentenced in England and Wales