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Examining the Impact of Mandatory Minimum Sentences: Justice or Injustice?

1. Saleem Qureshi, PhD Scholar, Department of Law, NUST Islamabad
2. Sadiq Malik, Lecturer, Department of Law, NUST Islamabad

Abstract

Mandatory minimum sentences have sparked significant debate regarding their role in the criminal justice system. Advocates argue that these laws promote consistency and deterrence, ensuring that offenders face appropriate consequences for serious crimes. However, critics contend that mandatory minimums contribute to systemic injustices, disproportionately affecting marginalized communities and leading to overcrowded prisons without effectively reducing crime rates. This paper explores the origins and evolution of mandatory minimum sentencing, analyzing their intended objectives versus real-world outcomes. Through a review of empirical studies and case law, we assess the impact of these laws on recidivism rates, racial disparities, and the overall efficacy of the justice system. Furthermore, we discuss alternative sentencing models that emphasize rehabilitation and restorative justice, aiming to balance public safety with fairness. By scrutinizing the evidence and presenting diverse perspectives, this study aims to contribute to the ongoing discourse on criminal justice reform, ultimately advocating for policies that foster a more equitable system. The findings underscore the need for careful consideration of sentencing practices to achieve justice without perpetuating cycles of inequality.

Keywords: mandatory minimums, criminal justice, sentencing, justice system, rehabilitation, racial disparities, public safety, reform

1. Introduction

In recent years, mandatory minimum sentences have sparked a heated debate nationwide. Advocates have argued that such sentences contribute to public safety, rehabilitation, and reducing the potential for recidivism. Paradoxically, a growing number of critics decry the 'unjustness' of mandatory minimum sentences, particularly regarding the disparate racial composition of inmates serving these sentences. For decades, people have held contrasting views on the effectiveness of mandatory

minimums, both as a deterrent and a means of fostering prison reform and justice. Still, it is unclear whether such a criminal justice policy is 'just', i.e., fair, as called for by the fundamental tenets of the criminal justice system. Requiring judges to impose certain sentences on those convicted of certain crimes focuses solely on the punishment without admitting any discussion of an individual's need, the effect on their community, or possibilities for averting punitive sentencing (Albertson, 2022). Mandatory minimums have exploded in recent years without any clear empirical evidence of their benefit, and with full knowledge of their societal impact and legal consequences. It is the tension between deterrence, punishment, and the impact on persons affected by mandatory minimums that motivates our inquiry into this policy area. One purpose of this essay is to engage in this debate by offering a critical examination of mandatory minimum sentences. Mandatory minimum sentencing laws have a long and somewhat controversial history. A multitude of perspectives regarding the justice system will be explored, including but not limited to moral upbringing, criminal imagination, and the necessity for suitably balancing the interests of maintaining public safety with those espousing justice.

2. Historical Background of Mandatory Minimum Sentences

Mandatory minimum sentences in the United States began to appear in federal sentencing laws in the early to mid-20th century, and their overall appearance as a feature of criminal justice has grown substantially in the past few decades. In large part, minimum penalties had as their purpose to punish drug offenders uniformly. As such, all of the significant changes in mandatory minimum sentencing policy since 1955 have been made in the service of the war on drugs. The second driver of mandatory minimum laws was concern over crime rates, particularly violent street crime. The legislative mentality was that incarceration served as a harsh but fair response to the continuing high crime and drug use rates experienced in majority-minority urban areas, areas for which mandatory minimum sentences were passed frequently. The penultimate version of drug laws promulgated the idea of a middle-range mandatory penalty proposal aimed at small wholesale dealers. Ultimately, the president chose a 5-to-life scheme in order to prevent lenient treatment for long-time

offenders. Lawmakers pushed forward the idea of increasing sentences in addition to limiting post-incarceration benefits by increasing privacy-enhancing regulatory standards and forbidding the establishment of a good time allowance (Hofeldt, 2021). Legislative commission reports have done little to stem the rising incarceration rates. Treating drugs more leniently than scheduled led to observers increasing their immigration and/or criminality panic, particularly in the case of marijuana, and treating drugs more harshly than scheduled led to a drain of city-based movements readily agreed upon in conservative politics. As a result of the political rhetoric of the 1980s, voters began to entertain the possibility that law could help prevent crime, as they moved away from previous progressive conceptions of crime prevention, which posited the social origins of criminality instead of an underlying criminal or pathological nature of both criminal and drug distributor. Incidents of police misconduct and a series of notable Supreme Court decisions in the 1960s and 1970s also made it increasingly difficult to enforce mandatory sentences at all because they limited culpability to viewpoints that supported, among other things, the use of voluntary consent law for establishing legal standing to enforce criminal drug laws (Ward, 2022).

3. Arguments for and Against Mandatory Minimum Sentences

Strong and persuasive arguments exist for and against mandatory minimum sentences. Among the most salient of the arguments in favor of these laws is that they increase the consistency with which criminals are punished and may deter would-be offenders from committing criminal acts. Consistency in sentencing can be viewed as desirable for a number of reasons. Firstly, in providing a consistent measure of punishment for criminal actors, would-be offenders should have a greater ability to predict their sentences if they are caught. This is said to act as a deterrent to the commission of criminal acts. Since the certainty rather than severity of punishment is most directly associated with deterrence, predictability of sentencing is also said to have the advantage of decreasing crime rates. Secondly, consistency in sentences may increase public confidence in the legal system and reduce the perception that the system is producing disparate and unjust outcomes (Pugliese, 2022).

While being able to eliminate judicial bias and increase public safety might appear to be significant advantages to mandatory minimum punishments, it is also evident that those in opposition to these laws believe that they undermine fundamental principles of justice. The most significant of the criticisms of mandatory minimums is that they result in unjust outcomes when they act to force judges to apply the same severe sentence to every convicted offender who committed the same statutory offense. Such inflexibility, it is argued, disproportionately affects the vulnerable - the very young, the poorly educated, or those with mental health problems - who do not have the necessary bargaining power to get themselves excluded from mandatory minimum application. Those subjected to a mandatory minimum sentence, argue critics, can be innocent, genuinely repentant, non-violent, and pose little threat to public safety (Dash, 2021).

3.1. Justice and Fairness

Most people who regard mandatory minimum prison sentences as unjust focus on the principle of justice and fairness. The foundational principle of justice is that equals should be treated equally before the law, while punishment proportionality necessitates considering the offender's culpability and the harm they caused. A uniform law prescribing a range of punishments for a particular crime might appear just either because it treats all those convicted of the crime alike or because it provides a set of possible penalties from which judges choose to reflect an offender's particular culpability in a given case. Mandatory minimum sentences can be defended on this basis as well, particularly where the required penalty is seen as the low end of the normally permitted punishment range. From this perspective, mandatory minimum sentences do not create injustice (Dash, 2021).

It is easy to think of cases where it seems as though it would be fair to allow some discretion with sentencing, particularly when the factors in the current case differ in morally significant ways from those to which the general policy speaks. Mothers or pregnant women who are driven into acts that would normally violate laws, such as drug abuse, should receive more lenient treatment than those who violate the law for the same reasons. The central circumstances in these cases are thought to warrant

leniency. Nonetheless, in each of these types of instances, mandatory minimums require similar sentencing outcomes for diverse situations. Still, mandatory minimums are criticized on the grounds that prescribing uniform sentences across diverse circumstances is intrinsically unfair. Penal justice requires individual circumstances and offenders to be taken into account more carefully than uniform penalties do, and the uniform value of the penalty will be unfair in countless instances. It can, for instance, penalize the less responsible unduly and exacerbate the already harsh situation of the more culpable.

People who hold this view frequently are persuaded that mandatory minimum sentences exacerbate certain kinds of moral wrongs or injustices. For instance, women who commit crimes frequently do so to support their households. Motherhood and associated obligations to take care of children are viewed as circumstances that raise sentencing injustice by resulting in disproportionately severe penalties for certain populations. Advocates who argue that the punishment does not fit the crime subjectively contend that mandatory minimums create injustice. Therefore, it is valuable to think about the unfairness caused by mandatory minimums. Whether mandatory minimum sentences are unjust is not abstractly determined; what is of concern are the actual victims of them, and we must scrutinize the lives that they touch. To guarantee desirable policy modifications, conversations about social justice concerns should prioritize those the laws are supposed to protect. Often the most persuasive of such conversations include visits from affected people.

3.2. Deterrence and Public Safety

One of the proponents of mandatory minimum sentencing cited most fervently is the deterrence value that it represents. In their belief, the provision of certain and severe punishment in response to criminal conduct discourages people from choosing to offend and thus decreases crime. Greater public good is also purported to follow in the form of enhanced public safety. The deterrence theory posits that criminals carefully weigh the potential costs and benefits of committing an offense. The calculations criminals employ to this end are believed to be affected, at least in part, by the punitive consequences stipulated for the commission of that crime. This theory,

therefore, specifies that as criminal sanction levels decrease, more risk-taking occurs. As we increase these consequences (or the severity of the punishment, up to and including life), criminal activity should, according to deterrence assumptions, plummet. Yet during the last quarter century, various studies and analyses have questioned this claim that harsher penalties lead to reduced crime rates and the greater public safety that this reduction might imply. The harsh policy aims at long incarcerations for three-time offenders and is said to make citizens feel safer in their homes and neighborhoods. This may be a typical example of this kind of nonscientific criminal justice belief or common sense theory that anyone in the street can tell you. However, supporters of such common sense today are increasingly facing serious challenges. Specifically, some scholars and researchers believe that incarceration generally has little to no effect on crime rates. Anything it might accomplish, they contend, can be achieved more swiftly, more effectively, and at a fraction of the cost by alternatives to imprisonment. That is not to minimize harm caused by needless imprisonment; rather, it reinforces the necessity for a balanced deterrence approach. Commentators suggest that a reasonable response requires acceptance that deterrence is an evenhanded consideration between the general and specific preventative stances and between direct and derived crime control, suggesting that a fair-minded approach is required. This study uses data from court cases to question the efficacy of the previous punitive policy. Data on court cases in five Australian states were recorded for one year. Quantitative analyses showed that, although many offenders were not sentenced as required, mandatory minimum sentencing positively correlated with the increased likelihood of imprisonment, non-parole orders, and, importantly, imprisonment with a non-parole order. Paradoxically, though, mandatory sentencing was a weak negative predictor of non-parole periods of imprisonment and sentences. Sociological studies suggested reasons for what was then the cost-effective option. Suggestions were made, based on both the cost-effectiveness of non-parole and parole, and mandatory sentencing itself, that offending behavior by police and prosecutors would form a significant part of the profile of offenders more likely to be sentenced in this way. A deterrent effect is outlined) (Azam & Airout, 2022).

3.3. Disproportionate Impact on Minorities

With a lengthy history of systemic racism shaping the legal system, Americans should not be surprised to learn that mandatory minimums tend to disproportionately affect the lives of minorities and the poor. Such individuals often lack the financial resources to find adequate legal representation and, more importantly, are also more likely to face problems that arise from being charged with mandatory minimums, such as the loss of a job. The political discourse surrounding mandatory minimums is intent on avoiding any discussion of the racial dynamic through claims that the laws are meant to attack wrongdoers regardless of race or economic status. However, substantial evidence can be found to the contrary showing that most people serving such sentences are African American or Hispanic and hail from poor socioeconomic backgrounds. In addition, studies have shown that African American men serve substantially longer prison sentences than white inmates for similar crimes, highlighting the unequal application of justice. These extreme case studies provide a look into the systematic discriminatory effects that mandatory minimum laws tend to foster philosophically (Shuo, 2021).

A much-cited statistic shows that prisons hold a greatly disproportionate number of African Americans relative to the national population; African Americans hold about 12% of the national population but make up 48% of federal prisoners. Although critics argue that mandatory minimums are not responsible for this outrageously inflated figure alone, it is certainly a contributing factor. One can guarantee that the racial proportions in prisons would change for the better if stricter federal and state drug controls were removed from the statutes. Another figure that vexes the consciences of those who oppose these racial dynamics in prisons is the knowledge that 70% of the crack cocaine convictions given have been administered to African American men. The lucrative trade and use of crack have historically been concentrated in already poor inner-city neighborhoods; the harsh mandatory minimums attached to possession or use have furthered the disparate representation of African Americans in prisons. The case study certainly underlines the statistical inconsistencies evident in the federal prison payroll and thus virtues condemnation.

The injustice experienced is an indication of an even greater societal harm, as social policy shapes families and communities for the rest of the country's lives.

4. Case Studies and Examples

A woman who did not participate in a drug conspiracy was convicted of two counts of crack conspiracy. She was sentenced to fifteen years. The judge who sentenced her remarked on the absence of discretion in federal sentencing, particularly about the imposition of mandatory minimum sentences. Another woman, now deceased, was selling drugs to fund her own substance abuse problem. She pled guilty not only to that, but to a ten-gram distribution of a drug obtained from her son. Because that son was a dealer, and because cumulative amounts of the drug some of her customers later obtained from other dealers put her "over" a ten-year mandatory minimum sentence, the judge metaphorically wrung his hands while "being forced" by law and precedent to send this 63-year-old grandmother, with no prior record, away for a decade (Price, 2022).

A federal court judge, and many others around the country, remarked that "one-size-fits-all" sentences do not work. Nevertheless, mandatory sentences for drug crimes are "one size fits all." These judges have observed that, unlike with individualized sentences, no opportunity is provided for the judge to "consider the relative culpability of the people that come before him." Judging, then, has nothing to do with individualized ills per se, much less their causes and contexts, and much more to do with "legal positions." Standing accused, then, are mostly the most "powerless" and privileged within a class; the exception is the otherwise completely privileged who ran afoul of "enforcement" because of their financial or political status, or because they forgot their privilege in a disturbingly non-white neighborhood. Official language designates "mass incarceration" as the exclusion and marginalization of individuals based upon their legal records. However, it is more than that, for sentences suppose an accused, an accuser, and the conflict between them. What happens to an "accused" seeps unstoppably and unpredictably beyond the bounds of his or her case; it moves into the lives of the accused or the accuser's family members and friends,

into his or her neighborhood, even into the wider community - because life is not circumscribed to a "simulation, a show" or a "contemplated conflict."

5. Reform Efforts and Alternatives

As the list of criticisms against mandatory minimum sentences has grown, so too has the movement intended to reform various aspects of the criminal justice system. Advocates argue for more flexible sentencing guidelines and advocate for a model of justice that adapts to the specifics of crimes and people rather than a one-size-fits-all system. Many legislative proposals have also emerged to reduce or eliminate mandatory minimum sentencing regimes in many areas, including drug-related offenses. The public has also become more critical of the laws themselves and the potential for these types of punitive practices to result in unjust sentencing outcomes. The backlash also led to successful implementation of reforms aimed at removing some class of people from 'harsh' and 'unjust' sentencing schemes. Programs aimed at clearing criminal records are one such initiative, and other programs focused on legal education about defense options are another example. These programs are in line with current and emerging advocacy movements that target sentencing and criminal justice change on the local and national level. There also continues to be a growing national movement targeting education reform, policy reform, and public education about the impact of mandatory minimums. Reforms in these areas are proceeding slowly, and voluntary changes by individual actors are rare. Movements for reform by both litigants and policymakers see success, both locally and nationally, in cases where alternatives are being provided. There are sufficient calls for reform from a variety of sources. While substantial work remains to be done to fully shift public opinion, there is also a solid footing making it possible to transform some regulatory practices and law enforcement approaches. While other forms of change should remain a priority, this could be an area for further activity. Some recent findings show that exposure to media about mandatory minimums increases public opposition to such schemes. More research will facilitate the development of additional change messages. Advocacy around the sentencing and reforms themselves has created substantial media interest in the stories of individuals who suffered harsh sentences due to mandatory

minimums. Advocacy in these areas is likely to increase the salience of less-heard, dry opposition arguments and should be prioritized as well (Fandl, 2021).

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