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Comparative Analysis of Punishment in Criminal Law

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ABSTRACT

This research compared punishment practices across two different legal systems. One system followed retribution as its primary philosophy. The other system prioritized rehabilitation for most offenders. The study examined sentencing outcomes for aggravated assault, property theft, drug possession, and homicide. Data came from appellate judgments, pre-sentence reports, and official sentencing databases. The findings revealed significant differences between both systems. System A imposed longer prison sentences and used incarceration more frequently. System B preferred community alternatives and restitution orders for non-violent crimes. A serious proportionality violation emerged in System A where drug possession received harsher punishment than reckless endangerment. Judicial discretion varied widely between systems with corresponding effects on sentencing consistency. Both systems agreed on life imprisonment for homicide but differed on parole eligibility periods. The results challenge purely retributive theories and support hybrid sentencing models. Recent reforms in Portugal, Canada, and Germany align with the study's recommendations for balanced approaches.

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I. Introduction

How do different societies determine the price a criminal must pay for a crime? Criminal sanction models vary deeply across global legal systems due to distinct cultural values. Modern states generally structure penalties around deterrence, rehabilitation, or moral retribution. However, matching a specific punishment to a crime remains a major global challenge. Comparing these legal frameworks allows researchers to evaluate which penal systems reduce crime effectively. This legal approach highlights the structural weaknesses of relying purely on isolation and containment. It also helps local policymakers build balanced judicial models that respect human dignity. Analysis shows that criminal sentencing reflects the deep ethical values of a nation. This study evaluates how varying legal traditions balance domestic public safety with individual justice. Scholars must examine these cross-border differences to understand the true trajectory of modern global justice systems (AllahRakha, 2023).

Historical legal codes rooted criminal punishments primarily in strict physical retaliation or public banishment. Modern penal systems evolved over centuries to focus on codified statutory sentencing models instead. Current legal knowledge successfully establishes that domestic crime rates respond directly to penal policies. However, most existing comparative studies only focus on Western democratic legal frameworks. A significant research gap exists regarding penal outcomes in mixed legal systems. Specifically, the scope of current literature fails to evaluate how constitutional provisions modify traditional punishments. This study directly addresses this gap by comparing statutory sentences across diverse legal landscapes. Legal scholars need this data to understand how modern statutory frameworks interact with regional cultural demands. Developing this broader perspective is essential for creating cohesive global standards in criminal justice (Tonry, 2015).

Modern legal systems successfully categorize criminal behaviors and assign standardized statutory penalties for them. We already know that uniform sentencing guidelines help reduce arbitrary judicial decisions within domestic courts. However, global legal systems often face severe friction when matching penalties across different jurisdictions. The exact problem is that domestic courts lack clear metrics to compare foreign punishment models. We still need to know how differing legal traditions measure actual penal severity accurately. Without this knowledge, cross-border judicial cooperation remains highly inefficient and inconsistent during extradition processes. Resolving this measurement issue is crucial for maintaining international human rights standards across borders. This research solves this exact problem by establishing a unified comparative framework for sentences. Ultimately, this new comparative model allows states to balance international legal cooperation with regional sovereign laws (Garland, 2018).

Recent legal studies from 2020 to 2025 highlight significant shifts in global sentencing trends. Researchers find that mandatory minimum sentences fail to reduce domestic violent crime rates significantly. Comparative legal analysis shows that restorative justice models lower repeat offenses across European jurisdictions. Additionally, modern corporate criminal

liability frameworks struggle to enforce uniform international penal fines. Statutory penalties in cybercrime laws remain highly inconsistent between developing and developed nations. Some scholars argue that public opinion heavily distorts the objectivity of domestic judicial sentencing. Furthermore, human rights treaties frequently clash with traditional corporal punishment structures in mixed systems. These combined findings reveal deep gaps in how transnational courts reconcile conflicting regional penal goals. This article synthesizes these diverse scholarly perspectives to build a unified global legal analysis model (Roberts, 2024).

Comparative legal literature also exposes deep inconsistencies within regional alternative sentencing frameworks. Recent empirical data demonstrates that electronic monitoring systems reduce prison overcrowding quite effectively. However, financial penalties often create disproportionate economic burdens on low-income criminal defendants. Legal experts observe that environmental crime sentencing lacks standardized international enforcement mechanisms altogether. Artificial intelligence tools in risk assessment risk replicating historical human biases during sentencing. Gender disparities also persist heavily within statutory sentencing guidelines for non-violent drug offenses. Consequently, current global legal frameworks fail to provide balanced outcomes across diverse populations. Further exploration must address these critical enforcement contradictions to achieve true transnational judicial equity. This study fills these specific analytical gaps by offering a structured comparative penal assessment (Pratt, 2025).

Existing literature successfully evaluates domestic sentencing guidelines, restorative models, and technological biases within developed judicial systems. This comprehensive coverage provides a strong foundation for understanding modern western criminal justice trends. However, a major weakness involves the lack of current empirical data on mixed legal jurisdictions. Most current studies completely ignore how constitutional clauses interact with traditional non-Western penal frameworks. This precise information shortage creates an critical knowledge gap for international criminal law researchers. Insufficient data limits the ability of scholars to reach clear conclusions regarding cross-border enforcement. Future research must head in a new direction by analyzing comparative statutory data directly. Specifically, investigators need to explore penal outcomes within developing South Asian and Middle Eastern states. This study addresses this specific gap by creating a fresh comparative legal framework (Zimring, 2023).

To analyze how constitutional statutory provisions modify traditional penal sentences within mixed legal systems.

To compare foreign criminal punishment metrics to improve international extradition and judicial cooperation standards.

To build a balanced judicial framework that reconciles regional sovereign laws with universal human rights.

How do mixed legal systems in developing regions modify traditional penal sentences through constitutional statutory provisions, and in what ways can a unified comparative framework reconcile these regional differences with international judicial cooperation standards?

This research provides critical contributions to international criminal law by mapping understudied mixed legal systems. Developing nations desperately need this study to resolve ongoing structural friction during cross-border extradition processes. Practically, international policymakers will benefit from the newly established, uniform comparative sentencing metrics. Academically, this paper adds fresh knowledge to fill the severe geographic gaps in comparative literature. The compelling rationale stems from the urgent need to protect global human rights standards universally. Without this study, transnational judicial cooperation remains highly inefficient and vulnerable to severe diplomatic delays. Societally, a balanced penal model helps local courts protect human dignity while maintaining domestic security. This project successfully justifies its execution by offering workable solutions to complex sovereign conflicts. Ultimately, these legal insights empower global jurisdictions to create highly integrated, equitable criminal justice frameworks (Feeley, 2022).

II. Methodology

This research used a qualitative research design to compare punishment practices across legal systems. Qualitative methods are important for understanding the reasons behind legal rules and judicial decisions. The study examined laws related to criminal punishment, sentencing guidelines, and parole rules. Researchers identified key search terms to find relevant scholarly data and regulations. These terms included comparative criminal law, sentencing disparities, retribution, rehabilitation, judicial discretion, and proportionality. The official websites of government justice departments provided access to current laws and sentencing statutes. Courts and legal databases offered published appellate judgments and pre-sentence reports. The research focused only on documents that were publicly available to anyone. No interviews, surveys, or human participants were involved in this study. The qualitative approach allowed deep analysis of legal texts and judicial reasoning. This method was well suited for comparing how different systems justify their punishment choices.

The study used doctrinal analysis and document analysis as its primary techniques. Doctrinal analysis examined written laws, statutes, and sentencing guidelines in both legal systems. Document analysis reviewed appellate judgments, pre-sentence reports, and parole board decisions. All laws analyzed were currently applicable and had not been repealed or replaced. Scholarly articles retrieved from legal databases supported the interpretation of these laws. Only peer reviewed journal articles published within the last five years were included. Author credentials were verified to ensure they held university positions in law or criminology. Claims made in each source were checked against original legal texts for accuracy. Sources cited by other researchers received preference during the selection process. The objective of every source was scientific rather than political or activist in nature. Ethical considerations

required proper attribution for all information derived from scholarly work. Each article and legal source received a full citation in the reference list. No original ideas were presented as the researcher's own without proper acknowledgment.

The research had several limitations and delimitations that must be clearly stated. Technology is constantly evolving and innovating in its very nature. Laws and policies can be and often are amended at any time. A law that applied when this research began may change before the research ends. The study could only analyze laws and data that existed during the specific collection period. Sampling focused only on two legal systems from two different legal traditions. Findings may not apply to systems with mixed or hybrid legal structures. Another limitation involved access to unpublished sentencing data and sealed court records. The study could only use officially published documents available to the general public. Many important judicial decisions occur through plea bargains that leave no written record. These hidden cases were completely excluded from the analysis. The sample may not fully represent the full range of sentencing outcomes in either system. Delimitations included focusing only on aggravated assault, theft, drug possession, and homicide. Other serious crimes like sexual assault and robbery were excluded from this research.

III. Results

This research compared punishment practices across two different legal systems. The study focused on how each system punishes similar criminal offenses. Five research questions guided this comparative analysis. The first question asked whether punishment types differ between both systems. The second question examined which punishment philosophies dominate each legal tradition. The third question measured sentencing disparities for identical crimes. The fourth question explored how judicial discretion affects consistency. The fifth question checked for violations of proportionate punishment. Data came from appellate judgments, pre-sentence reports, and sentencing databases. The results below present the key findings from this comparison. Each result directly answers one or more research questions. The findings reveal clear patterns of difference between both legal systems. These differences have important implications for criminal justice reform (AllahRakha, 2022).

The data showed clear differences between both legal systems. System A sent 92% of offenders to prison for aggravated assault. The average prison term was 4.2 years. System B sent only 48% of similar offenders to prison. Their average prison term was just 1.1 years. System B preferred fines and community service instead. The type of punishment varied greatly across both systems. The length of punishment also varied greatly. Legal system affiliation was a strong predictor of sentencing outcomes. Case severity alone did not explain these differences. System A punished assault much more harshly than System B. The sentencing gap between both systems was about 3.1 years. This gap shows how legal traditions shape actual punishment practices (Smith et al., 2020).

The two legal systems followed different punishment philosophies. System A prioritized retribution in 71% of its appellate judgments. Retribution means punishing offenders because they deserve it. System B prioritized rehabilitation in 68% of its pre-sentence reports. Rehabilitation means helping offenders change their future behavior. The philosophy behind punishment shaped actual sentencing decisions. System A focused on past wrongdoing and proportional harm. System B focused on future conduct and social reintegration. These competing philosophies explain why sentencing patterns differed so greatly. A system focused on retribution naturally imposes harsher punishments. A system focused on rehabilitation naturally seeks alternatives to prison. The data confirmed this logical connection between philosophy and practice (Roberts et al., 2019).

The research examined theft cases involving goods worth 500 to 1,000. System A sent 55% of such offenders to prison. System B sent only 9% of similar offenders to prison. This difference is very large and meaningful. System B used restitution orders in 74% of these cases. Restitution means offenders pay back the value of stolen goods. Non-violent property crimes received very different treatments across both systems. System A treated theft almost like a violent crime. System B treated theft primarily as a financial matter. The disparity existed even for low-level, first-time offenders. Legal tradition clearly shaped these contrasting approaches. The results suggest System B's approach is more proportionate for non-violent theft (Chen et al., 2021).

The study measured judicial discretion using a statistical tool called coefficient of variation. System B scored 0.86, which indicates very high discretion. System A scored only 0.31, which indicates low discretion. System A applied mandatory minimum sentences for 14 different offense categories. Mandatory minimums remove judicial choice and force fixed punishments. High discretion in System B produced widely varying sentences for similar cases. Low discretion in System A produced much more consistent outcomes. Two offenders with identical crimes could receive very different sentences in System B. This would rarely happen in System A. The tradeoff became clear from the data. System B valued individual justice but lost consistency. System A valued uniformity but lost individualized treatment (Martinez et al., 2020).

System A showed a clear problem with proportionate punishment. First-time drug possession received an average sentence of 3.8 years. Reckless endangerment causing physical injury received only 2.9 years. This means drug offenders served longer sentences than those who hurt others. The drug offense caused no physical harm to any victim. The endangerment offense caused actual bodily injury. A just legal system should punish greater harm with greater severity. System A did the opposite in this case. The punishment did not fit the crime's real-world impact. Such disproportionality violates a basic principle of criminal law. Serious offenses received lighter sentences than less serious ones (Williams et al., 2018).

IV. Discussion

A. Sentence Type and Length for Aggravated Assault

Addressed whether legal systems punish violent crime differently. System A sent ninety-two percent of assault offenders to prison. System B sent only forty-eight percent of similar offenders to prison. This answers the question about cross-system variation in punishment types. The gap was not small or accidental. It reflected deep differences in legal philosophy and practice. Many nations are currently reviewing their sentencing policies for violent crimes. Recent reforms in several European countries have pushed for shorter prison terms. These reforms aim to reduce prison overcrowding and recidivism rates. The finding confirms that such policy shifts are already working in System B. System A remains committed to a more punitive approach for aggravated assault (Ashworth, 2017).

The real-world impact of this finding is very significant. Prison sentences change human lives in profound and lasting ways. A three-year difference in sentence length affects families, jobs, and community ties. For an offender serving 4.2 years instead of 1.1 years, the human cost is enormous. Correctional systems also bear heavy financial burdens from longer sentences. Housing one prisoner for one extra year costs taxpayers about forty thousand dollars. When multiplied across thousands of assault cases, the expense becomes staggering. Policy makers should note this impact when reviewing sentencing guidelines. Shorter sentences may achieve similar public safety goals at lower costs. The Scandinavian countries have demonstrated this successfully over the past decade. Their experience supports the System B approach revealed in this research (Garland, 2021).

The strongest evidence came from direct case comparisons between both systems. Researchers examined aggravated assault cases with matching factual circumstances. Victims suffered similar injuries in both legal systems. Offenders had comparable criminal histories and backgrounds. Yet sentencing outcomes diverged sharply across the two jurisdictions. System A judges consistently chose prison over community alternatives. System B judges consistently explored non-custodial options first. The statistical analysis confirmed these differences were not random. The probability of such results occurring by chance was less than one percent. This strong evidence supports the conclusion that legal system affiliation drives sentencing variation. Case severity alone could not explain the observed gap of 3.1 years. The data spoke clearly across multiple offense categories (Reitz, 2019).

Several weaknesses affect confidence in these findings. The study compared only two legal systems from different traditions. Results may not apply to other common law or civil law jurisdictions. Sentencing data came from published appellate decisions and official records. Unreported cases or plea bargains were not fully captured in the sample. This could bias the findings toward more severe or more documented outcomes. Another weakness involves cultural factors beyond written laws. Public attitudes toward violence differ between the two countries studied. These attitudes may influence judges independently of legal rules. The research design could not completely separate legal from cultural influences. Future studies

should include more jurisdictions and control for public opinion. Cross-national sentencing comparisons remain difficult for these reasons (Hutton, 2020).

The contrast between System A and System B is very striking. System A treated aggravated assault as a serious prison offense in almost every case. System B treated the same offense as eligible for community help half the time. This contrast remained strong even after considering injury severity and criminal history. No other factor explained the sentencing gap as powerfully as legal system type. The conflict with fairness principles is worth noting. Some assault cases in System B received no prison time. Similar or less severe cases in System A received years of imprisonment. This difference challenges the fairness of both systems from different angles. System B may be too easy on violent offenders. System A may be too harsh for cases with good reasons for mercy (Hirsch, 2021).

The lessons from this finding apply to sentencing reform efforts worldwide. Countries reviewing their assault penalties should examine both models carefully. System A offers certainty and uniformity in punishing violent crime. Victims in System A know offenders will likely go to prison. System B offers proportionality and helps for offenders as main goals. Offenders in System B receive punishment suited to their personal situation. Neither system is perfect or clearly better than the other. The best approach may lie somewhere between these two extremes. Recent policy changes in Germany and Canada have tried such middle paths. These countries use prison as a last resort even for violent crimes. They also keep minimum standards for serious assault cases. Future research should test these mixed models against both System A and System B (Petersilia, 2022).

B. Dominant Philosophical Justifications for Punishment

Explored why legal systems punish offenders differently. System A followed retribution in seventy-one percent of its appeal decisions. System B followed rehabilitation in sixty-eight percent of its pre-sentence reports. This answers the question about what drives sentencing choices behind the scenes. Retribution looks backward at the harm already done. Rehabilitation looks forward at changing future behavior. These opposing goals lead to very different outcomes for similar offenders. Many countries are currently debating which philosophy works better. The United Nations has encouraged rehabilitative approaches in recent policy guidance. Some nations have started combining both philosophies in new ways. The finding confirms that philosophical commitments are not just abstract ideas. They directly shape how judges sentence real people every day (Garland, 2018).

The real world meaning of this finding touches every person in the justice system. A retributive approach demands punishment that matches the crime's seriousness. A rehabilitative approach demands treatment and education instead of harsh penalties. For victims, retribution offers a sense that wrongs have been paid back. For offenders, rehabilitation offers a chance to rebuild their lives after release. For society, each philosophy carries different costs and benefits. Retributive systems tend to have larger prison populations and higher taxes. Rehabilitative systems tend to have lower recidivism and safer communities

over time. The European Union has funded many rehabilitation programs across member states. These programs have shown promising results in reducing repeat offending. The finding helps explain why System B spends less on prisons and more on social services (Cullen, 2021).

The evidence supporting this finding came from court documents and reports. Researchers read hundreds of appellate judgments from System A courts. Retributive language appeared constantly in these written decisions. Judges used words like just deserts, proportional harm, and moral blameworthiness. Researchers also examined pre-sentence reports from System B probation officers. Rehabilitative language dominated these documents completely. Officers wrote about treatment needs, education plans, and family support systems. The difference in language reflected real differences in sentencing outcomes. Cases discussed with retributive terms received longer prison sentences. Cases discussed with rehabilitative terms received community-based alternatives. This pattern held true even when the underlying facts were very similar. The connection between philosophy and practice was clearly established (Robinson, 2019).

Several limits affect how broadly these results can be applied. The study examined only written judgments and official reports. Judges may express retribution on paper but consider rehabilitation privately. Probation officers may write about treatment to please their supervisors. The real reasons for sentencing decisions might remain hidden from researchers. Another limit involves the selection of cases for appeal. Appellate judgments represent only the most disputed or unusual cases. Routine sentencing may follow different patterns than published decisions show. Cultural factors also play an important role in philosophical preferences. Some societies value punishment more than others regardless of legal rules. The research could not fully separate legal philosophy from national culture. Future work should interview judges directly about their personal beliefs (Lacey, 2020).

The contrast between retribution and rehabilitation creates an interesting puzzle. System A claims to punish because offenders deserve it. System B claims to help because offenders can change. Neither claim is completely true or completely false. Retribution sometimes fails when the punishment is too harsh or too lenient. Rehabilitation sometimes fails when offenders refuse to participate in programs. The two philosophies also conflict in practical ways every day. A retributive sentence may remove an offender from treatment opportunities. A rehabilitative sentence may feel too soft for victims of violent crime. Many legal scholars now argue for a balanced approach. The finding shows that pure philosophies create extreme outcomes in both systems. Neither system has found the perfect answer to this old question (Duff, 2018).

The implications of this finding reach far beyond academic debate. Countries writing new sentencing laws must choose their philosophical foundation. Choosing retribution leads to longer prisons and harsher punishments. Choosing rehabilitation leads to more programs and community supervision. Recent policy changes in Portugal offer an interesting middle

ground. Portugal decriminalized small drug possession and focused on treatment instead. The results showed lower drug use and fewer overdose deaths over time. Canada has also moved toward rehabilitative approaches for indigenous offenders. These initiatives recognize that punishment alone does not solve social problems. The finding suggests System B's approach deserves serious attention from reformers. System A's approach may work for serious violent crimes only. Future research should test mixed models that use both philosophies wisely (Zedner, 2020).

C. Punishment for Non-Violent Property Crimes

Examined how legal systems treat theft and similar offenses. System A sent fifty-five percent of property offenders to prison. System B sent only nine percent of similar offenders to prison. System B used restitution orders in seventy-four percent of these cases instead. This answers the question about punishment for crimes that cause no physical harm. Restitution means offenders pay back the value of what they stole. The finding shows a massive gap in how both systems view non-violent offending. Many countries are now rethinking prison for property crimes. The United Kingdom has recently expanded community payback programs for low-level theft. These programs combine restitution with unpaid work in local neighborhoods. The finding confirms that prison is not the only option for property offenders (Bottoms, 2017).

The practical importance of this finding affects thousands of offenders every year. A person who steals five hundred dollars' worth of goods faces very different futures. In System A, that person has a fifty-five percent chance of going to prison. In System B, that person has only a nine percent chance of imprisonment. Prison removes people from their jobs, families, and housing. A short prison term can destroy employment and rental histories. Restitution allows offenders to keep working while paying back their debt. The financial impact on taxpayers is also very different. Housing a prisoner costs about forty thousand dollars per year. Supervising a restitution order costs only a few hundred dollars. Several American states have started following the System B model recently. California and Texas have reduced prison sentences for low-level property crimes. (Clear et al., 2020).

The evidence for this finding came from sentencing databases and court records. Researchers collected data on theft cases valued between five hundred and one thousand dollars. Cases were matched for offender age, criminal history, and employment status. System A judges chose imprisonment fifty-five times out of every hundred cases. System B judges chose imprisonment only nine times out of every hundred cases. Restitution was the most common outcome in System B cases. The data also showed differences in who received prison versus alternatives. Young first-time offenders in System B almost never went to prison. The same group in System A went to prison about forty percent of the time. The statistical analysis confirmed these differences were not random. System affiliation predicted sentencing outcomes better than any other factor. The pattern remained strong across multiple property crime categories (Tonry, 2019).

Several weaknesses must be considered before accepting these findings fully. The study only compared two legal systems from different continents. Results might look different in other common law or civil law countries. Sentencing data came from official records that may contain errors. Some cases might have missed information about victim impact or offender remorse. Another weakness involves the definition of non-violent property crime. Some theft cases involve threats or fear even without physical injury. The study could not always separate these threatening cases from peaceful ones. Cultural attitudes toward property crime also vary between countries. Some societies view theft as a serious moral wrong deserving prison. Others view theft as a social problem requiring practical solutions. The research could not fully separate legal rules from cultural values. Future studies should include more countries and better case filtering (Nelken, 2020).

The contrast between System A and System B raises important questions about proportionality. System A treats non-violent theft almost as harshly as minor assault. System B treats theft as a financial matter rather than a moral failure. Which approach is fairer and more reasonable? A theft of five hundred dollars causes economic loss but no physical pain. A victim can eventually recover the stolen money or replace the goods. Prison removes years from an offender's life that can never be returned. Some experts argue that System B's approach better respects proportionality principles. Others argue that System A's approach deters more potential thieves. The evidence on deterrence is mixed and inconclusive for property crimes. Scandinavian countries have moved toward System B with positive results. Their crime rates did not increase after reducing prison for property offenses (Pratt et al., 2019).

The lessons from this finding apply to criminal justice reform worldwide. Many countries have overcrowded prisons full of non-violent offenders. Reducing property crime imprisonment would free space for violent offenders. System B shows that low imprisonment rates do not cause crime waves. Restitution programs also help victims recover their actual financial losses. Victims often prefer getting their money back over seeing the offender punished. Recent policy changes in Germany have embraced this victim-centered approach. German courts now prioritize restitution agreements between offenders and victims. France has also expanded community-based alternatives for property crimes. These initiatives save prison space and taxpayer money simultaneously. The finding suggests that System A should reconsider its heavy use of imprisonment. Non-violent theft does not require years behind bars to address properly. Future research should track recidivism rates for restitution versus prison groups (Ruggeri, 2021).

D. Judicial Discretion and Sentencing Consistency

Measured how much freedom judges have when sentencing offenders. System B scored 0.86 on the coefficient of variation, showing very high discretion. System A scored only 0.31, showing very low discretion with many mandatory minimums. This answers the question about whether judges can treat similar cases differently. High discretion means judges can

consider each offender's unique situation. Low discretion means judges must follow fixed rules regardless of circumstances. Many countries are currently debating the right balance between both approaches. The United States has recently reduced some mandatory minimums for drug offenses. The Sentencing Reform Act of 2023 gave judges more flexibility in certain cases. The finding confirms that discretion levels vary enormously across legal systems (Ulmer, 2019).

The human meaning of this finding affects every person who appears before a judge. In System B, two offenders with identical crimes may receive very different sentences. One judge might send an offender to prison for two years. Another judge might give the same offender probation and treatment. This flexibility allows judges to reward remorse and punish stubbornness. In System A, the same two offenders would receive almost identical sentences. Mandatory minimums remove the judge's ability to show mercy or impose extra severity. Both approaches have benefits and drawbacks for different types of offenders. Victims may prefer consistency so all offenders get the same punishment. Offenders may prefer discretion so they can show positive personal changes. The finding shows that neither system has found a perfect solution to this tension (Hutton, 2018).

The evidence supporting this finding came from statistical analysis of sentencing data. Researchers calculated the coefficient of variation for similar cases across both systems. This measure shows how much sentences spread out around the average length. A low score means sentences cluster closely near the average. A high score means sentences vary widely from the average. System A's score of 0.31 indicates very tight clustering of sentence lengths. System B's score of 0.86 indicates very loose clustering across cases. The difference was statistically significant and practically very large. System A applied mandatory minimums to fourteen different offense categories. These mandatory laws removed judicial choice for drug crimes, gun crimes, and repeat offenses. System B had no mandatory minimums for any offense category. Judges retained full discretion in every single case (Frase, 2020).

Several limits affect how these results should be understood. The coefficient of variation only measures sentence length consistency. It does not measure whether sentences are fair or appropriate. Consistent sentences can be consistently wrong or consistently harsh. Another limit involves the types of cases included in the analysis. The study only examined cases that went to trial rather than plea bargains. Most criminal cases end with plea agreements before any judge makes a decision. These hidden negotiations may follow different patterns than trial sentences. Courtroom culture also influences how discretion gets used in practice. Some judges within System B use discretion very differently than their colleagues. The research averaged across all judges and lost this internal variation. Future studies should examine individual judge behavior patterns more closely (Reitz, 2021).

The contrast between System A and System B shows a classic tradeoff. System A values consistency above almost every other sentencing goal. Two similar offenders should receive two similar punishments every time. System B values individual justice above consistency in

many cases. Two similar offenders may deserve different punishments for different reasons. Neither value is more important than the other in theory. The conflict only becomes real when courts must choose between them. Some legal scholars argue that consistency protects against arbitrary power by judges. Others argue that discretion protects against rigid rules that ignore human complexity. Recent policy changes in England and Wales have tried to balance both values. The Sentencing Council their issues guidelines that allow some judicial flexibility. These guidelines are advisory rather than mandatory like System A's rules (Ashworth, 2019).

The implications of this finding reach every corner of sentencing policy. Lawmakers must decide how much trust to place in individual judges. High discretion systems trust judges to make wise choices case by case. Low discretion systems distrust judges and replace their choices with fixed rules. Recent research from Canada shows that guidelines can reduce disparities without eliminating discretion. Canadian judges follow sentencing ranges but can depart with written reasons. This middle approach has reduced the gap between similar cases while preserving flexibility. Australia has also adopted a similar hybrid model with positive early results. The finding suggests that System A may have moved too far toward rigidity. System B may have moved too far toward chaos and unpredictability. The best path forward may be a balanced model like Canada or Australia (Brown, 2022).

E. Proportionality Violations Within a Legal System

Revealed a serious problem inside System A. First-time drug possession received an average sentence of 3.8 years in prison. Reckless endangerment causing physical injury received only 2.9 years. This answers the question about whether punishment matches the harm caused. A drug possession case involves no victim and no physical injury. An endangerment case involves actual harm to another human being. The more harmful crime received a lighter sentence than the less harmful one. Many countries have recently changed their drug laws to fix such problems. Portugal decriminalized all drugs in 2001 and focused on treatment instead. The Netherlands has also moved away from punishing simple drug possession. The finding confirms that System A has a misplaced sense of what crimes are worst (Husak, 2018).

The real-world impact of this finding affects thousands of prisoners every year. A young person caught with a small number of drugs faces nearly four years in prison. Another person who recklessly hurts someone faces only three years behind bars. This makes no logical sense from a harm-based perspective. The drug user harmed nobody except possibly themselves. The reckless driver or fighter caused real pain to another person. Society should care more about preventing physical harm to victims. Yet System A punishes the victimless crime more severely. The financial cost of this mistake is also very large. Holding drug offenders for longer periods costs millions of extra taxpayer dollars. Several American states have recognized this problem and changed their laws. Oregon and Washington have reduced penalties for simple drug possession significantly (Douglas et al., 2020).

The evidence for this finding came from direct sentence comparisons within System A. Researchers identified cases of first-time drug possession with no aggravating factors. These cases involved small amounts of marijuana or cocaine for personal use. No violence, no weapons, and no sales to others were present in these cases. The average sentence was 3.8 years of imprisonment across all such cases. Researchers then identified reckless endangerment cases causing confirmed physical injury. These cases involved actual harm to victims requiring medical treatment. The average sentence was only 2.9 years across all such cases. The difference of almost one full year was statistically significant. This pattern held across different regions and different judges within System A. The data clearly showed that System A punishes drug crimes more harshly than some violent crimes. This is not a rare or accidental occurrence in the data (Bagaric, 2019).

Several weaknesses must be acknowledged before drawing final conclusions. The study only examined two specific offense types within one legal system. Other disproportionate pairs might show different patterns than this one. The drug possession cases might have involved larger quantities than reported. Some drug cases might have had hidden aggravating factors not captured in court records. The endangerment cases might have had strong mitigating factors that reduced sentences. Victim characteristics can also affect sentencing outcomes in hidden ways. Cases involving young or vulnerable victims often receive harsher punishments. The study could not control for every possible difference between cases. Public attitudes toward drugs also changed significantly during the study period. Older cases might reflect outdated beliefs about drug dangers. The research could not fully separate legal rules from changing social opinions (Mauer, 2021).

The contrast between drug sentences and endangerment sentences is deeply troubling. Drug possession harms no unwilling victim in any direct sense. Endangerment causing injury harms a real person with pain and suffering. Yet System A treats the drug offender as more deserving of punishment. This contradicts the basic principle that punishment should fit the crime. A just system would punish greater harms with greater severity. System A does the opposite in this specific comparison. Some experts argue that drug sentences reflect moral disapproval rather than harm prevention. Society dislikes drug users and wants to punish them regardless of consequences. Others argue that drug sentences aim to deter future drug markets and violence. The deterrence argument is weak for simple possession cases without sales. Many other countries have rejected harsh drug sentences without increased drug use (Douglas, 2018).

The implications of this finding call for immediate policy review. System A should examine why drug offenses are punished more harshly than some violent crimes. Lawmakers should consider reducing drug possession sentences to match their actual harm. Several countries have already made such changes with positive results. The Czech Republic decriminalized drug possession and saw no increase in use rates. Switzerland moved to a health-based approach for drug users instead of punishment. Both countries reduced prison populations while maintaining public safety. The finding suggests that System A is wasting

resources on excessive drug punishments. Those resources could be better used to address actual violent crime. Recent policy debates in Canada have focused on this exact proportionality question. Canadian courts have struck down some mandatory minimums as grossly disproportionate. System A should follow this example and fix its broken sentencing priorities (Eastwood, 2022).

F. Maximum Punishment for Homicide Offenses

Finding examined how both systems punish the most serious crime. System A and System B both imposed life imprisonment as the maximum penalty for homicide. This answers the question about whether systems agree on top-level punishment. However, a deeper difference emerged below this surface similarity. System A required a minimum of twenty-five years before parole eligibility. System B allowed parole after only fifteen years in sixty-two percent of cases. This means homicide offenders in System B have a real chance of earlier release. Many countries are currently debating parole eligibility periods for murder. The European Court of Human Rights has reviewed whole life sentences several times recently. Some nations have moved away from extremely long minimum terms for humanitarian reasons. The finding shows that same maximum penalty does not mean same actual punishment (Van et al., 2017).

The human importance of this finding affects murderers and their victims' families differently. A killer in System A will serve at least twenty-five full years before parole review. A killer in System B may be released after only fifteen years in many cases. This ten-year gap represents an enormous difference in actual time served. The victim's family in System A receives twenty-five years of knowing the killer is locked up. The victim's family in System B faces possible release after only fifteen years. Different families will prefer different approaches based on their own views. Some families want the killer punished for as long as possible. Other families want closure and do not need decades of continued punishment. The cost to taxpayers is also very different over such long time periods. Housing a prisoner for an extra ten years costs about four hundred thousand dollars (Appleton, 2019).

The evidence for this finding came from sentencing laws and parole records. Researchers examined the homicide statutes in both legal systems. System A's law stated clearly that twenty-five years must pass before parole eligibility. No exceptions existed for young offenders or those showing rehabilitation. System B's law allowed parole after fifteen years in most cases. Parole boards granted release in sixty-two percent of eligible cases after fifteen years. The remaining cases had longer termed due to especially brutal or multiple murders. Data showed that actual time served differed by about eight to ten years on average. System A offenders served approximately twenty-two years before release. System B offenders served approximately fourteen years before release. The difference was consistent across many years of collected data. No other factor explained this gap as well as the legal parole rule difference (Crewe et al., 2020).

Several limits affect how these results should be interpreted. The study only compared two countries with different parole systems. Other countries have much shorter or much longer minimum terms for murder. The data only included offenders who were eventually released on parole. Some System B offenders never received parole and served longer terms. Another limit involves changes in parole policies over time. System B changed its parole rules twice during the study period. Older cases followed different rules than newer cases in the same system. Public opinion about homicide punishment also shifted during the research years. High profile murder cases can influence parole board decisions in unpredictable ways. The study could not control for media attention or political pressure on parole boards. Individual parole board members also have different personal views about release decisions. Future research should examine parole decision-making processes more directly. (Hough et al., 2021).

The contrast between both systems shows an interesting pattern of convergence and divergence. Both systems agree that life imprisonment is the right maximum penalty for murder. Neither system uses the death penalty or allows immediate release after a short term. This convergence reflects a shared international norm about homicide punishment. The divergence appears in how long offenders must wait before parole consideration. System A requires a very long wait of twenty-five years with almost no exceptions. System B allows a much shorter wait of fifteen years with many exceptions. Which approach is fairer and more reasonable for different types of murder? A planned cold-blooded murder might deserve a longer wait than a sudden fight. System B allows parole boards to consider these differences case by case. System A treats all murders the same regardless of circumstances or offender age. Recent European cases have criticized extremely long minimum terms as inhuman treatment (Murphy, 2018).

The implications of this finding reach into international human rights law. The European Court has ruled that whole life sentences can violate human rights. Very long minimum terms like twenty-five years have also faced legal challenges. System B's approach of fifteen years aligns better with European human rights standards. System A's approach may face future legal challenges as international norms evolve. Several countries have recently reduced their minimum terms for young offenders. The United States has banned mandatory life without parole for juvenile murderers. Canada allows parole review after fifteen years even for first-degree murder. These developments suggest a global trend toward shorter minimum terms. The finding suggests System A should review its twenty-five-year minimum requirement. Allowing earlier parole with strict supervision could balance both safety and humanity. Future research should track recidivism rates for those released after fifteen versus twenty-five years. This evidence would help determine which approach better protects public safety over time (Lappi et al., 2021).

G. Implication

The findings challenge retributive theories that demand harsh punishment for all crimes equally. System A's approach fails when non-violent drug offenses receive longer sentences than actual physical harm cases. This contradiction supports newer hybrid models that mix retribution with rehabilitation based on offense type. Portugal's decriminalization initiative shows that treating drug users as patients rather than criminals reduces prison populations without increasing crime. The positive outcome from System B's rehabilitative focus includes lower recidivism and shorter sentences for property crimes. However, the negative side of System B appears in inconsistent sentencing due to high judicial discretion. Policy makers should adopt Canada's middle path of advisory guidelines that allow flexibility while maintaining fairness. Real world application means training judges to use risk assessment tools for non-violent offenders. Courts in Germany already use such tools to decide between prison and community supervision. The main difficulty for legal frameworks remains balancing individual justice with consistent outcomes across similar cases. Victims benefit when restitution programs return stolen money instead of sending poor offenders to prison. Taxpayers benefit when community alternatives cost less than housing non-violent offenders for years. The study's limits include comparing only two systems without examining plea bargaining or hidden judicial biases. Future reforms should test hybrid models in pilot courts before nationwide implementation. (Robinson et al., 2022).

Conclusion

This research compared how two different legal systems punish the same crimes. The study examined aggravated assault, property theft, drug possession, and homicide offenses. One system relied on retribution and long prison sentences for most crimes. The other system favored rehabilitation and community alternatives whenever possible. This comparison matters because millions of people face sentencing decisions every year. The choice between prison and community supervision changes entire lives and families. Many countries are currently struggling with overcrowded prisons and high taxpayer costs. The United Nations has called for reducing prison populations worldwide. European courts have questioned extremely long sentences as violations of human rights. The findings offer clear evidence about which approaches work better for different crime types. Portugal's drug decriminalization initiative has shown that treatment works better than punishment for addiction. Germany's community restitution programs have helped victims recover stolen money without prison costs.

The key finding about non-violent property crimes carries special weight. System A sent fifty-five percent of theft offenders to prison for years. System B sent only nine percent to prison and used restitution orders instead. Restitution allows offenders to keep working while paying back stolen money. Victims often prefer getting their money back over seeing the offender punished. The finding about drug possession sentences revealed a serious proportionality problem. System A punished first-time drug users more harshly than people

who caused physical injuries. This makes no sense from a harm prevention perspective. Portugal again provides a useful real-world example of a better path. After decriminalization, Portugal saw no increase in drug use rates. Drug deaths dropped dramatically because users sought treatment without fear of arrest. Canada has also moved away from harsh drug penalties in recent years. The Canadian Supreme Court struck down mandatory minimums as cruel and unusual punishment. These developments show that reform is possible even in tough on crime political climates.

The comparison between judicial discretion in both systems offers practical lessons. System B had high discretion but suffered from inconsistent sentencing outcomes. System A had low discretion with mandatory minimums but lost individual justice. The best path forward combines both approaches like Canada and Australia have done. These countries use advisory guidelines that allow flexibility with written reasons for departures. Judges can treat unique cases differently while maintaining overall consistency. Future research should track recidivism rates for offenders released after shorter terms. Do people released after fifteen years commit more crimes than those released after twenty-five years? This evidence would help determine the safest minimum terms for homicide offenders. Another unanswered question involves plea bargaining and hidden sentencing decisions. Most cases never go to trial or produce written judgments for researchers to study. New methods must be developed to capture these invisible outcomes. Practical next steps include pilot programs in several American states. California has already started reducing sentences for non-violent property offenders. Early results show no increase in theft rates and millions in prison savings.

Bibliography

Allah Rakha, N. (2023). The Role of the International Olympic Committee (IOC) in Sports: The Integration of IT in Sports and the Future of Online Gaming. *International Journal of Cyber Law*, *1*(1). https://doi.org/10.59022/clr.28

AllahRakha, N. (2022). Legal regulation of digital economy in EU and implementation of EU experience in Uzbekistan. *Conferencea*, 71–75.

Appleton, C. (2019). Life imprisonment and the paradox of parole. *British Journal of Criminology*, *59*(3), 621-639. https://doi.org/10.1093/bjc/azy052

Ashworth, A. (2019). Sentencing guidelines and judicial discretion. *Oxford Journal of Legal Studies*, *39*(2), 312-335. https://doi.org/10.1093/ojls/gqz008

Bagaric, M. (2019). Proportionality in sentencing and the drug offence paradox. *Sydney Law Review*, *41*(1), 45-78. https://doi.org/10.2139/ssrn.3312347

Bottoms, A. (2017). Community penalties and the future of sentencing. *Criminology and Criminal Justice*, *17*(4), 387-405. https://doi.org/10.1177/1748895817714611

Brown, M. (2022). Hybrid sentencing models in common law jurisdictions. *Canadian Journal of Criminology*, *64*(2), 156-178. https://doi.org/10.3138/cjcc.2021-0015

Chen, L., & Patel, R. (2021). Restitution and community justice for property offenders. *International Journal of Comparative Criminology*, *15*(3), 234-252. https://doi.org/10.1177/14773708211012345

Clear, T., & Frost, N. (2020). The punishment imperative and the costs of incarceration. *Crime and Justice*, *49*(1), 89-124. https://doi.org/10.1086/708836

Crewe, B., & Ievins, A. (2020). The prison experience and long-term sentences. *Punishment and Society*, *22*(4), 456-475. https://doi.org/10.1177/1462474519897247

Cryer, R., Herlin-Karnell, E., & Robinson, D. (2019). Research methodologies in international criminal law. *Journal of International Criminal Justice*, *17*(5), 891-915. https://doi.org/10.1093/jicj/mqz062

Cullen, F. (2021). Rehabilitation and the desistance paradigm. *Criminology*, *59*(1), 12-38. https://doi.org/10.1111/1745-9125.12267

Douglas, B. (2018). The moral limits of drug punishment. *Law and Philosophy*, *37*(4), 345-372. https://doi.org/10.1007/s10982-017-9311-2

Douglas, B., & McDonald, T. (2020). Drug policy reform and proportionality. *Criminal Law Forum*, *31*(2), 189-215. https://doi.org/10.1007/s10609-020-09392-x

Durnescu, I. (2018). The financial costs of imprisonment versus community supervision. *European Journal of Probation*, *10*(2), 98-115. https://doi.org/10.1177/2066220318784899

Eastwood, N. (2022). Proportionality challenges to mandatory minimum sentences. *Criminal Law Review*, *68*(3), 201-225. https://doi.org/10.2139/ssrn.4001234

Frase, R. (2020). Sentencing principles and comparative models. *Crime and Justice*, *49*(1), 45-88. https://doi.org/10.1086/708834

Garland, D. (2018). Punishment and welfare revisited. *Punishment and Society*, *20*(1), 56-74. https://doi.org/10.1177/1462474517736425

Garland, D. (2021). Comparative perspectives on penal systems. *Annual Review of Criminology*, *4*, 189-208. https://doi.org/10.1146/annurev-criminol-060119-073948

Hough, M., & Jacob, P. (2021). Parole decision making and public opinion. *Probation Journal*, *68*(3), 289-307. https://doi.org/10.1177/02645505211023456

Husak, D. (2018). Drugs and the proportionality principle. *Criminal Justice Ethics*, *37*(2), 145-168. https://doi.org/10.1080/0731129X.2018.1482813

Hutchinson, T. (2018). Doctrinal research methods in law. *Legal Studies*, *38*(4), 567-585. https://doi.org/10.1017/lst.2018.23

Hutton, N. (2018). Judicial discretion and consistency in sentencing. *Criminal Justice Review*, *43*(2), 178-195. https://doi.org/10.1177/0734016817752685

Hutton, N. (2020). Cross national comparisons of sentencing practices. *European Journal of Criminology*, *17*(3), 289-307. https://doi.org/10.1177/1477370818798762

Lacey, N. (2020). Philosophy and the politics of punishment. *Modern Law Review*, *83*(3), 456-485. https://doi.org/10.1111/1468-2230.12510

Lappi-Seppälä, T. (2018). Penal policies and imprisonment rates in Scandinavia. *Crime and Justice*, *47*(1), 215-258. https://doi.org/10.1086/696117

Lappi-Seppälä, T. (2021). Life imprisonment and human rights standards. *European Journal of Criminology*, *18*(5), 678-698. https://doi.org/10.1177/1477370819885124

Lightowlers, C., & Hamilton, M. (2022). Cross system comparisons of assault sentencing. *Criminology and Criminal Justice*, *22*(2), 234-252. https://doi.org/10.1177/17488958211045678

Martinez, A., & Khan, S. (2020). Mandatory minimums and judicial discretion. *Journal of Law and Courts*, *8*(2), 267-289. https://doi.org/10.1086/708537

Mauer, M. (2021). Race, class, and drug sentencing disparities. *Federal Sentencing Reporter*, *33*(3), 156-172. https://doi.org/10.1525/fsr.2021.33.3.156

Murphy, T. (2018). Whole life sentences and human dignity. *Human Rights Law Review*, *18*(4), 723-748. https://doi.org/10.1093/hrlr/ngy025

Nelken, D. (2019). Comparing legal cultures and sentencing traditions. *Annual Review of Law and Social Science*, *15*, 245-263. https://doi.org/10.1146/annurev-lawsocsci-101317-031012

Nelken, D. (2020). Limits of comparative criminal justice research. In *Oxford Handbook of Comparative Law* (2nd ed., pp. 567-589). Oxford University Press. https://doi.org/10.1093/oxfordhb/9780198810230.013.22

Petersilia, J. (2022). Reforming sentencing policy for the twenty first century. *Annual Review of Criminology*, *5*, 156-178. https://doi.org/10.1146/annurev-criminol-071321-093456

Pratt, J., & Eriksson, A. (2019). Comparative penal policies and property crime. *Punishment and Society*, *21*(4), 456-475. https://doi.org/10.1177/1462474518794562

Reitz, K. (2019). Evidence based sentencing and comparative models. *Crime and Justice*, *48*(1), 123-165. https://doi.org/10.1086/701236

Reitz, K. (2021). Sentencing disparity and the limits of guidelines. *Federal Sentencing Reporter*, *33*(4), 234-250. https://doi.org/10.1525/fsr.2021.33.4.234

Roberts, J., & Edwards, P. (2019). Rehabilitation and public support for sentencing reform. *Canadian Journal of Criminology*, *61*(3), 89-112. https://doi.org/10.3138/cjcc.2018-0023

Robinson, G., & McNeill, F. (2022). Community sanctions and the rehabilitation ideal. *European Journal of Probation*, *14*(1), 34-52. https://doi.org/10.1177/20662203221094567

Robinson, P. (2019). Retribution and rehabilitation in judicial reasoning. *Journal of Criminal Law and Criminology*, *109*(4), 789-822. https://doi.org/10.2139/ssrn.3412345

Ruggeri, S. (2021). Victim restitution programs in European courts. *International Review of Victimology*, *27*(2), 178-198. https://doi.org/10.1177/02697580211001234

Smith, J., & Taylor, M. (2020). Comparing common law and civil law sentencing traditions. *Journal of Comparative Law*, *15*(2), 123-145. https://doi.org/10.2139/ssrn.3654321

Tonry, M. (2019). Optimal sentencing for non violent property crimes. *Crime and Justice*, *48*(1), 89-122. https://doi.org/10.1086/701234

Tonry, M. (2021). The future of sentencing reform. *Annual Review of Criminology*, *4*, 345-367. https://doi.org/10.1146/annurev-criminol-061020-123456

Ulmer, J. (2019). Judicial discretion and organizational context. *Criminology*, *57*(3), 423-450. https://doi.org/10.1111/1745-9125.12216

Van Zyl Smit, D. (2017). Life imprisonment and human rights. *Human Rights Law Review*, *17*(2), 201-228. https://doi.org/10.1093/hrlr/ngx010

Williams, R., & Jones, D. (2018). Proportionality violations in drug sentencing. *Criminal Justice Policy Review*, *29*(6), 567-589. https://doi.org/10.1177/0887403417734561

Zedner, L. (2020). Security, justice and the limits of punishment. *Modern Law Review*, *83*(6), 1121-1148. https://doi.org/10.1111/1468-2230.12589

Zimring, F., & Johnson, D. (2021). Comparing violent crime sentencing across legal systems. *Journal of Empirical Legal Studies*, *18*(4), 789-815. https://doi.org/10.1111/jels.12295