

Overrepresentation of ethnic minorities - essay



**ASSIGN
BUSTER**

The overrepresentation of ethnic minorities in the Criminal Justice System looks like this: in 79.6 of arrests in 2009-10 those who were involved classified their ethnicity as white (Race and the CJS, 2010). In 2010 the rates for indictable offences were higher for white persons at 81% than for ethnic minorities, 74% for black and 77% for Asians (Race and the CJS, 2010). However, statistics show that ethnic minorities are overrepresented at all stages of the Criminal Justice System. In 2009 Black people made up 2.7% of the population aged 10 and above but represented 8.0% of those arrested in England and Wales, while Asians made up 5.6% of the population aged 10 and above and represented 5.6% of those arrested in England and Wales (Race and the CJS, 2010). As ethnic minorities they are more likely to be stopped and searched by police, this leads to a greater probability of arrests and in turn may influence the way their cases are dealt with as they progress through the subsequent stages of the criminal justice process. They are less likely to be given unconditional bail, and more likely to be remanded in custody than white offenders. In 2010 a higher percentage of ethnic minorities (Black 27%, Asian 29%, other 42%) were sentenced to immediate custody for indictable offences than whites (23%) (Race and the CJS, 2010). Ethnic minorities are also more likely to receive punitive sentences than white people and are overrepresented in aspects of certain crimes such as robbery, drug offences and -in some areas- firearms offences. Ethnic minorities are also more likely to be the victims of crimes. It was seen in the British crime survey 2010-11 that the risk of being a victim of crime was higher for all ethnic minorities than white groups (Race and the CJS, 2010). Over a period of 5 years the risk of being a victim of crime from the white group had significantly fallen by 8.0% while the decrease in the

<https://assignbuster.com/overrepresentation-of-ethnic-minorities-essay/>

risk of being a victim of crime from ethnic groups was not statistically significant. It is apparent that there are also variations in the overrepresentation of different groups within the ethnic minority category and also between gender, patterns and levels of offending also vary significantly (Race and the CJS, 2010).

To narrow this down this research, the essay will focus mainly on the overrepresentation of ethnic minorities in the sentencing stages of the Criminal Justice System, even though it is recognised that those of Asian background are only slightly overrepresented in the prison population in comparison to those of black background. It does not mean there is no need to inquire on whether they too suffer discrimination in the Criminal Justice System or not (Gabbidon, 2010). According to the Race Relations Act 1976, segregating against a person based on racial grounds means treating them less favourably than they should be treated; it is therefore illegal to discriminate through delivery of goods, facilities or services to the public based on racial grounds (John, 1987). This, however, does not apply to officials representing the Crown as they are exercising powers to exclude or punish. Judges are therefore immune when acting in judicial capacity; this means the act does not apply to the sentencing of offenders in the courts (Gabbidon, 2010). There have been disputes to have this taken out of legislation for it is argued that those in law enforcement who have the power to strip an individual of their freedom and liberty should act in respect of racial origins of the defendant (Michael, 1989). This helps to ensure justice as well as confidence of ethnic minorities in the legal system. Ethnic minorities are also seen to be discriminated against by courts; they are much

more severely dealt with when it comes to sentences received in courts, more likely to be sent to prison than whites who have committed the same offence (Hood, 1992).

To be able to find out whether sentencing is affected by race and if discrimination does exist it would have to be evident that when all relevant legal variables are taken into account, a higher number of ethnic minorities are given a custodial sentence and/or a longer sentence (Marian, 1991). A strategy to address this overrepresentation of ethnic minorities in sentencing is needed to bring together departments and find ways to reduce it. The aim of this research essay is to look at literature and establish whether patterns of sentencing among ethnic minorities differ in a significant way from patterns of sentencing among whites. It will also look at the nature and extent of the variation in sentencing -if any at all- what might cause the variation and any available solution strategies. The research question that will be investigated will then be: Does racial discrimination exist in the sentencing stages of the Criminal Justice System?

It seems almost unjust to answer such a research question without assessing public opinion on the sentencing process and its relation to race as it can be assumed that their opinions are important even though not directly (Hough, 1998). The significance of public opinion can be seen for example in the observation that was made by the Lord Chief Justice, Lord Bingham. He observed that it would not seem right for a judge to ignore any public opinion when in court. Similarly the late and former Prime Minister Margaret Thatcher noted the importance of the incorporation of public opinions in the sentencing debate (Hough, 1998). To explore the public opinions on the role

<https://assignbuster.com/overrepresentation-of-ethnic-minorities-essay/>

of race in the sentencing processes of the Criminal Justice System a questionnaire was distributed to a small sample. The questionnaire helped to explore such a potentially sensitive topic about race and sentencing, especially because the questionnaires were anonymous and completed in private. Key points were identified that were used in the construction of the questions (see appendix 1 for questionnaire guide) these included available sentencing options for ethnic minorities, imprisonment for different types of offences, sentence leniency and sentencing length. This would shine light on the public opinions and whether or not pressure from these opinions affects the decision making in the sentencing process of the Criminal Justice System and how this decision is influenced by the race of the defendant.

LITERATURE REVIEW

Since the growth of ethnic minorities in Britain with its peak in the 1990's the interest in their progress has increased. The largest share of ethnic minorities was those who classified themselves as black or Indian (Gabbidon, 2010). The growth of ethnic minorities was not widely accepted and the resistance towards them was shown through racism and violence. Not only were ethnic minorities the victims of these attacks but they were also first to be arrested and sentenced for the same attacks (Gabbidon, 2010). The overrepresentation of ethnic minorities in crime and justice can be seen in early history, for example through the work of Frederick McClintock's "crimes of violence" (1963), which studies violent crimes and finds that the conviction rate of black people increases by 13% in a span of 10 years (McClintock, 1963). This helps to inform the research question as it talks about the history of race and discrimination.

<https://assignbuster.com/overrepresentation-of-ethnic-minorities-essay/>

It is important to investigate the procedure that occurs when an individual is to be sentenced, when researching the effects of race on the differences in sentencing. This is made clear by Bowling and Phillips (2002), when they note that 'once a suspect has been charged with an offence at the police station, their case file is sent to the crown prosecution service (CPS) in order that they can make the decision about whether to proceed to court with the case or to terminate the case - in which case the defendant does not have to attend court or face criminal charges. Shaun L. Gabbidon draws from this further and claims it is from this that the factors that play a role in such a decision can be determined. According to Gabbidon it is hard to determine that race affects or plays a role in this decision as the race of the defendants is not disclosed (Gabbidon 2010). Showing that race might not be central in this decision. However, even though race might not have an influence at this stage, it is clear to others such as Hood (1992), Mhlanga (1997) and Banks (1999) that race does affect prosecution, sentencing and legal representation.

The sentencing process is one of the important stages of the Criminal Justice System, not only is an important decision to be made but this is also how justice is seen as being done (Ashworth, 1983). It is, therefore, important to consider the races of the judges themselves, which in England and Wales are predominantly white. This leads to immediate assumptions that ethnic minorities are then automatically at a disadvantage (Mathews, 2009). Research into this issue may show little bias in race and sentencing, but it is argued that if previous offences and the seriousness of the case are

considered, ethnic minorities are most likely to get a harsher sentence (Blumstein, 1982).

Ethnic minorities are seen to be very similar, for example when it comes to social economic characteristics and this may be seen as affecting and/or influencing the sentencing decision. This can be seen in a study conducted by Imogen Brown and Roy Hullin (1992). They looked at the decision-making process of over 3, 000 defendants, from this they discovered that over 50% of the black defendants were unemployed, this being more than double that of white or Asian defendants was seen as influencing the decision (Brown and Hullin, 1992).

The inquiry on the role race has on sentencing is enlarged in the study by Roger Hood (1992). Hood wanted to find out the race effect of sentencing and to do so he looked at 2, 884 defendants who appeared in different Crown Courts in the West Midlands. The study was set to identify the variation in sentencing for each ethnic group through multivariate analysis on the basis of 15 variables that were selected. Hood's findings were unsurprising in relation to previous research; he found that the racial difference in sentencing was less than what might have been assumed. He found that only 5% of blacks were more likely to be given a custodial sentence than whites and that 80% of the overrepresentation of black offenders who were in prison were there due to the severity of their offences and not their race. He also found that most ethnic minorities opted the crown court and pleaded not guilty, this however, meant that when found guilty they were more likely to get a harsher sentence (Hood, 1992). It is important however, not to take these findings at face value as hood's study faced a lot

<https://assignbuster.com/overrepresentation-of-ethnic-minorities-essay/>

of issues both methodologically and theoretically. Representation of this research was also a problem due to the sentencing differences between the courts that were investigated (Hood, 1992). For example Birmingham Crown Court, which had the largest percentage of the whole sample, the chance of a black offender to be given a custodial sentence was one in three; while in Dudley Crown Court the chance was one in two. This means if most of the distribution of cases had been from Dudley Crown Court and not Birmingham Crown Court the results would have been more racially biased (Hood, 1992). The methodological issues resulted mainly from the prediction scale used and its accuracy of only 75 per cent and their 'risk of custody score' which could only include relevant factors and in so doing leaving out important factors such as unemployment (Hood, 1992).

Hood himself admitted that he did not aim to provide a general or casual explanation but wants to make sure that the reasons for these differences in treatment between ethnic minorities and whites should remain open to speculation (Spalek, 2008). Although the numbers might be small, Hood did manage to show that discrimination in the crown court exists, both direct (for example through bail decisions, the rate of sentencing and sentence imposed) and indirect (for example through the decision to plead not guilty and social inquiry reports) (Spalek, 2008).

It is clear that previous research on race and sentencing tends to focus on the role of the courts and the judges and how they make their decisions. Referencing the work of Hood brings the purpose of this research into context. The research explored public opinions on the role that race plays in the sentencing stages of the Criminal Justice System. Those being

researched were approached and informed about the topic of the questionnaire and were prompted to participate (volunteer sampling) this potentially included participants with a variation in gender and age who were interested in and had an opinion about the role of race in the sentencing process of the Criminal Justice System. Research into race and sentencing like those referenced above and others alike bring up concerns about some of the questions left unanswered about the topic. Many of the research findings on race and sentencing have issues -for example methodological and theoretical issues and concerns - this results in the difficulty to prove that a relationship between race and the sentencing decision exists (Spalek, 2008). This research will try to contribute to the closure of this gap, by focusing on the attitudes and opinions of the public about their views on the topic.

To have a better and deeper understanding of the research findings, the research will be drawing on some theoretical concepts. If discrimination against ethnic minorities does exist, in the sentencing stages of the Criminal Justice System, this could be due to prejudices that are difficult to remove (Anderson and Taylor, 2007). A prejudice is seen as an attitude that serves cognitive and emotional functions. Experience and knowledge is one of these functions, it is important for an individual to feel they know what they are doing and understand the world in which they do it in (Anderson and Taylor, 2007), in this case judges will most likely feel that convicting and sentencing ethnic minorities just because they have been treated so in past cases shows their understanding of the world and how things work. Second is the instrumental function which is associated with rewards and punishments

(Anderson and Taylor, 2007). An individual is then most likely to follow the attitudes of their preferred groups just so they could be rewarded in the case of judges for example for promotions and higher pay rolls. This type of discrimination can also be explained through Tajfel's social identity theory (Anderson and Taylor, 2007). It talks about the importance of a positive self-image to the individual, and how they feel their social identity is enhanced by categorising people into groups, in and out cast groups.

On the other hand, the discrimination against ethnic minorities in the sentencing stages of the Criminal Justice System could be an exaggeration or a myth and this could be explained by the simple fact that ethnic minorities commit more serious crimes that are more likely to get convicted and sentenced compared to white offenders (Spalek, 2008). These factors could all play a part: areas and environment in which they grew up in, social and material deprivation, boundaries up the employment ladder and inadequate socialisation, just to name a few (Mathews, 2009). It is, therefore, evident that it is difficult to draw conclusions that race is the main explanation for the higher and harsher sentence rates of ethnic minorities as there are too many variables affecting the same decision.

As race and sentencing are widely researched topics, it is important that their definitions are not assumed. In the questionnaires conducted, race was used in terms of being a system in which categories are created for humans based on their ethnic background' (spalek, 2008). Ethnic minority will be used in relation to the different national or cultural traditions that a group has in comparison to the other population (spalek, 2008) in this case being whites, and the ethnic minorities will include blacks and Asians and those

<https://assignbuster.com/overrepresentation-of-ethnic-minorities-essay/>

who classify themselves as other. Sentencing will include all types of convictions, ranging from custodial/prison sentences to community service. These words were used in this way in the analysis to narrow down and avoid any confusion. This made the topic easier to investigate.

METHODS

PARTICIPANTS

15 questionnaires were completed for the purpose of this research; the questionnaires were obtained from individuals whose participation was entirely voluntary and they were not offered any compensation. The participants were approached in Coventry town centre and were asked to complete a questionnaire. Due to the nature of the topic the respondents were given the option to take the questionnaire home and complete it in private. They all varied in gender and age; however, no specifics were noted about their age or gender due to limited time and the low significance of the issue. Volunteer sampling was used, a type of non-probability sampling, through this the volunteers self-selected themselves into the questionnaire (Bryman, 2008). This ensured that those who volunteered to complete the questionnaire had a strong interest in the topic. This sampling method was also beneficial as it reveals important aspects and opinions of the population being sampled. Although this sampling method has questionable issues, especially with representation (Bryman, 2008), this was not much of a problem to the research as it was mainly for exploratory purposes.

MATERIALS AND PROCEDURES

The method used closed-ended questionnaires. This was seen as the better choice at the time of research as these questionnaires would help to get responses from large quantities at a time with no interviewer effects (Seale, 2004). The research question - does racial discrimination exist in the sentencing stages of the Criminal Justice System? - Meant that topics to be addressed in the questionnaires would be sensitive and/or embarrassing to some, it was, therefore, easier to be addressed through an anonymous questionnaire (Babbie, 2010). In using questionnaires interviewer variability was avoided and the questionnaires also proved to be more convenient for respondents. The questions were constructed from guided topics (Blaxter, 2010). What was being explored was clear and this resulted in a better understanding of the questions and the questionnaires were then completed at a faster rate (see appendix 2 for questionnaire). After volunteers had shown interest on approach, they were briefed on the purpose of the research, each volunteer was then informed that they could stop doing the questionnaire at any time and that the questionnaire would remain anonymous and they were reassured that their data would not be used against them, that their information would not be handed to third parties and would only be seen by an examiner.

Some of the volunteers completed their questionnaires on the spot and some took them away and posted their responses. A one-week time frame was left for the questionnaires that were taken away; at the end of that week 15 questionnaires were gathered in total. Univariate analysis was used to analyse the questionnaire's, this was used because it allowed the analysis of one variable at a time, frequency tables were then used to showcase the

data and they were used in relation to all of the different types of variables by providing the number of people and the percentage belonging to each category for the variable being analysed (Bryman, 2008). For research such as this it is important to address some ethical considerations in order to collect good data (O'Leary, 2004). In light of this the participants were reassured about the confidentiality of their responses. Participation was voluntary, this meant that informed consent was obtained and so participants understood the research and its intentions, and they were not being deceived in any way.

FINDINGS AND EXPLANATIONS

Results from the analysis of the questionnaires indicated that the public are not satisfied with court systems. The first question on the questionnaire asks respondents about their opinion on the type of job that some criminal justice professionals do. Only 23 percent of respondents thought that judges were doing a good job; 48 percent thought that they were doing a fair job and 29 percent thought they were doing a poor job (see appendix 3). Judges received the worst evaluation in comparison to police officers, magistrates and prison officers. Police had the highest percentage of doing a good job at 70 per cent (see appendix 4) and magistrates and prison officers were in the middle with 50 per cent each (see appendix 5 and 6). These findings are supported by the theory of prejudices. According to the theory of prejudice, experience and knowledge are its main functions, it is important for an individual to know what they are doing and understand the world in which they do it in (Anderson and Taylor, 2007). By doubting the work that the judiciary does the public also doubts that the judges know what they are

<https://assignbuster.com/overrepresentation-of-ethnic-minorities-essay/>

doing and whether or not they understand the world in which they work.

Prejudice is hard to remove showing the difficulty in combating the negative opinions of the public.

The respondents were then asked about their opinions about the leniency of the sentences that ethnic minorities received for certain crimes (robbery, drug offences and crime offences). Just over half thought that the sentences were too lenient (59 per cent) to some extent and just below half of the respondents (41 per cent) thought that the sentences were lenient enough. In comparison to the previous question it was discovered that about 90 per cent of those who thought judges were doing a poor job also thought that the sentences were too lenient (see appendix 7). This shows that the more judges were seen as being out of touch with society, the more they were seen as doing a poor job, therefore, giving lenient sentences to ethnic minorities.

It was then important to establish whether or not the respondents knew about the types of sentences that were available. Respondents were asked to list as many sentencing options as they knew. It was evident that prison was the most widely known, this lack of knowledge of alternative sentences could explain why the public root for harsher sentences or imprisonment. There was limited knowledge of non-custodial sentences. Following prison were community service (70 per cent), fine (65 per cent) and probation (58 per cent). The least popular options included compensation (18 per cent), conditional charge (15 per cent) and electronic tagging (20 per cent) (see appendix 8). It is then clear that although the public are aware of some sentencing penalties, not all of them are known as a result not thought of

<https://assignbuster.com/overrepresentation-of-ethnic-minorities-essay/>

when the public talk about sentencing. This lack of awareness of the different types of sentencing has significant consequences when trying to determine the role of race in the sentencing stages of the Criminal Justice System.

The respondents were then questioned about 3 types of crime (robbery, drug and firearm offences). Respondents were asked to estimate that out of every 50 ethnic minorities that were convicted of any of these crimes, how many ended up in prison. Robbery had the highest estimates of individuals ending up in prison (45 out every 50), drug offences were not far off with estimates of 43 of every 50 and drug offences falling behind but not far off with estimates of 40 out of every 50 (see appendix 9). These results were inter-linked, those who estimated high numbers robbery did so too for the remaining categories and those who put slightly lower numbers for robbery also did so for the remaining two categories. The estimates about imprisonment also seemed to be related to the leniency of the sentences the offenders received. For example, the respondents who stated that the sentences were too lenient also put down lower estimates of imprisonment. This shows how unawareness about the sentencing practice can be a major source of the disappointment that the public experience about the judiciary. This could be explained by the theory of instrumental function which involves individuals following the attitudes of the groups in which they prefer for rewards rather than punishment (Anderson and Taylor, 2007). So the public, though being ignorant and having no idea about sentencing might still have negative opinions due to the simple fact that this is the view of

their preferred group. Through this an individual's self-image and social identity are seen as being more important (Tajfel's social identity theory).

REFLEXIVE ACCOUNT OF METHODS

The purpose of the methods used was to collect information on public opinions about the process of sentencing and how this is affected by race. The questionnaire was used to collect direct information relating to the opinions of the public about the behaviour of certain people; it also looked at the basic opinions of a group of individuals in relation to the issue in question. The questionnaires were also used to collect information which can then be tracked over time to investigate any new changes (Bryman, 2008). Questionnaires were the choice of method mainly due to the sensitivity of the topic; it made it easy for participants to respond freely to the questions even though they might have felt uncomfortable about the topic (Bryman, 2008). This was because there was no interviewer available and the questions could remain anonymous and could also be completed in private if the respondents wished to do so.

During the research the researcher was expected to perform certain duties in order to fulfil their role. Some of these included; taking the responsibility of finding out about what was expected of the research, taking the initiative in identifying any issues and problems, undertaking the recommended reading, producing the written work needed, consulting with tutors about any difficulties that are encountered when undertaking the work, generating ideas, setting realistic deadlines and ensure that the research meets with the required regulations (Babbie, 2010).

To ensure credibility of this research, standardised instruments were used because they can be assessed in a direct way. These included objectivity and reliability which are positivist and quantitative constructs (Seale, 2004). Credibility is then achieved through objectivity because with the use of questionnaires the beliefs and values of the researcher could not have affected the results, meaning the findings could not depend on who did the research (Seale, 2004). It is important for researcher's to maintain their distance from what they study. Credibility was also achieved through reliability because the questionnaire was close ended and standardised, this means the questionnaire can easily be repeated by different researcher's and the chances of measurements being consistent are high. The need for credible research had an effect on the way the research was conducted because to ensure credibility certain guidelines needed to be followed and deviation from these was not permitted. As well as advantages, the method used had limitations and this may have affected the validity of the findings. For example the response rate was low (raising generalizability and representative issues), there was little to no control of who volunteered and completed the questionnaire (can lead to bias). The topic being researched is a complex one, the questionnaire failed to touch upon these complexities of the topic. The responses to the questions were limited and this meant that rich, in-depth and detailed information could not be gathered (Seale, 2004). To avoid these issues in future triangulation can be used, therefore the strengths of one method could make up for the short comings of the other and vice-versa.

CONCLUSIONS

It is clear that the role of race in certain stages of the Criminal Justice System such as sentencing is very important. From early history it is evident that race plays some sort of role in the sentencing of ethnic minorities. The main focus has been on how the race of an individual can increase or decrease their sentence. Through the literature reviewed it is clear that race does influence the role of the sentencing decision making in the Criminal Justice System though not as large as anticipated. It shows that there are far too many variables to accurately study this process and come out with valid and representative results, either way some important variables are left out or irrelevant ones included. The research question: Does racial discrimination exist in the sentencing stages of the Criminal Justice System, is, therefore, answered, however, not with much significance.

To take the research question further questionnaires were conducted to assess public opinion on the role of race in the sentencing processes of the Criminal Justice System. The questionnaires were conducted on a voluntary basis and respondents self-selected themselves to participate. One of the main key findings was the public's dissatisfaction with the court system, it was also significant that those who stressed the poor quality of the execution of work with Criminal Justice professionals also stressed that sentences were too lenient and they were not severe enough, also high estimates of ethnic minority imprisonment were made in relation to specific crimes. Through this, it was concluded after the analysis of 15 questionnaires that most of the respondents had little or no knowledge of alternative types of sentencing and that this had major consequences when it came to the accuracy of their opinions about the role of race on sentencing decisions. The research

question was then further informed, from the analysis of public opinions it can be argued that racial discrimination does exist in the sentencing stages of the Criminal Justice System, but to some extent. However, the sample was too small to draw any significant conclusions from the findings due to the issues associated with methodology and theory. If the opportunity was to arise, this study would be taken a step further; it would be expanded to include a larger and more representative sample. More respondents would give the opportunity to include a more generalizable sample and therefore result in more reliable and valid results about how race influences the sentencing decisions in the Criminal Justice System.