

Ethnicity, gender, remand, plea and sentencing

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This Data Insight examines whether ethnic disparities persist across successive stages of the criminal justice system – remand, plea and imprisonment – after controlling for other factors, and how these disparities differ among men and women. The analyses seek to contribute to a better understanding of sources of cumulative disadvantage in the justice system. These may stem from disadvantages accrued at earlier decision points in the court process, as well as from the intersection of multiple identities such as gender and ethnicity.

The analyses are based on linked criminal courts datasets made available through the ADR UK-funded Ministry of Justice Data First programme, and multilevel models of remand, plea and imprisonment. The results show persistent ethnic disparities in remand and plea after controlling for other factors. Women defendants from all ethnic minority groups are more likely to be remanded in custody than white British women. Men from black, mixed, white and other minority groups not individually reported are more likely to be remanded in custody compared to white British men. However, Asian men are less likely to be remanded in custody than white British men.

Background

England and Wales have the highest rates of imprisonment in Western Europe, where ethnic minority people make up 27% of prisoners compared to 18% of the general population.¹

There is increasing evidence that people from ethnic minority groups are more likely to be sentenced to prison for similar offences than white British people,² but relatively little is known about how they fare at earlier stages of the criminal legal process – particularly pretrial remand and plea decisions. These decisions do more than simply set the path toward sentencing; they actively shape the severity of the sentence imposed and can generate disparities that accumulate over the trajectory of a criminal case.³ Cumulative disadvantage in the justice system can arise from disadvantages accrued at earlier decision points in the court process as well as from the intersection of multiple identities such as gender and ethnicity.⁴

This study draws on linked criminal courts datasets to examine ethnic disparities in remand, plea and imprisonment and assess how they differ among men and women allowing for intersectional comparisons.

Both men and women from ethnic minority groups are more likely to plead not guilty after controlling for other factors. Men from nearly all ethnic minority backgrounds (except Asian) are also more likely to be sentenced to prison. In contrast, except for black women there are no statistically significant differences in the likelihood of a prison sentence between women from ethnic minority groups and white British women after controlling for other factors. These findings may suggest that ethnic disadvantages observed at earlier stages in the court process persist into sentencing more visibly for men than women.

What we did

The analyses examine ethnic disparities in remand, plea and imprisonment for defendants appearing in the Crown Court over the period 2018-2020. They draw on criminal courts data from the Ministry of Justice Data First programme⁵ and the 2019 Cambridge Crime Harm Index.⁶ Using multilevel models stratified by gender and controlling for relevant covariates including age, offence type and severity and prior convictions, the analyses assess how ethnic disparities differ among men and women, allowing for intersectional comparisons. Due to the small number of women in the dataset, particularly when broken down by ethnicity, aggregated ethnic groups were used. Ethnicity is based on the self-identified ethnic group classification (Asian, black, mixed, white, other) included in the data. For the purposes of this analysis the white group has been split into white British and white other (groups identifying as white other than white British). This approach enables identification of broad patterns across gender but limits the ability to detect disparities within Asian, black, white and mixed ethnic minority groups.

What we found

Remand and plea decisions

The results in Table 1 show that the odds of being remanded to custody prior to trial is higher for both men and women from black, mixed, white and other ethnic minority backgrounds compared to white British men and women. In contrast, there is marked variation in the odds of being remanded to custody between Asian men and women, with the odds of remand being lower for Asian than white British men but higher for Asian than white British women. The largest disparities in remand are observed for defendants from white and other ethnic minority groups not individually reported. Similarly, Table 2 shows that men and women from ethnic minority groups are more likely to plead not guilty compared to white British men and women. For example, the odds of pleading not guilty for Asian men and women are 67% and 82% higher respectively than for white British men and women, after controlling for other factors. Similarly, the odds of pleading not guilty for black men and women are 77% and 25 % higher respectively than for white British men and women.

Sentencing decisions

Ethnic disparities in sentencing are more pronounced for men than women. Men from ethnic minority groups, except for Asian men, are more likely to receive a custodial sentence compared to white British men. Among men, the odds of imprisonment for those from white ethnic minority groups are 8% higher, and 13% higher for those from black, mixed and other minority groups, compared to white British men. In contrast, only black women are more likely to be sentenced to prison, having 25% higher odds of a prison sentence than white British women.

Effects of factors other than ethnicity

Beyond ethnicity, there is variation in the influence of defendant and case legal factors associated with remand, plea and imprisonment. The odds of being remanded in custody and sentenced to prison were lower among young (under 25) men and women compared to older age groups. Meanwhile, the odds of pleading not guilty were higher for older defendants (aged 45 plus) compared to younger groups. There are notable differences in the effect of offence type and severity and prior convictions on remand between men and women. For example, the odds of remand in court cases for more serious offences are 1.6 times higher among women but 6% lower among men. Remand is 3 times and 1.9 times more likely for robbery offences compared to other offences, among women and men respectively. The odds of imprisonment for robbery offences are also larger among women, being 4.8 times higher, while among men they are 2.3 times higher, than for other offences. Women with two or more prior convictions are 8 times more likely to be remanded, while men with two or more prior convictions are 4 times more likely to be remanded compared to those without prior convictions.

How different decision-points interact

The analysis shows the interconnected nature of plea, remand and imprisonment, such as how a defendant's remand influences plea, and how both plea and remand status directly affect the likelihood of imprisonment. Women and men remanded in custody are 7 and 9 times more likely to be sentenced to prison, respectively, than those not remanded in custody. Men and women pleading not guilty are nearly 3 times more likely to be sentenced to prison.

Taken together, the findings reveal clear ethnic disparities from pre-sentencing to sentencing outcomes, with people from ethnic minority groups more likely to experience adverse outcomes at earlier decision points in the court system. These earlier adverse outcomes are shown to lead to harsher sentencing outcomes. However, while ethnic disparities are evident at earlier decision points in the court system, they appear more persistent and widespread at sentencing among men. This could suggest that some of the disadvantages experienced by women from ethnic minority backgrounds (with the exception of black women) earlier in the process, are attenuated by the time of sentencing.

Why it matters

These findings suggest that ethnic disparities are present not only in sentencing but also at earlier stages in the court process, with the results revealing larger ethnic disparities in pre-sentencing outcomes. These pre-sentencing outcomes are shown to increase the likelihood of imprisonment reinforcing the idea that imprisonment is shaped by prior decisions in the court process. Systemic distrust and biases in the justice system are likely to contribute to higher not guilty pleas, arrests and remands among ethnic minority communities which in turn can result in harsher sentences.²

While ethnic disparities are evident for both men and women at earlier stages in the court process, their persistence into sentencing appears more pronounced among men. The existence of ethnic disparities across multiple decision points –remand, plea and imprisonment – reflects a pattern of cumulative disadvantage in the justice system. The findings show that men from black, white and mixed ethnic minority groups are systematically exposed to more adverse remand, plea and sentencing outcomes compared to their white British counterparts, net of other factors. This suggests that the intersection of ethnicity and gender shapes justice outcomes in distinct ways, with men from ethnic minority groups experiencing more sustained disadvantage than women. These patterns underscore the need to consider how multiple, overlapping identities interact to influence outcomes at different stages of the justice process and how earlier decisions shape later outcomes. The study offers evidence that interventions focusing solely on decisions during sentencing may overlook the compounded disadvantage faced by defendants who are subject to adverse outcomes at the remand and plea proposal stages of criminal court proceedings.

Addressing ethnic disparities in sentencing inequalities thus requires a need for greater judicial awareness and action to prevent earlier decisions from implicitly influencing sentencing decisions. For example, defendants from ethnic minority groups may be less likely to benefit from sentencing discounts that are dependent on a guilty plea because of distrust in the justice system. The findings underscore the need for reforms aimed at improved transparency and accountability in arrests, remand and sentencing decisions.

What next?

Further analyses seek to understand how ethnicity interacts between gender, age and selected offence characteristics, including offence seriousness and prior convictions. Further analyses are also being carried out to determine how the combination of adverse outcomes across sequential stages of court proceedings reinforce ethnic disparities and produce cumulative disadvantage and to identify the pathways mediating the association between ethnicity and criminal justice outcomes.



Table 1: Two-level logistic model of ethnic -gender disparities in remand

	Women			*	Men			
	b	SE	OR		b	SE	OR	
Asian	0.28	0.13	1.32	*	-0.08	0.02	0.92	***
black	0.19	0.09	1.21	*	0.25	0.02	1.28	***
mixed	0.40	0.12	1.49	***	0.25	0.03	1.28	***
other white	0.86	0.09	2.37	***	0.86	0.03	2.37	***
other	1.01	0.16	2.74	***	0.50	0.04	1.65	***
Age 45 plus	-0.33	0.06	0.72	***	-0.44	0.02	0.64	***
Age under 25	-0.53	0.06	0.59	***	-0.35	0.01	0.70	***
Drugs	0.35	0.07	1.42	***	0.26	0.02	1.30	***
Possession of weapons	0.54	0.12	1.71	***	0.29	0.03	1.33	***
Robbery	1.13	0.09	3.10	***	0.66	0.03	1.94	***
Violence	0.27	0.08	1.31	***	0.46	0.02	1.59	***
Serious offence	0.47	0.09	1.60	***	-0.07	0.02	0.94	**
1 conviction	1.06	0.09	2.88	***	0.91	0.02	2.48	***
2 plus convictions	2.11	0.08	8.29	***	1.44	0.02	4.22	***
either-way	-0.93	0.05	0.40	***	-0.98	0.01	0.37	***
Court var	0.10				0.08			
AIC; BIC	11751.2; 11891.9				153959.7 ;154144.5			
	N= 12132; N Courts=71				N= 124126; N Courts=71			

Table 2: Two-level logistic model of ethnic -gender disparities in (Not Guilty) plea

	Women				Men			
	b	SE	OR		b	SE	OR	
Asian	0.60	0.11	1.82	***	0.51	0.03	1.67	***
black	0.22	0.08	1.25	**	0.57	0.02	1.77	***
mixed	0.07	0.11	1.08		0.37	0.04	1.44	***
other white	0.36	0.09	1.43	***	0.19	0.03	1.21	***
other	0.43	0.15	1.54	**	0.45	0.05	1.57	***
Age 45 plus	0.24	0.05	1.28	***	0.36	0.02	1.43	***
Age under 25	0.09	0.05	1.10	.	-0.14	0.02	0.87	***
Remand	-0.59	0.06	0.55	***	-0.56	0.02	0.57	***
Drugs	0.11	0.06	1.11		-0.52	0.02	0.59	***
Possession of weapons	0.32	0.10	1.37	**	-0.11	0.03	0.90	***
Robbery	0.80	0.10	2.24	***	0.38	0.03	1.46	***
Violence	0.57	0.06	1.76	***	0.19	0.02	1.21	***
Serious offence	0.51	0.08	1.67	***	1.02	0.02	2.76	***
1 conviction	-1.99	0.16	0.14	***	-1.46	0.03	0.23	***
2 plus convictions	-2.09	0.17	0.12	***	-1.72	0.04	0.18	***
either-way	0.40	0.05	1.49	***	0.10	0.02	1.11	***
Court var	0.11				0.11			
AIC; BIC	13637.4				125154.6;			
	13785.5				125349.2			
	N=12120 ; N Courts=71				N=123953 ; N Courts=71			

Notes: ***p < 0.001; **p < 0.01; *p < 0.05 ; all models include controls for year.

Table 3: Two-level logistic model of ethnic -gender disparities in imprisonment

	Women			Men				
	b	SE	OR	b	SE	OR		
Asian	0.096	0.152	1.101	0.00	0.03	1.00		
black	0.222	0.103	1.248	*	0.12	0.03	1.13	***
mixed	-0.124	0.14	0.883		0.12	0.04	1.13	**
other white	0.022	0.116	1.023		0.08	0.03	1.08	*
other	-0.192	0.204	0.825		0.12	0.06	1.13	*
age 45 plus	0.026	0.066	1.027		-0.16	0.02	0.85	***
age under 25	-0.494	0.07	0.61	***	-0.35	0.02	0.70	***
not guilty	1.084	0.083	2.955	***	1.00	0.03	2.71	***
Drugs	0.213	0.068	1.238	**	0.44	0.02	1.55	***
Possession of weapons	-0.505	0.145	0.604	***	-0.28	0.03	0.76	***
Robbery	1.571	0.14	4.81	***	0.82	0.05	2.27	***
Violence	-0.276	0.091	0.759	**	-0.08	0.02	0.92	***
serious offence	0.585	0.112	1.796	***	0.76	0.03	2.13	***
remanded	1.967	0.06	7.146	***	2.24	0.02	9.37	***
1 conviction	0.532	0.092	1.703	***	0.53	0.02	1.70	***
2 plus convictions	0.883	0.092	2.418	***	0.71	0.03	2.03	***
either-way	-0.679	0.056	0.507	***	-0.69	0.02	0.50	***
AIC; BIC	9538.8 ; 9688.1			97391.2; 97591.2				
Court var	0.1			0.09				
	N= 9043; N Court =71			N= 101484, N Courts=71				

Notes: ***p < 0.001; **p < 0.01; *p < 0.05; all models include controls for year.

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Notes

Prior convictions are measured as the number of recent convictions for the same type of offence (e.g. Robbery, Violence, Drugs etc) in the five years prior to the current offence. Prior convictions relate to both magistrates' and Crown Court outcomes. Although it is difficult to determine how to define recency in a time frame, five years were considered a reasonable approximation. The datasets include only cases from 2011 onwards for the magistrates' court dataset and 2013 onwards for the Crown Court dataset. There is no available data for defendants' previous convictions prior to these dates and for this reason, it is not possible for a wider time window of previous convictions to be examined.

Disclaimer

This work was undertaken in the Office for National Statistics Secure Research Service using Data First linked administrative data. The use of the data in this work does not imply the endorsement of the ONS or data owners (e.g. MoJ and HM Courts and Tribunals Service) in relation to the interpretation or analyses of the statistical data. This work uses research datasets which may not exactly reproduce National Statistics aggregates. National statistics follow consistent statistical conventions over time and cannot be compared to Data First linked datasets.

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