

## Good and not so Good Reasons for Differences in Sentencing

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Modern punishment (at least) in Western societies generally pursues ideas of humanity, legality and equality. However, in practice, those principles are often overlooked and apart from the trend of sharply increasing punitiveness, disparities are one of the most pervasive features of modern sentencing. Disparities arise from a variety of reasons. On the one hand, there are acceptable differences in the expected sentences as a result of the principle of individualisation. On the other hand, there is intolerable discrimination based on a judge's own malicious interests. Between the two extremes, there is a broad field of disparities, which can roughly be separate in two groups: disparities resulting from the judge's prejudices and stereotypes, and disparities resulting from unconscious decision-making mechanisms in the human brain. All forms of wrongful disparities can be limited to a certain extent, but this necessarily requires that individual decision makers acknowledge their own fallibility.

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