

Methodology and Data Notes

DATA SOURCES

The [Long Sentences: An International Perspective](#) brief draws on the most complete data publicly available to contextualize the recourse to long sentences through a comparative lens with other nations. While criminologists have conducted comprehensive cross-national analyses of life sentences,¹ this type of analysis is lacking for long sentences more broadly defined. Long sentences are defined as sentences of 10 or more years, including life sentences. For the purpose of the present analysis, U.S. data on the prevalence of long sentences were drawn from the National Corrections Reporting Program (NCRP) and gathered by Ernesto Lopez, Research Specialist at the Council on Criminal Justice. Data on average sentence length imposed in the U.S. are available in a report published by the Bureau of Justice Statistics (BJS) in 2018.² These data were based on individuals' first release from a given sentence of more than one year in 44 states in 2016; these states accounted for 97% of all individuals released from state prisons nationally in that year.³

Publicly available data on long sentences are scarce in other parts of the world, especially in developing countries. Drawing on the most comprehensive data available, the current analysis made every effort to integrate both industrialized and less developed nations in the comparison, and to use data for comparable years when possible. This brief draws on eight sources of non-U.S. data to examine (1) the prevalence of long sentences; (2) the average sentence length and time served; and (3) the use of life sentences in other parts of the world.

The prevalence of long sentences

One of the most comprehensive sources of publicly available criminal justice data outside of the U.S. are collected in Europe, through the Council of Europe Annual Penal Statistics, otherwise known as the SPACE projects (Statistiques Pénales Annuelles du Conseil de l'Europe). This initiative includes two related projects that collect annual data on the use of prison (SPACE I) and probation (SPACE II) for the 46 member states of the Council of Europe. The present analysis draws on relevant SPACE I data.³ The statistics included in the SPACE I reports are provided by designated national correspondents who work in prison services. These data are checked and

^a The BJS published a more recent version of this report in 2021, which includes data on average sentence length in 2018. However, the present analysis draws on the earlier version of the report because it is closer to the data years included in the Latin American and European sources. This BJS series also includes data on average time served but these figures were not included in the present analysis due to the lack of recent international data on this indicator.

analyzed by researchers at the University of Lausanne in Switzerland. The SPACE I report includes data on the number and proportion of the sentenced prisoner population by length of sentence; these figures are based on the total number of individuals incarcerated on January 31, 2019.^b The European data were supplemented with data from two Latin American countries with accessible information on sentence length, published by the governments in Chile⁴ and Peru⁵. These reports include figures on the distribution of incarcerated people according to their imposed sentence length in 2019 (Chile) and December 2018 (Peru). Going forward, more comprehensive research is needed to identify additional governmental data sources on sentence length in Latin America.

Average sentence length and time served

In an ideal scenario, all sources of international data would draw on similar methodologies and operationalization strategies, but this is not a realistic standard in cross-national comparisons (see discussion on some of the challenges in conducting comparative analyses below). The U.S. data on average sentence length are based on individuals released from prison in 2016, the European data rely on the convicted prisoner population in 2015, and Latin American estimates draw on surveys conducted with incarcerated people in 2012 and 2016. Data on average imposed sentence length in Europe were gathered from the original data documents of the most recent version of the European Sourcebook of Crime and Criminal Justice Statistics.⁶ Latin American data on sentence length were published in an impressive volume produced by Bergman and Fondevila in 2021 on prisons and crime in Latin America.⁷ The authors employed an alternative strategy to the traditional use of official data. Rather than rely on national data that are often unavailable or incomplete, this analysis relied on surveys with random samples of about 1,000 individuals admitted to prison over a 2-year period in each Latin American nation included in the analysis, starting in 2012 (in Argentina, Chile, El Salvador, Mexico, Peru, and Sao Paulo, Brazil) or 2016 (in Costa Rica and Honduras). Incarcerated individuals reported the sentence pronounced by the judge in their case.

There are some operationalization differences in estimates of average sentence length between the U.S., Europe, and Latin America. European figures on average sentence length exclude life and indeterminate sentences, whereas U.S. and Latin American data include these sentences in

^b A SPACE I report was published in 2022, with more recent data on the sentenced prisoner population in Europe in 2021. The present analysis does not draw on these more recent data for two primary reasons. First, because the most recent available NCRP data is from 2019, the SPACE I report with 2019 data is more comparable to U.S. data. Second, because the COVID-19 pandemic may have introduced anomalies in incarceration trends, it seems unwise to use 2020 or 2021 data for some countries but not others. European countries with missing data or reporting anomalies were excluded from this specific analysis.

their estimates. In Latin America, life sentences usually translate to a maximum of 40 years in prison but these sentences are seldom imposed; life sentences are imposed in some Caribbean nations but these countries are not included in Bergman and Fondevila's analysis.⁸ It is also important to highlight that Latin American nations do not impose capital punishment or Life Without the Possibility of Parole (LWOP) sentences. In the data published by BJS, all sentences of more than 100 years (including life and death sentences) are set to a maximum value of 100 years.⁹ While the average sentence length for murder would be much lower in the U.S. if estimates excluded life and death sentences (20.2 years versus 40.6 years with the inclusion of these sentences),¹⁰ this exclusion is not logical given that life sentences are far more ubiquitous in the U.S. when compared with other nations.^c It is estimated that 15% of the U.S. state and federal prison population is serving either Life With the Possibility of Parole (LWP), LWOP, or a virtual life sentence.¹¹ In contrast, life and indeterminate sentences are uncommon in Europe – they represent less than half of one percent of total sentences (and often much less) for nearly all European nations included in the analysis. While the exclusion of life and indeterminate sentences has likely resulted in some under-estimation of the average sentence length in European countries, the discrepancy is unlikely to have altered the relative rank of European nations, specifically because of the comparatively limited prevalence of life sentences in this region. It is also noteworthy that individuals sentenced to life imprisonment in Europe are generally eligible for release after a shorter period of time when compared with those in the U.S., ranging from a period of 10 years in Belgium to 30 years in Estonia.¹² Even if life sentences were included in the European estimates, the average estimated sentence length for life imprisonment would be far below the 100-year sentence estimated by BJS.

Another operationalization difference in the analysis on average sentence length pertains to the measurement of homicide. European and U.S. data exclude homicide attempts, whereas Latin American data include these incidents in the homicide figures. Data from the European Sourcebook of Crime and Criminal Justice Statistics suggest that average sentence length figures can be about 7-13% lower with the inclusion of homicide attempts in contrast to the figures that exclude these incidents. If the average sentence length figures for homicide are slightly underestimated as a result of the inclusion of homicide attempts, this does not change the relative position of the U.S. in contrast to the Latin American countries included in this analysis.

The present analysis also draws on a report published by the BJS in collaboration with researchers from across the world which compares crime and sentencing data for six offense

^c More recent BJS data showed that the exclusion of life sentences, death sentences, and deaths while in custody would only reduce the average time served for all offenses in the U.S. from 2.7 years to 2.6 years, and from 17.8 years to 15.6 years for murder convictions.

types in eight countries.¹³ The analysis includes data on serious crimes across several years, although only the offenses that are most susceptible of resulting in a long sentence are included in the present analysis (i.e., homicide and rape).^d The report offers estimates of average sentence length and time served. The authors used special estimation procedures to assess sentence length for indeterminate life sentences. Although the data included in this publication are more dated than the other sources included in this brief, this analysis is particularly valuable because (1) it is the only known source of international data that compares estimates of average time served; (2) it is the only known cross-national comparison that provides historical trends for imposed sentence and time served; and (3) given that there have not been any substantial changes in U.S. sentencing practices since the 1990s,¹⁴ the analysis captures the substance of contemporary long sentencing policies.

The present analysis also includes qualitative data on sentence length. In 2017, the Institute for Crime & Justice Policy Research in London, in collaboration with partners across ten nations, launched a large-scale comparative project called the Ten-Country Prisons Project. This initiative aimed to contrast the use of imprisonment in different countries. Drawing on various offense scenarios, one of the reports published in the context of the Ten-Country Prisons Project provides qualitative estimates of predicted sentence length from ten countries located in North America, Africa, Asia, and Oceania.¹⁵ The sample includes the U.S. (New York State specifically), Brazil, England and Wales, the Netherlands, Hungary, Kenya, South Africa, India, Thailand, and Australia. These countries were selected based on their diverse geographic location, economic standing, legal systems, prison population trends, and regional/global influence, as well as the availability of criminal justice data.

Data on life sentences were drawn from van Zyl Smit & Appleton's (2019) comprehensive analysis of life sentences across the world in the year 2014 (or the nearest possible date).¹⁶

In addition to data on long sentences, this brief draws on homicide rates in U.S. states (per 100,000 population) for 2018, gathered from the FBI database (provided by Ernesto Lopez). For other countries, the analysis relies on homicide data collected by the United Nations Office on Drugs and Crime (UNODC), which have been found to be more robust than World Health

^d Data were not always available for all countries in a given year, but include figures *around* 1980, 1990, and 2000. This analysis relied on the following years: Sweden: 1980, 1990, 1998; England & Wales: 1981, 1990, 1999; US: 1981, 1990, 1996; Netherlands: 1982, 1990, 1999; Australia: 1983, 1990, 2000; Scotland: 1999; Switzerland: 1999. Homicide data were not available for average sentence length and average time served in the Netherlands in the early 1980s and 1990s. Between 1981 and 1999, various countries modified their rape laws. The authors involved in Farrington et al.'s (2004) comparative study adjusted the rape estimates to make the figures comparable across time and countries. Data for robbery, assault, burglary, and vehicle theft are available upon request.

Organization data, particularly in cross-sectional analyses.¹⁷ Because homicide data in the United Kingdom do not disaggregate rates for England and Wales, Northern Ireland, and Scotland, homicide rates in England and Wales and Northern Ireland were obtained from local governmental sources.¹⁸ Population data were provided by Ernesto Lopez for U.S. states and obtained from the World Bank for other nations.¹⁹

THE CHALLENGES IN CONDUCTING A CROSS-NATIONAL COMPARISON OF LONG SENTENCES

A comparative analysis of the prevalence of long sentences across different nations is challenging for several reasons. First, definitions of long sentences vary across countries, with European countries having a lower threshold for what constitutes a long sentence when compared with the U.S.²⁰ Sentencing standards are constantly in flux, which further complicates comparative analyses. In many countries, sentencing and release data are held separately and it can be challenging to match up the two sources. In addition, differences in the definition and classification of crimes, as well as the ways in which nations use concurrent versus consecutive sentences, raise important challenges for comparative analyses of sentencing practices. These challenges arise even in comparisons focusing on homicide, which is often regarded as the crime type best suited for cross-national analyses.²¹

Countries have distinct release policies, which in turn significantly impact the length of time served. Some systems allow for discretionary release and others do not. In France, for instance, incarcerated people may be granted a sentence reduction for every year served, for a maximum reduction of six months per year; these decisions are based on the conviction offense, imposed sentence length, and behavior in prison. The sentence reduction can be withdrawn in a subsequent year if the individual commits prison infractions.²² In the United Kingdom, there is a provision for 'extended sentences,' which lengthen the imposed sentence for individuals who are deemed to pose a significant threat to public safety; these sentences are a hybrid between determinate and indeterminate sentences.²³

Determinate sentences are defined differently in the U.S. and in Europe.²⁴ In the U.S., determinate sentences refer to the 'determinability' of an incarcerated individual's release date, whereas in Europe these sentences allude to the maximum length of time that an individual can spend in prison. By their definition, most European countries adopt determinate sentencing systems, but these function quite differently than the determinate systems in the United States. Because nearly all pronounced sentences in the U.S. impose a specific maximum term, most sentences regarded as 'indeterminate' in the U.S. would be considered 'determinate' in Europe.²⁵

In the U.S. context, indeterminate sentences do not have a fixed release date but rather offer a range of years for the imposed sentence. In this sentencing framework, we cannot accurately predict the release date based on the pronounced sentence in court.²⁶ All European countries include some provisions for early release, but these vary based on several factors, including “who the decision-makers are and the minimum period to be served”.²⁷ Early release decisions fall under the purview of different parties across countries, such as Sentence Implementation Courts consisting of a judge, a reentry expert and a prison expert (Belgium), the Prison Administration or Ministry of Justice (Denmark, England and Wales, Finland, Sweden and Switzerland), specialized judges or tribunals (France, Germany, Hungary, Italy, Poland, Slovenia and Spain), or the Public Prosecutor in the exceptional case of the Netherlands.²⁸ These systemic and policy differences underline some of the challenges involved in conducting a cross-national analysis of long sentences.

ENDNOTES

¹ van Zyl Smit, D. & Appleton, C. (2019). *Life imprisonment: A global human rights analysis*. Cambridge, MA: Harvard University Press.

² Kaebler, D. (2018). *Time served in state prison, 2016* (NCJ 252205). Washington, D.C.: Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/tssp16.pdf>.

³ Aebi, M. F., & Tiago, M. M. (2020). *SPACE I - 2019 – Council of Europe Annual Penal Statistics: Prison populations*. Strasbourg: Council of Europe. https://wp.unil.ch/space/files/2021/02/200405_FinalReport_SPACE_I_2019.pdf

⁴ Gendarmería de Chile. (2020). *2019 Compendio estadístico penitenciario*. Santiago, Chile: Dirección Nacional, Subdirección de Reinserción Social, Departamento de Estadística y Estudios Penitenciarios.

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⁵ Instituto Nacional de Estadística e Informática (2019). *Anuario Estadístico de la Criminalidad y Seguridad Ciudadana 2012-2018*. [https://www.inei.gob.pe/media/MenuRecursivo/publicaciones digitales/Est/Lib1691/](https://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1691/)

⁶ See Section 3.2.5 in: Aebi, M.F, Caneppele, S., Harrendorf, S., Hashimoto, Y. Z., Jehle, J.-M., Khan, T.S., Kühn, O., Lewis, C., Molnar, L., Smit, P., Þórisdóttir, R., and national correspondents (2021). *Original data of the European Sourcebook of Crime and Criminal Justice Statistics 2021 (6th ed.)*. Series UNILCRIM, (2)2021.

https://wp.unil.ch/europeansourcebook/files/2021/10/Aebi-et-al.-2021_Original-data-of-the-European-Sourcebook_211004.pdf

⁷ See Table 2.2, p. 34 in: Bergman, M., & Fondevila, G. (2021). *Prisons and crime in Latin America*. New York: Cambridge University Press.

⁸ Bergman, M., & Fondevila, G. (2021). *Prisons and crime in Latin America*. New York: Cambridge University Press.

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- ⁹ Kaeble, D. (2018). *Time served in state prison, 2016* (NCJ 252205). Washington, D.C.: Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/tssp16.pdf>.
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- ¹¹ Nellis, A. (2021). *No End in Sight: America's Enduring Reliance on Life Imprisonment*. Washington DC: The Sentencing Project. Retrieved from <https://www.sentencingproject.org/wp-content/uploads/2021/02/No-End-in-Sight-Americas-Enduring-Reliance-on-Life-Imprisonment.pdf>
- ¹² van Zyl Smit, D. & Appleton, C. (2019). *Life imprisonment: A global human rights analysis*. Cambridge, MA: Harvard University Press.
- ¹³ Farrington, D.P., Langan, P. & Tonry, M. (2004). *Cross-national studies in crime and justice* (NCJ 200988). Washington, D.C.: Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/cnscj.pdf>
- ¹⁴ National Research Council (2014). *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Committee on Causes and Consequences of High Rates of Incarceration, J. Travis, B. Western, & S. Redburn (Eds.). Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, D.C.: The National Academies Press.
- ¹⁵ Heard, C. & Jacobson, J. (2021). *Sentencing burglary, drug importation, and murder: Evidence from ten countries*. London: Institute for Crime & Justice Policy Research.
- ¹⁶ van Zyl Smit, D. & Appleton, C. (2019). *Life imprisonment: A global human rights analysis*. Cambridge, MA: Harvard University Press.
- ¹⁷ See: Andersson, C. & Kazemian, L. (2018). Reliability and validity of cross-national homicide data: A comparison of UN and WHO data. *International Journal of Comparative and Applied Criminal Justice*, 42(4), 287-302; For UNODC homicide data, see: <https://dataunodc.un.org/victims-intentional-homicide-table>
- ¹⁸ Northern Ireland: <https://www.psni.police.uk/about-us/our-publications-and-reports/official-statistics/police-recorded-crime-statistics>;
England & Wales:
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/homicideinenglandandwales/yearendingmarch2018>
- ¹⁹ <https://data.worldbank.org/indicator/SP.POP.TOTL?end=2019&start=2019>; Northern Ireland and England & Wales population data were obtained from the Office for National Statistics: <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/timeseries/ewpop/pop>
- ²⁰ Drenkhahn, K., Dudeck, M. & Dünkel, F. (Eds.) (2014). *Long-term imprisonment and human rights*. London: Routledge.
- ²¹ Lappi-Seppälä, T. (2016). Nordic sentencing. *Crime and Justice*, 45, 17–82.
- ²² <https://www.justice.fr/fiche/reduction-peine>
- ²³ <https://www.sentencingcouncil.org.uk/sentencing-and-the-council/types-of-sentence/extended-sentences/>
- ²⁴ van Zyl Smit, D., & Corda, A. (2018). American exceptionalism in parole release and supervision: A European perspective. In K.R. Reitz (Ed.), *American Exceptionalism in Crime and Punishment* (pp. 410-486). New York: Oxford University Press.
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²⁸ Padfield, N., van Zyl Smit, D., & Dünkel, F. (2010). *Release from prison: European policy and practice*. Cullompton: Willan.