

English summary

The probability of being sentenced to a prison term

A statistical analysis

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Official conviction statistics indicate that there are relatively large differences between counties as regards the proportion of district court judgements resulting in prison sentences. During the three year period from 1995-1997, this proportion lay at an average of 23 per cent for the whole of Sweden. Whilst many counties lie close to this average, a number of them present more substantial deviations. The largest proportion of prison sentences was 33 per cent in the county of Värmland, and the smallest 18 per cent in Västerbotten.

These relatively large variations may have "natural" explanations, in that crime may have a different appearance in different counties for example. The object of the current study is to examine the extent to which the differences found in the statistics have natural explanations and, inasmuch as there remain unexplained differences once adjustments are made for the natural variations, to assess the magnitude of real differences.

The occurrence of a high proportion of prison sentences in a county need not mean that all the district courts of the county are passing a high proportion of such sentences. A district court with a relatively high case load may pass a very high proportion of prison sentences, thus raising the average for the county as a whole.

The current study is based on the country's district courts, which constitute the natural unit of analysis for a survey of this kind. It is at the level of specific district courts that we might expect to find differences in the propensity to pass prison sentences. Of the country's 96 district courts, 22 presented a significantly lower proportion of prison sentences than the national average (statistically significant differences) during the period 1995-1997, whilst 21 district courts passed a significantly higher proportion of such sentences. The remaining 53 district courts did not deviate significantly from the national average.

The analysis was broken down into two stages. Stage one comprises an analysis of the most conceivable reasons behind the relatively large differences in the proportions of prison sentences passed. By applying statistical methods to the register data, differences which might result from variations in the distribution of offences, prior convictions on the part of offenders and the proportion of youths among those convicted etc. are eliminated. Stage two analyses whether the remaining differences could be the result of differences between district courts with regard to other circumstances that tell in favour of or against prison sentencing. These analyses are based on the examination of a sample of judgements drawn from a number of selected district courts.

The study of "natural" explanations

There may be several quite natural reasons for the existence of variations between different district courts in the proportion of prison sentences passed. Perhaps the most conceivable "natural" explanation is that the differences might be the result of variations in the distribution of crime. A large proportion of offences that often result in a prison sentence would lead to a high proportion of such sentences and vice versa. A further reasonable explanation is that the population of offenders brought before the courts varies in different ways, with regard to age, gender and extent of prior criminal record, for example. Youths are not sentenced to prison other than in exceptional circumstances, whilst a prior criminal record is a factor which tells in favour of a prison sentence. A further factor, which statistical methods can run controls for with the help of register data, is the number of offences covered by each sentence. The likelihood that a prison sentence will be passed naturally becomes greater if a sentence relates to several offences. In the present study, the analyses have been carried out in such a way as to eliminate statistically the effects of differences between district courts with regard to these factors.

The results indicate that differences in the crime distribution explain some minor part of the differences in the proportion of prison sentences passed. Several district courts with low proportions of prison sentences are corrected upwards somewhat when differences in the crime distribution are taken into account. For district courts with large proportions of prison sentences, taking such differences into account has the reverse effect.

When the effects of other factors that might constitute "natural" explanations of variations in the proportion of prison sentences are corrected for (prior criminal record and the proportion of youths), such as can be analysed using register data, the dispersion of proportions of prison sentences is further reduced.

Once the district courts have been equalised with respect to these factors, considerably fewer district courts presented a proportion of prison sentences that deviated significantly from the national average. Once these natural explanations – crime distribution, prior criminal record and the proportion of youths etc. – have been taken into account, 29 district courts remain which deviate significantly from the average with regard to the proportion of prison sentences passed. This figure can be compared with the initial figures, where according to official statistics 43 district courts deviated from the national average in one direction or the other. At the same time the extent of the differences between the nation's district courts has decreased. The initial figures indicated that the proportion of prison sentences passed ranged between 14 and 36 per cent, whilst following the standardisation procedure, this range decreased to between 16 and 32 per cent.

In terms of population, the district courts still presenting high proportions of prison sentences after standardisation, have a catchment area covering 17 per cent of the country's population. The corresponding catchment area for district courts with a low proportion of prison sentences covers 22 per cent of the country's population.

The analysis of court judgements

Relatively large differences in the proportion of prison sentences passed remain between many of the country's district courts, then, even when the effects of differences in crime distribution, the average prior criminal record of offenders and the average number of offences covered by each sentence are eliminated.

The analysis therefore went a stage further and examined a sample of judgements from a selection of eight district courts with the objective of analysing more closely the question of whether there might be other differences between the cases brought before the district courts which could explain the variations in the proportion of prison sentences passed. Could there be differences in circumstances which tell in favour of or against prison sentencing which have not emerged in the course of the more general analysis described above? Are cases involving mitigating circumstances brought before certain district courts more often, whilst others more frequently try cases characterised by aggravating circumstances?

The sample of judgements was thus drawn from eight district courts, three of which had presented a high propensity to pass prison sentences in the previous analysis, three of which had presented a low propensity and two of

which lay close to the national average. The selection procedure's objective was to select district courts which represented "Sweden in miniature". The sample was concentrated to two principle offence types – theft and assault.

The probability of being sentenced to prison by a district court (given that the accused is found guilty) may depend on the effect of a number of different factors. Besides such factors that are always of significance, such as the nature of the offence and the associated penal tariff, and the age and prior record of the accused, there may also be other factors relating to the criminal act in question or the accused individual that have significance for the choice of sentence. Such factors might include the value of goods stolen, for example, or the way an assault was carried out. An offender may on occasion be sentenced to probation instead of prison, for example, if there is a need for treatment in connection with alcohol abuse.

The analyses in this part of the study indicate that the variations presented earlier remain even when possible differences between district courts regarding the circumstances surrounding offences and offenders are taken into account. This finding too is highly plausible. The type of circumstances in question are likely to be randomly distributed such that differences between district courts would be expected to even out in the long run. This means they cannot explain the differences in the proportion of prison sentences passed.

The study thus found that certain district courts, which still presented high proportions of prison sentences once the first stage of the analysis had been completed, also presented a higher propensity to pass prison sentences in the second stage of the analysis. This leads to the conclusion that there are probably relatively large differences between the country's district courts as regards the propensity to pass prison sentences, even when all the factors which might conceivably constitute natural explanations of such differences have been taken into account.

Concluding discussion

The study's conclusion is thus that whilst the majority of the country's district courts pass a proportion of prison sentences that does not deviate appreciably from the national average, a small number of such courts present marked deviations from this average. Certain district courts tend to pass prison sentences more often than is the norm, whilst others do so more seldom.

A legal study of selected court judgements indicated however that it is not common even for extremely "severe" or "lenient" district courts to present flagrant deviations from established legal praxis in the choice of sentence.