



Melbourne Debating Academy Round 3

That there should be minimum mandatory sentences for all violent crimes

Background:

A minimum mandatory sentence (MMS) is a required minimum sentence for a specific crime. For instance, a minimum sentence of 20 years for the offence of murder. MMSs are set out by the Parliament. That is, elected lawmakers decide on suitable MMSs and impose them through legislation, meaning politicians – and not the courts – decide on what the MMS for a particular crime will be. When that crime comes before the courts, if the offender is found guilty, the judge must set a sentence which is equal to or greater than the minimum sentence set by law.

MMSs were introduced to Australia in the 1990s, and exist in virtually every state and territory jurisdiction. In Victoria, for instance, causing injury intentionally or recklessly to an on-duty emergency or custodial worker carries a minimum term of imprisonment of six (6) months. This legislation was introduced in 2014 and coincided with a slew of media campaigning about abuse towards emergency workers.

Your team needs to consider the effectiveness of MMSs in achieving their intended purpose of justice. It may be worth looking at the purposes of sanctions.

Two key principles of justice are fairness and equality. Fairness relates to treating everyone according to their circumstances, whereas equality relates to treating everyone identically regardless of their circumstances. Your team needs to weigh and discuss the competing needs of fairness and equality, as a balance needs to be struck: but to what extent?

Critically consider the benefits and costs of MMSs, and frame these points as arguments to form a coherent case.

Key questions for consideration:

- Who are the key stakeholders in this debate?
- What are minimum mandatory sentences?
- What is the purpose of sentencing?
- How do minimum mandatory sentences uphold the purposes of sentencing?
- What impacts do minimum mandatory sentences have on outcomes within the legal system?
- What impacts do minimum mandatory sentences have on social outcomes?
- What is the interaction between fairness and equality?

Resources:

<https://www.aic.gov.au/sites/default/files/2020-05/tandi138.pdf>

<https://www.aph.gov.au/DocumentStore.ashx?id=0ee2356c-7060-4c21-b005-8d567b0ec626&subId=411475>

<https://www.alrc.gov.au/publication/incarceration-rates-of-aboriginal-and-torres-strait-islander-peoples-dp-84/4-sentencing-options/mandatory-sentencing/>

<https://theconversation.com/mandatory-minimum-sentences-and-populist-criminal-justice-policy-do-not-work-heres-why-76142>

https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Mandatory_Sentencing_Research_Paper.doc

<https://www.fairfightinitiative.org/mandatory-minimum-sentence-statistics/>