

Disparities Between Jews and Arabs in the Israeli Criminal Justice System

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I. INTRODUCTION

One of the hallmarks of justice is equality in punishment. This means that, in principle, similar offenses should lead to similar penalties regardless of the offender's race or ethnicity. Nevertheless, it is a well-known fact that minorities are very often over-represented in prisons and other correctional institutions. For instance, in the United States in 2005, the rate of incarceration of African-Americans in jails and state prisons was about 5.5 times higher than that of whites.¹

While the differential imposition of death sentences has often been studied in the United States with findings consistently showing a considerably higher risk for African-Americans than for whites, the study of racial or ethnic bias in relation to other penalties has not yielded consistent findings. Thus, the literature showing that while African-American offenders are indeed punished more severely, particularly so when there is a white victim, this is due to legally relevant factors. On the other hand, a more recent meta-analysis of seventy-one studies concludes that “[a]nalyse indicate that African-Americans generally are sentenced more harshly than whites” though an earlier meta-analysis concluded that the effect of race was not significant and was largely due to differential operationalization of race.²

While racial bias and discrimination are highly significant issues in the United States, they are less so in other countries despite the fact that those countries have their own minority problems. Thus, in Israel, where the present study was conducted, Arab prisoners constitute about 40% of the criminal prisoners,

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¹ Allen J. Beck & Paige M. Harrison, *Number of Inmates in State Prisons and Local Jails per 100,000 Residents, by Gender, Race, And Hispanic Origin*, BUREAU OF JUSTICE STATISTICS (May 21, 2006), <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=1863>.

² Travis C. Pratt, *Race and Sentencing: A Meta-Analysis of Conflicting Empirical Research Results*, 26 J. OF CRIM. JUST. 513, 518 (1998).

approximately twice their proportion of the general population;³ their rate of imprisonment per 100,000 is around 421, almost four times higher than that of Jews (114). Moreover, prison sentences are imposed on Arab offenders more often than on Jewish offenders. For example, in 2009, convicted Arab offenders received prison sentences in 34.7% of cases as compared to 30.0% of cases involving convicted Jews.⁴

There are reasons to expect harsher penalties for Arabs in Israel. Some of these reasons are due to the higher prevalence of criminogenic conditions among the Arab population of the country. A disproportionate number of Arabs live in the lower socio-economic strata, and, in their case, the rate of unemployment and deficiencies in education are considerably higher than among Jews. But there are also reasons to expect that Arabs will be subject to biases in the judicial process. To begin with, they are an ethnic and religious minority, a minority that in the main differs in its language and dress codes, which render it visible. As such, they may suffer from an out-group bias in the perception of majority judges. The typical problems of a minority group affect Arabs in Israel. However, the risk of biased sentencing for Arabs in Israel may be exacerbated for yet another reason, one which is not common in most other countries. As Israel is in a state of conflict, and frequently in armed conflict, with most of its neighboring Arab countries, the Arab population of Israel is often perceived as the enemy, or at least as a symbolic representative of the enemy.

Yet, in the Israeli courts, there are also factors that may mitigate the biases affecting American courts. Unlike the United States, Israel has a single law enforcement system with a single centralized police force and a single system of courts. All criminal cases are brought to state courts. Consequently, one of the major sources of variability in jurisprudence that exists in the United States and which greatly contributes to the variability of judicial decisions does not exist in Israel.

Another major difference between Israel and the United States is the absence of jury trials; in Israel, all decisions, including determinations of guilt, are made by judges. The judges are professional judges who are appointed by a special committee, as opposed to being elected, and who retain their position up to the age of retirement.⁵ Accordingly, Israeli courts are much less susceptible to the

³ Kathrine Ben Zvi & Dror Walk, *Hozrim Lemaasar: Recidivism Shel Asirim Pliliyim Meshhrarey 2004 BeYisrael. Zohar Leveit Sohar [Recidivism of Israeli Inmates Released in 2004]*, GLIMPSE INTO PRISON 14 (2011).

⁴ CENTRAL BUREAU OF STATISTICS, STATISTICAL ABSTRACT OF ISRAEL tbl.11.5 (2011) http://www1.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st11_05&CYear=2011.

⁵ See SUZIE NAVOT, THE CONSTITUTIONAL LAW OF ISRAEL 146 (2007) ("Judges in Israel are appointed by the President of the State, after being elected by the Judges Election Committee. The Judges Election committee is a unique Israeli creation, consisting of nine members: two Ministers (one of whom is the Minister of Justice who also serves as the Chairman of the Committee), two members of the Knesset (elected by the Knesset), three Supreme Court Justices (including the president of the Supreme Court) and two advocates, representatives of the Israeli Bar Association . . .

pressures of public opinion and are more likely to be influenced by the professional community and its interpretation of the law.

The presence of biases in the judicial process has occupied Israeli investigators since the late 1970s. In 1978, Haj-Yahya, Rahav and Teichman showed that Arab juvenile delinquents received harsher dispositions than Jewish delinquents.⁶ They argued that this was not due to ethnic discrimination because Arab delinquents were dealt with by Arab probation officers. Rahav used similar data and arrived at similar conclusions.⁷ Palmor and Cohen extended the study of probation officers and their recommendations by studying young adults and examining both the probation officers' recommendations and the courts' decisions. The authors adopted the conclusions of the earlier studies, adding that "the courts tend to amplify the inequality" between Arabs and Jews.⁸ Nonetheless, all these early studies failed to impose controls for most of the relevant background variables.

It would seem that Rattner and Fishman have produced the most significant study. The authors checked approximately 60,000 criminal files handled during the period of 1980–1992 and tested the probability of file closure, conviction, and prison sentencing of Arabs and Jews.⁹ They found that after controlling for the type of offense and the offender's age, gender, and past criminal record, Arabs generally received harsher dispositions.¹⁰ The differences were very small, and somewhat more favorable to Arabs for case closure,¹¹ but were considerable and harsher for Arabs in terms of the rates of conviction and imprisonment.¹²

Included among the newer developments in this area is the Fishman, Rattner and Turjeman paper that analyzed the outcomes of 1,394 cases of violent offenses handled in a single District Court.¹³ A unique element of this study was that the authors tried to control for not only the ethnicity of the accused, but also that of the victim and the judge.¹⁴ The authors found a consistent tendency among Jewish

Over the years, the committee has proven its worth, generating worldwide interest in the Israeli system of Judicial appointments.").

⁶ Muhamed Haj-Yahya, Giora Rahav & Meir Teichman, *Ethnic Origin and Social Control: Jewish and Arabic Delinquents in Israel*, 2 INT'L. J. INTERCULTURAL REL. 328 (1978).

⁷ Giora Rahav, *Ethnic Origins and Disposition of Delinquents in Israel*, 4 INT'L J. COMP. & APPLIED CRIM. JUST. 63 (1980).

⁸ Ben-Zion Cohen & Shulamit Palmor, *The Impact of Ethnicity on Probation Recommendations and Dispositions in Israel*, 2 JUST. Q. 197 (1985).

⁹ ARYE RATTNER & GIDEON FISHMAN, JUSTICE FOR ALL? JEWS AND ARABS IN THE ISRAELI CRIMINAL JUSTICE SYSTEM 58–59, 73 (1998).

¹⁰ *Id.*

¹¹ *Id.* at 57.

¹² *Id.* at 53–57.

¹³ Gideon Fishman, Arye Rattner & Hagit Turjeman, *Sentencing Outcomes in a Multinational Society: When Judges, Defendants and Victims Can Be Either Arabs or Jews*, 3 EUR. J. CRIMINOLOGY 69 (2006).

¹⁴ *Id.* at 74–76.

judges to be more lenient with Jewish defendants.¹⁵ Arab judges seemed to be unaffected by the defendant's ethnicity, although the picture may be complicated by the four combinations of victim and defendant ethnicities.¹⁶

The most recent addition to this body of literature is the Gazal-Ayal and Sulitzeanu-Keinan paper that tested the initial detention decisions in 1,852 cases.¹⁷ They found that Arab suspects were indeed more likely to be detained.¹⁸ However, once a decision to detain was reached, no ethnic bias was displayed regarding the length of that detention.¹⁹

This survey of the literature conveys the following general picture: Arabs seem to be treated more harshly by the Israeli criminal justice system. However, the great majority of these studies were carried out a long time ago (with the exception of the Gazal-Ayal and Sulitzeanu-Keinan paper).²⁰ The period under consideration may be very significant; the years of 1993–1995 witnessed the signing of the Oslo Accords which seemed to signal the approaching end of the Israeli occupation of the West Bank and Gaza Strip (which had been captured in 1967). These are the main areas Palestinians inhabit, and the occupation of these territories has been a source of severe tension between Jews and Arabs. Hopes of peace were thwarted when the second Palestinian Intifada started in September 2000,²¹ initiating a chain of events that led to increasing tension between Jews and Arabs even within the boundaries of Israel proper. At the same time, there was an increasing awareness of the discrimination directed towards Israel's Arab population. Likewise, the publication of some of the reports described above, in particular the Rattner and Fishman book of 1998,²² sharpened public awareness of

¹⁵ *Id.* at 76–78.

¹⁶ *Id.*

¹⁷ Oren Gazal-Ayal, Raanan Sulitziano-Keinan and Atalla Shubash, *Aravim Veyehudim Betahalichey Haarachat Maatzar Rishoni* [*Jews and Arabs in Pretrial Detention Hearings*], 38 MISHPATIM 627 (2008).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ The Second Intifada, also known as the Al-Aqsa Intifada, was the second Palestinian uprising against Israeli occupation—a period of intensified Israeli-Palestinian violence. It started in September 2000 when Ariel Sharon made what the Palestinians regarded as a highly provocative visit to the Temple Mount. Palestinian demonstrators, throwing stones at police, were dispersed by the Israeli army using tear gas and rubber bullets. Both parties caused high numbers of casualties among civilians as well as combatants: the Palestinians through numerous suicide bombings and gunfire; the Israelis by tank, gunfire and air attacks, numerous targeted killings, and harsh reactions to demonstrations. The death toll, including both military and civilian, is estimated to be about 3,000 Palestinians and 1,000 Israelis, as well as 64 foreigners. Some consider the Sharm el-Sheikh Summit of February 8, 2005, as having ended the Second Intifada, when President Mahmoud Abbas and Prime Minister Ariel Sharon agreed to stop all acts of violence against Israelis and Palestinians and reaffirmed their commitment to the Roadmap for Peace.

²² RATTNER & FISHMAN, *supra* note 9.

the fact that indeed the Arabs were receiving more severe dispositions than the Jews and that the situation had to be rectified.

Therefore, this study addressed two questions: first, was there a bias against Arab defendants in Israeli criminal courts, and second, did the situation change during the 10 year period between 1996 and 2005?

II. METHOD

The initial goal of the study was to examine a representative sample of cases from the two tiers of the criminal courts: the Magistrates Courts (first instance) and the District Courts in various geographical regions of the country, over the period of 1996-2005. The sampling procedure aimed at a sample of 5,000 cases in six Magistrates Courts and four District Courts. However, a plethora of administrative and technical problems, primarily relating to changes in the system of file storage, and major differences in file numbering systems between the courts, considerably reduced the actual sample. The first batch of approximately sixty cases was considered a pre-test because it became obvious that the data collection forms had to be changed. Consequently, the final sample was reduced to 1,413 cases.

Our attempts to collect data on several key socio-demographic variables were thwarted by the lack of information in the case files. Apparently, as these variables were legally irrelevant, they were not mentioned, or at least were not recorded in the files. The only socio-demographic data available for almost all the cases were the age, gender, and ethnicity of the suspect (ethnicity was inferred from the names and addresses of the defendants).

III. FINDINGS

Table 1 presents the frequency distribution of offense categories by ethnicity. The distribution is presented as a percentage of each group so that the different size of each group does not affect the outcome. The last column presents the statistical significance of the difference between the groups. The table shows that a higher proportion of Jews were sentenced for violent offenses, but the difference in property offenses (10.2% of the Jews compared to 11.8% of the Arabs) was small and non-significant.

Looking at the more detailed offense categories, the most significant differences concerned assault (26% of the Jews compared to 19.5% of the Arabs) and threats (5.2% compared to 2.7% respectively). Therefore, if involvement in an aggressive type of offense was indicative of the need for a more serious penalty, Jews should have been punished more severely than Arabs.

Table 1

Frequency Distribution of Offense Categories by Ethnicity (%)

Offense	Jews	Arabs	Significance
Murder	2.8	2.9	0.88
Att. Murder	1.6	2.7	0.11
Assault*	26.0	19.5	0.01
Rape	3.0	4.5	0.09
Threats*	5.2	2.7	0.03
Robbery	2.5	3.5	0.21
Burglary	2.4	1.8	0.85
Vehicle Theft*	2.0	4.4	0.02
Theft	5.8	5.6	1.00
Moral	2.7	1.3	0.06
Drugs	16.8	13.6	0.07
Public Order	2.1	2.0	1.00
White Collar	7.4	6.0	0.18
Miscellaneous*	15.3	21.8	0.01
All Violence*	41.1	35.8	0.03
All Property	10.2	11.8	0.20
N	841	544	

Another important set of factors involved some of the characteristics of the defendant and the offense. Table 2 presents some of these factors by ethnicity. The table shows that the proportion of women among the offenders was higher among Jews than among Arabs (8.6% compared to 2.7% respectively). Arab defendants were more likely to have used a weapon (18.5% compared to 11.9%), but there was no difference in the proportion inflicting bodily harm (29% in both groups), and there was only a small, non-significant difference in the proportion requiring hospitalization. The proportion of crimes causing property damage was similar in both groups (14.8% compared to 14.7%).

Table 2

Offender and Offense Characteristics by Ethnicity

Variable	Jews	Arabs	Sig.
% Women	8.6	2.7	0.001
% Weapons	11.9	18.5	0.001
% Bodily Harm	29.3	29.3	1.00
% Hospitalization	8.8	11.3	0.15
% Property Damage	14.8	14.7	0.99

In terms of their past criminal record, there was only a small, non-significant difference between the two groups: 10.2% of the Jewish defendants had a record comprising one or more convictions, as compared to 11.6% of the Arabs. The difference in past prison terms was more pronounced: 19.1% of the Arab defendants had served some past term of imprisonment, compared to only 14.1% of the Jewish defendants, a difference that was statistically significant.

Table 3

Logistic Regression: Case Cancellation and Conviction

	Cancellation		Conviction	
	Exp(B)	Sig.	Exp(B)	Sig.
Year	1.1	0.001	0.99	0.431
Gender	1.92	0.013	3.27	0.25
Age	1.01	0.033	0.99	0.448
Violence	1.76	0.007	0.37	0.015
Property	0.78	0.341	0.54	0.434
Drugs	1.54	0.053	0.77	0.617
Injury	1.57	0.038	0.75	0.428
Weapons	1.68	0.051	0.85	0.67
Past Convictions	0.21	0.001	2.42	0.149
Prison Terms	0.19	0.001	13.79	0.01
Defense	3.56	0.001	1.35	0.351
Judge's Gender	0.98	0.307	1	0.969
Arab	0.65	0.007	1.09	0.78

As there were some differences between the Jewish and Arab defendants, we tried to control for the effects of several confounding variables. We began with an analysis of the two initial stages: the decision to prosecute or, alternatively, to cancel the case. Cases were not prosecuted for a variety of reasons such as lack of public interest, lack of evidence, technical and bureaucratic problems, etc.

Table 3 presents a logistic regression analysis of case cancellation and conviction. The coefficients (Exp(B)) show the effect of each variable on the disposition of the case after controlling for the effect of all other listed variables. The last row presents the effect of being an Arab. As Table 3 shows, the coefficient of being an Arab was 0.65 for case cancellation, meaning that the probability that an Arab defendant's case would be cancelled was only 0.65 of the probability in the case of a Jewish defendant, even if all other variables were the same. This effect was highly significant. The probability that an Arab defendant would be convicted (if actually prosecuted) was somewhat (1.09 times) higher than that of a Jewish defendant, controlling for all other variables. This effect was not statistically significant.

Table 4

Logistic Regressions of Penalties

	Fine		Suspended Prison		Prison	
	Exp(B)	Sig.	Exp(B)	Sig.	Exp(B)	Sig.
Year	1.01	0.612	1.05	0.038	1.00	0.708
Gender	0.88	0.724	0.48	0.021	0.18	0.001
Age	1.01	0.042	1.00	0.896	1.00	0.626
Violence	0.25	0.001	1.35	0.167	1.74	0.009
Property	2.54	0.001	0.89	0.637	0.57	0.025
Drugs	0.45	0.001	1.39	0.176	1.91	0.005
Injury	0.42	0.001	1.17	0.471	1.08	0.701
Weapons	1.57	0.052	0.86	0.527	0.23	0.001
Prior Convictions	1.28	0.255	1.88	0.016	1.29	0.226
Prison Terms	0.54	0.002	1.15	0.472	2.17	0.001
Defense Attorney	1.89	0.001	0.72	0.045	0.24	0.001
Judge's Gender	1.00	0.773	1.00	0.371	1.02	0.058
Arab	1.07	0.669	1.80	0.001	2.28	0.001

Table 4 presents similar analyses for the three major penalties imposed. It shows that being an Arab increased the probability of being fined by 7% (1.07 times) following conviction when all the other variables were controlled. This was a small difference and was not statistically significant. Ethnicity had a much

higher effect on the probability of receiving a suspended prison sentence: 1.80. That is, even if all other variables were controlled, there was a much greater likelihood that Arab defendants would receive a suspended prison sentence, and this effect was highly significant. Finally, the probability of receiving an actual prison term was 2.28 times higher for Arab defendants, and this effect too was highly significant. In other words, it seems that once a suspect was convicted, the probability of his or her receiving a punishment was increased due to being an Arab. The effect of Arab ethnicity was more pronounced the more severe the penalty.

Table 5

Multiple Regressions – The Severity of the Penalties Imposed

	Fine		Suspended Prison		Prison	
	Beta	Sig.	Beta	Sig.	Beta	Sig.
Gender	-0.01	0.813	-0.02	0.517	-0.06	0.205
Age	-0.02	0.005	-0.06	0.099	0.19	0.001
Violence	0.09	0.266	0.19	0.001	0.14	0.068
Property	0.04	0.477	-0.02	0.69	-0.01	0.884
Drugs	-0.07	0.267	0.12	0.006	0.03	0.612
Injury	-0.02	0.841	0.00	0.958	-0.17	0.01
Weapons	0.00	0.980	-0.08	0.064	-0.16	0.005
Prior Convictions	-0.11	0.094	-0.02	0.725	-0.09	0.129
Prison Terms	0.01	0.937	0.06	0.175	0.02	0.79
Defense	-0.18	0.002	-0.15	0.001	0.01	0.832
Judge's Gender	0.19	0.001	0.09	0.021	0.00	0.96
Arab	-0.02	0.676	-0.041	0.288	0.025	0.615
R ²	0.176		0.08		0.182	

Table 5 presents regression analyses of the severity of each penalty for its respective recipients. The table shows that the differences between Jews and Arabs (or, the effects of being an Arab) were not statistically significant. Moreover, the effect on the fines, or on the length of the suspended prison terms, was negative. That is, once we control for the other variables, when Arab defendants were fined, the fines tended to be slightly lower, and when they received a suspended prison term, the term tended to be somewhat shorter.

To sum up, being an Arab had a significant effect on the probability of case cancellation (or prosecution) and on the probability of receiving a prison or suspended prison sentence. It had no significant effect on the probability of being convicted, of being fined, or on the severity of the penalty (fine, suspended prison, or prison) if imposed. In fact, once all other variables were controlled, both fines and the length of suspended prison sentences were slightly (non-significantly) lower for Arab defendants. So far the picture seems to be fairly balanced.

It is only when we look at the end results of the overall process that its full meaning becomes evident. Table 6 compares the rates and means of case disposition (prosecution, conviction, and punishment) of Jews and Arabs. The "ratio" column presents the rates (or means of case disposition) of Arabs divided by those of Jews, and the "Sig." column presents the statistical significance of the difference. As the table shows, at this pre-trial stage of the procedure, Jewish defendants had a certain advantage, and nearly a quarter of the cases failed to reach trial, as compared to about 16% of the cases of Arab defendants.

Table 6

Case Disposition Rates and Means by Ethnicity

	Jews	Arabs	Ratio	Sig.
% Actually Prosecuted	75.7	83.5	1.1	0.001
Of All Prosecuted				
% Convicted	94.5	95.2	1.01	0.64
Of All Convicted				
% Fine	32.4	34.2	1.06	0.56
% Suspended prison	68.8	78.3	1.14	0.001
% Prison	32.8	48.6	1.48	0.001
Number of Penalties	1.53	1.75	1.14	0.001
Mean Penalty				
Fine (NIS)	4297	4217	0.98	0.94
Suspended Prison (Months)	8.4	9.5	1.13	0.08
Prison	25	28.4	1.14	0.36

The second panel of the table presents the rates of conviction as a percentage of those who were actually tried. The rate of conviction was only slightly and non-significantly higher for Arabs, and in fact, we may consider the dispositions at this stage as evenly divided between Jews and Arabs.

The third panel shows the percentage of cases where different penalties were imposed. For fines, the rates were similar, and the difference was non-significant. However, for the more serious penalties, there were significant differences between the two groups. The rate of Arab defendants receiving a suspended prison sentence was 1.14 times higher than that of Jews (78.3% compared to 68.8% respectively), a difference that was highly significant. For prison sentences, the difference was even greater. Arab defendants received prison sentences in nearly half of the cases (48.6%), compared to somewhat less than a third (32.8%) of the cases involving Jews. The mean number of penalties imposed reached 1.75 for Arabs, compared to 1.53 for Jews.

When we compared the mean penalties imposed on defendants, the differences were not significant. Although the mean prison terms and suspended prison terms for Arabs were about 1.14 times higher than those of Jews, the mean fine imposed on Arabs (NIS²³ 4,217) was slightly lower than that imposed on Jews (NIS 4,295).

Thus, of the nine comparisons in Table 6, eight show a bias against Arab defendants, and in four categories the bias is highly significant.

IV. DISCUSSION AND CONCLUSION

The study has produced several meaningful findings. First, Arab defendants are more likely to receive harsher penalties than their Jewish counterparts. The difference between Arabs and Jews is greater for prison than for suspended prison terms and greater for suspended prison terms than for fines. Second, the difference between the groups begins at the early pre-trial stage when a decision is taken as to whether to prosecute or to cancel the case. And third, once we distinguish between the type of penalty and its severity, it seems that the source of the difference lies in the decision concerning the type of penalty rather than its severity. Finally, there is no period effect: the year of the trial does not have any significant impact. Thus, the Intifada and its aftermath has not left any visible trace on the processes that we have examined. Generally speaking, these findings are consistent with former studies concerning the difference between the disposition of Arab and Jewish offenders.²⁴ That is, in various stages of the judicial process, Arabs receive a more severe disposition. It should be emphasized that the biases observed are mostly small and non-significant. However, since the process involves multiple stages, these small biases accumulate.

We cannot determine the source of the differences between the two groups. The simplest explanation is that the courts are biased and discriminatory. However, even if this is what happened in certain cases, an explanation that relies on this contention alone would seem to be overly simplistic. First, it seems that

²³ NIS is the symbol of the Israeli currency New Israeli Shekels.

²⁴ Haj-Yahya, Rahav & Teichman, *supra* note 6; Gazal-Ayal, Solitziano Einav & Shobash, *supra* note 17; RATTNER & FISHMAN, *supra* note 9.

even before the State of Israel was established, when the judicial system was operated by the British Mandate authorities, Arab defendants were punished more severely than Jews.²⁵

Furthermore, the data suggest that a significant part of the bias is the result of processes that preceded the court trial. In our data, this is visible in the differences in the decision to prosecute, but some of the data suggest that there was a difference in handling of cases in earlier stages. One of the more interesting facts in our data is the percentage of Arabs in the initial stage of the decision as to whether or not to prosecute: in Table 1 about 39% (544 out of 1385) of the cases concern Arab defendants, almost twice their proportion of the population. We can only speculate about the sources of this difference. One possibility is a tendency to handle Arab defendants more harshly in the initial stages of the process. If this is indeed the case, then the courts have not corrected this bias. An alternative explanation (just as speculative, as we have no data to support it) is based on the fact that a large proportion of the Arab population lives in separate, low socio-economic communities which tend to be relatively remote from the centers of government. One may suspect that such communities would have higher rates of unlawful behavior, and particularly of more serious offenses. Unfortunately, our data do not allow any examination of these explanations.

Finally, one of the most significant findings refers to the identification of the defendant's ethnicity. Ideally, the judicial process should be "color blind" and ignore the ethnic origin of the defendant. Indeed, for that reason we have very little information about the defendants' socio-economic characteristics. For the same reason, we should have no information about the defendants' ethnic identity. Indeed, there is no "ethnicity" rubric in the case forms used by the courts. However, Arabs and Jews have different sets of names (both first and surnames), and, in the main, they live in highly segregated communities. Thus, in the study we identified the defendants' ethnic group from the data necessarily recorded in every case file. Clearly, whoever handled the file was immediately aware of the defendant's ethnicity. As names and addresses were often the first items of information perceived in a case file, the door was opened for the operation of various conscious and unconscious stereotypes which may have introduced bias into some of the decisions in the process.

²⁵ UZIEL SCHMELZ & D. SALZMAN, CRIMINAL STATISTICS IN ISRAEL 1949–1962 (1964).