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A Discussion on Algorithmic Sentencing

Recently, as countries like Estonia and Singapore have started experimenting with algorithmic sentencing in small claims courts, it's become more important than ever before to think about shifts that algorithmic sentencing may impose on existing judicial processes — particularly the trust and standards that apply to the role of a judge. Because the specifics of Justice systems around the world vary so much, for the sake of simplicity, we'll keep this discussion to the US justice system.

In the US, it's currently pretty well established that our justice system is riddled with ingrained biases and inequities: people of color are not only overrepresented as defendants in our criminal justice system, but they also receive longer sentences than white defendants. And these injustices seem to be the byproduct of **human biases and prejudices** in sentencing by judges, which algorithms could certainly avoid.

Many judges today would concede that a **mere spreadsheet providing data on past sentencing decisions could help them make more objective decisions. So in this vein,** it seems like carefully coded sentencing programs could skirt situations like when an Ohio judge went against the recommendations of both the defense council and the state prosecutor to condemn a 55-year-old woman, who was a first-time nonviolent offender, to 65 years in prison — for petty theft. Or when a man was condemned to a life in prison for merely attempting to steal a set of hedge shears.

It's true that a non-trivial objection to algorithmic sentencing is that data used to program the code is often incomplete or incorrect, biasing outcomes. But assuming this can be remedied, we must ask if society would even be amenable to algorithmic justice.

In the United States today, judges are expected to be the arbiters of Justice. The Code of Conduct for United States Judges states as its first canon: "A Judge Should Uphold the Integrity and Independence of the Judiciary. Further they should not only maintain and enforce high standards of conduct, but they should personally observe those standards, so that the integrity and independence of the judiciary may be preserved." Are robot judges able to personally observe anything? And could they in turn fulfill this standard?

Under the Social contract theory, the concept of Justice exists because of collectively negotiated human belief. Does the US justice system work in part because Americans believe in the idea of human judges as arbiters of Justice. Or is it unnecessary?

It is clear that the advent of algorithmic sentencing is calling into question the role of human judges as referees of Justice, So in light of some of these considerations, what are the pros

and cons of both human judges and algorithmic sentencing? And what should the best path forward look like?