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Sentencing architecture

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Choice architecture

- **DECISION-MAKING CAN BE INFLUENCED**
 - By shaping the decision-making environment using different tools (nudges) (Thaler and Sunstein 2009).
- **DECISION-MAKING ENVIRONMENT**
 - Decision-makers ‘do not make choices in a vacuum’ (Thaler et al., 2010).
 - The features of the decision-making environment help ‘construct a person’s choice’ (Camilleri & Larrick, 2015).
 - Consequently, there is no such thing as a ‘neutral environment’ or a ‘neutral choice architecture’ (Thaler et al., 2010; Yeung, 2016).

The background of the slide features several thin, curved lines in a light gray color, some solid and some dashed, creating a sense of motion or a stylized architectural design.

Sentencing architecture

- Using the conceptual framework of choice architecture in the sentencing context
- However: descriptive, not prescriptive

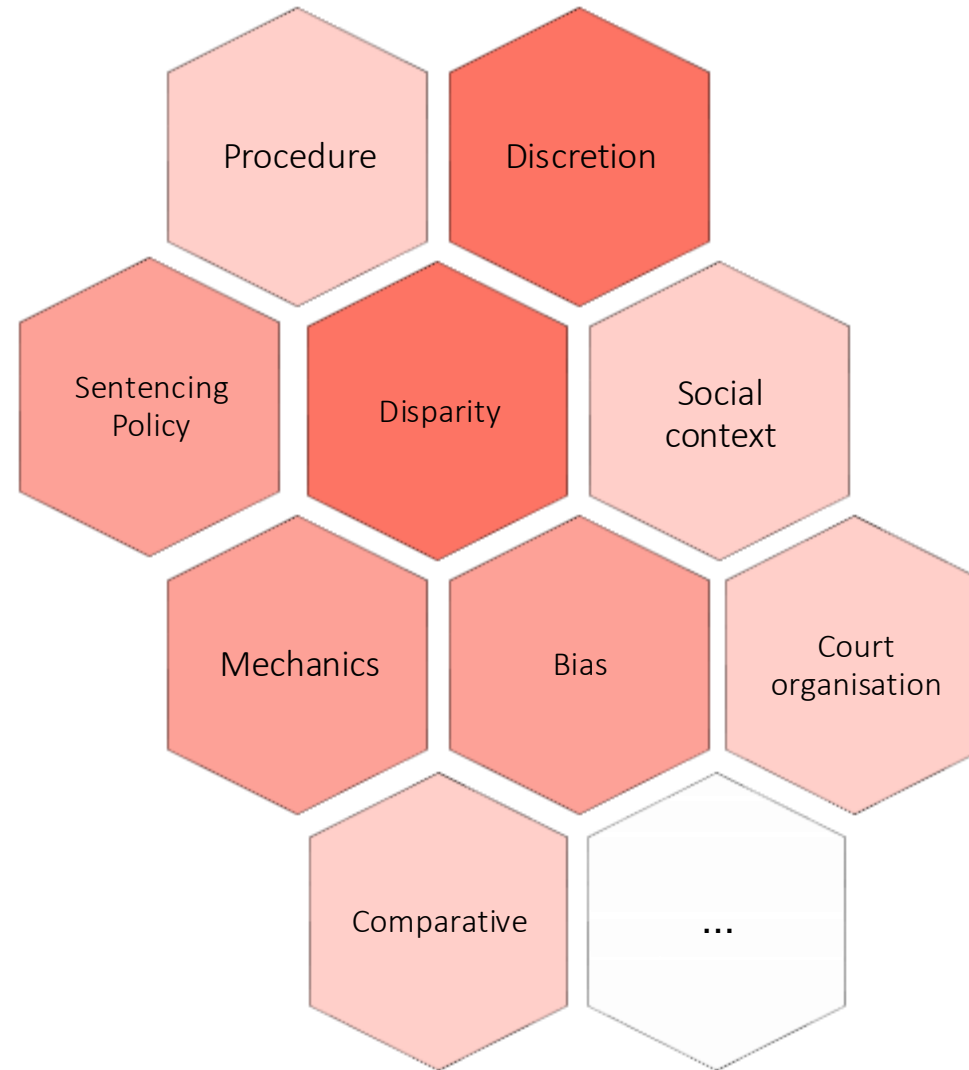
Sentencing environnement

- The background against/in which the decision is made.
- Never neutral as it contributes towards the decision by prompting the sentencer towards a given direction.
- The sentencer is still free to make their own decision, but the system itself is set in a way that makes some decisions more likely than others.

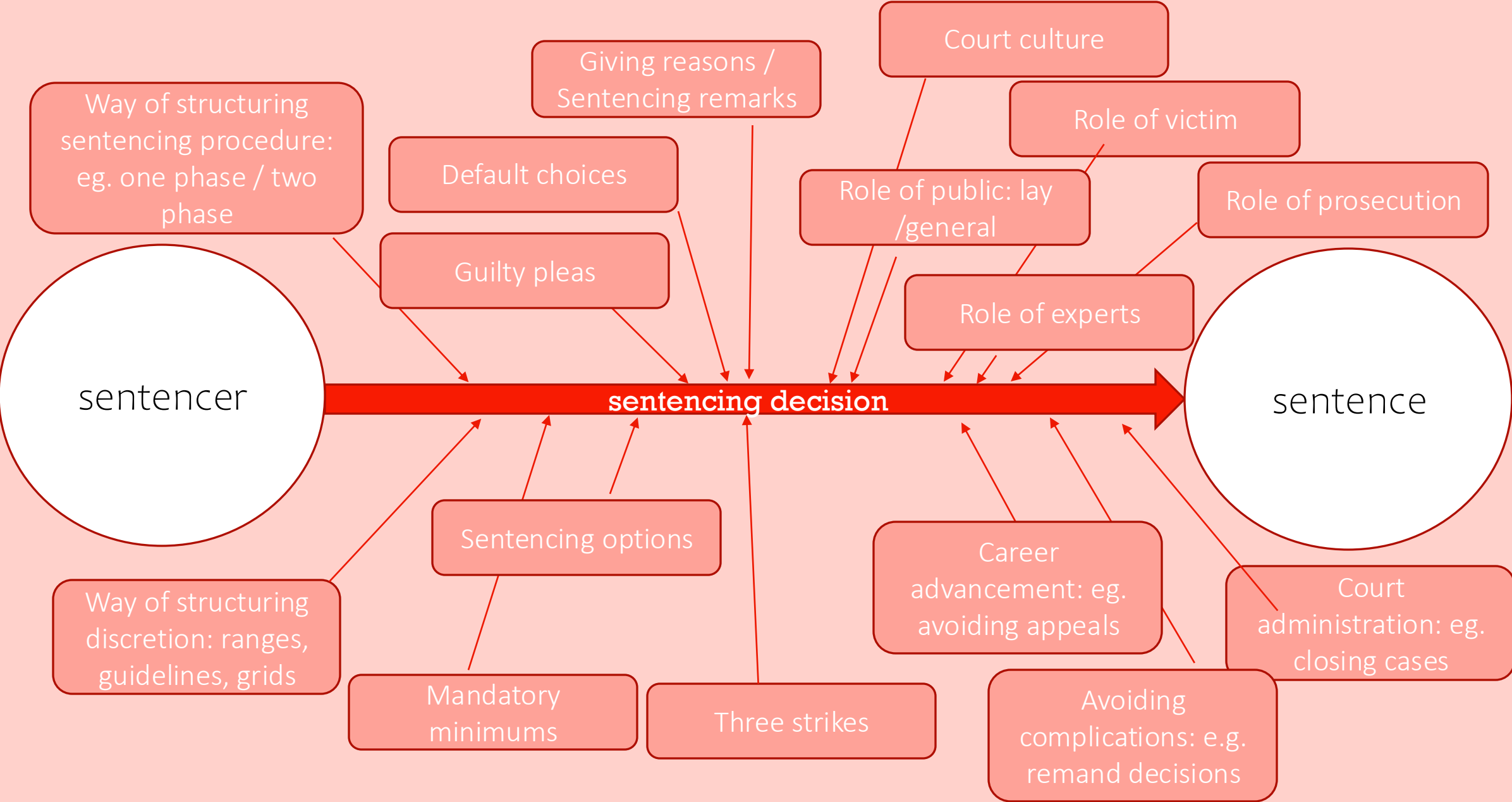
Examples

- Sentencing ranges
- Guilty plea discounts
- Career considerations
- Default decisions
 - (e.g. fine in Germany, conditional sentence in Slovenia)

What are we researching in Sentencing?



The sentencing environment



Elements of the sentencing environment

- Legal elements
 - Substantive law
 - Procedural law
 - Organisational laws
- Non-legal elements
 - The individual
 - Bias, prejudice etc.
 - Habits
 - Society
 - Cultural context
 - Wider
 - Organisational
 - Rituals

