

An Empirical Study of Judges' Sentencing Practices:

Appraisal analysis of six sentencing remarks for murder cases
in England and Wales

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By

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Abstract

Studies on sentencing in England and Wales are dominated by the perspective of viewing sentencing as governed by penal philosophies, and judges' sentencing is regarded as lacking coherence due to their lack of consensus on which penal philosophies to follow. Contrary to this perspective, the current study views sentencing as a social practice. In my corpus of six sentencing remarks for murder cases in England and Wales, I found that judges' sentencing practices are patterned based on analyses of how they evaluate offenders and their offences.

The six sentencing remarks were selected to ensure (at least to a large extent) that the different sentencing results of the six cases are a reflection of how judges exercise their sentencing discretion. The current study finds that judges' deployment of appraisal resources and strategies across the six sentencing remarks correlate with their sentencing decisions. In the sentencing of convictions for murder in England and Wales, judges first need to select a statutory starting point, and then they have the discretion to take into consideration any relevant aggravating and mitigating factors to finally arrive at a minimum term. The current study finds that when judges set the minimum term below (text 1) or well above (texts 5 and 6) the starting point they make more evaluations and qualitatively different evaluations, and deploy certain appraisal strategies, compared with when they set the minimum terms just a few years above the starting point (texts 2, 3 and 4).

Such patterns reveal that the statutory starting point, as one of the prescriptive schemes to bind judges' sentencing discretion, is exerting its influences on judges' sentencing practices, despite judges have the discretion to arrive at a minimum term of any length irrespective of the starting point. This study further argues that the patterns reveal that judges perceive the public and the Court of Appeal as two important audiences of their sentencing remarks. In other words, judges' perception of the audiences shapes how they evaluate offenders and their offences. When the patterns are found to correlate with judges' sentencing decisions, it further argues that judge' perception of the two important audiences shapes their sentencing practices.

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Chapter 1: Introduction

When an offender is convicted of an offence, the judge will proceed to the next stage of the criminal procedure – sentencing. In the stage of sentencing, judges will first assess factors related to either offenders or their offences and then make a “formal announcement of a convicted defendant’s punishment” (Johnston and Smith 2018, p.182).

Ashworth (1995) has commented on the significance of research on sentencing:

The social importance of sentencing is a powerful argument in favour of careful research. More ought to be known about the motivation of judges and magistrates. Such knowledge would assist in the formation of sentencing policy, and might also help to extend a form of accountability into this sphere of public decision-making. (Ashworth 1995, p.263)

As the above quotation implies, little is known about judges’ ‘motivations’ nor, in general, their decision-making in sentencing. Existing studies on sentencing are “dominated (and limited)” (Tata 2007, p.425) by studies focusing on how judges should sentence rather than on how judges actually carry out their sentencing practices. In order to gain an insight into the empirical reality of judges’ sentencing practices, the current study critically examines how judges evaluate offenders and their offences in six sentencing remarks for murder cases in the jurisdiction of England and Wales. It is expected that an examination of judges’ deployment of appraisal resources and strategies in the sentencing remarks will offer an insight into the empirical reality of judges’ sentencing practices.

1.1 Research background

1.1.1 Sentencing in England and Wales

In England and Wales, judges traditionally enjoyed wide discretion in their sentencing practices. There were few rules directing judges on how to arrive at a ‘correct’ sentence from a given set of facts and circumstances (Hutton 2006, p.155). Nor were there any

rules setting out how various sentencing factors should be weighted. According to Malleon (1999, p.57), “[f]or the third quarter of the twentieth century Parliament adopted a minimalist approach to sentencing, generally restricted to setting relatively high maximum sentences and occasionally introducing new penal measures”.

Due to the absence of rules, it was considered that judges’ sentencing practices lacked “sufficient structure and coherence” (Tata 2002, p.399), which accordingly led to various schemes (general principles, tariffs or sentencing guidelines) designed to constrain judicial discretion and to promote coherence in sentencing practices. One of the most important schemes was the establishment of the Sentencing Council in 2010¹ and the subsequent formulation by the Council of sentencing guidelines for various types of offence. These guidelines are regarded as “a means to achieve the objectives of consistency” (Ashworth and Roberts 2013, p.1). The sentencing guidelines for murder, however, had not yet been set by the time of completing this thesis (June 2020).

The sentencing of murder in England and Wales currently relies on the Criminal Justice Act 2003 (the CJA 2003 hereinafter). For anyone who is convicted of murder, judges are bound by law to impose a sentence of life imprisonment.² This mandatory sentence is modified, however, by judges’ discretion to arrive at a minimum term of any length irrespective of the statutory starting point.³ The judges’ determination of the length of minimum terms is based on detailed consideration of any aggravating and mitigating factors they consider relevant. Judges’ major task in the sentencing for convictions of murder, therefore, is to determine the length of the minimum term. After serving the minimum term, offenders are eligible to apply to the Parole Board for release on licence into the community.

1.1.2 Studies on sentencing in England and Wales

Judges’ sentencing practices have long been conceptualised as governed by some penal philosophies,⁴ such as retribution, desert, incapacitation, deterrence,

¹ The Sentencing Council was established in 2010, replacing the Sentencing Guidelines Council (established in 2003) and the Sentencing Advisory Panel (established in 1998). More information about the Sentencing Council could be found on its official website: <https://www.sentencingcouncil.org.uk/> (last accessed in October 2019).

² Murder (Abolition of Death Penalty) Act 1965

³ Criminal Justice Act 2003, schedule 21, section 9. The Criminal Justice Act sets out expected ‘starting points’ for minimum terms based on categorisations of the ‘seriousness’ of the offence.

⁴ Penal philosophies are known by various other names, such as aims of punishment, principles, rationales, theories, goals or purposes of punishment.

rehabilitation, or denunciation. Given lack of consensus among judges as to which penal philosophies to pursue (see chapter 2, section 2.2 for details), their actual sentencing practices have been viewed as lacking “[coherence] structure, rationality, predictability, clarity and certainty” (Tata 2007, p.426). Such characterisations have made sentencing an “infertile ground for scholars” (Hutton 2006, p.172) and sentencing “has long been regarded as unworthy of scholarly legal attention” (ibid). As a result, there are few studies examining the empirical reality of judges’ sentencing practices, and “the actual decision-making process in sentencing is poorly understood” (Brown 2017, p.1). Correspondingly, existing studies on sentencing are dominated by normative studies on how judges should sentence (such as which penal philosophies should be pursued or how sentencing practices and sentencing policy should be reformed) in order to achieve coherence and promote consistency (e.g. Ashworth, 2011; Manson, 2011; Mitchell and Roberts, 2012a; Shapland, 2011). When judges’ reasons for their sentencing decisions are viewed through this normative prism, those reasons turn out to be “elusive to harvest, a notoriously difficult area to research” (Padfield 2013, p.40).

Tata (2007), however, argues that there has been very little attempt to test this largely taken-for-granted conception that judges’ sentencing practices are governed by penal philosophies, and that their decision-making in sentencing may not be governed by those penal philosophies. Interviews with judges in England and Wales have found that most judges describe their decision-making in sentencing as based on ‘instinct’, ‘experience’, ‘hunch’ or ‘feeling’ (Ashworth et al. 1984). Judges’ sentencing practices are better conceptualised as a “routinely intuitive and holistic process” (Tata 2002, p.413) or a “synthesis of the relevant facts and circumstances of the individual case” based on their practical wisdom (Brown 2017, pp.228-229).

The current study builds on the above conceptualisation by viewing judges’ sentencing as a social practice that is not governed by penal philosophies but conditioned and patterned by social and institutional contexts of sentencing (e.g. Hutton and Tata 2000; Tata 2002; Hutton 2006; Kritzer 2007; Tata 2007; Brown 2017). In other words, the current study views judges’ sentencing practices as a ‘holistic process’, and holds that judges arrive at their sentencing results based on their construction of ‘typical whole case stories’ (Tata 1997; Tata and Hutton 1998).

When judges’ sentencing practices are viewed as a social practice, sentencing may appear more ordered and patterned, and this opens the way for research focusing

on identifying those patterns or regularities. On that basis, such patterns or regularities as may be found are regarded as indexing the social conditions of sentencing, such as the institutional and social norms governing judges' sentencing practices, or judges' tacit knowledge regarding how they carry out their sentencing practices. In other words, it is expected that patterns or regularities found in judges' sentencing practices can offer an insight into the social conditions of sentencing, and in turn a better understanding of judges' sentencing practices.

The paucity of studies on the empirical reality of sentencing might also be attributed to difficulties in gaining access to judges for academic research in England and Wales. It is difficult to arrange interviews with judges, let alone conduct any close observation of their sentencing practices (Tata 2002; Brown 2017). Moreover, judges "tend to be suspicious of anyone asking questions and exposing the limitations of their practices" (Tata 2002, pp.410-411). Even if access to judges is gained and they are available for interview, judges would usually regard their decisions in sentencing practices as emerging from an intuitive synthesis of various sentencing factors rather than as something that could be explained according to the penal philosophies (Tata 1997; Tata and Hutton 1998). According to Tata (2007, p.432), "anyone who interviews judges about their decision making will have been frustrated by a similar inability of judges to explain clearly how they came to the judgement they did". Accordingly, the current study does not approach judges' sentencing practices through interviews but rather through linguistic analysis of their sentencing remarks.

1.1.3 Sentencing remarks

Sentencing remarks are judges' justification of their sentencing decisions, and are given by the end of court trials. It is required by law that judges "give reasons for, and explain effect of sentence".⁵ In sentencing remarks, judges usually summarise the case, list the aggravating and mitigating factors they consider relevant to the sentence, and finally announce the sentencing decision. In addition, judges also provide explanations of the relevant legal terms in the sentencing of murder, such as the 'mandatory life sentence', 'starting point' and 'minimum term'.

In England and Wales, sentencing remarks (although not all of them) are publicly

⁵ Criminal Justice Act 2003, section 174.

available on the website of the Courts and Tribunals Judiciary (hereafter referred to as the UK Judiciary).⁶ These publicly available sentencing remarks are a much more accessible means to gain access to judges' sentencing practices than other means such as surveys, interviews or observations of judges.

Furthermore, language and discourse play an important role in understanding law and legal processes (Conley et al. 2019). "The more we know about the use of language in institutional settings, the better we can study particular institutions – legal ones in particular – and learn about their structure and the relationships among them" (Solan and Tiersma 2012, p.3). It is expected that the current study's investigation of judges' language use in sentencing remarks can offer an insight into judicial sentencing practices, and thus in turn bring an understanding of the empirical reality of judicial sentencing practices.

1.1.4 The Appraisal framework and its applicability to sentencing remarks

The current study uses Martin and White's (2005) Appraisal framework as a linguistic tool to examine how judges evaluate offenders and their offences in sentencing remarks. The framework provides a model to explore evaluative language in texts. There are three major systems in the framework: **attitude**, **engagement**, and **graduation**. The three systems and their subsystems are marked in bold in this thesis; they are also marked in bold when they are used as technical labels.

Attitude further consists of three subsystems: **affect** is concerned with people's emotions, **appreciation** with stances towards things, and **judgement** with stances towards people or their behaviour. **Engagement** refers to the authorial positioning towards the attitudinal propositions being advanced, and how authors engage with alternative viewpoints on these attitudinal propositions. **Graduation** is concerned with the upscaling and downscaling of the authors' personal investment in the proposition being advanced.

One of the subsystems of the framework, **judgement**, which is concerned with authorial stances towards people or their behaviour, allows the examination of how the high blameworthiness of a murder(er) is reflected in the sentencing remarks.

⁶ <https://www.judiciary.uk/judgment-jurisdiction/crime/> (last accessed in July 2018).

Judges' sentencing remarks are much more evaluative when compared with other types of judicial discourse such as judges' summing-up or jury direction (Heffer 2005; Heffer 2008). Judges' central task in sentencing is to weigh up the case facts and then to arrive at their sentencing decisions. The weighing up of case facts is closely related to judges' assessment of factors related either to offenders or their offence, or in other words, how judges evaluate offenders and their offences in terms of **judgement**.

Engagement allows the examination of how judges engage with the multiple audiences of their sentencing remarks. The audience of sentencing remarks is a complex issue. The primary audience of the sentencing remarks is the offender, to whom judges have the duty to 'explain the effect'⁷ of their sentence. Others who are co-present in the court are counted as the audiences of the judges' sentencing remarks, such as the victim, the victim's family members, the offenders' families, and journalists. Moreover, judges are also facing audiences beyond the courtroom, such as the public and the Court of Appeal. Sentencing, especially for convictions of murder, typically receives wide attention from the news media and, consequently, the public. And judges' exercising of their sentencing discretion is subject to appeal to the Court of Appeal if their sentencing decisions are accused of being "manifestly excessive or wrong in principle".⁸ In other words, the Court of Appeal is also an important audience of judges' sentencing remarks because it is the only institution that has the power to bind judges in their exercising of sentencing discretion.

The multiple audiences faced by judges play a key role in sentencing practices in that judges need to satisfy "a multiplicity of conflicting expectations and audiences" (Tata 2007, p.440), and "judges' interest in what their audiences think of them has fundamental effects on their behaviour as decision makers" (Baum 2006, p. 4). In other words, the audience is an important factor in shaping judges' sentencing practices. The Appraisal framework's concern with interpersonal (rather than intrapersonal) stance makes it an appropriate tool to investigate how judges position themselves towards the multiple audiences of sentencing remarks, and in turn to show how judges' alignment with their audiences can provide an insight into their sentencing practices.

Finally, the theoretical origin of the Appraisal framework allows the exploration of judges' sentencing practices through their deployment of appraisal resources in

⁷ Criminal Justice Act 2003, section 174.

⁸ Criminal Appeal Act 1968, section 2 [9:4]

sentencing remarks. The appraisal framework is grounded in Systemic Functional Linguistics (SFL), which views language as a social semiotic and explains meaning-making processes as a social practice (e.g. Halliday 1994). In other words, the current study views discourse (or sentencing remarks) as well as judges' sentencing as social practices. Appraisal features of sentencing remarks are not only regarded as expressions of judges' personal feelings, but more importantly as expressions of judges' interpersonal stances enacting their sentencing practices. Judges' deployment of appraisal resources in sentencing remarks is regarded as being "determined socially and hav[ing] social effects" (Fairclough 1989, p.23). Patterns found in judges' deployment of the appraisal resources are expected to provide understandings of judges' sentencing practices.

1.1.5 Manual coding of the six sentencing remarks

The current study applies the Appraisal framework to analyse only six sentencing remarks. The use of a small dataset is partly due to the characteristics of the framework and partly due to the focus of the current study.

The coding of appraisal items in texts relies on manual work (nonetheless the current study uses UAM CorpusTool to assist the manual coding, see chapter 3, section 3.5); there is no software available to code appraisal items in texts automatically. The reliance on manual coding and the lack of relevant software are due to the fact that there is no one-to-one correspondence between the (discourse) semantic systems of the Appraisal framework and their lexicogrammatical realisations in texts. In other words, subtypes of **attitude** in the Appraisal framework are realised by various lexicogrammatical forms, which makes it impossible to dwell only on a limited number or on particular lexicogrammatical forms to exhaust the appraisal resources in texts, nor is it practical to examine all (or most of) the appraisal items and their interaction in large quantities of texts within the scope of this thesis.

Nonetheless, there are studies using corpora to assist appraisal analysis (e.g. Miller, 2016; Miller and Johnson, 2013), but the focus has usually been on a handful of evaluative items rather than on the whole range (or most) of appraisal items found in texts. Although those studies are effective in tracing particular appraisal items in a large quantity of texts, the corpus-assisted approach does not serve the research focus of the current study, which is examining the interaction of the appraisal items rather

than discrete appraisal items.

Although the current study does not code every single appraisal item in sentencing remarks, such as judges' appraisal of the police, it covers major appraisal items found in the dataset, which allows tracing of the interaction of appraisal items in the texts. The focus on the interaction of appraisal items rather than on individual appraisal items is consistent with Tata and Hutton's (1998) call for further work to investigate the 'holistic' way in which judges interpret cases as 'typical whole case stories' (Tata and Hutton 1998, p.354). If judges' sentencing practices are represented as the weighing of sentencing factors, the current study considers all the factors as a whole (rather than as discrete items) and pays special attention to the relational meaning among those factors.

The six sentencing remarks used in the current study are selected from all the sentencing remarks that are published on the UK Judiciary website (those available on the website by October 2016). The six sentencing remarks were selected to make sure they were of a comparable degree of seriousness or, in other words, as similar to each other as possible. The selection ensured that judges' different sentencing decisions of the six cases were largely attributed to how judges exercise their discretion in their sentencing practices (see chapter 3, section 3.1 for details). Summaries of the case facts of the six cases are also found in chapter 3 (section 3.2).

1.2 Research questions

This thesis applies Martin and White's (2005) Appraisal framework to analyse how judges evaluate offenders and their offences in six sentencing remarks for murder cases in the jurisdiction of England and Wales. It is expected that appraisal analysis of the six sentencing remarks would reveal some patterns in judges' deployment of appraisal resources, which would accordingly demonstrate how judges position themselves towards the multiple audiences of their sentencing remarks. It is further expected that such findings would provide an insight into judges' sentencing practices. The current study addresses the following research questions.

1. What are the patterns found in judges' deployment of appraisal resources in the six sentencing remarks?
2. What appraisal strategies are found that would further reveal the same patterns?

3. How do patterns found in judges' deployment of appraisal resources and strategies reveal their positioning towards the multiple audiences of sentencing remarks? And, in turn, how does judicial positioning towards the audiences provide an insight into judicial sentencing practices?

In order to answer the research questions, the current study will examine how judges evaluate offenders and their offences in the six sentencing remarks (by focusing on **judgement**, one of the subsystems of the Appraisal framework). The current study further examines how judges use **engagement** items to position the audiences of the sentencing remarks towards their **judgement** of offenders and offences. The current study will not only count the occurrences of **judgement** items in the six sentencing remarks, but, more importantly, will examine their qualitative differences across the six sentencing remarks, and examine how the **engagement** items reinforce the qualitative differences. Based on the examination of the **judgement** and **engagement** items in the six sentencing remarks, the current study will further distil three appraisal strategies and explore how the judges' deployment of appraisal resources and strategies provides an insight into judges' sentencing practices.

1.3 Research significance

The current study of judicial sentencing is of great significance considering the important, real-life impact of sentencing on offenders, victims and their families. Also, in the sentencing of high-profile cases, the way in which courts deliver a sentence has great impact on the community and the public. For instance, whether the judicial sanction reflects the public response or reaction to the crime(s), or whether the sentencing upholds public confidence in criminal justice.

The current study is significant as it contributes to an understanding of judges' actual sentencing practices. Studies on sentencing in England and Wales are dominated by normative studies on how judges should sentence. Those studies usually assume that directions on how judges should sentence must have an effect, and they are concerned with 'when' rather than 'whether' the directions would have the desired effect. But the answering of the question 'whether' should be the basis for any further inquiry into how and when the directions have their effect. To answer the questions of whether the normative studies or directive policies have achieved their desired effect,

one needs to have an understanding of how judges actually carry out their sentencing practices. The current study is of significance as it will provide an insight into the empirical reality of judges' sentencing practices.

The current study of judges' sentencing practices is of practical significance in the context of England and Wales. In the jurisdiction of England and Wales, judicial sentencing is experiencing a gradual change from a wide defence of judicial discretion (especially from the judiciary side) to the binding of judicial discretion by prescriptive schemes, as is evidenced by the establishment of the Sentencing Council and its formulation of sentencing guidelines for various offence types. An understanding of judges' sentencing practices is the basis or pre-condition for the drafting of sentencing guidelines or for the establishment of prescriptive schemes to bind judicial discretion in sentencing.

The current study helps to demystify judges' sentencing practices that are often clouded in mystery by judges' recourse to intuition to explain their sentencing practices. Research on the empirical reality of judges' sentencing practices can deepen people's understanding of sentencing practices and convey a more accurate picture of judges' sentencing practices than normative studies on sentencing. Such an understanding contributes to bringing transparency to the process of sentencing and, in turn, contributes to building public confidence in the criminal justice system.

Moreover, by approaching judges' sentencing practices through their sentencing remarks, the current study provides a novel approach to explore judges' sentencing practices. In the context that it is difficult for judges to articulate how they arrive at their sentencing decisions (Kritzer 2007; Tata 2007), linguistic analysis of sentencing remarks provides an effective means to explore judges' tacit knowledge about sentencing and gain access to judges' sentencing practices. The current study demonstrates that the exploration of judges' sentencing practices can benefit from a structured and disciplined analysis of judges' language use in their sentencing remarks.

Considering that the framework(s) for exploring judges' sentencing practices as social practices "did not seem to exist, or, at least, did not seem to translate easily" to the study of judges' sentencing practices (Moorhead and Cowan 2007, p.315), the current study demonstrates that appraisal analysis of sentencing remarks based on the Appraisal framework is an effective tool to gain an insight into judges' sentencing practices. The framework is an effective tool to explore how judges evaluate offenders and their offences to justify their sentencing decisions, and to explore how judges

position themselves towards the multiple audiences of sentencing remarks. Moreover, the application of the Appraisal framework to the analysis of sentencing remarks, which is a type of texts that so far has not been explored by the framework, provides further points of refinements of the framework (see chapter 7, section 7.3.3 for details).

When viewed as a study of judicial discourse, the current study of sentencing remarks is significant considering that most studies on judicial discourse focus on various other types of judicial discourse like summing-up and jury direction, and not enough attention is paid to sentencing remarks (see chapter 2, section 2.4). The scarcity of studies on sentencing remarks does not mean that sentencing remarks are not important among the various types of judicial discourse. On the contrary, with the publication of sentencing remarks online and the recent legislation allowing the broadcast of sentencing by news media (see chapter 7, section 7.2.2.1 for details), judges' sentencing remarks (especially those for high-profile cases) will inevitably receive increasing attention. The scarcity of work on sentencing remarks calls for more studies like the current one to explore this type of judicial discourse and to gain further understandings of judges' sentencing practices.

1.4 Organisation of the thesis

This thesis consists of seven chapters. Following Chapter 1, Chapter 2 provides the research background for the current study. The first four sections are about the legal aspects of this thesis. Section 2.1 introduces background information about the sentencing of murder in England and Wales and further puts the sentencing of murder in a wider context of the current sentencing climate in England and Wales. Section 2.2 reviews studies on sentencing in England and Wales. Section 2.3 introduces what sentencing remarks are and argues that the audience (faced by judges when they draft their sentencing remarks) is an important concept in understanding judges' sentencing practices based on review of previous studies (section 2.3.1); section 2.3.2 further clarifies how the study of sentencing remarks are an effective means of gaining access to judges' sentencing practices (section 2.3.2). Section 2.4 begins with a general review of studies in forensic linguistics and more specifically studies on judicial discourse; it then focuses on the few studies on sentencing remarks. The next four sections are about the linguistic aspects of the thesis. Before introducing the Appraisal

framework in section 2.6, section 2.5 makes a review of the various approaches that examine evaluation. Section 2.7 reviews previous appraisal studies that are of relevance to the current study. Section 2.8 reviews how some thorny issues in coding the appraisal items in texts are dealt with in previous studies so as to contextualise how similar issues are dealt with in the current study. Section 2.9 focuses on two different approaches to examine the appraisal features of texts: manual coding and corpus-assisted coding, and further argues that the former is a more appropriate approach than the latter to achieve the research aim of the current study.

Chapter 3 Data and Methodology first provides details of how the six sentencing remarks for the current study were selected from all the sentencing remarks that are published on the UK Judiciary website (section 3.1). Section 3.2 summarises the case facts of the six cases in order to provide relevant details for understanding examples in the following chapters. Section 3.3 clarifies the coding scope of the current study. The current study only codes **judgement** (both explicit and implicit) and **engagement** items. More specifically, I only code **judgement** of offenders and their behaviour, and I only code **engagement** items that are used to frame the **judgement** items. Section 3.4 demonstrates how **judgement** and **engagement** items are identified and coded in the current study; this section further clarifies how some thorny issues in coding the dataset are dealt with in the current study, such as the inconsistency between positive/negative polarity of **judgement** and authorial dis/value of the **judgement**. I will use the term ‘favourable **judgement**’ to refer to **judgement** items that are favourable to offenders and are valued by judges, and the opposite is referred to as an ‘unfavourable **judgement**’. The final section 3.5 explains how I used the UAM CorpusTool to code the dataset.

Chapter 4 is the first analysis chapter and it demonstrates how various subtypes of **judgement** are deployed across the six texts. More specifically, it compares and examines the qualitative differences of similar types of **judgement** across the six sentencing remarks and explores how the occurrences of **judgements** items and their qualitative differences reveal patterns in the judges’ deployment of the appraisal resources. Chapter 5, the second analysis chapter, focuses on how **engagement** items are used to present **judgement** items across the six texts, and further explores how the framing of **judgement** items through the **engagement** items reinforces the patterns found in chapter 4.

Based on the analyses in the last two chapters, chapter 6 distils three appraisal

strategies, the judges' deployment of which displays the same patterns as their deployment of the appraisal resources. The three appraisal strategies are the use of **counter** to not only frame **judgement** but also to check either aggravating or mitigating factors (section 6.2.1), the representation of offenders' behaviour as purposeful to invoke **judgement** (section 6.2.2), and the use of **graduation** items to invoke **judgement** (section 6.2.3).

Chapter 7 is the last chapter of this thesis. It first summarises the major findings of the current study (section 7.1) and then discusses the implications of the findings (section 7.2). Implications of the findings are first discussed by reference to how judges' deployment of the appraisal resources and strategies reveal their perception of the audiences of their sentencing remarks (sections 7.2.1 and 7.2.2). Then they are discussed in terms of the implication of the findings for studies of sentencing (section 7.2.3). Section 7.3 points out the contributions of the current study in three ways: the contribution to studies of sentencing by providing an understanding of the empirical reality of judges' sentencing practices (section 7.3.1); the methodological contribution to studies of sentencing by providing a novel way of approaching judges' sentencing practices through their sentencing remarks (section 7.3.2); and, finally, the contributions to studies of judicial discourse and contributions to the refinement of the Appraisal framework by applying the framework to analyse sentencing remarks (section 7.3.3). Section 7.4 points out limitations of the current study, based on which section 7.5 makes suggestions for further studies. The concluding remarks for the whole study are found in the final section 7.6.

Chapter 2: Literature review

This chapter consists of ten sections. The first four sections are about the legal aspects of this thesis, which introduces background information on sentencing of murder in England and Wales (section 2.1) and reviews studies on sentencing (section 2.2). Section 2.3 introduces background information about sentencing remarks. Section 2.4 reviews studies on judicial discourse and, more specifically, studies on sentencing remarks. The following five sections are about the linguistic aspects of this thesis. Section 2.5 makes a brief review of the various approaches to evaluation. Section 2.6 focuses specially on the Appraisal framework and clarifies why the framework is an appropriate tool for the current study. Section 2.7 reviews previous appraisal studies that are relevant to the current study. Section 2.8 examines how some thorny issues in coding appraisal items in specific texts are dealt with in previous studies. Section 2.9 focuses on how previous studies examine appraisal features of texts, whether assisted by corpus or by manual coding; this section further clarifies why the latter approach is a more appropriate approach for the current study. The final section (section 2.10) is a summary of previous sections in order to identify the research gap and to reiterate how the current study is to be carried out.

2.1 The sentencing of murder in England and Wales

At the time of writing this thesis (2019), the sentencing of murder in England and Wales mainly¹ relies on the Criminal Justice Act 2003 (the CJA 2003 hereafter). Based on the CJA 2003, there is a mandatory life sentence for those convicted of murder. However, a life sentence does not mean that a murderers will spend the rest of his or her life in prison. Rather, it means that offenders serve a pre-determined minimum term in custody. Offenders are eligible to apply to the Parole Board for release on licence into the community after they have served their minimum term. Parole is not guaranteed upon expiry of the minimum term. The Parole Board will decide whether to release the offender based on whether the offender is perceived as posing a risk to

¹ Judges may also refer to guideline judgements by Court of Appeal in their sentencing practices.

the public or not upon expiry of their minimum terms. If the offender is released on parole, s/he is required to comply with certain conditions and non-compliance will result in the offender being recalled to prison for the rest of their lives.

The CJA 2003 created a systematic approach for determining a minimum term in custody. First, judges need to select a starting point from the five possible options determined by Parliament in the CJA 2003: a whole life order, 30 years, 25 years, 15 years or 12 years. The six sentencing remarks selected for the current study all have a starting point of 15 years. Schedule 21 of the CJA 2003 lists factors that judges must take into consideration when they select the starting point from the statutory options. For example, it is required by law that a murder committed by an offender previously convicted of murder must be sentenced with a starting point of a whole life order,² and a murder committed for gain³ must be sentenced with a starting point of 30 years. All other murder cases (which do not contain any factors listed in the CJA 2003) must be sentenced with a starting point of 15 years.⁴

Also, judges need to take into consideration aggravating and mitigating factors to arrive at a minimum term. The CJA 2003 lists some aggravating and mitigating factors that are set specifically for the sentencing of murder. *The Overarching Principles: Seriousness* issued by the Sentencing Guidelines Council in 2004 also lists some aggravating and mitigating factors that are applicable to the sentencing of not only murder but also any other types of offences. However, unlike the lists of factors in the determination of a starting point, the lists of the aggravating and mitigating factors in the CJA 2003 and in *The Overarching Principles: Seriousness* are not meant to be exhaustive. Judges have the discretion to take into consideration any factors they regard as relevant.⁵

In the sentencing of murder, although judges are bound by law to impose a life sentence, they have the discretion to arrive at a minimum term of any length irrespective of the starting point: “detailed consideration of aggravating or mitigating factors may result in a minimum term of any length (whatever the starting point), or in the making of a whole life order”.⁶

Judges have traditionally enjoyed wide discretion in their sentencing practices

² Criminal Justice Act 2003, schedule 21, section 4(2).

³ Criminal Justice Act 2003, schedule 21, section 5(2)(c).

⁴ Criminal Justice Act 2003, schedule 21, section 6.

⁵ Criminal Justice Act 2003, section 174(2)(e).

⁶ Criminal Justice Act 2003, schedule 21, section 9.

in the jurisdiction of England and Wales. Before the establishment of the Sentencing Council in 2010, there were very few rules constraining judges' choice of sentence (Hogarth 1971; Ashworth 1994; Hutton 2006), nor were there any rules setting out how various sentencing factors should be weighed. The absence of rules in judicial sentencing leads to the characterisations of judges' sentencing practices as lacking sufficient structure, coherence or consistency (Tata 2002; Ashworth and Roberts 2013), and judges were often evaluated, if not criticised, by sentencing scholars as being "silent about consistency" (Hutton 2006, p.21).

As a response to these criticisms, various schemes – either in the forms of general principles, tariffs or sentencing guidelines – were developed to promote coherence in judges' sentencing practices. Among the various prescriptive schemes, the most prominent one was the establishment of the Sentencing Council in 2010 and its formulation of sentencing guidelines for various types of offences. It is expected that the Council will eventually formulate sentencing guidelines for all types of offences, although the sentencing guidelines for murder had not been issued by the time of completing this thesis (June 2020). The formulation of sentencing guidelines is regarded as "a means to achieve the objectives of consistency" (Ashworth and Roberts 2013, p.1). The sentencing guidelines are becoming increasingly binding on judges in that the statutory requirement to judges has changed from 'have regard to'⁷ to 'must follow'⁸ the sentencing guidelines formulated by the Council.

Judicial discretion is checked by sentencing laws and guidelines with the aim to achieve sentencing consistency and justice (Easton and Piper 2016, p.38). In the sentencing of murder there are rules constraining judges' exercise of discretion such as the mandatory life sentence and the sentencing guidelines for murder that are likely to be issued in the near future. But the judiciary "has tended to defend broad discretion" (Ashworth 2015, p.51) and has argued that judicial discretion "is more likely to produce fair sentencing outcomes than greater statutory restrictions" (Ashworth 2015, p.56). This leads to questions of what judges' actual sentencing practices look like and whether the prescriptive schemes on binding judicial discretion have achieved their desired effects on judges. The next section reviews previous studies on judges' sentencing practices (extended to cover sentencing of various types of offences) to

⁷ Criminal Justice Act 2003, section 172.

⁸ Coroners and Justice Act 2009, section 125.

examine whether existing studies on sentencing provide any insights into how judges actually carry out their sentencing practices.

2.2 Studies on sentencing

An understanding of the empirical reality of judges' sentencing practices is of vital importance for it is the basis as well as the prerequisite for a successful development of sentencing policies and sentencing reforms. Despite the importance, little is known about judges' actual decision-making process in sentencing (Padfield 2013; Brown 2017). The paucity of studies on the empirical practice of sentencing may be attributed to the characterisation of the judges' sentencing practices as lacking order, clarity and certainty, which makes sentencing an "infertile ground for scholars" (Hutton 2006, p.172) and sentencing "has long been regarded as unworthy of scholarly legal attention" (ibid).

The characterisation of judges' sentencing practices lacking coherence and consistency is based on the conceptualisation of the sentencing practices as governed and driven by penal philosophies, such as retribution, desert, incapacitation, deterrent, rehabilitation, or denunciation. Any incoherence in judges' sentencing practices is attributed to the different penal philosophies held by judges. It is believed that incoherence found in judges' sentencing practices can only be solved when judges reach consensus on which penal philosophies should be adopted to govern their sentencing practices. Correspondingly, most studies on sentencing focus on how judges should sentence or which penal philosophies should be pursued in order to promote coherence and consistency in sentencing (e.g. Ashworth 2011; Manson 2011; Shapland 2011; Mitchell and Roberts 2012a; Ashworth 2015; Easton and Piper 2016).

However, judges' decision-making in sentencing does not seem to be governed by penal philosophies. Based on their interviews with judges in England and Wales, Ashworth et al. (1984) found that most judges describe their decision-making in sentencing as 'instinct', 'experience', 'hunch' or 'feeling'. Similar findings are reported in Hough et al. (2003), Millie et al. (2007), and Brown (2017). Judges' sentencing practices are better conceptualised as a "routinely intuitive and holistic process" (Tata 2002, p.413) or as a "synthesis of the relevant facts and circumstances of the individual case" based on judges' practical wisdom (Brown 2017, pp.228–9).

In addition to normative studies on sentencing, there are a few studies examining how various contextual factors, such as the location of courts and, race or gender of offenders, would influence judges' legal decisions in sentencing (Ulmer and Johnson 2004; Johnson 2005; Chen 2014; Pina-Sanchez and Grech 2018). Although these studies identify the influence (or lack of influence) of certain contextual factors on judges' sentencing practices, they still do not answer how judges arrive at their sentencing decisions, nor do they answer how judges exercise their discretion in their sentencing practices.

There are a few studies focusing on judges' actual sentencing practices (Lovegrove 1999; Tombs and Jagger 2006; Millie et al. 2007; Jacobson and Hough 2011). These studies conceptualise judges' sentencing practices as weighing of discrete sentencing factors, such as an offenders' previous convictions and their circumstances. They attempt to measure the effects of the various sentencing factors on sentencing outcomes and identify the most significant factors governing judges' sentencing decisions.

Lovegrove's (1999) study of judges' sentencing practices in Australia is quantitative and statistical tools are used to examine the correlation between sentencing factors and any disparity in sentencing outcomes. He finds that two sentencing factors – seriousness of the offence and offender's criminal record – are most likely to have direct influence on sentencing outcomes than other sentencing factors do.

Tombs and Jagger (2006) and Millie et al. (2007) are two qualitative studies based on similar data of their interviews of sentencers (including judges and sheriffs⁹) in Scotland about their decision-making in sentencing. Tombs and Jagger (2006) found that offender-related factors play a central role in affecting whether judges pass custodial or community penalty in their sentencing of borderline cases. Their offender-related factors include the circumstances, condition and attitude of the offender. Millie et al. (2007) found that the nature of the offence and the offender's criminal history are the two most influential factors that lead judges to make sentencing decisions of custody, while the offender's circumstances and condition are the two most influential factors leading judges to make non-custodial sentencing decisions.

These studies assume that the various sentencing factors (such as offenders'

⁹ I will use 'judge' as a cover term to refer to both judge and sheriff thereafter.

criminal history, offenders' circumstances) are discrete units and have similar weightings across different cases. However, it is not always easy to isolate sentencing factors as discrete units, and it is not unusual for the same sentencing factors to be weighed differently in different cases (Tata 2002, 2007). Take one of the sentencing factors, offenders' past (offenders' adverse life circumstances before their offences), as an example. This factor is weighed differently even in the small dataset used for the current study. In one case (text 2), the judge identified the offender (Capp) as a sufferer or victim of his past, and accordingly the offender's past is identified as a mitigating factor. In contrast, in another case (text 5) the judge identified the offender (McCluskie) as withdrawing from his adverse life circumstance rather than acting against it, and accordingly the offender's past is identified as an aggravating factor. The identification of sentencing factors is essentially interpretative, and the essence of sentencing lies in "the dynamic [and] fluid interaction of the abstracted [sentencing] 'factors'" (Tata 1997, p.409).

The existing studies on sentencing do not explain (such as normative studies on sentencing) or do not adequately explain (such as studies conceptualising judicial sentencing as an aggregation of discrete sentencing factors) the routine practices of sentencing, nor are those studies helpful in exploring "how judges conceive of the problem of producing justice in their day to day sentencing practice" (Hutton and Tata 2000, p.308). Aiming to address the inadequacy, several studies have put forward an alternative perspective of viewing judges' sentencing practices as a social practice conditioned and patterned by social and institutional contexts of sentencing (Tata 1997; Hutton and Tata 2000; Tata 2002; Hutton 2006; Kritzer 2007; Tata 2007; Brown 2017).

Brown's (2017) interviews with judges in Scotland provide empirical support to the perspective of viewing sentencing as a social practice based on judges' practical wisdom. Based on their research of sentencing in the jurisdiction of Scotland and the jurisdiction of England and Wales, Tata (1997) and Tata and Hutton (1998) hold that judges arrive at their sentencing results based on their construction of 'typical whole case stories' in which judges take into consideration all relevant information about a case as a whole rather than weighing up discrete sentencing factors. Furthermore, Tata (1997) argues that "[t]he nature of criminal events and criminals may be infinitely unique but the nature of their legal representations are necessarily finite, typical, and exhaustible" (Tata 1997, p.404). The conception of judges as holding 'typical whole case stories' in their decision-making in sentencing shares similarity with Heffer's

(2018) conception of practice in trial court as narratives, in which judges in judge-only trials “appear to make decisions by comparing the forensic story with culturally-shared stock narratives” (Heffer 2018, p.258). Tata (1997) and Tata and Hutton (1998) further emphasise that judges’ construction of typical whole case stories in their sentencing practices is a kind of patterned, normalised and typified behaviour. This conception explains why patterns are found in judges’ sentencing practices despite there being few rules governing judges’ exercise of sentencing discretion.

When judges’ sentencing practices are viewed as a social practice, the focus is no longer on determining how or which discrete sentencing factors influence judges’ sentencing decisions nor on discussing which or how penal philosophies should be promoted. The focus is rather on discovering patterns or regularities in judges’ sentencing practices, which are regarded as indexing the social conditions of sentencing. It is expected that those patterns or regularities can offer an insight into the empirical reality of judges’ sentencing practices.

Those studies (e.g. Tata 2002; Hutton 2006; Kritzer 2007; Brown 2017) engage themselves with how to justify this alternative perspective of viewing sentencing as a social practice against the dominant perspective of viewing judicial sentencing as governed by penal philosophies, and have not yet set about applying this alternative perspective to examine the empirical reality of judges’ sentencing practices. It is against this background that the current study employs this alternative perspective as a conceptual starting point to examine judges’ sentencing practices. It is expected that by treating judges’ sentencing practices as a social practice, a sociological as well as a linguistic portrait of judges’ sentencing practices would provide a more practical understanding of judges’ sentencing practices than prescriptive or normative studies on sentencing do.

2.3 Sentencing remarks in England and Wales

In England and Wales, the pronouncement of sentencing remarks is required by the Criminal Justice Act 2003 as the court “must state in open court, in ordinary language and in general terms, its reasons for deciding on the sentence passed”.¹⁰ In sentencing remarks, judges will usually summarise the case, list the aggravating and mitigating

¹⁰ Criminal Justice Act 2003, section 174(1)(a).

factors they consider relevant to the sentence, explain the legal terms to lay participants of the court (especially the offender), and finally announce the sentencing decision.

Sentencing remarks need to be distinguished from another type of judicial discourse, judgment. In the current study, judgment (without ‘e’) refers to legal judgment(s) written by judges and **judgement** refers to one of the subsystems of the Appraisal framework. A judgment is defined as “a decision made by a court in respect of the matter before it” (Law 2018). Judges make judgment in civil cases on the Court of Appeal or the Supreme Court. In legal judgments, judges “may impose a personal liability on a part” or determine “some issue of right, status, or property binding people generally” (ibid). In addition, judges also need to provide explanations of why they chose to make particular court orders.

Judgments and sentencing remarks are similar in that, in both, judges need to explain why the court has chosen to make a particular court order. But there are vast differences between the two. First, sentencing remarks are usually much shorter than judgments due to the different contents that need to be covered in these two types of judicial discourse. As mentioned above, legal judgments determine a wide range of issues like issues of right, status or property. In sentencing remarks, the focus is on the punishment of offenders. When a trial reaches the sentencing stage, factual issues have been settled, and judges no longer bother themselves with any disputes on case facts in the stage of sentencing. Second, the two types of judicial discourse also differ in terms of audience. The audience of judgments are primarily judges and lawyers, for judgments are made at the Court of Appeal or the Supreme Court; while the audience of sentencing remarks are primarily offenders, which is reflected by the legal regulation of requiring judges to formulate their sentencing remarks in ‘ordinary language’ and in ‘general terms’.¹¹ Third, in sentencing remarks judges do not need to refer to previous sentencing decisions of similar cases but in judicial judgments judges do need to refer to precedents.

2.3.1 Audiences of sentencing remarks

A particularly striking feature of sentencing remarks is their audience. Sentencing

¹¹ Criminal Justice Act 2003, section 174(1)(a).

remarks are one of the institutional mechanisms designed to achieve judicial accountability, which means that judges need to “give an account as to why they have behaved in a particular way”.¹² But to whom are judges accountable or, more specifically, who is the audience of sentencing remarks? This question is usually bypassed in studies on judicial accountability, such as Shetreet and Turenne (2013) and Malleson (1999). These studies focus on how to reconcile judicial accountability with judicial independence, or, in other words, how to avoid the encroachment of judicial independence by judicial accountability on one hand, and how to avoid insulating the judiciary from legitimate demands of accountability by unqualified definition of judicial independence on the other hand. Nonetheless, as means to achieve judicial accountability, requiring judges to make sentencing remarks and making these remarks public in no way compromises, but, instead consolidates judicial independence.

Although the question of audience is usually bypassed in studies on judicial accountability or judicial independence, it is of vital importance in understanding judges’ sentencing practices when sentencing practices are viewed as a social process and sentencing remarks as socially produced (Tata 2002). The importance is acknowledged by Baum (2006) as “judges’ interest in what their audiences think of them has fundamental effects on their behaviour as decision-makers” (Baum 2006, p.4). In terms of sentencing remarks, judges’ accounts for their sentencing decisions in sentencing remarks “are necessarily mediated, constructed and reconstructed according to the audience” (Tata 2002, p.419) or, in other words, according to the judges’ “expectations of the audience” (ibid, p.421). Judges’ relationships with their audience helps to illuminate judicial behaviour and “explain a good deal about their choices as decision makers” (Baum 2006, p.23).

However, the audience of sentencing remarks is a complex issue. The Criminal Justice Act 2003¹³ and the Court of Appeal judgment in *R v Chin Charles and Anor*¹⁴ identify the offender as the primary or first audience of sentencing remarks because they “must understand what sentence has been passed, why it has been passed, what it

¹² Court and Tribunals Judiciary, The principles of judicial accountability <https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/jud-acc-ind/principles-jud-acc/> (last accessed in October 2019).

¹³ Criminal Justice Act 2003, section 174.

¹⁴ *R V Chin Charles and Anor* [2019] EWCA Crim 1140

means and what might happen in the event of non-compliance”.¹⁵ But “the question of the proper audience of sentencing comments is more complex than this” (Hall 2016, p.94). The audience of sentencing remarks would also include audiences beyond the immediate courtrooms, such as the Court of Appeal and the public.

The complex composition of the audiences faced by judges in the stage of sentencing is supported by Potts and Weare (2018) and Leung (2012). Potts and Weare (2018) found that judges sometimes use the third person pronoun to refer to offenders in sentencing remarks, which according to them are used by judges to create narratives that are cohesive to the media or wider public rather than merely to the offenders or to the victim’s families in the courts. In other words, by referring to offenders with third person pronouns, judges take into consideration that the audience of their sentencing remarks also includes those that are not present in the courts, such as the general public and the Court of Appeal. Judges’ perception of audiences beyond those present is also evidenced by Leung’s (2012) study of judges’ code-switching between Cantonese and English in Hong Kong courts. Leung (2012) argues that the judge’s switching from English to Cantonese in the stage of sentencing reveals that the judge considered the wider community (who are predominately Cantonese speakers) as his audience. Both studies show that judges usually take into consideration external audiences during the sentencing phase.

2.3.2 Sentencing remarks and sentencing practices

The current study approaches judges’ sentencing practices through sentencing remarks. There are practical considerations in favour of approaching judges’ sentencing practices through their sentencing remarks. First, the difficulty in getting access to judges for interviews or observations. Judges in England and Wales tend to be suspicious, if not hostile, to “anyone (especially academic researchers), asking questions and exposing the limitations of their practice” (Tata 2002, pp.410-411). Moreover, judges can insulate themselves from “any pressure to participate [in scholarly enquiry]” (Malleon 1999, p.198) since it is legitimate for them to claim that scholarly enquiry may undermine judicial independence.¹⁶

¹⁵ *ibid.*

¹⁶ For a detailed account of the history of the judiciary’s refusal to cooperate in academic research in England and Wales, please refer to Brown (2017, pp.2-4).

Even if access to judges and to their sentencing practices is gained for empirical work on sentencing, another barrier arises. There is a prevalent perception among judges that their sentencing practices are based on instinctive synthesis (Frieberg 1995; Hutton 2006; Ashworth 2015), which shrouds their sentencing practices in “a veil of mystery” (Tata 2002, p.415). In public accounts of their sentencing practices, judges “never articulate the nature of the relationship between the amount of penalty and the facts and circumstances of the case” (Hutton 2006, p.18), let alone use of any penal-philosophical theories or principles (as advocated by the dominant trend in sentencing studies) to explain their sentencing decisions (Tata 2002).

Judges’ inability (Tata 2007) to articulate how they arrive at their sentencing decisions is understandable when their sentencing practices are viewed as a routinised social practice. As a routinised social practice, the sentencing practices have become common-sensical or even intuitive to judges. Accordingly, it is difficult for judges to explain their sentencing decision process (Tata 1997). In a similar vein, Kritzer (2007) views judges’ sentencing as a craft and points out that “[t]he level of skill invoked in craftwork is such that a significant amount of what the accomplished craftsperson does cannot readily be described by that craftsperson. The person simply does it and does not think about it” (Kritzer 2007, p.327). Judges’ inability to articulate what they are doing casts doubt on the validity of relying on interviews with judges to generate understandings of their decision-making process in sentencing.

The current study approaches judges’ sentencing practices through linguistic analysis of their sentencing remarks and it is expected that this approach can overcome the above difficulties. Sentencing remarks (although not all of them) are published on the UK Judiciary website, which makes them publicly available. The public availability of sentencing remarks makes them a much more accessible means to gain access to judges’ sentencing practices than other means such as survey, interviews or observations of judges.

Moreover, it has long been held that there is a close relationship between discourse and social practice (e.g. Fairclough 1989; Blommaert 2005). In the context of the legal setting, it is made clear by Solan and Tiersma (2012) that “the more we know about the use of language in institutional settings, the better we can study particular institutions—legal ones in particular—and learn about their structure and the relationships among them” (Solan and Tiersma 2012, p.3). The current study will demonstrate how exploration of judges’ sentencing practices can benefit from a

structured and disciplined analysis of judges' language use in their sentencing remarks.

2.4 Studies on judicial discourse and sentencing remarks

The study of sentencing remarks is situated within the interdisciplinary field of language and law, or forensic linguistics. Beginning in the 1970s (Tiersma and Solan 2012), forensic linguistics “has now come of age as a discipline” (Johnson and Coulthard 2010, p.1), and now covers wide areas such as legal language, language in the legal process, linguists as experts in legal processes, multilingualism in legal contexts, and authorship identification (see Coulthard and Johnson, 2010; Tiersma and Solan, 2012). The current study is located within the area of language in the legal process, which covers various aspects such as the language of police investigations, interviews and interrogation (e.g. Rock 2010; Heydon 2018), the language of the courtroom (e.g. Stygall 1994; Heffer 2005; Shuy 2006), and the language of lay participants in the judicial process (e.g. Ehrlich, 2010).

More specifically, the current study is a study of language use in court. Studies of language use in court cover various aspects and include discourse (or texts) produced by different participants in courtrooms, such as witness examinations, opening statements and closing statements produced by lawyers (e.g. Matoesian 2001; Baffy and Marsters 2015; Bartley 2017, 2020); witness testimony by experts (e.g. Jessen 2010; Solan 2010); jury direction, summing-up, and sentencing remarks by judges (e.g. Cotterill 2003; Heffer 2005, 2010; Potts and Wear 2018).

Texts produced by different participants in court have different communicative purposes and different institutional functions in the legal context, which accordingly leads to their obviously different linguistic features. The current study examines the linguistic features of sentencing remarks, which is a type of judicial discourse (discourse or texts produced by judges). Consequently, the following review of literature focuses on previous studies on judicial discourse only.

Language use in the courtroom is frequently viewed as a process of story-telling, and, accordingly, is frequently examined from the perspective of narrative analysis (e.g. Heffer 2005, 2010). Witnesses are viewed as telling a particular version of the cases; lawyers are viewed as constructing a particular version of case facts to persuade juries in their (cross)examinations and closing arguments; and judges in their

summing-up of case facts are also viewed as constructing a particular version of case facts in order to influence the juries to either acquit or convict the defendants. But in the stage of sentencing, the judges' focus is less on constructing particular versions of case facts than on making evaluations of offenders and their offences to justify their sentencing decisions. Accordingly, this makes narrative analysis a less effective tool to examine sentencing remarks than to examine judges' summing-up of case facts.

In addition to the narrative analyses of judicial discourse, there are studies examining specific linguistic phenomena in judicial discourse, such as hedging in the majority and minority opinions of the US Supreme Court (Vass 2017), judges' intervention in witness examination (which causes omissions in interpretation) in the Hong Kong courtroom (Ng 2015), the use of Cantonese by judges in the formerly English-speaking Hong Kong courts (Leung 2012), or the mentioning of sources of voices in Chinese court judgments (Cheng 2012).

More relevant to the current study is work providing descriptions of the discursive features of judicial discourse. Xu (2015) provides a portrait of the discursive features of judges' conciliation in Chinese people's courts, and his major finding is that judges frequently use dialogically contractive **engagement** items within the informative initiation move. Mazzi (2010) identifies some of the lexico-grammatical forms of evaluations in judgments of the US Supreme Court, such as explicitly evaluative lexis and the pattern of 'this/these/that/those + labelling noun', which implicitly makes evaluation. However, these studies do not further explore any patterns that might be latent in judges' deployment of these linguistic items, nor do they attempt to reveal any correlations between linguistic features of judicial discourse and features of judicial practice.

Tracy and Parks (2012) go one step further by trying to find correlations between linguistic features of judicial discourse and judicial opinions. They examine judges' questioning of litigants and state representatives in the US appeal courts concerning appeals relating to same-sex marriage laws. They found that the toughness of judges' questioning is related to their judicial opinions: when judges put tough and hostile questions to the gay litigants they voted against same-sex marriages, but when tough and hostile questions are put to states, judges voted for same-sex marriages.

Studies on judges' jury instructions usually focus on the comprehensibility of such instructions, such as the suggestion of introducing narrative discourse features into jury direction in England and Wales to aid its comprehensibility (Heffer 2006;

Nelson 2013), or the examination of juries' misunderstanding of jury direction caused by judges' non-observance of Grice's conversational maxims in Hong Kong courts (Cheng et al. 2015).

As demonstrated above, studies on judicial discourse cover various aspects of judges' practices in court, such as legal judgment (e.g. Mazzi 2010), jury direction (e.g. Heffer 2006; Nelson 2013), or judges' questioning of litigates (e.g. Tracy and Parks 2012). But few focus on the stage of sentencing and sentencing remarks. As late as 2013, Padfield was still able to write that "there has, to date, been no attempt to analyse these remarks, even in small scale research projects" (Padfield 2013, p.41). Smith (2014) also finds that qualitative research based on legal files (sentencing remarks as a kind of legal file), which is "an interesting and potentially powerful method" (Smith 2014, p.13), is very rare in criminology studies.

Nonetheless, a few studies on sentencing remarks have emerged in recent years: Bouhours and Daly (2007), Lowenstein (2016), Whittle and Hall (2018a; 2018b), Potts and Weare (2018).

Lowenstein's (2016) analysis of riot sentencing remarks in England and Wales is used to get an understanding of judges' sentencing practices: more specifically, which penal philosophies judges follow in their sentencing of riot cases. He uses emotive sentiments found in sentencing remarks to trace which penal philosophies judges are pursuing in their sentencing practices. However, Lowenstein (2016) does not rely on linguistic or any other theoretical frameworks in his identification of 'emotive sentiments', which prevents him from making a systematic analysis of the 'emotive sentiments' that can be found in sentencing remarks. Furthermore, Lowenstein (2016) follows the dominant trend by viewing sentencing practices as governed by penal philosophies and attempts to build a link between judges' emotive sentiments in sentencing remarks and penal philosophies held by judges. Such a link becomes tenuous, or at least not well founded, when he simply interprets the negative emotive sentiments as reflecting the penal philosophy of general deterrence.

The other studies on sentencing remarks do not aim to provide an understanding of judges' decision-making process in sentencing. Rather, they focus on how offenders and their offences are represented in sentencing remarks (Bouhours and Daly 2007; Hall et al. 2016; Potts and Weare 2018; Whittle and Hall 2018a; Whittle and Hall 2018b).

Bouhours and Daly (2007) examine how youth sex offenders are represented in

sentencing remarks in Australia. They use content analysis (Neuman 2006; Berg 2007) to analyse the sentencing remarks, based on which they put judges' representations of youth sex offenders into three categories: potential sexual offenders, antisocial and persistent offenders, and adolescent experimenters. Their finding provides empirical support to Tata's conceptualisation of judges' sentencing practices as a construction of typical whole case stories (Tata and Hutton 1998; Tata 2002).

The other four studies (Hall et al. 2016; Potts and Weare 2018; Whittle and Hall 2018a; Whittle and Hall 2018b) all examine judges' representations of offenders in relation to their gender. They find that judges' representations of offenders in sentencing remarks often reveal judges' underlying value systems and their gendered stereotypes.

Potts and Weare (2018) focus on how judges in England and Wales refer to female murderers (such as by pronoun, surname, or forename) in sentencing remarks so as to recover identities constructed for those female offenders by judges. They find that judges often invoke patriarchal values and gender stereotypes to represent female offenders as dehumanised monsters, or as someone who deviates from norm behaviours or who fails to live up to social expectations as females.

Hall et al. (2016) and Whittle and Hall (2018a; 2018b) are a series of studies based on the same data: 52 sentencing remarks for domestic murders (murders between heterosexual spouses) in Australia. The three studies all use methodological steps provided by grounded theory (Mills et al. 2006) to analyse propositional contents of each (grammatical) sentence in the sentencing remarks, and then put the analysis results into groups based on their thematic contents. The three studies compare how male and female offenders are represented in sentencing remarks and found that judges' different representations of male versus female offenders reveal judges' underlying value systems and gendered stereotypes.

Hall et al. (2016) found that the criminal responsibility of male offenders is diminished in some way, such as by the judges' recourse to the offenders' dysfunctional family background or the blaming of victims. In contrast, similar strategies are not found in judges' representations of female offenders. Corresponding to judges' exculpatory remarks for male offenders and the "damning, indeed vilifying statements" (Hall et al., 2016, p.408) about female offenders, they found that female offenders receive longer sentence than their male counterparts.

Similarly, Whittle and Hall (2018a) found that judges are reinforcing the long-

standing stereotypical views of men versus women in their sentencing remarks. The judges are found to obscure male offenders from their criminal responsibility by representing their criminal acts as out of character and hence out of their control. As regard to the factor of provocation, they found that judges use provocation as a defence for male offenders, and at the same time blame the (female) victims as responsible for their own deaths.

Whittle and Hall (2018b) focus on one of the themes (or sentencing factors) they identified from their sentencing remarks: the use of alcohol and/or drugs. They found that judges assign different criminal responsibility to male and female offenders concerning their use of alcohol and/or drugs. In the case of male offenders, judges do not make it clear whether the factor is identified as an aggravating or mitigating factor, but they represent male offenders' criminal actions as outside of their control and accordingly exculpate them from their criminal responsibility. In contrast, female offenders are represented as dysfunctional for their abuse of alcohol or drugs and do not live up to society's expectations such as being a good mother with the ability to lead a productive life. The different representations of female versus male offenders are found to have an influence on judges' sentencing decisions.

These studies demonstrate that sentencing remarks often reveal judges' underlying value systems, their gendered stereotypes and traditional notions of marriage and family, which make judges assign different criminal responsibility to male versus female offenders. The above studies demonstrate that offenders' gender has an impact on judges' sentencing decisions: female offenders are often viewed more harshly (and not infrequently receive longer sentence) than their male counterparts.

However, in contrast to the findings from the above qualitative studies, the long-held conception that female offenders receive more lenient sentencing than their male counterparts is widely supported by quantitative studies of sentencing in England and Wales (e.g. The Parity Briefing Paper *Men and Women and the Criminal Justice System* in 2013¹⁷). Based on the *Statistics on Women and the Criminal Justice System* by the Ministry of Justice in 2017,¹⁸ male offenders had a higher custody rate for indictable offences than female offenders, and male offenders had higher average

¹⁷ <http://www.parity-uk.org/Briefing/MenandWomenandtheCJSfComplete.pdf> (last accessed on 7 December 2019).

¹⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759772/women-cjs-2017-statistics-infographic.pdf (last accessed on 7 December 2019).

custodial sentence lengths than females.

Of the six offenders whose sentencing remarks are used for the current study, the only female offender happens to be the offender who received the most lenient sentence. The female offender is the only one who received a minimum term below the starting point. The other five offenders are males and received minimum terms above the starting point. In the current study, the gender of a female offender might have an impact on the judge's sentencing decision of setting the minimum term below the starting point, but it is beyond the scope of the current study to examine the impact of offenders' gender on judges' sentencing decisions. Furthermore, the potential impact does not affect the validity of the finding of the current study (see chapters 4, 5, and 6 for the analysis and discussion).

These studies on sentencing remarks demonstrate that judges' representations of offenders and their offences in sentencing remarks are closely related to how judges assign criminal responsibility to offenders, and the assignment of criminal responsibility further differs in terms of the gender of offenders. They also demonstrate that judges' representations of offenders and offences in sentencing remarks can reveal the social conditions or contexts of the sentencing remarks. But these studies do not use their findings to further examine judges' decision-making process in sentencing.

The current study not only views judges' sentencing remarks as enacting the social conditions of their sentencing practices but goes one step further by aiming to provide an insight into judges' sentencing practices through examination of their sentencing remarks. The current study approaches sentencing remarks by examining how judges evaluate offenders and their offences in sentencing remarks based on the Appraisal framework. Such an approach is well justified by the highly evaluative nature of sentencing remarks (see section 2.6.4 for details), which makes sentencing remarks distinctively different from other types of judicial discourse. In sentencing remarks, judges need to evaluate offenders and their offences in order to justify their sentencing decisions rather than arguing for or against or constructing particular versions of case facts (as they do in summing-up). The Appraisal framework is an effective tool to capture the highly evaluative nature of sentencing remarks. Before introducing the Appraisal framework and its applicability to examine sentencing remarks in section 2.6, the next section makes a brief review of the various approaches to evaluation.

2.5 Different approaches to evaluative language

Evaluation is defined by Thompson and Hunston (2000, p.5) as:

the broad cover term for the expression of the speaker or writer's attitude or stance towards, viewpoint on, or feelings about the entities or propositions that he or she is talking about.

The definition shows that the term evaluation covers a wide range of linguistic phenomena, which generates various approaches and perspectives to examine evaluative language. The book edited by Hunston and Thompson (2000) and its sequel edited by Thompson and Alba-Juez (2014) include various approaches to the notion of evaluation. Comprehensive reviews of various approaches to evaluation are found in Thompson and Hunston (2000), Thompson and Alba-Juez (2014), Bednarek (2006, pp.19-27), and Hood (2010, pp.6-22).

The various approaches to evaluation usually share a distinction between evaluation of entities or of propositions. Most of them focus on the latter, evaluation of propositions (or authorial opinions on proposition).

Studies on modality could be regarded as investigations of authorial opinions on propositions (e.g. Bybee and Fleischman, 1995; Perkins 1983; Palmer 1986; Hoey 1997). Modality is defined as “the addition of a supplement or overlay of meaning to the most neutral semantic value of the proposition of an utterance” (Bybee and Fleischman 1995, p.2), such as with modality a declarative can be changed into an exclamative. These studies classify modality into different types, such as epistemic modality (probability) and deontic modality (obligation) by Bybee and Fleischman (1995). Not surprisingly, there is a lack of consensus on the classification of modality among these studies. Moreover, these studies are concerned with how modality is expressed in different languages, such as the expression of modality by modal verbs in English (Palmer 1990). These studies do not engage themselves with exploring how modality contributes to the development of texts, let alone to exploring the relationship between the use of ‘modality’ and social contexts.

Studies on metadiscourse (Hyland 1998, 2000, 2005, 2019) begin to pay attention to the functions of evaluative language in texts but the focus is still on evaluation of propositions (rather than on evaluation of entities). Hyland (1998; 2000) uses the term ‘hedging’ to refer to a specific kind of authorial opinion towards propositions, which is defined as a lack of full authorial commitment to the truth value

of the propositions. Hyland (2005, 2019) later uses the term ‘metadiscourse’ to include not only hedging but also other devices used to express writers’ various stances towards the unfolding texts, such as boosters used by writers to emphasise the certainty of their propositions.

As mentioned above, metadiscourse is concerned with authorial opinions on propositions rather than on entities. The focus on authorial opinions on propositions is closely related to the features of the texts Hyland (1998, 2000, 2019) works with, which is academic writing, including text types like journal articles or book reviews. Authorial opinions on propositions are frequently found and play an important role in such types of texts.

The distinction between evaluation of entities and evaluation of propositions is also found in Conrad and Biber’s (2000) classification of stance as ‘epistemic stance’ and ‘attitudinal stance’. However, Conrad and Biber’s (2000) classification is based solely on adverbials, that is how speakers or writers use adverbials to mark their stance, which makes it difficult to apply the classification to examine various other forms that can also be used to show authorial stance in texts.

Hunston (2000) also follows the distinction between evaluations of entities and evaluations of propositions. Based on Sinclair’s (1981) distinction between the interactive plane and the autonomous plane, which roughly correspond to evaluation of propositions and entities, Hunston (2000) adds two new terms, ‘status’ and ‘value’, to further examine evaluations on the two planes. Status is defined as how an entity is presented; while value is defined as what value is ascribed to that entity. On the interactive plane (evaluation of propositions), status refers to the level of certainty and value to the good-versus-bad evaluation. But, when moving to the autonomous plane (evaluation of entities), as is admitted by Hunston (2000), the boundary between value and status becomes fuzzy as there are frequent overlaps between the two. The overlaps make it quite difficult to label value and status accurately when they are applied to the analysis of specific texts.

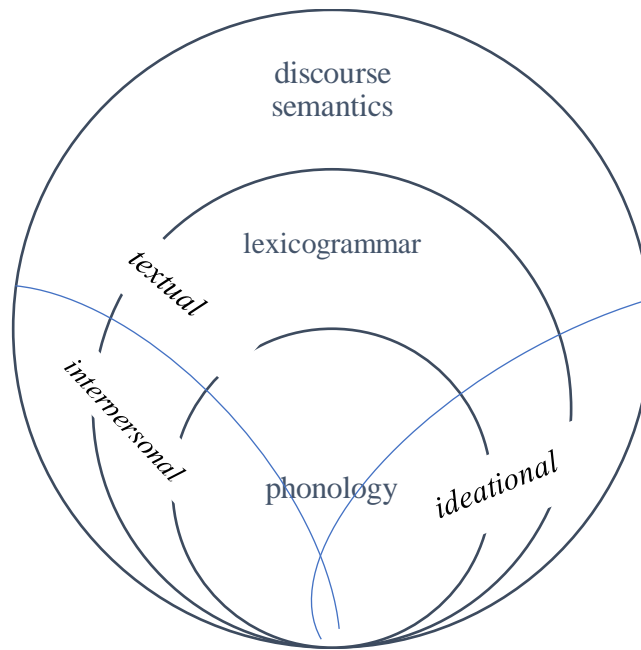
Previous studies on evaluation do not pay (enough) attention to evaluation of entities (e.g. Bybee and Fleischman, 1995; Palmer 1986; Hyland 2005), or they are limited in some aspects, which makes it difficult to apply their modelling of evaluation to the examination of evaluation in texts (e.g. Conrad and Biber 2000; Hunston 2000). These inadequacies are to a large extent addressed by the Appraisal framework (Martin and White 2005). The Appraisal framework provides a framework to analyse not only

evaluation of propositions but also evaluation of entities in texts. The framework's concern with the evaluation of entities, or what is termed as **attitude** in the framework (and more specifically one of its subsystems, **judgement**, which construes "our attitudes to people and the way they behave" (Martin and White 2005, p.52)) facilitates the examination of judges' evaluation of offenders and their offences in sentencing remarks in the current study. Moreover, the framework enables researchers to provide a systematic and fine-grained analysis of evaluative language in texts, which will be explained in the following section.

2.6 The Appraisal framework

The Appraisal framework (Martin 2000; Martin and White 2005) develops an elaborate system which is concerned with the language of evaluation, and it is oriented towards uncovering authors' attitudes and how they align with actual or potential audiences. It is set within the theoretical framework of Systemic Functional Linguistics (SFL hereinafter) (e.g. Halliday 1994; Halliday and Matthiessen 2014). In SFL, language is regarded as a resource for mapping ideational, interpersonal and textual meanings in communication. Ideational meaning is concerned with what is going on; interpersonal meaning with the negotiation of social relations; and textual meaning with the information flow. The Appraisal framework is a model developed to describe (part of) the interpersonal meaning. In SFL, language is also regarded as a stratified semiotic system, which comprises three main strata: phonology, grammar and lexis (referred to as lexicogrammar in SFL), and discourse semantics (Martin 1992; Martin and Rose 2003). The modelling of language as a multi-stratal and hierarchical system is represented by the three concentric circles in Figure 2.1 below.

Figure 2.1: Modelling of language in Martin and White (2005)



The three types of meaning: ideational meaning, textual meaning, and interpersonal meaning are found in all the three strata, and each type consists of the three strata (see Figure 2.1 above). The hierarchical relationship between the different strata is formulated as a hierarchy of abstraction, which means the strata becomes more abstract from the inner to outer circles.

The Appraisal framework is concerned with the interpersonal meaning and it is situated on the stratum of discourse semantics, and realised on the less abstract stratum of lexicogrammar. There is no one-to-one correspondence between the subsystems of the Appraisal framework (on the stratum of discourse semantics) and the lexicogrammatical forms used to realise the systems. In other words, subsystems of the Appraisal framework can be realised by various lexicogrammatical forms, which makes it difficult to dwell on any particular lexicogrammatical forms to exhaust the appraisal resources in texts.

Moreover, the lexicogrammatical realisations of the subsystems of the Appraisal framework are not constrained to particular lexicogrammatical forms. The appraisal subsystems are variously realised (especially the implicit realisations of the subsystems) by evaluative lexis, longer stretch of texts, or even by clause. These various forms are referred to as evaluative items or appraisal items in the current study. In other words, evaluative (or appraisal) items in the current study refer not only to evaluative lexis, but also longer stretch of texts, or even clause.

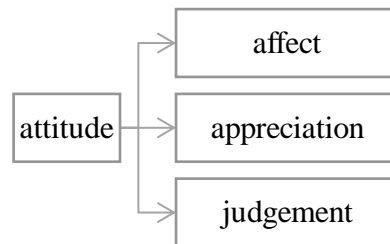
The following three sections provide an overview of the three systems of the

Appraisal framework: **attitude**, **engagement**, and **graduation**. How they are identified and coded in the current study is clarified in chapter 3.

2.6.1 Attitude

The **attitude** system includes three subsystems: **affect**, **appreciation** and **judgement** (see Figure 2.2 below). **Affect** is concerned with emotional responses; **appreciation** with the aesthetic quality or assessment of natural phenomena or the things we make and performances we give; and **judgement** with moral evaluations of people or their behaviour. The three systems of **attitude** and their subsystems are also described in terms of polarity, that is whether the attitude is negative or positive.

Figure 2.2: **Attitude** in the Appraisal framework



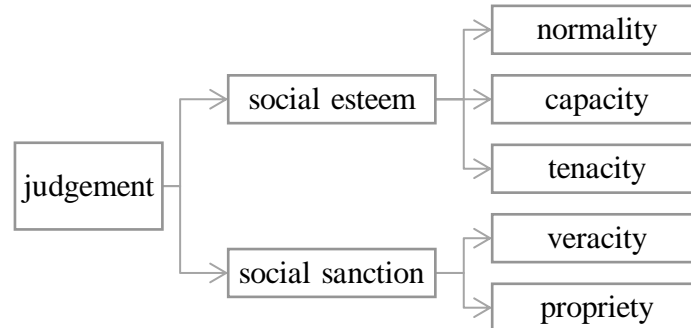
(adapted from Martin and White 2005)

Further subtypes of **affect** and **appreciation** are only introduced when they are used as tokens invoking **judgement** of offenders or their offences. **Judgement** is most frequently found in sentencing remarks for it covers semantic resources for evaluating people and their behaviour. The central place of **judgement** in sentencing remarks is consistent with the judges' agenda in sentencing remarks: to assess factors related either to offenders or their offence so as to justify their sentencing decisions.

In the Appraisal framework, there are two subsystems of **judgement**, social esteem and social sanction, each with further subsystems down into delicacy (see Figure 2.3 below). Social esteem covers the semantic resources of how people or their behaviour are esteemed in the community. Social sanction covers the semantic resources of how people or their behaviour are evaluated by codified decrees, rules or laws, which are usually surveilled by church or state. When breaching values of social esteem, people will only be lowered in the esteem of their community. But when

breaching values of social sanction, people would receive legal or moral penalty and punishment (Martin and White 2005).

Figure 2.3: Subsystems of **judgement**



In the Appraisal framework, social esteem is further divided into three subsystems: **normality**, **capacity**, and **tenacity**. And social sanction is divided into two subsystems: **veracity** and **propriety** (see Figure 2.3 above). Martin and White (2005, p.52) provide glosses to help identify the lexicogrammatical realisations of the five subsystems in texts: **normality** (how unusual someone is), **capacity** (how capable they are), **tenacity** (how resolute they are), **veracity** (how truthful someone is), and **propriety** (how ethical someone is). Exemplifications of the various subtypes of **judgement** are found in chapter 3, section 3.4.1.

Another important set of concepts in the Appraisal framework is inscribed and invoked **attitude**. Inscribed **attitude** refers to evaluations that are “directly inscribed in discourse through the use of attitudinal lexis” (Martin and White 2005, p.61), and the attitudinal value is “largely fixed and stable across a wide range of contexts” (White 2006, p.39). In other words, even without recourse to the co-texts, readers or hearers can detect the evaluative meaning, such as ‘dangerous’ in example 1 below. In contrast, invoked **attitude** refers to the indirect realisations of attitudinal meaning, such as example 2 below. In example 2, the description of the offender’s behaviour as ‘you have made a sustained attempt to destroy at least part of the reputation of your sister’ does not use any explicitly evaluative lexis, but it nevertheless invokes an attitudinal reading (a negative **judgement** of the offender’s behaviour) when co-texts and contexts are taken into consideration (also see chapter 3, section 3.4.2 for further exemplifications of invoked **judgement**).

(1) ...the evidence that I have heard has driven me to the conclusion that the

Defendant is now an extremely dangerous man who may well kill again were he to be released in the foreseeable future.

(text 4, Hunnisett, line 67-69)

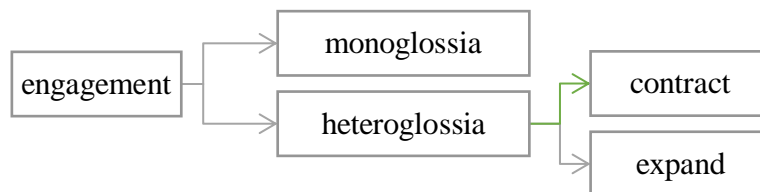
(2) I note additionally that in this trial you have made a sustained attempt to destroy at least part of the reputation of your sister

(text 5, McCluskie, line 44-45)

2.6.2 Engagement

Originating from Bakhtin's (1981) notion that all verbal communication is in dialogue with alternative voices, **engagement** in the Appraisal framework is concerned with speaker/writer positioning towards alternative opinions or voices. The primary division in **engagement** is between **monoglossia** and **heteroglossia** (see Figure 2.4 below).

Figure 2.4: Subsystems of **engagement**



In **monoglossia**, there is no overt referencing to other voices or alternative opinions. In **monoglossic** presentations, speaker/writer assumes or takes it for granted that their audience share with them their viewpoint(s) and hence, they consider that there is no need to acknowledge any alternative opinions. **Monoglossia** is used to close down discussion rather than open up the dialogic floor.

In contrast to **monoglossia**, **heteroglossia** encompasses alternative opinions and can be further divided into whether the alternative opinions are included (**expand**) or excluded (**contract**) from the dialogic space. Dialogic **expand** and **contract** include further subsystems down into delicacy. These subsystems will be introduced and exemplified in chapter 3, section 3.3.4.

2.6.3 Graduation

The system of **graduation** is about upscaling or downscaling either attitude or engagement items. **Graduation** also includes further subsystems, but since the current study does not explore how the subsystems of **graduation** are realised in sentencing remarks for limitation of space, the subsystems of **graduation** are not introduced in this study. The current study is only concerned with the upscaling and downscaling functions of **graduation**, and the use of **graduation** items to invoke **judgement** (see chapter 3, section 3.4.2.4 for details).

2.6.4 The framework as an appropriate tool for the current study

The Appraisal framework is an appropriate tool for the current study when taking into consideration two prominent features of the sentencing remarks for murder. The two features are the highly evaluative nature of sentencing remarks, and the heterogenous audience of sentencing remarks.

Sentencing remarks are highly evaluative when compared with other forms of judicial discourse at trial, such as jury direction or summing-up (Heffer 2005; Heffer 2008). The evaluative nature of sentencing remarks is attributed to the need for judges to make evaluations of offenders and their offences in sentencing remarks in order to justify their sentencing results. Furthermore, murder cases (the focus of the current study) have a high moral blameworthiness, and accordingly, sentencing remarks for murder cases are very likely to be more evaluative than for other less serious types of offences. As put forward by Heffer (2008), the intensity of judgement in sentencing “does appear to be calibrated with the severity of the crime” (Heffer 2008, p.163). The strong evaluative nature of sentencing remarks (and especially the sentencing remarks for murder cases) makes the Appraisal framework – a framework for evaluative language in texts – an appropriate tool to capture the strongly evaluative feature of sentencing remarks.

Moreover, the Appraisal framework is sensitive to the context of the texts by taking into consideration not only explicit but also implicit evaluations in texts. The framework’s concern with implicit evaluations is especially pertinent to the current study. In line with the prototypical conceptualisation of judicial reasoning as involving the application of principles and rational argument, judges are more likely to express their evaluations implicitly rather than explicitly in sentencing remarks (which is also

evidenced by the coding results of the current study). The Appraisal framework makes it possible to address both explicit and implicit evaluations in sentencing remarks and accordingly, to provide a comprehensive description of how judges evaluate offenders and their offences in sentencing remarks.

Another prominent feature of sentencing remarks is the wide range of audience, which not only includes those who attend court (such as offenders, victims, their families, news media) but also those beyond the court (such as other judges, politicians, policy-makers, and the public). Among the various audiences of sentencing remarks, the public and the Court of Appeal are of special significance in the sentencing of murder cases.

Murder cases are usually high-profile cases and receive wide public attention. The sentencing decisions of such high-profile cases often have a wide and far-reaching impact, not only on offenders, but also on the community and society at large. The high-profile nature of murder cases may well make judges conscious of the public and the Court of Appeal (the only institution who has the power to bind judges in their exercise of sentencing discretion) as important audiences of their sentencing remarks, and lead them to be cautious in their exercise of sentencing discretion due to anticipated responses from those audiences when they draft their sentencing remarks.

The Appraisal framework's concern with intersubjective stance-taking, which is how speakers or writers align with their audiences, makes it an appropriate tool to investigate how judges dis/align with the multiple audiences of sentencing remarks, and in turn, to explore judges' sentencing practices.

The close relationship between authors' deployment of appraisal resources in texts and their anticipation of audience's expectations is also supported by Fuoli's (2012) appraisal analysis of social reports of two big companies, BP and IKEA. According to Fuoli, the different deployment of appraisal resources in the two companies' social reports reflect that they have different addressees or stakeholders in mind. BP's deployment of appraisal resources is oriented to its investors and policy-makers. The company constructs itself as an expert in order to gain credibility and influence policy-making processes and facilitate the pursuit of its own economic interests. In contrast, IKEA's deployment of appraisal resources in their social report is oriented to its customers. The company constructs itself as a sensitive and caring corporation engaging in a continual effort to improve. The two companies' deployment of appraisal resources in their social reports reflects how they legitimise their

operations, which is closely related to their perception of the audiences of their social reports.

Two prominent features of sentencing remarks (especially the sentencing remarks for murder cases) – the evaluative nature and multiple audiences of the sentencing remarks – are well accommodated by the Appraisal framework, which makes it an appropriate tool to investigate sentencing remarks in the current study. Moreover, based on its theoretical origin, the Appraisal framework builds a link between evaluative language found in texts and the wider context of the texts, which allows me to explore how judges' deployment of appraisal resources in sentencing remarks can provide an insight into their sentencing practices. As praised by Bednarek (2006), the Appraisal framework is “the only systemic, detailed and elaborate framework of evaluative language” (Bednarek 2006, p.32) among the various approaches dealing with evaluation. It provides “an economical handle on central aspects of meaning in text which other forms of analysis would not be able to capture” (Thompson 2014, pp.52-53).

2.7 Previous appraisal studies

2.7.1 Appraisal and social practice

SFL, the theoretical origin of the Appraisal framework, builds a close relationship between language and its social contexts, which makes it possible to explore social practice through examinations of the appraisal features of texts. In the Appraisal framework, configurations of appraisal features in texts are regarded as “conditioned by key aspects of the social context in which the text operates”, such as “the domain of human activity or experience” (Martin and White 2005, p.162). In other words, an examination of texts' appraisal features can offer an insight into the social practice the texts enact.

The Appraisal framework views evaluation not only as personal expressions of feelings, but more importantly as intersubjective stance-taking by focusing on the social function of evaluation resources (Martin 2003). The social function of evaluation and the social nature of the framework are exemplified by Martin's (2004) appraisal analysis of a text from a Hong Kong lifestyle magazine. His analysis of the

text demonstrates how the author's intersubjective stance-taking reveals the complex readership of the magazine, and how the interpersonal meaning (along with ideational and textual meanings) of the text are to be understood in relation to the social system it enacts.

There are numerous studies applying the Appraisal framework to explore various aspects of social practice, identities, or value systems (e.g. Miller 2002, Page 2003, Gales 2009, Miller and Johnson 2009, Pounds 2010, Kaktinš 2014, and Menard 2016). In those studies, appraisal analyses of texts are used to provide an insight into various fields of social practice in wide ranging contexts. Pounds' (2010) appraisal analysis of fairy tales reveals how the tales are used to convey educational messages. Kaktinš' (2014) appraisal analysis of plagiarism policies of Australian universities demonstrates a potential shift of the universities' stance from a punitive stance to a more egalitarian stance of viewing students as apprentice researcher. Gale (2009) applies the Appraisal framework to examine immigration laws in America in order to explore the social attitudes towards 'diversity' in America. And Menard (2016) uses the framework to explore how different groups of citizens in Finland dis/align with the different meanings of equality.

Those studies demonstrate that appraisal analysis of texts can be used to effectively explore the various aspects of social practice. Similarly, in the current study it is expected that appraisal analysis of sentencing remarks will offer an insight into judges' sentencing practices.

The following section reviews previous appraisal studies which examine **judgement** or **engagement** items in texts since the two subsystems, **judgement** and **engagement**, are the focus of the current study (see chapter 3, section 3.3 for details). Furthermore, the following review focuses on appraisal studies which explore aspects of social practice or social values. There are numerous appraisal studies not falling into the criteria and hence not included in the following review, such as studies focusing on **appreciation** items in texts (Hommerberg 2011, 2015; Pounds 2011; Lee 2015), or **graduation** items in texts (Hood 2004). Also excluded from the following review are studies focusing on comparing appraisal resources or appraisal strategies in different groups of texts, such as low versus high graded student essays (Lee 2010; Swain 2010; Miller et al. 2014) and reports of similar events by different medias (Jullian 2011).

2.7.2 Previous studies on judgement or engagement

Several studies demonstrate that examinations of the deployment of **judgement** items in texts can reveal texts' underlying value systems or provide an insight into various aspects of social practice (e.g. Page 2003; Miller and Johnson 2009; Pounds 2010).

Page (2003) focuses on narratives about childbirth and compares appraisal features of male and female narrators. When focusing on **judgement** items, Page finds that male narrators (prospective fathers) differ from female narrators (female birthing partners) in their deployment of **judgement**, although both are observers (or spectators) of the childbirth process. Page (2003) finds that prospective fathers are appraised (by themselves) in terms of negative **capacity** and **tenacity**, while female birthing partners appraise themselves in terms of positive **capacity**. Based on the appraisal features of the narratives by prospective fathers, Page (2003) argues that those prospective fathers construct for themselves an identity as someone who is peripheral and ineffective to the experience of childbirth, and the construction supports the influential discourse of 'part-time father/full-time mother'. As remarked by Page (2003), the social orientation of the Appraisal framework allows her to "address more directly precisely those questions related to assumptions and value systems" (Page 2003, p.234).

Miller and Johnson (2009) use the Appraisal framework to examine stances taken by the two political parties (Democratic and Republican) in the US in their political debates. They focus on two key notions ('protect' and 'punish') in the congressional debates and examine appraisal features around the two notions. They find that **judgement** items are much more prominent than other types of **attitude** in congressional debates. Based on their examination of **judgement** items in the dataset, they find that the simple binary of representing Republicans as 'strict fathers' versus the Democrats as 'nurturant parents' (based on Lakoff's (2002) cognitive linguistic study) does not adequately capture the two political parties' stances. Instead, the two mentalities or representations are intertwined in the congressional debates of the two parties. Their study demonstrates that the Appraisal framework can provide a more detailed understanding of the nuanced stance-taking of the two political parties than common-sense understandings can.

Pounds (2010) applies the Appraisal framework to analyse different versions of a fairy tale in two languages (English and Italian). Her appraisal analysis of the texts uncovers different conceptions of responsibilities for problems attributed either to

children or to their parents in the two languages. The identification of the educational messages in the texts is mainly based on whether the child is positively or negatively judged, i.e. whether the child is to be blamed for his or her unsafe behaviour. Pounds (2010) further relates the different appraisal features with different styles of parental control, and the two extremes are characterised as ‘total parent control’ and ‘total child control’. Her study demonstrates how analyses of **judgement** items in texts can reveal the inherent socialisation potential of the social practice of storytelling.

Furthermore, **judgement** items play an important role in marking different appraisal voices in Coffin (2002) and White (1998). Voice is defined by Coffin as a “descriptive tool for exploring interpersonal styles that have...become conventionalised within particular discourse communities” (Coffin 2002, p.519). In both studies, the identification of voice(s) is based on the authors’ use or non-use of different subtypes of **judgement** and whether those **judgement** items are attributed to external sources or not. Coffin (2002) puts forward three types of voices based on her appraisal analysis of student history essays: recorder, interpreter and adjudicator voices. The three voices roughly correspond to White’s (1998) three voices found in media texts: reporter, correspondent and commentator voices. More specifically, the absence of both (unattributed) social esteem and social sanction in texts is labelled as recorder or reporter voice; the presence of social esteem but absence of social sanction in texts is labelled as interpreter or correspondent voice; and the presence of both social esteem and social sanction in texts is labelled as adjudicator or commentator voice.

Based on Coffin’s (2002) identification of the three voices in student history essays, Myskow (2017) adds one more voice, a surveyor voice, to capture the evaluative personae of history textbooks. According to Myskow (2017), surveyor voice is characterised by the high frequency of non-authorial **affect** and **significance**, a new subsystem he adds to **appreciation**. Through surveyor voice, history textbook authors focus on building “patterns of cause, time, and change on the historical landscape” (Myskow 2017, p.11) in terms of the significance of historical events.

These studies are concerned not only with frequencies of individual appraisal items but, more importantly, with the co-occurrences of appraisal items in texts. The different configurations of appraisal items in texts are related to their potential rhetorical effects and their contribution to the building of ‘interpersonal styles’ of texts. In other words, the exploration of the interpersonal styles of texts relies more on the

co-occurrences of appraisal items than on the occurrences of discrete appraisal items.

Miller's (2004) study focused only on **engagement** items, which demonstrates that examination of **engagement** items in texts can also be an effective means to reveal texts' underlying value systems. Miller (2004) examines **engagement** items in Bush's (then president of US) speech to the UN on 12nd September, 2002. Miller finds that Bush "ultimately and explicitly" positions his audiences – the UN and its member states – as "separate, and negligible, participants in the process of [his] speech" (Miller 2004, p.19). Miller (2004) further argues that Bush's positioning towards his audiences reflects America's underlying value system of struggling for "hegemony of meaning-making practices in the current post-9/11 global crisis context" (Miller 2004, p.21).

Gales (2011) examines both **judgement** items and **engagement** items in her appraisal analysis of an authentic threat text. The author of the threat text uses several instances of **judgement**, such as negative **judgement** of his own behaviour. Gales (2011) explains that although the 'threatener' evaluates his own behaviour negatively, the negative **judgement** is a contrasting backdrop against the foreground of the importance of his terrorism in the name of religious cause. Furthermore, Gale finds that the 'threatener' not only uses dialogic contraction items to strengthen his position of power but also uses dialogic expansion items to express his doubt and conditionality of his threat. Gales' (2011) appraisal analysis of the threat text demonstrates how analyses of **judgement** and **engagement** items in the text provide a detailed understanding of the interpersonal meaning of the text. Such understanding allowed Gales to provide a fine-grained analysis of the interpersonal meaning of the text and to challenge the ideologies prevalent in the study of threatening discourse, which usually envisions threatening discourse as comprising of only commanding and strengthening language.

The above studies demonstrate that the two subsystems of the Appraisal framework, **judgement** and **engagement**, can be used to effectively explore texts' underlying value systems and provide insights into various aspects of social practice. The following section focuses specifically on studies applying the Appraisal framework to examine judicial discourse.

2.7.3 Appraisal studies of judicial discourse

Although there are many appraisal studies, only a few of them examine appraisal

features of judicial discourse (Körner 2000; Miller 2002; Chen and Liu 2016; Heffer 2008; Dai 2020).

Both Miller (2002) and Chen and Liu (2016) focus on the judicial opinions of the US Supreme Court on the complicated case of *Bush v. Gore* 2000. Miller (2002) examined the lexical evaluative resources in the judicial opinions and revealed that the Supreme Court judges hold conflicting paradigms of valuation when they present their diametrically opposed opinions concerning the case (majority versus dissenting opinions). Miller's (2002) appraisal analysis of the judicial opinions exemplifies how an appraisal analysis can reveal the underlying as well as nuanced discursual features of those texts. Chen and Liu (2016) examine the implicit evaluative mechanisms in the same judicial opinions and their study demonstrates how those mechanisms are ideologically determined. Although the appraisal analyses in the two studies demonstrate that judicial opinions of the US Supreme Court are conditioned by judges' 'ideologies' (Chen and Liu 2016) or 'paradigm of valuations' (Miller 2002), they do not go further to offer insights into judges' practices in the Supreme Court.

Heffer (2008) applies the Appraisal framework to analyse how legal professionals (including judges and trial lawyers) evaluate lay participants (including witnesses and defendants) in the trial process in England and Wales. The legal-lay discourse in Heffer (2008) includes several different types of discourse, such as counsel's examination of witnesses, judges' directions and summing-up to the jury, and judges' sentencing remarks.

Heffer's (2008) findings on appraisal features of sentencing remarks, as one type of legal-lay discourse, are quite informative to the current study. Based on comparison of appraisal features of sentencing remarks with that of other types of legal-lay discourse, Heffer (2008) finds that sentencing remarks are the most evaluative among the various types of legal-lay discourse. In particular, Heffer notes that the most frequently found **judgement** subtype in sentencing remarks is **propriety**. The high frequency of **propriety** in sentencing remarks can be explained by the fact that in sentencing the concern is on "punishing the convicted defendant" (Heffer 2008, p.162). In other words, the sentencing is concerned with how reproachable (which is also the probe for **propriety** in the Appraisal framework) offenders or their offence are.

Another appraisal feature found by Heffer (2008) is the mostly **monoglossic** feature of sentencing remarks, through which judges do not overtly recognise alternative voices. The **monoglossic** feature of sentencing remarks is explained by the

institutional contexts of judges' sentencing practices; "the main thrust of sentencing is an authoritative proclamation of guilt" and "sentencing is seen as the moment for a unitary voice of condemnation" (Heffer 2008, pp.164-165).

Heffer's (2008) quantitative findings of the high frequency of negative **propriety** and the mostly **monoglossic** presentations of sentencing remarks are based on his examination of concordance lines of a list of key **judgement** items in his corpus. The strength of this approach is that it ensures the findings are typical features of sentencing remarks for they are based on examination of large quantities of sentencing remarks. However, this approach has its limitation: it cannot make an exhaustive examination of all (or most of) the **judgement** in texts, let alone the interaction of appraisal items in texts; it can only deal with a handful of cases of **judgement** and mostly inscribed **judgement** (see section 2.9 for details).

In the context of legal-lay discourse, where "explicit construal of judgement is proscribed" (Heffer 2008, p.159), invoked **attitude** is essential in exploring appraisal features of sentencing remarks. However, invoked **attitude** can only be retrieved by analysing the texts qualitatively, because the coding of invoked **attitude** relies more on co-texts than on lexical items that could be mostly identified without checking co-texts (as it is the case in inscribed attitude).

Furthermore, Heffer (2008) suggests a classification of voices¹⁹ in legal-lay discourse into fact-finder voice, advocate voice, and adjudicator voice. Similar to the classifications of voices in White (1998) and Coffin (2002), Heffer's (2008) classification of voices in legal-lay discourse is based on the distribution of **judgement** items across texts, and on whether the **judgement** items are attributed to external sources or not. The three voices in Heffer (2008) are used to capture the appraisal features of different types of legal-lay discourse, among which the adjudicator voice is used to capture the appraisal feature of sentencing remarks. The adjudicator voice is characterised by the frequent occurrences of inscribed negative **propriety** found in sentencing remarks when compared with other types of legal-lay discourse. Such characterisation demonstrates the central role of the negative **propriety** in sentencing remarks, but a more detailed evaluative profiles of sentencing remarks calls for further examinations of the appraisal items in sentencing remarks.

¹⁹ Heffer (2008) uses the term 'key', and it is treated as an equivalent of 'voice' in the current study. Both the two terms refer to how the co-occurrences of appraisal items contribute to building the evaluative profiles of texts.

Another appraisal analysis of judicial discourse is Körner's (2000) appraisal analysis of six appellant courts judgments on tort cases (three from English courts and three from Australian courts). However, the focus of Körner's (2000) study is not on any systematic exploration of the appraisal features of the six judgments nor on finding out the characteristic appraisal features of legal judgments as a type of judicial discourse; rather her focus is on how judges deploy **engagement** and **graduation** items to make their legal judgments persuasive.

Körner's (2000) main argument is that the two subsystems of the Appraisal framework – **engagement** and **graduation** – can be viewed from the perspective of dialogic positioning, and legal reasoning is regarded as “primarily concerned with intersubjective positioning” and persuasion (Körner 2000, p.287). In other words, in Körner's (2000) study, both **engagement** and **graduation** items are viewed as ways of negotiating intersubjective positioning, through which judicial judgments achieve their persuasive effects.

Despite the focus on exploring the persuasive effects of legal judgments, some appraisal features of legal judgments are identified in Körner's study, such as the wide use of **deny** to present contents about case facts, which is explained by Körner as reflecting the adversarial feature of the common law system; in the adversarial common law system “competing versions of facts need to be negotiated – alternatives are acknowledged but denied – heteroglossic dialogue is closed down” (Körner 2000, p.218).

Moreover, Körner also acknowledges that appraisal analyses of judicial judgments can reveal the underlying value systems in legal practice (Körner 2000, pp.293-294):

A judicial decision represents an individual's position in relation to the range of competing voices and positions available within the collective system of values and possibilities held by the legal profession. Judges may hold divergent views about facts, reasons, rules, interpretations and previous decisions. However, these possible divergent views are grounded within a larger system, within the values and the social practices of legal discourse. Divergence is, in fact, institutionalised in the practices of the adversarial system, where competing alternatives are put forward, and in the authority

of the individual judge in the common law system.

However, Körner (2000) does not discuss what these underlying value systems are (as they might be enacted by judges' deployment of appraisal resources in their legal judgments). Körner's study focuses more on demonstrating the persuasive effects of the legal judgments than on exploring the underlying value systems or the judges' practices on courts.

Dai's (2020) case study of a sentencing remarks for a murder case in England and Wales is an attempt to gain an insight into judges' sentencing practice through appraisal analysis of the sentencing remarks. This study compares the judge's evaluation of statutory versus non-statutory sentencing factors in the sentencing remarks, and finds that the judge uses diametrically different **judgement** (explicit **judgement** in non-statutory factors but implicit **judgement** in statutory factors) and **engagement** (**monoglossia** in non-statutory factors but **heteroglossia** in statutory factors) items when presenting statutory versus non-statutory factors. These findings reveal that the statutory nature of the sentencing factors is exercising an influence on the judge, in that he is constrained when presenting statutory factors (as shown by the **heteroglossic** framing of implicit **judgement**) but much less so when presenting non-statutory factors (as shown by the **monoglossic** framing of explicit **judgement**). This study also demonstrates that the Appraisal framework is an effective tool to reveal the discoursal patterns of sentencing remarks. Similar to Dai (2020), the current study will go one step further to examine how judges' deployment of appraisal items in sentencing remarks can offer an insight into judges' sentencing practices.

The Appraisal framework is an effective tool to explore texts' underlying value systems and to reveal the related social practices, but it is not without its limitations. The next section examines some issues that arise when the framework is applied to code appraisal items in specific texts.

2.8 Thorny issues in appraisal analysis

Despite the strength of the Appraisal framework in the examination of evaluative language in texts, there are some thorny issues when the framework is applied to the analysis of various types of texts. This section reviews how previous studies have dealt with two thorny issues: (1) the blurring boundaries between **affect** and **judgement**,

between **appreciation** and **judgement**; and (2) the identification of invoked **judgement**.

2.8.1 Blurring boundaries

A brief outline of the three subsystems of **attitude** of the Appraisal framework is that **affect** is concerned with our emotional responses; **appreciation** with (aesthetic) assessment of products or people's performances; and **judgement** with ethical and moral evaluation of human behaviour. The three subsystems of **attitude** seem to be clearly distinguishable from each other. However, when they are applied to code appraisal item in specific texts, the boundaries among the three can sometimes become fuzzy.

First, the boundary between **affect** and **judgement** is not always clear-cut. When emotions are attributed to the speaker/writer, they are unambiguously identified as **affect**, for indeed they are used to express emotional responses of the speaker/writer, and they are identified by Thompson (2014) as the core instances of **affect**. But when the emotions are attributed to people other than the speaker/writer, such kind of emotions are more likely "to be construed as an ethical quality rather than an emotional response" (Thompson 2014, p.56) of the people. The non-authorial **affect** is exemplified by the following example.

(3) You took his life, yet you loved him. (text 1, Palmer, line 5)

In the above example, Palmer's love for the victim construes her positive **attitude** (or **affect**) towards the victim. However, the attitudinal item ('loved') not only expresses Palmer's emotion, but also reveals aspects of Palmer's ethical quality, such as she is not so bad as prototypical murderers for her positive **affect** towards the victim. Such non-authorial **affect** items (those that are not attributed to the speaker/writer) are mainly used to depict what kind of person he or she is and used to position readers to particular **judgement** of that person, which makes such evaluative items more like **judgement** than **affect**. They are even excluded from the category of **affect** by Thompson (2014, p.55) who identifies them as "experiential representations of emotion which often serve as provoking tokens of judgement".

The identification of those non-authorial **affect** as **judgement** rather than as **affect** is also found in Su and Hunston (2019). They extract all the adjective complementation patterns from a corpus and their appraisal analysis of those patterns

reveals a group of emotions terms – terms “used to construe attitudes towards a person’s personality traits” (Su and Hunston 2019, p.14) – that cannot neatly fit into any existing subtypes of the Appraisal framework. Accordingly, they suggest a new **judgement** subtype to cover those emotional terms. However, they do not make it clear why those **affect** items cannot be identified as inscribed **affect** that invokes **judgement**.

The two studies above make it clear that people’s emotions (or **affect**) can be used to construe **judgement**. In Martin and White’s (2005) words, such items “construe both **affect** and **judgement** at the same time” (Martin and White 2005, p.60). The current study will code such non-authorial **affect** items simultaneously as inscribed **affect** and invoked **judgement** (see chapter 3, section 3.4.2.1 for exemplification).

Second, the boundary between **appreciation** and **judgement** can also become fuzzy, and there are several studies discussing how to deal with appraisal items sitting on the boundary, such as Lee (2007, 2015) and Kaktinš (2014).

In the Appraisal framework **appreciation** and **judgement** are mainly distinguished by appraisal targets. Appraisal items targeting conscious participants are coded as **judgement**; appraisal items targeting things that are either “concrete or abstract, material or semiotic” (Martin and White 2005, p.59) are coded as **appreciation**. The seemingly clear-cut boundary becomes fuzzy as when “players are explicitly judged in a role, an invoked **appreciation** of their accomplishments might be recognised; similarly, [when] an activity is explicitly appreciated as a thing, a **judgement** of whoever accomplished it might be invoked” (Martin and White 2005, p.67). The blurry boundary between **appreciation** and **judgement** is exemplified by the following example.

(4) It was a brutal, senseless act of horrifying violence. (text 6, Pyott, line 7)

In the above example, Pyott’s behaviour is referred to as an ‘act’ and the attitudinal items (‘brutal’, ‘senseless’ and ‘horrifying violence’) are attached to the ‘act’, a nominalised form of Pyott’s behaviour. The attitudinal items are coded as inscribing **appreciation** for Pyott’s behaviour is evaluated as a thing, an ‘act’. They are also coded as invoking **judgement** for these appraisal items undoubtedly invoke a **judgement** of Pyott’s criminal behaviour.

A major cause of the blurring of boundaries between **appreciation** and

judgement is the nominalisations of behaviour. When an appraisal item is attached to nominalised behaviour, it could either be regarded as an evaluation of people's behaviour (and hence a **judgement**) or an evaluation of a thing (and hence an **appreciation**).

In Kaktinš' (2014) appraisal analysis of university plagiarism policies, there are several items undergoing reification (such as 'academic integrity'), which is a prominent feature of plagiarism policies. Kaktinš codes evaluations of those reified items both as **appreciation** and **judgement**. She codes them as **appreciation** based on the lexicogrammatical forms of the appraisal targets, which are items undergoing reification. She also codes them as **judgement** based on "the normative character and tone" (Kaktinš 2014, p.124) of the university plagiarism policies.

In Lee (2007; 2015), the blurring of boundaries between **appreciation** and **judgement** is caused not only by nominalised behaviour but also by mismatch between the ascribed value and appraisal target, such as the lexis inscribing **judgement** of human beings is ascribed to the outcomes of their behaviour. Lee (2007, 2015) uses the term 'double coding' to address such phenomena, and double coding is loosely defined as "items being simultaneously coded by an analyst as two values" (Lee 2007, p.173). Lee's double coding ascribes similar weight to the two codings.

However, the current study makes a differentiation between the two codings by identifying one as inscribed and another as invoked. The identification of which one as inscribed and which one as invoked in the current study follows Thompson's (2014) way of dealing with the boundary items. He advocates that the lexicogrammatical forms of appraisal targets should be taken as the starting point for the initial assignment of **attitude** types, to "retain as much of a footing in replicable linguistic analysis as possible" (Thompson 2014, p.58). In the current study, if the appraisal item targets nominalised behaviour, it is coded as an inscribed **appreciation**, which invokes **judgement** (see chapter 3, section 3.4.2.2 for exemplification). In other words, I will use the distinction between inscribed and invoked **attitude** rather than the term 'double coding' to label the appraisal items sitting on the boundary between **appreciation** and **judgement**.

2.8.2 Invoked attitude

In the appraisal analysis of sentencing remarks, the subsystem of **judgement** is

expected to play a more central role than the other two subsystems of **attitude**: **appreciation** and **affect**. The central role of **judgement** in sentencing remarks is due to the purpose of sentencing remarks, which is to make assessments of offenders and their behaviour in order to justify the sentencing results. This purpose is more likely to be achieved by **judgement** than by **affect** or **appreciation**. It is through **judgement** that people construe their “attitudes to people and the way they behave—their character (how they measure up)” (Martin and White 2005, p.52). The central status of **judgement** in sentencing remarks is similar to that of Miller and Johnson’s (2009) appraisal analysis of congressional debates, in which **judgement** plays a central role and other appraisal items “can be seen to be contributing to the overall judgement in play” (Miller and Johnson 2009, p.52).

Corresponding to the central place of **judgement** items in sentencing remarks, the following contents focuses on how previous studies deal with invoked **judgement**.

As mentioned above the blurring of boundaries between **affect**, **appreciation** and **judgement** lead to the coding of a single appraisal item simultaneously as inscribed **affect** and invoked **judgement**, or simultaneously as inscribed **appreciation** and invoked **judgement**. However, **judgement** cannot only be invoked by **affect** and **appreciation**, it can also be invoked by other types of appraisal items, such as **graduation** or **engagement** items, as well as by seemingly value-neutral experiential contents. In Ethelston’s (2009) appraisal analysis of evangelical sermons, **judgement** is invoked by various types of evaluative tokens, such as **affect**, **appreciation** or **engagement** items like **counter** and distancing **attribution**. The invocation of **judgement** by other types of appraisal items is also documented in Lee’s (2008) appraisal analysis of student essays. She finds that a distinctive feature of high graded student essays from the low graded ones is that the former constantly uses **affect**, **appreciation**, and **judgement** of **capacity** to invoke **judgement** of **propriety**.

In the coding of **judgement** in sentencing remarks in the current study, it is also found that **judgement** can be invoked by various types of evaluative tokens, such as **affect**, **appreciation**, **graduation**, or seemingly neutral contents (see chapter 3, section 3.4.2 for details).

The identification of invoked **judgement** seems to bring subjectivity into appraisal analysis. However, the subjectivity is mitigated by reliance on semantic prosody or the generic purpose of texts both in the coding and interpretation of appraisal features. Semantic prosody in the current study is used in a sense different

from its use in corpus linguistics (e.g. Stubbs 2001; Stewart 2010), in which it is used to refer to the collocations or typical lexical environment of particular lexis and how their typical collocations bring evaluative meanings to the seemingly neutral lexis. The term semantic prosody in the current study is used as it is used in SFL, in which ‘prosody’ is used to describe the interpersonal (one of the types of meaning in SFL) structuring principle of semiotic processes. The term ‘prosody’ is used because interpersonal meaning is construed as ‘distribut[ing] like a prosody throughout a continuous stretch of discourse’ (Halliday 2002, p.205), or as a continuous colouring of the texts. The structuring principles concerning the other two types of meaning in SFL are ‘particulate’ (ideational meaning) and ‘periodic’ (textual meaning) (Martin and White 2005, p. 18). Moreover, the non-segmental feature of semantic prosody re-emphasises the importance of examining the interaction of appraisal items in texts in revealing the evaluative profiles of texts.

In the coding of appraisal items and especially the implicit ones, “[t]he patterns of meaning established in the text, and prosodic domains of value, will to a significant extent delimit the possible interpretations available to the reader” (Hood 2010, p.168). Take Ethelston’s (2009) appraisal analysis of misguided voices (viewpoints that are often represented as dramatically and emphatically contra-Christian) in evangelical sermons as an example. In his study, the subsystem of **judgement** plays a more central role than **appreciation** and **affect**. The central place of **judgement** is closely related to the semantic prosody conveyed by misguided voice in evangelical sermons, which is to make **judgement** of misguided people or their behaviour.

Furthermore, the interpretation of appraisal features (or evaluative profiles of texts) relies less on counting the frequencies of discrete appraisal items and more on the examination of the interaction of appraisal items in texts. It is only through examinations of the interaction of appraisal items within texts that the evaluative profiles of texts be detected, and the value systems enacted by the appraisal items be revealed. In other words, the ‘subjectivity’ in the coding of invoked **judgement** does not prevent analysts from arriving at a reading projected by the text onto its ideal readers. Coffin and O’Halloran (2005) uses the word ‘groove’ to capture how “interpersonal meaning through a text can dynamically channel readers to take up an overall evaluative stance towards the content of subsequent text” (Coffin and O’Halloran 2005, p.144). And appraisal analysis is designed to track the global groove of evaluative semantic meaning and disagreements on frequencies of discrete appraisal

items “would not affect the fact that there is...a dominant global groove of...evaluation throughout the text” (Coffin and O’Halloran 2005, p.152).

The next section reviews how previous studies code appraisal items in texts, that is, whether by manual coding or by corpus-assisted coding.

2.9 Corpus-assisted versus manual coding of appraisal items

There are two major ways of carrying out appraisal analysis studies: manual coding and corpus-assisted appraisal studies. This section reviews previous studies to examine the respective strengths and limitations of the two approaches and finally clarifies how manual coding is a more appropriate approach than corpus-assisted approach to the current study.

Corpus linguistics can be used to assist appraisal studies but not to code appraisal items automatically. Usually, corpus-assisted appraisal studies initially use corpus linguistics to identify key evaluative items, and then to manually analyse the concordance lines of those key evaluative items. Such a corpus-assisted method is used in the analyses of ‘protect’ and ‘punish’ in political debates in American congress (Miller and Johnson 2009); ‘we must’ in American congressional debates (Miller and Johnson 2013); ‘noble’ in Shakespeare’s plays (Miller 2016); and key **judgement** items in Chinese hard news reporting on risk events (Huan 2018). The examination of appraisal items in large quantities of texts is only feasible when the focus is on a handful of appraisal items rather than on the whole (or most of the) appraisal items in texts.

Corpus linguistics is also used to examine covert evaluative meanings, but similarly they can only focus on a handful of seemingly neutral items (Coffin and O’Halloran 2005; Coffin and O’Halloran 2006; Gales 2009).

Coffin and O’Halloran (2006) track the concordance lines of seemingly neutral items (such as ‘migrants’ and ‘asylum seekers’) in a corpus of the *Sun* newspaper, which helps them to identify the negative evaluations often associated with these seemingly neutral items. In a similar vein, Coffin and O’Halloran’s (2005) appraisal analysis of a sample tabloid news report of Britain’s signing of a new European Union constitution shows that there is a cumulative negative evaluative meaning in the text. They further use concordance software to generate key words/patterns of this sample

text, which are examined in the sample text as well as in a large corpus of the tabloid newspaper. Their examination of the concordance lines in large quantities of texts confirm the negative semantic prosody of the sample text, which they initially identified based on their manual coding of the text.

Gales' (2009) study examines the notion of diversity in the context of immigration in America. She initially uses a political corpus to identify the negative semantic prosody of 'diversity'. The finding is further supported by a qualitative analysis of three sample texts from her corpus. Appraisal analyses of the sample texts not only confirm the initial finding on the negative semantic prosody of 'diversity', but also provide a detailed and fine-tuning picture of the authorial stance towards 'diversity', i.e. how the meaning of diversity is semantically re-written "in the name of national security, safety, and economy" in the context of immigration in America (Gales 2009, p.238).

The three studies (Coffin and O'Halloran 2005; Coffin and O'Halloran 2006; Gales 2009) are similar in that corpus-assisted appraisal studies are used in conjunction with detailed appraisal studies of sample texts. In these studies, corpora are used either to identify (Gales 2009) or confirm (Coffin and O'Halloran 2005; Coffin and O'Halloran 2006) the semantic prosodies of texts that are generated from detailed appraisal analyses of sample texts.

Although the corpus-assisted approach is useful in uncovering the semantic prosody of seemingly neutral texts, such as newspaper articles (Coffin and O'Halloran 2005; Coffin and O'Halloran 2006), or speeches by politicians on sensitive issues like immigration (Gales 2009), it is not so effective in the current appraisal analyses of sentencing remarks. As a form of judicial denunciation, sentencing is to allocate criminal sanction, and to publicly blame and condemn the offender and their offence. Without any reliance on corpora, the institutional contexts of sentencing already give clear indication that evaluations to be found in sentencing remarks are mostly negative **judgement** of offenders and their offences in terms of [-propriety]. In other words, in appraisal analysis of sentencing remarks there is no need to rely on corpora to identify the generally negative **judgement** of [-propriety] that are expected to be found in sentencing remarks. Instead, it calls for in-depth qualitative appraisal analysis of the sentencing remarks to reveal their evaluative profiles and further to gain an insight into judges' sentencing practices.

Corpus-assisted appraisal studies are effective in tracing explicitly evaluative

items, but not in tracing implicit (or invoked) ones in texts. It is relatively easy to identify explicitly evaluative items in texts, which can subsequently be used as node items to retrieve their concordance lines in large quantities of texts, such as ‘protect’ and ‘punish’ in American congressional debates by the two political parties (Miller and Johnson 2009). However, for implicitly evaluative items, there are a variety of lexicogrammatical forms used to convey implicit evaluations. Those lexicogrammatical forms are usually bound to specific co-texts for interpretation of their attitudinal meanings, which makes them quite idiosyncratic when taken out of their co-texts. The diverse and idiosyncratic features of implicit evaluations make it difficult to identify any items as their typical lexicogrammatical realisations that can be used as node items to retrieve their concordance lines in large quantities of texts. The coding of invoked **attitude** relies more on co-texts than on key words list that is extractable from a corpus. In Pounds’ words “the most implicit and context-dependent operators escape such analysis” (Pounds 2011, p.197).

Although sentencing remarks are much more evaluative than other types of judicial discourse, such as summing-up and jury direction, when sentencing remarks are compared with other highly evaluative texts like tabloid articles, judges are more likely to use implicit, rather than explicit, evaluations to convey their condemnation of offenders or their offence. Judges’ preference of implicit over explicit evaluations is also confirmed by coding results of the current study. Of all the **judgement** items found in the dataset of the current study, 78% of them are invoked and 22% are inscribed (see chapter 4, section 4.1 for details). With so many invoked **judgement** items going on in sentencing remarks, they should be incorporated into the description of the evaluative profile(s) of sentencing remarks. The importance of invoked **attitude** in building the evaluative profile of texts is pointed out by Macken-Horarik (2003) as implicit evaluative meanings “are most coercive of the reader simply because they appear to pass beneath the threshold of conscious awareness” (Macken-Horarik 2003, p.314).

Moreover, there is no previous appraisal study on sentencing remarks, and accordingly a lack of studies to be relied on to generate a key words list that could be used for corpus search. However, findings from the manual appraisal analysis of sentencing remarks in the current study can help to generate key words lists that can be used in future corpus-assisted appraisal studies of sentencing remarks.

Appraisal analysis is “essentially qualitative in nature” (Miller 2016, p.213) and

requires “labour-intensive manual scrutiny” (Miller and Luporini 2018, p.56). As a framework modelling resources situated on the stratum of discourse semantics, subsystems of the framework are realised through various lexicogrammatical forms. And the coding of the appraisal items (especially invoked **attitude**) in texts relies on the generic purpose(s) and semantic prosodies of texts as well as on the co-texts of evaluative items, “in which the potential for creating meaning is continually modified in the light of what has gone before” (Halliday and Matthiessen 1999, p.18). The discourse-semantic nature of the Appraisal framework and the reliance on contexts and co-texts in the coding of appraisal items make it difficult to “read off semantic categories from formal instances in a straightforward way” (Miller and Johnson 2009, p.36). In other words, the abstract categories derived from the Appraisal framework call for close scrutiny to identify their formal realisations in texts. Accordingly, appraisal analysis is usually “done by hand...on smaller amounts of text than corpus linguists are accustomed to dealing with” (Miller and Johnson 2009, p.36).

Moreover, the current study aims to provide a detailed analysis of the appraisal features of the sentencing remarks by examining not only judges’ deployment of the appraisal resources in the sentencing remarks but also the interaction of appraisal items within the sentencing remarks. Such a research aim makes manual coding a more appropriate approach than corpus-assisted approach for the current study.

2.10 Conclusion

Studies on sentencing have long been dominated by the perspective of viewing judges’ sentencing practices as governed by penal philosophies. Based on this perspective, judges’ sentencing practices are viewed as lacking rationality, clarity and certainty due to judges’ ambivalent attitudes towards those penal philosophies. However, this perspective does not adequately explain the routine practices of sentencing. The current study takes an alternative perspective, which views judges’ sentencing practices as a social practice that is patterned and conditioned by social and institutional contexts of sentencing.

Based on this alternative perspective, the current study applies Martin and White’s (2005) Appraisal framework to analyse how judges evaluate offenders and their offences in six sentencing remarks for murder cases in England and Wales. It is

expected that patterns are to be found in judges' deployment of appraisal resources in sentencing remarks, and those patterns will further provide an insight into the empirical reality of judges' sentencing practices.

Furthermore, although the Appraisal framework has been widely applied to examine various types of texts, no study (except my recent work Dai 2020) has applied the framework to examine sentencing remarks. The current study provides a systematic and detailed analysis of the appraisal features of sentencing remarks, which is a type of judicial discourse that has long been neglected by studies on judicial discourse despite the important role of sentencing remarks in providing an insight into judges' sentencing practices. The next chapter will explain how the six sentencing remarks are selected and how the current study is carried out.

Chapter 3: Data and methodology

This chapter first explains how the six sentencing remarks were selected from amongst those published on the UK Judiciary website (section 3.1). Section 3.2 then provides a summary of the case facts of the six cases. Section 3.3 delimits the coding scope of the current study. Section 3.4 demonstrates how the various subsystems of the Appraisal framework are identified and coded in the current study. And finally, section 3.5 explains how I used the UAM CorpusTool to facilitate the manual coding of appraisal items in the dataset.

3.1 The selection of texts

The dataset for the current study consists of six sentencing remarks for murder cases sentenced at Crown courts in England and Wales between 2012 and 2016. The six sentencing remarks (along with other sentencing remarks) are publicly available on the UK Judiciary website.¹ However, not all sentencing remarks are published on the website. According to the Ministry of Justice, the decision about which sentencing remarks to publish is governed by “the actual or predicted level of media interest”.² In other words, those published on the website (including the six sentencing remarks for the current study) are the sentencing remarks for cases receiving wide public and media attention.

Furthermore, the sentencing remarks published on the website are “routinely removed...and dates for data expiry are not openly communicated” (Potts and Weare 2018, p.49). This fact means that the number of the sentencing remarks that are available on the website is constantly changing. By 31st October 2016, the date I stopped collecting the data, there were 185 sentencing remarks on the website, containing sentencing remarks for various types of offences.

The six sentencing remarks were selected from the 185 sentencing remarks in

¹ <https://www.judiciary.uk/judgment-jurisdiction/crime/> (last accessed in July 2018).

² Ministry of Justice, 2014, Freedom of Information Request: FOI 89214 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306601/decision-criteria-to-publish-judgments-rulings-sentencing-remarks-on-websites-and-social-media.doc (last accessed in July 2019).

order to reduce the impact of variables that would obviously affect the sentencing results or affect how judges evaluate offenders and their offences. In other words, the selection ensured (at least to a large extent) that the different sentencing decisions of those selected were a reflection of how judges exercise their discretion in sentencing.

The selection procedure was as follows. First, I selected sentencing remarks for similar types of offence. There is no doubt that different types of offence are sentenced differently because there are different statutory requirements or sentencing guidelines for the sentencing of different types of offences. In terms of appraisal features, it is highly likely that different aspects of offences or of offenders are evaluated in the sentencing remarks for different types of offences. So I made the selection by focusing on sentencing remarks for just one type of offence, that is murder. Of the 185 sentencing remarks available on the website, 74 of them were for murder cases. Although murder was the most common type of offence represented on the website, it is an extremely uncommon form of offence in the UK.³

Within the 74 sentencing remarks for murder cases, I further applied three selection criteria: (1) murder cases with only one victim; (2) murder cases with only one offender; and (3) an offender convicted only of murder (not in combination with other counts of offences). After applying these three criteria to the 74 sentencing remarks for murder cases, only eight sentencing remarks were left.

The first selection criterion was to focus on murder cases with only one victim. The reason for making this selection is that judges are required by law to sentence murder cases with one victim differently from these with more than one victim. According to Schedule 21 of the Criminal Justice Act 2003, judges need to choose different starting points for murders with one victim and murders with more than one victim.⁴ In other words, the number of victims (the killing of one versus more than one victim) is an important factor that affects judges' selection of the statutory starting point.

The second selection criterion was to focus on cases with only one offender. In other words, I only included cases in which the offender was the only defendant in the murder trial, and murders which were committed by more than one offender were

³ The frequencies of different types of offences are found in the following link. <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdecember2018> (last accessed in October 2019).

⁴ Criminal Justice Act 2003, schedule 21, section 5(2)(f), and section 4(2)(a).

excluded. In murder cases with more than one offender, offenders usually do not play equal roles in the murder they committed. And in the sentencing remarks of these cases, it is difficult to separate which parts of the sentencing remarks are for which offender. Accordingly, it is difficult to isolate any single offender (in cases of multiple offenders) to make the isolated offender comparable with single defendants in murder cases. Nor are the multiple offenders as a collective whole comparable with single offenders of murder cases, for the multiple offenders were not sentenced as a collective whole but sentenced on an individual basis. Therefore, the selection was constrained to murder cases with only one offender.

The third selection criterion was to focus on cases in which offenders were only convicted of murder and not in combination with other counts of offences. In other words, cases in which offenders committed multiple offences were excluded from my dataset. In sentencing remarks for offenders with multiple offences, it is difficult to isolate which parts of the sentencing remarks are for which count(s) of offence. This is especially the case at the beginning of each sentencing remarks where case facts are summarised. It is impossible to identify which part of the summary matches with which offences. Accordingly, the sentencing remarks for offenders with multiple offences are hardly comparable with those only convicted of murder. The selection was consequently restricted to murder cases in which offenders were convicted only of murder.

After applying the three selection criteria to all the sentencing remarks for murder cases, only eight sentencing remarks were left. Of the eight sentencing remarks, six of them were sentenced with a starting point of 15 years, one with a starting point of 25 years, and one with a starting point of 30 years. I made a further selection by focusing on the six sentencing remarks with a similar starting point of 15 years. I made the selection because there are statutory guidelines for judges in their choice of starting point. Schedule 21 of the CJA 2003 lists factors that judges must take into consideration when they select the starting point(s) in their sentencing of murder cases (see chapter 2, section 2.1). If cases with different starting points were selected, it would unavoidably bring into different appraisal targets because there are different factors that judges must take into consideration in their selection of the starting point. Accordingly, I selected only those cases with a similar starting point of 15 years.

After applying the above selection criteria to the 74 sentencing remarks for the murder cases, only six sentencing remarks were left. The six sentencing remarks

selected for the current study were murder cases with one victim, one offender convicted only of murder and all sentenced with a starting point of 15 years. The six sentencing remarks were accessible as of October 2019 (see Table 3.1 below for website links to the six sentencing remarks). Table 3.1 provides the metadata about the six sentencing remarks (or texts). The six texts are listed in the order of the length of their minimum term from the shortest to the longest. Text 1 (Palmer) is the only case whose minimum term is below the starting point. All the other five cases have minimum terms above the starting point. From text 1 to text 6, there is an increase in the length of minimum terms. Full texts of the six sentencing remarks are found in Appendix I.

Table 3.1: Metadata of the six texts

	date of sentencing	offender	starting point (years)	deviation from starting point (years)	minimum term (years)
1	2016-02-19	Palmer ⁵	15	−3	12
2	2014-03-06	Capp ⁶	15	+1	16
3	2013-04-02	Taylor ⁷	15	+2	17
4	2012-05-22	Hunnisett ⁸	15	+3	18
5	2013-01-30	McCluskie ⁹	15	+5	20
6	2015-12-11	Pyott ¹⁰	15	+5	20

3.2 The six cases

This section summarises the case facts of the six cases so as to provide details and contexts that would help to understand the relevant information in the sentencing

⁵ <https://www.judiciary.uk/judgments/r-v-terri-marie-palmer/> (last accessed on 29 July 2019).

⁶ <https://www.judiciary.uk/wp-content/uploads/2015/05/r-v-capp-sentencing-remarks.pdf> (last accessed on 29 July 2019).

⁷ <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Judgments/sentencing-remarks-flaux-j-r-v-taylor.pdf> (last accessed on 29 July 2019).

⁸ <https://www.judiciary.uk/judgments/hunnisett-sentencing-remarks-22052012/> (last accessed on 29 July 2019).

⁹ <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Judgments/tony-mccluskie-sentencing-remarks-30012013.pdf> (last accessed on 29 July 2019).

¹⁰ <https://www.judiciary.uk/wp-content/uploads/2015/12/sentencing-remarks-mr-j-kerr-r-v-pyott.pdf> (last accessed on 29 July 2019).

remarks. It is impossible for judges' sentencing remarks to include all details about the six cases, and the following summaries rely on both online media and newspaper media reports (see Appendix 3 for sources of the reports) as well as judges' sentencing remarks (see Appendix I) to recover the details.

3.2.1 Text 1: Palmer

Palmer was a 23-year-old woman who killed her boyfriend, Damon Searson on 14 August 2015. Palmer and Searson lived in caravan on Stud Farm Park in Morecambe. The two had a stormy on-off relationship.

Palmer was a hairdresser, and she first met Searson in the salon when he came into get his hair cut. At that time, Searson was in rehab for drink and drug problems. Searson later left rehab, but he remained a binge drinker and was a different person when he had been drinking. However when he wasn't drinking he was perfectly fine. Palmer told the court that she hoped she could change Season and stop him from drinking.

While Palmer was working as a hairdresser and spent most of her time working to get somewhere to live, Searson did not have a job. Instead Searson spent money on a mobile phone and began adding random girls and posting topless selfie pictures on Facebook. Consequently, Palmer regularly posted on the social media site to complain how Searson would ignore her when he was trawling for friends on Facebook.

On the day Palmer killed Searson, the two had a heated argument over the amount of time Searson spent on Facebook. Palmer also posted on the social media site moaning: "He p***es me off sitting on Facebook, completely blanking me when I'm talking to him. All he does is sits there and adds loads of girls". Moments later on that day, Palmer snapped and plunged a bread knife into the heart of Searson. According to Palmer they had been play-fighting with a knife and she had accidentally knocked it into Searson. It was only a single stab wound in Season's chest, but it proved to be fatal. When the police told Palmer that her boyfriend had died, Palmer said "I didn't mean for it to get him".

After the attack, Palmer rang the emergency services. But she gave different accounts to the ambulance service and attending police officers. She went on to give further different versions during interviews and her trial. Palmer broke into tears when she was convicted of the murder of Searson.

3.2.2 Text 2: Capp

Capp was a 23-year-old man who killed a 45-year-old man Thomas on 6 March 2014. The two had been sharing a cell in Cardiff Prison. Before the murder of Thomas, Capp was convicted of arson for setting light to his then girlfriend's flat after the two had had an argument. For the conviction of arson, Capp was sentenced to 32 months' detention in Young Offenders' Institution. He was later released on licence but was recalled to Cardiff prison seven days after the release for breaching the terms of early release.

It was under these circumstances that Capp came to share a cell with the victim Thomas. Thomas was put in prison for 12 weeks' custodial sentence for breaching an anti-social behaviour order by begging in Cardiff city centre. On the night when Capp killed the his cellmate, Capp was noted to be sitting on his bed for a couple of hours contemplating his actions. He then killed the victim while the victim was asleep. Capp stabbed his cellmate in the neck 100 times with a ballpoint pen. The victim was found dead with a plastic bag pulled tight and screwed up at the back of his head, and his death was caused by strangulation, suffocation or both. Capp did not give any explanation for his killing of the victim nor did he show any remorse.

Capp was identified as having a personality disorder, which led to his self-harm and aggressive acts towards others. Nonetheless he was identified by the judge as knowing what he was doing when he killed his cellmate, and his personality disorder did not impair him from making rational judgement.

In the aftermath Cardiff prison was criticised for not properly assessing the mental state of Capp. The victim Thomas was the fourth inmate to share a cell with Capp, and the three earlier cellmates had all asked to be moved due to Capp's bizarre behaviour.

3.2.3 Text 3: Taylor

John Taylor was a 61-year-old man who killed his 63-year-old wife Alethea Taylor on 18 January 2012 because he worried that his wife was going to reveal his affair with another woman. Alethea Taylor had been a primary school teacher for 33 years. After she retired she moved to Orleton, and had been living in the village for nearly 20 years. John Taylor was an undertaker who ran a successful business. The couple were

comfortably well-off. Alethea and John Taylor were regular churchgoers, and they sang in the local choir.

When Alethea discovered that her husband was having an affair with another woman, she became desperately upset. On 24 November 2011, Alethea, while in a local pub, became extremely upset seeing her husband was on phone with his mistress; she slammed her drink on the table and later stormed out. On 26 December 2011, Alethea was found on a bench sobbing uncontrollably. On 31 December 2011, the couple attended a party at a friend's home and Alethea was noted to be very agitated. Matters came to a head on 18 January 2012. On that day the couple had been at a choir practice at the local church. Alethea had left angry and without singing and was again found sobbing uncontrollably in a friend's home. It had become a considerable concern to John Taylor that his wife was going to reveal his affair.

The next day (19 January 2012), the husband reported that his wife was missing. He told the police that Alethea was in an early stage of dementia, and had a habit of wandering off in a confused state, but Alethea did not bear any trace of dementia. The village was turned upside down to search Alethea. Despite the extensive search by police and local people, Alethea was still not found. But her blood was found on a bed sheet, and notebooks with diary entries (which Alethea had hidden away from her husband) were also found. Alethea's diary revealed that her husband had an affair with a 52-year-old widow, which made Alethea desperately upset and had trapped her in a state of misery and agitation.

Evidences ran against the husband and he was arrested six months after his wife's disappearance. Evidence pieced together that when the couple had left the church and returned home on 18 January 2012 the argument escalated, and the husband's anger and frustration with the wife had boiled over, which led to the murder. It was reported that Taylor murdered his wife in order to get together with his mistress. The evidence suggested that the husband might smother Alethea with a pillow, and she died in the bedroom for her blood was found on the bedspread and duvet cover.

However, John Taylor denied the murder and the body of Alethea has never been found. As an undertaker, John Taylor was used to handling dead bodies; and as a lifelong resident of the local area, he would know a scheduled spot to hide one. Although no remains were found, evidence piled up and John Taylor was eventually convicted of murdering his wife Alethea.

3.2.4 Text 4: Hunnisett

Hunnisett was a 28-year-old man who killed a 57-year-old man Peter Bick (a supermarket worker) on 11 January 2011. Hunnisett thought Bick was a paedophile, but it turned out that Hunnisett arrived at his conclusion based on completely inadequate evidence.

Hunnisett's hatred for paedophiles was attributed to his past. Before his current offence, Hunnisett was sent to prison for another offence of murder. In that offence, Hunnisett drowned and dismembered an 81-year-old vicar in 2001. But after Hunnisett had been serving over nine years for the life sentence, it is found out that the victim had sexually abused Hunnisett when he was 17 years old. Hunnisett was then acquitted of the murder and released. After being released from his previous offence in less than two years' time, Hunnisett committed his current offence.

Hunnisett's hatred of paedophiles grew during his time in prison, where he might have come into contact with sex offenders who showed a lack of remorse for the harm they had committed. Hunnisett believed that the penalties handed out by the Court for child abuse were inadequate. For him the appropriate penalty was death. Upon release from his previous offence, Hunnisett had drawn up a hit list of potential child sex offenders he planned to kill in his bid to rid the world of paedophiles. His drawing up of the list, however, is based on hearsay he learned from fellow prisoners. At the top of the list, the victim's name was found.

Hunnisett had formulated his plan to track down child abusers and rapists by setting up honeytraps for sex offenders on the Internet. He met Peter Bick over the Internet for consensual sex. Peter Bick had split up from his long-term partner, and he regularly used social networking and dating websites to meet young men for consensual sex. On 10-11 January 2011, Hunnisett first had sex with Bick and then smashed his head with five severe hammer blows as well as strangling him with a shoelace at the victim's home in Bexhill. After killing the victim, Hunnisett meticulously cleaned up the flat. In addition, he tied a leather thong around the penis of the victim's naked body and covered the body with sex toys to demonstrate his contempt for the man he had just killed.

He then walked into a police station and confessed what he had done. Hunnisett told the police that the victim was a paedophile, but there was no evidence suggesting that the victim had done anything wrong. In order to cover his track and support his

claim that the victim was a paedophile, Hunnisett concocted text messages sent to the victim's phone falsely suggesting that the victim believed he was meeting a 15-year-old boy. Upon sentencing, the judge pronounced that "the defendant is now an extremely dangerous man who may well kill again were he to be released in the foreseeable future".

3.2.5 Text 5: McCluskie

Tony McCluskie was a 35-year-old man who killed his 29-year-old sister Gemma McCluskie on 1 March 2012. Tony McCluskie (McCluskie hereafter) drifted between building jobs and cleaning windows and spent most of the time not at work in his room. He was a heavy cannabis smoker, smoking strong skunk from morning until night. The victim Gemma McCluskie (Gemma hereafter) was an actress on the BBC soap opera *EastEnders* in 2000 and 2001. After her acting work dried up, Emma worked as a barmaid in pubs.

McCluskie and his sister both lived in their mother's flat. Their elderly mother was in hospital following a brain tumour operation. The relationship between McCuskie and Emma deteriorated over a long time. McCluskie's drug use had caused a lot of arguments between him and his sister and put pressure on their already strained relationship. On the day of the offence, 1 March 2012, McCluskie had got up, gone to the bathroom and forgotten the taps were on in the sink. The taps kept running and flooded the bathroom. Gemma lost patience with McCluskie and the incident was regarded as the last straw and she wanted McCluskie to move out. According to McCluskie, Gemma shouted at him with a knife in her hand, and he himself got very angry.

McCluskie grabbed his sister by the wrist and punched her to the floor. He battered his sister at least twice on the head, sufficiently hard to depress her skull. After killing his sister, McCluskie spent several hours dismembering the victim's body by cutting off all her limbs and her head with a knife. When the knife failed, he went out to buy a meat cleaver, rolls of bin liners and cleaning chemicals. The next morning, with the body still in the house, McCluskie began to cover up. He sent a text message to his dead sister saying he had been to visit their mum in hospital. Later that day, McCluskie lugged a heavy suitcase containing the victim's remains to a local cab firm and was seen taking it towards the Regent's Canal in London.

Subsequent to the killing, McCluskie himself reported to the police that Gemma was missing. A search party of 100 people was organised by McCluskie's cousins on 5 March 2012, attempting to discover information related to the victim's disappearance. The offender McCluskie also joined in the extensive searches across East London to find Gemma.

The victim's torso was then found in Regent's Canal in Hackney on 6 March 2012. Four days later, her brother McCluskie was charged with her murder. A week later, the victim's limbs were found in plastic bags. Her head was found a few months later (10 September 2012) in the same stretch of canal. On the court, McCluskie insisted that he had no recollection of how he killed his sister, and that the victim had attacked him first.

3.2.6 Text 6: Pyott

Pyott was a 43-year-old man who killed his friend and neighbour 44-year-old Danny McDermott on 10 February 2015. The two lived in the same block of flats for a few weeks. Pyott was unemployed and had a long history of inflicting violence on innocent people fuelled by his abuse of class A drugs and alcohol. He was used to arming himself with a knife and using it. Pyott's previous convictions include blackmail, assault and three robberies committed with the help of a knife used to threaten his victims and in one case injure one of them. He was put in prison for seven years for his previous convictions and released in April 2012. Less than three years after his release, Pyott committed his current offence.

The victim McDermott had problems with alcohol. His daily routine was to get a bus into Coventry and had a few drinks in pubs before returning home. Upon Pyott's attack on him, the victim was heavily drunk and was totally unable to protect himself from the attack. Nonetheless, Pyott's attack of the victim was identified as lacking premeditation, and Pyott only intended to cause serious injury rather than to harm the victim.

The motive of the killing was reported as unclear, although it was believed that they rowed over money on that day. Pyott stabbed the victim multiple times in the neck. After killing the victim in the victim's own home with a knife, Pyott meticulously cleaned the knife and left it in the sink. He then took the keys from the victim's pocket and locked the door from the outside in the hope of having more time

to flee. Pyott admitted his offence to his mother and his friend. Neither believed him, but Pyott kept making the claim and asked his friend for £500 to help him flee the country. Pyott's friend and his mother decided to report to the police. On 12 February 2015, the police went to the block of flats and knocked on every door. They received no response from the flat where the victim was living. The police searched the flat and found the body.

Pyott had initially pleaded not guilty to murder. He claimed that he and the victim were good friends and repeatedly denied the killing. But he changed his plea on the first day of his trial. Although Pyott had a long history of mental illness and was identified as suffering from a severe abnormality in mental functioning, the judge evaluated him as showing "a canny understanding of the legal process including tactical considerations" despite his mental disorder.

3.3 Coding scope

In the current study, I did not code every single appraisal item in the six texts. I only coded **judgement** (both inscribed and invoked) of offenders or their behaviour, although those **judgement** items account for most of the appraisal items found in the dataset. Coding of the current study centred upon the subsystem of **judgement**. The focus on **judgement** is due to the fact that in sentencing remarks, **judgement** of offenders and their behaviour plays a more important role than the other two subsystems of **attitude: affect** and **appreciation**. As for **engagement**, I only coded **engagement** items that were used to frame the **judgement** items.

Nevertheless, in the coding of invoked **judgement**, there were cases when other subtypes of appraisal like **affect**, **appreciation** and **graduation** were used as tokens invoking **judgement**. Those subtypes of appraisal were only coded when they were used as tokens to invoke **judgement**.

3.4 Coding of the data

This section formalises how I identified and coded appraisal items in the dataset in order to achieve internal consistency throughout the coding of the dataset. In the current study, the coding of attitudinal items was not tied to any particular

lexicogrammatical forms or units. Since the Appraisal framework is built on the stratum of discourse semantics, the subsystems of the framework can be realised by various lexicogrammatical forms or units. As remarked by White (2006), attitudinal reading can be realised not only by words but also by “phrases and syntagms” (White 2006, p.50). Accordingly, appraisal items coded in the current study include expressions of varying lengths and belonging to various word classes.

As mentioned above, the coding of the dataset focuses on **judgement**. The following sections exemplify how inscribed **judgement**, invoked **judgement**, and **engagement** items were coded in the current study.

3.4.1 Coding of inscribed judgement

Judgement is concerned with evaluations of people and their behaviour. Evaluative items are identified as inscribed **judgement** when they consist of explicitly evaluative lexis and when they target either the offender (their character) or their behaviour (what they did).

Judgment is further divided into **social esteem** and **social sanction**. The former is concerned with how people or their behaviour are esteemed in their community, and the latter with assessments of morality or legality. According to Martin and White (2005), the two subsystems of **judgement** are also distinguished by who we turn to for help: when there is too much negative **social esteem** we turn to the therapist; but when there is too much negative **social sanction**, we turn to lawyers.

Social sanction is further divided into **veracity** and **propriety**. **Veracity** evaluates people or their behaviour in terms of ‘how honest’ they are; while **propriety** evaluates people or their behaviour in terms of ‘how far beyond approach’ they are (Martin and White 2005, p.53), or in other words, how reproachable people or their behaviour are. The coding of **propriety** is demonstrated by the following example.

In all the examples, judgement items are underlined; engagement items are put in boxes; **appraisal item(s)** under discussion are marked in bold. Coding of the appraisal items is put in square brackets after the appraisal items. In the square bracket, ‘+’ stands for positive and ‘-’ stands for negative. In the round brackets following all examples, I list where the examples are from and their specific line numbers that can be found in Appendix I.

- (1) Until this happened, no one would have thought of you as an **evil** [-*propriety*]

person. Yet what you did to Damon Searson was **evil** [-*propriety*]...

(text 1, Palmer, lines 10-12)

In the above example, the first ‘evil’ inscribes a negative **judgement** of Palmer as [-*propriety*], although the negative **judgement** is denied. The second ‘evil’ inscribes a negative **judgement** of Palmer’s behaviour (or what she did to the victim) as [-*propriety*].

Veracity is about ‘how honest’ people or their behaviour are. The coding of **veracity** is demonstrated by the following example:

- (2) **You told implausible lies** [-*veracity*] to a lady from the ambulance service
and to the police... (text 1, Palmer, line 42)

In the above example, Palmer is judged as ‘[telling] implausible lies’, which inscribes a negative **judgement** of her character as [-*veracity*].

In addition to **social sanction**, another subsystem of **judgement** is **social esteem**, which include three subsystems: **normality**, **capacity**, and **tenacity**. **Normality** is about ‘how special’ the people or their behaviour are (Martin and White 2005, p.53). The coding of **normality** is shown by the following example:

- (3) ...and **you were living a significantly withdrawn existence** [-*normality*] –
spending most of your time when not at work in your room – in the same house
as your hugely popular and outgoing sister.

(text 5, McCluskie, line 21-23)

In the above example, McCluskie is described as ‘living a significantly withdrawn existence’, which is interpreted as McCluskie living an abnormal life and accordingly the attitudinal item is coded as inscribing a negative **judgement** of McCluskie’s character as [-*normality*].

The subsystem of **capacity** evaluates people or their behaviour in terms of ‘how capable’ they are (Martin and White 2005, p.53). The coding of this subsystem is demonstrated by the following example:

- (4) You had great **difficulties** [-*capacity*] to endure because of Damon’s problems
with alcohol and drugs, and his shortcomings as a boyfriend.

(text 1, Palmer, line 61-62)

In this example, Palmer is described as having ‘great difficulties’ to endure her boyfriend’s (the victim’s) problems and shortcoming. In other words, Palmer is

represented as lacking the capacity to control her negative emotions, such as her anger and frustration towards the victim. In addition, there are quite a few instances of similar type of **judgement** (negative **judgement** of Palmer's character as [-capacity]) in the co-texts of example 4, such as Palmer 'fail[ed] to realise' her 'misguided attempt to save' the victim (see chapter 4, section 4.2.1, example 1 for the coding). Accordingly, the appraisal item 'difficulties' is coded as inscribing a **judgement** of Palmer's character as [-capacity]. Also in the above example 'endure' might trigger a **judgement** of Palmer's character in terms of **tenacity**, the other instances of negative **judgement** of Palmer's character as [-capacity] in the co-texts of example (4) incline me to code 'difficulties' as inscribed [-capacity] rather than coding 'endure' as inscribed [+tenacity].

The final subsystem of social esteem is **tenacity**, which evaluates people or their behaviour in terms of 'how dependable' they are (Martin and White 2005, p.53). The coding of this subsystem is demonstrated by the following example:

- (5) That said, instead of exercising a normal degree of fortitude and resilience [-tenacity], you followed your emotions and battered your sister at least twice on the head... (text 5, McCluskie, line 24-25)

In this example, McCluskie is judged in terms of 'how dependable' he is. In other words, he is evaluated as lacking 'fortitude and resilience' to combat against his adverse life circumstance. The attitudinal item (the underlined part in the example) is accordingly coded as inscribing a negative **judgement** of McCluskie's character as [-tenacity].

3.4.2 Coding of invoked judgement

This section clarifies how invoked **judgement** was identified and coded in the current study. Invoked **attitude** (**judgement** as well) refers to the indirect realisation of attitudinal meaning (also see chapter 2, section 2.6.1 for delimitation of invoked **attitude**). The coding of invoked **attitude** relies on co-texts and contexts. In the current study, the communicative purpose of the sentencing remarks – the need for judges to make assessments (or evaluations) of offenders and their offences in order to justify their sentencing decisions – is regarded as the context for the coding of appraisal items in sentencing remarks. Consequently **judgement** has a central role in appraisals found in sentencing remarks. Appraisal items which do not inscribe

judgement are very likely to invoke **judgement** rather than invoking any other types of **attitude**. In addition, co-texts, especially inscribed **judgement** in the co-texts, are also used as guidance in the coding of invoked **judgement**.

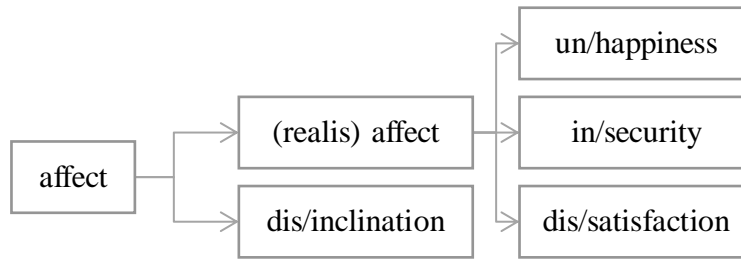
The current study made a classification of the various types of evaluative tokens used to invoke **judgement**. The classification was used to facilitate discussions of invoked **judgement** in the following chapters. In coding the dataset, **judgement** was found to be invoked by the following types of tokens: attitudinal items (**affect**, **appreciation** and **judgement**¹¹), **graduation**, and experiential contents. Furthermore, the distinction between inscribed and invoked **attitude** is better conceived as a cline (Martin and White 2005; Bednarek 2006) marked by “the [different] degree[s] of freedom allowed readers in aligning with the values naturalised by the text” (Martin and White 2005, p.67).

3.4.2.1 Invoked by affect

Before clarifying how **affect** is used to invoke **judgement**, this section first exemplifies how **affect** (those working as tokens invoking **judgment**) was identified and coded in the current study.

Affect is about people’s feelings or emotions, which are further divided into ‘intention’ and ‘reaction’. The two are distinguished by whether stimulus or trigger of the **affect** is hypothetical or actual. If the stimulus of the **affect** is hypothetical, it is referred to as **dis/inclination** (or intention) in the Appraisal framework; if the stimulus is actual, it is referred to as **affect** (or reaction) in the framework. **Affect** is further divided into three subsystems: **un/happiness**, **in/security**, and **dis/satisfaction** (see Figure 3.1 below). The identification of the various subsystems of **affect**, along with the **judgement** invoked by **affect**, is exemplified below.

¹¹ **Judgement** of **capacity** may invoke **judgement** of **propriety** (see section 3.4.2.3 below).

Figure 3.1: Subsystems of **affect**

The first subtype of **affect** is **dis/inclination**, which is also referred to as **irrealis affect** in the framework. According to Martin and White (2005), **irrealis affect** is a kind of feeling triggered by a hypothetical stimulus and it is mainly about people's intention (rather than reaction) (Martin and White 2005, p.48). In the current dataset, offenders' intentions, such as what McCluskie attempted to do in example (6) below, are frequently used to invoke **judgement** of offenders or their behaviours.

In all examples, I only code the invoked **judgement** in the square brackets after the appraisal items, and evaluations inscribed by the appraisal items (other than **judgement**) are not coded. In the square brackets 't' stands for token, which means that the coded item is an instance of invoked **judgement**.

- (6) I note additionally that in this trial you have made a sustained attempt to destroy at least part of the reputation of your sister [t, -propriety],

(text 5, McCluskie, line 44-45)

In the above example, McCluskie's attempt to destroy the victim's (his sister) reputation gives an indication of what McCluskie intended to do, and the underlined item is accordingly coded as inscribing an evaluation of McCluskie's inclination (or intention). The representation of McCluskie's intention – to 'destroy' the victim's reputation – further invokes a negative **judgement** of McCluskie's behaviour(s) as [-propriety].

In addition to **irrealis affect**, there is **realis affect**, which consists of three subsystems: **un/happiness**, **in/security** and **dis/satisfaction**. The subsystem of **un/happiness** is concerned with meanings construing our feelings of cheer and affection (**happiness**) on one hand; misery and antipathy (**unhappiness**) on the other hand. Below is an example of inscribed [+happiness], which invokes a positive **judgement** of [+propriety]

- (7) You took his life, yet you loved him [*t*, *+propriety*]. (text 1, Palmer, line 5)

In the above example, ‘loved’ construes the offender’s positive mood of feeling happy, which is triggered by her affection towards the victim. Palmer’s positive **affect** towards the victim further invokes a positive **judgement** of Palmer as [*+propriety*].

In/security is another subsystem of **affect**, which is concerned with meanings construing our confidence and trust (**security**) on one hand; disquiet and surprise (**insecurity**) on the other hand. **In/security** is also defined by Martin and White (2005) as “our feelings of peace and anxiety in relation to our environs” (Martin and White 2005, p.49). Below is an example of inscribed [*-security*], which invokes a **judgement** of Palmer’s behaviour.

- (8) The crime was completely unpremeditated and you regretted [*t*, *+propriety*] it immediately. I accept that you were as horrified [*t*, *+propriety*] as everyone else about what had just happened. (text 1, Palmer, line 45-46)

In the above example, ‘horrified’ inscribes Palmer’s negative **affect** of [*-security*] towards her own offence. I treat the judge’s use of ‘horrified’ as having similar function with ‘regretted’, which is found in the preceding co-text and also identified as an instance of **affect** used to invoke **judgement**. Both ‘regretted’ and ‘horrified’ are coded as invoking positive **judgement** of Palmer as [*+propriety*].

The last subsystem of **affect** is **dis/satisfaction**. According to Martin and White (2005), **dis/satisfaction** deals with “our feelings of achievement and frustration in relation to the activities in which we are engaged” (Martin and White 2005, p.50). Below is an example of [*-satisfaction*], which invokes a **judgement** of [*-propriety*].

- (9) So it was that on that night of 18/19 January, when you got home, your anger and frustration with Alethea must have boiled over [*t*, *-propriety*].

(text 3, Taylor, line 17-18)

In the above example, Taylor’s ‘anger’ and ‘frustration’ are used to express his dissatisfaction with the victim. These **affect** items give evidence of Taylor’s ethical character by the emotions he displayed. Accordingly, I code the two items ‘anger’ and ‘frustration’ (which inscribe evaluations of Taylor’s **affect** as [*-satisfaction*]) as further invoking a negative **judgement** of Taylor as [*-propriety*].

3.4.2.2 Invoked by appreciation

Judgement can also be invoked by **appreciation**. **Appreciation** is concerned with

meanings construing our evaluation of things, which include not only natural things but also human artefacts. The current study only coded **appreciation** items when they were used to invoke **judgement**. Moreover, the current study did not make further distinctions within the **appreciation** items although the Appraisal framework provide further sub-classification of **appreciation**. The reason for not coding **appreciation** items down into delicacy is that it does not add anything to the discussion of invoked **judgement** in following chapters.

An instance of **appreciation**, which invokes a **judgement** of [-propriety], is found in the following example.

(10) Your relationship with Damon was destructive [*t*, *-propriety*].

(text 1, Palmer, line 7)

In the above example, the relationship between Palmer and the victim is evaluated as ‘destructive’. Since the ‘relationship’ is a thing, the appraisal item ‘destructive’ is identified as a (negative) **appreciation** of the relationship. This negative **appreciation** of the relationship between Palmer and the victim invokes a negative **judgement** (as [-propriety]) of what Palmer did to the victim before the offence. In other words, the **appreciation** item invokes a negative **judgement** of how Palmer built her relationship with the victim.

The appraisal item in the above example, ‘destructive’, is unambiguously identified as inscribing an **appreciation** because the appraisal target (‘relationship’) is a thing rather than a human being or their behaviour. But when the ‘thing’ is a human activity or some achievement made by human beings, the boundary between **appreciation** and **judgement** becomes fuzzy. People’s behaviour is congruently realised by verbal groups, but in the current dataset, offenders’ behaviour (mainly their criminal acts) are also found to be realised by nominal groups, such as ‘knife crime’, ‘case’, ‘killing’, ‘attack’, or ‘act’. When appraisal items are attached to those nominal groups, I code them as inscribing **appreciation** based on their lexicogrammatical forms. I also code them as invoking **judgement** of offenders’ behaviour. In the current study I use the distinction between inscribed and invoked **attitude** rather than the term ‘double coding’ (Lee 2006; Lee 2007) to label the appraisal items sitting on the border between **appreciation** and **judgement**. Below is an example from the dataset (also see section 2.8.1).

(11) This was a concerted, sustained [*t*, *-propriety*] and vicious [*t*, *-propriety*]

attack.

(text 2, Capp, line 29-30)

In the above example, Capp's criminal acts towards the victim are represented by a nominal group, 'attack'. The 'attack' is evaluated as 'concerted, sustained and vicious'. The attitudinal items are coded not only as inscribing **appreciation** of the nominal form 'attack' but also as invoking negative **judgement** (as [-propriety]) of Capp's criminal acts towards the victim. I identify the appraisal items as consisting of two instances of evaluation, 'concerted, sustained' and 'vicious', for they focus on two different aspects of the attack. While the evaluation of the attack as 'concerted, sustained' focuses on manners of the attack, including his planning before the attack ('concerted') and the long temporal duration of his attack ('sustained'); the evaluation of the attack as 'vicious' focuses on the evil nature of the attack.

3.4.2.3 Invoked by judgement

Judgement of victims would invoke **judgement** of offenders or their criminal acts. This is shown by the following example.

- (12) Gemma was, on the compelling descriptions the jury heard during this trial, a young woman with a huge zest for life [*t, -propriety*]; she was a warm-hearted woman [*t, -propriety*] who was loved dearly by a great many people [*t, -propriety*]. (text 5, McCluskie, line 11-13)

In the above example, instances of the overwhelmingly positive **judgement** of the victim reinforce how unjustified McCluskie's criminal acts towards the victim are. Accordingly, these instances of positive **judgement** of the victim are coded as invoking negative **judgement** of McCluskie's criminal acts towards the victim.

Moreover, **judgement** of offenders or their behaviour in terms of **social esteem** is also found invoking **judgement** of **social sanction**, as shown by the following example.

- (13) Yet, despite your mental disorder you showed a canny [*+capacity*] understanding of the legal process including tactical [*+capacity*] considerations [*t, -veracity*], you mixed truth with lies [*-veracity*] in the aftermath of the killing and you disposed of evidence to escape punishment [*t, -propriety*]. (text 6, Pyott, line 94-97)

In the above example, the two appraisal items 'canny' and 'tactical' inscribe two instances of positive **judgement** of Pyott as [*+capacity*]. The two instances of

[+capacity] collaboratively invoke a negative **judgement** of Pyott's behaviour as [-veracity] for Pyott's display of 'canny understanding' and 'tactical considerations' despite his mental disorder reveals a property of his negative **veracity**. Such coding is also supported by the following co-texts, where similar type of **judgement**, i.e. an instance of inscribed [-veracity], is found in 'you mixed truth with lies'.

3.4.2.4 Invoked by graduation

Graduation is concerned with the meanings of upscaling and downscaling. **Graduation** items can grade up or down not only attitudinal meanings but also non-attitudinal meanings. When **graduation** items are used to upscale or downscale non-attitudinal items, they usually bring attitudinal reading to those otherwise non-attitudinal items. The use of **graduation** items to grade non-attitudinal meanings is well documented in Hood's (2010) study of appraisal in journal articles, in which "[b]y scaling non-attitudinal meanings, academic writers are able to flag an attitudinal interpretation of what on the surface appears as an objective representation" (Hood 2010, p.109). It is also the case in sentencing remarks that **graduation** items were found flagging attitudinal readings of the seemingly neutral contents, which is exemplified below.

- (14) He tricked his way into Peter Bick's house and while there, killed him by striking him at least five [*t*, -*propriety*] severe blows on the head...

(text 4, Hunnisett, line 2-4)

- (15) Mr Atkins QC submits that you had admitted the killing straight away. But you admitted it only to some people [*t*, -*veracity*].

(text 6, Pyott, line 102-103)

In example (14), Hunnisett's blow to the victim's head is quantified by a specific number. More important, though, is the upscaling of the quantity by 'at least'. Through the **graduation** item, 'at least', the non-attitudinal number 'five' is charged with an attitudinal reading. Namely, Hunnisett struck too many blows on the victim, which accordingly invokes a negative **judgement** of his criminal acts as [-*propriety*]. In example (15), Pyott admitted his offence 'only to some people', which downscales (or constrains) the spatial distribution of the scope of his admission. This downscaling invokes a negative **judgement** of Pyott's behaviour as [-*veracity*].

In the current study I only coded **graduation** items that were used to invoke

judgement. When **graduation** items were used only to upscale or downscale **judgement** that was inscribed or invoked by other attitudinal items, I did not code those **graduation** items but nevertheless made reference to them when discussing the attitudinal items. Below is an example of the **graduation** items that are not separately coded in the current study.

- (16) You told implausible lies [-veracity] to a lady from the ambulance service
and to the police... (text 1, Palmer, line 42)

In the above example, Palmer's '[telling] implausible lies' inscribes a negative **judgement** of Palmer's character as [-veracity]. The negative **judgement** is upscaled by a **graduation** item 'implausible'. I do not code the **graduation** item separately, but will mention it when discussing the inscribed negative **judgement** of [-veracity].

Furthermore, although the **graduation** system consists of further more delicate subsystems in the Appraisal framework, the current study did not code those subsystems for coding **graduation** down into delicacy does not add anything to my discussion of **judgement** items in following chapters.

3.4.2.5 Invoked by experiential contents

Judgement of offenders or their behaviour can also be invoked by experiential contents. In the current study, experiential contents refer to the seemingly neutral contents, which do not bring any attitudinal reading when put out of their co-texts. In Martin and White's (2005) words, it refers to the situation in which "the selection of ideational meanings is enough to invoke evaluation, even in the absence of attitudinal lexis that tells us directly how to feel" (Martin and White 2005, p.62). It is exemplified by the following example.

- (17) You knew what you were doing and that it was very wrong [-propriety] [t, -
propriety] and you could have prevented or stopped your actions [t, -
propriety]. (text 2, Capp, line 65-66)

In the second proposition of the above example, the experiential content 'you could have prevented or stopped your actions' does not contain any attitudinal lexis, but it nevertheless invokes a negative **judgement** of Capp's criminal acts. In the first proposition, the explicitly negative **judgement** of the criminal acts as 'very wrong' also guides the coding of the whole proposition as invoking a negative **judgement** of Capp as he 'knew what [he was] doing and it was very wrong'.

3.4.2.6 Distinction between invoked [-veracity] and invoked [-propriety]

The distinction between invoked [-veracity] and [-propriety] can sometimes become fuzzy. The current study relied on co-texts in the coding of the appraisal items lying on the boundary between [-veracity] and [-propriety]. In the following example, the appraisal items are coded as invoking **judgement** of [-veracity].

- (18) I am sure, also, that you tried to hide your guilt [*t*, -*veracity*] by cutting your arm to simulate the effect a struggle [*t*, -*veracity*]; and by suggesting officers check your flat for forensic evidence you knew was not there [*t*, -*veracity*]. (text 6, Pyott, line 50-52)

I code these items as invoking **judgement** of [-veracity] rather than [-propriety] based on the emphasis given to ‘hide’, which guides me to code the following contents as focusing on Pyott’s negative **veracity** rather than negative **propriety**. However, it cannot be denied that the invoked negative **judgement** of [-veracity] may further invoke negative **judgement** of [-propriety]. This phenomenon is called by Thompson’s (2014) as ‘Russian Doll syndrome’, where one single wording may lead to a series of coding.

In this study I only coded one layer of invoked **judgement**, which means that in the above example I only code the appraisal items as invoking **judgement** of [-veracity], and I do not go on to further code the invoked **judgement** of [-veracity] as invoking **judgement** of [-propriety].

In the following example, which is also about what Pyott did after his criminal acts, I code the appraisal items in the example as invoking **judgement** of [-propriety] rather than [-veracity].

- (19) You then cleaned the knife and disposed of your bloodstained clothing [*t*, -*propriety*], intending to avoid punishment [*t*, -*propriety*] by destroying forensic evidence against you [*t*, -*propriety*].

(text 6, Pyott, line 45-46)

In the above example, what Pyott did after the offence is to some extent similar to descriptions in example (18). However, in the above example the focus is put on the fact that Pyott ‘intend[ed] to avoid punishment’, which leads me to code the appraisal item and items in its co-texts as invoking **judgement** of [-propriety] rather than that of [-veracity]. In other words, the focus on Pyott’s ‘intend[ing] to avoid punishment’

makes Pyott's behaviour reproachable rather than merely being dishonest. Accordingly, I code appraisal items in the above example as invoking [-propriety] rather than as invoking [-veracity].

Furthermore, the evaluative items in the above two examples are identified as discrete evaluative tokens (rather than being regarded as a whole) invoking their respective negative **judgement** of Pyott's behaviours. These evaluative items (or tokens) are descriptions of Pyott's behaviours from different aspects, such as what Pyott tried to do ('tried to hide [his] guilt' in example 18, 'intending to avoid punishment' in example 19), or what Pyott actually did ('cut...arm to simulate the effect a struggle' in example 18), or what Pyott did in a more abstract term ('destroying forensic evidence' in example 19). Accordingly these items are identified as discrete tokens respectively invoking negative **judgement** of Pyott's behaviours.

3.4.3 Polarity of judgement

In the Appraisal framework attitudinal items are coded as either positive or negative. In addition to the distinction between positive and negative, the current study used two more terms to code and describe attitudinal items in the dataset: [qualified +propriety], un/favourable **judgement**. These terms are used to cover aspects of the appraisal features that are relevant to my study, but are not adequately addressed by the Appraisal framework.

3.4.3.1 [qualified +propriety]

In Martin and White (2005), attitudinal items are identified as either positive or negative. However, in coding the sentencing remarks I encountered some **judgement** items that cannot be properly identified as either positive nor negative. Below is an example.

- (20) Many murders are committed by far worse people than you [*t, qualified +propriety*]. Until this happened, no one would have thought of you as an evil [*-propriety*] person. (text 1, Palmer, line 10-11)

In the above example, the judge compares Palmer with other murderers as '[m]any murders are committed by far worse people than' Palmer. The identification of other murderers as 'far worse' than Palmer invokes a **judgement** of Palmer, through which

Palmer is represented as less reproachable than typical murderers. It is not very accurate to identify the invoked **judgement** as either negative or positive, but it is clear that Palmer is made less reproachable based on the evaluation. I will use the term [qualified +propriety] to refer to such kind of **judgement**. It refers to items that are not appropriate to code them as either positive or negative, but they make offenders or their behaviour less reproachable. In other words, the negativity of the negative **judgement** is downscaled, although **graduation** items are not used to downscale the negative **judgement**. More examples of [qualified +propriety] are listed below.

- (21) Although this was a murder by stabbing with a knife, **you are not a person who carries knives, as so many knife murderers do** [*t, qualified +propriety*].

(text 1, Palmer, line 53-54)

- (22) This is a **distressing, indeed tragic** [*t, qualified +propriety*] case.

(text 1, Palmer, line 4)

- (23) The crime was **completely** [*t, qualified +propriety*] unpremeditated and you regretted [*t, +propriety*] it immediately.

(text 1, Palmer, line 46)

- (24) I am satisfied that [*pronounce*] you formed the intention to do serious harm to Damon **only moments before carrying it out** [*t, qualified +propriety*].

(text 1, Palmer, line 50-51)

In examples (21) and (22) the judge does not use **graduation** items but the negative **judgement** are nonetheless downscaled. In example (22) the evaluation of Palmer's offence as 'distressing, indeed tragic' triggers people's feeling of [-happiness], which makes the offence less reproachable than offences triggering people's feeling of [-security] (such as the 'horrifying violence' in text 6). In examples (23) and (24), **graduation** items are used as tokens invoking **judgement** of [qualified +propriety]. In the sentencing of murder, lack of premeditation is a statutory mitigating factor,¹² which means that the mentioning of this factor in sentencing remarks does not necessarily trigger attitudinal meaning. But when the judge uses **graduation** items to reinforce the offender's lack of premeditation, such as 'completely' unpremeditated in example (23) and 'only moments before carrying it out' in example (24), the **graduation** items bring attitudinal reading to the otherwise technicalised or institutionalised evaluation. The **graduation** items are accordingly coded as tokens

¹² Criminal Justice Act 2003, schedule 21, para 11(b).

invoking **judgement** of [qualified +propriety].

Finally, it has to be pointed out that [qualified +propriety] was only found in invoked **judgement** and not in inscribed **judgement**, and they were only found in one of the subtypes of **judgement**, **propriety**. Furthermore, **judgement** of [qualified +propriety] was only found in text 1. Text 1 is the only text in which the judge set the minimum term below the starting point, and there was the need for the judge to downscale the negativity of the negative **judgement** in order to justify his setting of the minimum term below the starting point, which accordingly justifies the occurrences of [qualified +propriety] in this text.

3.4.3.2 Un/favourable judgement

I used ‘un/favourable’ **judgement** to refer to whether or not the **judgement** is valued by judges or, in other words, whether or not the **judgement** is favourable to the offenders. In most cases, people value positive **judgement** and dis-value negative ones. But it is not always the case. The inconsistency between polarity of **judgement** and authorial dis/valuation of the **judgement** is not mentioned in Martin and White (2005), but pointed out by O’Donnell (2014):

One problem with the ‘evaluative style’ approach is that it concerns only whether a particular attribute is used for appraisal, not whether the attribute is valued or not by the appraiser. (O’Donnell 2014, p.106)

In coding appraisal items in the sentencing remarks, the polarity of **judgement** of **capacity** was found not consistent with judges’ dis/favouring of the **judgement**. In the context of sentencing remarks, judges value **judgement** of [-capacity] but dis-value **judgement** of [+capacity]. In other words, **judgement** of [-capacity] was found to be favourable to offenders; while **judgement** of [+capacity] was unfavourable to offenders. They are shown by the following examples (same as example 13 above and repeated below).

- (13) Yet, despite your mental disorder you showed a **canny** [+capacity]
understanding of the legal process including **tactical** [+capacity]
considerations [t, -veracity], you mixed truth with lies [-veracity] in the
aftermath of the killing and you disposed of evidence to escape punishment.

(text 6, Pyott, line 94-97)

In the above example, the two attitudinal items – ‘canny’ and ‘tactical’ – inscribe positive **judgement** of Pyott as [+capacity]. However, they further invoke a negative **judgement** of Palmer as [-veracity]. Such kind of **judgement** of [+capacity] is identified as unfavourable **judgement** in the current study.

On the contrary, **judgement** of [-capacity] would put offenders or their behaviours in a favourable light.

(25) It is clear in my judgment that you suffer from a mental disorder [*t,-capacity*]... (text 2, Capp, line 49-50)

In the above example, identification of Capp as ‘suffer[ing] from a mental disorder’ invokes a **judgement** of Capp as lacking adequate capacity to deal with his life, and it is coded as invoking a **judgement** of Capp as [-capacity]. The **judgement** of Capp as [-capacity] puts him in a favourable light, for it has the potential to mitigate Capp’s current offence. Such kind of **judgement** of [-capacity] is identified as favourable **judgement** in the current study.

The term ‘favourable **judgement**’ is used to refer to **judgement** that is valued by judges, and such kind of **judgement** is favourable to offenders for it tends to mitigate offenders’ current offences. In contrast, ‘unfavourable **judgement**’ refers to **judgement** that is dis-valued by judges, and such kind of **judgement** is unfavourable to offenders for it tends to aggravate offenders’ offence. In the current study, **judgement** of [-capacity] is identified as favourable **judgement**; while **judgement** of [+capacity] is identified as unfavourable **judgement**. In addition, **judgement** of [qualified +propriety] is also identified as favourable **judgement**, for it is used to make offenders or their offences as less reproachable. As regards to other subtypes of **judgement**, the positive/negative polarity of **judgement** is consistent with judges’ dis/valuing of the **judgement**. In the following chapters, I use the term ‘favourable **judgement**’ to refer to **judgement** of [-capacity], [+veracity], [qualified +propriety], or [+propriety],¹³ and ‘unfavourable **judgement**’ to refer to **judgement** of [-normality], [-tenacity], [+capacity], [-veracity] or [-propriety].

¹³ Another two subtypes of **judgement**, i.e. [+normality] and [+tenacity], are not found in the dataset and hence not included.

3.4.4 Coding of engagement

The system of **engagement** is put forward based on Bakhtin's conception of the dialogic feature of utterances. According to Bakhtin (1981), all utterances exist against a background of "other concrete utterances on the same theme" and those utterances are "made up of contradictory opinions, points of view and value judgements" (Bakhtin 1981, p.281). In Martin and White's (2005) words, **engagement** is concerned with authorial stances towards "prior utterances, alternative viewpoints and anticipated responses" (Martin and White 2005, p.97). As mentioned above, the current study only codes **engagement** items that are used to frame **judgement** of offenders or their offences.

The initial distinction in the **engagement** system is between **monoglossia** and **heteroglossia**. **Monoglossia** (or bare assertions) do not make any explicit reference to alternative voices. It is shown by the following example (same as example 3 above and repeated below).

(3) You told implausible lies [-veracity] to a lady from the ambulance service and
to the police... (text 1, Palmer, line 42)

In the above example, the judge does not make any reference to alternative opinions or external voices. The identification of Palmer as telling lies is declared categorically, and the proposition is coded as **monoglossic**.

In contrast to **monoglossia**, **heteroglossia** refers to utterances in which the authorial voices explicitly engage with alternative opinions or external voices. The **heteroglossia** system is divided into two major subsystems: dialogic **expansion** and dialogic **contraction**, which are distinguished by whether the dialogic space is expanded or contracted by **engagement** items. Through dialogistically expanding **engagement** items, authors allow external voices or alternative opinions into the dialogic space. Dialogic **expansion** consists of two subsystems: **entertain** and **attribute**.

Entertain is used to show the author's/speaker's recognition that their own proposition is "but one among a number of propositions available in the current communicative context" (Martin and White 2005, p.105). The subsystem **entertain** can also be regarded as a re-interpretation of the traditional concepts of modality and evidentiality in the light of the author's/speaker's dialogic positioning. The coding of **entertain** is exemplified by the following example:

- (26) You **appear to** [*entertain*] have shown no remorse [*t, -propriety*], perhaps because you continue to deny that it was you who murdered her.

(text 3, Taylor, line 40-41)

In the above example, the judge opens the dialogic space by his use of ‘appear to’. Through the **entertain** item ‘appear to’, the judge acknowledges that there might be alternative opinions arguing the contrary such as the offender did show some remorse.

Another subsystem of dialogic **expansion** is **attribute**, which includes further subsystems. However, the subsystems of **attribute** are not examined in the current study for there are only a few instances of **attribute** found in the dataset. Moreover, coding down into the subsystems of **attribute** does not add anything to discussions of **judgement** in following chapters.

According to Martin and White (2005), **attribute** refers to “formulations which disassociate the proposition from the text’s internal authorial voice by attributing it to some external source” (Martin and White 2005, p.111). The author/speaker opens the dialogic space by including external voices into their own texts, and also at the same time acknowledging the existence of alternative opinions. Below is an example of **attribute** from the dataset.

- (27) **You say that** [*attribute*] you were the victim of physical and sexual abuse when you were a young boy [*t, -normality*].

(text 2, Capp, line 39-40)

In the above example, identification of Capp as a victim of physical and sexual abuse is attributed to himself, as ‘You say that’.

In contrast to the opening of dialogic space is the contraction of dialogic space. Through dialogic **contraction** items, the dialogic space is contracted in that external voices or alternative opinions are excluded. Subsystems of dialogic **contraction** are listed in the following figure.

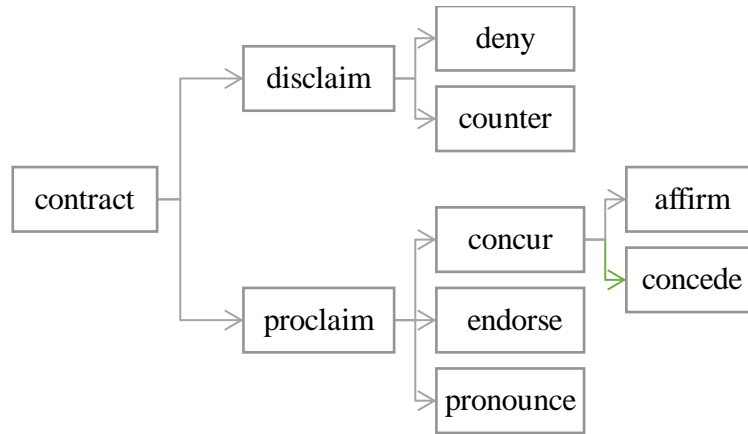
Figure 3.2: Subsystems of dialogic **contraction**

Figure 3.2 shows that two major subsystems of dialogic **contraction** are **disclaim** and **proclaim**. **Disclaim** refers to the situation in which alternative opinions are explicitly excluded from the dialogic space, and it is further divided into **deny** and **counter**. **Deny** refers to the situation in which alternative opinions are introduced into the dialogic space but then negated. Below is an example of **deny** from the dataset (same as example 2 above and repeated below).

- (2) Until this happened, no one [*deny*] would have thought of you as an evil [*-propriety*] person. Yet what you did to Damon Searson was evil [*-propriety*]...
(text 1, Palmer, line 10-12)

In the above example, the first ‘evil’ inscribes a negative **judgement** of Palmer as [*-propriety*], and the negative **judgement** is denied as ‘no one would have thought of [Palmer] as an evil person’.

The other subsystem of **disclaim** is **counter**, which refers to situations in which expectations arising from a preceding proposition are negated or replaced by a following proposition. Accordingly, **counter** often works in conjunction with **deny**, which is used to deny expectations arising from the preceding proposition. The following examples demonstrate how **counter** is coded in my dataset.

- (28) You took his life, yet [*counter*] you loved him [*t, +propriety*].
(text 1, Palmer, line 5)
- (29) Although [*counter*] this was a murder by stabbing with a knife, you are not [*deny*] a person who carries knives, as so many knife murderers do [*t, qualified +propriety*]. You picked up the knife on impulse, on the spur of the moment [*t,*

qualified +propriety].

(text 1, Palmer, line 53-55)

In example (28), the proposition that ‘You took his life’ brings the expectation that Palmer must hate the victim, which is countered and replaced by the following proposition that Palmer ‘loved’ the victim. In example (29), the identification of Palmer’s offence as ‘a murder by stabbing with a knife’ gives rise to expectations of negative **judgement** of Palmer’s criminal acts towards the victim. However, the expectations are countered by the following propositions, in which Palmer’s criminal acts are represented as less reproachable than that of typical murderers: ‘you are not a person who carries knives, as so many knife murderers do’ and ‘You picked up the knife on impulse, on the spur of the moment’.

The other subsystem of dialogic **contraction** is **proclaim** (see Figure 3.2 above). Through disclaiming items the authorial voice explicitly excludes some alternative opinions from the dialogic space; while through proclaiming items the authorial voice makes explicit their own authorial positioning and at the same time (implicitly) excludes alternative opinions from the dialogic space, which is why **proclaim** is also identified as a subsystem of dialogic **contraction**. **Proclaim** consists of three subsystems: **concur**, **pronounce**, and **endorse** (see Figure 3.2 above).

Concur is used to construe the authorial voice as “agreeing with or having the same knowledge as, some projected dialogic partner” (Martin and White 2005, p.122). By showing their agreement with some dialogic partner, the authorial voice not only presents their own opinion(s) but also shares responsibility for the ‘agreed’ propositions with some dialogic partner(s).

A further distinction is made within **concur** as between **affirm** and **concede**. An instance of **affirm** is found in the following example.

- (30) **I accept that** [*affirm*] you were as horrified as everyone else about what had just happened [*+propriety*]. (text 1, Palmer, line 46-47)

In the above example, the judge shows his agreement with the projected audience with regard to the opinion that Palmer ‘were as horrified as everyone else about what had just happened’.

The other subsystem of **concur** is **concede**. **Concede** refers to situations that the authorial voice tentatively accepts or agrees with some external voice, but expectation or implication brought by the tentatively agreed proposition is then countered or negated by the authorial voice. Accordingly, **concede** is usually used in conjunction

with **counter** and **deny**. The following example demonstrates how **concede** is identified and coded in the current study (same as example 13 above and repeated below).

- (13) Yet [*counter*], despite [*concede*] your mental disorder [*t, -capacity*] you showed a canny [*+capacity*] understanding of the legal process including tactical [*+capacity*] considerations [*t, -veracity*], you mixed truth with lies [*-veracity*] in the aftermath of the killing and you disposed of evidence to escape punishment. (text 6, Pyott, line 94-97)

In the above example, ‘despite’ is coded as a **concede**, through which the judge tentatively acknowledges the identification of Pyott’s mental disorder. Identification of Pyott’s mental disorder invokes a **judgement** of Pyott as [*-capacity*], which would otherwise mitigate Pyott’s current offence. However, such an expectation is countered by the following propositions, in which Pyott is judged as having the capacity to deal with matters in court, ‘you showed a canny understanding of the legal process including tactical considerations’. Such descriptions contradict Pyott’s mental disorder, and the descriptions further invokes a negative **judgement** of Pyott as [*-veracity*].

The second subsystem of **proclaim** is **endorse**, through which judges explicitly show their endorsement to some external voices. In Martin and White’s (2005) words, such external voices are construed by the authorial voice as “correct, valid, undeniable or otherwise maximally warrantable” (Martin and White 2005, p.126). **Endorse** is exemplified by the following example.

- (31) It is also evident from her notebooks [*endorse*] and from what she said to Alison Dearden on 12 December [*endorse*] and to Tina Powell on Boxing Day [*endorse*], that there is a dark and violent side to your personality [*-propriety*] that possibly only Alethea saw.

(text 3, Taylor, line 13-16)

In the above example, when making the explicitly negative **judgement** of Taylor, the judge shows his endorsement with some external voices attributed to three different sources: the victim’s notebook, and the victim’s verbal accounts on two different occasions.

The final subsystem of **proclaim** is **pronounce**, through which the authorial voice explicitly states his or her own opinions, which involves “authorial emphases or explicit authorial interventions or interpolations” (Martin and White 2005, p.127).

Through **pronounce**, opinions different from authorial opinions are implicitly excluded from the dialogic space. The following example demonstrates how **pronounce** is identified (same as example 22 above and repeated below).

- (22) **It is clear in my judgment that** [*pronounce*] you suffer from a mental disorder [*t, -capacity*], namely a long standing personality disorder with antisocial, psychopathic and borderline features.

(text 2, Capp, line 49-51)

In the above example, the judge shows his explicit emphasis on the identification of Capp's mental disorder through the **pronounce** item 'It is clear in my judgement that'. In other words, the authorial opinion is presented as if the judge is fending off some alternative opinions that would otherwise challenge his identification of Capp's mental disorder.

Finally, I only code **engagement** items that are used to frame **judgement** of offenders or their offences, but it is not always the case that one **engagement** item is used to frame one **judgement** item. There are instances in which one **engagement** item is used to frame more than one **judgement**, as shown below (same as example 13 above and repeated below).

- (13) **Yet** [*counter*], **despite** [*concur*] your mental disorder [*t, -capacity*] you showed a **canny** [*+capacity*] [*t, -propriety*] understanding of the legal process including **tactical** [*+capacity*], [*t, -propriety*] considerations, **you mixed truth with lies** [*-veracity*] in the aftermath of the killing and **you disposed of evidence to escape punishment** [*t, -propriety*]. (text 6, Pyott, line 94-97)

In the above example, expectations arising from acknowledgement of Pyott's mental disorder are countered (through '[y]et') by the following propositions, where several instances of **judgement** of Pyott and his behaviour are found: 'canny', 'tactical', 'you mixed truth with lies', 'you dispose of evidence to escape punishment'. In other words, the **counter** '[y]et' is used to frame several instances of **judgement**.

There are also instances in which one **judgement** item is presented by more than one **engagement** item, as shown by the example below:

- (32) **While** [*counter*] I acknowledge that the Defendant's life experiences have played their part in shaping the man he has become, **the evidence that I have heard** [*endorse*] **has driven me to the conclusion** [*pronounce*] that the

Defendant is now an extremely **dangerous** [-*propriety*] man who may well kill again were he to be released in the foreseeable future.

(text 4, Hunnisett, line 66-69)¹

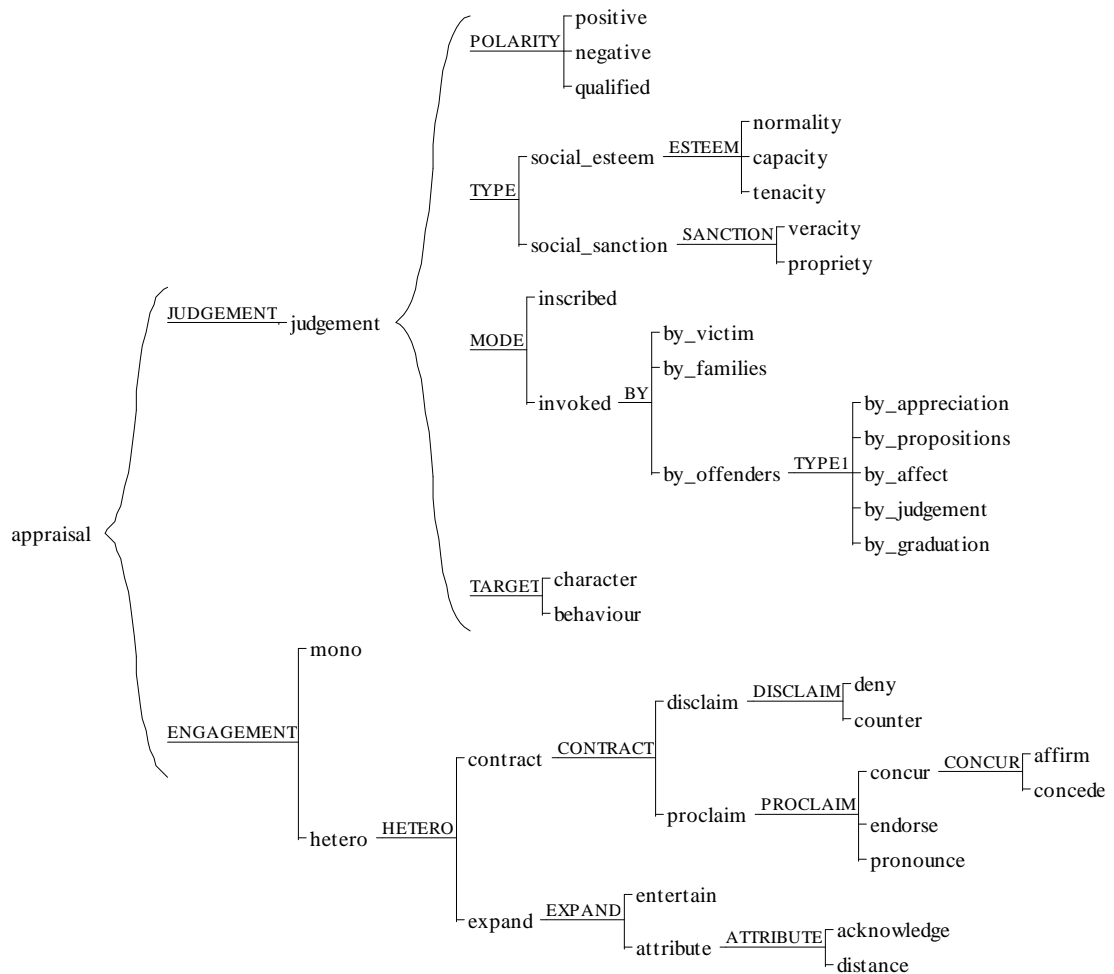
In the above example, the negative **judgement** of Hunnisett as ‘dangerous’ – inscribing a **judgement** of [-*propriety*] – is presented as countering expectations brought by acknowledgement of his past: ‘[w]hile I acknowledge that the Defendant’s life experiences have played their part in shaping the man he has become’. The same value **judgement** is also presented by an instance of **endorse** and an instance of **pronounce**: ‘the evidence that I have heard has driven me to the conclusion’.

3.5 Use of the UAM CorpusTool for the coding

I used the UAM CorpusTool (O’Donnell 2011) to assist the manual coding of the six sentencing remarks. The software has an inbuilt annotation scheme for the coding of appraisal items based on Martin and White’s (2005) Appraisal framework, and it allows the editing of the annotation scheme. Since I only coded **judgement** and **engagement** items (those that are used to frame the **judgement**), I deleted the subsystem of **graduation** from the scheme. Furthermore, within the subsystem of **attitude**, I deleted the subsystems of **affect** and **appreciation** from the scheme (nonetheless I coded **affect** and **appreciation** items when they are used as tokens to invoke **judgement**), and only kept the subsystem of **judgement**. The edited coding scheme is shown below.

¹ ‘I acknowledge’ could have been coded as a **concede**, but since such **concede** is not used to present any **judgement** item, it is not coded in this study.

Figure 3.3: Coding scheme for the current study



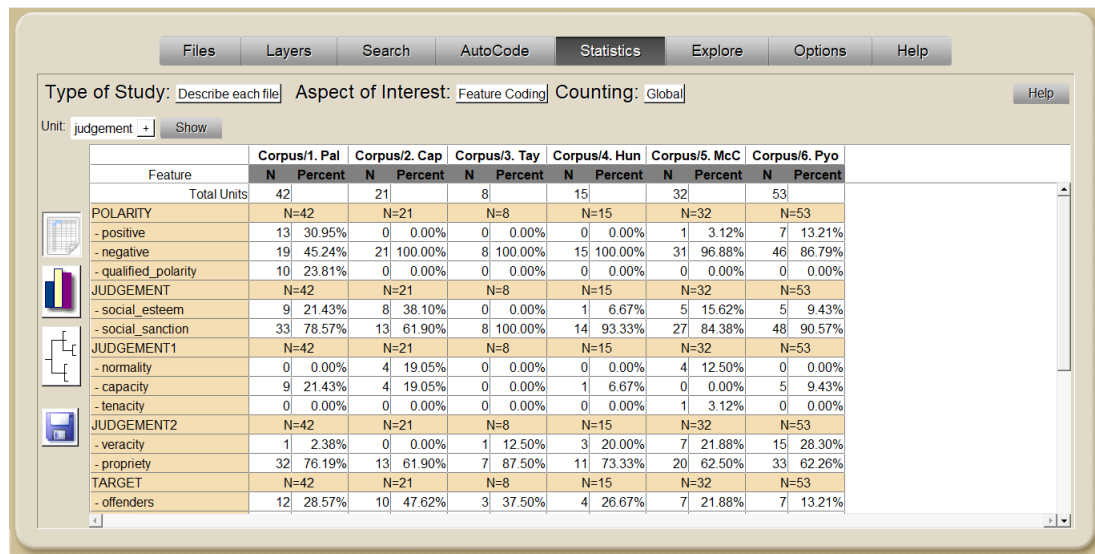
Then I added some distinctions to the scheme: (1) [qualified +propriety] was added to the subsystem of polarity in addition to positive and negative; (2) a subsystem of appraisal target was added to the scheme; (3) below the subsystem of invoked **judgement**, I made further distinction between different types of evaluative tokens (see Figure 3.3 above).

By ‘appraisal target’ in the scheme, I made a distinction between whether the appraisal item targeted offenders (referred to as ‘character’ in the scheme) or their behaviour. By ‘types of evaluative tokens’ in the scheme, I made the distinction based on whether the evaluative token was about the victim (such as positive **judgement** of the victim, or experiential contents about victim vulnerability), or about the victims’ families (such as the impact of victims’ deaths on their families and friends), or about the offender (such as descriptions of their behaviour or their emotional responses). The distinctions were made to facilitate discussions of the appraisal features of the

sentencing remarks in the following chapters. The distinctions were especially helpful in the discussion of [-propriety], which was the **judgement** subtype most frequently found in the dataset. By focusing on similar types of evaluative tokens, it is convenient for me to examine the qualitative differences of the **judgement** of [-propriety] is across the six texts.

Once the annotation scheme was edited ready for use, I used the software to code appraisal items based on the edited scheme. After coding the appraisal items in my dataset with the assistance of UAM CorpusTool, frequencies of those coded items were automatically displayed in the statistics window of the software. I used the ‘statistic’ function of the software to generate the frequencies of different types of **judgement** and **engagement** in the six texts (see Figure 3.4). The image in Figure 3.4 shows how the software displays the frequencies of **judgement** items across the six texts.

Figure 3.4: How UAM CorpusTool displays frequencies of appraisal items



The screenshot shows the UAM CorpusTool interface with the 'Statistics' tab selected. The 'Type of Study' is 'Describe each file', 'Aspect of Interest' is 'Feature Coding', and 'Counting' is 'Global'. The 'Unit' is set to 'judgement'. The table displays frequencies for various features across six corpora: Corpus/1. Pal, Corpus/2. Cap, Corpus/3. Tay, Corpus/4. Hun, Corpus/5. McC, and Corpus/6. Pyo. The features are grouped into POLARITY, JUDGEMENT, JUDGEMENT1, JUDGEMENT2, and TARGET. Each feature row shows the total units and the frequency and percentage for each corpus.

Feature	Corpus/1. Pal		Corpus/2. Cap		Corpus/3. Tay		Corpus/4. Hun		Corpus/5. McC		Corpus/6. Pyo	
	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent
Total Units	42		21		8		15		32		53	
POLARITY	N=42		N=21		N=8		N=15		N=32		N=53	
- positive	13	30.95%	0	0.00%	0	0.00%	0	0.00%	1	3.12%	7	13.21%
- negative	19	45.24%	21	100.00%	8	100.00%	15	100.00%	31	96.88%	46	86.79%
- qualified_polarity	10	23.81%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
JUDGEMENT	N=42		N=21		N=8		N=15		N=32		N=53	
- social_esteem	9	21.43%	8	38.10%	0	0.00%	1	6.67%	5	15.62%	5	9.43%
- social_sanction	33	78.57%	13	61.90%	8	100.00%	14	93.33%	27	84.38%	48	90.57%
JUDGEMENT1	N=42		N=21		N=8		N=15		N=32		N=53	
- normality	0	0.00%	4	19.05%	0	0.00%	0	0.00%	4	12.50%	0	0.00%
- capacity	9	21.43%	4	19.05%	0	0.00%	1	6.67%	0	0.00%	5	9.43%
- tenacity	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	3.12%	0	0.00%
JUDGEMENT2	N=42		N=21		N=8		N=15		N=32		N=53	
- veracity	1	2.38%	0	0.00%	1	12.50%	3	20.00%	7	21.88%	15	28.30%
- propriety	32	76.19%	13	61.90%	7	87.50%	11	73.33%	20	62.50%	33	62.26%
TARGET	N=42		N=21		N=8		N=15		N=32		N=53	
- offenders	12	28.57%	10	47.62%	3	37.50%	4	26.67%	7	21.88%	7	13.21%

I also used the ‘search’ function of the software to trace the different lexicogrammatical realisations of similar types of **judgement** or **engagement** across the six texts (see Figure 3.5), based on which I can easily trace my coding and examine the subtle differences of the different lexicogrammatical realisations of similar types of **judgement** across the six texts. The image in Figure 3.5 displays how the software displays all the **judgment** items that are coded as [-normality] in the dataset.

Figure 3.5: How UAM CorpusTool displays **judgement** of [-normality]

File	Pretext	<appraisal feature="negative" & feature="normality"/>	PostText
Corpus/2. Capp.txt	n in Inverness. You	suffered considerable adversity	
Corpus/2. Capp.txt	ur childhood due to	disruption	of family
Corpus/2. Capp.txt	were aged 14 years.	You say that you were the victim of physical and sexual abuse when you were a young boy	
Corpus/2. Capp.txt	you are a young man	with a troubled and difficult past	
Corpus/5. McCluskie.txt	you did to her.	I accept that this was a particularly challenging	
Corpus/5. McCluskie.txt	dundancies at work;	you were hopelessly addicted to the powerful type of cannabis known colloquially as "skunk"	
Corpus/5. McCluskie.txt	and you were living	a significantly withdrawn existence	
Corpus/5. McCluskie.txt	n the same house as	your hugely popular and outgoing sister	

3.6 Conclusion

The current study applies the Appraisal framework to examine how judges evaluate offenders and their offences in six sentencing remarks. The six sentencing remarks are similar in that they are all sentencing remarks for murder cases with only one offender (without co-defendants) convicted solely of murder (not in combination with any other counts of offences) of only one victim. The six cases were all sentenced with a starting point of 15 years. The selection was made to ensure that factors that would obviously affect judges' sentencing decisions were excluded, and that the judges' different sentencing decisions were to a large extent based on how they exercised their discretion in sentencing.

I did not code every single appraisal item in the dataset, but focused on **judgement** items, that is, the judges' evaluation of offenders or their offences, and **engagement** items used to frame the **judgement** items. The other subtypes of appraisal, like **affect**, **appreciation**, **graduation**, were coded only when they were used as tokens to invoke **judgement** of offenders or their offences. And finally I used the UAM CorpusTool to assist the manual coding of appraisal items in the dataset. Although the appraisal items were manually coded, the software facilitated the counting of the occurrences of appraisal items and the searching of particular type(s) of **judgement** or **engagement** across the six sentencing remarks.

Chapter 4: The analysis of judgement

This chapter focuses on **judgement** of offenders and their behaviour found in the dataset. Section 4.1 provides an overview of the occurrences of various subtypes of **judgement** across the six texts, and the remaining sections analyse the qualitative differences of similar types of **judgement** across the six texts. Sections 4.2, 4.3 and 4.4 focus on **judgement** that is favourable to offenders, including **judgement** of [-capacity], [+propriety], [+veracity], and [qualified +propriety]. Section 4.5 focuses on **judgement** of [-normality], which can be either favourable or unfavourable to offenders. A further distinction within **judgement** of [-normality] is suggested to mark the difference between favourable and unfavourable **judgement** of [-normality]. The last three sections, sections 4.6, 4.7, and 4.8, are about **judgement** that is unfavourable to offenders, including **judgement** of [+capacity], [-veracity], and [-propriety].

4.1 An overview: Subtypes of judgement across the six texts

Across the six texts, there are 171 instances of **judgement**, of which 37 are inscribed and 134 are invoked. The following mention of the occurrences of **judgement** includes both inscribed and invoked **judgement**. Of the 171 instances of **judgement**, 43 target offenders (their character) and 128 target offenders' behaviour. Of the 171 instances of **judgement**, there are eight instances of [-normality], three instances of [+capacity], 16 instances of [-capacity], one instance of [-tenacity], two instances of [+veracity], 25 instances of [-veracity], 16 instances of [+propriety], 90 instances of [-propriety], and ten instances of [qualified +propriety].

Table 4.1: **Judgement** in the dataset

	normality	capacity	tenacity	veracity	propriety
POLARITY					
qualified polarity	0	0	0	0	10
positive	0	3	0	2	16
negative	8	16	1	25	90
TARGET					
character	8	17	1	2	15
behaviour	0	2	0	25	101

In other words, in the six texts most instances of **judgement** target offenders' behaviour rather than offenders, and most of them are invoked rather than inscribed. In terms of **judgement** subtypes and polarity, offenders and their behaviour are frequently judged as [-propriety], [-veracity], [-capacity], [+propriety], [qualified +propriety], and [-normality]. There are fewer instances of **judgement** of [+capacity], [+veracity], or [-tenacity]. In sentencing remarks, **judgement** items are mostly found in sections where judges summarise the case, list the aggravating and mitigating factors. And few are found in sections where judges explain the legal terms to offenders.

This chapter focuses on how **judgement** items are distributed across the six texts. Figure 4.1 below displays the occurrences of **judgement** items across the six texts.

Figure 4.1: Occurrences of **judgement** across the six texts

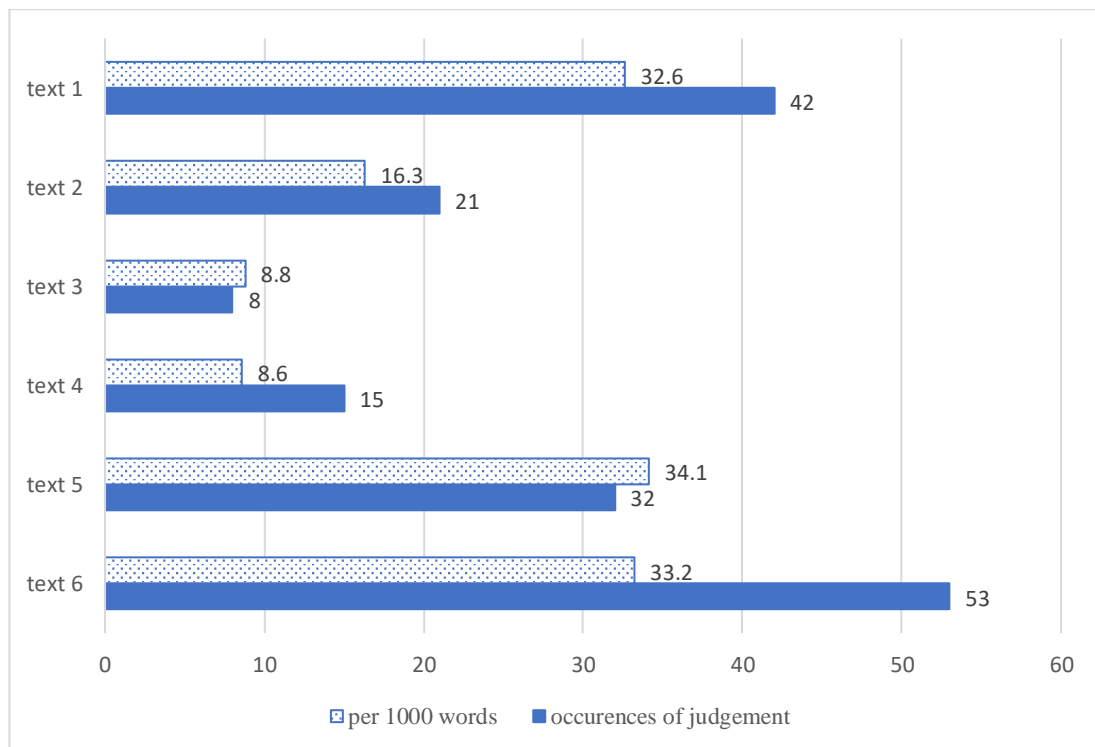


Figure 4.1 shows that (either in raw occurrences or occurrences in per 1000 words) there are many more instances of **judgement** in texts 1, 5 and 6 than there are in texts 2, 3 and 4. When taking into consideration the length of minimum terms given in the six texts, this means that **judgement** items are more frequently found in a text when its minimum term is below the starting point (text 1), or in texts whose minimum terms are well above (five years above) the starting point (texts 5 and 6). Fewer instances of

judgement are found when the minimum terms are just a few years above (one to three years above) the starting point (texts 2, 3 and 4). Though the different frequencies of appraisal items across the six texts do not determine everything, they do show that judges do more evaluation work when they set the minimum terms below (text 1) or well above (texts 5 and 6) the starting point, compared with when they set the minimum terms just a few years above the starting point (texts 2, 3 and 4). What is more important than the quantitative differences are the qualitative differences among the six texts. The following sections demonstrate how similar types of **judgement** differ qualitatively across the six texts, and how the qualitative differences further reveal the correlation between appraisal features of the six texts and their lengths of minimum terms.

The following sections first focus on favourable **judgement**, and then on unfavourable **judgement**. Table 4.2 below lists occurrences of the favourable **judgement** across the six texts. It shows that when the judge set the minimum term below the starting point (text 1), there are many more instances of favourable **judgement**. But when judges set the minimum terms above the starting point (texts 2, 3, 4, 5, and 6), there are much fewer instances of favourable **judgement**.

Table 4.2: Favourable **judgement** across the six texts

	text 1	text 2	text 3	text 4	text 5	text 6
[-capacity]	9	4	0	1	0	2
[+propriety]	13	0	0	0	1	2
[+veracity]	0	0	0	0	0	2
[qualified +propriety]	10	0	0	0	0	0
TOTAL	32	4	0	1	1	6

4.2 [-capacity]

There are 16 instances of **judgement** of [-capacity] (see Table 4.1 above). They are found in four texts: text 1 (N=9), text 2 (N=4), text 4 (N=1), text 6 (N=2) (see Table 4.2 above). Text 1 has considerably more **judgement** of [-capacity] than that in the other three texts.

4.2.1 Text 1: Palmer

In text 1 there are nine instances of **judgement** of [-capacity], of which two are

inscribed and seven are invoked.

Palmer is explicitly judged as having ‘great difficulties’¹ in enduring her boyfriend’s (the victim) problems and shortcomings, which inscribes a **judgement** of Palmer as [-capacity]. The other instance of inscribed **judgement** of Palmer as [-capacity] is found in the following example.

- (1) You are not to blame [-*propriety*] for **failing to realise** [-*capacity*] that your attempt to save him from himself was misguided [*t*, -*capacity*], as hindsight shows. (text 1, Palmer, line 58-59)

In the above example, Palmer is explicitly judged as ‘failing to realise’, which inscribes a **judgement** of Palmer as lacking the capacity to realise that her attempt to save the victim was misguided. The judge also makes explicit that this negative **social esteem** ([-capacity]) of Palmer does not lead to negative **social sanction** ([-*propriety*]) of Palmer as ‘You are not to blame for failing to realise’. In addition to the inscribed **judgement** of [-capacity], an instance of invoked [-capacity] (‘misguided’) is also found in the above example. The evaluation of Palmer’s attempt to save the victim from himself as ‘misguided’ invokes a **judgement** of Palmer as lacking the capacity to save the victim from himself.

In text 1, **judgement** of [-capacity] is also invoked by **graduation** items. **Graduation** items are used to upscale Palmer’s young age (N=4), such as ‘You were **too** young’ or ‘you were at the time a **very** young woman, **only** 22 years old’. These **graduation** items, ‘too’, ‘very’, ‘only’, invoke instances of **judgement** of Palmer as [-capacity]. One of them is shown below.

- (2) You were **too young** [*t*, -*capacity*] and **in love** [*t*, -*capacity*] to understand that. You meant well for him [*t*, +*propriety*] right up until seconds before you took his life. (text 1, Palmer, line 59-60)

In the above example, the evaluation of Palmer as ‘too young’ invokes a **judgement** of Palmer as [-capacity]. And it is immediately followed by a description of Palmer as ‘in love’ with the victim, which is interpreted as Palmer’s love impeded her from having a clear understanding of her relationship with the victim and the appraisal item (‘in love’) is accordingly coded as invoking a **judgement** of Palmer as [-capacity]. In the following co-text, the favourable **judgement** of Palmer as [-capacity] develops

¹ Text 1, Palmer, line 61-62

into a positive **judgement** of Palmer's behaviour (before the offence) as [+propriety], as it is invoked by 'You meant well for him'.

In another instance, an evaluation of Palmer's relationship with the victim as 'destructive' also invokes a **judgement** of Palmer's pre-crime acts as [-capacity]. The instance is shown below.

- (3) Your relationship with Damon was **destructive** [*t*, -*capacity*]. You meant to help him overcome his demons, drink and drugs [*t*, +*propriety*]. You tried to help him become a better person and make something of his life [*t*, +*propriety*]. You wanted both of you to be happy [*t*, +*propriety*].

(text 1, Palmer, line 7-9)

In the above example, Palmer's relationship with the victim is evaluated as 'destructive', as if her pre-crime acts (what she did before the offence) to the victim are unproductive, which is accordingly coded as invoking a **judgement** of Palmer's pre-crime acts as [-capacity]. The favourable **judgement** (of Palmer's pre-crime acts as [-capacity]) is followed by a series of positive **judgement** ([+propriety]) of Palmer's pre-crime acts, which are invoked by descriptions of what Palmer intended to do or intended to happen.

Examples above also show that **judgement** of Palmer or her behaviour as [-capacity] is frequently followed by positive **social sanction** [+propriety], or denial of [-propriety], which retrospectively reinforce the mitigating value of **judgement** of [-capacity] in text 1.

4.2.2 Text 2: Capp

In text 2, there are four instances of **judgement** of Capp as [-capacity], of which one is inscribed and three are invoked. Example (4) below contains the one instance of inscribed [-capacity] and two instances of invoked [-capacity].

- (4) You **suffer from emotional instability** [*t*, -*capacity*], leading to **difficulty** [-*capacity*] in controlling your emotions, resulting in **self-harm and aggressive** [-*propriety*] **acts towards others** [*t*, -*capacity*].

(text 2, Capp, line 53-55)

In the above example, Capp's 'difficulty' in controlling his emotions inscribes a negative **judgement** of Capp as [-capacity]. In the co-texts are two instances of

invoked **judgement** of Capp as [-capacity], which are invoked by the representation of Capp as ‘suffer[ing] from emotional instability’ and invoked by his ‘self-harm and aggressive acts towards others’. In addition to example 4 above, there is another instance of invoked **judgement** of Capp as [-capacity] in text 2, which is also invoked by identification of Capp as ‘suffer[ing] from a mental disorder’.²

In text 2, instances of **judgement** of Capp as [-capacity] are all related to his mental disorder. In contrast, in text 1 instances of **judgement** of Palmer as [-capacity] are not related to any mental disorder on Palmer’s part. In other words, although in text 1 Palmer did not have any mental disorder, it does not prevent the judge from making **judgement** of Palmer or her behaviour as [-capacity].

4.2.3 Text 4: Hunnisett

In text 4, there is only one instance of **judgement** of Hunnisett as [-capacity] and it is inscribed as shown below.

- (5) Nor is he to be blamed [-*propriety*] for the fact that he is now a very **damaged** [-capacity] person. (text 4, Hunnisett, line 47-48)

In the above example, Hunnisett is explicitly judged as a ‘very damaged person’, through which the judge identifies Hunnisett as not being able to function properly in social life due to his past, as if his ability to function properly has been damaged. Accordingly, I code ‘damaged’ as inscribing a **judgement** of Hunnisett as [-capacity]. The judge also makes explicit that the **judgement** of Hunnisett as [-capacity] does not lead to a negative **social sanction** ([-*propriety*]) of Hunnisett, as ‘[n]or is he to be blamed’. The **judgement** of Hunnisett as [-capacity] and the denial of [-*propriety*] are related to Hunnisett’s past. Before his current offence, Hunnisett was convicted of another murder but it turned out that the victim had sexually abused Hunnisett when he was a child; Hunnisett was then acquitted of the murder and released.

However, the denial of [-*propriety*], along with the **judgement** of Hunnisett as [-capacity], are countered by an instance of inscribed negative **judgement** of Hunnisett found in the latter part of the text, which is shown below.

- (6) While I acknowledge that the Defendant’s life experiences have played their part in shaping the man he has become, the evidence that I have heard has

² Text 2, Capp, line 49-50.

driven me to the conclusion that the Defendant is now an extremely **dangerous** [-*propriety*] man who may well kill again were he to be released in the foreseeable future. (text 4, Hunnisett, line 66-69)

In the above example, Hunnisett is explicitly judged as a ‘dangerous man’, which inscribes a **judgement** of Hunnisett as [-*propriety*]. And the negative **judgement** of Hunnisett is upscaled as he is now ‘an extremely dangerous man’. This **judgement** is also represented as a value position countering expectation arising from the judge’s acknowledgement of Hunnisett’s past, ‘[w]hile I acknowledge that the Defendant’s life experiences have played their part in shaping the man he has become’ (see chapter 5, section 5.1.3 for discussion of the **engagement** items).

In other words, Hunnisett’s past is represented as a conceded proposition, and is replaced by the negative **judgement** of Hunnisett as [-*propriety*]. The exclusion of Hunnisett’s past from the dialogic space (and especially as it is replaced by an explicitly negative **judgement** of [-*propriety*]) undermines the basis on which the **judgement** of [-*capacity*] and the denial of [-*propriety*] are made. In other words, the favourable **judgement** of Hunnisett as [-*capacity*] is greatly undermined.

4.2.4 Text 6: Pyott

In text 6, there are two instances of **judgement** of Pyott as [-*capacity*] (see Table 4.2 above), and they are all invoked by contents related to Pyott’s mental disorder.

(7) You **suffer from a severe abnormality of mental functioning** [*t*, -*capacity*].

I have taken careful note of the psychiatric evidence for the defence, including a recent addendum from Dr Collins. This reduces your culpability to a limited extent. I have taken account of what the Court of Appeal said in McFly [2013] EWCA Crim 729. (text 6, Pyott, line 65-68)

In the above example, I interpret the judge’s identification of Pyott as ‘suffer[ing] from a severe abnormality of mental functioning’ as his (temporary) acknowledgement that Pyott might lack the capacity to function properly, and the underlined part is accordingly coded as invoking a **judgement** of Pyott as [-*capacity*]. The acknowledgement is overturned in the latter part of text 6 as Pyott displayed the **capacity** to take ‘tactical considerations’ during the legal process (example 8 below).

Example (7) above also shows that the identification of Pyott’s mental disorder is followed by the judge’s acknowledgement of several external voices. However, the

judge only acknowledges rather than endorses with those external voices based on his use of the **engagement** item, ‘I have taken careful note’. The distancing of the authorial stance from those external voices, which support the identification of Pyott’s mental disorder, foreshadows the judge’s weighing of Pyott’s mental disorder in the following co-text: Pyott’s mental disorder reduces his culpability only ‘to a limited extent’.³

The judges’ implicit rejection of Pyott’s mental disorder in example (7) becomes obvious in the following example.

- (8) Yet, despite your **mental disorder** [*t*, *-capacity*] you showed a canny [*+capacity*] understanding of the legal process including tactical [*+capacity*] considerations [*t*, *-veracity*], you mixed truth with lies [*-veracity*] in the aftermath of the killing and you disposed of evidence to escape punishment [*t*, *-propriety*]. (text 6, Pyott, line 94-97)

In the above example, acknowledgement of Pyott’s ‘mental disorder’ invokes a **judgement** of Pyott as [*-capacity*]. However, the invoked **judgement** of [*-capacity*] is framed as a conceded proposition, which is replaced by a series of negative **judgement** of Pyott and his behaviour, such as the negative **judgement** of Pyott as [*-veracity*] (which is invoked by Pyott’s ‘canny understanding of the legal process’ and his ‘tactical considerations’), and the negative **judgement** of Pyott’s behaviour as [*-propriety*] (which is invoked by descriptions of Pyott’s behaviour as ‘disposed of evidence to escape punishment’).

4.2.5 Summary: [*-capacity*]

Judgement of [*-capacity*] can mitigate offenders’ current offences. The occurrences of **judgement** of [*-capacity*] correlate negatively with the increase of minimum terms. In other words, **judgement** of [*-capacity*] is more frequently found in texts with shorter minimum terms than they are in texts with longer minimum terms.

Judgement of [*-capacity*] also differs qualitatively across the four texts. In texts with shorter minimum terms (texts 1 and 2), **judgement** of [*-capacity*] is fully developed (especially in text 1). But in texts with longer minimum terms (texts 4 and 6), **judgement** of [*-capacity*] are constrained in various ways.

In text 1, **judgement** of [*-capacity*] not only targets Palmer but also her

³ Text 6, Pyott, line 67.

behaviour; while in the other three texts, **judgement** of [-capacity] only targets offenders. In other words, in text 1 the **judgement** of [-capacity] has a wider target range than those in the other three texts.

The four texts also differ in terms of the tokens used to invoke **judgement** of [-capacity]. In text 1, the invocation of [-capacity] mainly relies on attitudinal items such as **graduation** items upscaling Palmer's young age, or Palmer's love for the victim, or evaluations of things like Palmer's 'misguided' attempt to save the victim from himself or the 'destructive' relationship between Palmer and the victim. Moving to texts 2, 4 and 6, the invocation of [-capacity] no longer relies on attitudinal items (like in text 1), but instead relies on propositional contents. In texts 2 and 6, **judgement** of [-capacity] is invoked by offenders' mental disorder; in text 4, the **judgement** of Hunnisett as [-capacity] is inscribed and it is triggered by Hunnisett's past. In other words, although in text 1 Palmer did not have any mental disorder (like offenders in text 2 and 6) nor did she suffer from any traumatic past (like Hunnisett in text 4), the lack of those prototypical mitigating factors in text 1 does not inhibit the judge from making **judgement** of Palmer and her behaviour as [-capacity].

There is also a difference in authorial positioning between texts 1 and 2 on one hand and texts 4 and 6 on the other hand. It is only in texts 4 and 6 that **judgement** of [-capacity] is undermined. In text 4, the **judgement** of Hunnisett as [-capacity] is based on his past. However, in the later part of the text, expectations arising from acknowledgement of Hunnisett's past are countered and replaced by an explicitly negative **judgement** of Hunnisett as [-propriety]. Similarly in text 6, expectations arising from the acknowledgement of Pyott's mental disorder (also as tokens invoking **judgement** of Pyott as [-capacity]) are countered and replaced by a series of negative **judgement** of Pyott and his behaviour which far outweighs the **judgement** of Pyott as [-capacity].

4.3 [+propriety] and [+veracity]

There are 16 instances of **judgement** of [+propriety] and two instances of [+veracity] found in the dataset (see Table 4.1 above). Due to the low occurrences of [+veracity], and also due to the fact that **judgement** of [+veracity] and [+propriety] are both positive **judgement** of **social sanction** and both types of **judgement** are favourable to

offenders, examination of the two types of **judgement** is conflated in this section.

Judgement of [+propriety] are mainly found in text 1 (N=13). And there are also a few instances found in text 5 (N=1) and text 6 (N=2). The two instances of [+veracity] are found in text 6. (see Table 4.2 above)

4.3.1 Text 1: Palmer

In text 1, there are 13 instances of **judgement** of [+propriety], of which two are inscribed and 11 invoked. The two instances of inscribed [+propriety] are shown below.

- (9) Your love [*t*, +*propriety*] for Damon was deep and moved by a spirit of kindness and generosity [+*propriety*]. Your conduct towards him did you great credit [+*propriety*] until this happened. (text 1, Palmer, line 56-57)

In the above example, Palmer's 'love' for the victim invokes a positive **judgement** of her pre-crime acts to the victim as [+propriety]. The positive **judgement** is further developed in the following co-text, where Palmer's pre-crime acts are explicitly and positively judged as her love for the victim was 'moved by a spirit of kindness and generosity', and Palmer's conduct to the victim did Palmer 'great credit'. Both attitudinal items inscribe positive **judgement** of Palmer's pre-crime acts as [+propriety].

In addition to the two instance of inscribed **judgement** (of Palmer's pre-crime acts) as [+propriety], there are 12 instances of invoked **judgement** of [+propriety], which are variously invoked by representations of Palmer's emotions (N=5), or by representations of Palmer's behaviour (N=6), or by evaluation of Palmer's life before her offence (N=1).

Palmer's life before her offence is evaluated as a 'blameless and productive life',⁴ which invokes a positive **judgement** of Palmer as [+propriety]. Palmer's emotions are also used to invoke positive **judgement** of Palmer's behaviour. Palmer's 'love' for the victim (example 9 above) invoke a positive **judgement** of her pre-crime acts towards the victim as [+propriety]. Palmer's regret and her horror of her own acts also invoke positive **judgement** of her post-crime acts as [+propriety], as shown below.

- (10) The crime was completely [*t*, *qualified* +*propriety*] unpremeditated and you regretted [*t*, +*propriety*] it immediately. I accept that you were as horrified [*t*,

⁴ Text 1, Palmer, line 12

+propriety] as everyone else about what had just happened.

(text 1, Palmer, line 46-47)

In addition, in the above example **graduation** items are used to upscale Palmer's emotional response as Palmer regretted it 'immediately', and she was 'as horrified as everyone else about what had just happened'. These **graduation** items reinforce the positive **judgement** invoked by Palmer's emotional responses.

Positive **judgement** of [+propriety] is also invoked by experiential contents describing Palmer's behaviour. There are representations of what Palmer did after the offence, such as 'You did all you could to save Damon',⁵ but more frequently are representations of what Palmer intended to do or to be, such as 'You tried to help him', 'You wanted both of you to be happy' (example 3 above). The judge relies more on what Palmer intended to do than on what she actually did to invoke positive **judgement**, which might reflect that the judge's interpretation of the case facts (the judge's interpretation of what Palmer intended to do) is playing a role in representing those case facts.

The judge's interpretation of what Palmer intended to do can also be regarded as the judge ascribes purposes to Palmer's behaviour, and the purposes unambiguously invoke positive **judgement** of Palmer's behaviour (see chapter 6, section 6.2.2.1 for details). In text 1, those purposes (or what Palmer intended to do) are frequently represented without any reference to Palmer's actual behaviour. In other words, it is not clear what Palmer actually did that lead the judge to interpret Palmer's behaviour as having those purposes. By making reference only to the purposes but leaving implicit what Palmer actually did, the judge removes the basis for alternative opinions which might challenge the judge's interpretation of Palmer's purposes (or intentions) as such. Accordingly, the positive **judgement** (of [+propriety]) invoked by what Palmer intended to do are further reinforced.

4.3.2 Text 5: McCluskie

In text 5, there is one instance of **judgement** of [+propriety], and it targets McCluskie's past character. However, this instance of positive **judgement** of [+propriety] has more or less lost its evaluative meaning. It is found in the following

⁵ Text 1, Palmer, line 64

example.

- (11) In your favour is your **good character** [+*propriety*] save for the three cannabis matters; your record of continuous employment; the lack of any significant premeditation... (text 5, McCluskie, line 49-50)

It seems that the evaluation of McCluskie as of ‘good character’ is based on his lack of significant previous convictions, which is made explicit by the following co-texts as McCluskie had a good character ‘save for three cannabis matters’. It is also sometimes found in other sentencing remarks for murder cases that offenders’ good character merely refers to the fact that they do not have any significant previous convictions. The attitudinal reading of ‘good character’ is greatly constrained, or in other words, it is a very weak positive **judgement**. Such kind of attitudinal items are referred to by Hood (2010) as “technicalised evaluation, institutionalised to the extent that they are considered no longer to be primarily construing attitude, but rather as primarily construing field” (Hood 2010, pp.166-167). In other words, the seemingly evaluative item might be used to convey ideational rather than interpersonal meaning.

Such attitudinal items “may still carry a residual connotation of either positive or negative value” (Hood 2010, p.167) especially when they are found in the domain of a semantic prosody. But the attitudinal item ‘good character’ in the above example is not accompanied by any other attitudinal items in its co-texts, or in other words, it is not found in the domain of any positive semantic prosody. Accordingly, the attitudinal reading of ‘good character’ is greatly constrained, if not cancelled, as it is found in the above example.

4.3.3 Text 6: Pyott

In text 6, there are two instances of **judgement** of [+*propriety*] and two instances of [+*veracity*], which are found in the following two examples.

- (12) You lied [-*veracity*] afterwards, repeatedly denied the murder [*t*, -*veracity*] and said those to whom you had confessed were lying [*t*, -*veracity*]. This must, though, be balanced against your **admissions** [*t*, +*veracity*] and **expressions of regret** [*t*, +*propriety*]. (text 6, Pyott, line 47-49)

- (13) You **confessed** [*t*, +*veracity*] to several friends and to your mother that you had done the killing, and **expressed regret and distress** [*t*, +*propriety*]. That

must be balanced against your lies [-*veracity*] and attempts to deceive [*t*, -*veracity*]. (text 6, Pyott, line 62-64)

In example (12), Pyott's 'admissions and expressions of regret' invoke two instances of positive **judgement** of Pyott's post-crime acts, one as [+*veracity*] and one as [+*propriety*]. Similarly, in example (13) the two attitudinal items, Pyott 'confessed' and 'expressed regret and distress', invoke two instances of positive **judgement** of Pyott's post-crime acts as [+*veracity*] and [+*propriety*] respectively. However, these instances of positive **judgement** are put in the co-texts of negative **judgement** of [-*veracity*], which greatly check the positive **judgement**.

Furthermore, representations of Pyott's regret and distress in text 6 also differ from similar contents found in text 1, although in both texts they are coded as invoking positive **judgement** of [+*propriety*]. In text 6 (examples 12 and 13 above), Pyott's regret and distress are represented as something expressed by Pyott rather than felt by Pyott: Pyott 'expressed regret and distress'. In contrast, in text 1 (example 10 above) Palmer's regret and horror are felt by her, and **graduation** items are used to reinforce Palmer's regret and horror about her own offence. Such differences contribute to invoking different degrees of [+*propriety*] in texts 1 and 6. In other words, the positive **judgement** of Palmer's behaviour as [+*propriety*] are reinforced in text 1 but not for Pyott in text 6.

4.3.4 Summary: [+*propriety*] and [+*veracity*]

The positive (favourable) **judgement** of [+*propriety*] and [+*veracity*] are mostly found in text 1 (N=13), the text in which the judge sets the minimum term below the starting point. In text 1 there are inscribed as well as invoked **judgement** of [+*propriety*], and the implicit **judgement** of [+*propriety*] are invoked from various aspects related either to Palmer's character, or what she did, or even what she attempted to do. In contrast, there are no instances of [+*propriety*] and [+*veracity*] found in texts 2, 3 and 4, and only a few in texts 5 and 6 (N=3). The few instances of [+*propriety*] and [+*veracity*] found in texts 5 and 6 differ qualitatively from those found in text 1. Instances of [+*propriety*] and [+*veracity*] found in texts 5 and 6 are quite weak compared with those found in text 1. In text 5 the only instance of [+*propriety*] (inscribed by McCluskie's good character) are very likely to refer only to his lack of any significant previous convictions (example 11). And in text 6, the two instances of [+*veracity*] and two

instances of [+propriety] are greatly checked (if not completely overturned) by the negative (unfavourable) **judgement** in their close co-texts (examples 12 and 13).

4.4 [qualified +propriety]

Instances of [qualified +propriety] are only found in text 1, and they are all invoked (see Table 4.2 above). **Judgement** of [qualified +propriety] invokes neither positive nor negative **judgement** of Palmer or her behaviour, but they do contribute to making Palmer or her behaviour less reproachable. In text 1, there are nine instances of **judgement** of [qualified +propriety], of which two target Palmer and seven target her behaviour.

Judgement of Palmer as of [qualified +propriety] is achieved by comparison of Palmer with other murderers, as shown below.

- (14) Many murders are committed by far worse people than you [*t, qualified +propriety*].
(text 1, Palmer, line 10)

- (15) Although this was a murder by stabbing with a knife, you are not a person who carries knives, as so many knife murderers do [*t, qualified +propriety*].
(text 1, Palmer, line 53-54)

In both examples, Palmer is compared with other murderers either as other murderers are ‘far worse people’ than Palmer, or Palmer is ‘not a person who carries knives, as so many knife murderers do’. The comparisons of Palmer with prototypical murderers represent Palmer as less reproachable than those murderers and the attitudinal items are coded as invoking **judgement** of Palmer as of [qualified +propriety].

In addition to the two instances of **judgement** of [qualified +propriety] targeting Palmer, there are seven instances of such kind of **judgement** targeting Palmer’s behaviour, which are invoked by evaluations of the nominal forms of Palmer’s criminal act (N=2) and by **graduation** items (N=5). Below is an example of [qualified +propriety] invoked by evaluation of Palmer’s ‘case’.

- (16) This is a distressing, indeed tragic [*t, qualified +propriety*] case.
(text 1, Palmer, line 4)

In the above example, the judge refers to Palmer’s criminal act towards the victim (or her offence) as a ‘case’ and evaluates it as ‘a distressing, indeed tragic case’, which is related to people’s feeling of [-happiness]. Similar evaluation is found in the latter part

of text 1, where Palmer's 'case' is evaluated as a 'very sad case'.⁶ In contrast, in text 6 Pyott's criminal act is evaluated as an 'act of horrifying violence' and the weapon used by Pyott is evaluated as a 'fearful weapon'. Those evaluative items are related to people's feeling of [-security] by triggering people's concern with their 'ecosocial well-being' (Martin and White 2005, p.49).

In other words, the case (text 1) triggering people's feeling of [-happiness] is very likely to be less reproachable (or less serious) than the case (text 6) triggering people's feeling of [-security]. Accordingly, 'a distressing, indeed tragic case' and 'very sad case' in text 1 are coded as invoking **judgement** of Palmer's criminal act but of [qualified +propriety]. In contrast, in text 6, the evaluation of Pyott's act as 'horrifying violence' and the evaluation of the weapon used by Pyott as 'fearful' are coded as invoking negative **judgement** of Pyott's criminal act as [-propriety] (see section 4.8.6 below for details).

The judge in text 1 also uses **graduation** items to invoke **judgement** of [qualified +propriety] or, in other words, to make Palmer's criminal act less reproachable. Palmer's criminal act is quantified, and its quantity is downscaled as 'a single thrust'⁷, and her criminal act is carried out during 'one terrible moment'⁸. In contrast, the upscaling of quantified criminal acts is found in texts with longer minimum terms: such as 'at least five severe blows on the [victim's] head'⁹ in text 4; McCluskie 'battered [his] sister at least twice on the head'¹⁰ in text 5; or 'several stab wounds to the [victim's] neck'¹¹ in text 6. Accordingly, the **graduation** items which downscale the quantity of Palmer's criminal act are coded as invoking **judgment** of [qualified +quality].

The judge also uses **graduation** items to represent Palmer's lack of premeditation. Palmer's crime is 'completely unpremeditated' (example 10 above), and she formed her intention to harm (rather than to kill) 'only moments before carrying it out'.¹² Furthermore, Palmer 'picked up the knife on impulse, on the spur of the moment'.¹³ These **graduation** items reinforce the unpremeditated feature of

⁶ Text 1, Palmer, line 71

⁷ Text 1, Palmer, line 3

⁸ Text 1, Palmer, line 12

⁹ Text 4, Hunnisett, line 3-4

¹⁰ Text 5, McCluskie, line 25

¹¹ Text 6, Pyott, line 37

¹² Text 1, Palmer, line 50-51

¹³ Text 1, Palmer, line 54-55

Palmer's criminal act, which contributes to making Palmer's criminal act as less reproachable. Lack of premeditation is also found in texts 3, 5 and 6, but no **graduation** items are used to represent offenders' lack of premeditation in the three texts. In other words, it is only in text 1 that the offender's lack of premeditation is represented with **graduation** items. The **graduation** items help to reinforce Palmer's lack of premeditation, a factor that would mitigate her offence.

To sum up, the occurrences of **judgement** of [qualified +propriety] in text 1 (especially when compared with the non-occurrence of similar type of **judgement** in other texts) corresponds with the judge's setting of the minimum term below the starting point in this case.

Judgement types discussed in the above three sections ([-capacity], [+propriety], [+veracity], and [qualified +propriety]) are all **judgement** that is favourable to offenders. These types of favourable **judgement** are more frequently found in text 1 (the text with the shortest minimum term and the only text with a minimum term below the starting point) than in the other texts (texts with longer minimum terms). Furthermore and more importantly those instances of favourable **judgement** differ qualitatively between text 1 and the other texts. Analyses of the qualitative differences across the texts demonstrate how instances of favourable **judgement** are reinforced in text 1 but not or even undermined in the other texts.

The next section focuses on **judgement** of [-normality], a **judgement** subtype that could be made either favourable or unfavourable to offenders. The only one instance of [-tenacity] found in the dataset is analysed along with the analyses of [-normality] in the following section.

4.5 [-normality]

Judgement of [-normality] is found only in two texts, text 2 (N=4) and text 5 (N=4). In both texts, **judgement** of [-normality] targets offenders and not their behaviour.

4.5.1 Text 2: Capp

In text 2 the four instances of **judgement** of Capp as [-normality] are all invoked by contents related to Capp's past. Two of them are found in the following example.

(17) You suffered considerable adversity [*t, -normality*] during your childhood

due to **disruption** [*t, -normality*] of family life... (text 2, Capp, line 36-37)

In the above example, Capp ‘suffered considerable adversity’ and his past is represented as ‘disruption’, each invoking an instance of negative **judgement** of Capp as [-normality]. In the other two instances, Capp’s past is evaluated as ‘a troubled and difficult past’,¹⁴ and Capp is also represented as ‘the victim of physical and sexual abuse’ when he was a young boy.¹⁵ These contents invoke two instances of **judgement** of Capp as [-normality] by representing Capp as someone who is unlucky to find himself in such kind of circumstances.

4.5.2 Text 5: McCluskie

In text 5, there are four instances of **judgement** of McCluskie as [-normality], of which one is inscribed and three are invoked. In the following example, the instance of inscribed [-normality] and an instance of invoked [-normality] are found.

(18) ...and you were living **a significantly withdrawn existence** [-normality] – spending most of your time when not at work in your room – in the same house as **your hugely popular and outgoing sister** [*t, -normality*].

(text 5, McCluskie, line 21-23)

In the above example, McCluskie is explicitly judged as ‘living a significantly withdrawn existence’, which inscribes a negative **judgement** of McCluskie as [-normality]. It is then followed by a contrast between McCluskie and his sister (the victim) as the latter is ‘hugely popular and outgoing’, which further invokes a **judgement** of McCluskie as [-normality].

Judgement of McCluskie as [-normality] is also invoked by descriptions of McCluskie as ‘hopelessly addicted to’¹⁶ drugs and an **appreciation** of McCluskie’s past as ‘a particularly challenging period’¹⁷ in his life (see example 19 and section 4.5.3 below for details).

4.5.3 Comparison: Differences within [-normality]

The Appraisal framework (Martin and White 2005) does not make a further distinction

¹⁴ Text 2, Capp, line 61

¹⁵ Text 2, Capp, line 39

¹⁶ Text 5, McCluskie, line 20

¹⁷ Text 5, McCluskie, line 17

within **normality**. But as noted by Myskow (2015) as well by the current study, a further distinction can be made within the system of **normality**. The distinction is based on who or what should be responsible for people's ab/normality, or in other words, whether people's ab/normality is attributed to external circumstances or to their own personalities. In Myskow's (2018) words, the distinction within **normality** is about whether the evaluation of **normality** is "mediated through the circumstances in which people find themselves" or is based on "stable personality attributes" (Myskow 2015, p.127). The current study follows Myskow (2018) by using the term **fortune** to refer to the **judgement** of **normality** that is attributed to external circumstances, and **status** to refer to the **judgement** of **normality** that is attributed to people's personalities. When the distinction is applied to examine instances of [-normality] found in texts 2 and 5, it is found that **judgement** of [-normality: fortune] is found in text 2, and **judgement** of [-normality: status] is found in text 5.

In text 2, **judgement** of Capp's character as [-normality] is invoked by the circumstances Capp happened to find himself in. Capp suffered from 'considerable adversity during [his] childhood due to disruption of family life' (example 17 above), and he was a 'victim of physical and sexual abuse'¹⁸ when he was a young boy. The attitudinal items (as evaluative tokens) represent Capp as someone who was unlucky to encounter this particular kind of circumstances and he was negatively affected by his life circumstances. The life circumstances were outside Capp's control, and responsibility for Capp's [-normality] is attributed to his life circumstances rather than to his own personality. Accordingly, the attitudinal items are coded as invoking **judgement** of Capp as [-normality: fortune].

In contrast, in text 5 **judgement** of McCluskie's character as [-normality] are all attributed to his inward personality rather than to external circumstances (except for one instance). Those attitudinal items (as evaluative tokens) represent McCluskie as someone who could have met the 'challenging period' in his life but 'instead of exercising a normal degree of fortitude and resilience' he chose to live a 'a significantly withdrawn existence' (example 18 above) and he was 'hopelessly addicted to the powerful type of cannabis'¹⁹. The responsibility for McCluskie's [-normality] is undoubtedly attributed to McCluskie rather than to external

¹⁸ Text 2, Capp, line 39

¹⁹ Text 5, McCluskie, line 20

circumstances, and the attitudinal items are accordingly coded as invoking **judgement** of [-normality: status].

In text 5, there is one exception in that **judgement** of McCluskie as [-normality] is attributed to external circumstances rather than to McCluskie's personality. This is invoked by **appreciation** of his past as 'a particularly challenging period' in his life (example 19 below). It seems to be inconsistent with the finding that instances of **judgement** of McCluskie as [-normality] are all related to his personality rather than to his circumstances. But when **engagement** items are taken into consideration, it becomes clear that the **appreciation** of McCluskie's past as 'challenging' (along with the invoked **judgement** of [-normality: fortune]) is removed from the dialogic space for it is represented as a conceded proposition ('I accept that', in the example below, see chapter 5, section 5.4 for details).

- (19) I accept that [*concede*] this was a particularly **challenging** [*t, -normality*] period in your life... That said [*counter*], instead of exercising a normal degree of fortitude and resilience [*-tenacity*], you followed your emotions [*t, -propriety*] and battered [*t, -propriety*] your sister at least twice [*t, -propriety*] on the head sufficiently hard to depress her skull [*t, -propriety*].

(text 5, McCluskie, line 17-26)

Furthermore, the evaluation of McCluskie's life circumstances as 'challenging', which invokes the **judgement** of McCluskie as [-normality: fortune], is replaced by a series of unfavourable **judgement** of McCluskie and his behaviour in the following co-texts. There is a progression from the **judgement** of McCluskie as [-normality: fortune] (as invoked by 'challenging') to **judgement** of McCluskie as [-tenacity] (as inscribed by 'instead of exercising a normal degree of fortitude and resilience'), and finally to negative social sanction of McCluskie and his behaviour. Along with the progression, it becomes more and more clear that the responsibility for McCluskie's [-normality] is attributed to McCluskie rather than to external circumstances. Furthermore, along with the backgrounding of McCluskie's life circumstances are the foregrounding of the social sanction of McCluskie and his behaviour. The latter not only replaces but also far outweighs the former.

As noticed by Myskow (2015), a key issue in the further distinction of **normality** is responsibility. In text 2 responsibility for Capp's [-normality: fortune] is attributed to the life circumstances he happened to find himself in; while in text 5, responsibility

of McCluskie's [-normality: status] is attributed to his own personality. The **judgement** of [-normality: status] in text 5 brings a sense of blameworthiness to McCluskie for the **judgement** is channelled inward towards himself; while the **judgement** of [-normality: fortune] in text 2 does not bring the sense of blameworthiness for the **judgement** is channelled externally to Capp's life circumstances. The difference correlates with the different lengths of minimum terms of the two texts. The **judgement** of [-normality: fortune] is found in text 2, the case with a shorter minimum term; while the **judgement** of [-normality: status] is found in text 5, the case with a longer minimum term.

To sum up, although instances of [-normality] are found both in texts 2 and 5, they differ significantly in the two texts. In text 2, instances of negative **judgement** of [-normality] are attributed to external circumstances, and Capp is the unfortunate sufferer of such adverse circumstance. In contrast, in text 5 instances of negative **judgement** of [-normality] are no longer attributed to external circumstances but to McCluskie's personal character, and he is represented as someone who could have but chose not to meet the challenges of his adverse life circumstances. It is obvious that blameworthiness is brought to McCluskie, for whom instances of **judgement** of [-normality] are attributed to his personal character, but not (or at least a low degree of blameworthiness) to Capp, for whom instances the **judgement** of [-normality] are explained away by the judge's recourse to external circumstances faced by Capp. The qualitative difference of [-normality] demonstrated by the two texts gives rise to a further distinction within [-normality], which is subdivided into [-normality: fortune] (when **judgement** of [-normality] is attributed to external circumstances) and [-normality: status] (when **judgement** of [-normality] is attributed to personal character). It is expected that such distinction can bring further delicacy and provide a more fine-grained analysis into future appraisal analysis studies.

The following three sections focus on **judgment** that is unfavourable to offenders: [+capacity], [-veracity] and [-propriety], and demonstrate how those instances of unfavourable **judgement** are reinforced in texts with longer minimum terms but not or even constrained in texts with shorter minimum terms. Table 4.3 below displays the occurrences of unfavourable **judgement** in the six texts.

Table 4.3: Unfavourable **judgement** across the six texts

	text 1	text 2	text 3	text 4	text 5	text 6
[+capacity]	0	0	0	0	0	3
[-veracity]	1	0	1	3	7	13
[-propriety]	9	13	7	11	19	31

4.6 [+capacity]

In contrast to **judgement** of [-capacity], **judgement** of [+capacity] would aggravate offenders' current offence. Instances of [+capacity] are only found in text 6 (N=3) (see Table 4.3 above), and all the three instances of [+capacity] target Pyott rather than his behaviour.

- (20) You are a **strong and heavily built** [+capacity] [*t*, -propriety] man. Mr McDermott was not [*t*, -propriety]. He could not match your strength [*t*, -propriety]. (text 6, Pyott, line 39-40)

In the above example, Pyott is explicitly judged as 'strong and heavily built', which inscribes a positive **judgement** of Pyott's physical strength as [+capacity]. However, the **judgement** of Pyott as [+capacity] is immediately followed by descriptions of the victim as lack of physical strength, and the judge makes it clear that there is a mismatch of physical strength between Pyott and the victim. All those trigger an attitudinal reading of the **judgement** of Pyott as [+capacity] as further invoking a negative **judgement** of Pyott's criminal acts to the victim as [-propriety].

In text 6, there is not only **judgement** of Pyott's physical strength as [+capacity], but also **judgement** of Pyott's mental strength as [+capacity], as shown below (same as example 8 and repeated below).

- (8) Yet, despite your mental disorder [*t*, -capacity] you showed a **canny** [+capacity] understanding of the legal process including **tactical** [+capacity] considerations [*t*, -veracity], you mixed truth with lies [-veracity] in the aftermath of the killing and you disposed of evidence to escape punishment [*t*, -propriety]. (text 6, Pyott, line 94-97)

In the above example, Pyott is judged as showing 'a canny understanding of the legal process' and 'tactical considerations', each inscribing an instance of **judgement** of Pyott as [+capacity]. Pyott is represented as someone who has the capacity to weigh up the pros and cons to his own advantage. The two instances of **judgement** of Pyott

as [+capacity] are in sharp contrast with the acknowledgement of Pyott's mental disorder in the preceding co-text, which invokes a **judgement** of Pyott as [-capacity]. The contrast between [-capacity] (invoked by Pyott's mental disorder) and [+capacity] (inscribed by 'canny' and 'tactical') triggers further attitudinal reading of the **judgement** of Pyott as [+capacity] as invoking a negative **judgement** of Pyott as [-veracity]. This attitudinal reading is supported by the following co-text, where similar type of judgement ([-veracity]) is inscribed as 'you mixed truth with lies'.

To sum up, in text 6 the instances of **judgement** of Pyott as [+capacity] all invoke negative **social sanction** of Pyott and his behaviour. Furthermore, those instances of [+capacity] are accompanied by negative **social sanctions** of either Pyott or of his behaviour, which collectively reinforce the unfavourable **judgement** of Pyott and his behaviour.

4.7 [-veracity]

There are 25 instances of **judgement** of [-veracity] found in the dataset (see Table 4.1 above), and they are found in five texts: text 1 (N=1), text 3 (N=1), text 4 (N=3), text 5 (N=7), and text 6 (N=13) (see Table 4.3 above). There are far more instances of [-veracity] in texts 5 and 6 than in the other three texts.

4.7.1 Text 1: Palmer

In text 1, there is only one instance of **judgement** of [-veracity], as shown below.

- (21) **You told implausible lies** [-veracity] to a lady from the ambulance service and to the police, including in a prepared statement after Damon had died.

(text 1, Palmer, line 42-43)

In the above example, Palmer is explicitly judged as '[telling] implausible lies', which inscribes a **judgement** of Palmer's character as [-veracity]. However, the evaluation of the 'lies' as 'implausible' brings a sense of Palmer's lack of capacity to weave lies, as the lies are considered to be unreasonable or highly improbable by the judge. This attitudinal reading of 'implausible' makes the **judgement** of Palmer as [-veracity] different from the similar type of **judgement** found in text 6.

In text 6, among the several instances of the negative **judgement** of [-veracity], one is invoked by Pyott's 'canny understanding' and 'tactical considerations'

(example 8 above), through which Pyott is represented as someone who has the full capacity to weave lies. Compared with Pyott's full capacity and deliberate attempt to weave lies in text 6, Palmer's (text 1) lack of capacity to weave lies ('told implausible lies') has the potential to make her behaviour less reproachable than that of Pyott's.

4.7.2 Text 3: Taylor

In text 3, there is only one instance of [-veracity], in which Taylor's having an affair with another woman is referred to as 'duplicity'²⁰ (see also example 25 below) to his wife (the victim). The appraisal item inscribes a negative **judgement** of Taylor's behaviour as [-veracity]. When this instance of [-veracity] in text 3 is compared with similar type of **judgement** found in the remaining three texts (texts 4, 5 and 6), it is found that in text 3 the **judgement** of [-veracity] is not directly related to Taylor's current offence. In other words, the negative **judgement** of Taylor's behaviour as [-veracity] is more likely to bring a moral sanction than a legal sanction to Taylor.

However, the low frequency of [-veracity] in text 3 does not mean that there is no basis for the judge to make negative **judgement** of Taylor or his behaviour as [-veracity]. Rather, there are many opportunities for the judge to make the negative **judgement** of [-veracity]. Taylor concealed the victim's body and denied the murder. But those contents are represented in ways that do not invoke any **judgement** of [-veracity], such as 'Since her body has never been found, only you know what became of her on the night of 18/19 January 2012 and where her body is.', or as 'In terms of mitigating factors, although you have not admitted that you killed Alethea or vouchsafed any explanation as to how she died, I sentence you on the basis that her killing was not premeditated'. These contents can hardly invoke any negative **judgement** (of [-veracity]) of Taylor's behaviour towards the victim.

4.7.3 Text 4: Hunnisett

Moving to text 4, there are three instances of **judgement** of [-veracity]. They are all inscribed and all targeting Hunnisett's behaviour. Hunnisett's acts before the offence are represented as he 'tricked his way' into the victim's house; Hunnisett's acts after his offence are represented as 'deception' and 'inventions'. One of them is found in

²⁰ Text 3, Taylor, line 12

the following example.

- (22) I am satisfied that the Defendant practised that **deception** [-*veracity*] to try and give some substance to his accusation that Peter Bick was a paedophile.

(text 4, Hunnisett, line 58-60)

All those acts (which inscribe **judgement** of [-*veracity*]) are directly related to Hunnisett's current offence in that Hunnisett's 'deception' and 'inventions' are to explain away his offence, and he 'tricked his way' into the victim's house in order to kill the victim.

4.7.4 Text 5: McCluskie

In text 5 there are seven instances of **judgement** of [-*veracity*], all of which are invoked and target McCluskie's behaviour. These instances of **judgement** of [-*veracity*] are mainly invoked by descriptions of what McCluskie did or intended to do after his offence, as shown below.

- (23) This crime, extremely grave when viewed in isolation, was significantly aggravated by your actions afterwards. Over a large number of hours you set about, in an utterly coldblooded and determined way [-*propriety*]. ...you **diverted** [*t*, -*veracity*], and **attempted to influence, the police investigation** [*t*, -*veracity*] by **controlling the release of information**... [*t*, -*veracity*].

(text 5, McCluskie, line 32-41)

In the above example, although all instances of [-*veracity*] are invoked rather than inscribed, they are preceded by an explicitly negative **judgement** of McCluskie's post-crime acts as being carried out 'in an utterly coldblooded and determined way' (inscribing a **judgement** of [-*propriety*]). The explicitly negative **judgement** cast the following contents into a negative light.

In addition to the explicitly negative **judgement** of McCluskie's post-crime acts, descriptions of the post-crime acts are preceded by a statement where the judge makes explicit that McCluskie's offence 'was significantly aggravated by [his] actions afterwards' (example 23 above), which also casts the following descriptions of McCluskie's post-crime acts into a negative light.

4.7.5 Text 6: Pyott

In text 6, there are 13 instances of **judgement** of [-veracity], of which three are inscribed and ten invoked.

Pyott is explicitly judged as having ‘mixed truth with lies’ (example 8 below) or as having ‘lied’,²¹ both of which inscribe **judgement** of Pyott as [-veracity]. Pyott or his behaviour is also implicitly judged as [-veracity]. An instance of invoked [-veracity] is also found in the following example (same as example 8 and repeated below).

- (8) Yet, despite your mental disorder [*t, -capacity*] **you showed a canny** [*+capacity*] understanding of the legal process including tactical [*+capacity*] considerations [*t, -veracity*], you **mixed truth with lies** [*-veracity*] in the aftermath of the killing and you disposed of evidence to escape punishment [*t, -propriety*]. (text 6, Pyott, line 94-97)

In the above example, Pyott is judged as ‘showed a canny understanding’ and ‘tactical considerations’ during the legal process, which inscribe **judgement** of Pyott as [*+capacity*]. However, the two instances of **judgement** of [*+capacity*] contrast with the **judgement** of [*-capacity*] (as invoked by acknowledgement of Pyott’s mental disorder). The contrast triggers further attitudinal reading of Pyott’s ‘canny understanding’ and ‘tactical considerations’ as invoking a **judgement** of [-veracity].

Implicit **judgement** of [-veracity] are also invoked by what Pyott did and intended to do after his offence. Below is an example.

- (24) I am sure, also, that you tried to hide your guilt [*t, -veracity*] by cutting your arm to simulate the effect a struggle [*t, -veracity*]; and by suggesting officers check your flat for forensic evidence you knew was not there [*t, -veracity*]. (text 6, Pyott, line 50-52)

The judge ascribes purposes to Pyott’s post-crime acts (such as ‘to hide [his] guilt’), and these purposes (or in other words, what Pyott intended to do) unambiguously invoke **judgement** of Pyott’s behaviour as [-veracity]. In addition, the experiential contents describing what Pyott actually did after his offence (‘cutting your arm to simulate the effect a struggle’, ‘suggesting officers check your flat for forensic evidence you knew was not there’) also invoke **judgement** of [-veracity].

²¹ Text 6, Pyott, line 47

4.7.6 Summary: [-veracity]

Along with the increase of the minimum terms, there is the increase of the occurrences of [-veracity]. In texts 1 and 3, where the minimum terms are shorter than the other three texts, there is only one instance of [-veracity] found in each text. Moving to text 4, there are slightly more occurrences of [-veracity] (N=3). In text 5 (N=7) and text 6 (N=13) there are far more instances of [-veracity] than that found in texts 1, 3 and 4. More important than the differences in occurrence are the qualitative differences among the four texts. The general trend is that along with the increase in minimum terms, **judgement** of [-veracity] become more and more severe, although they are all coded as [-veracity].

In order to exemplify the qualitative differences of [-veracity] among the texts, the following discussion focuses on the purposes of offenders' behaviour: whether purposes are ascribed to offenders' behaviour and whether those purposes are used to invoke **judgement** of [-veracity]. The following discussion of purpose is based on van Leeuwen's (2000) discussion of purpose in discourse, which helps to clarify the qualitative differences of **judgement** of [-veracity] found in the four texts.

In the dataset of the current study, **judgement** of [-veracity] is either inscribed or invoked by what offenders did or intended to do. What offenders intended to do can also be regarded as the purposes of offenders' behaviour. 'Purpose' in the current study refers to the ultimate goal of offenders' behaviour. However, purposes are "not inherent in action, but discursively constructed" (van Leeuwen 2000, pp.68–69). In other words, judges can choose to represent offenders' behaviour as either purposeful or not. In texts 1 and 3, the judges choose not to represent offenders' behaviour as purposeful, as shown below.

(21) **You told implausible lies** [-veracity] to a lady from the ambulance service and to the police, including in a prepared statement after Damon had died.

(text 1, Palmer, line 42-43)

(25) The incident at Yarpole church and her extreme upset..., when her misery and agitation at your **duplicit** [-veracity] became apparent, so it must have been a matter of considerable concern to you that she was going to reveal the affair.

(text 3, Taylor, line 9-13)

In the above two examples, although judges make explicitly negative **judgement** of [-

veracity], they do not ascribe any purposes to offenders' behaviour to further invoke negative **judgement** of [-veracity].

Moving to text 4, some of Hunnisett's behaviour (which either inscribe or invoke **judgement** of [-veracity]) are represented without overt reference to the purposes, such as Hunnisett 'tricked his way' into the victim's house, and the identification of Hunnisett's verbal accounts as 'inventions'. Nonetheless, there is an instance in which Hunnisett's behaviour is represented as purposeful (same as example 22 and repeated below).

(22) I am satisfied that the Defendant practised that **deception** [-veracity] to try and give some substance to his accusation that Peter Bick was a paedophile'.

(text 4, Hunnisett, line 58-60)

In the above example, identification of Hunnisett's behaviour as 'deception' inscribes a **judgement** of his behaviour as [-veracity], but the following purpose of Hunnisett's 'deception' – 'to try and give some substance to his accusation that Peter Bick was a paedophile' – does not separately invoke any **judgement** of [-veracity].

It is only in texts 5 and 6 that not only offenders' behaviour but also purposes of their behaviour (what offenders intended to do) are used to invoke **judgement** of [-veracity] (examples 23, 8 and 24 above). By ascribing purposes to offenders' behaviour, a moral quality of the actions is highlighted and the purposes are accordingly coded as invoking **judgement** of [-veracity]. In texts 5 and 6, the judges incorporate what offenders intended to do into representations of what offenders actually did by ascribing purposes to offenders' behaviour. The combination of offenders' behaviour with purposes extends the basis for making **judgement** of [-veracity], and affords judges more opportunities to make the negative **judgement** of offenders' behaviour as [-veracity].

To sum up, along with the increase of minimum terms, the purposes of offenders' behaviour (what offenders intended to do) gradually find their place in representations of offenders' behaviour and contribute to bringing more instances of negative **judgement** of offenders' behaviour as [-veracity].

4.8 [-propriety]

There are 90 instances of **judgement** of [-propriety] found in the dataset (see Table

4.1 above). Instances of [-propriety] are found in all the six texts: text 1 (N=9), text 2 (N=13), text 3 (N=7), text 4 (N=11), text 5 (N=19), and text 6 (N=31) (see Table 4.4 below). There are more instances of [-propriety] in texts 5 and 6 than in the other four texts. In other words, when judges set the minimum terms well above (texts 5 and 6) the starting point they make much more **judgement** of [-propriety], compared with when they set the minimum term below (text 1) or just a few years above (texts 2, 3 and 4) the starting point.

Table 4.4: **Judgement** of [-propriety] across the six texts

[-propriety]	text 1	text 2	text 3	text 4	text 5	text 6
inscribed	3	2	1	3	11	19
invoked	6	11	6	8	17	25
TOTAL	9	13	7	11	19	31

The following sections demonstrate how **judgement** of [-propriety] differs qualitatively across the six texts. The general trend is that along with the increase of minimum terms (from texts 1 to 6), **judgement** of [-propriety] is increasingly reinforced in various ways.

4.8.1 Text 1: Palmer

In text 1, there are three instances of explicitly negative **judgement** of [-propriety] (see Table 4.4 above). Two of them are denied as shown below (one of them is repeated from a previous example).

- (1) You are not [*deny*] to **blame** [-*propriety*] for failing to realise [-*capacity*] that your attempt to save him from himself was misguided [*t*, -*capacity*], as hindsight shows. (text 1, Palmer, line 58-59)

- (26) Until this happened, no one [*deny*] would have thought of you as an **evil** [-*propriety*] person. (text 1, Palmer, line 10-11)

In the above examples, the two instances of explicitly negative **judgement** of Palmer as [-propriety] are denied. The other instance of explicitly negative judgement (of Palmer's criminal act) as [-propriety] is found in the following example.

- (27) Until this happened, no one [*deny*] would have thought of you as an **evil** [-*propriety*] person. Yet [*counter*] what you did to Damon Searson was **evil** [-

propriety], during that one [*t, qualified +propriety*] terrible [*t, -propriety*]
moment in an otherwise blameless and productive life [*t, +propriety*]

(text 1, Palmer, line 10-13)

In the above example, Palmer's criminal act ('what you did to Damon Searson') is negatively judged as 'evil', which inscribes a negative **judgement** of Palmer's behaviour as [-propriety]. However, the negative **judgement** is accompanied by several instances of **judgement** that are favourable to Palmer, which counterbalance, if not overturn, this negative **judgement** of Palmer's behaviour as [-propriety].

Those instances of favourable **judgement** include: the denial of the negative **judgement** of Palmer as 'no one would have thought of you as an evil person'; the evaluation of Palmer's life before her offence as 'blameless and productive', which invokes a positive **judgement** of Palmer as [+propriety]. The 'moment' when Palmer carried out her offence is quantified and downscaled as 'one terrible moment', which undermines the negative **judgement** (of Palmer's criminal act) invoked by 'terrible'. Palmer's criminal act is referred to as 'what you did to Damon Searson' or as 'moment', through which the physical details of Palmer's criminal act towards the victim are left implicit. By leaving implicit how Palmer carried out her offence, the judge avoids incurring further negative **judgement** of Palmer's behaviour.

In addition to the three instances of explicitly negative **judgement** of [-propriety], there are six instances of invoked **judgement** of [-propriety] in text 1 (see Table 4.4 above). They are variously invoked by **appreciation** of the nominal forms of Palmer's criminal acts, or by experiential contents describing Palmer's behaviour (including her criminal act), or by contents about victim or victim impact.

In text 1, Palmer's criminal act is referred to as a 'moment' and evaluated as a 'terrible moment' (example 27 above), or is referred to as a 'knife crime' and evaluated as a 'scourge' (example 28 below). Both evaluations invoke negative **judgement** of Palmer's criminal act as [-propriety].

- (28) I know [*concede*] what a scourge [*t, -propriety*] knife crime is, and I know that sentences in cases of murder by stabbing normally require minimum terms well above the 15 year starting point. Because of the unusual features of this case, which emerged in detail from the evidence called by the Crown during the trial, I think that this is a case where the minimum term should be less than the starting point.

(text 1, Palmer, line 75-80)

However, the two instances of invoked negative **judgement** of Palmer's criminal act as [-propriety] are both undermined. In example 27, the 'moment' Palmer carried out her offence is quantified and downscaled as only 'one terrible moment'. Furthermore, the negative **judgement** (invoked by 'terrible moment') is surrounded by instances of **judgement** that are favourable to Palmer, such as Palmer having lived 'an otherwise blameless and productive life' before the offence and the denial of the negative **judgement** of Palmer as 'evil'. In example 28, Palmer's 'knife crime' is evaluated as 'a scourge', which invokes a negative **judgement** of Palmer's criminal act. The appraisal item ('scourge') might also be interpreted as targeting the knife crime in general rather than specifically Palmer's crime, which further shields Palmer from the negative **judgement**. Although there is some uncertainty about whether the 'knife crime' refers to Palmer's case or knife crime in general, it is certain that the negative **judgement** (invoked by 'scourge') is presented as a conceded proposition, which is replaced, if not cancelled, by the following proposition (in which the judge identifies Palmer's case as 'unusual' and pronounces that the minimum term should be set below the starting point) (see chapter 5, section 5.7.1 for discussion of the **engagement** items).

In text 1, there is one instance of description of Palmer's criminal act as 'You took his life', which invokes a negative **judgement** of Palmer's criminal act as [-propriety]. It is shown below.

- (29) This is a distressing, indeed tragic [*t, qualified +propriety*] case. You did not mean him to die, but you meant to cause him really serious injury. **You took his life** [*t, -propriety*], yet you loved him [*t, +propriety*].

(text 1, Palmer, line 4-5)

In the above example, Palmer's criminal act is represented as 'You took his life', which mentions the fatal consequence of Palmer's criminal act on the victim and is accordingly coded as invoking a negative **judgment** of Palmer's criminal act as [-propriety]. However, the representation leaves implicit the physical details of Palmer's criminal act towards the victim, which to some extent undermines the negative **judgement** invoked by such representation. This feature (of leaving implicit the physical details of Palmer's criminal act) is especially prominent when it is compared with similar contents found in texts 5 and 6 (see sections 4.8.7.2 for the comparison).

In the above example, the invoked negative **judgement** of Palmer's criminal act

as [-propriety] is further undermined by instances of **judgement** that are favourable to Palmer in its co-texts. Those instances of favourable **judgement** include positive **judgement** of Palmer (as [+propriety]) as invoked by Palmer's love of the victim ('you loved him'); and the evaluation of Palmer's case as 'a distressing, indeed tragic case', through which Palmer's case triggers a feeling of [-happiness] but not a feeling of [-security], and consequently makes Palmer's offence less reproachable when compared with cases that would trigger feeling of [-security] (e.g. the 'horrificing violence' in text 6, see section 4.8.6).

In text 1, negative **judgement** of [-propriety] is also invoked by descriptions of victim vulnerability, as shown below. However, the invoked negative **judgement** is also constrained in some ways.

- (30) You must have come upon him unawares. He was unable to defend himself
[*t*, -*propriety*]. (text 1, Palmer, line 40)

As shown by the above example, the victim was vulnerable because Palmer had 'come upon him unawares'. Elsewhere in text 1 the judge makes explicit that Palmer's attack on the victim was carried out 'on impulse, on the spur of the moment'.²² Accordingly, it could be inferred that Palmer's coming upon the victim 'unawares' is an impulsive action. It further leads to the interpretation that the victim's vulnerability is an unintentional consequence of Palmer's impulsive (criminal) act rather than a factor that is deliberately exploited by Palmer.

Descriptions of victim impact also invoke negative **judgement** of Palmer's criminal act towards the victim, as shown below.

- (31) You took his life [*t*, -*propriety*], yet [*counter*] you loved him [*t*, +*propriety*].
You have taken him from his family forever [*t*, -*propriety*].

(text 1, Palmer, line 5-6)

In the above example, the impact of the victim's death on his family is represented as 'You have taken him from his family forever', which invokes a negative **judgement** of Palmer's criminal act towards the victim (as [-propriety]). However, the description of victim impact does not specify who are impacted (except a general reference to 'his family') and what their emotional responses are, which greatly dilutes the impact of the victim's death on his family, since it is not clear who those people are let alone

²² Text 1, Palmer, line 54-55

how they feel. The backgrounding of the relevant information constrains the negative **judgement** invoked by the token. This backgrounding is especially obvious when it is compared with similar contents found in other texts (see sections 4.8.7.2 for the comparison).

To sum up, in text 1 instances of negative **judgement** of [-propriety] are either directly denied or are undermined in various ways.

4.8.2 Text 2: Capp

In text 2, there are 13 instances of **judgement** of [-propriety], of which two are inscribed and 11 are invoked (see Table 4.4 above). The two instances of explicitly negative **judgement** of [-propriety] are not only used to inscribe [-propriety] but also to fulfil some other agendas. They are shown below.

- (32) You knew what you were doing and that it was **very wrong** [-*propriety*] [*t*, -*propriety*] and you could have prevented or stopped your actions [*t*, -*propriety*].

(text 2, Capp, line 65-66)

In the above example, Capp's criminal acts in relation to the victim ('what you were doing') are evaluated as 'very wrong', which inscribes a negative **judgement** of Capp's behaviour as [-propriety]. However, the negative **judgement** of Capp's behaviour is used to invoke another negative **judgement** of Capp (as [-propriety]) based on the representation of Capp as 'You knew...that it was very wrong'. Furthermore, the representation of Capp's criminal act as 'what you were doing' leaves implicit the physical details of how Capp carried out his offence, which accordingly avoids incurring further negative **judgement** of Capp's behaviour.

Another instance of explicitly negative **judgement** of [-propriety] is found in the following example.

- (33) You suffer from emotional instability [*t*, -*capacity*], leading to difficulty [-*capacity*] in controlling your emotions, resulting in self-harm and **aggressive** [-*propriety*] acts towards others [*t*, -*capacity*]. (text 2, Capp, line 53-55)

In the above example, Capp's 'aggressive acts towards others' inscribes a negative **judgement** of Capp's behaviour as [-propriety]. However, the negative **judgement** is further used to support or invoke a **judgement** of Capp (as [-capacity]) as lacking the capacity to control his emotions.

In addition to the two instances of inscribed **judgement** of [-propriety], there are 11 instances of invoked **judgement** of [-propriety] (see Table 4.4 above). Two of them are found in example 32 above, where by attributing the explicitly negative **judgement** of Capp's criminal act to Capp, as 'You knew what you were doing and that it was very wrong', the judge invokes a negative **judgement** of Capp as [-propriety]. In addition, the representation of Capp as 'you could have prevented or stopped your actions' also invokes a negative **judgement** of Capp as [-propriety].

In text 2, negative **judgement** of [-propriety] is also invoked by **appreciation** of the nominal forms of Capp's criminal acts, as shown by the following example.

- (34) I have no doubt that you intended to kill him. This was a **concerted, sustained** [*t, -propriety*] and **vicious** [*t, -propriety*] attack. **You have shown no remorse** [*t, -propriety*]. (text 2, Capp, line 29-30)

In the above example, Capp's criminal acts are referred to as an 'attack' and evaluated as 'a concerted, sustained and vicious attack', of which 'concerted and sustained' and 'vicious' are coded as invoking two instances of negative **judgement** of Capp's criminal acts as [-propriety]. Besides that, the reference of Capp's lack of remorse in the above example also invokes a negative **judgement** of Capp's post-crime acts as [-propriety].

In text 2, information about victim vulnerability is also used to invoke **judgement** of [-propriety]. However, when the evaluative token is examined in detail, it is found that the invoked negative **judgement** of [-propriety] is constrained in some ways. It is shown by the following example.

- (35) **Mr Thomas was a vulnerable man** [*t, -propriety*] whom you attacked in a confined environment when he was defenceless in his sleep. (text 2, Capp, line 57-59)

In text 2, Capp's criminal act is identified as premediated elsewhere in text 2,²³ and accordingly Capp's attack of the victim is very likely to be Capp's deliberate exploitation of the chance that the victim was in his sleep and hence defenceless and vulnerable. However, this interpretation is not made explicit nor even implied in the above example nor in its co-texts. In other words, the judge's representation of victim vulnerability in the above example has to some extent shielded Capp or his behaviour

²³ 'By way of aggravation, there was here a significant degree of premeditation. You sat on your bed for a couple of hours contemplating your actions.' (text 2, Capp, line 56-57)

from incurring further negative **judgement**. Consequently, the negative **judgement** (of Capp's criminal act) invoked by the description of victim vulnerability is to some extent constrained by how the victim vulnerability is represented.

Furthermore, in text 2 victim vulnerability is also attributed to the fact that the victim was once a vagrant on the street (example 36 below), which is not related to Capp, let alone to any deliberate exploitation of the victim's vulnerability by Capp.

- (36) **Darren Thomas was a vulnerable 45 year old** [*t, -propriety*], essentially a vagrant not coping with life on the outside, and who was serving a 12 week custodial sentence for breach of an anti-social behaviour order as a result of begging in Cardiff City Centre. (text 2, Capp, line 12-15)

The representation of victim vulnerability only vaguely implies that Capp took advantage of the victim's vulnerability, which might be inferred but not clearly stated by the judge. Correspondingly, the information about victim vulnerability in the above example only vaguely invokes a negative **judgement** of Capp's criminal acts towards the victim as [-propriety].

In text 2, there are two instances of descriptions of victim impact that work as evaluative tokens invoking negative **judgement** of Capp's criminal acts to the victim as [-propriety]. One of them is shown by the following example.

- (37) The court has heard a victim impact statement from Ms Susan Davies, the mother of Mr Thomas. She describes **how he was a much loved son, stepson and brother whose death has caused deep anguish to his family and friends** [*t, -propriety*]. (text 2, Capp, line 31-33)

In the above example, the description of victim impact is explicitly sourced to the victim's family member, his mother. And reference to the victim's various identities ('son, stepson and brother') indicates the existence of other family members of the victim. Furthermore, there is also a reference to those family members' emotional response as 'deep anguish'. The description is much more detailed than similar content found in text 1 (example 31 above) but much less so when compared with similar contents found in texts 5 and 6 (see section 4.7.8.2 for the comparison).

And finally, in text 2 there are descriptions of Capp's behaviour, but they are represented in ways that do not invoke any negative **judgement** of his behaviour, such as the representation of Capp's criminal acts as "Mr Thomas also had some 100 puncture marks on the left hand side of his neck which you had caused with a plastic

biro through the plastic bag”.²⁴

To sum up, although the negative **judgement** of [-propriety] is not denied as it is in text 1, in text 2 the negative **judgement** of [-propriety] is greatly constrained. Instances of inscribed [-propriety] are used to serve other agendas rather than to unambiguously inscribe negative **judgement** of Capp or his behaviour. Instances of invoked negative **judgement** of [-propriety] are constrained in various ways when the evaluative tokens are examined in detail, especially when those tokens are compared with similar contents found in texts 5 and 6.

4.8.3 Text 3: Taylor

In text 3, there are seven instances of **judgement** of [-propriety], of which one is inscribed and six are invoked (see Table 4.4 above). The instance of inscribed negative **judgement** of [-propriety] is found in the following example.

- (38) It is also evident from her notebooks and from what she said to Alison Dearden on 12 December and to Tina Powell on Boxing Day, that there is a dark and violent side to your personality [-*propriety*] that possibly only Alethea saw. (text 3, Taylor, line 13-16)

In the above example, the attitudinal item ‘there is a dark and violent side to [Taylor’s] personality’ inscribes a negative **judgement** of Taylor’s character as [-propriety], which, however, is to some extent constrained as ‘possibly only Alethea saw’ the defects of Taylor’s personality.

Instances of implicitly negative **judgement** of [-propriety] are invoked by descriptions of Taylor’s emotional responses. One of them is shown below.

- (39) So it was that on that night of 18/19 January, when you got home, your anger and frustration with Alethea must have boiled over [*t*, -*propriety*]. (text 3, Taylor, line 17-18)

In the above example, Taylor is described as his ‘anger and frustration with [the victim] must have boiled over’ immediately before his attack of the victim, which is interpreted as a reproach of Taylor for he did not control his negative emotions. Consequently the appraisal item (the underlined part) is coded as invoking a negative **judgement** of Taylor as [-propriety].

²⁴ Text 2, Capp, line 25-26

Descriptions of what Taylor did either before or after the offence also invoke negative **judgement** of his behaviour. They are shown below.

- (40) Despite your denial in evidence, Alethea was clearly perceived by you as an obstacle to your happiness with Alison Dearden [*t, -propriety*].

(text 3, Taylor, line 5-6)

- (41) Even now, you have failed to disclose what you have done with her [*t, -propriety*], with all the agony that causes for her family and friends [*t, -propriety*]. You appear to have shown no remorse [*t, -propriety*], perhaps because you continue to deny that it was you who murdered her [*t, -propriety*].

(text 3, Taylor, line 39-41)

In example 40, Taylor is described as perceiving his wife (the victim) as ‘an obstacle to [his] happiness’ with another woman. In example 41, Taylor is described as ‘failed to disclose’ what he had done with the victim, and his denial of the murder is represented as he ‘continue[d] to deny that it was [him] who murdered [the victim]’. These descriptions of Taylor’s behaviour invoke negative **judgement** of Taylor’s behaviour as [-propriety]. In addition, in example 41 there is an instance referring to Taylor’s lack of remorse, which also invokes a negative **judgement** of Taylor’s post-crime acts as [-propriety].

And finally, information about victim impact is also used to invoke negative **judgement** of Taylor’s criminal acts towards the victim. In example 41 above, the impact of the victim’s death on his family is represented as ‘all the agony that causes for her family and friends’, and the representation invokes a negative **judgement** of Taylor’s criminal acts towards the victim (as [-propriety]). There is a general reference to who are impacted (‘her family and friends’) as well as reference to their emotional response as ‘agony’. Although representations of victim impact in texts 2 and 3 are more detailed than that in text 1, they are far less so when compared with similar contents (as tokens invoking **judgements** of [-propriety]) found in texts 5 and 6 (see section 4.8.7.2 for the comparison).

To sum up, text 3 is similar to text 2 in that the negative **judgement** of [-propriety] is constrained in various ways. The explicitly negative **judgement** of Taylor is restricted as this negative **judgement** is only privately held by his wife (the victim) (example 38 above), rather than generally held by all or most people. Furthermore, the evaluative tokens only vaguely invoke negative **judgement** of [-propriety] when

taking into consideration their co-texts (examples 39-41). Moreover, no **graduation** items are found in the company of those evaluative tokens to reinforce their attitudinal readings.

4.8.4 Text 4: Hunnisett

In text 4, there are 11 instances of **judgement** of [-propriety], of which three are inscribed and eight are invoked (see Table 4.4 above). Of the three instances of inscribed negative **judgement** of [-propriety], two of them are denied as Hunnisett is ‘not to be blamed’ for his past or for the **judgement** of Hunnisett as ‘damaged’ (example 42 below).

- (42) **Nor is he to be blamed** [-*propriety*] for the fact that he is now a very damaged [-*capacity*] person. (text 4, Hunnisett, line 47-48)

Despite the two denials of negative **judgement** of Hunnisett as [-propriety], there is one instance of explicitly (inscribed) negative **judgement** of Hunnisett as [-propriety], as he is ‘now an extremely dangerous man’, which is shown below.

- (43) ...the evidence that I have heard has driven me to the conclusion that the Defendant is now an extremely dangerous [-*propriety*] man who may well kill again were he to be released in the foreseeable future (text 4, Hunnisett, line 67-69)

The seeming contradiction between the denial of [-propriety] (example 42 above) and the **judgement** of [-propriety] (example 43 above) in evaluations of Hunnisett could be explained as a distinction between Hunnisett in his past (past character) and Hunnisett at present (present character). While the denials of [-propriety] target Hunnisett’s past character, which are based on accounts of his past, the **judgement** of [-propriety] targets Hunnisett’s present character, as he is ‘now an extremely dangerous man’. The contradiction is completely resolved when **engagement** items are taken into consideration (see chapter 5, section 5.7.4 for details). Briefly speaking, the **judgement** of Hunnisett’s present character as [-propriety] is used to counter expectations arising from acknowledgement of Hunnisett’s past, which is also the basis on which the negative **judgement** of Hunnisett’s past character as [-propriety] is denied. In other words, the negative **judgement** of Hunnisett’s present character as [-propriety] indirectly replaces, if not cancels, the two denials of Hunnisett’s past

character as [-propriety].

In text 4, Hunnisett's criminal acts towards the victim are referred to as 'killing', which makes explicit the fatal consequence of his behaviour towards the victim. In contrast, in text 1 Palmer's criminal act is generally referred to as a 'terrible moment' (example 27 above), and in text 2 Capp's criminal act is referred to as 'attack' (example 34 above), both of which background the fatal consequences of offenders' criminal acts on their victims. Furthermore, in text 4 Hunnisett's 'killing' is twice evaluated as 'cold blooded'. One of them is shown below. Those evaluations unambiguously invoke negative **judgement** of Hunnisett's behaviour as [-propriety].

- (44) That this was a planned and **cold blooded** [*t, -propriety*] killing is confirmed by the meticulous way in which the Defendant cleared up the flat afterwards.

(text 4, Hunnisett, line 11-12)

In text 4, Hunnisett killed the victim because he falsely thought the victim was a paedophile based on his own investigation. There are a few descriptions of (or comments on) Hunnisett's behaviour which unambiguously invoke negative **judgement** of Hunnisett's behaviour as [-propriety]. They are shown below.

- (45) **He has appointed himself Judge, jury and executioner** [*t, -propriety*].

However good the evidence of child abuse, **the Defendant was not entitled to take the law into his hands in the way he did** [*t, -propriety*] but, as he demonstrated in this case, **he was prepared to reach his conclusions on entirely inadequate evidence** [*t, -propriety*].

(text 4, Hunnisett, line 36-39)

In the above example, Hunnisett's behaviour are described or commented as 'He has appointed himself Judge, jury and executioner', or as 'the Defendant was not entitled to take the law into his hands in the way he did', or as 'he was prepared to reach his conclusions on entirely inadequate evidence'. These descriptions implicitly but unambiguously invoke instances of negative **judgement** of Hunnisett's behaviour as [-propriety].

Furthermore, in text 4 **graduation** items are used in representations of Hunnisett's criminal acts, and those **graduation** items further invoke instances of negative **judgement** of Hunnisett's criminal acts.

- (46) He tricked his way into Peter Bick's house and while there, killed him by striking him **at least five** [*t, -propriety*] **severe** [*t, -propriety*] blows on the head

with a hammer which **smashed** [*t*, *-propriety*] the skull and damaged the brain.

(text 4, Hunnisett, line 2-4)

In the above example, Hunnisett's attack on the victim is quantified and upscaled as striking the victim 'at least five severe blows'. And Hunnisett 'smashed' the victim's skull, which infuses²⁵ an upscaling of the force of his attack of the victim. These **graduation** items invoke instances of negative **judgement** of Hunnisett's criminal act as [-propriety].

To sum up, in text 4 although the judge admits the existence of Hunnisett's past as a mitigating factor, this mitigating factor is later overturned by the overwhelmingly negative **judgement** of [-propriety]. Instances of negative **judgement** of [-propriety] in text 4 are reinforced in various ways. The inscribed [-propriety] is intensified as Hunnisett is 'an extremely dangerous man' (example 43 above). As regards to the tokens invoking **judgement** of [-propriety], **graduation** items are used to invoke attitudinal readings of the seemingly neutral description Hunnisett's criminal acts (example 46 above); Hunnisett's criminal acts are referred to as 'killing' (example 44 above) and attitudinal items are attached to the 'killing' invoking **judgement** of [-propriety]; moreover, Hunnisett's criminal acts are represented in ways that unambiguously invoke negative **judgement** of his criminal acts (example 45 above).

4.8.5 Text 5: McCluskie

In text 5, there are 19 instances of **judgement** of [-propriety], of which two are inscribed and 17 invoked (see Table 4.4 above). The two instances of inscribed negative **judgement** of [-propriety] are found in the following examples.

- (47) Having considered the authorities that have been brought to my attention and bearing in mind the facts I have rehearsed, together with the aggravating and mitigating factors, and particularly **the appalling way** [*-propriety*] you acted after the murder, the minimum term will be 20 years.

(text 5, McCluskie, line 56-59)

- (48) Over a large number of hours you set about, **in an utterly coldblooded and determined way** [*-propriety*], to **try to hide what you had done** [*t*, *-veracity*]...

²⁵ "[W]ith infused intensification there is no separate lexical form conveying the sense of up-scaling or down-scaling. Rather the scaling is conveyed as but one aspect of the meaning of a single term." (Martin and White 2005, p.143)

(text 5, McCluskie, line 33-34)

The other 17 instances of implicitly negative **judgement** of [-propriety] are invoked by various types of tokens. One of them is invoked by evaluation of the nominal form of McCluskie's criminal act, as it is shown below.

- (49) This crime, extremely **grave** [*t, -propriety*] when viewed in isolation, was significantly aggravated by your actions afterwards.

(text 5, McCluskie, line 32-33)

In the above example, McCluskie's criminal act is referred to as '[t]his crime' and evaluated as 'grave', which invokes a negative **judgement** of McCluskie's criminal act as [-propriety]. The judge also uses a **graduation** item 'extremely' to maximise the negative **judgement** of McCluskie's criminal act.

In text 5 descriptions of what McCluskie did or what he felt (his emotional responses) frequently invoke **judgement** of [-propriety] (see example 50 below).

- (50) That said [*counter*], instead of exercising a normal degree of fortitude and resilience [*-tenacity*], you followed your emotions [*t, -propriety*] and battered [*t, -propriety*] your sister at least twice [*t, -propriety*] on the head, sufficiently hard to depress her skull [*t, -propriety*].

(text 5, McCluskie, line 24-26)

In the above example, McCluskie is described as 'followed [his] emotions'. McCluskie is represented as someone who does not control his negative emotions, which finally leads to his criminal acts towards the victim. This representation invokes a negative **judgement** of McCluskie as [-propriety]. In addition, the following descriptions of McCluskie's criminal acts in example (50) are accompanied by several **graduation** items: 'battered' infuses an intensification of the force of McCluskie's attack on the victim; the attack is quantified and upscaled as 'at least twice'; and the force of McCluskie's attack is intensified as 'sufficiently hard to depress [victim's] skull'. All these **graduation** items invoke instances of negative **judgement** of McCluskie's criminal acts as [-propriety].

Furthermore, **graduation** items are found in descriptions of the victim's injuries caused by McCluskie, as shown below.

- (51) These were very bad [*t, -propriety*] injuries at one of the body's most vulnerable [*t, -propriety*] sites.

(text 5, McCluskie, line 29-30)

In the above example, the two **graduation** items, 'very bad' and 'most vulnerable',

not only upscales the injuries, but also invoke negative **judgement** of McCluskie's criminal acts towards the victim.

In addition to descriptions of what McCluskie did during the offence, there are detailed descriptions of what McCluskie did after the offence. The descriptions also contain several evaluative tokens invoking negative **judgement** of McCluskie's behaviour as [-propriety], as shown below.

- (52) **You dismembered Gemma, cutting off all her limbs and her head** [*t, -propriety*], you must have left the flat to buy an implement similar to a meat cleaver, which has never been found. You then went to the Regents Canal at least twice (once by taxi) in order to dispose of her remains. **Your hope must have been that she would never be found** [*t, -propriety*]....

(text 5, McCluskie, line 35-39)

- (53) I note additionally that in this trial **you have made a sustained attempt to destroy at least part of the reputation of your sister** [*t, -propriety*],

(text 5, McCluskie, line 44-45)

In the above examples, what McCluskie did to the victim after the offence is vividly described as 'You dismembered Gemma, cutting off all her limbs and her head' (example 52), which invokes negative **judgement** of McCluskie's behaviour. The judge also ascribes purposes to McCluskie's behaviour ('Your hope must have been that she would never be found' in example 52, and 'you have made a sustained attempt to destroy at least part of the reputation of your sister' in example 53) in order to highlight the moral value of his behaviour. By ascribing purposes to McCluskie's behaviour, the judge implicitly but unambiguously invokes negative **judgement** of McCluskie's behaviour. Furthermore, the judge also uses **graduation** items to reinforce the negative **judgement**, such as the 'sustained' attempt in example (53).

In text 5, not only do descriptions of McCluskie's behaviour frequently invoke negative **judgement** of [-propriety], but descriptions of the victim are also used to invoke negative **judgement** of [-propriety]. In text 5, although the victim is not vulnerable, the victim is highly (achieved by **graduation** items) positively judged as 'a young woman with a huge zest for life' or as 'a warm-hearted woman who was loved dearly by a great many people',²⁶ which invoke negative **judgement** of

²⁶ Text 5, McCluskie, line 12-13

McCluskie's criminal acts towards the victim. These highly positive **judgement** of the victim contribute to making McCluskie's criminal acts towards the victim as even more reproachable.

In addition to the positive **judgement** of the victim, the following description of the victim also invokes a negative **judgement** of McCluskie's criminal acts towards the victim.

- (54) Your sister may well have been fiery on occasion and no doubt expressed herself forcefully but in my view she did not in any sense do anything that even begins to justify what you did to her [*t, -propriety*].

(text 5, McCluskie, line 14-16)

In the above example, the judge initially acknowledges (as a concession) an alternative opinion that the victim might provoke McCluskie in carrying out the criminal acts towards her, which would potentially mitigate McCluskie's offence. This alternative opinion is firmly denied by the judge as the victim 'did not in any sense do anything that even begins to justify what [McCluskie] did to her'. Such representation invokes a negative **judgement** of McCluskie's criminal acts towards the victim. In addition, the judge uses a **graduation** item ('even begins to justify') to further reinforce the negative **judgement**.

In text 5, descriptions of victim impact also invoke negative **judgement** of McCluskie's criminal acts towards the victim. Two of them are found in the following example.

- (55) ...and the effect Gemma's death has had on your family, and perhaps most particularly your mother, has been profound [*t, -propriety*]. As the letters I have read make clear, the laughter and enjoyment in life for them has simply gone [*t, -propriety*].

(text 5, McCluskie, line 45-48)

In the above example, descriptions of victim impact are accompanied by **graduation** items (such as 'profound' or 'simply gone') to reinforce the impact of the victim's death on her family. These **graduation** items contribute to reinforcing the negative **judgement** invoked by the information about victim impact.

To sum up, in text 5 instances of the negative **judgement** of [-propriety] are greatly reinforced. The judge makes overwhelmingly negative **judgement** of [-propriety] in text 5. The descriptions of various aspects related to McCluskie or to his offence are imbued with items triggering the negative **judgement** of [-propriety], such

as the descriptions of what McCluskie did during the offence, what he did after the offence, the victim's injuries caused by McCluskie, descriptions of the victim and victim impact. Furthermore, the judge frequently uses **graduation** items not only to invoke negative **judgement** of [-propriety] but also to reinforce the negative **judgement** invoked by other types of evaluative tokens.

4.8.6 Text 6: Pyott

In text 6, there are 31 instances of **judgement** of [-propriety], of which six are inscribed and 25 are invoked (see Table 4.4 above). The six instances of inscribed negative **judgement** of [-propriety] cover various aspects related to Pyott or to his current offence. There is the explicitly negative **judgement** of Pyott as 'cruelty' in the following example.

(56) Their lives are blighted by your **cruelty** [-*propriety*].

(text 6, Pyott, line 9)

In addition to explicitly negative **judgement** of Pyott, there are instances of explicitly negative **judgement** of Pyott's behaviour, which target not only Pyott's behaviour during his current offence (example 57 below), but also his behaviour in previous convictions (example 58 below).

(57) While you were there, you took a knife and **inflicted vicious stab wounds** [-*propriety*] to his neck.

(text 6, Pyott, line 5-6)

(58) You are a man with a long history of **inflicting violence on innocent people** [-*propriety*], fuelled by abuse of Class A drugs and alcohol.

(text 6, Pyott, line 83-85)

In text 6, there are also 25 instances of invoked negative **judgement** of [-propriety] (see Table 4.4 above). Those implicitly negative **judgement** of [-propriety] are invoked by various types of evaluative tokens. There are evaluations of the nominal forms of Pyott's criminal act. One of them is shown below.

(59) It was **a brutal, senseless act of horrifying violence** [*t*, -*propriety*].

(text 6, Pyott, line 7)

In the above example, Pyott's criminal act is referred to as an 'act' and evaluated as 'a brutal, senseless act of horrifying violence'. The repeated use of negative attitudinal items in the example greatly upscales the negativity of the **judgement** of [-propriety].

It is also noted that the evaluation of Pyott's criminal acts as 'horrificing violence' triggers people's feeling of [-security]. The 'horrificing violence' contrasts with the 'distressing', 'tragic' and 'very sad' case in text 1 (see section 4.8.1 and example 29 above), which trigger people's feeling of [-happiness] but not [-security]. In other words, the 'horrificing' case (text 6) is much more reproachable than the 'very sad' case (text 1).

In text 6, the negative evaluation is even extended to the weapon used by Pyott as 'fearful weapon', as shown below.

- (60) You deliberately took up that **fearful** [*t, -propriety*] weapon and used it to cut his neck. (text 6, Pyott, line 38)

The evaluation of Pyott's weapon as 'fearful' invokes a negative **judgement** of Pyott's criminal acts as [-propriety].

Descriptions of Pyott's behaviour are also imbued with items invoking negative **judgement** of Pyott or his behaviour, which are exemplified by the following examples.

- (61) **He thought you were his friend, yet you stabbed him to death in the neck** [*t, -propriety*]. (text 6, Pyott, line 2-3)

- (62) This was a **brutal and ferocious knife attack** [*t, -propriety*], involving **several** [*t, -propriety*] stab wounds to the neck. (text 6, Pyott, line 37-38)

In example (61), by representing Pyott's criminal act as countering people's expectations of normal behaviour (Pyott killed someone who treated him as a friend), the judge invokes a negative **judgement** of Pyott's criminal acts. In example (62), the **graduation** item 'several' upscales the quantity of Pyott's attack of the victim, which invokes a negative **judgement** of Pyott's criminal acts towards the victim.

There are also descriptions of what Pyott did or intended to do after the offence, where several instances of invoked negative **judgement** of [-propriety] are found.

- (63) You then cleaned the knife and disposed of your bloodstained clothing, **intending to avoid punishment by destroying forensic evidence against you** [*t, -propriety*]. (text 6, Pyott, line 45-46)

- (64) ...you mixed truth with lies in the aftermath of the killing and **you disposed of evidence to escape punishment** [*t, -propriety*].

(text 6, Pyott, line 95-97)

- (65) Those admissions apart, **you did all you could to avoid paying for your crime** [*t, -propriety*]. (text 6, Pyott, line 104)

In the above examples, descriptions of what Pyott did after the offence (such as ‘destroying forensic evidence against you’ in example 63) are mixed with what Pyott intended to do (such as ‘intending to avoid punishment’ in example 63, ‘to avoid paying for your crime’ in example 65). By ascribing purposes to Pyott’s behaviour, the judge implicitly but unambiguously invokes negative **judgment** of Pyott’s behaviour.

Pyott’s acts in his previous convictions are also represented in ways invoking negative **judgement** of Pyott’s behaviour as [-propriety]. One of them is shown below.

- (66) You have a long history of **violent** [*-propriety*] offending, including three robberies committed with the help of a knife used to **threaten** [*t, -propriety*] your victims and, in one case, to injure one of them.

(text 6, Pyott, line 72-74)

In the above example, Pyott’s ‘violent’ offending in his previous convictions inscribes a negative **judgement** of his behaviour as [-propriety]. And his ‘threaten[ing]’ of victims in his previous convictions also invokes negative **judgement** of his such acts as [-propriety].

Moreover, the judge uses **graduation** items in his descriptions of Pyott’s previous convictions, and those **graduation** items invoke negative **judgement** of [-propriety], as shown below.

- (67) You were then in prison or secure hospital until your release on licence in December 2009. You were recalled to prison **after only four days** [*t, -propriety*] because you had **threatened** [*t, -propriety*] a member of staff with violence at the hostel where you had been placed... (text 6, Pyott, line 78-80)

- (68) You committed this offence **just under three years later** [*t, -propriety*], on 10 February 2015. (text 6, Pyott, line 82)

In the above example, the graduation items ‘only’ and ‘just’ upscale the short time durations between Pyott’s various previous convictions, through which Pyott is represented as a career criminal, as someone who was frequently put into prison for various offences. These **graduation** items invoke negative **judgement** of Pyott’s behaviour (or his previous convictions) as [-propriety].

In addition to information related to Pyott or to his behaviour, information about victim and victim impact is also represented in ways that invoke negative **judgement**

of Pyott's criminal acts towards the victim (as [-propriety]). In the following example, information about victim vulnerability is used to invoke negative **judgement** of [-propriety].

(69) While you were there, you took a knife and inflicted vicious stab wounds [-*propriety*] to his neck. **He was unable to defend himself** [*t*, -*propriety*].

(text 6, Pyott, line 5-6)

As shown by the above example, victim vulnerability is explicitly attributed to Pyott's 'vicious' attack of the victim, despite the offence being unpremeditated²⁷ and Pyott only intending to harm rather than to kill the victim.²⁸ The explicitly negative **judgement** of Pyott's acts (inscribed by 'inflicted vicious stab wounds') unambiguously triggers attitudinal reading of its following co-text, in which the representation of victim vulnerability ('He was unable to defend himself') invokes a negative **judgement** of Pyott's criminal acts as [-propriety].

In text 6, victim vulnerability is also attributed to the victim's mismatch with Pyott in terms of physical strength, as shown below.

(70) You are a strong and heavily built [+*capacity*] [*t*, -*propriety*] man. **Mr McDermott was not** [*t*, -*propriety*]. **He could not match your strength** [*t*, -*propriety*]. ... **He was defenceless against you** [*t*, -*propriety*].

(text 6, Pyott, line 39-40)

In the above example, the victim's vulnerability, his being 'defenceless' against Pyott, is caused by his mismatch with Pyott in terms of physical strength. The identification of the victim as 'defenceless' against Pyott retrospectively invokes an attitudinal reading of the description of Pyott as 'strong and heavily built' as well as an attitudinal reading of the descriptions of the victim as 'Mr McDermott was not. He could not match your strength'. In other words, the descriptions of Pyott's and the victim's physical strength invoke negative **judgement** of Pyott's criminal acts towards the victim as [-propriety].

In text 6, information about victim impact also invoke negative **judgement** of Pyott's criminal acts towards the victim. Content about victim impact in text 6 are much more detailed than similar contents found in texts 1, 2, and 3.

(71) It was a brutal, senseless act of horrifying violence [*t*, -*propriety*]. **You left**

²⁷ Text 6, Pyott, line 59-60

²⁸ Text 6, Pyott, line 57-58

his sister without her beloved brother and his young daughters forever deprived of their father [*t, -propriety*]. You took from his mother the son she misses so much [*t, -propriety*]. Their lives are blighted by your cruelty [*t, -propriety*]. (text 6, Pyott, line 7-9)

As shown by the above example, details about who is impacted (the victim's 'sister', 'daughters', and 'mother') and how they are impacted are specified, and **graduation** items are found in the representations of victim impact, such as 'forever deprived' or 'misses so much'. Furthermore, these descriptions are preceded by an explicitly negative **judgement** of Pyott's criminal act as 'a brutal, senseless act of horrifying violence', which unambiguously triggers attitudinal reading of the following contents about victim impact as invoking negative **judgement** of Pyott's criminal acts (as [-propriety]).

To sum up, text 6 is similar to text 5 in that instances of negative **judgement** of [-propriety] not only cover various aspects related to Pyott but also these instances of [-propriety] are greatly reinforced. Information about what Pyott did (or intended to do) during and after the offence, about Pyott's behaviour in his previous convictions, about victim or victim impact all contain various items invoking negative **judgement** of Pyott or his behaviour as [-propriety]. Moreover, the judge frequently uses **graduation** items to either invoke or reinforce the negative **judgement** of [-propriety]. Those instances of negative **judgement** of [-propriety] often interact with each other, which further reinforce their negativity.

4.8.7 Summary: [-propriety]

4.8.7.1 The summary

Analyses of the **judgement** of [-propriety] across the six texts demonstrate their qualitative differences across the six texts, and the differences are found to correlate with the respective lengths of minimum terms of the six texts.

In text 1, where the minimum term is below the starting point, the negative **judgement** of [-propriety] is greatly checked. **Judgement** of Palmer as [-propriety] is denied (examples 1 and 26 above), and an instance of negative **judgement** of [-propriety] is surrounded by several instances of favourable **judgement** in its co-text (example 27 above).

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Moving to texts 2 and 3, where the minimum terms are slightly above the starting point, offenders are judged negatively as [-propriety] but those instances of [-propriety] are constrained in some ways. In text 2, instances of inscribed [-propriety] are used to fulfil other agendas, which constrain their impact of making the explicitly negative judgement of [-propriety] (examples 32 and 33 above). In text 3, Taylor is explicitly judged as [-propriety] but the negative **judgement** is constrained for the scope of the negative **judgement** is limited (example 38 above). Furthermore, in texts 2 and 3, the judges do not use any **graduation** items to reinforce the negative **judgement** of [-propriety].

In text 4, whose minimum term is longer than that of texts 2 and 3 but shorter than that of texts 5 and 6, the judge initially denies negative **judgement** of [-propriety] (based on acknowledgement of Hunnisett's past as a mitigating factor) (example 42 above), but the denials are later far outweighed by explicitly negative **judgement** of Hunnisett's present character as [-propriety] (example 43 above). In other words, although instances of **judgement** that would mitigate Hunnisett's offence (denial of [-propriety]) are mentioned in the text, they are outweighed by **judgement** that would aggravate Hunnisett's offence. The mentioning of a potentially mitigating factor and its later replacement by a negative **judgement** of [-propriety] are consistent with text 4's relatively shorter minimum term than that of texts 5 and 6 but a longer minimum term than that of texts 1 and 2.

Text 4 is also different from texts 2 and 3 in that the experiential contents used to invoke negative **judgement** of [-propriety] often unambiguously invoke the negative **judgement** of [-propriety] (example 45 above), which contrasts with the relatively 'neutral' contents (although they also invoke **judgement** of [-propriety]) found in texts 2 and 3 (examples 32 and 40). Furthermore, while in texts 2 and 3 the judges do not use any **graduation** items to reinforce or invoke negative **judgement** of [-propriety], in text 4 the judge begins to use **graduation** items not only to reinforce **judgement** of [-propriety] (example 43 above) but also to invoke **judgement** of [-propriety] (example 46 above), although less frequently than it is in texts 5 and 6.

Moving to texts 5 and 6, the texts with the longest minimum terms, the negative **judgement** of [-propriety] is turned to their maximum volume. There are instances of explicitly negative **judgement** of [-propriety] and they are no longer constrained in any ways (examples 47, 48, 56, 57 and 58 above). Those instances of explicitly negative **judgement** of [-propriety] target not only the offender (example 56 above)

but also what offenders did during (example 57 above) and after their offences (examples 47, 48 above), or even what they did in their previous convictions (example 58 above). In texts 5 and 6, judges widely and frequently use **graduation** items to either invoke or to enhance the negative **judgement** of [-propriety].

4.8.7.2 A comparison of the evaluative tokens

The qualitative differences of [-propriety] across the six texts are more obvious when focusing on similar types of evaluative tokens. This section focuses on four types of evaluative tokens (those invoking **judgement** of [-propriety]) and compare their presentations across the six texts. The four types of evaluative tokens are (1) the **appreciation** of the nominal forms of offenders' criminal acts, (2) offenders' negative emotions, (3) contents about victim, and (4) contents about victim impact.

First, differences are found in the nominal forms used to refer to offenders' criminal acts and how they are evaluated across the six texts. In text 1, Palmer's criminal act is referred to as a 'moment' (example 27 above) or as a 'case' (example 29 above). By referring to Palmer's criminal act as a 'moment' or 'case', the judge puts a lot of information into the background, such as who carried out the criminal act, how the criminal act was carried out, and the fatal consequence of Palmer's criminal act on the victims. The backgrounding of those information contributes to representing Palmer's offence as less serious when compared with the offences in the other texts. In texts 2, 4, 5 and 6, offenders' criminal acts are referred to as 'attack' or 'killing', which convey at least some information directly related to the offender's criminal acts towards the victims.

Furthermore, the nominal forms of the offenders' criminal acts are also evaluated in different ways across the texts. In text 1, Palmer's offence is evaluated as a 'distressing, indeed tragic' case (example 29 above) or as a 'very sad case'; while in text 6 Pyott's offence is evaluated as 'a brutal, senseless act of horrifying violence' (example 59 above). Those evaluations trigger different emotional responses. When examined in the subsystem of **affect** in the Appraisal framework, the evaluations in text 1 trigger people's feeling of [-happiness], while the evaluation in text 6 triggers people's feeling of [-security]. **Judgement** invoked by the former is very likely to be less serious than that by the latter. While the attitudinal items in text 1 are coded as invoking **judgement** of [qualified +propriety], the corresponding attitudinal item in

text 6 is coded as invoking **judgement** of [-propriety]. Furthermore, it is only in texts 5 and 6 that instances of [-propriety] (those invoked by the nominal forms of offenders' criminal acts) are intensified, such as 'extremely grave' crime (example 49 above), and 'a brutal, senseless act of horrifying violence' (example 59 above).

Second, differences are found in the representations of offenders' emotions (as tokens invoking **judgement** of [-propriety]) across the six texts. In text 3, Taylor's 'anger and frustration with [the victim] must have boiled over' (example 39 above). In text 5, McCluskie 'followed [his] emotions and battered [his] sister at least twice on the head' (example 50 above). Although both representations of offenders' negative emotions invoke negative **judgement** of offenders as [-propriety], there is a subtle difference between the two. In text 3, Taylor's 'anger and frustration...boiled over' and there is no overt indication that Taylor could or should have controlled his emotions. In contrast, in text 5 McCluskie 'followed [his] emotions', through which McCluskie is represented as someone who could have controlled his emotions (or could have '[exercised] a normal degree of fortitude and resilience' as found in the preceding co-texts, see example 50 above) but chose not to. The difference between texts 3 and 5 can also be viewed as whether responsibilities for offence are assigned to the offender's negative emotions (as in text 3) or to offender (as in text 5). While in text 3 the Taylor's negative emotions might shield (at least partly) him from being directly responsible for his offence, this is not the case in text 5.

Third, differences are found in representations of the victims (as tokens invoking **judgement** of [-propriety]) across the six texts. The subtle differences in representations of victims across the texts lead to qualitative differences in the **judgement** invoked by the representations of victims.

The examples are repeated below for ease of reference. In text 1, the victim vulnerability is resulted from Palmer's impulsive action in her offence (example 30 below). In text 2 although it can be inferred that Capp exploited the chance to attack the victim while he was asleep, the judge does not explicitly state that Capp exploited this opportunity (example 35 below). In contrast, in text 6, although Pyott's offence is unpremeditated and Pyott only intended to harm rather than to kill the victim, victim vulnerability is unambiguously attributed to his attack of the victim (example 69 below), and more specifically to Pyott's exploitation of the mismatch between him and the victim in terms of physical strength (example 70 below). In text 5, although the victim is not vulnerable in any way, the victim is highly positively evaluated by the

judge (example 72 below), which contributes to making McCluskie's offence towards the victim as even more reproachable.

(30) You must have come upon him unawares. **He was unable to defend himself** [*t, -propriety*]. (text 1, Palmer, line 40)

(35) **Mr Thomas was a vulnerable man** [*t, -propriety*] whom you attacked in a confined environment when he was defenceless in his sleep. (text 2, Capp, line 57-59)

(69) While you were there, you took a knife and **inflicted vicious stab wounds** [*-propriety*] to his neck. **He was unable to defend himself** [*t, -propriety*]. (text 6, Pyott, line 5-6)

(70) You are a **strong and heavily built** [*+capacity*] [*t, -propriety*] man. **Mr McDermott was not** [*t, -propriety*]. **He could not match your strength** [*t, -propriety*]. ... **He was defenceless against you** [*t, -propriety*]. (text 6, Pyott, line 39-40)

(72) Gemma was, on the compelling descriptions the jury heard during this trial, **a young woman with a huge zest for life** [*t, propriety*]; **she was a warm-hearted woman who was loved dearly by a great many people** [*t, -propriety*]. **She will be greatly missed** [*t, -propriety*]. (text 5, McCluskie, line 11-13)

Along with the increase of minimum terms, representations of the victims become more detailed and are more closely linked to offenders' criminal acts towards the victims, all of which contribute to making offenders' criminal acts increasingly more reproachable.

And finally, differences are found in representations of victim impact (which invoke **judgement** of [*-propriety*]) across the six texts. Similarly, those subtle differences lead to the qualitative differences in the **judgement** of [*-propriety*] invoked by the representations of victim impact.

Examples are repeated below from previous sections for ease of reference. In text 1, the representation of victim impact does not specify who is impacted (except a general reference to 'his family') and what their emotional responses are (example 29 below). In contrast, those contents are found in descriptions of victim impact in texts 2 and 3 (example 37 and 41 below). Moving to texts 5 and 6 (examples 55 and 71

below), representations of victim impact become even more detailed than those found in texts 2 and 3. In texts 5 and 6, there are not only detailed descriptions of who are impacted and how they are impacted (their emotional responses), judges also use **graduation** items to enhance attitudinal readings of the representations, such as ‘profound’ and ‘simply gone’ in example 55 below.

(29) You took his life [*t*, -*propriety*], yet [*counter*] you loved him [*t*, +*propriety*].

You have taken him from his family forever [*t*, -*propriety*].

(text 1, Palmer, line 5-6)

(37) The court has heard a victim impact statement from Ms Susan Davies, the mother of Mr Thomas. She describes **how he was a much loved son, stepson and brother whose death has caused deep anguish to his family and friends** [*t*, -*propriety*].

(text 2, Capp, line 31-33)

(41) Even now, you have failed to disclose what you have done with her [*t*, -*propriety*], with **all the agony that causes for her family and friends** [*t*, -*propriety*].

(text 3, Taylor, line 39-40)

(55) **...and the effect Gemma’s death has had on your family, and perhaps most particularly your mother, has been profound** [*t*, -*propriety*]. As the letters I have read make clear, **the laughter and enjoyment in life for them has simply gone** [*t*, -*propriety*].

(text 5, McCluskie, line 45-48)

(71) It was a brutal, senseless act of horrifying violence [*t*, -*propriety*]. **You left his sister without her beloved brother and his young daughters forever deprived of their father** [*t*, -*propriety*]. **You took from his mother the son she misses so much** [*t*, -*propriety*]. **Their lives are blighted by your cruelty** [*t*, -*propriety*].

(text 6, Pyott, line 7-9)

To sum up, although representations of victim impact (as shown by the above examples) are all coded as invoking negative **judgement** of offenders’ criminal acts towards the victims as [-*propriety*] across the texts, the representations of victim impact differ qualitatively across the texts, and accordingly lead to the qualitative differences among the invoked **judgement** of [-*propriety*]. Those differences are found to correlate with the lengths of minimum terms. Along with the increase of minimum terms, descriptions of victim impact become more detailed and increasingly intensified, which accordingly reinforces the negative **judgement** of [-*propriety*]

invoked by the representations of victim impact.

4.9 Conclusion

This chapter has demonstrated how various types of **judgement** differ qualitatively among the six texts, and how the qualitative differences correlate with the length of minimum terms of the six cases. More specifically, when judges set the minimum term below (text 1) or well above (five years above) the starting point (texts 5 and 6), they make more evaluations (**judgement**) and qualitatively different evaluations, compared with when the minimum terms are just a few years (one to three years) above the starting point (texts 2, 3 and 4). In text 1 the favourable **judgement** items are promoted and unfavourable **judgement** items are greatly checked; while the opposite is found in texts 5 and 6, where the favourable **judgement** items are checked and unfavourable **judgement** items are fully developed. The next chapter focuses on judges' positioning towards those **judgement** items, and demonstrates how judges' positioning contributes to reinforcing the same patterns.

Chapter 5: The Analysis of **engagement**

This chapter focuses on how **judgement** of offenders and their behaviour is framed by **engagement** items in the dataset. Most **judgement** items in the dataset are presented as **monoglossic** (N=121). Nevertheless, there are quite a few instances of **heteroglossia** (N=60), of which most of them are dialogic **contraction** than **expansion** items (54 items versus 6). The overwhelmingly higher occurrences of dialogic **contraction** than that of **expansion** is expected given that judges are the sole authority figures permitted to make the sentencing decisions.

This chapter is structured by the subtypes of **judgement** but with the focus on how **engagement** items are used to present similar types of **judgement** across the six texts. The first three sections (sections 5.1, 5.2 and 5.3) focus on **judgement** items that are favourable to offenders ([**-capacity**], [**+propriety**], [**+veracity**], and [**qualified +propriety**]), and examines how **engagement** items are used to present those favourable **judgement** across the six texts. Section 5.4 focuses on **judgement** of [**-normality**] (which could be either favourable or unfavourable to the offender), and examines how **engagement** items are used to present **judgement** of [**-normality**]. And the last three sections (sections 5.5, 5.6, and 5.7) focus on **judgment** items that are unfavourable to offenders, ([**+capacity**], [**-veracity**] and [**-propriety**]), and examine how **engagement** items are used to present those unfavourable **judgement** across the six texts.

5.1 [**-capacity**]

Judgement of [**-capacity**] is found in four texts: text 1 (N=9), text 2 (N=4), text 4 (N=1), text 6 (N=2) (see Table 5.1). They are much more frequently found in texts with shorter minimum terms (texts 1 and 2) than in texts with longer minimum terms (texts 4 and 6). Their presentations by **engagement** items are found in Table 5.1.

Table 5.1: **Engagement** and **judgement** of [-capacity]

	text 1	text 2	text 4	text 6
[-capacity]	9	4	1	2
engagement	7, affirm 1	3, pronounce 1	1	1, concede 1

In most cases, one **heteroglossic** item is used to present one **judgement** item, but there are also instances in which one **heteroglossic** item is used to present more than one **judgement** item, or more than one **heteroglossic** items are used to present one **judgement** (see chapter 3, section 3.4.4 for exemplifications). Accordingly, the occurrence of **engagement** items is not necessarily the same with the occurrence of **judgement** items. In Table 5.1 and the following tables, the second row lists the occurrences of **judgement** items; the third row lists the occurrences of **engagement** items which are used to present the **judgement**, in which numbers that are not preceded by any labelling refer to the occurrences of **monoglossia**.

5.1.1 Text 1: Palmer

In text 1 there are nine instances of **judgement** of [-capacity] targeting either Palmer or her behaviour. Of the nine instances of [-capacity], two are presented by an instance of **affirm**, and seven by **monoglossia**. The instance of **affirm**, which is used to present two instances of [-capacity], is shown below.

- (1) You are not [*deny*] to blame [*-propriety*] for **failing to realise** [-capacity] that your attempt to save him from himself was **misguided** [*t, -capacity*], **as hindsight shows** [*concur*]. (text 1, Palmer, line 58-59)

In the above example, ‘failing to realise’ inscribes a **judgement** of Palmer as [-capacity]. And the evaluation of Palmer’s attempt to save the victim from himself as ‘misguided’ invokes a **judgement** of [-capacity] of what Palmer did to the victim before her offence. Both instances of **judgement** of [-capacity] are presented as a knowledge or ‘hindsight’ shared between the judge and his audience based on the use of the **engagement** item ‘as hindsight shows’. In other words, the audience are represented as sharing with (or agreeing with) the judge in holding this ‘hindsight’.

Besides the two instances of [-capacity] (in the above example) that are presented by an instance of **affirm**, all the other seven instances of [-capacity] are

presented as **monoglossic**. Two of them are found in the following example.

- (2) You were too young [*t, -capacity*] and in love to understand that [*t, -capacity*]. (text 1, Palmer, line 59)

In the above example, Palmer's young age and 'love' for the victim are presented with the **graduation** item 'too', both of which invoke **judgement** of Palmer as [-capacity]. And these evaluative tokens are declared categorically by the judge.

To sum up, in text 1 the judge seldom engages with alternative opinions when presenting **judgement** of [-capacity]. There is only one **heteroglossic** item, an instance of **affirm**, used to present two instances of [-capacity]. The instance of **affirm**, 'as hindsight shows' (example 1 above), construes the audience of the sentencing remarks as holding the same 'hindsight' as the judge does (or at least agreeing with the judge that it *is* a 'hindsight'), which accordingly represents the value position [-capacity] as shared by the judge with his audience.

5.1.2 Text 2: Capp

In text 2, there are four instances of **judgement** of [-capacity], and they are all related to Capp's mental disorder. Of the four instances of [-capacity], three are presented as **monoglossic** and one framed by a **pronounce** (see Table 5.1 above). The instance of **pronounce** is shown below.

- (3) It is clear in my judgment [*pronounce*] that you suffer from a mental disorder [*t, -capacity*]. ... You suffer from emotional instability [*t, -capacity*], leading to difficulty [*-capacity*] in controlling your emotions, resulting in self-harm and aggressive acts towards others [*t, -capacity*].

(text 2, Capp, line 49-55)

In the above example, the identification of Capp as 'suffer[ing] from a mental disorder' invokes a **judgement** of Capp as [-capacity], and the identification is presented by an instance of **pronounce**, 'It is clear in my judgment'. The instance of **pronounce** is used to show the judge's emphasis on the identification of Capp's mental disorder, through which alternative opinions that would challenge this identification are excluded from the dialogic space. Following the **pronounce** of Capp's mental disorder, there are further elaborations of Capp's mental disorder, in which both instances of inscribed and invoked **judgement** of Capp as [-capacity] are found. And all those

instances of [-capacity] are presented as **monoglossic**.

5.1.3 Text 4: Hunnisett

In text 4 there is only one instance of **judgement** of Hunnisett as [-capacity]. It is inscribed and presented as **monoglossic**, as shown below.

- (4) Nor [*deny*] is he to be blamed [*-propriety*] for the fact that he is now a very **damaged** [-capacity] person. (text 4, Hunnisett, line 47-48)

The **judgement** of Hunnisett as [-capacity] and the denial of [-propriety] are based on Hunnisett's past, in which Hunnisett was abused when he was a child and 'served over nine years of a life sentence before he was eventually cleared of any criminal responsibility for the death of his abuser'.¹ However, in the latter part of text 4, expectations arising from acknowledgement of Hunnisett's past (which is the basis for the **judgement** of [-capacity] and the denials of [-propriety]) are countered and replaced by an explicitly negative **judgement** of Hunnisett as [-propriety] (see section 5.7.4 below for details).

5.1.4 Text 6: Pyott

In text 6, there are two instances of **judgement** of Pyott as [-capacity]. One is presented as **monoglossic**, and another by an instance of **concede**. Below is the instance of **monoglossic** presentation of [-capacity].

- (5) You suffer from a severe abnormality of mental functioning [*t, -capacity*].
I have taken careful note of the psychiatric evidence for the defence, including a recent addendum from Dr Collins. This reduces your culpability to a limited extent. I have taken account of what the Court of Appeal said in McFly [2013] EWCA Crim 729. (text 6, Pyott, line 65-68)

The identification of Pyott as suffering from 'a severe abnormality of mental functioning' is presented as **monoglossic** in the above example, as if the judge does not engage with any alternative opinions that would otherwise challenge this identification. However, the potentially mitigating effect of this factor (Pyott's mental disorder) is checked in various ways. In the following co-texts, the judge mentions the

¹ Text 4, Hunnisett, line 42-43

external sources based on which he identified Pyott's mental disorder, as 'I have taken careful note of the psychiatric evidence for the defence, including a recent addendum from Dr Collins', but he does not show any endorsement or commitment to the external sources which identified Pyott as having mental disorder. Moreover, the judge makes explicit that Pyott's mental disorder 'reduces [his] culpability to a limited extent'. All those features contribute to constraining the mitigating value of Pyott's mental disorder.

When moving to the latter part of text 6, the identification of Pyott's mental disorder (as tokens invoking **judgement** of [-capacity]) is explicitly excluded from the dialogic space, as shown below.

- (6) Yet [*counter*], despite [*concede*] your **mental disorder** [*t*, *-capacity*] you showed a canny [*+capacity*] understanding of the legal process including tactical [*+capacity*] considerations [*t*, *-veracity*], you mixed truth with lies [*-veracity*] in the aftermath of the killing and you disposed of evidence to escape punishment [*t*, *-propriety*]. (text 6, Pyott, line 94-97)

In the above example, identification of Pyott's 'mental disorder' – which invokes **judgement** of Pyott as [-capacity] – is presented as a conceded proposition, and it is replaced by a series of unfavourable **judgement** found in the following co-texts.

5.1.5 Summary: Engagement and [-capacity]

Instances of [-capacity] are found in four texts, texts 1, 2, 4 and 6. There are considerably more instances of [-capacity] in text 1 (N=9) than in the other three texts. In text 1, most of those instances of [-capacity] are presented as **monoglossic** (N=7), along with two instances of [-capacity] presented by an instance of **affirm**. Through the instance of **affirm**, the two instances of [-capacity] are represented as value positions shared by the judge with his audience (example 1 above).

In text 2, **judgement** of Capp or his behaviour as [-capacity] are all related to his mental disorder. An instance of **pronounce** is used to present the identification of Capp's mental disorder. It is then followed by **monoglossic** representations of Capp's mental disorder, in which Capp's mental disorder is further elaborated (example 3 above).

Moving to text 4, there is one instance of inscribed **judgement** of Hunnisett as [-capacity], and it is based on Hunnisett's past (example 4 above). However, the

judgement of Hunnisett as [-capacity] is undermined in the latter part of the text, where expectations arising from acknowledgement of Hunnisett's past are countered and replaced by an explicitly negative **judgement** of Hunnisett as [-propriety].

In text 6, the judge initially acknowledges that Pyott 'suffer[s] from a severe abnormality of mental functioning', which invokes a **judgement** of Pyott as [-capacity] (example 5 above). However, the acknowledgement of Pyott's mental disorder (along with the invoked **judgement** of [-capacity]) is later presented as a conceded proposition, and replaced by a series of negative **judgement** of Pyott and his behaviour, which far outweigh the favourable **judgement** of Pyott as [-capacity] (example 6 above).

Judgement of [-capacity] tends to mitigate offenders' offences. Analyses above show that along with the increase of minimum terms, **judgement** of [-capacity] is gradually removed from the dialogic space, or even replaced by the **negative** judgement of [-propriety] (in texts 4 and 6). Judges mainly rely on **concede** or **counter** to remove the **judgement** of [-capacity] from the dialogic space.

5.2 [+propriety] and [+veracity]

There are 16 instances of **judgement** of [+propriety] and two instances of [+veracity] found in the dataset. **Judgement** of [+propriety] is mainly found in text 1 (N=13). And there are also a few instances found in text 5 (N=1) and text 6 (N=2). The two instances of [+veracity] are found in text 6 (see Table 5.2 below). Most of the instances of **judgement** of [+propriety] and [+veracity] are presented as **monoglossic**. There are only two **heteroglossic** items: an instance of **counter** and an instance of **affirm**, found in text 1 (see Table 5.2 below).

Table 5.2: **Engagement** and **judgement** of [+propriety] and [+veracity]

	text 1	text 5	text 6
[+propriety]	13	1	2
engagement	11, counter 1, affirm 1	1	2
[+veracity]	0	0	2
engagement	0	0	2

5.2.1 Text 1: Palmer

In text 1, there are 13 instances of **judgement** of [+propriety]. Most of them are presented as **monoglossic** (N=11). There are only two instances of [+propriety] presented by two **heteroglossic** items, an instance of **counter** and an instance of **affirm**. The instance of **counter** is found in the following example.

- (7) You took his life [*t*, -*propriety*], yet [*counter*] you loved him [*t*, +*propriety*].

(text 1, Palmer, line 5)

In the above example, Palmer's love for the victim invokes a positive **judgement** of Palmer as [+propriety]. And this evaluative token is represented as countering expectations brought by the initial proposition, 'You took his life'. The check of expectations arising from the description of Palmer's criminal act ('You took his life') by a positive **judgement** (invoked by 'you loved him') represents Palmer as different from typical murderers for her love for the victim.

The other **heteroglossic** item, an instance of **affirm**, is found in the following example.

- (8) The crime was completely [*t*, *qualified* +*propriety*] unpremeditated and you regretted [*t*, +*propriety*] it immediately. I accept that [*affirm*] you were as horrified [*t*, +*propriety*] as everyone else about what had just happened.

(text 1, Palmer, line 46-47)

In the above example, Palmer's emotional responses after the offence, that she 'regretted' and was 'horrified' by her own offence, invoke positive **judgement** of her post-crime acts. An instance **affirm**, 'I accept that', is used to present Palmer's emotional response of being 'horrified', through which Palmer's such emotional response is represented as a knowledge shared between the judge and his audience. In other words, the **affirm** reinforces the identification of Palmer's emotional response, and accordingly reinforces the positive **judgement** invoked by Palmer's emotional response.

5.2.2 Text 5: McCluskie

In text 5, there is one instance of positive **judgement** of McCluskie as [+propriety] and it is presented as **monoglossic**, as shown below.

- (9) In your favour is your **good character** [+*propriety*] save for the three cannabis matters; (text 5, McCluskie, line 49)

However, in the context of sentencing remarks, offenders' previous good characters usually just mean offenders have no or few previous convictions, as it is the case with McCluskie. In the above example, identification of McCluskie's 'good character' is immediately followed by reference to his previous conviction of 'three cannabis matters', which retrospectively assign an interpretation of the 'good character' as referring merely to McCluskie's lack of any significant previous convictions.

5.2.3 Text 6: Pyott

In text 6, there are two instances of (invoked) [+*propriety*], and two instances of (invoked) [+*veracity*] (see Table 5.2 above). The tokens invoking the positive **judgement** of [+*propriety*] and [+*veracity*] are all presented as **monoglossic**, and they are shown below.

- (10) You lied [-*veracity*] afterwards, repeatedly denied the murder and said those to whom you had confessed were lying [*t*, -*veracity*]. This must [*pronounce*], though [*counter*], be balanced against your **admissions** [*t*, +*veracity*] and **expressions of regret** [*t*, +*propriety*]. (text 6, Pyott, line 47-49)

- (11) You **confessed** [*t*, +*veracity*] to several friends and to your mother that you had done the killing, and **expressed regret and distress** [*t*, +*propriety*]. That must be balanced against your lies [-*veracity*] and attempts to deceive [*t*, -*veracity*]. (text 6, Pyott, line 62-64)

In example (10), Pyott's 'admissions' and 'expressions of regret' respectively invoke a positive **judgement** of [+*veracity*] and a [+*propriety*]. Those two evaluative tokens are also two mitigating factors, which are presented as **monoglossic**. In addition, the two mitigating factors are used to counter expectations arising from the initial proposition, in which Pyott 'lied afterwards' and 'repeatedly denied the murder'. In other words, the aggravating factors (Pyott 'denied the murder and said those to whom you had confessed were lying') are checked by the mitigating factors (Pyott's 'admissions and expressions of regret').

In example (10), the use of **counter** gives a sense of objectivity, as if the judge had taken into consideration relevant mitigating factors (such as 'admissions and

expressions of regret’) in his weighing up of the aggravating factors (that Pyott ‘lied’ and ‘denied the murder’). The use of **counter** anticipates or prepares readers for the checking of mitigating factors by aggravating factors found in the later part of the text, as shown by example (11).

In example (11), weighing up of Pyott’s admissions and expressions of regret (invoking positive **judgement** of [+veracity] and [+propriety]) is checked by his ‘lies and attempts to deceive’ (bring the attitudinal reading of negative **judgement** of [-veracity]). In other words, the instances of positive **judgement** (‘confessed’ and ‘expressed regret and distress’) are checked by the negative ones (‘lies’ and ‘attempts to deceive’). However, the checking of positive **judgement** by negative **judgement** is no longer presented as countering any normal expectations but rather as taken for granted. Moreover, the instance of positive **judgement** of [+veracity], as invoked by ‘admissions’ in example (10) and by ‘confessed’ in example (11), are further undermined in the latter part of the text, where the judge reinforces that Pyott ‘admitted it only to some people’² (see section 5.7.6 below for details).

5.2.4 Summary: Engagement and [+propriety], [+veracity]

Analysis of how instances of positive **judgement** of [+veracity] and [+propriety] are presented across the texts reveals that along with the increase of minimum terms, the positive **judgement** changes from a knowledge shared by the judge with his audience (in text 1, example 1) to value positions that are gradually excluded from the dialogic space (in text 6, example 11).

5.3 [qualified +propriety]

Instances of **judgement** of [qualified +propriety] are only found in text 1 (N=9). Of the nine instances of [qualified +propriety], seven are presented as **monoglossic**, and two are presented by three instances of **heteroglossic** items consisting of an instance of **deny**, an instance of **counter**, and an instance of **pronounce** (see Table 5.3 below).

² Text 6, Pyott, line 103.

Table 5.3: **Engagement** and **judgement** of [qualified +propriety]

	text 1
[qualified +propriety]	13
engagement	7, deny 1, counter 1, pronounce 1

The instances of **counter** and **deny** are found in the following example:

- (12) **Although** [*counter*] this was a murder by stabbing with a knife, **you are not** [*deny*] **a person who carries knives, as so many knife murderers do** [*t, qualified +propriety*]. (text 1, Palmer, line 53-54)

In the above example, the judge first acknowledges the offence, ‘this was a murder by stabbing with a knife’, which gives rise to expectations of negative **judgements** of either Palmer or her behaviour are to follow. Those expectations are countered by the following proposition, ‘you are not a person who carries knives, as so many knife murderers do’, which makes Palmer less reproachable than other murderers and accordingly invokes a **judgement** of Palmer as [qualified +propriety]. The instance of **counter** helps to represent Palmer as different from typical murderers, and expectations assigned to typical murderers are not held in the case of Palmer.

The instance of **pronounce** (used to present [qualified +propriety]) is found in the following example.

- (13) **I am satisfied that** [*pronounce*] you formed the intention to do serious harm to Damon **only moments before carrying it out** [*t, qualified +propriety*]. (text 1, Palmer, line 50-51)

In the above example, Palmer’s lack of premeditation is reinforced by a **graduation** item, ‘only moments before carrying it out’, which contributes to making Palmer’s criminal act towards the victim as less reproachable. The representation of Palmer’s lack of premeditation is preceded by an instance of **pronounce** ‘I am satisfied that’, which shows the judge’s authorial emphasis on the representation.

To sum up, the **heteroglossic** items (an instance of **counter**, an instance of **deny**, and an instance of **pronounce**) all contribute to reinforcing the **judgement** of [qualified +propriety] in text 1. Furthermore, the **counter** used to present the [qualified +propriety] (example 12 above) and the **counter** used to present the [+propriety]

(example 7 above) both contribute to representing Palmer as different from prototypical murderers, which paves the way for the identification of Palmer's case as of 'unusual features' and accordingly the setting of the minimum term below the starting point that are found in the latter part of the text.³

5.4 [-normality]

Instances of **judgment** of [-normality] are found in only two texts, text 2 (N=4) and text 5 (N=4). Table 5.4 shows how **engagement** items are used to present those instances of [-normality] in the two texts.

Table 5.4: **Engagement** and **judgement** of [-normality]

	text 2	text 5
[-normality]	4	4
engagement	3, attribute 1	3, concede 1

5.4.1 Text 2: Taylor

In text 2, there are four instances of **judgements** of Capp as [-normality]. Of the four instances of [-normality], three are presented as **monoglossic** and one by a dialogic **expansion** item (**attribute**). The dialogic **expansion** item is found in the following example.

- (14) You suffered considerable adversity [*t, -normality*] during your childhood due to disruption [*t, -normality*] of family life, rejection by your parents, reception into care and the suicide of your elder half-brother when you were aged 14 years. **You say that** [*attribute*] you were the victim of physical and sexual abuse when you were a young boy [*t, -normality*].

(text 2, Capp, line 36-40)

In the above example, Capp's past as a 'victim of physical and sexual abuse' invokes a negative **judgement** of Capp as [-normality], through which Capp is represented as someone who is unlucky to experience such abuse. This representation of Capp's past is also attributed to Capp as 'You say that'.

³ Text 1, Palmer, line 78-80

This instance of the dialogic **expansion** item ('You say that' in the above example) contrasts with the monoglossic presentations in its co-texts. By attributing identification of Capp as 'the victim of physical and sexual abuse' to Capp rather than assuming sole responsibility for the identification himself, the judge shows some reservation on such identification. However, the reservation does not affect let alone undermines the other instances of [-normality] found in the co-texts.

5.4.2 Text 5: McCluskie

In text 5, there are four instances of **judgement** of McCluskie as [-normality], of which three are presented as **monoglossic** and one by an instance of **concede** (see Table 5.4 above).

As discussed in chapter 4 (see section 4.5.3), although the Appraisal framework does not make a distinction within **normality**, a distinction could be made between **judgements** of [-normality] in text 2 and those in text 5. The distinction is based on whether people's ab/normality is attributed to external circumstances or to their own personalities. In the context of sentencing remarks, offenders are more reproachable when the responsibility for their [-normality] is attributed to their personality (as in text 5) than when it is attributed to external circumstances (as in text 2). The former is referred to as [-normality: status], and the latter as [-normality: fortune] in the current study.

In text 2, **judgement** of [-normality] are all related to or invoked by the circumstances Capp happened to find himself in, such as 'disruption of family life' (example 14 above) (hence [-normality: fortune]. In contrast, in text 5 **judgement** of [-normality] are all related to his inward personality rather than external circumstances (except one instance), such as his 'significantly withdrawn existence' and his being 'hopelessly addicted' to drugs (example 16 below) (hence [-normality: status].

In text 5, there is one exception in that **judgement** of [-normality] is attributed to external circumstances, i.e. the evaluation of McCluskie's past as 'a particularly challenging period' in his life (example 15 below), which invokes a **judgement** of [-normality: fortune]. This exceptional case seems to be inconsistent with the finding that **judgement** of [-normality] in text 5 are all attributed to McCluskie's personality than to his circumstances. But when **engagement** items are taken into consideration, it becomes clear that this exceptional case is removed from the dialogic space by an

instance of **concede** (see example 15 below).

The three examples below are consecutive parts in the original text. They are broke into three parts to facilitate discussion and to demonstrate how instances of the **judgement** of McCluskie as [-normality] are progressed in text 5.

- (15) **I accept that** [*concede*] this was a particularly challenging [*t, -normality: fortune*] period in your life: things were not going well between you and your partner, Teri Arnull; your mother had been desperately unwell for a significant period of time; there was talk of redundancies at work;

(text 5, McCluskie, line 17-20)

- (16) you were hopelessly addicted to the powerful type of cannabis known colloquially as “skunk” [*t, -normality: status*]; and you were living a significantly withdrawn existence [*-normality: status*] – spending most of your time when not at work in your room – in the same house as your hugely popular and outgoing sister [*t, -normality: status*].

(text 5, McCluskie, line 20-23)

- (17) **That said** [*counter*], instead of exercising a normal degree of fortitude and resilience [*-tenacity*], you followed your emotions [*t, -propriety*] and battered [*t, -propriety*] your sister at least twice [*t, -propriety*] on the head, sufficiently hard to depress her skull [*t, -propriety*].

(text 5, McCluskie, line 24-26)

In example (15), the evaluation of McCluskie’s circumstances as ‘challenging’ invoke a **judgement** of McCluskie’s character as [-normality: fortune], and McCluskie is represented as someone who happens to find himself in such ‘challenging’ circumstances, which are out of his control, such as his relationship with his partner, his mother being ‘desperately unwell’. However, except ‘challenging’, the descriptions of McCluskie’s past in the following co-text do not invoke any attitudinal reading.

Example (16) then progresses to factors that are under McCluskie’s control: his being ‘hopelessly addicted’ to drugs, and his ‘significantly withdrawn existence’ especially when compared with his ‘hugely popular and outgoing sister’, all of which invoke **judgement** of McCluskie’s character as [-normality: status].

From example (15) to (16), responsibility for McCluskie’s [-normality] has changed from his circumstances to his personality. When moving further to example

(17), instances of **judgement** of McCluskie as [-normality: status] progress into negative **judgement** of McCluskie as [-tenacity] (inscribed by ‘instead of exercising a normal degree of fortitude and resilience’) and as [-propriety] (invoked by ‘you followed your emotions’), and finally transform into (or culminate into) **judgement** of McCluskie’s criminal acts as [-propriety] (invoked by ‘battered’ and ‘at least twice’).

Example (17) is framed by an instance of **counter**, ‘[t]hat said’, which retrospectively assigns a meaning of concession to ‘I accept that this was a particularly challenging period in your life’ in the beginning of example (15). In other words, the only instance of [-normality: fortune] (invoked by ‘challenging’), which attributes the responsibility of McCluskie’s [-normality] to his circumstances rather than to his personality, is removed from the dialogic space by the instance of **concede** ‘I accept that’ (example 15). The potentially mitigating factor of McCluskie’s past does not mitigate McCluskie’s current offence. Instead, it has become the basis from which negative **judgement** of McCluskie and his offence are made.

5.4.3 Summary: Engagement and [-normality]

The distribution of the **judgement** of [-normality] in texts 2 and 5 is consistent with their different lengths of minimum terms. The less reproachable **judgement** of [-normality: fortune] are found in text 2, the text with a shorter minimum term; while the more reproachable **judgement** of [-normality: status] are found in text 5, the text with a longer minimum term. In text 5, the only exceptional instance, in which a **judgement** of [-normality] is attributed to McCluskie’s circumstance rather than to his personality, is presented by a **concede** (example 15), through which the less reproachable **judgement** of [-normality: fortune] is eventually excluded from the dialogic space, and replaced by a series of **judgement** that are unfavourable to McCluskie.

5.5 [+capacity]

While **judgement** of offenders as [-capacity] would mitigate their offences, **judgement** of offenders as [+capacity] would aggravate their offences. Instances of [+capacity] are found only in text 6 (N=3), of which one is presented as **monoglossia** and two are presented by one instance of **counter** (see Table 5.5 below).

Table 5.5: **Engagement** and **judgement** of [+capacity]

	text 6
[+capacity]	3
engagement	1, counter 1

The instance of **monoglossic** presentation of a **judgement** of [+capacity] is found in the following example.

- (18) You are a **strong and heavily built** [+capacity] man [*t*, -propriety]. Mr McDermott was not [*t*, -propriety]. He could not match your strength [*t*, -propriety]. (text 6, Pyott, line 39-40)

In the above example, Pyott is judged as ‘strong and heavily built’, which inscribes a **judgement** of Pyott as [+capacity]. When such **judgement** is followed by a comparison of the victim with Pyott (‘Mr McDermott was not. He could not match your strength.’), the **judgement** of Pyott as [+capacity] invokes a negative **judgement** of his criminal acts towards the victim as [-propriety]. The evaluative token is declared categorically by the judge.

The instance of **counter** which is used to present [+capacity] is shown by the following example (same as example 6 and repeated below).

- (6) **Yet** [counter], **despite** [concede] your mental disorder [*t*, -capacity] you showed a canny [+capacity] understanding of the legal process including tactical [+capacity] considerations [*t*, -veracity], you mixed truth with lies [-veracity] in the aftermath of the killing and you disposed of evidence to escape punishment [*t*, -propriety]. (text 6, Pyott, line 94-97)

In the above example, the two instances of unfavourable **judgement** of Pyott as [+capacity] (inscribed by ‘canny’ and ‘tactical’) are used to counter expectations brought by acknowledgement of Pyott’s ‘mental disorder’, which otherwise invokes a favourable **judgement** of [-capacity]. The contradiction between [-capacity] (invoked by ‘mental disorder’) and [+capacity] (inscribed by ‘canny’ and ‘tactical’) further invokes a negative **judgement** of Pyott as [-veracity]. The **counter** (‘despite’) is used not only to present instances of **judgement** that are unfavourable to Pyott ([+capacity], [-veracity] and [-propriety]), but also to check the potentially mitigating factor of Pyott’s mental disorder.

To sum up, **judgement** of [+capacity], which is positive but unfavourable to

offenders in the context of sentencing remarks, are only found in text 6. Such type of **judgement** is found not only contributing to aggravate Pyott's current offence but also to check a factor that would have mitigated Pyott's current offence (i.e. Pyott's mental disorder, see example 6 above).

5.6 [-veracity]

There are 25 instances of **judgement** of [-veracity] found in the dataset, and they are found in five texts: text 1 (N=1), text 3 (N=1), text 4 (N=3), text 5 (N=7), and text 6 (N=13) (see Table 5.6 below). There are far more instances of [-veracity] in texts 5 and 6 than in the other three texts. Most instances of [-veracity] are presented as **monoglossic**, along with a few instances of **heteroglossic** presentations of [-veracity]. Those heteroglossic items consist of two instances of **counter** and one instance of **pronounce** (see Table 5.6 below).

Table 5.6: **Engagement** and **judgement** of [-veracity]

	text 1	text 3	text 4	text 5	text 6
[-veracity]	1	1	3	7	13
engagement	1	1	3	7	7, counter 2, pronounce 1

5.6.1 Text 1: Palmer

In text 1, there is only one instance of **judgement** of Palmer's behaviour as [-veracity]. It is inscribed and presented as monoglossic, as 'You told implausible lies'.⁴ This sole instance of negative **judgement** of Palmer's post-crime acts as [-veracity] is surrounded by several instances of positive **judgement** of Palmer's post-crime acts as [+propriety]. Also see chapter 4, section 4.7.1 for the discussion of [-veracity] in text 1.

5.6.2 Text 3: Taylor

In text 3, there is one instance of **judgement** of Taylor as [-veracity]. It is inscribed

⁴ Text 1, Palmer, line 42.

and presented as **monoglossia** as shown below.

- (19) The incident at Yarpole church and her extreme upset at Iris Lawson's house...followed on from earlier incidents..., when her misery and agitation at your **duplicit** [-veracity] became apparent, (text 3, Taylor, line 9-12)

Although the **judgement** of Taylor as [-veracity] is inscribed and declared categorically, the **judgement** of [-veracity] is not directly related to Taylor's offence. As analysed in chapter 4 (section 4.7.2), there might be moral sanction but not necessarily legal sanction of Taylor's 'duplicit' to his wife when it is mentioned in the sentencing remarks for a murder case, which should have been more concerned with the sanction of negative **propriety** than with the sanction of negative **veracity**.

5.6.3 Text 4: Hunnisett

In text 4, there are three instances of negative **judgement** of Hunnisett's behaviour as [-veracity]. They are inscribed by representing Hunnisett's behaviour as 'inventions', or as 'deception', or as Hunnisett 'tricked' his way into the victim's house. All the three instances of **judgement** of [-veracity] are presented as **monoglossia**.

5.6.4 Text 5: McCluskie

Moving to text 5, there are seven instances of **judgement** [-veracity] and they all target McCluskie's behaviour. They are all invoked and invoked by descriptions of what McCluskie did and what he intended to do after his offence, such as the descriptions of McCluskie 'diverted, and attempted to influence, the police investigation'. All the seven instances of appraisal items, as tokens invoking **judgement** of [-veracity], are presented as monoglossic. One of them is shown below.

- (20) ...you **diverted** [t, -veracity], and **attempted to influence, the police investigation** [t, -veracity] by **controlling the release of information** [t, -veracity]. (text 5, McCluskie, line 40-41)

5.6.5 Text 6: Pyott

In text 6, there are 13 instances of **judgement** of [-veracity], of which seven are presented as **monoglossia** and six as **heteroglossic**. The **heteroglossic** items include

one instance of **pronounce** and two instances of **counter** (see Table 5.6 above). The instance of **pronounce** is found in the following example.

- (21) **I am sure** [*pronounce*], also, that **you tried to hide your guilt** [*t, -veracity*] by **cutting your arm to simulate the effect a struggle** [*t, -veracity*]; and by **suggesting officers check your flat for forensic evidence you knew was not there** [*t, -veracity*]. (text 6, Pyott, line 50-52)

The above example contains three instances of [-veracity], which are variously invoked by what McCluskie did or intended to do after his offence. These representations of McCluskie's post-crime acts (as tokens invoking **judgement** of [-veracity]) are accompanied by a **pronounce**, 'I am sure', which demonstrates the judge's authorial emphasis on those representations.

In addition to the **pronounce**, there are two instances of **counter** that are used to present **judgement** of [-veracity]. One of them already appeared in the analysis of [+capacity] in section 5.5 (same as example 6 above and repeated below).

- (6) **Yet** [*counter*], **despite** [*concede*] your **mental disorder** [*t, -capacity*] **you showed a canny** [*+capacity*] **understanding of the legal process including tactical** [*+capacity*] **considerations** [*t, -veracity*], you **mixed truth with lies** [*-veracity*] in the aftermath of the killing and **you disposed of evidence to escape punishment** [*t, -propriety*]. (text 6, Pyott, line 94-97)

In the above example, the judge's acknowledgement of Pyott's mental disorder brings the expectation that this factor might mitigate Pyott's current offence. However, this expectation is replaced by a series of **judgement** that are unfavourable to Pyott, including not only [-veracity] (such as inscribed by 'you mixed truth with lies') but also [+capacity] (inscribed by 'canny' and 'tactical') and [-propriety] (invoked by 'you disposed of evidence to escape punishment').

The other instance of **counter** is found in the following example.

- (22) Mr Atkins QC submits that you had admitted the killing straight away. **But** [*counter*] you admitted it **only to some people** [*t, -veracity*]. (text 6, Pyott, line 102-103)

In the above example, Pyott's admissions are graded as he 'admitted it only to some people', which invokes a negative **judgement** of Pyott's behaviour as [-veracity]. The grading of Pyott's admissions is also used to counter expectations arising from the

judge's initial acknowledgement of the counsel's opinion that Pyott 'admitted the killing straight away'. In other words, the negative **judgment** of [-veracity] (invoked by 'admitted it only to some people') is used to check the mitigating factor of Pyott's admissions after his offence.

As a mitigating factor, Pyott's admissions is not only undermined in the above example, but also undermined in the earlier part of text 6, as Pyott's admissions and regret are checked by his 'lies and attempts to deceive' (see example 11 above).⁵ The check of the potentially mitigating factor of Pyott's admissions in the two examples greatly constrains, if not completely cancels, the mitigating effect of Pyott's admission.

5.6.6 Summary: Engagement and [-veracity]

The judges' positioning towards the **judgement** of [-veracity] reinforces the negative **judgement** of [-veracity] in texts 5 and 6, but not in texts 1, 3 and 4 (**judgement** of [-veracity] is not found in text 2). In text 6 an instance of **pronounce** is used to show the judge's authorial emphasis on representations of Pyott's post-crime acts, which invoke several instances of negative **judgement** of Pyott's post-crime acts as [-veracity] (example 21 above), and two instances of **counter** are used not only to present **judgment** of [-veracity] but also to check, if not cancel, the potentially mitigating factors of Pyott's mental disorder (example 21 above) and Pyott's admissions after his offence (example 22 above).

Moreover, in texts 5 and 6, offenders' post-crime acts are frequently represented as purposeful behaviour (what offenders intended to do), which accordingly invoke **judgement** of [-veracity]. The purposes are ascribed to offenders' behaviour by the judges, or in other words, the ascribing of purposes is based on judges' interpretations of offenders' behaviour. However, the judges do not use **heteroglossic** items but only **monoglossia** to present their interpretations of offenders' purposes. In other words, in texts 5 and 6 judges do not engage with any alternative opinions in their interpretations of what offenders intended to do. The categorical declaration of what offenders intended to do reinforces the negative **judgement** invoked by what offenders intended to do.

⁵ 'You confessed to several friends and to your mother that you had done the killing, and expressed regret and distress. That must be balanced against your lies and attempts to deceive.' (text 6, Pyott, line 62-64)

5.7 [-propriety]

Instances of **judgement** of [-propriety] are the most frequently found subtype of **judgement** in the dataset. There are 90 instances of **judgement** of [-propriety] found in the dataset. Their occurrences across the six texts is listed in Table 5.7. This section focuses on how **engagement** items are used to present those **judgement** of [-propriety]. Table 5.7 also lists the occurrences of the **engagement** items that are used to present the **judgement** of [-propriety].

Table 5.7: **Engagement** and **judgement** of [-propriety]

	text 1	text 2	text 3	text 4	text 5	text 6
[-propriety]	9	13	7	11	19	31
inscribed	3	2	1	3	2	6
invoked	6	11	6	8	17	25
engagement	5, deny 2 affirm 1 counter 1 concede 1	10, attribute 2 deny 1	2, endorse 3 entertain 2 counter 2 pronounce 1	6, deny 3 counter 3 endorse 1 pronounce 1	9, entertain 1 endorse 2 deny 1 counter 2 pronounce 2	27, deny 2 counter 2

5.7.1 Text 1: Palmer

In text 1, there are nine instances of [-propriety], of which five are presented as **monoglossic** and four as **heteroglossic**, including **deny** (N=2), **affirm** (N=1), **concede** (N=1), and **counter** (N=1) (see Table 5.7 above).

The two instances of **deny** are used to negate negative the **judgement** of Palmer as [-propriety], and one of the **deny** is also presented by an instance of **affirm**, as shown below (same as example 1 and repeated below).

- (1) You are **not** [*deny*] **to blame** [*-propriety*] for **failing** [*-capacity*] to realise that your attempt to save him from himself was **misguided** [*t, -capacity*], **as** **hindsight shows** [*affirm*]. (text 1, Palmer, line 58-59)

In the above example, the negative **judgement** of Palmer as [-propriety] is denied as ‘You are not to blame’. And the instance of denial is further framed by an instance of **affirm**, ‘as hindsight shows’, through which the denial of the negative **judgement** of

[-propriety] is represented as a knowledge shared by the judge with his audience.

The instance of **concede** is found in the following example, through which a negative **judgement** of Palmer's criminal act as [-propriety] is excluded from the dialogic space.

(23) I do not do so lightly, but only after very careful reflection. **I know**

[*concede*] what a **scourge** [*t, -propriety*] knife crime is, and **I know** [*concede*] that sentences in cases of murder by stabbing normally require minimum terms well above the 15 year starting point. Because of the unusual features of this case, ... **I think** [*pronounce*] that this is a case where the minimum term should be less than the starting point.

(text 1, Palmer, line 75-80)

The evaluation of 'knife crime' as 'a scourge' invokes a negative **judgement** of Palmer's criminal act as [-propriety]. Or alternatively, the explicitly negative **judgement** can be regarded as targeting knife crimes in general rather than Palmer's case in particular. Whichever interpretation is adopted, it is clear that the negative **judgement** is represented as a conceded proposition by 'I know' (along with another instance of **concede** ('I know')) through which the judge tentatively acknowledges the normal sentencing range for such kind of knife crime is to set the minimum term above the starting point). The negative **judgement** of 'scourge' is overturned by the following propositions. In the following co-texts, the judge does not use any **engagement** item(s) but it is obvious that the following contents are used to counter expectations arising from the negative **judgement** as well as expectations arising from the judge's acknowledgement of the normal sentencing range for knife crimes.

The instance of **counter** is found in the following example. It is used to represent the negative **judgement** of Palmer's criminal act as countering normal expectation(s) assigned to Palmer.

(24) Until this happened, **no one** [*deny*] would have thought of you as an **evil** [*-propriety*] person. **Yet** [*counter*] what you did to Damon Searson was **evil** [*-propriety*], during that **one** [*t, qualified +propriety*] **terrible moment** [*t, -propriety*] in an otherwise **blameless and productive life** [*t, +propriety*]

(text 1, Palmer, line 10-11)

In the above example, the explicitly negative **judgement** of Palmer's criminal act as 'evil' is represented as countering expectation(s) arising from the initial proposition,

where a negative **judgement** of Palmer is denied ('no one would have thought of you as an evil person'). Based on the initial proposition, the normal expectation assigned to Palmer is that she was not an evil person and normally she was not expected to carry out any offence. These expectations assigned to Palmer represent her as different from typical murderers, and pave the way for the identification of her case as of 'unusual features' and further contribute to justifying the judge's setting of the minimum term below the starting point (example 23 above).

Furthermore, this negative **judgement** of Palmer's criminal act as [-propriety] (the second 'evil' in example 24 above) is surrounded by instances of favourable **judgement**, such as evaluation of Palmer's past as 'blameless and productive', the denial of a negative **judgement** of Palmer as 'no one would have thought of you as an evil person'. The favourable expectations assigned to Palmer (based on the use of **counter**) and the instances of favourable **judgement** in the co-texts of the sole instance of negative **judgement** (inscribed by the second 'evil' in example 24 above) all contribute to downplaying the negativity of the negative **judgement** of Palmer's criminal act.

In addition to **heteroglossia**, **monoglossia** is also used to present negative **judgement** of [-propriety]. However, the judge only uses **monoglossia** to present invoked rather than inscribed negative **judgement** of [-propriety]. In text 1, negative **judgement** of [-propriety] are invoked by descriptions of victim vulnerability, or by victim impact, or by description of Palmer's criminal act. One of them is shown by the following example.

(25) **You have taken him from his family forever** [*t*, -*propriety*].

(text 1, Palmer, text 5-6)

To sum up, in text 1 the judge only uses **monoglossia** to present tokens that invoke negative **judgement** of [-propriety]. It is not the negative **judgement** of [-propriety] but the tokens that invoke the negative **judgement** are declared categorically. In contrast, instances of the explicitly negative **judgement** of [-propriety] are accompanied by **heteroglossic** items (dialogic **contraction** items) which are used to exclude those negative **judgement** from the dialogic space. Instances of the explicitly negative **judgement** of Palmer are denied (such as example 21 above); the explicitly negative **judgement** of her criminal act is presented as a conceded position (example 23 above), which is later excluded from the dialogic space; and the explicitly

negative **judgement** of Palmer's criminal act is presented as countering normal expectations assigned to Palmer (example 24 above).

5.7.2 Text 2: Capp

In text 2, there are 13 instances of **judgement** of [-propriety], of which two are inscribed and 11 are invoked. Most of them are presented as **monoglossic** (N=10), and three of them are presented by **heteroglossic** items consisting of two instances of **attribute** and one instance of **deny** (see Table 5.7 above).

In text 2, the two instances of inscribed negative **judgement** of [-propriety] are used to fulfil other agendas, as shown below.

- (26) You knew [*attribute*] what you were doing and that it was very wrong [-*propriety*] [*t*, -*propriety*]... (text 2, Capp, line 65)

- (27) You suffer from emotional instability [*t*, -*capacity*], leading to difficulty [-*capacity*] in controlling your emotions, resulting in self-harm and aggressive [-*propriety*] acts towards others [*t*, -*capacity*]. (text 2, Capp, line 53-55)

In example (26), the negative **judgement** of Capp's criminal act as 'very wrong' is attributed to Capp. By attributing the negative **judgement** of Capp's behaviour to Capp, the proposition further invokes a negative **judgement** of Capp. In other words, the negative **judgement** of Capp's behaviour ('very wrong') is used to achieve another agenda: to invoke a negative **judgement** of Capp. Similarly, in example (27), 'aggressive' inscribes a negative **judgement** of Capp's behaviour towards others. However, it is used to support the judge's identification of Capp's 'emotional instability', and Capp's 'self-harm and aggressive acts towards others' is used to invoke a **judgement** of [-capacity].

The other instances of [-propriety] in text 2 are all invoked. In addition to the instance of **attribute** in the above example ('You knew' in example 26), there are two other instances of **heteroglossic** items, another instance of **attribute** and an instance of **deny**, which are used to present tokens invoking **judgement** of [-propriety]. The other instance of **attribute** is found in the following example.

- (28) The court has heard a victim impact statement from Ms Susan Davies, the mother of Mr Thomas. She describes [*attribute*] how he was a much loved son, stepson and brother whose death has caused deep anguish to his

family and friends [*t*, *-propriety*]. (text 2, Capp, line 31-33)

In the above example, descriptions of the impact of the victim's death on his family members invoke a negative **judgement** of Capp's criminal acts towards the victim as [-propriety]. The description is attributed to the victim's mother as 'She describes'. The use of **attribute** to present the victim impact reveals the judge's lack of commitment to the victim impact, which is especially prominent when it is compared with similar contents in texts 5 and 6. Instead of using dialogic **expansion** item (**attribute**), judges of texts 5 and 6 either use **endorse** (in text 5) or **monoglossia** (text 6) to present victim impact (see sections 5.7.5 and 5.7.6 below). In text 2, the judge's lack of commitment to the identification of victim impact has to some extent downplayed the negative **judgement** (of Capp's criminal acts towards the victim as [-propriety]) invoked by the victim impact.

And finally, an instance of **deny** is used to represent Capp's lack of remorse, as shown below.

(29) '**You have shown no** [*deny*] **remorse** [*t*, *-propriety*].
(text 2, Capp, line 30)

In the above example, Capp's lack of remorse invokes a negative **judgement** of his post-crime act as [-propriety]. This instance of **deny** is used to present the token invoking the **judgement** of [-propriety] rather than to deny the negative **judgement**.

To sum up, in text 2 **heteroglossic** items contribute to constraining the negativity of the negative **judgement** of [-propriety]. Instances of the explicitly negative **judgement** of [-propriety] are backgrounded in that they are used to serve other agendas. In one instance, a dialogic expansion item (**attribute**) is used to transform the explicitly negative **judgement** (of Capp's behaviour) into an implicitly negative **judgement** (of Capp) (example 26 above). And another instance of **attribute** is used to present victim impact (which invokes **judgement** of [-propriety]) (example 28 above), which contrasts with the use of **endorse** or **monoglossia** to present similar contents in texts 5 and 6. Although in all those texts (texts 2, 5 and 6), contents of victim impact invoke negative **judgement** of [-propriety], the victim impact that is attributed to some external source (in text 2) invokes a less severe **judgement** than similar contents that are fully endorsed or declared categorically by the judges (in text 5 and 6).

5.7.3 Text 3: Taylor

In text 3, there are seven instances of **judgement** of [-propriety], of which one is inscribed and six are invoked (see Table 5.7 above). The one instance of inscribed **judgement** of [-propriety] is presented by three instances of **endorse**, as shown below.

- (30) **It is also evident from her notebooks** [*endorse*] and **from what she said to Alison Dearden on 12 December** [*endorse*] and **to Tina Powell on Boxing Day** [*endorse*], that there is **a dark and violent side to your personality** [*-propriety*] that possibly only Alethea saw.

(text 3, Taylor, line 13-16)

In the above example, the explicitly negative **judgement** of Taylor's character as there is 'a dark and violent side to your personality' is meticulously sourced to the victim's accounts on three different occasions. In other words, the explicitly negative **judgement** is mediated through other voices rather than through the judge's authorial voice, and accordingly the judge does not assume sole responsibility for the explicitly negative **judgement** of Taylor. Through the **endorse** items, the judge shares the responsibility for the explicitly negative **judgement** with external sources, which reveals the judge's partial commitment to such explicitly negative **judgement**.

In addition to the one instance of inscribed **judgement** of [-propriety], there are six instances of invoked **judgements** of [-propriety], of which two are presented as **monoglossic** and four as **heteroglossic** consisting of two instances of **entertain**, two instances of **counter**, and one instance of **pronounce**.

The two instances of **entertain** are found in examples (31) and (32) below. In both examples, the dialogic **expansion** items are used to present Taylor's emotional responses, which are used to invoke negative **judgement** of [-propriety].

- (31) ...when you got home, **your anger and frustration with Alethea** **must have** [*entertain*] **boiled over** [*t, propriety*]. You either attacked her in the bedroom...

(text 3, Taylor, line 17-18)

In the above example, Taylor is represented as someone who did not control his negative emotions, which is identified as finally leading to his criminal acts. The representation of Taylor's negative emotions invokes a negative **judgement** of his character as [-propriety]. Such representation of Taylor's 'anger and frustration' as 'boiled over' is framed by a dialogic **expansion** item, 'must have', which allows

alternative opinions into the dialogic space such as whether Taylor's 'anger and frustration...boiled over' or not. In other words, the judge's identification of Taylor's negative emotions is based on a ground that is open to dialogic challenge, which reveals the judge's reservations (or doubt) on the identification of such emotional responses. The judge's lack of commitment in the identification of Taylor's emotional responses constrains the negative **judgement** invoked by such emotional responses.

The other instance of **entertain** is found in the following example.

- (32) You appear to [*expand*] have shown no remorse [*t, -propriety*], perhaps because you continue to deny that it was you who murdered her.

(text 3, Taylor, line 40-41)

In the above example, Taylor's lack of remorse invokes a negative **judgement** of Taylor's post-crime act as [-propriety]. The evaluative token is presented by a dialogic **expansion** item, 'appear to', which reveals the judge's reservation on the identification of Taylor's lack of remorse. Similar to the previous example, by allowing alternative opinions in the identification of Taylor's lack of remorse, the dialogic **expansion** item (**entertain**) brings an unsteady basis upon which the negative **judgement** is invoked. In other words, the dialogic **expansion** item constrains the impact of the invoked negative **judgement**.

In addition to the two instances of **entertain**, there are two instances of **counter** and one instance of **pronounce** used to present the tokens invoking **judgement** of [-propriety]. An instance of **counter** is found in the following example, through which Taylor's behaviour is represented as countering people's normal expectation.

- (33) Even now [*counter*], you have failed to disclose what you have done with her [*t, -propriety*]...

(text 3, Taylor, line 39-40)

In the above example, Taylor's denial of the offence invokes a negative **judgement** of his behaviour as [-propriety]. This evaluative token is presented as countering people's normal expectation that offenders should admit their offence. This instance of **counter** further reinforces the negativity of the invoked negative **judgement** of Taylor's behaviour.

In the following example, the other instance of **counter** and the instance of **pronounce** are found. Similar to the **counter** in example (33) above, the instance of **counter** in the following example is also used to represent Taylor's behaviour as countering people's normal expectation(s).

- (34) **Despite** [*counter*] your denial in evidence, Alethea was **clearly** [*pronounce*] **perceived by you as an obstacle to your happiness with Alison Dearden** [*t, -propriety*]. (text 3, Taylor, line 5-6)

In the above example, Taylor’s perception of his wife as ‘an obstacle’ to his happiness with another woman invokes a negative **judgement** of his pre-crime acts. And the evaluative token is presented by an instance of **pronounce**, ‘clearly’, and an instance of **counter**, ‘despite’. The instance of **counter** (‘despite’) not only brings a meaning of concession to the proposition immediately follows the **counter** (Taylor’s ‘denial in evidence’), but also frames the second proposition (‘Alethea was clearly perceived by you as an obstacle to your happiness with Alison Dearden’) as countering expectations brought by the first one. Based on the use of the **counter**, Taylor’s perception of his wife as an obstacle (the token invoking a **judgement** as [*-propriety*]) is held to be valid under any circumstances, even when Taylor denies the offence.

As regards to the instance of **pronounce** in the above example, it is the only instance of implicit objective **pronounce** found in the whole dataset, which makes it contrast with the explicit subjective **pronounce** found in other texts. The lexicogrammatical realisation of **pronounce** are classified along two sets of dimensions: subjective versus objective, and explicit versus implicit. The identification of the two dimensions in the current study is based on Martin and White (2005). The subjective versus objective dimension refers to whether the subjective role of speakers/writers is overtly announced or not; while the implicit versus explicit dimension refers to whether the pronouncement is realised by a “matrix clause” (Martin and White 2005, p.130) or the realisation is incorporated as one element of the clause.

In the above example, the **pronounce** ‘clearly’ does not make any reference to the subjective role of the judge nor is it realised by a matrix clause. And accordingly it is identified as an instance of implicit objective **pronounce**. In contrast, all the other instances of **pronounce** found in the dataset are realised as explicit subjective **pronounce**, such as ‘I am sure, also, that you tried to hide your guilt’ in text 6 (example 21 above). The use of implicit objective **pronounce** in text 3 (example 34 above) backgrounds the judge’s role in making the pronouncement, which reveals that the judge is less committed to the identification than if an explicit subjective **pronounce** was used.

To sum up, in text 3, the various **heteroglossic** items contribute to reducing the impact of the negative **judgement** of [-propriety]. The only instance of the explicitly negative **judgement** of [-propriety] is meticulously sourced to external sources (example 30 above), which greatly constrains the impact of the explicitly negative **judgement**. The two instances of **entertain** are used to present Taylor's emotional responses (as tokens invoking **judgement** of [-propriety]) (examples 31 and 32 above). The dialogic **expansion** items (**entertain**) not only reveal the judge's reservation on the identification of Taylor's emotional responses, but also constrain the impact of the negative **judgement** that are invoked by such emotional responses (based on the judge's lack of commitment to the identification of the emotional responses). The two instances of **counter** are used to present Taylor's behaviour as countering people's normal expectations (examples 33 and 34 above), but not used to check any (potentially) mitigating factors as it is the case in texts 5 and 6 (see sections 5.7.5 and 5.7.6 below). And finally, the instance of **pronounce** is the only instance of implicit objective **pronounce** found in the dataset (example 34 above), which contrasts with the instances of explicit subjective **pronounce** found in the other texts. The authorial voice based on the implicit objective **pronounce** (in text 3) has a lower volume than that of explicit subjective **pronounce** (in other texts), which may also constrain the impact of the negative **judgement** invoked by what is being pronounced.

5.7.4 Text 4: Hunnisett

In text 4, there are 11 instances of **judgement** of [-propriety], of which six are presented as **monoglossic** and four as **heteroglossic** consisting of three instances of **deny**, three instances of **counter**, one instance of **endorse**, and one instance of **pronounce** (see Table 5.7 above).

The two instances of **deny** of the negative **judgement** of Hunnisett as [-propriety] are related to his past. Hunnisett was abused when he was a child, and before his current offence, he had 'served over nine years of a life sentence before he was eventually cleared of any criminal responsibility for the death of his abuser'.⁶ The two denials of negative **judgement** of Hunnisett as [-propriety] are used to present Hunnisett as 'not to blame' for his past. One of them is shown below (same as example

⁶ Text 4, Hunnisett, line 42-43.

4 and repeated below).

- (4) **Nor** [*deny*] is he to be **blamed** [*-propriety*] for the fact that he is now a very **damaged** [*-capacity*] person. (text 4, Hunnisett, line 47-48)

The two instances of **deny** of [*-propriety*] are related to Hunnisett's past. But when moving to Hunnisett's present character, the denial of [*-propriety*] (based on his past) changes into a negative **judgement** of [*-propriety*]. And the negative **judgement** of Hunnisett as [*-propriety*] is presented by three different **heteroglossic** items, as shown below.

- (35) **While** [*counter*] I acknowledge that the Defendant's life experiences have played their part in shaping the man he has become, **the evidence that I have heard** [*endorse*] **has driven me to the conclusion that** [*pronounce*] the Defendant is now an extremely **dangerous** [*-propriety*] man who may well kill again were he to be released in the foreseeable future.

(text 4, Hunnisett, line 66-69)

In the above example, Hunnisett is negatively judged as 'an extremely dangerous man' inscribing a **judgement** of [*-propriety*]. The negative **judgement** is presented as countering expectations arising from the judge's initial acknowledgement ('I acknowledge that' as a **concede**) of Hunnisett's pasts, which is a potentially mitigating factor. In other words, the potentially mitigating factor is replaced by an explicitly negative **judgement** of Hunnisett as [*-propriety*].

Furthermore, the explicitly negative **judgement** of Hunnisett as 'an extremely dangerous man' is also presented by an instance of **endorse** and an instance of **pronounce**. The three engagement items (**endorse**, **pronounce** and **counter**) all contract the dialogic space and unambiguously exclude alternative opinions from the dialogic space, such as opinions that would challenge the negative **judgement** of Hunnisett as [*-propriety*] based on his past.

As shown by the above example, Hunnisett's past is presented as a conceded proposition and is replaced by an explicitly negative **judgement** of Hunnisett as 'an extremely dangerous man'. The presentation of Hunnisett's past as a conceded proposition along with the explicitly negative **judgement** of [*-propriety*] (inscribed by 'dangerous') in its co-text, greatly constrains the impact of the denials of [*-propriety*] (in example 4) that are based on Hunnisett's past.

Another instance of **deny** is found in an evaluative token invoking a negative

judgement of [-propriety], as shown below. In addition to the **deny**, two instances of **counter** are also found in the following example.

- (36) **However** [*counter*] good the evidence of child abuse, the Defendant was **not** [*deny*] entitled to take the law into his hands in the way he did [*t, -propriety*] **but** [*counter*], as he demonstrated in this case, he was prepared to reach his conclusions on entirely inadequate evidence [*t, -propriety*].

(text 4, Hunnisett, line 36-39)

In the above example, comments on Hunnisett's behaviour such as 'the Defendant was not entitled to take the law into his hands in the way he did', and 'he was prepared to reach his conclusions on entirely inadequate evidence' invoke negative **judgement** of Hunnisett's behaviour as [-propriety]. The two evaluative tokens are presented by two instances of **counter** ('However' and 'but'), and one of them is also presented by an instance of **deny** ('not').

Although the '[h]owever' (in example 36 above) is coded as **counter**, what is being presented as countering expectation is the second proposition, 'the Defendant was not entitled to take the law into his hands in the way he did', rather than the proposition that immediately follows "[h]owever", '[h]owever good the evidence of child abuse'. The proposition immediately following "[h]owever" is framed as a conceded proposition. But since the conceded proposition does not inscribe nor invoke any **judgement**, "[h]owever" is not further coded as an instance of **concede** in the current study, but only coded as bringing a meaning of **counter** to the second proposition.

Through the first **counter**, "[h]owever", a potentially mitigating factor (there might be (good) evidence showing the victim abused a child, which would have to some extent justified Hunnisett's criminal acts towards the victim) is raised but then excluded from the dialogic space. The potentially mitigating factor is represented as not affecting the negative **judgement** of Hunnisett's behaviour in the following proposition: whether the potentially mitigating factor exists or not, the negative **judgement** of Hunnisett's behaviour holds ('However good the evidence of child abuse, the Defendant was not entitled to take the law into his hands in the way he did').

In the following proposition ('but, as he demonstrated in this case, he was prepared to reach his conclusions on entirely inadequate evidence') the potentially mitigating factor is further excluded from the dialogic space, as there is no 'good'

evidence but only ‘entirely inadequate’ evidence. And the description of Hunnisett’s behaviour as ‘he was prepared to reach his conclusions on entirely inadequate evidence’ invokes a negative **judgement** of Hunnisett’s behaviour as [-propriety]. Moreover, Hunnisett’s behaviour (‘he was prepared to reach his conclusions on entirely inadequate evidence’) is accompanied by an instance of **counter**, ‘but’, which represents his behaviour as countering people’s normal expectations. Representation of Hunnisett’s behaviour as out of people’s normal expectations further reinforces the negative **judgement**.

To sum up, in text 4 although the instances of negative **judgement** of Hunnisett as [-propriety] are denied (such as example 4 above), the denials are firmly excluded from the dialogic space and replaced by an explicitly negative **judgement** of [-propriety] which is preceded by a succession of dialogic **contraction** items (example 35 above). Furthermore, instances of **counter** are not only used to present negative **judgements** but also to check (potentially) mitigating factors (examples 35 and 36 above).

The deployment of [-propriety] in text 4 shares some similarity with that of text 1 in that denials of negative **judgement** of [-propriety] are found. The deployment of [-propriety] in text 4 also shares some similarity with that of texts 5 and 6 in that the denials of [-propriety] are replaced by negative **judgement** of [-propriety]. In other words, based on the deployment of [-propriety], text 4 is less serious than texts 5 and 6 for denials of negative **judgements** ([-propriety]) are found, but text 4 is more serious than text 1 for such denials of negative **judgements** (of [-propriety]) are later excluded from the dialogic space and replaced by the negative **judgement** of [-propriety].

5.7.5 Text 5: McCluskie

In text 5, there are 19 instances of **judgements** of [-propriety], of which two are inscribed and 17 are invoked (see Table 5.7 above). The two instances of explicitly negative **judgements** of [-propriety] are both presented as **monoglossia**, as shown below.

- (37) Having considered the authorities that have been brought to my attention and bearing in mind the facts I have rehearsed, together with the aggravating and mitigating factors, and particularly the appalling way [-*propriety*] you acted

after the murder, the minimum term will be 20 years imprisonment.

(text 5, McCluskie, line 56-59)

- (38) Over a large number of hours you set about, **in an utterly coldblooded and determined way** [-*propriety*], to try to hide what you had done [*t*, -*veracity*]...

(text 5, McCluskie, line 33-34)

In addition to the two instances of inscribed **judgements** of [-*propriety*], there are 17 instances of invoked **judgements** of [-*propriety*], of which seven are presented as **monoglossic** and ten as **heteroglossic** consisting of one instance of **entertain**, three instances of **endorse**, one instance of **deny**, two instances of **counter**, and two instances of **pronounce** (see Table 5.6 above).

The instance of dialogic **expansion** item **entertain** is found in the following example.

- (39) You then went to the Regents Canal at least twice (once by taxi) in order to dispose of her remains. **Your hope** **must have been** [*entertain*] **that she would never be found** [*t*, -*propriety*] and you diverted [*t*, -*veracity*], and attempted to influence [*t*, -*veracity*], the police... (text 5, McCluskie, line 38-40)

In the above example, McCluskie's behaviour, which is specified as 'You then went to the Regents Canal at least twice (once by taxi) in order to dispose of her remains', is further ascribed a purpose by the description of what Pyott hoped to happen ('Your hope must have been that she would never be found'). Such purpose invokes a negative **judgement** of McCluskie's behaviour as [-*propriety*]. Although a dialogic **expansion** item is used in the representation of McCluskie's hope (the token invoking the negative judgement of [-*propriety*]), the other representations of McCluskie's behaviour (also as tokens invoking [-*propriety*]) are presented as **monoglossia** ('you diverted, and attempted to influence the police'), which contracts rather than opens the dialogic space for the identification of McCluskie's reproachable 'hope'.

Among the **heteroglossic** items, there are three instances of **endorse**, which are used to present positive descriptions of the victim, and descriptions of victim impact, all of which invoke negative **judgement** of McCluskie's criminal acts towards the victim. One of the **endorse** is found in the following example.

- (40) **As the letters I have read make clear** [*endorse*], the laughter and enjoyment in life for them has simply gone [*t*, -*propriety*]. ,

(text 5, McCluskie, line 46-48)

The instance of **endorse** shows the judge's full commitment to the victim impact, and it contrasts with the use of the dialogic **expansion** item (**attribute**) to present victim impact in text 2 (see section 5.7.2 and example 28 above). In text 5, the victim impact that is fully endorsed by the judge is very likely to invoke a more severe sanction of the offender's criminal acts than it is in text 2, where the judge does not endorse but only quotes the victim impact from some external source without any commitment.

In text 5, there are three instances of **counter** used to present negative **judgement** of [-propriety] (see Table 5.7 above). One of them is found in the following example.

- (41) I accept that [*concede*] this was a particularly challenging [*t, -normality*] period in your life... That said [*counter*], instead of exercising a normal degree of fortitude and resilience [*-tenacity*], you followed your emotions [*t, -propriety*] and battered [*t, -propriety*] your sister at least twice [*t, -propriety*] on the head sufficiently hard to depress her skull [*t, -propriety*].
(text 5, McCluskie, line 17-26)

In the above example, the judge's acknowledgement of the 'challenging' life faced by McCluskie gives the expectation that this factor might mitigate McCluskie's current offence. However, this expectation is countered ('[t]hat said') and replaced by a series of negative **judgement**. In other words, the judge completely excludes the potentially mitigating factor, McCluskie's past, from the dialogic space by using the string of negative **judgement** to replace this potentially mitigating factor.

The other instance of **counter** is found in the following example. The following example also contains an instance of **deny** and an instance of **pronounce**.

- (42) Your sister may [*concede*] well have been fiery on occasion and no doubt expressed herself forcefully but [*counter*] in my view [*pronounce*] she did not [*deny*] in any sense do anything that even begins to justify what you did to her [*t, -propriety*].
(text 5, McCluskie, line 14-16)

The initial proposition – the victim's fiery temper and forceful expressions towards McCluskie, which would otherwise mitigate or to some extent justify McCluskie's criminal acts towards the victim – is presented as a conceded proposition. It is countered and replaced by the following proposition, 'she did not in any sense do anything that even begins to justify what you did to her'. The expectation-countering proposition unambiguously invokes a negative **judgement** of McCluskie's criminal

acts towards the victim as [-propriety].

The expectation-countering proposition is simultaneously presented by two other dialogic **contraction** items: an instance of **pronounce** and an instance of **deny**. These dialogic **contraction** items explicitly (by the **pronounce**) and unambiguously (by the **counter** and **deny**) exclude expectation arising from the initial proposition (which would otherwise mitigate McCluskie's offence) from the dialogic space.

Furthermore, in the expectation-countering proposition ('she did not in any sense do anything that even begins to justify what you did to her') **graduation** items help to reinforce the negative **judgement** of McCluskie's criminal acts as invoked by the proposition. The denial of the expectation is upscaled as the victim 'did not in any sense' do anything that 'even begins to justify' McCluskie's criminal acts towards her. The **graduation** items upscale the volume of the denial to a maximum extent. In contrast, the volume of the negative **judgement** of the victim's behaviour towards McCluskie (as a potentially mitigating factor) in the initial proposition is turned down, as the victim was being fiery only 'on occasion', and the target of the victim's fiery temper and forceful expressions is omitted, although it could be recovered that the target is the offender. The contrast between the two – downplaying of the potentially mitigating factor and maximising of the denial of expectation arising from the potentially mitigating factor – further reinforces the invoked negative **judgement** of McCluskie's criminal acts.

In addition to the instance of **pronounce** found in the above example, another instance of **pronounce** is found in the following example.

- (43) **I note additionally that** [*pronounce*] in this trial you have made a sustained attempt to destroy at least part of the reputation of your sister [*t, -propriety*]...

(text 5, McCluskie, line 44-45)

In the above example, the representation of what McCluskie attempted to do invokes a negative **judgement** of his behaviour as [-propriety], and the representation is accompanied by an instance of **pronounce**: 'I note additionally that'.

To sum up, in text 5 the **engagement** items contribute to enhancing **judgement** of [-propriety]. The two instances of explicitly negative **judgement** are declared categorically by the judge without any reference to alternative opinions (examples 37 and 38 above). The two instances of **endorse** are used to show the judge's full commitment to victim impact presented by the victim's family (example 40 above),

which greatly reinforces the negative **judgement** invoked by the representation of victim impact. And the two instances of **counter** are used not only to present a series of negative **judgement** but also to constrain the (potentially) mitigating factors (examples 41 and 42 above). Furthermore, the instance of **pronounce** is used in conjunction with the instance of **counter** to firmly exclude the mitigating factors from the dialogic space (example 42 above).

5.7.6 Text 6: Pyott

In text 6, there are 31 instances of **judgement** of [-propriety], of which six are inscribed and 25 are invoked (see Table 5.7 above). The six instances of explicitly negative **judgement** of [-propriety] are all presented as **monoglossia**. One of them is shown below.

- (44) You took from his mother the son she misses so much. Their lives are blighted by your **cruelty** [-propriety]. (text 6, Pyott, line 8-9)

In the above example, the attitudinal item ‘cruelty’ inscribes an explicitly negative **judgement** of Pyott as [-propriety], and the negative **judgement** is declared categorically and without referencing any alternative opinions.

In addition to the six instances of inscribed **judgement** of [-propriety], there are 25 instances of invoked [-propriety], of which 21 are presented as **monoglossic** and six as **heteroglossic** consisting of two instances of **deny** and two instances of **counter**. The two instances of **counter** are found in the following examples (one of them is repeated from a previous example).

- (45) He thought you were his friend, **yet** [counter] **you stabbed him to death in the neck** [t, -propriety]. (text 6, Pyott, line 2-3)

- (6) **Yet** [counter], **despite** [concede] your mental disorder [t, -capacity] **you showed a canny** [+capacity] **understanding of the legal process including tactical** [+capacity] **considerations** [t, -veracity], you mixed truth with lies [-veracity] in the aftermath of the killing and you disposed of evidence to escape punishment [t, -propriety]. (text 6, Pyott, line 94-97)

In example 45, the instance of **counter** ‘yet’ is used to represent Pyott’s criminal acts towards the victim as countering people’s normal expectation(s) which arise from the initial proposition: ‘He thought you were his friend’. The representation of Pyott’s

criminal act as countering people's normal expectations invokes a negative **judgement** of his criminal acts as [-propriety].

In example 6, the instance of **counter** '[y]et' is used to present a series of negative **judgement**, which include not only negative **judgement** of [-propriety] but also other types of **judgement** that are unfavourable to Pyott such as [+capacity] and [-veracity]. These instances of unfavourable **judgement** are used to counter expectations arising from the judge's acknowledgement of Pyott's mental disorder, which is listed as a mitigating factor in text 6.⁷ In other words, the instance of **counter** is not only used to present negative **judgement** of [-propriety] but also to check or constrain the mitigating value of Pyott's mental disorder.

In addition to the two instances of **counter**, there are two instances of **deny** which are used to present tokens invoking negative **judgements** of [-propriety] (see Table 5.6 above). The two instances of **deny** are found in the following example.

- (46) You are a strong and heavily built [+capacity] [t, -propriety] man. Mr McDermott was not [t, -propriety]. He could not match your strength [t, -propriety]. (text 6, Pyott, line 39-40)

In the above example, the two instances of **deny** are not used to deny the negative **judgements** of [-propriety], but to present tokens that invoke negative **judgement** of [-propriety]. In the above example, information about victim vulnerability invokes a negative **judgement** of Pyott's criminal acts towards the victim. The victim's vulnerability is triggered by the victim's mismatch with Pyott in terms of physical strength, which is presented by two instances of **deny**, as 'Mr McDermott was not. He could not match your strength'. The denials implicate the opposite opinion(s), such as the victim might match Pyott in terms of physical strength. The implied positive position retrospectively triggers negative reading of the initial proposition in which Pyott is evaluated as 'You are a strong and heavily built man'. In other words, the initial proposition not only inscribes an unfavourable **judgement** of Pyott as [+capacity], but more importantly invokes a negative **judgement** of Pyott's criminal acts towards the victim as [-propriety]. The representations of victim vulnerability implicate Pyott's exploitation of the victim's vulnerability, which further reinforces the blameworthiness of Pyott and his criminal acts.

To sum up, in text 6, instances of the negative **judgement** of Pyott's behaviour

⁷ Text 6, Pyott, line 65-68

as [-propriety] are mostly presented as **monoglossia**. This is especially the case for inscribed **judgement** of [-propriety] found in text 6, which are all presented as **monoglossia** (such as example 44 above). In other words, in text 6 the explicitly negative **judgement** of Pyott or his behaviour can be taken for granted, and the judge does not regard there is any need to engage with alternative opinions in making the explicitly negative **judgement** of Pyott or his behaviour.

There are a few instances of **heteroglossic** items, which are all dialogic **contraction** items consisting of two instances of **counter** and two instances of **deny**. The two instances of **counter** play two different roles but both contribute to reinforcing negative **judgement** of Pyott's behaviour. One instance of **counter** is used to present Pyott's criminal acts as countering people's normal expectations (example 45 above); another is used not only to present a series of (invoked) negative **judgements** of Pyott's behaviour but also to check a mitigating factor (example 6 above). The two instances of **deny** are used to present the victim's vulnerability, which not only invokes negative **judgement** of Pyott's criminal acts towards the victim but also casts a negative light on the **judgement** of Pyott as [+capacity] in its co-texts (example 46 above). Those dialogic **contraction** items are used not only to present negative **judgement** of Pyott's behaviour, but also to project negative attitudinal reading to contents in their co-texts, such as the overturn of mitigating factors (example 6 above) or triggering negative attitudinal reading of the positive **judgement** of Pyott as [+capacity] (example 46 above).

5.7.7 Summary: Engagement and [-propriety]

Judges' positioning towards the negative **judgement** of [-propriety] in the six texts correlate with their respective lengths of minimum terms. In text 1, instances of the negative **judgement** of [-propriety] are mostly excluded from the dialogic space. There are explicit denials of the negative **judgement** (example 1 above), or the negative **judgement** is presented as a conceded proposition which is later excluded from the dialogic space (example 23 above), or the negative **judgement** is presented as countering people's normal expectations of Palmer (who had lived a 'blameless and productive life' before the offence, see example 24 above). And **monoglossia** is only used to present tokens that would invoke negative **judgement** of [-propriety] (example 25 above).

In texts 2 and 3, instances of the negative **judgement** of [-propriety] are greatly constrained based on the judges' use of **engagement** items to present those **judgements**. In text 2, the two instances of explicitly negative **judgement** of [-propriety] are used to fulfil other agendas (examples 26 and 27 above), which greatly reduce the impact of those explicitly negative **judgement**. In one instance, the judge attributes the explicitly negative **judgement** of Capp's criminal acts to Capp (example 26 above), which transforms the explicitly negative **judgement** of Capp's criminal acts into an implicitly negative **judgement** of Capp. In another instance, contents about victim impact are attributed to the victim's mother (example 28 above). In contrast, in texts 5 and 6, the judges use either **monoglossia** or **endorse** to present similar contents about victim impact. In text 2, the victim impact that is merely attributed to external sources does not invoke a negative **judgement** that is as severe as that in texts 5 and 6 where contents about victim impact are fully endorsed by the judge or are presented as **monoglossia**.

In text 3 instances of the negative **judgement** of [-propriety] are also constrained based on the judge's use of **engagement** items. The only instance of explicitly negative **judgement** of [-propriety] in text 3 is carefully sourced to external sources (example 30 above). In other words, the judge does not assume full responsibility but rather shares the responsibility with some external sources when making the explicitly negative **judgement** of [-propriety]. Furthermore, dialogic **expansion** items (**entertain**) are used to present Taylor's emotional responses (as tokens invoking negative **judgements** of [-propriety]) (examples 31 and 32 above). The dialogic **expansion** items reveal the judge's reservation or doubt on the identification of Taylor's emotional responses. Correspondingly, the negative **judgement** (as invoked by Taylor's emotional responses) are based on some precarious ground that is open to dialogic challenge, which accordingly constrains the impact of the negative **judgement** of [-propriety] invoked by Taylor's emotional responses. Furthermore, the use of **counter** and **pronounce** in text 3 is different from that in texts 4, 5 and 6. In text 3, instances of **counter** are only used to present Taylor's behaviour as countering people's expectations about normal behaviour (examples 33 and 34 above), and not used to counter any mitigating factors as they are in the other three texts (texts 4, 5 and 6). In text 3, the judge uses an implicit objective **pronounce** to present a token invoking a **judgement** of [-propriety] (example 34 above), which contrasts with the use of explicit subjective **pronounce** found in the other three texts. Similar to the use

of dialogic **expansion** items, the use of implicit objective **pronounce** reveals the judge's reservation in presenting the evaluative token (especially when compared with explicit subjective **pronounce** found in the other three texts), which correspondingly constrain the impact of the negative **judgement** invoked by the token.

Moving to text 4, instances of the negative **judgement** of [-propriety] are no longer constrained as they are in texts 2 and 3. Although there are two instances of denials of negative **judgement** of [-propriety] (such as example 34 above), as Hunnisett is not to be blamed for his past, the denials are overturned by an explicitly negative **judgement** of [-propriety] in the latter part of the text (example 35 above). This explicitly negative **judgement** of [-propriety] is presented by three dialogic **contraction** items: an instance of **counter**, an instance of **endorse**, and an instance of **pronounce**. The **counter** is used to counter expectations arising from acknowledgement of Hunnisett's past, and the **endorse** and **pronounce** are used to fend off alternative opinions that would otherwise challenge the negative **judgement** of [-propriety]. In text 4, instances of **counter** are not only used to present negative **judgement** of [-propriety], but also to counter potentially mitigating factor (examples 35 and 36 above) or to present Hunnisett's behaviour as countering people's expectations of normal behaviour (example 36 above).

In texts 5 and 6, the **engagement** items contribute to reinforcing the negative **judgement** of [-propriety]. In the two texts, instances of the inscribed negative **judgement** of [-propriety] are all presented as **monoglossia** rather than as **heteroglossic** (see examples 37, 38 and 44 above), which means that in the two texts the judges assume full responsibility for the explicitly negative **judgement**, and they do not regard there is any need to engage with alternative opinions that would otherwise challenge the explicitly negative **judgement**. The **monoglossic** presentations of the explicitly negative **judgement** of [-propriety] in texts 5 and 6 contrast with the **heteroglossic** presentations of similar types of judgement in the other texts. In text 4, the explicitly negative **judgement** of [-propriety] is presented by three dialogic **contraction** items (example 35 above). Although the three dialogic **contraction** items are used to fend off alternative opinions, they also show the judge's **engagement** with alternative opinions in making the explicitly negative **judgement**. In text 3, the explicitly negative **judgement** of [-propriety] is meticulously sourced to three different external sources (see example 30 above), which shows the judge's reservation or caution in making the explicitly negative **judgement** of [-propriety]. In

text 2, the explicitly negative **judgements** of [-propriety] are used to fulfil other agendas rather than making explicitly negative **judgement** per se (examples 26 and 27 above). In text 1, the explicitly negative **judgement** are all presented as **heteroglossic**. However, the **heteroglossic** items are used to exclude the explicitly negative **judgement** of [-propriety] from the dialogic space rather than to fend off alternative opinions challenging the negative **judgement** (examples 1 and 23 above).

In texts 5 and 6, descriptions of victim and victim impact are either fully endorsed (such as example 40 above) or presented as **monoglossia** by the judges. In contrast, in text 2 similar type of content is attributed to external source and the judge does not show any explicit endorsement (example 28 above). In texts 5 and 6 the fully endorsed descriptions or **monoglossic** presentations of victim and victim impact contribute to reinforcing the negative **judgement** so invoked. In other words, the more committed the judges are to representations of victim impact, the more reproachable the offenders' criminal acts towards the victims seem to be.

Furthermore, in texts 5 and 6, instances of **counter** are used not only to present negative **judgement** of [-propriety], but also to check mitigating factors by replacing expectations arising from the mitigating factors with series of negative **judgement** (see examples 42 and 6 above). Such use of **counter** is only found in texts 5 and 6, and not found in the other texts.

And, finally, it is only in texts with relatively longer minimum terms that clustering of dialogic **contraction** items is found to present negative **judgement** of [-propriety]. For example, in text 4, the judge uses three dialogic **contraction** items (**counter**, **endorse** and **pronounce**) to present an explicitly negative **judgement** of Hunnisett (example 35 above). In text 5, the judge also uses three dialogic **contraction** items (**counter**, **pronounce**, and **deny**) to present an instance of negative **judgement** of [-propriety] (example 42 above). The clustering of dialogic **contraction** items unambiguously and firmly excludes alternative opinions that would otherwise challenge the negative **judgement** from the dialogic space.

To sum up, the judges' positioning towards the negative **judgement** of [-propriety] across the six texts correlates with their respective lengths of minimum terms. In text 1, where the minimum term is below the starting point, instances of the negative **judgement** of [-propriety] are excluded from the dialogic space. In texts 2 and 3, where the minimum terms are just a few years above the starting point, instances of the negative **judgement** of [-propriety] are constrained based on the judges' use of

engagement items. In text 4, where the minimum term is longer than that of texts 2 and 3 but shorter than texts 5 and 6, instances of the negative **judgement** of [-propriety] are initially denied but firmly overturned by another instance of explicitly negative **judgement** of [-propriety] based on the judge's use of successive dialogic **contraction** items. Such positioning towards the negative **judgement** of [-propriety] in text 4 is consistent with its intermediate length of minimum term. It is only in texts 5 and 6 – where the minimum terms are well above the starting point – that instances of the negative **judgement** of [-propriety] are reinforced by the **engagement** items, such as the **monoglossic** presentations of all the inscribed negative **judgement** of [-propriety] and the use of **counter** not only to present negative **judgement** of [-propriety] but also to check mitigating factors.

5.8 Conclusion

This chapter has demonstrated how judges' authorial positioning in the six texts contribute to building the same patterns that are found in the previous chapter. Namely, when judges set the minimum term below (text 1) or well above (texts 5 and 6) the starting point, **engagement** items are used to reinforce the **judgement**, while when judges set the minimum term just a few years above the starting point (texts 2, 3 and 4), **engagement** items are used to constrain the impact of the **judgement**. The next chapter will discuss how judges' deployment of three appraisal strategies demonstrates the same patterns as their deployment of the appraisal resources of **judgement** (chapter 4) and **engagement** (chapter 5) across the six texts.

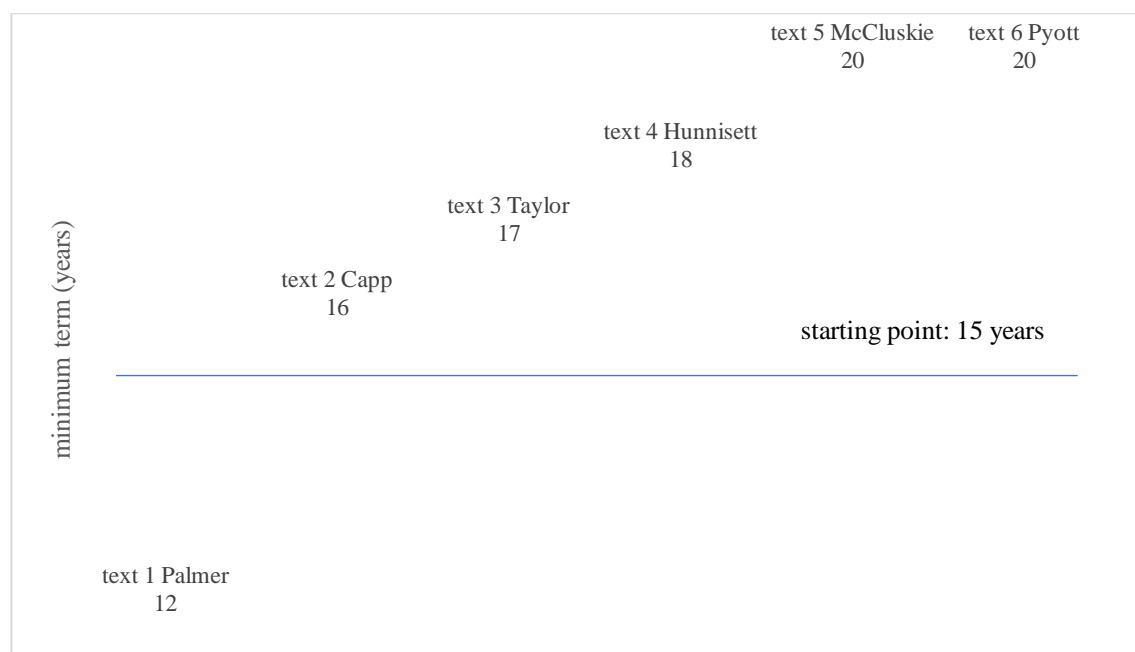
Chapter 6: The Appraisal strategies

This chapter first summarises judges' deployment of appraisal resources across the six texts (section 6.1). It then distils three appraisal strategies based on the analyses of **judgement** and **engagement** items in the previous two chapters (section 6.2). Judges' deployment of the appraisal strategies demonstrates the same patterns as their deployment of appraisal resources: the three appraisal strategies are found when judges set the minimum terms below (text 1) or well above the starting point (texts 5 and 6), but not (or only rarely) found when the minimum terms are just a few years above the starting point (texts 2, 3 and 4). Section 6.3 summarises the three appraisal strategies and their deployment across the six texts and briefly mentions the implications of the findings, which will be discussed in details in chapter 7.

6.1 Deployment of appraisal resources across texts

Judges of the six sentencing remarks all chose 15 years as the statutory mandated starting point. However, the six cases have different lengths of minimum terms. The following figure displays how far the minimum terms of the six texts deviate from the starting point.

Figure 6.1: Deviation of the minimum terms from the starting point



In Figure 6.1 the horizontal line in the middle represents the starting point of 15 years. The figure shows that text 1 has a minimum term (12 years) that is three years below the starting point, while texts 5 and 6 have minimum terms (20 years) that are five years above the starting point. In between are texts (texts 2, 3 and 4) whose minimum terms range from one to three years above the starting point.

Analyses in the last two chapters reveal that the judges' deployment of appraisal resources correlates with the lengths of minimum terms of the six texts (or cases). When the minimum term is below the starting point (text 1, although only three years below) or well above the starting point (texts 5 and 6), judges make more evaluations than they do in sentencing remarks for cases whose minimum terms are just a few years above the starting point (texts 2, 3 and 4). The occurrences of appraisal items (**judgements** and **heteroglossia** used to present **judgements**) across the six texts are summarised by the following table.

Table 6.1: **Judgement** and **engagement** across the six texts

	text 1	text 2	text 3	text 4	text 5	text 6
judgement	42	21	8	15	32	53
positive	13	0	0	0	1	7
negative	19	21	8	15	31	46
qualified polarity	10	0	0	0	0	0
heteroglossia	12	5	8	8	14	13

What is more important than the quantitative differences are the qualitative differences among the six texts. While in text 1 favourable **judgement** are promoted and unfavourable **judgement** downplayed or excluded from the dialogic space, the opposite is found in texts 5 and 6, where the favourable **judgement** are downplayed and excluded from the dialogic space and unfavourable **judgement** greatly promoted. In between are texts 2, 3 and 4, where only instances of unfavourable **judgement** are found and they are much less developed than they are in texts 5 and 6.

6.2 Deployment of appraisal strategies across texts

This section further distils three appraisal strategies based on chapters 4 and 5, and deployment of the appraisal strategies across the six texts demonstrates the same pattern as it is found in chapters 4 and 5. In other words, the three appraisal strategies

are frequently found in texts 1, 5 and 6, only occasionally in text 4, and not found at all in texts 2 and 3. The following three subsections will demonstrate in detail what these appraisal strategies are and how their deployment across the six texts demonstrates the same patterns.

6.2.1 Counter

Counter is a subtype of **engagement** in the Appraisal framework, which is used to “represent the current proposition as replacing or supplanting, and thereby ‘countering’, a proposition which would have been expected in its place” (Martin and White 2005, p.120). In texts 1, 5 and 6, **counter** is used not only to present **judgement** but also to undermine sentencing factors. However, such use of **counter** is much less frequently found in text 4, and not found at all in texts 2 and 3.

6.2.1.1 Text 1

In text 1, where the minimum term is below the starting point, **counter** is used not only to present **judgement** or propositions that are favourable to Palmer but also to check (potentially) aggravating factors or aspects. They are shown by the three examples below.

- (1) You took his life [*t, -propriety*], **yet** [*counter*] you loved him [*t, +propriety*].
(text 1, Palmer, line 5)
- (2) **Although** [*counter*] this was a murder by stabbing with a knife, you are not [*deny*] a person who carries knives, as so many knife murderers do [*t, qualified +propriety*].
(text 1, Palmer, line 53-54)
- (3) I do not do so lightly, but only after very careful reflection. **I know** [*concede*] what a scourge [*t, -propriety*] knife crime is, and **I know** [*concede*] that sentences in cases of murder by stabbing normally require minimum terms well above the 15 year starting point. Because of the unusual features of this case, ... **I think** [*pronounce*] that this is a case where the minimum term should be less than the starting point.
(text 1, Palmer, line 75-80)

In example (1), Palmer’s criminal act towards the victim, ‘You took his life’, gives rise to expectations of negative **judgement** of either Palmer or her criminal act. Such

expectation is countered by a positive **judgement** (invoked by Palmer's positive **affect** towards the victim, 'yet you loved him').

In example (2), identification of Palmer's offence as 'a murder by stabbing with a knife' also gives rise to expectations of negative **judgement** of either Palmer or her criminal act. The expectation is countered by the following proposition, where a comparison of Palmer with typical murderers ('you are not a person who carries knives, as so many knife murderers do') invokes a **judgement** of [qualified +propriety] or in other words represents Palmer as less reproachable than typical murderers.

In example (3), the negative **judgement** of knife crime as 'a scourge' is presented as a conceded proposition. Although the judge does not use an explicit countering-expectation **engagement** item, the negative **judgement** 'scourge' is countered by the following propositions, in which Palmer's case is identified as 'of usual features' and the minimum term is set below the starting point.

The three examples above demonstrate that **counter** is used to check the aggravating aspects or negative **judgement** of Palmer's offence, such as Palmer's killing of the victim 'You took his life' in example (1), 'this was a murder by stabbing with a knife' in example (2), and the 'scourge' of 'knife crime' in example (3). The aggravating aspects or negative **judgement** are not only undermined but also frequently replaced by **judgement** that are favourable to Palmer. Furthermore, the use of **counter** to check aggravating aspects or negative **judgement** contribute to representing Palmer as different from typical murderers and her offence as different from typical murder cases, and in turn helps the judge to justify his setting of the minimum term below the starting point.

In addition, in text 1, **counter** is used to represent negative **judgement** of Palmer's criminal act as countering normal expectations assigned to Palmer, as shown below.

- (4) Until this happened, no one [*deny*] would have thought of you as an evil [*-propriety*] person. Yet [*counter*] what you did to Damon Searson was evil [*-propriety*], during that one [*t, qualified +propriety*] terrible moment [*t, -propriety*] in an otherwise blameless and productive life [*t, +propriety*]

(text 1, Palmer, line 10-13)

In the above example, the explicit denial of a negative **judgement** of Palmer ('no one would have thought of you as an evil person') gives rise to expectation(s) of positive

judgement of Palmer. However, the expectation is countered by a negative **judgement** of Palmer's criminal act: 'yet what you did to Damon Searson was evil'. The negative **judgement** is represented as countering normal expectations assigned to Palmer, which indirectly shows that normal expectations assigned to Palmer are positive rather than negative **judgement**.

To sum up, there are two functions of **counter** in text 1. First, **counter** is used to represent Palmer or her behaviour as countering people's normal expectations of murderers or murder cases, which accordingly represents Palmer as different from typical murderers and her offence as different from typical murder cases. Second, **counter** is used to represent negative **judgement** of Palmer's criminal act as countering normal expectations assigned to Palmer, which reveals that normal expectations assigned to Palmer are positive rather than negative **judgement**. Both functions help the judge to pave the way for the setting of the minimum term below the starting point.

6.2.1.2 Texts 5 and 6

Counter in texts 5 and 6 is used to some extent in a similar manner to those found in text 1 but to create the opposite effect. In text 1 **counter** is used to check the aggravating aspects or instances of negative **judgement** and replace them with instances **judgement** that are favourable to Palmer. In texts 5 and 6, **counter** is used to check (potentially) mitigating factors and replace them with instances of **judgement** that are unfavourable to the offenders.

In texts 5 and 6, **counter** is widely used to check various (potentially) mitigating factors. In text 5, McCluskie's defense that the victim provoked him to commit the offence would have mitigated his offence. However, this potentially mitigating factor is checked by an instance of **counter**, as shown below.

- (5) I accept [*concede*] that Gemma expressed anger at you early that morning and warned you that if you did not treat your mother's home with more respect in the future, you may have to leave, but that said [*counter*] I unhesitatingly [*pronounce*] reject your account [*deny*], as given by you in evidence in this trial, that she had used significant foul language towards you, or that she had belittled or threatened you, in the past.

(text 5, McCluskie, line 3-8)

In the above example, the potentially mitigating factor is presented as a conceded proposition ('I accept that...'), and is later countered and replaced by the judge's explicit denial of the proposition ('but that said I unhesitatingly reject your account...'). It is also noticeable that the judge uses different formulations to represent the same content. According to the judge, the victim 'expressed anger' towards McCluskie only on a specific occasion ('early that morning'); while according to McCluskie, the victim 'had used significant foul language towards [him], or that [the victim] had belittled or threatened [him], in the past'. The judge's downplay of the victim's provocation is also found in the latter part of the text, where the victim 'may well have been fiery on occasion' (see example 6 below).¹ The judge's reformulation of McCluskie's account (which otherwise has the potential to mitigate his current offence) co-occurs with the judge's explicit and upscaled denial ('I unhesitatingly reject your account' in example 5) of McCluskie's account to firmly exclude the potentially mitigating factor from the dialogic space.

In the following example, the same potentially mitigating factor, the victim's provocation of McCluskie, is checked and replaced by a negative **judgement** of McCluskie's criminal act.

- (6) Your sister may well have been fiery on occasion and no doubt expressed herself forcefully **but** [*counter*] **in my view** [*pronounce*] she **did not** [*deny*] in any sense do anything that even begins to justify what you did to her [*t, -propriety*]. (text 5, McCluskie, line 14-16)

The potentially mitigating factor, 'Your sister may well have been fiery on occasion and no doubt expressed herself forcefully', is represented as a conceded proposition and is temporarily allowed into the dialogic space. The temporarily accepted proposition is countered and replaced by a negative **judgement** of McCluskie's criminal act (invoked by 'she did not in any sense do anything that even begins to justify what you did to her').

In text 5, another potentially mitigating factor, McCluskie's past, is also checked by an instance of **counter**, as shown below.

- (7) **I accept that** [*concede*] this was a particularly challenging [*t, -normality*]

¹ It is also noticeable that the judge uses a dialogic **expansion** item 'may' to show his reservation on the identification of victim's fiery temper, and uses the **graduation** item 'on occasion' to downscale the victim's fiery temper towards the offender.

period in your life... **That said** [*counter*], instead of exercising a normal degree of fortitude and resilience [*-tenacity*], you followed your emotions [*t, -propriety*] and battered [*t, -propriety*] your sister at least twice [*t, -propriety*] on the head sufficiently hard to depress her skull [*t, -propriety*].

(text 5, McCluskie, line 17-26)

The evaluation of McCluskie's past as 'challenging' and a series of descriptions of McCluskie's past are presented as conceded propositions. These conceded propositions are later countered and replaced by a series of negative **judgement** of both McCluskie and his criminal acts.

And finally in text 5, McCluskie's criminal intention to harm rather than to kill (which is a statutory mitigating factor and also listed as a mitigating factor by the judge in text 5²) is also checked by an instance of **counter**, as shown below.

- (8) **Although** [*counter*] the prosecution put the case against you on the basis that [*attribute*] you may [*entertain*] only have intended to inflict really serious bodily harm, given the severity of the injuries to GM's head **I am of the view that** [*pronounce*] the difference between that and intending to kill her is not as great as it is in other cases. These were very bad injuries [*t, -propriety*] at one of the body's most vulnerable sites [*t, -propriety*].

(text 5, McCluskie, line 26-30)

The judge first uses two dialogic **expansion** items, an instance of **attribute** and an instance of **entertain**, to present the identification of the mitigating factor: McCluskie intended only to harm rather than to kill the victim. The identification of the mitigating factor is attributed to the prosecution ('the prosecution put the case against you on the basis that'), and is presented by a dialogic **expansion** item ('may'). The two dialogic **expansion** items allow alternative opinions into the dialogic space, and reveal the judge's reservation about the identification of this mitigating factor.

The reservation is more explicitly shown by the use of the **counter** '[a]lthough'. Acknowledgement of the mitigating factor (McCluskie intended to harm rather than to kill the victim) gives rise to an expectation that McCluskie's current offence will be effectively mitigated by this factor. However, the expectation is countered by the following proposition, where the judge explicitly pronounces that 'I am of the view

² Text 5, McCluskie, line 51-52

that the difference between that and intending to kill her is not as great as it is in other cases'. The expectation-countering proposition accordingly constrains the mitigating value of McCluskie's intention to harm rather than to kill. The constraining of the mitigating factor is justified by the judge as 'given the severity of the injuries' to the victim, and it is further supplemented by descriptions of how severe those injuries are, where descriptions of the injuries as 'very bad injuries' and at the victim's 'most vulnerable sites' further invoke instances of negative **judgement** of McCluskie's criminal acts towards the victim.

To sum up, in text 5, **counter** is used to check (potentially) mitigating factors. Expectations arising from acknowledgment of the (potentially) mitigating factors are countered and not infrequently replaced by instances of negative **judgement** of either McCluskie or his criminal acts.

Similar use of **counter** is found in text 6. In text 6, one of the mitigating factors, Pyott's mental disorder, is checked by the use of **counter**, as shown below.

- (9) **Yet** [*counter*], **despite** [*concede*] your mental disorder [*t, -capacity*] you showed a canny [*+capacity*] understanding of the legal process including tactical [*+capacity*] considerations [*t, -veracity*], you mixed truth with lies [*-veracity*] in the aftermath of the killing and you disposed of evidence to escape punishment [*t, -propriety*]. (text 6, Pyott, line 94-97)

In the earlier part of text 6, the judge lists Pyott's mental disorder as a mitigating factor.³ But when moving to the latter part of the text, as shown by the above example, Pyott's mental disorder is presented as a conceded proposition and is replaced by a series of unfavourable **judgement**, including [*+capacity*], [*-veracity*] and [*-propriety*]. In other words, the mitigating value of Pyott's mental disorder is greatly constrained or even to some extent excluded from the dialogic space.

In text 6, **counter** is also used to check another mitigating factor, Pyott's admissions after his offence, as shown below.

- (10) Mr Atkins QC submits that [*attribute*] you had admitted the killing straight away. **But** [*counter*] you admitted it only to some people [*t, -propriety*]. (text 6, Pyott, line 102-103)

In example (10), identification of Pyott's admission is firstly attributed to Pyott's

³ Text 6, Pyott, line 65

counsel, ‘Mr Atkins QC submits that’, through which the judge distances himself from the identification and allows alternative opinions on such identification. The expectation arising from the identification is then countered by the following proposition as ‘[b]ut you admitted it only to some people’, which invokes a negative **judgement** of Pyott’s behaviour. In other words, the mitigating factor (Pyott’s admission after his offence) is checked and replaced by the negative **judgement** invoked by ‘you admitted it only to some people’.

In addition, in the earlier part of text 6, although Pyott’s admission is identified as a mitigating factor, the judge makes explicit that it is to be weighed against aggravating factors:

- (11) You confessed [*t*, +*veracity*] to several friends and to your mother that you had done the killing, and expressed regret and distress [*t*, +*propriety*]. That must be balanced against your lies [-*veracity*] and attempts to deceive [*t*, -*veracity*]. (text 6, Pyott, line 62-64)

To sum up, in texts 5 and 6 **counter** is used to check mitigating factors, and the checked mitigating factors are frequently replaced by instances of **judgement** that are unfavourable to the offenders. This appraisal strategy helps the judges to justify their setting of the minimum terms well above the starting point.

6.2.1.3 Texts 2 and 3

In texts 1, 5 and 6, **counter** is used by judges to justify their sentencing decisions, but similar use of **counter** is not found in texts 2 or 3. In text 2, there is one instance of **counter** used to check a mitigating factor, but the mitigating factor is not replaced by any negative **judgement** of Capp or his behaviour, as shown below.

- (12) Whilst your criminal responsibility was not [*deny*] substantially diminished as a result of mental health problems, you do [*pronounce*] have a longstanding personality disorder. This lowers your degree of culpability, **but** [*counter*] I assess [*pronounce*] your culpability as nevertheless substantial.

(text 2, Capp, line 62-65)

In the above example, the identification of the mitigating factor (‘you do have a longstanding personality disorder’) and weighing of the factor (‘This lowers your degree of culpability’) are checked by the following proposition ‘but I assess your culpability as nevertheless substantial’. However, the judge does not rely on any

negative **judgement** of Capp or his behaviour to counter expectations arising from acknowledgement of the mitigating factor. In other words, the judge does not rely on any appraisal resources to check the mitigating factor.

In text 3, **counter** is found but it is not used to check mitigating factors. Rather, it is used to present Taylor's behaviour as countering people's expectations about normal behaviour, as shown below.

- (13) **Even now** [*counter*], you have failed to disclose what you have done with her [*t, -propriety*]... (text 3, Taylor, line 39-40)

In the above example, Taylor 'failed to disclose' what he had done with the victim, and this behaviour is represented as countering people's expectations about normal behaviour. In other words, for someone who is convicted of an offence they are normally expected to confess their offences. The use of **counter** reinforces the negative **judgement** of Taylor's behaviour (invoked by representation of Taylor's behaviour as 'failed to disclose what you have done with her'), but it is not used to check any mitigating factors.

In texts 1, 5 and 6, **counter** is widely used to check (potentially) aggravating or mitigating factors, and the checked factors are replaced by **judgement** of offenders or their behaviour. Such use of **counter** helps the judges to justify their setting of the minimum terms either below (in text 1) or well above (in texts 5 and 6) the starting point. In contrast, similar use of **counter** is not found in texts 2 and 3. In other words, judges in the two texts do not rely on this appraisal strategy to justify their sentencing decisions, which are just one or two years above the starting point.

6.2.1.4 Text 4

In text 4, the appraisal strategy of using **counter** (to check a mitigating/aggravating factor and replace it with negative/positive **judgement**) is found, which makes text 4 contrast with texts 2 and 3, where no such appraisal strategy is found. But the strategy is much less frequently found in text 4 than it is in texts 5 and 6. The deployment of the appraisal strategy in text 4 corresponds with its length of minimum term, which is longer than that of texts 2 and 3, but shorter than that of texts 5 and 6.

The only use of the appraisal strategy in text 4 is found in the following example.

- (14) **While** [*counter*] I acknowledge that the Defendant's life experiences have played their part in shaping the man he has become, the evidence that I have

[heard] [endorse] [has driven me to the conclusion that] [pronounce] the Defendant is now an extremely dangerous [-*propriety*] man who may well kill again were he to be released in the foreseeable future.

(text 4, Hunnisett, line 66-69)

Hunnisett's past – which is a mitigating factor – is presented as a conceded proposition: 'I acknowledge that the Defendant's life experiences have played their part in shaping the man he has become'. This conceded proposition is undermined by the following proposition, in which Hunnisett is explicitly and negatively judged as 'extremely dangerous'.

In addition, in text 4 **counter** is used to present Hunnisett's behaviour as countering people's expectations of normal behaviour, as shown below.

(15) ...the Defendant was [not] [*deny*] entitled to take the law into his hands in the way he did [*t*, -*propriety*] [but] [*counter*], as he demonstrated in this case, he was prepared to reach his conclusions on entirely inadequate evidence [*t*, -*propriety*].

(text 4, Hunnisett, line 37-39)

In the above example, the instance of **counter** 'but' is used to present Hunnisett's behaviour as countering people's expectations about normal behaviour: that people should not reach their conclusions on entirely inadequate evidence. Such use of **counter** is similar to that found in text 3 (see example 13 above), in that it is not used to check any mitigating factor(s) or to introduce negative **judgement**.

To sum up, the appraisal strategy of using **counter** not only to present **judgement** but also to check sentencing factor is frequently found in texts 1, 5 and 6, much less frequently in text 4, and not at all in texts 2 and 3. In other words, this appraisal strategy is used by judges to justify their sentencing decisions when they set the minimum term below the starting point or well above the starting point, but not when they set the minimum term just a few years above the starting point.

6.2.2 Purposes of offenders' behaviour

The second appraisal strategy is to represent offenders' behaviour as purposeful, which accordingly invokes **judgement** of offenders' behaviour. The discursively constructed purposes are used to "connote moral values" by "distil[ling], from the actions to which they refer, particular aspects or qualities" (van Leeuwen 2000, p.70). When offenders'

behaviour is represented as purposeful in sentencing remarks, judges implicitly but unambiguously invoke **judgement** of such behaviour. Similar to the judges' deployment of the first appraisal strategy, this appraisal strategy is frequently found in texts 1, 5 and 6, much less frequently in text 4, and not at all in texts 2 and 3.

6.2.2.1 Text 1

In text 1 Palmer's behaviour is frequently represented as purposeful and those purposes unambiguously invoke positive **judgement** of Palmer's behaviour. This appraisal strategy is employed by the judge to justify his setting of the minimum term below the starting point.

In the following example, what Palmer did to the victim before the offence is represented as purposeful.

- (16) Your relationship with Damon was destructive [*t*, *-capacity*]. **You meant to help him overcome his demons, drink and drugs** [*t*, *+propriety*]. **You tried to help him become a better person and make something of his life** [*t*, *+propriety*]. **You wanted both of you to be happy** [*t*, *+propriety*].

(text 1, Palmer, line 7-9)

The purposes of Palmer's behaviour are found in what Palmer 'meant to' do, or what she 'tried to' do, or what she 'wanted' to be. These purposes unambiguously invoke positive **judgement** of Palmer's behaviour. While the purposes of Palmer's behaviour are given such a prominent status in the above example, what Palmer actually did is completely omitted. In other words, the basis on which the judge identifies Palmer's purposes as such is left implicit. It is not clear what Palmer did that leads the judge to identify her purposes with. By leaving implicit what Palmer actually did, the judge removes the basis for any alternative opinions that would otherwise challenge the judge's interpretation of Palmer's purposes as such.

What Palmer did after the offence is also represented as purposeful, as shown below.

- (17) **You did all you could to save Damon** [*t*, *+propriety*]. You called the emergency services and tried to stop the blood with a quilt, following the advice from the ambulance service. (text 1, Palmer, line 64-65)

What Palmer did after her offence is ascribed a purpose as 'to save Damon (the victim)', which unambiguously invokes a positive **judgement** of Palmer's post-crime

acts. In addition, Palmer's purpose to 'save' the victim casts the following descriptions of what Palmer actually did into a positive light, although these descriptions do not separately trigger any attitudinal reading.

6.2.2.2 Texts 5 and 6

Similar to text 1, in texts 5 and 6, offenders' behaviour is also frequently represented as purposeful, but this strategy is used to achieve the opposite effect. In texts 5 and 6 representations of offenders' behaviour as purposeful are used to invoke negative rather than positive **judgement**.

In text 5, what McCluskie did after the offence is frequently represented as purposeful, as shown below.

- (18) Over a large number of hours you **set about**, in an utterly coldblooded and determined way [-propriety], to **try to hide what you had done** [t, -propriety] and, moreover, **you sought to point the finger of blame at others** [t, -propriety]. You dismembered Gemma, cutting off all her limbs and her head [t, -propriety], and having first tried and failed to do this with a knife, you must have left the flat to buy an implement similar to a meat cleaver, which has never been found. You then went to the Regents Canal at least twice (once by taxi) in order to dispose of her remains. **Your hope must have been that she would never be found** [t, -propriety] and you diverted [t, -veracity], and **attempted to influence, the police investigation** [t, -veracity] by controlling the release of information... [t, -veracity]. (text 5, McCluskie, line 33-41)

- (19) I note additionally that [pronounce] in this trial **you have made a sustained attempt to destroy at least part of the reputation of your sister** [t, -propriety], (text 5, McCluskie, line 44-45)

In the two examples above, the purposes of McCluskie's behaviour are found in what McCluskie 'set about...to try to' do, 'sought to' do, or his 'hope' in example (18), or his 'attempt' in example (19). The judge sometimes makes reference to what McCluskie actually did, based on which he ascribes purposes to McCluskie's behaviour. In example 18, McCluskie 'went to the Regents Canal at least twice (once by taxi) in order to dispose of her remains', which already incorporates a purpose of McCluskie's behaviour ('to dispose of her remains'). The judge further ascribes a more abstract or moralised purpose to McCluskie's behaviour as 'Your hope must have been

that she would never be found', which unambiguously invokes a negative **judgement** of McCluskie's behaviour.

More frequently, the judge only ascribes purposes to McCluskie's actions and leaves implicit what McCluskie actually did. In (19), for example, the judge identifies the purpose of McCluskie's behaviour as 'to destroy at least part of the reputation of your sister', but leaves implicit what McCluskie actually did that leads the judge to identify his purpose as such.

By foregrounding the purposes, the judge unambiguously invokes negative **judgements** of McCluskie's behaviour. And by backgrounding the behaviour based on which the judge makes his interpretation of McCluskie's purposes, the judge removes the basis for alternative opinions that would otherwise challenge the judge's interpretation of the purposes as such.

Similarly, in text 6 what Pyott did after the offence is also frequently represented as purposeful, as shown by following examples.

(20) You then cleaned the knife and disposed of your bloodstained clothing, **intending to avoid punishment by destroying forensic evidence against you** [*t, -propriety*]. (text 6, Pyott, line 45-46)

(21) **I am sure** [*pronounce*], also, that **you tried to hide your guilt by cutting your arm to simulate the effect a struggle** [*t, -propriety*]; and by **suggesting officers check your flat for forensic evidence you knew was not there** [*t, -propriety*]. (text 6, Pyott, line 50-52)

(22) ...**you mixed truth with lies** [*-veracity*] in the aftermath of the killing and **you disposed of evidence to escape punishment** [*t, -propriety*]. (text 6, Pyott, line 95-97)

(23) Those admissions apart, **you did all you could to avoid paying for your crime** [*t, -propriety*]. (text 6, Pyott, line 104)

In example (20), the fact that Pyott 'cleaned the knife and disposed of [his] bloodstained clothing' is ascribed an explicit purpose: to 'avoid punishment'. In example (21), Pyott's behaviour of 'cutting [his] arm' is also ascribed a moralised purpose, 'to hide [his] guilt'. In example (22), Pyott's behaviour of 'dispos[ing] of evidence' is ascribed a purpose, 'to escape punishment'. And in example (23), Pyott's behaviour is generally referred to as he 'did all he could' and is ascribed a purpose as

‘to avoid paying for [his] crime’. These purposes unambiguously invoke negative **judgement** of Pyott’s behaviour.

To sum up, in texts 5 and 6 offenders’ behaviour is frequently represented as purposeful. By representing offenders’ behaviour as purposeful, the judges implicitly but unambiguously invoke negative **judgement** of offenders’ behaviour. Those instances of negative **judgement** help the judges to justify their setting of the minimum terms well above the starting point in the two texts.

6.2.2.3 Texts 2, 3 and 4

In contrast, in texts 2 and 3, offenders’ behaviour is not represented as purposeful, or in other words, the judges do not assign any purposes to offenders’ behaviour. Text 4 also displays an intermediate feature, which is consistent with its intermediate length of minimum term. In text 4, there is only one instance in which Hunnisett’s behaviour is ascribed a purpose, but the purpose is much less moralised than those found in texts 5 and 6. It is shown below.

- (24) I am satisfied that [*pronounce*] the Defendant practised that deception [-*veracity*] to **try and give some substance to his accusation that Peter Bick was a paedophile.** (text 4, Hunnisett, line 58-60)

In the above example, Hunnisett’s behaviour is referred to as ‘deception’, which inscribes a negative **judgement** of his behaviour as [-*veracity*]. The judge further ascribes a purpose to Hunnisett’s behaviour, ‘to try and give some substance to his accusation that Peter Bick was a paedophile’. However, the purpose does not add any negative **judgement** to Hunnisett’s behaviour. It is only through the explicitly negative **judgement** item ‘deception’ that the following content (where the purpose of Hunnisett’s behaviour is found) is cast into negative light. If ‘deception’ is substituted by some neutral word like ‘behaviour’, the following purpose can hardly invoke any attitudinal reading on its own. In contrast, in texts 1, 5 and 6, the purposes of offenders’ behaviour unambiguously invoke **judgement**, like Palmer’s purpose to ‘save’ the victim in text 1 (example 17 above), McCluskie’s purpose to ‘hide’ what he had done in text 5 (example 18 above), or Pyott’s purpose to ‘avoid paying for [his] crime’ in text 6 (example 23 above).

The contrast between texts 1, 5 and 6 on one hand and texts 2, 3 and 4 on the other hand is especially prominent when focusing on similar types of behaviour. Take

texts 3 and 5 as an example. In both texts offenders disposed of the victims' body. In text 3, Taylor's concealment of the victim's body is not ascribed any purpose and accordingly does not invoke any **judgement** of Taylor's behaviour, as shown below.

- (25) ...you killed her and then drove her body away in your car under cover of darkness. (text 3, Taylor, line 21-22)

In contrast, in text 5 McCluskie's disposal of the victim's body is ascribed a purpose, which unambiguously invokes negative **judgement** of his behaviour, as shown below.

- (26) You then went to the Regents Canal at least twice (once by taxi) in order to dispose of her remains. Your hope must have been that she would never be found [*t, -propriety*]... (text 5, McCluskie, line 38-39)

The contrast between the two examples demonstrates that the purposes of the offenders' behaviour are not inherent parts of their behaviour, and the same kind of behaviour can be represented with or without the purposes. The representations of offenders' behaviour as purposeful and using those purposes to invoke **judgement** are found in texts 1, 5 and 6, but not in texts 2, 3 and 4.

6.2.3 Graduation items as evaluative tokens

The third appraisal strategy is the use of **graduation** items to invoke **judgement**. This appraisal strategy is deployed in the same way as the previous two appraisal strategies across the six texts. This appraisal strategy is frequently found in texts 1, 5 and 6, much less frequently in text 4, and not at all in texts 2 and 3.

6.2.3.1 Text 1

In text 1, **graduation** items are frequently found in representations of Palmer's lack of premeditation. Those **graduation** items are used to invoke attitudinal reading of the representations of Palmer's lack of premeditation, as shown below

- (27) The crime was completely [*t, qualified +propriety*] unpremeditated and you regretted [*t, +propriety*] it immediately. (text 1, Palmer, line 46)

- (28) I am satisfied that [*pronounce*] you formed the intention to do serious harm to Damon only moments before carrying it out [*t, qualified +propriety*]. (text 1, Palmer, line 50-51)

- (29) Although this was a murder by stabbing with a knife, you are not [*deny*] a person who carries knives, as so many knife murderers do [*t, qualified +propriety*]. You picked up the knife on impulse, on the spur of the moment [*t, qualified +propriety*]. (text 1, Palmer, line 53-55)

In example (27), the crime was ‘completely’ unpremeditated, which triggers an attitudinal reading of the ‘unpremeditated’ feature of Palmer’s crime. In example (28), Palmer formed the intention to harm the victim ‘only moments before carrying it out’, which downscales the temporal extent in which Palmer harboured her criminal intention. In example (29), Palmer’s criminal act is carried out ‘on impulse, on the spur of the moment’, which once again reinforces the unpremeditated feature of her offence. All these **graduation** items trigger attitudinal reading of Palmer’s lack of premeditation, and they are coded as invoking **judgement** of Palmer’s criminal act as of [*qualified +propriety*].

However, as a statutory mitigating factor, the mentioning of offender’s lack of premeditation in sentencing remarks does not always trigger attitudinal meaning as shown below.

- (30) In terms of mitigating factors, although you have not admitted that you killed Alethea or vouchsafed any explanation as to how she died, I sentence you on the basis that her killing was not premeditated and that you did not intend to kill her but only to cause her serious bodily harm.

(text 3, Taylor, line 42-45)

- (31) In your favour is your good character save for the three cannabis matters; your record of continuous employment; the lack of any significant premeditation; (text 5, McCluskie, line 49-50)

- (32) The offence was not premeditated. You formed the intention to harm Mr McDermott very shortly before you stabbed him.

(text 6, Pyott, line 59-60)

As shown by the above examples, in texts 3, 5 and 6 offenders are also found lack of premeditation, but judges of the three texts do not use any **graduation** items to intensify the unpremeditated feature of the offences as the judge in text 1 does. The above representations of offenders’ lack of premeditation (texts 3, 5, 6) do not invoke any favourable **judgement** of offenders’ behaviours. Such representations are similar to the representation of McCluskie’s ‘good character’ in text 5 (see section 4.3.2

above). Representations of McCluskie's 'good character' in text 5 as well as offenders' lack of premeditation in texts 3, 5 and 6 are highly institutionalised in the context of sentencing remarks, which makes them less likely to convey attitudinal readings than to convey the institutional context. It is only in text 1 that the use of **graduation** items conveys an attitudinal reading (favourable **judgement** of Palmer) to the representations of Palmer's lack of premeditation.

Graduation items are also found in representations of Palmer's criminal act, through which Palmer's criminal act is quantified and downscaled, as shown below.

(33) ...you stabbed him to the heart with a single [*t, qualified +propriety*] thrust using a kitchen knife you picked up. (text 1, Palmer, line 2-3)

(34) Yet [*counter*] what you did to Damon Searson was evil [*-propriety*], during that one [*t, qualified +propriety*] terrible moment [*t, - propriety*] in an otherwise blameless and productive life [*t, +propriety*]
(text 1, Palmer, line 11-13)

In the two examples above, Palmer's criminal act is quantified and downscaled as 'a single thrust' and as 'one terrible moment', both of which contribute to making Palmer's criminal act less reproachable.

And finally **graduation** items are found in representations of Palmer's young age, as shown below.

(35) You are not [*deny*] to blame [*-propriety*] for failing [*-capacity*] to realise that your attempt to save him from himself was misguided [*t, -capacity*], as hindsight shows [*affirm*]. You were too young [*t, -capacity*] and in love to understand that [*t, -capacity*]. (text 1, Palmer, line 58-59)

(36) Finally, as I have said, you were at the time a very young [*t, -capacity*] woman, only [*t, -capacity*] 22 years old. (text 1, Palmer, line 66-67)

(37) I take into account that you have two previous cautions for relatively minor offences involving violence. They do not **affect** me much one way or the other; you were very young [*t, -capacity*], and the offences pale into insignificance [*t, qualified +propriety*] beside this one. (text 1, Palmer, line 81-83)

As shown by the above examples, representations of Palmer's young age are frequently accompanied by **graduation** items, such as 'too young' or 'very young'. These **graduation** items invoke **judgment** of Palmer as [*-capacity*].

To sum up, in text 1 **graduation** items are found in representations of Palmer's lack of premeditation, her criminal act, and her young age. Those **graduation** items invoke instances of **judgement** that are favourable to Palmer ([qualified +propriety] or [-capacity]), which helps the judge to justify his setting of the minimum term below the starting point.

6.2.3.2 Texts 5 and 6

In texts 5 and 6 (the two texts with the longest minimum terms), **graduation** items are frequently used to invoke negative **judgement**. In text 5, **graduation** items are found in representations of McCluskie's criminal act (example 38 below) and injuries caused to the victim by McCluskie (example 39 below).

(38) ...you followed your emotions [*t, -propriety*] and **battered** [*t, -propriety*] your sister **at least twice** [*t, -propriety*] on the head **sufficiently hard to depress her skull** [*t, -propriety*]. (text 5, McCluskie, line 24-26)

(39) ...given the **severity** [*t, -propriety*] of the injuries to GM's head I am of the view that the difference between that and intending to kill her is not as great as it is in other cases. These were **very bad injuries** [*t, -propriety*] at one of the body's **most vulnerable sites** [*t, -propriety*].

(text 5, McCluskie, line 27-30)

In example (38), McCluskie's criminal act is referred to as 'battered', which infuses an intensification of the vigour of McCluskie's criminal act. The vigour of McCluskie's criminal act is also intensified as 'sufficiently hard to depress her skull'. Furthermore, McCluskie's criminal act is also quantified and upscaled as 'at least twice'. Similarly in example (39), injuries caused by McCluskie to the victim are intensified in terms of degree as 'severity', 'very bad injuries' or as 'most vulnerable sites'. These **graduation** items further invoke negative **judgement** of McCluskie's criminal act to the victim.

In text 6, **graduation** items are found in a wide range of contexts to invoke negative **judgement** of Pyott or his behaviour. **Graduation** items are found in the representation of the victim's injuries caused by Pyott's criminal act, as shown below:

(40) This was a **brutal and ferocious** [*t, -propriety*] knife attack, involving **several** [*t, -propriety*] stab wounds to the neck. (text 6, Pyott, line 37)

The evaluation of Pyott's knife attack as 'brutal and ferocious' unambiguously

invokes⁴ negative **judgement** of Pyott's criminal act. The negative semantic prosody is further reinforced by the **graduation** item 'several stab wounds', which upscales the quantity of Pyott's attack on the victim, and invokes negative **judgement** of Pyott's criminal act towards the victim.

Graduation items are also found in representations of Pyott's previous convictions, as shown below.

(41) You were recalled to prison after **only** [*t, -propriety*] four days because you had threatened a member of staff with violence at the hostel where you had been placed... (text 6, Pyott, line 79-80)

(42) You committed this offence **just** [*t, -propriety*] under three years later, on 10 February 2015. I do not accept that your previous convictions are irrelevant. You are a man with a long history of inflicting violence on innocent people [*-propriety*]... (text 6, Pyott, line 82-84)

In the above examples, **graduation** items ('only' in example 41, 'just' in example 42) are used to upscale the short time periods between Pyott's various previous convictions, through which Pyott is represented as a career criminal who is often put into prison for various offences. These **graduation** items invoke negative **judgement** of Pyott as [*-propriety*]. Such attitudinal reading is further reinforced by an explicitly negative **judgement** of Pyott's previous convictions in the co-text as he 'inflict[ed] violence on innocent people' (example 42 above).

And finally, **graduation** item is used to curtail one of the mitigating factors, Pyott's admission after his offence, which is shown below.

(43) Against that background, you pleaded guilty to murder last week, on the first day of your trial, after being examined by Dr Sanikop. Mr Atkins QC submits that you had admitted the killing straight away. **But** [*counter*] **you admitted it only to some people** [*t, -veracity*]. (text 6, Pyott, line 101-103)

The **graduation** item, 'you admitted it only to some people', greatly constrains the mitigating factor ('you have admitted the killing straight away') to the extent that it even invokes a negative **judgement** of Pyott's behaviour as [*-veracity*].

To sum up, in texts 5 and 6 **graduation** items are frequently used to invoke

⁴ It is coded as invoked rather than inscribed for the attitudinal item targets the noun form rather than verb form of Pyott's criminal act (see chapter 3, section 3.4.2.2).

negative **judgement** of [-veracity] or [-propriety], and this appraisal strategy helps the judges to justify their setting of the minimum terms well above the starting point in texts 5 and 6.

6.2.3.3 Texts 2, 3 and 4

In texts 2 and 3, there is no instance of **graduation** item used to invoke any **judgement** of offenders or their behaviour. In other words, in texts 2 and 3 this appraisal strategy is not used by the judges to justify their sentencing decisions.

In text 4, the deployment of this appraisal strategy once again displays intermediate feature, which is consistent with its intermediate length of minimum term. In text 4, there are three instances of **graduation** items used to invoke negative **judgement** of Hunnisett's criminal act, which makes text 4 share a common point with texts 1, 5 and 6. However, this appraisal strategy is much less frequently found in text 4 than in texts 1, 5 and 6. The three instances of **graduation** items (as evaluative tokens) in text 4 are all from the following example.

- (44) He tricked his way into Peter Bick's house and while there, killed him by striking him **at least five** [*t, -propriety*] **severe** [*t, -propriety*] blows on the head with a hammer which **smashed** [*t, -propriety*] the skull and damaged the brain.
- (text 4, Hunnisett, line 2-4)

In the above example, Hunnisett's criminal acts towards the victim are quantified and upscaled as 'at least five', his attack of the victim is intensified as 'severe blows', and intensification of his attack is also infused in 'smashed'. All these **graduation** items invoke negative **judgement** of Hunnisett's criminal acts as [-propriety].

Although the **graduation** items (as evaluation tokens) are found in text 4, they are much less frequently found in text 4 than in texts 1, 5 and 6. Furthermore, in text 4 **graduation** items are only found in representations of Hunnisett's criminal act (example 44 above). In contrast, in texts 1, 5 and 6, **graduation** items are found in a wide range of contexts, such as representations of Palmer's lack of premeditation in text 1, representation of injuries caused by McCluskie to the victim in text 5, or representation of Pyott's admission after his offence in text 6.

6.3 Conclusion

The three appraisal strategies are: (1) the use of **counter** to check aggravating or mitigating factors by **judgement** items, (2) representations of offenders' behaviour as purposeful, which implicitly but unambiguously invoke **judgement** of offenders' behaviour, and (3) the use of **graduation** items to invoke **judgement**.

Judges' deployment of the three appraisal strategies demonstrates the same patterns as their deployment of appraisal resources across the six texts: the appraisal strategies are frequently found in texts 1, 5 and 6, much less frequently in text 4, and not at all in texts 2 and 3. The deployment of the appraisal strategies is found to correlate with the respective length of the minimum terms of the six texts. When judges set the minimum terms below (text 1) or well above (texts 5 and 6) the starting point, they frequently use the appraisal strategies to justify their sentencing decisions. In contrast, when judges set the minimum terms just a few years above the starting point (texts 2 and 3), they do not use the appraisal strategies. In between is text 4, where the minimum term is longer than that of texts 2 and 3 but shorter than that of texts 5 and 6: here the judge uses the appraisal strategies but much less frequently than the judges of texts 5 and 6.

The deployment of the appraisal strategies across the six texts reflects that the statutory starting point is exercising a binding effect on judges' sentencing practices in that when judges deviate further above the starting point, or when they set the minimum term below the starting point, judges are more likely to employ appraisal resources and strategies to justify their sentencing decisions, compared with when they set the minimum term just a few years above the starting point.

Such a discursal pattern further reveals that when pronouncing sentencing remarks judges are not only aware of audiences on court (such as offenders and families of victims) but also audiences beyond court, that is the Court of Appeal and the public, which will be further discussed in Chapter 7.

Chapter 7: Discussion and conclusion

This chapter first summarises the major findings of the current study (section 7.1), and then discusses the implications of the findings (section 7.2). Section 7.3 identifies the contributions of the current study. Section 7.4 lists the limitations of the current study, and section 7.5 suggests directions for further study.

7.1 Major findings

This study applies Martin and White's (2005) Appraisal framework to examine how judges evaluate offenders and their offences in six sentencing remarks in murder cases in the jurisdiction of England and Wales. It finds that judges' deployment of appraisal resources and strategies across the six texts correlates with the six cases' respective length of minimums. When judges set the minimum term below (text 1) or well above (texts 5 and 6) the statutory starting point, they make more evaluations and qualitatively different evaluations and are more likely to employ appraisal strategies to justify their sentencing decisions, compared with when they set the minimum terms just a few years above the starting point (texts 2, 3, and 4).

The current study has established empirically that judges have to work harder in appraisal terms when they want to move further away from the starting point. In other words, the findings demonstrate that the statutory starting point (which is set by the Criminal Justice Act 2003) has a binding effect on judges in that it affects how they deploy appraisal resources and strategies in the sentencing remarks. The empirical findings from the current study further demonstrates that judges need to justify their decision to the audiences beyond the courtroom: the Court of Appeal and the public.

7.2 Implications of the findings

Judges' deployment of appraisal resources and strategies across the six texts demonstrate that they perceive the Court of Appeal and the public as two important audiences of their sentencing remarks. It is very likely that judges' perception of the

audiences lead them to justify their sentencing decisions (by deploying the appraisal resources and strategies) when their sentencing decisions deviate from the statutory bound (the starting point), which either results in a lower sentence or in a higher sentence.

7.2.1 The Statutory starting point and the Court of Appeal

The current study finds that when judges set the minimum terms below (text 1) or well above the starting point (texts 5 and 6) they make more evaluations and are more likely to deploy the three appraisal strategies, compared with when they set the minimum terms just a few years above the starting point (texts 2, 3 and 4). This finding shows that the statutory starting point plays an important role in shaping judges' deployment of appraisal resources and strategies across the six sentencing remarks.

The sentencing of murder in England and Wales is currently based on the Criminal Justice Act 2003 (the CJA 2003), which sets four different starting points from which judges must choose. It is also made clear in the CJA 2003 that judges have the discretion to arrive at a minimum term of any length regardless of the starting point.¹ These statutory requirements give the misleading impression that judges have the discretion to disregard the statutory starting points, which, however, is contradicted by the current study. The current study finds that the statutory starting point is not disregarded by judges in any way but plays an important role in shaping judges' deployment of appraisal resources and strategies in sentencing remarks. These findings empirically demonstrate that the statutory starting point(s) plays an important role in binding judges' exercise of their discretion in sentencing.

Moreover, the findings provide empirical support to the normative studies advocating the use of a starting point to structure judges' discretion in sentencing. As advocated by Roberts and Rafferty (2011), the statutory starting point is not to be disregarded but should work as a baseline in judges' sentencing practices. They further argue that by providing sentencing judges with a starting point on which to base their sentencing decisions, the concept of a starting point would help curb inconsistency in sentencing. The findings of the current study empirically demonstrate that the introduction of the statutory starting points has achieved its intended effect in

¹ Criminal Justice Act 2003, schedule 21, section 9

regulating judicial discretion in sentencing.

In addition to the normative studies advocating that the starting point be one of the means to structure judicial discretion in sentencing, the current sentencing climate in England and Wales also promotes the binding of judicial discretion in sentencing through a starting point. In contrast with the ‘consistency of outcome’ pursued by the sentencing scheme in the USA, in England and Wales sentencing consistency is achieved by ‘consistency of approach’, which means that all judges follow the same steps throughout the sentencing process (e.g. Roberts and Rafferty 2011; Krasnostein and Freiberg 2013; Pina-Sánchez et al. 2018; Roberts et al. 2018). According to Ashworth and Roberts (2013), “if all courts follow the same methodical approach to considering characteristics of the offence and the offender, greater consistency and fairness will ensue” (Ashworth and Roberts 2013, p.9). The concept of starting point plays an important role in helping to achieve the ‘consistency of approach’.

‘Consistency of approach’ is embodied in the first definitive guideline, that is, the definitive guideline for the offences of assault, issued by the Sentencing Council in 2011.² This guideline provided sentencing steps which later worked as a model or template for all future guidelines (Hutton 2013; Roberts et al. 2018). The template consists of nine steps, of which the first two are the most important (Roberts and Rafferty 2011; Pina-Sanchez et al. 2018). In step one judges must choose a starting point based on an exhaustive list of factors to determine the seriousness of the case. In step two judges take into consideration aggravating and mitigating factors to “fine tune the level of harm and culpability” (Pina-Sanchez et al. 2018). Based on the template of sentencing steps promoted by the Sentencing Council, the starting point is to work as a baseline on which judges make their sentencing decisions. In other words, in the sentencing of murder as well as other types of offence, the starting point is an important means to bind judicial discretion in sentencing and further to promote consistency in sentencing.

The ‘consistency of approach’ and more specifically the starting point emphasised by the Sentencing Council play an important role in binding judicial discretion in sentencing. In addition, the binding power of the sentencing guidelines on judges’ sentencing practices is increasingly reinforced by legislation. In the

² *Assault: Definitive Guideline* <https://www.sentencingcouncil.org.uk/wp-content/uploads/Assault-definitive-guideline-Web.pdf> (last accessed in July 2019).

Criminal Justice Act 2003 judges need only “have regard to any guidelines which are relevant”,³ and it has been changed to more directive formulations in the Coroners and Justice Act 2009 that judges “must, in sentencing an offender, follow any sentencing guidelines which are relevant to the offender’s case”.⁴

The above discussion demonstrates that in the current sentencing climate it is required that the starting point play a role in binding judicial discretion in sentencing, but does not mention who has the power to bind the judicial discretion. In the jurisdiction of England and Wales, it is the Court of Appeal that has the power to bind judges in Crown Courts in their exercise of sentencing discretion. The Crown Court judges’ sentencing decisions are subject to appeal if they “exceeded the proper limits of [their] discretion in imposing the sentence that [they] had” (Thomas 2002, p.483).

The findings of the current study demonstrate that the statutory starting point is exerting its binding effect on judges’ exercise of sentencing discretion, and in turn reflects the judges’ perception of the Court of Appeal – the sole institution having the power to bind judges in their exercise of sentencing discretion – as an important audience of their sentencing remarks. In other words, judges’ sentencing practices are shaped by their perception of the Court of Appeal as an important audience of their sentencing remarks. As is made clear by Hutton (2008), the common conception that judges have sole authority over sentencing decision is only a “misconception” and “sentencing always takes place within a legally authorised structure” (Hutton 2008, p.208).

7.2.2 The public as an audience of sentencing remarks

7.2.2.1 The public nature of the sentencing of murder

The discursual pattern found in the current study demonstrates that judges need to justify their sentencing decisions with the media and with the public. Although the public and media might not necessarily be aware of the existence of the starting point, it works as a benchmark (or at least is perceived by judges as a benchmark) based on which the media and in turn the public evaluate judges’ sentencing decisions as either lenient or strict.

³ Criminal Justice Act 2003, section 172.

⁴ Coroners and Justice Act 2009, section 125.

Although it is not accurate to conflate the media with the public or claim that the media is only an intermediary between the court and the public (also see section 7.5 for opportunities of further research), judges can be reasonably confident that their evaluations of those found guilty of murder in high profile cases will be reported accurately because the UK media overwhelmingly adopts the perspective of those in power (Fairclough 1989, p.51). In other words, while the judges' remarks in a courtroom are contextualised and address those present in the room, the subsequent media representations of the judge's sentencing remarks are addressed to the public, who are the real consumers of the media produce.

It is not unusual to encounter press headlines which condemn a judge for handing down a 'soft' sentence or criticising judges for leniency. A review of media reports of judges' sentencing leniency in England and Wales is found in Shetreet and Turenne (2013, p.388). Findings from various surveys such as the British Crime Survey⁵ and studies such as Roberts and Hough (2005), Roberts et al. (2009), and Mitchell and Roberts (2012a) repeatedly demonstrate that "the most well-documented finding in the field of public opinion and sentencing is that people perceive sentencing to be excessively lenient" (Mitchell and Roberts 2012a, p.92). Moreover, the public perceive the sentencing of murderers as especially lenient when compared with the sentencing of offenders convicted of other types of offence (Mitchell and Roberts 2012a). Those responses from the media and the public are likely to have an impact on sentencing judges in influencing how judges deploy the appraisal resources in their sentencing remarks.

The publication of the sentencing remarks on the UK Judiciary website gives public access to the sentencing remarks. Moreover, the recent legislation *The Crown Court (Recording and Broadcasting) Order 2020* will permit news media to record and broadcast judges' sentencing of murder and other high-profile criminal cases in Crown courts, which will further increase public access to the sentencing of murder cases.

As the most serious form of violent crime, murder not only has fatal and devastating consequences on the victims and overwhelming impact on victims' families and friends, but also has a far-reaching impact on the community and the

⁵ As an example, a summary of the British Crime Survey 2013/14 is found in the following link: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449444/public-confidence.pdf (last accessed in October 2019).

public at large. The public interest has tended to focus on serious offence and “no crime generates as much public concern or as many sentencing-related headlines as murder” (Mitchell and Roberts 2012a, p.58). Judges’ sentencing decisions are unavoidably part of the public’s debate about punishment and furthermore about law and order (Taylor 1993), and it is especially the case in the sentencing of high-profile cases like the six cases used in the current study. The sentencing remarks for the six cases are publicly available on the UK Judiciary website, which usually only publishes sentencing remarks for high-profile cases.

The high-profile nature of the six cases is demonstrated by searching the Nexis UK database,⁶ an online database for UK newspapers, for news report of the six cases. Search results show that the six cases are reported in numerous articles. They were reported by the local as well as the national media, by the tabloid as well as the broadsheet newspapers. Table 7.1 lists the number of news articles found in the database relating to each case. Detailed information of the news reports of the six cases is provided in Appendix 2, which contains information about title, sources, dates, and word counts of the news reports.

Table 7.1: News report of the six cases

	Offender	Number of news reports
Text 1	Palmer	15
Text 2	Capp	43
Text 3	Taylor	21
Text 4	Hunnisett	80
Text 5	McCluskie	154
Text 6	Pyott	17

The public nature of the six cases is further reflected by the long time span of those news reports (see Appendix 2). Reports of the six cases usually began with the identification of the victims’ death or arrest of the offenders, running through the trial of the offenders, and lasting until the offenders were sentenced. In other words, the six cases have received extended coverage by the news media. In addition, it is not unusual that those news reports quote the judges’ words in their sentencing remarks. Take one of the news reports of case 2 as an example, by the *Daily Mirror* on 1 May 2015. It reported the sentencing of Capp as “Capp sat motionless in the dock as the

⁶ <https://www.nexis.com/>

judge told him: ‘I have no doubt you intended to kill him’, ‘This was a concerted, sustained and vicious attack. You have shown no remorse’ ”. Reporters’ direct quotation of words from judges’ sentencing remarks gives further publicity to judges’ sentencing remarks.

News reports in Nexis UK of the six cases provide a glimpse of the wide media coverage of the six cases by paper media but do not exhaust all the public attention received by the six cases. The six cases were also widely reported by television and broadcast media as well as by online news media.

The highly public nature of the six sentencing remarks may well make the judges conscious of the public as important audiences of their sentencing remarks, or in other words, the judges’ perception of the public as audiences of their sentencing remarks plays an important role in shaping their sentencing practices.

7.2.2.2 Public confidence in sentencing

The current study demonstrates that judges perceive the media and in turn the public as important audiences of their sentencing remarks. This finding highlights the important role of sentencing remarks in maintaining public confidence in the criminal justice system. The maintaining of public confidence in the criminal justice system (and more specifically in sentencing) further contributes to reinforcing judicial accountability as well as maintaining judicial independence.

The current study demonstrates that the public is perceived by the judge as an important audience of their sentencing remarks. While the British public perceive that the most essential function of court is to pass the right sentence, it is also in this function that the public have the lowest confidence (Roberts and Hough 2005, p.70-71), which makes the maintaining of public confidence in sentencing especially urgent. As remarked by Hall (2016), sentencing needs to “satisfy the community’s perceived need for denunciation” (Hall 2016, p.95).

On a more general level, it is important to maintain public confidence in the criminal justice system for “not only must Justice be done; it must also be seen to be done”.⁷ The importance is concretely shown by the statutory requirement that judges “must state in open court, in ordinary language and in general terms, [their] reasons

⁷ R v Sussex Justices, ex parte McCarthy ([1924] 1 KB 256, [1923] All ER Rep 233

for deciding on the sentence passed”.⁸ In other words, it is required by law that judges should make sentencing remarks at the end of trials. The statutory requirement for judges to provide reasons for their sentencing decisions in the form of sentencing remarks is one of the mechanisms to demonstrate that justice is not only done but also seen to be done.

The importance of maintaining public confidence in the criminal justice system can also be examined from the perspective of judicial accountability and judicial independence. Judicial accountability means that judges need to “give an account as to why they have behaved in a particular way”.⁹ Requiring judges to be accountable for their actions (such as sentencing) is a way to check or restrain judges in the context that judges are completely independent from government, and independent from pressures from the media or pressure groups when they exercise their judicial functions. In the context that judges in England and Wales are characterised as “unresponsive, unrepresentative and ‘out of touch’ in a way which renders it socially unaccountable” (Malleon 1999, p.72), making judges accountable for their sentencing in the form of sentencing remarks is an important means to maintain public confidence in the criminal justice system. In Woodhouse’ words, judicial accountability is “of fundamental importance if public confidence in the judiciary is to be maintained” (Woodhouse 2006, p.140).

Moreover, public confidence in the criminal justice system contributes to maintaining judicial independence (Malleon 1999). Public confidence in the criminal justice system makes it difficult to interfere with judicial decision-making if the interference is disapproved by the public, such as improper interference in judicial decision-making by the media, the executive or Parliament. In other words, public confidence in the judiciary protects the judiciary from threats to its independence through public disapproval of the improper interference in judicial decision-making. In Shetreet and Turenne’s (2013) words, “it is easier to resist an assault on judicial independence with public support than in a context of public apathy” (p.357). The public confidence in the judiciary is the basis on which the judiciary builds its legitimacy and maintains its independence, and it is also the basis on which the justice

⁸ Criminal Justice Act 2003, section 174(1)(a).

⁹ Court and Tribunals Judiciary, The principles of judicial accountability <https://www.judiciary.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/jud-acc-ind/principles-jud-acc/> (last accessed in July 2019).

system functions (Robinson 2007; Robinson 2008; Mitchell and Roberts 2012b).

7.2.3 Implications for studies on sentencing

The current study finds that the statutory starting point is exerting a binding effect on judges' sentencing practices. This finding provides empirical evidence that in the current sentencing climate in England and Wales opinions advocating the constraining of judicial discretion prevail, despite the fact that there are normative studies arguing for minimal intervention into judicial discretion in sentencing, and despite the fact that judges might be initially resistant to the various prescriptive schemes to structure their discretion in sentencing.

In England and Wales, judges have wide discretion in their decision-making in sentencing. There is a consensus that judicial discretion should be structured, but opinions are divided on how it should be structured. There are studies arguing for minimum intervention into judicial discretion for judicial discretion allows judges to tailor their sentencing decisions to the individualistic features of each case (e.g. Fitz-Gibbon 2013; Brown 2017). In addition, judges themselves are also defensive of the maintenance of a wide discretion in sentencing (Ashworth 2013; Brown 2017). However, there are far more studies calling for prescriptive schemes to structure judicial discretion (either by general principles, tariffs or sentencing guidelines) so as to promote coherence in judges' decision-making in sentencing, such as Roberts and Rafferty (2011), Hutton (2013), Roberts (2013), Roberts and Ashworth (2016).

Similarly, in the sentencing of murder there are also divided opinions on how to structure judicial discretion. There are studies arguing for the replacement of the mandatory life sentence for murder with a discretionary sentencing system (Fitz-Gibbon 2013) so as to give judges more discretion in the sentencing of murder. In a similar vein, in 2006 the Law Commission proposed a review of the mandatory life sentence for murder.¹⁰ The Commission suggested a redefinition of homicide, and mandatory life sentence be reserved for the most serious forms of crimes but not for the less serious ones. But this proposal was rejected by the government and, in 2011, the government stated that "the time is not right to take forward such a substantial reform"¹¹ of the criminal law. But, on the contrary, there are studies arguing for a

¹⁰ Law Commission, *Murder, manslaughter and infanticide*, Law com No 304 (2006).

¹¹ Ministry of Justice, Report on the implementation of Law Commission proposals, 24 January 2011,

tightening of judicial discretion in the sentencing of murder, such as the proposal of establishing sentencing guidelines for murder based on the Criminal Justice Act 2003 (Mitchell 2013).

Findings of the current study suggest that the trend of minimal intervention into judicial discretion is receding, and the judges' initial resistance to the prescriptive schemes is softening in the current sentencing climate in England and Wales. In addition, the prevailing of opinions advocating the constraining of judicial discretion is evidenced by the establishment of the Sentencing Council in England and Wales in 2010 with its formulation of sentencing guidelines for various types of offence thereafter, and the increasingly binding power of the sentencing guidelines on judges' sentencing practices (see section 7.2.1 above).

Moreover, the findings of the current study have implications for how future policies on sentencing should be made, how sentencing reforms should be carried out, as well as how sentencing guidelines, especially sentencing guidelines for murder cases, should be drafted by the Sentencing Council. The current study demonstrates that the statutory starting point(s) plays an important role in binding judges' sentencing practices. People in charge of the drafting of future sentencing policies or guidelines on murder can explore how to use the statutory starting point to structure judicial discretion in order to achieve the desired effect, such as which factors are to be listed or removed as the factors to determine the judges' choice of starting point(s).

The current study also finds that judges' perception of the public and the Court of Appeal as important audiences of their sentencing remarks plays an important role in shaping their sentencing practices. This finding not only provides empirical support to the perspective of viewing judges' sentencing practices as shaped by their perception of the audiences, it also advances our understanding of judicial audience. The existing discussions of judicial audiences (such as Baum 2006, Tata 2002) acknowledge the importance of understanding judicial practice from the perspective of audience but do not make any differentiation among the various audiences faced by judges. The current study advances understanding by revealing that among the multiple audiences, two of them – the public and the Court of Appeal – are playing important roles in shaping how judges evaluate offenders and their offences in sentencing remarks. When judges' deployment of appraisal resources and strategies

are found to correlate with their sentencing decisions, it can be argued that the judges' perception of the two important audiences are playing an important role in shaping their sentencing practices.

Furthermore, the finding of the public and the Court of Appeal as two of the important audiences of judges' sentencing remarks has implications for discussions of judicial accountability. The existing studies on judicial accountability (e.g. Le Sueur 2006; Woodhouse 2006; Shetreet and Turenne 2013) focus on how to reconcile judicial accountability with judicial independence, but do not bother with the question of judges are being accountable to whom. The current study advances understanding on judicial accountability by demonstrating that judges are being accountable to the public and the Court of Appeal (in the sentencing of such high-profile cases in the current study) in that they structure their sentencing remarks in anticipation of those audiences' expectations.

7.3 Contributions

7.3.1 Contribution to studies on sentencing

Existing studies on sentencing are “dominated (and limited)” (Tata 2007, p.425) by studies focusing on how judges should sentence rather than on how judges actually carry out their sentencing practices. Little is known about how judges actually carry out their sentencing practices (Brown 2017), and there is an “extraordinary paucity of data on actual sentencing decisions” in England and Wales (Padfield 2013, p.39).

The current study contributes to an understanding of the empirical reality of judges' sentencing practices. The study demonstrates that the statutory starting point is exerting a binding effect on judges' sentencing practices in that judges have needed to do more appraisal work as they move away from the starting point so that they can justify their decision both to the Court of Appeal and to the court of public opinion. Or, put it another way, the judges perceive the Court of Appeal and the public as important audiences for their sentencing practices, and their perception of the two important audiences plays an important role in shaping how they deploy appraisal resources and strategies in their sentencing remarks.

The findings of the current study advance our understanding of the empirical

reality of judges' sentencing practices. Such kind of understanding is "a prerequisite of the successful development of sentencing policy" (Brown 2017, p.2). In other words, only when people have an understanding of how judges actually carry out their sentencing practices can they provide pertinent suggestions or proposals on how to reform sentencing or how to draft sentencing policies.

7.3.2 Methodological contributions

The first methodological contribution is that the current study provides a novel approach to gaining access to judges' sentencing practices through their sentencing remarks. This study demonstrates that sentencing remarks can be used as an effective means to gain access to judges' sentencing practices. In England and Wales there is "a history of the judiciary refusing to co-operate in academic research, particularly with research on sentencing" (Brown 2017, p.2), and very few researchers have been permitted to interview judges (Ashworth et al. 1984; Brown 2017). Even if access to judges is successfully gained, another dilemma ensues: the inarticulability of judges' sentencing practices. Not only judges themselves but also academic studies on sentencing suggest that judges' sentencing practice is better conceptualised as a craft that "cannot readily be described by that craftsman" (Kritzer 2007, p.327), or as judges' synthesis of case facts based on their practical wisdom (Brown 2017). In other words, it is difficult for judges to articulate how they arrive at their sentencing decisions, or even that judges are regarded as being unable to articulate how they arrive at their sentencing decisions (Tata 2007). If judges are regarded as unable to articulate their decision-making process in sentencing, it leads one to wonder to what extent interviews with judges can bring an understanding of their decision-making in the sentencing practices. Instead of relying on interviews with judges, the current study offers an alternative way of approaching judges' sentencing practices through their sentencing remarks. Sentencing remarks are much more accessible to researchers than interviews with judges, because sentencing remarks are publicly available on the UK Judiciary website.

More than that, the current study demonstrates that sentencing remarks are an effective means to unearth judges' tacit knowledge. Judges might not fully acknowledge the influences of the prescriptive schemes, such as the statutory starting point, on their sentencing practices, or they might not explicitly admit that they shape

their sentencing remarks in anticipation of the audience. As noted by Baum (2006, p. 158), judges “are not fully conscious, as is often – indeed usually – the case” of their “efforts to appeal to their audiences”. But by relying on appraisal analysis of sentencing remarks, the current study demonstrates that the statutory starting point (as one of the prescriptive schemes to structure judicial discretion in sentencing) and judges’ perception of the audiences do have an influences on their sentencing practices.

The current study also contributes methodologically to studies on judges’ sentencing practices by demonstrating that Martin and White’s (2005) Appraisal framework is an effective tool to investigate sentencing remarks. The framework is designed to examine evaluative language in texts, which makes it an appropriate tool to examine sentencing remarks in which judges’ major task is to evaluate (or appraise) offenders and their offences so as to justify their sentencing decisions. The findings of the current study demonstrate how a systematic and fine-grained analysis of the appraisal features of sentencing remarks can reveal the qualitative differences among the six sentencing remarks, and further provide an insight into judges’ sentencing practices. Furthermore, the framework’s concern with how speakers or writers “construct for their texts an intended or ideal audience” (Martin and White 2005, p.1) makes it an effective tool to examine how judges position themselves towards the multiple audiences of sentencing remarks, or who the intended audiences of judges’ sentencing remarks are. The current study contributes to studies on judges’ sentencing practices by demonstrating how the Appraisal framework – a framework from linguistics – can be employed to provide robust and systematic analyses of sentencing remarks, and the analyses can lead to understandings of judges’ sentencing practices which are not easily accessible through other means of research such as interviews or surveys.

7.3.3 Contribution to studies of judicial discourse and studies of appraisal

Within studies on various types of judicial discourse, there are only a few focusing on sentencing remarks. The current study contributes to studies of judicial discourse by providing an in-depth analysis of the linguistic features of sentencing remarks in England and Wales. The few studies on sentencing remarks usually carry out content analyses (see chapter 2, section 2.4) rather than employing any linguistic tools to

examine sentencing remarks. The current study contributes to research on sentencing remarks by providing a systematic analysis of the linguistic features of sentencing remarks through the application of the Appraisal framework to the analysis of sentencing remarks.

Moreover, the current study is not confined to the counting of the occurrences of appraisal items in sentencing remarks; it further explores the discoursal patterns found in judges' deployment of the appraisal resources in sentencing remarks. The discoursal patterns found in the current study not only demonstrate that judges' sentencing remarks are conditioned by social and institutional contexts, but more importantly provide an insight into judges' sentencing practices by revealing that there is a correlation between judges' sentencing decisions and their deployment of appraisal resources and strategies in sentencing remarks.

The application of the Appraisal framework to the analysis of sentencing remarks also contributes to studies of appraisal by providing further refinements of the framework. The framework has been widely applied to examine various types of texts, but has scarcely been applied to examine sentencing remarks. Appraisal analysis of sentencing remarks in the current study brings forward three points worth consideration for further refinements of the framework.

First is the inconsistency between the polarity of **judgement** and the authorial stance towards that particular **judgement**. In most cases, people value positive **judgement** and dis-value negative ones. But it is not always the case. The current study finds that the negative versus positive polarity of the **judgement** of **capacity** is not consistent with judges' dis/valuation of the **judgement**. **Judgement** of offenders as [-capacity] is valued by judges; while the **judgement** of [+capacity] is dis-valued by judges. More specifically, evaluations of offenders as [-capacity] such as evaluating offenders as lacking properly functioning mental capacity would mitigate their current offence; while evaluations of offenders as [+capacity] such as evaluating offenders as having the physical strength (especially when they took advantage of the mismatch between them and victims in terms of physical strength), or evaluating offenders as having the capacity of tactical considerations during the legal process, would aggravate offenders' current offence.

In the context of sentencing remarks, the valuation of **judgement** of [-capacity] and dis-valuation of **judgement** of [+capacity] deserve further exploration. O'Donnell (2014) treats the inconsistency between the authorial dis/valuation and the polarity of

the attitudinal items as reflecting “the personal value system of the writer” (O’Donnell 2014, p.107). However, explanation of the inconsistency might not be confined to ‘the personal value system of the writer’. Judges’ valuation of [-capacity] and dis-valuation of [+capacity] in sentencing remarks might further reveal the institutional norms in the sentencing of murder in England and Wales. Further studies can explore how and why the **judgement** of **capacity** leads to the assignment of moral and in turn legal responsibility to offenders, such as why offenders’ positive **capacity** in dealing with the legal processes aggravates their moral and legal responsibility, and why offenders’ negative **capacity** resulting from mental disorder mitigates their moral and legal responsibility in the current sentencing climate of England and Wales.

The second refinement of the Appraisal framework is the introduction of a new subsystem to the polarity of **judgement**. In the Appraisal framework, attitudinal items are distinguished as either positive or negative. However, the appraisal analysis of sentencing remarks shows that the binary distinction cannot capture a group of attitudinal items that are coded as [qualified +propriety] in the current study. In the context of sentencing remarks, the default polarity of **judgement** items is negative. But the current study finds that when the judge sets the minimum term below the starting point, the judge frequently makes **judgement** of [qualified +propriety]. In other words, the offender and the offence are judged as negative, but the negativity of the **judgement** items are downscaled, although the judge does not use any **graduation** items to downscale the negative **judgement**, such as the evaluation of Palmer as less worse than prototypical murderers in text 1 (‘Many murders are committed by far worse people than you’ in line 10 of text 1).

The Appraisal framework can be refined to accommodate this kind of phenomenon: the implicit downscaling or upscaling of attitudinal items that do not rely on **graduation** items. The current study suggests that a further subsystem – qualified polarity – be added to the polarity of attitudinal items to accommodate this kind of phenomenon. What is found in the current study is the implicit downscaling of the negative **judgement** of **propriety** (coded as [qualified +propriety] in the current study). When the Appraisal framework is applied to examine some other text types, like advertisements, where the default polarity of attitudinal items is positive and the default attitude subtype is **appreciation**, those texts might also rely on non-**graduation** items to implicitly express the gradability of the positive attitudinal items. In other words, the subsystem of qualified polarity might also be applicable to the

appraisal analysis of other text types.

The last contribution to the refinement of the Appraisal framework is a further distinction within the **judgement** of **normality**. The distinction is based on who or what should be responsible for people's ab/normality. More specifically, whether people's ab/normality is attributable to external circumstances ([+/- normality: fortune]) or to their own personalities ([+/- normality: status]). The distinction is especially significant in the context of sentencing remarks for it contributes to revealing the qualitative differences of [-normality] in different sentencing remarks. More specifically, when the **judgment** of [-normality] is attributed to external circumstances ([-normality: fortune]), the offender is frequently represented as a victim of his negative life circumstances, which accordingly mitigate the offender's current offence. In contrast, when the **judgement** of [-normality] is attributed to the offender's own personality ([-normality: status]), the offender is frequently represented as someone who had the agency but chose not to act against their unfavourable life circumstances, which accordingly aggravate the offender's current offence or even cancel the potentially mitigating value of their past.

A similar distinction within **normality** is also found in Myskow's (2015) appraisal analysis of history textbooks. The finding of the distinction in different types of texts, i.e. sentencing remarks in the current study and history textbooks in Myskow (2015), reinforces the validity of making such a distinction within **normality** as [+/- normality: fortune] versus [+/- normality: status]. The distinction within **normality** contributes to bringing further delicacy to the Appraisal framework, which would enable researchers to explore the subtle difference among or within texts and to explore how these differences contribute to building the evaluative profiles of texts.

7.4 Limitations of the research

The current study chose depth of analysis over quantity of texts. This is significant because small scale qualitative studies are more likely to generate insightful understandings given the vast variations among cases and the impact of those variations on judges' sentencing practices.

Qualitative analysis of the six sentencing remarks allowed me to generate a fine-grained picture of how judges deployed appraisal resources and strategies across the

six texts. However, an obvious limitation of such kind of qualitative analysis is the small amount of texts. The small dataset makes it difficult to make broad generalisations about appraisal features of sentencing remarks in different contexts. Consequently it needs to be emphasised that the findings of the current study are based on appraisal analysis of only six sentencing remarks for murder cases in the jurisdiction of England and Wales.

Another limitation is related to the high-profile nature of the six cases, which may well lead judges to perceive the public as an important audience of their sentencing remarks. It is open to investigation whether the findings of the current study are generalisable to cases with less publicity or lower public interest.

And finally, the selection of the six sentencing remarks for the current study is constrained by the sentencing remarks that are available on the UK Judiciary website. Not all sentencing remarks are published by the judiciary on the website. The selective publications might affect the representability of the six sentencing remarks of all the cases meeting the selection criterion (see chapter 3, section 3.1) of the current study. When I applied the selection criteria to all the sentencing remarks that are published on the UK Judiciary website, the six sentencing remarks used in the current study are all the sentencing remarks I can get. The findings of the current study could have been strengthened if more similar types of cases were available for research.

7.5 Further research

Further studies could strengthen the empirical findings of the current study by investigating whether the same appraisal patterns and the finding of the binding effect of the statutory starting point on judges' sentencing practices hold in different contexts, such as murder cases with different starting points, murder cases that do not make any differentiation of the number of victims, or in the sentencing of other types of offence.

The findings of the current study can be the basis for quantitative studies of a large corpus of sentencing remarks by providing several starting points to examine the deployment of appraisal resources in a large quantity of sentencing remarks. For example, the current study finds that **counter** is used strategically by judges when they set the minimum terms below or well above the starting point, but not when they set the minimum terms just a few years above the starting point. Future quantitative

studies can focus on the lexicogrammatical realisations of **counter** (usually there are only a limited number of them) and use them as node terms to search their concordance lines in a large quantity of sentencing remarks so as to examine whether their deployment in a large quantity of sentencing remarks is also related to variations in the length of minimum terms.

Take the finding on the framing of inscribed [-propriety] as another example. The current study finds that while in text 3 the judge attributes explicitly negative **judgement** of [-propriety] to external sources by endorsing with them, but in texts 5 and 6 judges use **monoglossia** to present similar type of **judgement**. In other words, when the minimum term is just a few years above the starting point (text 3), the judge puts himself in the background when making the explicitly negative **judgement** of [-propriety], but when the minimum term is set well above (texts 5 and 6) the starting point, the judges does not make reference to any alternative opinions and assume sole responsibility for the explicitly negative **judgement** of [-propriety]. Future studies can focus on a handful of inscribed **judgement** of [-propriety] and examine how they are framed by **engagement** items in a large corpus of sentencing remarks, and explore whether the **monoglossic** versus **heteroglossic** framing of inscribed **judgement** of [-propriety] is related to judges' different sentencing decisions.

The six cases used in the current study were widely reported by news media (see section 7.2.2.1). A further direction for future study is to examine how the judges' perception of the audiences as it is found in the current study conflate with or diverge from the portrayals of judges by media. Moreover, the media's portrayals of sentencing judges are not infrequently different. Future studies can examine how the judges' perception of public opinion of sentencing leniency align or dis-align with the media's report of those sentencing judges (or in other words, the media's evaluations of sentencing judges).

Furthermore, future studies can compare the appraisal features of sentencing remarks with that of news report articles reporting the criminal cases. Namely, researchers can compare how the same offender(s) and their offences are evaluated by judges in sentencing remarks with how they are evaluated by reporters in news report, and further explore how the divergence and convergence of appraisal features in the two types of texts reveal their different institutional as well as social contexts.

The findings of the current study can also be examined from some other perspective. The current study finds that when judges set the minimum terms just a

few years above the starting point (texts 2, 3 and 4) they make much fewer evaluations. Although texts 2, 3 and 4 are characterised by the low occurrences of appraisal items, it does not mean that the three texts are without their own characteristics. Their lack of appraisal items can be captured from some other perspective, which is demonstrated by the excerpt from text 2 below.

- (1) Over his head was a plastic bag which had been pulled tight and screwed up at the back of the head. A bed sheet was also around his neck. Mr Thomas also had some 100 puncture marks on the left hand side of his neck which you had caused with a plastic biro through the plastic bag. The cause of Mr Thomas' death was strangulation or suffocation or a combination of both.

(text 2, Capp, line 23-27)

In the above example, descriptions of the victim's death (or in other words, Capp's attack of the victim) do not invoke any **judgement** of Capp or his offence towards the victim. But it is noticeable that Capp is almost completely removed from the scene although it is Capp whom caused the scene. A plastic bag was found to have been 'pulled tight' on the victim's head; 'some 100 puncture marks' were found on the victim's neck. The fact that it is Capp who caused the death of the victim is completely removed or greatly backgrounded by the judge.

The characteristic feature of the above excerpt is even more obvious when compared with similar contents in text 6.

- (2) This was a brutal and ferocious [*t, -propriety*] knife attack, involving several stab wounds [*t, -propriety*] to the neck. You deliberately [*t, -propriety*] took up that fearful [*t, -propriety*] weapon and used it to cut his neck [*t, -propriety*].

(text 6, Pyott, line 37-38)

In the above example, descriptions of Pyott's attack of the victim are full of attitudinal items invoking negative **judgement** of his criminal attack of the victim. When it is compared with example 1, it is obvious that Pyott is no longer put in the background, but rather in the centre of the stage.

The contrast between examples 1 and 2 demonstrates that the differences among the sentencing remarks also manifest themselves through the backgrounding versus foregrounding of the offenders in their criminal acts, which can be examined from perspectives like how social practices are re-contextualised in discourse (van Leeuwen 2016). Further studies can take this perspective to examine the sentencing remarks to

either strengthen or challenge the findings of the current study.

And, finally, the findings of the current study can be supplemented by interviews with judges. Although it is doubtful that interviews with judges can generate much understanding of judges' decision-making process in sentencing, the findings of the current study can be used to guide and structure interviews with judges. Based on the findings of the current study, future studies can interview judges as regard to their perception of the audiences of their sentencing remarks, and their perception of the impact of prescriptive schemes (to bind judicial discretion) like the statutory starting point on their sentencing practices. The findings from the interviews would be valuable resources for further exploration of the empirical reality of judges' sentencing practices in the jurisdiction of England and Wales.

7.6 Concluding remarks

At the beginning of this project, I did not know where the appraisal analysis of sentencing remarks would lead me, nor did I know whether there would be any pattern(s) found in judges' deployment of appraisal resources across the six texts, let alone what the pattern(s) would be. But the patterns gradually emerged, and became increasingly clear when the appraisal features were examined in light of the patterns.

In this study I find that the statutory starting point is exerting its binding effect on judges' sentencing practice despite judges having the discretion to arrive at a minimum term of any length irrespective of the starting point. Such a finding further reflects the judges' perception of the public and the Court of Appeal as two important audiences of their sentencing remarks. In the context that existing studies on sentencing are "dominated (and limited)" (Tata 2007, p.425) by normative studies, the current study provides an insight into the empirical reality of judges' sentencing practices. Such understanding is 'a prerequisite of the successful development of sentencing policy' (Brown 2017: 2). Maybe there should be more such kind of understanding before debates on how to structure judicial discretion turn out to be constructive and productive.

References:

- Ashworth, A. 1994. *The Criminal Process*. Oxford: Clarendon Press.
- Ashworth, A. 1995. Reflections on the role of the sentencing scholar. In: Clarkson, C. and Morgan, R. eds. *The Politics of Sentencing Reform*. Oxford: Clarendon Press, pp. 251–266.
- Ashworth, A. 2011. Re-evaluating the justifications for aggravation and mitigation at sentencing. In: Roberts, J. ed. *Mitigation and Aggravation at Sentencing*. Cambridge: Cambridge University Press, pp. 21–39.
- Ashworth, A. 2013. The struggle for supremacy in sentencing. In: Ashworth, A. and Roberts, J. eds. *Sentencing Guidelines: Exploring the English Model*. Oxford: Oxford University Press, pp. 15–30.
- Ashworth, A. 2015. *Sentencing and Criminal Justice*. 6th ed. Cambridge: Cambridge University Press.
- Ashworth, A., Genders, E., Mansfield, G., Peay, J. and Player, E. 1984. *Sentencing in the Crown Court: Report of an Exploratory Study*. University of Oxford Centre for Criminological Research
- Ashworth, A. and Roberts, J. 2013. The origin and nature of the sentencing guidelines in England and Wales. In: Ashworth, A. and Roberts, J. eds. *Sentencing Guidelines: Exploring the English Model*. Oxford: Oxford University Press, pp. 1–14.
- Baffy, M. and Marsters, A. 2015. The constructed voice in courtroom cross-examination. *The International Journal of Speech, Language and the Law* 22(2), pp. 143–165.
- Bakhtin, M. 1981. *The Dialogic Imagination: Four Essays*. Austin: The University of Texas Press.
- Myskow, G. 2015. *Evaluative Language in History Textbooks*. PhD Thesis, UK: University of Birmingham.
- Bartley, L. 2007. *Transitivity, no Stone Left Unturned: Introducing Flexibility and Granularity into the Framework for the Analysis of Courtroom Discourse*. PhD Thesis, Spain: University of Granada.
- Bartley, L. 2020. ‘Please make your verdict speak the truth’: Insights from an Appraisal analysis of the closing arguments from a rape trial. *Text & Talk*, Ahead of print.
- Baum, L. 2006. *Judges and their Audiences: A Perspective on Judicial Behavior*. NJ:

Princeton University Press.

- Bednarek, M. 2006. *Evaluation in Media Discourse: Analysis of a Newspaper Corpus*. London: Continuum.
- Berg, B. 2007. *Qualitative Research Methods for the Social Sciences*. London: Pearson.
- Blommaert, J. 2005. *Discourse: A Critical Introduction*. Cambridge: Cambridge University Press.
- Bouhours, B. and Daly, K. 2007. Youth sex offenders in court: An analysis of judicial sentencing remarks. *Punishment & Society* 9(4), pp. 371–394.
- Brown, G. 2017. *Criminal Sentencing as Practical Wisdom*. Oxford: Hart Publishing.
- Bybee, J. and Fleischman, S. 1995. *Modality in Grammar and Discourse*. Amsterdam: John Benjamins.
- Chen, E. 2014. In the furtherance of justice, injustice, or both? A multilevel analysis of courtroom context and the implementation of three strikes. *Justice Quarterly* 31(2), pp. 257–286.
- Chen, R. and Liu, H. 2016. A discursive analytical path of appellate court opinions: Evaluation of ideological positioning in *Bush v. Gore* 2000. *Text & Talk* 36(4), pp. 391–415.
- Cheng, L. 2012. Attribution and judicial control in Chinese court judgments: A corpus-based study. *The International Journal of Speech Language and the Law* 19(1), pp. 27–49.
- Cheng, L., Cheng, W. and Li, J. 2015. Jury Instructions in Hong Kong: A Gricean Perspective. *The International Journal of Speech Language and the Law* 22(1), pp. 35–56.
- Coffin, C. 2002. The voices of history: Theorizing the interpersonal semantics of historical discourses. *Text* 22(4), pp. 503–528.
- Coffin, C. and O'Halloran, K. 2005. Finding the global groove: Theorising and analysing dynamic reader positioning using APPRAISAL, corpus, and a concordancer. *Critical Discourse Studies* 2(2), pp. 1–21.
- Coffin, C. and O'Halloran, K. 2006. The role of appraisal and corpora in detecting covert evaluation. *Functions of Language* 13(1), pp. 77–110.
- Conley, J., O'Barr, W. and Riner, R. 2019. *Just Words: Law, Language and Power*. 3rd ed. London: The University of Chicago Press.
- Conrad, S. and Biber, D. 2000. Adverbial marking of stance in speech and writing. In: Hunston, S. and Thompson, G. eds. *Evaluation in Text: Authorial Stance and the Construction of Discourse*. Oxford: Oxford University Press, pp. 56–73.

- Dai, X. 2020. Legal constraints and judicial discretion in sentencing practice: Appraisal analysis of the sentencing remarks for Terri Palmer. *Text & Talk* 40(3), pp. 269-292.
- Cotterill, J. 2003. *Language and Power in Court: A Linguistic Analysis of the O.J. Simpson Trial*. Basingstoke: Palgrave Macmillan.
- Coulthard, M. and Johnson, A. eds. 2010. *The Routledge Handbook of Forensic Linguistics*. London: Routledge.
- Easton, S. and Piper, C. 2016. *Sentencing and Punishment: The Quest for Justice*. 4th ed. Oxford: Oxford University Press.
- Ehrlich, S. 2010. The discourse of rape trial. In: Coulthard, M. and Johnson, A. eds. *The Routledge Handbook of Forensic Linguistics*. London: Routledge, pp. 265–280.
- Ethelston, G. 2009. Appraisal in evangelical sermons: The projection and functions of misguided voices. *Text & Talk* 29(6), pp. 683–704.
- Fairclough, N. 1989. *Language and Power*. Harlow: Longman.
- Fitz-Gibbon, K. 2013. The mandatory life sentence for murder: An argument for judicial discretion in England. *Criminology & Criminal Justice* 13(5), pp. 506–525.
- Frieberg, A. 1995. Sentencing and punishment in Australia. *Overcrowded Times* 6(1), pp. 1–11.
- Fuoli, M. 2012. Assessing social responsibility: A quantitative analysis of appraisal in BP's and IKEA's social reports. *Discourse & Communication* 6(1), pp. 55–81.
- Gales, T. 2009. 'Diversity' as enacted in US immigration politics and law: A corpus-based approach. *Discourse & Society* 20(2), pp. 223–240.
- Gales, T. 2011. Identifying interpersonal stance in threatening discourse: An appraisal analysis. *Discourse Studies* 13(1), pp. 27-46.
- Hall, G., Whittle, M. and Field, C. 2016. Themes in judges' sentencing remarks for male and female domestic murderers. *Psychiatry, Psychology and Law* 23(3), pp. 395-412.
- Hall, M. 2016. *The Lived Sentence: Rethinking Sentencing, Risk and Rehabilitation*. Basingstoke: Palgrave Macmillan.
- Halliday, M. 1994. *An Introduction to Functional Grammar*. 2nd ed. London: Edward Arnold.
- Halliday, M. 2002. Modes of meaning and modes of expression: Types of grammatical structure, and their determination by different semantic functions. In Webster, J. ed. *On Grammar: Collected Works of M.A.K. Halliday*. London: Continuum, pp. 196-218.

- Halliday, M. and Matthiessen, C. 1999. *Construing Experience through Meaning: A Language-based Approach to Cognition*. London: Cassell.
- Halliday, M. and Matthiessen, C. 2014. *An Introduction to Functional Grammar*. 3rd ed. London and New York: Routledge.
- Heffer, C. 2005. *The Language of Jury Trial: A Corpus-aided Analysis of Legal-lay Discourse*. Basingstoke: Palgrave Macmillan.
- Heffer, C. 2006. Beyond 'reasonable doubt': The criminal standard of proof instruction as communicative act. *The International Journal of Speech, Language and the Law* 13(2), pp. 159-188.
- Heffer, C. 2008. Judgement in court: Evaluating participants in courtroom discourse. In: Kredens, K. and Goźdz-Roszkowski, S. eds. *Language and the Law: International Outlooks. Lodz Studies in Language series*. New York: Peter Lang, pp. 145–179.
- Heffer, C. 2010. Narrative in the trial: Constructing crime stories in court. In: Coulthard, M. and Johnson, A. eds. *The Routledge Handbook of Forensic Linguistics*. Abingdon: Routledge, pp. 199-217.
- Heffer, C. 2018. Narrative practices and voice in court. In: Visconti, J. ed. *Handbook of Communication in the Legal Sphere*. Berlin: De Gruyter Mouton, pp. 256–284.
- Heydon, G. 2018. Topic management in police-suspect interviewing. In: Visconti, J. ed. *Handbook of Communication in the Legal Sphere*. Berlin: De Gruyter Mouton, pp. 201–218.
- Hoey, M. 1997. From concordance to text structure: New uses for computer corpora. In: Melia, J. and Lewandoska, B. eds. *Proceeding of PALC 97*. Lodz: Lodz University Press, pp. 2–23.
- Hogarth, J. 1971. *Sentencing as a Human Process*. Toronto: University of Toronto Press.
- Hommerberg, C. 2011. *Persuasiveness in the Discourse of Wine: The Rhetoric of Robert Parker*. PhD Thesis, Sweden: Lund University.
- Hommerberg, C. 2015. Bringing consumption reviews into relief by combining Appraisal and argumentation analysis. *Text & Talk* 35(2), pp. 155–175.
- Hood, S. 2004. *Appraising Research: Taking a Stance in Academic Writing*. PhD Thesis, Australia: University of Technology Sydney.
- Hood, S. 2006. The persuasive power of prosodies: Radiating values in academic writing. *Journal of English for Academic Purposes* 5(1), pp. 37–49.
- Hood, S. 2010. *Appraising Research: Evaluation in Academic Writing*. New York: Palgrave Macmillan.

- Hough, M., Jacobson, J. and Millie, A. 2003. *The Decision to Imprison-Sentencing and the Prison Population*. London: Prison Reform Trust.
- Huan, C. 2018. Evaluating news actors in Chinese hard news reporting: Language patterns and social values. *Text & Talk* 38(1), pp. 23–45.
- Hunston, S. 2000. Evaluation and the planes of discourse: Status and value in persuasive texts. In: Hunston, S. and Thompson, G. eds. *Evaluation in Text: Authorial Stance and the Construction of Discourse*. Oxford: Oxford University Press, pp. 177–206.
- Hunston, S. and Thompson, G. eds. 2000. *Evaluation in Text: Authorial Stance and the Construction of Discourse*. Oxford: Oxford University Press.
- Hutton, N. 2006. Sentencing as a social practice. In: Armstrong, S. and McAra, L. eds. *Perspectives on Punishment: The Contours of Control*. Oxford: Oxford University Press, pp. 155–174.
- Hutton, N. 2008. Institutional mechanisms for incorporating the public. In: Freiberg, A. and Gelb, K. eds. *Penal Populism, Sentencing Councils and Sentencing Policy*. Devon: Willan Publishing, pp. 138–147.
- Hutton, N. 2013. The definitive guideline on assault offences: The performance of justice. In: Ashworth, A. and Roberts, J. eds. *Sentencing Guidelines: Exploring the English Model*. Oxford: Oxford University Press, pp. 86–103.
- Hutton, N. and Tata, C. 2000. The judicial role in the ‘balance’ between two visions of justice in sentencing. In: Doran, S. and Jackson, J. eds. *The Judicial Role in Criminal Proceedings*. Oxford: Hart Publishing, pp. 307–322.
- Hyland, K. 1998. *Hedging in Scientific Research Articles*. Amsterdam: Benjamins.
- Hyland, K. 2000. ‘It might be suggested that...’: Academic hedging in student writing. *Australian Review of Applied Linguistics* S(16), pp. 83–97.
- Hyland, K. 2005. Stance and engagement: A model of interaction in academic discourse. *Discourse Studies* 7(2), pp. 173–192.
- Hyland, K. 2019. *Metadiscourse: Exploring Interaction in Writing*. London: Bloomsbury Publishing.
- Jacobson, J. and Hough, M. 2011. Personal mitigation in England and Wales. In: Roberts, J. ed. *Mitigation and Aggravation at Sentencing*. Cambridge: Cambridge University Press, pp. 146–167.
- Jessen, M. 2010. The forensic phonetician: Forensic speaker identification by experts. In: Coulthard, M. and Johnson, A. eds. *The Routledge Handbook of Forensic Linguistics*. London: Routledge, pp. 378–394.
- Johnson, A. and Coulthard, M. 2010. Introduction: Current debates in forensic linguistics. In: Coulthard, M. and Johnson, A. eds. *The Routledge Handbook of Forensic Linguistics*. London: Routledge, pp. 1–15.

- Johnson, B. 2005. Contextual disparities in guidelines departures: Courtroom social contexts, guidelines compliance, and extralegal disparities in criminal sentencing. *Criminology* 43(3), pp. 761–796.
- Johnston, E. and Smith, T. 2018. *Criminal Procedure and Punishment*. Salford: Hall and Stott Publishing Ltd.
- Jullian, P. 2011. Appraising through someone else's words: The evaluative power of quotations in news reports. *Discourse & Society* 22(6), pp. 766–780.
- Kaktinš, L. 2014. Appraising plagiarism policies of Australian universities. *Text & Talk* 34(2), pp. 117–141.
- Körner, K. 2000. *Negotiating Authority: The Logogenesis of Dialogue in Common Law Judgements*. PhD Thesis, Australia: University of Sydney.
- Krasnostein, S. and Freiberg, A. 2013. Pursuing consistency in an individualistic sentencing framework: If you know where you're going, how do you know when you've got there. *Law and Contemporary Problems* 76(1), pp. 265–288.
- Kritzer, H. 2007. Toward a theorization of craft. *Social & Legal Studies* 16(3), pp. 321–340.
- Lakoff, G. 2002. *Moral Politics: How Liberals and Conservatives Think*. Chicago: Chicago University Press.
- Law, J. ed. 2018. Judgment. *A dictionary of law*. Oxford: Oxford University Press.
- Le Sueur, A. 2006. Developing mechanisms for judicial accountability in the UK. In: Canivet, G., Andenas, M. and Fairgrieve, D. eds. *Independence, Accountability, and the Judiciary*. London: British Institute of International and Comparative Law, pp. 49–76.
- Lee, S. 2006. *The Use of Interpersonal Resources in Argumentative/Persuasive Essays by East-Asian ESL and Australian Tertiary Students*. PhD Thesis, Australia: The University of Sydney.
- Lee, S. 2007. An application of multiple coding for the analysis of ATTITUDE in an academic argument. *Linguistics and the Human Sciences* 3(2), pp. 165–190.
- Lee, S. 2008. An integrative framework for the analyses of argumentative/persuasive essays from an interpersonal perspective. *Text & Talk* 28(2), pp. 239–270.
- Lee, S. 2010. Attribution in high-and low-graded persuasive essays by tertiary students. *Functions of Language* 17(2), pp. 181–206.
- Lee, S. 2015. Evaluative stances in persuasive essays by undergraduate students: Focusing on appreciation resources. *Text & Talk* 35(1), pp. 49–76.
- Leung, J. 2012. Judicial discourse in Cantonese courtrooms in postcolonial Hong Kong: The judge as a godfather, scholar, educator and scolding parent. *The International Journal of Speech Language and the Law* 19(2), pp. 239–261.

- Lovegrove, A. 1999. Statistical information system as a means to consistency and rationality in sentencing. *International Journal of Law and Information Technology* 7(1), pp. 31–72.
- Lowenstein, M. 2016. Emotive riot sentencing remarks: Qualitative analysis of the English judicial perspective. *Internet Journal of Criminology* (Jan). Available at: www.internetjournalofcriminology.com [Accessed: 20 December 2019]
- Macken-Horarik, M. 2003. Envoi: Intractable issues in appraisal analysis ? *Text* 23(2), pp. 313–319.
- Malleson, K. 1999. *The New Judiciary: The Effects of Expansion and Activism*. London: Routledge.
- Manson, A. 2011. The search for principles of mitigation: Integrating cultural demands. In: Roberts, J. ed. *Mitigation and Aggravation at Sentencing*. Cambridge: Cambridge University Press, pp. 40–59.
- Martin, J. 1992. *English Text: System and Structure*. Amsterdam: Benjamins.
- Martin, J. 2000. Beyond exchange: Appraisal systems in English. In: Wang, Z. ed. *Discourse Semantics*. Shanghai: Shanghai Jiao Tong University Press
- Martin, J. 2003. Introduction. *Text* 23(2), pp. 171–181.
- Martin, J. 2004. Mourning: How we get aligned. *Discourse & Society* 15(2–3), pp. 321–344.
- Martin, J. and Rose, D. 2003. *Working with Discourse: Meaning beyond the Clause*. London: Continuum.
- Martin, J. and White, P. 2005. *The Language of Evaluation: Appraisal in English*. Basingstoke: Palgrave Macmillan.
- Matoesian, G. 2001. *Law and the Language of Identity: Discourse in the William Kennedy Smith Rape Trial*. Oxford: Oxford University Press.
- Mazzi, D. 2010. “This argument fails for two reasons...”: A linguistic analysis of judicial evaluation strategies in US Supreme Court judgments. *International Journal for the Semiotics of Law* 23(4), pp. 373–385.
- Menard, R. 2016. Doing equality and difference: Representation and alignment in Finnish identification. *Text & Talk* 36(6), pp. 733–755.
- Miller, D. 2002. Multiple judicial opinions as specialized sites of engagement: Conflicting paradigms of valuation and legitimation in *Bush v. Gore* 2000. In: Gotti, M., Heller, D. and Dossena, M. eds. *Conflict and Negotiation in Specialized Texts*. Bern: Peter Lang, pp. 119–141.
- Miller, D. 2004. ‘...to meet our common challenge’: ENGAGEMENT strategies of alignment and alienation in current US international discourse. In: Gotti, M. and Candlin, C. eds. *Textus: English Studies in Italy*, XVII(1), pp. 39–62.

- Miller, D. 2016. On negotiating the hurdles of corpus-assisted appraisal analysis in verbal art. In: Gardner, S. and Alsop, S. eds. *Systemic Functional Linguistics in the Digital Age*. Sheffield: Equinox, pp. 211–228.
- Miller, D. and Johnson, J. 2009. "Strict vs. nurturant parents? A corpus-assisted study of congressional positioning on the war in Iraq. In: Morley, J. and Bayley, P. eds. *Corpus Assisted Discourse Studies on the Iraq Conflict: Wording the War*. London: Routledge, pp. 34–73.
- Miller, D. and Johnson, J. 2013. 'Register-idiosyncratic' evaluative choice in Congressional debate: A corpus-assisted comparative study. In: Fontaine, L., Bartlett, T. and O'Grady, G. eds. *Systemic Functional Linguistics: Exploring Choice*. Cambridge: Cambridge University Press, pp. 432–453.
- Miller, D. and Luporini, A. 2018. Software-assisted systemic socio-semantic stylistics - Appraising tru* in J.M. Coetzee's *Foe*. In: Wegener, R., Neumann, S. and Oesterle, A. eds. *On Verbal Art: Essays in Honour of Ruqaiya Hasan*. London: Equinox, pp. 53–79.
- Miller, R., Mitchell, T. and Pessoa, S. 2014. Valued voices: Students' use of engagement in argumentative history writing. *Linguistics and Education* 28, pp. 107–120.
- Millie, A., Tomb, J. and Hough, M. 2007. Borderline sentencing: A comparison of sentencers' decision making in England and Wales, and Scotland. *Criminology & Criminal Justice* 7(3), pp. 243–267.
- Mills, J., Bonner, A. and Francis, K. 2006. The development of constructivist grounded theory. *International Journal of Qualitative Methods* 5(1), pp. 25–35.
- Mitchell, B. 2013. Sentencing guidelines for murder: From political schedule to principled guidelines. In: Ashworth, A. and Roberts, J. eds. *Sentencing Guidelines: Exploring the English Model*. Oxford: Oxford University Press, pp. 52–70.
- Mitchell, B. and Roberts, J. 2012a. *Exploring the Mandatory Life Sentence for Murder*. Oxford: Hart Publishing.
- Mitchell, B. and Roberts, J. 2012b. Sentencing for murder: Exploring public knowledge and public opinion in England and Wales. *The British Journal of Criminology* 52(1), pp. 141–158.
- Moorhead, R. and Cowan, D. 2007. Judgecraft: An introduction. *Social & Legal Studies* 16(3), pp. 315–320.
- Myskow, G. 2015. *Evaluative Language in History Textbooks*. PhD Thesis, UK: University of Birmingham.
- Myskow, G. 2017. Surveying the historical landscape: The evaluative voice of history textbooks. *Functional Linguistics* 4(7), pp. 1–15.
- Myskow, G. 2018. Appraisal in history: Construals of significance, fortune, and status.

Linguistics and the Human Sciences 12(1), pp. 1–24.

Nelson, S. 2013. *Directing Jurors in England and Wales: The Effect of Narrativisation on Comprehension*. PhD Thesis, UK: Cardiff University.

Ng, E. 2015. Judges' intervention in witness examination as a cause of omissions in interpretation in the Hong Kong courtroom. *The International Journal of Speech Language and the Law* 22(2), pp. 203–227.

Neuman, W. 2006. *Social Research Methods: Qualitative and Quantitative Approaches*. Boston: Allyn and Bacon.

O'Donnell, M. 2011. *CorpusTool*. Available at:
<http://www.wagsoft.com/CorpusTool/index.html> [Accessed: 16 September 2019].

O'Donnell, M. 2014. Exploring identity through appraisal analysis: A corpus annotation methodology. *Linguistics and the Human Sciences* 9(1), pp. 95–116.

Padfield, N. 2013. Exploring the success of sentencing guidelines. In: Ashworth, A. and Roberts, J. eds. *Sentencing Guidelines: Exploring the English Model*. Oxford: Oxford University Press, pp. 31–51.

Page, R. 2003. An analysis of APPRAISAL in childbirth narratives with special consideration of gender and storytelling style. *Text* 23(2), pp. 211–237.

Palmer, F. 1986. *Mood and Modality*. Cambridge: Cambridge University Press.

Palmer, F. 1990. *Modality and the English Modals*. 2nd ed. London: Longman.

Perkins, M. 1983. *Modal Expressions in English*. London: Burns & Oates.

Pina-Sánchez, J., Brunton-Smith, I. and Li, G. 2018. Mind the step: A more insightful and robust analysis of the sentencing process in England and Wales under the new sentencing guidelines. *Criminology & Criminal Justice*, pp. 1–34.

Pina-Sanchez, J. and Grech, D. 2018. Location and sentencing: To what extent do contextual factors explain between court disparities? *The British Journal of Criminology* 58(3), pp. 529–549.

Potts, A. and Weare, S. 2018. Mother, monster, Mrs, I: A critical evaluation of gendered naming strategies in English sentencing remarks of women who kill. *International Journal for the Semiotics of Law* 31, pp. 21–52.

Pounds, G. 2010. 'Mind you stay on the path!' The representation of the parent-child relationship in stories for children. *Critical Discourse Studies* 7(2), pp. 143–156.

Pounds, G. 2011. "This property offers much character and charm": Evaluation in the discourse of online property advertising. *Text & Talk* 31(2), pp. 195–220.

Roberts, J. 2013. Sentencing guideline in England and Wales: Recent developments and emerging issues. *Law and Contemporary Problems* 76(1), pp. 1–26.

- Roberts, J., Pina-Sanchez, J. and Marder, I. 2018. Individualisation at sentencing: The effects of guidelines and “preferred” numbers. *Criminal Law Review* 2, pp. 123–136.
- Roberts, J. and Ashworth, A. 2016. The evolution of sentencing policy and practice in England and Wales. *Crime and Justice* 45(1), pp. 307–358.
- Roberts, J. and Rafferty, A. 2011. Sentencing guidelines in England and Wales: Exploring the new format. *Criminal Law Review* (9), pp. 681–689.
- Roberts, J., Hough, M., Jacobson, J. and Moon, N. 2009. Public attitudes to sentencing purposes and sentencing factors: An empirical analysis. *Criminal Law Review* November, pp. 771–782.
- Roberts, J. and Hough, M. 2005. *Understanding Public Attitudes to Criminal Justice*. Maidenhead: Open University Press.
- Robinson, P. 2007. *How Psychology is Changing the Punishment Theory Debate*. Philadelphia: University of Pennsylvania Law School.
- Robinson, P. 2008. *Distributive Principles of Criminal Law*. Oxford: Oxford University Press.
- Rock, F. 2010. Collecting oral evidence: The police, the public and the written word. In: Coulthard, M. and Johnson, A. eds. *The Routledge Handbook of Forensic Linguistics*. London: Routledge, pp. 126–138.
- The Sentencing Guidelines Council. 2004. *The Overarching Principles: Seriousness*.
- Shapland, J. 2011. Personal mitigation and assumptions about offending and desistance. In: Roberts, J. ed. *Mitigation and Aggravation at Sentencing*. Cambridge: Cambridge University Press, pp. 60–80.
- Shetreet, S. and Turenne, S. 2013. *Judges on Trial: The Independence and Accountability of the English Judiciary*. 2nd ed. Cambridge: Cambridge University Press.
- Shuy, R. 2006. *Linguistics in the Courtroom*. Oxford: Oxford University Press.
- Sinclair, J. 1981. Planes of discourse. In: Rizvi, S. ed. *The Two-fold Voice: Essays in Honour of Ramesh Mohan*. Salzburg: University of Salzburg, pp. 70–89.
- Smith, D. 2014. Wider and deeper: The future of criminology in Europe. *European Journal of Criminology* 11(1), pp. 3–22.
- Solan, L. 2010. The forensic linguist: The expert linguist meets the adversarial system. In: Coulthard, M. and Johnson, A. eds. *The Routledge Handbook of Forensic Linguistics*. London: Routledge, pp. 378–394.
- Solan, L. and Tiersma, P. 2012. Introduction. In: Tiersma, P. and Solan, L. eds. *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press, pp. 1–9.

- Stewart, D. 2010. *Semantic Prosody: A Critical Evaluation*. London: Routledge.
- Stubbs, M. 2001. *Words and Phrases: Corpus Studies of Lexical Semantics*. Oxford: Blackwell Publishers Ltd.
- Stygall, G. 1994. *Trial Language: Differential Discourse Processing and Discursive Formation*. Amsterdam: John Benjamins Publishing Company.
- Su, H. and Hunston, S. 2019. Adjective complementation patterns and judgement: Aligning lexical-grammatical and discourse-semantic approaches in appraisal research. *Text & Talk* 39(3), pp. 415–439.
- Swain, E. 2010. Getting engaged: Dialogistic positioning in novice academic discussion writing. In: Swain, E. ed. *Thresholds and Potentialities of Systemic Functional Linguistics: Multilingual, Multimodal and other Specialised Discourses*. Trieste: Edizioni Università di Trieste, pp. 291–317.
- Tata, C. 1997. Conceptions and representations of sentencing decision process. *Journal of Law and Society* 24(3), pp. 395–420.
- Tata, C. 2002. Accountability for the sentencing decision process - towards a new understanding. In: Tata, C. and Hutton, N. eds. *Sentencing and Society*. Farnham: Ashgate, pp. 399–428.
- Tata, C. 2007. Sentencing as craftwork and the binary epistemologies of the discretionary decision process. *Social & Legal Studies* 16(3), pp. 425–447.
- Tata, C. and Hutton, N. 1998. What ‘rules’ in sentencing? Consistency and disparity in the absence of ‘rules’. *International Journal of the Sociology of Law* 26, pp. 339–364.
- Taylor, L. 1993. Judges and sentencing. *Journal of the Law Society of Scotland* 129(April), pp. 129–131.
- Thomas, D. 2002. The sentencing process. In: McConville, M. and Wilson, G. eds. *The Handbook of the Criminal Justice Process*. Oxford: Oxford University Press, pp. 473–486.
- Thompson, G. 2014. Affect and emotion, target-value mismatches and Russian dolls: Refining the appraisal model. In: Thompson, G. and Alba-Juez, L. eds. *Evaluation in Context*. Amsterdam: John Benjamins Publishing Company, pp. 47–66.
- Thompson, G. and Alba-Juez, L. eds. 2014. *Evaluation in Context*. Amsterdam: John Benjamins Publishing Company.
- Thompson, G. and Hunston, S. 2000. Evaluation: An introduction. In: Hunston, S. and Thompson, G. eds. *Evaluation in Text: Authorial Stance and the Construction of Discourse*. Oxford: Oxford University Press, pp. 1–27.
- Tiersma, P. and Solan, L. eds. 2012. *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press.

- Tombs, J. and Jagger, E. 2006. Denying responsibility: Sentencers' accounts of their decisions to imprison. *British Journal of Criminology* 46(5), pp. 803–821.
- Tracy, K. and Parks, R. 2012. 'Tough questioning' as enactment of ideology in judicial conduct: Marriage law appeals in seven US court. *The International Journal of Speech, Language and the Law* 19(1), pp. 1-25.
- Ulmer, J. and Johnson, B. 2004. Sentencing in context: A multilevel analysis. *Criminology* 42(1), pp. 137–178.
- van Leeuwen, T. 2000. The construction of purpose in discourse. In: Sarangi, S. and Coulthard, M. eds. *Discourse and Social Life*. London: Pearson Education Limited, pp. 66–81.
- van Leeuwen, T. 2016. Discourse as the recontextualization of social practice - guide. In: Wodak, R. and Meyer, M. eds. *Methods of Critical Discourse Studies*. 3rd ed. London: Sage, pp. 137–153.
- Vass, H. 2017. Lexical verb hedging in legal discourse: The case of law journal articles and Supreme Court majority and dissenting opinions. *English for Specific Purposes* 48, pp. 17-31.
- White, P. 1998. *Telling Media Tales: The News Story as Rhetoric*. PhD thesis, Australia: University of Sydney.
- White, P. 2006. Evaluative semantics and ideological positioning in journalistic discourse – a new framework for analysis. In: Lassen, I. ed. *Mediating Ideology in Text and Image: Ten Critical Studies*. Amsterdam: Benjamins, pp. 37–67.
- Whittle, M. and Hall, G. 2018a. Intimate partner homicide: Themes in judges' sentencing remarks. *Psychiatry, Psychology and Law* 25(6), pp. 922–943.
- Whittle, M. and Hall, G. 2018b. The use of alcohol and/or drugs in intimate partner homicide: Themes in judges' sentencing remarks. *Psychiatry, Psychology and Law* 25(3), pp. 404–416.
- Woodhouse, D. 2006. Judicial independence and accountability within the United Kingdom's new constitutional settlement. In: Canivet, G., Andenas, M. and Fairgrieve, D. eds. *Independence, Accountability, and the Judiciary*. London: The British Institute of International and Comparative Law
- Xu, Y. 2015. Dancing with shackles: Judge's engagement in court conciliation of Chinese civil cases. *International Journal for the Semiotics of Law* 28(1), pp. 209-226.

Appendix I: The six sentencing remarks¹

TEXT 1

Preston Crown Court

19 February 2016

R -v- Terri-Marie Palmer

Sentencing remarks of Mr Justice Kerr

1 1. Ms Palmer, please remain seated for the moment. The jury has convicted you of
2 murdering Damon Searson. Just after midnight on 14th August last year, you stabbed
3 him to the heart with a single thrust using a kitchen knife you picked up.

4 2. This is a distressing, indeed tragic case. You did not mean him to die, but you meant
5 to cause him really serious injury. You took his life, yet you loved him. You have taken
6 him from his family forever.

7 3. Your relationship with Damon was destructive. You meant to help him overcome
8 his demons, drink and drugs. You tried to help him become a better person and make
9 something of his life. You wanted both of you to be happy.

10 4. Many murders are committed by far worse people than you. Until this happened, no
11 one would have thought of you as an evil person. Yet what you did to Damon Searson
12 was evil, during that one terrible moment in an otherwise blameless and productive
13 life and in accordance with the jury's verdict, you must answer to the law for it.

14 5. For this offence of murder, the sentence I am required by law to pass is one of life
15 imprisonment.

16 6. I have to determine the minimum term of imprisonment which you must serve
17 before being eligible to apply to the Parole Board to be considered for

¹ Some judges mark paragraphs of their sentencing remarks in serial numbers, and some do not. I keep their original formatting in the appendix.

18 7. To do so, I have to consider the provisions of Schedule 21 to the Criminal Justice
19 Act 2003 regarding the seriousness of the offence, to determine the minimum term of
20 that life sentence that you must serve as the punishment and deterrent term of the
21 sentence, before consideration can be given to your release.

22 8. A minimum term is not the same as an ordinary sentence of imprisonment where a
23 defendant will normally serve only half of that sentence before being released on
24 licence. A minimum term is the term that must be served before your case may be
25 referred to the Parole Board for a consideration of your release upon licence. It means
26 the actual length of time that you will spend in prison before that process can take
27 place.

28 9. Whether or not you will be released after the minimum term has been served will
29 be for the Parole Board to consider at the end of the minimum term. The Parole Board
30 will not decide that you can be released at that stage, unless it is satisfied that you are
31 not a risk to the public, and are ready for release into society.

32 10. If you are released at that time, or any later time, you will be released on licence
33 with specific conditions attached, and may be recalled to continue serving your life
34 sentence if you breach any licence conditions that are imposed upon you.

35 11. You did not take the knife to the scene of the murder. It was already there. I
36 therefore take the statutory starting point for the minimum term as 15 years.

37 12. The case has certain aggravating features:

38 i. The use of a knife. This is always an aggravating feature

39 ii. The stabbing took place in Mr Searson's own home

40 iii. You must have come upon him unawares. He was unable to defend himself. There
41 were no significant defensive injuries. He was therefore a vulnerable victim.

42 iv. You told implausible lies to a lady from the ambulance service and to the police,
43 including in a prepared statement after Damon had died.

44 13. There are, however, also mitigating features in this case, to which your counsel,
45 Mr Trafford QC, has eloquently drawn my attention during the trial:

46 i. The crime was completely unpremeditated and you regretted it immediately. I accept
47 that you were as horrified as everyone else about what had just happened.

48 ii. You did not intend to kill him. The Crown accepted that, and so do I. You did,
49 however, intend to do him really serious injury. That is the jury's verdict.

50 iii. I am satisfied that you formed the intention to do serious harm to Damon only
51 moments before carrying it out. I do not interpret the Facebook messages relied upon
52 by the Crown as evidence of premeditation.

53 iv. Although this was a murder by stabbing with a knife, you are not a person who
54 carries knives, as so many knife murderers do. You picked up the knife on impulse, on
55 the spur of the moment.

56 v. Your love for Damon was deep and moved by a spirit of kindness and generosity.
57 Your conduct towards him did you great credit until this happened.

58 vi. You are not to blame for failing to realise that your attempt to save him from himself
59 was misguided, as hindsight shows. You were too young and in love to understand that.
60 You meant well for him right up until seconds before you took his life.

61 vii. You had great difficulties to endure because of Damon's problems with alcohol
62 and drugs, and his shortcomings as a boyfriend. This does not in any way absolve you.
63 This is not a case of loss of control; but it is a mitigating feature.

64 viii. You did all you could to save Damon. You called the emergency services and tried
65 to stop the blood with a quilt, following the advice from the ambulance service.

66 ix. Finally, as I have said, you were at the time a very young woman, only 22 years
67 old. You are now 23. Your age is a factor that I take into account.

68 14. These aggravating and mitigating features must be balanced against each other,
69 and weighed in the scales by the court when considering whether to increase, or reduce,
70 or adopt, the starting point of 15 years as the minimum term you must serve.

71 15. Balancing the aggravating and mitigating features of this very sad case, I find that,
72 unusually, even though this is a case of murder by stabbing, the mitigating features
73 outweigh the aggravating features, so that I move downwards rather than upwards

74 from the 15 year starting point.

75 16. I do not do so lightly, but only after very careful reflection. I know what a scourge
76 knife crime is, and I know that sentences in cases of murder by stabbing normally
77 require minimum terms well above the 15 year starting point.

78 17. Because of the unusual features of this case, which emerged in detail from the
79 evidence called by the Crown during the trial, I think that this is a case where the
80 minimum term should be less than the starting point.

81 18. I take into account that you have two previous cautions for relatively minor
82 offences involving violence. They do not affect me much one way or the other; you
83 were very young, and the offences pale into insignificance beside this one.

84 19. Stand up please, Ms Palmer. The sentence of the court for the murder of Damon
85 Searson is life imprisonment, with a minimum term to be served of 12 years, less 178
86 days spent on remand in custody awaiting trial.

87 20. The statutory charges apply.

TEXT 2

R V COLIN CAPP

SENTENCING REMARKS

OF THE HONOURABLE MRS JUSTICE CARR DBE

1 Colin Capp, you are aged 23 years old. You now stand convicted by a unanimous jury
2 of the murder of Darren Thomas on 6th March 2014.

3 On 10th July 2012 you were convicted of arson being reckless as to whether life would
4 be endangered on 4th July 2012, contrary to s. 1 of the Criminal Damage Act 1971.
5 After mental health assessment, you were sentenced to 32 months' detention in a
6 Young Offenders' Institution. The circumstances of that offence were that you set light
7 to 7 Wyfan Place, Cardiff, where you were staying at the time. After an argument with
8 your then girlfriend you sprayed lighter fluid around your first floor room which you
9 then set alight. You were released on licence but recalled to HMP Cardiff on 7th
10 February 2014.

11 It was in those circumstances that you came to be sharing a cell with Darren Thomas
12 on the night of 5th and 6th March 2014. Darren Thomas was a vulnerable 45 year old,
13 essentially a vagrant not coping with life on the outside, and who was serving a 12
14 week custodial sentence for breach of an anti-social behaviour order as a result of
15 begging in Cardiff City Centre.

16 You had been assessed as at risk of self-harm and were on an Assessment Care in
17 Custody Teamwork plan and to be the subject of hourly checks as a result. You were
18 both locked up in your cell at about 7pm, with you on the top and Mr Thomas on the
19 bottom bunk. In the early hours of 6th March 2014, including at 0230 hours, you were
20 noted to be sitting on your bed.

21 At 0325 am you rang the internal alarm requesting assistance. Prison staff attended.
22 Mr Thomas was found lying face down on the floor with a blanket partly over him
23 with fatal injuries. Over his head was a plastic bag which had been pulled tight and
24 screwed up at the back of the head. A bed sheet was also around his neck. Mr Thomas
25 also had some 100 puncture marks on the left hand side of his neck which you had
26 caused with a plastic biro through the plastic bag. The cause of Mr Thomas' death was

27 strangulation or suffocation or a combination of both.

28 You had waited for Mr Thomas to fall asleep, and then, for whatever reason, chose to
29 kill him. I have no doubt that you intended to kill him. This was a concerted, sustained
30 and vicious attack. You have shown no remorse.

31 The court has heard a victim impact statement from Ms Susan Davies, the mother of
32 Mr Thomas. She describes how he was a much loved son, stepson and brother whose
33 death has caused deep anguish to his family and friends. Mr Thomas was intelligent
34 and articulate, and not violent in any way. Your lack of remorse has prevented the
35 family from achieving closure, despite extensive counselling.

36 You have a complicated background. You were born in Inverness. You suffered
37 considerable adversity during your childhood due to disruption of family life, rejection
38 by your parents, reception into care and the suicide of your elder half-brother when
39 you were aged 14 years. You say that you were the victim of physical and sexual abuse
40 when you were a young boy. You were in and out of care. You left school with no
41 qualifications but managed to achieve short periods of work before coming to Cardiff.

42 You have a history of alcohol and drug abuse and a history of previous offending :
43 apart from a caution in 2006, you were convicted in 2011 of sending offensive
44 messages (and sentenced to detention in a Young Offenders' Institution) and for
45 possession of a class B controlled drug; in 2012 you were convicted of criminal
46 damage and given a conditional discharge. None of those matters are of any real
47 significance in the present context, but your conviction for arson is of course material.

48 The court has also heard medical evidence about you from two consultant forensic
49 psychiatrists, Dr Melanie Croy and Dr Philip Joseph. It is clear in my judgment that
50 you suffer from a mental disorder, namely a long standing personality disorder with
51 antisocial, psychopathic and borderline features. A personality disorder is a
52 longstanding developmental condition in which, due to adverse life experiences,
53 personality development is disordered. You suffer from emotional instability, leading
54 to difficulty in controlling your emotions, resulting in self-harm and aggressive acts
55 towards others.

56 By way of aggravation, there was here a significant degree of premeditation. You sat

57 on your bed for a couple of hours contemplating your actions. Mr Thomas was a
58 vulnerable man whom you attacked in a confined environment when he was
59 defenceless in his sleep. The fact that you committed this offence whilst already
60 serving a custodial sentence for a serious offence is an aggravating factor.

61 By way of mitigation, you are a young man with a troubled and difficult past, as
62 already indicated. Whilst your criminal responsibility was not substantially diminished
63 as a result of mental health problems, you do have a longstanding personality disorder.
64 This lowers your degree of culpability, but I assess your culpability as nevertheless
65 substantial. You knew what you were doing and that it was very wrong and you could
66 have prevented or stopped your actions.

67 I am obliged by law to sentence you to imprisonment for life on the count of murder
68 of which you now stand convicted. I then have regard to Schedule 21 of the Criminal
69 Justice Act 2003.

70 The appropriate starting point in determining the minimum term under Schedule 21 of
71 the Criminal Justice Act 2003, not to be applied mechanistically, is 15 years.

72 Having regard to all the aggravating features and all the mitigating features in your
73 case, I consider an appropriate minimum term to be 16 years. I therefore fix the
74 minimum term which you will serve in custody, before the Parole Board may consider
75 your possible release, at 16 years.

76 In my judgment this minimum term accurately reflects the seriousness of the offence
77 taking account of the statutory starting point, all relevant aggravating and mitigating
78 factors.

79 It is important that you – and everyone concerned with this case – should understand
80 what this in fact means. The minimum term is not a fixed term after which you will
81 automatically be released but the minimum time that you will spend in custody before
82 your case can be considered by the Parole Board. It will be for the Parole Board to say
83 at that time whether or not you will be released. If it remains necessary for public
84 protection, you will continue to be detained after that date. If and when you are
85 released you will be subject to licence and this will remain the case for the rest of your
86 life. If for any reason your licence were to be revoked, you would be recalled to prison

87 to continue to serve your life sentence in custody.

88 The victim surcharge order applies.

TEXT 3

R -V- JOHN TAYLOR

WORCESTER CROWN COURT

2 APRIL 2013

SENTENCING REMARKS OF MR JUSTICE FLAUX

1 1. John Taylor, you have been found guilty of the murder of your wife Alethea. Since
2 her body has never been found, only you know what became of her on the night of
3 18/19 January 2012 and where her body is. However, by their verdict, the jury have
4 rejected your defence that you were not responsible for her death and do not know
5 what has become of her. Despite your denial in evidence, Alethea was clearly
6 perceived by you as an obstacle to your happiness with Alison Dearden. Furthermore,
7 by 12 December 2011 Alethea had discovered that you were having an affair as you
8 well knew and, as her notebooks bear out, you were concerned that she should not
9 reveal the affair to other people. The incident at Yarpole church and her extreme upset
10 at Iris Lawson's house on the evening of 18 January 2012 followed on from earlier
11 incidents on 24 November 2011, Boxing Day 2011 and New Year's Eve 2011, when
12 her misery and agitation at your duplicity became apparent, so it must have been a
13 matter of considerable concern to you that she was going to reveal the affair. It is also
14 evident from her notebooks and from what she said to Alison Dearden on 12 December
15 and to Tina Powell on Boxing Day, that there is a dark and violent side to your
16 personality that possibly only Alethea saw.

17 2. So it was that on that night of 18/19 January, when you got home, your anger and
18 frustration with Alethea must have boiled over. You either attacked her in the bedroom
19 where her blood was found on both sides of the bedspread and duvet cover or attacked
20 her elsewhere and then put her, bleeding, on the bed. It may be that you smothered her
21 with a pillow. However, by whatever means, you killed her and then drove her body
22 away in your car under cover of darkness. As a man who has lived all his life in rural
23 Herefordshire, you were well able to find an isolated location to conceal her body,
24 where even the extensive searches by the police and other local people have not found
25 her.

26 3. The mandatory sentence for murder is life imprisonment and that is the sentence of
27 the Court upon you. However, under Section 269 and Schedule 21 of the Criminal
28 Justice Act 2003, I have to determine the minimum term you should serve before you
29 will be eligible to be considered by the Parole Board for release.

30 4. I am satisfied that in your case the features identified in paragraphs 4 and 5 of
31 Schedule 21 are absent. Accordingly, the starting point is 15 years. I emphasise though
32 that is only the starting point and I have to consider what aggravating and mitigating
33 factors there are in order to determine the appropriate minimum term. Paragraphs 10
34 and 11 of Schedule 21 set out some of the aggravating and mitigating factors which
35 may be relevant to the offence of murder, but neither list is intended to be exclusive
36 and what may aggravate or mitigate the offence will depend upon all the circumstances
37 of the particular case.

38 5. A particularly serious aggravating feature of this case is your concealment of
39 Alethea Taylor's body. Even now, you have failed to disclose what you have done with
40 her, with all the agony that causes for her family and friends. You appear to have shown
41 no remorse, perhaps because you continue to deny that it was you who murdered her.

42 6. In terms of mitigating factors, although you have not admitted that you killed
43 Alethea or vouchsafed any explanation as to how she died, I sentence you on the basis
44 that her killing was not premeditated and that you did not intend to kill her but only to
45 cause her serious bodily harm. I also take into account that you have not been in trouble
46 with the police before and so there is no question of any previous convictions of any
47 kind. Finally your age and the likely impact of the sentence upon you are matters I
48 take into account in imposing a lower minimum term than I would have done if you
49 had been a younger man.

50 7. Weighing the various aggravating and mitigating features I have identified in the
51 balance, I have concluded that the appropriate minimum term will be 17 years. From
52 that will be deducted the 290 days you have spent in custody. What this means is that
53 the minimum amount of time you will spend in prison from today before the Parole
54 Board can order early release is 16 years and 75 days. If it remains necessary for the
55 protection of the public, you will continue to be detained after that date. If the Parole

56 Board does decide to direct release you will remain on licence for the remainder of
57 your life and may be recalled to prison at any time.

TEXT 4

THE HON. MR. JUSTICE SAUNDERS

LEWES CROWN COURT SITTING AT WOOLWICH CROWN COURT

R -V- HUNNISETT

SENTENCING REMARKS

22 MAY 2012

1 This Defendant has been convicted of the murder of Peter Bick. I am satisfied that the
2 attack was planned and that the Defendant's intention was to kill. He tricked his way
3 into Peter Bick's house and while there, killed him by striking him at least five severe
4 blows on the head with a hammer which smashed the skull and damaged the brain. He
5 also placed a tight ligature round Peter Bick's neck causing some degree of asphyxia.
6 I am satisfied from the degree of planning that the Defendant either went to the flat
7 armed with the hammer or knew before he went to Peter Bick's flat that he would be
8 able to find a suitable weapon there. The hammer has never been recovered. At the
9 least I am satisfied that when the Defendant went to Peter Bick's flat he was prepared
10 to kill him.

11 That this was a planned and cold blooded killing is confirmed by the meticulous way
12 in which the Defendant cleared up the flat afterwards. As well as clearing up, he tied
13 a leather thong around the penis of Peter Bick's naked body and covered him with
14 bedclothes and sex toys demonstrating his contempt for the man that he had just killed.

15 The Defendant told the police when he gave himself up on the night of the killing that
16 he had killed Peter Bick because he was a paedophile. Apart from evidence given by
17 the Defendant, which I reject, there is no convincing evidence that Peter Bick was a
18 paedophile. I am unable however to be sure that the Defendant did not believe that he
19 was. For that reason I will sentence him on the basis that he had that belief. The
20 prosecution contend that the Defendant killed Peter Bick because he was a homosexual.
21 They base their contention on remarks made by the Defendant to a psychiatrist that,
22 after his release from prison, he met up with a number of homosexuals who he
23 intended to kill but ended up having sex with them. If true that would support the
24 contention that the Defendant set out to kill homosexuals rather than paedophiles. It is
25 difficult to reach any firm conclusion as to the truth of what the Defendant told

26 psychiatrists and I place little reliance on that part of the evidence. On the other hand
27 there is objective evidence that the Defendant was doing research on the internet
28 seeking to identify men who appeared to express an interest in younger men or women.
29 I do not believe that the Defendant's investigations were as extensive as he has made
30 out, but he clearly made some, and the nature of his enquiries and the communications
31 that he made, support the contention that he was looking for older men interested in
32 much younger men and women.

33 I am satisfied that the Defendant does have an intense hatred of paedophiles and the
34 harm that they do. He believes that the penalties handed out by the Courts for child
35 abuse are inadequate. For him the appropriate penalty, if he considers it necessary, is
36 death. He has appointed himself Judge, jury and executioner. However good the
37 evidence of child abuse, the Defendant was not entitled to take the law into his hands
38 in the way he did but, as he demonstrated in this case, he was prepared to reach his
39 conclusions on entirely inadequate evidence.

40 It is not difficult to understand the reason for this intense hatred. The Defendant was
41 abused as a child, as the prosecution accept, and that abuse led to his conviction for
42 murder. He served over nine years of a life sentence before he was eventually cleared
43 of any criminal responsibility for the death of his abuser. It was not a failing of the
44 system that caused that miscarriage of justice. He did not disclose the abuse until he
45 had served a number of years of his sentence. For that he is not to be blamed. Many
46 people who have been abused find it impossible to talk about abuse whatever the
47 consequences to them of not revealing it. Nor is he to be blamed for the fact that he is
48 now a very damaged person.

49 I accept that the Defendant's hatred of paedophiles, which started with that abuse, fed
50 on the attitudes of other prisoners whose contempt for sex offenders is well known and
51 grew in intensity until it dominated the Defendant's life. He may also have come into
52 contact in prison with sex offenders whose lack of remorse for the harm that they had
53 done, convinced him that sex offenders could not be stopped by conventional means.

54 Having said what I do accept, there is a great deal of the Defendant's case that I reject.
55 I reject his account that he believed a 16 year old was in danger of sexual abuse from
56 Peter Bick. I accept the contention of the prosecution that it was the defendant who

57 wrote the text message sent on Peter Bick's phone, probably after his death, expressing
58 interest in meeting up with a 15 year old for sexual activity. I am satisfied that the
59 Defendant practised that deception to try and give some substance to his accusation
60 that Peter Bick was a paedophile. I also reject the Defendant's account that
61 immediately prior to the killing, Peter Bick had the Defendant around the throat and
62 had tried to get hold of a hammer which was conveniently just within his reach. Those
63 parts of the Defendant's account were not given at an early stage but were added later
64 and are inventions. I reject the Defence submission that there was in this case some
65 provocation but not sufficient to reduce the offence to manslaughter.

66 While I acknowledge that the Defendant's life experiences have played their part in
67 shaping the man he has become, the evidence that I have heard has driven me to the
68 conclusion that the Defendant is now an extremely dangerous man who may well kill
69 again were he to be released in the foreseeable future. The Parole Board will
70 undoubtedly take all that into account when deciding when, and if, this Defendant
71 should ever be released. I ignore the danger that the Defendant presents in fixing the
72 minimum term that he should serve before he is released. The minimum term is what
73 I assess to be the appropriate term that the Defendant should serve to reflect his
74 culpability for the killing of Peter Bick, not the danger that he presents to the public.
75 As the sentence I will pass is life imprisonment, the danger that he presents to the
76 public is reflected in that and the requirement that he cannot be released until he is no
77 longer a danger. The minimum period is exactly what it says, a minimum. The time
78 may never come when this Defendant is considered safe to be released.

79 Parliament has laid down starting points that I must adopt in deciding the minimum
80 term. It is agreed in this case that it is not a case to which the whole life minimum
81 applies. The prosecution point to some parts of the evidence which they say may mean
82 that this is a case of higher culpability so that a starting point of 30 years applies. I
83 have considered each with care but I am not satisfied so that I am sure that any of them
84 applies in this case. I will therefore take a starting point of 15 years. I then have to
85 consider the aggravating and mitigating features of the case to decide whether to
86 increase or decrease the starting point.

87 I have no doubt that the starting point has to be increased. As the Court of Appeal has
88 pointed out on a number of occasions, Parliament could not anticipate in Schedule 21

89 of the Criminal Justice Act 2003 every possible factual scenario which could affect
90 culpability. The principle aggravating factors in this case are the planning; the cold
91 blooded nature of the killing; the fact that it took place within Peter Bick's own home;
92 the treatment of Peter Bick by the Defendant both before and after the death and the
93 fact that this was all part of a campaign to track down paedophiles, although, as I say,
94 I do not believe it was on the sort of scale that the Defendant claims. Those matters
95 substantially increase the starting point to one of about 21 years.

96 The mitigating features to be found in the facts of the case are limited but he did admit
97 to the police within 24 hours that he had killed Peter Bick.

98 I do consider that the circumstances of his previous abuse and the prison sentence
99 which he served for an offence of which he was ultimately acquitted are relevant
100 mitigating features. I do not give him credit in this sentence for the years he should
101 not have served in prison following his first conviction. That does not seem to me to
102 be a proper consideration in determining this sentence. What I am seeking to reflect is
103 that the Defendant's culpability is reduced for this offence because of the part that the
104 abuse and the imprisonment have played in making him a killer.

105 Calculating the amount of the appropriate reduction is not easy and has to depend on
106 my assessment of the contribution that those life experiences made and the balancing
107 of a number of different factors. That involves a careful consideration and assessment
108 by me of the evidence that I have heard. I will reduce my original starting point to
109 reflect all the mitigating factors. In my **judgement** the appropriate minimum period
110 that the Defendant must serve before he is eligible to be considered for parole is 18
111 years.

TEXT 5

Central Criminal Court

30 January 2013

Sentencing remarks of Mr Justice Fulford

R -v- Tony McCluskie

1 I have no doubt you killed your sister because she was furious with you for letting the
2 sink overflow in the bathroom of your mother's flat on 1 March 2012, against a
3 background of the longstanding family relationships. I accept that Gemma expressed
4 anger at you early that morning and warned you that if you did not treat your mother's
5 home with more respect in the future, you may have to leave, but that said I
6 unhesitatingly reject your account, as given by you in evidence in this trial, that she
7 had used significant foul language towards you, or that she had belittled or threatened
8 you, in the past. Your accounts to the police in early March contain none of the matters
9 you were later to allege against her, and I consider the way you described your
10 relationship in the significant interview on 6 March and in your witness statement is
11 determinative of this issue. Gemma was, on the compelling descriptions the jury heard
12 during this trial, a young woman with a huge zest for life; she was a warm-hearted
13 woman who was loved dearly by a great many people. She will be greatly missed.
14 Your sister may well have been fiery on occasion and no doubt expressed herself
15 forcefully but in my view she did not in any sense do anything that even begins to
16 justify what you did to her.

17 I accept that this was a particularly challenging period in your life: things were not
18 going well between you and your partner, Teri Arnull; your mother had been
19 desperately unwell for a significant period of time; there was talk of redundancies at
20 work; you were hopelessly addicted to the powerful type of cannabis known
21 colloquially as "skunk"; and you were living a significantly withdrawn existence –
22 spending most of your time when not at work in your room – in the same house as
23 your hugely popular and outgoing sister.

24 That said, instead of exercising a normal degree of fortitude and resilience, you
25 followed your emotions and battered your sister at least twice on the head, sufficiently

26 hard to depress her skull. Although the prosecution put the case against you on the
27 basis that you may only have intended to inflict really serious bodily harm, given the
28 severity of the injuries to GM's head I am of the view that the difference between that
29 and intending to kill her is not as great as it is in other cases. These were very bad
30 injuries at one of the body's most vulnerable sites. You must have used a hard, flat
31 surfaced weapon in order to kill GM, within her own home.

32 This crime, extremely grave when viewed in isolation, was significantly aggravated
33 by your actions afterwards. Over a large number of hours you set about, in an utterly
34 coldblooded and determined way, to try to hide what you had done and, moreover, you
35 sought to point the finger of blame at others. You dismembered Gemma, cutting off
36 all her limbs and her head, and having first tried and failed to do this with a knife, you
37 must have left the flat to buy an implement similar to a meat cleaver, which has never
38 been found. You then went to the Regents Canal at least twice (once by taxi) in order
39 to dispose of her remains. Your hope must have been that she would never be found
40 and you diverted, and attempted to influence, the police investigation by controlling
41 the release of information and by giving information about one or more individuals
42 who you knew were wholly innocent, such the individual with the initials BM. You
43 concealed a number of items, including most particularly her mobile telephone.

44 I note additionally that in this trial you have made a sustained attempt to destroy at
45 least part of the reputation of your sister, and the effect Gemma's death has had on
46 your family, and perhaps most particularly your mother, has been profound. As the
47 letters I have read make clear, the laughter and enjoyment in life for them has simply
48 gone.

49 In your favour is your good character save for the three cannabis matters; your record
50 of continuous employment; the lack of any significant premeditation; and (to a limited
51 extent only for the reasons I have already expressed) that you may not have intended
52 to kill her. Additionally, there were no previous indications that you harboured violent
53 intentions towards your sister.

54 The starting point for the period you must serve before parole in your case can even
55 be considered is 15 years.

56 Having considered the authorities that have been brought to my attention and bearing
57 in mind the facts I have rehearsed, together with the aggravating and mitigating factors,
58 and particularly the appalling way you acted after the murder, the minimum term will
59 be 20 years imprisonment. Once that period has passed, it will be for the parole board
60 to determine whether you are to be released, and if so, when. Deduction of time served
61 to date is automatic.

TEXT 6

Sentencing remarks of Mr Justice Kerr

The Queen -v- Edwin Pyott

Birmingham Crown Court

11 December 2015

1 1. Mr Pyott, please remain seated for the moment. Last February, you attacked Danny
2 McDermott with a knife and killed him, for no obvious reason. He thought you were
3 his friend, yet you stabbed him to death in the neck.

4 2. You went up to Mr McDermott's flat to visit him. He had drunk a lot of alcohol and
5 was probably intoxicated. While you were there, you took a knife and inflicted vicious
6 stab wounds to his neck. He was unable to defend himself.

7 3. It was a brutal, senseless act of horrifying violence. You left his sister without her
8 beloved brother and his young daughters forever deprived of their father. You took
9 from his mother the son she misses so much. Their lives are blighted by your cruelty.

10 4. For this offence of murder, the sentence I am required by law to pass is one of life
11 imprisonment.

12 5. I have to determine the minimum term of imprisonment which you must serve
13 before being eligible to apply to the Parole Board to be considered for release.

14 6. To do so, I have to consider the provisions of Schedule 21 to the Criminal Justice
15 Act 2003 regarding the seriousness of the offence, to determine the minimum term of
16 that life sentence that you must serve as the punishment and deterrent term of the
17 sentence, before consideration can be given to your release.

18 7. A minimum term is not the same as an ordinary sentence of imprisonment where a
19 defendant will normally serve only half of that sentence before being released on
20 licence. A minimum term is the term that must be served before your case may be
21 referred to the Parole Board for consideration of your release upon licence. It means
22 the actual length of time that you will spend in prison before that process can take

23 place.

24 8. Whether or not you will be released after the minimum term has been served will
25 be for the Parole Board to consider at the end of the minimum term. The Parole Board
26 will not decide that you can be released at that stage, unless it is satisfied that you are
27 not a risk to the public, and are ready for release into society.

28 9. If you are released at that time, or any later time, you will be released on licence
29 with specific conditions attached, and may be recalled to continue serving your life
30 sentences if you breach any licence conditions that are imposed upon you.

31 10. The prosecution have accepted, and I accept, that you did not take the knife to the
32 scene of the murder. I therefore take the statutory starting point for the minimum term
33 as 15 years. I reach that starting point without taking account, at this stage, of
34 aggravating and mitigating features in your case which I now consider.

35 11. The period I take as the starting point must be substantially increased because of
36 the following aggravating features:

37 (1) This was a brutal and ferocious knife attack, involving several stab wounds to the
38 neck. You deliberately took up that fearful weapon and used it to cut his neck.

39 (2) You are a strong and heavily built man. Mr McDermott was not. He could not
40 match your strength. There were no defensive injuries. He was defenceless against you.

41 (3) You were on friendly terms with Mr McDermott. He invited you into his flat. You
42 betrayed him and killed him in his own home.

43 (4) After stabbing him fatally, you rifled through his pockets to find his keys which
44 you stole and used to let yourself out and lock the door of the flat from the outside.

45 (5) You then cleaned the knife and disposed of your bloodstained clothing, intending
46 to avoid punishment by destroying forensic evidence against you.

47 (6) You lied afterwards, repeatedly denied the murder and said those to whom you had
48 confessed were lying. This must, though, be balanced against your admissions and
49 expressions of regret.

50 (7) I am sure, also, that you tried to hide your guilt by cutting your arm to simulate the
51 effect a struggle; and by suggesting officers check your flat for forensic evidence you
52 knew was not there.

53 12. These aggravating factors make it necessary to adjust the 15 year starting point
54 substantially upwards, to a minimum term that would be in the region of 23½ years
55 before taking account of mitigating features.

56 13. Those mitigating factors are:

57 (1) You did not, as the Crown accepts and I accept, intend to kill Danny McDermott,
58 although you set out to cause him really serious injury with the knife.

59 (2) The offence was not premeditated. You formed the intention to harm Mr
60 McDermott very shortly before you stabbed him. You did not arm yourself with the
61 knife beforehand.

62 (3) You confessed to several friends and to your mother that you had done the killing,
63 and expressed regret and distress. That must be balanced against your lies and attempts
64 to deceive.

65 (4) You suffer from a severe abnormality of mental functioning. I have taken careful
66 note of the psychiatric evidence for the defence, including a recent addendum from Dr
67 Collins. This reduces your culpability to a limited extent. I have taken account of what
68 the Court of Appeal said in *McFly* [2013] EWCA Crim 729.

69 14. In my judgment the effect of those mitigating factors would be to reduce the
70 appropriate minimum term to about 20½ years, before considering your criminal
71 record and before giving you any credit for your guilty plea.

72 15. You have a long history of violent offending, including three robberies committed
73 with the help of a knife used to threaten your victims and, in one case, to injure one of
74 them.

75 16. Mr Atkins QC, who spoke eloquently on your behalf, reminded me that those
76 offences were committed quite a long time ago, in late 2004. That is true. You were
77 sentenced to 7½ years in February 2005.

78 17. You were then in prison or secure hospital until your release on licence in
79 December 2009. You were recalled to prison after only four days because you had
80 threatened a member of staff with violence at the hostel where you had been placed,
81 and remained in prison until the end of April 2012 (pp.27-30 of Dr Collins' report).

82 18. You committed this offence just under three years later, on 10 February 2015. I do
83 not accept that your previous convictions are irrelevant. You are a man with a long
84 history of inflicting violence on innocent people, fuelled by abuse of Class A drugs
85 and alcohol.

86 19. In view of your previous violent offending, I would increase the appropriate
87 minimum term for this murder to one of 22 years. However, I must consider the
88 amount by which that period should be reduced to give you appropriate credit for your
89 plea of guilty.

90 20. I have taken account of the relevant sentencing guideline, and the remarks of the
91 Court of Appeal in Evans (John) [2014] EWCA Crim 1916. You were entitled to
92 explore with your legal and medical advisers the possibility of diminished
93 responsibility.

94 21. I do not hold that against you. Yet, despite your mental disorder you showed a
95 canny understanding of the legal process including tactical considerations, you mixed
96 truth with lies in the aftermath of the killing and you disposed of evidence to escape
97 punishment.

98 22. Moreover, after you were found fit to plead by Dr Collins in mid September 2015,
99 you continued to maintain your innocence and, in the defence statement signed on 9
100 October 2015, you ran defences of accident and self-defence.

101 23. Against that background, you pleaded guilty to murder last week, on the first day
102 of your trial, after being examined by Dr Sanikop. Mr Atkins QC submits that you had
103 admitted the killing straight away. But you admitted it only to some people.

104 24. Those admissions apart, you did all you could to avoid paying for your crime. In
105 all the circumstances, I think 10 per cent credit for your guilty plea is slightly too
106 generous a discount.

107 25. Stand up please, Mr Pyott. The sentence of the court for the murder of Danny
108 McDermott is life imprisonment, with a minimum term to be served of 20 years, less
109 298 days spent on remand in custody awaiting trial.

110 26. The statutory charges apply.

Appendix 2: News report of the six cases

1. News report of Terri Palmer

	date	news media	headline/title	word count
1	February 19, 2016	Lancashire Evening Post	Hairdresser jailed for life for murdering her boyfriend after Facebook row	343
2	February 19, 2016	Lancaster Guardian	Life sentence for Morecambe hairdresser who murdered her boyfriend	334
3	February 19, 2016	Lancaster Guardian	Hairdresser jailed for life for murdering her boyfriend after Facebook row	343
4	February 22, 2016	Daily Star Online	Hairdresser stabbed boyfriend to death over 'gross' selfies and his new Facebook friends	719
5	February 22, 2016	The Independent	Woman stabs boyfriend to death after claiming he 'spent too much time on Facebook	477
6	February 22, 2016	Irish Mirror	Hairdresser stabbed boyfriend to death after row over him spending too much time on Facebook befriending other women; Jealous Terri-Marie Palmer, 23, knifed Damon Searson, 24, in the heart during an argument - then tried to pretend the stabbing was an accident	707
7	February 22, 2016	Lancaster Guardian	Morecambe hairdresser "meant well" for boyfriend right until seconds before she murdered him	698
8	February 22, 2016	Lancashire Evening Post	Morecambe hairdresser who plunged a knife into boyfriend's chest jailed for life	698
9	February 22, 2016	Mail Online	Jealous hairdresser, 23, stabbed her boyfriend to death with a	742

			breadknife after losing her temper because he spent too much time on Facebook	
10	February 22, 2016	Mirror	Hairdresser stabbed boyfriend to death after row over him spending too much time on Facebook befriending other women; Jealous Terri-Marie Palmer, 23, knifed Damon Searson, 24, in the heart during an argument - then tried to pretend the stabbing was an accident	707
11	February 22, 2016	The Visitor	Morecambe hairdresser "meant well" for boyfriend right until seconds before she murdered him	698
12	February 25, 2016	European Union News	Life sentence for woman who killed her boyfriend	375
13	March 10, 2016	Lancaster Guardian	Hairdresser jailed for life for murdering her boyfriend after Facebook row	343
14	March 10, 2016	Lancashire Evening Post	Hairdresser jailed for life for murdering her boyfriend after Facebook row	343
15	March 10, 2016	The Visitor	Hairdresser jailed for life for murdering her boyfriend after Facebook row	343

2. News report of Colin Capp

	date	news media	headline/title	word count
1	7 March 2014	Mirror	Inmate charged with murder after death of prisoner whose body was found in a cell; Darren Thomas, 45, was found dead at Cardiff Prison. Police say Colin Capp, 22, has been charged with his murder	230
2	7 March 2014	WalesOnline	Cardiff Prison murder probe: Picture of dead inmate as man charged; South Wales Police	369

			have arrested a 22-year-old man over the murder of Cardiff prisoner Darren Thomas	
3	8 March 2014	South Wales Echo	Man charged with murder after Cardiff prison death; Homeless man jailed for breaching begging Asbo found dead in his cell	330
4	11 March 2014	South Wales Echo	Cardiff Prison 'murder': accused man in court	133
5	27 March 2014	WalesOnline	Investigation launched after prisoners barricade themselves in cell at Cardiff Prison; Police and ambulances on standby as specially trained officers took nearly 12 hours to bring the situation under control	322
6	28 March 2014	South Wales Echo	Investigation launched as prisoners barricade cell	331
7	1 July 2014	South Wales Echo	Man accused of murdering cellmate faces trial	96
8	1 July 2014	The Western Mail	Trial for prison murder accused	88
9	6 August, 2014	South Wales Echo	Trial set for inmate murder accused	156
10	November 11, 2014	WalesOnline	Cardiff prison killing: Accused Colin Capp trial adjourned until March 2 next year; Colin Capp, 22, denies murdering Darren Lee Thomas, 45, in Cardiff Prison on March 6	206
11	March 20, 2015	WalesOnline	Family of homeless man murdered in prison want answers over his death; Darren Thomas, 45 was serving a 12-week sentence for breaching an Asbo for begging in Cardiff's city centre when his cellmate Colin Capp launched the frenzied attack	632
12	March 21, 2015	South Wales Echo	Family calls for answers after prison murder	444

13	27 April 2015	WalesOnline	Cardiff prisoner strangled cell-mate with a plastic bag and stabbed him 100 times with a pen, trial hears; Colin Capp denies murdering Darren Lee Thomas on March 7, 2014	412
14	28 April 2015	Irish Mirror	Prisoner 'suffocated by plastic bag and stabbed in neck with biro 100 times by cellmate', court hears; Darren Lee Thomas was behind bars for breaching an anti-social behaviour order relating to begging when the attack happened	407
15	28 April 2015	Mirror	Prisoner 'suffocated by plastic bag and stabbed in neck with biro 100 times by cellmate', court hears; Darren Lee Thomas was behind bars for breaching an anti-social behaviour order relating to begging when the attack happened	407
16	28 April 2015	South Wales Echo	Prisoner was 'suffocated and stabbed with a pen' court is told	406
17	28 April 2015	WalesOnline	Prisoner who stabbed inmate had been hearing voices in his head, trial hears; Colin Capp admits killing cellmate Darren Thomas at Cardiff Prison - but denies murder claiming 'diminished responsibility'	644
18	28 April 2015	The Western Mail	Cellmate 'stabbed 100 times with biro'	241
19	29 April 2015	South Wales Echo	Prisoner 'was hearing voices' court told	225
20	29 April 2015	The Times (London)	Vagrant who wanted to be sent to jail is killed in cell	194
21	29 April 2015	WalesOnline	Prisoner who killed inmate by stabbing him with pen does not suffer a psychotic illness, court hears; Colin Capp admits killing	388

			cellmate Darren Thomas at Cardiff Prison - but denies murder claiming 'diminished responsibility'	
22	30 April 2015	South Wales Echo	Prison killer: doctors differ over diagnosis	371
23	30 April 2015	WalesOnline	Prisoner Colin Capp who killed cell mate with a ball point pen is found guilty of murder; The 23-year-old murdered Darren Thomas, 45, in a cell at Cardiff Prison on March 6 after claiming he heard voices telling him to kill him	454
24	1 May 2015	Irish Mirror	Prisoner who murdered cellmate after stabbing him 100 times with ballpoint pen handed life sentence; Colin Capp, 23, from Scotland, attacked Darren Thomas, 45, while he slept in their cell in Cardiff in March 2014	211
25	1 May 2015	Mirror	Prisoner who murdered cellmate after stabbing him 100 times with ballpoint pen handed life sentence; Colin Capp, 23, from Scotland, attacked Darren Thomas, 45, while he slept in their cell in Cardiff in March 2014	211
26	1 May 2015	South Wales Echo	Guilty of murdering cell mate with pen	384
27	1 May 2015	The Western Mail	Jail ballpoint-pen killer guilty of murder	202
28	2 May 2015	Daily Mirror	Pen used to kill cellmate	80
29	2 May 2015	Daily Record and Sunday Mail	Murdered in pen attack	70
30	2 May 2015	Daily Star	Prison horror	83
31	2 May 2015	Scottish Star	Prison murder	96

32	2 May 2015	South Wales Echo	Murderer jailed for life after vicious pen attack on cell mate	418
33	2 May 2015	The Western Mail	Prisoner gets life for Biro killing of cellmate	419
34	16 May 2015	WalesOnline	Shelter boss says homeless need compassion not jail after murder of Cardiff beggar in prison; Huggard Centre boss Richard Edwards calls for support for those on the streets after the sentencing of Colin Capp for the murder of Darren Thomas	612
35	May 17, 2015	Wales on Sunday	HOMELESS NEED HELP NOT PUNISHMENT; Shelter boss speaks out after beggar is killed in jail	489
36	May 18, 2015	The Western Mail	'Don't jail beggars' call after prison murder case	489
37	May 19, 2015	South Wales Echo	Calls for support for the homeless after beggar's murder in jail	489
38	March 24, 2016	WalesOnline	Cardiff Prison blasted for failing 'to properly assess the mental state' of prisoner who murdered cellmate; Arsonist Colin Capp went on to murder cellmate Darren Thomas in 2014	728
39	March 24, 2016	WalesOnline	Jail criticised after prisoner murdered his cell mate by strangling and stabbing him 100 times in the neck with a biro; Arsonist Colin Capp went on to murder cellmate Darren Thomas in 2014	728
40	March 25, 2016	Mirror	Jail blasted after prisoner with 'sadistic fantasies' stabbed cellmate 100 times in neck with Biro; Colin Capp who was in jail for arson, showed "no remorse" as he	680

			repeatedly stabbed Darren Thomas with the makeshift weapon	
41	March 25, 2016	South Wales Echo	Prison criticised after man killed cellmate	580
42	March 25, 2016	The Western Mail	Jail under fire as 'psychopathic' cell killer not properly assessed	538
43	March 26, 2016	The Times (London)	Jail failed to assess killer	70

3. News report of John Taylor

	date	news media	headline/title	word count
1	February 20, 2013	Ludlow Advertiser	Trial of Orleton undertaker John Taylor due to start this afternoon	68
2	February 21, 2013	MailOnline	Funeral director accused of murdering his wife and disposing of her body 'told friends she was suffering from dementia and had gone missing'	795
3	February 21, 2013	MailOnline	Funeral director accused of murdering his wife and disposing of her body 'told friends she was suffering from dementia and had gone missing'	782
4	February 22, 2013	MailOnline	Funeral director accused of murdering his wife and disposing of her body 'told friends she was suffering from dementia and had gone missing'	537
5	February 25, 2013	MailOnline	Undertaker 'killed his wife while having affair with a widow and dipped into his joint bank account for a love nest to share with mistress'	690
6	February 26, 2013	Daily Mirror	Love cheat undertaker 'killed wife'; TRIAL	143
7	March 1, 2013	Hereford Times	Undertaker murder trial - latest	100

8	March 1, 2013	Ludlow Advertiser	Undertaker Murder trial – latest	130
9	March 2, 2013	Western Daily Press	Village talks in trial over missing wife	450
10	March 7, 2013	Ludlow Advertiser	Murder accused John Taylor denied he was having an affair when police questioned him	437
11	March 13, 2013	Western Daily Press	Defence queries efficiency of police inquiry	534
12	March 20, 2013	Western Daily Press	Undertaker denies killing his wife with her pillowcase	462
13	April 2, 2013	Belfast Telegraph Online	Undertaker guilty of murdering wife	334
14	April 2, 2013	Dudley News	Husband of former Dudley teacher found guilty of her murder	440
15	April 2, 2013	MailOnline	Undertaker jailed for life for killing wife when she found out about his affair with widow despite police never finding her body	937
16	April 3, 2013	Birmingham Evening Mail	Undertaker, 61, is jailed for life over wife murder	514
17	April 3, 2013	Irish Independent	'Deceitful' undertaker guilty of killing his wife	298
18	April 3, 2013	MailOnline	'He's besotted by a certain widow': How wife's diaries helped convict the husband who murdered her from beyond the grave	939
19	April 3, 2013	Scotland On Sunday	Undertaker found guilty of killing his wife	312
20	April 3, 2013	The Sun (England)	Funerals boss who killed wife given life	130
21	April 4, 2013	Ludlow Advertiser	Family of murdered Orleton woman hope she is laid to rest one day	411

4. News report of Christopher Hunnisett

	date	news media	headline/title	word count
1	January 12, 2011	The Argus (Newsquest Regional Press)	Murder suspect was acquitted of killing vicar	304
2	January 13, 2011	The Argus (Newsquest Regional Press)	Family "devastated" by Bexhill murder	118
3	January 13, 2011	The Argus (Newsquest Regional Press)	Headwounds killed Bexhill man	448
4	January 13, 2011	The Evening Standard (London)	EX-ALTAR BOY QUIZZED OVER THE DEATH OF PRINCE PHILIP'S FRIEND	326
5	January 13, 2011	The Express	Ex-altar boy in new death quiz	109
6	January 13, 2011	The Mirror	DETECTIVES ARREST MAN CLEARED OF KILLING VICAR; CUSTODY	200
7	January 13, 2011	PA Regional Newswire of English Regions: SOUTH EAST	MORE TIME GIVEN FOR MURDER QUIZ	299
8	January 13, 2011	PA Regional Newswire of English Regions: SOUTH EAST	MAN HELD OVER DEATH HAD PREVIOUSLY FACED MURDER TRIAL	399
9	January 13, 2011	Press Association Mediapoint	POLICE GET MORE TIME FOR MURDER QUIZ	606

10	January 13, 2011	Press Association Mediapoint	MAN HELD OVER DEATH HAD PREVIOUSLY FACED MURDER TRIAL	331
11	January 13, 2011	The Sun (England)	Murder quiz over death of Philip pal	204
12	January 13, 2011	The Times (London)	Ex-altar boy who killed vicar is arrested in new murder inquiry; Bachelor's body discovered in seaside flat	524
13	January 13, 2011	The Times (London)	Ex-altar boy killer in murder inquiry	88
14	January 14, 2011	The Argus (Newsquest Regional Press)	Police believe killer stole car after Bexhill murder	347
15	January 14, 2011	The Argus (Newsquest Regional Press)	Christopher Hunnisett charged with murder of Peter Bick	117
16	January 14, 2011	PA Regional Newswire of English Regions: SOUTH EAST	MAN CHARGED WITH MURDER	115
17	January 14, 2011	Press Association Mediapoint	MAN CHARGED WITH MURDER	112
18	January 15, 2011	The Argus (Newsquest Regional Press)	Christopher Hunnisett remanded in custody after murder charge	129
19	January 15, 2011	Leicester Mercury	Murder charge; NEWS IN BRIEF	67
20	January 15, 2011	Press Association Mediapoint	MAN IN COURT OVER BODY IN FLAT	131
21	January 15, 2011	Press Association Mediapoint	MAN TO FACE COURT OVER BODY-IN-FLAT	114

22	January 16, 2011	The People	Man faces Philip pal murder rap	133
23	January 18, 2011	The Argus (Newsquest Regional Press)	Man in court over Bexhill murder	90
24	January 18, 2011	Press Association Mediapoint	Man in court over Bexhill murder	89
25	March 1, 2011	The Argus (Newsquest Regional Press)	Girlfriend of Sussex murder suspect receives death threats	144
26	April 01, 2011	The Argus (Newsquest Regional Press)	Hastings man expected to enter plea on murder charge	96
27	April 01, 2011	The Argus (Newsquest Regional Press)	Christopher Hunnisett denies murder	46
28	April 01, 2011	PA Regional Newswire of English Regions: SOUTH EAST	MAN IN COURT CHARGED WITH MURDER	98
29	April 01, 2011	Press Association Mediapoint	MURDER SUSPECT DUE IN COURT	90
30	October 17, 2011	The Argus (Newsquest Regional Press)	Murder trial of Christopher Hunnisett due to start today	87
31	October 19, 2011	The Argus (Newsquest Regional Press)	Christopher Hunnisett murder trial adjourned until next year	105
32	October 19, 2011	PA Regional Newswire of English	ASDA WORKER MURDER: TRIAL ADJOURNED	109

		Regions: SOUTH EAST		
33	April 23, 2012	The Argus (Newsquest Regional Press)	Sussex man 'made hit list to rid the world of paedophiles' court told	635
34	April 23, 2012	MailOnline	Former altar boy, 28, 'murdered' gay lover, 57, he met on the internet in hate campaign against men he believed to be 'paedophiles'	774
35	April 23, 2012	PA Regional Newswire of English Regions: SOUTH EAST	COURT TOLD OF PAEDOPHILE HIT LIST	272
36	April 23, 2012	Press Association Mediapoint	COURT TOLD OF PAEDOPHILE HIT LIST	1639
37	April 24, 2012	The Argus (Newsquest Regional Press)	Christopher Hunnisett 'washed, cleaned and put victim to rest', court told	277
38	April 24, 2012	The Argus (Newsquest Regional Press)	Hunnisett wanted victim 'to confess to what he was'	989
39	April 24, 2012	i- Independent Print Ltd	Man 'drew up a hit list of paedophiles'; The News Matrix The day at a glance COURTS	24
40	April 24, 2012	The Independent	Man accused of murder 'made hit list';	179
41	April 24, 2012	The Mirror	EX-ALTAR BOY 'HAD PAEDOS HIT LIST PLAN'; TRIAL	144
42	April 24, 2012	PA Regional Newswire of English Regions:	ACCUSED KILLER WANTED 'CONFESSION'	398

		SOUTH EAST		
43	April 24, 2012	Press Association Mediapoint	ACCUSED KILLER WANTED 'CONFESSION'	1018
44	April 24, 2012	The Sun (England)	'Maniac killed gay lover with hammer'	144
45	April 30, 2012	The Argus (Newsquest Regional Press)	Hunnisett 'used military strategy' in bid to track down paedophiles, court hears	686
46	April 30, 2012	MailOnline	Suspect accused of murdering gay supermarket worker used 'military strategy to track down uncaught paedophiles'	764
47	April 30, 2012	PA Regional Newswire of English Regions: SOUTH EAST	KILLER 'USED MILITARY STRATEGY'	410
48	April 30, 2012	Press Association Mediapoint	KILLER 'USED MILITARY STRATEGY'	1177
49	May 01, 2012	Irish Examiner	Killer used 'military strategy' in attempt to murder paedophiles	358
50	May 01, 2012	The Mirror	TORTURED AND KILLED	213
51	May 01, 2012	PA Regional Newswire of English Regions: SOUTH EAST	KILLER 'HAD NAMES OF PAEDOPHILES'	313
52	May 01, 2012	Press Association Mediapoint	KILLER 'HAD NAMES OF PAEDOPHILES'	1012
53	May 02, 2012	PA Regional Newswire of English Regions:	MURDER ACCUSED 'PREPARED TO KILL'	243

		SOUTH EAST		
54	May 02, 2012	Press Association Mediapoint	MURDER ACCUSED 'PREPARED TO KILL'	854
55	May 04, 2012	Kent and Sussex Courier	Local man on killer's death list, court told	190
56	May 11, 2012	Hastings & St. Leonards Observer	Former altar boy Christopher Hunnisett found guilty of murder	376
57	May 11, 2012	The Independent	Man guilty of murdering shop worker with hammer	956
58	May 11, 2012	The Independent	Man guilty of hammer murder	358
59	May 11, 2012	MailOnline	Former altar boy, 28, who killed gay lover, 57, in hate campaign against 'paedophiles' found guilty of murder	831
60	May 11, 2012	PA Regional Newswire of English Regions: SOUTH EAST	MAN GUILTY OF SHOP WORKER'S MURDER	282
61	May 11, 2012	Press Association Mediapoint	KILLER TARGETED PAEDOPHILE SUSPECTS	711
62	May 11, 2012	Press Association Mediapoint	MAN GUILTY OF SHOP WORKER'S MURDER	954
63	May 12, 2012	The Mirror	HAMMER KILLER'S COURT ESCAPE BID	190
64	May 12, 2012	The Sun (England)	CLEARED...TO KILL; Brute freed over priest death guilty of lover murder	217
65	May 12, 2012	The Sun (England)	CLEARED...TO KILL; Freed priest-killer hammered 'paedo' lover to death	235
66	May 12, 2012	The Western Mail	Murderer in escape attempt after jury verdict	302

67	May 16, 2012	European Union News	Murder conviction of Christopher Hunnisett - police and family comment	337
68	May 22, 2012	The Argus (Newsquest Regional Press)	Bexhill murderer Christopher Hunnisett jailed for life	100
69	May 22, 2012	The Argus (Newsquest Regional Press)	Ex-altar boy Hunnisett to be sentenced for murder	484
70	May 22, 2012	Hastings & St. Leonards Observer	Hunnisett jailed for life for murder of supermarket worker	176
71	May 22, 2012	The Independent	Anti-paedophile vigilante jailed for minimum term of 18 years	633
72	May 22, 2012	MailOnline	Former altar boy, 28, who killed gay lover, 57, in hate campaign against 'paedophiles' told he may never be freed from prison	883
73	May 22, 2012	PA Regional Newswire of English Regions: SOUTH EAST	Killer told he may never be freed	277
74	May 22, 2012	PA Regional Newswire of English Regions: SOUTH EAST	EX-ALTAR BOY SENTENCED OVER MURDER	281
75	May 22, 2012	Press Association Mediapoint	Killer told he may never be freed	769
76	May 22, 2012	Press Association Mediapoint	EX-ALTAR BOY SENTENCED OVER MURDER	486
77	May 23, 2012	The Daily Telegraph (London)	Child sex vigilante killed innocent man	185

78	May 23, 2012	i-Independent Print Ltd	Anti-paedophile vigilante faces a lifetime in prison	265
79	May 23, 2012	Metro (UK)	'Paedophile' killer may never be freed	63
80	May 24, 2012	Hastings & St. Leonards Observer	Judge put an end to Hunnisett's twisted mission	250

5. News report of Tony McCluskie

	date	news media	headline/title	word count
1	March 7, 2012	The Independent	Brother held by police after torso of 'Eastenders star' is pulled from canal;	396
2	March 7, 2012	The Independent	Missing Eastenders actress Gemma McCluskie's brother held by police after torso is pulled from canal;	396
3	March 7, 2012	The Telegraph	Gemma McCluskie disappearance: police pull body from canal; Police hunting for missing EastEnders actress Gemma McCluskie have recovered a woman's headless torso from a canal.	494
4	March 7, 2012	The Times	Brother of EastEnders actress held after body found in canal	359
5	March 7, 2012	The Times	Body pulled from canal feared to be missing EastEnders actress	359
6	March 8, 2012	Belfast Telegraph	Headless body may be soap actress	383

7	March 8, 2012	The Daily Telegraph (London)	Headless torso is pulled from canal in hunt for soap actress; Brother of missing EastEnders star arrested after divers find limbless body	526
8	March 8, 2012	DAILY MAIL (London)	POLICE QUIZ HER BROTHER AFTER DISCOVERY OF TORSO	475
9	March 8, 2012	The Independent (London)	Brother held after EastEnders actress found dead; CRIME	260
10	March 8, 2012	Metro (UK)	Brother, 35, arrested in EastEnders' torso killing	73
11	March 8, 2012	Metro (UK)	Headless torso may be EastEnders star; home	64
12	March 8, 2012	The Mirror	COPS FIND HEADLESS CORPSE IN HUNT FOR EASTENDERS GEMMA; BROTHER HELD AFTER HELPING SEARCH	524
13	March 8, 2012	The Mirror	IS HEADLESS CORPSE EASTENDERS GEMMA?; BROTHER HELD AFTER HELPING SEARCH	526
14	March 8, 2012	The Mirror	COPS FIND HEADLESS CORPSE IN HUNT FOR EASTENDERS GEMMA; BROTHER HELD AFTER HELPING SEARCH	524
15	March 8, 2012	MX Brisbane (Queensland, Australia)	Brother link to torso find	122

16	March 8, 2012	The Sun (England)	GEMMA COPS HUNT FOR SEVERED HEAD	443
17	March 8, 2012	The Times	Brother of EastEnders actress held after body found in canal	359
18	March 8, 2012	The Times (London)	Body in canal may be BBC soap actress	144
19	March 8, 2012	UPI	Report: Torso may belong to actress	104
20	March 9, 2012	The Daily Telegraph (Australia)	Soap star mutilated Headless body found in canal	345
21	March 9, 2012	The Times	Last hours of murdered EastEnders actress revealed	416
22	March 10, 2012	Agence France Presse -- English	Brother charged after actress's headless body found in canal	124
23	March 10, 2012	The Telegraph	Brother of EastEnders actress charged with her murder; The brother of a former EastEnders actress whose headless torso was found dumped in a London canal has been charged with her murder, police said.	208
24	March 10, 2012	The Times	Last hours of murdered EastEnders actress revealed	419
25	March 10, 2012	The Times (London)	Body found in canal is EastEnders actress	98
26	March 10, 2012	The Times (London)	Body found in canal is ex-EastEnders actress	103

27	March 11, 2012	Daily Star Sunday	Enders brother murder charge	133
28	March 11, 2012	The Independent on Sunday	Brother charged with murder of 'EastEnders' actress; NEWS IN BRIEF :: POLICE	73
29	March 11, 2012	MAIL ON SUNDAY (London)	GEMMA: BROTHER IS CHARGED	101
30	March 11, 2012	The Observer (London)	National: Brother charged with murder over dismembered EastEnders actor	248
31	March 11, 2012	The People	SHE WAS MY FIRST LOVE; EX'S TEARS FOR TRAGIC EASTENDERS STAR GEMMA	273
32	March 11, 2012	The People	GEMMA BROTHER IS CHARGED; EX'S TEARS FOR TRAGIC EASTENDERS STAR GEMMA	557
33	March 11, 2012	Press Association Mediapoint	MCCLUSKIE MURDER: BROTHER CHARGED	246
34	March 11, 2012	Scottish Star	Enders brother murder charge	133
35	March 11, 2012	Scottish Express	Charge in soap death	73
36	March 11, 2012	Sunday Herald	EastEnders torso killing: brother held	195
37	March 11, 2012	Sunday Mirror	DEAD SOAP STAR'S BRO IS CHARGED	117
38	March 11, 2012	The Sunday Times (London)	Soap star death; Actress's torso found, and British mum 'is NY vice queen' TOP STORIES FROM THE UK	117

39	March 11, 2012	The Sunday Times (London)	Actress murder: brother charged	143
40	March 11, 2012	The Sunday Times (London)	Soap star death	117
41	March 11, 2012	Sunday Express	Charge in soap death	73
42	March 11, 2012	The Sun (England)	Gemma's brother is charged	88
43	March 11, 2012	The Sun (England)	GEMMA'S BROTHER CHARGED; EastEnders murder rap	201
44	March 11, 2012	The Sun (England)	Enders' Gemma bruv on killing rap	110
45	March 11, 2012	The Sunday Telegraph (London)	ACTRESS MURDER: BROTHER CHARGED; NEWS IN BRIEF	38
46	March 11, 2012	The Times	Gemma McCluskie's brother charged with her murder	127
47	March 12, 2012	Belfast Telegraph	Ex-soap star's brother charged with her murder	210
48	March 12, 2012	Evening Gazette	Murder charge	36
49	March 12, 2012	The Independent	Brother appears in court over Gemma McCluskie murder;	205
50	March 12, 2012	The Irish News	Murder: Brother charged	27

51	March 12, 2012	Irish Independent	Ex-soap star's brother in court over her murder	228
52	March 12, 2012	MailOnline	EastEnders actress headless body case: Brother appears in court accused of murder and dumping her torso in canal	692
53	March 12, 2012	MailOnline	Brother of EastEnders actress whose torso was found in canal appears in court accused of murder and dumping her body	679
54	March 12, 2012	Press Association Mediapoint	ACTRESS BROTHER CHARGED WITH MURDER	228
55	March 12, 2012	The Times	Brother of EastEnders actress held after body found in canal	360
56	March 12, 2012	The Times	Gemma McCluskie's brother charged with her murder	129
57	March 12, 2012	WENN Entertainment News Wire Service	MCCLUSKIE'S BROTHER CHARGED WITH HER MURDER	163
58	March 12, 2012	Western Daily Press	Brother of soap star faces murder charge	216
59	March 13, 2012	The Express	Gemma brother in court over murder	180
60	March 13, 2012	The Herald (Glasgow)	Brother of actress on murder charge	44
61	March 13, 2012	Metro (UK)	Brother in court over star's death	112
62	March 13, 2012	Scottish Express	Gemma brother in court over murder	180

63	March 13, 2012	The Sun (England)	Star's bro torso rap	65
64	March 14, 2012	The Independent	Brother remanded over Gemma McCluskie murder;	143
65	March 15, 2012	Daily Record	SOAP ACTRESS BROTHER HELD ON MURDER RAP	67
66	March 15, 2012	The Herald (Glasgow)	Brother held over killing of actress	41
67	March 20, 2012	MailOnline	Arm 'belonging to EastEnders actress' latest body part found in same canal as her headless torso	674
68	March 20, 2012	PA Regional Newswire of English Regions: LONDON	ACTRESS POLICE FIND ARM IN CANAL	239
69	March 21, 2012	Huddersfield Daily Examiner	Arm discovered; National briefs	74
70	March 21, 2012	MailOnline	Now legs are discovered in canal where EastEnders actress' headless torso was found	694
71	March 21, 2012	MailOnline	Legs 'belonging to EastEnders actress' are latest body part to be found in same canal as her headless torso	693
72	March 21, 2012	The Mirror	MISSING ARM FOUND IN TV GIRL MURDER; SEARCH	116
73	March 21, 2012	The Mirror	ARM FOUND IN SOAP STAR KILLING CASE; PROBE	117
74	March 21, 2012	The Western Mail	Arm found in same canal as actress' body; UKBULLETINS	94
75	March 22, 2012	The Docklands and East London Advertiser	Gemma McCluskie: Arm believed to belong to killed EastEnders actress found in Regent's Canal	146

76	March 22, 2012	The Mirror	GEMMA LEGS FIND IN CANAL; EASTENDERS	79
77	March 29, 2012	The Docklands and East London Advertiser	Second arm believed to belong to killed EastEnders actress Gemma McCluskie has been found today in the Regent's Canal.	204
78	March 31, 2012	Press Association Mediapoint	SECOND ARREST IN MURDER PROBE	142
79	April 01, 2012	Sunday Mirror	NEW ARREST IN ENDERS GIRL HORROR	133
80	June 18, 2012	UPI	McCluskie murder trial gets start date	89
81	June 18, 2012	MailOnline	Brother of former EastEnders actress Gemma McCluskie whose 'headless and limbless' body was found dumped in a canal will stand trial for her murder	350
82	June 18, 2012	PA Regional Newswire of English Regions: LONDON	BROTHER FACES ACTRESS MURDER TRIAL	155
83	June 19, 2012	The Herald (Glasgow)	Actresss' brother faces murder trial	54
84	June 19, 2012	South Wales Evening Post	Murder trial for brother; UK News	86
85	June 21, 2012	The Docklands and East London Advertiser	Gemma McCluskie: Brother Tony in court accused of murdering EastEnders actress	156
86	September 10, 2012	Belfast Telegraph Online	Severed head recovered from canal	205
87	September 10, 2012	The Evening Standard (London)	SEVERED HEAD OF EASTENDERS STAR GEMMA 'FOUND IN CANAL'	192
88	September 10, 2012	The Independent	Severed head recovered from canal where decapitated remains	206

			of former EastEnders actress Gemma McCluskie were found	
89	September 10, 2012	ITN	Severed head found in Canal	96
90	September 10, 2012	PA Regional Newswire of English Regions: LONDON	SEVERED HEAD RECOVERED FROM CANAL	200
91	September 11, 2012	Belfast Telegraph	Severed head in canal may be that of actress	190
92	September 11, 2012	Daily Mirror	Head found in search for TV Gemma; MURDER	147
93	September 11, 2012	i-Independent Print Ltd	Severed head found in Regent's Canal; The News Matrix The day at a glance CRIME	43
94	September 11, 2012	The Independent (London)	Police pull severed head from canal; CRIME	96
95	September 11, 2012	The Times (London)	Head found in canal where actress's body was dumped	96
96	September 12, 2012	Belfast Telegraph Online	Head of ex-soap actress in canal	142
97	September 12, 2012	The Independent	Police confirm severed head found in Hackney canal belongs to ex-Eastenders actress Gemma McCluskie	144
98	September 12, 2012	Press Association Mediapoint	HEAD OF EX-SOAP ACTRESS IN CANAL	144
99	September 13, 2012	Birmingham Evening Mail	Ex-soap star's head in canal	145
100	September 13, 2012	Coventry Telegraph	Headless body of star found in canal; InBrief	103
101	September 13, 2012	Daily Post	Head of ex-soap star in canal	110
102	September 13, 2012	Evening Times (Glasgow)	Head of former soap actress found in canal	83
103	September 13, 2012	The Irish News	Head of actress found	134

104	September 13, 2012	The Sentinel (Stoke)	Head of actress identified; NATIONAL AND INTERNATIONAL NEWS	62
105	September 13, 2012	The Times (London)	Actress's head found	52
106	September 28, 2012	Belfast Telegraph Online	Brother admits killing actress	177
107	September 28, 2012	Evening Times (Glasgow)	Brother admits to EastEnders star killing	181
108	September 28, 2012	The Independent	Brother admits killing former EastEnders actress Gemma McCluskie	182
109	September 28, 2012	MailOnline	EastEnders actress's brother admits killing her and dumping her headless body in a canal	243
110	September 28, 2012	PA Regional Newswire of English Regions: LONDON	BROTHER ADMITS KILLING ACTRESS	179
111	September 28, 2012	Scotsman	Brother admits killing Eastenders actress	129
112	September 28, 2012	Scotsman	Brother admits killing Eastenders actress	292
113	September 28, 2012	Showbiz top ten	Brother admits killing actress	177
114	September 28, 2012	The Telegraph	Brother of former EastEnders actress Gemma McCluskie admits responsibility for her death; Tony McCluskie, 35, charged with murdering 29-year-old Eastenders actress Gemma McCluskie and dumping her body in a canal has admitted responsibility for her death.	302
115	September 28, 2012	The Times	Brother admits killing EastEnders actress	247
116	September 28, 2012	WENN Entertainment	BROTHER OF BRITISH ACTRESS GEMMA	115

		News Wire Service	MCCLUSKIE ADMITS KILLING HER	
117	September 29, 2012	Belfast Telegraph	Brother admits to killing actress; news in brief	
118	September 29, 2012	Daily Mirror	I did kill my EastEnders actress sister; HE ADMITS TO CANAL DEATH	225
119	September 29, 2012	Daily Record and Sunday Mail	I did kill my EastEnders actress sister; BROTHER ADMITS GEMMA CANAL DEATH ; McCluskie, 35 to stand trial	217
120	September 29, 2012	Daily Star	BRUV ADMITS KILLING EASTENDERS ACTRESS	152
121	September 29, 2012	Evening Times (Glasgow)	BROTHER OF MURDERED ACTRESS ACCEPTS BLAME	180
122	September 29, 2012	The Express	Brother: I killed actress	114
123	September 29, 2012	The Guardian - Final Edition	National: Brother admits killing soap actor	242
124	September 29, 2012	The Herald (Glasgow)	Brother admits killing star	137
125	September 29, 2012	i-Independent Print Ltd	Brother admits responsibility for killing TV star; COURTS	144
126	September 29, 2012	The Independent (London)	Brother admits killing actress; COURTS	71
127	September 29, 2012	The Independent	Brother of Eastenders actress Gemma McCluskie admits killing	71
128	September 29, 2012	Scottish Express	Brother: I killed actress	114
129	September 29, 2012	The Sun (England)	BRUV: I DID KILL EASTEND GEMMA	166
130	September 29, 2012	The Times (London)	Brother killed actress	77
131	September 29, 2012	The Western Mail	Brother admits killing EastEnders actress; UKBULLETINS	92
132	October 04, 2012	The Docklands and East	Brother of EastEnders' actress admits responsibility for death	226

		London Advertiser		
133	October 04, 2012	Hackney Gazette	Brother of TV actress says he killed her, court told	182
134	November 30, 2012	MailOnline	'Now you can rest in peace like you deserve': Hundreds attend funeral of EastEnders star whose body was found in a north London canal	553
135	December 01, 2012	WENN Entertainment News Wire Service	BRITISH ACTRESS GEMMA MCCLUSKIE LAID TO REST	90
136	December 07, 2012	Belfast Telegraph Online	Actress's brother: I killed her	266
137	December 07, 2012	PA Regional Newswire of English Regions: LONDON	ACTRESS'S BROTHER: I KILLED HER	223
138	December 07, 2012	Press Association Mediapoint	ACTRESS'S BROTHER: I KILLED HER	264
139	December 07, 2012	The Telegraph	Brother admits killing EastEnders' actress found in canal; The brother of former EastEnders actress Gemma McCluskie, found dead in a canal, pleaded guilty today to her manslaughter.	243
140	December 07, 2012	WENN Entertainment News Wire Service	GEMMA MCCLUSKIE'S BROTHER PLEADS GUILTY TO MANSLAUGHTER	144
141	December 07, 2012	Agence France Presse -- English	Brother of UK soap actress admits killing her	142

142	December 08, 2012	Daily Record and Sunday Mail	I killed her, says star's brother, 35	128
143	December 08, 2012	Daily Star	I CHOPPED HEAD OFF MY TELL Y SIS; Brother admits to 'losing it'	172
144	December 08, 2012	Derby Evening Telegraph	Manslaughter plea	45
145	December 08, 2012	The Herald (Glasgow)	Brother guilty in torso case	109
146	December 08, 2012	i-Independent Print Ltd	Murder trial for McCluskie; NEWS IN BRIEF COURTS	59
147	December 08, 2012	The Independent (London)	I killed Gemma, soap star's brother admits; COURTS	134
148	December 08, 2012	The Journal	Death of actress; WORLD TODAY ; COURT	49
149	December 08, 2012	The Journal (Newcastle, UK)	Court	51
150	December 08, 2012	Leicester Mercury	Murdered soap actress: Brother in 'guilty' plea; WORLD VIEW	190
151	December 08, 2012	The Times (London)	Actress murder trial	62
152	December 08, 2012	Western Daily Press	Brother of actress admits killing her	71
153	December 08, 2012	Western Morning News (Plymouth, UK)	Actress's brother admits: 'I killed her'	91
154	December 09, 2012	Sunday Herald Sun (Australia)	EastEnders killing	90

6. News report of Edwin Pyott

	Date	news media	headline/title	word count
1	February 15, 2015	Coventry Telegraph	Holbrooks flats death: Man accused of murder to face	87

			magistrates court on Monday; Edwin Pyott, of Langlodge Road, Holbrooks, is accused of killing a 44-year-old man	
2	February 16, 2015	Coventry Telegraph	Holbrooks murder suspect to appear at Warwick Crown Court tomorrow; Edwin Pyott was arrested after the body of a man was found in city flats on February 12	102
3	February 16, 2015	Coventry Evening Telegraph	City man on murder charge	77
4	February 17, 2015	Coventry Evening Telegraph	Man in court on murder charge	83
5	February 17, 2015	European Union News	Coventry man appears in court accused of city murder	166
6	February 19, 2015	Coventry Evening Telegraph	'Knife murder' victim, 44, is named by police; In Brief	82
7	February 24, 2015	Coventry Telegraph	Holbrooks stabbing: Family pay tribute to Danny McDermott; 'Danny was a hardworking, loving family man with a big heart and a great sense of humour.'	152
8	February 25, 2015	Coventry Evening Telegraph	Family pays tribute to stabbing victim Danny	154
9	March 3, 2015	European Union News	Coventry murder victim named	186
10	November 30, 2015	Coventry Telegraph	Coventry man confesses to murder of friend who was	207

			stabbed in the neck; Edwin Pyott, from Holbrooks, will be sentenced for the murder of Danny McDermott on December 11	
11	December 1, 2015	European Union News	Coventry man pleads guilty to murdering his friend	246
12	December 2, 2015	Coventry Evening Telegraph	Man pleads guilty to murder of loyal, loving family man	206
13	December 3, 2015	Coventry Telegraph	Coventry man confesses to murder of friend who was stabbed in the neck; Edwin Pyott, from Holbrooks, will be sentenced for the murder of Danny McDermott on December 11	205
14	December 10, 2015	European Union News	Coventry man pleads guilty to murdering his friend	240
15	December 11, 2015	Coventry Telegraph	Coventry man who stabbed friend in the neck jailed for at least 20 years for murder; Edwin Pyott, who had a history of threatening people with knives, is receiving treatment for schizophrenia	638
16	December 14, 2015	Coventry Evening Telegraph	Man who stabbed his pal in neck sent to jail for 20 years	637
17	December 16, 2015	European Union News	Coventry man jailed for the murder of his neighbour	219

Appendix 3: Sources for case summaries

Note: all the weblinks below were accessible on 20 October 2019.

Case 1: Palmer

1. Woman stabs boyfriend to death after claiming he 'spent too much time on Facebook'
<https://www.independent.co.uk/news/uk/crime/woman-stabs-boyfriend-to-death-after-claiming-he-spent-too-much-time-on-facebook-a6890131.html>
2. Life sentence for woman who murdered her boyfriend
A woman has been given a life sentence for murdering a man in Morecambe last year.
<https://www.itv.com/news/granada/2016-02-19/life-sentence-for-woman-who-murdered-her-boyfriend/>
3. Hairdresser stabbed boyfriend to death after row over his use of Facebook
<https://www.telegraph.co.uk/news/uknews/crime/12169475/Hairdresser-stabbed-boyfriend-to-death-after-row-over-his-use-of-Facebook.html>
4. Woman jailed for boyfriend murder in Morecambe caravan park
A woman has been jailed for life for murdering her boyfriend at a caravan park in Morecambe.
<https://www.bbc.co.uk/news/uk-england-lancashire-35616551>
5. Morecambe hairdresser accused of murder says boyfriend was “controlling”
A hairdresser accused of murdering her boyfriend has told a court he was a different person when he had been drinking.
<https://www.lep.co.uk/news/latest/morecambe-hairdresser-accused-of-murder-says-boyfriend-was-controlling-1-7737016>
6. Neighbours shock over caravan park murder
<https://www.thevisitor.co.uk/news/neighbours-shock-over-caravan-park-murder-1-7414599>
7. Woman killed boyfriend for spending too much time on Facebook
<https://nypost.com/2016/02/22/woman-killed-boyfriend-for-spending-too-much-time-on-facebook/>
8. Terri-Marie Palmer sentenced to minimum 12 years over ‘Facebook murder’ of

Damon Searson

<https://www.news.com.au/technology/online/social/terrimarie-palmer-sentenced-to-minimum-12-years-over-facebook-murder-of-damon-searson/news-story/e21b76ccfe5c44584e6bb17801df3c0c>

9. Jealous hairdresser, 23, stabbed her boyfriend to death with a breadknife after losing her temper because he spent too much time on Facebook
- <https://www.dailymail.co.uk/news/article-3458083/Jealous-hairdresser-23-stabbed-boyfriend-death-breadknife-losing-temper-spent-time-Facebook.html>

Case 2: Capp

1. Cardiff prisoner Colin Capp guilty of pen attack murder
<https://www.bbc.co.uk/news/uk-wales-south-east-wales-32538498>
2. Pen attack murderer Colin Capp given life sentence
<https://www.bbc.co.uk/news/uk-wales-south-east-wales-32545301>
3. Prisoner Colin Capp who killed cell mate with a ball point pen is found guilty of murder
<https://www.walesonline.co.uk/news/wales-news/prisoner-colin-capp-who-killed-9157682>
4. Cardiff prisoner strangled cell-mate with a plastic bag and stabbed him 100 times with a pen, trial hears
<https://www.walesonline.co.uk/news/wales-news/cardiff-prisoner-strangled-cell-mate-plastic-9130780>
5. Pen attack prisoner given life sentence
<https://www.itv.com/news/wales/2015-05-01/pen-attack-prisoner-given-life-sentence/>
6. Cardiff prison attack inmate Colin Capp was 'mentally ill'
<https://www.bbc.co.uk/news/uk-wales-south-east-wales-32517318>
7. Jail criticised after prisoner murdered his cell mate by strangling and stabbing him 100 times in the neck with a biro; Arsonist Colin Capp went on to murder cellmate Darren Thomas in 2014
walesonline.co.uk
March 24, 2016 Thursday 2:46 PM GMT

Case 3: Taylor

1. Alethea Taylor's husband found guilty of her murder
<https://www.bbc.co.uk/news/uk-england-hereford-worcester-21941711>
2. Alethea Taylor murder: Special report into downfall of killer husband
<https://www.shropshirestar.com/news/2013/04/03/alethea-taylor-murder-special-report-into-downfall-of-killer/>
3. Undertaker John Taylor jailed for life over wife Alethea murder
<https://www.shropshirestar.com/news/crime/2013/04/02/alethea-taylor-murder-case-jury-still-out/>
4. Lover of Herefordshire undertaker John Taylor accused of murder speaks of affair
<https://www.worcesternews.co.uk/news/10250876.lover-of-herefordshire-undertaker-john-taylor-accused-of-murder-speaks-of-affair/>
5. Rest in peace? Funeral director who KILLED
<https://www.pressreader.com/uk/real-people/20190328/281578062006391>

Case 4: Hunnisett

1. Timeline: 'Abused' boy Christopher Hunnisett went on to kill
<https://www.bbc.co.uk/news/uk-england-sussex-18022501>
2. Hammer killer Christopher Hunnisett jailed for life
<https://www.bbc.co.uk/news/uk-england-sussex-18159887>
3. Christopher Hunnisett, a violent male who identifies as a trans woman, was jailed for life in 2012, with a minimum term of 18 years, for the brutal murder of Peter Bick, 57, in Bexhill, East Sussex.
<http://transcrimeuk.com/2017/10/30/christopher-hunnisett/>
4. Cleared of one murder, questioned on another
<https://www.hastingsobserver.co.uk/news/people/cleared-of-one-murder-questioned-on-another-1-2304589>
5. Murderer claims rights are being violated after 'home-made sex change' in prison
<https://www.hastingsobserver.co.uk/news/crime/murderer-claims-rights-are-being-violated-after-home-made-sex-change-in-prison-1-7833319>
6. Christopher Hunnisett Acquitted Of Vicar's Murder Given Life Sentence For Killing

Peter Bick

https://www.huffingtonpost.co.uk/2012/05/22/christopher-hunnisett-gay-lover-vicar-murder-life_n_1535424.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAABlyDz4Olmhu0JtYqYBjNq2billsxccZIQx_FbqToNF2xeQdtbBPUuumaMZxHLv9mZCxWsOHexYvy3-Za5SOa5m15yVofg6ZHxGV3h4KJ44fA5Z3414gWVCiTbAhx94Zv9wvQxKeDDMHlQs79liugsZXY2zW6fFs5TFZ1FG6_EUu

7. Former altar boy, 28, who killed gay lover, 57, in hate campaign against 'paedophiles' told he may never be freed from prison

<https://www.dailymail.co.uk/news/article-2148151/Christopher-Hunnisett-28-killed-gay-lover-57-told-freed-prison.html>

8. Vigilante who murdered gay man is told he may never be freed from jail

<https://www.theguardian.com/uk/2012/may/22/vigilante-murdered-gay-man>

Case 5: McCluskie

1. EastEnders' Gemma McCluskie murder: Brother guilty

<https://www.bbc.co.uk/news/uk-england-london-21227557>

2. Gemma McCluskie

https://en.wikipedia.org/wiki/Gemma_McCluskie

3. EastEnders murder: Gemma McCluskie murdered and mutilated by own 'monster' brother

<https://closeronline.co.uk/real-life/news/eastenders-murder-gemma-mccluskie-murdered-mutilated-monster-brother/>

4. SOAP KILLING What happened to Gemma McCluskie, when was the EastEnders actress murdered and dismembered and where is her brother Tony now?

<https://www.thesun.co.uk/news/4651834/gemma-mccluskie-eastenders-actress-murdered-dismembered-brother-tony/>

5. EastEnders star Gemma McCluskie was murdered by her brother

<https://www.telegraph.co.uk/news/uknews/crime/9837416/EastEnders-star-Gemma-McCluskie-was-murdered-by-her-brother.html>

6. Brother of murdered Eastenders actress 'caught on camera dragging suitcase containing her body parts'

- <https://www.telegraph.co.uk/news/uknews/crime/9811604/Brother-of-murdered-Eastenders-actress-caught-on-camera-dragging-suitcase-containing-her-body-parts.html>
7. Former Eastenders actress Gemma McCluskie was beaten to death by brother
<https://www.telegraph.co.uk/news/uknews/crime/9800392/Former-Eastenders-actress-Gemma-McCluskie-was-beaten-to-death-by-brother.html>
 8. "He was a family annihilator:" How jealousy and control motivated the murderers of EastEnders actresses Sian Blake and Gemma McCluskie
<https://www.mirror.co.uk/tv/tv-news/he-family-annihilator-how-jealousy-11312369>
 9. 'I'm not evil, Dad': Brother who brutally murdered EastEnders actress tells father he's 'choked up' by what he did in disturbing letter sent from jail
<https://www.dailymail.co.uk/news/article-2272654/Tony-McCluskie-Chilling-letter-brother-murdered-EastEnders-actress-dumped-body-parts-canal.html>

Case 6: Pyott

1. Coventry man who stabbed friend in the neck jailed for at least 20 years for murder
<https://www.coventrytelegraph.net/news/coventry-news/coventry-man-who-stabbed-friend-10587822>
2. Coventry man confesses to murder of friend who was stabbed in the neck
<https://www.coventrytelegraph.net/news/coventry-news/coventry-man-confesses-murder-friend-10527887>
3. Coventry man who stabbed friend in the neck jailed for at least 20 years for murder; Edwin Pyott, who had a history of threatening people with knives, is receiving treatment for schizophrenia
coventrytelegraph.net
December 11, 2015 Friday 4:54 PM GMT
4. Man who stabbed his pal in neck sent to jail for 20 years
Coventry Evening Telegraph
December 14, 2015 Monday, Edition 1, National Edition