

## Deconstructing Judicial Narratives: Constructivist Analysis of Social and Psychological Framing in a Supreme Court Cassation Decision

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### Article history:

Submission: 07 October 2025

Received in revised form: 15 November 2025

Acceptance date: 28 November 2025

Available online: 07 December 2025

### Keywords:

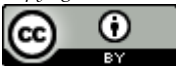
Judicial Narrative Construction;  
Rehabilitative Penal Paradigm; Ferdy Sambo  
Cassation Decision.

### How to Cite:

Manurung, R. R. P. E., & Lewoleba, K. K.  
(2025). Deconstructing Judicial Narratives:  
Constructivist Analysis of Social and  
Psychological Framing in a Supreme Court  
Cassation Decision. *Al-Risalah Jurnal Ilmu  
Syariah Dan Hukum*.  
<https://doi.org/10.24252/al-risalah.vi.61876>

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### Abstract

The Supreme Court Decision No. 813 K/Pid/2023, which commuted Ferdy Sambo's death sentence to life imprisonment, sparked controversy and debate regarding the judges' reasoning. This research addresses the analytical gap in previous studies by systematically deconstructing the non-normative foundation of the ruling. Employing normative-judicial research, this study focuses on the qualitative deconstruction of the Supreme Court Decision No. 813 K/Pid/2023 as the primary data, utilizing the constructivist paradigm as the main analytical framework. The novelty of this study lies in its systematic analysis of how the judicial panel actively engaged in judicial narrative construction of the Defendant's Social and Psychological Experiences. The analysis reveals a dual construction: the defendant was portrayed as a meritorious public servant with long service (social experience), and as an individual whose 'soul was shaken' by emotional provocation (psychological experience). This dualistic construction became the foundation for applying a rehabilitative penal paradigm. The study evaluates that while constructivism effectively unpacks the process of judicial meaning-making, the resulting construction was found to have low normative validity and was imbalanced in considering the victim's interests. This research contributes theoretically to the study of judicial narrative construction and practically to fostering more comprehensive criminal justice practices.

## INTRODUCTION

The premeditated murder case involving a senior police official evolved into a complex legal and social phenomenon that captured significant public attention in Indonesia.<sup>1</sup> The murder, committed by the official and his subordinates, was initially triggered by a desire for revenge, which then escalated into a deliberate and orchestrated killing.<sup>2</sup> This case opened a wide discourse on judicial processes and societal expectations regarding the realization of justice. Public scrutiny intensified when a substantial discrepancy emerged in the court rulings, particularly the Supreme Court Decision No. 813 K/Pid/2023, which overturned the death penalty imposed by the lower courts and changed it to life imprisonment.<sup>3</sup> This significant modification spurred controversy and intense debates concerning the judges' underlying reasoning (*ratio decidendi*).

In the cassation decision, the Supreme Court explicitly referred to non-legal considerations, namely the Defendant's social and psychological experiences. Specifically, the judges stated that the Defendant's actions were provoked by the "Magelang Incident, which had shaken his soul," causing him to act with great anger and emotional instability.<sup>4</sup> The judges also incorporated the Defendant's personal background—such as his lengthy 30-year service in the national police force and his contributions to the state—as mitigating factors.<sup>5</sup> The inclusion of these non-legal elements raises a fundamental question: how were the Defendant's social and psychological history, along with his official records, interpreted and constructed by the judicial panel to legitimize the shift in the penal paradigm?

Although the prevailing tendency in Indonesian criminal justice practice is based on a normative-positivistic approach, this case demands a deeper analytical lens. To understand the process of judicial meaning-making, this study adopts the Constructivist Paradigm. This approach posits that judicial decisions are not merely mechanical applications of the law, but rather the result of active social construction by judges. Constructivism emphasizes that legal reality is shaped by interpretation influenced by

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<sup>1</sup> Rasji, dkk., "Inkonsistensi Hasil Putusan Hakim terhadap Kasus Ferdy Sambo dalam Perealisasian Hukum," *Jurnal Ilmu Multidisiplin* 4, no. 1 (2025): 170.

<sup>2</sup> Dea Kumala Putri, Aulia Putri Izzati, dan Eugina Evita Marito, "Penyimpangan dalam Pengimplementasian Kerjasama antara Atasan dan Bawahan (Studi Kasus Ferdy Sambo)," (Jurnal Artikel, Fakultas Hukum, Universitas Pembangunan Nasional "Veteran" Jakarta, 2023), hlm. 13.

<sup>3</sup> Heru Siswanto dan Indra Lorenly Nainggolan, 'Paradigma Konstruktivisme Dalam Penegakan Hukum Kasus

Pembunuhan Berencana Oleh Ferdy Sambo' *Jurnal Hukum Sasana*, 9.2 (2023), 306.

<sup>4</sup> Putusan Mahkamah Agung Nomor 813K/Pid/2003 halaman 39.

<sup>5</sup> Mahkamah Agung R.I., Putusan Nomor 813 K/Pid/2023, tanggal 8 Agustus 2023 (Ferdy Sambo), hlm. 30.

the judges' backgrounds, experiences, values, and socio-political contexts, as articulated by Guba & Lincoln and Berger & Luckmann.

Within the context of the ruling, the judicial process—particularly in terms of legal discovery (*rechtsvinding*)—can be understood not solely as the application of juridical logic, but as an act of meaning production influenced by non-juridical factors. Consequently, Indonesia's penal policy orientation has shifted from a retributive or *lex talionis* paradigm toward a rehabilitative philosophy, prioritizing punishment as a means of prevention, reformation, conflict resolution, and fostering security, societal peace, and the growth of remorse.<sup>6</sup> Therefore, a constructivist framework is needed to specifically examine how the social and psychological realities of the Defendant were constructed and integrated into the *ratio decidendi*.

The involvement of non-normative factors in the justification of the highest legal ruling demonstrates that this decision represents a form of legal discovery that extends beyond mechanical positivism. In cases where positive law (Article 340 of the Criminal Code) historically demands the maximum sanction, judges are confronted with uncertainty or normative “gaps,” a condition described by legal philosopher Benjamin N. Cardozo as legislating between gaps. To comprehend this complex judicial process—how judges make a “choice” under conditions of sanction ambiguity—deeper deconstruction is required, extending beyond formal juridical analysis.

The analysis of this judicial narrative is grounded in a trilogy of interpretive philosophy that provides the framework for understanding the creative judicial process and assessing the normative coherence of its outcomes. Paul Ricoeur's *Time and Narrative* offers a foundation for understanding judicial narrative as *mimesis*. *Emplotment* (*mimesis* 2) is the synthesis that transforms chaotic events and “unformed” temporal experiences into a coherent narrative with a unified temporal structure. Through plotting, purpose, causality, and contingency are interwoven into a complete and meaningful course of action.<sup>7</sup> In the judicial context, *emplotment* enables judges to reconstruct chaotic crime facts into a comprehensible temporal sequence that can be legally evaluated.

Benjamin N. Cardozo (Judicial Rationality) explains that in situations where statutes or precedents are unclear, judges must make choices influenced by their “subconscious elements,” such as life philosophy, traditional beliefs, and conceptions of social needs.

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<sup>6</sup> Wilda Nadia Fitri, *Disparitas Putusan Hakim Terhadap Tindak Pidana Pembunuhan Berencana (Studi Putusan MA No. 813 K/Pid/2023 dan Putusan MA No. 498 K/Pid/2017)*, (Skripsi Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, 2024), hlm. 54.

<sup>7</sup> Paul Ricoeur, *Time and Narrative*, vol. 1, terj. Kathleen McLaughlin dan David Pellauer (Chicago: The University of Chicago Press, 1984), 10.

This concept clarifies why the judges selected non-normative elements (such as service records) as justification for mitigating punishment—a result of the highest form of judicial discretion. These inner elements arise because “the truth is that all these internal questions are born from the desire to transcend the limits that confine the nature of our humanity.”<sup>8</sup> Such a stance allows judges to leap beyond the formal text to achieve what they believe constitutes justice.

Ronald Dworkin (Integrity of Law) asserts that law is a constructive interpretation aimed at achieving the *best justification* of legal practice within a coherent political and moral framework. His core principle, *Law's Integrity*, demands consistency in morality and principle (*principled consistency* and *moral equality of worth*). This framework will be used to evaluate the narrative constructed by the judges: whether it is logically coherent and morally equitable, or whether it instead results in a grotesque miscarriage of justice. In essence, “a judge deciding a particular case must determine whether legal practice appears in a better light if we assume society has adopted one principle rather than another.”<sup>9</sup>

Previous studies examining Supreme Court Decision No. 813 K/Pid/2023 have generally focused on normative legal analysis, comparative studies, or theories of legal discovery. Although some prior works have briefly touched on constructivism, none have specifically or systematically dissected how the Defendant's social and psychological realities were constructed by the judicial panel within the *ratio decidendi*. The novelty of this article lies in its use of the constructivist paradigm as the primary analytical framework to deconstruct judicial narrative construction and uncover the judges' interpretive choices—an analytical approach not previously undertaken in a detailed manner.

Based on this research gap, this article addresses two fundamental questions: (1) How were the Defendant's social and psychological experiences constructed in Supreme Court Decision No. 813 K/Pid/2023? and (2) To what extent is the constructivist paradigm effective in understanding judicial reasoning? The objective is to employ this paradigm as a tool of deconstruction to reveal the subjective interpretations of judicial actors. Substantively, this study contributes theoretically by assessing the effectiveness and limitations of constructivism in evaluating the normative coherence of the resulting legal construction.

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<sup>8</sup> Benjamin N. Cardozo, *The Nature of the Judicial Process* (New Haven: Yale University Press, 1921), 54–55.

<sup>9</sup> George C. Christie, "Dworkin's 'Empire'," *Duke Law Journal* 1987 (1987): 173.

## **METHODS**

This research employs a normative-juridical legal research method, also referred to as doctrinal legal research, which focuses on analyzing Supreme Court Decision No. 813 K/Pid/2023 as a legal product. Normative legal research, or doctrinal legal research, is a process aimed at identifying legal norms, legal principles, and legal doctrines to formulate answers to the legal issues under examination. The approaches applied in this study include the Case Approach, used to examine the ruling in depth, and the Conceptual Approach, used to explore core concepts such as “social and psychological experience” and the “constructivist paradigm.” The data sources consist of primary legal materials (primarily Supreme Court Decision No. 813 K/Pid/2023 and relevant statutory provisions) and secondary legal materials. Data collection was conducted through document and literature review techniques.

The collected data were analyzed qualitatively using systematic operational steps: beginning with Judicial Text Interpretation through Legal Hermeneutics to extract non-literal meanings, followed by Constructive Content Analysis (qualitative coding) to identify the narrative elements embedded in the judicial reasoning (for example, the phrasing of “a shaken emotional state” and references to the defendant’s “service record”), and concluding with Paradigmatic De(construction). The constructivist paradigm serves as the main analytical framework to explain how specific judicial narratives were selected by the panel of judges. The analysis concludes with an evaluation of the coherence and validity of the decision against established legal doctrine and theories of legal reasoning.

## **RESULTS AND DISCUSSION**

### **1. The Construction of the Defendant’s Social and Psychological Experience in Supreme Court Decision No. 813 K/Pid/2023.**

Within the framework of the constructivist paradigm, Supreme Court Decision No. 813 K/Pid/2023 is not viewed as a mechanical (positivistic) application of law, but rather as the result of an active social construction carried out by the judges. In the process of legal reasoning (*rechtsvinding*), judges engage in an “interpretive meaning-making activity” influenced by non-legal factors, including their social background and contextual environment. The primary objective of constructing this judicial narrative is to legitimize the shift in criminal law policy from a retributive (punitive) orientation toward a rehabilitative paradigm, one that emphasizes the purposes of punishment as prevention, reintegration, and the cultivation of remorse.

The construction of a psychological narrative serves as the central foundation for the majority judges in mitigating the element of premeditation contained in Article 340 of the Indonesian Criminal Code (KUHP). The judges selectively formulate the defendant's inner reality by stating that his actions *"were triggered by the motive or reason of an incident in Magelang, which profoundly shook his emotional state, causing him to become intensely angry and emotional."*<sup>10</sup> The phrase "shook his emotional state" represents a deliberate and strategic lexical choice within the judicial narrative. This diction portrays the defendant not as a coldly calculating perpetrator but as an individual who experienced severe psychological disorientation resulting from trauma or provocation related to *"his dignity, family honor, and self-worth."*<sup>11</sup> The narrative subtly weakens the weight of rationality in the crime's planning, framing the act instead as the product of an overwhelming emotional impulse.

Constructively, the majority judges maintain ambiguity regarding the objective truth of the Magelang incident, stating: *"Although it cannot be proven what actually happened in Magelang that caused the Defendant to become so angry, emotional, and unable to control himself...."*<sup>12</sup> This ambiguity functions as a critical narrative device. From a constructivist standpoint, the judges intentionally detach themselves from the burden of objective factual proof and instead focus entirely on the subjective reality of the defendant's experience. By legitimizing the defendant's perceived emotional injury, the judges justify the psychological impact as a mitigating factor without requiring factual verification. This construction is later linked to the defendant's perceived capacity for remorse, which further legitimizes the application of a rehabilitative sentencing philosophy.

In addition to developing a narrative of psychological vulnerability, the Supreme Court strategically constructs the defendant's social identity as a central mitigating element. This construction operates as a form of "character balancing." Judicial legitimacy for including the defendant's personal background is derived from Article 8 paragraph (2) of Law No. 48 of 2009 on Judicial Power, which requires judges to consider both the "good and bad traits of the Defendant."<sup>13</sup> On this basis, the ruling highlights that the defendant "has served as a member of the Indonesian National Police for approximately 30 years" and further states that he "has contributed to the state by maintaining public order, fostering security, and upholding the law."<sup>14</sup> The crime is

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<sup>10</sup> Mahkamah Agung R.I., Putusan Nomor 813 K/Pid/2023, tanggal 8 Agustus 2023 (Ferdy Sambo), p. 39.

<sup>11</sup> Mahkamah Agung R.I., Putusan Nomor 813 K/Pid/2023, tanggal 8 Agustus 2023 (Ferdy Sambo).

<sup>12</sup> Mahkamah Agung R.I., Putusan Nomor 813 K/Pid/2023, tanggal 8 Agustus 2023 (Ferdy Sambo).

<sup>13</sup> Mahkamah Agung R.I., Putusan Nomor 813 K/Pid/2023, tanggal 8 Agustus 2023 (Ferdy Sambo), p. 40.

<sup>14</sup> Mahkamah Agung R.I., Putusan Nomor 813 K/Pid/2023, tanggal 8 Agustus 2023 (Ferdy Sambo).

therefore framed not as the culmination of flawed character but rather as a tragic moral deviation from an otherwise positive social trajectory. This construction implicitly assigns greater socio-political weight to the defendant's elite institutional status, raising concerns regarding the erosion of the principle of equality before the law.

For a structured scholarly analysis, this judicial narrative must be juxtaposed with the counter-narrative presented in the dissenting opinions of Supreme Court Justice Jupriyadi and Supreme Court Justice Dr. Desnayeti. The presence of dissenting opinions serves as empirical confirmation of the constructivist paradigm, demonstrating that legal reality is an interpretive choice rather than an unavoidable conclusion arising from facts. The dissenting judges adopt the same factual elements—high-ranking status and the emotional trigger of the Magelang incident—but reconstruct them as aggravating rather than mitigating factors. The contrast can be mapped as follows:

<b>Aspect of Construction</b>	<b>Majority Construction (Rehabilitative/Mitigating Paradigm)</b>	<b>Counter-Construction of Minority Judges (Retributive/Aggravating Paradigm)</b>
<b>Psychological Trigger</b>	A “shaken emotional state” tied to dignity and family honor, resulting in loss of emotional control.	Unjustifiable emotional reaction. The defendant should have verified the incident rationally. Emotional impulse reflects professional failure.
<b>Social Identity &amp; Position</b>	Thirty-year service and contributions to the state considered a mitigating indicator of “good character.”	High-ranking police status demands the highest ethical standard. Failure to meet that duty is an aggravating factor. The defendant should be a role model.
<b>Sentencing Conclusion</b>	Life imprisonment justified through rehabilitative considerations and personal history.	Death penalty imposed by Judex Facti deemed correct due to severity of crime and institutional betrayal.

This comparative analysis shows that Justice Dr. Desnayeti directly dismantles the psychological construction of a “shaken emotional state.” To her, as a “high-ranking law enforcement officer,” the defendant was professionally obligated to act rationally and conduct factual verification. In this counter-construction, the defendant's emotional

response is seen as institutional failure—not as a mitigating justification. Meanwhile, Justice Jupriyadi argues that the defendant's elite law enforcement role renders his actions *more*, not less, reprehensible, treating his professional record as a standard he catastrophically violated rather than a mitigating asset.

The narrative conflict reflects a fundamental philosophical contest: whether personal history should function as a socially redeeming asset or as a marker of elite accountability. The majority's prevailing construction risks establishing a jurisprudential precedent that generates sentencing disparity based on social status and institutional service. Thus, the ruling may be read not only as an interpretation of the defendant's psychological state but also as evidence of cultural or institutional deference to authority within the judicial system.

## **2. The Use of the Constructivist Paradigm in Judicial Reasoning in Decision No. 813 K/Pid/2023.**

The constructivist paradigm is applied in analyzing this ruling because it focuses on how the judicial panel actively constructed a judicial narrative concerning the Defendant's Social and Psychological Experience. This paradigm assumes that legal reality is shaped by the active interpretation of judges, influenced by their background, experience, values, and socio-cultural context—rather than being the result of purely mechanical application of the law.

In Decision No. 813 K/Pid/2023, constructivism proves effective because it is able to uncover the meaning-making process embedded within judicial reasoning. More specifically, this paradigm explains how and why the dual narrative (meritorious service/psychological shock) was deliberately chosen to justify the shift toward a rehabilitative punishment framework. This reveals the judges' interpretive choices as a form of *constructive interpretation* in the Cardozian sense—an attempt to find coherence and direction amid ambiguity.

However, the effectiveness of constructivism has clear limitations. While it successfully explains the process by which judicial narratives are constructed, the paradigm does not provide a framework to evaluate the normative quality or validity of the resulting construction. In legal reasoning—where judicial decisions must be grounded in *principled justification*—an external evaluative framework is necessary, namely principled jurisprudence.

A normative assessment of Decision No. 813 K/Pid/2023 demonstrates a failure of coherence and legal validity, which may be described philosophically as a Dworkinian Integrity Failure. Within Dworkin's framework, a successful interpretation must satisfy two criteria: *fit* and *justification*. It must coherently situate the legal practice within its best



moral interpretation. In *hard cases*—such as this one—the judge must construct a legal narrative that makes the law “the best it can be” while remaining principled and coherent.

The dual narrative of the Defendant (Service/Shaken Soul) may represent the best possible interpretation from the perspective of the judges’ underlying philosophical instincts. However, to meet Dworkin’s requirement, the selected interpretation must integrate seamlessly into legal practice in a principled manner. The normative analysis demonstrates that this narrative construction fails to meet that threshold.

The findings show that the narrative construction carries low validity and weak coherence due to logical leaps and insufficient justification (*onvoldoende gemotiveerd*). This critique addresses the failure of the judges to provide a principled and logically consistent explanation connecting the premise (the Defendant’s three decades of service) with the conclusion (mitigation of the death penalty).

Within an Aristotelian-Ricœur framework, this constitutes a failure of Mimesis<sub>2</sub> at the logical level. A judicial plot must reflect necessary—not merely episodic—sequence. Aristotle affirms that the end of a plot must be *that which follows by necessity or probability*.<sup>15</sup> The link between past service and mitigation of premeditated murder is legally incidental—not necessary. Thus, although a compelling poetic narrative was constructed, the reasoning failed to meet the standards of legal justification, violating Dworkin’s requirement of principled consistency.

The most fundamental integrity issue lies in the imbalance of judicial construction resulting from the omission of the victim’s experience and interests. The judges claimed to adopt a rehabilitative penal paradigm, which requires a balanced consideration of both offender and victim interests.

The exclusion of the victim dimension reveals an internal theoretical contradiction in the ruling. The decision centers exclusively on the Defendant’s interests (psychological and social experience), violating Dworkin’s principle of **Moral Equality of Worth**, which asserts that *every individual possesses equal moral worth regardless of social or economic status and is therefore entitled to equal consideration and respect*.<sup>16</sup> When justice is tilted disproportionately, injustice emerges.<sup>17</sup> This omission reinforces the view that the judicial narrative risks generating sentencing disparity based on the Defendant’s social status, thereby undermining moral equality within the legal system.

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<sup>15</sup> Paul Ricœur, *Time and Narrative*, vol. I, trans. Kathleen McLaughlin and David Pellauer (Chicago: The University of Chicago Press, 1984), 38. Terj. Penulis.

<sup>16</sup> Law Notes, “Dworkin’s Theory of Liberal Equality,” *Law Notes*, 12 Februari 2024, <https://lawnotes.co/dworkins-theory/>.

<sup>17</sup> “Understanding the Impact of a Miscarriage of Justice: A Comprehensive Explanation,” Abogadosgold, diakses 21 November 2025, <https://abogadosgold.com/justice/miscarriage-of-justice/>.

Judicial Construction Aspect	Core Normative Critique (Data)	Violated Dworkinian Principle	Jurisprudential Implication
<b>Use of Past Service as Mitigation</b>	Low Validity, <i>Onvoldoende Gemotiveerd</i> (Logical Leap)	Principled Consistency	Judicial Fiction: Using past service as moral compensation undermines legal integrity due to lack of logical accountability.
<b>Neglect of Victim's Interests</b>	Imbalanced and Contradictory to Rehabilitative Paradigm	Moral Equality of Worth and Law's Integrity	Systemic Disparity: Sentencing disparity based on social status erodes moral equality in judicial outcomes.

This two-tiered analytical framework represents a substantive theoretical contribution. The first tier enables the analysis to remain grounded in the judicial meaning-making process, consistent with constructivism. The second tier ensures that the resulting construction is evaluated against external standards such as criminal law doctrine and principles of justice, enabling the analysis to produce strong and prescriptive legal critique—particularly evident in the assessment of the imbalance regarding victim interests.

## CONCLUSION

This research substantively concludes that the Supreme Court Decision No. 813 K/Pid/2023 is the result of a *law-making process (rechtsschepping)*, rather than a mere mechanical application of legal norms. The answer to the first research question demonstrates that the majority panel successfully constructed a dualistic judicial reality—portraying the Defendant psychologically as an individual whose “soul was shaken” and socially as a “loyal public servant with 30 years of service.” This dual narrative functioned as a non-normative justification for shifting the sentencing framework from retributive to rehabilitative punishment. Conversely, the counter-construction found in the dissenting opinion affirms that judicial reality is an interpretative choice, where the minority justice interpreted the Defendant’s high status and emotional instability as aggravating rather than mitigating factors. The answer to the second research question confirms that although the constructivist paradigm is effective

in uncovering the meaning-making process within judicial reasoning, the resulting narrative construction demonstrates low normative validity and weak coherence, as it is deemed imbalanced and tends to neglect the interests of the victim.

Theoretically, this research contributes significantly to the development of constructivism within judicial reasoning studies by introducing the Two-Tiered Analytic Framework. This framework addresses the blind spot of constructivist relativism by integrating descriptive analysis (Tier 1: uncovering how the narrative is constructed) with evaluative analysis (Tier 2: assessing the quality of the narrative through legal doctrine and proportionality principles). This model strengthens constructivism's capacity to provide prescriptive critique of judicial narrative construction.

Practically, the findings indicate the presence of institutional deference toward authority within the Indonesian judicial system, where elite status and past public service may function as significant social capital capable of mitigating punishment for serious crimes, thereby risking sentencing disparity. The key practical implication is the necessity for Supreme Court justices to ensure normative coherence in judicial reasoning, balance the use of non-legal considerations with proportionality of culpability, and comprehensively consider victim interests—all in line with the rehabilitative justice model invoked by the ruling itself. As a recommendation for future research, it is proposed to empirically test the effectiveness of the Two-Tiered Analytic Framework in analyzing other elite criminal rulings, or to conduct cross-jurisdictional comparative studies examining the role of socio-political capital in sentencing outcomes.

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