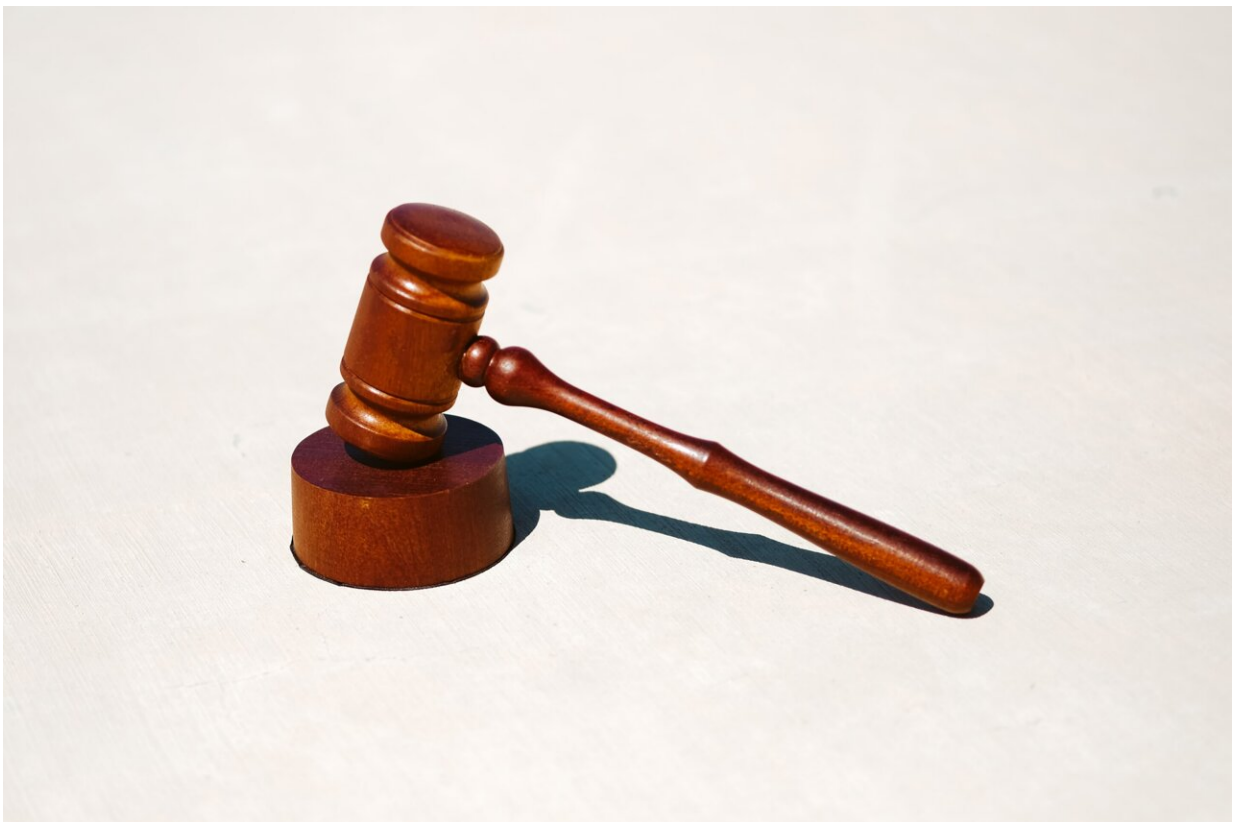


Research shows criminal fines and fees disproportionately affect poor individuals and those in vulnerable groups

August 16 2023



Credit: Unsplash/CC0 Public Domain

Jean Galbraith, Professor of Law at the University of Pennsylvania Carey Law School, and co-authors have published "Poverty Penalties as

Human Rights Problems" in the *American Journal of International Law*. Their research focuses on financial sanctions imposed by criminal justice systems around the world. It uplifts "poverty penalties"—monetary sanctions and related consequences that disproportionately burden low-income people—as an urgent yet understudied international human rights issue.

Over the last decade, financial sanctions like fines and fees have received increased attention in the United States. The authors study these issues as a [global phenomenon](#) that disproportionately affects poor individuals and people in vulnerable groups. These pervasive practices often have devastating consequences for those living in [poverty](#).

"In many countries, if you can't afford to pay your fine, then the consequence is that you go to jail," Galbraith said. "This is an incredibly harsh rule—and unless a fine is perfectly scaled to a person's finances, it means that [low-income people](#) are penalized far more in practice than are high-income people. But somehow this issue has flown under the radar of international human rights law."

The article demonstrates the global prevalence of poverty penalties, as well as variation in both their imposition and downstream consequences of nonpayment. As the authors show, countries vary in their ability to effectively scale financial penalties to financial circumstances. Countries also vary in how they respond to failure to pay fines, with some turning immediately to imprisonment and others using mechanisms like late fees, surcharges, forfeiture of property, or the loss of other rights or privileges.

The trend, however, is one in which countries deploy poverty penalties with cascading consequences that place disparate financial burdens on lower-income people. The authors show how poverty penalties also frequently cause disproportionate harm to populations that are already

vulnerable for reasons of race, religion, gender, and disability.

"This paper highlights an important topic seldom explored from an international law perspective," co-author Latifa AlMarri said. "I aspire for our work to inspire further [research](#) and exploration."

A gap in international human rights law

Despite the prevalence of poverty penalties, the past century of international human rights law discourse has largely ignored the issue. The Universal Declaration of Human Rights (UDHR) has no specific references to excessive fines or the intersection of financial penalties and poverty.

This omission, the authors argue, reduced the likelihood that future national constitutions would also include such clauses, foreshadowed the absence of poverty penalties in future UN human rights instruments and agencies, and created a UN structure that contributes to the invisibility of poverty penalties and their impact.

"The disproportionately severe impact of criminal fines and fees on people without means raises human rights concerns," noted co-author Rheem Brooks. "Our research revealed that these harmful fining practices exist in many countries around the world, and this article presents an opportunity to not only uncover how poverty penalties can belie notions of justice but also how we can begin to redress this harm."

As the authors show, poverty penalties have received a modest increase in international attention in the last decade. The authors advocate for a more expansive approach as a matter of international human rights law, with important implications for global poverty reduction and criminal justice reform efforts.

To achieve this, the scholars articulate several human rights concerns that flow from poverty penalties, suggest practical efforts for international actors to raise the issue in various settings, and define potential best practices. The article also makes an urgent call for more data collection about on-the-ground practices and caution against pitfalls that advocates should consider when pursuing substantive reforms.

Collaborations supporting academic excellence

An example of the impact of scholarly collaborations between faculty and students, this research is a product of the "Global Legal Change" seminar taught by Galbraith in the 2022–2023 academic year.

"The students leapt in and took ownership of this project," said Galbraith. "They began with a deep dive into practices in countries around the world. Their preliminary research revealed that poverty penalties are widespread—and that while this issue has received attention in many domestic jurisdictions, it has gotten surprisingly little attention as a topic of international concern. They decided that we should turn this into a law review article—and so we did."

The authors chose to pursue publication to maximize the potential impact of their research, which includes making practical recommendations for international actors to address poverty penalties in a variety of human rights settings. The [students](#) split into three pairs, each responsible for drafting different segments of the paper, and engaged in a highly collaborative research and drafting process.

The authors note that the groundbreaking research "only begins to scratch the surface of understanding this problem, its full impact, and how countries or international bodies may start addressing it." The researchers hope their work "sparks further research on the issue through both anti-poverty and global human rights lenses."

More information: Jean Galbraith et al, Poverty Penalties as Human Rights Problems, *American Journal of International Law* (2023). [DOI: 10.1017/ajil.2023.25](https://doi.org/10.1017/ajil.2023.25)

Provided by University of Pennsylvania

Citation: Research shows criminal fines and fees disproportionately affect poor individuals and those in vulnerable groups (2023, August 16) retrieved 28 April 2024 from <https://phys.org/news/2023-08-criminal-fines-fees-disproportionately-affect.html>

This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.