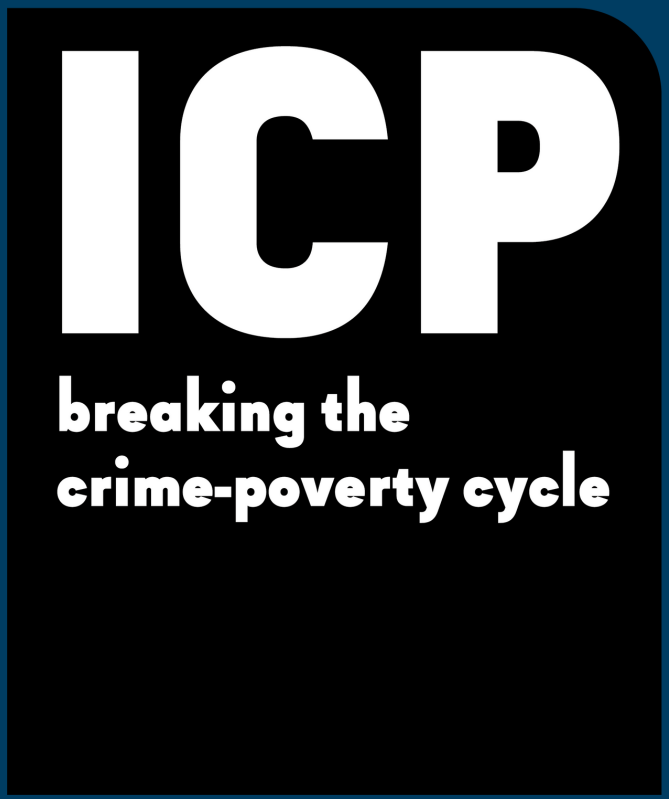
January 2021

Is It A Crime To Be Poor?

BRIEFING PAPER



The ICP Alliance

The group was set up to understand, discuss, publicise, and bring an end to the criminalisation of poverty.

By bringing together academics, legal professionals and frontline charity organisations, we aim to bring meaningful and longlasting change to the way poverty is criminalised in the UK.

We believe criminalising the poor violates equality under the law and principles of social justice. It is economically and socially costly, and has negative spill-over effects on the whole of society.

By working together, we believe we can break the crime-poverty cycle.

WE ARE SPONSORED AND SUPPORTED BY THE CENTRE FOR CRIME AND JUSTICE STUDIES, THE UNIVERSITY OF BIRMINGHAM AND THE DEBT ADVICE CHARITY PAYPLAN. WE ACKNOWLEDGE WITH GRATITUDE THAT WE HAVE RECEIVED FUNDING FROM THE OAKDALE TRUST FOR OUR WORK.

www.crimetobepoor.org

The work of the ICP Alliance is supported by the following organisations:

UNIVERSITY OF BIRMINGHAM | CENTRE FOR CRIME JUSTICE AND POLICING

CENTRE FOR CRIME AND JUSTICE STUDIES

The Oakdale Trust

Women in Prison

#APPEAL

Transform Justice

Crisis

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Understanding and reforming factors that criminalise poverty

The poor are over-represented in the criminal justice system. This situation becomes even more obvious when poverty is combined with other factors e.g. coming from a minority ethnic background or suffering from mental ill health. There seem to be several reasons behind this disproportionality. The most direct way this happens is through the impact of laws falling disproportionally on the poor. Additionally, the poor also get criminalised from law enforcement targeting certain crimes, from having inadequate resources to defend themselves in court and from a lack of support through the different stages of the criminal justice process. Some of these predicaments have long-term effects, causing intergenerational cycles of poverty and criminality.

We provide below examples of situations involving either antiquated laws or misapplication of laws in the criminal justice system that disproportionately impact the poor – and suggest potential remedies for such situations that often arise from homelessness or a failure to pay debt in some form or the other. These are illustrations of some of the starkest ways in which poverty can get criminalised. But the ways in which the poor are criminalised are also more complex and the result of social, political and legal factors. There are, of course, other areas where poverty is criminalised in our society. We welcome your views. Please email your comments to: Rona.Epstein@gmail.com

Understanding and reforming factors that criminalise poverty

Our alliance seeks to radically reduce the criminalisation of poverty and asks the following questions:

- Why and how does the criminal justice system criminalise poverty?
- What can researchers, academics, practitioners and penal reform agencies, working together, do to end this (ab)use of the criminal justice system?

We hope to contribute to ending the criminalisation of poverty through:

- Developing a shared understanding of the evidence of the link between crime and poverty
- Bridging gaps in our knowledge of the mechanisms that lead to criminalising the poor
- Gaining awareness of existing campaigns and other ongoing work aiming to reduce the criminalisation of poverty
- Publicly discussing the issues surrounding the criminalisation of poverty
- Building links with other practitioners, academics and campaigners to take steps together towards reducing the criminalisation of poverty.

COVID-19, poverty and criminalisation

The COVID-19 pandemic in the UK has had a dramatic impact on household debt and financial security. The DWP has seen applications for Universal Credit soar since lockdown was imposed in March. As of the start of May, 1.8 million claims had been received since 16 March - six times the usual claimant rate[1]. Local news reports have also shown that more people than ever are applying for council tax reductions and are struggling to keep up with payments. For example[2], reportedly 1 in 8 Solihull residents are behind on council tax payments. This, however, is not a new problem. The national debt charity StepChange found that council tax arrears were the single most common debt for the 635,000 new clients who contacted them in 2019[3]. As the precariousness of household finances worsens as the result of the economic hit of the coronavirus pandemic, it is more important than ever that we protect those most financially vulnerable.

1.8M

UNIVERSAL CREDIT CLAIMS RECIEVED SINCE 16 MARCH 2020

6 times the usual claimant rate

1/8

SOLIHULL RESIDENTS BEHIND ON COUNCIL TAX PAYMENTS

Council tax arrears are the most common debt

[1] https://www.bbc.co.uk/news/uk-politics-52536210
[2] https://www.birminghammail.co.uk/news/midlands-news/coronavirus-one-eight-solihull-residents-18287778
[3] Centre for Social Justice. (April 2020). Collecting Dust: A path forward for government debt collection. https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2020/04/CSJJ8154-Debt-Report-INTS-200424.pdf, p8

COVID-19, poverty and criminalisation

Due to the Coronavirus pandemic, the government introduced The End of Custody Temporary Release scheme (ECTR), stating, at first, that about 4,000 prisoners would be eligible to be released early because of the dangers of infection spreading and affecting both prison staff and inmates. However, by 14 May, the government had released only 78 people (21 of them pregnant women)[4]. By 7 August, 275 prisoners had been released: 52 of them were categorised as 'vulnerable prisoners, pregnant women or mothers with babies'.

Only 275

OF 4000 ELIGIBLE PRISONERS RELEASED

Under the End of Custody Temporary Release Scheme

This has made it urgent to campaign for the release of those people who are in prison for council tax debt. They have committed no crime: they have not been accused of committing a crime – council tax is a civil debt.

[4] https://www.theguardian.com/society/2020/may/12/coronavirus-only-55-prisoners-early-release-england-wales

How is poverty criminalised? Council tax imprisonment: owing money is not a crime



About 100 people go to prison every year because they owe council tax [5]. Those sent to prison for council tax debt are very seldom offered the opportunity to challenge the magistrates' decision to impose custody. No one gives them advice about bail, or informs them that the magistrates' decision to commit them to prison can be challenged via judicial review.

100/year

SENT TO PRISON FOR OWING COUNCIL TAX

Between 2010 and 2017

They do their time. They never imagine that it is an error in law that has put them in a prison cell.

Up to 18%

SENT TO PRISON UNLAWFLLY

For owing council tax [6]

Owing money is not a crime: magistrates should not send anyone to prison for owing council tax. Instead, they could consider solutions such as deductions from benefits or wages over a period of time, so that the amount owed is gradually paid back, as well as debt forgiveness where appropriate.

[5] Frances Perraudin, The Guardian, 13 April 2019 https://www.theguardian.com/money/2019/apr/12/council-tax-debts-soar-in-six-years-charities-warning-arrears

[6] Woolcok v SSCLG. [2018] EWHC 17 (Admin)

Council tax imprisonment: owing money is not a crime

Case study:

Some time ago, an article by Rona Epstein on council tax debt was published in the magazine Ready, Steady, Go! produced by Women in Prison and distributed to all women's prisons. It explained the law about council tax debt. Melanie, a single mother from Porthcawl in Wales, who was in poor health and in financial difficulties, read the article while she was in prison. She was serving a sentence of 81 days imprisonment for owing council tax. She wrote to Women in Prison asking for advice. APPEAL found expert legal help for Melanie, who was then released from prison on bail. The later court decision was to quash her sentence, as the magistrates had made a number of serious mistakes sending her to prison. Following much publicity about this case, in June 2018, the Welsh government announced a consultation with the aim of abolishing imprisonment for council tax debt. As a result of the consultation, the law was changed. Now, people in Wales, like those in Scotland and Northern Ireland, cannot be sent to prison for council tax debt – a huge step forward. In England, it is still possible for magistrates, making the same sort of errors, to impose a custodial sentence for owing council tax.[7]



[7] http://appeal.org.uk/news/2017/1/19/no-longer-in-prison-melanies-sentence-is-quashed

The Vagrancy Act 1824: criminalising rough sleeping and begging

There are many strands linking homelessness and the criminal justice system. Ex-prisoners struggle to access accommodation on release. They often lose their homes while in custody – sometimes being accused of having made themselves 'intentionally homeless'. The Prison Reform Trust reports that six in ten female prisoners have no homes to go to upon release. Fifteen per cent of newly sentenced prisoners report being homeless before entering custody and the Ministry of Justice (MoJ) reported in 2010 that reconviction rates for that cohort are significantly higher than for others. Yet, rough sleeping and begging alone can lead to a criminal record, to fines and ultimately to imprisonment. This illustrates how poverty, homelessness and criminalisation are inextricably linked.

This instance of criminalisation results from the Vagrancy Act that dates back to 1824. It was part of a move aimed to simplify existing vagrancy laws into one Act. At the time, criminal justice was the main way to tackle 'vagrancy' and intended, partly at least, to deal with the fall-out from the Napoleonic Wars. The Act makes it a criminal offence to 'wander abroad' or to be 'in any public place, street, highway, court, or passage, to beg or gather alms' in England and Wales.

6/10 female prisoners

ARE HOMELESS ON RELEASE

The Vagrancy Act 1824: criminalising rough sleeping and begging

The charity Crisis and our campaign partners are calling for the immediate repeal of the Vagrancy Act by the government. Repeal of the Act would remove the legal route to criminalising people just for sleeping rough or begging. It would make clear that addressing these activities is not primarily a police matter, but rather an issue for social support services. Even under the Anti-Social Behaviour Crime and Policing Act 2014, punishment for persistent or repeated begging may be draconian.

Case study:

Case Number D02BM967: *James Maguire v Birmingham City Council.*

On 30 August 2019, Recorder Hill QC, sitting in the County Court at Birmingham as a Judge of the County Court, sentenced the defendant in that case to a custodial sentence of 26 weeks for contempt of court for breaching an Injunction Order. 'The basis of the sentences imposed is that James Maguire was in breach of the Injunction by begging in Stratford Road, Birmingham. These breaches were contrary to the terms of the Injunction Order dated 15 December 2018 to which James Maguire was subject'.

TV Licensing prosecutions: decriminalising licence fee evasion

Someone convicted for non-payment of the TV Licence fee, who does not pay the fine set by the magistrates, is at risk of imprisonment. A means inquiry is required (similar to that applicable to non-payment of council tax) in cases concerning non-payment of court fines before any committal order can be made. However, as with council tax non-payments, magistrates may erroneously send someone to prison. Thus, vulnerable people facing multiple difficulties and disadvantages may find themselves committed to prison under the current system for TV licensing enforcement and prosecution.



73%

OF ALL TV LICENSING PROSECUTIONS WERE AGAINST WOMEN

In 2019, despite women being 49% of licence fee holders

80%

OF TV LICENCE PROSECUTION NOTICES GO UNANSWERED

Virtually guaranteeing conviction

30%

OF ALL PROSECUTIONS AGAINST WOMEN ARE FOR TV LICENCE NON-PAYMENT

It is the most common offence for which women are prosecuted

TV Licensing prosecutions: decriminaliseing licence fee evasion

Of those prosecuted in 2018, 5% were over 60 years old. TV Licensing's recent decision to end free licences for people over 75 – unless they receive pension credit – may have put poor and vulnerable pensioners at significant risk of prosecution and imprisonment.

Over 90% of TV licence cases proceed by way of the Single Justice Procedure (SJP), in which a notice is sent to a person by post with 21 days to respond with a guilty or not guilty plea, which will determine whether or not there is a need for an oral hearing. The Ministry of Justice has disclosed, via Written Parliamentary Questions, that about 80% of TVL defendants do not enter a plea, and that the introduction of SJP has not improved the response rate. A number of people are thus at risk of receiving a criminal conviction without their knowledge, perhaps due to the simple, yet common, error of using an incorrect postal address. SJP cases were suspended for a number of months during the coronavirus pandemic, but resumed once the country started opening back up in summer 2020. However, courts are still not scheduling these non-essential trials, thus there will likely be a significant backlog of cases of individuals who want to plead not guilty. This delay could hamper an individual's ability to defend themselves when the memory of the visit of the Enforcement Officer might not be particularly fresh, and there may be pressure on defendants to plead guilty and have the matter closed.

However, despite lockdown, the public consultation period for the Government's Consultation into decriminalising the non-payment of the TV Licence fee closed on 1st April 2020. The consultation provided an opportunity for criminal justice and debt advice charities and women's rights organisations to highlight the issues, pointing out that the usual enforcement regime has disproportionately affected poor women.

There have been unofficial reports claiming that the government is close to announcing decriminalisation of the offence, but as of yet, no plans for what kind of enforcement scheme is set to replace it.

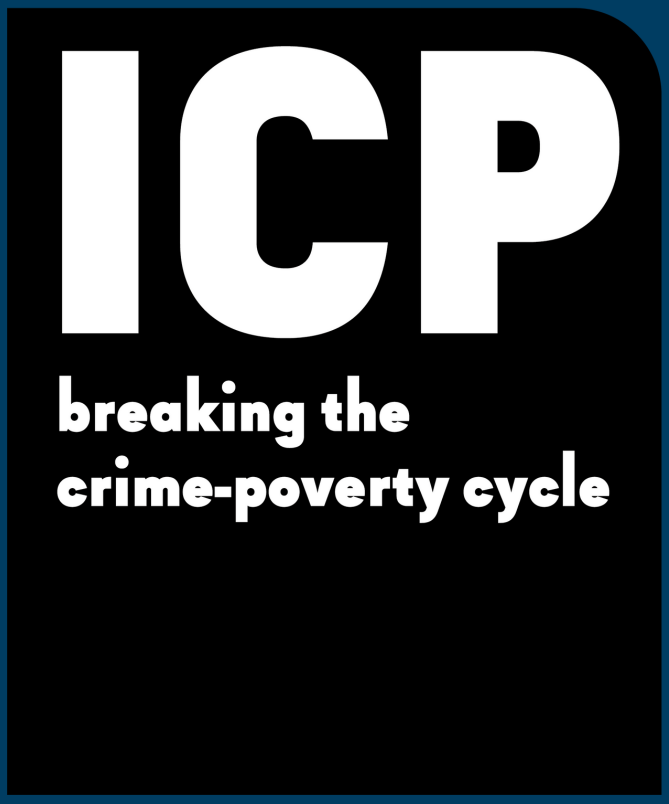
Conclusion

As an alliance and as a society, we believe in justice and compassion. The over-representation of the poor in our criminal justice system is at odds with these values. We can reduce poverty in this country but, to do this, we need a different approach to how we treat those who are homeless or unable to pay their bills. Criminalisation, punishment and imprisonment only lock people further into poverty, reducing their ability to get and keep jobs and provide for themselves and their families. This only exacerbates the problems of poverty.

It is not inevitable that the poor be over-represented in our criminal justice system. The changes proposed in this briefing paper offer some ways to address this unjustifiable situation. Laws can be rewritten so they don't fall disproportionately on the poor. Civil law enforcement can be improved and we can ensure people are not disadvantaged for not having adequate resources to defend themselves in court. Rather than sucking people into the criminal justice system, which clearly aggravates financial difficulties, we can redesign the system so that those in financial difficulty are given the space and support to be released from the grip of poverty and enabled to live a decent life and productively contribute to our society.

We welcome your views. To find out more about our campaigns and research, please visit www.crimetobepoor.org.uk

To get in touch, please contact: Rona.Epstein@gmail.com



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