

The Modern Debtors' Prison

In colonial times, people who were unable to pay a court-ordered judgment went to debtors' prison. In 1833, a federal law abolished the incarceration of people who failed to pay off debts. Recently, the term "debtors' prison" has resurfaced, referring to the punishment for people, commonly from underprivileged socio-economic backgrounds, who are arrested and jailed for failure to pay their legal fees after being convicted of a crime, who have unpaid fines and fees for traffic offenses and other low-level offenses, or who fall behind on their payments.¹

Civil rights activists and some politicians claim that these people are being "locked up for being poor." These activists maintain that impoverished people face harsher treatment than others who commit identical crimes but can afford to pay. In addition, defendants and offenders are charged for many government services that were once free, including those that are constitutionally required.² For example, defendants can be charged for using a public defender, for room and board while imprisoned, for probation and parole supervision, and for the electronic monitoring devices they are forced to wear. Some courts sometimes tack on extra fees such as penalties for missed payments—and may even charge interest—all of which can add up to hundreds or even thousands of dollars. Although there are alternatives to paying some fines, such as doing community service, joining county work crews, or serving a limited jail time, even these alternatives can cost up to \$500.

Alexes Harris, a sociologist at the University of Washington, says people mostly likely to face arrest and go through the courts "...tend to be people of color, African-Americans and Latinos, they tend to be high school dropouts, they tend to be people with mental illness, with substance abuse. So these are already very poor and marginalized people in our society."³ When people fail to keep payments, they violate probation; penalties can include losing their driver's licenses, food stamps, subsidized housing, or the right to vote, imposing a new set of hardships. People who have to drive to their jobs, for example, risk getting stopped for driving without a license, and may then go back to jail where they incur more fines and fees; those who don't risk driving without a license find it more more difficult to get to their jobs or available public programs.

Some communities argue that the collected fees and fines pay for public services for disadvantaged communities. In 2012, Washington's Benton County collected \$13 million—a fraction of all the fines and fees it was owed.⁴ Furthermore, some argue that no one should break the law in the first place—especially those who cannot pay the fines. Others claim that all those who break the law should be treated equally, and that penalties should be imposed regardless of financial status. It would be unfair to let some criminals get away with their irresponsible, law-breaking behavior. The system of imposing fines and penalties can also be viewed as a deterrent.

STUDY QUESTIONS

1. What are the circumstances, if any, under which it would be morally permissible to put people in jail for failing to pay their debts?
2. The case states that people imprisoned for failing to pay these sorts of fees tend to be undereducated minorities who are in some cases suffering from mental illness. Do these factors impact the permissibility of imprisoning persons for failing to pay these sorts of fees? Explain.
3. How should we balance interests that justify imposing fines in the first place with the equity and justice interests raised in this case?

¹ <https://www.aclu.org/issues/racial-justice/race-and-criminal-justice/debtors-prisons>

² <http://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor>

³ <http://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor>

⁴ https://www.aclu.org/files/assets/InForAPenny_web.pdf

