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The Criminalization of Poverty: Analyzing Socioeconomic Bias in Penal Policies

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Abstract

This study aims to analyze how criminal policies systematically show socio-economic biases that have an impact on the criminalization of poor groups. Through a qualitative approach with policy analysis methods and literature studies, this study evaluates the relationship between individual economic status and treatment in the criminal justice system. The findings show that a number of criminal policies, such as penalties for misdemeanors, pre-trial detention policies, and bail systems, tend to disproportionately burden poor individuals. On the other hand, individuals with better economic backgrounds have access to legal protections and greater opportunity for sentence mitigation. The results of this study reveal the reproduction of structural inequality through criminal law policies, which not only strengthen economic marginalization but also hinder social mobility. The study recommends the need for social justice-based criminal policy reform and a non-punitive approach to poverty-related offenses, in order to create a more equitable and inclusive legal system.

Keywords: Criminalization of Poverty, Socio-Economic Bias, Criminal Policy, Social Justice

1. Introduction

The phenomenon of criminalization of poverty is a global phenomenon that shows how the legal system tends to punish unfavorable socio-economic conditions, instead of addressing them with a transformative social approach (Garland, 2023). In many countries, minor offenses such as sleeping in a public place, begging, or not being able to pay administrative fines are often grounds for detention, additional fines, and even imprisonment (DaViera et al., 2024). These practices reflect the use of criminal law as a tool to control poor populations, rather than as an instrument to ensure social justice (Beckett & Western, 2001; Biehl, 2020). Instead of fixing the structural roots of poverty, the legal system tends to normalize punitivism against those who have no economic access, which ultimately exacerbates the cycle of social marginalization (Hinton et al., 2018).

In developing countries, the criminalization of poverty has a more complex dimension because it is influenced by weak social protection systems, extreme economic inequality, and weak justice systems that tend to be biased against the poor (Mason, 2018). For example, in the context of Southeast Asian and African countries, law enforcement officials often target poor individuals in raids or law enforcement in public spaces under the pretext of maintaining public order, even though these actions show social exclusion legalized through state regulations (OHCHR, 2018). In addition, the inability of poor individuals to pay bail or fines often leads to detention that could have been avoided. This shows that poverty is not only an indicator of social vulnerability, but also a category that is systematically criminalized by socio-economically biased criminal policies (Mohammed, 2025).

The criminal law system has a very strategic role in determining whether social inequality will be strengthened or addressed. In practice, these systems are often not neutral, but rather reflect the power structure and interests of the dominant group in society (Sjarief, 2020). When criminal law is applied disproportionately to poor groups, such as through high fines, pre-trial detention without access to legal aid, or criminalization of survival practices (begging, informal trade), the law actually reinforces social exclusion and the reproduction of structural poverty (Wacquant, 2009). Inequality in access to legal defense, information, and procedural justice makes the poor more vulnerable to repeated criminalization, leaving them trapped in a "prison circuit" with no sustainable social solutions (Dunque & Mcknight, 2019).

However, the criminal law system also has the potential to play a role as a tool to overcome social inequality if designed and implemented with a social justice-based approach. Criminal law reform that emphasizes the principle of decriminalization of poverty-based offenses, the use of non-custodial punishments such as community service, and the fulfillment of the right to fair and equitable legal aid, can be a way to reduce disparities in legal treatment (Wamsley, 2019). In some progressive jurisdictions, *restorative justice* and *problem-solving court approaches* have been applied to connect offenders to social services, education, or employment as part of social recovery, rather than punishment alone (Clear, 2007; Braithwaite, 2002). Thus, criminal law can be transformed into a tool that empowers vulnerable groups, not just to discipline and punish (Anderson, 2023).

One tangible form of legal policy that disproportionately burdens the poor is the application of administrative fines to minor offenses such as illegal parking, petty traffic offenses, or informal trade. For individuals with limited economic ability, these fines are not only difficult to pay, but they can also develop into ongoing legal debt (Kovera, 2019). Inability to pay fines often leads to additional sanctions such as confiscation, civil rights restrictions, and detention. In some states in the United States, for example, studies show that the system of fines and court fees results in a sustained and disproportionate financial burden on low-income communities, reinforcing cycles of poverty and legal alienation (Harris, Evans, & Beckett, 2010). Instead of becoming an instrument of law enforcement, this policy turned into a repressive mechanism that punishes one's economic condition (Pavićević & Ilijić, 2022).

The practice of pre-trial detention without bail (cash bail system) is also a prime example of how criminal law policies have a discriminatory impact on the poor. In this system, defendants who cannot afford bail must await judicial proceedings in custody, while those with economic resources can be free until the day of trial. As a result, poor individuals experience job loss, disruption to family life, and the possibility of receiving harsher sentences due to the pressure to negotiate a plea for quick release (Heaton, Mayson, & Stevenson, 2017). In many developing countries, pre-trial detention is also often used arbitrarily due to the lack of access to legal aid and the length of court proceedings. This shows that criminal justice is often more dependent on economic ability than on legal facts, which is contrary to the principles of justice and equality before the law (Cheng & Urpelainen, 2019).

The study of socio-economic bias in the criminal justice system is very important because the legal system should function as a neutral and inclusive guardian of justice for all citizens, regardless of social or economic status. However, studies have shown that individuals from poor backgrounds are more vulnerable to being targeted by law enforcement, experiencing discriminatory treatment, and having limited access to adequate legal defense (Western & Pettit, 2010). This inequality not only reflects the system's failure to uphold the principle of *equality before the law*, but also has the potential to strengthen the cycle of poverty and social marginalization. Therefore, a critical analysis of the social and economic dimensions in criminal justice practice is indispensable to uncover the systemic roots of the injustices that occur (Wamsley, 2019).

Furthermore, the study of socio-economic bias also plays an important role in encouraging legal reform in favor of substantive justice. Without a deep understanding of how economic factors affect the legal process – from arrest, indictment, to criminalization – the resulting criminal policies tend to be repressive and unfair (Anderson, 2023). By evaluating data, policy practices, and real impacts on poor groups, this study can provide a foundation for the formulation of fairer legal policies, such as the elimination of monetary guarantees for minor offenses, the provision of free legal aid, and the implementation of a restorative justice system. The urgency of this study lies in efforts to build a criminal law system that not only punishes, but also understands and responds to the socio-economic reality of society holistically (Tonry, 2011).

Research by Harris, Evans, and Beckett (2010) entitled "*Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States.*" This study shows that legal fines, court fees, and other legal debts disproportionately burden individuals from low-income groups. Their findings reveal that the inability to pay fines not only leads to incarceration, but also has a long-term impact on an individual's economic, family, and social stability. This research reinforces the argument that the criminal justice system, in its current form, can be an instrument of structural oppression against the poor, rather than a tool of social recovery. Research by Heaton, Mayson, and Stevenson (2017) is titled "The Downstream Consequences of Misdemeanor Pretrial Detention," which examines the impact of pretrial detention on defendants with misdemeanor offenses. The study found that defendants in pre-trial detention — especially those who could not afford bail — tended to receive harsher sentences and were more likely to re-engage in the criminal justice system in the future. This study empirically proves that economic inequality has a direct impact on the legal outcomes a person receives, and this reinforces the cycle of criminalization of the poor. These two studies reinforce the urgency to reform criminal policy to be more responsive to the socio-economic realities of the accused. Based on this, this study aims to analyze how

criminal policies systematically show socio-economic biases that have an impact on the criminalization of poor groups.

2. Research Methods

This study uses a qualitative approach with document study methods and policy analysis to examine socio-economic biases in the criminal justice system. This approach was chosen because it allows researchers to explore in depth how criminal policies are designed, implemented, and impact poor groups. Data was collected through literature studies of legal documents (laws, criminal regulations, and court rulings), reports of human rights institutions, and relevant scientific journal articles. The analysis was carried out using *content analysis* techniques to identify patterns of structural discrimination in criminal policies and judicial practices applied to individuals with low economic backgrounds.

The research procedure involves several stages, namely: (1) collection of legal documents and policy reports related to the practice of criminalization of poverty; (2) determination of document selection criteria based on relevance to socio-economic bias issues (e.g. fine policy, pre-trial detention, access to legal aid); (3) content analysis to examine policy narratives and their impact on the poor; and (4) critical interpretation using the perspective of critical criminology and social justice. The validity of the research is maintained through *source triangulation* and *peer debriefing* to ensure that the findings produced are credible and scientifically accountable. Through this method, it is hoped that the research will be able to provide academic contributions as well as evidence-based policy recommendations to the issue of criminalization of poverty.

3. Results and Discussions

Patterns of Criminalization of the Poor

The phenomenon of criminalization of the poor is evident in the legal crackdown on minor offenses that are often committed by the lower economic groups to survive. Activities such as begging, trading on the sidewalk, or sleeping in public places are often considered violations of the law that disturb order, even though they are rooted in limited access to jobs, housing, and basic social services. In various major cities around the world, *anti-loitering* and *anti-panhandling* policies systematically target marginalized groups, who have no alternative but to live in public spaces (Beckett & Herbert, 2009). This kind of practice shows that criminal law functions not only as a tool of social regulation, but also as a mechanism of exclusion against individuals who fail to meet the dominant socio-economic standards.

The implementation of administrative sanctions such as traffic fines, fines for trade zone violations, and late payment of taxes actually exacerbates the situation of the poor (Bourne, 2025). For low-income individuals, administrative sanctions that seem light to the middle class become an unaffordable burden, creating additional legal consequences, such as confiscation, debt extension, and even detention. A study by Harris et al. (2010) shows that the accumulation of legal financial obligations among the poor contributes to a cycle of poverty and increases the risk of recidivism. Rather than creating a proportional deterrent effect, such policies trap poor individuals in the criminal justice system continuously without a fair social recovery mechanism.

In addition to the disproportionate legal burden, the poor also face a symbolic burden in the form of social stigmatization and negative stereotypes attached to them by the legal system and society. The poor are often constructed as undisciplined, potential criminals, and disruptive to public order. This stereotype then underpins the policies and actions of law enforcement officers in conducting raids, patrols, and selective enforcement against marginalized groups. Wacquant (2009) states that modern states tend to replace social welfare functions with legal repression, where poverty management is carried out not through social policies, but through surveillance and detention (Kovera, 2019).

This pattern demonstrates the existence of a social structure that institutionalizes inequality through law. When survival is criminalized and only those with economic resources can avoid it, the law indirectly reinforces social class boundaries. The poor become not only economic victims but also victims of laws that normalize injustice as a form of public governance. In this context, the law is no longer a mechanism of justice, but rather a tool for legitimizing socio-economic domination. Thus, the criminalization of the poor cannot be viewed solely as a result of individual violations, but rather as a structural symptom of a class-biased legal system (Thijs et al., 2024). Criminal policies that fail to consider the socio-economic background of offenders will only exacerbate social inequality and create a cycle of injustice. Therefore, a paradigm shift in the criminal justice system is needed,

from a punitive approach to a social justice-based approach, where legal action not only punishes but also understands the root causes of actions and provides humane and inclusive solutions.

Inequality of Access to Fair Legal Process

One of the real forms of injustice in the criminal justice system is the gap in access to legal aid and adequate legal information. For the poor, the limitation of legal literacy and the lack of availability of public advocates or free legal aid are the main obstacles to undergoing a fair legal process. Many defendants from low-income groups do not understand their legal rights or ongoing judicial procedures, making them more vulnerable to criminalization and abuse of authority by law enforcement officials (UNDP, 2016). This inequality makes the law seem to work only for those who have the resources, while the poor are neglected and marginalized in a system that is supposed to guarantee equality for all citizens (Vegh Weis, 2017).

This gap is exacerbated by the pre-trial detention system based on *cash bail*, which is very detrimental to poor defendants. In many jurisdictions, defendants who are unable to pay bail – despite being accused of a misdemeanor – must await a hearing from inside custody (Taylor, 2025). Meanwhile, defendants from the middle to upper economic class can be free until the trial begins just because they can afford to pay. Heaton, Mayson, and Stevenson (2017) show that pre-trial detention increases the likelihood of defendants being sentenced more severely and has long-term consequences, such as loss of jobs, homes, and social relationships. This inequality illustrates that in practice, a person's freedom before trial is determined more by wealth than by the principle of presumption of innocence (Hinton et al., 2018).

The impact of pre-trial detention does not stop at the loss of liberty, but also creates great psychological and economic stress for defendants, especially those from poor groups (Mason, 2018). This has led many defendants to choose to plead guilty to *plea bargaining*, even though they did not actually commit a violation of the law, just to obtain a lighter sentence or be released immediately. In this context, the choice to plead guilty is not the result of a fair legal process, but rather of a condition of structural inequality that puts poor defendants in a position of no choice. Research from the National Association of Criminal Defense Lawyers (2018) highlights that *the plea bargaining system* often disadvantages poor defendants and creates permanent criminal records that worsen their social and economic opportunities in the future (Mirko Bagaric et al., 2019).

In addition, the complex and bureaucratic structure of the criminal justice system is often an additional barrier for poor groups to access a fair legal process. The lack of resources to pay lawyers, transportation to court, or even information about the right to remain silent and not confess without legal counsel, is a real challenge that only certain groups experience. This leads to inequality in the final outcome of cases – not because of differences in legal facts, but because of inequities in the ability to access the legal system itself. Thus, the law, which should function as a protector for all, actually becomes an exclusive instrument that benefits those who have economic power.

Therefore, inequality in access to a fair legal process cannot be considered an individual problem, but rather a symptom of a criminal justice system that fails to guarantee the principle of substantive justice. There needs to be structural reforms that guarantee universal access to quality legal aid, the elimination of the bail system for minor offenses, and strict oversight of *plea bargaining practices*. Without comprehensive reform, the criminal justice system will continue to perpetuate social inequality and move away from the values of justice that should be its foundation.

Structural Effects of Criminal Policies on Poverty

Criminal policies imposed on low-income individuals often lead to repeated impoverishment. Administrative fines, litigation costs, and other legal costs are a disproportionate burden for the poor compared to other economic groups. Many of those who cannot afford to pay end up facing more severe legal consequences, such as additional detention or continued violations due to economic incapacity. This creates a downward spiral effect, where the legal system actually deepens the existing conditions of poverty, not solves it (Harris, Evans, & Beckett, 2010). The impact of criminal sanctions on the poor does not stop at the economic aspect. Many individuals have had to lose their jobs due to having to undergo detention or attend trials repeatedly. In addition, involvement in the criminal justice system risks damaging social relationships, creating stigma, and causing

alienation in the community. This condition hinders social reintegration efforts that should be part of a humane justice approach (Western & Pettit, 2010).

The ongoing stigmatization of individuals who have served criminal sentences has an impact on limited access to employment, housing, and education. Former inmates' status is often an obstacle to obtaining a decent job, especially if the criminal record relates to minor offenses that should not have a major social impact. In this context, the penal system creates structural barriers that further narrow vertical social mobility for poor groups (Pager, 2003).

Furthermore, repressive criminal policies form the so-called *poverty-to-prison pipeline*, which is a systemic path that directs poor individuals from conditions of economic limitations to the penal system (Vegh Weis, 2017). This path is strengthened by a social system that does not provide a safety net, as well as a legal system that is insensitive to the socio-economic context of the perpetrator (Vegh Weis, 2017). In many cases, criminal acts are not the result of rational choices, but as a survival strategy in the structural pressures of poverty (Alexander, 2012). Therefore, the structural effects of criminal policies on poverty cannot be considered as a mere side effect. This policy forms a pattern of systemic injustice that ensnares poor groups in the circle of social and economic exclusion. Therefore, reform of the criminal law approach must consider the aspect of social justice, so as not to continue to reproduce poverty through formal state mechanisms. A critical evaluation of this system is the first step toward inclusive justice that is restorative-oriented, not retaliative (Taylor, 2025).

4. Conclusion

This research shows that criminal policies insensitive to socioeconomic realities contribute significantly to structural impoverishment. Fines, legal fees, and detention imposed uniformly without considering the economic capacity of offenders create a recurring cycle of impoverishment, particularly for the poor. The ripple effects of job loss, damaged social networks, and prolonged stigmatization reinforce social exclusion and hinder reintegration. The phenomenon of the poverty-to-prison pipeline highlights how the legal system indirectly perpetuates social inequality and reinforces the marginalization of lower-income groups. Therefore, the approach to criminal policy needs to be reformulated to avoid reproducing structural injustice. A more socially just sentencing system is needed, including the implementation of community-based alternative punishments, evaluating offenders' economic capacity before imposing financial sanctions, and strengthening social services and rehabilitation. By integrating a social justice perspective into the criminal justice system, the state can avoid the criminalization of poverty and create a legal system that is not merely legalistic, but also transformative and inclusive.

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