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Economic and Social Council - Commission on Crime Prevention and Criminal Justice  
(ECOSOC 2)

# Research Report

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Topic 2: The influence of personal wealth on criminal justice sentences in MEDCs



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## Introduction

The pursuing of criminal justice is an integral, fundamental principal of democracy, since criminal law in practice guarantees the due process of the observation of human rights, which is a core principal of democracy itself. If the UN sets out the protection of human rights, one of them being the right to a fair trial, to be one of its core objectives, then any obscurement of criminal justice inherently becomes a question of interest. And while the law of any democratic country should be, by the standards set out in the UN Compendium, race, gender or class neutral, that is often not the case. Personal wealth is factor intertwined in every step of the justice process, slithering in far before the actual judiciary - disparities emerge on every step of the way from the attitude of the police to the sentences received by economically disadvantaged individuals. More economically developed nations have witnessed the bias within their criminal justice systems to be much more implicit than the enshrined yet very much explicit cases of corruption of the judiciary we can observe in nations just developing. The fact that the criminal justice practices of the state reflect the attitudes of its people and intents of its government impede any attempts at a reform, and when the fact is considered that every state has nuances of smaller and greater significance in their criminal justice system and the righteous integrity to sovereignly do so, the efforts to tackle this issue on an international level seems insurmountable. The Commission on Crime Prevention and Criminal Justice is a functional commission of ECOSOC, acting as the primary policy-making body of the UN on the matters of crime prevention and criminal justice, which does mean its policies endorsed through the General Assembly are not binding, however establishing an international framework safekeeping the fairness of trial in the Member States endorses the need to recognise the disparity existing in many systems and consequentially helps diminish it.

## Key Terms

**Criminal Justice** - is the system of governmental practices and institutions directed at maintaining social control, mitigating crime and observing human rights, along with sanctioning those who violate laws with criminal penalties or rehabilitation efforts

**Judiciary** - the system of courts that interprets and applies the country's law.

**Bail** - A temporary release of a person awaiting trial, sometimes a sum of money is logged to guarantee their appearance in court.

## Main Body

### **The Impact of Personal Wealth on the Criminal Justice Process**

Realistically, personal wealth of the convict has an effect on how they will be dealt with onwards in the criminal justice process well before they become a convict. While the disproportionate usage of law enforcement techniques targeting civilians who have no indications of suspicion in low-income neighbourhoods may be justified, as realistically minor crime rates do have a higher incidence in said areas, the pressing effects of the frequency with which money bails are used as a condition for pretrial release are evident. After a person is arrested and held in custody overnight, the court settles whether or not they can be released from prison as they wait for their fair trial, conditions such as the likelihood of fleeing, tampering with evidence or resorting to committing the same crime again while granted freedom being considered. Many times, the condition for the release to freedom before trial is a significant amount of money for somebody from a low-income household and thus many times, 47 times out of a 100 in the USA, felony defendants must wait in-prisoned for their trial before they are even convicted of anything, while those of a more privileged financial situation charged with the same crimes can go free. Short jail stays can be of a detrimental nature for a person from a low income household, as they often lead to the loss of jobs and consequential exacerbation of their financial situation, only perpetrating the cycle of poverty in many MEDCs.

### **The Impact of Personal Wealth on Criminal Justice Sentencing**

When it comes the trial itself, the dependence on court-appointed attorneys and public defenders is a key element that lengthens the sentences of people lacking the financial means needed to afford a good attorney. Despite the theorem that law and evidence should be the sole dictators of the sentence, the role of the attorney is often decisive. In fact, a study by Rand corporation on the public defenders and court-appointed attorneys in Philadelphia has revealed that “The likelihood of receiving a life sentence is reduced by 62 percent if the defendant has public defender representation rather than appointed counsel.” The reasoning behind the distressing performance is primarily the severely low wage the appointed counsel receives, which repels competent lawyers from the position and undermines the motivation of the attorneys already employed, who are consequentially forced to take on a case load that far exceeds their capacities and capabilities in order to financially sustain themselves. The success rate of renewed private attorneys is then even higher, which one again statistically shortens the sentences of more financially secured convicts in-favouring of the poor.

In fact, the only thing that is thoroughly immune to the influence of personal wealth is the law itself, as the evidence and its interpretation depends on the testimony of an expert, that has to be payed for either by the client themselves or the district attorney. The testimony of an expert witness or investigator, or the lack of thereof can undermine the defence of the case and add years to the final sentence.

### **Previous Attempts to Solve the Issue**

It has been proven by several justice systems that money bails are not the necessary key to justice they are presented as. In fact, the notion that a high amount of money is needed to force a person accused of felony to return to the court for their fair trial is a misconception to a great deal, as statistics show that whether a bail is paid or not does not have a significant impact on whether the defendant will obaide to show up in court again. A less radical and seemingly apparent alternative to completely

revolutionising the bail system, which does not seem to be widely implemented, is the creation of community bail funds. A model that leverages on the fact that bails are fully returnable on the condition that the person makes all their appearances in court could aid felony defendants in need without a large scale institutional change.

When it comes to the trial itself, the most urgent actions require the revision of the role of the state appointed attorneys and the public defenders in line with the Member states sovereign criminal justice system, as the exploitation of appointed counsel is an international phenomenon with national nuances. Possible solutions could include the redistribution of tax-payer money within the justice system in favour of the state's attorneys and mainly the revision of the cooperation between the public defenders and state attorney's.

## Relevant Countries

**USA** - The USA has one of the highest incarceration rates in the world. 22% of the world prisoner population is made up by Americans, that overall constitute only 5% of the world population. The disproportionately high rates of Americans in correction facilities can be accounted to two things - the fact that prisons are largely privately owned, which turns felons into a source of profit, and the never-ending war on drugs, which with its apparently racial undertone has made 1 in 3 American black men convicts at some point in their life. Moreover, the frequency with which life sentences are awarded is startling - 1 in 9 American prisoners are convicted for life. It is evident to the USA and the rest of the world alike that America has a criminal justice system issue, and politicians, activist and NGOs alike are demanding a reform.

## Relevant Organisations

### **The Sentencing Project**

This NGO is focusing mainly on the racial disparities within the American criminal justice system. By its own words, "it works for a fair and effective criminal justice systems by promoting reforms in sentencing policy, addressing unjust racial disparities and practices, and advocating for alternatives to incarceration." It is the most prominent NGO focusing on the disparity of criminal justice in America and has virtually no counterparts internationally.

### **The Commission on Crime Prevention and Criminal Justice (CCPCJ)**

CCPCJ is one of the functional commissions of The Economic and Social council of the United Nations. It is the primary policy-maker when it comes to the matters of crime prevention and justice, its priorities are majorly composed of improving the cooperation of the Member states in the efforts to combat national and transnational crime, but it also focuses on the fairness and efficiency of national criminal justice systems and offers a forum for sharing intelligence and resources between the Member States. The CCPCJ does not actually foster and judiciary matter, it only establishes frameworks under which the Member States own justice system should operate.

## Relevant UN Resolutions

**Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice** contains the instruments in the area of crime prevention and criminal justice adopted by the international community over 60 years ago, continually revised and ameliorated. .

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