

## **Paying with their Freedom: A Call for Abolishing Imprisonment for Fine Default in Israel**

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Each year, hundreds of people are incarcerated in Israel for not being able to pay fines imposed upon them in criminal proceedings. They are incarcerated according to Article 71 of the Israeli penal code, which embeds the authority to imprison fine defaulters. As a result, while more affluent defendants are simply capable of paying their fines in cash, poor defendants are coerced to pay their fines with their freedom.

This article embarks on an in-depth analysis—the first of its kind in Israeli legal literature—of the use of imprisonment for nonpayment of fines in Israel. It follows the comparative literature on imprisonment for fine default and shows that the common rationales offered to condone the use of imprisonment for fine default can no longer withstand scrutiny. Particularly, it suggests that the same functional and moral arguments that led to the abolition of imprisonment for nonpayment of civil debt in many states worldwide—and in Israel as well in 2014—are also most relevant to imprisonment for nonpayment of criminal fines. Furthermore, the article highlights the built-in deficiencies attached to the use of imprisonment for fine collection, which make it not only an unjust practice but also ineffective. It therefore calls upon policymakers to halt the use of imprisonment for fine default in Israel and suggests alternatives that guarantee genuine protection of indigent people in criminal justice proceedings and the fine collection process in particular.