

Tuesday, 8 January 2019

Joint statement: Law Council of Australia and Law Society of Western Australia regarding imprisonment for unpaid fines

The Law Council of Australia and the Law Society of Western Australia urge the Western Australian government to repeal laws that provide for imprisonment as a result of unpaid fines.

Imprisonment for fine default disproportionately impacts people who experience significant disadvantage, including Aboriginal and Torres Strait Islander people, and particularly Aboriginal and Torres Strait Islander women.

It has a discriminatory impact upon those who are cannot afford to pay fines. In these circumstances, we consider imprisonment for fine default to be an unjust and disproportionate punishment.

Reports Aboriginal women have been arrested for unpaid fines while trying to report domestic violence situations are unacceptable. We are also deeply concerned single mothers with young children have been detained under the laws.

The Law Council of Australia's [Justice Project](#) found Aboriginal and Torres Strait Islander people were overrepresented as fine recipients and often have a limited capacity to pay the fine upon receipt, due to factors such as financial capacity, itinerancy, social isolation and literacy levels.

The Justice Project called for imprisonment arising from fine default to be abolished in all jurisdictions. It recommended the adoption of Work and Development Orders as an alternative model for addressing fine default.

There is something inherently dysfunctional and ineffective about a system of social control which relies on getting money from people who do not have it and which results in the life threatening risk and social disruption of imprisonment.

Any further delay in repealing laws that permit imprisonment for fine default will only result in further injustices. It is the role of legislators to act promptly when evidence is presented that laws are operating unjustly or result in vulnerable members of the community being imprisoned at disproportionately high rates."

This is an issue that needs to be dealt with immediately and we offer our full support to WA Attorney General John Quigley in dealing with these matters.

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