

## **Criminal Justice Debt Cause-Lawyering: An Analysis of Reform Strategies**

**Authors :** Samuel Holder

**Abstract :** Mass incarceration in the United States is a human rights issue, not merely a civil rights problem. It is a human rights problem not only because the United States has a high rate of incarceration, but more importantly because of who is jailed, for what purpose they are jailed and, ultimately, the manner in which they are jailed. To sustain the scale of the criminal justice system, one of the darker policies involves a multi-tiered strategy of fee- and fine-collection, targeting, usually, the most vulnerable and poor, many of whom run into the law via small offenses that do not rise to the level of felonies. This paper advances the notion that this debt collection-to-incarceration pipeline is tantamount to a modern-day debtors' prison system. This article seeks to confront the thorny issue of incarceration via criminal justice debt from a human rights and cause-lawyering position. It will argue that a two-pronged cause-lawyering strategy: the first focused on traditional litigation along constitutional grounds, and the second, an advocacy approach rooted in grassroots campaigns, designed to shift the normative operation and understanding of the rights of marginalized and racialized offenders. Ultimately, the argument suggests that this approach will be effective in combatting the (often highly privatized) criminal justice debt system and bring the roles of 'incapacitation, rehabilitation, deterrence, and retribution' back into the criminal justice legal conversation. Part I contextualizes and historicizes the role of fees, penalties, and fines in American criminal justice. Part II examines the emergence of private industry in the criminal justice system, and its role in the acceleration of profit-driven criminal justice debt collection and incarceration. Part III addresses the failures of the federal and state law and legislation in combatting predatory incarceration and debt collection in the criminal justice system, particularly as waged against the indigent and/or ethnically or racially marginalized. Part IV examines the potential for traditional cause-lawyering litigation along constitutional grounds, using case studies across contexts for illustration. Finally, Part V will review the radical cause-lawyer's role in the normative struggle in redefining prisoners' rights and the rights of the marginalized (and racialized) as they intersect at the crossroads of criminal justice debt. This paper will conclude with recommendations for litigation and advocacy, drawing on hypotheses advanced, and informed by case studies from a variety of both national and international jurisdictions.

**Keywords :** cause-lawyering, criminal justice debt, human rights, judicial fees

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