



**Submission of the American Civil Liberties Union (ACLU) to the United Nations Special
Rapporteur on Extreme Poverty and Human Rights, Professor Philip Alston
October 4, 2017**

Issues we suggest the Special Rapporteur investigate

Poverty, the public debt crisis, fiscal austerity, and disaster recovery in the Commonwealth of Puerto Rico:

The ACLU strongly suggests that the Special Rapporteur visit Puerto Rico to examine the impact of inadequate recovery aid following Hurricane Maria, the public debt crisis, and the Federal oversight board's fiscal austerity measures on poverty, inequality, and access to housing and health care in Puerto Rico.

A U.S. territory with a population of 3.4 million, Puerto Rico is confronting an unprecedented humanitarian crisis caused by its unsustainable debt load, stagnating economy, high cost of living, high poverty rates, and most recently, Hurricane Maria. Puerto Rico's per capita income is \$18,000, about half that of the poorest state in the U.S., Mississippi. Puerto Rico's poverty rate is 46%, more than twice the poverty rate in Mississippi, and 58% of the island's children are living in poverty. The unemployment rate is 10.1%, twice as high as the U.S. average and more than the U.S. state with the highest unemployment rate, Alaska (with 6.8% unemployment).

After Puerto Rico defaulted on payments on its \$74 billion public debt (\$123 billion if unfunded pension liabilities are included in the figure), Congress established the federal Fiscal Oversight and Management Board (FOMB, known colloquially as La Junta in Puerto Rico) under the 2016 Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) to reign in Puerto Rico's public spending, close the U.S. territory's budget gap, and ensure the collection of debt by bondholders to prevent disruption of the municipal bond market. The FOMB instituted bankruptcy-like proceedings in May 2017 and has begun imposing austerity measures. These measures include breaking union contracts, imposing furloughs of two days per month for all public employees, closing schools and hospitals, and selling off public assets. Puerto Rico's creditors strongly supported the creation of the FOMB. These creditors include Aurelius Capital, a hedge fund that holds about \$470 million in Puerto Rico's general obligation bonds and which hugely profited from Argentina's sovereign debt default in 2001. Another, Banco Santander, underwrote more than \$60 billion in Puerto Rico's bonds, and two men who were high-ranking executives with the bank now sit on the FOMB.

Thousands of Puerto Ricans lost their homes due to Hurricane Maria, and preliminary anecdotal reports suggest that Federal Emergency Management Agency (FEMA) officials have told some people that they cannot rebuild where their home currently is. Even before Hurricane Maria, Puerto Ricans were losing their homes to bank foreclosures at an increased rate, with more than 34,000 homes repossessed since 2008 and a record-breaking 5,424 families having lost their homes in 2016. As a result of the hurricane virtually the entire island is without electricity and may continue to be without electricity for months. There is speculation that the power authority that administers the fragile electrical grid—and which was \$9 billion in debt before the hurricane—may be privatized, leading to increased rates for residents.

Puerto Rico's public health care system was overburdened even before Hurricane Maria triggered a massive public health crisis. Half of Puerto Rico's population is covered by Medicaid, but the Commonwealth receives much less federal Medicaid funding than it would if it were a state, and due to federal funding caps its federal funding for Medicaid covered only 14% of Medicaid costs in 2015. Puerto Rico generally paid for the remaining Medicaid costs by issuing municipal bonds, a major cause of the Commonwealth's debt crisis. Due to the exodus of professionals from the island, it has just 9,000 working doctors, down 35% from 2006. The FOMB has proposed \$6 billion in cuts to public health care spending over the next 10 years.

Resources:

- <https://www.thenation.com/article/puerto-rico-needs-massive-emergency-aid-now-and-an-end-to-austerity/>
- <https://www.acrecampaigns.org/puertorico/>
- <https://www.scribd.com/document/357673061/Broken-Promises>
- <https://edmorales.net/2017/09/03/puerto-ricos-oversight-board-is-about-to-slash-government-workers-hours-and-pay/>
- <https://edmorales.net/2017/09/03/puerto-ricos-political-and-economic-crisis-deepens/>
- <https://insideclimatenews.org/news/22092017/hurricane-maria-puerto-rico-congress-recovery-aid-poverty-climate-change?utm>
- <https://www.theatlantic.com/politics/archive/2017/05/medicaid-funding-cap-puerto-rico/524973/>
- <https://www.brookings.edu/research/keeping-our-promesa-what-the-u-s-can-do-about-puerto-ricos-fiscal-crisis/>
- IACHR hearing, “Public Debt, Fiscal Policy and Poverty in Puerto Rico, United States” April 4, 2016: <https://www.youtube.com/watch?v=EuLix5Bv8rM>

Contacts:

- William Ramirez, Executive Director, ACLU of Puerto Rico
- Xiomara Caro Diaz, Director of New Organizing Projects, Center for Popular Democracy

- Saquib Bhatti and Carrie Sloan, Action Center on Race and the Economy (for information about the debt crisis and the FOMB)

Discriminatory impact of artificial intelligence on access to employment, financing and lending, and housing:

An emerging area of research and advocacy is the discriminatory impact of artificial intelligence on access to employment, financing and lending, and housing. Housing providers and banks are adopting algorithmic tools to determine who gets a job, home, mortgage, or loan, and at what rate, and these tools very often incorporate biases. For instance, the algorithms that determine insurance premiums are sometimes racially biased. Employment screening tools discriminate, including personality tests that are widely used in job applications processes. Algorithm-generated credit scoring can also have profound impact, as qualified people whose credit was damaged by medical debt, divorce, layoffs, or predatory lending, are blocked from jobs, financing, and housing they desperately need. Big data is also being used in online marketing in ways that are discriminatory. For example, online advertising for predatory lending services target specific racial and income groups, and Google ads appear to show high-paying jobs to men more than women. Big data is used to decide which credit card offer to display to particular online users, and it may be used to decide which auto loan or mortgage product to display. These developments in AI can perpetuate and exacerbate existing disparities, as the data algorithms rely on can be based on race, sex, or disability, or factors closely linked to these attributes.

General resources on AI:

- First Obama White House report:
https://obamawhitehouse.archives.gov/sites/default/files/docs/big_data_privacy_report_may_1_2014.pdf
- Second Obama White House report:
https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/2016_0504_data_discrimination.pdf
- Primers from the Data & Civil Rights 2014 conference, available here (see especially finance, employment, housing):
<http://www.datacivilrights.org/2014/>
Civil rights community principles (2014): <http://archives.civilrights.org/press/2014/civil-rights-principles-big-data.html>

Resources on AI's impact on access to employment:

- Widespread use of personality tests in job applications process raises discrimination issues:
<https://www.theguardian.com/science/2016/sep/01/how-algorithms-rule-our-working-lives>
- Other employment screening tools also discriminate:

<https://www.newyorker.com/business/currency/how-an-old-hacking-law-hampers-the-fight-against-online-discrimination>

- Google search associates Black names with arrest records:
<https://www.bostonglobe.com/business/2013/02/06/harvard-professor-spots-web-search-bias/PtOgSh1ivTZMfyEGj00X4I/story.html> ;
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2208240
- Google ads appear to show high-paying jobs to men more than women:
<https://www.technologyreview.com/s/539021/probing-the-dark-side-of-googles-ad-targeting-system/>

Resources on AI's impact on finance/lending:

- Broadly: <http://www.uspirg.org/news/usf/new-report-examines-promise-and-potential-dangers-new-financial-marketplace>
- Lead generation/payday lending:
<https://www.teamupturn.com/reports/2015/led-astray>

Administrative comments filed by the ACLU:

- https://www.aclu.org/sites/default/files/field_document/aclu_letter_to_eoc_re_big_data_10.28.16.pdf
- https://www.aclu.org/sites/default/files/assets/141027_ftc_comment.pdf
- https://www.aclu.org/sites/default/files/field_document/2017-05-18_aclu_comment_cfpb_big_data_and_discriminatory_lending.pdf

ACLU blogs:

- <https://www.aclu.org/blog/privacy-technology/internet-privacy/your-favorite-website-might-be-discriminating-against-you>
- <https://www.aclu.org/blog/racial-justice/race-and-economic-justice/facebook-takes-steps-keep-targeted-advertising>
- <https://www.aclu.org/blog/national-security/ftc-needs-make-sure-companies-arent-using-big-data-discriminate>

Contacts:

- Rachel Goodman, Staff Attorney, ACLU Racial Justice Program
- Aaron Rieke, Principal, Upturn (Washington, DC)
- Corrine Yu, Managing Policy Director, Leadership Conference for Civil & Human Rights
- Malkia Cyril, Executive Director, Center for Media Justice (Oakland, CA)
- Cathy O'Neil, author, Weapons of Math Destruction (NYC)
- Ed Mierzwinski, U.S. PIRG (D.C.)
- Brittney-Jade Saunders, NYC Human Rights Commission
- Roland Behm, lawyer and advocate on personality tests whose son was impacted

Crippling poverty on American Indian reservations:

Native Americans experience a poverty rate that is substantially greater than the poverty rate for whites. The 2010 census reported that 48.5% of Indians in South Dakota were living below the poverty line, compared to 10.3% of whites. Nearly a third of all American Indian and Alaska Native children live in poverty. On large reservations, the extreme poverty rate is as much as six times the national rate and on average is almost four times the national rate.

The per capita income of American Indians was \$7,774 compared to \$25,052 for whites. The unemployment rate on American Indian reservations is four times higher than the U.S. average. Native Americans have the lowest employment rate of any racial or ethnic group in the U.S., and some tribes report unemployment rates as high as 89%. Access to electricity, indoor plumbing, and adequate housing on reservations are at rates far below those of other U.S. households. An estimated almost 1 in 10 American Indian homes are without safe and reliable water, according to the Indian Health Service. Native Americans experience some of the shortest life expectancies and lowest levels of education of any group in the U.S. Of Native Americans 25 years of age and over, 21.2% have not finished high school, while 9% of whites are without a high school diploma. 15.7% of Indian households live in crowded conditions, compared to 1.0% for whites. Native American households are much more likely than white households to be without access to vehicles—24.9% of Native American households are without access to vehicles versus 4.8% of white households.

The most impoverished areas in the country are located on Indian reservations. According to 2012 U.S. Census data, two of the five poorest of the United States' counties are located on Indian reservations in South Dakota. The county holding the country's highest poverty rate since 2004, Ziebach County in northwest South Dakota, is the home of the Cheyenne River Sioux Tribe. Of the 2,500 people living there on a reservation, 50.1% live in poverty. 76.7% of children under 18—who comprise about half the population on the reservation—live in poverty. The third poorest county in the country, Shannon County, is located on the Pine Ridge Reservation in South Dakota, home of 38,000 members of the Oglala Lakota tribe of the Sioux people. There, life expectancy is the second-lowest in the western hemisphere (behind only Haiti), median individual income is \$4,000 a year, 80-90% are unemployed, and 47.3% of residents live below the poverty line. The tuberculosis and diabetes rates are eight times the national averages, and the cervical cancer rate is five times more than the U.S. average.

The link between a depressed socio-economic status and reduced political participation is direct. Given the socio-economic status of Indians in South Dakota, it is not surprising that their voter registration and political participation have been severely depressed. In addition, Native Americans are being killed by police at a higher rate than any other group in the country.

If the UNSR does undertake research on the topic of poverty in indigenous communities, the ACLU recommends that he should closely consult, obtain consent and subsequently coordinate

his visit with tribal governments and other legitimate representatives of concerned indigenous communities.

Resources on American Indians' voting rights and poverty:

- <https://www.aclu.org/files/pdfs/votingrights/indiancountryreport.pdf> ;
- https://www.aclu.org/sites/default/files/assets/brooks_v._gant_-_aclu_amicus_brief_as_filed.pdf

Resource on the Pine Ridge Reservation:

- <http://www.aljazeera.com/indepth/features/2016/10/life-pine-ridge-native-american-reservation-161031113119935.html>

Resource on law enforcement killings of Native Americans:

- http://inthesetimes.com/features/native_american_police_killings_native_lives_matter.html

Civil debt collection and arrests for private debts:

An estimated 77 million Americans—one in three adults—have a debt that has been turned over to a private collection agency. Thousands of these debtors are arrested and jailed each year because they owe money. Millions more are threatened with jail. The debts owed can be as small as a few dollars, and can involve every kind of consumer debt, from car payments to utility bills to student loans to medical fees. Private debt collectors, empowered by the courts, are using the criminal justice system to punish debtors and terrorize them into paying even when a debt is in dispute or when the debtor has no ability to pay.

The criminalization of private debt happens when judges, at the request of collection agencies, issue arrest warrants for people who failed to appear in court to deal with unpaid civil debt judgments. These warrants, usually called “body attachments” or “*capias* warrants,” are issued on the charge of contempt of court. In many cases, the debtors were unaware they were sued or had not received notice to show up in court. If a debtor is arrested, he may languish in jail for weeks until he can arrange to pay the bail. Judges usually set the amount of bail that the person must pay in order to be released after arrest, sometimes setting bail at the exact amount of the unpaid judgment in debt collection case. Once paid, the bail money often is turned over to the debt collector or creditor as payment against the judgment.

There are tens of thousands of these warrants issued annually, but the total number is unknown, because states and local courts do not typically track these orders as a category of arrest warrants. In a review of court records for a forthcoming report on this topic, the ACLU examined more than 1,000 cases in which civil court judges issued arrest warrants for debtors, sometimes to collect amounts as small as \$28. These cases took place in 25 states and the Commonwealths of Puerto Rico and the Northern Mariana Islands.

The people who are jailed or threatened with jail often are the most vulnerable Americans, living paycheck to paycheck, one emergency away from financial catastrophe. In the more than 1,000 cases reviewed by the ACLU, many were struggling to recover after loss of a job, mounting medical bills, the death of a family member, a divorce, or an illness. They included retirees or people with disabilities who are unable to work. Some were subsisting solely on Social Security, unemployment insurance, disability benefits, or veterans' benefits—income that is legally protected from outstanding debt judgments.

The arrest and jailing of debtors is all the more troubling because the underlying debt collection proceedings are deeply unfair. Courts are often complicit in debt collection abuses by operating as default judgment mills that exist only to process garnishments and liens, and seize the property of drowning debtors. Millions of debt collection lawsuits are filed each year in local courts that have effectively become collectors' courts. Debt collectors flood small-claims courts with lawsuits, turning the courts into taxpayer-funded tools of the debt collection industry. Debt proceedings are plagued by substantial due process deficiencies, including failure to serve the defendant with adequate and legal notice of the suit, lack of evidence of the underlying debt, falsified or improper affidavits such as robo-signed affidavits, and suits filed against the wrong person or seeking an incorrect or unlawful amount. Courts overburdened with cases churn through these collection lawsuits with astonishing speed and minimal scrutiny. The vast majority of them – an estimated 90 percent – conclude in a default judgment against the defendants, in which the debt collector automatically wins because the defendant did not contest the case. Most defendants do not appear in court to defend themselves or do not answer the case against them at all. Once a debt collector gets a court judgment, it gains the power to collect by garnishing wages, seizing property, cleaning out bank accounts, or putting a lien on a home. Four million American workers had wages seized to pay off consumer debts in 2013, and a study by the National Consumer Law Center found that no state provides adequate legal protections to prevent garnishment and property seizures from driving families into poverty.

The impact of predatory debt collection practices tends to fall most heavily on minority communities. Some empirical studies suggest that there are marked racial disparities in debt collection lawsuits. A study by ProPublica found that the rate of court judgments from debt collection lawsuits was twice as high in mostly Black communities as it was in mostly white ones, even controlling for income. A study by the New Economy Project found that the 10 New York state zip codes with the highest concentrations of default judgments in debt collection lawsuits are predominantly non-white neighborhoods, and six of these zip codes bearing the brunt of debt collection lawsuits are middle-income Black communities.

Contact:

- Jennifer Turner, Principal Human Rights Researcher, ACLU Human Rights Program

Resource:

- The ACLU can provide a draft of our forthcoming report, *A Pound of Flesh: The Criminalization of Private Debt*

Debtors' prisons / incarceration for unpaid fines and fees:

The U.S. has experienced a resurgence of debtors' prisons—the arrest and jailing of poor people for failure to pay legal debts they can never hope to afford, through criminal justice procedures that violate their most basic rights. State and local courts have increasingly attempted to supplement their funding by charging fees to people convicted of crimes, including fees for public defenders, prosecutors, court administration, jail operation, and probation supervision. And in the face of mounting budget deficits at the state and local level, courts across the country have used aggressive tactics to collect these unpaid fines and fees, including for traffic offenses and other low-level offenses. These courts have ordered the arrest and jailing of people who fall behind on their payments, without affording any hearings to determine an individual's ability to pay or offering alternatives to payment such as community service. Since 2010, the ACLU has repeatedly shown that poor people have been arrested and incarcerated in violation of basic rights to fairness and equal treatment under the law when they cannot pay court fines and fees in Arkansas, Colorado, Georgia, Michigan, Mississippi, New Hampshire, Ohio, South Carolina, Texas, and Washington. For instance, in Lexington County, South Carolina, the ACLU's clients were locked away for periods of time ranging from 20 to 63 days when they could not pay \$647.50 to \$1,907.63 in court fines and fees.

Resources:

- ACLU report, In for a Penny: The Rise of America's New Debtors' Prisons (2010)
https://www.aclu.org/files/assets/InForAPenny_web.pdf
- Brennan Center report:
<http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>;
- <http://www.npr.org/series/313986316/guilty-and-charged>;
- <http://www.policylink.org/sites/default/files/ending-the-debt-trap-03-28-17.pdf>;
- <https://www.themarshallproject.org/2015/02/24/debtors-prisons-then-and-now-faq#.oXAE7D3Se>

Contacts:

- Nusrat Choudhury, Senior Staff Attorney, ACLU Racial Justice Program, who has been leading a nationwide campaign to end debtors' prisons, seeking reform in 15 states.
- Cristina Becker, ACLU of North Carolina, who has been investigating debtor's prisons and fines and fees in some key counties across the state, including one in Appalachia.

Driver's license suspensions and revocations:

Millions of drivers in the United States have had their driver's licenses suspended or revoked for failing to pay court debts such as fines, criminal justice fees, or child support. Driver's

license suspensions and revocations are disproportionately imposed on the poor and create a vicious cycle of debt. They also can lead to criminal charges for driving on a suspended license and driving without insurance, and to jailing when people cannot afford to pay the fines stemming from these criminal convictions.

A recent study by the Legal Aid Justice Center of Virginia found that the licenses of more than 4.2 million people were revoked in the five states it studied: Virginia, Texas, North Carolina, Tennessee, and Michigan. The study found that nearly 43 states in the country and the District of Columbia have laws permitting, and in many states requiring, the suspension of driver's licenses for nonpayment of court costs and fines. Of these, only four states require an ability-to-pay determination before a license can be suspended for nonpayment. Most states suspend licenses without any safeguards in place to make sure people are not punished just for being poor. 14 states use license suspension not just for traffic court debt, but also to punish non-payment of criminal justice debts even when the crime bears no relation to motor vehicles. In Ohio, as of February 27, 2017, courts had issued 438,695 license suspensions on Ohio drivers for failing to pay traffic tickets or to appear in court.

There are prohibitively high fees to reinstate a driver's license—which can cost hundreds, if not thousands, of dollars—making it impossible for low-income people to afford to get their license back. These fees drive people into a spiral of more fines and fees and leave people with no choice but to drive without a valid license.

Those who continue to drive once their license is suspended—often due to sheer necessity—may be arrested and criminally prosecuted for driving with a suspended license or driving without insurance (one generally cannot obtain auto insurance without a valid driver's license, and some states criminalize this). For instance, in Idaho, arrests for driving on a suspended license are one of the most charged misdemeanors every year. In Oklahoma County, arrests for driving on a suspended license were one of the most frequent underlying offenses for jailed individuals in 2015. In Washington, driving while license suspended is the most commonly charged crime in the state.

Moreover, numerous people have been jailed because they could not afford to pay fines stemming from the offense of driving on a suspended license. In cases litigated by the ACLU in South Carolina, Mississippi, and Georgia, people were jailed for unpaid fines and fees and separated from their children and lost their jobs as a result of their incarceration; after their incarceration, however, they still struggled to find jobs that do not require a driver's license.

Resources:

- Legal Aid Justice Center survey of state driver's license suspension laws throughout the U.S. <https://www.justice4all.org/wp-content/uploads/2017/09/Driven-by-Dollars.pdf>

- California reports: <http://www.lccr.com/not-just-ferguson-problem-how-traffic-courts-drive-inequality-in-california/> ; http://ebclc.org/wp-content/uploads/2016/04/Stopped_Fined_Arrested_BOTRCA.pdf
- Ohio investigative journalism series: http://www.cleveland.com/metro/index.ssf/2017/03/license_suspensions_disproport_1.ht [ml](#) ; http://www.cleveland.com/metro/index.ssf/2017/03/parma_man_deep_in_debt_over_li.ht [ml](#) ; http://www.cleveland.com/metro/index.ssf/2017/03/suspended_license_entangles_th.html#incart_river_home ; http://www.cleveland.com/metro/index.ssf/2017/03/indigent_cleveland_mothers_unp.ht [ml](#)
- ACLU of Washington report: <https://www.aclu-wa.org/docs/driven-fail-high-cost-washingtons-most-ineffective-crime>

Contacts:

- Nusrat Choudhury, Senior Staff Attorney, ACLU Racial Justice Program

Privatized probation:

Each year, courts sentence several hundred thousand people to probation and place them under the supervision of for-profit probation companies for months or years at a time. For-profit probation companies are increasingly working with county and city courts around the U.S. to extort poor people for money, including by illegally jailing them simply because they are too poor to pay court-imposed fines and fees. More than 1,000 courts across several states, including Georgia, Mississippi, Tennessee, Florida, and Alabama, seek to generate revenue by collecting unpaid debt from those convicted of misdemeanors without hiring staff to administer probation. Instead, these courts contract with private firms that seek to make a profit and promise to do the job for free. However, privatization simply shifts costs onto poor probationers through fees paid directly to private firms, which are entirely distinct from fines imposed to punish or deter crime. Perversely, those least able to pay remain on probation the longest and pay the most to private probation companies. The fee structure of offender-funded probation is inherently discriminatory against poor offenders and imposes the greatest financial burden on those who can only afford to pay their fines in installments over time.

In Kentucky, private probation companies operate in at least 13 of Kentucky's judicial districts by providing court-ordered probation monitoring services in low-level cases. For a fee that must be paid by the defendant, these companies supervise individuals who are on probation for misdemeanors and traffic offenses. The companies report probation violations to the court, and they also provide additional services that may be court-ordered, such as drug testing or counseling, each of which comes at an additional cost to the probationer. The ACLU of

Kentucky's research found that probationers in districts that use private probation services are required to pay for services that are not imposed upon probationers in other districts.

Resources:

- ACLU of Kentucky report, Private Probation in Kentucky (September 2017):
<http://www.aclu-ky.org/wp-content/uploads/2017/09/private.probation.ky-FINAL.pdf>
- Human Rights Watch report, Profiting from Probation (February 2014):
<https://www.hrw.org/report/2014/02/05/profitng-probation/americas-offender-funded-probation-industry>
- <https://www.aclu.org/blog/mass-incarceration/court-sanctioned-extortion-private-probation-companies-modern-debtors>
- <https://www.aclu.org/blog/mass-incarceration/preying-poor-profit-probation-edition>
- <https://www.themarshallproject.org/records/58-privatization-probation>

Money bail and the predatory bail industry:

Each year, millions of people are forced to pay money bail after they are arrested in order to avoid detention in jail while their case is underway. The median bail amount in the United States is \$25,000. If people cannot pay the amount set for their bail, they remain in jail for their inability to pay. Many plead guilty regardless of the case against them in order to gain their release. For others, to come up with the money for release, they and their families are lured into exploitative arrangements with bail bond corporations that typically charge a nonrefundable fee of 10 percent of the full bail amount. Many are trapped in a cycle of debt and fees related to their payments, and even people whose charges are dropped or who are determined to be innocent do not get their money back. Their debt and financial losses can persist long after their court case is resolved. Bail corporations also collect money from installment plans and fees long after they have any financial risk. For instance, in Maryland, the bail industry kept at least \$75 million over five years just in premiums from people whose cases were resolved without a conviction in District Court alone. Moreover, there is racial bias in determining who needs to pay and who does not, and in how high bail is set.

Corporate insurance companies are largely responsible for the way the money bail system works today, and they are the largest beneficiaries of it. A recent ACLU report exposes how the \$2 billion for-profit bail industry works. Fewer than 10 main insurers underwrite a significant majority of the approximately \$14 billion in bail bonds issued in the United States each year. Laws the industry often helps write and the politicians it has helped fund work to sustain the ability of bail corporations to extract money from arrested people and their families.

Resources:

- ACLU and Color of Change report on the predatory bail industry (May 2017)
https://www.aclu.org/sites/default/files/field_document/059_bail_report_2_1.pdf

- Lengthy detention of people accused of immigration violations who are unable to afford exorbitantly high bail: <https://www.aclu.org/blog/immigrants-rights/immigrants-rights-and-detention/poverty-not-crime-so-why-are-people-being>

LGBT poverty, particularly among transgender communities of color:

LGBT Americans are more likely to live in poverty than heterosexual people. They experience food insecurity at higher rates and recent studies of youth homelessness find that homeless young people are disproportionately LGBT. A Williams Institute study found that study also found that some groups of LGB people had particularly high poverty rates: African American same-sex couples, children living with a same-sex couple, rural same-sex couples, and older lesbian couples. Surveys also show very low incomes for many transgender people. According to the 2015 U.S. Transgender survey, nearly one-third (29%) of respondents were living in poverty, compared to 14% in the U.S. population, and transgender respondents reported a 15% unemployment rate—three times higher than the unemployment rate in the U.S. population at the time of the survey (5%).

Resources:

- U.S. Trans Survey
(<http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf>), as well as the breakout report on Black respondents
(<http://www.transequality.org/sites/default/files/docs/usts/USTS-Black-Respondents-Report.pdf>)
- A Fabulous Attitude: Low Income LGBTGNC People Surviving and Thriving on Love, Shelter, and Knowledge, <https://www.issueab.org/resource/a-fabulous-attitude-low-income-lgbtgnc-people-surviving-and-thriving-on-love-shelter-and-knowledge.html>
- The Williams Institute, Poverty in the LGB Community (2009)
<https://williamsinstitute.law.ucla.edu/wp-content/uploads/Albelda-Badgett-Schneebaum-Gates-LGB-Poverty-Report-March-2009.pdf> and New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community (2013) <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf>
- Paying an Unfair Price: The Financial Penalty for Being Transgender in America, <https://www.lgbtmap.org/file/paying-an-unfair-price-transgender.pdf>
- Paying an Unfair Price: The Financial Penalty for LGBT Women in America, <https://www.lgbtmap.org/file/paying-an-unfair-price-lgbt-women.pdf>
- The Federal Response to Gay and Transgender Homeless Youth, <https://www.americanprogress.org/issues/lgbt/reports/2010/06/21/7983/on-the-streets/>
- The Impact of a \$15 minimum wage on poverty among same-sex couples, <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Poverty-and-the-15-Minimum-Wage-1.pdf>

- The Impact of Stigma and Discrimination Against LGBT People in Texas, <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Texas-Impact-of-Stigma-and-Discrimination-Report-April-2017.pdf>

Contacts:

- Gabriel Arkles, ACLU LGBT Project
- Alisha Williams, working on a national project on LGBTQ poverty and economic opportunity with Urvashi Vaid. By December, they plan to release a national LGBTQ Poverty Agenda that they have been developing over the past 3 years. They have held 8 convenings in 6 cities and 2 rural areas with service providers who work with all low-income communities and providers who work specifically with low-income LGBTQ communities. Directly impacted people and academics were also involved in the participatory research project. The agenda will cover 9 topics: (1) Federal Economic Policy, (2) Employment discrimination/Workforce Conditions, (3) School/Education-Based Policies to Reduce Poverty, (4) Financial Inclusion/Exclusion, (5) Hunger and Food Security, (6) Housing and Homelessness, (7) Health and Wellness (8) Access to Rights, Social Services and Public Benefits, and (9) the Criminalization of Poverty. Alisha can provide the Special Rapporteur with key findings from their report or connect him with some of the community partners they worked with in any of the regions that will be visited. <http://thevaidgroup.com/project/lgbtq-poverty-agenda-project/>

Criminalization of homelessness:

Several ACLU affiliates are doing advocacy work on the criminalization of homelessness, including ACLU offices in Oregon, California, and Washington. In these states and elsewhere in the U.S., homelessness disproportionately impacts people of color, women, LGBTQ youth, individuals with mental illness, and veterans.

About one in five homeless people in the U.S. reside in California, which has passed a range of vagrancy laws criminalizing homelessness by prohibiting resting, sleeping or lodging in public places. Cities across the state have become more aggressive in citing and arresting homeless people for these activities. A 2016 study by Berkeley Law School found that there has been a dramatic increase in the enactment and enforcement of anti-homeless laws by California cities and municipalities in recent decades. Their study found that in California's 58 most populous cities, there are 592 laws restricting the life-sustaining activities of people experiencing homelessness in public places, an average of more than 10 laws per day. They also found 781 separate restrictions on life-sustaining activities of people experiencing homelessness, almost double the number of restrictions reported the previous year. These laws include prohibitions against standing, sitting, and resting in public places (daytime activities); sleeping, camping, and lodging in public places, including in vehicles (nighttime activities); begging and panhandling; and food sharing with people who are homeless.

The ACLU of Southern California works on the rights to housing, water, and sanitation of individuals experiencing homelessness in Orange County, including in riverbeds and other areas into which individuals are forced due to the rampant criminalization of homelessness. Orange County epitomizes the extremes of income inequality in the U.S. and the consequences for our most economically disadvantaged residents. It is one of the wealthiest counties in the country—its economy is larger than half of the U.S. states. But despite its great wealth, and unlike its neighbor to the north in Los Angeles, Orange County has done next to nothing to fund housing or shelter. The cost of rent is one of the highest in the nation, and waiting lists for affordable housing last up to 10 years. The county and all of its 34 cities criminalize sleeping or camping. And we have both documented widespread economic and social rights violations as municipalities force individuals out of city centers and into remote areas like the riverbed, by threat of citation or jail. There, they are socially and geographically marginalized, where they lack shelter and adequate access to basic needs such as water and sanitation. A recent survey indicated that up to 50% of the over 300 people living in one encampment report some sort of health issue or disability. About 40% report mental health issues. Communicable diseases are rampant. Once people locate in these remote areas, law enforcement moves in and pushes them from one area to another when the encampments become large and visible. This past spring we brought litigation and won a temporary restraining order as the county literally rounded individuals up in fenced-in pens in an effort to forcibly evict people from the riverbed. These issues are a stark illustration of a range of issues covered by the mandate. The ACLU of Southern California could likely assist the Special Rapporteur by making multiple connections with clients and partners who could provide testimony about these issues, and we think that publicizing a visit would enhance the impact of any visit and subsequent report to allow us to drive our various advocacy priorities forward.

In Oregon, where an estimated 13,176 people are unhoused on a single night, the state has seen the third highest increase in homelessness nationwide. The ACLU of Oregon found that the state's most populous cities and counties have 224 laws that criminalize basic life-sustaining activities that are associated with being unhoused, like sitting, lying, resting, or eating in public. These include state vagrancy laws, such as those prohibiting loitering or vagrancy, as well as laws that purport to focus on specific conduct, such as laws prohibiting trespass; disorderly conduct; standing, sitting, and resting in public places; sleeping, camping, and lodging in public places, including vehicles; and begging, panhandling, and soliciting. When people have nowhere to engage in necessary life-sustaining activities, Oregonians living in homelessness are forced to make impossible choices to go about their daily lives. The resulting fines, fees, and criminal record only further entrenches them in homelessness. Of the Oregonians experiencing homelessness, the Department of Housing and Urban Development found that one in ten was a military veteran, one in seven was identified as having a serious mental illness, one in five reported being a victim of domestic violence, and nearly one in three were families. The Oregon

Department of Education counted 21,340 K-12 students who experienced homelessness at some point during the 2005-16 academic year.

In Washington State, a 2015 report by the Seattle University School of Law found that since 2000, communities have enacted laws that create over 288 new ways to punish visibly poor people for surviving in public space. Their research found that in Washington, the greater the income-gap between the rich and the poor, the higher the rates of enforcement of these laws. The ACLU of Washington has brought a range of legal challenges to anti-camping and anti-panhandling ordinances and homeless encampment sweeps. Among others, the ACLU represents homeless people in Seattle living in extreme poverty in the midst of great wealth. Washington State saw the fastest rising home prices of any state in the country in 2016 and is now one of the five most expensive states for purchasing a home. The City of Seattle has the fastest increasing rent of any city nationwide and ranks eighth in cost of rent. This rapidly increasing cost of rent contributes to the state's rising homeless population. Without a guarantee of housing or consistent, stabilizing resources, the various forms of criminalizing homelessness (such as anti-camping laws and sweeps) increase instability and stress for homeless people and fail to address the actual causes of homelessness

Resources:

- Berkeley Law June 2016 report on California's new vagrancy laws criminalizing homelessness: http://wraphome.org/wp-content/uploads/2016/06/NVL-Update-2016_Final.pdf
- Coalition on Homelessness June 2015 report on how the criminalization of homelessness perpetuates poverty in San Francisco: <http://www.cohsf.org/Punishing.pdf>
- ACLU of Oregon recently published a report on the criminalization of homelessness in Oregon: https://aclu-or.org/sites/default/files/field_documents/aclu-decriminalizing-homelessness_full-report_web_final.pdf
- Seattle University School of Law reports published in May 2015 and 2016 providing statewide analysis of laws criminalizing homelessness in Washington:
 - o <https://law.seattleu.edu/newsroom/2015-news/law-school-project-releases-briefs-critical-of-criminalizing-homelessness>
 - o Blurred Lines: Homelessness & the Increasing Privatization of Public Space (May 2016) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2602318##
 - o Washington's War on the Visibly Poor: A Survey of Criminalizing Ordinances & Their Enforcement (May 2015) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2602318
- ACLU of Washington resources and cases on criminalization of homelessness: <https://www.aclu-wa.org/homelessness-advocacy-resource-center>

Contacts:

- Ian Kysel, Staff Attorney, ACLU of Southern California

- Eric Tars, National Law Center on Homelessness and Poverty
- Rob Robinson, National Economic and Social Rights Initiative

Eviction from housing due to local nuisance or crime-free housing ordinances / use of criminal records to screen people out of housing

- See U.S. Department of Housing and Urban Development guidance
<https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>

Geographic suggestions for the Special Rapporteur's country visit

Puerto Rico:

- See above

American Indian reservations in South Dakota

- See above

Michigan:

Detroit has the highest concentrated poverty rate among the top 25 metropolitan areas by population. The poorest residents in southeastern Michigan have a life expectancy rate significantly lower than the poor of comparable incomes in other major metropolitan areas.

Contacts:

- Maureen D. Taylor, State Chair, Michigan Welfare Rights Organization; Lorry Brown, Co-Director, Michigan Poverty Law Program

Resources:

- <http://www.freep.com/story/news/local/michigan/2016/04/26/detroit-has-highest-concentrated-poverty-rate/83395596/>
- <https://www.brookings.edu/research/u-s-concentrated-poverty-in-the-wake-of-the-great-recession/>
- <http://jamanetwork.com/journals/jama/article-abstract/2513561>

Syracuse, New York:

Syracuse has the highest concentration of poverty among black and Latino/a people of any urban area in the country.

Contact:

- Yusuf Abdul-Aqdir of the New York Civil Liberties Union's Syracuse office

Resource:

- http://www.syracuse.com/news/index.ssf/2015/09/syracuse_has_nations_highest_poverty_concentrated_among_blacks_hispanics.html

North Carolina:

There are a few issues in North Carolina that may be of interest to the Special Rapporteur.

- One, the ACLU of North Carolina has an active project on debtors' prisons that includes court observations in four different counties: Avery, Edgecombe, Mecklenburg, and Robeson. Avery County is located in Appalachia near the Tennessee border and is rural and 94% White. Edgecombe County is rural, agricultural, and 57% African-American. Mecklenburg is a large urban county, and also the wealthiest county in the state. Robeson is unique in that it is 1/3 White, 1/3 African American, and 1/3 Native American. The Native population in Robeson is massively overrepresented in the criminal justice system. The county also has a long history of corruption and poverty. Additionally, debtors' prisons are alive in well in North Carolina, particularly in courts with little checks to the system.
- Two, the ACLU affiliate will soon embark on a bail reform campaign. The bondsman industry is very influential there, and up until recently, three of their legislators were also bondsmen. One still remains. This has made any efforts to reform bail practices extremely difficult. However, a strong coalition has formed and we will likely see litigation on bail soon.
- Three, not only does North Carolina have three active voter suppression cases, but we have seen a clear connection between poverty and access to voting (please see <http://www.ncpolicywatch.com/2017/05/09/court-fines-fees-another-barrier-north-carolinas-ballot-box/>). Although probationers' voting rights are restored upon discharge, their inability to pay exorbitant fines and fees keeps them on probation far longer than necessary, and therefore are barred from voting.
- Four, North Carolina does not offer straight TANF or cash assistance, but is a Work First state. The amount of money a family can receive is capped, resulting in a smaller safety net for the poor (<https://www.ncdhhs.gov/assistance/low-income-services/work-first-cash-assistance>).
- General resource on poverty in North Carolina: <http://www.ncjustice.org/?q=node/880>

Contact:

- Christina Becker of the ACLU of North Carolina

Southern California:

There are several issues in Southern California that may be of interest to the Special Rapporteur.

- Criminalization of homelessness (see above)
- Fines and fees and criminalization of poverty. This includes the ACLU of Southern California's work to end the collection of fees for the services of public defenders by indigent defendants in various counties we cover. The ACLU is also working to end license suspensions for those who can't afford fines and fees associated with minor offenses. And it is planning work on juvenile justice fees (in Orange County officials have pursued more than 50 families into bankruptcy for failure to pay fees associated

with their kids' incarceration (a bill on the governor's desk would make important prospective changes).

Contact:

- Ian Kysel, Staff Attorney, ACLU of Southern California

Washington:

There are several issues in the state of Washington that may be of interest to the Special Rapporteur: criminalization of homelessness, debtors' prisons, arrests for civil debts, and driver's license suspensions.

For further information, please contact the author of this submission:

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