

Submission to the Senate Standing Committee on community affairs inquiry into the extent and nature of poverty in Australia

20 April 2023



Community Legal Centres
Australia

Introduction

About this submission

Community Legal Centres Australia welcomes this opportunity to make a submission to the Senate Standing Committee on Community Affairs' inquiry into the extent and nature of poverty in Australia.

Poverty is widely recognised as a key driver of legal need and of harmful contact with our criminal legal systems. As a result, we are disheartened that the inquiry's terms of reference do not explicitly address the role our legal systems play in perpetuating the prevalence and punishing the experience of poverty in the community.

To address this gap, our submission addresses elements of the inquiry's Terms of Reference (c), (d), (f), and (g), particularly:

- The impact of poverty on individuals in relation to access to civil justice and as a driver of harmful contact with the criminal legal system,
- The intersecting and compounding impacts of poverty, complex disadvantage, and harmful contact with the criminal legal system on:
 - a) First Nations people
 - b) People with disability, particularly people with intellectual disability and those experiencing mental ill-health or with personal histories of trauma and abuse,
 - c) People experiencing homelessness
 - d) Victim-survivors of domestic, family, and sexual abuse,
- Mechanisms to address and reduce poverty, particularly for criminalised people and people enmeshed in criminal legal systems
- Any related matters.

Community legal centres across the country work daily with people experiencing poverty, disadvantage, discrimination, and trauma to resolve everyday legal problems, including civil, family, and some criminal law problems.

We see first-hand:

- the disproportionate negative impact of laws and administrative decision making on people experiencing poverty and complex disadvantage, including, for example, in relation to social security, consumer claims, credit, and debt issues, social housing and tenancy, to name just a few
- the compounding impacts of unresolved legal problems, poverty, complex disadvantage and trauma on people's health, mental health, safety, and dignity,
- the way that our legal systems exclude people experiencing poverty and complex disadvantage from accessing legal supports to address civil and family law problems and enforce their legal rights
- the ongoing criminalisation of poverty through archaic and unnecessary offences, including offensive language, public drunkenness, vagrancy, begging and simple drug offences
- the harmful impacts of under-investment in health and social services and supports and reliance on police, criminal legal systems, and prisons to manage poverty and complex disadvantage in the community

- the abject failure of imprisonment to reduce recidivism and improve community safety and individual wellbeing.

In recognition of the complex, intersecting impacts, and cumulative impacts of poverty, disadvantage, deprivation, and exclusion experienced by the clients the community legal services work with, this submission:

- examines poverty and intersectional or cumulative disadvantage as drivers of legal need, particularly in relation to civil and family law problems, and the significant barriers to accessing justice people experiencing poverty and intersectional disadvantage face
- explores the ways in which our criminal laws and legal systems criminalise and perpetuate poverty and intersectional disadvantage and prevent rehabilitation, recovery, and community integration.

Recommendations

Australian governments should:

1. Address the social and economic drivers of poverty and intersectional disadvantage that create barriers to accessing justice and lead to harmful contact with the criminal justice system, by:
 - a) Raising social security payments and reforming the social security system in line with Australian Council of Social Service (ACOSS) and Economic Justice Australia recommendations,
 - b) Building at least 25,000 social housing properties and investing in 25,000 affordable rental properties per year, for the next 10 years
 - c) Decreasing funding for policing and prisons and re-directing savings to place-based, community-controlled, culturally safe, and trauma-informed early support and primary prevention services. These services would include housing and homelessness services, intensive family support, drug and alcohol treatment and rehabilitation, mental health and disability support, and domestic and family violence services, particularly in communities experiencing systemic disadvantage and rural, regional, remote, and very remote communities.
2. Raise the age of criminal responsibility to at least 14 across all Australian jurisdictions and develop and adequately fund therapeutic alternatives for children and young people enmeshed in the criminal justice system.
3. Where they continue to exist, repeal 'status offences,' and laws that criminalise poverty, disadvantage, and homelessness and facilitate the discriminatory and disproportionate policing of Aboriginal and Torres Strait Islander people, including:
 - a) Offensive language
 - b) Disorderly conduct
 - c) Public nuisance
 - d) Begging.
4. Decriminalise personal use and possession of illicit drugs and implement a health-based response to substance use.
5. Where they exist, abolish:
 - a) short-term prison sentences, for minor offences related to poverty and disadvantage (for example petty theft) as recommended by the Australian Law Reform Commission's Pathways to Justice report
 - b) mandatory sentencing provisions

and legislate non-punitive responses to low-level offending, including cumulative low-level offending.

6. Reform strict bail laws, to reduce the number of people held in custody on remand for low-level, non-violent offending related to poverty and disadvantage. Jurisdictions should abolish presumptions against bail for people with a history of minor offending, and technical breach of bail offences.
7. Increase investment in legal assistance services, to improve access to civil, family, and criminal law advice and representation for people experiencing poverty and disadvantage, particularly in rural, regional, remote, and very remote communities. As part of this investment, governments should specifically fund dedicated advocacy and law reform capacity, as well as service delivery.
8. Adopt recommendations made by the Australian Council of Social Service, Economic Justice Australia, Community Legal Centres Tasmania, and Redfern Legal Centre.

About Community Legal Centres Australia

Community Legal Centres Australia is the national representative voice for the community legal sector. We are an independent, non-profit organisation set up to support community legal services to provide high-quality, free, and accessible legal, and related services to everyday people, especially people experiencing financial hardship, socio-economic disadvantage, discrimination, or domestic or family violence.

Our members are the eight state and territory community legal sector peak bodies. Together, we represent about 170 community legal centres, women's legal services, Family Violence Prevention Legal Services and Aboriginal and Torres Strait Islander Legal Services operating in metropolitan, regional, rural, remote, and very remote communities across Australia.

Our movement's vision is for a fair and equitable society in which:

- Our legal systems and institutions are accessible to all, decolonised, and no longer criminalise poverty, disadvantage, or disability,
- All members of our community have access to the power, tools and means to live safe, secure, and meaningful lives, free from discrimination, violence, exploitation, and abuse,
- We respect and protect the rights of First Nations people and communities to land, language, culture, and self-determination,
- We respect and protect the natural environment for current and future generations.

Our expertise is grounded in the stories of the 180,000 people who engage our sector's services each year and who experience first-hand the barriers to accessing justice that exist in our legal systems. Our public advocacy ensures that their voices and experiences drive progressive systems reform.

Poverty, disadvantage, and wellbeing

According to the United Nations (UN) Office of the High Commission for Human Rights, ‘no social phenomenon is as comprehensive in its assault on human rights as poverty.’¹ Although this statement refers to extreme – rather than relative – poverty, the United Nations has recognised the significance of economic security to wellbeing and the enjoyment of human rights since its inception. For example, Article 25 of the Universal Declaration of Human Rights provides that everyone has a right ‘to security in the event of unemployment, sickness, disability, widowhood [sic], old age, or other lack of livelihood in circumstances beyond his [sic] control.’ The more recent Sustainable Development Goals identify the eradication of poverty and inclusive economic growth as the global community’s principal development goal.²

Within a human rights frame, economic security engages various human rights, including the right to an adequate standard of living, rights to social security and social protections, and rights to work and participate in the labour market. Although there is no universally accepted definition of economic security, definitions that do exist, point to its foundational importance to individuals, communities, and, indeed, societies. For example, the International Labour Organisation suggests a definition of economic security that gives primacy to income security and representation security, but which also encompasses its role in ‘advancing real freedom’, while the International Red Cross defines it more fundamentally as people’s ability to ‘meet their needs consistently.’

Poverty in Australia

Economic security is also often defined in relation to its opposite. Like economic security, economic insecurity or poverty can be defined in different ways: as an absolute or relative state; as comprising insufficient income to meet basic needs; or as a broader concept that encompasses the impacts of income poverty on health, wellbeing, economic and social inclusion and participation, and an ability to both enjoy and enforce one’s legal and human rights.

The UN Department of Economic and Social Affairs identifies two elements common to most definitions of economic insecurity. Firstly, that it increases people’s exposure to – or expectation of – adverse events. Secondly, that it negatively impacts people’s ability to cope with and recover from the consequences of such events.³

The Australian Council of Social Service (ACOSS), uses a relative definition that focuses on impacts on individual participation in community life: ‘Poverty is a relative concept used to describe the people in a society that cannot participate in the activities that most people

1 Office of the High Commission for Human Rights, ‘About extreme poverty’, OHCHR and the human rights dimension of poverty. Accessed at: <https://www.ohchr.org/en/poverty> (18 April 2023).

2 United Nations Sustainable Development Goals, ‘Goal 1: End Poverty in all its forms everywhere’. Accessed at: <https://www.un.org/sustainabledevelopment/poverty/> (18 April 2023).

3 Mitchell, B. (2022) ‘Older Persons Rights to Economic Security’. In Pandora’s Box 2022: Poverty and the law in Australia. Varghese, A & Arthurs, J (Eds): The Justice and the Law Society, University of QLD, 2022, pp. 114 - 168. Accessed at: <https://www.qlsproctor.com.au/2022/10/opening-pandoras-box-poverty-and-the-law-in-australia-in-2022/#:~:text=Opening%20Pandora's%20Box%20%E2%80%93%20Poverty%20and%20the%20Law%20in%20Australia%20in%202022,-27%20October%202022&text=Poverty%20and%20equitable%20access%20to,%20law%20journal%2C%20Pandora's%20Box> (18 April 2023).

take for granted.⁴ To measure poverty, ACOSS uses two international poverty lines, which closely resemble the Henderson poverty line developed through the Commission of Inquiry into Poverty in Australia 1973 – 1975.

‘These lines are set as a proportion of median income, and define a level of income, below which people are regarded as living in poverty... 50% of median income and 60% of median income, whereby people living below these incomes are regarded as living in poverty.’

In recognition of the soaring costs of housing in Australia, the ACOSS measures account for housing costs. This means that people or households whose income is below 50% (or 60%) of median income after housing costs are subtracted are included in ACOSS’s poverty statistics.⁵

Using these measures, the 2022 Poverty Report found that 3.3 million people or 13.4% of people were living in poverty last year (using the 50% of median income poverty line) and that many of these people live in ‘deep poverty’.⁶ Most people living in poverty in Australia rely on social security payments as their main source of income and rent their homes. Sole parent families have the highest poverty rate of all family types.

Through its 2018 Justice Project, the Law Council of Australia notes that the demographic groups identified as being at greatest risk of poverty include Aboriginal and Torres Strait Islander people, women, people with disability, older people, and people born overseas whose main language is a language other than English.⁷

Poverty and disadvantage go together

Generally, however, ‘economic disadvantage does not present in isolation.’⁸ Disadvantage is about more than just income and is cyclical.⁹ For many people, it is the intersection between income poverty and other challenging life experiences – such as domestic violence, homelessness, racism or discrimination, poor access to education and services, unemployment – that drives significant negative impacts on safety and wellbeing, physical and mental health, and the ability to participate in the social and economic life of the wider society.

Eminent UNSW academic, Eileen Baldry, uses the concept of intersectionality to describe the way in which many factors combine to create disadvantage and exclusion. In her view, the best way to understand these experiences is through a ‘cumulative disadvantage’ lens, in which ‘multiple negative events, experiences and factors, including intergenerational disadvantage, compound to create a ‘new multifactorial context of disadvantage that is

4 Australian Council of Social Service and University of NSW (2022). ‘Poverty in Australia.’ Accessed: <https://povertyandinequality.acoss.org.au/poverty/> (18 April 2023).

5 Ibid.

6 Ibid.

7 Law Council of Australia (2018). The Justice Project Final Report: Introduction and Overview, pg. 51. Accessed at: <https://www.lawcouncil.asn.au/justice-project/final-report> (18 April 2023).

8 Law Council of Australia (2018). The Justice Project Final Report Part 1: People experiencing Economic Disadvantage, pg. 249. Accessed at: <https://www.lawcouncil.asn.au/justice-project/final-report> (18 April 2023).

9 Centre for Policy Development (2020). Partners in Crime: the relationship between disadvantage and Australia’s criminal justice systems, December 2020, pg. 9. Accessed at: <https://cpd.org.au/2020/12/partners-in-crime-the-relationship-between-disadvantage-and-australias-criminal-justice-systems/> (18 April 2023).

greater than the sum of its parts.’ Her research into the criminalisation of people with mental illness and intellectual disability, people experiencing homelessness, and women, also uses a dynamic ‘life course’ approach to highlight the effects of time, social systemic changes and family and individual contexts on experiences of disadvantage and contact with criminal legal systems.¹⁰

According to Vinson (2015), experiences of entrenched or systemic disadvantage are geographically concentrated, complex, and persistent. Three percent of communities across Australia experience systemic disadvantage, typified by youth disengagement and low educational attainment and high rates of unemployment, domestic and family violence, and prison admissions. Most of these are in regional locations with high Aboriginal and Torres Strait Islander populations.

Poverty is a political choice

In a country like Australia, addressing poverty and systemic disadvantage is a political choice. Debbie Kilroy, CEO of Sisters Inside, advocate for women in prison, and abolitionist, states, ‘in this rich, first-world country, we have enough resources so no person ... would live in poverty, but there is a political choice across all jurisdictions and federally to ensure there is poverty, because you need poverty for racial capitalism to thrive.’¹¹ As such, political will to prioritise the financial wellbeing, stability, and independence of everyone in our community is critical to alleviating poverty and disadvantage.¹²

Taking a narrow view, the key factor that moves people out of poverty is money.¹³ The experience of people reliant on social security payments during COVID lockdowns demonstrates clearly that governments have the levers and the means to drastically reduce or even end poverty in Australia now. Immediately raising the base rate of social security payments for working-aged people in line with ACOSS recommendations is a critical first step. However, to genuinely address entrenched, intersectional disadvantage, a wider suite of evidence-based legal, policy and human service reforms are urgently needed. This includes improving intersections between health, human services, and the law, access to legal advice and representation,¹⁴ and reforming the operation of our criminal justice systems.¹⁵

10 Law Council of Australia (n 7), pp. 52 - 53.

11 Pandora’s Box (2022). ‘An Interview with Debbie Kilroy OAM’. In Pandora’s Box 2022: Poverty and the law in Australia. Varghese, A & Arthurs, J (Eds): The Justice and the Law Society, University of QLD, 2022, pg. 126. Accessed at: [https://www.qlsproctor.com.au/2022/10/opening-pandoras-box-poverty-and-the-law-in-australia-in-2022/#:~:text=Opening%20Pandora's%20Box%20%E2%80%93%20Poverty%20and%20the%20Law%20in%20Australia%20in%202022,-27%20October%202022&text=Poverty%20and%20equitable%20access%20to,\)%20law%20journal%2C%20Pandora's%20Box](https://www.qlsproctor.com.au/2022/10/opening-pandoras-box-poverty-and-the-law-in-australia-in-2022/#:~:text=Opening%20Pandora's%20Box%20%E2%80%93%20Poverty%20and%20the%20Law%20in%20Australia%20in%202022,-27%20October%202022&text=Poverty%20and%20equitable%20access%20to,)%20law%20journal%2C%20Pandora's%20Box) (18 April 2023).

12 Pandora’s Box (2022). ‘An Interview with Bridget Burton’. In Pandora’s Box 2022: Poverty and the law in Australia. Varghese, A & Arthurs, J (Eds): The Justice and the Law Society, University of QLD, 2022, pg. 63. Accessed at: [https://www.qlsproctor.com.au/2022/10/opening-pandoras-box-poverty-and-the-law-in-australia-in-2022/#:~:text=Opening%20Pandora's%20Box%20%E2%80%93%20Poverty%20and%20the%20Law%20in%20Australia%20in%202022,-27%20October%202022&text=Poverty%20and%20equitable%20access%20to,\)%20law%20journal%2C%20Pandora's%20Box](https://www.qlsproctor.com.au/2022/10/opening-pandoras-box-poverty-and-the-law-in-australia-in-2022/#:~:text=Opening%20Pandora's%20Box%20%E2%80%93%20Poverty%20and%20the%20Law%20in%20Australia%20in%202022,-27%20October%202022&text=Poverty%20and%20equitable%20access%20to,)%20law%20journal%2C%20Pandora's%20Box) (18 April 2023).

13 Pandora’s Box (2022). ‘An Interview with Karyn Walsh AM’. In Pandora’s Box 2022: Poverty and the law in Australia. Varghese, A & Arthurs, J (Eds): The Justice and the Law Society, University of QLD, 2022, pg. 90. Accessed at: [https://www.qlsproctor.com.au/2022/10/opening-pandoras-box-poverty-and-the-law-in-australia-in-2022/#:~:text=Opening%20Pandora's%20Box%20%E2%80%93%20Poverty%20and%20the%20Law%20in%20Australia%20in%202022,-27%20October%202022&text=Poverty%20and%20equitable%20access%20to,\)%20law%20journal%2C%20Pandora's%20Box](https://www.qlsproctor.com.au/2022/10/opening-pandoras-box-poverty-and-the-law-in-australia-in-2022/#:~:text=Opening%20Pandora's%20Box%20%E2%80%93%20Poverty%20and%20the%20Law%20in%20Australia%20in%202022,-27%20October%202022&text=Poverty%20and%20equitable%20access%20to,)%20law%20journal%2C%20Pandora's%20Box) (18 April 2023).

14 Ibid.

15 Centre for Policy Development (n 9), pg. 10.

Poverty and the law Poverty creates and compounds legal problems

Many of the factors characterising disadvantage intersect with legal problems such as employment problems, social security issues, family violence, discrimination, and incarceration. Indeed, research shows that people experiencing poverty and disadvantage are more likely to experience legal problems than the general population. In fact, the greater a person's disadvantage, the greater the number of legal problems they face and the fewer financial, social, and other resources they possess to resolve them.

The 2008 LAW (Law Australia Wide) Survey is still the main source of data about legal need in Australia. It found that legal need is widespread but unevenly distributed across the population. For example, just 9% of respondents accounted for 65% of legal problems. Further, people experiencing poverty and disadvantage were more vulnerable to legal problems, particularly civil legal problems: respondents who reported six or more indicators of disadvantage also reported six times as many legal problems as those with none.¹⁶

Unemployed people are significantly more likely to experience more and substantial legal problems and to do less about them.¹⁷ The survey found that disadvantage also is linked to 'crime victimisation and offending.' Eighty four percent of 'alleged offenders' reported experiencing one or more civil legal problems (with 10.4 the mean), including consumer problems, debt, disputes with government, personal injury, and disputes connected to relationship breakdown. Forty one percent had previously been victims of crime.

People experiencing poverty and disadvantage, don't always recognise the problems they face as legal problems. Where they do identify a legal issue, they often lack the resources to resolve them quickly. The LAW Survey found that people experiencing disadvantage were most likely to take no action in response to legal problems and, when they did act, to act without advice or assistance. This can cause problems to escalate unnecessarily, their negative impacts to compound, and feeds into a chronic cycle of disadvantage. In the words of the Organisation for Economic Cooperation and Development 'an inability to resolve legal problems reinforces the poverty trap.'¹⁸

Poverty creates barriers to accessing justice

'Access to justice' is another concept that means different things to different people. The Law Council of Australia offers a narrow definition of 'access to justice' as 'the link between a person's formal right to seek justice and the person's effective access to the legal system or legal remedies.'¹⁹ Others define the concept more broadly everyday justice:

Access to justice is not just about access to courts and tribunals and is much more than the resolution of disputes. It encompasses how people navigate and are treated in the many transactions (with legal consequences) that comprise everyday life

¹⁶ Law Council of Australia (n 7), pg. 55.

¹⁷ Law Council of Australia (2018). The Justice Project Final Report Part 1: People experiencing Economic Disadvantage, pg. 266. Accessed at: <https://www.lawcouncil.asn.au/justice-project/final-report> (18 April 2023).

¹⁸ Law Council of Australia (n 7), pg. 57.

¹⁹ Law Council of Australia (n 7), pg. 49.

*particularly those that are administered by government agencies. It is in these encounters that 'equality before the law' is encountered by most people.*²⁰

People and communities experiencing poverty and entrenched disadvantage face significant barriers to accessing justice both in relation to everyday transactions with fellow citizens and governments, and in the more formal sense of seeking redress for legal wrongs.

Our laws and legal systems are complex and can be difficult to understand, access and to navigate without legal advice and representation. The volume and complexity of legislation governing every aspect of our lives have increased rapidly and exponentially in recent decades. People experiencing poverty and disadvantage often lack the financial resources to pay for legal advice and representation as well as the social and other resources needed to identify and resolve legal problems on their own.²¹

For many of the people we work with, laws and legal systems are not means by which they can uphold and defend rights. Instead, they operate to create and compound problems and to trap people in personal and intergenerational cycles of poverty and disadvantage. At their worst, our laws and legal systems actively discriminate against, marginalise, and punish people experiencing systemic disadvantage. The clearest example of this is the appalling and increasing over-representation in our prisons of Aboriginal and Torres Strait Islander people (particularly women and young people), women victim-survivors of domestic, family, and sexual violence,²² people with psychosocial or intellectual disability, people with personal histories of complex trauma and intergenerational disadvantage, and people experiencing or at risk of homelessness.²³

Despite this, access to justice and the broader role of the law and legal systems are often not prominent in national conversations about addressing poverty and disadvantage.^{24 25} Realising access to justice means delivering fair and equitable access to legal assistance, as well as access to both formal and informal justice mechanisms without economic, geographic, social, cultural, or linguistic barriers.²⁶

20 Law Council of Australia (n 7), pg. 50.

21 Law Council of Australia (n 7), pg. 56.

22 Smart Justice for Women (2023). 'Smart Justice for Women Policy Platform 2022-2024: reducing the criminalisation of women in Victoria', January 2023. Accessed: <https://www.fclc.org.au/sjfw#:~:text=Smart%20Justice%20for%20Women's%20Victorian%20Election%20Platform%202022&text=Reduce%20harm%20and%20further%20entrenchment,unfairly%20criminalise%20and%20incarcerate%20women> (18 April 2023).

23 Justice Reform Initiative (2020). 'State of the incarceration nation: a briefing to Australia's members of parliament', 6 September 2020. Accessed: <https://www.justicereforminitiative.org.au/resources> (18 April 2023).

24 Law Council of Australia (n 7), pg. 54.

25 Pandora's Box: 'An Interview with Karyn Walsh AM' (n 13), pg. 90.

26 Law Council of Australia (n 7), pg. 48.

Laws, policies, and practices ...

Create and compound poverty and disadvantage

The legal system is deeply implicated in social structures generally. Legislation is a key mechanism by which political policy is implemented. And the courts system is a key mechanism by which it is enforced. So, our laws and legal systems are just as implicated in poverty as they are in wealth.²⁷ Examples of laws, policies, and practices that entrench, compound, and punish poverty and disadvantage include:

- Tax laws that transfer communal wealth from the poor to the rich (for example through tax concessions)
- Social security laws that fix payment rates for people who are unemployed below the poverty line, impose mutual obligation and income management schemes that are proven to be ineffective at supporting people into paid employment, and pursue people – sometimes unlawfully – for debts incurred due to administrative error
- Fines, penalty and infringement notices, and enforcement regimes, which often take little account of whether a person can afford to pay – now or in the future, entrap people in debt, and still operate as an indirect pathway to contact with the criminal legal system for people experiencing poverty and disadvantage in many jurisdictions
- Child protection systems that enable the ongoing removal of Aboriginal and Torres Strait Islander children from families and communities, and operate as a pathway into youth and adult incarceration (care-criminalisation)
- Tenancy and eviction laws, which favour landlords' rights over security of tenure and other protections for tenants
- Employment laws, which enable casualisation and worker exploitation
- Criminal laws, such as public order, public nuisance, offensive language, and vagrancy offences, that facilitate the over-policing of people experiencing homelessness and Aboriginal and Torres Strait Islander people, by giving police a wide discretion to approach and apprehend visible populations in public spaces – often for who and where they are, rather than anything they have done
- 'Law and order' responses to low-level, non-violent offending including tough bail and parole conditions and mandatory sentencing regimes, which have contributed to soaring incarceration rates in recent years.^{28 29}

Further, the systems designed to administer these laws can also exacerbate and entrench poverty and disadvantage. For example, the discretionary nature of decision-making in relation to social security laws, the legal hoops people are forced to jump through to access support, and the gross power imbalance between governments and individuals deter people from accessing the social safety net and leave them demoralised, exhausted, anxious, and unwell.³⁰ The recent Robodebt fiasco is just the latest and most extreme example of this.

²⁷ Pandora's Box: 'An Interview with Bridget Burton' (n 12), pg. 64.

²⁸ Ibid.

²⁹ Law Council of Australia (n 7), pg. 57.

³⁰ Pandora's Box: 'An Interview with Bridget Burton' (n 12), pg. 65.

Criminalise and punish poverty and disadvantage

'The imposition of the criminal justice system falls with greater weight upon the poor than any other group.' (Centre for Policy Development, 2021)³¹

Our criminal justice systems provide the clearest examples of how laws and legal systems perpetuate entrenched disadvantage. Instead of funding evidence-based, trauma-informed services, governments continue to invest in policing and prisons,³² despite clear and mounting evidence that they don't improve community safety, support rehabilitation and recovery, or reduce recidivism.

In the absence of political will to implement responses that would effectively address people's underlying needs, criminal laws and legal systems are being used to manage complex social and behavioural problems,³³ and as a default policy 'solution to multi-layered' and complex disadvantage in Australia.³⁴ This policy choice compounds existing disadvantage, creates additional disadvantage, and traps people and communities in cycles of disadvantage.³⁵

According to the Law Council of Australia, amongst many others, our criminal laws and legal systems are both racialised and gendered.³⁶ Overwhelmingly, these systems target, apprehend, and entrap the most disadvantaged people in the most disadvantaged communities: Aboriginal people (particularly women and young people),³⁷ victim-survivors of violence and abuse,³⁸ people experiencing homelessness,³⁹ people with cognitive or intellectual disability⁴⁰ and people with mental health issues or severe drug or alcohol problems (which often develop in response to trauma.)⁴¹

Aboriginal and Torres Strait Islander people are the most imprisoned people anywhere in the world. Despite making up just 2% of the population, Aboriginal and Torres Strait Islander people make up 28% of prisoners, and Aboriginal and Torres Strait Islander

31 Centre for Policy Development (n 9), pg. 4.

32 Law Council of Australia (2018). The Justice Project Final Report: Overarching Themes, pg. 119. Accessed at: <https://www.lawcouncil.asn.au/justice-project/final-report> (18 April 2023).

33 Ibid.

34 Centre for Policy Development (n 9), pg. 10.

35 Ibid.

36 Law Council of Australia (2018). The Justice Project Final Report Part 1: Prisoners and Detainees, pp. 432 - 33. Accessed at: <https://www.lawcouncil.asn.au/justice-project/final-report> (18 April 2023).

37 Pandora's Box: 'An Interview with Debbie Kilroy OAM, (n 11); Law Council of Australia (n 33).

38 Committee for Economic Development of Australia (2022). 'Double Jeopardy: the economic and social costs of keeping women behind bars.' Accessed: <https://www.ceda.com.au/ResearchAndPolicies/Research/Institutions/Double-jeopardy-The-economic-and-social-costs-of-k> (18 April 2023); Smart Justice for Women (n 20).

39 Public Interest Advocacy Centre & Homelessness NSW (2021). 'Policing Public Space: the experiences of people sleeping rough.' Accessed: <https://piac.asn.au/2021/05/17/policing-public-space-the-experiences-of-people-sleeping-rough-2/> (18 April 2023); Justice Connect (2020). 'Finding shelter from the law: fairer responses to homelessness in our community.' Accessed: <https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:b00a4fd5-5824-3752-aaa5-f0e145832efd> (18 April 2023).

40 McCausland, R. & Baldry, E. (2017). 'I feel like I failed him by ringing the police: Criminalising disability in Australia.' *Punishment & Society* 2017, Vol 19(3), pp. 290 – 309: Sage Publications.

41 Pandora's Box: 'An Interview with Debbie Kilroy OAM, (n 11), pg. 129.

children and young people are imprisoned at 28 times the rate of non-indigenous children.⁴² Aboriginal women are more likely to be apprehended and charged, less likely to be granted police bail, more likely to be imprisoned on remand, more likely to be given a prison sentence, and less likely to be released on parole than any other group that encounters our criminal legal systems.⁴³

Incarceration rates are soaring despite falls in serious crime rates.

Despite falling crime rates, the number of people in prison across Australia is soaring. Between 2000 – 2019, incarceration rates rose 48% nationally. We incarcerate people at higher rates than all European countries and Canada, and most countries in the OECD. The Northern Territory incarcerates people at a higher rate than the United States.⁴⁴ And yet, over the same period, crime rates have fallen, with the greatest falls recorded for the most serious crimes.⁴⁵ Overall, we are imprisoning more people for shorter periods (under 6 months) for minor, non-violent offences, and we are detaining more on remand.⁴⁶

Numerous inquiries and research reports over many years have questioned the economic and social wisdom of continuing to imprison people and build more prisons.⁴⁷ Prisons are expensive, and not effective in reducing recidivism or keeping the community safe. It costs over \$120,000 a year to imprison a single person. In 2017-18, Australian governments spent \$4 billion on incarceration alone. The OECD has predicted this figure, which does not include the costs of policing, community corrections, or servicing criminal courts, will grow to \$7 billion by 2030 if we maintain our current approach.⁴⁸

A small minority of people in prison are a danger to the community unless incarcerated. Overwhelmingly, however, our prisons are filled with people experiencing complex, entrenched, intersectional, and often intergenerational disadvantage. Their lives are typified by poverty, homelessness, mental illness, family breakdown and out-of-home care, violence and abuse, trauma, and substance misuse.

A 2020 briefing for Australian parliamentarians prepared by the Justice Reform Initiative notes that (at 2018):

- Aboriginal and Torres Strait Islander people make up 28% of the adult prison population and 59% of young people held in juvenile detention,
- 50% of adults and 90% of young people in prison have a history of mental illness or current psychological disorder,

42 National Aboriginal and Torres Strait Islander Legal Services (2020). 'Submissions to the Disability Royal Commission's Criminal Justice Issues Paper, May 2020, pg. 4. Accessed at: <https://www.natsils.org.au/policy-advocacy/> (18 April 2023).

43 Law Council of Australia (n 34).

44 Justice Reform Initiative (n 21), pg. 4.

45 Centre for Policy Development (n 9), pg. 18.

46 Margaret McMurdo AC (2022), 'The Land of the Fair Go? In Pandora's Box 2022: Poverty and the law in Australia. Varghese, A & Arthurs, J (Eds): The Justice and the Law Society, University of QLD, 2022, pp. 56 – 66. Accessed at: [https://www.qsiproctor.com.au/2022/10/opening-pandoras-box-poverty-and-the-law-in-australia-in-2022/#:~:text=Opening%20Pandora's%20Box%20%E2%80%93%20Poverty%20and%20the%20Law%20in%20Australia%20in%202022,-27%20October%202022&text=Poverty%20and%20equitable%20access%20to,\)%20law%20journal%2C%20Pandora's%20Box](https://www.qsiproctor.com.au/2022/10/opening-pandoras-box-poverty-and-the-law-in-australia-in-2022/#:~:text=Opening%20Pandora's%20Box%20%E2%80%93%20Poverty%20and%20the%20Law%20in%20Australia%20in%202022,-27%20October%202022&text=Poverty%20and%20equitable%20access%20to,)%20law%20journal%2C%20Pandora's%20Box) (18 April 2023).

47 Ibid.

48 Karp, P. (2022). 'Australia's prisons to cost \$7bn a year by 2030 as number of women incarcerated grows faster than men.' Guardian Australia, 4 November 2022. Accessed: <https://www.theguardian.com/australia-news/2022/nov/04/australias-prisons-to-cost-7bn-a-year-by-2030-as-number-of-women-incarcerated-grows-faster-than-men-study> (18 April 2023).

- As many as 20% have an intellectual disability (or borderline intellectual disability) (though evidence presented to the Disability Royal Commission to date suggests that this is likely to be a gross underestimation of the true numbers),
- 70% of people in prison are functionally illiterate,
- 54% are unemployed before entering prison and less than 25% have employment lined up on release,
- About 33% are homeless in the four weeks before entering prison and over 50% expect to be homeless when released.⁴⁹

Data collated by the Centre for Policy Development also shows that people in prison come from and return to a relatively small number of suburbs and towns where a high proportion of the population lives in social housing due to disability, unemployment, domestic violence, and poverty.⁵⁰

The evidence is clear that it is far cheaper and much more likely to reduce crime and recidivism to properly fund place-based, culturally safe, trauma-informed, and accessible health and social services to address the underlying drivers of poverty and intersectional disadvantage.⁵¹ Doing so would enable criminalised people experiencing poverty, disadvantage, and trauma to rehabilitate and recover in the community and prevent contact with the criminal legal system in the first place.⁵²

Disadvantaged women make up the fastest growing population in prison.

Despite representing a small percentage of prisoners overall, women, particularly Aboriginal and Torres Strait Islander women, make up the fastest growing cohort in Australia's prisons. Between 2000 and 2019, the number of women in prison nationally grew by 67%, compared with a 45% increase for men.⁵³ For Aboriginal women, the statistics are even grimmer. In the 14 years to 2022, the number of Aboriginal women and girls in prison increased 338% in Queensland alone.⁵⁴ Overall, Aboriginal women account for 33% of the total female prisoner population and are imprisoned at a significantly higher rate than non-Aboriginal women (453 per 100,000 compared with 24 per 100,000 of the female adult population).⁵⁵

Most are victim-survivors of horrific violence and abuse,⁵⁶ who are caught in cycles of victimisation and offending, often driven by a system-wide lack of understanding of the dynamics and impacts of domestic and family violence. For example, Aboriginal and Torres Strait Islander women, as well as women from culturally and linguistically diverse backgrounds, and those with intellectual disability, are particularly vulnerable to misidentification by police as perpetrators of violence in circumstances where a thorough

49 Justice Reform Initiative (n 21).

50 Centre for Policy Development (n 9), pg. 17.

51 Margaret McMurdo AC (n 44).

52 Ibid.

53 Australian Institute of Health and Welfare (2020). 'The health and welfare of women in Australia's prisons.' Accessed: <https://www.aihw.gov.au/reports/prisoners/health-and-welfare-of-women-in-prison/summary> (18 April 2023).

54 Pandora's Box: 'An Interview with Debbie Kilroy OAM, (n 11), pg. 129.

55 Australian Institute of Health and Welfare (n 51), pg. 4.

56 Margaret McMurdo AC (n 44).

examination of the relationship between the parties over time would reveal that the women were the true victims, reacting to a long history of abusive violence and coercive control.⁵⁷

Homelessness and poverty are also significant causative factors in women and girls' contact with the criminal legal system in the first place. Most have committed non-violent offences – or what Debbie Kilroy describes as 'survival offences' – such as public nuisance, begging, stealing food, simple drug offences, and defaulting on judgement debts, as well as bail offences.^{58 59} Homeless women charged with offences spend longer on remand as courts will not grant bail to women who do not have a stable place to live, particularly where substance dependence is also an issue.⁶⁰ Similarly, women in custody who are otherwise eligible for parole remain in prison because no one can find them even a single, safe, room in which to live.⁶¹

Women's imprisonment also has a significant impact on families and cycles of intergenerational disadvantage and criminalisation. Almost three quarters of female prisoners (72%) are aged 24 – 44. According to the Australian Institute of Health and Welfare, in 2020, 84% of female prisoners had been pregnant at some point in their lives, and about 54% had at least one dependent child. Their incarceration, even short-term or on remand, often leads to children being removed into out-of-home care.⁶² This, in turn, is a proven pathway into harmful contact with the criminal legal system for children and young people, particularly in Aboriginal and Torres Strait Islander communities.⁶³ For example, children in out-of-home care are often arrested for minor matters that ought not to have incurred a police response,⁶⁴ a significant number of young people in juvenile detention have spent time in out-of-home care, and a significant number of young people 'graduate' from juvenile detention into the adult prison system.⁶⁵

'Status offences' and over-policing criminalise poverty and homelessness.

'Status offences' – like public drunkenness, disorderly conduct, begging, and offensive language – criminalise publicly visible poverty. That is, they criminalise who a person is or where they are, rather than what they have done. Despite the abolition of 'vagrancy offences' in many jurisdictions in recent decades, people experiencing homelessness, continue to be vulnerable to criminalisation due to their 'undesirable' presence in public spaces. In turn, this visibility, makes people experiencing homelessness easy and regular

57 Margaret McMurdo AC (n 44).

58 Pandora's Box: 'An Interview with Debbie Kilroy OAM, (n 11), pg. 135.

59 Smart Justice for Women (n 20).

60 Law Council of Australia (n 34), pg. 422.

61 Margaret McMurdo AC (n 44).

62 See for example: Centre for Policy Development (n 9), pg. 15; Smart Justice for Women (n 20); Family Is Culture (2019). Independent Review of Aboriginal Children in out-of-home care, pp. 235 – 244. Accessed: <https://www.familyisculture.nsw.gov.au/> (18 April 2023).

63 Ibid.

64 Centre for Policy Development (n 9), pg. 10.

65 Ibid (n 60).

targets for police, whose attention is attracted by their 'shabby', 'dishevelled', 'dirty' or 'undesirable' appearance.⁶⁶

Several recent studies from NSW, Queensland, and Victoria, note that people experiencing homelessness – and Aboriginal and Torres Strait Islander people – are subjected to high levels of police surveillance, and harassment, in both public and private spaces. This can include frequent and unlawful police searches of both persons and premises such as boarding houses and shelters, being constantly 'moved on', and being fined or held in police custody for minor public order offences, such as public nuisance, disorderly conduct, begging (where it still exists), and offensive language.⁶⁷ Unfortunately, this remains true both in jurisdictions that hold onto antiquated public order offences like public drunkenness and begging, but also in jurisdictions where these offences have been decriminalised, like NSW.⁶⁸

Police also disproportionately target people experiencing poverty, disadvantage, and homelessness (including people who sleep rough, people with chronic mental-illness or substance addictions, and Aboriginal and Torres Strait Islander people) who commit minor offences relating to underlying issues such as income inequality, mental ill-health, or substance use. This includes indictable offences such as shop thefts or petty thefts, offences relating to alcohol and other drug use, as well as fare evasion, and common law offences of public nuisance and unlawful assembly. There have been repeated calls for the decriminalisation of minor offending and the implementation of non-punitive responses, following on from key recommendations made by the Royal Commission into Aboriginal Deaths in Custody.

Strict bail laws and short-term sentences trap people in the system.

Australia's soaring imprisonment rates have been driven, in large part, by disproportionate increases in the number of people being held on remand. In the ten years to 2018, Australia's remand population grew almost 112%. By comparison, the number of people in prison who had been convicted and sentenced grew by 33.4%.⁶⁹ Aboriginal and Torres Strait Islander people, particularly women and girls, are disproportionately affected by bail laws and restrictions and are less likely to be granted bail compared to non-Indigenous people.

Advocates, academics, and legal institutions alike identify strict, overly prescriptive, and often draconian bail laws as a key driver of the exponential increase in remand populations across Australia, and as needing urgent reform. This includes:

- Stringent and unrealistic bail conditions which set people up to fail, including orders not to consume alcohol or other substances of dependence (particularly when support services are unavailable), curfews, exclusion orders and non-association orders,

66 Walsh, T. (2007). 'No Vagrancy: An examination of the impact of the criminal justice system on people living in poverty in Queensland.' T.C. Bierne School of Law, University of Queensland, pg. 33. Accessed: <https://www.indigenousjustice.gov.au/resources/no-vagrancy-an-examination-of-the-impact-of-the-criminal-justice-system-on-people-living-in-poverty-in-queensland/> (18 April 2023).

67 Ibid., pp. 37 – 38.

68 McNamara, L., Quilter, J., Walsh, T. & Anthony, T. (2021). 'Homelessness and contact with the criminal justice system in Australia: Insights from specialist lawyers and allied professionals in Australia.' *International Journal for Crime, Justice, and Social Democracy*, Vol 10(1): 111 – 129, pg. 114. Accessed: <https://doi.org/10.5204/ijcsd.1742> (18 April 2023).

69 Law Council of Australia (n 33), pg. 420.

- Strict penalties for breaching bail conditions, known as ‘technical breaches’ or ‘breach of bail’ offences, which require courts to revoke bail and order the person to be remanded in custody even if they have not committed any further substantive offences,
- Presumptions against bail for people with a prior history of breaching bail conditions, which are particularly problematic when the original offence is minor and the presumption is triggered by a technical breach only,
- Presumptions against bail where a person does not have stable accommodation, which leads to a different, discriminatory outcome for people experiencing homelessness.⁷⁰

Prescriptive bail conditions and strict consequences for technical breach are particularly problematic for people experiencing poverty and disadvantage who are enmeshed in the criminal legal system because of their compounding effect. For example, a person with a cumulative history of low-level offending linked to poverty (for example, begging, shoplifting and fare evasion), and who is denied bail because they have breached onerous and unrealistic bail conditions in the past, can often be on remand for periods longer than the custodial sentence imposed when their matter finally reaches court.

Women, particularly victim-survivors of domestic, family, and sexual violence, and Aboriginal and Torres Strait Islander women, are particularly affected by difficulties obtaining safe, secure, and stable accommodation. Sisters Inside notes that criminalised and Aboriginal and Torres Strait Islander women are often excluded from mainstream domestic and family violence support services, which can lead to difficulty securing stable and suitable accommodation, homelessness, and the denial of bail and diversion opportunities.

Short-term imprisonment for periods of less than 6 months (often for minor offending, which is driven by poverty and disadvantage as noted above), is also a key driver of imprisonment for people experiencing poverty and disadvantage. In its 2017 Pathways to Justice report, the Australian Law Reform Commission noted that short terms of imprisonment do not deter people from future offending, and in some cases increase the likelihood of recidivism, and have significant negative impacts on the imprisoned person’s family, employment, housing, and income.

Short-term prison sentences, and spending time remanded in custody, frequently interrupts important protective factors and opportunities for recovery and rehabilitation that may address underlying causes for offending behaviours: community supports, including mental health intervention, is interrupted; stable housing is generally put at risk; employment or job readiness programs are paused.⁷¹

In response to this, many advocates, including the Australian Law Reform Commission, have called for the abolition of short-term sentences for minor offending, their replacement with non-punitive responses, and the reform of strict and unworkable bail laws, all of which contribute to the increasing numbers of people held in custody on remand.⁷²

⁷⁰ Law Council of Australia (n34), pg. 420.

⁷¹ Smart Justice for Women (n 20), pg. 14.

⁷² Law Council of Australia (n 34, pg. 429); Federation of Community Legal Centres VIC (2021). ‘Inquiry into Victoria’s Criminal Justice System: Submission to the Legal and Social Issues Committee’, Submission 132, pp. 12 – 13. Accessed: <https://new.parliament.vic.gov.au/get-involved/inquiries/inquiry-into-victorias-criminal-justice-system/submissions>, (18 April 2023).

Legal assistance services underfunded to meet need

It is small comfort to know you have rights if you cannot, for reasons of poverty, compel others to respect them. (Bridget Burton, Caxton Legal Centre, 2022)⁷³

In Australia, there is no right to legal representation, either in criminal, civil, or family law proceedings. Given that the high cost of private legal services now puts representation beyond the reach of many working people, people experiencing poverty and disadvantage are largely unable to access the advice and assistance they need to resolve their legal problems. While debate about establishing a right to legal representation most often focuses on representation in criminal proceedings, Bridget Burton from Caxton Community Legal Centres argues that anyone facing serious detriment from an exercise of (or failure to exercise) state power, ought to have a right to quality legal representation. This would go some way to ensuring that areas of state intervention that mostly affect the rights of women and children (for example family violence and child protection) receive the same attention as areas that mostly affect men (criminal offending).⁷⁴

Governments resource the Australian legal assistance sector (made up of Legal Aid Commissions, community legal centres, Aboriginal legal services, and Family Violence Prevention Legal Services) to provide legal education, information, advice, and limited representation services to people experiencing financial disadvantage. Historically, however, government funding has fallen woefully short of the level required to enable legal assistance providers to meet legal need, with the result that many people become trapped in cycles of poverty and criminalisation. Independent studies indicate significant levels of unmet legal need in Australia.⁷⁵ For example, strict income thresholds implemented to direct the allocation of limited resources mean that only people with the lowest 8% of incomes qualify for Legal Aid to address their legal problems.

Like all legal assistance providers, community legal centres are underfunded to meet demand. With Legal Aid Commissions receiving over half of total baseline legal assistance funding under the current National Legal Assistance Partnership Agreement (2020 – 2025), community legal centres and Aboriginal community-controlled legal services are left with very little to meet overwhelming and rapidly increasing demand for services.

Research conducted by our own sector⁷⁶ has found that, on average, community legal centres turn away 74 people per week per centre. However, numbers of known turn-aways constitute just a fraction of overall unmet need as they only count people who cannot stay on hold long enough to speak to a practitioner or who decline an appointment because it is too far in the future. What we cannot know is how many people failed to even get through or did not bother to contact us because they knew the wait time would be too long.

In response, while inadequate, providing one or two pieces of advice is all that many community legal centres can do with the resources they have. To meet overwhelming demand for services, some centres, have reduced the areas of law they cover, and implemented eligibility frameworks that apply income tests to their services. As a result, too

⁷³ Pandora's Box: 'An Interview with Bridget Burton' (n 12), pg. 61.

⁷⁴ Ibid, pp. 59 – 60.

⁷⁵ See for example the Australian Productivity Commission's Access to Justice Arrangements Inquiry Report 2014; and the Law Council of Australia's 2019-2020 Pre-Budget Submission.

⁷⁶ Community Legal Centres Australia State of the Sector Survey 2019-20.

many people with civil and family law problems, who do not qualify for legal aid and are unable to afford private legal representation, are left without support.

In this context, lack of dedicated funding for community legal services to undertake law reform and advocacy significantly hampers our capacity to reduce demand for legal assistance, through identifying and offering solutions to systemic issues. Many reports have specifically identified the importance of this work, and recommended state, territory, and federal governments deliver targeted funding for strategic advocacy.⁷⁷

Independent reviews of legal assistance services broadly, and the community legal centres sector specifically, have found community legal centres to be highly effective and administratively lean (NSW Cameron Review).⁷⁸ Such findings are overwhelmingly accepted by governments, with legal assistance providers receiving sincere bi-partisan support for their work. Unfortunately, however, recommendations to significantly increase investment in the legal assistance sector have rarely been implemented (for example, the Productivity Commission's 2014 recommendation that the Commonwealth Government invest an additional \$200 million into civil legal assistance services alone as an immediate and interim measure while further analysis on legal need and service gaps was conducted.)⁷⁹

We have a choice

As noted above, ending poverty and entrenched disadvantage is a political choice. We have the resources and the evidence-base to enable systems-wide reform to ensure everyone in our community can live meaningful and dignified lives and possess the capacity to exercise and enjoy their human rights. What we need is the political will. We can continue to use our laws and legal systems to create, compound, and manage entrenched and intergenerational poverty and disadvantage. Or we can implement difficult, but possible reforms to end homelessness, ensure social and economic resources are distributed more equitably across the community, and improve intersections between health, human services, and the law. Investing in place-based, community-controlled, culturally safe, and trauma-informed early support and primary prevention services, particularly in communities experiencing systemic disadvantage, will improve individual wellbeing and community safety, far more effectively than continuing to lock marginalised and traumatised people up at ever-increasing rates.

⁷⁷ Australian Government Productivity Commission (2014). Overview – Access to Justice Inquiry Report, 3 December 2014, pg. 62. Accessed: <https://www.pc.gov.au/inquiries/completed/access-justice/report> (18 April 2023); Law Council of Australia (n 7), pg. 54; Law Council of Australia (n 30).

⁷⁸ Cameron, A.O. (2017). Review of NSW Community Legal Centre Services. NSW Department of Communities and Justice, December 2017, pg. 7. Accessed: https://www.justice.nsw.gov.au/justicepolicy/Pages/lpclrd/lpclrd_consultation/community-legal-centre-services-review.aspx (18 April 2023).

⁷⁹ Australian Government Productivity Commission (n 76), pg. 63.

Recommendations

Australian governments should:

1. Address the social and economic drivers of poverty and intersectional disadvantage that create barriers to accessing justice and lead to harmful contact with the criminal justice system, by:
 - a) Raising social security payments and reforming the social security system in line with Australian Council of Social Service (ACOSS) and Economic Justice Australia recommendations,
 - b) Building at least 25,000 social housing properties and investing in 25,000 affordable rental properties per year, for the next 10 years
 - c) Decreasing funding for policing and prisons and re-directing savings to place-based, community-controlled, culturally safe, and trauma-informed early support and primary prevention services. These services would include housing and homelessness services, intensive family support, drug and alcohol treatment and rehabilitation, mental health and disability support, and domestic and family violence services, particularly in communities experiencing systemic disadvantage and rural, regional, remote, and very remote communities.
2. Raise the age of criminal responsibility to at least 14 across all Australian jurisdictions and develop and adequately fund therapeutic alternatives for children and young people enmeshed in the criminal justice system.
3. Where they continue to exist, repeal 'status offences,' and laws that criminalise poverty, disadvantage, and homelessness and facilitate the discriminatory and disproportionate policing of Aboriginal and Torres Strait Islander people, including:
 - a) Offensive language
 - b) Disorderly conduct
 - c) Public nuisance
 - d) Begging.
4. Decriminalise personal use and possession of illicit drugs and implement a health-based response to substance use.
5. Where they exist, abolish:
 - a) short-term prison sentences, for minor offences related to poverty and disadvantage (for example petty theft) as recommended by the Australian Law Reform Commission's Pathways to Justice report
 - b) mandatory sentencing provisionsand legislate non-punitive responses to low-level offending, including cumulative low-level offending.
6. Reform strict bail laws, to reduce the number of people held in custody on remand for low-level, non-violent offending related to poverty and disadvantage. Jurisdictions should abolish presumptions against bail for people with a history of minor offending, and technical breach of bail offences.
7. Increase investment in legal assistance services, to improve access to civil, family, and criminal law advice and representation for people experiencing poverty and disadvantage, particularly in rural, regional, remote, and very remote communities. As part of this investment, governments should specifically fund dedicated advocacy and law reform capacity, as well as service delivery.
8. Adopt recommendations made by the Australian Council of Social Service, Economic Justice Australia, Community Legal Centres Tasmania, and Redfern Legal Centre.