

# Day-Fines: A Fairer Way to Pay for Crime?

What usually comes to your mind when you receive a fine? Dread, regret, or just a shrug? Well, it actually all depends on your income. So this brings upon a fundamental PPE problem: is the law we are abiding by just, and why? Let me take this opportunity to introduce and contend for day-fining below.

The “day-fine” system is an approach to determine the fine one offender has to pay based on the severity of the crime, the financial obligation the offender has to themselves and their dependents, and the offender’s daily income. Common uses are in cases of minor offenses where custodial sentences are not called for, like traffic violations and littering, but it is theoretically applicable to any form of forfeiture.

Currently, countries that practice day-fining are predominantly European like Denmark, Sweden, Finland, France, Germany, etc. Although both the USA and the UK experimented with the system around the 90s, neither decided to take it on fully for various reasons, unfortunately.

Due to its mathematical nature and the fact that it is positively proportional to income, day-fining has often been compared to progressive income taxing - which may entertain the conservative side of the debate. However, their similarities are no more than that; as the former regards law and order, whereas the latter, the economy.

That said, there are multiple philosophies that caused and drove the design of day-fining. The core notion behind the system is to bring a punishment in proportion to the offender’s wealth and status, which has various implications on society.

Fines are typically set as a fixed number for equality, but often at the expense of equity. As disposable income increases, the proportion a fixed fine takes away from it decreases, which in turn reduces the penalty’s capability to deter. For instance, the fixed \$10000 fine brought by the “Prevention and Control of Disease (Wearing of Mask) Regulation (Cap. 599I)” in Hong Kong may be enough to incentivise the lower to middle class to wear masks, but the wealthy remain unmoved.

Furthermore, not only can the day-fine rectify the failures of fixed fining to restrict the affluent, it also potentially reduces the crime rate. By ensuring that the amount of fine is based on the wrongdoer’s daily income and factoring in their dependents, not relying solely on the judge’s decision, legal certainty is guaranteed. I believe that in this case, the situation of “being punished for being poor” can be prevented, thus aiding the rehabilitation process.

Although day-fining is not perfect, it has way lesser and mostly negligible flaws than other systems. While simply surveying the offender’s daily income will almost certainly result in dishonest answers, Finland’s method of checking the federal database to calculate the fine could attract backlashes relating to the invasion of privacy, especially in countries like the USA and the UK. Nonetheless, this argument ignores the fact that the government already owns our personal information, as implied by the existence of a database[1], and day-fining would not change the situation in any way.

Another criticism concerns the high error cost brought by day-fining when there is a miscarriage of justice. Objectors fear that wrongful convictions under day-fining will be exceptionally unjust to those with higher income as they have to pay a high error cost. Although the logic in this argument is sound, it ignores multiple facts. Given the defendant is prosperous, they will have sufficient resources to prove their innocence, while their daily lives would remain unthreatened. Furthermore, the financial nature of a day fine means the fine can simply be returned and no harm would be done, unlike jail sentences.

To conclude, day-fining is a superior model of financial penance ready and steady to be followed by the rest of the world. It simultaneously deters the wealthy and offers exoneration to the needful while not having any substantial flaws. Simply put, day-fining is more than fine - it's "di-vine".

Walter Lam, 20th December 2020

[1] Most tax records that survive are available online or at The National Archives:

The National Archives. "Taxation." The National Archives, The National Archives, 12 Mar. 2019, [www.nationalarchives.gov.uk/help-with-your-research/research-guides/taxation/](http://www.nationalarchives.gov.uk/help-with-your-research/research-guides/taxation/).