



## **Press Release on Decriminalisation of Petty Offences**

The [Network of African National Human Rights Institutions](#) (NANHRI) and other Campaign Partners on the continent will hold a two-day Regional Conference in Accra, Ghana, to discuss strategies of reviewing laws criminalising petty offences in Africa so as to reduce congestion in prisons and human rights violations against poor and vulnerable people.

The October 3-4, 2018 meeting brings together five National Human Rights Institutions (NHRIs), the African Commission on Human and Peoples' Rights (ACHPR) and other stakeholders in interrogating the role of these independent human rights institutions in advising<sup>1</sup> the state, parliament and other public organisations in decriminalising petty offences, monitoring and raising awareness on the negative impacts of such laws.

This Conference is part of the two-year pilot project on [Decriminalisation of Petty Offences in Africa](#), targeting five NHRIs, namely, the Kenya National Commission on Human Rights, the Commission on Human Rights and Administrative Justice of Ghana, the Malawi Human Rights Commission, South African Human Rights Commission and the National Commission on Human Rights of Cote d'Ivoire. The Ghana Commission will host the conference.

Criminal offences and penal codes of various countries in Africa, and indeed the world, classify loitering, disobedience to parents, begging, minor traffic offences, prostitution, being a vagabond, hawking, being drunk and disorderly or a public nuisance, amongst others as petty offences.

Upon conviction, the accused persons are sentenced to a jail term with an alternative of paying fines. Most times, inability to pay leads to service the sentence.

In Kenya for instance, a hawker is slapped with a fine of up to Kes3,200 or serves a term of six months upon conviction. For a poor and vulnerable hawker, the fine or sentence are discriminatory on their status, and violate their economic, social, and cultural rights.

Although Kenya and South Africa have repealed laws criminalising being vagabond, we are supporting our NHRIs in leading the decriminalisation of all petty offences through "Poverty is not a crime" campaign.

---

<sup>1</sup> <https://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

Entrenching in law alternative punishments such as warnings, community service, pardon, electronic monitoring, among others would reduce congestion in prisons, which are already more than thrice their capacity.

According to statistics from the International Centre for Prisons, approximately 119 facilities in Kenya had an occupancy of 220.7 per cent as of August 2016. Further, in Malawi, with 30 prisons as of 2016, the occupancy level stood at 211.4 per cent. Cote d'Ivoire, which had 40 correctional centres as of 2017 was at 196.9 per cent. Ghana had 43 prisons as of March 2015. The occupancy was 146.5 per cent. South Africa had 136 per cent occupancy in the 243 prisons as of March 2017.

Another study, The Criminal Justice Report says 28,768 charges prosecuted in 15 Kenyan courts in the year 2013-2014 were petty offence. Serious offences were 18,058. If the petty offences in this case lead to convictions and inability to pay the fines, serving sentences would congest prisons further.

As the umbrella body of NHRIs in Africa, our aim is to ensure that petty offences do not lead to prisons sentences. This would give the judicial and security systems more time to process the backlog of serious crimes, which are coincidentally delayed.

Our work is backed by the Principles on Decriminalisation of Petty Offences in Africa, which were adopted by the African Commission on Human and Peoples' Rights in November 2017. The Principles, root for decriminalisation of petty offences and administration of alternative non-custodial or fine sentences, which are viewed to be discriminatory and against the African Charter on Human and Peoples' Rights.

The results of this pilot phase of the project, which has run for eight months will inform upscaling the project to other NHRIs in other countries on the continent.

NANHRI's pilot phase has received generous funding from the [Open Society Foundations](#), enabling us to work closely with 12 civil society organisations in Africa on the Campaign Poverty Is Not a Crime.

### **About Us**

The Network of African National Human Rights Institutions (NANHRI) is a not-for-profit-organization that brings together 44 National Human Rights Institutions in Africa. Our Secretariat is in Nairobi, Kenya.

We work towards the establishment and strengthening of the African NHRIs, facilitating Coordination and cooperation amongst members and linking them with other key human Rights actors at the regional and international level.

We support our members through capacity building to meet their objective of protecting and promoting human rights at the national level.

**Mr Gilbert Sebihogo, Executive Director, NANHRI**

**For more details, kindly contact:**

Robert Laban, Communications and Advocacy Officers

Mail: [laban@nanhri.org](mailto:laban@nanhri.org)

Telephone : +254723431402/+254718201821

Maureen Bwisa, Programme Officer

Mail: [mbwisa@nanhri.org](mailto:mbwisa@nanhri.org)