



## Enhancing the Role of National Human Rights Institutions in Decriminalisation of Petty Offences in Africa



*#PovertyIsNotACrime*  
*#DecriminalisePettyOffencesNow*



Kindly elaborate your understanding of the following terms:

❖ Petty Offences: **NON SERIOUS**

### *Petty Offences and related terms*

❖ Decriminalisation of petty offences

*Petty offences* are minor offences for which the punishment is prescribed by law to carry a warning, community service, a low-value fine or short-term imprisonment, often for failure to pay the fine. Petty offences are entrenched in national legislation and, in most countries, fall within the broader category of minor offences, misdemeanors, summary offences or regulatory offences.

*Arrest* refers to the act of apprehending a person for the alleged commission of a criminal offence, or to the action of a competent authority to arrest and detain a person as otherwise authorised by law .

*Decriminalisation* refers to the process of removing an act that was criminal, and its associated penalties, from the law.

*Source-African Commission on Human and Peoples' Rights.*

### *What are some of the key instruments violated?*

- The Universal Declaration for Human Rights
- The African Charter on Human and Peoples' Rights
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa





### ***What are some examples of petty offences?***

Petty offences laws in Africa originate from the colonial era.

- being a rogue and a vagabond
- being idle or disorderly
- loitering
- begging
- being a vagrant
- failure to pay debts
- being a common nuisance
- disobedience to parents
- sex work
- informal trading (hawking)
- urinating in public
- washing clothes in public
- touting
- speeding, among others

### ***Who suffers most?***

Quite often, the laws have devastating impacts on the poor and excluded in society as the rich can buy their freedom. It has been argued, therefore, that criminalising petty offences is equivalent to criminalising poverty. Indiscriminate application due to the broad mandate of application given to law enforcement agencies perpetuates impunity and disproportionate suffering of the people, especially the vulnerable.

Those who bear the most brunt include:

- Street families and homeless
- Informal traders/hawkers
- People living with physical and psychological disabilities
- Refugee, migrants and internally displaced persons
- Sex workers
- Sexual and gender minorities
- Touts

## ***Benefits of decriminalisation of petty offences***

1. Decongestion of prisons and other detention areas
2. Governments could save on the cost of maintaining petty offenders in prison and other detention areas
3. Governments stand to gain revenue from criminalised income generating activities like informal trading
4. Improved life of vulnerable people, especially those engaging in life sustaining activities for *#NoOneToBeLeftBehind* in *#TheAfricaWeWant*.
5. Free more human and financial resources for the criminal justice system to deal with more serious crimes
6. Reduce case backlog in courts
7. Eradicate corruption, harassment, threats and all other forms of impunity in the criminal justice system
8. Improved human rights ranking and image of the State at the regional and international levels

## ***What are the alternatives to offences that cannot be decriminalised?***

- Warnings and good behavior orders
- Mediation between the accuser and accused
- Community service like clearing the environment
- Rehabilitation
- Training on life skills
- Noncustodial sentences

## ***What is the role of State and non-State actors, led by NHRIs, in decriminalisation of petty offences?***

1. Review of existing laws and recommending alignment to national, regional and international standards
2. Raising awareness among the parliamentarians, public, law enforcement agencies, judicial officers on the impact of petty offences, instruments violated by criminalising petty offences
3. Monitoring and reporting to relevant national and international mechanisms on the state of prisons detention areas; and recommending decriminalisation
4. Strategic litigation on cases of petty offences
5. Legal representation of petty offenders
6. Preparing Bills and presenting them before parliament for consideration
7. Leading advocacy targeting parliament, especially justice and constitutional and legal committee
8. Research and data collection to support policy and legal review
9. Recommending alternative punishments for laws that cannot be decriminalised such as minor traffic offences
10. Enhancing and coordinating the technical efforts of the various actors for a unified approach to decriminalisation of petty offences. This may extend to joint resource mobilisation.
11. NHRIs to encourage the judiciary to use their discretion in delivering non-custodial and alternative sentences

*Our other partners*



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