



Campaign to Decriminalise Petty By-Laws

Almost half of the South African adult population lives below the poverty line. Despite some progress in addressing the country's developmental challenges, for many, life in South Africa remains characterised by high unemployment levels in the formal sector; lack of access to safe, well-located and affordable housing; and failings in service delivery by the state, amongst other complex social and economic challenges. The state's scarce resources should therefore be directed towards addressing the underlying causes of poverty, inequality and other forms of marginalisation, rather than punishing the poor and similarly marginalised people through by-laws that unfairly and disproportionately affect them.

Criminalising Poverty in South Africa

Across South Africa, municipalities have enacted and enforce by-laws criminalising conduct relating to performing life-sustaining activities in public spaces. Examples include the prohibition of persons from loitering or sleeping in public spaces; the solicitation of a vehicle driver for the purpose of guarding the vehicle; making a fire on a beach; pushing a trolley on a highway; begging; or washing in a public bathroom. Such by-laws indirectly discriminate against some of the most marginalised people in society, including homeless people, sex workers, drug users, migrants and informal traders. These groups are more likely to engage in the prohibited conduct given their socio-economic circumstances, and their reliance on the informal sector. In addition, the enforcement of the by-laws by sometimes results in harassment, confiscation of possessions, and violence.

The Campaign

In response to these concerns, a group of civil society organisations and individuals working at the intersection of violence prevention, criminal justice, equality and service delivery across South Africa have formed a Campaign to Decriminalise Petty By-Laws. This Campaign in South Africa is part of a broader 10 country African civil society campaign to decriminalise and reclassify petty offences (www.pettyoffences.org) – many of which have their origins in colonial laws that criminalise various 'nuisance' behaviours and restrict the use of public spaces. The issue has received formal recognition at the African Union level through the adoption by the African Commission on Human and

Peoples' Rights of the Principles on the Decriminalisation of Petty Offences in Africa (2017). The Principles call on all African states, including South Africa, to decriminalise petty offences that unfairly and disproportionately target the poor, and to promote measure to ensure that no persons are targeted by laws on the basis of their social origin, social status or fortune.

The South African Campaign advocates that homelessness and vagrancy issues need to be dealt with using a rights-based, social development and harm reduction approach, rather than a criminal justice response as default. A rights-based, social development and harm reduction approach is in direct opposition to current strategies by municipalities and law enforcement officials perpetuating the stigmatisation of poverty by mandating a punitive and reactionary criminal justice response to what are socio-economic and sustainable development issues.

The Key Objectives of the Campaign

The key objectives of the Campaign are to advocate for the decriminalisation of discriminatory by-laws, though the following means:

- Advocating for the use of social justice and harm reduction responses to dealing with vagrancy and related issues, as opposed to the current punitive and reactionary criminal justice response;
- Reviewing and where necessary demanding the repeal of discriminatory municipal by-laws;
- Conducting research and consulting with the public and those directly affected on current practices of by-law enforcement; and
- Changing the narrative and popular perceptions of the poor by challenging stereotypes about homeless people and other similarly marginalised groups.

Get Involved in the Campaign

We encourage all interested individuals, organisations and institutions to become part of this important Campaign and to advocate for change. If you are interested in joining the Campaign, please send an email to bylawsdecrim@gmail.com.

Current Campaign members include Africa Criminal Justice Reform (Dullah Omar Institute, University of the Western Cape), African Policing Civilian Oversight Forum, Ashraf Mahomed, Centre for Human Rights (University of Pretoria), Lawyers for Human Rights, National Association of Democratic Lawyers, Sonke Gender Justice, and U-Turn.