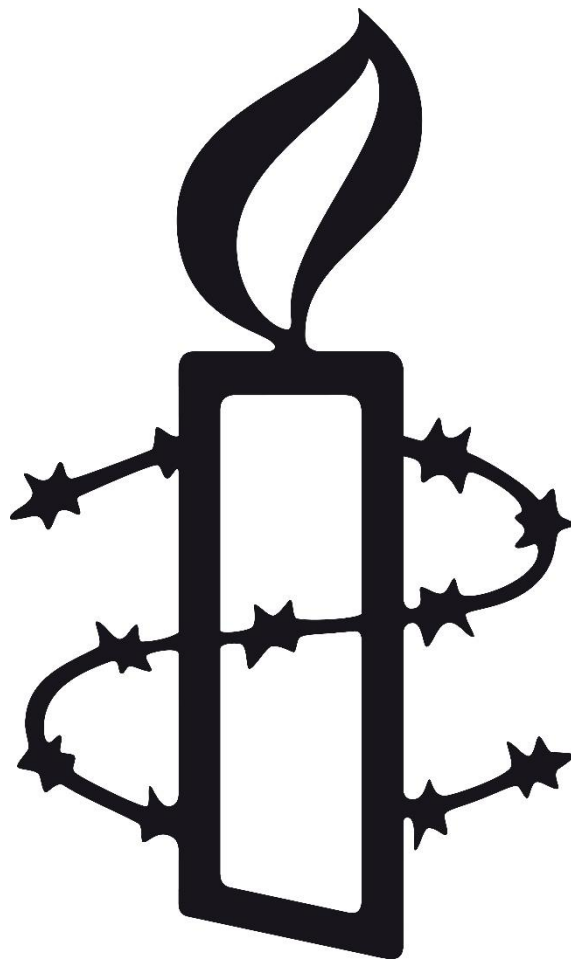


# DECRIMINALIZATION OF HOMELESSNESS AND EXTREME POVERTY

SUBMISSION TO THE UN SPECIAL RAPORTEURS ON  
EXTREME POVERTY AND THE RIGHT TO ADEQUATE HOUSING



AMNESTY  
INTERNATIONAL



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# 1. INTRODUCTION

This submission is prepared by Amnesty International in response to the call for input<sup>1</sup> by the Special Rapporteur on the Right to Adequate Housing and the Special Rapporteur on Extreme Poverty and Human Rights on efforts made to decriminalize offences frequently associated with homelessness and poverty. Specifically, this submission highlights the different ways in which laws criminalizing “vagrancy”, “loitering” and “begging” among other acts associated with homelessness and poverty, disproportionately impact some of the most marginalized in society thus further entrenching patterns of poverty, and racial and gender injustices. The submission calls for states not only to repeal such laws but also to refrain from using the criminal law unless in instances where it is strictly necessary and proportionate to protect a legitimate public interest and to use imprisonment only as a measure of last resort. It also recommends states to invest in long term measures and guarantee the rights to health, an adequate standard of living, housing and social security for all as a measure to tackle the overrepresentation of people living in poverty in criminal justice systems.

Around the world, people living in poverty are overrepresented in criminal justice systems.<sup>2</sup> This is often due to a range of complex and intersecting reasons including the enforcement of discriminatory laws that criminalize specific conduct associated with living in poverty such as homelessness and begging, entrenched and intersectional forms of discrimination that disproportionately expose marginalized groups to experiences of poverty, racial profiling and discrimination by law enforcement agencies and bail processes that do not duly reflect the realities of people living in poverty.<sup>3</sup>

Indeed, as marginalized groups are more likely to live in poverty than the general population, women<sup>4</sup>, lesbian, gay, bisexual, transgender people<sup>5</sup>, racialized groups,<sup>6</sup> Indigenous people<sup>7</sup> and people with disabilities<sup>8</sup> are, among other groups, disproportionately affected **by laws criminalizing conduct associated with poverty**. The criminalization of sex work also perpetrates the vicious circle of poverty and criminalization. **Criminalizing sex work** fails to address the underlying causes of poverty and lack of access to economic and social rights that often impact the choice to sell sex.<sup>9</sup>

The **prohibition and criminalization of drugs** has disproportionately affected the poorest and most marginalized sectors of society, who have historically carried the burden of this failed strategy. On one hand, people living in poverty who use drugs have had less access to health and other social services

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<sup>1</sup> <https://www.ohchr.org/en/calls-for-input/2023/call-input-decriminalization-homelessness-and-extreme-poverty>

<sup>2</sup> See, for example, Institute for Research on Poverty, “Connections among poverty, incarceration and inequality”, Policy Brief No. 48-2020, [https://www.irp.wisc.edu/resource/connections-among-poverty-incarceration-and-inequality/#\\_edn4](https://www.irp.wisc.edu/resource/connections-among-poverty-incarceration-and-inequality/#_edn4); ICP Alliance, “Is it a crime to be poor? Briefing paper”, January 2021, <https://crimetobepoor.files.wordpress.com/2021/01/is-it-a-crime-to-be-poor-briefing-paper2-2.pdf>

<sup>3</sup> Without meaningful recourse to bail, people living in poverty are usually over-represented in pre-trial detention. See, for example, Amnesty International, “Punished for being poor: pre-trial detention in Madagascar”, (Index: 35/8998/2018), available at: <https://www.amnesty.org/en/latest/campaigns/2018/10/madagascar-prison/>

<sup>4</sup> UN Women, “Poverty deepens for women and girls, according to latest projections”, available at: <https://data.unwomen.org/features/poverty-deepens-women-and-girls-according-latest-projections>

<sup>5</sup> In Latin America and the Caribbean it is for example estimated that 90% of trans women engage in sex work as they are more likely to experience poverty and face barriers to employment. Organization of American States (OAS), “Poverty and human rights”, para. 448, available at: <https://www.oas.org/en/iachr/reports/pdfs/poverty-humanrights2017.pdf>

<sup>6</sup> For example, Roma in the Czech Republic are estimated to be six times more likely than the general population to live in poverty. While Roma constitute about 2.2% of the Czech population, they are estimated to represent between 5% and 50% of the prison population in the country. European Roma Rights Centre, “Justice Denied: Roma in the criminal justice system”, [http://www.errc.org/uploads/upload\\_en/file/5451\\_file1\\_justice-denied-roma-in-the-criminal-justice-system-of-the-czech-republic-english.pdf](http://www.errc.org/uploads/upload_en/file/5451_file1_justice-denied-roma-in-the-criminal-justice-system-of-the-czech-republic-english.pdf)

<sup>7</sup> Indigenous People are three times as likely to be living in poverty than non-Indigenous People. International Labour Organization (ILO), “Urgent action needed to tackle poverty and inequalities facing Indigenous People”, [http://ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_735575/lang-en/index.htm](http://ilo.org/global/about-the-ilo/newsroom/news/WCMS_735575/lang-en/index.htm)

<sup>8</sup> World Health Organization (WHO), World Report on Disability 2011, available at: <https://www.who.int/teams/noncommunicable-diseases/sensory-functions-disability-and-rehabilitation/world-report-on-disability>

<sup>9</sup> Amnesty International, “Explanatory Note on Amnesty International’s policy on state obligations to respect, protect and fulfil the human rights of sex workers”, (POL 30/4063/2016), Entry into Sex Work, pp.7-9, available at: <https://www.amnesty.org/en/documents/pol30/4063/2016/en/#:~:text=It%20aims%20to%20explore%20key,read%20together%20with%20the%20policy>

they may require, including harm reduction and drug treatment.<sup>10</sup> Moreover, the criminalization of the use, possession, purchase and cultivation of drugs for personal use has perpetuated cycles of poverty due to obstacles arising from a criminal record, including difficulties in obtaining employment and pursuing education, and losing government benefits such as access to public housing, food assistance or student financial aid.<sup>11</sup> On the other hand, as noted by the Office of the High Commissioner on Human Rights (OHCHR) people living in poverty are more exposed to anti-drug operations than people living in more affluent neighbourhoods given that their use of drugs is often conducted in the street or other public areas where police controls are more frequent.<sup>12</sup>

In many countries, lack of access to social and economic rights combined with policies aimed to be 'tough on crime', as well as systemic racism and discrimination by law enforcement officials,<sup>13</sup> result in people from marginalized groups and/or with lower socio-economic status being overrepresented among people in prisons, many of whom are charged with petty and non-violent offences.<sup>14</sup>

**Laws punishing minor and non-violent offences**, including minor property crimes or drug-offences such as the subsistence cultivation and transportation of small quantities of drugs (drug couriers), have also had a disproportionate impact on people who live in poverty. Engaging in the drug trade, including by cultivating illicit crops or by distributing small amounts of drugs, has often been seen as a viable option for people living in poverty including women, unemployed youth and others with limited job opportunities.<sup>15</sup> Women are facing increasing risks as their participation in the drug trade is on the rise globally, especially among those who lack education or economic opportunities.<sup>16</sup> Women who live in poverty disproportionately engage in the drug trade as couriers or in other low-ranking, low-paying, high-risk positions and are often seen by the authorities as the weakest link in the trafficking chain and an easy target for arrest.<sup>17</sup>

A criminal record following a conviction for a drug-related offence or, more generally for a minor, non-violent offence may perpetuate cycles of poverty due to difficulties in obtaining employment and pursuing education, adverse effects on the custody of children or visitation rights, losing government benefits, including access to public housing, food assistance or student financial aid, or unreasonable restrictions on travelling abroad.<sup>18</sup>

In 2019, the UN Special Rapporteur on the Right to Adequate Housing called on states to put in place alternative procedures to deal with minor offences committed by people who experience homelessness to break the cycle of discrimination, incarceration and homelessness.<sup>19</sup> Similarly, in 2023, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions called on states to

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<sup>10</sup> Office of the High Commissioner for Human Rights, "Human rights challenges in addressing and countering all aspects of the world drug problem", 15 August 2023, UN Doc. A/HRC/54/53, para. 12.

<sup>11</sup> Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 50.

<sup>12</sup> Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 51.

<sup>13</sup> See for example, Amnesty International, "Policing the pandemic. Human Rights Violations in the Enforcement of COVID-19 measures in Europe", (EUR01/2511/2020), available at: <https://www.amnesty.org/en/documents/eur01/2511/2020/en/>

<sup>14</sup> United Nations System Common Position on Incarceration, April 2021, p.4, [https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN\\_System\\_Common\\_Position\\_on\\_Incarceration.pdf](https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelarules-GoF/UN_System_Common_Position_on_Incarceration.pdf)

<sup>15</sup> UNDP, Addressing the Development Dimensions of Drug Policy. New York, 2015, p. 6.

<sup>16</sup> UN Women, "A Gender Perspective on the Impact of Drug Use, the Drug Trade and Drug Control Regimes (policy brief)", 2014.

<sup>17</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, "Pathways to, conditions and consequences of incarceration for women", 21 August 2013, UN Doc. A/68/340, para 23-24; Report of the Special Rapporteur on violence against women, its causes and consequences: Mission to the United States of America, 6 June 2011, UN Doc. A/HRC/17/26/Add.5, para. 45.

<sup>18</sup> Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights" (previously cited), 4 September 2015, para. 50.

<sup>19</sup> UN Special Rapporteur on the Right to Adequate Housing, Guidelines for the Implementation of the Right to Adequate Housing, A/HRC/43/43, para 33d, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/90/PDF/G1935390.pdf?OpenElement>

minimize the use of imprisonment by “repealing victimless, poverty-related and minor crimes and [accompanying] mandatory prison sentences”.<sup>20</sup>

Amnesty International calls on states to identify and implement laws, policies and practices based on human rights principles that **promote alternatives to criminalization for people living in poverty**. In particular, this should include community-based support measures that improve access to economic and social rights and are likely to reduce the likelihood of people to enter in contact with the criminal justice system. These alternatives and support mechanisms and measures should be **gender responsive and transformative**, i.e., they need to acknowledge the specific needs of women and girls and address the root causes of gender-based inequalities and contribute to addressing racial systems of domination and oppression. They also should take inspiration from the principle of **minimum intervention** of the criminal justice system, combined with the principle of **imprisonment** being used only as a measure of **last resort** for the most serious crimes.<sup>21</sup> In line with the recommendations made by the Special Rapporteur on the Independence of Judges and Lawyers, prosecutors should use their authority and discretion to envisage alternatives to prosecution for acts that are protected by international human rights law<sup>22</sup>, including conduct that is associated with living in poverty.

## 2. LAWS AND REGULATIONS THAT CRIMINALIZE HOMELESSNESS AND OTHER ASSOCIATED ACTIVITIES SUCH AS SLEEPING, EATING AND BEGGING

Laws criminalizing behaviours that are often associated with poverty are the **legacy of colonialism and slavery**. They also discriminate against marginalized groups who are more likely to experience poverty; these include, for example, women and girls, racialized groups, LGBTI people, sex workers and people with disabilities (see introduction).

These laws, which are often referred to as ‘vagrancy laws’, criminalize conduct such as ‘loitering’, ‘being without a fixed home, employment or means of subsistence’, ‘being idle and disorderly’, ‘being without fixed abode’, ‘being a rogue and vagabond’, ‘being a reputed thief’ and ‘being a homeless or a wanderer’.<sup>23</sup> Some of these laws date back as far as 14<sup>th</sup> century England<sup>24</sup>, and were enacted by European countries such as Belgium, France, Portugal, Spain and the Netherlands, which also transposed them in their colonies.<sup>25</sup> Similar laws criminalizing begging, homelessness and loitering have been enacted much more recently, including in the 20<sup>th</sup> century, in countries such as the United States.<sup>26</sup> These laws remain in force in dozens of countries worldwide.<sup>27</sup>

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<sup>20</sup> UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, “Deaths in prisons”, A/HRC/53/29, para. 73 (a), <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F53%2F29&Language=E&DeviceType=Desktop&LangRequested=False>

<sup>21</sup> The UN Working Group on Arbitrary Detention (WGAD) and the UN Working Group on Discrimination against Women and Girls (WGDWAG) have emphasized that criminal law is an ultima ratio measure, which should be used to criminalize serious and harmful behaviour, rather than the status of a person. UN Working Group on Discrimination against Women and Girls, UN Working Group on Arbitrary Detention, Joint amicus curiae in the Federal High Court of Nigeria, Joy Moses & 5 ORS vs. THE MINISTER, 3 February 2020, p. 11. ECOSOC Resolution, 2002/13, “Action to promote effective crime prevention”, available at: [https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/resolution\\_2002-13.pdf](https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/resolution_2002-13.pdf). International Commission of Jurists (ICJ), “The 8 March Principles for a human rights approach to criminal law proscribing conduct associated with sex, reproduction, drug use, HIV, homelessness and poverty”, principles 2, 7 and 13, [https://icj2.wpenginepowered.com/wp-content/uploads/2023/03/8-March-Principles-Report\\_final\\_print-version.pdf](https://icj2.wpenginepowered.com/wp-content/uploads/2023/03/8-March-Principles-Report_final_print-version.pdf)

<sup>22</sup> UN Special Rapporteur on the Independence of Lawyers and Judges, “Reimagining justice: confronting contemporary challenges to the independent of lawyers and judges”, A/HRC/53/31, para. 45, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/066/58/PDF/G2306658.pdf?OpenElement>

<sup>23</sup> African Court on Human and People’s Rights, Advisory Opinion on the Compatibility of Vagrancy Laws with the African Charter on Human and People’s Rights and Other Human Rights Instruments Applicable in Africa, No 001/2008, 4 December 2020, [http://www.african-court.org/en/images/Cases/Advisory%20Opinion/Advisory%20Opinions/001-2018\\_-\\_PALU-Advisory\\_Opinion.pdf](http://www.african-court.org/en/images/Cases/Advisory%20Opinion/Advisory%20Opinions/001-2018_-_PALU-Advisory_Opinion.pdf)

<sup>24</sup> Roberts, C. (2022). Discretion and the Ru of Law: The Significance and Endurance of Vagrancy and Vagrancy-Type Laws in England, the British Empire, and the British Colonial World. *Duke J. Comp. & Int’l L.*, 33, 181.

<sup>25</sup> Transnational Legal History Group, Chinese University of Hong Kong, (CUHK), “Vagrancy and Vagrancy-type laws in colonial history and today”, accessible here: <https://www.law.cuhk.edu.hk/app/wp-content/uploads/2022/10/Vagrancy-and-Vagrancy-Type-Laws-in-Colonial-History-and-Today.pdf>

<sup>26</sup> O’Sullivan, E. (2012). Varieties of punitiveness in Europe: Homelessness and urban marginality. *European Journal of Homelessness* \_ Volume, 6(2), [https://www.feantsaresearch.org/download/ejh6\\_2\\_article34473401968653742230.pdf](https://www.feantsaresearch.org/download/ejh6_2_article34473401968653742230.pdf)

<sup>27</sup> According to the Transnational Legal History Group of the CUHK, 57 countries still have these laws in their criminal codes (previously cited).

In **England**, as per the Vagrancy Act of 1824, which came into force after the Napoleonic Wars, rough sleeping and begging were criminal offences for almost 200 years.<sup>28</sup> The Act has also been used to move people experiencing homelessness away from certain areas thus pushing them to less visible spaces and further way from support services and street outreach teams.<sup>29</sup> In February 2022, after several years of campaigning by groups working with people experiencing homelessness, the UK government announced its decision to scrap the Vagrancy Act. While the decision to repeal the act is final, it continues to remain on the statute books until the government replaces it with alternative legislation.<sup>30</sup> The repeal of the Vagrancy Act is an important step towards dismantling an unjust system weighted against people experiencing homelessness. However, because it remains on the statute books, it continues to be used. Since the government committed to repeal it, and up until April 2023, more than a thousand people were arrested for sleeping rough or begging under the Act.<sup>31</sup>

In several countries that were subject to colonial rule, vagrancy laws were introduced through a model criminal code based on the English Vagrancy Act of 1824.<sup>32</sup> Vagrancy laws had originally the purpose of ensuring cheap labour, reducing the authorities' responsibilities to address poverty and preventing property crime. They were based on outdated stereotypes, and notions largely reflecting colonial perceptions and hierarchies, were part of the system of racial domination imposed by former colonial powers and, as such, were used to dehumanize individuals with a perceived lower status.<sup>33</sup> These racial and gender hierarchies still underpin contemporary power structures as they have not been addressed after the end of colonialism.<sup>34</sup>

In the former British colony of **Sierra Leone**, for example, loitering is a petty offence that is defined in the Public Order Act of 1965 and the Summary Conviction Offences Ordinance of 1906. Section 7 of the Public Order Act provides that "Any person loitering in or about any stable house or building, or under any piazza, or in the open air, and not having any visible means of subsistence, and not giving a good account of himself, shall be deemed an idle and disorderly person, and shall, on conviction thereof, be liable to imprisonment for any period, not exceeding one month".<sup>35</sup>

On 22 March 2023, Amnesty International submitted a third-party intervention to the Community Court of Justice of the Economic Community of West African States (ECOWAS) in the case of *Advocaid Limited (Applicants) v The Republic of Sierra Leone (Respondent)* involving alleged widespread human rights violations stemming from the criminal proscription of 'loitering' in Sierra Leone.<sup>36</sup> The case is still pending at the time of writing.

In another former British colony **Nigeria**, according to Section 249 of its Criminal Code Act, people deemed to be "idle and disorderly persons" may be arrested without warrant and could be liable to imprisonment for one month. According to section 249 of the Criminal Code, "idle and disorderly persons" constitute: " (a) every common prostitute- (i) behaving in a disorderly or indecent manner in any public place; (ii) loitering and persistently importuning or soliciting persons for the purpose of prostitution; (b) every person wandering or placing himself in any public place to beg or gather

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<sup>28</sup> See United Kingdom, Vagrancy Act 1824, 1824, [legislation.gov.uk/ukpga/Geo4/5/83/section/4](https://legislation.gov.uk/ukpga/Geo4/5/83/section/4), section 4. Section 4 of the Act, although limited reform in the Vagrancy Act 1935, meant that individuals could not be charged with rough sleeping if they have no access to alternative accommodation.

<sup>29</sup> Crisis, *Scrap the Act: The case for repealing the Vagrancy Act (1824)*, 2018, [crisis.org.uk/media/240635/scrap\\_the\\_vagrancy\\_act\\_2018.pdf](https://crisis.org.uk/media/240635/scrap_the_vagrancy_act_2018.pdf)

<sup>30</sup> UK Parliament, *Vagrancy Act: Repeal*, Volume 733: debated on Monday 22 May 2023 <https://hansard.parliament.uk/commons/2023-05-22/debates/B8CB3922-A89F-4264-8C71-AF719E6EFACE/VagrancyActRepeal#:~:text=As%20we%20made%20clear%20at,soon%20as%20parliamentary%20time%20allows>

<sup>31</sup> The Observer, 'Thousands of homeless people arrested under archaic Vagrancy Act' 2 April 2023, [theguardian.com/society/2023/apr/02/thousands-of-homeless-people-arrested-under-archaic-vagrancy-act](https://theguardian.com/society/2023/apr/02/thousands-of-homeless-people-arrested-under-archaic-vagrancy-act)

<sup>32</sup> Roberts, C. (2022). *Discretion and the Rule of Law* (previously cited).

<sup>33</sup> Roberts, C. (2022). *Discretion and the Rule of Law* (previously cited).

<sup>34</sup> The persistence of hierarchies, values and power structures as a way to perpetuate the dominance of former colonizing Western powers has been referred to as 'coloniality of power'. See, Quijano, A. (2007). *Coloniality and modernity/rationality*. *Cultural studies*, 21(2-3), 168-178.

<sup>35</sup> The 1965 Public Order Act is available here: <http://www.sierra-leone.org/Laws/1965-32.pdf>

<sup>36</sup> Amnesty International, "Criminalizing loitering is discriminatory and contrary to the right to dignity", (AFR 51/8526/2023), available at: <https://www.amnesty.org/en/documents/afr51/6586/2023/en/>

alms, or causing or procuring or encouraging any child or children so to do; (c) every person playing at any game of chance for money or money's worth in any public place; and (d) every person who, in any public place, conducts himself in a manner likely to cause a breach of the peace".<sup>37</sup> There is also a ban on street begging in most states across Nigeria with potential arrest and prosecution for those who are seen to be in breach. The Lagos State Government has banned street begging and has set up a special team for detaining people who were found begging through the Rehabilitation and Child Development Departments of the Ministry of Youth and Social Development.<sup>38</sup> Similarly, the government of Niger State in Nigeria has placed a total ban on any form of begging in the state.<sup>39</sup> The Federal Capital Territory Administration (FCTA) has stated that the law would be enforced on anyone caught contravening the ban on street begging.<sup>40</sup> In February 2021, the government of Kano State detained 500 people for the act of begging within the Kano metropolis subsequently sending them back to their places of origin without any support.<sup>41</sup>

In **England**, even though the Vagrancy Act has been repealed, Public Space Protection Orders (PSPOs) under the Anti-Social Behaviour, Crime and Policing Act 2014 continue to be used to target people sleeping rough. Despite Home Office guidance that PSPOs should not be used to target people experiencing homelessness,<sup>42</sup> research found that in 2019 at least 60 local authorities were using PSPOs to ban acts associated with homelessness, including putting up tents and begging.<sup>43</sup> Violation of a PSPO incurs a £100 fine which, if left unpaid, can result in a summary conviction and a £1,000 penalty. Sometimes Community Protection Notices (CPN) under the 2014 Act are also used against people experiencing street homelessness. Failure to comply with a CPN is a criminal offence. The recently enacted Policing, Crime, Sentencing and Courts Act also includes a provision that criminalises trespass thus impacting Gypsy, Roma and Traveller (GRT) communities and people experiencing homelessness. The Act creates a new offence of "residing on land without consent, in or with a vehicle".<sup>44</sup> The GRT community already faces a severe shortage of authorised residential and transit sites, leading to multiple evictions.<sup>45</sup> The new offence would lead to criminalisation – a fine of up to £2,500 or three months in jail and could also be used against other people experiencing homelessness.<sup>46</sup>

In **Hungary**, the ban on sleeping rough came through the amendment of the Constitution and The Law on Misdemeanours in October 2018. Through these amendments, the police can order people experiencing homelessness to move into shelters, and if they fail to comply with the regulations after being ordered three times in a 90-day period, they can be imprisoned.<sup>47</sup> Previously, municipalities had the power to decide whether sleeping rough or "Residing on public premises for habitation" would be considered an offence in their local territories. The 2018 amendments, however, criminalize rough sleeping throughout the country, thus taking away the power and discretion from local authorities. According to these amendments, if the person has been "warned" three times about "infringing the rules of residing on public premises for habitation" the police are required to

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<sup>37</sup> Nigeria, Criminal Code Act (Criminal Code), Cap C38 LFN 2004, section 249.

<sup>38</sup> PM News, "Lagos begins massive onslaught against beggars: Sets up special team", <https://pmnewsnigeria.com/2021/08/18/lagos-begins-massive-onslaught-against-beggars-sets-up-special-team/>

<sup>39</sup> The Guardian, "Niger places total ban on street begging", <https://guardian.ng/news/niger-places-total-ban-on-street-begging/>

<sup>40</sup> Independent, "FCTA Reiterates Ban On Street Begging", <https://independent.ng/fcta-reiterates-ban-on-street-begging/>

<sup>41</sup> Vanguard, "Kano arrests, repatriates 500 street beggars", <https://www.vanguardngr.com/2021/02/kano-arrests-repartriates-500-street-beggars/>

<sup>42</sup> Home Office, Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers Statutory guidance for frontline professionals, revised in January 2021, [assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/956143/ASB\\_Statutory\\_Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956143/ASB_Statutory_Guidance.pdf), p. 65. Also see Liberty, 'Liberty Launches New Bust Cards to Support People Facing Penalties for Poverty', 9 March 2022, [libertyhumanrights.org.uk/issue/liberty-launches-new-bust-cards-to-support-people-facing-penalties-for-poverty/](https://libertyhumanrights.org.uk/issue/liberty-launches-new-bust-cards-to-support-people-facing-penalties-for-poverty/)

<sup>43</sup> The Guardian, 'Rising number of councils issuing fines for rough sleeping', 7 March 2019, [theguardian.com/society/2019/mar/07/rising-number-of-councils-issuing-fines-for-rough-sleeping](https://theguardian.com/society/2019/mar/07/rising-number-of-councils-issuing-fines-for-rough-sleeping)

<sup>44</sup> Section 83, Part IV, Police, Crime, Sentencing and Courts Act 2022, <https://www.legislation.gov.uk/ukpga/2022/32/part/4?view=plain>

<sup>45</sup> Friends, Families and Travellers, 'New research shows huge unmet need for pitches on Traveller sites in England' 14 January 2021, [gypsy-traveller.org/planning/new-research-shows-huge-unmet-need-for-pitches-on-traveller-sites-in-england/](https://www.friendsfamiliesandtravellers.org/planning/new-research-shows-huge-unmet-need-for-pitches-on-traveller-sites-in-england/)

<sup>46</sup> Section 60C (5) of Criminal Justice and Public Order Act 1994, <https://www.legislation.gov.uk/ukpga/1994/33/section/60C>

<sup>47</sup> European Commission, 'The criminalisation of rough sleeping in Hungary', ESPN Flash Report 2018/62, November 2018.

immediately detain the accused and produce them in court within 72 hours. The accused can then be kept in custody up until the closure of the case. In cases where a person is found to have committed the offence twice in six months, the option of 'public service' as a form of punishment does not exist and they are liable for confinement which can last 60 days.<sup>48</sup>

### 3. VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

Vagrancy laws and laws proscribing conduct associated with experiences of poverty, segregate and control people who live in poverty and discriminate against them on the basis of their social and economic situation<sup>49</sup>, as well as on other grounds such as gender, gender identity or expression, sexual orientation, race and disability, in violation of the **right to be free from discrimination**. These laws punish people living in poverty simply because they do not have access to economic and social rights, including the rights to adequate housing, to earn a living and to social security.<sup>50</sup> As noted by the UN Special Rapporteur on Adequate Housing, "National and local laws often make homeless people into lawbreakers, rather than protecting their rights".<sup>51</sup> Laws that criminalise or penalize homelessness are discriminatory and should be repealed.<sup>52</sup> In addition to discrimination the Human Rights Committee has raised concerns that criminalisation of homelessness may amount to cruel, inhuman or degrading treatment.<sup>53</sup>

Laws criminalizing homelessness and other conduct associated with poverty are also at odds with the **principle of legality**, which is a cornerstone principle underpinning criminal law and international human rights law. This principle requires that laws be formulated with sufficient precision so that the individual can access and understand the law and regulate their conduct accordingly.<sup>54</sup> For example, laws punishing "being an idle and disorderly person" or "being a rogue and vagabond" are so broad that they capture innocuous behaviours and activities that are not associated with any criminal activity.

In being overly broad and vague, these laws are also criminalizing activities that do not constitute a threat to public order or to the rights of others. As such these laws are not a necessary response to achieve a legitimate aim, such as public order or the rights of others, as required under international human rights law<sup>55</sup>

These laws may capture conduct that may be associated with criminal activities; for example, wandering in a public place, which is captured by laws punishing "being a rogue and a vagabond", may be associated with the preparation of a main criminal activity, such as robbing. However, these links are often very tenuous and, as such, a violation of the principle of legality. This principle warns against the criminalization of conduct that is not sufficiently close and directly connected to a principal

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<sup>48</sup> European Commission, 'The criminalisation of rough sleeping in Hungary', ESPN Flash Report 2018/62, November 2018.

<sup>49</sup> UN CESCR, General Comment 20: Non-discrimination in economic, social and cultural rights, E/C.12/GC/20, para. 35, <https://digitallibrary.un.org/record/659980?ln=en>

<sup>50</sup> UN Special Rapporteur on Extreme Poverty and Human Rights, "Extreme Poverty and Human Rights", A/66/265, para. 31, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N11/444/49/PDF/N1144449.pdf?OpenElement>

<sup>51</sup> UN Special Rapporteur on Adequate Housing, Report 30 December 2015, A/HRC/31/54, para. 23.

<sup>52</sup> UN Special Rapporteur on Adequate Housing, Guidelines on the Implementation of the Right to Adequate Housing, 2019, A/HRC/43/43, Guideline 5, <https://www.ohchr.org/en/special-procedures/sr-housing/guidelines-implementation-right-adequate-housing>.

<sup>53</sup> Human Rights Committee, Concluding observations: Fourth periodic report of the United States of America, 23 April 2014, CCPR/C/USA/CO/4, [documents-dds-ny.un.org/doc/UNDOC/GEN/G14/426/73/PDF/G1442673.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/426/73/PDF/G1442673.pdf?OpenElement), para. 19.

<sup>54</sup> UN Working Group on Arbitrary Detention, Opinion No. 41/2017, UN Doc. A/HRC/WGAD/2018/62, para 57. UN Economic and Social Council, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, UN Doc. E/CN.4/1985/4, Principle 17. UN Economic and Social Council, Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, UN Doc. E/C.12/2000/13, Principle 50.

<sup>55</sup> Under international human rights law, states may subject some human rights, for example the rights to freedom of movement, expression, peaceful assembly and association, to restrictions that are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others. (e.g., ICCPR, articles 12.3, 19.3, 21, 22.2).



criminal act.<sup>56</sup> Furthermore, crime prevention and the protection of public order must not automatically trump respect for the human rights of people living in poverty, given that their rights are also a constitutive part of public order.<sup>57</sup>

The principle of legality is further undermined by the fact that vagrancy laws and laws criminalizing petty offences often employ vague, unclear and/or imprecise language including criminalizing conduct such as ‘loitering’, ‘having no visible means of support’ and ‘failing to give a good account of oneself’. The use of such language does not provide sufficient clarity as to what the laws prohibit while at the same time conferring broad discretion on law enforcement agencies in terms of how to enforce them.<sup>58</sup> Consequently, the enforcement of these laws often results in arbitrary arrests and detention, in violation of the right to liberty and security of person.<sup>59</sup>

In line with the principle of **minimum intervention**, the criminal justice system must only be used to the “minimum amount needed to protect society”.<sup>60</sup> According to this principle, the sanction chosen to target a specific conduct should, in all circumstances, be the least intrusive one, by duly reflecting the rights of the victims, the rights of the offenders and the social interest in, for example, protecting public order and preventing crime. Therefore, in seeking to prevent crime states should consider alternatives to the use of the criminal law and criminalization, including for example the use of social, economic, health and educational measures.<sup>61</sup>

Custodial measures, especially as a punishment for minor non-violent offences, should generally be avoided and used only in exceptional circumstances, as a measure of last resort when strictly needed to achieve a pressing need such as a genuine threat to public order.<sup>62</sup> Alternative measures to custody may include, for example, verbal warnings, suspended sentences, probation under judicial supervisions or community sentences.<sup>63</sup> More broadly, the focus of criminal justice responses should shift from disproportionately imposing punishment to investing in longer-term strategies for crime prevention and rehabilitation.<sup>64</sup>

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<sup>56</sup> Criminal law may penalize inchoate crimes, such as preparatory acts before a crime has taken place. However, with a view to respecting the principle of legality, any such act may be criminalized only when there is a sufficiently close and direct connection to the commission of a principle criminal act, with a real and foreseeable risk that the act would in fact take place. See for example, Amnesty International, “Dangerously Disproportionate. The ever-expanding security state in Europe”, chapter 6, <https://www.amnesty.org/en/documents/eur01/5342/2017/en/>

<sup>57</sup> Syracuse Principles (previously cited), para. 22, <https://www.icj.org/wp-content/uploads/1984/07/Syracusa-principles-ICCPR-legal-submission-1985-eng.pdf>

<sup>58</sup> Advisory Opinion 001/2018 (previously cited), para 73. Principles on the Decriminalization of Petty Offences in Africa, Principles 13.1.2. Other regional human rights mechanisms have emphasized the importance of the principle of legal clarity in respect of criminal law. The European Court of Human Rights has repeatedly reiterated that both offences and penalties must be accessible and foreseeable. See, for example, *Kafkaris v Cyprus*, application 21906/04, para. 140 and *Cantoni v France*, application 17862/91, para. 32.

<sup>59</sup> Advisory Opinion on Vagrancy Laws, para. 86. HRC GC 35, para 12.

<sup>60</sup> UN Common Standard Minimum Rules for the use of Non-Custodial Sentences (Tokyo rules), rule 2.6, and commentary to the Tokyo rules, p. 10, <https://www.ojp.gov/pdffiles1/Digitization/147416NCJRS.pdf>

<sup>61</sup> ECOSOC Resolution, 2002/13. Action to promote effective crime prevention, [https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/resolution\\_2002-13.pdf](https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/resolution_2002-13.pdf)

<sup>62</sup> Special Rapporteur on Extreme Poverty and Human Rights, “Extreme Poverty and Human Rights” (previously cited), para. 81, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N11/444/49/PDF/N1144449.pdf?OpenElement>, Tokyo Rules (previously cited), Rule 1.1. and Commentary to the Tokyo rules, Council of Europe’s Recommendation on European Rules on Community Sanctions and Measures CM/Rec (2017)3, Basic Principle 3, <https://rm.coe.int/168070c09b>, Special Rapporteur on Extrajudicial, Arbitrary and Summary Executions, Deaths in Prisons (previously cited), para. 73.

<sup>63</sup> Tokyo Rules (previously cited), Rule 8.2.

<sup>64</sup> United Nations System Common Position on Incarceration, (previously cited), p. 9.

## 4. INFORMATION ABOUT ATTEMPTS MADE OR PLANNED TO DECRIMINALIZE STREET VENDING, INFORMAL BUSINESS ACTIVITIES, SEX WORK, BEGGING, EATING, SLEEPING OR PERFORMING PERSONAL HYGIENIC ACTIVITIES IN PUBLIC PLACES

### 4.1 SEX WORK

Around the world, **167 countries still criminalize all or some aspects of sex work**.<sup>65</sup> These laws criminalize sex workers themselves, their clients and/or third parties facilitating the organization of sex work. Moreover, colonial-era laws, for example provisions punishing ‘loitering’ and conduct associated with living in poverty, have a disproportionate impact on sex workers and violate their human rights.<sup>66</sup>

Amnesty International’s research in countries such as the **Dominican Republic**<sup>67</sup>, **Hong-Kong**<sup>68</sup>, **Ireland**<sup>69</sup>, **Norway**<sup>70</sup> and **Papua-New Guinea**<sup>71</sup> has emphasized that poverty and lack of access to social and economic rights are associated with the decision to sell sex. Amnesty’s International research in the countries mentioned shows that discrimination in access to employment is particularly dire for transgender women, who are, as a consequence, often disproportionately represented among sex workers. In some contexts, the decision to sell sex stems from the opportunity to access higher wages than in other economic sectors, where women’s labour is particularly undervalued and underpaid. While cisgender men also engage in sex work, available data suggests that the majority of sex workers are women, who are more likely to experience poverty.<sup>72</sup>

The use of the criminal law to prohibit sex work does not address or challenge the macro socioeconomic forces, including living in poverty, and systemic and intersectional forms of discrimination, that can lead people to do sex work, particularly for women and LGBTI individuals from marginalized groups. It does not offer alternative employment options or improved rates of pay. In contrast, Amnesty International’s research in the countries mentioned above show that these laws further expose sex workers to gender-based violence and police abuse.

A positive alternative approach is the Prostitution Reform Act which decriminalized sex work in **New Zealand** in 2003 with the aim of safeguarding the human rights of sex workers. The New Zealand Ministry of Justice Prostitution Law Review Committee commissioned two reviews in 2005 and 2008 in order to assess the impact of the Prostitution Reform Act. Prior to decriminalization, sex workers were hesitant to disclose their occupation to health care workers or to carry condoms for fear of criminal sanctions. As a result of reform, the Committee saw “increased confidence, well-being and a sense of validation among sex workers”, which had “a positive spin-off in many areas, such as the

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<sup>65</sup> UNAIDS, “Decriminalise, Save Lives”, available at: [https://decriminalise.unaids.org/?\\_gl=1%2ae8n7fw%2a\\_ga%2aMTY1NDE1NTE0S4xNjkyNjk3Mzc0%2a\\_ga\\_T7FBEZEXNC%2aMTY5MjY5NzM3My4xLjEuMTY5MjY5NzUwNi4xLjAuMA..&\\_ga=2.213107927.252193921.1692697374-1654155119.1692697374](https://decriminalise.unaids.org/?_gl=1%2ae8n7fw%2a_ga%2aMTY1NDE1NTE0S4xNjkyNjk3Mzc0%2a_ga_T7FBEZEXNC%2aMTY5MjY5NzM3My4xLjEuMTY5MjY5NzUwNi4xLjAuMA..&_ga=2.213107927.252193921.1692697374-1654155119.1692697374)

<sup>66</sup> Amnesty International, “Criminalizing loitering is discriminatory and contrary to the right to dignity” (previously cited).

<sup>67</sup> Amnesty International, “If they can have her, why can’t we? Gender-based torture and other ill-treatment of women engaged in sex work in the Dominican Republic”, (AMR 27/0030/2019), available at: <https://www.amnesty.org/en/documents/amr27/0030/2019/en/>, p 20.

<sup>68</sup> Amnesty International, “Harmfully isolated: criminalizing sex workers in Hong Kong”, (ASA 17/4032/2016), available at: <https://www.amnesty.org/en/documents/asa17/4032/2016/en/>

<sup>69</sup> Amnesty International, “We live in a violent system. Structural violence against sex workers in Ireland”, chapter 6, (EUR 2156/2022), available at: <https://www.amnesty.org/en/documents/eur29/5156/2022/en/>

<sup>70</sup> Amnesty International, “The human cost of crushing the market. Criminalization of sex work in Norway”, chapter 6.6, Index: EUR 36/4034/2016, available at: <https://www.amnesty.org/en/documents/eur36/4034/2016/en/>

<sup>71</sup> Amnesty International, “Outlawed and abused: criminalizing sex work in Papua New Guinea”, (ASA 34/4030/2016), available at: <https://www.amnesty.org/en/documents/asa34/4030/2016/en/>

<sup>72</sup> Amnesty International, Amnesty International, “Explanatory Note on Amnesty International’s policy on state obligations to respect, protect and fulfil the human rights of sex workers”, pp. 5-6, (previously cited).

improvement of employment conditions, and the ability to ensure that safer sex practices remain standard throughout the industry. Sex workers also reported that they were more able to refuse particular clients and practices and to negotiate safer sex. Additionally, the relationship between sex workers and the police was improved.<sup>73</sup> In June 2022, a law reform entered in to force in Belgium that decriminalized all aspects of sex work.<sup>74</sup>

In June 2022, the Standing Committee on Justice and Human Rights of **Canada's** House of Commons recommended to repeal some provisions of the *Protection of Communities and Exploited Persons Act* ("PCEPA) that criminalize aspects of sex work.<sup>75</sup> Enacted in 2014, the Protection of Communities and Exploited Persons Act (PCEPA) created new criminal offences that criminalize purchasing sexual services, receiving a material benefit from others' sexual services, procuring others to provide sexual services and advertising others' sexual services. In particular, an environment of criminalization exposes sex workers to a heightened risk of impunity for gender-based violence by clients as they were more reluctant to report abuses to police for fear of retaliation and further victimization.<sup>76</sup> In October 2022, a coalition of civil society organizations representing transgender, Indigenous and Black sex workers challenged the PCEPA Act *before the Ontario Supreme Court*. A decision remains pending.<sup>77</sup>

On 30 November 2022, the government of **South Africa** published the Criminal Law (Sexual Offences and Related Matters) Amendment Bill regarding the decriminalization of sex work.<sup>78</sup> Amnesty International supports this reform proposing to repeal the Sexual Offences Act of 1957, and the amendment to the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007 to ensure that sex work is fully decriminalized, including both the sale and purchase of adult sexual services.<sup>79</sup> The Bill remains pending before the South African parliament.

## 4.2 HOMELESSNESS, BEGGING AND CONDUCT ASSOCIATED WITH POVERTY

Homelessness results from combinations of factors, such as poverty, inequality, lack of timely and adequate social support, lack of affordable housing, domestic violence, relationship breakdown, drug and alcohol dependence, lack of access to adequate physical and mental healthcare, and discrimination. Regardless of the immediate cause, the fact that people remain homeless for prolonged periods of time, often forcing them into begging in order to survive in the absence of any social protection support from the state, is rooted in social and fiscal policy decisions made by governments. This includes the failure to address inequality of access to essential services such as homelessness support and healthcare. Homelessness is an extreme violation of the rights to adequate housing and non-discrimination and often also a violation of the rights to life, to security of person, to health, to protection of the home and family and to freedom from cruel and inhuman treatment.<sup>80</sup> Criminalization of acts associated with homelessness and extreme poverty increases people's

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<sup>73</sup> Ministry of Justice, Government of New Zealand, "Report of the Prostitution Law Review Committee on the operation of the Prostitution Reform Act 2003", available at: <https://prostitutescollective.net/wp-content/uploads/2016/10/report-of-the-nz-prostitution-law-committee-2008.pdf>

<sup>74</sup> Loi du 21 mars 2022 « modifiant le Code pénal belge en ce qui concerne le droit pénal sexuel », n°C-2022/31330. Some conduct, including pimping, remains criminalized. However, these offences will be defined by a subsequent law. For more information, Bouvier, S. "La Belgique: un modèle européen de reconnaissance d travail sexuel", available at : <https://www.unilim.fr/omij/wp-content/uploads/sites/9/2022/06/11-Sam-BOUVIER-billet-FINAL.pdf>

<sup>75</sup> Standing Committee on Justice and Human Rights, "Preventing Harm in the Canadian Sex Industry: a Review of the Protection of Communities and Exploited Persons Act", June 2022, available at: <https://www.ourcommons.ca/Content/Committee/441/JUST/Reports/RP11891316/justrp04/justrp04-e.pdf>

<sup>76</sup> Amnesty International's Submission to the House of Commons Standing Committee on Justice and Human Rights: Review of the Protection of the Communities and Exploited Persons Act (PCEPA)", 25 February 2022, available at: <https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11643817/br-external/AmnestyInternational-e.pdf>

<sup>77</sup> <https://sexworklawreform.com/our-constitutional-challenge-to-pcepa/>

<sup>78</sup> [https://www.gov.za/speeches/speaking-notes-%E2%80%93-media-briefing-criminal-law-sexual-offences-and-related-matters-amendment#:~:text=On%2030%20November%202022%20Cabinet,%2C%201957%20\(Act%20No](https://www.gov.za/speeches/speaking-notes-%E2%80%93-media-briefing-criminal-law-sexual-offences-and-related-matters-amendment#:~:text=On%2030%20November%202022%20Cabinet,%2C%201957%20(Act%20No)

<sup>79</sup> <https://amnesty.org.za/research/submission-amnesty-internationals-submission-supporting-the-criminal-law-sexual-offences-and-related-matters-amendment-bill-2022/>

<sup>80</sup> UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (UN Special Rapporteur on adequate housing), Report, 30 December 2015, A/HRC/31/54, documents-dds-ny.un.org/doc/UNDOC/GEN/G15/294/52/PDF/G1529452.pdf?OpenElement, para. 4.

vulnerability to exploitation and pushes them further away from the services and support they might need, including healthcare or social security.

In recent years, several domestic courts around the world have ruled that laws that criminalized conduct associated with living in poverty were unconstitutional and violated human rights. In 2018, the High Court of Delhi in **India** found that the criminalization of begging and the police powers to arrest people who beg without a warrant were unconstitutional. The Court emphasized that “If we want to eradicate begging, artificial means to make beggars invisible will not suffice. A move to criminalize them will make them invisible without addressing the root cause of the problem. The root cause is poverty, which has many structural reasons”.<sup>81</sup> According to the Court, the state did not only fail to provide for the basic needs of people who live in poverty but also “add[ed] insult to injury by arresting, detaining and, if necessary, imprisoning such persons, who beg, in search for essentials of bare survival, which is even below sustenance”.<sup>82</sup>

In 2017<sup>83</sup> and 2022<sup>84</sup>, the High Court of **Malawi** ruled that articles 184.1(c) and 184.1 (b) of the Criminal Code, punishing conduct such as “being suspect without any means of subsistence” and “being an idle and disorderly person” were unconstitutional. The Court stated that arrests for behaviour that was not in fact criminal, amounted to inhuman and degrading treatment, violated the rights to freedom and security of person and the right to freedom from discrimination to the extent that these offences had a disproportionate impact on people living in poverty. In 2022, the Constitutional Court of **Uganda** found that the petty offence of “being a rogue and a vagabond” was unconstitutional because it lacked legal clarity.<sup>85</sup>

These judgments build on historic decisions such as those from the United States Supreme Court. As far back as 1972 the Supreme Court struck down a city vagrancy ordinance that criminalized loitering and emphasized that the failure to “give a person of ordinary intelligence fair notice that his (*sic*) contemplated conduct is forbidden” led to arbitrary arrests and convictions.<sup>86</sup> In 1999 in *City of Chicago v Morales*, the Supreme Court found that an ordinance on gang loitering was unconstitutionally vague and that “the freedom to loiter for innocent purposes is part of the liberty protected by the due process clause of the Fourteenth Amendment.”<sup>87</sup>

Despite these positive developments, there are a range of laws that continue to target people living in poverty, and those experiencing homelessness around the world.

## RECOMMENDATIONS

States must:

- Acknowledge both the historical and contemporary harm being caused by their colonial-era laws and other laws that are the legacy of colonialism and slavery, and the connections between past and contemporary forms of discrimination, human rights violations and injustices;

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<sup>81</sup> High Court of Delhi, W.P. (C) 10498/2009 and W.P. (C) 1630/2015, 8 August 2018, [https://www.hlrn.org.in/documents/HC\\_Delhi\\_Decriminalisation\\_of\\_Begging.pdf](https://www.hlrn.org.in/documents/HC_Delhi_Decriminalisation_of_Begging.pdf), para. 30.

<sup>82</sup> High Court of Delhi (previously cited), para. 33.

<sup>83</sup> High Court of Malawi, Gwanda v S, Constitutional Cause 5 of 2015, 10 January 2017, <https://malawilii.org/akn/mw/judgment/mwhc/2017/23/eng@2017-01-10>

<sup>84</sup> State v Officer in Charge, Kasungu Police Station and Inspector General of Police, Ex Parte Henry Banda and 2 Others, Judicial Review Case No. 28 of 2018, 22 July 2022, <https://media.malawilii.org/files/judgments/mwhc/2022/139/2022-mwhc-139.pdf>

<sup>85</sup> Constitutional Court of Uganda, Tumwesige Francis v Attorney General (Constitutional Petition 36 of 2018) [2022] UGCC 5, 02 December 2022, <https://www.ulii.org/ug/judgment/constitutional-court-uganda/2022/5>

<sup>86</sup> SCOTUS, Papachristou v City of Jacksonville, Application 70-5030, 24 February 1972, <https://caselaw.findlaw.com/us-supreme-court/405/156.html>.

<sup>87</sup> SCOTUS, City of Chicago v Morales, Application 97-1121, 10 June 1999, [https://supreme.justia.com/cases/federal/us/527/41/#:~:text=Morales%2C%20527%20U.S.%2041%20\(1999\)&text=A%20criminal%20law%20is%20unconstitutionally,arbitrary%20and%20potentially%20discriminatory%20enforcement](https://supreme.justia.com/cases/federal/us/527/41/#:~:text=Morales%2C%20527%20U.S.%2041%20(1999)&text=A%20criminal%20law%20is%20unconstitutionally,arbitrary%20and%20potentially%20discriminatory%20enforcement)

- Repeal all laws that discriminate against people who live in poverty by criminalizing homelessness and associated activities such as begging;
- Repeal all laws that discriminate against marginalized groups who are more at risk of living in poverty and that entrench economic, social, racial and gender injustices; including laws that criminalize all aspects of sex work as well as laws that criminalize the use, possession, purchase and cultivation of drugs for personal use;
- Set up effective mechanisms through which individuals and communities can access reparations for past human rights violations, including instances where they were subject to arrest and detention, as well as torture and other ill-treatment, based on discriminatory laws;
- Repeal all laws that lack legal clarity and that provide law enforcement agencies with sweeping powers to enforce them. Address institutional racism, which contributes to racial profiling by law enforcement officials and to the overrepresentation of marginalized groups in criminal justice systems;
- Address the root causes and socio-economic factors that may drive people to engage in the drug trade, including ill-health, denial of education, unemployment, lack of housing, poverty and discrimination and ensure that efforts to prevent or eradicate the illicit cultivation, production and distribution of drugs do not have an adverse impact on people who depend on the drug trade for their livelihood as a way to avoid entrenching poverty and deprivation;
- Assessing the human rights impact of current laws that criminalize minor, non-violent offences such as minor property crimes and non-violent drug-offences that do not cause harm to others, by duly accounting for their impact on people living in poverty and other marginalized groups. Consider alternatives to criminalization with regards to these offences based on the principle of minimum intervention of the criminal justice system;
- Identify practices based on human rights principles that promote alternatives to criminalization for petty and non-violent minor offences, which has a disproportionate impact on people living in poverty and entrench intersectional discrimination, in particular community-based support mechanisms and measures that could improve access to economic and social rights and prevent people living in poverty from entering in contact with the criminal justice system. These measures should be gender responsive and transformative and promote gender and racial justice;
- Take steps to guarantee the right to social security. In line with the obligation to utilize the maximum available resources, ensure that people living in poverty are supported and empowered, including through comprehensive social protection measures to access their right to an adequate standard of living;
- Explicitly recognise and incorporate the right to adequate housing as a human right in domestic law, policy and practice. This includes guaranteeing access to affordable housing and ensuring that all victims of violations of the right to adequate housing, including those experiencing homelessness, have access to effective remedy, including through the domestic judicial system;
- Implementing alternatives to custodial measures, especially for people who commit minor, non-violent offences, that are compliant with the rights of suspects/people convicted. Imprisonment should be a measure of last resort.

**Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.**

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