

CHANGING THE FACE OF PETTY OFFENCES IN NIGERIA: THE CASE STUDY OF BAUCHI AND BENUE STATES

Background

In Nigeria, there are about 68,556 inmates in the various Correctional Centres awaiting trial. The majority of these inmates are doing so for minor and petty offences. Due to the nature of petty offences and other factors, the inmates are frequently the most vulnerable and underprivileged members of society. The government spends more money in pursuing these cases than it does, proportionally speaking, on governance and economic empowerment for the benefit of the populace. Worse still, the legislature has been slow in reversing the situation through legislations and laws. Even though significant efforts have been made to improve criminal justice outcomes and systems across Africa, poor and other marginalized people continue to be at risk of having their basic human rights violated when they interact with the criminal justice system. This effect is amplified and multiplied by the various actors involved in the criminal justice system. These infractions include the creation and application of criminal laws relating to petty offences as well as the policing of specific regions that actively work to restrict certain groups of people, namely the poor, from participating in certain aspects of public life.

Accordingly, laws that make petty offences punishable have the impact of punishing, severing, regulating, and eroding the dignity of people based on their socioeconomic level. By requiring a criminal justice response to what are socioeconomic problems, the execution of these laws further promotes the stigmatization of poverty. In this way, the criminalization of petty offences feeds into prejudices toward socially marginalized people. By criminalizing poverty, homelessness, and unemployment, the criminalization of petty offenses has a negative impact on the most vulnerable and marginalized members of our society. Petty offence violates people's autonomy and further degrade their right to human dignity by interfering with their ability to engage in activities that support their quality of life, especially for those who are poor.

Assessment of Petty Offences decriminalization work in Benue and Bauchi

Lawyers Alert recognizes the numerous issues related to Petty Offences in Nigeria and, more significantly, has endeavoured to address these gaps. In that light, Lawyers Alert in its work to deepen the decriminalisation of petty offences in Nigeria has engaged with the judiciary and legislatures in Nigeria particularly in Benue, Bauchi, Niger and Abuja. The statistics from Lawyers Alert's 2021 petty offences violation reports (<https://www.lawyersalertng.org/resourcespage1>) reveal the impact of Lawyers Alert's work towards the decriminalization of offences in these states as rates of violations recorded have decreased in comparison with previous years.

Recently, magistrates in Bauchi and Benue states were trained and sensitized on the role of magistrates in the decriminalisation of petty offences in their states and on the need to give effect to the Advisory Opinion of the African Court on Petty Offences. Notably, the Advisory opinion seeks to declassify and decriminalize vagrancy offences in states in Africa. This is under the backdrop that petty offences are not only inconsistent with sections 34, 35, 41 and 42 of the Nigerian Constitution, which provide for the right to dignity of the human person, right to personal liberty, right to freedom of movement and right to freedom from discrimination respectively; but are equally inconsistent with Articles 2, 3, 5, 6 and 18 of the African Charter on Human and Peoples Rights duly ratified by Nigeria. By the classification of offences and the devolution of jurisdiction by courts in Nigeria, the magistrate and judges of the lower court adjudicate cases of petty offences.

Indeed, the campaign and engagements with the judiciary (Magistrates) toward the decriminalization of petty offences are long overdue. Ordinarily, when someone is found guilty of a petty offence, their sentence is frequently not commensurate with the danger that their actions pose to the safety and security of the public. In fact, employing the criminal justice system to address problems that are frequently related to poverty and social exclusion can be detrimental to public safety and security. These facts were established at the sensitization meeting held with magistrates in Bauchi and Benue states as Magistrates recognise the impact of not decriminalising petty offences in the administration of the criminal justice system in Nigeria. The fallout from the engagements with the magistrates reveals and buttresses the importance of judicial and legislative advocacy. Magistrates engaged and sensitized at the Lawyers Alert's meetings pledged their commitment to applying non-custodial punishments in cases of petty offences. They also pledged their support for engagements towards repealing laws on petty offences.

Interestingly, the Houses of Assembly in both states are currently being engaged on a proposed Bill which seeks to put to final rest the issue of petty offences as contained in the state penal laws. This process is driven by Lawyers Alert in collaboration with its partners in the states. Currently, all relevant laws in the two states are undergoing the process of amendment and necessary reviews so as to eliminate all forms of criminalization of petty offences.

Conclusion

In essence, laws that criminalise petty offences are traces of our colonial past. These laws scarcely support the poor, and they unquestionably disregard human rights and dignity. Therefore, decriminalizing these infractions is essential to ending social exclusion and prejudice, relieving jail overcrowding, and promoting

a sense of inclusion for the weak and disabled in society. The decriminalization of petty offences is necessary to enhance Nigeria's judicial system.

Lawyers Alert, with the support of OSIWA, has carried out various levels of advocacy to the judiciary and legislatures towards understanding the impact of criminalising these offences in society. Petty offences do constitute a threat to the safety of the public, law and order in the state and should therefore not be criminalised.