

THE CAPE DECLARATION ON DECRIMINALISING POVERTY AND STATUS

Below is a summarised version of the Cape Declaration that the participants of the convening of the [Campaign to Decriminalise Poverty and Status](#), drafted in Stellenbosch, South Africa between 27 and 29 September 2022. The Cape Declaration was adopted by consensus by participants, with the request that it be publicised to all relevant stakeholders, and forwarded to national governments, inter-governmental bodies, and regional human rights mechanisms.

The Cape Declaration expresses deep concern, calls attention to, and requests urgent, comprehensive and global action regarding the following:

1. There is growing inequality worldwide and states are increasingly criminalising poverty, status, and/or activism, which is in direct violation of international human rights law, and disproportionately impacts poor and marginalised people.
2. Those most impacted by this criminalisation include but are not limited to: people living in poverty, women, children, persons experiencing homelessness, people from marginalised racial, ethnic, and caste groups, indigenous peoples and tribal groups, religious groups, persons with disabilities, persons discriminated against due to their health status, persons who use drugs, older persons, members of the LGBTQIA+ community, sex workers, refugees, and migrants.
3. States routinely use the criminal justice system against people for reasons that fail to deliver justice, but rather are intended to protect the boundaries of wealth, privilege, power, and status. Across the world, clear evidence of these violations includes, but is not limited to:
 - a) Colonial-era laws criminalising vagrancy, loitering, begging, sleeping, and eating in public, or being idle and disorderly that are routinely deployed against poor and marginalised people.
 - b) Increased use of criminal laws, such as sedition, blasphemy, terrorism, as well as, laws criminalising peaceful protestors, to quell dissent, target human rights defenders and community and movement leaders, and control, ban and disperse peaceful protests.
 - c) Punitive approaches to achieve public health objectives, such as securitised responses to the COVID-19 pandemic or criminalisation of drug use, are borne by poor and marginalised communities, limiting their rights and ability to maintain their livelihoods and provide for their families.
 - d) Detention based on an inability to pay bail, fees, fines, or asset-related non-custodial options compounded with non-access to effective legal aid services resulting in the disproportionate and excessive detention of poor and marginalised people.
4. This application of state power and overreliance on criminal law and punishment manifests in grave human rights violations, including torture, enforced disappearances, arbitrary detention, forced evictions, and other violations of the rights to dignity, adequate housing, food, and good health.
5. Since 2000, the global prison population has risen by 24%, a third of which, is made up of pre-trial detainees not convicted of any crime and who are often the most vulnerable. Detention also has a direct socio-economic impact on entire communities, deepening inequities and perpetuating cycles of poverty.
6. The media coverage and widely held narratives of crime and the justice system are often framed through misleading and derogatory language that embeds stigma, discrimination, and intolerance, thus, enabling states to justify systemic repression by introducing and/or maintaining policies and practices that violate human rights.
7. Collectively, these unjust outcomes directly counter progress towards the [2030 Agenda on Sustainable Development Goals](#) and the pledge to 'leave no one behind', including poverty eradication (Goal 1), gender equality (Goal 5), decent work (Goal 8), reducing inequalities (Goal 10), the enjoyment of adequate housing for all (Goal 11) and achieving more peaceful, just, and inclusive societies (Goal 16).

Recommendations: A way forward

The Cape Declaration calls on states and criminal justice systems around the world to:

1. Stop the criminalisation of people based on poverty, status, and activism by adopting human rights-based reforms that reinvest in communities and divert funds from law enforcement to measures that address the root causes of contact with the criminal justice system.
2. Review and repeal all laws, practices, and procedures that criminalise poverty and status, and further ensure that laws criminalising conduct in broad, vague, and ambiguous terms are repealed or amended. Establish mechanisms to identify and immediately release people who are arrested for, suspected of, and convicted for these offences, and expunge their criminal records.
3. Examine and adopt action-oriented plans to address all forms of discrimination in criminal justice systems and ensure effective accountability and redress for victims of any human rights violations.
4. Eliminate detention due to an inability to pay bail, fees, fines, or asset-related non-custodial options and seek alternative options that do not criminalise poverty or other status.
5. Integrate an intersectional, rights-based, and public health approach to all reform efforts and ensure that reforms consider and actively counter multiple and compounding forms of discrimination.
6. Recognise the feminisation of poverty and tackle laws, policies and procedures that target or disproportionately impact women who are perceived to be violating entrenched patriarchal norms.
7. Increase the availability of and use of diversion, real alternatives to arrest and detention in line with the [UN Tokyo Rules](#) and [Bangkok Rules](#), and the principles of legality, necessity, and proportionality.
8. Ensure that anyone detained, arrested, suspected of, or charged with a criminal offence and who cannot afford a lawyer, is entitled to legal aid at all stages of the criminal justice process.
9. Repeal laws that criminalise activism and dissent, and all other laws that restrict the enjoyment of the rights to freedom of expression, peaceful assembly, and association.
10. Train, supervise and equip law enforcement officials in support of individuals' human rights, rather than using force and dispersal tactics against citizens in peaceful protest.

The Cape Declaration calls on states, the international community, civil society, and all other relevant stakeholders to support the above mandate, and:

1. Convene an intergovernmental meeting of experts with representation of all relevant stakeholders, to study ways and means of addressing the global crisis of criminalisation of poverty, status, and activism, including the possibility of proposing a declaration of basic principles and guidelines.
2. Centre the leadership of directly impacted people who have first-hand experience of criminalisation and incarceration and impacted communities to develop suitable policies and practices.
3. Recognise, fund, and empower civil society's role in governance, decision-making and monitoring of measures to respond to the criminalisation of poverty, status, and activism.
4. Mandate and advocate for all relevant actors and bodies to collect and make all data on criminalisation of poverty and status publicly available and disaggregated by all relevant demographics.
5. Engage and sensitise relevant stakeholders to the criminalisation of poverty and status, the use of appropriate language and the necessity to avoid harmful narratives, when raising public awareness.

The Campaign to Decriminalise Poverty and Status is a coalition of organisations from across the world that advocate for the repeal of laws that target people based on poverty, status or for their activism.