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### **Statement under Agenda Item 3: Human Rights Situation in Africa**

**71<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights  
21 – 30 April 2022**

Dear Hon. Chairperson, Hon. Commissioners, all protocols observed.

The Dullah Omar Institute for Constitutional Law, Governance and Human Rights (the Institute) welcomes the opportunity to make this statement to the 71<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights. This statement focuses on the issue of the decriminalisation of petty offences in Africa, and draws on the work of the [Global Campaign to Decriminalise Poverty and Status](#), of which the Institute is a member. The Campaign is a coalition of over 40 non-governmental organisations (NGOs) and national human rights institutions (NHRIs) advocating for the decriminalisation and declassification of laws that criminalise people for who they are, rather than what they have done.

The Campaign is deeply concerned about how African states continue to utilise the criminal justice system against vulnerable members of society, including the poor, homeless people, migrants, sex workers and the LGBTIQ+ community, etc. This criminalisation infringes upon Articles 2 (equality and non-discrimination), Article 4 (freedom from arbitrary arrest and detention) and Article 5 (freedom from ill-treatment) of the African Charter, as interpreted by the Commission's Principles on the Decriminalisation of Petty Offences in Africa.

These laws also exacerbate political and socio-economic exclusion and criminal injustice, in that they hold those targeted criminally responsible for their status, rather than protecting the vulnerable and requiring states to ensure a sustainable and inclusive development for all. In cities, for example, people are routinely removed, often violently, from public spaces they utilise to perform life-sustaining activities like sleeping or eating. Those targeted are often already socio-economically vulnerable, having limited education, being homeless and/or unable to afford the fines imposed. Violence and harassment by law enforcement officials is often accompanied by the unlawful confiscation of their few material possessions. As a result, access to socio-economic goods and services such as social security, health care, education, political voice etc, remain inaccessible for these vulnerable groups.

While these colonial-era laws are outdated, many modern governments continue to amend, expand, and/or introduce newer versions of these discriminatory laws. The COVID-19 pandemic has exacerbated this, by governments adopting a swathe of COVID-19 laws, such as curfews and stay at home orders, which

