

# ADVOCAID v THE GOVERNMENT OF SIERRA LEONE

## APPLICATION FOR THE ENFORCEMENT OF FUNDAMENTAL HUMAN RIGHTS Case filed at the ECOWAS Court to overturn Sierra Leone's discriminatory loitering laws

### The ECOWAS Community Court of Justice

#### Human Rights Jurisdiction

The Court can determine cases of human rights violations that occur in any ECOWAS Member State.

#### Applicable Laws

Under its human rights jurisdiction, the Court applies the ECOWAS Treaty, Protocols and Regulations, and International Human Rights instruments ratified by the State(s) party to the case.

#### Are States bound by the decision of the Court?

Decisions of the ECOWAS Court are binding on Member States.

#### Petty Offence: Loitering

##### Relevant Laws:

Public Order Act 1965 - Section 7  
Criminal Procedure Act 1965 - Section 13(1)(e)

*"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"*  
**Public Order Act 1965, s. 7**

##### Summary of Offence:

Being in a place while not having a visible means of livelihood and not providing a sufficient account of why one is in that place.

### Rights Arguments



Right to non-discrimination  
(African Charter on Human and Peoples' Rights art. 2)



Right to equality before the law  
(African Charter on Human and Peoples' Rights art. 3(1))



Right to freedom of movement  
(African Charter on Human and Peoples' Rights art. 12(1))

### The Problem



Law is vague and open to abuse by law enforcement officials.



These laws and their application are enforced in a discriminatory manner and unfairly target the poor and most vulnerable in society, particularly those who work in the informal economy such as petty traders and commercial sex workers, frequently resulting in their arbitrary and unlawful arrest.



These laws subject people to criminal sanctions for potential, rather than actual, harmful acts.



In some cases, police officers demand bribes from those arbitrarily arrested for loitering in exchange for them to be released without charge.



In some other cases, police officers forcefully have sex with women who are arrested for loitering, often without using any protection.



Loitering



Obtaining money by false pretense / fraudulent conversion

**14%**

of women were charged or convicted of petty offences



DECRIMINALISING POVERTY IN  
SIERRA LEONE:  
CALL FOR REFORM OF PETTY OFFENCES

Position Paper  
AdvocAid and the Centre for Accountability and the Rule of Law  
August 2019

