

BEGGING IN INDIA: A CONSTITUTIONAL AND JUDICIAL EXAMINATION OF CRIMINALIZATION VS. REHABILITATION

*Botuku Ramesh Babu**

*V. Vijay Lakshmi***

ABSTRACT

Beggars issue has become a serious social concern in India. The State intended to ban and to criminalize begging. However, the Judiciary discoursed that criminalizing begging is wrong and violates the most fundamental rights of the vulnerable sections of society. The State shall not make beggars invisible through artificial means because the constitution aims to secure all citizens, socioeconomic justice, and dignity of life and guarantees a right to life. At the same time, beggars should not become an unwarranted burden on the State's financial resources and society but, in turn, should contribute to the State's progress. Therefore, this article aims for a comprehensive study to find out a constitutional approach for eradicating begging despite penalizing. The study concludes that begging can be curtailed through the Recognition of constitutional provisions, Rehabilitation of beggars and Promotion of employment. These human resources can effectively be utilized towards the progress of the country.

Keywords: Begging, Criminalizing, Penalizing, Rehabilitation, Eradication

- I. Introduction**
- II. Comprehensive Study**
- III. Conclusion and Suggestions**

I. Introduction

OUR CONSTITUTION aims to secure its citizens' dignity of life and raise the standard of living. The intent behind this objective is to effectively utilize all the human resources for the growth of Indian Society. Towards this direction, enforcement of fundamental rights particularly the Right to education, to choose any profession, to get fair wages, to move and settle anywhere in India, to get protection from exploitation etc. have been guaranteed. Directives have also been granted to the State to secure the socioeconomic welfare of the people. In addition, a duty has also been imposed on every citizen to venture towards upliftment

* Ph.D. Research Scholar, Dr. B. R. Ambedkar College of Law, Andhra University, Visakhapatnam, Andhra Pradesh.

** Professor and Principal, Dr. B. R. Ambedkar College of Law, Andhra University, Visakhapatnam, Andhra Pradesh.

in all spheres through individual as well as a collective effort to constantly raise the higher levels of nation's achievement. The State has set up facilities to provide education, accommodation, and healthcare for needy women and children and socially, physically, and mentally challenged individuals. Vocational training and self-employment schemes have been instituted. Anti-beggary laws have been passed for the prevention of beggary in Society¹.

However, it is regrettable that *begging* still has a place in Indian Society proving the non-effective utilization of human resources and hauling upon the existing resources.² It causes relentless damage to the spirit and intent of the Constitution and shows an adverse impact on the living status of other individuals. Even though there is a steady progress in the economy of India since its independence, it is still termed as a developing country or a poverty-driven country, leading to the increase of beggars³. Further, the striking of the anti-beggary law in Delhi State by the Judiciary while identifying *begging* as a socioeconomic problem invited the attention of the researchers to empirically study the root cause and to come up with solutions. This article is one of such endeavors to study the problem of beggary.

This article therefore aims (1) to find out the root cause for the prevalence of begging in Indian Society; (2) to underline the significance of the constitutional provisions that are meant to eradicate poverty and empower the socioeconomic status of all the citizens including beggars; (3) to emphasize on the dire need to secure the socioeconomic justice for implementation of anti-beggary laws in view of the recent decisions of the Judiciary; and (4) to highlight the issue of begging in view of the studies of various researchers, and to make suitable solutions for prevention of begging.

This article is based on observations of the researchers towards the behavior and attitude of the beggars, including child beggars moving around in public places like traffic signals, temples, hotels and wedding halls in different localities of Hyderabad city. Information was also collected through structured questionnaires from the stakeholders. The opinions of the non-

¹ B. Kuppaswamy, Concept of Begging in Ancient Thought, (39) 2 *The Indian Journal of Social Work* 187-192 (1978).

² Editorial, "Beggary in India: A Problem of Great Magnitude - Current Affair for UPSC, IAS, Civil Services and State PCS Examinations" Dhyeya IAS, available at: <https://www.dhyeyaias.com/current-affairs/perfect-7-magazine/beggary-in-india> (last visited on Jan. 20, 2023)

³ Soni Shivansh, "Beggary Laws in India: A Constitutional Analysis", Legal Service India, available at: <https://www.legalserviceindia.com/legal/article-1367-beggary-laws-in-india-a-constitutional-analysis.html> (last visited on Jan. 18, 2023).

begging communities, viz. householders, working men and women, taxpayers etc., on the issues of *beggars* have also been collected from 250 individuals. Information has been collected through discussion with the Greater Hyderabad Municipal Corporation (GHMC) officials on the issue of beggary prevailing in the city. Simultaneously, doctrinal information has also been collected from research publications, media publications, the internet, books, documents and decisions of the Judiciary in various cases.

In 2018, the High Court of Delhi struck down the law pertaining to criminalizing begging, stating that it violates the fundamental rights guaranteed to the most vulnerable sections of Society. The High Court intended the State to conduct an empirical study on the socioeconomic aspects pertaining to the beggars and bring an alternative legislation restraining forced begging.⁴ The striking down of the Begging Act by the Court shows the transformative nature of the Constitution of India wherein the citizens are now treated as rights-bearing individuals.⁵

In July 2021, the High Court of Bombay emphasized the need for physically fit beggars to work for their survival and for the nation.⁶ Subsequently, after passing of 3 years after the date of the judgment of the Delhi High Court in 2018, the same observations were made by the Supreme Court in August 2021, which proves that the State is so reluctant in fulfilling the constitutional obligation of securing social justice for all the citizens even despite the comments of the Judiciary. The Apex Court has affirmed that *begging* is a socioeconomic problem, and the people are forced to eke out their livelihood in the absence of education and employment.⁷ The court refused to ban begging by commenting that “keeping the beggars away from our eyes is not a solution.”⁸ Given these observations of Judiciary, the debate on the constitutional validity of begging, and the laws on prevention of begging, has come again into the limelight.

Laws on Prevention of Begging

The Indian Penal Code 1860 (repealed by The Bharatiya Nyaya Sanhita 2023), The Hyderabad Prevention of Beggary Act of 1941, The Bengal Vagrancy Act of 1945, The Mysore Prevention of Beggary Act of 1945, The Bombay Prevention of Beggary Act of 1945, The Madras

⁴ W.P.(C) 10498/2009 & CM APPL. 1837/2010.

⁵ Gautam Bhatia, “Undoing a legacy of injustice”, *The Hindu*, Aug. 13, 2018.

⁶ Editorial, “State can’t provide everything to homeless, beggars: Bombay HC” *Hindustan Times*. Jul. 3, 2021.

⁷ Editorial, “The Supreme Court is right on begging” *Hindustan Times*. Jul. 28, 2021.

⁸ Editorial, “A ban on begging is no solution”. *Deccan Herald* [DHNS]. Aug 04, 2021.

Prevention of Beggary Act of 1945, The Cochin Vagrancy Act of 1945, The Travancore Prohibition of Begging Act of 1945, The Bhopal Prevention of Beggary Act of 1947, The Bihar Prevention of Beggary Act of 1952, The Bombay Prevention of Begging Act of 1959 and The Children Act of 1960 are some of the important legislations for the enactment of anti-beggary laws in various States of India.⁹

The objectives of these laws are to make uniform and better provisions for the prevention of begging; for the detention, training and employment of beggars and their dependents in certain institutions; for the custody, trial and punishment of beggar offenders. The prevention of begging law prohibits and penalizes soliciting or receiving alms in public places; entering into private premises for soliciting or receiving alms; exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound injury, deformity of diseases whether of a human being or animal;¹⁰ remaining in public place having no visible means of subsistence, etc. Begging may be a nuisance wherein such person is guilty under section 268 of the Indian Penal Code (IPC) 1860 (repealed by section 270 of the Bharatiya Nyaya Sanhita 2023).

A person whoever employs or indulges a child in begging is liable for punishment for a term upto one year or fine or both, under section 42 of the Children Act, 1960. Kidnapping or maiming a minor for begging is a crime under section 363A of the IPC which is punishable with imprisonment for life, and shall also be liable to fine. Employing or using or inducing a child for begging is a crime under section 76 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The Criminal Law (Amendment) Act, 2013 provides imprisonment of a convict of beggary upto 10 years. Beggar is sent to shelter home or certified institution or arrest without warrant and sent to jail. The Act prescribes detention of persons if totally dependent on beggars and penalty for employing persons to beg or using them for purposes of begging. Section 125 of the CrPC 1973 (repealed by section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023) is also one of the provisions protecting the wives, parents and children from taking up the begging as a profession for survival in the absence of sufficient means for their maintenance.

⁹ Pratik Maitra, Anti beggary laws in India: A critical analysis, 2 (1) *Jus Corpus Law Journal* 551-557 (2021).

¹⁰ The Bharatiya Nyaya Sanhita 2023, (Act No. 45 of 2023) s. 139.

II. Comprehensive Study

The researcher interacted with 300 beggars out of which 270 responded. The researcher met these people during the Ramadan-2022, Christmas-2022 and Sankranti-2023 festive seasons met outside Hindu Temples, Mosques, Churches, Bus Stations, Railway Stations, Toll Gates on the Highways, Function Halls, etc. in Telangana and Andhra Pradesh States, as a part of his empirical study. The fine points on the present living status of the beggars are also appended.

Number of old aged and disabled beggars	105
Number of physically abled beggars	111
Number of child beggars	84
Number of women beggars	126
Number of hijra beggars	30
Beggars migrated from other areas	54
Number of beggars who can read Telugu newspapers only	18
Number of beggars who do not have minimum education	282
Number of beggars using mobile phones	24
Number of beggars with Begging as a hereditary occupation	93

Table 1: Showing the different types of beggars

From the table, it is very clear that almost 94 percent of beggars are not exposed to education. The remaining 6 percent of the beggars were found to be literate- they could read papers and use mobile phones. Around 35 percent of the beggars are old-aged and disabled; 28 percent constituted child beggars. The other 37 percent are middle-aged and were found physically fit to carry out any manual work. Initially, 90 percent of the beggars resisted responding to the questions in fear of being detained or penalized. 10 percent of the beggars were uncomfortable to respond. They had to be convinced with great difficulty by offering alms and by stating that the study is meant to improve their living standards. Photographs were not taken due to privacy and ethical issues.

Information from the beggars

From the responses, it is obvious that the *beggars* are living from alms and are using the pavements, roads and public places for shelter. They do not have access to proper food, clothing

or even basic sanitation facilities. They do not have regular baths; their life is miserable and is disrespected by the individuals while urging for alms. Sometimes, they are beaten by the local people alleging nuisance. There were instances where few beggars were victims of crimes such as theft and robbery. They are not able to send their children to pursue education due to poverty and illiteracy.

31 percent of the *beggars* have informed that *begging* is their 'hereditary occupation'. Though they are unable to meet their living expenses, they are not ready to come out of the begging 'profession' as there is no alternate remedy for sustaining their livelihoods. They face many problems from governmental agencies, and to overcome this difficulty, they are sometimes forced to comply with their illegal demands out of their meager earnings through alms. 18 percent of the beggars have responded that they are migrants from other states and that they would not have opted for begging if they got employed at their places. Based on the data collected, women beggars constitute 42 percent of the total beggars, and they often stated that they are facing eve-teasing from alcoholic people. They confront issues regarding their marital life, privacy, and health issues daily. A number of their relatives died due to seasonal diseases, and their children are exposed to risk for accidents.

Few beggars stated that they are not aware of any government's policies for their welfare. They said that they were contacted by some people who introduced themselves as government officials. The said people have taken photographs and thumb impressions of the beggars on some papers by stating that this is for allotment of pucca houses to the beggars. But the beggars have not been provided with any accommodation till date. The child beggars who were found in unclean conditions without proper clothing responded that their parents were not allowing them to pursue education. Wounds and small injuries were also found on their bodies.

Few more beggars responded that they are sustaining on begging with a feel of profession entrusted by God since their birth, and do not have any education, skill or even interest to get employed involving manual or physical work or to move to any other profession for their livelihood

Information from the community people

12 percent of the people responded that the beggar's issue is to be seen sympathetically and to help them generously. Meanwhile, 42 percent of the people responded that they find themselves in embarrassing situations when they are asked for alms by beggars particularly at the traffic signals while rushing to their offices. They have witnessed many accidents where innocent bike riders met injuries along with the beggars due to the movement of the child beggars and disabled beggars at the traffic signals without observing the traffic rules. They have observed 'hijras' (eunuchs) begging and causing a nuisance. They had also stated that they are very uncomfortable when they were approached for alms during the current financial crisis because of corona threat. They have opined that *begging* is to be banned on a top priority basis after taking care of their livelihood and shelter.

46 percent of the people responded that *begging* is a serious social concern and that the State should take steps immediately to identify the beggars into three groups, (i) physically and mentally abled beggars, (ii) physically and mentally disabled beggars and (iii) child beggars. Eventually, the State shall have to make necessary rehabilitation arrangements for the physically and mentally disabled beggars and child beggars. The services of the physically and mentally proficient beggars shall have to be utilized for manual work in the industries and ensure adequate means of livelihood. The welfare of the child beggars is to be entirely taken by the State with the help of the charity institutions. Adoption of children may be explored but to be monitored by the State till they become majors.

Information from the Government officials

The issue of beggary in Hyderabad city has been focused on by the Greater Hyderabad Municipal Corporation (*hereinafter* referred as 'GHMC'). GHMC has been included in a pilot project designed by the Government of India for rehabilitation of the beggars with the help of NGOs who are working in the areas. GHMC is planning to identify the beggars for shifting to rescue homes. They are also planning to organize skill development training programs to ensure beggars' integration into mainstream so that they live with human dignity. They are also planning to employ 'Aadhaar'¹¹ registration for opening bank accounts. Further, a bill meant for the rehabilitation of beggars and prohibition of begging is being laid in the Parliament of India.

¹¹ V. Swathi, "Beggar rehabilitation to the fore again" *The Hindu*, Jan. 7, 2021.

Root cause for the prevalence of begging

Begging was nonexistent in the ancient days when the relatives of a family lived together and supported one another to aid their hunger and poverty. Thereafter begging emerged into the society in association with private property.¹²

Giving alms was considered a pride and an honor in the early days of human society. Subsequently, *begging* was considered a 'respectable profession' and receiving and or giving alms was holy. Faith in all religions emerged and believed that giving alms to the needy was one way to reach the Almighty. Slowly, *begging* has entered into the society where a sector of people was designated to lead their life through *begging* in rural areas. The practice of helping the helpless can be said as the root cause of beggary.¹³ In view of a large-scale displacement of the tribal and rural people due to deforestation and influence of civilized society, people started migrating to the urban areas for existence, and in the absence of protected employment, the helpless people were forced to opt for the beggary for their livelihood and survival.¹⁴ The migration of refugees and illegal immigrants from neighboring countries is also one of the factors that influenced the prevalence of begging in Indian society.

At a later stage, the scenario has been totally changed. The recent trends in modern life - cultural transformation, urbanization, industrialization, globalization, distraction of joint family system, migration and displacement of the downtrodden, deforestation, dominant feudalism, augmented cost of living, changes in the political system and governance, interests of the individuals - made people to ignore others' welfare. On the other hand, the State on which the responsibility to ensure the welfare of all the citizens lies, is also unable to manage the same due to many reasons but not limited to the increased population and political aspects.

Significance of the Constitutional provisions to secure socioeconomic justice to all the citizens

¹² Jabir Hasan Khan et al., Socio-economic causes of begging, 1 (3) *International Research Journal of Human Resources and Social Sciences* 37-52 (2014).

¹³ Radhakamal Mukerjee, Causes of Beggary. 04 (1) *The Indian Journal of Social Work* 23-28 (1943).

¹⁴ Sumita Sarkar, Beggary in Urban India, Reflections on Destitution and Exploitation, 68 (4) *The Indian Journal of Social Work* 531-544 (2007).

The framers of the Indian Constitution have given a prime space in the constitution to keep the rise of the nation's achievements through the eradication of poverty, elimination of begging and empowering of the vulnerable sections of the society. They have put obligations on the State, Citizens and the Society to strive towards this direction as discussed below:

Obligation on the State

The Constitution of India requires the State to protect every citizen's life. This is a fundamental right which is inclusive of the right to work guaranteed to the citizen. The State is under strict obligation to create and provide employment opportunities with suitable wages to every citizen to lead a life with human dignity.¹⁵ It is to prohibit human trafficking, begging and such other forms of forced labour and impose punishment on the citizens in case of contravention.¹⁶ It is also to ensure human trafficking leading to begging and forced labour. The State is further obligated to guarantee protection against arbitrary arrest and detention.¹⁷

Under Directive Principles of State Policy, a State is required to -

- i. strive towards the promotion of the welfare of the people and secure social, economic and political justice. The State is given a directive to solicit development of every individual socially, economically and politically.¹⁸
- ii. secure the right of its citizens both men and women equally to have adequate means of livelihood. Another directive is given to the State by the Constitution to ensure sufficient livelihood to all the citizens without any gender discrimination.¹⁹
- iii. protect the children from abuse in their tender age. It also requires the State that the citizens are not forced by their economic necessity to enter avocations unsuited to their age and strength.²⁰ This article 39(3) can be read with the Fundamental Right given under article 23(1) where the human trafficking including children and women trafficking is barred for forced labour and exploitation due to their financial constraints.

¹⁵ The Constitution of India, art. 21.

¹⁶ *Id.*, art. 23(1).

¹⁷ *Id.*, art. 22.

¹⁸ *Id.*, art. 38 (1).

¹⁹ *Id.*, art. 39 (a).

²⁰ *Id.*, art. 39 (3).

iv. secure opportunities and facilities to the children to grow in a healthy condition; It further requires the State to protect their freedom and dignity and prevent them from exploitation, moral and material abandonment.²¹

v. make provisions effectively to secure the right to education, right to work, and public assistance in cases of unemployment, sickness, disablement, old age and undeserved want.²²

vi. provide compulsory education at free of cost for all the children until they complete 14 years of age.²³

vii. secure special care towards fulfilling the educational and economic interests of the vulnerable sections of the society and protect them from all kinds of exploitation and social injustice.²⁴ Article 46 is coupled with article 21 with the right of leading a human-dignified life guaranteed to every citizen, casts a responsibility upon the State to strive towards achieving economic and social justice and equality to all.²⁵

viii. raise the nutrition level and standard of living of all the citizens.²⁶ In view of article 39(a) the State is directed to secure that all the citizens have a right to adequate means of livelihood whereas a duty has been imposed on the State under article 47 to secure the citizens a decent life. Thus, the Right to Food has been made as a fundamental right which is enforceable by virtue of article 32 of the constitution.²⁷

In addition, India has accepted the provisions of the 'Right to Work' of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights.²⁸ Further, the State is under an international obligation to take measures in the lines of the legitimate Protocol of the International Labour Organization on Forced Labour, to strengthen its efforts to prohibit trafficking that is leading to forced labour, and integrate a new system for its complete eradication.²⁹

²¹ *Id.*, art. 39 (f).

²² *Id.*, art. 41.

²³ *Id.*, art. 45.

²⁴ *Id.*, art. 46.

²⁵ Dhyeya IAS, "Beggary in India: A Problem of Great Magnitude - Current Affair for UPSC, IAS, Civil Services and State PCS Examinations", *available at*: <https://www.dhyeyaias.com/current-affairs/perfect-7-magazine/beggary-in-india> (last visited on Jan. 18, 2023).

²⁶ *Id.*, art. 47.

²⁷ Right to Food – a Fundamental Right, *available at*: <https://nhrc.nic.in/press-release/right-food-fundamental-right> (last visited on Jan. 18, 2023).

²⁸ Puja, "Right to Work – Meaning, Features and the Indian Constitution" *IAS Express*. Feb 20, 2021.

²⁹ International Labour Organization, "Forced labour, modern slavery and human trafficking," *available at*: <https://www.ilo.org/global/topics/forced-labour/lang--en/index.htm> (last visited on Jan. 18, 2023).

Obligation on the Citizen

The Constitution of India imposed a Fundamental Duty on the Citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.³⁰ All the constitutional provisions as mentioned elsewhere in this article, imposes an obligation and a duty on every citizen too, inclusive of a beggar to get educated and employed for living and self-development; to compulsorily work and live with human dignity; to protect others free from nuisance, to protect the interests of the fellow-citizens; to prevent himself from being a curse to others; and to contribute his energy to endeavor the nation's achievement.

Obligation on the Society

The human society in every state, particularly in a democratic country like India, has an equal obligation, along with the State and the Citizen to empower the socioeconomic status of the downtrodden, to eradicate poverty and beggary, and to strive towards achieving constitutional goals. The responsibility of society in this way cannot be ignored. Researchers argue that, in addition to the cultural and socioeconomic conditions, unemployment or underemployment manifests as poverty leading to homelessness and malnutrition, thereby increasing the number of pavement dwellers and beggars.

The dominant cultural society tries to render these helpless sections to be invisible by blaming them for their plight. Beggary is an outcome of the loss of moral and ethical values where beggars are considered as worthless. The community should not deny them social support, political authenticity and the right to live and work. The welfare of the society is to be recognized as the welfare of all the citizens, including beggars and beggars. Society at large should shoulder the responsibility to ensure a place for the beggars in social life.³¹

Society should recognize the constitutionally guaranteed fundamental rights of these weaker sections by extending all its possible efforts and opportunities in a conducive manner so that the beggars can improve their socioeconomic status and will integrate into mainstream society.

³⁰ *Id.*, art. 51A (j).

³¹ Sumita Sarkar, Beggary in Urban India: Reflections on Destitution and Exploitation, 68(4) *The Indian Journal of Social Work* 531-544 (2007).

Helping these sections is to be on a regular basis without limiting to the festive seasons, religious occasions and rituals expecting divine credit.

Securing the socioeconomic justice for implementation of anti-beggary laws: Judiciary perception

In order to full the constitutional objective of the protection against exploitation and human trafficking for forced labour, anti-beggary laws have been passed by the Indian States as listed below in table-2:

1	Andhra Pradesh	The Andhra Pradesh Prevention of Beggary Act, 1977
2	Assam	The Assam Prevention of Begging Act, 1964
3	Bihar	The Bihar Prevention of Begging Act, 1951
4	Chhattisgarh	Adopted the Madhya Pradesh Biksha Vritti Nivaran Adhiniyam, 1973
5	Goa	The Goa, Daman & Diu Prevention of Begging Act, 1959
6	Gujarat	Adopted the Bombay Prevention of Begging Act, 1959
7	Haryana	The Haryana Prevention of Begging Act, 1971
8	Himachal Pradesh	The Himachal Pradesh Prevention of Begging Act, 1979
9	Jammu & Kashmir	The J & K Prevention of Begging Act, 1951
10	Jharkhand	Adopted the Bihar Prevention of Begging Act, 1951
11	Karnataka	The Karnataka Prevention of Begging Act, 1975
12	Kerala	The Madras Prevention of Begging Act, 1945, The Travancore Prevention of Begging Act, 1120 and the Cochin Vagrancy Act, 120 are in force in different areas of the State
13	Madhya Pradesh	The Madhya Pradesh Biksha Vritti Nivaran Adhiniyam, 1973
14	Maharashtra	The Bombay [prevention of Begging Act, 1959
15	Punjab	The Punjab Prevention of Begging Act, 1971
16	Sikkim	The Sikkim Prohibition of Beggary Act, 2004

17	Tamil Nadu	The Madras Prevention of Begging Act, 1945
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18	Uttar Pradesh	The Uttar Pradesh Prohibition of Begging Act, 1972
19	Uttarakhand	Adopted the Uttar Pradesh Prohibition of Begging Act, 1972
20	West Bengal	The West Bengal Vagrancy Act, 1943
21	Daman & Diu	The Goa, Daman & Diu Prevention of Begging Act, 1972
22	Delhi	Adopted the Bombay Prevention of Begging Act, 1959

Table-2: Different anti-begging laws in different states of India³²

But it is a known fact that one confronts the beggars in every locality, most probably in public places. The anti-beggary law in the Delhi State, the legislation of which has been adopted from the law of the Maharashtra State, has been held as unconstitutional by the Delhi High Court in 2018, and subsequently, the Supreme Court in the year 2021 has also refused to ban begging even in the Covid-19 pandemic situation. Therefore, the perception of the Judiciary to ban begging is to be addressed seriously across India.

The Delhi High Court on August 8, 2018, in *Harsh Mander v. Union of India*³³ opined that simulated means to make beggars indiscernible would not serve the purpose, and there is a need to address the basis of the problems such as landlessness, discrimination on caste and ethnicity, isolation, physical and mental challenges, social protection, etc. The Court has made remarkable comments that though it is mandated for the State to secure basic social security for every individual, but it has not managed to provide the same to all citizens, as is evident from witnessing the existence of begging. The Court has further viewed that the offence under the Bombay Prevention of Begging Act 1959 which was adopted by the Delhi State has no constitutional validity and hence deserved to be struck down.³⁴

The Court remarked that the contention of the State for detaining a person to ascertain the reasons for begging becomes a violation of article 21, the Right to Life guaranteed to the

³² Shristi Keshri, "Begging for change: Anti Beggary laws in India" *Lexlife India*. Mar. 1, 2021.

³³ W.P(C) 10498/2009 & CM Appl. 1837/2010.

³⁴ Editorial, "Begging not an offense in Delhi as criminalizing it violates fundamental right: High Court" *The Economic Times Politics*, Aug. 8, 2018.

citizen, and the act of detaining a beggar is senseless and wastage of public exchequer.³⁵ Some of the prominent observations of the High Court of Delhi in the above case³⁶ are reproduced below to understand the intent and perception of the Judiciary with respect to the State's responsibility to ensure socioeconomic justice to all the citizens:

12. The question, placed before is simple. In our constitutional framework that promises every person the right to live with dignity, can the State criminalize begging? The social contract between the citizen and the State is a contract by which in exchange for the citizen ceding her autonomy partially, the State promises her security over her person and a life with dignity.

13. In our constitutional framework, this is guaranteed by Part III which enjoins the State not only to protect life but also to advance it, and Part IV which mandates that the State shall allocate resources so as to further the common good. In short the constitution envisages the vision of a society that is humane, just and fair.

29. People beg on the streets not because they wish to, but because they need to. Begging is their last resort to subsistence, they have no other means to survive. Begging is a symptom of a disease, of the fact that the person has fallen through the socially created net. The government has the mandate to provide social security for everyone, to ensure that all citizens have basic facilities, and the presence of beggars is evidence that the state has not managed to provide these to all its citizens.

30. 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: no access to education, social protection, discrimination based on caste and ethnicity, landlessness, physical and mental challenges, and isolation.

31. Criminalizing begging is a wrong approach to deal with the underlying causes of the problem. It ignores the reality that people who beg are the poorest of the poor and marginalized in society. Criminalizing begging

³⁵ Soibam Rocky Singh, "Delhi High Court decriminalizes begging in the national capital" *The Hindu*, Aug. 9, 2018.

³⁶ *Harsh Mander v. Union of India*, AIR 2018 DEL 1265.

violates the most fundamental rights of some of the most vulnerable people in our society. People in this stratum do not have access to basic necessities such as food, shelter and health, and in addition criminalizing them denies them the basic fundamental right to communicate and seek to deal with their plight.

33. The State simply cannot fail to do its duty to provide a decent life to its citizens and add 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. A person who is compelled to beg cannot be faulted for such actions in these circumstances.

Further, a division bench of the High Court of Bombay on July 3, 2021, while disposing of a Public Interest Litigation (PIL) filed for directions to the Municipal Corporation of Greater Mumbai and four others to extend shelter, clean toilets, clean water along with nutritious meals thrice to the beggars and the homeless poor people citing the obligation of the State under various articles including 21,39,47, has held that the beggars should also undertake the work for the country as it will be very difficult for the State to provide them everything freely. The High Court has made a remarkable comment that the petition is like an invitation to the people not to work.³⁷ The prominent observations of the High Court are reproduced below:

10. In our opinion, an area of deeper concern of contemporary perspective, is the need of a specialized study on aspects as to who are such homeless persons, the reason why they are homeless and categories of such persons. It cannot be that loads of persons who are so deprived of means of livelihood in the rural areas migrate to bigger cities in search of employment opportunities and are not successful, can be regarded as homeless so that they are entitled to be catered by the State for their migratory livelihood. The other category is a very common phenomenon that those who are physically fit themselves resort to begging on the streets at signals, without having any urge to work and are satisfied in what they are doing. It also cannot be expected that those who leave their homes in rural areas and visit the cities with no

³⁷ Manas Raturi, "Bombay HC's Cruel Remarks on Beggars Ignore State's Failure, Reality of Urban Poor" *Wire*, Jul. 11, 2021.

employment are habituated to survive on State aid. This would certainly send wrong signals as also create an unwarranted burden on the State's financial resources, which can be utilized for genuine public needs in other spheres, including development of rural areas, so that employment and means of livelihood are created outside big cities.

It cannot be countenanced that those who are able and having capacity to work, survive on State aid for long periods when they need to work. For such persons, employment opportunities are required to be made available. Non-willingness of such persons to work, as instant State aid or aid from NGO's is available, is not a happy situation. Needless to observe that there is definitely a likelihood of a category of homeless persons who on account of their old age, ill-health and disability are unable to work and/or have an employment, such persons are genuinely and certainly in need of help for their livelihood on the State and philanthropist. Thus efforts are required to be made to identify genuine homeless persons, so that help can be provided to them. It is therefore for the Government to frame a robust policy, so that no needy person which may include children is deprived of the basic means of livelihood, namely food, clothing and shelter.³⁸

Subsequently, the Supreme Court of India in *Kush Kalra v. Union of India*³⁹ case while disallowing the prayer to issue directions to the government to restrain homeless people and beggars from begging in public places such as traffic junctions and markets to avoid spreading of Covid-19 pandemic across India, has made significant remarks as reproduced below highlighting the responsibility of the State to ensure socioeconomic justice to all the citizens:

A large number of people, including children, are compelled to be on the streets to beg due to the absence of education and employment. This is a socioeconomic issue and cannot be remedied by a direction of the nature that is sought in prayer (a). This is a human problem which has to be redressed by the welfare State in a manner which accords with Part III and IV of the Constitution.

Views of researchers on beggary laws

³⁸ *Brijesh Arya v. Municipal Corporation of Greater Mumbai*, PIL No. 11703 of 2021.

³⁹ *Kush Kalra v. Union of India* (2021) SC Writ Petition (Civil) No.708/2021.

There are different versions of the views of the researchers on beggary laws. Some of them are discussed as under:

Few researchers (Shivansh Soni) support *begging* as a constitutionally protected right to freedom of speech and expression under article 19(1) and the right to Protection of Life and Personal Liberty, particularly the Right to Life under article 21, and that it is the responsibility of the State to address the problems, to work towards their rehabilitation and integration into a social stream, and prevent the people from begging, and consider it as a last resort for their survival.⁴⁰ There is also an argument that being the most vulnerable sections of the society, the beggars are trapped in poverty with religious traditions and are facing social exclusion. They lack the essential needs of livelihood, and beggary in contemporary society is treated as a social evil affecting decency, public health, and law and order in India and therefore has to be eradicated from a grassroots level.⁴¹

One more argument from the researchers' point of view is that there is a need to reform the anti-beggary laws taking into account their economic strength, poverty and social life. Criminalizing for the sustenance activities such as begging, sleeping, eating and performing personal activities in public places is not fair enough, and hence such legislations are to be repealed or reformed.⁴² Some others argue that criminalizing beggars who perform begging out of dire need is not a fair act. Eradication of the root cause of the begging with proper solutions serves the purpose. The cost involved in the detention of the beggars may be comparatively more expensive and time-consuming than protecting the rights of the beggars to live with human dignity and liberty.⁴³

There is also one more argument that the beggars can be integrated into the mainstream of the society through appropriate skill development training programs and employment schemes. The Rajasthan State has illuminated a progressive approach through Rehabilitation of Beggars or Indigents Act 2012 and started Bhikshook Orientation and Rehabilitation (BHOR) program for training beggars at Kaushal Vardhan Kendras to get themselves employed as plumbers,

⁴⁰ *Supra* note 4 at 2.

⁴¹ Tapas Kumar Dalapati, Eradicating impoverished beggary in Madhya Pradesh, *NIRDPR. SRSC Policy Paper Series- 1/2021* (2021).

⁴² Guiding Principles on extreme poverty and human rights, United Nations Human Rights Office of the High Commissioner, *available at*: https://www.ohchr.org/sites/default/files/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_EN.pdf (last visited on Jan. 18, 2023)

⁴³ S. Chauhan, "Anti-begging legislation of India: from Responsibility to Repression" (2014), *available at*: <https://tiss.edu/uploads/files/dissertation-.pdf> (last visited on Jan. 18, 2023).

electricians and security guards in various establishments.⁴⁴ Criminalization of begging affects human dignity and push beggars into more poverty, discrimination and social exclusion. Employment, social protection and accessibility to housing are some of the prominent factors to improve socioeconomic status of people that prevent them from begging. If begging is to be eliminated, it should be through supportive approaches but not through criminalization.⁴⁵

Few other researchers (Rumani) pointed out that begging is a scam and concluded that it is the responsibility of every citizen to uproot the menace in the country by not giving alms,⁴⁶ but the State can find out poverty alleviation schemes for a better standard of living. Few researchers (Sabbat) observed that begging can be stated as an act where an individual appeals to other individuals through words or gestures for alms. They will adopt several ways to appeal, such as singing, displaying wounds real or fake, disability etc., to get the sympathy of the people and to get alms from them. It is a social evil from days immemorial connected with religious matters. The socioeconomic consequences have made begging a major societal problem. In any situation, it has become a curse on contemporary society, and for a country especially like India, it is a financial burden. The beggars represent a section of impoverished society, and it needs to be tackled in a prompt way.⁴⁷

There are arguments that *begging* leads to the concentration of wealth which is an obstacle for sustainable development. Besides, it is against article 39 which it requires the State to secure an economic system which does not result in the concentration of wealth. We have been witnessing a lot of money in the custody of beggars⁴⁸ which could not improve the living status of such beggars, rather is not available for utilization for the progress of the country. It would have been utilized by the donors for their living and development or for any public cause.

⁴⁴ Jehosh Paul, "Moving Beyond Criminalisation: Embrace Rajasthan's Progressive Model of Rehabilitation for Beggars in India", *Indian School of Public Policy*, available at: <https://www.ispp.org.in/rajasthans-progressive-model-of-rehabilitation-for-beggars-in-india/> (last visited on Jul. 22, 2024).

⁴⁵ Anna Kompatscher, Begging as a human right? – challenging the penalization of begging in the EU in light of the recent *La Catus v. Switzerland* case, *Housing Rights Watch*, Jul. 1, 2021.

⁴⁶ Rumani Saikia Phukan, "Begging in India: A Menace to the Society" *My India*. Aug. 10, 2014.

⁴⁷ Sabaat Fatima, "Beggary-concept, implementation and analysis of the law: a case study of Delhi" *Ipleaders*, Jun. 19, 2021.

⁴⁸ Ujwal Bommakanti, "Andhra Pradesh: Beggar dies leaving Rs 3.2 lakh cash behind" *The Times of India*, Jun. 28, 2019; Editorial, "Beggar found with Rs 2 lakh cash in Andhra" *India TV*, Jun. 3, 2020.

III. Conclusion and Suggestions

The study concludes that in spite of the constitutional aims, legislative norms, judiciary decisions and executive efforts, 'begging' still exists in the Indian society to which the State alone is not to be blamed. There are instances that people more particularly the children, women and hijras are forced to begging and illegal activities for unlawful gains. It also concludes that a large number of the children are subjected to missing their crucial age and are grown in an unhealthy environment, and that a huge demographic dividend is remaining as dependent, and is becoming a burdensome to taxpayers. Beggars are being deprived of their human rights and are subjected to arbitrary arrest and detention. It further concludes that begging is prevalent because of traditional practices, illiteracy, poverty, unemployment, discrimination, inadequate social protection, and lack of stringent policies and execution.

Moreover, this is causing harm to raising level of nation's achievement, and is damaging the dignity of the nation. The intent of the framers of the Indian Constitution in provisioning various directives in relation to ensuring that the tender age of the children is not abused, improving individuals' nutritional levels, enhancing level of nation's achievement and to secure a just and social order etc., is that the State shall have to secure employment to every adult, and shall make such individual to work and equally contribute to child's growth and nation's progress. If the demographic dividend among the beggar population is properly educated, skillfully trained right from childhood and is provided with employable opportunities, it will reduce the unemployment rate and will increase the state's economy besides improving their socioeconomic status. Skill-based education and adequate employment opportunities would curtail beggar population.

The State is to identify children of the beggars and to secure them free and compulsory education besides providing them with nutritious food. Their right to grow in a healthy environment is to be guaranteed to make skilled laborers available and accessible to the labor market that will help nation's progress. Though the State holds prime responsibility for eradication of begging, but unless the beggars show interest for utilizing schemes meant for their advancement, and feel that they should depend on their laborious but not on others, begging will not disappear in the society.

Furthermore, if the beggars are not exposed to the rehabilitation schemes, and until the stoppage of people giving alms voluntarily, begging cannot be exterminated through its penalizing. In view of these, the State shall have sometimes to be harsh in devising and implementing plans in the larger interests as it is empowered to distribute material resources, to restrain concentration of wealth, and to pass stringent laws for the progress of the downtrodden sections and to integrate them into the civilized society. The study reveals that begging has been taken as a profession in India as inherited from their forefathers. Several beggars are beggars by birth. They do not want to shift from their profession as their living with begging has no difficulty.

Since they are idlers, they cause a huge loss of labour and industry to the nation. A large number of human resources are unutilized, yet survived at the cost of public exchequer. There have been cases of trafficking of humans and children where they are forced into the begging business.⁴⁹ They are well-trained to easily trap the innocent citizens and tax-payers for giving alms. Even hijras were involved in trafficking and were forced towards begging.⁵⁰ The beggars play different tricks to attract the public and to gain their sympathy.⁵¹ The child beggars are trained to play tricks to gain sympathy. The child beggars are exposed and cause risk to the public at the traffic signal points. Physically abled beggars are creating nuisance in the public places and are demanding for the alms from the public as if they are empowered for collecting alms.

Escalation of beggars is one of the factors for spreading of viruses including Leprosy, Covid-19, and HIV. Though the State is encouraging self-employment schemes for empowering beggars and unemployed, it is unable to control the begging in the absence of the large number of beggars' disinterest. Lack of education and constant begging from childhood make beggars lazy and did not allow them to work. As they are leading their current life since birth and are trained in the begging profession, the adult beggars are uncomfortable with the alternate status of living. Hence, steps should be taken for adopting the children of the beggars and taken care of their well-being by the State so that they are grown up in a healthy atmosphere with nutrition food, educated, employed and eliminate begging in the coming years. Stringent time and action

⁴⁹ Shristi Gupta, "Hyderabad: 83 Child Beggars Rescued After Collective Drive Conducted in City" *The Logical Indian*, Aug. 1, 2021.

⁵⁰ Editorial, "Transgenders complain to Nalgonda SP over begging mafia" *Telangana Today*, Oct. 20, 2020.

⁵¹ Ebenezer Owusu-Sekyere et al., Begging in the City: Complexities, Degree of Organization, and Embedded Risks, *Hindawi Child Development Research* 1-9 (2018).

plan is required to be implemented to identify helpless beggars, to improve their socioeconomic status and to make them leave begging as a profession, thereby eradicating begging in the State to protect the rights of a large number of people in the democratic State.

Non-Governmental Organizations (NGOs), which are a part of the Society should be mandatorily involved in this task through State legislation. The state shall have to pass suitable legislation in order to involve the private sector to accommodate the unemployed competent individuals that are identified and are recommended by the State in their industries and utilize their resources on appropriate wages. Their manual work can be effectively utilized in industries.⁵² State shall have to design a supervisory mechanism in this regard.

Every citizen should discourage giving alms to vigorous beggars to make them constructive members of the society. The State has to develop the socioeconomic status of the beggars through alternate employment with adequate living wages. Ongoing awareness programs should be conducted for beggars motivating them to 'Earn & Live' and to make them aware of the government policies and special schemes designed for their empowerment. Periodical counseling programs for the need of their participation and contribution towards the excellence of the nation should be organized. A time period is to be given to the beggars to strictly utilize the employable opportunities and to give up begging. A two-fold system shall have to be adopted, one-way welfare measures and simultaneously the other way controlling measures.

The State shall have to take prompt steps for implementation very sincerely. Begging shall not be allowed as a profession under any circumstances beyond the time limit. Mandal Level Executive Rehabilitation Centers (MLERs) should be established with appropriate operational mechanisms. Once any beggar is found within any local limits of the MLER, he/she is to be immediately rushed to the MLER, and enquiry into his/ her economic status and his/her potentiality to be conducted within a time limit. If found genuine, MLER should take the responsibility to provide alternate employment and keep an eye on his/ her living for quite some time till the MLER is satisfied. If not required, he/ she should be detained as per the anti-beggary law.

⁵² Rubina Iqbal, "Begging: A growing menace in India" 2 (8) *International Journal of Advanced Research in Management and Social Sciences* 37-62 (2013).

The State should ensure the appointment of Nodal Officers and other executive authorities to strictly ensure - the identification of child beggars under the Child Labour (Prohibition & Regulation) Rules, 2017; compulsory education to the identified child beggars under the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act, 2009); rehabilitation the identified child beggars in accordance with the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015⁵³ and such other welfare legislations. The State is not prevented by the Constitution under any of its provisions from taking stringent measures to control the population of beggars and, subsequently the begging in the larger public interest.

Any fundamental rights causing obstruction of larger public interest laws may be suspended for guaranteeing to a sector of people like beggars for a time period in pursuit of their empowerment as well as the growth of the present and future generations, and to keep the excellence of the State. The State may also explore the possibility of encouraging through awards or rewards for the promotion of family planning among the beggars community. Laws are enacted protecting the children from using or inducing for the purposes of begging, but steps shall be seriously taken genuinely for such children's healthy rehabilitation and proper education.

The Legislature shall show its sincerity in getting The Abolition of Begging and rehabilitation of Beggars Bill 2018 passed as quickly as possible, as the delay will make the helpless beggars face more hardships due to the current arbitrary legislation, and the State shall ensure the abolition of begging upon rehabilitation of every beggar in a constitutional manner.⁵⁴ This is the high time for introducing such a new legislation with rehabilitative approach. The State shall have to endeavour to study and address the deep-rooted issues such as illiteracy, inequality, unemployment, distorted distribution of resources, poverty, etc.⁵⁵

In order to menace or curb the issue - giving alms at the public places, exhibiting richness, and thus encouraging beggars and causing nuisance or inconvenience to the public activities shall be made a crime. There should not be any discrimination to punish the beggars alone leaving

⁵³ Supreme Court of India SMW (C) No. 6/2021 with SMW (C) No. 4/2020 (PIL-W), May 9, 2022.

⁵⁴ Editorial, "SC asks Centre, four States to respond to plea to decriminalize begging" *The Hindu*, Apr. 10, 2021.

⁵⁵ Dyutimoy Mukherjee, Laws for Beggars, Justice for Whom: A Critical Review of the Bombay Prevention of Begging Act 1959, 12(2) *The International Journal of Human Rights* 279-288 (2008).

the persons encouraging begging. Begging should be considered similar to the dowry and bribe. The physically and mentally fit beggars shall be encouraged to undertake the work for their survival, and contribute towards the state's progress. The State shall also have to endeavour to identify and control the mafia-managed begging. Severe punishment is to be given to the unscrupulous elements that practice begging as a career and or get a share in the earnings of beggars employed by them.

The State should also secure an economic system which does not result in the concentration of wealth which is an obstacle to sustainable development. Finally, begging can be eradicated through the Recognition of constitutional provisions, Rehabilitation of beggars, and Promotion of employment. Criminalization of begging is against the constitution and violation of fundamental rights. A comprehensive empirical study is recommended before piloting any scheme to identify beggars requiring alternative livelihood measures. In addition, an effective monitoring and reviewing system shall be made operational. Besides, motivational schemes encouraging beggars switching to alternate livelihood schemes are to be implemented efficiently.⁵⁶

⁵⁶ Islam, M.K., Nasrin, N., Naim, J. et al., Unraveling the effects of a rehabilitation program on the socioeconomic wellbeing of beggars and begging motivation: evidence from an urban area of Bangladesh, *10 Humanit Soc Sci Commun*, 697 (2023).