



## Anti beggary laws in India: A critical analysis

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### Abstract

At one point of time it was thought that the state is mainly concerned with the law and order as well protection life and property of the citizen, in the nineteenth century laissez faire became the political gospel, individual enterprise governed without interference of the state. The philosophy of minimum government interference in the economic affairs and maximum free enterprise of individual brought more human misery. Again the philosophy of Collectivism brought a new situation under which wealth concentrated in few hands and the weaker section of the society suffered a lot. The dogma of collectivism emerged the concept of social justice and welfare state. Welfare state is a concept in which government plays very important role in protecting socio-economic well-being of its citizen. Since independence Government is playing an important role to render justice to its people in every aspect of life. In the light of constitutional philosophy begging is treated as antithesis to the social policy. Despite many welfare programmes begging remained unabated. Without going into moralities or immoralities involved in begging, some states have passed legislation and declared begging is a crime. In this article, an attempt is made to discuss on the anti-begging laws in India.

**Keywords:** human rights, welfare state, poverty, beggary law, right to life

### Introduction

Since independence Government of India is playing an important role to render justice to its people in every aspect of life. But due to disproportionate distribution of wealth, poverty situation is caused. The poverty coupled with disadvantaged condition of life forced many to live like beggar in the society. Beggary is an age old social phenomenon in India. This system of begging and alms-giving to mendicants and the poor is still widely practiced in India. India has 4,13,670 beggars in 2015 and West Bengal has top the list of 81,000 beggars among the states <sup>[1]</sup>. Some studies indicate that 99 percent men and 97 percent women resort to beggary due to abject poverty, distress migration from rural villages and the unavailability of employment <sup>[2]</sup>. On the contrary a study reveals that, the act of begging that actually happen are systemized and practised properly as a profession. There are certain gangs in every city and they have a gang leader who manages the whole group. All the earnings that the beggars receive go the gang leader and this is how it works. An article depicts about six richest beggars in India and how the begging make the person rich one <sup>[3]</sup>. Begging is criminalized in various countries of the world and many states in India too passed such legislations. The central Government has also brought 'The Prevention of Begging Bill; 2010'. The object of the law is to undermine the act of begging as some organised gang exploiting children and forced them to begging. Some people kidnap children and force them to go for begging and collect huge amount of money. Some organizations opposed to the anti-begging laws <sup>[4]</sup>. Because the implementing authorities like police is causing harassment to some innocent and homeless people. Beggar homes, which are meant to provide vocational training, have been often found to have abysmal living conditions <sup>[5]</sup>. The state of Odisha has attempted a move of rehabilitation of beggars in the state. In this study an attempt is made to analyse the constitutional provision and the prevailing provision of

anti-begging law. At last it suggests certain measures for better enforcement of welfare measures to lead a democratic living.

### Meaning and Concept

Beggars have existed in society since the inception of human civilization. Begging is witnessed in all most all societies around the world. In India beggars may be found begging in the crowded places like bus stand, railway station, market places and near the place of worships. Many religions have prescribed begging as acceptable means of support for certain classes of adherents, including Hinduism, Islam, Buddhism and Jainism, etc., The religious believes provide that, the adherents should focus exclusively on spiritual development without the possibility of becoming caught up in worldly affairs <sup>[6]</sup>. Beggary is defined as —soliciting or receiving alms in a public places, whether or not under any pretence such as singing, dancing fortune telling, performing or offering any article for sale, entering on any private premises for the purpose of soliciting or receiving alms, exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease whether of a human being or animal, or having no visible means of subsistence and wandering, about or remaining in any public place in such condition or manner, as makes it likely that the person doing so exist soliciting or receiving alms <sup>[7]</sup>. Beggar is a person who communicate with the people, often in public places, asking for money, food or other necessities for personal use, often as a habitual means of making a living <sup>[8]</sup>. The definition of 'beggar' is very wide to include poor as beggar. There are many instances in which police implicated poor persons to the custody for falsely punished under anti-begging law <sup>[9]</sup>.

### Constitutional parameters

The Indian constitution guarantees every citizen, the right to earn livelihood and the protection of social and economic

rights. A right is claim of an individual integral to realize human rights and ensure individual freedom and dignity. Rights are those condition of social life without which no one can live with dignity. Poverty is one of the most critical Conditions of life which touches human rights issue. At the International level, United Nations Organization has evolved a structure for the promotion and protection of human rights <sup>[10]</sup>. Similarly, in the National level the constitution of almost all countries have protected the human rights of citizen and non-citizen <sup>[11]</sup>. Being a social welfare state, the constitution of India guarantees to all persons, without any distinction of status, the right to life and personal liberty. The right to life includes all those aspects of life which go to make a person's life meaningful and worth living <sup>[12]</sup>. The Supreme Court of India has broadly interpreted Article 21 of the constitution and held that right to life mean right to life with human dignity, free from all exploitative condition <sup>[13]</sup>. In another case Supreme Court has made it clear that, the expression right to life in Article 21 includes Right to livelihood <sup>[14]</sup>. Article 23 of the Constitution ensures right to life free from exploitation. It is designed to mean to stop beggar and other forms of human trafficking. Article 23(1) is to be read with articles 39(e) and 39(f) which impose obligation on the state for protection of persons against exploitation and against moral and material abandonment <sup>[15]</sup>.

### Social attitude towards beggars

Beggars are not treated well in the society. There is negative attitude towards beggars, because they are poor and lazy people rely on the others sympathy. There are very few person in the society those treat beggars with compassion and sympathy. They are treated as drug trafficker and child lifter etc. There are many instances in which the states have shown negative attitude towards beggars and taken special drive to punish the beggars <sup>[16]</sup>. It is believed that, beggars are obstacle to tourism and a scar on highly developed cities. Thus beggars are dehumanised as they build bad image of the country before the world. Before the starting of Common Wealth Games in India, a drive was taken to get rid of beggars from the street. Nine teams of police personnel were deployed to pick up beggars from twelve zero tolerance zones and two mobile courts were made for immediate prosecution of beggars <sup>[17]</sup>. At present the religious believes are not taken to count. In certain cases the police personnel are applying negative attitude on the beggars. This raises common sentiment against the anti-begging laws in India.

### Legal Provisions against begging

Some of the epithets indicated India's ugly face before the world. It created very unpleasant situation. Beggars sometimes involved in criminal acts and living like parasites. In order to control the beggary many states in India have passed laws making beggary as illegal. Some of the important Acts are:

- The Hyderabad Prevention of Beggary Act, 1941
- The Bengal Vagrancy Act, 1945
- The Mysore Prevention of Beggary Act, 1945
- The Bombay Prevention of Beggary Act, 1945
- The Madras Prevention of Beggary Act, 1945.
- The Cochin Vagrancy Act, 1945
- The Travancore Prohibition of Begging Act, 1945
- The Bhopal Prevention of Beggary Act, 1947
- The Bihar Prevention of Beggary Act, 1952.

Apart from these Acts, Section 363-A of the Indian Penal Code makes kidnapping or obtaining custody of a minor and maintaining of a minor for the purpose of begging. It provides deterrent punishment which may extend to life imprisonment if the children are maimed.

The Criminal Law (Amendment) Act, 2013 provides for an imprisonment for a convict of beggary (10 years). The Act prescribes following provision:

- a) Beggars may be arrested without warrant
- b) They can be sentenced to jail without trial or may be sent to shelter homes/certified institutions
- c) The punishment for beggary ranges from 3-10 years imprisonment.
- d) Court may pass detention of persons if totally dependent on beggar.
- e) prescribes Penalty for employing persons to beg or using them for purposes of begging
- f) Provisions are made for the teaching of agricultural, industrial and general education.
- g) Provisions are made for medical care of the inmates of the Receiving Centres and/Certified institutions.
- h) If any beggar detained in a certified institution, found to be of unsound mind or a leper, he/ she can be removed to a mental hospital or leper asylum as per provisions of the Indian Lunacy Act, 1912 and of the Lepers Act, 1898.

### Institutional Care and Beggars

The anti begging laws are very wide to include persons who have no visible means for sustenance and persons soliciting or receiving alms <sup>[18]</sup>. The Act provides severe punishment to deal with professional beggars, but many innocent are trapped in the net of such law <sup>[19]</sup>. The basic objective of the present law is to rehabilitation of the poor and poverty stricken persons. The rehabilitation homes and certified institutions are not well equipped to train the inmates for providing alternative platform for sustenance. In 2010, 286 inmates of the Nirashithara Parihara Kendra (beggars Home), Bangalore, died mysteriously. It indicates the maladministration of the institutional care and inhuman attitude of the personnel engaged in the institution <sup>[20]</sup>. Similarly the Ram Lakhani case indicates the story of judicial attitude towards beggars. The courts are not taking the cases on humanitarian ground and try to dispose the cases hurriedly basing on the report of police <sup>[21]</sup>. The government of odisha has adopted good measure to identify beggars and provide them alternative remedy "The rehabilitation plan of beggars will include homestead land, houses, insurance coverage, Aadhar card, ration card, healthcare, developing skill living by restoring their psychological strength, confidence and giving them training for vocational skills for wage or self-employment," The government has plans for elderly and female beggars. "Elderly beggars will be immediately shifted to old age home. Female beggars can be accommodated in short stay homes. Lepers should be accommodated in houses built under different ongoing government programmes <sup>[22]</sup>".

### Conclusion

Beggary is a social problem and this has been accepted way of life. The government intend to abolish beggaries from the society. The states have taken a lot of measures to abate poverty. The move is good, but while implemented in the social milieu it causes harassment to the innocent people. The

law need be made to punish the culprits who make begging as profession and not the person who beg due to abject poverty. It is perceived that, the rehabilitation strategy is not matching with the legal parameters. The attitude of the personnel of beggar home need be changed. The rehabilitation institution should not be treated as jail. It should have capacity to change the mindset of the inmates those can find an alternative for sustenance. Beggary cannot be uprooted from our society, unless we stop encouraging beggary. The stakeholders of state administration must also take some path breaking step to rehabilitate the person who is the victim of poverty. The penal provision should be made to lesion the professional beggars and gang stars. The Parens patriae attitude should be adopted for the homeless and starving people. The administrative authorities must not criminalise the poverty and make endeavour to create a proud Nation free from lazy and alcoholic beggars.

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