



Echoes of Empire: Beggary Legislation in Independent India

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Abstract

This article situates beggary legislation in India within a long penal trajectory that runs from colonial vagrancy codes to the Bombay Prevention of Begging Act, 1959, and its various clones enacted in different states of India. It shows how the destitute are governed through categories of public order, nuisance, and threat to public hygiene, turning a condition of deprivation into an offence. Drawing on statutes, court judgements, secondary scholarship, and field experience, it maps the continuities in law and institution, and the ethical incoherence of a welfare state that deals with destitution through detention. Recent judgements, Ram Lakhan (2006), Harsh Mander (2018), and Suhail Rashid Bhat (2019), signal a turn towards dignity and care, yet the road ahead still seems long as beggary laws continue to operate in more than twenty states and union territories of India. Anchored alongside the 2016 Model Bill on destitution, the SMILE Scheme and related policy schemes, the paper argues for replacing punitive measures with protection, care, and rehabilitation rooted in constitutional morality, social justice, rights, and inclusion.

Keywords Criminalisation of poverty · Colonial continuities · Beggary laws · Bombay prevention of begging Act 1959 · Disciplinary power · Citizenship hierarchy

Beggary laws in India occupy an uneasy and troubling space within the criminal justice system. They are often used as measures to protect ‘public order,’ which is a state subject under Schedule VII of the Indian Constitution, yet they extend far beyond this limited aim. From the colonial European Vagrancy Act of 1869 to the Bombay Prevention of Begging Act of 1959 and their successors, the underlying logic has barely changed. Poverty, when visible on the streets, has been treated not as a symptom of social and economic marginalisation but as a nuisance, a danger, or even a contagion that must be controlled.

It is important to note that beggary has been seen not only as a matter of public order but also as an offence of public nuisance. Section 268 of the Indian Penal Code, and its successor, Sect. 270 of the Bharatiya Nyaya Sanhita (2023), criminalise acts that cause annoyance to the public.

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In a Delhi High Court case,¹ for instance, a lawyer complained that a “leper in a blue lungi” had threatened to touch her. The matter led to a court case. Such incidents demonstrate the multiple legal lenses such as public order, nuisance, and contagion, through which the poor are criminalised.

This consistent pattern reveals that beggary laws do not simply regulate an individual act but criminalise a condition, that is, the absence of livelihood, shelter, and support. People beg because other systems have failed them, yet their survival strategies are treated as crimes. In a country with large welfare programmes, this is not just unjust but ethically troubling. It shows how the state, instead of addressing the structural causes of destitution, removes the poor from public view through punitive measures.

Although the laws are enacted at state level, their remarkable uniformity across India points to a shared logic of governance. This is not about isolated differences in lawmaking but about a national concern that attempts to discipline poverty itself. The Indian state, both in its colonial past and in its independent present, has seen destitution less as a question of rights and dignity and more as a blot on the urban landscape that must be cleaned.

The article therefore situates beggary legislation within the larger architecture of the criminal justice system, marked by colonial inheritance and reproduced by independent India. It draws on statutes, case law, and policy documents, as well as insights from field experience of the author which he gained while working with Koshish, a field action project of the Tata Institute of Social Sciences, Mumbai. This helps show how these laws function as ideas and in practice. They claim the language of welfare and rehabilitation but, in practice, they conceal poverty behind a legal fiction.

What is at stake is not only the contradiction between punishment and welfare, but also the persistence of a moral and political discourse that treats poverty as deviance. To punish destitution is to address the problem from the wrong end. Beggary laws remind us that India’s welfare state coexists with legal structures that undermine its constitutional promises of equality and dignity, leaving intact a colonial logic of governance that continues to criminalise those who have the least.

Context

The report of the 2025 Global Hunger Index places India on 102nd position among a list of 123 countries. India, with its hunger score of 25.8, has been categorised among the countries where the level of hunger is considered ‘serious.’ The statements that twelve per cent of India’s population is undernourished comes as no surprise, nor do the revelations that among children under five, 18.7% are wasted while 32.9% are stunted. According to this report, 2.8% of children in India do not live to see their fifth birthday (Welthungerhilfe et al. 2025).

The World Inequality Report 2022 categorises India as a “poor and very unequal country, with an affluent elite.” The basis for such a categorisation is the stark inequality extant in the country as revealed through its data which show that in the year 2021, the income share of the top ten percent stands at 57.1 percent of the total national income while the bottom 50 percent hold only 13.1 percent. Simply put, the top ten percent to bottom fifty percent

¹ New Delhi Bar Association vs Commissioner of Police, New Delhi (sometimes written as Court on its own Motion vs Commissioner of Police, New Delhi), August 3, 2006; cited in Ramanathan 2008.

income gap stands at 1 to 22. In the same year, the top ten percent have been found to hold 64.6 percent of total national wealth as opposed to 5.9 percent held by the bottom ten percent (Chancel et al. 2021).

The data presented in the World Inequality Report 2022 further shed light on the historical inequality that has existed in the country, and it is telling. At the beginning of the twentieth century, the top ten percent income share was similarly more than fifty percent. But “[a]fter independence, socialist-inspired five-year plans contributed to reducing this share to 35–40%. Since the mid-1980s, deregulation and liberalization policies have led to one of the most extreme increases in income and wealth inequality observed in the world.” The report further adds that “[w]hile the top 1% has largely benefited from economic reforms, growth among low and middle income groups has been relatively slow and poverty persists. Over the past three years, the quality of inequality data released by the government has seriously deteriorated, making it particularly difficult to assess recent inequality changes” (Chancel et al. 2021: 197–98).

In such a context where inequality and poverty are deeply entrenched, it is not surprising that, about a decade and a half ago, as per Census of India 2011, official records placed the population of persons experiencing destitution and homelessness (labelled in census terminology as “beggars and vagrants”) in India at 413,670 (Press Information Bureau 2021). The number is substantial, though it is important to recognise that enumerating mobile populations is particularly difficult and often produces significant inaccuracies. The actual number could actually be far greater than this.

Methodology

This paper adopts an interdisciplinary, historically grounded, and critical approach to examine the legal treatment of beggary in India. It undertakes a historical-legal literature review that traces both colonial and post-independence continuities in the regulation of destitution. The analysis is organised broadly in chronological order and draws on a wide range of sources.

The first set of materials consists of statutory texts and legal instruments, from the European Vagrancy Acts and municipal or cantonment regulations to the Code of Criminal Procedure and the Bombay Prevention of Begging Act, 1959. Judicial pronouncements form a second body of material, including significant decisions such as *Ram Lakhan v. State* (2006), *Harsh Mander v. Union of India* (2018), *Suhail Rashid Bhat v. State of J&K* (2019), and *M. S. Patter v. State of NCT of Delhi & Others* delivered in (2025). These are examined both for their reasoning and their implications, especially the ways in which they reframe the question of destitution and begging. A third body of sources comprises secondary scholarship in history, sociology, political science, and legal studies. This includes work on vagrancy and colonial governance (Fischer-Tiné 2005; Gooptu 2018), critical analyses of beggary laws (Ramanathan 2008), and broader studies on poverty and the criminal justice system (Baxi 2012; Chatterjee 2013).

The paper also draws on experiential insights from the field through the author’s engagement with Koshish, a field action project of the Tata Institute of Social Sciences, Mumbai. These grounded perspectives are used to test and complement the doctrinal and historical

analyses, helping to uncover the structural biases, normative assumptions, and human rights implications of beggary legislation.

By combining doctrinal review, historical analysis, secondary scholarship, and field engagement, the paper seeks to show how beggary laws have functioned, and continue to exist and function, less as welfare measures than as instruments of social control. It argues that these laws are not isolated policy failures but part of a longer penal trajectory in which destitution is disciplined through categories such as public order and public nuisance. In doing so, the paper highlights the deep tension between such punitive frameworks and the constitutional promise of dignity, equality, and inclusion.

A Brief Outline of the History of Beggary Laws in India

By the late nineteenth century, the hopes of the British Empire in making colonial India as a possible land of permanent settlement by the white race were already dwindling (Mizutani 2011: 1) as the conservatives were successful in resisting the idea, arguing that it would lead to two problems, namely the destabilisation of the agrarian economy and the germination of racial conflict (Chatterjee 2018: 44). They imagined themselves to be temporarily living in the subcontinent with the proclaimed purpose of modernising and civilising a people whom they believed to be ‘backward’ and ‘degenerate.’ Especially in the late nineteenth century, with the Social Darwinist notion of white racial supremacy buttressing their ideology, the British found it convenient to “legitimate and police the boundary between the colonizer and the colonized.” But they were later to realise that ‘whiteness’ was not a universal category and was contingent upon various variables (Mizutani 2011: 1) as the Europeans living in India were not a homogenous powerful lot but had a fair level of diversity. More importantly, the superciliousness and racial arrogance of the ruling élite, and the desire of the middle classes to distance themselves, as in Victorian England, from the reputed immorality and criminality of the poor of their own race (Arnold 1983) paved way for the ratification of the European Vagrancy Act of 1869.

The presence of European workers and sailors posed a threat to the ‘civilising ambitions.’ Nevertheless, they could be tolerated in British India and England if they belonged to the category of ‘honest,’ labouring poor conducting themselves decently. But no sooner did they cross the limits of certain reified ideas of civility than they attracted harsh reaction. Such transgression included drunkenness in public, begging, crime, and so forth. It is Fischer-Tiné’s opinion that a significant rise in such transgressive incidents ultimately led to the enactment of the initial vagrancy law (Fischer-Tiné 2005: 310–11). The European Vagrancy Act of 1869 underwent a few minor definitional modifications through amendments in 1871 and 1874. However, the native population was still outside its purview (Ganachari 2002: 2484).

For a considerable period, the colonial state criminalised vagrants of European extraction only, while largely remaining silent on the same question about the Indian subjects of the Crown. Gradually, as the problem of vagabondage and beggary among the native population became increasingly pressing for the colonial government, it began to obliquely introduce clauses within certain acts unrelated to beggary, such as acts on policing, law and order, as well as municipal affairs. Eventually, when the first comprehensive law dealing with native individuals in begging came into effect, the daylight was fading on the colonial landscape.

The Code of Criminal Procedure, 1882, includes provisions that address vagrancy and begging. Section 109 targets individuals who may be concealing their presence or have no visible means of subsistence. If a magistrate receives information that such a person is in their jurisdiction, they can require the individual to explain why they should not be ordered to provide a bond for good behaviour, with a duration of up to six months. However, Sect. 111 excludes “European British subjects” from these provisions, instead applying the European Vagrancy Act, 1874, to them. This law does not criminalise these individuals but subjects them to surveillance by magistrates and the police through a bond or surety (Government of India 1882).

Section 118(1)(a)(iv) of the Cantonments Act, 1924, criminalised the act of loitering or begging importunately in cantonment areas, prescribing a fine of up to fifty rupees. This provision reflected the colonial preoccupation with regulating public space by penalising visible poverty, particularly in zones administered for military and administrative discipline. Strikingly, the Cantonments Act, 2006, reaffirms this logic more than eighty years later. Section 289(1)(a)(iv) of the new Act continues to treat importunate begging and loitering as punishable offences, this time with a fine that may extend to ₹2500. The only significant change is the quantum of penalty; the conceptual framework remains intact. Begging is still construed not as a consequence of deprivation but as a nuisance, something to be removed from sight in the interest of public order. That such continuity persists in the regulatory vision of military spaces reveals how deeply entrenched the logic of exclusion is: it is not poverty that provokes the legal response, but its visibility.

The Madras City Police Act of 1888 is another act under which native persons in beggary were dealt with by means of Sect. 71 of clause XXI. The local extent of this act was “the whole of the city of Madras²” (Madras City Police Act 1888). The provisions of this act which concerned people who begged were repealed by the Tamil Nadu Prevention of Begging (Amendment) Act, 1964, an act to amend the Madras Prevention of Begging Act, 1945 (Madras Prevention of Begging Act, 1945).

In 1911, the Punjab Municipal Act through Sect. 151 criminalised begging. This section stipulated penalties of imprisonment (up to three months), fines (up to fifty rupees), or both for individuals who begged persistently or exposed deformities to solicit charity. In cases of first-time offenders, the court could release the convict with a warning. If the convict was physically unable to work, the court could direct them to a poorhouse for up to three years.

Similarly, the United Provinces Municipalities Act, 1916 (Sect. 248) also criminalised begging and imposed similar punishments, but with a maximum imprisonment of one month, as opposed to three months in the Punjab law.

Throughout the nineteenth century and up until Indian independence, India faced several major and minor famines, which contributed to widespread hunger, destitution, and poverty. A study by Mishra et al. highlighted that these famines were primarily caused by natural factors, but the 1943 famine was an exception. Unlike previous famines, it was not due to climatic conditions but resulted from policy failures by the British government (Mishra et al. 2019). This famine was a tragic event that caused immense suffering, leading to widespread poverty and vagrancy. The Bengal Vagrancy Act was enacted in response to this crisis. As a result of the famine, agricultural and artisanal labourers began flocking to Calcutta from May 1943, hoping to buy rice at a rationed price. This influx caused city pave-

²As stated by this act, the City of Madras included “all places within the local limits of the ordinary original jurisdiction of the High Court of Judicature of Madras.”

ments to become crowded with rough sleepers. In response to this growing issue, the Bengal Vagrancy Act came into effect on 31st July 1943 (Ray 2013: 1–2).

Following the enactment of the Bengal Vagrancy Act, several other provinces quickly adopted similar laws, leading to the criminalisation of individuals who lacked even the basic necessities for survival. Preeti Nijhar argues that by labelling such a marginalised population as criminals, the imperial government sought to achieve several goals, particularly in the construction of new identities. Nijhar suggests that this mechanism excluded deviant individuals from mainstream society, relegating them to a specific social and territorial space. Additionally, criminalising these groups and categorising them as inferior helped elevate the status of those not labelled in this way. This binary framework allowed the labelled group to be used as “the scapegoat for larger social ills” (Nijhar 2009: 35–36).

This was the situation on the front of poverty and its criminalisation when India gained independence, and new hopes rose. Regrettably, in the newly independent state, colonial policies continued criminalising the poor and the destitute.

This should not be seen in isolation. As Atul Kohli affirms, the British controlled India for nearly two centuries, initially through the East India Company and later, after 1857, under the Crown. They set up systems of administration, taxation, judiciary, and a powerful army to secure their rule and expand imperial power. India was central to Britain’s empire, providing both financial support and military strength. Although colonial rule was despotic, exploitative, and racist, “the British, for their own purposes, created and left behind in India a well-functioning, professional civil service, an apolitical army, and a British-style judiciary. Indian rulers inherited and eventually built on these institutions, adding a degree of stability to sovereign India” (Kohli 2012: 20).

We also observe that the Constitution of India was heavily informed by the Government of India Act of 1935. In the federal structure of the Indian state, we see deep traces of a unitary system with a huge chunk of power vested in the office bearers of the Union government (Brass 1990: 2). In a similar vein, Chatterjee (2013: 3) claims that India’s federalism is deeply tilted to the side of the Union, and compared to other federations in the world, India is more centralised than most. Although the creation of the Supreme Court was a break from the colonial administrative structure, the high courts and the district courts kept operating more or less the same way as they used to function during British rule. Therefore, continuities were maintained in the practices of the legal domain (Chatterjee 2013: 4).

Rishika Sahgal also observes that “in formerly colonized, post-independence India, criminal law is often used not entirely differently from how it was used when India was a British colony – to curb political dissent and to oppress and dominate subalterns” (Sahgal 2023: 398).

Poverty and Beggary Laws in Independent India

When the British left India in 1947, they left behind the chassis of a governmental apparatus, too formidable and deeply ingrained to be comprehensively disassembled. Consequently, India’s criminal justice system remains firmly rooted in the architectural blueprint established by the colonial rulers.

This persistence of colonial influence is evidenced by the coexistence of transformative alterations in political and administrative structures alongside the retention of many practices

inherited directly from the British colonial era. Notably, one of the major changes to take place was the adoption of a parliamentary democracy with universal adult suffrage (Brass 1990: 1). The fundamental rights of citizens were guaranteed by the Constitution, which also granted the judiciary an autonomous status. Nonetheless, it is essential to acknowledge that beyond these significant modifications and a handful of additional reforms, the core governmental paraphernalia of the independent Indian state was deeply determined by its colonial practices of government (Chatterjee 2013: 3). Retained also from the colonial period were the basic structures of many juridico-political apparatuses encompassing not only civil law but also crime, criminality and the administration and regulation of carceral institutions. It goes without saying that the criminalisation of idleness and beggary is among those legal aspects of the colonial régime that endured well beyond the departure of the colonisers from India. Hence, it seems reasonable to assert that despite India's deep-rooted historical traditions and the variegated array of kingdoms and dynastic rules that had shaped its past, the British colonial legacy had left an enduring imprint on its political and economic landscape prior to their ultimate departure from the country. By the time they left, a well-functioning system of governance had already become firmly entrenched despite the oppressive nature of British rule, India inherited a functional civil service, apolitical military, and British-style judiciary, which offered stability after gaining sovereignty (Kohli 2012: 20).

Bombay Prevention of Begging Act, 1959

The initial decades of independent India saw it getting transformed into a developmental welfare state. To contribute to people's welfare, the Union government under the leadership of Jawaharlal Nehru devised interventionist economic policies. The early independent India exercised a fair degree of state intervention in the economy by way of levying taxes on personal and corporate income while providing for such public services as education, health and transport (Chatterjee 2013: 4).

During the Nehruvian period, the state opted for policies with socialist elements incorporated within the framework of a mixed economy. It was envisaged that the state sector would "control the commanding heights of the economy". This was an idea conceived with the aim of industrialising rapidly by means of setting up new public enterprises in heavy industries. The role of the private sector was seen as serving to meet the demands of consumer and intermediate goods. But as it was conceived that rapid industrial growth would help alleviate and remove poverty, and eventually, would act as the primary provision of the welfare for the people, its flaws started becoming manifest by the mid-1960s as the country had to face a grave food shortage, and consequently, the government was forced to import foodgrains in huge quantities (Chatterjee 2013: 4).

Within such a larger context, the BPBA, 1959—virtually a spitting image of the Bombay Beggars Act of 1945—was enacted followed by Jammu and Kashmir Prevention of Beggary Act, 1960. The provisions of the beggary prevention legislation give immense and arbitrary powers to the enforcement agencies. It is evident from the way people are arrested without a warrant; and in a majority of cases, they are arrested based on their appearances. Section 4 (1) of the BPBA gives immense power to the police:

Any police officer, or other person authorised in this behalf in accordance with rules made by the State Government, may arrest without a warrant any person who is found begging (Government of Maharashtra 2013).

Under BPBA, individuals unable to prove their innocence may be detained in certified institutions for a minimum of one year, with second-time offenders facing detention for up to ten years. The act's enforcement is arbitrary and discriminatory, often targeting the poor, disabled, or those in ill health. Section 10 of the BPBA permits the indefinite detention of "blind, crippled, or incurably helpless" individuals after their initial detention period. This provision contrasts with Article 41 of the Indian Constitution, which mandates the state to secure the right to work, education, and public assistance for those facing unemployment, old age, sickness, or disability, within its economic capacity.

All the anti-begging laws assume that individuals choose idleness voluntarily and that idleness entails criminality. Some of the labels attached to people into begging are "ugly face of nation's capital", "obstructors of smooth flow of traffic", "trespassers", and "encroachers on public land" (Goel 2010). The usage of these epithets and similar expletives of various hues reflect the modern capitalist ideological constructs around who owns the city. Be it emerging capitalist economies or advanced ones, the ideological fundamentals of such constructs remain roughly the same.

The BPBA paradoxically undermines modern ideals of liberty, equality, and individuality by criminalising poverty and dependency. Section 9(1) permits the detention of individuals dependent on someone detained for begging, unjustly penalising family members and treating both the person who begs and their dependents as culpable. Subsection 2 extends this treatment to children, further reinforcing the collective criminalisation of poverty.

Where the dependent person is a child the Court shall forward him to a Juvenile Court which shall deal with him under section 40 of the Bombay Children Act, 1948 as if the child were a person described in clause (a)³ of that section:

Provided that where the dependent person is the beggar's own child being a child who is under the age of five years, and the beggar is an able bodied mother, not being a contagious leper or a lunatic, the child may be ordered to be detained in a Certified Institution without being separated from the mother as regards the place of detention, until it attains the age of five years, and thereafter dealt with as provided in this subsection (Government of Maharashtra 2013).

It is unfathomable how many Oliver Twists are born in the wake of such provisions of law. Thus, though the conception of modern law identifies the individual as the unit, this is an instance where the dependents on that individual are also, by virtue of the same law, criminalised. Whether or not mentioned explicitly in the law, such laws rarely affect only the offending individual. The entire family of such individuals are not only further pauperised, but also socially ostracised.

³ Clause (a) of Sect. 40 of the Bombay Children Act, 1948:

[Any child who] has no home, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or is found doing for a consideration any act under circumstances contrary to the well-being of the child (Government of Maharashtra 1948).

The next section of the Act is also grossly inhuman and shows a callous disregard for people with disabilities. To quote Sect. 10 of the BPBA:

When any person who is detained in a Certified Institution under section 5 or section 6 or section 9 is considered, whether on an application made by him to the State Government or otherwise, by the State Government to be blind, a cripple or otherwise incurably helpless, the State Government order that he shall, after the expiry of the period of his detention be further detained indefinitely in a Certified Institution (Government of Maharashtra 2013).

Whereas Article 41 of the Constitution of India puts the onus on the State to take care of the people in need.

Despite India functioning as a welfare state and the existence of legislations such as the National Food Security Act, several Indian states continue to criminalise poverty, destitution, and disability through laws like BPBA. The Act allows for the incarceration of individuals simply for being poor or “incurably helpless,” thus rendering it both anti-poor and anti-disability. Proponents of the law often defend it on the grounds that it helps curb human trafficking by so-called beggary mafias. However, this claim does not withstand scrutiny. Section 11 of the BPBA imposes a relatively mild punishment of one to three years’ imprisonment for forcing or encouraging others to beg, or for using someone as an exhibit for soliciting alms (Government of Maharashtra, 2013). In contrast, Sect. 139 of the Bharatiya Nyaya Sanhita, 2023, prescribes a minimum of ten years’ imprisonment, extendable to life, for trafficking a child for begging. Additionally, Sect. 143 of the Sanhita provides for a minimum of seven years’ imprisonment for general trafficking offences (Ministry of Law and Justice, 2023). By setting a lower threshold for punishment, the BPBA inadvertently benefits traffickers while continuing to penalise the victims of exploitation.

In doing so, the Act also stands in stark contradiction to Article 38(2) of the Indian Constitution, which commits the state to minimising inequalities not just among individuals but across groups and regions. Instead of enabling upliftment, the BPBA incarcerates the already marginalised, exacerbating their vulnerability. The process of arrest and so-called rehabilitation often results not in support but in cycles of stigma, re-arrest, and deeper exclusion. Even if one momentarily overlooks the injustice of criminalising poverty itself, the law’s failure is compounded by the dysfunction of the very institutions meant to rehabilitate. What emerges, then, is not a system of care, but a mechanism of disappearance, where poverty is not addressed but simply removed from sight.

Article 39 of the Constitution mandates the state to ensure an adequate means of livelihood for all citizens and prevent wealth concentration. However, the state has failed to secure this right, instead criminalising destitute individuals through BPBA when they struggle to survive. Rather than enabling the poor to earn through available means, the Act punishes them for their poverty. This failure, coupled with the stark disparity between concentrated wealth and widespread poverty, directly contravenes the principles outlined in Article 41 of the Constitution.

Rule 27 of the Maharashtra Prevention of Begging Rules, 1964, establishes a hierarchical grading system within Certified Institutions and Receiving Centres to encourage discipline. Inmates may be promoted to positions like *Head Mukadam* or *Mukadam*, responsible for overseeing groups of inmates (Government of Maharashtra 2010).

The Benthamite utilitarian logic is clearly evident in the institutional structure of the BPBA. Bentham had initially advocated hard, unproductive labour for the incarcerated, but later revised his view to favour productive labour with incentives, maximising control with minimal cost (Bentham 1778). The BPBA echoes this ethos. While it replaced the Bombay Beggars Act of 1945 (BBA), the new law retained the colonial framework of criminalising poverty and added administrative refinements to sharpen its implementation.

Some changes introduced in the BPBA include the appointment of Probation Officers, provisions for conditional release, abolition of externment, and the establishment of the Advisory Committee. Receiving Centres were created in Bombay, Pune, and Nagpur where those detained under the Act are first admitted. From there, individuals may be sent to other Beggars' Homes, categorised by physical condition (able-bodied, elderly, those with TB or leprosy, etc.). While these additions gave the appearance of a rehabilitative intent, the underlying premise remained unchanged: to segregate and contain the visible poor.

The BPBA is, in most respects, a replica of the BBA, with minor adjustments in language and sequencing. As Upendra Baxi (2012) observes, “postcolonial constitutions... inevitably carry their birthmarks,” and here we see the birthmark of colonial control preserved under the guise of welfare. The Act also deepens punitive reach. While the BBA had exempted alms-seeking at religious places, the BPBA eliminates this exception, and thus extending the law to criminalise even those who beg at sites of worship. Where the colonial regime had paused, wary of local sensitivities, the independent state forged ahead, perhaps to appear more modern and secular, but at the cost of further entrenching legal hostility toward the destitute.

Articles 39 and 41 of the Indian Constitution articulate the State's obligation to secure the right to livelihood, ensure equitable distribution of resources, prevent the concentration of wealth, and protect individuals from exploitation or being forced into unsuitable vocations. Additionally, the Constitution directs the State to provide, within its economic capacity, public assistance in cases of unemployment, sickness, disability, old age, and other forms of undeserved want. Yet, Sect. 2(1)(i)(d) of BPBA runs counter to these constitutional commitments. It defines begging to include any person who has “no visible means of subsistence” and is found in public in a manner that suggests they survive by seeking alms. This provision effectively criminalises the condition of poverty itself, penalising individuals for being visibly destitute rather than recognising their right to assistance and support. In doing so, the law reverses the constitutional mandate: it punishes the absence of subsistence instead of ensuring it.

If one makes a basic assumption that ‘begging is a disapproved, though tolerated form of social behaviour’ (Gore et al. 1959), one would also assume that every person would resist taking to begging. It means that there are certain causes and circumstances which are behind a person's taking to begging. And we have this clause in the Act which says that being so helpless as not having any means of subsistence is a crime which attracts a punishment of up to ten years of custody, and in certain cases, up to a lifetime.

As per Sect. 4 (1) of BPBA, the police can arrest a person without any warrant. In addition to this, the arrestee is usually not told of the offence they have committed. Whereas Article 22 (1) of the Constitution of India makes it clear that no one shall be kept in custody without being duly informed about the offence and the grounds of their arrest. Arrests under the BPBA often involve police rounding up individuals they perceive as ‘beggars,’ who comply out of fear of harassment or false charges. Those arrested are frequently misled with

promises of release after doing minor chores or being produced before a magistrate but are instead held for a week. People engaged in routine activities, like carrying loads, sitting on a pavement for rest or buying medicine, are targeted based on their appearance, reflecting the discriminatory and arbitrary nature of this law.

Sections 5 and 6 of the Act deal with the provisions of detention of a person who ‘was found begging.’ Some very important aspects of the basic human rights are missing while the sentence is awarded.

Article 11 (1) of the UDHR, to which India is a signatory, reads thus:

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence (United Nations General Assembly 1948).

Individuals tried for begging are treated as guilty by default, violating the principle of presumed innocence central to due process. They are denied basic rights, such as time to prepare a defence, legal assistance, or an interpreter. The onus is unfairly placed on the accused to prove that they work; failure to do so leads to criminalisation. This reflects a capitalist ethic where the inability to demonstrate ‘productive’ labour equates to presumed criminality.

People at the time of their arrests are frightened to the core. The police ask them not to speak anything before the magistrate, scaring them that this might go against them. In such a situation, they do not have any way of defending themselves. They do not have the means to afford a lawyer, neither are they given any option to. Here, article 39A of the Constitution is completely disregarded, which says:

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Constitution of India).

In Mumbai, where people from across India migrate in search of livelihood, many individuals who are arrested under the BPBA speak only their mother tongue and are unfamiliar with Marathi or Hindi, the languages generally used in the court. Yet, no interpreters are provided, undermining their ability to understand or participate in the proceedings. Section 5(6) of the BPBA lays out four factors for the court to consider when dealing with persons found begging: age and character, living circumstances, reports from Probation Officers, and any other matter relevant to their welfare. However, these factors are often assessed perfunctorily, based on assumptions or unverified information. Section 6 further penalises recidivism with increased detention, ranging from two to ten years, reflecting a punitive escalation.

Interestingly, the enactment of the BPBA in the Bombay Presidency coincided with the publication of *The Beggar Problem in Metropolitan Delhi*. This pioneering study had been initiated in 1955 by the Delhi School of Social Work, under the leadership of M. S. Gore. Alongside Gore, J. S. Mathur, M. R. Laljani, and H. S. Takulia contributed to the research.

It is noteworthy that M. S. Gore approached beggary as a sociological phenomenon rather than an individual failing or deviant behaviour. He argued that the act of begging must be understood within a wider web of social norms and institutional roles, particularly

the relationship between the one who begs and the one who gives. For Gore, the motivations of the giver were more complex. Both were performing socially embedded roles shaped by historical traditions and the norms of their respective groups, such as religious charity and caste hierarchies. He viewed the rise of urban beggary as a consequence of broader structural changes such as the breakdown of traditional family units, shifts in caste-based economies, and the retreat of religion from public life. His framework stressed that beggary represented a misallocation of human resources and a public health concern, warranting societal duty towards rehabilitation. The study he led thus prioritised work capability, familial background, and social origin, placing emphasis on restoring the utility of the person engaged in begging within a modern, productive social order (Gould 2024).

While Gore's rejection of individual blame and his sociological framing of beggary were progressive for their time, his influential position warrants some reconsideration.

Despite its progressive orientation, Gore's analysis falls prey to normative assumptions about productivity and deservingness. His emphasis on rehabilitation and the able-bodied ideal implicitly aligns with a view of society that values individuals in terms of their economic utility. This lens risks marginalising those who cannot conform to such standards, and overlooks the rights of destitute persons as citizens entitled to dignity and care. His framing of beggary as a public health problem and societal burden risks echoing state narratives that legitimise punitive approaches rather than questioning the legal and structural frameworks that criminalise poverty (Gould 2024).

Beggary Legislation under the Indira Gandhi Régime

Economic hardships continued to impinge on the development of India as it entered a new leadership. In 1966, in the beginning of the first term of Indira Gandhi as the prime minister, the Indian rupee had to be devalued. But as the situation of poverty had gone beyond amelioration, there were massive agitations throughout India. If on the one hand, there were such agitations, it is intriguing to see the shape the beggary laws took in this period.

A sharp fall in Congress votes in the 1967 elections resulted in the formation of non-Congress governments in nine states, a cause for diminution in Congress dominance (Chatterjee 2013: 4). Later, in 1971, the populist campaign with the slogan *garibi hatao, desh bachao* (remove poverty, rescue the country) of the Indira Gandhi-led Congress bore fruits as it helped gain the party a huge majority in the Parliament (Chatterjee 2013: 5). But by this time, the ethos of the Congress party had changed. The structure of the Congress dominance of this era was different from its Nehru-era structure. Partha Chatterjee says that the state's role in improving people's conditions and providing relief became firmly established, with political leaders evaluated based on their constituents' welfare efforts. Public-sector undertakings expanded, creating dependency among the urban middle class and a significant portion of the working class. Simultaneously, the 1960s witnessed a major food crisis, whose answer was sought in the 'green revolution.' It involved state-subsidised irrigation, seeds, fertilisers, and support for minimum food prices. This strategy favoured larger farmers, particularly in well-irrigated regions like Punjab, Haryana, and western Uttar Pradesh, introducing a new influential class interest—that of the affluent farmer—into national politics (Chatterjee 2013: 5–6).

In an analysis of poverty in the sixties in India, Dandekar and Rath (1971a) explain which category of people are usually poor. They explain that the poor in villages are those

households who work as agricultural labour. In addition, small landholders owning less than 2.5 acres of cultivable land are also poor. Poor also are those village artisans rendered workless by the gradual erosion of their traditional employment. As far as urban poor are concerned, they are simply “an overflow of the rural poor into the urban area.” Essentially, they are of the same class as the rural poor but having survived a long period in urban poverty, they have come to develop their own distinct attributes (Dandekar and Rath 1971a: 33).

With the passage of time, consequent to continuous migration of the poor from villages to cities in the hope of finding a better livelihood and their inability to get reasonable means of self-sustenance, the condition of urban poverty has deteriorated further. This has caused an increase in rough sleeping and slum life in urban spaces of India (Dandekar and Rath 1971a: 40). As Dandekar and Rath see it, “the inequitable distribution of the means of production”—among which land is an important one—is the root cause of the prevailing income inequalities in India (Dandekar and Rath 1971b: 106). Beggary and vagrancy, corollaries of such extreme inequalities and poverty, had been criminalised in colonial India, and continue to be criminalised in independent India with a rancid tenacity.

By the late 1960s, the gap between the rich and poor remained persistent, and previous government economic policies had only partially addressed it. This led to a reshaping of the Nehruvian developmental ideology, incorporating state socialism, with the central government playing a stronger role. The narrative of the corrupt rich versus the marginalised poor became central, and welfare packages were specifically targeted at groups such as SCs, STs, workers, women, and minorities. These schemes were often presented as gifts from the central leadership, especially Indira Gandhi (Chatterjee 2013: 6).

However, despite the focussed attention on poverty and ‘*garibi hatao*’, vis-à-vis beggary, the implementation of the beggary laws moved beyond the select states referred to hereinbefore. The Haryana Prevention of Begging Act, 1971; the Punjab Prevention of Begging Act, 1971; the Goa, Daman & Diu Prevention of Begging Act, 1972; the Uttar Pradesh Prohibition of Begging Act, 1972; the Madhya Pradesh Bikshavirty Nivaran Adhiniyam, 1973; the Karnataka Prevention of Begging Act, 1975; the Andhra Pradesh Prevention of Beggary Act, 1977—all came into being during this decade. Thus, one may safely say that the docile or obedient pauperised masses may draw sympathetic attention from the state but it is not the same when it comes to those who engage in begging. Individuals who begged continued to be seen as criminals.

Atul Kohli argues that since the 1970s, the rhetoric of anti-capitalism in the Indian political arena was on a wane which came as a blow to the system of economic redistribution. In other words, it can be said that the state and class forces were realigning. Instead of working on economic redistribution, the state focused on economic growth and production. During the latter half of the 1960s, with the occurrence of the green revolution, villages had already witnessed such a kind of shift. It is worthy of note that by the 1980s, the alliance between the state and the producers, for the purpose of boosting production, became a national level phenomenon (Kohli 2012: 3).

As noted earlier, in such a broader context of economic hardships and state repression, a number of states adopted laws to deal with the problem of beggary. But it is not very difficult to understand that these laws were tools of repression and clearly had a class character to them as it was only the poor population that bore the brunt of such policies. Ramanaathan (2008) looks at the beggary law as a tool of class discrimination. She says that BPBA criminalises “ostensible poverty”. She objects at the law for being anti-poor by saying that

this law has a class character to it. The people who are subjected to this law are ‘status offenders’: they offend by being what they are rather than what they do. She further says that a law cannot be called constitutional when its very existence provides the basis for mass criminalisation against the ‘ostensibly poor,’ set off by fears and perceptions of threat, while the persons under attack get objectified and become completely right-less. There is an implicit hierarchy of constitutional citizenship, where the right to life of one class of persons includes a range of rights and freedoms including freedom from insecurity and fear, and the right not to be accosted by that which is a nuisance or which is aesthetically disturbing. What may be displaced in the process may well be life, liberty, freedom of expression, the right against torture, the right to live with one’s family, freedom from fear and everyday threat and the disappearance of state obligation in relation to another class of persons. It is difficult to conceive of such a legal order as being constitutional or just.

The New Economic Reforms and Beggary Laws

In the decades that followed the 1980s, the association between the Indian state and business groups, notably mega-businesses, became more and more concrete in the political and economic arena. The emergent neoliberal policies justified their coming into being by constructing an ideological narrative that projected the Indian economic history of the Nehru-Mahalanobis era as marred by ‘inefficiencies’ and ‘sub-optimal outcomes’ because the government market policies had created ‘distortions’ by import substitution as well as imposition of regulatory licensing and control (Gupta 2016: 34).

Atul Kohli says that this state and business confederacy has gone to such an extent that several observers go as far as calling India as “India incorporated” (Kohli 2012: 3). Our present, which is born out of such nexus between the Indian state and big businesses, is characterised by neoliberalism and an unequal distribution of wealth where the gulf between the rich and the poor has been ever increasing. But what does such an alliance do? Why is its mention germane to the issue of beggary? What it does is that it increases the gap between the rich and the poor by promulgating policies in favour of the former. Inevitably, more and more people fall into the pit of poverty, hunger and homelessness.

In the neoliberal era, the socio-economic structure benefits some while marginalising others, leaving the destitute as visible reminders of systemic failures. The impoverished on the streets expose both governmental and societal shortcomings, creating discomfort. Their marginalisation leads to their portrayal as societal anomalies, justifying the state’s demonisation and criminalisation of poverty. Nandini Gooptu, writing about the dominant discourse on the subject of urban poverty and its manifestation in forms of slums, holds that:

Such expressions of ‘demophobia’, directed against the poor, are commonplace in the contemporary media. They are emblematic of middle-class and elite anxiety about what is seen as the excessively demotic nature of India’s mass democracy, and its supposedly detrimental impact on rational city development, the urban environment, and the Rule of Law (Gooptu 2018: 36).

The marginalisation and criminalisation of poverty has become a global phenomenon. Several studies have demonstrated that in societies as diverse as Japan (see Kitagawa 2021), Hungary (see Misesics 2013), Australia (see Adams 2018), France, the Netherlands, Austria,

Britain, Denmark and the United States (see Kiely and Swirak 2022), the homeless and property squatters have experienced a harsher treatment in recent times. The Destitute Persons Act, 1989 in Singapore uses a hybrid framework combining rehabilitative and punitive instruments. For ‘habitual beggars,’⁴ it has provision of a fine not exceeding S\$3,000 or a prison term not exceeding two years. The law has also provision for voluntary admission to Welfare Homes. However, the punitive core remains intact. The law continues to treat public visibility of poverty as a nuisance, and begging, particularly when repeated, is met with fines, incarceration, and compulsory institutionalisation. The threat of imprisonment, the mandatory taking of fingerprints and photographs, and the power granted to public officers to arrest individuals based on appearance or assumed means of subsistence, all signal a disciplinary logic. The welfare home tilts more towards a carceral logic than care. Moreover, the Act imposes work obligations on residents deemed fit, echoing Benthamite utilitarian principles of productive confinement. The option of voluntary admission exists, but it is regulated through strict compliance measures that limit true voluntariness.

While remaining one of India’s most intractable problems, destitution seems to have a rather long half-life in India, and its manifestation in the form of begging is perceived as being at odds with the image of a modern-looking state. And hence, despite miserably failing to elevate the living standards of destitute persons to a degree whereby they could live with dignity and not die of hunger, the state obscures their visibility by concealing them in Beggars’ Homes. Sometimes, it also tries to hide them with increased efforts when the attention of European or American media turns to its urban spaces during mega events such as the presidential visit of Bill Clinton in 2000 and the Commonwealth Games in 2010. During the Commonwealth Games which were held in Delhi, a lot of people were arrested under the provisions of the BPBA while many more were forced out of the city. Migrant workers, thousands of whom had prepared the basic infrastructure of the city for the games, had either been roused out of the city or thousands of their homes had been rendered invisible as their shanties were covered behind façades of huge banners (Associated Press 2010). The city of Delhi quietly bought up huge quantities of bamboo as well with the intent of screening those areas which it considered too embarrassing for international eyes (Chamberlain 2009). Harsher even was the demolition of 350 slum settlements by the government in preparation for the Games (Mander 2015: 21).

A decade earlier, as Bill Clinton, erstwhile the President of the United States, visited India, a similar treatment had been meted out to destitute individuals in Hyderabad city, when people who begged had been expelled out of the city as well as admitted into ‘rehabilitation facilities’—prisons by any other name. And the same treatment of the destitute repeated itself when Ivanka Trump, American businesswoman and the daughter of the then US President Donald Trump, visited India in 2017. Within one single day, nearly 400 people had been arrested in Hyderabad city and sent to a rehabilitation facility at Chanchalguda jail (Safi 2017). In this regard, Dyutimoy Mukherjee says, “Beggars are eyesores. Hence the government goes about removing beggars from stations, bus stops, footpath, and roadside garbage dumps, and relocates them to the fringes of the city, closer to the neighbouring states from where they originally migrated in distress” (Mukherjee 2008: 281).

⁴“‘Habitual beggar’ means a person who at least on two previous occasions was found begging in a public place in such a way as to cause or be likely to cause annoyance to persons frequenting the place or otherwise to create a nuisance and was in consequence thereof required on those two occasions to reside in a welfare home” (Destitution Persons Act, 1989).

Sabina Yasmin Rahman highlights that the presence of individuals begging on streets gives rise to three distinct conflicts. According to her analysis, these conflicts encompass the clash between conflicting values of social ‘hygiene’ and the freedom of expression, the discomfort of the middle class juxtaposed with the economic needs of the underclass, and the commercial interests of downtown business owners pitted against a destitute person’s right to solicit subsistence (Rahman 2021: 216).

Begging is primarily a result of severe poverty, reflecting two types of disorganisation. The first is societal disorganisation, where a society with deep inequalities fails to support individuals who fall through the social safety net. The second is individual disorganisation, where a person struggles to adjust to their social environment. Historically, governments have blamed destitute individuals who are at the fringes of society, instead of acknowledging their own failures or societal shortcomings. As a result, those who beg are often seen as potential criminals. Usha Ramanathan challenges this view, arguing that criminalising persons in destitution is, in fact, criminalising poverty (Ramanathan 2008).

Poverty, mental illness, and disability cause significant hardship, leaving individuals unable to earn a living through conventional means. When such individuals turn to begging for survival, they do not contribute to the economy and are often viewed as a threat to the capitalist social order. Those influenced by dominant societal views may support the criminalisation of the destitute, ignoring their difficult circumstances. However, once labelled criminals, their lives become even more precarious, as a criminal record makes it harder to find employment or access state welfare.

Judicial Scrutiny and Emerging Alternatives to Beggary Laws

Recent judicial pronouncements have increasingly challenged the constitutional validity and moral justification of laws that criminalise begging. In *Ram Lakhan v. State* (Delhi High Court, 2006), the court overturned the appellant’s detention under BPBA, observing that begging may fall within the scope of Article 19(1)(a) of the Constitution, which guarantees freedom of speech and expression. Drawing a parallel with commercial advertising, the court argued that a starving person must also have the right to communicate their need for help.

This judgement is important because it was one of the first cases to seriously question the constitutionality of the BPBA. The court’s reasoning was extremely significant. Comparing begging to commercial advertisements where brands express their need for profit, the court argued that a hungry person should also be allowed to express their need for food and survival.

This reasoning shifted the legal understanding of begging from a mere threat to public order or a nuisance to recognising it as a form of communication within the scope of fundamental rights. While this case did not overturn the law, it sowed the seeds of constitutional interpretations that were later advanced in Harsh Mander (2018) and Suhail Rashid Bhat (2019).

In *Harsh Mander & Anr. v. Union of India & Ors.* (Delhi High Court, 2018), the petitioners argued that punishing people for begging violated their fundamental rights, since individuals beg out of compulsion and deprivation rather than free choice. The court declared all the criminalising sections of the BPBA (as extended to Delhi) unconstitutional. It observed

that individuals beg not out of choice but compulsion, having been excluded from basic social and economic protections. The judgement criticised the tendency to make the poor invisible by punishing their visibility in public spaces. Instead of criminalising begging, the bench stressed the importance of addressing its structural causes such as poverty, landlessness, caste-based exclusion, unemployment, disability, and lack of state support.

This judgement is important for several reasons. First, it marked a decisive shift in the treatment of beggary laws, moving away from a framework of public order and nuisance to one centred on fundamental rights and human dignity emanating from the Constitution. Second, it dismantled the legal machinery that enabled mass arrests and detention of the poor in Delhi, effectively rendering those institutions non-functional. Finally, the judgment highlighted the idea that the state's duty is not to police destitution but to provide social and economic protections that can prevent it.

In *Suhail Rashid Bhat vs State of Jammu Kashmir and Others* on 25 October, 2019 (Jammu and Kashmir High Court, 2019), the court struck down the Jammu and Kashmir Prevention of Beggary Act, 1960 and its rules as unconstitutional. It noted that such laws rest on deep-rooted social prejudices and arbitrary associations of poverty with criminality. The court emphasised that criminalising destitution violates constitutional values of dignity, equality, and inclusiveness, and further exacerbates the exclusion of those already on the margins. The judgment made clear that begging is not a matter of choice but a compulsion arising out of structural deprivation, and punishing people for it only deepens their exclusion.

This judgment is important for three reasons. First, it extended and reinforced the constitutional reasoning of *Harsh Mander v. Union of India* (Delhi High Court, 2018) into another jurisdiction, signalling an emerging judicial change against beggary laws. Second, it underscored the role of the judiciary in dismantling colonial-era legal frameworks that stigmatise and criminalise poverty. Third, by striking down the law in its entirety, the court affirmed that criminalising destitution is incompatible with a constitutional democracy that values human dignity and equality.

Taken together with *Ram Lakhan* and *Harsh Mander*, the *Suhail Rashid Bhat* case forms part of a transformative shift: from policing poverty as a nuisance to recognising it within the ambit of fundamental rights, and from exclusionary governance to constitutional protection.

In *M.S. Patter v. State of NCT of Delhi & Others* (2025), the Supreme Court of India examined the Lampur Beggars' Home tragedy of 2000, where contaminated water caused a cholera outbreak and multiple deaths. In this case, the Supreme Court took a wider constitutional view: tracing the genealogy of beggary laws from the Elizabethan Poor Law of 1601, through colonial India's vagrancy legislation, to the BPBA, a law enacted in independent India.

The Court characterised these laws as punitive continuities of colonialism, and "tools of public order and colonial governance," criminalising poverty by treating destitution as disorder. Against this legacy, it articulated a strong constitutional counterpoint: Article 21 and the Directive Principles of State Policy— "particularly Article 38 (promoting welfare of the people), Article 39(e) (protecting workers' health and strength), Article 41 (right to work, education, and public assistance), and Article 47 (raising the level of nutrition and public health)" — obligate the State to ensure dignity, health, and humane living conditions.⁵

⁵ Here the court cites *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* to interpret Article 21 of the Indian Constitution.

Beggars' Homes, the Court insisted, must be rehabilitative spaces of care and reintegration rather than prison-like sites of coercion. Neglect or abuse in such institutions constitutes not mere maladministration but a constitutional violation. The Court issued detailed directions— in respect of all Beggars' Homes across the country, including the subject institutions— on preventive healthcare and sanitation, infrastructure and capacity, nutrition and food safety, vocational training and rehabilitation, legal aid and awareness, child and gender sensitivity, accountability and oversight, and implementation and compliance.

Yet the force of this judgement is undercut by its temporal and legal context. In *Harsh Mander and Anr. v. Union of India & Ors.* (2018), the Delhi High Court struck down the criminalising provisions of the BPBA, holding them unconstitutional. As a result, arrests for begging have ceased in Delhi, leaving Delhi Beggars' Homes effectively non-functional. The Supreme Court's elaborate monitoring and its constitutional vision of transforming such homes into rehabilitative institutions now operate in a kind of a legal vacuum as far as Delhi is concerned.

This exposes a deeper paradox. The Court recognises the carceral legacy of colonial vagrancy laws and seeks to reshape the institutions run under their offsprings into spaces of dignity. But without a constitutional and legislative reimagining of welfare-based alternatives beyond detention, these institutions risk becoming hollow shells, detached from the on-the-ground situation of the very populations they were meant to serve. In effect, the judgement's insistence on reforming Beggars' Homes may perpetuate a framework that has already been problematised by academics and activists alike, rather than advancing a more radical rethinking of social protection for destitute populations outside a carceral logic.

Thus, while the decision in *M.S. Patter* powerfully reaffirms constitutional values, it also illustrates the contradictions of post-independence law's encounter with colonial legacies: institutions designed as instruments of control are rebranded as sites of care, even as the legal foundation for their operation collapses. The echo of empire persists not only in the punitive statutes but also in the institutional imagination that continues to tether welfare to confinement.

This judicial rethinking coincides with positive policy developments. The Persons in Destitution (Protection, Care and Rehabilitation) Model Bill, 2016, proposes a non-criminal approach to destitution. It recommends that individuals in situations of extreme poverty and vulnerability be provided care, shelter, and rehabilitation rather than being subjected to penal measures.

The BPBA and the Persons in Destitution (Protection, Care and Rehabilitation) Model Bill, 2016, reflect two very different approaches to understanding and dealing with poverty in public places. The BPBA is premised on the idea that a person begging has full control over their life, and causes disorder and a threat to public order by choosing to beg. A destitute person is considered a potential criminal, a carrier of a disorder or disease and therefore a threat to society. In contrast, the Model Bill is based on the recognition that destitution is not a crime but a socio-economic condition that arises from poverty, unemployment, disability, homelessness or abandonment. Here, the destitute person is considered to be fundamentally vulnerable, in need of care and support rather than punishment.

This difference in understanding also reflects two different legal approaches. The BPBA is firmly anchored in the criminal law tradition. It criminalises begging, allows police to arrest without warrants, and provides for long-term detention in certified institutions. However, the Model Bill explicitly rejects this framework and instead adopts a welfare approach.

Begging is criminalised and the legal framework is designed to ensure protection, care, and rehabilitation rather than punishment. Thus, there is a shift from a punitive legal approach to a system based on the welfare responsibilities of the state.

The BPBA provides for carceral ‘certified institutions’ while the Model Bill provides for shelters and rehabilitation programmes, with an emphasis on well-being and skill building to pave the way for reintegration.

At the root of these differences is a shift in the way the state is conceptualised. The BPBA presents the state as a discipliner, responsible for removing individuals who beg from the streets and maintaining order. The Model Bill recasts the state as a protector and provider, responsible for food, shelter, medical care, and rehabilitation. The first is the method of exclusion through detention, the second is that of inclusion through welfare. This shift reflects a broader ideological movement from colonial control to constitutional commitments to dignity and social well-being. Although yet to be adopted, the Bill signals a crucial policy shift away from criminalisation and towards welfare and inclusion.

In essence, the destitute person emerges in this Bill as a vulnerable citizen to be protected and rehabilitated, rather than a criminal to be punished. In essence, this Bill has the following principles at its core:

- It imagines a shift from criminalisation to welfare.
- It locates destitution as a condition which requires state intervention.
- Care and rehabilitation are imagined as its central obligations.
- It uses a framework that accords dignity and rights to the persons in destitution.

Similarly, the SMILE Scheme (Support for Marginalised Individuals for Livelihood and Enterprise) of the Ministry of Social Justice and Empowerment aims to offer comprehensive rehabilitation services to persons engaged in begging and transgender individuals. Through shelter support, skill development, and counselling, the scheme seeks to address both the economic and psychosocial dimensions of destitution. Such initiatives reflect a growing recognition within the State of the need for compassionate and structural responses.

Taken together, these judicial decisions, when read alongside progressive policy instruments like the Model Bill and the SMILE Scheme, signal an important movement toward decriminalising poverty and reimagining State responses to homelessness and begging. They underscore a crucial shift from punitive control to empathetic governance grounded in constitutional morality and the right to live with dignity.

Possibilities

The shift from colonial to the post-colonial period did not represent a major departure in the sense that the same rule of law tradition passed down from the British continued to operate in the newly independent state and, hence, believing that the rule of law is synonymous with the rule of good law is incoherent and inept. It neglects the collective wisdom and experiences of the disadvantaged and the oppressed who have engaged the legal system and concluded that the singular solution to their plight is to resist the laws that have been instrumental in depriving and dispossessing them (Tundawala 2013: 39). It is true that so long as after Independence, poverty and destitution persist in India, so does beggary, and so does the

criminalisation thereof. It is people's agency exercised against the excesses of beggary law that has slowly yielded results such as discussed in the previous section.

What we are witnessing today is the gradual emergence of a new discourse that views poverty not as deviance but as a condition deserving care, support, and dignity. These are welcome signs of transformation. They reflect a growing awareness within institutions of the need to move beyond punishment and toward protection. Yet, one must remain cautiously hopeful. While the direction seems promising, the distance to justice remains uncertain. For a country so long entangled in the criminalisation of poverty, the path ahead will require more than good intentions; it will demand sustained political will, inclusive policy-making, and a deep reorientation of public imagination.

In light of the constitutional guarantees of dignity, equality, and the right to life, it is imperative that existing beggary laws, punitive in nature and rooted in colonial anxieties, be replaced with a rehabilitative legal framework. Rather than criminalising poverty, destitution, and survival strategies such as begging, the law must recognise these conditions as indicators of systemic failure and respond with care-based interventions. A rehabilitative statute should prioritise access to shelter, healthcare, food security, education, psychosocial support, and livelihood opportunities. It must be grounded in principles of non-discrimination and social justice, ensuring that individuals in vulnerable conditions are treated not as offenders but as equal citizens entitled to protection and support. The proposed Persons in Destitution (Protection, Care and Rehabilitation) Model Bill offers a constructive starting point for such a legislative shift and should be considered seriously.

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