

STREET BEGGING IN DELHI

**A Study of Anti-Begging Act and Institutional
Arrangements for Homeless People**



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ABSTRACT:

This paper is divided into two sections. *First* section studies the Anti-Begging act. It argues for decriminalisation of begging, on both principle and practical grounds. It disagrees with the definition of begging in the Bombay Prevention of Begging Act, 1959 and also brings out the problems with the current system of execution of the Act.

The *second* sections goes on to identify the current parallel of the institutions in the society; one of the government and the other of voluntary institutions; in dealing with the homeless and indigent people and the differences in the form of intervention undertaken by them. It proposes a collaborative system to combine each of their efficiency. Moreover, it argues for a system where voluntary choices are available to the indigent rather than a coercive rehabilitation to deal with the problem of homelessness in the society.

Through the paper, it has been brought out that the issue of begging lies under the issue of homelessness and the issue of unemployment to a large extent¹ and that the continuance of Anti-Begging Act is counter-productive to other parallel institutions like Aman Biradri (Delhi), Ashray Adhikar Abhiyan (Delhi), Koshish (Mumbai), etc.

¹ Survey by the Department of Social Work, Delhi University

INTRODUCTION:

Begging is seen as critical problem in the developing urban centres. Begging in contemporary society is a symptom of a number of social problems including homelessness, poverty, drug addiction, alcoholism, mental illness, a lack of education and vocational training, and so on². The number of beggars in Delhi as estimated by a study by Department of Social Welfare is around 58,000³. We have 12 beggar homes in Delhi with an inmate capacity of around 2,180⁴ people, which look after beggars as and when they are rounded up and sent to these homes under the Bombay Prevention of Begging Act, 1959 as extended to the Union territory of Delhi. In addition to the regular beggar courts, two mobile beggar courts were started in the year 2009 ahead of Common Wealth Games.

The Bombay Prevention of Begging Act, 1959 was extended to the Union Territory of Delhi in 1960. The rationale behind the act was to make uniform and better provisions for the prevention of begging; for the detention, training and employment of beggars and their dependants in certified institutions; for the custody, trial and punishment of beggar offenders. The act criminalises begging. Of the many definitions of begging given under the act, some of them are objectionable such as “people having no visible means of subsistence and wandering, about or remaining in any public place in such condition or manner, *as makes it likely* (emphasis mine) that the person doing so exist soliciting or receiving alms”. This definition makes all the homeless people who are living on the streets susceptible to be caught for begging. Another definition, “soliciting or receiving alms, in a public place *whether or not under any pretence* (emphasis mine) such as singing, dancing, fortune-telling, performing or offering any article for sale” puts the people struggling to make ends meet in a vulnerable position. The inquiry report of the Delhi People’s Union for Civil Liberties and Democratic Rights had mentioned certain specific instances

² Crisis Online, *Summary of Research Findings on Begging*; A. Murdoch, L. Connell, J. Davis and J. Maher, *We Are Human Too: A Study of People Who Beg* (Crisis: London, 1994; H. Dean (ed.), *Begging Questions: Street-level Economic Activity and Social Policy Failure* (The Policy Press: Bristol, 1999); M. S. Scott, *Panhandling*, Problem –Oriented Guides for Police, Problem –Specific Guides Series No. 13, US Dept. of Justice, 11.

³ Survey Report by Department of Social work is available in their library.

⁴ Department of Social Welfare

where citizens who were not beggars at all but only poor had been rounded up for "begging" and the court relying on the evidence of a single witness, the policeman who had arrested them, had summarily sentenced them to detention.⁵

Besides, the detention, which can be as long as 10 years is too stringent given that no direct or physical harm is done to the society as a consequence of begging. Comparing this term to some of the sections in IPC which provide a ten year imprisonment, we find that the detention a beggar would get would be the same as that of imprisonment in many heinous crimes such as attempt to murder, rape, culpable homicide not amounting to murder, etc.

Moreover, it has been seen that the nature of the beggar homes is custodial and the conditions inside the home are sometimes worse than a prison⁶.

This paper will argue for repealing the BPB Act, decriminalising begging and institutional reforms to deal with the problem of begging and the larger issue of homelessness.

WHO ARE BEGGARS AND WHO IS ROUNDED UP UNDER THE BPB ACT?

For the ease of argumentation, this paper will divide the beggars in three distinct; though not exhaustive; sets of categories, first includes the ones for whom it is a vocation, second comprises people who are forced into it and third, consist of those who do it circumstantially. We will see through the following discussion which category ends up where.

For the ones who choose begging as a vocation, I contest the opinion that these people are never prosecuted under the BPB Act and even if they are, there exists an interest group or lobby which insures their acquittal. Even the beggars who have religious sanctions such as 'Shani Dev' are able to defend themselves against the law.

⁵ Rao, Amiya: Poverty and Power- The Anti-Begging Act, 1981

⁶ <http://infochangeindia.org/human-rights/features/criminalising-beggars-instead-of-rehabilitating-them.html>

“A few of them can’t even pay a rupee, but others, particularly the able-bodied ‘shani maharaj’ beggars pay up to Rs. 2,000 a case.”⁷

Moreover, as learnt from a Welfare officer at the Department of Social Welfare, the anti-begging squad doesn’t even catch beggars at temples or other religious places because of religious sanction. The Delhi Police was asked by the High Court to investigate allegations of such mafias, and it finally reported on oath to the court that the Delhi Crime Branch has found no evidence of such mafias.⁸ This indicates that either there is a nexus between the policemen and the gangs, who find it better to keep schtum about it or that there is no mafia involvement. In the former case, the beggars are the victims of forced amputation or exploitation or both (thus, lying in the second category) and as we will discuss, beggar homes are not the place for them to be. In the latter case, the Act is redundant.

The instances where children are kidnapped and forced into the trade by criminal gangs are many. However, even these children are the victims of force, oppression and exploitation. The gangs involved should be tried under laws for such crimes under the IPC.

The third category, which does it circumstantially, includes those people who are weak, vulnerable, living life on the edge, on the streets and struggling for a means of livelihood.

We can’t put a number on these beggars. These people do not have permanent sources of employment and beg in times of need. There is no category among homeless people who are beggars. These people are the victims of the state’s failure to provide a dignified life to its people.

Ms Paramjeet Kaur from Ashray Adhikar Abhiyan (AAA) argues that ‘almsgiving is a part of our social norm and as long as there is a voluntary exchange happening, we can’t criminalise it.’ Moreover, even if it is a crime, how can we criminalise only one party to it?

⁷ Sharma Aasheesh, Hindustan Times, *Where beggars can hire lawyers*, Jan. 2001

⁸ Mander Harsh, The Hindu, *The War Against Begging*, Jan. 2009

In Jan. 2009, a notification issued by the Delhi Traffic police under the Motor Vehicles Act slaps a fine of Rs 1,000 on those who give alms to people begging at traffic lights. So the laws governing begging criminalise the actions of the weaker, vulnerable lot and only fines the stronger section, when in principle a voluntary exchange is taking place. Does this kind of arrangement achieve socially justifiable outcomes? No. It is like taxing the homeless for their circumstances.

What is ultimately seen is that the people who end up spending a long term detention in the beggar homes belong to the third category. The contention is that these people do not need a forced rehabilitation from an environment where they had a strong degree of freedom and self-control to a jail like environment where they have to live for years in constrained spaces and under excessive and unnecessary restrictions. These people have lived on streets in open areas and can govern themselves. What they need is a direction and a set of choices in the form of drop-in development homes, vocational training centres and sometimes counselling services in a non-custodial or minimal custodial environment. In a free society, you can't impose a choice on an individual; though you can try to convince him and guide him to a better life. What is taken away from this lot is the freedom of movement once they are taken to beggar homes.

Another contention is that BPB only comes as a rescue to the state in its failure to provide Social Security Services to the poor. The state can't penalise the poor for its failure in ensuring the Right to Life, which also extends to these homeless and indigent people.

ARGUMENTS FOR DECRIMINALISATION OF BEGGING:

Principle Grounds:

The *first* argument follows from the proportionality rule in law. "The proportionality rule emphasises on the punishment to be in accordance with the crime and the general personal autonomy right requires

that any criminalisation be prima facie justifiable as a proportionate legislative response for dealing with a genuine societal problem”.⁹

The punishment which can go on for as long as 10 years in as stringent as some punishments in the Indian Penal Code for heinous crimes such as attempt to murder, rape, culpable homicide not amounting to murder et al. The proponents of Anti-Begging Act say that the goal is rehabilitative, but as I will show that due to the way the act is implemented, the outcome is punitive to the beggars.

Secondly, the protection of rights for homeless is a prerogative of the state under the Directive Principles of State Policy; which serve as guidelines and form the basis for framing laws and policies in India.

Moreover, Amnesty International recognises poverty as a human rights issue. Everyone everywhere has the right to live with dignity. That means no one should be denied their rights to adequate housing, food, water and sanitation and to education and to education and health care.

Thirdly, as long as the exchange of money or food or any other thing is voluntary, the state can't call it a crime. There is a strong need to see begging as a problem of homelessness and unemployment rather than as a traffic hazard.

Practical Grounds:

The treatment of beggars inside beggar homes is grossly inhumane. An account of a vegetable vendor named Baishirabi, who was mistaken for a beggar and rounded up for begging under the definition in BPB Act, is as follows:

“They forced us to sit naked in a row and splashed a mug of water on each of us”.¹⁰

Some years ago, the national media raised a storm when several beggars died of cholera at the Lampur beggar home, underscoring the horrific, near-Dickensian conditions that prevail in these homes.

⁹ Dennis J. Baker

¹⁰ <http://www.opendemocracy.net/author/mohammed-tarique>

One of the main purposes of beggar homes is the training and employment of beggars. However, the very nature of confinement of the inmates leads to a loss of individuality because of psychological deprivations like loss of liberty and limitation of movement. There is also the pain of moral rejection implied in confinement. Confinement implies that the inmate is not trusted or respected therefore s/he should not be able to move freely amongst other citizens¹¹.

PROBLEMS WITH THE EXISTING INSTITUTIONAL SOLUTIONS:

NATURE OF VOCATIONAL TRAINING:

Nature of Vocational Training provided is very basic and the approach is not market linked. Inmates at beggar homes are taught candle making, weaving and tailoring. In the latter two vocations, they need some initial investment before they start working on their own or a job somewhere; but they are not linked to the market. Once they are released; without penny in their pockets; they are generally incapable of supporting themselves. Candle making is also not a very lucrative option because in urban areas the market for candles is very small; except in Diwali season; rendering them unemployed for most the year. As a result, they are again caught in the same life where they beg during the seasons of low demand to survive and the entire reformative/ rehabilitative process of 1-3 years and sometimes more, is a mere waste of resources. If we take a look at the way the Tihar Jail Bakery (TJB)¹² works, we can see that they have created a model through which they create job opportunities for inmates and help in their rehabilitation. However, the vocational training at beggar homes seems to have very loose link with employability of the beggars. This signals a need for overhaul in the vocational training happening at these homes and introduction of innovative models.

CONDITIONS INSIDE THE BEGGAR HOMES:

¹¹ Johnson, 1996

¹² Appendix 2

Firstly, the custodial natures of these homes reduce the desirability of these homes amongst those who need it. Secondly, accounts of many ex-inmates¹³ and many studies have argued that the environment of these homes is jail-like and there are sometimes even the violations of human rights.

“It is not easy to walk into Delhi’s Seva Kutir - so overpowering is the stench of human excreta and indescribable squalor; and for those who have to live there, life is hard. Food is bad: half-burnt chapaties and parboiled dal for the two main meals and a sweetish, brown liquid does for tea. For bath one tablet of carbolic soap is shared by nearly 150 men living in one block. Segregation is almost unknown, so that lepers and TB patients live in the same block as the uninfected, use the same two water taps, the same tablet of carbolic soap, the same foul-smelling infected blankets, durries and pillows. Corruption is rampant and any protest brings down the lathis of the sadist guards on the backs of the inmates.”¹⁴

The emphasis is more on the punitive aspect rather than reformative aspect; which is all the more needed for indigent people.

NON INCLUSIVE NATURE OF POLICIES:

Another problem with the status quo is the non-inclusive nature of the policies. There are multiple institutions including government which are working on the issues of homeless and indigent people. Yet, these institutions are working in a non-collaborative environment. E.g. Ashray Adhikar Abhiyan, which works for the rights of homeless people and provides them with shelters and was the first organisation to enumerate the number of homeless in Delhi, wasn’t even invited to any of the meetings when the National Programme for Urban Homeless was started. Lack of such inclusion stops the policy makers from using the experience of such organisations; which have been working for a long time; and creating a synergy.

LACK OF POLITICAL WILL:

¹³ <http://www.opendemocracy.net/author/mohammed-tarique>

¹⁴ Rao, Amiya: Poverty and Power- The Anti-Begging Act, 1981

One of the other problems with the homeless is that of identity. Since, they don't have identity, they do not have voter identification cards, because of which, they can't vote. And because the political parties do not see a potential vote bank here, that is why we see very little or no action on the part of government to help these people or revise the dated policies.

Under Mission Convergence, Samajik Suvidha Sangam¹⁵ has a mandate to reach out and serve the vulnerable population of Delhi. According to an estimate by Ashray Adhikar Abhiyan, there are nearly one hundred thousand homeless in Delhi. It is a huge number to manage. Delhi has a wide range of government schemes and institutions (including Municipal bodies), civil society organizations, philanthropists and faith based groups engaged in serving various sections of homeless population. Samajik Suvidha Sangam proposes to create a synergy among the already available facilities and make efforts to fill in the gaps. Despite the ambitious aim, the problem of non-inclusive policies still remain as the National Programme for Urban Homeless, Samajik Suvidha Sangam, Department of Social Welfare and other active institutions like Ashray Adhikar Abhiyan work in segregated environments. The importance should be laid here on collaboration because the kind of work involved requires bridging of informational gaps¹⁶ which more cooperative practices can bring. Moreover, the best practises of each institution can be replicated on a bigger scale.

SUMMARY AND CONCLUSION:

The issue of begging should be looked from a rights based approach and the BPB Act which is dated and highly regressive should be repealed. The focus thus needs to be shifted from punitive to reformative aspect. Moreover, we need policy reforms to make the process more inclusive and gain synergy in action. Beggar homes, which form a part of existing state infrastructure, can be changed into non-custodial development homes where market-linked vocational training can be provided. State should

¹⁵ Refer to Appendix 1

¹⁶ Bridging of informational gaps is important because we are dealing with humans coming from different environment, having suffered different kinds of problems. More information creates a higher possibility to reach a better policy solution.

recognise its responsibility to protect the right to life and simultaneously respect the right to liberty of individuals. We do not need coercion but consent.

FURTHER READING:

1. Ramanathan, Usha : *Ostensible Poverty, Beggary and the Law* (2008)
2. Rao, Amiya: *Poverty and Power- The Anti-Begging Act* (1981)
3. Dennis J. Baker: *Critical Evaluation of the Historical and Contemporary Justifications for Criminalising Begging* (2009)

APPENDIX:

APPENDIX 1:

The Governing Council of *Samajik Suvidha Sangam* in its meeting on 14 Nov, 2008 constituted a Special Empowered Committee to bring convergence of schemes and services for the Homeless in Delhi. The members of the committee are drawn from the various departments of Govt. of NCT Delhi, MCD, NDMC and subject experts working in this field. The Special Empowered Committee in its first meeting on 18 Nov 2009 felt the need for a separate mechanism and structure to address the issues of homeless under the Samajik Suvidha Sangam structure. It was decided to have one MNGO and 5-6 NGOs for running the operations for the homeless. The committee also decided to constitute a three member team consisting of Secretary, Social Welfare, Mission Director, Samajik Suvidha Sangam and Sh. Harsh Mander to develop the modalities for selection of the organizations for the homeless. The Special Empowered Committee has drawn up terms of reference, process for selection and the budget for the MNGO and has selected four NGOs for running five Homeless Resource Centres.

They _____ *are:*

Indo Global Social Service Society (IGSSS) for North District,
Indo Global Social Service Society for New Delhi & Central Districts)(IGSSS selected for running two
HRCs)

Society for Promotion of Youth & Masses (SPYM) for South District
Nirmana for North-West District

Humana People to People India for East District.

The selection committee finalized the Community Medicine Department of St. Stephen's Hospital as the
MNGO for Homeless which started functioning from August, 2009.

Homeless Survey:

Identification is crucial for providing entitlements and organizing services for homeless community. As
the Homeless are wanderers they are found mainly at night and therefore survey will be carried out at
night. Each surveyed person will be given a provisional card. Resource Centres of Homeless will work as
service delivery organization and peripheral survey unit and will be responsible for collecting data.

Services for Homeless will include:

Module 1: Health and Samajik Suvidha Services for Homeless

Module 2: Night Shelters and Soup Kitchens

Module 3: Homes for Street Children

Module 4: Rehabilitation of Beggars

Module 5: Improvement of Asha Kiran and Services for Mentally Ill Homeless

Module 6: Policy and Operational Research Support

Aims and Objectives:

To provide basic health and life support services to homeless

To provide entitlements of government schemes

To restore and protect dignity, hope and self esteem

To develop livelihood skills, provide vocational trainings and mainstreaming of homeless and help them to come out of homelessness

To evolve an image of Delhi as a 'Caring City'

APPENDIX 2:

The Tihar jail Bakery

TJ's brand was born in 1995 with bakery products. Over the years, the portfolio has expanded to include handloom and textile, apparel, furniture, mustard oil, stationery paper products and even phenyl for household uses. In recent months, it has started making soaps, detergent powders and blankets, among other items. In the pipeline are cosmetic items such as face wash and henna. TJ's products comply with global food safety norms and are certified under various ISO norms. Tihar's backing school is certified by London-based global technical agency Moody International.

TJ's revenues have risen from Rs. 2.36 crore in 2004-2005 to about Rs 18 crore in the last fiscal year. TJ's products' first brush with the organised retail happened late last year when jail authorities showcased products at Select City Walk Mall in the city, and got overwhelming response from shoppers. This prompted the jail to open a kiosk in the mall to sell TJ's products.

TJ's is expected to become a Rs 300-crore business, with net profit of Rs 30 crore, in the next one year mainly by retailing through branded stores. This would help the jail ramp up capacity and supply products to other cities.