
THE CONSTITUTIONAL HORIZON: RECLAIMING DIGNITY FROM CRIMINALISATION IN M.S. PATER

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ABSTRACT

This paper analyses the transformative paradigm shift in India's legal treatment of beggary, moving from the punitive measures of the Bombay Prevention of Begging Act of 1959 to a framework of Constitutional Morality. By scrutinising the landmark judgment in M.S. Patter v. State of NCT of Delhi, the piece examines the State's role as a "Constitutional Trustee," legally responsible for the welfare, safety and inherent dignity of the destitute it chooses to confine. It argues that the judicial reframing of the destitute as "citizens in distress" rather than "public nuisances" aligns with the expansive interpretation of Article 21 and the Directive Principles of State Policy. This reframing mandates the protection of human dignity and access to bare necessities, such as nutrition and clothing, as established in the Francis Coralie Mullin case.

The paper also assesses the sociological dangers of exploitation, pointing out that child begging is often an expression of human trafficking systems that are forbidden by Article 23 of the Constitution. It draws attention to the Juvenile Justice Act of 2015's legal requirement that vulnerable youngsters be handled more like victims in need of care than like criminals. The afortiori argument, which contends that welfare home residents should have rights to health and hygiene on par with or higher than those of convicted convicts, is also included in the discussion. Lastly, the article explores restorative policy initiatives such as the SMILE plan, highlighting the fact that genuine legal advancement is determined by ensuring the preservation of dignity and the active rehabilitation of persons, not just by regulating poverty.

Keywords: Article 21, Constitutional Trustee, M.S. Patter, Beggary Laws, SMILE Scheme, Public Policy.

I. INTRODUCTION

The sight of people begging in the urban centres in a country like India indicates a systemic socio-economic failure. In terms of legal response, for over 60 years, the Bombay Prevention of Begging Act 1959¹ (BPBA) held a significant position to penalise beggary. This act enables the authorities to arrest the impoverished, thus rendering them criminal. Yet, the Indian Jurisprudence has undergone a paradigm shift in the wake of the significant directives mandated *under M.S. Patter v State of NCT of Delhi*². Begging is no longer considered to be a public nuisance, but as an issue of Constitutional Morality and State Accountability.

II. THE CONSTITUTIONAL LAW CONFLICT

The discussion rests on Article 21 of the Indian Constitution, the article that guarantees the right to life and personal liberty, which invites numerous interpretations. Right to dignity would include the bare necessities a person shall have in their lifetime: clothes, food, shelter, economic stability, etc., as discussed in the case of *Francis Coralie Mullin v. Administrator, Union territory of Delhi and Others*³ “*The right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter...*”

Along with this, Article 5 of the Universal Declaration of Human Rights (UDHR) implicitly supports Article 21 of the Indian Constitution: the reason is that if punishing a person who is begging, purely due to necessity, it would amount to inhumane behaviour by the state. It can be considered that if the state fails to provide a social safety net, seeking stability becomes a survival mechanism.

Further to the subject, the Directive Principles of the State Policy require the state to formulate and implement policies for the state's welfare: Article 38 of the Indian Constitution is to maintain a social order and reduce wealth disparity; Article 39(e) to protect workers' health and strength; Article 41 for right to work, education, and public assistance; and Article 47 for raising the level of nutrition and public health. One may argue about the already existing policies by the government. In this regard, the focus shall revolve around rigorous implementation.

¹ The Bombay Prevention of Begging Act 1959 (Act 10 of 1960).

² 2025 INSC 1115.

³ 1981 1 SCC 608.

III. JUDICIAL TRANSFORMATION: M.S. PATTAR V STATE OF NCT OF DELHI

The legal shift came through the Supreme Court's decision in the case of *M.S. Patter v State of NCT of Delhi*. The case arose from a public health crisis at a state-run home for beggars in Lampur (Narela). The case exposed the deaths of eight inmates from cholera. Investigations also revealed drinking water contaminated with sewage and faecal matter. This institutional neglect reduced people to a state of "animal existence," prompting the Court to mandate a "Constitutional Trust" for those living in the facility.

A bench comprising Justice JB Pardiwala and Justice R Mahadevan, in their decision, redefined the state's role. The case established "Constitutional Trust" in which the state is responsible for the welfare of destitutes if they choose to confine them. The state is not just providing "charity"; it has the legal duty as a trustee to ensure the safety and dignity of those in its care. The court's directives created a new space for social justice.

The judgment ordered that "Beggar homes" must work not as a quasi-prison, but instead as a restorative space. To ensure this, the court mandated stringent rules: mandatory medical check-ups within 24 hours of arrival at home; appointment of a professional dietitian to manage nutrition; and creation of a centralised digital database of all inmates, which would record details; clean drinking water; and the implementation of vocational training to facilitate economic stability.

The court further order for children found begging be referred to an institution for child welfare under the Juvenile Justice Act⁴ instead of being detained in the home. In light of these guidelines, the court also instructed the state to conduct third-party infrastructure audits every two years. The Court used the *a fortiori* argument. According to this reasoning, since the law already protects condemned inmates' rights to healthcare, clean water, and hygiene, then the impoverished must be granted the same protections with even more vigour. Welfare home residents are "citizens in distress" and have not committed any crimes, in contrast to convicts. As a result, the State becomes compelled to correct the grave constitutional violation to enable them to continue living in surroundings worse than a jail, where maltreatment results in "animal existence"⁵

IV. SOCIOLOGICAL RISK AND STATUTORY FRAMEWORK

⁴ Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016).

⁵ *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

The Risks of Child Begging in India by The Borgen Project has addressed child begging as a frequent part of the human trafficking criminal network. They are made to sell flowers or items for money, or even asked to beg. Some children are also physically exploited. The money collected by them has to be handed over to the person who has trafficked them. Especially in India, Article 23 of the Constitution has put a prohibition on human trafficking and child labour to prevent the exploitation these vulnerable groups have to endure due to their sensitive circumstances.

On the other hand, migrants from countries like Bangladesh and Nepal, who are often illegal, are also one of the reasons for a substantial growth in the population of beggars in India. They migrate with hopes of better opportunities for themselves—economically and socially—rather than being forced to beg on the streets as a result of poverty. This makes Article 21 more complicated from a constitutional perspective. Every "person" on Indian soil, irrespective of nationality, is granted the "Right to Life" under Article 21; other rights are reserved for citizens. This implies that every person under the State's care is subject to its obligation as a "Constitutional Trustee." Article 5 of the UDHR's ban on "inhumane behaviour" maintains an internationally recognised standard that the Indian government must respect, regardless of a person's nationality or immigration status.

The issue at hand is of a grave nature. When it comes to law, it is also to be noted that, in India, begging is not governed by a single central law. Both Union and State legislatures have jurisdiction over this subject, which is mostly governed by State or Union Territory laws. One of the most prominent laws for anti-begging is the Bombay Prevention of Begging Act, 1959, which penalises begging and makes it an offence. However, in the case of *Harsh Mander v Union of India*⁶, the Delhi High Court ruled that the BPBA's clauses criminalising begging violated fundamental rights.

V. FROM PENALISATION TO RIGHT

Historically, beggary was framed as a nuisance, an offence, to be more specific. It focused more on detention than rehabilitation. Where the person was to be supported, they were being persecuted. For the dignity of their life, they took a different approach that seemed offensive to the state. However, the 2025 decision made this penalisation more rights-based. Here, the

⁶2018 SCC OnLine Del 10427.

individual is seen more as a “citizen in distress,” shedding light on rehabilitation and social justice. This adjustment is sustained by the Support for Marginalised Individuals for Livelihood and Enterprise (SMILE) scheme by the Department of Social Justice and Empowerment under the Government of India. The objective of this scheme is the rehabilitation of beggars and to integrate them into society to live their lives with dignity.

VI. BEGGING AS A PUBLIC PRESENCE IN RELATION TO ARTICLE 19

Lastly, we need to think about the impoverished people's right to live in public areas. The court determined in the *Harsh Mander case*⁷ that making begging illegal effectively penalises persons for being conspicuous in public. Citizens are entitled to free movement under Article 19, and for a majority, the street is their only option. The Bombay Act's "penal focus" was removed, and the law now acknowledges that poverty cannot be "hidden" or "cleared" in order to improve the appearance of a city. Rather, the objective is to give these "citizens in distress" the assistance they require to move from the streets into a life of dignity.

VII. CONCLUSION

Ultimately, the change from penalisation to a rights-based approach was a long one. The legal development of begging in India represents a shift away from regulating poverty and toward enforcing dignity. By focusing the discussion on Article 21 and the Directive Principles, our constitutional system now sees the act of seeking assistance as a cry for assistance rather than a criminal purpose. Looking forward, the effectiveness will be determined not by “clearing” the street, but by the ability of the state to uphold its status as the trustee of human dignity.

⁷Ibid 6