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GEN/PMI/353/34/2020-2021

28 December 2021

The Permanent Mission of India to the United Nations and other International Organizations in Geneva presents its compliments to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights and has the honour to refer to the latter's communication dated 16 September 2021 forwarding a letter regarding call for inputs from the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and Special Rapporteur on extreme poverty and human rights pertaining to follow-up on the implementation of the **Guiding Principles on Extreme Poverty and Human Rights** and the **Guidelines for the Implementation of the Right to Adequate Housing** and of HRC resolutions 21/11 and 43/+4 by national, subnational and local authorities.

The Mission requests that India's submission in this regard, enclosed herewith, may kindly be brought to the attention of the concerned Special Rapporteurs.

The Permanent Mission of India to the United Nations and other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Office of the United Nations High Commissioner  
for Human Rights (OHCHR)  
(Kind Attn.: Chief of the Special Procedures Branch)  
8-14 Avenue de la Paix, Palais des Nations,  
CH-1211 Geneva 10, Switzerland



**India's inputs in response to the Questionnaire by the Special Rapporteur on the right to adequate housing and the Special Rapporteur on extreme poverty and human rights seeking information on follow-up on the implementation of the Guiding Principles on Extreme Poverty and Human Rights and the Guidelines for the Implementation of the Right to Adequate Housing and of HRC resolutions 21/11 and 43/14 by national, subnational and local authorities**

According to the Government of India (Allocation of Business) Rules, 1961, matters related to 'Beggary' are being dealt by Ministry of Social Justice and Empowerment. Question-wise responses are as under:

**Q. Laws or regulations that allow the detention or imprisonment of individuals who are unable to pay the fine imposed for petty offences.**

(i) Fine, as a type of punishment, is provided under Section 53 of the Indian Penal Code (IPC), 1860.

(ii) The sentence of imprisonment for non-payment of fine is provided under Section 64 of IPC wherein it has been laid down that "in every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, and in every case of an offence punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence."

(iii) The IPC does not specifically define the term "petty offence". However, in Section 206 of the Code of Criminal Procedure (CrPC), 1973 pertaining to special summons in cases of petty offence, "petty offence" means any offence punishable only with fine not exceeding one thousand rupees, but does not include any offence so punishable under the Motor Vehicle Act, 1939, or under any other law which provides for convicting the accused persons in his absence on a plea of guilty.

(iv) Indian laws provide for all requisite procedural safeguards, including the right to a fair hearing by an independent Court, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher Court. Further, amendment to criminal laws is a continuous process to bring the law in sync with social charges.

**Q. Information about attempts made or planned to decriminalize begging, eating, sleeping, or performing personal hygienic activities in public places.**

The word 'beggar' or 'beggary' is not mentioned in any of the three lists of the Constitution of India. However, as per entry 9 of the State List in the seventh Schedule

of the Constitution of India, "Relief of the disabled and unemployable" is a State subject. As per entry 15 of the Concurrent List, "Vagrancy" is a concurrent subject. Various States/Union Territories have either enacted their own Anti Beggary Legislation or adopted the legislation enacted by other States. Provisions of these legislations vary and their implementation, including the measures taken for rehabilitation of persons engaged in the act of Begging, are also not uniform. Most of the States/Union Territories have adopted 'The Bombay Prevention of Begging Act 1959' which criminalizes the act of Begging. It may, however, be noted that High Court of Delhi, vide its order dated 8<sup>th</sup> August 2018 in W.P. (C)10498/2009 & C.M. Appl 1837/2010 and W.P. (C) 1630/2015, has declared various Sections of the Bombay Prevention of Begging Act, 1959 as extended to Delhi which directly and indirectly criminalize begging or treating begging as offence, as unconstitutional and struck down the provisions.

**Q. Measures and services available at municipal regional or national level to support people living in poverty from having to resort to beg, sleep, wash, defecate or perform other hygienic activities in public places, because they lack access to employment, social assistance, adequate housing, public showers and toilets.**

**A.** Ministry of Social Justice and Empowerment has identified seven cities - Bangalore, Delhi, Hyderabad, Indore, Mumbai, Nagpur and Patna - for undertaking pilot projects on Comprehensive Rehabilitation of persons engaged in the act of Begging, which provide for the whole range of services including awareness generation, identification, rehabilitation, provisions of medical facilities, counselling, education, skill development and sustainable settlement of persons engaged in begging. Progress of pilot project is as follows:

**Delhi:** Survey has been completed and it has been estimated that a total of 27556 persons are engaged in Begging in Delhi, including 4871 children.

**Patna:** Survey was conducted and it was found that 2439 persons are engaged in Begging. Survey reported that 185 persons have been shifted to the existing 4 different shelter homes and 123 children have been linked to educational institutes (*anganwadi* centre and primary schools). 186 persons have enrolled in skill development or vocational training and job providing schemes, while 91 persons are employed. 882 persons have been admitted to old age homes, and also 102 persons are registered for the pension schemes. Other than that, they are also taking several other welfare programmes for the persons engaged in begging, such as Community Based Saving Groups promotion & Micro-finance, Swavlamban, Producer Group and Bridge Course Centre for Children.

**Nagpur:** According to progress report so far 1601 people engaged in begging have been surveyed including 984 male and 492 female and 41 persons have been shifted into 6 shelter homes and one new shelter home is being set-up.

**Indore:** Progress report shows that survey was conducted among more than 4890 persons engaged in begging. So far, 64 persons have been shifted to Shelter homes and 2 more shelter homes are under construction. 33 persons have enrolled in skill development or vocational training and job providing schemes.

The Ministry has also formulated a scheme "SMILE – Support for Marginalized Individuals for Livelihood and Enterprise", which includes sub-scheme – 'Central Sector Scheme for Comprehensive Rehabilitation of persons engaged in the act of Begging'. The focus of the scheme is on providing basic necessities like food, shelter homes, medical facilities, counselling, rehabilitation, basic documentation, education, skill development and economic linkages of the persons found to be engaged in begging.

**B.** True social justice can be realized in a society that respects and ensures basic human dignity and human rights for all persons, including and especially those incarcerated and denied their liberty. The Preamble to the Constitution of India promises to secure to all its citizens, social, economic and political justice. Article 39A of the Constitution provides for free legal aid to the poor and weaker sections of the society. Articles 14 and 22 (1) of the Constitution also make it obligatory for the State to ensure equality before law.

Legal Aid is the right of every indigent and a constitutional obligation of the Government. It not only means representation through a lawyer at state expense in court proceedings but also include legal advice, legal awareness, legal mobilization, public interest litigation and a variety of strategic and preventive services for exercising right to human rights.

The concept of legal aid is a multifaceted and has two dimensions, the first of which is the conventional approach, i.e. of providing free legal assistance to a poor litigant and the second is Preventive Legal Aid Services Programme, which is significant in a developing country like India, where there is lack of awareness among people of their rights. They are often not aware of available machinery for seeking judicial or administrative redress.

In the year 1987, the Legal Services Authorities Act was enacted by the Parliament and it came into force on 9th November, 1995. The National Legal Services Authority (NALSA) has been constituted under the said Act to provide free legal services to the weaker sections of the society and to establish a nationwide uniform network from Taluk level court to Supreme Court. Under Section 12 of the said Act, free legal aid is provided to the people who fall under various categories, such as, women, children, victims of mass disasters, persons belonging to Scheduled Caste and Scheduled Tribes, persons in custody including in mental asylum and jails, etc.

Free legal aid means providing advocates at State expenses either to defend or contest cases in the court of law. With the aim of reaching out to the diverse milieu of people belonging to different social-economic, cultural and political backgrounds, NALSA identifies specific categories of the marginalized and excluded groups from

the diverse populace of the country and formulates various schemes for the implementation of preventive and strategic legal services programme to be undertaken and implemented by the Legal Services Authorities at various levels.

Article 22 (i) of the Constitution of India guarantees to every arrestee the right to be defended by a legal practitioner of his/her choice. The right to have a state sponsored legal aid lawyer flows naturally by virtue of Articles 39A and Article 14 to all persons and at all stages when they have a right to consult a private lawyer. Hence, the right to legal consultation at questioning, arrest and interrogation and during remand is well established in the law. The Supreme Court has also cast a duty on the police as well as the magistrates to ensure that the accused or suspect is made aware of their right to legal aid lawyer as well as the legal aid institution is intimated if such a person does not have success to a private lawyer.

Legal illiteracy is one of the barriers to access to justice for people who are not aware of their entitlements under the welfare laws and schemes of the Central and State Governments. In order to make them aware about their entitlements and duties under law, legal awareness programmes are held across the country by Legal Services Authorities on various laws and schemes relating to the marginalized sections of the society, such as children, labourers, victims of disaster, Scheduled Castes and Scheduled Tribes, persons suffering from disability, etc. Legal Services Authorities also prepare booklets and pamphlets in easy-to-understand language on various laws which are distributed amongst the people for spreading awareness among the masses about their fundamental rights and fundamental duties. Electronic and print media is effectively used for the purpose of disseminating the information relating to legal rights of the people.

In carrying out all these responsibilities, NALSA works in close coordination with 37 State Legal Services Authorities and 673 District Legal Services Authorities and 2281 Taluk Legal Services Committees constituted for the purpose and also with other agencies.

In addition, Legal Services clinics are established across the country in many places like colleges/universities, Juvenile Boards, Observation homes, villages, community centers, jails, etc. with the aim of facilitating access to the legal services institutions for people who face geographical, social and other barriers relating to hygienic conditions, healthy living and also to exercise their right to housing and other fundamental rights.

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