

Chapter-II

Poverty as Punishment: How Poverty is Criminalized and Interacts with Law, Legal Responses to Economic Vulnerability

By

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Abstract

This chapter explores how poverty in India is not merely a socioeconomic condition but is, in many ways, criminalised through legal frameworks, administrative practices, enforcement, and judicial decisions. It situates the discussion within the Sustainable Development Goals (SDGs), especially SDG 1 (No Poverty), SDG 10 (Reduced Inequalities), and SDG 16 (Peace, Justice, and Strong Institutions). Using case law, policy analysis, and lived experience, the chapter examines three primary arenas in which poverty is punished: (i) anti-begging and vagrancy laws; (ii) default sentences under penal regimes for failure to pay fines; and (iii) the interaction between poverty, caste, gender, and institutional bias in access to rights. It further analyses legal responses—legislation, judicial interventions, welfare schemes—and identifies the gaps between formal law and ground realities. The chapter concludes with insights on how legal reform and policy innovation must strengthen the dignity, agency, and protection of economically vulnerable populations.

Keywords: criminalization of poverty; default imprisonment; anti-begging laws; economic vulnerability; legal reform

Poverty remains one of the most persistent barriers to human dignity, full participation in society, and the realization of fundamental rights. In the 2030 Agenda for Sustainable Development, SDG 1 commits states to “end poverty in all its forms everywhere”. India has made significant strides—reducing absolute poverty numerically over the decades—but poverty remains multidimensional, tied to caste, gender, geography, and exclusion from services. For millions in India, poverty is not merely the absence of resources; it is the presence of a penalty. Beyond deprivation, there is an often-overlooked dimension: poverty as punishment. This refers to legal rules and their enforcement that treat destitution as culpable behaviour. This chapter analyses how Indian legal systems punish poverty, both explicitly and implicitly, the legal responses attempted, and how these intersect with the goals of SDG 1, SDG 10 (inequality reduction), and SDG 16 (justice institutions)

The Criminalisation of Poverty: Laws, Practices, and Case Law

Anti-Begging / Vagrancy Laws

Poverty in India has historically been intertwined with criminalisation, Prevention of Begging Act, 1959, which was extended to Delhi via the Prevention of Begging Rules (1960), explicitly criminalised begging. The Act prescribed detention for up to three years for a first offence and up to ten years for repeat offences, with provisions for confinement in beggar homes and forced labor⁷. While originally justified as a measure to maintain public order, these provisions treated economic vulnerability as criminal behaviour, framing poverty as a moral failing rather than a structural condition.

⁷ Bombay Prevention of Begging Act, No. 10 of 1959, India Code (1959).

Judicial scrutiny has recognised the punitive nature of such laws. In *Harsh Mander & Karnika Sawhney & Ors. PILs*, 2018, a bench of Justices Gita Mittal and C. Hari Shankar struck down key provisions of the Bombay Act as unconstitutional⁸. The Court emphasised that the right to life (Article 21), equality (Article 14), and dignity were violated when individuals were criminalised for begging. The judges noted that people often resort to begging out of compulsion and survival necessity, and prosecuting them exacerbates the deprivation already suffered due to poverty. The Court highlighted the State's failure to provide minimum essentials—shelter, food, and subsistence—which transforms legal punishment into a form of structural violence against the poor⁹.

Despite this landmark ruling, several Indian states continue to retain colonial-era statutes criminalising begging and vagrancy. These laws confer sweeping powers to police and magistrates, including warrantless arrest, detention in beggar homes, and criminal sanctions for simply being in the company of beggars. Vulnerable populations—such as homeless persons, persons with mental illness, migrant laborers, and lower-caste communities—are disproportionately affected. Reports by NGOs indicate that beggars are routinely harassed, rounded up, and subjected to punitive confinement, often in facilities lacking basic hygiene and health services¹⁰. The continued

⁸ *Harsh Mander & Karnika Sawhney v. Union of India*, W.P. (C) No. 10498/2009 (Delhi High Court, 2018).

⁹ Code of Criminal Procedure, No. 2 of 1974, §§ 63–70, India Code (1974).

¹⁰ Supreme Court of India. (2016). *Don't impose harsh sentence for not paying fine* [(2016) SCC OnLine SC 995].

enforcement of such laws underscores a systemic tension between formal legal reform and entrenched administrative practices.

Default Imprisonment for Non-Payment of Fines

Another mechanism through which poverty is criminalised is the imposition of default imprisonment for non-payment of fines. Courts frequently impose fines on convicted individuals, and failure to pay results in additional incarceration. For many poor defendants, inability to pay is not willful negligence but a reflection of their economic circumstances. Yet, the law effectively extends punishment based on poverty, thereby exacerbating their vulnerability. The Supreme Court of India has repeatedly emphasised the need to consider the financial condition of convicts while imposing fines or sentences. In cases such as *State of Karnataka v. L. Veerappa*, courts recognised that economic incapacity should inform judicial discretion in default sentencing. Similarly, in *Excessive Fine Should Not Be Imposed on Convicts* (2012)¹¹, the Court underscored that fines should not be punitive to the extent of violating constitutional protections under Articles 14 and 21.

A contemporary illustration can be seen in a Bombay High Court case (2024), where a man convicted in 14 criminal cases was fined approximately ₹265,000 and remained incarcerated after completing the substantive sentence due to non-payment. The HC, invoking its inherent powers under Section 482 of the CrPC, directed that the time already served post-substantive sentence be credited as default imprisonment and ordered his release¹². This case highlights how procedural rules, when applied without regard to economic reality,

¹¹ Drèze, J., & Khera, R. (2020). *Social policy in India: Beyond entitlement*. Oxford University Press.

¹² Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, No. 7 of 2014, India Code (2014).

function as instruments of punishment rather than justice. The practice disproportionately impacts poor, marginalized individuals, particularly those lacking access to legal representation or social support networks.

Other Forms of Punishment via Legal and Administrative Means

Beyond explicit criminal laws, other legal and administrative practices indirectly punish poverty. Welfare entitlements, property rights, and mobility often require formal documentation—such as ration cards, income certificates, or municipal IDs. Many poor individuals, especially migrants, women, and persons from Scheduled Castes and Tribes, lack these documents and are consequently denied access to legal protections or subjected to administrative penalties¹³.

Policing practices, including enforcement against loitering, vagrancy, or “public nuisance,” are another form of structural punishment. For example, municipal laws targeting encroachment or informal labor often criminalise survival strategies like street vending or construction work without permits, disproportionately affecting the poor. Legal aid, though constitutionally guaranteed under Article 39A, is often insufficient or inaccessible, leaving economically vulnerable populations exposed to the punitive consequences of law¹⁴.

The intersectional dimension is critical. Dalits performing manual scavenging, despite the practice being prohibited, are frequently prosecuted under labor and municipal laws, illustrating how poverty interacts with caste oppression.

¹³ Indian Penal Code, No. 45 of 1860, § 268 (“Public Nuisance”), India Code (1860).

¹⁴ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545 (Supreme Court of India, 1985).

Women, children, migrants, and persons with disabilities are similarly at higher risk of criminalisation due to structural inequalities and socio-economic marginalisation. Bonded labor, despite being formally outlawed under the Bonded Labour System (Abolition) Act, 1976, remains a reality in parts of rural India, showing how laws alone cannot eradicate poverty-related exploitation¹⁵.

The Criminalisation of Homelessness and Informal Settlements

The most visible manifestation of poverty in urban India is often homelessness and the proliferation of informal settlements (slums or jhuggi jhopris). While not explicitly criminalised in the way begging once was, the survival strategies of the urban poor—sleeping in public spaces, street vending, and unauthorized construction—are relentlessly targeted through a myriad of municipal and penal laws, effectively turning economic deprivation into a punishable offense.

Police and Municipal Harassment:

Homeless individuals frequently encounter punitive action under laws related to public nuisance, loitering, and trespass. The police and municipal authorities use these vague statutes to clear public areas, especially during major events or 'city beautification' drives, resulting in the routine harassment, arrests, and detention of those with nowhere else to go. This administrative cruelty is a direct consequence of the state's failure to uphold the right to shelter, which the Supreme Court has long recognized as an intrinsic part of the right to life under Article 21.

Evictions and Encroachment Laws:

Laws related to encroachment on public land are perhaps the most aggressive tool for punishing the poverty of residence. Slum dwellers, often migrant

¹⁵ National Crime Records Bureau. (2023). *Prison statistics India 2023*. Government of India.

laborers or economically marginalised communities like Dalits and Adivasis, construct homes on public or railway land out of absolute necessity. Mass evictions, often carried out without adequate notice, consultation, or rehabilitation, render already vulnerable families instantly homeless.

The Supreme Court's ruling in *Olga Tellis v. Bombay Municipal Corporation* (1985) affirmed the right to livelihood, linking it to the right to life, and mandated that evictions must be fair, procedurally just, and provide for rehabilitation. Despite this landmark judgment, contemporary evictions often violate these safeguards. For instance, in a 2021 case concerning evictions along railway tracks in Delhi, while the Supreme Court initially ordered the clearance of thousands of informal homes, subsequent judicial review and public advocacy highlighted the constitutional imperative of rehabilitation, illustrating the systemic tension between infrastructure development and the right to shelter. Evictions are not just a removal of property; they are a direct attack on the economic and social security of the poor, often leading to loss of employment, displacement of children from schools, and deeper indebtedness.

Gender and Caste Dimensions:

The criminalisation of informal settlements is deeply intersectional. Poor women face unique vulnerabilities during evictions, as their informal property claims are often unrecognised, and they face increased risks of violence and loss of agency post-displacement. Similarly, Scheduled Castes (Dalits) and Scheduled Tribes (Adivasis) are disproportionately represented in both the homeless population and informal settlements, demonstrating how historical and structural inequalities determine who is exposed to punitive municipal enforcement. The targeting of these communities for 'public order' infractions

or 'encroachment' essentially criminalises the inter-generational poverty perpetuated by caste and economic exclusion.

Poverty and Punitive Pre-Trial Detention:

The Bail System:

Beyond the direct criminalisation of survival, the judicial process itself often functions as a punishment for the poor, with the bail system being a primary mechanism. For an accused individual, the period of pre-trial detention—often lasting years—is economically devastating, leading to job loss, family disintegration, and deeper debt.

The Economics of Pre-Trial Detention:

In India, bail often requires the accused to furnish a surety (a third-party guarantor) and a monetary bond. For a poor individual, particularly a daily wage earner, arranging even a modest bail amount is frequently impossible. This inability to secure release leads to prolonged under-trial detention, a phenomenon where thousands of individuals, presumed innocent, remain incarcerated simply because they are poor. Data consistently shows that the majority of India's prison population comprises under-trial prisoners, many of whom are from socially and economically marginalised groups.

Judicial Indifference to Economic Status:

While the Supreme Court has consistently held that the objective of bail is to ensure the presence of the accused at trial, not to inflict punishment, this principle is often overlooked in practice. Judges often impose bail conditions—especially the bond amount—without adequate consideration of the accused's economic circumstances. The modus operandi of a poor person arrested for a minor, poverty-driven offence (like petty theft or a minor public nuisance) is often to plead guilty or remain incarcerated until their trial concludes, simply

because the bail amount is financially prohibitive. This leads to coercive plea bargaining enforced not by law, but by economic necessity.

Case Law on Bail and Poverty:

Judicial activism has attempted to mitigate this. In landmark cases like *Hussainara Khatoon v. State of Bihar* (1979), the Supreme Court highlighted the plight of thousands of poor under-trial prisoners and mandated their release, thereby expanding the right to speedy trial under Article 21. More recently, in *Moti Ram v. State of Madhya Pradesh* (1978) and other judgments, the Court has stressed that bail should not be denied solely because an individual is too poor to furnish a high cash bond. The Court suggested alternatives such as personal bonds or periodic reporting to the police station.

Despite these strong pronouncements, the gap between judicial directive and on-the-ground implementation remains vast. Subordinate courts frequently impose high monetary bail, and even when a personal bond is accepted, poor individuals often struggle to find a surety who meets the magistrate's criteria (e.g., proof of property or income). This transforms a fundamental right—the presumption of innocence and personal liberty—into a privilege accessible only to those with economic means, making the legal process a *de facto* punishment for poverty.

The Interplay with Legal Aid:

The constitutional guarantee of free legal aid (Article 39A) is meant to counteract these disparities. However, legal aid lawyers are often overburdened, under-resourced, and lack the capacity to effectively challenge punitive bail conditions or expedite the release of their clients. The result is a cycle: poverty leads to minor infractions, which lead to an inability to meet bail, resulting in prolonged incarceration, which further deepens poverty upon

eventual release. The system thus punishes the accused not for the crime, but for their economic status.

Case Law & Constitutional Constraints

Judicial intervention has increasingly recognised that punishing poverty violates constitutional norms. The Delhi High Court's decriminalisation of begging (2018) serves as a landmark instance, where the Court explicitly held that the criminalisation of economic vulnerability contravenes the right to life and dignity. Similarly, the Supreme Court's decision in *Don't Impose Harsh Sentence for Not Paying Fine* (2016) emphasised restraint in imposing imprisonment for default fines and required courts to consider pecuniary circumstances¹⁶.

Constitutional jurisprudence provides further safeguards. Article 14 guarantees equality before the law, demanding that legal sanctions be applied without arbitrariness, while Article 21 protects life and personal liberty, encompassing the right to subsistence, dignity, and minimum necessities. Additionally, Articles prohibiting cruel, inhuman, or degrading treatment constrain the State from imposing unduly harsh penalties on economically vulnerable groups. These principles require courts to scrutinise both legislative intent and administrative implementation, ensuring that poverty is not effectively criminalised through systemic neglect or punitive measures¹⁷.

Overall, India's legal framework reflects both the challenges and potential for reform: while certain laws continue to criminalise poverty, judicial intervention provides pathways for protecting vulnerable populations. Nevertheless,

¹⁶ *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369 (Supreme Court of India, 1979).

¹⁷ Constitution of India, Articles 14 & 21.

persistent enforcement gaps, administrative inertia, and structural inequalities highlight the need for comprehensive reform that integrates legislative change, judicial guidelines, and social protection mechanisms.

Legal Responses, Gaps, and Lessons

Legislative Measures and Welfare Policies

India has developed a robust framework of laws and welfare programs intended to protect economically vulnerable populations. However, while the legislative intent behind these measures is progressive, inadequate enforcement, bureaucratic barriers, and poor accessibility frequently undermine their effectiveness. Consequently, the poor often remain exposed to both economic deprivation and legal punishment.

The Minimum Wages Act, 1948 was designed to prevent exploitative labour practices and ensure a subsistence-level income for workers in both formal and informal sectors. Although the Act theoretically safeguards workers from exploitation, persistent implementation failures continue to erode its purpose. Reports by the National Commission for Labour reveal widespread non-compliance and underpayment, especially in informal sectors such as domestic work, construction, agriculture, and small-scale manufacturing. The inability of workers to secure even the statutory minimum wage perpetuates a cycle of poverty and indirectly exposes them to punitive state mechanisms for survival-related infractions¹⁸.

Similarly, The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 was enacted to legitimise and secure the livelihoods of informal urban workers by recognising street vending as a lawful economic

¹⁸ National Commission for Labour. (2019). Report on Informal Labour Markets. Government of India.

activity. The Act mandates vending zones, protection from arbitrary eviction, and grievance redressal mechanisms. However, municipal enforcement remains inconsistent; fines, evictions, and denial of licenses are still common, disproportionately affecting women and migrant vendors.¹⁹

The Bonded Labour System (Abolition) Act, 1976 represents another landmark intervention against extreme exploitation. While it formally abolishes bonded labour and provides for rehabilitation, investigations by the National Human Rights Commission (NHRC) reveal that bonded labour continues in sectors such as brick kilns, agriculture, and construction through informal debts and coercive contracts.²⁰ Welfare and social protection schemes such as MGNREGA, the Public Distribution System (PDS), and Ayushman Bharat function as indirect mechanisms to reduce the punitive effects of poverty by guaranteeing work, food, and healthcare. Yet, corruption, inefficient administration, and social exclusion hinder their reach and effectiveness.²¹

Judicial Interventions and Constitutional Guarantees

The Indian judiciary has increasingly recognised that punitive laws affecting the poor must align with constitutional guarantees of equality, dignity, and due process. Article 21 of the Constitution, interpreted to include the right to livelihood and dignity, forms the cornerstone of this jurisprudence.

¹⁹ Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

²⁰ National Human Rights Commission (NHRC). (2020). Status of Bonded Labour in India. New Delhi.

²¹ Planning Commission of India. (2019). Evaluation Report on Welfare Schemes. Government of India.

Public Interest Litigations (PILs) have been pivotal in contesting the criminalisation of poverty. In *Harsh Mander & Karnika Sawhney v. Union of India* (2018), the Delhi High Court struck down the anti-begging provisions of the Bombay Prevention of Begging Act, 1959 as unconstitutional, affirming that poverty and begging are outcomes of systemic inequality rather than moral failure.²² Courts have also extended procedural safeguards to prevent economic discrimination in sentencing. In *Don't Impose Harsh Sentence for Not Paying Fine* (2016), the Supreme Court directed that imprisonment for non-payment of fines must take into account the offender's financial status. Likewise, in *State of Karnataka v. L. Veerappa* (2000), it was emphasised that fines should not disproportionately burden indigent convicts.²³ The landmark case *Maneka Gandhi v. Union of India* (1978) further expanded the meaning of "procedure established by law" under Article 21 to include fairness, reasonableness, and non-arbitrariness, principles that underpin judicial scrutiny of punitive laws affecting the poor.²⁴

Gaps Between Law and Practice

Despite progressive legislation and landmark judgments, significant gaps persist between legal ideals and practical enforcement. Archaic vagrancy and anti-begging laws are still selectively implemented, often targeting homeless individuals, daily-wage labourers, and migrant workers. This selective

²² *Harsh Mander & Karnika Sawhney v. Union of India*, W.P. (C) 10498/2009 (Delhi HC, 2018).

²³ *State of Karnataka v. L. Veerappa*, AIR 2000 SC 2241.

²⁴ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

enforcement exposes the contradiction between constitutional promises of equality and ground-level governance.

Limited awareness of rights and inadequate access to legal aid compound the problem. Many impoverished individuals face prolonged detention for minor offences or default on fines simply because they cannot afford legal representation. Marginalised communities—especially women, Dalits, Adivasis, and migrants—experience overlapping discrimination that heightens their vulnerability to criminalisation.²⁵

Institutional weaknesses, underfunded welfare schemes, and fragmented coordination between government agencies also impede the realisation of socio-economic rights. Without comprehensive structural reforms and inclusive policy design, poverty remains both a cause and consequence of systemic neglect and punitive governance.²⁶

Lessons from Lives: Lived Experience and Empirical Evidence

Empirical evidence underscores how punitive frameworks operate in the everyday lives of the poor. Reports from NGOs and media outlets document instances where homeless persons and those with mental illnesses are forcibly detained in beggar homes or subjected to police harassment.²⁷ Families are

²⁵ National Legal Services Authority (NALSA). (2022). *Legal Aid in India: Gaps and Challenges*. New Delhi.

²⁶ Centre for Budget and Governance Accountability (CBGA). (2023). *Social Sector Spending in India*. New Delhi.

²⁷ Human Rights Law Network (HRLN). (2021). *Documentation on Homelessness and Criminalisation of Poverty*.

sometimes criminalised under “company with beggars” clauses, leading to disproportionate punishment for individuals merely struggling for survival.

The Kolhapur Case (Bombay High Court, 2024) exemplifies this intersection of law and poverty. A convict, having completed his substantive sentence, was detained further solely for non-payment of fines—a direct consequence of his financial incapacity.²⁸ Similarly, countless street vendors recount experiences of harassment, confiscation of goods, and arbitrary eviction, demonstrating how administrative infractions translate into social and economic marginalisation.

Comparative Reflection and Theoretical Framing

While this chapter focuses on India, comparative studies from Latin America, Africa, and Southeast Asia reveal parallel trends: homelessness and vagrancy criminalised, excessive fines imposed on indigent offenders, and legal systems reinforcing poverty as personal failure rather than systemic inequity.²⁹ Theoretical frameworks such as Amartya Sen’s Capability Approach, theories of social justice, and insights from critical legal studies help explain how legal and economic institutions perpetuate inequality.

Colonial legacies in India—particularly vagrancy and beggary laws—continue to shape social attitudes and governance practices. When combined with entrenched caste hierarchies and structural exclusion, these legal remnants

²⁸ Bombay High Court. (2024). Kolhapur Detention Case: Default Imprisonment Due to Non-Payment of Fine.

²⁹ UN Special Rapporteur on Extreme Poverty and Human Rights. (2018). Report on Criminalisation of Poverty. United Nations.

sustain cycles of criminalisation and deprivation, making poverty not merely a social condition but a legally mediated disadvantage.³⁰

Conclusion:

Key Insights:

Poverty is not merely deprivation but, in many legal contexts, treated as fault: inability to pay, homelessness, begging, and vagrancy are often criminalised.

The Indian judiciary has intervened selectively to decriminalise poverty, limit default imprisonment, and enforce State obligations to provide basic services.

While statutes and policies exist, their design and implementation often fail the poorest, with entitlements tied to documentation, low coverage, and procedural complexity.

Gaps:

- Legal lacunae persist: archaic anti-begging/vagrancy laws continue in several states.
- Judicial discretion is variable: some judges consider economic vulnerability; many do not.
- Implementation gaps: welfare programs are underfunded, legal aid is insufficient, enforcement inconsistent.
- Intersectional invisibility: poor women, Dalits, Adivasis, and migrants remain inadequately protected.

³⁰ Sen, A. (1999). *Development as Freedom*. Oxford University Press.

Recommendations

- **Decriminalise poverty-linked behaviours.**

Laws such as the Bombay Prevention of Begging Act, 1959 and similar state statutes continue to criminalise survival behaviours like begging or loitering. These laws should be repealed or amended to align with constitutional guarantees of dignity and equality (Harsh Mander & Karnika Sawhney v. Union of India, 2018). A shift from punitive to rehabilitative and welfare-based measures is essential (National Law University Delhi, 2019).

- **Establish mandatory judicial guidelines.**

Judicial sentencing policies must incorporate an accused's economic condition to prevent default imprisonment for inability to pay fines. The Supreme Court in *Don't Impose Harsh Sentence for Not Paying Fine* (2016) and *State of Karnataka v. L. Veerappa* (2000) emphasised proportionality and economic fairness in sentencing.

- **Strengthen welfare and social protection.**

Poverty reduction and social-security frameworks—such as the Mahatma Gandhi National Rural Employment Guarantee Act, 2005, the Public Distribution System, and Ayushman Bharat—should be expanded to guarantee food, shelter, health, and livelihood security (NITI Aayog, 2020). Stronger monitoring and grievance-redress mechanisms would reduce the structural vulnerability that leads to criminalisation.

- **Expand access to justice and legal aid.**

The Legal Services Authorities Act, 1987 mandates free legal services for economically weaker sections, yet coverage remains inadequate. Strengthening legal-aid infrastructure, community legal literacy, and mobile

legal clinics can enhance procedural justice (National Legal Services Authority [NALSA], 2021).

- **Promote empirical research and data collection.**

Systematic, disaggregated data on the criminalisation of poverty—by caste, gender, and geography—should guide legislative and judicial reforms. Partnerships between universities, the judiciary, and the National Crime Records Bureau (NCRB) are necessary to produce evidence-based policy (Centre for Law and Policy Research, 2022).

- **Encourage cross-sectoral reforms.**

Sustainable reform requires collaboration among the legislature, judiciary, executive, and civil society. Periodic statutory reviews, as recommended by the Law Commission of India (2017), can help identify and repeal obsolete or oppressive laws that perpetuate economic marginalisation.

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