15th September 2023

Call for Input on Decriminalisation of Homelessness and Extreme Poverty

Global Forum of Communities Discriminated on Work and Descent (GFOD) Submission to the Special Rapporteurs on the Right to Adequate Housing and Extreme Poverty and Human Rights

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# Introduction

Discrimination based on Work and Descent (DWD) affects more than 200 million people worldwide. Communities Discriminated on Work and Descent (CDWD) can be found on all continents. DWD is a unique type of discrimination that takes the form of social exclusion based on inherited status and ancestral occupation. DWD is often associated with notions of “purity and pollution” and practices of untouchability.[[1]](#footnote-1) Consequently, CDWD are faced with harassment and violence on a daily basis and face extreme forms of discrimination in accessing employment, education, healthcare, housing, water and sanitation and other basic services. CDWD are often bound by bonded labour or modern/ancestral slavery practices. CDWD women and girls face heightened marginalisation due to cross-cutting, intersectional discrimination as a consequence of their CDWD identity and their gender. It is not uncommon for CDWD women and girls to be bound by sexual slavery regimes. The marginalisation and extreme poverty of CDWD often means that as a means of survival they engage in informal street vending, waste collection, sex work and begging. Homelessness is common among CDWD due to a lack of land or housing titles, forced evictions, sub-standard dwellings and unaffordability. This call for input is of particular relevance to CDWD. This submission will discuss the myriad of ways in which the criminalisation of petty offences affects CDWD. It will also discuss positive steps taken by Governments and make recommendations for future actions. The geographical focus of the submission will be on Dalit communities in South Asia, Roma communities in Europe, Haratin communities in West Africa and Quilombola communities in Brazil.

# Regions

## Africa

### **Niger**

It is pertinent to note at the outset that the issue of housing remains a burning concern for many communities in Niger, particularly CDWD. Marginalised communities face systemic barriers to accessing adequate housing, often leaving them homeless and vulnerable. Several ethnic groups such as the Haussa, Zarma, Peulh, Touareg and Gourmantché, that make up a large part of Niger’s population, are part of this list.

This phenomenon has been exacerbated by the advent of terrorism in the Sahel, which has affected a large proportion of Niger's towns and villages, forcing communities to flee for Niamey. These IDPs are left exposed and often their only recourse is to turn to begging. They are also vulnerable to homelessness, spending their nights under cars, in the streets, in public spaces or at the edge of markets.

The government has made an effort to build social housing, but this is intended for specific groups of lower paid civil servants, such as primary and secondary school teachers and not CDWD. This takes the form of a loan to be repaid, as the State subtracts the amount from their salaries until full payment of the equivalent of the housing allocated according to a set deadline.

It is also important to remember that, despite the rules not being applied evenly and effectively, according to Article 28 of the Constitution of the Republic of Niger, "everyone has the right to own property. No one may be deprived of their property except in the public interest, subject to fair and prior compensation".

Inequitable access to housing for CDWD often stems from deep-rooted prejudices and discriminatory social norms linked to their history or daily activities. They are often denied housing opportunities because of negative stereotypes and mistaken beliefs about their identity. This discrimination reinforces the cycle of marginalisation and deprivation, contributing to the tragic reality of homelessness among these groups.

The housing discrimination suffered by CDWDs in Niger is also linked to the State's disengagement from establishing standards that could structure and formalise the management of rent contracts. For example, there is no codification or rules setting housing prices, leaving it up to private landlords to decide prices, who should be housed and the management rules. The landlord, therefore, has full power to refuse accommodation out of prejudice regarding a person’s family background or because they were born into ancestral slavery.

### **Gambia**

* **Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places (please kindly include the wording of these laws and regulations and specify whether they are effectively enforced).**

There is no law that prohibits begging, eating, or sleeping at certain public places even though those in charge of such places may prohibit people from doing so. With regard to personal hygiene, the Tobacco Control Act 2016[[2]](#footnote-2) prohibits smoking in public places. The Anti-Littering Regulation 2007 is another example of a personal hygiene-related law.[[3]](#footnote-3) A declaration to end open defecation was launched in 2015 but so far there is no ban on open defecation.

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

According to the Gambian Criminal code[[4]](#footnote-4), individuals unable to pay fines for petty offenses may be detained or imprisoned.

* **Information about attempts made or planned to decriminalize street vending, informal business activities, sex work, begging, eating, sleeping or performing personal hygienic activities in public places.**

There have been no attempts to decriminalise sex work. However, enforcement is not very effective. Begging, eating and sleeping in public places are not criminal activities in the Gambia.

* **Information concerning initiatives to change the response of law enforcement officials and of the criminal justice system from penalization, punishment or detention, towards facilitating social inclusion of persons living in poverty or experiencing homelessness**.

The Security Sector Reform Process was supposed to be the driving force that would tackle the response of law enforcement officials. However certain factors hinder the reform process including the rejection of the draft Constitution by the members of the National Assembly.

The National Social Protection Policy (2015-2025)[[5]](#footnote-5) seeks to put in place a comprehensive set of social protection policy measures and instruments to address the varied vulnerabilities affecting different categories of the population. It is meant to contribute to greater equity, pro-poor growth and social cohesion.

* **Measures and services available at the national, regional or municipal level to support people living in poverty and in situations of vulnerability from having to resort to begging, sleeping, washing, defecating or performing other hygienic activities in public places because they lack access to employment, social assistance, adequate housing, public showers and toilets.**

Government & Municipalities:

1. Support vulnerable households with Basic Food items during agricultural lean seasons, disasters, health emergencies and other crisis;
2. Have sponsorship schemes for students from vulnerable families;
3. Build recreational centres, which are accessible to all;
4. Provide of dustbins for every household and supply waste collection trucks.
5. Banjul City Mayor provides international training skills for 500 young people to learn skills in different countries;
6. Municipalities provide cleaning jobs for middle aged women and men including young people within municipalities.

### **Cameroon**

**Sex work**

The Far North region of Cameroon has a relatively low school enrolment rate in general, and more particularly for girls, whose ancestral traditions prevent them from going to school. As a result, Bororo girls are reduced to domestic and household tasks that prepare them for their future married life. School education is therefore not a priority for the inhabitants of this heavily Islamic region, especially for young girls. Their illiteracy is taken advantage of to solicit all sorts of services from them: selling sweets, being nannies, maids, waitresses in hotels and sexual exploitation. The proceeds from their sales are passed on to their parents, who manage them as they see fit.

**Begging**

Begging is a real and growing phenomenon in the Mbororo community, a semi-nomadic islamic pastoral group present in the borderlands of Cameroon, whose main commercial activity is selling cow milk. Begging gangs send children aged 5 and 10 to harass to beg on the street. A survey carried out in the town of Ngaoundéré revealed that these children, mostly girls, come from Quranic schools and are sent out into the street by Quranic masters to beg and return with money. Testimonies show that the Mbororos attach great importance to begging, a phenomenon which according to them has a religious side.

According to Section 245 of the Cameroon Penal Code – “whoever, having means of subsistence, or being able to earn such by working, begs in any place for alms shall be punished with imprisonment for from three months to three years and with a fine of from CFAF 50 000 to CFAF 500 000”[[6]](#footnote-6) .

### **Mauritania**

* **Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places (please kindly include the wording of these laws and regulations and specify whether they are effectively enforced).**

There are laws and regulations that prohibit begging and street venders and homelessness in Mauritania. Articles 269 and 270 of June 2012 prohibit homelessness and begging and impose a prison sentence of 3 months. Article 77 (2018) Law 8352-380 criminalises discrimination. These laws and regulations are not always effectively enforced; however, the government does enforce them in some circumstances such as when playing host to international events, summits and diplomatic visits.

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

There are no laws or regulations that permit detention and imprisonment for begging or homelessness if the accused don't pay the fines, but there are some municipal regulations and orders that allow the confiscation of goods and equipment. These procedures have been negatively affecting CDWD involved in street vending such as those operating mobile phone shops and female small business owners, specifically those selling fish and vegetables. Despite the fact that the laws and regulations are not enforced, policemen take advantage and harass street sellers and those in the informal sector to extract bribes.

* **Information about attempts made or planned to decriminalize street vending, informal business activities, sex work, begging, eating, sleeping or performing personal hygienic activities in public places.**

The government has launched an urban plan to integrate those in the informal sector and street venders by creating market spaces and building shops. Unfortunately, those concerned cannot afford the high rental prices being charged. Regarding begging, the government has also created community development programmes - reception centres that aim to provide monthly income, shelter and training for street beggars - but the program has not been sustained due to a lack of political will.

* **Measures and services available at the national, regional or municipal level to support people living in poverty and in situations of vulnerability from having to resort to begging, sleeping, washing, defecating or performing other hygienic activities in public places because they lack access to employment, social assistance, adequate housing, public showers and toilets.**

The government, through the ministry of Habitat and Urban Planning, has been allocating tracts of land to vulnerable communities. However, these areas are without basic utilities such as water, health centres, electricity, schools, infrastructure and security and located far away from the city centre. Communities are too poor to take on the financial burden of constructing homes and shelters themselves. Consequently, they sell the allocated land, move back to cities and became homeless again.

There are measures that have been established and services available at national level to support people living in poverty and vulnerability. The Government has created the development agency TAAZOUR[[7]](#footnote-7)to help alleviate poverty and integrate former ancestral slave communities.

### **Mali**

* **Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places (please kindly include the wording of these laws and regulations and specify whether they are effectively enforced).**
* **Laws or regulations that allow the detention or imprisonment of individuals who are unable to pay the fine imposed for petty offences.**

Article 183 of the Penal Code of Mali[[8]](#footnote-8) states that “any able-bodied person of legal age found begging on the public highway will be punished by 15 days to 6 months' imprisonment”. An invalid person leaving a hospital or charitable centre to beg on a public highway will also receive the same penalty as an able-bodied adult. However, incitement to beg is prohibited in all circumstances, and even more so if the person incited to beg is a child. The penalty in such a case is imprisonment ranging from 3 months to 1 year. Article 184[[9]](#footnote-9) warns beggars about certain acts including threats, insults or breaking and entering a private property while begging. The penalty in such a case is imprisonment ranging from 3 to 6 months. If the beggar is caught with the means to commit theft or other offences, or to break and enter, the imprisonment will range from 6 months to 5 years. Attempted violence or violence perpetrated by a beggar against another person is punishable by 2 to 5 years imprisonment and a residence ban of up to 10 years.

There are two types of begging in Mali: stationary begging, where the beggar stays in the same place, and mobile or itinerant begging, where the beggar constantly moves around the city, often using means of transport. The main cause of begging is extreme poverty. People who can't meet their basic needs such as food, clothing, healthcare and housing often take to begging as a last resort. In 2015, the number of beggars in Mali stood at 39,951, including 15,134 children. At that time, Mali's total population was estimated at 17,735,000, according to Mali's National Statistics Institute. In 2017, this population increased to 18,786,996, including 9,168,054 children, according to the same Institute.

## South America

### **Brazil**

CDWD number 1.3 million in Brazil.  Such groups include: Quilambolas, Faxinais/Faxinalenses People, Artisanal Fishermen, Riverine People, Coco-babaçu Breakers, Fundo and Fecho de Pasto Communities, Mangaba Pickers, Geraizeiros, Cerrado, Extractivist Communities, Rubber Tappers, Pantanal, Roma, among other culturally differentiated groups. Discrimination against Brazilian members of CDWD occurs due to systemic, structural, environmental and institutional racism, and because punishments and sanctions against perpetrators are not yet as effective as they should be. A majority of cases of violence registered with the police do not lead to convictions, with little or no resolution of cases.

A common issue for the authorities with regard to  these communities is the predominance  of informal housing and the lack of land ownership which poses significant threats to the occurrence of territorial conflicts that arise in these regions, contributing to the marginalisation and invisibilisation of these communities (i.e., especially riverside communities). As an example, it is worth mentioningthe expulsionof riverside communities that lived near the Xingu River, in the municipality of Altamira, state of Pará, for the construction of the Belo Monte Hydroelectric Plant.[[10]](#footnote-10)

Unfortunately, the number ofhomeless people in Brazil and around the world grows every year. According to the Institute of Applied Economic Research (IPEA) the homeless population in Brazil grew 38% between 2019 and 2022, when it reached 281,472 people. Rafael Braga—a homeless black man arrested during Brazil’s 2013 mass protests—has become a symbol of the current struggle against the criminalization of poverty. He was sentenced for carrying liquid detergent on the basis that it was an “explosive or incendiary device, without authorization or in breach of legal or regulatory determination.” Social media responses and activists demanding Braga’s freedom emphasise that this case highlights the inextricable links between racism and the criminalization of poverty.[[11]](#footnote-11)

On multiple occasions, poor, mostly black youthswho had not committed any crimes and were not carrying drugs or guns were detained on buses to the touristic South Zone of Rio as potential criminals after being racially profiled. This effort, in theory aiming to reduce crime near the beaches of Copacabana and Ipanema, has been condemned as illegal by judge Pedro Henrique Alves of the First Court of Childhood, Adolescence and Old Age, yet the practice of viewing low-income youth as guilty until proven innocent, endures. The assumption of criminality also has an impact in job searches - employers are well known to look unfavorably on candidates with addresses in favelas. Such prejudice, of course, makes it harder for favela residents to find formal employment and further perpetuates stigmas and promotes crime.[[12]](#footnote-12)

## Europe

Roma are the largest CDWD in Europe with an estimated population of 10-12 million, including around 6 million in the European Union. The rights of Roma are still not successfully protected at the international, national, regional, or local level.

Roma are an ethnic group who have been struggling for emancipation, recognition and their own identity for centuries. The image of Roma was primarily formed through the lens of non-Roma. The public image has a negative perception of the Roma as being lazy, criminal, violent, worthless and dangerous. This has led to the disproportionate criminalization of Roma communities across Europe.[[13]](#footnote-13) The use of excessive force, police brutality, and misconduct, including the death of Stanislav Tomáš in Czechia, who has been called ‘the Romani George Floyd’[[14]](#footnote-14); the police raid of the Moldava and Bodvou camp[[15]](#footnote-15), and the October shooting of teen Nikos Sampanis in Athens[[16]](#footnote-16) are just some examples of the criminalization of Roma in action.

**Poverty**

According to the Fundamental Rights Agency 2021 data[[17]](#footnote-17), monetary poverty of Roma has not changed between 2016 and 2021. Four out of five Roma live at risk of poverty. On average, 80% of Roma in the survey countries were at risk of poverty in 2021.

According to the Council of Europe “racism, humiliation and exclusion are drivers of poverty, as well as consequences of it. Discrimination, whether based on gender, ethnicity, sexuality or other grounds can lead to exclusion and restricts pathways out of poverty. Poverty is more than just a human rights violation”.[[18]](#footnote-18) Poverty robs individuals of their dignity and increases vulnerability to hunger, malnutrition, physical and mental illnesses, human rights abuses and exclusion.

* **Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places, including their texts and whether they are still in force and enforced.**

The criminalization of poverty, especially when it relates to the Roma minority, is a profoundly concerning issue prevalent in various European countries. In Belarus, a noteworthy event occurred when protestors took to the streets to demonstrate against a tax aimed at combating what the government termed "parasitism." Belarusian President Lukashenko signed Decree No 3 on “the prevention of social encumbrance”, which states that citizens who did not engage in employment and did not contribute to public funding for more than 183 days, must pay fees of 20 basic units (230€)[[19]](#footnote-19). With most of the Roma in Belarus below the poverty line, many cannot pay the ‘tax on parasitism’ or prove the legal origin of their income. The situation is exacerbated by threats of removing children in low-income families.[[20]](#footnote-20)

Another example of the criminalisation of poverty occurred in Belgrade. In this case, Roma individuals who were formally registered as baggage porters were denied access to their work at the Belgrade Bus Station (BBS). These individuals had been working as registered entrepreneurs through the Agency for Business Registers and were compliant with regulations. They paid for access to the platform using monthly tickets, which cost around 1,500 dinars. However, when the arrivals platforms were relocated, they encountered difficulties purchasing monthly tickets, and security prohibited their entry to the arrival’s platforms, citing the reason as "Roma cannot work here anymore."[[21]](#footnote-21)

Criminalisation based on poverty is a phenomenon that disproportionately affects CDWD by deepening the cycle of poverty and social exclusion. When individuals are pushed into criminal activity out of economic necessity, it perpetuates negative stereotypes and biases, further deepening societal divisions.

**Begging**

It is not uncommon for Romani people to be referred to as nothing more than “annoying” beggars, welfare dependents, prostitutes, and thieves.[[22]](#footnote-22) Begging is not a part of Roma customs. In fact, begging is an economic practice that is a consequence of extreme poverty and antigypsyism. If Roma are forced to beg in order to survive, it cannot be seen as surprising as the discrimination brought about by antigypsyism creates a vicious cycle of poverty.[[23]](#footnote-23)

Following the European Union enlargement in 2007, many Romanian and Bulgarian citizens of Roma origin used the right of free movement guaranteed by the EU Treaties to enter and reside in Nordic countries. In 2010, Roma citizens from Romania and Bulgaria used their rights according to the EU treaties to enter and reside in Sweden. In 2011, due to the increase in begging, the police deported Roma back to their home countries. The deportation by the police was investigated by the Parliamentary Ombudsman, who stated in the decision that the act endangered individuals’ rights and liberties. Additionally, the Parliamentary Ombudsman claimed that the actions taken by the police were unconstitutional. This topic was discussed again when the Vellinge Kommun prohibited begging in 2017, putting the Roma minority in a disadvantaged position. The County Administrative Board of Skåne opposed this policy, claiming that the decision was not compatible with the Public Order Act. her case was discussed in the Administrative Court, then in the Administrative Court of Appeal and ended in the Supreme Administrative Court. The court delivered a judgement according to that made the prohibition of begging constitutional in 2018.[[24]](#footnote-24)

The Supreme Administrative judgement in Sweden incentivized several other local communities to adopt anti-begging regulations. Moreover, several countries in Europe have adopted similar policies:[[25]](#footnote-25) In Germany, Berlin, Bremen and Munich have passed laws making it illegal for adults to beg with children; Luxemburg banned begging if it is organised and carried out in a group, an allegation often levelled against Romani beggars; in 2015, the Norwegian government discussed the importance of a national framework for criminalising begging. Even though the proposal’s language was neutral, Norway’s Equality Ombudsperson recognized it as targeting Roma.

* **Comments on whether any of these laws and regulations may violate international human rights law.**

By criminalising or penalising begging, States are putting already marginalised people in society at an even greater risk of stigmatisation, discrimination and poverty. Although begging is not recognized as a human right, there are several provisions in the International Human Rights legal framework providing protection from poverty that could serve as a basis to protect the act of begging (i.e., The European Convention on Human Rights, Article 10 and Article 14).

The most relevant case is Lacatus v. Switzerland.[[26]](#footnote-26) The case was brought to court by a Romani woman of Romanian nationality who had been convicted and fined under the Geneva criminal code for begging. The European Roma Rights Center (ERRC) submitted a third-party intervention to the Court. The ERRC in their submission argued the importance of the word “antigypsyism” which the Court should apply in order to understand the discriminatory motivation underlying the adoption and increasing enforcement of law criminalising begging in Europe. The ERRC added data to describe the economic situation of Roma in Bulgaria and Romania. The ERRC further argued that anti-begging laws were actually violating human dignity by creating a hostile, degrading and humiliating environment for Roma. According to their submission and research, there is a consensus among legal experts and researchers that anti-begging laws lead to the violation of human rights.

**Housing**

Roma lack basic housing utilities and infrastructure and are disproportionately affected by environmental pollution. This prevents them from enjoying the most basic human rights, namely the right to live in a clean environment and the right to live in a house with the necessary utilities, protecting them from the effects of climate change.[[27]](#footnote-27)

Every second Roma (52 %) lives in a state of housing deprivation, living in damp, dark dwellings or housing without proper sanitation facilities. One out of five Roma households (22 %) do not have access to tap water inside their dwelling, which was of particular concern during the COVID 19 pandemic.[[28]](#footnote-28) A study has shown that 43% of Roma are discriminated against when buying a house or renting accommodation[[29]](#footnote-29)

**Living in public spaces**

* **Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places, including their texts and whether they are still in force and enforced.**

For Roma, Gypsty and Travellers living roadside in the United Kingdom, forced evictions are suspected to increase under the Police, Crime, Sentencing and Courts Act 2022.[[30]](#footnote-30) A so-called “Police Act” without the authorisation of courts and waiting for final judgments, enables the law enforcement to remove vehicles and any other property based on “significant damage or significant disruption [having] been caused or…likely to be caused as a result of…residence”[[31]](#footnote-31), along with other stipulations. Namely, any vehicle and home could be removed from the land after the given deadline and the ‘offender’ can be arrested and in some cases, vehicles could also be impounded. The confiscation of vehicles and caravans could cause eviction and homelessness – threatening the everyday lives of Roma, Gypsies, and Travellers.

* **Comments on whether any of these laws and regulations may violate international human rights law.**

From a human rights angle, the “Police Act” cotains clear discriminatory provisions in its targeting of Gypsy, Roma or Traveller communities. This has been corroborated by civil society organisations in the United Kingdom and by national and international human rights bodies. The alarming warning on the provision 60C to E of the “Police Act” was addressed by Council of Europe’s Human Rights Commissioner, Dunja Milatovic. Milatovic stated that “the criminalization of trespass in relation to unauthorized encampments will specifically impact on Gypsy, Roma, and Traveller communities leading a nomadic [way of life]”. Furthermore, the UK’s own Joint Committee on Human Rights proposed to remove provision 61 from the Act, since it would contravene the Government’s obligation to facilitate the culturally pertinent travelling way of life.[[32]](#footnote-32) However, these serious observations of a potential discriminatory provision did not shift the Government’s position and as a result, the Act was approved with wilful ignorance of the potential harm to communities that already struggle to access suitable accommodation.

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

A specific case[[33]](#footnote-33) illustrates the unequal treatment and discrimination that Roma experience in public spaces –

On April 25, 2019, Florica, a 25 year old Roma woman returning from a hospital in Zalau, Romania was denied the right to board a bus by the driver. Florica protested, swearing at him and slamming the medicine bag into the minibus. "It generated a loud bang," the judges would later cite. The driver attacked her with a mop tail, hitting Florica while she was holding her baby. None of the passengers at the bus station reacted. One of them filmed the entire scene instead, and the 15-second footage went viral on the Internet. Florica called the emergency number, but the police never came. The Roma woman was rebuffed by operators of the emergency number when she called to report that she was the victim of an assault. The victim was verbally assaulted by the operator who answered her call. "You are crazy! Get the hell away!" the operator told the caller. According to the final sentence handed down in early 2023 by the Cluj Court of Appeal, Florica Moldovan will have to pay a criminal fine of 1,200 lei, otherwise she face imprisonment. The driver who hit her with the mop tail received a suspended sentence. Florica Moldovan was charged and tried for disturbing the public peace, after the prosecutors and then the judges considered that she was the one who caused the scandal and that she reacted disproportionately, "provoking public indignation".[[34]](#footnote-34)

## Asia

### **Bangladesh**

* **Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places, including their texts and whether they are still in force and enforced.**

The key cause of homelessness in Bangladesh is poverty along with other causes such as climate disaster, oppression, and fleeing from family[[35]](#footnote-35). One in four people of Bangladesh live in poverty and five million people live are homeless[[36]](#footnote-36). CDWD such as Dalits are worst affected by poverty[[37]](#footnote-37) and thereby most exposed and at risk of becoming homeless. Homeless people in Bangladesh are treated as “vagrants”. While Dalits live in housing settlements and do not appear to be homeless, the reality is that these housing settlements are constructed on the common land, provided by the government, and informal in nature. Despite living there for generations, Dalits do not have any rights to the land. Forced evictions are frequent. A Dalit settlement in Dhaka was demolished by city authorities and residents were forcefully evicted without rehabilitation or resettlement.[[38]](#footnote-38) During his visit to Bangladesh from **May 17 to 29 May 2023**, the UN Special Rapporteur on extreme poverty and human rights visited the site[[39]](#footnote-39) and expressed his concern in his end of mission statement.[[40]](#footnote-40) Due to the practice of “untouchability”, many Dalits would not be able to rent houses and buy land, even if they did have the financial means, pushing them into homelessness.

According to the Vagrant and Shelterless Persons (Rehabilitation) Act of 2011, the definition of “vagrant” is broad and penalizes homeless people including children and adults of diverse ages and gender identities.[[41]](#footnote-41) The act permits a Police Officer, District Magistrate or Special Magistrate to arrest a person who appears to be a vagrant and bring them before a Special Magistrate within twenty-four hours of arrest[[42]](#footnote-42).

As they live or work on the street, homeless people are particularly vulnerable to being found guilty of causing public nuisance under Section 268 of the Penal Code of 1860[[43]](#footnote-43). Moreover, the Metropolitan Police Ordinances of Dhaka, Chittagong, Khulna, Barisal and Sylhet contain specific provisions which penalize begging and loitering[[44]](#footnote-44).

Such punitive laws have severely affected the lives of people already exposed to extreme poverty and homelessness.

### **Pakistan**

Homelessness or vagrancy in Pakistan are a result of multiple factors. Natural and human-induced disasters, overpopulation, poverty, unemployment, urbanization, mental illness, drug addiction are some factors that have led to a 20 million people living in inadequate housing.[[45]](#footnote-45) Outdated anti-vagrancy laws, unresponsiveness of government machinery for the rehabilitation of the homeless and an unstable economic situation are some of the governance, legislative and financial reasons leading to homelessness.

* **Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places, including their texts and whether they are still in force and enforced.**

The Sindh Vagrancy Act 1947 was the first legislation of its kind in any territory of Pakistan, which provided for the welfare of vagrants in the province of Sindh. This Act was repealed by the West Pakistan Vagrancy Ordinance, 1958.[[46]](#footnote-46)

According to the Punjab Vagrancy Ordinance 1958 (West Pakistan ordinance XX of 1958) “begging or any kind of solicitation for begging is banned and the person or the gang involved is arrested and jailed for three years”.[[47]](#footnote-47) Any police officer may without an order from a magistrate and without a warrant, arrest and search any person who appears to him to be a vagrant and may seize anything found on or about such person which he has reason to believe to be liable to confiscation under this Ordinance.[[48]](#footnote-48)

Currently, three provinces in Pakistan have adopted the same Ordinance under the respective name of their province. Only Khyber Pakhtunkhwa has repealed the law through the enactment of another Act.[[49]](#footnote-49)

In Sindh, the West Pakistan Vagrancy Ordinance, 1958 was adopted under the name of Sindh Vagrancy Ordinance, 1958, through the Sindh Vagrancy (Amendment) Ordinance, 1983. The provisions are similar to The West Pakistan Vagrancy Ordinance, 1958, except for a few minor changes. This Amendment also repealed The Vagrancy (Karachi Division) Act, 1950.[[50]](#footnote-50)

The Governor of Baluchistan through an enactment adopted the West Pakistan Vagrancy Ordinance, 1958 in 1975, under the name of The Baluchistan Vagrancy Ordinance, 1958. The provisions of this Ordinance are the same as that of The West Pakistan Vagrancy Ordinance, however some changes have been made regarding the sentence for the guilty.[[51]](#footnote-51)

The Governor of Punjab through an enactment of the Ordinance adopted the West Pakistan Vagrancy Ordinance, 1958 in 1974. The Ordinance was henceforth known as The Punjab Vagrancy Ordinance, 1958, with the provisions almost similar to The West Pakistan Vagrancy Ordinance, 1958.[[52]](#footnote-52)

The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010 primarily deals with the protection of children. The Act provides for the children to be prevented from begging, being homeless, used in acts of prostitution/ pornography, or trafficking etc. Through this Act, the Provincial government is empowered to prohibit the employment of children and has defined the punishments liable on the persons who violate this law. The Act also provides for the welfare education to children. However, this Act repealed The West Pakistan Vagrancy Ordinance, 1958.[[53]](#footnote-53)

These laws are largely ineffective due to poor implementation mechanisms including inappropriate rehabilitation systems and a lack of interest from the Government.[[54]](#footnote-54) Beggars belonging to organized mafias evade laws by bribing officials.[[55]](#footnote-55) On the flip side, those who are homeless and do not have alternative sources of livelihood suffer from crack downs of enforcement agencies. The major gap in the effective implementation of The West Pakistan Vagrancy Ordinance 1958 is that it considers vagrants as criminals, instead of victims. As a result, the State does not provide relief and rehabilitation facilities and victims after being evicted, arrested and temporarily kept in shelter homes can once again be found on the streets upon release.[[56]](#footnote-56)

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

**Section 40 of Pakistan Penal Code (PPC)** defines an offence as any act or omission which has been made punishable by any/special or local law. However, **section 81**articulates that it is not necessarily an offence where it is done without any criminal intention to cause harm and in good faith for tehe purpose of averting or avoiding other harm to any person or property.[[57]](#footnote-57)

There are provisions in some laws that allow for the detention or imprisonment of individuals who are unable to pay fines imposed for petty offenses. However, the specific laws and regulations governing this vary depending on the nature of the offense and the jurisdiction. In general, the legal system recognizes that individuals may not always have the means to pay fines immediately. In such cases, alternative measures such as community service or a payment plan may be arranged. However, if a person consistently fails to comply with the fine payment or alternative measures, imprisonment can be an option under certain circumstances. Laws such as the Code Criminal Procedure 1898, the Constitution of Pakistan 1973 state the procedural aspects and regulations regarding punishments on petty matters in term of fines and detentions confinement.[[58]](#footnote-58)

The Small Claims and Minor Offences Courts Ordinance, 2001 has been extended to all of Pakistan at district/tehsil level. A civil judge-cum-judicial magistrate designated by the respective High Court presides over these courts. Recently, two small cause courts have been established in Karachi and Lahore and expansion is planned across the country. Due to a lack of awareness of their existence, a negligible number of cases has been heard at these courts since their establishment.[[59]](#footnote-59)

* **Information about attempts made or planned to decriminalize street vending, informal business activities, sex work, begging, eating, sleeping or performing personal hygienic activities in public places.**

**Street Vending**

A draft Bill on the protection of street vendors entitled the Street Vending Bill has been prepared by the Pakistan Institute of Development Economics, Centre of Street Economy and the Social Protection and Poverty Alleviation Division. This mainly covers the discretionary powers of various authorities in relation to street vendors, creation of town vending committees, designated areas and vending certificates, punishments and penalties in case of intimidation and confiscation of equipment from vendors and microcredit services for street venders.[[60]](#footnote-60)

According to a study on street vendors in Islamabad conducted in 2020 “A majority of street vendors have been frequently evicted and their material confiscated by city authorities. It takes at least 3-weeks for them to retrieve their carts and material from the government after paying penalties and incurring a loss of 50% to 100% of income. Reviving their livelihood, post evictions, has resulted in heavy indebtedness and negative health outcomes such as hypertension, blood pressure and other maladies.”[[61]](#footnote-61)

**Begging**

Legislation on vagrancy has existed in Pakistan for many decades, with the law referring to all vagrants are criminals and entitling the police to conduct searches and arrests without a warrant. This is representative of extreme forms of injustice forced upon the poorest classes of society. Khyber Pakhtunkhwa (KPK) is the only province that has repealed this law through the enactment of The Khyber Pakhtunkhwa Child Welfare and Protection Act, 2010.[[62]](#footnote-62) Although, this has secured and provided protection to the children of KPK against begging, harassment, abuse and trafficking, its implementation in the true spirit of the law is questionable. The decriminalization of beggary for adults in KPK has shown some results with regard to rehabilitation, and 12 Welfare Homes to control beggary and drug addiction in children have been established.

**Sex Work**

The Constitution of Pakistan states in Article 37 (g) that the State shall “prevent prostitution, gambling and taking of injurious drugs, printing, publication, circulation and display of obscene literature and advertisements”[[63]](#footnote-63).

The Pakistan Penal Code 1860 criminalizes two specific actions under section 371 (a) and (b), namely the selling and buying of a person for the purposes of prostitution; making both actions punishable for a maximum of twenty five years imprisonment and a fine.[[64]](#footnote-64) In Pakistan, prostitution a crime for clients (through charges of fornication), sex workers (through soliciting and fornication) as well as pimps and traffickers. This also means that there is a risk of sex workers not approaching courts for even minor legal issues out of fear of having a counter suit filed against them since the way they earn their living is a criminal offense. According to a recent survey, 60.3% of individuals polled stated that they believe that sex workers in Pakistan cannot approach courts for remedy against any wrong done to them.[[65]](#footnote-65)

There has been a constant demand by feminist groups to decriminalise prostitution and provide legal protection to sex workers instead of marginalising them based on ethical or moral arguments. However, surveys have concluded that a big majority - 70.9% - are not in favour of legalizing prostitution in Pakistan, with only 66.2% seeing prostitution as human rights violation.[[66]](#footnote-66)

### **India**

* **Laws or regulations that prohibit begging, eating, sleeping, or performing personal hygienic activities in all or certain public places, including their texts and whether they are still in force and enforced.**

Vagrancy appears on the Concurrent List[[67]](#footnote-67) of the Indian Constitution, meaning both states and the Centre can legislate on the subject. While there is no central law, according to the Ministry of Social Justice and Empowerment[[68]](#footnote-68), 20 states and 2 Union Territories have anti-beggary laws in place.

The recent Bombay Prevention of Begging Act, 1959 which draws heavily from the pre-Independence Bombay Beggars Act, 1945 and other counterparts of the Bengal Vagrancy Act, 1943[[69]](#footnote-69) and the Madras Prevention of Begging Act, 1945[[70]](#footnote-70) is the modern post-colonial legislation that has become the model anti-beggary law for most states in post-British India.

The 1959 Bombay Act is a derivative figure of all anti-begging laws in most Indian States. The BPBA[[71]](#footnote-71) was extended to the Union Territory of Delhi in 1960. The Act defined ‘begging’ as an activity of soliciting or receiving alms in public places under the pretence of certain entertainment activities, and would also confer charges for trespassing or entering any private premises. The Act confers upon the police officer the power to arrest any person found begging without a warrant, and to only do the similar on private property on receiving a complaint by the occupant of the premises.

The alleged offender, once convicted as a ‘beggar’ by the said Court, is then detained in a Certified Institution for a period between 1-3 years. The person is further released on a bond and asked to desist from begging, failing to which he shall be detained for a period of not less than 10 years. Hence, a person could be imprisoned for 10 years if charged more than once for begging in the jurisdiction mentioned under the laws. States like Delhi and Gujrat[[72]](#footnote-72) adopted this Act either in total or with minor changes.

A 2019 study[[73]](#footnote-73) conducted by the Indo Global Social Service Society (IGSSS) in collaboration with the European Union concluded that Scheduled Castes or Dalits across 15 cities surveyed in India comprise the highest share (36%) of urban homelessness in India. This is followed by Scheduled Tribes (23%) and Other Backward Castes (21%) who do not have access to housing and basic services.

17.5% of the urban homeless surveyed, resort to begging as their source of livelihood in Indian cities of Patna, Gaya, Muzaffarpur, Ranchi, Dhanbad, Jamshedpur, Chennai, Madurai, Coimbatore, Visakhapatnam, Guntur, Vijayawada, Mumbai, Pune and Nashik. Such figures are necessary to consider when we think of intergenerational cycles of poverty, homelessness and deprivation among marginalised caste communities in India, to better help the State frame targeted schemes for the groups mentioned.

Laws at the city and municipal level such as the Delhi Police Act, 1978, the Bombay Police Act, 1951[[74]](#footnote-74) and the City of Nagpur Corporation Act, 1948[[75]](#footnote-75) among others are used for issuing orders to evict homeless persons and beggars in listed areas of the city. In such cases, the persons evicted are usually sent to shelters which are already cramped and congested with dilapidated living conditions. In most cases, resettlement is in far flung areas on the outskirts of the city. During the 2010 Commonwealth Games[[76]](#footnote-76), the Govt. of Delhi evicted more than 60,000 beggars as part of a “clean-up drive”.

Sections of the Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC)[[77]](#footnote-77) 268 and 144, respectively, can be applied in situations in which begging is considered a public nuisance.

While most anti-beggary laws are punitive in nature, Section 363A of IPC[[78]](#footnote-78) (Kidnapping and maiming of minors for the purposes of begging), the Juvenile Justice Act, 2015[[79]](#footnote-79) and the Children Act, 1960[[80]](#footnote-80) are preventive legislations applied in instances to prevent the trafficking of children and forced begging.

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

While there is no single legislation on petty offences in India, certain sections of the CrPC[[81]](#footnote-81) and IPC[[82]](#footnote-82) provide definitions and criteria for determining petty offences in the country. Section 45 of the Juvenile Justice Act[[83]](#footnote-83) defines ‘petty offences’ as “offences for which the maximum punishment under the IPC or any other law for the time being in force is imprisonment up to three years.”

Further, Section 206 of CrPC provides for special summons and exempts offenders of petty crimes to appear before the magistrate in cases where the fine imposed on the offence does not exceed 1000 rupees. Powers under Section 206 are conferred onto the Magistrate both when offences are compounded as under Section 320 of CrPC or any offence which is punishable with imprisonment for a term not more than three months, or with fine, or with both – where the Magistrate having regards to the facts and circumstances of the case, is of the opinion that the imposition of fine only would be enough for meeting the ends of justice.

Criminal trespass and house trespass are some of the offences compounded under Section 320 that could be used for criminalising homelessness, beggary and other informal activity on both private and public land in the nation. Moreover, no sub clauses under Section 320 provide for instance in which the offender defaults to make the payment of the fine imposed.

Instead, Section 376 of the CrPC provides for ‘no appeal for petty offences’ and strictly states that sentence of imprisonment provided by the Magistrate to the convict shall not be appealable for failing to pay the fine imposed on such offences. While most petty offences in India are eligible for summary trials as maintained u/s 260 of CrPC, incarceration becomes inevitable in circumstances where the accused is unable to pay the fines imposed.

* **Information about attempts made or planned to decriminalize street vending, informal business activities, sex work, begging, eating, sleeping, or performing personal hygienic activities in public places.**

**Street Vending**

In 2004, the Govt. formulated the National Policy of Urban Street Vendors[[84]](#footnote-84) to recognise the constitutional rights of street vendors to practise any profession without causing overcrowding.

In 2009, the revised Policy suggested amending, enacting, repealing and implementing appropriate laws for street vendors. It was suggested that Section 283 of the IPC be revoked[[85]](#footnote-85), which allows for punishment with a fine for creating nuisance and causing obstruction in a public way or line of navigation. This was accompanied by a model law on street vending which could be adopted by the state governments, with modifications suited to local contexts.

In 2014 the Central Government passed the Street Vendors (Protection of Livelihood and Regulation of Street Vending)[[86]](#footnote-86). The 2014 Act[[87]](#footnote-87) was brought forth to create a uniform legal regulatory framework across states and union territories. It aimed to meet the objectives of securing livelihood for street vendors, ensuring congestion free urban spaces and convenience of street vending for customers.

**Begging**

The Rajasthan Rehabilitation of Beggars and Indigents Act, 2012[[88]](#footnote-88) adopts a more rehabilitative approach to beggary, which moves away from incarceration, and criminalisation. The capacitive approach provides for setting up ‘Rehabilitation Homes’ for indigents, providing vocational training for employment, and facilitating shelter for seniors. The Act also provides for a welfare fund maintained by the Committee to be set up under the State government, and encourages a survey of beggars in the state for their effective rehabilitation.

The 2016 model bill on The Persons in Destitution (Protection, Care and Rehabilitation)[[89]](#footnote-89) tabled by the centre endorses a more nuanced, layered and holistic approach to begging in India. It refers to destitution as a state of poverty, abandonment arising from social and economic deprivation, and acknowledges that necessary support should be extended to alleviate persons in such circumstances. Under its ambit, the Act seeks to set up the Outreach and Mobilization Unit to conduct surveys for identifying and mapping persons in destitution, create awareness on schemes and encourages access to entitlements/schemes by assisting them in procuring identity documents.

Rehabilitation Centres set up under the Act are mandated to have adequate staff, and provision to primary health services, basic literacy programmes and separate centres for women and persons with disability are some of the directives mentioned. Moreover, the Act also envisages interventions on a household/family level rather than an individual level, thereby investing in efforts to break across intergenerational instances of exploitation and destitution. Referral and counselling units set up under the Act seek to provide additional support with respect to mental health, livelihood and other social protection schemes of the state. However, this bill was eventually dropped[[90]](#footnote-90) despite consultations with the state government, for reasons that remain unknown and ambiguous.

In 2018 the Delhi High Court in the Harsh Mander v Union of India[[91]](#footnote-91) struck down the Bombay Prevention of Begging Act that was extended to Delhi. The court stated that the criminalisation of begging by the Act deprives a person of the basic necessities of life. It promulgated that such legislation violated Article 14 (Right to equality) and Article 21 (Right to Life) observed as fundamental rights in the Constitution.

The Delhi court also highlighted the arbitrary nature of the law, in which 74% of those arrested under the pretext of ‘begging' were from the informal sector engaged in occupations of food vending and construction, while 45% were reported to be homeless. The ruling succeeded to call out the inconsistencies of the BPBA in which begging and homelessness have been looked at synonymously and those found homeless have been detained and subjected to the penal provisions of the anti-beggary law. The Court reiterated that the Act goes against the spirits and the intentions of the welfare state, and thus revoked it.

**Sex Work**

The Budhadev Karmaskar v State of West Bengal case, following the conviction of Budhadev Karmaskar by the Supreme Court in its 19th May 2022[[92]](#footnote-92), gave directions for the rehabilitation and decriminalisation of sex workers in India. The bench expressed that basic protection of human decency and dignity should be extended to sex workers and their children, and invoked Article 21 to reinstate their fundamental rights.

The Supreme Court has issued injunctions that embody steps towards decriminalisation of sex work. It recommended that the police must refrain from interfering or taking criminal action against any adult participating with concern in the profession of sex work. Moreover, while the Immoral Traffic (Prevention) Act, 1956[[93]](#footnote-93) only treats the running of a brothel as an unlawful activity, voluntary sex work in that case should not be held illegal and sex workers concerned should be not be arrested or penalised or harrased or victimised.

**Homelessness**

In most instances, anti-beggary legislations in India have been used to criminalise both homelessness and begging. A 2018 Delhi High Court[[94]](#footnote-94) judgement sought to address the issue of poverty but also shine light on the crisis of homelessness in India. The judgement specifically emphasised how begging and homelessness were treated interchangeably, highlighting how the state has failed to address homelessness as a condition of poverty. The order demanded that rather than penalising homelessness through detention or forced evictions, the state should aim for policy interventions to address issues related to affordable housing in the cities.

In February 2021, the Supreme Court issued a notice[[95]](#footnote-95) to the states of Maharashtra, Gujrat, Haryana, Punjab and Bihar to repeal certain provisions of the anti-beggary laws that were enforced at the state level. The Court claimed that certain sections of the statute criminalising begging were violations of constitutional rights.

* **Information concerning initiatives to change the response of law enforcement officials and of the criminal justice system from penalization, punishment or detention, towards facilitating social inclusion of persons living in poverty or experiencing homelessness.**

In India, while the right to housing is not explicitly articulated in the law[[96]](#footnote-96), legal precedents and court interpretations have linked it with other fundamental rights Article 21 - the Right to Life and Personal Liberty. The Supreme Court in Francis Coralie v. Union Territory of Delhi (1981)[[97]](#footnote-97) upheld that the right to live life with human dignity goes along with the right to acquire adequate nutrition, clothing and shelter, conferring the state with the responsibility to provide adequate housing to all. In PUCL v. Union of India[[98]](#footnote-98)*,* the court ordered that shelters must be sufficient to meet the needs of the homeless, in the ratio of at least one shelter per lakh (100,000) population, in every major urban centre. It also stated that shelters should be functional throughout the year and not during the winter. In the P.K. Koul v Estate Officer & Anr, the High Court of Delhi (2010)[[99]](#footnote-99) examined the causes of homelessness as arising from natural disasters, development projects, economic deprivation as well as human rights violations. The Court elaborated on the constitutional obligations of the state to ensure the right to housing, and held that in case where the state fails to comply with such obligations the aggrieved is not only entitled to restitution but also compensation in the form of damages.

The Millenium Educational Trust v. State of Karnataka (2013)[[100]](#footnote-100) is significant for jurisprudence on the right to housing jurisprudence because it firmly establishes housing rights as derivable from the Indian Constitution and from the international human rights legal framework.

The Delhi High Court 2018[[101]](#footnote-101) judgement decriminalised begging in the national capital of the country. The Court struck down several provisions of the Bombay Prevention of Begging Act[[102]](#footnote-102) extended to the National Capital Territory of Delhi, and stated that several provisions of the Act were unconstitutional as they violated Article 14, 19, 20, 21 of the Indian Constitution[[103]](#footnote-103). Following this landmark legislation, the Court also advised the Centre to incorporate a new legislation if it were to criminalise attempts of forced begging.

Taking inspiration from such legislations, the Chhattisgarh[[104]](#footnote-104), Jammu and Kashmir[[105]](#footnote-105) and the Allahabad[[106]](#footnote-106) High Courts in the respective states challenged the constitutional validity of various anti-beggary legislations in their own states. The Chhattisgarh High Court called out the poor rehabilitative measures adopted by the government and mentioned that such ‘Certified Institutions’ effectively render the poor and the destitute invisible.

The Supreme Court[[107]](#footnote-107) in 2021, while considering a Public Interest Litigation filed seeking to restrain beggars and vagabonds or those who are homeless from begging at traffic junctions, in markets and public places to avoid the spread of COVID-19 pandemic across India, and resettle them, declared that beggars cannot be evicted from the streets as the act of begging is a last resort in the absence of employment and education, and that remedies must be provided through social welfare and policy interventions.

* **Measures and services available at national, regional or municipal level to support people living in poverty and in situations of vulnerability from having to resort to begging, sleeping, washing, defecating or performing other hygienic activities in public places, because they lack access to employment, social assistance, adequate housing, public showers and toilets.**

The National Urban Housing and Habitat Policy, 2007 identifies the urban homeless as the most vulnerable section of the population with poor access to land, shelter and infrastructure services. Recognising the contribution of urban homeless persons to the city economy and the informal sector, the policy addresses the challenges faced by them with respect to seeking elementary services of health, education, food, water and sanitation. The Scheme of Shelter for Urban Homeless (SUH)[[108]](#footnote-108) set up under the National Urban Livelihood Mission (NULM) aims to provide permanent shelter equipped with essential services to urban homeless persons in a phased manner. The Scheme aims to ensure availability of permanent shelters including basic infrastructure services. It also envisages to cater to the needs of dependents, children, aged, disabled. mentally challenged by provisioning special service linkages to such sections of urban homeless in the shelters. Moreover, access to various entitlements, social security pensions, financial inclusion, education and affordable housing are some of the objectives set out under the scheme. A nodal agency (SULM) established under the Scheme is to work in close coordination with the Urban Local Bodies of the state for the operation, maintenance and construction of the permanent shelters and acquisition of land for establishing them.

The scheme for Support of Marginalised Individuals for Livelihood and Enterprise (SMILE)[[109]](#footnote-109) set out at the national level seeks to rectify the abysmal situation with regard to shelters for transgender homeless persons. The scheme provides for the rehabilitation and welfare of transgender persons and those engaged in the act of begging. The Central government in coordination with urban local bodies, the state government and other parastatal bodies has set up ‘Gramiha Greh’- shelters for transgender homeless with basic amenities of food, medical care and recreational facilities. The Transgender (Protection of Rights) Act, 2019 has contributed to these schemes being brought forth.

# Recommendations

### **Niger**

* + - 1. Fair housing policies and structures that formalise the management of rent contracts and codify housing prices.
      2. Awareness-raising campaigns aimed at combatting discrimination and prejudice, particularly in the rental market.
      3. Guaranteeing equal access to housing for all.

### **Gambia**

1. Follow the 2015 Declaration on open defecation by introducing and enforcing a nationwide ban.
2. Increasing the number of public toilets with a view to curbing open urination and Defecation.
3. Maintainance and timely cleaning of drains with a view towards curbing flooding during the rainy season and reducing breeding grounds for mosquitoes.
4. Increasing the number of bins in busy areas to avoid littering in public spaces.
5. Investing in public housing schemes that cater to the housing needs of the most marginalised, in particular by combatting discrimination and prejudice in the rental market and combatting unaffordability within the housing market.

### **Cameroon**

1. Introduce a policy aimed at helping local farmers industrialise their production of dairy products with a view to providing a sustainable livelihood.
2. Government and other stakeholders should work in tandem with the Mbororo Social and Cultural Development Association (MBOSCUDA) to set up projects aimed at the development of rural areas to combat precarious living conditions and practices such as begging.
3. Ensure that exemptions are in place with regard to the application of Section 145 of the Penal Code to ensure that persons convicted of begging who cannot afford the fines imposed are not subject to imprisonment.
4. Take all possible steps to resolve the latent conflict between Mbororos and other communities, such as the Mbaya, particularly in the North-West and Adamaoua regions, with a view to allowing the Mbororo community to resume their traditional activities such as livestock breeding and trading without fear or insecurity.

### **Mauritania**

1. Repeal municipal regulations and orders that allow for the confiscation of goods and equipment from street vendors.
2. Set up micro-credit projects, provide accommodation and build training centres for beggars with a view to supporting them achieve a sustainable livelihood and reintegrate socially.
3. Ensure TAAZOUR is provided with sufficient funding to carry out its activities and that its projects continue to be targeted to the most vulnerable ancestral slave communities
4. Amend the law on begging and vagrancy to abolish imprisonment for the two offences.
5. Decentralise social care and assistance for the poor and marginalised to municipalities.
6. Ensure that plots granted by the Ministry of Habitat and Urban Planning to vulnerable communities are clean and are located in central areas with basic infrastructure.

### **Mali**

1. Ensure that exemptions are in place with regard to the application of Article 183 of the Penal Code, and similar provisions in other laws, to ensure that persons convicted of begging who cannot afford the fines imposed are not subject to imprisonment.
2. Launch food support programmes for individuals and families in need for set periods of time, particularly in fallow agricultural periods.

### **Brazil**

1. Take concrete steps to combat the “invisibilisation” and marginalisation of Quilombola communities by ensuring that legitimate claims to land ownership are validated, land titles are accessible and adequate alternatives to informal housing are provided.
2. Decriminalise petty offences knowing that discriminatory attitudes and excessive policing disproportionately target Quilombola communities and ensure that incarceration is not a punishment for such offences.

### **Europe**

1. State institutions must engage in constructive and transparent dialogue with Roma civil society to put right intended or unintended wrongs, address inequities and provide redress for injustices done.
2. The European criminal justice system has to be purged of racial bias and law enforcement must be rendered publicly accountable towards Roma communities.
3. Information on Roma individuals involved in the criminal justice system must be collected in accordance with human rights principles and protected against  
   abuse through data protection and privacy guarantees.
4. Governments must provide prompt and effective remedies for Roma victims of discrimination.
5. Decriminalise acts that cause no social harm, provide alternatives to custodial sentences,   
   ensure monetary punishments are sensitive to individual circumstances and reduce pre-trial detention through objective, individualised assessment of risks, free from socio-economic   
   and racial bias and through greater promotion of non-custodial alternatives.[[110]](#footnote-110)

### **Bangladesh**

1. Repeal all laws criminalising vagrancy and homelessness.
2. Adopt strategies with the participation of homeless people containing clear goals, timelines and responsibilities at all levels of government and other stakeholders aimed at eliminating homelessness.
3. Ensure that disaggregated data is collected on Dalit communities with an aim to closing the existing data gap and gaining a better overview of the needs and issues affecting Dalits.
4. Conduct widespread awareness-raising campaigns aimed at combatting discrimination and prejudice, particularly in the rental market.

### **Pakistan**

1. Ensure that existing legislation at the province-level aimed at protecting vagrants and providing for their welfare is robustly implemented.
2. Conduct a census containing disaggregated data on vagrants and beggars with the aim of getting an accurate estimate of their number to be able to cater to their needs.
3. Introduce an inter-departmental coordination mechanism that can manage the large volume of cases against vagrants.
4. Ensure welfare home capacity is expanded and the number of welfare homes are rapidly increased.

### **India**

1. Ensure that the Street Vendors 2014 Act is strengthened through the issuing of vending certificates, allocation of vending zones and determination of vendors per zone.
2. Ensure that the most vulnerable are supported in navigating the increased legal hurdles brought about by the need to register for a street worker license under the Street Vendors 2014 Act, particularly with regard to providing official documentation that is requisite to meet the eligibility criteria.
3. Work towards lifting restrictions on the mobility of vendors into gated neighbourhoods, providing infrastructure support such as toilets for women vendors and protection from police harassment and corruption and more efficient coordination with Town Vending Committees (TVCs) with the aim of ensuring the robust implementation of the Street Vendors 2014 Act. that support is provided under the Street Vendors 2014 Act.
4. Launch awareness-raising campaigns with a view to effectively countering religious beliefs that legitimize the sexual exploitation of Dalit women.
5. Impose an immediate national moratorium on forced evictions for any reason, as recommended by the former UN Special Rapporteur on Adequate Housing during her mission to India in 2017.[[111]](#footnote-111)
6. Invest adequately in aﬀordable social housing and ensure inclusion of all marginalized groups in state housing schemes with the view to achieving the goal of Housing for All and commitments under the Sustainable Development Goals, particularly Goal 11.
7. Collect disaggregated data on Caste and utilise this data to map out the needs of the of communities, build a comprehensive strategy for the prevention of discrimination and prejudice and the provision of remedies to victims.

# Conclusion

This submission has sought to shed light both on the varied forms of prejudice, discrimination and exploitation faced by CDWD pushed to the margins and forced to pursue informal activities and commit petty offences in order to survive, and the commonalities between their experiences across continents. The following key observations can be made:

1. Laws and regulations made to protect CDWD are often not effectively enforced, while punitive laws and regulations made to criminalise CDWD are often effectively enforced.
2. There exists a complex relationship between homelessness, poverty, begging and other informal activities and exploitation, all of which are a direct or indirect result of the extreme forms of discrimination and prejudice suffered by CDWD.
3. Present criminal law responses to petty offences serve no purpose beyond further aggravating the social and economic exclusion of CDWD and further entrenching them in vicious cycles of discrimination and poverty.

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1. For the full definition please see - Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent, Human Rights Council 11th Session, 18 May 2009, Final report of Mr. Yozo Yokota and Ms. Chin-Sung Chung, Special Rapporteurs on the topic of discrimination based on work and descent, available at: <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session11/A-HRC-11-CRP3.pdf> [↑](#footnote-ref-1)
2. Tobacco Control Act 2016, Part V – Protection Against Exposure to Secondhand Tobacco Smoking:

   Prohibition of smoking in public places, workplaces and public transport in outdoor spaces. No person shall smoke within 100 metres of any openings, doors, windows, outlets, inlets, or other air intake mechanisms, a waiting area, a queue, a place of service or consumption of food drinks, immovable facilities, in unenclosed, public or workplaces, and areas designated as non-smoking by the person responsible for such premises. See - <https://www.afro.who.int/news/gambia-launches-national-tobacco-control-act-2016-whilst-who-honours-national-tobacco-control> [↑](#footnote-ref-2)
3. Anti-Littering Regulation 2007:

   A person who urinates in a public place or an undesignated place commits an offence and is liable on conviction to a fine not more than two hundred and fifty Dalasi. A person shall not deposit or litter any vacant places, streets, gutters, roads etc. See - <https://faolex.fao.org/docs/pdf/gam173305.pdf> [↑](#footnote-ref-3)
4. Gambian Civil Code Cap 39 Chapter VI - According to paragraph 31 (1) where a fine is imposed under any law, then in the absence of express provisions relating to such fine in such law, the following provisions shall apply.

   (i) Where no sum is expressed to which the fine may extend the amount of the fine which may be imposed is unlimited but shall not be excessive.

   (ii) In the case of an offence punishable with a fine or a term of imprisonment, the imposition of a fine or term of imprisonment shall be a matter for the discretion of the courts.

   (iii) A person liable to a fine may be sentenced to pay a fine of any lesser amount.

   (iv) In the case of an offence punishable with imprisonment as well as a fine in which the offender is sentenced to a fine with or without imprisonment and in every case of an offence punishable with a fine only in which the offender is sentenced to a fine, the court passing sentence may in its discretion, direct by its sentence in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of sentence.

   31 (5) The imprisonment which is imposed in default of payment of a fine, costs or compensation shall terminate whenever the fine, costs or compensation is either paid or levied by process of Law.

   31 (6) If, before the expiration of a term of imprisonment imposed in default of payment of a fine, the person imprisoned, or some other persons on his behalf, shall pay any some in part satisfaction of the sum adjudged to be paid, the period of the imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days of the term of imprisonment so imposed as the sum so paid bears to the sum so adjudged to be paid. [↑](#footnote-ref-4)
5. The National Social Protection Policy (2015-2025) seeks to:

   1) In line with The Gambia’s widespread poverty, the multidimensional nature of vulnerability faced by its people, and the weakness of its current social protection system, the NSPP will put in place a comprehensive set of social protection policy measures and instruments to address the varied vulnerabilities affecting different categories of the population, as identified above. The NSPP is expected to play a vital role in accelerating and sustaining pro-poor and inclusive economic growth, poverty reduction, human capital development, social cohesion and the attainment of basic human rights for people in The Gambia. In particular, investments in social protection are expected to generate the following positive economic and social impacts:

   2) Contribute to greater equity, pro-poor growth and social cohesion. The NSPP will address the economic and social barriers that prevent access to services while placing special emphasis on the poorest and most vulnerable – thereby contributing to a fairer distribution of resources and benefits. The redistributive potential of social protection 14 programmes can also help reduce growing inequality in The Gambia and create economic opportunities for the poor.

   3) Contributing to food and nutritional security and access to basic services and social protection will promote the progressive realisation of human rights, as articulated in The Gambia’s constitution. The introduction of predictable and long-term social assistance measures targeted at extremely poor households and vulnerable individuals will support them in meeting their daily food requirements and essential needs. By reducing barriers to social services among poor households, social protection measures (e.g., cash stipends, school feeding programmes, health fee waivers) will also contribute to improvements in human development outcomes.

   4) Contributing to inclusive economic development Greater and more effective investment in social protection will trigger a virtuous cycle of improved productivity and employability. Well-designed social protection schemes will enable families to invest in their own income-generating activities; a guarantee of income will provide them with the security they need to seek work, send children to school and take risks with greater investments in future production. See- <https://www.social-protection.org/gimi/RessourcePDF.action;jsessionid=wDfAGRuff8Z26ttpQQv9JgnhSvGtxmrJ5ezTLxpbtnaMkiYH2RWT!2012212631?id=55757#:~:text=The%20National%20Social%20Protection%20Policy%20comprises%20five%20priority%20policy%20areas,and%20most%20vulnerable%20economically%20active> [↑](#footnote-ref-5)
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