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FACULTY OF LAW.

**TITLE OF DISSERTATION: THE NEED FOR THE DECRIMINALIZATION OF
BEGGING IN GHANA.**

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DECLARATION

I, SILAS OSEI BOATENG, hereby declare that this dissertation title “THE NEED FOR THE DECRIMINALIZATION OF BEGGING IN GHANA” consists of research undertaken under the supervision of Mr. Ferdinand D. Adadzi and submitted to GHANA INSTITUTE OF MANAGEMENT AND PUBLIC ADMINISTRATION. That no part of his work has been published anywhere. The excerpts taken in this work from authors have been properly attributed to them.

Candidate.

Index Number.

Signature

Supervisor Signature.....

DEDICATION

This dissertation is dedicated to my beloved family, Mr. Emmanuel Boateng, Mrs. Hannah Boateng, Mrs. Hagar Yeboah, Vanessa Boakye Dankwa, and all those who have shared the same faith with me in Christ Jesus our master.

ACKNOWLEDGEMENT

I first acknowledge Almighty God who through Jesus Christ has given me the strength and the wisdom to undertake this course for a year. I fully appreciate His great works in my journey to accomplish this task. My second appreciation goes to my Supervisor Mr. Ferdinand D. Adadzi who has made an impeccable contribution to this work.

ABSTRACT

The paper discusses criminalization of begging in Ghana, failure of the intent of the criminalization and suggest proposal for the decriminalization of begging in Ghana.

Begging has been perceived by the public as a deviant act, fraudulent behavior, nuisance, and a societal vice. In view of that, the state seeks to abate the act of begging through legislative means. In 1954, the Gold coast Government as a result of the increased rate of beggars on the street published an investigation into poverty and begging. The report known as the "Beggars Survey 1954" revealed that there were 596 beggars in the country. The report revealed that there was a group of beggars termed as professional beggars who were healthy and strong but depended on the act of begging as a means to earn income. In a bid to tackle the issue of begging the Governor of Gold Coast, Arden Clarke signed the Control of Beggars and Destitute Ordinance, 1957(Ordinance No.36) in early March 1957 which was in force until repealed and replaced by the Decree.

The Decree was enacted on the 11th Day of September 1969 and came into force on the 19th of September 1969. The purpose of the decree is to criminalize the act of begging in Ghana. The Decree accords the police officer the power to arrest any person engaged in the act of begging.

The gaps identified in the Decree includes the failure of the law to define what constitutes the act of begging in Ghana. Again, the rate of begging might still increase as the law permits beggars and givers to give or receive alms in the name of religious custom or custom of a community. Some of the proposed solutions to solve the issue of begging in Ghana is that begging must be decriminalized as a first step, permanent homes must be established for the beggars; the public must be educated to help the Government in the integration of beggars into the society.

This paper would comprise of four chapters. The first chapter would be an overview of the subject; the second chapter would discuss the gaps identified in the law and the proposed solutions to fill such gaps. The third chapter would talk about the consideration for the decriminalization of begging in Ghana and the positive effect that follows from such decriminalization. The last chapter would proceed to discuss the findings, recommendations, and conclusions about the subject. This paper would be carried out by adopting the qualitative method.

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CHAPTER ONE

1.0 INTRODUCTION

Begging is a problem that worries almost every country. Begging is an immemorial problem in Ghana which calls for the collective efforts of all persons to solve such issue. The issue of begging is an important subject to consider due to the rate at which children, disabled, and the vulnerable are abused, trafficked, and exposed to danger on the streets. Hence, this calls for the Government and the citizenry to give more attention to the issue of begging to safeguard the rights of children, disabled and the vulnerable.

Begging in Ghana is perceived by the public as a societal vice which interferes with the right of the public; it is perceived by the public as a nuisance sometimes due to the aggressive nature of beggars in seeking assistance. Some of the beggars are seen by the public as fraudsters who pretend to be ill or sick to make a living. One of the criticisms made by the public against the Government is the rate at which a huge number of children on the street are exposed to danger without any action or measures taken by the Government.

In a bid to ensure that beggars are integrated into the society and contribute their quota to the development of the nation, colonial, post - colonial, and current Governments have laid measures to reduce the rate of street begging in Ghana. First, the European Missionaries played an important role to ensure the protection of children. Their activities were mainly centered on children who were abandoned on streets to fend for themselves, the infirmed and the orphaned.¹Also, during the period of the Colonial rule, the focus of the Government on children and the vulnerable was based on residential care.²There was an enactment of Children Care and Reformation Ordinance of 1928 (Ordinance No.12) which permitted the juvenile courts to deal with cases involving child delinquency and could also order for children neglected or abandoned on streets to be sent to children homes or other residential care or facilities.³ In 1940, there was an establishment of the

¹ Apt and Blavo "Child and Welfare in Ghana "(Researchgate.net,September 2014)www.researchgatnet.com,2014/index.https>accessed on 18th February 2020.

² Ibid.

³ Apt and Grieco'Parental Perspective on Children Streetism in Tamale in Ghana'(isste.org,4th July,2012)www.issete.org,2012/index.https >accessed on 18th February.

Department of Social Welfare which was established for the care and industrial training of children abandoned and neglected.⁴

Despite the measures put in place by the Colonial Government to reduce the rate of begging in Ghana, the Government developed an idea to employ a different alternative to reduce the menace of street begging. In 1954, the Gold Coast Government saw the need to establish a legal framework to tackle the issue of begging in Ghana. In 1954, the Gold Coast Government due to the increased rate of begging in Ghana inquired into poverty and begging. The report called "The Beggars Survey Of 1954", revealed that there were 596 beggars in the country.⁵ Some of these beggars were known to be professional beggars who begged for a living without suffering from any disability or sickness.⁶ As a result, Governor Arden Clarke signed the Control of Beggars and Destitute Ordinance, 1957(ordinance No.36) in early March 1957 which was in force until repealed and replaced with Beggars and Destitute Decree, 1969 (NLCD 392).⁷

The Decree was enacted on the 11th Day of September 1969 and came into force on the 19th of September 1969. The purpose of the decree is to criminalize the act of begging as well as provide for the reception and care of beggars and destitute.⁸ Hence, the law clearly states that the Minister must establish an institution for the reception and care of destitute.⁹ The import of this law is that the giver and the receiver commit the crime of begging once the proscribed act is committed and as such both would be held liable for a fine not exceeding one hundred and fifty penalties unit or a term of imprisonment not exceeding three months or both. The police and other law enforcement agencies upon the passage of this law are expected to ensure that any beggar found on the street is removed or arrested. However, the enactment of this law has not been able to serve the intended purpose. This is evidential from the program launched by the former Minister of Gender and Social

⁴ Apt and Blavo ' Child Welfare in Ghana'(Researchgate.net,3 September 2020)www.research.gatnet,2014/index,httpsaccessed on 18th February 2020.

⁵ Rebecca Eduafo 'Giving to Beggars Can land You In Jail in Ghana'(my joy online, 1st February 2018)www.myjoyonline.com/2018index,httpsaccessed> 4th October 2018.

⁶ Ibid

⁷ Ibid

⁸ Beggars and Destitute Decree,1969(NLCD 392),s 1(1).

⁹ Ibid.

Protection called "Operation Get off The Street" on 2th May 2018.¹⁰The program targeted to remove a huge number of children begging from the street. The Minister lamented that the rate of begging has not reduced because of the act of demand and supply by beggars and givers who believe it is their duty under religion or custom to give or receive alms.¹¹

Ensuing from this, there are certain gaps identified in the Decree which have to be addressed. First, the law fails to define what constitutes the act of begging in Ghana. Again, the rate of begging in Ghana may still increase as the law allows beggars and givers to receive or give alms in the name of religious custom or custom of the community. Also, the law is silent on what action must be taken in the best interest of a juvenile who is found begging on the street. One of the proposed measures to fill the gap is that the law must be certain of what constitutes the act of begging in Ghana. Also, some of the proposed solution made in this paper to reduce the rate of begging in Ghana is to decriminalize begging as a first step; establish permanent homes for the beggars and destitute; educate the public about the need for integration of beggars into the society and the creation of jobs and employment for these beggars.

The purpose of this chapter is to argue for the decriminalization of begging in Ghana as the first step for the integration of beggars into the society.

1.1. STATEMENT OF THE PROBLEM

The paper draws attention and discusses the followings:

- I. Failure of the Decree to define what constitutes the act of begging.
- II. Failure of the Decree to define what constitutes giving or encouraging the act of begging.
- III. Silence of the Decree on what action is to be taken in the best interest of a juvenile when found begging on the street.

¹⁰ Ministry of Gender and Social Protection ‘ Operation to Get All Street Children From The Street’(newsghana,2May 2018)www.newsghana.com,2018,httpsaccessed> on 15th November 2019.

¹¹ Ibid.

- IV. Exemption under the Decree that allows the act of begging to persist if it is done in the name of religious custom or custom of a community.
- V. Acts of successive governments in Ghana continue that lay down measures to integrate the beggars into the society but is reluctant to decriminalize begging in Ghana.

1.2 JUSTIFICATION

Street begging is a problem that bedevils every country in the world. Although there is a wealth of literature about the social problems of street begging, this study is justified on the basis that there is still an apparent scarcity of literature on the education of the citizenry about the existence of the Decree, its legal implication and the weakness identified in the law.

This paper is also justified because there are certain identified gaps in the Decree which must be addressed to serve the purpose of the law and also to protect the rights of people. One of the gaps identified in the law is that the law fails to define what constitutes the act of begging in Ghana contrary to the 1992 Constitution of Ghana which states that for an act to constitute a crime it has to be defined and a sentence imposed. The purpose of defining what constitutes begging in Ghana would be necessary to ensure certainty of the law and also give the ordinary people notice of what the law seeks to prohibit.

This paper also seeks to draw attention to the proposal for the decriminalization of begging in Ghana and the need to discover alternative solutions for the integration of beggars into the society. It is argued in this paper that begging is immutable and the first step for the integration of beggars into the society would be to decriminalize begging and after build permanent homes for the beggars as part of the solutions to deal with the issue of begging.

1.3 STATEMENT OF OBJECTIVES

The general objective of this research is to consider the proposal for the decriminalization of begging in Ghana. Also, the specific objective of this paper is to discuss the gaps identified in the law and the proposed solution to fill the gap in the law.

1.4 RESEARCH QUESTION

The study seeks to answer the following questions:

1. What constitutes the act of begging in Ghana?
2. What constitutes the act of giving or encouraging the act of begging in Ghana?
3. What is the legal justification for excluding juveniles above the age of eleven from any criminal liability concerning the offense of begging?
4. Are there any religious custom or customs of a community that aims at the integration of beggars into society?
5. Would it not be prudent to decriminalize begging in order to sensitize the public about alternative measures to employ for the integration of beggars into the society?

1.5. THESIS STATEMENT

This paper proceeds on the assumption that there is the need for the decriminalization of begging in Ghana as the first step for the integration of beggars into the society.

1.6 RESEARCH METHODOLOGY

The method to be employed in gathering information for this paper would be the qualitative method. This paper is based on the library and online research which would analyze and interpret legislation including the Decree and the 1992 Constitution of Ghana.

Chapter two of this paper would proceed to discuss the gaps identified in the Decree and proposed solutions to fill the gap in the law.

Chapter three of this paper would consider the proposal for the decriminalization of begging in Ghana. This chapter would proceed to discuss the measures to be taken by the Government to ensure the integration of beggars into the society after the decriminalization of begging in Ghana. Also, chapter four of this paper would proceed to discuss the findings, recommendations, and conclusions made in this paper.

1.7. STUDY LIMITATION

This paper is limited to the argument for the decriminalization of begging in Ghana and the solution for the integration of beggars into the society.

CHAPTER TWO

2.0 INTRODUCTION

This chapter would proceed to discuss the history of begging in Ghana and the rationale for the criminalization of begging in Ghana. This chapter would also discuss the gaps identified in the Decree and the possible solutions to fill such gaps in the law.

2.1. HISTORY OF BEGGING IN GHANA

Just as deviant behaviors are immutable in society, so is the act of begging which is an immemorial problem entrenched in the basic planks of the society. The act of street begging is a universal phenomenon that bedevils almost every country in the world. Although it is a problem faced by most countries, it is typical in poor countries or third world countries. Street beggars are found in several places such as the streets, pathways, churches, mosques, and supermarkets. Beggars are categorized into different types: some beggars come on the street to earn money and go back to their abode to fend for their families; there are also beggars that have been abandoned by their family and as a result, stay and sleep on the streets to make a living.¹² There are copious reasons that cause the menace of begging, amongst these are broken homes, unemployment, cultural problems, structural problems, and child abandonment. Due to the prevalence of this act, the menace of street begging has been associated with certain crimes such as theft vandalism, fraud, human trafficking, and defrauding by false pretense.

The menace of street begging during the colonial era was high and that actuated the Government of Gold Coast to enquire into the problem of poverty and begging in the year 1954. According to the report known as the Beggars Survey of 1954, there was a huge number of beggars on the street begging due to diverse reasons. A huge number of 596 beggars was found in the country of which 59 percent were Hausa and 17 percent came from the Northern region.¹³ The report evinced that Accra region had about 198 beggars on the streets that had no abode and had to sleep on the street

¹² Nanwata Baltazar , ' Categories Of Street Beggars and Factors Influencing Street Begging in Tanzania'(2012)33L2.

¹³ Rebecca Eduafo, 'Giving to Beggars Can Land You in Jail in Ghana'(myjoyonline,1st February 2018)www.myjoyonline.com/2018inde,httpsaccessed 4 October 2018.

and depend on the largess of givers on the street to make a living.¹⁴ Accordingly, the reasons giving by the report for such an alarming rate of begging in the country was due to the breakdown of the self-sufficient agricultural economy and the affinity within the traditional family.¹⁵ The report also made an interesting revelation which was an epiphany that hit the Gold Coast Government to employ means to abate the rate of begging in Gold Coast. It stated that there were certain types of beggars who were called the professional beggars.¹⁶ These professional beggars were those that begged out of choice devoid of necessity or compulsion. Ensuing from this Governor Arden Clarke in a bid to tackle the rate of begging in Ghana signed a law called the Control of Beggars and Destitute Ordinance 1957 (Ordinance No.36) in early March which was effective until repealed and replaced with the Beggars and Destitute Decree, 1969 (NLCD392) which is still in force.¹⁷ It is important to state that the Decree was passed by a Military Government called the National Liberation Council which overthrew Kwame Nkrumah on the 24th February 1966 and handed over the affairs of the nation to a democratic Government on 1st October 1969.¹⁸

2.2. RATIONAL FOR CRIMINALIZATION OF BEGGING IN GHANA

I. PUBLIC SAFETY

One of the reasons for the enactment of laws on beggars and destitution is to ensure public order.¹⁹ Generally, laws on begging are enacted to prevent individuals from engaging in begging as the act is considered unacceptable.²⁰ Vagrancy laws such as begging are made in accordance with the

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Katinka Fordwor, 'The Danquah-Busia Tradition In the Politics Of Ghana' (2 edn printing press 2010) 445.

¹⁹ Thomas Walsh, 'Walking Matilda One Hundred Year Later: Interaction Between Homeless and The Criminal Justice System in Queensland' (2003) 25 Sydney Law Review, 75, 79, 80.

²⁰ Jeremy Waldron, 'Homelessness and the Community' (200) 50 University of Toronto Law Journal 37, 386.

Broken Windows Theory.²¹ This theory suggests that clear signs of crime in the society and other illegal behavior would create a facile environment for the perpetuation of more crime in the society.²² Hence, the criminalization of begging would latently preclude the commission of other offenses such as human trafficking, organized crime of begging, abandonment of children and exposure of children to danger on the street. As a result, the criminalization of begging in most countries is done justifiably to maintain public sanctity and order.²³

However, regardless of the argument premised on the broken windows theory, other sociologists have also proved that the theory is anecdotal because beggars on the street are less harmful and are a cynosure to the populace about their low socio-economic status which is a means to call the attention of the government to come to their aid.²⁴

Despite the galore of criticism received by several Governments for the criminalization of begging or vagrancy offenses, it firmly believes that such law is a good law that would give impetus to the economic development of the country.²⁵In the words of *Thomas Aquinas*, a good law is a law that serves the interest of the populace and the Government.²⁶ Myriad of Government are of the view that it is in the interest of the nation and its populace to criminalize begging in order to ignite the beggars and the homeless to be hardworking to elevate themselves from the snare of poverty. It is argued by the sociologists who are proponents of the criminalization of begging that, this current century we find ourselves in comes with a class called the social class system which posits that regardless of the paucity of opportunities one is opened to with hard work and determination one can climb to the pinnacle of success in life.²⁷

²¹ De Baker, 'Anti Homeless Legislation: Unconstitutional effort To Punish The Homeless'(1990/91)45 University of Miami Law Review417.

²² Ibid34-37.

²³ Waldron(n 20) 386.

²⁴ Howard Dean' Easy Picking or Hard Profession'(policy press,1998)86,88.

²⁵ Waldron(n 20) 386.

²⁶ Cavandish Lawcard Series, Jurisprudence, (3 edn Cavendish publication press 2002)234.

²⁷ James Kuegel, Beliefs About Stratification,(2 edn free press 1981) 540

II. PUBLIC ANNOYANCE

Another reason for the criminalization of begging is to prevent public annoyance.²⁸ The very essence of enacting vagrancy laws is to protect public interest and any act that that is likely to discount such interest would be prohibited.²⁹ Those who engage in street begging receive a litany of complaints of annoying the public or road users by the act of accosting them aggressively. According to Robert C Ellickson, beggars on the street form a nuisance as they put in harsh and aggressive efforts to obtain whatever they ask for.³⁰ Notwithstanding this assertion, in support of the law, the Hanover welfare services, for instance, argue that aggressive begging is rare and that must not attract the effect of a prohibitive law but must compel the Government to find alternate solutions.³¹ To buttress the point of Hanover welfare services, it has been held by the courts that the slightest annoyance from a beggar was not enough reason for the enactment of a law prohibiting begging in the state.³²

According to Jeremy Waldron, begging must not be necessarily criminalized because the public may have a perception which might be different from the view of the Government.³³ He believes that there are sometimes positive reactions from the section of the public upon seeing a beggar.³⁴ This reaction places the public in a pensive mood thinking about what probably could be the problem of these beggars and why such problems have not been resolved by the section of the public or the Government. This reaction in his view is a positive reaction and thoughts that can compel a section of the public to also aid the Government to solve the problem of begging by helping to take some of these beggars and destitute from the street or also providing them with some employment, shelter or victuals for their upkeep. As a result, the Government must be lenient enough to allow the public to also help these beggars and not see them as immoral and corrupt individuals as a section of the beggars might be in serious need of help.

²⁸ Re Ellickson 'Controlling Misconduct in City Spaces of Panhandlers and Public Place Zoning' (1996) Yale Law. Journal 1165.

²⁹ Waldron (n 20) 386.

³⁰ Ellickson (n 28) 1165.

³¹ John Hagan 'Youth Crime and Homelessness' (Cambridge University Press, 1998) 53.

³² C.C.B v State of Florida 458 Do.2d47 [Fla Dist Ct App 1984].

³³ Waldron (n 20) 386.

³⁴ Ibid 21-22.

The degree of annoyance caused by beggars on the street can amount to excessive annoyance if only the beggars are aggressive and harmful. However, in Ghana aggressive acts such as assaults, battery, indecent assault, and unlawfully causing harm are prohibited by law and as such the law prohibiting such offenses can also take care of such aggressive and harmful nature of some beggars without necessarily criminalizing begging.³⁵ Therefore, the total criminalization of begging might not be the panacea to solve the issue of begging in Ghana.

III. FRAUD

Fraud is another reason for the criminalization of begging in many countries.³⁶ There are most publication and admissions by organizations and individuals that the reason why they refuse to help these beggars are that the beggars might not seem to be what they portray to be.³⁷ However, the probity of this assertion is not complete. Majority of the beggars on the street are actually suffering and it is only a few section who might not be what they portray to be. The structural deficit, lack of opportunities, disability may be the actual reasons why the beggars are left with no choice but to engage in begging as a necessity and not choice. Similar studies made in UK unveiled that the beggars begged out of compulsion and necessity but not out of choice and was not a lucrative job as with walk away average of only 10 ~20 euros per week.³⁸

Fraudulent behavior is pervasive in Ghana but such offenses such as defrauding by false pretense and other related offenses are all taken care of under our laws and it would not be morally right to criminalize begging generally due to the offence of fraud.³⁹

³⁵ Criminal Offences Act,(Act 29),s 184,s 103,s 69.

³⁶ Martin Benson 'Beggars Can Be Chosers'1966 116 (6044) the bulletin 30.

³⁷ Ibid 37-38.

³⁸ Howard Dean' Easy Picking or Hard Professions'(policy press,1998)86,88.

³⁹ Criminal Offences Act, (Act 29), s 131.

2.3 GAPS IDENTIFIED IN THE DECREE.

This section seeks to address the gaps identified in the Decree.

2.31. NEED FOR THE DEFINITION OF WHAT CONSTITUTES TO THE ACT OF BEGGING.

In Ghana for an act to constitute a crime, the act prohibited must be certain.⁴⁰ This is to enable the citizenry to be privy to the act that is prohibited in the state. In accordance with *Article 19(11) of the 1992 Constitution, it states that “no person shall be convicted of a criminal offence unless the offence is defined and the penalty for it is prescribed in writing”*. This means that for an act to be considered as a crime in Ghana, it has to satisfy three elements. That is, the act prohibited must be defined as to the nature of it; there must be a penalty imposed in the event where the proscribed act is committed and the law must be in writing. Any law that contradicts this provision would be void.⁴¹ The justification for defining a crime was affirmed in the case of *Debrah v Republic*,⁴² where the court reasoned that every individual is entitled to know beforehand what the offence is and the punishment for it.

The Decree seeks to criminalize the act of begging. Following, *Section 2(1) of the Beggars and Destitute Decree, 1969(NLCD 392), it states that “a police officer may arrest without warrant any person found begging or person wandering or a person who places himself in any premises for the purpose of begging”*. Also, subsection (2) of Section 2 of the Decree states that *“a person arrested under subsection (1) is liable upon conviction to a fine not exceeding one hundred and fifty penalty units or to a term of imprisonment not exceeding three months or both the fine and imprisonment”*. The preceding subsections read together give the understanding that the law seeks to impose a penalty or a fine not exceeding one hundred and fifty penalty units in the event where a person is found begging. In Ghana, one penalty unit is twelve Ghana cedis⁴³ which means that to get the exact amount of the maximum fine, one has to multiply twelve times one hundred and fifty.

⁴⁰ Constitution of Ghana, 1992, art 19(2).

⁴¹ Constitution of Ghana, art 1(2).

⁴² [1991]2 GLR 521.

⁴³ Courts Act 1993, (Act 459), s 48.

As already elaborated, for an act to constitute a crime in Ghana, certain elements that have to be fulfilled in accordance with Article 19(11) of the 1992 Constitution. The act must be defined; the act must be in a written law and a sentence must be imposed for the commission of the prohibited act. From the preceding subsections, it can be seen that the provisions only satisfy two criteria as stated in Article 19(11) of the 1992 Constitution. Section 2(1), (2) of the Decree which seeks to criminalize the act of begging only satisfies the constitutional requirement of it being in writing and with a sentence imposed. However, the Decree fails to define what constitutes the act of begging. In accordance with Subsection (1) of Section 2 of the Decree the police officer has the authority to arrest anyone without a warrant who is found begging or a person wandering or placing himself in any place for the purpose of begging. This section makes the repetition of the word ‘begging’ without defining or informing what constitutes the act of begging. The Decree fails to state whether the act of begging is committed by seeking alms or food by way of singing or any other means. There is uncertainty as to what action constitutes begging as the law continues to mention the word ‘begging’ without defining it to ensure certainty. According to Dennis Adjei⁴⁴, a Justice of the Court of Appeal, any enactment that fails to define the prohibited act is void as it contradicts the constitutional requirement in Article 19(11) of the 1992 Constitution. Hence, failure of the Decree to define the ingredients or what constitutes the act of begging is unlawful and contrary to Article 19(11) of the 1992 Constitution and leads to uncertainty of the law.

The Decree also intends to punish givers or anyone that encourages the act of begging. *Section 5 of the Decree states that “any person who permits or encourages another person to commit an offence under Section 2 may be arrested by a police without a warrant and is liable upon conviction to a fine not exceeding one hundred and fifty penalty units or to a term of imprisonment not exceeding three months or both fine and imprisonment.”* The import of this law is that it seeks to punish anyone that permits or encourages any person to commit the act of begging. . It is gleaned that this provision or subsection only satisfies two requirements under Article 19(11) of the 1992 Constitution. Thus, it seeks to impose a penalty of not exceeding one hundred and fifty penalty units or a term of imprisonment of three months and is also written in a law. However, this subsection lacks the constitutional requirement of defining an act prohibited by law. Section 5 of the Decree states that anyone that permits or encourages any person to commit

⁴⁴ Dennis Adjei, *Contemporary Criminal Law in Ghana*, (2 edn printing press 2017) 537.

the act of begging also commits an offense. The question that arises is what then constitutes the act of encouraging or the act of permitting the crime of begging to persist.? Can the act of encouraging be said to be only giving of money to beggars or may include other activities?

Failure to define what constitutes the act of encouraging begging or permitting begging to persist makes such provision contrary to Article 19(11) of the 1992 Constitution as it lacks the definitions or the ingredients of the offense.

The consequences of failing to define the act of begging or the act of encouraging begging is that it makes the law uncertain. A statute that creates a crime may be void for vagueness if not clear.⁴⁵ This is because the statute must give the individual a clear notice of the act prohibited. The wording of the Decree which states that any person found begging or places himself in any premises for the purpose of begging is uncertain and vague as any person can supplant the meaning of his or her understanding of what begging means with that of the law. In the case of *Pottinger v City of Miami*,⁴⁶ the court held that "criminal statute must be clear and precise, if a person of ordinary intelligence is unable to ascertain from the language of a statute what conduct would subject him to penalties, the statute is vague". Hence, the need for clearly defining what constitutes the act of begging or what constitutes to encouraging begging in Ghana.

Also, the uncertainty of what constitutes the act of begging or what constitutes to the act of encouraging begging can lead to the conviction of persons who might be presumed to have engaged in the act of begging. The uncertainty of what constitutes begging can lead to the arrest and conviction of individuals who might have not been contemplated by law to have engaged in the act of begging. Again, the uncertainty of the law can lead to the unlawful arrest of an individual presumed to have engaged in the act of begging. For an act to constitute a crime it has to be defined.⁴⁷ The act of begging has not been defined in the law leaving it very uncertain and as such any arrest made by such presumption may amount to an unlawful arrest. In the case of *Christie v Leschinsky*,⁴⁸ the court held that an arrest may be unlawful if the reason for the arrest is not made known or the reason is unknown to the law. In this case, since the certainty of what constitutes to

⁴⁵ Debrah (n 42)

⁴⁶ [1972] 405 US 156 162 [157]

⁴⁷ Constitution of Ghana, 1992, art 19(11)

⁴⁸ [1947]AC 573.

begging or encouragement of the act of begging is not defined in the law, the reason for the arrest of a person who is presumed to have engaged in the act of begging may be unlawful. It is imperative to note that in a situation whereby an unlawful arrest is made, the person who made such unlawful arrest is liable to pay compensation to the victim arrested.⁴⁹

2.32. GAPS IDENTIFIED WITH REGARDS TO THE EXCEPTIONS IN THE DECREE

The Decree comes with some exceptions to the crime of begging. Thus, if an individual can prove any of these exceptions as a factor in encouraging or engaging in the act of begging such a person may nevertheless be absolved of any liability.

(I) JUVENILE

The Decree comes with an exception that any juvenile that engages in the act of begging does not commit the crime of begging.⁵⁰ In accordance with *Section 12 of the Decree states that “a juvenile is any person below the age of seventeen years”*. The rationale for not arresting juveniles who engage in the act of begging is to protect the welfare of children.⁵¹

The gap identified in this exception is that the law is silent on what action should or must be taken in the best interest of the child in a situation where a child is found on the street begging. It has been proved that there is a category of street beggars including children who beg on the street for alms in order take care of their family.⁵² These are children who live with their families in a permanent house and after they earn a sum of money return home with such money and hand it over to the family for their care. Though the law seeks to protect children from being arrested, the silence on the law about the action to be taken by required institutions or law enforcement agencies in the event where a juvenile is found begging on the street can do more harm than good. The act

⁴⁹ Constitution of Ghana, 1992, art 14(5).

⁵⁰ Beggars and Destitute Decree, 1969(NLCD392), s 2(4).

⁵¹ Children Act 1998,s (1).

⁵² Baltazar (n 12) 33.

whereby children gambol on the street to fend for their families is likely to expose the child to danger or an unnecessary accident on the street as the child walks on the street in a bid to seek assistance. However, a parent who allows their children to beg on the street commits an offence for exposing the child to danger and can be arrested.⁵³

Also, the silence on the law as to the action to be taken in the event where a juvenile is found on the street begging can expose the child to trafficking. It has been proved that there is a category of beggars who sleep on the street because they have no families or have been abandoned by their family.⁵⁴ It has been proved that these children in a bid to survive sometimes agree with some trafficking agents of an organization to stay on the street to beg for alms and later send the proceeds to the agents or organization for their share.⁵⁵ Also, other children are kidnapped on the street, forced into begging and threatened not to report to any lawful agency or institutions.⁵⁶ The silence of the law on what actions to be taken in the best interest of the juvenile in situations where they are found on the street is likely to expose them to traffickers or other organizations that make use of juveniles to collect alms on the street. Every institution has the duty to ensure that the best interest and welfare of the child is served and protected⁵⁷, hence the need for a provision to be enacted that provides for the care of such juveniles.

Another gap identified in the law is that the law is silent on what action must be taken in the event whereby juveniles who do not need any care or assistance and can understand the nature and consequences of their action come on the street to beg. It has been proved that there are beggars who do not suffer from any disability or do not lack any care or assistance from families but sees the act of begging as a business.⁵⁸ The silence of the law on what action to be taken against such juveniles found on the street would allow the juvenile to continue to beg on the street as a way of business or source of income which is likely to expose them to unnecessary accidents and danger. Hence, if the law seeks to exclude juveniles above the age of eleven from culpability who might

⁵³ Criminal Offences Act, 1960,(Act 29),s (71).

⁵⁴ Baltazar(n 12) 33.

⁵⁵ Ibid53-54.

⁵⁶ Ibid 54-55.

⁵⁷ Children Act 1998, s 2.

⁵⁸ Baltazar (n 12) 33.

understand the nature of their acts and consequences, then there must be measures put in place to prevent them from coming on the street to beg.

(II) RELIGIOUS CUSTOM OR CUSTOM OF A COMMUNITY.

The Decree makes an exception to the crime of begging that anyone that solicits or receives alms in accordance with religious custom or custom of a community does not commit the crime of begging.⁵⁹ The import of this provision is that anyone that engages in the act of begging or encourages the act of begging in the name of religious custom or custom of the community does not commit the crime of begging. It is important to note that this provision seeks not to restrict the constitutional right of freedom to practice any religion or custom.⁶⁰

The gap identified with regards to this exception is that the law is silent on the purpose of soliciting, receiving, or giving alms in the name of religious custom or custom of a community. The law must distinguish between just giving to fulfil a religious duty and the act of giving or helping these beggars with the aim to integrate the beggars into the society. It has been proved that certain customs affirms begging on street in the event whereby the individuals have no source of income.⁶¹ The effect that is likely to arise from such religion and customs is that it can lead to a vicious cycle where children of such parents grow to emulate the habits of their parents and as a result close their eyes to the opportunities in the world. Most religions such as Christianity and that of Islam encourage their followers to also give to the poor. These believers of such religion feel encouraged by their religious duty to always give alms to the beggars they see on the street. It has been proved that some givers genuinely give to the beggars due to shared sympathy with the beggar whereas others give to beggars due to their religious beliefs of been blessed by God and do not necessarily care about the integration of the beggar into the society.⁶² Glaringly, it is clear that the silence of the law on the purpose of giving or receiving in the name of religious custom or custom of a community might increase the rate of begging as others may incessantly give money or items to beggars for various reasons which might not necessarily be satisfactory to integrate the

⁵⁹ Beggars and Destitute Decree, 1969(NLCD 392), s 2(3).

⁶⁰ Constitution of Ghana, 1992, art 26(1).

⁶¹ Baltazar (n 12) 33.

⁶² Ibid 53-54.

beggar into the society. The law must clearly state the purpose of giving or receiving in the name of religious custom or custom of a community which is necessary for the integration of the beggars into the society. With such purpose made clear in the provision, all givers and fanatics of such religious custom would ensure that in giving or receiving alms in that respect it would have to be in a manner that would lead to the integration of the beggar into the society.

Also, the silence of the law on the purpose of giving or receiving alms in the name of religious custom or custom of a community may enable a lot of people who may have not necessarily given alms to the beggar in accordance to custom to easily plead such exceptions in the law. However, if the purpose of such exceptions is made clear in the law, in the event where a person gives an item or money to a beggar and such item is not satisfactory to integrate the beggar into the society, such exception cannot be pleaded in the law by such person.

2.4 PROPOSED SOLUTION TO THE GAPS IDENTIFIED IN THE DECREE

This section seeks to propose solutions to the gaps identified in the Decree.

(I) DEFINITION OF WHAT CONSTITUTES TO THE ACT OF BEGGING IN GHANA

First, to ensure the certainty of what constitutes the act of begging, there would be a need to define the ingredient of the offense of begging or what constitutes the act of begging in Ghana. The definition of what constitutes begging in Ghana can take this form

(A) Begging under this act means ⁶³

- (I) Anyone soliciting or receiving alms in a public place whether or not under pretense of singing, dancing, fortune-telling, performing, or offering any article for receiving any item.
- (II) Entering on any public premises for the purpose of soliciting or receiving alms.
- (III) Expose or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease whether of a human being or animal.

Also, the Decree seeks to punish givers or anyone that encourages anyone who engages in the act of begging. However, the law fails to identify what constitutes permitting or encouraging the act of begging. As a result, the definition of what constitutes permitting or encouraging the act of begging can take this form;

(A) Permitting or encouraging the act of begging means⁶⁴;

- (I) Giving alms, money or any item to a beggar .
- (II) Perpetrators of forced child begging .
- (III) Parents exploitation of children to beg.
- (IV) Anyone that refuses to report to the required institution upon seeing a beggar on the street .
- (V) Any police officer or institution refuses to arrest or send the beggar to the required place determined by the law.

⁶³ Bombay Prevention of Begging Act, 1959, s 2.

⁶⁴ Ibid.

2. Any juvenile that is found on the street begging must be sent to the Department of Social welfare which has the remit to protect the interest of a child. This provision is necessary to protect a juvenile found begging on the street since such juvenile is exempted from arrest.

3. The law must be certain that receiving alms or giving alms in the name of religious custom or custom of a community must be with the sole purpose for the integration of the beggars into the society. This is necessary to reduce the rate of begging in Ghana and to ensure that the beggars after receiving such alms become productive in the country. Hence if any custom of a community also supports giving to beggars, then there must be guidelines or education for the members to ensure that such giving serves a purpose which is to integrate the beggar into the society.

2.5 CONCLUSION

In conclusion, the gaps identified must be corrected to ensure the certainty of the Decree.

CHAPTER THREE

3.0 INTRODUCTION

This chapter seeks to edify about the need for the decriminalization of begging in Ghana. This chapter would proceed further to discuss about possible alternative solutions to ensure the integration of beggars into the society after the decriminalization of begging in Ghana.

3.1. LEGAL RATIONAL FOR THE DECRIMINALIZATION OF BEGGING IN GHANA

A. STATUTE OF LIMITATION

In Ghana, there is no statute of limitation with regards to criminal matters with the exception of *Article 14(3) of the 1992 Constitution of Ghana*. *Article 14(3) of the 1992 Constitution states that “A person who is arrested, restricted or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence under the laws of Ghana, and who is not released shall be brought within forty-eight hours after arrest, restriction or detention”*.

A statute of limitation is a law that sets the maximum time within which a legal suit may be brought against a person for an alleged offense.⁶⁵ Successive Governments in Ghana are poised to implement social policies and other altruistic services to the aid of beggars but are loath to arrest the beggars. In 2018, the Government of Ghana together with the Ministry Of Gender and Social Protection of Ghana planned to build permanent houses for beggars that are homeless and insecure.⁶⁶ This charitable act of the Government is an archetype of a Government that is unwilling to enforce the law on begging. However, the presence of the Beggars and Destitute Decree, 1969 (NLCD392) in force can adversely affect the Government policies devised for beggars. Firstly, all the beggars on the street that the Government intends to help have or might have committed the crime of begging and may at any time be assembled at the law court for the breach of the Beggars and Destitute Decree, 1969(NLCD392). The likelihood of an action to be instituted against these

⁶⁵ Wood v Carpenter, [1879]101 U.S 135.

⁶⁶ Ministry of Gender and Social Protection’ Operation Get Off the Street’(newsghana, 2 May 2018)www.newsghana.com2018/index,httpsaccessed> on 15 November 2019.

beggars for the act of engaging in a crime has the proclivity to affect the policies of the Government aimed at the integration of the beggars into the society. According to *Fuller*⁶⁷, a law made by a Government must be intelligible and easy to enforce, hence, if the Government is unwilling to enforce the law it would be prudent for the Government to decriminalize begging. In the case of *British Airways and ano v Republic*,⁶⁸ the court reasoned that once an act prohibited is decriminalized, an action brought against an individual under such statute would not be entertained. The best measure to be taken by the Government would be to decriminalize the act of begging and once that is done it would have the legal justification for helping the beggars without any law suit brought against such beggars later on.

B. RULE OF LAW

Rule of law posits that the Government of a country acts in a recognized manner dictated by norms or rules.⁶⁹This enables the citizenry to act accordingly to such norms or rules and also protect their rights and liberties.⁷⁰ The principle of rule of law is a motif which transverses in the 1992 Constitution of Ghana.

Firstly, one of the principles of rule of law is that the law be certain and clear.⁷¹ In Ghana, the law on begging is uncertain and imprecise which is a clear breach of this principle. In accordance with Article 19 (11) of the 1992 Constitution, for an act to constitute a crime, it has to be defined. The Decree as already explained above in page twenty one, fails to define what constitutes the act of begging which is a clear breach of Article 19(11) of the 1992 Constitution. Also, the uncertainty of the law is likely to cause the arrest of innocent individuals presumed to have committed act of begging. In the case of *Papachristou v City of Jacksonille*⁷², US supreme court held that vagrancy

⁶⁷ Cavendish LawCard Series, Jurisprudence,(2 edn Cavendish publication press 2002) 234.

⁶⁸ [1997-1998]1 GLR 55-751.

⁶⁹ Joseph Raz 'Rule of law and its Virtue'(1997)93.

⁷⁰ John Finnis, 'Natural Law and Natural Rights'(1980)270-1.

⁷¹ Ibid29-34.

⁷² [1992] 1578 810 F Supp 1551

provisions in question were void for vagueness of the law as it failed to give a person of ordinary intelligence fair notice of his act. Also, in the case of *Pottinger v City of Miami*⁷³, the court held that criminal laws must be clear and precise. Therefore, the uncertainty of the act of begging is a clear breach of rule of law.

Another principle in rule of law is that the law must be practicable⁷⁴. In the words of *Fuller*⁷⁵, one feature of a good law is that it must be pragmatic and easily enforceable by the Government. Successive Governments in Ghana are quick to pronounce that begging is a crime but continue to put in measures to integrate these beggars on the street. For instance, in the year 2017, the Ministry of Gender and Social Protection brooch a program ‘operation get off the street’, which aimed at removing all the beggars of the street to in order to provide them with shelter, clothing and also make them productive.⁷⁶ These successive programs aimed at integration of the beggars clearly show that the law that criminalizes begging in Ghana is not easy to enforce and as such calls for the decriminalization of begging in Ghana to establish other alternatives to solve this problem.

C. BRIDGES THE FREEDOM OF EXPRESSION

It is an inherent right of an individual to be entitled to their views on certain issues and matters without restriction once it does not breach the right of others.⁷⁷In accordance with Article 21 of the 1992 Constitution everyone has the freedom of speech subject to the respect of the rights of others. The uncertainty of the law of begging in Ghana is likely to abridge the right of speech due

⁷³ *Pottinger*(n 46).

⁷⁴ *Ibid.*

⁷⁵ Cavendish Lawcard Series, Jurisprudence, (2edn Cavendish Publication Press 2002) 234.

⁷⁶ Ministry of Gender and Social Protection ‘ Operation to Get All Street Children Off the Street’(newsghana,2 May 2018(www.newsGhana.com,2018/index,httpsaccessed >on 15th November 2019.

⁷⁷ Constitution of Ghana, 1992, art 21(1).

to uncertainty of what begging constitutes. A speech is defined as a particular message given by an individual. Hence, the criminalization of begging in Ghana can also affect the economic right of beggars by preventing them from drawing the attention of the Government to their plight. In the case of *Loper v New York city*,⁷⁸ the court held that begging by communicating a request of assistance both conveys a message of need and involves the communication of a social or political message. Thus, begging might also serve as a medium for the needy to draw the Government's attention that the problem of begging must be seen as a public issue and not individualistic. Hence begging is a form of political communication that can draw the attention of the Government about its function to ensure good economic life as established in the state directive policies which is justifiable.

3.11 SOCIOLOGICAL RATIONALE FOR THE DECRIMINALIZATION OF BEGGING IN GHANA

A. SOCIOLOGICAL JURISPRUDENCE

Sociologist posits that laws are made in the society to solve societal issues.⁷⁹ Thus for a law to be effective, it must be compatible with the society and improve the structure of the society. Sociologist argue that the problem of begging and other vagrancy offences holistically must be viewed as a social problem and not an individual issue.⁸⁰ According to American Sociologist, Wright Mills, laws made in the society must have the ability to deal beyond the personal character or failures of individual and perceive such harmless social issues as a social or national issue since

⁷⁸ [1993]999 F 2d 6999

⁷⁹ Wright Mills, *Sociological Imagination*, (2 edn free press 1959) 845.

⁸⁰ *Ibid* 24-26.

external forces are causing such problem.⁸¹ Hence, sociologists generally argue that the issue of begging must be tackled as a national problem and not as an individual problem as it is misleading and encourages one to explain human character without taking other factors into play.⁸² The issue of begging must be separated from other offences like rape, murder, and assault. The former is clearly prohibited on social expediency grounds whereas the latter is prohibited due to its intrinsic wrongfulness.⁸³ The act of begging must be separated from other offences like assault and rape because it is a victimless crime that does not necessarily affect the rights of others as compared to the other offenses mentioned. Though it is admitted that some beggars are aggressive sometimes and may infringe upon the right of others such actions are rare and are taken care of under our laws in Ghana.⁸⁴ In the words of *John Stuart Mill*, he believes that individuals have the inherent right to act and do whatever pleases them once it does not affect the right of the society or others; the societal interest overrides the individual interest, once the individual interest conflicts with that of the society.⁸⁵ Hence, it would be prudent to decriminalize the act of begging as the rate at which beggars infringe on the rights of others is low. This is evidenced in how the Government of Ghana and the public is willing to help in the integration of the beggars into the society.

B. STRUCTURAL EXPLANATION

Sociologists have argued that begging must be decriminalized on the ground that the legitimate means to achieve success is limited.⁸⁶ Proponents of this concept edify that it is the lack of opportunities faced by the poor people that actuated them to engage in begging.⁸⁷ Sociologists argue that the discrepancies in value, beliefs, and cultures are the effects of the poverty and not the

⁸¹ Ibid 38-39.

⁸² Allan Johnson, *Forest and Tress: Sociology as Life, Practice and Promise* (3rd edn Cambridge press 1997) 663.

⁸³ Allen Kemp, 'The Nature of Crime' *Journal of Comparative Legislation and International Law* Vol.13, No.1 (1931)400.

⁸⁴ Criminal Offences Act, 1960, (Act29), s 184, s 103, s 69.

⁸⁵ Series (n 67) 234.

⁸⁶ Eliot Liebow, *Cultural Differences Between the Rich and the Poor*, (2nd edn free press 1967) 458.

⁸⁷ Ibid 34-35.

causes.⁸⁸ That is, the lack of opportunities opened to the poor culminates into begging and not their culture.

Again, the Decree that decriminalizes begging in Ghana is likely to cause structural strain. Most organizations would be unwilling to employ any beggar because they are tagged as deviants or criminals. This concept is explained in sociology as the social labeling theory.⁸⁹ That is the primary reason why beggars engage in such acts is to survive or for necessity. However, if such compulsive act of beggars attains negative reaction from the society or organization from employing them due to their deviant's acts, the latent effect would be to compel beggars to continue begging since there would be no source of income for them.⁹⁰ The negative reaction from the public is what sociologists term as secondary deviance⁹¹, that is an act that compels a deviant behavior to persist in the society since the society frowns upon it but fails to solve the problem and as such causes such deviants to continue to engage in such act to survive.⁹²

In addition, Sociologists argue that the criminalization of begging can also lead to other deviant acts.⁹³ Sociologists argue that criminalizing of minor crimes like begging in Ghana can lead to other deviant acts like suicide.⁹⁴ This is because the individuals who engage in begging feel that he or she is not integrated into the society. According to Emile Durkheim, one reason why people commit suicide or other deviant acts is when they believe that they are not integrated into the society. A sociological problem he calls it egoism.⁹⁵

Moreover, the criminalization of begging would lead to stigmatization of these beggars by individuals who could have also in cohort with the Government helped the beggars to be integrated into the society. In the words of Erving Goffman, individuals in the society stigmatize others based on the blemishes of the characters of others.⁹⁶ In this sense, individuals who could have helped in the integration of beggars into the society intend to dissociate themselves from the beggars who

⁸⁸ William Ryan, *Blaming The Victim* (3 edn free press 1971) 690.

⁸⁹ William Chambliss, *The Saints and the Roughnecks*, (2 edn free press 1993) 790.

⁹⁰ *Ibid* 54-55

⁹¹ *Ibid* 55-56

⁹² *Ibid* 54-55.

⁹³ Emile Durkheim, *Rules of Sociological Method*, (2edn Cambridge Press 1904) 800.

⁹⁴ *Ibid* 37-70

⁹⁵ *Ibid* 37-70.

⁹⁶ Erving Goffman, *Stigma* (2edn free press 1963) 587.

are seen as deviant. The latent effect that is likely to arrive is that it would cause hidden identity in the society since most of the beggars unwilling to be stigmatized in the society may hide their identity as beggars and may never in return get any support from Government or individuals who could have helped them to develop their personality and character. This in the long- run would harm the human resource of the country.

C. BEGGING IS IMMUTABLE

Sociologist argue that deviant acts are immutable regardless of the power and status of the country.⁹⁷Emile Durkheim, states that deviant acts are immutable and cannot be stopped. However, he believes that if the norm against such deviant acts is incessantly breached; there must be a reason. Ensuing from this, sociologists have argued that the bane of begging must be decriminalized and seen as a public issue to engage the public about alternative means to solve the problem of begging.

3.2 POSITIVE EFFECT AFTER THE DECRIMINALIZATION OF BEGGING

This section discusses the necessary measures to be taken for the integration of beggars into the society after the decriminalization of begging in Ghana. These measures would serve the latent purpose of the Decree which is to integrate the beggars into the society by the criminalization of begging.

⁹⁷ Durkheim (n 93) 800.

(1) BUILDING OF PERMANENT HOMES FOR THE BEGGARS

The establishment of permanent homes for beggars to live in is the first step for the integration of beggars into the society. Some of the beggars live and sleep on the street, hence this initiative is important to protect the life and health of such beggars. This initiative would rather reduce the rate of beggars in the society as some of the beggars with no place of abode would be willing to be sent to such permanent homes for their accommodation and care. Also, this initiative must include the provisions of other necessities such as food which would be necessary to prevent the beggars from going back to the street to beg. Though this initiative of providing food may not be sustainable, it can be done temporarily as the beggars are equipped with skills and been employed to enable them to earn income to take care of themselves. This initiative can be accomplished by the collective efforts of the Government, international organizations, ordinary citizens or individuals and private bodies.⁹⁸

(2) REHABILITATION PROGRAMS FOR BEGGARS

The Government can also establish rehabilitation programs for beggars to ensure integration of beggars into the society. The Government can establish beggars rehabilitation programs just as done in India where each beggar is closely monitored by a person who may provide services and care for the beggar.⁹⁹ Also, the Government can put measures in place to contact the relatives of these beggars to provide the needs of the beggar to ensure that he or she does not go back on the street to beg. To push this idea, the Government can establish a beggar rehabilitation fund which

⁹⁸ Bishakaha Devenath ‘ Beggars Rehabilitation’(dailystar.net,28th April,2019)www.dailystar.net.com,2019/index,httpsaccessed >on 2th April 2020.

⁹⁹ Ibid.

would have its sources from financial institution, private institutions, Non- Governmental organizations and also from the public or ordinary citizens in order to keep the program alive.

(3). **CREATION OF JOBS AND EMPLOYMENT**

The training of beggars and destitute is one way to reduce the rate of begging. Once, beggars are equipped with necessary skills to produce and be productive it would be less likely that such beggars would go back on the street to continue to beg. An example of employment or job creation that can be established for beggars would be setting up a stall, giving livestock to the beggars to rear, or setting up a grocery shop for them. This initiative would enable them to earn income and fend for themselves without relying on the help of others to survive and in the long run reduce or extinguish the desire to beg on the street.¹⁰⁰

(4) **EDUCATION OF PUBLIC ABOUT THE INTEGRATION OF BEGGARS INTO THE SOCIETY.**

It is important to educate the public about the collective efforts for the integration of beggars into the society. The public must be made to understand that the issue of begging is immutable and can only be reduced by the collective efforts of Government and individuals. The public must be encouraged to help the beggars and ensure that any offer given to the beggars is possible to integrate the beggar into the society and make him or her productive.

Also, the police and the citizenry must be educated that upon seeing a juvenile begging on the street that juvenile must not be treated as a criminal but must be perceived as someone in need of care and protection. Thus, such a juvenile must be sent to the Department of Social Welfare or a child welfare committee to protect the interest of the child. Again, the police must also do their

¹⁰⁰ Ibid.

best to arrest the perpetrators of forced child begging to ensure that children are always protected and not exploited.¹⁰¹

CONCLUSION

The act of begging must be decriminalized and must be seen as a social or national problem which calls for all measures to abate the act of begging in Ghana.

¹⁰¹ Ibid.

CHAPTER FOUR

In conclusion, it was found in this paper that although the act of begging has been criminalized in Ghana, it falls short of the constitutional requirement provided in Article 19(11) of the 1992 Constitution of Ghana. It was argued in this paper that the act of begging has to be defined to ensure the certainty of the law which criminalizes begging in Ghana.

Also, it was found that the Decree makes an exception to the act of begging to the effect that any juvenile that engages in the act of begging does not commit the crime of begging. It was found that the law is silent on the action that needs to be taken in the best interest of the juvenile in the event where the juvenile is found on the street begging. It was argued that in the event where a juvenile is found on the street begging, the juvenile has to be sent to the Department of Social Welfare for the protection of the child. Again, it was found in the paper that the Decree allows giving or receiving in the name of a religious custom or a custom of a community. It was argued that in order not to increase the rate of begging in Ghana, the law must be certain on the purpose of such an exception which is to integrate the beggar into the society to be productive.

Moreover, it was found in this paper that there would be a need to decriminalize begging in Ghana. It was argued that the Decree is impractical and cannot be enforced in the country. It was argued that the decriminalization of begging in Ghana is the first step for the integration of beggars into the society.

In light of this findings, I recommend that it would be necessary to decriminalize begging in Ghana as begging is immutable and can only be reduced by collective efforts of the Government and the citizenry in their bid to integrate beggars into the society such as building of permanent homes for the beggars, the establishment of rehabilitation programs and creation of jobs for the beggars. Conversely, if the Government is unwilling to decriminalize begging then there would be a need to fill the gaps in the Decree to ensure the certainty and enforceability of the law.

The problem of begging must be considered as a public issue which calls for the collective efforts of the Government and public to ensure that the rate of begging is kept as low as possible in the country.

TABLE OF ABBREVIATIONS

AC	Appeal Cases(England)
GLR	Ghana Law Reports
NLC	National Liberation Council

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