

# CHILD BEGGING: LEGAL SHORTCOMINGS OR SOCIAL- AN EMPIRICAL STUDY.

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## Abstract

*The most common thing which can be found in India is begging. Beggars are commonly found at busy places whether it is market, temple, squares, traffic lights area and pilgrimage stations. The policy of begging in India gets the hike from the early mythologies of donation and mercy. People, who beg seem to be so dedicated and professional at times. But in the midst of professional begging, a weaker section of society- the Children, are pushed to begging leading to their sheer exploitation mentally as well as physically. Today, the child begging is the most disturbed and crucial issue our Nation faces but at the same time it is ignored blindly by showing social and organizational incapability to cope up with it. Some people give money or food to beggars in order to get rid of them and sometimes due to pity. There are a few justifiable cases of begging too, who are paralyzed, lame, deaf, dumb, and blind or disabled, are unable to earn their living. While many of the begging cases are justifiable, some beggars are wrongly pushed in this business regardless of their age or physical conditions. The number of beggars in India is increasing. These are the ignored creatures of society and leading their lives on the earnings of other people.*

*Grown up children indulge themselves in taking drugs and gambling. Their bodies become sick and infected to diseases. Begging by healthy and fit people must be banned in India by law. And for the most important section of the society- the child beggars, it is the high time to regulate laws regarding placing them in rehabilitation centers from squares and temples. Street begging is really a nightmare for modern India and the legislation has a long way to go for child beggars.*

## INTRODUCTION:

In **India**, begging has been existed since time immemorial as a traditional profession. What we today consider as “begging” was performed in ancient times in the name of charity. Among Muslims zakat or alms giving is done during Ramzan. Later on, in Buddhism begging by holy men is believed to be aesthetic as it enables them to break away from all materialistic bondage.

Today, in India beggars hail mainly from urban homeless ranging from recent migrant workers to people suffering from physical and mental disabilities. Beggary has lately come in to focus when a great increase in child beggars would be encountered. Their poor lively and survival condition set an emphasis on the very natural right of every human being i.e. “**Right to life with dignity**”. Does the poor condition of this vulnerable class of society not put the state or a responsibility of providing them with their basic needs of survival? while the government sets several criteria to separate people as above poverty line (APL) and the below poverty line (BPL) to provide them with their basic needs, does this class of beggars miserable poor children get covered under any category? The answer after due analysis comes to be negative. Even the free education policy seems to be ineffective as they say – “*The fire of hunger is extinguished by food not by daily education*”.

So, what are the causes that compel the small hands to hold begging utensil at the age of holding pencil and bag? There seems to be a relationship between begging, homelessness and poor physical health. Philip (2005) in his study found that there was a clear association between begging, homelessness, poverty, mental illness, drug dependency and inadequate access to housing, income support and health care services<sup>1</sup>. The major cause labeled is the idleness of children as their parents go for work and they are left idle for the whole day.

In the recent seminar on “**Problems of beggary : realities, challenges and interventions**” in February 2009, a study revealed that 82% of child beggars were in the age group of 6-12 years which was based on a rapid study of interviewing 50 child beggars from the north district of NCT of Delhi. The matter for concern for the child beggars arises because children who beg and live on the street are exposed to risk of becoming economically and sexually exploited, enslaved or trafficked. Ironically, there exists no law to rehabilitate these children for the noble cause wherein there exists laws to prohibit trafficking and kidnapping the children for the purpose of begging. The state has not strived to regulate it through any rules or enactment which is itself a cause for increased child trafficking, kidnapping and sexual exploitation.

In the country like India, child begging may prove as a disgraceful and a taboo for the country’s sustainable development: where the child is considered a future youth of country it is high time to focus on the need of abolition of child begging socially and legally too.

### **POSSIBLE CAUSES:**

**Economic Causes:** Beggary might be the consequence of adverse economic condition or distress. Also, it might be motivated by economic gain. Factors such as unemployment or under-employment, landlessness, poverty, calamity, drought or famines and various other conditions of destitution are all variants of economic causes.

**Religious Causes:** A sort of religious sanctity is attached to alms giving by a large section of Hindus, Muslims and Christian population, which is even supported on religious grounds.

**Natural Calamities:** The natural calamities such as earthquakes, flood, tsunami, hurricane and drought compel people to leave homes, in need, the persons who are unable to find work feel compelled to beg to save themselves from starvation and death.

**Social Causes:** Social disorders like the emergence of individualistic considerations seems to have changed the situation considerably forcing the persons in crises situations to a life of beggary, such as, the orphans, infirm and aged, lepers, lunatics, widows and other socially, physically and mentally handicapped categories.<sup>1</sup>

### **THE INVASIVE EFFECTS OF CHILD BEGGING:**

1. It projects our major social problem before the World.
2. Increased numbers of child beggars highlight the exploited future of our Nation.
3. It hampers the National economic growth too.

### **BOMBAY PREVENTION OF BEGGING ACT- THE LEGISLATIVE EFFORT**

The Bombay prevention of begging act, 1959 criminalizes begging. Its aim is to remove beggars from their current illegal profession so that they may be detained, trained and eventually employed elsewhere. The act was adopted by UT of Delhi in 1960. It is considered a violation amongst activities and advocates of homeless people. Under this act, a child is defined as a boy who has not completed 16 years of age and a girl who has not completed 18 years of age. According to this act, beggars found guilty by a court of law were to be sentenced to minimum of one year and a maximum of 3 years in beggars home (**Certified Institution**) but also the beggar’s dependents, unless the

<sup>1</sup> Extracts from “Begging for a Childhood: Delhi Commission for Protection of Child Rights, NCT Delhi” Aug.2015 p10

dependent is a child. In the case the child is found to be guilty of begging and is below the age of five, he /she is forwarded to the courts under children act, 1960 with his mother to be detained for taking care of him/her.

Also who has solicited or exploited a child to beg for alms, can be sent to prison for minimum of 1 year and maximum of 3 years. This law has not been amended to meet the new provision for children under the Juvenile Justice Act, 2000. The human rights law network admonishes the law being archaic and colonial with racist undertones and was enacted to clear the poor away from upper class areas.<sup>2</sup> The noble effort by the parliament is appreciable on its footing that soon after the Independence sought by the Nation, the govt. looked forward towards one of the major problems, our Country was facing. But to the extent the legislative intent seems to be kind and noble, the formulated law couldn't meet its ends. The reasons being highlighted are the provisions of the statute proved out to be harsh and standing inhumane which was in derogation with the liberty sanctioned by the Article 21<sup>3</sup> of our Constitution.

“Begging is considered a crime in India under Bombay Prevention of Begging Act, 1959, rather than a social issue. Begging is a social problem and has multifarious consequences in metropolitan cities and towns. The Central and State government and the NCRB have no data on the number of beggars in the country. In fact, there is no mechanism to rehabilitate these destitute people or even bring them under the ambit of right to food act.”<sup>4</sup>

### **Ram Lakhan v. State of NCT- AN INSTANCE**

The present case is the best illustrative analysis of the problem of begging as dealt by the Delhi Prevention of Begging Rules, 1960. The allegations against the petitioner as per the prosecution case were that on 29.07.2005 at about 12.05 p.m. at the Railway Crossing at Rampura, Delhi, the petitioner was found begging from the passers-by by a raiding party. It was stated that they were on an anti-begging raid and when they reached the said Railway Crossing, the petitioner was found begging from members of the public. A sum of Rs. 47/- was also recovered on the basis of a personal search conducted on the petitioner. In the present case, the courts below have found the testimonies of the police officers to be trustworthy. In this background, the question which arose for consideration is whether the courts below were right in law to have recorded the finding that the petitioner was a "beggar" and in ordering his detention in a Certified Institution. So here the question comes who is a "beggar"? What is "begging"? The answers to these questions are inextricably intertwined. Section 5 (4) of the said Act requires the court to record a finding that a person is a "beggar" if the court, on the basis of a summary inquiry made by it in terms of Section 5 (1) of the said Act, is satisfied that such person was found "begging". So, a "beggar" is a person found "begging", a term which is defined in Section 2 (1) (i)1 of the said Act. All the five Clauses (a) to (e) deal with solicitation and receiving of alms in one way or the other. But, all solicitation or receiving of money or food does not amount to 'begging' as, if, such solicitation, receipt of money or food is for a purpose authorized by any law. This takes us to the provisions contained in Rule 32 of the Delhi Prevention of Begging Rules, 1960 (hereinafter referred to as "the said Rules"), which prescribe the manner of authorizing the soliciting or receiving of money or food or gifts for a purpose.

What does the beggar do? He solicits alms by words spoken or actions expressed. And, it would be instructive to remember that Article 19(1) (a) of the Constitution of India guarantees to all citizens the right to "freedom of speech and expression". Would "begging", therefore, not be covered by this guarantee? Just as an advertisement of a product would be within the perimeter of this valuable fundamental right, begging, too, could fall within it. After all, begging involves the beggar displaying his miserable plight by words or actions and requesting for alms by words (spoken or written) or actions. Does the starving man not have a fundamental right to inform a more fortunate soul that he is starving and request for food? And, if he were to do so, would he not be liable under the said Act for being declared as a 'beggar' and consequently being deprived of his liberty by being sent for detention at a certified institution? Does this not mean that the said Act leads to deprivation of liberty on the basis of a law which runs counter to the fundamental right of freedom of speech and expression? Does this, therefore, not mean that even the

<sup>2</sup> [http://www.childlineindia.org.in/Bombay\\_prevention\\_of\\_begging\\_act\\_1959.htm](http://www.childlineindia.org.in/Bombay_prevention_of_begging_act_1959.htm)

<sup>3</sup> Right to life and Protection of Personal Liberty

<sup>4</sup> The Hindu February 2, 2014 23:34 IST

fundamental right of protection of life and personal liberty, which is enshrined in Article 21 of the Constitution, is also violated ?

Although, on first impression, the idea of "begging" being protected by Article 19(i)(a) of the Constitution may appear a little quaint, there are decisions of courts in United States of America holding begging to be constitutionally protected speech. But, this does not mean that begging cannot be prohibited. The prohibition must, however, operate within limitation. In *The People of the State of New York v. Eric Schrader*: 617 N.Y.S. 2d 429 the validity of the ban on begging in the New York City Transit System came in question. Comparing the solicitation of funds by legitimate charities and begging by individuals in need, the Court observed:

Thus, it is uncontested that a charity has a First Amendment right to solicit funds to feed or clothe or otherwise aid those in need. It would be unreasonable to conclude that the Federal Constitution does not provide the same free speech protection to the individual in need as it does to the solicitor for a charity, to stand on the same public street corner and ask for money. No rational distinction can be made between the message involved, whether the person standing in the corner says "Help me, I'm homeless" or "Help the Homeless".

Though begging was accepted as constitutionally protected speech, the law banning begging in the New York City transit system was upheld because it was found to be a reasonable safety precaution.

Viewed in this light, begging being part of the Constitutional guarantee of freedom of speech and expression, can only be subjected to reasonable restrictions by law in the interest of, inter alia, public order, decency or morality. Thus the said Act and, in particular, its provisions having penal consequences and effecting the liberty of individuals must be construed in a manner which results in their being interpreted as imposing reasonable restrictions. These considerations lead to the conclusion that even where the person is found begging, he need not necessarily be ordered to be detained in a Certified Institution.<sup>5</sup>

### **OBJECTIVES AND IMPORTANCE OF THE STUDY:**

The society has always seen its divided face on the basis of unequal distribution of wealth, the beggars being the fragile part. The social causes exist in the form of a legacy of being poor and continuing a life in the inadequacy of basic needs. These people are less educated, less living and more of exploited kind in the society. The common practices of begging include a considerable number of child beggars too, very focused to beg, who are perhaps taught to survive through it. In recent years, the concern for these ignored part of society have been widened. Education to children have helped them to come out of this wicked practice and hampered the exploitation rate to some extent. But for the effective operation of the policies of govt. some more policies are to be bind up like the policy of rehabilitating them. The investigator wants to analyze the impact of Child Begging existing in the society and also wants to suggest about the ignorance of society and law to this problem which is somewhere hindering the progress of the nation.

The situation of the problem of begging is worse in the rural areas due to social evils still alive like untouchability and caste system. Even today, in some villages across India equal social rights are hard to find. Thus, rural areas have to be developed and made aware more about govt. policies about free education to children and surviving conditions to children in schools. After all, ending this problem will solve many other related issues and lead out country towards development.

Last, but not the least, it can be said that the modern education has broaden the minds of the people regarding the poor condition of children roaming around abused. Gradually, a hope is lighted up that besides educational rights, govt. will seek for some rehabilitation rights of these small creatures featuring begging around.

**METHODOLOGY:** The measuring instruments are used in the present study to produce information regarding the attitude of members of the civil society towards the problem of child begging is the Attitude Scale. For measuring the attitude, self prepared questionnaire were used. The attitude scale consisted of 10 items. The individuals put tick mark as Agree; Strongly Agree; Neutral; Disagree; Strongly Disagree as the response to the statements of the

<sup>5</sup> 137(2007) DLT 173 (<https://indiankanoon.org/doc/434096>)

attitude scale. The present scale is valid technique to measure the attitude from the age group of 0-25; 25-50 and 50 above consisting both male and female.

The investigator has calculated the percentage of the responses to the questions raised to show in the bar chart for indicating the attitude of rural and urban as well as the occupational views towards the problem of child begging. It is noticeable that the religion and occupation have not been considered any boundary for the above analysis.

**TECHNIQUE FOR DATA COLLECTION:** The data was collected from the civil society of Gwalior District which consist various people of different age groups by administering to them the method used. Statements were used to collect necessary data. Statements are preferred for this study.

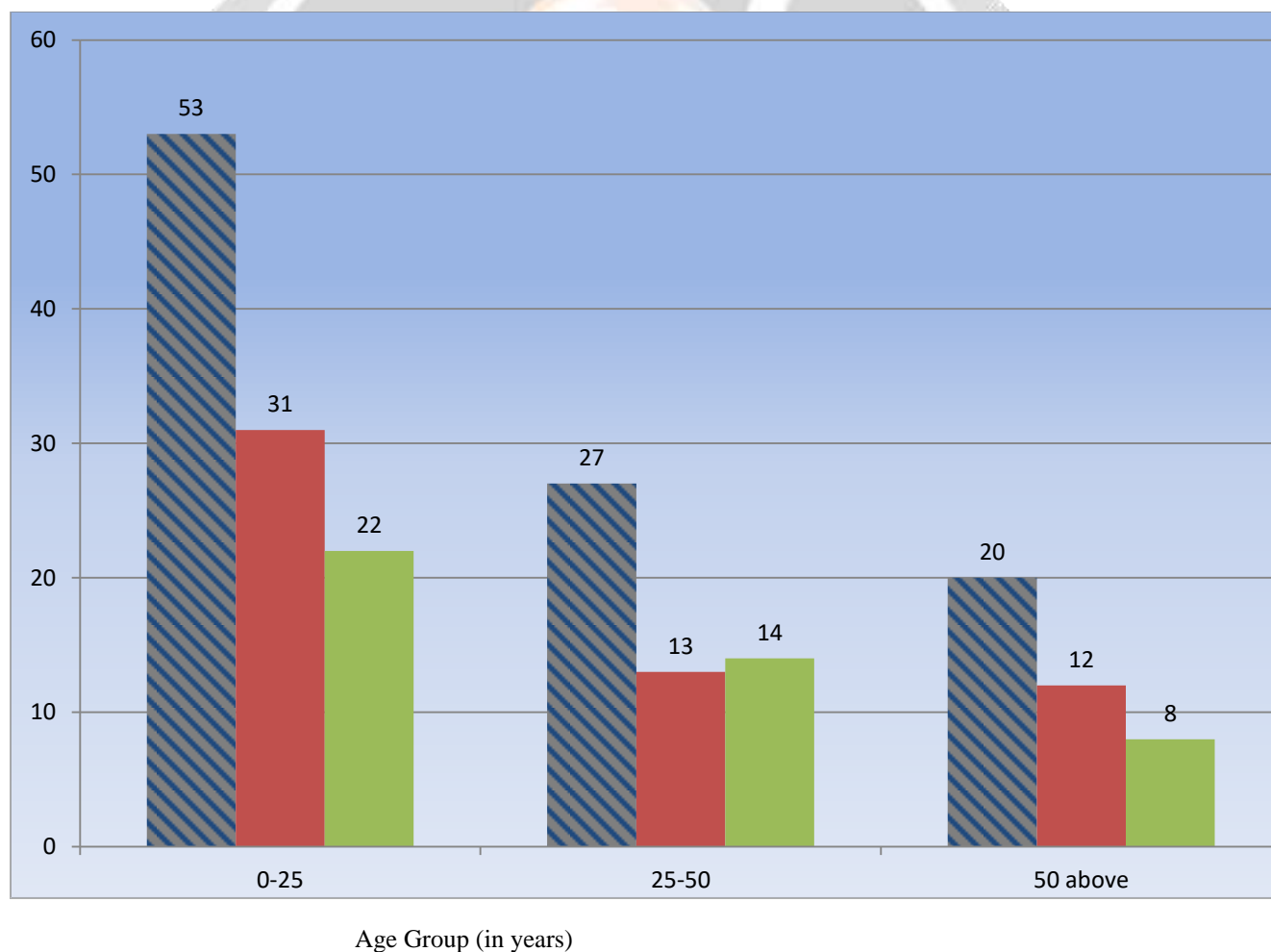
#### **HYPOTHESIS FOR THE STUDY:**

**H1.** Govt. is aware of this problem but cannot be held responsible.

**H2.** Child Begging is a social problem in India only.

#### **DATA OF THE STUDY:**

1. The study was conducted on various different age groups. The sample of study of 100 includes 20 numbers of 50 above, 27 of age group of 25-50 and 53 numbers from age group 0-25. Most importantly 20 children from 6-15 years are involved in the study to know the social implications i.e. what have been taught to them about the child beggars by elders around them.



**FIGURE 1**

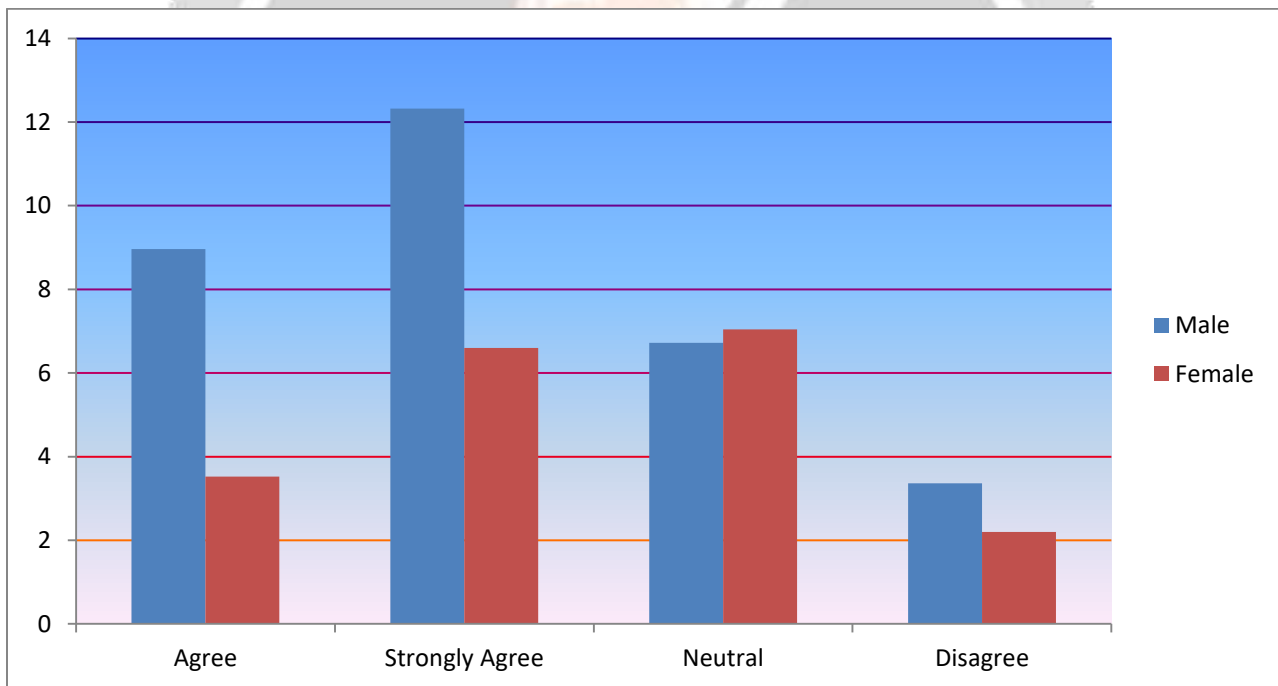
- 0-25 years – Total 53 of which 31 are Male and 22 Female.

- 25-50 years- Total 27 of which 13 are Male and 14 Female.
- 50 years above- Total 20 of which 12 are Male and 8 Female.

2. Govt. is ignorant towards the exploitation of children in the form of child beggars.

**TABLE 1**

	AGREE	STRONGLY AGREE	NEUTRAL	DISAGREE
MALE	16/56	22/56	12/56	6/56
PERCENTAGE	8.96%	12.32%	6.72%	3.36%
FEMALE	8/44	15/44	16/44	5/44
PERCENTAGE	3.52%	6.6%	7.04%	2.2%



**FIGURE 2**

3. Child Beggars in the streets, project a poor economy of India worldwide.

**TABLE 2**

	AGREE	STRONGLY AGREE	NEUTRAL	DISAGREE

MALE	14/56	19/56	15/56	8/56
PERCENTAGE	7.84%	10.64%	8.40%	4.48%
FEMALE	10/44	18/44	12/44	4/44
PERCENTAGE	4.4%	7.92%	5.28%	1.76%

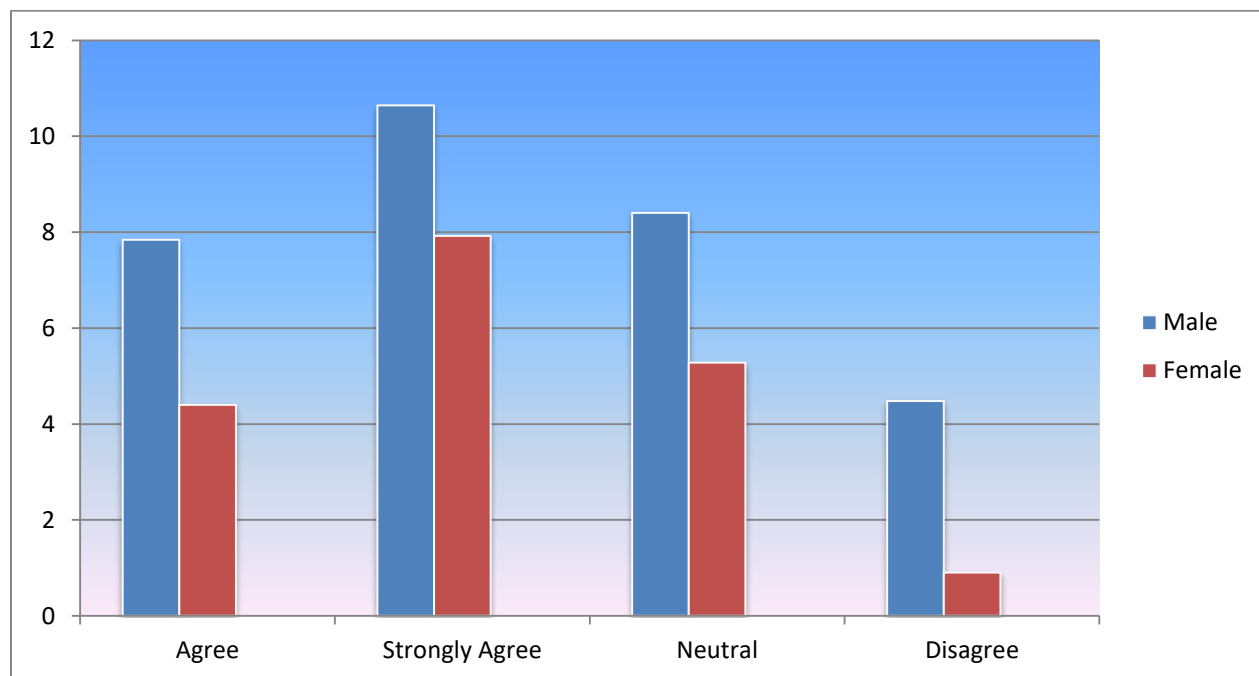


FIGURE 3

**CONCLUSION DERIVED:**

The current study found that there is significant difference between the attitudes of different members of civil society towards the problem of child begging in the Gwalior district. By doing my research work it was found that all these two hypothesis of Synopsis are not related to my study. In hypothesis H1 there was no liability supposed of the govt. while in my research work there is significant difference in the attitude of different members of civil-society as we could see there Figure 2 is showing the percentage difference of opinions. In hypothesis H2, the problem was supposed to be a mere social problem which is not related to nation but the study projects a picture of opinions of people that it is an emerging social as well as national problem. In the result a large number of educational inferences based on the results of the study were drawn. Significantly, the children abandoned by their parents for the sake of work and hunger come out to be one of the major reasons for the subsequent growth of child beggars.

Thus, the current study deduces many results as to the problem of child begging how exist in the society. Almost seven decades passed since our Nation gained Swaraj. Rights in books and in elite hands seem to be the spirit of democratic welfare but the social condition of child rights are still going unnoticed as can be best understood through this study.

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