

General Studies-2; Topic– Issues relating to poverty and hunger.

Decriminalisation of Begging

1) Introduction

- The Delhi high court decriminalised begging, striking down as “unconstitutional” the provisions which made it an offence.
- The court also said that criminalising begging violates the most fundamental rights of some of the most vulnerable people in society.

2) Background

- Delhi Prevention of Begging Rules, 1960, formulated under the Bombay Prevention of Begging Act, 1959, makes begging an offence.
- Under this offence, beggars were often picked up and produced before the courts from where they sent to beggar homes.
- Currently, there is no central law on begging and most states have adopted the Bombay Prevention of Begging Act, 1959.
- The Act has continued to exist in 20 States and two Union Territories.
- Now the Delhi High Court struck it down as inconsistent with the Constitution.

3) What does the Begging Act do?

- It criminalises begging.
- It gives the police the power to arrest individuals without a warrant.
- It gives magistrates the power to commit them to a “certified institution” for up to three years on the commission of the first “offence”, and up to 10 years upon the second “offence”.
- The Act also authorises the detention of people “dependant” upon the “beggar”, and the separation of children over the age of five.
- Certified institutions have absolute power over detainees, including the power of punishment, and the power to exact “manual work”.
- Disobeying the rules of the institution can land an individual in jail.

4) Concerns with the Act

- The Act defines begging to include receiving alms in a public place by singing, dancing, fortune telling, performing or offering any article for sale.
- These vague definitions give unchecked power to the police to harass citizens.
- The definition of “begging” under the Act violated Article 14, as it does not make any distinction between persons who receive money for authorized purposes and those who are singing, dancing, or engaged in similar activities.
- It was found that 74% of persons arrested were from the informal labour sector such as those employed in small hotels, markets and construction, and 45% were homeless.
- It reflects the lawmakers’ desire to erase from public spaces who act differently, and whose presence is perceived to be a bother and a nuisance.
- There are no constitutional guarantees of pluralism and inclusiveness.
- Before the 2010 Commonwealth Games, the Delhi government removed beggars from the street.
- Such operations are also a regular part of preparing for national events, such as Independence Day and Republic Day.

5) Government Efforts

- The Centre made an attempt at repealing the Bombay Prevention of Begging Act through the Persons in Destitution (Protection, Care and Rehabilitation) Model Bill, 2016.
- The provisions included doing away with the Beggary Act and proposing rehabilitation centres for the destitute in each district.
- Discussion on the Bill was halted in 2016.
- Bihar government's Mukhyamantri Bhikshavriti Nivaran Yojana
 - 1) Instead of detaining persons under the Act, open homes were set up and community outreach for destitute persons was put in place.
 - 2) Now, rehabilitation centres have been set up, with facilities for treatment, family reintegration and vocational training.

6) Delhi High Court's Arguments

- The Begging Act violated Article 14 (equality before law) and Article 21 (right to life and personal liberty) of the Constitution.
- People in this stratum do not have access to basic necessities such as food, shelter and health.
- Criminalising them denies them the basic fundamental right to communicate and seek to deal with their plight.
- The court challenged various sections of the Bombay Begging Act which was adopted by Delhi in 1960.
- The court said that there is necessity of striking down the entire Act
- The definition of begging under the Act was entirely arbitrary.
- The court also criticized the government for its failure to ensure the bare essentials of the right to life to all its citizens.
- We find reports of starvation deaths and ensuring education to the 6 to 14 year old remains a challenge.
- Under Article 21 of the Constitution, it was the state's responsibility to provide the basic necessities for survival — food, clothing, shelter — to all its citizens.
- Poverty was the result of the state's inability to discharge these obligations.
- A move to criminalize them will make them invisible without addressing the root cause of the problem.
- Therefore, the state could not criminalise and penalise people who were communicating the reality of their situation to the public.

7) Significance

- The Delhi High Court's judgment marks a crucial step forward in dismantling one of the most vicious and enduring legacies of colonialism.
- It recognises that our Constitution is a transformative Constitution.
- It seeks to undo legacies of injustice and lift up all individuals and communities to equal citizenship.
- The ruling has accepted that poverty cannot be a crime.

8) Concerns / Challenges

- Presence of beggars was the evidence of the State's inefficiency in providing basic facilities to all its citizens.
- Poverty is a systemic and structural problem.
- A court can strike down an unconstitutional law, but it cannot reform society.

9) Way Forward

- The state must bring in alternative legislation to curb forced begging after undertaking an empirical examination on the sociological and economic aspects of the matter.
- It should focus on the rehabilitation and integration of the most vulnerable and marginalised members of our society.
- The real problem of organised begging rackets will have to be addressed by other means, based on the law of trafficking.
- A civilised society must regard the poor not as criminals to be sentenced, but as candidates for protection.
- The decriminalisation of those who fail usually has positive effects.
- For instance, Portugal, which decriminalised drug use and possession in 2001, has achieved the lowest rate of drug-related social costs, like death and crime, in the European Union.
- A similar step with regard to beggars — spending on rehabilitation — would yield similar outcomes, and turn the social problem into a dividend.

