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## Proposed Amendment to Railways Act 1989

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### Why in News

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Recently, the **Ministry of Railways** has **proposed to decriminalise begging** on trains or railway premises and **compound the offence of smoking by levying spot fine and dropping all charges/action** against the person involved.

These changes are part of an exercise to **decriminalise/rationalise penalties under the provisions of the Railway Act, 1989.**

### Key Points

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- **On Begging:**
  - **Current Provision: Section 144 (2) of the Act** holds that if any person begs in any railway carriage or upon a railway station, s/he shall be **liable for punishment of either imprisonment** for a term that may extend to one year, or with **a fine** that may extend to Rs. 2,000, **or with both**.
  - **Proposed Amendment:** Now the **proposal** is to amend the Section by stating that “No person shall be permitted to beg in any railway carriage or upon any part of the Railway”.
  - In **2018, Delhi High Court quashed a similar law** that made begging in the national capital a punishable offence and held that **law does not make any distinction between types of begging: voluntary or involuntary**.
    - The law violated **Article 14** (Equality before Law) and **Article 21** (Right to Life and Personal Liberty) of the Constitution.
    - The Court held that the **State cannot fail to do its duty to provide a decent life to its citizens and add insult to injury by arresting, detaining and, if necessary, imprisoning persons who beg** in search for essentials of bare survival.
    - It noted that the **city governments can bring in alternative legislation to curb any racket of forced begging** after undertaking an empirical examination on the sociological and economic aspects of the matter.
- **On Smoking:**
  - **Current Provision: Section 167 of the Act** holds that **no person in any compartment of a train shall**, if objected to by any other passenger, **smoke therein**. Irrespective of any objections raised, the railway **administration may prohibit smoking** in any train or part of a train. Whosoever contravenes these provisions shall be **punishable with a fine** that may extend to Rs.100.
  - **Proposed Amendment:** If the person liable to pay the fine is willing to pay it immediately, the officer authorised may **compound the offence by charging the maximum fine** which will be paid to the railway administration. Provided that, the **offender shall be discharged and no further proceeding** shall be taken against him/her in respect of such offence.

## Beggary

- **Definition of Beggary:**
  - The **Bombay Prevention of Begging Act, 1959** defines **beggary** as an activity of having no visible means of subsistence, and wandering about or remaining in any public place in such condition or manner, as makes it likely that the person doing so exists by soliciting or receiving alms.
  - However, the provisions of legislation **aim to effectively "cleanse" these spaces of individuals who appear poor or destitute.**
- In India, begging was **first criminalised in the 1920s**, as part of a **colonial logic** that sought to subjugate certain communities by imputing criminality to them.
- **Beggary Laws In India:**
  - There is **no central Act on beggary**, however, many States and Union Territories have used certain sections of the Bombay Prevention of Beggary Act, 1959, as the basis for their own laws.
    - The act of begging in Delhi was made a criminal offence after the 1959 Act was **extended to Delhi** by a **Central government amendment in 1960.**
  - Through these legislations, the governments try to maintain public order, address forced begging or “begging rackets”, and prevent annoyance to tourists.

### **Major Provision Related to Smoking**

- The **Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003** (COTPA) is the principal comprehensive law governing tobacco control in India.
- In **2004**, India ratified the **World Health Organisation Framework Convention on Tobacco Control** (WHO-FCTC) which came into force in 2005.

**Source: TH**