



HARYANA STATE LAW COMMISSION

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EIGHTEENTH REPORT

**Recommendation to enact The Haryana Prevention of Damage
to Public and Private Property Act, 2024.**

Government of Haryana

HARYANA STATE LAW COMMISSION

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Chairperson**

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Government of Haryana

HARYANA STATE LAW COMMISSION**EIGHTEENTH REPORT****15TH July, 2024****Recommendation to enact The Haryana Prevention of
Damage to Public and Private Property Act, 2024.**

Damage to public and private property by natural calamities is inevitable, but when mankind intentionally damages the property and cause death or injury to persons is very serious matter. In recent times demonstration for cause, just or unjust, by groups of agitators who go amok and damage public and private property and cause death or injury to persons on calls given by the political parties, organizations, trade unions or associations have become a growing menace. Intentional property damage is often (but not always) malicious. Intentional property damage may be considered a form of violence. Certain forms of property damage, such as breaking a machine, railway tracks, roads, signal system, may cause accidents and further cause bodily harm to individuals as well as damage to public property, create disturbance in free flow of communication, transportation, etc.

As time passed, specific laws were introduced to deal with particular situation, accordingly Parliament enacted a law called

the Prevention of Damage to Public Property Act, 1984 (Act No.3 of 1984). But this Act only provide for penal consequences under Section 3 and Section 4 and it does not deal with private property, may be because the provisions of Indian Penal Code were at that time considered to be sufficient to deter persons from wantonly indulging in destruction/damage to private property. Whereas in recent events e.g. Gujjar agitation in Rajasthan in 2007, vandalism in the State of Punjab and Haryana due to incident on Dera Sachchkhand Gurudawara at Viena (Austria) in 2009, in Bihar certain trains were torched by the rioters due to an order by Divisional Railway to discontinue certain non-productive halts/railway stations in Bihar, have shown the criminal sanction shall be an effective or sufficient deterrence. In many parts of the country, there is recurrent rioting and vandalism leading not only to loss of life and injury to persons, but also extensive damage to and loss of public/private property, movable and immovable.

Consequently, due to above reasons taking a serious note of various stances where there was large scale destruction of public and private properties under the garb of agitations, bandhs, hartals and the like, the Hon'ble Supreme Court has initiated suo moto proceedings on the vandalism and destruction of properties during the Gujjar agitation in Rajasthan in 2007, in Destruction of Public and Private Properties Vs. State of A.P. and others, writ petition (Crl.) No.77 of 2007, with W.P. (Crl.) No.73 of 2007,

which has been decided by the Hon'ble Supreme Court on April 16, 2009, therein certain directions/guidelines were given by the Hon'ble Apex Court in the context of the prevention of Damage to Public Property Act, 1984 with the direction that these guidelines shall become immediately operative and appropriate legislation consistent with the guidelines be created by the statute thereby the Hon'ble Apex Court impliedly viewed that the Prevention of Damage to Public Property Act, 1984 is not sufficient to deal with and curb the acts of vandalism and damage to public and private property, including destruction and damage caused during riots and public commotion and there is need to make the provision for deterrent punishment for offence of mischief/damage to public and private property. There is need to make such offence non-bailable, special provision for bail and there shall be provision to fix accountability of leaders and office bearers of the political parties or organizations who indulge in riots and public commotion.

Under Article 254(2) of the Constitution if a law made by the Legislature of a State with respect to any of the matters in the Concurrent List contains any Provision repugnant to the provisions of an earlier law made by the parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State. Therefore, proposed Legislation shall

prevail, only if it has received the presidential assent. Hence, after passing the proposed legislation by the Legislature of the State Presidential assent shall also be needed.

The Haryana State has enacted The Haryana Recovery of Damages to Property During Disturbance to Public Order Act, 2021 (Act 11 of 2021), but this Act deals with only the matters concerning recovery of damages to properties caused during disturbance to public order, but it does not deal with the law concerning prevention of damage to the public and private property particularly, during protest called by the political parties, organizations, trade unions, associations, etc. The States such as Punjab, Kerala, etc. have already enacted their respective Prevention of Damage to Public and Private Properties Acts. Therefore, keeping in view the above facts, the Haryana State Law Commission has drafted the Haryana Prevention of Damage to Public and Private Property Bill, 2024 to be enacted by the Haryana State Legislature as follows: -

**THE HARYANA PREVENTION OF DAMAGE TO
PUBLIC AND PRIVATE PROPERTY BILL, 2024.**

A

BILL

to provide for the prevention of damage to public and private property and for the matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Haryana in the Seventy-fifth year of the Republic of India, as follows: -

1. Short title extent and commencement. -

(1) This Act may be called the Haryana Prevention of Damage to Public and Private Property Act, 2024.

(2) It shall come into force on and with effect from the date of its publication in the official Gazette.

2. Definitions. -

In this Act, unless the context otherwise requires, -

(a) “competent authority” means the District Magistrate as empowered under the Haryana Recovery of Damages to Property During Disturbance to Public Order Act, 2021 (Act 11 of 2021).

- (b) “damaging act” includes an act, agitation, strike, hartal, dharna, bandh or demonstration or march or procession or blockade of rail or road traffic by an individual, group of individuals, organization, any party whether social, religious or political, by which any damage or loss or destruction is caused to any public or private property;
- (c) “organizer” shall include any person or persons or office bearers of any organization, union or party, who arrange, instigate, conspire, advise or guide for doing any damaging act;
- (d) “public property” means any property, whether immovable or moveable (including any machinery), which is owned by, or in the possession of, or under the control of-
- (i) the Central Government; or
 - (ii) any State Government; or
 - (iii) any local authority; or
 - (iv) any corporation or institution established by, or under a Central or State Act; or
 - (v) any company as defined in sub-section (20) of section 2 of the Companies Act, 2013 (Act No. 18 of 2013); or

- (vi) any board established by, or under a Central or State Act; or
- (vii) any society registered under a Central or State Act; or
- (viii) any trust registered under a Central or State Act; or
- (ix) any institution, concern or undertaking, which the Central Government or the State Government may, by notification in the Official Gazette specify in this behalf:

Provided that the Central Government or the State Government shall not specify any institution, concern or undertaking under this sub-clause, unless such institution, concern or undertaking is financed wholly or substantially by the funds, provided directly or indirectly by the Central Government or by the State Government or by one or more State Governments or partly by the Central Government and partly by one or more State Governments;

- (e) “private property” means any property, whether movable or immovable (including any machinery), other than the public property, mentioned in clause (d) of section 2 of the Act which is owned by or in the possession of, or under the control of, any person or organization or institution or entity;

(f) “section” means section of this Act; and

(g) “State Government” means the Government of the State of Haryana.

3. Prohibition of doing damaging act. -

(1) Whoever organizes agitation, strike, hartal, dharna, bandh or demonstration or march or procession or blockade of rail or road traffic whether by an individual, group of individuals shall not indulge in any damaging act.

(2) The State Government may videograph such damaging acts.

4. Penalty for causing damage to public & private property. -

(1) Whoever commits, or attempts to commit, or instigates, incites or otherwise abets the commission of damaging act and causes loss or damage of any public and private property, other than public property of the nature referred to in sub-section (2), shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and shall also be liable to fine, in default of payment of fine the offender shall undergo imprisonment for a further period of half of the sentence awarded in the offence:

Provided that the court may, for special reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than six month.

(2) Whoever commits or attempts to commits, or instigates, incites or otherwise abets the commission of damaging act by doing any act in respect of any public property being-

- (a) any building, installation or other property used in combination with the production, or supply of water, light, power or energy;
- (b) any oil installation;
- (c) any sewage works;
- (d) any mine or factory;
- (e) any means of public transportation or of tele-communications, or any building, installation or other property used in connection therewith;

shall be punished with rigorous imprisonment for a term which shall not be less than one year, but which may extend to ten years and shall also be liable to fine, in default of payment of fine the offender shall undergo imprisonment for a further period of half of the sentence awarded in the offence:

Provided that the court may, for special reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than one year.

5. Penalty for causing damage to public and private property by fire or explosive substance. –

Whoever commits an offence under sub-section (1) or sub – section (2) of section 4 by fire or explosive substance shall be punished with rigorous imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine, in default of payment of fine the offender shall undergo imprisonment for a further period of half of the sentence awarded in the offence:

Provided that the court may, for special reasons, to be recorded in writing in the judgment, award a sentence of imprisonment for a term of less than three year.

6. Special provisions regarding bail. –

(1) The offence committed under this Act, shall be non-bailable.

(2) No person accused or convicted of an offence punishable under section 4 or section 5 shall, if in custody,

be released on bail whether with or without sureties unless the prosecution has been afforded an opportunity to oppose the application for such release:

Provided that such person shall not be so released if there appear reasonable grounds for believing that he has been guilty for an offence punishable with death, or imprisonment for life or he had been previously convicted for an offence punishable with death, imprisonment for life or imprisonment for seven years or more or he has previous criminal record.

7. Offences to be cognizable. –

(1) The offences committed under this Act, shall be cognizable. The Police Officer, not below the rank of Head Constable, shall be competent to arrest the organizer or the participant, found to be involved in the commission of offences under this Act.

(2) No court inferior to the court of Chief Judicial Magistrate shall try and decide any offence committed under this Act.

8. Duty of the organizer of demonstration. -

(1) As soon as there is a demonstration organized, the organizer shall meet the local police and administration

concerned to review and revise the route to be taken and to lay down conditions for a peaceful march and protest.

(2) During such demonstration all weapons including knives, lathies and the like shall be prohibited. An undertaking is also to be provided by the organizers to the local police and administration to ensure a peaceful march with marshals at each relevant junction.

(3) Any person including the organizers of hartals, bundhs and protest etc. while applying for permission for processions should be required to make an undertaking to ensure that no damage will be caused to the public and private property and if any such damage is caused the same will be compensated for by them while making application for permission before the authorities for the conduct of procession/meeting. The concerned authorities shall incorporate necessary conditions in the standing instructions to include such undertaking in the permission letter issued to such organizer.

9. Duty of Police/officer incharge. -

(1) The police concerned shall ensure video graph of such hartals, bundhs and protests etc. to the maximum extent possible.

(2) In the event that demonstrations turn violent, the officer-incharge shall ensure that the events are video

graphed through private operators and also request such further information from the media and others on the incidents in question.

10. Person to supervise the demonstration. -

The person incharge to supervise the demonstration shall be the Superintendent of Police (if the situation is confined to the district) and the highest police officer of the division, where the situation stretches beyond one district.

11. Lodging of first information report and investigation. -

On receipt of information of damage to any property consequent to any disturbance to public order, the police officer in charge of a police station shall immediately report the occurrence of the incident along with the copy of first information report to the District Magistrate.

12. Recovery of damage or loss. -

(1) Whoever is found guilty of doing any damaging act, shall, in addition to the sentence imposed, be also liable to make payment of an amount, equivalent to the loss, caused to the public or private property, as determined by the competent authority.

(2) While determining the loss or damage, the competent authority, shall make assessment of damage, caused to the public or private property, and cause to recover the same

from the organizer and the participants of the damaging act, found guilty, in accordance with the provisions laid down in the Haryana Recovery of Damages to Property During Disturbance to Public Order Act, 2021 and shall recover the same as arrears of land revenue.

13. Power to remove difficulties. -

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification, make such provisions, not inconsistent with the provisions of this Act, as appear it to be necessary or expedient for removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

(3) Every order made under sub-section (1) shall be laid, as soon as possible, before the State Legislature.

14. Power to make rules. -

The State Government may, by notification, make rules for carrying out the purposes of this Act.

15. Savings. -

The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force, and nothing contained in this Act shall

exempt any person from any proceeding (whether by way of investigation or otherwise) which might, apart from this Act, be instituted or taken against him.
