

The Police (Incitement to Disaffection) Act, 1922

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Act 22 of 1922

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The Police (Incitement To Disaffection) Act, 1922(22 of 1922)

151.

Statement of Objects and Reasons.-In view of the attempts that have been made and are being made (a) by means of threats, intimidation and otherwise to induce members of the police-force to refrain from doing their duty, and (b) to spread disaffection among them, the Government of India have for some time had under consideration the question of penalising such attempts. Neither the Indian Penal Code nor the Indian Police Act, 1861, contains provisions to meet this evil. A prosecution could doubtless in certain cases be instituted under section 29 of the Indian Police Act, 1861, read with the abetment sections of the Indian Penal Code, but section 29 of the Police Act was designed to meet ordinary breaches of discipline, and would not cover many dangerous forms of tampering with the police. Moreover, the maximum punishment permissible under that section, viz., three months' rigorous imprisonment is manifestly inadequate for serious offences of this nature. The Government of India are accordingly of opinion that the authorities should be given additional means of dealing with this form of crime, and it is proposed, therefore, to enact the attached Bill, which has been framed on the lines of section 3 of the English Police Act of 1919 (9 and 10 Geo. V. Ch. 46).An Act to provide a penalty for spreading disaffection among the police and for kindred offences. Whereas it is expedient to penalize the spreading of disaffection among the police and other kindred offences; It is hereby enacted as follows:

This Act came into force in Assam from 25.1.1923, see Assam Gazette, 1923, Pt.II, p.113; in Himachal Pradesh on 1.6.1924, see H.P. Gazette, 29.6.1924, Pt.I, p. 1144; in the Punjab from 13.3.1930, see Punjab Gazette, 1930, Pt.I, p.342; in Bihar and Orissa (including the Sonthal Parganas) from 15.5.1930, see Bihar and Orissa Gazette, Ext., dated 13.5.1930; in the Bombay Presidency from 5.6.1930, see Bombay Gazette, 1930, Pt.I, p. 1934; in the Union territory of Andaman and Nicobar Islands on 1.5.1966, see Andaman and Nicobar Gazette, 30.4.1966. Ext. (No.42); in the Union

territory of Delhi on 13.3.1975, see Delhi Gazette, 13.3.1975, Pt.IV, Ext., p. 75 (no. 32); in Madhya Bharat and Sironja regions of M.P. on 1.1.1966, see M.P. Gazette, 31.12.1965, Pt. I, p. 1818; in M.P. on 2.6.1979, see M.P. Gazette 2.6.1979, Ext., p.1927; in the Union territory of Goa, Daman and Diu on 1.2.1965, see Goa Gazette, 14.1.1965, Sl.I, p.3; in the Union territory of Laccadive, Minicoy and Amindivi Islands on 1.10.1967, see Gazette of India, 12.9.1967, Pt.II, Section 3(ii), Ext., p. 1527; in the Union Territory of Pondicherry on 1.8.1968, see Pondicherry Gazette of India, 1.8.1968, Ext.; in West Bengal on 15.9.1976, see Calcutta Gazette, 14.9.1976, Pt.I, Ext., p.2755.">[The Police (Incitement To Disaffection) Act, 1922 has been extended to the new Provinces and merged States by the Merged States (Laws) Act 59 of 1949, Section (w.e.f. 1.1.1950) and to the States of Manipur, Tripura and Vindhya Pradesh by the Union Territories (Laws) Act 30 of 1950, Section 3 (w.e.f. 16.4.1950), Manipur and Tirpura are full-fledged States now, see Act 81 of 1971, Sections 3 and 4, but Vindhya Pradesh is a part of Madhya Pradesh State, see Act 37 of 1956, Section 9. It has been extended to States merged in the State of Madhya Pradesh, see M.P. Act 12 of 1950, Section 3 (w.e.f. 3.4.1950). Madras, see Madras Act 35 of 1949, Section 3 (w.e.f. 1.1.1950). Punjab, see Punjab Acts 5 of 1950, Section 3 (w.e.f. 15.4.1950), 23 of 1960, Section 4 (w.e.f. 30.5.1960). It has been extended to Shahda, Nandurbar and Taloda Talukas of the West Khandesh District; the Dohad Taluka and the Jhalod Mahal of the Panch Mahal District of the State of Bombay, by the Absorbed Areas (Laws) Act 20 of 1954, Section 3 and Sch.II (w.e.f. 30.4.1954). The Act has been made applicable to the members of the Railway Protection Force by the Railway Protection Force Act 23 of 1957, Section 18 and to the supervisory officers and members of the Central Industrial Security Force by the Central Industrial Security Force Act 50 of 1968, Section 19. The Act has also been extended to the whole of the Bhopal State with immediate effect by Notification No. 7/II/1, dated 23.7.1954, published in the Gazette of Bhopal, dated 7.8.1954, P.236. It has been extended to Sikkim by S.O. 529(E), dated 22.7.1983, see Gazette of India, dated 29.7.1983, Pt.II, Section 3(ii), Ext., p.4. Enforced on 1.5.1994, see Sikkim Gazette 21.5.1994, Ext., Pt.I (No.52). This Act has been extended to the Union territory of - (1) Goa, Daman and Diu by Regulation 12 of 1962 (w.e.f. 1.2.1965). (2) Laccadive, Minicoy and Amindivi Islands by Regulation 8 of 1965 (w.e.f. 1.10.1967). (3) Pondicherry by Act 26 of 1968 (w.e.f. 1.8.1968). (4) Dadra and Nagar Haveli as in force in State of Gujarat on 25.4.1978. The Act has been declared in force in the Khondmal District by the Khondmal Laws Regulation 4 of 1936, Section 3 and Sch., and in the Angul District by the Angul Laws Regulation 5 of 1936, Section 3 and Sch. This Regulation has now been repealed by Orissa Act 19 of 1967, Section 2. Angul District under the said Regulation now forms a sub-division of Dhenkanal District of Orissa. The Act has been repealed by Mysore State by the Mysore State Police Act, 1963 (Mysore Act 4 of 1964), Section 178 (w.e.f. 2.4.1965).

1. Short title, extent and commencement

(1) This Act may be called The Police (Incitement to Disaffection) Act, 1922. (2) [It extends to the whole of India, except [the territories which immediately before the 1st November, 1956, were comprised in Part B States] [Substituted by A.O. 1950, for sub-Section (2).].] (3) It shall come into force in any State or part of a State on such date as the State Government may, by notification in the Official Gazette, direct.

[Andhra Pradesh]. In its application to the State of Andhra Pradesh, in Section 1, sub-S. (2), after the expression except the territories which immediately before the 1st November, 1956, were

comprised in Part B States, add other than the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956. Andhra Pradesh Act 23 of 1958, Section 3 and Sch.[Gujarat]. Same as that of Maharashtra. Gujarat Act 11 of 1960, Section 87.[Madhya Pradesh]. In its application to the State of Madhya Pradesh, in Section 1, (i) in sub-S. (2), after the words Part B States, add other than the Madhya Bharat and Sironja regions of the State of Madhya Pradesh. (ii) for sub-S. (3), substitute the following sub-section, namely: (3) It shall be in force in all such areas in Madhya Pradesh in which it was in force immediately before the commencement of Madhya Pradesh Second Extension of Laws Act, 1961 (40 of 1961), and shall come into force in other areas, on such date as the State Government may, by notification, appoint. Madhya Pradesh Act 40 of 1961.[Maharashtra]. In its application to the State of Maharashtra, in Section 1, (i) to sub-S. (2), add the following proviso, namely: Provided that on the commencement of the Police (Incitement to Disaffection) (Bombay Extension and Amendment) Act, 1958, it shall extend to the Saurashtra and Hyderabad areas of the State of Bombay. (ii) to sub-S. (3), add the following proviso, namely: Provided that on the commencement of the Police (Incitement to Disaffection) (Bombay Extension and Amendment) Act, 1958, it shall come into force in that part of the Saurashtra area of the State of Bombay in which the Police (Incitement to Disaffection) Act, 1922, as modified and applied to that area by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance 1948, was in force immediately before such commencement. Bombay Act 77 of 1958, Section 3.[Meghalaya]. In its application to the State of Meghalaya, in Section 1, sub-S. (3) shall be omitted. Meghalaya A.L.O. (No. 1) Order, 1974 (w.r.e.f. 21-1-1972).[Tamil Nadu]. In its application to the added territories in the State of Madras, in sub-S. (2) of Section 1, the words other than the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956 shall be omitted. Madras (Added Territories) A.L.O., 1961.

2. Definition

.In this Act, the expression member of a police force means any person appointed or enrolled for the performance of police duties under any enactment specified in the Schedule.

[Gujarat]. Same as that of Maharashtra. Gujarat Act 11 of 1960, Section 87.[Maharashtra]. In its application to the State of Maharashtra, Section 2, the following shall be added at the end: or any corresponding law for the time being in force in any part of the Bombay State Bombay Act 77 of 1958, Section 4.

3. Penalty for causing disaffection, etc

.Whoever intentionally causes or attempts to cause or does any act which he knows is likely to cause, disaffection towards [- - -] [The words "His Majesty or" omitted by A.O. 1950.] the Government establishment by law in [India] [Substituted by A.O. 1948, for "British India or British Burma".] amongst the members of a police force, or induces or attempts to induce, or does any act which he knows is likely to induce, any member of a police force to withhold his services or to commit a breach of discipline, shall be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both. Explanation. Expression of disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, or of disapprobation of the administrative or other action of the Government, do not

constitute an offence under this section unless they cause or are made for the purpose of causing or are likely to cause disaffection.

[Madhya Pradesh].In its application to the State of Madhya Pradesh, in Section 3, for the words with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees or with both, substitute with imprisonment which shall not be less than six months but which may extend to three years and with fine which may extend to five hundred rupees.Madhya Pradesh Act 15 of 1981, Section 3.[Maharashtra].(a) Section 3 of the Police (Incitement to Disaffection) Act, 1922, in its application to the State of Maharashtra, shall be renumbered as sub-S. (1) of that section and in sub-section (1) so renumbered, for the portion beginning with the words shall be punished and ending with the words or with both, the following shall be substituted, namely:shall on conviction, be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees or with both:Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and such time shall not be less than five hundred rupees.(b) after sub-S. (1) so remembered, add the following sub-section, namely:(2) All offences under this Act shall be cognizable and non-bailable.Maharashtra Act 23 of 1983, Section 2 (w.r.e.f. 18-1-1983).

4. Saving of acts done by police associations and other persons for certain purposes

.Nothing shall be deemed to be an offence under this Act which is done in good faith(a)for the purpose of promoting the welfare or interests of any member of a police force by inducing him to withhold his services in any manner authorised by law; or(b)by or on behalf of any association formed for the purpose of furthering the interests of members of a police force as such, where the association has been authorised or recognised by the Government and the act done is done under any rules or articles of the association which have been approved by the Government.

[Madhya Pradesh].In its application to the State of Madhya Pradesh, after Section 4, insert the following section, namely:4-A. Offences to be cognizable and non-bailable.(1) Every offence under this Act shall be cognizable and non-bailable.(2) No bail shall be granted by any Court under this section unless prosecution has been afforded reasonable opportunity of being heard in the matter.Madhya Pradesh Act 15 of 1981, Section 4.

5. Sanction to trial of offences by subordinate Courts

.No Court shall proceed to the trial of any offence under this Act except with the previous sanction, or on the complaint of the District Magistrate or, in the case of a Presidency-town, [- - -] [The words "or the town of Rangoon" omitted by A.O. 1937.] of the Commissioner of Police.

[Andhra Pradesh].In its application to the State of Andhra Pradesh, in Section 5, for the words of the District Magistrate or, in the case of a Presidency-town, of the Commissioner of Police, substitute of the District Collector or, in the case of the cities of Hyderabad and Secunderabad, of the Commissioner of Police.Andhra Pradesh Act 23 of 1958, Section 3 and Sch.[Maharashtra].In its

application to the State of Maharashtra, in Section 5,(a) after the words a Presidency-town, insert or any other area under the charge of a Commissioner of Police.Bombay Act 56 of 1959, Section 3 and Sch.(b) the words or on the complaint shall be deleted.Maharashtra Act 23 of 1983, Section 3 (w.r.e.f. 18-1-1983).[Tamil Nadu].In its application to the State of Tamil Nadu,(i) in Section 5 (as amended by Andhra Pradesh Act 23 of 1958), for the words the cities of Hyderabad and Secunderabad, substitute a Presidency-town.Madras (Added Territories) A.L.O., 1961.(ii) in Section 5 (as amended by Andhra Pradesh Act 23 of 1958), for the words District Collector, substitute District Magistrate.Tamil Nadu Act 8 of 1964, Section 4 and Sch. II.

6. Trial of cases

(1)No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act.(2)Notwithstanding anything contained in Chapter XXII of the [Code of Criminal Procedure, 1898 (5 of 1898)] [Now see the Code of Criminal Procedure, 1973 (2 of 1974).] no offence under this Act shall be triable summarily.

[Andhra Pradesh].In its application to the State of Andhra Pradesh, in sub-S. (1) of Section 6, the words, Presidency Magistrate or shall be omitted.Andhra Pradesh Act 23 of 1958, Section 3 and Sch.[Maharashtra].In its application to the State of Maharashtra, substitute for Section 6, the following section, namely:6. Trial of cases.(1) No Court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class shall try any offence under this Act.(2) Notwithstanding anything contained in Provided that where any case is tried summarily and the accused is convicted under this Act, no sentence of imprisonment for a term exceeding three months shall be passed by the Magistrate concerned and the provision for awarding punishment of minimum amount of fine under this Act shall not apply.Maharashtra Act 23 of 1983, Section 6 (w.r.e.f. 18-1-1983).[Punjab, Haryana and Chandigarh].In its application to the States of Punjab and Haryana and Union territory of Chandigarh, in Section 6, for the words Magistrate of the first class, substitute[Tamil Nadu] .In its application to territories added to Tamil Nadu by Central Act 56 of 1959, Section 6, before Magistrate of the first class, insert Presidency Magistrate or which were omitted by Andhra Pradesh Act 23 of 1958.Madras (Added Territories) A.L.O., 1961 (w.r.e.f. 1-4-1960).

Section 7

[Gujarat].Same as that of Maharashtra.Gujarat Act 11 of 1960, Section 87 (w.e.f. 1-5-1960).[Maharashtra].In its application to the State of Maharashtra, after Section 6, insert the following section, namely:7. Repeal and saving.The police (Incitement to Disaffection) Act, 1922, as modified and applied to the Saurashtra area of the State of Bombay by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948, is hereby repealed:Provided that such repeal shall not affect(a) the previous operation of the law so repealed, or(b) any punishments incurred in respect of any offence committed against any of the provisions of the law so repealed, or(c) any investigation, legal proceeding or remedy in respect of such punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such punishment may be imposed as if this Act had not been passed.Bombay Act 77 of 1958, Section 5.

The Schedule(See section 2)

Year No.

Short title

Acts of the Governor-General in Council

1859 XXIV	The Madras District Police Act, 1859
1861 V	The Police Act, 1861
[- -]	
1888 III	The Police Act, 1888
1892 V	The Bengal Military Police Act, 1892
Year No.	Short title
Madras Act	
1888 III	The Madras City Police Act, 1888
Bombay Acts	
1890 IV	The Bombay District Police Act, 1890
1902 IV	The City of Bombay Police Act, 1902
Bengal Acts	
1866 II	The Calcutta Suburban Police Act, 1866
1866 IV	The Calcutta Police Act, 1866
1890 III	The Calcutta Port Act, 1890
1920 II	The Eastern Frontier Rifles (Bengal Battalion) Act, 1920
[- -] Assam Act	
1920 I	The Assam Rifles Act, 1920
Regulation by the Governor-General in Council	
1888 II	The Andaman and Nicobar Islands Military Police Regulation, 1888.
[Gujarat]. Same as that of Maharashtra. Gujarat Act 11 of 1960, Section 87. [Maharashtra]. In its application to the State of Maharashtra, in the Schedule I under the heading Bombay Act, for the entries 1890 IV The Bombay District Police Act, 1890 1902 IV The City of Bombay Police Act, 1902 substitute the following: 1951 XXII The Bombay Police Act, 1951. Bombay Act 21 of 1954, Section 3 and Sch. II. To the entry under the heading Bombay Act, the following shall be added: 1951 XXXVIII The Bombay State Reserve Police Force Act, 1951. Bombay Act 77 of 1958, Section 6.	