



The Jammu and Kashmir Criminal Law (Amendment) Act, 1983

Act 10 of 1983

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Association, Unlawful Activity, Unlawful Association

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**THE JAMMU AND KASHMIR CRIMINAL LAW
(AMENDMENT) ACT, 1983.**

ACT NO. X OF 1983.

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**THE JAMMU AND KASHMIR CRIMINAL LAW
(AMENDMENT) ACT, 1983.**

ACT NO. X OF 1983.

[Received the assent of the Governor on 23rd March, 1983 and published in the Government Gazette dated 23rd March, 1983.]

An Act to amend the Criminal Law and to provide for more effective prevention of certain unlawful activities of individuals and associations and for matters connected therewith.

Be it enacted by the Jammu and Kashmir State Legislature in the Thirty-fourth Year of the Republic of India as follows :—

1. Short title and extent.—(1) This Act may be called the Jammu and Kashmir Criminal Law (Amendment) Act, 1983.

(2) It extends to the whole of the State of Jammu and Kashmir.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) 'association' means any combination or body of individuals, whether known by any distinctive name or not ;
- (b) 'unlawful activity' in relation to an individual or association means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—
 - (i) which is punishable under section 153-A or section 153-B of the State Ranbir Penal Code or which is intended to encourage or which encourages or aids or incites any person or persons to undertake any such activity ; or
 - (ii) which is intended, or which is part of scheme intended, to threaten or likely to threaten or disrupt, or likely to disrupt harmony between different religious, racial language or regional group or caste or community ; or
 - (iii) which is intended or which is part of a scheme intended, to propagate hatred or hostility against any religious, racial, language or regional group ; or

- (iv) which is for any reason whatsoever, intended, or which is part of a scheme intended, to cause or likely to cause fear or alarm or feeling of insecurity amongst members of different religious, racial, language or regional groups, or caste or community ; or
- (v) which interferes or has for its object interference with the public administration or the maintenance of supplies and services essential to the life of the community or the administration of the law or the maintenance of law and order or that which constitutes a danger to the public peace ;
- (c) 'unlawful association' means any association which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity.

3. Power to declare association unlawful.—(1) If the Government is of the opinion that any association is, or has become, an unlawful association, it may, by notification in the Government Gazette, declare such association to be unlawful.

(2) A notification issued under sub-section (1) shall—

- (a) specify the grounds on which it is issued and such other particulars as the Government may consider necessary ; and
- (b) fix a reasonable period for any office bearer or member of the association or any other person, interested to make a representation to the Government in respect of the issue of the notification.

(3) Nothing in sub-section (2) of this section shall require the Government to disclose any fact which it considers to be against the public interest to disclose.

(4) Every notification issued under sub-section (1) shall in addition to its publication in the Government Gazette, be published in not less than one daily newspaper having circulation in the area in which the principal office, if any, of the association affected is situated and shall also be served on such association in all or any of the following modes, namely :—

- (a) by affixing a copy of the notification to some conspicuous part of the office, if any, of the association ; or

- (b) by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the association ; or
- (c) by proclaiming by beat of drum or by means of loudspeakers the contents of the notification in the area in which the activities of the association are ordinarily carried on.

4. Reference to Tribunal.—(1) Where any association has been declared unlawful under section 3, the Government shall after the expiry of the period fixed in the notification for making representation but within thirty days after the expiry of the said period, refer the notification and the representation, if any, received from the association, to the Tribunal constituted under section 5 for the purpose as adjudicating whether or not there is sufficient cause for declaring the association unlawful.

(2) On receipt of a reference under sub-section (1), the Tribunal shall call upon the association affected by notice in writing to show cause within thirty days from the date of service of such notice, why the notification issued under sub-section (1) of section 3 should not be confirmed.

(3) After considering the cause, if any, shown by the association or office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in section 9 and after calling for such further information as it may consider necessary from the Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association as unlawful and make as expeditiously as possible and in any case within a period of six months from the date of receipt of reference under section 4, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.

(4) The order of the Tribunal made under sub-section (3) shall be published in the Government Gazette.

5. Constitution of Tribunal.—(1) The Government may, by notification in the Government Gazette, constitute, as and when necessary, a tribunal for the purposes of section 4 consisting of one person, to be appointed by the Government :

Provided that no person shall be so appointed unless he is, or is qualified to be appointed as, a Judge of a High Court.

(2) If, for any reason a vacancy (other than a temporary absence) occurs in the office of the Presiding Officer of the Tribunal, then, the Government shall appoint another person in accordance with the

provisions of this section to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

(3) The Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

(4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of the State.

(5) Subject to the provisions of section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.

(6) The Tribunal shall, for the purpose of making an inquiry under this Act have the same powers as are vested in a civil Court under the Code of Civil Procedure, Samvat 1977 while trying a suit, in respect of the following matters, namely :—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath ;
- (b) the discovery and production of any documents or other material object producible as evidence ;
- (c) the reception of evidence on affidavits ;
- (d) the requisitioning of any public record from any court or office ;
- (e) the issuing of any commission for the examination of witnesses.

(7) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Ranbir Penal Code and Tribunal shall be deemed to be a civil Court for the purposes of section 196 and Chapter XXXV of the Code of Criminal Procedure, Samvat 1989.

6. Period of operation and cancellation of notification.—(1) Subject to the provisions of sub-section (2), a notification issued under section 3 shall, if the declaration made therein is confirmed by the Tribunal by an order made under section 4 remain in force for a period of two years from the date of its confirmation by the Tribunal.

(2) Notwithstanding anything contained in sub-section (1), the Government may, either on its own motion or on the application of any person aggrieved, at any time, cancel the notification issued under section 3 whether or not the declaration made therein has been confirmed by the Tribunal.

7. Power to prohibit the use of funds of an unlawful association.—(1) Where an association has been declared unlawful by a notification issued under section 3 which has been confirmed by the Tribunal and the Government is satisfied, after such inquiry as it may think fit, that any person has custody of any moneys, securities or credits which are being used or are intended to be used for the purpose of the unlawful association, the Government may, by order in writing prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys, securities or credits or with any other moneys, securities or credits which may come into his custody after the making of the order save in accordance with the written orders of the Government and a copy of such orders shall be served upon the person so prohibited in the manner specified in sub-section (3).

(2) The Government may endorse a copy of prohibitory order made under sub-section (1) for investigation to any gazetted officer of the Government it may select, and such copy shall be a warrant whereunder such officer may enter in or upon any premises of the person to whom the order is directed, examine the books of such person, search for moneys, securities or credits, and make inquiries from such person or any officer, agent or servant of such person, touching the origin of any dealings in any moneys, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purpose of the unlawful association.

(3) A copy of an order made under this section shall be served in the manner provided in the Code of Criminal Procedure, 1989 for the service of summons or, where the person to be served is a corporation, company, bank or other association, it shall be served on any secretary, director or other officer or person concerned with the management thereof or by leaving it or sending it by post addressed to the corporation, company, bank or other association at its registered office, or where there is no registered office, at the place where it carries on business.

(4) Any person aggrieved by a prohibitory order made under sub-section (1) may, within fifteen days from the date of the service of such order, make an application to the Court of District Judge within the local limits of whose jurisdiction such person voluntarily

resides or carries on business or personally works for gain, to establish that the moneys, securities or credits in respect of which the prohibitory order has been made are not being used or are not intended to be used for the purpose of the unlawful association and the Court of the District Judge shall decide the question.

(5) Except so far as it is necessary for the purposes of any proceedings under this section, no information obtained in the course of any investigation made under sub-section (2) shall be divulged by any gazetted officer of the Government, without the consent of the Government.

(6) In this section "security" includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money.

8. Power to notify places used for the purpose of an unlawful association.—(1) Where an association has been declared unlawful by a notification issued under section 3 which has been confirmed by the Tribunal, the Government may, by notification in the Government Gazette, notify any place which in its opinion is used for the purpose of such unlawful association.

Explanation.—For the purpose of this sub-section, "place" includes a house or building or part thereof, or a tent or vessel.

(2) On the issue of a notification under sub-section (1) the District Magistrate within the local limits of whose jurisdiction such notified place is situate or any officer authorised by him in writing in this behalf shall make a list of all movable properties (other than wearing apparel, cooking vessels, beds and beddings, tools of artisans, implements of husbandry, cattle, grain and food stuffs and such other articles as he considers to be of a trivial nature) found in the notified place in the presence of two respectable witnesses.

(3) If, in the opinion of the District Magistrate, any articles specified in the list are or may be used for the purpose of the unlawful association, he may make an order prohibiting any person from using the articles save in accordance with the written orders of the District Magistrate.

(4) The District Magistrate may thereupon make an order that no person who at the date of the notification was not a resident in the

notified place shall, without the permission of the District Magistrate, enter, or be on, or in, the notified place :

Provided that nothing in this sub-section shall apply to any near relative of any person who was a resident in the notified place at the date of the notification.

(5) Where in pursuance of sub-section (4), any person is granted permission to enter, or to be on, or in, the notified place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the District Magistrate.

(6) Any police officer, not below the rank of a sub-inspector or any other person authorised in this behalf by the Government may search any person entering or seeking to enter, or being on, or in the notified place and may detain any such person for the purpose of searching him :

Provided that no female shall be searched in pursuance of this sub-section except by a female.

(7) If any person is in the notified place in contravention of an order made under sub-section (4) then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any officer or by any other person authorised in this behalf by the Government.

(8) Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may within thirty days from the date of the notification or order, as the case may be, make an application to the Court of the District Judge within the local limits of whose jurisdiction such notified place is situate—

(a) for declaration that the place has not been used for the purpose of the unlawful association ; or

(b) for setting aside the order made under sub-section (3) or sub-section (4), and on receipt of the application the Court of the District Judge shall, after giving the parties any opportunity of being heard, decide the question.

9. Procedure to be followed in the disposal of application under this Act.—Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by a Court of the District Judge in

disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall so far as may be, be the procedure laid down in the Code of the Civil Procedure, Samvat 1977 for the investigation of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final.

10. Punishment for unlawful activity.—(1) Whoever—

(a) takes part in or commits, or

(b) advocates, abets, advises or incites the commission of, any unlawful activity shall be punished with imprisonment which shall not be less than four years but may extend to ten years and shall also be liable to fine.

(2) Whoever, in any way, assists any unlawful activity of any association declared unlawful under section 3 shall be punished with imprisonment for a term which shall not be less than two years but may extend to seven years and shall also be liable to fine.

11. Penalty for being members of an unlawful association.—Whoever is and continues to be a member of an association, declared unlawful by a notification issued under section 3 which has been confirmed by the Tribunal, or takes part in meetings of any such unlawful association or contributes to, or receives or solicits any contribution for the purpose of, any such unlawful association, or in any way assists the operations of any such unlawful association, shall be punished with imprisonment for a term which shall not be less than two years but may extend to seven years, and shall also be liable to fine.

12. Penalty for dealing with funds of an unlawful association.—If any person on whom a prohibitory order has been served under sub-section (1) of section 7 in respect of any money, securities or credits pays, delivers, transfers or otherwise deals in any manner whatsoever with the same in contravention of the prohibitory order, he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both, and notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989 the Court trying such contravention may also impose on the person convicted an additional fine to recover from him the amount of the moneys or credits or the market value of the securities in respect of which the prohibitory order has been contravened or such part thereof as the court may deem fit.

13. Penalty for contravention of an order made in respect of a notified place.—(1) Whoever uses any article in contravention of a

prohibitory order in respect thereof made under sub-section (3) of section 8 shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.

(2) Whoever knowingly and wilfully is in, or effects or attempts to effect entry into a notified place in contravention of an order made under sub-section (4) of section 8 shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

14. **Offence to be cognizable.**—Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989 an offence punishable under this Act shall be cognizable.

15. **Continuance of association.**—An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purpose of such association continues between any members thereof.

16. **Bar of jurisdiction.**—Save as otherwise expressly provided in this Act, no proceeding taken under this Act by the Government or the District Magistrate or any officer authorised in this behalf by the Government or the District Magistrate shall be called in question in any Court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act.

17. **Prosecution for offences under this Act.**—No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the Government or any officer authorised by the Government in this behalf.

18. **Protection of action taken in good faith.**—(1) No suit or other legal proceeding shall lie against the Government in respect of any loss or damage caused or likely to be caused by anything which in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against the District Magistrate or any officer authorised in this behalf by the Government or the District Magistrate in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

19. **Effect of Act and rules, etc., inconsistent with other enactments.**—The provisions of this Act or any rule or order made

thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instruments having effect by virtue of any enactment other than this Act.

20. Power to make rules.—(1) The Government may, by notification in the Government Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the service of notices or order issued or made under this Act and the manner in which such notices or orders may be served where the person to be served is a corporation, company, bank or other association ;

(b) any other matter which has to be or may be, prescribed.

(3) Every rule under the Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or more successive sessions and if before the expiry of the said period both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.

21 to 25.—Deleted.

26. Repeal of the Jammu and Kashmir State Criminal Law Amendment Act, Samvat 1971.—The Jammu and Kashmir State Criminal Law Amendment Act, Samvat 1971 is hereby repealed.

27. Repeal and saving.—(1) The Jammu and Kashmir Criminal Law Amendment Ordinance, 1983 (III of 1983) is hereby repealed.

(2) Notwithstanding such repeal, anything done, any action taken including any rule or order made, notification issued under the said Ordinance, shall be deemed to have been done, taken, made or issued under this Act as if this Act had come into force on the 21st day of January, 1983.

THE JAMMU AND KASHMIR CRIMINAL LAW AMENDMENT
(AMENDING) ACT, 1991.

(Act No. 10 of 1991).

[Received the assent of the President on 25th January, 1991 and published in the Gazette of India (Extra) dated 25th January, 1991.]

An Act further to amend the Jammu and Kashmir Criminal Law Amendment Act, 1983.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows :--

1. *Short title and commencement.*--(1) This Act may be called the Jammu and Kashmir Criminal Law Amendment (Amending) Act, 1991.

(2) It shall be deemed to have come into force on the 17th day of December, 1990.

2. *Amendment of section 4 of Act No. X of 1983.*--In the Jammu and Kashmir Criminal Law Amendment Act, 1983, (hereinafter referred to as the principal Act), in section 4, in sub-section (3), for the words "six months", the words "one year" shall be substituted.

3. *Repeal and saying.*--(1) The Jammu and Kashmir Criminal Law (Amendment) Ordinance, 1990 (Ordinance 1 of 1990) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have done or taken under the principal Act as amended by this Act.

THE JAMMU AND KASHMIR CRIMINAL LAW AMENDMENT
(SECOND AMENDING) ACT, 1991.

(Act No. 33 of 1991).

[Enacted by the President on 14th August, 1991 and published in the Gazette of India (Extra) dated 14th August, 1991.]

An Act further to amend the Jammu and Kashmir Criminal Law Amendment Act, 1983.

Be it enacted by Parliament in the Forty-second Year of the Republic of India as follows :--

1. *Short title and commencement.*--(1) This Act may be called the Jammu and Kashmir Criminal Law Amendment (Second Amending) Act, 1991.

(2) It shall be deemed to have come into force on the 16th day of June, 1991.

2. *Amendment of section 4.*--In the Jammu and Kashmir Criminal Law Amendment Act, 1983, (Jammu and Kashmir Act No. X of 1983) (hereinafter referred to as the principal Act), in section 4, in sub-section (3), for the words "one year" the words "one year and six months" shall be substituted.

3. *Repeal and saving.*--(1) The Jammu and Kashmir Criminal Law (Amendment) Ordinance, 1991 (Jammu and Kashmir Ordinance 1 of 1991) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

THE CRIMINAL LAW AMENDMENT ACT 1993 (1936 A. D.).

ACT NO. 1 OF 1993.

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Preamble.

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4. Amendment of Code of Criminal Procedure, Act No. XXIII of 1989.
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THE CRIMINAL LAW AMENDMENT ACT, 1993 (1936 A. D.).

ACT NO. 1 OF 1993.

[Received the assent of His Highness the Maharaja Bahadur on 7th April, 1936/26th Chet, 1992, and published in Government Gazette dated 12th Baisakh, 1993.]

Whereas it is expedient to supplement the criminal law in the manner hereinafter appearing. It is hereby enacted as follows :—

1. **Short title and extent.**—(1) This Act may be called the Criminal Law Amendment Act, 1993.

(2) It extends to the whole of Jammu and Kashmir State.

¹[x x x x]

4. **Amendment of Code of Criminal Procedure Act No. 23 of 1989.**—(1) 2 [The Government] may, by notification in the Jammu and Kashmir Government Gazette, declare that any offence punishable under sections 186, 188, 189, 190, 228, 295-A, 298, 505, 506 or 507 of the Ranbir Penal Code, when committed in any area specified in the notification, shall, notwithstanding anything contained in the Code of Criminal Procedure, be cognizable.

2 [The Government] may, in the like manner, declare that an offence punishable under section 188 or section 506 of the Ranbir Penal Code shall be non-bailable.

³[x x x x]

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1. By section 2, section 190-A Ranbir Penal Code was added by section 3 entry in schedule II of the Code of Criminal Procedure regarding section 190-A Ranbir Penal Code was added. Both these have been incorporated in respective Codes.
 2. In section 4 the words "The Government" substituted for the words "His Highness the Maharaja Bahadur in Council" by Act X of 1996.
 3. By section 5, section 108-A was added to the Code of Criminal Procedure. This was incorporated in the Code itself. (It was omitted later on by Act XXV of 2011).

THE CRIMINAL LAW (AMENDMENT) ACT, 2002.

Act No. XXVI of 2002.

[Received the assent of the Governor on 21st April, 2002 and published in the Government Gazette dated 23rd April, 2002].

An Act to amend the Jammu and Kashmir State Ranbir Penal Code, Samvat 1989 and the Prevention of Corruption Act, Samvat 2006.

Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-third Year of the Republic of India as follows :—

1. *Short title and commencement.*— (1) This Act may be called the Criminal Law (Amendment) Act, 2002.

(2) It shall be deemed to have come into force with effect from 10th July, 2001.

CHAPTER I

**AMENDMENT TO THE JAMMU AND KASHMIR
STATE RANBIR PENAL CODE, SAMVAT 1989.**

2. *Amendment of section 21, Act XII of Samvat 1989.*—The full-stop appearing at the end of entry 'Fifteenth' of section 21 of the Jammu and Kashmir State Ranbir Penal Code, Samvat 1989 shall be substituted by a semi-colon and thereafter the following entry shall be added, namely :—

“Sixteenth.—Every officer or servant including medical or paramedical staff of the Sher-i-Kashmir Institute of Medical Sciences, Srinagar.”.

CHAPTER II

**AMENDMENT TO THE PREVENTION OF
CORRUPTION ACT, SAMVAT 2006.**

3. *Amendment of section 5, Act XIII of Samvat 2006.*—In section 5 of the Prevention of Corruption Act, Samvat 2006.—

(a) after sub-section (1), the following sub-section shall be added, namely :—

“(1-A) Notwithstanding anything contained in sub-section (1), a member of medical or para-medical staff of the Sher-i-Kashmir Institute of Medical Sciences, Srinagar shall be deemed to have committed the offence of criminal misconduct if he resorts to private practice in any form or manner. The Government shall be competent to notify any other Institute or College for purposes of this section.” ;

(b) after sub-section (2), the following sub-section shall be added, namely :—

“(2-A) Whoever abets or aids in the commission of criminal misconduct under sub-section (1-A) or allows his premises or Nursing Home to be used for private practice in contravention of the said sub-section shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend up to rupees ten thousand :

Provided that the Sher-i-Kashmir Institute of Medical Sciences, Srinagar shall publish the names and particulars of its medical and para-medical staff annually in at least two local dailies.”.

4. *Repeal and saving.*—(1) The Criminal Law (Amendment) Ordinance, 2001 (Ordinance No. II of 2001) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said ordinance shall be deemed to have been done or taken under this Act.
