# Laws to Prevent Damage to Public Property

## What is the issue?

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- The J & K government has recently proposed a legislation, seeking monetary recovery for damages to public property, from protestors of the 2016 unrest.
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- This consequently saw the opposition protesting against the alleged dranconian clauses in the bill.
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## What brough up the legistlation?

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- J&K had witnessed violent, sustained street protests, in the Valley after the killing of Hizbul Mujahideen commander Burhan Wani in 2016.
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- While several police stations and other public buildings were damaged, no official estimate of total damage has been presented yet.
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- However, according to National Crime Records Bureau data, only eight cases were registered under the 1985 law that year.
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- A new law for amending the “Jammu and Kashmir Public Property (Prevention of Damage) Act, 1985”, was introduced in the Budget session.
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- It was subsequently referred to a Select Committee of the House due to opposition protests, who claimed that it had draconian provisions.
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- Notably, an ordinance to that effect is already in place.
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## What is the law about?

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- **Original law -** The J&K public property (Prevention of Damage) Act, 1985 - contains penal provisions against individuals who damage public property.
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- The maximum sentence is five years in prison, along with a fine, which can extend up to 10 years in case of damage by fire or explosive substances.
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- Bail is possible only after the prosecution gets a chance to oppose it in court.
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- **Amendment -** The new law seeks to recover the market value of public or private properties damaged during the protests from protestors.
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- It also states that all persons participating in protests would face imprisonment, even if they weren't directly involved in damaging properties.
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- It also increases the minimum punishment from six months in jail to two years imprisonment and non recovery of damages could extent the term further.
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- **Why -** The amendment is aimed at deterring protesters from indulging in violence and damaging property.
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- Notably, the pelting of police stations with stones during the wave of protests were a strong provocation for bringing these clauses.
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- **Prosecution -** Situations where damage to property is anticipated, can be videographed and submitted as proof in the court.
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- For establishing a person as a protest organiser, additional proof is required.
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- **Opposition -** The separatists and the opposition parties in the J&K assembly protested against the legislation, as it could be misused.
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- They have stated that such laws have been opposed even in the parliament and other state assemblies as this could stifle even reasoned dissent.
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- Additionally, it has been stated that J&K already has a multitude of laws in the same domain like - AFSPA and Public Safety Act.
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## What are the other significant developments in this domain elsewhere?

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- Punjab and Haryana High Court recently ruled to recover damages from the “Dera”, whose followers were involved in vandalism.
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- In 2007, the Supreme Court took suo motu cognizance of issues related to damage to properties during public protests.
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- Two committees were constituted to look into the matter - headed by retired SC judge K T Thomas, and the eminent jurist Fali S Nariman respectively.
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- **Thomas Committee** – It recommended an amendment to the parliamentary law “Prevention of Damage to Public Property (PDPP) Act, 1984”.
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- The recommendation was to hold leaders of the agitating group guilty of abetment – but the parliament hasn’t tabled such amendment yet.
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- **Nariman Committee –** It had asked the apex court to “evolve a principle of liability, punitive in nature, on account of vandalism and rioting.
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- The liability should lie with the actual perpetrators of the crime as well as organisers of the event giving rise to the liability.
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### Source: Indian Express

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