# IPC Section 136

## Section 136 of the Indian Penal Code: Harboring or Concealing a Person Knowing Him to be a Deserter  
  
Section 136 of the Indian Penal Code (IPC) addresses the specific offense of harboring or concealing a deserter from the armed forces. This section complements other provisions related to desertion and mutiny, targeting those who assist deserters in evading military justice. While Section 135 deals with aiding escape, rescuing, or harboring prisoners charged with mutiny, desertion, or attempting to desert, Section 136 focuses specifically on harboring or concealing individuals \*known\* to be deserters. A thorough understanding of Section 136 necessitates a detailed examination of its components, including the definitions of key terms, the essential elements of the offense, the prescribed punishments, its relationship with other relevant provisions, and its broader significance in maintaining military discipline and national security.  
  
\*\*Defining Key Terms:\*\*  
  
\* \*\*Harboring:\*\* In the context of Section 136, harboring means providing shelter or refuge to a deserter. This can include offering lodging, food, or other necessities that enable the deserter to evade capture and remain at large. The act of harboring actively assists the deserter in avoiding the consequences of their actions.  
  
\* \*\*Concealing:\*\* Concealing involves actively hiding a deserter from the authorities. This could involve providing false information about their whereabouts, physically hiding them from searching parties, or creating diversions to distract attention from their presence. The act of concealing actively obstructs the apprehension of the deserter by the authorities.  
  
\* \*\*Deserter:\*\* A deserter is a member of the armed forces who has unauthorizedly absented themselves from duty with the intention of remaining permanently absent. Desertion is a serious breach of military discipline and can compromise the operational readiness and effectiveness of the armed forces.  
  
\* \*\*Knowing Him to be a Deserter:\*\* This crucial phrase establishes the \*mens rea\* (guilty mind) requirement of the offense. The prosecution must prove that the accused knew that the individual they were harboring or concealing was a deserter from the armed forces. This knowledge implies an awareness of the individual's status as a member of the armed forces and their unauthorized absence from duty with the intent to remain absent permanently.  
  
  
\*\*Elements of the Offense:\*\*  
  
To secure a conviction under Section 136, the prosecution must prove the following elements beyond reasonable doubt:  
  
1. \*\*Harboring or Concealing:\*\* The accused must have either harbored or concealed a deserter. This requires demonstrating that the accused actively provided shelter or refuge to the deserter or took steps to hide them from the authorities. Mere passive knowledge of a deserter's whereabouts is not sufficient. The prosecution must show that the accused engaged in positive actions to assist the deserter in evading capture.  
  
2. \*\*The Individual is a Deserter:\*\* The individual being harbored or concealed must be a deserter from the armed forces. This requires demonstrating that the individual was a member of the armed forces who unauthorizedly absented themselves from duty with the intention of remaining permanently absent. The prosecution must prove the individual's status as a deserter according to the relevant military regulations and procedures.  
  
3. \*\*Knowledge of Desertion:\*\* The accused must have known that the individual they were harboring or concealing was a deserter. This requires demonstrating that the accused was aware of the individual's status as a member of the armed forces and their unauthorized absence from duty with the intent to remain absent permanently. This knowledge forms the crucial element of \*mens rea\* for the offense.  
  
  
\*\*Punishment:\*\*  
  
Section 136 prescribes a punishment of imprisonment for a term which may extend to two years, or with fine, or with both. While the punishment is less severe than that for desertion itself, it reflects the seriousness of obstructing military justice and aiding those who have breached military discipline. The court will consider the specific circumstances of the case, including the nature and duration of the harboring or concealment, the accused's relationship to the deserter, and any other relevant factors, when determining the appropriate sentence.  
  
\*\*Relationship with Other Provisions:\*\*  
  
Section 136 is closely related to other provisions within the IPC and other laws addressing offenses against the state and the armed forces. Some of these related provisions include:  
  
\* \*\*Section 135 (Aiding Escape of, Rescuing or Harboring Such Prisoner):\*\* This section deals with a broader range of offenses related to aiding escape, rescuing, or harboring prisoners, including those charged with mutiny, desertion, or attempting to desert.  
  
\* \*\*Sections 221-227 (Escape and Rescue):\*\* These sections cover a broader range of offenses related to aiding escape and rescuing prisoners, irrespective of the specific offenses they committed.  
  
\* \*\*The Army Act, 1950, The Navy Act, 1957, and The Air Force Act, 1950:\*\* These Acts contain specific provisions relating to desertion and other disciplinary offenses within their respective branches of the armed forces. They provide a more detailed framework for dealing with these offenses within the military justice system, defining desertion more precisely and outlining the procedures for dealing with deserters.  
  
  
\*\*Significance of Section 136:\*\*  
  
Section 136 plays a significant role in maintaining military discipline and upholding the effectiveness of the armed forces. By criminalizing the act of harboring or concealing deserters, the section discourages individuals from assisting those who have breached military law and evaded their duties. This helps ensure that deserters are held accountable for their actions and reinforces the importance of adherence to military regulations. The section contributes to maintaining the operational readiness and effectiveness of the armed forces by discouraging actions that could undermine their strength and cohesion.  
  
\*\*Why a Separate Section for Harboring or Concealing Deserters?\*\*  
  
The existence of a separate section specifically addressing harboring or concealing deserters emphasizes the legislature's recognition of the particular threat posed by desertion to military discipline and national security. Desertion weakens the armed forces by reducing their manpower and can negatively impact morale and operational readiness. By providing a targeted provision, the law reinforces the importance of apprehending deserters and discourages actions that could facilitate their continued evasion of military justice. This allows for a more focused approach to addressing the problem of desertion and ensures that those who assist deserters are held accountable for their actions.  
  
\*\*Conclusion:\*\*  
  
Section 136 of the IPC is a vital provision for maintaining discipline and order within the armed forces and upholding the rule of law within the military context. It addresses the specific offense of harboring or concealing deserters, recognizing the detrimental impact of desertion on military effectiveness and national security. By criminalizing such actions, Section 136 reinforces the importance of apprehending deserters and discourages individuals from assisting those who have breached military law. This contributes to maintaining a strong and disciplined military, capable of fulfilling its responsibilities to the nation. The section's targeted focus on harboring and concealing deserters reflects the seriousness with which the law views this offense and its potential to undermine the integrity and effectiveness of the Indian armed forces.