

THE INDIAN PENAL CODE

CHAPTER VIII OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

The offences in this chapter may be classified in the following four groups:—

I. Unlawful assembly.

- (1) Being a member of an unlawful assembly (sections 141, 142, 143).
- (2) Joining an unlawful assembly armed with deadly weapons (section 144).
- (3) Joining or continuing in an unlawful assembly knowing it has been commanded to disperse (section 145).
- (4) Hiring of persons to join an unlawful assembly (section 150).
- (5) Harboursing persons hired for an unlawful assembly (section 157).
- (6) Being hired to take part in an unlawful assembly (section 158).

II. Rioting (sections 146, 147).

- (1) Rioting with deadly weapon (section 148).
- (2) Assaulting or obstructing a public servant in the suppression of a riot (section 152).
- (3) Wantonly giving provocation with intent to cause riot (section 153).
- (4) Liability of the owner or occupier of land on which an unlawful assembly is held or a riot is committed (section 154).
- (5) Liability of the person for whose benefit a riot is committed (section 155).
- (6) Liability of the agent of owner or occupier for whose benefit a riot is committed (section 156).

III. Promoting enmity between different classes (section 153A).

IV. Affray (sections 159, 160).

[s 151] Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.

Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

***Explanation.*—If the assembly is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.**

Effect of command to disperse.—Section 145 punishes the continuance in an unlawful assembly after it has been commanded to disperse. In this section the assembly need not be an 'unlawful assembly' but if it is likely to cause a disturbance of the public peace, then joining or continuing in such assembly after it has been commanded to disperse is punishable. [Section 129 of the Criminal Procedure Code](#) confers on a Magistrate and an officer in charge of a police-station the power to disperse an unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace. A bare reading of [section 129, Cr PC, 1973](#), would make it abundantly clear that a lawful procession or assembly cannot be regarded as likely to cause a breach of the peace when it is admitted that not they but some other body of persons is bent on attacking them. Whether an assembly is likely to cause a disturbance of public peace has to be judged from its own acts and behaviour and not from the behaviour of another hostile group whose physical opposition may cause a breach of the peace.¹⁶⁴ "Thus, if an assembly other than an unlawful assembly behaves in such a manner as to provoke a breach of the peace by its own conduct or action, there would be a justification to order it to disperse under the powers given by [section 129 of the Criminal Procedure Code](#). But if a religious assembly or procession remains peaceful in the enjoyment of its legitimate rights and privileges under the law, it should not be ordered to disperse merely because a body of antagonistic persons take it into their heads to attack it with a view to provoke a riot. In such a case, it is rather that body of aggressive persons that constitutes an unlawful assembly and requires to be sternly dealt with under the law".¹⁶⁵ So where a peaceful group of persons who were cutting crop on their own land refused to disperse on being commanded to do so by an Inspector of Police merely because another hostile group objected to the harvesting of the crop, it was held that as these persons were not commanded lawfully to disperse under [section 129, Cr PC, 1973](#), they could not be convicted under [section 151, IPC, 1860](#).¹⁶⁶ In order to bring a case within the mischief of this section there must be clear evidence to show that the assembly had been "lawfully commanded" to disperse. Thus where the police officers in their evidence said that they had merely warned the two warring factions, it could not be said that the assembly had been commanded to disperse and as such there was no question of invoking [section 151, IPC](#), to prosecute the members of the assembly.¹⁶⁷

¹⁶⁴. *Yeshwant v State*, 34 Cr LJ 705; See also *Bealty v Gillbanks*, (1882) 9 QBD 308 ; *Kempe Gowda*, 1954 Cr LJ 490 (Mysore).

¹⁶⁵. R Deb, *Principles of Criminology, Criminal Law and Investigation*, 2nd Edn, vol II, p 834. See also *Re P Abdul Sattar*, 1961 (1) Cr LJ 291 (Mysore).

¹⁶⁶. *Kempe Gowda*, 1954 Cr LJ 490 (Mysore), *supra*.

¹⁶⁷. *Komma Neelakantha Reddy v State of AP*, AIR 1978 SC 1021 [LNIND 1978 SC 55] : (1978) 2 SCC 473 [LNIND 1978 SC 55] : 1978 (3) SCR 75 [LNIND 1978 SC 55] : 1978 Cr LJ 780 : (1978) 1 SCC (Cr) 285.

THE INDIAN PENAL CODE

CHAPTER VIII OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

The offences in this chapter may be classified in the following four groups:—

I. Unlawful assembly.

- (1) Being a member of an unlawful assembly (sections 141, 142, 143).
- (2) Joining an unlawful assembly armed with deadly weapons (section 144).
- (3) Joining or continuing in an unlawful assembly knowing it has been commanded to disperse (section 145).
- (4) Hiring of persons to join an unlawful assembly (section 150).
- (5) Harboursing persons hired for an unlawful assembly (section 157).
- (6) Being hired to take part in an unlawful assembly (section 158).

II. Rioting (sections 146, 147).

- (1) Rioting with deadly weapon (section 148).
- (2) Assaulting or obstructing a public servant in the suppression of a riot (section 152).
- (3) Wantonly giving provocation with intent to cause riot (section 153).
- (4) Liability of the owner or occupier of land on which an unlawful assembly is held or a riot is committed (section 154).
- (5) Liability of the person for whose benefit a riot is committed (section 155).
- (6) Liability of the agent of owner or occupier for whose benefit a riot is committed (section 156).

III. Promoting enmity between different classes (section 153A).

IV. Affray (sections 159, 160).

[s 152] Assaulting or obstructing public servant when suppressing riot, etc.

Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

COMMENT—

Assault or obstruction of public servant.—The last section punished disobedience to the order of a public servant commanding an assembly to disperse. This section

punishes more severely persons who assault a public servant endeavouring to disperse an unlawful assembly. It is intended to prevent the use of force on a public servant in order to prevent him from discharging his duty.

THE INDIAN PENAL CODE

CHAPTER VIII OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

The offences in this chapter may be classified in the following four groups:—

I. Unlawful assembly.

- (1) Being a member of an unlawful assembly (sections 141, 142, 143).
- (2) Joining an unlawful assembly armed with deadly weapons (section 144).
- (3) Joining or continuing in an unlawful assembly knowing it has been commanded to disperse (section 145).
- (4) Hiring of persons to join an unlawful assembly (section 150).
- (5) Harboursing persons hired for an unlawful assembly (section 157).
- (6) Being hired to take part in an unlawful assembly (section 158).

II. Rioting (sections 146, 147).

- (1) Rioting with deadly weapon (section 148).
- (2) Assaulting or obstructing a public servant in the suppression of a riot (section 152).
- (3) Wantonly giving provocation with intent to cause riot (section 153).
- (4) Liability of the owner or occupier of land on which an unlawful assembly is held or a riot is committed (section 154).
- (5) Liability of the person for whose benefit a riot is committed (section 155).
- (6) Liability of the agent of owner or occupier for whose benefit a riot is committed (section 156).

III. Promoting enmity between different classes (section 153A).

IV. Affray (sections 159, 160).

[s 153] Wantonly giving provocation with intent to cause riot—.

Whoever malignantly,¹ or wantonly,² by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both;

if rioting be committed; if not committed.

and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

COMMENT—

Provocation for rioting.—A person, who maliciously or recklessly gives provocation to another by doing an illegal act knowing that such provocation will incite the other to rioting, is punishable under this section. The offence under this section involves some act of origination of a riot by doing an illegal act infuriating to the feelings of those who ultimately come to riot. The expression "gives provocation" connotes such idea. This section is intended to apply to such provocative words or acts as do not amount directly to instigation or abetment.¹⁶⁸ A mere chance provocation is not sufficient to justify conviction under this section.¹⁶⁹ The section is divided into two parts. If rioting is committed the punishment is more severe.

[s 153.1] Essential Ingredients:

- (a) The 'act' imputed against the accused is illegal,
- (b) He has done such act malignantly or wantonly, and,
- (c) He has given provocation to any person intending or knowing that such provocation will cause the offence of rioting.¹⁷⁰

1. 'Malignantly'.— implies a sort of general malice.¹⁷¹ The adverbs 'maliciously' and 'malignantly' are synonymous. Malice is not, as in ordinary speech, only an expression of hatred or ill-will to an individual, but means an unlawful act done intentionally without just cause or excuse.¹⁷² Malignant means extreme malevolence or enmity; violently hostile or harmful.

2. 'Wantonly'.— means recklessly, thoughtlessly, without regard for right or consequences. This word gives to the offence contained in this section a far larger, vaguer and more comprehensive scope, than would be implied by the word 'malignantly' standing alone. It occurs only in this section of the Code, while the word 'malignantly' occurs once again in section 270.

[s 153.2] CASES.—

The affixing of the poster exhorting for boycotting the election, even if it is objectionable, is not sufficient to show that by such affixture provocation is given to any person for causing the offence of rioting. Howsoever deplorable be the act of affixing the poster, to constitute the offence under [section 153 of IPC, 1860](#), over and above the provocation that is likely to give cause for rioting, it has to be shown that the act — affixing of the poster — is illegal.¹⁷³

Where the accused wrote a pamphlet in praise of a person who was opposed to the High Priest of the Borah community in certain matters, but his real intention appeared to be to show a grave insult to the High Priest, an insult which was likely to inflame the feelings of the followers of the High Priest and to lead to a riot, it was held that he was guilty under this section.¹⁷⁴ Where a bride and bridegroom belonging to depressed classes rode in palanquins through a village in spite of the protests of high caste Hindus, it was held that this was not an illegal act for which they could be convicted under this section.¹⁷⁵ Where the accused unfastened the string of the National flag after flag-hoisting ceremony and tried to trample on it, it was held that the accused was guilty under this section as the act of the accused was deliberately insulting to the flag

and thereby the accused intended to wound the feelings and sentiments of the other persons present.^{176.}

168. *Ahmed Hasham*, (1932) 35 Bom LR 240 , 57 Bom 329.

169. *Dr RC Chowala*, AIR 1966 Ori 192 [LNIND 1965 ORI 73] . *Aroon Purie v HL Varma*, 1999 Cr LJ 983 (Bom), in a debate on secularism, remarks were passed by some speakers touching sentiments of others. It was held that a true publication of such remarks would not come within the ambit of section 153, though they might constitute defamation. See also *Baragur Ram Chandrappa v State of Karnataka*, 1998 Cr LJ 3639 (Kant—DB).

170. *Raju Thomas @ John Thomas v State*, 2012 Cr LJ (NOC) 240 (Ker) : 2012 (4) Ker LT 499 ; See also *Manzar Sayeed Khan v State of Maharashtra*, (2007) 5 SCC 1 [LNIND 2007 SC 437] : AIR 2007 SC 2074 [LNIND 2007 SC 437] : 2007 Cr LJ 2959 .

171. *Kahanji*, (1893) 18 Bom 758, 775.[2012 Cr LJ (NOC) 240 (Ker) : 2012 (4) Ker LT 499].

172. *Bromage v Prosser*, (1825) 4 B&C 247. [2012 Cr LJ (NOC) 240 (Ker) : 2012 (4) Ker LT 499].

173. *Advocate Manuel PJ v State*, 2012 (4) Ker LT 708 . See also *Raju Thomas @ John Thomas v State*, 2012 Cr LJ (NOC) 240 (Ker) : 2012 (4) Ker LT 499 .

174. *Rahimatalli Mahomedalli*, (1919) 22 Bom LR 166 .

175. *Jasnami*, (1936) 58 All 934 .

176. *Indra Singh v State*, AIR 1962 MP 292 [LNIND 1957 MP 82] . *Rajendra v State of Rajasthan*, 2006 Cr LJ 173 (Raj).

THE INDIAN PENAL CODE

CHAPTER VIII OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

The offences in this chapter may be classified in the following four groups:—

I. Unlawful assembly.

- (1) Being a member of an unlawful assembly (sections 141, 142, 143).
- (2) Joining an unlawful assembly armed with deadly weapons (section 144).
- (3) Joining or continuing in an unlawful assembly knowing it has been commanded to disperse (section 145).
- (4) Hiring of persons to join an unlawful assembly (section 150).
- (5) Harboursing persons hired for an unlawful assembly (section 157).
- (6) Being hired to take part in an unlawful assembly (section 158).

II. Rioting (sections 146, 147).

- (1) Rioting with deadly weapon (section 148).
- (2) Assaulting or obstructing a public servant in the suppression of a riot (section 152).
- (3) Wantonly giving provocation with intent to cause riot (section 153).
- (4) Liability of the owner or occupier of land on which an unlawful assembly is held or a riot is committed (section 154).
- (5) Liability of the person for whose benefit a riot is committed (section 155).
- (6) Liability of the agent of owner or occupier for whose benefit a riot is committed (section 156).

III. Promoting enmity between different classes (section 153A).

IV. Affray (sections 159, 160).

177. [s 153A] Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

(1) Whoever—

- (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or
- (b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or

castes or communities, and which disturbs or is likely to disturb the public tranquillity, ¹⁷⁸. [or]

¹⁷⁹[(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,]

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Offence committed in place of worship, etc.

Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

COMMENT—

Promoting enmity.—This section replaces the old section. Sub-section (1)(c) has been newly inserted by Act 31 of 1972. This section provides for enhanced punishment for offences committed in a place of worship and making offences under this section cognisable. Under this section promoting enmity between different groups on grounds such as, place of birth, or residence are included and it also makes promotion of disharmony or feelings of ill-will an offence punishable under it. The provision in clause (b) of sub-section (1) to the section includes acts prejudicial to the maintenance of harmony between different regional groups and sub-section (2) provides for enhanced punishment for any offence specified in sub-section (1) when it is committed in a place of worship, etc. With communal and fissiparous tendencies on the increase this section has now gained an added importance. The object of section 153-A is to prevent breaches of the public tranquillity which might result from excited feelings of enmity between classes of people. Absence of malicious intention is a relevant factor to judge whether the offence is committed. ¹⁸⁰.

[Section 153A of IPC, 1860](#), covers a case where a person by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities or acts prejudicial to the maintenance of harmony or is likely to disturb the public tranquillity. The gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The intention to cause disorder or incite the people to violence is the *sine qua non* of the offence under [section 153A of IPC](#) and the prosecution has to prove *prima facie* the existence of *mens rea* on the part of the accused. ¹⁸¹. The intention to cause disorder or incite people to violence is the *sine qua non* of the offence under [section 153A IPC](#) and the prosecution has to prove the existence of *mens rea* in order

to succeed. In this case, the prosecution has not been able to establish any *mens rea* on the part of the appellants as envisaged by the provisions of [section 153A IPC](#), by their raising casually the slogans a couple of times. The offence under [section 153A IPC](#) is, therefore, not made out.^{182.}

There must either be the intention to promote such feelings, or such feelings should be promoted as the result of words spoken or written. The words promotes or tends to promote feelings of enmity are to be read as connoting a successful or unsuccessful attempt to promote feelings of enmity. It must be the purpose or parts of the purpose of the accused to promote such feelings, and, if it is no part of his purpose, the mere circumstance that there may be a tendency is not sufficient.^{183.} The word classes includes any definite and ascertainable class of people. Capitalists do not constitute a class within the meaning of this section.^{184.} To bring any body of persons within the description of a class of people, the body of persons must possess a certain degree of importance numerically, and must be ascertained with certainty and distinguished from any other class. Every group of persons cannot be designated as a class.^{185.} The classes contemplated must be not merely clearly defined and separable but also numerous. A small and limited group of *Zamindars* cannot be regarded as constituting a class.^{186.} Petitioner published a sentence "Oriya is a younger sister of Bengal" in his book. Subsequently petitioner published an apology in newspaper and deleted the controversial statement. In view of this it cannot be said that alleged sentence published to defame Oriya language or promote hatred between different linguistic groups. Criminal proceeding are quashed.^{187.}

The police force of the State cannot be brought within the purview of the term "community".^{188.}

[s 153A.1] Political Thesis.—

This section cannot be used even if an article causes or tends to cause hatred or enmity between different political classes like the capitalists and the labour class or between persons believing in different forms of Government, e.g., a democratic or totalitarian rule. A bare reading of clause (a) of section 153A will show that a person will be guilty under this section only where by words, either spoken or written, he promotes or attempts to promote feelings of enmity or hatred between different religious, racial, linguistic groups or castes or communities on grounds of religion, race, language, caste or community, etc., and not otherwise.^{189.} But where the author in the guise of presenting a political thesis or historical truth wrote two articles describing the Muslims as a basically violent race and further described today's Muslims as the descendants of foul Moghuls rulers who were lustful perverts, rapists and murderers, it was held that both the articles promoted feelings of enmity between Hindus and Muslims and came within the mischief of [section 153A IPC, 1860](#), whether or not the Moghuls were really so.^{190.} In fine, this section does not contemplate the penalising of political doctrines, even though of the extreme kind like communism, but only such writings as directly promote feelings of hatred or enmity between classes. But if a publication advocates forcible overthrow of all existing social conditions, and aims at promoting class hatred and enmity, it comes under the purview of this section.^{191.}

1. Historical Account.—If the writing is calculated to promote feelings of enmity or hatred, it is no defence to a charge under [section 153-A of IPC, 1860](#), that the writing contains a truthful account of past events or is otherwise supported by good authority. Adherence to the strict path of history is not by itself a complete defence to a charge under section 153-A. It is no defence to a charge under [section 153-A of IPC](#) that the writing contains a truthful account of past events or is otherwise supported by good authority.^{192.}