

Offences against Public Tranquility

Chapter VIII of the Indian Penal Code from section 141-160 deals with 'Offences against Public Tranquility.' These are generally group offences that have led to disturbance of public order and peace; such offences are considered to be both against the state, person and property.

These offences can be broadly divided into the following:

- Unlawful Assembly
- Rioting
- Affray

- Promoting enmity between different classes

Unlawful Assembly

The main reason that there is criminalization of unlawful assembly is to preserve public peace and order. The Penal Code provides for vicarious liability to deter people from committing crimes in groups. Section 141 reveals that the essence of an unlawful assembly is the collective committing of an offence by five or more persons. The major ingredients of this section are that there was an assembly of five persons or more and they have a common object, this common object must be one the five specified in this section.

There is usually a confusion that arises

with the word 'object' here object means purpose or design and not 'same' object. The expression 'common object' implies that the object should be shared and possessed by all the members of the assembly. There must be a 'community of object.'

The 'object' in section 141 has been specified as follows:

- Overawing the Central or a state government or its officers;
- Resistance to the execution of legal process;
- Commission of mischief, criminal trespass and any other offence;
- Forcible possession and dispossession

of property;

- Illegal compulsion

Section 141 and 149 need to be read together to understand the entire scope of chapter VIII. A combined reading of both reveals that if the assembly is of less than five persons, it will not be an unlawful assembly within the meaning of section 141 and thus is not a basis under section 149. In the case of ***Subran Subramanian v. State of Kerala***, six names accused were alleged to have formed an unlawful assembly and killed the deceased. The first accused was convicted under section 302 for murder and the other under 326 read with section 149. The High Court of Kerala acquitted two persons as not being part of the unlawful assembly. The Supreme Court held that since section 149

could not be proved as there being an unlawful assembly they were acquitted of charges section 326 read with section 149.

Section 150, 157 & 158 of the IPC deal with the liability of persons who render assistance in various ways in an unlawful assembly. Section 150 makes the hiring of persons to join an unlawful assembly punishable, while section 157 makes the harbouring, receiving or assembling of persons who are likely to be engaged into an unlawful assembly an offence. In cases of communal violence or when groups of people assemble, if people indulge in unlawful activities they can be booked under the sections for unlawful assembly.

Section 142 deals with being a member of an unlawful assembly, when a person joins an unlawful assembly with full knowledge

of that fact that it is against the law, and then a person can be charged under this section. Mere presence in an unlawful assembly does not invoke a criminal activity.

CASE: Moti Das v State of Bihar AIR 1954 SC 657

"An assembly, which was lawful to start with, became unlawful the moment one of the members called on the others to assault the victim and his associates, and in response to his invitation all the members of the assembly started to chase the victim while he was running."

CASE: Dharam Pal Singh v State of Uttar Pradesh (AIR 1975 SC 1917)

"Where only five named persons have been charged for constituting an unlawful assembly, and one or more of them are

acquitted, the remaining accused (who are less than five) cannot be convicted as members of unlawful assembly, unless it is proved that the unlawful assembly, besides convicted persons consisted of some other persons as well who were not identified and so could not be named."

Rioting

Section 146 & 147 expand on the subject of rioting. The news always covers different riots that happen across the country, a riot is a process for people to dissent against something that is a grievance. Rioting becomes an offence under IPC when a group of people, five or more create a scene of civil unrest which leads to provocative behaviour and disruption of public order. The catch of these sections is even if there is no violent

act committed by the assembly; persons present can be made liable for rioting.

The major ingredients of rioting include common intention and object of committing a crime. The punishment for rioting is under section 148 and can lead to imprisonment for a term of 3 years or fine or both.

There are punishments under the IPC for committing riot with a deadly weapon and for provoking a riot. There is an observable difference between riot and unlawful assembly, they both have similar characteristics except one, in a riot, there is an addition of violence.

Affray

Section 159 and 160 of the IPC deal with

affray and its punishment. This term refers to fighting in public which instead disturbs public order and peace. The essential ingredients of this are, there must be two or more persons present and their actions should affect the peace, order and tranquillity of the surroundings they are in, their actions need to create disorder in society.

In the case of *Sunil Kumar Mohamed v. The State of Orissa* it was noted that it is not necessary that an offence needs to be committed in public for it to be under affray, an offence which has a potential to cause disturbance should be termed as affray. The Punishment for this could be upto one-month imprisonment or fine or both.

Promoting enmity between classes

Section 153A & 153B deals with this public offence, these sections make enmity between different groups on grounds of religion, place of birth, race, language and the following punishable offences. The Constitutional Validity of this section can be seen through Article 19(1)(A) of the Indian Constitution that empowers the citizens with a freedom of speech and expression. These sections thus put a restriction on speech and acts which could harm society and create unrest. The essential ingredients of section 153A are there should be a promotion of enmity between different groups, and these should disturb public order and tranquillity. It is important to prove intention in such cases and the presence of two opposing communities is also essential to attract this provision. The punishment for this

offence is imprisonment for upto 3 years or fine or both. If this offence is committed inside a religious place then the punishment would exceed upto 5 years with fine or both.