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**FACULTY OF JURIDICAL
SCIENCES**

NAME OF THE FAULTY- Ms. Neha Khanna

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Offences Against Public Tranquility

Introduction

Peace and tranquillity are the prerequisites for development in society. If there is disorderliness in society or any other hindrance of like nature, the society cannot provide to the individual, the opportunity to grow and develop to their full potential, hence the maintenance of peace and tranquillity is a must for every society and nation as a whole.

Offences against the public tranquillity are the offences against not only a single person or property but against the society at large. These kinds of offences are committed by the group of people sharing a common intention to disturb the peace and tranquillity of an area thus affecting the whole society. It is important to study these offences so that they could be curbed.

Maintenance of Public Peace

Peace and morality are the basis on which the base of a society is held, hence their protection is of prime importance, otherwise, the very foundation of the society would be endangered, which will, in turn, hinder the progress of the individuals.

It is the duty of the state to maintain public peace and order. It is even present in Section 23 of the Police Act, 1861 to maintain order in the public roads and public places. In fact, it is an offence to cause inconvenience, obstruction, annoyance, risk danger or damage to the public order or peace and further Section 34 of the Police Act, 1861 makes the police responsible for maintaining public tranquillity and punish anyone committing an offence. Hence public order means that the actions of the individual should not impinge the public peace or cause any kind of inconvenience to any other person.

Public Offences

Under IPC chapter eight deals with public offences. These offences could be categorized into four:

- Unlawful assembly;
- Rioting;
- Enmity amongst different classes;
- Affray.

Furthermore, Chapter X of the Criminal Procedure Code 1973 gives legal guidelines for the maintenance of public peace and order and also delineates duties, responsibilities, functions, and power of the Executive and the Police in this matter.

Unlawful Assembly

Section 141 of the IPC, 1860 deals with the unlawful assembly. Article 19(1)(B) of the Indian Constitution, 1950 confers a fundamental right to assemble peacefully however this section seeks to criminalize an unlawful assembly.

Definition

Assembly of 5 or more people to commit an unlawful offence is called an unlawful assembly. An important aspect of an unlawful assembly is the presence of a common intention to disturb public peace and tranquillity. The mere presence of a person in an assembly without any motive to infringe the peace in the surrounding is not punishable. The common objective is to determine the aim and nature of the assembly. It is also possible that lawful assembly turns out to be an unlawful assembly.

Rioting

Section 146 and 147 under IPC deal with rioting. It usually takes place as a way to dissent something or for a perceived threat or grievance.

Definition

When an offence is committed by a group of people or any person belonging to that group, is termed as rioting. For rioting the presence of at least 5 people is necessary. This offence is generally grounded in civil unrest and is usually sudden and provocative behaviour. It shows a herd-like mentality and this is the reason that in case if a person belonging to the guilty group has not committed a violent act, even then he/she will be liable for rioting.

One of the most important ingredients to constitute rioting is a common intention and object of committing a crime. This very "common intention" makes all the people in the group liable to be punished even when they haven't even committed the crime themselves in rioting.

Historically rioting used to take place due to grievances against the government policies, outcome of a sporting event, frustration against any legal judgement, taxation, oppression, conflicts amongst races or was a way to channelise the suppression faced by the people to the government.

Punishment for rioting is present under section 148 of the IPC and is a description of a term of 3 years or fine or both. This offence is cognizable and could be tried by the first class magistrate.

Punishment for Committing Riot with Deadly Weapon

This is covered under Section 148 of the IPC. This section demands the same ingredients as that of rioting but with the addition of a deadly weapon.

The weapon could be anything that is so dangerous that it can cause the death of a person. The punishment for this is imprisonment for up to 3 years, which shall depend on the impact of rioting or fine or both.

Punishment for Provoking Riot

This offence is present under Section 153 of IPC, 1860. Here, if the person with a malign intention to provoke someone knowing completely that, this provocation could lead to rioting, then that person would be booked under Section 153 of the IPC. The person provoking riot has a malign intention and acts wantonly. Under this Section, there is no need for rioting to actually take place, but only the mere provocation is enough to be liable for punishment under this Section.

However the punishment would differ based on the consequences of this provocation, if rioting took place then the punishment would be for a maximum of 1 year or fine or both and if rioting does not take place then the maximum imprisonment could be up to 6 months or fine or both.

Liability of a Person for Whose Benefit Riot is Committed

This offence is covered under Section 155 of the IPC, 1860. In this if a riot took on behalf of any person, or if that person takes some benefit from the riot so committed, that person is liable to be booked under section 155 of the IPC. Moreover, if the person himself or his agent or manager knew that riots of this nature is about or likely to take place and he or his agent or manager has not taken any lawful steps to suppress or undermine the effect of the riot then also the person is to be punished.

The main objective of this Section is to bring persons with mala fide intention under the law and to prosecute them accordingly.

Liability of a Person for Obstructing Suppression of Riot

Section 152 of the IPC, 1860 deals with this offence. Here if a person assaults or attempts to assault any public servant dedicated to suppressing any unlawful activity like a riot, affray or unlawful assembly, etc, then that person shall be prosecuted under this Section.

This Section seeks to bring under the books any person who interferes or disturbs the mechanism built for maintaining peace and tranquillity in the society.

The punishment under this Section is up to 3 years or fine or both.

Belonging to an Assembly of Five or More Persons When Order to Disperse

Rioting is same as an unlawful assembly with a minor difference which constitutes the use of force, hence like in the case of unlawful assembly, in this too the presence of 5 or more people is necessary. The presence of more people distinguishes it from affray in which no such mandate of the presence of more than 2 people.

Difference between Riot and Unlawful Assembly

- *Rioting = Unlawful Assembly + Violence*

Rioting is the same as an unlawful assembly with the addition of violence

- For example- Group A constructed a building. Group B, which was 10 in number attacked group A and demolished the building.

Forming a group to demolish a building is an unlawful assembly.

Coming and demolishing the building in a group is rioting.

Affray

Section 159 and 160 of the IPC,1860 deals with affray and its punishment.

Definition

Affray refers to fighting in the public so that it disturbs the public order and peace. For affray to take place the presence of two or more persons is a must and their action should negatively affect the tranquillity of their surroundings. However, most importantly the effect of their behaviour should create disorder in society and for the people.

For example, if one person comes and slaps another person, that would not be counted as an affray, but if that act threatens the public peace then this act would amount to affray.

Based on the impact of their behaviour the guilty could also be convicted under unlawful assembly or rioting. The punishment usually depends upon the impact that their behaviour creates in the society or the level of threat they pose.

It is important to note that it is not necessary that any offence committed in public is affray, only the offence that has the potential to cause a disturbance in the public tranquillity could be termed as affray (Sunil Kumar Mohamed Alias Mahakhuda Vs.the State of Orissa)

Punishment for affray could be one month of imprisonment or fine of Rs 100 or both.

Comparison between fray, Assault, and Riot

RIOT	AFFRAY	ASSAULT
It is a violent outburst of unlawful assembly.	It is a violent activity that took place in public to disturb public peace.	It is a sudden attack that took place in a private setting.
Can be committed in private and public settings.	Can be committed in public arena only.	Can be committed in a public or private setting.
Five or more people must be involved.	Two or more people are to be involved.	One or more person needs to be present for the liability of assault.
Presence of common object is a must and that should be among the ones present in section 141 of the IPC.	Presence of common object is not necessary.	Presence of common object is not necessary.
It is an offence against the public with violent force	It is a public offence.	It is an offense against a private individual.
Every member of the unlawful assembly is liable for the offence committed even if he has not done the act.	The person who has actually committed the offence is liable.	The person who assaulted is liable for punishment.
Ordinary punishment would include imprisonment of two	Punishment under ordinary circumstances would include sentences	Ordinary punishment includes a term of either description of 3

years or fine or both (Section 147 of the IPC)	up to 6 months or a fine of Rs 100 or both (<u>Section 160</u> of IPC).	months or a fine of Rs 500 or both (<u>Section 352</u> of the IPC).
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Affray – It is a group crime and poses a threat to the disturbance of public peace and tranquillity. Here minimum two-person must be present and their actions must instil terror in the mind of the public.

For example, In a fair, A comes and slaps B, and the people standing nearby are threatened by such action.

Riot- It also disturbs the tranquillity and peace prevalent in the society, but unlike affray, it shows a herd mentality where the offence is committed by a group or a person thereof

For example, A along with his group consisting of 8 people, went and slapped B in a Fair.

Assault- Unlike the other two, this offence is against an individual and does not threaten the public peace and tranquillity. This offence is against one person and property

For example, A went to B’s house and during an argument slapped B.

Promoting Enmity between Classes

This category of public offence comes under Section 153A and 153B of the IPC.

Definition

This Section makes the promotion of enmity between different groups on grounds of Religion, Race, Place of birth, Residents, Language, etc punishable. The jurisdiction of this Section is very wide and also includes offence on moral corruption.

The punishment under this Section is maximum imprisonment of 3 years or fine or both. However, if the above-mentioned offence is committed inside a religious institute then the punishment would exceed up to 5 years and could be liable for fine as well.

Constitutional Validity of Section 153A

This Section is challenged on the ground that it violated freedom of speech and expression enshrined under Article 19(1)(A) of the Indian Constitution. This Section puts a restriction on the speech or acts which could potentially encourage discord among various groups and classes.

However, the court of law has time and again upheld the validity of this Section, as it comes under the purview of public order and to some extent under the sovereignty and security of the nation under the reasonable restrictions. The scope of public order has grown leaps and bounds over the years.

In the case of the State of Uttar Pradesh vs Lalai Singh Yadav, the court has upheld the provision of ordered security, which gives precedence to the state if their intent is to protect public order.

Essential Ingredients of Section 153A

- Promotion of enmity between different groups of religion, race, caste, residence, place of birth, community or any other group.
- Acts that disturb the public tranquillity and encourages discords between different groups or castes or communities.
- Acts or objects that cause fear or alarm or threat or insecurity for any religious, racial, language or regional group or caste or community by the use of criminal force or any sort of violence against them.
- Mens Rea is an important element to hold a person liable for punishment under this Section (Bilal Ahmad Kalo vs State of Andhra Pradesh).
- The presence of two communities is important to attract this provision. Mere derogation of the feelings of one community without any reference to any other community is not considered under this Section. (Bilal Ahmad Kalo vs State of Andhra Pradesh).

Scope of Section 153A

In the case of Gopal Vinayak Godse vs Union of India, Bombay High Court decided the scope of Section 153A of the IPC. It held that-

- It is not necessary that enmity or hatred actually arose between different classes, because of certain acts or objects.
- The matter which comes under the purview of Section 153A of the IPC, should be considered a whole and not some stray or isolated parts or portions.
- It is necessary to consider the class for which the act or the object, meant to promote enmity is subjected to. The current dynamics between the classes so taken should also be taken into account.
- Truth is no defence under Section 153A. In fact, the greater the truth, the greater the impact on the mind on the minds of the people, the act or object was subjected to.

Section 153B

This section was added to contain the rising disharmony amongst various communities. This was added in the year 1972, in which there was a high level of tension amongst various castes and this was affecting

not only the social harmony prevalent in the society but was also affecting the national integrity of the country.

- Publishes an imputation that certain person who belongs to a particular class, religion or caste cannot bear allegiance to the national integrity.
- A certain group of people belonging to particular castes or community are bereaved of their right to citizenship.
- Any of the aforementioned act must perpetuate discord and harmony amongst different classes of people.

Proposals for Reform

The law commission of India has circulated a questionnaire covering various aspects of public order. Only 12% of the respondents were satisfied with the current management of public offences in our country. 5% were satisfied only to some extent while 79% were highly dissatisfied, and the major reasons being-

- External influence in public order management.
- The root cause of problems is not addressed.
- No long term solution is taken.
- Inadequate involvement of NGOs and other civil societies or other social workers.
- Lack of institutional mechanism to delineate roles and responsibilities.
- The lower rank officers do not have the power to control the crime at a nascent stage.
- Lack of training to civil servants and police to deal with public offences.
- Lack of modern technology and types of equipment.
- Absence of criminalised database of perpetrators.
- Lack of cohesive all India policy for solving the menace of public disorder and offences.
- Ineffective performance monitoring systems and management agencies.
- Lack of accountability of police personnel and other related agencies.

Several reforms that could be introduced are:

- Establishment of rule of law.
- Visible policing is an effective method to deter public offences.
- an effective, efficient, accountable and well-equipped police system.
- a strong, autonomous and effective crime investigation machinery backed by a professionally competent and fair criminal justice system.
- Civil societies which are conscious of their rights, powers and duties.
- Alert and responsible media.

Conclusion

Public order is not just any other issue in the governance of the country, it is the core of it, comprising one of the vital aspects on which the democracy lies and the important realm of the foundation of our nation as a whole.

Chapter eighth of the Indian Penal Code deals with the offences against public tranquillity. These are offences which are committed against the whole society and disturbs the peace and tranquillity of the society. Any offence committed against an individual, but still could derange the public peace would come under the ambit of a public offence. Moreover, it is not necessary that actual offence is committed, but even if there is a possibility of causing public disorder, then it is a punishable offence.

These offences are categorised into four, i.e. Unlawful assembly, rioting, affray and enmity amongst different classes. All of them are to a certain extent similar to each other with minor differences.

MCQs-

i. What specific defence applies to the assisting and encouraging offences, but not to attempts or conspiracy?

- Duress
- Consent
- Acting reasonably
- Self-defence

ii. What is double (or infinite) inchoate liability?

- It is where inchoate offences apply to one another (e.g., conspiracy to assist an offence)
- Conduct where D commits more than one inchoate offence (e.g., conspiracy and assisting or encouraging)
- A form of liability that criminalises conduct prior to the general inchoate offences discussed in this chapter
- Cases where D commits the same inchoate offence on multiple occasions over the course of a year

iii. 'A' intentionally fired a shot from his pistol at 'B' but it hit 'C' and 'C' died. The offence committed by 'A' is-

- (A) Attempt to murder
- (B) Culpable homicide
- (C) Murder under Section 300
- (D) Murder under Section 301

iv. Common intention means-

- (A) Similar intention
- (B) Same intention
- (C) Sharing of intention by all persons
- (D) Common plans

v. A abets B to commit a theft from the house of C. B finding an opportunity picks C's pocket while C was travelling by a bus. Give the correct answer-

(A) A is responsible for abetment of theft

(B) A is not responsible for abetment of picking of pocket

(C) A is not responsible for abetment of committing theft because theft has not been committed from the house

(D) All the above are correct