

OFFENCES AGAINST PUBLIC TRANQUILITY : AN OVERVIEW

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“The basis of peace and stability, in any society, has to be the fullest respect for the human rights of all its people” - John Hume.

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.

Since last one year or a couple of years we are witnessing and hearing about a large number of major public offences, rioting and unlawful assembly that has disturbed the public peace and law and order of the society immensely. After the introduction of CAA and NRC bills we have seen a huge rise in these offences, then after the introduction of the three farm laws also we saw a lot of disturbance created by people. Incidents of riots registered in India increased by around 12.2 per cent in 2020 compared to the previous year, shows the National Crime Records Bureau's (NCRB) latest Crime In India, 2020 report. And, the number of people who fell victim to such riots also saw an upsurge by 5.8 per cent. In 2020, 71,107 cases of offences against public tranquillity were registered under various sections of the Indian Penal Code and rioting accounted for 72.6 per cent of these cases. The total cases of offences against public tranquillity have also increased by 12.4 per cent in 2020 than the previous year (63,262 cases in 2019). India witnessed 51,606 rioting cases in 2020, while the number of riot victims stood at 61,907. This means that the country saw 141 cases and 169 victims of rioting every day in 2020. Of these, Bihar topped the list with 9,422 cases, followed by Maharashtra (9,157) and Uttar Pradesh (6,126). And hence, these figures and facts make it the need of the hour for us to know and be aware about the offences against public tranquillity.

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.

Waging war against state

The section 121 of the IPC deals with the three aspects such as the abetment, attempt and the actual war. All the three aspects are punishable offence according to the IPC waging war in the highest offence against the state. Waging war against the state and committing the riot often nearly into each other. The section 121A deals with the conspiracy to wage a war and the offence is punishable under the section 121A. To speak broadly all the offences International Journal of Pure and Applied Mathematics Special Issue 944 which are against the state disturbs the public peace. Creating enmity between different groups also comes under waging war against the state as it effects the public tranquillity and national integration. Section 121, 121A, 122, 123, 124A of IPC deals with the waging war against the state. Many persons are arrested under section 121A of IPC for waging war against the state.

Offences against public tranquillity

Chapter VIII of the Indian penal code contains the provisions that are relating to the offences against the public tranquillity or public order and it is not the offence against the person and property of an individual, it is the offence against the state. The offences specified, in their chapter are called group offences which are generally committed by a large number of people that result in disturbing the peace of the people. The offences may be classified as unlawful assembly, rioting, promoting enmity among different classes and affray. Chapter X of the Code of Criminal

Procedure talks about the legal provisions for maintenance of public order and tranquillity and lays down the duties, powers, and functions of the Executive Magistrate and the Police on their behalf.

Section-141 – Unlawful Assembly:

An assembly which consists of five or more person is defined as unlawful assembly. If a person commits a criminal trespass or compels any person to do what he is not legally bound to do or to omit what he is legally entitled to do.

- Using or showing criminal forces against the public servant, state or central government.
- To resist the execution of the law or legal process.
- To commit any mischief or criminal trespass on any person.
- To use the criminal force and deprive the enjoyment of the right of any person or obtain the possession of another person.
- To use the criminal force and compel a person to do what he is not legally bound to do.

The sections dealing with unlawful assembly are:

- Unlawful Assembly – Definition – Section 141
- Being a member of an unlawful assembly – Section 142
- Punishment – Section 143
- Join or continue to be in an unlawful assembly armed with deadly weapons – Section 144
- Join or continue to be in an unlawful assembly, knowing it has been commanded to disperse – Section 145
- Liability for constructive criminality – Section 149
- Render aid in various ways – Section 150, 152, 154, 157, 158

This section has also specified the various instances where an unlawful assembly can be assembled.

- Overawing the central or state governments or its officers
- Resistance to the execution of the legal process
- Commission of mischief

- Forcible possession
- Illegal compulsion

Punishment:

Section-143 punishes the person who is a member of the unlawful assembly. This section gives punishment which may extend up to six years or fine or both.

Rioting

IPC Section 146 and 147 talk about the act of rioting where section 146 covers the act of rioting and section 147 covers the punishment of rioting. In the case of Maiku v. State of Uttar Pradesh, The sub-inspector was investigated when he was on duty, he cannot be claimed that he was pursuing an unlawful act and therefore he cannot be convicted under section 147 of IPC. The punishment for an offence under 148 is prescribed as Imprisonment for 3years, or fine or both. It is a cognizable offence and it is Triable by any Magistrate of the first class. In the case of Allauddin Mian Sharif Mian v. the State of Bihar, There is a relation between a common object and offence created, when the offence is committed with a common object then every person is liable for that. Unlawful assembly is equal to five or more Persons plus a Common object. Rioting is equal to Unlawful assembly plus Violence. Section-153B of the act is punishable with Imprisonment for 3years or fine or both.

An explanation for rioting:

A riot can be defined as a form of civil disorder carried out by disorganised groups lashing out in a sudden and intense rash of violence against authority, property, or people. Many individuals can attempt to lead or control any riot which is typically chaotic and exhibit a herd-like behaviour generated by civil unrest. They often occur as a reaction for a perceived grievance or out of dissent. Poor working or living conditions, government, oppression, taxation or conscription, conflicts between races, food are some of the reasons due to which riots occur.

Punishment:

The punishment for an offence under 148 is prescribed as imprisonment for 3 years, or fine or both. It is a cognizable offence and Triable by any Magistrate of the first class.

Promotion of enormity between different groups

Section 153A was inserted in the Code in the year 1898 with a view to subside the breach of public peace and tranquillity due to conflicts and mutual abuse amongst various classes. Mens rea is an essential ingredient for the offence that is committed under section 153A of IPC.

The section holds a person guilty who promotes or attempts to promote discord and animosity between different regional, caste, religion, or racial communities, and such acts must disturb or must be likely to disturb the public tranquillity. Further, any sort of movement, exercise, activity, or drill perpetuating the use of force or violence against any of the groups aforementioned shall also fall in the ambit of Section 153A. Further, sorts out any activity, development, penetrate or other comparative movement expecting that the members in such action might utilise or be prepared to utilise criminal force or violence or knowing it to be likely that the members in such action will utilise or be prepared to utilise criminal force or violence, or takes an interest in such action planning to utilise or be prepared to utilise criminal force or violence or knowing it to be likely that the members in such action will utilise or be prepared to utilise criminal force or violence, against any religious, racial, language or territorial gathering or caste or community and such action for any reason at all causes or is probably going to cause dread or alert or a sentiment instability among individuals from such religious, racial, language or provincial gathering or caste or community, shall be held liable.

Section 153B was inserted in the year of 1972, to contain the rise in the communal and caste tensions emerging in the country which did not just create disharmony amongst the different communities but also affected the national integrity of the nation. The section holds any person who:

- Publishes an imputation that a particular community by reasons of the following or being a member of a particular religion, racial, regional or language group cannot bear true and complete allegiance to the integrity of the nation;

- Asserts and propagates that a certain group for the reasons aforementioned is bereaved of their rights as a citizen of India;
- If any of the aforementioned actions if perpetuates the creation of discontent and disharmony amongst the community or class of persons and causes to give rise to ill will and animosity;

shall be punished with three years imprisonment or fine or with both. Further, if any of the aforementioned actions be committed in any place of worship or in any assembly engaged in the performance of religious worship then such person shall be punished with five years imprisonment and fine.

Affray

Section-159 and 160 of the Indian penal code talks about the offences that are against affray. Affray can be defined as an offence by which two or more persons fight in the public place so that it affects the public order and peace. Depending upon the actions done those engaged in Affray may be liable to unlawful assembly, riot, and other offences. Section 160 deals with the punishment for Affray. The punishment may extend to one month or fine which may extend to ₹100 or both. To constitute this offence there must be: The fighting must be between two or more persons, the fighting must take place in some public place, it must cause some sort of terror among the people. In the case of Sunil Kumar Mohamed Alias Mahakhuda Vs. The State of Orissa, when one person beats on another person in a public place, no offence of affray is committed, when there is fighting in the public disturbing the public peace. The Ingredients for Affray to be committed are:

1. There must be two or more persons.
2. Fighting in a public place.
3. By that fighting, they should disturb the public peace.

Punishment:

Section-160 talks about the punishment for affray where Imprisonment up to one month or up to Rupees 100/- or both. It is given in the police act. Section 31 of the police act of 1861 states that an order should be maintained in the public roads and public places. Section 34 which make it an

offence for any person to cause obstruction, inconvenience, annoyance, risk, danger or damage and section 23, which makes it incumbent upon the police to maintain the public peace and prevent the commission of an offence and of public nuisance, it is clear that public order really means that the actions of a group of individuals should not impinge on the rights and convenience of any other group.

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.

However, some reforms are needed to make these provisions in accordance with the changing times. “It is the responsibility of the government to make it easy for people to do good and difficult for the people to do evil” – William Gladstone.