

A study on offences against public tranquillity

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Abstract:

The public tranquility are offences which are not only against the person and property of an individual but also an offence that is against the state. Tranquility is the quality or state of being tranquil. These offences are group offences which are generally committed by the large number of persons resulting to disturbance of public tranquility. The public tranquility is the group of persons doing an activity that causes the disturbance of the peace in the society. As per this provision when a large number of persons engage in a criminal act with a common intention then each of the persons are made liable. These offences are classified into four categories as unlawful assembly, rioting, promoting enmity between different class and affray. For the development of the society, there must be peace in the society. But these offences are injurious of the public peace. The chapter VIII explains provision about the offences against the public tranquility. It is necessary to study the offences that are affecting the public peace in the society. Inorder to know about the offences against public tranquility an Research has been made. The main aim of the research is to find the offences that are against the public tranquility. From this research we can come to know something about the public tranquility and the offences that are against the public tranquility.

Keywords: Public tranquility, unlawful assembly, rioting, Affray, offence and crime.

Introduction :

The study deals about the offences that are against the public tranquility. Statistical data about the offences against public order in different years are discussed systematically. These offences are injurious to the public peace. So a research is made to study about the public tranquility.

It is the fundamental duty of the state to maintain the public order. The definition of public order is given in section 31 of the police act 1861 and requires that order will be maintained in public roads and etc. ([Penrose 1776](#)) The maintenance of public order is a primary duty of the state. The laws in India provide a comprehensive framework for the management of order in public spaces. (K.C.Vermer, The challenge of maintenance of public order). Any disturbance of the public by the use of force or violence and regional group sections lead to the public tranquility. ([Tranquility Base](#))

For the development of a society, there must be peace in the society. Hence the framers of the Code incorporated these provisions stating and defining the offences which are against the public tranquility. This paper attempts to study about the offences that are relating to public tranquility and the punishments given for the people indulging in activities that are affecting the public peace and order.

Objectives:

- > To study about the offences against public tranquility
- > To analyse the punishments given for offences relating to public tranquility.

Peace and morality :

Peace and morality are the bases for the formation of the society. When the something happens and that affect the peace and morality in the society then it is considered to be the offence. Such offences are punishable under IPC. These offences are unlawful assembly, rioting, affray and etc. Indian constitution provides the legal framework to maintain the public order in the society. ([Roy 2009](#)) Disturbed conditions spoils the progress of the society. The public disorder and disturb conditions reduce the economic progress of the country. The public order is frequently being threatened for many things.

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

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 tranquility 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.

Offence against public tranquility

The chapter 8 of the Indian penal code contains the provisions that are relating to the offences against the public tranquility or public order and it is not the offence against the person and property of an individual, it is the offence against the state. ([Karina Mayasita et al. 2014](#)) The offences specified, in their chapter are called as 'group offences' which are generally committed by a large number of people that results in disturbing the peace of the people. The offences may be classified as unlawful assembly, rioting, promoting enmity and affect. Chapter X of the Code of Criminal Procedure gives the legal provisions for maintenance of public order and tranquility and lays down the duties, powers and functions of the Executive Magistracy and the Police in this 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 compel any person to do what he is not legally bound to do, or to omit what he is legally entitled to do. ([Tranquility Base : Lobban 1990](#))

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

The sections which deal with unlawful assembly are as follows.

- a. Unlawful Assembly – Definition – Section 141
- b. Being a member of an unlawful assembly – section 142

- c. Punishment –section 143
- d. Joining or continuing in an unlawful assembly armed with dead weapons – section 144
- e. Joining or continuing in an unlawful assembly, knowing it has been commanded to disperse – section 145
- f. Liability for constructive criminality – section 149
- g. Rendering aid in various ways – section 150, 152, 154, 157, 158

The section also specifies the various instances where an unlawful assembly may be assembled.

1. Overawing the central or state governments or its officers
2. Resistance to the execution of legal process.
3. Commission of mischief
4. Forcible possession
5. Illegal compulsion

Ingredients of section 141

In unlawful assembly, there must be more than 5 members and the common intention of unlawful assembly must be unlawful. There should be some criminal trespass or other offence. By using a criminal force to compel any person to do any illegal act. ([McCorquodale 1982](#)) There must be some criminal force against state or central government or any public servant. The common objective of such assemblies must be unlawful. There must be a commission of criminal trespass or other offence. There must be a usage of criminal force and compel a person to do an illegal act.

Being a member of unlawful assembly:

Section 142 deals with being a member of unlawful assembly. Whoever render of the fact that it is an unlawful assembly and intensionally joins in that, or continues in it is said to be an member of unlawful assembly. The mere presence of a person in that assembly does not constitute such person as a member of unlawful assembly. Every member of unlawful assembly must have a common object and should intentionally join that assembly is said to be a member of unlawful assembly. When a unlawful assembly proceeds with a common object as mention in section 141 but a person withdraws form that assembly then it clearly shows that he or she is not a member of unlawful assembly. When a member of unlawful

assembly has common object but could not proceed due to the physical weakness or any other injury then such person is said to constitute an member of unlawful assembly.

State of Maharashtra v. Joseph Mingel Koli¹

Every member of the unlawful assembly is vicariously liable for the offence committed by the member in a unlawful assembly by the prosecution of the common object.

Legal provision in regards to the maintenance of public order in criminal procedure code

The maintenance of the public order and ensuring the tranquility is the most primary objective of the government . A peaceful environment of the citizens helps the country to grow, develop new heights. When the administration of a country fails to maintain the public order in the society then the society may be in the situation of fear.

Common intention:

Mere presence of a person in a place, where he members of the unlawful assembly has assembled does not incriminate him. The members of the unlawful assembly must possess a common object and intention and do any one of the act as mentioned in section 141 of IPC. When an unlawful assembly exercises the right of private defence and at that time when the opposite party attacks them, the the right to private defence cannot be considered as the common intention.[\(Pawlowski 2004\)](#) But when five or more person kidnap a women and keep her in wrongful confinement then such assemble is an unlawful assembly. Section 149 of IPC deals with the common object. As per this provision every member of unlawful assembly is punishable. Yes

Exceptions :

An assemble less than five members cannot be called as the unlawful assembly.

Punishment:

Section 143 imposes punishment on the person who is the member of the unlawful assembly. [\(Penal Code \(Unlawful Society Declarat...\)\)](#)This section gives punishment which may extend upto six years or fine or both.

¹ (1997) 2 Crimes 228 (Bom).

Rioting:

Section 146 and 147 of the IPC covers the act of rioting. While section 146 covers the act of rioting, section 147 covers the punishment of rioting.

Maiku v. State of Uttar Pradesh²

The sub inspector was investigation when he was in duty, he cannot be claimed that he was pursuing a unlawful act and therefore he cannot be convicted under section 147 of IPC

Section 146 – rioting – whenever forces or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of each assembly is guilty of the offence of rioting.

Section 147 – punishment for rioting – whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. ([Karina Mayasita et al. 2014](#))

Section 148 – punishment for rioting when committed with deadly weapons - 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.

Allauddin Mian Sharif Mian v. State of Bihar³

There is a relation between a common object and offence created, when the offence is committed with common object then every person is liable for that.

Unlawful assembly is equal to five or more Persons plus Common object.

Rioting is equal to Unlawful assembly plus Violence.

Section 153B - Imputations, Assertions, Pre-judicial to National Integration - is punishable with Imprisonment for 3years or fine or both.

Explanation for rioting:

A riot is a form of civil disorder characterized often by disorganized groups lashing out in a sudden and intense rash of violence against authority, property or people. While individuals may attempt to lead or control a riot, riots are typically chaotic and exhibit herd behaviour, and usually generated by civil unrest. Riots often occur in reaction to a perceived grievance or out of dissent. Historically, riots have occurred due to poor working or living conditions, government, oppression, taxation or conscription, conflicts between races, food

² (1989) Cr LJ 860 : AIR 1989 SC 67.

³ (1989) Cr LJ 1466 : AIR 1989 SC 1456.

supply or the outcome of a sporting event or frustration with legal channels through which to air grievances. The punishment for an offence under 148 is prescribed as imprisonment for 3 years, or fine or both. It is a cognizable offence and it is Triable by any Magistrate of the first class. ([Sheth 2016](#))

Example – Muslims were purchasing Cow's for slaughtering them. Hindus snatched Cows and pushed away the Muslims. Hindus were 10 in number.

Forming a group for snatching away is an Unlawful assembly.

Going to Muslim place and snatching away is Rioting. ([Berenschot 2009](#))

Promoting enmity between different groups:

Section 153A - Promoting enmity between different groups on grounds of Religion, Race, Place of birth, Residents, Language etc.. and doing acts prejudicial to the maintenance of harmony - punishable with imprisonment for three years or fine or both.

Whoever,

by words, either spoken or written, or by signs or by unmistakable portrayals or something else, elevates or endeavors to advance, on grounds of religion, race, place of birth, habitation, language, caste or community or some other ground at all, disharmony or sentiments of animosity, contempt or malevolence between various religious, racial, language or territorial gatherings or castes or groups, or commits any demonstration which is biased to the support of concordance between various religious, racial, language or local gatherings or castes or groups, and which bothers or is probably going to exasperate the public tranquility, or sorts out any activity, development, penetrate or other comparative movement expecting that the members in such action might utilize or be prepared to utilize 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 utilize criminal force or violence or knowing it to be likely that the members in such action will utilize or be prepared to utilize 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 punished with imprisonment which may extend up to three years, with fine, or the with both. ([Bagla 2003](#))

Bilal Ahmed Kaloo v. State of Andhra Pradesh⁴

Mens rea is essential ingredient for The offence that is committed under section 153A of IPC.

Affray :

Section 159 and 160 of Indian penal code deals with the offences that are against affray. Affray is 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. The seriousness of the effect lies in the effect that the behaviour of the accused person may put the members of the public in fear. Beyond the mere use of words, there must be some threatening against a person or persons. 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. ([Emerton and Handfield 2009](#))

Sunil Kumar Mohamed Alias Mahakhuda Vs. State of Orissa⁵

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.

Ingredients for Affray to be committed:

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

Affray – When two or more persons, by fighting in a public place, disturb the public peace, they are said to Commit an affray. ([Affray](#))

Section 160—punishment for affray:-

Imprisonment up to one month or up to Rupees 100/- or both.

Maintenance of public order:

It is the fundamental duty of the state to maintain public order and peace. It is given in the police act. Section 31 of the police act of 1861 states that a order should be maintained in

⁴ (1997) 7 Supreme Today 127.

⁵ AIR (27) 1950 Madras 408.

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 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. [\(Ghosh 1993\)](#) An assembly of persons who use criminal force in order to cause a public servant to desist from his duty, resist the execution of any law or legal process, commit mischief or criminal trespass, deprive any other person of his property, enjoyment of a right of way or peaceful enjoyment of rights by use of criminal force, or use criminal force to compel a person to do an illegal act automatically becomes an unlawful assembly under section 141 of the IPC if it consists of five or more persons.

Case laws:**State of U.P VS Sughar Singh:**

Five accused were lying in a bush on either side of a lane, with armed guns. When the deceased came near, the accused 4 and 5 exhorted him, and accused nos 1, 2 and 3 shot the deceased with their guns respectively. Accused 1, 2 and 3 threatened the witnesses. The trial court held that all of these were sufficient to come to the conclusion that these five accused had constituted an unlawful assembly and has members had common object to kill the deceased. They had a prearranged plan. The trial court convicted the accused. On appeal, the high court quashed the conviction. The state appealed to the supreme court. The supreme court upheld the conviction against the accused.

Aravindan Vs State of Kerala⁶

A sudden quarrel arose between two parties. Each party abused other party. There was no premediated plan. All of a sudden, each party attacked others. The court held that neither of the parties would constitute the unlawful assembly.

Discussion:

It is the fundamental principle of the state to maintain the public peace and order. The definition of public tranquility is given in the section 31 of the police Act of 1861. This act

⁶ (1983 CrLJ – 1259)

provides to maintain the peace in the roads, public places and etc. [\(Penrose 1776\)](#) Many provision must be bought to maintain public order and peace in the society. The criminal procedure code also provides certain provisions in order to maintain peace in the society. The unlawful assembly is also provided legally by the government but when it is done illegally or extended to rioting or Affray then it is punished by the sections of IPC.

Conclusion:

The India penal code punishes the offences against the public tranquility. The public tranquility is the criminal offences and it is injurious to the public peace for the development of the society. The study has the statistical data about the offences against the public order is different years and discussed systematically. These offences are injurious to public peace. Disturbing peace in the society creates inconvenience in the society. Tranquility are the group offences committed by the group of people in the society. As per the provision when a large number of people are affected then destroys the public peace which may turn into the offence against the public tranquility. These offences are punished by the IPC strictly and imprisonment is given with fine. Thus the offences relating to public tranquility are strictly punished by IPC. These offences affect the public peace and leads to disorder in the society. Thus by the alternative hypothesis the Indian penal code strictly punishes the offences against public tranquility.

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