

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.

Object

- To use criminal force against any public servant, state or central government.
- To resist any legal proceeding.
- To commit any mischief or trespass on any property or person.
- To use criminal force against any person to deprive him of the enjoyment of any right.
- To use criminal force against a person and compelling him to do something which he is legally not bound to do.

Ingredients

For unlawful assembly, several ingredients need to be present for making anyone liable for the punishment defined for unlawful assembly under the provisions of IPC.

Five or More Persons

Unlawful assembly should consist of persons more than 5. If the number of people in a group is less than 5 then it will render this section inapplicable. It is also possible that the number of persons in an unlawful assembly may drop down to 5 after the commission of the crime, in this scenario too this Section would not apply, but [Section 149](#), of the given Act ([Subran Subramaniam vs the State of Kerala](#)) which levies vicarious liability on the person, would be applicable.

If in an unlawful assembly 3 persons are acquitted and the rest could not be identified or are unmanned but the court is certain about the presence of other people in the group making the number to 5 or more than that, then, in that case, the section of the unlawful assembly would be applied.

In the case of [Ram Bilas Singh vs the State of Bihar](#), the Supreme Court has delineated certain situations where even the number of persons in an unlawful assembly becomes less than 5, then also conviction could take place.

- Evidence must be given that other than the person convicted, there are other people who are involved at a given point of time.
- Evidence to show the presence of other unidentified persons that are part of the unlawful assembly.
- The first information report must reflect such to be the case even if there is no such charge formed at that given point of time.

They must have a Common Object

The term “object” refers to design or purpose, and for it to be “common” the person must share and abide by it. The members of an unlawful assembly must have a common object to commit a particular offence. Unlike common intention

here prior meeting of minds is not important, the common object could be constructed on the spot. Common object leaves scope for the likelihood of events. Here the persons could also have an assumption that certain events “might happen” or are “likely to happen”.

The presence of common objects could be shown by way of facts and circumstances because the direct evidence of it is not possible.

Section 149 of the IPC, 1860 deals with the common object. The word ‘knew’ is used in the second part of this Section, which means more than a “possibility” but less than “might have known”. Hence any offence so committed by any member of the unlawful assembly is assumed that all the member must have known at least the possibility of that act. This section further implies that any offence committed in the prosecution of the common object is immediately connected to a common object held by all the members of the unlawful assembly.

Object Must be one of Those Specified in Section 141

The common object possessed by the members of the unlawful assembly could be varied and could be adjudged by appraising the facts and circumstances, however, the common object needs to be the one already ascertained under section 141 of IPC, 1860.

In the case of [Moti Das vs the State of Bihar](#), it is possible that the assembly started as being lawful but later turned out to be unlawful. The following are the objects present under Section 141 of the IPC, 1860:

Overawing the Central or a State Government or its Officer

The person is said to be overawed by another when he takes him to fear due to superior force or use of power. However mere overawe is not sufficient to attract the provisions of this section, the use of criminal force is very important. The person must use some criminal force against the other party so that he is overpowered by the threat or fear so that he is unable to continue his legally assigned work or does something which he wouldn't have done otherwise. The unlawful assembly should also have the common object to instil overawe in the minds of the people.

The force should be used against the state or central machinery or any of the officers working on their behalf. It is essential to note that the officer must be carrying out the responsibility given to him when the criminal force is applied otherwise this section won't be applicable.

Resist any legal proceedings

The legal process means any proceedings which have the legal mandate to be executed. Hence if any unlawful assembly act as a hindrance in the execution of the unlawful assembly then it would be considered unlawful.

It is important to note that if the proceeding or process is not legal and if that is hindered then that would not be considered as resistance under this section and hence not punishable.

For example- if an arrest is made without any legal warrant for the same, and if that arrest is resisted by any assembly of 5 people then that would not attract the provisions of this Section.

Commission of Mischief, Criminal Trespass or Any Other Offence.

Mischief and Criminal trespass are defined under [Section 425](#) and [441](#) of the IPC, and offence here means anything which is punishable under any special law or any local law.

Hence, any assembly which does not commit any of these offences then it cannot be termed as unlawful assembly.

Forcible Possession and Dispossession

Any person cannot be asked to give up his possession of anything due to criminal force, but if the act is lawful and the person is legally bound to dispossess himself of that good, then this section would not be applicable. If the right on the property is not certain and if force is used to resist its dispossession then that assembly of more than 5 people that are involved would be considered as unlawful assembly.

Obtaining the right to possession

Incorporeal rights mean the right to use any property, as the use of well or water, etc. If by the use of criminal force any assembly of 5 people deprives the person of such use of the property then it can be a ground for punishment under this section.

Right to procession

The procession is an assembly in motion. The assembly is static. The procession, instead of a room, the procession takes place on the roads. This is a fundamental right granted to the citizens under Article 19 of the Indian Constitution. However one of the restrictions on this right is that the road

should be available for the passer-by too, and not only for the processionists. One of the important conditions on the procession is that it should be peaceful, otherwise it could be legally disbanded by police action.

Sections of unlawful assembly are also applicable to processions. Hence of the processions are undertaken by a group of 5 or more people with an unlawful intention shared by all the members of the procession could be termed as unlawful assembly and therefore the member of this procession would be liable for punishment meant for unlawful assembly.

For Example, a group of 8 people went on the road with an intention to burn the police station, then this procession would be an unlawful assembly and could be punished as well.

Enforcing a 'Supposed' Right

Supposed rights mean that the person does not have any right over the subject in question. Under this Section "defending one's right" is not punishable. It is fine to be armed for the protection of the right which the person already possess i.e. to maintain one's right.

For Example, a person can use arms to protect his property which he lawfully owns.

This Section punishes the enforcement of a right or supposed right by way of a criminal act which makes an assembly liable for punishment.

When Right to private defence is exceeded

If any act is done in furtherance to protect any property of self or any other individual, then it is not an offence. In fact, such an act would not come under the "protection of the right or supposed" and would be immune from any

punishment. This would not come under Section 144 or Section 149 of the IPC, 1860.

However, if the offence is committed which exceeds the ambit of private defence then such an act would make the perpetrator liable for punishment. All the other members of the unlawful assembly would be liable if constructive liability is to be construed.

Illegal Compulsion

Under this Section, a person or any group is compelled by an assembly of 5 or more people not do an act which he is legally bound to do or to do something which would have not done under the legal constraints.

The assembly initially could be lawful and can later turn out to be unlawful.

Example- an assembly formed for carrying out the work of a collection of donation for the construction of tank in the society, but later engaged in assaulting some other group which did the same work in other society.

Test When There is a Group or Communal Clash

In case of communal violence, if people indulge in some unlawful activities then they could be booked under the provisions of Unlawful Assembly.

For Example- if in a town, people of different communities pelted stones at each other to protest a judgment taken by the Supreme Court. The police, in this case, is authorized to disperse them under [Section 129](#) of the IPC, 1860 and they could be booked under the provisions of unlawful assembly. In case, however, if the people wouldn't have pelted stones then they couldn't be liable for the punishment under unlawful assembly.

Constructive Liability When Free Fight Occurs

Section 149 of the Act, makes the member of an unlawful assembly constructively liable for the act done by any member of the unlawful assembly, however, it is to be noted that the act done by the member should be in pursuance of the common objective, otherwise other members of the assembly, who have not committed the offence could not be held liable.

In the case of [Gajanand vs State of UP](#), free fight is referred to as when two people went on to fight with each other and it was predetermined. In this, it is immaterial whether the person has attacked or defended, but what matters is the tactic that is used by the parties involved.

Supreme Court has made it clear in the case of [Puran vs the State of Rajasthan](#) that for free fights constructive liability present under section 149 of the IPC, 1860 cannot be invoked because the fact which is considered is the injury that is caused to the other party by the person who was involved in the fight, hence other members of the assembly would not be held liable for the offence of free fights.

Common Object and Common Intention: Distinction and Differences

BASIS	COMMON INTENTION	COMMON OBJECT
DEFINITION	Under Section 34 of the IPC, the common intention is present which states that several people commit any crime with the furtherance of shared intention	Under Section 149 common object is present which states that five or more persons present in an unlawful assembly commit an offence. Even if the

	to do that crime. Each of the people is liable as of the crime is committed by him also.	person has not done the offence himself, but of that time he is a part of that unlawful assembly he would be liable for the offence so committed.
MEMBER	The number of persons present must be more than one.	The number of members must be 5 or more.
MEETING OF MINDS	Prior meeting of the mind is necessary Exception- Kripal Singh vs the State of UP.	The common object could be formed on the spot also.
LIABILITY	All the persons involved are liable equally. Hence active participation is not necessary.	All the persons involved may not be liable equally. Active participation is necessary.
Offence	Does not specify any offence but states a rule of law.	It describes a specific offence.

Effect of Omission to Charge Accused When Charge Using Section 149 Fails

There is a substantial difference between Section 34 and Section 149, of this Act, however, still, they overlap to some extent, and this overlapping is to be determined on a case to case basis, as it varies according to the facts.

If the common object which is material to the charge under Section 149 does not necessarily involve a common intention, then the substitution of Section 34 for Section 149 might be detrimental to the interest of the convict and hence should not be allowed. However, if the facts to be proved and the evidence to be adduced with reference to the charge under Section 149 would be the same if the charge were under Section 34, then the failure to charge the accused under Section 34 could not result in prejudice to the interest of the party and in such cases, the substitution of Section 34 for Section 149 must be held to be a formal matter. ([Karnail Singh and another, vs. The State of Punjab](#)).

For section 149 to be applicable, the presence of five or more people is necessary, but if the assembly of five or more people could not be ascertained, then in that case, joint liability could be imposed under section 34. Under this section, the act should be done in furtherance of the common "intention". Moreover, if no joint liability could be established then each person could be held liable in his individual capacity.

Hence even if the charge fails under Section 149, still other provisions could be applied to ascertain the liability of the accused.

Test for Common Object

To test whether the unlawful assembly had a common object or not, it is not necessary for the parties to have actually met and conspired, but such intention could be inferred from the facts and circumstances of the case. A combined attack by all the five members of an unlawful assembly is enough to prove the common intention.

To show a common object, circumstances of the case, the attitude of the person involved furnish the key to their mental bent. Any person who encourages or takes part in such activities either by signs or gestures, or even wear a badge or

sign is said to be a member of that unlawful assembly and is sufficient to gauge that he has a shared object for the offence so committed. On the other hand, a mere presence without any sort of encouragement is not the proof of criminality.

To test the common object at the starting, it wouldn't be legitimate, to take into account the actual act committed by the person at a later stage, and to infer that such activities were part of the common object of the entire assembly.

Moreover, once all the ingredients of Section 141 are met, it won't be enough for the person to put forward the argument that he did nothing with his own hands. The person would still be liable for punishment.

Separate Charge Under Section 147 or 148, Indian Penal code 1860, not Essential When Charge Under Section 149 Exist.

The fallacy in the cases which hold that a charge under [Section 147](#) of IPC, 1860 is necessary arises because they ignore that the ingredients of [Section 143](#) of the Act are already implied in Section 147 and the ingredients of Section 147 are implicit when a charge under Section 149 is included. An examination of Section 141 shows that the common object which renders an assembly unlawful may involve the use or show of criminal force, the commission of mischief or criminal trespass or other offences, or resistance to the execution of any law or of any legal process. Offences under Section 143 and Section 147, ought to always be present when the charge is laid for an offence like murder with the aid of Section 149, but the other two charges need not be framed separately unless it is sought to secure a conviction under them. It is thus that Section 143 is not used when the charge is under Section 147 or [Section 148](#), of the Act and Section 147 is not used when the charge is under Section 148.

Section 147 may be dispensed with when the charge is under Section 149 read with an offence under IPC. ([Mahadev Sharma vs the State of Bihar](#))”.

On Nature of Proof of Common Object in Group or Communal Clashes

Communal clashes could be considered a small part of mammoth rioting. In these cases, the court finds it very difficult to ascertain the common object. Moreover, due to a large number of people, it is very difficult to assign the act done by each individual and punish them accordingly.

The common object could be furnished from the fact of the case. If the crime is committed by the entire assembly in a concerted fashion, in that case, the entire assembly would be held liable as common intention could be construed from the acts of the people.

In such cases, the role of an eye witness is very crucial, as he would give instances of what happened at the crime scene. But care should be taken and should not be relied on a single eyewitness. The perpetrators of the crime should be carefully distinguished from the spectators and wayfarers.

Other Connected Provisions

There are various provisions which come under the umbrella provision of Unlawful Assembly.

Being a Member of Unlawful Assembly—Contents and Punishment

This provision is present under [Section 142](#) of the IPC, 1860 when a person joins any assembly with full knowledge of the fact that in the assembly certain elements which are not lawful and still joins it or continues (physical presence) to be part of it, then that person is said to be a member of an unlawful assembly.

Mere presence in an unlawful assembly does not mean that the person is its member. He should have a common objective to disturb public peace. If the person detaches itself from the assembly after knowing of its unlawfulness then that person is no longer a member of that assembly as he lacks a common intention which is very important. Moreover, if the common objective does not execute properly due to some weakness then too it shall be considered as an unlawful assembly.

Under Section 143 of the IPC, 1860 the person being a member of an unlawful assembly is liable for punishment for up to 6 months or fine or both.

Ingredients of membership of an unlawful assembly

According to Section 142, which deals with the membership of an unlawful assembly, the following are the essential ingredients :

- A person should be aware of the unlawful elements of the assembly.
- A person should possess an intention to join that unlawful assembly. Any sort of coercion to become a part of the assembly, will not render the person to be a part of the unlawful assembly.

- A person is a part of the assembly, which later turns out to be an unlawful assembly and still continues to be a part of the assembly by consent which could be either express or implied.

Joining an Unlawful Assembly Armed with Deadly Weapon

This comes under [Section 144](#), of the Act which could be seen as an extension of Section 143. Under this Section (144) a person who joins an unlawful assembly with deadly or dangerous arms would be punished for 2 years or fine or both.

Under this Section, a person who is although not carrying a deadly weapon, but is a part of an unlawful assembly will still be liable to be punished.

Ingredients

- Joining assembly with a deadly weapon.
- The weapon could be anything that has the potential to cause death.

The definition of deadly weapon varies upon the facts of the case. Any small object which could take someone's life could also be termed as a deadly weapon.

Rendering Aid in Unlawful Assembly

[Section 150, 157](#) and [158](#) of the Act, makes rendering aid in an unlawful assembly, liable for punishment.

Section 150 basically deals with the perpetrator and the originators of the crime. This Section is created with the objective to punish the persons who are the mind behind the crime that is committed. The person who connive or hire the people that actually indulge in the commission of the crime. The law seeks to treat these persons at par with the persons who have actually committed the offence. Thus this section does not deal with the abetment or participation in the crime, but goes at the initial level of the planning the crime and hiring people to do such criminal acts.

Section 157 ensures the conviction of the person who-

- Assembles or harbours people in a house or any other premises.
- The house or premise must be under the person so accused.
- The objective of such assembly, hiring or employment is to be a part of an unlawful assembly.
- The person who is convicted for the acts mentioned above must know about these facts.

Section 158 of the IPC convicts a person who employs or hires himself to be part of the unlawful assembly and hence assists it.

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	The person who has	The person who

unlawful assembly is liable for the offence committed even if he has not done the act.	actually committed the offence is liable.	assaulted is liable for punishment.
Ordinary punishment would include imprisonment of two years or fine or both (Section 147 of the IPC)	Punishment under ordinary circumstances would include sentences up to 6 months or a fine of Rs 100 or both (Section 160 of IPC).	Ordinary punishment includes a term of either description of 3 months or a fine of Rs 500 or both (Section 352 of the IPC).

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.

However, some reforms are needed to make these provisions in accordance with the changing times.