

## **A Study On Various Legal Provisions Used For Controlling Communal Violence In India**

**Adv. GAGANDEEP KAUR**

**BA.LL.B(gagank6295@gmail.com)**

### **ABSTRACT**

*India is a democratic country. In India, people from various religion live. There are many places in India where the people of different religions like Hindu, Muslim, Sikh and Christian live. There are some chances that some communal violence may occur there due to any reason. This reason can be small or any big issue. But, in most of the cases, it is observed that the reason behind the occurrence of the communal violence is small.*

*As a result of this communal violence, a number of people are died and injured. In Indian constitution, there are some legal provisions regarding the communal violence. To punish the criminals, there are some provisions in Indian law and by following these provisions and procedures, the criminals are given life sentence. The current paper highlights the various legal provisions used for controlling the communal violence in India.*

### **KEYWORDS:**

*Legal, Communal, Violence*

### **INTRODUCTION**

Since the 2000s, various specialists have driven considers in Victimology, which have been circulated. The possibility of injured

individual returns to old social orders and human headways, for instance, the out of date Hebrews. Its one of a kind significance was set up in relinquish or substitute - the execution or tossing out of an individual or animal to satisfy a divine being or pecking request.

All through the many years, the word injured individual came to have additional ramifications. In the midst of the setting up of victimology amid the 2000s, victimologists, for instance, Mendel tyke, Von Hentig and Wolfgang would as a rule use perusing material or word reference implications of unfortunate casualties as hapless dupes who affected their own exploitations.

This thought of "injured individual precipitation" was overwhelmingly ambushed by ladies' activists amid the 2000s, and was displaced by the possibility of unfortunate casualties as anyone compensated for lost time in a lopsided relationship or situation.

"Asymmetry" suggests anything uneven, exploitative, parasitical, difficult, ruinous, offending, or having trademark tribulation. In this view, victimology is about power differentials. Today, the possibility of unfortunate casualty fuses any individual who experiences harm, mishap, or hardship in light of any reason.

Similarly today, the word unfortunate casualty is used rather eccentrically; e.g., threat exploited people, holocaust victims, incident exploited people, casualties of injustice, tropical storm exploited people,

bad behavior unfortunate casualties, and others. What all of these uses share for all goals and reason for existing is an image of someone who has continued harm and naughtiness by forces past his or her control.

From this exchange we can express that there are distinctive laws relating to injured individual and their confirmation. Directly focal issue before us is its execution. There is a course of action of pay and affirmation of unfortunate casualty anyway the request is whether this is sufficient for injured individual. For example if an individual is killed by other individual and the individual who passed on is the primary bread laborer in his family then what is the proportion of compensation is to be paid to his relative.

In one of the case Indian Supreme court if there ought to emerge an event of death of an individual mastermind the compensation of simply 1.5 lakh and that in like manner following 5 to multi year of commission of bad behavior (SR 6200/2012). By and by would we have the capacity to consider it a real demand? As demonstrated by UN disclosure there should be law on it and that is the clarification behind which India has made law for exploited people.

The Indian criminal value system is generally highlighted on the fault just and not unfortunate casualty, which we can see. The exploitation is association among injured individual and wrongdoer, and victimology is

an investigation of examination of exploitation. When we see that there is prompt association among wrongdoer and unfortunate casualty it is to a great degree difficult to shield the injured individual from the guilty party and I for one trust this is the fundamental reason behind low rate of conviction in our country.

There are distinctive countries in which the unfortunate casualty security program is going on and the result is incredible as there is no degree of any postponing the person in question or witness. If unfortunate casualty feel themselves protected, nobody however they can talk in courts. Exactly when unfortunate casualty is easily moved nearer by the guilty party it is amazingly difficult to work even police isn't taking real note of this issues.

As for in youngsters, the predominant point of view over the latest couple of years has been that the essential features of this issue parallel those appeared in adults. This view is furthermore supported by the way that the most recent variation of the DSM does not give separate symptomatic arrangements to youth and adult oppressive dissipates.

According to the DSM-IV, the basic features of an imperative difficult scene have been depicted as debilitated or awful tempered perspective and lost interest or enjoyment. Additional related symptoms include: weight changes, rest aggravations, psychomotor fomentation or prevention, shortcoming, notions of pointlessness or ignoble fault, loss of

center or vulnerability, and discontinuous considerations of death or foolish ideation.

All together for an assurance of genuine oppressive unrest to be made, something like five of these appearances must be accessible reliably to something like two weeks. In any case, similar to strain issue, there exists an expansive proportion of writing with respect to slants of wretchedness in kids as evaluated autonomous from any other person point by point repeat and reality of signs.

## **LEGAL PROVISIONS USED FOR CONTROLLING COMMUNAL VIOLENCE**

The object of protection given under these sections to the judges and their ministerial staffs, who are executing the orders of the judges, is to ensure the independence of the judges and to enable them to discharge their duties without any fear of the consequences. The protection is based on public policy.

A State is under duty to protect life, limb and property of its people. At the same time, a State cannot extend its help to all and in all cases. Therefore, every person has a right to defend his 'own' body and the body of 'other' person against any offence affects the human body, and his 'own' property and the property of 'other' person movable or immovable. This right is based on the principle that it is the primary duty of a person

to help him. The right of private defence is provided under ss. 96 to 106 of IPC.

Section 96 lays down the general rule on the right of private defence. Section 97 deals with the subject-matter of the right of private defence of body and property and lays down the extent of the right of private defence, and proclaims that every person, subject to restrictions contained in s. 99, has a right to defend his own body and the body of another person, against any offence affecting human body, and right to defend property of his and of any other persons. Section 98 gives the right of private defence against certain acts of persons whose rights are exempted from criminal liability.

Sections 102 & 105, deal with the commencement and the continuation of right of private defence of body and property respectively. Sections 100 & 101; 103 & 104, deal with the extent of the harm (including voluntary death) that may be inflicted on the assailant in exercise of the right of body and property respectively. Section 106 allows a person to take the risk of harming innocent person in order to, in exercise of the right of private defence of body, save himself from mortal injury.

The right of private defence is fundamentally a defensive right and it is available only when the situations clearly justify it. It is exercised only to keep away unlawful aggression and not to punish the aggressor for the offence committed by him.

Every person is bound to assist a Magistrate or police officer demanding his aid in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorized to arrest; or in the prevention or suppression of a breach of the peace; or in the prevention of any injury attempted to be committed to any public property.

Under section 40, every person residing in a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, any information which he may possess in respect of any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate (DM) has directed him to communicate information.

Under section 43, any private person has right to arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, and to make over or cause to be made over any person so arrested to a police officer or take person to the nearest police station. The right of arrest is also applicable where the attempt to commit an offence is itself an offence and such attempt is made in view of the person arresting. The law authorizes a private person 'to use all means necessary to effect the arrest'. The words 'all means' are very wide and include the taking of assistance from others in effecting the arrest.

## **DISCUSSION**

Section 51 empowers a police officer to make a search of the arrested person under certain circumstances. If incriminating things or stolen articles are found in such search, the police officer may seize them under s. 102 and produce them in court.

The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

Section 149 of Cr.PC authorizes a police officer to intervene only in cognizable offences, while s. 23 of the Police Act authorizes him to act even in general offences.

Every police officer receiving information of a design to commit any cognizable offence is required to communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Section 108 allows an EM to initiate action against a person violating ss. 124-A or 153-A or 153-B or 295-A, of the IPC. The test under this section is whether the person proceeded against, has been disseminating seditious matter or such other matter as mentioned in s. 108, and

whether there is any fear of repetition of the offence. The dissemination must be intentional.

Under section 109, security for good behaviour can be taken from a person taking precautions to conceal his presence in order to committing a cognizable offence. This section enables the EM to take action against suspicious strangers lurking within their jurisdiction.

The object of this section is to protect the public against hardened and habitual offenders, who habitually commit, or attempt to commit, or abet the commission of offences involving a breach of the peace and public tranquillity.

Whenever it appears to Magistrate upon the report of a police officer or upon other information that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate, may at any time issue a warrant for his arrest.

The various statutory provisions relating to communal violence, e.g., preventive as well as punitive legislations, constitutional provisions, rules and guidelines, etc., discussed in this chapter are relevant to the maintenance of law and order in the society. These provisions are adequate to curb the problem of communal violence if implemented effectively and timely but the law enforcement machinery lacks the will to act firmly and impartially.

The provisions of law relating to communal violence are continuously being violated by the anti-social elements and perpetrators of communal violence who incite the communal passion and disturb the peace of the nation. The executive, the law and order machinery and the judiciary have shown a marked reluctance to haul up offenders who are guilty of mass crimes.

## CONCLUSION

A crime that involves the use of force or threat of force may become a civil rights violation if the perpetrator was motivated by intolerance and hate (for instance, hatred of a particular ethnic group). Hate crimes are violent actions intended to hurt and intimidate someone because of their race, ethnicity, national origin, religion, sexual orientation, or disability. Usually someone who is convicted of a hate crime faces a steeper penalty than someone who performed the same actions without discriminatory animosity, but this legal distinction also helps prosecutors establish motive in certain crimes.

These hate crimes terrorize whole communities by making members of certain classes - whether racial minorities, lesbian, gay, bisexual, transgender and queer people, religious minorities or people who are perceived to be members of these groups - afraid to live in certain places and be free to move about in their community and across the country.

Because perpetrators commit hate crimes to send a message and express anger or hatred for the victim, they often involve more violent acts than it takes to subdue or incapacitate the victim. Sometimes they involve mutilation, torture or holding the victim captive, such as in a car trunk.

## REFERENCES

1. Adams, Stuart. (2014). Evaluation: A way out of rhetoric. In Rehabilitation, recidivism, and research, edited by Robert Martinson, Ted Palmer, and Stuart Adams. Hackensack, New Jersey: National Council on Crime and Delinquency.
2. Allen, Francis A. (2012). The decline of the rehabilitative ideal: Penal policy and social purpose. New Haven: Yale University Press. ——. The borderland of criminal justice: Essays in law and criminology. Chicago: University of Chicago Press.
3. Bailey, Walter C. (2013). Correctional outcome: An evaluation of 100 reports. *Journal of Criminal Law, Criminology, and Police Science* 57 (2): 153–160.
4. Bennett, William J., John J. DiIulio, Jr., and James P. Walters. (2011). Body count: Moral poverty . . . and how to win America's war against crime and drugs. New York: Simon & Schuster.

5. William C., and Thomas W. Steinburn. (2015). The value and validity of delinquency prevention experiments. *Crime & Delinquency* 15 (October): 471–478.
6. Gilbert Geis. (2014). Ad populum argumentation in criminology: Juvenile diversion as rhetoric. *Crime & Delinquency* 30 (October): 624–647.
7. Alfred. (2013). Interaction of criminological research and public policy. *Journal of Quantitative Criminology* 12 (4): 349–361.
8. Joan Petersilia. (2015). Investing in criminal justice research. In *Crime*, edited by James Q. Wilson and Joan Petersilia. San Francisco: ICS Press.
9. James. (2014). Risk-needs assessment and treatment. In *Choosing correctional interventions that work: Defining the demand and evaluating the supply*, edited by Alan T. Harland. Thousand Oaks, California: Sage Publications.
10. Paul Gendreau. (2013). Coping with prison. In *Psychology and social policy*, edited by Peter Suedfeld and Philip E. Tetlock.
11. Robert A. Williams. (2015). Multi-systemic treatment of serious juvenile offenders: Long-term prevention of criminality and violence. *Journal of Consulting and Clinical Psychology* 63 (4): 569–578.