

Handling Communal Situations

Introduction

311. Communal disturbance means an agitation or interruption of tranquility involving two antagonistic religious communities. It may also be defined as an agitation arising out of a conflict between two or more religious communities. The nature of a conflict may vary from minor disturbances to big riot situations. Such disturbances always pose a serious threat to law and order. Communal disturbances are always attended with considerable loss of human life and destruction of property; they disrupt communal harmony and aggravate tension between different communities. They undermine public faith in the forces of law and order. If they occur on a large scale, they even threaten the stability of the country. Prevention or minimization of communal disturbances is, therefore, vital to the maintenance of law and order; smooth functioning of a secular democracy and the stability and integrity of the country.

Causes of Communalism

312. Communal disturbances and the causes underlying them are manifold. The main causes appear to be historical, activities of communal parties, opportunistic and parochial policies of political parties, enemy acts, mal-treatment of minority communities, and prevailing prejudices between members of the different communities. Conflict of interests and competition between two communities for sharing of economic and educational opportunities may, sometimes,

assume the form of communal disturbances. In the ultimate analysis, prejudices, wrong attitudes and an atmosphere of mutual distrust and fear are responsible for communal disharmony. Absence of adequate mutual participation in social and cultural activities and a lack of devotion to common secular and non-religious values, consequent living in almost closed societies, largely contribute to the continued existence of prevailing prejudices and disharmony.

313. **Role of the Police**

- I. Maintenance of public order to a large extent depends on the response of police and happens to be a basic responsibility of the police. Police Act and the criminal procedure code require the police to maintain public order and to interpose and to proceed to the spot to investigate actual or suspected commission of offences. Under section 127 and 128 of CrPC, the officer-in-charge of a Police Station and other senior police officers are entitled to command dispersal of unlawful assemblies or even to use force for that purpose. The duties and powers of the police in India are both statutory and obligatory. The police are, therefore, duty bound to maintain law and order during communal disturbances.

- II. The police must remain absolutely impartial in handling of communal disturbances. The senior officers have a special responsibility in properly briefing their subordinates in this regard. The police officers must realize that communal disturbances are one of the worst threats to law and order and, therefore, they should be especially remain alert to this problem. Competent and selected officers should be posted to

sensitive areas having a history of communal disturbances.

- III. Although, sudden eruptions cannot be completely ruled out, all communal disturbances, by and large, develop over a period of time. If right steps are taken in the beginning, it may be possible for the police to prevent communal tensions from developing into disturbances and violence. The police should, therefore, attach special importance to the preventive aspect of their duties in this regard.

314. **Preventive Action**

(i) Collecting of Intelligence: The first step in preventing communal tension from developing into violence is the collection of adequate and advance intelligence. This should be done by Special Branch at the State Headquarters and also at the District Hqrs. Police should get in touch with the leaders of both communities and find out the causes of tension. The past history of the place, the writings in the press, particularly local press, and, the vernacular press, the likelihood of repercussions of disturbances in neighboring districts or neighboring States should be given special consideration for prevention and handling of communal incidents.

(ii) Rumors : Generally, rumors play a very important role in the aggravation of communal tension. Although, rumors are a common phenomenon in normal life but in such situation, these assume nastier and more purposive character. Rumors relating to communal, tensions generally go through the following three stages:

- (a) They begin with talks of alleged insults and discrimination.
- (b) The common stories of imminent violence, of the arming by the other community, of the need to protect house and loved ones

from attack.

- (c) Finally, the crisis rumors develop and spread for example, inflammatory acts, like sex assault, beating or other crimes etc.

(iii) Watch on Community Leaders: During communal tension, the communal groups and their leaders, exhibit a progressive tendency to operate more boldly and more openly. They step up their propaganda; a campaign against other communities as they presume that there will be a greater degree of social acceptance of their views during such times. Their activities must be kept under close watch.

(iv) Preventive Arrests and Other Action : After collecting advance intelligence, it should be carefully assessed and appreciated by the senior officers and preventive action should be planned. If there is time, action under section 107, 117 of the criminal procedure code can be taken against ring leaders and other anti-social elements. Arrests under section 151 of the code of criminal procedure of ring leaders and mischief mongers of both the communities can also be made. Arrests of ring leaders and anti-social elements, who may fish in troubled waters, can also be made under the Preventive Detention Act for detaining persons for longer period. However, sufficient material should be collected in advance regarding their activities and speeches, etc., so that action under Preventive Detention Act can be taken and sustained against them.

(v) Prohibit Entry and Promulgation of Prohibition Orders : It may also become necessary to either restrict the entry of certain undesirable persons into areas of tension or to remove them from such areas in order to prevent their spreading communal propaganda and mischief. Suitable prohibitory orders under section 144, 144 A CrPC may be promulgated and enforced strictly. Issue of licenses under section 156 of The Sikkim

Police Act 2008 requiring the processions to be taken along certain routes and imposing other suitable conditions should be ensured so that clash with the opposite group or party may be avoided.

315. **Administrative Measures**

- i. Apart from the legal measures certain administrative steps should also be taken. Joint Peace Committee consisting of respective leaders of the communities may be constituted for taking their help and that of other progressive political leaders for controlling the tension and preventing the tension situations from developing into violent incidents.
- ii. Patrolling should be organized in the mixed localities. Meetings of the minority community may be called to assure them that the authorities will take all legal action to protect them. The police should also make it known publicly and privately to all that in case of trouble, they will take quick, firm and strong action. A close watch should be kept on the circulation of nasty rumors. The best antidote to rumors is that as soon as rumor is found circulating, they should be quickly investigated and fact should be publicized adequately and quickly. Also persons found circulating such rumor should be stopped by police officers and asked to give verification and proof regarding the correctness of the rumor.

316. **Post Preventive Measures**

- i. If preventive measures fail and actual trouble breaks out the police will have to take action to deal with the same. The communal mobs are always under an intense

excitement and they are swayed by feelings of hatred and they do not hesitate to take recourse to violence. Such mobs are generally not amenable to reasoning and persuasion. The police should, therefore, use determined, swift and effective force to deal such mobs right in the beginning.

- ii. If the mob gets an impression that the police are either weak or undecided in their attitude, it may embolden them to become highly violent and destructive. While in the initial stages, mob violence may be directed against specific targets like members of the opposite group and their property, as it gets into high gear, it may become more generalized and may be directed to general public and their property. Determined and strong police action at the initial encounter with the mob, therefore, is of crucial importance.

Police Action Parameters

317. In order to make police action effective depending upon situation to situation, the following points should be kept in mind:

- i. Attempt should be made to prevent the formation of crowds and to break them as soon as they are formed. For this purpose, patrolling and posting of pickets at strategic points will be necessary. The crowds can be dispersed under Section 127 of the CrPC.
- ii. Arrest of ring leaders may be made, if that is possible, without provoking much trouble.
- iii. If a crowd is already formed, it should be cordoned off so that its size does not increase by the joining of other people.
- iv. As soon as the mob starts indulging in violence or it is clear to the police that violence will be resorted to, immediate action should be

taken to disperse the same. The police can use force for this purpose under section 128 of the Code of Criminal Procedure for dispersal of unlawful assemblies. In such a case, orders of the Magistrate, if present at the scene, should be obtained. Force can also be used by the police under the Right of Private Defense (Sections 96 to 106 of the I.P.C.). For use of force in the exercise of right of private defense, the orders of the Magistrate are not required.

- v. In case of serious rioting, orders under S. 144 CrPC and the popularly called curfew orders, may have to be imposed and strictly enforced. While major incidents may be controlled by the promulgation of curfew, sporadic incidents of individual stabbing or killing may continue for some time, particularly in crowded areas. Therefore, the police must organize foot and motor cycle patrols in such areas to ensure that there are no such incidents. Care must be exercised in the withdrawal of curfew orders. This should be withdrawn by stages. Sometime withdrawal of curfew orders may aggravate the situation. After a mob has been dispersed, the police should pursue it and ensure that all persons return home so that the mob does not re-form. Police vigilance and patrolling should continue to prevent any eventuality.
- vi. When communal disturbance break out over a wide area in a District or a town the overall command of operations must remain in the hands of the District Superintendent of Police. Sometimes, the disturbed area may be divided into zones, where other officers may be deputed, but the overall control must remain with the District Superintendent of Police as he is in the best know of things. Sometimes, confusion may be created by the deputing of other senior officers in the areas, with the result that an overall plan of action and direction of operations is not possible.
- vii. The areas of tension should be isolated by effective patrolling and

- posting of strong pickets.
- viii. Investigation teams of competent officers may be constituted to register and investigate cases arising out of communal incidents.
 - ix. A separate officer may be deputed to maintain a chronological record of events.
 - x. The injured should be given first aid and the dead persons should be removed to the Mortuary.
 - xi. Suitable liaison should be maintained with the press to enlist their cooperation in correct reporting and mobilization of public opinion against communal tension.
 - xii. Patrolling pickets in sensitive areas and general police vigilance should continue till complete normalcy is restored.
 - xiii. Policemen have to be on duty at various places for many days. Satisfactory feeding and shelter arrangements should be made for them.

318. **Broad Based and Comprehensive Administrative Measures**

- i. A high powered Standing Council presided over by the Home Minister consisting of representatives of major political parties, officials of the Home Ministry, police officers and eminent sociologists may be constituted to review the communal situation and advise the government on a regular basis on measures to promote communal harmony and to minimize communal disturbances. Similar Councils may be constituted at field level also.
- ii. Citizens committees consisting of respectable members of the majority and minority communities as well as district officials should be constituted at the district and the police station level.

These committees can meet periodically to review communal situation. They may also mobilize popular support resolving differences in times of communal tension.

- iii. Formulation and effective implementation of appropriate policies, if considered necessary, to give effect to the secular provisions of the Indian Constitution. These provisions are contained in articles 14, 15, 16, 19, 25, 26, 28, 29 and 30.
- iv. The Government should evolve a definite policy in regard to ordering of judicial inquiries into the use of force by the police to control communal disturbances or other incidents. Too frequent appointment of such judicial inquiries may create fear and hesitation in the minds of police officers to use force swiftly, effectively and in a determined manner. Normally an administrative inquiry should be held, and if it makes out a prime facie case that there has been either unjustified or excessive use of force by the police, a judicial inquiry may be ordered.
- v. Normally, cases against persons who have indulged in communal riots should not be withdrawn, but if it is thought necessary to do so in exceptional circumstances, it should be done as per the government approved policy.

319. **Political Approach and Attitude**

- Major political parties should evolve a code of conduct and agree not to take advantage of communal feelings for gaining political advantage.
- They should propagate secular ideals and value and mobilize public support for the same.

320. **New Police Strategy**

1. The police organization should be considerably strengthened and improved by providing greater and better quality of manpower, better equipment, greater mobility and better communications.
2. The Special Branch of the police should be strengthened at all levels.
3. Training of policemen should be more intensive in methods of crowd control and handling violence such course should include lessons in crowd psychology and social psychology. Specialized riot control squads with special training should be set up in every town and district.
4. Police plans in respect of communal pickets or areas having a potential of communal disturbances should be prepared and kept ready. Such plans should be based on a careful appreciation of the nature and magnitude of the problems likely to be faced. Estimates of requirements and availability of manpower, transport, control room and communication facilities, and equipment, etc., should be made and included in the plan.

Educational Measures

321. The syllabi of all educational institutions should be reviewed and, if necessary, revised to ensure that the secular values and requirements of national integration unity are adequately emphasized. Such a review, of course should also see that no objectionable material which may promote communal disharmony is contained therein.

322. **Cultural and Social Impacts**

- i. There should be greater inter-community participation in cultural and social activities. For this purpose, recreational facilities, sports, and youth clubs, etc may be organized in which members of both the majority and minority communities may be encouraged to participate.

- ii. Communal disturbances are outer symptoms of the deeper malady affecting the body politic. These are a product of political, social, economic, cultural, administrative and other factors in the society. Only an integrated, concerted and sustained action on all those fronts can strike at the conditions that give rise to communal disharmony and disturbances. The police need to be associated with and play an active role in the combined social action against the communal menace. The main role of the police, however, is limited to dealing with the outer manifestation of the communal menace involving potential or actual violence and actual or potential commission of offences. The main objective of the police should be to prevent communal tensions breaking into violence and in the event of its emergence to control and contain it within minimum limits. This is a heavy, difficult and delicate responsibility on the police which has to be discharged with determination, efficiency and impartiality. In this task, they should solicit the cooperation and support of leaders of public opinion, the press, administrative agencies and major social institutions.

Legal Provisions

323. The legislature has provided strict laws on preventive as well as punitive side for preventing and punishing the commission of

crime relating to communal disturbances.

I. **Preventive Provisions :**

a) Preventive action under the Cr.P.C. :

(i) Security for good behavior u/s 108 Cr.P.C. : Any person who either orally or in writing or in any other manner, intentionally disseminates or attempts or abets dissemination of any matter the publication of which is punishable under section 124-A, 153-A, 153-B or 295-A IPC or any matter pertaining to intimidation of a Judge or any person who makes a publication of any of matter punishable u/s 292 IPC, may be bound down by a Magistrate for one year and may required to furnish security for good behavior. Hence all such persons like communal elements who disseminate such matter may be bound down in advance. Police stations and the District Special Branch Unit. should have complete record of speeches and uttering of such persons which provide very good evidence under this section.

b) Preventive Police action regarding processions and

Assemblies u/s 144, 144A Cr.P.C. : Freedom of conscience and religious liberty are guaranteed to all persons including foreigners under article 25 of the Constitution of India and also a right to form associations or unions is guaranteed by Article 19 (1) (a), of the Constitution. But these rights are not absolute and the State is empowered to impose reasonable restrictions in the interest of public order safety, morality, health and public user of thorough fares etc. Hence laws regarding regulation of religious and other processions and Assemblies have been enacted u/s 144, 144A CrPC and section 156 of the Sikkim Police Act 2008. Under Section 144 CrPC, when a police officer

considers that an assembly or procession is likely to commit a communal riot or other public disturbance, procession or assembly can be prohibited under the orders of an appropriate Magistrate. Under Section 144 this can be done only when maintenance of public order becomes impossibility without restricting the religious assemblies and processions. This ban cannot remain in force for more than two months hence the police should be able to control the communal disturbance within this time. Curfew orders banning assembly of persons or appearance at a public place at a certain time" can also be issued by the Magistrate but a blanket order "Shoot at Sight" for violation a curfew order is clearly illegal as violation of an order under 144 CrPC is a minor offence u/s 188 IPC punishable with 6 months imprisonment only. "Shoot at Sight" orders are justified either on grounds of private defense of life or property u/s 100&103 IPC or to cause dispersal of an unlawful assembly which is likely to cause disturbance of public peace u/s 129 CrPC. Hence, "Shoot at Sight" orders should not be passed generally but only when serious threat to life and property is apprehended to the degree of rights given u/s 100 & 103 IPC'.

c) Dispersal of unlawful assemblies u/s 129 CrPC - In any communal riot, any Executive Magistrate, Officer In charge in a Police Station in his absence any Police Officer not below the rank of Sub Inspector may command an unlawful assembly or any assembly of 5 or more persons likely to cause a disturbance of the public peace, to disperse and if such assembly does not obey, it can be dispersed by force including firing also. But for dispersal a minimum force, required should be used. Help can

also be taken of Armed Forces u/s 130 CrPC under the orders of Executive Magistrate. Disobedience of this order for dispersal if not abided by any member of assembly is punishable **u/s** 188 IPC.

d) Preventive action including arrest u/s 149, 150 & 151 Cr.P.C. - U/s 149 of the CrPC every Police Officer is duty bound to the best of his ability to prevent commission of Cognizable offence. U/s 150 CrPC every Police Officer is duty bound to inform the S.H.O. or his immediate superior of any design of any person to commit a cognizable offence.

Forfeiture of Blasphemous Publications u/s 95 Cr.P.C.

324. Under this section State Government is entitled to forfeit blasphemous publications which have a tendency to promote communal disharmony or offend the religious sentiments of others and the offending material false within the mischief of Section 153-A or 153-B or 295-A IPC. It is essential to mention in the forfeiture order that religious-feelings of a particular class have been outraged or it promotes feelings of hatred between particular classes of citizens. In such publications, truth of the matter published is no defense yet the publication to be forfeited must be considered as a whole and isolated passages torn from the context should never be picked up to pass such order of forfeiture. It is decided that basic religious books like Koran, Ramayana, Gita , Bible, Tripitaka & Domang cannot be forfeited being sacred books. An object held sacred by a class of persons, within the meaning of Section 295 Penal Code, no action should be taken.

Special Provisions u/s 153 -B

325. Under this section following acts are punishable:

1. Making of any imputation on the basis of religion, caste,

community or group that a certain group does have not faith in the Constitution of India.

2. Making assertion or propaganda that on the basis of caste or religion any group is deprived of their rights.
3. Making or publishing any assertion plea or otherwise which is likely to cause feelings of enmity and hatred between members of different groups.
4. Committing above Acts in a place of worship. All the above acts from 1, 2, 3, are punishable with 3 years imprisonment while at 4 is punishable with 5 years imprisonment.

238.1 Though offences under, section 153-A & 153-B are cognizable but cognizance of the offences by the court can be taken only after previous sanction of the Central or State Govt.

Offences Relating to Religion Under Chapter 15 of IPC

326. Under this chapter sections 295 to 298 of the IPC deal with different offence relating to religion.

1. **Section 295** - Under this section injuring or defiling place of worship with intend to insult the religion of any class is punishable with 2 year imprisonment.
2. **Section 295-A** -This section provide punishment of 3 years of imprisonment to any person, who, by deliberate and malicious acts out rages religious feelings of any class by insulting its religion or religious beliefs. This is a special provision which is non-bailable-and cognizable but challan can be put up only after getting permission from the Central and State Govt.
3. **Section 296** - This section punishes persons who cause disturbances to any assembly performing religious worship or ceremony.
4. **Section 297** - This section punishes person's trees passing on the

burial places with intention to bind the feelings of other religion.

5. **Section 298** - This section punishes persons who utter words with deliberate intention to bound religious feelings.

II. **Punitive Action :**

In addition to the general offences of injury to human body, loss or destruction of public or private property by mischief or otherwise, punishable under the different sections of the Indian Penal Code, the following few provisions are important which, specifically relates to communal violence and breach of communal peace:

Offences against public tranquility Section 141 to 153 IPC

Section 141 IPC defines unlawful assembly as assembly of 5 or more persons with a common object to overawe by criminal force any Central or State Govt., to resist any execution of any law, to commit any mischief trespass and other offence, to obtain possession of land by show of criminal force etc. Under Section 142 IPC any person who joins that assembly, is declared to be member of that unlawful assembly and has been held punishable u/s 143 IPC. Joining unlawful assembly armed with deadly weapons is a serious offence. Under Section 144 IPC and joining or continuing in unlawful assembly knowing that it has been commanded disperse, is also a serious offence u/s 145 IPC. When force or violence is used by the unlawful assembly becomes a riot defined u/s 146 IPC and whoever is guilty of rioting, is punishable u/s 147 IPC and if the rioting, is with arms is becomes a serious offence u/s 148 IPC and punishable with 3 years of imprisonment. Under Section 149 IPC every member of the unlawful assembly has been held liable for every offence committed in prosecution of that common object. Similarly hiring of persons to join unlawful assembly is punishable u/s 150 and joining such unlawful assembly after it has been commanded to disperse is an

offence under 151 IPC.