

A of enmity or hatred  
between different  
classes



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A person is said to promote enmity between classes when he, by words, either spoken or intended to be read or by sign or by visible representations or otherwise promotes or attempts to promote feelings of enmity or hatred between different classes of the citizens of India. It does not amount to an offence as here defined to point out, without malicious intention and with an honest view to their removal, matters likely to promote such enmity.

**Principle and Scope:** The section supplements the law of sedition. The section means that no subject of the Government is entitled to write or say or do anything whereby the feelings of one class of citizens of India will be inflamed against another class of his subject. It is not confined to the promotion of feelings of enmity, etc. on the grounds of religion only but takes in promotion of such feelings on the other grounds as well, such as race, place of birth, residence, language, caste or community. The word "spoken" or "written" must be such as to promote hatred, feelings of enmity etc. Intention is not a necessary ingredient of Section 153-A, and if the words are likely to have the effect contemplated by the section, it is not necessary further to establish that the writer had the intention to promote such hatred. Where the language employed is patently scurrilous and offensive, the requisite intention under Section 153-A and Section 259-A must be presumed. Under this section success of an attempt is not necessary.

A person cannot escape from the consequences of uttering words, with intent to promote feelings mentioned in the section, solely because the person to whom they are addressed may be too wise or too temperate to be influenced by them. Articles creating hatred and enmities between two communities cannot be protected in the guise of political thesis or historical

truth. Adverse criticism against a Government or Ministry does not fall within the purview of this section. Applicability of the section: In order to apply this section there should be (i) promotion of feelings of enmity or hatred (ii) between different classes of the citizens. The word “ promotes” or “ attempts to promote feelings of enmity” are to be read as connoting a successful or unsuccessful attempt to promote feelings of enmity. The ‘ classes’ contemplated must be not only clearly defined and separable but also numerous.

To bring any body of persons within the description of a ‘ class’ of citizens, the body of persons must possess a certain degree of importance numerically, and must be ascertained with certainty and distinguished from any other class. Every group of persons cannot be designated as a class. Intention: Allahabad High Court’s view is that the intention of the author to promote hatred or enmity between different classes is not a necessary ingredient. Even if a question of intention could arise, such intention must be gathered from the words used; and they themselves would be conclusive and it would not be necessary for prosecution further to prove that such an intention was behind the use of such words. The Chief Court of Oudh held that the gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The same is the view of Patna High Court and of Chief Court of Oudh. According to Calcutta High Court, the essence of the offence is malicious intention.

The Bombay High Court held that the prosecution must prove that the accused had the intention to promote enmity. The intention of the writer must be gathered from the article as a whole. It can also be inferred from the <https://assignbuster.com/a-of-enmity-or-hatred-between-different-classes/>

effect of the words, signs or other representations are likely to produce upon the class of persons to be effected by it. Explanation: It appears from the nature of the Explanation that the intention is the gist of the offence.

It does not amount to an offence within the meaning of the section to point out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of the subjects. The section is never intended to apply to the case of the honest agitator, whose primary object is to secure redress of certain wrongs, real or fancied, and who is not actuated by the base mentality of a mere mischief monger. It must be noted here that the Explanation does not enlarge the provisions of the substantive section. In this Explanation there is a delicate balancing of the important public considerations and in applying these balancing principles it is inevitable that different minds may come to different results, one mind attaching more weight to the consideration of freedom of argument and the other to the preservation of law and order or of harmony. Validity of the section: The Punjab High Court following the ruling of the Supreme Court in Ramesh Thappar's case held Section 153-A to be void as it is in restriction of the fundamental rights set out in Article 19 of the Constitution and is not saved by the restriction made by Clause (2) of Article 19.

But in view of the Constitution (First Amendment) Act, 1951, which brought about a change in the provisions of Clause (2) of Article 19, the decision of Punjab High Court became a doubtful authority. Further, in view of the decision of the Supreme Court in Kedar Nath v. State of Bihar, the provisions of Section 153-A of the Code are not unconstitutional. The language used in <https://assignbuster.com/a-of-enmity-or-hatred-between-different-classes/>

Section 153-A is not of an all pervading nature and does not suffer from being all embracing with the result that because of language no one who does not either promote or attempt to promote class hatred or enmity can be convicted. The section is not too widely worded nor is indefinite. The Allahabad High Court, following Kedar Nath's case, held that the section is not ultra vires Article 19(1)(a) of the Constitution. The addition of the words "in the interest of public order" in Article 19(2) by the Constitution (First Amendment) Act, 1951, makes the ambit of the protection very wide and any provision which has been enacted in the interest of public order would be valid.

Therefore, if the State has, in the I. P. C. provided a provision which makes either the attempt or the actual commission of an act promoting feelings of enmity and hatred between different classes of the citizens of India punishable, it must be held that the provision is in the interest of public order, it is not necessary that the law may have been designed directly to maintain public order.

It would be valid even if it has been enacted in the interest of public order.