BLOGS

Learn in a Minute- Unlawful Assembly under Indian Penal Code

Ruchika Mohapatra · 21 May 2024

Introduction

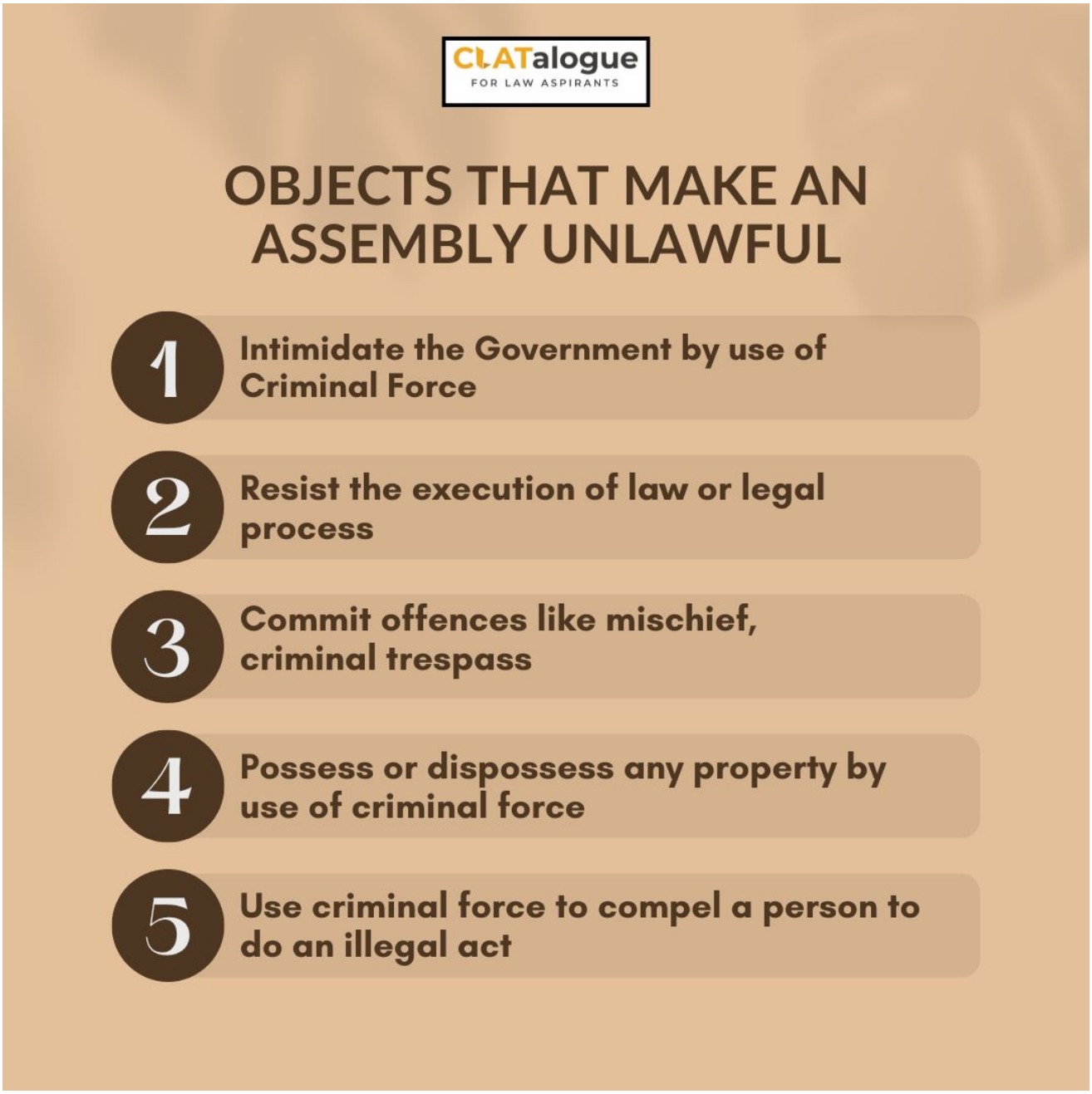
Before understanding what constitutes an unlawful assembly, it is crucial to recognize the right to assemble, as guaranteed under Article 19(1)(b) of the Indian Constitution. Article 19 of the Indian Constitution guarantees certain fundamental rights to the citizens of India, aimed at ensuring individual freedoms and the protection of civil liberties. Article 19(1)(b) provides the right to assemble peacefully and without arms.

The right to assemble under this provision is contingent upon the assembly being peaceful. This means that the gathering must not involve violence, threats of violence, or any form of disorderly conduct that could disturb public peace and order.

Let us now proceed to know more about what makes an assembly unlawful!

What is Unlawful Assembly?

Section 141 of the IPC defines ‘unlawful assembly’ as an assembly of five or more persons that is designated as ‘unlawful’ if the common objective of the persons composing that assembly is:



- To overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant;
- To resist the execution of any law, or of any legal process;
- To commit any mischief or criminal trespass, or other offence;
- By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of

the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right;

- By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Essential Elements of Unlawful Assembly

Assembly of Five or More Persons: There must be at least five persons. Less than five would not constitute an unlawful assembly. **Section 142 of IPC** states ***"Whoever, being aware of facts that render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly"***.

In the case of ***Moti Das v. State of Bihar***, *it was held that "*An assembly which is lawful in its inception may become unlawful by the subsequent acts of its members. It may turn unlawful all of a sudden and without previous concert among its members. But an illegal act of one or two members, not acquiesced in by the others, does not change the character of the assembly".

For example, if five individuals gather to prevent the police from executing a court order to demolish illegal structures. They are part of an unlawful assembly with the common object to resist the execution of a legal process.

Common Object: The term 'common object' means that the assembly of persons must have the same goal. The goal must align with one of the purposes stated in Section 141.

In the case of ***State of Uttar Pradesh v. Ravinder***, the court reiterated that an assembly of five or more persons is considered unlawful if it has a common object specified under Section 141 IPC and that the prosecution must prove that the assembly's common object was unlawful, such as committing an offence or resisting the execution of law.

For example, if six people assemble to break into a house to commit theft. Their common object is to commit theft, thus forming an unlawful assembly.

Punishment for Unlawful Assembly

Section 143 of the IPC: Section 143 of IPC prescribes the punishment for being a member of an unlawful assembly with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Section 144 of the IPC: Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 145 of the IPC: Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Conclusion

The concept of an unlawful assembly under the IPC is well-defined and has been elaborated through various judicial pronouncements. The courts have consistently held that the prosecution must prove the common object and active participation of the accused in such an assembly.

Also Read: Notes on Section 34 of IPC