Short Brief

Constitutional and Legal Framework
Governing
Religious Freedom and Related Issues

By
The Centre for Policy Alternatives (CPA)

July 2014
Introduction

There have been an increasing number of instances of hate speech and attacks on religious freedom. The Centre for Policy Alternatives (CPA) has condemned such violence and hate speech, issued several documents to this effect and advocated immediate steps to be taken to halt the spread of violence and hate and ensure accountability for such action.¹ In this regard, it is vitally important to be aware of the existing Constitutional and legal framework governing religious freedom and related issues in Sri Lanka and of the procedures in place empowering the State and its agents to provide for and protect religious freedom for all Sri Lankans. Likewise, it is important for the citizens of Sri Lanka to be aware of the safeguards and recourse available to them to ensure that their rights are protected.

The protection of religious freedom is an integral element of a functioning pluralist democracy. Whilst there are many different approaches to protecting religious freedoms, it is important that limitations on the exercise of civil liberties are avoided. From penal legislation enacted during the British colonial period to the 1978 Constitution and more recent legislative measures, Sri Lanka has a long history of legal provisions for the protection of religion and religious beliefs. The recent incidents in Aluthgama and Beruwala in June 2014 generated a significant amount of interest on as to how these legal provisions can be used to prevent such incidents and to hold perpetrators to account.

In the absence of clarity regarding the relevant legal provisions, CPA has compiled the relevant legal provisions in order to create awareness of protections provided and available legal remedies regarding religious freedom. Furthermore, the Annex to this brief also contains existing legal provisions relating to the process of conducting processions, the powers of the Magistrates and Police in restraining the same and the procedures for bringing perpetrators to account. CPA has included the Annex in light of the recent developments including the events in Aluthgama and Beruwala.

Constitutional and Legal Framework Governing Religious Freedom

1. Constitutional Framework


The Constitutional provisions which have a direct bearing on religious freedom in Sri Lanka are Article 9, 10 and 14(1) (e) of the Constitution. Article 9 relates to the foremost place of Buddhism and the State’s duty, subject to the provisions of Articles 10 and 14 (1) (e), to protect and foster Buddhism. Article 10, which is an absolute right by being exempt from the limitations on fundamental rights set out in Article 15, states that “every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.” Article 14 (1) (e) provides that “Every citizen is entitled to the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice or teaching.” This right is subject to certain restrictions that may be prescribed by law under Article 15 (7), for the purpose of, inter alia, “securing recognition and respect for the rights and freedoms of others.”
The scope of Article 9 and its relationship to Articles 10 and 14(1)(e) has been examined in several decisions of the Supreme Court. However there does not seem to be judicial consensus on this issue. Although the Court has taken an expansive view of Article 9 in some cases\(^2\), this has been criticised as being contrary to the provisions of the Constitution.\(^3\) Furthermore in at least one other case\(^4\) the Court sought to retreat from the expansive interpretation of Article 9 and in a later case went to the extent of stating that;

"It has to be firmly borne in mind that Sri Lanka is a secular State. In terms of Article 3 of the Constitution, Sovereignty is in the People at common devoid of any divisions based on perceptions of race religion language and the like." \(^5\)

Furthermore Article 12 protects individuals from discrimination on grounds of religion and prevents any person from being subject to any disability, liability, restriction or condition with regard to access to public places on grounds of religion. In addition, Article 4(d) of the Constitution provides that all organs of the Government have a responsibility to respect, secure and advance all fundamental rights recognised by the Constitution. As shown below, fundamental rights are justiciable only when there is an infringement or imminent infringement of such rights by executive or administrative action.

It should also be noted that Directive Principles of State Policy contained in Article 27 (5) provides that the State shall strengthen national unity by promoting co-operation and mutual confidence among all sections of the People of Sri Lanka, including the racial, religious, linguistic and other groups, and shall take effective steps in the fields of teaching, education and information in order to eliminate discrimination and prejudice. Furthermore Article 27 (11) provides that the State shall create the necessary economic and social

\(^2\) Supreme Court Special Determination on a Bill titled “New Wine Harvest Ministries (Incorporation)” SC. SD. 02/2003; Supreme Court Special Determination on a Bill titled “Provincial of the Teaching Sisters of the Holy Cross of the Third Order of Saint Francis in Menzingen of Sri Lanka” SC. SD 19/2003


\(^4\) Supreme Court Special Determination on Bill titled “Prohibition of forcible conversion of Religion” SC. SD 2 – 22/2004

\(^5\) Alhaj M. T. M. Ashik and others V. R.P.S. Bandula, O.I.C., Weligama and others SC. FR 38/2005
environment to enable people of all religious faiths to make a reality of their religious principles. Although Directive Principles are not justiciable in a court of law, the Constitution envisages that they will guide the Government and the Legislature in the law making process and the governance of the country.

However, case law suggests that where a private individual was acting as a functionary of the State or where an executive or administrative authority should have, but failed to prevent the actions of a private individual, which would amount to the infringement of a fundamental right, the Supreme Court has been willing to consider an application regarding the violation of fundamental rights.⁶

2. Legal Framework

This section in the brief examines several laws relevant to the subject matter including the Penal Code, the Police Ordinance, the International Covenant on Civil and Political Rights (ICCPR) Act and the Prevention of Terrorism Act. These are briefly discussed below:

2.1 PENAL CODE No. 2 of 1883 Chapter XV- Offences relating to religion

Several provisions in the Penal Code designate acts done to insult religion, religious places of worship and to disturb religious assemblies and gatherings as criminal offences. These acts are criminalised when they are done with the intention to insult a religion or the intention to insult the religious beliefs of any class of persons.

Section 290- Injuring or defiling a place of worship with intent to insult the religion of any class

Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to

consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 290A- Acts in relation to places of worship with intent to insult the religion of any class

Whoever does any act, in or upon, or in the vicinity of, any place of worship or any object which is held sacred with intent to or in veneration by any class of persons, with the intention wounding the religious feelings of any class of persons or with the knowledge that any class of persons is likely to consider such act as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 291- Disturbing a religious assembly

Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 291A- Uttering words with deliberate intent to wound religious feelings

Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.
Section 291B- Deliberate and malicious acts intended to outrage religious feelings of any class, by insulting its religion or religious beliefs.

Whoever, with the deliberate and malicious intention of outraging the religious feelings of any class of persons, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 292- Trespass in any place of worship or on any place of sepulture

Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

2.2 POLICE ORDINANCE No.16 of 1865

Although not specific to religious meetings and processions, the Police Ordinance criminalises the possession of dangerous weapons at public meetings and processions, and use of words or behaviour tending to cause breach of the peace.

Section 79 (2)- Any person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour which is intended to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence under this section.
Section 79 (3)- Any person who is guilty of an offence under this section shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

3. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) ACT 56 of 2007

The ICCPR Act No. 56 of 2007 by Section 3 has adopted Article 20 of the International Covenant on Civil and Political Rights (ICCPR) and makes it a criminal offense for any person to propagate war or advocate national, racial or religious hatred. The Act provides that the trial of any person accused of committing an offense under Section 3 should be taken up as a matter of priority and also precludes the accused being released on bail unless in exceptional circumstances.

Section 3(1)- No person shall propagate war or advocate national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Section 3(2)- Every person who— (a) attempts to commit; (b) aids or abets in the commission of; or (c) threatens to commit, an offence referred to in subsection (1), shall be guilty of an offence under this Act.

4. PREVENTION OF TERRORISM ACT No. 48 of 1979

7 CPA has repeatedly called on the Government to repeal, if not amend the PTA so as to bring its provisions in line with Sri Lanka’s own constitutional standards of fundamental rights as well as its international obligations, especially the International Covenant on Civil and Political Rights (ICCPR). One of the PTA’s main shortcomings is that it provides for vague and loosely defined offences with heavy penalties that are inconsistent with general principles of criminal liability. See CPA, “The Need To Repeal And Replace The
The Prevention of Terrorism Act (PTA), by Section 2(h) criminalises acts which cause violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups. The offense as defined in the PTA is broad and has the potential to cover a large variety of circumstances.

**Section 2(h)**- Any person by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intended to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups; shall be guilty of an offense under this act.

Further any person guilty of an offence under Section 2(h) of subsection (1) shall on conviction be liable to imprisonment of either description for a period not less than five years but not exceeding twenty years.

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5. Legal Remedies Available for Citizens Who are Affected by Religious Violence

This section briefly sets out the distinct remedies available for agents of the State and citizens to obtain redress.

Courts of Law

1) High Court / Magistrate’s Court

The Penal Code criminalises acts to insult religion, religious places of worship and to disturb religious assemblies and gatherings. Section 291A and 291B of the Penal Code (discussed above) provides for the very broadly defined offenses dealing with intentionally wounding or outraging the religious feelings of any person or any class of persons.

Any person accused of committing an offense covered by Sections 290 –292 of the Penal Code can be arrested without a warrant and tried before Magistrate’s Court.

The Code of Criminal Procedure sets out the procedure by which proceedings before the Magistrates Court should be initiated;

Section 136 (1) Proceedings in a Magistrate’s Court shall be instituted in one of the following ways: -

(a) on a complaint being made orally or in" writing to a Magistrate of such court that an offence has been committed which such court has jurisdiction either to inquire into or try: Provided that such a complaint if in writing shall be drawn and countersigned by a pleader and signed by the complainant; or

(b) on a written report to the like effect being made to a Magistrate of such court by an inquirer appointed under Chapter XI or by a peace officer or a public servant or a servant of a Municipal Council or of an Urban Council or of a Town Council;

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8 Worth noting that any person is also entitled to file an action in the District Court to recover damages caused by any acts which are also punishable in terms of the Penal Code or any other statute.

9 See Section 10 of the Code of Criminal Procedure read together with the 1st Schedule
(c) upon the knowledge or suspicion of a Magistrate of such court to the like effect; Provided that when proceedings are instituted under this paragraph the accused or when there are several persons accused any one of them, shall be entitled to require that the case shall not be tried by the Magistrate upon whose knowledge or suspicion the proceedings were instituted, but shall either be tried by another Magistrate or committed for trial; or 
(d) on any person being brought before a Magistrate of such court in custody without process, accused of having committed an offence which such court has jurisdiction either to, inquire into or try; or 
(e) upon a warrant under the hand of the Attorney-General requiring a Magistrate of such court to hold an inquiry in respect of an offence which such court has jurisdiction to inquire into; or (f) on a written complaint made by a court under Section 135.

However Section 135 (1) (e)\(^{10}\) and 135 (1) (g)\(^{11}\) mandates that the Attorney General’s sanction needs to be first obtained for the Magistrates Court to be able to take steps with any offense punishable under Sections 290A, 291A and 291B.

Proceedings against any person accused of committing an offense punishable by Section 3 of the ICCPR act or Section 2(h) of the PTA – as provided for by the said acts discussed above- should be instituted in the High Court. In every trial before the High Court the prosecution shall be conducted by the Attorney General or the Solicitor General or a State Counsel or by some pleader generally or specially authorised by the Attorney General in their behalf.\(^ {12}\)

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\(^{10}\) Section 135(1)(e) Any court shall not take cognizance of any offence punishable under Section 290A or Section 291B of the Penal Code unless upon complaint made by the Attorney General or by some other person with the previous sanction of the Attorney General;

\(^{11}\) Section 135(1)(g) Any court shall not take cognizance of any offence punishable under Section 291A of the Penal Code, unless upon complaint made with the previous sanction of the Attorney General by some person aggrieved by such offence or by some other person with the like sanction

\(^{12}\) See Section 193 of Code of Criminal Procedure.
2) The Court of Appeal

Article 140 of the Constitution grants the Court of Appeal the full power and authority to issue orders in the nature of writs of certiorari, prohibition, procedendo, mandamus and quo warranto. Any person can invoke the writ jurisdiction of the Court of Appeal in terms of Article 140 of the Constitution by way of a petition (which should set out a plain and concise statement of facts and circumstances) together with an affidavit in support of the contents of the petition and (duly certified) copies of supporting documents.  

3) The Supreme Court

Every person who alleges that the fundamental rights provided in Article 10, 12(2), 12(3) and 14(1)(e) of the Constitution to him/her have been violated or is in danger of being violated by executive or administrative action, is entitled in terms of Article 126(2) within one month thereof, apply to the Supreme Court by way of petition seeking relief or redress in respect of such infringement.

The petition should set out a plain and concise statement of facts and circumstances relating to infringement or imminent infringement of the right and the details of the executive or administrative action by which the said right(s) have been violated or is in danger of being violated. Available documentary evidence and affidavits in support of the petition should be tendered together with the petition.

Other Fora

Human Rights Commission

In terms of Section 14 of the Human Rights Commission Act (HRC Act), the commission can investigate the infringement or imminent infringement of the fundamental rights of a

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person or group of persons on its own initiative or on a complaint filed by an aggrieved person or group of persons or a person acting on behalf of an aggrieved person or a group of persons. For the commission to be able to exercise jurisdiction the said infringement or imminent infringement of a fundamental right should be caused-

(a) by executive or administrative action; or

(b) as a result of an act which constitutes an under the Prevention of terrorism Act, No. 48 of 1979, committed by any person.

The provisions of the HRC Act does not expressly provide for a time period during which the complaint needs to be made. However Section 13 provides that “where a complaint is made by an aggrieved party to the Commission, within one month of the alleged infringement or imminent infringement of a fundamental right, the period within which the inquiry into such complaint is pending before the Commission, shall not be taken into account in computing the period of one month within which an application may be made to the Supreme Court by such person in terms of Article 126(2) of the Constitution”. Therefore if an aggrieved person is to file a fundamental rights application in the Supreme Court and file a complaint with the Commission, the complaint to the commission needs to be made within one month.

Unlike a court of law, there is no specific form that requires to be followed when making an application to the Commission.
Annex 1

LAW AND PROCEDURE IN RESPECT OF POSSIBLE LEGAL REMEDIES FOR
THE DISPERsal AND RESTRAINT OF UNLAWFUL ASSEMBLIES,
PROCESSIONS AND RiOTS

6. PENAL CODE No. 2 of 1883

Section 138 Unlawful assembly

An assembly of five or more persons is designated an "unlawful assembly" if the common
object of the persons composing that assembly is-

Firstly- To overawe by criminal force, or show of criminal force, the Government of
the Republic or the Parliament or any public servant in the exercise of the lawful
power of such public servant; or
Secondly- To resist the execution of any law or of any legal process; or
Thirdly- To commit any mischief or criminal trespass or other offence; or
Fourthly- 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 or the public of
the enjoyment of a right of way or of the use of water or other incorporeal right of
which such person or public is in possession or enjoyment, or to enforce any right or
supposed right; or
Fifthly- 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; or
Sixthly- That the persons assembled, or any of them, may train or drill themselves,
or be trained or drilled to the use of arms, or practicing military movements or
evolutions, without the consent of the President.
Section 139  Being a member of an unlawful assembly

Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Section 141  Joining an unlawful assembly armed with any deadly weapon.

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 142  Joining or continuing in an unlawful assembly knowing that it has been commanded to disperse.

Whoever joins or continues in an unlawful assembly knowing that such unlawful assembly has been commanded by lawful authority 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.

Section 143  Force used by one member in prosecution of common object.

Whenever force or violence is used by an unlawful assembly, or by any member, thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Section 145  Rioting, armed with a deadly weapon.

Whoever is guilty of rioting, being armed with a deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
Section 146 Every member of an unlawful assembly to be deemed guilty of any offence committed in prosecution of common object.

If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly is guilty of that offence.

7. CODE OF CRIMINAL PROCEDURE No. 15 of 1979

Section 95 (1) - Dispersal of Unlawful Assembly

Any Magistrate or police officer not below the rank of Inspector of Police may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Section 95 (2) - Use of civil force to disperse assembly

If upon being so commanded any such assembly does not disperse or if without being so commanded it conducts itself in such a manner as to show a determination not to disperse, the Magistrate or the police officer may proceed to disperse such assembly by the use of such force as is reasonably necessary to disperse the assembly and may require the assistance of any person (not being a member of the Army, Navy or Air Force, whether of Sri Lanka or of any other country, acting as such) for the purpose of dispersing such assembly and if necessary arresting and confining the persons who form part of it in order to disperse such assembly or that they may be punished according to law.

Section 95 (3) - Use of military force to disperse assembly

If any such assembly cannot be otherwise dispersed and it is necessary for the public security that it should be dispersed, a Magistrate or the Government Agent of the District or
any police officer not below the rank of Superintendent of Police may cause it to be dispersed by requiring any commissioned or non-commissioned officer in command of any personnel of the Sri Lanka Army, Navy or Air Force, to disperse such assembly by military force and to arrest and confine such persons as form part of it as may be necessary in order to disperse the assembly or to have them punished according to law. Every such commissioned or non-commissioned officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons.

**Section 96 - Power of commissioned military officers to disperse assembly.**
When the public security is manifestly endangered by any such assembly and when a Magistrate, the Government Agent or a police officer not below the rank of Superintendent of Police cannot be communicated with, any commissioned officer of the Sri Lanka Army, Navy or Air Force may disperse such assembly by military force and may arrest and confine any persons forming part of it in order to disperse such assembly or that they may be punished according to law; but if while he is acting under this section it becomes practicable for him to communicate with the Magistrate or Government Agent or a police officer not below the rank of Superintendent of Police he shall do so and shall thereafter obey the instructions of such Magistrate or Government Agent or police officer as to whether he shall or shall not continue such action.

**Section 106- Temporary Orders in Urgent Cases of Nuisance; Power to issue absolute order at once in urgent cases of nuisance**

**Section 106(1)** In cases where in the opinion of a Magistrate immediate prevention or speedy remedy is desirable the Magistrate may by a written order stating the material facts of the case and served in manner provided by section 99 direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if the Magistrate considers that such direction is likely to prevent or tends to
prevent obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury to any persons lawfully employed, or danger to human life, health or safety, or a riot or an affray.

Section 106(2) An order under subsection (1) may in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the persons against whom the order is directed be made ex pane.

Section 106(3) An order under subsection (1) may be directed to a particular person or to the public generally when frequenting or visiting a particular place, and in the latter case a copy of the order shall be posted up as provided by subsection (2) of section 99.

Section 106(4) Any Magistrate may rescind or alter any order made under subsection (1) by himself or by his predecessor in office.

Section 106(5) An order under this section shall not remain in force for more than fourteen days from the making thereof unless, in cases of danger to human life, health, or safety, or a likelihood of a riot or an affray, the Minister by notification in the Gazette otherwise directs.

8. POLICE ORDINANCE No. 16 of 1865

Section 77- Power to give directions prohibiting or regulating processions

Section 77(1) No procession shall be taken out or held in any public place in any area, unless notice in writing of such procession has, at least six hours before the time of the commencement of such procession, been given to the officer in charge of the police station nearest to the place at which the procession is to commence:
Provided that nothing in the preceding provisions of this subsection shall apply in the case of any procession of any such description as may be exempted from these provisions by Order made by the Minister and published in the Gazette.

Section 77(2) Where any procession is taken out or held in contravention of the provisions of subsection (1), every person organizing that procession or doing any act in furtherance of the organization or assembling of that procession and every person taking part in any such procession, shall be guilty of an offence.

Section 77(3) Notwithstanding anything in any other law, an officer of police of a rank not below the grade of Assistant Superintendent, if he considers it expedient so to do in the interests of the preservation of public order, may give directions (whether orally or in writing) prohibiting the taking out of any procession or imposing upon the person or persons organizing or taking part in the procession such conditions as appear to him to be necessary, including conditions prohibiting or restricting the display of flags, banners or emblems.

Section 77(4) Any person who organizes or takes part in any procession which is prohibited by directions given under subsection (3), or otherwise acts in contravention of any such directions, shall be guilty of an offence.

Section 77 (5) Every person who is guilty of an offence under this section shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding three years, notwithstanding that such term exceeds the term of imprisonment which a Magistrate may impose in the exercise of his ordinary jurisdiction, or to both such fine and imprisonment.
Annex 2

LAW IN RESPECT OF OFFENCES THAT MAY OCCUR IN THE CONTEXT OF AN UNLAWFUL ASSEMBLY, PROCESSION AND/OR RIOT\textsuperscript{15}

9. PENAL CODE

Section 310  Cause hurt

Whoever causes bodily pain, disease, or infirmity to any person is said to "cause hurt".

Section 311  Grievous hurt

The following kinds of hurt only are designated as "grievous";

(a) emasculation;

(b) permanent privation or impairment of the sight of either eye;

(c) permanent privation or impairment of the hearing of either ear;

(d) privation of any member or joint;

(e) destruction or permanent impairment of the powers of any member or joint;

(f) permanent disfiguration of the head or face;

(g) cut or fracture, of bone, cartilage or moth or dislocation or sublimation, of bone, joint or tooth;

(h) any injury which endangers life or if consequence of which an operation involving the opening of the thoracic, abdominal or cranial cavities is performed;

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\textsuperscript{15} This is not an exhaustive list
(i) any injury which causes the sufferer to be in severe bodily pain or unable to follow his ordinary pursuits, for a period of twenty days either because of the injury or any operation necessitated by the injury.'.

Section 312  Voluntarily causing hurt

Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt".

Section 313  Voluntarily causing grievous hurt

Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said " voluntarily to cause grievous hurt".

Section 330  Wrongful restraint

Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said " wrongfully to restrain " that person.

Section 331  Wrongful confinement

Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits is said " wrongfully to confine " that person.
Section 340  Force

A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion or change of motion or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling:

Provided that the person causing the motion or change of motion or cessation of motion causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

   Firstly- By his own bodily power.

   Secondly- By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part or on the part of any other person.

   Thirdly- By inducing any animal to move, to change its motion, or to cease to move.

Section 341  Criminal force

Whoever intentionally uses force to any person, without that person’s consent, in order to the committing of any offence, or intending illegally by the use of such force to cause, or knowing it to be likely that by the use of such force he will illegally cause injury, fear, or annoyance to the person to whom the force is used, is said to use "criminal force" to that other.

Section 342  Assault

Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who
makes that gesture or preparation is about to use criminal force to that person, is said to commit "an assault".

**Section 427 Criminal trespass**

Whoever enters into or upon property in the occupation of another with intent to commit an offence, or to intimidate, insult, or annoy any person in occupation of such property, or having lawfully entered into or upon such property unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".

**Section 32 Liability for act done by several persons in furtherance of common intention**

When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

**Section 100 Abetment of the doing of a thing**

A person abets the doing of a thing who- Firstly- Instigates any person to do that thing; or Secondly- Engages in any conspiracy for the doing of that thing; or Thirdly- Intentionally aids, by any act or illegal omission, the doing of that thing.

**Section 101 Abettor**

A person abets an offence who abets either the commission of an offence or the commission of an act which would be an offence if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.
About CPA

The Centre for Policy Alternatives (CPA) is an independent, non-partisan organization that focuses primarily on issues of governance and conflict resolution. Formed in 1996 in the firm belief that the vital contribution of civil society to the public policy debate is in need of strengthening, CPA is committed to programmes of research and advocacy through which public policy is critiqued, alternatives identified and disseminated.

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