

## UNLAWFUL ACTIVITIES PREVENTION ACT (UAPA)

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**BEST CITATION** – MR. DNYANDEEP DADASAHEB KAMBLE, UNLAWFUL ACTIVITIES PREVENTION ACT (UAPA), *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (4) OF 2025, PG. 14-18, APIS – 3920 – 0001 & ISSN – 2583-2344.

### Introduction:

In the modern world, governments everywhere have made security and safety their top priority. Countries have been compelled to establish robust legal frameworks in order to preserve peace and safeguard national security due to threats like organized crime, terrorism, and domestic turmoil. One of the biggest and most varied democracies, India faces difficult security issues from both inside and without its boundaries. The Unlawful Activities (Prevention) Act (UAPA) was created by the Indian government in 1967 in order to address these dangers. The UAPA has grown over the years to become one of the most significant pieces of legislation in India's war on illegal activity and terrorism. To help you comprehend the UAPA's role in preserving national security, this article provides a straightforward explanation of its history, goals, principal provisions, disputes, and effects.

### Background and Historical Context:

Shortly after gaining independence in 1947, India began to encounter both external and internal security concerns. Political instability, separatist movements, and intercommunal tensions were all problems for the recently established country. Deep scars were left by the division of India and Pakistan, and tensions in geopolitics were exacerbated by the newly defined borders, especially in Jammu and Kashmir. India saw an increase in insurgencies in the north-eastern states and Naxalite uprisings in some areas of Andhra Pradesh and West Bengal in the 1950s and early 1960s. These complicated concerns could not be addressed by the legal framework that was in place at the time, which included the Criminal Law Amendment Act and the Preventive Detention Act of 1950. This legislation were deemed ineffectual in addressing the escalating issues, or they lapsed.

The emergence of separatist movements, such as the call for a separate state of Nagaland and violent hostilities in Kashmir, marked a turning point. In order to counter these dangers and

preserve national unity and sovereignty, the Indian government recognized the necessity for a specific law. The 1967 introduction of the Unlawful Activities (Prevention) Act was a response. Preventing illegal actions intended to undermine India's sovereignty and territorial integrity was the main objective of the UAPA. It gave the government the authority to outlaw groups engaged in these kinds of operations and bring charges against those who assist them. The law has been amended throughout time to address evolving security issues, particularly in the wake of significant terrorist incidents.

### Why Was the UAPA Introduced?

When the UAPA was first implemented, India was dealing with significant internal issues. A robust legal framework was urgently needed due to separatist movements in the northeast, political violence in West Bengal, and escalating tensions in Kashmir. The government intended to guarantee that any effort to compromise India's integrity and unity could be dealt with quickly and efficiently.

- The purpose of the law was to stop groups from advocating for independence or contesting India's territorial integrity.
- Providing law enforcement with the legal power to look into and bring charges against those engaged in illegal activity.
- Regulating the supply of money and supplies to terrorist and separatist groups.
- Giving organizations that pose a threat to national security a legal foundation for prohibition. The UAPA's original focus was on domestic disturbance and separatism, but over time, revisions have broadened its purview to include organized crime and terrorism.

#### Major Amendments to the UAPA:

The UAPA has undergone multiple amendments since its inception in order to increase its efficacy and meet new threats.

1. The 2004 Amendment An important turning point was the 2004 amendment. The Prevention of Terrorism Act (POTA), which was viewed as contentious and prone to abuse, was repealed first. India's main anti-terror law, the UAPA, was modified to include important POTA elements. Terrorism was defined more broadly, and terrorist acts were subject to harsher punishments.
2. 2008 Amendment: The government enacted more stringent steps to fortify the antiterrorism law framework in the wake of the 2008 Mumbai terrorist attacks. The duration of a suspect's detention without formal charges was extended from 90 days to 180 days by the modification. Additionally, it increased the National Investigation Agency's (NIA) authority to look into incidents involving terrorism nationwide.
3. 2019 Amendment: Among the most contentious modifications to the UAPA was the 2019 amendment. It made it possible for the government to label people as terrorists, not just groups. This implies that a person may be classified as a terrorist even if they have no direct involvement in terrorist operations if they

are suspected of preparing terrorist activities or are associated with a prohibited group. Critics contended that this would result in abuse and unjustified targeting of specific people.

#### Key Provisions of the UAPA:

The UAPA grants law enforcement and the government broad authority to stop and punish illegal activity. The following are some of the main clauses:

1. Definition of Illicit Activities: Any speech or conduct that endangers India's integrity and sovereignty is considered unlawful. It leads to apathy for the government. And it encourages territorial claims or separatist movements against India.
2. Organizational Bans: If an organization engages in actions that endanger national security, the government has the authority to declare it "illegal." The organization's financial resources may be frozen and its members may be blacklisted.
3. Designation of Terrorists: The 2019 amendment granted the government the authority to designate some people as terrorists. This implies that if someone is suspected of being involved in the planning or funding of terrorism, they may face legal action even if they have not carried out a terrorist attack.
4. Prolonged Detention and Bail Restrictions: A person may be held without formal charges for up to 180 days under the UAPA. Since the prosecution simply needs to provide prima facie evidence to support incarceration, obtaining bail is challenging.
5. Search, Seizure, and Attachment of Property: If police enforcement believes that a piece of property is connected to illegal activity, they are permitted to search it and confiscate it without a warrant. Additionally, the government has the authority to seize assets and freeze bank accounts.
6. Unique Powers of the NIA: Under the UAPA, the National Investigation Agency has

been granted unique authority to look into matters involving terrorism wherever in India. Without state authorities' prior consent, the NIA is able to conduct raids, apprehend people, and seize property.

### **Why UAPA is necessary?**

India's anti-terrorism statute, the Unlawful Activities (Prevention) Act, 1967 (UAPA), was originally enacted in 1967. The UAPA's goal is to support illegal activities that jeopardize India's integrity and sovereignty, such as organized crime, terrorism, and money laundering. Critics contend that the UAPA is an overly expansive statute that has been abused to target nonages and heretics.

### **UAPA in practice High-Profile Case:**

In India, the Unlawful Activities (Prevention) Act (UAPA) has been used extensively in highprofile, colourful cases, providing insight into how it operates in practice and the counterarguments it raises regarding civil freedoms. Although the UAPA aims to combat illegal .Its usage in certain situations has sparked intense discussion and aroused concerns about its effect on civil liberties, especially when it comes to activities that endanger public safety.

### **1. High-Profile Cases-**

A number of well-known cases have raised awareness of the UAPA. The arrest and subsequent incarceration of renowned civil rights activist Dr. Binayak Sen is an example of a case like this. Dr. Sen was arrested under the UAPA in 2007 on suspicion of having Maoist ties. Mutineers and faced sedition charges. Many saw his arrest as an attempt to quell dissent, which caused a public and international uproar. The Supreme Court ultimately decided to grant Dr. Sen bail, underscoring the necessity of judicial review in UAPA cases. The arrest of activists in relation to the Bhima Koregaon violence is another noteworthy instance. Maharashtra. A number of well-known intellectuals and activists were imprisoned under the UAPA after being accused of having ties to outlawed revolutionary organizations.

Critics contend that rather than addressing legitimate security risks, the UAPA has been applied in many instances to target individuals voicing divergent opinions.

### **2. Rebuttal to Civil Liberties Accusations under UAPA-**

There have been strong complaints to the UAPA's counter-claims for civil liberties due to its use in well-known cases. Critics contend that the act's provisions, like the arrest authority, and prolonged incarceration without bail may result in the restriction of personal liberties. Detaining people for extended periods of time without a trial or charges may be interpreted as an attempt to stifle dissent and scare political opponents and activists. Additionally, the act's ambiguously defined and broad phrases, such as "illicit Activities" and "class of unlawful associations," may be open to interpretation and unintentional misuse. Because of this nebulosity, people may be classified as public security threats based on their political affiliations, activism, or voicing of divergent opinions.

### **3. Impact on Marginalized Communities Is disproportionate-**

There is growing concern that India's underprivileged communities are disproportionately affected by the UAPA. There have been documented instances of the UAPA targeting members of marginalized and vulnerable groups, such as nonage people or ethical communities. The act's functioning, according to critics, may make social inequality and demarcation more difficult. In India, the UAPA has been used in well-known cases, shedding light on its useful defence of civil liberties. Although the UAPA is meant to solve public security businesses, its application in some situations has sparked concerns about its potential for covert abuse to suppress dissent and unfairly affect underprivileged populations. In the context of the UAPA, striking a balance between the demands of public security and the defence of civil freedoms continues to be a crucial task. In order to address these

businesses and ensure that the act fulfils its intended goal without jeopardizing fundamental rights, judicial examination, transparency, and commitment to republican values are essential prerequisites.

#### Impact of the UAPA:

##### Positive Impact-

- The UAPA has been essential in reducing organized crime and terrorism.
- The UAPA has prohibited major terrorist groups like the Indian Mujahedeen and Lashkar-e-Taiba.
- The law has made it possible for law enforcement to combat insurgency and crossborder terrorism.
- The UAPA was used to prosecute high-profile cases, such as the 2008 Mumbai attacks and the 2016 Pathankot attack.

##### Negative Impact-

- Critics contend that the expansive definition of "unlawful activities" gives the government the right to pursue activists and political dissidents.
- Human rights organizations have reported instances in which journalists and activists were detained under the UAPA without sufficient justification.
- Prolonged incarceration without charge or trial has sparked worries about due process and human rights violations.
- The UAPA's low conviction record (about 2% in some years) raises the possibility that a large number of prosecutions were founded on shaky evidence.

##### Controversies and Criticisms:

1. Political Misuse: Human rights organizations and opposition parties have charged that the administration has been utilizing the UAPA to stifle activists and political opponents. 2. Lack of Transparency: Organizations and individuals are frequently designated as terrorists behind

closed doors, with little opportunity for appeal.

3. Targeting Minority Communities: According to some detractors, Muslim activists and human rights organizations have been disproportionately targeted by the UAPA.

##### International Comparison:

With a few significant exceptions, India's UAPA is comparable to anti-terror legislation in other nations:

- USA: Suspected terrorists may be monitored and detained without charge or trial under the Patriot Act.
- UK: Police have extensive authority to hold and arrest suspects without filing charges under the Terrorism Act.
- France: The government can monitor those suspected of terrorist involvement and impose home arrest under anti-terror laws.

##### Conclusion:

One effective weapon in India's war against terrorism and illegal activity is the Unlawful Activities (Prevention) Act. Although its extensive provisions and lack of transparency have aroused legitimate worries about human rights and political misuse, it has also contributed to the strengthening of national security and the prevention of significant terrorist acts. A balanced strategy is necessary to guarantee that the law continues to be effective in addressing real dangers while defending civil liberties and democratic principles. Finding that balance will determine the UAPA's continued effectiveness and fairness in the years to come. The deliberate, coordinated, and systematic use of violence as a form of coercion for ideological, religious, or political reasons is known as terrorism. Occasionally, outside forces lend their assistance, such as the 2008 Mumbai Terror Attacks, the Punjabi Khalistan Movement, and the J&K separatist movement, which receives backing from Pakistan on the other side of the border. Therefore, extensive measures must be

implemented to apprehend the offenders under the UAPA Act, cut off their financial support and training resources, and, finally, establish enduring peace through welfare and development programs.

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