The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

Unlawful Activities (Prevention) Act, 1967

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ABSTRACT

The Unlawful Activities (Prevention) Act, 1967 which is commonly known as UAPA is an anti-terrorism Act that helps prevent such unlawful activities that can be harmful to the integrity, sovereignty and unity of our nation. It was formed in 1967, although it has gone through some amendments in 1969, 2004, 2008 and 2019, its main objective remains the same, that is to prevent terrorism. While on one hand it empowers the authorities to ensure national security, on the other hand it receives criticism for vague definitions, stringent bail provisions, potential misuse, and for undermining fundamental rights such as Articles 14, 19, and 21. Therefore where UAPA serves as a backbone for national security there is a need for its implementation to be reformed in order to ensure constitutional safeguards and prevent the erosion of fundamental rights.

INTRODUCTION

Terrorism is one of the biggest challenges facing the world today, and India has witnessed several tragic incidents that have highlighted the urgent need for strong anti-terror laws. Attacks like the 2001 Parliament attack, the 2008 Mumbai terror strikes, and the Pulwama bombing in 2019 have not only shocked the nation but also pushed lawmakers to strengthen legal safeguards. One of the key responses to this threat has been the Unlawful Activities (Prevention) Act, 1967, commonly known as UAPA. Originally passed to curb unlawful and anti-national activities, the law has gone through many amendments and has today become the central legal tool for dealing with terrorism in India.[1]

[1] Unlawful Activities (Prevention) Act, No. 37 of 1967, *Statement of Objects and Reasons* (India).

UAPA was first enacted to address secessionist movements and internal threats to India's sovereignty. However, after the repeal of POTA (Prevention of Terrorism Act) in 2004, many of its provisions were absorbed into UAPA. Since then, the Act has expanded in both scope and power. Amendments in 2008 and 2019 gave the government and investigating agencies greater authority, including the power to designate individuals as terrorists, extend the period of detention without filing charges, and limit the ability of courts to grant bail.[2]

One of the most debated features of the law is Section 43D(5), which makes it very difficult for an accused person to get bail. This shifts the balance against the presumption of innocence that is a cornerstone of criminal law.[3] Another controversial change came in 2019, when the government allowed individuals to be labelled as terrorists without a trial or court order.[4] To deal with "lone wolf" threats, but it has raised concerns about potential misuse and its impact on democratic rights.

India's approach to anti-terror legislation is also influenced by global standards. After the 9/11 attacks, the United Nations Security Council passed Resolution 1373, asking all member countries to take steps against terrorism, especially regarding financial support for such activities. UAPA has been updated to align with these international expectations.[5]

Despite its stated purpose of national security, the use of UAPA has attracted widespread criticism. Human rights organizations and legal experts argue that the law is too harsh, and that it can be misused against political activists, journalists, and dissenters. The low conviction rate under UAPA raises further questions about its effectiveness, and whether it is being used more to detain people without trial than to punish actual terrorists.

This paper aims to explore how UAPA has evolved over time, the key provisions of the law, and its broader impact on fundamental rights, especially those under Articles 14, 19, and 21 of the Indian Constitution. It will also discuss key court cases and recent legal developments to understand whether UAPA strikes the right balance between national security and individual freedom.

HISTORICAL BACKGROUND

The Unlawful Activities (Prevention) Act, or UAPA, was passed by the Indian Parliament in 1967 to prevent activities and groups that threaten the country's unity, sovereignty, and integrity.[6] The law was introduced at a time when different parts of India were facing unrest and

[2] Unlawful Activities (Prevention) Amendment Act, *No. 35 of 2008 (India).*
[3] Unlawful Activities (Prevention) Act, No. 37 of 1967, *§ 43D(5) (India).*
[4] Unlawful Activities (Prevention) Amendment Act, *No. 28 of 2019, § 35 (India).*
[5] S.C. Res. 1373, ¶ 1, U.N. Doc. S/RES/1373 (Sept. 28, 2001).
[6] Unlawful Activities (Prevention) Act, *No. 37 of 1967 (India).*

growing demands for separation. In Tamil Nadu, the Dravidian movement was gaining strength, while in Nagaland, there were increasing calls for independence.

After the 1962 war with China, the government became more concerned about national security. To respond to rising internal tensions, it set up the National Integration Council in 1963. This council recommended that the government should have the power to place limits on freedom of speech, assembly, and association when those freedoms were used to promote division or violence.

To make that possible, the Constitution was amended through the Sixteenth Amendment in 1963.[7] This gave Parliament the power to pass laws to protect the sovereignty and unity of India. Based on this, the UAPA was enacted in 1967.

The Act gave the central government the authority to declare any group as unlawful if it was found to be working against the country's integrity.[8] Once declared unlawful, the group could be banned through a government notification. The law also allows the group to appeal the decision before a special tribunal. These powers were meant to help protect the nation from actions and organizations that could disrupt peace or encourage separation.

Before the Unlawful Activities (Prevention) Act became India's main anti-terror law, two important laws played key roles: the Terrorist and Disruptive Activities (Prevention) Act, known as TADA, and the Prevention of Terrorism Act, known as POTA.

TADA was introduced in the 1980s to deal with the growing problem of militancy, especially in Punjab and Jammu and Kashmir.[9] It allowed authorities to detain people without charges for long periods, made bail more difficult, and permitted the use of confessions made to police as evidence. Special courts could conduct closed trials, and in many cases, the accused had to prove their innocence. But the law faced strong criticism because it was widely misused. The conviction rate remained very low, and many people were held for years without trial. Due to these concerns, TADA was allowed to lapse in 1995.

POTA was brought in after the terrorist attack on the Indian Parliament in December 2001.[10] It gave the government the power to ban terrorist organizations, hold suspects for extended periods, and use confessions before police in court. Like TADA, POTA also drew criticism for misuse, especially against minorities and political critics. It was repealed in 2004, but many of its provisions were later added to the UAPA, strengthening it as India's main anti-terror law.

AMENDMENTS TO UAPA

[7] Constitution (Sixteenth Amendment) Act, 1963 (India).
[8] Unlawful Activities (Prevention) Act, *No. 37 of 1967, § 3 (India).*
[9] Terrorist and Disruptive Activities (Prevention) Act, *No. 28 of 1987, § 15 (India).*
[10] Prevention of Terrorism Act, *No. 15 of 2002, § 3 (India).*

1969 AMENDMENT

The first amendment to the Unlawful Activities (Prevention) Act came in 1969. This amendment strengthened the government's ability to restrict and control places used by declared unlawful associations. It introduced specific procedures for the notification, seizure, and regulation of properties connected to such associations, as well as a way for affected people to appeal these actions through the District Judge. This aimed to make the enforcement of bans on unlawful associations more practical and effective.[11]

2004 AMENDMENT

The 2004 amendment was passed after POTA was repealed. This change turned UAPA into a more comprehensive anti-terror law by adding new chapters that defined and punished terrorist acts and organizations. The government was given the power to ban terrorist groups and punish individuals who take part in or support terrorist activities.[12]

2008 Amendment

After the 26/11 Mumbai terror attacks, the 2008 amendment further strengthened the law. It allowed the National Investigation Agency (NIA) to have more investigative powers, made it legal to use intercepted communications as evidence, and permitted even longer detention without charges, up to 180 days. The amendment also made it easier for authorities to seize properties linked to terrorism.[13]

2012 AMENDMENT

The 2012 amendment updated many definitions in the Act, including "terrorist act" and "proceeds of terrorism," to match India's obligations under various United Nations conventions. It also made financing terrorism a crime and enabled the prosecution of companies or organizations involved in terrorist financing.[14]

2019 AMENDMENT

The 2019 amendment allowed the government not just to label organizations but also individuals as terrorists. This change was made because sometimes individuals work alone or as part of loose networks. The amendment also increased the NIA's powers to seize property related to terrorism and made it possible for NIA Inspectors to investigate cases. Critics say this

[11] Unlawful Activities (Prevention) Amendment Act, *No. 24 of 1969 (India).*
[12] Unlawful Activities (Prevention) Amendment Act, *No. 29 of 2004, § 2 (India).*
[13] Unlawful Activities (Prevention) Amendment Act, *No. 35 of 2008, § 5 (India).*
[14] Unlawful Activities (Prevention) Amendment Act, *No. 3 of 2013, § 6 (India).*

amendment could threaten individual rights since it puts broad power in the hands of the government.[15]

LANDMAR CASES

1. State of Kerala v. Raneef (2011)[16]

The Supreme Court of India, in the case of State of Kerala v. Raneef, decided on January 3, 2011, addressed a crucial issue related to the application of the Unlawful Activities (Prevention) Act, 1967 (UAPA), in matters of bail. The bench, comprising Justices Markandey Katju and Gyan Sudha Misra, examined whether the provisions of Section 43D(5) of the UAPA were rightly invoked against Dr. Raneef, a dentist accused of assisting persons involved in a brutal assault. The State argued that since he belonged to the Popular Front of India (PFI)—an organization allegedly involved in radical activities—he should be denied bail. However, the Court emphasized that mere association with an organization not declared unlawful under the UAPA does not automatically establish criminal liability.

The Court held that there must be a clear and specific link between the accused and the unlawful activity alleged. It noted that there was no direct evidence of Dr. Raneef's participation in any terrorist act or conspiracy. Therefore, the bar under Section 43D(5) was not attracted in this case. The judgment reaffirmed that special statutes like UAPA must be interpreted in line with constitutional guarantees, especially Article 21, which protects the right to life and personal liberty. The Court also cautioned against the use of guilt by association and stressed the need to protect civil liberties, even in cases concerning national security.

The case has been cited in over 40 subsequent judgments and remains a key precedent in interpreting UAPA provisions in bail cases.[16]

2. Arup Bhuyan v. State of Assam(2011) [17]

In the landmark case of Arup Bhuyan v. State of Assam, (2011) 3 SCC 377, the Supreme Court of India clarified the legal position regarding membership of banned organizations, which holds significant relevance to the interpretation of the Unlawful Activities (Prevention) Act, 1967 (UAPA). The judgment was delivered on February 3, 2011, by a bench comprising Justice Markandey Katju and Justice Gyan Sudha Misra. This case has been cited in over 100 judgments and legal discussions, making It a frequently relied-upon precedent in cases involving anti-terror legislation.

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[15] Unlawful Activities (Prevention) Amendment Act, *No. 28 of 2019, § 5 (India).*
[16] *State of Kerala v. Raneef,* (2011) 1 SCC 784 (India).

The case arose when Arup Bhuyan was convicted by a designated TADA Court for allegedly being a member of the banned outfit ULFA (United Liberation Front of Assam). The conviction was largely based on his confessional statement made before the Superintendent of Police. However, the Supreme Court held that such confessions are inherently weak pieces of evidence. It emphasized that police confessions are often extracted under duress or torture and must be supported by independent and credible evidence to be admissible.

Most importantly, the Court observed that mere membership of a banned organization cannot be a sufficient ground for conviction under anti-terror laws. This directly applies to UAPA, which also criminalizes membership of organizations declared unlawful by the government. The Court held that unless it is proven that the accused was involved in or incited violence, or engaged in actions that disturbed public order, a person cannot be punished merely for being associated with such an organization.

To support this position, the Supreme Court relied on landmark American decisions such as Elfbrandt v. Russell and Brandenburg v. Ohio, where the U.S. Supreme Court ruled that individuals cannot be punished solely for their association with organizations unless they engage in or promote unlawful activities. The Indian Court agreed with this reasoning and held that interpreting Section 3(5) of TADA literally would violate fundamental rights under Articles 19 and 21 of the Indian Constitution.

Therefore, the Supreme Court set aside the conviction, stating that it was not safe to base guilt solely on an uncorroborated police confession or on the presumption of criminality through association. This ruling plays a vital role in shaping how UAPA should be applied, ensuring that its provisions are not misused to target individuals merely on the basis of ideological affiliation or passive association with banned groups.[17]

3. Farooq Ahmad Bhat v. State of Jammu and Kashmir & Another (2018)[18]

It was decided by the High Court of Jammu and Kashmir at Srinagar on 7th September 2018 by Justice Tashi Rabstan. It has been cited over 80 times and is important in understanding how laws like the Unlawful Activities (Prevention) Act, 1967 (UAPA) are used in practice. The case centered on the repeated preventive detention of Masrat Alam Bhat, a political figure from Kashmir, who had been charged under the UAPA and other laws.

The court examined whether continuous detention under the UAPA and similar laws was a violation of constitutional rights. Masrat Alam had been detained 36 times since 1990, and even after the court quashed many of these orders, new ones were quickly issued without any real release.

[17] *Arup Bhuyan v. State of Assam, Crim*. App. No. 889 of 2007, (India Mar. 24, 2023), https://indiankanoon.org/doc/42981709/.

Several of these detentions included charges under UAPA, especially under Sections dealing with unlawful association and activities threatening the sovereignty and integrity of India.

The court questioned if this kind of indefinite preventive detention without trial went against Article 21, which protects personal liberty, and Article 22, which lays down safeguards for detained persons. It emphasized that the UAPA, while intended to protect national security, must be used with proper checks and not as a tool for punishment without trial.

The judgment stated that UAPA and preventive detention laws should not be used repeatedly against the same person without fresh and valid grounds. This case highlights the risk of misuse of UAPA when authorities bypass the legal process and rely on repeated executive orders to detain individuals without proving their guilt in court.

This judgment reinforces the need for balance between national security and individual rights under the UAPA.[18]

4. Arup Bhuyan v. State of Assam (2023)

In Arup Bhuyan v. State of Assam, decided on March 24, 2023, the Supreme Court of India examined whether a person can be punished under Section 10(a)(i) of the Unlawful Activities (Prevention) Act, 1967 (UAPA) for merely being a member of a banned organization. The case was heard by a three-judge bench consisting of Justice M.R. Shah, Justice Sanjay Karol, and Justice C.T. Ravikumar.

Earlier, in cases like State of Kerala v. Raneef (2011) and an older Arup Bhuyan ruling (2011), the Court had held that a person must actively engage in or incite violence to be punished, and that passive membership alone was not enough. These decisions relied on U.S. legal principles like the “clear and present danger” test.

However, in the 2023 judgment, the Court disagreed with those views. It noted that the Union of India had not been heard in those earlier cases, and that the constitutional validity of Section 10(a)(i) was never challenged. The Court emphasized that UAPA has a detailed legal procedure before an association is declared unlawful. Once the ban is validly in place, anyone who continues to be a member of such a group can be prosecuted.

The Court held that the law does not require proof of violence or incitement. Simply continuing to be a member of a banned organization, after it has been officially declared unlawful, is punishable. This decision strengthens the enforcement of UAPA and clarifies that the law aims to prevent threats to national integrity, even before violent acts occur.

As of July 2025, this case has been cited 39 times, showing its importance in UAPA-related jurisprudence.[19]

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[18] *Farooq Ahmad Bhat v. State of J&K & Another*, 2018 SCC OnLine J&K 700 (India).
[19] *Arup Bhuyan v. State of Assam, Crim. Appeal No. 889 of 2007*, (Sup. Ct. India Mar. 24, 2023).

KEY PROVISIONS AND THEIR IMPLICATIONS

1. STRICT BAIL RULES – SECTION 43D(5)

Section 43D(5) of UAPA makes getting bail very difficult. If the court thinks that the case made by the police seems true on the surface, then bail can be denied. This means the accused person may stay in jail for a long time without being proven guilty. Courts are not allowed to look deeply into the facts while deciding bail. This rule has led to many people being kept in jail without trial for months or even years.[20]

2. NAMING INDIVIDUALS AS TERRORISTS – 2019 AMENDMENT

Earlier, only organizations could be declared as terrorist groups. But the 2019 amendment changed that. Now, the government can label even individuals as terrorists without any court decision. Once a person is declared a terrorist, their name is added to a special list, although the person can appeal, many people feel this power can be misused and may harm someone's name and rights without a proper trial.

3. MORE POWER TO NIA

The 2019 amendment also gave extra powers to the National Investigation Agency (NIA). Now, NIA officers can investigate UAPA cases in any state without needing permission from that state. This helps the central government act quickly in serious cases. However, some experts believe this takes away power from the state police and could disturb the balance between central and state authorities.

4. JUST BEING A MEMBER OF A BANNED GROUP

In 2011, the Supreme Court said that a person cannot be punished just for being a member of a banned group unless they did something wrong, like violence or illegal activity. But in 2023, the Court changed this rule. Now, if someone stays a member of a banned group after it is declared unlawful, they can be punished even if they didn't do anything violent. This has made the law stricter and gives more power to the government.

5. LONG DETENTION AFTER TRIAL

UAPA allows police to keep a person in custody for up to 180 days without filing a formal charge. This is much longer than regular criminal laws. Combined with the tough bail rules, this means many people are kept in jail for very long periods without even starting a

[20] *Nat'l Investigation Agency v. Zahoor Ahmad Shah Watali,* (2019) 5 SCC 1 (India).

proper trial. The Supreme Court supported this in the Watali case, saying that the court should believe the police version at the bail stage.

CONSTITUTIONAL ANYLASIS

The Unlawful Activities (Prevention) Act, 1967 (UAPA) has raised serious concerns about its compatibility with the fundamental rights guaranteed under Articles 14, 19, and 21 of the Indian Constitution. These rights ensure equality before the law, freedom of speech and expression, and protection of life and personal liberty. However, several provisions of UAPA have been criticized for violating these basic constitutional guarantees.

Article 14 ensures that everyone is treated equally under the law. But under UAPA, the government has wide powers to act without fair procedures. For example, under Section 35, the government can declare individuals as terrorists just by issuing a notification, without giving them a proper chance to defend themselves in court. This can lead to arbitrary action and violates the idea of equal legal protection.

Article 19(1)(a) protects the right to free speech and expression. However, this right can be limited under UAPA. Many people have been arrested under this law just for expressing views that criticize the government or speak in support of certain groups. Section 2(o) defines "unlawful activity" in a broad way, which includes actions or speech that may cause "disaffection" against India.[21] Because this definition is vague, even peaceful speech can be punished. This was seen in the case of Devangana Kalita v. State (NCT of Delhi), where the Delhi High Court warned against treating protests and dissent as terrorism.[22]

Article 21 guarantees that no one shall be denied their personal liberty except by fair legal procedures. But UAPA makes it very hard to get bail. Under Section 43D(5), courts are told to deny bail if the case appears "prima facie true," even if the evidence is weak. This was confirmed by the Supreme Court in NIA v. Zahoor Ahmad Shah Watali, where the court said it should believe the prosecution's version at the bail stage. As a result, many people are kept in jail for months or years without trial. In Gautam Navlakha v. [23]National Investigation Agency, the court allowed extended custody even though the accused was elderly and ill, showing how the law can affect basic human rights. In Arup Bhuyan v. State of Assam (2011), the Supreme Court said that a person cannot be punished just for being a member of a banned group unless they were actively involved in illegal acts.But this view was reversed in 2023, making it easier to punish people even without proof of wrongdoing.

Overall, UAPA gives the government strong tools to fight terrorism, but some of its provisions go against the rights guaranteed in the Constitution. To protect national security without harming civil liberties, the law must be applied carefully and fairly.

CONCLUSION

[21] Unlawful Activities (Prevention) Act, No. 37 of 1967, § *2(o) (India).*
[22] *Devangana Kalita v. State (NCT of Delhi*), 2021 SCC OnLine Del 3774 (India).
[23] *Gautam Navlakha v. Nat'l Investigation Agency*, (2021) 7 SCC 278 (India).

The Unlawful Activities (Prevention) Act, 1967, has played an important role in India's fight against terrorism. Over the years, it has been amended to give more powers to the government and investigating agencies. However, while its goal is to protect national security, some of its provisions, like the strict bail rules, long detention periods, and the power to label people as terrorists, have raised serious questions about fairness and constitutional rights.

UAPA affects key fundamental rights under Articles 14, 19, and 21 of the Constitution. Courts have tried to balance these rights with national interest, but in many recent cases, personal liberty has taken a back seat. The law is also often criticized for being misused, especially against activists, students, and others expressing dissent.

There is a strong need to make the law clearer and more balanced. Protecting the country is important, but it should not come at the cost of basic rights and justice.