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LEGISLATION TRACKER

Unlawful Activities (Prevention) Act, 1967

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SUBJECTS COVERED

POLITY**SECURITY & DEFENCE**

CURATED & WRITTEN BY

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ACT NUMBER	YEAR ENACTED
Act No. 37 of 1967	1967

KEY PROVISIONS

- 1 Power to declare an association 'unlawful' if it engages in any unlawful activity (Section 3)
- 2 Definition and criminalisation of 'terrorist act' with punishment of death or life imprisonment (Sections 15-18)
- 3 Designation of organisations as 'terrorist organisations' (Section 35 — First Schedule)
- 4 NIA empowered to investigate UAPA offences; special courts for trial (Sections 43D-43E)
- 5 Bail restrictions — court shall not grant bail if it is satisfied that prima facie the accusation is true (Section 43D(5))
- 6 Power to designate individuals as terrorists (Section 35 — added by 2019 amendment)
- 7 Seizure and forfeiture of property used for or derived from terrorism (Sections 24-27)

BACKGROUND

The Unlawful Activities (Prevention) Act, 1967 (UAPA) is India's primary anti-terrorism and national security legislation. It was originally enacted to deal with secessionist and communal organisations threatening India's sovereignty and territorial integrity. Over time, particularly after amendments in 2004, 2008, 2012, and 2019, it has been transformed into India's most expansive counter-terrorism law, effectively replacing the repealed Terrorist and Disruptive Activities (Prevention) Act (TADA, 1987) and the Prevention of Terrorism Act (POTA, 2002).

The UAPA was enacted under the legislative powers derived from Entry 1 (Defence of India) and Entry 2 (Armed Forces) of the Union List, and from the constitutional duty under Article 355 (protection of states against external aggression and internal disturbance). It draws its constitutional backing from Article 19(2) which permits reasonable restrictions on the right to form associations in the interests of sovereignty and integrity of India, public order, and morality.

The 2004 amendment was the turning point — it incorporated the core anti-terrorism provisions from the repealed POTA, defining “terrorist act” (Section 15), creating provisions for banning terrorist organisations, and establishing special courts. The 2008 amendment (post-26/11 Mumbai attacks) further expanded the definition of terrorist acts and enhanced NIA’s role. The 2019 amendment was the most controversial, allowing the government to designate individuals — not just organisations — as terrorists.

KEY CONCEPTS

- **Unlawful Activity (Section 2(o)):** Any action taken by an individual or association (whether by act, words, spoken or written, or by signs or visible representation) which is intended to, or supports any claim to, bring about the cession of a part of the territory of India, or the secession of a part of the territory of India from the Union, or which incites any individual or group to bring about such cession or secession, or which questions or disclaims the sovereignty and territorial integrity of India.
- **Terrorist Act (Section 15):** Any act committed with intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India, or to strike terror in the people or any section of the people. Includes acts using bombs, dynamite, toxic chemicals, biological agents, radioactive material, or any other weapons of mass destruction. Death caused by terrorist act is punishable with death or life imprisonment.
- **Terrorist Organisation (First Schedule):** Organisations declared as terrorist organisations are listed in the First Schedule. As of March 2025, 45 organisations are listed as terrorist organisations under Section 35 (First Schedule), and 22 organisations are declared unlawful associations under Section 3(1) — totalling 67 banned entities. Key listed organisations include Lashkar-e-Taiba, Jaish-e-Mohammed, Indian Mujahideen, CPI(Maoist), Khalistan Liberation Force, ULFA, and ISIS/ISIL.
- **Designated Individual (Section 35 — 2019 Amendment):** The Central Government may designate an individual as a terrorist if it believes the person is involved in terrorism. The individual’s name is added to the Fourth Schedule. This was the most controversial provision of the 2019 amendment, as it allows branding individuals without a judicial conviction.
- **Bail Restriction (Section 43D(5)):** The court shall not grant bail if, on a perusal of the case diary or the report under Section 173 CrPC, it is of the opinion that there are reasonable grounds for believing that the accusation against the accused is prima facie true. This effectively creates a near-prohibition on bail.

IMPORTANT PROVISIONS

- **Section 3 — Declaration of Unlawful Association:** The Central Government may, by notification in the Official Gazette, declare an association as unlawful if it is, has become, or is being used for, any unlawful activity. The association and any individual who is a member or continues to

be a member commits an offence punishable with imprisonment up to 2 years.

- **Section 15 — Terrorist Act:** Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security, or sovereignty of India, or to strike terror, by using bombs, dynamite, toxic chemicals, or hazardous substances, or by any other means of whatever nature to cause or likely to cause death or injuries or damage to property or disruption of essential services, commits a terrorist act. Punishable with imprisonment of 5 years to life imprisonment; death if any person is killed.
- **Section 17 — Raising Funds for Terrorist Act:** Whoever raises or provides funds, or collects funds by any means directly or indirectly, with the intention or knowledge that such funds will be used for commission of a terrorist act, shall be punishable with imprisonment of 5 years to life imprisonment and fine.
- **Section 35 — Designation of Terrorist Organisations and Individuals:** The Central Government may add or remove organisations from the First Schedule. Post-2019 amendment, the government may also designate individuals as terrorists in the Fourth Schedule. A review committee (headed by a sitting or retired High Court judge) examines applications for de-listing.
- **Section 43A — NIA Jurisdiction:** Offences under the Act are investigated by the National Investigation Agency (NIA) or by the state police with prior approval of the Director General of Police. The NIA may suo motu take over investigation of a UAPA case from the state police.
- **Section 43D(5) — Bail Restriction:** The court shall not grant bail if prima facie satisfied that the accusation is true. This provision has been the most litigated, with the Supreme Court gradually interpreting it to require more than a mere chargesheet — the court must apply its own mind and not mechanically deny bail.

LANDMARK JUDGMENTS

- **Arup Bhuyan v. State of Assam (2011):** The Supreme Court held that mere membership of a banned organisation is not sufficient for conviction under the UAPA. The prosecution must prove that the individual resorted to violence or incitement to violence or created public disorder. Passive membership without active involvement in unlawful activities is protected under Article 19(1)(c).
- **Union of India v. K.A. Najeeb Abdul Kutty (2021):** The Supreme Court clarified that even under UAPA, constitutional courts retain the power to grant bail under Article 21 if there is an unreasonable delay in trial and the accused has been incarcerated for an extended period. The statutory restrictions of Section 43D(5) do not override the constitutional right to liberty.
- **Watali v. NIA (2019):** The Supreme Court held that for the purpose of Section 43D(5), the court must examine the materials collected by the investigating agency and if on that perusal, it finds reasonable grounds to believe the accusation is prima facie true, bail must be denied. The court cannot conduct a mini-trial but must do more than accept the prosecution's version uncritically.

- **Thwaha Fasal v. Union of India (2022):** The Kerala High Court granted bail to two students charged under UAPA for alleged Maoist links, holding that possessing Maoist literature or sympathising with an ideology is not the same as committing a terrorist act. This became a landmark on the threshold for applying UAPA.

RECENT AMENDMENTS / DEVELOPMENTS

- **UAPA (Amendment) Act, 2019:** The most significant recent change — empowered the Central Government to designate individuals as terrorists (Section 35, Fourth Schedule) without requiring a judicial conviction. The amendment also empowered the NIA's Director General to approve seizure and attachment of property connected to terrorism. Officers of the NIA of Inspector rank and above were empowered to investigate UAPA cases.
- **Rising UAPA Prosecutions:** As per NCRB data, UAPA cases registered rose from 897 in 2015 to over 1,000+ annually by 2022. The conviction rate, however, remains low (around 2-3% historically), raising questions about misuse. Jammu & Kashmir, Manipur, Jharkhand, and Assam account for the majority of cases.
- **Shabir Ahmed v. Union of India (February 2025):** The Supreme Court delivered a landmark judgment holding that inordinate delays in granting bail under UAPA contravene the constitutional guarantee of a fair trial and the right to personal liberty under Article 21. The Court held that statutory bail restrictions under Section 43D(5) “melt down” where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence.
- **Due Process Safeguards (November 2025):** The Supreme Court mandated that failure to provide written grounds of arrest in a language the accused understands renders both the arrest and subsequent remand illegal under Articles 21 and 22. This ruling explicitly extends to UAPA and all special laws, constitutionalising written notice of arrest grounds as a non-derogable fundamental right.
- **Banned Organisations Update (March 2025):** The MHA updated the consolidated list of banned entities to 67 — comprising 45 terrorist organisations under the First Schedule and 22 unlawful associations under Section 3(1). The most recent addition was the Awami Action Committee (AAC) in 2025.
- **NIA Strengthening:** The National Investigation Agency (established 2009) has been given enhanced powers and has expanded its offices across India. It has been increasingly used for investigating UAPA cases, organized crime networks, and terror financing.

UPSC RELEVANCE

*UAPA enactment year (1967); definition of terrorist act (Section 15); bail restriction provision (Section 43D(5)); 2019 amendment – individual designation as terrorist; NIA establishment year (2009); difference between UAPA and earlier TADA/POTA; First Schedule – 45 terrorist organisations + 22 unlawful associations = 67 total banned entities (March 2025). **Mains GS-2:** Balance between national security and civil liberties; constitutionality of UAPA's bail restrictions; analysis of low conviction rate; comparison with anti-terrorism laws in other democracies; role of NIA and its expanding jurisdiction. **Mains GS-3:** Internal security challenges; Left Wing Extremism and UAPA; terror financing provisions; cross-border terrorism and legal framework. **Interview:** “How do you balance the state's duty to protect national security with the individual's right to personal liberty? Is UAPA's low conviction rate evidence of misuse, or of a robust judicial check?”*

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