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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

“BEYOND THE BATTLEFIELD: TERRORISM CLASSIFICATIONS AND THE TROUBLING LEGACY OF UAPA IN INDIA”

AUTHORED BY - RISHI AANAND CHOUKSE & DR. TAI CHOURASIA

Abstract

Terrorism is a term that lacks a formal definition in legislation, whether in the Indian Penal Code or in international law. Various forms of terrorism exist globally, including:

- a) Cross-border terrorism
- b) Political terrorism
- c) Cyber terrorism
- d) Bio-terrorism
- e) Left-wing and right-wing terrorism
- f) Religious terrorism

In India, two significant Acts were established to address terrorism: TADA, enacted in 1984, and POTA, introduced in 2002. After POTA was repealed in 2004, the UAPA Act came into effect. This Act has undergone multiple amendments, often increasing the government's powers. For example, in November 2021, Tripura Police booked 102 social media handles and four lawyers under the UAPA Act. Furthermore, in the 2021 Delhi riots, students were charged under UAPA; however, the Delhi High Court later granted them bail.

According to data from India's National Crime Record Bureau, “in 2019, 1,948 individuals were arrested under the UAPA, marking a 37% increase from the previous year. Despite this rise, the conviction rate remains low; only 2.2% of cases registered between 2016 and 2019 resulted in court convictions, while nearly 11% were closed due to insufficient evidence.”¹

¹ Parliament proceedings, Over 72% rise in number of UAPA cases registered in 2019, The Hindu, available at <https://www.thehindu.com/news/national/parliament-proceedings-over-72-rise-in-number-of-uapa-cases-registered-in-2019/article34029252.ece>, last seen 20/07/2025.

Given that this data is from 2019 and we are now in 2025, it is likely that cases under this Act are continuing to rise. Analyzing this information leads to the conclusion that the Act is frequently misused by government agencies.

TOOLS TO COMBATE TERRORISM IN INDIA AND THEIR MISUSE

Introduction:

Terrorism is a word wildly used in India, especially in the present time. The word terrorism is not defined anywhere but there is a certain definition given by various authors to understand the meaning of terrorism. "Terrorism is spreading terror in a systematically planned way so that others may be compelled to act in a specific way which they would not act otherwise. In terrorism, there is an element of coercion through violence or fear of violence to achieve certain objectives."²

We can describe terrorism as any criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for a particular purpose are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.

In simple terms, terrorism is when people use force or violence against others or property, breaking criminal laws in India, to intimidate, coerce, or seek ransom. Terrorists typically aim to:

- Create fear among the public.
- Convince citizens that their government cannot protect them from terrorism.
- Gain immediate attention for their causes.

One key question is how terrorist activities are funded. To sustain their operations, terrorists often rely on various illegal means, such as:

- The hawala system for money laundering.
- Misusing charities and receiving donations from expatriate communities.
- Engaging in credit card fraud.
- Participating in illegal arms sales.

² Dr. S. S. Srivastava, *Criminology, Penology and Victimology*, 547 (6th ed. 2021).

As a result, there is a close relationship between crime and terrorism, with strong organizational, operational, and ideological connections developing through coordinated efforts.

Types:

As we discussed there are several types of terrorism in the world, here we discuss each type in a precise manner:

a) Cross-Border Terrorism:

“Cross-border terrorism occurs when one country’s territory is used to launch terror activities against a neighbouring country. India often faces this issue, with many attacks originating from Pakistan. Factors contributing to cross-border terrorism include porous borders, local support and backing from non-state actors.”³ The ramifications of cross-border terrorism can be severe, leading to loss of lives, heightened tensions between nations, and challenges in maintaining peace and security.

b) Political Terrorism:

Grant Wardlaw has defined ‘political terrorism’ as follows “Political terrorism is the use, or threat of use, of violence by an individual or a group, whether acting for or in opposition to established authority, when such action is designed to create extreme anxiety and/or fear inducting effects in a target group larger than the immediate victims with the purpose of coercing that group into acceding to the political demands to the perpetrators.”⁴

c) Cyber Terrorism

According to Dorothy Denning, a professor of computer science, “Cyber terrorism is the convergence of cyberspace and terrorism. It refers to unlawful attacks and threats of attacks against computers, networks and the information stored therein when done to intimidate or coerce a government or its people in furtherance of political or social objectives.”⁵ Further, to qualify as cyber terrorism, an attack should result in violence against persons or property, or at least cause enough harm to generate fear. Attacks that lead to death or bodily injury, explosions,

³ Terrorism, Definition, Types, Causes, Impacts, Challenges, VAJIRAM & RAVI, available at <https://vajiramandravi.com/upsc-exam/terrorism/>, Last seen on 22/07/2025.

⁴ Wardlaw G., *Political Terrorism*, 16 (2nd Edition, 1998).

⁵ D Denning, ‘Cyberterrorism’ Testimony before the Special Oversight Panel on Terrorism, Committee on Armed Services, U.S. House of Representatives, 23 May 2000.

or severe economic loss would be examples. Serious attacks against critical infrastructures could be acts of cyber terrorism, depending on their impact.

“Some cyber terrorism attacks which happen in India:

1. In 2010 CBI website was hacked by ‘Pakistani Cyber Army’
2. In August 2013, Indira Gandhi International Airport (IGI) faced cyber attack. A destructive virus program called as ‘technical snag’ hit the operations of terminal no. 03. This malicious code was spread remotely for the trespassing the security system of Airport.
3. Pakistani Cyber Criminals deface nearly 60 Indian websites every day. Pakistani hackers conveniently hacked our websites and writing derogatory information against India for spreading political, religious, social or financial cause.
4. Vary famous terrorist attack we all know that is 26/11 the Taj attack. In the investigation of 26/11 it revealed the evidence of cyber telecommunication of terrorist, with the help of which they acquainted with map, population infrastructure, place etc. They use Google earth to execute their plan.”⁶

d) Bio Terrorism

“Bioterrorism refers to the intentional release of biological agents or toxins for the purpose of harming or killing humans, animals or plants with the intent to intimidate or coerce a government or civilian population to further political or social objectives.”⁷

Diseases such as cholera, smallpox, and plague are examples of epidemics that can spread rapidly and cause significant harm. In contrast, anthrax is not classified as an epidemic, but its spores can be mixed with powders and disseminated to large populations, making it a potential biological weapon. Anthrax is a deadly disease that requires prompt treatment; without it, the mortality rate can be high.

e) Religious Terrorism

“Religious terrorism is a type of political violence motivated by an absolute belief that an otherworldly power has sanctioned and commanded terrorist violence for the greater glory of the faith. Acts committed in the name of the faith will be forgiven by the otherworldly power

⁶ Shiv Raman, Nidhi Sharma, *Cyber Terrorism in India: A Physical Reality or Virtual Myth*, available at <https://journals.indexcopernicus.com/api/file/viewByFileId/783266.pdf>, last seen on 06/03/2025.

⁷ Bioterrorism, INTERPOL, available at <https://www.interpol.int/Crimes/Terrorism/Bioterrorism#:~:text=through%20effective%20countermeasures-.The%20threat,pre%20planning%20and%20response%20guide>, last seen on 21/07/2025.

and perhaps rewarded in an afterlife”⁸. In essence, one’s religious faith legitimizes violence as long as such violence is an expression of the will of one’s deity. Terrorism in the name of religion has become the predominant model for political violence in the modern world.

The concept of jihad is a central tenet in Islam. Contrary to misinterpretations common in the West, the term literally means a sacred struggle or effort rather than an armed conflict or fanatical holy war. Although a jihad can certainly be manifested as a holy war, it more correctly refers to the duty of Muslims to personally strive in the way of God. In India there are ample of examples where on the name of jihad many terrorist attack took place in the past like Mumbai Taj attack, Mumbai serial bomb blast, etc.

f) Nuclear Terrorism

“Nuclear terrorism can be defined as the unauthorized use or attempted use of nuclear explosive devices, use or attempted use of nuclear materials, or attacks or attempted attacks on nuclear facilities and installations for extortionate purposes. The victim of nuclear terrorism may be an individual, a group of individuals, an organization, or a government.”⁹

There is a great danger in case the terrorist organizations possess nuclear weapons. The terrorist strike by the use of nuclear weapons may cause devastating consequences. The terrorists may possess such weapons by theft of nuclear weapons or theft of nuclear materials and their use or threatened use in a crude house made bombs. The terrorists may also be provided nuclear weapons by the nations instigating terrorist acts. The measures to prevent the possession and use of nuclear weapons by the terrorists need to be devised by the United Nations.

After discussing various types of terrorism, we have to understand the cause behind terrorism. There are various causes for which terrorist attacks take place like:

1) Psychological Perspective:

Those who engage in terrorism may do so for purely personal reasons, based on their own psychological state of mind. Their motivation may be nothing more than hate or the desire for power. In many respects this terrorist is interested in getting attention from others for his or her act, rather than some grand ideological or strategic goal.

⁸ Religious Terrorism, *Sage Publication*, available https://us.sagepub.com/sites/default/files/upm-binaries/33557_6.pdf, last seen on 26/07/2025.

⁹ Forest R. Frank, *Nuclear Terrorism and the Escalation of International Conflict*, Vol. 62, *International Law Studies*, 532, 532.

2) Ideological Perspective:

Ideology is defined as the beliefs, values, and/or principles by which a group identifies its particular aims and goals. Ideology may encompass religion or political philosophies and programs. Examples of terrorist groups motivated by ideology include the Irish Republican Army (IRA), in Sri Lanka the Liberation Tigers of Tamal Eelam (LTTE), and the Bader Meinhoff in Germany.

3) Education Perspective:

Education enlightens every citizen to distinguish good from bad. It helps an individual to form a rational opinion. It gives a way of livelihood to an individual and many times it is found that terrorist are very less educated or in maximum cases they are illiterate. So, they are unable to distinguish right from wrong and just in order to meet their demands of bread and butter they step into the field of terrorism as they are left with no ways of earning their livelihood.

4) Political Perspective:

Terrorism is sometimes seen as a logical extension of the failure of politics. When people seek redress of their grievances through government, but fail to win government's attention to their plight, they may resort to violence. It is believed that the government repression is the major cause of terrorism in a country. These people often work as sleeper-cell for the terrorist organization. The political cause of terrorism includes the separatist movement, irredentist's movements, adaptation of particular political philosophy, environmental protection, supremacy of particular group, ending perceived government oppression, etc.

5) Economic Perspective:

This factor include economic grievances as well as social injustice like absence of land reform, rural unemployment, caste-based discrimination, etc. which agitate people from rural areas and hence, rise up against the government. According to the United Nations Millennium Development Goals (MDG) programme, 88 million people out of 1.2 billion Indians, roughly equal to 6.7% of India's population lived below poverty line. It is a major reason behind growth of terrorism in India.

Terrorism in India:

In India there are several times we faced terror attacks in the past some of them are Bombay Bombing in 1993, Terror attack on Red Fort Delhi in 2000, Terror attack in Akshardham temple

Gujarat in 2002, Pune bombing 2010, Mumbai Bombing 2011, several attacks in Jammu and Kashmir time to time, Uri attack in 2016, Sukma attack and Amaranth Yatra attack in 2017 and many more.

In India there were several legislation were enacted to prevent terror attacks time to time like TADA, POTA and UAPA. After Mumbai bomb blast in 2011 special agency was created that is National Investigation Agency. We are going to discuss all the legislation in a elaborative manner why such legislation was enacted, what was the purpose and for which reason they are repealed and also to what extent they are helpful to prevent terrorist activity in India.

Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA):

This Act was got assented on 3rd September 1987 with the aim to “make special provisions for the prevention of, and for coping with, terrorist and disruptive activities and for matters connected therewith or incidental thereto.”¹⁰

This legislation was in force between 1987 and 1995. Under the TADA Act it define terrorist act under section 3 (1)¹¹ as “Whoever with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature in such a manner as to cause, or as is likely to cause, death of, or injuries to, any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community, or detains any person and threatens to kill or injure such person in order to compel the Government or any other person to do or abstain from doing any act, commits a terrorist act.”

“In this Act wide range of powers gave to law enforcement agencies for dealing with national terrorist and socially disruptive activities such as:

- 1) The police were not obliged to produce a detainee before a judicial magistrate within 24 hours. The time prescribed under this Act was 48 hours under section 7-A.

¹⁰ TADA Act, 1987.

¹¹ S. 3 of TADA Act, 1987.

- 2) Under section 20 it was said that if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Designated Court shall extend the said period up to one year, on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days.
- 3) Admissibility of confession: section 15 of this act provides “Notwithstanding anything in the Code or in the Indian Evidence Act, 1872, but subject to the provisions of this section, a confession made by a person before a police officer not lower in rank than a Superintendent of Police and recorded by such police officer either in writing or on any mechanical device like cassettes, tapes or sound tracks from out of which sounds or images can be reproduced, shall be admissible in the trial of such person [or co-accused, abettor or conspirator] for an offence under this Act or rules made thereunder:”
- 4) The burden of proof being on the accused to prove his innocence.
- 5) Under 7A of the Act, Police officers were also empowered to attach the properties of the accused under this Act.”¹²

Under this Act certain provisions are very controversial because they breach basic human rights and also some fundamental rights, that are:

1. “Under section 4 (2) (i) states that “disruptive activity includes which is intended to bring about or supports any claim, whether directly or indirectly, for the cession of any part of India or the secession of any part of India from the Union.”¹³
2. The Act provided that a person can be detained up to 1 year without formal charges or trial against him.
3. “Section 20 of the Act provides that detainee can be in police custody up to 60 days which increases risk of torture. Also the detainee need not be produced before a judicial magistrate, but instead may be produced before an executive magistrate who is an official of police and administrative service and is not answerable to high court.
4. A person making confessions to a police officer not below the rank of superintendent of the police can be used as evidence against him.
5. Section 19 of the Act bars persons accused under this Act to appeal except the Supreme Court.”¹⁴

¹² S. 7 of TADA Act, 1987.

¹³ S. 4 of TADA Act, 1987.

¹⁴ S. 19 and 20 of TADA Act, 1987.

The problem with TADA was that it gave exceptional powers to law enforcement officials, which subsequently resulted in widespread torture, arbitrary detention and harassment of mostly innocent citizens. According to the United Nation Human Right Committee, the safeguards provided under the Act (TADA) are insufficient and they are not in consistent with international human rights law.

“The number of people arrested under the act had exceeded 76,000, by 30 June 1994. Twenty-five percent of these cases were dropped by the police without any charges being framed. Only 35 percent of the cases were brought to trial, of which 95 percent resulted in acquittals. Less than 2 percent of those arrested were convicted. The TADA act was ultimately repealed and succeeded by the Prevention of Terrorist Activities Act (2002-2004) and this act was subsequently repealed after much controversy as well. Yet many continue to be held under TADA.”¹⁵

Important cases which registered under TADA Act:

- Kathula Somulu v. State of Andhra Pradesh¹⁶

The appellants, in this case, were the members of Communist Party India (Marxist-Leninist) Group. The police got some information regarding some illegal things in Goundlakota Village forest. So, on June 22, 1986, trusting the information, the Senior Inspector (SI) of Police, Chintur, with other police personnel went to the village in order to conduct raids in the forest. After doing the work, they were returning back to the Chintur. On their way back, they found some extremists going towards the hillock near Gonegutta of Kalathur village. The police followed them and they arrested the two appellants with one country-made pipe-gun (tapancha) and two country-made bombs and pellets.

The TADA court sentenced 3 years imprisonment with Rs.100 fine each in default to undergo simple imprisonment for one month under section 3(3) of TADA Act. Then they appeal in the Supreme Court and the apex court dismissed the appeal and validates the sentence pronounced by designated TADA Court.

- Yakub Menon v. State of Maharashtra¹⁷

This is a very famous case of an Indian terrorist who helped and was a part of Mumbai Blasts,

¹⁵ Hussain Zaidi, *Black Friday, The True Story of the Bombay Bomb Blasts*, 5 (1st ed. 2002).

¹⁶ Kathula Somulu v. State of Andhra Pradesh, AIR 1991 SC 1556.

¹⁷ Yakub Menon v. State of Maharashtra, CDJ 2013 SC 230.

1993. He arrested on 5th of August 1994 according to police official statement and then the trial was conducted under TADA Court. It was conducted by Justice P.D. Kode held Yakub guilty of the following offences, and was awarded the death penalty, on 27th July, 2007.

Offences were:

- Involvement in a criminal conspiracy to carry out the terrorist act and disruptive activities, and murder. For this, the death penalty was awarded.
- Helping the terrorist by aiding them financially and facilitating in a terrorist act. The punishment granted for this was life imprisonment.
- Keeping their weapons with him, it led to the offence of illegal possession and transportation of arms and ammunition, and was awarded with the punishment of rigorous imprisonment for 14 years.
- Not only Yakub kept the weapons but also the explosives, so it contributed to the offence of possessing explosives with intent to danger the lives of many people, and for he was punished with a rigorous imprisonment for 10 years.

He after conviction filed appeal in the Supreme Court for review petition. The review petition was rejected and dismissed on 30 July 2013 by two judge bench. Against he filed a writ petition before Supreme Court as the issue of oral hearing of review petitions against the order of death sentence.

On 6th August 2013, a mercy petition was filed before President of India. Then President Shri Pranab Mukherjee on 11th April 2014 rejected the petition. His all petitions was ultimately rejected by apex court and finally on 30th July 2015 Yakub Menon was hanged till death in Nagpur Central Jail. The punishment were given in accordance with TADA Act.

- Kartar Singh v. State of Punjab¹⁸

This was a landmark judgment that dealt with various provisions under the Terrorist and Disruptive Activities Act, and upheld its constitutional validity, by looking and examining through a broader perspective.

The acts were challenged on the grounds that, firstly, the Central Legislature does not have any legislative competence to enact these legislations, and secondly, that the Acts or some provisions under it are contravening and violating the fundamental rights guaranteed under Part III of Indian Constitution. The petitioners were of the view that these acts and provisions thereto, clearly breaches humanitarian law and universal human rights, and also is not partial

¹⁸ Kartar Singh v. State of Punjab, 1994 SCC (3) 569.

and does not provide justice and fairness.

The Supreme Court also held the contention that the liability of the Sections 3 and 4 of the Terrorist and Disruptive Activities (Prevention) Act, to struck down on the grounds that both the sections cover the acts which constitute offences that are defined under ordinary laws and there is no such guiding principle as to when a person is to be prosecuted under these sections, is not tenable also Section 22 of the TADA Act was struck down for being violative and against the fair and reasonable procedure enshrined under Article 21 of the Indian Constitution.

- Sanjay Dutt v. State of Maharashtra¹⁹

This is a very famous case, as the great actor Sanjay Dutt was the main accused in this case. On March 12, 1993, there were 12 bomb blasts that took place in Mumbai, more than 250 people died and more than 700 people were injured. Amidst this, Police found an AK-56 rifle at his house. That rifle was amongst arms that were smuggled into India before the blasts. Sanjay Dutt was arrested when he came back from Mauritius, for illegal possession of firearms, which were given to him by the acquaintances of a terrorist involved in the blasts.

TADA Court sentence all accused various terms and life imprisonment including Sanjay Dutt. Later the TADA court in Mumbai, acquitted him of the charges of him involved in the conspiracy of the serial 1993 blasts, under TADA Act, but he was convicted of the lesser crime, i.e. for possessing the arms, on 28th November, 2006. On 21st March, 2013, his conviction was upheld and he was punished with an imprisonment of 5 years. The tag of a terrorist was removed from Sanjay Dutt as he was buried from TADA.

Prevention of Terrorist Activities Act, 2002 (POTA):

In this Act also the provision is very similar to TADA, the law provided that a suspect could be detained for up to 180 days without the filing of a chargesheet in court. However, a very major change was introduced, in that unlike TADA, this act had no provision to allow preventive detention. Secondly, the matter of confessions made by the accused to the police is admissible. The general law in India does not recognize confessions made to police as evidence admissible in court, and permits a person to deny such confessions in court, but under POTA, confessions made to a police officer were admissible as evidence in court.

This legislation is short-lived law and repealed in 2004, December. Under this Act also the

¹⁹ Sanjay Dutt v. State of Maharashtra, 1995 SCC (6) 189.

conviction rate was less than 5% even as there were 4000 cases registered against 800 people. POTA Act had a pre displayed expiry date means the Act come into force for some definite period that was three years after its commencement; vide section 1(6) of the Act. It had commenced on 24 October 2001, so was scheduled to expire on 24 October 2004. One month before its expiry, the Act was repealed on 21 September 2004 by the Prevention of Terrorism (Repeal) Ordinance, 2004.

Several cases filed under POTA, Act, some of them are:

1. “Vaiyapuri Gopalsamy also known as Vaiko, founder and general secretary of the MDMK, was controversially arrested and jailed for 19 months under the POTA for his support to the Liberation Tigers of Tamil Eelam (LTTE). After long battle the case was withdraw by government on the order of the Court.”²⁰
2. The 2001 parliament attack case where Syed Abdul Rehman Gillani (S.A.R. Gillani) was convicted by special POTA court and sentenced him death penalty. Then he file an appeal in the high court of Delhi and based on the arguments and after examining all relevant evidences including phone call recording the High Court acquitted him from all charges. The state file an appeal against the order of Delhi High Court in the Supreme Court and Supreme Court on 4 August 2005 dismissed the appeal.
3. In one case Raghuraj Pratap Singh also known as Raja Bhaiya, a member of Legislative Assembly from Kunda, India was arrested under POTA Act and took form Madhya Pradesh to Uttar Pradesh and initiate proceeding. The case was appeal before Supreme Court and the Court order Uttar Pradesh Government withdraw the POTA case against Raja Bhaiya.

These are some cases in which we can see the clear misuse of Prevention of Terrorist Activity Act by Government. Only on the basis of doubt or took any revenge from political party they initiate any proceeding against anyone under POTA Act. That is the main reason for repeal Act such as TADA and POTA.

Unlawful Activity (Prevention) Act, 1967 (UAPA):

This Act was enacted in 1967 with the aim to provide for the more effective prevention of certain unlawful activities of individuals and associations and for matters connected therewith. This Act was not relating to terrorism in the beginning but after TADA and POTA repealed

²⁰ *Shooting From the Lip*, The Times of India (28/07/2002), available at <https://timesofindia.indiatimes.com/shooting-from-the-lip/articleshow/17266904.cms>, last seen on 25/07/2025.

this Act amended and added certain provisions of POTA into UAPA in 2004, 2008 and 2019 respectively to tackle from terrorism.

After POTA got repealed in the year 2004 first time UAPA was amended and certain provisions were added. By this amendment Terrorist Activity was inserted in the long title, in the definition clause terrorist gang and terrorist organization was included and under section 15 terrorist act was defined and several other provisions were added in this Act.

Again in 2008 after Mumbai Attack the legislation was amended and various provisions was inserted under UAPA Act by which certain powers was given in the hands of investigating agency and central government and also various provisions of POTA reintroduce in UAPA Act the major provision inserted was the investigating agency detain person for up to 180 days without trial and the possibility of labeling a person as a terrorist if he/she was likely to commit any terrorist act.

Again in the year 2019 this Act was amended and various provisions were added and the power of Investigation Agency and government increases. In this amendment the main controversial part is which gave power in the hand of central government may by notification, in the Official Gazette add an organization to the First Schedule or “the name of an individual in the Fourth Schedule” provided under section 35.

The fourth schedule is something which has all the names which is declared as terrorist by central government. So here the amendment gave wide power to central government that they can by notification add any individual name under schedule 4 of UAPA Act.

UAPA the original one and after all the amendments are criticized on various points first and most important is the conviction rate of arrested person is very low that is around 2% according to the data shared by the Union Government. Also it is like a colourable legislation which bear the potential for abuse by the executive also one of the argument is that when someone is categorized as a terrorist and his/her name added in fourth schedule by the executive, it bears serious consequences, such as social boycott or loss of employment." Such labeling by the executive could lead to mob lynching by the vigilante groups in India.

“The period 2016 to 2020, 5,027 cases were registered under the act with 24,134 people accused in those cases. Only 212 of 24,134 people were convicted and 386 were acquitted. This means, in the years 2016-2020, 97.5% of the people arrested under UAPA remain under prison awaiting for trial.”²¹

²¹ The WIRE, *UAPA Case Data Suggests The process is indeed the Punishment*, available at <https://thewire.in/government/uapa-case-data-process-punishment-home-ministry-rajya-sabha>, last seen on 13/01/2025.

The amendment of 2019 was challenged before Supreme Court in the case of **Sajal Awasthi v. Union of India**²²; the case is pending before the Honorable Supreme Court. The key issue raised in the case is:

- a. Whether the amendment places a fetter on the right to dissent and thus violate the right to freedom of speech and expression, under Article 19(1)(a)?
- b. Whether the power to categorize someone as a terrorist without a trial and without any judicial application of mind goes against the settled canons of criminal jurisprudence?
- c. Whether the unilateral power of the executive under section 35 of the Act to categorize as individual as a terrorist and include them as such in Schedule iv goes against the principle of rule of law, natural justice and the person's fundamental right to reputation?
- d. Whether the 2019 amendment to the Unlawful Activity (Prevention) Act, 1967 is manifestly arbitrary and violative of Article 14 and 21 Of the Constitution?

Several cases were filed under UAPA some of them are:

In the case of *Gaur Narayan Chakraborty v. State of West Bengal*²³, in this case Gaur Chakraborty was arrested and detained under UAPA Act in 2009 on the suspicion of his alleged connection with the CPI (Maoist). He charged under section 20 of UAPA Act. After 7 years he and other members are released from all charges. But if we can see that he for no reason is kept 7 years behind the bars and also the stamp of terrorist is permanently attached with them.

There are several persons detained under UAPA Act but later acquitted but when we see the period of arrest and the time when they were released they spent long time in jail without any fault. In the light of this fact the researcher will discuss some more examples:

- a. Kobad Ghandya²⁴ arrested in 2009 for the charge of sedition under UAPA Act but later acquitted in 2016. After almost 7 years.
- b. Arun Ferreira arrested in 2007 but acquitted in 2012 and again rearrested in 2018 and currently he is lodged in Taloja prison. (5 years and 4 years + continue)
- c. Akhil Gogoi arrested in 2019 and acquitted in 2021.

There is one agency created in the year 2008 to investigate the cases related to terrorism and prevent any terrorist activity that is National Investigating Agency. Under the UAPA amendment Act this agency got power to investigate matters and arrest persons and all other powers.

²² Sajal Awasthi v. Union of India, 1076/2019.

²³ Gaur Narayan Chakraborty v. State of West Bengal, (CAL) 2012 (8) 96.

²⁴ Sana Shakil, The Times of India, (11/06/2016), available at <https://timesofindia.indiatimes.com/city/delhi/kobad-ghandy-cleared-of-terror-charges/articleshow/52697623.cms>, last seen on 26/07/2025.

Conclusion:

Since India has established various laws and agencies to protect against terrorist attacks, it often struggles to effectively tackle terrorism. After analyzing the current laws, it appears that these Acts grant supreme power to the executive or central government and are typically enacted in response to specific terror attacks. To stay one step ahead of terrorists, the following recommendations are proposed to enhance India's counter-terrorism efforts:

1. **Enact Specific Legislation:** Create a clear definition of terrorism in a dedicated legal framework while empowering a specialized team tasked with addressing terrorism.
2. **Establish a Special Counter-Terrorism Unit:** Form a rapid response unit with the legal authority to act swiftly against terrorism, ensuring quick and efficient operations.
3. **Qualified Team Composition:** Include top officers from the Army, Navy, and Air Force in the counter-terrorism team, equipping them with skills and tactics to neutralize threats with minimal casualties.
4. **Protect Human Rights:** Ensure that the new legislation incorporates provisions that safeguard the human and fundamental rights of innocent individuals.
5. **Prevent Misuse of the Act:** Include provisions in the anti-terrorism legislation that prevent legislators from misusing the law for personal or political gain.
6. **Incorporate Speedy Trial Provisions:** Ensure that the legislation includes measures for speedy trials, allowing for the swift release of individuals who are wrongfully accused.
7. **Special Courts:** Establish special courts dedicated exclusively to handling cases under the anti-terrorism Act to ensure efficient and effective legal processes.
8. **Develop a Surveillance Network:** Create a robust surveillance system to monitor and report potential illegal activities that could lead to terrorism.

These steps represent urgent actions that the researcher believes are necessary for contemporary society. The government must implement preventive measures to thwart terrorist activities and ensure that political interference does not affect anti-terrorism laws. It is essential to formulate a new law that is not merely a rebranding of repealed Acts but rather addresses the shortcomings of previous legislation.