Unlawful Activities (Prevention) Act (UAPA)

Mains: *GS III – Internal Security*

Why in News?

Recently, the Union Ministry of Home Affairs (MHA) designated 23 individuals as "terrorists" under the Unlawful Activities Prevention Act (UAPA), 1967.

What is the Unlawful Activities (Prevention) Act (UAPA)?

- **UAPA** – Enacted in *1967*, is India's primary anti-terrorism and anti-secession law.
- It is designed to prevent unlawful activities such as those threatening the sovereignty, integrity, and security of India by individuals, associations, and designated terrorist organizations.
- **Key provisions**
- **Designating Terrorists** – Following the 2019 amendments, the Central Government is empowered to designate not just organizations, but individual persons as terrorists.
- **Stringent Bail Conditions** – Under the UAPA, individuals can be detained for extended periods without formal charges (up to 180 days).
- Bail is exceedingly difficult to obtain if the court believes there are reasonable grounds to assume the accusations are prima facie true.
- **Special Courts** – Trials for offenses under the Act are handled by designated Special Courts.

What is the 2019 amendment to UAPA?

- **Designation of Individual** – The 2019 amendment on August 2 the same year, gave MHA the power to designate individuals as terrorists.
- **Reasons for amendments** – Terrorist acts are committed not by organisations but by individuals.
- Merely declaring an organisation as a terrorist organisation will not stop the individuals behind it and not designating them as terrorists, would give them an opportunity to circumvent the law and they would simply gather under a different name and keep up their terror activities.
- Tterrorism is a global problem and the United Nations along with several other countries, have provisions in their laws to designate individuals as terrorists.
- **Powers to NIA** – The amendment also gave powers to Director General, National Investigation Agency (NIA) to attach properties acquired from proceeds of terrorism.
- The law does not take away powers of the State police.
- When NIA takes up a case having international and inter-state ramifications, all the

facts pertinent to the case are with the NIA, and not with the State police, he said.
- The law requires that NIA take prior permission from the respective State DGP to attach the proceeds of terrorism, which delays the process as often such properties are in different States.

*In 2019, those among the first to be designated as terrorists were **Jaish-e-Mohammad chief Masood Azhar, Lashkar-e-Taiba's Hafiz Saeed**, his deputy **Zaki-ur-Rehman Lakhvi, Dawood Ibrahim.***

What are the concerns regarding law?

- **Stringent Bail Provisions –** Bail is extremely difficult under the Act. Section 43D (5) bars bail if the court finds the prosecution's case *prima facie* credible, often resulting in prolonged pre-trial detention that functions as punishment.
- **Vague Definitions –** Key terms such as **"unlawful activity"** and **"terrorist act"** are broadly defined, raising concerns that they can be used against legitimate dissent, peaceful protests, and journalistic activities.
- **Presumption of Guilt –** The law allows individuals to be labelled as terrorists without a conviction, weakening the principle of **"innocent until proven guilty"** and causing lasting reputational harm.
- **Extended Pre-trial Detention –** Authorities may detain an accused for up to 180 days without filing a charge sheet, significantly longer than the 60–90 days generally permitted under the Code of Criminal Procedure (CrPC).
- **Overbroad Government Powers –** The 2019 amendments empower the government to designate individuals as terrorists and authorize the *National Investigation Agency (NIA)* to conduct searches, seizures, and arrests across states without prior approval from state governments.
- **Potential misuse** – Opposition had raised concerns in Parliament that the law could be misused against political opponents and civil society activists.

Process of Designation of Terrorists
• The entire process is non-judicial, it will be decided by the officials of the Ministry of Home Affairs (MHA) and the **"burden of proof" will be on the government.** • **Proposal** – The proposal to designate individuals has to come from the **intelligence agencies.** • The information provided by one security agency is corroborated with another. • **Notification** – The MHA examines the proposal and once the ministry is convinced after going through all the records, the names are cleared by the Home Minister and then **notified in the Gazette of India.** • **Appeal** – There is an option for individuals designated as a terrorist to file an appeal before the MHA, either in person or through registered post. • Once the appeal has been filed, MHA has to decide the case in 45-days. • Further to this, the individual will also have an option to appeal before an independent **three-member review committee** comprising sitting or retired High Court judges. • That committee is also to be appointed by MHA. • So far, there have been no known cases of individual terrorists approaching MHA to review their case.

*According to MHA, there are **45 "terrorist organisations"** designated as such under Section 35 of UAPA that are listed in the first schedule of the Act. Other than this, there are 23 outfits declared "unlawful associations" under Section 3 (1) of UAPA.*

What are the ethical dimensions involved?

- **National Security vs Individual Liberty** – Balancing the State's duty to protect citizens with the individual's fundamental rights to liberty and due process.
- **Presumption of Innocence vs Presumption of Guilt** – Designating individuals as terrorists before conviction undermines the principle of "*innocent until proven guilty.*"
- **Justice vs Security** – Strong anti-terror laws may ensure security but risk compromising procedural fairness and access to justice.
- **Misuse of State Power** – Broad discretionary powers can lead to arbitrary arrests, selective enforcement, and political misuse.
- **Speedy Justice Vs Delayed Justice** – Extended investigations and lengthy pre-trial detention conflict with the ethical principle that *justice delayed is justice denied.*
- **Public Trust in Institutions** – Perceived misuse or arbitrary application of the law can erode citizens' confidence in the judiciary, police, and democratic institutions.

What is the Way Forward?

- **Clarifying Definitions** – Narrow and clearly define **"unlawful activity"** and **"terrorist act"** to prevent the misuse of the law against peaceful protests, journalism, and legitimate dissent.
- **Judicial Oversight and Bail** – Strengthen judicial scrutiny, ensure speedy trials, and provide bail where investigations or trials are unreasonably delayed to prevent prolonged pre-trial detention.
- **Independent Review Mechanisms** – Establish independent review panels, including judicial members, to objectively examine evidence before confirming an individual's designation as a terrorist.
- **Strict Timelines for Investigations** – Impose fixed deadlines for filing charge sheets and completing trials to reduce unnecessary delays and safeguard personal liberty.

To take mains test click *here*

References

1. The Hindu| UAPA
2. MHA| List of Terrorist Organisations
3. EPW| Dissent & Democracy

SHANKAR
IAS PARLIAMENT
Information is Empowering