



# ALL INDIA POLITICAL PARTIES MEET SR.

## — STUDY GUIDE —

*Reviewing The Unlawful Activities (Prevention)  
Act (UAPA) With Special Emphasis On The  
Amendment Act Of 2019*

**ANNUAL WORLD SUMMIT 2025**

# LETTER FROM THE EXECUTIVE BOARD

The All India Political Parties Meet (AIPPM) holds a special place for each member of our Executive Board. In India, the journey to success in any field inevitably intersects with politics. Thus, honing skills in diplomacy, critical thinking and handling high-pressure situations is essential. Delegating in the AIPPM offers a unique chance to develop these skills, deepen your understanding of the Indian political landscape and explore how you can help shape the nation.

With its distinct rules and conventions, AIPPM promises a thrilling escapade where passion and diplomacy are tested. We look forward to dynamic discussions that echo the spirit of cooperation and pragmatism that defines our democracy. As you preserve the principles of inclusivity and progress, may your debates reflect the intensity of the Lok Sabha and your solutions reflect a vision for a new India.

Best regards,

AIPPM Executive Board;  
Chairperson: Kanav Ladha  
Vice-Chairperson: Rushabh Soni  
Moderator: Prisha Punjabi  
Rapporteur: Aditya Patel

## ANNUAL WORLD SUMMIT 2025

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**ANNUAL WORLD SUMMIT 2025**

# INTRODUCTION TO THE COMMITTEE:

The All India Political Parties Meet Committee is a versatile committee that mimics the workings of the Lok Sabha in India.

Members must engage in debates on controversial issues within the agenda that hinder India's development and freedom, which must be resolved to ensure progress.

Delegates representing members of the lower house of the parliament must present their views on the agenda. Discussions must be solution-oriented and realistic. They must appropriately put forward their respective party's and persona's stance on the issues at hand. We will be following the Green Book pro. The exact procedure will be explained at a later date.

## *Committee Mandate:*

Within the committee, delegates have the same powers as vested in the Elected Members of parliament by the Indian Constitution. They will deliberate upon matters of importance before laws or resolutions are passed, to legislate on the same, exercise judicial, financial and other powers as outlined. The Parliament exercises its legislative functions primarily over matters outlined in the Union List and the Concurrent List.

Regarding the concurrent list, where both the state legislatures and the parliament hold jurisdiction, laws enacted by the parliament take precedence over those of the states unless a state law has previously received presidential assent. Moreover, the parliament retains the authority to introduce, modify, or annul laws established by state legislatures at any point. Additionally, under specific circumstances, the parliament can legislate on subjects listed in the state list as mentioned in articles 356, 249, 253 and 252.

# INTRODUCTION TO THE AGENDA:

The Unlawful Activities (Prevention) Amendment Act, 2019 (UAPA 2019) is a major legislative update to India's anti-terrorism framework, originally established under the Unlawful Activities (Prevention) Act, 1967. This law is primarily designed to combat acts that threaten the sovereignty, integrity and security of the nation. Over time, as the nature of terrorism evolved and became more complex, so did the need for stronger legal tools to identify and prevent such threats. The 2019 amendment marks a significant shift by expanding the focus beyond just terrorist organisations to also include individuals suspected of being involved in or supporting terrorist activities. It empowers national-level agencies like the National Investigation Agency (NIA) to play a more prominent role in identifying and tackling unlawful activities, which include actions intended to disrupt the unity or internal peace of India.

## Criticism:

- Lack of clear criteria: The act does not clearly define how someone is determined to be a terrorist.

Critics argue that subjective judgment could lead to wrongful designation.

- Violation of Fundamental Rights: Human rights activists point out that labelling an individual a terrorist without a trial violates Article 21 of the Indian Constitution (Right to life and personal liberty) and affects freedom of speech and reputation.

- Potential for Misuse: The wide powers given to the executive (Central Government) without sufficient judicial oversight have raised fears of misuse for political or ideological targeting.

- Burden on the Accused: Under UAPA, the burden of proof is often shifted to the accused to prove their innocence, which goes against the general principle of "innocent until proven guilty." While the UAPA 2019 aims to strengthen national security and provide a more direct mechanism to address terrorism, it also brings with it a heightened debate about civil liberties, freedom of expression and the balance between security and human rights. The law's expanded definitions and investigative reach have sparked discussions on how best to protect a nation without compromising the constitutional values it stands for.

## *KEY TERMS*

- Unlawful Activity: Any action taken by an individual or association intended to bring about the cession or secession of an Indian territory, disrupt the sovereignty and integrity of India, or cause disaffection against India.



- Terrorist Act: An act committed to threaten India's unity, integrity, security, or to cause fear among people. It often includes violence, destruction, or support for extremist groups.
- Terrorist: An individual who plans, participates in, promotes, or supports terrorist acts or organisations.
- NIA (National Investigation Agency): A central counter-terrorism law enforcement agency in India, established in 2008 after the Mumbai terror attacks. It investigates and prosecutes offences affecting national security.

## HISTORY OF THE AGENDA:

The Unlawful Activities (Prevention) Act (UAPA) was originally enacted in 1967 by the Indian Parliament to prevent activities that threaten the sovereignty and integrity of India. It emerged in a time of increasing internal security threats and sought to empower the government to impose reasonable restrictions on associations or individuals engaging in unlawful or secessionist activities. Over time, the law has evolved significantly through multiple amendments, particularly after the repeal of anti-terrorism laws like TADA (1985–95) and POTA (2002–04), to address the need for counter-terrorism legislation. A significant turning point came with the 2004 amendment, which incorporated provisions relating to terrorism, making the UAPA India's primary anti-terror law.



Later amendments in 2008 and 2012 further strengthened the Act, especially after the 2008 Mumbai attacks, giving investigative agencies more authority and tightening the definition of "terrorist acts." However, the most controversial and widely debated update came with the UAPA (Amendment) Act of 2019, passed by Parliament in August 2019. This amendment marked a dramatic shift in the way terrorism-related allegations could be handled in India, primarily because it granted the central government the power to designate individuals, not just organisations, as terrorists without judicial oversight.

Before 2019, only organisations could be listed as terrorist groups under the Act. With the amendment, individuals suspected of terrorism can be declared terrorists through a simple notification by the Ministry of Home Affairs, without any requirement of formal charge or conviction. The individual's name can then be included in the Fourth Schedule of the Act. The 2019 amendment also granted the National Investigation Agency (NIA) greater power by allowing it to seize property suspected to be linked to terrorism, bypassing state police permissions and conducting investigations across state lines without prior approval from state governments. This raised concerns over federalism and the autonomy of states, as law and order is a state subject under the Indian Constitution. Supporters of the amendment argue that it strengthens India's ability to deal with emerging terror threats and aligns the law with global practices, such as the US and the UK, where individuals can be designated as terrorists.

However, critics have warned that the amendment undermines civil liberties, due process and freedom of expression, as individuals can be labelled terrorists without a trial, often leading to stigmatisation and prolonged detention.

Several Human rights groups, legal experts and opposition parties have raised concerns about the potential for misuse and political targeting, especially of activists, journalists and dissenters. The amendment has also been challenged in the Supreme Court, where petitioners argue that it violates the principles of natural justice and constitutional safeguards under Articles 14 (equality before law) and 21 (protection of life and personal liberty).

In conclusion, while the 2019 UAPA amendment was designed to bolster national security, it has opened up a significant debate about the balance between security and civil liberties and whether India's democratic institutions are equipped to prevent its misuse.

## NOTEWORTHY DEVELOPMENTS:

### *1. JUDICIAL SCRUTINY OF THE 2019 AMENDMENT:*

In February 2025, the Supreme Court of India declined to directly hear petitions challenging the constitutional validity of the 2019 UAPA amendments, which empower the government to designate individuals as terrorists. The Court directed that such matters be first addressed by the Delhi High Court, emphasising the need for initial adjudication at the High Court level.

## **2. PROSECUTION OF ARUNDHATI ROY:**

In June 2024, the Delhi administration approved the prosecution of author Arundhati Roy under the UAPA for remarks made in 2010 regarding Kashmir. This decision has been criticised by civil rights groups as an attempt to suppress dissent and freedom of expression.

## **3. INCLUSION IN BHARATIYA NYAYA SANHITA BILL:**

In December 2023, certain provisions of the UAPA were incorporated into the redrafted Bharatiya Nyaya Sanhita Bill, which aims to overhaul India's criminal laws. This move indicates an effort to integrate anti-terrorism measures within the broader criminal justice framework.

## **4. TRIBUNAL CONFIRMS BAN ON SEPARATIST GROUPS:**

In December 2023, the UAPA Tribunal upheld the central government's decision to ban the Muslim League Jammu & Kashmir (Masarat Alam faction) and Tehreek-e-Hurriyat Jammu & Kashmir for five years. The Tribunal found these groups involved in secessionist activities and linked them to Pakistan-based terrorist organisations.

## **5. SUPREME COURT ON GROUNDS OF ARREST:**

In June 2024, the Supreme Court reaffirmed the necessity of providing written grounds of arrest to individuals detained under the UAPA. The Court emphasised that failure to do so violates constitutional protections under Article 22(1).

## **6. DELAYS IN UAPA TRIALS:**

Reports from October 2024 highlight significant delays in UAPA trials, with instances of prolonged detentions without timely trials. Such delays have raised concerns about the infringement of the right to a speedy trial and the potential for misuse of the law.

# UAPA: OVERVIEW AND LEGAL FRAMEWORK

## UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

The UAPA, 1967, is meant to forestall activities against the sovereignty and integrity of India as well as the security of the nation and especially terrorism-related activities. It gives the government the power to act preventively, such as detention, confiscation of property and denying association with prohibited organisations. Its provisions have been amended over the years to tackle the changing character of terrorism and insurgency in and outside India's territory.

### *THE MAIN PROVISIONS OF UAPA ARE:*

**Section 3:** It provides for the government to proclaim an organisation illegal if it carries out acts prejudicial to India's sovereignty, integrity, or security. Any person involved with such organisations or participating in acts that are illegal under this section is liable to be prosecuted.

**Section 43D(5):** It severely limits the power of individuals accused under the UAPA from obtaining bail. According to it, an accused person of offences related to terrorism cannot be admitted to bail except on the basis that the court is satisfied there is no reasonable ground for believing that the person has committed the alleged act.

**Preventive Detention:** Perhaps the most controversial provision of the UAPA, it permits the authorities to detain people for a period of time without trial, if they are suspected of being engaged in illegal activities. This provision has been attacked because it destroys the right to a fair trial.

**Property Seizure:** UAPA also empowers the provisions for seizing and attaching properties linked with illegal activities even before a conviction is achieved. This approach is intended to undermine the financial sustenance of terrorist groups and activities.

**2019 Amendment to UAPA:** The 2019 Amendment to the UAPA constituted a drastic departure from the law's application, with provisions adding greater scope to the law, most notably relating to the declaration of individuals as terrorists and reinforcing preventive measures.

A few of the most notable changes are:



## **Section 35 (Designation of Individuals as Terrorists):**

Most certainly, the most contentious provision of the 2019 Amendment, Section 35, enables the government to label a person a terrorist without a formal trial or conviction. Before, the UAPA provided for organisations to be declared terrorist groups, but the amendment included individuals within its purview. This move has raised concerns about the potential for misuse, as it grants the executive broad powers to label individuals as terrorists, sometimes based on tenuous or politically motivated grounds.

**Enhanced Property Seizure Powers:** The amendment also widened the grounds for seizure of property related to terrorist activities. The National Investigation Agency (NIA) was given greater power to seize properties with less oversight or judicial review, a step viewed as an enhancement of the government's ability to economically disrupt perceived threats.

**Tighter Bail Provisions:** The amendment tightened the existing stringent bail provisions under UAPA, particularly under Section 43D(5). The amendment further made it harder for the accused, in terrorism-related crimes to obtain bail, making the guilt presumption until innocent a reality. The legal community has condemned it as negating the presumption of innocence, a fundamental aspect of criminal justice.

# JUDICIAL DECISIONS AND CONSTITUTIONAL CHALLENGES

The UAPA, particularly after the amendment, has been the subject of intense judicial examination, especially in cases questioning its compatibility with basic constitutional rights. Courts have increasingly been asked to reconcile national security interests with individual rights to liberty, expression and due process.

## **1. Sajal Awasthi v Union of India:**

In *Sajal Awasthi v. Union of India*, the petitioner opposed on constitutional grounds the 2019 UAPA Amendment and notably the provision in the amended legislation under which a person could be designated a terrorist. The petition presented some notable legal questions of considerable significance:

### Constitutional Breaches:

The petitioner maintained that such designations are against Article 14 (Right to Equality), Article 19 (Freedom of Speech and Expression) and Article 21 (Right to Life and Personal Liberty). The critics assert that the legislation dilutes judicial supervision, allowing scope for arbitrary and politically driven judgments.

**Freedom of Dissent:** The challenge also invoked fears that the law would be used to silence political dissent and opposition by declaring activists, journalists, or government critics as terrorists.

**Lack of Judicial Supervision:** The power to declare a person a terrorist without judicial oversight generated concerns about unfettered executive power and misuse, especially in politically charged cases.

## **2. Arup Bhuyan v. State of Assam:**

In *Arup Bhuyan v. State of Assam*, the Supreme Court held that membership of a proscribed organisation does not necessarily mean the commission of a terrorist act under the UAPA. This judgment reaffirmed the need for proof of violent activities or the promotion of violence in charges of alleged membership of proscribed organisations.

This ruling was important as it was a check on the overuse of the UAPA. It indicated the Court's readiness to look at the nature of the charges and the level of violence involved in the person's act, thereby checking the law from being applied too widely.

## **3. Right to Bail Jurisprudence :**

Judicial bodies have increasingly been examining Section 43D(5) of the UAPA, which limits bail for people charged under the law. Jurisprudence relating to bail in cases under the UAPA has developed with time, with courts recognising the fine line that needs to be drawn between national security imperatives and people's rights.

Recent judgments have underscored the necessity of ensuring that the restrictive provisions of bail are not misused to infringe the fundamental rights of the accused. The courts are increasingly inquiring into whether refusal of bail is proportionate to the seriousness of the offence alleged, in light of the long-term repercussions of detention under UAPA.

# KEY STAKEHOLDERS IN UAPA'S APPLICATION

The application and development of the UAPA entail a wide array of stakeholders, such as government institutions, the judiciary, civil society, legal practitioners and scholars. Each has a unique role to play in influencing the application and interpretation of the law.

## **1. Government Institutions:**

**Ministry of Home Affairs:** This institution is responsible for overseeing the application of the UAPA, such as its implementation and amendments. It coordinates with the NIA and other agencies to ensure that the law is used effectively in counter-terrorism.

**National Investigation Agency (NIA):** The NIA has been conferred greater powers under the 2019 amendment to investigate and prosecute terrorism-related crimes. It is a key agency in enforcing the law and ensuring the provisions of the law are enforced.

## **2. Judiciary Supreme Court:**

The Supreme Court has an important role to play in hearing constitutional challenges to the UAPA provisions, making sure that the law is per the fundamental rights enshrined in the Constitution. The Court's rulings have tended to centre on balancing the need to preserve national security and the need to protect individual freedoms.

**High Courts and Appellate Courts:** These courts are necessary in evolving jurisprudence on bail provisions, procedural protections and interpretation of UAPA's major provisions. They also contribute to interpreting whether the law has been abused in certain cases.

### **3. Civil Society Organisations:**

Association for Protection of Civil Rights (APCR): Civil society groups such as the APCR have strongly contested provisions of the UAPA in the courts, pressing for the upholding of human rights and averting the abuse of the law. NGOs and Activists: Various non-governmental groups and activists have expressed concern about the possible abuse of UAPA, especially its use against political dissidents, human rights defenders and minorities.

### **4. Legal Community Lawyers and Advocates:**

Leading legal commentators and lawyers have led the charge in court challenging the provisions of the UAPA on the grounds of constitutional protection to avoid misuse.

### **5. Academics and Scholars:**

Legal Scholars: Scholars have criticised the UAPA, especially the 2019 amendment, for having the ability to suppress democratic values, free speech and political opposition. Scholars have also expressed concerns regarding the law's effect on democracy and its connection to sedition laws, which have been criticised for decades as suppressing free expression.

## **CONCLUSION**

The UAPA continues to be a pillar of India's anti-terrorism legal machinery, aimed at protecting national security and checking the menace of terrorism. Nevertheless, the legislation has been heavily criticised because of its sweeping definitions, potential for abuse and infringement on civil liberties.

The 2019 Amendment, whereas intended to enhance counter-terror measures, has also increased fears regarding untrammelled executive powers and a clampdown on political dissent. The Supreme Court's continued scrutiny of UAPA provisions and specifically the amendments will be pivotal in charting the future course of this law. Judicial pronouncements, civil society interventions and continuing debates will continue to influence the national security vs. individual rights equation in the coming years.

### **References:**

Sajal Awasthi v. Union of India – Constitutional Challenge to the 2019 UAPA Amendment: SC Observer

Arup Bhuyan v. State of Assam: GHOnline

Right to Bail under UAPA – Emerging Jurisprudence: NLS Seminar

Dissent, Democracy and Political Imprisonment under UAPA: EPW Engage

India Code: Full text of the UAPA 1967



# CASE STUDIES INVOLVING UAPA

## 1) UAPA CHARGES RELATED TO TRIPURA VIOLENCE:

At the end of October 2021, groups like the Vishwa Hindu Parishad (VHP) and Hindu Jagran Manch (HJM) organised protests in Tripura. They were protesting the communal violence perpetrated against Hindu minorities in Bangladesh on October 15th. The protests in Tripura took a violent turn when Mosques and Muslim owned property were damaged and subjected to arson.

The Union Home Ministry rebuked reports about this violence and denied the existence of any communal violence in Tripura. On November 13th, it made a statement denying any claims or reports of mosques being damaged and vandalised. Two lawyers, Mukesh Kumar and Ansar Indori, affiliated with the People's Union for Civil Liberties and the National Confederation of Human Rights, respectively, investigated the violence as part of an independent fact-finding team. They released a report whose findings sharply contradict the MHA's statement. The report found that at least 12 mosques, 9 shops and 3 houses were targeted during the violent protests. Further, it argued that the communal incidents could have been prevented if the State police and other agencies had handled the situation better.

On November 3rd, the Tripura police charged the two lawyers under Section 13 of the Unlawful Activities (Prevention) Act, 1967 (UAPA) that punishes individuals who commit or aid the commitment of any 'unlawful activity' as defined under Section 2(1)(o) of the UAPA.

These charges, the police claimed, were slapped on the journalists for their posts on social media regarding the incident. The police alleged that these posts promoted enmity between religious groups and provoked people of different religious communities to cause a 'breach of peace'.

Mukesh and Ansar are not alone. 100 more people have been charged under the same law for their social media posts, many of whom were journalists and activists. The Indian Women Press Corps and the Editors Guild of India condemned these charges on November 7th, stating that the state government was using the UAPA to suppress reporting on the communal violence in the state.

Mukesh, Ansar and a journalist, Mr. Shyam Meera Singh, who was also charged under the UAPA for tweeting 'Tripura is burning', have filed a petition in the Supreme Court, which was mentioned by Advocate Prashant Bhushan before Chief Justice N.V. Ramana on November 11th 2021. CJI Ramana agreed to urgently list the case for hearing.

On November 17th, a special Bench comprising CJI Ramana and Justices D.Y. Chandrachud and Surya Kant heard the matter and ordered the Tripura police not to take any coercive action against the petitioners. The Bench issued notice to the respondents. On 15 February 2024, the petitioners informed a Division Bench comprising Justices Bela Trivedi and Pankaj Mithal that they would like to withdraw their petition and approach the High Court instead. The Bench permitted them to do so.

## 2) THE DELHI RIOTS CASE (2020):

In February 2020, Delhi witnessed targeted violence against Muslims, in which 53 lives were lost and several mosques, shops and homes belonging to Muslims were burnt and looted. Videos capturing the violence and testimonies of witnesses clearly indicate that an organised pogrom was led and executed by Hindutva organisations, while the police allowed for the destruction of property and violence against Muslims.

Despite instances of recorded hate speech and threatening messages from BJP leaders on social media, no action has been taken against them. Instead, activists, students and peaceful protestors who opposed the CAA have been falsely charged under the draconian UAPA and have been jailed since 2020.

FIR 59 of 2020 invoked the UAPA and other sections of the IPC, falsely accusing 18 people of conspiring to foment communal violence in Delhi and destabilising the state. This fabricated case has been built on flimsy and vague evidence and has targeted people solely for leading, organising and participating in peaceful protests against the CAA. Any evidence that showed their work of coordinating, organising or attending peaceful protests against the CAA has been manipulated and presented as conspiracies, terrorist activities and anti-national activities.

The use of the UAPA has allowed the state to incarcerate them under false charges for almost three years.

As the list below indicates, most of the accused are young activists and leaders who have been involved in campaigns and programs for justice and peace. This abuse of power by the Delhi police and the state has deprived them of their fundamental rights and impaired crucial work in the fight for human rights. This case has also had a visibly chilling effect on people's right to protest in Delhi.

This FIR (59/2020), as well as hundreds of other FIRs, also have another alarming quality in common. 16 out of the 18 accused in FIR 59 are Muslims, two of whom had no connection to activism or the protests against the CAA. What should be deeply worrying for a constitutional democracy is that the preponderance of Muslims indicates a religious bias in the actions of the police.

After almost three long years, bail hearings of the accused who are still incarcerated have been concluded in the High Court . A consolidated order on all the bail applications is now expected as the matter is posted for orders.

This case attracted significant media and public attention, with accusations of selective targeting of certain communities and political groups. There was also debate over whether UAPA was being misused to criminalise political dissent, especially given the nature of the largely peaceful protests.

### 3) COUNTRYWIDE PROTEST AGAINST PROSECUTION OF ARUNDHATI ROY AND SHEIKH SHOWKHAT HUSSAIN UNDER UAPA:

The decision by the Lieutenant Governor of Delhi to prosecute renowned author and activist Arundhati Roy and former Kashmir University professor, Dr. Sheikh Shaukat Hussain under the Unlawful Activities (Prevention) Act (UAPA) for a case dating back to 2010 has sparked significant controversy and nationwide protests led by the Communist Party of India (Marxist-Leninist). CPIML argues that prosecuting under UAPA after 14 years is a misuse of power and an attack on freedom of expression.

On June 20, CPIML held protests at all important centres of the country demanding that the Delhi LG withdraw its sanction against these two prominent personalities. A protest held in Delhi at Jantar Mantar was addressed by CPIML General Secretary Dipankar Bhattacharya. He said that by giving sanction to the prosecution of Arundhati Roy and Sheikh Showkat Hussain under UAPA, the Modi government is trying to tell us that it does not care for the spirit of the 2024 mandate and that it would continue to 'control' democracy by stifling dissent and persecuting truth.

The protesters also demanded repeal of all draconian laws and release of all prisoners of conscience. Protests were held in Patna, Kolkata, Lucknow, Ranchi, Tripura and other state capitals besides hundreds of local demonstrations in districts and blocks.

A protest held at Lalkua tehsil complex sent a memorandum to the President of India stating that it is astonishing and absurd to grant permission to prosecute under UAPA after 14 years. They argue that such a decision represents a direct misuse of power by the authorities to target dissenting voices. Allowing prosecution under an anti-terrorism law for spoken words, especially 14 years after they were spoken, is unacceptable. CPIML central committee member Dr. Kailash Pandey stated, "This case is an attack on dissent and the right to freedom of expression. For the past decade, the central government has trapped people with opposing views in such cases, keeping them in jail for years without trial. Granting permission to prosecute Arundhati Roy and Dr. Shaukat Hussain is the first action of the NDA government in this term, indicating that this government will continue to misuse repressive laws. Such persecutory actions must be stopped immediately.

Protests against the UAPA charges were also held by CPIML in other parts of the country. In Siliguri city and Krishnanagar, demonstrators gathered to voice their opposition to the prosecution of Arundhati Roy and Dr. Sheikh Shaukat Hussain. In Delhi, a protest was held at Jantar Mantar on June 20, where activists and supporters demanded the withdrawal of the UAPA charges. The decision to prosecute Roy and Hussain under UAPA highlights serious concerns about the misuse of repressive laws and the attack on freedom of expression. CPIML is calling for immediate action to revoke the prosecution approval and repeal the UAPA. The continuation of such practices threatens the fundamental rights of dissent and expression in India.



The injustice which goes by the name of the Bhima Koregaon – Elgar Parishad Conspiracy case started its nightmarish journey five years ago and it is still continuing its ugly romp. Even as of today, 16 noted academics, intellectuals, lawyers, writers, poets, activists, stand charged with conspiring to overthrow the elected government, indulging in terrorist acts, sedition, etc., although the evidence the back these tall claims of high treason is still absent. Of the 16 accused, one – Father Stan Swamy, an 83 years old Jesuit priest – succumbed to illness while in imprisonment. Eleven of them are still in prison, of which 7 have spent 5 or more years behind bars. Three of the accused are out on bail and one is under house arrest, all facing many restrictions on movement and speech.

Bhima Koregaon is a small town 30 kilometres from Pune city, is the site of a historic victory of the Mahar (Dalit) regiment against the Peshwas, which is commemorated every New Year's Day by the Dalit-Bahujan community. To mark the bicentenary of the battle of Bhima Koregaon on 1 January, 2018, more than 200 Dalit, Bahujan, Ambedkarite and other organisations came together under the banner of Bhima Koregaon Shaurya Din Prerana Abhiyan (Bhima Koregaon Valour Day Inspiration Campaign), with the former judge of Supreme Court, the late Justice P. B. Sawant and former Bombay High Court judge, Justice Kolse Patil, as conveners. On the eve of the bicentenary, on December 31, 2017, this campaign organised the highly successful and massively attended event, 'Elgar Parishad', in Shaniwarwada in Pune, once the seat of Peshwai power.

It is reported that tens of thousands of people turned up for this event, many of whom had come in organised foot marches from rural Maharashtra.

This event exhorted its audience to spurn the Navi Peshwai (New Peshwa Regime), identified as the RSS-BJP combine, which was behind increasing repression on movements, alienation of minorities, increasing caste atrocities, anti-poor development policies and more. All the attendees took a pledge to uphold the Constitution and abjure Hindutva politics.

A day after the Elgar Parishad took place, on January 1, 2018, Dalit-Bahujans attending the Bhima Koregaon memorial were attacked by right-wing Hindutva goons carrying saffron flags. In the ensuing violence, shops were looted, cars broken into and one civilian was killed. It was widely held that the violence was caused by a unilateral attack of the BJP-RSS backed groups (at that time, BJP was in power in Maharashtra) against the Dalits who were proceeding to Bhima Koregaon and two Hindutva leaders in particular, Sambhaji Bhide and Milind Ekbote were identified as the leaders of this violence.

It is this violence that took place on the bicentenary of the Bhima-Koregaon battle that marks the backdrop of the conspiracy case in which various human rights activists are arrested.

On January 8, 2018, Tushar Damgude, a close aide of the RSS, filed an FIR alleging that the violence at Bhima Koregaon on January 1 was instigated by activists who had spoken at the Elgar Parishad on December 31, 2017.

It should be noted that this was filed a week after the incident and after at least 22 other FIRs, including one filed on January 2 by Anita Sawale – a Dalit activist and an eye witness to the incidents of violence – had already been filed alleging the involvement of Hindutva right-wing ideologues Sambhaji Bhide and Milind Ekbote with the violence that ensued.

However, it was this (Damgude's) FIR and not the others that the Pune police investigated most seriously, which became the pretext for the persecution and arrest of the 16 noted human rights activists and intellectuals. The FIR named 6 organisers of the Elgar Parishad as those responsible for the violence at Bhima Koregaon. The original FIR invoked Sections 153(A), 505 (1)(b), 117 and 34 of the Indian Penal Code (IPC), but after the Assistant Commissioner of Police, Pune took over the investigation, criminal conspiracy and sections of the Unlawful Activities (Prevention) Act (UAPA) were added.

Raids were conducted on those who were named in the FIR, but also those who had nothing to do with the event; electronic devices, including laptops, mobile phones, CDs, pen drives of the entire family were seized and in a case of investigation spiralling out of control, scores of human rights activists in the whole country were raided, interrogated and 16 of them were arrested over the course of the next two years.

What began as an investigation into the Bhima Koregaon violence on January 1, 2018, eventually became a roving enquiry into a "Maoist network", supposedly comprised various civil liberties and democratic rights organisations

around the country, who were all mere “front organisations” of the Maoist party according to the investigative agencies.

Leading human rights activists were arrested, based on their names being mentioned in secretive letters and documents of unknown provenance unearthed on electronic devices recovered during the raids conducted first by the Pune Police and later by the National Investigation Agency (NIA).

Due to pressure from Dalit groups, Ekbote was finally arrested on March 14, 2018, after the SC declined to grant him anticipatory bail and ordered his arrest. But he was soon released on bail for a month. Sambhaji Bhide was never taken into custody. No chargesheet has been filed yet. Ironically, around 3,000 young Dalits were arrested under 622 FIRs for violence conducted during the statewide bandh on January 3, 2018, called by Dalit Bahujan groups to protest the right-wing assault on the Bhima Koregaon processions two days earlier.

Sixteen noted human rights activists, authors, intellectuals and activists have been arrested in this case, stemming from the Bhima Koregaon violence on January 1, 2018. These arrests were conducted at different times over a period of nearly three years after the incident itself. It should be noted that although the FIR in this case mentions Elgar Parishad and its organisers, most of the people eventually arrested had nothing to do with Elgar Parishad, which, in itself, being a cultural program, cannot be held responsible for the ensuing violence the next day.

Eleven stalwart citizens are behind bars, many for over 5 years, even as the trial shows no signs of starting. Bail has been repeatedly denied to them and the conditions inside jail continue to dehumanise. Besides being sparse and inadmissible, the evidence in this case is of dubious provenance and demonstrably fabricated. This case is a testament to the politicisation of our criminal justice system, which is being used to criminalise political foes and put inconvenient dissidents out of the way.

## QARMA (QUESTIONS A RESOLUTION MUST ANSWER)

1. WHAT IS THE OBJECTIVE OF THE UAPA?
2. WHAT ARE THE KEY PROVISIONS OF THIS RESOLUTIONS?
3. WHAT ARE THE CONSTITUTIONAL AND LEGAL IMPLICATIONS OF THE RESOLUTION?
4. HOW WILL THIS BE EFFECTIVE IN COMBATING TERRORISM AND UNLAWFUL ACTIVITIES?
5. WHAT ARE THE CRITICISMS OR CONCERNS RAISED BY CIVIL SOCIETY AND LEGAL EXPERTS?
6. WHAT SAFEGUARDS ARE IN PLACE TO PREVENT MISUSE OR ARBITRARY APPLICATION?

7. WHAT WILL BE THE ROLE OF THE GOVERNMENT AND AUTHORITIES IN THIS RESOLUTION?

8. ARE THERE ANY JUDICIAL PRONOUNCEMENTS OR CONSTITUTIONAL CHALLENGES RELATED TO THE 2019 AMENDMENT?

9. WHAT RECOMMENDATIONS CAN BE MADE FOR REFORM, REPEAL, OR BETTER IMPLEMENTATION?

RELEVANT ARTICLES OF THE UAPA:

1. ARTICLE 3 EMPOWERS THE GOVERNMENT TO PROSCRIBE ORGANISATIONS THAT ARE FOUND TO BE INVOLVED IN UNLAWFUL ACTIVITIES.

2. ARTICLE 5: PROVIDES FOR THE ESTABLISHMENT OF A TRIBUNAL TO ADJUDICATE ON THE LEGALITY OF THE BAN IMPOSED ON ORGANISATIONS.

3. ARTICLE 15: DEFINES WHAT CONSTITUTES A 'TERRORIST ACT,' OUTLINING VARIOUS ACTIVITIES THAT ARE CONSIDERED ACTS OF TERRORISM.

4. ARTICLE 16: DEALS WITH THE PUNISHMENT FOR TERRORIST ACTS, PRESCRIBING STRINGENT PENALTIES FOR INDIVIDUALS INVOLVED IN SUCH ACTIVITIES.

5. ARTICLE 18: ALLOWS FOR THE DETENTION OF INDIVIDUALS WITHOUT TRIAL UNDER CERTAIN CIRCUMSTANCES IF THEY ARE SUSPECTED TO BE INVOLVED IN TERRORISM.



6. ARTICLE 43D: SPECIFIES THE CONDITIONS UNDER WHICH BAIL MAY BE GRANTED TO INDIVIDUALS ACCUSED UNDER THE UAPA, MAKING IT MORE DIFFICULT TO OBTAIN BAIL IN TERRORISM-RELATED CASES.

- **THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967:**  
THE OFFICIAL DOCUMENT DETAILING THE ACT'S PROVISIONS.

- **BRIEF HISTORY:** CHALLENGES TO THE UAPA - SUPREME COURT OBSERVER: AN ANALYSIS OF THE CHALLENGES AND JUDICIAL SCRUTINY FACED BY THE UAPA OVER THE YEARS.

- THE UNLAWFUL ACTIVITIES (PREVENTION) ACT,  
[HTTPS://WWW.INDIACODE.NIC.IN/HANDLE/123456789/1470](https://www.indiacode.nic.in/handle/123456789/1470)

- UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT BILL, 2019

[HTTPS://PRSINDIA.ORG/BILLTRACK/THE-UNLAWFUL-  
ACTIVITIES-PREVENTION-AMENDMENT-BILL-2019](https://prsindia.org/billtrack/the-unlawful-activities-prevention-amendment-bill-2019)

- CONSTITUTIONALITY OF UAPA AMENDMENT

[HTTPS://WWW.SCOBSERVER.IN/CASES/SAJAL-AWASTHI-  
UNION-OF-INDIA-CONSTITUTIONALITY-OF-UAPA-AMENDMENT-  
CASE-BACKGROUND/](https://www.scoobserver.in/cases/sajal-awasthi-union-of-india-constitutionality-of-uapa-amendment-case-background/)